

PLANNING BOARD MINORITY REPORT
TOWN MEETING ARTICLE 25 – PROPOSED LOCAL HISTORIC DISTRICT

While efforts to preserve the historical nature of a neighborhood are important and admirable, the attributes of this particular neighborhood, combined with other factors, do not rise to the level required, in the view of the undersigned, for the formation of a local historic district.

It is commendable that this study group explored the important historical nature of their neighborhood — through their work and research they have provided a trove of information for current and future residents of the neighborhood and others in the town. But the information they have developed does not, in our view, rise to the level required to create this local historic district.

Public Interest vs. Private Property Rights. The public interest in creating a neighborhood with additional controls on how citizens’ property is used must be balanced with the property rights that accrue to individuals, some of which are constitutionally protected.

Using the democratic process — a Town Meeting vote — to establish additional limitations on the use of property bumps up against real property rights protected by our Constitutions, which are not subject to the democratic process. When a board applies subjective criteria to determine whether a particular property complies with standards established by a majority of neighbors, owners’ rights in their property may be vulnerable.

Here, the balance between communal restrictions and the rights of citizen property owners seems to be weighted too far toward those subjectively-applied limitations. A majority decision cannot be allowed to deprive a minority property owner of her rights.

Adequately Regulated. In Amherst we already have a complex multi-layer matrix which controls how individual property can be used — those who seek approval to build or change their property must meet an exacting set of standards with criteria developed over decades. Additional review of external changes to structures within the LHD will burden property owners by adding unnecessary time, expense and permitting requirements to building projects. Given the existing by-laws and building/demolition permitting processes that are in place, building projects in the proposed LHD are already adequately regulated by the Town.

Overreaching Boundaries. The Planning Board recommended, by majority vote, that the LHD be reduced in size so as to not include properties along North Pleasant Street and McClellan Street, portions of which were in the BL district. The current proposal complies with this request.¹ In our opinion, however, the proposed LHD unnecessarily extends significantly beyond the Lincoln-Sunset and Prospect-Gaylord National Historic Register (NHR) Districts, which were established in 1991 and 1993, respectively. These two NHR Districts in town were nominated by the Historical Commission at the time, presumably based on adequate research. There is no need to extend additional historic protection to an area not recognized for this purpose at that time.

Less Than Even a Plurality. At the start of the project, of 211 properties in the proposed district at that time, only 50 responded to a questionnaire sent by the study group about whether to establish the district — and of those, 20% were either firm “no” or blank/not sure.² This is not “overwhelming” support.

¹ There are now 195 properties in the proposed LHD. After Planning Board rejected the proposed boundaries in its first vote, properties on the eastern edge were removed, leaving 195 properties within the proposed LHD. This is the district which was approved by Planning Board in its second vote of 6-3.

² Local Historic District *Final Study Report*, pg. 7. Although the letter and questionnaire were sent to “over two hundred ... property owners,” the study group considered the response “overwhelming”: “Of the fifty who responded,

At a subsequent public forum (with notice sent to all owners), only 25 attended in Town Hall — with no accounting as to whether those 25 “members of the public” were even property owners in the district.³ (*Study Report*, pg. 7) The importance of private property rights rests on the Constitution because it protects against the ‘tyranny of the majority.’ And these numbers are hardly enough of a majority to warrant establishing this district.

Differs from Dickinson Local Historic District. The nature of the properties seeking protection here do not rise to the same historic importance as the iconic properties which comprise the nucleus of the Dickinson district. Efforts to justify this new district with comparisons to the Dickinson district demonstrates the differences between the neighborhoods, not a rationale for establishing this district on equal footing with the Dickinson district. The homes in the area west of downtown are noteworthy, charming, worthy of preservation — but as private property, not by having another layer of control imposed upon them.

A Town-Wide Commission? The study group has stated that if approved, this LHD would utilize the existing Dickinson LHD commission as its commission to make administration less burdensome for the town. But this creates some major difficulties: A combined commission would, by its nature, defeat the stated goal of a *local* historic district making decisions specific to a particular site or area. The Dickinson LHD was formed to be able to evaluate and protect property in that particular neighborhood. To have a single town-wide commission rule on attributes which differ from one site to another contradicts goals and purposes for even having a local historic district.

Workload for a combined commission may also become an issue: Approximately 17 of the 39 properties in the Dickinson LHD have come forward with projects, for an average of 5 per year. Based on the size of the proposed LHD (195 properties), the commission would have to handle about 24 additional reviews per year, which would pose a resource problem for the commission.

Additionally, expanding this LHD to become “a larger district” or creating “additional local historic districts” has been a goal of the study group and has been encouraged by the Commonwealth’s Historical Commission. (*See* correspondence included with the study group report.) Consider the implications of these intentions for the future of the town.

The efforts of the study committee need not go for naught: The trove of information they have accumulated will go far toward preserving the historic nature of their neighborhood. The materials they have collected can be used to form a neighborhood association to further their interests. It need not take the form of an official local historic district to meet those goals.

We believe creation of this local historic district does not serve the long-term interests of the Town of Amherst. We encourage you to consider those long-term interests and, while thanking the study group for their work, encourage them to preserve their neighborhood through other means.

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support for ‘the idea of a Local Historic District in your neighborhood’ was overwhelming: 41 yes, 5 no, 4 not sure, one blank.” The Coalition of Amherst Neighborhoods had earlier sent a broad e-mail inquiry which elicited positive responses from “almost seventy households” within the boundary, significantly fewer than half the properties. *Study Report*, pg. 5.

³ Some were members of the Dickinson Local Historic District Commission, Town Historical Commission, Select Board members, other town officials.