DAY ONE PROJECT

Leverage Transit-Oriented Development Loan Programs to Accelerate Equitable Economic Recovery

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Summary

The COVID-19 pandemic has exacerbated the challenges faced by millions of Americans in accessing healthy, prosperous, and resilient neighborhoods. However, the ability for all Americans to afford to live, work, play in, and benefit from these neighborhoods, also known as Communities of Opportunity, has been in crisis for decades. Whether in urban, suburban or rural markets, demand for walkable and resilient communities with affordable housing and transportation options, great amenities, and a sense of place continues to outstrip supply.

Despite broad recognition of the enormous economic and environmental benefits of walkable communities, particularly transit-oriented development (TOD), communities face many federal, state, and local barriers to meeting this demand.[1] Central to these challenges is the lack of long-term, low-cost financing for the upfront cost of public infrastructure and community development, particularly near public transportation stations.

If left unaddressed, America's pent-up demand for walkable communities, combined with the economic disruption caused by the COVID-19 pandemic, will: (1) drive up costs of living and exacerbate the housing shortage, forcing more American families, particularly Black and Brown families, further away from employment, health services, and educational opportunities; (2) increase greenhouse emissions, a major cause of climate change, due to greater vehicle miles traveled; and (3) force Americans to live in environmentally-compromised areas because affordable housing is often located in flood zones.

Congress included new TOD provisions in the 2015 federal transportation reauthorization (FAST Act) that would expand the Transportation Infrastructure Finance and Innovation Act (TIFIA) and Railroad Rehabilitation Improvement Financing (RRIF) eligibilities to include TOD projects. These new provisions would give local communities and project sponsors access to over $30-35 billion in low interest and patient financing, making it more likely the economics of TOD projects would "pencil out" and become financially feasible. However, since the passage of the FAST Act, U.S. Department of Transportation (USDOT) has failed to approve any TOD applications or to provide policy guidance on what it would take for future applications to gain approval, despite the presence of a multi-billion-dollar national pipeline of equitable TOD and community revitalization projects. Additionally, project sponsors have experienced regulatory hurdles and programmatic uncertainty from the Administration purposely designed to prevent transit or TOD projects from moving through any federal credit assistance programs.

To help communities meet the pent-up demand for affordable housing and businesses in walkable, resilient communities, and to accelerate an equitable economic recovery, the Administration should establish—within 90 days—a national equitable TOD policy. Led by

[1] Transit-oriented development (TOD) includes a mix of commercial, residential, office and entertainment centered within walking distance to transit stations or corridors.

USDOT, in partnership with Department of Housing and Urban Development (HUD), Environmental Protection Agency (EPA), Department of Agriculture (USDA and Economic Development Agency (EDA), the policy should promote and coordinate federal investments and action to support equitable transit-oriented development and community revitalization projects that lead to more mixed-income housing, new revenue streams for budget-constrained public transportation agencies, climate change mitigation and a stronger and sustainable post-COVID-19 economic recovery.

Additionally, the Administration should work with Congress to: (1) extend and expand its current federal credit assistance programs, such as the Railroad Rehabilitation Improvement Financing (RRIF), to support greater federal investment in equitable transit-oriented development (TOD); and (2) create a new tax credit to support TOD projects oriented toward the creation of mixed-income, mixed-use development; climate mitigation; and increased transit ridership.

Challenge and Opportunity

America's development market is changing. Demographic trends are moving the housing market strongly away from conventional suburban housing.[2] The two biggest demographic groups in the nation—retiring baby boomers and millennials (24-39-year-olds) both express a strong preference for a more walkable, urban/village lifestyle. According to a recent National Association of Realtors survey, Americans favor walkable, mixed-use neighborhoods, with 56 percent of respondents preferring smart growth neighborhoods over neighborhoods that require more driving between home, work, and recreation. By 2030, the demand for housing near transit and commuter rails is expected to more than double from its level in 2000.

As the COVD-19 pandemic continues, communities and transit agencies are facing declining ridership and tax revenue, which threatens their long-term fiscal health. Since the Great Recession, we have learned that economic recovery, improved quality of life, and resilience in communities of color are directly related to public policy and strategies that prioritize targeted place-based improvements, including affordable transportation mobility and reinvestment in traditional centers and main streets.

When communities prioritize multiple transportation options and smart growth, and align federal, state and local economic development incentives, they become, in the parlance of the private market, "investment-ready communities." Since the 1990s, business enterprises have

[2] See "The Changing Shape of American Cities," Luke J. Juday, Weldon Cooper Center for Public Service, University of Virginia, March 2015.
"Demographic Reversal: Cities Thrive, Suburbs Sputter," William H. Frey, Brookings Institution, State of Metropolitan America Series, June 29, 2012.

been locating in smart growth communities to attract talented employees.[3] Companies of all sizes are moving to both large and small communities with transportation options and vibrant neighborhoods with affordable housing, restaurants, nightlife, and other amenities within walking distance. Because of this market trend, there are significant and growing rental rate premiums for walkable office (105 percent) and retail (121 percent) spaces, which has enabled walkable and transit supportive communities to achieve higher economic performance, greater social equity and more resilience to future crises in comparison to their drivable suburban counterparts.[4]

Unfortunately, the demand for walkable communities with affordable housing and transportation options, great amenities, and a sense of place continues to outstrip supply. This unmet demand is reflected in the comparative value of housing in walkable versus drivable communities. Based on the 2019 Foot Traffic Ahead Report, for-sale housing in the 30 largest metro WalkUP communities—those with higher densities, multiple real estate products close to one another, multiple modes of transportation, and high walkability—achieves a 90 percent valuation per square foot premium over the rest of the for-sale housing market in the country's largest 30 metros. Even rental multi-family housing in walkable suburban places achieves high price premiums in comparison to car-oriented suburban rental counterparts.

The tremendous demand for walkable communities, including equitable transit-oriented development, has significant implications for the Federal Government. It is widely known that investing in equitable economic development in walkable communities can help create a healthier, prosperous and climate resilient society. But as the demand for these places has outstripped their supply, they have become economically and racially homogenous and unattainable for millions of American individuals and families. If left unaddressed, America's pent-up demand for walkable communities will continue to: (1) drive up costs of living, exacerbate the housing shortage, and force more American families further away from employment, health services, and educational opportunities which will increase greenhouse gas emissions, and (2) force Americans to live in environmentally compromised areas of the country since affordable housing is often located in flood zones, where land is cheaper and structures are more vulnerable to sea rise level rise.

Building walkable communities, particularly equitable transit-oriented development (TOD) can bring unique challenges, including the higher costs of developing in highly-populated areas and of community-based facilities such as daycare and health clinics, as well as the cost of rehabilitation or construction of TOD-related infrastructure such as sidewalks, lighting and other public utilities, parking facilities, and occasionally street improvements.

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[3] CORE Values: Why American Companies Are Moving Downtown, Smart Growth America, https://smartgrowthamerica.org/resources/core-values-why-american-companies-are-moving-downtown/.
[4] 2019 Foot Traffic Ahead, Smart Growth America & George Washington University, https://smartgrowthamerica.org/resources/foot-traffic-ahead-2019/.

In response to these challenges, Congress included new provisions in the federal transportation reauthorization (Fixing America's Surface Transportation or FAST Act) that would expand Transportation Infrastructure Finance and Innovation Act (TIFIA) and Railroad Rehabilitation Improvement Financing (RRIF) eligibilities to include TOD projects. Specifically, RRIF could be used to support local government efforts to accelerate economic development around passenger rail, including affordable housing and commercial development. This was designed to help local communities meet the market demand for TOD communities and passenger rail, become more climate resilient, and expand economic opportunities for existing residents and businesses.

Immediately following the passage of the FAST Act in 2015, the USDOT moved quickly to begin the implementation process. In January 2016, Secretary Foxx held a roundtable with transit agencies and developers to discuss TOD and gather input on implementation of the new TOD financing programs. In March 2016, USDOT announced the notice of funding availability and request for comment to gather ideas on how to best implement the new FAST Act changes. By the end of 2016, USDOT published draft TOD guidance but had not approved any TOD projects. Since its early action in 2016, however, USDOT implementation of the FAST Act has stalled: the agency has yet to approve any TOD applications, and it has not provided any policy guidance for the determination of project eligibility or approval. According to a 2019 GAO report, project sponsors identified the USDOT's current regulatory framework and program uncertainty as major challenges to accessing RRIF TOD loans. Additionally, project sponsors (particularly in the real estate industry) have experienced additional regulatory barriers and programmatic uncertainty as part of the current Administration's larger effort to prevent any transit or TOD projects from receiving federal assistance.

The FAST Act also included a sunset provision set for December 31, 2019 for the RRIF TOD financing, but it was extended to September 30, 2020 in the FY20 federal appropriations legislation (H.R.1865 - Further Consolidated Appropriations Act, 2020 and again to September 30, 2021 in the recently passed Continuing Appropriations Act 2021 and Other Extensions Act. Given the time intensive nature of federal mandated requirements (i.e., the National Environmental Policy Act (NEPA) and Buy America) and the current COVID-19 crisis, it is nearly impossible for new TOD projects to be approved prior to the deadline. Without clear guidance from the Office of the Secretary or a legislative fix which removes RRIF TOD's quickly approaching sunset provision, the Bureau's staff have been extremely reluctant to move projects forward regardless of their merit or eligibility. As a result, viable public-private partnerships (P3) continue to sit idle, ready to go on the private side and in limbo on the federal side. This type of uncertainty—uncertainty about timing—is deadly to P3s, particularly equitable TOD projects.

As the country plans for a post-COVID-19 economic recovery, there is a renewed urgency to expand financial capacity to ensure that communities—particularly Black and Brown communities—on the frontlines of this pandemic have a fighting chance to not only survive but also pursue proven smart growth strategies to become more economically and environmentally resilient to future crises.

The Federal Government must play a role in ensuring that walkable communities—including transit-oriented development—of the future are more inclusive, more resilient, and home to millions more Americans. To ensure a more equitable economic recovery, USDOT, in partnership with other federal agencies and the private sector, must immediately deploy federal resources to help distressed and disadvantaged communities rebuild by creating more affordable housing and commercial development near public transportation, providing new revenue streams for budget-constrained public transportation agencies, and strengthening the fiscal health of local budgets. This approach will serve as a catalyst for equitable community growth and ensure that communities across the country are more economically and environmentally resilient to future crises.

Plan of Action

Executive Action: The Administration should establish—within 90 days—a national equitable TOD policy, led by USDOT, in partnership with HUD, EPA, USDA and EDA, that promotes and coordinates federal investments and actions to ensure the following equitable outcomes[5]:

- Anti-displacement that promotes stability and retention, and prevents involuntary displacement of residents and businesses.
- Climate resilience that promotes equity and resilience in communities most vulnerable to climate change.
- Community reinvestment that promotes investment in historically under-invested and economically abandoned communities.
- Desegregation that promotes housing choice and reduces segregation.
- Economic growth and recovery that promotes inclusive economic development in communities lacking it and recovery in those harmed by the pandemic and other crises.
- Health equity that promotes improved health outcomes and closes disparities by race, income, etc.
- Wealth building that promotes community wealth building and ownership.

Within this equitable development framework, USDOT should establish clear eligibility guidance and an application process that is more user-friendly, including adopting the following criteria to determine TOD RRIF eligibility:

- A project must incorporate private investment of greater than 20 percent of total project costs.
- A project must be physically connected to, or within 1/2-mile walking distance from, a passenger rail station or multimodal station that includes rail service.
- A project must include community and publics benefits, such as generating new financial assistance for the relevant passenger rail station or service by increasing ridership or by

[5] Modeled after Chicago's 2020 eTOD policy. https://www.chicago.gov/content/dam/city/sites/eto/Pdfs/ETOD-Policy-Plan_Full_9-14-20.pdf

generating tenant lease payments, or new funding for affordable housing, public infrastructure improvements or community-based facilities.

After the issuance of this guidance, USDOT, in collaboration HUD, EPA, USDA and EDA, should leverage its existing outreach and technical assistance capacity to support predevelopment activity in disadvantaged communities—particularly communities most impacted by the COVID-19 pandemic and climate and economic disasters—to accelerate equitable economic recovery projects.

Legislative Action: USDOT should work with Congress to (1) extend the authority to use RRIF funds for TOD, which is set to expire on September 30, 2021, and (2) increase RRIF's loan authorization $35 billion to $50 billion to accommodate additional TOD applications.[6]

The Administration should also encourage Congress to provide new federal funding and tax incentives to support TOD projects for the creation of mixed-income, mixed-use development; affordable housing; and increased transit ridership. Particularly, the Administration should support legislative action which would provide immediate tax relief to promote greater attainable housing preservation and production, infrastructure improvements, and community revitalization near public transportation.[7]

Additionally, the Administration should also support legislative action that would expand USDOT's current federal credit assistance programs—TIFIA and Private Activity Bonds—to promote equitable economic development near public transportation. For example, TOD infrastructure (i.e., sidewalks, roads and utilities) are eligible for TIFIA financing, yet TOD residential nor commercial development are not eligible. Given most TOD projects contain a mix of uses that incorporate residential and commercial development into the same space, TIFIA becomes a less attractive tool to finance equitable TOD projects. USDOT should urge the Congress to allow TOD residential development (specifically attainable housing) to be eligible for TIFIA and other USDOT credit assistance programs).

[6] Modeled on the TOD Advancement Act of 2019 (S. 2805) legislation led by Sens. Roger Wicker (MS), Bill Cassidy (LA), Susan Collins (ME), Tammy Duckworth (IL), Ed Markey (MA) and Jack Reed (RI).
[7] Modeled on the REHAB Act, H.R. 6175 led by Reps. Blumenauer (OR), Kelly (PA), LaHood (IL) and Kildee (MI).

About the Author

Christopher Coes is the Vice President for Land Use and Development at Smart Growth America (SGA), and is a nationally recognized leader in leveraging public policy, the private sector, and community assets to build equitable, sustainable communities. For the last ten years, he has led SGA's built environment programs to help accelerate the implementation of performance-based and community-driven land use and development practices that create environmentally responsible, socially inclusive, and economically competitive walkable urban places. These programs include LOCUS: Responsible Real Estate Developers and Investors; the National Brownfields Coalition; and TOD Finance and Advisors, Inc., a for-profit subsidiary of Smart Growth America.

Christopher is also known for his nationally recognized work on community revitalization and public-private partnerships, such as the National Opportunity Zones Academy, the Attainable Housing and Social Equity Initiative, and USDOT's LadderSTEP Pilot Cities, which has helped over three dozen communities pursue sustainable and equitable economic development and facilitated over $1 billion in new smart growth real estate deals.

Prior joining Smart Growth America, Christopher A. Coes served as Deputy Director and Senior Campaign Advisor for Transportation for America. Christopher is a native of Thomasville, GA.

About the Day One Project

The Day One Project is dedicated to democratizing the policymaking process by working with new and expert voices across the science and technology community, helping to develop actionable policies that can improve the lives of all Americans, and readying them for Day One of a future presidential term. For more about the Day One Project, visit dayoneproject.org.