

# Finding the Right Location, Zoning and Attitude for Transit-Oriented Development

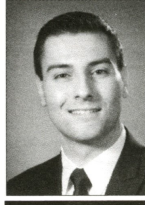
## Location

Transit oriented development (TOD) has become a buzzword throughout Long Island with many communities working to achieve smart-growth, mixed-use communities for the future, while preserving the overall character of their communities. The Transit Oriented Development Institute, a leading national planning organization defines TODs as "compact, walkable, pedestrian-oriented, mixed-use communities centered around high quality train systems."<sup>1</sup>

Home to the busiest commuter rail system in North America, the Long Island Railroad carries more than a quarter million commuters each weekday from more than a hundred railroad stations across Long Island making it an ideal place for TOD growth. Utilizing the existing LIRR infrastructure as a blueprint for areas of growth, many municipalities throughout Nassau and Suffolk have successfully spurred TOD projects with a winning combination of innovative zoning regulations and the key ingredient, a forward thinking attitude.

## Development Friendly Zoning Schemes

The vast majority of municipalities on Long Island have adopted and still subscribe to traditional Euclidian zoning ordinances,<sup>2</sup> whereby communities are divided into multiple zoning districts which permit different uses of land (e.g. residential zones, business zones, industrial zones, recreational zones, etc.).



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Compare Euclidian codes to more progressive form-based codes which are land use regulations that foster predictable build results and focus on physical form rather than a separation of uses.<sup>3</sup> A form-based code incorporates integrative design details focusing on how a community will look and feel as opposed to a focus on the segregation of land uses with strict bulk and area requirements. It can be an effective planning tool for municipalities seeking TOD growth and for implementing a comprehensive plan for its communities by designing a community from the ground up.

The Town of Babylon created and implemented a form-based code for the Wyandanch Rising project,<sup>4</sup> an ambitious mixed-use development centered

around a Long Island railroad station in an economically depressed neighborhood attracting an estimated \$500 million investment in the local community. The Village of Hempstead similarly spearheaded a transformative Downtown Revitalization Initiative<sup>5</sup> anchored by its busy inter-modal transit center and railroad station and partnered with a master developer to implement its own form-based code for the community.

When utilized properly, overlay zones provide a streamlined, pro-development, regulatory approval process that allows a municipality to effectuate

transformative TOD growth. The overlay district's regulations will often incorporate by reference a Master/Comprehensive Plan for development. Developers will take those ideas and design projects tailored to effectuate the community's stated goals. Most importantly, a successful overlay zoning district will provide for an efficient zoning approval process for projects that meet specific criteria.

Under a traditional zoning approval process, a TOD project will typically require multiple approvals from different municipal agencies before it can secure a building permit and place a shovel in the ground. By way of example, a single TOD project's approval process can consist of the following:

- Legislative approval from the Town Board in a Township or the Village Board of Trustees in a Village for a change of zone;
- Variance relief from the Zoning Board of Appeals;
- Site Plan Approval from the Planning Board; and/or
- Review and approval from an Architectural Review Board (or some combination of the foregoing).

A complex and multi-tiered approval process can span years, create confusion in the design process and hamstring an otherwise innovative TOD plan that would benefit the community. An overlay zoning district can set forth regulations that streamline this process and create a "one-stop shop" for zoning approvals from a municipality which would roll all zoning and land use relief into a single approval.<sup>6</sup>

This practice has been utilized suc-

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cessfully to revitalize and transform downtowns in municipalities across Long Island. Specifically, the Village of Mineola implemented a development incentive bonus overlay district in 2007 for its downtown area and has approved a series of TOD projects adding more than 1,000 new apartments near its railroad station. In exchange for incentive zoning bonuses, applicants are required to provide community facilities or amenities such as parks or recreational facilities, streetscape amenities, infrastructure improvements or cash in lieu thereof to be used to benefit Village residents.<sup>7</sup> Other villages like Farmingdale, Patchogue and Great Neck Plaza have similarly zoned their downtown areas to allow for smart TOD growth near their LIRR stations. The influx of residents these projects bring also support local business as neighborhoods become more walkable. These municipalities have become the ushers and vanguards of smart, transit-oriented projects on Long Island and proof that responsible redevelopment of downtowns is achievable.

## Attitude

A key component to successful TOD growth in a community is obtaining buy-in and acceptance from the key stakeholders in the process. One of the biggest stumbling blocks

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to transformative growth on Long Island has been, and continues to be, community opposition. A fear of overdevelopment, negative impact to quality of life and loss of the traditional suburban lifestyle are among the top cited concerns of the community where TOD's are proposed. Local government leaders, community organizations, civic groups and real estate developers need to have an open and sustained dialogue for redevelopment and devise a comprehensive plan that sets forth the community's vision. Hosting community meetings and public hearings on a plan allows key stakeholders in a community to come together and take ownership of a plan. The more participation, interaction and exchanges of information shared by the key stakeholders, the stronger the buy-in of the resulting project.

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1. Definition from website homepage: <http://www.tod.org>
2. Term first used in a landmark United States Supreme Court case *Village of Euclid, Ohio v. Ambler Realty Co.*, 272 U.S. 365 (1926) which bolstered local municipalities power to adopt zoning ordinances.
3. Form Based Code Institute Definition: <https://formbasedcodes.org/definition/>
4. Wyandanch Rising: A Community's Transformation, published April 2016: <https://townofbabylon.com/DocumentCenter/View/2180>
5. Village of Hempstead Downtown Revitalization Program: <https://www.ny.gov/sites/ny.gov/files/atoms/files/DRIHempsteadApplication.pdf>
6. See Town Law §261-b (granting Town Board power and authority to grant zoning incentives and bonuses to the permissible density, area, height, use and others to advance specific physical, cultural and social policies set forth in a comprehensive plan); similar enabling statute for Villages in Village Law §7-703 and in City Law §81-d for Cities.
7. See Mineola Village Code §550-5.1(6)