

Building the Line to Equity: Six Steps for Achieving Equitable Transit Oriented Development in Massachusetts



An Action for Regional Equity Case Statement

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PolicyLink is a national nonprofit research, communications, capacity building, and advocacy organization dedicated to advancing policies to achieve economic and social equity based on the wisdom, voice, and experience of local constituencies.

Action for Regional Equity (Action!) is a coalition of 20 Massachusetts organizations united to advocate for economic and social equity and working to address critical development challenges facing the Commonwealth.

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Building the Line to Equity:

Six Steps for Achieving Equitable Transit Oriented Development in Massachusetts

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Executive Summary

Transit oriented development is a dynamic approach to building pedestrian-friendly, mixed-use communities around transit stations and connecting neighborhoods to their regions. The opportunities of transit oriented development can benefit everyone, if planned with that intention. With a concerted effort, these developments can secure affordable housing for all income ranges, ensure improved environmental quality, and link people and their neighborhoods to economic growth throughout the region. Equitable transit oriented development can ensure that the Commonwealth maintains its status as one of the world's premiere destinations to live, work, and play. Conversely, continuing development that provides primarily high-cost housing and long commutes threatens that status.

Action for Regional Equity (Action!), a coalition of the state's leading housing, transportation, and environmental advocates, has developed six steps to guide transit oriented development in the Massachusetts region. These steps can promote broad access to economic opportunities and affordable housing, ease of use for disabled riders, attention to environmental justice issues, improved air quality, increased transit use, and sensitivity to local economic development issues. Action! has a particular interest in finding policy solutions that address concerns of low-income and working class residents who are at risk of displacement because of escalating housing prices. While it has been historically difficult to integrate housing and transportation planning and investment, the alignment of several political and community forces will make this objective more attainable in the coming years.

This case statement describes six steps that can advance equitable transit oriented development and enable all communities to share the benefits and challenges of building a sustainable Massachusetts. The steps are:

1. Apply equitable development criteria to all transit oriented development
2. Build more affordable housing in transit oriented developments throughout the state
3. Revitalize neighborhoods without displacing residents and businesses through transit oriented development investments
4. Foster community health and environmental justice through transit oriented development
5. Demonstrate equitable transit oriented development through model projects
6. Incorporate equitable transit oriented development into long-range planning

In the pages that follow, each of these steps are described using three lenses. For each of these six potential action areas, this case statement:

- Frames the issue;
- Summarizes the issues; and
- Identifies opportunities to take action.

Introduction: Transit Oriented Development in Massachusetts Today

Like many other states, Massachusetts is increasingly exploring investment in transit oriented development (TOD). TOD unites train, bus, and transit stops with housing and commercial development, bicycle paths, public plazas, sidewalk redesign, and parking lot construction around transit stations or other nodes, such as downtown centers of sufficient density.

The Office for Commonwealth Development describes TOD as:

...compact, walkable development centered around transit stations. Generally including a mix of uses—such as housing, shopping, employment, and recreational facilities—TOD is designed with transit and pedestrians as high priorities, making it possible for visitors and residents to move around without complete dependence on a car. TOD represents an opportunity for communities all across Massachusetts to enhance their quality of life. With TOD, parking lots and underutilized land near public transportation can be turned into vibrant mixed-use districts, diverse housing, and lively public places.

The Massachusetts' Bay Transportation Authority currently manages 119 commuter rail stations, 53 rapid transit stations (Orange, Blue, Red, and downtown Green Line), and 78 trolley stations (Green Line and Mattapan). Planned expansion projects, such as the Fairmount Line and Green Line extension to Somerville/West Medford, hold tremendous potential for developing transit oriented development that not only meets the criteria set out by the Commonwealth in the statement above, but for doing so in accordance with principles of equity and thus bringing the benefits of TOD to everyone, including residents of low-income communities and communities of color.

The Commonwealth of Massachusetts invests tens of millions of dollars in transit oriented development through transportation infrastructure investments and with targeted programs that promote smart growth

and investment in affordable housing, economic development, and civic infrastructure. Action! urges its members, environmental and transit justice proponents, elected officials, and state administrators to ensure that the state's diverse investments are directed toward supporting transit oriented development that is equitable.

The application of equity principles has never been more critical for a growing arena of development. Research, common sense, and the daily experience of the thousands of residents represented by Action! organizations demonstrate the crucial connection between housing affordability, transit investment, and livability of communities. Access to public transit defines the ability of many lower-income and working class Massachusetts residents to get to job centers and other economic opportunities. With combined housing and transportation costs in metropolitan Boston accounting for just over half of total household expenditures,¹ the affordability crisis facing many Massachusetts' households is severe. Using transit is one of the best ways to control soaring transportation costs: an analysis by the Center for Transit-Oriented Development and Center for Neighborhood Technology, looking at nationwide data on households of two persons or more, found that transit-using households lower their annual transportation costs by more than \$3,000 compared to those that own one or two vehicles, do not use transit regularly and spend 16–19 percent of their annual income just on transportation.² When the affordability crisis is redefined to look at combined housing and transportation costs, rather than just the cost of housing, it becomes clear that affordable access to both housing and transit is not just the problem of a limited socioeconomic group—affordable access to both is everyone's concern.

In 2004, the state's Office of Commonwealth Development produced ten Sustainable Development Principles. A commitment to goals such as "Redevelop First," "Concentrate Development," and "Be Fair" should mean that the state becomes the standard bearer for equitable transit oriented development. As TOD moves to the center of Massachusetts' sustainable development agenda, it is vital that the rhetoric of equity is reflected in the reality of TOD programs and projects.

Equitable TOD in Public and Private Development

Because TOD can take place across land parcels with diverse owners, different tools must be applied across the continuum of development, which includes public investment, public land, regional planning, and the enforcement of regulatory requirements, to provide the greatest leverage for achieving equitable TOD outcomes. Projects can be categorized as:

- Primarily private (on private land, little or no public investment, no state-required environmental review under the Massachusetts Environmental Policy Act (MEPA), limited need for local zoning changes);
- Private with public regulatory involvement (state and/or local review required if substantial rezoning or special permitting is needed or if zoning overlays require inclusionary housing or mixed-use developments);
- Public/private partnerships with significant public investment (either through direct funding streams or indirectly through tax subsidies);
- Primarily public (on public land, with substantial public investment, and a public entity or community development corporation as one of the development partners).

While there are typically more opportunities for leveraging equity outcomes from TOD projects with public financial involvement, potential exists across the spectrum of public/private TOD investment, since the projects are all dependent on the significant public investment in the transportation and related public infrastructure.

Principles of Equitable Transit Oriented Development

Transit oriented development can address environmental, land use, and economic concerns in communities throughout the Commonwealth. It is a complex, challenging, and potentially rewarding

development approach that links planning for affordable housing and transportation investment in ways that connect residents to economic and social opportunities. Because any development that revitalizes a town center or urban core can fuel gentrification, Action! has developed a set of principles to guide transit oriented development in the region that energize communities without displacing the people who live there. The principles, developed with the local constituencies represented by Action!, serve as guidelines for local governments, regional authorities, the state, residents, and the nonprofits that represent them. Their participation is essential throughout the planning processes that result in new developments. If Massachusetts aligns its public policy to these equity principles, everyone can benefit from equitable transit oriented development.

Ensure community benefit. Because it taps public investment or regulatory relief, transit oriented development should provide measurable community benefit, including connections to productive employment opportunities, access to public amenities, and an increase in local affordable housing.

Maintain affordability. At least 30 percent of all housing developed or redeveloped as a consequence of any transit oriented development should be protected to ensure that it remains permanently affordable to the entry level salary of a child care provider from that community.

Prevent displacement. Structure state and local regulations so that transit oriented development enables anyone who wants to remain in the community to do so.

Encourage community controlled housing. Priority for state funding should be given to jurisdictions that are working to guarantee that at least 20 percent of housing units within one mile of a transit oriented development will be held in community control as a permanently affordable community asset.

Improve environmental quality. Design projects that maximize environmental benefit, reduce automobile trips, measurably improve air quality, and reduce the incidence of health issues related to atmospheric pollution.

Promote environmental justice. Prioritize equitable transit oriented development and improved public transit for environmental justice neighborhoods as designated by the Executive Office of Environmental Affairs' Environmental Justice Policy. (See page 13.)

Achieve full accessibility. Any development that results from transit investment must be completely accessible to riders regardless of age or physical condition.

Boost transit use. Prioritize transit oriented development that increases ridership both for urban and suburban communities that rely heavily on existing public transit and those that have a clear need for greater transit access.

Plan for transit growth. Communities embarking on significant development projects must have fully integrated transit options built into their planning, including improved accessibility for riders with disabilities.

Encourage local economic development. Land uses resulting from redevelopment near transit should encourage local economic development, effective private partnerships with the nonprofit and public sectors, enhance community-serving establishments, and discourage displacement of existing residents and small businesses.

Understand local context. Transit oriented development must take into account regional variations in development patterns and transit modes in different regions of the state.

Step One: Apply equitable development criteria to all transit oriented development

Publicly funded housing, economic development, and transit programs in Massachusetts provide opportunities to create equitable transit oriented development, building on the work of transportation and land use planners to connect better transportation to land use development. The application of equitable TOD criteria to these investments is essential to realize the full potential of transit oriented development. The developments surrounding the transit infrastructure can secure resources from the TOD Bond Program, the CATNHP program, the MassHousing Priority Development Fund, and the Commonwealth Capital Grants program. Other affordable housing resources can be drawn from Community Preservation Act funds, the Low Income Housing Tax Credits, the Massachusetts Housing Trust Fund, HOME funds, Housing Innovation Funds, and New Market Tax Credits.

To ensure more equitable transit oriented development, the state must also use its regulatory and political influence to leverage new resources for transit. The mechanisms for funding transit projects are evolving: in the past, transit investment decisions were made by both the Boston Metropolitan Planning Organization (MPO) and the Massachusetts Bay Transportation Authority (MBTA). Under the Commonwealth's new approach, the MBTA will no longer pay for the capital costs of expansion projects and the Executive Office of Transportation plays a larger role in determining investment priorities. This is an important shift that influences where transit justice advocates will need to focus their future advocacy.

Best Practices

The best system-wide transit oriented development program in the United States has been adopted by the Metropolitan Transportation Commission, which plans transit in the San Francisco Bay Area. MTC's performance is in no small part due to the Transportation and Land Use Coalition, a regional equity coalition similar to Action!, that has successfully advocated for equitable investment in transit oriented development. After a decade of contention over light rail expansion to lower-density suburban communities at the expense of high-ridership bus investment, the MTC adopted new guidelines for rail expansion that prioritized communities with greater rider density and fomented denser development around transit nodes.

The TOD Policy for Regional Transit Expansion Projects, adopted in 2005 by the Metropolitan Transportation Commission, requires that all transit expansion projects meet minimum corridor-level thresholds for housing, either through existing development or through adopted station area plans, in order to receive funding. For example, the threshold for a light rail expansion is a corridor-wide average of 3,300 housing units per station, meaning that to qualify, a light rail expansion involving five new stations would have to demonstrate that it would serve 16,500 existing or committed housing units. To encourage affordable housing, the policy creates a bonus by counting affordable units more heavily (i.e., lowering the threshold for number of units if more of the existing or planned units are affordable).³ This practice acknowledges that increased density alone will not address housing

affordability issues that can be spurred by transit development.

While the MTC is a leader in this arena, a review of TOD guidelines created by large city transit agencies revealed that few include provisions to ensure that public investment will be directed toward equitable TOD. At present, most TOD guidelines established by transit agencies focus only on urban design issues.

Opportunities: Targeting planning and investment that can finance equitable TOD

Massachusetts is a national leader in establishing funds for both affordable housing and transit development innovation. Local government and community organizations can strategically utilize these programs to forge more equitable TOD.

1. TOD Infrastructure and Housing Support Program (TOD Bond Program)

The TOD Bond Program, run by Massachusetts Bay Transit Authority, offers the clearest opportunity to increase and lock in equitable TOD investment. It provides multiyear funding to finance pedestrian improvements, bicycle facilities, housing projects, and parking facilities in mixed-use developments located within one-quarter mile of a transit station. The MBTA awarded four grants in 2006, the program's first year. Three of the grants went to projects with a substantial proportion of affordable housing (Atlas/Janus project in Chelsea, and Ashmont TOD and Dudley Village in Boston). The fourth went to the city of Lynn for badly needed station and streetscape improvements that addressed public safety concerns that were diminishing usage of a potential transit oriented development site in one of the state's designated environmental justice communities.

While the grants were a boost for equitable TOD, the general program criteria do not explicitly include equity principles, except in the affordable housing

requirements. If the project seeks direct support for housing, it must meet affordability criteria (25 percent of units must be affordable to people at 80 percent of median income). These affordability requirements should be enhanced to reflect the reality that in many communities, particularly Boston, tenants are frequently unable to afford housing at 80 percent of the area median income. Experience has shown that new development alone does not protect neighborhoods vulnerable to displacement from rapid housing price increases. Explicit equity goals should be a requirement for all TOD Bond Program applications, not only those for direct housing support. The Office for Commonwealth Development slightly revised program requirements and re-released program constraints in July 2006. The number and scale of awards should be greatly expanded in 2007.

2. Commercial Area Transit Node Housing Program (CATNHP)

Funded through the housing bond bill, CATNHP provides municipalities, nonprofit, and for-profit developers with 30-year deferred payment loans at 0 percent interest to support first-time homebuyers located "in proximity to public transit nodes" and within neighborhood commercial areas. Housing projects of 25 units or more must target 51 percent of assisted units to households at or below 80 percent of median income. This program offers opportunities to renters in areas where new transit investments drive up housing costs, but there is missed opportunity to lower the threshold for affordability of a greater proportion of the funding to 60 or even 30 percent of median.

3. Priority Development Fund

MassHousing, the Commonwealth's quasi-public affordable housing bank, has allocated \$100 million to a Priority Development Fund primarily to "fill the gap" for certain housing development proposals. While \$75 million of this can be used for any development where at least 20 percent of the units are affordable to households at or below 80 percent of median (with priority given to projects that meet

the Sustainable Development Principles), \$22 million has been reserved for mixed-income housing projects near transit nodes (also meeting the 20 percent affordability requirement), and the last \$3 million is being awarded to communities for housing planning assistance. This program was created without any specific appropriation and may or may not be continued when all funds have been allocated.

4. Commonwealth Capital

Created by the Office for Commonwealth Development, this program consolidates tens of millions of dollars in discretionary grant programs for cities and towns. It requires that 30 percent of the eligibility for grant funds be based on a community's Commonwealth Capital score, which measures how it is meeting the Sustainable Development Principles.

OCD Sustainable Development Principles: The Office for Commonwealth Development has adopted ten Sustainable Development Principles to help define smart growth and guide the Commonwealth's regulatory policies and its infrastructure and discretionary capital investment strategies. The guidelines can be found at: <http://www.mass.gov/Eocd/docs/pdfs/sdprinciples.pdf>

The Commonwealth Capital score affects priority for programs including the TOD Bond Program (described above), the affordable housing trust fund, the Executive Office of Transportation's bike and pedestrian program, the Executive Office of Environmental Affairs' urban brownfields assessment program, and other programs relating to equitable TOD.

However, the scoring system used for fiscal years 2005 and 2006 does not adequately weight equity criteria or environmental justice goals. In the last two years, many suburban communities seemingly lacking in commitment to equitable development (Cohasset, Middleborough, Nantucket, and Orange) outsourced projects from recognized environmental justice communities such as Roxbury and Somerville.

Environmental Justice Communities: In 2002, the Executive Office of Environmental Affairs adopted an Environmental Justice Policy focused on "environmental justice populations," which are neighborhoods that are either low-income (meaning the median household income is equal or less than 65 percent of the statewide median) or communities of color (meaning the population is 25 percent or more minority, foreign born, or lacking English language proficiency). Maps of these communities can be found at <http://maps.massgis.state.ma.us/ej/ej.pdf>

5. Commonwealth's 20-Year Transportation Plan

The Commonwealth is expected to release the final version of its 20-year transportation plan soon. The draft version of the plan incorporated a number of equitable concepts, such as linking communities' land use regulation to transportation investment, but it remains to be seen how such principles will apply to funding priorities. There may be opportunities to advance a "development-oriented transit" funding agenda in the implementation steps of the final plan, as well as in the capital planning processes undertaken by the MBTA, the Executive Office of Transportation, and the Boston Metropolitan Planning Organization. However, the plan is advisory, with no regulatory status.

The plan is not expected to establish priorities for projects; it will simply list a half dozen or so worthy projects. Prioritization decisions will fall to the Commonwealth or MPO, using criteria that are likely to be contested. Community groups and local governments can weigh in to strengthen the final equity criteria.

6. Boston MPO's Journey to 2030

The Boston MPO is currently developing its federally-required long-range transportation plan, *Journey to 2030*, with adoption of a new plan scheduled for March 2007. Unlike the state's 20-year plan, this plan directly shapes allocation of all federal and state transportation funds. In the void created by the departure of Office of Commonwealth Development Secretary Foy and the MBTA ceding control of

planning to the Executive Office of Transportation, this long-range plan may set the state's transit investment priorities. Draft evaluation criteria to prioritize projects include general mention of regional equity criterion, and the regional equity component of the planning process includes special outreach and analysis for 17 identified communities of concern, including nine neighborhoods in Boston. Equitable

MPO Communities of Concern: Working with its Environmental Justice Committee, the Boston Metropolitan Planning Organization has identified 17 target neighborhoods based on the density of low-income and minority residents and the proportion of residents unable to speak English and households without a motor vehicle. These are similar but not identical to the "environmental justice populations" targeted by the Executive Office of Environmental Affairs' environmental justice policy.

TOD could be assured by improving the evaluation criteria for projects, changing the funding priorities, or proposing new policies designed to support equitable TOD.

7. Criteria to Prioritize Transit Projects

Several years ago, the Commonwealth

developed criteria to prioritize transportation investments. Projects that receive the highest scores will be at the head of the line for state and federal New Starts funding. By weighting transit investments aimed at helping underserved communities, equitable TOD could be rated more highly than other projects.

The Commonwealth or MPOs will either use the already-adopted project selection criteria or modify the criteria. Proposing changes to the project selection criteria at either the statewide or Boston MPO level can effectively influence more equitable transit investment.

New criteria could model the San Francisco-area Metropolitan Transportation Commission's requirements for new housing in corridors where transit services are planned. Such advocacy—if successful—could ensure that spending on both transit enhancement and transit expansion projects support equitable TOD and that transit spending is linked to development near the planned transit stations.

It is unclear whether the Commonwealth's 20-Year Plan or Boston MPO's Journey to 2030 will take precedence in setting transit funding priorities. Either the Commonwealth will make the funding priority decisions, since the capital funding for these projects will include a substantial state investment (even federal New Starts projects require a 50 percent non-federal match), or it will leave the decision to the Metropolitan Planning Organizations, which traditionally are responsible for prioritizing state and federal transportation spending within their region.

8. MPO Governance Reform

Transportation equity advocates have long been frustrated by the structure of the Boston MPO, which has historically been dominated by representatives of state agencies. Although the MPO has been expanded to include 14

members (with five from state agencies), Action! remains concerned that the MPO does not accurately reflect the needs and concerns of environmental justice communities. In a recent report, researcher Thomas Sanchez looked at MPOs in 50 large metropolitan areas. He found that the Boston MPO has relatively few members to represent the region (0.5 per 100,000 population compared to an average of 1.4), has a 100 percent white membership (in a region that is more than 20 percent of color), and that its structure results in under-representation of urban areas compared to suburban areas.⁴ By weighing in on the composition of decision makers, the criteria that prioritizes funding, and the development options surrounding transit, equitable TOD can become a transformative reality in the state. Given the critical role of the Boston MPO in allocating transportation investment resources, creating a more representative board is a high priority.

New Starts: The New Starts program, administered by the Federal Transit Administration, is the federal government's primary financial resource for paying a portion (usually half) of the capital cost of locally-planned, implemented, and operated transit projects such as subway and light rail, commuter rail and bus rapid transit systems. To qualify for New Starts funding, transit projects must meet specified criteria related to projected ridership, cost-effectiveness, land use, and environmental justice.

9. MBTA Fare Increase

The MBTA has announced plans to raise fares by approximately 25 percent in January 2007. This would be the third fare increase since MBTA adopted the forward funding financial structure six years ago, and the second fare increase in three years.

Action! members involved in the fare increase issue raise two aspects of equitable TOD that could improve the T's financial situation, which is driving the need for a fare increase. Falling ridership is a major reason for the T's operating deficit. Well-designed, equitable TOD would increase ridership. Secondly, the MBTA could maximize long-term revenue from TOD by coordinating better with communities and private developers to leverage the T's extensive real estate holdings to expand equitable TOD. These issues present opportunities to coordinate advocacy for equitable TOD.

Step Two: Build more affordable housing in TOD statewide

Building housing near transit that is affordable to people below the median income can guarantee housing for a range of households in all new development accessible to transit; make transportation available to a range of households in all new development accessible to transit; increase transit ridership, as those at below-market income are generally more transit dependent than higher income households; and spread affordable housing across a region, creating better employment access.

Utilizing zoning overlays, directing housing subsidies, and leveraging incentives and funding presents the best opportunity to develop deeply affordable housing (within the means of people below median income). Either the transit system or local governments can create incentives for deeper affordability, like density bonuses and property tax exemptions.

There is no single regulatory framework that applies to TOD projects on a statewide basis; in Massachusetts, primary control over land use development rests at the local level. State funding programs can incorporate equity requirements, but these will only attach if the developer seeks program funding. Some TOD projects, particularly those involving public land, require review under the Massachusetts Environmental Policy Act, but MEPA review generally does not (and arguably cannot) require consideration of housing affordability.

Best Practices

Affordable housing and equitable development advocates have had limited success making deeply affordable housing a systemic part of TOD projects. They have, however, won significant victories on specific projects. Many cities across the country have adopted either TOD guidelines or TOD zoning ordinances.

When the Austin, Texas, City Council proposed a TOD ordinance to create special zoning in support of planned commuter rail expansion, a coalition organized to ensure that housing affordability would be written into the zoning. The resulting TOD ordinance, adopted in November 2005, requires station area plans that "include a housing affordability analysis and potential strategies for achieving housing goals." At the same meeting, the city council adopted a resolution establishing a goal that 25 percent of new housing in each station area be affordable for rental units at 60 percent of area median income for at least 30 years, and for ownership units at 80 percent of area median income for at least 10 years.

One increasingly utilized approach is to offer incentives to deepen affordability, aided by state enabling laws that authorize municipalities to include such provisions in their zoning. In California, unlike Massachusetts, state enabling laws allow for inclusionary zoning. More than 120 municipalities take advantage of this feature as a strategy to meet the levels of affordability required in their local plans for affordable housing. Additionally, developers can utilize a state density bonus provision that exceeds

local zoning if they provide 25 per cent of the houses at affordable rents/sale prices. Many communities provide density bonuses and other incentives because state law specifically allows municipalities to enact such zoning ordinances. Los Angeles, for example, is currently looking to create a sliding scale density bonus for projects that provide units for either very low income (below 50 percent of median) or low income (50 to 80 percent of median) households. Projects with deeper affordability would also be eligible for other incentives, such as a loosening of minimum parking requirements. Massachusetts' Chapter 40R provides zoning overlays to deepen the density near transit hubs in exchange for the production of affordable housing. While a promising first step, the affordability targets are not deep enough to reach most low-income families.

In Oregon, the city of Portland has taken a different approach, providing a ten-year exemption from city property taxes for the residential portion of TOD projects that meet deeper affordability requirements (for example, 20 percent of units affordable to renters at or below 60 percent of median income) upon a showing that the exemption is necessary to make the project financially feasible. In the first few years of the program, Portland granted tax abatements to seven multifamily housing projects with a total of nearly 1,000 units.

Opportunities

1. Develop TOD Guidelines for the Massachusetts Bay Transportation Authority

Unlike a growing number of transit systems, large and small, the MBTA does not have any written transit oriented development guidelines. Such guidance could be used to shape the Requests for Proposals when the MBTA makes its own land available for TOD projects as well as to decide when the transit authority will support private TOD developments through funding, support for local zoning changes, or other means. Action! could advocate for the MBTA to adopt equitable TOD principles, ensuring that deep housing affordability is a central element of the guidelines.

2. Lobby for Statewide Zoning Enabling Legislation

A variety of efforts are currently underway by both smart growth and affordable housing organizations to change Massachusetts' outdated and problematic zoning enabling act, Chapter 40A. The Office for Commonwealth Development refers to zoning as "the DNA of development." While local communities adopt their own zoning, Chapter 40A controls what local zoning can and cannot do. This fundamental law has not, however, been adjusted to deal with contemporary land use issues and fails to ensure that cities and towns can effectively implement their intended vision for their community. Empowering regional planning groups to link neighborhoods, jobs, housing, and other services across communities could provide a crucial boost to advocates of regional equity and equitable development. Unfortunately, advocates have had to spend more effort focusing on how to stop poor land use decisions rather than on how to promote smart growth, including equitable TOD. Enlightened state enabling legislation could address options such as density bonuses (as in California) or property tax exemptions (as in Oregon) to pair with transit overlays that reach deeper affordability.

3. Pilot Community TOD Guidelines that Prioritize Housing Affordability

Transit advocates could pilot the adoption of either equitable TOD guidelines, including deep affordability, or of TOD zoning districts (leveraging the benefits accorded to communities under Chapters 40R and 40S). Boston, because of the proposed extension of service to the Fairmount Line, or Somerville, because of the planned Green Line extension, would be good places to start. Communities could secure Local Priority Development Fund grants of up to \$50,000 to fund the process.

Chapter 40R/40S: In 2004, the Massachusetts legislature enacted Chapter 40R, often referred to as the "smart growth housing" law, which was designed to substantially increase the Commonwealth's supply of housing, and decrease its cost, by increasing the amount of land zoned for denser housing development. Chapter 40R encourages communities to voluntarily create dense residential or mixed-use zoning districts near transit stations and in city and town centers; in these districts, housing must be allowed "as of right" and 20 percent of the units in each residential project must be affordable to low-income households (at or below 80 percent of area median income). Upon state approval of a local overlay district, the community is eligible for a one-time payment from a Smart Growth Housing Trust Fund and subsequently receives \$3,000 per unit as homes are built in the district. To address lingering concerns in many communities that new housing—especially housing aimed at young families—represents a potential economic strain on municipal budgets, in 2005 the legislature enacted companion legislation known as Chapter 40S. Chapter 40S insures that communities will be reimbursed for any net K-12 education costs associated with children living in homes in Chapter 40R zoning districts.

Step Three: Revitalize neighborhoods without displacing residents and businesses

One of the greatest challenges facing those who care about urban neighborhoods is figuring out how to improve transit and infuse private funds into underinvested communities, while avoiding gentrification that displaces existing residents and locally-based businesses. New investment drives up property values, often even before the project actually begins. Displacement in the Boston area, for example, is a serious concern in neighborhoods slated to receive new transit services (such as those along the Fairmount Line and Green Line extension corridors), but it can also occur around existing transit stations whenever a neighborhood begins to attract new development.

Best Practices

One key anti-displacement strategy is to address the problem before it starts. When a transit line is slated to be built, it is important to begin implementing protections against displacement before land values begin to rise significantly. Displacement can be reduced if land, housing, or businesses in the affected community are owned or controlled by not-for-profit organizations or are strategically developed under affordability covenants. Many of the policy options described in the Action! case statement, *Community Controlled Housing for Massachusetts: Providing Affordability for the Long Term*, should be applied in neighborhoods where displacement is a concern.

No net loss zones are another option. As explained by the Institute for Community Economics, "a no-net-loss policy is a commitment by a city or other . . . entity to having the same amount of affordable

housing at the same levels of affordability in a given neighborhood or larger area in the future as exists in the present."⁵ Portland, Oregon, has tried to implement no net loss policies with mixed success.

Opportunities

Portland No Net Loss Policy: In 2001, as part of its comprehensive housing plan, the city of Portland, Oregon, established a "no net loss" policy for affordable housing in central city neighborhoods. As adopted by the Portland City Council, the policy provides that the central city will retain at least the current number, type, and affordability levels of housing units that are home to people with incomes at or below 60 percent of area median income. Under this policy, the city established a baseline inventory and is using a combination of regulatory and funding strategies to ensure that, through either preservation or replacement, the central city experiences no net loss of affordable housing.

1. Strategically control land and its uses

Land acquisition or preservation by public agencies should be negotiated prior to any transit investment and be subject to the principles of affordability and transit equity described throughout this report.

2. Establish preferences for displaced residents and businesses

If the locality controls the land, developers can be required to give local residents and businesses

preference with respect to planned housing, employment, or commercial opportunities. When housing is involved, such preferences need to be carefully crafted to comply with fair housing laws. Many communities draft targets that involve previous local residency, school attendance, employment in the area, or other priority goals. For businesses, one approach is to require the developer to set aside space at a specified rental price for a specified amount of time for existing enterprises in the neighborhood.

3. Transfer land or buildings to nonprofit organizations

In neighborhoods where there is time to plan ahead (where a transit line is soon to be built), land or buildings can be acquired and placed under community control before values begin to rise. Establishing a community land trust is one means to accomplish the transfer. The nonprofit land trust holds the land and preserves the affordability of housing and other buildings located on it.

4. Implement a "no net loss" strategy

The goal for a neighborhood concerned about displacement can be expressed as "no net loss" of either residents or local businesses. A multifaceted strategy could include intensive efforts to preserve existing affordable housing, efforts to help renters become owners before prices rise, and efforts to support local businesses.

Step Four: Foster community health and environmental justice in TOD statewide

Perhaps the most significant transportation-related variable for improved environmental quality is air pollution, from automobiles as well as the transit service itself. Equitable TOD minimizes air pollution and its associated health consequences such as asthma and other respiratory ailments. In order to redress environmental injustice, equitable TOD must provide better transit access and environmental quality to communities that have historically faced heightened exposure to environmental hazards. Yet few mechanisms exist to ensure that such issues are addressed when transit oriented development is being planned. It would be valuable to create a process to publicly speak to issues of environmental health and justice in connection with proposed TOD projects.

Best Practices

New models are emerging that provide opportunity for introducing environmental health and justice concerns into TOD planning. Most are planning or project agreements (e.g., Metropolitan Planning Organization plans, Massachusetts Environmental Policy Act review, and community benefits agreements). Many measures that can help reduce traffic congestion and air pollution are also associated with development rules that can make housing more affordable. The method most commonly used to reduce vehicle trips is restricting parking. For example, the Los Angeles Citywide Affordable Housing Incentive Program allows affordable housing developments within 1,500 feet of a transit stop to build only one parking space per unit, reducing vehicular emissions and construction costs with a single regulation.

Opportunities

1. Reduce parking

Many TOD projects are denser than might otherwise be allowed by zoning or local land use controls. The biggest environmental health impact associated with population density is increased automobile traffic. To accomplish density reliant on transit or walking, TOD projects can reduce car trips by reducing the amount of parking associated with TOD projects (to one or fewer parking spaces per residential unit). Parking management strategies could be incorporated into state investment criteria (such as the Transit Bond TOD program previously described on page 12), into environmental review under MEPA, or into local land use goals and reviews.

2. Require air pollution impact analysis at the local level

While some TOD projects are subject to MEPA review, many are not. Local communities review TOD projects under local land use regulations such as the Boston Redevelopment Authority's Article 80 review or special permit processes in other communities. Communities concerned about vehicular traffic and air pollution associated with large-scale or dense TOD projects could campaign to get local authorities to require localized air pollution impact analysis as part of the approval process for all proposed projects.

3. Incorporate equitable TOD into local climate plans

The city of Boston and many other Massachusetts communities have local climate action plans. Equitable TOD can be an effective strategy for reducing automobile reliance and therefore emissions of the greenhouse gas, carbon dioxide. Equitable TOD can therefore help to improve environmental quality by making a localized but important contribution to reducing greenhouse gas emissions. Advocates for TOD should partner with those working on local climate action plans to ensure that such plans call for increased equitable TOD in areas around existing and planned transit stations.

4. Raise environmental justice issues with policymakers

Advocates should move environmental justice issues forward at the regional level through the Boston MPO *Journey to 2030* process (discussed more fully in Step Two, above) or at the project level through the MEPA environmental review process (also see the notes on this in the following section).

Step Five: Demonstrate Equitable TOD using successful projects as a model

One of the most promising strategies to demonstrate the benefits of equitable development is to create a model project in greater Boston. Successful projects built according to equitable principles provide strong evidence of the viability of equitable transit oriented development. Both the Center for Urban and Regional Policy at Northeastern University and the Office for Commonwealth Development have collected collecting information on TOD projects in various stages of planning.⁶ These surveys could help transit advocates identify projects to partner with in developing models.

benefits that the developer agrees to provide as part of a development project. Community-based coalitions have successfully negotiated CBAs for TODs, as well as other development projects. In Denver, for example, a coalition recently attached a host of community benefits to the subsidy package for the redevelopment of the Gates Rubber Factory site. The 70-acre brownfields site is being redeveloped into a mixed-use transit community. Recent advocacy success by the Massachusetts Smart Growth Alliance around the Economic Stimulus Act will provide new resources for investment in development opportunities such as these.

Best Practices

In its recent report "Making the Connection: Transit-Oriented Development and Jobs" Good Jobs First identified 25 exemplary TOD projects (none in the Boston area).⁷ They found that three categories of TOD projects were most likely to address the needs of working families:

- 1) Projects initiated by a community development corporation;
- 2) Projects in which a community coalition negotiated for a Community Benefits Agreement; and
- 3) Projects in which an exceptional private developer intentionally designed a project for the benefit of a low-income community.

A Community Benefits Agreement (CBA) is a legally enforceable contract, signed by community groups and by a developer, setting out a range of community

Opportunities

1. Shape a model community development-driven project.

Action! could reach out to the community development corporation (CDC) community and to other community based organizations to identify affordable housing and/or mixed-use projects near transit that are early enough in the planning process to serve as potential model projects. Action! would then work with the CDC development team both to shape the project and advocate for resources needed to make the project happen. One candidate is Jackson Square, which involves two CDCs (along with private developers) designated to develop several parcels of MBTA and city land near the Jackson Square stop on the Orange Line. The project is scheduled to start the city of Boston's Article 80 zoning review process late this year.

2. Integrate equity into a private TOD project through a Community Benefits Agreement

To address private TOD development (in addition to/instead of a CDC-led project) groups can broker a CBA. When a private developer seeks public subsidies for a project, such as tax increment financing (also known as district increment financing), groups may win CBAs by negotiating public benefits such as affordable housing, community services, First Source Agreements, covenants that link residents to employment opportunities through contracts with participating development entities, and other local hiring initiatives as a condition of receiving public investment.

Step Six: Incorporate Equitable TOD in long-range planning

Comprehensive planning for TOD should occur at three levels. First, it must include the entire region or transit system—the Boston Metropolitan Planning Organization or the Massachusetts Bay Transportation Authority, for example. Next, station area planning should focus on both existing and planned transit stations. In most places, the municipality will carry out station area planning in coordination with the transit agency. Finally, planning for specific TOD projects needs to align neighborhood planning and other local policy and zoning requirements with these larger plans. In the city of Boston, unfortunately, most planning occurs only at the project level and significant neighborhood planning is rarely incorporated into zoning or approvals.

Best Practices

Planners and TOD experts agree that the best results come out of three-way collaboration among the transit agency, the city or town government and community residents. Planning should be done for the entire area around a station (rather than just for individual projects). If a new corridor is planned, both corridor planning and station area planning are needed. One way to facilitate good station area planning is to provide communities with the financial resources they need to create station area plans. In Denver, the metropolitan planning organization "flexed" highway dollars from the Congestion Mitigation and Air Quality program and used the funds to make grants to communities to conduct station area planning.

Opportunities

1. Station Area Planning

Massachusetts does not yet employ station area planning, but this could change if the upcoming 20-year transportation plan establishes meaningful corridor planning requirements. In most other states, station area planning is undertaken either under city auspices or through a coordinated effort between the transit system and the affected community. Station area planning can also be done for existing stations where improvements are planned (such as Maverick in East Boston, Fairmount Line stations, and Ashmont). The MBTA has a program called "Taking it to the T," which provides technical and planning assistance to communities who would like to use MBTA-owned land to catalyze TOD. While station area planning is a fundamental element of achieving good TOD, there are real barriers to successful station area planning in Massachusetts: there is no precedent for it in the state, the MBTA lacks meaningful resources to engage in such a process for non-MBTA land, and in many communities such plans will only be relevant if the city or town then enforces them through zoning or permitting.

2. Corridor Planning

Whether or not the final version of the Commonwealth's 20-year transportation plan requires corridor planning, Action! could create a model plan for all or part of a corridor. One possibility would be to reach out to the Fairmount/Indigo Line Community Development Corporation (CDC) collaborative, which

recently produced an excellent collaborative vision for the corridor to implement their plan. This could include rezoning around the stations to make land uses consistent with those called for in the plan. An alternative approach would be to work with the Somerville CDC and others in Somerville and Medford to create a corridor vision for the Green Line extension.

3. Review of TOD Projects Under the Massachusetts Environmental Policy Act (MEPA)

Environmental reviews provide opportunities to introduce equitable TOD into the planning process. Much of the "planning" for TOD and other large-scale development in Massachusetts actually occur after a developer has proposed a specific project at a specific site. Many of the larger TOD projects are already subject to review under the Massachusetts Environmental Policy Act (MEPA), including any projects on land sold or leased by the MBTA. The MEPA process allows interested commentators to raise concerns specific to the proposed project and to set an agenda for similar projects, to promote consistency across projects. The Executive Office of Environmental Affairs has a policy in place addressing additional environmental review requirements for defined environmental justice communities. Also, MEPA reviews of proposed transit projects (such as the Green Line extension) present an opportunity for transit advocates to influence TOD, as MEPA consistently requires review of the land use impacts of proposed transportation investments.

Conclusion: Steps for Action!

The need for equitable TOD has never been greater. As Massachusetts prepares to invest significant resources toward the achievement of transit oriented development, the time is right to add equity to the plan and place it at the heart of effective strategies to address affordable housing, environmental concerns, and sustainable development. If done properly, transit oriented development can build better communities for all Massachusetts residents.

The six steps outlined in this case study provide a road map for achieving equitable TOD. Targeting investment and leveraging existing resources make success possible in the near-term. Deeper affordability and revitalization without displacement build neighborhoods that are diverse, provide benefits that are available to all, and create strong, stable communities. Including environmental health and justice in TOD plans produces a sustainable future. Demonstration projects offer the means to showcase the advantages of communities built on equitable TOD principles. Long-term planning and adequate investment in equitable TOD spread its benefits and enhance its significant positive impact.

The dramatic environmental, economic justice, and transit challenges facing the Commonwealth and the nation require building alliances to produce significant responses. Equitable transit oriented development offers tools for facing those challenges, while simultaneously improving communities and individual lives.

Notes

¹ Center for Neighborhood Technology and Surface Transportation Policy Project, *Driven to Spend: Pumping Dollars Out of Our Households and Communities* (Chicago, IL and Washington, DC, Center for Neighborhood Technology, 2005).

² Center for Transit Oriented Development and Center for Neighborhood Technology, "The Affordability Index: A New Tool for Measuring the True Affordability of a Housing Choice," *Market Innovation Brief*, January 2006.

³ Information on the policy can be found at http://www.mtc.ca.gov/planning/smart_growth/tod/TOD_policy.pdf

⁴ Thomas W. Sanchez, *An Inherent Bias? Geographic and Racial-Ethnic Patterns of Metropolitan Planning Area Boards* (Washington, DC, The Brookings Institution Series on Transportation Reform, 2006).

⁵ Tasha Harmon. *Integrating Social Equity and Growth Management: Linking Community Land Trusts and Smart Growth* (Springfield, MA, Institute for Community Economics, 2003), page 42.

⁶ Urban Land Institute, *On the Right Track: Meeting Greater Boston's Transit and Land Use Challenges* (Boston, MA, Urban Land Institute Boston District Council, 2006), Appendix A. The OCD database of TOD projects can be found online at <http://www.mass.gov/?pageID=ocdtopic&L=3&sid=Eocd&L0=Home&L1=Transportation&L2=Transit-Oriented+Development>

⁷ Sarah Grady. *Making the Connection: Transit-Oriented Development and Jobs* (Washington, DC, Good Jobs First, 2006).



Lifting Up What Works®

Action for Regional Equity

Building the Line to Equity:

Six Steps for Achieving Equitable Transit Oriented Development in Massachusetts

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