



2026 MAR 11 PM 3:07
Adam A. Kurth
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admitted in: MA, NH
OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

March 11, 2026

BY HAND

Charles M. Sullivan, Executive Director
Cambridge Historical Commission
c/o Cambridge City Clerk's Office
795 Massachusetts Ave., 1st Floor
Cambridge, MA 02139

WITH A COPY BY HAND TO:

Cambridge Historical Commission
831 Massachusetts Avenue, 2nd Floor
Cambridge, MA 02139

Re: Appeal Pursuant to Chapter 2.78, Article II and Request for Demolition Review;
Property: 60 Ellery Street, Cambridge, Massachusetts

Dear Mr. Sullivan and Members of the Commission:

This firm represents the Ellery Square Owners Association ("ESOA"), an abutter to 60 Ellery Street and the holder of recorded easement rights burdening that property. This correspondence serves as the ESOA's appeal of the Mid-Cambridge Neighborhood Conservation District Commission's (the "Neighborhood District Commission") February 20, 2026¹ decision and issuance of a Certificate of Appropriateness for 60 Ellery Street and Contempo Builders c/o Mike Tokatlyan, pursuant to Section 2.78.240 of the Cambridge Code of Ordinances. A copy of the Certificate of Appropriateness is attached as Exhibit A. In accordance with the Historical Commission's regulations, this appeal is submitted through counsel by ten (10) registered voters of the City who have signed this appeal.

¹ The decision notes that "[w]ork shall be carried out as indicated on the project plans... except as may be updated in the process of the Architects Committee's review and approval. Final plans will be noted in an addendum to this certificate." While ESOA questions how a decision can issue without the review and approval of any proposed final plans by the Architect's Committee for the Neighborhood District Commission, ESOA files this appeal in an abundance of caution within the required timelines noted in the Cambridge Code of Ordinances.

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The Historical Commission should overturn the decision of the Neighborhood District Commission and revoke the Certificate of Appropriateness because the proposed demolition and new construction at 60 Ellery Street is incongruous to the historic aspects, architectural significance, or the distinctive character of the neighborhood.

Additionally, pursuant to Chapter 2.78, Article II of the Cambridge Code of Ordinances (the "Demolition Review Ordinance"), ESOA hereby requests formal demolition review of the existing structure at 60 Ellery Street and respectfully petitions the Commission to:

1. Determine that the building is "significant" within the meaning of Article II;
2. Determine that the building is "preferably preserved"; and
3. Impose the full twelve-month demolition delay authorized under the Ordinance.

This request is grounded in the legal standards set forth in Article II and in the substantial record previously submitted to the Neighborhood District Commission, including ESOA's August 1, 2025 letter and supporting exhibits, and a copy of said letter and its exhibits is attached hereto as **Exhibit B**.

I. The 60 Ellery Square Project Interferes with the Easement Rights of the Ellery Square Owners Association, Contrary to the Harmonious Historic Relationship Between the Properties.

The proposed 60 Ellery project does not conform to applicable requirements of both the Cambridge Code of Ordinances and the June 8, 1992 Order of the Cambridge City Council creating the Commission (the "1992 Order").

Chapter 2.78, Article III, Section 2.78.220 of the Cambridge Code of Ordinances outlines several factors both the main Cambridge Historic Commission and the various neighborhood commissions can consider in evaluating applications before them. More specifically, the Commission must 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."

ESOA contends that the Neighborhood District Commission failed to consider that the existing building has been located on the property since 1923 and is in excellent condition according to City records. The 60 Ellery Street property where the project is proposed, the ESOA land, and the nearby 54 Ellery Street property were also all once in common ownership, and the person that owned those properties granted certain easement rights between the properties, including valid easement rights that ESOA holds and exercises over the 60 Ellery Street land.

Attached to this appeal as part of the exhibits to ESOA's letter at Exhibit B and already part of the Neighborhood District Commission's record are copies of a Deed filed with Middlesex County Registry of Deeds Registered Land Division as Document No. 573738 and Registered Land Plan 32810B. For the Commission's reference, 60 Ellery Street is Lot 2 shown on that plan, the ESOA land is Lot 4, and the 54 Ellery Street property is Lot 3. The common owner of these properties intended for them to be harmonious and compatible with each other, as evidenced by the granting of the easement rights between the properties. As described in the attached deed, the ESOA land has the right to "construct, reconstruct, repair and maintain... such sidewalks, landscaping, trees, shrubbery, and fences as [ESOA] deems appropriate and/or desirable, provided, however, that [ESOA] shall bear the entire expense of all such sidewalks, landscaping, trees, shrubbery and fences..." The ESOA further has the right to "pass and repass by foot to and from Ellery Street" over the easement area on the 60 Ellery land.

The failure of the Neighborhood District Commission to consider the developer's intended interference with the ESOA's easement rights requires that the Historical Commission determine that the proposed project is not appropriate because the proposed design of the new building will unreasonably and impermissibly interfere with ESOA's easement rights over 60 Ellery Street. This is even more clearly demonstrated by the plans submitted by the developer that show that portions of the ESOA easement are located within portions of the newly proposed building on the right side, including in one of the units on the first floor. In fact, when the anticipated developer (an applicant who does not own the property as of this filing) revised proposed building plans, the encroachment on the easement became even more extensive and burdensome than what was shown in the original plans. The City, through its Commissions, simply cannot permit a developer to construct such a large-scale development that encroaches upon, interferes with, and diminishes a recorded easement that demonstrates the historic interrelationship between the two properties going back to when they were held in common ownership. Put simply, the City is allowing the developer to construct a building in such a manner where it remains impossible to see how the use of the walkway within the easement area and even various portions of the ESOA's land will not be significantly disrupted during the construction phase of the project, at a minimum.

As significant, under the terms of ESOA's easement rights, ESOA is responsible for maintaining the easement pathway to Ellery Street and improvements to it at their sole cost. By granting the developer the unconditional approval to proceed with the proposed project, ESOA is left responsible for increased costs to maintain the walkway as a result of the proposed design of that area of the development where the easement is located. The Neighborhood District Commission's decision must be overturned because the decision now places that burden on ESOA. The Historical Commission should grant this appeal here for that reason alone.

II. The Project Does Not Comply with Neighborhood District Commission Criteria for Evaluating the Proposed Demolition of Existing Buildings.

As discussed in the August 1, 2025 letter attached as Exhibit B, the proposed project also does not meet criteria the Neighborhood District Commission can consider in evaluating the potential demolition of a building pursuant to the terms of the 1992 Order creating the Neighborhood District Commission.

Such factors the Neighborhood District Commission can consider include “the physical condition of the building”, “a claim of substantial hardship, financial or otherwise for the owner or occupants”, and “the design of the proposed replacement structures, if any.” See Section 4.C of the 1992 Order. By considering these factors in relation to the proposed project, the Historical Commission should overturn the Neighborhood District Commission’s decision because the project proponent did not provide sufficient justifications for why the existing building should be demolished.

According to the City’s own records the condition of the building is labeled as “excellent”, and at the start of the initial hearing on the application, the Neighborhood District Commission’s own staff detailed additional history of the building, which also confirmed renovations to it were completed in the late 2000s, mid 2010s, and as recently as 2021. An existing building that has been consistently renovated and currently evaluated as still in excellent condition by the City should not need to be demolished.

The proponent of the project also never demonstrated any “substantial hardship, financial or otherwise” being suffered by the actual current owner of the property, a Biorichland LLC. In fact, ESOA understands there were multiple existing tenants living in the building at various times in 2025, and while ESOA does not have any specific confirmation, it is at least possible some residents may still live there. If there is no actual hardship experienced by the actual owner of the property, and there was no indication in the application that is the case, the Commission cannot allow the demolition of the existing building.

In fact, the only people with an actual property interest in the property that will suffer a substantial hardship at this time is the ESOA based on the issuance of a Certificate for Appropriateness for the project, as ESOA has demonstrated that their easement rights in the property will be substantially and negatively affected by for the reasons discussed herein.

The inappropriateness of demolishing the existing structure is further confirmed by considering the third factor here of the “design of the proposed replacement structures”, as the ESOA has demonstrated the proposed new building will have numerous adverse effects on the neighboring ESOA land and the property rights ESOA holds on 60 Ellery Street, both for the reasons discussed in this section and as further discussed in the August 1, 2025 letter submitted to the Neighborhood District Commission and attached as Exhibit B. The Historical

Commission should also overturn the Neighborhood District Commission's decision because the proponent did not satisfy these applicable criteria.

The Neighborhood District Commission issued a Certificate of Appropriateness under Article III, finding the proposed demolition and new construction "not incongruous" to the neighborhood conservation district. That determination was made under a distinct statutory framework and addressed design compatibility standards applicable to the NCD. It did not constitute a demolition significance finding under Article II of Chapter 2.78.

The Historical Commission now exercises independent authority to evaluate demolition under the Demolition Review Ordinance. The standards and purposes of Article II are separate and broader, focusing on preservation of significant buildings and the public interest in delaying demolition when appropriate.

III. Legal Standard Under Chapter 2.78, Article II.

Article II of Chapter 2.78 establishes a citywide demolition review process for buildings fifty (50) years of age or older. The Ordinance requires a two-step determination:

First, the Commission must determine whether the building is "significant," considering its age, architectural characteristics, and relationship to the surrounding area. Second, if the building is found significant, the Commission must determine whether it is "preferably preserved," meaning that it is in the public interest to preserve the building and that demolition should be delayed to allow exploration of alternatives.

If both findings are made, the Ordinance authorizes the Commission to impose a demolition delay of up to twelve (12) months.

This additional request for determination is directed squarely at those statutory standards. The question before the Commission is not whether a larger building could be constructed under current zoning, nor whether the NCD Commission found the proposed replacement structure "not incongruous" under Article III. The issue here is whether demolition of this existing, viable building satisfies the criteria of Article II. It does not.

IV. Demolition Is Not Appropriate Where the Existing Building Is Significant and Contributes to the Neighborhood Context.

The structure at 60 Ellery Street is more than fifty years old and forms part of the established residential fabric of the Mid-Cambridge neighborhood. Its scale, massing, and siting are consistent with the surrounding historic development pattern.

As detailed in ESOA's prior submission to the NCD Commission (see August 1, 2025 letter, attached as Exhibit B) and herein, the existing building remains in sound physical condition. The City's own records confirm that "additional history of the building" exists, and renovations were completed in the late 2000s, mid-2010s, and as recently as 2021. The building has supported residential occupancy, including tenants living there recently.

There has been no showing of structural failure, deterioration requiring removal, or economic hardship. To the contrary, the building is viable and functional.

Under Article II, a well-maintained residential building that contributes to the existing streetscape and neighborhood scale meets the threshold of significance. The absence of hardship or deterioration weighs strongly in favor of a finding that the building is preferably preserved.

The proposed demolition is not driven by structural necessity but by a desire to construct a substantially larger six-story building. The Demolition Review Ordinance exists precisely to prevent the unnecessary loss of viable buildings in circumstances such as this. A demolition delay is intended to allow exploration of alternatives, including:

- Adaptive reuse of the existing structure;
- Vertical or rear additions preserving the primary envelope;
- Scaled redevelopment maintaining the essential building mass;
- Design revisions that respect existing lot relationships and adjacent property rights.

Given the building's condition and continued usability, meaningful alternatives plainly exist. The public interest favors preservation analysis before irreversible demolition occurs.

V. Demolition Would Materially Disrupt Longstanding Recorded Easement Rights and Historic Lot Relationships.

As explained above, ESOA holds valid, recorded easement rights burdening 60 Ellery Street, including rights to pass and repass over a defined area and to maintain landscaping and related improvements. The proposed redevelopment substantially alters the spatial relationship between the properties and appears to encroach upon or significantly constrain the easement area. The revised footprint shown in the developer's updated plans locates new construction in proximity to, and potentially within, portions of the easement area not previously encumbered by building mass. In addition:

- Construction will necessarily disrupt access along the easement and the developer, who is not an owner of the property, has offered no single acceptable proposal to preserving the current scope and dimensions of the easement.

- Increased residential density will intensify pedestrian and service traffic adjacent to the easement.
- ESOA may bear increased maintenance burdens associated with its easement obligations.

While the Commission does not adjudicate private property disputes, Article II expressly permits consideration of the relationship of the building to its surroundings and the broader public interest. The historic configuration of these adjoining parcels, including the shared access arrangement dating back decades, forms part of the neighborhood's physical and legal fabric.

Demolition would permanently alter that configuration. A delay would allow for meaningful review of alternatives that preserve both the building and the stability of these longstanding property relationships.

VI. Public Interest Also Favors Imposition of the Full Twelve-Month Delay.

The building at 60 Ellery Street:

- Is structurally viable and recently renovated;
- Has supported residential occupancy;
- Contributes to the established neighborhood scale;
- Is not subject to any demonstrated hardship; and
- Anchors longstanding recorded easement relationships between adjoining parcels.

Demolition under these circumstances is not compelled by necessity. The irreversible loss of the existing structure, combined with disruption to established property rights and neighborhood character, strongly supports a finding that the building is preferably preserved.

To the extent that the Historical Commission does not revoke the Certificate of Appropriateness, the imposition of the full twelve-month demolition delay is still appropriate and would serve the precise purpose of Article II: to create time for exploration of preservation alternatives in the public interest before demolition occurs. Given the significant opposition to the project that was documented and expressed before the Neighborhood District Commission and coupled with the fact that the Neighborhood District Commission indicated on multiple occasions that it was not necessarily within their purview or jurisdiction to consider or evaluate any opposition or consider alternatives in the public interest before demolition, the Historical Commission should do so.

Cambridge Historical Commission
60 Ellery Appeal
March 11, 2026
Page Seven

VII. Requested Relief

For the foregoing reasons, ESOA respectfully requests that the Cambridge Historical Commission:

1. Grant the ESOA's appeal of the Certificate of Appropriateness based on a review of the Neighborhood District Commission's record and for the reasons stated herein.
2. In addition, determine that the building at 60 Ellery Street is significant under Chapter 2.78, Article II;
3. Determine that it is preferably preserved;
4. Impose the full twelve-month demolition delay authorized by the Ordinance; and
5. Schedule a public hearing and site visit to evaluate the building and the easement configuration in context.

Thank you for your attention to this matter. Please confirm the scheduling of this appeal of the Neighborhood District Commission's February 20, 2026 certificate of appropriateness for 60 Ellery Street and request for demolition review hearing, and any additional submission requirements for inclusion on the next available agenda.

Very truly yours,

MARCUS, ERRICO, EMMER
& BROOKS, P.C.



Adam T. Kurth, Esq.
Seth Barnett, Esq.

cc: Board of Managers of the Ellery Square Owners Association (via email only)

Required Signatures of Registered Voters of the City of Cambridge
Appeal to Cambridge Historical Commission

✓ [Signature] 13 ELLERY SQ 3/6/26
Signature Address CAMBRIDGE MA Date
Print: RONALD MORTARA 02138

✓ [Signature] 13 ELLERY SQUARE 3/6/26
Signature Address CAMBRIDGE MA Date
Print: MARIANNE MORTARA 02138

✓ [Signature] 15 ELLERY SQUARE 3/6/26
Signature Address CAMBRIDGE MA Date
Print: ABIGAIL RANSMEIER 02158

✓ [Signature] 15 ELLERY SQUARE 3/7/26
Signature Address CAMBRIDGE Date
Print: HEINRICH LIPP 02138

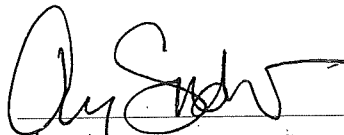
✓ [Signature] 14 ELLERY SQ 3/7/26
Signature Address CAMBRIDGE Date
Print: Katherine Koh 02138

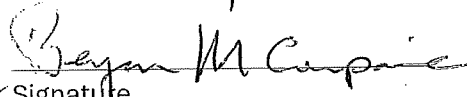
Signature Address Date
Print: _____

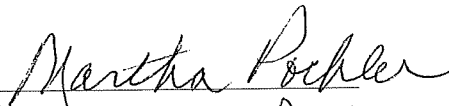
Signature Address Date
Print: _____

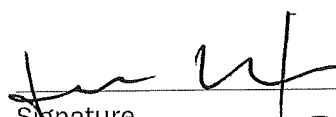
Signature Address Date
Print: _____

Required Signatures of Registered Voters of the City of Cambridge
Appeal to Cambridge Historical Commission

✓  9 Ellery Square March 6, 2026
Signature Address Date
Print: Cary Saunders

✓  5 ELLERY SQ March 6, 2026
Signature Address Date
Print: BENJAMIN M. COMPAINE

✓  5 Ellery Sq. March 6, 2026
Signature Address Date
Print: Martha Poehler

✓  9 Ellery Sq 3/6/2026
Signature Address Date
Print: Iliana Portan


Signature Address Date
Print: _____

Signature Address Date
Print: _____

Signature Address Date
Print: _____

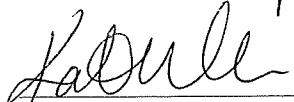
Signature Address Date
Print: _____

Required Signatures of Registered Voters of the City of Cambridge
Appeal to Cambridge Historical Commission

✓ 
Signature _____
Print: Drew Volpe

12 Ellery Sq
Address _____

Mar 8, 2026
Date _____

✓ 
Signature _____
Print: Kate Watkins

12 Ellery Sq
Address _____

3/8/26
Date _____

Signature _____
Print: _____

Address _____

Date _____

Signature _____
Print: _____

Address _____

Date _____

Signature _____
Print: _____

Address _____

Date _____

Signature _____
Print: _____

Address _____

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Address _____

Date _____

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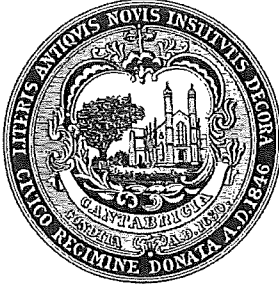
Address _____

Date _____

EXHIBIT A

**Certificate of Appropriateness
For 60 Ellery Street**

(beginning next page)



Mid Cambridge Neighborhood Conservation District Commission

831 Massachusetts Avenue, Cambridge, Massachusetts 02139
Telephone: 617 349 4683 Fax: 617 349 3116 TTY: 617 349 6112
E-mail: histncds@cambridgema.gov
URL: <http://www.cambridgema.gov/Historic/midcambridgehome.html>

Tony Hsiao, *Chair*,
Katinka Hakuta, Aaron Canto, Pauke Corstens, Ksenia Kaladiouk, Catherine Tice,
Alex Van Praagh, *Members*
Min Ho Kim, Felix Rosen, Jacquelyn Fahey Sandell, *Alternates*

CERTIFICATE OF APPROPRIATENESS

PROPERTY: **60 Ellery Street**

OWNER: **Contempo Builders
c/o Mike Tokatlyan
358 Athens Street
Boston, MA 02127**

The Mid Cambridge Neighborhood Conservation District (NCD) Commission, pursuant to Title 2, Chapter 2.78, Article III, Section 2.78.140-270 of the Code of the City of Cambridge and the City Council order establishing the Commission, reviewed the proposal described below:

Demolish structure and construct 6-story building.

Findings of Fact and Determination:

- 1. The Commission acknowledges the size and shape as well as the dimensions and setbacks of the proposed structure, provided that these measures conform to current zoning requirements.**
- 2. The proposed project responded to comments regarding materials, façade design, landscaping, and the design of the main entrance.**
- 3. The Commission acknowledges the goals of the current City Council and confirms that the project supports the addition of multifamily housing.**

After consideration of the historic and architectural value and significance of the existing building and its setting, the general design, arrangement, texture, and material of the features involved with the proposed new building, and the relation of such features to similar features of structures in the surrounding area, the Mid Cambridge NCD Commission makes the following determination:

As reviewed under the Commission's current jurisdiction, the proposed demolition and new construction at 60 Ellery Street is found to be not incongruous to the historic aspects, architectural significance, or the distinctive character of the neighborhood conservation district, and the application for a Certificate of Appropriateness is hereby granted and is binding on the applicant.

Approval was granted with the condition that the final design details, including cladding materials, brick and trim details, façade treatment, and landscaping, be reviewed and approved by the Architects Committee at a public meeting.

Work shall be carried out as indicated on the project plans titled, “Project: 60 Ellery Street Residences,” by Khalsa Design, Inc., Somerville MA, and dated July 18, 2025, except as may be updated in the process of the Architects Committee’s review and approval. Final plans will be noted on an addendum to this certificate.

This certificate is granted upon the condition that the work authorized is commenced within six months after the date of issuance. If the work authorized by this certificate is not commenced within six months after the date of issuance, or if such work is suspended in significant part for a period of one year after the time the work is commenced, this certificate shall expire and be of no further effect; provided that, for cause, one or more extensions not exceeding ninety days each may be allowed in writing by the Chairman.

Case Number: MC 7293

Date of Certificate: February 20, 2026

Attest: A true and correct copy of the decision was filed with the City Clerk’s office and the Mid Cambridge Neighborhood Conservation District Commission on February 20, 2026.

By Tony Hsiao/aac, Chair

Twenty days have elapsed since the filing of this decision.

No appeal has been filed _____ . Appeal has been filed _____ .

Date _____, City Clerk

EXHIBIT B

**August 1, 2025 Letter
To Neighborhood District Commission**

(beginning next page)



Adam T. Kurth
781.843.5000 ext.139
akurth@meeb.com
admitted in: MA, NH

August 1, 2025

Via Email and Overnight Delivery

Mid Cambridge Neighborhood
Conservation District Commission
831 Massachusetts Avenue, 2nd Fl.
Cambridge, MA 02139

Re: Proposed Multi-Family Building (Case No. MC-7293); Applicant: Contempo Builders; Property Address: 60 Ellery Street, Cambridge, MA

Dear Commission Members:

As the Mid Cambridge Neighborhood Conservation District Commission (the "Commission") is aware, I represent the Board of Managers of the Ellery Square Owners Association ("ESOA") in connection with their concerns about, and opposition to, the above-referenced project.

In anticipation of the Commission's August 4, 2025 meeting on the above-referenced application, I write on ESOA's behalf to (i) reiterate the numerous concerns ESOA raised about the project at the Commission's June meeting on the project; and (ii) further demonstrate to the Commission how the application does not conform to applicable requirements of both the Cambridge Code of Ordinances and the June 8, 1992 Order of the Cambridge City Council creating the Commission (the "1992 Order"), despite the changes in design shown in the updated plans submitted to the Commission by the applicant.

ESOA Concerns and Reasons for Opposition

In summary of the questions and concerns raised by myself and other members of the ESOA community at the June meeting, the ESOA strongly opposes the project because of adverse effects it will have on ESOA property rights and the ESOA land for the following reasons.

- The ESOA has easement rights over a portion of the 60 Ellery Street property leading to Ellery Street, and the proposed development cannot and should not interfere with those long standing valid legal rights of ESOA.

- ESOA appreciates that the developer and their team did make design changes to the building, but the proposed height remains unchanged and ESOA remains greatly concerned about shadows that will fall on ESOA properties and common areas and have a detrimental effect on them for significant portions of the year.
- It is difficult to see how portions of existing trees on the ESOA property would not be affected during the construction of the project as well, particularly ESOA's magnolia tree proximate to the gate leading to ESOA's easement area on 60 Ellery. This is even more apparent from the revised plans.
- The existing structure on the property already takes up a significant portion of the lot, and the proposed larger structure will create even less open space at ground level on the lot than the limited amount that currently exists.
- Despite some design changes in the updated plans, structures on the roof still add to the overall height level of the building, and there is still a likelihood of increased noise looming over the neighborhood when new home owners in the building use the roof deck both in detriment to the ESOA residents and land.
- The proposal removes the existing four parking spots and includes no additional proposed parking despite the significant amount of increase to new units in the proposed building. Other properties in the immediate neighborhood have their own on-site parking, such as ESOA and 54 Ellery Street, so this proposed development without on-site parking is not within the character of the neighborhood.
- Even without in-building parking, traffic in the neighborhood will increase due to Amazon, food and like deliveries, as well as services and trades vehicles, given the number of proposed units.
- Commission should NOT allow perfectly good existing buildings to be entirely demolished and replaced with a much larger structure, when a continued use of, or potential re-design of the existing building could also provide additional housing in the city while allowing general character of the neighborhood to remain.

City Ordinance Requirements

Chapter 2.78, Article III, Section 2.78.220 of the Cambridge Code of Ordinances outlines several factors both the main Cambridge Historic Commission and the various neighborhood commissions can consider in evaluating applications before them. More specifically, the Commission must 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."

ESOA urges the Commission to consider that the existing building has been located on the property since 1923 and is in excellent condition according to City records. The 60 Ellery Street property where the project is proposed, the ESOA land, and the nearby 54 Ellery Street property were also all once in common ownership, and the person that owned those properties granted certain easement rights between the properties, including valid easement rights that ESOA holds and exercises over the 60 Ellery Street land.

Attached hereto as **Exhibit A** are copies of a Deed filed with Middlesex County Registry of Deeds Registered Land Division as Document No. 573738 and Registered Land Plan 32810B. For the Commission's reference, 60 Ellery Street is Lot 2 shown on that plan, the ESOA land is Lot 4, and the 54 Ellery Street property is Lot 3. The common owner of these properties intended for them to be harmonious and compatible with each other, as evidenced by the granting of the easement rights between the properties.

As described in the attached deed, the ESOA land has the right to "construct, reconstruct, repair and maintain... such sidewalks, landscaping, trees, shrubbery, and fences as [ESOA] deems appropriate and/or desirable, provided, however, that [ESOA] shall bear the entire expense of all such sidewalks, landscaping, trees, shrubbery and fences..." The ESOA further has the right to "pass and repass by foot to and from Ellery Street" over the easement area on the 60 Ellery land.

The Commission should determine that the proposed project is not appropriate because the proposed design of the new building will unreasonably and impermissibly interfere with ESOA's easement rights over 60 Ellery Street.

This is even more clearly demonstrated by the updated plans submitted by the developer, as Sheet A-100 shows that portions of the ESOA easement are located within portions of the newly proposed building on the right side, including in one of the units on the first floor. This appears to be an even bigger encroachment on the easement than what was shown in the original plans.

It remains impossible to see how the use of the walkway within the easement area and even various portions of the ESOA's land will not be significantly disrupted during the construction phase of the project, at a minimum.

More importantly, under the terms of ESOA's easement rights, ESOA is responsible for maintaining the easement pathway to Ellery Street and improvements to it at their sole cost. **Will ESOA be responsible for increased costs to maintain the walkway as a result of the proposed design of that area of the development where the easement is located, and how can the Commission put that burden on ESOA if the Commission approved the project when ESOA has not joined the application with the developer?** The Commission should not grant approval here for that reason alone, and ESOA has also provided numerous other valid

reasons why the proposed project will adversely impact the neighboring ESOA land as discussed on Pages 1-2 of this letter.

The ESOA understands that a 2023 vote and order by the Cambridge City Council placed some limitations on what the Commission and other neighborhood commissions in Cambridge can do in evaluating applications before them. This includes the limitations noted in Section 2.78.220 that the Commission “shall not consider the appropriateness of the size and shape of the structure... [and] shall not consider interior arrangements or architectural features not subject to public view.”

Despite such limitations, the ESOA urges the Commission to consider and evaluate the proposed project under other criteria of Section 2.78.220 that is still within the Commission’s authority for the reasons discussed above in this section and elsewhere in this letter.

Review Standards From City Council Order Creating Commission

As importantly, the Commission is also allowed to evaluate the proposed project based on criteria outlined in the 1992 Order creating the Commission. This project does not comply with the following criteria under that order.

Section 4.A of the 1992 Order describes the general criteria the Commission should consider in evaluating applications before it. Not only must the Commission consider the extent of a proposed project on the neighborhood district as a whole, there must also be evaluation of “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.”

The ESOA has described numerous valid reasons why the proposed project will have adverse effects on the ESOA land, both on Pages 1-2 of this letter and in the discussion of ESOA’s easement rights on the 60 Ellery Street property in the section above. Given the nature of the numerous concerns raised, including interference with neighbors’ property rights, the negative effects that will result to common areas and vegetation on ESOA land both during construction, and even more so afterwards as demonstrated by the developer’s own shadow study; and the increase in noise in the neighborhood due to the proposed roof deck, among others, the Commission cannot determine this project is appropriate for the neighborhood. Multiple concerns raised by ESOA will not just affect ESOA directly, but others in the neighborhood as well.

Section 4.A of the 1992 Order further notes that one of the general objectives of the described general criteria is to “[e]ncourage preservation of neighborhood buildings”. The proposed demolition of a long-standing existing building that is in excellent condition in the neighborhood is in complete opposition to this general objective.

Section 4.B of the 1992 Order also notes several elements the Commission can consider in evaluating projects involving proposed new buildings, including “site layout”, “provisions for parking”, “provisions for open space and landscaping”, and “the scale of the building in relation to its surroundings”.

ESOA has described and demonstrated how the proposed site layout of the new building will unreasonably and inappropriately interfere with ESOA’s valid easement rights of the 60 Ellery land. There is also another concern beyond ESOA’s comment that the new building having no proposed parking is not in character with other portions of the neighborhood. That is, even without additional cars from residents, there will still be a significant traffic increase from Uber, food, and Amazon deliveries and the like, as well as service and trade vehicle traffic, in an already very congested area of Cambridge.

ESOA appreciates that the developer proposed additional vegetation in certain areas at ground level and also reconfigured portions of the roof design in the updated plans, but the existing structure on the property already takes up a significant portion of the lot, and such larger structure will create even less open space at ground level on the lot than the limited amount that currently exists.

We understand ESOA has questions about the accuracy of how certain existing conditions are depicted on the updated renderings that were included in the updated plans submitted, and that ESOA made a request to the Commission and the developer that those be updated again prior to the hearing. Even so, the updated renderings already submitted demonstrate how the proposed new building will not be in scale with other buildings in the immediate area of the neighborhood, even compared with the ESOA buildings and structure. See Sheets AV-2, AV-5, AV-7, and AV-8 of the revised plans.

The 1992 Order also includes criteria for the Commission to evaluate the proposed demolition of a building as is the case here with this project. Factors the Commission can consider include “the physical condition of the building”, “a claim of substantial hardship, financial or otherwise for the owner or occupants”, and “the design of the proposed replacement structures, if any.” See Section 4.C of the 1992 Order.

By considering these factors in relation to the proposed project, the Commission cannot determine that the demolition of the existing building on the property is appropriate. According to the City’s own records the condition of the building is labeled as “excellent”, and at the start of the June hearing on the application, the Commission’s own staff detailed additional history of the building, which also confirmed that renovations to it had been completed in the late 2000s, mid 2010s, and as recently as 2021. Why does an existing building in such good condition need to be demolished?

ESOA is also not aware of any claim of “substantial hardship, financial or otherwise” by the actual current owner of the property, a Biorichland LLC. In fact, ESOA understands there were multiple existing tenants living in the building as recently as earlier this year, and they

Mid Cambridge Neighborhood
Conservation District Commission
August 1, 2025
Page 6

believe there are at least two different residents still living there. If there is no actual hardship experienced by the actual owner of the property, and there is no indication in the application that is the case, the Commission cannot allow the demolition of the existing building.

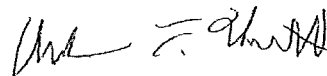
This is further confirmed by considering the third factor here of the "design of the proposed replacement structures" as the ESOA has demonstrated the proposed new building will have numerous adverse effects on the neighboring ESOA land and the property rights ESOA holds on 60 Ellery Street for the reasons discussed in this section and elsewhere in this letter.

For at least the reasons stated above in this letter, the Commission should deny the application.

Thank you for your attention and consideration of the requests and additional comments on the proposed application raised herein. I also respectfully request that the Board alert the applicant of this submission.

Very truly yours,

MARCUS, ERRICO, EMMER
& BROOKS, P.C.



Adam T. Kurth

cc: Board of Managers of the Ellery Square Owners Association (via email only)

EXHIBIT A

Deed and Registered Land Plan

(beginning on following page)

37 Wendell Street
Cambridge

7-88-178

573738

THE WORK OF GOD, INC., a corporation duly organized under the laws of the Commonwealth of Massachusetts, of Boston, Suffolk County in said Commonwealth for consideration of \$80,000, paid grants to ROBERT L. WOLFF, JR., of Cambridge, Middlesex County, Massachusetts with quitclaim covenants a certain parcel of land with the building thereon situated in said Cambridge containing 3400 square feet of land being shown as Lot 2 on Land Court Plan No. 32810^B entitled "Subdivision Plan of Land LCC # 32810^A Cambridge, Mass. Scale: 1 inch=16 ft. July 31, 1978, Fred R. Joyce Co. Surveyors and being more particularly bounded and described, according to said plan as follows:

LOT 2

LAND COURT, BOSTON. The land herein described will be shown on our approved plan to follow as

Northwesterly by Ellery Street, 86.575 feet;
Northeasterly by Lot 1, 70.35 feet;
Southeasterly by Lot 4, 57.075 feet;
Southwesterly by Lot 4, 11.50 feet;
Southeasterly by Lot 4, 10.00 feet;
Southwesterly by Lot 4, 18.00 feet;
Southeasterly by Lot 4, 19.50 feet;
Southwesterly by Lot 4, 40.85 feet.

AUG 8 1978

Plan 32810^B Lot 2
(Examined as to description only)
R. L. Woodbury, Engineer
R.C.C.

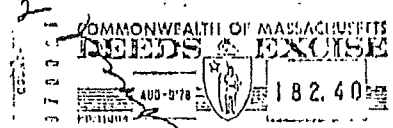
Said premises are conveyed subject to the perpetual right and easement for the benefit of and appurtenant to Lot 4 on said plan: 1) to construct, reconstruct, repair and maintain within, over through, across and on that area of Lot 2, marked "easement" on said plan, such sidewalks, landscaping, trees, shrubbery, and fences as the record owner of said Lot 4 from time to time deems appropriate and/or desirable, provided, however, that the record owner of said Lot 4 shall bear the entire expense of all such sidewalks, landscaping, trees, shrubbery and fences; and 2) for the record owner or owners of said Lot 4 or any subdivision thereof to pass and repass by foot to and from Ellery Street together with others now or thereafter entitled thereto over said sidewalks.

Said premises are conveyed with the benefit of the perpetual right and easement for the benefit of and appurtenant to Lot 2 on said plan: 1) to construct, reconstruct, and maintain a driveway and parking spaces on that area of Lot 4 on said plan marked "easement"; and 2) to pass and repass to and from Ellery Street over said driveway by foot, vehicle or otherwise in common with others now or hereafter entitled thereto. Said right and easement shall not be used for access to Lot 4 on said plan.

Said premises are conveyed with the benefit of the perpetual right and easement for the benefit of and appurtenant to Lot 2 on said plan: 1) to construct, reconstruct, and maintain a driveway on that area of Lot 3 on said plan marked "easement"; to pass and repass to and from Ellery Street by foot, vehicle, or otherwise in common with others now or hereafter entitled thereto over said driveway. Said right and easement shall not be used for access to Lot 4 on said plan.

By acceptance of and recording of this deed the within grantee agrees for himself and his successors in title: 1) that the cost of maintaining the said driveway on Lots 3 and 4 shall be shared by the record owners of Lots 2 and 3 on said plan as follows: 3/7 of all expense is to be paid by the record owner of Lot 3 and 4/7 of said expense is to be paid by the record owner of Lot 2; and 2) that the record owner of said Lot 3 shall have the right to pave, repave, plough and otherwise maintain said driveway and to require the record owner of Lot 2 to pay 1/2 the cost thereof.

Said premises are conveyed subject to the restriction imposed for the benefit of Lot 1 on said plan that said premises for a period of Thirty (30) years from August 8, 1978 are not to be used as a retail food and/or grocery store.



13

573738

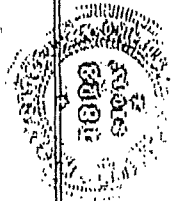
For Seller's Title see Certificate of Title No. 118896.

Executed as a sealed instrument this 8th day of August, 1978.

THE WORK OF GOD, INC.

Vote 573732

By Carl B. Schmitt, Jr.
Carl B. Schmitt, Jr., Vice President

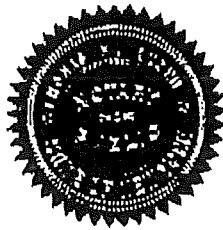


STATE OF NEW YORK, COUNTY
OF NEW YORK, SS

August 8, 1978

Then personally appeared before me the above-named Carl B. Schmitt, Jr., the Vice President of said corporation and acknowledged the foregoing instrument to be the free act and deed of said corporation.

Thomas M. Quinn
Notary Public
My Commission expires:

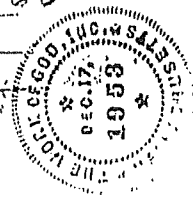


THOMAS M. QUINN
NOTARY PUBLIC, STATE OF NEW YORK
Qualified in New York County
Commission Expires March 30, 1979

23

573738

DOCUMENT NO. 573738



Fran Rojas 482 6655
NAME
PROPERTY ADDRESS
CITY OR TOWN

SO. MIDDLESEX LAND COUNT	
REGISTRY DISTRICT	
RECEIVED FOR REGISTRATION	
1	SD
AUG - 9 1976	
REGISTRATION NO. 116876	
714	126
ASSISTANT REGISTERED	
ASSISTANT REGISTERED	

REGISTER THEREAFTER BY TITLE ISSUED
AND TRANSFERRED INTO
REGISTRATION FOR \$908.00
DATE REGISTERED 155 7249

APR 8
7.00
15.00

Naughto
Box 231

Return to:
Robert Wolff
37 Wendell St.
Cambridge, Mass. 02138

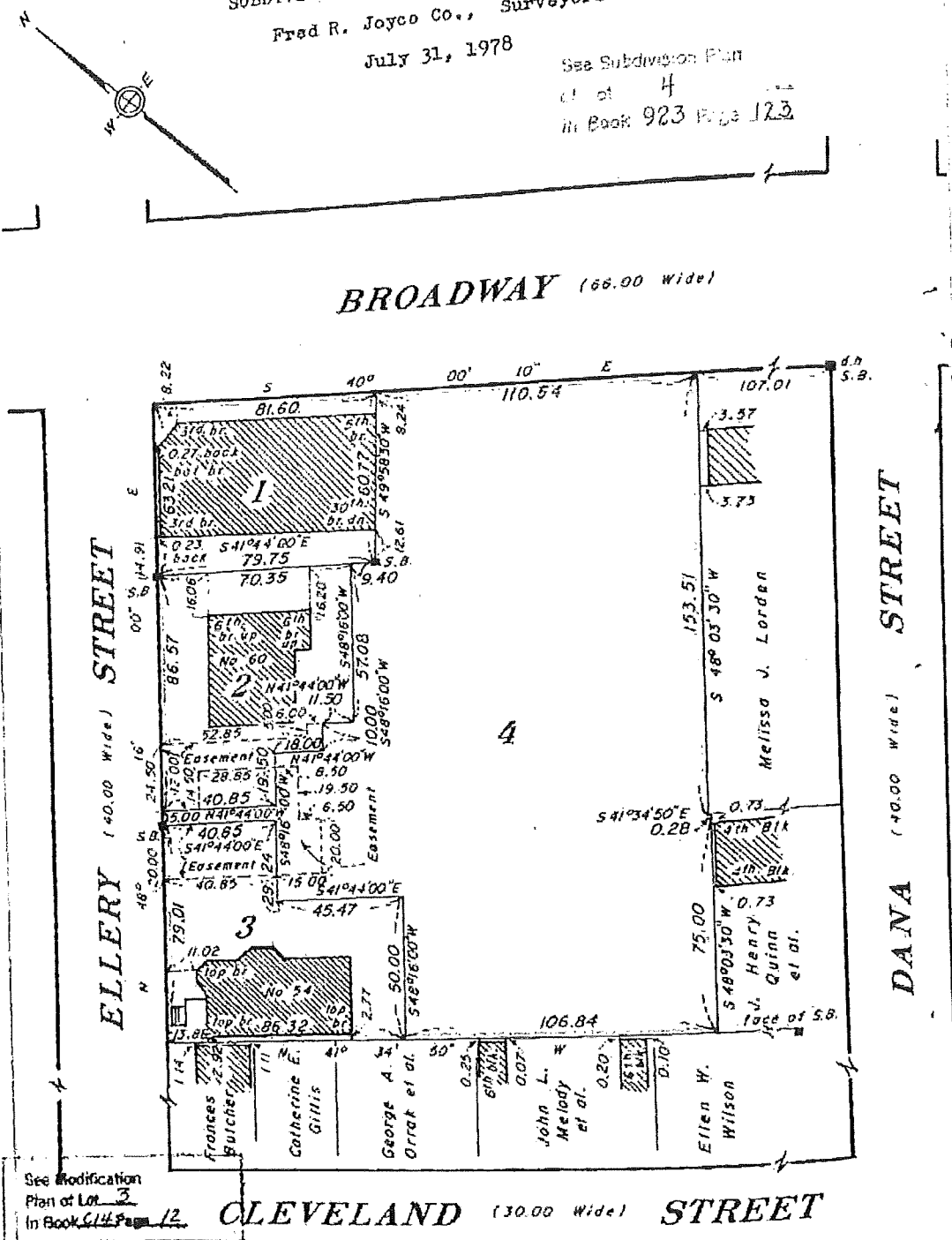
155728-968 178
 SUBDIVISION PLAN OF LAND IN CAMBRIDGE
 Fred R. Joyce Co., Surveyors

32810B

July 31, 1978

See Subdivision Plan
 of 4
 in Book 923 Page 123

MEMORANDA OF ENCUMBRANCES ON THE LAND DESCRIBED IN THIS CERTIFICATE



See Modification
 Plan of Lot 3
 in Book 914 Page 12

CLEVELAND (30.00 Wide) STREET

Subdivision of Land
 Shown on Plan 32810A
 Filed with Cert. of Title No. 116876
 South Registry District of Middlesex County

Separate certificates of title may be issued for land
 shown hereon as Lots 1, 2, 3, and 4
 By the Court.

Middlesex South Registry District
 RECEIVED FOR REGISTRATION
 AUG 8 1978
 Re. 5000

Copy of part of plan
 filed in
LAND REGISTRATION OFFICE
 AUG. 8, 1978
 Scale of this plan 40 feet to an inch
 R.L. Woodbury, Engineer for Court

AUG. 8, 1978
 F.R.

Margaret M. Dwyer
 Recorder