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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 *Elie Yarden*
For: City Council Meeting of March 16, 1998 *Stash Horowitz*
Subject: 784 Memorial Drive Site & Permits granted by Inspectional Services
Department (ISD) relating to demolition, curb cut relocations, and
building permit for proposed 577 car garage.

The CNI wishes to thank the City Manager for making the ISD Commissioner available to answer questions about permits issued by his department, relating to demolition, curb cut relocations, and building.

The following attached memoranda, regulations, communications, and photographs, some of which the CNI has previously sent to the City Council, the City Manager, or the ISD Commissioner will, we hope, provide helpful background on these issues, and detail some of the concerns of the CNI that due process and city regulations are not being followed in these permits.

The CNI hopes that all future permits, from ISD and other city agencies, follow established procedures, Zoning Ordinances relating to safety of curb cuts, and City and State regulations and laws for the granting of demolition and building permits.

Members of the CNI will be available at this City Council meeting, and will be happy to answer any questions about these matters.

List of 12 attachments:

1. CNI's Neighborhood Association Response to application by Spaulding & Slye for relocation of curb cuts on Pleasant Street and on Putnam Avenue. (pp 3-6)
2. City Policy on Driveway Cuts. (pp 7, 8)
3. Spaulding & Slye application for curb cut relocations, received February 5, 1998, with no abutters forms attached, and approved by ISD February 9. (pp 9-11)
4. Communication from R. Philip Dowds, architect, about illegal demolition without a permit at 784 Memorial Drive, Buildings #2 - 10, before demolition permit was issued by ISD on January 12, 1998. Three pages from State Building Code on what is demolition. (pp 12 -16)

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5. CNI communication to City Council, City Manager, and ISD Commissioner of December 15, 1997, urging that demolition and building permits not be issued until two unsafe and non-conforming curb cuts be relocated. (pp 17, 18)
6. Proposed draft for a Council Order (not submitted) relating to curb cut issues and concerns, and that ISD not issue any permits, or should revoke existing ones, until these issues be resolved. (pp 19, 20)
7. Two communications from Robert Bersani, ISD Commissioner relating to procedures for granting building permits and curb cuts. (pp 21 - 23)
8. Two letters to Commissioner Bersani of ISD relating to Massachusetts Water Resources Authority (MWRA) 8M permit required before demolition permit can be issued: one from Philip Coleman, Project Manager of MWRA, the other from Robert Dickey, VP of Spaulding & Slye (pp 24, 25)
9. A summary by CNI, dated January 26, 1998, on 15 instances of omissions and violations of due process by City Administration and the proponent. (pp 26 - 29)
10. Photographs of "debris removal" and "dismantling" at Bldg #2, 3, 8, and of tree on city sidewalk blocking proposed relocated Putnam Avenue curb cut. (pp 30 -31)
11. Communication by City Manager dated February 9, 1998, to City Council giving his response to City Council Orders for procedures on curb cuts and building permits. (pp32 -35)
12. City Council Order of June 23, 1997 requesting additional soil testing "before any demolition or building occurs." (p 36)

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OFFICE OF THE CITY CLERK

CITY OF CAMBRIDGE

(617) 349-4260

FAX (617) 349-4307

ty/TDD (617) 492-0235

D. MARGARET DRURY
CITY CLERK

DONNA P. LOPEZ
DEPUTY CITY CLERK

February 9, 1998

Dear Neighborhood Representative:

This office is in receipt of a copy of an application from Robert Dickey, requesting the relocation of two existing curb cuts (located on Putnam Avenue and Pleasant Street) *at the premises numbered 784 Memorial Drive, Cambridge, Massachusetts.*

The City Council has directed that all curb cut petitions be submitted to the appropriate Neighborhood Associations for the locality where the curb cut would be made, so that the association may have an opportunity for review, prior to action by the City Council.

Please indicate by return mail your approval or disapproval of the petition within twenty one days from the date of this letter. If the response is "disapproval" please state reasons. Be sure to sign the form and include a daytime phone number. I have enclosed a self-addressed stamped envelope to facilitate your reply.

As soon as this office has received both the completed application and your neighborhood association response, I will place the petition on the agenda for the next City Council meeting. If I do not receive a response from your neighborhood organization by twenty one days from the date of this letter, I will place the petition on the agenda for the next City Council meeting.

If your neighborhood association cannot complete its review by twenty one days from today, you may extend the reply time another seven days by requesting an extension by letter to me with a copy to the petitioner. However, I urge you to make every effort to complete your review as soon as possible.

Thank you for your cooperation.

Sincerely yours,

D. Margaret Drury
City Clerk

Name of Neighborhood Association: **Elie Yarden, Cambridge Neighborhood Initiative**

hereby approve disapprove of said driveway petition.

Comments: See enclosed explanation and supporting materials

Signature of authorized association representative Elie Yarden

Daytime telephone no. 491-5350

cc: Petitioner

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March 5, 1998

Memorandum

page 1

To: D. Margaret Drury, City Clerk

From: Elie Yarden, Co-chair, Cambridgeport Neighborhood Initiative (CNI)

Subject: Neighborhood Association Response to application to relocate two curb cuts on Putnam Avenue and on Pleasant Street, by Spaulding & Slye for 784 Memorial Drive LLC proposal

As required by your letter of February 12, 1998, I submit herewith the reasons for "disapproval."

As "representative of a Neighborhood Association" I must consider all aspects of how our response on a specific issue affects the general climate of decision-making. I rely on the description addressed to me by the proponent, 784 Memorial Drive LLC/Spaulding & Slye, as well as on my own investigations.

The only reason for "disapproval" is the obligation each one of us bears for defending the City's public processes and declared policies from contemptuous circumvention, blatant violations, exercise of undue influence, and illegal actions in dealing with this matter. I submit a few glaring and substantive instances:

Submission 1.

(from City of Cambridge. City Policy on Driveway Cuts . . . ; Procedure with Respect to Driveway CutsParagraph 6)

The advice in the underlined statement, "Petitioners are urged to contact their neighborhood associations early to avoid delay." was deliberately ignored by the petitioner. Thus, instead of "including the signed forms" in the submission, we find penned, "Note: In process of notifying all abutters; will make best efforts to obtain all signatures"

(from City of Cambridge. City Policy on Driveway Cuts . . . ; Procedure with Respect to Driveway CutsParagraph 3)

The applicant failed to include signed abutters forms. The applicant made no attempt to secure the required signatures before making the application.

(from City of Cambridge. City Policy on Driveway Cuts . . . ; Procedure with Respect to Driveway CutsParagraph 4)

The application submitted to Inspectional Services without the required abutters forms was approved for compliance with the City of Cambridge Zoning Ordinance, and approved in a dismissive violation of policy and due process. The attempt to conceal this pre-approval in the copies of the form sent to abutters for their response is a deception of the public, a request for input about something already decided. How did the Zoning Officer's signature, dated 2/9/98, approving the incomplete request, come to be absent from the copies of the form sent to "Resident" from the offices of Spaulding & Slye on February 13, 1998.

March 5, 1998

Memorandum

page 2

At a public meeting, held by Polaroid and Spaulding & Slye on December 11, 1997, more than two months earlier, the petitioner was informed by members of the CNI of the fact that the two curb-cuts are non-conforming according to City of Cambridge Zoning Ordinance, Article 6, Section 6.40, *Design and Maintenance of Off Street Parking Facilities*. The petitioner was also informed that the existing points of entry and exit are unsafe, and unsuitable to the design of the newly proposed parking garage. The refusal of the applicant to apply for moving the curb-cuts *at that time or earlier* is the cause of the unnecessary delays. The City Council was also informed of the situation. Members of the CNI, who have been tireless in meeting with Spaulding & Slye, as well as city and state agencies in an effort to improve any proposals made for the use of 784 Memorial Drive, and who have constantly shown their concern to protect the city and its neighborhoods from destructive environmental impacts, urged that the curb cuts be moved. It took a long and determined effort to get this minimal agreement. We value the proposal to move the curb cuts as a step in the right direction. Moving the curb cuts is a small move in resolving problems and mitigating negative consequences associated with the project as it stands.

At the end of this meeting of December 11, a representative of the petitioner was asked by one of the attendees, "I suppose you'll have to move the curb cuts, before you get the building permit?" "Don't worry! We know how to deal with City Hall," came the response.

CNI repeatedly requested, in communications with the City Manager, City Councillors, and with the Inspectional Services Department, that proper procedure be followed, i.e., that the garage building permit be withheld until the relocation of the curb cuts was first approved by the City Council as required by the City Ordinance. This would have caused no delay or hardship to the applicant.

Submission 3.

The material in the City Manager's response to Council Order #36 of 12/22/97 dated December 30, 1997, is obfuscatory and prejudicial:

- 1) Depriving a landowner of access to to off-street parking or loading facilities was never at issue, and required no response
- 2) In addition to being legal access points, the curb cuts were clearly non-conforming ones. Undertaking new construction of a 577+ car garage required that these be brought into conformance. All parties agreed on the desirability of this. Thus there was every reason to bring the access points into conformance before granting the demolition and construction permits.

The material in the City Manager's response to Awaiting Report Items #1, 5, and 7, dated December 30, 1997, is far more informative:

- 1) The need for meetings by City Manager Robert Healy and "the developer on several occasions" to strongly encourage "immediate application for the relocation of the access points to the more appropriate locations." is unclear. Spaulding & Slye, Senior Vice President David Vickery, in charge of the project, had been informed of the desirability of doing so at least six months ago.
- 2) It is good that Mr. Healy's ability to negotiate led Mr. Vickery to alter the demands and conditions expressed in his letter of January 21, for the more submittable letter of February 5 (page 2 of which, though considerably altered, remains dated January 21). We are also grateful for the insight, which the placing of the two letters side by side provides, on the meaning of "We know how to deal with City Hall."

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March 5, 1998

Memorandum

page 3

The selective enforcement of laws, ordinances, regulatory procedures in a manner that favors the protection of citizens and their city from predatory behaviors is not always detrimental to the law's intent. But, surely, the failure to enforce regulations intended to protect the city in favor of big corporations, that have staffs, legal and otherwise, that "... know how to deal with City Hall," is politically demoralizing. Yes, we feel that we have achieved a small 'victory' in getting the proponent of 784 Memorial Drive to apply for permission to move the two curb cuts. It should not have required the huge number of unpaid hours on the part of members of the CNI, and the even greater number of highly paid man-hours in the city government. **But if the price of achieving a particular desired result is to cynically set aside the process that is designed to protect the city and its citizens generally, then very little has been gained.**

We are not merely standing on principles. The hostility expressed and demonstrated by the proponent to the concerns of citizens of Cambridge about his proposed "as of right" project, has caused unnecessary delays in getting needed state and city permits. The contempt for public process, encouraged by the actions of "City Hall," has meant that these processes are handled sloppily, have to be redone, and exacerbates suspicion. Spaulding & Slye, as a major Real Estate Company, the eighth largest taxpayer in Cambridge, should surely have the staff that knows how to get the names of the abutters from the City Assessor's office, so that the responses can be collected properly. We should not have to be the one to instruct the Project Manager on how this should be done. We should not have to be the 'address' for complaints of abutters who never received or were denied their forms at the Post Office. We should not have to investigate the source of the problem with a postal inspector. We know that the City Clerk had already explained the proper procedure to Project Manager Hilary Thomas.

Surely, if the applicant were acting in good faith, he would have met with another large business owner, directly across the street from one of the relocated curb cuts, whose interests might be harmed by the relocation, to work things out.

Surely, one can apply for a demolition permit before engaging in 'dismantling.' And just as surely, an application for a demolition permit that involves asbestos removal does not have to be granted 'after the fact.'

Since the relocation of the curb cut on Putnam Avenue involves the destroying of a shade tree on a city street, the actions to achieve this should have been instituted.

Because the relocation of the curb cut on Pleasant Street requires additional action to secure an 8M permit allowing the new, relocated point of access to be constructed over their easement, the actions to achieve this should have been undertaken.

The cavalier attitudes of the proponents of 784 Memorial Drive about exercising due diligence in carrying out their plans bodes ill for its successful realization. Their lack of concern for getting it right the first time increases the need for vigilance. What kind of due diligence will be exercised in completing demolition and beginning construction? Given the nature of the site and the readiness of city officials to show greater solicitude for the interests of large property holders than for the security of our citizens, the care that we have been showing has had only positive effects thus far. We will continue to show that care.

Enclosures

City of Cambridge

CITY POLICY ON DRIVEWAY CUTS, OPENINGS AND OFF-STREET PARKING FACILITIES

1. All authorization for driveway cuts and openings shall be issued by the Department of Public Works only after the application has first been approved by the Inspectional Services Department, the Traffic and Parking Department and, if the location is in or affects an historical district, neighborhood conservation district, or a landmark, the Historic Commission, and only after the City Council has adopted an order approving the petition. Prior to placing an application on a City Council agenda for action, the City Clerk shall notify neighborhood associations in the area of the location for which the application is made.
2. The fee for the driveway installation, once it has been approved, shall be paid in full before the Department of Public Works shall proceed with construction; in certain cases the Department of Public Works may allow work to be done by a private contractor who shall post the necessary bond and adhere to the city standards for such construction. In the latter case the Department of Public Works shall inspect and approve the final construction before the bond is released.

PROCEDURE WITH RESPECT TO DRIVEWAY CUTS, OPENINGS AND OFF-STREET PARKING SPACES OR FACILITIES

1. An application for Driveway Cuts and Openings shall be obtained by the applicant at the Department of Public Works or Inspectional Services Department.
2. The applicant, in addition to the application itself, (and the sketch required on the application form) must include a plot plan to scale which illustrates the driveway cut and the layout of the proposed on grade, off-street parking space, spaces or facility.
3. The applicant must also include signed abutter's forms of those abutters in front, side, rear and across the street from the property which the curb cut will be made. If the applicant is unable to obtain these signatures, he/she must include a statement with the application that an attempt was made to secure the required signatures and that it was not possible to obtain them and indicate the reasons why it was not possible to obtain the signatures.
4. The application, together with the plot plan and the abutter's forms, shall be first submitted to the Inspectional Services Department, located at 831 Massachusetts Avenue for review for compliance with the City of Cambridge Zoning Ordinance.

Curb cut requirements are detailed in Section 6.40 of the Zoning Ordinance. Following are some of the more significant requirements that must be met to comply with zoning:

- a. A curb cut cannot be located closer than twenty five (25) feet to a street intersection or within fifteen (15) feet of a crosswalk.
- b. The driveway must be at least ten (10) feet wide.
- c. For lots having less than 100 feet of frontage, a maximum of only one curb cut is allowed.
- d. The required size of the parking space is 8 1/2 feet by 18 feet. The parking space cannot be located within the front yard setback.



If the Inspectional Services Department makes a determination that the curb cut is not in compliance with the Zoning Ordinance, the applicant has the following options: discontinuing the application process; modifying the application to bring it into compliance with the Zoning Ordinance; appealing the Inspectional Services determination to the Board of Zoning Appeals (BZA); or requesting from the BZA a variance from the Zoning Ordinance. If the applicant is not successful with the appeal or variance request before the BZA, recourse is through the courts.

If the Inspectional Service Department (or the Board of Zoning Appeal) approves the application, it will then be sent to the Department of Traffic, Parking and Transportation. A refusal at this juncture may be appealed to the City Council for action.

5. If the application is approved by Traffic and Parking it should then be sent to the Historical Commission. If the Commission approves, the application will then be sent to the Department of Public Works; if the Commission disapproves the application, the applicant may appeal under statutes and ordinances governing the administration of historically designated properties, information about which may be obtained from the Commission.
6. If the Department of Public Works approves the application, the application will be sent to the City Clerk's Office. The City Clerk will notify neighborhood associations in the area of the petitioner and will send a copy to the petitioner. Notification will include a copy of the plot plan or drawing submitted with the application and will request that the neighborhood association inform the City Clerk whether it approves or disapproves of the application. Petitioners are urged to contact their neighborhood association early to avoid delay.
7. Ten days after notification of the neighborhood associations, the City Clerk will place the application on the next City Council agenda. If the City Council approves the application, the City Clerk will notify the applicant and will send the application back to the Department of Public Works. The cost of the driveway construction will be calculated and the driveway will be put on the schedule and a date assigned for construction. The applicant must pay in full for the construction cost, based on the cost indicated, within two weeks before the estimated start of construction. No construction will begin unless the full cost of the driveway has been paid for in advance.

In certain cases, the Department may arrange with the applicant to have the driveway done by a private contractor; however, the contractor will have to post a bond and have his work inspected as to city standards before the bond is released. In this case the contractor will have a direct relationship with the applicant and the city will not intervene unless the contractor does not meet city requirements for driveway construction.

8. If the applicant is refused by the Department of Public Works, the applicant can appeal to the City Council.

9. **APPLICANTS ARE CAUTIONED AGAINST EXPENDING ANY MONEY ON MODIFICATIONS TO THEIR PROPERTY IN ANTICIPATION OF THEIR APPLICATION BEING APPROVED BY THE COUNCIL.**

If a curb cut is required in connection with a project for which a building permit from the Inspectional Service Department is required, the building permit will not be issued until approval for the curb cut is first obtained from the Council. In extraordinary cases, an incremental (foundation, site work, etc) building permit may be issued if the following conditions, as a minimum, are met; the application has been initiated with the Inspectional Services Department, approvals from abutters have been obtained, a hardship is demonstrated, and the applicant states that he/she is proceeding at his/her own risk.

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CITY OF CAMBRIDGE
INSPECTIONAL SERVICES CITY OF CAMBRIDGE



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INSTRUCTIONS:

In order to obtain permission for a driveway cut or opening you must first get approval from the Department of Inspectional Services on the zoning requirements for off-street parking, including the cooperation of your immediate abutters.

To receive a review from Inspectional Services you must fill out Part I of the application. Be sure to draw your plot plan on Drawing 1, choosing the lot that represents your lot's position, i.e. corner or interior. You must also include a sketch of the proposed driveway, including dimensions, on Drawing 2. You may then calculate the cost of the driveway by using the formula based on your choice of surfaces. You must also include a signed abuttor sheet for each of your abutters: back yard, one on either side and the abuttor directly across the street.

Once you have gathered this information on the application, it should be submitted to:

Zoning Officer
Inspectional Services
831 Massachusetts Avenue
Cambridge, MA 02139

If the application is approved by Inspectional Services, it will then be sent on to Traffic and Parking, the Historical Commission and the Department of Public Works. If approved by Public Works, the application and backup will be sent to the City Council for their approval. Once the City Council approves, the driveway curb cut can be installed. However, the full cost of the cut must be paid to Public Works before the work will start.

If, however, Inspectional Services denies your application you may then appeal to the Zoning Board of Appeals.

DATE: 2 / 5 /98

PART I:

784 Memorial Drive - Application is for relocation of two (2) existing curb cuts located on Putnam Avenue and Pleasant St.

Address of proposed curb cut or off-street parking facility: _____

Frontage: See Attached Survey Block and Lot: Map 128 / Lot 36, 38, 39, 40, 60

Setback (distance from building to sidewalk): See Attached Plan

Distance from proposed driveway to surrounding structures and property line: See Attached Plan

Dimensions of proposed driveway: See Attached Plan

Location of any trees, sign posts, fire hydrants, utility poles, etc., in direct vicinity of proposed driveway: See Attached Plan

- Plot plan is included
- Sketch of driveway with cost estimate is included
- All abuttor's forms are included

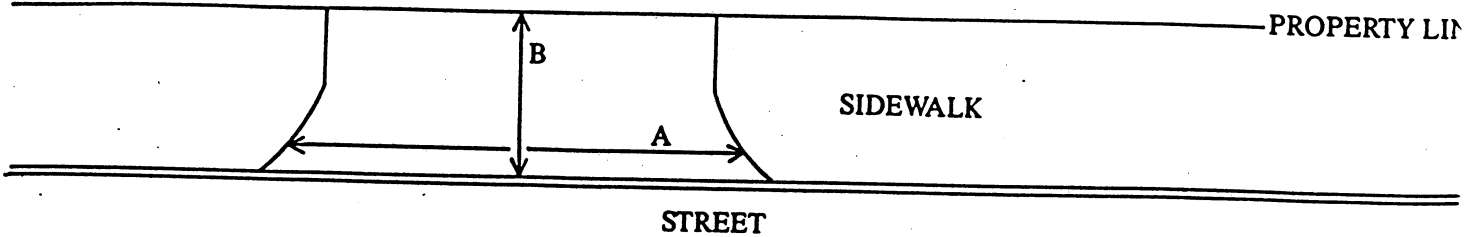
NOTE: IN PROCESS OF NOTIFYING ALL ABUTTERS; WILL MAKE BEST EFFORTS TO OBTAIN ALL SIGNATURES

DRAWING #2:

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SKETCH OF PROPOSED DRIVEWAY WITH COST ESTIMATE

CITY OF CAMBRIDGE



A = 30 FT. ÷ 3 = 10 YARDS

B = 10 FT. ÷ 3 = 3.3 YARDS

A × B = 33 SQUARE YARDS

COST ESTIMATE:

BRICK: _____ SQUARE YARDS × \$70/SQUARE YARD = \$ _____

BRICK ON CONCRETE: _____ SQUARE YARDS × \$85/SQUARE YARD = \$ _____

CONCRETE: 33 SQUARE YARDS × \$40/SQUARE YARD = \$ 1320 × 2 = \$2640 approx.

ASPHALT: _____ SQUARE FEET × 1 TON/40 SQUARE FEET × \$125/TON = \$ _____

DEPARTMENT OF PUBLIC WORKS SCHEDULED DATE FOR CONSTRUCTION:

DEPARTMENT OF PUBLIC WORKS STATED FEE: \$ _____

□ / /

The undersigned agrees to pay the stated fee for the driveway installation in full within two (2) weeks of the estimated starting date of construction before the Department of Public Works shall proceed with construction:

Owner's signature: Robert Dickey . Robert Dickey Date: 2/5/98

Address: 784 Memorial Drive 125 High Street Boston, MA 02110

Funds Received: \$ _____

Check Number: _____

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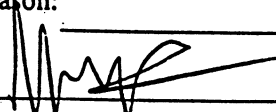
APPLICATION FOR DRIVEWAY CUTS AND OPENINGS

CITY OF CAMBRIDGE

PART II: INSPECTIONAL SERVICES DEPARTMENT

Application approved Application denied

Reason: _____

Signature:  _____ Date: 2/9/98

Title: ZONING SUPERVISOR 03-ZONE

PART III: TRAFFIC AND PARKING DEPARTMENT

Application approved Application denied

Reason: _____

Signature: _____ Date: _____

Title: _____

PART IV: HISTORICAL COMMISSION

Application approved Application denied

Reason: _____

Signature: _____ Date: _____

Title: _____

PART V: PUBLIC WORKS DEPARTMENT

Application approved Application denied

Reason: _____

Signature: _____ Date: _____

Title: _____

R. Philip Dowds

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CAMBRIDGE MA.

CNI, 12
3-12-98

48 Banks Street, Cambridge, MA 02142
(617) 354-6000

Thursday, January 22, 1998

CAMBRIDGE CITY COUNCIL

c/o CITY CLERK
City Hall
Cambridge, MA 02139

Attn: Mayor Pro Tempore Frank Duehay
Re: Illegal Demo at 784 Memorial Drive

Dear Mayor Pro Tempore Duehay and Members of the Council:

I have observed that contractors are tearing down buildings at 784 Memorial Drive (the "Polaroid" site), and I understand that this work is proceeding without a building / demolition permit. If so, I'm greatly disturbed that the City seems so indifferent to violation of State law. As an Architect registered to practice in Massachusetts, I am well familiar with 780 CMR, the "State Building Code" (SBC), and here's what it says about demo and permits:

Is a "building" permit required for demolition? You bet. The SBC sometimes makes generic use of the word "building" to cover all kinds of construction activity, including un-building. But SBC 110.1 spells it out:

"It shall be unlawful to construct, reconstruct, alter, repair, remove or demolish a building or structure ... without first filing a written application with the building official and obtaining the required permit therefor."

Is the work at 784 Mem Drive "demolition"? You bet. SBC 110.3 specifically itemizes the few (very few) exemptions to the permit requirement of 110.1. By way of SBC 110.3.4, a class of construction called "ordinary repairs", is exempt from the permit requirement, but 110.3.4 goes on to state:

"Ordinary repairs shall not include the cutting away of any wall, partition or portion thereof..."

In other words, 110.3.4 is quite explicit in stating the requirements for a building / demolition permit *do* apply to the window, wall, and partition removals now under way at 784 Mem Drive.

Is "dismantling" a class of construction activity distinct from "demolition"? No. The SBC makes no systematic use of the word "dismantling", offers no definition of this word, and thus does not create any distinction between "demolition", "dismantling",

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"selective removals", "tearing down", "wrecking", "imploding", or any other semantic hair-splitting.

Is a "debris removal permit" a substitute for a "demolition" permit? No. The SBC does not establish "debris removal" as a class of construction activity different from "building" or "demolition". The topic of debris is addressed in SBC 111.5, which says in part:

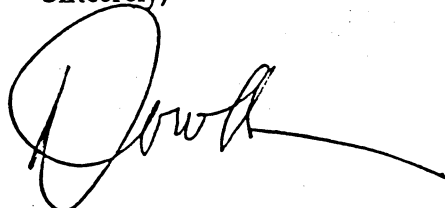
"As a condition of issuing a permit for the demolition, renovation, rehabilitation, or other alteration of a building or structure, <Mass General Law> requires that the debris resulting therefrom shall be disposed of in a properly licensed solid waste facility." Representations of legal disposal of debris shall be made on "... a form ... attached to the office copy of the building permit."

In other words: The required building / demolition permit is necessary before you are allowed to turn your building into debris — and you can't get one of those without saying how you will legally dump this debris, once you've created it. By SBC, there is no such thing as a "debris removal permit" distinct from the "demolition permit".

That an owner, developer and/or contractor will occasionally engage in subterfuge to evade the requirements of law is not a surprise. That our City will tolerate or support such subterfuge is, unfortunately, also not a surprise. But for me, it's always a disappointment.

I enclose herewith photocopies of the relevant SBC pages. As always, feel free to contact me when you have questions or comments. As always, feel free to do something.

Sincerely,



R Philip Dowds AIA
Hm: 354-6094 / Wk: 787-2400 x2
rpdowds@aol.com

enclosures:

780 CMR sixth edition, pp 19, 20, and 22

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780 CMR: STATE BOARD OF BUILDING REGULATIONS AND STANDARDS

ADMINISTRATION

engaged in directly supervising persons engaged in construction, reconstruction, alteration, repair, removal or demolition in those categories of *building* and *structures* for which the BBRS does not require a license, provided that those municipalities which have established licensing requirements for construction supervisors prior to January 1, 1975, may maintain their existing licensing requirements.

108.3.6 Registration of Home Improvement Contractors: In accordance with the provisions of M.G.L. c. 142A, no home improvement contractor, or organization or firm shall be involved in the improvement of any existing owner occupied one to four family residential building unless said home improvement contractor has registered with the BBRS in accordance with the rules and regulations for the registration of Home Improvement Contractors as set forth in 780 CMR R6.

108.3.7 Certification of Inspectors of Buildings, Building Commissioners and Local Inspectors: The rules and regulations for the Certification of Inspectors of Buildings, Building Commissioners and Local Inspectors shall be as set forth in 780 CMR R7.

108.4 Enforcement: Whoever violates the provisions of 780 CMR 108.0 or any rules and regulations promulgated hereunder, or who falsifies or counterfeits a license, registration or certification issued by the BBRS, or who fraudulently issues or accepts such a license, registration or certification shall be punished as provided in 780 CMR 118.0 or shall be subject to any other penalty provided for by law.

780 CMR 109.0 APPROVAL

109.1 Approved materials and equipment: All materials, equipment and devices approved by the building official shall be constructed and installed in accordance with such approval.

109.2 Used materials and equipment: Used materials, equipment and devices which meet the minimum requirements of 780 CMR for new materials, equipment and devices shall be permitted; however, the building official may require satisfactory proof that such materials, equipment and devices have been reconditioned, tested, and/or placed in good and proper working condition prior to approval.

109.3 Alternative materials and equipment:

109.3.1 General: The provisions of 780 CMR are not intended to limit the appropriate use or installation of materials, appliances, equipment or methods of design or construction not specifically

prescribed by 780 CMR, provided that any such alternative has been approved. Alternative materials, appliances, equipment or methods of design or construction shall be approved when the building official is provided acceptable proof and has determined that said alternative is satisfactory and complies with the intent of the provisions of 780 CMR, and that said alternative is, for the purpose intended, at least the equivalent of that prescribed in 780 CMR in quality, strength, effectiveness, *fire resistance*, durability and safety. Compliance with specific performance based provisions of 780 CMR, in lieu of a prescriptive requirement shall also be permitted as an alternate.

109.3.2 Evidence submitted: The building official may require that evidence or proof be submitted to substantiate any claims that may be made regarding the proposed alternate.

109.3.3 Tests: Determination of acceptance shall be based on design or test methods or other such standards approved by the BBRS. In the alternative, where the BBRS has not provided specific approvals, the building official may accept, as supporting data to assist in this determination, duly authenticated engineering reports, formal reports from nationally acknowledged testing/ listing laboratories, reports from other accredited sources. The costs of all tests, reports and investigations required under these provisions shall be borne by the applicant.

109.3.4 Approval by the Construction Materials Safety Board: The building official may refer such matters to the Construction Materials Safety Board in accordance with 780 CMR 123.0 for approval.

780 CMR 110.0 APPLICATION FOR PERMIT

110.1 Permit application: It shall be unlawful to construct, reconstruct, alter, repair, remove or demolish a *building* or *structure*; or to change the use or *occupancy* of a *building* or *structure*; or to install or alter any equipment for which provision is made or the installation of which is regulated by 780 CMR without first filing a written application with the building official and obtaining the required permit therefor.

110.2 Temporary Structures:

110.2.1 General: A building permit shall be required for temporary structures, unless exempted by 780 CMR 110.3. Such permits shall be limited as to time of service, but such temporary construction shall not be permitted for more than one year.

110.2.2 Special approval: All temporary construction shall conform to the structural strength, fire safety, *means of egress*, light,

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780 CMR: STATE BOARD OF BUILDING REGULATIONS AND STANDARDS
THE MASSACHUSETTS STATE BUILDING CODE

ventilation, energy conservation and sanitary requirements of 780 CMR as necessary to insure the public health, safety and general welfare.

110.2.3 Termination of approval: The building official may terminate such special approval and order the demolition of any such construction at the discretion of the building official.

110.3 Exemptions: A building permit is not required for the following activities, such exemption, however, shall not exempt the activity from any review or permit which may be required pursuant to other laws, by-laws, rules and regulations of other jurisdictions (e.g. zoning, conservation, etc.).

1. One story detached accessory buildings used as tool or storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet.

2. Fences six feet in height or less.

3. Retaining walls which, in the opinion of the building official, are not a threat to the public safety health or welfare and which retain less than four feet of unbalanced fill.

4. Ordinary repairs as defined in 780 CMR 2. Ordinary repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam, column or other loadbearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, mechanical system, fire protection system, energy conservation system or other work affecting public health or general safety.

5. Greenhouses: A building permit or notice to the building official is not required for the construction of greenhouses covered exclusively with plastic film (in accordance with St. 1983, c. 671). (This exemption does not apply if the greenhouse is to be used for large assemblies of people or uses other than normally expected for this purpose.)

110.4 Form of application: The application for a permit shall be submitted in such form as determined by the building official but in all cases shall contain, as a minimum, the information required on the appropriate sample uniform building permit application forms in Appendix B. The application for a permit shall be accompanied by the required fee as prescribed in 780 CMR 114.0 and the construction documents as required in 780 CMR 110.7 and 110.8, where applicable.

110.5 By whom application is made: Application for a permit shall be made by the owner or lessee of the building or structure, or agent of either. If application is made other than by the owner, the written authorization of the owner shall accompany

the application. Such written authorization shall be signed by the owner and shall include a statement of ownership and shall identify the owner's authorized agent, or shall grant permission to the lessee to apply for the permit. The full names and addresses of the owner, lessee, applicant and the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application.

Note: It shall be the responsibility of the registered contractor to obtain all permits necessary for work covered by the Home Improvement Contractor Registration Law, M.G.L. c. 142A. An owner who secures his or her own permits for such shall be excluded from the guaranty fund provisions as defined in M.G.L. c. 142A. Refer to 780 CMR R6 and M.G.L. c. 142A for additional information regarding the Home Improvement Contractor Registration Program.

110.6 The securing of a building permit by the owner, or the owner's authorized agent, to construct, reconstruct, alter, repair, demolish, remove, install equipment or change the use or occupancy of a building or structure, shall not be construed to relieve or otherwise limit the duties and responsibilities of the licensed, registered or certified individual or firm under the rules and regulations governing the issuance of such license registration or certification.

110.7 Construction documents: The application for permit shall be accompanied by not less than three sets of construction documents. The building official is permitted to waive, or modify the requirements for filing construction documents when the building official determines that the scope of the work is of a minor nature. When the quality of the materials is essential for conformity to 780 CMR, specific information shall be given to establish such quality, and 780 CMR shall not be cited, or the term "legal" or its equivalent used as a substitute for specific information.

110.8 Engineering Details, Reports, Calculations, Plans and Specifications: In the application for a permit for buildings and structures subject to construction control in 780 CMR 116.0, the construction documents shall contain sufficient plans and details to fully describe the work intended, including, but not limited to all details sufficient to describe the structural, fire protection, fire alarm, mechanical, light and ventilation, energy conservation, architectural access and egress systems. The building official may require such calculations, descriptions narratives and reports deemed necessary to fully describe the basis of design for each system regulated by 780 CMR. In accordance with the provisions of M.G.L. c. 143, § 54A all plans and specifications shall bear the original seal and original signature of a

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THE MASSACHUSETTS STATE BUILDING CODE

applications for permits and amendments thereto within 30 days after filing thereof. If the application or the construction documents do not conform to the requirements of 780 CMR and all pertinent laws under the building official's jurisdiction, the building official shall reject such application in writing, stating the reasons therefor. If the building official is satisfied that the proposed work conforms to the requirements of 780 CMR and all laws and ordinances applicable thereto, the building official shall issue a permit therefor.

111.2 Zoning: In accordance with the provisions of M.G.L. c. 40A or St. 1956, c. 665 as amended, no permit for the construction, alteration, change of use or moving of any *building or structure* shall be issued if such *building or structure* or use would be in violation of any zoning ordinance or by-law.

111.3 Railroad right-of-way: No permit to build a *structure* of any kind on land formerly used as a railroad right-of-way or any property appurtenant thereto formerly used by any railroad company in the state shall be issued without first obtaining, after public hearing, the consent in writing to the issuance of such permit from the Secretary of the Executive Office of Transportation and Construction, all in accordance with M.G.L. c. 40, § 54A.

111.4 Water Supply: No permit shall be issued for the construction of a *building or structure* which would necessitate the use of water therein, unless a supply of water is available therefor, either from a water system operated by a city, town or district, or from a well located on the land where the *building or structure* is to be constructed, or from a water corporation or company, as required by M.G.L. c. 40, § 54.

111.5 Debris: As a condition of issuing a permit for the demolition, renovation, rehabilitation or other alteration of a *building or structure*, M.G.L. c. 40, § 54 requires that the debris resulting therefrom shall be disposed of in a properly licensed solid waste disposal facility as defined by M.G.L. c. 111, § 150A. Signature of the permit applicant, date and number of the building permit to be issued shall be indicated on a form provided by the building department, and attached to the office copy of the building permit retained by the building department. If the debris will not be disposed of as indicated, the holder of the permit shall notify the building official, in writing, as to the location where the debris will be disposed.

111.6 Workers' Compensation: No permit shall be issued to construct, reconstruct, alter or demolish a *building or structure* until acceptable proof of insurance pursuant to M.G.L. c. 152, § 25C(6) has been provided to the building official.

111.7 Expiration of permit: Any permit issued shall be deemed abandoned and invalid unless the work authorized by it shall have been commenced within six months after its issuance; however, for cause, and upon written request of the owner, one or more extensions of time, for periods not exceeding six months each, may be granted in writing by the building commissioner or inspector of buildings. Work under such a permit in the opinion of the building commissioner or inspector of buildings, must proceed in good faith continuously to completion so far as is reasonably practicable under the circumstances. It is the sole responsibility of the owner to inform, in writing, the building commissioner or inspector of buildings of any facts which support an extension of time. The building commissioner or inspector of buildings has no obligation under 780 CMR 111.7 to seek out information which may support an extension of time. The owner may not satisfy this requirement by informing any other municipal and/or state official or department.

For purposes of 780 CMR 111.7 any permit issued shall not be considered invalid if such abandonment or suspension of work is due to a court order prohibiting such work as authorized by such permit; provided, however, in the opinion of the building commissioner or inspector of buildings, the person so prohibited by such court order, adequately defends such action before the court.

111.8 Previous approvals: 780 CMR shall not require changes in the construction documents, construction or designated *use group* of a *building* for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which has been actively prosecuted within 180 days after the effective date of 780 CMR and is completed with dispatch.

111.9 Signature to permit: The building official's signature shall be attached to every permit; or the building official shall authorize a subordinate to affix such signature thereto.

111.10 Approved construction documents: When the building official has determined that the proposed construction conforms to the provisions of 780 CMR and other applicable laws, by-laws, rules and regulations under his/her jurisdiction, the building official shall stamp or endorse in writing the three sets of construction documents "Approved". One set of the approved construction documents shall be retained by the building official, one set by the head of the local fire department and the other set shall be kept at the construction site, open to inspection of the building official or an authorized representative at all reasonable times.

111.12 Revocation of permits: The building official shall revoke a permit or approval issued under the

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To: The Honorable, the City Councillors
City Manager Robert Healy
Inspectional Services Commissioner Robert Bersani
Assistant City Manager for Community Development Susan Schlesinger
From: the Co-Chairs of the Cambridgeport Neighborhood Initiative (CNI):
Daphne Abeel, Gordie Fellman, Stash Horowitz, Anastasia Leotsakos,
Laurie Taymor-Berry, Maureen Van Stry, Elie Yarden
Date: December 15, 1997
Subject: Garage Building Permit for 784 Memorial Drive.

At a community meeting attended by 87 people on December 11, held by Spaulding & Slye and Polaroid on their plans for the 784 Memorial Drive proposal, it was stated by Spaulding & Slye that:

1. They propose building a 577+ car garage and have applied for the building permit for this, as well as for a demolition permit to raze the buildings currently on the site over which the garage and the towers will sit.

2. They intend to apply for curb-cut permits to move the location of the existing curb-cuts, only *after* they receive the building permit for the garage, thus reversing the normal process.

CNI strongly urges that issuance of these demolition and garage building permits be withheld at this time for the following reasons:

1. Both existing curb-cuts on Pleasant Street and on Putnam Avenue are non-conforming according to City of Cambridge Zoning Ordinance, Article 6.40, Design and Maintenance of Off Street Parking Facilities:

- a. The Pleasant Street curb-cut, designated to carry half the traffic into and out of the garage, does not conform to the requirement of Section 6.43.4 (b): "No driveway curb cut shall be located closer than twenty five (25) feet to a street intersection . . ." The current curb cut is directly at the intersection Pleasant and Florence Streets.

- b. The Putnam Avenue curb-cut designated to carry the other half of the garage traffic does not conform to the requirement of Section 6.43.4 (c): "The grade and design of any driveway providing access to an off street parking facility shall permit a clear view, to the driver of any car exiting from the facility, of traffic on the street and of pedestrians." The current curb-cut has no clear view of oncoming traffic on Putnam Avenue. The view is totally obscured by a thick tree trunk.

- c. These curb-cuts will service new construction from the above-mentioned 160,000 sq ft garage, and two office towers totalling 240,000 sq ft. Curb-cuts for new construction must be approved *before, not after*, that construction commences.

2. Proper sequencing of permits must be followed.

The garage building permit cannot be issued before the necessary demolition permit for the existing buildings, presently located where the garage

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and the two office towers will be. The demolition permit first requires the issuance of a State Permit: a Massachusetts Water Resources Authority (MWRA) 8M permit, since it involves moving heavy construction equipment over the large MWRA sewer line and easements bisecting the site. (Cf. attached letter from MWRA to Polaroid Corp.)

3. Two traffic studies have just been released, studying the effects on the neighborhood of the 577 car garage. One was done for Spaulding & Slye by Robert Vanasse & Associates, another for the CNI by Stephen Kaiser, traffic engineer.

The Cambridge City Council has appropriated \$14,000 for Barry Pell of Rizzo Associates to analyze both these studies, and report back in written form to the Council. This analysis should be done and available some time in mid- to late January.

CNI expects to study and comment to the Council on Pell's analysis.

Issuance of any garage permit before then will negate the purpose of these three studies/analyses, and make them worthless.

4. Neighborhood opposition to the 577 car garage is nearly unanimous. The main conclusion of the Vanasse report, that traffic is already so bad in the neighborhood at all intersections surrounding this proposal, that the project's traffic will not worsen traffic conditions level of service, has met with incredulity on the part of those who have read this report.

Kaiser's study points out that a 295,000 sq ft proposal, such as this one, if leased for general office space, would require over 1000 parking spaces. Polaroid will occupy only one-sixth of the space. The other five-sixths will be leased office space.

Where will the extra cars park in the neighborhood?

This argues for an even larger garage, and traffic problems so overwhelming as to bring the scale of the project into question. Please refer to the appropriate section on parking in the Kaiser traffic study for CNI.

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2/5/98 draft of proposed Council Order for Council Meeting of February 9, 1998.
NOT SUBMITTED.

WHEREAS: 784 Memorial Drive LLC (c/o Spaulding & Slye Real Estate Services Company, Inc., 125 High Street, Boston, MA 02110) commissioned a traffic study of its proposed 300,000 sq. ft. project from Robert Vanasse & Associates, subsequent to Council Order #98 of June 2, 1997, and

WHEREAS: The Vanasse traffic study was completed November 26, 1997, and the City hired Barry Pell of Rizzo Associates as its consultant to analyze this study, and Barry Pell's interim report became available February 2, 1998, and

WHEREAS: The City, the Cambridgeport Neighborhood Initiative (CNI), the proponent, and the traffic consultants have been meeting, in a spirit of cooperation, to explore traffic mitigations, and

WHEREAS: The Pell report recommends that both the Putnam Avenue and the Pleasant Street curb cuts be relocated, to wit,

"Rizzo Associates recommends that a project mitigation plan should be comprised of three primary elements . . . [one of the three elements is]

3. Changes in the site access curb cuts:

a. **Putnam Avenue.** Relocate the curb cut away from Pleasant Street to the site's property line (or as a shared access with the adjacent property) . . .

b. **Pleasant Street.** Relocate the curb cut towards Memorial Drive with restriction (by design and/or signage) to prohibit left turns exiting the site." (Rizzo Associates, p.5), and

WHEREAS: The Putnam Avenue curb cut is judged **unsafe** by the consultant, to wit,
"The site access shown on Putnam Avenue is inadequate and unsafe. It is within 30 feet of the Pleasant Street intersection, which is also an established school crossing." (Rizzo Associates, p.3), and

WHEREAS: The Director of Traffic, Parking and Transportation also judges the Putnam Avenue curb cut unsafe, to wit,

" . . . the Department finds the use of the Putnam Avenue curb cut in its present location as unsafe access to the new parking garage.

If the Putnam Avenue curb cut was relocated to the edge of the proponent's property line it would be 68 feet from the intersection. If this relocation occurred, the Department would find the use of the curb cut acceptable." (Susan Clippinger letter to Robert Bersani, Commissioner, Inspectional Services Department, January 27, 1998, p.2.), and

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WHEREAS: The City of Cambridge Zoning Ordinance, Article 9, Section 9.12
"requires all building permits to be issued only when the provisions
of the Cambridge Zoning Ordinance have been met." (Bersani letter
to Robert Healy, January 8, 1998, p.2), and

WHEREAS: Zoning Ordinance Section 6.4.3.4 (c) requires clear visual access from a curb cut,
and oncoming traffic at the Putnam Avenue curb cut is visually blocked by a city shade
tree on the sidewalk, and

WHEREAS: "If it were determined that public safety would be jeopardized because of the curb
cut layout or configuration, then resolution would be required before the building permit
or the CO [Certificate of Occupancy] would be issued." (Bersani letter to Healy,
December 26, 1997), now therefore be it

ORDERED: That the City Manager be and hereby is requested to request 784 Memorial Drive
LLC to apply to the City Council as soon as possible for permission to relocate these
two above-mentioned curb cuts, as recommended by the City and its consultant, and as
a token of good faith, and be it further

ORDERED: That the City Manager be and hereby is requested to request the Inspectional
Services Commissioner to delay the issuance of any and all permits, including building or
demolition, until the said curb cuts shall be deemed safe by the City's traffic consultant
and by the Department of Traffic, Parking and Transportation, and to revoke any existing
permits issued within the last 45 days, until the safety requirements be fulfilled, and be it
further

ORDERED: That the City Manager be and hereby is requested to report to the Council at its
February 23 meeting as to the response, or lack of same, from 784 Memorial Drive LLC.



CITY OF CAMBRIDGE
INTEROFFICE CORRESPONDENCE

CNI, 21
3-12-98

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CITY OF CAMBRIDGE

97 DEC 29 PM 1:18

December 26, 1997

To: Robert W. Healy, City Manager

From: Bob Bersani, Inspectional Services

Subj.: Council Order No. 36 of December 22, 1997 RE: That the City Manager clarify the policy of the City about whether all curb cuts necessary for a new building project must be approved by the City Council prior to the Granting of Building Permits for that project and whether those curb cuts must conform to current zoning standards and safety set by the Department of Inspectional Services and the Traffic Department.

In response to this Council Order, the following response is submitted:

Three years ago, ISD made the determination that building permits, where access for off-street parking or loading was required by the Zoning Ordinance, would not be issued unless the curb cut(s) necessary to meet this requirement were in place or approved by the City Council. This policy was implemented in order to preclude the situation from occurring where a subsequent CO could not be issued because of noncompliance with the Zoning Ordinance as pertains to parking/loading. This determination was subsequently incorporated into the City curb cut application procedures with the stipulation that, in extraordinary cases, a partial building permit could be issued without the required curb cuts being in place or approved if the following conditions were met; the application had been initiated with ISD, approvals from abutters had been obtained, a hardship had been demonstrated, and, the applicant stipulated that he/she were proceeding at their own risk.

For those situations where existing curb cuts, that may be nonconforming as pertains to the Zoning Ordinance, could be used to satisfy the parking/loading requirements of a development, the building permit would be issued. If it were determined that public safety would be jeopardized because of the curb cut layout or configuration, then resolution would be required before the building permit or the CO would be issued.

Very truly yours,

R. R. Bersani
R. R. Bersani

cc
S. Clippinger
Ralph Dunphy
Don Drisdell



ROBERT R. BERSANI
Managing Director/
Acting Commissioner

CITY OF CAMBRIDGE

INSPECTIONAL SERVICES DEPARTMENT 831 MASS. AVE.
CAMBRIDGE, MASSACHUSETTS 02139 (617) 349-6100

Manager Communicatn #11

January 8, 1998

To: Robert W. Healy, City Manager

From: Bob Bersani, Inspectional Services

Subj: Council Order #035, dated 12/22/97 RE: REPORT ON WHAT ORDINANCES, REGULATIONS AND STATE LAWS APPLY TO THE GRANTING OF BUILDING PERMITS AND WHAT INPUT THE COUNCIL HAS

This report supersedes my report dtd. December 26, 1997.

In response to this Council Order, the following information is submitted:

The issuance of building permits is controlled by the Massachusetts Building Code, 6th ed. (780CMR), The Massachusetts Zoning Act, G.L. c. 40A, and the Cambridge Zoning Ordinance. The authority to grant building permits rests exclusively with the Building Commissioner which in Cambridge is the Commissioner of Inspectional Services.

The applicable sections of the Building Code dealing with the issuance of building permits are paraphrased as follows:

a. 780CMR 106.0 DUTIES AND POWERS OF THE BUILDING OFFICIAL

- - Provides for the building official to enforce all of the provisions of the Building Code and other State statutes, rules, and regulations or ordinances (zoning) that empower the building official.
- - Provides for the building official to receive applications and issue building permits and enforce compliance in accordance with the provisions of the Building Code.

b. 780CMR 111.0 PERMITS

- provides for the Building Official to review permit applications for compliance with the Building Code and other laws under his jurisdiction (Zoning Ordinance) and requires issuance of the building permit within 30 days if the project is in compliance.

c. 780 CMR 122.1 STATE BUILDING CODE APPEALS BOARD

- Provides for appeal of the building official's actions/inactions as pertains to the building code to the State Building Code Appeals Board.

note: The building official's determinations as pertains to the

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OFFICE OF THE CITY MANAGER

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Zoning Ordinance are appealable to the Cambridge Board of Zoning Appeal (BZA) .

The applicable sections of the Cambridge Zoning Ordinance dealing with the issuance of building permits include the following:

a. ARTICLE 9, SECTION 9.12 - requires all building permits to be issued only when the provisions of the Cambridge Zoning Ordinance have been met.

b. ARTICLE 9, SECTION 9.12 - provides that when a building permit is denied, the reasons for the denial shall be clearly stated in writing.

c. ARTICLE 10, SECTION 10.20 - provides for persons aggrieved by actions of the Building Commissioner concerning permits or other matters to appeal to the Board of Zoning Appeals (BZA)..

It should be noted that the Building Official routinely consults with a number of City Departments, depending on the specific circumstances of the project, prior to issuance of building permits. These include the Fire, Public Works, Traffic, Parking and Transportation, Community Development, and Law Departments as well as the Historical and Conservation Commissions. Also, comments received from interested individuals, other City Departments and officials, and other government agencies are considered prior to the issuance of building permits.

Very truly yours,

R. R. Bersani
R. R. Bersani

cc
Don Drisdell

Spaulding & Slye

Comprehensive Real Estate Services

Colliers International

125 CambridgePark Drive
Cambridge, MA 02140-2314
Tel: (617) 523-8000
Fax: (617) 497-4848

January 9, 1998

Via Fax: (617) 349-6132

Robert R. Bersani
Commissioner
City of Cambridge
Inspectional Services Department
831 Massachusetts Avenue
Cambridge, MA 02139

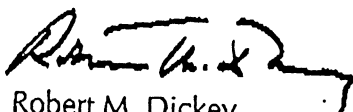
RE: 784 Memorial Drive

Dear Commissioner Bersani:

Pursuant to our conversation this morning, this letter shall serve as confirmation that Polaroid and Spaulding & Slye are arranging a meeting with Phillip Coleman, Project Manager at MWRA, to review our plans to demolish the back buildings at the 784 Memorial Drive property. In conjunction with any demolition permit issued by your office, we agree not to proceed with the physical work until Mr. Coleman and the MWRA are satisfied that the work does not impact the MWRA easement through the property. Additionally, in the event that an 8M Permit is required from MWRA, we will file the application with Mr. Coleman immediately and delay the demolition until the 8M Permit has been issued.

Please feel free to contact me at (617) 531-4127 or Phillip Coleman should you have any questions.

Sincerely,



Robert M. Dickey
Vice President

cc: Phillip Coleman (Via Fax: (617) 241-6070)
Ralph Norwood - Polaroid
John Thomas - Spaulding & Slye



MASSACHUSETTS WATER RESOURCES AUTHORITY

Charlestown Navy Yard
100 First Avenue
Boston, Massachusetts 02129

Telephone: (617) 242-6000
Facsimile: (617) 241-6070

January 13, 1998

Robert Bersani
Commissioner
City of Cambridge
Inspectional Services Department
831 Massachusetts Ave.
Cambridge, MA. 02139

RE: 784 Memorial Drive

Commissioner Bersani,

Please accept this letter as confirmation of our telephone conversation on 1/13/98 regarding the above referenced project. I have received the fax from Spaulding and Slye confirming that they will meet with the M. W. R. A. and apply for an 8M permit before starting any physical work on the back buildings of this particular site. Since our conversation Spaulding and Slye has made arrangements to meet with me at my office on 1/15/98 at 9:30AM to review their plans and file necessary paperwork for an 8M permit.

As discussed in our conversation I see no reason not to issue demolition permit with conditions that were agreed to {M.W.R.A. 8M permit} before any physical work begins.

Please feel free to contact me at 241-6488, and I will speak to you if any unforeseen problems arise from the 1/15/98 meeting.

Sincerely,

A handwritten signature in cursive script that reads "Philip Coleman".

Philip Coleman
Project Manager/Sewerage Division
M.W.R.A.

CNI, 26
3-12-98

To: The Honorable, the City Councillors
From: From: the Co-Chairs of the Cambridgeport Neighborhood Initiative (CNI):
Daphne Abeel, Gordie Fellman, Stash Horowitz, Anastasia Leotsakos,
Maureen Van Stry, Elie Yarden
For: City Council Meeting of January 26, 1998
Subject: 784 Memorial Drive Site:
Violations of Due Process by Project Proponent, 784 Memorial
Drive LLC (formerly Polaroid Corp);
Violations of Due Process by City of Cambridge administration

This Monday's Council meeting will be the 17th time since May 1997 that members of the Cambridgeport Neighborhood Initiative (CNI) have spoken to the City Council of serious neighborhood, community, and city concerns about the 784 Memorial Drive proposal.

Eleven unanimous Council orders, involving soil-testing, public health survey, traffic studies, consultant analysis of traffic studies, debris removal, demolition & building permits, and non-conforming curb cuts, have been the result of our efforts.

The history of the project has been notable for the extreme contortions of the proponents to avoid any reasonable public scrutiny. There has been, since May 1997, a consistent and continual pattern of subterfuge, non-cooperation, misinformation, and avoidance by both developers and certain city officials.

Listed below, and briefly described, are five recent examples of the failure to act in accordance with due process, the neglect of proper city review according to ordinances of the City and laws of the State; and a further listing of some past oversights.

1. Subsequent to CNI's request that information on two previous spills on the site be studied and reported to the Council, the City Public Health Officer was asked to survey abutters for health problems, by June 23 Council order.

Following that order and a CNI meeting with the Public Health Officer, CNI has learned that a meeting occurred with two professors of epidemiology, a doctor from Cambridge Hospital, a representative from CDD, and Public Health staff. One purpose of the meeting was to determine whether it would be possible to reassure the neighborhood that uncapping the asphalt cover at the site, demolition and construction would not endanger public health and safety.

The neighborhood group was not informed or invited, or given a copy of the report sent many months ago to the City Manager. Efforts to obtain this report have been unsuccessful. The information has not been shared with the Council. (Cf. attached copy of January 20 letter of Daphne Abeel to City Manager)

2. In a communication, and a letter, to the Council's January 12 meeting, Inspectional Services Department (ISD) Commissioner reported and clarified the relationships between curb cuts and building permits.

The Assistant City Solicitor spoke and said that, although the law is a gray area and the courts have not clearly ruled, his position was to recommend the use of existing curb cuts (whether conforming or not). He then proceeded to confuse the issue of non-conforming curb cuts and Council requirement for approval with the difficulty in law of denying an owner access to his property.

Yet both reports clearly read;

(1) "The applicable sections of the City Zoning Ordinance dealing with the issuance of building permits include the following

Article 9; section 9.12 requires all building permits to be issued only when the provisions of the City Zoning Ordinance have been met."
(in January 8 report)

(2) "... If it were determined that public safety would be jeopardized because of the curb cut layout or configuration, then resolution would be required before the building permit or the CO would be issued."
(in December 26 report)

3. Both curb cuts leading to and from the 600-car garage are examples par excellence of non-conformity and a threat to public safety as stated in Sections 6.434 (b) and (c) of the Cambridge Zoning Ordinance. Yet when ISD Commissioner was asked by CNI whether he would issue the building permit with the existing curb cuts, he replied affirmatively, contradicting his report to the Council.

The curb cut on Putnam Avenue, which will carry half the traffic for the garage, has long been unused, is professionally unsound, its view onto the street blocked by a living shade tree on the City sidewalk. The developer has admitted that it must be moved but wishes to do this "eventually," after the building permit has been obtained. Section 6.434 (c) requires that oncoming traffic be clearly visible to vehicles exiting via the curb cut.

4. Removal of a shade tree on a city street requires public notification, a public hearing, and a Planning Board meeting, by State law (GL87, sec.3, "Cutting of public shade trees").

5. Traffic engineers from Spaulding & Slye/Vanasse Associates, from CNI, and from the City (its consultant from Rizzo Associates, CDD, and Traffic & Parking) have been meeting to discuss possible mitigations of the effects of the garage and its 3000 or more daily vehicle trips on neighborhood streets.

Two traffic studies have been produced, one for Spaulding & Slye, another for CNI, and the City's consultant's report will be forthcoming at the end of January. It will discuss the effectiveness of mitigations. At the meeting this week, Spaulding & Slye refused to fund its traffic engineer's further participation, and may have withdrawn from these mitigation meetings. At a previous meeting January 7, the traffic engineers agreed that both existing curb cuts are hazardous and must be changed.

Other examples of misinformation and evasion:

1. CNI asked CDD in September, 1996 to inform the neighborhood group when any developer planned a project for 784 Memorial Drive. This was not done. We learned about it from two articles in the Boston Globe.
2. Spaulding & Slye stopped meeting with the neighborhood in June 1997, after CNI visited MEPA to inquire whether an ENF should be filed by the proponent. Only one public meeting called by the proponent has been held since. No architect or Polaroid representative spoke at any of these meetings.
3. The proponents initially appeared without a traffic study and argued that none was necessary.
4. Schematic plans were changed in June to reroute garage traffic at one exit around an existing tree rather than petition for removal of the obstacle and straighten out the exit pathway by moving the existing curb cut.
5. Polaroid Corp never responded to a June 23 Council Order, nor to two DEP letters from the Site Management Chief, Northeast. These strongly suggested additional soil testing to allay neighborhood concerns about possible soil contamination, given the history of industrial and chemical use. Geotechnical borings of the site were done in the fall, when sampling and testing would have been easy and inexpensive to conduct, but Polaroid refused.
6. City Public Health Officer has not conducted a survey of abutters for health problems, as requested in City Council order of June 23, 1997.
7. Debris removal was done for two weeks without the proper city permit from ISD. When ISD Commissioner spoke to the Council, he said that this permit was probably on his desk. In fact, it was submitted the next day by Spaulding & Slye after ISD officials called them.
8. Demolition was done, according to the definition in the State Board of Building Regulations & Standards (780 CMR 110.0, 110.3.4, and 111.5), without a demolition permit. When questioned, ISD officials called it debris removal.

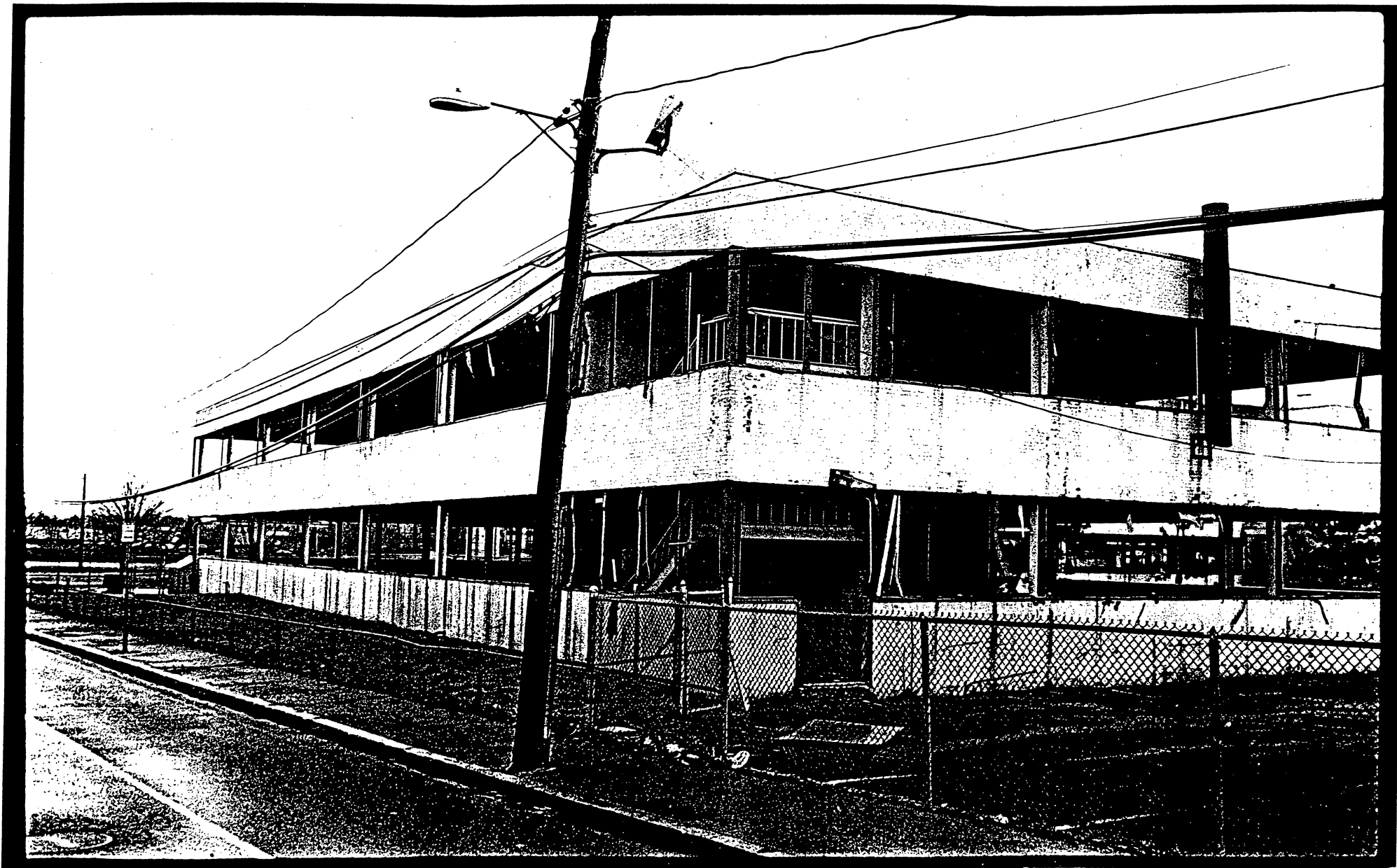
CNI, 29
3-12-98

9 Proponent refused to acknowledge for 7 months that an MWRA 8M permit was necessary, finally agreeing this week that it was needed, after twice meeting with the MWRA's Director of Permitting. ISD Commissioner said that he would issue the demolition permit regardless of the 8M permit requirement. He then changed his mind after talking with the MWRA Permit Director, making its issuance conditional on the 8M being obtained or not needed.

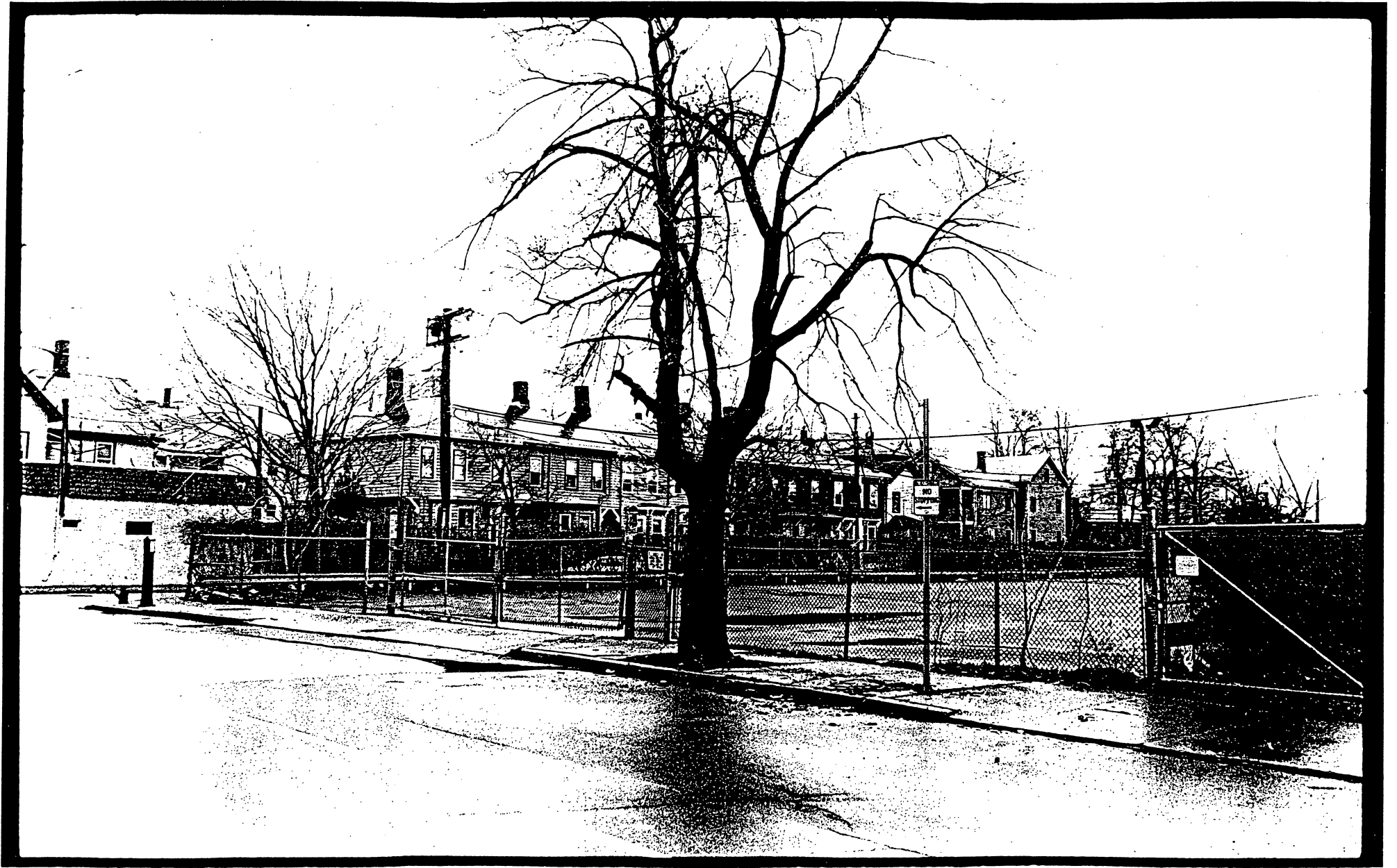
10. All four State Representatives for Cambridge sent a letter to Secretary of Environmental Affairs, Trudy Coxe, "... to insure that state agencies exercise due process regarding the development of the property. As representatives of the City of Cambridge, we are particularly concerned about the environmental impacts of the project. We would like to provide reasonable assurance to our constituents that this is a clean site." (Cf. attached copy of January 11, 1998 letter.)

We hope that our City Councillors, and through them the appointed officials of the City Administration, will show the same concerns about the environmental impacts and protection of our citizens, as expressed by our State representatives.

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CNI, 31
3-12-98





CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

TEL 349-4300
FAX 349-4307

6.
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3-12-98

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

February 9, 1998

To the Honorable, the City Council:

In response to Awaiting Report Items #1, 5, and 7, enclosed please find reports from Sue Clippinger, Director of Traffic, Parking, and Transportation, Susan Schlesinger, Assistant City Manager for Community Development, Barry Pell, P.E. of Rizzo Associates, and John O'Brien, CEO of the Cambridge Public Health Commission.

These reports address those issues that are legally within the purview of the City of Cambridge relating to the proposed project at 784 Memorial Drive.

Robert Bersani, Commissioner of Inspectional Services has concluded that there is no legal basis upon which to deny demolition permits which have been sought for several existing structures on the site. He has also concluded that there is no legal basis for denying a building permit for the proposed parking structure on the site.

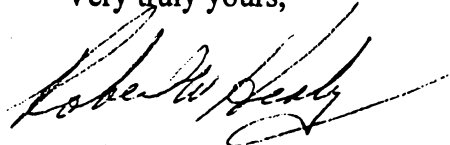
There are two existing curb cuts at the site which the owner proposes to use for entering and exiting the proposed parking structure. The conclusions reached by Sue Clippinger, supported by the consultation with Rizzo Associates, identify safety concerns regarding the existing Putnam Street curb cut because of its proximity to the intersection of Putnam and Pleasant Streets, while concluding that the Pleasant Street curb cut operates safely from a traffic engineering perspective. Accordingly, Commissioner Bersani has issued the building permit based upon the recommendations provided by the Traffic, Parking and Transportation Department. As explained at the City Council meeting of January 12, 1998 by the Law Department, in the context of an application for a building permit, for zoning purposes, it is sufficient if a landowner demonstrates a legal access point from the public way to any required off-street parking and loading facilities. Despite the fact that the curb cut may not provide for optimal traffic management at the site, it is evidently sufficient to obtain a building permit.

Clearly, based on the in-house analysis supported by the Pell report, relocation of both curb cuts would provide for both safer and better traffic flow to and from the site. I

met with the developer on several occasions and strongly encouraged immediate application for the relocation of the access points to the more appropriate locations. I am attaching a letter dated February 5, 1998 from David Vickery indicating that the developer agreed to and has applied for relocation of the curb cuts to the preferred locations.

The "as of right" status of this project imposes limitations on the City's ability to require changes in the developer's proposal. I believe that all parties are persuaded that the relocation of curb cuts as proposed will provide the best traffic management option for the permitted development at the site.

Very truly yours,



Robert W. Healy
City Manager

Spaulding & Slye

Comprehensive Real Estate Services

Colliers International

125 Cambridge Park Drive
Cambridge, MA 02140-2314
Tel: (617) 523-8000
Fax: (617) 497-4848CNI, 34
3-12-98

February 5, 1998

Mr. Robert W. Healy, City Manager
City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

RE: 784 Memorial Drive

Dear Mr. Healy:

Thank you for the several meetings you have arranged regarding curb cuts for our 784 Memorial Drive project, and we have taken into consideration the concerns you have articulated. As you know 784 Memorial Drive LLC is developing the property known as 784 Memorial Drive. This project involves the rehabilitation of the building fronting on Memorial Drive which is on the National Register of Historic Buildings. Once the rehabilitation is completed it will be occupied by the Polaroid Corporation as its world-wide corporate headquarters. The development will also involve the construction of a 577 car parking garage and two new office buildings containing in the aggregate approximately 240,000 square feet. Additionally, approximately 30 units of housing will be built on the east side of the site along Pleasant Street.

We are now in the process of rehabilitating the historic building and we intend to demolish the other buildings on the site this month. The Cambridge Historical Commission determined that these remaining buildings are not preferably preserved and Cambridge Inspectional Services issued a permit for this demolition project on January 15, 1998.

The site currently has several driveways which have been historically used by Polaroid. One of these driveways exits onto Pleasant Street near the intersection of Florence Street and the other exits onto Putnam Avenue. In response to questions raised at meetings discussing the traffic impacts of the project and our permit application for the new parking facility we have stated that we would not object to relocating these two driveways. Any driveway relocation would be subject to curb cut approval by the Cambridge City Council.

The plan is for Polaroid to move its headquarters to the front building this summer and to utilize a temporary surface parking lot on the site. As use of the Pleasant Street driveway in connection with Polaroid's use of the front building will be less intensive than it has been historically, we anticipate continued use of this driveway for the front building prior to the construction and completion of the parking garage.

Spaulding & Slye

Comprehensive Real Estate Services

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February 5
January 27, 1998
Page 2

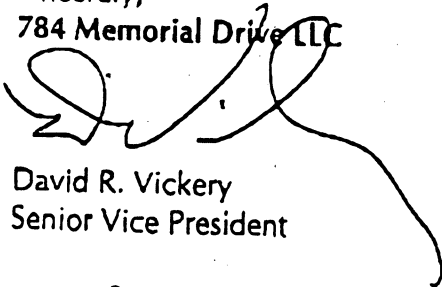
Mr. Robert W. Healy, City Manager

Today, with the issuance of the building permit for the parking garage we have submitted an application for the relocation of the Putnam Avenue driveway and the Pleasant Street driveway (opposite Florence Street) with the Inspectional Services Department for its review and submission to City Council. We have applied to relocate these driveways to locations determined by the City's Traffic Engineer's analysis to be both safer and better for traffic management.

However, if we are unable to obtain new curb cuts, we have not abandoned our existing curb cuts and would pursue the right to use them. On behalf of Polaroid and Spaulding & Slye's joint venture, we appreciate your negotiation of a positive resolution of these issues.

Please contact me should you have any further questions.

Sincerely,
784 Memorial Drive LLC



David R. Vickery
Senior Vice President

cc: Susan R. Schlesinger, Assistant City Manager, Cambridge Community Development
Susan Clippinger, Director of Traffic and Parking, City of Cambridge
William O'Neill Jr., Executive Vice President/CFO, Polaroid Corporation
Ralph Norwood, Vice President/Treasurer, Polaroid Corporation
Lauren Preston, Engineer, City of Cambridge
Robert Dickey, Vice President, Spaulding & Slye
Robert Bersani, Commissioner, Inspectional Services

CCM-101



City of Cambridge

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3-12-98

101.

IN CITY COUNCIL

June 23, 1997

COUNCILLOR TRIANTAFILLOU
VICE MAYOR BORN
COUNCILLOR TOOMEY
COUNCILLOR REEVES
COUNCILLOR GALLUCCIO

WHEREAS: Polaroid Corp. is currently drilling test borings for geotechnical information for foundation analysis; and

WHEREAS: They are using Haley and Aldrich, a licensed site professional registered with the Department of Environmental Protection for soil analysis; and

WHEREAS: The proposed development for 784 Memorial Drive is over the part of the 6 acres where BB Chemical manufactured adhesives for 3 decades; and

WHEREAS: The proposed housing is over the part of the 6 acres where Dover Stamping and Manufacturing Co. made sheet metal for 4 decades, using solvents to treat the metal; and

WHEREAS: Part of the site has been already cleaned up of toluene and dichloroethane; now therefore be it

ORDERED: That Polaroid Corp. the owner, is hereby requested to test the subsoil at these locations for chemical contamination and communication of the results to the City, before any demolition and construction occurs; and be it further

ORDERED: That the City Manager be and hereby is requested to request that the Chief Public Health Officer investigate the particular medical illnesses on Pleasant Street and whether they are related to chemical contamination on this site.

In City Council June 23, 1997

Adopted by the affirmative vote of nine members.

Attest:- D. Margaret Drury, City Clerk.

A true copy;

ATTEST:-

D. Margaret Drury
D. Margaret Drury
City Clerk

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OFFICE OF CITY CLERK

98 MAR 12 PM 1:22

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 *Elie Yarden*
For: City Council Meeting of March 16, 1998 *Stash Horowitz*
Subject: 784 Memorial Drive Site & Permits granted by Inspectional Services
Department (ISD) relating to demolition, curb cut relocations, and
building permit for proposed 577 car garage.

The CNI wishes to thank the City Manager for making the ISD Commissioner available to answer questions about permits issued by his department, relating to demolition, curb cut relocations, and building.

The following attached memoranda, regulations, communications, and photographs, some of which the CNI has previously sent to the City Council, the City Manager, or the ISD Commissioner will, we hope, provide helpful background on these issues, and detail some of the concerns of the CNI that due process and city regulations are not being followed in these permits.

The CNI hopes that all future permits, from ISD and other city agencies, follow established procedures, Zoning Ordinances relating to safety of curb cuts, and City and State regulations and laws for the granting of demolition and building permits.

Members of the CNI will be available at this City Council meeting, and will be happy to answer any questions about these matters.

List of 12 attachments:

1. CNI's Neighborhood Association Response to application by Spaulding & Slye for relocation of curb cuts on Pleasant Street and on Putnam Avenue. (pp 3-6)
2. City Policy on Driveway Cuts. (pp 7, 8)
3. Spaulding & Slye application for curb cut relocations, received February 5, 1998, with no abutters forms attached, and approved by ISD February 9. (pp 9-11)
4. Communication from R. Philip Dowds, architect, about illegal demolition without a permit at 784 Memorial Drive, Buildings #2 - 10, before demolition permit was issued by ISD on January 12, 1998. Three pages from State Building Code on what is demolition. (pp 12 -16)

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98 MAR 12 PM 1: 22

5. CNI communication to City Council, City Manager, and ISD Commissioner of December 15, 1997, urging that demolition and building permits not be issued until two unsafe and non-conforming curb cuts be relocated. (pp 17, 18)
6. Proposed draft for a Council Order (not submitted) relating to curb cut issues and concerns, and that ISD not issue any permits, or should revoke existing ones, until these issues be resolved. (pp 19, 20)
7. Two communications from Robert Bersani, ISD Commissioner relating to procedures for granting building permits and curb cuts. (pp 21 - 23)
8. Two letters to Commissioner Bersani of ISD relating to Massachusetts Water Resources Authority (MWRA) 8M permit required before demolition permit can be issued: one from Philip Coleman, Project Manager of MWRA, the other from Robert Dickey, VP of Spaulding & Slye (pp 24, 25)
9. A summary by CNI, dated January 26, 1998, on 15 instances of omissions and violations of due process by City Administration and the proponent. (pp 26 - 29)
10. Photographs of "debris removal" and "dismantling" at Bldg #2, 3, 8, and of tree on city sidewalk blocking proposed relocated Putnam Avenue curb cut. (pp 30 -31)
11. Communication by City Manager dated February 9, 1998, to City Council giving his response to City Council Orders for procedures on curb cuts and building permits. (pp32 -35)
12. City Council Order of June 23, 1997 requesting additional soil testing "before any demolition or building occurs." (p 36)

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3-12-98



OFFICE OF THE CITY CLERK

CITY OF CAMBRIDGE

(617) 349-4260

FAX (617) 349-4307

tty/TDD (617) 492-0235

D. MARGARET DRURY
CITY CLERK

DONNA P. LOPEZ
DEPUTY CITY CLERK

February 9, 1998

Dear Neighborhood Representative:

This office is in receipt of a copy of an application from Robert Dickey, requesting the relocation of two existing curb cuts (located on Putnam Avenue and Pleasant Street) *at the premises numbered 784 Memorial Drive, Cambridge, Massachusetts.*

The City Council has directed that all curb cut petitions be submitted to the appropriate Neighborhood Associations for the locality where the curb cut would be made, so that the association may have an opportunity for review, prior to action by the City Council.

Please indicate by return mail your approval or disapproval of the petition within twenty one days from the date of this letter. If the response is "disapproval" please state reasons. Be sure to sign the form and include a daytime phone number. I have enclosed a self-addressed stamped envelope to facilitate your reply.

As soon as this office has received both the completed application and your neighborhood association response, I will place the petition on the agenda for the next City Council meeting. If I do not receive a response from your neighborhood organization by twenty one days from the date of this letter, I will place the petition on the agenda for the next City Council meeting.

If your neighborhood association cannot complete its review by twenty one days from today, you may extend the reply time another seven days by requesting an extension by letter to me with a copy to the petitioner. However, I urge you to make every effort to complete your review as soon as possible.

Thank you for your cooperation.

Sincerely yours,

D. Margaret Drury
City Clerk

Name of Neighborhood Association: Elie Yarden, Cambridge Neighborhood Initiative

hereby approve disapprove of said driveway petition.

Comments: See enclosed explanation and supporting
Elie Yarden *materials*

Signature of authorized association representative Elie Yarden

Daytime telephone no. 491-5350

cc: Petitioner

CNI, 4
3-12-98

March 5, 1998

Memorandum

page 1

To: D. Margaret Drury, City Clerk
From: Elie Yarden, Co-chair, Cambridgeport Neighborhood Initiative (CNI)
Subject: Neighborhood Association Response to application to relocate two curb cuts on
Putnam Avenue and on Pleasant Street, by Spaulding & Slye for 784
Memorial Drive LLC proposal

As required by your letter of February 12, 1998, I submit herewith the reasons for "disapproval."

As "representative of a Neighborhood Association" I must consider all aspects of how our response on a specific issue affects the general climate of decision-making. I rely on the description addressed to me by the proponent, 784 Memorial Drive LLC/Spaulding & Slye, as well as on my own investigations.

The only reason for "disapproval" is the obligation each one of us bears for defending the City's public processes and declared policies from contemptuous circumvention, blatant violations, exercise of undue influence, and illegal actions in dealing with this matter. I submit a few glaring and substantive instances:

Submission 1.

(from City of Cambridge. City Policy on Driveway Cuts . . . ; Procedure with Respect to Driveway Cuts . . . Paragraph 6)

The advice in the underlined statement, "Petitioners are urged to contact their neighborhood associations early to avoid delay." was deliberately ignored by the petitioner. Thus, instead of "including the signed forms" in the submission, we find penned, "Note: In process of notifying all abutters; will make best efforts to obtain all signatures"

(from City of Cambridge. City Policy on Driveway Cuts . . . ; Procedure with Respect to Driveway Cuts . . . Paragraph 3)

The applicant failed to include signed abutters forms. The applicant made no attempt to secure the required signatures before making the application.

(from City of Cambridge. City Policy on Driveway Cuts . . . ; Procedure with Respect to Driveway Cuts . . . Paragraph 4)

The application submitted to Inspectional Services without the required abutters forms was approved for compliance with the City of Cambridge Zoning Ordinance, and approved in a dismissive violation of policy and due process. The attempt to conceal this pre-approval in the copies of the form sent to abutters for their response is a deception of the public, a request for input about something already decided. How did the Zoning Officer's signature, dated 2/9/98, approving the incomplete request, come to be absent from the copies of the form sent to "Resident" from the offices of Spaulding & Slye on February 13, 1998.

March 5, 1998

Memorandum

page 2

At a public meeting, held by Polaroid and Spaulding & Slye on December 11, 1997, more than two months earlier, the petitioner was informed by members of the CNI of the fact that the two curb-cuts are non-conforming according to City of Cambridge Zoning Ordinance, Article 6, Section 6.40, *Design and Maintenance of Off Street Parking Facilities*. The petitioner was also informed that the existing points of entry and exit are unsafe, and unsuitable to the design of the newly proposed parking garage. The refusal of the applicant to apply for moving the curb-cuts *at that time or earlier* is the cause of the unnecessary delays. The City Council was also informed of the situation. Members of the CNI, who have been tireless in meeting with Spaulding & Slye, as well as city and state agencies in an effort to improve any proposals made for the use of 784 Memorial Drive, and who have constantly shown their concern to protect the city and its neighborhoods from destructive environmental impacts, urged that the curb cuts be moved. It took a long and determined effort to get this minimal agreement. We value the proposal to move the curb cuts as a step in the right direction. Moving the curb cuts is a small move in resolving problems and mitigating negative consequences associated with the project as it stands.

At the end of this meeting of December 11, a representative of the petitioner was asked by one of the attendees, "I suppose you'll have to move the curb cuts, before you get the building permit?" "Don't worry! We know how to deal with City Hall," came the response.

CNI repeatedly requested, in communications with the City Manager, City Councillors, and with the Inspectional Services Department, that proper procedure be followed, i.e., that the garage building permit be withheld until the relocation of the curb cuts was first approved by the City Council as required by the City Ordinance. This would have caused no delay or hardship to the applicant.

Submission 3.

The material in the City Manager's response to Council Order #36 of 12/22/97 dated December 30, 1997, is obfuscatory and prejudicial:

- 1) Depriving a landowner of access to off-street parking or loading facilities was never at issue, and required no response
- 2) In addition to being legal access points, the curb cuts were clearly non-conforming ones. Undertaking new construction of a 577+ car garage required that these be brought into conformance. All parties agreed on the desirability of this. Thus there was every reason to bring the access points into conformance before granting the demolition and construction permits.

The material in the City Manager's response to Awaiting Report Items #1, 5, and 7, dated December 30, 1997, is far more informative:

1) The need for meetings by City Manager Robert Healy and "the developer on several occasions" to strongly encourage "immediate application for the relocation of the access points to the more appropriate locations." is unclear. Spaulding & Slye, Senior Vice President David Vickery, in charge of the project, had been informed of the desirability of doing so at least six months ago.

2) It is good that Mr. Healy's ability to negotiate led Mr. Vickery to alter the demands and conditions expressed in his letter of January 21, for the more submittable letter of February 5 (page 2 of which, though considerably altered, remains dated January 21). We are also grateful for the insight, which the placing of the two letters side by side provides, on the meaning of "We know how to deal with City Hall."

CNI, 6
3-12-98

March 5, 1998

Memorandum

page 3

The selective enforcement of laws, ordinances, regulatory procedures in a manner that favors the protection of citizens and their city from predatory behaviors is not always detrimental to the law's intent. But, surely, the failure to enforce regulations intended to protect the city in favor of big corporations, that have staffs, legal and otherwise, that ". . . know how to deal with City Hall," is politically demoralizing. Yes, we feel that we have achieved a small 'victory' in getting the proponent of 784 Memorial Drive to apply for permission to move the two curb cuts. It should not have required the huge number of unpaid hours on the part of members of the CNI, and the even greater number of highly paid man-hours in the city government. **But if the price of achieving a particular desired result is to cynically set aside the process that is designed to protect the city and its citizens generally, then very little has been gained.**

We are not merely standing on principles. The hostility expressed and demonstrated by the proponent to the concerns of citizens of Cambridge about his proposed "as of right" project, has caused unnecessary delays in getting needed state and city permits. The contempt for public process, encouraged by the actions of "City Hall," has meant that these processes are handled sloppily, have to be redone, and exacerbates suspicion. Spaulding & Slye, as a major Real Estate Company, the eighth largest taxpayer in Cambridge, should surely have the staff that knows how to get the names of the abutters from the City Assessor's office, so that the responses can be collected properly. We should not have to be the one to instruct the Project Manager on how this should be done. We should not have to be the 'address' for complaints of abutters who never received or were denied their forms at the Post Office. We should not have to investigate the source of the problem with a postal inspector. We know that the City Clerk had already explained the proper procedure to Project Manager Hilary Thomas.

Surely, if the applicant were acting in good faith, he would have met with another large business owner, directly across the street from one of the relocated curb cuts, whose interests might be harmed by the relocation, to work things out.

Surely, one can apply for a demolition permit before engaging in 'dismantling.' And just as surely, an application for a demolition permit that involves asbestos removal does not have to be granted 'after the fact.'

Since the relocation of the curb cut on Putnam Avenue involves the destroying of a shade tree on a city street, the actions to achieve this should have been instituted.

Because the relocation of the curb cut on Pleasant Street requires additional action to secure an 8M permit allowing the new, relocated point of access to be constructed over their easement, the actions to achieve this should have been undertaken.

The cavalier attitudes of the proponents of 784 Memorial Drive about exercising due diligence in carrying out their plans bodes ill for its successful realization. Their lack of concern for getting it right the first time increases the need for vigilance. What kind of due diligence will be exercised in completing demolition and beginning construction? Given the nature of the site and the readiness of city officials to show greater solicitude for the interests of large property holders than for the security of our citizens, the care that we have been showing has had only positive effects thus far. We will continue to show that care.

Enclosures

City of Cambridge

CNI, 7
3-12-98

CITY POLICY ON DRIVEWAY CUTS, OPENINGS AND OFF-STREET PARKING FACILITIES

1. All authorization for driveway cuts and openings shall be issued by the Department of Public Works only after the application has first been approved by the Inspectional Services Department, the Traffic and Parking Department and, if the location is in or affects an historical district, neighborhood conservation district, or landmark, the Historic Commission, and only after the City Council has adopted an order approving the petition. Prior to placing an application on a City Council agenda for action, the City Clerk shall notify neighborhood associations in the area of the location for which the application is made.
2. The fee for the driveway installation, once it has been approved, shall be paid in full before the Department of Public Works shall proceed with construction; in certain cases the Department of Public Works may allow work to be done by a private contractor who shall post the necessary bond and adhere to the city standard for such construction. In the latter case the Department of Public Works shall inspect and approve the final construction before the bond is released.

PROCEDURE WITH RESPECT TO DRIVEWAY CUTS, OPENINGS AND OFF-STREET PARKING SPACES OR FACILITIES

1. An application for Driveway Cuts and Openings shall be obtained by the applicant at the Department of Public Works or Inspectional Services Department.
2. The applicant, in addition to the application itself, (and the sketch required on the application form) must include a plot plan to scale which illustrates the driveway cut and the layout of the proposed on grade, off-street parking space, spaces or facility.
3. The applicant must also include signed abutter's forms of those abutters in front, side, rear and across the street from the property which the curb cut will be made. If the applicant is unable to obtain these signatures, he/she must include a statement with the application that an attempt was made to secure the required signatures and that it was not possible to obtain them and indicate the reasons why it was not possible to obtain the signatures.
4. The application, together with the plot plan and the abutter's forms, shall be first submitted to the Inspectional Services Department, located at 831 Massachusetts Avenue for review for compliance with the City of Cambridge Zoning Ordinance.

Curb cut requirements are detailed in Section 6.40 of the Zoning Ordinance. Following are some of the more significant requirements that must be met to comply with zoning:

- a. A curb cut cannot be located closer than twenty five (25) feet to a street intersection or within fifteen (15) feet of a crosswalk.
- b. The driveway must be at least ten (10) feet wide.
- c. For lots having less than 100 feet of frontage, a maximum of only one curb cut is allowed.
- d. The required size of the parking space is 8 1/2 feet by 18 feet. The parking space cannot be located within the front yard setback.

If the Inspectional Services Department makes a determination that the curb cut is not in compliance with the Zoning Ordinance, the applicant has the following options: discontinuing the application process; modifying the application to bring it into compliance with the Zoning Ordinance; appealing the Inspectional Services determination to the Board of Zoning Appeals (BZA); or requesting from the BZA a variance from the Zoning Ordinance. If the applicant is not successful with the appeal or variance request before the BZA, recourse is through the courts.

If the Inspectional Service Department (or the Board of Zoning Appeal) approves the application, it will then be sent to the Department of Traffic, Parking and Transportation. A refusal at this juncture may be appealed to the City Council for action.

5. If the application is approved by Traffic and Parking it should then be sent to the Historical Commission. If the Commission approves, the application will then be sent to the Department of Public Works; if the Commission disapproves the application, the applicant may appeal under statutes and ordinances governing the administration of historically designated properties, information about which may be obtained from the Commission.
6. [If the Department of Public Works approves the application, the application will be sent to the City Clerk's Office. The City Clerk will notify neighborhood associations in the area of the petitioner and will send a copy to the petitioner. Notification will include a copy of the plot plan or drawing submitted with the application and will request that the neighborhood association inform the City Clerk whether it approves or disapproves of the application. Petitioners are urged to contact their neighborhood association early to avoid delay.
7. Ten days after notification of the neighborhood associations, the City Clerk will place the application on the next City Council agenda. If the City Council approves the application, the City Clerk will notify the applicant and will send the application back to the Department of Public Works. The cost of the driveway construction will be calculated and the driveway will be put on the schedule and a date assigned for construction. The applicant must pay in full for the construction cost, based on the cost indicated, within two weeks before the estimated start of construction. No construction will begin unless the full cost of the driveway has been paid for in advance.

In certain cases, the Department may arrange with the applicant to have the driveway done by a private contractor; however, the contractor will have to post a bond and have his work inspected as to city standards before the bond is released. In this case the contractor will have a direct relationship with the applicant and the city will not intervene unless the contractor does not meet city requirements for driveway construction.

8. If the applicant is refused by the Department of Public Works, the applicant can appeal to the City Council.

9. **APPLICANTS ARE CAUTIONED AGAINST EXPENDING ANY MONEY ON MODIFICATIONS TO THEIR PROPERTY IN ANTICIPATION OF THEIR APPLICATION BEING APPROVED BY THE COUNCIL.**

[If a curb cut is required in connection with a project for which a building permit from the Inspectional Service Department is required, the building permit will not be issued until approval for the curb cut is first obtained from the Council. In extraordinary cases, an incremental (foundation, site work, etc) building permit may be issued if the following conditions, as a minimum, are met; the application has been initiated with the Inspectional Services Department, approvals from abutters have been obtained, a hardship is demonstrated, and the applicant states that he/she is proceeding at his/her own risk.

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CITY OF CAMBRIDGE
INSPECTIONAL SERVICES CITY OF CAMBRIDGE



'98 FEB 5 PM 4 59

INSTRUCTIONS:

In order to obtain permission for a driveway cut or opening you must first get approval from the Department of Inspectional Services on the zoning requirements for off-street parking, including the cooperation of your immediate abutters.

To receive a review from Inspectional Services you must fill out Part I of the application. Be sure to draw your plot plan on Drawing 1, choosing the lot that represents your lot's position, i.e. corner or interior. You must also include a sketch of the proposed driveway, including dimensions, on Drawing 2. You may then calculate the cost of the driveway by using the formula based on your choice of surfaces. You must also include a signed abuttor sheet for each of your abutters: back yard, one on either side and the abuttor directly across the street.

Once you have gathered this information on the application, it should be submitted to:

Zoning Officer
Inspectional Services
831 Massachusetts Avenue
Cambridge, MA 02139

If the application is approved by Inspectional Services, it will then be sent on to Traffic and Parking, the Historical Commission and the Department of Public Works. If approved by Public Works, the application and backup will be sent to the City Council for their approval. Once the City Council approves, the driveway curb cut can be installed. However, the full cost of the cut must be paid to Public Works before the work will start.

If, however, Inspectional Services denies your application you may then appeal to the Zoning Board of Appeals.

DATE: 2 / 5 /98

PART I:

784 Memorial Drive - Application is for relocation of two (2) existing curb cuts located on Putnam Avenue and Pleasant St

Address of proposed curb cut or off-street parking facility: _____

Frontage: See Attached Survey Block and Lot: Map 128 / Lot 36, 38, 39, 40, 60

Setback (distance from building to sidewalk): See Attached Plan

Distance from proposed driveway to surrounding structures and property line: See Attached Plan

Dimensions of proposed driveway: See Attached Plan

Location of any trees, sign posts, fire hydrants, utility poles, etc., in direct vicinity of proposed driveway: See Attached Plan

- Plot plan is included
- Sketch of driveway with cost estimate is included
- All abuttor's forms are included

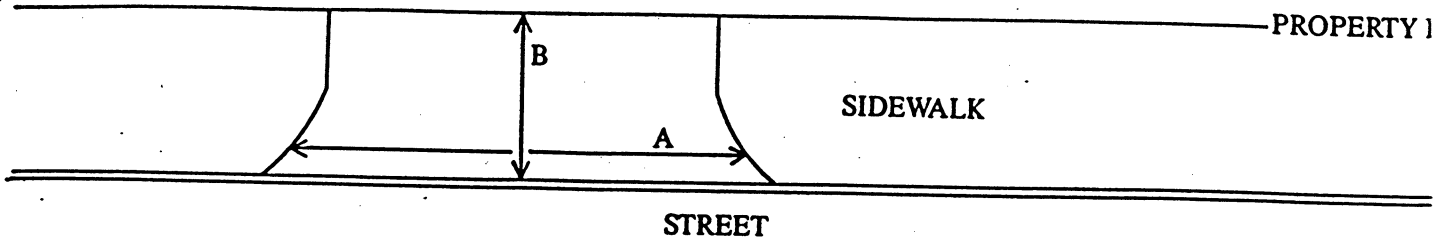
NOTE: IN PROCESS OF NOTIFYING ALL ABUTTERS; WILL MAKE BEST EFFORTS TO OBTAIN ALL SIGNATURES

DRAWING 2:

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3-12-98

SKETCH OF PROPOSED DRIVEWAY WITH COST ESTIMATE

CITY OF CAMBRIDGE



$A = 30 \text{ FT.} \div 3 = 10 \text{ YARDS}$

$B = 10 \text{ FT.} \div 3 = 3.3 \text{ YARDS}$

$A \times B = 33 \text{ SQUARE YARDS}$

COST ESTIMATE:

BRICK: _____ SQUARE YARDS \times \$70/SQUARE YARD = \$ _____

BRICK ON CONCRETE: _____ SQUARE YARDS \times \$85/SQUARE YARD = \$ _____

CONCRETE: 33 SQUARE YARDS \times \$40/SQUARE YARD = \$ 1320 \times 2 = \$2640 approx

ASPHALT: _____ SQUARE FEET \times 1 TON/40 SQUARE FEET \times \$125/TON = \$ _____

DEPARTMENT OF PUBLIC WORKS SCHEDULED DATE FOR CONSTRUCTION:

____ / ____ / ____

DEPARTMENT OF PUBLIC WORKS STATED FEE: \$ _____

The undersigned agrees to pay the stated fee for the driveway installation in full within two (2) weeks of the estimated starting date of construction before the Department of Public Works shall proceed with construction:

Owner's signature: Robert Dickey . Robert Dickey Date: 2/5/98

Address: 784 Memorial Drive 125 High Street Boston, MA 02110

Funds Received: \$ _____

Check Number: _____

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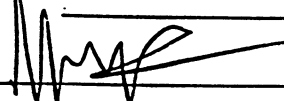
APPLICATION FOR DRIVEWAY CUTS AND OPENINGS

CITY OF CAMBRIDGE

PART II: INSPECTIONAL SERVICES DEPARTMENT

Application approved Application denied

Reason: _____

Signature:  Date: 2/9/98

Title: ZONING SPECIALIST O3-ZONE

PART III: TRAFFIC AND PARKING DEPARTMENT

Application approved Application denied

Reason: _____

Signature: _____ Date: _____

Title: _____

PART IV: HISTORICAL COMMISSION

Application approved Application denied

Reason: _____

Signature: _____ Date: _____

Title: _____

PART V: PUBLIC WORKS DEPARTMENT

Application approved Application denied

Reason: _____

Signature: _____ Date: _____

Title: _____

R. Philip Dowds

RECEIVED BY
OFFICE OF CITY CLERK

CNI, 12
3-12-98

98 JAN 22 PM 2:32

CAMBRIDGE MA.

48 Banks Street, Cambridge, MA 02142

(617) 354-6000

Thursday, January 22, 1998

CAMBRIDGE CITY COUNCIL

c/o CITY CLERK
City Hall
Cambridge, MA 02139

Attn: Mayor Pro Tempore Frank Duehay
Re: Illegal Demo at 784 Memorial Drive

Dear Mayor Pro Tempore Duehay and Members of the Council:

I have observed that contractors are tearing down buildings at 784 Memorial Drive (the "Polaroid" site), and I understand that this work is proceeding without a building / demolition permit. If so, I'm greatly disturbed that the City seems so indifferent to violation of State law. As an Architect registered to practice in Massachusetts, I am well familiar with 780 CMR, the "State Building Code" (SBC), and here's what it says about demo and permits:

Is a "building" permit required for demolition? You bet. The SBC sometimes makes generic use of the word "building" to cover all kinds of construction activity, including un-building. But SBC 110.1 spells it out:

"It shall be unlawful to construct, reconstruct, alter, repair, remove or demolish a building or structure ... without first filing a written application with the building official and obtaining the required permit therefor."

Is the work at 784 Mem Drive "demolition"? You bet. SBC 110.3 specifically itemizes the few (very few) exemptions to the permit requirement of 110.1. By way of SBC 110.3.4, a class of construction called "ordinary repairs", is exempt from the permit requirement, but 110.3.4 goes on to state:

"Ordinary repairs shall not include the cutting away of any wall, partition or portion thereof..."

In other words, 110.3.4 is quite explicit in stating the requirements for a building / demolition permit *do* apply to the window, wall, and partition removals now under way at 784 Mem Drive.

Is "dismantling" a class of construction activity distinct from "demolition"? No. The SBC makes no systematic use of the word "dismantling", offers no definition of this word, and thus does not create any distinction between "demolition", "dismantling",

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Cambridge City Council / Mayor Pro Tempore Frank Duehay
Thursday, January 22, 1998 / Page 2

"selective removals", "tearing down", "wrecking", "imploding", or any other semantic hair-splitting.

Is a "debris removal permit" a substitute for a "demolition" permit? No. The SBC does not establish "debris removal" as a class of construction activity different from "building" or "demolition". The topic of debris is addressed in SBC 111.5, which says in part:

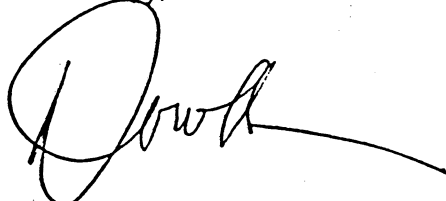
"As a condition of issuing a permit for the demolition, renovation, rehabilitation, or other alteration of a building or structure, <Mass General Law> requires that the debris resulting therefrom shall be disposed of in a properly licensed solid waste facility." Representations of legal disposal of debris shall be made on "... a form ... attached to the office copy of the building permit."

In other words: The required building / demolition permit is necessary before you are allowed to turn your building into debris — and you can't get one of those without saying how you will legally dump this debris, once you've created it. By SBC, there is no such thing as a "debris removal permit" distinct from the "demolition permit".

That an owner, developer and/or contractor will occasionally engage in subterfuge to evade the requirements of law is not a surprise. That our City will tolerate or support such subterfuge is, unfortunately, also not a surprise. But for me, it's always a disappointment.

I enclose herewith photocopies of the relevant SBC pages. As always, feel free to contact me when you have questions or comments. As always, feel free to do something.

Sincerely,



R Philip Dowds AIA
Hm: 354-6094 / Wk: 787-2400 x2
rpdowds@aol.com

enclosures:

780 CMR sixth edition, pp 19, 20, and 22

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780 CMR: STATE BOARD OF BUILDING REGULATIONS AND STANDARDS

ADMINISTRATION

engaged in directly supervising persons engaged in construction, reconstruction, alteration, repair, removal or demolition in those categories of *building* and *structures* for which the BBRs does not require a license, provided that those municipalities which have established licensing requirements for construction supervisors prior to January 1, 1975, may maintain their existing licensing requirements.

108.3.6 Registration of Home Improvement Contractors: In accordance with the provisions of M.G.L. c. 142A, no home improvement contractor, or organization or firm shall be involved in the improvement of any existing owner occupied one to four family residential building unless said home improvement contractor has registered with the BBRs in accordance with the rules and regulations for the registration of Home Improvement Contractors as set forth in 780 CMR R6.

108.3.7 Certification of Inspectors of Buildings, Building Commissioners and Local Inspectors: The rules and regulations for the Certification of Inspectors of Buildings, Building Commissioners and Local Inspectors shall be as set forth in 780 CMR R7.

108.4 Enforcement: Whoever violates the provisions of 780 CMR 108.0 or any rules and regulations promulgated hereunder, or who falsifies or counterfeits a license, registration or certification issued by the BBRs, or who fraudulently issues or accepts such a license, registration or certification shall be punished as provided in 780 CMR 118.0 or shall be subject to any other penalty provided for by law.

780 CMR 109.0 APPROVAL

109.1 Approved materials and equipment: All materials, equipment and devices approved by the building official shall be constructed and installed in accordance with such approval.

109.2 Used materials and equipment: Used materials, equipment and devices which meet the minimum requirements of 780 CMR for new materials, equipment and devices shall be permitted; however, the building official may require satisfactory proof that such materials, equipment and devices have been reconditioned, tested, and/or placed in good and proper working condition prior to approval.

109.3 Alternative materials and equipment:

109.3.1 General: The provisions of 780 CMR are not intended to limit the appropriate use or installation of materials, appliances, equipment or methods of design or construction not specifically

prescribed by 780 CMR, provided that any such alternative has been approved. Alternative materials, appliances, equipment or methods of design or construction shall be approved when the building official is provided acceptable proof and has determined that said alternative is satisfactory and complies with the intent of the provisions of 780 CMR, and that said alternative is, for the purpose intended, at least the equivalent of that prescribed in 780 CMR in quality, strength, effectiveness, *fire resistance*, durability and safety. Compliance with specific performance based provisions of 780 CMR, in lieu of a prescriptive requirement shall also be permitted as an alternate.

109.3.2 Evidence submitted: The building official may require that evidence or proof be submitted to substantiate any claims that may be made regarding the proposed alternate.

109.3.3 Tests: Determination of acceptance shall be based on design or test methods or other such standards approved by the BBRs. In the alternative, where the BBRs has not provided specific approvals, the building official may accept, as supporting data to assist in this determination, duly authenticated engineering reports, formal reports from nationally acknowledged testing/ listing laboratories, reports from other accredited sources. The costs of all tests, reports and investigations required under these provisions shall be borne by the applicant.

109.3.4 Approval by the Construction Materials Safety Board: The building official may refer such matters to the Construction Materials Safety Board in accordance with 780 CMR 123.0 for approval.

780 CMR 110.0 APPLICATION FOR PERMIT

110.1 Permit application: It shall be unlawful to construct, reconstruct, alter, repair, remove or demolish a *building* or *structure*; or to change the use or *occupancy* of a *building* or *structure*; or to install or alter any equipment for which provision is made or the installation of which is regulated by 780 CMR without first filing a written application with the building official and obtaining the required permit therefor.

110.2 Temporary Structures:

110.2.1 General: A building permit shall be required for temporary structures, unless exempted by 780 CMR 110.3. Such permits shall be limited as to time of service, but such temporary construction shall not be permitted for more than one year.

110.2.2 Special approval: All temporary construction shall conform to the structural strength, fire safety, *means of egress*, light,

shall be
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780 CMR: STATE BOARD OF BUILDING REGULATIONS AND STANDARDS
THE MASSACHUSETTS STATE BUILDING CODE

ventilation, energy conservation and sanitary requirements of 780 CMR as necessary to insure the public health, safety and general welfare.

110.2.3 Termination of approval: The building official may terminate such special approval and order the demolition of any such construction at the discretion of the building official.

110.3 Exemptions: A building permit is not required for the following activities, such exemption, however, shall not exempt the activity from any review or permit which may be required pursuant to other laws, by-laws, rules and regulations of other jurisdictions (e.g. zoning, conservation, etc.).

1. One *story* detached accessory buildings used as tool or storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet.
2. Fences six feet in height or less.
3. *Retaining walls* which, in the opinion of the building official, are not a threat to the public safety health or welfare and which retain less than four feet of unbalanced fill.
4. Ordinary repairs as defined in 780 CMR 2. Ordinary repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam, column or other loadbearing support, or the removal or change of any required *means of egress*, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, mechanical system, *fire protection system*, energy conservation system or other work affecting public health or general safety.
5. Greenhouses: A building permit or notice to the building official is not required for the construction of greenhouses covered exclusively with plastic film (in accordance with St. 1983, c. 671). (This exemption does not apply if the greenhouse is to be used for large assemblies of people or uses other than normally expected for this purpose.)

110.4 Form of application: The application for a permit shall be submitted in such form as determined by the building official but in all cases shall contain, as a minimum, the information required on the appropriate sample uniform building permit application forms in *Appendix B*. The application for a permit shall be accompanied by the required fee as prescribed in 780 CMR 114.0 and the construction documents as required in 780 CMR 110.7 and 110.8, where applicable.

110.5 By whom application is made: Application for a permit shall be made by the owner or lessee of the *building* or *structure*, or agent of either. If application is made other than by the owner, the written authorization of the owner shall accompany

the application. Such written authorization shall be signed by the owner and shall include a statement of ownership and shall identify the owner's authorized agent, or shall grant permission to the lessee to apply for the permit. The full names and addresses of the owner, lessee, applicant and the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application.

Note: It shall be the responsibility of the registered contractor to obtain all permits necessary for work covered by the Home Improvement Contractor Registration Law, M.G.L. c. 142A. An owner who secures his or her own permits for such shall be excluded from the guaranty fund provisions as defined in M.G.L. c. 142A. Refer to 780 CMR R6 and M.G.L. c. 142A for additional information regarding the Home Improvement Contractor Registration Program.

110.6 The securing of a building permit by the owner, or the owner's authorized agent, to construct, reconstruct, alter, repair, demolish, remove, install equipment or change the use or *occupancy* of a *building* or *structure*, shall not be construed to relieve or otherwise limit the duties and responsibilities of the licensed, registered or certified individual or firm under the rules and regulations governing the issuance of such license registration or certification.

110.7 Construction documents: The application for permit shall be accompanied by not less than three sets of *construction documents*. The building official is permitted to waive, or modify the requirements for filing construction documents when the building official determines that the scope of the work is of a minor nature. When the quality of the materials is essential for conformity to 780 CMR, specific information shall be given to establish such quality, and 780 CMR shall not be cited, or the term "legal" or its equivalent used as a substitute for specific information.

110.8 Engineering Details, Reports, Calculations, Plans and Specifications: In the application for a permit for *buildings* and *structures* subject to construction control in 780 CMR 116.0, the *construction documents* shall contain sufficient plans and details to fully describe the work intended, including, but not limited to all details sufficient to describe the structural, *fire protection*, fire alarm, mechanical, light and ventilation, energy conservation, architectural access and egress systems. The building official may require such calculations, descriptions narratives and reports deemed necessary to fully describe the basis of design for each system regulated by 780 CMR. In accordance with the provisions of M.G.L. c. 143, § 54A all plans and specifications shall bear the original seal and original signature of a

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THE MASSACHUSETTS STATE BUILDING CODE

applications for permits and amendments thereto within 30 days after filing thereof. If the application or the construction documents do not conform to the requirements of 780 CMR and all pertinent laws under the building official's jurisdiction, the building official shall reject such application in writing, stating the reasons therefor. If the building official is satisfied that the proposed work conforms to the requirements of 780 CMR and all laws and ordinances applicable thereto, the building official shall issue a permit therefor.

111.2 Zoning: In accordance with the provisions of M.G.L. c. 40A or St. 1956, c. 665 as amended, no permit for the construction, alteration, change of use or moving of any *building* or *structure* shall be issued if such *building* or *structure* or use would be in violation of any zoning ordinance or by-law.

111.3 Railroad right-of-way: No permit to build a *structure* of any kind on land formerly used as a railroad right-of-way or any property appurtenant thereto formerly used by any railroad company in the state shall be issued without first obtaining, after public hearing, the consent in writing to the issuance of such permit from the Secretary of the Executive Office of Transportation and Construction, all in accordance with M.G.L. c. 40, § 54A.

111.4 Water Supply: No permit shall be issued for the construction of a *building* or *structure* which would necessitate the use of water therein, unless a supply of water is available therefor, either from a water system operated by a city, town or district, or from a well located on the land where the *building* or *structure* is to be constructed, or from a water corporation or company, as required by M.G.L. c. 40, § 54.

111.5 Debris: As a condition of issuing a permit for the demolition, renovation, rehabilitation or other alteration of a *building* or *structure*, M.G.L. c. 40, § 54 requires that the debris resulting therefrom shall be disposed of in a properly licensed solid waste disposal facility as defined by M.G.L. c. 111, § 150A. Signature of the permit applicant, date and number of the building permit to be issued shall be indicated on a form provided by the building department, and attached to the office copy of the building permit retained by the building department. If the debris will not be disposed of as indicated, the holder of the permit shall notify the building official, in writing, as to the location where the debris will be disposed.

111.6 Workers' Compensation: No permit shall be issued to construct, reconstruct, alter or demolish a *building* or *structure* until acceptable proof of insurance pursuant to M.G.L. c. 152, § 25C(6) has been provided to the building official.

111.7 Expiration of permit: Any permit issued shall be deemed abandoned and invalid unless the work authorized by it shall have been commenced within six months after its issuance; however, for cause, and upon written request of the owner, one or more extensions of time, for periods not exceeding six months each, may be granted in writing by the building commissioner or inspector of buildings. Work under such a permit in the opinion of the building commissioner or inspector of buildings, must proceed in good faith continuously to completion so far as is reasonably practicable under the circumstances. It is the sole responsibility of the owner to inform, in writing, the building commissioner or inspector of buildings of any facts which support an extension of time. The building commissioner or inspector of buildings has no obligation under 780 CMR 111.7 to seek out information which may support an extension of time. The owner may not satisfy this requirement by informing any other municipal and/or state official or department.

For purposes of 780 CMR 111.7 any permit issued shall not be considered invalid if such abandonment or suspension of work is due to a court order prohibiting such work as authorized by such permit; provided, however, in the opinion of the building commissioner or inspector of buildings, the person so prohibited by such court order, adequately defends such action before the court.

111.8 Previous approvals: 780 CMR shall not require changes in the construction documents, construction or designated *use group* of a *building* for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which has been actively prosecuted within 180 days after the effective date of 780 CMR and is completed with dispatch.

111.9 Signature to permit: The building official's signature shall be attached to every permit; or the building official shall authorize a subordinate to affix such signature thereto.

111.10 Approved construction documents: When the building official has determined that the proposed construction conforms to the provisions of 780 CMR and other applicable laws, by-laws, rules and regulations under his/her jurisdiction, the building official shall stamp or endorse in writing the three sets of construction documents "Approved". One set of the approved construction documents shall be retained by the building official, one set by the head of the local fire department and the other set shall be kept at the construction site, open to inspection of the building official or an authorized representative at all reasonable times.

111.12 Revocation of permits: The building official shall revoke a permit or approval issued under the

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3-12-98

To: The Honorable, the City Councillors
City Manager Robert Healy
Inspectional Services Commissioner Robert Bersani
Assistant City Manager for Community Development Susan Schlesinger
From: the Co-Chairs of the Cambridgeport Neighborhood Initiative (CNI):
Daphne Abeel, Gordie Fellman, Stash Horowitz, Anastasia Leotsakos,
Laurie Taymor-Berry, Maureen Van Stry, Elie Yarden
Date: December 15, 1997
Subject: Garage Building Permit for 784 Memorial Drive.

At a community meeting attended by 87 people on December 11, held by Spaulding & Slye and Polaroid on their plans for the 784 Memorial Drive proposal, it was stated by Spaulding & Slye that:

1. They propose building a 577+ car garage and have applied for the building permit for this, as well as for a demolition permit to raze the buildings currently on the site over which the garage and the towers will sit.
2. They intend to apply for curb-cut permits to move the location of the existing curb-cuts, only *after* they receive the building permit for the garage, thus reversing the normal process.

CNI strongly urges that issuance of these demolition and garage building permits be withheld at this time for the following reasons:

1. Both existing curb-cuts on Pleasant Street and on Putnam Avenue are non-conforming according to City of Cambridge Zoning Ordinance, Article 6.40, Design and Maintenance of Off Street Parking Facilities:

a. The Pleasant Street curb-cut, designated to carry half the traffic into and out of the garage, does not conform to the requirement of Section 6.43.4 (b): "No driveway curb cut shall be located closer than twenty five (25) feet to a street intersection . . ." The current curb cut is directly at the intersection Pleasant and Florence Streets.

b. The Putnam Avenue curb-cut designated to carry the other half of the garage traffic does not conform to the requirement of Section 6.43.4 (c): "The grade and design of any driveway providing access to an off street parking facility shall permit a clear view, to the driver of any car exiting from the facility, of traffic on the street and of pedestrians." The current curb-cut has no clear view of oncoming traffic on Putnam Avenue. The view is totally obscured by a thick tree trunk.

c. These curb-cuts will service new construction from the above-mentioned 160,000 sq ft garage, and two office towers totalling 240,000 sq ft. Curb-cuts for new construction must be approved *before, not after*, that construction commences.

2. Proper sequencing of permits must be followed.

The garage building permit cannot be issued before the necessary demolition permit for the existing buildings, presently located where the garage

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and the two office towers will be. The demolition permit first requires the issuance of a State Permit: a Massachusetts Water Resources Authority (MWRA) 8M permit, since it involves moving heavy construction equipment over the large MWRA sewer line and easements bisecting the site. (Cf. attached letter from MWRA to Polaroid Corp.)

3. Two traffic studies have just been released, studying the effects on the neighborhood of the 577 car garage. One was done for Spaulding & Slye by Robert Vanasse & Associates, another for the CNI by Stephen Kaiser, traffic engineer.

The Cambridge City Council has appropriated \$14,000 for Barry Pell of Rizzo Associates to analyze both these studies, and report back in written form to the Council. This analysis should be done and available some time in mid- to late January.

CNI expects to study and comment to the Council on Pell's analysis.

Issuance of any garage permit before then will negate the purpose of these three studies/analyses, and make them worthless.

4. Neighborhood opposition to the 577 car garage is nearly unanimous. The main conclusion of the Vanasse report, that traffic is already so bad in the neighborhood at all intersections surrounding this proposal, that the project's traffic will not worsen traffic conditions level of service, has met with incredulity on the part of those who have read this report.

Kaiser's study points out that a 295,000 sq ft proposal, such as this one, if leased for general office space, would require over 1000 parking spaces. Polaroid will occupy only one-sixth of the space. The other five-sixths will be leased office space.

Where will the extra cars park in the neighborhood?

This argues for an even larger garage, and traffic problems so overwhelming as to bring the scale of the project into question. Please refer to the appropriate section on parking in the Kaiser traffic study for CNI.

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2/5/98 draft of proposed Council Order for Council Meeting of February 9, 1998.
NOT SUBMITTED.

WHEREAS: 784 Memorial Drive LLC (c/o Spaulding & Slye Real Estate Services Company, Inc., 125 High Street, Boston, MA 02110) commissioned a traffic study of its proposed 300,000 sq. ft. project from Robert Vanasse & Associates, subsequent to Council Order #98 of June 2, 1997, and

WHEREAS: The Vanasse traffic study was completed November 26, 1997, and the City hired Barry Pell of Rizzo Associates as its consultant to analyze this study, and Barry Pell's interim report became available February 2, 1998, and

WHEREAS: The City, the Cambridgeport Neighborhood Initiative (CNI), the proponent, and the traffic consultants have been meeting, in a spirit of cooperation, to explore traffic mitigations, and

WHEREAS: The Pell report recommends that both the Putnam Avenue and the Pleasant Street curb cuts be relocated, to wit,

"Rizzo Associates recommends that a project mitigation plan should be comprised of three primary elements . . . [one of the three elements is]

3. Changes in the site access curb cuts:

a. **Putnam Avenue.** Relocate the curb cut away from Pleasant Street to the site's property line (or as a shared access with the adjacent property) . . .

b. **Pleasant Street.** Relocate the curb cut towards Memorial Drive with restriction (by design and/or signage) to prohibit left turns exiting the site." (Rizzo Associates, p.5), and

WHEREAS: The Putnam Avenue curb cut is judged **unsafe** by the consultant, to wit,
"The site access shown on Putnam Avenue is inadequate and unsafe. It is within 30 feet of the Pleasant Street intersection, which is also an established school crossing." (Rizzo Associates, p.3), and

WHEREAS: The Director of Traffic, Parking and Transportation also judges the Putnam Avenue curb cut unsafe, to wit,

". . . the Department finds the use of the Putnam Avenue curb cut in its present location as unsafe access to the new parking garage.

If the Putnam Avenue curb cut was relocated to the edge of the proponent's property line it would be 68 feet from the intersection. If this relocation occurred, the Department would find the use of the curb cut acceptable." (Susan Clippinger letter to Robert Bersani, Commissioner, Inspectional Services Department, January 27, 1998, p.2.), and

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WHEREAS: The City of Cambridge Zoning Ordinance, Article 9, Section 9.12
"requires all building permits to be issued only when the provisions
of the Cambridge Zoning Ordinance have been met." (Bersani letter
to Robert Healy, January 8, 1998, p.2), and

WHEREAS: Zoning Ordinance Section 6.4.3.4 (c) requires clear visual access from a curb cut,
and oncoming traffic at the Putnam Avenue curb cut is visually blocked by a city shade
tree on the sidewalk, and

WHEREAS: "If it were determined that public safety would be jeopardized because of the curb
cut layout or configuration, then resolution would be required before the building permit
or the CO [Certificate of Occupancy] would be issued." (Bersani letter to Healy,
December 26, 1997), now therefore be it

ORDERED: That the City Manager be and hereby is requested to request 784 Memorial Drive
LLC to apply to the City Council as soon as possible for permission to relocate these
two above-mentioned curb cuts, as recommended by the City and its consultant, and as
a token of good faith, and be it further

ORDERED: That the City Manager be and hereby is requested to request the Inspectional
Services Commissioner to delay the issuance of any and all permits, including building or
demolition, until the said curb cuts shall be deemed safe by the City's traffic consultant
and by the Department of Traffic, Parking and Transportation, and to revoke any existing
permits issued within the last 45 days, until the safety requirements be fulfilled, and be it
further

ORDERED: That the City Manager be and hereby is requested to report to the Council at its
February 23 meeting as to the response, or lack of same, from 784 Memorial Drive LLC.



CITY OF CAMBRIDGE
INTEROFFICE CORRESPONDENCE

CNI, 21
3-12-98

December 26, 1997

To: Robert W. Healy, City Manager

From: Bob Bersani, Inspectional Services

Subj.: Council Order No. 36 of December 22, 1997 RE: That the City Manager clarify the policy of the City about whether all curb cuts necessary for a new building project must be approved by the City Council prior to the Granting of Building Permits for that project and whether those curb cuts must conform to current zoning standards and safety set by the Department of Inspectional Services and the Traffic Department.

In response to this Council Order, the following response is submitted:

Three years ago, ISD made the determination that building permits, where access for off-street parking or loading was required by the Zoning Ordinance, would not be issued unless the curb cut(s) necessary to meet this requirement were in place or approved by the City Council. This policy was implemented in order to preclude the situation from occurring where a subsequent CO could not be issued because of noncompliance with the Zoning Ordinance as pertains to parking/loading. This determination was subsequently incorporated into the City curb cut application procedures with the stipulation that, in extraordinary cases, a partial building permit could be issued without the required curb cuts being in place or approved if the following conditions were met; the application had been initiated with ISD, approvals from abutters had been obtained, a hardship had been demonstrated, and, the applicant stipulated that he/she were proceeding at their own risk.

For those situations where existing curb cuts, that may be nonconforming as pertains to the Zoning Ordinance, could be used to satisfy the parking/loading requirements of a development, the building permit would be issued. If it were determined that public safety would be jeopardized because of the curb cut layout or configuration, then resolution would be required before the building permit or the CO would be issued.

Very truly yours,

R. R. Bersani
R. R. Bersani

cc
S. Clippinger
Ralph Dunphy
Don Drisdell

97 DEC 29 PM 1:18
CITY OF CAMBRIDGE
INSPECTIONAL SERVICES



ROBERT R. BERSANI
Managing Director/
Acting Commissioner

CITY OF CAMBRIDGE

INSPECTIONAL SERVICES DEPARTMENT 831 MASS. AVE.
CAMBRIDGE, MASSACHUSETTS 02139 (617) 349-6100

Manager Communicatn #11

January 8, 1998

To: Robert W. Healy, City Manager

From: Bob Bersani, Inspectional Services

Subj: Council Order #035, dated 12/22/97 RE: REPORT ON WHAT
ORDINANCES, REGULATIONS AND STATE LAWS APPLY TO THE GRANTING OF
BUILDING PERMITS AND WHAT INPUT THE COUNCIL HAS

This report supersedes my report dtd. December 26, 1997.

In response to this Council Order, the following information is submitted:

The issuance of building permits is controlled by the Massachusetts Building Code, 6th ed. (780CMR), The Massachusetts Zoning Act, G.L. c. 40A, and the Cambridge Zoning Ordinance. The authority to grant building permits rests exclusively with the Building Commissioner which in Cambridge is the Commissioner of Inspectional Services.

The applicable sections of the Building Code dealing with the issuance of building permits are paraphrased as follows:

a. 780CMR 106.0 DUTIES AND POWERS OF THE BUILDING OFFICIAL

- - Provides for the building official to enforce all of the provisions of the Building Code and other State statutes, rules, and regulations or ordinances (zoning) that empower the building official.

- - Provides for the building official to receive applications and issue building permits and enforce compliance in accordance with the provisions of the Building Code.

b. 780CMR 111.0 PERMITS

- provides for the Building Official to review permit applications for compliance with the Building Code and other laws under his jurisdiction (Zoning Ordinance) and requires issuance of the building permit within 30 days if the project is in compliance.

c. 780 CMR 122.1 STATE BUILDING CODE APPEALS BOARD

- Provides for appeal of the building official's actions/inactions as pertains to the building code to the State Building Code Appeals Board.

note: The building official's determinations as pertains to the

CNI, 22
3-12-98

OFFICE OF THE ATTORNEY GENERAL

98 JAN - 8 AM 9:54

RECORDED

CNI, 23
3-12-98

Zoning Ordinance are appealable to the Cambridge Board of Zoning Appeal (BZA).

The applicable sections of the Cambridge Zoning Ordinance dealing with the issuance of building permits include the following:

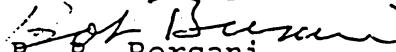
a. ARTICLE 9, SECTION 9.12 - requires all building permits to be issued only when the provisions of the Cambridge Zoning Ordinance have been met.

b. ARTICLE 9, SECTION 9.12 - provides that when a building permit is denied, the reasons for the denial shall be clearly stated in writing.

c. ARTICLE 10, SECTION 10.20 - provides for persons aggrieved by actions of the Building Commissioner concerning permits or other matters to appeal to the Board of Zoning Appeals (BZA)..

It should be noted that the Building Official routinely consults with a number of City Departments, depending on the specific circumstances of the project, prior to issuance of building permits. These include the Fire, Public Works, Traffic, Parking and Transportation, Community Development, and Law Departments as well as the Historical and Conservation Commissions. Also, comments received from interested individuals, other City Departments and officials, and other government agencies are considered prior to the issuance of building permits.

Very truly yours,


R. R. Bersani

cc
Don Drisdell

8 FRI 17:58 FAX 6173427530

SPAULDING & SLYE

CNI, 24
3-12-98

Spaulding & Slye

Colliers International

Comprehensive Real Estate Services

125 CambridgePark Drive
Cambridge, MA 02140-2314
Tel: (617) 523-8000
Fax: (617) 497-4848

January 9, 1998

Via Fax: (617) 349-6132

Robert R. Bersani
Commissioner
City of Cambridge
Inspectional Services Department
831 Massachusetts Avenue
Cambridge, MA 02139

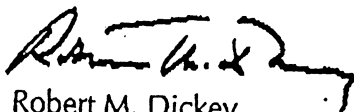
RE: 784 Memorial Drive

Dear Commissioner Bersani:

Pursuant to our conversation this morning, this letter shall serve as confirmation that Polaroid and Spaulding & Slye are arranging a meeting with Phillip Coleman, Project Manager at MWRA, to review our plans to demolish the back buildings at the 784 Memorial Drive property. In conjunction with any demolition permit issued by your office, we agree not to proceed with the physical work until Mr. Coleman and the MWRA are satisfied that the work does not impact the MWRA easement through the property. Additionally, in the event that an 8M Permit is required from MWRA, we will file the application with Mr. Coleman immediately and delay the demolition until the 8M Permit has been issued.

Please feel free to contact me at (617) 531-4127 or Phillip Coleman should you have any questions.

Sincerely,



Robert M. Dickey
Vice President

cc: Phillip Coleman (Via Fax: (617) 241-6070)
Ralph Norwood - Polaroid
John Thomas - Spaulding & Slye



MASSACHUSETTS WATER RESOURCES AUTHORITY

Charlestown Navy Yard
100 First Avenue
Boston, Massachusetts 02129

Telephone: (617) 242-6000
Facsimile: (617) 241-6070

January 13, 1998

Robert Bersani
Commissioner
City of Cambridge
Inspectional Services Department
831 Massachusetts Ave.
Cambridge, MA. 02139

RE: 784 Memorial Drive

Commissioner Bersani,

Please accept this letter as confirmation of our telephone conversation on 1/13/98 regarding the above referenced project. I have received the fax from Spaulding and Slye confirming that they will meet with the M. W. R. A. and apply for an 8M permit before starting any physical work on the back buildings of this particular site. Since our conversation Spaulding and Slye has made arrangements to meet with me at my office on 1/15/98 at 9:30AM to review their plans and file necessary paperwork for an 8M permit.

As discussed in our conversation I see no reason not to issue demolition permit with conditions that were agreed to {M.W.R.A. 8M permit} before any physical work begins.

Please feel free to contact me at 241-6488, and I will speak to you if any unforeseen problems arise from the 1/15/98 meeting.

Sincerely,

Philip Coleman
Project Manager/Sewerage Division
M.W.R.A.

CNI, 26
3-12-98

To: The Honorable, the City Councillors
From: From: the Co-Chairs of the Cambridgeport Neighborhood Initiative (CNI):
Daphne Abeel, Gordie Fellman, Stash Horowitz, Anastasia Leotsakos,
Maureen Van Stry, Elie Yarden
For: City Council Meeting of January 26, 1998
Subject: 784 Memorial Drive Site:
Violations of Due Process by Project Proponent, 784 Memorial
Drive LLC (formerly Polaroid Corp);
Violations of Due Process by City of Cambridge administration

This Monday's Council meeting will be the 17th time since May 1997 that members of the Cambridgeport Neighborhood Initiative (CNI) have spoken to the City Council of serious neighborhood, community, and city concerns about the 784 Memorial Drive proposal.

Eleven unanimous Council orders, involving soil-testing, public health survey, traffic studies, consultant analysis of traffic studies, debris removal, demolition & building permits, and non-conforming curb cuts, have been the result of our efforts.

The history of the project has been notable for the extreme contortions of the proponents to avoid any reasonable public scrutiny. There has been, since May 1997, a consistent and continual pattern of subterfuge, non-cooperation, misinformation, and avoidance by both developers and certain city officials.

Listed below, and briefly described, are five recent examples of the failure to act in accordance with due process, the neglect of proper city review according to ordinances of the City and laws of the State; and a further listing of some past oversights.

1. Subsequent to CNI's request that information on two previous spills on the site be studied and reported to the Council, the City Public Health Officer was asked to survey abutters for health problems, by June 23 Council order.

Following that order and a CNI meeting with the Public Health Officer, CNI has learned that a meeting occurred with two professors of epidemiology, a doctor from Cambridge Hospital, a representative from CDD, and Public Health staff. One purpose of the meeting was to determine whether it would be possible to reassure the neighborhood that uncapping the asphalt cover at the site, demolition and construction would not endanger public health and safety.

The neighborhood group was not informed or invited, or given a copy of the report sent many months ago to the City Manager. Efforts to obtain this report have been unsuccessful. The information has not been shared with the Council. (Cf. attached copy of January 20 letter of Daphne Abeel to City Manager)

2. In a communication, and a letter, to the Council's January 12 meeting, Inspectional Services Department (ISD) Commissioner reported and clarified the relationships between curb cuts and building permits.

The Assistant City Solicitor spoke and said that, although the law is a gray area and the courts have not clearly ruled, his position was to recommend the use of existing curb cuts (whether conforming or not). He then proceeded to confuse the issue of non-conforming curb cuts and Council requirement for approval with the difficulty in law of denying an owner access to his property.

Yet both reports clearly read;

(1) "The applicable sections of the City Zoning Ordinance dealing with the issuance of building permits include the following

Article 9; section 9.12 requires all building permits to be issued only when the provisions of the City Zoning Ordinance have been met."
(in January 8 report)

(2) "... If it were determined that public safety would be jeopardized because of the curb cut layout or configuration, then resolution would be required before the building permit or the CO would be issued."
(in December 26 report)

3. Both curb cuts leading to and from the 600-car garage are examples par excellence of non-conformity and a threat to public safety as stated in Sections 6.434 (b) and (c) of the Cambridge Zoning Ordinance. Yet when ISD Commissioner was asked by CNI whether he would issue the building permit with the existing curb cuts, he replied affirmatively, contradicting his report to the Council.

The curb cut on Putnam Avenue, which will carry half the traffic for the garage, has long been unused, is professionally unsound, its view onto the street blocked by a living shade tree on the City sidewalk. The developer has admitted that it must be moved but wishes to do this "eventually," after the building permit has been obtained. Section 6.434 (c) requires that oncoming traffic be clearly visible to vehicles exiting via the curb cut.

4. Removal of a shade tree on a city street requires public notification, a public hearing, and a Planning Board meeting, by State law (GL87, sec.3, "Cutting of public shade trees").

5. Traffic engineers from Spaulding & Slye/Vanasse Associates, from CNI, and from the City (its consultant from Rizzo Associates, CDD, and Traffic & Parking) have been meeting to discuss possible mitigations of the effects of the garage and its 3000 or more daily vehicle trips on neighborhood streets.

Two traffic studies have been produced, one for Spaulding & Slye, another for CNI, and the City's consultant's report will be forthcoming at the end of January. It will discuss the effectiveness of mitigations. At the meeting this week, Spaulding & Slye refused to fund its traffic engineer's further participation, and may have withdrawn from these mitigation meetings. At a previous meeting January 7, the traffic engineers agreed that both existing curb cuts are hazardous and must be changed.

Other examples of misinformation and evasion:

1. CNI asked CDD in September, 1996 to inform the neighborhood group when any developer planned a project for 784 Memorial Drive. This was not done. We learned about it from two articles in the Boston Globe.
2. Spaulding & Slye stopped meeting with the neighborhood in June 1997, after CNI visited MEPA to inquire whether an ENF should be filed by the proponent. Only one public meeting called by the proponent has been held since. No architect or Polaroid representative spoke at any of these meetings.
3. The proponents initially appeared without a traffic study and argued that none was necessary.
4. Schematic plans were changed in June to reroute garage traffic at one exit around an existing tree rather than petition for removal of the obstacle and straighten out the exit pathway by moving the existing curb cut.
5. Polaroid Corp never responded to a June 23 Council Order, nor to two DEP letters from the Site Management Chief, Northeast. These strongly suggested additional soil testing to allay neighborhood concerns about possible soil contamination, given the history of industrial and chemical use. Geotechnical borings of the site were done in the fall, when sampling and testing would have been easy and inexpensive to conduct, but Polaroid refused.
6. City Public Health Officer has not conducted a survey of abutters for health problems, as requested in City Council order of June 23, 1997.
7. Debris removal was done for two weeks without the proper city permit from ISD. When ISD Commissioner spoke to the Council, he said that this permit was probably on his desk. In fact, it was submitted the next day by Spaulding & Slye after ISD officials called them.
8. Demolition was done, according to the definition in the State Board of Building Regulations & Standards (780 CMR 110.0, 110.3.4, and 111.5), without a demolition permit. When questioned, ISD officials called it debris removal.

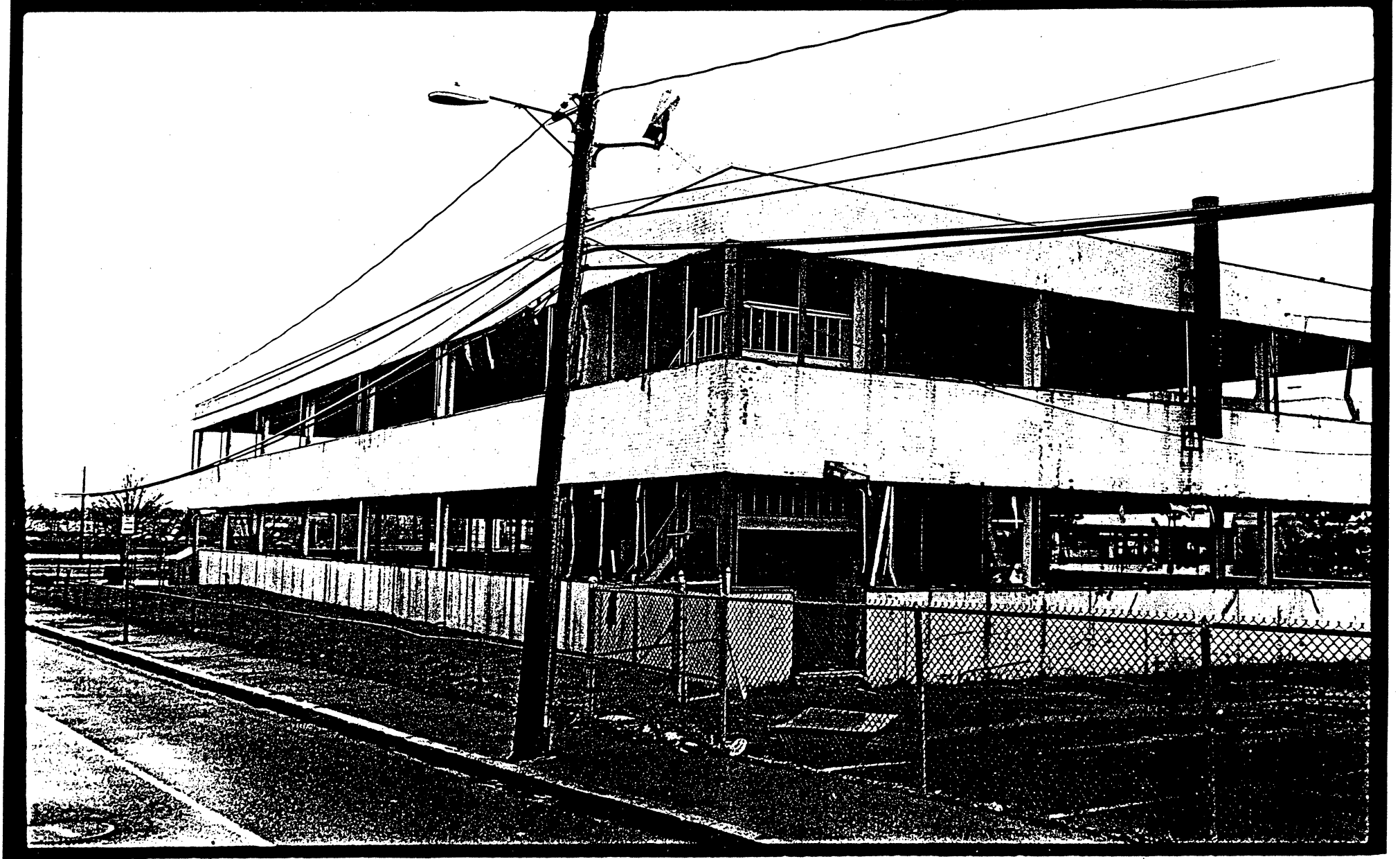
CNI, 29
3-12-98

9 Proponent refused to acknowledge for 7 months that an MWRA 8M permit was necessary, finally agreeing this week that it was needed, after twice meeting with the MWRA's Director of Permitting. ISD Commissioner said that he would issue the demolition permit regardless of the 8M permit requirement. He then changed his mind after talking with the MWRA Permit Director, making its issuance conditional on the 8M being obtained or not needed.

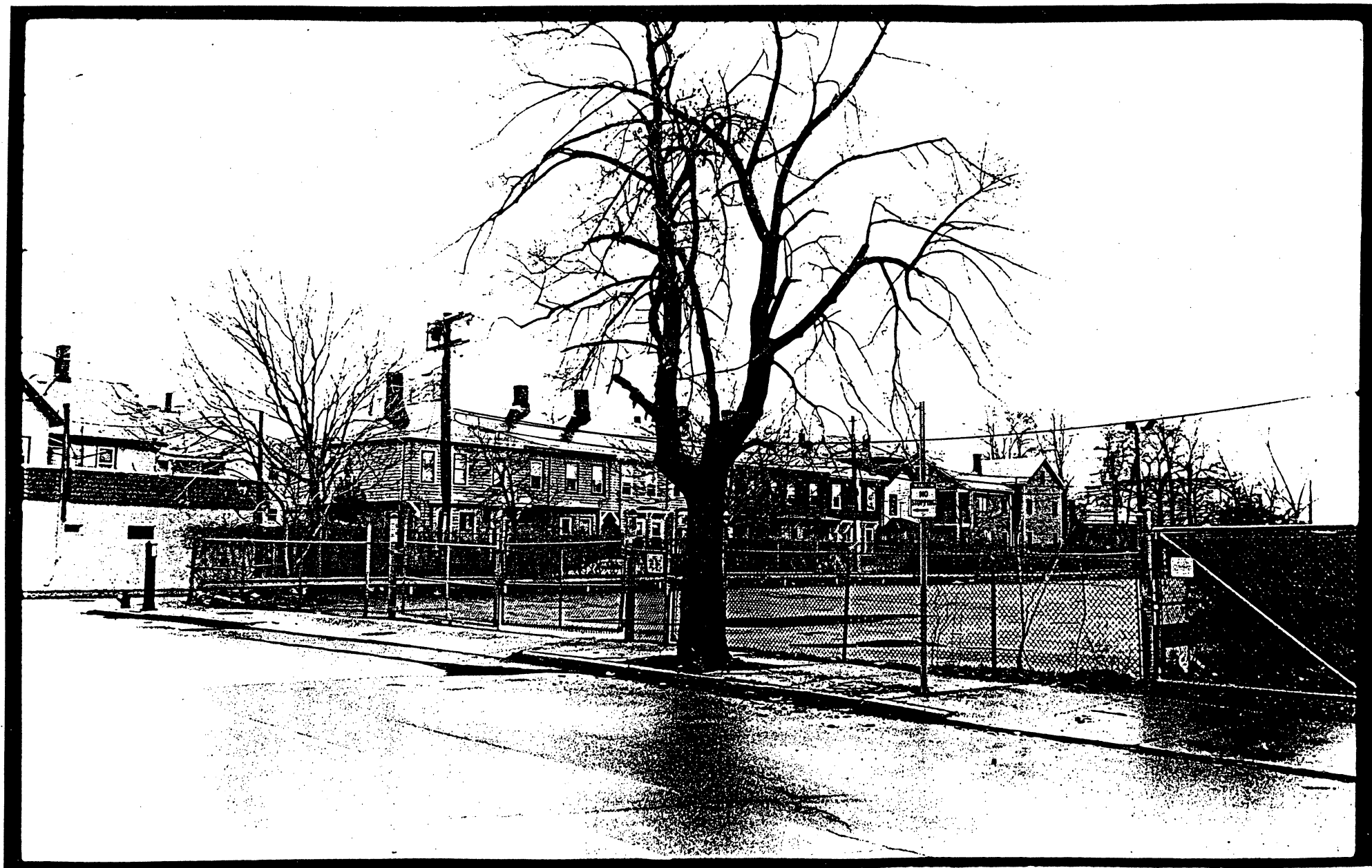
10. All four State Representatives for Cambridge sent a letter to Secretary of Environmental Affairs, Trudy Coxe, "... to insure that state agencies exercise due process regarding the development of the property. As representatives of the City of Cambridge, we are particularly concerned about the environmental impacts of the project. We would like to provide reasonable assurance to our constituents that this is a clean site." (Cf. attached copy of January 11, 1998 letter.)

We hope that our City Councillors, and through them the appointed officials of the City Administration, will show the same concerns about the environmental impacts and protection of our citizens, as expressed by our State representatives.

CNI, 30
3-12-98



CNI, 31
3-12-98





CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

TEL 349-4300
FAX 349-4307

6.
CNI, 32
3-12-98

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

February 9, 1998

To the Honorable, the City Council:

In response to Awaiting Report Items #1, 5, and 7, enclosed please find reports from Sue Clippinger, Director of Traffic, Parking, and Transportation, Susan Schlesinger, Assistant City Manager for Community Development, Barry Pell, P.E. of Rizzo Associates, and John O'Brien, CEO of the Cambridge Public Health Commission.

These reports address those issues that are legally within the purview of the City of Cambridge relating to the proposed project at 784 Memorial Drive.

Robert Bersani, Commissioner of Inspectional Services has concluded that there is no legal basis upon which to deny demolition permits which have been sought for several existing structures on the site. He has also concluded that there is no legal basis for denying a building permit for the proposed parking structure on the site.

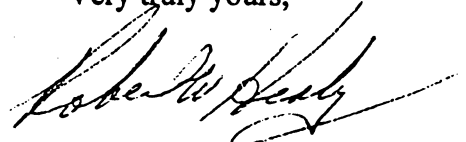
There are two existing curb cuts at the site which the owner proposes to use for entering and exiting the proposed parking structure. The conclusions reached by Sue Clippinger, supported by the consultation with Rizzo Associates, identify safety concerns regarding the existing Putman Street curb cut because of its proximity to the intersection of Putnam and Pleasant Streets, while concluding that the Pleasant Street curb cut operates safely from a traffic engineering perspective. Accordingly, Commissioner Bersani has issued the building permit based upon the recommendations provided by the Traffic, Parking and Transportation Department. As explained at the City Council meeting of January 12, 1998 by the Law Department, in the context of an application for a building permit, for zoning purposes, it is sufficient if a landowner demonstrates a legal access point from the public way to any required off-street parking and loading facilities. Despite the fact that the curb cut may not provide for optimal traffic management at the site, it is evidently sufficient to obtain a building permit.

Clearly, based on the in-house analysis supported by the Pell report, relocation of both curb cuts would provide for both safer and better traffic flow to and from the site. I

met with the developer on several occasions and strongly encouraged immediate application for the relocation of the access points to the more appropriate locations. I am attaching a letter dated February 5, 1998 from David Vickery indicating that the developer agreed to and has applied for relocation of the curb cuts to the preferred locations.

The "as of right" status of this project imposes limitations on the City's ability to require changes in the developer's proposal. I believe that all parties are persuaded that the relocation of curb cuts as proposed will provide the best traffic management option for the permitted development at the site.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert W. Healy", written over a horizontal line.

Robert W. Healy
City Manager

Spaulding & Slye

Comprehensive Real Estate Services

Colliers International

125 Cambridge Park Drive
Cambridge, MA 02140-2314
Tel: (617) 523-8000
Fax: (617) 497-4848CNI, 34
3-12-98

February 5, 1998

Mr. Robert W. Healy, City Manager
City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

RE: 784 Memorial Drive

Dear Mr. Healy:

Thank you for the several meetings you have arranged regarding curb cuts for our 784 Memorial Drive project, and we have taken into consideration the concerns you have articulated. As you know 784 Memorial Drive LLC is developing the property known as 784 Memorial Drive. This project involves the rehabilitation of the building fronting on Memorial Drive which is on the National Register of Historic Buildings. Once the rehabilitation is completed it will be occupied by the Polaroid Corporation as its world-wide corporate headquarters. The development will also involve the construction of a 577 car parking garage and two new office buildings containing in the aggregate approximately 240,000 square feet. Additionally, approximately 30 units of housing will be built on the east side of the site along Pleasant Street.

We are now in the process of rehabilitating the historic building and we intend to demolish the other buildings on the site this month. The Cambridge Historical Commission determined that these remaining buildings are not preferably preserved and Cambridge Inspectional Services issued a permit for this demolition project on January 15, 1998.

The site currently has several driveways which have been historically used by Polaroid. One of these driveways exits onto Pleasant Street near the intersection of Florence Street and the other exits onto Putnam Avenue. In response to questions raised at meetings discussing the traffic impacts of the project and our permit application for the new parking facility we have stated that we would not object to relocating these two driveways. Any driveway relocation would be subject to curb cut approval by the Cambridge City Council.

The plan is for Polaroid to move its headquarters to the front building this summer and to utilize a temporary surface parking lot on the site. As use of the Pleasant Street driveway in connection with Polaroid's use of the front building will be less intensive than it has been historically, we anticipate continued use of this driveway for the front building prior to the construction and completion of the parking garage.

Spaulding & Slye

Comprehensive Real Estate Services

CNI, 35
3-12-98

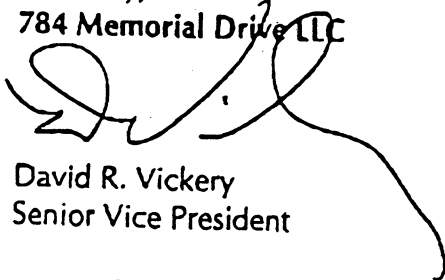
February 5
January 21, 1998
Page 2

Today, with the issuance of the building permit for the parking garage we have submitted an application for the relocation of the Putnam Avenue driveway and the Pleasant Street driveway (opposite Florence Street) with the Inspectional Services Department for its review and submission to City Council. We have applied to relocate these driveways to locations determined by the City's Traffic Engineer's analysis to be both safer and better for traffic management.

However, if we are unable to obtain new curb cuts, we have not abandoned our existing curb cuts and would pursue the right to use them. On behalf of Polaroid and Spaulding & Slye's joint venture, we appreciate your negotiation of a positive resolution of these issues.

Please contact me should you have any further questions.

Sincerely,
784 Memorial Drive LLC



David R. Vickery
Senior Vice President

cc: Susan R. Schlesinger, Assistant City Manager, Cambridge Community Development
Susan Clippinger, Director of Traffic and Parking, City of Cambridge
William O'Neill Jr., Executive Vice President/CFO, Polaroid Corporation
Ralph Norwood, Vice President/Treasurer, Polaroid Corporation
Lauren Preston, Engineer, City of Cambridge
Robert Dickey, Vice President, Spaulding & Slye
Robert Bersani, Commissioner, Inspectional Services

CCM-101



City of Cambridge

CNI, 36
3-12-98

101.

IN CITY COUNCIL

June 23, 1997

COUNCILLOR TRIANTAFILLOU
VICE MAYOR BORN
COUNCILLOR TOOMEY
COUNCILLOR REEVES
COUNCILLOR GALLUCCIO

- WHEREAS: Polaroid Corp. is currently drilling test borings for geotechnical information for foundation analysis; and
- WHEREAS: They are using Haley and Aldrich, a licensed site professional registered with the Department of Environmental Protection for soil analysis; and
- WHEREAS: The proposed development for 784 Memorial Drive is over the part of the 6 acres where BB Chemical manufactured adhesives for 3 decades; and
- WHEREAS: The proposed housing is over the part of the 6 acres where Dover Stamping and Manufacturing Co. made sheet metal for 4 decades, using solvents to treat the metal; and
- WHEREAS: Part of the site has been already cleaned up of toluene and dichloroethane; now therefore be it
- ORDERED: That Polaroid Corp. the owner, is hereby requested to test the subsoil at these locations for chemical contamination and communication of the results to the City, before any demolition and construction occurs; and be it further
- ORDERED: That the City Manager be and hereby is requested to request that the Chief Public Health Officer investigate the particular medical illnesses on Pleasant Street and whether they are related to chemical contamination on this site.

In City Council June 23, 1997

Adopted by the affirmative vote of nine members.

Attest:- D. Margaret Drury, City Clerk.

A true copy;

ATTEST:-

D. Margaret Drury
D. Margaret Drury
City Clerk

CNI, 1
3-12-98

RECEIVED BY
OFFICE OF CITY CLERK

98 MAR 12 PM 1:22

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 *Elie Yarden*
For: City Council Meeting of March 16, 1998 *Stash Horowitz*
Subject: 784 Memorial Drive Site & Permits granted by Inspectional Services
Department (ISD) relating to demolition, curb cut relocations, and
building permit for proposed 577 car garage.

The CNI wishes to thank the City Manager for making the ISD Commissioner available to answer questions about permits issued by his department, relating to demolition, curb cut relocations, and building.

The following attached memoranda, regulations, communications, and photographs, some of which the CNI has previously sent to the City Council, the City Manager, or the ISD Commissioner will, we hope, provide helpful background on these issues, and detail some of the concerns of the CNI that due process and city regulations are not being followed in these permits.

The CNI hopes that all future permits, from ISD and other city agencies, follow established procedures, Zoning Ordinances relating to safety of curb cuts, and City and State regulations and laws for the granting of demolition and building permits.

Members of the CNI will be available at this City Council meeting, and will be happy to answer any questions about these matters.

List of 12 attachments:

1. CNI's Neighborhood Association Response to application by Spaulding & Slye for relocation of curb cuts on Pleasant Street and on Putnam Avenue. (pp 3-6)
2. City Policy on Driveway Cuts. (pp 7, 8)
3. Spaulding & Slye application for curb cut relocations, received February 5, 1998, with no abutters forms attached, and approved by ISD February 9. (pp 9-11)
4. Communication from R. Philip Dowds, architect, about illegal demolition without a permit at 784 Memorial Drive, Buildings #2 - 10, before demolition permit was issued by ISD on January 12, 1998. Three pages from State Building Code on what is demolition. (pp 12 -16)

RECEIVED BY
OFFICE OF CITY CLERK

CNI, 2
3-12-98

98 MAR 12 PM 1:22

5. CNI communication to City Council, City Manager, and ISD Commissioner of December 15, 1997, urging that demolition and building permits not be issued until two unsafe and non-conforming curb cuts be relocated. (pp 17, 18)
6. Proposed draft for a Council Order (not submitted) relating to curb cut issues and concerns, and that ISD not issue any permits, or should revoke existing ones, until these issues be resolved. (pp 19, 20)
7. Two communications from Robert Bersani, ISD Commissioner relating to procedures for granting building permits and curb cuts. (pp 21 - 23)
8. Two letters to Commissioner Bersani of ISD relating to Massachusetts Water Resources Authority (MWRA) 8M permit required before demolition permit can be issued: one from Philip Coleman, Project Manager of MWRA, the other from Robert Dickey, VP of Spaulding & Slye (pp 24, 25)
9. A summary by CNI, dated January 26, 1998, on 15 instances of omissions and violations of due process by City Administration and the proponent. (pp 26 - 29)
10. Photographs of "debris removal" and "dismantling" at Bldg #2, 3, 8, and of tree on city sidewalk blocking proposed relocated Putnam Avenue curb cut. (pp 30 -31)
11. Communication by City Manager dated February 9, 1998, to City Council giving his response to City Council Orders for procedures on curb cuts and building permits. (pp32 -35)
12. City Council Order of June 23, 1997 requesting additional soil testing "before any demolition or building occurs." (p 36)

CNI, 4
3-12-98

March 5, 1998

Memorandum

page 1

To: D. Margaret Drury, City Clerk

From: Elie Yarden, Co-chair, Cambridgeport Neighborhood Initiative (CNI)

Subject: Neighborhood Association Response to application to relocate two curb cuts on Putnam Avenue and on Pleasant Street, by Spaulding & Slye for 784 Memorial Drive LLC proposal

As required by your letter of February 12, 1998, I submit herewith the reasons for "disapproval."

As "representative of a Neighborhood Association" I must consider all aspects of how our response on a specific issue affects the general climate of decision-making. I rely on the description addressed to me by the proponent, 784 Memorial Drive LLC/Spaulding & Slye, as well as on my own investigations.

The only reason for "disapproval" is the obligation each one of us bears for defending the City's public processes and declared policies from contemptuous circumvention, blatant violations, exercise of undue influence, and illegal actions in dealing with this matter. I submit a few glaring and substantive instances:

Submission 1.

(from City of Cambridge. City Policy on Driveway Cuts . . . ; Procedure with Respect to Driveway CutsParagraph 6)

The advice in the underlined statement, "Petitioners are urged to contact their neighborhood associations early to avoid delay." was deliberately ignored by the petitioner. Thus, instead of "including the signed forms" in the submission, we find penned, "Note: In process of notifying all abutters; will make best efforts to obtain all signatures"

(from City of Cambridge. City Policy on Driveway Cuts . . . ; Procedure with Respect to Driveway CutsParagraph 3)

The applicant failed to include signed abutters forms. The applicant made no attempt to secure the required signatures before making the application.

(from City of Cambridge. City Policy on Driveway Cuts . . . ; Procedure with Respect to Driveway CutsParagraph 4)

The application submitted to Inspectional Services without the required abutters forms was approved for compliance with the City of Cambridge Zoning Ordinance, and approved in a dismissive violation of policy and due process. The attempt to conceal this pre-approval in the copies of the form sent to abutters for their response is a deception of the public, a request for input about something already decided. How did the Zoning Officer's signature, dated 2/9/98, approving the incomplete request, come to be absent from the copies of the form sent to "Resident" from the offices of Spaulding & Slye on February 13, 1998.

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Memorandum

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At a public meeting, held by Polaroid and Spaulding & Slye on December 11, 1997, more than two months earlier, the petitioner was informed by members of the CNI of the fact that the two curb-cuts are non-conforming according to City of Cambridge Zoning Ordinance, Article 6, Section 6.40, *Design and Maintenance of Off Street Parking Facilities*. The petitioner was also informed that the existing points of entry and exit are unsafe, and unsuitable to the design of the newly proposed parking garage. The refusal of the applicant to apply for moving the curb-cuts *at that time or earlier* is the cause of the unnecessary delays. The City Council was also informed of the situation. Members of the CNI, who have been tireless in meeting with Spaulding & Slye, as well as city and state agencies in an effort to improve any proposals made for the use of 784 Memorial Drive, and who have constantly shown their concern to protect the city and its neighborhoods from destructive environmental impacts, urged that the curb cuts be moved. It took a long and determined effort to get this minimal agreement. We value the proposal to move the curb cuts as a step in the right direction. Moving the curb cuts is a small move in resolving problems and mitigating negative consequences associated with the project as it stands.

At the end of this meeting of December 11, a representative of the petitioner was asked by one of the attendees, "I suppose you'll have to move the curb cuts, before you get the building permit?" "Don't worry! We know how to deal with City Hall," came the response.

CNI repeatedly requested, in communications with the City Manager, City Councillors, and with the Inspectional Services Department, that proper procedure be followed, i.e., that the garage building permit be withheld until the relocation of the curb cuts was first approved by the City Council as required by the City Ordinance. This would have caused no delay or hardship to the applicant.

Submission 3.

The material in the City Manager's response to Council Order #36 of 12/22/97 dated December 30, 1997, is obfuscatory and prejudicial:

- 1) Depriving a landowner of access to to off-street parking or loading facilities was never at issue, and required no response
- 2) In addition to being legal access points, the curb cuts were clearly non-conforming ones. Undertaking new construction of a 577+ car garage required that these be brought into conformance. All parties agreed on the desirability of this. Thus there was every reason to bring the access points into conformance before granting the demolition and construction permits.

The material in the City Manager's response to Awaiting Report Items #1, 5, and 7, dated December 30, 1997, is far more informative:

- 1) The need for meetings by City Manager Robert Healy and "the developer on several occasions" to strongly encourage "immediate application for the relocation of the access points to the more appropriate locations." is unclear. Spaulding & Slye, Senior Vice President David Vickery, in charge of the project, had been informed of the desirability of doing so at least six months ago.
- 2) It is good that Mr. Healy's ability to negotiate led Mr. Vickery to alter the demands and conditions expressed in his letter of January 21, for the more submittable letter of February 5 (page 2 of which, though considerably altered, remains dated January 21). We are also grateful for the insight, which the placing of the two letters side by side provides, on the meaning of "We know how to deal with City Hall."

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3-12-98

March 5, 1998

Memorandum

page 3

The selective enforcement of laws, ordinances, regulatory procedures in a manner that favors the protection of citizens and their city from predatory behaviors is not always detrimental to the law's intent. But, surely, the failure to enforce regulations intended to protect the city **in favor of big corporations**, that have staffs, legal and otherwise, that ". . . know how to deal with City Hall," is politically demoralizing. Yes, we feel that we have achieved a small 'victory' in getting the proponent of 784 Memorial Drive to apply for permission to move the two curb cuts. It should not have required the huge number of unpaid hours on the part of members of the CNI, and the even greater number of highly paid man-hours in the city government. **But if the price of achieving a particular desired result is to cynically set aside the process that is designed to protect the city and its citizens generally, then very little has been gained.**

We are not merely standing on principles. The hostility expressed and demonstrated by the proponent to the concerns of citizens of Cambridge about his proposed "as of right" project, has caused unnecessary delays in getting needed state and city permits. The contempt for public process, encouraged by the actions of "City Hall," has meant that these processes are handled sloppily, have to be redone, and exacerbates suspicion. Spaulding & Slye, as a major Real Estate Company, the eighth largest taxpayer in Cambridge, should surely have the staff that knows how to get the names of the abutters from the City Assessor's office, so that the responses can be collected properly. We should not have to be the one to instruct the Project Manager on how this should be done. We should not have to be the 'address' for complaints of abutters who never received or were denied their forms at the Post Office. We should not have to investigate the source of the problem with a postal inspector. We know that the City Clerk had already explained the proper procedure to Project Manager Hilary Thomas.

Surely, if the applicant were acting in good faith, he would have met with another large business owner, directly across the street from one of the relocated curb cuts, whose interests might be harmed by the relocation, to work things out.

Surely, one can apply for a demolition permit before engaging in 'dismantling.' And just as surely, an application for a demolition permit that involves asbestos removal does not have to be granted 'after the fact.'

Since the relocation of the curb cut on Putnam Avenue involves the destroying of a shade tree on a city street, the actions to achieve this should have been instituted.

Because the relocation of the curb cut on Pleasant Street requires additional action to secure an 8M permit allowing the new, relocated point of access to be constructed over their easement, the actions to achieve this should have been undertaken.

The cavalier attitudes of the proponents of 784 Memorial Drive about exercising due diligence in carrying out their plans bodes ill for its successful realization. Their lack of concern for getting it right the first time increases the need for vigilance. What kind of due diligence will be exercised in completing demolition and beginning construction? Given the nature of the site and the readiness of city officials to show greater solicitude for the interests of large property holders than for the security of our citizens, the care that we have been showing has had only positive effects thus far. We will continue to show that care.

Enclosures

CNI, 19
3-12-98

2/5/98 draft of proposed Council Order for Council Meeting of February 9, 1998.
NOT SUBMITTED.

WHEREAS: 784 Memorial Drive LLC (c/o Spaulding & Slye Real Estate Services Company, Inc., 125 High Street, Boston, MA 02110) commissioned a traffic study of its proposed 300,000 sq. ft. project from Robert Vanasse & Associates, subsequent to Council Order #98 of June 2, 1997, and

WHEREAS: The Vanasse traffic study was completed November 26, 1997, and the City hired Barry Pell of Rizzo Associates as its consultant to analyze this study, and Barry Pell's interim report became available February 2, 1998, and

WHEREAS: The City, the Cambridgeport Neighborhood Initiative (CNI), the proponent, and the traffic consultants have been meeting, in a spirit of cooperation, to explore traffic mitigations, and

WHEREAS: The Pell report recommends that both the Putnam Avenue and the Pleasant Street curb cuts be relocated, to wit,

"Rizzo Associates recommends that a project mitigation plan should be comprised of three primary elements . . . [one of the three elements is]

3. Changes in the site access curb cuts:

a. **Putnam Avenue.** Relocate the curb cut away from Pleasant Street to the site's property line (or as a shared access with the adjacent property) . . .

b. **Pleasant Street.** Relocate the curb cut towards Memorial Drive with restriction (by design and/or signage) to prohibit left turns exiting the site." (Rizzo Associates, p.5), and

WHEREAS: The Putnam Avenue curb cut is judged **unsafe** by the consultant, to wit,
"The site access shown on Putnam Avenue is inadequate and unsafe. It is within 30 feet of the Pleasant Street intersection, which is also an established school crossing." (Rizzo Associates, p.3), and

WHEREAS: The Director of Traffic, Parking and Transportation also judges the Putnam Avenue curb cut unsafe, to wit,

" . . . the Department finds the use of the Putnam Avenue curb cut in its present location as unsafe access to the new parking garage.

If the Putnam Avenue curb cut was relocated to the edge of the proponent's property line it would be 68 feet from the intersection. If this relocation occurred, the Department would find the use of the curb cut acceptable." (Susan Clippinger letter to Robert Bersani, Commissioner, Inspectional Services Department, January 27, 1998, p.2.), and

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WHEREAS: The City of Cambridge Zoning Ordinance, Article 9, Section 9.12
“requires all building permits to be issued only when the provisions
of the Cambridge Zoning Ordinance have been met.” (Bersani letter
to Robert Healy, January 8, 1998, p.2), and

WHEREAS: Zoning Ordinance Section 6.4.3.4 (c) requires clear visual access from a curb cut,
and oncoming traffic at the Putnam Avenue curb cut is visually blocked by a city shade
tree on the sidewalk, and

WHEREAS: “If it were determined that public safety would be jeopardized because of the curb
cut layout or configuration, then resolution would be required before the building permit
or the CO [Certificate of Occupancy] would be issued.” (Bersani letter to Healy,
December 26, 1997), now therefore be it

ORDERED: That the City Manager be and hereby is requested to request 784 Memorial Drive
LLC to apply to the City Council as soon as possible for permission to relocate these
two above-mentioned curb cuts, as recommended by the City and its consultant, and as
a token of good faith, and be it further

ORDERED: That the City Manager be and hereby is requested to request the Inspectional
Services Commissioner to delay the issuance of any and all permits, including building or
demolition, until the said curb cuts shall be deemed safe by the City's traffic consultant
and by the Department of Traffic, Parking and Transportation, and to revoke any existing
permits issued within the last 45 days, until the safety requirements be fulfilled, and be it
further

ORDERED: That the City Manager be and hereby is requested to report to the Council at its
February 23 meeting as to the response, or lack of same, from 784 Memorial Drive LLC.

CNI,26
3-12-98

To: The Honorable, the City Councillors
From: From: the Co-Chairs of the Cambridgeport Neighborhood Initiative (CNI):
Daphne Abeel, Gordie Fellman, Stash Horowitz, Anastasia Leotsakos,
Maureen Van Stry, Elie Yarden
For: City Council Meeting of January 26, 1998
Subject: 784 Memorial Drive Site:
Violations of Due Process by Project Proponent, 784 Memorial
Drive LLC (formerly Polaroid Corp);
Violations of Due Process by City of Cambridge administration

This Monday's Council meeting will be the 17th time since May 1997 that members of the Cambridgeport Neighborhood Initiative (CNI) have spoken to the City Council of serious neighborhood, community, and city concerns about the 784 Memorial Drive proposal.

Eleven unanimous Council orders, involving soil-testing, public health survey, traffic studies, consultant analysis of traffic studies, debris removal, demolition & building permits, and non-conforming curb cuts, have been the result of our efforts.

The history of the project has been notable for the extreme contortions of the proponents to avoid any reasonable public scrutiny. There has been, since May 1997, a consistent and continual pattern of subterfuge, non-cooperation, misinformation, and avoidance by both developers and certain city officials.

Listed below, and briefly described, are five recent examples of the failure to act in accordance with due process, the neglect of proper city review according to ordinances of the City and laws of the State; and a further listing of some past oversights.

1. Subsequent to CNI's request that information on two previous spills on the site be studied and reported to the Council, the City Public Health Officer was asked to survey abutters for health problems, by June 23 Council order.

Following that order and a CNI meeting with the Public Health Officer, CNI has learned that a meeting occurred with two professors of epidemiology, a doctor from Cambridge Hospital, a representative from CDD, and Public Health staff. One purpose of the meeting was to determine whether it would be possible to reassure the neighborhood that uncapping the asphalt cover at the site, demolition and construction would not endanger public health and safety.

The neighborhood group was not informed or invited, or given a copy of the report sent many months ago to the City Manager. Efforts to obtain this report have been unsuccessful. The information has not been shared with the Council. (Cf. attached copy of January 20 letter of Daphne Abeel to City Manager)

2. In a communication, and a letter, to the Council's January 12 meeting, Inspectional Services Department (ISD) Commissioner reported and clarified the relationships between curb cuts and building permits.

The Assistant City Solicitor spoke and said that, although the law is a gray area and the courts have not clearly ruled, his position was to recommend the use of existing curb cuts (whether conforming or not). He then proceeded to confuse the issue of non-conforming curb cuts and Council requirement for approval with the difficulty in law of denying an owner access to his property.

Yet both reports clearly read;

(1) "The applicable sections of the City Zoning Ordinance dealing with the issuance of building permits include the following

Article 9; section 9.12 requires all building permits to be issued only when the provisions of the City Zoning Ordinance have been met."
(in January 8 report)

(2) "... If it were determined that public safety would be jeopardized because of the curb cut layout or configuration, then resolution would be required before the building permit or the CO would be issued."
(in December 26 report)

3. Both curb cuts leading to and from the 600-car garage are examples par excellence of non-conformity and a threat to public safety as stated in Sections 6.434 (b) and (c) of the Cambridge Zoning Ordinance. Yet when ISD Commissioner was asked by CNI whether he would issue the building permit with the existing curb cuts, he replied affirmatively, contradicting his report to the Council.

The curb cut on Putnam Avenue, which will carry half the traffic for the garage, has long been unused, is professionally unsound, its view onto the street blocked by a living shade tree on the City sidewalk. The developer has admitted that it must be moved but wishes to do this "eventually," after the building permit has been obtained. Section 6.434 (c) requires that oncoming traffic be clearly visible to vehicles exiting via the curb cut.

4. Removal of a shade tree on a city street requires public notification, a public hearing, and a Planning Board meeting, by State law (GL87, sec.3, "Cutting of public shade trees").

5. Traffic engineers from Spaulding & Slye/Vanasse Associates, from CNI, and from the City (its consultant from Rizzo Associates, CDD, and Traffic & Parking) have been meeting to discuss possible mitigations of the effects of the garage and its 3000 or more daily vehicle trips on neighborhood streets.

Two traffic studies have been produced, one for Spaulding & Slye, another for CNI, and the City's consultant's report will be forthcoming at the end of January. It will discuss the effectiveness of mitigations. At the meeting this week, Spaulding & Slye refused to fund its traffic engineer's further participation, and may have withdrawn from these mitigation meetings. At a previous meeting January 7, the traffic engineers agreed that both existing curb cuts are hazardous and must be changed.

Other examples of misinformation and evasion:

1. CNI asked CDD in September, 1996 to inform the neighborhood group when any developer planned a project for 784 Memorial Drive. This was not done. We learned about it from two articles in the Boston Globe.
2. Spaulding & Slye stopped meeting with the neighborhood in June 1997, after CNI visited MEPA to inquire whether an ENF should be filed by the proponent. Only one public meeting called by the proponent has been held since. No architect or Polaroid representative spoke at any of these meetings.
3. The proponents initially appeared without a traffic study and argued that none was necessary.
4. Schematic plans were changed in June to reroute garage traffic at one exit around an existing tree rather than petition for removal of the obstacle and straighten out the exit pathway by moving the existing curb cut.
5. Polaroid Corp never responded to a June 23 Council Order, nor to two DEP letters from the Site Management Chief, Northeast. These strongly suggested additional soil testing to allay neighborhood concerns about possible soil contamination, given the history of industrial and chemical use. Geotechnical borings of the site were done in the fall, when sampling and testing would have been easy and inexpensive to conduct, but Polaroid refused.
6. City Public Health Officer has not conducted a survey of abutters for health problems, as requested in City Council order of June 23, 1997.
7. Debris removal was done for two weeks without the proper city permit from ISD. When ISD Commissioner spoke to the Council, he said that this permit was probably on his desk. In fact, it was submitted the next day by Spaulding & Slye after ISD officials called them.
8. Demolition was done, according to the definition in the State Board of Building Regulations & Standards (780 CMR 110.0, 110.3.4, and 111.5), without a demolition permit. When questioned, ISD officials called it debris removal.

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9 Proponent refused to acknowledge for 7 months that an MWRA 8M permit was necessary, finally agreeing this week that it was needed, after twice meeting with the MWRA's Director of Permitting. ISD Commissioner said that he would issue the demolition permit regardless of the 8M permit requirement. He then changed his mind after talking with the MWRA Permit Director, making its issuance conditional on the 8M being obtained or not needed.

10. All four State Representatives for Cambridge sent a letter to Secretary of Environmental Affairs, Trudy Coxe, "... to insure that state agencies exercise due process regarding the development of the property. As representatives of the City of Cambridge, we are particularly concerned about the environmental impacts of the project. We would like to provide reasonable assurance to our constituents that this is a clean site." (Cf. attached copy of January 11, 1998 letter.)

We hope that our City Councillors, and through them the appointed officials of the City Administration, will show the same concerns about the environmental impacts and protection of our citizens, as expressed by our State representatives.

Consnet Communication #21 S-164

Communication was received from the Co-chairs of the Cambridgeport Neighborhood Initiative (CNI), transmitting a memorandum regarding 784 Memorial Drive site and permits granted by the Inspectional Services Department relating to demolitin, curb cut relocations and building permit for proposed 577 car garage.

In Ctly Council March 16, 1998

PLACED ON FILE