

The proposed amendments to the Conservation District language are a problem because they seek to eviscerate our well-functioning city-wide system of architectural preservation. This proposal not only makes a mockery of the historic purposes of Neighborhood Conservation Districts to enhance architectural preservation, but also upends the existing NCD system that follows state law to put in place another set of criteria that do not conform to these long-standing state requirements. Unlike the Brookline Conservation District policies that recently were struck down as unlawful, our NCDs conform are completely in conformity with 40C requirements. P.O. 11 would take us out of state compliance and has no legal foundation in property law, land use law, zoning law or preservation principles. It seeks to upend a well-functioning system that follows state law to put in place something that achieves none of this. The P.O. emerged from attempts to terminate mid-stream the process now underway addressing a possible NCD in East Cambridge (see below) rather than to improve a system that has worked well in making our very dense historic city a notably livable place with a rich historical building fabric.

Rather than promoting diversity and inclusion as claimed, this P.O. removing requirements for professional criteria for NCD members, thereby eliminating an important diversity of experience, training, and views of the many members who are architects, real estate professionals, urban planners, historians and lawyers. In their place the P.O. has no professional requirements and removes even most neighborhood property owners from a decision-making role. This P.O. requires only that one (of five) of future NCD members be local property-owning residents, even though it is only these property owners who can bring their projects before an NCD. As stated in 2.78.160:

“at least three [of the five shall be] residents of the neighborhood, two of whom shall be tenants and one of whom shall be a homeowner; one neighborhood property owner (who may or may not be a neighborhood homeowner); and one person who owns and/or operates a business within the neighborhood.”

There is no mention of professional background (architects etc). Also missing is any rationale as to why this petitioner decided to so significantly limit the local neighborhood property owning residents’ input in decisions involving their own property and neighborhood.

This P.O. if passed, also could bring to a standstill the work of the Historical Commission and the ability of residents living in historic homes to make modifications to their homes – even those outside NCDs. Not only does this P.O. require that the Executive Director serve as Secretary of each NCD meeting but it also puts CHC and CDD staff under ongoing and very difficult deadlines that will make it even more difficult for the city to function viably. The P.O. states that

“The person exercising the function of Executive Director of the Historical Commission shall serve as *secretary* of each neighborhood conservation district commission.” (2.78.160 - emphasis mine)

How is this possible in a city as large and dense as Cambridge, much less one that dates back to 1630 and has so important a legacy of architectural heritage that it is important to preserve for succeeding generations. The also represents a deeply pejorative view of the critically important role that Charles Sullivan fulfills for this city.

This P.O. also denigrates and strikingly limits the roles of CHC and NCD members. These individuals now will often make a number of design recommendations for improving a project. This kind of advice would be now forbidden.

“A Commission shall not make any recommendation or requirement *except for the purpose of rejecting proposals* incongruous to the historic aspects or the architectural significance of the landmark or neighborhood conservation district” ((2.78.220 - emphasis mine).

Why would Cambridge choose to silence our professional commissioners? Does good design, architectural cohesiveness, and expertise matter so little that these volunteers are forbidden to take up anything outside a straight up or down votes?

Rather than advancing fairness and equity, this P.O. does just the opposite. According to P.O. 11 any 30 registered signatures can petition the Historical Commission and 100 signatures may petition to designate a Conservation District, but it takes 10 voters to dismantle one. In petitions for the rest of the city departments 10 registered voters are still able to initiate such actions.

P.O. 11 additionally creates far greater thresholds to creating an NCD and moves the initial decision making from the Historical Commission to City Council, politicizing this process in every procedure going forward. Is City Council so in need of extra work that they wish to have local neighborhood house preservation issues to their plate?

What also is important to note are the serious problems with process that are the basis for P.O. 11. And, this P.O. sets a very bad precedent, serving in essence as the equivalent of “three bites of the apple” as applied to the city’s rich architectural legacy and preservation processes. This P.O. conveys the look of “judge shopping.”

- Part 1 (*1<sup>st</sup> bite at the apple*): A group of individuals living in various parts of the city pushed hard to stop East Cambridge residents from creating a Neighborhood Conservation District (NCD) in honor of the Irish, Italian, Portuguese, and other émigrés who made their homes in this important and historic part of the City. This latter group filed a petition to create a NCD and have worked with the Cambridge Historical Commission (CHC) to continue this work; a formal study is now under way. An individual who opposes this effort and does not live in or near the NCD District in question, has attempted to stop the process.
- Part 2 (*2<sup>nd</sup> bite at the apple*) : a petition (the basis of the current Policy Order 11) was submitted by this same individual to bring a halt to the East Cambridge NCD process and further to eviscerate citywide our successful NCD system, under the false flag of greater equity. This individual’s petition was taken up by City Council last year who forwarded it to the Ordinance Committee, as if it were a zoning petition, despite the fact (as was pointed out at the time), that this petition lacks support in state law and city ordinance. The Ordinance Committee met, discussed the petition, and decided that the petitioner should meet with the executive director of the Cambridge Historical Commission as well as one of the Commissioners to work out a compromise. Apparently, no consensus was reached. Instead, this individual has now brought another version of this same petition back before City Council.
- Part 3 (*3<sup>rd</sup> bite at the apple*): Having failed to stop the East Cambridge NCD study committee, and having further failed to get City Council’s Ordinance Committee to support his earlier petition, this same individual has come back, now with the help of three Councillors, we are seeing again a version of this same petition that seeks to diminish the city’s historic preservation efforts pertaining to neighborhood conservation districts under the guise of better preservation and more local input.
- Going Forward: Since the Ordinance Committee has already met on this, and had requested that the petitioner work out a compromise with the Historical Commission, it makes no sense to send this back to the Ordinance Committee since their decision has already been made.

- Also note that this was NOT a zoning petition, so there is no legal basis for that to be done. At best, this should be sent to the Neighborhood and Long-Term Planning Committee where at least the lacking outreach to neighborhood groups and NCD inhabitants might be sought.

There remain other serious problems with this Policy Order revealing how broken this process was.

1. No consultation was done with the City Solicitor with regard to city and state law conformity.
2. No consultation was undertaken with neighborhood groups, those who live and work in current NCDs, or members of the CHC before submitting this Policy Order.
3. No evaluation was done regarding current Cambridge NCD examples in the framing of this P.O. Development and Change are indeed allowed. Just look at Harvard Square (a Conservation District), and the adjacent Marsh-Half Crown NCD where regular change has been undertaken with approval (including a demolishing one small residential structure to build a larger multi-family one). Here neighbors regularly meet to discuss plans for proposed changes to their homes so that everyone is on board before the NCD meeting.
4. No examination of the **City's Envision Final Report** was undertaken. Nowhere in the **Envision Report** document is this kind of NCD change proposed. Indeed, one of the Urban Form goals requests MORE preservation of local buildings, not less.
5. No wider exploration of the implications of this P.O. has been pursued. To require as this P.O. does, that renters comprise a large majority on NCD members is highly strange since only property owners can bring a project to an NCD. The city is roughly divided 40% non-student renters, 40% homeowners, but renters cannot bring a property they do not own to an NCD for review. Nor can renters stop building owners from effectuating needed repairs.
6. We need to follow thoughtful policies and plans. This effort, which was initiated as part of a vindictive attack, is NOT the way a viable city can and should be managed.

#### Conclusions:

This is not anything that our City Council should be supporting. Is petition refiling after a decision has been made a good thing for us to be doing (three bites at the apple)? The Ordinance Committee has already decided that the petitioner should work with the CHC. It is time to move on. As to membership criteria please look at State law.

And please also consider the precedent this P.O. sets re. the makeup for other petitions and the makeup of other City committees.

Common sense, planning, and more neighborhood involvement (not less) is the way forward.