

**INTERIM REPORT  
OF THE NEW JERSEY STATE  
PLANNING COMMISSION  
ON  
IMPLEMENTATION ISSUES**

*Ws Report is authorized for release by the New Jersey State, P Janning Commission for public comment on issues raised during the initial two phases of the Cross- acceptance process concerning implementation of the State Development and Redevelopment Plan*

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## INTRODUCTION

Cross-acceptance has been a learning process for all its participants - municipalities, counties, individual State agencies, citizens, special interest groups and the State Planning Commission. While the cross-acceptance process is conceived and designed to deal specifically with revisions to the Preliminary State Development and Redevelopment Plan, the process evolved also as a forum for agency officials at all levels and the general citizenry to express frustration about the State's present intergovernmental system. There were at least two messages clearly articulated to the Commission during the cross-acceptance process: the inadequacy of coordination within and among governmental levels that reduces the *effectiveness* of sound public policy and the absence of the tools necessary to *efficiently* and *equitably* promote beneficial economic growth, as required by the State Planning Act. Notions regarding effectiveness, efficiency and equity were recurring themes throughout the cross-acceptance process.

The "effectiveness" of the Plan is its potential during implementation to achieve the legislative goals reflected in the State Planning Act. While the Plan was carefully constructed to achieve the goals of the Act in the absence of any additional initiatives, this potential can certainly be strengthened. The "efficiency" of the Plan has to do with the amount of effort necessary at the various levels of government to carry out the Plan's planning approach and policies. This effort can and should be reduced to the minimum necessary to carry out the Plan. The "equity" of the Plan concerns the distribution of benefits and burdens among groups and governments that various implementation measures would produce. Equity, whether it is the concern urban, suburban or rural interests, can best be assured by adding a variety of nonregulatory, incentive-based programs to the panoply of existing regulatory and nonregulatory programs.

The State Planning Act is largely silent on how the Plan is to be implemented, and on the role of the Commission in its implementation. Clearly, the Commission itself does not have the authority to implement the Plan or to dictate the manner in which others should implement it. Thus, while many of the participants in cross-acceptance have concerns about implementation, the most that the Commission can do to respond to these concerns is to use the *planning* and *advisory* authority provided by the Act to identify these concerns and suggest actions and procedures that will help those entities that have implementation authority to deal with issues of effectiveness, efficiency and equity. In this regard, the Act empowers the Commission to undertake the following implementation-related activities:

"... Develop and promote procedures to facilitate cooperation and coordination among State agencies and local governments with regard to the development of plans, programs and policies which affect land use, environmental, capital and economic development issues;..."

AND

" . . . Periodically review State and local government planning procedures and relationships and recommend to the Governor and the Legislature administrative or legislative action to promote a more efficient and effective planning process;.. ." (N.J.S.A. 52:18A-199)

Accordingly, this "interim" report identifies the implementation issues of concern to cross-acceptance participants and includes Commission observations regarding how these issues might be dealt with in the context of the Plan. In this sense, it lays the foundation for Commission recommendations that, following public comment and revision, will accompany the final Plan.

There are many ways that public policy can be carried out, and the Commission recognizes this fact in regard to the Plan. The State's 567 municipalities, 21 counties and many regional and State agencies comprise a public policy "laboratory" of innovative thinking. The purpose of this report, therefore, is to provide a focus for this thinking during the remainder of the cross-acceptance process so that a final report, fulfilling negotiated agreements with cross-acceptance participants regarding implementation issues, can be prepared.

## **SECTION I**

### **IMPLEMENTATION TASKS FOR THE STATE PLANNING COMMISSION**

As stated above, the State Planning Act does not define a clear role for the State Planning Commission in terms of assuring that the State Plan is implemented. Nevertheless, the Commission is empowered, in addition to the activities cited above, to review and revise the plan every three years and to assist agencies at all levels to improve planning in the State. In carrying out these responsibilities, the Commission identifies below eight major tasks that it should perform to respond to the concerns and needs expressed by municipalities, counties, State agencies and the general public during the cross-acceptance process. As part of its responsibility to provide professional services to the Commission in the performance of its duties, the Office of State Planning will report periodically to the Commission the status of these tasks during the implementation period.

#### **Task 1. Evaluate the Initial Cycle of the State Planning Process**

Much has been learned during the initial cycle of the State planning process. In the absence of a model for undertaking the cross-acceptance process, for instance, the Commission proceeded one step at a time, creating rules for each phase based upon the needs of participants and planning foundations established in preceding phases. Future cycles of the State planning process would benefit from a comprehensive examination of all components of the process and identification of improvements. This examination should include all participants.

The Commission intends to undertake a comprehensive evaluation of the State planning process to date, involving municipalities, counties and State agencies and the general public, as a basis for revising the process in preparation for the triennial revision of the State Plan.

#### **Task 2. Work with State Agencies on Revising Functional Plans and Processes**

State Agencies will play a key role in implementing the State Plan. It is important that their plans and decision-making processes reflect the objectives and policies of the State Plan, and the Commission accepts the responsibility of assisting State agencies toward this end. While the Commission is not in a position to direct the manner in which agencies come into consistency, it can

play a valuable and useful role in helping the agencies to understand the nature of local concerns regarding State plans and actions expressed during the cross-acceptance process. In this sense, the Commission can help agencies by defining some of the substate (i.e., levels of government, including regional agencies, below the State level) issues that need to be dealt with and by interpreting the State Plan relative to their many diverse mandates. The fact that some of these agencies are represented on the Commission, this role for the Commission will help to reinforce the coordination among key agencies that is so important to the efficient and effective implementation of the State Plan.

The Commission intends, prior to approval of the final State Plan:

- to prepare a guide suggesting some of the specific policies that certain agencies should consider; and
- \* to direct the Office of State Planning to initiate preparation of interagency agreements with other appropriate State agencies to establish cooperative processes for:
  - informational exchange;
  - advising State agencies as they revise plans. and decision-making processes;
  - evaluating the consistency of State agency plans and actions with the State Plan; and
  - carrying out implementation tasks and recommendations identified herein.

### **Task 3. Establish a Monitoring and Evaluation Program to Continually Assess Plan Impacts**

The State Planning Act requires that an assessment of the impacts of the State Plan on economic, fiscal, environmental, intergovernmental coordination and community life systems be undertaken by an independent contractor, and this assessment is currently underway. The assessment will describe the potential impacts of the Plan after it is adopted. Recognizing that such an assessment, as is the case with any projection of impacts, will be based on broad assumptions concerning how the Plan actually would be implemented, the Act also requires that the Commission establish a "monitoring and evaluation" program to more definitively assess Plan impacts as it is being implemented. The real impacts of the Plan can only be determined by monitoring its implementation and evaluating its impacts in terms of causal factors. This information can then be used to amend certain policies and practices to . produce desirable results. The assessment currently underway will, in addition

to projecting impacts, provide much of the benchline data and the methodologies necessary to carry out an effective monitoring and evaluation program. This program will provide periodic information necessary to address the concerns of some parties that the Plan may have unintended negative consequences for some groups. If such negative impacts were to surface, the Commission would consider appropriate policy changes in the Plan to ameliorate these impacts. The results will also be used to revise the State Plan triennially.

The Commission will establish a monitoring and evaluation program to evaluate the effectiveness of the State Plan's policies in achieving the goals of the State Planning Act and to assess the impacts of the Plan on economic, fiscal, environmental, intergovernmental coordination and community life systems.

#### **Task 4. Establish an Intergovernmental Data Management System**

Central to the problem of uncoordinated planning and decision-making is the fact that governments at each level operate with different data concerning similar subjects. Because this data often is not shared, if only because of technological ..and resource limitations, the decisions that are based on this data often operate at cross-purposes. It is important that each level of government have access to as much information as possible, and because this information is developed and stored at different governmental levels, a coordinated program for sharing this data will considerably improve the quality of growth, land use, environmental and capital facility and other decisions.

The Commission, in coordination with the counties, municipalities and other State agencies, will initiate an ongoing and integrated intergovernmental program that promotes the development of a system for data development and exchange, including, but not necessarily limited to, data on the following items:

- long-term infrastructure needs and costs;
- existing and planned capacity data for natural and built systems;
- site plan and development permit approvals;
- status of local and county master plans; and
- critical environmental sites.

This integrated intergovernmental data management system should include a coordinated geographic information system (GIS), with appropriate private

sector and quasi-public agency participation, designed to serve the needs of governments at all levels.

### **Task 5. Review Voluntary Submissions of Substate Plans**

The State Plan is a complex policy document, and the Commission became aware during the cross-acceptance process that governments at the substate level anticipate some difficulty in correctly interpreting its many provisions to devise compatible plans and planning processes. Also, because many of the diverse interests involved in the issues with which the State Plan deals, Plan provisions are vulnerable to a variety of interpretations. The Commission can play a valuable role by reviewing and commenting on the degree to which it believes substate plans are reasonably compatible with the State Plan. This role would be advisory only, and, in addition to helping substate governments coordinate their planning policies with those of the State, this activity will provide the Commission with information needed for revising the Plan in future cycles of the State planning process.

The Commission will establish a system for reviewing and commenting upon voluntary submissions of local, county, and regional plans, programs and planning processes.

### **Task 6. Initiate a State Agency Planning/Permit Review and Coordination Program**

State agencies shoulder an enormous responsibility in carrying out very complex planning and regulatory programs designed to fulfill legislative and other mandates. Many of these programs serve narrow purposes regarding certain specific public health, safety and welfare concerns. The State Plan places these narrow purposes and specific concerns (e.g., wastewater facilities, highway access, housing) in a broader context (e.g., growth management and comprehensive planning), and it calls upon these State agencies to consider the broader impacts of their decisions on the purposes and mandates of other agencies and on objectives and programs at lower levels of government. This broader perspective could be reinforced through a regularized process of agency interaction on specific programmatic actions.

In addition, the Commission and the Office of State Planning are required by the State Planning Act to review and, as appropriate, comment on the following in terms of their consistency with the State Development and Redevelopment Plan:

- the plans of interstate agencies;

- capital appropriation requests; and
- local development applications exceeding 150 acres or 500 housing units.

An interagency process for systematic, policy staff review of upcoming agency initiatives and permitting decisions, as well as of the three Commission review functions described above, on a regular basis would provide each agency and the Commission with important information on how its policies and decisions may affect the objectives of other agencies and the achievement of overall State goals and objectives. It would also help to ensure coordinated decisions, to the maximum extent possible given the diversity of mandates, that will lead to fulfillment of State planning goals and objectives.

The Commission, working with the State agencies, will study the development of a State interdepartmental planning, capital facility, development and permit review process.

### **Task 7. Promote the Concept of "Communities of Place"**

The State Plan recommends the identification of "Centers" throughout the State to serve as the major foci of growth in the future. While Centers may not be the only areas where future growth will occur, they should be the areas where growth is most encouraged and facilitated. Centers, if properly planned and managed, should become communities offering the services and quality of life desired by New Jerseyans, and" future growth patterns that comport with this vision will lead to the achievement of the goals of the State Planning Act. These communities are called "Communities of Place," and the Commission's vision for such communities is described in the Interim State Plan. This vision should guide interpretations of the State Plan during its implementation. The Commission found, however, that concrete identification of examples of existing or evolving Communities of Place would help the general public, the development community and public officials at all levels gain a better understanding of the concept.

The Commission intends to establish and administer a program for periodic identification and recognition of existing and evolving "Communities of Place."

### **Task 8. Budgeting for Substate Education and Training Programs**

The cross-acceptance process revealed that inadequate training and education in planning for appointed and elected planning officials is affecting the quality of



substate planning and individual land use decisions. Most substate planning board members and elected officials have other occupations and time/resource commitments that make it difficult for them to educate themselves in sound planning principles or to participate in occasional education and training programs. The resulting costs to both the public and private sectors take the forms of an uncertain climate for private investment/adverse impacts on the State's quality of life and inefficient use of limited public resources. During cross-acceptance, it was suggested that the establishment of a comprehensive education and training program, funded by the State and available Statewide, would be one of the most efficient and effective means of improving the quality of planning and development decision-making in the State. Given the impact of substate planning and land development decisions on the State's future infrastructure expenditures, it is in the State's fiscal interest to assure that these officials have easy access to comprehensive and effective education and training programs.

The Office of State Planning to work with the Department of Community Affairs and other appropriate agencies and universities to establish an appropriate program and identify the appropriate State agency to administer a substate planning education and training program for the groups indicated above.

## **Task 9. Prepare Planning Manuals and Guidelines**

As the Commission progressed through the various phases of the State planning process, producing to date four "versions" of the State Plan, one of its greatest difficulties was that of determining the most appropriate level of detail for the Plan. If the detail was too great, the Plan is potentially too prescriptive, and if there is not enough detail, the Plan is potentially unclear and ineffectual. The Interim Plan reflects the level of detail that the Commission believes most appropriate during this cycle of the State planning process, and to provide some guidance on how the Commission believes Plan provisions should be viewed and interpreted, it proposes to produce accompanying reports, such as this report on implementation issues, as well as manuals and technical guidelines after the "final" Plan is adopted. These accompanying reports are not officially parts of the State Plan but will be useful to participants in the process as they update and revise their plans and planning processes.

The Commission intends to prepare, or sponsor the preparation of, manuals and technical guidelines to assist municipalities, counties, State agencies and the private development sector in developing plans and making growth-related decisions that are well-coordinated with State policy. Examples of topics for such manuals and guidelines include:

- "Making Centers Happen";
- "Criteria for Becoming a Community of Place";
- "Mode! Agreements for Multijurisdictional Service Delivery";
- "Ways to Analyze (highway, groundwater. etc.^ Capacity";
- 'Techniques to 'Equitably' Manage Growth";
- \_ "Undertaking a Corridor Planning Program";
- "Establishing Levels-of-Service Standards";
- "Preparing Urban Strategic Economic Development Plans;" and
- "Identifying and Protecting Critical Environmental Sites."

Preparation of the manuals will require the cooperation of other State agencies that have the knowledge and expertise in certain of the fields with which the manuals/guidelines deal.



## SECTION II

### IMPLEMENTATION ISSUES FOR STATE AGENCIES

State agencies will play an important role in carrying out many of the objectives and policies of the State Plan. The major State agencies affecting development patterns in the State have, in fact, actively participated in the development of the State Plan as members of the Commission. The Plan reflects, therefore, a high degree of consensus among these agencies about what should be done to fulfill the goals of the State Planning Act while still meeting agency mandates.

The following are among the principal activities that State agencies can undertake following adoption of the Plan to strengthen planning throughout the State and help to achieve the goals of the State Planning Act.

#### 1. State Agency Functional Plans

"Functional" plans are plans that deal with specific topical areas within the general rubric of "comprehensive" planning. Examples of functional plans include a transportation plan, a housing plan, and an economic development plan. The status of these plans are important to the effective implementation of the State Plan because they provide the context for agency capital facility construction, programmatic spending and regulatory activities, providing the objectives to which decisions in these areas should aspire and coordinating the functional planning objectives with the broader, more comprehensive objectives of the State Plan. The Interim Plan's Statewide Policy Structure describes some of the policies that should be considered by State agencies in preparing and maintaining functional plans that will promote achievement of the Interim State Plan's Resource Planning and Management Structure ("Centers" and "Planning Areas"), as well as provide the policy context for agency activities so that other agencies can more fully understand the objectives to which these activities aspire. It is important to the effective implementation of the State Plan, therefore, that all State agency functional plans reflect objectives, policies and, particularly the investment priorities, that reasonably comport with those of the State Plan.

Each State agency should review and revise its "functional" plans, or prepare such plans if they do not now exist, in a manner that reasonably reflects the objectives and policies of the State Plan.

- Use the State Planning Commission as a "sounding board" for desirable or needed revisions;

Use the triennial cycles of Cross-acceptance to update and integrate/coordinate State-agency functional planning with local and county planning;

Establish appropriate Levels-of-Service Standards and Quality Standards on all agency-pertinent infrastructure systems and natural resource systems, respectively; and

Assist the Office of State Planning in the preparation of manuals and guidelines describing methodologies for undertaking infrastructure and natural resource capacity analyses and for identifying appropriate Levels-of-Service Standards and Quality Standards, respectively, for substate systems.

## **2. State Agency Decision-Making Processes**

Each State agency maintains certain decision-making processes to carry out its mandates. The rules governing these decision-making processes, as well as the substantive factors that are considered in making decisions, can either support the objectives or policies of the State Plan or, unwittingly, undermine them. Within the context of each State agency's mandates, authority and functional plans, these processes should be reviewed to identify any constraints that may exist to the effective and efficient implementation of the State Plan. While these reviews should be comprehensive, they should give particular attention the investment priorities that comport with those of the State Plan. Where such constraints exist, effort should be made, first,, to appropriately remove the constraint or, if removal of the constraint is not practicable or desirable, recommend amendments to the State Plan at an appropriate time to more effectively meet State Plan objectives in the context of any of these constraints.

Each State agency should review its regulatory and programmatic decision-making processes to promote decisions that reasonably reflect the objectives and policies of the State Plan:

- In cases where existing administrative rules do not allow consideration of the State Plan, promulgate rules to revise the process through normal administrative rule-making procedures.
- In cases where existing law does not allow consideration of the State Plan, seek new or revised legislation. Where new or revised legislation is not approved, advise the State Planning Commission of the reasons therefore and recommend ways, in the agency's best judgment, that the

objectives and policies of the State Plan can be considered in another manner.

In cases where federal agency mandates conflict with the objectives and policies of the State Plan, seek revision of, or exception to, these mandates. Where revision of or exception to such mandates is not possible, advise the State Planning Commission of the reasons therefore and recommend ways, in the agency's best judgment, that the objectives and policies of the State Plan can be achieved in another manner.

### **3. State Agency Technical Assistance**

State agencies are among the largest reservoirs of technical knowledge and expertise in the State. To the maximum extent possible, this knowledge and expertise should be shared among and within levels of government, for it wastes precious tax dollars to duplicate them and precludes full development of intergovernmental policy coordination throughout the State. During the cross-acceptance process, a number of counties and municipalities indicated that data and information needed for local planning or land use decisions are often in the possession of one or several State agencies but often are not available, or not useful, to other state agencies or substate governments:

- The form in which the information is maintained by the state agency is not useful;
- An explicit local assistance program at the state agency is lacking; or
- The cost of providing the information to the local entity is too costly or diverts scarce resources from the agency's principal mandate(s).

Each State agency should identify and make available its special expertise and technical resources to assist other State and substate agencies to develop their plans and programs to reflect the objectives and policies of the State Plan. Activities should include the following:

- The provision of agency data, application software and program materials in formats that can be used in other state and substate planning contexts;
- State agency use of state-of-the-art planning technologies such as Geographic Information Systems (GIS) should be designed and planned for coordination and sharing between state agencies and substate planning entities; and

- Provision of technical assistance, data and guidelines on a cost-free basis, to the extent practicable.

## SECTION III

### IMPLEMENTATION ISSUES FOR COUNTIES

Counties have been the "linchpins" connecting municipalities and the State Planning Commission during the cross-acceptance process, and they have performed a valuable role in helping the Commission to formulate an Interim Plan that responds to their concerns and those of their municipalities. Following adoption of a final State Plan, counties should continue to play a major role, for they are the only mechanisms in many parts of the State capable of providing a regional perspective on growth and land use issues. There are many activities that counties can undertake to strengthen planning in the State, and the following are among these activities.

#### **1. Forums for County/Municipal Dialogues on Substate Planning Processes and Needs**

In formulating the Interim State Plan, the Commission eschewed the development of a highly prescriptive Plan in favor of a Plan that provides a "policy framework" for the achievement of the goals of the State Planning Act. It recognized that each municipality and county is different and that the objectives and policies of the State Plan can be achieved in a variety of ways. It is important, nevertheless, that a reasonably high degree of consensus is reached at the substate level on the most viable ways to reflect State Planning objectives and policies while still achieving local and regional goals and objectives. The counties, as existing governmental entities with a multijurisdictional perspective, are appropriate facilitators for intermunicipal dialogues on the State Plan; on promoting regionally consistent municipal plans; on initiating cooperative, interlocal service delivery programs; and on promoting local/county/State spending patterns. The Commission learned during cross-acceptance that dialogue can be as effective an instrument to promote sound public policy as other more prescriptive means.

The dialogue initiated by cross-acceptance could be continued if each county were to create a forum for intermunicipal discussion on countywide planning issues, on developing regionally consistent local plans and on ways for municipalities and the county itself to reflect State Planning objectives and policies in their plans.



## 2. County Work Programs

The State Plan recommends a more visible and active role for counties in State and local planning processes than they have played in the past. While this role would be considerably enhanced with appropriate revisions to the County Planning Act (described in the Legislative Issues section of this report), the counties can achieve a great deal under existing legislation. By creating a dialogue within the county on major growth and land use issues, as recommended above, and by following up this dialogue with the preparation of a well-conceived, locally supported work program to promote regionally consistent municipal plans, the counties can play a key role achieving the goals and objectives of the State Planning Act.

Each county should consider developing a work program for the review and revision of county plans and processes that will integrate and coordinate local, county and State planning policies.

## 3. County Plans and Planning Processes

Working with the State Planning Commission and its constituent municipalities, as described above, counties should update their plans and decision-making processes in a manner that will facilitate resolution of intermunicipal policy and planning conflicts and, at the same time, lead to fulfillment of the objectives and policies of the State Plan. Counties should emphasize the roles of the municipalities and the general public in preparation of its plan include as many elements in the Plan as necessary to assure a comprehensive treatment of growth and planning issues in its jurisdictions (see elements listed under Legislative Issue 2). The physical components of these plans should be consistent with the needs for human services.

Each county should, as soon as possible after adoption of the State Plan, proceed in accord with a work program developed with municipal and general public participation and begin reviewing and revising its plan and planning processes to facilitate resolution of intermunicipal policy and planning conflicts, to guide county capital facility expenditures and natural resource protection programs, and to achieve the objectives and policies of the State Plan.

## **SECTION IV**

### **IMPLEMENTATION ISSUES FOR MUNICIPALITIES**

Of all the public entities that will play significant roles in carrying out many of the objectives and policies of the State Plan, the State's 567 municipalities may have the most profound effects. Historically, municipalities have been the leaders in growth management and land use planning in the State, and the Interim State Plan continues this tradition and recommends strengthening their role and capabilities. The Commission is fully aware of the difficulties that municipalities have in carrying out their responsibilities in planning and regulating development in a complex and fragmented intergovernmental system, and it identifies several activities below that will assure that municipalities maintain the center stage of growth management and land use planning in the State.

#### **1. Local Dialogues on Planning Issues**

A great deal was accomplished during the cross-acceptance in terms of furthering an appreciation of the growth problems facing the State, of the interests of each level of government in sound planning and development decisions and of the vital role that public participation plays in helping governments to shape effective and equitable public policy. The momentum of the dialogue that ensued throughout that process should be continued, but it should be focused at the substate level to deal with more local issues in the context of the policy framework of an approved State Plan.

Each municipality should consider establishing an open forum and dialogue on the State Plan, on the development of the local Master Plan and on the most appropriate role and responsibility of the municipality in the State planning process, assuring a reasonable balance among and participation of all community groups and interests.

#### **2. Regional Planning Support**

Although a municipality may do an excellent job of planning its own future, its plans may, unwittingly, have deleterious effects on other municipalities. The absence of a regional planning perspective on land development, capital facility capacities and environmental protection has been a major contributor to the inefficient patterns of development that cost more in tax dollars than necessary and destroy the qualities of community life. While State planning contributes to a regional planning perspective, an intermediate perspective, between municipal

and State, is needed. Counties can provide this perspective, but they must be supported in their efforts by the most experienced instruments of government in land use and growth management - the municipalities. Municipal support of regional planning can accrue untold dollars and other benefits to the limited coffers of governments at all levels and will allow a substantial increase in the efficiency of public service delivery systems.

Each municipality should request the county to establish a county-wide planning process to promote regionally consistent local plans, to establish a cooperative development and regulatory review process that will expedite such reviews and to evaluate the feasibility and desirability of regional delivery of certain services where there are economies-of-scale available in such delivery.

### **3. Local Planning Work Programs**

While adoption of the State Plan will be a major benchmark in the State planning process and should help municipalities plan in a more coordinated way with other agencies, the Commission does not expect all 567 municipalities to be prepared immediately to implement the Plan through revised local plans and processes. It recognizes that municipalities will need to go through their own plan and regulatory revision processes. Nevertheless, the Commission encourages all municipalities to move as expeditiously as possible in making such revisions, and it stands ready to assist municipalities by reviewing and commenting on work programs designed to bring these plans and processes into consistency.

Each municipality should use the local planning forum and dialogue to develop a work program for the review and revision of local plans and processes that will integrate and coordinate State and county planning policies with those of the municipality. (If desired, the municipality may submit the work program to the State Planning Commission for review and comment;)

### **4. Local Plans and Ordinances**

Once the State Plan is adopted, agencies at all levels of government should begin the process of reviewing and revising their plans and development-related, decision-making processes to reflect pertinent objectives and policies of the State Plan. The more expeditiously that municipalities undertake this review and make the appropriate revisions, the more effective their plans will become relative to the actions of agencies at the same and other levels of government.

The physical components of local plans should be consistent with the needs for human services.

Each municipality should begin, as soon as practicable after adoption of the State Plan, reviewing and revising local plans and ordinances to integrate pertinent objectives and policies of the State Plan. (If desired, the municipality may submit local plans and ordinances to the State Planning Commission for review and, if consistent or compatible, recognition to that effect, in accordance with administrative rules for such submissions).

- \* Coordinate preparation of the master plan with the County;
- \* Include all optional elements of the master plan (see Legislative Issue 2);
- \* Identify Centers and the infrastructure necessary to support the realization of Centers and the protection of Centers' environs;
- \* Identify "Critical Environmental Sites"; and
- \* If desired, request review by the State Planning Commission regarding the consistency of the Master Plan with the State Plan.

## **5. Identification of Resource and Other Needs To Better Manage Growth**

The State Planning Commission has taken a lead in advancing many of the concepts and tools needed to promote sound, efficient growth statewide. Most of these concepts and tools are not new, but the Commission provided, through the State Plan, a rationale for their use in achieving legislatively established goals. These concepts and tools are described both in this report and in the Interim State Plan. Historically, municipalities have served as the "laboratories" in which new governmental reforms and initiatives are conceived, primarily because the public's needs and concerns are often first voiced at this level. Local needs must be considered, therefore, in fashioning a Statewide planning program that responds to public concerns. There are several avenues available to municipalities make their needs and resource concerns known, and the Commission has tried to serve as a conduit for such concerns raised during the cross-acceptance process, but perhaps none are so effective as their individual voices. Municipalities should be empowered to pursue new ways to encourage and manage sound, beneficial growth, and they should take action individually expressing this need.

Each municipality should identify the legislative, financial and other "tools" needed to effectively, efficiently and equitably manage growth and forward-ideas and/or recommendations to the Executive Branch, the Legislature and the State Planning Commission.

## SECTION V

### LEGISLATIVE ISSUES

The Interim State Development and Redevelopment Plan is comprised of two major components.

- The "Resource Planning and Management Structure" recommends that future growth occur in compact forms called "Centers." The location and development intensity of these Centers should vary by the character and capacity of natural and built resource systems in the various areas of the State; these areas are called "Planning Areas."
- The "Statewide Policy Structure" recommends ways in which planning and decision-making should occur throughout the State, regardless of the character or capacity of the geographic area, in order to ensure coordinated and integrated planning and development decisions.

The following twenty-one issues are discussed in terms of their relevance to these two major components and to the Interim Plan. These discussions do not constitute, however, Commission legislative recommendations at this point in time. The Commission anticipates making revisions to this report as it moves through the final phases of the cross-acceptance process. This report also will undergo continuous review and revision following adoption of the final State Development and Redevelopment Plan. To ensure that this report is both comprehensive and up-to-date, the Commission encourages State legislators, municipal and county officials, and the general public to comment on the issues presented.

### **TO ENHANCE IMPLEMENTATION OF THE INTERIM STATE PLAN'S RESOURCE PLANNING AND MANAGEMENT STRUCTURE ("CENTERS" and "PLANNING AREAS"<sup>11</sup>)**

The Interim Plan proposes to accommodate the full amount of growth projected for the State to the Year 2010 in the most flexible manner possible. This flexibility is achieved through the Plan's Resource Planning and Management Structure, which is comprised of "Centers" and "Planning Areas." The Plan recommends that as much future growth as possible be accommodated in the urban and suburban areas of the State (Planning Areas 1 and 2) and in "Centers" in the rural areas of the State (Planning Areas 3, 4, and 5). This strategy conforms to the mandate of the State Planning Act that the State Plan encourage growth where infrastructure exists or is planned and discourage growth where it may impair natural resources and environmental qualities.

## **A. Improving Substate Planning Capabilities**

The State Planning Commission learned during the cross-acceptance process that the scope and quality of planning practice at the substate level in New Jersey varies widely. Some municipalities have institutionalized sound planning practices and processes, and some counties engage in highly-professional and innovative planning, provide valuable technical planning services and facilitate intergovernmental coordination processes. Unfortunately, however, many municipalities and counties do not have access to the fiscal resources and technical expertise to undertake sound, continuous, comprehensive planning based on state-of-the-art technologies.

It is in the State's interest that substate planning consistently be of the highest quality possible. It is at the substate level, in fact, that much of the implementation of the State Development and Redevelopment Plan can occur. Further, it is at the municipal and county levels that, through land development decisions, many of the major public facility and service commitments are made that will drive the expenditure of State funds for major capital and operating systems. The quality of planning decisions at these levels in such areas as land use, transportation, housing and capital facilities can be seen as either a prevailing threat to, or a golden opportunity for ensuring, the State's economic, fiscal and environmental future.

In approving the State Planning Act, the New Jersey Legislature found that

"... New Jersey ... requires sound and integrated Statewide planning and the coordination of Statewide planning with local and regional planning ...."•

The State Development and Redevelopment Plan responds to this finding by providing the vision and the policy framework necessary to coordinate and integrate planning at all levels of New Jersey government. The extent to which this vision and policy framework are effective in achieving the objectives of the State Planning Act, however, is largely dependent on the quality of substate planning.

### **1. County Planning Enabling Legislation (N.J.S.A. 40:27-1 et seq.)**

Three factors have contributed substantially to the perpetuation of costly and unsightly sprawl development, higher property taxes, congested highways, sewer moratoria and conflicting land uses. The first factor is the inadequacy of intergovernmental coordination, resulting in each level of government making decisions in relative isolation. The second factor is the absence of broader, "greater-than-local" perspectives on land use and growth issues. The third factor is the absence of an effective means to resolve planning conflicts among

substate planning entities and between substate planning entities and state agencies.

During the cross-acceptance process, counties demonstrated that they can serve as effective "links" between state and municipal planning efforts in overcoming these inadequacies. By their location in the intergovernmental system, counties are in a unique position to assist State and local governments in coordinating State growth and investment policy in the future. Among the valuable planning and coordination functions that counties could perform are the following:

- The preparation of county comprehensive plans, in coordination with the State's cross-acceptance process, that, among other things:
  - contain the optional and mandatory master plan elements established for municipalities by the MLUL; and identify appropriate level of service standards for facilities and services on a countywide basis according to facility demand/capacity analyses;
- Promote the resolution of intermunicipal conflicts in planning and land development decisions through:
  - the preparation of county comprehensive plans; and
  - creation of a cooperative forum for conflict resolution;
- The provision of substate, greater-than-local perspectives on land use and development issues;
- Promote cooperative, greater-than-local provision of public facilities and services where such provision will help to eliminate duplication and inefficiency and will take advantage of available economies-of-scale;
- With the assistance of State agencies, the preparation of public facility and natural resource capacity studies on systems that extend beyond municipal boundaries;
- The provision of technical assistance to municipalities in the study of local public facility and natural systems; and
- The provision of technical assistance to municipalities in the development of coordinated and regionally consistent municipal master plans.



## 2. The Municipal Land Use Law (MLUL)

Given the concerns expressed during the cross-acceptance process by many municipal and county officials and by citizens, the growth and quality of life issues confronting municipalities are complex and need to be addressed through comprehensive planning processes that are adequate in both scope and content. The State's interest in sound planning and decision-making at the local level has grown as the fiscal and quality of life implications of uncoordinated and inadequate plans and decisions have become manifest. This State interest is not in replacing local planning with State planning or in disrupting local decision-making processes. Rather, it is in providing a more logical and rational framework for planning and in integrating and coordinating that planning regionally and with the State.

The State's 567 municipalities are the principal instruments of land use policy and decision-making in the State, and this key municipal role is reinforced both in the Interim State Plan and in this Implementation Report. To perform this role effectively, municipal master plans should be as comprehensive as possible. For example, because of the growing backlog of infrastructure needs in the State, local infrastructure planning and costing is an increasingly important component of public planning at *all* levels of government. For these reasons, the New Jersey League of Municipalities, the New Jersey Federation of Planning Officials and other appropriate organizations should consider the merits of making the infrastructure needs assessment and capital facility elements mandatory in local master plans. Further, planning has long been recognized as a major function of management, and local master plans should include policies to manage *all resources* - land, infrastructure, finances, natural and built resource systems, historic, scenic and cultural values, and others.

Accordingly, the Commission recognizes the need to consider certain revisions to the Municipal Land Use Law, including, but not necessarily limited to, the following: .

- a. The list of optional master plan elements in the MLUL (N.J.S.A. 40:550-28) should be expanded to include the following elements:

*An infrastructure needs assessment element* that is based on a 20-year time horizon and reflects the projected costs and sources of funds for the infrastructure to support the location, pattern and intensity of growth reflected in the master plan, including at least the following items of infrastructure: streets and roadways, public transportation facilities and services, parking facilities, wastewater treatment facilities, water supply facilities, drainage facilities,

education buildings, solid waste and recycling facilities, open-space and recreational lands and agricultural lands;

- \* *A community design element* (and a "community design review process" as part of the municipal site plan review process (N.J.S.A. 40:550-32-58)) establishing community design objectives and guidelines that promote the development of Centers, protect community character and the environs of Centers, encourage attractive public and private buildings and places, conserve environmental resources and protect historic and scenic structures, sites, corridors and vistas;
  - *A community redevelopment element:*
    - identifying redevelopment issues and opportunities; and
    - establishing goals, policies, objectives and specific programs to stabilize areas of urban and suburban decline and to promote and facilitate the rehabilitation and revitalization of deteriorated areas; and
  - *A scenic corridor element* that identifies the location of scenic corridors and establishes goals, policies and objectives and specific programs to enhance or protect the scenic character of the corridors; and
- b. Existing master plan elements identified in the MLUL (N.J.S.A. 40:550-28) should provide for the following:
- The *capital improvement program optional element* (N.J.S.A. 40:550-29), should specify a 6-year capital improvement program that is an incremental fulfillment of the long-term Infrastructure . Needs Assessment;
  - The *housing optional element* (N.J.S.A. 40:550-28(b) (3)) should be revised to include the mandatory contents described in the "Fair Housing Act", Mandatory Contents of Housing Element (N.J.S.A. 52:270-310), rather than referencing them;
  - The *circulation plan optional element* (N.J.S.A. 40:55D-28(b)(4)) should specify that pedestrian, bike paths and other linkages into, about and through the municipality be included and that the element provide for the protection of air quality, consistent with the New Jersey State Implementation Plan and the State Development and Redevelopment Plan;

- Both the *recreation and conservation plan optional elements* (N.J.S.A. 40:55D-28(6)(7) and (8)) should be amended to allow for the preparation of submunicipal open space plans with maps that, in addition to other open space designations, identify critical environmental sites for filing with the Office of State Planning;
  - The *stormwater management plan*, to be included in the *utility service plan optional element* (N.J.S.A. 40:550-28) should be revised to delete the provision that storm water plans do not have to be prepared if the New Jersey Department of Environmental Protection and Energy does not provide funding. Provisions encouraging regional storm water management approaches, regardless of State funding availability, should be added; and
  - The presently required *land use element* (N.J.S.A. 40:550-28(b)(2)) should be revised to provide for analyses of the capacities of infrastructure, natural resource, fiscal/economic and social systems be undertaken and to be considered in determining the location, patterns and intensities of growth; based on these analyses, master plans should include cost estimates of the facility and service improvements needed to maintain adequate facility standards;
- c. If certain optional plan elements are not included in the municipal master plan, the plan should include statements describing why these elements are unnecessary;

### **3. Financial Support for Substate Planning**

Even though the State has a vital interest in the quality of local and county planning practice, it does not, unlike many other states, provide financial support to assure that this planning is carried out adequately and effectively. During cross-acceptance, counties and municipalities cited funding as a major need if planning is to improve at the substate level.

The Commission recognizes that State technical assistance and financial support of local and county planning is an important cornerstone of the State planning process, not only to promote effective substate planning but to help attain the highest levels of coordination and cooperation possible among governmental levels, and it would help to assure the following characteristics of substate plans:

- Planning processes that are **participatory**, so that the full and active participation of citizens' groups, special interests and the agencies most responsible for carrying out the plan and, thereby, engendering the broad consensus necessary for effective implementation and avoiding costly delays in, and acrimony over, development proposals submitted for regulatory review.
- Plans that are **comprehensive**, including pertinent optional elements identified in the MLUL, particularly the infrastructure needs, capital facility, transportation, open space, and historic and scenic sites and corridors;
- Plans that are **strategic**, identifying the location, pattern and intensities of growth necessary to achieve the specific goals of the community, identifying the roles and responsibilities of the major agencies of government in carrying out the plan and identifying the infrastructure and resources needed to properly implement the plan;
- Plans that are **capacity-based**, using sound information on the capacities of infrastructure, natural resource, fiscal/economic and social systems as a basis for deciding the location, patterns and intensities of growth, and, based on these analyses, include cost estimates- of the facility and service improvements necessary to maintain adequate facility standards;
- Plans that reflect both **short- and long-range** (e.g., six and twenty years, respectively) objectives and needs for the area;
- Plans that are **regionally coordinated** (1) so they do not conflict with the goals and plans of adjoining or nearby jurisdictions or other jurisdictions sharing infrastructure and natural resource systems and (2) to identify opportunities for regional cooperation in the delivery of public services;
- Plans that are maintained **up-to-date**, so that they deal with current and projected planning and development issues and include concepts and tools that are most effective in achieving community goals; and

## **B. Tools to Efficiently and Equitably Manage Growth**

Municipalities, counties and State agencies are responsible for maintaining efficient, effective public facilities and services and protecting vital natural resources. The quality of these services and resources, however, is largely affected by the location, pattern, intensity and pace of growth, and these agencies have very limited tools to manage these factors. While zoning and capital budgeting can be useful, they

have limitations. Zoning, for instance, is the sole province of municipalities and is unavailable to other levels of government. Further, its use in managing growth has constitutional and legal limitations. The clear need to manage growth better has resulted in processes that were not designed to resolve land planning and related growth decisions being used, in fact, to address these issues because the more appropriate processes or tools were not available. For instance, development review processes are sometimes delayed for extensive periods of time until land use, and growth issues that should have been resolved during the planning process are reconciled.

To provide more appropriate and effective growth management tools, the Commission recognizes the merits of the following suggestions that arose during the cross-acceptance process. Several of these suggestions have been the subject of legislative debate for several years, but there now appears to be a growing consensus across the State that appropriate action should be taken soon to enable municipalities, counties and other agencies to perform their duties with a broader array of alternatives. Issues that arose during cross-acceptance regarding protecting land-owner equity can be effectively dealt with if *incentives* for nonconversion of these lands to urban uses were available.

#### **4. Transferable Development Rights (TDR) Programs**

Much of the public dialogue during the cross-acceptance process has stressed the disproportionate impacts that shifts in State and local policy have on private development expectations. Transferable development rights programs are one method of ameliorating the impacts of public policy programs on development expectations. Although the debate in New Jersey has focused on the use of TDR programs to preserve agricultural lands in rural areas, these programs have significant potential to ameliorate the impacts of regulation in urban and suburban areas as well. TDR programs also have potential beyond balancing the benefits and burdens resulting from regulatory actions, including helping to guide development to locations designated for compact growth and development.

The Commission recognizes that TDR programs may be effective in addressing issues of "equity"<sup>11</sup> in rural areas and in protecting stable neighborhoods in urban and suburban areas. It believes also that TDR programs created by municipalities and counties should consider the following characteristics to help fully achieve the goals of the State Planning Act:

TDR programs should be developed on the basis of market analyses to ensure that such programs are economically feasible and that adequate

infrastructure capacities exist or will be available in a timely manner in the receiving areas;

- Allow for intermunicipal and intercounty TDR programs;
- Allow for the use of a State TDR "clearinghouse" to facilitate transfers within locally initiated and locally controlled programs, to allow economies-of-scale in administration, "one-stop" selling and purchasing, coordinated "market-making" and the establishment of administrative expertise and accountability;
- Promote the establishment of Centers identified in the State Plan as "receiving" areas;
- Encourage the designation of "sending" areas as the "environs," or the areas outside Centers designated in the State Plan, in all Planning Areas, including:
  - farmland in Planning Area 4;
  - environmentally sensitive lands in Planning Area 5;
  - historic, cultural and scenic areas, critical environmental sites, critical slopes and wetlands in all Planning Areas; and
  - developed communities in the environs of designated Centers in Planning Areas 1 and 2; and
  - properties between Centers along transportation routes, used appropriately with Transportation Development Districts, to prevent highway strip development; and
- As a second priority to the environs as "sending" areas, tracts within Centers should be allowed to transfer among themselves to increase densities on appropriate tracts in the Center.

## 5. "Timing and Sequencing" of Infrastructure and Development

In the State Planning Act, the New Jersey Legislature found that

"... It is in the public interest to encourage development, redevelopment and economic growth in locations that are well situated with respect to present or anticipated public services and facilities ... and to discourage development where it may impair or destroy natural resources or environmental qualities that are vital to the health and well-being of the present and future citizens of this State

Accordingly, the Interim State Plan recommends that future growth occur in locations, patterns and intensities that do not exceed the capacities of infrastructure and natural resource systems, thereby maintaining levels of service that will assure adequate traffic flows, wastewater treatment, potable water supplies and other beneficial growth objectives. It is important that municipalities maintain alignment between facilities demand and facilities capacity and coordinate the location, pattern and intensity of new development with the planned provision of supporting facilities and services.

The Commission recognizes the desirability of empowering municipalities to link the character, location, magnitude and timing of development to existing and planned public facilities, and it believes that this authority should be contingent upon the following:

- \* In addition to having an up-to-date master plan that includes the MLUL mandatory municipal master plan elements (N.J.SA 40:550-28), the municipality should have up-to-date infrastructure needs assessment and capital improvement program elements;
- Timing and sequencing of growth/adequate public facilities requirements should be based on a capital improvements program that, at a minimum, identifies:
  - the facilities and services (defined in the Interim State Plan as "Infrastructure") necessary to support projected growth; the timing for provision of that infrastructure; and the planned capacities of the infrastructure. necessary to accommodate projected levels of growth; and
- Timing and sequencing of growth/adequate public facilities requirements should identify a minimum level-of-service standard for each item of infrastructure.

The Commission recognizes further that the "timing and sequencing" issue is closely related to the issue of "impact and linkage fees" discussed under Recommendation 6b below. Accordingly, these issues should be considered together.

## **6. Financial Support for the Construction, Maintenance and Repair of Infrastructure**

The Commission's infrastructure needs assessment report projects infrastructure needs to the Year 2010 at approximately \$114 billion. The report also identifies a substantial backlog of needs, approximately two-thirds of the above amount, that must be met to relieve traffic congestion on major arterial roads, to upgrade and expand wastewater treatment processes and to raise to adequate standards other facilities and services, among other things. The demands that will be placed on public budgets to accomplish these ends will far exceed the taxing capacity of governments at all levels, yet continued growth and development in the future requires that adequate standards for facilities and services be maintained. Moreover, it is equitable that new development pay its share of the costs of new facilities required to serve such new development.

To assure the most effective use of both public and private funds, existing funds and infrastructure should be used more efficiently rather than relying solely on new funding and new infrastructure.

The Commission recognizes that both the public and private have an interest in maintaining adequate level-of-service standards on infrastructure and natural resource systems and that the public and private sectors share responsibility to adequately fund infrastructure improvements that will maintain these standards. Accordingly, the Commission believes that this shared responsibility could be met by:

- Increasing the level of public funds available for the construction, maintenance or repair of infrastructure:
- \* Regularizing the development exaction and development impact mitigation processes (discussed further under 6b below).

### **a. Increase the Level of Public Funding**

The anticipated result of this improved intergovernmental planning process is the evolution of a statewide, comprehensive, integrated infrastructure needs assessment and capital improvements programming *system* that supports plans at all levels of government. These plans, in turn, are to be designed to maintain desirable service levels on infrastructure systems and quality levels on natural resource systems. Other sections of this Report recognizes that funding programs to protect and maintain the quality levels of the "land assets" component (e.g., farmland, open space) of infrastructure is desirable. This section



addresses funding for the other component of infrastructure -- "capital facility assets."

Currently, three major State and federal infrastructure programs are funded using a variation of one type of replenishable fund, a revolving fund. Two of these three programs - wastewater treatment (the Wastewater Treatment Trust Fund: N.J.S.A. 58:118-1 et seq.) and open space and recreation (the Green Acres Trust: N.J.S.A. 13:8A-1 et seq.) - provide funding through the Year 2010. Transportation infrastructure, financed in part by the Transportation Trust Fund (N.J.S.A. 27:18-1 et seq.) is funded through 1995. Recent infrastructure needs assessments, including the Commission's report, "The Resource Investment and Management System," identify a backlog of needs in addition to sizable future needs to support anticipated growth to the Year 2010. Existing sources of funds will not be sufficient to meet these needs.

b. Regularize Development Exactions and Mitigation Processes

At the present time, the private and public sectors negotiate, on an ad hoc basis, how much of the cost will be borne by each. While this process may work in some instances, it is vulnerable to abuse, unpredictable (from both a planning and payment perspective) and subject to the negotiating skills of participants at various points in time. A locally regularized set of exactions, based on real costs and balanced allocation formulae, serves the interests of both the public and private sectors in that continued growth will be assured and each sector will know in advance the costs to be incurred and the revenues that will be generated.

The Commission believes there is merit, therefore, in empowering municipalities and counties to levy impact/linkage fees that achieve the following:

- The calculation of impact and linkage fees should address the urban and community infrastructure elements identified in the State Plan;
- Municipalities and counties should be authorized to consider the inherent efficiency of providing infrastructure for compact forms of development ("Centers") when calculating and administering impact and linkage fees, and, conversely, they should be allowed to consider the relative inefficiencies of providing infrastructure to support development where infrastructure has not been planned,

particularly in the environs of Centers in Planning Areas 3, 4 and 5;  
and

Municipalities and counties enacting impact and linkage fees should have up-to-date master plans that include those optional master plan elements, particularly the infrastructure needs assessment and capital facilities elements, pertinent to the items for which fees are exacted.

## **7. Expediting Regulatory Processes**

The Commission learned during cross-acceptance that slow, inefficient government reviews of development proposals and facility permits adds considerably to the cost of development. It learned also that permit review and other regulatory processes often are misused as tools to "manage" growth because other more appropriate planning and mitigation programs, like "transfer of development rights" and "timing and sequencing," are not authorized. This practice is inequitable to the private sector and costly to the general public. Existing statutes and any new legislation should be reviewed to ensure a responsive, equitable and efficient regulatory system.

The State Planning Commission believes, first, that all public and private projects be processed in the most efficient, expeditious manner possible, regardless of the relationship of the project to the goals, objectives, strategies and policies of the State Development and Redevelopment Plan. It suggests, however, that because the State Development and Redevelopment Plan has undergone extensive State, county and local review and because it reflects a general consensus on the location, pattern and intensities of growth statewide, some of the regulatory review that would otherwise occur after submission of permit applications has already occurred.

The Commission believes further that the following principles have merit in improving regulatory review processes:

- To help assure efficient and responsive regulatory review and permitting processes, appropriate responsibility for such reviews and permitting should be devolved and carried out at the lowest possible level of government, with particular consideration given to the county level; State agencies so devolving such responsibility should establish performance standards for the conduct of these processes and establish a certification and oversight process to assure that reviews at substate levels conform to the highest standards possible in meeting State and other mandates.

To help assure integrated and coordinated planning and decision-making among all levels of government, as well as to expedite review processes, all review processes, where appropriate, regardless of the level of government, should include opportunities for "pre-application" meetings between the applicant and appropriate agency representatives, hosted by the responsible government and a designated convening agency; at the State level, a forum of agency representatives, hosted by the Office of State Planning, should jointly review all applications before action is taken by any one of the pertinent agencies.

As part of their budgeting, appropriations and oversight responsibilities, municipal and county governing bodies and the State Executive and Legislative branches should assure that regulatory review and permitting processes are funded at levels that assure expeditious and responsive processes.

In addition to expediting regulatory review processes for all projects, a higher review priority should be provided for development and capital facility projects located within Centers in all Planning Areas; for redevelopment and infill projects in the environs of Planning Areas 1 and 2 that are consistent with local master plans; and for capital facility projects located outside Centers in any Planning Area that serve Center development while protecting the environs in the Planning Area; and

This higher review priority should be contingent upon the local master plan and planning process being consistent with the State Development and Redevelopment Plan. (The ability of agencies at all levels to provide priority review of applications that are consistent with the State Plan will encourage the location, patterns and intensities of growth necessary to achieve the goals of the State Planning Act.)

## **8. Consistency between Functional Plans of Municipal, County and Regional Public Utility Authorities and Approved Municipal and County Master Plans.**

The Interim State Plan's General Plan Strategy is to achieve State Planning Goals by coordinating public and private actions to guide future growth into compact forms of development and redevelopment, located to make the most efficient use of infrastructure systems and to support the maintenance of capacities of infrastructure, environmental, natural resources, fiscal, economic and other systems. To carry out this strategy, it is important that infrastructure investment decisions made by all public service providers support these growth and land-use objectives at all levels of government. At the present time,

regional authorities providing, for instance, water and wastewater treatment services are not required to consider municipal master plans or county plans in locating and sizing the capacities of their facilities.

The Commission recognizes the need for all regional and local authorities to prepare and adopt functional and/or facilities plans that are consistent with municipal and county plans. Regional and local authorities should also prepare infrastructure needs assessments based on a 20-Year time horizon and reflecting the projected costs and sources of revenues for the infrastructure required to support the location, pattern and intensity of growth reflected in applicable municipal and county plans.

## **TO ENHANCE IMPLEMENTATION OF THE INTERIM STATE PLAN'S STATEWIDE POLICY STRUCTURE (FUNCTIONAL PLANNING)**

While the State Plan's Resource Planning and Management Structure identifies objectives and policies for specific geographic areas of the State, there are many strategies and policies that should be applied Statewide to assure that all the goals of the State Planning Act. are fulfilled. There are many ways in which agencies at all levels can carry out these strategies and policies, and the following are but a few.

### **C. Promote More Affordable Housing and Redevelopment Activity**

Two of the major goals of the State Planning Act are to expand the stock of affordable housing and to encourage revitalization of the State's urban areas. The State Plan recommends that this be accomplished through new development and redevelopment in Planning Areas 1 and 2 and in Centers in Planning Areas 3, 4, and 5. This Plan strategy also helps to ensure that other goals of the Act relative to efficient use of infrastructure and beneficial economic growth will be met. For instance, it addresses a major concern of the State's corporate sector regarding the growing imbalance between jobs and housing in the major growth areas of the State, restricting labor supply.

## **9. The New Jersey Fair Housing Act**

In the State Planning Act, the New Jersey Legislature found that

"New Jersey ... requires sound and integrated Statewide planning and the coordination of Statewide planning with

local and regional planning in order to ... provide needed housing . . . at a reasonable cost..."

While the Interim State Plan contains many policies that respond to this declaration by the State Legislature, the Commission learned during cross-acceptance that there are certain practices that mitigate achievement of this goal. First, the competition among the State's urban municipalities for funds to provide affordable housing is driving down the "price" that other municipalities pay to transfer their affordable housing obligations to these municipalities. The result is either a reduction in the amount of affordable housing that will be constructed or a higher financial burden on urban municipalities who can afford it least.

Second, municipalities vary considerably across the State in terms of their mix of residential types and uses. While municipalities may, under the Section 52:270-310 of the "Fair Housing Act," submit their housing elements to the Council on Affordable Housing (COAH) for certification, there is no requirement that these housing elements contain a reasonable standard, locally defined, for what should constitute a "balanced residential mix of housing types" for a particular municipality, to assist the COAH in its review and certification process.

In responding to these concerns, the Commission believes that certain amendments to the "Fair Housing Act," Section 52:270-310 have merit. The first two are suggestions by the State Planning Housing Advisory Committee and the second has been identified by the Commission as a method of providing local flexibility in the much needed establishment of balanced housing policy at the local level.

- Clarify the Council On Affordable Housing's authority under N.J.S.A. 52:270-312 to review and revise its Regional Contribution Agreement (RCA) process to ensure that "sending" municipalities provide adequate funding to "receiving" municipalities to build and/or rehabilitate housing.
- To alleviate the negative effects of competition for RCAs among municipalities, regionwide, per-unit contributions should be established and/or a State RCA bank should be created to centralize the distribution of RCA development credits. The per-unit contributions, based on existing Council on Affordable Housing delineated housing regions, should be sensitive to cost differences throughout the State.
- Require a local definition of "a balanced residential mix of housing types" in municipal housing elements submitted for COAH review.

## **10. Financial Support for Affordable Housing**

The Commission agrees that new, innovative housing programs ensuring adequate subsidies for housing producers and consumers need to be considered. These programs should ensure that an adequate supply of housing at reasonable cost is available for a wide range of income and special-needs groups, including owner-occupied and rental housing, at suitable locations throughout the State. The provision of such housing, particularly in mixed-use Centers providing employment opportunities, will assure an adequate supply of labor in locations vital to the continued economic growth of the State. This residential mix, combined with the Plan's recommendations for compact, mixed-use development, are key ingredients in the Plan's "Center" concept.

In support of several negotiated agreements with the counties, the Commission agrees that housing programs should be expanded, giving priority for subsidies and programs to mixed-use Centers designated in the State Plan.

## **11. Consolidation and Strengthening of Redevelopment, Tax Abatement and tax Exemption Statutes**

One of the principal goals of the State Planning Act is the preparation of a State Plan that assures revitalization of the State's urban centers and areas. The Interim State Plan encourages the strategic use of public funds to leverage private investment in the State's urban centers and older suburbs. It also encourages greater use of public/private partnerships in urban redevelopment activities. The utilization of municipal redevelopment authority and the granting of tax abatement and tax exemptions to encourage private redevelopment activities are appropriate and Constitutionally authorized forms of such partnerships. At the present time, however, the statutes under which municipalities enter into partnerships may with private entities to undertake redevelopment projects contain provisions that are overlapping, duplicative, obsolete and often confusing. These deficiencies can be remedied through a consolidation and strengthening of New Jersey's local redevelopment and housing laws and its tax abatement and exemption statutes.

The Commission believes that consolidation and strengthening of these statutes, thus modernizing and updating the statutory tools available to municipalities to combat urban decay, will help to implement the State Plan's policies on urban revitalization and achieve the goals of the State Planning Act.

## **D. Protecting the State's Natural Resources**

The Commission learned during the cross-acceptance process that a great deal can be gained to protect the State's natural resources if the legitimate use of the regulatory powers of government were balanced with the use of incentives to encourage private conservation efforts. The policies of the State Plan will assure the coordination of government plans and decisions necessary to achieve resource protection goals of the State Planning Act, but the efficacy of these policies would be enhanced if certain agencies were further empowered.

### **12. Employer-Provided Transportation Programs (Re: Air Quality)**

One of the most visible impacts of uncoordinated, unmanaged growth is traffic congestion. This congestion results when the demand for highway use exceeds highway capacity. Traffic congestion is not only costly to remedy by expanding highway capacity or providing public transportation, it is costly also in terms of commutation time, future economic growth potential and, perhaps more serious, air pollution. The State Plan makes numerous policy recommendations that will assure over time that growth and development along the State's major corridors will be better coordinated and managed so that highway and other infrastructure capacities are not exceeded. Better planning by the public sector, however, will not be sufficient to avoid these costly impacts. The private sector must help to reduce vehicular demand for highway capacity.

The Commission believes, given the magnitude of the air quality problems facing the State, it is desirable to require large employers to sponsor travel demand management programs. The Commission views traffic reduction as consistent with the objectives and policies of the Interim State Plan regarding maintaining adequate levels of service on infrastructure and maintaining levels of quality in natural systems, particularly air. Further, the Commission views private sector participation in traffic reduction as an additional incentive for achieving the State Plan's recommendations for more compact, mixed-use development in major transportation corridors, thereby providing, among other things, a jobs/housing ratio that will assure an adequate labor supply in key economic markets in these corridors.

### **13. Taxing of Publicly Owned Watershed Lands**

The Interim State Plan contains a number of policies that encourage both private and public sector agencies to maintain as much open space as possible on developed tracts. While watershed lands are not developed tracts, they are,

under N.J.S.A. 54:4-3.3, often taxed on the basis of their development potential notwithstanding the fact that they are essentially zoned as open space and are, as a matter of public policy, protected lands. Unfortunately, taxing these lands based on their development potential only encourages their public owners, some of whom are urban centers least able to afford the taxes, to sell off tracts to avoid the tax. Many of these lands provide valuable open space and recreational opportunities in some of the most urban areas of the State, and these urban areas can ill-afford either the loss of this land or the taxes levied on it.

The Commission acknowledges that either a more equitable means of taxing publicly owned lands accessible to the public is needed or a more equitable sharing of the payment of taxes among the governments whose citizens benefit is desirable.

#### **14. Incentives For Conservation of Natural Lands.**

A major goal of the State Planning Act is the conservation of natural resources. The interim State Plan responds by delineating areas of the State where these resources exist and recommending appropriate strategies and planning approaches that should be used at the various levels of government to help conserve these resources. During cross-acceptance, however, the Commission found that some substate agency officials and citizens perceive eventual implementation of these strategies and approaches as occurring primarily through regulatory means, citing the absence or inadequacy of existing incentive programs and other less coercive tools. The Commission agreed with several counties during the cross-acceptance process that a balanced approach to implementation of the State Plan should be used, one that provides incentives for acting and deciding in ways that are consistent with the Plan as well as regulating in appropriate and equitable ways. The Commission believes that extending preferential tax treatment to any property owner holding land for such purposes could serve as a significant incentive for such owners to retain their properties in their natural state.

Accordingly, the Commission believes there is merit in providing incentives for the conservation of forested and other natural lands contingent upon:

- These forested and other natural lands appropriate for conservation being identified in municipal master plans and regulated in accordance with their carrying capacities; and
- The Owners of these lands being required to follow a stewardship plan for a period of at least 10 years.



## **15. Purchase of Development Rights (PDR)**

New Jersey citizens have a long history of financial support for the protection of farmland, forested areas and environmentally sensitive resources. "Transfer of development rights (TDR)" programs and "installment purchase" programs can help to relieve the burden on public coffers for the protection of these lands and resources. Unfortunately, TDR programs may not be feasible in all parts of the State, particularly in the most rural areas where the development market is not strong enough to drive the market for rights. Consequently, some funds will continue to be needed in future years to protect these more remote farming and forested areas from piece-meal, scattered development, the cumulative effects of which may destroy the qualities of many of these areas. While the amount of funds needed in future years will not be as great if TDR and installment purchase legislation are approved, it would be desirable if a stable source of funds were ensured.

The Commission acknowledges the need either to identify a permanent source of tax funds or fees to support development rights purchases over the years or to provide bond funds at periodic and frequent intervals, or both. The Commission believes that funds under either or both alternatives should be expended in accordance with the investment priorities identified in the State Plan.

### **E. Promoting the Continued Viability of the State's Agricultural Industry**

The Commission spent a great deal of time working with agencies and citizens to shape a State Plan that responds to the concerns of various communities-of-interest about how best and most equitably to conserve or protect natural resources. In the case of State's agricultural land, for instance, the Commission found that protection of this important resource requires not only protection of the land itself but enhancement of the industry that uses the land. The Commission was helped considerably by the agricultural community, particularly by the Department of Agriculture, in its design of appropriate Plan strategies and policies to accomplish these twin objectives.

The Commission found that the report entitled Agricultural Policy Statement to the State Planning Commission for the Interim State Development and Redevelopment Plan, published by the Department of Agriculture and the State Board of Agriculture, February 1991, was very useful because it identified, in a constructive way, the issues that need to be addressed. While the Interim State Plan and this Report address a large number of the issues and concerns contained in the report, there are other issues unrelated to the State Plan that deserve consideration as well. In addition to

the following discussion, therefore, the Commission recommends that the agricultural report be referenced by those interested in or concerned about maintaining the viability of agriculture in New Jersey.

## **16. Installment Purchase of Farmland.**

The State Planning Act requires that the State Plan protect farmland and agricultural development areas. The Interim State Plan responds by identifying the State's agricultural areas and recommending policies that are effective in protecting these areas. Full protection of these areas can not be assured, however, unless an appropriate amount of funds also are available to purchase the development rights on some tracts. Given the escalated price of many of these tracts, the public cost in purchasing these rights may exceed the fiscal capacities of New Jersey governments at those points in time when opportunities arise. Innovative ways of acquiring these rights at the lowest public cost are needed, and installment purchasing is one such way, because the cost to the public is reduced by the income tax advantages afforded to the landowner.

Several counties brought to the attention of the Commission during the cross-acceptance process that while local funds may presently be used to undertake installment purchases of development rights, existing statutory limitations severely restrict the use of State funds for such purposes.

The Commission encourages the use of installment purchasing and believes that any current restrictions on the use of State funds for the such purchases should be reconsidered. In addition, it believes that:

- \* Installment purchases for farmland should be focused on the purchase of development easements on farmland in Planning Area 4; and
- .Installment purchases for conservation and open space should be focused on the purchase of development easements on tracts of land in Planning Areas 4B and 5 or on tracts of land identified in municipal master plans as "Critical Environmental Sites" in any Planning Area.

## **17. Evaluate Tax Exemption for Certain Farm Improvements**

For the same reasons identified in Recommendation 18, the Commission agreed with several counties during cross-acceptance that approval of legislation to enhance the attractiveness of the occupation of farming in New

Jersey would be appropriate. Accordingly, while Section 23 (a) of the Agriculture Retention and Development Act makes reference to a property tax exemption for new farm structures and improvements within municipal Agricultural Development Areas, the New Jersey State Constitution needs to be amended to allow implementation of such an exemption.

The Commission suggests that a study be undertaken of the fiscal impacts of an amendment to the New Jersey Constitution that would allow implementation of Section 4, Chapter 1c of the "Agriculture Retention and Development Act" for farm properties located in Planning Areas 4 and 5.

## **18. "Right-to-farm" Programs**

In accordance with the State Planning Act, the Interim State Plan distinguishes among land areas most suitable for future development and those that should be protected for open space, agricultural or environmental reasons. The existence or planned availability of infrastructure as well as the fragility of environmental resources, respectively, are major criteria in these distinctions. Because of its soil, geological and slope characteristics, the best agricultural land is often the best developable land as well. As a result, suburban development has historically intruded into prime agricultural areas, and these new suburban residents begin resisting many of the practices and activities typical of and necessary to successful farming operations. If the agricultural industry is to remain viable in New Jersey, however, it must have areas where such practices and activities can occur and indeed dominate the activity of the region. The Interim State Plan identifies such areas as Planning Area 4.

While current "right-to-farm" legislation is appropriate for most areas of the State, it may not sufficiently strong in the major agricultural areas (Planning Area 4) to sustain viable agricultural operations in the long term. Farming operations and activities in these agricultural areas should have higher priority than activities related to suburban life styles. While such priority certainly is not appropriate statewide, it should exist in areas designated by the Interim State Plan for agriculture. Second, right-to-farm programs are not adequately funded, considerably reducing their effectiveness. This latter problem impedes, for instance, effective implementation of the present eight-year easement programs » specifically, the State Agriculture Development Committee, responsible for implementing these easement programs, cannot use bond money to hire staff to assist in the implementation of right-to-farm programs.

The Commission recognizes the merits of strengthening rights-to-farm and improving the implementation of such programs:

Strengthening of existing "rights-to-farm" should only apply in Planning Area 4; and

Such programs should be supported either by:

providing regularly budgeted financial assistance to employ staff to implement right-to-farm programs; OR

allowing new bond funds to be used for this purpose. (Given the fiscal implications of capitalizing operating, or staffing, costs over the term of a bond, the Commission recommends the former alternative.)

## **19. Agricultural Impact Statements for Nonagricultural Development in Agricultural Development Areas**

The Interim State Plan recommends that new development within Planning Area 4 be supportive of the agricultural industry. Further, the Interim State Plan recommends County Agriculture Development Boards assist in the delineation of Planning Area 4 so that there is a high degree of concurrence on areas that should be targeted for agricultural assistance programs. Unfortunately, however, notwithstanding the best efforts of the Commission and these County Boards, a relatively small number of landowners in an agricultural region who allow conversion of their land to nonagricultural uses can seriously impair successful agricultural operations for the farmers who remain.

The Commission believes that developers proposing a nonagricultural development within an Agricultural Development Area should prepare "impact statements" for the County Agriculture Development Board's review and recommendation to the municipality. These impact statements should cover such issues as fiscal and environmental impacts of proposed development as well as impacts of the development on nearby agricultural operations. These statements should be available to the general public prior to local development approval and given due consideration in the local development approval process.

## **20. Study of Farmland Investment and Capitalization Practices**

The Commission heard often during cross-acceptance that protecting farmland as a natural resource does not necessarily guarantee that farming per se. will continue as a viable industry in New Jersey. It learned that the capital requirements to successfully compete in modern agricultural product markets

are significant, particularly in a highly urban State in which land prices, taxes and regulations are also burdensome. The Commission was advised by the agricultural community that the effectiveness of State policy initiatives such as the State Plan to protect or conserve farmland should be accompanied by programs that sufficiently enhance the profitability of the enterprise to ensure that farming continues to be a financially attractive enterprise. While the State Plan sets forth the strategies and planning approaches to assure the former, other incentives may be necessary to accomplish the latter.

The Commission listened to the concern of farmers over the cumulative effects of regulations on farming profitability and, hence, on the long-term viability of farming. Many farmers contend, first, that farming is unlike other occupations in that their individual and family savings and investment often are made in the land and other farming assets, rather than in stocks, bonds, retirement plans and other investment instruments used by people in nonfarm occupations. Accordingly, they suggest that the difference between the speculative value of their land and the debt on it is their principal source of funds for retirement. Second, they contend that equity in the land serves as the collateral required by banks in order for farmers to borrow the money necessary to finance farming operations.

The Commission believes that these issues need to be addressed by a thorough objective study of:

- the effectiveness of programs such as revolving loan funds, agricultural venture capital networks, aid in financial crises, interest rate buy-downs, and guaranteed loans in assisting farmers to continue farming;
- investment alternatives capable of meeting the unique needs of farmers; and
- banking practices relative to the financing of farming assets and operations.

The results of this study should identify appropriate legislative recommendations.

## 21. Implementation **Alternative for the 20-Year State Farmland Preservation Program**

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The State Farmland Preservation Program, administered by the State Agriculture Development Committee (SADC), has legislative authority to establish a 20-year, limited-term, development-easement purchase program. The SADC has the

option to pay a farmer a direct monetary payment in exchange for a restriction on nonfarm development of the land. To date, this program has not been implemented due to a lack of funding.

The Commission recognizes the need for additional economic incentives to encourage participation in the 20-year program. Such incentives might include, for example, special tax consideration for farm buildings and improvements, increased access to capital, investment tax credits, enhanced right-to-farm benefits, priority for soil and water conservation grants and participation in special marketing programs. Incentives such as these should be made available in Planning Areas based upon maximum public benefit in accordance with the priorities identified in the State Plan. Application approvals should consider the recommendations of the local County Agriculture Development Boards.