

Adding an “e” to TOD

***Best Practices for Incorporating Equity in Transit Oriented Development
A Guide to Creating eTOD for Austin’s Project Connect***

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AUSTIN

Background: Why Austin needs to add an “e” to transit oriented development

Cities around the country are embracing equitable transit-oriented development, or eTOD, along their transit corridors—mixed-use, dense development that serves households with a range of incomes and is inclusive of low-income households. For one, if any transit project is to succeed, it needs ridership—residents taking the transit to work, play, and home, and low-income residents are the highest users of public transit.

Providing low-income households with opportunities to live around public transit stops also reduces transportation costs for those households, while providing improved access to healthcare, education, entertainment, and employment. Combined, housing and transportation expenses account for 57% of the average working family’s budget. Locating affordable housing near transit can reduce the transit share of those costs by 64%, leaving more income available for other critical household needs.¹

Two of the three corridors through which Project Connect is proposed to run already contain transit-dependent populations—that is, low-income households who are dependent on using public transit as their primary means of transportation. Indeed, in 2010, nearly three times as many residents of the Riverside corridor commuted by bus as did other city residents;² residents of the Highland corridor were twice as likely as other city residents to commute by bus.³ To the extent the new transit line will enable these residents to further reduce their transportation costs, Project Connect should be applauded.

¹ Leo Quigley, Enterprise, The National Housing Trust, *Reconnecting America, PRESERVING AFFORDABLE HOUSING NEAR TRANSIT: CASE STUDIES FROM ATLANTA, DENVER, SEATTLE, AND WASHINGTON, D.C.* p. 5 (2010).

² Elizabeth J. Mueller & Sarah Dooling, *Sustainability and vulnerability: integrating equity into plans for central city redevelopment*, JOURNAL OF URBANISM: INTERNATIONAL RESEARCH ON PLACEMAKING AND URBAN SUSTAINABILITY, 4:3, 201-222, at 213 (2011).

³ Elizabeth Mueller, *CREATING INCLUSIVE CORRIDORS: AUSTIN’S AIRPORT BOULEVARD: OVERVIEW*, p. 9 (Spring 2012).

However, the addition of rail along these corridors also poses challenges. Low-income families are often driven out of new transit corridors by redevelopment of existing apartment complexes, by rising rents, and by property tax assessments. Such displacement harms not only the people displaced, but the transit system itself, which loses a population that is a large and reliable source of ridership. Many of the displaced families are then pushed out to areas without public transit, placing additional strains on a region's transportation infrastructure.

Cities have to be proactive if they want to ensure that residents of all income levels are able to enjoy the benefits of new transit projects.⁴ As property values begin to rise along the transit corridors, it is critical that community leaders—governments, transit authorities, CDCs, and developers—put in place plans and policies to preserve existing affordable housing and create new affordable housing options.⁵ Doing so presents a win-win: preserving and increasing affordable housing opportunities along transit corridors can drive up ridership figures, while offering the benefits of new transit—increased access to jobs, schools, and services—to those who need them most.⁶

When cities put affordability at the heart of their transit oriented development, they add an “e” to “TOD.” eTOD, or Equitable Transit Oriented Development, is oriented towards the people most likely to use transit the most: immigrants, people of color, zero-vehicle households, renters, and low and middle income households, by ensuring that existing affordable housing along the corridor is preserved and that new affordable housing opportunities are created to serve these groups.⁷ If Austin's Project Connect, and the development that surrounds the new transit stations are oriented towards these core riders, the resulting transit oriented development should be both high performing and equitable.⁸

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ Stephanie Pollack, “eTOD Score:

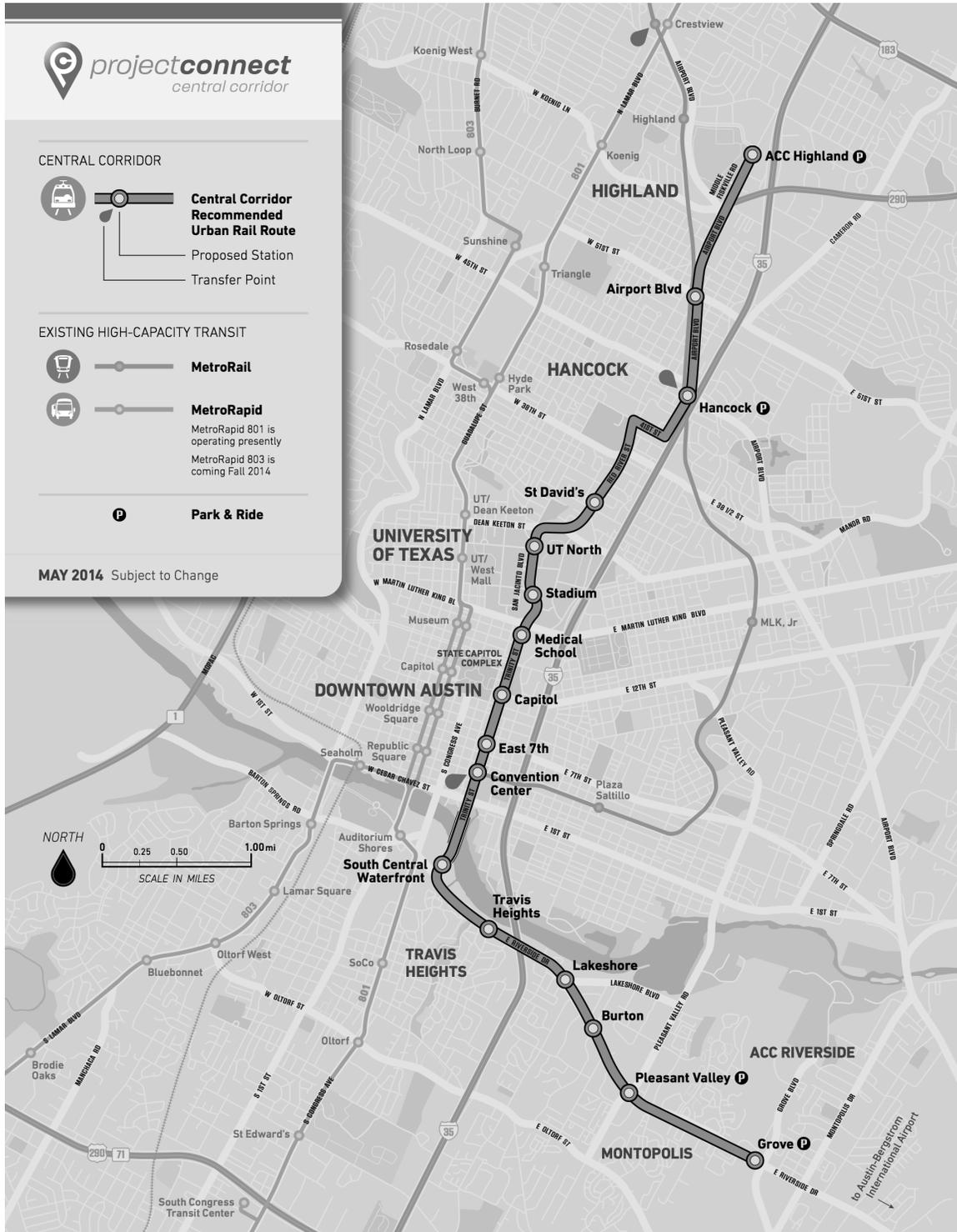
Creating a Performance Rating System for Equitable Transit Oriented Development,” Dukakis Center for Urban and Regional Policy, October 21, 2013 (*available at* <http://www.northeastern.edu/dukakiscenter/wp-content/uploads/2013/10/A-Rating-System-for-Equitable-TOD-RailVolution-2013.pdf>).

⁸ *Id.*

Another key policy rationale for prioritizing eTOD is that approximately half of the funding of Project Connect's proposed rail line will need to come from the Federal Transit Administration's New Starts Grant. The grant places special emphasis on affordable housing policy. Indeed, affordable housing policies account for one-fifth of an applicant's Project Justification Score in the grant.⁹ If Project Connect is to truly succeed, Austin will need to figure out strategies to preserve and increase affordable housing in the Riverside, Core (Downtown), and Highland corridors, the three corridors where Project Connect is proposing to build the new rail line.

⁹ For background on how affordable housing policies impact the New Starts grant process see, HousingWorks Austin, THE NEW STARTS GRANT AND AFFORDABLE HOUSING: A ROADMAP FOR AUSTIN'S PROJECT CONNECT (Spring 2014) (*available at* <http://www.utexas.edu/law/centers/opportunity-forum/wp/wp-content/uploads/centers/opportunity-forum/New-Starts-Report1.pdf>)

Central Corridor Recommended Urban Rail Project



Policies, Management, and Financing

Cities that have succeeded in creating truly equitable transit-oriented development—TOD that has affordable housing concerns at the heart of its mission—have done so through a mix of policies, management structures, and financing schemes. A city’s specific programs vary to match its particular needs and character. Nonetheless, some cities’ programs have been more successful than others.

There are three core best practices that have been used by other cities to create successful equitable transit oriented development: (a) zoning and land use policies that require a percentage of new units to be affordable, often in exchange for density bonuses; (b) a centralized management organization—often a public/private partnership—to coordinate the purchase of land or buildings, the assembly of capital, and the master planning of particular projects; and (c) a steady source of public capital to be used as seed money to influence and leverage larger sources of private capital.

Fairfax County, Virginia, Denver, and Dallas provide excellent examples of how to implement these best practices. Fairfax’s land use and zoning policies have put affordable housing development at the heart of the county’s comprehensive planning efforts. Denver has partnered with private and non-profit entities to create the Urban Land Conservancy, an outstanding model of integrated project coordination. Finally, Dallas, right here in Texas, has shown how Tax Increment Financing Districts, especially those operating on a corridor-wide scale, can provide much needed capital to support affordable housing preservation and creation. An examination of how these tools have been used in these three jurisdictions makes up the bulk of this report.

Fairfax County, Virginia

Like Austin, Fairfax County, Virginia has seen tremendous, transformative growth over the past quarter century. As a result, today, Fairfax has some of the highest housing costs in the nation.¹⁰ Low-income and working class families have been particularly hard hit, with

¹⁰ Fairfax County Department of Planning and Zoning, Policy Plan: The Countywide Policy Element of the The Comprehensive Plan for Fairfax County, Virginia, 2013 Edition, Housing Policy Plan (Amended through 3-4-2014), p. 1 (*available at*

many unable to afford to buy or rent in the county.¹¹ Such high costs of living have hurt employers' ability to attract workers, a situation most notable in the county's service sector.¹²

Facing its challenges head on, Fairfax has put affordable housing at the heart of its comprehensive plan for land use and housing policy. The County's Affordable Dwelling Units policy—a strong inclusionary housing requirement—and creation of a Housing Trust Fund, combined with ambitious comprehensive plans for the Tysons Corner and Reston areas, could serve as a model for Austin. Fairfax County, Virginia is a prime example of how comprehensive planning and strong zoning and incentive policies can combine to promote effective transit-oriented development projects that incorporate affordable housing.

Planning and Zoning

Fairfax has made affordability one of the centerpieces of its land use policy. In its Comprehensive Land Use Policy Plan, the County states that “redevelopment of existing residential neighborhoods should have as objectives increased affordable housing opportunities and positive impacts on the environment, public facilities and transportation systems.”¹³ The County has set out specific policies to accomplish those ends. Among other things, the County will:

- “Ensure that redevelopment of residential neighborhoods for residential uses provides on-site, affordable dwelling units or a contribution to the Fairfax County Housing Trust Fund equal, at a minimum, to the replacement value of all affordable units displaced, as well as meets the provisions of the county's Affordable Dwelling Unit Ordinance or Planning Criteria.”¹⁴

<http://www.fairfaxcounty.gov/dpz/comprehensiveplan/policyplan/housing.pdf>
 (“Housing Plan”)

¹¹ *Id.*

¹² *Id.*

¹³ Fairfax County Department of Planning and Zoning, Policy Plan: The Countywide Policy Element of the The Comprehensive Plan for Fairfax County, Virginia, 2013 Edition, Land Use Policy Plan (Amended through 3-4-2014), p. 7 (*available at* <http://www.fairfaxcounty.gov/dpz/comprehensiveplan/policyplan/landuse.pdf>)

¹⁴ *Id.*

- “Ensure that redevelopment of residential neighborhoods for commercial/ industrial uses provides affordable dwelling units or a contribution to the Fairfax County Housing Trust Fund equal, at a minimum, to the replacement value of all affordable units displaced. In addition, any provisions of a duly adopted program linking employment and affordable housing must be satisfied.”¹⁵

Fairfax has also established robust affordability policies as part of its Comprehensive Housing Policy Plan. Among its objectives, the County intends to “increase the supply of affordable housing units each year by an amount that is equal to at least 12 percent of the total housing production in the County for the previous year.”¹⁶ Among the policies it has identified to support this goal are to:

- Provide bonus densities in exchange for on-site affordable housing units, free land dedicated to the Fairfax County Redevelopment and Housing Authority, or in limited circumstances, cash contributions to the Housing Trust Fund.¹⁷
- Ensure affordable and workforce housing is provided in the county’s Mixed-Use Centers, including Tysons Corner Urban Center, Suburban Centers, Community Business Centers and Transit Station Areas, where the Areas’ Plans envision mixed-use or high-density residential development above the baseline recommendation for development and offer a bonus incentive for the production of Workforce housing. The expectation is that in such areas Affordable Dwelling Units and/or Workforce Housing will constitute a minimum of 12 percent of all residential units in all building construction types.¹⁸
- Capitalize the Housing Trust Fund through private contributions and general revenue, so that it can be used as a mechanism to fund the development of affordable housing.¹⁹
- Give priority for the use of county and other government-owned buildings and land as sites for the provision of affordable housing.²⁰

¹⁵ *Id.*

¹⁶ Housing Plan at 3

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

Two programs have been particularly effective in putting these policies into practice: The Fairfax Affordable Dwelling Units Policy, and the Fairfax County Housing Trust Fund.

Affordable Dwelling Units Program

The Affordable Dwelling Units Program is Fairfax County's form of inclusionary zoning for large residential developments. Out of the 12 percent of residential units that must be affordable in qualifying developments, two-thirds of the units must be affordable to households with incomes up to 70% MFI for the Washington MSA, and one-third must be affordable to households with incomes up to 50% MFI.²¹ Units are to remain affordable for 30 years. As of January 2014, studio, 1-, 2-, and 3-bedroom apartments range from \$1,014 to \$1,449 for households at 65% MFI, and \$780 to \$1,115 for households at 50% MFI.²²

In exchange for developers limiting their rents, the County grants the developers a density bonus, allowing them to build larger or taller structures. The size of the bonus increases with the size of the project—as does the percentage of units that must meet the affordability requirement.²³ However, developers may also comply with the statute—and gain their density bonus—by transferring land or money to the Fairfax County Housing Trust Fund.²⁴

Developers are limited in their ability to convert the restricted rental units to condominiums: sale prices are fixed, and resale is limited within the first 30 days after conversion.²⁵ The tenants of any rental units being converted have the right to purchase their units at the price fixed by the County; the County has a similar right.²⁶

²¹ Fairfax County Department of Housing and Community Development, *Affordable Dwelling Unit Rental Program*, February 2014, p. 1 (available at http://www.fairfaxcounty.gov/rha/adu/adu_brochure02-2014.pdf)

²² *Id.* It is unclear why the higher income cap has been revised to 65% MFI.

²³ See Fairfax County Zoning Ordinance 2-802 (available at <http://www.fairfaxcounty.gov/dpz/zoningordinance/articles/art02.pdf>)

²⁴ *Id.* at 2-804

²⁵ *Id.* at 2-807

²⁶ *Id.*

Fairfax County Housing Trust Fund and the Penny for Affordable Housing Fund

In 1990, Fairfax County established the Housing Trust Fund. The Trust Fund is intended to “encourage and support the acquisition, preservation, development and redevelopment of affordable housing.”²⁷

The Housing Trust Fund provides low-cost debt and equity—through loans, grants, and equity contributions—to public, private, and non-profit developers of projects that include affordable housing.²⁸ The Fund prioritizes projects that ensure long-term affordability, whether by preserving existing housing options or supporting new construction.²⁹ Priority is given to projects that leverage private capital.³⁰

Fairfax can also draw on the Penny for Affordable Housing Fund. Created in 2006, the Penny Fund is actually now misnamed, as the County cut the amount allocated to the fund from one cent of Real Estate Tax Revenues to one-half of one cent.³¹ Nonetheless, the Fund serves as a significant dedicated funding stream for affordable housing in the County, providing over \$18 million in FY 2014.³²

Like the Housing Trust Fund, the Penny Fund is intended to be used to leverage private capital. The fund has been used to preserve 2,470 units as affordable housing in the County. The fund has also been tapped to help build new affordable units.

Case Study: Tysons Redevelopment Plan

Tysons Corner, a portion of Fairfax County, is home to a massive, auto-dependent commercial area that ranks as the nation’s twelfth largest business district .The County has adopted a comprehensive plan to revitalize Tysons into a sustainable, transit-oriented, pedestrian-oriented, and mixed-use development, with 100,000 residents and 200,000

²⁷ FY 2014 Fairfax County Adopted Budget Plan (Vol. 2) - 531

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.* at 523

³² *Id.* at 523, 526

jobs.³³ Expansion of Washington, D.C., Metro’s Silver Line through Fairfax County has brought four new stations to Tysons, providing a focus for the County’s efforts.³⁴

Fairfax recognizes that if its transformation is to succeed, it will need to ensure an ample supply of affordable housing near its new transit options. Even though it already had robust affordable housing policies in place, the County chose to up the ante to ensure Tysons’ success. For example: the Affordable Dwelling Units program requires that 12% of the units in new housing developments be affordable. In Tysons, 20% of the new units must be affordable.³⁵ The plan also recommends that developers of new nonresidential development contribute \$3.00 per square foot to a housing trust fund dedicated to providing affordable housing in Tysons.³⁶

Denver

Fairfax County shows how effective policies can make affordable housing an integral part of a city’s development. But in many cities, policies are not enough to achieve equitable transit oriented development. Often, a lack of alignment among stakeholders can lead to hodge-podge, incomplete, or ineffective projects.³⁷ Numerous parties may be involved in TOD decision making, “but no one organization is truly ‘in charge’ of station area development and financing.”³⁸

Denver experienced this in the middle of the last decade, as it expanded its light rail lines. To remedy the situation, the city partnered with private and non-profit organizations to create the Denver Transit Oriented Development Fund, an excellent example of how having a single coordinating body can improve transit oriented development outcomes.

³³ Fairfax County, *Tysons: Refocus the Transportation Network* (available at <http://www.fairfaxcounty.gov/tysons/transportation/>)

³⁴ *Id.*

³⁵ Fairfax County, *Tysons: Affordable and Workforce Housing* (available at <http://www.fairfaxcounty.gov/tysons/housing/>)

³⁶ *Id.*

³⁷ Dena Belzer and Shelley Poticha, “Understanding Transit-Oriented Development: Lessons Learned 1999-2009” *Fostering Equitable and Sustainable Transit-Oriented Development* p. 10 (2009).

³⁸ *Id.*

Case Study: Jody Apartments

In 2004, Denver voters committed to a sales tax increase to support FasTracks, a network of bus rapid transit and five new light rail lines. The first of these to open, the W Line, crosses Denver's west side.³⁹

The New West Side Economic Development Community Development Corporation ("NEWSED") has been active in the area. NEWSED has worked to preserve the availability of affordable housing near the new transit line by acquiring property before values rose.⁴⁰

One such acquisition, Jody Apartments, contains 62 units in four buildings adjacent to the W Line's Sheridan stop, which opened in 2013. NEWSED purchased the property in 2007, just as the new line was breaking ground. Given its proximity to the transit station, and the lack of any affordability restrictions on the property, the site was ripe for sale and market-rate redevelopment.⁴¹

With the help of The Urban Land Conservancy, a nonprofit supporting organization of the Denver Foundation, NEWSED assembled the financing necessary to preserve Jody Apartments. The package "included a first mortgage of \$1.5 million from Enterprise, a \$750,000 land lease from the Urban Land Conservancy, and \$750,000 from city and state HOME funds. Enterprise provided flexible terms on the first mortgage, allowing a seven-year loan term with partially-deferred interest payments."⁴²

Today, NEWSED operates the property with rents primarily at 40 percent MFI and has made rehabilitation investments to address life and safety issues. NEWSED and Urban Life Conservancy expect to eventually incorporate Jody Apartments and the surrounding property into a high density, mixed-use development with mixed-income housing. The project has been hailed as a major success in Denver.⁴³

The Jody Apartments story underscores the need for creative acquisition financing for affordable housing developers working in markets that, like Austin, have active real estate

³⁹ Quigley at 17.

⁴⁰ Quigley at 20-21 (Note: the remainder of this section comes from this citation)

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

speculation. Early access to acquisition capital—capital that is patient and flexible in its terms—is essential if developers are to secure control of key properties.

Denver Transit Oriented Development Fund

Since the Jody Apartments acquisition, the City of Denver, Enterprise, and the Urban Land Conservancy have jointly created the Denver Transit-Oriented Development Fund to provide seed money for similar projects.⁴⁴ The Denver Transit-Oriented Development Fund is a partnership of public entities (the City and County of Denver), private foundations (the Urban Land Conservancy), and nonprofit organizations (Enterprise Community Partners).⁴⁵

The Urban Land Conservancy has been key to the fund's success. The Conservancy was founded by local business leaders, who wanted to create a flexible entity to secure real estate assets for community benefit.⁴⁶ The Conservancy acts as the TOD Fund's only borrower, managing real estate acquisition, management, and disposition of assets. It frequently acts as a land bank, purchasing and holding sites for up to five years, working with private developers to assemble appropriate capital.⁴⁷

The fund is currently capitalized at \$15 million, but that \$15 million has been used to leverage almost \$200 million from other public, private, and nonprofit partners.⁴⁸ As of April 2013, 8 properties had been acquired, preserving or creating 626 affordable units and 120,000 square feet of commercial space for community assets including a new public library, child care program, theater company, and affordable space for nonprofit organizations.⁴⁹

Case Study: Mile High Vista

The Fund's most essential role is as a regional land bank: by buying properties before new transit arrives, as in the Jody Apartments example, the fund is able to take advantage of

⁴⁴ *Id.* at 21.

⁴⁵ The Urban Land Conservancy, "Denver Transit Oriented Development Fund" (*available* at <http://www.urbanlandc.org/denver-transit-oriented-development-fund/>)

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

lower prices. By banking the land for up to five years, the fund also allows developers time to secure project financing.

Mile High Vista, a mixed-use development, is one of the Fund's success stories.⁵⁰ Located two blocks from the new W Line, Mile High Vista is a new mixed-use development that includes a new Denver Public Library, nonprofit office space, commercial space, childcare, and 70 units of affordable housing. It has also sparked private development: the adjacent strip mall, long underutilized, has recently opened a new Latino grocer—a welcome newcomer to what had been a food desert.

The project would not have happened without the TOD Fund. The site had been considered a development opportunity for years. Indeed, “numerous attempts to acquire the property had been made in the past, but those efforts had failed largely because patient, flexible capital willing to take on a site of this nature was not available.”⁵¹

The Urban Land Conservancy was not so constrained. As master developer and single borrower for the TOD Fund, the Conservancy was able to aggregate several “one-time sources of grant funds to accomplish the site work and remediation, as well as the professional capacity to plan for and implement the project.”⁵² With the Fund as its base, the Conservancy worked with the City of Denver, Colorado Housing and Finance Authority, and the Federal Home Loan Bank to assemble the \$20 million needed for the project. The funds came through a mix of federal and local grants, debt, and equity. The development was placed under contract in 2010; construction began in 2012.⁵³ The library will open later this year.⁵⁴

By using a TOD Fund as seed capital, and choosing one organization to act as sole borrower and master developer, Denver has been able to marshal public, private, and non-profit resources to both preserve and develop affordable housing along public transit lines. Their TOD Fund is an excellent model for Austin.

⁵⁰ Melinda Pollack and Brian Prater, “Filling the Financing Gap for Equitable Transit-Oriented Development: Lessons from Atlanta, Denver, the San Francisco Bay Area and the Twin Cities,” April 2013, pp. 40-41.

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ Denver Public Library, “Rodolfo ‘Corky’ Gonzalez Branch Library” (*available at* <http://denverlibrary.org/rodolfo-corky-gonzales-branch-library>).

Dallas

Cities can have excellent planning, zoning, and land use policies. They can have strong public-private partnerships directing the implementation of those policies. But ultimately, the success or failure of large-scale equitable transit-oriented development requires a steady source of financing. Tax Increment Financing Districts (“TIFs”) are one of the primary ways cities across the country raise that capital to fund TOD and eTOD.

Transit Oriented Development Tax Increment Financing Districts

TIFs allow municipalities to funnel the benefits of a growing economy back into the community. Municipalities designate certain parts of a city as TIF zones, set a baseline level of tax revenue, and issue bonds backed by expected revenue above the baseline. They then use the funds to subsidize redevelopment, infrastructure, or other community improvement projects in a growing corridor. The completion of public projects results in an increase in the value of surrounding real estate, which generates additional tax revenue to repay the bonds. TIF-backed bonds may be used in tandem with private investment, multiplying their effectiveness. In Texas, Chapter 311 of the Tax Code allows for the creation of such zones in order to promote development near transit projects.

Dallas has established several Tax Increment Financing Districts to spur development in the city. Recognizing the importance of transit oriented development to the success of its DART lines, Dallas has created several TIF districts in station areas. Each of these includes some affordability requirements.

One of these TIFs, the “TOD TIF” is particularly well structured for promoting affordability around key stations in central Dallas. The TOD TIF began in 2009, and will be in place for 30 years. The City’s Office of Economic Development administers the program. DART, the Dallas-area transit agency, partners closely with the City on transit oriented development investments.⁵⁵

⁵⁵ City of Dallas, Office of Economic Development, TOD TAX INCREMENT FINANCING DISTRICT: PROJECT PLAN & REINVESTMENT ZONE FINANCING PLAN 14, April 2010, p. 4 (*available at* http://www.dallas-ecodev.org/wp-content/uploads/2012/04/TOD_TIF_plan.pdf) (“Financing Plan”).

When it was established, the City of Dallas projected that “the cumulative incremental property tax revenue potential” of the planned development [would] be approximately \$185,177,697 (net present value) for public improvement projects.”⁵⁶ The city projected that the tax increment from the TOD TIF could be harnessed to support \$2.4 billion in new private investment in the district.⁵⁷

Among other objectives, the TOD TIF was intended to:

- “Provide funding for land acquisition, environmental remediation, and interior/exterior demolition assistance to encourage redevelopment of property within the TOD TIF District;”⁵⁸
- “Develop programs to assist in the retention of families in the corridor that may be displaced as a result of TIF-related renovations to find housing in the area;”⁵⁹ and
- “Encourage development of new residential, retail, office, and research uses to complement the District.”⁶⁰

By 2013, over \$178 million in new investments were complete, underway, or planned, including 1,493 residential units, 158,076 square feet of new and upgraded retail space, and 46,568 square feet of office.⁶¹

Corridor-Wide Strategy

One important feature of Dallas’s TOD TIF is its size. There are four sub-districts within the overall TOD TIF District: Mockingbird/Lovers Lane Station, Cedars West, the Lancaster Corridor, and the Cedar Crest area. Two of those sub-districts—Mockingbird/Lovers Lane Station and Cedars West—encompass areas with greater growth potential. One of the primary goals of the fund was to use funds from these comparatively more wealthy areas to

⁵⁶ *Id.* at 8.

⁵⁷ *Id.* at 16.

⁵⁸ *Id.* at 17.

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ City of Dallas Office of Economic Development, TOD TIF DISTRICT FY 2013 ANNUAL REPORT, p. 13 (*available at* http://www.dallas-ecodev.org/wp-content/uploads/2012/04/TOD_AnnualReport.pdf) (“Dallas TOD Annual Report”).

“jump start redevelopment of the Lancaster Corridor in the City’s southern sector where development has lagged for many years.”⁶²

To that end, the City designated 40% of the increment from the Mockingbird/Lovers Lane Station sub-corridor, and 10% of the increment from the Cedars West sub-corridor, to be transferred to the Lancaster sub-corridor.⁶³ Those funds have been used to back a HUD 108 loan to help fund the Lancaster Urban Village Project, profiled below. By having a large TIF district—thinking in terms of entire transit corridors, rather than stations—Dallas has been able to harness growth in one area to support development in historically less affluent parts of the city.

Dedicated Affordable Housing Fund in the TOD TIF

To better support affordable housing along the transit corridor, the TOD TIF contains a dedicated affordable housing fund. That fund is available to assist projects in all four sub-corridors in meeting the City’s affordability requirements. In addition to the increment already being redistributed from the Mockingbird/Lovers Lane and Cedars West sub-corridors to the Lancaster sub-corridor, another 20% of the increment from the Mockingbird/Lovers Lane Sub-corridor, and 10% of the Cedars West sub-corridor increment goes into the fund. The City anticipated that over the life of the TOD TIF, those transfers will result in \$21 million for the affordable housing fund.

The City’s affordable housing efforts along the corridor were supported with a \$2.225 million planning grant from HUD’s Office of Sustainable Housing and Community Development in 2010 for planning and land acquisition to facilitate development of mixed-income, mixed-use development around three transit stations.⁶⁴

The TOD TIF’s affordable housing policies are laudable, but not perfect. 20% of all housing units built using TOD TIF funds must meet City and County criteria for affordable housing.⁶⁵ But the City and County consider units to be “affordable” when they are

⁶² Financing Plan at 57.

⁶³ *Id.*

⁶⁴ Briefing to Dallas City Council Economic Development Committee by Assistant City Manager, Jan. 18, 2011 (*available at* http://www.dallascityhall.com/committee_briefings/briefings0111/ECO_HudsCommChallengeGrant_011811.pdf).

⁶⁵ Financing Plan at 34

affordable to households making 80% MFI.⁶⁶ At \$37,800 for an individual, that rate is more than three times the 2013 U.S. poverty level of \$11,490.⁶⁷ Cities looking to create their own TOD TIF, like Austin, will need to be more restrictive in their criteria to ensure households of a broad range of incomes can access housing along the transit corridor. One guideline to follow is the FTA's New Starts Grant, which considers housing affordable at 60% MFI.⁶⁸ To target populations of the greatest need, 30% MFI is an appropriate target.

In addition, with City and County approval, a developer may propose an alternative means of meeting the 20% requirement.⁶⁹ Austin should not allow such a major loophole in its own TOD TIF district.

Case Study: Lancaster Urban Village Project

One of the primary beneficiaries of the TOD TIF's funds has been the Lancaster Urban Village Project. A 3.5 acre site adjacent to the VA Medical Center in South Dallas, this mixed-use development includes 193 one-, two-, and three-bedroom apartments and 14,000 square feet of retail and office space.⁷⁰ The project also includes a 50,000 square foot expansion of the Urban League of Greater Dallas & North Texas's facilities, providing space for job training classes.⁷¹ 20% of the units are required to be affordable.⁷²

⁶⁶ *Id.*

⁶⁷ Lauren Neda Partovi, *Creative Financing and Strategies for Mixed-Income Transit Oriented Development in Dallas, Texas* August 2013, 36 (*available at* <http://repositories.lib.utexas.edu/handle/2152/22670>)

⁶⁸ U.S. Department of Transportation, Federal Transit Administration, *NEW AND SMALL STARTS EVALUATION AND RATING PROCESS FINAL POLICY GUIDANCE AUGUST 2013*, 29, (*available at*: http://www.fta.dot.gov/documents/NS-SS_Final_PolicyGuidance_August_2013.pdf)

⁶⁹ Financing Plan at 34

⁷⁰ City Wide Community Development Corporation, "Lancaster Urban Village" (*available at* http://www.citywidecdc.org/index.php?option=com_content&view=article&id=61&Itemid=70) ("Lancaster Urban Village").

⁷¹ *Id.*

⁷² City of Dallas Office of Economic Development, *DALLAS TOD EXPERIENCE AND TOD TIF DISTRICT: PROVIDING UNIQUE PUBLIC FINANCIAL INCENTIVES FOR TRANSIT ORIENTED DEVELOPMENT IN UNDERSERVED AREAS*, Presentation for BetterHouston Tour, July 16, 2010, p. 28 (*available at* http://www.dallas-ecodev.org/wp-content/uploads/2012/04/Dallas-TIF-Overview_TOD-TIF_BetterHouston-Group_7-16-10.pdf) ("Dallas TOD Experience").

The TOD TIF was instrumental in packaging financing for the development. The multi-use facility was estimated to cost \$25.8 million.⁷³ In 2010, the TOD TIF Board and Dallas City Council dedicated \$8.4 million in future TOD TIF revenues to support the project, which was used to secure a HUD Section 108 loan.⁷⁴ TOD TIF staff then “worked extensively” with the City Wide Community Development Corporation and Catalyst Urban Development to coordinate the remaining financing.⁷⁵

Still, projects like Lancaster Urban Village do not happen overnight. Redevelopment of the site began prior to the adoption of the TOD TIF. The City of Dallas partnered with City Wide Community Development Corporation, Catalyst Urban Development, and the Urban League to assemble and master plan 17 parcels starting in 2008.⁷⁶ The project required multiple layers of financing including New Markets Tax Credits and a HUD 221(d)(4) construction loan. Construction was slated to begin in 2010, with a planned opening in 2012.⁷⁷ But difficulty navigating federal grant programs caused delays; construction did not begin until October 2012,⁷⁸ and residential leasing began in 2013.⁷⁹ Despite these setbacks, residential units are now renting.⁸⁰

Lancaster Urban Village demonstrates the value a TOD TIF can provide, both financially and organizationally. Without the TOD TIF’s seed money, it is unlikely that the project would have secured the private, public, and non-profit financial commitments it did. And without the TOD TIF’s guidance and ability to act as a central coordinating body, it is unlikely the project would have effectively navigated the planning potholes it encountered.

⁷³ *Id.* at 28.

⁷⁴ Dallas TOD Annual Report at 4.

⁷⁵ *Id.*

⁷⁶ Dallas TOD Experience at 26.

⁷⁷ *Id.* at 28.

⁷⁸ City of Dallas Department of Economic Development, “Lancaster Corridor,” <http://www.dallas-ecodev.org/redevelopment/neighborhood-initiatives/lancaster-corridor/>.

⁷⁹ Lancaster Urban Village (*available at* http://www.citywidecdc.org/index.php?option=com_content&view=article&id=61&Itemid=70).

⁸⁰ *See*, <http://www.lancasterurbanvillage.com>

Conclusion

Project Connect presents an excellent opportunity for Austin to become a national leader in equitable transit-oriented development. By implementing robust zoning and land use policies, with a transit-oriented development fund acting as a centralized project coordinator and master planner, and with a steady stream of funding, perhaps by the creation of a TOD TIF, Austin can ensure that low-income residents can reap as much of the benefit of Project Connect as their wealthier neighbors. There is no great secret to how equitable transit-oriented development occurs: cities across the country have succeeded in creating eTOD. Now it is Austin's turn.