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The State Planning Process in New Jersey

January 27, 1987

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State
Development
AND
Redevelopment
Plan

THE STATE PLANNING PROCESS IN NEW JERSEY

Traditionally land use planning has been a responsibility of local government. Indeed when land use controls first appeared on the American scene, land use planning and the control of development were allocated to local government by the Standard State Zoning Enabling Act and the Standard State Planning Act. That allocation of responsibility, however, has proven to be subject to much criticism because of the extra-territorial implications of land use decisions. Municipal boundaries are generally nothing more than arbitrary lines on a map, lines that the impacts of growth and development do not respect. In response, a variety of programs have been initiated in various states to provide a greater-than-local perspective in land use planning and control, including regional approaches such as the Meadowlands and the Pinelands and state level activities like the Hawaii State Plan and the State Comprehensive Plan in Florida.

This country is in the midst of a revolution in the way we regulate the use of our land. It is a peaceful revolution, conducted entirely within the law. It is a quiet revolution, and its supporters include both conservatives and liberals. It is a disorganized revolution, with no central cadre of leaders, but it is a revolution nonetheless.

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The tools of the revolution are new laws taking a wide variety of forms but each sharing a common theme - the need to provide some degree of state or regional participation in the major decisions that affect the use of our increasingly limited supply of land. The function of this report is to discuss and analyze these new laws and to try to predict and perhaps influence the course of this "quiet revolution."

Bosselman and Callies, *The Quiet Revolution in land Use Control* (C.E.Q. 1971).

THE HISTORY OF STATE PLANNING IN NEW JERSEY

Although not recognized as such in the principal books on the so-called a "quiet revolution" (*The Quiet Revolution in land Use Controls*, supra, and DeGrove, *land Growth & Politics* (A.P.A. 1984)), New Jersey has a long history in state and regional planning. In 1934 the State Planning Act was adopted creating a state board of planning that served as an information source to

TOE STATE PLANNING ACT (Chapter 52:18A-196 et seq.)

Public Law 1985, Chapter 398 creates a State Planning Commission and an Office of State Planning in the Department of Treasury for the purposes of establishing "a cooperative planning process that involves the full participation of State, county and local governments...." According to section 1 of the Act:

- New Jersey needs integrated and coordinated planning in order to conserve its natural resources, revitalize its urban centers and provide affordable housing and adequate public facilities at a reasonable cost;
- Significant "economies, efficiencies and savings" can be achieved by the public and private sectors if all levels of government cooperate in the preparation and implementation of sound planning;
- It is in the public interest to encourage development, redevelopment and economic growth in locations with adequate public facilities and to discourage growth and development that will impair natural resources and environmental qualities;
- It is important to provide local government with the technical resources and policy guidance necessary to assist in developing cooperative and integrated land use plans;
- A sound and comprehensive planning process will promote equal social and economic opportunity for New Jersey citizens; and
- Judicial mandates in regard to housing for low and moderate income persons requires sound planning to prevent sprawl and to promote the suitable use of land.

In section 2 of the Act, the State Planning Commission is created consisting of 17 members appointed as follows:

- The State Treasurer and four other cabinet members appointed by the Governor (cabinet members may be represented by an official designee) and two other members of the executive branch of government appointed by the Governor;
- Four persons (no more than two from one political party) representing municipal and county government to be appointed by the Governor and confirmed by the Senate (at least of these representatives shall represent urban interests):

Finally section 4 provides that the State Planning Commission shall "[t]ake all actions necessary and proper to carry out the provisions of this Act."

In section 5, the Act outlines the objectives for the State Development and Redevelopment Plan and in so doing establishes a substantive policy base for the Plan which is, according to the preamble to section 5, to be a "balance of development and conservation objectives best suited to meet the needs of the State." The first objective of the Plan is to "protect the natural resources and qualities of the State. The Act enumerates, without limiting the meaning of, agricultural development [sic] areas, fresh and saltwater wetlands, floodplains, stream corridors, aquifer recharge areas, steep slopes, areas of unique flora and fauna, and areas of scenic, historic, cultural and recreational value as "natural resources that are to be protected. The second objective set out in section 5 is the promotion of "development and redevelopment in a manner consistent with sound planning and where infrastructure can be provided at private expense or with reasonable expenditures of public funds." The third established objective is to ensure that land use, environmental, capital and economic elements of State, county and municipal plans are considered in the preparation of State plans concerning natural resources or infrastructure.

The State Development and Redevelopment Plan is specifically required to contain a policy element that coordinates planning activities and establishes Statewide planning objectives in regard to:

- land use;
- housing;
- economic development;
- transportation;
- natural resource conservation;
- **agriculture** and **farmland**
retention;
- recreation;
- urban and suburban redevelopment;
- historic preservation;
- public facilities and services;
- and
- intergovernmental coordination.

The Plan is not, however, limited to broad policy considerations, and the Act requires that the Plan: "identify areas for growth, limited growth, agriculture, open space conservation and other appropriate designations that the commission may deem necessary...." In other words, the State Development and Redevelopment Plan must include delineations of areas for at least four categories of land use - growth, limited growth, agriculture and open space - however, the meaning of these use categories is left to the discretion of the Commission

the Acts process for promoting vertical coordination and integration of state, county and local plans – the cross-acceptance process. The Act provides that the Commission shall during the preparation of the State Development and Redevelopment Plan, "solicit and give due consideration to the plans, comments, and advice of each county and municipality, State agencies designated by the commission and other local and regional entities." The Act does not define "due consideration" however, it may be assumed that the term means, at the least, meaningful evaluation.

Prior to the adoption of the State Development and Redevelopment Plan (and any readoption of the same), the Commission is required to distribute a "preliminary plan" to each county planning board, each municipal planning board and other requesting agencies including state agencies and metropolitan planning organizations. In conjunction with the distribution of preliminary plans, the Commission is required to hold, no sooner than 45 days after distribution and not later than 90 days after distribution, a "public informational meeting in each county for the purposes of:

providing information on the plan, responding to inquiries concerning the plan, and receiving informal comments and recommendations from county and municipal planning boards, local public officials and other interested parties.

The Act establishes a very creative and ingenious vehicle for public consideration of the preliminary plan and its transformation into a final State Development and Redevelopment Plan – the "cross-acceptance" process. In simple terms the Act contemplates that the commission will prepare the preliminary plan, submit it to county and municipal government and then attempt to negotiate an agreement in regard to any disagreements which exist between the preliminary plan and county and local plans. Cross-acceptance is defined by the Act as:

a process for comparison of planning policies among governmental levels with the purpose of attaining compatibility between local, county and State plans. The process is designed to result in a written statement specifying the areas of agreement and disagreement and areas requiring modification by parties to the cross-acceptance.

Through the vehicle of cross-acceptance, the Act proposes to avoid the traditional "dictatorial" character of state planning efforts, and to afford county and municipal government a full and open opportunity to be involved in reconciling conflicts between state and local policies. The Act presumes that the Commission will negotiate cross-acceptance with the planning

forfeiture of office or employment or diminution in compensation, status, rights or privileges which they otherwise would enjoy.

Section 10 provides that each state agency, county, municipality or other political subdivision shall make available to the Commission any studies, surveys, plans, data and other materials or information concerning land use, capital facilities, the environment, transportation, economic development or human services.

Section 11 contains savings language that preserves from change as a result of the State Planning Act, the integrity of existing legislation, plans and regulations of the Pinelands Commission, the Hackensack Meadowlands Development Commission and the Department of Environmental Protection in regard to CAFRA. The Act specifically states that the Commission shall rely upon the adopted plans and regulations of these entities in the developing the State Development and Redevelopment Plan.

The balance of Public Law 1985, Chapter 398 is an amendment to section 3 of P.L. 1975, d. 208 (C. 52:93-3) which modifies the annual State Capital Improvement Plan process to ensure consistency of that process with the goals and provisions of the State Development and Redevelopment Plan.