

# ASSOCIATION OF CAMBRIDGE NEIGHBORHOODS

c/o John R. Moot President  
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June 5, 2002

Mr. Jay Wickersham, MEPA Director  
Ms. LeAndrea Dames, MEPA Analyst  
MEPA Office, EOEA  
251 Causeway Street, Suite 900  
Boston, MA 02114

RE: Comment on DEIR, North Point Land Company (NPLC) comprised of Guilford Transportation Industries (GTI) and Spaulding & Slye (S&S) - Project EOEA #12650

Dear Mr. Wickersham and Ms. Dames:

Here are my comments on this DEIR.

1.- The Major Benefit desired by the residents of Cambridge is the integration of the new community of North Point with East Cambridge. The Monsignor O'Brien Highway, a six-lane major roadway, cuts off all of North Point from Cambridge.

This North Point Land Company (NPLC) development covers 46.3 acres and will house about 6,000 residents and 2 million square feet of office/lab space, with 5,000 daily commuters. Combined with the Charles Smith Residential development (EOEA #12651) the area is 52 acres with about 8,000 residents and an estimated 5,000 commuters. A major objective of the Eastern Cambridge Planning Study Committee was to create a plan for North Point that would make North Point an integral part of East Cambridge.

A pedestrian bridge and several street level crossings of Monsignor O'Brien as proposed in this plan will not fill the need. People will only make the crossings, especially during inclement weather, when absolutely necessary to reach the Lechmere T station. There will be little, if any, other inter-neighborhood contact. If North Point does not become a part of East Cambridge, it will become a totally separate gated community of residents with no feeling of affiliation to any city or town.

2.- An Alternative Plan to bring North Point and East Cambridge together. To integrate the two communities it is imperative to provide an easy and attractive way across the Highway. To do so, Monsignor O'Brien Highway should be depressed as much as practical and an elevated plaza constructed over the road with the Lechmere station in the middle, equally accessible to both neighborhoods. Covering part of the highway with the Lechmere Station on top would make mass transit more popular

with a significant improvement in air quality and some reduction of traffic noise in abutting properties.

Not only is the covering of part of the highway absolutely essential to making this North Point development a part of Cambridge, but it would be worth the necessary investment by the property owners. Property values would be enhanced.

This project may be compared with the depression of Broadway at the north end of Harvard Yard. That project eased the flow of both pedestrian and automobile traffic with less auto emission fumes and noise. All of mid-Cambridge benefited in the improved quality of life. Real estate values increased because it became a more livable neighborhood.

The development of an easy and attractive plaza over Monsignor O'Brien Highway would increase the real estate values in both East Cambridge and North Point for several lifetimes to come. Now is the last chance Cambridge will have to integrate North Point with the rest of the City. The opportunity should not be lost.

TRANSPORTATION This project is defined as a "Transit Oriented Development".

3.- Will the Lechmere Station be Moved? On page 1-6 of the DEIR there is reference to an agreement between the MBTA and the Guilford Transportation Industries (GTI) to "design and construct a new Lechmere MBTA Station." On page 1-9 of this DEIR, the GTI states that: "As part of the proposed project, **the proponent has the right** (the emphasis is mine) to move Lechmere Station to the North side of O'Brien Highway from its current location on the south side to enable the MBTA to extend the Green Line." With the extension of the Green Line by light rail uncertain, does this clause mean that the Station is not likely to be moved?

The written agreement between the MBTA and GTI has never been released to the public. It was not made available to anyone during the East Cambridge Planning process nor since, even though we have requested a copy several times. Moving the station is implied in all of the plans for this project, but never fully committed to. On page 1-21 it states: "The Lechmere Station Relocation **may** (the emphasis is mine) occur pursuant to an agreement between the MBTA and GTI that provided GTI (and thereby the NPLC) with the right to relocate the station." On page 1-23 it states that "The preferred preliminary design, **if it were to be constructed** (emphasis is mine) as part of the MBTA-GTI agreement . . . ."

Will the station be moved, and, if so, when? The agreement between the MBTA and GTI needs to be included as part of this DEIR and the intents of NPLC made clear.

4.- The Lechmere line was line built in 1910. It is more than 90 years old. The elevated by-pass at Sullivan Square is being demolished because of age. When will the elevated tracks going into Lechmere be condemned?

5.-What will be offered to East Cambridge as mitigation, if the Lechmere station is moved across the highway? East Cambridge will be a big loser both in its accessibility to mass transit and in property values. What mitigation is being considered? Maybe a soccer field? East Cambridge residents have included a soccer field high on their list of desired benefits.

Sincerely yours,

A handwritten signature in black ink, appearing to read "John R. Moot". The signature is fluid and cursive, with a large initial "J" and "M".

John R. Moot, President  
Association of Cambridge Neighborhoods

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Page 1 of 4

By Fax and Hand Delivery (617) 626-1181  
June 7, 2002

Mr. Jay Wickersham, MEPA Director  
Ms. LeAndrea Dames, MEPA Analyst  
MEPA Office, EOE  
251 Causeway Street, Suite 900  
Boston, MA 02114

RE: Comment on DEIR, North Point Land Co. (Guilford Transportation Industries / Spaulding & Slye), EOE #12650

Dear Mr. Wickersham, Ms. Dames & Secretary Durand,

The Association of Cambridge Neighborhoods (ACN), a 501(c)3 non-profit corporation in Cambridge MA, is an umbrella organization of over twenty neighborhood groups and community associations. We have attended the MEPA scoping session, participated in the Eastern Cambridge Planning Study, and submitted our version of Eastern Cambridge and North Point zoning last year. We agree with the vision and goals of the Planning Study (ECaPS), which see these fifty acres of North Point as primarily residential, and Cambridge's last opportunity to create a new neighborhood. We also agree with the ECaPS goal of fully integrating this new neighborhood into the rest of Cambridge, especially the existing East Cambridge community.

We endorse the separate comments on this DEIR made by our traffic engineer and environmental consultant Mr. Stephen H. Kaiser, and by our president Mr. John Moot. We wish to add some further comments on the compliance of the proponent with the suggestions of Secretary Durand in his ENF Certificate, and on other matters of MEPA jurisdiction.

#### **A. Alternatives Analysis**

1. No credible attempt was made in the DEIR to show an alternative layout of this project, which might bridge the six-lane barrier of Msgr. O'Brien Highway, either by depressing it, or by creating an elevated plaza over it, or by some combination of the two.

2. A major goal of the Eastern Cambridge Planning Study of the City of Cambridge was to link this new North Point neighborhood, primarily residential, with the existing Eastern Cambridge community, and to reflect its scale, character and diversity. One pedestrian overpass and the proposed pedestrian crossings will not accomplish this. In fact, it is proposed to increase the width of the median strip in the middle of O'Brien Highway to accommodate elderly or slower pedestrians who cannot cross all the lanes in one cycle. Difficulty of access will be the single most driving force to isolate North Point, and make it into a gated community, not truly a part of Cambridge.

3. One important alternative which should have been considered in the DEIR but was not, for the relocation of the MBTA Lechmere Station, is to have it straddle O'Brien Highway, with one end in North Point, and the other in East Cambridge. This alternative represents a fairer sharing of this crucial public transit facility, and should be requested in the FEIR.

4. The alternative of Bus Rapid Transit (BRT) rather than Light Rail Vehicle (LRV) being the actual means of transport for Phases 2 and 3 of the Urban Ring (as now suggested in the DEIR of the MBTA), and for the extension of Green Line service to Somerville and Medford by BRT as well, should be analyzed for its possible impacts on the proposed relocation of the Lechmere Station. For example, busses would have to exit North Point and reenter O'Brien Highway in a very congested area.

#### **B. Transfer of 6 acres of State Land**

5. No such transfer should be assumed without the contract or agreement between North Point Land Co. / Guilford and the MBTA (a public agency) being made public in the FEIR. It should have been made public already, so optimum policy decisions can be made with public scrutiny. We note the proponent's conditional language about moving the station appears several times in the DEIR. What if the land is transferred and developed, but for some of the reasons mentioned above, the MBTA decides not to extend the Green Line, or decides not to install tracks along a right of way for LRV for the Urban Ring? What public benefit has been gained?

#### **C. Air Quality Issues**

6. The existing LOS of F at the Gilmore Bridge (Charlestown Ave.) and O'Brien Highway and Land Blvd. intersection make it the worst in Eastern Cambridge, and the critical one limiting how many additional DVTs and how much peak hour vehicle volume and queue length can be accommodated, given the limits of vehicle storage capacity at this intersection and its feeders. If we are not extremely conservative in our estimates, and in a realistically achievable mode split in TDM (certainly not 35% SOV, 65% non SOV!), then total traffic gridlock will result. Are we trying to cram too much development, too many DVTs, too lengthy queues, and too many parking spaces into a street and highway infrastructure already stretched to the limits? Critical left turn analysis of projected buildout data may be the limiting factor. Greatly reducing the permitted parking may only be the first step necessary.

7. Underestimates of queue lengths and the degree of LOS "F", and overestimates in achievable mode splits, will result in further deterioration of air quality in VOCs, NOx and CO, and still higher rates of childhood asthma and higher levels of PM 2.5 micra in the air we breathe.

8. To the best of our knowledge, Cambridge still is under its commercial parking freeze resulting from the Federal Clean Air Act and the Central Artery / Tunnel mitigation settlement. The EPA has not yet signed off on the substitute plan, casting doubt on the ability of Cambridge's TDM plans to lower vehicle miles traveled.

9. A recent Boston Globe article showed traffic along Route 28 (the continuation of O'Brien and McGrath Highways) doubling as a result of traffic contributed to it from the many projects under development and recently built in the surrounding region. One wonders if the annual background traffic growth assumptions in the proponent's Appendix are an accurate reflection of this. Further queuing at the critical Gilmore Bridge / O'Brien intersection will surely occur in the early years of this project's construction. Stronger mitigations, including limitations or moratoria in construction below the zoning maxima, should be considered, until traffic capacity improves or demand and queues lessen, air quality improves or remains constant, and it can be demonstrated that a higher percentage of residents and employees use public transit regularly, and that public transit is adequate for this increased capacity.

10. The MDC Access Permit should require that these issues of air quality, mode split, DVTs, peak hour traffic, critical left turn analysis, and queuing be coordinated between the two traffic impact studies for the two North Point projects, and the data be coherent between these two, and other existing traffic studies, such as for Museum Towers.

#### **D. Parking Spaces**

11. A similar ratio of parking spaces to housing units should exist in the residential components of both North Point projects (i.e., Charles Smith EOE A #12651) as exists for Museum Towers on the other side of the Gilmore Bridge, which is 0.8. A June 4, 2002 letter from the law firm representing Museum Towers and Efekta Inc. to the Cambridge Planning Board requests this also.

#### **E. Noise Reduction**

12. Allowing above-ground parking garages 3 - 5 stories in height, with residential above them, on the northern edge, is not the only nor the best alternative to reducing noise from the rail yards. Other alternatives should be explored, such as underground parking garages (as in the rest of Cambridge, or it counts against FAR) and the erection of sound barriers.

#### **F. Boundary Issues**

13. The 6 acres of the project in Somerville and Boston are not zoned for residential. Zoning changes should logically precede the FEIR decision, since they are not a given.

14. If the banks of the Millers River are the true municipal boundaries, then we need state guidance as to whether legislation is necessary to redraw them. Having parts of this project in three different municipalities presents multiple regulatory problems, especially given the current plans for the northern boundary with above-ground garages and residences above them.

#### **G. Public Open Space**

15. The main east - west park should be continued under the Gilmore Bridge and somehow linked to the new MDC North Point Park, as a major public benefit

16. The major landowner beneficiaries of the North Point Park, these two proponents plus Museum Towers and Efekta Inc. should cooperate in helping maintain the parklands, and keeping maximum access open to the public through their respective properties.

#### **H. Pedestrian Access**

17. To avoid becoming a "gated community," some or all of the above suggestions for better linking this development to East Cambridge across O'Brien Highway must be undertaken. The easiest to achieve, since the proponent has repeatedly said in public meetings that \$40 million of the total infrastructure cost of \$100 million would be for moving Lechmere Station, would be to require the relocated station serve both its existing clients and its hopefully new users, by spanning both sides of O'Brien. This alternative should be required in the FEIR.

**I. Non-responsiveness to some of our ENF Comments.**

18. Comment 11 - 6 referred to Activity & Use Limitations on Guilford / Boston & Maine land, requiring that its future use be limited to transportation purposes. It did not refer to waste management or remediation. Please respond in FEIR.

19. Responses to Comments 11 - 31 through 11 - 35 are inadequate. It is not enough to state that a project is "consistent with" allowable zoning maxima to respond to questions about the impacts of its density, massing, and traffic impacts. Similarly, reference to "the MBTA's Central Artery commitments" in response to 11 - 34 requesting alternative locations for the Lechmere Station only reinforces the need for this Guilford - MBTA agreement to see the light of day, so a public process and a proper public evaluation of its benefits can be assessed.

**J. Phasing**

20. The timetable for building residential should not be skewed so that the commercial areas are developed first, in order to support it economically. Rather, since the Planning Study envisioned North Point as primarily residential in character, the housing should be built simultaneously with, or prior to, the commercial component. The housing should have the required 15% affordable per Cambridge Zoning Ordinance, and include some moderate income as well, in response to Cambridge's critical shortage of reasonably priced housing, and as a means of preventing North Point from becoming "gated" socioeconomically as well.

Thank you for your attention.

For The Association of Cambridge Neighborhoods (ACN)



Stash Horowitz, Vice President

# ASSOCIATION OF CAMBRIDGE NEIGHBORHOODS

c/o John R. Moot President  
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June 5, 2002

Mr. Jay Wickersham, MEPA Director  
Ms. LeAndrea Dames, MEPA Analyst  
MEPA Office, EOE  
251 Causeway Street, Suite 900  
Boston, MA 02114

RE: Comment on DEIR, Charles Smith Residential, EOE #12651

Dear Mr. Wickersham and Ms. Dames:

Here are my comments on this EIR.

1.-The Major Public Benefit: The major benefit desired by all residents of Cambridge is the integration of this new North Point community with Eastern Cambridge. Otherwise it will become a "gated community", a separate neighborhood of about 10,000 people. Monsignor O'Brien Highway is a 6-lane, heavily used major highway. At present there is no linkage between the two sides, and no need, because there are very few people living in the 54 acres of North Point.

The Lechmere Station is now in East Cambridge where the people live. This project not only includes the construction of a new community of 10,000 on the other side of the highway, but also the transfer of the Lechmere Station to the other side of the highway. The proposed move of the subway station will deprive the residents of East Cambridge of ready access to the mass transit network of metropolitan Boston. They will drive more and use mass transit less. The value of real estate in East Cambridge, both residential and commercial will be adversely effected.

Since there are now no residents of North Point, the only beneficiaries of the relocation of the Lechmere Station will be the developers whose land will become significantly more valuable.

The major benefit desired is the joining of North Point with East Cambridge. The ultimate solution is to cover over the highway with a plaza that includes the Lechmere Station and that would join the two neighborhoods for pedestrians, bicycles, baby carriages, etc.

The cost of building over Monsignor O'Brien Highway would be high, but the benefit to the people of Cambridge immeasurable over the next century. This alternative has not been considered. The Lechmere Station should not be moved until a careful study of this option is completed.

2.- The alternative of building the station on a plaza or elevated structure over the highway has not been presented. Alternatives to the project to be covered in section 3.1 are not presented, but rather dismissed with the statement that: "several different layouts and massing schemes were looked at and rejected by the project proponent." Those alternatives should have been presented in this section of the DEIR. The developer does not have the right to reject them without presenting them in this DEIR for consideration by others. Alternative designs for integrating this new community with Eastern Cambridge need to be presented.

3.- Other Public Benefits. The Charles E. Smith Company has included in its design amenities for the tenants but not for the general public. The amenities shown are: a fitness center, a swimming pool, a business center, a gathering space for parties and social functions, and a small café. Do these facilities meet the needs of all the residents? What will be the likely composition of the residents? Of an estimated 1600 residents, I estimate that there will be 80 children of school age (5-17), which is below the average for the City as whole (see attached estimate of population by age groups)? Where will they go to school? And when North Point is fully developed, I estimate the school age population at 500. Where will they go to school? Fully developed, North Point will have about 10,000 residents. Should they have access to a branch of the public library? How about indoor and outdoor recreational space and facilities for each segment of the population? Can Police and Fire protection be safely supplied from the other side of Monsignor O'Brien Highway?

4.- Access to MDC parks on the Charles. One of the benefits of this development to all residents of Cambridge will be easier access to the new MDC parkland on the Charles, North Point Park. On the route through this development, will there be a tot lot with slides and swings and sitting areas for the elderly available for use by the tenants and the general public? Will there be rest rooms open to the public?

5.- The agreement between the MBTA and Guilford, a key document to this development has not been made public, so the move of the Lechmere Station is uncertain. This agreement was not revealed to the Eastern Cambridge Planning Study Committee (ECaPS) before the new zoning for the area was set, and has not been released since. Are there any conditions in the agreement that might interfere with the planned move of the Station? For example, who will pay for what and when will the move take? To eliminate the uncertainties created by refusing to make this agreement public, Guilford should be required to include a copy of the agreement in full in this DEIR.

6.- Because neither the exact location of the New Lechmere Station nor the timing of its construction is certain, the evaluation of traffic impacts are difficult, if not, impossible. The move of the Lechmere Station is "expected to be constructed after the 2007 design year for the transportation analysis." "The future site of the New Lechmere Station has not been finalized, but *may be* (the emphasis is mine) on the northwesterly quadrant of the O'Brien Highway and First Street (relocated) intersection."

7.- Bus Service. If the Lechmere Station is moved, the buses from Cambridge will be required to cross Monsignor O'Brien Highway. How much will that crossing slow the service and the highway traffic? How is the crossing planned to be executed? How much will it increase air pollution by slowing the traffic?

8.-The Traffic Impact Assessment is incomplete. In the Certificate of the Secretary of Environmental Affairs, the Secretary states: "all plans, perspectives, and other visual materials should reflect the build-out of other adjacent sites, including EOEA #12650, as currently proposed by their proponents." The traffic impact assessment, however, reflects only "a 25% build-out level for the Guilford project in the City TIS." (Page 4-17 of EIR). The traffic impact of this site is, therefore, of limited, if any, value.

9.- Parking. The Secretary in his covering document states: "altering the supply and pricing of parking is another principal way to reduce reliance on cars." The cost for the construction of parking for this project we estimate at about 15% of the cost for an apartment. If so, a unit renting for \$1500 with a designated parking spot could be offered for \$1275 without parking. Should Charles Smith Company be required to split its rental fees into one for the apartment and one for the parking space? Then tenants, as an alternative to owning a car, might choose to make use of a combination of mass transit, Zip-Cars for short trips and rental cars for weekends and long trips. The basic costs of owning a car, just for insurance and depreciation is \$2-4,000 a year. If you add a savings in rent of \$225 a month or \$2700 a year, the tenant would realize an annual saving of \$4-5,000 per year, and would help reduce air pollution.

10.- The convenience store. With only 1600 people living in the Charles Smith development, can a convenience store survive? Or does it need to wait until the Guilford project is partially developed? Then, what will be the best location? The proposed site in the East Building on the edge of the Smith development will not be close to either the Guilford development nor the Lechmere station. Should not the space for a convenience store be set nearer the mass transit station and more central to the full North Point development?

Sincerely yours,



John R. Moot, President

Association of Cambridge Neighborhoods

## NORTH POINT POPULATION ESTIMATES

AGE GROUP	2000 CENSUS City Total	CITY %	NORTHPOINT POP Note#1	NORTH POINT ADJ % Note #2	POINT ADJ POP	SMITH ONLY Note#3
UNDER 5	4,125	4.1%	407	5.0%	500	80
5-17	9,322	9.2%	920	5.0%	500	80
18-24	21,472	21.2%	2,118	14.0%	1,400	224
25-34	25,202	24.9%	2,487	28.0%	2,800	448
35-44	13,942	13.8%	1,376	25.0%	2,500	400
45-54	11,144	11.0%	1,100	15.0%	1,500	240
55-65	6,866	6.8%	677	5.0%	500	80
65-79	6,672	6.6%	658	3.0%	300	48
80 +	2,610	2.6%	258	0.0%	-	-
	101,355	100.0%	10,000	100.0%	10,000	1,600

## North Point - Smith Residential Population Estimates

Note#1 This assumes North Point will have 10,000 residents in the same mix as the city as a whole.

Note#2 This assumes a different mix of ages in North Point. Ages 18-24 is down because City figures include college students in dorms. Major concentration of population in North Point is expected to be in 25-44 group. Source: estimates made by John R. Moot.

Note#3 This assumes the new population of the Charles Smith Residential will be 1600. Estimate is based upon 767 units with 2+ per unit.

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Page 1 of 3

By Fax and Hand Delivery (617) 626 - 1181  
June 7, 2002

Mr. Jay Wickersham, MEPA Director  
Ms. LeAndrea Dames, MEPA Analyst  
MEPA Office, EOE  
251 Causeway Street, Suite 900  
Boston, MA 02114

RE: Comment on DEIR, Charles Smith Co. / North Point Residential, EOE # 12651

Dear Mr. Wickersham, Ms. Dames, and Secretary Durand:

The Association of Cambridge Neighborhoods (ACN), a 501(c)3 non-profit corporation in Cambridge MA, is an umbrella organization of over twenty neighborhood groups and community associations. We have attended the MEPA scoping session, participated in the Eastern Cambridge Planning Study (ECaPS), and submitted our version of Eastern Cambridge and North Point zoning last year. We agree with the vision statement and goals of the ECaPS, which see these fifty acres of North Point as primarily residential, and Cambridge's last opportunity to create a new neighborhood. We also agree with the ECaPS goal of fully integrating this new neighborhood into the rest of Cambridge, especially the existing and diverse East Cambridge community.

We endorse the separate comments on this DEIR made by our traffic engineer and environmental consultant Mr. Stephen H. Kaiser, and by our president Mr. John Moot. We wish to add some further comments on the compliance of the proponent with the suggestions of Secretary Durand in his ENF Certificate, and on other matters of MEPA jurisdiction.

**A. Alternatives Analysis**

1. An alternative plan with a tower significantly lower than 23 stories should have been presented. The 23-story tower, together with the two existing Museum Towers, will dominate and block the skyline over Cambridge Street all the way from Inman Square a mile away. The Cambridge Planning Board, in its June 4, 2002 preliminary determination, requested 8 different perspectives, other than from Cambridge Street, showing how the tallest building would look.

2. As also suggested at that time by the Cambridge Planning Board, in considering the long but narrow eight-story West Building, "... it is clear that pedestrian passage through the center of the low-rise building would be desirable to weave the two projects [Charles Smith & Guilford] more closely together." The Board felt this design would better reflect the future grid pattern of the streets of the remainder of North Point. We concur.

3. An alternative showing the relocated Lechmere MBTA Station straddling both sides of O'Brien Highway (as suggested in our comment to the DEIR for EOE #12650) would better connect this residential project, the first to be built on the 53 acres being redeveloped, with the rest of East Cambridge, in a fairer sharing of this critical public transit node between the existing and the evolving communities in that locale.

4. Many things need to happen for the Lechmere Station to be relocated and function as a true public benefit, and not solely for the residents of North Point. This means the extension of the Green Line by Light Rail Vehicle (LRV) on new tracks laid along a right of way, and not by Bus Rapid Transit (BRT) along congested O'Brien Highway, as well as Phase 3 of the Urban Ring being LRV and not BRT. Current MBTA trends point in the opposite direction. Therefore, another alternative which should be examined in the FEIR is how this project would function with the Lechmere Station in its current location, and what different mitigations would be required.

5. All of the above make it imperative that Guilford and the MBTA make public their agreement or contract, so it can be scrutinized as to its overall public benefits and detriments, as part of the MEPA process, before any state approval of either project is given. Without this information, no fair analysis of alternatives can be done.

### **B. Air Quality Issues**

6. Please see our Comments numbered 6 through 10 for the DEIR for North Point Land Co. / Guilford, EOE A # 12650, submitted at the same time. They apply equally to this project, but since this is the first to be built, and it is located right at the most congested and difficult intersection in East Cambridge, with the worst air quality, the children in its outdoor tot lot / playground will feel the effects of queuing, infrastructure exhaustion and traffic gridlock on the Gilmore Bridge and O'Brien Highway intersection, most and first.

7. The existing LOS of F there makes it especially important that DVTs, peak hour volumes, and mode splits be accurately estimated, since underestimates will result in even further deterioration in air quality of VOCs, NO<sub>x</sub>, CO and PM 2.5 micra, all of which contribute to fine particulate air pollution and higher childhood asthma rates.

8. A June 4, 2002 letter from the law firm representing Museum Towers and Efekta Inc., direct abutters across the Gilmore Bridge, suggests these numbers are underestimated, and the 35% - 65% mode split unrealistic when compared to similar developments. They also see greater traffic impacts from cut through traffic onto Museum Way and Industrial Road when queues and congestion fill O'Brien.

### **C. Parking Spaces**

9. A similar ratio of parking spaces to housing units should exist for the residential components at North Point (EOEA #12650 as well as this project) as exists for Museum Towers on the other side of the Gilmore Bridge, which is 0.8. This project exceeds 1.1. The June 4 letter from Museum Towers and Efekta's Lawyer, mentioned in #8 above, requests the same. We concur.

### **D. Inclusionary Zoning**

10. The proponent is only giving 11.5% affordable housing, through a loophole in Cambridge's inclusionary zoning ordinance. North Point Land Co. / Guilford has said it will provide the full 15% in its housing, as well as some moderate income units. Charles Smith should follow suit.

11. The number of housing units has increased from 750 to 767. Will there be a proportional increase in affordable units? How many affordable in the total? Any moderate income units?

**E. Easement under the MBTA Trestle**

12. No citation of which entity has the easement under the MBTA elevated trestle is given in the DEIR. This trestle runs over property which is a part of this project. Documentation of an easement agreement with the MBTA would be useful information, especially in light of the proponent's plans to beautify the shaded area underneath.

Thank you for your attention.

For The Association of Cambridge Neighborhoods (ACN)

A handwritten signature in black ink that reads "Stash Horowitz". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Stash Horowitz, Vice President

June 4, 2002

*Stephen H. Kaiser  
191 Hamilton Street  
Cambridge, Mass. 02139*

Secretary Bob Durand  
Executive Office of Environmental Affairs  
251 Causeway  
Boston, Mass. 02114  
Attention : LeAndrea Dames, MEPA Unit

**SUBJECT: Draft Environmental Impact Reports at North Point,  
\* Guilford/Spaulding & Slye Project EOE # 12650 and  
\* Charles Smith Project EOE # 12651 .... Comment #1  
on the Historical and Legal Issues at North Point**

Dear Secretary Durand,

The Draft EIRs for both of these projects are being reviewed at the same time, and because they are adjacent they will generate similar concerns over traffic, pedestrian access, transit service and scale. For this reason it makes sense for me to review both projects together in a shared comment letter. In this way the similarities and the differences in the two projects can be highlighted.

In recent years, the quality of responses to comments have declined noticeably. I have noticed that when proponents are seeking special treatment (such as an NPC or single EIR designation) they will provided detailed responses to comments. Meanwhile, proponents undergoing the regular draft & Final EIR process will often give very sparse response to comments, in some cases picking and choosing those comments which they choose to respond to -- however peremptorily -- while ignoring any they choose. MEPA has not, to my recent knowledge, penalized any proponent for such shallow response to comments. In terms of format, my specific comments needing response in the Final EIRs will be underlined with the understanding that the comment may be relevant only to one EIR and not necessarily to both.

This comment is the first of two I plan to submit. The first is a discussion of the historical and legal aspects of North Point. The second comment will focus on transit and traffic implications.

#### **The Historical Significance of East Cambridge in MEPA Scoping**

This area of East Cambridge has had a significant effect on the way that MEPA has written scopes for over 20 years. Before 1978, there was no scoping process at all, and MEPA simply reviewed reports as they were submitted. Beginning in 1979, new projects could be scoped. MEPA's first response was simply to list the topics for discussion : traffic, wetlands, air pollution, etc.

For years, going back at least to World War II, the intersection of O'Brien Highway and the Prison Point Bridge (Land Boulevard) has been a major traffic bottleneck. When it came time for the City of Cambridge to do an EIR for the Lechmere Square project -- including the Galleria Mall -- City officials submitted a traffic study which

ignored the existence of this vital bottleneck. When Cambridge Community Development was challenged as to why they left out such an obvious traffic problem, the response was a Cheshire-Cat grin as they turned to the MEPA scope and said *See, we studied traffic.* This response indicated to me the extent to which Cambridge officials would go to deny the existence of traffic bottlenecks and avoid any discussion of them.

The immediate MEPA response was to provide much more detailed scopes -- spelling out the individual intersections so that no other project proponent could do what Cambridge did : take advantage of a scoping loophole. The MEPA scopes issued for the two North Point projects continue this procedure of listing the intersections for study, and similar methods have been used in other scoping procedures by both Boston and Cambridge.

The reason MEPA does any scoping at all comes in part from an accident of history. Early EIRs were submitted to and through the permitting or funding agencies, creating obvious problems for private projects. Moreover, proponents felt they were taking a shot in the dark in preparing a report : what should be included and in what detail? The explosion occurred in mid-1975 when MEPA found inadequate the EIR for a proposed second Plymouth nuclear power plant -- because it failed to discuss the issue of nuclear safety. Boston Edison responded in fury, asserting that EOEIA had exceeded its powers because nuclear safety was *not an environmental issue.* The company unleashed its lobbyists in a successful effort to gut the EOEIA personnel budget. By January 1976 the entire front office of EOEIA (including MEPA) was virtually empty -- with a total staff of four plus 2 1/2 secretary-typists. The standoff was resolved with the rewriting of the MEPA law in 1978 to require project proponents to file EIRs and providing for scoping. The idea was to have the issues to be covered in EIRs spelled out early, rather than debated at the end of the process.

Scoping, once enumerated, needed to be enforced as well, and we knew we would see Cambridge again. The reprise occurred for the Alewife Boulevard project in 1983, and Cambridge officials received a MEPA scope which specified in detail the intersections and traffic conditions to be studied. In Cambridge as in other cities the ritual of avoiding any bad news in traffic is so ingrained that during an initial review of the traffic results I found that the City's consultants had slipped in a non-existent travel lane on Alewife Brook Parkway. The crew was admonished to go back and do it right, which ultimately they did do.

Cambridge is not the only proponent who ever tried to cut corners on EIR disclosure. Five years later I found the consultant for the Grace project at Alewife trying the same thing -- a phantom lane which showed traffic conditions to actually be "improved" with the project. Same message, don't cut corners.

Nor is traffic the only issue subject to such chicanery. Only this year did I discover that Cambridge had gotten away with specifying an Alewife flood elevation one foot lower than the FEMA regulatory level. No one had recognized this error in 18 years.

Both of the current North Point EIRs include a technical analysis of the O'Brien and Land intersection -- which Cambridge so assiduously avoided in 1979. Unfortunately, the new trend is simply to dump the computer results into complex tables and technical appendices ... and make no comment on the significance of the results. For North Point, you would never know from reading the text that there is a significant traffic bottleneck very close to the site, with long queues and no available highway capacity.

In years past, the public planners used to complain that developers and their municipal allies would *do development first and then seek traffic solutions second*, instead of having a well-planned transportation system in place ahead of time. The planners used to complain that good transportation planning was never done, but was only a frenzied response to a mess created by new development.

The 21st century version of this situation is a combination of denial of any problem and let's pretend our mitigation works. Municipal officials and their developer allies now deny the existence of serious problems either before or after development. So what if the V/C ratio is 1.50 ?? It's LOS F now and will be LOS F in the future? Indeed, so what??

In years past developers used to insist on adequate service for their projects -- now they don't care -- or at least don't say anything publicly. There are several strategic elements in this charade :

- (a). **NO PLANNING...** the primary philosophy for the non-planners is what veterans of Alewife planning call "Vickery's Law" : the idea is that drivers trying to get to a local development will simply push aside through traffic, and the displaced cars will go find other unspecified routes to their destinations. In effect, it is the application of schoolyard *bullying* and Social Darwinism to traffic .... the Survival of the Toughest. Of course, no one accepts any responsibility for this process, especially for documenting any of these indirect impacts in an EIR. It is the No-Planning-Needed response.
- (b). **TRIVIAL CHANGES** .... the identification of a mitigation package which does all sorts of minor changes -- none of which deal with the traffic bottlenecks or the diversion of traffic through residential neighborhoods. In planning terms, it is equivalent to rearranging the deck chairs on the Titanic while the mortally wounded liner slips beneath the waves. The focus is on *trivia*, not on what is important.
- (c). **PURE FLUFF** .... the smokescreen or *fluff* response is intentionally vague and imprecise. It extols the virtues of whatever may be the current fad..... System Management, Operations Efficiency, or Traffic Demand Management. There are usually no specific goals and no numbers (other than bike racks). Everything is squishy soft, with nothing that can be measured for success.

As I will describe later in my second comment for North Point, all three of these modern responses to real traffic problems are present in the two EIRs -- in a manner typical of many other recent EIRs which are unresponsive to traffic problems. The fact that North Point is confined by the rail tracks to the North and must instead seek access only from congested O'Brien Highway makes the absence of any planning for nearly 19,000 net daily vehicle trips all the more serious and undeniable.

### **The City Boundary Controversy**

MEPA normally presumes that a project proponent has legal ownership of the land. Where government-owned or public land is involved, the standards of review and protection are higher than for private property. There must be full disclosure of all public lands and all existing state permits in the project area.

Historically, the boundary between Cambridge and Somerville was set in 1632 as the centerline of the Millers River channel. This river was tidal, so that the low-tide water area of this channel represented the extent of the public tidelands.

At North Point, this boundary between Cambridge and Somerville has yet to be determined accurately. The recently changed maps by both cities appear to be in error, and the latest "survey" proposed by the consultant to Guilford/Spaulding & Slye also appears to be historically inaccurate. Nevertheless, Cambridge & Somerville reportedly have agreed with the Guilford line as shown in the North Point EIR (Figure 1.2 and attached Map A). This line is meant to represent the original boundary created by the channel of the Millers River in 1632.

The problem is that the Millers River at North Point has been completely filled in and there is no survey or set of stone bounds which tells us where the old channel was. Virtually every single map I have seen over the period 1830 to 2002 has a different representation of the boundary. Mapmakers have always had a difficult time showing the meandering, non-linear nature of the old Millers River, and their historical task was made more difficult by any channel dredging in the 19th century. The most unnerving discovery is the 1830 Hales map (attached Map B) showing a very gentle S-curve, compared with the very wavy representation in the 2001 Guilford line. The 1873 Bowker map is somewhat more wavy but still does not match up with the modern maps.

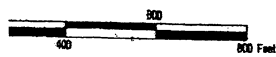
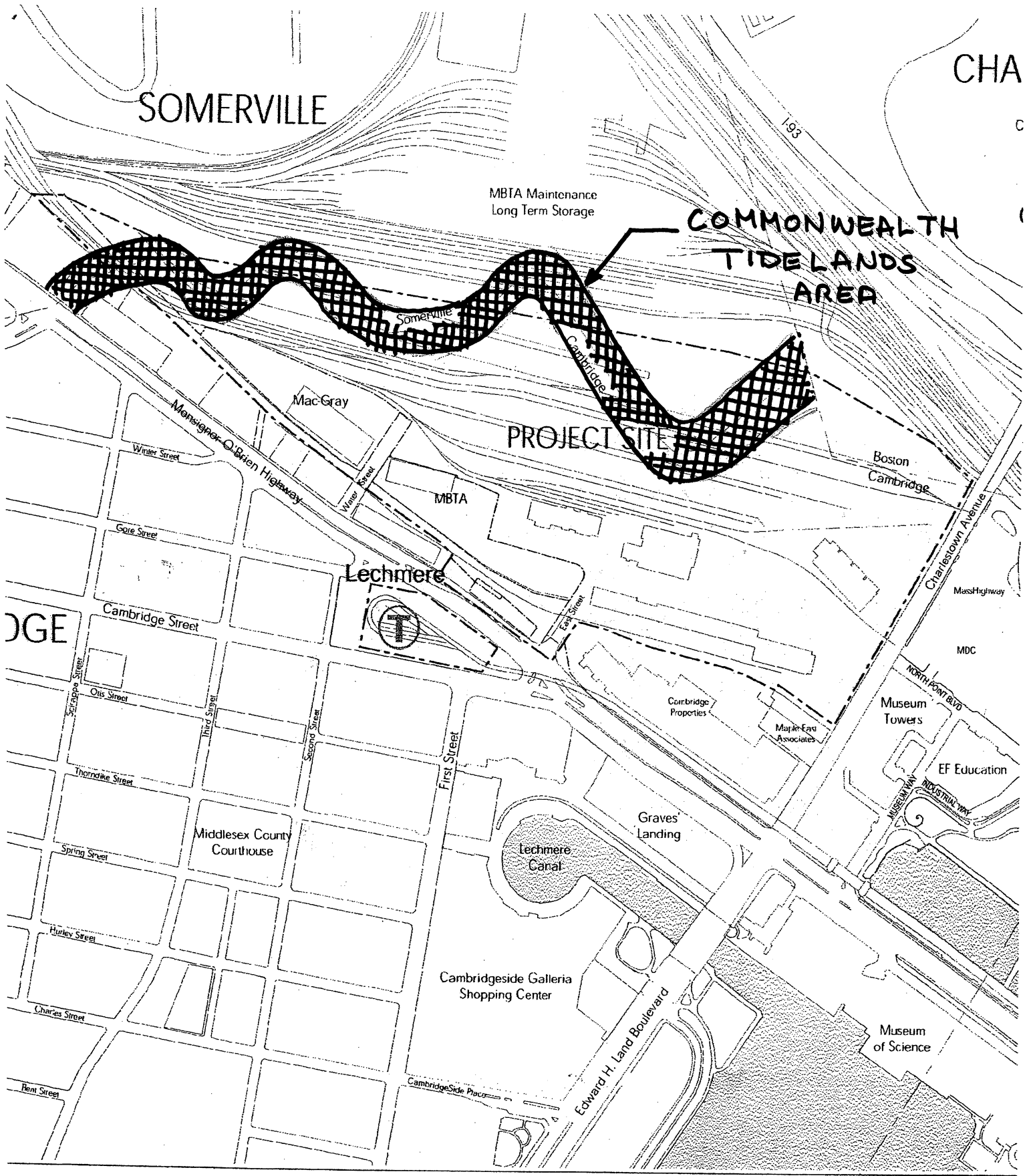
Because we do not have any map of 1632 vintage, we must use the oldest quality map we have -- which appears to be the 1830 Hales map. This is the standard map used in the 5-volume Cambridge Historical Commission Survey report, and it was done in response to a legislative mandate that all cities and towns prepare maps of their jurisdictions. The Hales map tells us that every modern mapping of the area is wrong.

Our current public awareness of the boundary controversy goes back nine months to September of last year. In 1998 Cambridge had unilaterally modified its borders without telling either its own City Engineer or the City of Somerville. Neither did it get the approval of the state Legislature. Cambridge absorbed about 5 acres of Somerville through this move, while also giving up 2 acres to Somerville. The Cambridge straightening of the boundary was in violation of the still-ruling 1632 requirement defining the boundary as the Millers River channel. Cambridge's changes were clearly a benefit to Guilford in terms of running straighter and more parallel to the North Point parcel.

Meanwhile, Somerville changed its own North Point mapping earlier this year, reflecting a wavy-line boundary which does not match Cambridge's straight line version. Last December, the Guilford ENF included a map showing a wavy line boundary -- close to Somerville's version but still with many differences. Including the two old city maps, there now were five different versions of the North Point boundary which have surfaced just in the last five years.

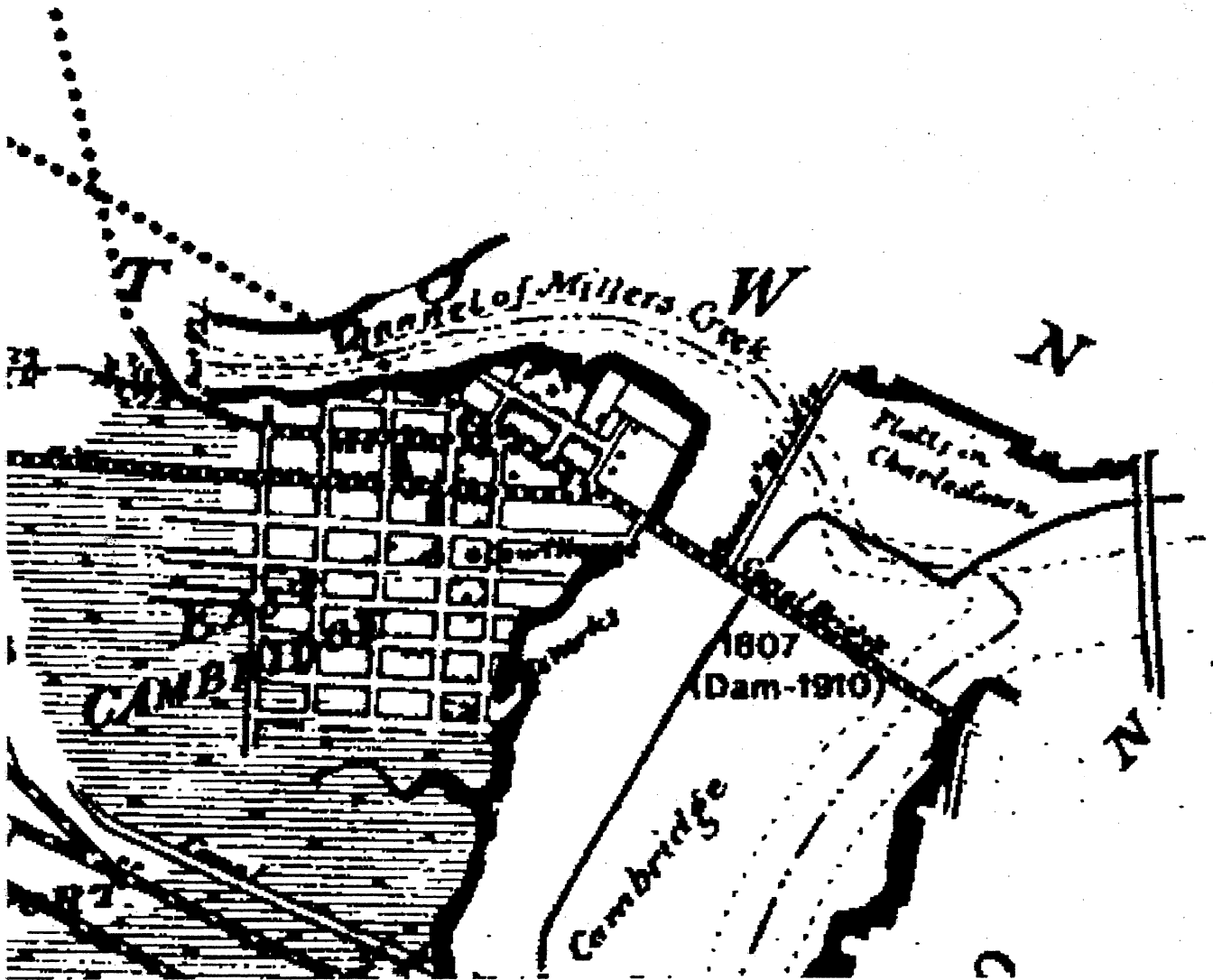
As of Mid-May of this year, Cambridge officials have asserted that the city engineers of both cities met with the consulting surveyor for Guilford/Spaulding & Slye and all have agreed on the boundary line which they claim represents the legal line: the centerline of the historic Millers River channel, as represented by Figure 1.2 of the North Point DEIR. Cambridge is effectively admitting that the boundary line drawn by the consultant for a private developer is accurate, and that their own computer mapping is inaccurate and obsolete.

To their credit, Spaulding & Slye has never shown the straightened version of the boundary in any of their mapping presentations. They have steadfastly represented the boundary as the Millers River even in the face of contradictory mapping from both cities. In the end, neither city had the staff expertise to determine what the proper line should be, and had to yield to the superior talents of a private entity. However, both



North Point Fig 1.2

MAP A



The Hales Map of 1830 showing  
Millers Creek Channel Centerline  
Alignment and Width

MAP B

cities demonstrated the ability to meet, discuss and work together to at least support the better surveyed and supported map. Unfortunately, this process has been an entirely non-public one : they should have put their work out for public comment, similar to the MEPA process.

Serious problems remain. The Hales map is a haunting specter which says that the Guilford boundary is wrong. Any claim by the developers and their experienced surveyor that they know the exact location of the city boundary is immediately suspect because there are only three survey stones known for the entire distance from the middle of the Twin Cities plaza and the Prison Point bridge. With a totally buried river channel and a paucity of survey markers, we have no accurate delineation of the boundary.

Because the Cambridge/Boston boundary was established in 1910 legislation, there is no problem defining the land in Boston. The Somerville/Boston line was set in 1891. All the uncertainty resides along the Cambridge/Somerville boundary, which has never been legally straightened out.

### Chapter 91 Public Tidelands Issues

DEP has regulatory authority to review and protect Chapter 91 tidelands for both private and public tidelands, as subject to limits on the review of "landlocked" parcels. Private tidelands are those lands between the historic high and low tide levels, while public tidelands cover those areas historically below the low tide level and thus always covered by water. If there is a public way between a filled tideland parcel and an existing waterway, DEP elects not to require any permits for such a landlocked parcel.

*Let us assume for a moment that we did agree on the location of the city boundary along the old channel of the Millers River. Both the Hales and Bowker maps show the river channel as tidal with a low-water line indicating a channel width of about 100-200 feet depending on location. The width of this channel strip at low tide represents the land that is historically state tidelands, with fee ownership by the Commonwealth. I have shown on the Guilford Map Figure 1.2 (Map A) the Commonwealth tidelands area which represents the old channel of the Millers River. Within the 46-acre North Point site, the state tidelands area is about 6 acres. On the Hales map, the dotted lines on either side of the river centerline represent the state tidelands.*

Who owns the land in North Point? The Guilford EIR on page 1-6 states that there are only two-landowners : Boston & Maine and MBTA. The MBTA ownership appears to be about 5.5 acres, so the MBTA land ownership is about equal in size to the state tidelands strip of 6 acres. The Jan. 14, 2002 letter from DEP identifies any land within the area of the two EIRs as being landlocked for Chapter 91 purposes and thus not subject to regulation. Does DEP mean that they have no regulatory, protective or other responsibilities for the 6-acre state tidelands strip? If DEP will not protect the public interest in this land, who will? Is it MEPA?

DEP also implies that the North Point area was legally filled according to state Chapter 91 permits or legislative action. In at least one instance, the 1894 filling was only partly legal, because it described filling in Cambridge, when filling occurred in Somerville as well. The 1962 permit recognizes that there was illegal filling in the past by noting that such illegal fill did not need to be removed and could stay in place. Such allowance for illegal filling does not make it legal nor does it imply any ownership of land by the railroad.

The only way that state land can be transferred to another agency or to a private party is by an act of the legislature. To the best of my knowledge, there has never been any action to transfer state owned land at North Point to any private entity. The original legislative permit from the 1840s was simply a permit to fill tidelands in order to operate a railroad. No transfer of ownership to a railroad occurred anywhere within the Charles or Millers River basins.

The Smith residential project has much simpler Chapter 91 issues. I have seen no map showing the Millers River channel within the Smith land parcel. Older maps indicate part of the Smith site as being within the high-tide to low-tide region (private tidelands) but there is no map which would imply any *public* tidelands ownership on the site. Nor does the record show any evidence of any past illegal filling on the site. The site has always been shown as being entirely in Cambridge.

### **Transit Land Ownership and Easements**

The Guilford EIR does not provide any detail on the land transfer and the signed agreement the company has with the MBTA. Unfortunately, this agreement has not been made public, and every request for a copy has been stymied and stonewalled. The MBTA has not been participating in any of the public meetings (even though its transit station will be moved) and instead maintains a wall of inaccessibility. How many acres of MBTA land are involved? What are the current uses? Does the MBTA land ownership agree with the assessor's maps in Cambridge and Somerville? A copy of the MBTA/Guilford agreement should be printed in the FEIR.

A strange legal issue arises relative to the existing elevated MBTA viaduct. This structure is located entirely on the land of others – either the MDC or private landowners – including the Smith company. Normally one would expect there to be an easement attached to the property which would cover the location of the viaduct supports and the use of air rights. None of the available documentation for either MEPA or Cambridge approvals includes any reference to this easement. The local PUD application for the Smith project includes numerous references to parcel description and utility easements for electricity and gas -- but not a word about the transit structure. Currently, it appears that no one can find any documentation for any easement relative to the viaduct.

In an odd way, the MBTA is left very unprotected. Suppose the Smith Companies sold the property at some future date, and the new owners decided to play hardball .... to evict the MBTA structure from their front yard. The MBTA would need to purchase an easement at great cost from a private owner who held all the cards. The potential loss to transit riders and the public transit system would be quite severe.

Therefore, the FEIR must include mitigation which protects the MBTA transit right-of-way generically, now and in the future.

In historical terms, we should understand that there could be three general explanations for the "lost easement": it was lost by mistake ..... it was intentionally lost or destroyed ..... or there never was a written easement. The latter two options should be considered in view of the 1909-1912 construction period for the Lechmere viaduct. The work was authorized by the Legislature but was physically conducted by the Boston Elevated Company. The land now owned by Charles Smith was owned in 1910 by the Boston & Lowell Railroad, which had been "leased" or controlled by the Boston

& Maine since 1887. The Boston & Maine was controlled by financier J.P. Morgan, who also owned the New Haven Railroad, various steamship lines, the White Star Lines (the Titanic and Olympic were its largest liners) and ..... *the Boston Elevated Company*. Morgan from 1903 on was under tremendous pressure because he was using straws to purchase and monopolize rail transportation system -- even though this was forbidden by law. In 1907 a young Boston lawyer named Louis Brandeis went after Morgan's sprawling monopolies, especially Morgan's plan to purchase the Boston & Maine and combine it with the New Haven railroad. Both entities were the Enrons of their day -- B&M with 178 distinct corporate identities and the New Haven with 336 subsidiaries. Brandeis increasingly won court battles and regulatory wars which curtailed Morgan's power. The 1912 sinking of the Titanic -- including Morgan's personal but unoccupied stateroom -- added a major shock to the downward slide of Morgan, until he was exposed in Senate hearings in 1912 and died in 1913.

This history is significant for the Lechmere viaduct because it highlights two points. One is that Morgan cared little for the law and broke it with subterfuge and initial impunity. Second, amidst the gathering storm clouds, why would Morgan risk setting up a formal easement agreement between the B&M railroad and the Boston Elevated ... given the tense political climate? It is quite possible that no easement was ever legally produced, or if the lawyers insisted on one it was quickly torn up. Any paper trail that showed collusion among operatives in Morgan's empire could become fodder for the writings of muckraking journalists and meddling lawyers.

### **The Developers' Response on Land Ownership Issues**

Guilford/Spaulding & Slye has taken an initiative which seeks to provide a Millers River boundary to replace the illegal straight-line version from the Cambridge GIS system. The new boundary mapping is not explained in the EIR, nor has any of its meetings with city officials in Cambridge and Somerville been open or public. Cambridge, to its credit, has requested an independent peer review of the new Cambridge/Somerville/Guilford boundary line shown in Figure 1.2.

Neither has Spaulding & Slye explained the numerous differences in the mapping of the Millers River boundary. The contrast between the Hales map of 1830 and any of the modern maps is striking. There is no grounds for anyone to claim that they know the boundary location with any useful degree of accuracy. The outside range of uncertainty in the boundary could be as high as 200 feet. The Spaulding & Slye boundary may have some basis for Cambridge's claim as the "*most accurate achievable survey of .... the center of the channel of the old Millers River*" but the fact remains that we don't know. What is needed here is legislation as in 1891 and 1910 to clear up the boundary and give it surveying definition.

However, Spaulding & Slye has given no recognition to the issues of public tidelands and the possibility that there could be 6 acres of land on the site that they do not own. It is completely insufficient to claim that the railroad claims on the land extend back into the 1840s and thus predate the tidelands provisions of Chapter 91. If the developers really think they own all the non-MBTA land, they should present in the FEIR the legislation which transferred fee ownership to the railroads. If they conclude that state tidelands is involved here, then they should propose state legislation to deal with the matter.

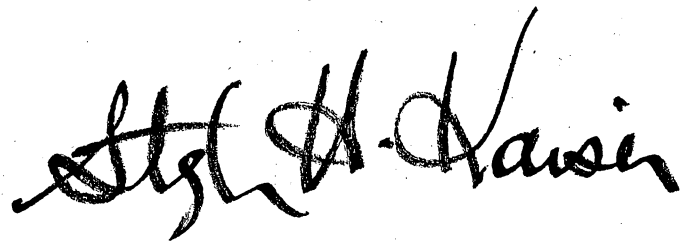
The Smith DEIR appears to deal well with all the legal issues -- except for the transit easement.

## The MEPA Process

The MEPA process was established in 1972 to provide the citizens of the Commonwealth with a process for obtaining information. MEPA's role was not to bless or condemn projects, but to see that the necessary information was distributed publicly, that alternatives were considered and that mitigation commitments have been made.

For the North Point area, with two large projects now undergoing EIR review, the ability of the public and the various government agencies to deal with issues of proper information, alternatives and mitigation will be subject to its highest challenge in the past 12 years .... since the 1990 review of the Big Dig. The most important first step is to get the legal issues in order, including the need for any legislation to correct issues of boundary and tidelands.

Sincerely,



Stephen H. Kaiser, PhD  
Traffic & Transportation Engineer  
Consultant to the Association for Cambridge Neighborhoods

- cc. Stash Horowitz, Assoc. of Cambridge Neighborhoods  
John Moot, Assoc. of Cambridge Neighborhoods  
David Vickery, Spaulding & Slye  
Sam Mygatt, Epsilon Associates  
Deborah Horwitz/Adam Hundley, Goulston & Storrs (Charles E. Smith Residential)  
Rich McKinnon, McKinnon Company  
James Rafferty, Adams & Rafferty  
Mark Smith, EOE  
Steven Lipman, DEP  
Julia O'Brien, MDC Planning  
Dennis DeZoglio, MBTA  
Owen O'Riordan, Cambridge Public Works  
Charles Sullivan, Cambridge Historical Commission  
Beth Rubenstein, Cambridge Community Development  
Joseph Tulumieri, Cambridge Redevelopment Authority  
Cambridge Planning Board  
Jeff Levine, Somerville Planning  
Dudley Bonsal, Charles River Watershed Association

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# ASSOCIATION OF CAMBRIDGE NEIGHBORHOODS

c/o John R. Moot President,  
44 Coolidge Hill Rd. Cambridge, MA 02138  
Ph 617-491-8120 FAX 617-492-2669  
Email: johnmoot@mindspring.com

2002 JUN 13 P 3: 16

OFFICE OF THE CITY CLERK  
CAMBRIDGE, MASSACHUSETTS

June 12, 2002

To: Cambridge City Council

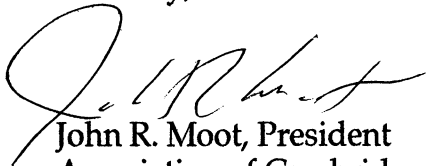
Subject: North Point: Comments on Draft Environmental Impact Studies EOEA  
#12650 and EOEA #12651.

The North Point Development, when completed, will add about 10,000 residents to the Eastern edge of Cambridge and an estimated 5,000 commuters. Insuring that this area becomes an attractive livable community, integrated into Cambridge is our challenge. The Draft Environmental Impact Reports have been issued and, after careful study we (Stash Horowitz, Steve Kaiser and I) have written our comments. We are supplying each of you will a complete set of copies of our comments. I apologize for the length and some overlap, but I hope you will find them helpful in considering this major project which is a 10% increase in the population of Cambridge.

In reviewing our comments, I noticed that, although Steve Kaiser discussed the Somerville boundary question at length, we did not raise the administrative problems for the two cities that are created by a wavy boundary line that wanders through many apartments. These apartments will be part in Cambridge and part in Somerville. Allocating the taxes and expenses between the two cities will be bad enough, but in which city will the children go to school and the adults vote? The boundary can be changed by the State Legislature, once the two cities agree upon a boundary line. You may wish to initiate action to solve this problem now.

This development will create the largest increase in population and area in recent history. It represents a serious challenge to us to make the most of this opportunity. Please feel free to call any one of us if you have any questions. We would like to help to make North Point a vibrant new community in Cambridge.

Sincerely,



John R. Moot, President  
Association of Cambridge Neighborhoods

S-265

**Consent Communication #4**

A communication was received from John R. Moot, President, Association of Cambridge Neighborhoods, regarding North Point Development.

**In City Council June 17, 2002**

**PLACED ON FILE.**