

# Wrestling with Growth in Acton, Massachusetts: The Possibilities and Limits of Progressive Planning

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January 2010



Joint Center for Housing Studies  
of Harvard University

FIVE DECADES OF HOUSING RESEARCH  
1959–2009



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## **Acknowledgements**

The author thanks Acheson Callaghan, Amy Cotter, André Leroux, Angelo R. Firenze, Nancy McArdle, Jeff Rhuda, Charles Sullivan, Jay Wickersham, Karen Wiener, Clark L. Ziegler, and especially David Luberoff for thoughtful editing questions and suggestions, Martha Rounds for copyediting, and Kristen Hunter, Cory Schreier, and Matthew Ladd for research assistance.

The author is grateful to an anonymous donor for support of the project.

## **The Evolution of Residential Land Use Regulation in Greater Boston**

This working paper is part of the research project, The Evolution of Residential Land Use Regulation in Greater Boston, carried out under the auspices of Harvard's Joint Center for Housing Studies and the Rappaport Institute for Greater Boston. The goals of this project are to identify and understand the reasons that towns and cities in eastern Massachusetts have made Greater Boston a highly regulated urban region and to help devise residential planning policies that advance general, rather than parochial, interests, and what some call "Smart Growth." In particular, the project aims to discover precisely why and under what circumstances particular communities adopted residential land use regulations by studying the evolution of regulations in residential real estate development in four different Boston-area communities and in the legal interpretation of the state laws of Massachusetts.

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## Introduction

In 1955, Daniel Sweeney, the owner of a large farm in the old New England town of Acton, Massachusetts, decided to abandon his unprofitable dairy and market farm business and develop his land for houses. His large single-family subdivision, Colonial Acres, proved to be a sign of the times. Soon afterwards, developers began constructing new homes and shops all over town. Over the next fifty years, the former collection of farms and mill villages evolved into an affluent Boston suburban bedroom community.

The dynamics of growth introduced tensions in the public life of the town. Acton residents, including recent arrivals, argued over what (if any) forms of development were best and ultimately just what sort of place Acton should be. Many were shocked by the appearance of new developments—particularly the apartment buildings that sprouted along Great Road (Route 2A) in the 1960s—and worried that if left unchecked, development would destroy the special character of the town. Others realized that the town’s provision of high-quality services—especially its highly regarded education system—depended on revenues derived from new development.

Acton’s policies toward development ultimately expressed its residents’ contradictory attitudes toward growth. As a bulwark against unwanted real estate development, the town created a complex and sophisticated set of land use policies. By the 1970s, when Daniel Sweeney’s son, Kevin, developed Colonial Acres II, the town had tightened its zoning and added entirely new areas of regulation—particularly in regard to building on wetlands. By the early 2000s, when Kevin Sweeney developed Colonial Acres IV, the town’s requirements had become even more restrictive.

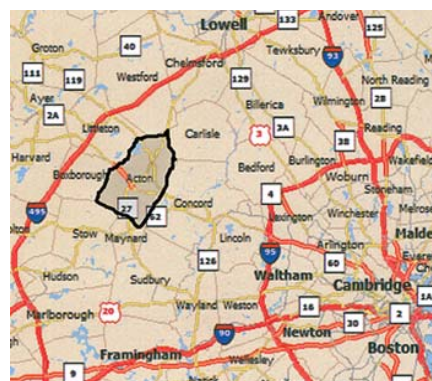
Yet the town also had added positive planning measures aimed at encouraging the kind of development that many considered appropriate. Among these was innovative cluster zoning, in which houses were grouped together so that common areas of open space could be preserved. Kevin Sweeney developed Colonial Acres IV on the cluster plan. Acton also tried to plan dense village centers and encourage the construction of affordable housing, although with limited success.

The story of how the town of Acton has wrestled with questions of growth over the last half century reveals the possibilities and the limits of progressive planning within the political and legal structure of Massachusetts.

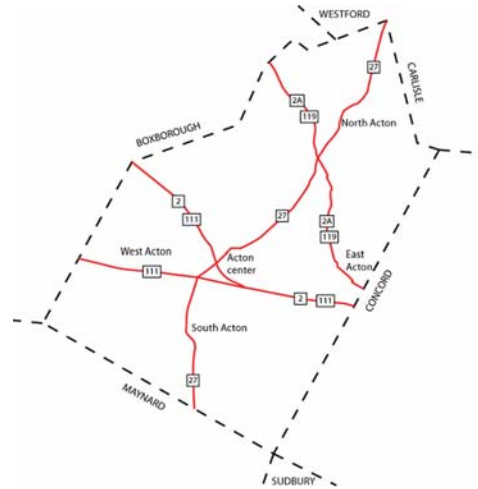
### *Acton in Brief*

Acton, Massachusetts is located in Middlesex County 23 miles northwest of Boston, between the two major highway belt roads that encircle Boston. It covers about 20 square miles of territory bordered by the towns of Carlisle and Concord on the east, Westford and Littleton on the north, Sudbury on the south, Maynard and Stow on the southwest, and Boxborough on the west. (See Figures 1 and 2)

**Figure 1: Acton and the Boston Region**



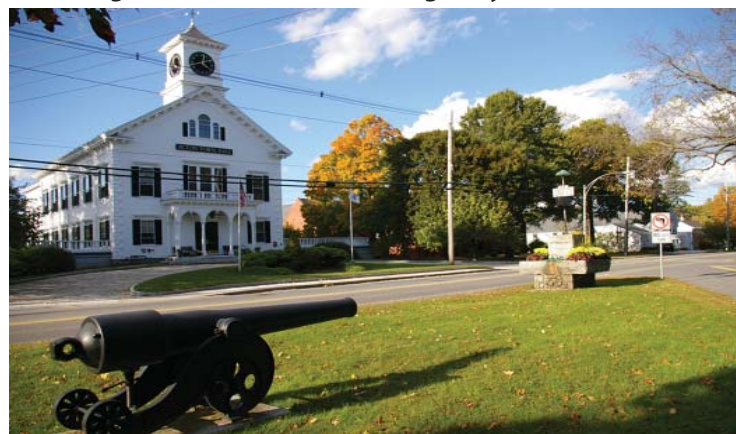
**Figure 2: Acton and Neighboring Communities**



The land in Acton consists of, for the most part, gently sloping hills, including several glacial drumlins. The grade of most of this land, as developers have demonstrated over the last fifty years, is slight enough to allow construction.<sup>1</sup> Like much of eastern Massachusetts, Acton enjoys plentiful sources of water. Within the Concord River basin, the boundaries of Acton include numerous streams, a short stretch of the Assabet River, and several ponds, the largest of which is Nagog Pond. In fact, wetlands comprise about 15 percent of Acton’s land area, with most of them located in the southern part of town. The wetness of the land is a mixed blessing. On the one hand, it provides drinking water which the town taps through wells. On the other hand, land with high water tables and tendencies toward flooding poses drainage problems for buildings and is not well suited for extensive use of septic systems, which has been the town’s preferred method of sewage disposal.<sup>2</sup>

Supported by diverse policy impulses examined below, Acton presents a mixture of landscapes. Numerous woods, bucolic ponds, marshes, fields and the stone walls that line roads and properties give parts of Acton a rustic appearance. Nineteenth-century mill buildings contribute to the town’s historic feel. Along Main Street amidst old houses and lawns, two nineteenth-century civic buildings, the wood-frame Georgian-style town hall and the terra-cotta Romanesque Revival library stand out—although the rapid pace of traffic prevents most passers-by from contemplating them for long. In contrast, the procession of stores along busy Great Road (Route 2A) and the shopping centers located at main intersections stamp the town with an unmistakable suburban image. (See Figures 3 and 4)

**Figure 3: Acton Town Hall (originally built in 1862)**



Photograph courtesy of Glenna Lang



**Figure 4: Great Road, Acton**

Photograph courtesy of Glenna Lang

More than anything else, Acton is a place of homes. Free-standing single-family house on private lots are most prevalent. They dot the curvy lanes of subdivisions and string out along secondary roads, where they often stand in semi-seclusion behind lawns and stands of trees. Some single-family houses are old—the town boasts several nineteenth-century farm houses and early-twentieth-century neo-colonials—but most date from the latter twentieth century: postwar Cape Cods, suburban ranch-style and split-entry houses, and postmodern historical-styled residences. Deviating from the prevailing detached single-family house-and-lot model are apartment buildings, mainly located along Great Road (Route 2A); these were built in the 1960s and early 1970s along with certain dwellings that are grouped together adjacent to large open spaces in recently built cluster subdivisions. (See Figure 5)

**Figure 5: Subdivisions in Acton, MA (as of 2007)**

Like many New England towns, Acton has a decentralized form of government that depends heavily on volunteer citizen participation. The legislative body, which has the power to approve budgets and set general land use policies, is the open town meeting, a descendant of the New England town meetings of the colonial era. In Acton, the meetings—held annually in April and occasionally when there is special business—are open to all, but only locally registered voters may vote. In practice, Acton’s town meetings usually attract a few hundred residents—only a small portion of the eligible total—including town employees and a few devoted individuals who regularly show up to press their particular opinions. Groups advocating a controversial issue sometimes try to bring out their supporters to win a vote. An elected Board of Selectmen (which generally meets every other week) and a town manager appointed by the Board of Selectmen administer most town affairs. The major exception is public education, the responsibility of an elected school committee and a school department headed by an appointed school superintendent.<sup>3</sup>

Several government entities influence land policies. Chief among these is a planning board, appointed by the Board of Selectmen and supported by the planning department. The small professional staff of the planning department coordinates and processes the consideration of development proposals. Other bodies that exert influence on land use policies include the town’s Conservation Commission and its Historic District Commission, both of which are appointed by the Board of Selectmen.<sup>4</sup>

### ***An Historical Overview***

Acton’s modern history begins in the 1630s. English Puritans settled in eastern Massachusetts, replacing local Native Americans, most of whom died from diseases likely introduced by Europeans a few years earlier. The Puritans took up residence in the part of the town of Concord which is now known as Acton. In 1735 the area’s residents received permission from the Massachusetts provincial government to separate as an independent town. Like much of interior eastern Massachusetts, the little settlement was primarily devoted to farming. Acton experienced its brush with history on April 19, 1775, when the town sent a company of minutemen to the North Bridge in Concord, where they encountered British troops at the battle that began the American Revolution. Of the four Acton townsmen injured at the fight, three died and entered the pantheon of American heroes. Today, Actonians like to say that “the battle of Lexington was fought in Concord by the men of Acton.”<sup>5</sup>

In the nineteenth century, Acton began to be drawn into Boston’s economic sphere. The town’s farmers sent their produce to Boston first by road and after 1844, by railroad; trains eventually stopped at stations in all four corners of Acton. As in many rural New England communities, Acton developed a startling array of industrial enterprises. Cider mills processed apples from the area’s many apple orchards; cooperages made barrels to carry cider and other goods; saw mills produced lumber for a variety of activities including piano stools produced by two different companies; ice houses held the ice harvested from the town ponds. The town also contained a fulling mill (for processing cloth), a wool factory, and two pencil factories. So much was produced in this little country community that several local families opened stores in Boston to sell Acton’s products. Immigrants—first Irish, then Nova Scotians, Italians, and Norwegians—trickled into the town. The small nineteenth-century mills and nearby workers’ cottages left a legacy of small parcels that required Acton planners in the twentieth century to create house lot zones of only half an acre—to the disappointment of those who wanted the town to have only large parcels.<sup>6</sup>



In the twentieth century, improvements in transportation—first electric streetcars and later automobiles—and communications bound Acton more tightly to the economic and social network of Greater Boston. During the 1920s better roads and automobiles began to bring commuters from Boston to the far western suburbs. After an economic slump during the Great Depression, powder mills produced goods to help fight World War II. Immediately after the war, a few manufacturers, including technology instrument and plastics companies, set up factories in Acton. The population of Acton which in the early decades of the twentieth century had hovered around 2,000, began to grow, in 1950 reaching 3,500. Yet Acton had only just begun to change.<sup>7</sup>

The dramatic expansion of electronics and computing in the postwar era—led by scientists from research laboratories at MIT and Harvard and promulgated by government military contracts with such firms as Lincoln Laboratories and the Raytheon Company—spurred a boom in Boston’s western suburbs. The establishment of new companies and the expansion of existing firms gave rise to a search for suitable sites to do business. A number of factors, including the construction in the early 1950s of the belt highway, Route 128, led their executives to look west towards Acton. To the east of Acton, the General Radio Company in 1952 moved from Cambridge to a large new plant in West Concord. To the southwest, Kenneth Olson and Harlan Anderson in 1957 established Digital Equipment Corporation in an old wool mill in neighboring Maynard. Two years later Digital introduced the minicomputer and in the following decades produced innovative computing software and equipment. At its peak in the late 1980s Digital had become the second-largest computer manufacturer in the world.<sup>8</sup>

From the late 1960s, government contracts for defense and aerospace research and development and the swelling demand for computers for business and eventually for personal use spawned a boom in the Bay State that local politicians dubbed “the Massachusetts Miracle.” Along with Raytheon and Digital, such firms as Wang Laboratories, Data General, Honeywell, and Polaroid led the technological explosion outside Boston. In 1971, Acton joined the party when Bowmar Instrument Corporation, a manufacturer of light-emitting diode (LED) computer displays became one of the few technology firms to situate in the town.

Starting in the late 1980s, however, business competition and an economic recession shook up the Massachusetts technology industry. In 1992 Wang Laboratories went into bankruptcy and in 1998, after several years of financial reverses, Digital forced its founder Ken Olsen out of his own company, which was then sold to Compaq, a maker of personal computers. The miracle seemed finished. Nonetheless, as Michael H. Best has shown, Route 128 eventually rebounded. Diverse clusters of technology companies created industrial equipment, instruments, and complex product systems for a variety of uses including jet engines, missiles, minicomputers, and telecommunication switching equipment. In some cases, old tech firms continued as parts of other companies, and in other cases, new firms such as Maynard minicomputer producer Stratus Technologies survived.<sup>9</sup>

Transportation links, especially in the form of highway construction, encouraged the growth of Boston’s outer suburbs, including those in the western quadrant. During the 1950s the state of Massachusetts, with help from the federal government, finished the long-planned circumferential expressway around Boston, Route 128, initially dubbed the “Yankee Division Highway.” By the time of its completion in 1959, the road was handling two to three times more traffic than it had been built to carry. With the help of aggressive real estate development by the Cabot, Cabot, and Forbes Company, Route 128 became a magnet for businesses: by 1957 140 companies had located along its banks; by 1967, 729 companies were there, and in 1973, more than 1,200 companies on the road

employed more than 80,000 workers. By then, Route 128 had become nationally known for its numerous technology firms. As real estate and business interests clamored for a second belt-highway, the government in the 1960s executed an old plan for another outer bypass more distant from Boston and constructed U.S. Interstate 495 (located ten miles north of Acton), which encouraged further industrial and residential growth in Boston’s western hinterland. (In the 1970s, most of Route 128 became part of the interstate system as well, and the portions closest to Acton were incorporated into U.S. Interstate 95.)<sup>10</sup>

Inevitably, the economic and demographic growth of Boston’s western suburbs enfolded the town of Acton. Unlike its neighbors, Acton never became the home of important technology companies. Its lack of a large accessible water body and its citizens’ lack of enthusiasm for industry discouraged technology firms from locating there. Still, thanks to its location and road improvements during the 1950s and 1960s—including the shifting and widening of Route 2 in Acton,<sup>11</sup> and the building of highway exchanges between Route 2 and Route 128 and Interstate 495—Acton became integrally connected to the western suburban region. Employees at Digital and other companies in Middlesex County as well as others who wanted to live in a semi-rural suburb with a reputation for good schools came to live in Acton. The number of residents multiplied: doubling in the 1950s to 7,200, more than doubling in the 1960s to 14,700, rising during the 1970s to 17,500, and reaching 20,300 by the end of the twentieth century. As it grew, Acton, once a town of farms and mills, became an affluent bedroom community with the population of a small city.<sup>12</sup> (See Appendix, Table A-1)

Although all towns in the western section of greater Boston increased population in the decades following World War II, the original size of the populations, rates of growth, and timing of population change all varied. In 1950 Acton was one of the larger towns in its area, although its 3,500 residents were far fewer in number than the 8,600 inhabitants of Concord and only about half the total in Maynard. Over the next fifty years, Acton’s population grew by almost 17,000, more than any of its neighbors even though several (Boxborough, Carlisle, Sudbury, and Westford) grew by a larger percentage. Concord, at mid-century the most populous of this set of nine towns, was surpassed in the number of residents by Acton and Westford and virtually matched by Sudbury. (See Table 1)

**Table 1: Change in Population by Decade in Acton and Neighboring Communities, 1950 - 2000**

<b>Town</b>	<b>1950</b>	<b>1960</b>	<b>1970</b>	<b>1980</b>	<b>1990</b>	<b>2000</b>
Acton	3,510	7,238	14,770	17,544	17,872	20,331
Boxborough	439	744	1,451	3,126	3,343	4,868
Carlisle	876	1,488	2,871	3,306	4,333	4,717
Concord	8,623	12,517	16,148	16,293	17,076	16,993
Littleton	2,349	5,109	6,380	6,970	7,051	8,184
Maynard	6,978	7,695	9,710	9,590	10,325	10,433
Stow	1,700	2,573	3,984	5,144	5,328	5,902
Sudbury	2,596	7,447	13,506	14,027	14,358	16,841
Westford	4,262	6,261	10,368	13,434	16,392	20,754
All	7,772	13,499	25,138	30,978	34,264	41,085

Because the towns differed in geographic size, it is instructive to compare changes in population per square mile, a measure which neutralizes the effect of variations in land area. Between 1950 and 2000, Acton increased its population density almost six fold, rising from the third most densely settled of the nine neighboring communities to second place behind the small but urban-industrial community of Maynard. As dramatic as Acton's increase in density might seem, two other towns added more people per square mile. Sudbury multiplied its 1950 density by 650 percent, jumping from sixth to third highest population per square mile. Boxborough started in 1950 with the smallest and sparsest population of the nine communities but by 2000 had increased density by 1100 percent to reach the seventh rank in density. (See Table 2)

**Table 2: Change in Population Density in Acton and Neighboring Communities, 1950 and 2000**

Town	Area in Square Miles	Population per Square Mile, 1950	Population per Square Mile, 2000
Acton	20.0	176	1,018
Boxborough	10.4	42	470
Carlisle	15.4	57	307
Concord	24.9	346	682
Littleton	16.6	141	492
Maynard	5.2	1,332	1,991
Stow	17.6	96	335
Sudbury	24.4	107	691
Westford	30.6	139	678

Just as significantly, the pace of population growth varied over time. During the 1960s Acton added more than 7,500 residents, more than in any other decade and a greater increase than that of the following three decades combined. In the 1980s, the town's population barely grew, adding only a little more than 320 inhabitants. Sudbury's population followed a similar pattern to that of Acton's, particularly in the 1980s and 1990s when the two grew by almost identical amounts. In contrast, Westford increased population relatively steadily in each decade, and the once sparsely settled Boxborough bucked the other towns' downward trends in the 1970s with a modest jump in population which it repeated in the 1990s. The rural town of Stow has grown at a relatively low rate, as has affluent Carlisle. Strikingly, the wealthy community of Concord made solid if moderate population gains in the 1950s and 1960s but then dramatically slowed its population growth, actually losing residents during the 1990s.

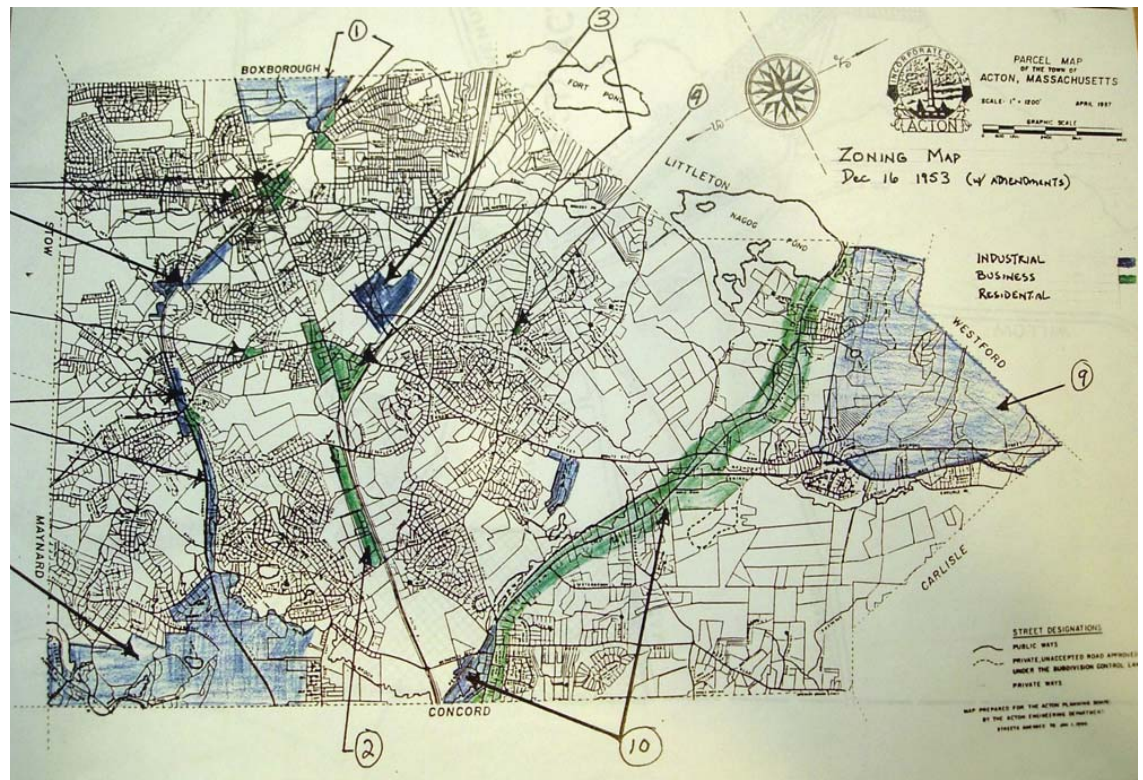
To explain the ebbs and flows of population in Boston's western suburbs would require further research, but the figures and the evidence below suggest that development flowed where particular forms of demand were high and regulatory barriers were low. In a study of neighboring communities outside San Francisco in the 1970s, David Dowall showed developers produced homes in the most desirable communities and when confronted with obstacles, such as building moratoria, moved to a further but as yet tolerant municipality. Similar reasons may explain why Boxborough, a town half the size of Acton, increased its population more rapidly in relative terms than its neighbors. Builders gravitated toward Boxborough, according to Jeff Rhuda, long-time developer and home builder in Boston's northern and western suburbs, because many potential homebuyers wanted to send their children to the Acton-Boxborough Regional High School and the permitting process was easier in Boxborough than Acton. Hence, it is likely that a combination of particular local characteristics and land use regulations produced the variations in growth patterns between Acton and its neighbors.<sup>13</sup>



## Section I: A Burst of Suburban Growth

In the early 1950s the wave of suburban development stimulated by new industries and highways raised the question of whether Massachusetts's growing communities were using their planning powers effectively. To address this issue, the legislature of the Commonwealth of Massachusetts in 1951 created a special commission to study the state's zoning and planning laws. Following the commission's findings, the Commonwealth's legislature in 1953 revised the state's subdivision control law. At the same time, towns in the outer rings of Boston's metropolitan area took up the matter of local zoning and subdivision controls. Thus, in 1953, in the midst of the state's discussion of planning issues, the Town of Acton adopted its first zoning bylaw.<sup>14</sup> (See Figure 6)

**Figure 6: Map Showing Acton's First Zoning Code, 1953**



Up to the time it enacted zoning, Acton allowed builders to do pretty much whatever they wanted. The town's building code applied only to single-family dwellings, and local builders and engineers wrote it. Hence, in the early years of postwar suburban growth, the same sort of informal pro-development regime prevailed in Acton as in many other Boston-area communities.<sup>15</sup>

Not all suburban towns were equally prone to real estate development. In affluent Concord, several factors hindered real estate projects. Concord had a long tradition of land use regulation: it passed its first zoning bylaw in 1928 and adopted its first rule for subdividing land ten years later. Concord was home to public entities—such as a national wildlife refuge (purchased as a preserve in 1928 and donated to the United States government in 1944) and Walden Pond park (created in 1922)—and private institutions—such as private schools and sportsmen's clubs—that occupied large tracts, rendering them unavailable for development. In addition, wealthy families' desire to live in Concord tended to make land prices too expensive for small-scale home builders. Concord grew nonetheless—its population nearly doubled between 1950 and 2000—but far more slowly than most of its neighbors.<sup>16</sup>

In contrast to Concord, conditions in Acton favored development. The government of Acton waited until 1953 to pass its first zoning bylaw and set up a Planning Board the next year, but did not adopt a comprehensive set of subdivision regulations until 1965. In the 1950s, Acton had set aside only a small town forest as a land preserve, and waited until 1960 to produce a plan for land conservation. In general, land values in Acton were relatively inexpensive: although an ancient place, it did not enjoy the historical associations with the Revolutionary War and great nineteenth-century literary figures that Concord did. With less regulation and more available land, property in Acton proved relatively easy for developers to purchase.<sup>17</sup>

Moreover, like many Boston-area towns in the early postwar years, Acton at first embraced growth. To be sure, most residents envisioned growth in the form of a detached-house type of suburb. In 1961 a master plan, which the town government commissioned but never submitted for approval, projected that Acton, whose local population then just exceeded 7,000 people, would eventually contain between 40,000 and 45,000 residents. The plan declared that most of this population would live in single-family homes on half-acre lots, the minimum size allowed in residential areas by the town's zoning bylaw.<sup>18</sup> Hence, in the postwar years, Acton appeared to be fertile ground for residential development.

The provisions of Acton's 1953 zoning law were relatively loose and conducive to suburban development. The law laid out a simple set of rules for developers. It divided the town into three districts: residential, business, and industrial. The residential districts covered approximately 75 percent of the town's land and allowed multifamily buildings (with approval from the Board of Appeals). (See Figure 6) The bylaw required a fairly generous suburban lot size of 20,000 square feet (about a half-acre), with 150 feet of street frontage and setbacks of 30 feet in the front yard and ten feet along the rear and side. Business districts were located along the town's main thoroughfares (Routes 2A, 2, and 111), in areas that made up about ten-percent of the town. The two industrial districts, covering about 15 percent of the town, were located along town borders, one in the southern corner near the towns of Maynard, Sudbury, and Concord, and the other on the northern border near Westford. Both business and industrial districts allowed apartment buildings as-of-right, the only restriction being a front setback of 30 feet.<sup>19</sup> (See Figure 6)

Acton's new planning rules did little to disrupt the friendly relationship between builders and the local government, and in the 1950s, the approval of housing projects went relatively smoothly. In 1955, Daniel Sweeney and his sons, Paul and Robert, submitted the first of their plans for the Colonial Acres subdivision on Daniel's former farm and adjacent properties in West Acton. The Sweeneys planned Colonial Acres as a typical suburban subdivision of curving roads and house lots of 20,000 square feet or more. The town imposed some conditions on the builders—construct roads between the house lots and existing streets in conformance to the Acton Planning Board's standards, install water pipes and hydrants, provide proper drainage, and conduct a percolation test that was approved by the Acton Board of Health—but these were hardly onerous requirements.<sup>20</sup> (See Figure 7)

The town's relaxed regulations and attractive location also attracted other developers. The same year the Sweeneys submitted their plans, a developer started building the town's first large housing development, Indian Village, in West Acton just a few miles away from Colonial Acres. The following year, construction began on Robbins Park, a tract of neo-colonial houses in Acton center. Other developments soon followed, as Acton became a popular destination for home builders.<sup>21</sup>



**Figure 7: A house in the Colonial Acres subdivision (now known as Forest Glen), which was built in the late 1950s and early 1960s**



Photograph courtesy of Glenna Lang

By the late 1960s, however, some developments had begun to raise local hackles. In 1968 D&B Home Builders proposed building 106 houses on a 72-acre site near the center of town. This location included the site of the former home of Isaac Davis, the colonial militia captain who in 1775 led the Acton Minutemen to Concord to fight the British on the North Bridge. At a public hearing, abutters worried about drainage in the swampy land, and representatives of the Acton Historical Society, Acton Minutemen, Acton Conservation Commission, and Isaac Davis Trail Chapter of the Daughters of the American Revolution rose in protest. Calling for the state to conduct tests for rock ledges and percolation, Martin Duggan, former member of the Board of Health, may have been speaking for many fellow Acton residents when he commented, “Times seem to be changing in Acton here.” Duggan’s reaction foreshadowed the dismay over new building that would one day prevail in Acton.<sup>22</sup>

As subdivisions spread across Acton, its government gravitated toward planning a less compact, more affluent suburb, particularly in the north section of town. In 1963 it divided the residential zone into two districts, R-1 and R-2. The R-1 zone covered 30 percent of the town land and was located mostly in north Acton. In comparison to the previous residential zone, the requirements for the new R-1 category doubled the minimum lot-size to 40,000 square feet and significantly increased street frontage and setback distances.<sup>23</sup> The R-2 district covered about 40 percent of the town land, including built-up sections, and maintained the earlier requirement of 20,000 square feet for a single-family lot. Only three years later, Acton rezoned almost half of the R-1 districts into a highly restrictive new category, R-3. Taking no chances on future single-family subdivisions in a large semi-rural residential area in the northeast section of town, the new zone doubled the minimum area of a lot to 80,000 square feet or almost two acres per house.<sup>24</sup> (See Appendix, Figure A-1)

During the postwar years, the Boston-area real estate market demonstrated an appetite not only for houses for families, but also for inexpensive apartments for single people



and couples. In the midst of the postwar suburban boom, Acton, like Arlington and other towns, initially accommodated the desire for apartments. In the 1960s, Acton restricted certain aspects of apartment construction—in 1963 it imposed dimensional requirements on multifamily buildings in the business districts and in 1964 disallowed residences from some industrial zones—but for the most part continued to permit construction of two- to four-family dwellings and apartment buildings in industrial and business districts. After surveying Acton’s land use regulations, builders seeking to take advantage of the demand for rental dwellings took the path of least resistance and constructed apartment buildings in the business and industrial districts.<sup>25</sup>

The result was a boomlet in apartment construction, the scale and rapidity of which shocked many in the town. In 1965 Aurele Cormier displeased the Acton Planning Board with a plan to build a 360-unit apartment complex, Parker Village, on Parker Street in the industrial zone. (See Figure 8)

Planning board members criticized the development as an “abuse” of the town’s zoning. “The Town needs and growth [*sic*] do not justify an apartment development of this size,”

**Figure 8: Parker Village, an apartment complex built in the late 1960s**



Photograph courtesy of Glenna Lang

protested planning board member Charles Orcutt. Furthermore, he explained, the site was considered prime industrial land and the Industrial Development Commission did not expect that it would be used for housing. Although the final project was smaller than originally proposed, apartment house development rolled on. By 1968, the town was processing 300 apartment permits a year. The number of apartments in Acton soared from 190 in 1960 to 2,400 in 1976.

It did not help that many of the new multifamily developments arose along a main thoroughfare, Great Road (Route 2A) in North Acton, where they were clearly visible to townspeople driving back and forth from their homes. For those who viewed Acton as a rural-looking or upper-middle class suburb, the apartment houses presented an appalling sight.<sup>26</sup>

## **Section II: A Planning Backlash**

### *Closing the Door on Apartments*

In reaction to the clusters of apartment buildings that sprouted in Acton's business and industrial zones, Acton's government clamped down on multifamily housing. The town was an early member of the movement against multifamily buildings that in the late 1960s and 1970s spread across the Boston metropolitan area.<sup>27</sup> In 1968 Acton prohibited apartments in industrial districts. Three years later, the town meeting voted by 358 to 81 to disallow any apartment or lodging houses in the business district and banned structures with more than four dwellings. Also, the town now required developers wishing to obtain building permits to construct or expand apartment buildings to submit a site plan for approval to the Board of Selectmen. The town had all but shut the door on what it considered large unsightly apartment projects. Despite the apartment building restrictions of 1968 and 1971, however, "grandfather clauses" allowed builders to construct some 900 new apartments in the years after 1971—something that aggravated some town residents and officials. In 1975 and 1976, the number of multifamily units permitted in Acton fell to zero. Except for an isolated late burst of multifamily permitting in 1978, the spigot for this type of development was virtually shut off.<sup>28</sup>

It was not just apartments, but all forms of growth—including residential subdivisions and shopping centers—that alarmed Acton's residents. In response, the town looked for new ways to gain control of development. When the town challenged a large residential development, Acton became involved in a landmark land use case.

In 1970, a developer incorporated under the name of the site, Bellows Farms, proposed to build a large apartment complex on a parcel northeast of the town center. Unlike the boxy brick apartment buildings that prevailed in Arlington and elsewhere, 435 apartment units would take the form of numerous town houses scattered on curving streets that would run through the site.

Under the town's rules at the time, the apartment proposal in this area qualified as-of-right and therefore was submitted as an Approval Not Required (ANR) plan. The town government and residents recoiled from such a large project and immediately revised Acton's "Intensity Regulation Schedule" and added off-street parking and loading requirements. It also passed the above-mentioned ban on structures with more than four dwellings and a requirement that the Selectmen approve site plans. These new rules effectively cut the allowable number of dwellings to 203.

The Bellows Farms developer sued on the grounds that the town could not apply bylaws passed after the plan was formally proposed. The town's counsel – Herbert Wilkins, a partner at Palmer and Dodge, one of Boston's leading law firms, who was appointed to the state's Supreme Judicial Court in 1972, and his successor Acheson Callaghan, also a partner at the same firm – countered with a novel argument. They conceded that the essential type of land use allowed by the zoning at the time of the ANR plan—in this case, structures with apartments—could not be changed, but contended that characteristics of the allowable land use—such as the dimensions and density of the buildings—could be altered after the fact. The argument shocked Massachusetts developers, who thought that everyone understood that a land use was simply a land use, but in 1973 the Massachusetts Supreme Judicial Court disagreed. (Wilkins did not participate in this decision). The court declared that the changes in requirements were legal as long as they allowed the use provided for in the original zoning, even if it meant drastically reducing the number of units that could be built. Hence, the Town of Acton not only prevailed but also helped to extend town land use prerogatives in Acton and other Massachusetts municipalities.<sup>29</sup>

### *New Planning Controls and Issues*

In the 1960s and 1970s, Actonians' revulsion to development focused especially on their desire to retain the town's "rural character." Members of the town's growth policy committee observed that the town's agricultural lands and, particularly, its once prevalent apple orchards, were disappearing, which removed open spaces and made more land available for development. They feared that, if left unchecked, the kind of growth they were witnessing would change Acton irrevocably. Such fears led the town of Acton to produce for the first time a multi-faceted set of anti- or slow-growth planning tools.<sup>30</sup>

Growth posed the practical issue of removal of household waste, and for years the town debated the wisdom of building a sewer system. In 1960, a town sewerage and drainage study laid out a relationship between the construction of sewers and the potential for new growth in Acton. In 1964 the town formed a Sewerage Study Committee and hired Metcalf and Eddy, a Massachusetts wastewater engineering firm, to design a plan for a system of sewers. Fearing new development, the town meeting rejected the proposed sewer system but approved a purchase of land for a possible waste treatment plant. As new apartment buildings were built, concerns mounted that some of the apartment complexes required daily pumping of septic systems. In 1976 the town voted to pay for a waste water treatment study to explore alternatives for handling sewerage, but did nothing further about it. The town waited until 2002 to build a sewer system; this system served only part of the town.<sup>31</sup>

While a town sewer system could be postponed, the residents concluded that new schools could not. As the town population doubled in the 1950s, Acton began constructing new schools, ultimately building new elementary schools in 1958, 1966, 1968, and 1971. In 1957, it also joined with the town of Boxborough to create a regional school district for grades 7 through 12. In 1967 Acton constructed a new junior high school, and in 1973 it created a large regional education complex near Kelley's Corner: where it greatly expanded the junior high school and converted it to a high school and turned the old high school building into the town's junior high school. Not surprisingly, Acton residents concerned about the costs of growth to the town looked with great suspicion on the apartment buildings and subdivisions, which they believed brought school-age children into Acton.<sup>32</sup>

Acton did allow one new type of zone for multifamily residences. In 1973 the town meeting created a Village Center Business (VCB) district, later renamed West Acton village, at the intersection of Massachusetts Avenue and Center Street. The new designation of VCB allowed apartments, although no more than four units per building and only with the approval of the Board of Appeals. Nonetheless, the new village type of district had little impact on the overall effort to restrict the development of apartment buildings.

### *Conservation Efforts*

During the twentieth century, numerous semi-rural communities in eastern Massachusetts bought land in order to preserve their natural landscapes from real estate development. Land conservation, as Acton's neighboring town of Concord had vividly demonstrated, could preserve open space and limit growth. Acton encouraged conservation in two ways: direct purchases of land and zoning. Following these practices, the town in 1943 acquired a 49-acre tract which it deemed the town forest and to which it added with other purchases in the 1960s and 1970s. As early as 1960 the Acton Conservation Commission prepared a conservation master plan, which it updated in 1974. With the help of the town's appropriations for conservation purchases (including a \$600,000 bonding authority in 1974), the commission was able to acquire 934 acres of conservation land—

close to eight percent of Acton's total land—by 1976. The town also endeavored to protect the landscape through its land use regulations and in 1975 created a new type of zone, an Agricultural-Recreation-Conservation (ARC) district, prohibiting any residential uses within it. The first such district was located on both sides of Route 2 along the border with Concord. In the next decades, the town added many more such districts, located mostly in areas that had previously been zoned for residential use, so that by 2005 they comprised roughly ten-percent of the town's land.<sup>33</sup> (See Appendix, Figure A-2)

### ***Wetlands and Flood plains***

The Commonwealth of Massachusetts was a pioneer in the regulation of wetlands. In 1957, the state legislature passed an act allowing towns and cities to set up conservation commissions to promote natural resources and protect “watershed resources.” The state in 1963 passed the Jones Act to protect coastal wetlands, in 1965 enacted the “Hatch law” which protected inland wetlands, and in 1972 combined and expanded the two laws in the sweeping Wetlands Protection Act. The 1972 law prohibited the removing, filling, dredging of “any bank, riverfront area, fresh water wetland, coastal wetland, beach, dune, flat, marsh, meadow or swamp bordering on the ocean or on any estuary, creek, river, stream, pond, or lake, or any land under said waters or any land subject to tidal action, coastal storm flowage, or flooding” without first submitting and gaining approval for their plans. The law placed local government bodies—conservation commissions, boards of selectmen, and mayors—as the first line of enforcement.<sup>34</sup>

The national and state environmental movements encouraged Acton and other Massachusetts towns to control development in wetlands and flood plains. Acton was among the first communities in Massachusetts to form a conservation commission and in 1960 the young commission prepared one of the earliest town conservation plans. The town actively enforced the state's wetlands protection laws, and after watching development in the flood plain areas of Acton, members of the town meeting voted in 1969 for a flood plain zoning bylaw. Although the town's growth policy committee in 1976 complained that the permissive wording of the bylaw and “grandfather clause” protections did not stop all “encroachments” on the flood plain, they were satisfied with the new police powers the state had provided them.<sup>35</sup>

## **Section III: Colonial Acres II and the Changing Meaning of Wetlands**

By the time Kevin Sweeney, the tenth child of Daniel Sweeney, decided to subdivide another segment of his family's farm and an adjacent part of the neighboring Chamberlain farm, a new more restrictive regulatory era had begun in Acton. In March 1977, Kevin Sweeney proposed to create Colonial Acres II, a subdivision of 16 house lots connected by two roads, on a site of 13 acres located near the Sweeney family's first development, Colonial Acres I (now known as Forest Glen). Not only had the approval process become more complicated, but wetlands protection had assumed a new and important role in Acton's land use planning.

By all accounts, much of the Colonial Acres II site was damp. It contained a pond and a meandering brook that ran close to the old Sweeney homestead, and a grassy marsh covered an estimated four acres, about a third of the site. If you went walking there, a local observer pointed out, you soon had wet feet. The site's dampness insured that the Wetlands Protection Act would bear on the outcome of Sweeney's application.<sup>36</sup>

Although the wetlands act expressed a sense of the preciousness of water located in or under ground, Sweeney took a practical attitude, once widespread in New England, toward land and water. Sweeney had perhaps inherited this approach to the land from his father, who Sweeney recalled had moved the brook in the 1940s to create land for Notre



Dame Road. The resulting stream and pond, the builder concluded, were “man-made.” But not just farmers moved earth. In the late 1960s, Sweeney maintained, the town had dumped land displaced from the construction of the Gates and Douglas schools on to his property.<sup>37</sup>

What man had done before, Sweeney concluded, he could change. The builder proposed to build a drainage system consisting of three storage ponds to be maintained by the town and a culvert through which the brook would now run. Over the channeled stream, Sweeney planned to construct a new street, Kingman Road.<sup>38</sup>

In March 1977 Sweeney submitted his subdivision plans to the Acton Planning Board for preliminary approval. This early step in the approval process allowed local officials in Massachusetts towns such as Acton to indicate to land developers how their proposals fit existing codes and regulations. The process involved passing the application to several town departments, which then weighed in on the plan’s conformity to their respective criteria. Because failure to gain a department’s approval could doom a proposal, this preliminary submission allowed applicants to judge whether it was worth proceeding and if so, what changes might make their application more palatable to the town. On April 11, the Acton Planning Board forwarded Sweeney’s plan to the town’s various departments and boards and asked each for review by April 25.<sup>39</sup>

The town’s wetland regulations now kicked in. Although most of the town’s agencies had little to say about Sweeney’s application, the Acton Engineering Department and Acton Conservation Commission both objected on the basis of the need to protect wetlands. The conservation commission complained generally about the plan’s water drainage and the piping of a brook. The town engineers called for narrowing two roads and criticized the placement of six specific building lots (numbers 8 through 14). These lots, they asserted, were located over a high water table, which rendered the soil inappropriate for building and made it subject to the Wetlands Protection Act review process. The engineering department even went so far as to suggest the builders make the area an open space or a playground. As a result of the objections of the conservation commission and engineering department, the planning board disapproved Sweeney’s preliminary proposal. The planning board members claimed that the project would not drain the land adequately, causing the soil to erode. They demanded that the builder relocate Kingman Road so that it would not require filling or construction within the one-hundred-year flood plain.<sup>40</sup>

The wetlands issues became central to the fate of the Colonial Acres II subdivision proposal. In October 1977 Sweeney submitted a revised version as the definitive subdivision plan and began to go back and forth with the town’s agencies over the proposal. (See Appendix, Figure A-3)

On December 19, the Acton Planning Board provisionally approved the subdivision, but set down certain conditions, which ranged from submission of an erosion-sedimentation plan to planting additional trees on the property. The main problem, according to Mrs. Rick Sherman, the town’s planning administrator, was the wetness of the land, including the brook. Planning board members worried about water retention on the site and the possibility of runoff problems, both potential future drainage problems on the house lots. They considered an order to move the roads but left this and other such issues to a special Wetlands Hearing, scheduled for December 21, in which the Board of Health could impose its rulings on the subdivider. If the hearing forced Sweeney to draw up a new plan, he would have to apply to the planning board again for a new approval. The complicated process, Sherman admitted, “sounds like a tennis game.” The wetlands rules had created an entirely new step in the approval process.<sup>41</sup>

The members of the Acton Planning Board were unenthusiastic about Sweeney's proposal for Colonial Acres II and looked to the agencies with jurisdiction over wetlands conditions to prevent it from going forward. The board members felt they were required to approve the plan because, as the chairman explained, Sweeney had submitted "a perfectly good subdivision plan" and the percolation tests were "good." Still discontented, they now hoped that the conservation commission or the board of health could stop the development.<sup>42</sup>

Unfortunately for the planning board's strategy, the Acton Board of Health failed to take the hint. It not only approved Sweeney's plan but suggested that one way to deal with the problem of the wet land was to fill it. A furious planning board member, Lane Kirkpatrick, charged that the board of health had failed to control the building on "potential wetlands." He protested that if the precedent for filling land close to the water table was established, "you could build a house on a lake." Hoping to end the controversy, Sweeney's lawyer, Lou Levine, argued that the board of health had addressed the concerns of the conservation commission. "The wet characteristic of the land," he admonished, "should not be overemphasized."<sup>43</sup>

The Acton Conservation Commission, however, was very much inclined to emphasize the dampness of Sweeney's soil. As the last front of legal resistance to Sweeney's plans for Colonial Acres II, it hired Wastec Laboratories in Framingham, Massachusetts, to consult with them about the Colonial Acres II proposal. Wastec's engineer, Stanton Bigelow, had assessed the initial plan and recommended that it be rejected and continued to report to the conservation commission while it deliberated on the subdivision plan. Bigelow argued that surrounding the brook in a pipe would prevent underground water that formerly drained into brook from dissipating, thus raising the ground water level in nearby septic system areas. Sweeney's engineer disputed this reasoning and argued that most of the area's runoff water came not from underground water but from an 18-inch drain pipe that took storm water from the Sweeney's first subdivision, Colonial Acres I.<sup>44</sup>

In January the conservation commission sought additional information about soils and ground water. At a wetlands hearing held on January 18, Bigelow, the conservation commission's consultant, recommended that the developers conduct a hydro-geological study of the parcel, and one of the commissioners moved for a continuance of 21 days to allow time for the study. Opposed to further delay and expense, the developers adamantly refused to do such a test and threatened to appeal to the state's Department of Environmental Quality Engineering (later renamed the Department of Environmental Protection) for review. Even one of the conservation commissioners, Ann Chang, protested the idea of a continuance on the grounds that if they followed the statute by issuing an "order of conditions" within the required 21 days of hearing, their decision would stand a better chance on appeal with the state department. In the course of the hearing, however, the commission discovered that Bigelow was mistaken in his belief that the results of earlier test borings were on file with the board of health (the town had only recently begun to keep such records); withdrawing the continuance motion, the commission decided to issue an order of conditions to be written as performance standards.<sup>45</sup>

Numerous residents of the adjacent subdivision of Forest Glen (formerly known as Colonial Acres I) agitated the wetlands issue. Several neighbors had circulated a list of questions prior to the November meeting of the conservation commission, at which the commission urged the planning board to disapprove Sweeney's plan. Later that month dozens of residents loudly denounced the planned subdivision.



The opponents' motives seemed reasonable. Several homeowners already suffered from water seeping into their basements and felt nervous that the development would end up flooding their basements. Others such as Sandy Nolan, who distributed Bigelow's report to the neighbors, feared that the plan to enlarge the pond would affect the leaching field for her house.<sup>46</sup>

Yet some opponents were as interested in protecting the landscape above the ground as they were the water under it. So Ellen Sears Sansone strongly implied when she asked, "If wetlands and flood plains can be adjudged for house lots, what will be left for those of us interested in the protection of our environment?"<sup>47</sup> Certainly Kevin Sweeney thought his opponents' real motive was to stop any changes to the landscape. Musing on the irony that the homeowners in his family's first subdivision opposed his latest project, Sweeney commented, "Paradoxically, I sell to people who become my enemies."

"I grew up as a farm boy on two hundred acres," the home builder explained, "so no one has more of an appreciation of open space than I do. I enjoy this town immensely ...but you also have to be realistic. People who move in want their home to be furnished with green space, and so the last family always becomes the loudest environmentalist." To mollify those who truly were worried about increased seepage, at the January wetlands hearing Sweeney offered to any abutter now having a water problem an easement to tie into his drainage system.<sup>48</sup>

Due to a technical provision in the law, an act of nature threw the decision into the lap of the state government. The great blizzard of 1978 wiped out the February 8 meeting of Acton Conservation Commission, at which it was to issue an order of conditions within the required 21-day period after its hearing of January 18. The failure to produce an order within the required time period placed the jurisdiction of the dispute with the Massachusetts Department of Environmental Quality Engineering.<sup>49</sup>

The appeal to the state seems to have encouraged compromise on both sides. Sweeney offered some changes to his plan to meet the board's requests and requested some changes to the conservation commission's conditions. The Conservation Commission dropped the demand for a hydrological study and instead asked that Sweeney dig wells on each of the eight lots to test the ground water levels before and after the construction of the drainage system and Kingman Road. After some dispute about what constituted a proper sedimentation and erosion control plan, the two parties appear to have come to a workable agreement. On September 11, 1978, a year and a half after Sweeney submitted his preliminary proposal and almost a year after his definitive submission, the Acton Conservation Commission approved the proposal for Colonial Acres II subject to the acceptance in the plan of the commission's conditions.<sup>50</sup> (See Figure 9)

It is worth noting that the town's approval process, which now included a wetlands review, appears to have done little to alter the plan for Sweeney's subdivision development, except to postpone it by almost a year. Although the wet conditions on the subdivision site may have warranted extra care in planning and approving building there, the town's records contain no further mention of problems with water on the site. The lack of further complaints indicates that opposition to Sweeney's plans for Colonial Acres II either expressed unwarranted fears about the drainage plans or involved more than simple concern about water issues. Or they may have reflected a combination of motives and perceptions. After all, a concern for the preservation of the natural environment and an antipathy towards new housing development are hardly antithetical, and often the same people hold both views.

**Figure 9: Homes in the Colonial Acres II subdivision, which was built in the late 1970s and early 1980s**



Photograph courtesy of Glenna Lang

#### **Section IV: Anxieties and Innovations in the 1980s**

During the 1980s, local dislike of real estate development in Acton continued to grow. In addition to the dislike of large apartment complexes, fiscal anxieties now fed anti-growth sentiments. In 1980 Massachusetts voters, fed up with rising property taxes, passed Proposition 2½, a state-wide measure that starting in 1982 effectively capped the amount that a municipality could increase local taxes.<sup>51</sup> As mentioned above, Acton had previously purchased almost 1,000 acres of land for conservation but now, like other municipalities, did not have funds to purchase more conservation lands.

The costs of the public schools became a town issue, which spilled into discussions of growth and zoning. The Acton public schools had and still have an excellent reputation for providing a good education. The reputation attracted upwardly mobile and upper-middle-class families to the town, who along with other local parents wanted to ensure that the schools received enough financial support to maintain their quality. Other residents, however, grew alarmed about steeply increasing school budgets—most of which were paid for by town revenues—and looked for ways to prevent the school population from growing further. As in the past, many Actonians felt that building new single-family houses encouraged more families with children to move to the town. Consequently, some in the town looked to discourage single-family housing by increasing lot sizes and continuing the ban on apartment buildings.<sup>52</sup>

The question of whether to install sewers connected with wastewater treatment plants also became entangled with growth concerns. In 1980 the South Acton neighborhood began to experience problems with wastewater. The tendency of the Assabet River to dry up in the summer prevented its use for flushing out the area. The wastewater treatment facility in neighboring Maynard seemed to provide a solution, but the town meeting defeated the idea. Opponents of the change expressed fears, with some arguing that such an improvement would encourage further house building and others declaring that they considered the concentration of wastewater a safety hazard. The opponents of growth

used the absence of sewers to justify large-lot zoning, which they argued was necessary to ensure that septic systems could operate safely.<sup>53</sup>

### *The New Idea to Cluster Homes*

In the face of a depleted treasury for purchasing conservation land, Acton began to experiment with permitting clustered housing, a form of residential development that addressed both the developers' desire to build homes and the fervent desire of townspeople and the town government to preserve open spaces in Acton. In the cluster form of subdivision, houses are grouped closer to one another and on smaller parcels of land than in standard subdivisions, which allocate a quarter-acre, half-acre, or more land to each house lot. In the cluster type of plan, a portion of the land that would customarily belong to individual properties is assigned as a common open space shared by the subdivision owners. Cluster regulations allow the reapportionment of land as well as such planning elements as road layout and building setbacks to preserve open spaces, habitats, or historical sites that might otherwise be destroyed.

Forms of clustered housing on loop roads began to appear in the mid- to late 1950s in areas around the United States designed to create large recreational spaces such as golf courses. In the early 1960s, the Urban Land Institute and the American Conservation Association, which published *Cluster Development*, a short book by William H. Whyte, the author of *The Organization Man* and an early critic of suburban sprawl, championed the idea as a superior way to arrange residences. In 1962 Concord, a neighboring town whose planning decisions influenced Acton's, became one of the first of several Massachusetts towns to adopt such flexible subdivision planning.<sup>54</sup>

In 1981, the Town of Acton followed suit and amended its zoning laws to allow cluster development in single-family subdivisions in the town's residential districts. Under the new regulation, developers technically could not build more houses than the normal zoning had allowed, but the dwellings could be built closer together to allow for more efficient use of the land. The regulations, however, encouraged the use of cluster development by allowing a developer to transfer development rights from land located in a flood plain district, which would be prohibited under conventional development, to other land within the cluster development (as long as the number of lots did not exceed the total allowed under existing zoning). The common land was to be conserved as open space and given to the town or a non-profit organization. The regulation required it to comprise from 30 to 50 percent of the total development area, depending on the residential district in which it was located. To ensure a significant open space savings, the minimum tract sizes for cluster developments were twelve acres in R-1 and R-3 districts and six acres in the R-2 districts, but the dimensional regulations—minimum lot sizes, street frontages, and setbacks—were considerably smaller than most of the dimensions allowed in the other districts.<sup>55</sup> The regulation also required the developer to submit a site plan to the Planning Board before a permit could be granted.<sup>56</sup> (See Appendix Figure A-4)

In 1982, the town expanded the cluster type of development by allowing another form known as the Planned Conservation Residential Community (PCRC). Unlike the cluster development which allowed only single-family houses, the PCRC allowed up to four dwelling units per building. There were few dimensional requirements—other than buildings had to be located at least thirty feet from a public way and other buildings—but building heights were limited to two and a half stories and the maximum density was one unit per acre in the entire development, although these requirements were later amended slightly to allow structures in the PCRC developments to resemble those in nearby neighborhoods. Similarly, an original requirement prohibiting stacked dwelling units, meant to avoid the appearance of apartment buildings, was later removed. Like



the cluster developments, PCRC developments required common land for open space, but with a higher minimum of sixty percent of the total development area. Despite the eased requirements for developers, the town set up an extensive and rigorous permitting process for PCRC proposals: developers had to submit about a dozen different plans and documents to the Planning Board and six other town departments and boards.<sup>57</sup>

The purpose of the law, Acton assistant town planner Donna Jacobs explained, was to protect the environment and preserve local character in ways that conventional subdivisions failed to do. Acton's planners believed that the PCRC law and the planning department's requirement that plans for cul-de-sacs allow for future networks of streets helped build neighborhoods. Yet the PCRC provision that each unit have two ground-level entrances ensured that the neighborhoods would be made up of detached homes or townhouses but not apartments.<sup>58</sup>

Acton's use of the clustered approach to development saved open space but did not allow any more development than would have occurred under conventional zoning regulations. The 1982 bylaw declared that the maximum number of units allowed in a PCRC was the total number of acres, including open space, calculated as if it were developed at one dwelling per acre. In 1982, the Bellows Farm property, which, as discussed earlier, had been the subject of an important legal decision in the early 1970s, became the first PCRC to gain town approval. Developed in two stages in the 1980s and 1990s, the site covered 235 acres and thus would have provided 235 units if the entire area were developed—without wetland or other restrictions—as conventional single-family lots. In the end, Bellows Farms would hold 117 three- and four-bedroom houses, or 60 fewer homes than the cluster planning potentially allowed. In addition, the development preserved 154 acres as open space, 130 of which the developers conveyed to the Acton Conservation Commission to protect. (See Figure 10)

Other cluster developments followed in the years to come. Technically, the provisions have produced as much housing as conventional zoning regulations allowed. However, many opponents of growth in Acton dislike the law because they feel that it increases

**Figure 10: Homes in the Bellows Farm development, which was built in the 1980s and 1990s**



Photograph courtesy of Glenna Lang

the number of allowable dwellings by allowing developers to count wetlands, on which wetlands restrictions prohibit development, in calculating their land-to-housing unit ratios.<sup>59</sup>

### ***More Struggles with Planning and Growth***

During the rest of decade, Acton attempted to further tighten and control its requirements for residential development. In 1984, the town rezoned over a dozen tracts of R-2 land (minimum lot area of 20,000 square feet) to the lower density R-4 (minimum lot area of 40,000 square feet). (See Appendix Figure A-5)

In 1985, to prevent the uncontrolled spread of businesses, the town created a new “village center” district near the MBTA Commuter Rail stop in South Acton. At first the town insisted that only single-family residences could be built there, but relented in 1990—when it added two more village districts in north and east Acton—by allowing apartment buildings with four or more units if the Board of Selectmen approved. Still nervous about large-scale development, Acton imposed a floor area ratio that limited the building envelope in the village center districts to a maximum of 20 percent of the lot (and 40 percent in West Acton Village). A 1989 amendment further constricted the approval process for housing by creating a Groundwater Protection overlay district, which specified varying minimum open space and maximum impervious cover requirements for four different zones.

Although these were relatively minor changes to the town’s regulatory framework, they hinted at growing tensions over land uses and development. By the late 1980s, when Acton’s long-time town planner, Roland Bartl, first arrived at the town’s planning department, planning and land use decisions had become, a “harrowing divisive process.” “Too many houses” was the prevailing sentiment, Bartl recalls, and yet commercial development also threatened Actonians, who feared that it would turn Great Road (Route 2A), one of the town’s main corridors, into a garish business strip like Route 1 in Danvers.<sup>60</sup>

Planning Board members argued about physical density of houses and particularly commercial development. Some town residents complained about the growing traffic problems on the town’s main streets and a growing number of residents worried about the potential destruction of the town’s historic buildings. Still others of a reformer bent wanted to increase the number of homes that low- and moderate-income families could afford.<sup>61</sup>

In 1989 Acton residents and the planning department attempted to address such heated issues with a new master plan. Working with the planning consultant Rick Taintor, hundreds of Actonians attended dozens of meetings and helped the town develop numerous proposals, adopted at Town Meetings in April and November 1990 and codified in 1991. Building on some of Acton’s recent planning innovations, it provided incentives for cluster zoning (by reducing somewhat the minimum area per house), and attempted to curb rampant commercial development and channel it away from Route 2A into the town’s village centers—now officially three in number. The authors of the plan also tried to encourage mixed-use projects on large non-residential parcels by allowing a Planned Unit Development approach that permitted flexible land uses and densities that met overall performance standards.<sup>62</sup>

The authors of the master plan also recommended that the town create local historic districts in Acton’s three village centers. Meanwhile, Acton residents paved the way for such action by forming a Historic District Study Committee to make an inventory of the town’s historic buildings. Despite opposition from those who feared that creating historic districts would take too much control from property owners, the idea enjoyed widespread support. In 1990 residents attending a Special Town Meeting on the issue passed a historic district bylaw by the overwhelming margin of 110-10 and then voted unanimously to create local historic districts in South Acton, West Acton and Acton Center.<sup>63</sup> (See Appendix, Figure A-6)

The fiscal limits imposed by Proposition 2½ led residents who were interested in keeping high quality government services to push for office and industrial development that would boost town revenues. Hence, the authors of the master plan also created a new low-density business district along Great Road (Route 2A) and recommended creating two new office park zones and three industrial park districts.<sup>64</sup>

Finally, to diversify the town’s population, the new master plan introduced a rare incentive for new residential development by creating two affordable housing districts. In the affordable housing areas, a developer could receive a density bonus—the ability to add more units than would be otherwise permitted—if the project

included a set percentage of subsidized low-income units. The plan's authors hoped that creation of the overlay districts would help reach a goal of having affordable to low- and moderate-income households in ten percent of the town's dwellings, which as discussed below, was a critical threshold under Chapter 40B, the state's Comprehensive Permit Law. The law allows the state to overrule local land-use decisions for projects that include permanently subsidized affordable units in communities that lack such housing.

## **Section V: Conflicting Impulses in the 1990s**

The new master plan and an economic recession that slowed housing development brought a few years of relative peace to the planning process in Acton, but by the end of the 1990s, a new round of fights over development had commenced. Many of those concerned about Acton's future blamed the master plan for the town's problems. True, some of the forecasts upon which the plan was based had not come about. Despite incentives, little affordable housing had been built. Acton's subsidized dwellings made up only about two percent of all units, a smaller share than that in all but a handful of Boston's western suburbs and well below the state average of about 8.5 percent.<sup>65</sup> Stores continued to string out along roads such as Route 2A rather than in the village center zones. More alarmingly, commercial tax revenue had fallen from twenty percent of the town's total tax revenues in the 1980s to only ten-percent in 1998—which many blamed on the 1990 Master Plan's encouragement of changing commercial zones to residential. Although the town's population increased slightly less than predicted, the number of houses grew far more rapidly than expected—instead of the estimated 52 dwellings per year, between 1991 and 1997 the number of residences grew by 92 units annually.<sup>66</sup>

Despite the leveling of population growth, school enrollments rose steadily. Continuing a trend that started in 1987, the number of Acton public school students rose from 3,422 in 1994 to 3,963 in 1998. The growth in enrollments raised anxieties among many Actonians about development, which they feared brought more school-aged children and thus raised town government costs. In fact the construction of new homes contributed little to the increase in the number of school children. The primary causes were the general increase in the number of births—as women born in the postwar baby-boom reached childbearing age—and, in particular, the arrival of families attracted by the high repute of Acton's schools. (Students at all levels of Acton's schools regularly record among the highest averages in the state for the Massachusetts Comprehensive Assessment System (MCAS) standardized tests). Furthermore, despite the fears that development provided homes for newcomers, most arriving families took up residence in existing houses rather than the small condos and extremely expensive abodes which developers produced in the booming 1990s.<sup>67</sup>

Members of the town meeting decided to revise the town's master plan and in December 1997 began again a nearly year-long round of meetings and workshops with the heads of town departments and Acton residents. In general, both Acton residents and officials continued to worry about the effect of future growth on the town's fiscal condition. In order to pay for the town government's services, they tried to strike a balance by supporting “business development because of its potential tax base benefits” and “limiting the rate and amount of residential development.”<sup>68</sup>

Department heads hoped for flexibility in planning, especially in allowing more taxable business activity, as they were worried primarily about funding to keep up the quality in their departments. The community continued to hew to the basic principles of slow residential growth, measured economic development—many opposed big box stores and malls—and protection of the environment.<sup>69</sup>



After much study and discussion, however, the town made few changes to the original master plan. It tried to encourage more commercial development but did little about housing, other than to recommend studying the ways other towns prevented “tear-downs” and “mansionization,” symptoms of a boom in housing for the extremely wealthy. The Acton Master Plan Update of 1998 contained eight ideas for promoting affordable housing. Most of the recommended actions were preliminary suggestions to study one or another new approach, but a couple were specific ideas for improving or strengthening the town’s incentives to encourage the construction of low-income units within new residential developments—such as requiring some subsidized units in all new developments or increasing the floor-to-area ratio in certain mixed-use projects. The discussion of affordable housing, however, did not consider the effects of the town’s regulatory restrictions on such new residential development. In any event, the town implemented few of the master plan’s recommendations.<sup>70</sup>

## **Section VI: The Anti-Growth Vortex**

From the late 1990s to the present, Acton’s opponents of growth continued to link it with a variety of issues, many of which at first glance would seem unrelated to real estate development. In 2000 a local web site devoted to airing opinions opposing development in Acton argued for the interconnection of growth to all manner of civic concerns, noting: “Growth is probably the single biggest problem facing Acton and most of all the big problems facing the town are either directly or indirectly connected to it. These include crowding in our schools, traffic on our roads, development, water problems, damage to the environment, strain on town services, and the loss of our small New England town character.”<sup>71</sup>

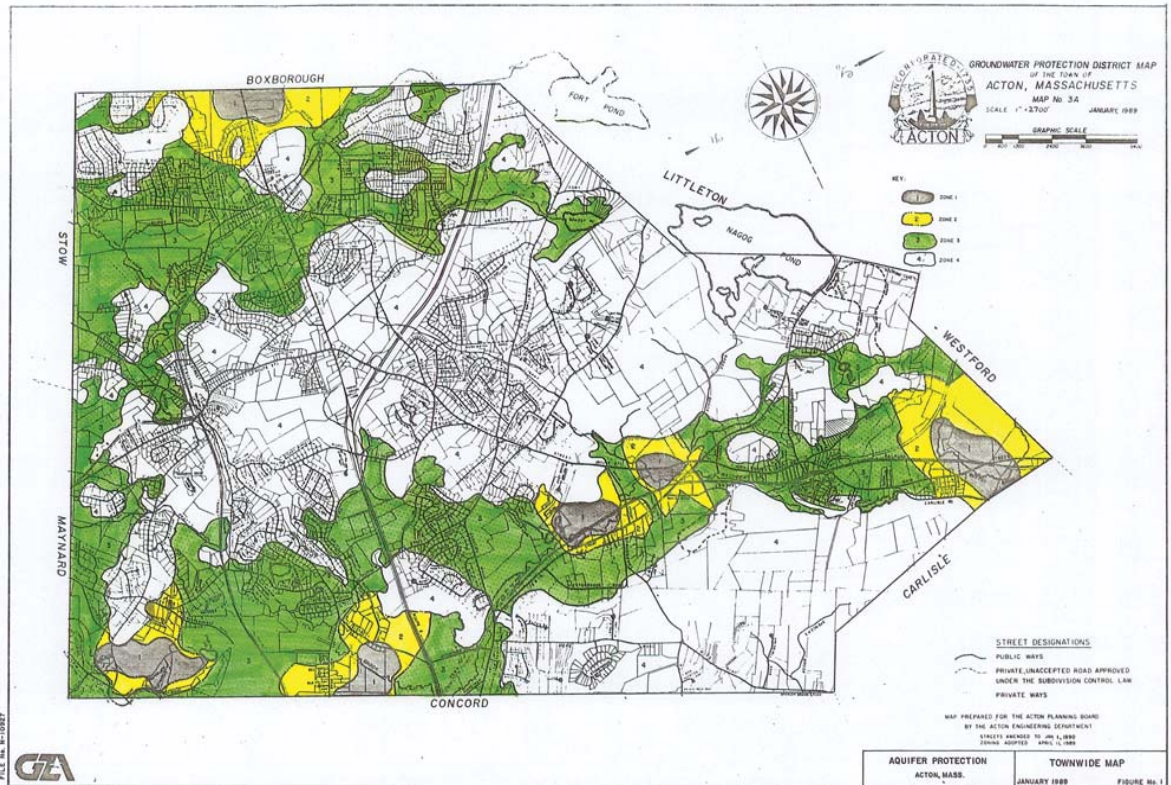
### ***Wetlands Again***

As an expression of both environmentalism and anti-growth sentiment, the idea of protecting wetlands continued to influence Acton’s land use planning in the 1990s and beyond. In 1980 the town government had hired a consultant to classify and delineate all its wetlands—they comprised 14.8 percent of all town lands—and in 1981 and 1989 the town meeting passed amendments to the wetland protection bylaw to place a blanket of control over wetlands and the areas surrounding them. In what seemed like a comprehensive assertion of authority, the Acton Conservation Commission asserted the right to approve or disapprove any plan to “remove, dredge, fill, or alter any wetland or land within the 100 foot buffer zone of a wetland” or body of water.<sup>72</sup> (See Figure 11)

Nonetheless, members of the conservation commission soon concluded that this language was too loose and in 1990 took the further step of issuing regulations that created barrier zones outside the wetlands. The rules permitted only undisturbed natural vegetation within 25 feet of a designated wetland and prohibited any construction less than 40 feet away from a wetland. These efforts did not assuage Actonians’ anxieties, however, and in 1991 the authors of the town’s new master plan felt it necessary to set a goal of placing new development projects away from areas deemed environmentally sensitive.<sup>73</sup>

Thus, to put more teeth into the environmental protection rules and protect them from legal challenge, the town meeting in 1996 voted to expand the provisions and place them in the town bylaws. Acton’s new bylaw expanded the definitions of wetlands beyond the state’s law by including any area where half or more of the vegetation consisted of wetland plant species and all vernal pools, defined as any confined basin or depression in an undeveloped area, whether or not the site had been certified as such by the Massachusetts Division of Fisheries and Wildlife. The setbacks for any alterations of the land would now be measured from areas that met the expanded definition of wetland.<sup>74</sup>

Figure 11: Map Showing Groundwater Protection Areas, 1989



Despite the increased regulation, Acton’s 1998 Master Plan Update insisted on the urgency of protecting wetlands, urging town planners to “avoid impacting wetland resources in any way.” As the authors of the 1998 document explained, this policy arose from actual problems facing Acton’s inhabitants, both human and animal. Wetlands contributed to the quality of the water supply in a town where wells provided the town’s water and household wastewater was dispersed chiefly through septic systems, some of which over time would deteriorate and fail. As natural storage containers, wetlands could mitigate the effects of floods. And, the authors of the Acton Master Plan Update argued, wetlands were key to fish and wildlife habitats.<sup>75</sup>

As before, anti-growth sentiments intermingled with other arguments for wetland protection. Acton’s residents concerned about the protection of wetlands and water resources tended to conflate environmental issues with their strong but primarily aesthetic desire for rural scenery. In the process of revising their Master Plan in 1998, Actonians “identified a need to protect wetlands and water resources,” by creating greenbelts and/or purchasing additional open space. Yet many residents felt the “need to preserve open space” the report explained, “as an important means of maintaining Acton’s rural character.”<sup>76</sup> Most significantly, the lack of level and dry parcels of undeveloped land meant that the insistence upon the protection of wetlands and quasi-wetlands (such as seasonally damp grounds) effectively restricted the building of new homes. Wetland protection in Acton was, consciously or unconsciously, a de facto regulatory restraint on development.<sup>77</sup>

If so, recently adopted regulations may have helped reduce the amount of new home construction in Acton even more. In 2003, the Acton town meeting further toughened the wetland bylaw by increasing the minimum distances between allowable landscape alterations and what the town defined as wetlands and vernal pools. The new law increased the buffer for undisturbed natural vegetation setbacks from 25 to 50 feet and

the setback for construction of driveways, roads, and structures from 40 to 75 feet. It also added a 100-foot setback from the mean high water line of vernal pools. It is impossible to calculate what if any effect the new stricter guidelines had, but in the five years following their passage—in the midst of a great national housing boom—the average number of residential building permits was about a third what it had been during the previous five years and close to half of the figure for the preceding five-year period.<sup>78</sup> (See Table 3)

**Table 3: Acton Single-Family Residential Building Permits, 1993 - 2007**

Year	Permits	Previous 5-year Average
1993	102	
1994	124	
1995	101	
1996	64	
1997	101	98.4
1998	64	
1999	94	
2000	126	
2001	44	
2002	42	74.0
2003	30	
2004	36	
2005	58	
2006	69	
2007	71	52.8

Source: 1993 - 1997: Acton Building Department; 1998 - 2007: Acton Building Inspector's Annual Report

### ***Land Conservation***

From the late 1990s onwards, the drive to preserve the Acton landscape from the threat of new development projects spurred attempts to obtain town lands for conservation purposes. As the town's fiscal position improved, Acton residents succeeded in persuading the town to acquire a former Boy Scout camp in 1996 and a farm in 1997 (although the town later designated the latter for general municipal purposes rather than land conservation). Among those leading the charge were Susan Mitchell-Hardt, Karen O'Neill and Morene Bodner. They helped reinvigorate the Acton Conservation Trust, a citizens' conservation organization that had been founded in 1962 but had recently focused on recycling. In 2000 the conservation activists, with the help of the Trust for Public Land, conducted a two-stage campaign to convince the town to purchase 239 acres abutting Robbins Mill Pond in the north part of town near the Acton-Carlisle border, which when added to the existing conservation lands would create a site of more than 600 acres of preserved open space within Acton and even more so when linked to neighboring towns' conservation lands. Although conservation advocates succeeded in the first round by getting the town meeting to approve the measure, they failed to persuade the town to adopt a provision to override Proposition 2 ½ and allow a local tax hike. Although most blamed the high price of the land—in the vicinity of \$8 million (about \$34,000/acre)—the land conservation leaders ascribed the loss to their lack of experience in the political arena. Just prior to the town meeting vote local proponents of low taxes, led by Charles Kadlec, raised doubts about the effect the large cost of the purchase would have on local taxes.<sup>79</sup>

The passage of the Massachusetts Community Preservation Act (CPA) of 2000, however, heartened Acton's conservation supporters. The act allowed Massachusetts cities and towns to impose a surcharge of up to 3 percent of the real estate tax levy on real property to raise monies to acquire and preserve open space and recreational lands, create and support affordable housing, and acquire and preserve historic buildings and landscapes. The law also enabled the state government to provide matching funds from a surcharge imposed on virtually all residential real estate transactions in the state. If Acton adopted the act, Acton's conservation activists explained, the town could purchase more conservation lands with only a modest property tax surcharge and without having to vote to override Proposition 2 ½. In the days before the ballot election was held in 2002, advocates adopted the anti-tax group's tactic and sent a letter to town residents in which they tried to make their case and answer any counter-arguments. They succeeded in persuading the town meeting and afterwards the town's voters to approve the CPA. In 2003, the year after approving the act, the town set aside \$200,000 to acquire and preserve open space. In subsequent years, the town meeting voted to expand the CPA funds for purchasing open spaces.<sup>80</sup>

Although conservationists enjoyed the town manager's support of the purchase of open land, not all members of the town government unconditionally supported their agenda for the use of that land. Long-time town officials such as town manager Don Johnson and selectman Doré Hunter worried that the decline in commercial taxes shifted the burden of paying for local services to homeowners. Therefore, they hoped to keep enough land available to expand the town's commercial tax base and pay for services. The proponents of land conservation wondered if town manager Johnson would be unsympathetic to their goals because he preferred that Acton purchase some lands as general municipal property rather than conservation land in case the town later needed it for a facility such as a school. But perhaps the greatest obstacle the conservationists faced was the high cost of land: reaching \$200,000 an acre by 2004, according to the chairman of the Acton community preservation committee.<sup>81</sup>

### *The Cost of Good Schools*

Although low-tax supporters fought anti-growth Actonians on the issue of the town's preservation land purchases, they sided with the anti-growth group on the issue of schools. During the 1990s, enrollment in the Acton schools rose by about a thousand pupils to 4,310 in 2000; the expenditures for local schools rose from \$15 million to \$26 million, which made up two-thirds of the town's total budget. In addition, between 1990 and 2001, the real-term cost per pupil in Acton doubled. Naturally, the large figures for the schools made the education budget one of the hottest topics in Acton. As the high quality of Acton's schools was widely recognized and a matter of local pride, the question was less a matter of waste than of whether the town could afford to pay for the growing capacity.<sup>82</sup>

The ballooning of school enrollment and costs, as Rosan and Susskind observe, converted the anti-school faction into an anti-growth faction. Actonians tended to blame newcomers for bringing more schoolchildren into the town, and they blamed new development for bringing newcomers with children. Although this explanation oversimplified the circumstances—the nature of the ongoing turnover of population explained the increasing number of schoolchildren—it led many to oppose all new housing on the grounds that it would increase the number of schoolchildren and thereby raise the fiscal burdens on the town. The anti-growth faction included older residents whose children had completed their school years or who did not have children and who were now retired and living on fixed incomes. Acutely conscious of tax rates, they joined with other residents who cared less about tax rates than preserving scenery. As Acton's former counsel observed,



residents now perceived the cost of schools as an issue in local zoning. In 1999 and 2000, anti-growth forces four times attempted unsuccessfully to change the town's zoning bylaws in ways that would slow residential development.<sup>83</sup>

### ***Traffic***

Acton residents also were unhappy with traffic congestion in their town, which they either blamed on new development or worried that new development would exacerbate. As a result, the potential traffic impact came up in the debate about every proposed development, whether commercial or residential, and became a major theme of town planning efforts. At one point, neighbors of a proposed development of a community for people over fifty-five years of age argued that the project should be stopped because the elderly would create traffic hazards on nearby streets. A town study of bad driving in Acton subsequently discovered that most of the bad drivers were mothers driving their offspring to various activities. In fact, the town's crowded roads were caused to a great extent by the increase in the number of car owners and the large number of solo drivers: in 2000 81 percent of Acton workers drove alone to work, 7.4 percent used a car pool, and fewer than 6 percent walked or took rail. This fact was not totally lost on Acton's leaders, who recently have tried to encourage Actonians to use bicycles among other measures. Nonetheless, the approval process of new development of any significant size generally requires a study of the potential impact on traffic.<sup>84</sup>

### ***Sewers***

As they had for decades, Actonians also connected the growth issue to the question of whether to build sewers or otherwise upgrade wastewater removal methods. Parts of Acton, particularly South Acton, had long ago been subdivided into small lots with houses relatively close to one another, a pattern which made it difficult for traditional septic systems to carry the load. For years town selectman Doré Hunter and other Acton residents struggled to upgrade the waste removal systems in the overburdened parts of town. Finally in 1997 Acton's town meeting approved an \$11.5 million appropriation for the town's first large sewer system in South Acton and Kelley's Corner, where the need was particularly critical because of the regional school complex.<sup>85</sup>

The voters approved financing the construction of the new system through bonds, which would be repaid from general revenues generated by all Acton taxpayers as well as special betterment assessments on sewer users. The state's new requirements as well as other necessary expenses drove the total cost much higher, however, and in October 1999 the sewer proponents returned to Town Meeting and asked for \$25.1 million for the project. This time, in order to win approval at the meeting, proponents were forced to place the bulk of the cost on property owners in the sewer service area. In 2001 the construction of the Middle Fort Pond Brook Sewer system, the town's first sewer system, began to serve the school, Kelley's Corner commercial district, and South Acton residents. After the sewer's construction, South Acton began to attract more businesses, leading local business owners, residents and town officials to conclude that the sewer project had started the revitalization of South Acton Village and Kelley's Corner.<sup>86</sup>

Yet when town officials proposed alleviating waste water problems caused by stressed septic systems either through water treatment plants or sewers, opponents of growth resisted. In 2004, when town officials called for a comprehensive program to solve the worsening problems of waste-water discharge, anti-growth activist Terra Friedrichs worried that improved waste-water treatment would promote real estate development. In 2006 a report calling for a sewer system in West Acton triggered a similar response. That year, a report on the town's historical landmark buildings expressed concern that sewer districts "can lead to increased development in the form of expansion of existing

structures and new construction, both at the expense of historical and architectural integrity of the village centers.”<sup>87</sup>

### ***Affordable Housing***

The relatively recent goal of increasing affordable housing in Acton also became entangled with the growth question, although in sometimes contradictory ways. Many Acton citizens sincerely believed that their community should be home to people of different income levels. The authors of both 1991 Master Plan and its 1998 revision made affordable housing one of the town’s important policy areas. Like local activists who worked on behalf of land conservation, certain Actonians pressed the town to increase the number of homes in Acton that low- and moderate-income families could afford.

To further the goal of affordable housing, the Acton Board of Selectmen in 1986 started the Acton Community Housing Corporation (ACHC) as a private nonprofit housing partnership organization. Ten years later the board converted it to a quasi-public body whose members the selectmen appointed. Charged with providing “affordable housing opportunities for working families with modest incomes,” its chief function was to contact and negotiate with “developers of proposed affordable residential housing projects,” whether they have a site in mind or want to explore their alternatives. In particular, the ACHC represented the town in discussions with developers who intended to use the state’s 40B process to build residential developments. The main approach of the ACHC to increasing affordable housing depended on constructing additional homes in Acton, which was precisely what advocates for preserving the town’s scenery and character opposed.<sup>88</sup>

While local activists were important, the state’s Chapter 40B law forced the issue of affordable housing in Acton. Under that law, developers of projects in which 25 percent of the units are permanently subsidized at levels that make them affordable for households that make less than 80 percent of the median household income for the area (or, in the case of rental projects, where 20 percent of the units are permanently affordable for households with incomes that are no more than half the area’s median household income) can seek a single comprehensive permit from a locality’s Zoning Board of Appeal (ZBA). Moreover, in communities where less than ten-percent of the housing units are in projects with permanently subsidized units, developers may appeal the local ZBA’s decision on their comprehensive permit applications to a state level administrative court, which must allow developers to build at densities and with designs sufficient to ensure that the proposed project is “economically viable.”<sup>89</sup> Since Acton was well below the ten-percent threshold—until recently only about two-percent of its housing was classified as affordable by the state’s standards—the town was vulnerable to proposals that did not comply with the town’s zoning requirements. Even though Acton developed more homes than most of its neighboring towns in the 1990s, at the turn of the century, the town needed to gain hundreds of new affordable units in order to meet Massachusetts’ ten-percent requirement.<sup>90</sup> (See Appendix, Figure A-7)

As in most communities in eastern Massachusetts, land use regulations in Acton contributed to the difficulty of developing housing, particularly modestly priced apartments or houses. The complexity and the uncertainty of the regulatory process, which town documents freely admitted, were a burden on both applicants and the town’s departments. High land costs, lack of available sites, and demand for luxury housing also presented major obstacles to developing low-cost homes. In the 1990s, for example, the vigorous local housing market reduced the number of rental units in Acton by prompting the conversion of rental apartments to condominiums and rental houses to homeownership. At the same time, however, the town’s regulatory process had



approved only permits for single-family homes, cutting off the opportunity for new rental apartments, including subsidized units.<sup>91</sup>

Mindful of the regulatory impediments to development, the town tried to balance the effect of its zoning with other policies that would produce affordable housing. Following the recommendations of the 1991 Master Plan, Acton in the early 1990s created Affordable Housing Overlay Districts, in which it offered density bonuses to developers who built homes affordable to low- and moderate-income households. The intent of the overlay districts, however, worked at cross-purposes with the town's zoning. The town placed the districts in residential zones of varying densities, but not in areas that allowed multifamily housing. By 1998, the authors of the Master Plan Update lamented that "despite Acton's best efforts," these incentives in an expensive local market had produced few low-cost dwellings.<sup>92</sup>

The town also pursued a policy of trying to convince developers of relatively expensive housing developments to "contribute" to a fund to purchase existing homes and resell them at low prices. Although the authors explained, "In each case there was no density bonus, and the development could have proceeded without the donations," these contributions functioned like a tax or fee imposed for the cost of doing business with good will in Acton. Nonetheless, during the 1990s developers donated to the affordable housing fund in amounts ranging from \$100,000 to \$672,000. Unlike other fees that the town imposed for particular direct costs incurred by development, the affordable housing fee assessed developers for a general good—as many considered the economic and social diversity of population to be—which was only indirectly or perhaps not at all related to a building project.<sup>93</sup>

Beyond the affordable housing exaction, the town was somewhat at a loss as to what to do. It considered an inclusionary zoning provision, with some trepidation. The greatest objection was that Massachusetts towns that adopted a requirement to include affordable housing units in new developments usually increased the number of units they allowed. An increase in population and building density offended those who wanted to preserve Acton as much as possible. As a result, the strong anti-growth sentiment led Acton to emphasize first the preservation of existing apartments and recycling of existing buildings for low-cost housing.<sup>94</sup>

When real estate value rose dramatically in the late 1990s and first half of this decade, the 40B comprehensive permit, which avoided the thicket of local regulations, became particularly attractive to developers and, in turn, proved to be the most effective way to produce actual dwelling units affordable to the low- and moderate-income families. Thus, whether out of idealism or a strategy to make the best of the situation, the town of Acton began to accommodate 40B projects and, in doing so, made substantial progress towards meeting the ten-percent threshold. Of seven 40B projects proposed between 2000 and 2006, the town approved one as proposed and six more with conditions that were acceptable to the projects' developers.<sup>95</sup>

As a result of these approvals, and regulations that allowed all units in rental projects approved via the 40B process (not just the permanently subsidized units) to be counted towards the ten-percent total, by mid 2009 Acton's share of all dwellings counted towards the 40B quota had reached almost seven-percent, and the state approved the town's plan for producing affordable housing. As of 2006, moreover, Acton was one of three Massachusetts communities to be certified as making acceptable progress toward meeting 40B's affordable housing goals, which meant that the town would be given somewhat more leeway if a developer appealed its decision in a 40B application. By 2009, however, the town was no longer on that list, presumably because the pace of development had slowed dramatically in the previous two years.<sup>96</sup>

## **Section VII: Colonial Acres IV**

In the anti-growth milieu that prevailed at the millennium—in which Actonians argued over taxes, wetlands, traffic, schools, preservation, and affordable housing—Kevin Sweeney, the developer of Colonial Acres II, decided to develop another parcel of the family homestead along with some neighboring property. He had developed Colonial Acres III in the mid-1980s and now proposed to develop Colonial Acres IV on a site between the three previous Colonial Acres developments as well as the Maple Creek Farm subdivision, which Sweeney had developed in the mid-1990s.<sup>97</sup> (See Appendix, Figure A-8)

Having received an approval for a housing subdivision plan for the site in the 1960s, by state law Sweeney was entitled to develop the site under those terms rather than the site's current zoning. The development of new waste treatment technologies and Acton's adoption of Planned Conservation Residential Community (PCRC) regulations made it possible to develop the site as a cluster plan subdivision. Acton's approval process in the early twenty-first century, however, was a far cry from that of the 1960s or even of the 1970s when he had developed Colonial Acres II.<sup>98</sup>

The community in which Kevin Sweeney proposed to develop Colonial Acres IV had an unhappy history with the home builder. In the 1980s, local residents revived the Forest Glen Association, a moribund social group founded in the 1970s, to oppose Sweeney's attempt to use the 40B process to build an apartment complex nearby. The addition of a large number of apartment dwellers, the Forest Glen residents feared, would dramatically increase traffic in the neighborhood. Sweeney's plans were thwarted, however, when the authorities ruled the land would not percolate sufficiently for the proposed number of dwelling units, and in the absence of an immediate threat, the association stopped meeting. During the 1990s, his Forest Glen neighbors recalled, Sweeney and his workers would cut trees and haul dirt around on his property on holidays and weekends—times that were no doubt convenient for him as they did not interfere with weekday work, but which the neighbors found annoying and suspicious. Ironically, the number of families in the homeowners' organization grew over time, thanks to the new development initiated by Sweeney and other homebuilders.<sup>99</sup>

Sweeney's first tried to develop the Colonial Acres IV land as a PCRC in 1998 but was stymied by opposition to his plan to use undeveloped land between Colonial Acres IV and the Maple Creek Farm residences as the septic field for his new project. Maple Creek Farm residents, who collectively owned some of the land, felt betrayed that Sweeney wanted to use the common land from their subdivision as part of the common land and septic field for another development. Their opposition to Sweeney's plan required the town's planning board to deny Sweeney's PCRC application. The parties fought over the plan until 2001 when Sweeney persuaded the Maple Creek Farm residents to separate the parcel he needed from their common land. Nonetheless, the episode left many of the area's residents feeling distrustful of the developer.<sup>100</sup>

In late 2001 Sweeney, able to proceed at last, began discussions with the town's planning officials about his proposal to develop his site as a PCRC. At this point, Acton had approved several cluster zoning subdivisions, so both developers and the planning board were accustomed to the process for PCRC proposals. The proposed plan called for building 22 houses on a site of just under 22 acres, yielding a safely upper-middle-class suburban ratio of about one house to an acre. The house lots were placed relatively close to one another—unlike a conventional suburban subdivision plan—and arranged in such a way that 60 percent of the land would be preserved as open space, primarily in the form of woods. The plan proposed a large tract of common land, which as a PCRC would be

held by the eventual homeowners. Like the adjacent properties including Colonial Acres II, the site contained wet grounds.<sup>101</sup>

A public hearing held on January 14, 2002 to consider the preliminary application initiated the formal procedures. In his proposal, Sweeney calculated the number of allowable house lots based on extra acreage he had transferred from the common land of the Maple Creek subdivision, a stratagem that—albeit legal—did little to enhance his reputation among homeowners in the area. Two weeks later the Acton Planning Board rejected Sweeney’s proposal. Once land was set aside as open space and common land, the board members explained, it could not be used to support new allowable units, even if the land had been transferred from one property to another. To allow this “would constitute a breach of trust with neighborhood and the community as a whole,” the board wrote, “that would severely undermine” the PCRC concept. But the anti-growth political context was important, too. As the board later explained, “At a time when many residents view each new dwelling unit as a detriment to the Town, the board was not inclined to allow the Bylaw’s PCRC development option to be used as a vehicle for more units on the Site than could otherwise fit.”<sup>102</sup>

Sweeney, however, remained undeterred. In March he proposed new plans that yielded 23 house lots based on acreage that did not include the controversial Maple Creek portion. The Board signaled it was inclined to accept these calculations. Meanwhile, Sweeney also offered, as part of his application and as a condition for approval of the Colonial Acres IV development, to give the Acton Housing Authority \$300,000 for producing or retaining affordable housing in Acton.<sup>103</sup>

On July 1, 2002, Sweeney submitted the definitive application to develop Colonial Acres IV as a PCRC comprised again of 22 house lots. (Sweeney would eventually add an additional 3 house lots that remained apart from the common septic system and the PCRC.) The application contained twelve items, including not only plans and deeds but also technical reports on development impact, drainage, water balance, and earth removal. (See Appendix Figure A-9). Later that month, the Acton planning department sent the plans to ten town departments—including the police department—for comments to be delivered no later than December 20, 2002.<sup>104</sup>

The plot, or rather the approval process, thickened. In August the Acton Municipal Properties Department called for Sweeney to produce specific plans for the homeowners’ control of the common open space, landscaping for the sewage treatment plant, and an enhancement of the landscaping for the water retention pond. In September, in preparation for a second public hearing, Sweeney hired a planning consulting firm, Abend Associates, to assess the traffic impact of assessment of Colonial Acres IV on nearby streets. The firm predicted the new development would increase daily and peak hour traffic flows by ten-percent, concluding that the “overall impacts within the neighborhood are minimal.”<sup>105</sup>

By the fall, neighbors, including residents of Forest Glen which the Sweeney family had developed as Colonial Acres I some forty years earlier, had grown alarmed at Sweeney’s intentions. Local resident Allen Nitschelm led the resistance, going door to door with other neighbors to talk about the geology of the site and the possibilities that the Colonial Acres IV project would bring excavations, rock blasting, and disruption of underground springs. Residents of the neighborhood raised more than \$7,000 to hire an attorney and hydrologist to scrutinize the application provisions and ensure that the development conformed to Acton’s laws.<sup>106</sup>

The residents invoked every threat they could imagine. A leading opponent wrote to the town planner that Sweeney’s proposed subdivision would increase flooding of his

land (by raising the water table and removing trees), unduly add traffic to local roads, and create pools of standing water that would pose potentially fatal health risks from mosquitoes bearing the West Nile virus. He suggested that such difficulties rendered Sweeney's land unsuitable for any development whatsoever. Above all, concerned neighbors emphasized the threats that the new development posed to their own properties.<sup>107</sup>

In late 2002 the neighbors flocked to a public hearing on Colonial Acres IV and stimulated the town department's scrutiny of Sweeney's proposal.<sup>108</sup> In October and November, the town's Department of Natural Resources, the town office charged with responsibility for conservation lands and wetlands, held more public hearings on whether the project met the standards not only of the state Wetlands Protection Act, but also of the town's more stringent regulations. Taking advantage of the environmental step in the regulatory process, neighboring homeowners raised questions in public hearings and private communications with town officials about drainage, traffic, sewage treatment, land erosion and sediment, and the effects of construction blasting. Technical reports flew back and forth between the opponents' experts and Sweeney's planning engineer. At the last public hearing held on November 5, 2002, more than 50 people showed up.<sup>109</sup>

Despite the homeowners' consultant's conclusion that Sweeney's revised drainage calculations were inadequate, the Acton Planning Board on December 17, 2002 provisionally approved Colonial Acres. Cognizant of the homeowners' objections, the planning board imposed numerous extra conditions on the application. The board's requirements included making road and traffic improvements, complying with state storm water standards and other drainage requirements, building specified sidewalks, and proper landscaping of the grounds.<sup>110</sup>

On this last point, the board was particularly concerned about preserving shade trees on the property, carefully specifying that only a limited number of trees could be cut and that a "qualified arborist" would determine which trees to preserve and how to protect remaining trees from being hurt by grading and construction. Following up on this provision, Sweeney hired a professional environmental consultant, which issued a "Shade Tree Analysis" report for the Colonial Acres IV site. In July 2003, the Municipal Properties Department reviewed and approved the shade tree report.<sup>111</sup>

For much of 2003, Sweeney prepared to implement his subdivision plan. The developer requested amendments to the original scheme—asking for and receiving permission to delay the \$300,000 affordable housing fee until the subdivision's first building permit was issued. He submitted legal documents to the town. He delivered performance bonds for storm water management, potential environmental damage on neighboring homes from blasting and construction and landscape plantings, and made other adjustments to the plans.

Even as the application for the Colonial Acres subdivision went forward, the project's opponents applied pressure on the developer. In September 2003 concerned residents pressed the town planner, who announced tours of the site in early October and a planning board meeting on October 15 at which the board would decide whether to issue the final "red line" approval. Even after the board approved Sweeney's changes and the developer's lawyers sent a letter with the official acknowledgement of a "Prohibition against the Construction of Additional Dwelling Units," the residents remained vigilant. In November 2003 they officially reconstituted the Forest Glen Association to fight off further threats to their quality of life and eventually to serve a social organization.<sup>112</sup>

Diametrically opposed interests probably made it inevitable that the Forest Glen area residents and Sweeney would clash, but Sweeney's manner and methods further agitated



the locals. Sweeney took great pride in home building—he told people he considered the land to be his painter’s canvas—and throughout his career promoted the cause of affordable housing. Yet the home builder, a go-getter with a keen knowledge of land use rules, aggressively pursued his ends and had little patience with those who could not see the virtue of his cause. That he was prone to delay his projects for long periods only made those who were inclined to oppose him more suspicious. And he could be abrasive toward those who challenged him, which no doubt further stirred up his opponents.<sup>113</sup>

Regardless of where the fault lay, the relentless struggle with the neighbors of the Colonial Acres IV subdivision left Sweeney in late 2003 feeling drained financially and emotionally. The legal, engineering, permit, and affordable housing fees had added nearly \$34,000 to his cost for each lot. More steps in the permitting process still lay ahead, and Sweeney feared the further obstacles that Forest Glen residents might throw in front of him. Moreover, the planning board retained control of design particulars, including the right to approve the architectural style of the houses. Weary of the battle, Sweeney on October 27, 2003, sold Colonial Acres IV to Symes Associates, a large company with reserves sufficient to sustain the project during a protracted process. Symes Associates now took up the task of actually building the homes in the project. Sweeney still kept a hand in it, by arranging for his firm to prepare the sites by clearing and excavating the land for the houses, but he passed all future headaches of negotiation on to someone else.<sup>114</sup>

In January 2004, the town released the lots to Symes for development and began to issue building permits. That same month, following the terms of the sale agreement, Sweeney made the \$300,000 affordable housing contribution. Construction proceeded, and by December neighbors had begun to complain that Squirrel Hill Road needed stop signs to slow traffic.<sup>115</sup>

In retrospect, Colonial Acres IV moved relatively quickly through Acton’s regulatory process. The formal approval process for Colonial Acres IV from preliminary proposal to final acceptance took about a year, a shorter approval period than that of the Colonial Acres II some years earlier and fairly expeditious by Massachusetts town standards in the early 2000s. That both Sweeney and the Acton planning department were familiar with the PCRC planning process no doubt helped pave the way.

Nonetheless, Acton’s regulatory process for Colonial Acres IV was far more expensive and complicated than it had been for its predecessor, Colonial Acres II. The basic procedure combined with the challenges posed by local opponents required the developer to pay permitting fees as well as the bills for a variety of technical analyses, all of which significantly raised the project’s cost above what it would have been thirty years before. The processing of Sweeney’s Colonial Acres IV produced nearly five inches of documents in the Acton Planning Department—more than four times the amount generated by the earlier project.<sup>116</sup>

Although Kevin Sweeney—perhaps out of hometown pride—considered Acton to be one of the better communities in which he had worked, he concluded not surprisingly that the town had created a “housing regulation maze.” His successor at Colonial Acres IV, Jeff Rhuda of Symes Associates, agreed that the approval process makes Acton a “bear to do business in” but felt it gave his firm a great business advantage. Because of the town’s high barrier to permitting, he explained, the developer who succeeds in getting a permit has few other home builders to compete with him. Evidence that supported Rhuda’s contention was the quick sale of the Colonial Acres IV houses—within twenty-one months Symes sold twenty-five homes at an average price of \$799,000.<sup>117</sup> (See Figure 12)

## Conclusion

Between the first development of the Sweeney farm and the development of Colonial Acres IV, the town of Acton was transformed from a sleepy, rural community to an affluent outer-suburban town where people complained of traffic congestion. Although Acton thrived, its transformation instigated arguments among its citizens about how much and what sort of development was appropriate. The arguments in turn reflected disagreements over the larger problem of defining the precise character of the town. For as Acton grew and changed, so did the number of people with different perspectives on what Acton was and what it should be.

**Figure 12: A home in the Colonial Acres IV subdivision, where construction began in 2004**



Photograph courtesy of Glenna Lang

The contradictions of growth, or the effects of growth, lay at the heart of the divergent perspectives. New arrivals in Acton appreciated the town's qualities, but not always the same qualities in the same proportion. Actonians cherished its woods, grassy fields, swamps, and ponds—although the damp soil was not without its difficulties—and surviving farms. Many felt Acton's country-like ambiance was a valuable asset to be protected at all costs.

Not all Acton's citizens, however, fixated on preserving the physical character of the town above all else. Some residents enjoyed the scenery, but were primarily interested in the community's other assets, such as its education system. In this group were those who wanted first and foremost to maintain or even enhance the quality of the schools. Similarly, some Actonians felt that the lives of residents would be improved with better facilities—such as sewers—even if that meant expanding the potential for new developments. Still others liked both scenery and services, but placed a higher priority on keeping their property taxes low. These citizens might oppose municipal expenditures, whether they involved purchasing conservation land, expanding the supply of affordable housing, or upgrading schools or waste disposal facilities.

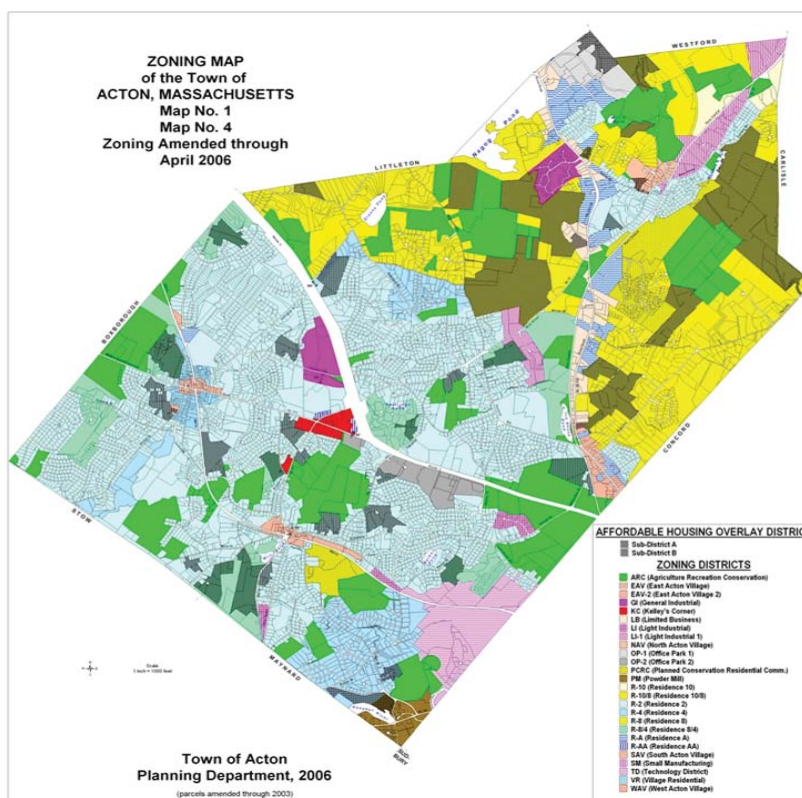
The results of development stirred up feelings of resentment toward growth. As they drove down Acton's main streets, the townspeople recoiled from the appearance of new apartment buildings. Sharing the upper-middle-class sensibilities and aesthetic

notions common in many American suburbs, homeowners rejected apartment buildings as a less appropriate form of local housing than single-family dwellings. Similarly, the replacement of farms or open spaces with housing subdivisions dismayed many residents. Many attributed problems such as rising school costs, overuse of septic systems, and increased traffic congestion to the increase in people brought about by development projects. The result was an abiding irony—common to many outer suburban communities—in which newcomers, or rather new house buyers, wished to prevent others from enjoying the opportunity which they had enjoyed: to settle in Acton. Regardless, as residents reacted to past projects and worried about future ones, important fiscal and planning issues became embroiled in controversies over development.

When it came to town affairs, the diversity of opinions which the growth of the town encouraged unleashed a variety of opposing political forces. Acton's leaders, including its planners, tried to balance the townspeople's frequently conflicting priorities as they pursued what they felt was the best course for the town. Complicating their job was the fact that the state's legal and fiscal framework placed most of the burden of paying for town expenditures on the property tax<sup>118</sup> yet restricted the amount that the tax could be raised. (See Figure 13 for a recent zoning map)

On land use planning and zoning issues, the town accommodated the wishes of landowners and builders by constructing a clear process for considering development proposals. Two factors impelled the creation of a method for approval, as opposed to restricting development entirely. One was the long legal tradition of recognizing the rights of property owners. The other was the need to increase town revenues. Because these mainly derived from property taxes, revenue increases frequently depended on additional development and consequent higher land valuations. In addition, the recent call for affordable housing in the town fostered the approval of development, as to-date the only viable method for increasing the number of low-cost homes involved increasing the total number of homes.

**Figure 13: Acton Zoning, 2006**



On the other side, several factors worked against a liberal policy toward new development. In the absence of a town sewer system, the practical threat to sanitation posed by failing septic systems argued for careful consideration of new housing proposals. The concern about environmental issues, particularly the protection of wetlands, was widely accepted and a part of state law, however it might be interpreted in particular circumstances. The idea that new building projects might incur extra expense to the town also urged caution. Above all, the pervasive desire to maintain the status quo—even if that status quo was forever changing—pushed Acton’s officials to proceed carefully so as to maintain the town’s quasi-rural appearance by protecting its open spaces and surviving historical structures.

The counter-growth factors encouraged Acton officials to fashion a complicated set of land use procedures aimed at carefully controlling any new real estate developments that they approved. As elsewhere, the town over time has increased the number and complexity of land use regulations. The growing requirements that developers provide additional technical reports on the impact of their projects on local hydrology, traffic, and so on, slowed the development process and offered opponents possible targets for shrinking projects or stopping them altogether. And as elsewhere, the regulations frequently fulfilled not only their nominal purpose but others as well. Rules for preserving wetlands, for instance, not only regulated drainage, septic systems, and animal habitats, but also served to maintain rustic scenery and minimize new development.

With uncommon creativity and effort, Acton’s officials and citizens have tried to utilize complex planning mechanisms to balance opposing political forces and produce a result that will benefit the town. The technique of cluster zoning, embodied in the PCRC, allows the town to add dwellings in new subdivisions while preserving open spaces. This compromise has so far been found generally acceptable—and has even made Acton a regional showcase of good planning practices—although the opponents of growth feel the system allows more units than it should.

The town also adopted special zoning to encourage commercial and residential development in village centers, aimed at enhancing the quality of local life, increasing revenues, and preserving historic buildings. This zoning has so far been less than successful. Too few entrepreneurs perceived the village centers as profitable places to do business, possibly because the layers of planning regulations thwarted them or because the town’s many shopping malls and strips undercut the commercial village concept. In any case, the failure to allow dense residential development in these areas deprived the village centers of a critical mass of walking-distance customers who would support a variety of interesting and useful stores.

The town’s policy toward housing development in general reflects the contradictions created by its attempts to resolve conflicting views. On the one hand, the regulatory gauntlet has reassured most citizens that few projects they consider unjustified or inappropriate will be approved—even if anti-growth advocates remain suspicious of the town’s development policies. On the other hand, the regulatory measures and process have slowed and added expense to development projects. Although few but developers may be upset by this, it has made it harder for Acton to house the range of income groups many in town purport to desire. Indeed, such policies have made it almost impossible to develop any significant numbers of low- and moderate-income dwellings. Ironically, this in turn has opened the door to the state’s 40B comprehensive permitting, which overrules local zoning and allows the kind of high density development the zoning was designed to obstruct.



Acton's policies—and their circumstances—have enabled the town to grow faster than most other nearby towns and yet retain its semi-rural suburban appearance. Between 1950 and 2000, Acton increased the number of residents more than all other towns, including Concord and Sudbury, both of which had larger land areas than Acton. Between 1970 and 2000, Acton added more residents to its total than every other neighboring town except Westford, which in that period increased its population far more than any other community in the area. By 2000, Acton had a greater population than all of its neighbors, save the recent fast-growth town of Westford. Nonetheless, as they worried about future change, most Actonians felt that their community had so far managed to preserve many of the characteristics—from high-quality schools to plentiful open spaces—that made it special and desirable.

In the end, the land use regime that evolved in Acton over the fifty years since Daniel Sweeney first gave up farming for home building may well exemplify the best solution that people of good will and intelligence may devise under the present legal and political framework in Massachusetts. Yet it remains an uneasy and contradictory system. It lacks a simple mechanism for resolving the opposing forces related to growth. It has been better at reconfiguring the shape of suburban subdivisions than at encouraging affordable housing or commercial village centers. It also fails—as do policies in virtually all local communities—to consider seriously and systematically how local actions might contribute to the needs of the larger regions to which it belongs.

True to its contradictory nature, Acton represents both a fine example of progressive planning and the daunting challenges of finding broadly satisfactory growth policies.



## Endnotes

<sup>1</sup> Acton Planning Board (APB), *Acton Master Plan Update* (Acton, Massachusetts: 1998), available at <http://doc.acton-ma.gov/dsweb/Get/Document-8343/Acton+Master+Plan.pdf>, 149-150.

<sup>2</sup> APB, *Acton Master Plan Update*, 152-154. Acton and its neighboring communities are located outside of the service area of the Massachusetts Water Resources Authority, which provides water and sewage treatment to 2.5 million people in 61 Boston area communities. See <http://www.mwra.state.ma.us/02org/html/whatis.htm>, viewed February 9, 2009.

<sup>3</sup> The elected officials of Acton include the town moderator (who appoints the town finance committee members), five selectmen, and members of the Acton School Committee (who also serve on the Acton-Boxborough Regional School Committee that oversees the regional junior high and high schools) and the water commission. According to Acheson Callaghan, former Acton town counsel, residents showed up at town meeting in large numbers when schools or dog regulations were at stake. Acheson Callaghan, conversation, April 6, 2009; Christina Rosan and Lawrence Susskind, with Ona Ferguson, David Fairman, Marina Psaros, *Land Use Planning in the Doldrums: Case Studies of Growth Management in the I-495 Region* (Cambridge, Mass.: Rappaport Institute for Greater Boston, 2007), 10.

<sup>4</sup> For Acton's bylaws, see <http://www.town.acton.ma.us/uploadedFiles/About/General%20Bylaws%202007.pdf> viewed January 9, 2009; for a summary of the town government, see [http://en.wikipedia.org/wiki/Acton,\\_Massachusetts](http://en.wikipedia.org/wiki/Acton,_Massachusetts) viewed December 5, 2008.

<sup>5</sup> <http://www.actonminutemen.org/>, viewed February 9, 2009.

<sup>6</sup> William A. Klauer, "Introduction, *Images of America: Acton*. Mount Pleasant, South Carolina: Arcadia Publishing. 2001), 1; Acton Historical Society, *A Brief History of Acton* (Acton: Beacon Publishing Company, 1974), 33-35; Massachusetts Department of Conservation and Recreation and Freedom's Way Heritage Association, *Acton Reconnaissance Report* (Boston: Commonwealth of Massachusetts, 2006), 1-2; Roland Bartl, interview by author, Acton, Massachusetts, May 9, 2005.

<sup>7</sup> Acton Historical Society, *Brief History*, 41-42; Harold R. Phalen, *History of the Town of Acton* (Cambridge, MA: Middlesex Printing, Inc., 1954), 363-365.

<sup>8</sup> The United States Hanscom Air Force base near Bedford, Massachusetts, served as a major source of government contracting for electronic technology in the region. The base was used during World War II to develop radar technology and after the war to build the Semi Automatic Ground Environment (SAGE) air defense system as well as other technological products of the Air Force's Electronic Systems Division. The base supported MIT's Lincoln Laboratory and the MITRE Corporation, among other government contractors. General Radio was later renamed GenRad, Inc. which was purchased by Teradyne, Inc. in 2001 and relocated to North Reading. Arthur E. Thiessen, *A History of the General Radio Company* (West Concord, Massachusetts: General Radio Company, 1965) 56; Alan R. Earls, *Digital Equipment Corporation* (Arcadia Publishing, 2004).

<sup>9</sup> <http://www.route128history.org/id8.html>; Michael H. Best, "Discovering Regional Competitive Advantage: Route 128 vs. Silicon Valley," paper delivered at the DRUID Summer Conference, Copenhagen Business School, Denmark

June 18, 2006, revised July 7, 2006; Erik Mellgren, "The Ongoing Story of the Route 128 Minicomputer Industry," Xconomy Boston, July 24, 2008, <http://www.xconomy.com/boston/2008/07/24/the-ongoing-story-of-the-route-128-minicomputer-industry/>, viewed February 14, 2009 See also Alan R. Earls, *Route 128 and the Birth of the Age of High Tech* (Charleston: Arcadia Publishers, 2002).

<sup>10</sup> Barry Bluestone and Mary Huff Stevenson, *The Boston Renaissance : Race, Space, and Economic Change in an American Metropolis* (New York: Russell Sage Foundation, 2000), 92-95; Eastern Roads, Yankee Division Highway Historic Overview, <http://www.bostonroads.com/roads/MA-128/>, viewed December 16, 2008; Massachusetts Executive Office of Transportation, *Interstate 495 Corridor Transportation Study*, Project History, <http://www.495studyinfo.com/history.asp>, viewed December 16, 2008; [http://www.bostonroads.com/roads/I-495\\_MA/](http://www.bostonroads.com/roads/I-495_MA/) viewed February 23, 2009; Alan A. Altshuler and David E. Luberoff, eds. *Mega-Projects The Changing Politics of Urban Public Investment* (Washington, D.C.: Brookings Institution Press and Boston: Lincoln Institute Of Land Policy, 2003), 79.

<sup>11</sup> In 1950 Route 2 was moved to coincide with Massachusetts Avenue and the old Union Turnpike (laid out in 1806) and at the juncture of Route 27 and then in West Acton was extended as new road connecting points west.

<sup>12</sup> Acton Historical Society, *A Brief History of Acton*, 45-46; roads: Massachusetts Department of Conservation and Recreation and Freedom's Way Heritage Association, *Acton Reconnaissance Report*, 3; United States Census.

<sup>13</sup> Jeff Rhuda, e-mail communication to author, February 26, 2009; David E. Dowall, *The Suburban Squeeze:*

*Land Conversion and Regulation in the San Francisco Bay Area* (Berkeley: University of California Press: 1984).

<sup>14</sup> Commonwealth of Massachusetts, Department of Housing and Community Development, *Subdivision Control: An Overview of the Subdivision Control Law* (Boston: Commonwealth of Massachusetts, 1998), 1; Protective Zoning By-Law of the Town of Acton, Massachusetts, enacted December 16, 1953.

<sup>15</sup> Don Johnson, telephone interview by author, Acton, Massachusetts, May 31, 2005; Alexander von Hoffman, "Creating an Anti-Growth Regulatory Regime -A Case from Greater Boston," Working Paper Series, Rappaport Institute for Greater Boston and Taubman Center for State and Local Government, Kennedy School of Government, Harvard University, 2006.

<sup>16</sup> AGPC, *Local Growth Policy Statement*, 6; Town of Concord, Zoning Bylaw, preamble, [http://www.concordnet.org/Pages/ConcordMA\\_Bylaws/zoning](http://www.concordnet.org/Pages/ConcordMA_Bylaws/zoning)> viewed January 10, 2009; Pioneer Institute/ Rappaport Institute for Greater Boston, Housing Regulation Database of Massachusetts Municipalities. Available at <<http://masshousingregulations.com/dataandreports.asp>>. For history of Concord parks, see U.S. Fish and Wildlife Service, *Great Meadows National Wildlife Refuge*, <[http://library.fws.gov/Refuges/great\\_meadows01.pdf](http://library.fws.gov/Refuges/great_meadows01.pdf)>, viewed February 10, 2009; W. Barksdale Maynard, *Walden Pond: A History* (New York: Oxford University Press, 2004).

<sup>17</sup> Acton Growth Policy Committee, *Acton Local Growth Policy Statement*, distributed by Massachusetts Office of State Planning, July 1976, 6, 8; Pioneer database/ APB, *Subdivision Rules and Regulations* (2001).

<sup>18</sup> Acton Growth Policy Committee (AGPC), *Acton*

*Local Growth Policy Statement*, Answers to Growth Policy Questionnaire, Massachusetts Office of State Planning, July 1976, 1.

<sup>19</sup> Protective Zoning By-Law of the Town of Acton, enacted December 16, 1953.

<sup>20</sup> Application for Approval of Definitive Plan by Colonial Acres Development Company (Daniel Sweeney, Paul Sweeney, and Robert E. Sweeney), August 29, 1955 and Restriction Agreement, Colonial Acres Development Company, October 31, 1955; Colonial Acres folder, APB. In the following years, the Sweeneys revised the original submission. See for example, Colonial Acres subdivision site plan, May 15, 1961, *ibid*.

<sup>21</sup> Acton Historical Society, *A Brief History of Acton*, 45.

<sup>22</sup> "Residents, Developers Debate at Davis Farm Subdivision Hearing," *Assabet Valley Beacon*, October 17, 1968.

<sup>23</sup> The R-1 zoning set the minimum street frontage as 200 feet, front setback as 45 feet, and rear and side setbacks as 20 feet.

<sup>24</sup> Protective Zoning By-Law of the Town of Acton, amendments, November 4, 1963; December 5, 1966.

<sup>25</sup> Protective Zoning By-Law of the Town of Acton, amendments, November 4, 1963; March 16, 1964.

<sup>26</sup> In keeping with the confusing nomenclature of New England roads, the Acton thoroughfare known as Great Road or Route 2A also coincides with Route 119. "Size of Proposed Acton Apartment House Development Scored by Planning Board," *Assabet Valley Beacon*, December 30, 1965; "Apartment House Construction Paces Acton Building Boom," *Assabet Valley Beacon*, October 3, 1968; AGPC, *Local Growth Policy Statement*, 1.

<sup>27</sup> The Town of Arlington, Massachusetts, adopted anti-multifamily regulations about five years later. See von Hoffman,

"Creating an Anti-Growth Regulatory Regime." Jenny Schuetz, "Guarding the Town Walls: Mechanisms and Motives for Restricting Multi-family Housing in Massachusetts," Working Paper Series, Rappaport Institute for Greater Boston and Taubman Center for State and Local Government, Kennedy School of Government, Harvard University, 2006.

<sup>28</sup> In 1970, the town also adopted an amendment that increased the dimensional requirements for buildings with more than five units. Town of Acton, Protective Zoning Bylaw of the Town of Acton (hereafter Acton Zoning Bylaw), as revised November 18, 1968; amended March 30, 1970; and amended March 17, 1971; AGPC, *Local Growth Policy Statement*, 1; Acton Building Department, permit data, 1978-2007 (after the department stopped recording the number of multifamily units); APB, *Acton Master Plan Update*, 30, 105, 119 (which states no multifamily buildings were constructed between 1991 and 1998).

<sup>29</sup> Acheson Callaghan, interview by author, Cambridge, Massachusetts, July 21, 2005; Massachusetts Bellows Farms, Inc. and Others vs. Building Inspector of Acton and Others, 364 Mass. 253-264 (1973), available at <<http://masscases.com/cases/sjc/364/364mass253.html>>; Commonwealth of Massachusetts Department of Housing and Community Development, *Subdivision Control--An Overview of Subdivision Control Law* (Boston: Department of Housing and Community Development, 1996, revised August 1998), 52-53; Mark Bobrowski, *Handbook of Massachusetts Land Use and Planning Law: Zoning, Subdivision Control, and Nonzoning Alternatives* (New York: Aspen Law & Business Publishers, 2002), 172.

<sup>30</sup> AGPC, *Local Growth Policy Statement*, 1, 4-5, 24.



<sup>31</sup> AGPC, *Local Growth Policy Statement*, 1, 7.

<sup>32</sup> AGPC, *Local Growth Policy Statement*, 1. The new elementary schools were the Merriam, Douglas, Gates, and Conant schools, respectively. Until 1925, Acton students attended Concord High School. Littleton was originally supposed to be part of the regional high school, but bowed out of halfway through the process. See <[http://en.wikipedia.org/wiki/History\\_of\\_Acton,\\_Massachusetts](http://en.wikipedia.org/wiki/History_of_Acton,_Massachusetts)> Kelley's Corner is located at the intersection of Massachusetts Avenue (Route 111) and Main Street (Route 27), near Route 2.

<sup>33</sup> The Acton Water District held another two percent of the town's land as open space. AGPC, *Local Growth Policy Statement*, 2, 6; Massachusetts Department of Conservation and Recreation and Freedom's Way Heritage Association, *Acton Reconnaissance Report* (2006), 9, 27.

<sup>34</sup> Cymie Payne, "Local Regulation of Natural Resources: Efficiency, Effectiveness, and Fairness of Wetlands Permitting in Massachusetts," *Environmental Law* 28 (1998), 533-534. Commonwealth of Massachusetts, General Laws of Massachusetts, Chapter 131, Section 40.

<sup>35</sup> AGPC, *Local Growth Policy Statement*, 1, 6, 23.

<sup>36</sup> Indeed, Sweeney had recently run afoul of the Wetlands Protection Act. In September 1976 the Acton Conservation Commission issued a cease-and-desist order to Sweeney's contracting company because it had failed to get the required approval for filling land near the adjacent Chamberlayne farm, explaining that even if the filling was intended for agricultural purposes, the land was still protected under the Wetlands Protection Act. Complicating the issue, however, were informal agreements in 1967 Sweeney had made with the town for piping the stream and filling the wetland.

Thomas E. Moroney, "Colonial Acres II: a Split Decision," *Acton Minute-Man*, December 29, 1977; APB, Minutes, November 21, 1977, Acton Planning Board, Acton, Massachusetts. Acton Conservation Commission to KBS, Inc., September 1, 1976.

<sup>37</sup> Thomas E. Moroney, "Colonial Acres II: a Split Decision," *Acton Minute-Man*, December 29, 1977; Thomas E. Moroney, "Sweeney Defends Colonial Acres II," *Acton Minute-Man*, January 12, 1978.

<sup>38</sup> Jim Stettler, "Developer Proposes Piped Brook as Road Bed," *Assabet Valley Beacon*, December 29, 1977.

<sup>39</sup> L&S Builders (Lunn and Sweeney), Application for "Tentative Approval of Preliminary Plan," March 24, 1977, Submission Documents, Hearing and Decisions, and Dept Reviews folder (hereafter Submission folder), APB; APB letters to engineering department, fire department, water district board, conservation commission, board of health, and recreation commission, March 11, 1977, Submission folder, APB.

<sup>40</sup> Acton Engineering Department to APB, review of preliminary plan, April 15, 1977, Submission folder, APB; Acton Conservation Commission (ACC) to APB on preliminary plan review, April 26, 1977, *ibid*; ACB to Kevin Sweeney, May 16, 1977, *ibid*.

<sup>41</sup> Definitive Plan as submitted by Acton Survey and Engineering to APB, March 24, 1977, Submission folder, APB; "Annual Review Sheet" August 9, 1979, APB; Certificate of Action, December 20, 1977, Submission folder, APB; Dorris Hilberg, "Colonial Acres II Conditionally Approved," *Assabet Valley Beacon*, December 22, 1977, 18.

<sup>42</sup> Moroney, "Colonial Acres II: a Split Decision."

<sup>43</sup> Moroney, "Colonial Acres II: a Split Decision."

<sup>44</sup> Moroney, "Colonial Acres II: a Split Decision," Stettler, "Developer Proposes Piped Brook as Road Bed; Thomas E.

Moroney, "New Hearing Set for Colonial Acres II," *Acton Minute-Man*, January 12, 1978.

<sup>45</sup> Dorris Hilberg, "Wetlands Hearing Mired on Ground-water Issue," *Assabet Valley Beacon*, January 26, 1978, 2; Jim Stettler, "Snow Storm Throws Colonial Acres Decision to State," *Assabet Valley Beacon*, February 23, 1978.

<sup>46</sup> Thomas E. Moroney, "Neighbors Voice Strong Opposition," *Acton Minute-Man*, January 12, 1978.

<sup>47</sup> Ellen Sears Sansone, Letter to the Editor, *Acton Minute-Man*, January 5, 1978.

<sup>48</sup> Thomas E. Moroney, "Sweeney Defends Colonial Acres II," *Acton Minute-Man*, January 12, 1978; Hilberg, "Wetlands Hearing Mired."

<sup>49</sup> Stettler, "Snow Storm Throws Colonial Acres Decision to State."

<sup>50</sup> Appeal from Lunn and Sweeney to Massachusetts Department of Environmental Quality Engineering (DEQE), February 24, 1978, Submission folder, APB; Louis Levine, (attorney for Lunn and Sweeney) APB, February 27, 1978, *ibid*; Minutes, APB meeting, March 13, 1978, *ibid*; APB to Louis Levine, March 17, 1978, *ibid*; ACC to DEQE, April 26, 1978, *ibid*; ACC appeal to DEQE, August 26 and September 5, 1978, *ibid*; APB, approval of definitive plan, September 11, 1978, *ibid*.

<sup>51</sup> The law limited the amount of revenue a community can raise to no more than 2.5 percent of the value of all taxable property and prohibited any raise in taxes to a maximum of 2.5 percent of the prior year's tax level. For more information and linked references, see Massachusetts Municipal Association, Proposition 2½ Resource Area, available at <[http://www.mma.org/index.php?option=com\\_content&task=view&id=2179&Itemid=484](http://www.mma.org/index.php?option=com_content&task=view&id=2179&Itemid=484)>. A precipitating and enduring event affecting the politics of local property taxes

was the Tregor decision, (Norman Tregor, Trustee, vs. Board Of Assessors Of Boston, 377 Mass. 6021-615 [1979] which prevented towns from keeping assessments unusually low for existing homeowners, who then had an interest in keeping town expenditures low and thus often opposed development that they perceived as raising local property taxes.

<sup>52</sup> Callaghan, interview. For a recent assessment of the long-standing commitment in Acton to high-quality schools and its relationship to housing, see Community Opportunities Group, Inc. *To Live in Acton--Executive Order 418 Community Development Plan* (Boston: 2004), 1, 4, 15, 18, 20.

<sup>53</sup> Doré Hunter, interview by author, Acton, Massachusetts, May 4, 2005; Callaghan, interview.

<sup>54</sup> Peter G. Rowe, *Making a Middle Landscape* (Cambridge, Mass.: MIT Press, 1991), 206-207; William H. Whyte, *Cluster Development* (New York, American Conservation Association, 1964); Pioneer Institute Housing Regulations Database, Zoning Questions, questions 13 and 15.

<sup>55</sup> The minimum lot size ranged from 20,000 to 30,000 square feet; the minimum lot frontage was 50 feet; the front setback was 45 feet, and the rear/side setbacks were 20 feet.

<sup>56</sup> Article 4: Section IV J, Excerpt of the Proceedings of Town Meeting, 217-219, Acton Zoning Bylaw, as amended April 1981.

<sup>57</sup> Article 7: Section IV C, Excerpt of the Proceedings of the Special Town Meeting Held May 17, 1982, 220-227, Acton Zoning Bylaw, as amended May 1982.

<sup>58</sup> Metropolitan Area Planning Council, *The Conservation Subdivision Design Project: Booklet for Developing a Local Bylaw* (Boston: Massachusetts Executive Office of Environmental Affairs, 2000)

Appendix A – Bylaw Review, 41.

<sup>59</sup> The 406 units that were built in 13 PCRC or Open Space Development (OSD) projects constructed between 1982 and 2005 was less than 417, the number that standard zoning would have allowed. Of the 13 projects, five produced about the same (two or less) number of units as would have been possible under standard zoning; three produced significantly less, and five significantly more. Pioneer Institute/Rappaport Institute, Housing Regulations Database Table, Residential Units Permitted Under PCRC or OSD Special Permits, for Town of Acton.

<sup>60</sup> Roland Bartl, interview by author, Acton, Massachusetts, May 9, 2005

<sup>61</sup> Bartl, interview; APB, *Acton Master Plan Update* (Acton, Massachusetts: 1998), available at <http://doc.acton-ma.gov/dsweb/Get/Document-8343/Acton+Master+Plan.pdf>, 5.

<sup>62</sup> APB, *Acton Master Plan Update*, 5, 53; Taintor and Associates, Projects: Acton Master Plan, <<http://www.taintorassociates.com/projects/acton/>>viewed September 24, 2008.

<sup>63</sup> The Historic District Study Committee worked with an historical consultant and the Acton Planning Department. Acton Historic District Study Committee, *Final Study Report, Acton Historic District Study Committee* (1990); Anne Forbes, phone interview by author, Acton, Massachusetts, September 29, 2008; for bylaw and district votes (Articles 4-7, 1990) see Town of Acton, Massachusetts, *Annual Report for 1990* (1991), 98-102. APB, *Acton Master Plan Update*, 166.

<sup>64</sup> APB, *Acton Master Plan Update*, 59-60; Callaghan, interview.

<sup>65</sup> According to Ann Verrilli of the Citizens Housing and Planning Association, in 1997, the average percentage of subsidized housing

inventory for all communities was 4.29 percent and the median was 3.63 percent. These figures are lower than the statewide percentage of about 8.5 percent because in the largest cities, which have the largest share of the state's housing, far more than 10 percent of the total housing stock is subsidized, while in the state's numerous small towns subsidized housing makes up less than 2 percent of the overall stock. E-mail communication, Ann Verrilli to Karen Wiener, Wednesday, March 04, 2009, courtesy of Karen Wiener.

<sup>66</sup> Bartl, interview; APB, *Acton Master Plan Update*, 11, 21, 113-114; Community Opportunities Group, *To Live in Acton*, 25; Rosan and Susskind, *Land Use Planning in the Doldrums*, 10-11.

<sup>67</sup> Bartl, interview; Callaghan, interview; APB, *Acton Plan Update*, 23-24, 35, 36.

Figures for public school enrollment include elementary, junior, and high schools. For MCAS rankings, see

<[http://www.boston.com/news/education/k\\_12/mcas/\[year\]/](http://www.boston.com/news/education/k_12/mcas/[year]/)>. For more on school quality and population shifts in Massachusetts, see Katharine L. Bradbury, Karl E. Case, and Christopher Mayer, "School Quality and Massachusetts Enrollment Shifts in the Context of Tax Limitations," *New England Economic Review*, 1998 (July-August), 3-20, available at <<http://www.bos.frb.org/economic/neer/neer1998/neer498a.pdf>>.

<sup>68</sup> APB, *Acton Plan Master Update*, 11.

<sup>69</sup> APB, *Acton Plan Master Update*, Appendices 1-3, 233-252.

<sup>70</sup> APB, *Acton Master Plan Update* Executive Summary (Acton: Acton Planning Board, 1998) 18 (quotations), 19-21; Rosan and Susskind, *Land Use Planning in the Doldrums*, 11.

<sup>71</sup> Plan Acton: A Web Site Dedicated to Fostering the Exchange of Information on

Growth Issues Facing the Town of Acton Massachusetts, <<http://planacton.tripod.com/>>, entry dated December 2000, viewed Monday, May 02, 2005. (Site is no longer active.)

<sup>72</sup> APB, *Acton Master Plan Update*, 155, 161; “Chapter F: Wetland Protection,” General Bylaws of the Town of Acton, 2007, 5; Town of Acton Natural Resources Department, “oldbylaw.doc.” The author is grateful to Andrea Ristine of the Town of Acton Natural Resources Department for department documents and her recollections of the changes in wetlands regulations (conversation with author, March 18, 2009).

<sup>73</sup> Town of Acton Natural Resources Department, Microsoft Word file, “oldbylaw.doc;” APB, *Acton Master Plan Update*, 161.

<sup>74</sup> Town of Acton, Annual Town Meeting April 1, 1996 4/2/96-Article 44, Section F3.15; Section F3.14; Section F8.3. Compare to General Laws of Massachusetts, Chapter 131. Inland Fisheries and Game and Other Natural Resources, Chapter 131: Section 40, Removal, fill, dredging or altering of land bordering waters. The changes the Natural Resources Department staff made in 1995 and 1996 to the language of the wetlands bylaw, “Chapter F. Environmental Protection,” can be traced in Town of Acton Natural Resources Department, Microsoft Word file, “cc-bylaw.doc.”

<sup>75</sup> APB, *Acton Master Plan Update*, 155-156 (quotation); APB, *Acton Plan Update Executive Summary*; 28.

<sup>76</sup> APB, *Acton Master Plan Update Executive Summary*; 28.

<sup>77</sup> Callaghan, interview. See also Edward L. Glaeser, Jenny Schuetz, and Bryce Ward, “Regulation and the Rise of Housing Prices in Greater Boston,” Working paper Series, Rappaport Institute for Greater Boston, Harvard University and Pioneer Institute for Public Policy Research, 2006, 27-28, which

argues that when communities adopt strict wetlands regulations, new construction declines by about 10 percent.

<sup>78</sup> Town of Acton, Abstract of Annual Town Meeting, Article 34 Amend Wetlands Protection Bylaw, April 7, 2003. Available at <<http://doc.acton-ma.gov/dsweb/Get/Document-16198/2003TMAAbstract.pdf>>.

<sup>79</sup> Susan Mitchell-Hardt, telephone interview by author, Acton, Massachusetts, October 6, 2008; “The Robbins Mill Pond Land Project in Review,” (Acton Conservation Trust) *Land Trust News* 2:1 (November 2000), 2; Citizens for Acton Community Preservation, “Preserving Acton, Recent Eligible Projects,” <<http://64.105.205.114/PreserveActon/preserve.htm>> viewed November 20, 2008. Acton’s receipts from the state have far surpassed the town’s contributions to the state CPA fund. See Robin Sherman and David Luberoff, “The Massachusetts Community Preservation Act: Who Benefits, Who Pays?” Working Paper Series, Rappaport Institute for Greater Boston, 2007, appendix. The town’s fiscal condition is inferred from the dramatic rise in expenditures from about 1995, presumably enabled by increasing commercial development, but especially by the rise in assessed home values and therefore property tax revenues. For school and non-school expenditures from 1990 to 2001, see Rosan and Susskind, *Land Use Planning in the Doldrums*, 7. For Charles Kadlec’s position on town tax issues, see Christian Schiavone, “Acton Keeps Spot Among Top Taxed,” *Acton Beacon*, February 21, 2008, <http://www.wickedlocal.com/acton/archive/x565321367> (viewed May 27, 2009); for local proponents of lower taxes, see Acton Voters Group, <http://www.actonvotersgroup.com/> (viewed May 27, 2009).

<sup>80</sup> Massachusetts Community Preservation Act, <[\[www.communitypreservation.org/index.cfm\]\(http://www.communitypreservation.org/index.cfm\)>, viewed November 19, 2008; Mitchell-Hardt, telephone interview; Citizens for Acton Community Preservation, Preserve Acton, <<http://64.105.205.114/PreserveActon/Default.htm>>, viewed November 20, 2008; Julien Grobach, “Town discusses future CPC projects” \*The Beacon\* \(see TownOnline.com\), September 30, 2004. The Town of Acton has acquired two parcels adjacent to the town conservation lands and that of the Acton Conservation Trust.](http://</a></p>
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<sup>81</sup> Recent changes in the composition of the Acton Board of Selectman—with the election of land conservation activist Andrew Magee and anti-growth gadfly Terra Friedrichs—and Johnson’s retirement and the appointment of a new town manager may have altered the political balance toward the land conservation interests. Hunter, interview; Johnson, interview; Mitchell-Hardt, interview; Grobach, “Town discusses future CPC projects.”

<sup>82</sup> In the mid 2000s, pro-school members of the Board of Selectmen twice persuaded the townspeople to vote to override Proposition 2 1/2 to allow substantial tax hikes (\$3 million and \$3.8 million respectively) to pay for school operating expenses, but the town became increasingly resistant to any more such override provisions. Rosan and Susskind, *Land Use Planning in the Doldrums*, 6-7, 8, note 8.

<sup>83</sup> Rosan and Susskind, *Land Use Planning in the Doldrums*, 7; Johnson, interview; Callaghan, interview.

<sup>84</sup> The 2000 travel habits showed a slight shift away from driving alone. Bartl, interview; U.S. Census, Acton Town, Middlesex County, Massachusetts, Table DP-3. Profile of Selected Economic Characteristics: 2000; APB, *Acton Master Plan Update*, 215-240 (1990 travel to work statistics on 224, table 63); Community Opportunities Group,



*To Live in Acton*, A-5.

<sup>85</sup> Furthermore, a consent order issued by the Massachusetts Department of Environmental Protection required the improvement of the waste disposal at the schools.

<sup>86</sup> The financing approved in 1999 placed \$1.3 million of the cost for general improvements such as street paving on general taxpayers and deferred \$1.2 million for extra capacity on future users of an expanded system. Callaghan, interview; Hunter, interview; Acton State of the Town Meeting November 13, 2007; Abstract of the 1997 Annual Town Meeting, April 7, 1997; Doré Hunter, e-mail to author, May 27, 2009; John Murray, telephone conversation with author, Acton, Massachusetts, May 28, 2009; Robert Burgess, "Report Calls for W. Acton Sewer," *The Beacon* (TownOnline.com), April 26, 2006. For records of abstracts of town meetings and special town meetings, see <<http://ma-acton.civicplus.com/Archive.aspx?AMID=55>> (viewed May 28, 2009).

<sup>87</sup> Frequently, apartment buildings in Acton are served by private waste water treatment systems. Sally Heaney, "Outlook Grim on Waste Water; Official Says Septic Systems Deficient," *Boston Globe*, November 21, 2004; Burgess, "Report Calls for W. Acton Sewer;" Massachusetts Department of Conservation and Recreation and Freedom's Way Heritage Association, *Acton Reconnaissance Report*, 14.

<sup>88</sup> APB, *Acton Master Plan Update*, 61; Acton Community Housing Corporation, "Affordable Housing in Acton," Fact Sheet, March 25, 2008, <<http://doc.acton-ma.gov/dsweb/Get/Document-17482/Affordable%20housing%20handout%20ACHC.pdf>> viewed November 18, 2008.

<sup>89</sup> For the operations of the Massachusetts 40B law, see Lynn Fisher, "Chapter 40B Permitting and Litigation, A Report by the

Housing Affordability Initiative," Working Paper, MIT Center for Real Estate, Cambridge, Massachusetts, 2007.

<sup>90</sup> APB, *Acton Plan Master Update*, 113, ff, 123; Community Opportunities Group, *To Live in Acton*, 24-25.

<sup>91</sup> Community Opportunities Group, *To Live in Acton*, 36; APB, *Acton Master Plan Update*, 76-77, 119.

<sup>92</sup> APB, *Acton Master Plan Update*, 120.

<sup>93</sup> *Ibid.*

<sup>94</sup> Community Opportunities Group, *To Live in Acton*, 41-43.

<sup>95</sup> Brad Petrishen, "40B Plan Nixed," *Acton Beacon*, July 23, 2007; 40B data from 2000 to 2006, courtesy of Lynn Fisher; Joyce Pellino Crane, "Housing Project Switches Hands," *Boston Globe*, November 5, 2006.

Department of Housing and Community Development (DHCD), "Housing Production Plans," June 2009," online at <http://www.mass.gov/Ehed/docs/dhcd/cd/pp/hpplans.pdf>, last viewed on August 11, 2009; Citizens' Housing And Planning Association (Bonnie Heudorfer), "Update on 40 B Housing Production," March 2007, <[http://www.chapa.org/files/f\\_122089067040BUpdate2007.pdf](http://www.chapa.org/files/f_122089067040BUpdate2007.pdf)> viewed February 12, 2009; DHCD, "Certified Communities," online at [http://www.mass.gov/?pageID=ehedterminal&L=3&L0=Home&L1=Community+Development&L2=Chapter+40B+Planning&sid=Ehed&b=terminalcontent&f=dhcd\\_cd\\_ch40b\\_planprod&csid=Ehed](http://www.mass.gov/?pageID=ehedterminal&L=3&L0=Home&L1=Community+Development&L2=Chapter+40B+Planning&sid=Ehed&b=terminalcontent&f=dhcd_cd_ch40b_planprod&csid=Ehed), last viewed on August 11, 2009.

<sup>97</sup> Sweeney purchased the old Reid farm from a developer in 1993 and renamed it Maple Creek Farm. He assembled the total tract for Colonial Acres IV from three sources: about four acres from the Maple Creek Farm common land; about ten acres from the original Colonial Acres subdivision; and about seven acres from land owned by neighbors, Douglas

and Susan Witcomb. Town Planner to Acton Planning Board, interdepartmental communication, January 2, 2002, Colonial Acres IV PCRC Special Permit Staff Comments/Correspondence folder, APB; APB rolodex, decision 1993-94; Deed, Robert A. Reid III to Ronald B. Peabody [president, Northwest Structures, Inc.], October 8, 1993, Middlesex County Registry of Deeds, Vol. 823751, 173, Ronald Peabody, president); Deed, Ronald B. Peabody to Maple Creek Farm, Inc., December 27, 1993, Middlesex County Registry of Deeds, Vol. 24112, 221-222; Roland Bartl, e-mail correspondence with author, July 1, 2009; Secretary of the Commonwealth of Massachusetts Corporations Divisions, Maple Creek Farm, Inc. Summary, List of Corporations, available at <<http://corp.sec.state.ma.us/corp/corptest/CorpSearchSummary.asp?ReadFromDB=True&UpdateAllowed=&FEIN=043217173>>, viewed July 21, 2009.

<sup>98</sup> History of the Forest Glen Association, <<http://forestglenassociation.com/History.htm>>, viewed September 23, 2008.

<sup>99</sup> Russell Hart, telephone interview by author, Acton, Massachusetts, April 5, 2009.

<sup>100</sup> Release Deed, PERT Corporation to Craig Muzilla, Jean E. Smith and Marlene N. Steger, Trustees of Maple Creek Farm Homeowners Trust, October 23, 2001, Middlesex County Registry of Deeds, Vol. 33875, 552-553; Quitclaim Deed, Craig Muzilla, *et al.* to PERT Corporation, October 23, 2001, Middlesex County Registry of Deeds, Vol. 33875, 546-547; Easement, PERT Corporation to Craig Muzilla, *et al.*, October 23, 2001, Middlesex County Registry of Deeds, Vol. 33875, 548; Quitclaim Deed, Muzilla *et al.* to PERT Corporation, October 23, 2001, Middlesex County Registry of Deeds, Vol. 33875, 549-550;



Release Deed, PERT Corporation to Muzilla *et al.*, October 23, 2001, Middlesex County Registry of Deeds, Vol. 33875, 552-553. Kevin Sweeney was the president of PERT Corporation; Acheson Callaghan, communication with author.

<sup>101</sup> Colonial Acres IV Site Plan, Colonial Acres IV PCRC Special Permit Application folder, APB.

<sup>102</sup> Notice of Public Hearing to be held on January 14, 2002, December 20, 2001, Colonial Acres IV PCRC Special Permit Application folder, APB; Interdepartmental communication to Planning Board, April 26, 2002, *idem*; Decision 02-15-PCRC Special Permit – Colonial Acres IV, December 17, 2002, Colonial Acres IV PCRC Special Permit Decision and Hearing folder, APB, 1, 4 (January 28 quotation), 5 (December quotation).

<sup>103</sup> Decision 02-15-PCRC Special Permit – Colonial Acres IV, December 17, 2002, 5-7, 13.

<sup>104</sup> PCRC Special Permit application, July 1, 2002, Colonial Acres IV PCRC Special Permit Application folder; Inter-departmental memo from Planning Department to other agencies, July 19, 2002, *idem*.

<sup>105</sup> Memo from Acton Municipal Properties Department, August 13, 2002, Colonial Acres IV PCRC Special Permit Staff Comments/Correspondence, APB; Technical memo, Abend Associates, September 17, 2002; Colonial Acres IV PCRC Special Permit Application folder, APB.

<sup>106</sup> History of the Forest Glen Association; Mitchell-Hart, interview.

<sup>107</sup> Electronic mail memorandum, Russell Hart to Roland Bartl, September 23, 2002, Colonial Acres IV PCRC Special Permit Staff Comments/Correspondence folder, APB; Igor Chernin to Roland Bartl, Doug Halley, Thomas Tidman, William Shupert, October 22, 2002, *ibid*; Public hearing attendance record, September 24, 2002, Colonial Acres IV PCRC Special Permit

Decision and Hearing folder, APB.

<sup>108</sup> E-mail memorandum, Russell Hart to Roland Bartl, September 23, 2002, Colonial Acres IV PCRC Special Permit Staff Comments/Correspondence folder, APB; Public hearing attendance record, September 24, 2002, Colonial Acres IV PCRC Special Permit Decision and Hearing folder, APB.

<sup>109</sup> Assorted documents dated October 4-November 5, 2002 in Colonial Acres IV PCRC Special Permit Application, Staff Comments/Correspondence, and Decision and Hearing folders, APB; Public hearing attendance record, September 24, 2002, Colonial Acres IV PCRC Special Permit Decision and Hearing folder, APB; Public hearing (continuation) attendance record, November 5, 2002, Decision and Hearing folder, APB.

<sup>110</sup> Decision 02-15-PCRC Special Permit – Colonial Acres IV, December 17, 2002.

<sup>111</sup> Acton Municipal Properties Department, Review of “Shade Tree Analysis,” July 10, 2003, Colonial Acres IV - Post Decision folder, APB.

<sup>112</sup> History of the Forest Glen Association.

<sup>113</sup> Michele Richinick, “Kevin Sweeney; Builder Loved Creating Housing,” *Boston Globe*, March 26, 2009; Kevin Sweeney, telephone interviews with author, Acton, Massachusetts, January 17, 2005 and May 4, 2005; Mitchell-Hart, interview; Robert Whittlesey, telephone conversation with author, Acton, Massachusetts, March 6, 2009. Russell Hart, a leader in the fight against Colonial Acres IV, observed that Sweeney had generously hired to work in the homebuilder’s office a neighbor woman whose husband, a Sweeney supporter, had died and left her in financial straits. Hart doubts that the local resistance was strong enough to cause Sweeney to sell Colonial Acres IV, however, and speculates that there were other reasons. Russell

Hart to author, e-mail message, May 31, 2009.

<sup>114</sup> Jeff Rhuda to author, e-mail message, February 26, 2009; Sweeney and Sons, Inc. and Symes Development, LLC, Purchase and Sales Agreement, October 27, 2003; Sweeney and Sons, Inc. and Symes Development, LLC, Site Work Contract, October 27, 2003.

<sup>115</sup> Assorted documents dated January 15, 2003-June 7, 2004 in Colonial Acres IV PCRC Special Permit Application, Staff Comments/Correspondence, Decision and Hearing, Post Decision, and Bonds, Covenants, and Releases folders, APB; Memo regarding stop signs, Town Planner to Planning Board, December 9, 2004, Staff Comments/Correspondence folder, APB.

<sup>116</sup> Acton Planning Department files viewed in July 2007.

Sweeney’s slow pace of development and a number of nagging issues produced more documents in the following years.

<sup>117</sup> Sweeney, interview, January 17, 2005; Rhuda to author.

<sup>118</sup> The property tax was the primary direct source of town revenues, but the town could issue bonds which property tax monies would repay. The town also received funds from the state and the federal governments.



## Institutions

**The Rappaport Institute for Greater Boston** at Harvard University strives to improve region's governance by attracting young people to serve the region, working with scholars to produce new ideas about important issues, and stimulating informed discussions that bring together scholars, policymakers, and civic leaders. The Rappaport Institute was founded and funded by the Jerome Lyle Rappaport Charitable Foundation, which promotes emerging leaders in Greater Boston.

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# Wrestling with Growth in Acton, Massachusetts: The Possibilities and Limits of Progressive Planning Appendix

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January 2010



Joint Center for Housing Studies  
of Harvard University

FIVE DECADES OF HOUSING RESEARCH  
1959–2009



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## **Acknowledgements**

The author thanks Acheson Callaghan, Amy Cotter, André Leroux, Angelo R. Firenze, Nancy McArdle, Jeff Rhuda, Charles Sullivan, Jay Wickersham, Karen Wiener, Clark L. Ziegler, and especially David Luberoff for thoughtful editing questions and suggestions, Martha Rounds for copyediting, and Kristen Hunter, Cory Schreier, and Matthew Ladd for research assistance.

The author is grateful to an anonymous donor for support of the project.

## **The Evolution of Residential Land Use Regulation in Greater Boston**

This working paper is part of the research project, The Evolution of Residential Land Use Regulation in Greater Boston, carried out under the auspices of Harvard's Joint Center for Housing Studies and its Rappaport Institute for Greater Boston. The goals of this project are to identify and understand the reasons that towns and cities in eastern Massachusetts have made Greater Boston a highly regulated urban region and to help devise residential planning policies that advance general, rather than parochial, interests, and what some call "Smart Growth." In particular, the project aims to discover precisely why and under what circumstances particular communities adopted residential land use regulations by studying the evolution of regulations in residential real estate development in four different Boston-area communities and in the legal interpretation of the state laws of Massachusetts.

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### Tables

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**Table A-1: People and Housing in Acton, 1940 - 2000**

	1940	1950	1960	1970	1980	1990	2000
Total Population	2,701	3,510	7,238	14,770	17,544	17,872	20,331
Households	N/A	N/A	1,932	3,996	5,939	6,574	7,469
<b>Demographics</b>							
White	N/A	N/A	99.54%	99.40%	97.40%	93.60%	87.40%
Younger than 18	22.29%	N/A	N/A	43.20%	31.70%	24.90%	29.40%
Foreign Born	N/A	N/A	N/A	6.2%	7.6%	9.8%	14.30%
<b>Income</b>							
Housholds (\$, Year 2000)	N/A	N/A	\$189,593	\$99,120	N/A	N/A	\$144,711
<b>Adults' Education</b>							
No High School	N/A	N/A	N/A	13.40%	7.70%	5.00%	2.20%
High School Graduate	N/A	N/A	N/A	28.30%	23.30%	14.10%	11.30%
Some College	N/A	N/A	N/A	20.20%	21.70%	21.50%	17.20%
BA or More	N/A	N/A	N/A	36.83%	47.30%	59.40%	69.30%
<b>Household Characteristics</b>							
Housing Units	741	N/A	N/A	4,195	5,986	6,600	7,495
Owner Occupied	56.84%	N/A	N/A	72.90%	66.00%	70.50%	76.10%
Median Value of Single Family Homes (\$, Year 2000)	N/A	N/A	\$206,891	\$444,400	\$58,012	\$103,853	\$387,351
Median Rent (\$, Year 2000)	\$350	N/A	\$598	\$1,106	\$257	\$470	\$833

**Figure A-1: Acton Zoning Map, 1963**

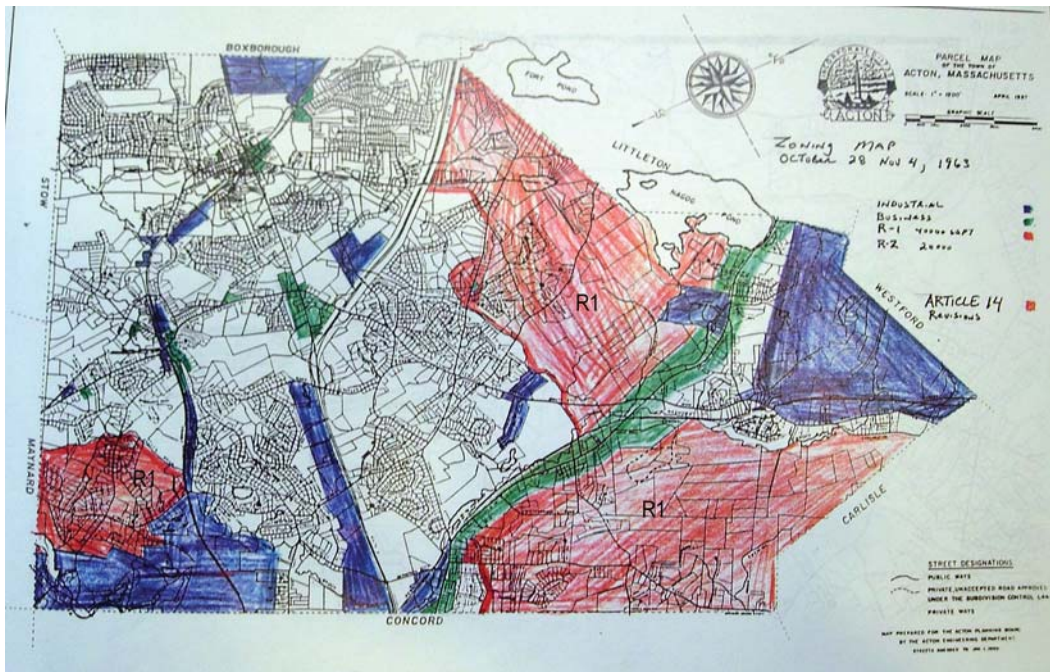


Figure A-2: Conservation Land in Acton



Figure A-3: Plans for the Colonial Acres II Subdivision (1977)

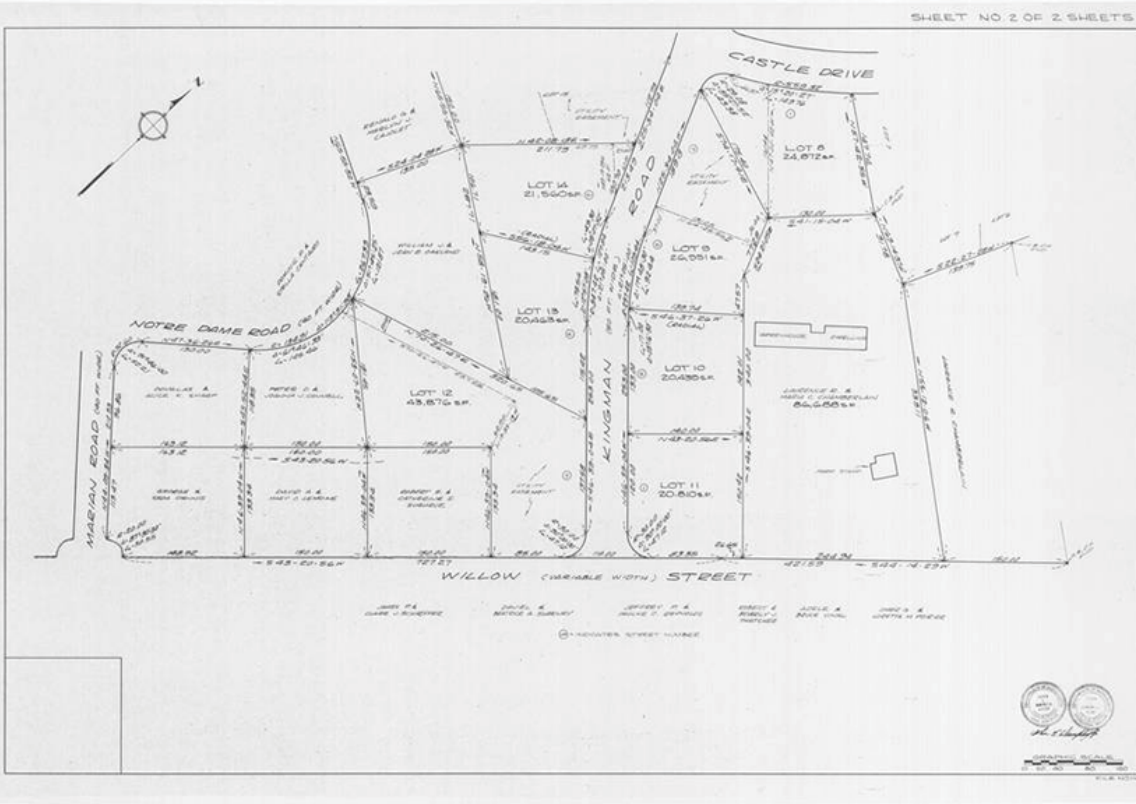
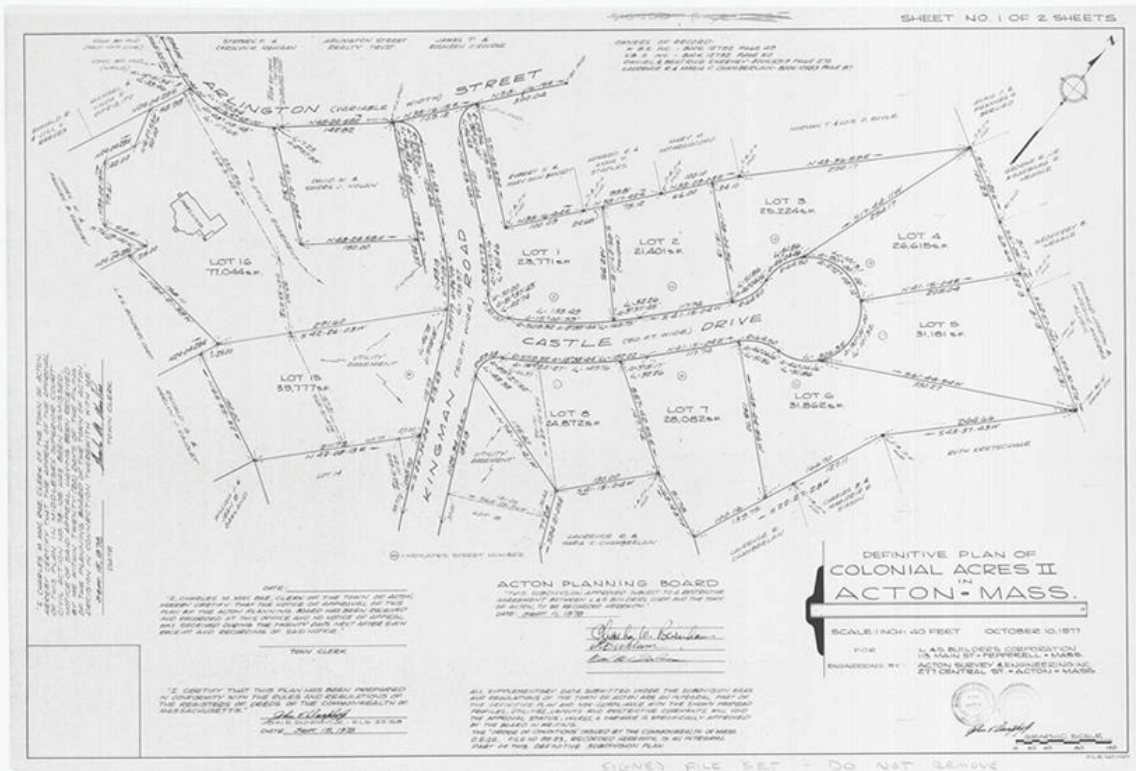




Figure A-4: Acton Zoning Map, 1982

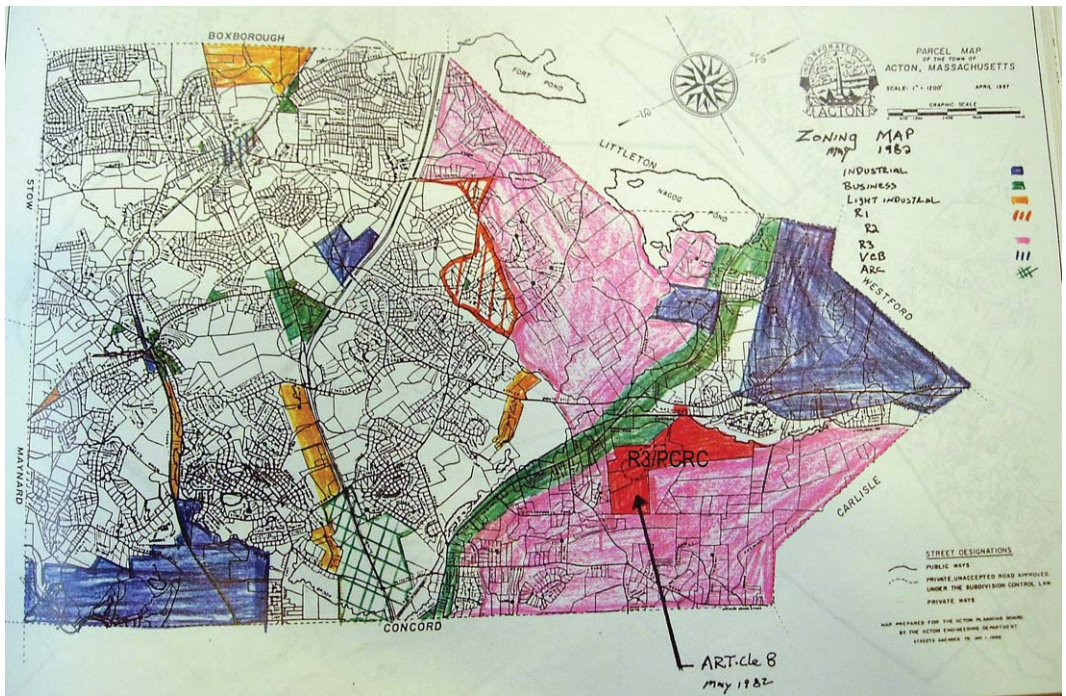


Figure A-5: Acton Zoning Map, 1984

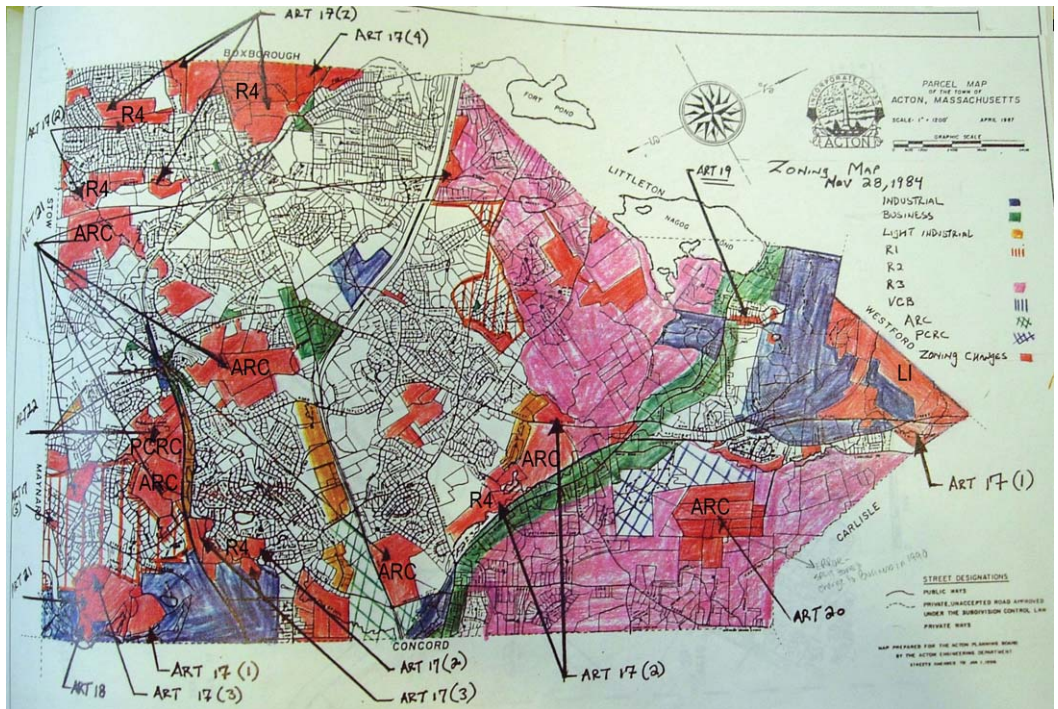




Figure A-6: West Acton



Photograph courtesy of Glenna Lang.

Figure A-7: Affordable Housing in Acton and Surrounding Communities

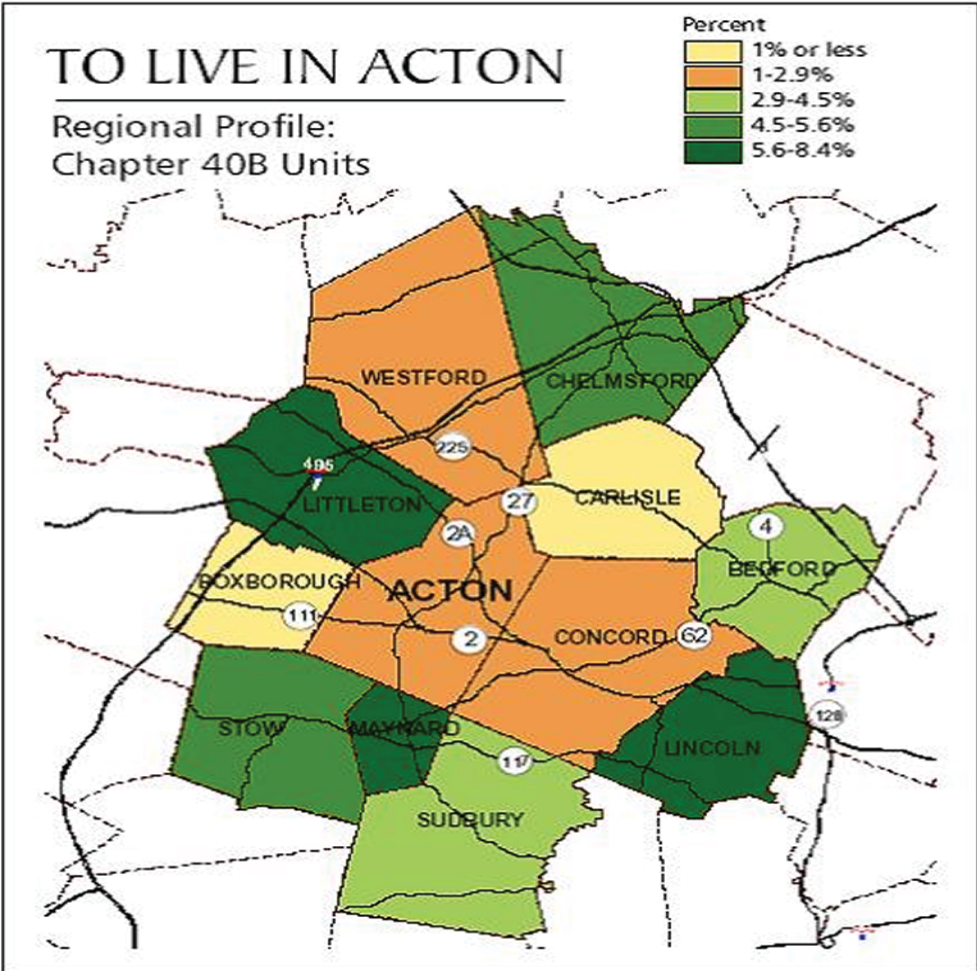
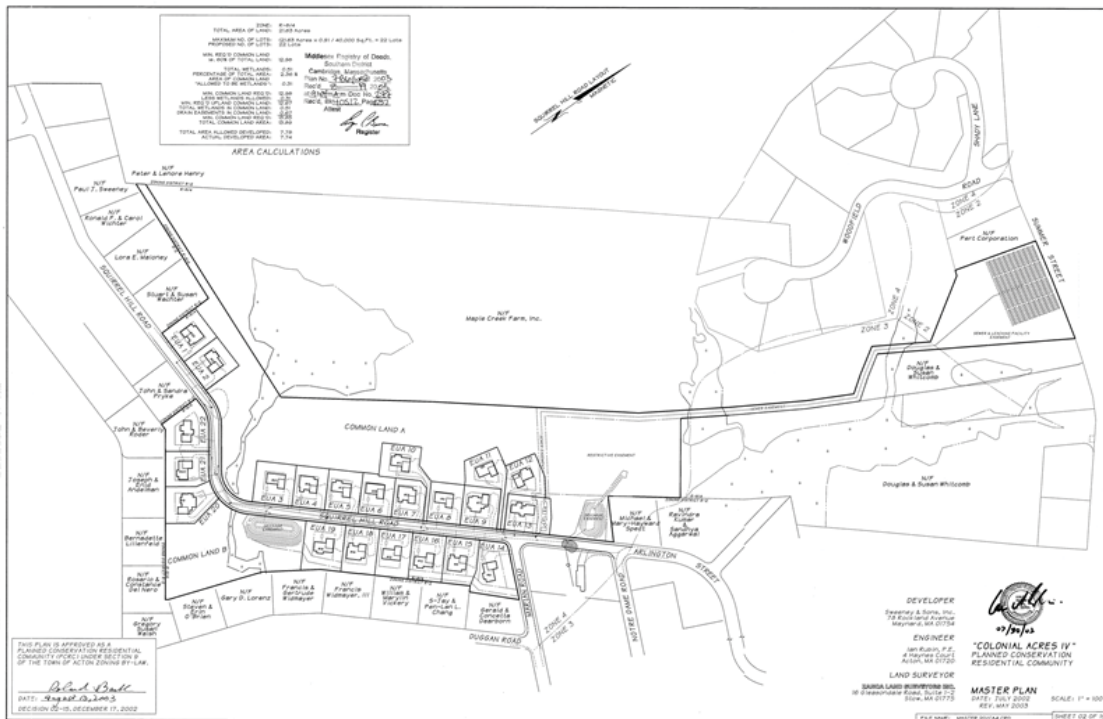


Figure A-8: Colonial Acres I, II, III, IV, and Other Nearby Subdivisions



Figure A-9: Colonial Acres IV Master Plan (July 2002, revised May 2003)





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