

## TACTICAL URBANISM V2: DYNAMIC LAND USE REGULATION AND PARTNERSHIP TOOLS REGENERATING FIRST SUBURBS

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### ABSTRACT

*Land use regulation is typically viewed as passive; projects proceed when criteria established under ordinances are satisfied, but are delayed or scuttled when parameters of codes are unmet. Insufficient attention is directed by local governments to the economic ramifications of those events. How should land use regulators perform when their communities are economically deprived – or their employment opportunities have been compromised? The current employment and productivity perils of inner-ring suburbs, those often-dismissed earliest “outskirts” of metropolitan areas, begs the question whether expanding economic opportunities for community citizens should dominate conversations among zoning administrators and their municipal constituents. Too many first suburbs are in decline, their citizens dismayed or angered about their futures. This Article describes how their local land use administrations, partnering with developers and citizens, must refocus on revitalizing inner-ring neighborhoods physically to grow job opportunities, by deploying familiar and novel land use governing and related collaborative strategies. The Article addresses how those controlling planning regimes can catalyze job creation in partnership with the private sector without sacrificing land use’s primary goal to maintain communities as livable and peaceful places. Decision-makers in land use can enhance development quality by adopting and enforcing dynamic development conventions toward a new future for “tactical urbanism.”*

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## INTRODUCTION

City planners, both elected and appointed, regularly neglect first suburbs<sup>1</sup> in early Twenty-First Century America. These enclaves<sup>2</sup>

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1. There are myriad synonyms for "first suburbs" and various definitions to accompany each of them, but for purposes of this Article, I use those *census tracts* located (a) outside places with a population exceeding 100 thousand persons in the 2000 census (central cities), but (b) lying within a county boundary at the time of that census, thus "suburban" instead of urban, exurban, or rural. See Katrin B. Anacker, *Shaky Places? Analyzing Property Values and their Appreciation in Minority First Suburbs*, 36 INT'L J. URB. REGIONAL RES. 791, 796 (2012). Conventional synonyms include "first ring suburb" or "inner suburb." See, e.g., BERNADETTE HANLON, *ONCE THE AMERICAN DREAM: INNER-RING SUBURBS OF THE METROPOLITAN UNITED STATES* 29 (2010). First suburbs are different from other outlying areas because first suburbs are locked between the historical city limits and outer suburbs. This restriction often results in first suburbs having no room for expansion and frequently unmet infrastructure maintenance needs (including employment infrastructure) because reinvestment efforts are slow and the housing stock is substantially older compared to more-removed suburbs. See *id.* at 31-38, 47-49, 110-14.

2. Not all first suburbs are in crisis, to be sure, because certain first suburbs today, such as Highland Park in metropolitan Dallas, remain intentional enclaves of wealth and status characterized by stable residential populations with community centers, gathering places, and housing consistent with the needs and preferences of higher-income residents. See

display the downside of “community development leapfrogging,” including diminished social capital.<sup>3</sup> Governments focus on (1) restoring or creating new commercial opportunities and quality of consumer life in the central business districts, (2) seeking younger affluent professionals in the knowledge economy, and (3) enhancing opportunities for newer fringe suburbs (sometimes characterized as “edge cities” or “secondary cities” such as Columbia, Maryland or Tyson’s Corner, Virginia) that have become major employment centers at the expense of first suburbs. Buildings in first suburbs are dilapidated or outmoded and many are abandoned. Vandalism and crime are rampant,<sup>4</sup> as is unemployment, and, in many cases, poverty.<sup>5</sup> Meanwhile, physical retailing in centrally-located urban centers, where it survives, is dying by degrees.<sup>6</sup> First suburbs were initially victimized by the generation of big box retailers like Wal-Mart

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BERNADETTE HANLON, JOHN RENNIE SHORT & THOMAS J. VICINO, *CITIES AND SUBURBS: NEW METROPOLITAN REALITIES IN THE U.S.* 27–29, 180–86 (2010). Other first suburbs, while declining at some point, were gentrified during urban renewal periods. *See id.* at 8, 65–69, 192–93. Proximity and ease of access to the central business district of the core city (often by public transportation in a planned network of routes) tends to make these locations desirable to those that can afford mortgage payments, insurance premiums and taxes to support often high-end public service amenities. *See id.*

3. See ALAN EHRENHALT, *THE GREAT INVERSION AND THE FUTURE OF THE AMERICAN CITY* 20, 184 (2012), HANLON, *supra* note 1, at 9–10, and HANLON, SHORT & VICINO, *supra* note 2, at 183 for a discussion of how development has occurred at the expense of these aging inner-ring enclaves. *See also* JoAnna L. Mitchell-Brown, *Revitalizing the First-Suburbs: The Importance of the Social Capital-Community Development Link in Suburban Neighborhood Revitalization – A Case Study*, 6 J. COMMUNITY ENGAGEMENT & SCHOLARSHIP (2013), available at <http://jces.ua.edu/revitalizing-the-first-suburbs-the-importance-of-the-social-capital-community-development-link-in-suburban-neighborhood-revitalization-a-case-study/>; ROBERT PUENTES & MYRON ORFIELD, *VALUING AMERICA’S FIRST SUBURBS: A POLICY AGENDA FOR OLDER SUBURBS IN THE MIDWEST* 7 (2002), available at <http://www.brookings.edu/~media/research/files/reports/2002/4/first%20suburbs%20puentes/firstsuburbs.pdf>.

4. *See* EHRENHALT, *supra* note 3, at 119–22.

5. *See* ROBERT PUENTES & DAVID WARREN, *ONE-FIFTH OF AMERICA: A COMPREHENSIVE GUIDE TO AMERICA’S FIRST SUBURBS* 2, 5, 9, 15 (Feb. 2006), available at [http://www.brookings.edu/~media/research/files/reports/2006/2/metropolitanpolicy-puentes/20060215\\_firstsuburbsdata.pdf](http://www.brookings.edu/~media/research/files/reports/2006/2/metropolitanpolicy-puentes/20060215_firstsuburbsdata.pdf). Puentes’s and Warren’s observations have been enhanced by further work by Brookings Institution researchers and partners, indicating a mounting suburban climate of concentrated poverty, summarized in ELIZABETH KNEEBONE & ALAN BERUBE, *CONFRONTING SUBURBAN POVERTY IN AMERICA* 9–10 (2013).

6. The dominance of a player like Amazon.com is well-illustrated by TELSEY ADVISORY GRP., *SPECIAL REPORT: THE FUTURE OF AMAZON.COM* (Sept. 23, 2013), available at [https://www.law.uconn.edu/sites/default/files/in\\_the\\_media/Pomp.Telsey.Amazon.09.23.13.pdf](https://www.law.uconn.edu/sites/default/files/in_the_media/Pomp.Telsey.Amazon.09.23.13.pdf). While no sensible person believes that Amazon’s business model will be disrupted, much less overwhelmed, by product fulfillment centers close to an urban core physical retailer, a first suburb’s opportunity to enhance the CBD retail experience in a manner addressing place-making and public interactivity, while simultaneously creating jobs in the first suburbs, makes the initiative compelling irrespective of market-share capture.

and Costco on community edges, and more recently by domestic online giants such as Amazon.com, Overstock.com, and foreign online retailers Alibaba.com and Jingdong.<sup>7</sup> Retail centers in urban cores, like the first suburbs of metropolitan regions, cannot alone sustain municipal productivity; these centers cannot sustainably impact job creation while the cores lack essential in-migration of self-supporting working populations. Moreover, employment in the service retail sector's physical realm is under attack from armies of technology and automation.<sup>8</sup>

This Article ruminates on reversing these conditions, by restoring physical retail to downtowns and other central business districts<sup>9</sup> without further despoiling first suburbs. Enabling the latter to rebuild neighborhoods and grow employment by repurposing unused buildings as fulfillment centers for retailers in densely populated areas illustrates one tactic for restoring prosperity. Repurposing buildings to serve as major cities' goods-distribution hubs (fulfillment centers), along with implementing job and advancement training institutes, will help first suburbs resume economic growth. This initiative calls for recycling buildings such as abandoned churches, theaters, and schools that are either smack-dab in the middle of residentially-zoned neighborhoods, or in strip centers fringing these residential enclaves, allowing such facilities' operators to incubate

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7. Big box retailers face their own crises today, as current shoppers are not as keen lately on supporting their model. See Paul Ziobro, *Target and Wal-Mart's Problem: Shoppers*, WALL ST. J. (May 16, 2015, 6:00 AM), <http://www.wsj.com/articles/target-wal-mart-to-show-if-turnaround-efforts-are-working-1431770403>. With few incentives to remain loyal to impersonal Web presence, online shoppers gravitate to vendors featuring low-price goods, free or inexpensive shipping, a liberal returns policy, and easy-to-navigate websites. To be sure, brick and mortar merchants are not abandoning the fight to retain customers, but are joining the mega-retailers, creating omni-channel marketing empires including, in the case of the big boxes, developing smaller stores closer to city centers. See *id.* In another example of omni-channel initiatives, Shoprunner.com is an online storefront for established brick-and-mortar retailers seeking access to online customers without making the types of concessions required of Amazon's partner stores. See SHOPRUNNER, [https://www.shoprunner.com/non\\_member/home/](https://www.shoprunner.com/non_member/home/) (last visited Dec. 30, 2015).

8. See Timothy Aepfel, *Jobs and the Clever Robot—Experts Rethink Belief that Tech Lifts Employment as Machines Take On Skills Once Thought Uniquely Human*, WALL ST. J., Feb. 25, 2015, at A1 (explaining that human employment decreases as it becomes easier to substitute machines for human labor such as clerical work); Charles Ellison, *Digital Business and its Discontents*, TEKSAVVY (Oct. 27, 2014), <http://www.teksystems.com/resources/teksavvy-blog/2014/october/digital-business-and-its-discontents> (asserting that smart machine technologies will convert labor-based models to "straight-through" digital processes, requiring IT and other business leaders to face resulting job losses).

9. See Michael N. Widener, *Begone, Euclid! Leasing Custom and Zoning Provision Engaging Retail Consumer Tastes and Technologies in Thriving Urban Centers*, 35 PACE L. REV. 834, 861–86 (2015).

employment opportunity. The remainder of this Article explains why cities should energize their first suburbs this way, and proposes land use and related regulatory tools to effectively achieve that end.

## I. FIRST SUBURBS' ECONOMIC GROWTH DILEMMAS

### *A. Brief History of First Suburbs and Their Current Direction*

Erected adjacent to, and often surrounding, downtown business districts were rich and diverse mosaics of older neighborhoods, largely created by Nineteenth Century immigrants to America who were seeking familiarity and preservation of ethnic traditions, while defusing tensions between social classes caused both by overcrowding and the public health risks posed by nearby industrial plants.<sup>10</sup> These so called "first suburbs" consisted of villages and town sites established just beyond the historical limits of the core city.<sup>11</sup> The latter half of the Twentieth Century was frequently unkind to these older neighborhoods.<sup>12</sup> Trends in consumer tastes, "progress" signaled by newer suburbs affording dwellers garages and private back yards,<sup>13</sup> and municipal policies (or city participation in state or federal initiatives) together resulted in first suburb disinvestment concurrent with hinterlands suburbanization, sapping vitality from many of these original neighborhoods and communities of common culture.<sup>14</sup> For instance, freeways and major arterial street improvements projects, planned and executed ignoring neighborhood or

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10. See HANLON, *supra* note 1, at 1-2.

11. *Id.* at 5, 29-31.

12. See *id.* at 25-27 (pointing out that aging homes in the first suburbs lost value over time).

13. See *id.* at 2.

14. See Thomas J. Vicino, *New Boundaries of Urban Governance: An Analysis of Philadelphia's University City Improvement District*, 3 DREXEL L. REV. 339, 347-48 (2010) [hereinafter Vicino, *New Boundaries*]; Thomas J. Vicino, *The Political History of a Postwar Suburban Society Revisited*, 6 HIST. COMPASS 364, 365-66 (2008). Among those policies were federally guaranteed mortgages, which made purchasing one's home more affordable than renting in the urban core. See HANLON, *supra* note 1, at 3. Another initiative that impacted first suburbs was the construction of the interstate highway system to facilitate long distance driving at high speeds. See Nathaniel Baum-Snow, *Did Highways Cause Suburbanization?* 122 Q. J. ECON. 775, 785 (2007). But see Wendell Cox, Peter Gordon & Christian L. Redfeard, *Highway Penetration of Central Cities: Not a Major Cause of Suburbanization*, 5 ECON. J. WATCH 32, 34, 37 (2008) (discussing how the interstate highway system facilitated suburb-to-suburb commuting, but was not a major causal factor in loss of center city population generally); PUENTES & WARREN, *supra* note 5, at 6 (discussing state and federal policies that serve to address fast growth on the suburban fringe without responding to first suburbs' growth and development needs, as these suburbs have already "sprawled" to their maximum extent).

community impacts, ruptured neighborhoods and ethnic communities.<sup>15</sup> The relentless march of the “upwardly mobile” to more remote suburbs<sup>16</sup> until the recession, capping the first decade of the Twenty-First Century, drained and depleted these increasingly-abandoned communities of stable residents,<sup>17</sup> a process accelerated by the deteriorating conditions in central cities. In some cases, first suburb neighborhoods fell to the wrecking ball of urban renewal projects occurring a decade or two following adjacent core cities’ “renewal.”<sup>18</sup> Meanwhile, prosperity carried citizens ever farther from city centers, lured by the possibilities of larger residences, estate lots, big garages, and greater open spaces.<sup>19</sup>

Industrialization placed close-in suburban villages and towns at the periphery of urban cores under the economic dominance of the central city, rendering them highly dependent upon the fates and fortunes of their core cities neighbors. With growing urbanization and increasing incomes came “housing filtration”; here, families sought to improve the size and quality of their dwellings by progressively moving “upward and outward.”<sup>20</sup> In any case, resulting deterioration of neighborhoods diminished their quality of life, as middle-class family departures from these enclaves distanced the

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15. The Papago Freeway in Phoenix, Arizona, split residential neighborhoods and demolished great amounts of housing stock, including in historic districts. *See, e.g.*, CITY OF PHOENIX PLANNING DEP’T, STORY NEIGHBORHOOD CONSERVATION PLAN 1-2, 9 (1987), [https://www.phoenix.gov/pddsites/Documents/pdd\\_pz\\_pdf\\_00061.pdf](https://www.phoenix.gov/pddsites/Documents/pdd_pz_pdf_00061.pdf) (explaining that much of the housing in the center of the neighborhood was removed or demolished to make way for freeway construction and describing the vacant parcels as weed-infested, subject to illegal dumping, and drag-racing, detracting from the appearance of the area). This is one of a thousand anecdotal tales. *See* Elsa Brenner, *A Visit to the Commuting Far Reaches*, N.Y. TIMES (Sept. 23, 2007), <http://www.nytimes.com/2007/09/23/realestate/23livi.html?pagewanted=print&r=0> (describing how the arterial road ringing Poughkeepsie, N.Y., built in the 1970s “to ease traffic congestion, instead abetted urban deterioration by diverting traffic and shoppers away from downtown to the shopping centers rising in remoter suburbs”) For a more general, but academic treatment of the adverse impacts of urban freeways constructed beginning in the 1950s and 1960s, see MARY EBELING & SATYA RHODES-CONWAY, RETHINKING THE URBAN FREEWAY 1 (Nov. 2013), available at [http://www.ssti.us/wp/wp-content/uploads/2013/12/SURDNA\\_freeway-brief.pdf](http://www.ssti.us/wp/wp-content/uploads/2013/12/SURDNA_freeway-brief.pdf).

16. ANTHONY DOWNS, NEIGHBORHOODS AND URBAN DEVELOPMENT 59 (1981).

17. *See id.* at 63–67.

18. EBELING, *supra* note 15, at 1.

19. BERNARD H. ROSS & MYRON A. LEVINE, URBAN POLITICS: CITIES AND SUBURBS IN A GLOBAL AGE 22 (8th ed. 2012); DAVID BROOKS, BOBOS IN PARADISE: THE NEW UPPER CLASS AND HOW THEY GOT THERE 90–91, 106 (2000) (pointing out ways in which people in the suburbs rely on possessions to assert status or wealth in the community).

20. Frank S. Kristof, *Federal Housing Policies: Subsidized Production, Filtration and Objectives: Part I*, 48 LAND ECON. 309, 317–18 (1972). This filtering produces blight, via substandard residences left behind. *Id.*

tax base to support decaying first suburb infrastructure from local government capacity to fund these public requirements.<sup>21</sup> This gap is rooted in these first suburbs' drop in local income levels<sup>22</sup> and property values,<sup>23</sup> and sometimes in population decreases,<sup>24</sup> all weakening the tax base. As the tax base shrunk, increased service provision costs confronted the suburbs due to increased numbers of their low-income residents.<sup>25</sup> The response of local governments, raising tax rates, coupled with poor-quality services and deteriorating schools,<sup>26</sup> remain "push factors," gradually driving away those remaining higher-income families to remoter suburban areas.<sup>27</sup>

Such economic, social, and spatial conditions, and what they augur for the future of communities these inner enclaves ring, are instrumental. Robert Fishman's survey of U.S. urban scholars in 2000 ranked deteriorating first suburbs as one of the most likely influences on America's metropolitan areas for the future.<sup>28</sup> Since first suburbs are underrepresented at the federal and state levels, they rarely receive needed attention of legislatures and agencies.<sup>29</sup> Local administrations must lead in rescuing failing first suburbs by advancing the causes of economic opportunity and social justice for residents of these undervalued, diverse areas.

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21. See *id.* Part of the reason for this growing gap between upgrading requirements and tax revenue is the growing numbers of suburban poor. See LEIGH GALLAGHER, *THE END OF THE SUBURBS: WHERE THE AMERICAN DREAM IS MOVING* 16–17, 177–79, 202–03 (2013). Furthermore, Alan Ehrenhalt argues that young people of means should resume occupying the first suburbs to the degree downtown housing opportunities become cost-prohibitive and where transit opportunities connect first suburbs with downtowns; but unless these young workers become owners, one doubts they will engage with first suburbs' goals to become employment generators. See EHRENHALT, *supra* note 3, at 124.

22. HANLON, *supra* note 1, at 18–19. Of course, income levels for Americans constituting the middle 60% of the population (by income) have stagnated during the period from 2007 to 2013, rising less than 0.5%, according to the Wall Street Journal. See Ryan Knutson & Theo Francis, *Basic Costs Squeeze Families*, WALL ST. J., Dec. 2, 2014, at A2.

23. See HANLON, *supra* note 1, at 5–6.

24. *Id.* at 55–68, 166–78. The aging of the population in these enclaves also reduces the tax base, especially when single family housing is the fundamental property tax source. Robbie Whelan, *Home is Where the Mall Is*, WALL ST. J., Oct. 14, 2014, at A3 (describing the shift to a "town center" concept in Edina, Minnesota, a first-ring suburb immediately southeast of Minneapolis).

25. HANLON, *supra* note 1, at 21–23.

26. *Id.* at 22, 24–27, 54.

27. *Id.* at 54.

28. Robert Fishman, *The American Metropolis at Century's End: Past and Future Influences*, 11 HOUSING POL'Y DEBATE 199, 211 (2000).

29. See PUENTES & WARREN, *supra* note 5, at 2.

*B. Underutilization of Real Property Assets in First Suburbs*

Strip malls, like their big cousin traditional malls, have failed in staggering proportions in first suburbs.<sup>30</sup> Originally substituting for walkable Main Streets featuring places to pause, visit, and regenerate, the shopping storefront blocks massed along the inner suburban arterial street have waned as freestanding gathering places.<sup>31</sup> A shopping district has little opportunity for success within the current planning vision of live-work-play in one venue,<sup>32</sup> a view supported by sustainability interests and popular outcry against escalating costs of vehicular fuels. To maintain customer attraction, retail development must become part of a larger, thriving (however artificial-feeling) neighborhood.<sup>33</sup> Strip malls are fast-dying,<sup>34</sup> uncompetitive today with denser mixed-use developments (live-work-play areas) in the nearby urban cores. These malls fail to offer fresh air, natural lighting, or any other enlivening element to support their upkeep or repurposing.<sup>35</sup>

Unused churches, schools, and factories share one characteristic with strip malls—separation, by parking fields and other-purposed open areas, from other human activity. Other than a few architecturally significant churches of yesteryear, the brutish functionality and outdated infrastructures of these structures, coupled with their lifeless surroundings, underwhelm the senses. As aging infrastructure refurbishment needs mount in semi-occupied or fully abandoned neighborhoods, financial resources spiral downwards.<sup>36</sup> Taxes must rise to fix streets, parks, and schools and to maintain police presence, trash pickup, and other services.<sup>37</sup> But as taxes rise, middle-class residents move farther from the urban core, taking jobs and skills sets with them.<sup>38</sup> As middle-class residents escape these envi-

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30. See Amy Merrick, *Are Malls Over?*, NEW YORKER (Mar. 11, 2014), <http://www.newyorker.com/business/currency/are-malls-over> (“Within ten to fifteen years, the typical U.S. mall, unless it is completely reinvented, will be a historical anachronism.”).

31. See ELLEN DUNHAM-JONES & JUNE WILLIAMSON, *RETROFITTING SUBURBIA: URBAN DESIGN SOLUTIONS FOR REDESIGNING SUBURBS* 63–66 (2009).

32. See *id.* at 67–70.

33. See GALLAGHER, *supra* note 21, at 180–81.

34. STEPHEN VERDERBER, *SPRAWLING CITIES AND OUR ENDANGERED PUBLIC HEALTH* 6 (2012).

35. See *id.* at 15, 17; Merrick, *supra* note 30.

36. See HANLON, *supra* note 1, at 53–54.

37. See GALLAGHER, *supra* note 21, at 58–59.

38. See Steve Berg, *Policies that Built First-Ring Suburbs in 1950s Now Foster their Decline*, MINNPOST CITYSCAPE (Apr. 1, 2011), <http://www.minnpost.com/cityscape/2011/04/policies-built-first-ring-suburbs-1950s-now-foster-their-decline>; see also *The Geography of Joblessness*,



ronments, businesses and their upwardly-mobile employment opportunities follow. Unmaintained, abandoned parking lots and rental house advertisements appear next, reflecting steadily shrinking tax bases as government budgets shrink to subsistence levels and political influence promotes remoter suburbs competing for regional or state funding with first suburbs.<sup>39</sup> Of equal importance is a growing imbalance of emphases on housing, transit, jobs, and economic development, joined to outdated municipal planning policies, together impeding infill development where critically needed. Many of these anachronistic policies (such as bloated residential street design standards and prohibitions on accessory dwelling units<sup>40</sup>) respond to bygone conditions in first suburbs, leading to unintended and unwelcomed consequences—especially impairment in growth of jobs.<sup>41</sup> Until reliable sources of decent incomes and opportunities for advancement for high school graduates of inner suburbs exist, these enclaves will continue stagnating, keeping away potential employers.

### C. Vanishing Employment Opportunities

Apart from workers with sufficient talent, skills sets, or moxie to become an independent contractor curated through an agency or service-on-demand business like TaskRabbit, Thumbtack, or AirTasker,<sup>42</sup> upward mobility begins by “plugging in” to career-path work environments. For those lacking micro-entrepreneur skills, the entry level job enables learning one’s way to successive promotions

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ECONOMIST, Oct. 25, 2014, at 79, available at <http://www.economist.com/news/finance-and-economics/21627628-difficulty-people-have-getting-jobs-makes-unemployment-unnecessarily> [hereinafter *The Geography of Joblessness*].

39. See Berg, *supra* note 38 (discussing policies from the 1950s that built first-ring suburbs that are now leading to their decline).

40. See GALLAGHER, *supra* note 21, at 156 (discussing home additions of suits, or granny flats, for relatives in single family homes).

41. *Space and the City*, ECONOMIST, Apr. 4, 2015, available at <http://www.economist.com/news/leaders/21647614-poor-land-use-worlds-greatest-cities-carries-huge-cost-space-and-city> (discussing that, when local land-use rules tend to be stricter, some districts receive fewer benefits like jobs and taxes than they do negative impacts); Raven E. Saks, *Job Creation and Housing Construction: Constraints on Metropolitan Area Employment Growth*, 21–22 (2005), available at <http://www.federalreserve.gov/pubs/feds/2005/200549/200549pap.pdf> (explaining how housing supply constraints caused by the residential land use restrictions negatively alter local employment and wage dynamics).

42. See Jason Lim, *Australia’s AirTasker Looks to Adopt Disgruntled Rabbits from TaskRabbit*, FORBES ASIA BLOG (Aug. 12, 2014, 9:09 AM), <http://www.forbes.com/sites/jlim/2014/08/12/airtasker-looks-to-adopt-disgruntled-rabbits-from-taskrabbit/> (discussing online marketplaces for independent contractors).

while building capacity for increased personal responsibility and oversight functions. Entry level jobs appear on the lower rungs of two ladders—the high school (primarily blue collar or repetitive-function work) ladder and the professional (or white collar) ladder, for workers in the knowledge economy.<sup>43</sup> Bottom-rung jobs on either ladder are increasingly scarce,<sup>44</sup> and in the case of the white collar ladder, more often are concentrated in central business districts (“CBDs”) or edge cities beyond the first suburbs’ realm. In any case, the widespread trend toward occupational licensing erects barriers to entry for occupations that traditionally required little training for new workers, thereby necessitating more on-the-job training for new hires in the workplace.<sup>45</sup>

First suburbs typically have underfunded school districts and higher secondary and postsecondary dropout rates; their populations accordingly suffer higher unemployment rates.<sup>46</sup> Without a stable job base and with constricted workplace fluidity for the young and least educated,<sup>47</sup> inner ring enclaves cannot lure investment in their revivals, and residents lack attachments to or roots

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43. See, e.g., Lauren Weber & Melissa Korn, *Where Did All the Entry-Level Jobs Go?*, WALL ST. J., Aug. 6, 2014, at B6 (explaining that entry level positions now have “thinking roles,” which eschew performance by task checklists).

44. See, e.g., *id.* (explaining that employers are raising experience requirements for traditionally regarded entry-level work, and are reducing training budgets, mandating prior internship or other experience in the workforce for increased hireability). Meanwhile, internship opportunities are stagnant. See Douglas Belkin, *Numbers of Students Taking Internships Rises Only Slightly*, WALL ST. J. (Nov. 13, 2014, 12:01 AM), <http://www.wsj.com/articles/numbers-of-students-taking-internships-rises-only-slightly-1415854867> (discussing recent survey showing only slight increase in students completing internships).

45. *Fluid Dynamics: America’s Famously Flexible Labour Market is Becoming Less So*, ECONOMIST, Aug. 30, 2014, at 3. Moreover, “middle-skilled jobs,” which require more than high school but less than college educations could constitute half of future U.S. jobs. Tamar Jacoby, *This Way Up: Mobility in America*, WALL ST. J. (July 19, 2014, 5:34 PM), <http://www.wsj.com/articles/this-way-up-mobility-in-america-1405710779>. But the first requirement of upward job mobility is an entry-level opportunity, which increasingly requires training directed to specific job placement. *Id.* Middle-skilled job training, in turn, requires industry partners to devote resources to attract a permanent workforce through training programs. *Id.*

46. The Labor Department reports that high school dropouts have higher unemployment rates compared to graduates, while high school “diplomats” with no further education credentials have a higher unemployment rate when compared to the overall national unemployment rate. See, e.g., U.S. Dep’t of Labor, *Economic News Release*, BUREAU OF LABOR STATISTICS, <http://www.bls.gov/news.release/empsit.t04.htm> (last updated Oct. 2015). These numbers move monthly with updated reporting by the Bureau of Labor Statistics (“BLS”); the standard chart appears on the BLS’s website. *Id.*

47. See Steven J. Davis & John Haltiwanger, *Labor Market Fluidity and Economic Performance* 18, 22, 29, 33 (Nat’l Bureau of Econ. Research, Working Paper No. 20479, 2014), available at [https://www.richmondfed.org/-/media/richmondfedorg/conferences\\_and\\_events/research/2014/pdf/labor\\_markets\\_conf\\_2014\\_haltiwanger\\_paper.pdf](https://www.richmondfed.org/-/media/richmondfedorg/conferences_and_events/research/2014/pdf/labor_markets_conf_2014_haltiwanger_paper.pdf).

within the community.<sup>48</sup> Ultimately, it enters a vortex of negative reciprocity, where scant private economic development is matched by minimal public investment in enclave infrastructure. The public realm's lack of ambition for such a first suburb impairs potential private investment.<sup>49</sup> Accordingly, these suburbs cannot spur interest in transit opportunities, new public amenities, or retrofitting development to attract a critical mass of persons having personal attachments to form new communities.<sup>50</sup> The following section describes an environment in densely populated centers affording city planners a means to disrupt this inner suburb downward spiral.

## II. CENTER-CITY BUSINESS DISTRICT RETAILING DILEMMAS

### A. Shopper Flight from Physical Retailers

Investing in fulfillment centers near city cores presents the first suburb with remarkable employment, training, and jobs-growth opportunities.<sup>51</sup> Several factors contribute to the utility of such initiatives. Consider “shopper flight” from physical retail units in urban cores, a seemingly irreversible trend.<sup>52</sup> Other than during the month of April, 2014, shopper visits to brick and mortar stores have fallen

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48. See EHRENHALT, *supra* note 3, at 145–46 (discussing attachments in Philadelphia communities that have dwindled with the increase in landlords and abandoned homes—the “60/40” problem).

49. See *id.* at 154.

50. See *id.* at 216 (explaining that suburbs need to increase the density of retrofits).

51. See Sheila Vertino, *The Distribution/Fulfillment Center of the Future*, DEV. MAG. SPECIAL INSERT, Winter 2013, at 3 (discussing how to decrease the length of time in getting goods to consumers); see also *The Distribution/Fulfillment Center of the Future*, NAIOP (Oct., 2013), <http://www.naiop.org/en/E-Library/Development/The-Distribution-Fulfillment-Center-of-the-Future-Development-2013.aspx> (providing presentations of concepts for fulfillment centers by the NAIOP's Building of the Future Design Competition winners at the annual development conference). The three consistent characteristics of fulfillment centers will be that they are closer to CBDs and other population centers, they are green, and they are agile, with the last concept meaning they are convertible to other uses. *Id.* at 3–4. The need for proximity is evident in competition with omni-channel marketers and Amazon; however, higher land costs to locate these centers in urbanized centers mandate smaller footprints. *Id.* at 4. A particular demand for such centers' locations will be sites near rail spurs. See Mark B. Solomon, “Siding” Up to Intermodal, DC VELOCITY (Jan. 6, 2014), <http://www.dcvelocity.com/articles/20140106-siding-up-to-intermodal/> (explaining that Home Depot now positions its distribution facilities near rail spurs).

52. See Niraj Shah, *The Changing American Shopper: A New Rule for Shopping: Painlessness*, WALL ST. J., Nov. 25, 2014, at B4 (stating that millennials are 2.5 times more likely than baby boomers to shop online; people looking to be inspired by purchases are browsing websites and social media).

by 5% or more each month, for the past two years.<sup>53</sup> Meanwhile, online sales now constitute more than 6% of all American retail sales; these Internet sales have grown by more than 15% every calendar quarter for those same two previous years.<sup>54</sup> Major retailers are reducing the size and number of new store openings.<sup>55</sup> Another retailing reality is the mash-up of online and physical store functions, where shoppers are encouraged to purchase online but receive their goods at a nearby outlet.<sup>56</sup> New materials handling practices will help ensure that physical retailers are meeting the next-day delivery models of rival Internet retailers, while allowing sustainable practices to adapt to changing market places.<sup>57</sup> The preferred solution is to concentrate metropolitan distribution closer to urban centers; this “focused distribution” model moves product storage ever-closer to consumer delivery points.<sup>58</sup>

Several causes underlie customers avoiding physical retailers in urban centers. First, parking impediments to shopping in most downtowns and similar urban cores feature stalls that are inconveniently located, unattractively priced, or difficult to access compared to ordering goods online or shopping at the peripherally-located mall with abundant free parking near storefront entrances. Curbside parking in central business districts remains scarce or heavily tariffed.<sup>59</sup> Second, compared to the catalog of goods available online or

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53. Shelly Banjo & Paul Ziobro, *Shoppers Flee Physical Stores*, WALL ST. J., Aug. 6, 2014, at B1 (discussing shopper visit data collected by Shopper Trak from 40,000 retail stores). Shopper Trak records retail store visits using devices that track shopper movement at thousands of U.S. outlets, including within more than 350 enclosed malls. See Elaine Misonzhnik, *In Choosing Sites, Retailers Want Traffic Counts, But Landlords Don't Deliver*, NAT'L REAL EST. INVESTOR (July 28, 2010), <http://nreionline.com/news/choosing-sites-retailers-want-traffic-counts-landlords-don-t-deliver>; see also John Browne, *Alibaba Highlights Challenge*, TRIBLIVE (Nov. 15, 2014, 9:00 PM), <http://triblive.com/business/brownebusiness/7128177-74/online-stores-alibaba#axzz3vpe2PytU> (“According to Shopper Trak, retail foot traffic for the November-December peak shopping season was almost halved from 34 billion visits in 2010 to 17.6 billion in 2013.”).

54. Banjo & Ziobro, *supra* note 53, at B1. Internet sales may ultimately represent one-third or more of all retail sales. Shah, *supra* note 52, at B4.

55. Shah, *supra* note 52, at B4.

56. See *id.*; see also Douglas MacMillan, *Warby Parker Adds Storefront to Its Sales Strategy*, WALL ST. J. (Nov. 17, 2014, 3:13 PM), <http://www.wsj.com/articles/warby-parker-adds-storefronts-to-its-sales-strategy-1416251866>.

57. Vertino, *supra* note 51, at 4.

58. *Id.* at 3.

59. See Dustin Gardiner, *Phoenix Hikes Downtown Parking-Meter Rates*, ARIZ. REPUBLIC (June 19, 2014), <http://www.azcentral.com/story/news/local/phoenix/2014/06/19/phoenix-leaders-increase-downtown-parking-meter-rates/10832401/> (noting that four-dollar-per-hour, seven-day parking rates are intended to increase parking turnover and reduce traffic by encouraging

in large-box retail mall locations, the typical retailer in a CBD cannot accommodate the volume of goods available at their online or mall-occupant competitors' "places of business," despite mall tenants increasingly downsizing store footprints.<sup>60</sup> Third, for consumers living in newer (outer) suburbs, their distance from CBDs is off-putting due to commuting time and vehicle fuel cost.<sup>61</sup> Add to these factors the twenty-four-hour availability of online shopping and the shedding of in-store child supervision that internet retailing affords, and the result is massive avoidance of brick and mortar urban stores.<sup>62</sup>

### *B. Design for a New Physical-Retailing Reality*

Physical store retailers that are brave enough to operate in urban cores<sup>63</sup> obsessively re-evaluate their needs for sales and storage areas, often reducing inventory rooms to a quarter or a third of the floor area previously committed to such functions.<sup>64</sup> In addition to the high cost of space in crowded CBDs, stores increasingly focus on in-person shopping experiences.<sup>65</sup> Lately, this commitment causes stores to resemble showrooms or to otherwise promote interactivity; engaging customer spaces and eliminating tables, racks, and shelves of goods when prudent.<sup>66</sup> The result of reducing merchandise dis-

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more people to ride mass transit, bike, or walk—perhaps not the best situation for retailing if larger volumes of sales are desired).

60. See Randall Shearin & Jaime Lackey, *Designing for a New Retail Reality*, SHOPPING CENTER BUS., July 2013, at 32, 36, available at [http://www.coopercarry.com/wp-content/uploads/2013/07/retail-architecture\\_scb.pdf](http://www.coopercarry.com/wp-content/uploads/2013/07/retail-architecture_scb.pdf).

61. See Shah, *supra* note 52, at B4 (driving miles to a big-box store is neither fun nor fast).

62. See Widener, *supra* note 9, at 838–44.

63. See EHRENHALT, *supra* note 3, at 192 (opining that "retailers are pioneers," even in re-surgent downtowns (quoting Interview with Michael Smith, President, City Center Partners, in Charlotte, N.C. (Apr. 2008)). *But see* Arian Campo-Flores & Robbie Whelan, *Miami Signals Urban Shift*, WALL ST. J., Oct. 29, 2014, at C10 (asserting that luxury brands covet center-city high-street marketplaces with "urban storefronts"; mall owner General Growth Properties Inc. contemplates substantially increasing percentage of company's assets in urban property). A gradual shift toward urban retailing from traditional mall owners signals that fulfillment center development in first suburbs will be sustainable.

64. Shearin & Lackey, *supra* note 60, at 36; see also Suzanne Kapner, *Forever 21's Cavernous Stores Pose Challenge*, WALL ST. J., Nov. 20, 2014, at B1 (discussing Forever 21's attempts to capture greater market share by buying other retailers' leases and pushing into giant stores while many other retailers are scaling back, and noting that the strategy has been ineffective since Forever 21 could sell the same volume with stores that are half as large).

65. See Rajeev Sharma, *Stores Won't Go Away, but They Must Change*, WALL ST. J., Nov. 25, 2014, at B4 ("Successful retailers also are investing in creating a better customer experience so that the visit is more distinct and memorable.").

66. See Shearin & Lackey, *supra* note 60, at 37–39; Kaitlin Ugolik, *3 Ways the Retail RE Game is Changing*, L. 360 (Aug. 1, 2014, 5:23 PM), <https://www.law360.com/articles/563282/>.

plays is fewer copies of goods available in-store,<sup>67</sup> increasing chances that retailers will run out of product (in the demanded size, color, or style), and paradoxically diminishing the customer's experience—unless, of course, the store assures customers that their items will be rapidly delivered to their residences or workplaces, or can be picked up by the customer at a mutually convenient site. This last strategy—availability assurance—mandates increased numbers of fulfillment centers close-at-hand, using urban infill warehouse sites where possible.<sup>68</sup> The closer fulfillment locations are to urban retail outlets, the more frequently deliveries can be received by store-opening hours. When fulfillment centers exist nearby, stores can eliminate loading docks and platforms, and use smaller delivery vehicles that access retailers' front or side doors, freeing up space for enhancing a customer's experience. First suburbs possess vital assets for fulfillment of goods and delivery promises for CBD retailers. Using appropriate planning and collaboration processes, mini-distribution hubs may be staged quickly for temporary fulfillment or strategically planned as longer-term joint distribution and education facilities.

### III. REPURPOSING FIRST SUBURB BUILDINGS

Local governments have few viable alternatives for the future of first suburbs' outmoded buildings that currently lack occupants and are often not used for their original functions. Crumbling infrastructure—along with the increasing inventory of unused private buildings, churches, and schools—dismays first suburb residents, who are witnessing their neighborhoods' vanishing economic opportuni-

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67. But see Tim Garcia, *Everything You Know About Supply Chain Management is About to Change*, APPTRICITY BLOG (May 8, 2014, 6:15 AM), <http://blog.aptricity.com/2014/05/everything-you-know-about-supply-chain-management-is-about-to-change/> (finding that some stores' interiors will be devoted to "fulfillment" purposes, as stores are viewed "as both a destination and a source of inventory"). However, this merely describes these stores' intention to allow goods pick-up by consumers who have ordered product online or by telephone—one doubts whether urban core physical retailers intend to devote considerable square footage to "customer pick-up" in stores with high per square footage rental rates. This appears more like "omni-channel retailer marketing" trendiness, not a sustainable logistics strategy, unless rents spiral downward for commercial space in CBDs.

68. See Lew Sichelman, *The "New" Industrial: E-commerce Fulfillment Centers*, URB. LAND, Nov. 11, 2013, available at <http://urbanland.uli.org/news/the-new-industrial-e-commerce-fulfillment-centers/> ("[K]ey elements of site selection when it comes to such facilities are their proximity to major markets, inexpensive land, adjacency to FedEx and United Parcel Service hubs[,] and 'reasonable proximity' to Interstate highways . . . [And] to an ample supply of seasonal or 'surge' labor . . .").

ties. Strategies local governments can implement for first suburb buildings include the following:

*Mothballing*<sup>69</sup>: the owners of the structure can choose to maintain, but not use the building, awaiting a future use or its ultimate sale or lease. No tax base increase for the first suburb, and no increase in sustainability, results from this strategy.

*Dereliction*<sup>70</sup>: if a structure is not maintained, it suffers ravages of time, vandalism, and decay, becoming a derelict eyesore in the community where it stands. Crumbling, deteriorating buildings are haunting reminders of former prosperity and currently undesirable economic, demographic, and social changes in communities. These structures “drag” on the enclave’s residents’ optimism and ambitions to improve their neighborhoods. This alternative is not sustainable; neglected tracts gather weeds, junk, and attract graffiti that must be frequently managed or disposed until the structure is demolished and the scrap is carried to the landfill. Manpower and non-renewable resources are repeatedly marshalled to address these recurring problems.

*Destruction*<sup>71</sup>: many structures without functionalities are eventually demolished to clear land for other uses or to save *ad valorem* taxes; these landmarks and their heritage and cultural identity are lost through dereliction, and later destruction, usually when the land on which the structure stands and its location invites development opportunities. The land may have greater market value without a structure in place, since demolition costs will not be passed on and visualizing future opportunity is enhanced. Demolition is a preferred alternative when tax savings loom based on the new “unimproved” status of the parcel. No net gain in sustainability results from this alternative; a vacant lot attracts most of the same vandalism and waste issues as a derelict tract.

*Adaptation*<sup>72</sup>: restoration launches a variety of potential economic development strategies that feature adaptive reuse construction, though adaptation in stagnant neighborhoods can be quite controversial. Often, the local community values a structure not because of its original function or current opportunities, but as a significant landmark and symbol of community values. Surrounding dwellers

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69. See JAMES DOUGLAS, *BUILDING ADAPTATION* 36 (2d ed. 2006).

70. See David T. Kraut, *Hanging Out the No Vacancy Sign: Eliminating the Blight of Vacant Buildings from Urban Areas*, 74 N.Y.U. L. REV. 1139, 1142–43 (1999).

71. *Id.* at 1170.

72. See generally DOUGLAS, *supra* note 69, at 1, 13–17.

and business operators become key stakeholders in an adaptation process, due to their voices in the decision-making process<sup>73</sup> or (if marginalized by the deciders) community activism and confrontation. Commentary is almost universally directed to advocacy for adaptive reuses that address community needs, visions, and goals, including reinvestment in existing infrastructure and economic stimulus for dwindling neighborhoods.

For a first-ring suburb mired by stagnant job growth, local administrators must enact an economically feasible alternative, while considering how that alternative will affect neighborhood sustainability and historic assets preservation.<sup>74</sup> Sustainability has several dimensions, and among those not quickly grasped, is that older-aged spaces offer affordable space for entrepreneurs and minority-owned businesses, and attract creative firms and industries that provide knowledge-economy jobs.<sup>75</sup> Intuitively, rent is more modest at ordinary older buildings than newly-constructed architectural masterpieces.<sup>76</sup> The small entrepreneur has a better chance for survival if he or she devotes expenses to branding, marketing, and employing innovative talent, rather than making substantial monthly rent installments.<sup>77</sup> Measured by affordability, historic former church<sup>78</sup> and

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73. See *infra* Part IV.C.

74. See, e.g., Devin Clark, *Establishing a Framework for Inner-Ring Suburb Sustainability in Winnipeg* (Dec. 17, 2012) (unpublished master's thesis, University of Manitoba) (on file with Manitoba Heritage Theses, University of Manitoba), available at <http://mspace.lib.umanitoba.ca/handle/1993/13693> (click on .pdf) (discussing the targeting of first suburbs through the lens of sustainable development, which is, according to the Brundtland Commission, development that meets the needs of the present human generation without compromising future generations' needs-fulfillment).

75. See, e.g., Michael Kimmelman, *Urban Renewal, No Bulldozer: San Francisco Repurposes Old for the Future*, N.Y. TIMES (May 29, 2014), [http://www.nytimes.com/2014/06/01/arts/design/san-francisco-repurposes-the-old-for-the-future.html?\\_r=0](http://www.nytimes.com/2014/06/01/arts/design/san-francisco-repurposes-the-old-for-the-future.html?_r=0); *Urban Outfitters Corporate Campus/Meyer, Scherer & Rockcastle*, ARCHDAILY BLOG (Dec. 1, 2010), <http://www.archdaily.com/92989/urban-outfitters-corporate-campus-meyer-scherer-rockcastle> (showing Philadelphia Navy Yard's four historic buildings (built 1880-1939) transformed from public, production-based manufacturing facilities to private, creativity based facilities).

76. Julia Rocchi, *Older, Smaller, Better: New Findings from Preservation Green Lab*, HUFF POST GREEN BLOG (May 22, 2014, 5:07 PM), [http://www.huffingtonpost.com/national-trust-for-historic-preservation/older-smaller-better-new\\_b\\_5375390.html](http://www.huffingtonpost.com/national-trust-for-historic-preservation/older-smaller-better-new_b_5375390.html).

77. See, e.g., Hanna Seligson, *No Jobs? Young Graduates Make Their Own*, N.Y. TIMES (Dec. 11, 2010), [http://www.nytimes.com/2010/12/12/business/12yec.html?\\_r=0](http://www.nytimes.com/2010/12/12/business/12yec.html?_r=0) (noting that high rent is a significant cost barrier to entrepreneurial success); Erol Taymaz, et al., *Transferring the Risk of Failure, Entrepreneurship and Firm Dynamics in Turkish Manufacturing*, in *ENTREPRENEURSHIP, GROWTH AND INNOVATION: THE DYNAMICS OF FIRMS AND INDUSTRIES* 252, 254 (Enrico Santarelli ed., 2006) (asserting that firms that pay more rent are more likely to fail); Saul DeGraw, *How Can We Protect Independent Business from Increasing Rents*, ORDINARY TIMES



school<sup>79</sup> assets have substantial “upside” potential for commercial or mixed-use projects, even in decaying areas.

Schools are the ideal setting for distribution hubs, exceeding church property, former theaters, and factories in their potential. However outmoded, schools have large, open spaces (former cafeterias, gymnasiums, libraries) that can be converted to shelving and racks for inventory storage. Some schools have preexisting loading docks or overhead doors for pallet jacks, fork lifts, and heavy vehicular usage. Schools have classrooms of different configurations for instructional purposes suitable for group lectures, demonstrations, workshops, and media presentations.

#### IV. CITY GOVERNMENT TOOL-WIELDERS’ REGULATORY TECHNIQUES

First suburbs need an intense infusion of tactical urbanism from the land use realm.<sup>80</sup> With most new urban developments, lengthy

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(Mar. 25, 2015), <http://ordinary-gentlemen.com/blog/2015/03/25/how-can-we-protect-independent-businesses-from-increasing-rents/>.

78. See Michael N. Widener, *Renewed Energy: Sustainable Historic Assets as Keystones in Urban Center Revitalization*, 32 QUINNIPIAC L. REV. 723, 750 n.177 (2015).

79. See REPORT OF THE ADVISORY COMMITTEE FOR SCHOOL REPURPOSING AND COMMUNITY DEVELOPMENT, 17-18 (Feb. 2014), available at <http://www.cps.edu/SiteCollectionDocuments/CommitteeReport.pdf> [hereinafter SCHOOL REPURPOSING REPORT]; Dan Emerson, *Repurposing Old Schools: From Condos to Churches, Developers Find Ways to Convert*, FIN. & COM. (Sept. 18, 2012, 10:00 AM), <http://finance-commerce.com/2012/09/repurposing-old-schools-from-condos-to-churches-developers-find-ways-to-convert/#ixzz3Asq5mC1p>.

80. “Tactical urbanism” is a term first coined by Mike Lydon with the Streets Plan Collaborative in New York City. See MIKE LYDON & ANTHONY GARCIA, TACTICAL URBANISM: SHORT-TERM ACTION FOR LONG-TERM CHANGE 2-4 (2015); Allen C. Breed, *Tactical Urbanism: Citizen Projects Go Mainstream*, CBS NEWS (May 1, 2014, 10:41 AM), <http://www.cbsnews.com/news/tactical-urbanism-citizen-projects-go-mainstream/>. In this Article, I employ the phrase, adding “v2” to the title of this Article to indicate strategic land use plans involving local government inputs or jointer that implement short-term or temporary projects demonstrating the potential for longer-term developments. For an illustration of the author’s application, see *Choosing the Right Pin*, ECONOMIST (Aug. 30, 2014), <http://www.economist.com/news/finance-and-economics/21614165-house-prices-europe-are-losing-touch-reality-again-deflating-bubbles> (explaining that in July 2014, Sweden decided to allow landowners to build, without further “planning permission,” rental cottages of no more than 270 square feet upon already-improved residential lots to address housing deficits); Rebecca Thurlow, *Australia’s ‘Granny Flats,’* WALL ST. J., Feb. 11, 2015, at C6 (explaining that in 2015, local councils in towns in Sydney’s exurbs were considering easing building restrictions, in the interest of increasing the supply of affordable housing, to allow “granny flats” dwellings to be erected in homeowners’ front yards). While a fulfillment center bears greater risk and financial commitment than a guest house or a conventional “pop-up” shop, the interior physical improvements needed for these hubs, especially in a vacant structure not yet entirely deteriorated, requires a smaller investment magnitude than to remodel a retail center or an office building. Since the ideal location for a fulfillment center will be the result of some trial and error, it makes sense for early

planning, architectural design, funding, community engagement, and implementation processes extend for years, trying the patience of citizens, city workers, and developers.<sup>81</sup> Frustrated by delays and mounting expenses, many developers will take their ideas and their funding to more nimble jurisdictions.<sup>82</sup> To avoid this pitfall, temporary tactical urban development projects should be planned and implemented in a few weeks or months. A retail distribution hub—coupled with skills and advancement training center infrastructure to teach local workers the importance of promptness, hard work, and dedication to the job<sup>83</sup>—affords a viable and valuable transi-

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initiatives in establishing such hubs to be deliberately conservative—not from the angle of community commitment to jobs growth but in the permanence of their improvements. In some circles, this type of initiative may be called “strategic placemaking.” See, e.g., Mark A. Wyckoff, *Definition of Placemaking: Four Different Types*, PLAN. & ZONING NEWS 4–5 (Jan. 2014), available at [www.canr.msu.edu/uploads/375/65824/4typesplacemaking\\_pzn\\_wyckoff\\_january2014.pdf](http://www.canr.msu.edu/uploads/375/65824/4typesplacemaking_pzn_wyckoff_january2014.pdf).

81. See, e.g., Tim Logan & Dan Adams, *Audit Finds BRA is a Dysfunctional Bureaucracy*, BOSTON GLOBE, July 16, 2015, <https://www.bostonglobe.com/business/2015/07/15/audit-boston-redevelopment-authority-must-change/7JDJXrrmnLKGVebyhRJZPN/story.html> (opining that Boston Redevelopment Agency’s design review drags on interminably, driving up development costs while excluding the public from deliberations in community planning efforts); Christopher J. Mayer & C. Tsuriel Somerville, *Land Use Regulation and New Construction*, 30 REG. & URB. ECON. 639, 643–45 (2000).

82. See, e.g., Nick Vlahos, *Peoria Community Development Department is Trying to Make Peoria Codes and Policies More Flexible*, J. STAR (Aug. 11, 2014, 9:45 PM), <http://www.pjstar.com/article/20140811/News/140819845>.

83. This initiative represents a novel application of an existing concept that stems from Amazon’s Career Choice Program, an incentive program to encourage Amazon’s full-time hourly associates to enroll and complete technical and vocational training (not degree-oriented) programs, primarily in fields not related to procurement, logistics, or transportation (although the latter two subjects are underwritten programs). See *Amazon Career Choice Program FAQs*, AMAZON.COM, [http://www.amazon.com/gp/help/customer/display.html/ref=amb\\_link\\_1?ie=UTF8&nodeId=200979350&view-type=stand-alone&pf\\_rd\\_m=ATVPDKIKX0DER&pf\\_rd\\_s=gateway-center-column&pf\\_rd\\_r=14BGMCH0QCW0QS3P9GYV&pf\\_rd\\_t=101&pf\\_rd\\_p=1385640982&pf\\_rd\\_i=507846](http://www.amazon.com/gp/help/customer/display.html/ref=amb_link_1?ie=UTF8&nodeId=200979350&view-type=stand-alone&pf_rd_m=ATVPDKIKX0DER&pf_rd_s=gateway-center-column&pf_rd_r=14BGMCH0QCW0QS3P9GYV&pf_rd_t=101&pf_rd_p=1385640982&pf_rd_i=507846) (last visited Dec. 30, 2015). Amazon will pay up to 95% of the tuition, textbook and associated fees incurred by its associates, up to a maximum of \$3,000 per year for four years of study, whether live or online instruction. *Id.* What I advocate in this Article is unique because it requires “in-house training” in the facilities where work is being performed by employees of the distribution hubs. The concept is to make integrated learning both geographical (i.e., in the first suburb’s boundaries) and experiential (i.e., relating the instruction to experiences within the center’s work functions, whether clerical, administrative or logistical). Learning is understood to be more “sticky” when abstract-concepts instruction is applied immediately in the workplace. See, e.g., Jonathan House, *Factory Helps Teens Get Diplomas*, WALL ST. J., Aug. 8, 2014, at B1. Further, it has greater credibility if it is delivered by persons in the work environment. While Amazon’s program may induce its employees to remain in the community after their training by delivering the training within the distribution hub’s walls, learning occurs in the workplace, more likely near to where the pupil and her peers live. This further promotes a sense of a “community of learning” as well as of working. For example, Southwire’s factory in Carrolton, Georgia—working with the local high school—devised a curriculum for students called “12 for Life,” complementing what students learn in

tional use of an outmoded building while permanent projects are vetted by lenders, neighbors, and local bureaucracies. Since many landowners simply prefer to lease, sell, or develop property in a single burst, some will work only reluctantly with short-term, transitional-use partners. Certain prejudices that are detrimental to first suburb economic development can be overcome by shedding stymieing regulations, such as joint occupancy by multiple retailers or related businesses.<sup>84</sup> Spreading costs of the vocational training among the developer, multiple retailers, and wholesalers in first suburb distribution centers, or with a local community college system,<sup>85</sup> can be facilitated by a community's participation in public-private partnerships like Arlington's Clarendon Alliance.<sup>86</sup>

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the classroom with four-hour per day factory floor positions, where they learn machine operation, logistics, product and reel assembly, shipping, quality assurance, and data entry. See *12 For Life*, SOUTHWIRE.COM, <http://www.southwire.com/ourcompany/sustainability/12-for-life.htm> (last visited Dec. 30, 2015). Some additional instruction takes place in the manufacturing area during the work-shift. *Id.* The result is that 77% of the Southwire student "workforce" members graduate from high school, and 40% of these students pursue higher education, while about 18% take full-time jobs at Southwire. See House, *supra*, at B6.

84. New ideas diffuse more quickly when firms are located close to one another, because their employees can exchange ideas more readily, and the district's sharing atmosphere affects local social networks. See SIMON BRIDGE, KEN O'NEILL & FRANK MARTIN, *UNDERSTANDING ENTERPRISE: ENTREPRENEURSHIP AND SMALL BUSINESS* 374 (3rd ed. 2009); Katherine V.W. Stone, *Flexibilization, Globalization and Privatization: Three Challenges to Labour Rights in Our Time*, 44 *OSGOODE HALL L. J.* 77, 91 (2006); see generally Morten T. Hansen, Nitin Nohria & Thomas J. Tierney, *What's Your Strategy for Managing Knowledge?*, *HARV. BUS. REV.*, Mar.-Apr. 1999, at 106-16, available at <https://hbr.org/1999/03/whats-your-strategy-for-managing-knowledge> (extolling face-to-face encounters among colleagues).

85. See, e.g., *Construction to Begin on \$45 Million TDL Center at Olive-Harvey College That Will Create 150 Jobs*, CITY COLLEGES OF CHICAGO (Oct. 28, 2013), [http://www.ccc.edu/news/Pages/Construction-to-Begin-on-\\$45-Million-TDL-Center-at-Olive-Harvey-College-That-Will-Create-150-Jobs.aspx](http://www.ccc.edu/news/Pages/Construction-to-Begin-on-$45-Million-TDL-Center-at-Olive-Harvey-College-That-Will-Create-150-Jobs.aspx). Construction on the Transportation, Distribution and Logistics Center project at Olive-Harvey College began in late 2013 and the center is scheduled to open in the fall of 2015. *City Colleges of Chicago – Olive Harvey College Transportation, Distribution & Logistics Building*, FGM ARCHITECTS, <http://www.fgmarchitects.com/practice-areas/projects/higher-education/ccc-olive-harvey-college-transportation-distribution-and-logistics-building-on-site-observation/> (last visited Dec. 30, 2015). The project will give students hands-on training in the transportation, distribution, and logistics industry, and the TDL facility will feature a high-tech central store warehouse environment acting as a supply chain hub provisioning "office supplies to Chicago City Colleges' seven campuses, six satellites, and District Office." CITY COLLEGES OF CHICAGO, *supra*. This warehouse will provide a practical training ground for students by integrating operations into the curriculum, teaching students how to take and fill orders in a timely manner. *Id.* The "TDL pathway begins with an adult education bridge program and includes "stackable" basic and advanced certificates and an associate degree." *Id.* The funds to build the TDL Center came approximately 70% from the state and the balance from City Colleges of Chicago. *Id.*

86. See *FY 2015 Workplan*, CLARENDON ALLIANCE, <http://clarendon.org/about-the-clarendon-alliance/fy-2015-workplan/> (last visited Dec. 30, 2015). The mission statement of the Alliance reads, in part:

A first suburb's land use administration can facilitate implementing a transitional project like a temporary distribution hub that incorporates skills and advancement training without completely overhauling its land use code as typically occurs when moving towards form-based zoning.<sup>87</sup> The subparts below illustrate some tactical moves for amplifying jobs growth.

### A. General or Comprehensive Plan Alterations

First suburbs' general plans (sometimes known as comprehensive plans or master plans) need amending, in many instances, before more directed land use tools can be implemented.<sup>88</sup> A general plan is a community's "tone piece," guiding the community's goals for improving its citizens' quality of life.<sup>89</sup> In order for the proposed mini-distribution hub initiative to gain traction in a community, general plan modifications must incorporate most, if not all, of the following goals.

Initially, the general plan's economic development component must endorse skills training, job advancement education, and counseling programs operating nearby workers' housing. This will enable persons with transportation challenges to access these work op-

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The Clarendon Alliance is a partnership of residents, business people, property owners and interested parties working together to increase the liveability and vitality of the Clarendon district in Arlington County. The Alliance advocates for a vibrant business environment in order to facilitate the development of an urban village serving the needs of its members and the neighbouring communities.

*Id.* Clarendon is a first suburb of Arlington, Virginia, the second-largest principal city of metropolitan Washington, D.C.; its transformation into a vibrant urban village has become a model of revitalization for older suburbs. See EHRENHALT, *supra* note 3, at 128–32.

87. Cf. Michael N. Widener, *Curbside Service: Community Land Use Catalysts to Neighborhood Flowering During Transit Installations*, 45 URB. LAW. 407, 430–37 (2013) (describing uses of temporary zoning measures during a transitional period in which infrastructure disruption occurs while mass transit is being implemented); DENVER REG'L COUNCIL OF GOV'TS, REGULATORY STRATEGIES FOR ENCOURAGING INFILL AND REDEVELOPMENT 14 (2006), available at <https://drcog.org/documents/TODRegulatory%20Strategies%20for%20Infill.pdf> (noting that some overlay district projects can be approved in some zoning districts without a time consuming rezoning process).

88. See, e.g., Gerald A. Fisher, *The Comprehensive Plan Is an Indispensable Compass for Navigating Mixed-Use Zoning Decisions Through the Precepts of the Due Process, Takings, and Equal Protection Clauses*, 40 URB. LAW. 831, 856–67 (2008) (noting that implementing mixed uses in a residential district may not be accomplished by simply inserting compatible standards within the community's zoning ordinance rather than making provisions for them in the comprehensive plan; this is because a community must adopt a general development policy for the community as a whole first, and then implement that policy by zoning in accordance with it).

89. See Michael N. Widener, *Moderating Citizen "Visioning" in Town Comprehensive Planning: Deliberative Dialog Processes*, 59 WAYNE L. REV. 29, 31 (2013).

portunities located near local schools as students complete their secondary-level work.<sup>90</sup> Second, in the transportation element, the general plan must endorse sustainable transportation in residential neighborhoods in the forms of smaller trucks and other lower-emissions vehicles, while simultaneously encouraging distribution hub deliveries by battery-operated vehicles.<sup>91</sup> Parking regulations permitting curbside and off-street parking in compact stalls designed for smaller passenger vehicles should be standard general plan text. The public health and environmental quality element of the general plan must acknowledge that since healthier cities have fewer tail-pipe emissions, delivery vehicles with smaller wheel radii and “cargo capacities” are encouraged. Additionally, encouragement of transit use and community investment in transit infrastructure will accelerate participation by younger commuters in sustainable travel modes.

A novel general plan element endorsing “the sharing economy”<sup>92</sup> should be added, recognizing the permanency of entrepreneurs and “producers” in this growing informal sector, elevating their business models above “black or grey market” status. Specific to the fulfillment centers proposed, mini-distribution hubs<sup>93</sup> should be operated

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90. In many communities with substantial public input, the “plan” or “land use” element of the general plan tends to enable a “wisdom of crowds” decision about where to establish so-called enterprise zones (for greater mixed uses like the distribution hubs contemplated here). See *id.* at 32; Fisher, *supra* note 88, at 869 (stating that all relevant issues are publicly vetted in developing a general plan planning element, including where mixed-use zoning would be permitted in selected single-family residential districts). See also CAL. GOV'T CODE § 65302.4 (West 2005) (explaining that text and diagrams accompanying the land use element of a general plan “may also express community intentions regarding urban form and design”). For diversity optimization, given the target worker/student population of these hubs, ideally they should be located near transit nodes where the underemployed and unemployed have means to commute, minimizing the need for walking or reliance on less-affordable transportation.

91. Demand for wide streets with larger “turnaround radius” requirements are reduced when small vehicles are encouraged, so additional street improvement needs are minimized.

92. The sharing economy—emphasizing the longevity of consumer goods and services via joint ownership, leasing, and lending of physical objects—has an increasing number of adherents among the unemployed, underemployed, and retired populations. This is not as much a movement as a philosophy. See generally Anne-Sophie Novel, *Is Sharing More Sustainable? The Environmental Promises of the Sharing Economy*, in INNOVATION FOR SUSTAINABLE DEVELOPMENT 139 (Jean-Yves Grosclaude, Rajendra K. Pachauri & Laurence Tubiana eds., 2014); Danielle Sacks, *The Sharing Economy*, FAST COMPANY (Apr. 18, 2011, 1:05 AM), <http://www.fastcompany.com/1747551/sharing-economy>.

93. See, e.g., Michael Hu, Raj Kumar & Sunit Chandra, *Best Practices in Strategic Multichannel Fulfillment*, IVEY BUS. J., Mar.–Apr. 2014, available at <http://iveybusinessjournal.com/publication/best-practices-in-strategic-multichannel-fulfillment/> (“To fulfill lower-velocity SKUs (such as non-traditional-sized apparel), [retailers] are complementing store-based fulfillment with several strategically located distribution centers that will enable next- and two-day delivery.”).

in concert with site-based instruction in job skills;<sup>94</sup> and sharing economy entrepreneurs will aid in accomplishing several community goals. First, periodic distribution hub inventory-analysis and “surplus” product acquisition by collaborative-consumption sellers will allow unused brick and mortar store inventory to be re-priced and distributed through the informal economy’s sharing (through rental or lending) channels, making goods more accessible and affordable to first suburb dwellers. Second, the nearby availability of such channels of commerce will make the first suburb neighborhood more desirable to persons seeking to consume through such collaborative processes. Third, many such persons will be part of the “creative class”<sup>95</sup> that communities target for residency and enrollment in their tax bases.

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94. See Jeff Engel, *Strattec to Host New GPS Education Partners Classroom Center*, MILWAUKEE BUS. J. (July 29, 2013, 9:46 AM), <http://www.bizjournals.com/milwaukee/news/2013/07/29/strattec-to-host-new-gps-education.html>.

95. This socioeconomic class identified by American economist and social scientist Richard Florida, comprised of scientists, engineers, university professors, poets, and architects but also those in design, education, arts, music, and entertainment, whose economic function is to create new ideas, new technology, and creative content, is a class believed to bring economic growth to communities that can attract and retain its members, and has become the subject of considerable inter-city competition. See RICHARD FLORIDA, *THE RISE OF THE CREATIVE CLASS*, REVISITED 8, 188, 272 (2012). The underlying assumption in a municipality’s drive to attract this “class” is that in a twenty-first century knowledge economy, youthful persons with special talent and exceptional education create wealth, more higher-wage jobs, and greater disposable income due to their superior cognitive skills. See SHARI GARMISE, *PEOPLE AND THE COMPETITIVE ADVANTAGE OF PLACE: BUILDING A WORKFORCE FOR THE 21ST CENTURY* 45, 87 (Richard D. Bingham & Larry C. Ledebur eds., 2006); see generally Heiner Rindermann & James Thompson, *Cognitive Capitalism: The Effect of Cognitive Ability on Wealth, as Mediated Through Scientific Achievement and Economic Freedom*, 22 PSYCHOL. SCI. 754 (2011). A current illustration of initiatives to entice these workers and creative industry entrepreneurs is Boston’s North Shore with Salem, Massachusetts at its center; there, “The Salem Partnership and the Enterprise Center at Salem State College initiated the Creative Economy Initiative for the North Shore in 2004.” *The Creative Economy Initiative*, THE SALEM PARTNERSHIP (2013), <http://www.salempartnership.org/creative.htm>. A task force, created by the Enterprise Center at Salem State College and the Salem Partnership, invited author Charles Landry to contribute to the development of an action plan that eventually led to the creation of the Creative Economy Association of the North Shore (“CEANS”). *Innovation by the Ocean: History*, CREATIVE ECON. ASS’N OF THE N. SHORE (2014), <http://www.ceans.org/history-95.html>. CEANS is a hybrid of think tank and advocacy group for creative economy participants. See *What is CEANS?*, CREATIVE ECON. ASS’N OF THE N. SHORE (2014), <http://www.ceans.org/economicdevelopmentreport200882.html>.

*B. Land Use Code Revisions*

Municipal agencies revise their Euclidean-based zoning codes too slowly to address rapid contemporary change.<sup>96</sup> But through “overlay districts,”<sup>97</sup> code amendments under traditional sequential processes of staff suggestions followed by committee report, followed by planning commission recommendation, followed by policy-making body final-approval hearing are streamlined to a degree.<sup>98</sup> Overlay districts tailor regulations to specific properties and sectors to meet specific community goals, can be less politically controversial, and may help communities meet stated goals or address specific inequities, such as employment growth where little stable economic activity exists.<sup>99</sup> A first suburb can adopt an “Enterprise Zone” overlay district, allowing temporary zoning to establish fixed-term mini-distribution hubs in first suburbs with waning tax bases and outmoded building stock and permanent zoning for owners assembling sufficient land to build a permanent project of prescribed quality, creating minimum adverse neighborhood impacts.<sup>100</sup> The community can entrust the Zoning Administrator to authorize temporary overlay standards to apply for a limited period

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96. See Roger K. Lewis, *Traditional Zoning Can't Meet the Challenge of Modern Development*, WASH. POST, July 24, 2004, at F04, available at [http://www.washingtonpost.com/wp-dyn/articles/A9505-2004Jul23.html?nav=rss\\_business/columns/realestate/lewisrogerk](http://www.washingtonpost.com/wp-dyn/articles/A9505-2004Jul23.html?nav=rss_business/columns/realestate/lewisrogerk). First suburbs could show agility by adopting, as part of their land use codes, a version of the Model Mixed-Use Zoning District Ordinance (a portion of the Model Smart Land Development Regulations promulgated by the American Planning Association in March, 2006), as have Denver and Fort Worth, but the district ought to encourage mixed uses in residential neighborhoods in addition to focusing on a village's main street or in pre-existing commercial areas. AM. PLANNING ASS'N, MODEL MIXED-USE ZONING DISTRICT ORDINANCE 1-7 (2006), available at <https://www.planning.org/research/smartgrowth/pdf/section41.pdf>.

97. JOHN R. NOLON, WELL GROUNDED: USING LOCAL LAND USE AUTHORITY TO ACHIEVE SMART GROWTH 209-10 (2001); see Widener, *supra* note 87, at 430-33.

98. See, e.g., REG'L TRANSP. AUTH., STREAMLINING THE ENTITLEMENT PROCESS FOR TRANSIT-ORIENTED DEVELOPMENT: BEST PRACTICES 2 (2012), available at [https://rtachicago.com/files/documents/plansandprograms/landusetod/Streamlining\\_The\\_Entitlement\\_Process\\_-\\_Best\\_Practices\\_Report.pdf](https://rtachicago.com/files/documents/plansandprograms/landusetod/Streamlining_The_Entitlement_Process_-_Best_Practices_Report.pdf) (advocating setting up a streamlined public process that allows adequate public involvement, yet is not repetitive or time-consuming, causing extensive delays between comment periods and public meetings); DENVER REG'L COUNCIL OF GOV'TS, *supra* note 87, at 14.

99. *Property Topics and Concepts, Flexible Zoning Techniques*, AM. PLAN. ASS'N (2015), <https://www.planning.org/divisions/planningandlaw/propertytopics.htm> [hereinafter *APA Zoning Flex*].

100. See *infra* text accompanying notes 113-16 for a discussion of incentive zoning initiatives. Such an overlay district may sometimes be described as a “legal neighborhood” structure. See, e.g., Stephen R. Miller, *Legal Neighborhoods*, 37 HARV. ENVTL. L. REV. 105, 149-61 (2013) (describing a neighborhood-specific zoning device to preserve or enhance characteristics of a particular neighborhood).

of years, subject to renewal or permanent status “conversion” only upon approval through the local legislative process. This district’s regulations can allow the Zoning Administrator to dictate specific conditions like operating hours for temporary facilities, accommodating needs of surrounding neighbors for quiet during certain hours, and CBD retailers’ needs to restock during off-peak shopping hours.<sup>101</sup>

This district’s regulations can further enable repurposing structurally sound historic properties for mini-distribution hubs, maintaining their facades to the greatest degree feasible. Historic properties have built-in sustainability features; for example, they tap relatively little exterior building materials made from non-renewable substances.<sup>102</sup> Since soft goods made of non-perishable components do not require extensive climate control, historic buildings only need enough warmth and cooling for their occupant workers to be comfortable and dry.<sup>103</sup> Legacy assets like churches and early public schools may require retrofitting to secure access points for preventing theft.<sup>104</sup> However, these assets often require less remodeling and code compliance expense than were they to resume public occupancy purposes.<sup>105</sup> Building codes for the storage portions of these properties need not require complete updating as would public assembly venues for health and safety concerns.<sup>106</sup> To incentivize repurposing, community governments should lessen strict compliance requirements for newly-built projects; first suburbs ought to avoid fuss about less consequential design review matters like minimum yard setbacks, outdoor storage, and landscaping buffers, so long as these revival projects maintain their original positions and designs.<sup>107</sup>

Another way to address “anomalous neighbor” fulfillment center implementation is by employing a floating zone.<sup>108</sup> This zoning district delineates conditions that must be satisfied before a specific

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101. See NAT’L COOP. FREIGHT RESEARCH PROGRAM, NCFRP REPORT 14: GUIDEBOOK FOR UNDERSTANDING URBAN GOOD MOVEMENT 41–47 (Hilary Freer ed., 2012), available at [http://onlinepubs.trb.org/onlinepubs/nctfp/nctfp\\_rpt\\_014.pdf](http://onlinepubs.trb.org/onlinepubs/nctfp/nctfp_rpt_014.pdf) [hereinafter NCFRP REPORT 14]. Zoning adjustment potentially can reduce retail shops’ minimum parking requirements when stores are located near transit nodes. See EHRENHALT, *supra* note 3, at 131.

102. See Widener, *supra* note 78, at 745–46.

103. See EHRENHALT, *supra* note 3, at 123.

104. See *id.* at 138.

105. See *id.* at 137.

106. See *id.* at 144.

107. *Id.* at 138.

108. See Widener, *supra* note 87, at 433–37.



piece of land is approved for zoning.<sup>109</sup> A floating zone is not placed on the zoning map as traditional zones are. Rather, the zone is indicated as an amendment to the zoning ordinance awaiting implementation.<sup>110</sup> The zone “floats” until a development application is approved, upon which the zone is appended to the approved site on the official zoning map.<sup>111</sup> Floating zones are employed “to plan for future land uses anticipated or desired by the community without being confirmed”; after officials approve an innovative project—such as a first suburb distribution hub with an education center—the building use is implemented on the official zoning map.<sup>112</sup>

Another municipal land use strategy deploys incentive zoning to secure (in this case) a private developer’s financial commitments to the education and jobs training components of a first suburb mini-distribution hub.<sup>113</sup> Incentive zoning enables a developer to proceed in a way that ordinarily would not be permitted but for the public benefits that otherwise could not be imposed without eminent domain implications.<sup>114</sup> Often provided for in the zoning ordinance, incentive zoning allows a city to leverage variations in zoning standards in exchange for obtaining specific public goods.<sup>115</sup> Accordingly, a developer that provides educational facilities or job training space, in addition to the buildings housing the distribution hub, may be allowed greater building height, floor area ratio, reduced setbacks, parking requirements, or other “flex” development parameters in its project in return for increasing its investment in the local community.<sup>116</sup>

While not conventionally highly nimble enterprises on the policy front, municipalities seeking job growth must investigate advantages of Smart Growth-related policies inspiring development of infill sites closer to the urban core versus the outer metropolitan fringes.<sup>117</sup> A flexible, form-based ordinance focusing on place-

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109. See *APA Zoning Flex*, *supra* note 99.

110. *Id.*

111. *Id.*

112. *See id.*

113. *See id.*

114. *See id.*

115. *Id.*

116. *See id.*

117. See Anthony Downs, *What Does Smart Growth Really Mean?*, *PLAN. MAG.*, Apr. 2001, at 20, 21–22, available at <http://www2.sunysuffolk.edu/formans/WhatDoesSmartGrowthMean.htm>. Downs identifies fourteen potential smart growth elements, chief among them open space conservation; growth boundaries; compact, mixed-use developments enabling walking and transit opportunities; revitalizing older downtowns and inner-ring suburbs; public transit

making, urban form, and infrastructure augmentation gives a community enough agility to address market-based changes with sufficient brevity, if not in “real time,” to remain competitive.<sup>118</sup> Preparation for the coming trend of mixed-use infill projects<sup>119</sup> built on “new urbanism” principles<sup>120</sup> ought to be a first suburb’s priority. A city with form-based zoning<sup>121</sup> can likewise allow additional building height in a parcel’s existing zone, like the so-called “Urban Center” zone,<sup>122</sup> or can reclassify the site into a “Transect” zone that permits greater density.<sup>123</sup>

An intriguing form of incentive zoning is graduated-density zoning, a community tool most effectively deployed where redevelopment is severely needed.<sup>124</sup> Redevelopment in first suburbs of a mixed-use fulfillment center and educational complex requires a fairly large parcel of land, scarce in these enclaves, where land ownership is often deeply fractionalized.<sup>125</sup> Redevelopment here pivots on assembly of several tracts, no mean feat when its transaction costs make the assemblage prohibitively expensive.<sup>126</sup> The primary challenge in such assemblies is the intransigent owner, seeking to claim the “crucial piece” lottery, where zoning regulations require a redevelopment’s threshold parcel size.<sup>127</sup> The “key lot” owner wants the developer to hurdle the minimum-size requirement with his tract’s acquisition, increasing his premium for that key lot.<sup>128</sup> This

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alternatives to automobile dependence; regional planning coordination; and equitable sharing of fiscal resources and financing burdens within greater metropolitan regions. *See id.*

118. *See* D. Jamie Rusin, Sean Slater & Ryan Call, *New Suburbanism: Reinventing Inner-Ring Suburbs*, URBANLAND (July 8, 2013), <http://urbanland.uli.org/industry-sectors/public-spaces/new-suburbanism-reinventing-inner-ring-suburbs>.

119. *Id.*

120. *See, e.g.*, Michael Lewyn, *New Urbanist Zoning for Dummies*, 58 ALA. L. REV. 257, 258–59, 266–67 (2006) (explaining “new urbanism” in brief philosophical and historical terms).

121. *See id.* at 268–69.

122. Donald Shoup, *Graduated Density Zoning*, 28 J. PLAN. ED. & RES. 161, 166 (2008).

123. *See* Lewyn, *supra* note 120, at 269.

124. Shoup, *supra* note 122, at 161.

125. *Id.*

126. *See id.* at 161–62.

127. *Id.* at 162 (“A developer might attempt to buy enough parcels to create a suitable site, but if some owners hold out from a land assembly hoping to be last to sell (and therefore able to command a higher price), the land remains fragmented and the redevelopment is stymied.”).

128. *See id.* at 163; *see also* Gideon Parchomovsky & Peter Siegelman, *Cities, Property and Positive Externalities*, 54 WM. & MARY L. REV. 211, 250 (2012) (discussing the holdout problems that arise when contracts are used to assemble land instead of eminent domain; “each of the current owners has veto power over the entire project and has a built-in incentive to hold out in an attempt to capture the greatest possible share of the bargaining surplus”).

owner thrives in communities reluctant to exercise eminent domain power for private development when facing state legislation prohibiting such acts<sup>129</sup> following the U.S. Supreme Court's 2005 decision in *Kelo v. City of New London*.<sup>130</sup>

In inducing the holdout owner to participate in an assemblage by allowing higher densities for larger parcels, the community enables the project to proceed and provides its developer with sufficient economic gain to manage land acquisition costs. Granting greater density for a larger redevelopment parcel induces multiple lot owners to cooperate because each will share in a larger capital gain; in contrast, if some owners "hold out," uncertainty looms about their parcels' inclusion in any final assembled redevelopment tract.<sup>131</sup> As Donald Shoup explains, the technique for minimizing hold out is to replace the city's requirement for a minimum-acreage assemblage with a sliding scale of increasing density allowances.<sup>132</sup> An established density "gradient" allows a smaller redevelopment project to proceed at a lower density; yet through reducing or eliminating any single owner's reward for holding out, doubt about the benefits of "defection" creeps in, particularly if the hold-out owns a site unsuitable for addition in a future assemblage.<sup>133</sup> As Shoup notes, community incentives for larger-tract redevelopment have other beneficial effects, such as reducing neighborhood opposition to such projects, since the larger the tract's acreage, the more likely the redevelopment will adjoin public streets instead of uses incompatible with the redevelopment project<sup>134</sup> and reduce off-street parking demand, where transit-oriented development (typically awarding density "bonuses") encourages a project's incorporating elements like bus bays and shelters or transit stops.<sup>135</sup>

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129. For example, Arizona's Proposition 207 was approved in 2006 and took effect as the Private Property Rights Protection Act. ARIZ. REV. STAT. ANN. §§ 12-1131-12-1138 (2006); see also Dick M. Carpenter II & John K. Ross, *Do Restrictions on Eminent Domain Harm Economic Development?*, 24 ECON. DEV. Q. 337, 338 (2010) (explaining that after *Kelo v. City of New London*, 545 U.S. 469 (2005), by 2008, forty-three states passed laws protecting private property rights against eminent domain actions tied to private development); Shoup, *supra* note 122, at 161.

130. 545 U.S. at 469.

131. Shoup, *supra* note 122, at 166, 168.

132. *Id.* at 167.

133. *Id.* at 168.

134. *Id.* at 170.

135. See *id.* at 170-71.

*C. Houston, We Have a Solution*

Can a general plan be amended to rid a first suburb altogether of zoning district restrictions, without resulting havoc? Houston's resurgence without a zoning code<sup>136</sup> suggests economic opportunities trump the wisdom of categorizing uses in rigid ranks.<sup>137</sup> As Alan Ehrenhalt argues, a city without formal zoning is more agile responding to market demand, whether through infill parcel remodeling or new development.<sup>138</sup> Individual enclaves within the suburb may "crowd-source" preferences for development inside neighborhoods according to perceived risks and rewards of introducing mixed use warehousing projects within their boundaries.<sup>139</sup> This may be accomplished in a formal way by implementing a Community Benefits Agreement between a developer and the project's neighbors.<sup>140</sup>

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136. See, e.g., Ryan Holeywell, *Houston: The Surprising Contender in America's Urban Revival*, GOVERNING (Oct. 2013), <http://www.governing.com/topics/urban/gov-houston-urban-revival.html>; Bill Schadewald, 'Form-based' Zoning Appears to Take Shape, HOUS. BUS. J. (Apr. 29, 2007), <http://www.bizjournals.com/houston/stories/2007/04/30/editorial1.html> (explaining that Houston is the only major American city without a zoning code; the described form-based ordinance proposal failed).

137. Whoa, partner; Houston is hardly a land-development "free for all." Development is regulated there through three different processes. Initially, the city regulates development through an approval process that focuses mainly on the impact of land development on public services. Michael N. Widener, *Shared Spatial Regulating in Sharing Economy Districts*, 46 SETON HALL L. REV. 111, 165 (2015). New developments must conform to performance criteria for public services such as sewer and road capacity. *Id.* Houston's regulations, which address off-street parking, tree and shrub requirements, setbacks and access, are found at *Planning and Development*, THE CITY OF HOUSTON, [http://www.houstontx.gov/planning/DevelopRegs/dev\\_ord.html](http://www.houstontx.gov/planning/DevelopRegs/dev_ord.html) (last visited, Jan. 12, 2016). Indeed, some view Houston's development regulatory scheme as oppressive to free markets. See Teddy M. Kapur, *Land Use Regulation in Houston Contradicts the City's Free Market Reputation*, 34 ELR 10045, 10061-62 (2004), available at [http://www.pszjlaw.com/media/publication/427\\_Kapur%20-%20ELR%20land%20use%20regulation.pdf](http://www.pszjlaw.com/media/publication/427_Kapur%20-%20ELR%20land%20use%20regulation.pdf).

138. See EHRENHALT, *supra* note 3, at 172-73.

139. We know that technology's implementation in surveying consumer preferences closes the gap between what regulators allow and what consumers want from business operators. Cf. L. Gordon Crovitz, *A Taxi Commission for the Internet?*, WALL ST. J. (Aug. 18, 2014, 7:23 PM), <http://www.wsj.com/articles/gordon-crovitz-a-taxi-commission-for-the-internet-1408317784>.

140. See, e.g., *Policy & Tools: Community Benefits Agreement and Policies*, PARTNERSHIP FOR WORKING FAMILIES, <http://www.forworkingfamilies.org/resources/policy-tools-community-benefits-agreements-and-policies> (last visited Dec. 30, 2015) (summarizing the essential ingredients of private CBAs). Municipalities can also be parties to these agreements, at times even driving certain developer covenants in the role of "public trustee" for the affected citizens. For example, Allen Park, Michigan's appointed emergency manager, sold the former home of Unity Studios to Time Equities while reaching a CBA under which the developer must devote use of a portion of one building in its project of up to 1,500 square feet for employment training and job placement for local residents, to be run by Michigan Works and Wayne County.

A Community Benefits Agreement (“CBA”) commits both sides to agree to what forms of physical and financial mitigation are appropriate, anticipating the disruption that will affect the development.<sup>141</sup> For instance, the CBA may require the developer to secure additional off-street parking by building a structure, leasing additional off-street stalls elsewhere, reaching an agreement for “piggy-backing” on public land for parking, or, better still, solving anticipated neighborhood traffic increases without acquiring additional capacity.<sup>142</sup> Hours of operation limits and maximum employee capacity, like essentially any other ingredient of the proposed development, are susceptible to CBA negotiation, as they are wide-ranging instruments that are the product of creative and cooperative problem-solving.<sup>143</sup> In this fluid, mediated environment, accountable developers and producing entrepreneurs will flourish.

Are negotiation and self-governance suitable tools for sustained salutary community development outcomes? Increasing research in the area of collaborative environmental management suggests that involving stakeholders in the self-determination of priority setting and in planning, implementing, and evaluating solutions succeeds both in resolving conflicts and advancing shared visions.<sup>144</sup> Americans habitually have relied on a “decentralized marketplace to aggregate disparate information” unknown to any one individual (like

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See *Allen Park Sells Unity Studios Property for \$12 Million*, DETROIT FREE PRESS (Aug. 27, 2014, 11:47 AM), <http://www.freep.com/article/20140827/NEWS05/308270165/allen-park-property-sale>.

141. See Patricia E. Salkin & Amy Lavine, *Community Benefits Agreements and Comprehensive Planning: Balancing Community Empowerment and the Police Power*, 18 J.L. & POL’Y 157, 159–60 (2009).

142. See *id.* at 194. While not an essay on parking, the author notes that local government should play a role in determining true parking requirements by sharing parking data with the CBA stakeholders, instead of promoting eliminating parking minimums. São Paulo, Brazil adopted this concept, deciding that reducing parking around transit corridors would “reduce traffic and improve street life, making it more pedestrian and public transport friendly.” See *Brazil’s Largest City to Eliminate Minimum Parking Requirements*, CITIES TODAY (July 3, 2014), <http://cities-today.com/2014/07/finished-brazils-largest-city-eliminate-minimum-parking-requirements/#more-5297>. São Paulo, Brazil’s population ranks it among the world’s ten most populated cities. *Most Populous Cities of the World*, INFOPLEASE, <http://www.infoplease.com/ipa/A0762524.html> (last visited Dec. 30, 2015).

143. See Alejandro E. Camacho, *Community Benefits Agreements: A Symptom, Not the Antidote, of Bilateral Land Use Regulation*, 78 BROOK. L. REV. 355, 361–65 (2013).

144. See Tomas M. Koontz, *Collaboration for Sustainability? A Framework for Analyzing Government Impacts in Collaborative-Environmental Management*, SUSTAINABILITY: SCI., PRAC. & POL’Y, Spring 2006, at 15–16.

a planning manager) or expert body (like a planning commission).<sup>145</sup> Therefore, why give officials who do not share the interests of community residents the ultimate authority to determine the best interests of those residents who must live with the consequences of official decisions?<sup>146</sup>

#### D. Partnership Strategies

Community-based economic revival requires marshaling many tools. While citizens may benefit from taking some matters into their own hands, independent of applying land use master plans and codes, municipalities with the authority to do so have several direct-action roles to play in first suburb renewal, especially through the convention of the public-private partnership.<sup>147</sup> One role deploys the municipality's bonding capacity to finance a project or use of tax increment financing.<sup>148</sup> Another role donates or leases public lands or buildings on reasonable terms to developers for projects like a local distribution hub, which is positioned to repay the community by

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145. See Jayson Lusk, *Cheeseburgers Won't Melt the Polar Ice Caps*, WALL ST. J. (Aug. 17, 2014, 7:19 PM), <http://www.wsj.com/articles/jayson-lusk-cheeseburgers-wont-melt-the-polar-ice-caps-1408317541>.

146. See THOMAS SOWELL, *INTELLECTUALS AND SOCIETY* 15-26 (2009) (describing elites' prescriptions imposed at decision-points where such persons lack consequential knowledge, and the lost opportunity from ignoring the consequential knowledge possessed by everyday citizens in smaller individual quantities that, *in toto*, constitutes greater understanding than that possessed by a handful of "subject matter experts").

147. Public private partnerships take myriad shapes. See SCHOOL REPURPOSING REPORT, *supra* note 79, at 19; Sandra Goldstein, *Strategic Planning—Charting the Course*, in *MAKING BUSINESS DISTRICTS WORK: LEADERSHIP AND MANAGEMENT OF DOWNTOWN, MAIN STREET, BUSINESS DISTRICT, AND COMMUNITY DEVELOPMENT ORGANIZATIONS* 95, 97-103 (Marvin D. Feit & David Feehan eds., 2006). While business improvement districts funded through mandatory *ad valorem* taxes is a common structure, another is a special services district funded through voluntary contributions from stakeholders. See *id.* In the latter instance, the city does not require control of the organization by appointing the organizations' board members. See Vicino, *New Boundaries*, *supra* note 14, at 344-45. Illustrations of this structure, which usually takes the form of a non-profit corporation, are the University City District in Philadelphia (distinctly a first suburb) and the New Haven Special Services District ("SSD") in Connecticut. See *id.* SSDs are more limited in function than business improvement districts supported by involuntary contributions because they have revenue streams that are not guaranteed. See *id.* at 344. Yet another "partnership" structure is the community development organization, like the West Philadelphia Partnership. See *id.* at 345.

148. See, e.g., Jonathan M. Davidson, *Tax Increment Financing as a Tool for Community Redevelopment*, 56 U. DET. J. URB. L. 405, 405-06 (1979) (explaining that Tax Increment Financing ("TIF") exploits future tax gains to finance current urban improvements). Like issuance of municipal bonds, TIF is a local borrowing technique that relies on future collection of taxes for repayment. *Id.*

growing employment and tax base opportunities.<sup>149</sup> A third role facilitates and accelerates entitlements and permitting for such projects, where the community advocates “fast-tracking.”<sup>150</sup> Fourth is a community’s participation in or advocacy for Community Development Block Grants directly through federal auspices (if an “entitlement community”) or through state involvement (in the instance of the Small Cities CDBG program).<sup>151</sup>

One illustration of a fulfillment center combining public and private resources is the Sustainable Distribution Centre in Southamp-

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149. The velocity of these types of arrangements between municipalities and developers may be slowed by the U.S. Supreme Court decision in *Koontz v. St. John’s River Water Management District*, 133 S. Ct. 2586 (2013), to the degree regulators fear bargaining for project development to be laden with risk if a municipal “exaction” from the developer involves payment of money. One strategy for donating land is for the community to retain its ownership until a developer’s vertical improvements commence, to save the developer carried land costs like taxes, insurance, and mortgage payments. See Rusin, Slater & Call, *supra* note 118, at 3. This device allows development of the parcel to await market demand, phased to meet interest, and opposed to a new owner’s racing to open an “unripened” project. *Id.*

150. See, e.g., MASS. GEN. LAWS ANN. ch. 43D, § 5 (West 2006) (noting that communities opting-in to the fast-tracking program shall guarantee local permitting decisions on municipally-identified “priority development” sites, which can be zoned for commercial, industrial, residential, or mixed use purposes, within 180 days, provided the developer’s application is complete, remains as initially submitted, and contains no false or misleading information); Matthew Bruun, *On the Fast Track; Expedited Permitting Law Generates Enthusiasm for Business Growth*, WORCESTER TELEGRAM & GAZETTE, Dec. 21, 2007, at B1, available at <http://www.thefreelibrary.com/On+the+fast+track%3B+Expedited+permitting+law+generates+enthusiasm+for...-a0172715966>.

151. See U.S. Dep’t of Hous. & Urban Dev., *CDBG Entitlement Program Eligibility Requirements*, HUD EXCHANGE, <https://www.hudexchange.info/programs/cdbg-entitlement/cdbg-entitlement-program-eligibility-requirements/> (last visited Dec. 30, 2015). The CDBG entitlement program includes opportunities to expand economic opportunities, principally for low- and moderate-income persons, in cities. *Id.* Among these activities are the conversion of school buildings for eligible purposes and affording “assistance to profit-motivated businesses to carry out economic development and job creation/retention activities.” *Id.* One such illustration of a community participation activity is the Yonkers, New York Empowerment Zone, located adjacent to the Metro North Commuter Railroad System. See U.S. Dep’t of Hous. & Urban Dev., *Yonkers, New York – Empowerment Zone Round III Application Summary*, HUD.GOV, <http://www.hud.gov/offices/cpd/economicdevelopment/programs/rc/tour/ny/yonkers/appsummary.pdf> (last visited Dec. 30, 2015). Smaller towns face a more convoluted process for these grants, and here is an example from the author’s community: Maricopa County and the Town of Buckeye, Arizona, currently function under a Cooperative Agreement guaranteeing the Town’s consideration for CDBG funds under the County’s entitlement from HUD. See *Community Development Block Grant (CDBG) Program*, BUCKEYE, AZ, <http://www.buckeyeaz.gov/developers/planning-zoning/> (last visited Dec. 30, 2015). The County is responsible for reviewing the Town’s CDBG application for eligible activities and making a recommendation to the CDAC (Community Development Advisory Committee) for funding. *Id.* Buckeye’s project proposals are considered eligible if it complies with requirements under a long-range plan being continuously updated by the CDAC. *Id.* Smaller projects for CDCs include “affordable housing, redevelopment projects, small business lending, start-ups, and growth.” See GOLDSTEIN, *supra* note 147, at 86.

ton, Hampshire, England, an enterprise funded in part by Britain's Local Sustainable Transport Fund (with monies secured and administered through the Southampton City Council) and operated by Meachers Global Logistics.<sup>152</sup> Through freight consolidation, which entails grouping discrete deliveries destined for the same vicinity, large-vehicle transport trips are less numerous and more efficient, reducing carbon emissions and cost.<sup>153</sup> Public-private partnerships are being promoted across the European Union to address urban freight transport policies, through which many urban freight stakeholders achieve sustainability in urban freight movement.<sup>154</sup> This tool invites consultation and stakeholder dialogue in public decision-making about logistics and the complexities of environmental sustainability issues, among others.<sup>155</sup> Resolving the dilemma of "last mile dispatch"<sup>156</sup> requires coalitions innovating for "hub and spoke" dispatch systems, consolidation centers, vehicular manage-

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152. See MEACHERS GLOBAL LOGISTICS, SUSTAINABLE DISTRIBUTION CENTRE, available at <http://southamptondc.co.uk/uploads/images/Meachers-SDC%20Brochure.pdf> (last visited Dec. 30, 2015).

153. See *id.* at 4 (noting that a single vehicle servicing multiple logistics customers on each trip will reduce city center traffic congestion and air pollution).

154. See Maria Lindholm & Michael Browne, *Local Authority Cooperation with Urban Freight Stakeholders: A Comparison of Partnership Approaches*, 13 EUR. J. TRANSP. INFRASTRUCTURE RES. 20, 28-32 (2013) (describing the main features of six freight partnerships in five European cities). A test run for two months that combines the resources of Amazon.com, Inc. and the U.S. Postal Service may lead to a form of partnership, although it may devolve into a contractor relationship. Cf. Greg Bensinger & Laura Stevens, *U.S. Mail Delivers Amazon Groceries in San Francisco*, WALL ST. J. (Sept. 4, 2014, 2:14 PM), <http://www.wsj.com/articles/u-s-mail-to-deliver-amazon-groceries-in-san-francisco-1409854499>.

155. See THOMAS H. ZUNDER ET AL., ENGAGING CITY STAKEHOLDERS TO ACHIEVE EFFICIENT AND ENVIRONMENTALLY FRIENDLY URBAN FREIGHT MOVEMENTS 2-3 (2014), [http://tra2014.traconference.eu/papers/pdfs/TRA2014\\_Fpaper\\_20028.pdf](http://tra2014.traconference.eu/papers/pdfs/TRA2014_Fpaper_20028.pdf). Engagement is especially important when residents express concerns about heavier commercial vehicles traveling near, or through, residential areas. See Tien Fang Fwa, *Transport and Logistics in Asian Cities*, in URBAN TRANSPORTATION AND LOGISTICS: HEALTH, SAFETY AND SECURITY CONCERNS 31, 38-41 (Elichi Taniguchi, Tien Fang Fwa & Russell G. Thompson eds., 2013).

156. See Roel Gevaers, Eddy Van de Voorde & Thierry Vanelslander, *Characteristics and Typology of Last-Mile Logistics from an Innovation Perspective in an Urban Context*, in CITY DISTRIBUTION AND URBAN FREIGHT TRANSPORT: MULTIPLE PERSPECTIVES 4, 57-60 (Cathy Macharis & Sandra Melo eds., 2011) (referring to "last mile" dispatch as the final delivery leg for goods that are sent directly to the consumer, typically in an e-commerce transaction); Amy Roach Partridge, *The Last Mile's Lasting Impact*, INBOUND LOGISTICS (Mar. 2011), <http://www.inboundlogistics.com/cms/article/the-last-miles-lasting-impact/> (describing the changing logistics of the last link of the supply chain); Francis Walsh III, *Last Mile Logistics: Key to Competing in the Retail Race*, INBOUND LOGISTICS (June 2006), <http://www.inboundlogistics.com/cms/article/last-mile-logistics-key-to-competing-in-the-retail-race/> ("A responsive last mile supply chain allows retailers to meet demand, manage seasonal peaks, and drive hot merchandise to the shelf quickly and efficiently.").



ment outside peak hours to speed delivery times, escalating electric vehicle delivery volumes, and other initiatives.<sup>157</sup>

Public partnerships between and among local jurisdictions are imperative where regional transportation is implicated, such as in freight consolidation and delivery.<sup>158</sup> As struggling first suburbs experience problems resembling those in the cities they surround, political coalitions form to stop infrastructure decline, reduce wasteful competition over shrinking tax revenues, and address mounting socioeconomic problems.<sup>159</sup> Likewise, regional cooperation in logistics, transportation planning, and implementation of initiatives is mission-critical to restoring infrastructure and capacity while spreading the costs of execution among stakeholders.<sup>160</sup> Factory jobs are returning to certain portions of America,<sup>161</sup> and the products of those workers will be warehoused for delivery to first suburbs and the cities they surround. No initiatives impacting intermodal transportation logistics to inner cities preclude participation by multiple jurisdictions, including most first suburbs. Consider these future opportunities responding to just-in-time delivery requirements:

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157. See *What Will the Future of our Freight and Logistics Network Look Like?*, SIEMENS (2011), [http://www.siemens.com.au/files/PTF/mobility/ptf\\_mob\\_freight\\_logistics.pdf](http://www.siemens.com.au/files/PTF/mobility/ptf_mob_freight_logistics.pdf); see, e.g., Shelly Banjo & Laurie Burkitt, *Seeking China's Growth, Wal-Mart Takes on Alibaba*, WALL ST. J., Aug. 29, 2014, at B1-B2 (noting speed is “everything” to retailers in nations where customers have high delivery-speed expectations, so some companies are setting up shipping centers within Chinese apartment complexes where these vertically-based fulfillment centers deliver on a same-day [as ordered] or next-day basis).

158. Cf. PUNTES & WARREN, *supra* note 5, at 12 (explaining that first suburbs comprise dozens of local jurisdictions that have distinct land use, zoning, and taxation powers and compete for favored commercial, industrial, and residential activities but have limited individual capacity to grapple with major community problems or to organize for betterment of their collective interests).

159. MYRON ORFIELD, *AMERICAN METROPOLITICS: THE NEW SUBURBAN REALITY* 148–72 (Brookings Institution Press ed., 2002).

160. See PETER DREIER, JOHN MOLLENKOPF & TODD SWANSTROM, *PLACE MATTERS: METROPOLITICS FOR THE TWENTY-FIRST CENTURY* 269 (Univ. Press of Kansas ed., 2d ed. 2004). A unique solution to zoning and related conflicts among stakeholders, known as an “urban consolidation center/freight village,” is described in NCFRP REPORT 14, *supra* note 101, at 61. This may be a particularly good opportunity for reuse of brownfields sites. See *id.*

161. See, e.g., Cameron McWhirter, James R. Hagerty & Tom McGinty, *Factory-Job Rebound Produces Winners, Losers*, WALL ST. J. (May 29, 2014, 10:30 PM), <http://www.wsj.com/articles/factory-job-rebound-produces-winners-losers-1401415993> (explaining that “[t]he U.S. has added about 650,000 factory jobs since their numbers rebounded after the recession, putting manufacturing workers at 12.1 million and reversing a long decline in such jobs”). But see James R. Hagerty, John W. Miller & Bob Tita, *U.S. Factories Keep Losing Ground to Global Rivals*, WALL ST. J. (Aug. 26, 2014), <http://www.wsj.com/articles/u-s-factories-keep-losing-ground-to-global-rivals-1409009731> (explaining that U.S. factories are losing market share to Asian and European competitors due primarily to trade deficits in goods such as steel, car parts, industrial machinery, and furniture).

1. Heavy rail linkages (spur tracks) between manufacturing facilities and center cities;
2. Freight cars piggybacking on light rail trains for lightweight package delivery;<sup>162</sup>
3. Cargo pods installed inside street cars and electric busses operating during passenger off-peak hours;
4. Commercial jitney services<sup>163</sup> to fulfill “last mile” deliveries;
5. Dedicated lanes for freight vehicles,<sup>164</sup> which use transportation equipment operating electrically or in non-petroleum hybrid modes, shared with alt-fuels passenger vehicles along major arterials or collector-sized streets outside rush hour days and times;<sup>165</sup>
6. Segregated cargo transit road lanes (whether toll or taxpayer-based) exclusively to be used by robotically-controlled

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162. See Neil Anderson, *Light Rail for Freight Concept: LR4F*, 10 LOGISTICS & TRANS. FOCUS 42–44 (2008); see also Philip Weinberg, *Public Transportation and Clean Air: Natural Allies*, 21 ENVTL. L. 1527, 1540 (1991) (noting “the energy efficiency of moving freight, as well as passengers, by rail greatly exceeds that of road or air”).

163. A jitney is a combination of taxi and bus. See Matthew Mitchell & Michael Farren, *If You Like Uber, You Would’ve Loved the Jitney*, L.A. TIMES (July 12, 2014, 5:00 AM), <http://www.latimes.com/opinion/op-ed/la-oe-mitchell-jitneys-uber-ride-share-20140713-story.html>. As for passengers, that transit space is also occupied by Uber and Lyft, but for “last mile” deliveries, there is opportunity for businesses to move merchandise from the baggage compartments of trains and trams to the storefronts using freight tricycles or electric-assisted trikes. See, e.g., Chawalit Tipagornwong & Miguel Figliozzi, *An Analysis of the Competitiveness of Freight Tricycle Delivery Services in Urban Areas*, TRANSP. RES. REC. (forthcoming 2014).

164. Keith J. Bucklew, *Improving Freight Roadway Transportation with Dedicated Truck Lanes: Opportunities and Issues*, 50 TRANSPORT. J. 431, 432 (2011) (“Dedicated truck lanes (DTL) can be the transportation fit we need to create a reliable, efficient[,] and safe roadway system for the twenty-first century.”); see generally Sundar Damodaran & Mauricio Alamillo, *Integrated Passenger & Commercial Vehicle Model for Assessing the Benefits of Dedicated Truck-only Lanes on the Freeways* (2012) (paper prepared for presentation at Conference and Exhibition of the Transportation Association of Canada), available at <http://conf.tac-atc.ca/english/annualconference/tac2012/docs/session18/damodaran.pdf> (discussing “[t]he concept of reserving lanes for the exclusive use of trucks”). California is considering a Regional Clean Freight Corridor System, consisting of a proposed series of truck-use only lanes extending from the San Pedro Bay ports to Interstate Highway 15, then northbound to I-10 and the Inland Empire. See S. CAL. ASS’N OF GOV’TS, ON THE MOVE: SOUTHERN CALIFORNIA DELIVERS THE GOODS SUMMARY REPORT 28–30 (2012), available at [http://www.camsys.com/pubs/CRGM\\_OnTheMove\\_ExecSummary.pdf](http://www.camsys.com/pubs/CRGM_OnTheMove_ExecSummary.pdf).

165. See, e.g., MOSHE BEN AKIVA, HILDE MEERSMAN & EDDY VAN DE VOORDE, FREIGHT TRANSPORT MODELLING 435 (2013) (explaining that freight traffic management includes restrictions such as routes only for trucks or allowing trucks to use bus lanes).

(self-driving) delivery vehicles during business hours;<sup>166</sup>  
and

7. Drones for aerial deliveries to inner-city businesses.<sup>167</sup>

All such transportation modes, including watercourse freight carriage, will require cooperation of multiple jurisdictions<sup>168</sup> if for no other reason than to establish consistent regulations to reduce traffic hazards and quell public confusion about rights of way. More strategically, bringing together stakeholders as collaborators accelerates the completion of regional projects and affords an opportunity to improve public realm quality through harmonizing the vehicular infrastructure together with sensitive linkages (e.g., pedestrian and cycling) and upgrading residents' environments with enhanced lighting, signage, street furniture, and landscaping.<sup>169</sup>

Optimally effective public-private partnerships will be those that are most broadly inclusive of neighborhoods. With increasing entrepreneurial drive to locate in downtowns, leaders must ensure that people and their resources spread outward from the city core into first suburbs.<sup>170</sup> For example, Detroit will attempt to share the wealth of reawakening its downtown through joint initiatives such as its new light rail line, the M-1 Rail, which will move people be-

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166. See, e.g., TRANS. RES. BD., NATIONAL COOPERATIVE HIGHWAY RESEARCH PROGRAM REPORT 649: SEPARATION OF VEHICLES—CMV-ONLY LANES 1–4 (2010) (explaining that real world applications of this concept are few in number). Chapter 5.2 of the treatise contains recommendations for truck-only lanes in urban corridors. See *id.* at 84–92.

167. See Alistair Barr, Jack Nicas & Greg Bensinger, *Google Lifts Drone Hopes*, WALL ST. J., Aug. 30, 2014, at B3. Google has developed drones to deliver goods and has tested the delivery system. *Id.* However, Google believes it will require years to implement service featuring multiple vehicles making multiple daily deliveries. See Alistair Barr & Greg Bensinger, *Google is Testing Delivery Drone System*, WALL ST. J. (Aug. 29, 2014, 4:04 AM), <http://www.wsj.com/articles/google-reveals-delivery-drone-project-1409274480>. This is because the Federal Aviation Administration has not contemplated autonomous drone deliveries in policy development regarding civilian drone use. See generally Operation and Certification of Small Unmanned Aircraft Systems, 80 Fed. Reg. 9544 (proposed Feb. 23, 2015) (to be codified at 14 C.F.R. pt. 21).

168. See, e.g., NCFRP REPORT 14, *supra* note 101, at 64–66; MO. DEP'T OF TRANSP., MISSOURI STATEWIDE FREIGHT STUDY EXECUTIVE SUMMARY 16–17 (2005), available at <http://webtest.modot.mo.gov/othertransportation/freight/documents/MoDOTFreightStudyExecutiveSummary.pdf>.

169. See, e.g., Ety Padmodipoetro & Camilla Ween, *Why Transport Projects Must Make Cities More Liveable*, CITIES TODAY (June 8, 2014, 4:50 AM), <http://cities-today.com/why-transport-projects-must-make-cities-more-liveable/> (discussing the importance of prioritizing liveability in major infrastructure projects).

170. Rana Foroohar, *Detroit's Turnup: An Unlikely Deal Lifts Motown out of Bankruptcy*, TIME, Nov. 24, 2014, at 28.

tween downtown and the suburbs.<sup>171</sup> Quicken Loans, General Motors, and Penske donated much of the development cost of this new transit line.<sup>172</sup> Another initiative, Venture for America Detroit, is a nonprofit agency that seeds urban areas with would-be entrepreneurs who want to establish themselves in neighborhoods as pioneer dwellers.<sup>173</sup> Young, technologically-savvy dwellers doubtlessly are linchpins in redevelopment. Yet Detroit's boundaries are full of poorer, older, small business owners hobbled by expensive regulatory and fee-based structures and rigid enforcement of seemingly inconsequential rules.<sup>174</sup> Operation Compliance Initiative, passed in 2012 during the Dave Bing administration, focused on small, essentially unlicensed, home-based businesses in poor areas of the city.<sup>175</sup> These businesses—often operated by financially struggling families—frequently feature sharing-economy business models like in-house dining.<sup>176</sup> Hundreds of these businesses were shut down during 2012 to 2013 for minor infractions such as operating in the incorrect zoning district.<sup>177</sup> Enforcement of zoning regulations without affording recourse for these underground economy owners through (at a minimum) a zoning adjustment process or inexpensive temporary permits diverts scarce city resources from Detroit's myriad failed public services like police protection, garbage collection, and mass transit.<sup>178</sup> Do-it-yourself commercial activities in first suburbs cannot flout community regulations like basic sanitation and public safety.<sup>179</sup> But cities must discover new ways (other than lockouts and fines) to encourage public-private partnerships with the smallest business owners, thereby maintaining a diversity of neighborhood

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171. *Id.*

172. *Id.*

173. *Id.*; see also *Where We Are: Detroit*, VENTURE FOR AM., <http://ventureforamerica.org/where-we-are/detroit/> (last visited Dec. 30, 2015).

174. See Scott Beyer, *The Motor City's Regulators Are Hitting the Brakes on Regrowth*, WALL ST. J., Dec. 12, 2014, at A11.

175. *Id.*

176. *Id.*

177. Trevor W. Coleman, *Small Business Smackdown*, BLAC DETROIT (MAY 2013), <http://www.blacdetroit.com/BLAC-Detroit/May-2013/Small-Business-Smackdown/>; Zach Weissmueller, *Operation Compliance: Detroit's War on Small Business*, REASON.COM (Sept. 17, 2013), <http://reason.com/reasontv/2013/09/17/operation-compliance-detroits-war-on-sma>.

178. Beyer, *supra* note 174, at A11; see generally KEVIN D. ORR, CITY OF DETROIT, FINANCIAL AND OPERATING PLAN (2013), available at <http://archive.freep.com/assets/freep/pdf/C4205233512.PDF> (addressing some of Detroit's dysfunctional city services).

179. See Sarah Schindler, *Regulating the Underground: Secret Supper Clubs, Pop-Up Restaurants, and the Role of Law*, 82 U. CHI. L. REV. DIALOGUE 16, 19–20 (2015).

commercial activities and continuing investment in neighborhoods,<sup>180</sup> especially minority neighborhoods with dwellers of less robust financial circumstances who contribute to the variety and authenticity of first suburb living experiences.

Finally, first-tier suburbs have established consortia in a variety of Midwestern metropolitan areas from Cleveland to Kansas City.<sup>181</sup> These coalitions seek funding for transit projects to directly address the needs of their communities' residents, among other local government funding-assistance priorities.<sup>182</sup> Lobbying for regional tax base sharing or additional state or federal funding must be core objectives of these consortia to overcome official resistance undergirded by concern that prosperous outer suburbs subsidize declining first suburbs.<sup>183</sup> Inter-municipal consortia can succeed in increasing workforce numbers and improved community economic productivity.<sup>184</sup>

## CONCLUSION

The intimate connection among sound local land use policies, employment opportunity, and neighborhood prosperity is well understood, as William Galston recently reminds us:

[E]mployment is more than an economic good . . . it helps organize our lives. It provides structure and purpose. It is a

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180. *See id.* at 26–29.

181. Robert Puentes, Commentary, *The State of Organizing in Midwestern First Suburbs*, 2 OPOLIS 53, 55–56 (2006), available at <http://escholarship.org/uc/item/3s42g697>. Illustrating freight transportation and logistics is the effort of Kansas City's KC SmartPort, a nonprofit economic development corporation producing studies to identify developing freight infrastructure needs and determine targeted strategies. *See, e.g.*, TRANSYSTEM, KANSAS CITY REGIONAL FREIGHT OUTLOOK STRATEGIC PLAN 3, 6–7, 9–11, 14–15 (2009), available at [http://www.marc.org/Transportation/Plans-Studies/Transportation-Plans-and-Studies/Special-studies-and-projects/special-studies-pdfs/freightoutlook/KCRFO\\_StrategicPlan.aspx](http://www.marc.org/Transportation/Plans-Studies/Transportation-Plans-and-Studies/Special-studies-and-projects/special-studies-pdfs/freightoutlook/KCRFO_StrategicPlan.aspx).

182. Puentes, *supra* note 181, at 57.

183. *Id.*

184. *See* Marie-Fleur Albecker & Sylvie Fol, *The Restructuring of Declining Suburbs in the Paris Region*, in *SHRINKING CITIES: INTERNATIONAL PERSPECTIVES AND POLICY IMPLICATIONS* 78 (Katrina Pallagst et al. eds., 2014) (describing job creation in Saint-Denis outside Paris); OECD, *RURAL-URBAN PARTNERSHIPS, AN INTEGRATED APPROACH TO ECONOMIC DEVELOPMENT* 155–69 (2013) (describing Geelong [in Victoria State, Australia] Region Alliance [aka “G21”] partnership's economic development planning, execution experience, and job growth success in the metropolitan area); Bas Verkerk, *High Time for an EU Urban Agenda*, EURACTIV.COM (July 10, 2014, 8:14 AM), <http://www.euractiv.com/sections/eu-priorities-2020/high-time-eu-urban-agenda-303378> (advocating that, to maintain EU competitiveness, the EU must acknowledge the potential of cities and urban regions to be motors for economic growth, employment, and clean environments, and must enable cities and urban regions to achieve such goals).

key source of self-confidence and social respect. It promotes stronger, more stable families and healthier communities. . . . [W]e know all too well the consequences of long-term unemployment: diminished self-respect[;] increased strife within families[;] . . . blighted neighborhoods[;] and, worst of all, a corrosive sense of helplessness.<sup>185</sup>

Implementing tools in the land use toolbox to create dependable jobs with decent wages—to reverse the “hollowing out” of America’s middle class workforce—has lingering challenges. First, states must commit to policies of reinvestment focusing on infill development within first-ring suburbs while retracting policies endorsing new development on the hinterlands of metropolitan regions.<sup>186</sup> Next, first suburb leadership needs to adopt bold plans to remake physical landscapes of infrastructure and networks while celebrating first suburban virtues like design and quality, centrality, and convenience.<sup>187</sup> Central to this planning exercise is first suburbs jointly lobbying for reforms at their state capitals, operating in formal, cross-municipal networks to advocate for regional economic development and transportation corridor reconnections to “urban cores.”<sup>188</sup> Equally important is recognizing regionally the virtue of scaled development featuring greatly increased densities and transit nodes attracting young, technologically-advanced workforce members while preserving quality of life for current community dwellers through augmenting open space, parks, and similar urban-oriented amenities.<sup>189</sup> Local governments must encourage employers to establish workplaces in areas with high unemployment, especially firms

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185. William A. Galston, *Shared Prosperity Is a Moral Imperative*, WALL ST. J. (Aug. 19, 2014, 7:24 PM), <http://www.wsj.com/articles/william-galston-shared-prosperity-is-a-moral-imperative-1408490674>.

186. See PUENTES & WARREN, *supra* note 5, at 16.

187. See *id.*

188. See *id.* at 15–17; *Geography of Joblessness*, *supra* note 38, at 79 (noting that a typical American city dweller reaches only 30% of urban jobs via public transportation in ninety minutes or less—a “recipe for unemployment”).

189. See generally PUENTES & WARREN, *supra* note 5, at 16; see also EUROPEAN INNOVATION PARTNERSHIP ON SMART CITIES AND COMMUNITIES, STRATEGIC IMPLEMENTATION PLAN 21–22 (2013), available at [http://ec.europa.eu/eip/smartcities/files/sip\\_final\\_en.pdf](http://ec.europa.eu/eip/smartcities/files/sip_final_en.pdf) (stressing that cities need to work across administrative boundaries and increase collaboration, including by setting up cross-agency integrated planning boards and creating innovation zones/incubators to address common solutions that will deliver scale and greater certainty; these ventures will reduce risk and help attract investment).

that hire unskilled workers and happen to need to be closer to customers and suppliers.<sup>190</sup>

Elected local leaders count votes and curry favor with developers seeking optimal advantages for lowest costs. At the other pole, resistance to tactical urbanism of the sort proposed here surfaces from two sources. Anxious, vulnerable citizens in first suburbs may believe that tactical urbanism, no matter how temporarily implemented, threatens a familiar social ecosystem undergirding their survival patterns and defining their neighborhood's status. These citizens will erect barriers to tactical urbanism initiatives like a distribution hub-education and training center proposed here, based upon legitimate disdain of prior projects promising public goods (like better security or improved health) without their delivery. The second source is chronically self-absorbed residents oblivious to any landscape larger than the narrative of their lives.<sup>191</sup> It will take time to teach these dwellers civic responsibility, defining their roles in shaping "what comes next,"<sup>192</sup> and persuading them to invest in something greater in scope than earning enough to move to the edgier urban core. Youth engagement in planning policy results in more inclusive community planning; and it ought to result in greater stakeholder monitoring to see that development promises are fulfilled.<sup>193</sup> In any case, regeneration of first suburbs requires an infusion of younger dwellers committed to active participation in local civic affairs.<sup>194</sup> Community education must persuade all these stakeholders that—without injections of redevelopment initiatives that rescue outmoded property assets, increase jobs, and grow employment readiness—disuse or gentrification of housing stock will even-

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190. See *Geography of Joblessness*, *supra* note 38, at 79. These workplaces are an absolute imperative for communities seeking to remain economically competitive; without jobs training, a large cadre of persons will develop that, no matter how intense their desire to work, will be unable to find work. See Aepfel, *supra* note 8, at A1 (quoting economist Erik Brynjolfsson, who expresses concern about loss of jobs—even those requiring human judgment and dexterity—to future automation).

191. See generally Ryan Dobson, *Get over Your Selfie*, WALL ST. J., Aug. 20, 2014, at A11 (explaining the general human tendency of self-absorption).

192. See *id.*

193. See Victoria Thornton, *A Wider Look at the Built Environment*, in KALEIDOSCOPE CITY: REFLECTIONS ON PLANNING & LONDON 93, 98-99 (Jonathan Manns ed., 2014) [hereinafter KALEIDOSCOPE].

194. Cf. Whelan, *supra* note 24, at A3 (asserting that mixed-use projects involving malls, offices, and multifamily housing target younger residents seeking walkability and close-by shopping and dining).

tually render first suburb life in many locations less affordable,<sup>195</sup> less diverse, and less satisfying to the community.<sup>196</sup> The community must grasp that a town's growth management relates to other places and times in socio-economic and cultural terms and at multiple spatial levels.<sup>197</sup> Neighborhood revival pivots upon a community of interest through like-minded individuals passionate about establishing a character or unique identity, together with a full-time employment base for their suburb.<sup>198</sup> Dwellers disinvested in their neighborhood's outcomes lack capacity to sustain their first suburb's revival, whether through exchanging ideas or integrated action. Those who are working, learning, and teaching in first suburb distribution hubs<sup>199</sup> must, therefore, live nearby, and be observed by others as identifying with economic conditions generally and their neighbors' circumstances particularly. A community of interest ensures many dwellers will remain invested for the "duration," undergirding prosperity and citizenship. The commercial developer's commitment to build a project spurring management-level occupancy of local neighborhood housing is a dynamic undertaking requiring allies who are not politicians. Important change-agents include

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195. See PUENTES & WARREN, *supra* note 5, at 13 (stating that the affordability gap already is growing, exacerbated by recent federal actions regarding affordable housing). *But see Bring on the Hipsters*, ECONOMIST, Feb. 19, 2015, at 29, available at <http://www.economist.com/news/united-states/21644164-gentrification-good-poor-bring-hipsters> (addressing lack of evidence that gentrification per se displaces the poor, and that rising home prices can generate more subsidized housing and will increase property tax revenue helping improve neighborhood services).

196. See Jonathan Manns, *Some Thoughts on Future Development*, in KALEIDOSCOPE, *supra* note 193, at 256.

197. See *id.*

198. Full time employment opportunities are especially elusive in the current economic and employer-mandated health-care circumstances, given the higher costs of hiring full-time workers. See Nick Timiraos, *Many Face New Normal: Part-Time Pay, Full-Time Bills*, WALL ST. J., Nov. 13, 2014, at A1, video report available at <http://www.wsj.com/video/is-high-part-time-employment-the-new-normal/57FA23DD-E5C3-4B03-B707-448598161F5.html?KEYWORDS=timiraos+part+time>. While full time jobs in the U.S. were added in 2014, they were still short of jobs numbers in 2007 when America's recession commenced. See *id.* at A1. Timiraos speculates that part-time employment will replace full-time work, but cannot prove this theory given falling part-time U.S. jobs numbers at his date of publication. See *id.*

199. See Fwa, *supra* note 155, at 46-47 (regarding distribution hubs inside cities). The author suffers no monomania about small retail distribution hubs as jobs and training incubators; these opportunities illustrate one among myriad initiatives spurring employment growth and addressing first suburbs' community redevelopment dilemmas. Here's an alternative: the Baltimore Food Hub, an East Baltimore-based campus for food-related businesses and job training. See Andrew Zaleski, *Baltimore Food Hub*, TECHNICAL.LY BALTIMORE (Feb. 19, 2013, 10:00 AM), <http://technical.ly/baltimore/2013/02/19/baltimore-food-hub-development-plans/>. Any jobs-with-education-directed repurposing of property must engage all first suburb stakeholders as community-based growth initiatives.



local employees and executives committed to train and develop themselves and others, ultimately building a junior management class of permanent neighborhood residents with adaptable midlevel skills and steady incomes.<sup>200</sup> The inherent sustainability of a first suburb essentially rests upon its residents' ability to function independently while the community partners with other suburbs, commercial centers, and with the private sector to achieve coordinated solutions to the challenges of improved transportation, education and public health systems, and optimal job creation.<sup>201</sup>

Diminishing quality-of-life cycles in first suburbs must be disrupted. Progress accelerates when innovative, short- and long-term land use policies enable residents' upwardly-mobile trajectories while building urban experiences inculcating authentic community interaction.<sup>202</sup> Local and regional government structures, in the interest of competitiveness, must lead by disregarding fictions so that growth of the tax base and increasing wage opportunities for service workers cannot dominate land use decision-making, or that mixed-use development augmenting jobs creation must be planned incrementally. This must happen well in advance of implementation. Delivering sustainable development requires local leaders to listen to their constituents' specific concerns, educate citizens to react on non-visceral levels, and seek solutions to explicit concerns, while promoting a long-term community vision that allows all workers to prosper in the knowledge economy.<sup>203</sup>

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200. See J. PAUL DITTMAN, DISTRIBUTION CENTER MANAGEMENT: A BEST PRACTICES OVERVIEW 39–41 (2015), available at [http://www.unitrans-us.com/newsroom/Attachments\\_Uploads/TheABCsofDCs.pdf](http://www.unitrans-us.com/newsroom/Attachments_Uploads/TheABCsofDCs.pdf) (all warehouse operation associates must be engaged and involved in continuous improvement and take on routine supervisory duties to learn management skills); NATIONAL COUNCIL FOR URBAN ECONOMIC DEVELOPMENT, COORDINATED URBAN ECONOMIC DEVELOPMENT: A CASE STUDY ANALYSIS 89, 89 (1978). Local investment in jobs training by a wide range of public and private stakeholders is urged in Thomas A. Kochan, David Finegold & Paul Osterman, *Who Can Fix the "Middle-Skills" Gap?*, 90 HARV. BUS. REV. 83, 88–90 (Dec. 2012) (distribution center or "hub" jobs consist of entry-level type employment through management-level positions). See also J. Michael Tarn et al., *E-fulfillment: The Strategy and Operational Requirements*, 16 LOGISTICS INFO. MGMT. 350, 356–58 (outlining functions performed in the order fulfillment process); see also Marcus Wohlsen, *A Rare Peek Inside Amazon's Massive Wish-Fulfilling Machine*, WIRED BUSINESS (June 16, 2014, 6:30 AM), <http://www.wired.com/2014/06/inside-amazon-warehouse/>.

201. See David Eynon, *Planning for Energy Use in Buildings*, in KALEIDOSCOPE, *supra* note 193, at 249.

202. See, e.g., Jake Auchincloss, *Living Large on a Small Footprint*, DATA-SMART CITY SOLUTIONS INNOVATION (Aug. 24, 2014), <http://datasmart.ash.harvard.edu/news/article/living-large-on-a-small-footprint-525>.

203. See David Eynon, *Planning for Energy Use in Buildings*, in KALEIDOSCOPE, *supra* note 193, at 251.