

Building on our Heritage
A Housing Strategy
for Smart Growth and Economic Development

Report and Recommendations for
The Commonwealth Housing Task Force

from

The Center for Urban and Regional Policy
Northeastern University

by

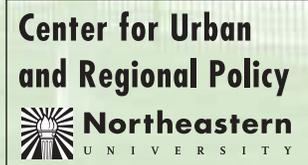
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**The Commonwealth
Housing Task Force**



October 30, 2003



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October 30, 2003

Commonwealth Housing Task Force
c/o The Boston Foundation
75 Arlington Street --10th Floor
Boston, MA 02116

Dear Members of the Commonwealth Housing Task Force:

As commissioned by the Task Force, I am pleased to enclose the attached report that includes recommendations for a new and highly innovative program for increasing the supply of housing for households at all income levels in the Commonwealth.

The finished product represents work by many members of the Task Force over the last six months, building on the creative ideas of Ted Carman and the vast housing experience of Eleanor White of Housing Partners, Inc. When implemented, this proposal is expected to lead to the construction of nearly 30,000 new housing units over the next decade, including a substantial amount of affordable housing. The program aligns the economic development interests and housing needs of the Commonwealth with the fiscal needs and local concerns of individual municipalities.

The report is a testament to the powerful coalition that the Commonwealth Housing Task Force has become. Born of the conflict surrounding the campaigns for and against the Community Preservation Act in Boston, the Task Force now includes active participation by representatives from business, labor, higher education, the health care sector, housing advocacy and environmental groups, housing and real estate development companies, and many elected and appointed officials. The Boston Foundation has served as the convener of the task force. All have worked together to forge a set of recommendations that are both visionary and practical.

Ted, Eleanor, and I thank the many people who have helped inform this report, and especially to those who will work in the future to see that its promise is fulfilled.

Sincerely yours,

Barry Bluestone
Director

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Executive Summary

The Commonwealth of Massachusetts has a housing problem. Despite the recent weakness in the economy, housing continues to be excessively expensive for its citizens, for the adult children of families who already live here, and for workers and their families who wish to move to Massachusetts to find or take jobs. For businesses who are hiring, the high cost of housing poses a potentially serious barrier to attracting workers from outside the state. Home prices continue to escalate so that as of June 2003 the average sale price exceeded \$400,000.¹ In a recent poll of representative citizens, 25 percent of the respondents expressed a wish to relocate to a less expensive area.²

The Commonwealth Housing Task Force is an ad hoc group that has been meeting since 2001 to develop solutions to this problem. Its members represent housing organizations, the business community, organized labor, the Urban Land Institute, The Boston Foundation, Citizens Housing and Planning Association (“CHAPA”), academic institutions, elected and appointed officials, and many others. Its co-chairs are Jerry Rappaport, Jr., President of the New Boston Fund; Eleanor White, President of Housing Partners, Inc. and CHAPA; Larry DiCara, Partner at Nixon Peabody; and Thomas Hollister, President of Citizens Bank, Massachusetts and Chairman of the Greater Boston Chamber of Commerce. Paul Grogan, President and CEO of the Boston Foundation, served as the convener of this Task Force.

The Task Force recommends that:

- 1. The state provide financial and other incentives to local communities that pass Smart Growth Overlay Zoning Districts that allow the building of single-family homes on smaller lots and the construction of apartments for families at all income levels.**
- 2. The state increase its commitment to fund affordable housing for families of low and moderate income.**

This report, prepared for and submitted to the Commonwealth Housing Task Force, describes a proposed initiative that uses the concept of Overlay Zoning

Districts to direct higher density growth into Smart Growth locations. Communities that voluntarily participate in the new housing program will be substantially rewarded for their participation. The program is designed to allow the Commonwealth to increase funding for affordable housing, to reduce development sprawl, to increase the amount of open space, and to enhance opportunities for historic preservation and neighborhood revitalization. This strategy builds on the unique heritage of all our communities.

Background: There is a high price to be paid for the state’s housing shortage. The housing crisis in the Commonwealth is not just an affordability issue for low and moderate-income families, but also an economic issue that affects the well-being of all residents of the state.

The human capital of the area – a unique and essential asset because of Boston’s high tech businesses and its educational, research, and medical institutions – is being compromised because young scientists, engineers, doctors, and business people find it difficult to afford, even with substantial salaries, the purchase price on homes that meet their family needs. Therefore, an increasing number choose not to come to Massachusetts and seek jobs in other regions of the country. The future economic expansion for the Commonwealth is therefore at risk

At the same time, land-use regulations and building patterns are pushing housing further out from Boston and the employment centers. The typical new home is

The program is designed to allow the Commonwealth to increase funding for affordable housing, to reduce development sprawl, to increase the amount of open space, and to enhance opportunities for historic preservation and neighborhood revitalization.

a substantial single-family house built on a large lot far from city centers and mass transit. The quality and character of the New England countryside is in jeopardy from accelerating sprawl.

This occurs despite the fact that many people want just the opposite. The housing most in demand by homeowners and renters is located in the densest developed neighborhoods in the state. Per square-foot prices for both home purchase and rental are the highest in the Back Bay, Beacon Hill, Cambridge, and other in-city locations.

In other parts of the country, particularly in the Midwest and the South, housing prices have tracked the inflation rate in construction costs. This does not happen in Boston and other East and West Coast built-up, urbanized areas where housing prices have escalated at rates double and triple the rate of underlying inflation. Economists agree that an imbalance of supply and demand causes these escalations. Not enough housing is being built to meet the demand, and as a result, housing markets in such areas come into balance only by means of substantial price increases.

This report concludes that neither a “lack of land”, a shortage of competent developers, nor a lack of financing can account for the shortfall of construction experienced throughout Boston. None of these factors exists here. Instead, the report identifies restrictive zoning as the root cause. It further concludes that a primary reason for this is the adverse impact on town finances from new housing development. *Therefore, the report believes that addressing the lack of housing production requires producing an adequate supply of land zoned for housing by changing the underlying fiscal constraints facing local communities.*

The Recommendation for Producing More Housing and Moderating Housing Costs

This report proposes that the state enact legislation that will reward communities for passing Overlay Zoning Districts in Smart Growth locations. All communities in the state will be eligible to participate on a voluntary basis. Smart Growth locations are those near public transit stations, town centers, and underutilized industrial, commercial and institutional buildings and sites.

The proposed incentives to communities are:

- Density Bonus Payments upon passage of the Districts equal to \$2,000 for each apartment unit and \$3,000 for each single family home that is allowed in the District
- State assumption of 100% of the cost of providing K–12 education for each child in public schools living in a new housing unit built in the District
- Priority for receiving capital investments from the state for infrastructure improvements.

In order to be eligible for the above incentives, we recommend that Overlay Zoning Districts allow mixed-use development with a density for apartment buildings of at least 20 units per acre, and for single-family homes of at least 8 units per acre. They would encourage the development of housing on infill lots and the conversion of underutilized commercial, industrial, and institutional sites or properties.

Each District would also require that in all projects containing more than 12 units, 20 percent of the units be affordable to those with incomes at 80% of median income.

All communities in the state will be eligible to participate on a voluntary basis. Planning Boards can ensure that what is built in a District will be compatible with the character of the immediate neighborhood.

Communities will be encouraged to include design standards in the provisions of the Overlay Zoning Districts such that the Planning Board will be able to ensure that what is built in the District is compatible with and reflects the character of the immediate neighborhood. It is further recommended that the state Department of Housing and Community Development (DHCD) be designated to administer the specifics of the program and review the overlay district and accompanying build-out analyses produced by municipalities desiring to participate in this new housing program.

The State Legislature is considering reforms to Chapter 40B, the legislation that allows developers to override local zoning ordinances under certain conditions. Once this legislative work is completed, it is anticipated that the Commonwealth Housing Task Force will propose ways in which Overlay Zoning Districts can be integrated with the new provisions of Chapter 40B. The success of the recommendations in this report depends upon the continued existence of a strong Chapter 40B.

Projections: This report estimates that implementing the Overlay Zoning District program is likely to result in the construction of 33,000 new housing units – both market rate and affordable – within the Overlay Zoning Districts over the next ten years. Of this amount, approximately 19,000 units will be the construction of incremental new units in the Commonwealth. (The remaining 14,000 units are ones that we project would have been constructed by developers, but in areas outside of Overlay Districts.) In addition, provisions in this report will support the production of an additional 10,000 units of affordable housing outside Overlay Districts.

The net increase in production should be sufficient to moderate housing price inflation in the Commonwealth to the point where housing price increases will not appreciably exceed the increase in family incomes. Over time, this will provide housing more in line with what families can afford. Moreover, the units “transferred” into the Districts around transit stations and near town centers from other locations will help reduce congestion and urban sprawl and will preserve valuable open space.

It is assumed that to stimulate and accommodate the 33,000 new units, zoning for 50,000 units must be put in place during the next ten years.

It is estimated that the cost to the state for the Density Bonus Payments for the new zoning will start at \$11 million and grow to \$14 million per year by the tenth year. The additional state costs for public schooling is estimated to start at \$3 million in the second year and rise to approximately \$60 million by the tenth year. To put this \$60 million number in context, ten years from now, after building 33,000 new units in Overlay Zoning Districts, the annual increased schooling cost of this new initiative is estimated to be only 2.1% of the 2001 state reimbursement for school expenditures under Chapter 70 (\$3.0 billion).

Further, building in Overlay Zoning Districts is expected to generate state revenues from two sources. First, from the sales and income taxes paid pursuant to the construction. Second, from tax revenues created by new jobs from business expansion attributable to increased housing affordability. When these revenues are offset against the costs of this program, and excluding the funding required for increased housing affordability, the net cost to the state over ten years will be approximately \$110 million. This amount is approximately twice the \$50 million that the Governor has proposed be appropriated to provide incentives to communities to increase housing production, but is spread over a 10 year period and is expected to generate significantly more housing construction.

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The Recommendations for Housing Affordability:

The Commonwealth has a wide array of programs to assist with affordability for its citizens, as well as a highly developed delivery system of state agencies and non-profit and for profit developers. Still, the affordability problem is not being met in the state. Recent studies name Massachusetts as the least affordable state for housing in the United States.³

This report recommends that in order to increase housing affordability for those earning up to 80% of the median income, as well as to assist the least well-off citizens of the Commonwealth, state funding for affordability assistance should be increased by \$670 million over the next ten years. A portion of this amount would be utilized within the Districts; the majority of the amount would be utilized outside the Districts. To offset these costs, it is recommended that

surplus state land be sold during this period in the amount of \$400 million.

The specific recommendations of this report include:

1. Maintain or increase the allocation for housing under the Private Activity Bond Cap at the current level.
2. Gradually increase the housing portion of the State Annual Bond Cap from its current level of 9.1% to 15%
3. Gradually increase annual state outlays for housing to \$120 million. In the next decade this will add about \$670 million for housing affordability
4. Sell surplus state property, with a priority for housing and mixed use (where appropriate). Use the funds for increasing state assistance for housing affordability.

In order for the State to be successful in selling surplus land in the amount of \$400 million over the next ten years, it is recommended that:

1. all disposition responsibilities be delegated to the Division of Capital Asset Management and Maintenance (“DCAMM”),
2. dispositions take place pursuant to an auction system, and
3. auctions occur prior to obtaining necessary local approvals.

Conclusion: These proposals offer an avenue for dramatically changing future development patterns of the Commonwealth. Instead of sprawl, communities can choose to have development take place in already built-up areas, in ways that are consistent with the quality and character of their surroundings. Communities will be able to extend and revitalize their town centers and build new neighborhoods that have the charm of tradi-

Smart Growth locations are those near public transit stations, town centers and underutilized industrial, commercial, and institutional buildings and sites.

tional New England communities. This housing strategy builds on the heritage of the Commonwealth.

It is believed that encouraging local communities to pass Overlay Zoning Districts will result in a substantial increase in land zoned for apartments and single-family homes on small lots. The increase in zoned land will allow land costs to go down and reduce the costs of development, allowing housing markets to clear efficiently at more modest prices. If implemented, the recommendations in this report will

substantially lower one of the critical barriers to further economic development in the state and provide for affordable housing specifically targeted to help Massachusetts households that are struggling on low and moderate incomes.

These proposals offer an avenue for dramatically changing future development patterns of the Commonwealth.

I.

Report and Recommendations

Introduction

Greater Boston has a housing problem. Those with limited incomes find it increasingly difficult to find and pay for housing that meets minimal standards. Those with moderate incomes, particularly renters, find that the dream of homeownership is always just beyond reach, as housing prices continue to escalate. The median price of a home in Greater Boston more than doubled between 1998 and 2002.⁴

The Commonwealth Housing Task Force is an *ad hoc* group that has been meeting regularly since mid-2002 to understand and develop solutions to address this problem. Its members represent housing organizations, the business community, organized labor, the Urban Land Institute, The Boston Foundation, CHAPA, educational institutions, elected and appointed officials, and many others. Its co-chairs are Jerry Rappaport, Jr., President of the New Boston Fund; Eleanor White, President of Housing Partners, Inc. and CHAPA; Larry DiCara, Partner at Nixon Peabody; and Thomas Hollister, President of Citizens Bank, Massachusetts and Chairman of the Greater Boston Chamber of Commerce. In March 2003, the Task Force engaged the Center for Urban and Regional Policy of Northeastern University to prepare a report and recommendations based on preliminary findings and directions set forth by the Task Force.

This report is presented by the Center to the Task Force and contains recommendations for a comprehensive approach to address the problem. The approach has two components.

- a new initiative aimed at changing the underlying structure of the housing delivery system in Massachusetts in order to moderate housing price inflation for all homebuyers and renters throughout the Commonwealth.
- an increased state commitment to provide the funds needed to produce more affordable housing for low and moderate income families.

The proposed initiative uses the concept of Overlay Zoning Districts to direct higher density development into Smart Growth locations.

The proposed initiative uses the concept of Overlay Zoning Districts to direct higher density growth into Smart Growth locations. Communities that voluntarily participate in the new housing program will be substantially rewarded for their participation. The program will directly address the problem of accelerating sprawl in the Commonwealth.

It is proposed that the state provide a number of incentives to local communities to pass Overlay Zoning Districts that will allow, as-of-right, for the construction of apartments and single-family homes on small lots. Eligible districts will be limited to three types of locations: around transit stations; in city and town centers; and for underutilized industrial, commercial and institutional properties. The goal of this plan is to have enough land zoned for constructing apartments and single family homes on small lots so that the amount of zoned land exceeds the amount needed for housing markets to clear at prices that are more moderate. For this to occur, the amount of housing that is built (the supply) must approximate the amount of housing required by the marketplace and the economy (the demand).

The program rests on the finding of the Task Force that the underlying cause of high home prices in Massachusetts is the lack of land that is zoned to allow for the building of single-family homes on small lots, and for the construction of apartments in appropriate locations. This report makes a series of specific recommendations, which, upon implementation we believe will fundamentally change the dynamics of providing new housing in Massachusetts.

The Housing Problem in Massachusetts

Four recent reports have described the housing problem in Greater Boston in detail. These are **A New Paradigm for Housing in Greater Boston**⁵ and the **Greater Boston Housing Report Card 2002**⁶ from the Center for Urban and Regional Policy of Northeastern University, **The Boston Indicators Report 2002**⁷, prepared by the Boston Foundation, and **The Pursuit of Happiness – A Survey on the Quality of Life in Massachusetts**, prepared by the Massachusetts Institute for a New Commonwealth (“MassINC”) and sponsored by Citizens Bank.⁸

Housing in Greater Boston is characterized by rapidly escalating prices and increasing rents. The region has seen house prices double in the last five years⁹, and even in the face of declining employment (the state has lost 168,000 jobs in the last three years¹⁰), house prices have continued to escalate. The Indicators Report says:

The affordable housing crisis in Boston is getting worse. In the 1990s in Metro Boston, the number of households increased by 129,265, faster than the production of new housing at 91,567. In combination with a decline in public investment, both market rate and affordable housing is in short supply, driving a dramatic increase in prices. Housing prices in Boston increased by 37% between 2000 and 2002 alone.¹¹

The report goes on to identify human capital as a key element in Greater Boston’s historic ability to thrive, both economically and culturally. Human capital means a highly educated and motivated workforce. It comes from the tendency of graduates from colleges and graduate schools to stay in the region and contribute to the region’s economy and institutions. It also comes from the desire of highly educated people to come to the Boston area. The high quality of the workforce in Greater Boston is one of the key competitive advantages of the region.

Yet the Indicators Report says:

Human capital in the form of the city and region’s large pool of talented young people...is already at risk, despite stellar rankings on many indices of competitive advantage. In the 1990s, Boston, the region and the state lost a significant percentage of young people between the ages of 20 and 35, a loss made more significant by the growth of this age group in Boston’s competitor cities.

Perhaps most shocking, the MassINC survey of Massachusetts residents found that **25% of the respondents would move out of Massachusetts if they could**, primarily because of the high cost of living, in particular, the high cost of housing.¹²

The hardship imposed on lower income families in this environment is of special concern. Massachusetts is unique in the United States in the ratio of the minimum wage to the rent required for a two-bedroom apartment. A researcher is quoted in a Boston Globe article:

When we ranked the states according to hourly income needed to rent a modest, two-bedroom apartment, Massachusetts was number one.... A full time Massachusetts worker must earn at least \$21.14 per hour. No other state had an average that high.¹³

The job losses in Massachusetts since 2001 have caused some easing of the rental markets in the region. Vacancies have increased, and many reports indicate that rent levels have moderated somewhat. However, the moment the economy begins to pick up, rental rates will once again increase significantly faster than underlying inflation and faster than wages are increasing if more housing is not produced.

The doubling of housing prices over the last five years has made it impossible for many families to purchase homes. This does not occur in certain other regions of the country. Over the last 20 years, in the

Midwest and the South the purchase price of homes has tracked the costs of construction. In the more built-up areas of the East and the West, inflation in housing

The MassINC survey of Massachusetts residents found that 25% of the respondents would move out of Massachusetts if they could, primarily because of the high cost of living, in particular, the high cost of housing.

costs has substantially outpaced the inflation in construction costs. This disparity of experience suggests that the problem is not a systemic problem in the United States or the economy as a whole. It is unique to certain areas of the country. If the cause of the disparity can be identified, then a solution may also become evident.

A research report from the Center for Urban and Regional Policy in 2002 found that the amount of production during the 90's lagged the increase in households by 41%.¹⁶ The Task Force has found a consensus among those knowledgeable about housing issues that this shortfall in production is the primary reason for the high housing costs – both for the purchase of homes and for the rental of an apartment.

In order to offer realistic proposals to change this calculus, it is important to identify the reason for the lack of production. A number of elements were considered: (1) the development community may not have the competence or capacity to accomplish the task (2) there may be a lack of capital available (3) government programs for the construction of affordable housing may be under-funded (4) there may be inadequate amounts of land; and, finally (5) there may be a lack of zoned land.

Our analysis, described in more detail in the endnotes¹⁷, concludes that only two of these elements contributed significantly to the lack of production. **The predominant reason is the lack of zoning for building single-family homes on small lots and the construction of apartments.** One can travel throughout Massachusetts and find few places where such zoning exists as-of-right. The result is that the process of obtaining local zoning approvals is a time consuming and expensive task that carries significant risk. The barriers to entry from zoning are so substantial that the housing markets in the Greater Boston area are unable to clear (that is, to come into balance) without excessive price increases.

Edward L. Glaeser
and Joseph
Gyourko,
professors in the
Economics
Department at
Harvard report in
a paper titled:
“The Impact of
Zoning
on Housing
Affordability”
“In the places
where housing is
quite expensive,
zoning restrictions
appear to have
created these
high prices.”

The second reason is that after many years of national leadership by Massachusetts in providing affordable housing, the 90s have seen substantial cutbacks in both federal and state support. **The lack of public funding for affordable housing since that time is a major contributing factor to the current state of the Commonwealth's housing market.**

Academic studies¹⁸ have directly addressed the connection between restrictive zoning and rapidly escalating prices. Edward L. Glaeser and Joseph Gyourko, professors in the Economics Department at Harvard report in a paper titled: “The Impact of Zoning on Housing Affordability” (March 2002) “In the places where housing is quite expensive, zoning restrictions appear to have created these high prices.” They continue: “the affordable housing debate should be broadened to encompass zoning reform, not just public or subsidized construction programs.”

Having concluded that restrictive zoning bears the primary responsibility for high rates of increase of housing prices, one needs to ask why restrictive zoning is so prevalent throughout the state.

The reason begins with a Massachusetts tradition. Massachusetts has historically had a high degree of local control.¹⁹ The local community, working through its Planning Board and Zoning Board of Appeals, makes decisions about land use. Zoning

ordinances are typically passed by the City Council, or by Town Meetings. The local ordinances must be in conformance with the state's zoning enabling act, Chapter 40A. However, a good deal of latitude is granted to the local communities.

Coupled with local control, the Massachusetts system gives primary responsibility to pay for the cost of public school education to the local community. The major source of funds to pay for public education and local services is the property tax.

The tax structure puts local officials in a difficult position with regard to housing. Census data and other

surveys show that a typical four bedroom single family home will have at least one school-aged child per house. Often there will be several in each home. It costs, on average, nearly \$8,000 per year to provide public school education for each child. The property taxes on single-family homes, particularly those that are less expensive, often are not sufficient to cover the school costs for the children from that home, especially when the costs of other town services are added.

Apartments have fewer children per unit, on average, than single-family houses, but also pay substantially less in property taxes. There is typically a perception that the property taxes from apartment properties do not cover the cost of schooling and other town services required.

Consequently, municipal officials have a substantial incentive to discourage the construction of new housing – both single family and apartments. Over the years, most communities have found ways to eliminate from their zoning maps any areas that allow apartment construction as a matter of right.

Single-family homes present a different problem. It is not feasible to simply disallow all single-family development. However, it is possible to make minimum lot sizes larger. The larger the lot size, the more expensive the land per house. The more expensive the land, the more expensive the house must be in order to make it worthwhile for the builder to build it. The more expensive the house, the more property tax is paid. The more property tax, the better the ratio between the revenues the town receives for the property and the cost of services that must be provided, including school costs.

As a result, communities have a substantial financial incentive to adopt large-lot zoning for single-family homes as the predominant residential land use allowed by current zoning ordinances. In fact, one could argue that solely in fiscal terms it would be imprudent for town officials to act otherwise. This is a perverse result with regard to the need for new housing as one of the prerequisites for continued economic growth in the state.

It is important to note that there are other factors beyond the fiscal that give communities incentives to restrict zoning for apartments and single family homes on small lots.

Larger lot sizes mean that fewer vehicles per developed acre will be added to the transportation system. This is perceived as a way to lessen traffic congestion. In the short run that may result in less traffic; in the end, of course, low-density housing adds to commuting distances, and increases the number of miles driven per person.

The NIMBY phenomenon is pervasive. Development may be good for the economy and for the general region, but “not in my backyard”. People tend to like things “the way they are”, and will resist changes, particularly when there is little assurance of the design, aesthetic, and planning quality of what might be built.

In addition, over the years, some apartments have been built that are remarkably unattractive. These include boxy buildings with small windows, cheap siding, and little architectural detail. Also, unfortunately, some of the older government assisted developments (largely built prior to 1970) contributed to this perception in local communities. As a result, people often fear that apartments will cause a decline in property values.

Large lot single family zoning and the denial of any as-of-right zoning for apartment development therefore can be seen as an understandable response of local communities to the structural system of local control, to the local payment of school costs with property tax revenues, to concerns about congestion, and to objections to poorly designed and built projects that do not contribute to the quality of community life.

The housing crisis in Massachusetts is the logical, natural, almost inevitable outcome of the specific structure for governance that is imposed on local communities. It is a result of each local community acting in its own best interest under the circumstances.

Ultimately, to address the housing problem in Massachusetts in a substantive way, it will be necessary to do three things:

- **Alter the politically imposed structures that limit production and make it impossible for housing markets to clear without excessive price increases.**
- **Deal with the problems of urban sprawl and congestion using Smart Growth Principles.**
- **Provide additional resources for housing affordability.**

Smart Growth

For the last fifty years, New Englanders have had conflicting dreams. The first is an on-going love affair with their automobiles, trucks and SUVs. They want to live in a single family home on a one-acre piece of land. However, at the same time, the icon in their mind is an image of the traditional New England town center, with a green, a church, a few stores, and homes with white picket fences and sidewalks where children can walk to school and to the library.

Nevertheless, political action, legislation, and funding decisions have all moved the landscape far from this ideal. Interstate highways have been built. The reliance on the automobile coupled with heavy public funding for highways once made it easy to get quickly from one place to another. Subdivisions with large lots spread over the landscape. Shopping centers were built, not in town centers, but at the intersections of major roads. It was efficient for office buildings to be located along the major highways, far from where people lived.

This planning concept has collapsed on itself. Sprawl has been the result. The increase in automobile traffic has congested the highways. Millions of miles driven inject substantial pollution into the atmosphere. Large lot subdivisions gobble up land, spreading out development in highly inefficient ways. Low-density development means that it is uneconomic to build public transportation and water and sewer systems. Concern about sprawl has become a potent political issue. It has energized environmental groups.²⁰

At the same time, conditions in the cities have been improving dramatically – particularly in the last 10 or 15 years. Air quality is much improved and getting better. The rate of violent crime is at record lows. Remarkable advances have been made in traffic control systems. Sensors measure traffic, send signals to centralized computer systems, and the red and green cycles of traffic lights are regulated to match the demand of the traffic, in real time.

The net result: the most desirable residential locations in New England are now those locations that are the most densely developed. This can be measured in an objective way. Where is the housing that sells for the highest price per square foot? It is in Boston – on Beacon Hill, in Back Bay, the South End and the North

End. It is in Cambridge, which, at 11.6%, has the highest percentage of million dollar homes of any city in the country.²¹ Housing prices in Belmont, Brookline, Newton, and Melrose mirror these trends.

Density, although we rarely call it that in the context of these communities, is widely perceived as part of the value of living there. Architects and critics have eloquently made the case that density in development is not the enemy to good living; it is an integral part of an ideal residential environment.^{22, 23}

However, it is important to note that density, per se, is not always good. There are plenty of examples of dense housing development that cause reasonable people to recoil. Density without diversity, density that is monotonous and clashes with its neighbors can be ugly and depressing. A line of houses, all identical, all with two-car garage doors facing the street, set cheek by jowl with each other on streets that may or may not curve, is not attractive. The environments that such developments create are as inconsistent with the ideal New England village center as are subdivisions built on two-acre lots.

In the United States, planners and politicians find it difficult to legislate aesthetic and good planning elements through zoning ordinances. Issues such as lot size, building size and height, set backs and the amount of off-street parking can be objectively described and are therefore fair game. Aesthetic and design issues are not. Consequently, periodic abuses by insensitive developers and the construction of buildings incompatible with their neighbors have meant that worst case outcomes can be expected to occur. If good design and planning cannot be incorporated in the zoning ordinance, then many conclude

...the most desirable residential locations in New England are now those locations that are the most densely developed... They are in Boston... in Cambridge... in Belmont, Brookline... and Melrose...

that the best solution is simply to not allow any residential development other than single-family homes – on the largest possible lot sizes. That is what generally happens in the Commonwealth.

There is a better way. Over the last ten years housing developments have been completed that are based on the old way of doing things. There is a shift in approach. Sometimes these efforts are called the “New Urbanism;” sometimes “Traditional Neighborhood Design;” sometimes “Transit Oriented Development.”

There have been a number of substantial housing communities created with these concepts. One of the first was Seaside, Florida. Kentlands, a 350-acre development in Montgomery County, Maryland is a second, and the Disney development of Celebration, near Disney World in Orlando, is a third. There are others as well. As Anthony Flint of the Boston Globe wrote, they all promote “compact, walkable neighborhoods and neo-traditional, turn-of-the-century architecture as an alternative to sprawl.”

Thus, multiple examples of successful Traditional Neighborhood Design have been built. The planning and design work has been done.²⁵ *What is lacking are appropriate zoning regulations and what stops such zoning is the fiscal structure of local communities.*

Massachusetts is uniquely able to incorporate these planning concepts. The necessary infrastructure – an extensive rail system – which, built new, would be prohibitively expensive, already exists. Boston has a subway system that serves most of the area within ten miles of the downtown. The commuter rail system has 120 stations, radiating out from North Station and South Station in Boston to Salem, Haverhill, Lowell, Fitchburg, Worcester, Kingston, Lakeville, and Fairmount.

There are development opportunities around many of these stations. These are

ideal places to bring the development and planning concepts of New Urbanism or Traditional Neighborhood Design. In fact, over a thousand new housing units are now in planning in a number of these locations. However, the lack of zoning as-of-right in each of these locations means that the process to get approval to build is time-consuming, expensive, and sometimes unsuccessful.²⁶

In addition, all across the state are historic town centers. Some are large, some are small. Most have a church, some stores, and houses built nearby on relatively small lots. They usually have sidewalks so it is easy to walk from place to place. Utility and transportation infrastructure already exists. Yet the zoning in few of these communities would allow a simple extension of the building patterns that characterize the older center itself. Consequently, there is opportunity in these communities to do just that, and to draw new development into the center of the communities in such a way as to build on and enhance what is already present.

A third opportunity exists in underutilized facilities formerly used for manufacturing, industrial, commercial or institutional purposes. In some cases, historic mill buildings are effectively empty, deteriorating and waiting to burn, as a mill complex recently did in Woonsocket, Rhode Island. In other cases, the state has shut down hospitals or other institutions, and is holding hundreds (if not thousands) of acres of underutilized land. Most of these properties have access to public utilities such as water and sewer. Although some are environmentally contaminated and require remediation, Massachusetts has programs to assist in the clean-up.

These unique circumstances present an opportunity for solving the Commonwealth’s housing crisis and improving the quality of life in many of the state’s cities and towns.

Multiple examples of successful Traditional Neighborhood Design have been built. ... What is lacking are appropriate zoning regulations and what stops such zoning is the fiscal structure of local communities.

Solving the Production Problem – Overlay Zoning Districts plus Local Incentives

A Technique for Increased Production and Smart Growth

The statewide enabling legislation governing zoning (Chapter 40A) allows communities to pass overlay zoning districts (“Overlay Zoning Districts”). These districts can effectively be of any size and take any shape. They are superimposed over land that is currently subject to specific zoning regulations, for example, for industrial or commercial use. An Overlay Zoning District permits other uses to be specified, including housing (apartments and/or single-family homes), commercial, or mixed use. The Overlay Zoning District can include a wide range of controls and conditions that must be met in order to obtain site plan approval.

Boston and Malden are two cities that have already enacted Overlay Zoning Districts. These districts encourage higher density development in certain locations, particularly around transit stations. The suburban town of Westford, located 40 miles northwest of Boston on Route 495, passed an overlay district in 2001 aimed at encouraging the re-development of historic mill buildings at three separate locations.²⁷

It is proposed that communities that have already passed Overlay Zoning Districts that meet the minimum standards be grandfathered to receive the incentives set forth below, with the exception of the Density Bonus Payment.²⁸ In other words, housing built after October 30, 2003 (the date of this report) in previously passed Overlay Zoning Districts meeting the minimum standards would qualify for the school reimbursement incentives. Overlay Zoning Districts meeting the minimum standards and passed after the date of this report would qualify for all of the incentives.

Overlay Zoning Districts offer a means to allow substantial zoning flexibility for the construction of

needed housing while simultaneously providing local control over elements of design, and to a certain extent, the aesthetic quality of what is built in the District. Because the boundaries of the districts are set as necessary, they can both encourage development in accordance with Smart Growth principles and meet the unique needs of the community.

It is proposed that the state institute a new program providing incentives to communities to pass Overlay

Zoning Districts consistent with Smart Growth development principles and allowing both apartment construction and the building of single family homes on smaller lots.

The goal is to alter fundamentally the financial impact of new residential development on the community, and thereby to eliminate the structure of fiscal constraints and responsibilities that has such a perverse outcome, encouraging sprawl and guaranteeing a shortage of housing.

It is proposed that every community in the state be eligible to participate in the program, on a *voluntary basis*.

The goal is to fundamentally alter the financial impact of new residential development on the community.

Program Objectives

- To encourage Smart Growth Development.
- To result in a surplus of land zoned for apartments and single family development on small lots such that there is more zoned land than there is demand for housing;
- To ensure affordability for a percentage of the housing units.

It is recommended that in order to be eligible for the incentives set forth in the next section, each Overlay Zoning District must contain certain minimum requirements. These requirements are designed to serve the regional interests that justify the state-paid incentives.

OBJECTIVE # 1: SMART GROWTH LOCATIONS

- Transit Stations – both subway and commuter rail.
- Town Centers.
- Other sites that may contain underutilized manufacturing, commercial, or institutional facilities.

The size of the Overlay Zoning District will be determined by the local community, based on local conditions, issues and concerns. They may be broad, for instance extending in an elliptical shape over a transit station half or three quarters of a mile down the track, and a quarter to half a mile on the sides of the track. Or they may be more confined, making the provisions of the Overlay Zoning District available to a smaller area, perhaps specifically for one to three parcels of developable land, or several contiguous blocks.

OBJECTIVE # 2: A SURPLUS OF ZONED LAND

The second goal is to encourage the zoning or re-zoning of land for the construction of housing in high-density configurations in enough quantity so that there is a surplus of zoned land – that is, to have more land zoned for high density residential development than is required or needed by the housing markets. This can be done efficiently through the configurations inherent in Traditional Neighborhood Design. These developments offer an efficient use of land while at the same time resulting in high quality neighborhoods. The following requirements will serve to encourage such development.

Overlay Zoning Districts must

- Allow mixed-use development throughout the Overlay Zoning District (i.e. single family homes, apartments, neighborhood retail; apartments above retail stores, a mix of office, retail, commercial, and, where appropriate, light industrial.)
- Allow multifamily construction with a minimum of 20 units per acre, and single-family development at a minimum of 8 units per acre. Two, three, and four family buildings developed to be sold individually (to owner-occupants or to investors) on separate lots would be allowed at densities of 12 units per acre. Portions of the District can be specifically designated for single family or for multifamily development, or for both, as the community wishes.
- Not contain age or other occupancy use restrictions (however, this does not preclude individual developers from proposing and building facilities for special needs populations).
- Allow the approval of specific projects by the Planning Board to be pursuant to “Site Plan Approval”, and not the issuance of a Special Permit.²⁹

Other suggested provisions are detailed in the endnotes.³⁰

OBJECTIVE # 3: AFFORDABILITY

The third goal is to provide a minimal level of affordability in each district. In that regard, all proposals for Overlay Zoning Districts that consist of more than 12 housing units will be required to have at least 20 percent of the units deemed affordable to those households with incomes at 80% or less of the area’s median income.

Community Protections and Control

Communities will be encouraged to include in the language of the ordinance that sets up the Overlay Districts a number of provisions to protect the community and its neighborhoods from unattractive, irresponsible, poorly thought out, or insensitive development.

These protections would include the following:

- All proposed new developments within an Overlay Zoning District must be compatible with the character and scale of the immediately surrounding neighborhood, without significant adverse environmental impacts, as determined by the Planning Board or other reviewing authority.
- All proposed developments, new apartments added to existing buildings, or infill development must provide adequate off-street parking, utilities, and waste disposal, and must result in acceptable traffic levels.
- Each community will be encouraged to include design standards in the Overlay Zoning Districts that will serve to provide assurance of high quality development in the districts. Design standards can include standards for commercial signs. However, such standards must not add such significant costs to developments that project feasibility for residential development is jeopardized.³¹

...needed is a surplus of land zoned for the construction of high-density housing.

Other protections may be acceptable, provided they do not significantly detract from the overall regional goals

of the program itself by making development too difficult to get approved, or too costly to build.

The Department of Housing and Community Development (DHCD) will be empowered to review and approve the provisions of all Districts for eligibility, as described later in this report.

Incentives to Reward Communities

A number of incentives are proposed to encourage local communities to conclude that it is in their interest to pass an Overlay Zoning District. The basic incentives are:

- a. Density Bonus Payments made to the community *when the Overlay Zoning District is passed*
- b. State assumption of 100% of the schooling costs for each school aged child that attends a local public school and lives in a new housing unit built in an Overlay Zoning District in that community
- c. Eligibility for priority allocations of state capital expenditures for school construction or renovation, water, sewer, and transportation improvements, and other capital costs.

Each of these incentives will be discussed in turn.

a. Density Bonus Payments

Density Bonus Payments will be made to each community when an eligible Overlay Zoning District and

accompanying build-out analysis is enacted by the community and approved by DHCD and the Attorney General. Payment will be made on the next year's Cherry Sheet. The payments will be made at the rate of \$2,000 for each multifamily housing unit that is allowed as-of-right within the District, and \$3,000 for each single-family unit so allowed. Thus, if an Overlay Zoning District encompassed ten acres of vacant land and that District

allowed 200 apartment units to be built on the land (at the minimum of 20 units per acre), the community would receive \$400,000 on the Cherry Sheet above what they would otherwise have received.³²

Density Bonus Payments will be made to each community when an eligible Overlay Zoning District... is enacted by the community.

However, if the community restricted the redevelopment of the land to single-family housing and allowed 8 units to be built per acre, then the total units allowed would be 80, and the Density Bonus Payment would be \$240,000. By setting the Bonus Payments at these levels, an incentive modestly favoring apartment construction is built into the program.³³

The number of units allowed in an Overlay Zoning District will be determined by an analysis (a "Build-Out" Analysis) that estimates the maximum number of units that can be built under the provisions of the District. This analysis will be prepared prior to the passage of the District, and must be approved by DHCD.³⁴

b. State Assumption of School Costs

A primary goal of this program is to change the financial impact of the construction of housing units on communities throughout Massachusetts. At the heart of this concern is the cost of public education. It is the largest single expenditure for most communities. The construction of new housing units that are unrestricted in occupancy will typically lead to an increase in schooling costs for the community.

With the passage of Education Reform in 1993 (Mass General Laws, Chapter 70), Massachusetts set up a system to ensure that all school districts have similar financial resources for each child to be educated. Because of the disparities of wealth and the disparities in the amount of commercial development in different communities, prior to the reform, poorer communities had far less money to spend on each child. The reform act removed much of this disparity.

The state now makes annual payments of \$3 billion dollars to local communities for school costs under Chapter 70. The amounts paid to each community vary widely, based on the relative tax base per school age child in each community. Littleton, for instance, receives only 12% of its school costs from the state. Harvard, nearby, gets 15%. Westford gets 25%. Abington, however, gets 42%; Attleboro, 52%; Brockton, 78%; and Fall River, 85%. Pittsfield, in western Massachusetts gets 52%. Across Massachusetts, the state picks up an average of 42% of total school costs.

As a result, the impact of a new student in the school system varies widely from one community to the next. If the annual cost to educate a student across Massa-

chusetts is \$7,750 (the average number for FY 2001), a new student in Littleton will cost the community \$6,820. The same student in Brockton will cost the community only \$1,705. Consequently, the attitude of each community towards allowing, pursuant to zoning, a new single-family home paying \$4,500 per year in property taxes is likely to be quite different.

A program with the goal of reducing the local financial burden of new housing must therefore take into consideration this wide range of reimbursement levels. The solution recommended by this report is for the state to pay 100% of the public schooling cost for each child attending a local public school who lives in a unit built in an eligible Overlay Zoning District.

Such an approach will dramatically alter the financial impact of new housing on the budget of the community. It will put all communities on a similar footing with regard to passing an Overlay Zoning District.

This will mean that the entire amount of the property tax collected on each housing unit constructed in the District will be available to the community to pay for non-school services, including police, fire, the library, and trash pickup. Since these costs are typically less than 40 percent of the total municipal budget, it means that the new housing will be contributing substantially more than its fair share of these costs. As a result, other property tax payers can pay less. The equation will then become one in which the more housing allowed in the Overlay Zoning Districts, the lower the tax burden will be on the existing property tax payers.³⁵

c. Priority for State Capital Investments

The state makes substantial capital investments in local communities every year. These investments include assistance with the construction of local

The solution recommended by this report is for the state to pay 100% of the public schooling cost for each child attending a local public school who lives in a unit built in an eligible Overlay Zoning District.

schools, water and sewer improvements, parkland development, and highway and other transportation improvements. Some of these investments are funded from direct appropriations, others through the issuance of tax-exempt bonds.

This report recommends that the state elevate potential capital projects within Overlay Zoning Districts to the highest funding priority level. Thus, other elements being equal, a community with a project located in an Overlay Zoning District will get priority for funds over a community without such a district.

Supplemental Programs:

The Task Force believes that the state can become an even more effective partner with local communities by sponsoring, encouraging, and, at some point in the future, providing funding for a series of supplemental programs in conjunction with Overlay Zoning Districts. The chief purpose of these programs would be to assist local communities, developers, and property owners in providing essential infrastructure. To the extent such assistance can be tentatively committed prior to a District passing, it could be very helpful in getting an affirmative vote. The Joint Committee on Housing and Urban Development of the State Legislature has asked that the Task Force make recommendations for such programs.

The circumstances in the Town of Norfolk as reported by the Boston Globe illustrate such an opportunity.³⁶ Norfolk is a small town located 20 miles from downtown Boston, about 5 miles northwest of Foxboro. There is a commuter rail station in the town center. The MBTA owns adjacent land, which is used for commuter parking. The high school is within walking distance, but the existing town center consists of only a few buildings. Nearby is a privately owned, vacant 15-acre parcel of land. Surrounding the area are several traditional subdivisions with relatively large lots and a good deal of open space

The master plan for the town calls for creating a “traditional New England Town Center” near the train station with a “lively pedestrian-oriented street life”. However, there is a big problem. There are no sewers. The vacant land (which looks like a “moonscape”) is in the process of getting approvals for development – amid controversy about what is to be built on the site. The chairwoman of the Board of Selectmen has said

that the proposed development is inconsistent with the town's master plan.

Without sewers, it will be unlikely to be financially feasible for a developer to put in the density required by building what the master plan recommends. Furthermore, to get the best result, the entire area around the train station and the town center needs a coherent approach – not just an isolated parcel. This is not only an ideal situation for an Overlay Zoning District. It is also a place where a creative package of financing for needed infrastructure – sewer in particular, but also perhaps a park or two, plus traffic improvements – could form the basis for a more densely developed and more livable town center. It is impossible for developers to do this on their own, working on separate parcels, one at a time.

Infrastructure financing could also include a source of funds such that private developers could finance and build a parking structure and housing on the MBTA owned land next to the station. This is an opportunity with a broader reach than just in Norfolk. The MBTA owns parking lots with the capacity for 20,000 cars at train stations in and around Greater Boston.

However, a different situation exists in other communities with train stations. Here the land is mostly built out, with a combination of commercial and residential buildings. In some cases, the adjacent properties are in excellent condition. Sometimes, however, the properties are tired and somewhat run-down. In such situations, a source of funds to upgrade the existing buildings, public parking and common areas, including small parks, could be an effective tool for neighborhood upgrading, and could supplement and enhance the construction of new buildings. The Main Streets Program of the National Trust for Historic Preservation is a model for this concept. Design standards incorporated in Overlay Zoning District legislation could provide overall direction.

The following *five program components* would enhance the chances of the Overlay Zoning District plan working successfully.

COMPONENT # 1:

The Governor should set up a coordinating office for Overlay Zoning Districts within the Office for Commonwealth Development. This will ensure the existence of a central coordinating focus for the vari-

...the state should appropriate \$5 million per year to fund outreach and planning assistance to individual communities.

ous state agencies and resources.

In order to jump-start implementation of Overlay Zoning Districts, the state should appropriate \$5 million per year to fund outreach and planning assistance to individual communities. \$1 million would be allocated to planning organizations, including community development corporations “CDCs”), across the state to pay for one to two full-time

staff persons in each of the state's regions to work with communities in explaining the programs and providing assistance. \$4 million per year would be available as matching grants to communities to pay for professionals such as planners, architects, engineers, housing and finance professionals, CDCs and attorneys to be hired by the communities for the process of planning and passing the Overlay Zoning Districts. DHCD would administer this program. (See Appendix A for detail on the types of assistance the state could offer local communities.)

COMPONENT # 2:

The state should establish a one-stop source of financing for infrastructure in Overlay Zoning Districts. The objective would be to raise capital by selling tax-exempt bonds and use the proceeds to fund a wide range of improvements in the Districts. The key element in this funding would be flexibility with regard to having multiple sources of repayment of the loans. Developers, towns (through TIFs, as described below), the state, and users could share debt service obligations.

The MBTA and MassHousing and/or MassDevelopment should be encouraged to design a program to utilize the MBTA owned parking lots at transit stations for the construction of new housing.

The state should establish a one-stop source of financing for infrastructure in Overlay Zoning Districts.

The key issue in these projects will be the cost of building parking structures. Creative ways to finance the parking and the acquisition or lease of the land will be necessary in order to make the projects financially feasible. There is an opportunity here to build thousands of high quality housing units on land already controlled by the MBTA. The program could generate substantial additional revenues for the T.

Improvements eligible for funding within the districts would include water and sewer, transportation, bike paths, parks, parking garages, and building renovations, including exteriors – all in the furtherance of the objectives and guidelines of an Overlay Zoning District.

COMPONENT # 3:

The state has recently passed enabling legislation that will allow communities in the state to enact Tax Increment Financing (“TIF”) and District Improvement Financing (“DIF”) for infrastructure and housing related improvements in eligible areas. TIFs in Overlay Zoning Districts offer a unique financing opportunity. Because the state will assume all school costs for public school students from the District, the property taxes paid by the developments in the Districts are expected to contribute more revenue to the community than the cost of the services required by the developments. TIFs will enable the community to direct a portion of the surplus revenues to pay for infrastructure improvements. Linked, where appropriate, with contributions from developers, these improvements could be financed through the programs described above.

In many cases, TIFs will be able to generate the revenues needed to pay the debt service on infrastructure loans. Overlay Zoning District improvements can be self-funding through such a mechanism.

COMPONENT # 4:

The most significant cost facing a community is the cost of educating its children. This cost includes not only the annual cost for operations – teachers, maintenance, heat, etc. – but also the capital cost of the schools themselves. Capital needs for communities vary widely, depending on the extent to which the school population is growing and to the extent that the school system is operating at full capacity. The state should target school building assistance to those communities where additional school capacity will

The state should target school building assistance to those communities where increased school capacity will be needed.

be needed because of new housing in Overlay Zoning Districts.³⁸

COMPONENT # 5:

Currently the state has significant programs for state bonding of infrastructure improvements throughout the Commonwealth. These programs should be targeted to Overlay Zoning Districts. In the future, when the current budget crisis has passed, funding for these programs should be increased to the extent feasible. The money would be available for all potential

infrastructure improvements within the districts – transportation, water and sewer, parks, the renovation of existing buildings, and building parking garages at MBTA stations.

Planning and Passing Overlay Zoning Districts

The process of planning and passing an Overlay Zoning District will be complex and often time consuming. It is anticipated that a variety of local citizens will be supportive, starting with those interested in good planning through sustainable and anti-sprawl development. Certain business interests will also be in favor including many realtors, builders, landowners and potential developers.

It is anticipated that some Overlay Zoning District proposals will be accompanied by a specific development plan from a developer / landowner. Norfolk would be an example.³⁹ Holbrook, which recently turned down a Transit Oriented Development proposal from a private developer, might be a second example. The prospects for passage of the District will be substantially enhanced if the state is prepared to work with the proponents, prior to approval, in finding tentative sources of funding for necessary infrastructure improvements. Then when the plan is voted on by the community, infrastructure funding will be identified and uncertainty reduced.

Overlay Zoning Districts with state funded incentives are an attempt to have local zoning and development

decisions made with regional considerations in mind. The success of the program will depend on the commitment of the state to find solutions to problems that extend across geographic and functional boundaries.

To assist communities to plan Overlay Zoning Districts and to expedite their implementation, it is proposed that the state provide \$5 million per year to pay for outreach staffing and professional fees. Exhibit A discusses this program in more detail.

Oversight by DHCD

It is proposed that the Department of Housing and Community Development be given the responsibility for overseeing the Overlay Zoning District program. This will require carrying out a variety of administrative tasks, to include the following:

- Prepare regulations that define the characteristics of an “eligible” Overlay Zoning District. These regulations will include provisions to ensure that communities do not “game” the system in order to unfairly earn Density Bonus Payments or other benefits.
- Prepare guidance for the preparation of the Build-Out Analysis required for the establishment of a District.
- Review and comment on, prior to passage, the provisions of proposed Overlay Zoning Districts, including Build-Out Analyses, to ensure that the number of potential housing units claimed by a municipality as developable in a District are in fact capable of development.
- Act as an “appeals office” for developers, landowners, or others who believe that local Planning Boards or other agencies or government bodies are acting in ways that are contrary to the spirit, intent, and regulations of the Overlay Zoning Districts. Such contrary actions may be delaying, preventing, or rendering economically infeasible the construction of projects that ought to be allowed under the terms of the approved District.

It is proposed that the Department of Housing and Community Development be given the responsibility for overseeing the Overlay Zoning District program.

- Be empowered to terminate the eligibility of an Overlay Zoning District in the event that the Community is not administering the program in accordance with the terms, spirit and intent of the enabling legislation and the terms of the approved District itself. In the event of termination, the 100 percent school funding will terminate, and in certain circumstances, the community may be required to repay the Density Bonus Payments back to the State.
- Review proposals, approve, and administer the granting of funds to Regional Planning Agencies and other planning organizations to provide staff support and technical services to local communities with regard to passing Overlay Zoning Districts.
- Review proposals, approve, and administer the granting of funds for professional consultants, engineers, and attorneys to work on behalf of local communities with regard to developing specific plans, resolving problems that arise, and in passing Overlay Zoning Districts.

Solving the Housing Affordability Crisis for Low and Moderate Income Families

Smart Growth is one goal. Affordable housing is another. As noted above, Massachusetts ranks number one in the country in the hourly wage needed to afford a modest rental unit in the state. Many Massachusetts households make far less than that and are unable to compete in the private rental market without seriously shortchanging their families on the other necessities of life (food, clothing, and medical care). Using 30% of their income for housing, many families cannot afford to pay for even the operating costs (utilities, taxes, maintenance, etc.) for a newly constructed apartment (30% of income is the Federal standard for affordability).

Massachusetts ranks number one in the country in the hourly wage needed to afford a modest rental unit in the state.

Unfortunately, the issue of affordability is not one that can be met simply by reducing the cost of production of housing. Although reductions should be encouraged where possible, minimum property standards, building codes, and environmental regulations limit the extent to which construction costs can be reduced. Increases in density (which reduces the cost of land per unit built), donations of land, and other contributions help. But the basic high cost of construction and operation (it gets cold in the winter) in New England can only be reduced so far – and that is nowhere near far enough to assure affordability for families at or below 80% of median income and below.

It is not necessary to create new programs for housing affordability for lower income families. The problem can be addressed through existing programs with an increased commitment to provide the subsidy funds required. This has the benefit of using tried and tested housing production and subsidy vehicles (with no long learning curve required for the housing development community), and for the most part, will result in mixed-income housing that does not create concentrations of low-income families.

Increasing subsidies for mixed-income housing will provide the resources for developers to meet the requirement of producing 20 percent affordable units in Overlay Zoning Districts.

For many years, Massachusetts offered leadership on a national basis for the provision of affordable housing. Massachusetts created state programs analogous to the major Federal housing production programs, and went beyond Federal models in terms of innovation and creativity. The programs included public housing development, operations and modernization support; interest subsidies for privately developed and owned housing (both multifamily and homeownership); certificates and vouchers both for tenant-based and project-based subsidies; and programs to fund infrastructure and community development activities.

More recently, Massachusetts has created its own low-income housing tax credit and housing trust fund. Massachusetts housing authorities and various lending and funding agencies are considered to be among the most enlightened and progressive in the country. The housing programs are still on the books and many excellent housing agencies continue operating today in that same tradition of excellence. Massachusetts has also been fortunate in having a rich community of both nonprofit and for-profit developers and community development corporations that have brought expertise and commitment to the task of producing affordable housing.

More than 40,000 housing units have been produced in Massachusetts since 1968 under these state programs. Partly due to budget pressures, funding commitments have been dramatically reduced. The budget for all housing, including capital expenditures in the Commonwealth in FY 99 was \$186 million. This represented a 46% decrease from the budget in FY 90 (\$344 million.) The final FY 04

The issue of affordability is not one that can be met simply by reducing the cost of production of housing. Subsidies will be needed to make housing affordable to low and moderate income families.

The proposed Overlay Zoning District program requires that all developments of over 12 units have 20% of the units affordable for individuals and families earning no more than 80 % of the median income.

Housing Budget is \$66 million. The 707 program alone used to be \$120 million.⁴⁰

In addition, the proposed Overlay Zoning District program requires that all developments of over 12 units have 20% of the units affordable for individuals and families earning no more than 80 % of the median income. This requirement is similar to the requirement now included in the Chapter 40B regulations. It is anticipated that in a certain cases and in certain locations this requirement for affordability will make desirable and otherwise feasible projects uneconomic to build. Therefore, in order to achieve the production levels estimated

in this report, it is believed that funds for affordability must be made available to certain developments in order to ensure economic feasibility. It is estimated that approximately half of the units will need such assistance (3,300 units), and that the cost will be approximately \$170 million over the ten year period (based on a one-time capital grant of \$50,000 per unit and modest increases in the amount of the grant over time).

These funds will assist those making approximately 80% of the median income – working families – teachers, the police, firefighters, and nurses. In many cases, they will be the children of long time residents of the particular community, who otherwise would be unable to afford to live where they grew up.

In addition to the programs and development experience listed above, land owned by the state offers a substantial resource that can be used to address the housing problem. First, it can be sold and the proceeds used to pay for housing affordability. Second, the land itself is often well suited for housing development. The state owns more than a half a million acres of land. It owns over 4,000 acres in Boston alone. Some of

it is surplus; other parcels are being used, but the activities could be transferred or consolidated with resulting efficiencies. The Division of Capital Asset Management and Maintenance (“DCAMM”) operates much of this real estate for the Commonwealth.⁴¹

MassDevelopment is working with DCAMM to develop an accurate inventory of the state land, as well as to develop more efficient techniques for identifying parcels that could be sold or recycled as housing.

The Task Force has spent considerable time and energy in exploring the issue of affordability and potential methods by which these problems can be addressed. Based on this work, this report recommends that the Commonwealth:

1. Maintain or increase the allocation for housing under the Private Activity Bond Cap at the current level;
2. Gradually increase the housing portion of the State Annual Bond Cap from its current level of 9.1% to 15%.
3. Gradually increase annual State outlays for housing to \$120 million. In the next decade this will add about \$670 million for housing affordability.
4. Sell surplus State property, with a priority for housing and mixed use (where appropriate). Use the funds for increasing State assistance for housing affordability.

In order for the State to be successful in selling \$400 million of surplus land over the next ten years, it is recommended that:

1. all disposition responsibilities be delegated to the Division of Capital Asset Management and Maintenance (“DCAMM”),
2. dispositions take place pursuant to an auction system, and
3. auctions occur prior to obtaining necessary local approvals.

Estimates of Production, Cost and Potential Revenue Offsets

The financial projections included with this report conclude that if 33,000 new housing units are built in Overlay Zoning Districts during the next ten years, the cost to the state for the Density Bonus Payments will

The Density Bonuses are estimated to cost \$14 million per year when fully implemented; the additional school aid \$62 million in the 10th year.

start at \$11 million, and grow to \$14 million per year by the tenth year. This calculation assumes that zoning for 50,000 units is put in place during the ten years.

The incremental new school costs to be paid by the state for the 33,000 new housing units is projected to start at \$3 million in the second year, and be approximately \$62 million dollars by the tenth year. To put this number in context, ten years from now, after 33,000 new units are built, the annual cost of this

new initiative is expected to be only 2.1% of the 2001 Chapter 70 budget amount of \$3.0 billion.

Production Estimates:

A series of estimates and projections were made to obtain these figures. The first step was a review of prior reports, particularly those prepared by the Center for Urban and Regional Policy at Northeastern University, with regard to the quantitative elements of the problem. Recent experience with the softening of the rental market because of the loss of jobs in Massachusetts was also evaluated. Based on this overall analysis, it was determined that an annual net increase in the production of apartments and single family homes of approximately 2,000 units over historic levels would be sufficient to enable the housing markets to clear at more modest prices. This figure was derived by subtracting the average amount of construction in Greater Boston over the last three years (8,321 units per year) from the projected increase in new households for the decade (10,300 per year). It has been assumed that 60% of this amount (1,200 units per year) are likely to be multi-family units, and 40% (800 units) are likely to be single family.

Given the current softness in the rental housing market, it is believed that it will be several years before the increased production will be required. Actual timing will depend on how quickly the economy in Massachusetts rebounds. In the cost and production estimates, the amount of production is estimated to increase over a number of years as the program is passed by the legislature, approved by the Governor, and then implemented by various communities. A detailed narrative description of the analysis is included in Appendix B and in Exhibit 1, which contains the financial analysis.

A major objective of the Overlay Zoning District program is to encourage the development of housing to take place in Smart Growth locations instead of being spread throughout the community in the haphazard, line-of-least-resistance, current practice that governs site selection. In this regard, it is anticipated that Overlay Zoning Districts will attract a significant amount of construction that otherwise would have been built in locations that would more significantly contribute to sprawl. The Districts will have the effect of “transferring” the units into Smart Growth locations – and hence such housing units are termed “Transfer Units” in this report.

For the purposes of the projections, it has been assumed that this effect will be substantial, with 50% of the multifamily units to be built in Overlay Zoning Districts being Transfer Units. It has been further assumed that 30% of the single-family homes built in the Overlay Zoning Districts will be Transfer Units.

The estimates for production of housing in the Overlay Zoning Districts should therefore include both the

It is anticipated that Overlay Zoning Districts will attract a significant amount of construction that otherwise would have been built in locations that would more significantly contribute to sprawl.

amount of housing required to enable the housing markets to clear with prices that are more reasonable, as well as the number of Transfer Units. Given the assumptions set forth above, it has been estimated that the number of single-family units should be approximately 1,350 per year, and the number of multifamily units 2,850 per year. Note that it is anticipated that these levels will not be reached until 2008 given the timetable in this proposal.

It was further assumed that in each year there should be land zoned for three units for each unit that is built in the subsequent year. The resulting number and type of units zoned was used for the calculation of the amounts of the Density Bonus Payments.

These baseline figures were then projected over a ten-year period, with limited production in the early years and building up to the desired level by the fifth year. After the fifth year, production was assumed to increase by 5 percent per year. The net result of these projections is an estimate for the construction of 11,000 new single-family homes and 22,000 apartments over the ten years.

These figures are less than ten times the average amounts set forth above because it will take a number of years at lower production levels before the program is fully underway.

Using census data, the number of school age children for each home was calculated for each year. It was assumed that each single family home would have approximately one (.966) school-aged child, and each apartment, on average, would have .12 school-aged children. In other words, for each 100 single-family homes it was assumed that there would be 97 children to be educated, and for each 100 apartments, it was assumed that there would be 12 children.

Using these figures, in the 5th year (2008) it is projected that 1,350 new single-family homes will be added in Overlay Zoning Districts, and 1,300 school-aged children will live in these homes. In the same year it is projected that there will be 2,850 new apartments built with 370 school-aged children. So, for the 4,200 new housing units, there will be approximately 1,670 new school-aged children in all the Overlay Zoning Districts combined.

Over the ten-year period, it has been projected that there will be 10,700 new students from the single-

family homes, and 2,800 new students from the apartments that are constructed, for a total of 13,500 new students.

Cost Estimates:

The state currently pays, on average, about 40 percent of the cost of schooling children across the state. The average cost in 2001 was \$7,750. In order to estimate the incremental new school costs for each year, the projected number of additional schoolchildren in Overlay Districts was multiplied by \$4,600 (60% of the \$7,750 annual cost).

The incremental new school costs for the annual production of 4,200 new units, generating 1,670 school-aged children, are estimated to be approximately \$7,700,000. These costs will be incurred annually thereafter.

Over the ten years, it is estimated that the total cost for the Density Bonus Payments will be \$115 million. The total increased schooling costs are projected to be \$245 million. In addition, it is recommended that the state provide \$43 million of implementation funds over the ten years. This gives a total estimated ten-year cost of approximately \$404 million.

Sensitivity analyses have been run using different production assumptions. The costs to the state vary proportionately to the amount of production that takes

place. Consequently, if the amount of production in Overlay Zoning Districts increases (or decreases) by 15%, it should be assumed that the cost to the state will also increase (or decrease) by approximately 15%.

Potential Revenue Offsets:

However, state tax revenues will not be static during this period. The brunt of the costs, the school aid, will not be incurred unless the housing

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When each apartment or house is built, new state revenues from the sales tax and the income tax will be generated from the construction.

is actually constructed. And, when each apartment or house is built, new state revenues from the sales tax and the income tax will be generated from the construction. Our estimates indicate that new state tax revenues attributable to this new construction will total \$185 million over the ten years (see pages 17 and those following of Exhibit 1 for the assumptions and calculations behind this figure and other revenue-offset amounts).

Earlier in this report, studies were cited that suggest businesses have found housing costs to be an issue regarding their ability to expand in Massachusetts. High housing costs make it difficult for people to move to the State and purchase a home. It is believed that this phenomenon will be significantly reduced by the moderation

A major source of potential funding is from the sale of surplus state land.

of price increases because of Overlay Zoning Districts. Companies and institutions (educational and health related) will find it easier to expand, and more jobs will be created in Massachusetts. The new jobs will create additional tax revenues for the State from the income taxes paid on wages earned, and from sales taxes on goods and services purchased. It is estimated that these new revenues will equal \$110 million over the next ten years.

The estimates for incremental State tax revenues have been based only on the new production in the Overlay Zoning Districts; taxes associated with the Transfer Units have been excluded.

A major source of potential funding is from the sale of surplus state land. It is believed that such revenues could equal \$400 million over the next ten years. It is recommended that these sales give a priority for housing use, but that housing use not be mandatory. It is further recommended that the majority of the funds generated from this source be used to pay for increased housing affordability, both inside and outside the new Overlay Zoning Districts.

In order to achieve sales at these levels, major changes in the State's disposition process will be required. It is recommended as follows:

1. The State take steps to accurately inventory State land for potential sale;
2. All disposition responsibilities be delegated to the Division of Capital Asset Management and Maintenance ("DCAMM"),
3. Dispositions take place pursuant to an auction system, and
4. Auctions occur prior to obtaining all necessary local approvals, thus eliminating the long delays historically associated with the state requiring that these approvals be obtained prior to disposition.

Conclusion:

These proposals offer the cities and towns of the Commonwealth an avenue for dramatically changing future development patterns. No longer will communities be forced by the structure of the financial system to accelerate the spread of sprawl, as more and more housing units are built in outlying areas on large lots. Instead, they will now be able to choose to have development take place in already built-up areas. The Planning Boards will have the authority to ensure that new construction in these Districts is consistent with the quality and character of the neighborhoods. The state will offer substantial financial incentives to have the housing built around existing T stops and

commuter rail stations, in town centers, and on underutilized industrial or institutional properties.

It is believed that these programs will result in a significant increase in land zoned for apartment construction and for building single-family homes on small lots. For-profit and non-profit housing developers will be now be in a position to construct the housing that the Bay State's economy needs to assure continued economic development and adequate affordable housing.

Finally, housing markets in the Commonwealth will be able to

clear with price increases for homes and apartment rents moderating over time.

The financial incentives are designed to relieve the property tax burden for existing property owners in communities that have development take place in an Overlay Zoning District. New housing will provide more local tax revenue than the cost of the services required to serve the development. For each community, the more housing built, the lower the tax burden on existing taxpayers. Supplemental assistance programs will give communities access to funds to provide new infrastructure such as water and sewer

improvements and to undertake neighborhood-wide improvement programs that will enhance neighborhood livability for all residents.

Communities will be able to embrace the benefits of traditional neighborhood design with houses and apartment buildings close to each other and to small shops and schools. Existing infrastructure can be used more efficiently. New investment can be attracted to existing neighborhoods.

It is essential that the Overlay Zoning District program be coupled with substantial increases in State funds for affordability. Many of the proposed developments in Overlay Zoning Districts will need assistance in order to provide the 20% affordability required. Lower and moderate-income individuals and families require assistance in meeting their housing needs. It is proposed that a significant source of funding for this increased assistance can be obtained through the sale of surplus state property.

Across Massachusetts the Overlay Zoning District program will allow new development to extend the charm of New England villages. Increased affordability will provide better housing for those otherwise left behind. The unique heritage of the Commonwealth will be enhanced.

Most importantly, the housing problems of the region will be effectively addressed.

Communities will be able to embrace the benefits of traditional neighborhood design with houses and apartment buildings close to each other and to small shops and schools.

These programs will result in a significant increase in land zoned for apartment construction and for building single-family homes on small lots.

II. Appendices

Appendix A State Assistance to Local Communities

The essence of local government in Massachusetts is local control. The essence of the Overlay Zoning District initiative is that each community will have the *option* either to participate, or not to participate in the program. In addition, the intention of the program is to give local communities the ability to craft the provisions of the District in such a way as to meet the specific circumstances of the town or city. By its nature, this will be a time-consuming and complex process. In each community, it will require many meetings, dozens of meetings in some cases, as citizens learn about the program, understand the features and benefits, and become comfortable with specific proposals.

Some communities have professional planning staffs and highly dedicated members of boards and committees, and may be able to obtain approval of an Overlay Zoning District without the help of professionals. However, these communities are undoubtedly in the minority. Most communities do not have the resources to get through the process without outside assistance.

Therefore, it is recommended that the State fund a separate program to provide professional assistance to local communities in passing Overlay Zoning Districts. The assistance would be provided in two ways: through planning organizations, and with direct grants to pay for professional services.

It is recommended that the State fund a separate program to provide professional assistance to local communities in passing Overlay Zoning Districts.

i. Regional Planning Agencies and/ or other Planning Groups:

The state is divided up into seven regions, each of which has a Regional Planning Agency. These existing organizations are a logical locus for efforts to assist communities in evaluating the potential for and undertaking the passage of Overlay Zoning Districts. Each Agency has a board of directors that broadly represents the communities in the region. The staff members of the Agencies have many years of collective experience with the specific circumstances and issues affecting each of the communities. In addition, these Regional Agencies are charged with the responsibility for coordinating regional as opposed to insular approaches to problems.

There are other planning organizations in the state that can provide such services, such as community development corporations (“CDCs”) and other local nonprofit and for-profit entities.

It is therefore proposed that in conjunction with the passage of enabling legislation for Overlay Zoning Districts, the state also make a commitment to fund staffing and other costs to assist local communities by explaining the program, helping to define potential Overlay Zoning Districts, and providing assistance in getting the Districts passed. This work is anticipated to be of a generalist nature. It will be focused on working with planning boards, town managers, and other key groups and bodies in each community, explaining the program, assisting supporters that may emerge, and suggesting solutions to problems that develop. It is not expected

Community development corporations and other nonprofit and for-profit entities can provide such planning services.

to include technical consulting work, such as preparing the Build-Out Analysis, or drafting amendments to the Zoning Bylaw of the Community.

At a minimum, it is proposed that one full time staff person be funded for each of the regions of the State. For the Greater Boston region, two persons should be funded. In addition, funds should be provided to prepare information for local communities, and to pay for overhead and out-of-pocket expenses in assisting

It is proposed that one full time staff person be funded for each of the regions of the State. For the Greater Boston region, two persons should be funded.

the communities. Assuming that each staff position costs an average of \$75,000 per year, including fringe benefits, etc., and assuming that annual overhead and out-of-pocket expenses per staff person will equal \$50,000 per year, this would total \$125,000 per position. If there were 8 positions (one for each of the 7 regions, plus one additional for Greater Boston) the total budget would equal \$1,000,000.

An annual total of \$1,000,000 per year is recommended for this portion of the program. These funds have been

included in the overall cost analysis accompanying this report. The funds would be administered by DHCD. Proposals for funding may be prepared by Regional Planning Agencies, CDCs, and others with appropriate background, on an annual basis. The proposals will be submitted to, reviewed, and selected for approval by DHCD. After the first year, successive years will also require a report on work accomplished to date, as well as specific work plans for the coming year.

ii. Professional / Consulting Assistance to Local Communities:

Most communities will require professional assistance in the process of developing the plans for, drafting the proposed legislation, and successfully obtaining a vote to approve an Overlay Zoning District.

It is proposed that the State provide planning grants to individual communities for this purpose, to be matched (not necessarily dollar for dollar) by local or other sources of funds. The communities will use the funds to pay consultants, including lawyers, architects, land planners, engineers, CDCs, and housing/finance experts, to carry out one or more tasks similar to the following:

- identify the exact boundaries of proposed districts;
- identify special features of the proposed district, such as wetlands;
- prepare / evaluate alternative build-out plans for the district;
- research existing zoning regulations and other applicable development regulations;
- identify and provide cost estimates for infrastructure improvements required;
- prepare tax assessment data for proposed tax increment financing districts;
- prepare Build-Out Analyses;
- provide financial projections of the impact of the District on the local budgets and the existing tax base;
- fund the preparation of detailed, written descriptions of the proposed District;
- fund mailings and other communications to voters; and
- draft proposed legislation for the Overlay Zoning District.

It is proposed that the State provide \$4,000,000 per year to communities for professional and technical assistance in getting Overlay Zoning Districts passed.

In some cases, the work required may be straightforward. In other cases it could be quite complex, and the process of preparing the information in a satisfactory format, explaining it to the key parties in the community, and provide modifications as the proposal changes could take place over many months or several years.

If the overall program is to be successful, many districts must be approved. To get many housing units built in the Districts will require some districts to have large Build-Outs – that is, with many potential units in the district. Some of the proposed financing will end up being complex. These consulting funds are intended to ensure that interested communities are able to hire professionals with experience and credibility to help craft and negotiate the details of the proposed Districts.

For budget purposes, it is proposed that \$4,000,000 be provided annually. This would enable the state to provide an average of \$50,000 to each of 80 separate communities each year.

The total funds for implementation are proposed to be \$5,000,000 for the first three years, and \$4,000,000 for succeeding years.

It is proposed that DHCD administer the funds.

Infrastructure

The following sections discuss various infrastructure issues, how the state can assist communities in providing infrastructure, and suggests interrelationships between programs and types of financing.

Water and Sewer:

Without public water and sewer it is difficult (if not impossible) to build apartments or single-family homes on small lots. It is even more difficult to build a mixed-use development, with a number of retail

stores, and apartments upstairs. Problems arising from the technical issues required for on-site waste treatment and disposal, not to speak of the cost and the amount of time and effort required for approvals, are so daunting that few developers or investors will even make the attempt. Only with extremely large development, can a private entity front the costs and bear the long-term burden of such systems. Consequently, in Smart Growth locations (such as a train station or a town center) where public water and sewer do not exist, there is an essential role for the public sector in providing the improvements.

Typically, a community floats its own bond issues for the construction of sewer and water improvements. The financing proposed here would be more flexible, would allow the sharing of the obligation for paying the debt service, would not require a vote from town meeting, and could be tied to the financing for the development of a specific project. It would also not affect any bonding caps or the credit rating of the community.

The state has programs to assist local communities with water and sewer projects. The state should consider providing additional funds for these programs in circumstances where the work is essential for an effective build-out of an Overlay Zoning District.

Traffic and Transportation:

Traffic congestion is a major concern for Massachusetts residents. It was second in importance (to housing) in the MassINC survey described earlier. To the extent that Overlay Zoning Districts will bring more housing into a community – and that is the primary objective – they will also increase the amount of traffic on local streets. This is likely to be one of the arguments in a particular community that will support or justify a vote against a proposed Overlay Zoning District. In order to give the proponents of such districts persua-

In Smart Growth locations (such as a train station or a town center) where public water and sewer do not exist, there is an essential role for the public sector in providing the improvements.

In Overlay Zoning Districts the State should make funds available to provide traffic and signalization improvements that will reduce congestion and improve travel times.

sive arguments with which to counter these objections, the State should make funds available to provide traffic and signalization improvements that will reduce congestion and improve travel times. These might include funds for street widening, stacking lanes, new traffic lights, and, importantly, sophisticated traffic sensing and control systems for lights.

Commitment of the funds would be tied to the approval of the Overlay Zoning District by the voters.

Parks and Common Areas:

Any Overlay Zoning District of size will require parks and common areas. Part of the pleasure of densely developed urban areas, as described in the endnotes

The Overlay Zoning District can become a vehicle to marshal planning and financing for neighborhood renewal.

by both Robert Campbell and David Dixon, is the experience of walking through, sitting in, and just generally experiencing well-landscaped and beautifully maintained open spaces and parks.

Forcing the capital costs and maintenance costs of such parks, which are enjoyed by everyone, on the most convenient (that is, the first) developer simply serves to force up the cost and price of the housing that is eventually (if at all) produced. More typically, it means that only

the bare minimum is done, not what should be done to maximize the broader public interest.

Existing Building and Neighborhood Improvements:

In many communities (but certainly not in all) the buildings near commuter rail stations are a bit ragged and run-down. The adage of “the other side of the tracks” has some validity – and these are the tracks. A typical configuration is that there will be a street crossing the tracks at the station. Often the street, as it extends in both directions, is zoned commercial, and there are convenience stores of various types, like an ice cream parlor, a coffee shop or a real estate office. Sometimes there are housing units over the stores. And, typically, just off this street and back from the tracks are residential neighborhoods – usually one and two family homes built on relatively small lots.

The Wyoming Hills commuter rail station in Melrose is an example. On the northeast corner of the cross street is a vacant and unkempt lot full of weeds, an empty, one story storefront, some derelict garages dating to the depression era that may or may not still be in use, and several three-decker buildings. There are also commercial buildings in modest condition. Against the tracks to the north is a line of parking that is not paved, with uneven gravel that a rainstorm turns to pools of muddy water. This area is not particularly well maintained, and is ringed with weeds. Nearby is a vacant bowling alley with parking lot, on which a housing development is currently planned.

An Overlay Zoning District would make sense here. There are several sites where new housing could be built in ways that would complement the neighborhood. But, let’s not stop with the housing. Let’s also consider an additional component to the program that would generate broader based neighborhood improvement. Such a component would provide both a source of funds for, and the planning and coordination of upgrades to building exteriors and site improvements (such as the parking next to the tracks).

The model is the “Main Street” program of the National Trust for Historic Preservation. The City of Boston has a version, as does Melrose, for its downtown (which has been quite successful). The concept is that within an Overlay Zoning District, buildings would be eligible for unique and attractive financing for exterior improvements that meet standards for design and materials as set forth in the provisions of the Overlay Zoning District. There might be a source of funds to help upgrade the parking and other common areas. Remember that an element of the proposed provisions of the Overlay Zoning Districts would give power to the Planning Board to set design standards, pursuant to terms and conditions agreed upon locally.

The Overlay Zoning District would then become a vehicle to marshal planning and financing for neighborhood renewal. The District would be a coordinating umbrella for a comprehensive approach to the neighborhood. This approach would also be effective in many town center situations. Often, if carried out effectively, more private investment will also be attracted to the area – all serving to make it a more desirable place for people to live.

Such a plan, if carried out over a three to five year period, would have a high probability of substantially increasing the value of all the properties within the District. That fact will help gain support for passing the District in the first instance.

Parking Structures on MBTA Parking Lots:

The MBTA owns parking areas around T stops and Commuter Rail stations with the capacity for 20,000 cars. Many of these sites would be ideal for the construction of housing because of their location, because of the existing parking, and because often there are utilities present. In many cases, it may be relatively easy to get Overlay Zoning Districts passed for such locations, particularly if the District includes only the train station and the existing parking lot. The housing would then be built over the parking lot.

The MBTA owns parking areas around T stops and Commuter Rail stations with the capacity for 20,000 cars. Many of these areas would be ideal for the construction of housing.

The State should encourage the MBTA, MassHousing, and MassDevelopment to develop financing programs that will creatively fund both the acquisition or lease of the land and the construction of structured parking for the housing (either above or below the current parking lot). Because structured parking is so expensive, absent such a program the market rents or sale prices for the housing may not be high enough to make the projects feasible, particularly since 20% of the units must be affordable, and those rent reductions will have to be made up, in most cases, by increasing the rents on the market rate units. The goal

should be to have the payments for the land and the structured parking be sufficiently low so that building the housing becomes economically feasible. This will vary from community to community, depending on the strength of the housing markets.

Using such a program, the parking would be built above (or below) the existing parking lots. It may be

possible to build just one or, at most, one and a quarter parking spaces for each housing unit built on the site (instead of the usual two cars per unit). The lower parking ratio would be justified by the assumption that many of the residents will commute to work via the train, and not need a second car (or even one car in some cases). Since residential parking use is out of phase with commuter parking, the existing parking lots can serve as visitor parking for the apartments during off-peak times.

Such a program could result in the construction of several thousand units relatively quickly in ideal Smart Growth locations. Since land control would not be at issue (it is already owned by the MBTA), the development process could proceed in an efficient fashion. The T could agree to a payment over time for the land or to a multi-year lease that would help make the overall financing feasible.

This program has the potential of generating long-term revenues from the sale or lease of land for the MBTA.

Relatively quickly, this could result in the construction of several thousand units in ideal Smart Growth locations.

Appendix B

Production and Cost Estimates

Production Estimates

This Appendix B investigates the question of how to estimate the number of single family and multifamily housing units that might be required in the Greater Boston area in order for the housing markets to clear and for prices to moderate. In other words, how much new housing must be built in order to bring the supply – demand equation into equilibrium without continuous steep price increases? It is important to develop a methodology with which to estimate this in order to make calculations of:

- the amount of zoned land that will be necessary;
- the number of single family and multi-family housing units that need to be built; and
- the cost of the Overlay Zoning District program to the State.

The conclusion of our analysis is that a relatively modest increase of approximately 2,000 new housing units per year in Greater Boston should be sufficient to have a dramatic effect on prices in the housing markets.

It is expected that the Overlay Zoning Districts will be successful in inducing developers to build housing in the Districts that would otherwise be built in the communities, but in other locations – non-Smart Growth locations in many instances. For purposes of this report, these housing units are termed “Transfer Units”. To make an estimate of the amount of housing to be built in the Overlay Zoning Districts requires both an estimate of the number of units required to achieve price increase moderation (approximately 2,000 units per year) and

The conclusion of our analysis is that a relatively modest increase of approximately 2,000 new housing units per year in Greater Boston should be sufficient to have a dramatic effect on prices in the housing markets.

an estimate of the number of Transfer Units.

The key assumptions used in the projections are as follows:

- The 2,000 units per year of incremental new construction will be 60% multifamily and 40% single-family;
- Transfer Units will comprise 50% of the multifamily housing, and 30% of the single-family housing built in the Overlay Zoning Districts.

More detail on the reasoning behind these assumptions and conclusions is contained later in this section.

These assumptions result in an estimate that 11,000 single-family homes and 22,000 apartments will be constructed in Overlay Zoning Districts during the next ten years. Since it will take several years before actual housing units are built in the districts – first to get the initial legislation passed, and then for the Overlay Zoning Districts to be put into effect – the significant amount of production occurs from the fifth through the tenth years.

The Impact of the Economy

It is difficult to estimate the amount of housing required to satisfy the needs of the residents of the Commonwealth over the next ten years, because the number of households that wish to buy or rent is a direct function of the strength of the economy. It is notoriously difficult to predict the direction of the economy.

As the economy strengthens, the number of households seeking a place to live increases. New jobs and low unemployment result in fewer people moving out of the state, more people moving into the state, more younger people moving away from home and into apartments, and in those doubling up becoming able to afford their own apartment.

Conversely, as the state economy loses jobs, just the opposite occurs. People move out of the state, double up, and move home with their parents. The number of households goes down dramatically. Under such

circumstances, it is expected that the vacancy rate in apartments will increase, and rents will tend to go down, not up. It would also be expected that home prices would stabilize or go down.

Recent experience illustrates the impact of a softening economy. It also shows how difficult it is to predict accurately how even a softening economy will affect housing prices.

Since its peak in January 2001, the state has lost 168,000 jobs and the unemployment rate has increased to 5.7%⁴². As would be expected, this economic softness manifested itself in the apartment sector of the housing markets by increased vacancy rates and reduced rents. These were described in October 2002 by a report of the Greater Boston Real Estate Board stating that vacancies had increased to 8% (from 2.2% the prior year) and that owners were offering concessions (a month's free rent, for instance) in order to get tenants⁴³. In July 2003, Ed Shanahan of the Greater Boston Real Estate Board reiterated this view of the market, saying that concessions on rents and higher vacancies were continuing⁴⁴.

It should be noted that this modest softening of the rental market does not and will not make any substantive impact on the problem of affordability of housing for low and moderate-income renters in the Greater Boston area.

In the single-family homebuyer markets there has been some softening, as evidenced by the fact that the amount of time homes are on the market has increased over the last year or so. However, average prices are higher than ever, exceeding the \$400,000 mark for the

Since its peak in January 2001, the state has lost 168,000 jobs and the unemployment rate has increased to 5.7%. As would be expected, this economic softness manifested itself in the apartment sector of the housing markets by increased vacancy rates and reduced rents.

first time in the second quarter of 2003⁴⁵. It appears that there is a disconnect here, with the apartment markets performing as expected in the face of economic downturn, but the single-family markets continuing to see increases in price. Such an apparent disconnect, while explainable (see below), shows how difficult it is to make predictions about housing demand over a ten-year period.

In just the space of a few years, without a significant increase in new construction, the recent downturn in the economy significantly altered the rental housing market. Vacancies moved from a 2% level to 8% to 10%. Rents stayed constant or declined. One conclusion that may be drawn from this is that the markets were not significantly out of balance, even in 2001. Put another way, relatively modest increases in construction in the years 1997 to 2001 might have substantially moderated the extreme run-ups in housing prices that were experienced over that period.

If this is correct, then it supports the estimate that an increase in production of 2,000 housing units per year in the Greater Boston area can make a significant difference in the ability of the housing markets in Massachusetts to clear with moderation in price increases.

This conclusion is consistent with how it is believed housing markets work in general. Prices for apartments and single-family homes move up and down rapidly and disproportionately at the margin of the balance of supply and demand.

For instance, if 100 people are looking to purchase homes, and there are 103 homes on the market in the appropriate price ranges, then, over a relatively short period, each of the 100 people will be able to find the most suitable place for him or her to buy, negotiations will take place, and the sales will close. The three homes that did not sell will be the ones that have their price set too high relative to the value perceived by the buyers, as they compare the different choices in front of them. Those three can (if they wish) reduce their price to a more appropriate level, and in the next round of 100 buyers, sell their properties. Things will be more or less in balance.

On the other hand, if there are only 97 homes available, and the same 100 buyers are looking, then a very different process will occur. It will be like musical

The goal is to have enough land zoned for housing so the development community can build to meet the demand.

chairs. When the music stops, there will be three buyers who did not get a place to live. Now the dynamic will be quite different. As consciousness of this reality permeates the market, buyers will begin to offer more than the asking price. There will be little negotiation on price. Prices will begin to move up until some of the buyers drop out because they can no longer afford the asking prices.

There may be only a 3% shortage in supply. However, that modest shortage could stimulate price increases of 10% in a short period.

Thus, a shift of only four to six units in relation to 100 units for sale can make a large difference in the dynamics of the marketplace. The same thing goes for apartments. It should be further noted that the increase in prices does not confine itself to just those units on the market – those few units being sold set the effective *values* for all the comparable housing units in the marketplace.

The point is that it does not take very many homes or apartments, at the margin, to make a big difference in terms of price inflation or deflation. A three percent shortage (or surplus) of homes will cause shifts in values and prices that are much higher than 3%, and these changes will affect the entire market. Again, this supports the estimate that an increase in supply of 2,000 units per year in the Greater Boston Market Area over an extended period will have a dramatic effect on housing markets.

Price Increase Disparity:

Let us turn our attention to the difference in price appreciation between single-family homes and apartments.

In 1997, 1998, and 1999 there were approximately 9,000 single family homes constructed in the 127 communities making up the Greater Boston MSA. That number slipped to 8,000 in 2000, and to approximately 7,000 in 2001 and 2002⁴⁶. During this period, in most communities, housing prices doubled⁴⁷.

Over these years, the number of all multi-family units being built (with more than 2 units per building) increased steadily from 1,500 in 1997 to 4,000 in 2002⁴⁸. In the context of this increased construction, rent levels went up from 40% to 60% across communities⁴⁹. Interestingly, the higher increases were in the less well-off, “more affordable” communities.

Why was the rate of increase of single-family house prices (100%) so much higher than the rate of increase of apartment rental rates (40% to 60%)?

The following analysis suggests that lower interest rates account for most of the discrepancy.

Home prices are more sensitive to interest rates than apartment rental rates. Lower interest rates make it possible for homebuyers to afford a more expensive home with the same out-of-pocket annual cost.

On the other hand, lower rates do not directly affect apartment renters. Over time lower rates will result in more apartments being built, which will act to moderate rent levels as the supply increases. But, the rents themselves will not be affected in the short run. If the owner is able to refinance existing debt at lower rates, then the owner’s profits and cash flow may increase.

Over the last five years, interest rates have gone down steadily, to current record lows. As a result, a significant component in the doubling of housing prices has been the reduction in interest rates. When home mortgage interest rates fall from 7.5 % to 5% (as they have), it is equivalent to a reduction of 33 percent. However, the amount of additional loan that can be supported by the same monthly payment goes up by 50 percent, as shown on the chart below⁵⁰.

Amount of Mortgage		Interest at 7.5%	Interest at 5%
\$300,000	Annual Interest Pmt	\$22,500	\$15,000
\$450,000	Annual Interest Pmt	\$33,750	\$22,500

The interest on a \$450,000 mortgage at 5% will cost the same per month as the interest on a \$300,000 loan at 7.5%. The amount of loan that can be supported is 40 to 50 percent higher, depending on amortization. In the context of a “shortage” of single-family homes in relation to the number of willing and able buyers, it is easy to see why prices might be bid up much higher than they would in the context of constant or increasing interest rates.

Over the last five years, as home values have increased by 100 percent, it is therefore reasonable to attribute 40 to 50 percent of that increase to lower interest rates. Thus, the balance of the increase – the amount not related to interest rates – is 50 to 60 percent. The rapid increase in home prices in the context of lower interest rates is supported by the fact that the prices tend to go up easily (sellers are always happy to get more money when they sell). On the other hand, prices tend to be “sticky” on the way down, because sellers are reluctant to acknowledge a lower value than they may have had, or thought they had – so they do not sell, or delay selling.

The difference in the rate of appreciation of apartment rent levels (40 to 60%) and home prices (100%) over the last five years is therefore largely explained by the impact of interest rate reductions of 33%. Lower interest rates appear to account for 40 to 50% of the increase in value of single-family home prices.

Low interest rates have another impact on housing prices. With rates at record lows, many individuals and families are able to purchase homes that were formerly out of reach. New, first time homebuyers generally come from apartments. As low interest rates kept home-ownership housing in strong demand and prices up, it also pulled renters out of apartments. Thus, a significant component in the increased vacancy and lower rents in apartments were the tenants lost from the apartment market to homeownership. It wasn’t just the softness of the economy that softened rental markets. It was also low interest rates.

There are three significant points to make from this. First, the relative scarcity of apartments and single-family homes is more similar than the discrepancy in the rate of price appreciation over the last five years would suggest.

Second, it strongly suggests that the current softness of the rental market will turn around rapidly as the economy

picks back up. And, if this happens in the context of interest rates rising, the turn-around to higher rents and lower vacancy rates could be quick and dramatic. This report strongly believes that the situation in rental housing in 2003 is only a temporary lull, caused by the confluence of extraordinary job loss in the economy and low interest rates. It is believed that **action taken now, by implementing the Overlay Zoning District program, is essential in order to avert highly probable future spikes in prices.**

Thirdly, it suggests that a similar approach will be effective with both single-family and multifamily housing in the efforts to increase production sufficiently to allow the housing markets to clear with moderate price increases (for supply and demand to be in balance). The strategy does not have to be disproportionately weighted towards the (recent) more rapidly appreciating single-family homes.

As noted earlier, it is impossible to predict accurately what the housing demand is going to be in five years, much less in ten years. *The appropriate public policy should therefore be focused on making it possible for the development community to build the housing that is in demand.* The goal should be at all times to have enough land zoned as-of-right for multifamily housing and single-family housing on small lots so that the development community can build to meet the demand – on a timely basis, as it may and will change over the years.

Overlay Zoning Districts will make the approval process for developers wishing to build housing shorter, less expensive, and more predictable. The Districts will make it more efficient for developers to build the number of units that are needed by the market, at the time. Supply can follow market demand more closely, as the housing market reflects the strength of the economy. The disparities between supply and demand will be reduced, thereby moderating escalations in values.

Action taken now, by implementing the Overlay Zoning District program, is essential in order to avert highly probable future spikes in prices.

Zoning versus Construction:

The above assumptions result in production figures for the Overlay Zoning Districts of approximately 4,000 units per year by 2008. To accomplish this level of construction, as-of-right zoning will be required for more than this amount. Clearly, not every parcel of land zoned for apartments or single-family homes will be developed immediately. In this report, it has been estimated that it will be necessary to have three units zoned in a particular year for each unit that is actually built in the following year.

Thus, in order to be prepared for the production of 4,000 units in 2008, it will be necessary to have land zoned for 12,000 units, in Overlay Zoning Districts, in the year 2007. These amounts have been calculated annually in order to estimate the amount of Density Bonus Payments to be paid each year.

The construction total estimated Statewide for the ten-year period is 33,000 units. To achieve this level of production over the ten-year period, it is assumed that zoning must be in place for 50,000 new units. The reason the amount of zoning required is not three times the 33,000 units, or 99,000, is because the 3 to 1 ratio needs to be met only at the end of each year, for the amount of production due the next year. Pages 7 and 8 of Exhibit 1 show the detail of these calculations.

Based on the above discussion, the following sets forth the reasoning used to calculate how much housing production in Overlay Zoning Districts will be required⁵¹:

- Housing production in Greater Boston during 2000 through 2002 averaged 8,321 units per year⁵².
- New household formation in this decade is estimated to be 10,300 per year.⁵³
- Therefore, the shortfall, an additional 1,980 units of new housing, is required to be built each year in order to provide for the increase in the number of new households.
- Because of adequate vacancy rates today, coupled with the continuing weakness in the economy, total new production can be phased in over a number of years to meet this annual production target
- It is expected that the total number of multifamily units built in Overlay Zoning Districts will exceed the number of single-family units (zoning for single-family housing already exists in most

communities; it does not for multifamily housing).

- It is assumed that the total production need (of 2,000 units per year in Greater Boston) will be met 60% by multifamily and 40% by single-family homes.
- It is assumed that Transfer Units will make up 50% of the multifamily housing built in the Overlay Zoning Districts. Many of these are expected to be 40B developments that would have been built elsewhere in the community absent the District.
- It is assumed that Transfer Units will make up 30% of the single-family housing built in the Districts.
- Total production for the Commonwealth is assumed to be 1.2 times the need in Greater Boston. Non-Greater Boston is assumed to be the areas west of Worcester.
- In the Overlay Zoning Districts, in order to ensure that enough zoning is in place to meet demand, it is assumed that zoning must be available as of right for three units of housing in a given year for every one unit produced in the subsequent year. The 3 to 1 ratio is required because a) not all the Overlay Districts will be in sufficiently strong markets to support new construction; b) not all land will be for sale in a particular year, and c) the goal is to have a “surplus” of zoned land, not “just enough” zoned land.
- It was also assumed that the amount of production required would grow by 5% in the years after 2008.

However, again it must be noted, that even in the context of increased production, the problems of affordability for low and moderate income tenants will not be eased. Only increased government subsidies and assistance can address this problem.

The above assumptions have been used to make the financial projections set out in Exhibit 1. It must be recognized that the actual number of units built in Overlay Zoning Districts over the next ten years will depend on a number of factors that are difficult to predict.

First – the overall strength of the Massachusetts economy over that period.

Second – the extent to which communities adopt Overlay Zoning Districts.

Third – the extent to which developers utilize the increased zoning rights to build in the districts.

III.

Endnotes

- ¹ *Boston Globe*, Real Estate Section , July 26, 2003,.
- ² “The Pursuit of Happiness,” *MassINC Survey on the Quality of Life in Massachusetts*, February 2003 (see endnote 7 below).
- ³ CHAPA Press Release and News Stories on 9/8/03
- ⁴ *Boston Globe*, February 9, 2003. This article was based on data from the National Association of Realtors regarding the Boston metropolitan area, which “show that median house prices in the area rose nearly 101 percent from 1997 through September 2002.” The article contains graphs showing home prices and new home construction for the periods of 1982 through 2002.
- ⁵ Barry Bluestone, Charles Euchner, and Gretchen Weismann, “A New Paradigm for Housing in Greater Boston,” Center for Urban and Regional Policy of Northeastern University (February 2001). This report was prepared in partnership with the Archdiocese of Boston and the Greater Boston Chamber of Commerce. It describes in detail the nature of the housing problem, contains extensive housing and development data regarding the problem, and offers recommendations for the future.
- ⁶ Bonnie Heudorfer, Barry Bluestone, Ryan Allen, and Gretchen Weismann, “Greater Boston Housing Report Card 2002,” Center for Urban and Regional Policy and Citizens’ Housing and Planning Association (September 2002) This report, funded by The Boston Foundation and CHAPA details changes in house prices, rents, and production levels from 1998 through 2002.
- ⁷ The Boston Foundation, *Boston Indicators Report 2002* (www.bostonindicators.org). This website was developed by the Boston Foundation, and co-sponsored by the City of Boston, the Metropolitan Area Planning Council, Fleet Charitable Trusts, the James M. and Cathleen D. Stone Foundation, and the National Neighborhood Indicators Partnership. This report provides a treasure trove of indicators reflecting the economic and cultural well-being of the Boston and the Greater Boston region.
- ⁸ MassINC., “The Pursuit of Happiness – A Survey on the Quality of Life in Massachusetts”, June 2003. This survey was prepared by the Massachusetts Institute for a New Commonwealth (“MassINC”), and was sponsored by Citizens Bank. The survey is a “snapshot of Massachusetts taken during a critical period for the state”. The survey is the result of a poll carried out in January and February 2003 by Princeton Survey Research, which interviewed in depth 1,000 respondents from across the state. The top two problems identified by those surveyed were the availability of affordable housing, and the state of the roads and traffic congestion – both issues directly addressed by the recommendations of this report.
- ⁹ *Boston Globe*, February 9, 2003.
- ¹⁰ *Boston Globe*, April 26, 2003.
- ¹¹ *Boston Indicators Report*, p.7
- ¹² *MassINC Report*, p.4

¹³ *Boston Globe* September 19, 2002.

¹⁴ Wendy Davis, *Boston Globe*, July 20, 2003 : Vacancies estimated to be up to 5-7% in July 2003 from 2% in July 2000. Rents estimated to be down 5% to 10% by several real estate experts.

¹⁵ Robert J. Shiller, "Safe as Houses?" *Wall Street Journal* on December 17, 2002.

¹⁶ Greater Boston Housing Report Card 2002, see footnote 4 above, p. 4

¹⁷ **Reason # 1. Lack of competence and capacity of the development community:** The developers in Greater Boston are highly sophisticated and skilled. There are many players. In addition, a number of national companies have set up well-staffed offices in Boston, bringing national development experience to the area. MIT has one of the premier graduate programs in real estate development in the country (contributing to the institutional and human capital of the region). Massachusetts is also blessed with a vibrant network of over seventy Community Development Corporations ("CDCs") and other non-profit housing developers. As a result, there is no evidence that a lack of competence or capacity of the development community is a major factor in the lack of production.

Reason # 2. Lack of financing: Similarly, there is plenty of capital available. For years, interest rates have been at historic low levels. Housing has been at the top of the lists of desirable investments for large institutional sources of capital. The state is fortunate to have respected quasi-public agencies (MassHousing and MassDevelopment) and private non-profit financing organizations (Local Initiatives Support Corporation (LISC), Massachusetts Housing Investment Corporation (MHIC) and Mass Housing Partnership (MHP), plus engaged private lenders with many well-developed lending programs for housing development. A lack of conventional and quasi-public financing is not the problem.

Reason # 3. Cutbacks in State and Federal Housing Programs: During the 1970's and 1980's there were a large number of both federal and state housing production programs in force. These programs were well funded. It is widely recognized that Massachusetts had the most talented and effective housing development community and state financing mechanisms in the country. Tens of thousands of housing units were built in the state under these programs during these two decades. But it all stopped in the early 90's. At both the state and Federal level the subsidy programs for production programs were cut back substantially. *The lack of public funding for affordable housing since that time is a major contributing factor to the current problem.*

Reason # 4. Inadequate amounts of land: At first glance, this would appear to be a substantial problem in built-up areas like Greater Boston. After all, the number of acres of land is fixed. There is a finite amount. And in the context of housing development, one often hears about the problem of a "lack of land." Yet on examination, this explanation does not hold up. The reason why can be easily seen from a window seat in an airplane leaving or coming into Logan airport on a clear day. From any direction, it will be evident that there is a great deal of undeveloped land in and around Boston. Certainly if the amount of open land is compared with the number of acres it would take to solve the housing problem, one can understand that a shortage of land is not the problem. In addition, much of the "developed" land is under-utilized. That is, there are infill opportunities that can generate thousands and thousands of new housing units within the region even where the region is generally considered built-out. As an example, the population of the City of Boston was 200,000 people greater fifty years ago than it is today. Clearly that many more people could be housed on the amount of land within the city's limits.

Reason # 5. Lack of zoned land: What is incontrovertible, however, is that there is not enough land that a developer can acquire that is zoned for apartment development or for the development of single-family homes on smaller lots. *This is the major contributing element to the fact that enough housing is not built to meet the demand.*

¹⁸ First, consider the Wall Street Journal article (referenced above) entitled “Safe as Houses?” by Professor Robert J. Shiller. This article summarizes studies carried out by Professor Shiller and others. The author notes that the cost of construction of new homes has increased by an average annual amount of 3.4% since 1980 – slightly below the increase in the consumer price index increase of 3.7% for that period. Note that this is the cost of construction, not the price or cost of purchasing a new home.

In the studies he and his colleague Karl Case have done on price increases for same-home sales across the country, they have discovered that in many areas of the United States the cost of homes has basically tracked the amount of inflation: “...many U.S. cities have shown home price increases roughly in line with construction cost increases”. In places like Orlando, Milwaukee and Phoenix “Home prices have been increasing at roughly the CPI rate.”

In these communities, the land component of a new home cost is relatively low. “In cities with an availability of inexpensive land, with plenty of room to build new houses, it is very hard for a real-estate bubble to get started.” In this context, a “real-estate bubble” is a condition where the price of housing is increasing significantly faster than the costs of construction.

He goes on to say that other cities, such as San Jose and Boston, have had price increases that are much higher – on the order of 7% to 8% per year. Over a period of years, “these higher price-increase communities have seen a doubling of value relative to the other cities.”

Schiller says: “The higher price increases in those cities are fundamentally related to increases in the price of land there.”

The problem in Greater Boston is not an absolute “shortage of land”, because, as noted above, observation from a plane (as well as from the ground) indicates that there is plenty of raw space on which to build housing. *The shortage that occurs is in land that is zoned for housing production.*

This analysis is explicitly developed in a paper by Edward L. Glaeser and Joseph Gyourko, professors in the Economics Department at Harvard titled : “*The Impact of Zoning on Housing Affordability*” (March 2002). The authors note: “In the places where housing is quite expensive, zoning restrictions appear to have created these high prices.” They continue: “the affordable housing debate should be broadened to encompass zoning reform, not just public or subsidized construction programs.” (p.6)

This assessment is further supported by work of Professor Kenneth Rosen, chair of the Fisher Center for Real Estate and Urban Economics at the University of California at Berkeley. He has completed a study that concludes that land-use constraints were responsible for 75% of the increase in home prices in California in 2002. (*Wall Street Journal*, 4/15/03, p. A12).

¹⁹ Massachusetts communities have substantially more local control than communities in many other parts of the country, according to MIT Professor Henry O. Pollakowski as reported in the Boston Globe.

²⁰ For example, Bennet Heart, Senior Attorney at the Conservation Law Foundation made the following statement before the Joint Committee on Housing and Urban Development of the Massachusetts Legislature at a public hearing considering revisions to Chapter 40B housing legislation, June 24, 2003:

Consider the environmental impacts of housing in a larger context. Greater Boston has some of the nation’s most expensive housing, a phenomenon fueled primarily by our constrained housing supply. More and more, people are looking at towns further and further out to get the kind of housing they want at prices they can afford. In the 1990s the most robust housing growth in Greater Boston occurred in outlying towns

near I-495. Franklin, the poster child for housing sprawl, absorbed nearly 3,000 new single-family homes in the 90s. This sprawling development pattern is unsustainable from an environmental standpoint, not to mention from the standpoint of economic, social, and health costs.

²¹ *Boston Globe*, May 31, 2003.

²² David Dixon, President of the Boston Society of Architects notes:

Boston's most expensive neighborhoods are its densest, a pattern repeated in many cities. Which places do Bostonians speak of with real affection? Charles Street in Beacon Hill, Central Square in Cambridge, Roslindale Square and others within walking distance of the density required to support active street life. This pattern repeats itself across the United States – from Greenwich Village in New York to newer developments like Santana Row in San Jose. (*Boston Globe* op ed, 7/7/03)

And here is what Robert Campbell, the architectural critic for the *Boston Globe* wrote recently about dense development (*Boston Globe*, 5/25/03).

When people live and work in close proximity, they get to know one another and understand one another's problems. That's good for democracy, especially if those people – as is often the case in cities – are a mix of different economic and ethnic backgrounds.

Then too, dense development consumes less energy than sprawl, and therefore it punishes the planet less. One study showed that of all the communities in New York State, Manhattan used the smallest amount of energy per dwelling unit for heating and cooling. (Rural houses required the most.) Factor in the energy consumed by automobiles, and Manhattan's advantage grows.

And, if you like architecture, you have to love the streets and squares of a fully built-up town. In a town or city, buildings live in relation to one another. They're members of a kind of urban family. They shape the spaces between them into outdoor rooms.

We often assume that high density means crowding or overbuilding, but it doesn't. I like to make the comparison between Boston and Paris. The two cities are about the same size geographically – around 40 square miles each. (In both cases we're talking about the city proper, to the suburbs.) Boston is densely populated by American standards. But Paris has nearly four times as many people living in the same area.

Paris is the most densely populated major city in the Western world. Yet nothing about it overwhelms you. There are almost no high-rise buildings. There are lots of parks and tree-lined boulevards. Densely built Paris is often, in fact, considered to be the most beautiful of all major cities.

In Paris you can measure the other advantages of density. All those people support a subway system with more than 270 Metro stops. You're seldom more than a short walk from the Metro in Paris, and it goes everywhere.

Or take shopping. Every major street in Paris is lined with cafes and shops of incredible diversity. It's the population – the density – that supports all that life. In Paris, there is a horizontal layer of residential apartments above almost everything else. Those people living just above the street life fuel the sidewalk with life.

Americans tend to diss density in their speech while gravitating toward it in their actions.... Henry David Thoreau built a lonely cabin for communing with nature, yet he walked into the compact village of Concord almost every day to schmooze with the neighbors.

²³ As an example, consider a two-block neighborhood in Cambridge located just south of Porter Square on the west side of Massachusetts Avenue. It has one-story storefronts on Mass Avenue, and four brick apartment buildings – none over five stories high. The overall density for these two blocks of mostly residential structures is a remarkable 80 dwelling units per acre. Yet it also contains numerous single family homes that are assessed at over one million dollars each built on quite modest lots.

²⁴ Anthony Flint, *Boston Globe*, June 29, 2003.

²⁵ A company called Homestyles Publishing and Marketing, Inc., has published two books of house plans for what they call Traditional Neighborhood Design (Box 75488, St. Paul, MN 55175, phone: 612-602-5000 – www.homestyles.com). These are modern homes with traditional architecture that are designed to fit on small single-family lots and to accommodate off-street parking. There are hundreds of designs, for lots as small as 24 feet wide and up to 72 feet wide. There are plans for two-family homes, and modest sized apartment buildings that fit, architecturally, into the context of a traditional neighborhood. They include accessory apartments over garages, and plans for shops with apartments upstairs (as described by Robert Campbell in his discussion of Paris architecture).

²⁶ A prominent Boston development company attempted to get local approval for a plan to build 343 apartments, plus shops and offices in Holbrook on vacant land near the train station. It was recently (June 2003) turned down at town meeting by a vote of 98 in favor to 65 against (a two-thirds majority was required – it failed by only 10 votes). *Boston Globe* (June 5, 2003). The article contains a description of TOD (Transit Oriented Development) projects that have been successful (Revere, Abington, Ashland), and unsuccessful, at least so far (Holbrook, Kingston, Malden-Melrose, and Hingham).

²⁷ The Westford example is illuminating. Forge Pond, a good-sized lake on the western border of Westford empties into Stony Brook, which runs to the east, and eventually to the Concord River. Stony Brook is large enough so that one hundred years ago a series of dams and mill buildings were built at three locations along the brook. The buildings survive, but all three were in tough condition. They had deferred maintenance, broken and boarded up windows, the grounds were not maintained, and the poor condition of the properties all brought down property values in their surrounding villages. The neighbors feared that some day the buildings would catastrophically burn.

When a developer proposed redeveloping one of the three mill complexes into rental housing, the neighbors agreed that such redevelopment would be a net plus for their neighborhood, and supported the proposal. The properties were zoned industrial, which did not allow residential uses. The Westford Planning Board recommended that the zoning be changed by a vote of the town meeting. After evaluating the options, it was decided to propose that the change be done by means of an Overlay Zoning District that would be imposed over the existing industrial zoning. In the process of holding discussions with others in the community, it became apparent that extending the proposed district to cover all three mill locations would be a useful way to proceed, because it offered benefits to three different neighborhoods, each of which had similar problems.

Meetings were held with the neighbors in each of the villages, and substantial negotiations took place with a committee of the Planning Board in order to address a variety of planning issues that were important to Westford. Within four months a proposed amendment to the zoning ordinance was drafted, the details worked out, and then placed on the agenda of the regularly scheduled town meeting. It passed unanimously. The amendment creating an Overlay Zoning District allowed several hundred housing units to be built in the mill buildings, and it also allowed mixed uses, so that commercial and retail could also be included, at the option of an owner / developer. The amendment was called the Mill Conversion Overlay District (“MCO”). As of the date of this report, two of the three sites are actively underway with development proposals.

Key elements in the MCOB include a requirement for a percentage of the units to be affordable. In addition, a series of procedures and requirements must be satisfied in the process of obtaining site plan approval from the Planning Board. These include an overall impact analysis covering town services, and review and approval from various local boards. It also included matters specific to these sites, such as a plan for maintenance of any dams owned by the applicant, and reviews of wastewater disposal systems (there are no public sewer systems in Westford). The buildings also must be renovated in ways that are historically appropriate, as determined by the local Historic Commission. At the end of the process the Planning Board votes to grant a Special Permit.

The preceding paragraphs illustrate the flexibility that Zoning Overlay Districts provide in allowing local communities to control the quality of what is built in the Districts. Any community that wishes to pass an Overlay Zoning District can institute a process similar to the one in Westford. Local concerns can be identified and addressed in special provisions.

This example also illustrates the dynamic that may often take place as the first Overlay Zoning Districts are proposed and pushed through to approval. A developer will acquire rights to an appropriate property, and will identify and work with others in the community to propose the passage of an Overlay Zoning District. There will be a process of negotiation that will/may eventually lead to passage of a District. It is important to note that in such cases, the price of the key land parcel will be negotiated prior to the District being passed, and therefore will not escalate upon passage.

²⁸ *Grandfathering*: assuming the District and the development complies, the state would pick up 100 percent of the schooling costs for students living in new housing built within the Districts; and the community would be eligible for the full range of state programs and priorities otherwise available to new Overlay Zoning Districts. For the school funding incentive, the requirement should be that housing units would be eligible for the 100 percent funding provided construction of the units commenced after October 30, 2003 (the anticipated date of the public announcement of these recommendations).

If an already established district proposed for grandfather status fails in one or more technical ways to meet the minimums, the Department of Housing and Community Development (DHCD) should be empowered to grant exceptions or waivers upon request, where appropriate. The objective should be to reward, and not exclude, those communities that had the foresight and political will to deal with these issues prior to the issuance of this plan.

²⁹ It is believed that gaining “Site Plan Approval” (instead of receiving a “Special Permit”) is consistent with the goal of having developments within Overlay Zoning Districts be “as-of-right.” It is further understood that there are fewer grounds for legal action from those who might object to a specific proposed development under the Site Plan Approval formulation.

³⁰ Nothing will prevent communities from modifying the requirements, for instance by allowing more density based on taller buildings, provided that the minimums are met.

The following suggest additional provisions to be included in Overlay Zoning Districts as minimum requirements:

- Allow single family and townhouse developments with zero lot lines.
- Within existing building shells (such as a mill, or old hospital building), allow any reasonable density with regard to the number of apartments, provided other performance levels are met, such as adequate parking, non-adverse traffic impacts, and compliance with building and sanitary codes.

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- Provide for sidewalks and pedestrian friendly walkways.
 - Provide for narrower widths of roadways than is typically found in subdivision regulations (but large enough for emergency vehicles).
 - Allow for infill development on small lots that may be otherwise non-conforming.
 - Allow the addition of new apartments within existing single-family homes and other buildings within the zone.
 - In general, the height limits in the current industrial and commercial zones would be retained for proposed housing developments within those zones. Thus if the industrial zone allows 40 foot buildings, a four story apartment building would be approved. However, the Overlay District may provide for increased heights and density in certain areas of the District (particularly along the industrially zoned areas next to the tracks).

³¹ In the event an Overlay District covers primarily vacant land, or land that is minimally developed, the requirement that proposed projects be compatible with the existing neighborhood would be superseded by the design standards of the Overlay District itself.

³² Suppose that the location was such that higher density was appropriate, such as in a former industrial zone near a T or commuter rail station. In such a case, if the Overlay Zoning District allowed a density of 40 units per acre, then the Density Bonus Payment would be \$800,000 for the same 10 acres of land (10 acres times 40 units per acre equals 400 units times \$2,000 per unit equals \$800,000).

³³ However, if the Overlay Zoning District allowed *either* apartments *or* single family housing to be built (at the specified densities), then the intention is that the community would receive the Density Bonus Payment based on the number of apartment units at the higher level. If a developer subsequently decided to build single family instead of apartments, there would be no adjustment or giveback by the community. In fact, the goal of the program would be fully realized because the housing most in demand by the market at the time (as determined by the projected profitability to the developer) would have been built. Every new single-family unit will take pressure off price escalations throughout the single-family marketplace.

³⁴ DHCD will prepare guidelines for the preparation of the Build-Out Analyses. The guidelines will specify, for instance, how the number of new residential units should be calculated for an empty parcel of land, for the possibility of additional housing units being provided in existing single-family homes, on infill lots, and in underutilized industrial or institutional buildings. The guidelines would describe the conditions under which such a building would be included in the count. One way the test might work might be that a building would be considered “underutilized” if, were it to be vacant, a conversion to housing use would be equally financially feasible as would a continuation as a commercial or industrial use, taking into consideration the anticipated cost of conversion.

³⁵ When the legislation that sets up the Overlay Zoning District program is passed, it is critical to find a way to provide assurance to communities that once they pass an Overlay Zoning District, the state will make good on its commitment to fund 100 percent of the school costs. If communities are not comfortable with the long-term obligation of the state to make the payments, they are unlikely to pass the Districts in the first place, and the objectives of the program will not be met.

One way to accomplish this may be to take the funding level or percentage out of annual budget deliberations. This could be done by requiring in the enabling legislation itself that the school funding for eligible students be maintained at 100 percent. It would then require an amendment to the enabling legislation itself, rather than a budget reallocation, to change the formula.

³⁶ As reported in the *Boston Globe* on April 6, 2003..

³⁷ Tax Increment Financing (“TIF”) can be used to assist in the payment for the costs of infrastructure and other public improvements, as well as to assist in making housing developments feasible, or to increase the amount of affordability in specific developments. TIFs allow a community to dedicate a portion of new property tax revenue in a designated area, or from a designated project within an area, to pay for various project development costs. It can also be used to make an infeasible project feasible, by providing annual rebates of tax payments to a developer. Such a situation might arise in the case of the renovation and reuse of an industrial building for housing in a city location where rents are not as high as they might be in a suburban area.

In the case of an Overlay Zoning District, tax increment financing would work by, first, calculating the total assessed tax base of the district, or of a specific parcel or several parcels of land within the District. Then, as development takes place, and new assessed values are applied to the area or parcel, the difference between the original assessment and the new assessment is considered the “tax increment”. The increment in the assessment is multiplied by the tax rate to calculate the incremental new taxes generated. The community can agree to allocate a percentage (probably less than, but up to 75%) to pay for a variety of cost elements, including debt service on infrastructure and other improvements in the district.

Usually there is a time limit for the TIF, such as 10 years, or 20 years. Thereafter, the TIF expires, and all tax revenues revert to the community. If the TIF funds are being used to service debt, then the term of the TIF should match the term of the debt.

Tax Increment Financing, dedicated to servicing the debt for infrastructure improvements such as water, sewer, and public parks, can be a powerful tool to provide the financing for both large and smaller scale projects.

It will be especially appropriate in Overlay Zoning Districts, because of the state’s agreement to pick up 100 percent of the cost of the public education of students living in new housing units in the District. That means that in most communities, for all new development in the District, the community will receive new property taxes in excess of the costs of providing public services to the District. The specific amount will depend on the regular percentage of school costs picked up by the State for the community.

Therefore, a portion of the new property tax revenues in a development can be captured by a TIF, and, if the portion is set correctly, the amount of tax revenues remaining to pay for typical town services will still exceed the fair share costs of those services. Under these circumstances, there should still be no burden on other property tax payers in the community.

³⁸ The financial impact of new school aged children on a community can vary widely. In a community that has seen a reduction in the school population over prior years, there will be excess capacity in the school buildings. In this case, new students will require only the hiring of new teachers and administrators for each block of 20 to 50 new students.

However, for a school system that has a growing school aged population, the school facilities may be at or exceed full capacity, In this case, additional students will not just require additional staff, but may also trigger the need for a new school building. This is an expensive, time-consuming and difficult proposition for any community.

The state currently has a program to provide funds to local communities for the building of new schools. This money is in short supply, of course, and there is considerable competition for the funds. Some communities have been waiting for funding for years, enduring stopgap measures in the meantime such as mobile classrooms, doubling up with facilities, etc.

It is understood that making any changes in the current system of allocation of such funds will not be easy. However, to the extent possible, priorities for such funding should be given to those communities which have facility needs as a result of passing an Overlay Zoning District. The funding must be specifically linked to and triggered by the development of new housing units in the Overlay Zoning District.

This is particularly important for Overlay Zoning Districts that allow a large number of single-family homes to be built on small lots (at 8 units per acre). These new homes are expected to have, on average, one school aged child (per 1990 census data). A community that allows several hundred of these homes to be built will, over time, experience an increase of several hundred students in the school system. The community will need assurance of assistance to help with any need for new facilities. Otherwise, it is unlikely that the community will voluntarily agree to develop a District.

In order for the Overlay Zoning District plan to be fully successful, it will be important that a significant number of new housing units be constructed on smaller lots. Such construction will both advance Smart Growth principles and will also help moderate the price of single-family homes throughout the market place. The price moderation will occur because smaller lot sizes will mean lower land costs per unit. Lower land costs will mean that the typical land-to-building-cost-ratio can be maintained while building a less expensive home. More modest homes will not only find an eager market, but will also remove those buyers from the housing marketplace, relieving acquisition competition on existing homes and apartments, and therefore relieving the upward price pressure for homes and apartments.

Thus, the long-term success of the Overlay Zoning District program will depend on finding a way for the State to provide the needed assistance to those communities with the best Smart Growth locations. That assistance must include a priority for the capital funding for new schools.

In some circumstances, during the negotiations prior to the passing of an Overlay Zoning District, a landowner or developer may offer to provide to the community, free of charge, land for the required new school.

³⁹ See the endnote above (26) regarding Holbrook and a private developer. In Holbrook, if the state passes the legislation to provide the incentives for Overlay Zoning Districts, it would be reasonable to expect that the developer, in alliance with supporters in the community, would return to Town Meeting with an Overlay Zoning District proposal. It failed by only 10 votes in June 2003. The incentives to the community are likely to make it possible to get the additional votes required for passage. *Boston Globe* July 5, 2003.

⁴⁰ Information provided by DHCD to CHAPA in September 2003.

⁴¹ Thomas C. Palmer, Jr., "Lots & Blocks," *Boston Globe*, May 31, 2003.

⁴² *Boston Globe*, April 26, 2003. The unemployment rate increased to 5.7%.

⁴³ *Boston Herald Editorial*, October 31, 2002.

⁴⁴ *Boston Globe*, July 20, 2003.

⁴⁵ *Boston Globe*, July 26, 2003.

⁴⁶ Greater Boston Housing Report Card 2002, p. 32.

⁴⁷ *Boston Globe*, February 9, 2003. This article was based on data from the National Association of Realtors regarding the Boston metropolitan area, which "show that median house prices in the area rose nearly 101

percent from 1997 through September 2002.” The article contains graphs showing home prices and new home construction for the periods of 1982 through 2002.

⁴⁸Greater Boston Housing Report Card 2002, p.32

⁴⁹ Greater Boston Housing Report Card 2002, p. 17

⁵⁰ If the calculation is turned around, the ratios make more intuitive sense. In other words, if interest rates increase from 5% to 7.5%, then the amount of the increase in rates is 50% (.025 divided by .05 = 50%), and the reduction in the amount of loan that can be paid for is also 50%.

⁵¹ Greater Boston Housing Report Card 2002, contains the housing production numbers used in the bullets.

⁵² Greater Boston Housing Report Card, table 4.5, page 36.

⁵³ The New Paradigm for Housing in Boston, page 7, from projections made by the Metropolitan Area Planning Council.

