CTOD CENTER FOR TRANSIT-ORIENTED DEVELOPMENT

Improving the Federal Partnership for Equitable TOD

The federal government is already an important funding partner in financing infrastructure. Nationally, demand for TOD far outstrips the number of places that currently have reliable, convenient and high quality public transportation. Ensuring that federal transportation funds are leveraged to achieve national economic development, energy security, social equity and environmental goals is an efficient use of scare federal resources. The following set of federal policy recommendations were developed by the Center for Transit-Oriented Development through input from a variety of stakeholders and practitioners that could help to advance equitable TOD in urban and suburban markets.

Expand Federal Financing and Tax Incentive Programs

Expanded transportation financing tools are needed for funding transit, station area infrastructure and affordable residential and commercial development which are all equally important to equitable TOD. Current federal loan guarantee programs like TIFIA can theoretically be used for transit and TOD, but limitations exist. The limitation on loan amounts available through State Infrastructure Banks (SIBs) also restricts their TOD usefulness. Equally significant, federal policy should level the playing field for new capacity investments regarding planning and selection process, local match requirements, and in promoting the use of property-based value capture tools.

RECOMMENDATION #1: Modify and Expand the Transportation Infrastructure Finance and Innovation Act (TIFIA) to work better for transit and TOD.

The U.S. Department of Transportation's TIFIA program is a proven financing tool for funding transport projects that can repay loans or bonds from "dedicated revenue sources." These include such levies as special assessments and tax increment financing (TIF). Minor changes to the TIFIA program could encourage transport finance innovation and help unlock underutilized transport finance mechanisms.

- Move TIFIA to the Office of the Secretary where multimodalism can be a renewed focus.
- Expand the current annual TIFIA allocation well beyond current $120 million.
- Dedicate a percentage of TIFIA credit facilities to projects with dedicated revenue sources from value capture mechanisms like property assessment districts and TIF.

RECOMMENDATION #2: Create a Livable Communities Credit Enhancement Program

Amend **S. 1619/HR 4690, *The Livable Communities Act*, introduced by Senator Dodd**, to create a Livable Community Credit Enhancement Program managed by the Department of Housing and Urban Development to provide credit enhancements on local district-related bonds used to construct critical local infrastructure and affordable housing in new and existing livable communities. Livable Community Credit Enhancements would help local finance districts pay for more infrastructure costs. A portion of the bond proceeds would also be used for permanently affordable housing to ensure that low- and moderate-income families can afford to live in these communities. Livable Community Credit Enhancements can play a strong role in leveling the real estate development playing field and attract more private investment to livable communities.

RECOMMENDATION #3: Modify US Tax Code to Create Location Efficiency Incentives (S. 3212, *The Green Building Tax Credit*, introduced by Senator Menendez)

The current patchwork of federal tax incentives does not address the financial complexities and many moving parts of a development concept like TOD that strives to make connections between land use and transportation, housing and employment, and livability. Almost no tax incentives are explicitly aimed at TOD, but the Internal Revenue Code (IRC) does contain a few limited provisions aimed at fostering development consistent with livability goals and objectives, including green building and energy conservation. Provisions are needed to create market incentives for the construction of buildings that are energy-efficient and are location-efficient by being situated in an area conducive to walking and public transportation. Such provisions should include a guarantee that a portion of units created through a TOD tax credit be affordable to low-income households.

Expand Public Transportation Investment

Transit investment needs far exceed available federal funding. New funding public-private partnerships, incentives, loans and loan guarantee programs utilizing property-based financing mechanisms should be pursued in the next surface transportation bill. New federal financing tools aimed at supporting TOD should include affordable housing and equitable development provisions.

RECOMMENDATION #4: Establish a "Self Starts" Companion Program to Section 5309

Create a companion program to provide low cost credit enhancements to substantially increase transport finance capacity of local revenue sources. Projects could be eligible for loans or loan guarantees to help finance new transit lines. Projects must meet a strict financial feasibility analysis, include local value capture financing mechanisms, and demonstrate positive land use, economic development, and environment benefits. Preference would be given to projects that include affordable housing provisions. The lower interest rates or debt coverage ratios that result from a Federal credit enhancement allow local districts to raise more bond proceeds with identical district revenues. Additional bond proceeds can be used with or in lieu of the Federal New Starts and Small Starts program to fund infrastructure at a lower cost to the federal government and accelerate regional transit expansion plans and urban circulator projects such as streetcars.

RECOMMENDATION #5: Create a Multimodal Access Program for New Capacity

Create a performance-based metro transportation program that includes both formula and discretionary funding. MPOs would be required to perform analysis of alternative growth and transportation scenarios as a part of the development of long-range transportation plans. Various alternative scenarios would need to include analysis of cost of needed infrastructure and personal transportation costs. Adopted TIP would need to include projects and strategies that meets annual goals and shows progress towards interim objectives established by the region and/or state, including the impact on combined housing + transportation costs. Any new capacity project would be required to consider value capture options, even if they use the funds for operations, livability, or opt not to collect the funds at all. Program would have variable federal share:

- 80% federal share for strategies and minor projects (operational improvements, interchange improvements, ITS, local network improvements)
- 50% federal share for new highway or transit capacity projects. Projects would be required to utilize property-based or toll-based financing mechanisms to help pay for the capital and/or operating cost of new transport infrastructure or closely related livability features.

Modify Existing Federal Surface Transportation Programs

Significant additional funding is needed to maintain, modernize and "green" our existing public transportation investments. *New sources of federal funding should be pursued in related energy and climate legislation.* The level of federal funding provided in surface transportation legislation should be doubled to help pay for expanding public transportation to serve emerging markets, and preserving and modernizing existing transit service on which millions of Americans rely. For TOD and value capture strategies to succeed, reliable, convenience and safe public transportation is essential. Modifying several existing federal transportation programs can also help unlock equitable TOD.

RECOMMENDATION #6: Support Integrated Long-Range Regional Planning

Regional planning sets the stage for considering transportation investments to support future growth and economic development. Federal transportation planning requirements should be modified in both Title 23 (highway) and Title 49 (transit) to include language on integrating long-range transportation plans with federally-required housing and environmental plans. Regional plans should demonstrate their ability to meet performance outcomes including reducing the combined housing and transportation costs, and improving access to essential regional destinations for low-income, senior and disabled populations. All federal planning funds should be explicitly eligible for station-area planning. Specific language should be added to metropolitan and statewide planning to reduce greenhouse gas emissions from transportation sector, and to clarify that land use strategies including TOD should be developed.

RECOMMENDATION #7: Expand eligibility of transportation funds for TOD

Many communities pursuing TOD are challenged by limited connectivity between transit stations and surrounding neighborhoods diminishing ridership potential and creating uneven impacts on property values. Current federal law includes joint development as an eligible use of federal transit funds and FTA has issued policy guidance to all transit grantees that real property acquired with Federal grant funds can be used to support TOD with the restriction that the transit system must retain effective continuing control of the joint development for transit purposes. While a number of transit agencies have utilized this flexibility, there are still challenges and misconceptions regarding joint development. Statutory language is needed to expand and clarify the definition of joint development to include corridor-wide placemaking investments and land agreements that create a physical or functional benefit to transit. This change would allow value created by new development in one station area to be used to address needed investments in other parts of the corridor.

RECOMMENDATION #8: Create Multimodal Office of Livable Communities at USDOT

(HR 4287, Enhancing Livability for All Americans Act of 2009 introduced by Rep. Cohen)

TOD is a complex development form that encompasses multiple modes in its design and implementation. Better coordination of federal highway, trail, pedestrian and transit to support community reinvestment, economic development, and local TOD strategies is needed. An Office of Livable Communities should be created in the USDOT Office of the Secretary to provide grants to assist local governments in station area planning, updating transportation models and zoning codes, and implementing equitable TOD; to coordinate federal planning guidance between all modes (FHWA, FTA, FRA, and FAA); and to provide best practices and technical assistance for state DOTS, transit agencies, MPOs and communities on successfully planning, financing and implementing livable community strategies including TOD.

RECOMMENDATION # 9: Modify the Federal New Starts and Small Starts Program

The federal government's most important discretionary program for funding new transit investments is Section 5309, the New Starts and Small Starts Program. Demand for this program far exceeds its authorized funding levels. Major changes often occur in the neighborhoods surrounding new and improved stations and transit lines. This transformation often has benefits in terms of economic and community development, but it may also drive up housing prices, displacing low- and moderate-income families who could benefit from living near transit. Federal statute includes a comprehensive project review and ratings process administered by FTA, which has been criticized for adding costs, uncertainty and time to projects. The federal review process should elevate projects that commit to permanent affordability and value capture.

- Include statutory language to elevate projects that demonstrate local commitment to preserve and create permanently-affordable housing, proximity to regional employment centers, and an assessment of existing affordable housing units within proposed corridors.
- Modify the cost-effectiveness measure to focus only on the federal contribution, not the total project cost. Project elements funded entirely with local or private funds should not be included in the cost calculation to determine cost effectiveness.

RECOMMENDATION #10: **Establish affordable housing replacement requirement for all transportation projects**

Transportation projects can have a profound impact on affordable housing, either directly if impacted during construction process or as a result of increased land values resulting from the investment that drives up rents and contributes to property conversion. Include language modeled after Section 104(d) of the Housing and Community Development Act - "The Barney Frank Amendment" to include replacement policy for transportation projects.

About the Center For Transit-Oriented Development

The Center for Transit-Oriented Development (CTOD) is the only national nonprofit effort dedicated to providing best practices, research and tools to support market-based transit-oriented development. CTOD partners with both the public and private market sectors to strategize about ways to encourage the development of high performing communities around transit stations and to build transit systems that maximize development potential. CTOD works to integrate local and regional planning, generate new tools for economic development, real estate and investment issues, improve affordability and livability for all members of the community, and respond to imperatives for climate change and sustainability. The Center for TOD is a partnership of Reconnecting America, the Center for Neighborhood Technology, and Strategic Economics. For more information go to CTOD's website at http://www.ctod.org or contact Annie Finkenbinder with specific questions on these recommendations at afinkenbinder@reconnectingamerica.org or 202-429-6990 x 209.