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“A RIVER (AND \$5 BILLION OF TRANSPORTATION INFRASTRUCTURE) RUNS THROUGH IT”: SUSTAINABILITY SLOUCHES TOWARD SOMERVILLE’S WATERFRONT

WILLIAM A. SHUTKIN*

Abstract: Jane Jacobs’s vision of urban life and community development can be understood as a foundation of sustainability discourse and practice at the beginning of the twenty-first century. Urban residents across the country are organizing themselves around the vision of mixed-use, vibrant, walkable neighborhoods that Jacobs pioneered. With little support from environmental laws, government agencies, or private developers, community groups are taking on the challenge of redeveloping urban areas to help restore blighted ecosystems while attracting high-quality economic development. The efforts of the Mystic View Task Force in Somerville, Massachusetts to create an urban village along the Mystic River is an example of this “Jacobean” movement and the challenges inherent in this work. As goes Somerville, so go other cities trying to build better, more sustainable places to live, work and play.

It may be romantic to search for the salves of society’s ills in slow-moving rustic surroundings, or among innocent, unspoiled provincials, if such exist, but it is a waste of time. Does anyone suppose that, in real life, answers to any of the great questions that worry us today are going to come out of homogeneous settlements?

*Dull, inert cities, it is true, do contain seeds of their own destruction and little else. But lively, diverse, intense cities contain the seeds of their own regeneration, with energy enough to carry over for problems and needs outside themselves.*¹

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¹JANE JACOBS, THE DEATH AND LIFE OF GREAT AMERICAN CITIES 448 (1961).

INTRODUCTION

"This book," Jane Jacobs declares in the first sentence of her 1961 urban jeremiad, *The Death and Life of Great American Cities*, "is an attack on current city planning and rebuilding."² It is perhaps only fitting that as we celebrate her life and work in this Symposium volume, this essay too takes aim at current urban development practices, and in particular, what is going on today in the city of Somerville, Massachusetts. In Somerville, nearly 150 acres of prime real estate hard against the Mystic River, what many consider not only Somerville's but the Boston metropolitan region's "Last Frontier," could be lost to the very rebuilding strategies Ms. Jacobs has spent her career rightly taking to task. These include low-density, big-box development with seas of surface parking and barely a sidewalk, not to mention a tree.

It is unfortunate, however, that four decades after the publication of Ms. Jacobs's prophetic polemic, such an essay should have to be written. One would have thought urban planners, developers, and, dare I say, citizens would have learned by now. But most of us have not, and those few who have must invariably expend considerable energy educating, advocating, and battling against the still benighted and their uninspired, often pernicious development schemes.

More than simply an object lesson in bad urban development, what follows is a story about the failure of environmental protection efforts over the last several decades to deal with the environmental consequences of urban land use and development activities in Massachusetts and across the country. In Massachusetts, as in most states, urban runoff from parking lots and other "non-point" sources is the leading cause of water pollution,³ leaving roughly forty percent of our rivers, lakes and streams off-limits to fishing and swimming.⁴ Impervious surfaces in cities like Somerville and nearby Cambridge, suffocating the soil while prohibiting effective water drainage and filtration, account for upwards of eighty percent of the cities' surface area.⁵ Unfortunately, these same surfaces, sometimes by accident, sometimes by design, are often the only barrier protecting people from exposure to

² *Id.* at 3.

³ MASSACHUSETTS EXECUTIVE OFFICE OF ENVTL. AFFAIRS, *THE STATE OF OUR ENVIRONMENT* 53 (Apr. 2000).

⁴ WILLIAM SHUTKIN, *THE LAND THAT COULD BE: ENVIRONMENTALISM AND DEMOCRACY IN THE TWENTY-FIRST CENTURY* 66 (2000).

⁵ This estimate comes from Sam Bass Warner, who, along with two colleagues, has undertaken a study of the cost of pollution control and mitigation as a result of impervious surfaces in Cambridge.

harmful pollutants in the soil and groundwater just beneath the surface, the double-edged sword of brownfields-as-parking lots. More than half a million toxic waste sites are littered across the American landscape, most of them in industrialized areas like Somerville.⁶

Meanwhile, as waterfronts like Somerville's languish, land outside Massachusetts' central cities is being developed faster and at a greater scale than ever before. In Massachusetts, more land has been developed in the last fifty years than in the previous three centuries combined. Since 1950, while the state's population has increased by 28%, the amount of developed land has grown by 188%.⁷ Today, as the Assembly Square site lies in squalor, crying out for high-quality, environmentally responsible redevelopment, several of the country's most successful corporations like Cisco Systems are building new 500-acre office parks in the Boston suburbs on former farm fields, with scores of their new neighbors wringing their hands as their open space is lost and view sheds deteriorated.

Land use and development have never been in environmental regulation's cross-hairs. They are the orphans of environmental law and policy, left largely to local boards and the private sector to determine. At best, environmental law requires some measure of environmental review and permitting, but only on the back-end, after the location and type of development has been settled. At worst, environmental law is irrelevant, a complex regime of rules and standards designed for bigger, more readily controllable pollution sources, like smoke stacks and power plants, not parking lots and shopping centers.⁸

This essay offers a brief assessment of the state of American cities, by way of Somerville's experience, as measured against Jane Jacobs's enduring vision of "lively, diverse, intense cities, contain[ing] the seeds of their own regeneration, with energy enough to carry over for problems and needs outside themselves."⁹ What is happening on Somerville's waterfront demands development solutions of the sort Jacobs celebrates, like urban villages, mixed-use communities made up of diverse uses and populations. Ultimately, the situation demands a moral critique of the decisions leading to such wastelands, and those that would perpetuate them, a critique Jacobs has never shied away

⁶ SHUTKIN, *supra* note 4, at 64.

⁷ MASSACHUSETTS EXECUTIVE OFFICE OF ENVTL. AFFAIRS, *supra* note 3, at 24-25.

⁸ See THINKING ECOLOGICALLY: THE NEXT GENERATION OF ENVIRONMENTAL POLICY 1-37, 60-76 (Marian R. Chertow & Daniel C. Esty eds., 1997).

⁹ JACOBS, *supra* note 1, at 448.

from. Perhaps if more of us were as bold, Jacobs's urban and community development vision would be more in evidence on the landscape, and ideas like sustainable development would start referring less to theory and more to actual places.

I. SOMERVILLE: A BRIEF HISTORY

Somerville, Massachusetts is the kind of place many non-residents would rather avoid. With a population density greater than Hong Kong's and a paltry two acres of green space for every 1000 residents (including paved school yards and cemeteries),¹⁰ Somerville, or at least parts of it, come by the epithet "Slumer-ville" honestly. It is, to the casual observer, a landscape of asphalt and steel, dominated by congested surface and elevated roadways and confusing street signage, a place as dangerous to pedestrians as it is vexing to unfamiliar motorists. Much of the city is what Jacobs would describe as "dull" and "inert,"¹¹ intimidating in its threadbare environmental quality and the constant stream of vehicles coursing through its streets and highways. Much of this landscape comprises a piece of the "Planet of Weeds" David Quammen describes, where only crows, kudzu, and cockroaches can thrive.¹²

But this community of roughly 76,000 residents is not without its assets. A proud blue- and increasingly white-collar community, Somerville is home to several established ethnic neighborhoods, artists' enclaves like the famous Brick Bottom Studios, and several emerging hi-tech companies. A recent *Boston Globe* story about Somerville's growing hi-tech community featured the title, "Somerville, MA: The New Power Address."¹³ Bounded to the south by Cambridge, the east by Boston, and the west and north by Arlington and Medford, respectively, Somerville is in the heart of the metropolitan Boston region.¹⁴

¹⁰ *Somerville's Last Frontier*, COMMUNITY F. (Mystic View Task Force, Somerville, Mass.), May 22, 1999 at 18 [hereinafter *Last Frontier*]. Most planners and environmental psychologists agree that a healthy, safe urban environment requires at least six acres of open space per 1000 residents, and that's a bare minimum. See *id.*

¹¹ See JACOBS, *supra* note 1, at 448.

¹² See David Quammen, *Planet of Weeds: Tallying the Losses of Earth's Animals and Plants*, HARPER'S MAGAZINE, Oct. 1998, at 67-68.

¹³ Peter J. Howe, *Somerville, MA: The New Power Address*, BOSTON GLOBE, Sept. 24, 2000, at G1.

¹⁴ See *Last Frontier*, *supra* note 10, at 13.

And there's more. One of the city's oldest and most important resources is the once mighty Mystic River. Its course and flood plain significantly altered by dams,¹⁵ housing and commercial development, and other land uses requiring the filling of acres of tidelands, the Mystic, like its better known cousin to the south, the Charles River, still defines much of the topography and place names of its basin, as it should. The first Governor of the Massachusetts Bay Colony John Winthrop chose a site along the river for his farmstead, known as Ten Hills (a place name that survives to this day).¹⁶ The Mystic, like all such waterways, was among the original highways for commerce and travel during the colonial and early industrial eras.¹⁷ The new colony's first great seagoing ship was built on and launched from its shores in 1631.¹⁸

In the early nineteenth century, the Middlesex Canal was constructed along the Mystic, connecting Charlestown (adjacent to Somerville) to East Chelmsford some 35 miles to the north and making possible East Chelmsford's transformation from a small farming village into the early nineteenth century's most important industrial city, Lowell, named after the pioneering manufacturer Francis Cabot Lowell.¹⁹ Also, as a result of the canal, logs from New Hampshire could be transported directly to Medford, which quickly became a shipbuilding center, with ten shipyards along the Mystic River producing 567 clipper ships between 1803 and 1873.²⁰

By the 1830s, railroads superseded rivers and canals as the primary means of transporting goods and people.²¹ In 1842, the Boston and Maine Railroad opened a passenger station at Sullivan Square, a stone's throw from the Mystic waterfront, and residential enclaves were developed around the station in Somerville and Charlestown.²² Owing to the rise of the railroad, by the mid-nineteenth century the

¹⁵ The Amelia Earhart Dam, constructed in the 1960s, still stands. It was built to hold back tidal surges and maintain a constant depth in the Mystic. As a result of the dam, the river channel was straightened, providing enough soil material to create the footings for the construction of Interstate 93 in the early 1970s. *See id.* at 9.

¹⁶ *See id.* at 5.

¹⁷ *See id.* at 6.

¹⁸ *See id.* at 5.

¹⁹ *See* THOMAS BENDER, TOWARD AN URBAN VISION: IDEAS AND INSTITUTIONS IN THE NINETEENTH CENTURY 39-40 (1975).

²⁰ *See Last Frontier, supra* note 10, at 6.

²¹ *See id.*

²² *See id.*

Mystic River no longer served the essential transportation function it once did.²³

But transportation would return to the river, if in a different form. In the mid-1920s, the Ford Motor Company built a major manufacturing facility for its new automobiles along the banks of the river, producing more than a million cars before the plant was shut down in 1958.²⁴ The plant gave the area its modern name, Assembly Square.²⁵

Later, Interstate 93, today the Boston area's most traveled highway, was built in the early 1970s alongside and above the plant site, dwarfing the capacity of existing surface roadways like the McGrath Highway, built in the 1920s.²⁶ I-93 was part of the great highway building projects of the 1960s and 70s, enabling unprecedented development outside of major urban centers like Boston and the socio-environmental phenomena known as "white flight" and "suburban sprawl." It also created a formidable physical barrier between most of Somerville's residents and the Mystic River shoreline, effectively shutting off the city from one of its most historically significant and beautiful places while ushering in to the East Somerville neighborhood what would quickly become some of the nation's worst traffic jams, and the noise and air pollution they created.²⁷

II. EARLY PLANNING EFFORTS FOR THE ASSEMBLY SQUARE AREA

The loss of the Ford plant caused the Assembly Square area ("Site") to decline, leaving a vast complex of empty buildings along Mystic and Middlesex Avenues.²⁸ Reaching a low ebb in the mid-1970s, the Site was the subject of a major planning study published in 1979, called the Assembly Square Revitalization Plan.²⁹ The plan supported the Site's continued industrial and commercial use, calling for the city to acquire land to extend streets within the Site and for the reuse of the Ford and nearby buildings as a shopping mall and office

²³ See *id.*

²⁴ See *id.*

²⁵ See *id.* The Mystic View Task Force, the community group promoting an alternative to big-box, car-dependent development in the Assembly Square area, wants to rename the area Mystic View, reasserting the primacy of the river and emphasizing the importance of place and ecology in any development scheme. See *Last Frontier*, *supra* note 10, at 8.

²⁶ See *id.* at 9.

²⁷ See *id.* at 18.

²⁸ See *id.* at 9.

²⁹ See *id.*

complex, what would later become the Assembly Square Mall (Mall") in the mid-1980s.³⁰ The 313,000 square foot Mall, sitting on almost twenty-six acres, operated at a loss through the early 1990s and was sold at a foreclosure auction in 1997.³¹ In 1992, Home Depot opened a 150,000 square foot store on an eleven acre site next to the Mall, bringing big-box retail to the Site for the first time.³²

In 1994, another revitalization plan was produced, reaffirming the commitment to commercial and industrial development while prioritizing improved road access, including reconstruction of the I-93/McGrath Highway intersection.³³ The 1994 plan argued against residential use because it was believed that it would drive up property values, thus prohibiting commercial and industrial uses.³⁴ The plan had very little effect, and, like so many such plans, sat on the shelf in City Hall, collecting dust.

Besides these planning efforts, the Site has been largely ignored by planners and developers alike since the 1950s. Bounded by I-93, Route 28, the Mystic River, and the Boston city line at Sullivan Square, the Site today comprises approximately 145 acres, or eighteen parcels, four of which are publicly owned; the remainder are in the hands of several private owners. There are a few active industrial uses on the Site, as well as an office building, cinema, entertainment complex, big-box retail stores like Home Depot, and a mix of small businesses.

Not surprisingly, the Site is rich in transportation infrastructure. In addition to I-93 and adjacent surface arteries, several commuter rail lines and the future Amtrak service to New Hampshire and Maine go through the Area. More important, the Massachusetts Bay Transportation Authority (MBTA) Orange Line passes through the Site at grade, but without a station stop.

There are also two waterfront parks totaling eighteen acres on the Site's northern and eastern borders, both owned by the Metropolitan District Commission (MDC). The parks, developed in the 1980s, are neither easily seen nor accessed and have been neglected by both the public and the MDC. For example, many of the original plantings in the parks have died or are overgrown; the park benches are in total disrepair, the wooden seats having rotted away.

³⁰ See *id.* at 9-10.

³¹ See *Last Frontier*, *supra* note 10, at 14.

³² See *id.*

³³ See *id.* at 10.

³⁴ See *id.*

By all accounts, the Site is an urban eyesore, a desert of parking lots, abandoned, polluted parcels (“brownfields”), and imposing, windowless structures, hard to get to and lacking any meaningful sense of place or identity. But for the presence of Home Depot, which put Somerville’s only other large hardware store out of business a few years after it opened for business, the Site would see little activity. It is an urban wasteland. Meanwhile, land consumption in the suburbs continues, as if there were no other place for new development to go.

III. TOWARD AN URBAN VILLAGE: THE MYSTIC VIEW TASK FORCE’S DEVELOPMENT VISION

In early 1998, Somerville architect Anne Tate made a presentation at the Massachusetts State House about urban planning and the powerful effect of physical form on community life. Somerville State Representative Pat Jehlen, impressed by Tate’s talk, invited her to give the same presentation to Somerville residents in May, 1998. With the vast, neglected expanse of the Site in mind, several residents responded to the presentation by pledging to organize community residents to develop a vision for what quickly became known as “Mystic View,” a new name for the Site meant to replace industrial connotations of Assembly Square with reference to its most prominent, though diminished feature, the Mystic River. Appropriately, the community planning group came to call itself the Mystic View Task Force (“Task Force”).

Immediately, Somerville Alderman Bill White proposed a moratorium on development to give the city an opportunity to plan for development of the Site in a way the city had never done before. Task Force leaders explained their mission this way:

[A] group of individuals has been working to learn about this piece of land along the Mystic River, about planning in Somerville, and about planning efforts in neighboring areas that affect the site. We have come to believe that this site has unrealized potential, and we would like citizens to have an opportunity to shape its future direction. . . . Our larger goal is to start a planning process that would look at this site over the long term—over 5-, 15-, and 25-to-30-year periods—and

work with existing owners to develop a plan that will make the most of the site's potential.³⁵

Between May, 1998, and May, 1999, the Task Force leadership, a group of about two dozen residents including architects, landscape designers, real estate professionals, elected officials, activists and others, engaged in information gathering and research, pulling together and studying earlier planning studies and a host of data about economic, social and environmental conditions affecting the Site. In May, 1999, the Task Force convened a community forum, entitled "Somerville's Last Frontier," to inform residents about the Site's past and future development and motivate them to get involved in the ongoing effort to determine the nature and quality of that development.³⁶ The event attracted approximately 150 people, who participated in small group exercises designed, like an architectural "charette," to generate discussion about possible development scenarios in the Site based on regional opportunities and community needs, and how to implement a community-based redevelopment vision.

Over a period of several months before and after the forum, the Task Force developed a strategic plan ("Plan") for development that amounts to a transit-based, mixed-use model, in the vein of the ideal urban community Jacobs praises in *The Death and Life of Great American Cities* and throughout her career. Jacobs believes urban centers, with their economic and cultural diversity, density, and infrastructure, afford the best chance to develop socially and economically just, vibrant communities, where sidewalks and streets are the veins carrying the life-blood of communities, and where every component part in the "organized complexity" of cities contributes to a sense of place and commitment to democracy. "Urban village" and "social capital" are two of Jacobs's more prominent neologisms that have informed and inspired the Task Force's strategy.

Through improved access to the Site made possible by a transit station, and a mix of land uses, the Plan calls for the creation of a waterfront community and economic development center over a period of twenty to thirty years. Accordingly, it focuses on three key areas: (1)

³⁵ *Id.* at 1.

³⁶ *See id.*

environmental improvements, (2) employment opportunities, and (3) tax revenues.³⁷

A. *Environmental Improvements*

Recognizing Somerville's paltry amount of quality open space, with only 150 acres for the city's 76,000 residents (including cemeteries and paved lots), and little pedestrian or bike access to the Mystic River, the Task Force proposes to reclaim thirty acres of the Site, most of it on the riverfront, as park land and green space, to improve environmental conditions in both the Site and the Mystic River watershed as a whole. All development would have to be set back from the water's edge 250 feet, native riparian habitats would be restored,³⁸ and significant landscaping would be required throughout the Site. Water-related recreation such as canoeing and kayaking would be encouraged, and existing park lands renovated and made easily accessible to the public by foot and bike.

Most important to this "green" development strategy would be the construction of an MBTA Orange Line station on the Site. The Orange Line is the backbone of the metropolitan transit system, directly linking the Site to the region's major economic, cultural, and education institutions in and around Boston. Combined, the Orange and Green Lines carry half of all rail transit ridership. A station stop would allow access to the Site by foot instead of by car alone. In turn, this would enable much greater development density in the Site, reducing the need for vast tracts of surface parking. The environmental benefits would be profound: reduced traffic on the Site means less air pollution; minimal surface parking means less polluted run-off into the river; denser development means less building footprint, freeing up green space for recreation and water quality improvements as a result of better drainage and filtration capacity. In short, an Orange Line stop would be a boon for the Site, and reestablish the Mystic River and its tidelands as the great transportation center they were in the past, whether for ships, railroads, or automobiles.

³⁷ See *Last Frontier*, *supra* note 10, at 1. The information about the community forum and the content of the Task Force's development plan is taken from the *Last Frontier* report and related Task Force-produced documents.

³⁸ For an interesting account of New York City's attempt to restore native plant species to city lands, see Kirk Johnson, *Return of the Natives: Playing God in the Fields*, N.Y. TIMES, Nov. 12, 2000, at 33. Among other issues, the story presents the knotty problem of determining exactly what is "native" to a place in light of ecological disequilibrium and the ever-changing nature of habitats over extended time periods. See *id.*

B. *Employment Opportunities*

During the decades the Ford plant was in operation, the Site was home to thousands of high-paying, quality jobs, when manufacturing was still a mainstay of the regional economy. Today, Somerville has two workers for every one job, and lacks the diversity of job types that neighboring cities like Cambridge and Boston possess. Notwithstanding the booming local hi-tech economy, and the presence of several "New Economy" firms in Somerville, the Site has been left behind, with only a handful of industrial, retail, and office jobs to offer, most of these coming from the big-box stores like Home Depot and Circuit City. The Site is surrounded by robust economic activity, with nearly half of the region's research and development space just a few miles north of the Site at the intersection of I-93 and I-95 (the Route 128 corridor) and more than fifty million square feet of prime office space within two miles in East Cambridge and downtown Boston. According to a 1996 survey, Massachusetts ranks number one in venture capital spending but not a single penny has been spent on development on the Site.

The Plan proposes that, with the development density allowed by a new transit stop, the Site could accommodate 30,000 jobs in a variety of sectors, from retail and industrial to commercial and research and development. Most of the jobs would be in the commercial and research and development areas, with smaller amounts in retail and industrial. In addition, the Task Force would like to see housing developed on the Site to support a 24-hour presence and take advantage of the Site's economic and recreational opportunities as well as its access via transit to regional attractions. Structured parking would be developed on ten acres to ensure full worker and resident access to the Site.

C. *Tax Revenues*

Currently, commercial taxes in Somerville only break-even, while residential taxes fail to cover the cost of core municipal services. In 1997, Somerville's commercial real estate taxes were \$15 million compared to \$100 million in Cambridge, which has thirty times as much office space and 270 times as much research and development space as Somerville. As a result of Cambridge's solid commercial tax base, it is able to spend 75% more per pupil on education than

Somerville and has 400% more resources at its disposal to spend on affordable housing and open space.³⁹

The Plan calls for \$30 million a year in net new tax revenues from economic activities on the Site made possible by greater development density and a mixed-use approach. The gross tax revenues would amount to nearly \$60 million, but half would be spent on financing capital improvements on the Site as well as on-site services. According to the Plan, the \$30 million surplus would be poured back into education, affordable housing, open space, arts and culture, and even property tax relief for Somerville residents.

In sum, the Plan's 30/30/30 strategy (30 acres of green space, 30,000 jobs, \$30 million new tax revenues) would bring to the Site the kind of economic and community development and environmental protection never before seen in Somerville. Unlike most community planning efforts, the Task Force is actually promoting more, not less, development, combined with significant environmental and infrastructure improvements. Similar in scale to planning efforts in East Cambridge (Cambridgeside Galleria, Kendall Square), South Boston (South Boston Waterfront), and Everett/Malden/Medford (Telecom City), the Plan is feasible. The question is, who will implement it?

IV. THE ECONOMIC AND POLITICAL REALITY

Just as the Task Force's planning efforts were getting underway, the Mall owners, the Taurus Financial Group ("Taurus") and National Development Corporation ("National"),⁴⁰ who had purchased the property in 1997 after it lost a staggering 67% of its value, began making noises that they would redevelop the Mall, which sat empty since they bought it. Their plan calls for essentially the same use and design as before: a long, single-story building surrounded by roughly fifteen acres of surface parking lots. Meanwhile, at about the same time, the Task Force got wind of another possible redevelopment project on the Site. IKEA, the Swedish furniture company, was proposing to build a 250,000 square foot retail store on a sixteen acre site adjacent to the Mall, also accompanied by large surface parking facilities. The IKEA site had been severely contaminated due to its former use as a machine tool manufacturing facility; IKEA had to spend millions of

³⁹ See *Last Frontier*, *supra* note 10, at 19.

⁴⁰ The National Development Corporation also has an ownership stake in the Mall. For the purposes of this essay, however, only Taurus, the lead owner, will be discussed.

dollars cleaning up the brownfield site before it could proceed with development.

It was not long before the plans of Taurus and IKEA and the Task Force collided. By the summer of 1999, the Task Force was calling on Somerville Mayor Dorothy Kelly Gay to initiate a formal planning process for the Site and to impose a development moratorium. Under pressure from the Task Force, Mayor Gay issued a Request for Proposals for a master plan study ("Study") of the Site and in October, 1999, hired the Cecil Group, a well respected Boston planning firm, to undertake the Study.⁴¹ It was to take six months to complete, with the full participation of a community advisory board.

Meanwhile, by gentlemen's agreement, Taurus and IKEA (collectively, "the Developers") agreed not to proceed with their plans pending the outcome of the public planning process, though not before they made it known to the public that they were within their rights to go forward with their existing plans, regardless of what the Study recommended. Very little was known about those plans other than that both were proposing standard mall and big-box projects, respectively, with surface parking and only gratuitous environmental improvements to the Site.

Both the Developers and the Task Force respected the process, participating at every opportunity. Mayor Gay and the city's planning department, poised delicately between the two sides, had a rough go of it, trying not to alienate the community while assuring the developers that their interests would be respected. It proved a losing strategy.

In the spring of 2000, as the Cecil Group prepared to announce the findings of the Study, the Task Force feared that Mayor Gay and the city were simply not up to the task of fully appreciating, not to mention implementing, their Plan. Several unfavorable statements in the local press made by the Mayor and her staff suggested she was feeling the heat from the Developers, who with every passing day were becoming less patient with the process and its uncertainties. The Task Force became convinced that notwithstanding the outcome of the planning process, the Mayor and the Developers would proceed as originally planned, fundamentally undermining the long-term development goal.

In addition to refining its Plan and organizing the community, the Task Force sought at various times to win over the Mayor, though

⁴¹ See generally THE CECIL GROUP, INC., ASSEMBLY SQUARE PLANNING STUDY (2000).

unsuccessfully. As well, the Task Force tried to reach out to other potential developers and investors who might buy out the existing Developers and work with the Mayor and Task Force to implement their Plan. Those efforts have continued but with little to show for them.

During the summer and fall, the situation deteriorated. In September, the Cecil Group released its Study to no great surprise. It largely affirms the Task Force's Plan, but with more room for the Developer's interests in the short-term. In two phases spanning twenty years (five- and fifteen-year phases), it calls first for establishing a new Orange Line and commuter rail stop and improved on-site pedestrian, bicycle and shuttle systems, with structured and surface parking facilities as well. It encourages a mixed-use, twenty-four hour district with tree-lined streets, strict design controls, and community amenities such as expanded waterfront parks. The district would include residential, retail, office, and research and development along a main street parkway, with approximately 6.6 million square feet of development volume. In all, the Study finds that the Site could generate an additional \$17.5 million in new net tax revenues and 15,500 jobs, with an opportunity for higher long-term potential, if the above general recommendations are followed.⁴²

As if to ignore the Study, the Developers immediately dug in their heels. A permit application filed by Taurus in the summer that had been rejected by the city pending the outcome of the planning process was appealed, initiating what will likely be a series of legal battles. The Developers have hinted they would make a few concessions to the Task Force. For example, IKEA has talked about building some structured parking; Taurus has discussed some minor site design changes and adding a hotel and office space plus a restaurant or two at the edges of the parking area. For her part, the Mayor signed a memorandum of agreement (MOA) with the Developers in mid-November in exchange for a commitment to improve the existing waterfront park, develop a Main Street through the Mall site, and provide funds for affordable housing and public art, among other modest concessions.⁴³

Meanwhile, in August and again in September, the Task Force filed a proposal to amend the city's zoning ordinance to discourage big-box and strip-mall style development and support high-quality,

⁴² See *id.* at 2.

⁴³ Nathaniel W. Cook, *One, Possibly Two, Aldermen to Leave*, BOSTON GLOBE, Nov. 12, 2000, at 4.

dense, mixed-use approaches. Submitted to the Somerville Board of Alderman ("Board"), the Assembly Square Interim Planning District Ordinance (ASIPD) requires any development on a parcel or parcels of land totaling more than 50,000 square feet to be developed as a Planned Unit Development (PUD)⁴⁴ consistent with the Study recommendations. Under the ASIPD, the PUD must provide a twenty-five percent contribution of "useable, well-connected, public open space," not including streets, sidewalks or building setbacks. Each PUD must consider structured and shared parking, pedestrian and bicycle access, transit access and public access to open space.⁴⁵ The PUD also provides maximum block sizes of 2.5 acres and 200 foot set backs from the river's high water mark. It also requires a variety of building facade designs to create visual interest and use of materials and construction techniques that minimize or avoid environmental impacts, such as day-lit building interiors and non-toxic paints and carpets.⁴⁶

Several Board members agreed to withdraw the ASIPD in September fearing it would fail. The ASIPD was then reintroduced in October along with another, less ambitious proposal drafted by one of the Board members and a brief, three paragraph proposal submitted by the city planning department which would have little, if any, impact on the Developers' plans. As of this writing, the Board is wrestling with the three zoning proposals as the Task Force considers legal challenges to the MOA and the Developers' projects, in the classic mode of citizens versus developers. Meanwhile, the fate of the Site hangs in the balance, with two development pathways beckoning: the pull of the status quo, as usual, diametrically opposed to and more powerful than the new, the alternative, the experimental.

V. THE MORAL DIMENSIONS OF SPACE

The development drama being played out on Somerville's waterfront reveals the profound limitations of environmental law and policy, as well as the shortcomings of traditional zoning regulations, when confronted with garden variety, big-box development projects, even on ecologically sensitive wetlands and waterfronts and in communities where environmental amenities like green space are in critically short

⁴⁴ A PUD is a comprehensive site plan in which a mixture of land uses, open space and buildings are developed as a single entity.

⁴⁵ See Somerville, Mass., An Ordinance Amending the Zoning Ordinance of the City of Somerville By Establishing an Assembly Square Interim Planning District (Aug. 22, 2000).

⁴⁶ See *id.*

supply. It is for this reason that leading “green” designers like the architect William McDonough argue that design, not law, is the last best hope for restoring environmental quality.⁴⁷ Indeed, our current environmental protection system rarely, if at all, actually prevents pollution and sprawl, but instead merely reduces and redistributes pollution burdens across media and geographies. Moreover, because of the jurisdictional limits of environmental protection laws, land use and development decisions continue to swallow up and pave over ecosystems at faster rates than ever before, with little resistance from environmental permitting agencies. This is why in Massachusetts in the last fifty years the amount of developed land has increased by 188% while the population has grown by only 28%.

What this means is that environmentalists and concerned citizens must resort directly to community and political organizing strategies, informed by strong moral arguments of the kind Jane Jacobs has always propounded, to put a stop to the kinds of development projects being proposed for the Mystic River waterfront. Until the ecological design techniques that McDonough and other enlightened designers espouse become the industry standard among developers and businesses, community activists have no other ally as strong as themselves and their sense of moral and political outrage. Law and policy have proved simply unreliable.

We must bring the passion for beauty and nature we have traditionally reserved for wilderness protection to the streets and sidewalks of places like East Somerville, and heed Jacobs’s call for building vibrant, lively cities through good planning and, most important, citizen activism. The tradition embodied by environmental visionaries like Henry David Thoreau, John Muir, George Perkins Marsh, and most recently, David Brower, each of whom resorted to forceful moral as well as practical arguments in decrying the destruction of nature brought about by industrialization and development, must be revived and reinvented so as to apply to urban environments. Looked at from a moral perspective, we have no one to blame but ourselves for the fate of our communities and the ecosystems that sustain them. Until more citizens—not all, but more—act upon this moral obligation by participating in citizen-led planning interventions and plain old elections, among other activities, we will continue to see the slow, insidi-

⁴⁷ See William McDonough & Michael Braungart, *The Next Industrial Revolution*, ATLANTIC MONTHLY, Oct. 1998, at 82.

ous decline in environmental quality and overall quality of life in our urban centers.

