

II. Preservation and Development Measures in East Cambridge (09212021)

Preservation and development activities in East Cambridge are currently guided by a variety of municipal ordinances and boards that sometimes allow significant projects to proceed with little or no review. Only projects in the East Cambridge Overlay Districts that constitute new construction of over 20,000 square feet in floor area, or that entail applications for variances or special permits, are subject to approval by the Cambridge Planning Board and/or the Board of Zoning Appeal. Projects that involve demolition of a significant building over fifty years old are reviewed by the Cambridge Historical Commission, which may result in a twelve-month delay. Currently, neither zoning nor existing local historic preservation ordinances can adequately protect the broad range of character-defining elements that comprise East Cambridge. No public body reviews alterations, as-of-right construction projects, or demolition of buildings less than fifty years old for possible adverse effects on the character of the neighborhood. As-of-right projects currently may proceed without public review of their potential for destructive alterations.

A. Zoning

Municipalities use zoning to govern how land may be used and buildings constructed in each zoning district. In Massachusetts, M.G.L. Ch. 40A enables communities to establish dimensional regulations that specify maximum gross floor area, density, height, setbacks, and open space. Projects meeting these basic criteria may be constructed "as-of-right," or without public discussion of design, materials, or appearance. Other projects may require a variance (which may be granted if there are unique conditions of the lot that create a hardship for the owner) or a special permit. In overlay districts, which are areas of special planning concern, additional special permits may be required by from the Planning Board. The design of such projects may be negotiated to bring them into compliance with the specific criteria established for the overlay district, which is an important benefit to the public. However, detailed review of a project's design is only undertaken when a special permit is required.

Zoning in Cambridge as instituted in 1924 initially dictated land use and building density in Business, Residential, and Unrestricted (industrial) districts. Parts of East Cambridge, Harvard Square, Central Square, and the Massachusetts Avenue corridor connecting them were placed in the Unrestricted district with greatest density, while residential districts immediately abutted them. In the post-WWII period, concern about the decline of cities led to a remarkable loosening of zoning restrictions. In 1960, as urban economies went into free fall, the Planning Board proposed that height and density restrictions be loosened or eliminated to allow the population in residential districts and the floor area in business and industrial districts to be doubled over current levels "to allow the free market to operate."

The 1961 zoning revisions, as subsequently amended many times over, bracketed East Cambridge with an Industry A-1 district south of Charles Street and a Planned Unit Development overlay north of O'Brien Highway. The commercial corridor of Cambridge Street is in a Business A district, while the residential parts of East Cambridge north and south of Cambridge Street are in C-1 districts. The Middlesex County buildings between Cambridge and Spring Streets are in a BB business district. The East Cambridge Housing Overlay District south of Charles Street and along Msgr. O'Brien Highway supports higher density housing in those areas.

| District | (1) Max. Ratio of Floor Area to Lot Area | (2) Minimum Lot Size in Sq. Ft. | (3) Min. Lot Area for Each D.U. in Sq. Ft. | (4) Minimum Lot Width in Feet | (5) Minimum Yard in Feet | | | (6) Maximum Height in Feet | (7) Min. Ratio of Private Op. Sp. to Lot Area |
|----------|---|---------------------------------------|---|-------------------------------------|-----------------------------|-------------------------|-----------------|-------------------------------------|---|
| | | | | | Front | Side | Rear | | |
| Res. C-1 | 0.75 | 5,000 | 1,500 | 50 | H+L (a) 4 | H+L ⁽ⁿ⁾ 5 | H+L (c) 4 | 35 | 30% |
| Bus. B | 2.75/3.0 | none | 300 | none | none | none | none | 80 | none |

Figure 1. Table of dimensional requirements for C-1 and Business B districts

CDD

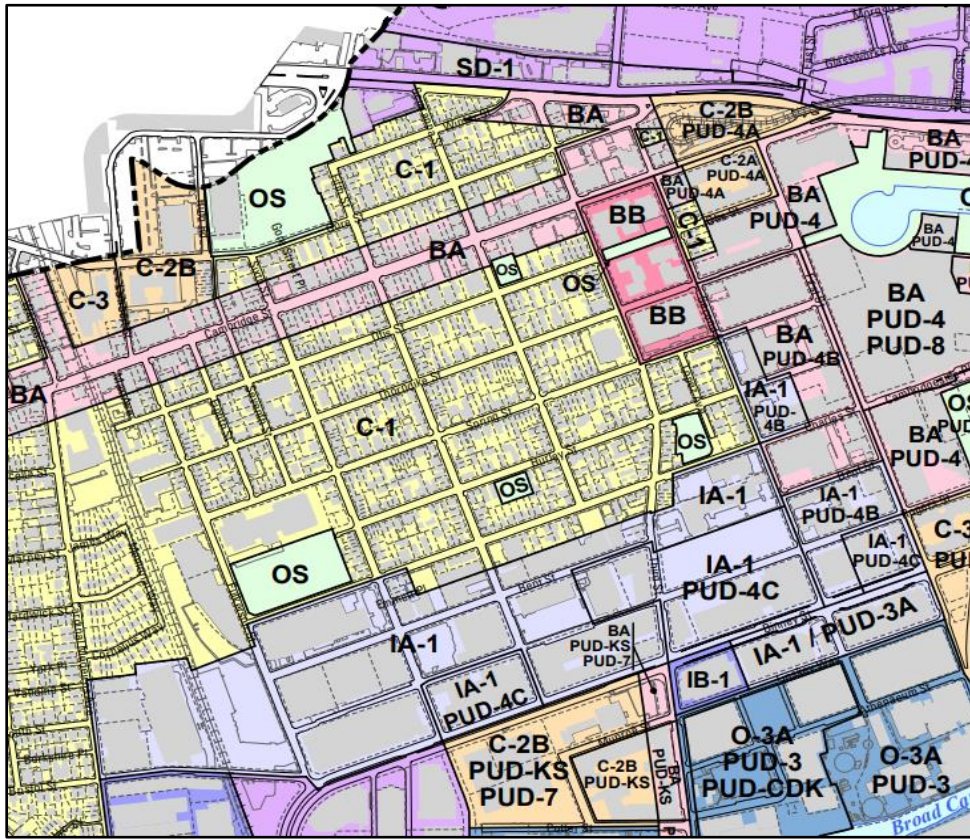


Figure 2. Zoning Districts in East Cambridge

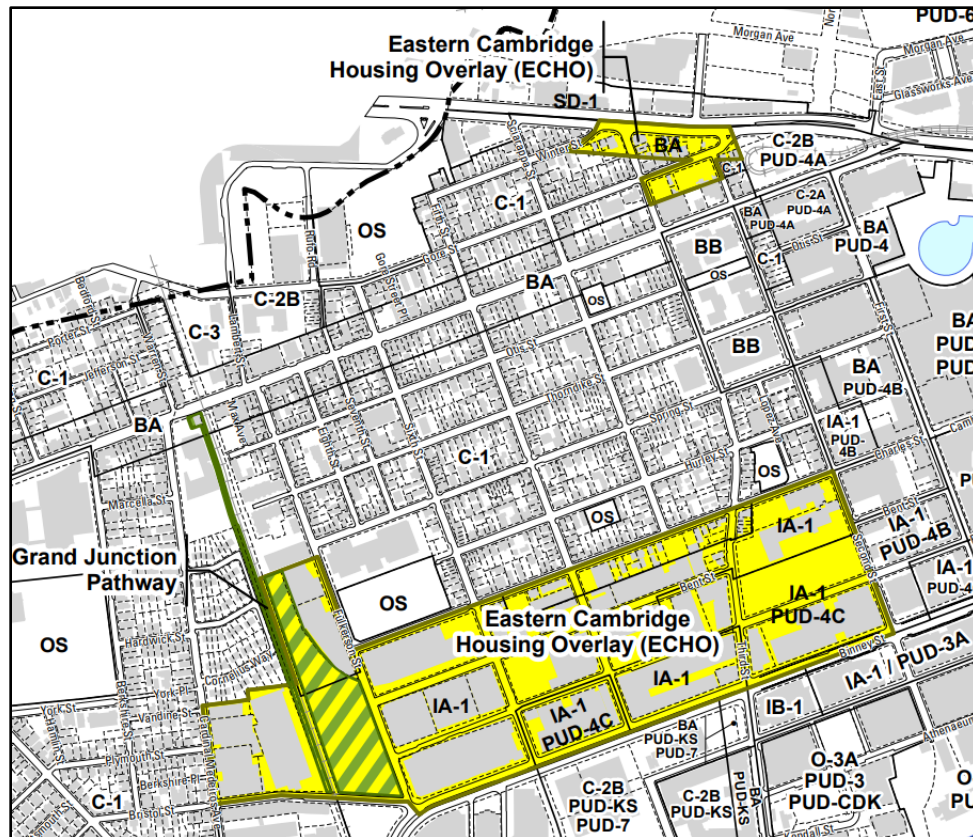


Figure 3. Overlay Zoning Districts in East Cambridge

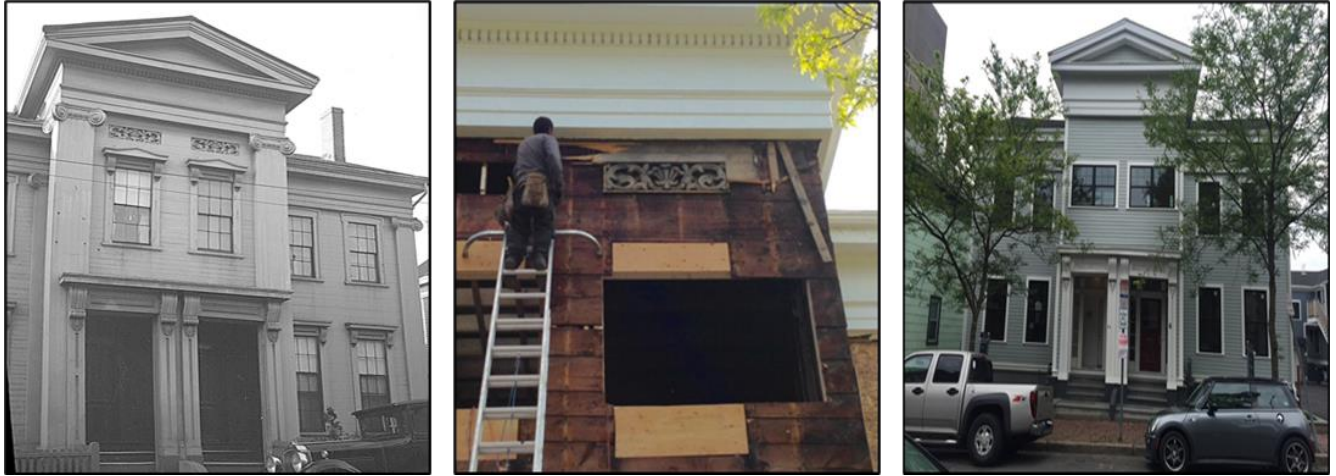
1. Influence of Zoning on Current Development

As a vast majority of East Cambridge buildings were built prior to zoning in Cambridge and are presently non-conforming to their lots, the development pressure is different here than in other neighborhoods in the city. Where a developer can demolish a home on a larger lot in West- or Mid-Cambridge and build back the same size or larger as-of-right, the reality is not the same in East Cambridge, where lots are much smaller, and buildings are more often within the setbacks and are above allowed FAR.

Zoning largely protects existing structures from demolition as replacement buildings must conform to zoning requirements which are more restrictive than current conditions. As developers cannot easily demolish houses and build back the same size in East Cambridge, they often renovate existing structures inside and out to provide maximum return on investment. This process often leads to a loss of important exterior details and features.

One of the catalysts of the ECNCD Study petition was a project at 66-68 Otis Street, a high-style Greek Revival double house constructed in 1846. Like many other houses in the neighborhood, modest alterations in the mid-20th century covered much of the original detailing under layers of siding. In 2016, a developer began a gut-renovation of the house. Upon removal of the asbestos siding, much of the original detailing was found in good condition. However, the developer removed important architectural features and significantly altered window openings on the front façade. Further plans proposed changing the paired front doors to four separate doorways and the

removal of the pediment, both of which were prevented when the Commission accepted a landmark petition and the City Council enacted the designation. As developers are often forced by zoning constraints to work within the confines of existing buildings, removal of exterior features and installation of simplified, often inappropriate exterior details offer short-term investors a higher return on investment. However, failure to retain or restore original building fabric entail a severe loss to the fabric of the community.



66-68 Otis Street in 1930s (left), 2016 (center), and post-renovation (right). Note original window placement and new windows on façade over entrance.

B. Historic Preservation

Historic preservation, as practiced by municipalities, is an activity that promotes the public welfare by preserving the distinctive characteristics of places and buildings that are significant for their history or architecture. Preservation tools available in Cambridge include the National Register of Historic Places, a Federal listing administered by the Massachusetts Historical Commission; historic districts and preservation restrictions enabled by the Massachusetts General Laws; and local ordinances allowing review of demolitions and designation of landmarks and neighborhood conservation districts.

1. National Register of Historic Places

The National Register of Historic Places is a list of buildings, sites, structures, and objects, as well as districts, that are important in American history, culture, architecture, or archeology. It is a Federal designation that is administered by the Massachusetts Historical Commission. Properties on the National Register are also on a companion list, the State Register of Historic Places. Listing on the Register recognizes the importance of the site to the community, state, or nation, and allows owners to take advantage of tax incentives for renovation or donation of preservation easements. National Register listing provides state historic preservation officers an opportunity to comment on projects that are funded or permitted by the state or federal governments. Unless a project involves such funds or permits, an owner's plans for a National Register property are not restricted in any way.

There are four National Register districts and six individually-listed properties in East Cambridge. These are:

- East Cambridge National Register District. Approximately 100 buildings primarily on Otis and Thorndike streets between First and Fifth streets. The district is largely residential in character, although it also includes the former Irving & Casson-A.H. Davenport factory, the Old Superior Courthouse, the Registry of Deeds, and the Putnam School.
- Lechmere Point Corporation Houses National Register District, 45-51 Gore Street and 25 Third Street. Brick row houses constructed in 1821.
- Sacred Heart Church, Rectory, School and Convent National Register District. An entire city block on Sixth Street constructed between 1874 and 1906.
- Winter Street National Register District. Approximately 15 early-19th century workers cottages on Winter and Sciarappa streets.

Individually listed properties include:

- American Net & Twine Co. factory, 155 Second Street
- Benjamin Hoyt House, 134 Otis Street
- Bottle House Block, 204-214 Third Street
- East Cambridge Savings Bank, 292 Cambridge Street
- House at 42 Lopez Avenue
- Union Railway Car Barn, 613-621 Cambridge Street

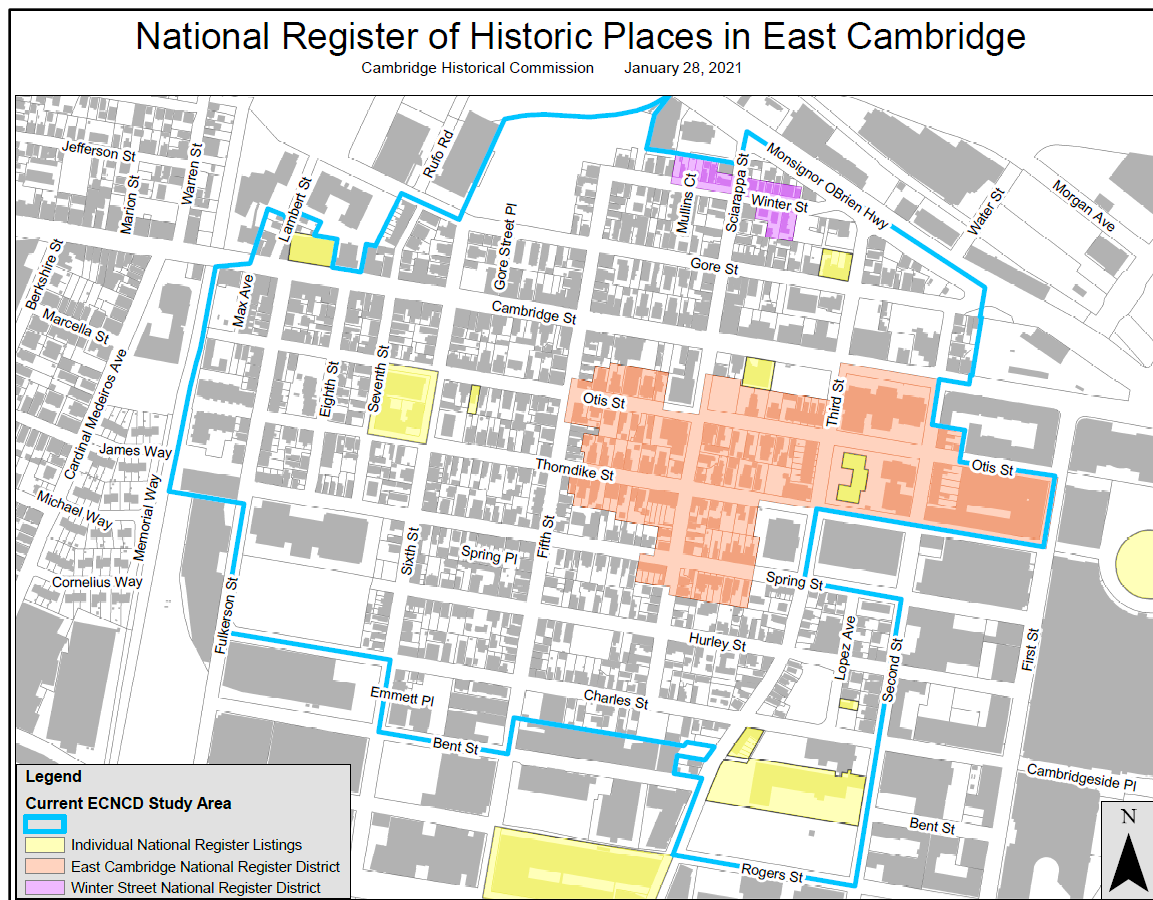


Figure 4. East Cambridge National Register Designations.

2. Local Historic Districts

The fundamental tool for historic preservation in Massachusetts is Chapter 40C of the General Laws, which authorizes cities to establish local historic districts by a two-thirds vote of the City Council. An historic district commission such as the Cambridge Historical Commission has authority to review all new construction, additions, and alterations to structures within the district and visible from a public way.

The Cambridge Historical Commission administers two Chapter 40C historic districts. The Old Cambridge Historic District, which included part of Harvard Yard, the Old Burying Ground, and the First Parish Church when it was established in 1963, has been enlarged several times and now extends along Mason and Brattle streets from Church Street to Fresh Pond Parkway. The Fort Washington Historic District on Waverly Street was designated in 1982.

a. Objectives

The purpose of historic districts is stated in the enabling legislation, Ch. 40C of the General Laws. The Act is intended

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.¹

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 healthy, spacious as well as clean, well balanced as well as carefully patrolled.²

Subsequently, the Massachusetts Supreme Judicial Court 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 the right of the people to "the natural, scenic, historic, and aesthetic qualities of their environment."³

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."⁴ The courts have noted that these benefits may accrue to the individual property owner as well as to the community at large, but have considered that public purposes are served if the public good, measured in terms of increased property value or business volume,

¹ Chapter 373, Acts of 1960, §2

² 348 U.S. 25 (1954).

³ John Donnelly & Sons vs. Outdoor Advertising Board (1975).

⁴ 333 Mass. 773, 780 (1955).

outweighs private costs.⁵ It has been judicially determined that historic district designation does not necessarily constitute a taking of private property without compensation, and it has been noted that many zoning ordinances are as demanding in their application.⁶ Once again, the public benefit is held superior to a reasonable degree of private sacrifice, a principle that was upheld by the Appellate Division of the New York Supreme Court in confirming the landmark designation of Grand Central Terminal.⁷ In upholding this designation, the U.S. Supreme Court also ruled that "states or cities may enact land use restrictions or controls to enhance the quality of life by preserving the character and desirable aesthetic features of a city."⁸

Historic districts cannot be enacted easily or quickly. 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 by a two-thirds majority. Once a district has been established, the historic district commission holds the power to review all construction and alterations of structures that will be visible from a public street, sidewalk, or park.

The authority of an historic district commission cannot be arbitrarily exercised. The legislation requires that a commission "shall not make any recommendations or requirement except for the purpose of preventing developments incongruous to the historic aspects or architectural features of the . . . district." The Supreme Judicial Court, in reviewing the Nantucket ordinance in 1955, warned that enforcement actions would need to be carefully circumscribed, since in some instances decisions of an historic district commission might give rise to "peculiar hardship and remoteness from the legitimate purpose of the act" which would amount to unconstitutional applications of it. Accordingly, the legislation establishes a time limit requiring a commission to act on a petition within a given period and provides for appeal of commission decisions.

b. Administration of Historic Districts

The administration of historic districts is guided by the provisions of Chapter 40C, except as specially provided for in the local ordinance creating the district, or as established as a regulation by an historic district commission.

All buildings of whatever size or function, as well as all structures, including signs, fences, walks, terraces, driveways, walls, light fixtures, or the like, which are "open to view from a public street, public way, public park or public body of water", may fall within the review of an historic district commission.⁹ Building projects that must be reviewed include construction, reconstruction, alteration, erection, demolition, and removal as they affect exterior features of a structure visible from a public street, way, or park. Such features may include the kind, color, and texture of exterior building materials, the color of paint or materials used on exterior surfaces, and the type and style of windows, doors, lights, signs, and other fixtures, unless exempted by the ordinance or by regulation. An historic district commission may also impose dimensional and setback requirements more stringent than required by the zoning code.

⁵ T. J. Reed, *Land Use Controls in Historic Areas*, 44 *Notre Dame Lawyer* 3, 387.

⁶ 333 Mass. 773, 778 (1955).

⁷ 50 A.D. 2nd 265, 377 N.Y.S. 2nd 20 (1975).

⁸ *Penn Central Transportation Co. vs. New York City*, 438 U.S. 104 (1978).

⁹ M.G.L. Ch. 40, Section 5.

After reviewing the proposed work, a commission must issue a Certificate of Appropriateness, a Certificate of Hardship, or a Certificate of Nonapplicability, as the case may be. No building or demolition permit for work in a district can be issued by a building department until a certificate has been issued by an historic district commission, unless more than 45 days has elapsed without commission action.¹⁰

The authority of an historic district commission is limited by statute:

The commission shall not make any recommendation or requirement except for the purpose of preventing developments incongruous to the historic aspects or the architectural characteristics of the surroundings and of the historic district.¹¹

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

Appeals from historic district commission decisions may be made to the Superior Court, or, if the ordinance provides, initially to a panel appointed for the purpose. Standing is granted to "the applicant, an owner of adjoining property, an owner of property within the same historic district as property within one hundred feet of said property lines and any charitable corporation in which one of its purposes is the preservation of historic structures or districts."¹²

When an appeal is made to the Superior Court, all "pertinent evidence" shall be heard and the court "shall annul the determination of the commission if it finds the decision . . . to be unsupported by the evidence or to exceed the authority of the commission."¹³ In practice, the courts have supported historic district commission decisions unless they have found evidence of arbitrary or capricious actions.

c. Establishment of Historic Districts

Procedures for establishing or expanding an historic district are dictated by Chapter 40C. An historic district study committee prepares a report on the historical and architectural significance of the buildings, structures or sites to be protected, a map showing the boundaries of the area to be included in the historic district, and an ordinance for consideration by the City Council.

The report must be submitted to the local planning board and the Massachusetts Historical Commission. A public hearing, for which all affected property owners must be given two weeks written notice, must be held no less than sixty days after the report has been released. After the hearing, the historic district commission prepares a final report which incorporates the comments received at the public hearing and the recommendations of the planning board and the state Historical Commission. The report may then be submitted to the City Council, where a two-thirds

¹⁰ Chapter 40C permits as much as 60 days. Section 2.78.060 of the City Code establishes the 45 day period in Cambridge.

¹¹ Chapter 40C, Section 7.

¹² Chapter 40C, Section 5. The City Solicitor has interpreted this definition of standing as including the applicant, any abutter, any owner of property within 100 feet of the applicant's property, and charitable corporations as described. (Letter of Russell B. Higley, March 10, 1999.)

¹³ Chapter 40C, section 12A.

majority vote is required for adoption. The district or district extension goes into effect when a map showing the boundaries is filed with the registry of deeds.

3. Landmark Designation

Protection of individual buildings in Cambridge is exercised under the authority of Chapter 2.78, Article III of the City Code, which was adopted in 1981 under the City's home rule authority. The ordinance allows individual properties to be designated as protected landmarks using the goals and procedures of Chapter 40C. (It was generally assumed at the time that Chapter 40C did not permit designation of individual buildings as historic districts; although many communities in Massachusetts now designate individual buildings under Chapter 40C, Cambridge continues to designate landmarks under its own ordinance.)

Under the landmark ordinance, the Historical Commission may recommend for designation as a landmark any structure,

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.¹⁴

In most respects, a landmark is designated and administered in a manner similar to an historic district, although the ordinance allows greater flexibility in tailoring the terms of the designation to accommodate the particular circumstances of the landmarked property. A designation study may be initiated by a petition of ten registered voters, or by the Commission acting on its own. Under an amendment to the ordinance adopted in 1995, the commencement of a landmark designation study allows the Commission to protect the structure from inappropriate change for up to one year to allow preparation of a report and a recommendation to, and action by, the City Council. Landmark designations are implemented by order of the City Council, requiring a simple majority vote, and incorporate, by reference, the Commission's report on the standards and objectives by which applications for changes are to be judged.

A landmark study can be terminated without a recommendation to the City Council if the Commission decides that designation is not warranted. Sometimes, a property owner will decide that it would be more advantageous to donate a preservation easement to the Commission than to have the Commission and the City Council continue with the procedure for landmark designation. As discussed below, a preservation easement granted to the City is ordinarily functionally equivalent to a landmark designation.

4. Neighborhood Conservation Districts

Neighborhood conservation districts (NCDs), which are established under the same Cambridge ordinance as landmarks, were intended to provide more flexible protection than could be accomplished in an historic district under Chapter 40C. Chapter 2.78, Article III provides a legislative framework within which proposals for NCDs can be drafted by a study committee, evaluated by the Historical Commission, and adopted by the City Council. Districts have been established to serve a wide range of objectives, from preventing excessive infill in Mid Cambridge to

¹⁴ Cambridge City Code, §2.78.180.A

supporting the commercial vitality of Harvard Square. NCDs can be administered by a commission of neighborhood residents or by the Historical Commission itself.

a. Objectives

The authority to designate neighborhood conservation districts is contained in Chapter 2.78, Article III of the Cambridge City Code, which was enacted by the City Council on March 23, 1981 under the Home Rule amendment to the Massachusetts Constitution.

Chapter 2.78, Article III was enacted to provide a mechanism and framework to decentralize the protection of neighborhoods in Cambridge in a manner beyond that contemplated by Chapter 40C of the Massachusetts General Laws. In drafting the ordinance, the Commission found 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 Neighborhood Conservation Districts, protection areas, and protected landmarks. The Cambridge Historical Commission drew on Chapter 772 for some 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 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.

b. Establishment of Neighborhood Conservation Districts

Procedures for the establishment of a neighborhood conservation district are contained in Article III and substantially parallel provisions 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 Historical Commission may initiate the study independently. The study committee must prepare a preliminary report which considers the options set forth in Article III for the Neighborhood Conservation District's review authority, outlines the exact boundaries of the area to be designated, presents a full architectural and historical justification for the area, and includes an order to implement the district.

The preliminary study 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 fourteen days' notice, must be held within 45 days of the transmittal of the report.

After the public hearing, the Historical Commission makes a recommendation to the City Council with regard to the designation, which is transmitted with the final designation report to the City Manager and the City Clerk. The order designating the Neighborhood Conservation District can be adopted by a simple majority of five votes. The designation becomes effective when a map setting forth the boundaries of the district has been filed with the City Clerk and recorded at

the Middlesex County Registry of Deeds. Unless the order provides that the Historical Commission itself will administer the district, it will be administered by a neighborhood Conservation District commission consisting of five members and three alternates appointed by the City Manager.

Neighborhood Conservation Districts were established in Mid Cambridge in 1984, in the Half Crown area in 1985, on Avon Hill in 1998, and in Harvard Square in 2000. The Marsh NCD, established in 2000, was combined with the Half Crown NCD in 2007.

c. Administration of Neighborhood Conservation Districts

The administration of neighborhood Conservation Districts is guided by the provisions of Chapter 2.78, Article III, except as specially provided for in the order creating the district, or as established as a regulation by the commission administering the district.

As in historic districts, all buildings of whatever size or function, as well as all structures, including signs, fences, walks, terraces, driveways, walls, light fixtures, or the like, which are "open to view from a public street, public way, public park or public body of water", may fall within the jurisdiction of a neighborhood conservation district commission.¹⁵ Building projects that must be reviewed include construction, reconstruction, alteration, erection, demolition, and removal as they affect exterior features of a structure visible from a public street, way, or park. Such features may include the kind, and appearance of exterior building materials, and the type and style of windows, doors, lights, signs, and other fixtures, unless exempted by the order or by regulation. A neighborhood conservation district commission may also impose dimensional and setback requirements more stringent than required by the zoning code.

After reviewing the proposed work, a commission must issue a Certificate of Appropriateness, a Certificate of Hardship, or a Certificate of Nonapplicability, as the case may be. No building or demolition permit for work in a district can be issued by the building department until a certificate has been issued by a Neighborhood Conservation District commission, unless more than 45 days has elapsed without commission action.¹⁶

A Certificate of Appropriateness will be issued when a commission has determined that a project is not incongruous with the preservation of the district; this is the most frequently-issued certificate. A Certificate of Nonapplicability is issued for a project which a commission determines involves normal maintenance or does not involve an exterior feature, 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.

Applications for a certificate are made by completing an application form, which includes a description of the proposed alteration, and submitting the application with "such plans, elevations, specifications, material and other information . . . as may be deemed necessary by the

¹⁵ M.G.L. Ch. 40, Section 5, and similar language in Ch. 2.78.150B.

¹⁶ Chapter 40C permits as much as 60 days. Section 2.78.060 of the City Code establishes the 45 day period in Cambridge. Chapter 2.78, Article III does not specify a time limit for action, but incorporates the procedures outlined in Ch. 40C, Section 11.

Commission to enable it to make a determination.”¹⁷ As in historic districts, a 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 value 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, a commission must consider the size and shape of the building, in relation to both its site and surrounding buildings.¹⁸ A commission can also establish appropriate designs or lists of materials or the like for the guidance of property owners, and can adopt a policy to exclude certain features from control after the district is established.

A neighborhood conservation district commission cannot prevent alterations to interior arrangements or architectural features not subject to public view, even though such alterations may still be within a district.¹⁹ Furthermore, landscaping with plants, trees or shrubs is specifically excluded from review, and a commission is not concerned with ordinary maintenance, repair, or replacements that do not involve a change in exterior appearance.²⁰

Finally, it should be noted that the authority of a neighborhood conservation district commission is limited:

The 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.²¹

Enactment of a neighborhood conservation district in no way requires owners to alter their properties, nor requires restoration of a structure to any historical period. Work must be reviewed only if it involves a change from that which exists upon enactment of the ordinance; maintenance or replacement of an existing feature that is incongruous with the historic or architectural qualities of the district may take place without a certificate as long as there is no change in exterior appearance.

Applications for certificates are first reviewed by the staff to establish jurisdiction. If the matter is beyond the authority of the staff to resolve it is placed on the agenda of the next meeting of the commission. The commission reviews applications in a public hearing, with notice given to interested parties. If the application involves an alteration which is considered insubstantial in its effect, however, the commission may approve the matter subject to a ten-day period for comment or objection.

If a commission disapproves an application, it must give its reasons to the applicant in writing. However, commissions are specifically authorized to make recommendations for changes which

¹⁷ Ch. 2.78.210.C.

¹⁸ Chapter 2.78.220A.

¹⁹ Chapter 2.78.220A.

²⁰ Chapter 2.78.200.

²¹ Chapter 2.78.220.B. This section tracks the language of M.G.L. Ch.40C, Section 7.

would make the application acceptable. If the applicant modifies the application to conform to a commission's suggestions, a certificate must then be issued.

d. Appeals in Neighborhood Conservation Districts

Chapter 2.78, Article III, Section 240 applies to neighborhood conservation districts and landmarks and provides for appeals from three types of action: from the designation of a landmark or NCD by the City Council; from a determination of a neighborhood conservation district commission; and from a determination of the Historical Commission. Standing is granted in the first instance to "any person aggrieved;" in the second, to the applicant or ten registered voters; and in the third, to the applicant alone. Appeal of a designation is made to the superior court; appeal from a determination of an NCD commission to the Historical Commission; and appeal from a determination of the Historical Commission to the superior court. A provision of Ch. 40C that allows appeals to a panel appointed by the regional planning agency is not available under the neighborhood conservation ordinance.

5. Demolition Review

The Cambridge demolition delay ordinance, Ch. 2.78, Article II of the City Code, was adopted in 1979 under the authority of the Home Rule Amendment to provide interim protection for significant buildings threatened by inappropriate demolition. The ordinance provides that any application for demolition of a building that is fifty years or more old must be referred to the Historical Commission. When the Commission determines that a building is both historically or architecturally "significant" (within the definitions contained in the Ordinance) and "preferably preserved," it can delay demolition for up to twelve months. The delay provides an opportunity to explore the possibility of long-term preservation by landmark designation, donation of an easement, or some other method.

The ordinance applies to applications for demolition permits for all buildings over fifty years old. The Executive Director's initial determination that the building is significant triggers a referral to a public hearing before the Historical Commission. If the Commission finds that the building is both significant and "preferably preserved" in comparison to the replacement project, the Building Commissioner must withhold the demolition permit for twelve months.

Ordinarily, at the conclusion of the delay period the demolition permit will be issued without further review, provided that the property owner has all the necessary permits for the replacement building. The Commission, however, has the option of initiating a landmark designation study for the building. This has the effect of preserving the building for up to a further year while a recommendation is prepared for the City Council. The demolition review ordinance does not apply in historic districts or neighborhood conservation districts.

6. Preservation Easements

Chapter 184 of the General Laws allows an owner of a contributing building on the National Register to record a preservation easement or restriction that will protect the structure from demolition or inappropriate alteration. The Cambridge Historical Commission has accepted preservation easements as an alternative to landmark designation. Preservation easements remain in effect when an historic district or neighborhood conservation district is enacted. While the specific restrictions contained in a preservation easement may vary from building to building, the more restrictive jurisdiction would apply in the event of an inconsistency between the easement and a

district. There are currently no buildings in East Cambridge protected by preservation restrictions.

While Cambridge has an extensive array of historic preservation tools, in practice most preservation initiatives are taken to preserve buildings with obvious historic significance or in response to specific development threats. While many of East Cambridge's most important buildings are regulated in some way (almost all are subject to the fifty-year threshold for demolition review), the neighborhood's many modest but still significant contextual structures are likely to remain unprotected until they are in imminent danger. Contextual buildings are sometimes difficult to designate as landmarks, but their loss can adversely affect the character of the urban fabric.

C. Effects of Historic Preservation Measures on Property Values and Rents

Over the past decades, numerous studies have been undertaken to measure the economic impact of historic preservation regulations. While there are variations in scope, location, and methodology among the studies, a sizable number of them focus on the impact of historic districts on property values and affordability. Such studies typically examine the value of the affected properties, the rate of change in values, and/or the contributory value of being within a local historic or conservation district. Most of these studies focus on historic districts, not conservation districts, and widely conclude that historic districts are in fact associated with a net increase in housing costs.

A study conducted in New York City between 1980 and 2000 found that local historic district properties on a price per square foot basis increased in value significantly more than non-designated properties.²² Similarly, a study of four towns and cities in Connecticut in 2011 determined “in head-to-head square-foot comparisons based on age and style, properties within local historic districts were worth more than similar properties not within the districts”.²³ It should be noted, however, that local historic districts traditionally protect wealthy neighborhoods with larger, more valuable, and more architecturally significant properties, and that historic district regulations are typically quite rigorous.

Neighborhood conservation districts are typically structured as a means by which neighborhoods can maintain their character while allowing change (which is usually discouraged in local historic districts). NCDs came about within the past few decades as the field of preservation became more inclusive. Cities such as Philadelphia and Dallas have seen increased desire by neighborhood residents to establish conservation districts as a tool to preserve existing building fabric and affordability.²⁴ The conservation district movement embraces vernacular architecture and recognizes the importance of social history and cultural diversity, not just preservation of architecturally significant mansions built by wealthy citizens, and has grown in importance as an anti-gentrification movement.

Academic research on the financial impacts of conservation districts is limited in comparison to that of historic districts for two major reasons. First, conservation districts are a much more recent concept than historic districts. Second, conservation district goals and guidelines vary greatly between neighborhoods, so generalized comparisons of similar neighborhoods are not

²² Glaeser, Edward L. *Preservation Follies* (2010)

²³ Connecticut Local Historic Districts and Property Values (2011) *PlaceEconomics*

²⁴ <https://whyy.org/articles/the-rise-of-the-overlay-how-an-obscure-zoning-tool-is-shaping-philly-again/>

necessarily valid; conservation districts draft neighborhood-specific standards to meet the challenges they face and no two are identical.

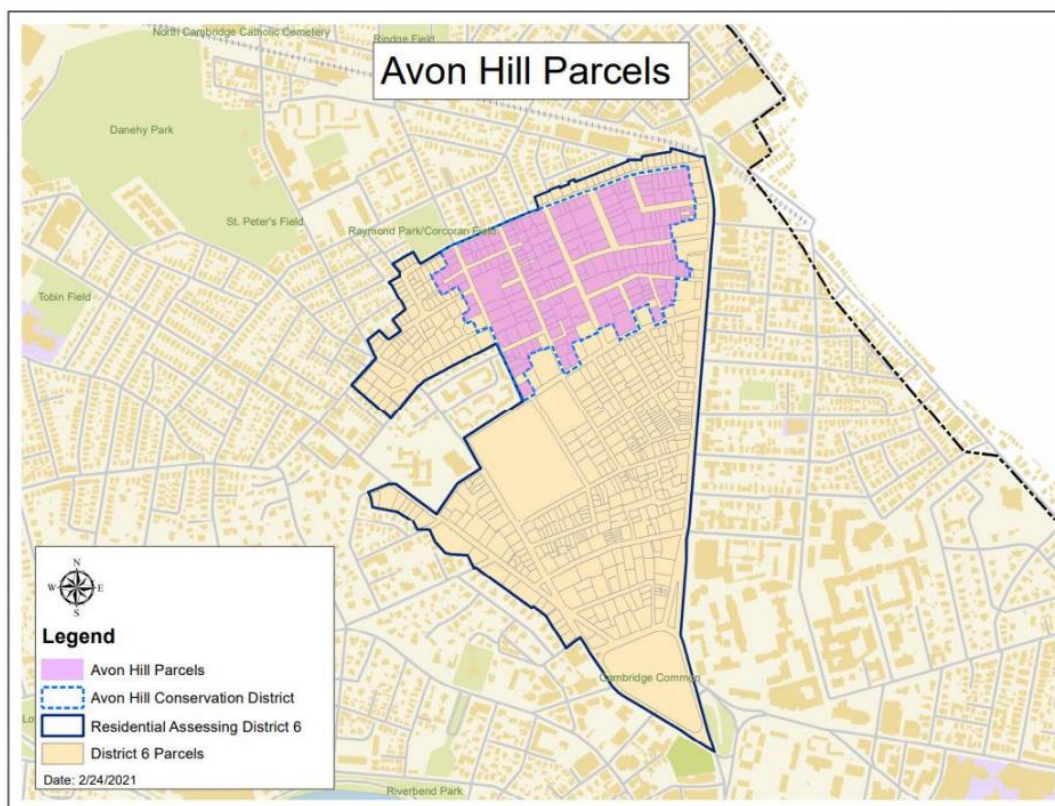
In this context CHC staff worked with other city departments to investigate available data on assessed property values and rental values to better understand the impact of NCDs on housing prices in Cambridge.

1. Assessed Value Analysis

Historical Commission staff worked with Cambridge's Assessing and Geographic Information System (GIS) departments to better understand the impact of neighborhood conservation district designation on property values. For this study, assessed valuation data rather than sales data was used, since assessed data is a public record and provides larger samples than that would be available from property transactions. Two existing neighborhoods were analyzed by comparing assessed valuations from before they were established as NCDs with the most recent valuations. The NCD parcels were compared to parcels in their wider assessing districts, which are generally similar in building type and size.

a. Avon Hill NCD

The Avon Hill Neighborhood Conservation District contains 285 properties in an area roughly bounded by Linnaean Street, Raymond Street, Upland Road and the zoning boundary of the BA-2 and C-2 districts along Massachusetts Avenue. The Avon Hill NCD was adopted by City Council in December 2009.



In the Avon Hill study, fiscal year 2010 assessments (Value Prior to District Creation) were compared to the fiscal year 2021 assessment (Current Value), comparing growth in Assessing

District Six within and outside the NCD in the approximately ten years since adoption. The comparison found that there was no discernable difference between the two surveyed areas in terms of growth in assessed value. The assessed value for parcels both inside and outside the NCD increased on average 90% in 10 years.

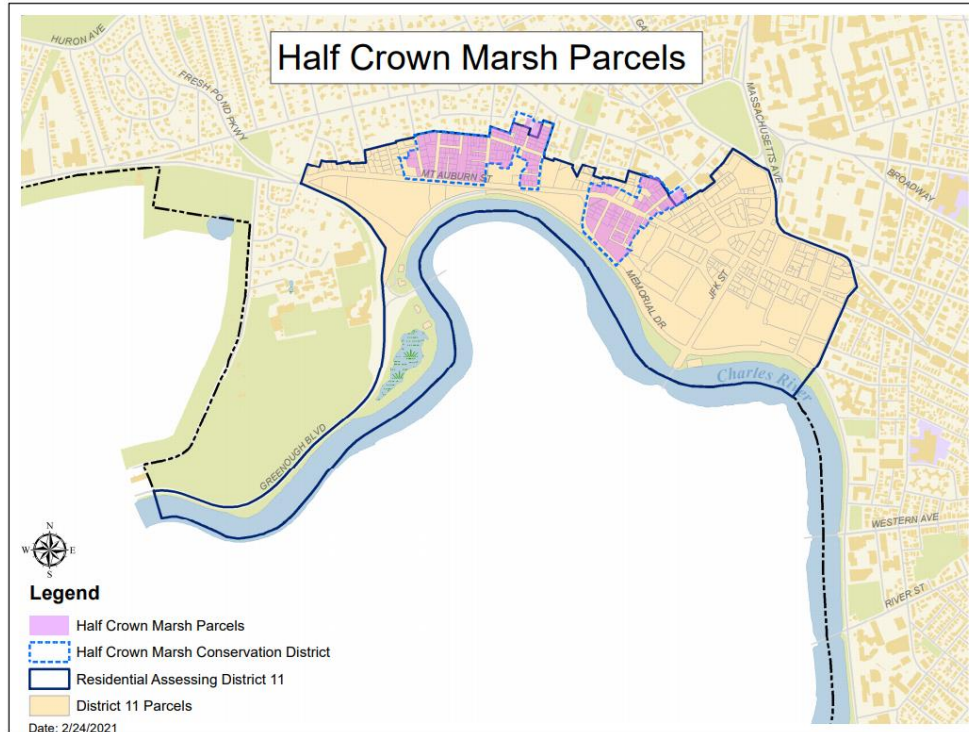
| In Avon Hill NCD? | Count | Value Prior to District Creation | Current Value | Average of Pct Increase | Average of Prior Assess/SF | Average of Current Assess/SF |
|--------------------------|-------------|----------------------------------|--------------------|-------------------------|----------------------------|------------------------------|
| Not In District | 1788 | \$517,854 | \$975,919 | 90% | \$450 | \$852 |
| In Conservation District | 285 | \$1,164,639 | \$2,216,658 | 90% | \$456 | \$857 |
| Grand Total | 2073 | \$606,775 | \$1,146,498 | 90% | \$451 | \$853 |

The table below breaks out Assessing District Six parcels by type in addition to location in or out of the conservation district. Again, there was little to no difference in the change in assessed value. It also becomes apparent that initial difference in assessed value between NCD parcels and non-NCD parcels was driven by a different mix of uses and building square footage rather than any effect of the conservation district on values.

| Avon Hill NCD | Count | Value Prior to District Creation | Current Value | Average of Pct Increase | Average of Prior Assess/SF | Average of Current Assess/SF |
|------------------------------------|-------------|----------------------------------|--------------------|-------------------------|----------------------------|------------------------------|
| Single Family | 370 | \$1,417,796 | \$2,669,081 | 92% | \$488 | \$915 |
| SF Not In District | 217 | \$1,369,818 | \$2,546,985 | 92% | \$503 | \$939 |
| SF In Conservation District | 153 | \$1,485,842 | \$2,842,250 | 91% | \$467 | \$880 |
| Condo | 1599 | \$382,816 | \$725,491 | 90% | \$450 | \$853 |
| Condo Not In District | 1488 | \$359,774 | \$682,084 | 90% | \$449 | \$852 |
| Condo In Conservation District | 111 | \$691,702 | \$1,307,389 | 89% | \$461 | \$865 |
| Two Family | 72 | \$1,105,322 | \$2,081,935 | 89% | \$349 | \$656 |
| Two Fam Not In District | 56 | \$1,046,011 | \$1,978,836 | 90% | \$347 | \$654 |
| Two Fam In Conservation District | 16 | \$1,312,913 | \$2,442,781 | 86% | \$355 | \$661 |
| Three Family | 32 | \$1,298,566 | \$2,474,075 | 91% | \$311 | \$596 |
| Three Fam Not In District | 27 | \$1,287,085 | \$2,462,656 | 92% | \$309 | \$596 |
| Three Fam In Conservation District | 5 | \$1,360,560 | \$2,535,740 | 87% | \$322 | \$598 |
| Grand Total | 2073 | \$606,775 | \$1,146,498 | 90% | \$451 | \$853 |

b. Half Crown-Marsh NCD

The Half Crown-Marsh Neighborhood Conservation District in Assessing District Eleven contains 160 properties and encompasses two neighborhoods separated by a portion of the Old Cambridge Historic District. The district is located west of Harvard Square between Brattle Street and the river, with Hilliard Street on the east and Lowell Street on the west. The Half Crown Neighborhood Conservation District and the Marsh Neighborhood Conservation District were established in 1984 and 2000, respectively. The districts were merged in 2007. In the Half Crown-Marsh study, fiscal year 2000 assessments were compared to the fiscal year 2021 assessments to compare differences within and outside the NCD.



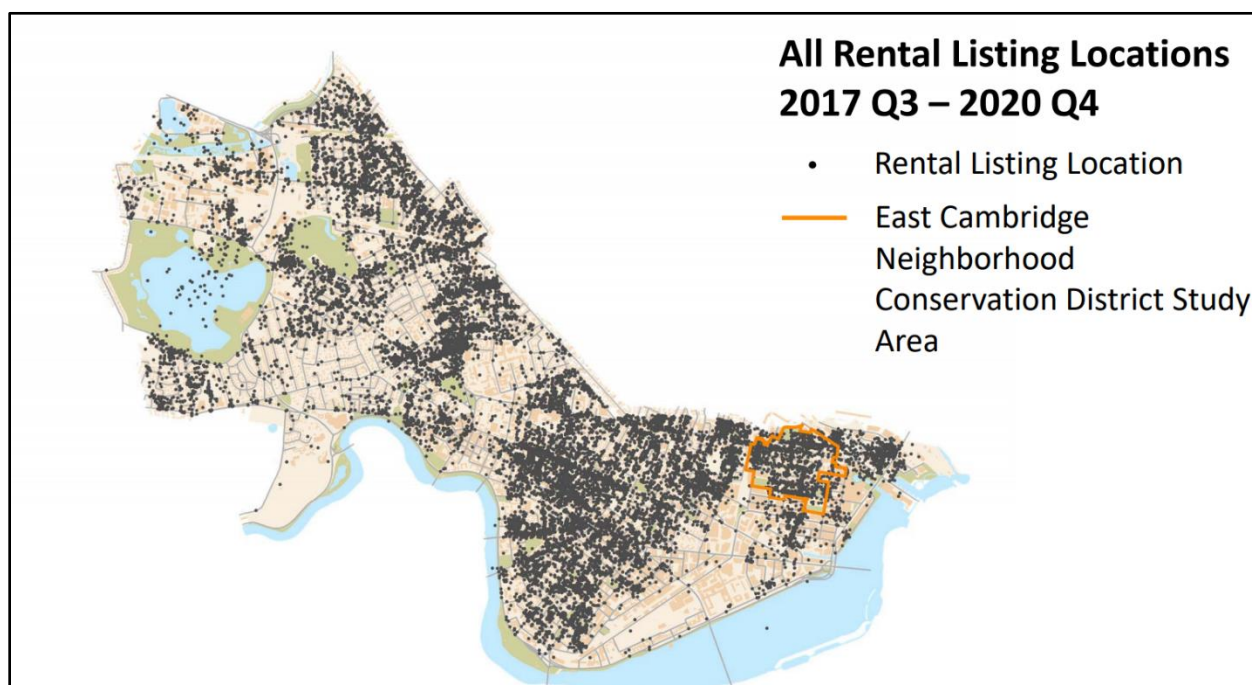
The study determined that property assessments in the Half Crown-Marsh NCD have risen more slowly than those in the rest of the Assessing District. The table below includes assessments for residential properties including single family, two-family and three-family buildings. The NCD parcels are compared to those outside the NCD within Assessing District Eleven.

| In NCD District? | Count | Avg of FY2000 Assessment | Avg of FY2000 Assess/SF | Avg of Current Assessment | Avg of Current Assess/SF | Average of Pct Change |
|------------------|-------|--------------------------|-------------------------|---------------------------|--------------------------|-----------------------|
| No | 56 | \$629,236 | \$247 | \$2,512,532 | \$981 | 310% |
| Yes | 160 | \$584,020 | \$282 | \$2,066,796 | \$972 | 269% |
| Total | 216 | \$595,743 | \$273 | \$2,182,357 | \$974 | 279% |

The average assessed value of Half Crown-Marsh NCD properties increased 26.9% over 21 years, while the average assessed value of non-NCD properties in the Assessing District increased 31.0% in the same period. While the sample size of the non-NCD parcels is smaller than in Avon Hill, the results show that no significant change in values attributable to enactment of an NCD occurred in either Assessing District.

2. Rental Analysis

According to most recent available data, the East Cambridge Study Area contains 3,869 dwelling units. Among occupied units, 41% are owner-occupied and 59% are renter-occupied. Since over half of all dwellings in the study area are renter-occupied, it is important to understand the impact that establishment of an NCD may have on rental costs. The Cambridge Historical Commission and Community Development Department (CDD) jointly sought to analyze available data to gauge the potential impact on rents of the establishment of an NCD.



The analysis relies on city-wide data provided by the Metropolitan Area Planning Council (MAPC) which was scraped from websites advertising units for rent in Cambridge. Data used in the analysis spans Quarter 3 of 2017 through Quarter 4 of 2020. CDD used ArcGIS and location data provided with the MAPC data set to ensure that all listings included in the analysis were from the study area. Default locations, such as zip code and neighborhood centroids, were removed from the data subject to analysis.

Rental listings were separated into three classifications: NCD listings (i. e., listing located in an existing NCD); city-wide listings outside an existing NCD; and city-wide listings outside both an existing NCD and neighborhoods where significant large multifamily development has taken place, specifically areas in and around Kendall Square, Cambridge Crossing, and Alewife (see addendum for the full report, including geographic boundaries). Additionally, rental listings were further broken-down by bedroom count, evaluating data for studio, 1-bedroom, 2-bedroom, and 3-bedroom apartments.

| Mean Differences in Median Asking Prices | | |
|---|--|---|
| | Median Inside NCDs less Median Outside NCDs | Median Inside NCDs less Median Outside NCDs Except Alewife & MIT/Kendall/North Point Areas |
| Studio | \$(210) | \$(137) |
| 1-Bedroom | \$(143) | \$(56) |
| 2-Bedroom | \$(177) | \$(100) |
| 3-Bedroom | \$64 | \$107 |

In most instances the analysis found that the median rents for units located outside existing NCDs exceeds those within existing NCDs. For example, comparing the median rent of studio apartments, the median was \$210 per month greater for units outside existing NCDs. Only in the case of 3-bedroom units did median rents inside existing NCDs exceed those found elsewhere in Cambridge.

3. Conclusion

While some studies show significant increases in property values in historic districts nationally, the record for neighborhood conservation districts is mixed. Studies of the effect of NCDs on property values and rents in Cambridge show that NCDs do not materially affect property values or rents.

- An analysis of Assessing District Six shows no significant difference in values over time inside and outside the Avon Hill Neighborhood Conservation District.
- In Assessing District Eleven, property values in the Half Crown-Marsh NCD have risen more slowly than those elsewhere in the Assessing District.
- Median rents in Cambridge NCDs are lower than elsewhere in the city (excluding Alewife, Cambridge Crossing, and Kendall Square).

D. Effect of Temporary Jurisdiction

When the East Cambridge NCD Study was established at the October 3, 2019 Cambridge Historical Commission meeting, interim guidelines for properties were immediately put into effect. CHC staff reviewed all building permit applications, signing off on those where the Commission had no jurisdiction and referring others to the Commission.

In the two years that CHC had jurisdiction in the study area (from October 3, 2019 through September 10, 2021), 205 permits were been reviewed. 100% of these applications were approved, although sometimes with conditions that enabled conformance with guidelines. No projects were denied, and no housing units were lost because of Commission review.

a. Certificates of Non-Applicability

Certificates of Non-Applicability (CNAs) accounted for 192 of the 205 projects reviewed, representing 93.7% of permits approved. Certificates of Non-Applicability were granted for projects ranging from permits not under the purview of the Commission (interior work or exterior work not visible from a public way), to restoration work and replacement of features in kind. Some larger projects that included a full renovation were issued a CNA after discussions with staff to restore existing architectural features and allowing for accurately detailed synthetic materials. Once complete, CNA applications were typically approved within 1-3 business days.

During the study period, staff routinely met with applicants, including long-term residents, new homeowners, and developers, to explain the design review process and interim design standards for the study area. During these discussions, staff was able to understand the projects proposed and in certain circumstances suggest updates to the designs or restoration of existing fabric to allow plans to move forward with administrative review.

Examples of projects that were approved following staff review include 90 Thorndike Street, which entailed a full renovation of an 1867 rowhouse. The project originally called for the replacement of the front door and wood paneling at the entry, a new storm door at the street, and one-over-one windows at the façade. Staff met with the applicant on site to review the significance and condition of the entry detailing and door. After brief discussions of the NCD guidelines, the applicants decided to restore the front door and paneling, restore the recessed entry by removing the later storm door at the street, and install period-appropriate two-over-two replacement windows. The masonry was also repointed, and the brownstone was restored. At the rear, which was not visible from a public way, the developer enlarged openings to modernize the space. The project team was given a Cambridge Preservation Award for the renovation.



90 Thorndike Street façade before and after permit review.

Another project, at 70 Gore Street, involved a developer gut-renovating an 1870s tenement. At the time of purchase, the building retained little architectural integrity beyond the historic window and door configuration and the brackets at the cornice and door. After discussions with staff, the development team

retained the brackets and door hood, replaced the later synthetic siding with a fiber cement siding, and restored the foundation. Now in compliance with the guidelines, the project was approved at the staff level and granted a Certificate of Non-Applicability.



70 Gore Street (1870) before and after permit review.

b. Certificates of Appropriateness

The remaining 13 permits (representing about 6.3% of permits reviewed) were given Certificates of Appropriateness (COAs) following a hearing and approval by the Cambridge Historical Commission. The cases that required a hearing included larger projects that involved full-scale renovation, removal of historic features, altering openings, visible additions, or raising of a roof. These applicants presented before the Cambridge Historical Commission at its monthly meeting, which extended their review time to just over 4 weeks. Of the thirteen cases that required a hearing, four required a continuance (meaning the applicant needed to present before the CHC at two hearings), but these ultimately gained approval after some modifications to the plans.

Projects that went before the Cambridge Historical Commission for a Certificate of Appropriateness often included altering window and door openings on visible façades, additions, and one demolition/new construction. At 118 Spring Street, a four-unit Italianate building constructed in 1870, a developer sought to renovate the structure for new occupants. The project involved an exterior renovation including windows, siding, trim, and new rear decks and stairs. As the project included new window openings on visible facades, the case was reviewed and approved by the Historical Commission.

At 66 Hurley Street, a developer purchased a 1907 triple-decker on a prominent corner lot. The project entailed an exterior rehabilitation which involved altering windows and doors, new siding and trim, construction of a stair headhouse and decks. The building was clad in perma-stone and asbestos siding and retained little original detailing. The developer stripped the building down to the sheathing, installed new siding, appropriate windows, and re-designed the enclosed rear decks with large windows. It was discovered that the original wood brackets at the cornice had been covered during a mid-20th century renovation. The final project is a modernized building, still retaining the restored brackets and fenestration, but completely updated inside.

At 271 Cambridge Street, the new owners of the former Hastings-Tapley Insurance building, a rare example of Post-Modern architecture, sought to modernize the exterior, adding new windows to increase natural light inside. Staff communicated the history of the building and original design intent. Inspired by the history of this unique building, the owners hired an architect who had working knowledge on the property and devised a façade scheme that would enhance the 1980s design while providing new windows and more usable office space. At a public hearing, the applicant showcased plans for a glass panel which would replace the original solid panel on the façade, new windows to mimic existing, accessible entries, and masonry restoration. The project was approved as submitted with glowing praise by the Cambridge Historical Commission as the applicants went above-and-beyond historical context with their project.

c. Demolition

During the East Cambridge NCD Study period, just one demolition application was submitted. This project involved the demolition of a modern one-story addition at 613-629 Cambridge Street (best known as the Mayflower Poultry building), replacing it with a new, slightly recessed, one-story structure. Though zoning could allow for more density on the site, the applicant decided to maintain existing building heights.

Permitting Challenges

While the permitting software gives CHC staff a great overview of the spectrum of cases reviewed in the study period, a couple projects slipped through, either by the nature of the permit applied for or due to software errors. The project at 271 Cambridge Street received a Certificate of Appropriateness in December 2020 for façade alterations and restoration of the 1984 Post-Modern building. The applicant subsequently found a tenant that required larger mechanicals on the roof, but since mechanical permits in the permitting system are not submitted for CHC review the permit was granted by ISD. The large mechanicals have an adverse effect on the appearance of the building, but the owners are looking to mitigate the visual clutter by erecting a screen at the roof.

An application to construct a new single-family home on a vacant lot at the corner of Thorndike and Sixth streets was filed on April 8, 2021. ISD granted the permit in July 2021, and work has commenced on the new single-family home. For reasons that cannot be determined the electronic system did not require Cambridge Historical Commission sign-off, and thus, CHC staff were unaware of the project until construction started at the end of August.