



Exclusionary *by* Design

An Investigation of Zoning's Use
as a Tool of Race, Class, and Family
Exclusion in Boston's Suburbs,
1920 to Today

By Amy Dain, Dain Research

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Racial Wealth Equity
resource center

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ABOUT BOSTON INDICATORS

Boston Indicators is the research center at the Boston Foundation, which works to advance a thriving Greater Boston for all residents across all neighborhoods. We do this by analyzing key indicators of well-being and by researching promising ideas for making our region more prosperous, equitable and just. To ensure that our work informs active efforts to improve our city, we work in partnership with community groups, civic leaders, and Boston's civic data community to produce special reports and host public convenings. This report is part of the Boston Indicators Racial Wealth Equity Resource Center initiative.

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My parents Ruth and Bill Dain and brother Dan Dain definitely offered inspiration for this project—for their intellectual interest and activist commitments to the moral, civic, and historical issues that motivated my study. Writing this report has felt like a fulfillment of family tradition. And also thank you to my husband Misha and kids for being at the heart of everything for me.

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Foreword

Boston Indicators is in the second year of a new research initiative focused on racial wealth equity. To date, we've analyzed the size of racial disparities in different forms of wealth and started investigating ideas for state and local policy change. We've also been eager to explore the more historic causes of wealth divides and residential segregation across Greater Boston. Boston Indicators does a lot of data-driven research on our growing housing crisis, including through the annual *Greater Boston Housing Report Card*, but we are far less expert on the origins of local zoning codes and the varied master plans that shaped their formation over the past 100 years. This led us to commission Amy Dain, among the region's leading zoning experts, to write this important report.

Amy approaches this research with great care and nuance. She understands that there is truth in our region's reputation as a relative haven for racial and social equality. But the report makes clear that far too often our actions contradict these values. Further, even in cases where the impact of local zoning decisions runs counter to our declared values, it's not always clear whether this impact was intended or resulted from broader structural forces like municipal fragmentation causing a restrictive zoning race to the bottom.

WHY THIS HISTORY MATTERS TODAY

Over the past few years, mainstream civic leaders increasingly have acknowledged the extensive history and persistence of racial discrimination in our region. Housing-based discrimination is one particular concern, especially at the local level. This paper is timely in that it investigates what 100 years of municipal zoning efforts in Massachusetts can tell us about how racial prejudice has contributed to the residential patterns we have today.

The research is also careful to look at racial motivations alongside the many other interests simultaneously at play. Since Greater Boston was overwhelmingly White up until just a few decades ago, how did racial prejudice interact with other forms of social exclusion, such as against working class families, religious minorities and immigrants? No doubt, basic economic motivations explain much of this story too, with municipalities angling to attract residents who generate more in municipal tax revenue than they "cost." But how much does this cold-blooded fiscal calculus really explain our current system? And is there evidence that in the push to create exclusive social enclaves some communities are compromising their own economic self-interest?

We're also in a moment where the scale and persistence of our regional housing shortage is leading policymakers to consider state-level zoning reform in a new way. Other states have recently passed laws that reclaim some land use authority for state or regional governments (e.g., California, Oregon, Vermont, Montana,

Washington), and Massachusetts is in the process of implementing our own MBTA Communities Upzoning law. What can we learn from a century of municipal zoning to inform these state efforts? Can municipalities be trusted to act in good faith and at the necessary scale? Will the MBTA Communities law spur enough new housing construction, or will we need further state-level zoning reform to address these problems at scale?

KEY THEMES AND FINDINGS

There's so much detail and richness in what Amy explores throughout this report, that I thought it would help to distill some of the report's key findings, as I understand them:

- Definitionally, "zoning" is about separation; it's the legal creation of geographic zones where specific sorts of structures and activities are not allowed. Sometimes this separation of the built environment really may be desirable, but zoning is a powerful tool that can be used for malicious social purposes. This research finds widespread evidence that over the past 100 years, zoning has been used by cities and towns across Greater Boston as a tool for excluding certain groups of people, including:
 - Racial minorities, especially Black residents
 - Lower-income and working-class residents
 - Families with school-aged children
 - Religious minorities
 - Immigrants
 - And, in some cases, any newcomers/outsideers at all

- Perhaps most surprising among these findings is that the evidence of direct racial discrimination is stronger for a later period of zoning restrictions—during the Big Downzone of the late 1960s and early 1970s—than it is for the first wave of zoning adoption during the 1920s and 1930s. “The Big Downzone” refers to a period of rapid suburban downzoning that occurred in the face of school integration efforts in Boston, growing racial and ethnic diversity, and broader civil rights organizing nationwide. Separate 1965 Master Plans in both Weston and Wellesley offer illustrative examples of their intent to exclude; both codified official goals of accommodating “moderate population growth” in a manner consistent with *present characteristics of their communities* (emphasis added). In 1965, both Weston and Wellesley were 99 percent White.

- During the first wave of zoning adoption beginning in the 1920s, Greater Boston was overwhelmingly White, as the Great Migration of Black families to the north hadn’t fully begun. (The racial diversity we now enjoy mostly came post-1965, as a result of federal immigration reforms.) Much of the exclusionary intent in the early period was directed at religious minorities, like Catholic and Jewish families, and working-class European immigrants.

- There absolutely is evidence of racist intent to exclude even during this earlier period—such as through racially restrictive covenants in housing deeds—but the stronger evidence of racial exclusion arises in the 1970s as part of the Big Downzone.

- While the totality of evidence points to clear themes of exclusion, there are few actual smoking guns. Many people speaking in public settings likely knew that expressing racist intentions was taboo and, in more recent decades, could violate anti-discrimination laws. Further, in some instances these prejudices were/are unconscious and tied to other motivations like resistance to neighborhood change, worry over property values, and generalized concerns about outsiders.

- Despite the dominant theme of exclusion, there are examples throughout our region’s history of civic efforts to reform local zoning codes for greater inclusion. Many local efforts either failed or were scaled back before adoption. But the state’s Chapter 40B law serves as one model case study. Passed in 1969 and dubbed by some “The Anti-Snob Zoning Act,” this state-level zoning pre-emption law remains controversial, but in its 50+ years, tens of thousands of deed-restricted affordable housing units have been built under the law.

- Despite more noble stated intentions around racial diversity and inclusion, the contemporary post-1975 era of zoning efforts in Greater Boston yielded little actual change. Exclusionary zoning rules sit on the books indefinitely, and resistance to neighborhood change has made reform difficult in the intervening decades. This continuation of exclusionary zoning practices has coincided with a period of increased demand to live in Greater Boston, meaning that not only do we remain segregated by race and class, but housing prices have risen dramatically, squeezing families of all races and incomes.

- While intent really does matter, and it’s a key focus for this research, it’s also true that people of good intent can still advance policies that have undesirable outcomes. This often happens within the context of broader structural forces that encourage policymakers to advance narrow parochial interests that are at odds with broader regional goals of equity, inclusion, and economic prosperity. This report provides numerous examples of how assigning small cities and towns as the key political unit for designing zoning rules has created one such enduring structural problem. The narrower political boundaries are drawn, the more “outsiders” are created. Primarily waiting on, or lightly incentivizing, municipalities to do the right thing has been insufficient throughout the 100 years of zoning history reviewed here.

This report is a tour de force. With so much research today done entirely from the comfort of one’s home, Amy spent countless hours at the State House Library and at town libraries across the region reading hard copies of old master plans, and coverage in local newspapers. Amy will also be the first to note, however, that this report is far from exhaustive. She did her best to survey a range of representative Greater Boston suburbs, but this report captures far from all of them. And she could just scratch the surface on the reams of local meeting minutes, which could uncover more details on the intent of people engaged in these municipal debates. We hope that in the short term this work sparks new policy thinking about how municipalities and the state can act to undo this history of exclusion. And, longer term, we know that more research is needed to better understand which dimensions of zoning should be kept in the service of thoughtful regional planning and which approaches should be fundamentally reformed or discarded.

– LUC SCHUSTER, Boston Indicators

Introduction

In *The Color of Law*, Richard Rothstein argues that long after the end of Jim Crow laws, the government purposefully segregated America's Black and White populations. One of the ways the government did this, he explains, was through the adoption of restrictive municipal zoning laws. Dartmouth Professor Emeritus of Economics William Fischel, a leading expert in zoning policy, proposes that class elitism and the risk-aversion that comes with investing one's life savings in a given property—far more than racism *per se*—have fueled zoning's ascendance and ongoing appeal. Rothstein agrees that social class elitism, not racially biased, has been a primary motivator of exclusionary zoning, but Rothstein asserts that there has been “enough open racial intent behind exclusionary zoning that it is integral to the story of *de jure* segregation.”¹

Meanwhile, many municipal voters who have favored zoning that bans lower-cost housing would deny that they have been motivated by social class elitism or racism. Many celebrate diversity, oppose discrimination, and believe all people should have fair opportunities. At public hearings, their comments have focused on traffic, parking, flooding, water and air quality, shadows, aesthetics, infrastructure, school capacity, privacy, and other concerns that are not race and class.

Thus, the debate has been framed. Has exclusionary zoning been motivated significantly by both class elitism and racism—or mainly by class elitism? Or, does exclusionary zoning exclude people by race and class as an unintended side effect, but not as its purpose?

To shed light on the positions of the debate, I have examined the history of zoning in Greater Boston from the 1920s to today. I have reviewed local planning documents, state reports, and press coverage, as well as general literature on the topic, to understand the key purposes for local zoning adoption and reform, and to see what, if any, evidence there might be that segregation, by race and class, has been among the key purposes of zoning.

My region-specific review does show strong evidence that zoning has been used, across many decades and suburbs, *for the purpose of* segregating by race and class. Here I will present the evidence I have found, for the public to interrogate.

Zoning's purposes are like strands of yarn knitted, knotted, frayed, stretched, woven, and looped together into a fabric. Some of the threads are twisted together, some are at a cross-weave, some in tension, some in parallel. I am not untangling the strands into separate piles of cotton, wool, and polyester. I am not getting out rulers or scales to measure each fiber's relative contribution to the whole. What I have set out to understand is if the exclusionary

purposes are integral to the fabric. Can I find them woven, twisted, and knotted throughout, along with the traffic threads, environmental threads, aesthetic threads, and other concerns that are definitely there?

Regardless of their purposes, zoning's bans and tight restrictions on development of diverse types of housing, across entire municipal jurisdictions, have indeed contributed to the segregation of Greater Boston, and the United States, by class as well as race. Zoning, as implemented, has undermined equal access to the region's opportunities; hampered social mobility, financial resiliency, and economic productivity; and made our civic life less just.

To the extent that zoning has been used for segregation, it does so indirectly. Since before the first zoning ordinance was adopted in Massachusetts in 1920, racial zoning has been illegal in the United States. No zoning in Massachusetts has ever been explicitly racial; zoning districts have *not* been designated for different racial, ethnic, or religious groups. Furthermore, no zoning has required residents to pass any kind of explicit test of affluence, where minimum income or wealth standards are pre-requisite for residency in a zoning district. (Qualification for subsidized housing is a different issue.) Zoning segregates indirectly by preventing new construction of diverse types of housing across whole jurisdictions, and limiting total buildout of housing in jurisdictions, so that prices of scarce housing get bid up in the most exclusive communities, making them inaccessible to lower-income, lower-wealth households. The economic segregation of the housing market has an impact on settlement patterns by race and origin to the extent that those demographic factors are correlated with wealth and income.

My analysis centers around three types of exclusionary zoning—fiscal zoning, class zoning, and racist zoning. While I focus on class and race, the history also involves exclusion of various immigrant groups, religious communities, and families with children. Of course, these categories overlap.

I begin this report with fiscal zoning because the most common explanation offered by public officials for explicitly excluding lower-cost types of housing relates to fiscal responsibility. The idea is that tax revenues from higher cost housing go further in covering the cost of public services, so prohibiting lower-cost types of residential development may be considered fiscally prudent for municipal budgets. The purpose of fiscal zoning is budgetary, but the means—class exclusion—align so closely with the ends of fiscal responsibility, that the means and ends blur.

I will follow my exploration of fiscal zoning with a presentation of evidence that municipalities have been undertaking class zoning to recruit and retain the well-to-do, and keep others out, not only for fiscal purposes, but to improve and protect the social standing, or exclusivity, of the municipality relative to other municipalities. Class zoning overlaps with fiscal zoning, but it is not the same thing; in many cases municipalities have used zoning against their immediate fiscal interests for the sake of socioeconomic standing. Since class zoning clashes with values many people hold dear, it is often not announced the way that fiscal zoning is. Still, before the 1970s, many zoning leaders did comment publicly about the purposes of class sorting, and after the 1970s, there is also evidence of class zoning.

After discussing fiscal and class zoning, I look at evidence of anti-Black racism in suburban zoning policy. Black people in America have endured a specific history of slavery, Jim Crow segregation, and systematic discrimination that has compounded into current day disadvantages for many Black people. This history is why I am looking at anti-Black racism specifically, but diverse prejudices are relevant to this narrative as well. In my scan of zoning history, I identify instances of both racist intent and structural racism, where the system disadvantages Black people, either with or without intent.

The section on racist zoning is far longer than my analyses of fiscal zoning and class zoning. This is because fiscal zoning and class zoning are relatively straightforward. Municipalities have left a long trail of official documents elucidating their fiscal and class motives for exclusionary zoning. Meanwhile, zoning with intent to segregate by race is not legal; it is even prohibited by the U.S. Constitution. The evidence that such intents have been in effect is therefore nuanced. I have taken the time to spell out the nuances as I have observed them.

I focus on the important pivot in zoning history that took place in the 1970s on the heels of the civil rights movement. By the late 1960s, journalists, public officials, municipal planners, academics, and activists were regularly calling out racism as a motivator of exclusionary zoning. In the years leading up to his assassination, Dr. Martin Luther King, Jr. spoke frequently not only about the evils of Jim Crow segregation in the South, but also of segregation in the North. To the Massachusetts legislature, he called this segregation of the North “a new form of slavery covered up by certain niceties of complexities.”² The civil rights movement inspired activists across numerous Boston suburbs to address segregation in housing and schools, including through zoning reform. Yet, in the first half of the 1970s, a sweep of municipalities mobilized extraordinary political will to achieve the requisite 2/3 supermajority votes to make their zoning more exclusionary. I call this pivot “the Big Downzone.” I look to understand what motivated the downzone, and I also scan the full century of zoning history to note where racism appears in the narrative.

In the next section, I look at how fiscal, class, and racist zoning all intersect in the overall zoning regime of the post-Big Downzone era (approximately after 1975), which is the current era of zoning. The post-Big Downzone era has been characterized by housing shortages and escalating rents and home prices, due to tight zoning restrictions on residential development. The era has also been characterized by sprawling, highway-oriented development, as suburban zoning has slowed development of diverse housing in dense, walkable, transit-oriented districts. After the region significantly banned development of multifamily housing, the new mode of zoning was to undertake surgically careful zoning reforms that often involved project-by-project review. The language of “diversity goals” has dominated this era of land use planning and regulation.

During this era, the use of fiscal zoning has been explicit, while talk of recruiting and retaining wealthy residents was replaced with statements about the need for diversity. I present detailed evidence of the pervasive practice of using zoning to exclude children from new multifamily housing. This exclusionary practice embodies fiscal zoning and class zoning, although most proponents of it have only mentioned the fiscal aspect out loud. I will review evidence indicating that “fiscal responsibility” is only a piece of the picture. Zoning that restricts or targets the age of residents in multifamily housing has a disparate impact by race and origin—and is also discriminatory against families with children. Zoning children out of new multifamily housing represents a culmination of century-spanning zoning trends and has profound implications for school segregation.

To the Massachusetts legislature, [Dr. Martin Luther King Jr.] called this segregation of the North “a new form of slavery covered up by certain niceties of complexities.”

Then in the report’s final section, I share reflections on overall motivations to exclude certain groups from residence in certain jurisdictions. Many commentators have focused on the economic and fiscal incentives for exclusionary zoning and the institutional structures that undergird those incentives. In my view, the focus on finances has obscured some of the major social motivators. Exclusion is a means toward money-making and resource hoarding, but exclusivity may be a goal in itself, the end as opposed to the means. The way Massachusetts’ zoning system is structured, it encourages local civic engagement to the benefit of municipal residents at the expense of outsiders and regional needs, which reinforces patterns of privilege and disadvantage.

Background

“Let us spread out our civilization and give our children the chance for light and ventilation,”³ Edward Hartman presented his vision for zoning in 1925, when only a dozen municipalities out of Massachusetts’ more than 350 municipalities had adopted zoning. This was only five years after the first Massachusetts municipality, Brockton, had adopted zoning in 1920. Hartman worked for the Commonwealth of Massachusetts as the lead promoter of local zoning. He met with planning boards, spoke at conferences, and sat for numerous media interviews, painting mostly pro-zoning stories with colorful words.

“Just as the bootlegger is the heartiest advocate of the prohibition law,” Hartman remarked, “so the corrupt politician is the strongest supporter of the zoning laws.” This was the Progressive Era, when so many reformers were dueling against corruption. Not to despair, Hartman advised: “We can get rid of a corrupt generation. The graveyard is our salvation.”⁴ In the meantime he urged communities to use zoning to zip up the development rights of land, and to train local planning workers to guard against the sale of those rights, the sale of communities’ “beauty and value,” by graft. This is already confusing, the state’s lead advocate for zoning calling it a tool both for and against corruption. The confusion here is par for the course of zoning’s story. My aim with this report is to make what is usually obscured by complexity and contradiction easier to see and understand.

There is a lot packaged in the story I am about to tell. Here we begin in the 1920s, with “civilization” spreading out on the wings of zoning. But what are these wings? How does zoning work? What do zoning’s proponents claim its merits to be? And if zoning has grand purposes—to give children the chance for light, for example—why would we question whether it has below-board purposes as well?

By 1960, almost all of eastern Massachusetts was zoned—“zoned to the eyeballs,” as an observer at the *Boston Globe* put it.

What is zoning?

In 1921, Professor W.F. Harris and Arthur Comey, consultants to Massachusetts municipal planning boards, explained⁵ what this new concept of zoning was, in a statement published by the *Boston Globe*: “The term ‘zoning’ signifies such regulation of the height, area, and use of buildings as will protect each occupant from impairment of his share of light and access, as will protect his ears from unseemly noises, his nose from unpleasant

smells and his eyes from offensive sights, and will make toward protection for the city of values already established or to be created.” Newton and Brookline adopted zoning the following year. By 1960, almost all of eastern Massachusetts was zoned—“zoned to the eyeballs,” as an observer at the *Boston Globe* put it. By the 1970s, the metropolitan area would get zoned past the eyeballs, as I will explain in the report.

Because the report is largely organized around categories of zoning purposes, I do not present the narrative in chronological order. As I see it, the history of zoning in Greater Boston falls into four basic eras:

- **Original adoption, 1920s and ’30s.** This era was marked by adoption of basic zoning, with relatively straightforward requirements, across many communities, but not all. By 1937, 62 Massachusetts municipalities had adopted zoning, most in eastern Massachusetts. Most of those adopted zoning during the booming 1920s, but many such as Canton, Carlisle, Dover, Natick, Sharon, Watertown, Wellesley, and Wilmington adopted zoning during the Depression.

- **The postwar era to approximately 1968.** In these years, just about every community in Greater Boston adopted zoning, and many tightened their requirements. Zoning became more complicated, and municipalities began to create requirements for municipal authorities to use discretion in decision-making about approval for residential construction projects. In this era, a belt of particularly affluent communities circling Boston, such as Weston, Carlisle, and Dover, zoned for very large minimum lot sizes for single-family homes and mostly banned development of multifamily housing. More suburbs allowed apartments liberally than banned them.

- **The Big Downzone, from approximately 1968 to 1975.** During this period, many municipalities voted to make their zoning much more restrictive, shifting toward official policies of “no growth” or “low growth.” Most communities moved to ban or highly limit apartment construction. The Downzone happened at the same time that many activists inspired by the civil rights movement were pushing for zoning reform to desegregate the suburbs.

- **The current era, from approximately 1975 to today.** Zoning was at its most restrictive at the start of the era. Municipalities have very cautiously and incrementally rezoned, across the decades, to allow different types of housing, with a lot of discretionary review of projects. Reform has not opened zoning enough to let the market meet demand for housing. The pro-housing movement to reform zoning has grown steadily throughout the period, and now represents a significant force in Greater Boston, perhaps to usher in a new era of zoning.

Thus, zoning has been practiced in Massachusetts for more than a hundred years now. Since Harris and Comey explained zoning as “regulation of the height, area, and use of buildings,” everything about zoning law and practice has evolved. The United States Supreme Court and the Massachusetts Supreme Judicial Court have weighed in multiple times, offering blessings and limits. The state legislature has passed and amended zoning acts to regulate local use of zoning, with major new versions issued in 1920, 1933, 1954, and 1975. Since 1920, the whole literal landscape being regulated by zoning has changed dramatically, for example with farms subdivided into parcels that sprouted homes. All aspects of the world that intersect with zoning (say, the housing market, transportation systems, the economy, the population, and so on) are as different today from 1920 as the Toyota RAV4 is from the Ford Model T. But we can still say, roughly, that zoning involves “regulation of the height, area, and use of buildings,” although *area* in zoning more often refers to the size of a parcel of land on which a structure will sit than to the area of the building itself.

For much development today, zoning is hazier and more flexible, subject to negotiation, a game of uncertain outcomes.

The generalist-literature about zoning explains that zoning divides a municipality into districts (zones), represented in a zoning map; the zoning then specifies the “land uses” (such as two-family house, townhouses, laundromat, nail salon, and machine shop) that are permitted or prohibited in each district; next the zoning establishes dimensional requirements for structures and properties, such as maximum building heights and minimum lot sizes, in each district; and finally the zoning sets out a process for obtaining permission to build. In short, the model of zoning is a tripod, districts-uses-dimensions, topped off with a permitting process.

This model was generally true of zoning in the 1920s, when its transparency was promoted by anti-corruption reformers. It is still part of today’s zoning practice. But today, as zoning relates to new construction, especially multifamily housing, zoning is *not* primarily about the pre-set districts-uses-dimensions that you could look up in the promulgated zoning regulations. For much development today, zoning is hazier and more flexible, subject to negotiation, a game of uncertain outcomes, where municipalities have sought to increase their discretionary control of change. As the zoning attorney Richard Babcock wrote in 1966 about zoning in the United States:⁶ “That this metamorphosis in zoning from the simple, open-faced text to highly complex document has resulted in total confusion does not need to be debated.”

Across a century, zoning evolved into a two-tier system. The first tier is the predictable, original tripod (districts-uses-dimensions). The second tier involves unpredictable discretionary decision-making. In the first tier, for any property, you can look up the district, the allowed uses, the allowed dimensions. The information is all written out and accessible. In most places, these requirements are written to prohibit many structures that would-be builders would like to build to serve market demand. Since the base-layer of knowable restrictions are “too strict,” some would-be builders give up. Others engage the municipality in a permitting waltz, in the dancehall of discretionary zoning, to win the prize of permission to build more.

In existing residential-only neighborhoods, which now cover most of Greater Boston, only the first-tier (the tripod) generally applies. The municipality will not “take this waltz” to make existing neighborhoods more dense (homes per acre) than they are. In these areas, zoning’s published dimensional requirements generally freeze existing neighborhoods, although there is typically room within the dimensional restrictions to expand the size of structures, for greater floor area per dwelling unit, which sometimes looks like mansionization.

In industrial, commercial, and mixed-use districts, and on some major thoroughfares, however, builders hear the music. On such properties, you usually cannot know for sure, from reading the zoning, how many dwelling units, if any, would be allowed or what dimensions a new structure could be. All of these things will be determined through a political, discretionary approval process that may involve votes of a planning board and city council or town meeting. The zoning often offers some general guidelines, or upper limits, about what might be approved. Sometimes builders apply for “rezoning” of a property, with all options theoretically (if not politically) available. Decisions about uses and dimensions are made on a case-by-case basis.

Discretionary approval gives municipalities the ability to a) kill or downsize projects that they find unfavorable, b) shape projects (beyond what measurable dimensional requirements mandate), c) determine builder-led mitigation strategies to address possible negative impacts of projects on the community, and d) sometimes even capture value from lucrative developments (beyond what is needed for mitigation) and directing it towards public ends. Value capture and mitigation can include infrastructure upgrades, donations to funds, inclusion of deed-restricted affordable homes, and other benefits. Discretionary approval could involve the granting of special permits for a project, or rezoning of a parcel, which would need the blessing of town meeting or city council.

In zoning policy, there's a lot of talk of "density." This usually refers to the minimum lot size on which a building can go, the number of dwelling units allowed per building, and height. In effect, density refers to how many residences are allowed per acre. Low density housing is often thought of as single-family housing on one-acre lots, or bigger, while high-rise apartments would be considered dense. But these terms are relative; density is in the eye of the beholder. Single-family houses on 1/6-acre lots could be considered high-density or low density housing. All things being equal, lower density housing is generally more expensive, largely because land is expensive.⁷ The term *upzone* means to revise zoning to allow greater density of development than was previously allowed; the term *downzone* means to reduce the allowed density.

What are the purposes of zoning?

"Why do we have zoning anyway?" asked zoning attorney Richard Babcock in his 1966 book *The Zoning Game*.⁸ His own reply: "It is indicative of the chaotic nature of the subject that there is no generally accepted answer to this question." He concluded, "Zoning needs no purposes of its own." It does not need purposes, he explained, because it is a process, a political technique, through which private land is regulated. Each person ascribes their own goals to zoning while engaging in the political process. Babcock's riddle dodged the question and missed the point. "Zoning" is both a decision-making process *and* the outcome of the process. What purposes drive the outcomes of the zoning process, which include tight restrictions on lower-cost types of housing across a large portion of the metropolitan area?

Whether or not exclusion is intended, research shows that zoning has contributed to patterns of segregation, by class and race.⁹ Restrictions against diverse housing and the resulting housing scarcity have limited opportunities for people of modest means to afford housing in many municipalities.¹⁰ In the American context, race and origin have been significantly related to class, such that policies that discriminate based on class will have disparate impacts across demographic groups. Residency in a municipality gives people access to that municipality's public goods, social networks, and opportunities, so segregation matters on many levels. The 2019 *Greater Boston Housing Report Card* concluded, "We find that racial segregation is still a serious, chronic issue in Greater Boston."¹¹ The same can be said about economic segregation.

Segregation generally has two meanings. The term, first of all, is used to describe a legal regime like Jim Crow or Apartheid—explicit, overt separation of groups of people, enforced by the

police power of the state. In this report, I am using the term to denote its other meaning, as an empirical measure of separation or unevenness in distribution of populations, across places, where the unevenness is caused not just by individuals' locational preferences but by discrimination, bigotry, or unfair policies. Racial segregation can be *de facto*—meaning it is true, in fact, that populations are unevenly distributed, but the unevenness is not officially sanctioned, just due to economic barriers or private acts of discrimination, for example. Segregation can also be *de jure*, meaning it is in accordance with the law—it is officially sanctioned. Jim Crow and Apartheid are forms of *de jure* segregation. Zoning rules that incidentally make housing more expensive, while accomplishing other purposes, might lead to *de facto* segregation by race, for example. On the other hand, zoning laws adopted on purpose to keep Black people out of a community would be considered *de jure* segregation by race, even if the zoning law does not directly mention race.

"Zoning" is both a decision-making process and the outcome of the process.

My century-spanning review of zoning's explicitly expressed purposes, as they relate to regulation of *residential* development (and *not* industrial or commercial per se), revealed a number of common themes, including (but not limited to):

- stabilizing neighborhoods,
- protecting the environment,
- preserving the character of neighborhoods,
- protecting or boosting property values,
- reducing traffic and parking congestion,
- creating order,
- managing the form and appearance of development,
- pacing growth so public infrastructure and institutions can keep up,
- minimizing the cost of municipal service provision,
- creating optimal neighborhoods for raising children,
- making government less corrupt and more transparent,
- promoting demographic diversity,
- mitigating impacts of development,
- leveraging private development for public ends,
- improving safety from fire, and
- revitalizing shopping districts.

Some of these goals seem basically unrelated to racism or classism and could be achieved without effects of segregation. The policy options associated with some of the goals would likely lead to segregation, without necessarily intending it. But some of these things might be a gentle way of saying: Let's exclude.

The 2003 textbook *Land Use Planning and Development Regulation Law* explained that the phrases “to preserve property values” and “protect the character” of a community are often used to mask class and race discrimination.¹² The law textbook is not alone in making this argument; commentators have been saying it frequently for decades. The phrases about property values and character are repeated in municipal planning documents more times than it would be feasible to count. The terms may indeed sometimes, or often, mask racism and classism, but that can be hard to nail down. Still, in this report I will examine specific use of the language in the context of exclusionary motives and the segregated landscape.

“No one will say publicly that Blacks must be kept out, or that it’s more desirable to have someone with ‘more money’ move into the neighborhood,” the *Boston Globe* observed in 1970, about zoning’s purposes.¹³ Such purposes are not advertised, but there is evidence that they are in effect, as I will review in the following sections.

As I brush the sand off of this mosaic of zoning purposes for a clearer view, the revealed patterns make for a complicated and messy picture. First of all, the picture is complicated because, as mentioned, people sometimes hide their true motivations. Second, zoning policy intersects with numerous issues that people care about. Third, local voters are not a monolith; they are not all working in concert toward a shared goal. Zoning policy is an area of great conflict; many press reports describe zoning meetings running late into the night, with large turnouts, overflowing high school auditoriums. Zoning policy reflects many interests. Anti-development coalitions have had a strong hand, but they have not gone unchallenged, and many zoning votes are close, although landslides happen too. Hingham first rejected zoning in the 1920s. Hingham rejected it on its second vote too. It took Hingham almost two decades to reach a pro-zoning consensus, the final vote coming in at 1004 to 4.¹⁴

“No one will say publicly that Blacks must be kept out, or that it’s more desirable to have someone with ‘more money’ move into the neighborhood,” the *Boston Globe* observed in 1970, about zoning’s purposes. Such purposes are not advertised, but there is evidence that they are in effect.

While final votes, whether close or not, may represent the official “will of the people,” the ordinances (in cities) or bylaws (in towns) themselves do not typically speak in depth to their own purposes. Local master plans, also commonly called

comprehensive plans, do speak in depth to purposes, and are meant to represent the formal positions of their respective municipal governments. Master plans are typically written by consultants with input from municipal officials and constituents, and are often formally adopted by the planning board and sometimes other municipal bodies. The cover letter of Wenham’s 1962 Comprehensive Plan says: “The Planning Board has reviewed carefully the work of its consultants and is in accord with their recommendations. We propose to use the Plan as our guide in carrying out the Board’s functions.”¹⁵

Thus, local plans often contain contradictions, in part because they represent conflicting viewpoints of constituents. Also, planning consultants typically approach the task of master planning with the goal of planning for diverse types of housing in every community; their clients may not share their agenda. In some ways, the plans represent advocacy documents, in which professional planners are trying to persuade municipalities to adopt policies that municipal constituents appear not to favor. In 1960, the *Boston Globe* spoke to this: “Zoning, like other fields of government endeavor, requires overall planning by experts. But the people affected should have the last word.”¹⁶ (The unstated assumption here is that the “people affected” all already live within the jurisdiction to which zoning applies.) Stow’s 2010 Master Plan noted: “If these survey responses [from the public] reflect the position of the majority of residents, it may be very difficult if not impossible to implement the housing vision [set forth in the plan.]”¹⁷ Burlington’s 1965 master plan¹⁸ expressed uncertainty about municipal intentions: “We do not know whether the town will want to permit apartment zones.”

Politics are not the only hurdle to implementation of plans, as they relate to zoning. Implementation can take more capacity than is available between municipal staff and volunteers, and within budgets for consultants.

Some people think zoning has no good purpose, other than perhaps putting factories in their places. To me, laissez faire development policy would not lead to optimal settlement outcomes. To organize civilization for multi-modal mobility and environmental sustainability, it makes sense for government to select areas for different intensities of development. Zoning is designed for that. Zoning can also be used to maximize the public benefits of projects and mitigate problems. I also think it can be appropriate to use zoning to slow the rate of change of some areas. I have never assumed that all of zoning’s stated purposes are a front for a policy to segregate. But I have studied how Boston’s suburbs tightly restrict the development of multifamily housing, two-family housing, and small-lot single family housing, and I wanted to understand the primary reasons why.

Municipal fragmentation

In the history of zoning in Massachusetts, municipalities have been the units of government undertaking the zoning, as opposed to state or regional authorities. And there are a lot of municipalities in Massachusetts! Academics call this municipal fragmentation. Massachusetts contains 351 municipalities. Within 50 miles of Boston there are 187 cities and towns. The region covered by Greater Boston's regional planning agency, the Metropolitan Area Planning Council (MAPC), contains 101 municipalities.

The fragmentation creates boundaries within which people feel themselves to be insiders, and view others in the region as outsiders. When settlement across jurisdictions is highly segregated, then the structure reinforces divisions of privileges and disadvantages across borders and demographic groups. The structure of fragmented authority across numerous small jurisdictions plays a key role in producing the exclusionary outcomes of zoning. Throughout this report, I will share examples that illustrate how the structure prompts civic actors to address narrow interests often at odds with regional goals of equity and inclusion.

In the Colonial era, most of the land of Massachusetts was incorporated into cities and towns numbering significantly less than half of the current count of 351. The 18th and 19th centuries saw many divisions of Massachusetts municipalities into smaller municipalities, for several reasons, like to reduce travel time to town meeting or church, resolve quarrels, or carve out enclaves for wealthier residents.^{19 20} Annexations happened as well, after the end of the Civil War in particular, as economic boom helped the City of Boston to build and upgrade roads, sewers, water supply, schools, street lighting, and parks, and launch many services. Dorchester, Roxbury, West Roxbury, Charlestown, and Brighton voted to join Boston, to benefit from the city's ability to provide infrastructure and services. In 1874, Brookline voted to reject annexation, and after that the city only annexed Hyde Park in 1912. Tensions across group identifications served as a force against annexation of more municipalities into a larger unified metropolis. The suburbs turned to metropolitan organizations for the provision of some things, like sewers, water, and parks, but zoning became a task of local governments, not the state or a metropolitan organization.

In general, municipalities gain their authority to make laws from states; the authority is delegated by states, not inherent. In 1966, Massachusetts adopted a Home Rule Amendment which gave localities the power to act on any matter not expressly preempted by the state constitution or legislative enactments. Importantly, the state has the authority to preempt local initiative. Massachusetts's Zoning Act standardizes the processes for municipal promulgation and enforcement of zoning regulations. Massachusetts has revised its zoning act several times since the 1920s.

The structure of fragmented authority across numerous small jurisdictions plays a key role in producing the exclusionary outcomes of zoning.

The focus of this report is on the municipal level, as that has been the locus of zoning as practiced. I mention state-level policy when knowledge of those policies helps us to understand local motives related to zoning. To inform the design of interventions that would address the challenges raised by this analysis, a deeper dive into the history of state policy would be helpful.

Fiscal Zoning

It has long been understood that *fiscal zoning* is a widespread practice across the suburbs; many commentators equate fiscal zoning with exclusionary zoning. Fiscal zoning aims to boost municipal revenues relative to expenditures, by using zoning regulations to encourage land uses that maximize tax revenues and minimize spending on associated services. The purpose of fiscal zoning is budgetary, but the means—class exclusion—are so closely aligned with the ends of fiscal responsibility, that the means and ends blur. To maximize revenues, municipalities zone for large lots, which makes for more expensive housing and higher tax receipts per house. Zoning for large lots also reduces the total number of homes that can be built in any given subdivision and in total across the municipality, hence slowing growth and limiting potential population numbers. In some cases, tax revenues from houses, in general, do not cover the cost of municipal services—industrial and commercial revenues fill the gap. In such circumstances, each new home can be viewed as draining resources available to incumbent households in the community.

In a 1979 informational booklet,²¹ the state community development office explained fiscal zoning like this:

Underlying these problems [of housing scarcity], many communities are sensitive to the fiscal impact of development and therefore are anxious to ensure a slow rate of development of only very expensive homes. The current fiscal structure of local government creates great pressure on local officials to view land development primarily as an opportunity to increase local revenues rather than as an opportunity to provide for the needs of current and future residents of the community.

Municipal leaders have understood, throughout this history, that zoning for large lots makes housing more expensive. Wenham's 1962 Comprehensive Plan, for example, explains, "The average cost of residential construction has risen to over \$20,000, primarily as a result of the 1955 minimum lot size increase."²² Littleton's 1964 Master Plan²³ advises that: "Future residents will have to face the prospect of paying a high price for their housing, especially since present Town subdivision regulations require building lots to be at least one acre in size."

In 1963, Canton Town Meeting adopted one-acre minimum lot sizes for its AA district, which covered nearly all of Canton's unbuilt land.²⁴ Canton did this, at least in part, for fiscal reasons. During the late 1950s, many small \$8,000 houses were built on small lots in Canton's Cedarcrest Highland section. At Town Meeting, it was presented that taxes from these small homes did

not pay for the increased costs in services. Homeowners paid about \$300 in taxes, while it cost the Town \$423 to educate one child. The new requirement of one-acre lots for most subdivisions effectively stopped the influx of less affluent people into Canton.²⁵

Dedham's 1947 Master Plan explains that the average annual real estate tax on Dedham's pre-war houses came to approximately \$150. Meanwhile the top 180 homes, by assessed value, paid an average annual tax of \$886. These top 180 homes bore 1/5 of the entire expense of running the town. The plan argued for a large-lot district, because "the continued presence of the big taxpayers is in direct financial benefit to the small home owners as well as to the local merchants."²⁶ The plan continues: "... in the neighborhood of larger homes, the introduction of small houses on small lots would cause immediate deterioration of present property values and would also discourage newcomers in the higher income brackets from coming to Dedham to live at all. A 40,000 square foot minimum lot size [almost an acre] was recommended in this area as a means of keeping up property values and attracting well-to-do newcomers." The plan then adds: "In our judgment the large lots will slowly find buyers who will build on them houses of substantial valuation (as already has occurred in Wellesley and Weston.)"

In 1963, the *Boston Globe* featured Weston for its fiscal zoning strategy.²⁷ "Most town officials stay up nights thinking of ways to lure industry to their revenue starved communities—not so in Weston." The reason: Zoning bylaws dating from 1928 set up a development pattern that is a fiscal positive. "Because they started zoning early, Weston never developed an 'other side of the tracks,'" the article explained. Zoning maintained Weston as exclusive and expensive, so homebuyers moving in tended to be older, the managerial echelon of national firms setting up on Route 128. Many of the incoming children were already in high school. Unlike other suburbs, Weston dodged the need to build so many grammar schools.

To maximize revenues, municipalities zone for large lots, which makes for more expensive housing and higher tax receipts per house.

There is a twist to the story of fiscal zoning. In the 1950s and '60s, apartments were widely considered a fiscal positive, because few schoolchildren lived in them. During these decades, the debates about zoning for apartments largely centered around the benefits to local budgets and the local needs for the housing *versus* the impact of apartments on the socioeconomic status of

municipalities. Opponents of apartment zoning did often question the fiscal benefits of it, but the promise of tax revenues without commensurate spending on schools won many approvals for apartments, in the mid-century era.

“If Arlington is to increase its assessed valuation, apartment houses will have to paper Arlington,” declared Arlington’s Town Manager Edward Monahan in 1953, according to a case study on Arlington’s zoning by Alexander von Hoffman.²⁸ Leon Lombard, a small-scale local builder, recalled to von Hoffman that “people backed the construction of new dwellings because they were convinced it meant new property tax revenues and thus helped keep down their own property taxes.”²⁹ Von Hoffman concludes: “During the 1960s, town officials expanded the area for development of apartment houses and embraced a future of high-rise buildings.”³⁰ Meanwhile, opponents argued that apartments would not help local budgets because they create a need for added services such as road maintenance and trash removal, and, contrary to the popular understanding, would increase school costs by adding to the school-aged population.

In 1958, *Globe* columnist Douglas Crocket³¹ lamented that Boston’s suburbs were getting to look more like the city because “quiet towns” like Arlington, Winchester, and Lexington were having to allow apartment buildings to win their fights against ever climbing tax rates. As examples, Lexington approved garden apartments; Winchester held a special town meeting to approve zoning to create an apartment house district; and Arlington’s Development Commission went on record favoring zoning for apartments. Crocket suggested the state take over more costs related to transportation, water, schools, and veterans’ services, so that towns could prohibit apartment development and preserve their town (not city) character.

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Like many master plans of the era, Braintree’s 1963 Master Plan³² makes a clear statement that apartments are a fiscal benefit: “Economically, the dollar investment per capita in apartment residences should be as high as in single-family homes and the municipal costs considerably less.” Lincoln’s 1965 Comprehensive Development Plan explains that the benefit is due to apartments having fewer school children than single-family houses do:

“[V]irtually any apartment housing which is likely to be built privately in Lincoln would produce an excess of tax revenue over costs to the Town. The proportion of school-age children to total population is usually much lower for apartments than for single-family housing.”

According to media accounts and case studies of the mid-century era, local voters were weighing the fiscal benefits of new apartments against the impacts on socioeconomic status. Often the appeal of lower taxes won out. As an illustration, in 1969, Saugus Town Meeting voted favorably for an apartment district, for a 550-unit project, for the tax revenues.³³ Per the *Boston Globe*, “Those supporting the bylaw change envisioned a broadening of the tax base as the chief advantage.” One Saugus resident expressed fear that the project would turn Saugus from a bedroom town to a “low-cost apartment mecca.” Another Saugus resident questioned whether apartments would actually be a fiscal benefit; they might attract more kids than projected.

From 1964 to 1968 alone, Newton approved construction of 705 apartments and townhouses, plus 500 units at Chestnut Hill Towers (which got built in the following decade), and another 128 subsidized low-income housing units.³⁴ Still, Newton’s 1968 housing study explains, “There is...the fairly sizeable group of Newton residents to whom any change in the residential land use pattern of the community is anathema. This group insists that their image of the ‘Garden City’ must be maintained at all costs and that any alteration of the single family (or at best two-family) community is a harbinger of a decline in community values.”³⁵ In 1951, the *Boston Globe* reported that 500 people in Newton registered opposition to proposed zoning to allow apartment houses. The article explains: “Opponents charged this would depreciate property values and ultimately reduce Newton ‘from a city of homes to a city of apartment houses.’” Despite the anti-apartment bias, in this era, Newton opened its zoning to apartments, at least relative to what Newton would allow in the decades to follow.

Many municipalities permitted hundreds and even thousands of multifamily dwelling units in the postwar decades. In Acton, from 1960 to 1976 the town permitted more than 2,000 apartments. In Framingham, from 1961 to 1971, more than 7,000 apartments were built.³⁶ From 1962 to 1972, Arlington averaged 226 dwelling units permitted per year in multifamily buildings.³⁷ The typically brick and boxy apartment buildings of that era can be seen around the region, in Rockland, Marshfield (Route 139), Waltham, Braintree, and many other communities.

Class Zoning

In the most affluent municipalities, apartments were, apparently, less needed to balance local budgets. These communities, such as Weston, Lincoln, Dover, Sherborn, Carlisle, Wayland, Westwood, Hamilton, Wenham, and Duxbury, zoned almost entirely for large lot single-family housing to the exclusion of diverse housing types. In 1960, the *Boston Globe* referred to this as the “executive belt of estate zoning.”³⁸ At the time, exclusionary zoning was dubbed “snob zoning.”

In the 1960s, the population of Weston and Wellesley were overwhelmingly American-born affluent White Protestants. Weston and Wellesley were—and still are—two of the wealthiest communities in the state. Weston’s 1965 Master Plan included this statement of purpose: “Social Goal: Accommodate further moderate population growth in a manner consistent with the present characteristics of Weston.”³⁹ Wellesley’s 1965 Comprehensive Plan, written by the same planning consultant, included the same language, but under the heading of “Population Goal.”⁴⁰ An intent to exclude population along several vectors seems to have been implied.

“Social Goal: Accommodate further moderate population growth in a manner consistent with the present characteristics of Weston.”

— Weston’s 1965 Master Plan

Mid-century plans commonly assessed municipal socioeconomic standing and image, and recommended low-density zoning to boost *position* in the hierarchy. Wayland’s 1962 Master Plan stated this most clearly: “As population pressure has heightened, the Planning Board and the Town Meeting have reappraised Wayland’s position within the western section of the metropolitan area and have increased the lot area and frontage requirements for residential districts and maintained the single family residence requirement.”⁴¹ Waltham’s 1954 Master Plan explains that constituents would like to plan “for an improved position as a desirable residential community in metropolitan Boston, one which will not become too densely populated.”⁴²

In another example, Woburn’s 1966 Master Plan lays out an analysis of its socioeconomic positioning: “Even in the newer sections, Woburn is attracting mainly medium to low-middle income families. It will take a great deal of local change to create an environment which will attract and hold the higher income families who are needed to balance the social and economic composition of Woburn.”⁴³ Note that the plan refers to *social* and economic composition, and not only to tax revenues. The plan continues:

With this trend likely to affect Woburn, the design and location of new multifamily dwellings will have a great influence on the community’s image. Woburn stands to gain the greatest benefits if it can encourage the type of multifamily dwelling that will attract medium- to high-income professional people.

As their incomes increase and their horizons broaden, and their families grow, will they move out to other more attractive suburbs? Will this be a repetitive cycle, with Woburn acting as a way station between the previous residence and Winchester or Lexington? The data indicate that this is part of what is happening.

Sudbury’s 1962 master plan⁴⁴ points to socioeconomic character as a reason to address poor housing conditions where they appear: “It would be desirable for the town to initiate actions towards the improvement of the poor housing conditions existent not only for the health and wellbeing of the individual families involved, but also to improve the general socio-economic character of the community at large.” And Hudson’s 1964 Master Plan Summary suggested that “By setting a higher standard of subdivision, road construction and utility provision, we will encourage building for a more discriminating market.”⁴⁵

Woburn stands to gain the greatest benefits if it can encourage the type of multifamily dwelling that will attract medium- to high-income professional people.

— Woburn’s 1966 Master Plan

Wenham’s 1962 Comprehensive Plan mentions its prestigious image under the heading, local assumptions:⁴⁶

1. Wenham will remain a desirable residential community within the Boston Metropolitan Area primarily due a) to highways which have improved Wenham’s proximity both to Boston and developments along Route 128 and b) to the developing image of Wenham as a prestige residential area.

Anxiety about status may have been fueled by recent experiences of some communities losing status. From 1950 to 1970, a whole set of urban communities lost population, including Boston, Chelsea, Everett, Lynn, Lawrence, New Bedford, Somerville, Cambridge, Malden, and Worcester. Many suburban voters had recently left those places.

But, class exclusion is not just an artifact of the postwar era. References to class exclusivity achievable through zoning can be found well before the 1950s. In 1933, Edward Hartman, the outspoken Massachusetts state consultant tasked with promoting zoning across Massachusetts, wrote in a state report: “Carlisle contributes a new and significant feature in development regulation by limiting lot sizes to a minimum of one acre, with a minimum frontage of 150 feet, and minimum yard widths, front, side and rear, of 40 feet. [...] If she adheres to her plan she will surely become one of the most desirable residential towns in the region. Many people are looking, even yearning, for such a town in which to live.”⁴⁷ He continues: “But we must not forget that it is our sloppy, laissez-faire policy in city building which results in intruding apartments, stores, filling stations, what not, into residential areas. These crowd and drive out the dwellers, into new areas.” To the state’s lead zoning advocate in the ’20s and ’30s, apartments were a nuisance like gas stations.

All the way back in 1922, at the start of zoning, Newton’s aldermen, mayor, and residents engaged in impassioned debate about the class implications of single-family-only zoning.⁴⁸ Some argued it was unfair to people who are not wealthy; others argued that Roxbury, Dorchester, and Brookline were once beautiful like Newton, until apartments replaced single-family houses, and the affluent moved out.

Newton’s Board of Aldermen twice voted to adopt zoning, both times vetoed by Mayor Edwin Childs because he would not support single-family-only zoning. Finally, the Board of Aldermen approved a new version, replacing single-family-only zones with “private residence districts” where both single-family and two-family homes would be allowed, across at least two-thirds of the city. Mayor Childs signed the ordinance into law in December 1922. The next month, the mayor set out his moral framework regarding zoning, at his annual address:

The first and second ordinances passed I vetoed and I have no apologies to make for the action taken. Both were founded on selfishness and I did what I believed was for the best interests of the city after getting all the light that I could. [...] After all it isn’t so much the sort of house as the people in it which makes or breaks a city. All of the good people are not found in single dwellings. [...] It is the character of the citizen that counts and the Zoning Ordinance as adopted in my judgment will be of great benefit to Newton of the present and future because it will make it possible for character to have an equal chance with money as our city grows.⁴⁹

Three decades later, in 1954, Framingham’s Planning Board reiterated such sentiments in opposing restrictive zoning reforms. It issued a statement in response to a proposal to increase minimum lot size and other dimensional requirements, “Framingham does not want to exclude the working man, and the young couples who want a home.... All of the Planning Board members are fathers and we are reluctant to recommend a zoning program that makes it too expensive for their own children to build their home in Framingham.”⁵⁰

In 1924, the Massachusetts Supreme Judicial Court weighed in on the exclusionary criticism of single-family zoning that had animated Newton’s zoning debates. The Court argued that thrifty moderate wage earners can afford single-family houses: “It is matter of common knowledge that there are in numerous districts plans for real estate development involving modest single-family dwellings within the reach as to price of the thrifty and economical of moderate wage-earning capacity.” Soon after the Court blessed single-family-only zoning, Newton amended its zoning so that single-family-only districts covered most of the city.

In 1926, the U.S. Supreme Court also put its stamp of approval on zoning, in *Euclid v. Ambler Realty Company*. The Ambler Realty Company wanted to develop factories on property it owned that stretched across zoning districts where zoning prohibited factories. The Village of Euclid, a suburb of Cleveland, Ohio, had adopted zoning in 1922. The case was about the right of the Realty Company to develop *industrial* uses, not apartments, but the issue

of apartment zoning—and class zoning—was addressed in court decisions. Clearly, the debate about class zoning was not special to Newton, but reverberated across the whole country. In the Euclid case, the lower court decision stated that zoning would “classify the population and segregate them according to their income and situation in life.”

The Supreme Court reversed this, with Justice Sutherland explicitly blessing zoning that excludes apartments from single-family-only neighborhoods in the decision:

With particular reference to apartment houses, it is pointed out that the development of detached house sections is greatly retarded by the coming of apartment houses, which has sometimes resulted in destroying the entire section for private house purposes; that in such sections very often the apartment house is a mere parasite, constructed in order to take advantage of the open spaces and attractive surroundings created by the residential character of the district. Moreover, the coming of one apartment house is followed by others, interfering by their height and bulk with the free circulation of air and monopolizing the rays of the sun which otherwise would fall upon the smaller homes, and bringing, as their necessary accompaniments, the disturbing noises incident to increased traffic and business, and the occupation, by means of moving and parked automobiles, of larger portions of the streets, thus detracting from their safety and depriving children of the privilege of quiet and open spaces for play, enjoyed by those in more favored localities—until, finally, the residential character of the neighborhood and its desirability as a place of detached residences are utterly destroyed. Under these circumstances, apartment houses, which in a different environment would be not only entirely unobjectionable but highly desirable, come very near to being nuisances.”

Thus, the decision that lit the way for zoning nationwide was anti-apartment and elitist.

Professor Emeritus of Economics William Fischel provides an account of the launch of zoning in America, offered through an economic lens, in his 2015 book *Zoning Rules!*. He suggests that developers found that they could sell properties for more if the community had zoning.⁵¹ When the train lines and then streetcar lines were first constructed in the 1800s, fares were substantial; primarily the affluent could afford to move to the suburbs. Neighborhoods were often built as if there were zoning, with standardized lot sizes and setbacks, and apartment buildings situated on the arterial roads where the streetcars ran, not often in the neighborhoods with single-family homes. The reason, Fischel suggests, was the pre-zoning neighborhoods were built by a fragmented, decentralized building industry, where the builders built in communities where they lived, or where they had

developed professional relationships, such that they were subject to local norms, accountable to other property owners, trading in favors and goodwill. In this way, building was “regulated” through a web of informal agreements and mutual understandings.⁵²

“With particular reference to apartment houses, it is pointed out that the development of detached house sections is greatly retarded by the coming of apartment houses, which has sometimes resulted in destroying the entire section for private house purposes.”

— SC Justice Sutherland in *Euclid v. Ambler Realty Company*

Fischel suggests that cars and trucks broke up the “cozy arrangement.” The Model T appeared in 1908. In particular, he explained, bus and motor truck undermined the security of suburban single-family residences in the 1910s. Trucks liberated heavy industry from having to locate in close proximity to downtown railroad stations and docks. The cost of freight hauling dropped dramatically, and land costs in residential districts and suburbs generally were lower than in the downtown core—trends that promoted decentralization of industry, and the movement of industry into suburban residential areas.

Fischel explains that buses could follow apartments, as opposed to apartments following streetcars. Laborers could move to live near the newly unanchored, invading factories. (My research showed that Newton adopted zoning shortly after a mill opened in a residential neighborhood of Newtonville.) Metropolitan-scaled business interests began to eclipse local relationships in business and building. These changes sparked anxieties among homeowners and homebuyers about neighborhood stability, about the transition of affluent areas into working class neighborhoods, or slums, or plainly less prestigious places. Developers understood that people did not want to invest their life savings in a single asset without having some control over the character of the neighborhood. Zoning became a tool to create trust in neighborhood stability and in real estate as an investment. Zoning could be used to manage the tax base and demands for services. By keeping municipalities exclusive and low-density, suburbs might even manage city services without a need to consolidate with central cities, like Boston, to gain urban-level services. Fischel concludes:⁵³ “Having staked their life savings in their communities’ character, homeowners became a major force in local politics.”

To me, Fischel’s account is largely persuasive, and generally consistent with materials I read during the research. However, as I will address later in the report, several other commentators have presented strong evidence that racism, in particular, played a primary role in zoning’s origins, something Fischel did not focus on in his account.

It is worth noting that systems of class exclusion did not begin with zoning, but evolved into zoning. What became the “executive belt of estate zoning” by mid-century was already a belt of affluent communities before zoning. These communities used tools of building codes and streetcar bans, among other strategies, to keep lower-income newcomers at bay. Many property owners also used restrictive covenants toward these ends. Some covenants specified a minimum price for property resales, or minimum distances (setbacks) between a house and property lines, or prohibited commercial and industrial uses on the property, or limited the purchase and occupancy of the home to only White Protestants or White Christians. The restrictions only covered the subdivision, as they were placed by the subdivider, and usually were set to expire after a period of 10 to 30 years. The restrictions were hard to renew (one property owner would place the original covenant, but on expiration, renewal would involve multiple owners.) The covenants did not offer buyers assurance about changes that might take place outside of the subdivision, or changes in the neighborhood after expiration.

Brookline’s Beacon Street served as an example—as a warning to some—of the changes that can happen to a neighborhood. In the 1800s, Beacon Street had been lined with expensive homes of wealthy Protestant American-born families. As America’s second electric streetcar line opened on Beacon Street, and ridership increased with time, growth pressure along the corridor increased.⁵⁴ Owners of the estates sold and subdivided their properties for smaller homes and apartments designed for well-paid workers; the new residents included Jews and Catholics. The Beacon Street elite moved on to the next ring of suburbs, including Newton, Weston, and Lincoln, or out to parts of Brookline further from the streetcar lines.

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So, as streetcar lines wove their networks well beyond Boston’s borders, not all communities welcomed the convenient transit option, less pricey than the train. Dover, Lincoln, Sherborn, Sudbury, and Weston all vetoed streetcar service. Local farmers favored streetcars, but wealthy homeowners in these communities opposed them. (Lincoln ultimately approved trolley service to one section of Lincoln where the wealthy did not live, but the streetcar line was not built.)⁵⁵

“NO MORE ‘THREE-DECKERS,’” practically cheered the *Boston Globe’s* headline of a 1914 article, announcing that Bedford had adopted the policy.

In 1912, the state legislature passed the Tenement House Act⁵⁶ for Towns, legislation that worked as an opt-in for towns to limit development of apartments. The law would require expensive fireproofing of buildings for more than two families, or that are taller than two and a half stories. But even the fire-proofed apartment buildings could still be no taller than the street width, or the street width plus the setback from the street, or four stories maximum (for a well set-back building). Triple-deckers could occupy no more than half of a lot, or 65 percent of a corner lot. In 1913, an opt-in version was created for cities. Bedford, Belmont, Milton, Stoneham, Watertown, Weston, Weymouth, Winthrop, and other municipalities adopted the law.⁵⁷ When Weston adopted the Tenement House Act, historian Alex von Hoffman explained, the policy’s proponents “made no attempt to hide their class prejudices.”

“NO MORE ‘THREE-DECKERS,’”⁵⁸ practically cheered the *Boston Globe’s* headline of a 1914 article, announcing that Bedford had adopted the policy. The article went on: “The adoption of the tenement house act will prevent the erection of the ‘three-decker’ house and insure the erection only of desirable residential buildings.” Before any Massachusetts communities had adopted zoning, many had effectively outlawed all multifamily housing with three or more dwelling units.

Racist Zoning

In J. Anthony Lukas' epic telling of school desegregation in Boston, *Common Ground*, a delegation from West Roxbury meets with Boston Mayor Kevin White to oppose the permitting of apartment towers in their neighborhood in the early 1970s. West Roxbury was a predominantly White middle-class low-density neighborhood. The mayor understood the project would make for terrible politics. After the meeting, the Mayor's legislative counsel Colin Diver spoke his mind to his boss, "I'm sure this serves no useful purpose other than to vent my spleen, but I'm going to say it anyway. I don't think the reasons those West Roxbury people gave are the least bit convincing. Does anyone really think they're concerned about height and density?"⁵⁹

Before exiting the room, Diver added, "I can only conclude that their real reason for opposing the project is a cynical combination of fear and bigotry. And let me say this, Kevin, the city will be displaying the same kind of fear and bigotry if it caves in to them."

Soon after that, Colin Diver resigned.

In 1974, an in-depth investigation of land use regulation and politics in several Massachusetts suburbs, written by Harvard Professor of Law Charles Haar and Boston College Professor of Social Work Demetrius Iatridis, concluded: "[The suburbs] want to control their socioeconomic environment and preserve the locally cherished values of low density, exclusiveness (racial and economic), reduced pollution, ample space, and pleasing aesthetics."⁶⁰ The professors pointed out how hard it is to disentangle the exclusionary motives behind zoning policy, but that the very entanglement should direct our attention to the issues of both race and class in metropolitan planning: "Social class consciousness, status, and race are so intricately interwoven that it is hard to separate them or ignore them in planning the growth of the metropolitan area, especially the siting of residences."

In this section of the report, I am directing my attention to racism in zoning's history. In particular, I will telescope into a period in the early 1970s that I call the Big Downzone. During this important 1970s-era pivot, many suburbs were zipping up their zoning, specifically banning construction of apartments. They zipped up zoning tighter than it had ever been. Is race part of this story? I will introduce the moment, then look back from before zoning's origins at the history of racism in zoning, and then narrow in on the role of racism in the Big Downzone.

In general, in society, across sectors and decades, racism shows up in different ways, often without advertisement. There is structural racism, where legal, political, economic, and jurisdiction systems put Black people, overall, at a disadvantage, whether

the disparate impacts across racial groups was intended or not. There is also overt hatred, subtle bias, and tribalist protectionism, among many shades of racism. I have scanned the history, looking for evidence of racism in whatever forms it might present itself. A couple of different potential manifestations of racism were touched on in testimony at a public hearing quoted in the 1975 Road to Segregation report⁶¹:

Another witness, Mrs. James Jones, testified that the race of some of the potential housing occupants was seldom an open issue; in fact, many persons bent over backwards to prove that they were not bigoted. She said: [...] They tried very... hard not to be bigoted in their responses. They are not against blacks; they are not against the poor. They are against the density, and the traffic, and the children. And I don't know whether to believe them or not.... They don't connect a problem that exists for other people a few miles away in the city with them to the extent they can tolerate any inconvenience at all; an overcrowded classroom for their child... a tax rise of a buck or two on a thousand. It's just too much to ask...

Without naming it structural racism, Mrs. James Jones alluded to the fact that jurisdictional lines and local zoning let affluent suburbanites separate themselves from the problems of the region's poor and marginalized populations. This separation can facilitate the masking of overt racism in the language of local concerns about traffic and character, and make it hard to distinguish whether local voters are actually "against blacks," as she put it.

"Social class consciousness, status, and race are so intricately interwoven that it is hard to separate them or ignore them in planning the growth of the metropolitan area, especially the siting of residences."

— Haar and Iatridis, 1974

In *The Color of Law* (2017), Richard Rothstein⁶² offered a resonant thesis that the government has played a key role in the processes of race segregation: "Without our government's purposeful imposition of racial segregation [across many decades of the 20th century], the other causes—private prejudice, white flight, real estate steering, bank redlining, income differences, and self-segregation—still would have existed but with far less opportunity for expression." Rothstein outlines many ways that government policy (*de jure*), long after the end of Jim Crow, has segregated the American population by race, including via zoning. His argument is that

America's segregated settlement patterns are not due only to private choices about where to live or private acts of discrimination, such as when an apartment owner refuses to rent to a Black household. Segregation is partially due to government action.

On the motivations behind zoning adoption, Rothstein summarizes:

Certainly, an important and perhaps primary motivation of zoning rules that kept apartment buildings out of single-family neighborhoods was a social class elitism that was not itself racially biased. But there was also enough open racial intent behind exclusionary zoning that it is integral to the story of *de jure* segregation.⁶³

Not all commentators emphasize the role of racism in zoning's history. "Exclusion is far more an income-based, class issue," William Fischel argues in *Zoning Rules*.⁶⁴ In this section, I do not mean to weigh classism against racism, as they are intertwined. But, I am thinking about the concept of "enough open racial intent" or, in other words, *enough open intent to discriminate against Black people*, for us to say that zoning has contributed to *de jure* segregation. Has there been enough *open intent* for us to call racism a primary motivator of zoning?

The Big Downzone

Through the sweep of decades of the 1900s, Greater Boston's most elite towns used zoning to keep apartment development at bay. But, in the 1950s and '60s, more suburbs allowed apartment construction than banned it. Many suburbs permitted hundreds, even thousands of apartments and condos. Then, in the early 1970s there was a widespread, deep, and quick "downzoning," in which most municipalities stopped allowing almost all multifamily housing development.⁶⁵ They passed zoning moratoria, removed zoning provisions, tamped down density allowances, and added layers of project review, including sometimes requirements for project approval by the legislative body, either town meeting or city council. All of these votes to downzone required two-thirds "supermajority" approval by town meeting or city council (per the state Zoning Act), which adds up to a remarkable amount of political will and region-wide consensus mobilized in a very short period. All of the downzoning happened in a period of about five or six years.

Arlington, Boxborough, Framingham, Franklin⁶⁶, Milford, and other communities shut down their apartment permitting almost completely.⁶⁷ Rockland, Acton, and Marshfield eliminated apartment zones. Apartment moratoria were passed in Rockland, Stoneham, Arlington, Concord, Millis, Medford, and Brookline, among other places. Marlboro lowered the allowed density

for multifamily housing to eight units per acre, then passed a moratorium. Homeowners associations organized against apartment permitting in Waltham.⁶⁸ In 1972, Mansfield Town Meeting voted to eliminate the apartment provision in the Agriculture Zone which was the community's largest district, and increased review and standards for apartment construction in the business and residential zones. In communities where discretionary decision-making for apartments had already been the norm, discretionary approvals became much harder to come by.

A number of municipalities saw a rush of apartment construction in the early 1970s as property owners built out projects permitted before the gates shut. (Baby Boomers reaching their 20s drove some of the demand for apartments.)

Framingham Town Meeting voted 100 to 12 to remove all mentions of apartments in the zoning bylaw.

In his history *Framingham: An American Town*, Stephen Herring writes: "The radical idea of an all-out ban on apartment construction took root and moved rapidly to fulfillment by 1972."⁶⁹ Framingham Town Meeting voted 100 to 12 to remove all mentions of apartments in the zoning bylaw. The ban was framed as a temporary measure to let the town catch up with planning for infrastructure and institutions to accommodate growth, but the ban remained in place for decades.

Milford's 2003 Comprehensive Plan referenced its 1972 downzoning:

Since 1972, Milford has prohibited the construction of residential buildings with more than two units, except in PRDs [Planned Residential Development] since 1985. Historically, Milford provided nearly all the multifamily housing among surrounding communities. Concerned about this unbalanced distribution of apartments, Milford amended the zoning bylaw to no longer allow for multi-unit buildings.⁷⁰

What could explain such swift reform that required immense political strength? A number of things. First of all, the environmental movement and anti-highway movement were gaining momentum and heightening, or embodying, anti-development sentiments. Suburbanites had watched meadows and woods, orchards and fields—beloved landscapes—quickly turn to housing, yards, and pavement. Development and its associated traffic were noticeably dirtying the air and water. Lincoln's board of selectmen and planning board wrote on this topic in a cover letter to their 1965 comprehensive plan: "Nature has not been

laid waste for human convenience here—though the threat of filling, blacktopping, and every other sort of urban ‘improvement’ increases year by year.”

The U.S. Environmental Protection Agency, the Clean Air Act, and Earth Day were all established in 1970. The same year, Governor Frank Sargent declared a moratorium on highway construction in the wake of popular protests against planned highways. He soon canceled a billion dollars of expressway building.⁷¹ In 1973, Massachusetts adopted the Massachusetts Environmental Policy Act (MEPA) requiring all projects involving state money or requiring state approval to be reviewed for potential impact on the environment. The 1950s and ‘60s had been an anomalous era of mega-projects,⁷² some of them for mega-scaled benefits, some of them leaving swaths of urbanity utterly destroyed, flattened, the loss wrenching. Feelings of helplessness in the face of the machine gave way to shared anger and a ready stance to act.

Many municipalities were reeling from the hyper growth of the postwar era—from having to build schools and infrastructure and institutions. Many local populations had doubled each decade from 1950 to 1970; in the 1960s alone Burlington tripled in size. To keep up with warp-speed growth, Acton built seven schools in 15 years!⁷³ In Lexington, from 1949 to 1969, the population of school students ballooned from 2,658 to 9,609. Downzoning was a way of slowing the pace of change, to shift from building institutions to strengthening services, creating space to get to know your neighbors.

Downzoning was also promoted as a way to create space for the flow of cars. As growth accelerated, traffic did the opposite, stalling in gridlock. “Traffic within the town has reached a ‘crisis’ stage,” read Braintree’s official 1976 Local Growth Policy Statement,⁷⁴ a conclusion shared across many municipalities. The statement summarized: “The ‘desired future’ as determined by the Growth Policy Committee by evaluation of data and input of Braintree citizens is a no-growth or very limited growth policy.”

Moreover, communities were coming to realize that zoning controls were so tight across so much of the metropolitan area that where zoning allowed growth, communities would see a lot of it, quickly, including an unfair share of lower-cost housing. Framingham’s liberal zoning landed Framingham the most multifamily construction among metro-west suburbs.⁷⁵ In 1972, the chair of Framingham’s planning board told the *Boston Globe*: “The general feeling in this town is that we’ve allowed ourselves to be overrun by apartments.”⁷⁶ In the 1970s, Stow turned down an amendment to allow townhouses, its officials citing what happened in Acton and saying, according to *Boston Globe* coverage, “No, we don’t want that to happen here.”⁷⁷ Boxborough’s official Local Growth Policy Statement of 1976 read: “We would like to see no further development of apartments. The current percentage

of apartments (52%) compared to homes (48%) is more than any town in Massachusetts has that is comparable in size to ours.”⁷⁸ Burlington’s 1965 Planning Study Report explains:⁷⁹

In 1977, Bellingham rezoned most of town from one-acre to two-acre lot minimums. Officials were worried that if they zoned for smaller lots, “word would get around” among developers that Bellingham was a good place to build new homes. The *Globe* summarized the situation: “Now Murray [chairman of the planning board] and the town feel secure. ‘Like they say,’ Murray said, ‘there’s supposed to be another (population) boom coming, and we’re ready for it.’”⁸⁰ As municipalities saw their neighbors downzone, their incentive to do the same increased.

Boxborough’s official Local Growth Policy Statement of 1976 read: “We would like to see no further development of apartments.”

In my assessment, the environmental concerns, traffic headaches, growth pains, and growth concentrations cannot explain the force, speed, depth, and spread of the Big Downzone. The anti-highway movement could have lent support to development near train stations. Environmentalists could have promoted concentrated development in walkable neighborhoods, with some distance from wetlands, lakes, and rivers. Even by the 1960s, the ideas that later evolved into the well-articulated “smart growth,” “new urbanism,” and “transit-oriented development” paradigms were known. Waltham’s 1968 General Plan called for the city to allow high density housing near transit, jobs, and shops. Westborough’s 1966 Master Plan promoted the idea of compact neighborhood development served by local schools and shops, near “open land.” The plan argued that municipal services can be delivered more efficiently to compact neighborhoods than sprawling ones. But, in the Big Downzone, municipalities were shutting down apartment development, both near wetlands and in uplands, both in leafy green open space and in walkable transit-served downtowns.⁸¹ The new zoning of the Big Downzone era would only allow for sprawl—single family homes on large lots.

Moreover, in the years leading up to the Big Downzone, apartment development had been favored for its associated tax revenues. The burden of paying for school construction had been a reason to allow apartments, not stop their development. In the early 1970s, the economy slowed and unemployment rose. By 1975, Massachusetts had the highest unemployment rate in the country, at 11.2 percent.⁸² Local voters might have turned to zoning liberalization to help the economy and bolster tax revenues in tough times. But they did not.

Environmental issues, traffic, class status, and the cost of services had been salient concerns for years. The Big Downzone happened at a specific point in time, quickly. The Big Downzone happened in a period when urban areas in Greater Boston were undergoing dramatic demographic change, and major movements to desegregate city schools and the whole region were underway. Thus, the Big Downzone may be best understood, not only in light of the environmental movement and general growth pains, but specifically in the context of racial and class exclusion. So next I will look at the role of racism in zoning's origin and trace it forward, to the Big Downzone.

Racism and the origins of zoning

William Fischel's origin story of zoning, recounted above, focuses on class. He explains how zoning was used to halt class incursions. Fischel points out that zoning spread across the nation, in areas with and without Black populations. Other national commentators, like Richard Rothstein and Jessica Trounstein, have put much more emphasis on the role of racism in zoning's origins than Fischel did.⁸³ I have examined zoning's origins in Greater Boston, in particular, to see what roles race and class may have played.

In 1850, Black residents made up only 1.5 percent of the city of Boston. In 1900, the Black population of Boston numbered approximately 11,000.⁸⁴ At that time, most Black people of the region lived in Boston and Cambridge; Chelsea, Medford, and Newton had small Black communities. The Black populations of New York City, Philadelphia, and Chicago were much bigger than Boston's.⁸⁵ The Black share of Boston's population remained low until after the Great Migration began, and did not increase significantly until the 1960s.⁸⁶

In 1920, an amazing 73 percent of Boston's population was either born abroad or born to immigrant parents. White working class and poor immigrant populations far outnumbered Black people in the metropolitan Boston area. At the dawn of zoning, much of the region's wealth belonged to American-born White Protestants, a population that dominated suburban politics, while immigrants had gained the upper hand in Boston's political arena. To suburban aldermen, councilors, selectmen, and town meeting members looking to keep out the "outsider," the very idea of the "outsider" may have evoked images of White immigrant Jews and Catholics sooner than it did Black people. But all of this is not to say that racism lacked a role in the spread of zoning across Greater Boston.

In Greater Boston's pre-zoning era, many land speculators were placing racial covenants on their subdivided parcels. In 1843, Brookline's Linden Park neighborhood was developed with a covenant on properties that forbid sales to "any negro or native of Ireland."⁸⁷ Some covenants kept out Black people in particular, others both Black people and Jews, and others an even broader

selection of ethnic and religious groups. In Arlington, Allen Farm's subdivision in 1923 was covered by a covenant:⁸⁸ "No sale or lease of any said lots shall be made to colored people, nor any dwelling on any said lots be sold or occupied by colored people."

I have not found a systematic accounting of such covenants in Massachusetts, but a search in the *Boston Globe* archives for "restricted American neighborhoods" brings up the phrase embedded in numerous residential real estate listings from 1897 through 1929, across many municipalities including Melrose, Milton, Malden, Lexington, Wellesley, Wakefield, Somerville, and others. Other listings reference "restricted residential neighborhoods" or "restricted single family home section" where "restricted" may refer only to restrictions against businesses and tenements. I do not know, from place to place, what "restricted American" meant in terms of the specific wording of covenants—exactly which groups were typically excluded under that heading, but Black people were usually on the losing end of discrimination. In restrictive covenants, others were too. Gerald Gamm, political scientist at the University of Rochester, in a book about voting patterns in Boston from 1920 to 1940, quoted an American-born Protestant, who had moved out of Mattapan as a boy (before 1920), while Jews were moving in: "Most of those moving in had been born in Poland, but they had come to America as young men, had learned a Yiddish-inflected English, and though they were not far removed from the ghetto, considered themselves Americans. We considered them Jews."⁸⁹

In an analysis of covenant adoption across America in the late 19th century and early 20th century, *Bourgeois Nightmares*, Robert Fogelson asked, "If most subdividers banned African- and Asian-Americans, what kept all but a few from banning Italians, Russians, Slavs, Poles, Romanians, Greeks, Armenians, Persians, Syrians, Mexicans, and Puerto Ricans? If some kept out Jews, why did they let in Catholics?"⁹⁰ He concluded that the subdividers were enmeshed in a fiercely competitive market; the more people they excluded, the fewer who could buy.

Many covenants came with expirations, of 20 or 30 years. It would have been hard for neighbors to coordinate to renew the restrictions after expiration. To the extent that racial, ethnic, and religious restrictive covenants were both widespread and expiring in the 1920s, zoning may have been favored as a more durable method of exclusion. Zoning does not expire; it is easier to amend than covenants; and it covers a whole municipality, not only the neighborhood.

Along similar lines, in 1923, Swampscott's Zoning Committee⁹¹ reported that zoning would be useful because restrictive covenants against businesses opening in residential subdivisions were expiring: "The restrictions which were placed upon these lands for periods of from ten to thirty years are gradually expiring, so that we are now confronted with the condition that in certain sections

business is encroaching upon residential districts.” I did not find a direct reference to expiring *racial* covenants as a reason for zoning—in the handful of reports issued by zoning adoption committees that I reviewed. But, given widespread use of racial covenants, including their mention as selling points in real estate listings, and the fact that some would have been expiring, makes this a likely factor. (In 1948, the U.S. Supreme Court ruled racial covenants unenforceable by any court or police power, in *Shelley v. Kraemer*.)

Also important to the story of zoning adoption in Massachusetts is its national context,⁹² where its initial spread was certainly as a tool of racial segregation. Baltimore, in 1910, was the first city to adopt *explicitly racial* zoning to segregate the city. Atlanta, Birmingham, Charleston, Louisville, New Orleans, Oklahoma City, and St. Louis followed with racial zoning. In total, more than 30 cities adopted racial zoning.⁹³ In 1917, the U.S. Supreme Court struck down racial zoning laws in *Buchanan v. Warley*, a decision that appeared to provoke interest in (non-racial) zoning as an alternative to accomplish the same ends. In 1921, the U.S. Secretary of Commerce Herbert Hoover organized an Advisory Committee on Zoning to promote zoning nationwide; the committee included several outspoken segregationists. Per Rothstein’s account, the committee shared a “segregationist consensus.” (It is worth noting that segregationists of this era were often interested in segregating various White ethnic groups and immigrant populations from White Protestants, in addition to segregating Black people.⁹⁴)

Massachusetts never had racial zoning laws. In the 1920s, the movement of Black people to Boston was still on a small scale, while the Great Migration dramatically changed the demographics of many other cities. But Massachusetts did not adopt zoning in a vacuum. The citizens casting votes for early adoption of zoning in Boston’s suburbs would have been aware of national trends in migration and zoning. Zoning policies were developed on a national stage, promoted by the federal government—and promoted by segregationists. Leaders of Massachusetts’ zoning movement learned from other states. That racism fueled the strength of zoning in America is part of zoning’s story everywhere, even where Black populations were small and racism more muted. It is also not as if the Boston area was free of racism; if it had been, property owners would not have been placing racial covenants on properties across numerous suburbs.

Racism and zoning in the decades leading to the Big Downzone

In my research about zoning in Massachusetts, the first direct mention I found of racism animating zoning debates came in 1948, in the push to build veterans’ housing after World War II. In 1948, the Veterans Housing Council⁹⁵ put out a statement regarding a rezoning conflict in Cambridge: “The foul tactics employed by opposition in bringing race, color and religion into this fight compel the veterans to expose these vicious tactics.” The year before, the *Boston Globe*⁹⁶ had reported: “Zoning restrictions in many Greater Boston communities are hampering construction of large rental projects for veterans, the New England office of the Housing Expeditor declared yesterday.”

“Zoning restrictions in many Greater Boston communities are hampering construction of large rental projects for veterans, the New England office of the Housing Expeditor declared yesterday.”

— Boston Globe in 1947

I think it is worth revisiting the statements of purpose from Weston and Wellesley’s 1965 plans, which I cited above, in the discussion about class-based exclusion. Weston’s 1965 Master Plan included this statement of purpose: “Social Goal: Accommodate further moderate population growth in a manner consistent with the present characteristics of Weston.” Wellesley’s 1965 Comprehensive Plan, written by the same planning consultant, included the same language, but under the heading of “Population Goal.”

“Population Goal: Accommodate further moderate population growth in a manner consistent with the present characteristics of Wellesley.”

Weston and Wellesley in 1965 were both 99 percent White by population.⁹⁷

Nineteen sixty-five is the year Dr. Martin Luther King, Jr. led a march of tens of thousands of protestors through Boston. It is the year he spoke from Boston Common’s Parkman Bandstand against segregation in housing and schools. It is the year he addressed the Massachusetts state legislature, intoning that the “de facto segregation of the North is a new form of slavery covered up by certain niceties of complexities.”⁹⁸ He declared: “If America and democracy are to live, segregation must die!” In 1965, King led the Selma marches, where Alabama’s law enforcement officers fractured John Lewis’s skull. In 1965, White segregationists in Selma murdered James Joseph Reeb, a Unitarian Universalist minister, who had traveled there from Boston to join the protests. In 1965, nobody could un-see the terrifying images of brave non-violent Black protesters and their White allies suffering violent attacks in the South.

That also was the year the civil rights movement achieved national reform in the Voting Rights Act. And 1965 was the year after U.S. Congress passed the landmark Civil Rights Act banning all discrimination based on race, including racial segregation in schools, businesses, and in public accommodations. In 1965, Massachusetts established the Racial Imbalance Act empowering the state Board of Education to reduce racial inequality in public schools (in schools where the majority of students are Black, so not directly affecting suburban schools). This was 11 years after the U.S. Supreme Court ruled in *Brown v. Board of Education* that racial segregation in public schools is unconstitutional, overturning the *Plessy v. Ferguson* doctrine that allowed “separate but equal.” The highest court in the land had affirmed, for everyone, the truth that separate is not equal.

In 1965, Congress passed the Immigration and Nationality Act that abolished the immigration quota system (adopted in 1924) and eliminated racial restrictions on immigration permission. The new law made way for significant immigration from around the world.⁹⁹ The share of the foreign-born population of Greater Boston began ticking up, especially in the city of Boston.¹⁰⁰

Between 1960 and 1965 the Black population of Boston grew from 63,000 to 100,000, then making up 17 percent of population.^{101 102}

It is in this context of the year 1965, that Weston, Massachusetts, 99 percent White, adopted an official Master Plan—which would serve to guide its zoning policy— including the language, “Social goal: Accommodate further moderate population growth in a manner consistent with the present characteristics of Weston.” It did not say “goal for the built environment.” It said “social goal.” Wellesley’s said “population goal.”

The jurisdictional structure of zoning decisions for decades largely shut Black people out of decisions about the use of most land in the metropolitan region, since Black residents were mostly concentrated in a few cities, like Boston and Cambridge. Until the latter part of the 20th century, the population of most suburbs was 99 percent White. A 1975 report, by a Massachusetts civil rights agency and federal civil rights committee, titled “Route 128: Boston’s Road to Segregation,” concluded that “The white segment of society exerts monopolistic control over virtually all buildable land, with little or no consideration of minority rights or needs.” This arrangement of representation could be considered “structural racism.”

By the late 1960s, the *Boston Globe* was regularly citing racism as a feature of local land use decision-making. The *Globe*’s architecture critic wrote, “Clearly, the concept of ‘nuisance’ had social meaning to many and zoning became a convenient way to exclude certain groups of people from existing areas. The use of zoning today often helps force the pattern of Negro segregation by limiting the kinds and costs of housing in the suburbs.”

The City of Newton’s Planning Department put out a report in 1968, written in-house, concluding: “Inherent in the controversy, but not often openly articulated, is the notion that to open a community’s low-income housing developments to other than local residents signals a major influx of black families fleeing the oppressive conditions of the core city ghettos. Those who would seek defeat of any low, or even moderate income housing proposal, have often used this device surreptitiously with great success.”¹⁰³

In 1968, Congress passed the Fair Housing Act that made housing discrimination based on race, religion, and country of origin illegal across the nation. Massachusetts had already had fair housing legislation on the books for a couple of decades, but with the federal government weighing in, and more local activists paying attention, it was getting harder for apartment owners to keep Black people from renting in their buildings, without repercussions.

“Clearly, the concept of ‘nuisance’ had social meaning to many and zoning became a convenient way to exclude certain groups of people from existing areas.”

— *Boston Globe* architecture critic, 1960s

Boston’s programs for slum clearance, from the late 1950s into the 1960s, sent thousands of working class and poor households, Black and White, adrift, in search of stable housing, *for years*. Boston’s West End had been Boston’s most ethnically diverse neighborhood. The City demolished 2,300 of its apartments in the late 1950s.¹⁰⁴ Moreover, much of Boston’s housing was in a state of deep decay, wanting for decades of repair. During the Depression and war, cash for building maintenance was scarce. Boston’s mills closed, manufacturing jobs went south. Middle-class flight to the suburbs and anti-urban, discriminatory mortgage policies meant thousands of homes fell into further decline, many becoming hazardous beyond repair.

In response to protests and riots in 1968, the National Advisory Commission on Civil Disorders released the Kerner Commission Report on the Causes, Events, and Aftermaths of the Civil Disorders, which concluded: “To continue with our present policies is to make permanent the division in our country into two societies; one largely Negro and poor, located in central cities; the other, predominantly white and affluent located in suburbs.” Also in 1968, former U.S. Senator Paul Douglas, chair of the National Commission on Urban Problems, released a report concluding that large lot zoning was used as a device to keep out poor people, especially Black people. Senator Douglas said to the *New York Times*, “There is little doubt that in some communities exclusion of Negroes has been one purpose of high land use standards.”¹⁰⁵ He added that zoning was a barrier to implementation of the new Fair Housing Act.

In 1969, the debate about suburban integration and zoning came to the Massachusetts State House. What is now known as Chapter 40B was then called “The Anti-Snob Zoning Act.” The law aimed to promote affordable housing in cities and towns that do not have their fair share of deed-restricted affordable housing. -It was the most debated piece of legislation that year.¹⁰⁶ An unusual coalition of liberals and Boston city conservatives passed the law, in a close vote. Several of the Boston legislators admitted that their votes were in retaliation against policies affecting the city such as the Racial Imbalance Act of 1965 that suburban legislators had supported. The Racial Imbalance Act had aimed to end segregation in public schools, defining segregation as student bodies consisting of more than 50 percent racial minority. Forty-four of Boston’s schools fell into that category.¹⁰⁷ Almost no suburban schools were in that category, so the law did not affect most suburbs. (The Boston School Committee failed to implement the Racial Imbalance Act and desegregate the schools.)

During the debates about the Anti-Snob Zoning bill, an amendment was proposed that would have undermined the purpose of the legislation. Senator George Kennealy objected to the amendment, saying on the Senate floor: “If you vote this amendment you prove that the Negro has a right to hate white people.”¹⁰⁸ The amendment was killed by a margin of one vote. Thus, the effort that culminated in the adoption of Chapter 40B zoning reform can be understood as aiming for desegregation of the suburbs.

Under 40B, in municipalities where the inventory of subsidized housing units is less than 10 percent of all housing units, developers can bypass the zoning to build mixed-income projects, in which at least 20 percent of the units are deed-restricted as affordable. If the municipality denies a permit to a 40B project, the developer can appeal to a state Housing Appeals Committee for approval. (In communities that have met the benchmark of 10 percent, developers can also bypass zoning to build mixed-income or all-affordable projects only with the municipality’s approval. Such projects are called Friendly 40Bs.)

“Will suburbs see light, rezone for apartments?” asked a *Globe* headline the following year. The article disparaged the “worn-out argument that apartments bring in ‘strangers.’” In 1971, the *Globe*¹⁰⁹ reported in a feature about municipal town meetings: “The zoning debates often are the longest at town meetings and even though most towns do everything possible to prevent the surfacing of racial issues, they are there.” (In my research, I did not look at archived minutes from meetings of city councils, planning boards, boards of selectmen or town meetings, but to the extent that racial issues did rise above the surface, their tracks would be found there.)

Then in 1972, in an article titled “‘Don’t Build Here’ – New Mood in Suburbia,” the *Boston Globe*¹¹⁰ reported on the Big Downzone: “These laws were drawn up to insure neighborhood character, stabilize property values, and keep intruders at bay.”

The Big Downzone happened right as the region’s population of Black people and immigrants had become more than marginal in size. The Downzone also followed the civil rights movement’s success in outlawing discrimination based on race and origin. The impact that downzoning would have on segregation was undeniably known by those voting to downzone. Throughout the late 1960s and early 1970s, journalists and columnists, state and federal officials, municipal planners, academics, housing advocates, and civil rights leaders and activists were calling out the racist, exclusionary motives behind zoning and calling for reform, to allow apartment construction, to enable desegregation. There had never been more awareness and public acknowledgement of zoning’s unseemly role keeping lower income people and minorities from the opportunities of affluent suburbs. Civil rights activists had formed committees in many suburbs to address fair employment and fair housing, including zoning reform. As suburb after suburb voted to cancel zoning for multifamily housing, voters could not have been ignorant about the implications of their votes—for segregation.

In Boston, the era of intense advocacy and soul-searching about America’s dark history of slavery, segregation, and compounded injustices against Black people everywhere culminated in the dramatic federal court-ordered desegregation of Boston schools, in 1974. The order was met with violent, ugly, prolonged racist protests. Many of Boston’s White residents (a considerable portion of them working-class, as many middle-class White people had moved out in the postwar era and earlier) promptly looked to move to the suburbs, or to send their kids to private schools. Black people, immigrants, and Boston’s White working class lived predominantly in rental housing, including families with multiple children. It is in this moment that the big suburban downzone was canceling the possibility of apartment construction.

Cyndee Readdean, the director of the 2023 PBS documentary *The Busing Battleground*, says about Boston’s crisis: “All the liberal, White, ‘Oh, that stuff happens in the South, we’re so progressive’ stuff just got thrown right out the window. Nobody was progressive anymore.”¹¹¹ For all of the searing visual reminders, in photos and videos, of this upsetting episode in Boston, the background could be papered with suburban zoning maps. But, zoning is not visible, it does not shout obscenities, it is not even easy to read. Zoning laws are “niceties of complexities.” My review of the history shows that there were always people in Greater Boston pushing for just laws, fair housing, and desegregation, but they came up against stronger structural, cultural, economic, political, and psychological forces that were tied up with racism.

Three case studies: Newton, Concord, Weston

I will present short case studies about Newton, Concord, and Weston that highlight some of the forces that were at work against suburban desegregation in this era. The case studies focus on the grassroots movement that was organizing to liberalize zoning and allow diverse housing in affluent suburbs, at the same time that the Big Downzone was underway. In each of these cases, local leaders inspired by the civil rights movement set out to gain zoning approval for mixed-income residential developments, for the purpose of integrating the region. In the big picture, their efforts largely failed, although they gained approvals of several token (but needed) mixed-income projects, some of them restricted to seniors. Hearings went on and on, and drained the financial resources of pro-housing nonprofits. For many pro-diversity activists, it was thankless work in a toxic atmosphere. At Newton's public hearings, there was booing, hissing, catcalls. The volunteers were tired, and ultimately took up new causes, or put this one on hold.

The case studies show that local participants on all sides of the zoning debates of the Big Downzone era understood that racial and class integration of Greater Boston was at stake in zoning decisions related to apartment construction. Many local voters expressed strong opinions that any new affordable housing, if allowed, should be for current local residents and employees, and not for "outsiders." In the context of the region's changing demographics, references to outsiders reinforced the idea that the motives to restrict zoning were rooted in attitudes about race and class.

I also highlight these case studies as evidence against an argument advanced by William Fischel that "the tempestuous urban events"¹¹² of the late 1960s and early 1970s were not primary factors underlying the era's new growth controls. In his telling, the crises of busing, city crime rates, and race riots came and went, and urban centers enjoyed a revival, all while the highly restrictive suburban zoning continued on.¹¹³ My takeaway from the case studies is that the pro-housing activists were exhausted, and defeated; suburban politics shifted to other issues. To the extent that racism had fueled the Big Downzone and restrictive zoning in general, racism became embedded in the zoning, which became a part of the landscape, seemingly natural and uncontroversial like the suburbs' mature oak, maple, and linden canopies planted in the 1920s. That the policies remained in place, even as racist attitudes abated, does not clear their history from claims of racist intent. It means that people moved on, for a while. It is also possible that the easing of racial tensions in Greater Boston since the mid-1970s has actually created the political space for incremental reforms to loosen zoning (slightly) in the decades following the Big Downzone, which I will discuss in the next section. It is also surely true that racism has not been the

only thing motivating restrictive zoning; class elitism, concerns for stability and predictability, traffic headaches, and other issues also animate local voters.

One other piece of evidence that William Fischel cites as an indicator that the 1970s-era of "growth control" was not primarily driven by racism regards something that I will loop back to, in the final section of the report: "Politically liberal communities, which one would expect to be sympathetic to civil rights concerns, seem actually more inclined to limit housing growth than others."¹¹⁴ Indeed, several commentators have argued that the political liberalism of Greater Boston contradicts a narrative of zoning fueled by racism. Perhaps it does, and for sure there are many threads to the narrative. But perhaps the case studies here indicate that Greater Boston does not contain a monoculture of liberalism, all while it does boast strong, true activist traditions for racial justice, civil rights, and equal opportunity. The activists have made progress, but not at every turn. And perhaps the case studies point out that people of all political stripes are susceptible to impulses of tribalist protectionism, when charged with authority to make local laws to govern the use of local land. There are strong incentives to advance exclusion, as I will discuss in the report's last section.

CASE STUDY: NEWTON¹¹⁵

In the late '60s, civil rights activists in Newton were feeling that it was not enough to help Black professionals to purchase homes in Newton; the suburbs needed affordable apartments to support the region's integration. In the spring of 1968, an interfaith group called the Newton Community Development Foundation (NCDF) formed, led by local clergy and mobilizing many volunteers including academics, lawyers, and architects. The group came up with a plan to develop mixed-income housing, scattered across 10 sites, four purchased by the group, and six to be donated by the City. Each site would gain 40–60 apartments, for a total of 500 units. For the plan to be implemented, the Board of Aldermen would need to approve the zoning.

In 1970, Newton Community Development Foundation collected 700 signatures in support of the project. The opposition collected thousands. The public meetings went late into the night. A thousand people attended one hearing that lasted until 3:00 a.m., and few people left before the end.

A case study written in 1974 by Professors Haar and Iatridis explained.¹¹⁶

One of the largest issues centered around who would live in the housing. NCDF had taken the stand that the housing was for Newton's own residents and employees. Mr. Stiller [president of the opposition organization that had formed in response to the proposals] stated that the Section 236 housing program stipulated that residents who had been displaced as a result of renewal [government-led slum clearance called urban renewal] had first priority. How then, the opposition wanted to know, could NCDF state in its literature that "There is nothing in the federal regulation to prevent the Committee from giving preference to relatives of Newton residents and to people who work in Newton"?

Another question regarding who would live in this housing was directed toward the income limits the federal government established for eligibility. The opposition maintained that most city employees had incomes above federal limits and, therefore, could not live in this housing as NCDF claimed. They felt that NCDF was pulling a hoax by constructing housing for which only a small percentage of Newton residents or employees would be eligible, even if given priority. The remainder of the units would be filled by inner-city blacks, they said.

Still, the opposition denied accusations of racism, arguing that they opposed the densities, the impacts on schools, the higher taxes; they were concerned about flooding, drainage, and traffic. The Board of Aldermen voted to reject the application for rezoning. National media picked up Newton's story. *Newsweek* ran an article entitled, "Liberalism Stops at Your Own Driveway."¹¹⁷

The Newton Community Development Foundation repackaged the project as a Chapter 40B application, to bypass the zoning. The City still rejected it, so NCDF brought it to the state Housing Appeals Committee for review. The opposition stretched out their presentations across 42 hearings, calling one witness after another. The process exhausted the nonprofit NCDF's financial and volunteer resources, and its membership dwindled. Ultimately, the Newton Community Development Foundation managed to develop one of the 10 original sites. The City developed one of the other sites with 50 apartments for the elderly,¹¹⁸ and perhaps a couple of other sites with much smaller projects.

By this time, Newton's zoning was no longer "open" for apartment development, as it had been, somewhat, in the 1960s when it permitted more than a thousand dwelling units in

multifamily buildings, ranging from small-scale to high-rise. I did not find mentions of a specific vote in the 1970s to downzone Newton, but approvals for condo and apartment development via zoning did not rise to respond to demand, for decades. The 1970s represented a distinct pivot in Newton away from apartment permitting, in line with the Big Downzone.

CASE STUDY: CONCORD¹¹⁹

After Dr. Martin Luther King Jr.'s assassination, a group of Concord residents came together to discuss civil rights. They established the Concord Home Owning Corporation. Right away, it bought two houses and sold one to a Black family, and the other to a White family. Members of the group, Fred and Alice Wheeler offered up the last piece of the historic Wheeler family farm to the Corporation for a mixed-income development, to be permitted under the new Chapter 40B. Fred Wheeler had made a career out of selling and developing property that had been in his family for generations. The proposal was to build 60 apartments, some set aside for people with low and moderate incomes; the property was in walking distance of Concord Center and the commuter rail. The only other low-income apartments in the town were at Everett Gardens, with 32 units of housing for the elderly.

In 1971, the *Concord Journal* weekly newspaper ran an editorial in support of the project.¹²⁰

This self-styled liberal community which places so much emphasis on social progress and change will shed the last vestiges of hypocrisy and welcome those who, for a variety of reasons cannot afford two acres....

In 1973 the *Boston Globe*¹²¹ ran a long feature on the project, which was still working its way through (a long) permitting review. The article argued that "few modern-day Concord residents see the reflection of 18th century zeal as a willingness to open up their suburb to people with more varied backgrounds." Nonetheless, the article did point out that explicitly racist and classist sentiments were not spoken in the local deliberations, which largely focused on issues of drainage and flooding. A local opponent to the project was quoted, "I would be naïve to say [economic and racial discrimination] didn't exist, but I never came into contact with them."

In 1974, the project was ultimately rejected by the state, disqualified for an environmental permit due to issues of runoff, silt, water levels, flooding, wetlands, and matters of ecological engineering. The years-long permitting process sapped the Concord Home Owning Corporation of funds; the Corporation shut down after the project failed in 1974, while violence was erupting in Boston over court-mandated busing to desegregate Boston's public schools.

A Concord resident wrote a letter¹²² to the *Concord Journal*, in response to the project's failure: "Let's [...] admit that Concord has denied an effort to allow black families to move into the community [which] leaves us free at breakfast time to shake our head over newspaper reports of South Boston and deplore all bigotry." Suburban liberals widely condemned the violent protests taking place in South Boston against busing.

The Wheeler property was perhaps a bad site for development, due to poor drainage. But, local context¹²³ to the specific project failure is important too. Concord's 1959 long-range plan for development recommended controls on density, restrictions on development in floodplains, and protections for historic districts. These were all put into effect. The plan recommended that the town purchase more lands for conservation and recreation. The Town implemented this recommendation. The plan recommended enlarging the area where apartments are permitted. This was not done. In 1972, Concord's Town Meeting voted to adopt a two-year moratorium on apartment construction.

In the absence of sufficient zoning for multifamily housing, one family offered one property for mixed-income development, but the property was deemed unsuitable for the proposal. To say that the specific project rejection was about environmental protection misses the bigger story that Concord would not zone for more apartments—all while local, state, and national activists and advocates had been declaring an urgent need for new suburban apartments to desegregate the metropolitan area and public schools.

CASE STUDY: WESTON¹²⁴

Weston's 1965 Master Plan made several recommendations to zone for apartments. The town's selectmen, however, objected to allowing apartments open to the public at large. In 1966, a town committee formed to study housing options specifically for Weston's aging homeowners. A few years later, Weston's selectmen set up a committee on housing to study options for low-income housing in Weston. According to a case study by Alexander von Hoffman, the selectmen were inspired to do this by the civil rights movement. They were responding to national reports on unfair zoning as well as to the new state mandate in the Anti-Snob Zoning Act of 1969 that all suburbs should have their fair share of affordable housing.

At the same time, a respected family with deep roots in Weston, the Willises, petitioned the town to rezone their property to allow them to build elderly housing. The Willises promised that the new homes would not be for newcomers, but for households from Weston. A special town meeting held in 1969 amended the zoning to create a category for multiple dwellings. It was the first time such buildings would be allowed in Weston since Weston passed

the Tenement Protection Act in 1912. Town meeting restricted the new district to the Willis family land only. On it, the Willis family built Jericho Village, 99 apartments in 22 buildings, made of three or four attached units, from one to three bedrooms. The Willis family hired distinguished architects and landscapers known for upscale development. The project was completed in 1974.

In 1971, Weston's housing committee delivered its final report, which suggested that most residents of Weston did not consider Weston's lack of housing diversity a pressing problem, but that moderately priced housing for the elderly, in particular, was needed in Weston. The report recommended the creation of 50–100 moderately priced multifamily dwelling units for elderly people and town employees. In the mid-1970s, local clergy urged the town to find ways to house elderly of modest means. A local attorney and developer, along with others, formed Weston Community Housing, Inc., which bought 15 acres of land from the Town that the Town had recently purchased from the Jesuit's Weston College campus. On it, Weston Community Housing built 30 modestly priced rental apartments for the elderly, in a project called Merriam Village. In 1976, the Town recommended that the former Brook School building be converted to senior housing. In 1979, 52 apartments of restricted senior housing opened at the former Brook School. (Forty-two of the Brook School apartments were subsidized with federal funds.)

From 1974, when Jericho Village was built, until 1987, Weston allowed development of a total of 182 apartments, many restricted to seniors. Note that Weston is located in the geographic heart of the metropolitan region, at the intersection of its biggest east-west and north-south highways, and on a commuter rail route. The 1980s saw the "Massachusetts Miracle," an economic boom that brought many companies to those highway corridors. Demand for homes in Weston was extraordinary. That no more than 182 apartments were built in that time was due entirely to legislated supply restrictions. Also note that several exclusive communities like Weston did not "downzone" to ban apartments during the Big Downzone, because they had already banned apartments, long before the 1970s.

During urban demographic change, suburbs protected their status quo

As we have seen, the movement to up-zone peaked as the Big Downzone prevailed. The suburbs raised their walls against change, while Boston moved to desegregate its schools, a moment marked by riots, fighting, property damage, threats, and the feeling that Boston was teetering on the edge of civil war. In response to the excruciating, ungratifying efforts to desegregate, some of Massachusetts's state leaders pushed a new approach. What was needed was not confrontation, not state mandates, not lectures, not ad hoc crisis management, they explained, but instead—learning, listening, partnership, respect, a new outlook. They conceptualized a “bottom-up” participatory planning process, an exercise in public learning that would not embody a preconception of what the end results would be. They passed Chapter 807, the Massachusetts Growth Policy Act, to require all Massachusetts municipalities to develop Local Growth Policy Statements that would be a tool for the localities to reflect on their own goals and values, and their relationships with their regions and with state government; the state would then use this information to develop policies responsive to local goals, values, and relationships.

The Act specified that each municipality would form a Local Growth Policy Committee, which would include the mayor or city manager or chair of the board of selectmen; heads of the conservation committee, housing authority, health department, and planning department; and five citizens.¹²⁵ The committees would hold two public hearings. The state provided a long questionnaire to be filled out as the basis of the Local Growth Policy Statements. In the end, more than 320 of the state's 351 municipalities submitted statements.¹²⁶ More than 5,000 people served on Local Growth Policy Committees. Some municipalities ran a robust process; in some, a volunteer or staffer filled out the questionnaire without much attention. While, in total, thousands of people attended hearings statewide, but turnout at individual hearings was sparse, as no specific development or binding policy was at stake.

The statements are not like municipal comprehensive plans, written by professional consultants who usually work with multiple municipalities. The statements reflect the voices of their authors, including volunteers and municipal staff. They are not officially promulgated policies. For my investigation into the purposes of the Big Downzone, they are a robust source of information about local sentiments and motives.

Most statements from Greater Boston made abundantly clear that they wanted to see little or no growth or change. Natick's statement, for example, said: “At this time, and in the foreseeable future, there is little or no advantage in believing our mission is growth.”

The state report that summarized the submitted statements concluded that 14 municipalities, mostly urban centers like Boston, Chelsea, and Salem, want more residential growth than in the recent past; 99 want the same level of growth; 103 want slower growth; 52 want no growth.¹²⁷ The “no growth” communities were largely concentrated along Route 128 and on the North Shore and South Shore—in a ring around Boston. Many of the communities wanting the “same level of growth” were further from Boston and had not experienced significant growth yet. “Villages don't want to be suburbs; suburbs don't want to be cities; and cities don't want to be wastelands,” explained the summary report. The consensus, as outlined by the report, included that local controls should not be preempted, and that the state's job is to be responsive to local concerns. These themes are practically shouted in most of municipal statements.

Not all of the statements shouted. Needham's statement politely explained: “Effective programs of maintenance and revitalization of what is here now are a more serious challenge than the accommodation of new growth.” It continues: “Needham's goals may be defined as preventing major changes to the physical character of the community as a whole. The objectives are the preservation of values which have made Needham attractive and desirable to its residents, i.e., good municipal services, sound fiscal policies, integrity of residential areas, upgrading and revitalization of commercial areas, wooded and open space, local initiative and pride.”

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Needless to say, Needham's statement reads like bland soup flavored with words that signal bureaucratic virtuosity like “goals and objectives,” “values and services,” “integrity and revitalization.” It reads like thousands of other un-notable municipal memos that suggest to “fix it first” and “fortify our foundations.” The superficial scanner of these documents could come away from the scan with no sense of exclusionary intents. But then Needham's statement is accompanied by an appendix that offers some context.

The preface to the appendix reads: “Appendix A represents the efforts of certain members of the Congregational Church of Needham and does not represent the consensus opinion of the committee nor is said appendix endorsed by the Growth Policy

Committee.” The unendorsed appendix, drafted by the church group in Needham, reads, in part:

The moral and human costs of segregation are intolerable. Opening up our town and others like ours is in the interest of all citizens. [...]

We picture Needham offering a broad spectrum of housing, from multiple-family dwellings to single-family homes of various sizes and values so that it may have a more heterogeneous population. [...]

In general, therefore we hope our town will be a diverse community with a variety of housing arrangements, where people of disparate age, income, family size, lifestyle and background will be welcome and comfortable. [...]

We, therefore, urge this Growth Policy Committee to view the best interests of Needham as integrally bound up with the needs and requirements of the metropolitan area.

In this context, Needham’s Growth Policy Committee submitted its goals as “preventing major changes to the physical character of the community,” thus implicitly rejecting the idea of diversifying housing to welcome a diverse population to the suburb. On Needham’s official statement, under “goals/objectives/values,” under the heading of “community,” it reads: “Zoning that will encourage growth that maintains present character of town.”

Needham’s Growth Policy Committee submitted its goals as “preventing major changes to the physical character of the community,” thus implicitly rejecting the idea of diversifying housing to welcome a diverse population to the suburb.

Newton’s 1976 Local Growth Policy Statement reads more like Needham’s *appendix* than like Needham’s *statement*. Newton’s statement reads: “We would like Newton to be an open city in which persons of every race, age, ethnic group, and socioeconomic grouping can live harmoniously. To attain this goal, it would be desirable to see Newton adopt an affirmative policy to encourage the following change, growth and development: [...] the development of varied densities of housing for all income and age groups; [...] the commitment of the City to achieve the development of a sufficient number of housing units to meet the projected demand for housing[...].” Newton’s statement can be contrasted with its inaction in fulfilling the stated intentions, as covered in the case study above.

Several of the statements belong in a pro-diversity category with Newton’s, including Lexington’s and Scituate’s. Lexington’s statement reads:

Because Lexington’s developable land is largely used up, growth is expected to be limited in the near future. [...] Clearly this predicates a town in which only the affluent can afford to live, a growth expectation in conflict with the expressed values of many on the committee. Many felt that it is neither healthy for the Town nor morally acceptable to permit such limited, homogenous development, thus closing out the young—including our own children should they want to stay, the elderly—many of whom have lived here all their lives, and town employees who must not become alienated strangers to the rest of the Town. Thus one objective of a growth policy would be to find ways to encourage a more heterogeneous mix in the town population by an active moderate- and low-income housing program. Lexington has a responsibility to the region to provide a mix of adequate housing for a variety of income levels.

But Lexington’s statement also explained that the primary objective of the local growth policy is to preserve the character of the town, and among the things they listed as contributing to the character is the built density.

Under a question asking the municipality to describe its “desired future,” Scituate’s statement reads: “Given the range of things which could happen, the ‘desired future’ we would like would be for the Town to continue to grow as a residential suburban community but with increased opportunity for a variety of housing types to include apartments, cluster development and less costly housing in order to better serve the economic and social needs of the community.” The narrative made clear that the “needs of the community” does not only refer to current residents, but to others from the region as well. Then, under the question about actions needed to achieve the “desired future,” Scituate’s statement made an important point: “In addition changes in attitudes of many townspeople would be necessary before the ‘desired future’ could be achieved. As an example, many townspeople have in the past voted against most proposals to permit apartments and encourage light industry.” It is one thing to make a statement of support for diversity; it is another to get the votes.

Race was mentioned or implied in some of these statements in the context of calls to liberalize zoning. In none of the statements I reviewed did I find a direct mention of race as an explicit reason to prohibit diverse housing. In 1976, all of the authors of the local statements would have been acutely aware that to justify zoning in explicitly racist terms would have risked court involvement. Federal courts had just required Boston to desegregate its

schools after determining the Boston School Committee had been purposefully segregating the schools; evidence was located in school committee minutes. Yet, in several local growth policy statements that rejected apartment growth, the issue of race seems to pulse below the surface, implicit in mentions of declining urban areas and of urbanization.

For example, Melrose's statement referenced declining urban areas and the people moving out from Boston, without mentioning race. It reads:

New developments, such as apartments, or a shifting of the role Melrose plays in the metropolitan region, is seen as a threat to the city [of Melrose]. [...]

Future growth is expected to be in a vertical direction. The city will gradually become more urbanized. The social structure is becoming more urbanized with faster turnover in houses and increasing numbers of persons moving out from Boston. [...]

The "best" future is revitalization; the "worst" is to become a declining urban area. To the extent that renovation is possible, less "verticalization" will be needed. [...]

Basically, Melrose needs maintenance, not growth.

For sure, many of the "persons moving out from Boston" during this era were White. There is even a term for this, "White flight." But embedded in this framework, of the "social structure becoming urbanized" and of a municipality's "role in the metropolitan area" would have been an understanding of race relations, racial-demographic change, and race and class in general.

Milton's growth policy statement stated that the goal was for Milton to stay substantially as it was, to "preserve and protect the unique character and identity of the community." Under the heading "major growth-related issues," it cited "the pronounced changes in the areas contiguous to Milton" (which include Boston's Mattapan and Dorchester, where many Black people had recently moved) and "the apparent breakdown of our society."

I read a section of Quincy's statement several times, thinking about the difference between "residential" and "metropolitan" character: "In the recent past, Quincy attracted many new residents, especially from the South Boston and Dorchester areas due to their perception of the City [of Quincy] as being less metropolitan and more residential in character. The most direct impact of this condition upon the City has been the development of a strong sentiment on the part of old and new residents to limit the growth of the community thereby maintaining this residential quality."

Quincy's residential neighborhoods were (and are) less dense than the residential neighborhoods of South Boston and Dorchester, but not dramatically less dense; South Boston and Dorchester's neighborhoods are largely "residential" in character. In the 1970s, race relations would have been in the forefront of the minds of people moving out of South Boston and Dorchester into Quincy. At the time of the 1970 US Census, Quincy's population was 99 percent white.

In this research, I did find a few explicit references to race outside of calls for diversity. For example, Sharon's Local Growth Policy Statement explains: "Sharon's Black population has increased from about 3% in 1970 to about 5% in 1976 without particular concentrations in any neighborhoods and without general awareness or concern on the part of the community at large." The comment that this change happened "without concern" and "without particular concentration" hints that there was concern in largely White suburbs about Black people moving in and "concentrating."

Several of the growth policy statements for the region's more expensive municipalities recognized that zoning was working to create housing scarcity, and that scarcity, combined with desirability, was keeping home prices high or causing them to rise higher. Belmont's 1976 Local Growth Policy Statement made this statement of purpose: "To maintain the present status of Belmont as a desirable place to live. Being only 9 miles from downtown Boston it exists as an almost unique community with its tendency to resist apartment, commercial and industrial development." Belmont's statement explained:

The community has remained very stable. There has been and is very little land for development which has aided in maintaining a stable population. The location of the town near several employment markets and Belmont's quality of schools and services have kept the price of property high. [...]¹²⁸

The continuing protective attitude and desires of the residents, with their attendant political power, will tend to protect the status quo, encourage upgrading of some blighted areas and prevent change in the town from its single family-two-family character.¹²⁹ [...]

This town will remain a relatively expensive place to live and so will attract only those families so economically situated.¹³⁰

According to the U.S. Census, Black residents made up 0.2 percent of Belmont's population in 1970. Belmont's population had remained "very stable"—relative to the significant demographic change along lines of race, origin, and class within the "nine-mile" radius of downtown Boston.

Also notable is the way several affluent communities' statements, like Belmont's, referenced their political power. Wellesley's Local Growth Policy Statement asserted: "We are a suburb. We like it. Most residents, rather than being born here, chose Wellesley. Desired future is the likely future because of the desires of citizens." Sudbury's statement similarly posits: "We are confident of our own destinies and our abilities to control them."

The Big Downzone marked the shift of Boston's suburbs to a no-growth, no-change policy that was well articulated in the Local Growth Policy Statements of 1976. The shift happened when Boston and other urban areas were undergoing rapid demographic change. People with financial resources, primarily White, were moving out, while many low-income immigrants and Black people were moving in. The statements made clear that zoning restrictions were not only for the sake of the environment, traffic, and the easing of growth pains, but also about locking in the status quo. In a period of demographic change, the concept of status quo would have implicitly included the demographic characteristics of the communities residing there.

Suburban voters were not just pulling up the gates against tall buildings or images of decline; they were using the police power inherent to public laws to keep disadvantaged people from the public benefits, social networks, and opportunities that the suburbs had to offer.

In this era, the built environment of urban areas, including private buildings and public infrastructure, was extensively decaying; city expenditures were rising while revenues were falling; jobs were moving to metropolitan peripheries, the South, and abroad, while urban mills were shuttered; highways and slum clearance had left painful gashes across the urban fabric; crime rates were rising; many of the public schools across city neighborhoods were failing to provide children with adequate educations; property values were declining; and racial tensions were escalating. On the one hand, it is understandable that homeowners living in suburbs characterized by well-maintained homes and roads, balanced municipal budgets, good schools, low crime, expensive land, and relative affluence would turn to the levers of local public policy to keep "urbanization" at bay when urbanity was looking increasingly like decay, poverty, strife, and decline. At the same time, suburban voters were not just pulling up the gates against tall buildings or images of decline; they were using the police power inherent to public laws to keep disadvantaged people from the public benefits, social networks, and opportunities that the suburbs had to offer.

Urban policy expert Alan Mallach wrote in his book *The Divided City: Poverty and Prosperity in Urban America* that "the problem is not that today's American cities have poor people living in them. The problem is that cities have largely stopped being places of opportunity where poor people come to change their lives, and that today's poor and their children remain poor, locked out of the opportunities that cities offer." They have been locked out of opportunities that the whole metropolitan region offers. Zoning, as implemented, has been creating concentrations of privilege in some jurisdictions and concentrations of poverty in others. Public policy could have been used, and can be used, to create dense, diverse, walkable centers accessible by public transit, for widespread access and social mobility. Instead, zoning has been used to create car-oriented sprawl, vast portions of which have been made inaccessible to many disadvantaged people.

In a 1979 case study describing the growth policy exercise, MIT Professor of Planning Lawrence Susskind and doctoral student in planning Charles Perry¹³¹ summarized the state's conclusions based on the municipal input provided in the statements—including that local controls should not be preempted. Critics of the state's conclusions, they reported, objected to local control. Susskind and Perry summarized the critics' position: "The nagging question remains: Who is responsible, if not the state, to protect the interests of the poor and disadvantaged when individual communities' efforts to maximize their advantage result in a cumulative effect that no single community meant to create?"¹³² For more than 50 years, the state has been advocating for local zoning reform. The state has intervened most often by funding local efforts to plan for diversity. The state has occasionally adopted legislative reform to incentivize or mandate local reform. Some of the state's efforts have been more effective than others.

The Current Era: From the Big Downzone to a Slow Turnaround

“Massachusetts legislators face a predicament: They have a tiger by the tail but won’t know until the next election whether they have been clawed,” the *Boston Globe* wrote in 1975 about the legislature reforming the state Zoning Act, Chapter 40A. The tiger is municipalities. From 1968 through this 1975 culmination, civil rights activists and housing advocates led an intense charge to reform statewide zoning rules and local zoning policies, to increase housing options available for all people and to integrate the region. In 1969, adoption of Chapter 40B was one success. In 1975, the state legislature reformed the Zoning Act, Chapter 808, Section 2A, to add two new official purposes for local zoning: “to encourage housing for persons of all income levels,” and “to encourage the most appropriate use of land throughout the city or town, including consideration of the recommendations of the master plan, if any, adopted by the planning board and the comprehensive plan, if any, of the regional planning agency.”

From here on, local plans and zoning were adopted for the official purpose of promoting diversity and serving regional needs for housing, not only local needs. After 1975, plan after plan called for diversity. There was no more talk of zoning to attract rich people; diversity was the important goal of planning. The language change did not signify an opening up of zoning. The state legislators, it turned out, had not caught the tiger by the tail, witty newspaper writing aside. The region’s zoning had never been so restrictive.

The moment did mark the beginning of our current era of zoning, an era characterized by over-restriction of housing development, scarcity, and price escalation—all framed in the language of “diversity goals” that were written into almost every local plan. Municipalities had the tiger by the tail, and the tiger was the pro-diversity movement to reform zoning.

The Big Downzone, with its widespread bans on development of multifamily housing, marked the start of the era. But the current era is not characterized by multifamily bans and moratoria, as much as by surgical reform of zoning to allow new development very cautiously, with great review. Importantly, the era has seen concerted ongoing advocacy to loosen zoning in support of diversity. Many stakeholders have been involved in that advocacy, including regional, local, and consultant planners, homebuilders, realtors, staff of nonprofits in affordable housing, advocates for seniors, environmentalists, business leaders, state government officials, and many others. In the last decade, the pro-housing advocacy movement has involved an even broader base

of activists. We might now be at a pivot to a new era of land use regulation, brought on by the growing movement. It is too early to know for sure, so I am referring to the period from 1975 as our current era.

“In the fight to preserve their advantages—low traffic, open space and economic hegemony—the suburban towns have largely won,” reflected the *Boston Globe*’s 1989 front-page look-back¹³³ at two decades of zoning policy since the adoption of Chapter 40B in 1969. The article concludes, “The moral fervor that led Massachusetts to enact the anti-snob zoning law has abated: the ethos throughout state government in the 1980s is one of cooperation, not confrontation.”

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— *Boston Globe* article, 1989

As Digital, Wang, Lotus, Raytheon, and other companies powered the Massachusetts Miracle of the 1980s, transforming Greater Boston into a wealthy region boasting many well-paying jobs and the lowest unemployment rate in the country,¹³⁴ housing supply could not meet demand along the Rt. 128 corridor. Only ten thousand new homes were permitted per year at the height of the boom.¹³⁵ The same trend was seen in New York, San Francisco, Los Angeles, and D.C. Without affordable housing in areas with concentrated work opportunities, the national migration pattern slowed considerably. Exclusionary zoning in Massachusetts contributed to economic polarization and spatial inequality not only within the region, but also nationwide. In the 1950s and ’60s, Greater Boston had ample fields to subdivide for homebuilding, plus many municipalities allowed multifamily development. In housing, supply rose to meet demand, more or less. By the mid-1970s, large lot single-family subdivisions had used up much of the land close to Boston, and the Big Downzone largely banned apartment and condo construction. Research shows that until approximately 1970, the many moves people made, from region to region, across the country, for higher paying jobs, had the effect of equalizing incomes nationwide.¹³⁶ After the Big Downzone, municipalities loosened zoning incrementally, never enough to meet demand. It has affected social mobility ever since. Economists estimate the impacts of reduced social mobility on GDP at billions of dollars.

In 1977, the state's report on the Local Growth Policy Statements suggested that to avoid the fiscal, environmental, and social impacts of sprawl, all levels of government must encourage development in city and town centers.¹³⁷ This has been the chant of pro-growth advocates and environmentalists since then.

In 1979, the state issued a booklet, *In the Face of a Growing Housing Shortage*,¹³⁸ that is uncanny in its similarity to our current day's discourse about the housing shortage: "Housing in a community should reflect the different needs of the life stages of its residents. Instead, in many communities there is almost nothing but single-family houses or a strong bias against permitting new development other than single-family housing. It's clear we need to maintain diversity in the stock of housing in Massachusetts." The booklet continued: "In the face of a growing shortage of housing, in Massachusetts we aren't encouraging construction of reasonably priced housing—in general, we're inhibiting it."

In 1979, the regional planning agency, MAPC, reiterated¹³⁹ the region's goal to achieve integration: "All communities to be receptive to all age, income and minority groups in all areas of the region." Diversity goals reverberated across local reports. Bedford's 2002 Comprehensive Plan provides one example, with its goals including: "To meet local housing needs along the full range of incomes, promoting diversity and stability of individuals and families living in Bedford." Diversity goals, I found, have often been stated with slight qualifications that hint at preferences for local residents, seniors, and local employees, or protection of the character of the built landscape, or just "character of the community" generally. Middleton's 1999 Master Plan called for socioeconomic diversity in its goals: "4.1 Goal: Residential Growth Management. To maintain the rural, residential charm of Middleton; to identify different types of residential development, such as senior housing, for different locations throughout the town; to encourage socioeconomic and cultural diversity in new development projects."

Littleton's 2002 Master Plan¹⁴⁰ called for diversity, but recognizes the tension between economic diversity and low density:

We are proud of Littleton's tradition of being an affordable place where young people can set down roots and build a good life. We are concerned that our community may be losing its economic diversity due to the region's escalating housing prices. We recognize that it will be a challenge to retain both low-density housing development and affordability. We intend to do so and believe that the opportunity exists for appropriate accommodation within the New England pattern of focused centers separated by low intensity development and open space.

Sharon's 2004 Community Development Plan Draft suggested achieving diversity in housing while maintaining the green character of the town: "Recommendations. Sharon's fundamental housing goal is to diversify housing options in type and affordability, while still managing residential growth to preserve the essential character of the Town as a green suburb." The construction of this statement was common across plans, with the description of a town's character varied, as "semi-rural" or "rural" or "low-density."

We recognize that it will be a challenge to retain both low-density housing development and affordability.

— Littleton Master Plan, 2002

In the post-Big Downzone era, reforms for housing diversity were accompanied by strong levers of discretionary decision-making, so that individual projects would need approval from either a planning board or the legislative body (town meeting or city council.) The movement toward legislative approval of projects had begun in the postwar era, but it picked up momentum in the years after 1975.

Through various housing booms and slow-downs, housing advocates and planners have pushed pragmatically for politically acceptable zoning reforms to allow multifamily housing development and small-lot single-family housing. Their agenda generally included allowing:

- A)** Cluster development, also called open space residential design (OSRD), to encourage developers to cluster homes on small lots on part of a parcel, and protect part of the parcel for open space, under long-term conservation restrictions;
- B)** Accessory dwelling units (so called "in-law apartments") to be added to single-family homes;
- C)** Conversions of old brick mill buildings, state hospitals, churches, and schools to apartments and condos;
- D)** Mixed-use developments (so called lifestyle centers), featuring restaurants, cafes, shops, and apartments/condos, on former industrial properties that were in need of cleanup;
- E)** Age-restricted (55+) multifamily housing, age-restricted small-lot single-family housing, and multifamily buildings with a limited number of bedrooms;
- F)** Relatively small-scale multifamily buildings with first-floor commercial spaces on Main Streets by historic village centers and downtowns, as a revitalization strategy; and
- G)** Flexible zoning mechanisms called planned unit development or planned residential development that move away from prescriptive dimensional specifications, but give municipal decision-makers broad discretion to approve, reject, and shape projects.

New zoning provisions in these categories often came with pages of restrictions that would in practice limit their impact in allowing housing diversity. The details of the regulations would get ratcheted up through the political process and reflect great risk-aversion on the part of local voters about allowing diversity. Municipalities zoned for multifamily development while throwing up barriers to its development, such as dimensional requirements that undermine project feasibility. Westborough's 2003 Master Plan provides an illustration of this dynamic of allowing multifamily development while undermining it¹⁴¹.

Both the Garden Apartment and the High Rise Apartment districts allow single-family, two-family, and multi-family housing by right.... Although these districts appear to provide ample alternatives to single-family housing in the Town, in reality they do not since virtually no land is zoned for multifamily housing. The Garden Apartment district includes only the 14 acres already developed as Mayberry Court, off of Water Street. No land in the Town is zoned for High Rise Apartment. A final option for housing developers in Westborough is the Planned Parcel Development (PPD) bylaw. This bylaw allows greater development flexibility on sites of at least 20 acres that Town Meeting votes to establish as PPDs.... However, dimensional requirements in PPDs are rather stringent.... Given the Town's current zoning regulations, it is unsurprising that most of the new housing developed in Westborough has consisted of large single-family detached homes on large lots. Although the Town nominally has several provisions on the books to allow multi-family housing, in reality these are very difficult for developers to use because they all require Town Meeting approval (either to establish a PPD or to re-zone land to Garden Apartment or High Rise Apartment). Therefore, it is not surprising that most developers seeking to build multifamily housing have sought Comprehensive Permits under Chapter 40B.

Analyses like this one in Westborough can be found in plan after plan. For example, Hamilton's 2002 Master Plan explains: "The Elder Housing District's weaknesses [...] stem from an approval that is very high-risk from a developer's point of view, contains too many restrictions as to form of ownership, and imposes density and design requirements that may be unrealistic for the type of housing involved."

In this era, inclusionary zoning became another priority. Inclusionary zoning requires or incentivizes developers to restrict some portion of their dwelling units as affordable. Chapter 40B has motivated municipalities to add to their inventories of affordable housing. Local voters find favor in the inclusionary approach for inconspicuously integrating affordable housing into market-rate developments. By 2004, approximately half of the cities and towns in eastern Massachusetts (99 of 187 I surveyed) had adopted some form of inclusionary zoning.¹⁴² More communities have adopted it since then.¹⁴³

Most local zoning reforms have been carefully designed to minimize the number of children in new multifamily buildings and to ensure benefits to current residents of municipalities, such as brownfields clean-up, downtown revitalization, renovation of unsafe (but charming) old buildings, commercial amenities like restaurants, and housing for local empty nesters looking to downsize.

In 2004, the state adopted the Smart Growth Zoning and Housing Production Act, Chapter 40R, authorizing financial and other incentives to encourage municipalities to zone for dense developments near transit hubs and village centers. Municipalities receive payments initially for the creation of the district based on the estimated potential buildout and then again for the issuing of building permits. A companion law, Chapter 40S, provides state reimbursement for school costs not covered by taxes generated by 40R projects. In my survey of multifamily projects permitted in Greater Boston from 2015 through 2017, only 1 percent of multifamily dwelling units approved were permitted via Chapter 40R.¹⁴⁴ The housing advocacy organization CHAPA produced a report in 2018 showing that only 37 of 351 Massachusetts municipalities had created 40R districts, and that many of the 40R projects were in the state's older industrial cities.¹⁴⁵

Across Greater Boston, the rate of multifamily housing development has picked up in the last decade, but not to the level the region saw in the 1950s, '60s, and early '70s. The housing shortage has become more acute, while prices have skyrocketed.

In 2020, the state reformed the Zoning Act to reduce the vote threshold for local zoning reform, to allow diverse types of housing development, from supermajority (2/3) approval to a simple majority (1/2). In 2021, the state also adopted the MBTA Communities zoning law, to require cities and towns served by the regional transit agency to zone "a reasonable area" for multifamily housing. In 2022, the state released implementation guidelines for the MBTA Communities law. Cities and towns served by the MBTA are now in the process of implementing the requirements. Votes will be forthcoming in town after town, city after city. The state is now considering other reforms as well.

Single-family-only zoning

“The old motto ‘A place for everything and everything in its place’ should be made to apply to buildings erected within the city limits,” explained the 1921 annual report of Somerville’s Planning Board.¹⁴⁶ This is a good motto for the ideal of zoning. In relation to residential zoning, the idea might be to have districts for different types of housing, including districts for single-family-only housing, and districts where two-family houses are allowed, and districts for townhouses, triple-deckers, mid-rises and high-rises. Districts would be designed to have enough capacity to serve current and (roughly estimated) future demand for the various types of housing. In practice, suburbs have been zoned overwhelmingly for single-family-only districts, without enough capacity for other types of housing. Also, other types of housing are often sited in less-desirable areas, with less access to amenities and more exposure to noise and pollution. The suburbs have not even made enough space for single-family houses, as large lot requirements have made land scarce and crowded out opportunities for sufficient building of every sort.

Exclusion of diverse housing across entire jurisdictions has acute implications for fair access to public goods and opportunities that municipalities offer. Indeed, municipal-wide exclusion has more acute implications for fair access than exclusion from a given neighborhood. Residents from different *neighborhoods*—within the same suburb—would have more opportunities for meeting each other than residents from different *municipalities* would. Meeting happens especially at school yards, but also in municipal boards and local committees, and in the town square, the coffee place, the train station, and the library.

In the 1920s, and again today, for good reasons, many people have questioned whether single-family-only zoning represents good and just policy at all. Since so much of Massachusetts is zoned single-family-only, the question feels particularly salient. Most single-family homes are owner occupied, and expensive, so single-family-only zones pose barriers to entry for renters and low-income people, as well as people who for various reasons need other types of housing. Single-family-only requirements lack flexibility to accommodate the changing needs of residents. Also, many single-family-only neighborhoods are adjacent to transit-rich mixed-use hubs, where more housing may be most appropriately sited.

One way of quickly zoning for more housing capacity and diversity would be to allow accessory dwelling units (ADUs), two-family homes, or multifamily housing in neighborhoods that are now zoned single-family. Since the 1970s, housing advocates and suburban planners have been campaigning to convince municipalities to allow for accessory dwelling units (ADUs) to be added to single-family houses. ADUs are secondary units with

their own kitchen and bathroom facilities on the property of a single-family or two-family house. Most local plans, for several decades, have recommended zoning reform to allow ADUs, or allow them more liberally. By 2018, only 37 out of 100 cities and towns that I surveyed in Greater Boston allowed ADUs to be added and rented out, on at least some properties. Another third of municipalities allowed for ADUs, but only for residency by relatives or caretakers of the homeowners, not for rental.

The suburbs that “allow” ADU rentals still highly restrict the qualifying properties. They have promulgated requirements that discourage ADU building and increase the cost. Since 2018, several more municipalities have voted to allow ADUs, but in highly restricted ways. Due to the tight restrictions, the region has not seen a flood of ADU construction.¹⁴⁷ Municipalities in Greater Boston that allow ADUs granted an average of 2.5 permits per year from 2015 to 2017.

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There has not been much of a local movement across Massachusetts, since Newton’s 1922 debates, to upzone single-family-only neighborhoods to two-family housing, or for multifamily housing. The option is sometimes discussed, but not with any consensus for action. Wayland’s 2016 Housing Production Plan made clear: “Within existing residential neighborhoods, new multifamily housing is generally not recommended because of concerns that it would alter the single-family character of most of Wayland’s neighborhoods.” This statement was accompanied by a footnote: “However, in certain situations, it may be appropriate.” Wellesley’s 2018 Draft Unified Plan addressed the topic too: “Participants in the Unified Plan public meetings saw the commercial, office and industrial districts as the most acceptable locations to construct new housing that is not single-family housing.”

Beverly's 2017 Housing Plan raises the idea of upzoning neighborhoods for diversity... "consideration should be given to potentially" do it, in the *long term*. The plan suggests:

Longer Term Strategies: Modify Multi-family Housing Requirements to Encourage More Housing Diversity in More Areas.

Beverly's Zoning Ordinance allows multi-family housing in particular districts, typically near the downtown and commercial areas where higher density is more appropriate, and permits a wider range of housing types that are potentially more affordable and suitable for rentals, starter homes, or for downsizing. Nevertheless, consideration should be given to potentially extending a wider range of housing types to more districts.

Manchester's 2015 Housing Production Plan also uses vague language to mention that upzoning neighborhoods "has been suggested," but does not commit to the concept: "It has been suggested that the Town review the locations of apartments throughout the community and consider where else they can be added, 'Scrutinizing our zoning districts for opportunities to weave multi-family housing into neighborhoods.' Areas near transit and commercial uses should be priorities."

Recent diversity

Notably, in the 1980s, and continuing on steadily to today, the suburbs have become more diverse, in terms of race and origin of their populations, although not by income. Every city and town's share of non-White population increased, some quite significantly.¹⁴⁸ In several cities, such as Brockton, Malden, and Everett, people of color now make up a majority of the population. Zoning works to segregate by race and origin when those characteristics are correlated with wealth and income. As many Black people and people of color have moved into the middle class, and many immigrants, from countries around the world, have arrived in Massachusetts with financial resources or achieved financial success after arriving, more people of color have been able to afford the suburbs' homes.

Moreover, some of the suburban multifamily housing and small-lot single family housing permitted in the 1950s and '60s have now "filtered down" in price to represent relatively affordable housing options for the region. In the 1950s and '60s, brand-new apartment buildings and ranch and split-level homes in subdivisions were considered expensive, or at least not cheap. Braintree's 1963 master plan explained that new apartments would serve "relatively well-to-do persons." Now, residences from that era are decades old,

and tend to be smaller in floor area than today's new construction. Some prewar housing has also "filtered down" in price.

Finally, some of the region's "suburbs" are post-industrial cities where poverty has concentrated. In the mid-century era, property values declined in these communities, making them more affordable to low-income households.

Even with the diversification, the Greater Boston region is still considerably segregated by race, national origin, and especially income/wealth. Public opinion surveys indicate that racial diversity is more highly valued now than it used to be. Yet, the class bias in zoning policy does not appear to have abated; race, country of origin, and class are still correlated, albeit less strictly than in the past.

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In 2020, a group formed in Hingham to encourage families of color to move to the affluent and overwhelmingly White town. Remarkably, in the face of the region's diverse demographics, in 2020, 98 percent of Hingham's population was White. The *Boston Globe*¹⁴⁹ quoted a member of the group saying, "We are talking about people who can afford to live in Hingham, and letting them know that they are welcome." The frame of this statement makes it sound that if you are Black, but not wealthy, then you are not welcome. People of color with resources often do find themselves more welcome in affluent suburbs than their predecessors did in the 1950s and '60s. But fair access to local public benefits (like schools and social networks) may require more than only welcoming wealthy people. Civil rights activists of the late '60s and early '70s were acting on this understanding, although without profound success.

Zoning to Exclude Families with Children from Apartments

“Two-family houses are undesirable, because they mean more children, and children mean more schools,” said a member of Quincy’s Zoning Commission in 1926.¹⁵⁰ Twice in the 1920s Quincy’s city council adopted zoning ordinances, but both times they were rejected in popular referendums, so Quincy was significantly built out in the 1920s, with many two-family homes, without a zoning plan.

Concern about schoolchildren in new housing goes back to the beginning of zoning history. Today, zoning against development of diverse housing for families with children is a widespread, fundamental feature of municipal zoning in Greater Boston. A majority of municipalities have provisions for age-restrictions in their zoning, to encourage or require that new multifamily housing be restricted primarily to residents who are age 55 or older. Zoning bylaws and ordinances in more than a quarter of municipalities include restrictions on the number of bedrooms allowed in multifamily housing, favoring small units that will generally not attract large families. Whether the zoning itself includes provisions promoting age-restrictions and limiting bedroom counts is actually beyond the point, though. The fact that almost all zoning for multifamily development involves discretionary approval by local boards or legislative bodies means that developers are likely to propose projects with age restrictions and smaller units in order to gain permit approval to build. The point is that municipal decision-makers favor multi-family projects that will not draw children, and that they use zoning toward that end.

This kind of zoning falls explicitly under the heading of fiscal zoning. Across decades and multiple municipalities, local plans explicitly cite the cost of educating children as a reason to support age-restricted zoning. Other reasons commonly cited include the reduced traffic generated by seniors, and the need for housing for seniors. There is strong evidence that this kind of zoning also falls under the category of class zoning, as I will review in this section. Finally, in relation to racist zoning, restrictions that prohibit or discourage development of apartments and condos for families with children make for obviously disparate impacts across groups, categorized by race and origin. At a minimum, the policies represent a form of structural racism. To be clear, no municipal documents point to racism as a motivator of such policies. Given the region’s history and the policies’ disparate impacts by race, though, people may at least consider whether racist motives underlie the policies, even as that possibility so starkly contradicts dearly held and commonly expressed values in Greater Boston.

In 2004, 96 of the 187 municipalities that I surveyed in Eastern Massachusetts had adopted zoning provisions for age-restricted housing. Nine municipalities only allowed multifamily housing if it is age-restricted. In 2018, 55 of 100 municipalities I surveyed had zoning for age-restricted multifamily housing (others also zone for age-restricted single-family subdivisions, but were not included in this count). Approximately one in four of the 100 municipalities granted permits for age-restricted multifamily dwellings within the three-year period prior to my 2018 survey.

The year after U.S. Congress passed the Fair Housing Act, Duxbury adopted a master plan recommending that “multi-family housing (garden apartments, etc.) be allowed in Duxbury only if it can be legally restricted to elderly persons.” The details it set out explain a common approach taken to zoning schoolchildren out of apartments:¹⁵¹

While such a restriction is not normally possible, there is a relatively new planning and zoning technique called “planned unit development” which could be used to insure such a limitation.

...Within the limitation of the uses permitted in such a special shopping center district (one of which may be multifamily housing), the Board and the developer are free to negotiate the details of such a housing development.

The legal way to achieve senior-only occupancy of multifamily housing, the plan explained, is to require project approval from the Planning Board. For decades since then, most municipalities have been using discretionary zoning to make sure new multifamily housing is designed for seniors, not for families with children. Explicit age-restricted zoning, written into the books, became common in the decades after Duxbury wrote this plan in 1968.

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The preference for senior housing also was expressed in plans before 1968. Wellesley’s 1965 Comprehensive Plan recommends: “Permit the construction of a limited number of apartment units—primarily to meet the needs of older residents, and secondarily as

a means of effecting a more desirable use of particular parcels of land or of broadening the tax base.”¹⁵² The Plan continues: “Policy 2.244: of those apartment units permitted [in the Eastman Circle area], encourage types of building construction which appeal to older residents, so as not to create an additional burden on the school system.”

The issue of schoolchildren in apartments came up again and again in local plans. Wilmington’s 1970 Comprehensive General Plan suggests that multifamily housing with fewer bedrooms per dwelling unit may be less burdensome for municipal budgets:

An investigation of the costs to the community of high versus low-density dwelling units may well reveal that certain kinds of high density housing represent less of a burden to the tax payers than does single-family housing. Among the relevant costs are: miles of street and utility lines per dwelling unit and lengths of trash collection, snowplow and police patrol per dwelling unit. If the high density housing is principally studio apartments and one- and two-bedroom units, the odds are that there will be fewer school-age children per d.u. [dwelling unit] than in a like number of three bedroom apartments or single family houses.

The fiscal theme is a big one, but other reasons to zone for senior housing are cited as well. Chelmsford’s 1996 Master Plan, for example, reads:

Senior housing is usually more readily accepted by existing residents than regular multi-family housing because of the reduced levels of automobile traffic, the maturity of the residents, and the realization that such housing is needed to accommodate the increasing number of seniors.

Westwood’s 2000 Comprehensive Plan recommended pursuing zoning policies to increase housing diversity in its big-picture goals, but its “implementing actions” only suggest zoning for age-restricted small lot single-family homes. Under “Goals and Objectives,” Westwood’s 2000 plan includes: “1. Provide housing opportunities, especially home ownership, for a diverse community, including young families, single-headed households, elderly, young singles, special needs, and Town employees. [...] 2. Increase the racial and ethnic diversity of the community. For example, in 1990 Westwood’s population was 97.5% white non-Hispanic. [...] 4. Increase the diversity of the housing stock by increasing the proportion of rental units.” Then, in the section on specific “implementing actions,” the plan offers: “Explore the potential of zoning for *smaller lot age-restricted single-family housing* where such housing would be in context with its surroundings, and could contribute both to meeting housing objectives and

to building a ‘village’ environment.” [Emphasis added.] The rest of the recommendations were not for zoning reform. The plan recommended networking to recruit people from different racial and ethnic backgrounds to the community, and to explore innovative approaches to financing affordable homes, for example.

Just to summarize or reiterate my observation about Westwood’s plan: The plan sets a goal of increasing the diversity of the housing stock, in order to house a diverse population. Then the only recommendation for zoning liberalization was to allow age-restricted, small-lot single family subdivisions.

Lynnfield’s 2002 Master Plan notes in the section on “Economic Development”: “Another means of increasing the tax base in Lynnfield is development of age-restricted housing. These developments have a positive fiscal impact because they do not produce any schoolage children.”

By 2003, the housing organization CHAPA had already documented the systematic “childproofing” of multifamily housing development.

Bedford’s 2002 Comprehensive Plan added to the campaign:

“Pass Active Seniors Housing Provisions. This proposal would result in a positive fiscal benefit to the town since very few school age children would reside in this housing. To provide an incentive for developers, a density bonus would be allowed for this type of housing with a special permit. This increase in density would be offset by the fact that seniors typically make fewer automobile trips generating less traffic and at off-peak hours.”

Ipswich’s 2003 community development plan¹⁵³ includes the following discussion:

“H2-1. Senior Housing Use Category: Housing for senior citizens is an important need in Ipswich, and will become even more critical in the future, as the elder population continues to grow. In addition, housing for seniors generally has much lower impacts (e.g., traffic and schoolchildren) than other single-family or multi-family housing, and therefore can be part of a comprehensive growth management strategy.”

By 2003, the housing organization CHAPA had already documented the systematic “childproofing” of multifamily housing development: “We find that most of the Commonwealth’s new multifamily developments have generated little if any impact on public schools because with rare exception, they were designed to be childproof.”¹⁵⁴ Designed, they meant, by municipal regulation.

There is evidence that both fiscal zoning and class zoning have been keeping children of lower-income families out of elite suburbs.

Based on the narratives presented in local plans, exclusion of children from apartments and condos is significantly motivated by fiscal considerations, as it is expensive to educate children and especially to build schools. Other issues like traffic are also sometimes raised. None of the plans say, “Our goal is to exclude poor children from our school system.” There is evidence, though, that both fiscal zoning and class zoning have been keeping children of lower-income families out of elite suburbs. What is the evidence?

First, we know that in the 1950s and ’60s municipalities were explicitly participating in class zoning to raise their socioeconomic positions within the region, and that in the 1970s it became taboo to announce such goals, all while zoning became more restrictive. Even though apartments were seen as fiscal positives in the mid-century period, affluent municipalities were prohibiting them to protect the exclusivity of their communities.

Second, as the Baby Boomers began graduating and school populations shrinking in the 1970s and ’80s, the primary response of many suburbs was to close schools, not to zone for more housing to bring in more children to fill seats. Third, the state’s 2004/05 adoption of Chapters 40R and 40S to financially incentivize municipalities to zone for multifamily housing that would be suitable for families with children did not gain much take-up by municipalities with the best schools. Chapter 40S included financial incentives to cover, specifically, the costs of educating children who live in new housing developed under the incentivized zoning.

Harvard sociologist Robert Putnam resonantly addresses the question, in his book *Our Kids*, concluding that research suggests¹⁵⁵ “that when people bid up prices for houses in good school districts, they are really bidding for a district with many affluent, well-educated parents, rather than for the best teacher quality, class size, or per-pupil spending, implying that parents believe that parental inputs are more important than school inputs in determining school quality.” According to Putnam, the socioeconomic status of parents of schoolchildren is the primary

predictor of school performance, not school finances. He explains that regardless of their own family background, kids do better in schools where other kids come from affluent, educated homes. This would be a powerful motivator to zone for exclusivity.

It appears that municipalities use zoning to prevent development of apartments that would draw families with children—both to keep school costs down and their socioeconomic status high. Is racism also motivating the policies? It is hard to even raise this topic; the shame of Boston’s racist busing crisis 50 years ago still feels fresh, the images so searing and ugly. I would imagine that, in alignment with the Boston metropolitan area’s liberal values and celebration of diversity, most people would find the idea of segregating schools today abhorrent. And yet, the region-wide restrictions against development of apartments appropriate for families with children certainly have disparate impacts on Black households and immigrant households—both of which average more children per household and rent homes at higher rates than White, U.S.-born households. Also, 87 percent of the Boston metropolitan area’s population aged 65+ is White while only 65 percent of its residents under age 18 are White.¹⁵⁶ At a minimum, this is a stark example of structural racism, where policies have disparate impacts (varying effects) by race and origin.

A 2023 report by the U.S. Department of Education explained that gains in desegregation of schools after the *Brown* decision were significantly lost by the 1990s.¹⁵⁷ Schools have been resegregating, some now more segregated than before court-ordered busing. The report also notes that segregation of schools is due more to residential segregation across jurisdictional lines than due to segregated settlement patterns within municipalities.

Nationally, more families today live in either uniformly affluent neighborhoods or in uniformly poor neighborhoods, and a dwindling number live in mixed or moderate income neighborhoods.^{158, 159} Class-based residential segregation and school segregation are rising. Rich and poor are living in unequal municipalities. Richard Kahlenberg, a think-tank expert in housing and education policy, concludes in his recent book *Excluded*: “Research dating back five decades shows that one of the most powerful ways to improve the life chances of disadvantaged students is giving them the opportunity to attend high-quality schools that educate rich and poor students under one roof.” Needless to say, zoning has been getting in the way of this.

In 2012, the school districts of the cities of Chelsea, Everett, Malden, Revere, and Winthrop, just north of Boston, launched a partnership to align the sequencing of their academic curriculums because so many of their students were moving across districts mid-year, and missing geometry units while repeating algebra units, for example.¹⁶⁰ The students’ parents were not “moving to opportunity;” they were struggling with housing instability and economic distress. They were making short moves among several

communities where rental housing is concentrated in the region. The U.S. Census shows that 34 percent of Everett's homes are owner-occupied; 28 percent of Chelsea's homes; 42 percent of Malden's; 51 percent of Revere's; 57 percent of Winthrop's. Compare that to another five districts in the west-suburban area: 87 percent of Weston's homes are owner-occupied; 83 percent of Wellesley's; 91 percent of Wayland's; 93 percent of Dover's; and 93 percent of Sudbury's. Since the cities (Chelsea, Everett, etc.) have far more total housing units than the towns (Weston, Sudbury, etc.), the percentages I list here translate into profound differences in rental availability. Also, many of the multifamily units in affluent towns are restricted to seniors and the prices reflect extreme scarcity. (Note that single-family homes are owner-occupied at much higher rates than other types of homes.)

Housing instability and school transiency (mid-year turnover of students) in communities like Chelsea and Everett have a lot to do with the zoning policies of the many communities where there is dramatically less instability and transiency. The region-wide housing shortage lifts home prices and rents everywhere, but for the homeowner super-majorities in affluent towns, the rising prices can be experienced as a benefit, while in blue-collar cities, the rent escalations often send people packing, with their kids, to the next city over. Without enough houses, it is a game of musical chairs stacked for the wealthy.

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Reflections on the Purposes of Exclusion

In researching this report, I set out to understand whether exclusion of people based on race and class from residency in suburbs has been among the purposes animating zoning reform and adoption. I have found a long history of intent to exclude by race and class, among other demographic characteristics, in Greater Boston.

As I looked at reasons municipalities have adopted restrictive residential zoning, a theme emerged, over and over, about the prioritization of municipal *insiders* over *outsiders*, and the prioritization of *local needs* over *regional needs*. In this common framework, race and wealth may go unmentioned, but the characteristics are often embedded in the distinctions, as the region has been so segregated across multiple demographic dimensions across the entire century I have examined.

What some call tribe and turf, others call community and place. It is virtuous, necessary, and logical for people to look after the people they know and see in person, and to attend to the neighborhood where they live and the places in close proximity. People's spheres of attention are necessarily limited, but political structures shape how far they reach. Hyperlocal zoning narrows the sphere and reinforces its edges. In her book *A Consumer's Republic*, Lizabeth Cohen writes about the mid-century period: "As residents retreated into suburbs defined by the homogeneity of the population and the market values of their homes, the barriers they erected against outsiders grew higher, and their conception of the public good correspondingly narrowed."¹⁶¹

Even more importantly, municipal laws and zoning laws are embedded with police power; they are a part of the American civic fabric, and have to be responsive to American values of equality, as enshrined in the Constitution. When Americans use laws for the benefit of insiders, to the detriment of outsiders—who live in America too—especially when the "outsiders" include populations that have historically faced discrimination and are called out for protection in civil rights legislation, it should sound alarms.

Wellesley's 1965 Comprehensive Plan explains that its policy for allowing apartments should advance the interests of current Wellesley residents, with a clear implication that Wellesley should not accept responsibility to address regional needs for housing:

Permit development of apartments, office, business, and industrial uses insofar as they may: a. serve residents of Wellesley, b. provide tax revenue to the Town without detracting unreasonably from its residential character, c. constitute a more desirable use of particular parcels of land, or d. otherwise enhance the interests of Wellesley residents.

Quincy's Local Growth Policy Statement of 1976 says the same thing, with more edge: "People in Quincy are not concerned in serving as the provider of regional solutions to metropolitan Boston's needs. Therefore, a very strong case would have to be made to demonstrate why Quincy should participate in regional actions to achieve any end."

The Newton Planning Department's 1968 housing study mentions local concerns expressed about outsiders moving into affordable housing: "There are major disagreements as to the extent to which the provision of low and moderate income housing should be directed toward 'outsiders.'"

Many plans, from suburbs across the region, have expressed a preference to provide more housing for insiders—current residents, municipal employees, and others who work in a community—than outsiders. Boxborough's 2002 Master Plan, for example, specified a list of groups who may need affordable housing in Boxborough:

Affordable Housing Needs: Local affordable housing needs are difficult to estimate, but there are five population categories that might be included: Adult children of residents, Teachers at the Blanchard Memorial School, Boxborough's share of the teachers at the Acton-Boxborough regional schools, Non-school town employees, People aged 60 years and older.

This list is conspicuously missing: people under age 60 who neither work in Boxborough nor have relatives in Boxborough, but might seek affordable housing there.

The 1975 report *Road to Segregation*,¹⁶³ about policies segregating the Route 128 corridor, commented on the local impulse to legislate for the benefit of "insiders:" "The loyalties of a selectman are to his constituency. The parochial interests which consume the attention of planning boards and finance committees at the expense of concern for the region as a whole are regrettable but not unexpected." Even if they are supposed to consider regional needs, city counselors and town meeting members remain primarily accountable to local constituents. They are elected by local constituents, and they hear from local constituents, both at formal hearings and informal encounters. Local decision-makers are understandably moved to help the people they know and see and hear from.

Often, the preferences for "insider" housing have been leveraged by planners and advocates to open the way to more housing in general, for everyone. In their reports, planning consultants often emphasize the *local* need for more multifamily housing. In 2004, the pro-housing organization CHAPA partnered with the 495 MetroWest Corridor Partnership and the Home Builders Association of Massachusetts¹⁶³ to run a public awareness campaign called "Home@Last" to convince suburban leaders of the need for more housing ultimately for everyone. Their messaging focused on the following sentiment: Your kids cannot afford to live in their hometown; your parents can't afford to retire there; the local workforce cannot find a place to live in the community they serve. This messaging has shown to be resonant; I have seen it reflected in local plans across decades, from mid-century to the current day. Norwell's 2005 Master Plan says, for example, "The town offers limited diversity in housing type or price, constraining housing choices for town employees, elderly, people who want to downsize but stay in town, and young adults who would like to stay in their home town."¹⁶⁴ Many municipalities have not been allowing enough housing even to give their own residents suitable options to move.

Local decision-makers are understandably moved to help the people they know and see and hear from.

I want to underscore the nuances of exclusion that can be tangled into these frameworks. An emphasis on creating housing for people who already live in a community, or who have been "vetted" through the employment process to become a local teacher or public manager, can sound like racism or be problematic when codified as local preference for affordable housing, in areas of relative privilege that lack diversity.

Zoning for exclusion and exclusivity

Many commentators interpret zoning's exclusionary character through an economic lens in particular, especially in recent decades. And some have analyzed the institutions undergirding the economic incentives that have been driving reform. I find these analyses persuasive, although I think they may minimize some of the cultural, social, and psychological winds that shape zoning. The economists point to the financial rewards of exclusion, in property values and tax revenues; in their lens, exclusion is a means toward economic ends. They miss that the salient reward of exclusion, as perceived by those doing the excluding, may be exclusivity itself, with a whole spool of economic, cultural, aesthetic, and social perks woven through that exclusivity.

In his landmark analysis, *The Homevoter Hypothesis*, zoning expert William Fischel cogently argued that zoning should be understood as a tool for homeowners to protect property values.¹⁶⁵ In his telling, since (A) homes are the greatest financial asset of the American middle class, (B) the homes are uninsured against declines in neighborhood real estate values, and (C) neighborhood change risks such declines, homeowners embrace zoning that freezes the neighborhood environment. His hypothesis was both intuitive and revelatory. Here was the explanation at the heart of things. If you invest your whole life savings in a single home, you will not only vote to protect that value, you will be highly risk-averse regarding any changes to the neighborhood.

In her 2014 book *Zoned in the USA*, Sonia Hirt riffs off Fischel's framework by explaining—in terms of property values—the race and class prejudice embedded in zoning's story. She writes: “Undoubtedly, racial and class prejudices played a key part in the emerging zoning story, since it was minorities and the poor who were perceived as the greatest danger to property values in general and to single-family residential areas in particular.”¹⁶⁶

A recent academic paper by Yonah Freemark, Justin Steil, and Kathleen Thelen explains that municipalities have incentive to exclude in order to “hoard resources,” i.e., gain superior public services for their residents.¹⁶⁷ They explain that there are three mechanisms of resource hoarding: exclusion (via zoning), municipal parochialism (local services are paid for by local taxes), and fiscal competition (which makes municipalities want to keep taxes and redistribution low, to keep business and wealth rooted, to keep up the tax base). Their framework accords with Jessica Trounstine's thesis, presented in her book *Segregation by Design*, that segregation was institutionalized via zoning to protect property values and “to control the distribution of public goods.”¹⁶⁸ In these accounts, the reward leveraged through municipal fragmentation, exclusion, parochialism, and fiscal competition relates to municipal spending and services, and property values.

My review of local plans, across decades, shows many municipalities creating localized housing scarcity (in addition to region-wide housing scarcity), through large lot zoning and bans on multifamily housing development, while positioning themselves as exclusive, desirable, expensive. Basic microeconomic theory tells us that scarcity combined with aspirational branding will boost prices. It has been a winning strategy for incumbent homeowners. Their communities offer the best schools, the most powerful social networks, the most gleaming views of real estate, and their homes are scarce. Homebuyers bid up the prices of their homes faster than the homes in less exclusive communities. Even in economic downturns, these homes have held their value. It is a strategy sometimes with a monumental economic payoff, but is the whole goal monetary?

In his 1991 book *Edge City*, journalist Joel Garreau argued that in economic development, “little else is more important than Nice. Nice is more important than money.”¹⁶⁹ The reason, he explains, is that “Nice” appeals to families of monied executives, and whenever companies move headquarters, the commute of the chief executive becomes shorter (meaning companies locate near where the chief wants to live). In Garreau's view, Nice is the biggest attractor of economic development while resistance to the spoiling of Nice is its greatest deterrent, especially when people doing the resisting are of the same class as those leading the growth. We might say that the resolution of these dialectical forces has directed growth to highway corridors, in Waltham, Framingham, Woburn, and Burlington, conveniently near the extremely preserved towns of Weston, Wellesley, Dover, Lincoln, and Carlisle, and other affluent communities circling Boston. (Garreau called the highway-oriented development “Edge City.”) But what is Nice? Garreau named, first of all, schools with astonishingly high test scores, but also large lots, scenic vistas, country clubs, and athletic clubs.

Exclusiveness motivates people to bid up property values, and ultimately it benefits local budgets, but exclusiveness can be an end in itself tied up with so many other perks, such as access to jobs, halls of power, top schools, fancy cafes, and pleasing views of nice homes, manicured lawns, and rose bushes. Exclusiveness in geography shields its members from views of poverty. For the in-group, exclusiveness offers social protection, a sense of a social safety net.

Money is a means to access exclusivity; exclusivity is a means to make money. But do people join exclusive social clubs only for the business advantages, or for the whole package of amenities? A 1930s-era promotional booklet about Newton called “Suburban Living at its Best: Newton Massachusetts” written by the clerk of the Newton's Board of Assessors explains about country clubs in Newton: “Every golfer knows that three things, at least, are necessary in a satisfactory golf course—good turf, variety, and picturesqueness. Both the above courses possess all these. The

club houses are modern with locker rooms, ample dining service, lounges, attractive furnishings and all that goes with a first-class Country Club.”¹⁷⁰

In 1966, zoning attorney Richard Babcock concluded in his book *The Zoning Game* about zoning policy in the United States: “In my judgment, social influences, far more than economic considerations, motivate the public decision-makers in zoning matters. Cost is not as important as status.”¹⁷¹ In 1969, Seymour Toll wrote in his book *Zoned American* that every suburban adult has firm opinions about zoning: “Whether he saw it as a shield or as a sword, he knew that it had something important to do with the way of life which had led him to the suburbs or kept him there.”¹⁷² A *way of life* is usually understood not only in economic terms.

Across generations, ways of life change. Everything changes. The tides reshape identities, economies, technologies, communities, institutions, associations. There is decay and invention and construction. There is migration and immigration. There is conflict and assimilation. There is death and birth. Over time, the identities of in-groups and out-groups are somewhat fluid. The family names that dominated the social and financial hierarchies of Greater Boston at the dawn of zoning do not today crowd lists of political, philanthropic, and economic leaders of the region. Zoning is a story of turf and tribe, where the tribes have been changing, and municipal boundaries mark the turf. Greater Boston does not have a rigid caste system. But economic polarization has plagued Greater Boston, along with patterns of geographic segregation. It has remained true across a century that jurisdictional boundaries define in-groups and out-groups—that the boundaries mark distributions of privilege and demographic characteristics. The overall patterns have been made possible and durable by municipal fragmentation and zoning.

The bias motivating suburban exclusion is not like a vase set on a table for a still-life painting, containing water, stems, thorns, and petals. It is not a math equation, 4 percent hatred plus 27 percent financial interest plus 33 percent lifestyle calculus plus 66 percent hazy distrust of outsiders, mapped into districts with dimensional specifications, and multiplied by environmental protection and concern for stability. It is a puzzle where the pieces do not align along smooth seams, but overlap and leave gaps and even change shape when you look at them. The puzzle benefits and burdens different people at different times, in different ways. But anti-Black racism, specifically, has been a continual theme in a century of zoning history. The poor and working class, across a century, have lost opportunities for social mobility due to zoning decisions. Immigrant communities, across a century, have faced xenophobia that has animated suburban zoning reform. Families with children who would seek apartments in suburbs have been on the losing end of zoning, across a century. Sometimes disadvantages intersect, such that the multi-generational family seeking an apartment

checks the categories of low-income, minority, immigrant. This report’s analysis suggests that exclusion of such a family from affluent suburbs has been intentional.

In his recent book *Excluded*, Richard Kahlenberg describes zoning as “state sponsored economic discrimination,” and notes that “the sting of class bias is especially sharp for Black Americans.”¹⁷³ His analysis emphasizes the class bias and elitism driving zoning policy: “Indeed, if race was the only driving factor behind exclusionary zoning, one would expect to see such policies most extensively promoted in communities where racial intolerance is highest, but in fact the most restrictive zoning is found in politically liberal cities such as San Francisco, where racial views are more progressive.”¹⁷⁴ Kahlenberg points out that “being a class snob is not held in the same disrepute in America as is being a racist,” but in the politics of zoning, racism and class snobbery are “cut from the same cloth.”¹⁷⁵

It is really hard to characterize this puzzle—of exclusionary zoning in the places where diversity is most celebrated. A recent *New York Times* article reflecting on school segregation engaged the puzzle: “Today, when segregation is rife in even some of the country’s most ostensibly liberal enclaves, the reasons aren’t always plain or openly acknowledged. In the decades following *Brown*, they were often pretty overt. A lot of white parents, in the supposedly enlightened North as well as the historically segregated South, were willing to go to great lengths to keep their children away from their Black peers. And a lot of politicians were happy to help them make it so.”¹⁷⁶ The mural formed by evidence from a century of Greater Boston’s zoning history indicates that racism has also bolstered segregation in liberal enclaves. As Rothstein put it: “There was also enough open racial intent behind exclusionary zoning that it is integral to the story of *de jure* segregation.”¹⁷⁷ Racist intent could be characterized in different ways at different times, but there has been enough of it to be told in the history of zoning.

In 1985, Kenneth Jackson, in his classic history of the suburbanization of the United States, *Crabgrass Frontier*, summarized: “In actuality zoning was a device to keep poor people and obnoxious industries out of affluent areas.”¹⁷⁸ He continued: “They sought through minimum lot and set-back requirements to insure that only members of acceptable social classes could settle in their privileged sanctuaries. [...] And in suburbs everywhere, North and South, zoning was used by the people who already lived within the arbitrary boundaries of a community as a method of keeping everyone else out. Apartments, factories, and ‘blight,’ euphemisms for blacks and people of limited means, were rigidly excluded.”¹⁷⁹

Closing

People may ask whether the old history, reaching back even beyond when most current voters of the region were born, is relevant to today. One hundred years of zoning history is very much embedded in the current day. First, it is embedded in our current zoning laws, as zoning is rarely re-written or re-designed from scratch; municipalities typically amend it incrementally, adding new requirements or options as scaffolding over the old frameworks. Along the way, a zoning bylaw or ordinance might get re-codified or re-organized, but many of the details carry through. Much of the text of our current zoning policies that are in force today originated many decades ago.

Second, the history is embedded in our built environment and in the puzzle of existing property lines. The ways neighborhoods have been built, and rebuilt, and renovated, and preserved, or neglected has to do with zoning. The way properties have been divided, and sometimes combined, has to do with zoning.

To the extent that zoning has aimed at segregation and has caused segregation, the history is embedded in the demographic pattern of metropolitan settlement today. The extent to which the history has advantaged some groups and disadvantaged others is reflected in people's lives today, their wealth, their income, their opportunities, and their neighborhoods.

Finally, some motives for zoning adoption, once plainly spoken, have become taboo, for good reasons. The motives may have evolved, and become muted, but if they have not disappeared, then looking to the past may help us see things that are happening beneath the surface. Understanding the motives for exclusionary zoning can help us shape interventions to make the system function better and more fairly. For example, if we think that municipalities are prohibiting low-cost housing primarily for fiscal reasons, then the solution may be found in local and state budgeting. But if the cause of exclusionary zoning is also a push for municipal socioeconomic hegemony, other interventions may also be needed.

Across many levers of public policy, especially policies aimed at redistribution of wealth, policymakers often weigh the flight-risk of wealth against potential benefits. Today, zoning is not discussed in this light. It used to be, when Dedham's 1947 Master Plan, written by leaders in early zoning policy, explained that large lot zoning is a way of "attracting well-to-do newcomers." Local plans used to articulate purposes like keeping the well-to-do rooted, and discouraging lower-status people from moving in. While now unspoken, the strategy still offers powerful rewards that make it a likely driver of zoning policy. There is evidence across decades that race and class

and the divisions between insiders and outsiders of communities have animated zoning adoption and reform considerably. The zoning design painted with exclusionary motives has many impacts and implications, moral, political, economic, and legal.

There is a view that housing scarcity is not good even for affluent homeowners. This comes back to the resonant sentiment that their own kids cannot afford homes in their hometown; their kids' teachers cannot afford homes near where they teach; and the homeowners themselves lack options for downsizing to a condo or apartment in their own town when they come to feel they live in too much house. It is also not good for affluent homeowners when the civic fabric frays and economic mobility is so undermined that economists project the impacts nationally as reducing GDP by billions. Economic and political polarization are not good for anyone. As the unendorsed addendum to Needham's 1976 Growth Policy Statement put it, "The moral and human costs of segregation are intolerable. [...] We, therefore, urge this Growth Policy Committee to view the best interests of Needham as integrally bound up with the needs and requirements of the metropolitan area." This all said, within the framework of municipal fragmentation and zoning law, many local voters, across municipalities and decades, have cast their chips with a strategy of local protection over a strategy of widespread social mobility. Under the fragmented jurisdictional landscape, a large number of jurisdictions would have to buy into the latter strategy for it to work. If only a few communities upzone in support of social mobility, those communities may gain more growth than they bargained for and still not enough growth to solve the regional shortage. The bind can be resolved by state-level intervention, including zoning mandates, like the MBTA Communities zoning law, and preemption.

Within the framework of municipal fragmentation and zoning law, many local voters, across municipalities and decades, have cast their chips with a strategy of local protection over a strategy of widespread social mobility.

In any case, for many decades, municipalities were not even zoning for enough housing to meet their local needs, let alone the region's. The 1975 report "Road to Segregation"¹⁸⁰ quotes Reverend Edward Blackman on the theme of people acting against their own interests, "The almost self-destructive pattern that the society is in is the willingness of people to act against what they see as a threat from black people and to deny housing to people who are [already] involved in their own community." This is the argument made by Heather McGhee in her recent *New York Times* bestseller *The Sum of Us*. She wrote: "Racism got in the way of all of us having nice things."¹⁸¹ As an example, she described cities closing their

public pools, rather than desegregate them. In *Common Ground*, the book about Boston's school busing,¹⁸² Lukas tells of Mayor White insisting that a proposed swimming pool in Dorchester must be open to everyone; the residents refused to accept the pool. Neighbors argued the pool would become an "inkwell."

Such history, and other, more recent issues, prompted *Boston* magazine to ask in 2021: "Is Boston America's Most Racist City?"¹⁸³ The article's author Dart Adams, a journalist and historian, argued that "many white locals like to hide the racism that exists here behind the image of being a liberal and progressive city with a history full of abolitionists, revolutionaries, and freedom fighters. What they often refuse to acknowledge is the resistance these local heroes faced in this very city." This sentiment accords with my look across Boston's suburbs, where many local heroes have worked to liberalize zoning, and faced harsh resistance or quiet, implacable barriers. Adams concludes: "I love my city. Boston is my home and has been for 46 years, but I want it to finally live up to being for all Bostonians the glorious beacon of liberty, freedom, righteousness, and equality it professes to have been for almost 400 years." All of Greater Boston should live up to its ideals and reputation for liberty, righteousness, and equality.

Profound zoning reform is needed for Greater Boston to be a beacon of equal opportunity, to strengthen society's resilient in the face of rapid changes, to address political polarization, and make civic life just. As Americans, we form civic bonds based on values of non-discrimination and equal opportunity. We need to guard against the use of policies that violate our foundations and calcify our divisions. It is possible to craft policies that promote both stability and equality—and social mobility. Greater Boston already celebrates its growing diversity every day, in so many ways. Greater Boston can extend that celebration by reforming land use laws, including zoning, for economic dynamism, civic inclusiveness, and abundant housing.

Appendix

RESEARCH APPROACH

In 2004, I undertook a study of zoning and planning in 187 cities and towns of eastern Massachusetts, not including Boston itself. I reviewed the zoning to answer a series of questions about dimensional requirements and approval processes, and scanned the local master plans adopted from 1994 through 2004 for recommendations related to zoning for multi-family housing. In 2017, I undertook a related study, surveying the zoning requirements for multi-family housing in 100 cities and towns of Greater Boston, not including Boston itself. As part of that study, I reviewed the local plans for multi-family zoning, written between 2007 and 2017.

Between those two studies, I had a lot of information filed on the history of zoning and planning stretching from the late 90s through 2018. For this report, I drew on that information.

To reach further back, I accessed the local municipal plans that are kept at the State Library on Beacon Hill, as well as a few additional plans at local public libraries. I reviewed the following plans:

Annual Report for the Town of Bedford for the Financial Year Ending December 11, 1944

<https://www.bedfordma.gov/ArchiveCenter/ViewFile/Item/158>

West Acton Village Plan 1994

By West Acton Village Planning Committee, Acton Planning Department, Town of Acton Planning Board

<https://www.acton-ma.gov/DocumentCenter/View/111/W-Acton-Village-plan-?bidId=>

Braintree Master Plan 1963

By Charles Downe
State Library

Burlington Planning Study Report 1965

By Atwood & Blackwell
State Library

Canton Master Plan Summary Report 1957

By Allen Benjamin
State Library

Dedham Master Plan: Survey and Report 1947

By Arthur Shurcliff and Sidney Shurcliff
Dedham Public Library

Dedham Master Plan 1996

By Kenneth Kreutziger
Dedham Public Library

Duxbury Comprehensive Plan 1969

By The Planning Services Group, Inc.
State Library

Gloucester General Plan Report 1963

Edwards and Kelsey Consultants
State Library

Hudson Master Plan Summary 1964

https://www.townofhudson.org/sites/g/files/vyhlif3281/f/uploads/master_plan_-_executive_summary_1964.pdf

Everett Master Plan 1965

By Metcalf & Eddy
State Library

Littleton Master Plan 1964

By Blair and Stein Associates
State Library

Lincoln Comprehensive Development Plan 1965

By Adams, Howard and Oppermann
State Library

Middleton Comprehensive General Development Plan 1966

By Charles Eliot
State Library

Newton Low-Moderate Income Housing Study, An Element of the Comprehensive Plan 1968

By Newton Planning Department
Newton Library

Reading Master Plan 1961

By Planning and Renewal Associates
State Library

Stow, A Town Plan 1965

By Thomas Associates
State Library

Sudbury Master Plan 1962

By Charles Downe
State Library

Walpole Master Plan Study 1957

By Allen Benjamin
State Library

Waltham General Plan City 1968

By Candeub, Fleissig and Associates
Waltham Public Library

Waltham Master Plan 1954

By Nord W. Davis
Waltham Public Library

Wayland, Planning for Wayland 1962

By Wayland Planning Board
https://www.wayland.ma.us/sites/g/files/vyhlf9231/f/uploads/1962_master_plan.pdf

Wellesley Comprehensive Plan 1965

By The Planning Services Group
State Library

Wenham Plans Ahead: The Comprehensive Plan 1962

By The Planning Services Group
State Library

Westborough Master Plan Report 1966

By Charles Downe
State Library

Weston Master Plan 1965

By Charles Downe
<https://www.weston.org/DocumentCenter/View/10140/1965-Town-Plan-PDF>

Wilmington Comprehensive General Plan 1970

By Charles Eliot
State Library

Woburn Master Plan City 1966

By Metcalf & Eddy
State Library

Not all plans listed in the catalogs of the State Library or local public libraries were available. Some appeared to be missing. Some might have been in inaccessible boxes in the basements of libraries. The Framingham Master Plan from the 1970s, for example, was listed in library catalogs at both the State Library and Framingham's public library: I could find it in neither place.

Most of the plans from libraries that I reviewed were published in the 1960s, but several were from the 1950s. One was from 1970 and one from 1947. I did not access any plans from the 1930s or 1920s, although I found reports from Planning Boards embedded in several municipal Annual Reports from those decades. The annual reports I accessed were all digitally archived so I could search the books for the term "zoning."

At the State Library, I accessed all thirteen volumes of the Local Growth Policy Statements of 1976. These were prepared by Local Growth Policy Committees and assembled by the Office of State Planning in accordance with the Massachusetts Growth Policy Act, Chapter 807 of the Acts of 1975.

I did not review plans from the 1980s. I did not seek out 1980s plans, but I think that fewer comprehensive plans were produced in the 1980s than in other decades.

I have also reviewed articles in the *Boston Globe* archives about zoning from 1920 to the present day. I have not read every single article, but I read a selection from every decade. I searched the archives for the term "zoning." The *Boston Globe* covered local news and zoning for many suburbs, reaching back a century. Other newspapers also covered local news, but the *Boston Globe* archives were easily accessible.

To supplement the research, I also conducted a literature review of books, reports, and academic articles on the topic.

ENDNOTES

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