



Mid Cambridge Neighborhood Conservation District Commission

Cambridge Historical Commission, City Hall Annex, 57 Inman Street, Cambridge, Massachusetts 02139. 617/349-4683

Frances L. Lieberman, *Chairman*, John A. Moos, *Vice Chairman*, Sarah J. Zimmerman, *Acting Secretary*,
Paul Andrew, M. Wyllis Bibbins, Ed Feinman, Constance R. Hsia, *Commission Members*,
Andrew Oldman, Anthony C. Platt, *Alternates*.

June 25, 1992

To: Birge Albright, Law Department
Margaret Drury, City Clerk

From: Sally Zimmerman, Historical Commission

Re: Final, Corrected Copy of Mid Cambridge NCD
Study Report on Amendments to Order

Attached please find the final, corrected copy of the Mid Cambridge NCD Commission's Final Study Report on the Amendment of their order. It is corrected as per Birge Albright's comments and should be regarded as the definitive statement regarding the justification for these amendments. If you have any questions, please do not hesitate to contact me. Thank you.

cc: Jack Flynn, City Clerk's Office



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FINAL STUDY REPORT
FOR AMENDING THE ORDER OF THE
MID CAMBRIDGE NEIGHBORHOOD CONSERVATION DISTRICT

JUNE 28, 1991

Prepared by the members of the Mid Cambridge Neighborhood
Conservation District Commission acting as a study committee
and by Sarah Zimmerman, Acting Secretary to the Commission

**EXECUTIVE SUMMARY
AMENDMENTS TO THE MID CAMBRIDGE NCD ORDER**

The purpose of the proposed amendments to the Mid Cambridge Neighborhood Conservation District order is to more fully implement the mandate established in the original 1985 order. The Mid Cambridge NCD Commission is directed to:

- * avoid excessive infill
- * encourage new construction that complements existing buildings
- * encourage preservation of neighborhood buildings
- * protect National Register structures, and
- * enhance the economic vitality of the neighborhood.

The present order focusses almost exclusively on the first directive, while the remaining four are met only tangentially. It is the recommendation of both the Mid Cambridge NCD Commission and the Cambridge Historical Commission that the attached amendments be adopted to allow implementation of the 1985 mandate.

The specific terms of the amendments are as follows:

- * adopt binding reviews for all alterations to National Register properties (current review is non-binding or advisory only);
- * eliminate distinction between non-residential and residential property review so that both types of property are subject to the same categories of review (current review of non-residential property is non-binding); and
- * institute non-binding (advisory) reviews for lesser categories of change that are not now reviewable, including:
 - new construction between 150-750 square feet;
 - exterior alterations that require a variance or special permit; and
 - alterations that require removal or enclosure of historic or original decorative trim, or changes in doors, windows or rooflines.

At present, the NCD Commission has review authority over only 9% of the building permits generated in the district. Analysis of the past record indicates that that number would increase to 40% if the proposed changes were adopted. Approximately 60% of the building projects in the district would remain outside the NCD Commission's jurisdiction.

Comments from the public were solicited at six meetings of the Mid Cambridge NCD Commission. These included four public information meetings specifically scheduled for public comment, one of which, for owners of non-residential property, was by invitation and another which was announced in legal notices sent to all property owners in the district. A public hearing on the amendments was held on June 27, 1991. A total of 27 individuals attended. Comments in opposition were received from 3 people; 14 people supported the amendments, and 10 declined to comment. In addition, phone inquiries were taken from 12 people, of whom 7 supported the changes.

Table of Contents

I. Proposed Amendment of the Order	1
A. Existing Order	1
B. Proposed Amendments	4
II. Nature of Neighborhood Conservation District Protection	8
A. Legislative Authority	9
B. Administration of NCDs	12
C. Establishment of NCDs	16
III. Administration of the Mid Cambridge Neighborhood Conservation District	18
A. Design Objectives	18
B. Case Review Procedures	20
IV. Implementation of Proposed Amendments	22
A. Public Information Process	22
B. Proposed Amendments	24

Appendices

- A. Mid Cambridge Neighborhood Conservation District Order, adopted January 21, 1985
- B. Proposed Amendments to Mid Cambridge Order
- C. Chapter 2.78, Article III, Code of the City of Cambridge, Establishment of Neighborhood Conservation Districts and Protected Landmarks
- D. Comment Group for Mid Cambridge Amendments
- E. List of National Register Properties in Mid Cambridge District
- F. Public Information Sheet and List of Respondents

I. Proposed Amendment of the Order

A. Existing Order

The Mid Cambridge Neighborhood Conservation District (NCD) comprises some 2,000 buildings and extends from Quincy Street east to Prospect Street and south from Kirkland and Hampshire Streets to Massachusetts Avenue. Overwhelmingly residential, the district includes a small portion of the Inman Square business district and clusters of business uses on Cambridge and Kirkland Streets and Broadway. The neighborhood is architecturally diverse, with a wide range of house types and styles within a tightly-packed area. Houses date from the mid-19th century through the Depression. More recent construction consists of 1960s apartment buildings and the townhouses of the 1970s that were in large measure responsible for the implementation of the district.

Establishment of the conservation district took three years. An initial study report completed in 1982 was opposed by a group of property owners as too far-reaching in its authority and the resultant order, adopted by the City Council early in 1985, provided for much more circumscribed jurisdiction, two levels of review (binding and non-binding), and an education and incentive program.

The conservation district incorporated five criteria which form the Mid Cambridge Commission's mandate:

- to avoid excessive infill;
- to encourage new construction which complements

existing buildings;

- to encourage preservation of neighborhood buildings;
- to protect National Register structures, and;
- to enhance the economic vitality of the neighborhood.

Of these, the greatest weight in the order is on the first, avoiding the excessive infill in an already-dense neighborhood that it was felt the many townhouse projects had created. To that end, the review authority (Section 3 of the order) of the Mid Cambridge Commission focuses on demolition and new construction at a large scale. Four of the seven categories of binding review in the order deal with these activities. Currently reviewed are projects involving demolition of 33% or more of floor area, new construction of more than 750 square feet of floor area, new construction on more than 33% of the open lot area, and enlargement of floor area in an existing structure by more than 33%.

The other four criteria are addressed less specifically through the Commission's authority. Complementary new construction, preservation of neighborhood buildings, and enhancement of economic vitality are all achieved through Commission review of the district's larger projects as delineated above and through the Commission's educational efforts. Binding review of alterations to all publicly-owned structures, structures with non-conforming uses, and structures moved into or out of the district also serves the mandates cited in the order.

Non-binding reviews establish an advisory procedure for National Register and commercial structures. Alterations to National Register and conforming non-residential properties are reviewed by the Commission provided the change is visible from a public way and involves a significant feature of the structure. These reviews are, however, advisory only since there is no statutory authority to impose design decisions in non-binding cases.

All other alterations to structures in the district are outside the Commission's authority and are reviewed administratively by the staff, who issue Certificates of Non-Applicability. The Commission's education effort continues at the staff level, where it is possible to make suggestions and recommendations that would encourage preservation when projects are reviewed for non-applicability.

Annual appropriations to the Commission support an education and incentive program. Under the terms of the order, the regulatory provisions of the order are not enforceable in any fiscal year that an appropriation to the Commission is not made. The order calls for the Commission to conduct an ongoing educational program to make known the objectives of the district, encourage preservation of the district's historical character, and make available information that advances the voluntary protection of the district's architecture. Components of the educational program, in addition to the full-time availability of staff

to address ongoing requests, include publication of an informational brochure on the district, publication of a rehabilitation guide for homeowners (distributed free of charge to Mid Cambridge property owners), walking tours, and an educational program in the local schools.

B. Proposed Amendments

The Mid Cambridge Commission initiated a review of its order in the spring of 1990, five years after its establishment. As the Commission worked with its order and its experience grew, areas for possible modifications of its jurisdiction emerged. A preliminary draft revising the order revealed the need for a more thorough study of the Commission's past cases and a review of its mandate. That effort continued through the fall of 1990 and resulted in a final set of amendments that form the present proposal.

The proposed amendments focus on the Commission's review authority (section III), with technical changes in membership (section II), procedure (section IX), and appeals (section X). A section covering ordinary maintenance has been added (section XI). All other language of the original order remains unchanged.

The amended review authority retains the two-tiered system of binding and non-binding reviews. Three new categories of non-binding review have been added. National Register properties have been added to the binding review category. The distinction between residential and non-residential properties has been eliminated. Finally,

editorial changes have been made to the section to clarify its content for the reader.

Within the non-binding reviews (section III, A), there are three new provisions. The first covers new construction to existing structures of more than 150 and less than 750 square feet of floor area. The second adds review for alterations of the exterior appearance of a structure that require a variance or special permit under the zoning then in effect. The third category deals with alterations of character-defining architectural features of a structure. These include: the removal or enclosure of any historic or original decorative element; the increase or diminishment of the size of windows or doors, or a change in their location; the increase or diminishment of the slope, pitch, or configuration of a roof, or the removal of historic or original roofing material.

The non-binding provision for structures containing or proposed to contain conforming non-residential uses has been eliminated. This means that non-residential structures would not be differentiated from residential structures in the amended order, if adopted.

With the exception of properties listed on the National Register of Historic Places, the binding review authority (section III, B) of the Commission remains unchanged, but has undergone editorial revision to clarify the terms of the review. Three subsections covering new construction,

demolition, and alterations have been identified, with the reviewable categories of each activity delineated.

Properties that are important in American history, culture, architecture, or archaeology are recognized by the Department of the Interior through inclusion on the National Register of Historic Places. The Mid Cambridge NCD contains four National Register districts (Bigelow St., Harvard St., Maple Avenue, and Inman Square) and 23 individual properties (see appendix E). Currently handled under the non-binding, advisory procedure, these properties would come under binding review in the proposed amendments.

The remaining changes proposed are technical in nature. In membership (section II), the provision for a representative of the Cambridge Historical Commission has been clarified to allow more than one member of the Historical Commission to serve on the Mid Cambridge Commission.

Under procedure (section IX), a new paragraph A has been substituted to provide a shortened notice for review of applications for non-binding certificates. Separate review periods for National Register and non-residential properties (as established in the current order) are obviated by the terms of amended section III and thus deleted. A new section to cover non-binding reviews has been added calling for forty-eight hour notice of public meetings for non-binding review with 1) the city clerk (as per the requirements of the Open Meeting Law, M.G.L. chapter 39,

section 23b) and 2) abutters, through posting notice on the subject property, among such other possible forms of notice as the Commission may determine. The amendments also establish a uniform review period of thirty days from the receipt of an application for a non-binding certificate within which the Commission must make a final recommendation.

Two sections of the original order dealing with neighborhood review and continued designation (original sections 10 and 11) have been obviated through fulfillment of their terms. New sections have been substituted. In the amendments, section X deals with the appeal procedure identified in Chapter 2.78, Article III, section 2.78.240, Code of the City of Cambridge. Section XI is a standard clause covering ordinary maintenance, repair or replacement of exterior architectural features as identified in Chapter 40C, section 9, Massachusetts General Laws.

II. The Nature of Neighborhood Conservation District Protection

The objectives of the Mid Cambridge NCD are to provide protection against inappropriate change and to guide future growth in one of Cambridge's most diverse neighborhoods. Conservation district status gives the Mid Cambridge Neighborhood Conservation District Commission the authority to review all new construction over 750 sf and all demolition of structures within the district and visible from a public way. This authority is granted under Chapter 2.78 Article III of Code of City of Cambridge, which was enacted by the City Council on March 23, 1981.

Chapter 2.78, Article III was drafted by the Cambridge Historical Commission to decentralize the protection of significant neighborhoods in Cambridge in a manner beyond that authorized in Chapter 40C of the Massachusetts General Laws. In drafting the ordinance the Commission found a precedent in Chapter 772 of the Acts of 1975, the act establishing the Boston Landmarks Commission. This act authorized the City of Boston to designate architectural conservation districts, protection areas, and protected landmarks. In drafting the law that became Article III, the Historical Commission drew on Chapter 776 for many concepts and definitions, but wherever possible drew from the language of Chapter 40C, adapting procedures and authority designed for historic districts to the new task of

decentralizing neighborhood protection under neighborhood conservation district procedures.

The purposes of Section 2.78 Article III are

to preserve, conserve and protect the beauty and heritage of the City of Cambridge and to improve the quality of its environment through identification, conservation and maintenance of neighborhoods...which constitute or reflect distinctive features of the architectural, cultural, political, economic or social history of the City; to resist and restrain environmental influences adverse to this purpose; to foster appropriate use and wider public knowledge and appreciation of such neighborhoods...; and by furthering these purposes to promote the public welfare by making the city a more attractive and desirable place in which to live and work.

A. Legislative Authority

Authority to protect the urban environment through historic districting has existed in Massachusetts since the passage of Chapter 40C in 1960, and has been exercised by the Cambridge Historical Commission since 1963. The purposes of historic districting, which are similar to the purposes expressed in Article III, are

to promote the educational, cultural, economic and general welfare of the public through the preservation and protection of the distinctive characteristics of buildings and places significant in the history of the Commonwealth and its cities and towns or their architecture, and through the maintenance and improvement of settings for such buildings and places and the encouragement of design compatible therewith.

The first Massachusetts Historic Districts, on Beacon Hill and in Nantucket, were established by special acts in 1955 following an opinion of the Massachusetts Supreme Judicial Court that such legislation was a constitutional use of the State's power to promote the public welfare. The

Massachusetts Court cited a United States Supreme Court decision in the case of Berman vs. Parker (1954).

The concept of the public welfare is broad and inclusive...The values it represents are spiritual as well as physical, aesthetic as well as monetary. It is within the power of the legislature to determine that the community should be beautiful as well as clean, well balanced as well as carefully patrolled.*

More recently, the Massachusetts Supreme Judicial Court has ruled, in connection with the right of a municipality to prohibit billboards, that "aesthetics alone may justify the exercise of the police power," and quoted Article 97 of the Amendments to the Massachusetts Constitution, which established as state policy the right of the people to "the natural, scenic, historic, and aesthetic qualities of their environment..."**

The courts have also upheld historic districts on the grounds of their contribution to the economic well being of a community. The Supreme Judicial Court in the Nantucket opinion noted that "the erection of a few wholly incongruous structures might destroy one of the principal assets of the town."*** The courts have noted that these benefits may accrue to the individual property owner as well as to the community at large, but have

* 348 U.S. 26 (1954).

** John Donnelly & Sons vs. Outdoor Advertising Board (1975).

*** 333 Mass. 773, 780 (1955).

considered that public purposes are served if the public good, measured in terms of increased property value or business volume, outweighs private costs.*

It has been judicially determined that historic district legislation does not constitute a taking of private property without compensation, and it has been noted that many zoning ordinances are as demanding in their application.** Once again, the public benefit is held superior to a reasonable degree of private sacrifice, a principle that was recently upheld by the Appellate Division of the New York Supreme Court in confirming the landmark designation of Grant Central Terminal.

Power to establish historic districts is not given lightly. Chapter 40C requires a thorough survey and report on the areas proposed for protection, review and comment by other public agencies, a public hearing with notification of all affected property owners, and passage of the historic district ordinance by the City Council. Once a district has been established, an historical commission holds the power to review all construction and alterations of structures that will be visible from a public way. This authority cannot be arbitrarily exercised, however; the legislation requires that a Commission "shall not make any recommendations or requirement except for

* T.J. Reed, Land Use Controls in Historic Areas, 44 Notre Dame Lawyer 3, 387.

** 333 Mass. 773, 778 (1955).

the purpose of preventing developments incongruous to the historic aspects or the architectural characteristics of the . . . district."

In all important respects, establishment of neighborhood conservation districts under Article III requires the same procedures and safeguards as for historic districts under Chapter 40C. Moreover, the authority of a conservation district commission, while subject to the same limitation of being able to prevent only developments incongruous to the district, may be more strictly circumscribed than that of an historical commission by the adoption in the ordinance establishing it of extensive exclusions from its authority.

B. Administration of Neighborhood Conservation Districts

The administration of neighborhood conservation districts is guided in every respect by the provisions of Article III, which establishes procedures and guidelines based on those in Chapter 40C, and by the special provisions of the order establishing the particular conservation district.

Although the legislation provides for the commission review of every exterior architectural feature visible from a public way, certain items may be excluded from control when the order is drafted. These may include siding; the appearances of buildings permitted under zoning; terraces, walkways, driveways, and sidewalks; walls and fences; temporary signs and structures; storm doors and windows, air

conditioners, lighting fixtures, antennae and the like; and so on. A conservation district commission may also impose dimensional and setback requirements more stringent than required by the zoning ordinance. However, a commission may make no conditions "except for the purpose of preventing developments incongruous to the historic aspects or architectural characteristics...of the historic district."

The commission issues three types of certificates as the basic administrative method by which proposed alterations are reviewed, and no building or demolition permit for work in a district can be issued by the city until a certificate has been issued.

Each type of certificate is issued after evaluation of the circumstances. A Certificate of Appropriateness will be issued when the commission has determined that a project is not incongruous with the character of the conservation district; this is the most common certificate issued. A Certificate of Nonapplicability is issued for a project which the commission determines does not involve an exterior feature subject to its authority, or one not visible from a public way. Finally, a Certificate of Hardship may be issued when refusal to issue a Certificate of Appropriateness or Nonapplicability would cause the applicant substantial hardship, financial or otherwise, as long as there is no substantial detriment to the district.

Application for a certificate is made by submitting a description of the proposed alteration along with plans or

photographs sufficient for the commission to judge the effect of the proposed alteration. The commission must determine within fourteen days of an application whether a Certificate is required.

In passing on applications for Certificates, a commission is required to consider, among other things, the historic and architectural values and significance of the site, building, or structure, the general design, arrangement, texture, material and color of the features involved, and the relationship of these features to similar features of buildings in the surrounding area. In the case of new construction or additions to existing buildings, the commission must consider the size and shape of the building, in relation to both its site and surrounding buildings, and can establish additional policies to exclude such features from control after the conservation district is established. The commission can also establish appropriate designs or lists of materials for the guidance of property owners.

A commission cannot review alterations to interiors of structures, nor alterations which are not visible from a public way, even though such alterations may still be within a district. Furthermore, landscaping with plants, trees or shrubs is specifically excluded from review, and the commission is not concerned with ordinary maintenance, repair, or replacements that do not involve a change in exterior appearance. Enactment of a conservation district in no way requires owners to alter their properties, nor

requires restoration of a structure to any set historical period.

If a commission deems the alteration to require a certificate, it may take action either through a public hearing or by simple vote after notice to surrounding property owners. A public hearing is held in the event that the alterations are deemed substantial; surrounding property owners are given two weeks' notice, and the application is given consideration in terms of the criteria listed above. However, if the application involves an alteration which is considered insubstantial in its effect, the commission may simply vote on the matter after allowing ten days for comment by surrounding property owners.

If the commission disapproves the application for a certificate, it must give its reasons to the applicant in writing. However, the commission is specifically authorized to make recommendations for changes which would make the application acceptable. If the applicant modifies the application to conform to the commission's suggestions, a certificate must be issued.

An applicant aggrieved by a decision of a conservation district commission may first appeal to the Historical Commission by giving notice within twenty-one days to the City Clerk, with further appeal possible to the Superior Court. Violations may be punished as under Chapter 40C.

C. Establishment of Neighborhood Conservation Districts

Procedures for the organization of neighborhood conservation districts are established by the enabling ordinance and conform to the similar provision for establishment of historic districts under Chapter 40C. Any ten registered voters can petition the Historical Commission to request the City Manager to appoint a study committee. Alternatively, the Cambridge Historical Commission may initiate the study independently. The study committee must prepare a Preliminary Report which considers the options set forth in the code for exemption of certain architectural features from review, outlines the exact boundaries of the area to be included in the conservation district, presents a full architectural and historical justification for the area, and includes an order implementing the district.

The Preliminary Report must be submitted to the Historical Commission, the Planning Board, the City Manager, and the City Clerk. A public hearing, for which all affected property owners must be given two weeks' written notice, must be held no less than forty-five days after the report has been released. The object of the public hearing is to allow comments to be officially recorded.

After the public hearing, the Historical Commission prepares a Final Report which takes into account the comments received at the public hearing and the recommendations of the Planning Board and the City Manager. The report may then be submitted to the City Council, where

a majority vote is required for the order to be adopted.

III. Administration of the Mid Cambridge Neighborhood Conservation District

A. Design Objectives

The Mid Cambridge Neighborhood Conservation District Commission was established in 1985 to administer the terms of the Mid Cambridge order. The general objective of the district was to conserve neighborhood character. The 1982 study report stated the purpose of the district thus:

the task of the NCD is to define the visual character of the neighborhood and then establish guidelines that will make it possible to preserve and enhance this overall character while allowing and often encouraging specific change to take place. By character is meant the physical character-- the buildings, streets and spaces, textures and details, plants and vistas of Mid Cambridge as they are visible to the public.

The historic density of the neighborhood, with tightly packed but separate 19th- and early 20th-century dwellings, created a situation where the apartment construction of the 1960s required the demolition of existing houses. After passage of the Townhouse Development Ordinance in 1976 (which relaxed zoning regulations on setbacks, density, height, and parking), additional construction took place in side and back yards, increasing the density of the neighborhood and diminishing open space, light, air, and landscaping. Despite amendments to the Townhouse Ordinance in 1979, significant townhouse development continued through the early 1980s in Mid Cambridge, further augmenting density.

Not surprisingly, the major provisions of the Mid Cambridge order address the issue of infill construction.

The challenge to the Commission is to respect the ongoing nature of change and its attendant effects on a densely-settled area, while recognizing that that density is part of the neighborhood character.

To that end, the order includes review criteria for new construction and demolition. The Commission is directed to review new construction with regard to the compatibility of the building to its surroundings and the project's site layout, parking provisions, volume and dimensions, open space and landscaping, scale, and impacts on its surroundings. In demolition cases, the Commission is directed to consider the physical condition of the building, any hardships on the owner, and the design of the replacement.

In addition to these review criteria, the Commission has since adopted a set of Excess Infill Guidelines based on its case history that are designed to inform applicants about the Commission's concerns in reviewing applications for infill construction. These assist the applicant to define the scope of a project's impact, the individual components of the proposed design and their relationship to their surroundings, landscaping effects, significant historic and architectural features, and effects on parking, noise, light, and air.

The primary design objective of the Mid Cambridge Commission remains to mitigate the effects of infill construction on neighborhood character. A broader concern

through all of its reviews is to influence the process of change in a direction that respects the appearance and history of the neighborhood and in a manner that offers applicants and abutters a forum for sharing expertise, negotiating differences, and resolving conflicts in the best interests of the neighborhood.

B. Case Review Procedures

In the six years since the NCD was established, there have been 416 applications for certificates. Thirty-two cases have been reviewed for Certificates of Appropriateness. Seventeen of those cases have been for binding review; fifteen for non-binding (National Register or non-residential). There have been four denials, two of which were modified and resubmitted and subsequently approved. Two Certificates of Hardship have been approved and three applications have been withdrawn. The remaining 375 applications have been for Certificates of Non-Applicability (90% of the applications received).

Despite the relatively low number of cases reviewed for binding certificates, the Commission's work effort has been considerable. Unlike cases reviewed by a standard historic district commission, where a large number of minor alterations may be considered, the Mid Cambridge Commission receives primarily large and relatively complex projects, most of which are for construction of new buildings or large additions. The first case reviewed by the Commission was for demolition of a wing of Youville Hospital and

construction of a 180-bed replacement wing. Six of the subsequent cases have proposed construction of from one to four townhouses or condominium units. Also reviewed have been applications for construction of a church, a single-family house, and three additions for apartments.

As was anticipated by the interest which spurred adoption of the original order, applications for townhouse and condominium construction have generated significant input from abutters to proposed projects. Consequently, reviews of these projects have taken longer than most applications, averaging two or three months' review time and often involving multiple applications, as revisions and modifications occur. Such projects also involve ongoing on-site monitoring by staff and Commission members as construction proceeds.

With regard to Certificates of Non-Applicability, the majority of the applications received are for repairs in kind or interior renovations, primarily to kitchens and baths. Approximately 60% of the applications involve such routine maintenance and improvements. Of the remaining 40%, the most common additions are the construction of decks, bays, and dormers. Alterations that call for removal of original material, such as application of artificial siding, window replacement, or porch enclosure, are also typical although somewhat less numerous.

IV. Implementation of the Proposed Amendments

A. Public Information Process

The Cambridge Historical Commission formally initiated study of the amendment of the Mid Cambridge NCD order at its February 7, 1991 meeting. At that time, the Mid Cambridge Commission was empowered to act as a study committee for purposes of Chapter 2.78.180 regarding designations of neighborhood conservation districts.

Copies of the proposed amendments were circulated on March 1, 1991 to a comment group consisting of the original study committee members, members of the working group which revised the initial district proposal, staff of the Community Development Department, Planning Board, Zoning Board of Appeals, and Historical Commission, and to interested parties, who included the Mid Cambridge Neighborhood Association, the Chamber of Commerce and its Small Business Committee, the Harvard University Planning Group, and several individuals. In addition, an informational memo was sent to all City Council members.

Press releases announcing a public informational meeting were sent to the Cambridge Chronicle and the Cambridge TAB. A public informational meeting was held on April 1, 1991, but due to the failure of the newspapers to run the release, only members of the comment group attended. A second informational meeting was announced in the Chronicle for April 22. One individual attended that meeting.

In view of the weak public response, a third public informational meeting was announced for May 6, 1991. One individual attended that meeting. In addition, the Mid Cambridge Commission scheduled a public informational meeting for June 20, one week prior to the scheduled June 27, 1991 public hearing before the Historical Commission. Notice of the informational meeting was sent in the notification of the hearing to each property owner 14 days prior to the hearing.

During May and June, the Mid Cambridge Commission met with other parties affected by the proposed changes. Meetings were held with Youville Hospital and Harvard Community Health Plan. A lunch meeting to which all non-residential owners were invited was held June 19. Five people attended that meeting. Ten people attended that meeting. (See Appendix F for attendees and their comments.)

The Mid Cambridge Commission also held a House Clinic on May 18, 1991, at which various home repair and preservation experts advised property owners on preservation techniques. A member of the Commission informed those attending of the proposed amendments to the order.

With two exceptions, response to the proposed amendments to date has been positive and ranges from enthusiastic support to cautious acceptance. Four supportive letters were received from the comment group, among them a supportive letter from the Harvard University Planning Group, which included a number of technical

comments as well as a substantive concern for the potentially-intersecting roles established on National Register property review. The Cambridge Historical Commission currently reviews alterations to Harvard-owned National Register properties, of which there are five presently in the district. It is the position of the University that the Historical Commission review takes precedence over the Mid Cambridge Commission review. The Historical Commission and Mid Cambridge Commission concur with this position and have developed language to clarify this authority.

B. The Proposed Amendments

The initial draft of possible amendments, first formulated in the spring of 1990, has been significantly modified in ongoing discussion within the Mid Cambridge Commission. Amended sections of the order are section II (membership), section III (review authority), section IX (procedure), section X (appeals), and section XI (ordinary maintenance). As part of its examination of the order, the Commission undertook a thorough review of its case history to determine the potential effects of any amendments.

The most extensive discussion focussed on amendments to section III. The review authority of the Commission underwent significant restructuring in response to opposition to the original district order proposed in 1982. By the time it was adopted in 1985, the order had been almost entirely recast. From a document that would have

reviewed all alterations, new construction, and demolition (but would have allowed siding and other changes that did not involve loss of decorative fabric), the order was rewritten to focus almost exclusively on large-scale new construction (generally over 750 square feet) and demolition, with non-binding reviews of alterations for limited categories of property (National Register and non-residential). Of the 416 applications received to date, only thirty-two (approximately 8%) have required hearings for a Certificate of Appropriateness, seventeen (4%) of those for binding review.

While the Commission has had an important role in shaping the direction of the relatively small number of large-scale projects in the neighborhood, they have become increasingly aware of the effects of more incremental change which occurs through alteration, as well as the potentially dramatic changes that can occur in new construction of less than 750 square feet. At the same time, the value of non-binding reviews in providing a forum, both for property owners and abutters, has been demonstrated. In re-examining the review authority of the original order the Commission also hoped to simplify the language of the order so as to make its provisions clearer to the public.

Initially, the category of non-binding review was eliminated, but in subsequent discussion was reinstated as a major component of the amendments. Advisory reviews provide an opportunity for applicants to review plans with an

experienced group of professionals in architecture, construction, and preservation. Unnecessary or ill-advised construction can be amended and preservation solutions considered. The owner has the benefit of professional advice free of charge, but is not bound by the recommendations of the Commission.

Similarly, abutters have the opportunity to be familiar with proposed changes and to comment on them in advance. In the Commission's experience, one of its most valuable roles has been in negotiating and mediating compromises between applicants and abutters. It is felt that in the neutral forum of the Commission meeting, potentially unpleasant conflicts between applicant and abutter may be resolved in discussions with an objective third party.

Finally, the Commission felt it was critical to limit the time constraints this additional level of review would impose on an applicant. To that end, a shortened notification process which involves posting notice on the subject property forty-eight hours in advance of a meeting was developed.

Non-binding review was proposed for three categories of alteration. The first, for new construction of 150 to 750 square feet of floor area, would cover those projects which might be expected to have an impact on their surroundings but have not previously been reviewed. In practice, the 750 square foot threshold of the original order (and its attendant percentage thresholds of 33% enlargement or new

construction) has been difficult to enforce and is subject to interpretation. Several major construction projects of substantial square footage have gone unreviewed (a carriage house on Leonard Avenue, a house at Broadway and Ellsworth, a house on Line Street) although their additional square footage was close to the thresholds. It was felt that attempts to further define methods of calculating the order's threshold would be needlessly complicated. Institution of an additional layer of review would mean that such projects would at least come into the public process and might potentially benefit from Commission advice.

The provision for review of exterior alterations to structures requiring special permits or variances is included in Article III. It was felt that such projects might be anticipated to generate design issues of concern to abutters which would not be addressed through Zoning Board review. For this reason, this provision was added to the non-binding review category.

The third category of non-binding review addresses the process of incremental loss of character-defining design elements. It was the Commission's position that binding review of such alterations would create an unnecessary burden on property owners.

Seven of the eight members of the Commission concurred in their support of these amendments to the order. The eighth member disagreed that any additional reviews were either necessary or justified and may submit a minority

report stating his position. It is the belief of a majority of the Commission (seven of eight) that instituting non-binding reviews would better meet the objectives of the criteria of the order to 1) encourage new construction which complements existing buildings, 2) encourage preservation of neighborhood buildings, and 3) enhance the economic vitality of the neighborhood. The decision to include non-binding reviews as outlined above was justified on this basis.

Review of past cases indicated that approximately 42% of the applications received between 1986 and 1989 would have been subject to non-binding reviews if the amendments proposed had been in place.

With regard to binding review, only one alteration was made. All other provisions remain as they are in the current order. National Register properties were added to this category with the understanding that these properties are among the district's most significant resources and are, under the present order, highly vulnerable. The review criteria specifically direct the Commission to protect National Register properties. All of the members of the Commission agreed that the exclusion of National Register properties from some form of binding review in the original order was an oversight which required correction. Seven of the eight members concurred that National Register properties should be subject to binding review for any alterations, new construction, or demolition. The eighth member believed that National Register properties should not

be differentiated from other properties in the district. The majority of the Commission (seven of eight) found that protection of National Register properties as mandated in the order would be accomplished through binding review. Of the reviews carried out to date, thirteen (3%) have been for changes to National Register properties.

The other change within the review authority of the Commission was to eliminate special provisions for non-residential properties. In the amended order, non-residential properties would not be differentiated from residential properties. The Commission unanimously supported this alteration. There have been four reviews of alterations to non-residential buildings (.09%).

Section II (membership) was amended so as to allow more than one member of the Historical Commission to serve on the Mid Cambridge Commission. Currently, one of the alternates to the Mid Cambridge Commission is also an alternate to the Historical Commission. There was unanimous support for this amendment.

Section III (review authority) has been editorially restructured so as to be clearer to the reader. There was unanimous support for this amendment.

Section IX (procedure) has been amended as follows. A new paragraph A. has been substituted to cover notifications for non-binding review. Seven of eight members support this amendment.

Section X (appeals) paraphrases the appeals procedure outlined in Article III (Chapter 2.78.240). It replaces a section calling for periodic neighborhood review, the terms of which were fulfilled in 1987. There was unanimous support for this amendment.

Section XI (ordinary maintenance and repair) is taken from Article III (Chapter 2.78.200). It replaces a section requiring a City Council vote for continued designation, the terms of which were fulfilled in 1987. There was unanimous support for this amendment.

APPENDICES

ORDER ESTABLISHING THE MID CAMBRIDGE
NEIGHBORHOOD CONSERVATION DISTRICT COMMISSION

WHEREAS, the procedures set forth in paragraph (4) of Section 2.147(k) of Article XVI of Chapter Two of the General Ordinances of the City of Cambridge (City Ordinance authorizing the establishment of Neighborhood Conservation Districts and establishing procedures and standards) appear to have been satisfied with respect to the designation of a neighborhood conservation district to be known as the "Mid Cambridge Neighborhood Conservation District" having the boundaries set forth on the map hereto attached entitled Mid Cambridge Neighborhood Conservation District, as designated by the Cambridge City Council January 21, 1985 and a report of a study committee and the recommendation of the Historical Commission has been received with regard to the designation of such a district;

NOW, THEREFORE, be it ordained and ordered by the City Council of the City of Cambridge as follows:

1. Designation of Mid Cambridge Neighborhood Conservation District

Pursuant to paragraph (4) of Section 2.147(k) of Article XVI of Chapter Two of the General Ordinances of the City of Cambridge, (designation procedures) there is hereby designated as a neighborhood conservation district the Mid Cambridge Neighborhood Conservation District having the boundaries set forth on the map entitled "Mid Cambridge Neighborhood Conservation District, as designated by the Cambridge City Council (date of this order) (for purposes of this Order, the "District"), which District shall be administered by a commission to be known as the "Mid Cambridge Neighborhood Conservation District Commission" (for purposes of this Order, the "Commission"), appointed by the City Manager pursuant to paragraph (3) of said Section 2.147(k). The reasons for the designation of the District are those set forth in the designation report (for the purposes of this Order, the "Report"), of the study committee and as approved by the Historical Commission with respect to said District, which reasons shall guide the Commission in its administration of the District.

2. Membership

Pursuant to paragraph (3) of Section 2.147(k) (membership requirements), the Mid Cambridge Neighborhood Conservation District shall consist of five members and three alternates appointed by the City Manager and having qualifications as defined in paragraph (3), with the additional requirements that one neighborhood resident member of the Commission shall be a tenant, the neighborhood property owner member shall be a resident of the District, and all alternate members shall be resident property owners of the District. No member of any other appointed board or commission, with the exception of one member of the Cambridge Historical Commission, shall serve on the Commission.

For the purpose of this order a property owner of record may consent to have another adult member of his/her immediate household fill a property owner position on the Commission. Notice of vacancies on the Commission shall be posted at the Office of the City Clerk for at least two weeks prior to any appointment to fill such vacancies.

3. Review Authority

The authority of the Commission shall extend to the following two required categories of review of proposed changes in the District:

A. Any alteration of the exterior of existing Listed National Register structures, structures containing or proposed to contain conforming non-residential uses.

- (1) The alteration(s) is visible from a public street; and
- (2) The alteration(s) involves significant changes in the following features: bay windows, cornice, fascia boards below the cornice including gutter and trim detail, porches, cornerboards, window and door casings, skylights covering more than 1/3 of the visible roof area, all signs except home-occupation signs.

The Commission may make recommendations regarding such alterations which shall not be binding on the applicant.

B. Any activity visible from a public way involving any one of the following:

- (1) Demolition of 33% or more of the floor area of an existing structure not used principally to garage automobiles;
- (2) New construction of more than 750 square feet of floor area including additions to existing structures;
- (3) New construction of structure on more than 33% of the lot area not already occupied by structures;
- (4) Enlargement of the floor area of an existing structure by more than 33%;
- (5) Relocation of an existing structure onto or out of a site;
- (6) Any alteration or construction of a structure containing or proposed to contain nonconforming uses.
- (7) Publicly owned structures.

The Commission may make recommendations regarding such activities which shall be binding on the applicant. Where a review by the Commission is determined by the change in lot area covered by structures or change in the floor area of structures on a lot, such review shall be based upon the cumulative total of such changes in the three years preceding the date of application for a building permit for any such change as determined by certificates of occupancy or zoning compliance or building permits issued and/or still in force during that three year period.

4. Review Criteria to be Considered by the Commission

The Commission shall apply certain criteria in addition to those contained in paragraph (8) of Section 2.147(k) in considering applications for certificates of appropriateness, nonapplicability, and hardship.

A. General Criteria. All applications shall be considered in terms of the impact of the proposed new construction or alteration, relocation or demolition of an existing building on the District as a whole, and in addition with regard to the potential adverse effects of the proposed construction, alteration, relocation or demolition on the surrounding properties and on the immediate streetscape and the economic assessment of the alternatives to the proposed action. General objectives shall be to:

- (1) Avoid excessive infill;
- (2) Encourage new construction which complements existing buildings;
- (3) Encourage preservation of neighborhood buildings; and
- (4) Protect National Register structures, and
- (5) Enhance the economic vitality of the neighborhood.

B. Construction of a New Building and Alterations to Existing Buildings. Review of the design of a proposed new building, relocated building, or applicable alteration of an existing building, shall be made with regard to the compatibility of the building with its surroundings, and the following elements of the project shall be among those considered:

- (1) Site layout;
- (2) Provisions for parking;
- (3) Volume and dimensions of the building;
- (4) Provisions for open space and landscaping;
- (5) The scale of the building in relation to its surroundings; and

- (6) The changes to existing buildings as related to new construction.

C. Demolition or Relocation of an Existing Building. The Commission shall apply the provisions of Section 2.147(k) with regard to the proposed demolition of an existing building, and in addition shall consider the following factors:

- (1) the physical condition of the building;
- (2) a claim of substantial hardship, financial or otherwise for the owner or occupants; and
- (3) the design of the proposed replacement structure, if any.

5. Determination by the Commission

The determinations of the Commission shall be binding regarding activities detailed in paragraph 3B of this order and shall be expressed through the issuance of certificates of appropriateness, nonapplicability or hardship. Any determination may contain such conditions as the Commission determines to be necessary to fulfill the objectives of the District. Such conditions may impose limitations stricter than the applicable zoning regulations only to the extent of a one-third reduction in (1) the additional floor area or (2) additional dwelling units permitted on the site, or a one-third reduction or one-half increase in the number of parking spaces required by zoning, except that in the case of a building damaged by fire that structure may be rehabilitated to its full extent prior to the fire.

In imposing binding conditions with the issuance of a certificate, or in denying a certificate, a concurring vote of at least four (4) of the members of the Commission shall be required.

All determinations which impose restrictions on an applicant shall be in written form stating the findings of facts and the standards and criteria upon which the decision is based, and the reasoning by which the restrictions were found to be necessary. All determinations shall be available for inspection at the office of the Cambridge Historical Commission. In no case shall a building permit be issued until the Commission has made a determination under the provisions of Section 2.147(k) of Article XVI.

6. Education and Incentive Program

The Commission shall, in cooperation with the Cambridge Historical Commission, conduct an ongoing educational program in the district to make known the objectives of the District

and the Commission, to encourage preservation of the District's historical character, and to make available information to advance and encourage voluntary protection of the District's distinctive architecture.

The regulatory provisions of this order shall not take effect until an initial appropriation of \$10,000 to the Cambridge Historical Commission is made by the Cambridge City Council to support such an educational program and further provided that an additional \$5,000 is so appropriated in each subsequent fiscal year. Should the additional funding not be appropriated for any given fiscal year the regulatory provisions of this Order shall not be enforced for any application for a building permit made after July 1 of that fiscal year or until such appropriation is made.

7. Fees

The Commission may establish a schedule of fees which may be mandatory for those activities subject to review under paragraph 3B of this order. All other fees shall be voluntary.

8. Coordination with Other Agencies and Boards

The Board of Zoning Appeal, Board of Appeals, Building Commission, Mid Cambridge Neighborhood Conservation District Commission, and other City boards, agencies, and officials are directed to coordinate all review, hearing, permitting, and other procedures relative to physical changes within the District to the extent practicable, consistent with their respective responsibilities.

9. Procedure

In addition to the provisions of paragraph (8) of Section 2.147(k) of the enabling ordinance, the Commission shall observe the following procedural requirements:

A. The following review periods shall be required for reviews for which recommendations are not binding. (Those alterations detailed in paragraph 3A of this Order.)

- (1) For alterations involving National Register structures, a public meeting if required shall be held within fourteen (14) days of an application for a building permit; final recommendations shall be made to the applicant within twenty-one (21) days.
- (2) For alteration of non-residential buildings a public meeting if required shall be held within twenty-one (21) days of an application for a building permit; recommendations shall be made available within thirty (30) days.

- B. For any review for which the recommendations are binding (those activities detailed in paragraph 3B of this Order) the issuance of the appropriate certificate shall be made within forty-five (45) days of an application for a building permit.
- C. Failure to act within the time periods specified in this paragraph 8 shall mean approval of the application unless an extension of time is granted by the applicant in writing.
- D. Where a public hearing is held by the Commission, notice shall be given to property owners and tenants of property required to receive such notice under Chapter 40C using the current street listing maintained by the Cambridge Election Commission. Such notification shall be considered educational expense under the provisions of Section 6 of this Order.
- E. In addition to any appeal allowed pursuant to Section 2.147(k), the Commission may agree to the appointment of an arbitrator acceptable to both the Commission and the applicant who would make recommendations to both parties where disagreement between the Commission and the applicant persists.
- F. Four members shall constitute a quorum for the Commission.

10. Periodic Neighborhood Review

For the first two years from the date of establishment the Mid-Cambridge Conservation District Commission shall hold a public meeting at six month intervals at which neighborhood residents are invited to review the actions of the Commission, assess its effectiveness in carrying out the intent of this order and make recommendations for changes in its policies and procedures. The Commission shall make a summary of each meeting which shall be filed for public inspection at the Cambridge Historical Commission and filed with the Office of the City Council.

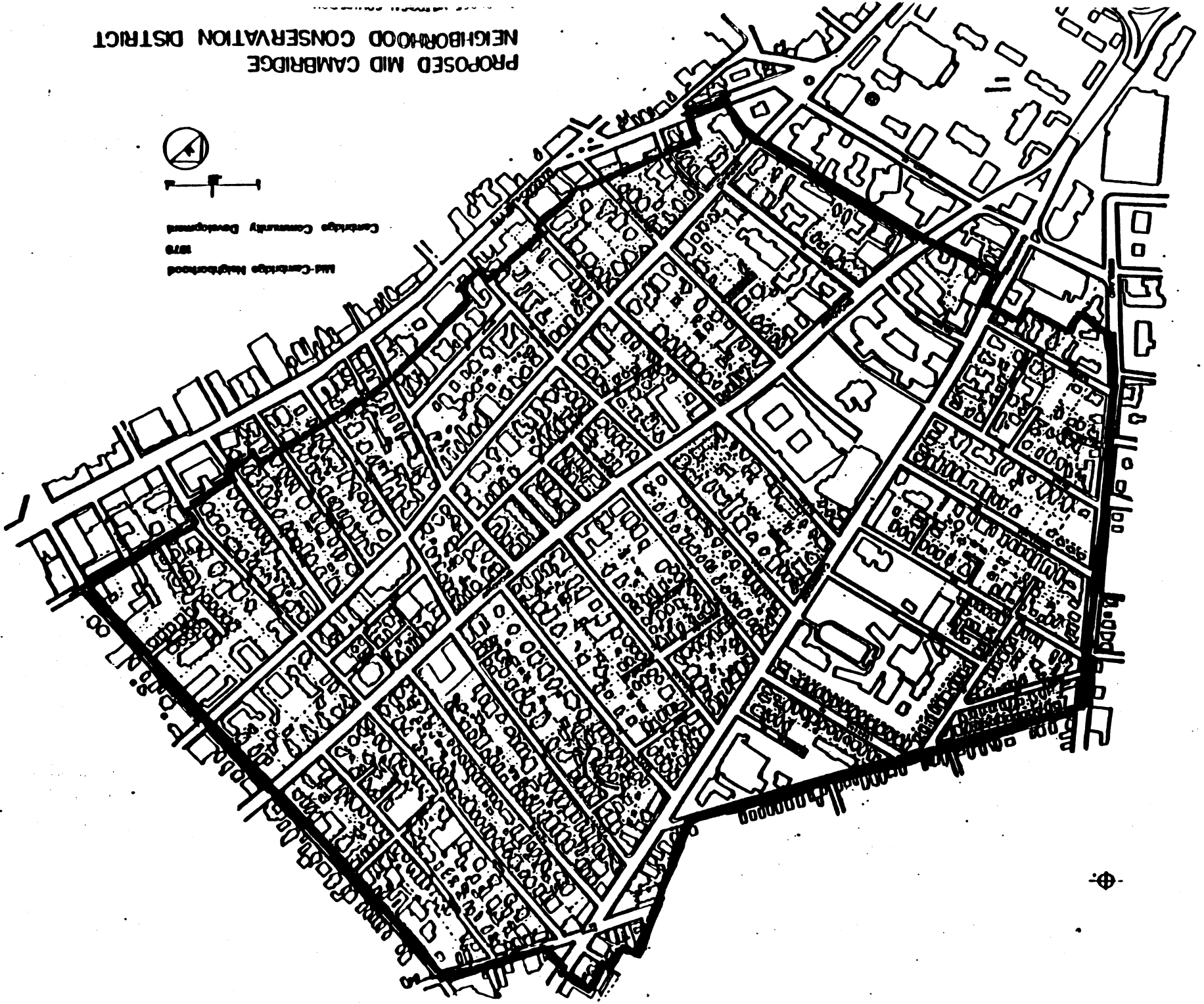
11. Continued Designation

The Mid-Cambridge Neighborhood Conservation District designation made in Section 1 of this Order shall be for a period of two years from the date of adoption of this order. Continuation of the designation of the District for and additional two or more years shall require an affirmative vote of the City Council prior to the expiration of the initial two year designation.

PROPOSED MID CAMBRIDGE
NEIGHBORHOOD CONSERVATION DISTRICT



Mid-Cambridge Neighborhood
1878
Cambridge Community Development



Proposed language for sections to be amended is in bold face.

I. Designation of Mid Cambridge Neighborhood Conservation District

Pursuant to section 2.78.140-270 of Article III of Chapter 2.78 of the General Ordinances of the City of Cambridge (designation procedures), there is hereby designated as a neighborhood conservation district the Mid Cambridge Neighborhood Conservation District having the boundaries set forth on the map entitled "Mid Cambridge Neighborhood Conservation District," as designated by the Cambridge City Council January 21, 1985 (for purposes of this Order, the "District"), which District shall be administered by a commission to be known as the "Mid Cambridge Neighborhood Conservation District Commission" (for purposes of this Order, the "Commission"), appointed by the City Manager pursuant to paragraph (A) of Section 2.78.160. The reasons for the designation of the District are those set forth in the designation report (for purposes of this Order, the "Report"), of the study committee and as approved by the Historical Commission with respect to said District, which reasons shall guide the Commission in its administration of the District.

II. Membership

Pursuant to paragraph (A) of Section 2.78.160 (membership requirements), the Mid Cambridge Neighborhood Conservation District shall consist of five members and three alternates appointed by the City Manager and have qualifications as defined in paragraph (3), with the additional requirements that one neighborhood resident member of the Commission shall be a tenant, the neighborhood property owner member shall be a resident of the District, and all alternate members shall be resident property owners of the District. No member of any other appointed board or commission, with the exception of at least one member of the Cambridge Historical Commission, shall serve on the Commission.

III. Review Authority

The authority of the Commission shall extend to the following two required categories of review of proposed changes in the District:

A. The Commission may make non-binding recommendations for any of the following that are visible from a public way:

1. **New construction, including additions to existing structures, of more than 150 and less than 750 square feet of floor area;**

2. Alteration of the exterior appearance of a structure that requires a variance or special permit under the zoning ordinance then in effect;

3. Alteration involving any of the following:

a. removal or enclosure of any historic or original decorative element, such as a cornice, fascia, soffit, bay, porch, hood, corner-board, window sash, or window or door casing;

b. increase or diminishment of the size and/or change in the location of, windows or doors;

c. increase or diminishment of the slope, pitch, or configuration of a roof or removal of historic or original roofing material.

B. The Commission may make binding recommendations for that portion of any of the following that are visible from a public way:

1. New construction, including additions to existing structures, involving any of the following:

a. more than 750 square feet of floor area;

b. more than 33% of the lot area not already occupied by structures;

c. enlargement of the floor area of an existing structure by more than 33%;

2. Demolition of 33% or more of the floor area of an existing structure not originally used to garage automobiles, including relocation of an existing structure onto or off of a site;

3. Any alteration or construction of the following:

a. structures listed on the National Register of Historic Places, except those subject to Historical Commission review;

b. publicly owned structures;

c. structures containing or proposed to contain non-conforming uses.

Where a review by the Commission is determined by the change in lot area covered by structures or the change in the floor area of structures on a lot, such review shall be based on the cumulative total of such changes in the past three years preceding the date of application for a building permit, as

determined by certificates of occupancy or zoning compliance or building permits issued and/or still in force during that three year period.

IV. Review Criteria to be Considered by the Commission

The Commission shall apply certain criteria in addition to those contained in Section 2.78.220 in considering applications for certificates of appropriateness, nonapplicability, and hardship.

A. General Criteria. All applications shall be considered in terms of the impact of the proposed new construction or alteration, relocation or demolition of an existing building on the District as a whole, and in addition with regard to the potential adverse effects of the proposed construction, alteration, relocation or demolition on the surrounding properties and on the immediate streetscape and the economic assessment of the alternatives to the proposed action.

General objectives shall be to:

1. Avoid excessive infill;
2. Encourage new construction which complements existing buildings;
3. Encourage preservation of neighborhood buildings;
4. Protect National Register structures; and
5. Enhance the economic vitality of the neighborhood.

B. Construction of a New Building and Alterations to Existing Buildings. Review of the design of a proposed new building, relocated building, or applicable alteration of an existing building, shall be made with regard to the compatibility of the building with its surroundings, and the following elements of the project shall be among those considered:

1. site layout;
2. provisions for parking;
3. volume and dimensions of the building;
4. provisions for open space and landscaping;
5. the scale of the building in relation to its surroundings; and
6. the changes to existing buildings as related to new construction.

C. Demolition or Relocation of an Existing Building. The Commission shall apply the provisions of Section 2.147(k) with regard to the proposed demolition of an existing building, and in addition shall consider the following factors:

1. the physical condition of the building;
2. a claim of substantial hardship, financial or otherwise, for the owner or occupants; and
3. the design of the proposed replacement structures, if any.

V. Determinations by the Commission.

The determinations of the Commission shall be binding regarding activities detailed in paragraph 3B of this order and shall be expressed through the issuance of certificates of appropriateness, nonapplicability, or hardship. Any determination may contain conditions as the Commission determines to be necessary to fulfill the objectives of the District. Such conditions may impose limitations stricter than the applicable zoning regulations only to the extent of a one-third reduction in (1) the additional floor area or (2) additional dwelling units permitted on the site, or a one-third reduction or one-half increase in the number of parking spaces required by zoning, except that in the case of a building damaged by fire that structure may be rehabilitated to its full extent prior to the fire.

In imposing binding conditions with the issuance of a certificate, or in denying a certificate, a concurring vote of at least four (4) of the members of the Commission shall be required.

All determinations that impose restrictions on an applicant shall be in written form stating the findings of facts and the standards and criteria upon which the restrictions were found to be necessary. All determinations shall be available for inspection at the office of the Cambridge Historical Commission. In no case shall a building permit be issued until the Commission has made a determination under the provisions of Section 2.78.140-270.

VI. Education and Incentive Program.

The Commission shall, in cooperation with the Cambridge Historical Commission, conduct an ongoing educational program in the district to make known the objectives of the District and the Commission, to encourage preservation of the District's historical character, and to make available

information to advance and encourage voluntary protection of the District's distinctive architecture.

The regulatory provisions of this Order shall not take effect until an initial appropriation of \$10,000 to the Cambridge Historical Commission is made by the City Council to support such an educational program and further provided that an additional \$5,000 is so appropriated in each subsequent fiscal year. Should the additional funding not be appropriated for any given fiscal year the regulatory provisions of this Order shall not be enforced for any application for a building permit made after July 1 of that fiscal year or until such appropriation is made.

VII. Fees.

The Commission may establish a schedule of fees which may be mandatory for those activities subject to review under paragraph III,B of this Order. All other fees shall be voluntary.

VII. Coordination with Other Agencies and Boards.

The Board of Zoning Appeal, Board of Appeals, Building Commission, Mid Cambridge Neighborhood Conservation District Commission, and other City boards, agencies, and officials are directed to coordinate all review, hearing, permitting, and other procedures relative to physical changes within the District to the extent practicable, consistent with their respective responsibilities.

IX. Procedure.

In addition to the provisions of Section 2.78.220 and 2.78.230 of the enabling ordinance, the Commission shall observe the following procedural requirements:

A. For any review for which the recommendations are not binding, as detailed in paragraph III,A of this Order, the Commission shall review the application at a public meeting of the Commission. The Commission shall give not less than forty-eight hours notice of such public meeting by publicly posting such notice in the office of the city clerk. In addition, notice of any meeting provided for in this ordinance shall be given by the Commission to the applicant and to abutters of the subject property and to such other persons and in such manner as the Commission may determine. The Commission may among other forms of notice require that the applicant maintain on the building which is the subject of an application a notice, in a form designated by the Commission, visible from the nearest public way, of any meeting upon the application, and the applicant shall comply with such requirements. Final recommendations shall be made

available to the applicant within thirty (30) days of an application for a certificate.

B. For any review for which the recommendations are binding, as detailed in paragraph III,B of this Order, the issuance of the appropriate certificate shall be made within forty-five (45) days of an application for a certificate.

C. Failure of the Commission to act within the time periods specified in this Section 9 shall mean approval of the application for a certificate and the Commission shall thereupon issue a certificate of hardship unless an extension of time is granted by the applicant in writing.

D. Where a public hearing is held by the Commission, notice shall be given to property owners and tenants of property required to receive such notice under Chapter 40C using the current street listing maintained by the Cambridge Election Commission. Such notification shall be considered educational expense under the provisions of Section 6 of this Order.

E. In addition to any appeal allowed pursuant to Section 2.78.240, the Commission may agree to the appointment of an arbitrator acceptable to both the Commission and the applicant who would make recommendations to both parties where disagreement between the Commission and the applicant persists.

F. Four members shall constitute a quorum for the Commission.

X. Appeals.

Any person aggrieved by a determination of the Commission may appeal to the Cambridge Historical Commission within twenty-one (21) days after the filing of such determination with the City Clerk, as governed by the provisions of Chapter 40C of the Massachusetts General Laws, Section 2.78.240 of the Code of the City of Cambridge, and any regulations promulgated by the Cambridge Historical Commission.

XI. Ordinary Maintenance.

Nothing in this Order shall be construed to prevent the ordinary maintenance, repair, or replacement of any exterior architectural feature of the District which does not involve a change in design or materials or the outward appearance thereof, nor to prevent landscaping with plants, trees, or shrubs, nor construed to prevent the meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition.

2.78.010

Chapter 2.78

HISTORICAL BUILDINGS AND
LANDMARKS

Sections:

Article I. Administration

- 2.78.010 Established—Appointment—
Terms.
- 2.78.020 Powers and duties.
- 2.78.030 Adoption of rules and
regulations.
- 2.78.040 Advisory Committee—
Appointment—
Recommendation.
- 2.78.050 Historic district established.
- 2.78.060 Application for certificate of
appropriateness—Time
limitations.

Article II. Demolition of Buildings Determined
to be Historically Significant

- 2.78.070 Purpose.
- 2.78.080 Definitions for Article II.
- 2.78.090 Procedures for demolition.
- 2.78.100 Application—Publication of
notice.
- 2.78.110 Emergency demolition.
- 2.78.120 Enforcement and remedies.
- 2.78.130 Conflicts with Historic Districts
Act.

Article III. Establishment of Neighborhood
Conservation Districts and Protected
Landmarks

- 2.78.140 Purpose.
- 2.78.150 Definitions for Article III.
- 2.78.160 Neighborhood conservation
district commission—
Established—Membership
requirements.
- 2.78.170 Powers and duties.
- 2.78.180 Designation of landmark
procedures.
- 2.78.190 Review procedures.

- 2.78.200 Maintenance, repair and
reconstruction.
- 2.78.210 Certificates of
appropriateness—
Nonapplicability of hardship.
- 2.78.220 Factors considered by
Commissions.
- 2.78.230 Public meetings and hearings.
- 2.78.240 Appeal procedure.
- 2.78.250 Historical Commission
authority not limited.
- 2.78.260 Limitation on applicability.
- 2.78.270 Enforcement and remedies.

Article I. Administration

- 2.78.010 Established—Appointment—
Terms.

The Cambridge Historical Commission established under the Historic Districts Act, General Laws Chapter 40C, with all the powers and duties of an historic district commission, shall consist of seven members to be appointed by the City Manager with the approval of the Council, including one member from two nominees submitted by the Chapter of the American Institute of Architects covering Cambridge, one member from two nominees submitted by the Boston Society of Landscape Architects, and one member from two nominees of the Board of Realtors covering Cambridge. One or more of the members so appointed shall be a resident of an historic district established in the City pursuant to the Historic Districts Act, and at least one member shall be a lawyer. There shall also be three alternate members also appointed by the Manager with the approval of the Council. The members and the alternate members shall serve for terms of three years and until their successors are appointed and qualified. If within thirty days after submission of a written request for nominees to any of the above-named organizations no such nominations have been submitted, the City Manager may make such appointment without nomination by such organization. No alternate

of the completion of such demolition. As used in this article "premises" refers to the parcel of land upon which the demolished building was located and all adjoining parcels of land under common ownership or control.

C. Securing of Building Required. Upon a determination by the Commission that a building is a preferably preserved significant building, the owner shall be responsible for properly securing the building in compliance with the regulations of the Building Department. Should the owner fail so to secure the building, the loss of such building through fire or other cause shall be considered voluntary demolition for the purposes of subsection B of this section. (Ord. 965 § 7, 1981; Ord. 909 (part), 1978; prior code § 2-147(j) (part))

2.78.130 Conflicts with Historic Districts Act.

Nothing in this article shall be deemed to conflict with the provisions of the Historic Districts Act, General Laws Chapter 40C, with respect to requirements as to notice, hearing and issuance by the Commission of a certificate of appropriateness, a certificate of nonapplicability or a certificate of hardship prior to demolition of any building in an historic district; provided, however, that any temporary building erected or maintained in an historic district pursuant to a certificate issued by the Commission may be demolished in a manner not inconsistent with the terms of such certificate. (Ord. 965 § 6, 1981; Ord. 909 (part), 1978; prior code § 2-147(j) (part))

Article III. Establishment of Neighborhood Conservation Districts and Protected Landmarks

2.78.140 Purpose.

The City Council finds it necessary to enact this article under Section 6 of the Home Rule Amendment in order to preserve, conserve and protect the beauty and heritage of the City and to improve the quality of its environment through

identification, conservation and maintenance of neighborhoods, areas, sites and structures which constitute or reflect distinctive features of the architectural, cultural, political, economic or social history of the City; to resist and restrain environmental influences adverse to this purpose; to foster appropriate use and wider public knowledge and appreciation of such neighborhoods, areas or structures; and by furthering these purposes to promote the public welfare by making the City a more attractive and desirable place in which to live and work. To achieve these purposes, the City may designate neighborhood conservation districts and landmarks to be administered as set forth in this article. (Ord. 1002 (part), 1983; prior code § 2-147(k) (1))

2.78.150 Definitions for Article II.

In addition to the terms defined in Section 2.78.080 of this chapter, the following terms, when used whether or not capitalized in this subsection, shall have the meanings set forth in this section, unless the context otherwise requires:

A. "Demolition" means the act of pulling down, destroying, removing or razing structures, or commencing the work of total or substantial destruction with the intent of completing the same.

B. "Exterior architectural features" means and includes such portion of the exterior of a structure as is open to view from a public street, way, park or body of water, including but not limited to the architectural style and general arrangement and setting thereof, the kind, material and texture of exterior building materials, and the type and style of windows, doors, lights, signs and other appurtenant exterior fixtures.

C. "Historic district" means an area so established under the authority of Chapter 40C of the General Laws.

D. "Landmark" means any property within the City so designated in accordance with Section 2.78.180 of this article.

E. "Neighborhood conservation district"

means any area within the City so designated in accordance with Section 2.78.180 of this article.

F. "Neighborhood conservation district commission" or "district commission" means a commission provided for by Section 2.78.160 of this article.

G. "Structure" means a combination of materials including a building, sign, fence, wall, terrace, walk, driveway, street, bridge, statue, monument or other manmade feature. (Ord. 1002 (part), 1983: prior code § 2-147(k) (2))

2.78.160 Neighborhood conservation district commission—Established—Membership requirements.

A. Upon designation as provided in Section 2.78.180 of this article of any neighborhood conservation district, and unless the designation provides that the Historical Commission itself shall exercise authority with respect thereto, the City Manager shall appoint a neighborhood conservation district commission to consist of five members and three alternates. The members shall include three residents of the neighborhood, not less than two of whom shall be homeowners; one neighborhood property owner (who may or may not be a neighborhood homeowner); and one member or alternate of the Cambridge Historical Commission. The three alternates shall all be neighborhood property owners. The neighborhood conservation district commission shall act solely in the exercise of those functions described in this article which are applicable to the district under its administration.

B. Any member or alternate of the Historical Commission may be appointed to a neighborhood conservation district commission for a term coterminous with such person's term as a member or alternate of the Historical Commission. Members and alternates of a neighborhood conservation district commission who are not members of the Historical Commission shall by reason of experience or education have demonstrable knowledge and concern for improve-

ment, conservation and enhancement of the district, and at least two of the members or alternates shall have professional qualifications related to real estate or architecture or historic preservation. The members of the Commission shall be appointed by the City Manager with regard to the diverse viewpoints expressed in the creation of the district. Such members shall serve for a term of three years, except that the initial appointments shall be for one member to serve one year and one member to serve two years, and vacancies shall be filled for the unexpired term of office. Each member and alternate shall continue in office after expiration of his or her term until a successor is duly appointed and qualified, except that no member shall serve more than two consecutive terms.

C. The neighborhood conservation district commission shall elect annually a Chairman and Vice-Chairman from its own number. In the case of absence, inability to act, or unwillingness to act because of self-interest on the part of a member, his or her place shall be taken by an alternate member designated by the Chairman, if available, otherwise by the Vice-Chairman if available, otherwise by a majority vote of the members and alternate members of the Commission present. The person exercising the function of Executive Director of the Historical Commission shall serve as secretary of each neighborhood conservation district commission. Persons serving as members or alternate members of a neighborhood conservation district commission shall, as a result of such service, be considered as "special municipal employees" for purposes of Chapter 268A of the General Laws. (Ord. 1002 (part), 1983: prior code § 2-147(k) (3))

2.78.170 Powers and duties.

The Historical Commission and each neighborhood conservation district commission shall have like powers, functions and duties with respect to each landmark and neighborhood conservation district over which it has jurisdiction as is provided Historic District Commissions under

clauses (a) through (g) under Section 10 of Chapter 40C of the General Laws with respect to historic districts, including without limitation with respect to the approval and disapproval of certificates of appropriateness, nonapplicability and hardship, the dating and signing of such certificates, the keeping of records and adoption of rules and regulations, the filing with the City Clerk and Building Department of certificates and determinations of disapproval by it, and the determination of designs of appurtenances (excluding colors) which will meet the requirements of the landmark or neighborhood conservation district. (Ord. 1002 (part), 1983: prior code § 2-147(k) (9))

2.78.180 Designation of landmark procedures.

A. The Historical Commission by majority vote may recommend for designation as a landmark any property within the City being or containing a place, structure, feature or object which it determines to be either (1) importantly associated with one or more historic persons or events, or with the broad architectural, aesthetic, cultural, political, economic or social history of the City or the Commonwealth or (2) historically or architecturally significant (in terms of period, style, method of construction or association with a famous architect or builder) either by itself or in the context of a group of structures; may recommend for designation as a neighborhood conservation district any area within the City containing places and structures which it determines are of importance to the architectural, aesthetic, cultural, political, economic or social history of the City, and which considered together cause such area to constitute a distinctive neighborhood or to have a distinctive character in terms of its exterior features; and may recommend amendments to any designation of landmark or neighborhood conservation district theretofore made.

B. Prior to the recommendation of designation or amendment of designation of any land-

mark or neighborhood conservation district an investigation and report on the historical, architectural and other relevant significance thereof shall be made. The report shall recommend the boundaries of any proposed landmark or neighborhood conservation district and shall recommend for incorporation in the order of the City Council designating each landmark or neighborhood conservation district general and/or specific standards and appropriate criteria consistent with the purposes of this article and the provisions of Section 2.78.190 of this article that are to be applied in making any determination of the type referred to in Sections 2.78.170, 2.78.210 and 2.78.220 of this article, with respect to the designated landmark or within the designated neighborhood conservation district.

C. In the case of a landmark, the report shall be prepared by the Historical Commission. In the case of a neighborhood conservation district, the report shall be prepared by a study committee consisting of three members or alternates of the Historical Commission and four persons appointed by the City Manager, including at least one person who resides in the district under consideration, at least one person who owns property in the district under consideration, and one person who owns property or resides elsewhere in the City and has demonstrated knowledge and concern for conservation and enhancement of those exterior features of the City which are important to its distinctive character.

D. Any ten registered voters of the City may petition that the Historical Commission initiate, or the Historical Commission on its own may initiate, the process of designating a landmark or neighborhood conservation district or amending or rescinding any such designation theretofore made. The Commission shall within forty-five days following the filing of such request or petition hold a preliminary hearing and arrange for the preparation of a report and, if required, request the appointment of a study committee. The Historical Commission shall not reconsider

a proposed designation, amendment or rescission of designation within one year of its previous hearing thereon, unless two-thirds of all its members vote to do so. No less than forty-five nor more than sixty days after the transmittal of a report to the Commission pertaining to a proposed designation, the Commission shall hold a public hearing. The Commission shall give not less than fourteen days notice of such public hearing by publication in a newspaper of general circulation in the City and by mailing notice thereof to the owner of the proposed landmark and to every owner abutting the proposed landmark or within the proposed neighborhood conservation district, each such owner to be determined from the then current records of the Assessing Department, and to the City Manager, the Planning Board and the City Clerk.

E. Prior to the public hearing, the Commission shall transmit copies of the report to the Planning Board for its consideration and recommendations.

F. The recommendation of the Historical Commission with regard to any designation, amendment or rescission shall be transmitted to the City Manager and to the City Clerk with a copy of the approved designation report. Designation of a landmark or a neighborhood conservation district or amendment or rescission of designation shall be by order of the City Council. In the case of a designation, the order shall include a statement of the reasons for such designation and a statement of standards which the Historical Commission or neighborhood conservation district commission is to apply under Sections 2.78.170 and 2.78.190 through 2.78.220 of this article.

G. No designation, amendment or rescission of designation shall become effective until a map setting forth the boundaries of the landmark or neighborhood conservation district or change in the boundaries thereof, has been filed with the City Council and has been recorded with the Registry of Deeds for the South District of the County.

H. If the order establishing or amending a neighborhood conservation district contains provisions for both regulatory and educational/incentive programs, the regulatory provisions of the order shall not be effective unless and until the educational/incentive provisions of the order are funded. (Ord. 1009A (part), 1984; Ord. 1002 (part), 1983; prior code § 2-147(k) (4))

2.78.190 Review procedures.

A. Except as the order designating or amending a landmark or neighborhood conservation district may otherwise provide in accordance with this article, the Historical Commission or neighborhood conservation district commission having jurisdiction shall review all construction, demolition or alteration that affects the exterior architectural features, other than color, of any landmark or within any neighborhood conservation district.

B. The order designating or amending a landmark or neighborhood conservation district may provide that the authority of the Historical Commission or neighborhood conservation district commission having jurisdiction shall not extend to the review of one or more of the following categories of structures or exterior architectural features of the landmark or within the neighborhood conservation district in which event the structures or exterior architectural features so excluded may be constructed or altered without review by the Commission:

1. The application of exterior wall material in a manner that does not require the removal or enclosure of any cornice, fascia, soffit, bay, porch, hood, window or door casing, or any other protruding decorative element;
2. Alternations to the exterior of existing structures that do not increase or diminish the size and location of windows and doors, cause the removal of any bay, porch, hood, window or door casing or any other protruding decorative element, or alter the appearance of a roof;
3. The exterior appearance of a new structure

that does not require a variance or special permit under the zoning ordinance then in effect;

4. Signs, temporary structures, lawn statuary, or recreational equipment, subject to such conditions as to duration of use, dimension, location, lighting, removal and similar matters as the Commission may reasonably specify;

5. Terraces, walks, driveways, sidewalks and similar structures substantially at grade level;

6. Walls and fences;

7. Storm doors and windows, screens, window air conditioners, lighting fixtures, antennae, trelliswork and similar appurtenances.

C. The Historical Commission or a neighborhood conservation district commission may determine from time to time after a public hearing that certain categories of exterior architectural features or structures, including, without limitation, any of those enumerated in this section, if the provisions of the applicable order do not limit the authority of such commission with respect thereto, may be constructed or altered without review by such commission without causing substantial derogation from the intent and purposes of this article.

D. If the order establishing or amending a neighborhood conservation district provides, the determination of a neighborhood conservation district commission shall be binding only with regard to applications to construct a new building, to demolish an existing structure if a demolition permit is required, to construct a parking lot as a principal use, and to construct an addition to an existing structure that would increase its gross floor area, and in all other cases the determinations of a commission shall be advisory only and not binding on an applicant. In no case shall a building permit be issued until the commission has made a determination under the applicable provisions of this article. (Ord. 1002 (part), 1983: prior code § 2-147(k) (5))

2.78.200 Maintenance, repair and reconstruction.

Nothing in this chapter shall be construed to

prevent the ordinary maintenance, repair or replacement of any exterior architectural feature of a landmark or within a neighborhood conservation district which does not involve a change in design or material or the outward appearance thereof, nor to prevent landscaping with plants, trees or shrubs, nor construed to prevent the meeting of requirements certified by duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition, not construed to prevent any construction or alteration under a permit duly issued prior to the effective date of the order which designates that landmark or district, nor construed to prevent the reconstruction, substantially similar in exterior design, of a structure or exterior architectural feature damaged or destroyed by fire, storm or other disaster, provided such reconstruction is begun within one year thereafter and carried forward with due diligence. (Ord. 1002 (part), 1983: prior code § 2-147(k) (6))

2.78.210 Certificates of appropriateness— Nonapplicability of hardship.

A. Except as the order establishing or amending a landmark or neighborhood conservation district may otherwise provide, no structure designated a landmark or within a neighborhood conservation district shall be constructed or altered in any way that affects exterior architectural features unless the Historical Commission or neighborhood conservation district commission having jurisdiction shall first have issued a certificate of appropriateness, a certificate of nonapplicability or a certificate of hardship with respect to such construction or alteration.

B. Any person who desires to obtain a certificate from the Historical Commission or neighborhood conservation district commission shall file with the Commission an application for a certificate of appropriateness, a certificate of nonapplicability or a certificate of hardship, as the case may be, in such form as the commission may reasonably determinate, together with such plans, elevations, specifications, material and

other information, including in the case of demolition or removal a statement of the proposed condition and appearance of the property thereafter, as may be reasonably deemed necessary by the Commission to enable it to make a determination on the application.

C. No building permit for alteration of an exterior architectural feature of a landmark or construction of a structure or for alteration of an exterior architectural feature within a neighborhood conservation district and no demolition permit for demolition or removal of a landmark or of a structure within a neighborhood conservation district shall be issued by the City or any department thereof until the certificate required by this article has been issued by the Historical Commission or neighborhood conservation district commission having jurisdiction. (Ord. 1002 (part), 1983: prior code § 2-147(k) (7))

2.78.220 Factors considered by Commissions.

A. In passing upon matters before it, the Historical Commission or neighborhood conservation district commission shall consider, among other things, the historic and architectural value and significance of the site or structure, the general design, arrangement, texture and material of the features involved, and the relation of such features to similar features of structures in the surrounding area. In the case of new construction or additions to existing structures a commission shall consider the appropriateness of the size and shape of the structure both in relation to the land area upon which the structure is situated and to structures in the vicinity, and a Commission may in appropriate cases impose dimensional and setback requirements in addition to those required by applicable provision of the zoning ordinance. A Commission shall not consider interior arrangements or architectural features not subject to public view.

B. A Commission shall not make any recommendation or requirement except for the purpose of preventing developments incongruous to the historic aspects, architectural significance or

the distinctive character of the landmark or neighborhood conservation district. (Ord. 1002 (part), 1983: prior code § 2-147(k) (8))

2.78.230 Public meetings and hearings.

The Historical Commission and each neighborhood conservation district commission shall adopt rules for the reasonable conduct of its meetings and public hearings, which rules shall not be inconsistent with the procedures provided for meetings of and hearings by historic district commissions under Section 11 of Chapter 40C of the General Laws; and in the absence of the adoption of any such rules, meetings and public hearings of the Historical Commission and of each neighborhood conservation district commission shall be in conformity with the provisions of Section 11 of Chapter 40C applicable to historic district commissions. (Ord. 1002 (part), 1983: prior code § 2-147(k) (10))

2.78.240 Appeal procedure.

Any person aggrieved by a designation of a landmark or district may appeal to the superior court within thirty days after such designation. Any applicant aggrieved by a determination of a neighborhood conservation district commission or ten registered voters of the City opposing a determination under this article may appeal to the Historical Commission within twenty days after the filing of the notice of such determination with the City Clerk. The Historical Commission may overrule the determination and return it for reconsideration consistent with that finding. If the applicant is aggrieved by the determination of the Historical Commission, or if action is not taken by the Historical Commission within thirty days of filing for review, the applicant may appeal to the superior court. Appeal from a Historical Commission determination shall be taken within thirty days of the formal decision; appeal from a failure to act shall be taken within sixty days after the filing for review. The superior court may reverse a determination if it is not supported by substantial evidence in the record.

In all other respects, the appeal shall be made in the same manner as provided under Section 12A of Chapter 40C of the General Laws. (Ord. 1002 (part), 1983: prior code § 2-147(k) (11))

2.78.250 Historical Commission authority not limited.

No provisions of this article shall alter or diminish the duties and functions of the Historical Commission under the authority of Chapter 40, Section 8D and Chapter 40C of the General Laws, or apply to any historic district currently administered by such commission, or restrict the establishment of any future historic district under Chapter 40C of the General Laws. (Ord. 1002 (part), 1983: prior code § 2-147(k) (13))

2.78.260 Limitation on applicability.

The provisions of Article II of this chapter (relative to procedures for demolition permits for significant buildings) shall not be applicable with respect to the demolition of any structure within a neighborhood conservation district if the appropriate neighborhood conservation district commission has issued a certificate of appropriateness or a certificate of hardship permitting the demolition of such structure. (Ord. 1002 (part), 1983: prior code § 2-147(k) (14))

2.78.270 Enforcement and remedies.

The Historical Commission and any neighborhood conservation district commission are each specifically authorized to institute any and all actions, proceedings in law and in equity, as they deem necessary and appropriate to obtain compliance with the requirements of this article or to prevent a threatened violation thereof. Any violation of any provision of this article may be punished to the like extent provided in Section 13 of Chapter 40C of the General Laws for a violation of said Chapter 40C. In addition to the foregoing, no building permit shall be issued, with respect to any premises upon which a landmark or a structure within any neighborhood conservation district has been voluntarily

demolished otherwise than pursuant to a certificate granted after compliance with the provisions of this article, for a period of two years after the date of the completion of such demolition (the word "premises" for the purposes of this sentence referring to the parcel of land upon which the demolished structure was located and all adjoining parcels of land under common ownership or control.) (Ord. 1002 (part), 1983: prior code § 2-147(k) (12))

COMMENT GROUP FOR MID CAMBRIDGE AMENDMENTS

Original Study Committee Members

Robert Campbell
Catherine Hanley
John Campbell
Alan Kaufman
William King
Joseph Sakey

Working Group Members

John Hudson
Jeremy Moskow
George Metzger
William Doebele
Wanda Koetz

City Officials

Michael Rosenberg, CDD
Eileen Woodford, CDD
Catherine Woodbury, CDD
Les Barber, CDD (Planning Board)
Mel Gadd, ZBA
Ranjit Singanayagam, ISD, ZBA
Charles Sullivan, CHC

Interested Parties

John Pitkin, MCNA
Robert Lewis, Chamber of Commerce
Brendan Noonan, Small Business Committee
Kathy Spiegelman, Harvard Planning Group
David Sullivan
Hugh Russell
Joan Lorentz

APPENDIX E

National Register-listed properties in the Mid Cambridge NCD

Atwood, Ephraim House	110 Hancock Street
Bigelow Street Historic District	
Bradley, William F. House	369 Harvard Street
Brooks, Luther House	34 Kirkland Street
Cambridge Public Library	449 Broadway
1707-1709 Cambridge Street	same
1715-1717 Cambridge Street	same
Colburn, Sarah Foster House	7 Dana Street
Deane-Williams House	21-23 Fayette Street
Fay, Isaac House	123 Antrim Street
Gale, George House	14-16 Clinton Street
104-106 Hancock Street	same
Hapgood, Richard House	382-392 Harvard Street
Harvard Street Historic District	
Inman Square Historic District	
102-104 Inman Street	same
106-108 Inman Street	same
110-112 Inman Street	same
Jones, William R. House	307 Harvard Street
15-17 Lee Street	same
Lovering, Joseph House	38 Kirkland Street
Maple Avenue Historic District	
Melvin, Isaac House	19 Centre Street
Old Cambridge Baptist Church	398 Harvard Street
Opposition House	2-4 Hancock Street
16 Prescott Street	same
Prospect Congregational	99 Prospect Street
The Stanstead	19 Ware Street
Stickney-Shepard House	11-13 Remington Street
Vinal, Albert House	325 Harvard Street
Ware Hall	383 Harvard Street

Appendix F

Attendees of Public Information Meetings

Jeremy Moskow	14 Remington Street	opposed
Joseph Sakey	449 Broadway	supports
Joan Lorentz	419 Broadway	supports
Bill Doebele	68 Dana Street	no comment
John Pitkin	18 Fayette Street	supports
Liza Malenfant	10 Dana Street	supports
Ted Hansen	39 Dana Street	supports
David Chilinski	221 Hampshire St	no comment
Gary Mitchell	1334 Cambridge St	no comment
Lansing Fair	1221 Cambridge St	supports
Francis Burns	Burns Funeral	no comment
George Bossarte	353 Broadway	supports
Mary Alexander	xx Inman Street	supports
George Alexander	"	supports
June Sullivan	(no address)	supports
Erin Sullivan	"	supports
John Baez	"	supports
Susan Cleary	14 Concord Avenue	no comment
Ken Lynch	3 West Place	supports
Bob Carey	4 Emmons Place	opposed
Charles Sage	Sage's Grocery	no comment
Takako Salvi	123 Hancock St	no comment
Mary Foley	1 Crawford St	no comment
Antoine Wormilu	25 1/2 Magnolia	no comment
David Szlag	74 Ellery Street	no comment
Mario Torroella	17 Myrtle Ave	opposed
Hugh Russell	1 Corliss Place	supports

Phone Contacts

Celia Somervell	1717 Cambridge St	supports
Jan Lulu	357 Harvard St	supports
Sue Rollow	14 Clinton St	supports
Bernard Smith	no address	no comment
Mary White	1 Dana Street	no comment
Bill Zamparelli	ComEnergy	no comment
Stanley Deser	no address	no comment
Ciba Vaughan	1 Emmons Place	no comment
Elizabeth Kline	25 Kirkland Place	supports
Frances Quint	55 Lee Street	supports
Paul Rishell	25 Highland St	supports
Jeanne Willig	54 Lee Street	supports

Information Sheet for Mid Cambridge Property Owners

For several months, the Mid Cambridge Neighborhood Conservation District Commission has been considering the possibility of proposing amendments to its order, originally adopted by the City Council in 1985 to review new construction and demolition in the Mid Cambridge neighborhood. The Commission has reviewed its purpose statement as well as its case history of applications and identified several areas where changes in the current procedures may be warranted.

Specifically, the Commission is considering the following:

- adopting binding review for all alterations to properties listed on the National Register of Historic Places (current reviews are non-binding);
- amending commercial property reviews from their present non-binding status to be subject to the same reviews as all other properties in the district; and
- instituting non-binding reviews for several lesser categories of change, which are not now reviewed, including:
 - *new construction of between 150 and 750 square feet;
 - *exterior alterations that require a variance or special permit;
 - *exterior alterations that require removing or enclosing historic or original decorative materials, or changes in doors, windows, or rooflines.

This proposal is still under discussion. Public comments will be taken at a public meeting April 22. If there is support for the changes, a study report will be prepared and submitted to the Cambridge Historical Commission. A public hearing would then be held, to which all property owners would receive written notification. In order to be adopted, a majority of the City Council members would have to approve the amendments.

Questions and Answers

My house needs some maintenance work (new porch steps and rails, gutters and downspouts, and a paint job); will I need to get the Commission's permission?

Ordinary maintenance and repair such as described above is NOT subject to a public hearing. Such work would receive a Certificate of Non-Applicability from the Commission in a staff level review that takes five minutes and is completed at the same time as a standard building permit review now in place city-wide.

PAINT COLORS ARE NEVER SUBJECT TO REVIEW!!

About 60% of the applications received by the Commission in the past have been for ordinary maintenance and repair. This would not change if the proposed amendments were adopted.

Suppose I want to add dormers to my house or change the windows?

Additions or alterations that add more than 150 square feet of floor area to a house, or that involve a change in the sizes of window openings would be part of a non-binding review process if the amendments were adopted. If the floor areas are smaller or the change does not involve enlarging or reducing the window size or removing original trim elements, a Certificate of Non-Applicability would be issued by the staff as outlined in the first question.

If a non-binding review is required, the case would be heard at the next meeting of the NCD Commission. In the interest of streamlining the time constraints for the property owner, the normal two-week notice period for public hearings would be eliminated. A shortened, two-day notice would be posted on the subject property and the application would be reviewed at the Commission's normal public meeting, which takes place once a month.

The property owner would NOT be required to abide by the Commission's decisions in non-binding cases. The non-binding review is intended to allow for open discussion of changes to a building and to make suggestions about ways of preserving its historic features.

Why is the Commission amending its order?

After six years of operation, the Commission undertook a review of its activity to date. They found that several areas of review seemed to be working well and some could use improvement. Two of the order's original objectives, in particular, were not well-addressed in the current review structure. First, National Register properties, now under non-binding review, were at risk. Second, neighborhood buildings were, by and large, excluded from any preservation considerations.

Only 8% of the applications reviewed by the staff between 1986 and 1990 required further Commission review. If the proposed amendments were adopted, about 40% of the applications reviewed would come before the Commission, 30% of them for non-binding review. Non-binding review has proven to be a useful opportunity for property owners and abutters to share viewpoints and for the Commission to lend its expertise on design and construction matters.



OFFICE OF THE CITY CLERK

CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 349-4260

TO: The Honorable, The City Council

FROM: Margaret Drury^{MD}, Temporary City Clerk

DATE: June 5, 1992

SUBJECT: Proposed Amendments to the Mid Cambridge Neighborhood Conservation District

Under Chapter 2.78 Article III of the Code of the City of Cambridge, neighborhood conservation districts are established and amended by City Council order, rather than by ordinance. The Final Study Report proposes amendments to the 1985 Council Order establishing the Mid Cambridge Neighborhood Conservation District. If the City Council wishes to enact the proposed amendments, it may do so by adopting the proposed amended order set forth in Appendix B of the June 28, 1991 Final Study Report for Amending the Order of the Mid Cambridge Neighborhood Conservation District.

Proposed language for sections to be amended is in bold face.

I. Designation of Mid Cambridge Neighborhood Conservation District

Pursuant to section 2.78.140-270 of Article III of Chapter 2.78 of the General Ordinances of the City of Cambridge (designation procedures), there is hereby designated as a neighborhood conservation district the Mid Cambridge Neighborhood Conservation District having the boundaries set forth on the map entitled "Mid Cambridge Neighborhood Conservation District," as designated by the Cambridge City Council January 21, 1985 (for purposes of this Order, the "District"), which District shall be administered by a commission to be known as the "Mid Cambridge Neighborhood Conservation District Commission" (for purposes of this Order, the "Commission"), appointed by the City Manager pursuant to paragraph (A) of Section 2.78.160. The reasons for the designation of the District are those set forth in the designation report (for purposes of this Order, the "Report"), of the study committee and as approved by the Historical Commission with respect to said District, which reasons shall guide the Commission in its administration of the District.

II. Membership

Pursuant to paragraph (A) of Section 2.78.160 (membership requirements), the Mid Cambridge Neighborhood Conservation District shall consist of five members and three alternates appointed by the City Manager and have qualifications as defined in paragraph (3), with the additional requirements that one neighborhood resident member of the Commission shall be a tenant, the neighborhood property owner member shall be a resident of the District, and all alternate members shall be resident property owners of the District. No member of any other appointed board or commission, with the exception of at least one member of the Cambridge Historical Commission, shall serve on the Commission.

III. Review Authority

The authority of the Commission shall extend to the following two required categories of review of proposed changes in the District:

A. The Commission may make non-binding recommendations for any of the following that are visible from a public way:

1. **New construction, including additions to existing structures, of more than 150 and less than 750 square feet of floor area;**

2. Alteration of the exterior appearance of a structure that requires a variance or special permit under the zoning ordinance then in effect;

3. Alteration involving any of the following:

a. removal or enclosure of any historic or original decorative element, such as a cornice, fascia, soffit, bay, porch, hood, corner-board, window sash, or window or door casing;

b. increase or diminishment of the size and/or change in the location of, windows or doors;

c. increase or diminishment of the slope, pitch, or configuration of a roof or removal of historic or original roofing material.

B. The Commission may make binding recommendations for that portion of any of the following that are visible from a public way:

1. New construction, including additions to existing structures, involving any of the following:

a. more than 750 square feet of floor area;

b. more than 33% of the lot area not already occupied by structures;

c. enlargement of the floor area of an existing structure by more than 33%;

2. Demolition of 33% or more of the floor area of an existing structure not originally used to garage automobiles, including relocation of an existing structure onto or off of a site;

3. Any alteration or construction of the following:

a. structures listed on the National Register of Historic Places, except those subject to Historical Commission review;

b. publicly owned structures;

c. structures containing or proposed to contain non-conforming uses.

Where a review by the Commission is determined by the change in lot area covered by structures or the change in the floor area of structures on a lot, such review shall be based on the cumulative total of such changes in the past three years preceding the date of application for a building permit, as

determined by certificates of occupancy or zoning compliance or building permits issued and/or still in force during that three year period.

IV. Review Criteria to be Considered by the Commission

The Commission shall apply certain criteria in addition to those contained in Section 2.78.220 in considering applications for certificates of appropriateness, nonapplicability, and hardship.

A. General Criteria. All applications shall be considered in terms of the impact of the proposed new construction or alteration, relocation or demolition of an existing building on the District as a whole, and in addition with regard to the potential adverse effects of the proposed construction, alteration, relocation or demolition on the surrounding properties and on the immediate streetscape and the economic assessment of the alternatives to the proposed action.

General objectives shall be to:

1. Avoid excessive infill;
2. Encourage new construction which complements existing buildings;
3. Encourage preservation of neighborhood buildings;
4. Protect National Register structures; and
5. Enhance the economic vitality of the neighborhood.

B. Construction of a New Building and Alterations to Existing Buildings. Review of the design of a proposed new building, relocated building, or applicable alteration of an existing building, shall be made with regard to the compatibility of the building with its surroundings, and the following elements of the project shall be among those considered:

1. site layout;
2. provisions for parking;
3. volume and dimensions of the building;
4. provisions for open space and landscaping;
5. the scale of the building in relation to its surroundings; and
6. the changes to existing buildings as related to new construction.

C. Demolition or Relocation of an Existing Building. The Commission shall apply the provisions of Section 2.147(k) with regard to the proposed demolition of an existing building, and in addition shall consider the following factors:

1. the physical condition of the building;
2. a claim of substantial hardship, financial or otherwise, for the owner or occupants; and
3. the design of the proposed replacement structures, if any.

V. Determinations by the Commission.

The determinations of the Commission shall be binding regarding activities detailed in paragraph 3B of this order and shall be expressed through the issuance of certificates of appropriateness, nonapplicability, or hardship. Any determination may contain conditions as the Commission determines to be necessary to fulfill the objectives of the District. Such conditions may impose limitations stricter than the applicable zoning regulations only to the extent of a one-third reduction in (1) the additional floor area or (2) additional dwelling units permitted on the site, or a one-third reduction or one-half increase in the number of parking spaces required by zoning, except that in the case of a building damaged by fire that structure may be rehabilitated to its full extent prior to the fire.

In imposing binding conditions with the issuance of a certificate, or in denying a certificate, a concurring vote of at least four (4) of the members of the Commission shall be required.

All determinations that impose restrictions on an applicant shall be in written form stating the findings of facts and the standards and criteria upon which the restrictions were found to be necessary. All determinations shall be available for inspection at the office of the Cambridge Historical Commission. In no case shall a building permit be issued until the Commission has made a determination under the provisions of Section 2.78.140-270.

VI. Education and Incentive Program.

The Commission shall, in cooperation with the Cambridge Historical Commission, conduct an ongoing educational program in the district to make known the objectives of the District and the Commission, to encourage preservation of the District's historical character, and to make available

information to advance and encourage voluntary protection of the District's distinctive architecture.

The regulatory provisions of this Order shall not take effect until an initial appropriation of \$10,000 to the Cambridge Historical Commission is made by the City Council to support such an educational program and further provided that an additional \$5,000 is so appropriated in each subsequent fiscal year. Should the additional funding not be appropriated for any given fiscal year the regulatory provisions of this Order shall not be enforced for any application for a building permit made after July 1 of that fiscal year or until such appropriation is made.

VII. Fees.

The Commission may establish a schedule of fees which may be mandatory for those activities subject to review under paragraph III,B of this Order. All other fees shall be voluntary.

VII. Coordination with Other Agencies and Boards.

The Board of Zoning Appeal, Board of Appeals, Building Commission, Mid Cambridge Neighborhood Conservation District Commission, and other City boards, agencies, and officials are directed to coordinate all review, hearing, permitting, and other procedures relative to physical changes within the District to the extent practicable, consistent with their respective responsibilities.

IX. Procedure.

In addition to the provisions of Section 2.78.220 and 2.78.230 of the enabling ordinance, the Commission shall observe the following procedural requirements:

A. For any review for which the recommendations are not binding, as detailed in paragraph III,A of this Order, the Commission shall review the application at a public meeting of the Commission. The Commission shall give not less than forty-eight hours notice of such public meeting by publicly posting such notice in the office of the city clerk. In addition, notice of any meeting provided for in this ordinance shall be given by the Commission to the applicant and to abutters of the subject property and to such other persons and in such manner as the Commission may determine. The Commission may among other forms of notice require that the applicant maintain on the building which is the subject of an application a notice, in a form designated by the Commission, visible from the nearest public way, of any meeting upon the application, and the applicant shall comply with such requirements. Final recommendations shall be made

available to the applicant within thirty (30) days of an application for a certificate.

B. For any review for which the recommendations are binding, as detailed in paragraph III,B of this Order, the issuance of the appropriate certificate shall be made within forty-five (45) days of an application for a certificate.

C. Failure of the Commission to act within the time periods specified in this Section 9 shall mean approval of the application for a certificate and the Commission shall thereupon issue a certificate of hardship unless an extension of time is granted by the applicant in writing.

D. Where a public hearing is held by the Commission, notice shall be given to property owners and tenants of property required to receive such notice under Chapter 40C using the current street listing maintained by the Cambridge Election Commission. Such notification shall be considered educational expense under the provisions of Section 6 of this Order.

E. In addition to any appeal allowed pursuant to Section 2.78.240, the Commission may agree to the appointment of an arbitrator acceptable to both the Commission and the applicant who would make recommendations to both parties where disagreement between the Commission and the applicant persists.

F. Four members shall constitute a quorum for the Commission.

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Any person aggrieved by a determination of the Commission may appeal to the Cambridge Historical Commission within twenty-one (21) days after the filing of such determination with the City Clerk, as governed by the provisions of Chapter 40C of the Massachusetts General Laws, Section 2.78.240 of the Code of the City of Cambridge, and any regulations promulgated by the Cambridge Historical Commission.

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Nothing in this Order shall be construed to prevent the ordinary maintenance, repair, or replacement of any exterior architectural feature of the District which does not involve a change in design or materials or the outward appearance thereof, nor to prevent landscaping with plants, trees, or shrubs, nor construed to prevent the meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition.



OFFICE OF THE CITY CLERK

CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 349-4260

TO: The Honorable, The City Council

FROM: Margaret Drury,^{MD} Temporary City Clerk

DATE: June 5, 1992

SUBJECT: Proposed Amendments to the Mid Cambridge Neighborhood Conservation District

Under Chapter 2.78 Article III of the Code of the City of Cambridge, neighborhood conservation districts are established and amended by City Council order, rather than by ordinance. The Final Study Report proposes amendments to the 1985 Council Order establishing the Mid Cambridge Neighborhood Conservation District. If the City Council wishes to enact the proposed amendments, it may do so by adopting the proposed amended order set forth in Appendix B of the June 28, 1991 Final Study Report for Amending the Order of the Mid Cambridge Neighborhood Conservation District.



City of Cambridge

Calendar Item Number 6

IN CITY COUNCIL

June 8, 1992

COUNCILLOR MYERS

ORDERED: That the following amendment to the 1985 City Council Order establishing the Mid Cambridge Neighborhood Conservation District as set forth in the **FINAL STUDY REPORT FOR AMENDING THE ORDER OF THE MID CAMBRIDGE DISTRICT** dated June 28, 1991 be and hereby is adopted and reads as follows:

I. Designation of Mid Cambridge Neighborhood Conservation District

Pursuant to section 2.78.140-270 of Article III of Chapter 2.78 of the General Ordinances of the City of Cambridge (designation procedures), there is hereby designated as a neighborhood conservation district the Mid Cambridge Neighborhood Conservation District having the boundaries set forth on the map entitled "Mid Cambridge Neighborhood Conservation District," as designated by the Cambridge City Council January 21, 1985 (for purposes of this Order, the "District"), which District shall be administered by a commission to be known as the "Mid Cambridge Neighborhood Conservation District Commission" (for purposes of this Order, the "Commission"), appointed by the City Manager pursuant to paragraph (A) of Section 2.78.160. The reasons for the designation of the District are those set forth in the designation report (for purposes of this Order, the "Report"), of the study committee and as approved by the Historical Commission with respect to said District, which reasons shall guide the Commission in its administration of the District.

II. Membership

Pursuant to paragraph (A) of Section 2.78.160 (membership requirements), the Mid Cambridge Neighborhood Conservation District shall consist of five members and three alternates appointed by the City Manager and have qualifications as defined in paragraph (3), with the additional requirements that one neighborhood resident member of the Commission shall be a tenant, the neighborhood property owner member shall be a resident of the District, and all alternate members shall be resident property owners of the District. No member of any other appointed board or commission, with the exception of at least one member of the Cambridge Historical Commission, shall serve on the Commission.

III. Review Authority

The authority of the Commission shall extend to the following two required categories of review of proposed changes in the District:

A. The Commission may make non-binding recommendations for any of the following that are visible from a public way:

1. New construction, including additions to existing structures, of more than 150 and less than 750 square feet of floor area;

2. Alteration of the exterior appearance of a structure that requires a variance or special permit under the zoning ordinance then in effect;

3. Alteration involving any of the following:

a. removal or enclosure of any historic or original decorative element, such as a cornice, fascia, soffit, bay, porch, hood, corner-board, window sash, or window or door casing;

b. increase or diminishment of the size and/or change in the location of, windows or doors;

c. increase or diminishment of the slope, pitch, or configuration of a roof or removal of historic or original roofing material.

B. The Commission may make binding recommendations for that portion of any of the following that are visible from a public way:

1. New construction, including additions to existing structures, involving any of the following:

a. more than 750 square feet of floor area;

b. more than 33% of the lot area not already occupied by structures;

c. enlargement of the floor area of an existing structure by more than 33%;

2. Demolition of 33% or more of the floor area of an existing structure not originally used to garage automobiles, including relocation of an existing structure onto or off of a site;

3. Any alteration or construction of the following:

a. structures listed on the National Register of Historic Places, except those subject to Historical Commission review;

b. publicly owned structures;

c. structures containing or proposed to contain non-conforming uses.

Where a review by the Commission is determined by the change in lot area covered by structures or the change in the floor area of structures on a lot, such review shall be based on the cumulative total of such changes in the past three years preceding the date of application for a building permit, as

determined by certificates of occupancy or zoning compliance or building permits issued and/or still in force during that three year period.

IV. Review Criteria to be Considered by the Commission

The Commission shall apply certain criteria in addition to those contained in Section 2.78.220 in considering applications for certificates of appropriateness, nonapplicability, and hardship.

A. General Criteria. All applications shall be considered in terms of the impact of the proposed new construction or alteration, relocation or demolition of an existing building on the District as a whole, and in addition with regard to the potential adverse effects of the proposed construction, alteration, relocation or demolition on the surrounding properties and on the immediate streetscape and the economic assessment of the alternatives to the proposed action.

General objectives shall be to:

1. Avoid excessive infill;
2. Encourage new construction which complements existing buildings;
3. Encourage preservation of neighborhood buildings;
4. Protect National Register structures; and
5. Enhance the economic vitality of the neighborhood.

B. Construction of a New Building and Alterations to Existing Buildings. Review of the design of a proposed new building, relocated building, or applicable alteration of an existing building, shall be made with regard to the compatibility of the building with its surroundings, and the following elements of the project shall be among those considered:

1. site layout;
2. provisions for parking;
3. volume and dimensions of the building;
4. provisions for open space and landscaping;
5. the scale of the building in relation to its surroundings; and
6. the changes to existing buildings as related to new construction.

C. Demolition or Relocation of an Existing Building. The Commission shall apply the provisions of Section 2.147(k) with regard to the proposed demolition of an existing building, and in addition shall consider the following factors:

1. the physical condition of the building;
2. a claim of substantial hardship, financial or otherwise, for the owner or occupants; and
3. the design of the proposed replacement structures, if any.

V. Determinations by the Commission.

The determinations of the Commission shall be binding regarding activities detailed in paragraph 3B of this order and shall be expressed through the issuance of certificates of appropriateness, nonapplicability, or hardship. Any determination may contain conditions as the Commission determines to be necessary to fulfill the objectives of the District. Such conditions may impose limitations stricter than the applicable zoning regulations only to the extent of a one-third reduction in (1) the additional floor area or (2) additional dwelling units permitted on the site, or a one-third reduction or one-half increase in the number of parking spaces required by zoning, except that in the case of a building damaged by fire that structure may be rehabilitated to its full extent prior to the fire.

In imposing binding conditions with the issuance of a certificate, or in denying a certificate, a concurring vote of at least four (4) of the members of the Commission shall be required.

All determinations that impose restrictions on an applicant shall be in written form stating the findings of facts and the standards and criteria upon which the restrictions were found to be necessary. All determinations shall be available for inspection at the office of the Cambridge Historical Commission. In no case shall a building permit be issued until the Commission has made a determination under the provisions of Section 2.78.140-270.

VI. Education and Incentive Program.

The Commission shall, in cooperation with the Cambridge Historical Commission, conduct an ongoing educational program in the district to make known the objectives of the District and the Commission, to encourage preservation of the District's historical character, and to make available

information to advance and encourage voluntary protection of the District's distinctive architecture.

The regulatory provisions of this Order shall not take effect until an initial appropriation of \$10,000 to the Cambridge Historical Commission is made by the City Council to support such an educational program and further provided that an additional \$5,000 is so appropriated in each subsequent fiscal year. Should the additional funding not be appropriated for any given fiscal year the regulatory provisions of this Order shall not be enforced for any application for a building permit made after July 1 of that fiscal year or until such appropriation is made.

VII. Fees.

The Commission may establish a schedule of fees which may be mandatory for those activities subject to review under paragraph III,B of this Order. All other fees shall be voluntary.

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In City Council June 8, 1992.
Adopted by a ye and nay vote:-
Yeas 9; Nays 0; Absent 0.
Attest:- D. Margaret Drury, Temporary City Clerk.

A true copy;

ATTEST:-

D. Margaret Drury

D. Margaret Drury
Temporary City Clerk



City of Cambridge

Calendar Item Number 6

IN CITY COUNCIL

June 8, 1992

COUNCILLOR MYERS

ORDERED: That the following amendment to the 1985 City Council Order establishing the Mid Cambridge Neighborhood Conservation District as set forth in the **FINAL STUDY REPORT FOR AMENDING THE ORDER OF THE MID CAMBRIDGE DISTRICT** dated June 28, 1991 be and hereby is adopted and reads as follows:

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Pursuant to section 2.78.140-270 of Article III of Chapter 2.78 of the General Ordinances of the City of Cambridge (designation procedures), there is hereby designated as a neighborhood conservation district the Mid Cambridge Neighborhood Conservation District having the boundaries set forth on the map entitled "Mid Cambridge Neighborhood Conservation District," as designated by the Cambridge City Council-January 21, 1985 (for purposes of this Order, the "District"), which District shall be administered by a commission to be known as the "Mid Cambridge Neighborhood Conservation District Commission" (for purposes of this Order, the "Commission"), appointed by the City Manager pursuant to paragraph (A) of Section 2.78.160. The reasons for the designation of the District are those set forth in the designation report (for purposes of this Order, the "Report"), of the study committee and as approved by the Historical Commission with respect to said District, which reasons shall guide the Commission in its administration of the District.

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3. the design of the proposed replacement structures, if any.

V. Determinations by the Commission.

The determinations of the Commission shall be binding regarding activities detailed in paragraph 3B of this order and shall be expressed through the issuance of certificates of appropriateness, nonapplicability, or hardship. Any determination may contain conditions as the Commission determines to be necessary to fulfill the objectives of the District. Such conditions may impose limitations stricter than the applicable zoning regulations only to the extent of a one-third reduction in (1) the additional floor area or (2) additional dwelling units permitted on the site, or a one-third reduction or one-half increase in the number of parking spaces required by zoning, except that in the case of a building damaged by fire that structure may be rehabilitated to its full extent prior to the fire.

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In City Council June 8, 1992.
Adopted by a ye and nay vote:-
Yeas 9; Nays 0; Absent 0.
Attest:- D. Margaret Drury, Temporary City Clerk.

A true copy;

ATTEST:-

D. Margaret Drury

D. Margaret Drury
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City of Cambridge

Calendar Item Number 6

IN CITY COUNCIL

June 8, 1992

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VII. Fees.

The Commission may establish a schedule of fees which may be mandatory for those activities subject to review under paragraph III,B of this Order. All other fees shall be voluntary.

VII. Coordination with Other Agencies and Boards.

The Board of Zoning Appeal, Board of Appeals, Building Commission, Mid Cambridge Neighborhood Conservation District Commission, and other City boards, agencies, and officials are directed to coordinate all review, hearing, permitting, and other procedures relative to physical changes within the District to the extent practicable, consistent with their respective responsibilities.

IX. Procedure.

In addition to the provisions of Section 2.78.220 and 2.78.230 of the enabling ordinance, the Commission shall observe the following procedural requirements:

A. For any review for which the recommendations are not binding, as detailed in paragraph III,A of this Order, the Commission shall review the application at a public meeting of the Commission. The Commission shall give not less than forty-eight hours notice of such public meeting by publicly posting such notice in the office of the city clerk. In addition, notice of any meeting provided for in this ordinance shall be given by the Commission to the applicant and to abutters of the subject property and to such other persons and in such manner as the Commission may determine. The Commission may among other forms of notice require that the applicant maintain on the building which is the subject of an application a notice, in a form designated by the Commission, visible from the nearest public way, of any meeting upon the application, and the applicant shall comply with such requirements. Final recommendations shall be made

available to the applicant within thirty (30) days of an application for a certificate.

B. For any review for which the recommendations are binding, as detailed in paragraph III,B of this Order, the issuance of the appropriate certificate shall be made within forty-five (45) days of an application for a certificate.

C. Failure of the Commission to act within the time periods specified in this Section 9 shall mean approval of the application for a certificate and the Commission shall thereupon issue a certificate of hardship unless an extension of time is granted by the applicant in writing.

D. Where a public hearing is held by the Commission, notice shall be given to property owners and tenants of property required to receive such notice under Chapter 40C using the current street listing maintained by the Cambridge Election Commission. Such notification shall be considered educational expense under the provisions of Section 6 of this Order.

E. In addition to any appeal allowed pursuant to Section 2.78.240, the Commission may agree to the appointment of an arbitrator acceptable to both the Commission and the applicant who would make recommendations to both parties where disagreement between the Commission and the applicant persists.

F. Four members shall constitute a quorum for the Commission.

X. Appeals.

Any person aggrieved by a determination of the Commission may appeal to the Cambridge Historical Commission within twenty-one (21) days after the filing of such determination with the City Clerk, as governed by the provisions of Chapter 40C of the Massachusetts General Laws, Section 2.78.240 of the Code of the City of Cambridge, and any regulations promulgated by the Cambridge Historical Commission.

XI. Ordinary Maintenance.

Nothing in this Order shall be construed to prevent the ordinary maintenance, repair, or replacement of any exterior architectural feature of the District which does not involve a change in design or materials or the outward appearance thereof, nor to prevent landscaping with plants, trees, or shrubs, nor construed to prevent the meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition.

In City Council June 8, 1992.
Adopted by a yea and nay vote:-
Yeas 9; Nays 0; Absent 0.
Attest:- D. Margaret Drury, Temporary City Clerk.

A true copy;

ATTEST:-

D. Margaret Drury

D. Margaret Drury
Temporary City Clerk



City of Cambridge

Calendar Item Number 6

IN CITY COUNCIL

June 8, 1992

COUNCILLOR MYERS

ORDERED: That the following amendment to the 1985 City Council Order establishing the Mid Cambridge Neighborhood Conservation District as set forth in the **FINAL STUDY REPORT FOR AMENDING THE ORDER OF THE MID CAMBRIDGE DISTRICT** dated June 28, 1991 be and hereby is adopted and reads as follows:

I. Designation of Mid Cambridge Neighborhood Conservation District

Pursuant to section 2.78.140-270 of Article III of Chapter 2.78 of the General Ordinances of the City of Cambridge (designation procedures), there is hereby designated as a neighborhood conservation district the Mid Cambridge Neighborhood Conservation District having the boundaries set forth on the map entitled "Mid Cambridge Neighborhood Conservation District," as designated by the Cambridge City Council-January 21, 1985 (for purposes of this Order, the "District"), which District shall be administered by a commission to be known as the "Mid Cambridge Neighborhood Conservation District Commission" (for purposes of this Order, the "Commission"), appointed by the City Manager pursuant to paragraph (A) of Section 2.78.160. The reasons for the designation of the District are those set forth in the designation report (for purposes of this Order, the "Report"), of the study committee and as approved by the Historical Commission with respect to said District, which reasons shall guide the Commission in its administration of the District.

II. Membership

Pursuant to paragraph (A) of Section 2.78.160 (membership requirements), the Mid Cambridge Neighborhood Conservation District shall consist of five members and three alternates appointed by the City Manager and have qualifications as defined in paragraph (3), with the additional requirements that one neighborhood resident member of the Commission shall be a tenant, the neighborhood property owner member shall be a resident of the District, and all alternate members shall be resident property owners of the District. No member of any other appointed board or commission, with the exception of at least one member of the Cambridge Historical Commission, shall serve on the Commission.

III. Review Authority

The authority of the Commission shall extend to the following two required categories of review of proposed changes in the District:

A. The Commission may make non-binding recommendations for any of the following that are visible from a public way:

1. New construction, including additions to existing structures, of more than 150 and less than 750 square feet of floor area;

2. Alteration of the exterior appearance of a structure that requires a variance or special permit under the zoning ordinance then in effect;

3. Alteration involving any of the following:

a. removal or enclosure of any historic or original decorative element, such as a cornice, fascia, soffit, bay, porch, hood, corner-board, window sash, or window or door casing;

b. increase or diminishment of the size and/or change in the location of, windows or doors;

c. increase or diminishment of the slope, pitch, or configuration of a roof or removal of historic or original roofing material.

B. The Commission may make binding recommendations for that portion of any of the following that are visible from a public way:

1. New construction, including additions to existing structures, involving any of the following:

a. more than 750 square feet of floor area;

b. more than 33% of the lot area not already occupied by structures;

c. enlargement of the floor area of an existing structure by more than 33%;

2. Demolition of 33% or more of the floor area of an existing structure not originally used to garage automobiles, including relocation of an existing structure onto or off of a site;

3. Any alteration or construction of the following:

a. structures listed on the National Register of Historic Places, except those subject to Historical Commission review;

b. publicly owned structures;

c. structures containing or proposed to contain non-conforming uses.

Where a review by the Commission is determined by the change in lot area covered by structures or the change in the floor area of structures on a lot, such review shall be based on the cumulative total of such changes in the past three years preceding the date of application for a building permit, as

determined by certificates of occupancy or zoning compliance or building permits issued and/or still in force during that three year period.

IV. Review Criteria to be Considered by the Commission

The Commission shall apply certain criteria in addition to those contained in Section 2.78.220 in considering applications for certificates of appropriateness, nonapplicability, and hardship.

A. General Criteria. All applications shall be considered in terms of the impact of the proposed new construction or alteration, relocation or demolition of an existing building on the District as a whole, and in addition with regard to the potential adverse effects of the proposed construction, alteration, relocation or demolition on the surrounding properties and on the immediate streetscape and the economic assessment of the alternatives to the proposed action.

General objectives shall be to:

1. Avoid excessive infill;
2. Encourage new construction which complements existing buildings;
3. Encourage preservation of neighborhood buildings;
4. Protect National Register structures; and
5. Enhance the economic vitality of the neighborhood.

B. Construction of a New Building and Alterations to Existing Buildings. Review of the design of a proposed new building, relocated building, or applicable alteration of an existing building, shall be made with regard to the compatibility of the building with its surroundings, and the following elements of the project shall be among those considered:

1. site layout;
2. provisions for parking;
3. volume and dimensions of the building;
4. provisions for open space and landscaping;
5. the scale of the building in relation to its surroundings; and
6. the changes to existing buildings as related to new construction.

C. Demolition or Relocation of an Existing Building. The Commission shall apply the provisions of Section 2.147(k) with regard to the proposed demolition of an existing building, and in addition shall consider the following factors:

1. the physical condition of the building;
2. a claim of substantial hardship, financial or otherwise, for the owner or occupants; and
3. the design of the proposed replacement structures, if any.

V. Determinations by the Commission.

The determinations of the Commission shall be binding regarding activities detailed in paragraph 3B of this order and shall be expressed through the issuance of certificates of appropriateness, nonapplicability, or hardship. Any determination may contain conditions as the Commission determines to be necessary to fulfill the objectives of the District. Such conditions may impose limitations stricter than the applicable zoning regulations only to the extent of a one-third reduction in (1) the additional floor area or (2) additional dwelling units permitted on the site, or a one-third reduction or one-half increase in the number of parking spaces required by zoning, except that in the case of a building damaged by fire that structure may be rehabilitated to its full extent prior to the fire.

In imposing binding conditions with the issuance of a certificate, or in denying a certificate, a concurring vote of at least four (4) of the members of the Commission shall be required.

All determinations that impose restrictions on an applicant shall be in written form stating the findings of facts and the standards and criteria upon which the restrictions were found to be necessary. All determinations shall be available for inspection at the office of the Cambridge Historical Commission. In no case shall a building permit be issued until the Commission has made a determination under the provisions of Section 2.78.140-270.

VI. Education and Incentive Program.

The Commission shall, in cooperation with the Cambridge Historical Commission, conduct an ongoing educational program in the district to make known the objectives of the District and the Commission, to encourage preservation of the District's historical character, and to make available

information to advance and encourage voluntary protection of the District's distinctive architecture.

The regulatory provisions of this Order shall not take effect until an initial appropriation of \$10,000 to the Cambridge Historical Commission is made by the City Council to support such an educational program and further provided that an additional \$5,000 is so appropriated in each subsequent fiscal year. Should the additional funding not be appropriated for any given fiscal year the regulatory provisions of this Order shall not be enforced for any application for a building permit made after July 1 of that fiscal year or until such appropriation is made.

VII. Fees.

The Commission may establish a schedule of fees which may be mandatory for those activities subject to review under paragraph III,B of this Order. All other fees shall be voluntary.

VII. Coordination with Other Agencies and Boards.

The Board of Zoning Appeal, Board of Appeals, Building Commission, Mid Cambridge Neighborhood Conservation District Commission, and other City boards, agencies, and officials are directed to coordinate all review, hearing, permitting, and other procedures relative to physical changes within the District to the extent practicable, consistent with their respective responsibilities.

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available to the applicant within thirty (30) days of an application for a certificate.

B. For any review for which the recommendations are binding, as detailed in paragraph III,B of this Order, the issuance of the appropriate certificate shall be made within forty-five (45) days of an application for a certificate.

C. Failure of the Commission to act within the time periods specified in this Section 9 shall mean approval of the application for a certificate and the Commission shall thereupon issue a certificate of hardship unless an extension of time is granted by the applicant in writing.

D. Where a public hearing is held by the Commission, notice shall be given to property owners and tenants of property required to receive such notice under Chapter 40C using the current street listing maintained by the Cambridge Election Commission. Such notification shall be considered educational expense under the provisions of Section 6 of this Order.

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Any person aggrieved by a determination of the Commission may appeal to the Cambridge Historical Commission within twenty-one (21) days after the filing of such determination with the City Clerk, as governed by the provisions of Chapter 40C of the Massachusetts General Laws, Section 2.78.240 of the Code of the City of Cambridge, and any regulations promulgated by the Cambridge Historical Commission.

XI. Ordinary Maintenance.

Nothing in this Order shall be construed to prevent the ordinary maintenance, repair, or replacement of any exterior architectural feature of the District which does not involve a change in design or materials or the outward appearance thereof, nor to prevent landscaping with plants, trees, or shrubs, nor construed to prevent the meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition.

In City Council June 8, 1992.
Adopted by a yea and nay vote:-
Yeas 9; Nays 0; Absent 0.
Attest:- D. Margaret Drury, Temporary City Clerk.

A true copy;

ATTEST:-

D. Margaret Drury

D. Margaret Drury
Temporary City Clerk

City of Cambridge

Motion John Myers

MASSACHUSETTS

In City Council June 8 1992

6 Unregistered Bus - Mid Cms Amend Order Conserv Dist

	YEA	NAY	ABSENT	PRESENT	
Mr. Ed Cyr	✓				
Mr. Francis H. Duehay	✓				
Mr. Jonathan S. Myers	✓				
Mrs. Sheila T. Russell	✓				
Mr. Walter J. Sullivan	✓				
Mr. Timothy J. Toomey, Jr.	✓				
Mr. William H. Walsh	✓				
Ms. Alice K. Wolf	✓				
Mayor Kenneth E. Reeves	✓				

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✓✓/9



Cambridge Historical Commission

Cambridge Historical Commission, City Hall Annex, 57 Inman Street, Cambridge, Massachusetts 02139. 617 349-4683



William B. King, *Chairman*, Allison M. Crump, *Vice Chairman*, Charles M. Sullivan, *Executive Director*, Charles W. Eliot 2nd, Dorothy LeMessurier, Robert G. Neiley, Joseph G. Sakey, John W. Whisnant, *Commission Members*, M. Wyllis Bibbins, Suzanne R. Green, Anthony C. Platt, *Alternates*.

April 21, 1992

To the Honorable, the City Council:

The Cambridge Historical Commission respectfully submits the attached Final Study Report on the amendment of the Mid Cambridge Neighborhood Conservation District (NCD) order for consideration by the City Council. The report is submitted pursuant to the provisions of Title 2, Chapter 2.78, Article III of the Code of the City of Cambridge.

The purpose of the amendments is to more fully implement the mandate contained in the original NCD order, adopted in 1985, to encourage neighborhood preservation and the construction of new buildings that complement existing structures. To that end, the category of advisory review contained in the original order has been expanded. In addition, protection for buildings listed on the National Register of Historic Places has been augmented and distinctions between non-residential and residential properties have been eliminated.

Prior to submitting this report, the Mid Cambridge NCD Commission held four informational meetings for property owners and residents in the district and an invitational meeting for all business owners. Response to the meetings was limited but supportive of the changes proposed. The Cambridge Historical Commission held a public hearing on the amendments on June 27, 1991, at which time they unanimously endorsed the proposal. The Final Study Report is herewith forwarded for your consideration.

Respectfully submitted,

William B. King
William B. King
Chairman

FINAL STUDY REPORT
FOR AMENDING THE ORDER OF THE
MID CAMBRIDGE NEIGHBORHOOD CONSERVATION DISTRICT

JUNE 28, 1991

Prepared by the members of the Mid Cambridge Neighborhood
Conservation District Commission acting as a study committee
and by Sarah Zimmerman, Acting Secretary to the Commission

**EXECUTIVE SUMMARY
AMENDMENTS TO THE MID CAMBRIDGE NCD ORDER**

The purpose of the proposed amendments to the Mid Cambridge Neighborhood Conservation District order is to more fully implement the mandate established in the original 1985 order. The Mid Cambridge NCD Commission is directed to:

- * avoid excessive infill
- * encourage new construction that complements existing buildings
- * encourage preservation of neighborhood buildings
- * protect National Register structures, and
- * enhance the economic vitality of the neighborhood.

The present order focusses almost exclusively on the first directive, while the remaining four are met only tangentially. It is the recommendation of both the Mid Cambridge NCD Commission and the Cambridge Historical Commission that the attached amendments be adopted to allow implementation of the 1985 mandate.

The specific terms of the amendments are as follows:

- * adopt binding reviews for all alterations to National Register properties (current review is non-binding or advisory only);
- * eliminate distinction between non-residential and residential property review so that both types of property are subject to the same categories of review (current review of non-residential property is non-binding); and
- * institute non-binding (advisory) reviews for lesser categories of change that are not now reviewable, including:
 - new construction between 150-750 square feet;
 - exterior alterations that require a variance or special permit; and
 - alterations that require removal or enclosure of historic or original decorative trim, or changes in doors, windows or rooflines.

At present, the NCD Commission has review authority over only 9% of the building permits generated in the district. Analysis of the past record indicates that that number would increase to 40% if the proposed changes were adopted. Approximately 60% of the building projects in the district would remain outside the NCD Commission's jurisdiction.

Comments from the public were solicited at six meetings of the Mid Cambridge NCD Commission. These included four public information meetings specifically scheduled for public comment, one of which, for owners of non-residential property, was by invitation and another which was announced in legal notices sent to all property owners in the district. A public hearing on the amendments was held on June 27, 1991. A total of 27 individuals attended. Comments in opposition were received from 3 people; 14 people supported the amendments, and 10 declined to comment. In addition, phone inquiries were taken from 12 people, of whom 7 supported the changes.

Table of Contents

- I. Proposed Amendment of the Order
 - A. Existing Order
 - B. Amended Order
 - II. Nature of Neighborhood Conservation District Protection
 - A. Objectives
 - B. Administration
 - C. Establishment
 - III. Administration of the Mid Cambridge Neighborhood Conservation District
 - A. Design Objectives
 - B. Case Review Procedures
 - IV. Implementation of Proposed Amendments
 - A. Public Response
 - B. Proposed Authority
 - C. Amendments to Mid Cambridge Order
- Appendices
- A. Mid Cambridge Neighborhood Conservation District Order, adopted January 21, 1985
 - B. Proposed Amendments to Mid Cambridge Order
 - C. Chapter 2.78.010, Article III, Code of the City of Cambridge, Establishment of Neighborhood Conservation Districts and Protected Landmarks
 - D. Comment Group for Mid Cambridge Amendments
 - E. List of National Register Properties in Mid Cambridge District
 - F. Public Information Sheet and List of Respondents

I. Proposed Amendment of the Order

A. Existing Order

The Mid Cambridge Neighborhood Conservation District (NCD) comprises some 2,000 buildings and extends from Quincy Street east to Prospect Street and south from Kirkland and Hampshire Streets to Massachusetts Avenue. Overwhelmingly residential, the district includes a small portion of the Inman Square business district and clusters of business uses on Cambridge and Kirkland Streets and Broadway. The neighborhood is architecturally diverse, with a wide range of house types and styles within a tightly-packed area. Houses date from the mid-19th century through the Depression. More recent construction consists of 1960s apartment buildings and the townhouses of the 1970s that were in large measure responsible for the implementation of the district.

Establishment of the conservation district took three years. An initial study report completed in 1982 was opposed by a group of property owners as too far-reaching in its authority and the resultant order, adopted by the City Council early in 1985, provided for much more circumscribed jurisdiction, two levels of review (binding and non-binding), and an education and incentive program.

The conservation district incorporated five criteria which form the Mid Cambridge Commission's mandate:

- to avoid excessive infill;
- to encourage new construction which complements

existing buildings;

- to encourage preservation of neighborhood buildings;
- to protect National Register structures, and;
- to enhance the economic vitality of the neighborhood.

Of these, the greatest weight in the order is on the first, avoiding the excessive infill in an already-dense neighborhood that it was felt the many townhouse projects had created. To that end, the review authority (Section 3 of the order) of the Mid Cambridge Commission focuses on demolition and new construction at a large scale. Four of the seven categories of binding review in the order deal with these activities. Currently reviewed are projects involving demolition of 33% or more of floor area, new construction of more than 750 square feet of floor area, new construction on more than 33% of the open lot area, and enlargement of floor area in an existing structure by more than 33%.

The other four criteria are addressed less specifically through the Commission's authority. Complementary new construction, preservation of neighborhood buildings, and enhancement of economic vitality are all achieved through Commission review of the district's larger projects as delineated above and through the Commission's educational efforts. Binding review of alterations to all publicly-owned structures, structures with non-conforming uses, and structures moved into or out of the district also serves the mandates cited in the order.

Non-binding reviews establish an advisory procedure for National Register and commercial structures. Alterations to National Register and conforming non-residential properties are reviewed by the Commission provided the change is visible from a public way and involves a significant feature of the structure. These reviews are, however, advisory only since there is no statutory authority to impose design decisions in non-binding cases.

All other alterations to structures in the district are outside the Commission's authority and are reviewed administratively by the staff, who issue Certificates of Non-Applicability. The Commission's education effort continues at the staff level, where it is possible to make suggestions and recommendations that would encourage preservation when projects are reviewed for non-applicability.

Annual appropriations to the Commission support an education and incentive program. Under the terms of the order, the regulatory provisions of the order are not enforceable in any fiscal year that an appropriation to the Commission is not made. The order calls for the Commission to conduct an ongoing educational program to make known the objectives of the district, encourage preservation of the district's historical character, and make available information that advances the voluntary protection of the district's architecture. Components of the educational program, in addition to the full-time availability of staff

to address ongoing requests, include publication of an informational brochure on the district, publication of a rehabilitation guide for homeowners (distributed free of charge to Mid Cambridge property owners), walking tours, and an educational program in the local schools.

B. Proposed Amendments

The Mid Cambridge Commission initiated a review of its order in the spring of 1990, five years after its establishment. As the Commission worked with its order and its experience grew, areas for possible modifications of its jurisdiction emerged. A preliminary revision of the order revealed the need for a more considered study of the Commission's case history of applications and mandate. That effort continued through the fall of 1990 and resulted in a final set of amendments that form the present proposal.

The proposed amendments focus on the Commission's review authority (section III), with technical changes in membership (section II), procedure (section IX), and appeals (section X). A section covering ordinary maintenance has been added (section XI). All other language of the original order remains unchanged.

The amended review authority retains the two-tiered system of binding and non-binding reviews. Three new categories of non-binding review have been added. National Register properties have been added to the binding review category. The distinction between residential and non-residential properties has been eliminated. Finally,

editorial changes have been made to the section to clarify its content for the reader.

Within the non-binding reviews (section III, A) there are three new provisions. The first covers new construction to existing structures of more than 150 and less than 750 square feet of floor area. The second adds review for alterations of the exterior appearance of a structure that requires a variance or special permit under the zoning then in effect. The third category deals with alterations of character-defining architectural features of a structure. These include: the removal or enclosure of any historic or original decorative element; the increase or diminishment of the size of windows or doors, or a change in their location; the increase or diminishment of the slope, pitch, or configuration of a roof, or the removal of historic or original roofing material.

The non-binding provision for structures containing or proposed to contain conforming non-residential uses has been eliminated. This means that non-residential structures would not be differentiated from residential structures in the amended order, if adopted.

With the exception of properties listed on the National Register of Historic Places, the binding review authority (section III, B) of the Commission remains unchanged, but has undergone editorial revision to clarify the terms of the review. Three subsections covering new construction,

demolition, and alterations have been identified, with the reviewable categories of each activity delineated.

Properties that are important in American history, culture, architecture, or archaeology are recognized by the Department of the Interior through inclusion on the National Register of Historic Places. The Mid Cambridge NCD contains three National Register districts (Bigelow Street, Maple Avenue, and Inman Square) and 23 individual properties (see appendix E). Currently handled under the non-binding, advisory procedure, these properties would come under binding review in the proposed amendments.

The remaining changes proposed are technical in nature. In membership (section II), the provision for a representative of the Cambridge Historical Commission has been clarified to allow more than one member of the Historical Commission to serve on the Mid Cambridge Commission.

Under procedure (section IX), a new paragraph A has been substituted to provide a shortened notice for review of applications for non-binding certificates. Separate review periods for National Register and non-residential properties (as established in the current order) are obviated by the terms of amended section III and thus deleted. A new section to cover non-binding reviews has been added calling for forty-eight hour notice of public meetings for non-binding review with 1) the city clerk (as per the requirements of the Open Meeting Law, M.G.L. chapter 303)

and 2) abutters, through posting notice on the subject property, among such other possible forms of notice as the Commission may determine. The amendments also establish a uniform review period of thirty days from the receipt of an application for a non-binding certificate within which the Commission must make a final recommendation.

Two sections of the original order dealing with neighborhood review and continued designation (original sections 10 and 11) have been obviated through fulfillment of their terms. New sections have been substituted. In the amendments, section X restates the appeal procedure identified in Chapter 2.78, Article III, section 240, Code of the City of Cambridge. Section XI is a standard clause covering ordinary maintenance, repair or replacement of exterior architectural features as identified in Chapter 40C, cite section, Massachusetts General Laws.

II. The Nature of Neighborhood Conservation District Protection

The objectives of the Mid Cambridge NCD are to provide protection against inappropriate change and to guide future growth in one of Cambridge's most diverse neighborhoods. Conservation district status gives the Mid Cambridge Neighborhood Conservation District Commission the authority to review all new construction over 750 sf and all demolition of structures within the district and visible from a public way. This authority is granted under Chapter 2.78 Article III of Code of City of Cambridge, which was enacted by the City Council on March 23, 1981.

Chapter 2.78, Article III was drafted by the Cambridge Historical Commission to decentralize the protection of significant neighborhoods in Cambridge in a manner beyond that authorized in Chapter 40C of the Massachusetts General Laws. In drafting the ordinance the Commission found a precedent in Chapter 776 of the General Laws, the act establishing the Boston Landmarks Commission. This act authorized the City of Boston to designate architectural conservation districts, protection areas, and protected landmarks. In drafting the law that became Article III, the Historical Commission drew on Chapter 776 for many concepts and definitions, but wherever possible drew from the language of Chapter 40C, adapting procedures and authority designed for historic districts to the new task of

decentralizing neighborhood protection under neighborhood conservation district procedures.

The purposes of Section 2.78 Article III are

to preserve, conserve and protect the beauty and heritage of the City of Cambridge and to improve the quality of its environment through identification, conservation and maintenance of neighborhoods...which constitute or reflect distinctive features of the architectural, cultural, political, economic or social history of the City; to resist and restrain environmental influences adverse to this purpose; to foster appropriate use and wider public knowledge and appreciation of such neighborhoods...; and by furthering these purposes to promote the public welfare by making the city a more attractive and desirable place in which to live and work.

A. Legislative Authority

Authority to protect the urban environment through historic districting has existed in Massachusetts since the passage of Chapter 40C in 1960, and has been exercised by the Cambridge Historical Commission since 1963. The purposes of historic districting, which are similar to the purposes expressed in Article III, are

to promote the educational, cultural, economic and general welfare of the public through the preservation and protection of the distinctive characteristics of buildings and places significant in the history of the Commonwealth and its cities and towns or their architecture, and through the maintenance and improvement of settings for such buildings and places and the encouragement of design compatible therewith.

The first Massachusetts Historic Districts, on Beacon Hill and in Nantucket, were established by special acts in 1955 following an opinion of the Massachusetts Supreme Judicial Court that such legislation was a constitutional use of the State's power to promote the public welfare. The

Massachusetts Court cited a United States Supreme Court decision in the case of Berman vs. Parker (1954).

The concept of the public welfare is broad and inclusive...The values it represents are spiritual as well as physical, aesthetic as well as monetary. It is within the power of the legislature to determine that the community should be beautiful as well as clean, well balanced as well as carefully patrolled.*

More recently, the Massachusetts Supreme Judicial Court has ruled, in connection with the right of a municipality to prohibit billboards, that "aesthetics alone may justify the exercise of the police power," and quoted Article 97 of the Amendments to the Massachusetts Constitution, which established as state policy the right of the people to "the natural, scenic, historic, and aesthetic qualities of their environment..."**

The courts have also upheld historic districts on the grounds of their contribution to the economic well being of a community. The Supreme Judicial Court in the Nantucket opinion noted that "the erection of a few wholly incongruous structures might destroy one of the principal assets of the town."*** The courts have noted that these benefits may accrue to the individual property owner as well as to the community at large, but have

* 348 U.S. 26 (1954).

** John Donnelly & Sons vs. Outdoor Advertising Board (1975).

*** 333 Mass. 773, 780 (1955).

considered that public purposes are served if the public good, measured in terms of increased property value or business volume, outweighs private costs.*

It has been judicially determined that historic district legislation does not constitute a taking of private property without compensation, and it has been noted that many zoning ordinances are as demanding in their application.** Once again, the public benefit is held superior to a reasonable degree of private sacrifice, a principle that was recently upheld by the Appellate Division of the New York Supreme Court in confirming the landmark designation of Grant Central Terminal.

Power to establish historic districts is not given lightly. Chapter 40C requires a thorough survey and report on the areas proposed for protection, review and comment by other public agencies, a public hearing with notification of all affected property owners, and passage of the historic district ordinance by the City Council. Once a district has been established, an historical commission holds the power to review all construction and alterations of structures that will be visible from a public way. This authority cannot be arbitrarily exercised, however; the legislation requires that a Commission "shall not make any recommendations or requirement except for

* T.J. Reed, Land Use Controls in Historic Areas, 44 Notre Dame Lawyer 3, 387.

** 333 Mass. 773, 778 (1955).

the purpose of preventing developments incongruous to the historic aspects or architectural features of the ... district."

In all important respects, establishment of neighborhood conservation districts under Article III requires the same procedures and safeguards as for historic districts under Chapter 40C. Moreover, the authority of a conservation district commission, while subject to the same limitation of being able to prevent only developments incongruous to the district, may be more strictly circumscribed than that of an historical commission by the adoption in the ordinance establishing it of extensive exclusions from its authority.

B. Administration of Neighborhood Conservation Districts

The administration of neighborhood conservation districts is guided in every respect by the provisions of Article III, which establishes procedures and guidelines based on those in Chapter 40C, and by the special provisions of the amendment establishing the particular conservation district.

Although the legislation provides for the commission review of every exterior architectural feature visible from a public way, certain items may be excluded from control when the ordinance is drafted. These may include siding; the appearances of buildings permitted under zoning; terraces, walkways, driveways, and sidewalks; walls and fences; temporary signs and structures; storm doors and windows, air

conditioners, lighting fixtures, antennae and the like; and so on. A conservation district commission may also impose dimensional and setback requirements more stringent than required by the zoning code. However, a commission may make no conditions "except for the purpose of preventing developments incongruous to the historic aspects or architectural characteristics...of the historic district."

The commission issues three types of certificates as the basic administrative method by which proposed alterations are reviewed, and no building or demolition permit for work in a district can be issued by the city until a certificate has been issued.

Each type of certificate is issued after evaluation of the circumstances. A Certificate of Appropriateness will be issued when the commission has determined that a project is not incongruous with the character of the conservation district; this is the most common certificate issued. A Certificate of Nonapplicability is issued for a project which the commission determines does not involve an exterior feature subject to its authority, or one not visible from a public way. Finally, a Certificate of Hardship may be issued when refusal to issue a Certificate of Appropriateness or Nonapplicability would cause the applicant substantial hardship, financial or otherwise, as long as there is no substantial detriment to the district.

Application for a certificate is made by submitting a description of the proposed alteration along with plans or

photographs sufficient for the commission to judge the effect of the proposed alteration. The commission must determine within fourteen days of an application whether a Certificate is required.

In passing on applications for Certificates, a commission is required to consider, among other things, the historic and architectural values and significance of the site, building, or structure, the general design, arrangement, texture, material and color of the features involved, and the relationship of these features to similar features of buildings in the surrounding area. In the case of new construction or additions to existing buildings, the commission must consider the size and shape of the building, in relation to both its site and surrounding buildings, and can establish additional policies to exclude such features from control after the conservation district is established. The commission can also establish appropriate designs or lists of materials for the guidance of property owners.

A commission cannot review alterations to interiors of structures, nor alterations which are not visible from a public way, even though such alterations may still be within a district. Furthermore, landscaping with plants, trees or shrubs is specifically excluded from review, and the commission is not concerned with ordinary maintenance, repair, or replacements that do not involve a change in exterior appearance. Enactment of a conservation district in no way requires owners to alter their properties, nor

requires restoration of a structure to any set historical period.

If a commission deems the alteration to require a certificate, it may take action either through a public hearing or by simple vote after notice to surrounding property owners. A public hearing is held in the event that the alterations are deemed substantial; surrounding property owners are given two weeks' notice, and the application is given consideration in terms of the criteria listed above. However, if the application involves an alteration which is considered insubstantial in its effect, the commission may simply vote on the matter after allowing ten days for comment by surrounding property owners.

If the commission disapproves the application for a certificate, it must give its reasons to the applicant in writing. However, the commission is specifically authorized to make recommendations for changes which would make the application acceptable. If the applicant modifies the application to conform to the commission's suggestions, a certificate must be issued.

An applicant aggrieved by a decision of a conservation district commission may first appeal to the Historical Commission by giving notice within twenty-one days to the City Clerk, with further appeal possible to the Superior Court. Violations may be punished as under Chapter 40C.

C. Establishment of Neighborhood Conservation Districts

Procedures for the organization of neighborhood conservation districts are established by the enabling ordinance and conform to the similar provision for establishment of historic districts under Chapter 40C. Any ten registered voters can petition the Historical Commission to request the City Manager to appoint a study committee. Alternatively, the Cambridge Historical Commission may initiate the study independently. The study committee must prepare a Preliminary Report which considers the options set forth in the legislation for exemption of certain architectural features from review, outlines the exact boundaries of the area to be included in the conservation district, presents a full architectural and historical justification for the area, and includes an ordinance implementing the district.

The Preliminary Report must be submitted to the Historical Commission, the Planning Board, the City Manager, and the City Clerk. A public hearing, for which all affected property owners must be given two weeks' written notice, must be held no less than forty-five days after the report has been released. The object of the public hearing is to allow comments to be officially recorded.

After the public hearing, the Historical Commission prepares a Final Report which takes into account the comments received at the public hearing and the recommendations of the Planning Board and the City Manager. The report may then be submitted to the City Council, where

a majority vote is required for the ordinance to be adopted.
The district finally goes into effect when an official map
showing its boundaries is filed with the Registry of Deeds.

III. Administration of the Mid Cambridge Neighborhood Conservation District

A. Design Objectives

The Mid Cambridge Neighborhood Conservation District Commission was established in 1985 to administer the terms of the Mid Cambridge order. The general objective of the district was to conserve neighborhood character. The 1982 study report stated the purpose of the district thus:

the task of the NCD is to define the visual character of the neighborhood and then establish guidelines that will make it possible to preserve and enhance this overall character while allowing and often encouraging specific change to take place. By character is meant the physical character-- the buildings, streets and spaces, textures and details, plants and vistas of Mid Cambridge as they are visible to the public.

The historic density of the neighborhood, with tightly packed but separate 19th- and early 20th-century dwellings, created a situation where the apartment construction of the 1960s required the demolition of existing houses. After passage of the Townhouse Development Ordinance in 1976 (which relaxed zoning regulations on setbacks, density, height, and parking), additional construction took place in side and back yards, increasing the density of the neighborhood and diminishing open space, light, air, and landscaping. Despite amendments to the Townhouse Ordinance in 1979, significant townhouse development continued through the early 1980s in Mid Cambridge, further augmenting density.

Not surprisingly, the major provisions of the Mid Cambridge order address the issue of infill construction.

The challenge to the Commission is to respect the ongoing nature of change and its attendant effects on a densely-settled area, while recognizing that that density is part of the neighborhood character.

To that end, the order includes review criteria for new construction and demolition. The Commission is directed to review new construction with regard to the compatibility of the building to its surroundings and the project's site layout, parking provisions, volume and dimensions, open space and landscaping, scale, and impacts on its surroundings. In demolition cases, the Commission is directed to consider the physical condition of the building, any hardships on the owner, and the design of the replacement.

In addition to these review criteria, the Commission has since adopted a set of Excess Infill Guidelines based on its case history that are designed to inform applicants about the Commission's concerns in reviewing applications for infill construction. These assist the applicant to define the scope of a project's impact, the individual components of the proposed design and their relationship to their surroundings, landscaping effects, significant historic and architectural features, and effects on parking, noise, light, and air.

The primary design objective of the Mid Cambridge Commission remains to mitigate the effects of infill construction on neighborhood character. A broader concern

through all of its reviews is to influence the process of change in a direction that respects the appearance and history of the neighborhood and in a manner that offers applicants and abutters a forum for sharing expertise, negotiating differences, and resolving conflicts in the best interests of the neighborhood.

B. Case Review Procedures

In the six years since the NCD was established, there have been 416 applications for certificates. Thirty-two cases have been reviewed for Certificates of Appropriateness. Seventeen of those cases have been for binding review; fifteen for non-binding (National Register or non-residential). There have been four denials, two of which were modified and resubmitted and subsequently approved. Two Certificates of Hardship have been approved and three applications have been withdrawn. The remaining 375 applications have been for Certificates of Non-Applicability (90% of the applications received).

Despite the relatively low number of cases reviewed for binding certificates, the Commission's work effort has been considerable. Unlike cases reviewed by a standard historic district commission, where a large number of minor alterations may be considered, the Mid Cambridge Commission receives primarily large and relatively complex projects, most of which are for construction of new buildings or large additions. The first case reviewed by the Commission was for demolition of a wing of Youville Hospital and

construction of a 180-bed replacement wing. Six of the subsequent cases have proposed construction of from one to four townhouses or condominium units. Also reviewed have been applications for construction of a church, a single-family house, and three additions for apartments.

As was anticipated by the interest which spurred adoption of the original order, applications for townhouse and condominium construction have generated significant input from abutters to proposed projects. Consequently, reviews of these projects have taken longer than most applications, averaging two or three months' review time and often involving multiple applications, as revisions and modifications occur. Such projects also involve ongoing on-site monitoring by staff and Commission members as construction proceeds.

With regard to Certificates of Non-Applicability, the majority of the applications received are for repairs in kind or interior renovations, primarily to kitchens and baths. Approximately 60% of the applications involve such routine maintenance and improvements. Of the remaining 40%, the most common additions are the construction of decks, bays, and dormers. Alterations that call for removal of original material, such as application of artificial siding, window replacement, or porch enclosure, are also typical although somewhat less numerous.

IV. Implementation of the Proposed Amendments

The Cambridge Historical Commission formally initiated study of the amendment of the Mid Cambridge NCD order at its February 7, 1991 meeting. At that time, the Mid Cambridge Commission was empowered to act as a study committee for purposes of Chapter 2.78.180 regarding designations of neighborhood conservation districts.

Copies of the proposed amendments were circulated on March 1, 1991 to a comment group consisting of the original study committee members, members of the working group which revised the initial district proposal, staff of the Community Development Department, Planning Board, Zoning Board of Appeals, and Historical Commission, and to interested parties, who included the Mid Cambridge Neighborhood Association, the Chamber of Commerce and its Small Business Committee, the Harvard University Planning Group, and several individuals. In addition, an informational memo was sent to all City Council members.

Press releases announcing a public informational meeting were sent to the Cambridge Chronicle and the Cambridge TAB. A public informational meeting was held on April 1, 1991, but due to the failure of the newspapers to run the release, only members of the comment group attended. A second informational meeting was announced in the Chronicle for April 22. One individual attended that meeting.

In view of the weak public response, a third public informational meeting was announced for May 6, 1991. One individual attended that meeting. In addition, the Mid Cambridge Commission scheduled a public informational meeting for June 20, one week prior to the scheduled June 27, 1991 public hearing before the Historical Commission. Notice of the informational meeting was sent in the notification of the hearing to each property owner 14 days prior to the hearing. Ten people attended.

During May and June, the Mid Cambridge Commission met with other parties affected by the proposed changes. Meetings were held with Youville Hospital and Harvard Community Health Plan. A lunch meeting to which all non-residential owners were invited was held June 19. Five people attended that meeting. (See Appendix F for attendees and their comments.)

The Mid Cambridge Commission also held a House Clinic on May 18, 1991, at which various home repair and preservation experts advised property owners on preservation techniques. A member of the Commission informed those attending of the proposed amendments to the order.

With two exceptions, response to the proposed amendments to date has been positive and ranges from enthusiastic support to cautious acceptance. Four supportive letters were received from the comment group, among them a supportive letter from the Harvard University Planning Group, which included a number of technical

comments as well as a substantive concern for the potentially-intersecting roles established on National Register property review. The Cambridge Historical Commission currently reviews alterations to Harvard-owned National Register properties, of which there are five presently in the district. It is the position of the University that the Historical Commission review takes precedence over the Mid Cambridge Commission review. The Historical Commission and Mid Cambridge Commission concur with this position and have developed language to clarify this authority.

B. The Proposed Amendments

The initial draft of possible amendments, first formulated in the spring of 1990, has been significantly modified in ongoing discussion within the Mid Cambridge Commission. Amended sections of the order are section II (membership), section III (review authority), section IX (procedure), section X (appeals), and section XI (ordinary maintenance). As part of its examination of the order, the Commission undertook a thorough review of its case history to determine the potential effects of any amendments.

The most extensive discussion focussed on amendments to section III. The review authority of the Commission underwent significant restructuring in response to opposition to the original district order proposed in 1982. By the time it was adopted in 1985, the order had been almost entirely recast. From a document that would have

reviewed all alterations, new construction, and demolition (but would have allowed siding and other changes that did not involve loss of decorative fabric), the order was rewritten to focus almost exclusively on large-scale new construction (generally over 750 square feet) and demolition, with non-binding reviews of alterations for limited categories of property (National Register and non-residential). Of the 416 applications received to date, only thirty-two (approximately 8%) have required hearings for a Certificate of Appropriateness, seventeen (4%) of those for binding review.

While the Commission has had an important role in shaping the direction of the relatively small number of large-scale projects in the neighborhood, they have become increasingly aware of the effects of more incremental change which occurs through alteration, as well as the potentially dramatic changes that can occur in new construction of less than 750 square feet. At the same time, the value of non-binding reviews in providing a forum, both for property owners and abutters, has been demonstrated. In re-examining the review authority of the original order the Commission also hoped to simplify the language of the order so as to make its provisions clearer to the public.

Initially, the category of non-binding review was eliminated, but in subsequent discussion was reinstated as a major component of the amendments. Advisory reviews provide an opportunity for applicants to review plans with an experienced group of professionals in architecture, construction, and preservation. Unnecessary or ill-advised construction can be amended and preservation solutions considered. The owner has the benefit of professional advice free of charge, but is not bound by the recommendations of the Commission.

Similarly, abutters have the opportunity to be familiar with proposed changes and to comment on them in advance. In the Commission's experience, one of its most valuable roles has been in negotiating and mediating compromises between applicants and abutters. It is felt that in the neutral forum of the Commission meeting, potentially unpleasant conflicts between applicant and abutter may be resolved in discussions with an objective third party.

Finally, the Commission felt it was critical to limit the time constraints this additional level of review would impose on an applicant. To that end, a shortened notification process which involves posting notice on the subject property forty-eight hours in advance of a meeting was developed.

Non-binding review was proposed for three categories of alteration. The first, for new construction of 150 to 750 square feet of floor area, would cover those projects which

might be expected to have an impact on their surroundings, but have not previously been reviewed. In practice, the 750 square foot threshold of the original order (and its attendant percentage thresholds of 33% enlargement or new construction) has been difficult to enforce and is subject to interpretation. Several major construction projects of substantial square footage have gone unreviewed (a carriage house on Leonard Avenue, a house at Broadway and Ellsworth, a house on Line Street) although their additional square footage was close to the thresholds. It was felt that attempts to further define methods of calculating the order's threshold would be needlessly complicated.

Institution of an additional layer of review would mean that such projects would at least come into the public process and might potentially benefit from Commission advice.

The provision for review of exterior alterations to structures requiring special permits or variances is included in Article III. It was felt that such projects might be anticipated to generate design issues of concern to abutters which would not be addressed through Zoning Board review. For this reason, this provision was added to the non-binding review category.

The third category of non-binding review addresses the process of incremental loss of character-defining design elements. It was the Commission's position that binding review of such alterations would create an unnecessary burden on property owners.

Seven of the eight members of the Commission concurred in their support of these amendments to the order. The eighth member disagreed that any additional reviews were either necessary or justified and may submit a minority report stating his position. It is the belief of a majority of the Commission (seven of eight) that instituting non-binding reviews would better meet the objectives of the criteria of the order to 1) encourage new construction which complements existing buildings, 2) encourage preservation of neighborhood buildings, and 3) enhance the economic vitality of the neighborhood. The decision to include non-binding reviews as outlined above was justified on this basis.

Review of past cases indicated that approximately 42% of the applications received between 1986 and 1989 would have been subject to non-binding reviews if the amendments proposed had been in place.

With regard to binding review, only one alteration was made. All other provisions remain as they are in the current order. National Register properties were added to this category with the understanding that these properties are among the district's most significant resources and are, under the present order, highly vulnerable. The review criteria specifically direct the Commission to protect National Register properties. All of the members of the Commission agreed that the exclusion of National Register properties from some form of binding review in the original order was an oversight which required correction. Seven of

the eight members concurred that National Register properties should be subject to binding review for any alterations, new construction, or demolition. The eighth member believed that National Register properties should not be differentiated from other properties in the district. The majority of the Commission (seven of eight) found that protection of National Register properties as mandated in the order would be accomplished through binding review. Of the reviews carried out to date, thirteen (3%) have been for changes to National Register properties.

The other change within the review authority of the Commission was to eliminate special provisions for non-residential properties. In the amended order, non-residential properties would not be differentiated from residential properties. The Commission unanimously supported this alteration. There have been four reviews of alterations to non-residential buildings (.09%).

Section II (membership) was amended so as to allow more than one member of the Historical Commission to serve on the Mid Cambridge Commission. Currently, one of the alternates to the Mid Cambridge Commission is also an alternate to the Historical Commission. There was unanimous support for this amendment.

Section III (review authority) has been editorially restructured so as to be clearer to the reader. There was unanimous support for this amendment.

Section IX (procedure) has been amended as follows. A new paragraph A. has been substituted to cover notifications for non-binding review. Seven of eight members support this amendment.

Section X (appeals) paraphrases the appeals procedure outlined in Article III (Chapter 2.78.240). It replaces a section calling for periodic neighborhood review, the terms of which were fulfilled in 1987. There was unanimous support for this amendment.

Section XI (ordinary maintenance and repair) is taken from Article III (Chapter 2.78.200). It replaces a section requiring a City Council vote for continued designation, the terms of which were fulfilled in 1987. There was unanimous support for this amendment.

APPENDICES

ORDER ESTABLISHING THE MID CAMBRIDGE
NEIGHBORHOOD CONSERVATION DISTRICT COMMISSION

WHEREAS, the procedures set forth in paragraph (4) of Section 2.147(k) of Article XVI of Chapter Two of the General Ordinances of the City of Cambridge (City Ordinance authorizing the establishment of Neighborhood Conservation Districts and establishing procedures and standards) appear to have been satisfied with respect to the designation of a neighborhood conservation district to be known as the "Mid Cambridge Neighborhood Conservation District" having the boundaries set forth on the map hereto attached entitled Mid Cambridge Neighborhood Conservation District, as designated by the Cambridge City Council January 21, 1985 and a report of a study committee and the recommendation of the Historical Commission has been received with regard to the designation of such a district;

NOW, THEREFORE, be it ordained and ordered by the City Council of the City of Cambridge as follows:

1. Designation of Mid Cambridge Neighborhood Conservation District

Pursuant to paragraph (4) of Section 2.147(k) of Article XVI of Chapter Two of the General Ordinances of the City of Cambridge, (designation procedures) there is hereby designated as a neighborhood conservation district the Mid Cambridge Neighborhood Conservation District having the boundaries set forth on the map entitled "Mid Cambridge Neighborhood Conservation District, as designated by the Cambridge City Council (date of this order) (for purposes of this Order, the "District"), which District shall be administered by a commission to be known as the "Mid Cambridge Neighborhood Conservation District Commission" (for purposes of this Order, the "Commission"), appointed by the City Manager pursuant to paragraph (3) of said Section 2.147(k). The reasons for the designation of the District are those set forth in the designation report (for the purposes of this Order, the "Report"), of the study committee and as approved by the Historical Commission with respect to said District, which reasons shall guide the Commission in its administration of the District.

2. Membership

Pursuant to paragraph (3) of Section 2.147(k) (membership requirements), the Mid Cambridge Neighborhood Conservation District shall consist of five members and three alternates appointed by the City Manager and having qualifications as defined in paragraph (3), with the additional requirements that one neighborhood resident member of the Commission shall be a tenant, the neighborhood property owner member shall be a resident of the District, and all alternate members shall be resident property owners of the District. No member of any other appointed board or commission, with the exception of one member of the Cambridge Historical Commission, shall serve on the Commission.

For the purpose of this order a property owner of record may consent to have another adult member of his/her immediate household fill a property owner position on the Commission. Notice of vacancies on the Commission shall be posted at the Office of the City Clerk for at least two weeks prior to any appointment to fill such vacancies.

3. Review Authority

The authority of the Commission shall extend to the following two required categories of review of proposed changes in the District:

- A. Any alteration of the exterior of existing Listed National Register structures, structures containing or proposed to contain conforming non-residential uses.
- (1) The alteration(s) is visible from a public street; and
 - (2) The alteration(s) involves significant changes in the following features: bay windows, cornice, fascia boards below the cornice including gutter and trim detail, porches, cornerboards, window and door casings, skylights covering more than 1/3 of the visible roof area, all signs except home-occupation signs.
- The Commission may make recommendations regarding such alterations which shall not be binding on the applicant.
- B. Any activity visible from a public way involving any one of the following:
- (1) Demolition of 33% or more of the floor area of an existing structure not used principally to garage automobiles;
 - (2) New construction of more than 750 square feet of floor area including additions to existing structures;
 - (3) New construction of structure on more than 33% of the lot area not already occupied by structures;
 - (4) Enlargement of the floor area of an existing structure by more than 33%;
 - (5) Relocation of an existing structure onto or out of a site;
 - (6) Any alteration or construction of a structure containing or proposed to contain nonconforming uses.
 - (7) Publicly owned structures.

The Commission may make recommendations regarding such activities which shall be binding on the applicant. Where a review by the Commission is determined by the change in lot area covered by structures or change in the floor area of structures on a lot, such review shall be based upon the cumulative total of such changes in the three years preceding the date of application for a building permit for any such change as determined by certificates of occupancy or zoning compliance or building permits issued and/or still in force during that three year period.

4. Review Criteria to be Considered by the Commission

The Commission shall apply certain criteria in addition to those contained in paragraph (8) of Section 2.147(k) in considering applications for certificates of appropriateness, nonapplicability, and hardship.

A. General Criteria. All applications shall be considered in terms of the impact of the proposed new construction or alteration, relocation or demolition of an existing building on the District as a whole, and in addition with regard to the potential adverse effects of the proposed construction, alteration, relocation or demolition on the surrounding properties and on the immediate streetscape and the economic assessment of the alternatives to the proposed action. General objectives shall be to:

- (1) Avoid excessive infill;
- (2) Encourage new construction which complements existing buildings;
- (3) Encourage preservation of neighborhood buildings; and
- (4) Protect National Register structures, and
- (5) Enhance the economic vitality of the neighborhood.

B. Construction of a New Building and Alterations to Existing Buildings. Review of the design of a proposed new building, relocated building, or applicable alteration of an existing building, shall be made with regard to the compatibility of the building with its surroundings, and the following elements of the project shall be among those considered:

- (1) Site layout;
- (2) Provisions for parking;
- (3) Volume and dimensions of the building;
- (4) Provisions for open space and landscaping;
- (5) The scale of the building in relation to its surroundings; and

- (6) The changes to existing buildings as related to new construction.

C. Demolition or Relocation of an Existing Building. The Commission shall apply the provisions of Section 2.147(k) with regard to the proposed demolition of an existing building, and in addition shall consider the following factors:

- (1) the physical condition of the building;
- (2) a claim of substantial hardship, financial or otherwise for the owner or occupants; and
- (3) the design of the proposed replacement structure, if any.

5. Determination by the Commission

The determinations of the Commission shall be binding regarding activities detailed in paragraph 3B of this order and shall be expressed through the issuance of certificates of appropriateness, nonapplicability or hardship. Any determination may contain such conditions as the Commission determines to be necessary to fulfill the objectives of the District. Such conditions may impose limitations stricter than the applicable zoning regulations only to the extent of a one-third reduction in (1) the additional floor area or (2) additional dwelling units permitted on the site, or a one-third reduction or one-half increase in the number of parking spaces required by zoning, except that in the case of a building damaged by fire that structure may be rehabilitated to its full extent prior to the fire.

In imposing binding conditions with the issuance of a certificate, or in denying a certificate, a concurring vote of at least four (4) of the members of the Commission shall be required.

All determinations which impose restrictions on an applicant shall be in written form stating the findings of facts and the standards and criteria upon which the decision is based, and the reasoning by which the restrictions were found to be necessary. All determinations shall be available for inspection at the office of the Cambridge Historical Commission. In no case shall a building permit be issued until the Commission has made a determination under the provisions of Section 2.147(k) of Article XVI.

6. Education and Incentive Program

The Commission shall, in cooperation with the Cambridge Historical Commission, conduct an ongoing educational program in the district to make known the objectives of the District

and the Commission, to encourage preservation of the District's historical character, and to make available information to advance and encourage voluntary protection of the District's distinctive architecture.

The regulatory provisions of this order shall not take effect until an initial appropriation of \$10,000 to the Cambridge Historical Commission is made by the Cambridge City Council to support such an educational program and further provided that an additional \$5,000 is so appropriated in each subsequent fiscal year. Should the additional funding not be appropriated for any given fiscal year the regulatory provisions of this Order shall not be enforced for any application for a building permit made after July 1 of that fiscal year or until such appropriation is made.

7. Fees

The Commission may establish a schedule of fees which may be mandatory for those activities subject to review under paragraph 3B of this order. All other fees shall be voluntary.

8. Coordination with Other Agencies and Boards

The Board of Zoning Appeal, Board of Appeals, Building Commission, Mid Cambridge Neighborhood Conservation District Commission, and other City boards, agencies, and officials are directed to coordinate all review, hearing, permitting, and other procedures relative to physical changes within the District to the extent practicable, consistent with their respective responsibilities.

9. Procedure

In addition to the provisions of paragraph (8) of Section 2.147(k) of the enabling ordinance, the Commission shall observe the following procedural requirements:

- A. The following review periods shall be required for reviews for which recommendations are not binding. (Those alterations detailed in paragraph 3A of this Order.)
 - (1) For alterations involving National Register structures, a public meeting if required shall be held within fourteen (14) days of an application for a building permit; final recommendations shall be made to the applicant within twenty-one (21) days.
 - (2) For alteration of non-residential buildings a public meeting if required shall be held within twenty-one (21) days of an application for a building permit; recommendations shall be made available within thirty (30) days.

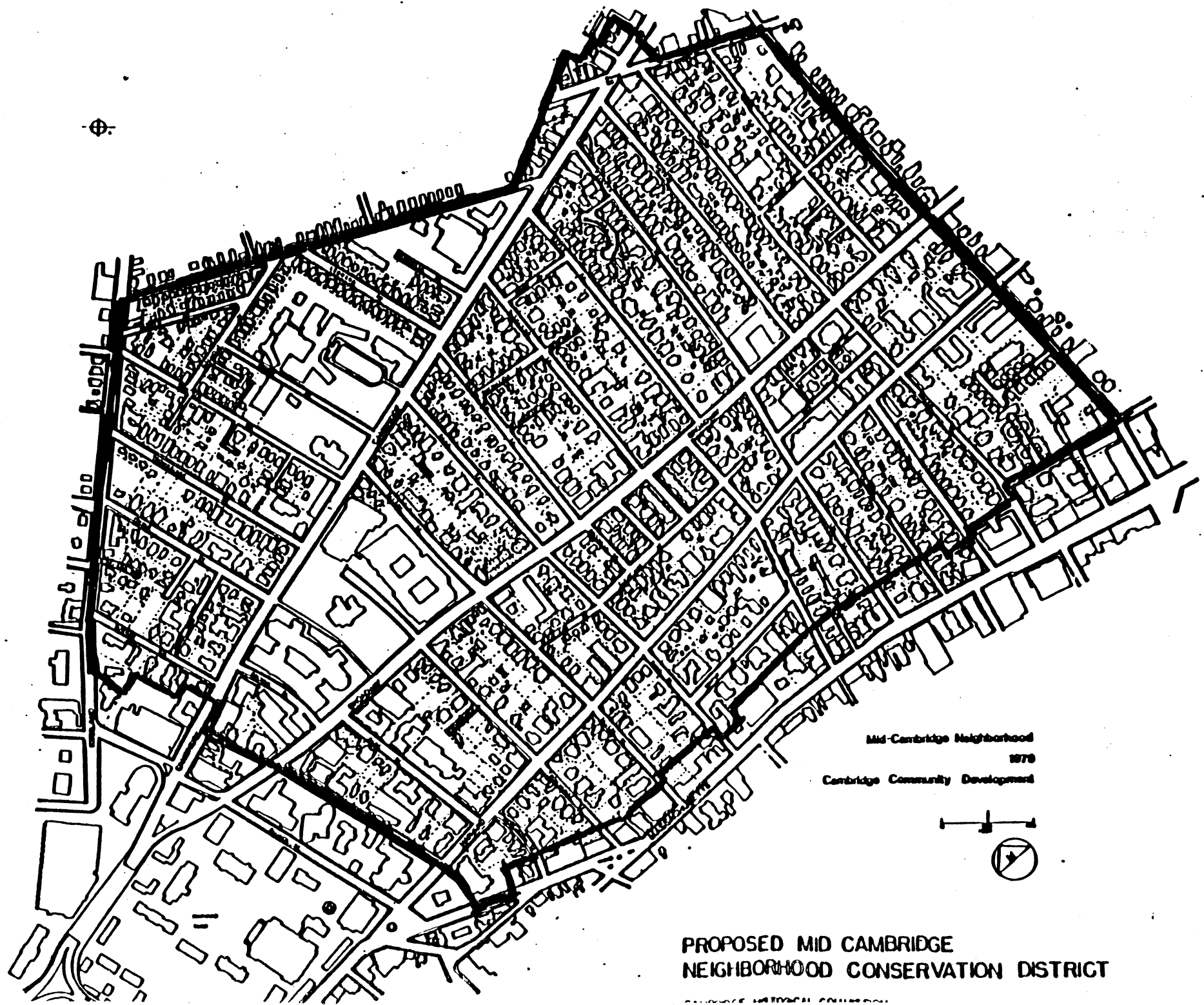
- B. For any review for which the recommendations are binding (those activities detailed in paragraph 3B of this Order) the issuance of the appropriate certificate shall be made within forty-five (45) days of an application for a building permit.
- C. Failure to act within the time periods specified in this paragraph 8 shall mean approval of the application unless an extension of time is granted by the applicant in writing.
- D. Where a public hearing is held by the Commission, notice shall be given to property owners and tenants of property required to receive such notice under Chapter 40C using the current street listing maintained by the Cambridge Election Commission. Such notification shall be considered educational expense under the provisions of Section 6 of this Order.
- E. In addition to any appeal allowed pursuant to Section 2.147(k), the Commission may agree to the appointment of an arbitrator acceptable to both the Commission and the applicant who would make recommendations to both parties where disagreement between the Commission and the applicant persists.
- F. Four members shall constitute a quorum for the Commission.

10. Periodic Neighborhood Review

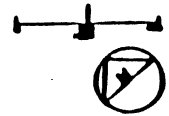
For the first two years from the date of establishment the Mid-Cambridge Conservation District Commission shall hold a public meeting at six month intervals at which neighborhood residents are invited to review the actions of the Commission, assess its effectiveness in carrying out the intent of this order and make recommendations for changes in its policies and procedures. The Commission shall make a summary of each meeting which shall be filed for public inspection at the Cambridge Historical Commission and filed with the Office of the City Council.

11. Continued Designation

The Mid-Cambridge Neighborhood Conservation District designation made in Section 1 of this Order shall be for a period of two years from the date of adoption of this order. Continuation of the designation of the District for and additional two or more years shall require an affirmative vote of the City Council prior to the expiration of the initial two year designation.



Mid-Cambridge Neighborhood
1979
Cambridge Community Development



**PROPOSED MID CAMBRIDGE
NEIGHBORHOOD CONSERVATION DISTRICT**

Proposed language for sections to be amended is in bold face.

I. Designation of Mid Cambridge Neighborhood Conservation District

Pursuant to section 2.78.140-270 of Article III of Chapter 2.78 of the General Ordinances of the City of Cambridge (designation procedures), there is hereby designated as a neighborhood conservation district the Mid Cambridge Neighborhood Conservation District having the boundaries set forth on the map entitled "Mid Cambridge Neighborhood Conservation District," as designated by the Cambridge City Council January 21, 1985 (for purposes of this Order, the "District"), which District shall be administered by a commission to be known as the "Mid Cambridge Neighborhood Conservation District Commission" (for purposes of this Order, the "Commission"), appointed by the City Manager pursuant to paragraph (A) of Section 2.78.160. The reasons for the designation of the District are those set forth in the designation report (for purposes of this Order, the "Report"), of the study committee and as approved by the Historical Commission with respect to said District, which reasons shall guide the Commission in its administration of the District.

II. Membership

Pursuant to paragraph (A) of Section 2.78.160 (membership requirements), the Mid Cambridge Neighborhood Conservation District shall consist of five members and three alternates appointed by the City Manager and have qualifications as defined in paragraph (3), with the additional requirements that one neighborhood resident member of the Commission shall be a tenant, the neighborhood property owner member shall be a resident of the District, and all alternate members shall be resident property owners of the District. No member of any other appointed board or commission, with the exception of **at least** one member of the Cambridge Historical Commission, shall serve on the Commission.

III. Review Authority

The authority of the Commission shall extend to the following two required categories of review of proposed changes in the District:

A. The Commission may make non-binding recommendations for any of the following that are visible from a public way:

1. **New construction, including additions to existing structures, of more than 150 and less than 750 square feet of floor area;**

2. Alteration of the exterior appearance of a structure that requires a variance or special permit under the zoning ordinance then in effect;

3. Alteration involving any of the following:

a. removal or enclosure of any historic or original decorative element, such as a cornice, fascia, soffit, bay, porch, hood, corner-board, window sash, or window or door casing;

b. increase or diminishment of the size and/or change in the location of, windows or doors;

c. increase or diminishment of the slope, pitch, or configuration of a roof or removal of historic or original roofing material.

B. The Commission may make binding recommendations for that portion of any of the following that are visible from a public way:

1. New construction, including additions to existing structures, involving any of the following:

a. more than 750 square feet of floor area;

b. more than 33% of the lot area not already occupied by structures;

c. enlargement of the floor area of an existing structure by more than 33%;

2. Demolition of 33% or more of the floor area of an existing structure not originally used to garage automobiles, including relocation of an existing structure onto or off of a site;

3. Any alteration or construction of the following:

a. structures listed on the National Register of Historic Places, except those subject to Historical Commission review;

b. publicly owned structures;

c. structures containing or proposed to contain non-conforming uses.

Where a review by the Commission is determined by the change in lot area covered by structures or the change in the floor area of structures on a lot, such review shall be based on the cumulative total of such changes in the past three years preceding the date of application for a building permit, as

determined by certificates of occupancy or zoning compliance or building permits issued and/or still in force during that three year period.

IV. Review Criteria to be Considered by the Commission

The Commission shall apply certain criteria in addition to those contained in Section 2.78.220 in considering applications for certificates of appropriateness, nonapplicability, and hardship.

A. General Criteria. All applications shall be considered in terms of the impact of the proposed new construction or alteration, relocation or demolition of an existing building on the District as a whole, and in addition with regard to the potential adverse effects of the proposed construction, alteration, relocation or demolition on the surrounding properties and on the immediate streetscape and the economic assessment of the alternatives to the proposed action.

General objectives shall be to:

1. Avoid excessive infill;
2. Encourage new construction which complements existing buildings;
3. Encourage preservation of neighborhood buildings;
4. Protect National Register structures; and
5. Enhance the economic vitality of the neighborhood.

B. Construction of a New Building and Alterations to Existing Buildings. Review of the design of a proposed new building, relocated building, or applicable alteration of an existing building, shall be made with regard to the compatibility of the building with its surroundings, and the following elements of the project shall be among those considered:

1. site layout;
2. provisions for parking;
3. volume and dimensions of the building;
4. provisions for open space and landscaping;
5. the scale of the building in relation to its surroundings; and
6. the changes to existing buildings as related to new construction.

C. Demolition or Relocation of an Existing Building. The Commission shall apply the provisions of Section 2.147(k) with regard to the proposed demolition of an existing building, and in addition shall consider the following factors:

1. the physical condition of the building;
2. a claim of substantial hardship, financial or otherwise, for the owner or occupants; and
3. the design of the proposed replacement structures, if any.

V. Determinations by the Commission.

The determinations of the Commission shall be binding regarding activities detailed in paragraph 3B of this order and shall be expressed through the issuance of certificates of appropriateness, nonapplicability, or hardship. Any determination may contain conditions as the Commission determines to be necessary to fulfill the objectives of the District. Such conditions may impose limitations stricter than the applicable zoning regulations only to the extent of a one-third reduction in (1) the additional floor area or (2) additional dwelling units permitted on the site, or a one-third reduction or one-half increase in the number of parking spaces required by zoning, except that in the case of a building damaged by fire that structure may be rehabilitated to its full extent prior to the fire.

In imposing binding conditions with the issuance of a certificate, or in denying a certificate, a concurring vote of at least four (4) of the members of the Commission shall be required.

All determinations that impose restrictions on an applicant shall be in written form stating the findings of facts and the standards and criteria upon which the restrictions were found to be necessary. All determinations shall be available for inspection at the office of the Cambridge Historical Commission. In no case shall a building permit be issued until the Commission has made a determination under the provisions of Section 2.78.140-270.

VI. Education and Incentive Program.

The Commission shall, in cooperation with the Cambridge Historical Commission, conduct an ongoing educational program in the district to make known the objectives of the District and the Commission, to encourage preservation of the District's historical character, and to make available

information to advance and encourage voluntary protection of the District's distinctive architecture.

The regulatory provisions of this Order shall not take effect until an initial appropriation of \$10,000 to the Cambridge Historical Commission is made by the City Council to support such an educational program and further provided that an additional \$5,000 is so appropriated in each subsequent fiscal year. Should the additional funding not be appropriated for any given fiscal year the regulatory provisions of this Order shall not be enforced for any application for a building permit made after July 1 of that fiscal year or until such appropriation is made.

VII. Fees.

The Commission may establish a schedule of fees which may be mandatory for those activities subject to review under paragraph III,B of this Order. All other fees shall be voluntary.

VII. Coordination with Other Agencies and Boards.

The Board of Zoning Appeal, Board of Appeals, Building Commission, Mid Cambridge Neighborhood Conservation District Commission, and other City boards, agencies, and officials are directed to coordinate all review, hearing, permitting, and other procedures relative to physical changes within the District to the extent practicable, consistent with their respective responsibilities.

IX. Procedure.

In addition to the provisions of Section 2.78.220 and 2.78.230 of the enabling ordinance, the Commission shall observe the following procedural requirements:

A. For any review for which the recommendations are not binding, as detailed in paragraph III,A of this Order, the Commission shall review the application at a public meeting of the Commission. The Commission shall give not less than forty-eight hours notice of such public meeting by publicly posting such notice in the office of the city clerk. In addition, notice of any meeting provided for in this ordinance shall be given by the Commission to the applicant and to abutters of the subject property and to such other persons and in such manner as the Commission may determine. The Commission may among other forms of notice require that the applicant maintain on the building which is the subject of an application a notice, in a form designated by the Commission, visible from the nearest public way, of any meeting upon the application, and the applicant shall comply with such requirements. Final recommendations shall be made

available to the applicant within thirty (30) days of an application for a certificate.

B. For any review for which the recommendations are binding, as detailed in paragraph III,B of this Order, the issuance of the appropriate certificate shall be made within forty-five (45) days of an application for a certificate.

C. Failure of the Commission to act within the time periods specified in this Section 9 shall mean approval of the application for a certificate and the Commission shall thereupon issue a certificate of hardship unless an extension of time is granted by the applicant in writing.

D. Where a public hearing is held by the Commission, notice shall be given to property owners and tenants of property required to receive such notice under Chapter 40C using the current street listing maintained by the Cambridge Election Commission. Such notification shall be considered educational expense under the provisions of Section 6 of this Order.

E. In addition to any appeal allowed pursuant to Section 2.78.240, the Commission may agree to the appointment of an arbitrator acceptable to both the Commission and the applicant who would make recommendations to both parties where disagreement between the Commission and the applicant persists.

F. Four members shall constitute a quorum for the Commission.

X. Appeals.

Any person aggrieved by a determination of the Commission may appeal to the Cambridge Historical Commission within twenty-one (21) days after the filing of such determination with the City Clerk, as governed by the provisions of Chapter 40C of the Massachusetts General Laws, Section 2.78.240 of the Code of the City of Cambridge, and any regulations promulgated by the Cambridge Historical Commission.

XI. Ordinary Maintenance.

Nothing in this Order shall be construed to prevent the ordinary maintenance, repair, or replacement of any exterior architectural feature of the District which does not involve a change in design or materials or the outward appearance thereof, nor to prevent landscaping with plants, trees, or shrubs, nor construed to prevent the meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition.

2.78.010

Chapter 2.78

HISTORICAL BUILDINGS AND
LANDMARKS

Sections:

Article I. Administration

- 2.78.010 Established—Appointment—
Terms.
- 2.78.020 Powers and duties.
- 2.78.030 Adoption of rules and
regulations.
- 2.78.040 Advisory Committee—
Appointment—
Recommendation.
- 2.78.050 Historic district established.
- 2.78.060 Application for certificate of
appropriateness—Time
limitations.

Article II. Demolition of Buildings Determined
to be Historically Significant

- 2.78.070 Purpose.
- 2.78.080 Definitions for Article II.
- 2.78.090 Procedures for demolition.
- 2.78.100 Application—Publication of
notice.
- 2.78.110 Emergency demolition.
- 2.78.120 Enforcement and remedies.
- 2.78.130 Conflicts with Historic Districts
Act.

Article III. Establishment of Neighborhood
Conservation Districts and Protected
Landmarks

- 2.78.140 Purpose.
- 2.78.150 Definitions for Article III.
- 2.78.160 Neighborhood conservation
district commission—
Established—Membership
requirements.
- 2.78.170 Powers and duties.
- 2.78.180 Designation of landmark
procedures.
- 2.78.190 Review procedures.

- 2.78.200 Maintenance, repair and
reconstruction.
- 2.78.210 Certificates of
appropriateness—
Nonapplicability of hardship.
- 2.78.220 Factors considered by
Commissions.
- 2.78.230 Public meetings and hearings.
- 2.78.240 Appeal procedure.
- 2.78.250 Historical Commission
authority not limited.
- 2.78.260 Limitation on applicability.
- 2.78.270 Enforcement and remedies.

Article I. Administration

- 2.78.010 Established—Appointment—
Terms.

The Cambridge Historical Commission established under the Historic Districts Act, General Laws Chapter 40C, with all the powers and duties of an historic district commission, shall consist of seven members to be appointed by the City Manager with the approval of the Council, including one member from two nominees submitted by the Chapter of the American Institute of Architects covering Cambridge, one member from two nominees submitted by the Boston Society of Landscape Architects, and one member from two nominees of the Board of Realtors covering Cambridge. One or more of the members so appointed shall be a resident of an historic district established in the City pursuant to the Historic Districts Act, and at least one member shall be a lawyer. There shall also be three alternate members also appointed by the Manager with the approval of the Council. The members and the alternate members shall serve for terms of three years and until their successors are appointed and qualified. If within thirty days after submission of a written request for nominees to any of the above-named organizations no such nominations have been submitted, the City Manager may make such appointment without nomination by such organization. No alternate

of the completion of such demolition. As used in this article "premises" refers to the parcel of land upon which the demolished building was located and all adjoining parcels of land under common ownership or control.

C. Securing of Building Required. Upon a determination by the Commission that a building is a preferably preserved significant building, the owner shall be responsible for properly securing the building in compliance with the regulations of the Building Department. Should the owner fail so to secure the building, the loss of such building through fire or other cause shall be considered voluntary demolition for the purposes of subsection B of this section. (Ord. 965 § 7, 1981; Ord. 909 (part), 1978; prior code § 2-147(j) (part))

2.78.130 Conflicts with Historic Districts Act.

Nothing in this article shall be deemed to conflict with the provisions of the Historic Districts Act, General Laws Chapter 40C, with respect to requirements as to notice, hearing and issuance by the Commission of a certificate of appropriateness, a certificate of nonapplicability or a certificate of hardship prior to demolition of any building in an historic district; provided, however, that any temporary building erected or maintained in an historic district pursuant to a certificate issued by the Commission may be demolished in a manner not inconsistent with the terms of such certificate. (Ord. 965 § 6, 1981; Ord. 909 (part), 1978; prior code § 2-147(j) (part))

Article III. Establishment of Neighborhood Conservation Districts and Protected Landmarks

2.78.140 Purpose.

The City Council finds it necessary to enact this article under Section 6 of the Home Rule Amendment in order to preserve, conserve and protect the beauty and heritage of the City and to improve the quality of its environment through

identification, conservation and maintenance of neighborhoods, areas, sites and structures which constitute or reflect distinctive features of the architectural, cultural, political, economic or social history of the City; to resist and restrain environmental influences adverse to this purpose; to foster appropriate use and wider public knowledge and appreciation of such neighborhoods, areas or structures; and by furthering these purposes to promote the public welfare by making the City a more attractive and desirable place in which to live and work. To achieve these purposes, the City may designate neighborhood conservation districts and landmarks to be administered as set forth in this article. (Ord. 1002 (part), 1983; prior code § 2-147(k) (1))

2.78.150 Definitions for Article II.

In addition to the terms defined in Section 2.78.080 of this chapter, the following terms, when used whether or not capitalized in this subsection, shall have the meanings set forth in this section, unless the context otherwise requires:

A. "Demolition" means the act of pulling down, destroying, removing or razing structures, or commencing the work of total or substantial destruction with the intent of completing the same.

B. "Exterior architectural features" means and includes such portion of the exterior of a structure as is open to view from a public street, way, park or body of water, including but not limited to the architectural style and general arrangement and setting thereof, the kind, material and texture of exterior building materials, and the type and style of windows, doors, lights, signs and other appurtenant exterior fixtures.

C. "Historic district" means an area so established under the authority of Chapter 40C of the General Laws.

D. "Landmark" means any property within the City so designated in accordance with Section 2.78.180 of this article.

E. "Neighborhood conservation district"

means any area within the City so designated in accordance with Section 2.78.180 of this article.

F. "Neighborhood conservation district commission" or "district commission" means a commission provided for by Section 2.78.160 of this article.

G. "Structure" means a combination of materials including a building, sign, fence, wall, terrace, walk, driveway, street, bridge, statue, monument or other manmade feature. (Ord. 1002 (part), 1983: prior code § 2-147(k) (2))

2.78.160 Neighborhood conservation district commission—Established—Membership requirements.

A. Upon designation as provided in Section 2.78.180 of this article of any neighborhood conservation district, and unless the designation provides that the Historical Commission itself shall exercise authority with respect thereto, the City Manager shall appoint a neighborhood conservation district commission to consist of five members and three alternates. The members shall include three residents of the neighborhood, not less than two of whom shall be homeowners; one neighborhood property owner (who may or may not be a neighborhood homeowner); and one member or alternate of the Cambridge Historical Commission. The three alternates shall all be neighborhood property owners. The neighborhood conservation district commission shall act solely in the exercise of those functions described in this article which are applicable to the district under its administration.

B. Any member or alternate of the Historical Commission may be appointed to a neighborhood conservation district commission for a term coterminous with such person's term as a member or alternate of the Historical Commission. Members and alternates of a neighborhood conservation district commission who are not members of the Historical Commission shall by reason of experience or education have demonstrable knowledge and concern for improve-

ment, conservation and enhancement of the district, and at least two of the members or alternates shall have professional qualifications related to real estate or architecture or historic preservation. The members of the Commission shall be appointed by the City Manager with regard to the diverse viewpoints expressed in the creation of the district. Such members shall serve for a term of three years, except that the initial appointments shall be for one member to serve one year and one member to serve two years, and vacancies shall be filled for the unexpired term of office. Each member and alternate shall continue in office after expiration of his or her term until a successor is duly appointed and qualified, except that no member shall serve more than two consecutive terms.

C. The neighborhood conservation district commission shall elect annually a Chairman and Vice-Chairman from its own number. In the case of absence, inability to act, or unwillingness to act because of self-interest on the part of a member, his or her place shall be taken by an alternate member designated by the Chairman, if available, otherwise by the Vice-Chairman if available, otherwise by a majority vote of the members and alternate members of the Commission present. The person exercising the function of Executive Director of the Historical Commission shall serve as secretary of each neighborhood conservation district commission. Persons serving as members or alternate members of a neighborhood conservation district commission shall, as a result of such service, be considered as "special municipal employees" for purposes of Chapter 268A of the General Laws. (Ord. 1002 (part), 1983: prior code § 2-147(k) (3))

2.78.170 Powers and duties.

The Historical Commission and each neighborhood conservation district commission shall have like powers, functions and duties with respect to each landmark and neighborhood conservation district over which it has jurisdiction as is provided Historic District Commissions under

clauses (a) through (g) under Section 10 of Chapter 40C of the General Laws with respect to historic districts, including without limitation with respect to the approval and disapproval of certificates of appropriateness, nonapplicability and hardship, the dating and signing of such certificates, the keeping of records and adoption of rules and regulations, the filing with the City Clerk and Building Department of certificates and determinations of disapproval by it, and the determination of designs of appurtenances (excluding colors) which will meet the requirements of the landmark or neighborhood conservation district. (Ord. 1002 (part), 1983: prior code § 2-147(k) (9))

2.78.180 Designation of landmark procedures.

A. The Historical Commission by majority vote may recommend for designation as a landmark any property within the City being or containing a place, structure, feature or object which it determines to be either (1) importantly associated with one or more historic persons or events, or with the broad architectural, aesthetic, cultural, political, economic or social history of the City or the Commonwealth or (2) historically or architecturally significant (in terms of period, style, method of construction or association with a famous architect or builder) either by itself or in the context of a group of structures; may recommend for designation as a neighborhood conservation district any area within the City containing places and structures which it determines are of importance to the architectural, aesthetic, cultural, political, economic or social history of the City, and which considered together cause such area to constitute a distinctive neighborhood or to have a distinctive character in terms of its exterior features; and may recommend amendments to any designation of landmark or neighborhood conservation district theretofore made.

B. Prior to the recommendation of designation or amendment of designation of any land-

mark or neighborhood conservation district an investigation and report on the historical, architectural and other relevant significance thereof shall be made. The report shall recommend the boundaries of any proposed landmark or neighborhood conservation district and shall recommend for incorporation in the order of the City Council designating each landmark or neighborhood conservation district general and/or specific standards and appropriate criteria consistent with the purposes of this article and the provisions of Section 2.78.190 of this article that are to be applied in making any determination of the type referred to in Sections 2.78.170, 2.78.210 and 2.78.220 of this article, with respect to the designated landmark or within the designated neighborhood conservation district.

C. In the case of a landmark, the report shall be prepared by the Historical Commission. In the case of a neighborhood conservation district, the report shall be prepared by a study committee consisting of three members or alternates of the Historical Commission and four persons appointed by the City Manager, including at least one person who resides in the district under consideration, at least one person who owns property in the district under consideration, and one person who owns property or resides elsewhere in the City and has demonstrated knowledge and concern for conservation and enhancement of those exterior features of the City which are important to its distinctive character.

D. Any ten registered voters of the City may petition that the Historical Commission initiate, or the Historical Commission on its own may initiate, the process of designating a landmark or neighborhood conservation district or amending or rescinding any such designation theretofore made. The Commission shall within forty-five days following the filing of such request or petition hold a preliminary hearing and arrange for the preparation of a report and, if required, request the appointment of a study committee. The Historical Commission shall not reconsider

a proposed designation, amendment or rescission of designation within one year of its previous hearing thereon, unless two-thirds of all its members vote to do so. No less than forty-five nor more than sixty days after the transmittal of a report to the Commission pertaining to a proposed designation, the Commission shall hold a public hearing. The Commission shall give not less than fourteen days notice of such public hearing by publication in a newspaper of general circulation in the City and by mailing notice thereof to the owner of the proposed landmark and to every owner abutting the proposed landmark or within the proposed neighborhood conservation district, each such owner to be determined from the then current records of the Assessing Department, and to the City Manager, the Planning Board and the City Clerk.

E. Prior to the public hearing, the Commission shall transmit copies of the report to the Planning Board for its consideration and recommendations.

F. The recommendation of the Historical Commission with regard to any designation, amendment or rescission shall be transmitted to the City Manager and to the City Clerk with a copy of the approved designation report. Designation of a landmark or a neighborhood conservation district or amendment or rescission of designation shall be by order of the City Council. In the case of a designation, the order shall include a statement of the reasons for such designation and a statement of standards which the Historical Commission or neighborhood conservation district commission is to apply under Sections 2.78.170 and 2.78.190 through 2.78.220 of this article.

G. No designation, amendment or rescission of designation shall become effective until a map setting forth the boundaries of the landmark or neighborhood conservation district or change in the boundaries thereof, has been filed with the City Council and has been recorded with the Registry of Deeds for the South District of the County.

H. If the order establishing or amending a neighborhood conservation district contains provisions for both regulatory and educational/incentive programs, the regulatory provisions of the order shall not be effective unless and until the educational/incentive provisions of the order are funded. (Ord. 1009A (part), 1984; Ord. 1002 (part), 1983: prior code § 2-147(k) (4))

2.78.190 Review procedures.

A. Except as the order designating or amending a landmark or neighborhood conservation district may otherwise provide in accordance with this article, the Historical Commission or neighborhood conservation district commission having jurisdiction shall review all construction, demolition or alteration that affects the exterior architectural features, other than color, of any landmark or within any neighborhood conservation district.

B. The order designating or amending a landmark or neighborhood conservation district may provide that the authority of the Historical Commission or neighborhood conservation district commission having jurisdiction shall not extend to the review of one or more of the following categories of structures or exterior architectural features of the landmark or within the neighborhood conservation district in which event the structures or exterior architectural features so excluded may be constructed or altered without review by the Commission:

1. The application of exterior wall material in a manner that does not require the removal or enclosure of any cornice, fascia, soffit, bay, porch, hood, window or door casing, or any other protruding decorative element;

2. Alternations to the exterior of existing structures that do not increase or diminish the size and location of windows and doors, cause the removal of any bay, porch, hood, window or door casing or any other protruding decorative element, or alter the appearance of a roof;

3. The exterior appearance of a new structure

that does not require a variance or special permit under the zoning ordinance then in effect;

4. Signs, temporary structures, lawn statuary, or recreational equipment, subject to such conditions as to duration of use, dimension, location, lighting, removal and similar matters as the Commission may reasonably specify;

5. Terraces, walks, driveways, sidewalks and similar structures substantially at grade level;

6. Walls and fences;

7. Storm doors and windows, screens, window air conditioners, lighting fixtures, antennae, trelliswork and similar appurtenances.

C. The Historical Commission or a neighborhood conservation district commission may determine from time to time after a public hearing that certain categories of exterior architectural features or structures, including, without limitation, any of those enumerated in this section, if the provisions of the applicable order do not limit the authority of such commission with respect thereto, may be constructed or altered without review by such commission without causing substantial derogation from the intent and purposes of this article.

D. If the order establishing or amending a neighborhood conservation district provides, the determination of a neighborhood conservation district commission shall be binding only with regard to applications to construct a new building, to demolish an existing structure if a demolition permit is required, to construct a parking lot as a principal use, and to construct an addition to an existing structure that would increase its gross floor area, and in all other cases the determinations of a commission shall be advisory only and not binding on an applicant. In no case shall a building permit be issued until the commission has made a determination under the applicable provisions of this article. (Ord. 1002 (part), 1983: prior code § 2-147(k) (5))

2.78.200 Maintenance, repair and reconstruction.

Nothing in this chapter shall be construed to

prevent the ordinary maintenance, repair or replacement of any exterior architectural feature of a landmark or within a neighborhood conservation district which does not involve a change in design or material or the outward appearance thereof, nor to prevent landscaping with plants, trees or shrubs, nor construed to prevent the meeting of requirements certified by duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition, not construed to prevent any construction or alteration under a permit duly issued prior to the effective date of the order which designates that landmark or district, nor construed to prevent the reconstruction, substantially similar in exterior design, of a structure or exterior architectural feature damaged or destroyed by fire, storm or other disaster, provided such reconstruction is begun within one year thereafter and carried forward with due diligence. (Ord. 1002 (part), 1983: prior code § 2-147(k) (6))

2.78.210 Certificates of appropriateness— Nonapplicability of hardship.

A. Except as the order establishing or amending a landmark or neighborhood conservation district may otherwise provide, no structure designated a landmark or within a neighborhood conservation district shall be constructed or altered in any way that affects exterior architectural features unless the Historical Commission or neighborhood conservation district commission having jurisdiction shall first have issued a certificate of appropriateness, a certificate of nonapplicability or a certificate of hardship with respect to such construction or alteration.

B. Any person who desires to obtain a certificate from the Historical Commission or neighborhood conservation district commission shall file with the Commission an application for a certificate of appropriateness, a certificate of nonapplicability or a certificate of hardship, as the case may be, in such form as the commission may reasonably determinate, together with such plans, elevations, specifications, material and

other information, including in the case of demolition or removal a statement of the proposed condition and appearance of the property thereafter, as may be reasonably deemed necessary by the Commission to enable it to make a determination on the application.

C. No building permit for alteration of an exterior architectural feature of a landmark or construction of a structure or for alteration of an exterior architectural feature within a neighborhood conservation district and no demolition permit for demolition or removal of a landmark or of a structure within a neighborhood conservation district shall be issued by the City or any department thereof until the certificate required by this article has been issued by the Historical Commission or neighborhood conservation district commission having jurisdiction. (Ord. 1002 (part), 1983: prior code § 2-147(k) (7))

2.78.220 Factors considered by Commissions.

A. In passing upon matters before it, the Historical Commission or neighborhood conservation district commission shall consider, among other things, the historic and architectural value and significance of the site or structure, the general design, arrangement, texture and material of the features involved, and the relation of such features to similar features of structures in the surrounding area. In the case of new construction or additions to existing structures a commission shall consider the appropriateness of the size and shape of the structure both in relation to the land area upon which the structure is situated and to structures in the vicinity, and a Commission may in appropriate cases impose dimensional and setback requirements in addition to those required by applicable provision of the zoning ordinance. A Commission shall not consider interior arrangements or architectural features not subject to public view.

B. A Commission shall not make any recommendation or requirement except for the purpose of preventing developments incongruous to the historic aspects, architectural significance or

the distinctive character of the landmark or neighborhood conservation district. (Ord. 1002 (part), 1983: prior code § 2-147(k) (8))

2.78.230 Public meetings and hearings.

The Historical Commission and each neighborhood conservation district commission shall adopt rules for the reasonable conduct of its meetings and public hearings, which rules shall not be inconsistent with the procedures provided for meetings of and hearings by historic district commissions under Section 11 of Chapter 40C of the General Laws; and in the absence of the adoption of any such rules, meetings and public hearings of the Historical Commission and of each neighborhood conservation district commission shall be in conformity with the provisions of Section 11 of Chapter 40C applicable to historic district commissions. (Ord. 1002 (part), 1983: prior code § 2-147(k) (10))

2.78.240 Appeal procedure.

Any person aggrieved by a designation of a landmark or district may appeal to the superior court within thirty days after such designation. Any applicant aggrieved by a determination of a neighborhood conservation district commission or ten registered voters of the City opposing a determination under this article may appeal to the Historical Commission within twenty days after the filing of the notice of such determination with the City Clerk. The Historical Commission may overrule the determination and return it for reconsideration consistent with that finding. If the applicant is aggrieved by the determination of the Historical Commission, or if action is not taken by the Historical Commission within thirty days of filing for review, the applicant may appeal to the superior court. Appeal from a Historical Commission determination shall be taken within thirty days of the formal decision; appeal from a failure to act shall be taken within sixty days after the filing for review. The superior court may reverse a determination if it is not supported by substantial evidence in the record.

In all other respects, the appeal shall be made in the same manner as provided under Section 12A of Chapter 40C of the General Laws. (Ord. 1002 (part), 1983: prior code § 2-147(k) (11))

2.78.250 Historical Commission authority not limited.

No provisions of this article shall alter or diminish the duties and functions of the Historical Commission under the authority of Chapter 40, Section 8D and Chapter 40C of the General Laws, or apply to any historic district currently administered by such commission, or restrict the establishment of any future historic district under Chapter 40C of the General Laws. (Ord. 1002 (part), 1983: prior code § 2-147(k) (13))

2.78.260 Limitation on applicability.

The provisions of Article II of this chapter (relative to procedures for demolition permits for significant buildings) shall not be applicable with respect to the demolition of any structure within a neighborhood conservation district if the appropriate neighborhood conservation district commission has issued a certificate of appropriateness or a certificate of hardship permitting the demolition of such structure. (Ord. 1002 (part), 1983: prior code § 2-147(k) (14))

2.78.270 Enforcement and remedies.

The Historical Commission and any neighborhood conservation district commission are each specifically authorized to institute any and all actions, proceedings in law and in equity, as they deem necessary and appropriate to obtain compliance with the requirements of this article or to prevent a threatened violation thereof. Any violation of any provision of this article may be punished to the like extent provided in Section 13 of Chapter 40C of the General Laws for a violation of said Chapter 40C. In addition to the foregoing, no building permit shall be issued, with respect to any premises upon which a landmark or a structure within any neighborhood conservation district has been voluntarily

demolished otherwise than pursuant to a certificate granted after compliance with the provisions of this article, for a period of two years after the date of the completion of such demolition (the word "premises" for the purposes of this sentence referring to the parcel of land upon which the demolished structure was located and all adjoining parcels of land under common ownership or control.) (Ord. 1002 (part), 1983: prior code § 2-147(k) (12))

Chapter 2.80

CAMBRIDGE INDUSTRIAL
COMMISSION

Sections:

- 2.80.010 Established—Appointment—
Terms.
- 2.80.020 Powers and duties.
- 2.80.030 Dissemination of information.
- 2.80.040 Annual reporting requirements.

2.80.010 Established—Appointment—
Terms.

The Cambridge Industrial Commission shall consist of three citizens of the City. The City Manager shall annually in the month of March, appoint one member to serve for the term of three years from April 1st. Upon the expiration of the term of a member, his successor shall be appointed in the manner aforesaid for three years. Vacancies, other than by reason of expiration of term, shall be filled in like manner for the balance of the unexpired term. The Commission shall annually elect one of its members as Chairman. (Prior code § 2-151)

2.80.020 Powers and duties.

The Commission shall have all the powers and duties provided by Chapter 393 of the Acts of 1913, as amended by Section 1 of Chapter 223 of the Special Acts of 1917 and Section 1 of Chapter 79 of the Special Acts of 1919 and any acts hereafter passed relating to the Cambridge Industrial Commission. (Prior code § 2-152)

2.80.030 Dissemination of information.

The Commission is empowered and authorized to disseminate information relative to the advantages and desirability of the City for industrial and other commercial purposes and its accessibility as a shipping center and in connection therewith to prepare a program for advertising and other publicity and may incur expenditures for advertising or other appropriate mediums, in an effort to attract and induce industries and other business concerns to locate in the City. (Prior code § 2-153)

2.80.040 Annual reporting requirements.

The Commission shall annually, in July, and whenever requested by the City Manager, make a full and detailed report of all matters pertaining to its activities and accomplishments, with such suggestions as it may deem proper. (Amended during 1987 codification; prior code § 2-154)

COMMENT GROUP FOR MID CAMBRIDGE AMENDMENTS

Original Study Committee Members

Robert Campbell
Catherine Hanley
John Campbell
Alan Kaufman
William King
Joseph Sakey

Working Group Members

John Hudson
Jeremy Moskow
George Metzger
William Doebele
Wanda Koetz

City Officials

Michael Rosenberg, CDD
Eileen Woodford, CDD
Catherine Woodbury, CDD
Les Barber, CDD (Planning Board)
Mel Gadd, ZBA
Ranjit Singanayagam, ISD, ZBA
Charles Sullivan, CHC

Interested Parties

John Pitkin, MCNA
Robert Lewis, Chamber of Commerce
Brendan Noonan, Small Business Committee
Kathy Spiegelman, Harvard Planning Group
David Sullivan
Hugh Russell
Joan Lorentz

APPENDIX E

National Register-listed properties in the Mid Cambridge NCD

Atwood, Ephraim House	110 Hancock Street
Bigelow Street Historic District	
Bradley, William F. House	369 Harvard Street
Brooks, Luther House	34 Kirkland Street
Cambridge Public Library	449 Broadway
1707-1709 Cambridge Street	same
1715-1717 Cambridge Street	same
Colburn, Sarah Foster House	7 Dana Street
Deane-Williams House	21-23 Fayette Street
Fay, Isaac House	123 Antrim Street
Gale, George House	14-16 Clinton Street
104-106 Hancock Street	same
Hapgood, Richard House	382-392 Harvard Street
Harvard Street Historic District	
Inman Square Historic District	
102-104 Inman Street	same
106-108 Inman Street	same
110-112 Inman Street	same
Jones, William R. House	307 Harvard Street
15-17 Lee Street	same
Lovering, Joseph House	38 Kirkland Street
Maple Avenue Historic District	
Melvin, Isaac House	19 Centre Street
Old Cambridge Baptist Church	398 Harvard Street
Opposition House	2-4 Hancock Street
16 Prescott Street	same
Prospect Congregational	99 Prospect Street
The Stanstead	19 Ware Street
Stickney-Shepard House	11-13 Remington Street
Vinal, Albert House	325 Harvard Street
Ware Hall	383 Harvard Street

Appendix F

Attendees of Public Information Meetings

Jeremy Moskow	14 Remington Street	opposed
Joseph Sakey	449 Broadway	supports
Joan Lorentz	419 Broadway	supports
Bill Doebele	68 Dana Street	no comment
John Pitkin	18 Fayette Street	supports
Liza Malenfant	10 Dana Street	supports
Ted Hansen	39 Dana Street	supports
David Chilinski	221 Hampshire St	no comment
Gary Mitchell	1334 Cambridge St	no comment
Lansing Fair	1221 Cambridge St	supports
Francis Burns	Burns Funeral	no comment
George Bossarte	353 Broadway	supports
Mary Alexander	xx Inman Street	supports
George Alexander	"	supports
June Sullivan	(no address)	supports
Erin Sullivan	"	supports
John Baez	"	supports
Susan Cleary	14 Concord Avenue	no comment
Ken Lynch	3 West Place	supports
Bob Carey	4 Emmons Place	opposed
Charles Sage	Sage's Grocery	no comment
Takako Salvi	123 Hancock St	no comment
Mary Foley	1 Crawford St	no comment
Antoine Wormilu	25 1/2 Magnolia	no comment
David Szlag	74 Ellery Street	no comment
Mario Torroella	17 Myrtle Ave	opposed
Hugh Russell	1 Corliss Place	supports

Phone Contacts

Celia Somervell	1717 Cambridge St	supports
Jan Lulu	357 Harvard St	supports
Sue Rollow	14 Clinton St	supports
Bernard Smith	no address	no comment
Mary White	1 Dana Street	no comment
Bill Zamparelli	ComEnergy	no comment
Stanley Deser	no address	no comment
Ciba Vaughan	1 Emmons Place	no comment
Elizabeth Kline	25 Kirkland Place	supports
Frances Quint	55 Lee Street	supports
Paul Rishell	25 Highland St	supports
Jeanne Willig	54 Lee Street	supports

Information Sheet for Mid Cambridge Property Owners

For several months, the Mid Cambridge Neighborhood Conservation District Commission has been considering the possibility of proposing amendments to its order, originally adopted by the City Council in 1985 to review new construction and demolition in the Mid Cambridge neighborhood. The Commission has reviewed its purpose statement as well as its case history of applications and identified several areas where changes in the current procedures may be warranted.

Specifically, the Commission is considering the following:

- adopting binding review for all alterations to properties listed on the National Register of Historic Places (current reviews are non-binding);

- amending commercial property reviews from their present non-binding status to be subject to the same reviews as all other properties in the district; and

- instituting non-binding reviews for several lesser categories of change, which are not now reviewed, including:
 - *new construction of between 150 and 750 square feet;
 - *exterior alterations that require a variance or special permit;
 - *exterior alterations that require removing or enclosing historic or original decorative materials, or changes in doors, windows, or rooflines.

This proposal is still under discussion. Public comments will be taken at a public meeting April 22. If there is support for the changes, a study report will be prepared and submitted to the Cambridge Historical Commission. A public hearing would then be held, to which all property owners would receive written notification. In order to be adopted, a majority of the City Council members would have to approve the amendments.

Questions and Answers

My house needs some maintenance work (new porch steps and rails, gutters and downspouts, and a paint job); will I need to get the Commission's permission?

Ordinary maintenance and repair such as described above is NOT subject to a public hearing. Such work would receive a Certificate of Non-Applicability from the Commission in a staff level review that takes five minutes and is completed at the same time as a standard building permit review now in place city-wide.

PAINT COLORS ARE NEVER SUBJECT TO REVIEW!!

About 60% of the applications received by the Commission in the past have been for ordinary maintenance and repair. This would not change if the proposed amendments were adopted.

Suppose I want to add dormers to my house or change the windows?

Additions or alterations that add more than 150 square feet of floor area to a house, or that involve a change in the sizes of window openings would be part of a non-binding review process if the amendments were adopted. If the floor areas are smaller or the change does not involve enlarging or reducing the window size or removing original trim elements, a Certificate of Non-Applicability would be issued by the staff as outlined in the first question.

If a non-binding review is required, the case would be heard at the next meeting of the NCD Commission. In the interest of streamlining the time constraints for the property owner, the normal two-week notice period for public hearings would be eliminated. A shortened, two-day notice would be posted on the subject property and the application would be reviewed at the Commission's normal public meeting, which takes place once a month.

The property owner would NOT be required to abide by the Commission's decisions in non-binding cases. The non-binding review is intended to allow for open discussion of changes to a building and to make suggestions about ways of preserving its historic features.

Why is the Commission amending its order?

After six years of operation, the Commission undertook a review of its activity to date. They found that several areas of review seemed to be working well and some could use improvement. Two of the order's original objectives, in particular, were not well-addressed in the current review structure. First, National Register properties, now under non-binding review, were at risk. Second, neighborhood buildings were, by and large, excluded from any preservation considerations.

Only 8% of the applications reviewed by the staff between 1986 and 1990 required further Commission review. If the proposed amendments were adopted, about 40% of the applications reviewed would come before the Commission, 30% of them for non-binding review. Non-binding review has proven to be a useful opportunity for property owners and abutters to share viewpoints and for the Commission to lend its expertise on design and construction matters.

City of Cambridge

PUBLIC HEARING

The Cambridge City Council Committee on Ordinances will conduct a public hearing for Wednesday, May 20, 1992 beginning at 5:30 P. M. in the Sullivan Chamber, City Hall, Cambridge, Massachusetts.

The purpose of this hearing is to discuss a proposed amendment to the Cambridge Municipal Code to amend the Mid Cambridge Neighborhood Conservation District Ordinance.

All interested persons are requested to attend and be heard.

For the Committee,

Councillor Alice K. Wolf
Chair

MID-CAMBRIDGE NEIGHBORHOOD ASSOCIATION
P.O. BOX 907
CAMBRIDGE, MASSACHUSETTS 02238

May 20, 1992

Committee on Ordinances
Cambridge City Council
City Hall
Cambridge, Massachusetts 02139

re: Renewal of Mid-Cambridge Conservation District

The Mid-Cambridge Neighborhood Association supports the continuation of the Mid-Cambridge Conservation District and the revisions to the ordinance that have been proposed by the Commission.

Sincerely,

A handwritten signature in cursive script, appearing to read "John Pitkin".

John Pitkin
Chair, Mid-Cambridge Neighborhood Association

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John Pitkin
Chair, Mid-Cambridge Neighborhood Association

Committee on Ordinances

Present Councillor Alice K. Wolf - Presiding

5/29/92

(1) C. Duchay

5:40 P.M.

(2) C. Russell

(3) C. Wolf

(4) P. Myers 5:55 P.M.

(5) P. Walsh 6:03 P.M.

(6) Mayor 7:20 P.M.

(7) P. Toomey 8:05 P.M.

(8)

(9)

5:40 P.M. Mid Cambridge Amendments

C. Wolf

Opened and recognized
Charles Sullivan

Charles Sullivan

• Sally Zimmerman

more?
• John Whinnant

• Fayette Park

Vice Chairman

Provided background of

ordinance passed in 1985

These amendments provide
greater production and
fully implement mandate
of 1985 order

Sally Zimmerman

outlined amendments
to committee
Read prepared statement

Six hearings were held
community input provided
and final action was
taken by Conservation
Commission

John Muse

further detailed amendments
proposed. Process allows much
input of neighborhood.

750 sq. ft. is large impact
w/o review, hence these
amendments.

C. Drexler

Que. Mid-Camb. approval

Yes

Que. process for hearing

We met once a month

8-10

dealing w/ ~~the~~ cases each 8 min.

C. Duchay How many structures

S. Zini 103 National Registry structures

C. Duchay what kind of protection will these be given w/o this.

S. Zini None, all would be covered for binding review if this passed.

Charles Sullivan
Asst. to FHO
Total of 2600 properties strong out city.

C. Myers Binding vs non-binding review.

C. Sullivan outlined non-binding review that it is purely advisory and owner is free to do what they want.

C. Ouellet

Purpose is to increase the quality of preservation of the neighborhood.

Is it the best

S. Zimmerman

Yes, cutting ^{into} edge of what a happy in country. This is a very positive and exciting for the commission

C. Sullivan

This is a process that works well for this neighborhood particularly given the reality of 1992

Liza Malenfant
10 Dana St.

Letters of support from
mid-Cambridge neighborhood

C. Myers

Moved to refer to full
C/C w/ favorable recommend-
ation

W

Revers @ 6:10 P.M.

6:31 P.M. Noise Ordinance / Condominium

C. Dubeau

Complaints from residents of Chauncey Street - Noise exceeds the Noise Ordinance. Noise is coming from air conditioners. This amendment addresses this problem.

Waited and waited from something from Law Dept and nothing happened.

11

offered additional language

C. Walsh

Doesn't understand why this amendment is needed. Condominiums under enough restrictions as it is.

C. Dubeau

Law Dept / Housing Commission did nothing and a resident came forward and submitted something. This went on for months.

Burge alright

Dismissed this w/ Cidey Soliman today. He was concerned that this amendment would be too restrictive and cover only condos vs. ~~appts~~ apartments.

11

C. Myers

What is category this would fall under?

B. alright

Significance of amendment is 8.16.040 i.e. Enforcement

C. Myers

Will this fall under that category

YES

C. Wabsh

Who gets cited in a violation single unit or all units

B. alright

I don't know

C. Walsh

FHD / WHW shld meet w/ C. Sol. / C. My. and come up w/ solution

Inform C. My. w/ FHD's complete satisfaction w/ this effort of C. Solicitor

Howard Medwell
58 Washington Ave.
Camel.
Pres. Neighborhood Mini

Amendment I think is not necessary. Concerned w/ action of Law Dept. License comm. waited 6 months to answer request from License Commission.

"

Solicitor stated noise was responsibility of unit owner

In my view the violation(s) could have been enforced by existing ordinances.
Language is not discriminatory.

7:20

Erin Scanlon
51 Walby St.

Live next to 19 Channing Street, this building has many air conditioning units. Can't sit in our back yard. At least 15 of us are affected by this noise.

"

McDevitt said we could go to court because of the noise.

Situation is very complicated because it is a rent controlled building. No sense in passing a law that is unenforceable.

C. Wolf

This has been an increasingly difficult issue

May 01

Ques. et cetera noise by Pent controlled buildings, it affects me.

Ques. are other persons @ this address who are affected.

L. Betty Winkler
3 Walker Terrace

Supposed change in noise ordinance. Feels like I'm being next to a power house.

Jean Anne Woodward
49 Walker St.

" " " "
Amendment needs to be passed, decibel level is too high.

C. Russell

Ques. is this an isolated case or are there others

Richard Scali

Isolated issue @ first we now get about 4 complaints a year

C. Duchan

Moved that substitute amendment be referred to full c/c ^{w/ the consent of the} and P180/W180
Let us meet w/ City Solicitor within 2 weeks. v/j

Mayor

Any similarities

R. Seal

Other complaints center around a single owner

Mayor

Why in this case different

R. Seal

I asked for guidance because property owners wouldn't comply

Mayor

Q. out of state owners and what could be done.

R. Seal

Communicate by letter or phone and it usually works,

C. Walsh

Clear. making all owners

Unsure

By 7:48 P.M.

7:50 P.M. Street Performers Ordinance ^{with the} _{Pauls}

C. Walsh

Read letter from Roy Alan
Hanson

C. J. Jucker

Shld take action on content
of letter. We shld ask
Law Dept. to put that
language in proper ordinance
amendment form.

Daryl James
50# of KK 50.

Ask that my constitutional
rights be upheld and pass this
resolution. No guilt in my
own home w/ the amount
of noise.

1). Jones

Ques. why didn't reader
im't in the Police Dept. after
nearly 3 years.

Must be
addressed

- music
- sirens
- car alarms

Law officer is incompetent
for preparing this ordinance.

Ques. calling Arts Commis
for double reading

D. Jones

Roy Alan Hanson would refer
me around different depart-
ments. Then you have to
make an appointment.

C. Durbay

Ques. if reading, were ever
taken

D. Jones

Yes, once and I was told
noise was not in violation.
but, that was incorrect.

8:06
C. My 2/3
in chair

C. Dyer

Legal advice is we can't
stop all amplified noise.

* C. Russell

Moved C. My. Davis
Comm. It has been decided
made out of Police
Somewhere or ASAP

Michael McMan

Currently officers are being
trained for using dectet
readers in the academy.
we've had it about 6
weeks.

Howard Medwed
58 Washington Ave.

The Harvard Square Defense
Fund supports Mr. James
Winthrop Park should be
free of noise
11 hours a day for music
is too much

8:22 PKW
Returned

Mayor

Q. why not use the
Common for exclusion vs.

Windsong Park. How do we differ.

H. Medwed Common is very large, and
500 feet away from area
most utilized by musicians.

Mayor How restriction vs total ban
seems better to me

C. Dineen Raised issue of 1st Amendment
rights raised @ last years
hearing. We finally set up
a working committee to deal
w/ all of these issues.

"

Over. continued meetings,
did not. Sq. Defense Fund
know about this.

H. Medwed Attended very few meetings
@ which this issue was dis-
cussed

C. Myers

Very concerned about any
real stringent enforcement
of this proposal w/o letting
current ordinance be followed
as it is. People are currently
being trained.

C. Cooney

Look @ whole area not
one property.

Fr-Paul
Parson, Holy Cross

Music is too much, I had
to move to 2nd floor of
reptory. This isn't really music.

Mayon

We seem to be opposed
to new sounds called music.

C. Dehaen

Does music interrupt church.

Fisher

no, they stop when we
ask for Mass

h

Opposed

Sue Colser
19 Copley St.

Co-owner's Grendel's
Den. Last year drummers
drove out our customers.

The music I've heard
thus far I found very
pleasant.
I'd not recommend groups
which would encourage dancing.

C. Russell

Ques. non-musicians performing

Sue

Some have worked out
very well, others not.

C. Duchay

Ques. Hnd. Sq. Bus. Assoc.
been involved / Wintthrop Park

Sue.

Yes. they have

C. Duchay

Ques. their issue?



C Myers

I do not favor exclusion of
Windsong @ this time. Current
ordinance shall be allowed
to operate for now w/
greater enforcement by Police

Harvey Smith
288 Hawaii St.

Opposed to proposed
amendment.

Peter
18 Fenwick St.
Somer.

Street performer since 1977.
Opposed to amendment.
all you have to do is
enforce it. I am a
magician and I don't make
any noise.

Royalan Hanson

Opposed to exclusion
of Windsong Park.
dubious zoning problem.
Sound levels are tested
are within terms of ordinance.

~~King~~

Ned Landen
Medford

Street performer for 10
years.
Opposed to exclusion of
Windsor Park.

David Heltzman
Waterdown

Street performer working
w/ Arts Council on Park
Force.

If you choose to live
in the noisier part of town
you have to wonder about
how important quiet is.

Enforcement is important, that's
all we need.

David White

Street performer, opposed
to exclusion.

Rachel Rackenbaker
18 Mellon St.

Enjoy Cambridge living and
like street performers.
Opposed to restriction.

Did Mr. Gano know of happening

in the area prior to moving
here?

Emanuel Medeiros Street performers

Sally Aboon
Hud. Sq. Business Assoc.

We work w/ street performers
and feel that exclusion
is wrong and we made
some recommendations on
this issue. [submitted letter
to ATKW]

Raised issue of business
and property owners who
pay taxes.

Lynn Chase
Camb. Savings
988 Memorial Drive
(11 people from bank,
2 from Cambridge)

No objection to street
performers, but we are
right at the "Pit" in front
of our building
Distance measurement / divider
level should change.

C. Russell

Ques. if compromise deal
be worked out.

~~working~~

Ray

working on some alternatives
to establish a "break"
schedule similar to clubs.

Ray

Ref. to STR

Old me restrict Winthrop
Park to performers who don't
make noise.

C. Overhau

Ref. to full C/C w/o
recommendation.

V/V

~~Ray 9:46 PM~~

C. Russell

Get force work on moving
performers around to various
locations.

V/V

C. Durhan

Moved to refer to the
Law Dept. letter dated
4/22/92 from Roy Alan
Hanson re: changes.

4/11

Adj 9:53 P.M.

Discharge Committee

5/20/92

Speaker's List

Mid Cambridge Conservation Commission Amendment

In Support of Petition

NAME

ADDRESS

Elizabeth J. Malenfant

10 Dana St

John R. Pithin

18 Fayette St.



Cambridge Historical Commission

Cambridge Historical Commission, City Hall Annex, 57 Inman Street, Cambridge, Massachusetts 02139. 617/349-4683



William B. King, *Chairman*, Allison M. Crump, *Vice Chairman*, Charles M. Sullivan, *Executive Director*, Charles W. Eliot 2nd, Dorothy LeMessurier, Robert G. Neiley, Joseph G. Sakey, John W. Whisnant, *Commission Members*. M. Wyllis Bibbins, Suzanne R. Green, Anthony C. Platt, *Alternates*.

April 21, 1992

To the Honorable, the City Council:

The Cambridge Historical Commission respectfully submits the attached Final Study Report on the amendment of the Mid Cambridge Neighborhood Conservation District (NCD) order for consideration by the City Council. The report is submitted pursuant to the provisions of Title 2, Chapter 2.78, Article III of the Code of the City of Cambridge.

The purpose of the amendments is to more fully implement the mandate contained in the original NCD order, adopted in 1985, to encourage neighborhood preservation and the construction of new buildings that complement existing structures. To that end, the category of advisory review contained in the original order has been expanded. In addition, protection for buildings listed on the National Register of Historic Places has been augmented and distinctions between non-residential and residential properties have been eliminated.

Prior to submitting this report, the Mid Cambridge NCD Commission held four informational meetings for property owners and residents in the district and an invitational meeting for all business owners. Response to the meetings was limited but supportive of the changes proposed. The Cambridge Historical Commission held a public hearing on the amendments on June 27, 1991, at which time they unanimously endorsed the proposal. The Final Study Report is herewith forwarded for your consideration.

Respectfully submitted,

William B. King
William B. King
Chairman

ORIGINAL

FINAL STUDY REPORT
FOR AMENDING THE ORDER OF THE
MID CAMBRIDGE NEIGHBORHOOD CONSERVATION DISTRICT

JUNE 28, 1991

Prepared by the members of the Mid Cambridge Neighborhood
Conservation District Commission acting as a study committee
and by Sarah Zimmerman, Acting Secretary to the Commission

**EXECUTIVE SUMMARY
AMENDMENTS TO THE MID CAMBRIDGE NCD ORDER**

The purpose of the proposed amendments to the Mid Cambridge Neighborhood Conservation District order is to more fully implement the mandate established in the original 1985 order. The Mid Cambridge NCD Commission is directed to:

- * avoid excessive infill
- * encourage new construction that complements existing buildings
- * encourage preservation of neighborhood buildings
- * protect National Register structures, and
- * enhance the economic vitality of the neighborhood.

The present order focusses almost exclusively on the first directive, while the remaining four are met only tangentially. It is the recommendation of both the Mid Cambridge NCD Commission and the Cambridge Historical Commission that the attached amendments be adopted to allow implementation of the 1985 mandate.

The specific terms of the amendments are as follows:

- * adopt binding reviews for all alterations to National Register properties (current review is non-binding or advisory only);
- * eliminate distinction between non-residential and residential property review so that both types of property are subject to the same categories of review (current review of non-residential property is non-binding); and
- * institute non-binding (advisory) reviews for lesser categories of change that are not now reviewable, including:
 - new construction between 150-750 square feet;
 - exterior alterations that require a variance or special permit; and
 - alterations that require removal or enclosure of historic or original decorative trim, or changes in doors, windows or rooflines.

At present, the NCD Commission has review authority over only 9% of the building permits generated in the district. Analysis of the past record indicates that that number would increase to 40% if the proposed changes were adopted. Approximately 60% of the building projects in the district would remain outside the NCD Commission's jurisdiction.

Comments from the public were solicited at six meetings of the Mid Cambridge NCD Commission. These included four public information meetings specifically scheduled for public comment, one of which, for owners of non-residential property, was by invitation and another which was announced in legal notices sent to all property owners in the district. A public hearing on the amendments was held on June 27, 1991. A total of 27 individuals attended. Comments in opposition were received from 3 people; 14 people supported the amendments, and 10 declined to comment. In addition, phone inquiries were taken from 12 people, of whom 7 supported the changes.

Table of Contents

- I. Proposed Amendment of the Order
 - A. Existing Order
 - B. Amended Order
 - II. Nature of Neighborhood Conservation District Protection
 - A. Objectives
 - B. Administration
 - C. Establishment
 - III. Administration of the Mid Cambridge Neighborhood Conservation District
 - A. Design Objectives
 - B. Case Review Procedures
 - IV. Implementation of Proposed Amendments
 - A. Public Response
 - B. Proposed Authority
 - C. Amendments to Mid Cambridge Order
- Appendices
- A. Mid Cambridge Neighborhood Conservation District Order, adopted January 21, 1985
 - B. Proposed Amendments to Mid Cambridge Order
 - C. Chapter 2.78.010, Article III, Code of the City of Cambridge, Establishment of Neighborhood Conservation Districts and Protected Landmarks
 - D. Comment Group for Mid Cambridge Amendments
 - E. List of National Register Properties in Mid Cambridge District
 - F. Public Information Sheet and List of Respondents

I. Proposed Amendment of the Order

A. Existing Order

The Mid Cambridge Neighborhood Conservation District (NCD) comprises some 2,000 buildings and extends from Quincy Street east to Prospect Street and south from Kirkland and Hampshire Streets to Massachusetts Avenue. Overwhelmingly residential, the district includes a small portion of the Inman Square business district and clusters of business uses on Cambridge and Kirkland Streets and Broadway. The neighborhood is architecturally diverse, with a wide range of house types and styles within a tightly-packed area. Houses date from the mid-19th century through the Depression. More recent construction consists of 1960s apartment buildings and the townhouses of the 1970s that were in large measure responsible for the implementation of the district.

Establishment of the conservation district took three years. An initial study report completed in 1982 was opposed by a group of property owners as too far-reaching in its authority and the resultant order, adopted by the City Council early in 1985, provided for much more circumscribed jurisdiction, two levels of review (binding and non-binding), and an education and incentive program.

The conservation district incorporated five criteria which form the Mid Cambridge Commission's mandate:

- to avoid excessive infill;
- to encourage new construction which complements

existing buildings;

- to encourage preservation of neighborhood buildings;
- to protect National Register structures, and;
- to enhance the economic vitality of the neighborhood.

Of these, the greatest weight in the order is on the first, avoiding the excessive infill in an already-dense neighborhood that it was felt the many townhouse projects had created. To that end, the review authority (Section 3 of the order) of the Mid Cambridge Commission focuses on demolition and new construction at a large scale. Four of the seven categories of binding review in the order deal with these activities. Currently reviewed are projects involving demolition of 33% or more of floor area, new construction of more than 750 square feet of floor area, new construction on more than 33% of the open lot area, and enlargement of floor area in an existing structure by more than 33%.

The other four criteria are addressed less specifically through the Commission's authority. Complementary new construction, preservation of neighborhood buildings, and enhancement of economic vitality are all achieved through Commission review of the district's larger projects as delineated above and through the Commission's educational efforts. Binding review of alterations to all publicly-owned structures, structures with non-conforming uses, and structures moved into or out of the district also serves the mandates cited in the order.

Non-binding reviews establish an advisory procedure for National Register and commercial structures. Alterations to National Register and conforming non-residential properties are reviewed by the Commission provided the change is visible from a public way and involves a significant feature of the structure. These reviews are, however, advisory only since there is no statutory authority to impose design decisions in non-binding cases.

All other alterations to structures in the district are outside the Commission's authority and are reviewed administratively by the staff, who issue Certificates of Non-Applicability. The Commission's education effort continues at the staff level, where it is possible to make suggestions and recommendations that would encourage preservation when projects are reviewed for non-applicability.

Annual appropriations to the Commission support an education and incentive program. Under the terms of the order, the regulatory provisions of the order are not enforceable in any fiscal year that an appropriation to the Commission is not made. The order calls for the Commission to conduct an ongoing educational program to make known the objectives of the district, encourage preservation of the district's historical character, and make available information that advances the voluntary protection of the district's architecture. Components of the educational program, in addition to the full-time availability of staff

to address ongoing requests, include publication of an informational brochure on the district, publication of a rehabilitation guide for homeowners (distributed free of charge to Mid Cambridge property owners), walking tours, and an educational program in the local schools.

B. Proposed Amendments

The Mid Cambridge Commission initiated a review of its order in the spring of 1990, five years after its establishment. As the Commission worked with its order and its experience grew, areas for possible modifications of its jurisdiction emerged. A preliminary revision of the order revealed the need for a more considered study of the Commission's case history of applications and mandate. That effort continued through the fall of 1990 and resulted in a final set of amendments that form the present proposal.

The proposed amendments focus on the Commission's review authority (section III), with technical changes in membership (section II), procedure (section IX), and appeals (section X). A section covering ordinary maintenance has been added (section XI). All other language of the original order remains unchanged.

The amended review authority retains the two-tiered system of binding and non-binding reviews. Three new categories of non-binding review have been added. National Register properties have been added to the binding review category. The distinction between residential and non-residential properties has been eliminated. Finally,

editorial changes have been made to the section to clarify its content for the reader.

Within the non-binding reviews (section III, A) there are three new provisions. The first covers new construction to existing structures of more than 150 and less than 750 square feet of floor area. The second adds review for alterations of the exterior appearance of a structure that requires a variance or special permit under the zoning then in effect. The third category deals with alterations of character-defining architectural features of a structure. These include: the removal or enclosure of any historic or original decorative element; the increase or diminishment of the size of windows or doors, or a change in their location; the increase or diminishment of the slope, pitch, or configuration of a removal, or the removal of historic or original roofing material.

The non-binding provision for structures containing or proposed to contain conforming non-residential uses has been eliminated. This means that non-residential structures would not be differentiated from residential structures in the amended order, if adopted.

With the exception of properties listed on the National Register of Historic Places, the binding review authority (section III, B) of the Commission remains unchanged, but has undergone editorial revision to clarify the terms of the review. Three subsections covering new construction,

demolition, and alterations have been identified, with the reviewable categories of each activity delineated.

Properties that are important in American history, culture, architecture, or archaeology are recognized by the Department of the Interior through inclusion on the National Register of Historic Places. The Mid Cambridge NCD contains three National Register districts (Bigelow Street, Maple Avenue, and Inman Square) and 23 individual properties (see appendix E). Currently handled under the non-binding, advisory procedure, these properties would come under binding review in the proposed amendments.

The remaining changes proposed are technical in nature. In membership (section II), the provision for a representative of the Cambridge Historical Commission has been clarified to allow more than one member of the Historical Commission to serve on the Mid Cambridge Commission.

Under procedure (section IX), a new paragraph A has been substituted to provide a shortened notice for review of applications for non-binding certificates. Separate review periods for National Register and non-residential properties (as established in the current order) are obviated by the terms of amended section III and thus deleted. A new section to cover non-binding reviews has been added calling for forty-eight hour notice of public meetings for non-binding review with 1) the city clerk (as per the requirements of the Open Meeting Law, M.G.L. chapter 303)

and 2) abutters, through posting notice on the subject property, among such other possible forms of notice as the Commission may determine. The amendments also establish a uniform review period of thirty days from the receipt of an application for a non-binding certificate within which the Commission must make a final recommendation.

Two sections of the original order dealing with neighborhood review and continued designation (original sections 10 and 11) have been obviated through fulfillment of their terms. New sections have been substituted. In the amendments, section X restates the appeal procedure identified in Chapter 2.78, Article III, section 240, Code of the City of Cambridge. Section XI is a standard clause covering ordinary maintenance, repair or replacement of exterior architectural features as identified in Chapter 40C, Massachusetts General Laws.

II. The Nature of Neighborhood Conservation District Protection

The objectives of the Mid Cambridge NCD are to provide protection against inappropriate change and to guide future growth in one of Cambridge's most diverse neighborhoods. Conservation district status gives the Mid Cambridge Neighborhood Conservation District Commission the authority to review all new construction over 750 sf and all demolition of structures within the district and visible from a public way. This authority is granted under Chapter 2.78 Article III of Code of City of Cambridge, which was enacted by the City Council on March 23, 1981.

Chapter 2.78, Article III was drafted by the Cambridge Historical Commission to decentralize the protection of significant neighborhoods in Cambridge in a manner beyond that authorized in Chapter 40C of the Massachusetts General Laws. In drafting the ordinance the Commission found a precedent in Chapter 776 of the General Laws, the act establishing the Boston Landmarks Commission. This act authorized the City of Boston to designate architectural conservation districts, protection areas, and protected landmarks. In drafting the law that became Article III, the Historical Commission drew on Chapter 776 for many concepts and definitions, but wherever possible drew from the language of Chapter 40C, adapting procedures and authority designed for historic districts to the new task of

decentralizing neighborhood protection under neighborhood conservation district procedures.

The purposes of Section 2.78 Article III are

to preserve, conserve and protect the beauty and heritage of the City of Cambridge and to improve the quality of its environment through identification, conservation and maintenance of neighborhoods...which constitute or reflect distinctive features of the architectural, cultural, political, economic or social history of the City; to resist and restrain environmental influences adverse to this purpose; to foster appropriate use and wider public knowledge and appreciation of such neighborhoods...; and by furthering these purposes to promote the public welfare by making the city a more attractive and desirable place in which to live and work.

A. Legislative Authority

Authority to protect the urban environment through historic districting has existed in Massachusetts since the passage of Chapter 40C in 1960, and has been exercised by the Cambridge Historical Commission since 1963. The purposes of historic districting, which are similar to the purposes expressed in Article III, are

to promote the educational, cultural, economic and general welfare of the public through the preservation and protection of the distinctive characteristics of buildings and places significant in the history of the Commonwealth and its cities and towns or their architecture, and through the maintenance and improvement of settings for such buildings and places and the encouragement of design compatible therewith.

The first Massachusetts Historic Districts, on Beacon Hill and in Nantucket, were established by special acts in 1955 following an opinion of the Massachusetts Supreme Judicial Court that such legislation was a constitutional use of the State's power to promote the public welfare. The

Massachusetts Court cited a United States Supreme Court decision in the case of Berman vs. Parker (1954).

The concept of the public welfare is broad and inclusive...The values it represents are spiritual as well as physical, aesthetic as well as monetary. It is within the power of the legislature to determine that the community should be beautiful as well as clean, well balanced as well as carefully patrolled.*

More recently, the Massachusetts Supreme Judicial Court has ruled, in connection with the right of a municipality to prohibit billboards, that "aesthetics alone may justify the exercise of the police power," and quoted Article 97 of the Amendments to the Massachusetts Constitution, which established as state policy the right of the people to "the natural, scenic, historic, and aesthetic qualities of their environment..."**

The courts have also upheld historic districts on the grounds of their contribution to the economic well being of a community. The Supreme Judicial Court in the Nantucket opinion noted that "the erection of a few wholly incongruous structures might destroy one of the principal assets of the town."*** The courts have noted that these benefits may accrue to the individual property owner as well as to the community at large, but have

* 348 U.S. 26 (1954).

** John Donnelly & Sons vs. Outdoor Advertising Board (1975).

*** 333 Mass. 773, 780 (1955).

considered that public purposes are served if the public good, measured in terms of increased property value or business volume, outweighs private costs.*

It has been judicially determined that historic district legislation does not constitute a taking of private property without compensation, and it has been noted that many zoning ordinances are as demanding in their application.** Once again, the public benefit is held superior to a reasonable degree of private sacrifice, a principle that was recently upheld by the Appellate Division of the New York Supreme Court in confirming the landmark designation of Grant Central Terminal.

Power to establish historic districts is not given lightly. Chapter 40C requires a thorough survey and report on the areas proposed for protection, review and comment by other public agencies, a public hearing with notification of all affected property owners, and passage of the historic district ordinance by the City Council. Once a district has been established, an historical commission holds the power to review all construction and alterations of structures that will be visible from a public way. This authority cannot be arbitrarily exercised, however; the legislation requires that a Commission "shall not make any recommendations or requirement except for

* T.J. Reed, Land Use Controls in Historic Areas, 44 Notre Dame Lawyer 3, 387.

** 333 Mass. 773, 778 (1955).

the purpose of preventing developments incongruous to the historic aspects or architectural features of the ... district."

In all important respects, establishment of neighborhood conservation districts under Article III requires the same procedures and safeguards as for historic districts under Chapter 40C. Moreover, the authority of a conservation district commission, while subject to the same limitation of being able to prevent only developments incongruous to the district, may be more strictly circumscribed than that of an historical commission by the adoption in the ordinance establishing it of extensive exclusions from its authority.

B. Administration of Neighborhood Conservation Districts

The administration of neighborhood conservation districts is guided in every respect by the provisions of Article III, which establishes procedures and guidelines based on those in Chapter 40C, and by the special provisions of the amendment establishing the particular conservation district.

Although the legislation provides for the commission review of every exterior architectural feature visible from a public way, certain items may be excluded from control when the ordinance is drafted. These may include siding; the appearances of buildings permitted under zoning; terraces, walkways, driveways, and sidewalks; walls and fences; temporary signs and structures; storm doors and windows, air

conditioners, lighting fixtures, antennae and the like; and so on. A conservation district commission may also impose dimensional and setback requirements more stringent than required by the zoning code. However, a commission may make no conditions "except for the purpose of preventing developments incongruous to the historic aspects or architectural characteristics...of the historic district."

The commission issues three types of certificates as the basic administrative method by which proposed alterations are reviewed, and no building or demolition permit for work in a district can be issued by the city until a certificate has been issued.

Each type of certificate is issued after evaluation of the circumstances. A Certificate of Appropriateness will be issued when the commission has determined that a project is not incongruous with the character of the conservation district; this is the most common certificate issued. A Certificate of Nonapplicability is issued for a project which the commission determines does not involve an exterior feature subject to its authority, or one not visible from a public way. Finally, a Certificate of Hardship may be issued when refusal to issue a Certificate of Appropriateness or Nonapplicability would cause the applicant substantial hardship, financial or otherwise, as long as there is no substantial detriment to the district.

Application for a certificate is made by submitting a description of the proposed alteration along with plans or

photographs sufficient for the commission to judge the effect of the proposed alteration. The commission must determine within fourteen days of an application whether a Certificate is required.

In passing on applications for Certificates, a commission is required to consider, among other things, the historic and architectural values and significance of the site, building, or structure, the general design, arrangement, texture, material and color of the features involved, and the relationship of these features to similar features of buildings in the surrounding area. In the case of new construction or additions to existing buildings, the commission must consider the size and shape of the building, in relation to both its site and surrounding buildings, and can establish additional policies to exclude such features from control after the conservation district is established. The commission can also establish appropriate designs or lists of materials for the guidance of property owners.

A commission cannot review alterations to interiors of structures, nor alterations which are not visible from a public way, even though such alterations may still be within a district. Furthermore, landscaping with plants, trees or shrubs is specifically excluded from review, and the commission is not concerned with ordinary maintenance, repair, or replacements that do not involve a change in exterior appearance. Enactment of a conservation district in no way requires owners to alter their properties, nor

requires restoration of a structure to any set historical period.

If a commission deems the alteration to require a certificate, it may take action either through a public hearing or by simple vote after notice to surrounding property owners. A public hearing is held in the event that the alterations are deemed substantial; surrounding property owners are given two weeks' notice, and the application is given consideration in terms of the criteria listed above. However, if the application involves an alteration which is considered insubstantial in its effect, the commission may simply vote on the matter after allowing ten days for comment by surrounding property owners.

If the commission disapproves the application for a certificate, it must give its reasons to the applicant in writing. However, the commission is specifically authorized to make recommendations for changes which would make the application acceptable. If the applicant modifies the application to conform to the commission's suggestions, a certificate must be issued.

An applicant aggrieved by a decision of a conservation district commission may first appeal to the Historical Commission by giving notice within twenty-one days to the City Clerk, with further appeal possible to the Superior Court. Violations may be punished as under Chapter 40C.

C. Establishment of Neighborhood Conservation Districts

Procedures for the organization of neighborhood conservation districts are established by the enabling ordinance and conform to the similar provision for establishment of historic districts under Chapter 40C. Any ten registered voters can petition the Historical Commission to request the City Manager to appoint a study committee. Alternatively, the Cambridge Historical Commission may initiate the study independently. The study committee must prepare a Preliminary Report which considers the options set forth in the legislation for exemption of certain architectural features from review, outlines the exact boundaries of the area to be included in the conservation district, presents a full architectural and historical justification for the area, and includes an ordinance implementing the district.

The Preliminary Report must be submitted to the Historical Commission, the Planning Board, the City Manager, and the City Clerk. A public hearing, for which all affected property owners must be given two weeks' written notice, must be held no less than forty-five days after the report has been released. The object of the public hearing is to allow comments to be officially recorded.

After the public hearing, the Historical Commission prepares a Final Report which takes into account the comments received at the public hearing and the recommendations of the Planning Board and the City Manager. The report may then be submitted to the City Council, where

a majority vote is required for the ordinance to be adopted.
The district finally goes into effect when an official map
showing its boundaries is filed with the Registry of Deeds.

III. Administration of the Mid Cambridge Neighborhood Conservation District

A. Design Objectives

The Mid Cambridge Neighborhood Conservation District Commission was established in 1985 to administer the terms of the Mid Cambridge order. The general objective of the district was to conserve neighborhood character. The 1982 study report stated the purpose of the district thus:

the task of the NCD is to define the visual character of the neighborhood and then establish guidelines that will make it possible to preserve and enhance this overall character while allowing and often encouraging specific change to take place. By character is meant the physical character-- the buildings, streets and spaces, textures and details, plants and vistas of Mid Cambridge as they are visible to the public.

The historic density of the neighborhood, with tightly packed but separate 19th- and early 20th-century dwellings, created a situation where the apartment construction of the 1960s required the demolition of existing houses. After passage of the Townhouse Development Ordinance in 1976 (which relaxed zoning regulations on setbacks, density, height, and parking), additional construction took place in side and back yards, increasing the density of the neighborhood and diminishing open space, light, air, and landscaping. Despite amendments to the Townhouse Ordinance in 1979, significant townhouse development continued through the early 1980s in Mid Cambridge, further augmenting density.

Not surprisingly, the major provisions of the Mid Cambridge order address the issue of infill construction.

The challenge to the Commission is to respect the ongoing nature of change and its attendant effects on a densely-settled area, while recognizing that that density is part of the neighborhood character.

To that end, the order includes review criteria for new construction and demolition. The Commission is directed to review new construction with regard to the compatibility of the building to its surroundings and the project's site layout, parking provisions, volume and dimensions, open space and landscaping, scale, and impacts on its surroundings. In demolition cases, the Commission is directed to consider the physical condition of the building, any hardships on the owner, and the design of the replacement.

In addition to these review criteria, the Commission has since adopted a set of Excess Infill Guidelines based on its case history that are designed to inform applicants about the Commission's concerns in reviewing applications for infill construction. These assist the applicant to define the scope of a project's impact, the individual components of the proposed design and their relationship to their surroundings, landscaping effects, significant historic and architectural features, and effects on parking, noise, light, and air.

The primary design objective of the Mid Cambridge Commission remains to mitigate the effects of infill construction on neighborhood character. A broader concern

through all of its reviews is to influence the process of change in a direction that respects the appearance and history of the neighborhood and in a manner that offers applicants and abutters a forum for sharing expertise, negotiating differences, and resolving conflicts in the best interests of the neighborhood.

B. Case Review Procedures

In the six years since the NCD was established, there have been 416 applications for certificates. Thirty-two cases have been reviewed for Certificates of Appropriateness. Seventeen of those cases have been for binding review; fifteen for non-binding (National Register or non-residential). There have been four denials, two of which were modified and resubmitted and subsequently approved. Two Certificates of Hardship have been approved and three applications have been withdrawn. The remaining 375 applications have been for Certificates of Non-Applicability (90% of the applications received).

Despite the relatively low number of cases reviewed for binding certificates, the Commission's work effort has been considerable. Unlike cases reviewed by a standard historic district commission, where a large number of minor alterations may be considered, the Mid Cambridge Commission receives primarily large and relatively complex projects, most of which are for construction of new buildings or large additions. The first case reviewed by the Commission was for demolition of a wing of Youville Hospital and

construction of a 180-bed replacement wing. Six of the subsequent cases have proposed construction of from one to four townhouses or condominium units. Also reviewed have been applications for construction of a church, a single-family house, and three additions for apartments.

As was anticipated by the interest which spurred adoption of the original order, applications for townhouse and condominium construction have generated significant input from abutters to proposed projects. Consequently, reviews of these projects have taken longer than most applications, averaging two or three months' review time and often involving multiple applications, as revisions and modifications occur. Such projects also involve ongoing on-site monitoring by staff and Commission members as construction proceeds.

With regard to Certificates of Non-Applicability, the majority of the applications received are for repairs in kind or interior renovations, primarily to kitchens and baths. Approximately 60% of the applications involve such routine maintenance and improvements. Of the remaining 40%, the most common additions are the construction of decks, bays, and dormers. Alterations that call for removal of original material, such as application of artificial siding, window replacement, or porch enclosure, are also typical although somewhat less numerous.

IV. Implementation of the Proposed Amendments

The Cambridge Historical Commission formally initiated study of the amendment of the Mid Cambridge NCD order at its February 7, 1991 meeting. At that time, the Mid Cambridge Commission was empowered to act as a study committee for purposes of Chapter 2.78.180 regarding designations of neighborhood conservation districts.

Copies of the proposed amendments were circulated on March 1, 1991 to a comment group consisting of the original study committee members, members of the working group which revised the initial district proposal, staff of the Community Development Department, Planning Board, Zoning Board of Appeals, and Historical Commission, and to interested parties, who included the Mid Cambridge Neighborhood Association, the Chamber of Commerce and its Small Business Committee, the Harvard University Planning Group, and several individuals. In addition, an informational memo was sent to all City Council members.

Press releases announcing a public informational meeting were sent to the Cambridge Chronicle and the Cambridge TAB. A public informational meeting was held on April 1, 1991, but due to the failure of the newspapers to run the release, only members of the comment group attended. A second informational meeting was announced in the Chronicle for April 22. One individual attended that meeting.

In view of the weak public response, a third public informational meeting was announced for May 6, 1991. One individual attended that meeting. In addition, the Mid Cambridge Commission scheduled a public informational meeting for June 20, one week prior to the scheduled June 27, 1991 public hearing before the Historical Commission. Notice of the informational meeting was sent in the notification of the hearing to each property owner 14 days prior to the hearing. Ten people attended.

During May and June, the Mid Cambridge Commission met with other parties affected by the proposed changes. Meetings were held with Youville Hospital and Harvard Community Health Plan. A lunch meeting to which all non-residential owners were invited was held June 19. Five people attended that meeting. (See Appendix F for attendees and their comments.)

The Mid Cambridge Commission also held a House Clinic on May 18, 1991, at which various home repair and preservation experts advised property owners on preservation techniques. A member of the Commission informed those attending of the proposed amendments to the order.

With two exceptions, response to the proposed amendments to date has been positive and ranges from enthusiastic support to cautious acceptance. Four supportive letters were received from the comment group, among them a supportive letter from the Harvard University Planning Group, which included a number of technical

comments as well as a substantive concern for the potentially-intersecting roles established on National Register property review. The Cambridge Historical Commission currently reviews alterations to Harvard-owned National Register properties, of which there are five presently in the district. It is the position of the University that the Historical Commission review takes precedence over the Mid Cambridge Commission review. The Historical Commission and Mid Cambridge Commission concur with this position and have developed language to clarify this authority.

B. The Proposed Amendments

The initial draft of possible amendments, first formulated in the spring of 1990, has been significantly modified in ongoing discussion within the Mid Cambridge Commission. Amended sections of the order are section II (membership), section III (review authority), section IX (procedure), section X (appeals), and section XI (ordinary maintenance). As part of its examination of the order, the Commission undertook a thorough review of its case history to determine the potential effects of any amendments.

The most extensive discussion focussed on amendments to section III. The review authority of the Commission underwent significant restructuring in response to opposition to the original district order proposed in 1982. By the time it was adopted in 1985, the order had been almost entirely recast. From a document that would have

reviewed all alterations, new construction, and demolition (but would have allowed siding and other changes that did not involve loss of decorative fabric), the order was rewritten to focus almost exclusively on large-scale new construction (generally over 750 square feet) and demolition, with non-binding reviews of alterations for limited categories of property (National Register and non-residential). Of the 416 applications received to date, only thirty-two (approximately 8%) have required hearings for a Certificate of Appropriateness, seventeen (4%) of those for binding review.

While the Commission has had an important role in shaping the direction of the relatively small number of large-scale projects in the neighborhood, they have become increasingly aware of the effects of more incremental change which occurs through alteration, as well as the potentially dramatic changes that can occur in new construction of less than 750 square feet. At the same time, the value of non-binding reviews in providing a forum, both for property owners and abutters, has been demonstrated. In re-examining the review authority of the original order the Commission also hoped to simplify the language of the order so as to make its provisions clearer to the public.

Initially, the category of non-binding review was eliminated, but in subsequent discussion was reinstated as a major component of the amendments. Advisory reviews provide an opportunity for applicants to review plans with an experienced group of professionals in architecture, construction, and preservation. Unnecessary or ill-advised construction can be amended and preservation solutions considered. The owner has the benefit of professional advice free of charge, but is not bound by the recommendations of the Commission.

Similarly, abutters have the opportunity to be familiar with proposed changes and to comment on them in advance. In the Commission's experience, one of its most valuable roles has been in negotiating and mediating compromises between applicants and abutters. It is felt that in the neutral forum of the Commission meeting, potentially unpleasant conflicts between applicant and abutter may be resolved in discussions with an objective third party.

Finally, the Commission felt it was critical to limit the time constraints this additional level of review would impose on an applicant. To that end, a shortened notification process which involves posting notice on the subject property forty-eight hours in advance of a meeting was developed.

Non-binding review was proposed for three categories of alteration. The first, for new construction of 150 to 750 square feet of floor area, would cover those projects which

might be expected to have an impact on their surroundings but have not previously been reviewed. In practice, the 750 square foot threshold of the original order (and its attendant percentage thresholds of 33% enlargement or new construction) has been difficult to enforce and is subject to interpretation. Several major construction projects of substantial square footage have gone unreviewed (a carriage house on Leonard Avenue, a house at Broadway and Ellsworth, a house on Line Street) although their additional square footage was close to the thresholds. It was felt that attempts to further define methods of calculating the order's threshold would be needlessly complicated.

Institution of an additional layer of review would mean that such projects would at least come into the public process and might potentially benefit from Commission advice.

The provision for review of exterior alterations to structures requiring special permits or variances is included in Article III. It was felt that such projects might be anticipated to generate design issues of concern to abutters which would not be addressed through Zoning Board review. For this reason, this provision was added to the non-binding review category.

The third category of non-binding review addresses the process of incremental loss of character-defining design elements. It was the Commission's position that binding review of such alterations would create an unnecessary burden on property owners.

Seven of the eight members of the Commission concurred in their support of these amendments to the order. The eighth member disagreed that any additional reviews were either necessary or justified and may submit a minority report stating his position. It is the belief of a majority of the Commission (seven of eight) that instituting non-binding reviews would better meet the objectives of the criteria of the order to 1) encourage new construction which complements existing buildings, 2) encourage preservation of neighborhood buildings, and 3) enhance the economic vitality of the neighborhood. The decision to include non-binding reviews as outlined above was justified on this basis.

Review of past cases indicated that approximately 42% of the applications received between 1986 and 1989 would have been subject to non-binding reviews if the amendments proposed had been in place.

With regard to binding review, only one alteration was made. All other provisions remain as they are in the current order. National Register properties were added to this category with the understanding that these properties are among the district's most significant resources and are, under the present order, highly vulnerable. The review criteria specifically direct the Commission to protect National Register properties. All of the members of the Commission agreed that the exclusion of National Register properties from some form of binding review in the original order was an oversight which required correction. Seven of

the eight members concurred that National Register properties should be subject to binding review for any alterations, new construction, or demolition. The eighth member believed that National Register properties should not be differentiated from other properties in the district. The majority of the Commission (seven of eight) found that protection of National Register properties as mandated in the order would be accomplished through binding review. Of the reviews carried out to date, thirteen (3%) have been for changes to National Register properties.

The other change within the review authority of the Commission was to eliminate special provisions for non-residential properties. In the amended order, non-residential properties would not be differentiated from residential properties. The Commission unanimously supported this alteration. There have been four reviews of alterations to non-residential buildings (.09%).

Section II (membership) was amended so as to allow more than one member of the Historical Commission to serve on the Mid Cambridge Commission. Currently, one of the alternates to the Mid Cambridge Commission is also an alternate to the Historical Commission. There was unanimous support for this amendment.

Section III (review authority) has been editorially restructured so as to be clearer to the reader. There was unanimous support for this amendment.

Section IX (procedure) has been amended as follows. A new paragraph A. has been substituted to cover notifications for non-binding review. Seven of eight members support this amendment.

Section X (appeals) paraphrases the appeals procedure outlined in Article III (Chapter 2.78.240). It replaces a section calling for periodic neighborhood review, the terms of which were fulfilled in 1987. There was unanimous support for this amendment.

Section XI (ordinary maintenance and repair) is taken from Article III (Chapter 2.78.200). It replaces a section requiring a City Council vote for continued designation, the terms of which were fulfilled in 1987. There was unanimous support for this amendment.

APPENDICES

ORDER ESTABLISHING THE MID CAMBRIDGE
NEIGHBORHOOD CONSERVATION DISTRICT COMMISSION

WHEREAS, the procedures set forth in paragraph (4) of Section 2.147(k) of Article XVI of Chapter Two of the General Ordinances of the City of Cambridge (City Ordinance authorizing the establishment of Neighborhood Conservation Districts and establishing procedures and standards) appear to have been satisfied with respect to the designation of a neighborhood conservation district to be known as the "Mid Cambridge Neighborhood Conservation District" having the boundaries set forth on the map hereto attached entitled Mid Cambridge Neighborhood Conservation District, as designated by the Cambridge City Council January 21, 1985 and a report of a study committee and the recommendation of the Historical Commission has been received with regard to the designation of such a district;

NOW, THEREFORE, be it ordained and ordered by the City Council of the City of Cambridge as follows:

1. Designation of Mid Cambridge Neighborhood Conservation District

Pursuant to paragraph (4) of Section 2.147(k) of Article XVI of Chapter Two of the General Ordinances of the City of Cambridge, (designation procedures) there is hereby designated as a neighborhood conservation district the Mid Cambridge Neighborhood Conservation District having the boundaries set forth on the map entitled "Mid Cambridge Neighborhood Conservation District, as designated by the Cambridge City Council (date of this order) (for purposes of this Order, the "District"), which District shall be administered by a commission to be known as the "Mid Cambridge Neighborhood Conservation District Commission" (for purposes of this Order, the "Commission"), appointed by the City Manager pursuant to paragraph (3) of said Section 2.147(k). The reasons for the designation of the District are those set forth in the designation report (for the purposes of this Order, the "Report"), of the study committee and as approved by the Historical Commission with respect to said District, which reasons shall guide the Commission in its administration of the District.

2. Membership

Pursuant to paragraph (3) of Section 2.147(k) (membership requirements), the Mid Cambridge Neighborhood Conservation District shall consist of five members and three alternates appointed by the City Manager and having qualifications as defined in paragraph (3), with the additional requirements that one neighborhood resident member of the Commission shall be a tenant, the neighborhood property owner member shall be a resident of the District, and all alternate members shall be resident property owners of the District. No member of any other appointed board or commission, with the exception of one member of the Cambridge Historical Commission, shall serve on the Commission.

For the purpose of this order a property owner of record may consent to have another adult member of his/her immediate household fill a property owner position on the Commission. Notice of vacancies on the Commission shall be posted at the Office of the City Clerk for at least two weeks prior to any appointment to fill such vacancies.

3. Review Authority

The authority of the Commission shall extend to the following two required categories of review of proposed changes in the District:

A. Any alteration of the exterior of existing Listed National Register structures, structures containing or proposed to contain conforming non-residential uses.

- (1) The alteration(s) is visible from a public street; and
- (2) The alteration(s) involves significant changes in the following features: bay windows, cornice, fascia boards below the cornice including gutter and trim detail, porches, cornerboards, window and door casings, skylights covering more than 1/3 of the visible roof area, all signs except home-occupation signs.

The Commission may make recommendations regarding such alterations which shall not be binding on the applicant.

B. Any activity visible from a public way involving any one of the following:

- (1) Demolition of 33% or more of the floor area of an existing structure not used principally to garage automobiles;
- (2) New construction of more than 750 square feet of floor area including additions to existing structures;
- (3) New construction of structure on more than 33% of the lot area not already occupied by structures;
- (4) Enlargement of the floor area of an existing structure by more than 33%;
- (5) Relocation of an existing structure onto or out of a site;
- (6) Any alteration or construction of a structure containing or proposed to contain nonconforming uses.
- (7) Publicly owned structures.

The Commission may make recommendations regarding such activities which shall be binding on the applicant. Where a review by the Commission is determined by the change in lot area covered by structures or change in the floor area of structures on a lot, such review shall be based upon the cumulative total of such changes in the three years preceding the date of application for a building permit for any such change as determined by certificates of occupancy or zoning compliance or building permits issued and/or still in force during that three year period.

4. Review Criteria to be Considered by the Commission

The Commission shall apply certain criteria in addition to those contained in paragraph (8) of Section 2.147(k) in considering applications for certificates of appropriateness, nonapplicability, and hardship.

A. General Criteria. All applications shall be considered in terms of the impact of the proposed new construction or alteration, relocation or demolition of an existing building on the District as a whole, and in addition with regard to the potential adverse effects of the proposed construction, alteration, relocation or demolition on the surrounding properties and on the immediate streetscape and the economic assessment of the alternatives to the proposed action. General objectives shall be to:

- (1) Avoid excessive infill;
- (2) Encourage new construction which complements existing buildings;
- (3) Encourage preservation of neighborhood buildings; and
- (4) Protect National Register structures, and
- (5) Enhance the economic vitality of the neighborhood.

B. Construction of a New Building and Alterations to Existing Buildings. Review of the design of a proposed new building, relocated building, or applicable alteration of an existing building, shall be made with regard to the compatibility of the building with its surroundings, and the following elements of the project shall be among those considered:

- (1) Site layout;
- (2) Provisions for parking;
- (3) Volume and dimensions of the building;
- (4) Provisions for open space and landscaping;
- (5) The scale of the building in relation to its surroundings; and

- (6) The changes to existing buildings as related to new construction.

C. Demolition or Relocation of an Existing Building. The Commission shall apply the provisions of Section 2.147(k) with regard to the proposed demolition of an existing building, and in addition shall consider the following factors:

- (1) the physical condition of the building;
- (2) a claim of substantial hardship, financial or otherwise for the owner or occupants; and
- (3) the design of the proposed replacement structure, if any.

5. Determination by the Commission

The determinations of the Commission shall be binding regarding activities detailed in paragraph 3B of this order and shall be expressed through the issuance of certificates of appropriateness, nonapplicability or hardship. Any determination may contain such conditions as the Commission determines to be necessary to fulfill the objectives of the District. Such conditions may impose limitations stricter than the applicable zoning regulations only to the extent of a one-third reduction in (1) the additional floor area or (2) additional dwelling units permitted on the site, or a one-third reduction or one-half increase in the number of parking spaces required by zoning, except that in the case of a building damaged by fire that structure may be rehabilitated to its full extent prior to the fire.

In imposing binding conditions with the issuance of a certificate, or in denying a certificate, a concurring vote of at least four (4) of the members of the Commission shall be required.

All determinations which impose restrictions on an applicant shall be in written form stating the findings of facts and the standards and criteria upon which the decision is based, and the reasoning by which the restrictions were found to be necessary. All determinations shall be available for inspection at the office of the Cambridge Historical Commission. In no case shall a building permit be issued until the Commission has made a determination under the provisions of Section 2.147(k) of Article XVI.

6. Education and Incentive Program

The Commission shall, in cooperation with the Cambridge Historical Commission, conduct an ongoing educational program in the district to make known the objectives of the District

and the Commission, to encourage preservation of the District's historical character, and to make available information to advance and encourage voluntary protection of the District's distinctive architecture.

The regulatory provisions of this order shall not take effect until an initial appropriation of \$10,000 to the Cambridge Historical Commission is made by the Cambridge City Council to support such an educational program and further provided that an additional \$5,000 is so appropriated in each subsequent fiscal year. Should the additional funding not be appropriated for any given fiscal year the regulatory provisions of this Order shall not be enforced for any application for a building permit made after July 1 of that fiscal year or until such appropriation is made.

7. Fees

The Commission may establish a schedule of fees which may be mandatory for those activities subject to review under paragraph 3B of this order. All other fees shall be voluntary.

8. Coordination with Other Agencies and Boards

The Board of Zoning Appeal, Board of Appeals, Building Commission, Mid Cambridge Neighborhood Conservation District Commission, and other City boards, agencies, and officials are directed to coordinate all review, hearing, permitting, and other procedures relative to physical changes within the District to the extent practicable, consistent with their respective responsibilities.

9. Procedure

In addition to the provisions of paragraph (8) of Section 2.147(k) of the enabling ordinance, the Commission shall observe the following procedural requirements:

- A. The following review periods shall be required for reviews for which recommendations are not binding. (Those alterations detailed in paragraph 3A of this Order.)
- (1) For alterations involving National Register structures, a public meeting if required shall be held within fourteen (14) days of an application for a building permit; final recommendations shall be made to the applicant within twenty-one (21) days.
 - (2) For alteration of non-residential buildings a public meeting if required shall be held within twenty-one (21) days of an application for a building permit; recommendations shall be made available within thirty (30) days.

- B. For any review for which the recommendations are binding (those activities detailed in paragraph 3B of this Order) the issuance of the appropriate certificate shall be made within forty-five (45) days of an application for a building permit.
- C. Failure to act within the time periods specified in this paragraph 8 shall mean approval of the application unless an extension of time is granted by the applicant in writing.
- D. Where a public hearing is held by the Commission, notice shall be given to property owners and tenants of property required to receive such notice under Chapter 40C using the current street listing maintained by the Cambridge Election Commission. Such notification shall be considered educational expense under the provisions of Section 6 of this Order.
- E. In addition to any appeal allowed pursuant to Section 2.147(k), the Commission may agree to the appointment of an arbitrator acceptable to both the Commission and the applicant who would make recommendations to both parties where disagreement between the Commission and the applicant persists.
- F. Four members shall constitute a quorum for the Commission.

10. Periodic Neighborhood Review

For the first two years from the date of establishment the Mid-Cambridge Conservation District Commission shall hold a public meeting at six month intervals at which neighborhood residents are invited to review the actions of the Commission, assess its effectiveness in carrying out the intent of this order and make recommendations for changes in its policies and procedures. The Commission shall make a summary of each meeting which shall be filed for public inspection at the Cambridge Historical Commission and filed with the Office of the City Council.

11. Continued Designation

The Mid-Cambridge Neighborhood Conservation District designation made in Section 1 of this Order shall be for a period of two years from the date of adoption of this order. Continuation of the designation of the District for and additional two or more years shall require an affirmative vote of the City Council prior to the expiration of the initial two year designation.

2.78.010

Chapter 2.78**HISTORICAL BUILDINGS AND
LANDMARKS****Sections:****Article I. Administration**

- 2.78.010 Established—Appointment—
Terms.
- 2.78.020 Powers and duties.
- 2.78.030 Adoption of rules and
regulations.
- 2.78.040 Advisory Committee—
Appointment—
Recommendation.
- 2.78.050 Historic district established.
- 2.78.060 Application for certificate of
appropriateness—Time
limitations.

**Article II. Demolition of Buildings Determined
to be Historically Significant**

- 2.78.070 Purpose.
- 2.78.080 Definitions for Article II.
- 2.78.090 Procedures for demolition.
- 2.78.100 Application—Publication of
notice.
- 2.78.110 Emergency demolition.
- 2.78.120 Enforcement and remedies.
- 2.78.130 Conflicts with Historic Districts
Act.

**Article III. Establishment of Neighborhood
Conservation Districts and Protected
Landmarks**

- 2.78.140 Purpose.
- 2.78.150 Definitions for Article III.
- 2.78.160 Neighborhood conservation
district commission—
Established—Membership
requirements.
- 2.78.170 Powers and duties.
- 2.78.180 Designation of landmark
procedures.
- 2.78.190 Review procedures.

- 2.78.200 Maintenance, repair and
reconstruction.
- 2.78.210 Certificates of
appropriateness—
Nonapplicability of hardship.
- 2.78.220 Factors considered by
Commissions.
- 2.78.230 Public meetings and hearings.
- 2.78.240 Appeal procedure.
- 2.78.250 Historical Commission
authority not limited.
- 2.78.260 Limitation on applicability.
- 2.78.270 Enforcement and remedies.

Article I. Administration

- 2.78.010 Established—Appointment—
Terms.

The Cambridge Historical Commission established under the Historic Districts Act, General Laws Chapter 40C, with all the powers and duties of an historic district commission, shall consist of seven members to be appointed by the City Manager with the approval of the Council, including one member from two nominees submitted by the Chapter of the American Institute of Architects covering Cambridge, one member from two nominees submitted by the Boston Society of Landscape Architects, and one member from two nominees of the Board of Realtors covering Cambridge. One or more of the members so appointed shall be a resident of an historic district established in the City pursuant to the Historic Districts Act, and at least one member shall be a lawyer. There shall also be three alternate members also appointed by the Manager with the approval of the Council. The members and the alternate members shall serve for terms of three years and until their successors are appointed and qualified. If within thirty days after submission of a written request for nominees to any of the above-named organizations no such nominations have been submitted, the City Manager may make such appointment without nomination by such organization. No alternate

of the completion of such demolition. As used in this article "premises" refers to the parcel of land upon which the demolished building was located and all adjoining parcels of land under common ownership or control.

C. Securing of Building Required. Upon a determination by the Commission that a building is a preferably preserved significant building, the owner shall be responsible for properly securing the building in compliance with the regulations of the Building Department. Should the owner fail so to secure the building, the loss of such building through fire or other cause shall be considered voluntary demolition for the purposes of subsection B of this section. (Ord. 965 § 7, 1981; Ord. 909 (part), 1978; prior code § 2-147(j) (part))

2.78.130 Conflicts with Historic Districts Act.

Nothing in this article shall be deemed to conflict with the provisions of the Historic Districts Act, General Laws Chapter 40C, with respect to requirements as to notice, hearing and issuance by the Commission of a certificate of appropriateness, a certificate of nonapplicability or a certificate of hardship prior to demolition of any building in an historic district; provided, however, that any temporary building erected or maintained in an historic district pursuant to a certificate issued by the Commission may be demolished in a manner not inconsistent with the terms of such certificate. (Ord. 965 § 6, 1981; Ord. 909 (part), 1978; prior code § 2-147(j) (part))

Article III. Establishment of Neighborhood Conservation Districts and Protected Landmarks

2.78.140 Purpose.

The City Council finds it necessary to enact this article under Section 6 of the Home Rule Amendment in order to preserve, conserve and protect the beauty and heritage of the City and to improve the quality of its environment through

identification, conservation and maintenance of neighborhoods, areas, sites and structures which constitute or reflect distinctive features of the architectural, cultural, political, economic or social history of the City; to resist and restrain environmental influences adverse to this purpose; to foster appropriate use and wider public knowledge and appreciation of such neighborhoods, areas or structures; and by furthering these purposes to promote the public welfare by making the City a more attractive and desirable place in which to live and work. To achieve these purposes, the City may designate neighborhood conservation districts and landmarks to be administered as set forth in this article. (Ord. 1002 (part), 1983; prior code § 2-147(k) (1))

2.78.150 Definitions for Article II.

In addition to the terms defined in Section 2.78.080 of this chapter, the following terms, when used whether or not capitalized in this subsection, shall have the meanings set forth in this section, unless the context otherwise requires:

A. "Demolition" means the act of pulling down, destroying, removing or razing structures, or commencing the work of total or substantial destruction with the intent of completing the same.

B. "Exterior architectural features" means and includes such portion of the exterior of a structure as is open to view from a public street, way, park or body of water, including but not limited to the architectural style and general arrangement and setting thereof, the kind, material and texture of exterior building materials, and the type and style of windows, doors, lights, signs and other appurtenant exterior fixtures.

C. "Historic district" means an area so established under the authority of Chapter 40C of the General Laws.

D. "Landmark" means any property within the City so designated in accordance with Section 2.78.180 of this article.

E. "Neighborhood conservation district"

means any area within the City so designated in accordance with Section 2.78.180 of this article.

F. "Neighborhood conservation district commission" or "district commission" means a commission provided for by Section 2.78.160 of this article.

G. "Structure" means a combination of materials including a building, sign, fence, wall, terrace, walk, driveway, street, bridge, statue, monument or other manmade feature. (Ord. 1002 (part), 1983: prior code § 2-147(k) (2))

2.78.160 Neighborhood conservation district commission—Established—Membership requirements.

A. Upon designation as provided in Section 2.78.180 of this article of any neighborhood conservation district, and unless the designation provides that the Historical Commission itself shall exercise authority with respect thereto, the City Manager shall appoint a neighborhood conservation district commission to consist of five members and three alternates. The members shall include three residents of the neighborhood, not less than two of whom shall be homeowners; one neighborhood property owner (who may or may not be a neighborhood homeowner); and one member or alternate of the Cambridge Historical Commission. The three alternates shall all be neighborhood property owners. The neighborhood conservation district commission shall act solely in the exercise of those functions described in this article which are applicable to the district under its administration.

B. Any member or alternate of the Historical Commission may be appointed to a neighborhood conservation district commission for a term coterminous with such person's term as a member or alternate of the Historical Commission. Members and alternates of a neighborhood conservation district commission who are not members of the Historical Commission shall by reason of experience or education have demonstrable knowledge and concern for improve-

ment, conservation and enhancement of the district, and at least two of the members or alternates shall have professional qualifications related to real estate or architecture or historic preservation. The members of the Commission shall be appointed by the City Manager with regard to the diverse viewpoints expressed in the creation of the district. Such members shall serve for a term of three years, except that the initial appointments shall be for one member to serve one year and one member to serve two years, and vacancies shall be filled for the unexpired term of office. Each member and alternate shall continue in office after expiration of his or her term until a successor is duly appointed and qualified, except that no member shall serve more than two consecutive terms.

C. The neighborhood conservation district commission shall elect annually a Chairman and Vice-Chairman from its own number. In the case of absence, inability to act, or unwillingness to act because of self-interest on the part of a member, his or her place shall be taken by an alternate member designated by the Chairman, if available, otherwise by the Vice-Chairman if available, otherwise by a majority vote of the members and alternate members of the Commission present. The person exercising the function of Executive Director of the Historical Commission shall serve as secretary of each neighborhood conservation district commission. Persons serving as members or alternate members of a neighborhood conservation district commission shall, as a result of such service, be considered as "special municipal employees" for purposes of Chapter 268A of the General Laws. (Ord. 1002 (part), 1983: prior code § 2-147(k) (3))

2.78.170 Powers and duties.

The Historical Commission and each neighborhood conservation district commission shall have like powers, functions and duties with respect to each landmark and neighborhood conservation district over which it has jurisdiction as is provided Historic District Commissions under

clauses (a) through (g) under Section 10 of Chapter 40C of the General Laws with respect to historic districts, including without limitation with respect to the approval and disapproval of certificates of appropriateness, nonapplicability and hardship, the dating and signing of such certificates, the keeping of records and adoption of rules and regulations, the filing with the City Clerk and Building Department of certificates and determinations of disapproval by it, and the determination of designs of appurtenances (excluding colors) which will meet the requirements of the landmark or neighborhood conservation district. (Ord. 1002 (part), 1983: prior code § 2-147(k) (9))

2.78.180 Designation of landmark procedures.

A. The Historical Commission by majority vote may recommend for designation as a landmark any property within the City being or containing a place, structure, feature or object which it determines to be either (1) importantly associated with one or more historic persons or events, or with the broad architectural, aesthetic, cultural, political, economic or social history of the City or the Commonwealth or (2) historically or architecturally significant (in terms of period, style, method of construction or association with a famous architect or builder) either by itself or in the context of a group of structures; may recommend for designation as a neighborhood conservation district any area within the City containing places and structures which it determines are of importance to the architectural, aesthetic, cultural, political, economic or social history of the City, and which considered together cause such area to constitute a distinctive neighborhood or to have a distinctive character in terms of its exterior features; and may recommend amendments to any designation of landmark or neighborhood conservation district theretofore made.

B. Prior to the recommendation of designation or amendment of designation of any land-

mark or neighborhood conservation district an investigation and report on the historical, architectural and other relevant significance thereof shall be made. The report shall recommend the boundaries of any proposed landmark or neighborhood conservation district and shall recommend for incorporation in the order of the City Council designating each landmark or neighborhood conservation district general and/or specific standards and appropriate criteria consistent with the purposes of this article and the provisions of Section 2.78.190 of this article that are to be applied in making any determination of the type referred to in Sections 2.78.170, 2.78.210 and 2.78.220 of this article, with respect to the designated landmark or within the designated neighborhood conservation district.

C. In the case of a landmark, the report shall be prepared by the Historical Commission. In the case of a neighborhood conservation district, the report shall be prepared by a study committee consisting of three members or alternates of the Historical Commission and four persons appointed by the City Manager, including at least one person who resides in the district under consideration, at least one person who owns property in the district under consideration, and one person who owns property or resides elsewhere in the City and has demonstrated knowledge and concern for conservation and enhancement of those exterior features of the City which are important to its distinctive character.

D. Any ten registered voters of the City may petition that the Historical Commission initiate, or the Historical Commission on its own may initiate, the process of designating a landmark or neighborhood conservation district or amending or rescinding any such designation theretofore made. The Commission shall within forty-five days following the filing of such request or petition hold a preliminary hearing and arrange for the preparation of a report and, if required, request the appointment of a study committee. The Historical Commission shall not reconsider

a proposed designation, amendment or rescission of designation within one year of its previous hearing thereon, unless two-thirds of all its members vote to do so. No less than forty-five nor more than sixty days after the transmittal of a report to the Commission pertaining to a proposed designation, the Commission shall hold a public hearing. The Commission shall give not less than fourteen days notice of such public hearing by publication in a newspaper of general circulation in the City and by mailing notice thereof to the owner of the proposed landmark and to every owner abutting the proposed landmark or within the proposed neighborhood conservation district, each such owner to be determined from the then current records of the Assessing Department, and to the City Manager, the Planning Board and the City Clerk.

E. Prior to the public hearing, the Commission shall transmit copies of the report to the Planning Board for its consideration and recommendations.

F. The recommendation of the Historical Commission with regard to any designation, amendment or rescission shall be transmitted to the City Manager and to the City Clerk with a copy of the approved designation report. Designation of a landmark or a neighborhood conservation district or amendment or rescission of designation shall be by order of the City Council. In the case of a designation, the order shall include a statement of the reasons for such designation and a statement of standards which the Historical Commission or neighborhood conservation district commission is to apply under Sections 2.78.170 and 2.78.190 through 2.78.220 of this article.

G. No designation, amendment or rescission of designation shall become effective until a map setting forth the boundaries of the landmark or neighborhood conservation district or change in the boundaries thereof, has been filed with the City Council and has been recorded with the Registry of Deeds for the South District of the County.

H. If the order establishing or amending a neighborhood conservation district contains provisions for both regulatory and educational/incentive programs, the regulatory provisions of the order shall not be effective unless and until the educational/incentive provisions of the order are funded. (Ord. 1009A (part), 1984; Ord. 1002 (part), 1983; prior code § 2-147(k) (4))

2.78.190 Review procedures.

A. Except as the order designating or amending a landmark or neighborhood conservation district may otherwise provide in accordance with this article, the Historical Commission or neighborhood conservation district commission having jurisdiction shall review all construction, demolition or alteration that affects the exterior architectural features, other than color, of any landmark or within any neighborhood conservation district.

B. The order designating or amending a landmark or neighborhood conservation district may provide that the authority of the Historical Commission or neighborhood conservation district commission having jurisdiction shall not extend to the review of one or more of the following categories of structures or exterior architectural features of the landmark or within the neighborhood conservation district in which event the structures or exterior architectural features so excluded may be constructed or altered without review by the Commission:

1. The application of exterior wall material in a manner that does not require the removal or enclosure of any cornice, fascia, soffit, bay, porch, hood, window or door casing, or any other protruding decorative element;

2. Alternations to the exterior of existing structures that do not increase or diminish the size and location of windows and doors, cause the removal of any bay, porch, hood, window or door casing or any other protruding decorative element, or alter the appearance of a roof;

3. The exterior appearance of a new structure

that does not require a variance or special permit under the zoning ordinance then in effect;

4. Signs, temporary structures, lawn statuary, or recreational equipment, subject to such conditions as to duration of use, dimension, location, lighting, removal and similar matters as the Commission may reasonably specify;

5. Terraces, walks, driveways, sidewalks and similar structures substantially at grade level;

6. Walls and fences;

7. Storm doors and windows, screens, window air conditioners, lighting fixtures, antennae, trelliswork and similar appurtenances.

C. The Historical Commission or a neighborhood conservation district commission may determine from time to time after a public hearing that certain categories of exterior architectural features or structures, including, without limitation, any of those enumerated in this section, if the provisions of the applicable order do not limit the authority of such commission with respect thereto, may be constructed or altered without review by such commission without causing substantial derogation from the intent and purposes of this article.

D. If the order establishing or amending a neighborhood conservation district provides, the determination of a neighborhood conservation district commission shall be binding only with regard to applications to construct a new building, to demolish an existing structure if a demolition permit is required, to construct a parking lot as a principal use, and to construct an addition to an existing structure that would increase its gross floor area, and in all other cases the determinations of a commission shall be advisory only and not binding on an applicant. In no case shall a building permit be issued until the commission has made a determination under the applicable provisions of this article. (Ord. 1002 (part), 1983: prior code § 2-147(k) (5))

2.78.200 Maintenance, repair and reconstruction.

Nothing in this chapter shall be construed to

prevent the ordinary maintenance, repair or replacement of any exterior architectural feature of a landmark or within a neighborhood conservation district which does not involve a change in design or material or the outward appearance thereof, nor to prevent landscaping with plants, trees or shrubs, nor construed to prevent the meeting of requirements certified by duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition, not construed to prevent any construction or alteration under a permit duly issued prior to the effective date of the order which designates that landmark or district, nor construed to prevent the reconstruction, substantially similar in exterior design, of a structure or exterior architectural feature damaged or destroyed by fire, storm or other disaster, provided such reconstruction is begun within one year thereafter and carried forward with due diligence. (Ord. 1002 (part), 1983: prior code § 2-147(k) (6))

2.78.210 Certificates of appropriateness— Nonapplicability of hardship.

A. Except as the order establishing or amending a landmark or neighborhood conservation district may otherwise provide, no structure designated a landmark or within a neighborhood conservation district shall be constructed or altered in any way that affects exterior architectural features unless the Historical Commission or neighborhood conservation district commission having jurisdiction shall first have issued a certificate of appropriateness, a certificate of nonapplicability or a certificate of hardship with respect to such construction or alteration.

B. Any person who desires to obtain a certificate from the Historical Commission or neighborhood conservation district commission shall file with the Commission an application for a certificate of appropriateness, a certificate of nonapplicability or a certificate of hardship, as the case may be, in such form as the commission may reasonably determinate, together with such plans, elevations, specifications, material and

other information, including in the case of demolition or removal a statement of the proposed condition and appearance of the property thereafter, as may be reasonably deemed necessary by the Commission to enable it to make a determination on the application.

C. No building permit for alteration of an exterior architectural feature of a landmark or construction of a structure or for alteration of an exterior architectural feature within a neighborhood conservation district and no demolition permit for demolition or removal of a landmark or of a structure within a neighborhood conservation district shall be issued by the City or any department thereof until the certificate required by this article has been issued by the Historical Commission or neighborhood conservation district commission having jurisdiction. (Ord. 1002 (part), 1983: prior code § 2-147(k) (7))

2.78.220 Factors considered by Commissions.

A. In passing upon matters before it, the Historical Commission or neighborhood conservation district commission shall consider, among other things, the historic and architectural value and significance of the site or structure, the general design, arrangement, texture and material of the features involved, and the relation of such features to similar features of structures in the surrounding area. In the case of new construction or additions to existing structures a commission shall consider the appropriateness of the size and shape of the structure both in relation to the land area upon which the structure is situated and to structures in the vicinity, and a Commission may in appropriate cases impose dimensional and setback requirements in addition to those required by applicable provision of the zoning ordinance. A Commission shall not consider interior arrangements or architectural features not subject to public view.

B. A Commission shall not make any recommendation or requirement except for the purpose of preventing developments incongruous to the historic aspects, architectural significance or

the distinctive character of the landmark or neighborhood conservation district. (Ord. 1002 (part), 1983: prior code § 2-147(k) (8))

2.78.230 Public meetings and hearings.

The Historical Commission and each neighborhood conservation district commission shall adopt rules for the reasonable conduct of its meetings and public hearings, which rules shall not be inconsistent with the procedures provided for meetings of and hearings by historic district commissions under Section 11 of Chapter 40C of the General Laws; and in the absence of the adoption of any such rules, meetings and public hearings of the Historical Commission and of each neighborhood conservation district commission shall be in conformity with the provisions of Section 11 of Chapter 40C applicable to historic district commissions. (Ord. 1002 (part), 1983: prior code § 2-147(k) (10))

2.78.240 Appeal procedure.

Any person aggrieved by a designation of a landmark or district may appeal to the superior court within thirty days after such designation. Any applicant aggrieved by a determination of a neighborhood conservation district commission or ten registered voters of the City opposing a determination under this article may appeal to the Historical Commission within twenty days after the filing of the notice of such determination with the City Clerk. The Historical Commission may overrule the determination and return it for reconsideration consistent with that finding. If the applicant is aggrieved by the determination of the Historical Commission, or if action is not taken by the Historical Commission within thirty days of filing for review, the applicant may appeal to the superior court. Appeal from a Historical Commission determination shall be taken within thirty days of the formal decision; appeal from a failure to act shall be taken within sixty days after the filing for review. The superior court may reverse a determination if it is not supported by substantial evidence in the record.

In all other respects, the appeal shall be made in the same manner as provided under Section 12A of Chapter 40C of the General Laws. (Ord. 1002 (part), 1983: prior code § 2-147(k) (11))

2.78.250 Historical Commission authority not limited.

No provisions of this article shall alter or diminish the duties and functions of the Historical Commission under the authority of Chapter 40, Section 8D and Chapter 40C of the General Laws, or apply to any historic district currently administered by such commission, or restrict the establishment of any future historic district under Chapter 40C of the General Laws. (Ord. 1002 (part), 1983: prior code § 2-147(k) (13))

2.78.260 Limitation on applicability.

The provisions of Article II of this chapter (relative to procedures for demolition permits for significant buildings) shall not be applicable with respect to the demolition of any structure within a neighborhood conservation district if the appropriate neighborhood conservation district commission has issued a certificate of appropriateness or a certificate of hardship permitting the demolition of such structure. (Ord. 1002 (part), 1983: prior code § 2-147(k) (14))

2.78.270 Enforcement and remedies.

The Historical Commission and any neighborhood conservation district commission are each specifically authorized to institute any and all actions, proceedings in law and in equity, as they deem necessary and appropriate to obtain compliance with the requirements of this article or to prevent a threatened violation thereof. Any violation of any provision of this article may be punished to the like extent provided in Section 13 of Chapter 40C of the General Laws for a violation of said Chapter 40C. In addition to the foregoing, no building permit shall be issued, with respect to any premises upon which a landmark or a structure within any neighborhood conservation district has been voluntarily

demolished otherwise than pursuant to a certificate granted after compliance with the provisions of this article, for a period of two years after the date of the completion of such demolition (the word "premises" for the purposes of this sentence referring to the parcel of land upon which the demolished structure was located and all adjoining parcels of land under common ownership or control.) (Ord. 1002 (part), 1983: prior code § 2-147(k) (12))

COMMENT GROUP FOR MID CAMBRIDGE AMENDMENTS

Original Study Committee Members

Robert Campbell
Catherine Hanley
John Campbell
Alan Kaufman
William King
Joseph Sakey

Working Group Members

John Hudson
Jeremy Moskow
George Metzger
William Doebele
Wanda Koetz

City Officials

Michael Rosenberg, CDD
Eileen Woodford, CDD
Catherine Woodbury, CDD
Les Barber, CDD (Planning Board)
Mel Gadd, ZBA
Ranjit Singanayagam, ISD, ZBA
Charles Sullivan, CHC

Interested Parties

John Pitkin, MCNA
Robert Lewis, Chamber of Commerce
Brendan Noonan, Small Business Committee
Kathy Spiegelman, Harvard Planning Group
David Sullivan
Hugh Russell
Joan Lorentz

APPENDIX E

National Register-listed properties in the Mid Cambridge NCD

Atwood, Ephraim House	110 Hancock Street
Bigelow Street Historic District	
Bradley, William F. House	369 Harvard Street
Brooks, Luther House	34 Kirkland Street
Cambridge Public Library	449 Broadway
1707-1709 Cambridge Street	same
1715-1717 Cambridge Street	same
Colburn, Sarah Foster House	7 Dana Street
Deane-Williams House	21-23 Fayette Street
Fay, Isaac House	123 Antrim Street
Gale, George House	14-16 Clinton Street
104-106 Hancock Street	same
Hapgood, Richard House	382-392 Harvard Street
Harvard Street Historic District	
Inman Square Historic District	
102-104 Inman Street	same
106-108 Inman Street	same
110-112 Inman Street	same
Jones, William R. House	307 Harvard Street
15-17 Lee Street	same
Lovering, Joseph House	38 Kirkland Street
Maple Avenue Historic District	
Melvin, Isaac House	19 Centre Street
Old Cambridge Baptist Church	398 Harvard Street
Opposition House	2-4 Hancock Street
16 Prescott Street	same
Prospect Congregational	99 Prospect Street
The Stanstead	19 Ware Street
Stickney-Shepard House	11-13 Remington Street
Vinal, Albert House	325 Harvard Street
Ware Hall	383 Harvard Street

Appendix F

Attendees of Public Information Meetings

Jeremy Moskow	14 Remington Street	opposed
Joseph Sakey	449 Broadway	supports
Joan Lorentz	419 Broadway	supports
Bill Doebele	68 Dana Street	no comment
John Pitkin	18 Fayette Street	supports
Liza Malenfant	10 Dana Street	supports
Ted Hansen	39 Dana Street	supports
David Chilinski	221 Hampshire St	no comment
Gary Mitchell	1334 Cambridge St	no comment
Lansing Fair	1221 Cambridge St	supports
Francis Burns	Burns Funeral	no comment
George Bossarte	353 Broadway	supports
Mary Alexander	xx Inman Street	supports
George Alexander	"	supports
June Sullivan	(no address)	supports
Erin Sullivan	"	supports
John Baez	"	supports
Susan Cleary	14 Concord Avenue	no comment
Ken Lynch	3 West Place	supports
Bob Carey	4 Emmons Place	opposed
Charles Sage	Sage's Grocery	no comment
Takako Salvi	123 Hancock St	no comment
Mary Foley	1 Crawford St	no comment
Antoine Wormilu	25 1/2 Magnolia	no comment
David Szlag	74 Ellery Street	no comment
Mario Torroella	17 Myrtle Ave	opposed
Hugh Russell	1 Corliss Place	supports

Phone Contacts

Celia Somervell	1717 Cambridge St	supports
Jan Lulu	357 Harvard St	supports
Sue Rollow	14 Clinton St	supports
Bernard Smith	no address	no comment
Mary White	1 Dana Street	no comment
Bill Zamparelli	ComEnergy	no comment
Stanley Deser	no address	no comment
Ciba Vaughan	1 Emmons Place	no comment
Elizabeth Kline	25 Kirkland Place	supports
Frances Quint	55 Lee Street	supports
Paul Rishell	25 Highland St	supports
Jeanne Willig	54 Lee Street	supports

Information Sheet for Mid Cambridge Property Owners

For several months, the Mid Cambridge Neighborhood Conservation District Commission has been considering the possibility of proposing amendments to its order, originally adopted by the City Council in 1985 to review new construction and demolition in the Mid Cambridge neighborhood. The Commission has reviewed its purpose statement as well as its case history of applications and identified several areas where changes in the current procedures may be warranted.

Specifically, the Commission is considering the following:

- adopting binding review for all alterations to properties listed on the National Register of Historic Places (current reviews are non-binding);

- amending commercial property reviews from their present non-binding status to be subject to the same reviews as all other properties in the district; and

- instituting non-binding reviews for several lesser categories of change, which are not now reviewed, including:
 - *new construction of between 150 and 750 square feet;
 - *exterior alterations that require a variance or special permit;
 - *exterior alterations that require removing or enclosing historic or original decorative materials, or changes in doors, windows, or rooflines.

This proposal is still under discussion. Public comments will be taken at a public meeting April 22. If there is support for the changes, a study report will be prepared and submitted to the Cambridge Historical Commission. A public hearing would then be held, to which all property owners would receive written notification. In order to be adopted, a majority of the City Council members would have to approve the amendments.

Questions and Answers

My house needs some maintenance work (new porch steps and rails, gutters and downspouts, and a paint job); will I need to get the Commission's permission?

Ordinary maintenance and repair such as described above is NOT subject to a public hearing. Such work would receive a Certificate of Non-Applicability from the Commission in a staff level review that takes five minutes and is completed at the same time as a standard building permit review now in place city-wide.

PAINT COLORS ARE NEVER SUBJECT TO REVIEW!!

About 60% of the applications received by the Commission in the past have been for ordinary maintenance and repair. This would not change if the proposed amendments were adopted.

Suppose I want to add dormers to my house or change the windows?

Additions or alterations that add more than 150 square feet of floor area to a house, or that involve a change in the sizes of window openings would be part of a non-binding review process if the amendments were adopted. If the floor areas are smaller or the change does not involve enlarging or reducing the window size or removing original trim elements, a Certificate of Non-Applicability would be issued by the staff as outlined in the first question.

If a non-binding review is required, the case would be heard at the next meeting of the NCD Commission. In the interest of streamlining the time constraints for the property owner, the normal two-week notice period for public hearings would be eliminated. A shortened, two-day notice would be posted on the subject property and the application would be reviewed at the Commission's normal public meeting, which takes place once a month.

The property owner would NOT be required to abide by the Commission's decisions in non-binding cases. The non-binding review is intended to allow for open discussion of changes to a building and to make suggestions about ways of preserving its historic features.

Why is the Commission amending its order?

After six years of operation, the Commission undertook a review of its activity to date. They found that several areas of review seemed to be working well and some could use improvement. Two of the order's original objectives, in particular, were not well-addressed in the current review structure. First, National Register properties, now under non-binding review, were at risk. Second, neighborhood buildings were, by and large, excluded from any preservation considerations.

Only 8% of the applications reviewed by the staff between 1986 and 1990 required further Commission review. If the proposed amendments were adopted, about 40% of the applications reviewed would come before the Commission, 30% of them for non-binding review. Non-binding review has proven to be a useful opportunity for property owners and abutters to share viewpoints and for the Commission to lend its expertise on design and construction matters.



CITY OF CAMBRIDGE
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EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

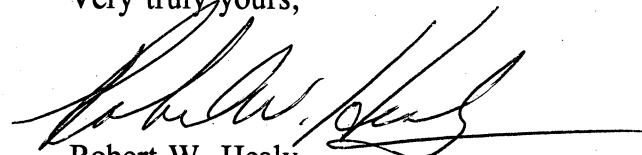
RICHARD C. ROSSI
Deputy City Manager

6.
April 27, 1992

To The Honorable, The City Council:

I am hereby transmitting the Cambridge Historical Commission's Final Study Report on the amendment of the Mid Cambridge Neighborhood Conservation District, for your consideration.

Very truly yours,



Robert W. Healy
City Manager

RWH/mev
attachment

Consent Agenda # 6

Final Study Report on the amendment
of the Mid Cambridge Neighborhood
Conservation District.

In City Council,

April 27, 1992

*Referred to the Ordinance
Committee*

*Copy sent to Ordinance
Committee 4/29/92 @*

PRESENTATION TO ORDINANCE COMMITTEE 5/20/92 RE: MID
CAMBRIDGE NCD ORDER AMENDMENTS

The amendments to the Mid Cambridge Neighborhood Conservation District order are the product of a year long study by the Mid Cambridge Neighborhood Conservation District Commission.

The purpose of the amendments is to more fully implement the mandate contained in the original 1985 order.

Of the five directives outlined in the 1985 order, only the first, to avoid new construction that creates excessive infill (or density) on the lot, is adequately addressed in the current order.

The order now contains two categories of review, one binding on the applicant and the other non-binding, or advisory.

A measure of the limits of the current order is that only 9% of the applications received by the Commission to date have been subject to binding review. The remaining 91% either have been automatically approved because the Commission had no authority or were given only an advisory review.

The amendments proposed will directly address two more of the five purposes of the order. These are 1) to encourage the preservation of neighborhood buildings and 2) to protect buildings listed on the National Register of Historic Places.

The amendments accomplish these goals through three overall changes: 1) the adoption of binding review of all changes to National Register buildings, 2) the institution of non-binding reviews for lesser categories of change to other buildings, and 3) the elimination of the distinction now made between residential and commercial buildings (heretofore, commercial buildings have been subject to advisory review only).

Based on the past record, the Commission anticipates a 40% increase in the number of applications for non-binding review and .10% increase in the number of applications for binding review (presently, binding reviews constitute 5% of the applications received).

The intent of instituting binding review over National Register buildings is to give stronger protection to these historically and architecturally significant buildings.

Extended non-binding authority provides 1) a neutral forum for neighbors to share concerns, 2) gives owners the benefit of professional architectural advice on changes to their

properties, 3) adds an opportunity for owners to hear about alternatives that would preserve neighborhood character.

With regard to the small number of commercial properties, the double standard of review is eliminated so that all owners, residential or commercial, become subject to the same terms of review.

The end product of the Commission's efforts is the Final Study Report under consideration. The Commission's original recommendations were considerably modified in the course of the study process. Initially, the Commission considered expanding binding review to a much larger category of changes. This proposal was modified to increase instead the scope of the Commission's non-binding review authority, capitalizing on the Commission's past success as an advisor and mediator.

One member of the Commission declined to support the proposed amendments and was encouraged to submit a minority report. By a 7-1 vote, the Commission voted to recommend the adoption of the amendments as proposed. The Final Study Report was submitted to the City Council with the unanimous favorable recommendation of the Cambridge Historical Commission, which reviewed it at a public hearing held in June, 1991. That hearing culminated a series of six public meetings with property owners and a comment group in the Spring of 1991.

It is the Mid Cambridge Commission's intention to institute a public information program to educate property owners about the amendments, should they be adopted. This effort would include updating the Commission's brochure on the district and holding presentations. In addition, a series of markers identifying the district will be installed this summer.

Respectfully submitted,



Sally Zimmerman
Preservation Planner

City of Cambridge

June 1, 1992

The Committee on Ordinances conducted a public hearing on Wednesday, May 20, 1992 beginning at 5:40 P.M. in the Sullivan Chamber at City Hall. The purpose of the hearing was to receive public testimony relative to proposed amendments to the Mid Cambridge Neighborhood Conservation District. Members present were: Councillor Alice Wolf, Councillor Francis Duehay, Councillor Jonathan Myers, Councillor William Walsh, Councillor Sheila T. Russell and City Clerk Joseph Connarton.

Councillor Alice Wolf, Chair of the Committee opened the hearing and welcomed all those present and introduced Mr. Charles Sullivan, Executive Director of the Cambridge Historical Commission.

Mr. Sullivan introduced Ms. Sally Zimmerman, Preservation Planner and Mr. John Moos Vice Chairman of the Commission. Mr. Sullivan provided a brief historical overview of the creation of the Mid Cambridge Neighborhood Conservation District which the City Council created by Council order in 1985. He further stated that the purposed of the amendments is to more fully implement the mandated contained in the original order of the Council, to encourage neighborhood preservation and the construction of new building that complement existing structures. He further stated that prior to submitting the Conservation Commission's report, the Commission held four informational meeting for property owners and residents in the district and an invitational meeting for all business owners. Finally, he stated that the Commission held a public hearing on the amendments on June 27, 1991, at which time they unanimously endorsed the proposal.

At this time the Committee heard from Ms. Sally Zimmerman who informed the Committee that the amendments before them were are product of a year long study by the Mid Cambridge Neighborhood Conservation District Commission. The purpose of these amendments were to more fully implement the mandate contained in the original 1985 Council order. Furthermore she stated, that a measure of the limits of the current order is that only 9% of the applications received by the Commission to date have been subject to binding review. The remaining 91%, she stated, either have been automatically approved because the Commission had no authority or were given only an advisory review. Ms. Zimmerman, went on to explain in further detail the effect of the proposed amendments in formal written testimony, a copy of which is attached.

The Committee then hear from Mr. John Moos, who stated that the process as proposed by these amendments clearly allows for much more input from the neighborhood, especially on property previously not covered by the existing ordinance such as property involving 150-750 sq.ft. of new construction, as well as adopting binding reviews for all alterations to National Register properties, to mention just a few of the important aspects of these amendments.

Councillor Duehay, questioned whether or not these amendments had been approved by the Mid Cambridge Neighborhood Association, given the impact of these amendments upon that neighborhood.

Mr. Sullivan responded that they had in fact been approved by the neighborhood association.

Councillor Duehay questioned exactly how many structures would be effected by these amendments and what kind of protection would be afforded these structures if these amendments were not adopted.

Ms. Zimmerman responded by stating there are 103 structures currently on the National Register and all of these would be protected should these amendments be adopted. However, she continued that if these amendments were not adopted none of the structures would be protected. Mr. Sullivan responded by stating that a total of 2600 properties city wide would ultimately be covered by these amendments.

Councillor Myers questioned the difference between a non-binding and binding review process and requested an explanation.

Mr. Sullivan responded by stating that he was quite pleased with the review process the Commission established and indicated that up until now an advisory review only, had been given to commercial buildings as opposed to a binding review for residential properties. Furthermore he stated, that with an advisory review by the Commission, the owner is still free to do what they want with the property, regardless of what the Commission indicates.

Councillor Duehay pressed the members of the Historical Commission to determine if in fact these amendments were the very best way to achieve the goal set by the Commission, that is to increase the quality of preservation of the neighborhood.

Ms. Zimmerman responded by stating the Commission believed these amendments would in fact be seen as some of the best around the country for the preservation of property.

Speaking in favor of the proposed amendments was Ms. Elizabeth Malenfant, 10 Dana Street, Cambridge who presented a letter of support from Mr. John Pitkin Chair of the Mid Cambridge Neighborhood Association as well as voicing her own strong support for the

proposed amendments.

Councillor Myers moved that the amendments be referred to the full City Council with a favorable recommendation.

The motion as submitted carried.

The hearing was adjourned at 6:10 P.M.

For the Committee,

A handwritten signature in black ink, appearing to read "Alice K. Wolf", with a long horizontal flourish extending to the right.

Councillor Alice K. Wolf
Chair

1.

S.483

COMMITTEE REPORTS

Ordinance Committee Report relative to
proposed amendments to the Mid Cambridge
Neighborhood Conservation District.

In City Council,

June 11, 1992

Report accepted

*Passed to a second
reading*

*6/1/92 Did not require
passage to a second
reading*

6/8/92 - Order adopted

9-0-0.

*Copy sent to Historical Comm.
6/10/92 du*