



*Celebrating over 40 years . . .
Experience, Solutions and Teamwork*

Climate Change and Land Use Conference

**Best Local Planning Practices and Tool Available
For Reducing Sprawl by Developing Walkable
Communities Around Transportation Hub**

Presented by: John C. Cappello, Esq.
Jacobowitz and Gubits, LLP
158 Orange Avenue
P.O. Box 367
Walden, New York 12586
jcc@jacobowitz.com

I. Introduction

Over the course of the last 40 years, the dream of most Americans has been to acquire a plot of land away from the perceived problems and congestion of cities and villages. This exodus has resulted in the suburbanization in the America and an ever increasing dependence on automobiles. Unfortunately, the bill for our automobile dependent society is now due. This summer we will approach \$4.00+ for a gallon of gasoline. We are also faced with the fact that the transportation sector is the greatest source of greenhouse gas emissions.

(Source: Conservation and Development Policies Plan for Connecticut 2005 to 2010 page 45, Office of Policy and Management inter-governmental policy division, State of Connecticut)

These greenhouse gas emissions are having an increasingly indisputable adverse impact on our climate. It is time to rethink our development patterns and bring back more traditional developments, neighborhoods and cohesive communities in order to decrease reliance on the automobile.

This presentation will examine the tools available to promote this more traditional American form of development utilizing the principals of mixed-use and traditional neighborhood design to promote a more environmentally sensitive community.

II. What is a Transportation Hub

A. Major Transportation Hubs

1. Airports – both large commercial airports and smaller regional airports
2. Railroads
3. Major thruway, highway or freeway intersections
4. Light rail and other forms of mass transit
5. Docks, ports, waterways

B. Minor Transportation Hubs

1. Intersections of State and County Roads
2. Regional, local or downtown retail service centers
3. Sidewalks
4. Bicycle trails

III. Benefits of Developing Around Transportation Hubs

- A. Reduces reliance on automobiles thereby reducing dependence on oil, other fossil fuels
- B. Increased density around transportation hub is more efficient use of infrastructure, i.e. central water, sewer services
- C. Fewer roads to maintain

- D. Greater density and wider array of housing opportunities provide a more diverse community and workforce
- E. Greater density around transportation hubs increases the ability of the local municipality to preserve open space in outlying areas

Note: EPA, Sierra Club and Realtors Association all agree on this issue.

IV. Role of Government

A. Federal

1. Sets national policies
 - a. EPA – implementation of Clean Air Act requirement of transportation conformity
2. Funding for transportation
3. Studies, guidelines, technical assistance to local governments on how to implement and enforce land use policies aimed at reducing greenhouse gas emissions
 - a. Examples of Land Use Policies and Strategies from EPA website from a land use report available on U.S. Department of Energy's "Sustainable Development" website at <http://www.sustainable.doc.gov/pdf/arb.report/arb-overview.htm>

B. State

1. Statewide planning
 - a. New York State has created a Smart Growth Cabinet to promote smart growth in the State
 - b. New York State has created Empire Zones to direct and promote development and redevelopment in areas that need and can accommodate such development

2. Fund, maintain and improve state road systems
3. Provide development incentives to encourage development in appropriate areas
4. Provide enabling statutes to clearly implement land use policies and goals
5. Grant and, if necessary, withhold funding to ensure development occurs in an appropriate manner

C. County Government

1. Prepare County and/or Regional land use plans
 - a. Example: Housing needs assessment being prepared by Orange, Dutchess and Ulster counties
2. Review all municipal land use plans, zoning regulations and individual land use applications, New York State General Municipal Law Section 239-m
3. Promote Inter-municipal Cooperation
4. Educate municipal officials
5. Use fiscal and financial means to reward compliance with smart-growth plans and withhold funds from those which do not comply

V. Tools for Local Municipalities in New York State

- A. Comprehensive Planning – Prepare a comprehensive plan that designates transportation hubs and sets development guidelines encouraging development in such areas. Authority: Town Law Section 272-a; Village Law Section 7-722(3)(h); General Cities Law Section 28-a(4)(h)

- B. Adopt appropriate zoning to encourage growth around transportation hubs while setting appropriate standards, guidelines and conditions for such development. Authority: Town Law Section 261; Village Law Section 7-700; General Cities Law Section 20
- C. Pre-approve or set development environmental thresholds for development by utilizing SEQR to prepare generic EIS. Authority: Environmental Conservation Law and Regulations, 6 NYCRR 617.10. Note: Cost for preparing such generic environmental assessment impact statement can be charged back to specific applicants pursuant to 6 NYCRR 617.13(a)
- D. Provide for inter-municipal cooperation to accomplish all of the above tasks in concert with adjoining municipalities along areas that cross municipal boundaries. Authority: Town Law Section 284; Village Law Section 7-741
- E. Promote annexations of land from Towns to Villages and/or Cities to facilitate provisions of necessary services. Authority: General Municipal Law Section 700 et. Seq.
- F. Create appropriate taxing districts within towns to facilitate construction of improvements and infrastructure to accommodate development
 - 1. Water storage and distribution districts, Town Law Section 109-a
 - 2. Sewage Disposal Districts – Town Law Section 190-b
 - 3. Finance road improvements, including provisions of sidewalks, Town Law 200

VI. Other New York State Entities to Work with to Facilitate Development Around Transportation Hubs

- A. Form appropriate entity, such as local development corporation, to actively seek grants and funding to facilitate development in appropriate areas to generate tax ratables and provide jobs.
- B. New York State DOT
- C. New York State Thruway Authority
- D. New York State Department of Environmental Conservation
- E. Metropolitan Transportation Authority
- F. Metro North

VII. Specific Examples, Planning and Project Implementation – Hudson Valley, New York

- A. Orange County Transportation Council
 - 1. Preparation of a unified planning work program
- B. Orange/Dutchess/Ulster County Regional Initiatives
 - 1. Housing needs assessment
 - 2. Implementation of Smart Growth Initiative
- C. Village of Walden, Orange County, Comprehensive Plan MX (Mixed Use) District
 - 1. Walden's Comprehensive Plan calls for the exploration of creating a Metro North stop in Walden and the adopted Zoning Code creates a mixed use zoning district in that area
- D. Stewart Airport Regional Plan
 - 1. Measures proposed to work towards a zero carbon footprint
- E. City of Newburgh Comprehensive Plan including use of ferry to Beacon Train Station
 - 1. Promotes mass transit and development along the Hudson River waterfront

2. Other Jurisdictions

A. Connecticut

1. Policy guidelines to promote development around transportation hubs

B. Gresham, Oregon

1. Created corridor zoning districts around transportation hubs

C. Atlanta, Georgia

1. Created regional planning authority to integrate transportation and air quality concerns

D. Charlotte, North Carolina

1. Adopted long-term transit and land use plan