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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 *Elie Yarden* *Stash Horowitz*
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)

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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.

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.

January 20, 1998

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

RE: Report from the Cambridge Department of Health regarding the
Polaroid site (784 Memorial Drive)

Dear Mr. Healy:

I understand that a drafted report, prepared in response to the City Council's order (filed last June) regarding the environmental condition and safety of this site, was forwarded to you in August 1997 by Harold Cox. It is now late January 1998.

What has happened to this information and why has it not been made public?

Neighbors and abutters of the site, such as myself, continue to have serious questions regarding possible pollution of the site, and it was the interests of the neighborhood that moved the City Council to ask for that study.

Could we know when that report and its information might be made available to the public?

Sincerely,

Daphne Abeel
cc. Cambridge City Council
Harold Cox, Department of Health

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THE GENERAL COURT OF MASSACHUSETTS
STATE HOUSE, BOSTON 02133-1053

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January 11, 1998

Secretary Trudy Coxe
Executive Office of Environmental Affairs
100 Cambridge Street, 20th Floor
Boston, MA 02302

RE: Development of 784 Memorial Drive by 784 Memorial Drive LLC

Dear Secretary Coxe:

The purpose of this letter is to ensure that state agencies exercise all necessary due process regarding the development of this property, formerly known as "the Polaroid site."

As representatives of the City of Cambridge, we are particularly concerned about the environmental impact of this project. We would like to provide reasonable assurance to our constituents that this is a clean site.

The state permits required include an 8M permit from the MWRA to allow the introduction of heavy equipment for the purposes of demolition over an existing sewer line. The requirement for an 8M permit triggers a review by the Massachusetts Historic Commission, which, under MGL Chapter 9, 26-27c, as amended by Chapter 254 of the Acts of 1988 (CMR 71.00) states that MEPA has jurisdiction to review this property for its potential environmental impact.

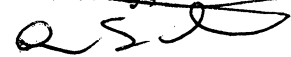
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Further, a letter from the MDC, citing "a significant new traffic burden on a road of the Commonwealth" states that "an evaluation of this burden and a program for traffic mitigation would be appropriate. Such an evaluation could best be accomplished through the filing of an Environmental Notification Form (ENF) with back up traffic data and mitigation proposals."

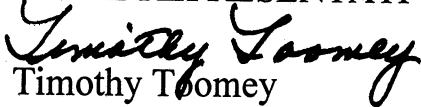
We welcome and urge your attention to this matter.

Sincerely,



Alvin E. Thompson

STATE REPRESENTATIVE



Timothy Toomey

STATE REPRESENTATIVE



Paul Demakis

STATE REPRESENTATIVE



Alice Wolf

STATE REPRESENTATIVE

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Consent Communication #14

S-55

Communication was received from Elie Yarden and Stash Horowitz, regarding the 784 Memorial Drive development proposal.

In City Council January 26, 1998

All items carried forward to be a part of City Council Meeting of February 2, 1998 on motion of Councillor Sullivan.

In City Council February 2, 1998

Referred to Community Development for report on the process on the motion of Councillor Davis.

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