

APPENDICES



Today. Tomorrow. Together.

Appendix 1: Transfer of Development Rights

Transfer of Development Rights: What Is It, and Where Has It Been Used?

What is TDR?

Transfer of Development Rights (TDR) is a zoning technique that has been in use around the United States for more than 30 years; there are about 140 programs nationwide. The basic idea is to achieve less development in areas that the Town wants to preserve by shifting it to locations where development is more desirable. Because property owners have rights to develop under the basic underlying zoning, it is not possible to prevent development, but the TDR mechanism provides incentives for voluntary cooperation with the Town's planning goals.

Hypothetical Example:

Ms. Smith owns a piece of land the Town would like to preserve as open space. She could build 30 units of housing under the existing zoning, but her land has been designated a "sending area" if she should choose to use TDR.

Mr. Jones owns a parcel in a center (perhaps Kelley's Corner) that has been designated a "receiving area" for TDR. He could build up to 40 additional units on his property if he (a) can get the rights to 30 units from a sending area and (b) his proposal meets a list of incentives specified in the zoning for the receiving area (some of these are automatic for a TDR, others are for "going beyond" the minimum requirements). Jones' development must go through Special Permit review to ensure it meets stated guidelines and merits the incentives.

Smith and Jones are brought together by a broker. They negotiate a transaction in which Smith gets the value of more than a 30-unit development; Jones gets the proceeds from his development including the extra 40 units, which exceeds what he could otherwise do on his parcel of land.

In a variation of the technique, the Town buys Smith's development rights and puts them in a development bank. Later, Jones buys the rights to these units from the development bank.

Another variation is that the TDR mechanism can allow some of the residential development rights from the sending area to be converted to commercial square footage at a specified rate.

Examples of Where TDR Has Been Used or Is in the Process of Being Adopted

Chesterfield Township, NJ

In this township of approximately 6,000 people, a TDR system was established to protect open space and guide residential development to a designated center called Old York Village. As of 2007, 313 residential units had been sold in four developments in the designated receiving area.



Warwick Township, PA

As of 2010, the Warwick, Pennsylvania, TDR system that was established in 1991 has preserved 1,318 acres of farmland. The associated development rights for 287 housing units have been sold by the township to developers for use in a designated receiving area.

Falmouth, MA

- One of the first TDR bylaws in the Commonwealth, from 1985
- TDR can only be part of a subdivision application but the Planning Board handles both operations to streamline the process
- Density bonuses range from 20 to 40% depending on sending and receiving areas

Pinelands, NJ

- In 1981, the Pinelands Commission administered the Pinelands Development Credit (PDC) program in order to preserve rural land
- Development rights are acquired by purchasing PDCs
 - Four TDRs equals one PDC
- The Pinelands Development Credit Bank, developed in 1985, monitors the process of administering, buying, and selling PDCs
 - The Pinelands Development Credit Bank also has the ability to purchase PDCs, effectively removing them from the market
- Rural regions, such as preservation and agricultural areas, serve as the sending areas
 - In order to sell PDCs, landowners must apply for certification through the Pinelands Development Credit Bank
 - Type of land, number of acres, and current land use determine the number of PDCs available for landowners in sending areas
- High density Regional Growth Areas, designated by the Pinelands Commission, serve as the receiving areas
- As of May 2011, 10,865 TDRs (2,716.25 PDCs) have been utilized
- Since its implementation, the PDC Program has preserved approximately 47,980 acres

Newburyport, MA

Ordinance has been drafted (not yet adopted) to transfer development from open space preservation areas to designated development areas. Both residential and commercial development rights can be transferred. Transfers may be arranged between private landowners, but conservation restrictions must be deeded to the City. This ordinance also provides for a TDR open space bank that holds development rights that the City may purchase to protect an open space parcel in a sending area and later sell to developers of receiving areas.



King County, WA

The County (which includes Seattle as well as several other centers and large expanses of undeveloped land) set up a TDR program to encourage infill and compact development in key centers such as Sammamish, Bellevue, and Issaquah.

- Since 2000, 141,000 acres of open space has been protected and 2,467 residential units built in centers instead of rural areas.
- As TDRs are sold, only the part of the property represented by the TDRs has a conservation easement put on it. So if there is a remaining part it can be developed to the baseline zoning level.
- TDRs are applicable in some rural areas as long as they fulfill certain requirements such as existing public water service, being within a certain range of other similarly sized developments, and not affecting environmentally sensitive areas.
- The county also had “amenity funds” to offer compensation for additional density in cities. These funds could be used for features such as public art, cultural or community facilities, parks, recreation, open space and transit-related improvements.
- A TDR bank also exists so the County can buy TDRs to sell at another time, maintaining a healthy market. The County also carefully tracks and records the sales and prices of TDRs.

Exeter, RI

The Town of Exeter is drafting a TDR bylaw as part of a planning process aimed at concentrating development in two villages and thereby preserving large parcels of agricultural land and protecting rural character. An incentive for using TDR is provided by providing bonus units at transfer ratios that depend on the Town’s priorities in preserving different sending areas.

Warwick, NY

The town of Warwick, New York (population 32,000) established a TDR system to protect open space and transfer development to Warwick Village. Established in 2008 during the real estate downturn, the TDR provisions have not been used yet.

Montgomery County, MD

- Established a TDR program after downzoning failed to curb development
- With the TDR program 90,000 acres of farmland and open space were rezoned to 1 du /25 acres. If the landowners chose to participate in the TDR program they could sell the original density rights (1 du/ 5 acres).
- Land in the TDR program has a permanent restriction from development once the density rights are sold.



- Receiving areas were also rezoned with a baseline density (no-TRD) and a higher density for development with TDRs.
- TDRs may be bought on a speculative basis for resale.

St. Mary's County, MD

- Sending and receiving areas overlap.
- Existing zoning is generous, hurting the incentive for developers to buy TDRs.
- There are other density incentives (connecting to existing water and sewer systems, planned unit development, design enhancements) that also undermined the importance of TDRs.
- Since this TDR system was not as popular as hoped, the County changed the system:
 - Any development beyond the first dwelling unit on a rural property must use TDRs.
 - The number of TDRs required for each dwelling unit would vary based on the existing density (increasing as the density increased).
- After these changes were made the use of TDRs increased.

Charles County, MD

- Strict requirements for sending areas (must qualify under the Maryland Agricultural Land Preservation Foundation)
- Once a single TDR is sold from a property, the entire property is restricted and is not eligible for development. (Though the remaining TDRs can still be sold later.)
- A landowner can buy back TDRs from his/her property or another as long as there is not a net loss in preserved land.
- When the county noticed that the TDR program was not popular they downzoned an area of the county near the development district, but instead of encouraging development in the development district this pushed more new development into rural areas.
- The county is not involved in the negotiations or sales of TDRs and the records are not public.
- In 10 years, only 690 TDRs were sold. This lack of performance is attributed to:
 - The lack of supply of TDRs due to the high standards of qualifications
 - The lack of demand for TDRs due to the fact that developers can attain the density levels they want in other ways
 - The opaque TDR market.



Queen Anne's County, MD

- The County has had a TDR program and a density transfer program (called a Non-Contiguous Development program) since 1987. In 1995, the TDR program was reconfigured to focus on environmentally sensitive land.
- The NCD program focuses on rural to rural density transfers, offering a high increase in the amount of density a property can have (shifting from 1 du/20 ac to .9 du/ ac).
- Meanwhile, the TDR program limited TDR development to designated growth areas that already had a high density zoning.
- In the beginning of the programs, the TDR program was more popular, but when all the restrictions were added the NCD program took over as most popular since developers could gain so much more for their purchases.

Sources:

- Transfer of Development Rights in U.S. Communities: Evaluating Program Design, Implementation, and Outcomes by Margaret Wells and Virginia McConnell, 2007.
- Smart Growth Through the Transfer of Development Rights, New Jersey Future. 2010
- Transfer of Development Rights Case Studies from www.mass.gov
- Interviews with city and town planners.

ⁱ These development guidelines include basic requirements like maximum height and density that limit how large the development can be, as well as extras like providing public open space as part of the development. These guidelines would also apply to non-TDR developments.

ⁱⁱ Downzoning is a change in the zoning to reduce the amount of development permitted in a zoning district.

ⁱⁱⁱ du = dwelling unit



Appendix 2: Affordable Housing in Acton

The following is a summary of affordable housing issues in Acton. It includes information regarding definitions, roles and responsibilities of agencies providing such housing, a brief overview of the history of affordable housing in Acton and a comparison of Acton’s housing supply with that of surrounding communities.

The topic of “affordable housing” can be a confusing one for many reasons, not the least of which being that often people mean different things when they use the term because the term has different meanings. Affordable to whom? Affordable for how long? Affordable for rental or ownership?

Affordable Housing - the official statutory definition: “Affordable Housing is defined in Massachusetts General Law (MGL) Chapter 40B regulations as housing for households with incomes not exceeding 80% of the area median income, and requires deed restrictions on rents or home prices for a specific period of time, generally in perpetuity. These households are designated as “low and moderate income.”¹

Other definitions of affordable housing:

Housing that is affordable does not exceed 30-38% of a household’s gross income. Housing costs considered in this guideline generally include taxes and insurance for owners, and usually include utility costs.² When the monthly carrying costs of a home (ownership or rental), including insurance, taxes, and condo association fees exceed 30–38% of household income, then the housing is considered unaffordable for that household. Households who pay more than 30-38% of their income for housing are considered cost burdened and may have difficulty affording necessities such as food, clothing, transportation and medical care.

Sustainable affordable housing (Affordable Housing Institute – US)

- **Housing.** The housing must be market-competitive quality that can blend in to its neighborhood. Thus we are explicitly excluding substandard locations, configurations, constructions, maintenance. Such ‘structures’ — to use the Kenyan euphemism — may be ‘shelter’ but are not housing.
- **Affordable.** The housing must be affordable for its target market. This means what the householder pays. Affordability must also continue throughout the expected life of the tenancy.
- **Sustainable.** Housing quality and housing affordability must continue over the housing’s expected useful life (typically 30-50+ years). This implies that the housing must take in enough cash flow to cover its expenditures, including capital expenditures.

¹ MGL Chapter 40B was enacted in 1969 to help address the shortage of affordable housing statewide by reducing barriers created by local zoning, and other restrictions. The law was upheld in a 2010 referendum.

² Utility costs are included in rental, not in ownership units.



History of “affordable housing” in Acton

Acton needs 3.9% more of its housing stock to be affordable to provide a minimum of 10% of its housing inventory as affordable.

Why all this talk of reaching a 10% threshold?

Reaching this 10% of housing units counting as “affordable” (by State definition) is one way of assuring that developers of housing cannot override Acton’s zoning and wetland bylaws.

Homes meeting the state definition of affordability. Given the current figure of 519 affordable units, 378 additional affordable units would be needed to achieve the ten percent (10%) figure.

- Extending achievement of the target to 2030 (9,595 total yearround housing units) means that 40% of all new housing units between 2010 and 2030 would need to be “affordable”.
- This is an annual rate of 22 units if the target is to be met by 2030.
- The 2011 median 4-person household income for the Boston Metropolitan area that includes Acton is \$96,500.
- For a household of four, 80% of the median household income is \$64,200. This is the maximum qualifying income allowed or affordable

units for a household of four.

Twenty-six percent (26%) of Acton’s households are estimated to be income eligible for affordable housing, using the 80% criterion.

Town efforts through The Acton Community Housing Corporation and 40B housing developments have helped to raise the number of units that count towards the state’s figure from 2.5% in the previous decade.

- Avalon Acton, a 40B development, with its 296 units of rental housing is a major factor in bringing this number up since all units count in a rental development, affordable or not.

Currently 6.1% or 519 units in Acton are considered affordable, using Commonwealth of Massachusetts statutory definitions.

Affordable Homes in Acton The average selling price of all residential units in Acton was \$459,900 in 2010.

- The annual income needed to buy the average priced home is \$131,567, based on a 5% down payment, 30% of income dedicated to home purchase, a 4.5% fixed-rate 30-year mortgage, and annual payments for homeowners insurance (\$2,760) and local real estate taxes (\$8,316).

This means that about half of the households in Acton could not afford to buy an average priced home in the Town today, if they were to move here now.

40B is one way to create affordable housing but not the only way.

The following two agencies work on creating housing opportunities for low and moderate income individuals.

Acton Community Housing Corporation³

The Acton Community Housing Corporation (ACHC) is appointed by the Board of Selectmen and charged with facilitating affordable housing for working families and individuals with modest incomes.⁴ The Board oversees First Time Homebuyer programs and moderate income rental units. ACHC was instrumental in the creation of 47 additional ownership units.

³ The responsibilities of the ACHC include: Acting as the Town’s initial contact and preliminary negotiating agency with developers of proposed affordable residential housing projects (40B’s), Reviewing design and density, Determining consistency with Comprehensive Permit Policy, Initiating action to create affordable residential housing developments on Townowned properties, monitoring Deed Riders used to ensure continued affordability resale of affordable units.

⁴ Funding: The Corporation has a Community Housing Program Fund using Community Preservation Act funds. In 2011 it received \$150,000 from these sources. In 2007 it initiated a pilot Condo Buy-Down Program with its funds with limited success. Housing gift funds from some developers of housing projects have also been used by ACHC.



- Acton has created 23 deed restricted home ownership units without using 40B.
- These local action units are approved by the Mass. Department of Housing and Community Development for counting toward the Town’s goal of 10% affordable housing
- ACHC has funded the construction of new units and has subsidized the purchase of several existing market units and made them deed restricted.
- Creation of more rental housing would address a major housing need and also contribute to the goal of creating more affordable housing.

Acton Housing Authority

The Town of Acton, at its Annual Town Meeting in 1970, established the Acton Housing Authority (AHA).⁵ The AHA has a five person Board of Commissioners, four are elected and one is appointed by the Governor. The Board is responsible for setting policy and for budget oversight. The AHA was established to create affordable rental housing for elderly, disabled and lowincome families.

⁵ Funding. Funding for the AHA for the housing units it owns has been provided by the Commonwealth of Massachusetts under its housing programs. In 2010 the Town of Acton provided \$250,000 from its Community Preservation Act Fund for the creation of 12 new housing units. AHA projects have also received funding from the Steinberg-Lalli Charitable Trust.

In 1980, the Acton Housing Authority (AHA) welcomed its first residents at Windsor Green, a sixty-eight unit affordable housing complex for elderly and disabled residents of Acton. The Housing Authority has continued to meet its commitment to providing affordable rental housing to Acton residents over the past three decades, adding to the inventory by building and buying new units. The AHA has two developments for elderly and/or handicapped individuals; 68 units located on Windsor Avenue and 23 units located on Sachem Way. The AHA has a 12 unit home for people with disabilities which was purchased in 1985 and built in 1900. The

AHA has 12 family units in six duplexes and 31 condominium units scattered throughout Acton. The AHA also manages 170 rental subsidies. These rental subsidies are used to assist low-income individuals and families rent housing in the private market.

The AHA gives preference to local residents, who live and/or work in Acton, that are on our waiting list. Currently, 164 local residents are on the waiting list. The wait for affordable rental housing is long. These residents are placed on a waiting list where they will stay for 6 months to a year if they are elderly, 2-3 years if they are a family, and years if they are disabled.

Acton’s “Affordable Housing” Inventory as compared to surrounding towns

	2000 Census Year-Round Housing Units	Total Development Units ⁶	SHI Units ⁷	Percent %
Acton	8,475	897	519	6.1%
Boxborough	2,062	324	24	1.2%
Carlisle	1,740	52	46	2.6%
Concord	6,852	738	713	10.4%
Littleton	3,443	420	269	8.2%
Maynard	4,430	365	365	8.2%
Stow	2,500	301	143	5.7%
Sudbury	5,921	422	281	4.7%
Westford	7,671	667	371	4.8%

See tables on the following pages to see: how home prices in Acton compare in affordability for household incomes in Acton and the surrounding region.

⁶ Total Development Units are defined as the market rate units in development projects that contain units able to be counted as affordable (e.g. the 75% of units in a project that has 25% “affordable” units) where affordability is defined using the state’s definition.

⁷ SHI=Subsidized Housing Inventory: The inventory includes 40B units and other deed restricted units including housing authority units, and state group homes. The inventory is current as of June 30, 2011.



Policy Decisions

Key choices need to be made among different ways to provide affordable housing.

The price and type of housing is critical in creating and maintaining its affordability, regardless of which definition is being used. Specifically:

- Mixes of housing types in terms of architectural styles, square footage of homes and lots, numbers of bedrooms, and types of structure (single- or multifamily) enable diversity in population (ages, income, and household size).
- Supporting such diversity is one of the seven planning goals.

Some Acton Voices⁸

- “Acton has too much affordable housing”
- “Acton needs more affordable housing”
- “We should focus on meeting Acton’s specific affordable housing needs and not on meeting 40B requirements”
- “Housing that is affordable to seniors, young families, Town employees and others should be located in small, scattered sites”
- “The Town should just build large rental and affordable housing developments to meet 40B requirements so as to get this regulation off our backs.”

⁶ Total Development Units are defined as the market rate.



Appendix 3: Acton 2020 Youth Art Contest Winners

A Youth Art Contest was held to involve youth and teach them a little about the comprehensive community planning process by asking them to read through the goals and objectives, to choose one and illustrate it. Additionally the youth art contest helped illustrate each of the goals and in this way provided inspiration by helping us to imagine them through the fresh eyes of youngsters. All Acton youth were invited to participate by submitting a drawing that illustrated one of the seven planning goals. Entries were judged based on their creativity, originality, and artistic quality as well as how well they depicted the intent of the goal. Artwork was submitted from all of Acton's schools and for each of the goals. Winning entries were exhibited and winners announced at the March 6th Public Workshop. First place winning entries are published in Volume I of the Plan, while all winning entries can be found in the appendices in Volume III.

GOAL	Age Group	Name
GOAL 1		
First Place	12-15	Mackenzie Abernethy
First Place	6-11	Alex Zhang
GOAL 2		
First Place	6-11	Sanjana Krishna
Second Place	6-11	Hannah Keenan
	6-11	Iniyan C.K.
Honorable Mention	6-11	Lucas Escobedo
GOAL 3		
First Place	12-15	Luka Ilic
First Place	6-11	Meghna Sundaram
	6-11	Peter Busse
Second Place	6-11	Emily Gouveia – Vigeant

GOAL	Age Group	Name
Honorable Mention	6-11	Emily Streeter
GOAL 4		
First Place	6-11	Joy Wang
Second Place	6-11	Vanessa Pare
	6-11	Vivian Shen
Honorable Mention	6-11	Maria Redmond
GOAL 5		
First Place	6-11	Carrie Yu
GOAL 6		
First Place	6-11	Jyo Pari
GOAL 7		
First Place	6-11	Gretel Busse

A complete list of all Youth Art Contest Winners, including their art work, can be found in Appendix 7 in the Appendices volume.

