



Neighborhood Association of East Cambridge

April 2, 2014

David Cash, Commissioner
Massachusetts Department of Environmental Policy
Commonwealth of Massachusetts Office of Energy and Environmental Affairs

Re: MEPA Review of proposed redevelopment of the former Sullivan Courthouse

Dear Commissioner Cash,

The State is preparing to transfer the former Sullivan Courthouse site to a private developer, Leggat-McCall Properties (LMP), who proposes to convert the full bulk and height of the existing 22-story, asbestos-ridden structure into an office and lab tower. Our recently-formed neighborhood group strongly opposes this plan on many grounds. We write to inform you that the developer has requested a waiver of the ordinary requirement that a project of this scale be subject to a full Environmental Impact Report. We strongly oppose a waiver, as we believe that there are many serious environmental questions to be answered about the proposal. We also note that there have been substantial errors in the conduct of the MassDEP process to date.

This project is of great scale in its physical, financial, and environmental dimensions, and as such it merits particularly intensive scrutiny.

We have studied the developer's submission materials to the City and State closely. We maintain that, were the proposal to go forward, it would be substantially more detrimental to the neighborhood than the prior use. Moreover, we maintain that the developer has failed to bring forth a credible analysis of its impacts to demonstrate otherwise. Indeed, we have discovered a number of errors, omissions and misrepresentations in the materials put forth by the developer. Moreover, we believe that the MassDEP has not correctly followed its own procedures in conducting the process so far; we ask that these issues be addressed, and the process restarted if necessary, in order that it be conducted in a manner that is fair to all parties and respectful of the neighborhood's concerns.

Consider, for example, that LMP's proposal should trigger a mandatory full Environmental Impact Review (EIR) with MEPA. That is because in its MEPA filing, LMP told the State EEA (Office of Energy and Environmental Affairs) that there would be 4,646 ADT's (new average daily trips on roadways), which well exceeds the MEPA threshold of 3,000 vehicular trips per day. But LMP asked MEPA to waive that full EIR. Now, the number 4,646 appears in LMP's report to our City as a total (vehicular ADT's, plus individuals who come by mass transit, bike and on foot) -- except that it is not a total. It is an addition error. The correct total is 4,812 if one is to believe the underlying data.



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Based on this unreliable data, LMP is seeking a waiver of a full EIR review. Not only should a waiver be denied based on the developer's incorrect data, but the enormity of the project (it is the single biggest standalone office building in the City), and the concern of the surrounding community (which is situated in a longstanding air quality hot spot), justify strict application of our environmental review regulations. In addition, a project of this size warrants a review of additional Greenhouse Gas Emissions, with consideration given to the City and State's goal of reducing such harmful emissions.

Our examination of LMP's MEPA submission, and the Office's stated preliminary intention to grant the waiver, shows that granting a waiver would fail to comply with MEPA regulations under [301 CMR 11.00](#) in numerous key respects:

1. The EEA has not cited evidence that proponents face "undue hardship" per [301 CMR 11.11\(1\)\(a\)](#);
2. The EEA failed to comply with the requirement to make an explicit finding that an EIR will "not serve to avoid or minimize Damage to the Environment" per [301 CMR 11.11\(1\)\(b\)](#);
3. The EEA failed to determine that "the project is likely to cause no Damage to the Environment" per [301 CMR 11.11\(3\)\(a\)](#);
4. The Draft Waiver fails to conclude that there are "ample and unconstrained infrastructure facilities" per [301 CMR 11.11\(3\)\(b\)](#);
5. The EEA failed to offer the option to utilize a Phase One Waiver per [301 CMR 11.11\(4\)](#);
6. The Draft Waiver does not detail "potential environmental impacts from the project and mitigation measures" per [301 CMR 11.11\(6\)](#);
7. The Draft Waiver fails to list "the reasons for the waiver, including any findings required" per [301 CMR 11.11\(1-4\)](#);
8. Regulations require that the Draft Waiver shall be printed in the Environmental Monitor "which begins the public comment period," but MEPA has stated that the public comment period has yet to begin [[301 CMR 11.11\(6\)](#)]; and
9. The Secretary erroneously proposes to conclude that no advantage is to be gained by following the normal EIR process. In fact a suitable EIR for the Sullivan Courthouse project would include a section on alternatives as required by [301 CMR 11.06\(9\)](#).

Finally, we note today's Globe article that Secretary Sullivan has ordered an Environmental Impact Review of Mohegan Sun's proposed casino project in Revere, and that the state environmental affairs undersecretary Maeve Valley Bartlett said "The request for a new



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impact study...is not unusual, given the size of the project... We're asking for *basic environmental information* on the new project." [Emphasis added.]

Commissioner Cash, we too are asking for basic environmental information on the proposed development of the Courthouse site. There is simply no supporting rationale in the current draft waiver for the conclusion that an EIR can or should be waived. In conclusion, we ask that you do everything in your power to ensure that a full Environmental Impact Review is conducted on the developer's proposal.

Sincerely,

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