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Making Great Communities Happen

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PRESIDENT'S CORNER

NEW JERSEY IN TRANSITION: WHAT DOES IT MEAN FOR PLANNING?

By Courtenay D. Mercer, PP, AICP

Another four years, another Governor, another set of transition reports. If you have not seen them yet, visit the Governor's website to review the *Subcommittee Reports With Recommendations to Improve, Shrink State Government* released by Governor Christie's office. Many of the reports have a direct link to land use, and therefore, could have a significant affect on our work as planners.

Brief descriptions of the relevant

and most interesting sections of the reports will follow. It is important to note, however, that the reports were created by Subcommittees that seemingly did not discuss their research and recommendations with one another, thus creating a somewhat schizophrenic set of policy recommendations. This is likely attributed to the make-up of the various Subcommittees, each with Chairs of different political inclinations and members representing myriad interests. It also seems that the Subcommittees were instructed

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NJ DOT Adopts a “Complete Streets” Policy

By Brent Barnes
Director, Statewide Planning,
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Transportation

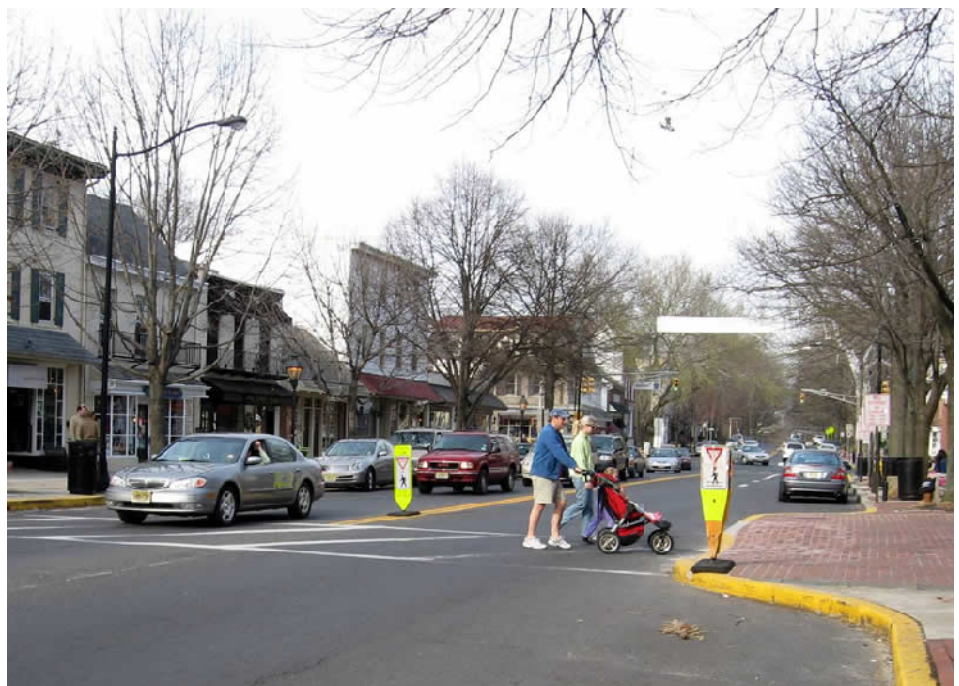
In what is likely to be looked back on as a game changing moment, the New Jersey Department of Transportation has adopted a “Complete Streets” policy, becoming only the second state in the nation to do so. Under the Complete Streets policy, non-auto modes of transport – walking, bicycling and public transportation – have equal standing with vehicular traffic in the planning and design process. Complete Streets are defined as providing safe access for all users through design and operation of a comprehensive, integrated, connected multi-modal network of transportation options. The policy recognizes that “transportation facilities are long-term investments that shall anticipate likely future demand for bicycling and walking facilities and not preclude the provision of future improvements.” The policy itself reads:

“The New Jersey Department of Transportation shall implement a Complete Streets policy through the planning, design, construction, maintenance and operation of new and retrofit transportation facilities, enabling safe access and mobility of pedestrians, bicycles, transit users of all ages and abilities. This includes all projects funded through the Department’s Capital Program. The Department strongly encourages the adoption of similar policies by regional and local jurisdictions who apply for funding through Local Aid programs.”

NJDOT has jurisdiction over about 10% of the state’s 49,000 center-line-miles of roads, generally consisting of limited access highways, principal arterials and major rural routes and its mission has generally been one of facilitating regional mobility, so non-auto modes have sometimes taken a back seat (bad pun intended) to moving traffic. But, beginning with the Context Sensitive Design concept in the late 1990s, the Department recognized that simply moving vehicles was not enough. Over the course of 10 years, advocates within the Department have worked to integrate bicycling and pedestrian design standards into the state’s Roadway Design Manual – the ‘bible’ of roadway design. Those standards, now capped off with the Complete Streets policy, constitute a sea change for the Department.

NJDOT will implement the policy through a variety of actions, including:

- Creating a comprehensive, integrated, connected multi-modal network by providing connections to bicycling and walking trip generators such as employment, education, residential, recreational and public facilities, as well as retail and transit centers.
- Providing safe and accessible accommodations for existing and future pedestrian, bicycle and transit facilities.
- Establishing a checklist of pedestrian, bicycle and transit accommodations such as accessible sidewalks curb ramps, crosswalks, countdown pedestrian signals, signs, median refuges, curb extensions, pedestrian scale lighting, bike lanes, shoulders and bus shelters with the presumption that they shall be included in each project unless supporting documentation against inclusion is provided and found to be justifiable.



- Establishing a procedure to evaluate resurfacing projects for complete streets inclusion according to length of project, local support, environmental constraints, right-of-way limitations, funding resources and bicycle and/or pedestrian compatibility.
- Addressing the need for bicyclists and pedestrians to cross corridors as well as travel along them. Even where bicyclists and pedestrians may not commonly use a particular travel corridor that is being improved or constructed, they will likely need to be able to cross that corridor safely and conveniently. Therefore, the design of intersections, interchanges and bridges shall accommodate bicyclists and pedestrians in a manner that is safe, accessible and convenient.
- Designing bicycle and pedestrian facilities to the best currently available standards and practices including the New Jersey Roadway Design Manual, the AASHTO Guide for the Development of Bicycle Facilities, AASHTO's Guide for the Planning, Design and Operation of Pedestrian Facilities, the Manual of Uniform Traffic Control Devices and others as related.
- Researching, developing and supporting new technologies in improving safety and mobility.
- Making provisions for pedestrian and bicyclists when closing roads, bridges or sidewalks for construction projects.

- Establishing an incentive within the Local Aid Program for municipalities and counties to implement a Complete Streets policy.
- Implementing training for Engineers and Planners on Bicycle/Pedestrian/Transit policies and integration of non-motorized travel options into transportation systems.
- Establishing Performance Measures to gauge success.

Some fundamental tenets apply. Improvements must comply with Title VI/Environmental Justice, Americans with Disabilities Act (ADA) and should complement the context of the surrounding community. Improvements should also consider connections for Safe Routes to Schools, Safe Routes to Transit, Transit Villages, trail crossings and areas or population groups with limited transportation options. In rural areas, paved shoulders, which provide safety and operational advantages for all road users, shall be included in all new construction and reconstruction projects on roadways used by more than 1,000 vehicles per day. If there is evidence of heavy pedestrian usage, sidewalks shall be considered in rural projects. Shoulder rumble strips are not recommended when used by bicyclists, unless there is a minimum clear path of four feet in which a bicycle may safely operate.

Some advocates criticize the policy because it includes provision for exceptions, some that appear in virtually all such policies and others that were included to overcome opposition within the Department. In every project where an exception is invoked, the rea-

sons must be fully documented and navigate a tough multi-step internal review process to be approved. Exception categories include:

- Roadways that prohibit non-motorized users (e.g., most freeways);
- Scarcity of population, travel and attractors, both existing and future, indicating an absence of need for such accommodations;
- Detrimental environmental or social impacts that outweigh the need for these accommodations;
- Cost of accommodations is excessively disproportionate to the cost of the project (more than 20% of total cost);
- The safety or timing of a project is compromised by the inclusion of Complete Streets.

The Complete Streets policy generally does not apply to Department maintenance and operations projects that do not include engineering design, such as repaving of a roadway within the curb line or upgrading of signal hardware, because doing so would fundamentally change the work flow, cost, and timing of these projects. Similarly, emergency repair projects will not be slowed to include Complete Streets elements. Exceptions could be sought where meeting the Complete Streets requirements would mean purchasing right-of-way or relocating utilities for sidewalks, both of which can be costly and time consuming. In such a case, the project manager must present written documenta-

("Complete Streets" Continued on page 17)

Three Centuries in 100 Blocks: The Jersey City Walking Tour

*By Robert Cotter, AICP, PP
Jersey City Planning &
APA-NJ Redevelopment
Committee Chair*

More than 40 planners (and other professionals) took advantage of the sunny weather and cool bay breezes to enjoy a "3 hour tour" of some of Jersey City's historic and up and coming neighborhoods this past summer. Bob Cotter, Jersey City's Planning Director, and many of the planning staff, welcomed all to a fun and fact-filled afternoon on August 20th.

Starting at City Hall, Bob pointed to the Majestic Theater Redevelopment Project just across Grove Street that sat untouched for 20 years, even though it had been declared to be "an area in need of rehabilitation" in 1983. Lacking the tool of "eminent domain," the city was not able to make a deal happen, and so the property continued to deteriorate. Eventually,

the reluctance to "blight" an historic site gave way and the city declared the site to be "an area in need of redevelopment." Shortly thereafter, with the city doing nothing other than adopting the declaration and a new plan, the private property owners came together, transactions happened, and today there is a fully restored row of historic stores, offices and a 48 unit apartment building in the envelop of the long gone theater. And the city never had to use the "you know what" power.

Up the street, the group saw the results of the 33 years of celebrating (and protecting) the Van Vorst Park historic district. They saw how an old, dilapidated brownstone that became the center of an artists-in-residence movement in the form of an international humanitarian effort to absorb Soviet emigres fleeing communist Russia in the early 70s, known as the

Committee to Absorb Soviet Emigres (CASE). This organization now houses the CASE Museum of Russian Contemporary Art, the only museum of such art in the world. One block up, was another 1970s effort: a "sweat equity" rehab project involving DUHC, the Downtown Urban Housing Corporation. We talked about how much "sweat" is worth and how much subsidy and government assistance was required to make this project go. But 25 years later, it still looks good and houses many of the original cooperators.

Around the corner on Wayne Street, the planners saw the smallest redevelopment plan area in Jersey City, measuring less than 5,000 square feet. This one was once a couple of vacant apartment buildings and a carriage house that had defied renewal. In response to community requests to "do something," the city declared the area "in need of redevelopment" and, voila, the property was sold and renewal happened and never did the sword of condemnation come down.

Two blocks west is Dixon Mills along Wayne Street we visited the former Dixon-Ticonderoga "No. 2 pencil" factory. In 1984, it was the subject of a redevelopment plan, historic tax credits, low-mod set-asides, and tax abatements. At the time, it was the largest historic preservation project in the country. In 2008, the rental was taken condo, and a second (or third) life for the Victorian factory began.

Next door, another redevelopment plan, Montgomery Gateway, was envisioned in the mid 1970s. Funded with UDAG (Urban Development Action Grant), this project combined preservation and low-mod housing to rebuild an area devastated by arson and

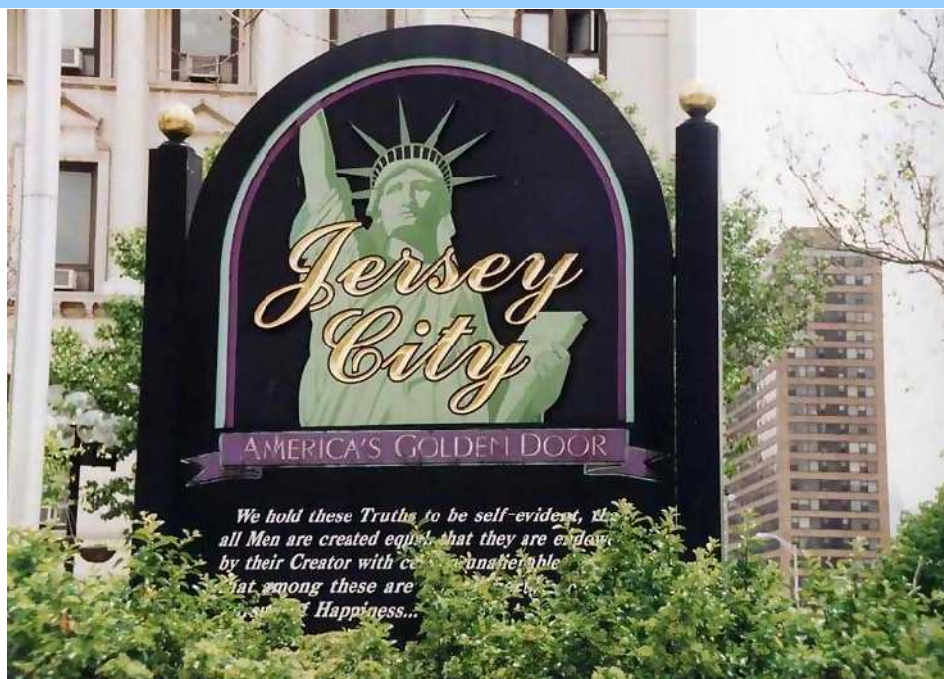


drugs in the late 1960s.

Building on the housing successes in what is really only a small neighborhood of 20 or 30 blocks, PS 3 and Middle School 4 are new "Abbott" district schools that complete the reborn neighborhood picture. The new schools pick up the rhythm of the historic row houses across the street, while clearly representing products of the 21st Century. Another new arrival across Grand Street, is the new Jersey City Medical Center, which replaced the old Jersey City Medical Center. Although not part of our tour but visible up on the top of the Palisades, the old Medical Center, now the Beacon, is being converted to condominium apartments and lofts and is currently the largest historic preservation project in the nation.

Then the planners crossed Jersey Avenue and entered the somewhat surreal world of Liberty Harbor, the new urbanist community taking shape just north of Liberty State Park. This 70 acre site, to be home to about 8,000 units and mixed-use commercial currently has about 2,000 residents and the area's largest *beir garden*. Two light rail stops make it a transit village, too. Planned by Duany Plater-Zyberk (actually Jeff Speck) and Jersey City planning (actually Maryann Bucci-Carter), this NJAPA award winning project generated the most buzz. Everyone had an opinion as to what works and what doesn't. This one deserves its own workshop.

Soon the group was in Paulus Hook, site of a Revolutionary War battle and currently one of the hottest neighborhoods in town. Right up against the Tidewater Basin and Liberty State Park, the Paulus Hook area is where it all



started in 1630. This was a neighborhood of heavy industry tied to the Hudson River, the Morris Canal and the railroads, and a blue-collar community of eastern European immigrants that would not leave. Of added interest is the fact that this was New York's first suburb, with huge townhouses developed in the 1840s just a ferry ride away from Wall Street.

A few steps away and the planners found themselves on the "Gold Coast." The former Colgate-Palmolive factory site, 8 blocks declared "blighted" in 1989, has come back to life as home to the likes of Goldman-Sachs, Merrill-Lynch and Knight Securities. This is the site of the tallest buildings in New Jersey and is served by a dense system of mass transit. In fact, parking is provided for only 1 in 5 office workers, and parking garage occupancy shows even less than that actually do so. This has allowed Jersey City to become the 12th largest "downtown" in America without adding a single lane of highway

into town.

As part of the systems that allow such an outstanding modal split, the Hudson River Waterfront Walkway was the next stop on the tour. Discussions about how New Jersey developed the requirements for the Walkway and how it was implemented ensued. All agreed it's one of the finest spots in the state, and within a few feet of trolley, ferry, PATH and bus transit modes!

We then walked over to the Harborside Financial Center and through its interior version of the Walkway. This former warehouse and shipping terminal for the Pennsylvania Railroad is now a state of the art financial office center, complete with shops and restaurants, and thousands of employees, residents and hotel guests. It all began as a redevelopment study conducted by the host in 1983. (Back then railroad box cars were rolling where we were walking and elevators took them upstairs to load and unload

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to make recommendations in a vacuum, ignoring the reality of legality or process necessary to implement the recommendations. That said, the reports provide great insight into the mindset of those advising the new Governor. The reports can also guide planners as they begin working the new Administration on critical projects around the state.

Perhaps the most promising of the reports was that of the Economic Development and Job Growth Subcommittee, which calls for the Governor to:

"Develop a Balanced State Plan: Reconstitute and elevate the State Planning Commission and appoint a cabinet-level Executive Director with the charge directly from the Governor to support the Lt Governor in working with the Commissioners to update the State Plan in a manner that breaks down the 'silos' between their respective (and often contradictory) capital investment priorities and regulatory regimes."

This is what smart growth advocates, including APA-NJ, have been calling for since the McGreevey administration gave us hope for a more collaborative State government with Executive Order 4. This transition report also calls for the streamlining of the State's regulatory and financial incentive programs.

Juxtaposed to the Economic Development Subcommittee's recommendations is the Department of Community Affairs report, which did not even mention the

State Plan when discussing the Office of Smart Growth (OSG) and State Planning Commission (SPC). It further suggested that the Governor either "abolish the OSG and SPC", or "reposition OSG (with or without the SPC) as a "One-Stop" shop (the "Interagency Office") in the Department of State where both the private and public sectors can utilize the office for purposes of carrying out future development of the State", i.e. turn it into Christie's version of Corzine's ineffective Office of Economic Growth. Neither scenario for the OSG seems particularly enlightened. That is not to say the DCA report did not make some useful recommendations. For example, it calls for a consolidation of the Department's many housing related functions to one office to streamline processes and possibly enhance financial stability of some programs. The report calls for similar consolidations related to New Jersey Redevelopment Authority, the Urban Enterprise Zone Authority and the Economic Development Authority (EDA). Each of these consolidations should make these programs easier (more logical) to find, and thus more consumer-friendly.

The DCA report included many suggestions related to the Council on Affordable Housing (COAH), the first of which was to put forth a Constitutional amendment to either define a municipality's constitutional obligation to provide affordable housing, or affirmatively state that a municipality does not have an obligation to provide affordable housing. Either amendment, according to the report, would eliminate the need for COAH. The report did recognize the political difficulty of getting such an amendment through the legislative, and thus called this a

"long term" goal. Alternatively, the report recommended legislative changes to the Fair Housing Act (FHA) to eliminate COAH or have its "authority dramatically scaled back". If the legislature could not produce something "acceptable to the new administration", the last recommended course of action was the pursuit of regulatory changes that would reduce fair share estimates. Interestingly, Senator Lesniak introduced Senate Bill 1 just before the release of the transition reports, which "Reforms procedures concerning the provision of affordable housing, and abolishes the Council on Affordable Housing". There is obviously an inclination on both sides of the aisle to do "something" with COAH. Whatever that "something" turns out to be, it will certainly have an effect on planners' work throughout NJ.

The Transportation transition report is largely a summary of the dire state of NJ's transportation funds and a litany list of up-grades needed to keep NJ's transportation system safe and supportive of our economic development desires. It is generally supportive of the large infrastructure projects critical to economic development, including freight and passenger rail up-grades. Similar to the other reports, it calls for measures to streamline services and processes, as well as recommends cost-saving performance measures.

The findings of the report on the Department of Environmental Protection should not come as much of a surprise to most. It lambasted the Department for overstepping its authority, and said it "has driven economic investment out of this state". The following summary list of major recommenda-

tions was compiled by the County Planner's association (thank you CPA!);

- Builders will no longer be forced to submit "extensive data" for some permits and may only have to go down a checklist for approval on others.
- The required buffer zone between new developments and a C-1 stream or river should be cut in half to 150 feet.
- Cleanup standards for some contaminated sites could be lowered.
- The report suggests that the DEP must do less with less, and do it better.
- The report's recommendations identify efforts such as establishing definable goals for the staff and creating online permit applications.
- Expand the use of a permit checklist called "permits-by-rule" as well as "general permits" that do not require extensive data supplied by developers.
- Suspend the use of the state "Landscape Project Map Book" to designate habitats for threatened and endangered species. Instead, review development applications of those areas only if the species are documented there.
- Reduce the complexity of permits for large facilities that emit air pollutants.
- Revise cleanup standards to be "achievable and protective of the environment" at contaminated sites by refraining from using "overly conservative" remediation standards.
- Allow private contractors overseeing the cleanup of toxic sites to rely on their "professional judgment" rather than strictly adhering to guidance documents provided by the DEP.

- The transition team was critical of the Highlands Council; the report said the legislation "has been hijacked by overreaching regulations by the DEP and by a Highlands Council."

- The transition team indicated that if the Council was eliminated, environmental protections would still be in place to protect the region. Creation of a Department of Natural Resources.

The Department could certainly benefit from some consolidation and breaking down of silos. It might also be advantageous to look at inflexible regulations that cannot "see the forest through the trees", but the overall tone of the report is a concern.

Alternatively, the Department of Agriculture report was quite positive in nature. It seems the Subcommittee saw an opportunity for renewed support for the Department's mission. The report spoke of funding cuts over the years, but also provided reasonable methods to fill the gaps. The report spoke of a need for a stable source of funding for preservation, as well as funds to monitor preserved farms for proper stewardship. The report also spoke of the promise of Transfer of Development Rights and the need for more incentives to make it a workable strategy. Not surprising, the report spoke of DEP regulatory impediments to the agriculture industry. It is interesting to note, though, that the Agriculture report did not call for the repeal of the Highlands Act or dismantling of the Council and its staff. It raised concerns about the effect on agriculture and made relevant and salient requests for continued and enhanced support for agriculture

in the Region, but did not go beyond that.

The Authorities report, on the other hand, had stronger views on the Highlands Council, calling it "a disaster on many levels", and stating that:

"If the Highlands Council had its powers changed or reduced, or even if it was eliminated outright, environmental protections would still be in place, enforced just as they are in every other part of the state. All projects would still be subject to DEP and local rules and regulations, just as they would be in any other region."

In the immediate future, presumably recognizing the Governor does not have the ability to eliminate the Council outright, the report suggested cutting the budget and changing the Council make-up to include more residents (both would still require Legislative initiative). Beyond the Highlands, the Authorities report also recommended the consolidation of the South Jersey Transportation Authority and Turnpike Authority (as did the Transportation Report). Further, the report called for a complete overhaul of the NJ Sports and Exposition Authority, better leveraging of NY/NJ Port Authority funding, the merger of several economic related entities under the EDA umbrella, immediate attention to NJ Transit budgetary shortfalls in order to maintain service and rethinking Delaware River Port Authority capital projects. It noted that the Transportation Trust Fund is broke, and made a suggestion to add

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APA-NJ Holds First Executive Committee Retreat

By Bonnie N. Flynn
APA-NJ Secretary

Instead of the usual afternoon meeting at Bloustein, 17 members of the Executive Committee met for an all-day session on the Douglass Campus to discuss our Chapter and the year ahead. The day was very productive and is marked the beginning of efforts to make our Chapter more relevant to its members and to the planning field at large.

The following is a short overview of the day's discussions. The Executive Committee looked at the previous 2005 Strategic Plan and Work Program. While many of the goals are still relevant, the singular activities were modified and tasks were narrowed. With the recent changes to the Bylaws and the inclusion of several new positions on the Executive Committee, the activities of the Plan and overall Chapter responsibilities are more focused and will be more readily accomplished. We also discussed creating an Administrative Procedures Manual, as well as a Financial Management Manual to get the day-to-day activities of the Chapter on track with other large chapters.

We discussed getting more involved with the policy decisions going on in Trenton and offering our expertise on key planning issues. We want our Chapter and its members to be called upon by legislators from all levels of government whenever a planning question arises.

We also want to expand educational opportunities and ensure that members all over the State have access to programming to obtain AICP Certificate Maintenance credits. We plan to reach

out to the many planning related partners in New Jersey to co-sponsor events and training opportunities. The evaluations we received after the Annual Planning Conference spoke of the need for more technical training such as urban design and GIS, as well as training in finance, grant writing and negotiation. We plan to explore how we can offer these sessions at little or no cost to members.

We are in the process of revamping our website, so keep checking for updates. One theme that kept coming up during the day was the need to have more contact with members and vice versa. We want our website to be a repository for exciting (and not so exciting) planning activity around the State. We hope that everyone will be able to contribute. This includes general planning related articles, as well as real-life anecdotes (you may change the names to protect the innocent). We want to promote the work that New Jersey planners do around the State to each other and to the broader field of planning.

The APA-NJ, for a wide variety of reasons, has draining down its financial reserves to cover some expenditures for the last few fiscal years. In light of this, and considering actual revenue/expense numbers since the fiscal year began in October, the Executive Committee discussed cost saving and revenue generating ideas to incorporate into an amended budget. For example, we will be releasing a revised *Complete Guide to Planning in New Jersey* later this year, which will generate a steady source of revenue for the Chapter. The Executive Committee also discussed our ability as

volunteers to meet the demands of expanding services provided by the Chapter to members, particularly with regard to continuing education. It has become increasingly evident that we need to elevate our one part-time paid staff position from a purely administrative role to a more managerial position with greater responsibility for day to day book keeping, outreach, educational program management and conference coordination. While this position will increase Chapter expenses somewhat, it is felt that it will greatly enable us to more efficiently provide improved services to members and also free up volunteer time for more salient tasks like policy advocacy.

The Executive Committee also had to contend with a new fee that siphons a full ten percent of our Chapter dues income into APA national coffers. Unfortunately, the Executive Committee had to make the tough decision to raise Chapter dues to cover expanded services and build a proper critical reserve. We are still waiting to hear from APA about a start date, but in either June or October, regular member dues will increase to 35% of APA income derived dues. This dues level puts us on par with the other large state Chapters that have paid staff and provide expanded services to their members.

We look forward to a productive year, and will be releasing the new Strategic Plan and Work Program for your input in the coming month. Thanks you for your continued commitment to the advancement to the Chapter mission and the planning profession.

APA-NJ Policy Briefing

APA-NJ Weighs in on Affordable Housing Legislation

APA-NJ provided testimony to the Senate Economic Growth Committee at hearings on February 1 and 8, 2010 on Senate Bill 1 that "reforms procedures concerning the provision of affordable housing, and abolishes the Council on Affordable Housing." The written statement is a compilation of opinions and ideas of members of the APA-NJ Legislative and Housing Committees. A copy of the Bill can be found at http://www.njleg.state.nj.us/2010/Bills/S0500/1_11.HTM. We urge all interested planners to contact the Bill's sponsors and their own representative about this important legislative policy. APA-NJ's written statement is as follows:

APA-NJ Statement on S-1

Bill S1 is an Act concerning affordable housing, supplementing and revising parts of the statutory law.

We can all agree that the Fair Housing Act offers a complex set of mandates to municipalities in the state. The Council on Affordable Housing, created by that Act, was given a difficult responsibility in determining the obligation of each municipality in the state to provide opportunities for housing affordable to low and moderate-income households. This was a difficult concept for many of the towns in New Jersey to accept. For many years, control of land uses through zoning had been used to ensure that the municipality stayed the way the elected officials perceived the population wanted it...basically the way it was.

It is little wonder that COAH became the "bad guy", trying to carry out a huge and complex

task. The real wonder is that even though many in the state involved in housing thought reforms in the COAH process were needed, New Jersey became the "poster state" for developing affordable housing.

Two nationwide studies done on affordable housing in the United States, one done in 2003 "Regional Approaches to Affordable Housing", published by the Planning Advisory Services the research arm of the American Planning Association, and sponsored by the U.S. Department of Housing and Urban Development, and one done in 2009 for the Lincoln Institute of Land Policy, "Smart Growth Policies: An Evaluation of Programs and Outcomes", compared New Jersey against other states and assessed the impact in terms of production and effect on affordability. On the basis of these studies--the only two evaluations of the New Jersey system to date--it is believed that the New Jersey system is the only system in the United States that is producing affordable housing in a quantity that can be measured as significant: over 24,000 units per decade. The Lincoln Institute study provided empirical evidence that the New Jersey system is in fact making housing more affordable for low- and moderate-income families, who would otherwise be spending 30 percent or more of their household income for housing. We can provide copies of both of these studies for committee members.

New Jersey has also measurably improved affordability for owners and renters. One of the rules of COAH, giving double credit for

affordable rental units over affordable sales units, has had a real impact on the number of new rental units being built -- more than any other state in the study.

So even as we agree that reform is needed, we must be certain that a new process can maintain at least as notable a success rate of affordable housing production as the process we are replacing.

Following are recommendations by APA-NJ on relatively broad principles addressed in our efforts to facilitate the development of affordable housing in a high cost state.

Recommended and Supported Principles of the S1:

1. The APA-NJ Housing Committee agrees that reform is needed for both the Fair Housing Act and the State Planning Act. In reference to S1 there should be a preamble to establish that it upholds the Mount Laurel Doctrine and that it furthers the legislative findings included in the State Planning Act (SPA) wherein it notes the need for

"integrated Statewide planning and the coordination of Statewide planning with local and regional planning to conserve its natural resources, revitalize its urban centers, protect the quality of its environment, and provide needed housing and adequate public services at a reasonable cost while promoting beneficial economic growth, development and renewal."

2. We applaud the addition of the
(*"S1" Continued on page 10*)

APA-NJ Policy Briefing

("S1" Continued from page 9)

Housing Element as a requirement under the MLUL, as well as revising the SPA to extend the re-adoption of the State Plan to six years to be in line with the municipal master plan re-examinations. We suggest that re-adoption of the State Plan be extended to every ten years, starting in 2012, to take advantage of the wealth of data the census provides. To that end, municipal Master Plan re-examination could occur every five years to be better coordinated with the State Plan re-adoption.

3. S1 refers in several sections to the definition of regions and the value of regional planning. We recommend a stronger role for regional planning within the process this legislation addresses. Housing is dynamic and is an integral part of comprehensive planning. A regional planning approach best addresses and anticipates the needs of New Jersey's communities, as opposed to a process through which each municipality determines its own housing needs without involvement of regional planners and regional elected officials.

4. We feel that the inclusion of defined "work force housing" as part of the choice and variety of housing available in all municipalities in the state is a valuable addition to the State's housing stock. However, we are deeply concerned that the Court's direction to provide opportunities for low income housing (below 50% of median income) and moderate income housing (between 50% and 80% of median income) will not be complied with if the workforce housing becomes an equal partner with low income and moderate-income housing in the housing mix. The workforce housing, in order to comply with the Court's direction, could be a very helpful "add-on", but cannot be included in the affordable housing opportunities obligated to be provided by every municipality in a growth area "...for a fair share of its region's present and prospective needs for housing for low and moderate income families".

5. Although workforce housing is a good concept for those just below and just above the median income in their region, it would be a cruel hoax to say this housing is only affordable to the first buyer and renter...and when that family moves to another location, the workforce housing is no longer affordable to another comparable working family. Moreover, it would encourage the "flipping" of for sale units.

We strongly urge that, even though the workforce

housing does not meet the test standards that the Court called for in terms of affordability, that it have a restricted affordability designed to keep it affordable to the "workforce population" that it was designed to assist. If the affordability standard for 80% to 120% of median income is not protected by resale or re-rental price restrictions, then Section 19 will allow a very small window of affordability to the very population municipalities would like to serve.

6. We strongly recommend that the proposal in S1 that EDA take on the responsibility for evaluating the feasibility of a housing development, in terms of affordability and density, be amended. This is not the most efficient way for the SPC to achieve its goals. First, it adds another level of bureaucracy to seek reprise from a second government entity. Moreover, to add an additional ninety-day review period to a process whose length is often discouraging to private and nonprofit developers will have a serious negative effect. SPC can either hire qualified staff or request the assistance from a state agency, such as NJHMFA, which has been evaluating affordable rental and sales housing projects for over twenty years, and who could provide training to appropriate staff persons at SPC. This would be much more efficient, and could further the skill set and independence of SPC staff.

7. In relation to determining a reasonable opportunity for the provision of affordable housing, the rulings of the New Jersey Supreme Court in 1975 and 1983, and later, must be adhered. The process is complicated and lengthy. We do not believe that the process that process of reassigning this task to another agency with no similar experience can be "fast-tracked". We believe that the result will be more successful if done at a pace that allows municipal, county, and state officials to confer thoughtfully, and develop procedures that are thought through sufficiently to ensure their success; including an evaluation of who might monitor the process, who will assist the municipalities in determining their goals, and who will track compliance.

We urgently recommend slowing down this process to allow sufficient time for the above activities to be planned, with the inclusion of all those who might be involved.

8. We feel that the affordable housing function is appropriately placed with the SPC, but urge that a transitional period be established to allow the staff of the SPC to be enlarged as needed, and to adapt and

APA-NJ Policy Briefing

(“S1” Continued from page 10)

develop the needed processes, regulations, and proceedings that will be placed within that agency. It is suggested that the legislature might expand the SPC to include several appointments with specific housing expertise. Using all the talent and experience that we (the State government) have, will ensure that changes in process, in rules, and in regulations will be carried out with the skill that comes with experience.

In addition to the above eight principles, for which we have made recommendations, there are a number of issues in the bill as written that need clarification, such as:

- The impact of this Bill on the number of lawsuits a municipality might face.
- The compliance ordinance that a municipality is entitled to adopt is unclear regarding the burden of proof a municipality must provide that they have met the requirements of “reasonable opportunities”.
- The inclusionary ordinance as described in the bill would reduce the obligation from 100% of the affordable housing units to be provided to 50% of that number of units to be provided for low and moderate income households. This would seem to raise the issue of constitutionality of the ordinance itself.
- The process for certification that a municipality has met its obligation is not clear and raises the concern of having a court making the housing decisions.

- The bill includes little guidance for administration of the “development fees” or administration and monitoring of the housing affordability.
- Finally, the proposed affordability restriction period of six years is unrealistic in terms of providing the opportunities for affordable housing within every municipality. Most subsidy programs, federal or state, use thirty years as a reasonable length of time to protect affordability. Banks providing the permanent financing for price-restricted housing are willing to provide thirty year fixed rate mortgages. Since the need for affordable housing will never end (there will always be minimum wage jobs in every municipality) a number of subsidy programs have extended the restrictive period to over thirty years. Moreover, without affordability controls of 30 years, municipal governments that provide realistic opportunities for affordable housing will find themselves in a constant battle to replenish the supply, because the affordable housing will simply disappear after six years without appropriate long-term restrictions. It will place municipalities at risk from additional Mt. Laurel lawsuits.

These are details one might say, but if there ever was a situation where “the devil is in the details”, the provision of affordable housing would go to the head of the line!

We appreciate very much your time and attention, and the APA-NJ will be happy to discuss any of these ideas with you further.

Legislative Analysis: Comments to the NJ County Planners Association

The following are excerpts of remarks made by Stuart Meck, FAICP/PP, APA-NJ Faculty Liaison and professor at the Bloustein School of Planning & Public Policy at Rutgers University, to the NJ County Planners Association, on February 19, 2010.

As some of you may know, planning statutes are a long-standing interest of mine, and I am pleased to be here today to talk about some pending bills in the New Jersey Legislature that affect plan-

ning and planners. Prior to joining Rutgers in 2005, I worked in the Research Department of the American Planning Association (APA in Chicago on a multiyear project, Growing Smart, that produced a new generation of model planning and zoning legislation for the U.S. to replace the Standard City Planning and Zoning Enabling Acts of the 1920s, in the form of the *Legislative Guidebook*, which appears on the APA website as well as the HUD User website. [link: [http://](http://www.huduser.org/portal/publications/polleg/growingsmart.html)

www.huduser.org/portal/publications/polleg/growingsmart.html]

Some of the model laws in the *Guidebook*, such as the requirement of a reexamination report, were adapted from New Jersey statutes. During my 11 years at APA, I also worked on statutory reform studies for Montana, Michigan, Illinois, and even the Czech Republic. The Michigan study was actually implemented in part, I'm

(“NJCPA” Continued on page 12)

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("NJCPA" Continued from page 11)

proud to say, and Illinois even adopted some legislation establishing an affordable housing appeals system that I helped draft.

It is worth noting where New Jersey stands in the continuum of planning legislation in the U.S. There are really three categories of planning systems in the U.S. with a lot a variations on these themes.

- Legislation that simply enables planning and land use control, without any type of specification about how that is to occur, other than a set of procedures. This is the kind of legislation you find in the Midwest, like Ohio and Indiana. This is really the template we inherited from the Standard City Planning and Zoning Enabling Acts from the 1920s.
- Legislation that mandates planning and land use control, or authorizes land use control but in the context of a plan. Rhode Island and Kentucky have these kinds of laws.
- Legislation that attempts to achieve vertical and horizontal integration of plans and land use controls. It does this through some type of review by a state or regional agency, usually with substantive rulemaking authority. In some cases, as in Oregon, the state agency has adopted a set of goals and administrative rules, and approves or certifies local planning. Florida has a somewhat similar system, but with more emphasis on whether local plans comply with the regulations, than with a specific vision for how the state is going to develop.

New Jersey's system falls into this third category, one in which there are roles for the state, the three regional agencies for the Highlands, Meadowlands, and Pine-lands, and municipal governments as well as counties, although they constantly seem to be shifting. If you read the statutes closely, planning is really mandated at the municipal level—you can't have zoning without some basic land use and housing planning—and the regional agencies have different degrees of oversight.

Compliance with the state development and redevelopment plan is voluntary and there are not really many benefits for doing that. The state government has never decided exactly what the state plan's role is to be, if anything. At least in the case of the Highlands, the Highlands Regional Comprehensive Plan trumps the state plan, and not the other way around, although there are memoranda of understanding that attempt to reconcile differences between the state plan and the Highlands Plan.

And, of course, there is affordable housing, an issue that distinguishes New Jersey from all of the other states, in that the New Jersey system, based on a reading of its constitution through the *Mt. Laurel* anti-exclusionary zoning decisions, is the one that is most directed at the production of housing, at least in theory, rather than simply planning for it, which is the case in the other states that have fair-share programs, like California and New Hampshire, and the Portland, Oregon, Metro area. In those states or regions, there is a lot of churning in terms of preparing housing elements—California especially— but not much evidence that afford-

able housing is getting built, based on my research.

Compared to most other states, New Jersey's Municipal Land Use Law (MLUL) is a pretty good act. It is more detailed and directive than most, probably necessary when you have 566 municipalities with a broad range of capacities. I'm not a fan of use or "d" variances, which New Jersey permits under some fairly ambiguous standards I've yet to figure out, but, aside from that issue, the MLUL provides good guidance to its constituent communities.

I'm going to talk about four pieces of legislation:

- S1, sponsored by Senators Raymond Lesniak and Chris Bateman, which would abolish the Council on Affordable Housing, and change procedures affecting affordable housing
- A437, sponsored by Assembly Members Jerry Green, Alison Littell McHose, and Charlotte Vandervalk, which would modify the rules governing decisions under the Municipal Land Use Law
- A123, sponsored by Assembly Members Peter Biondi and Denise Coyle, which would broaden county planning board authority to review site plans for land development affecting county roads,
- A144, also sponsored by Assembly Members Allison Littell McHose and Gary Chiusano, which would prohibit state departments and agencies from considering or requiring compliance by Highlands planning areas municipalities with the Highlands Regional Master Plan, in certain circumstances.

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LETTER TO GOVERNOR CHRISTIE

The following is the text of a letter sent by APA-NJ to Governor Chris Christie on the state of planning in New Jersey and the Transition Team reports that are guiding his decision making.

February 3, 2010

Dear Governor Christie:

As the leadership of the New Jersey Chapter of the American Planning Association (APA-NJ), representing over 1,000 professional planners in New Jersey, we are writing to express our support for the State Development and Redevelopment Plan (State Plan), its custodians the State Planning Commission (SPC), as well as their professional staff at the Office of Smart Growth.

Given the state of the economy, the time to assess how the State of New Jersey does business is now. How we work to prepare ourselves during these times will surely influence the long-term stability of both the New Jersey economy and the quality of life we provide our residents. To that end, we enthusiastically support your Economic Development and Job Growth Subcommittee's report to the Transition Team that states:

"reconstitute and elevate the State Planning Commission and to appoint a cabinet-level Executive Director with the charge directly from the Governor to support the Lt. Governor in working with the Commissioners to update the State Plan in a manner that breaks down the "silos" between their respective and often contradictory capital investment priorities and regulatory regimes."

In essence, work to make the State Plan a truly regulatory document that aligns the plethora of regulations and streamlines budgeting based on statewide interest rather than reactionary responses to "home rule" decision-making. We are not attacking home rule, but we believe that a strong State Plan will incentivize sound planning decisions at the local level. In order to properly streamline permitting, be able to pay for the preservation of land we must hold in public trust, or truly support sustainable growth of jobs and industry, we need a coordinated approach that breaks down State Agency "silos". In order to stymie crime, improve community health, and maximize our investments in transportation and schools, we need to break from the one size fits all approach and unify statewide investments based on what is best for the entire State. To accomplish this, the State Plan, the SPC and the Office of State Planning require your attention so that they can become the vehicles they were meant to be, and therefore APA-NJ is in support of any effort that accomplishes this and takes it out of control of a single Commissioner. Clearly, no one agency's goals can supersede the others, and while this will take some effort to accomplish; we are encouraged that taking this path will set the stage for a truly sustainable New Jersey. We also believe that such an approach will also work to eliminate corruption in the process through its transparency.

With this single recommendation, your Economic Development and Job Growth Subcommittee articulated what APA-NJ, and others such as NJ Future, feel must occur for New Jersey to perform at its highest level. Staffing such an effort with experienced planning leadership will be important so that you and your Cabinet are provided quality information and recommendations from qualified, experienced experts. We believe that this will not only streamline development processes, but will also work to leverage statewide investments and meet all your Agencies' needs. The SPC should be provided the capacity to help you develop the methodologies that will ensure that all initiatives and regulations are coordinated based upon criteria that will advance the entire State. Without coordinating investment based on a State Plan, investment will remain diffused. Without proper leadership from the top to coordinate implementation of such an effort, New Jersey will be at a global and national disadvantage with many of its fantastic assets not being utilized to their maximum potential. There are also many opportunities to include the existing framework of County and Metropolitan Planning Organizations to help implement such a strategic effort so the State does not have to bear all of the burden. However, in order to truly achieve effective public-private partnerships, we need a coordinated strategy and leadership through a State Plan.

We look forward to working with your Administration during this challenging economic period to plan for a better New Jersey. As always, we are poised to discuss these matters with you as a partner interested in advancing our great State and solidifying its future. Our membership has a wide array of expertise in state, county and municipal planning from both public and private entities and as such, we have much to offer you in the days and years ahead.

Sincerely,

Courtenay D. Mercer, PP, AICP
President

Charles L. Latini, PP, AICP
President-Elect

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(“NJCPA” Continued from page 12)

S1 has gotten the most attention. It is worth summarizing what it would do. The bill would do away with State-imposed calculations of affordable housing need and would permit local governments to take charge of planning for opportunities for affordable housing. This bill charges the State Planning Commission (SPC) with assisting municipalities in facilitating opportunities for affordable housing.

If enacted, this legislation would abolish the Council on Affordable Housing, and transfer any remaining authority of the council to the SPC.

To transfer responsibility for affordable housing planning to municipalities, this legislation would amend the MLUL to make a housing element a mandatory part of a municipal master plan, although I think that is really the case now.

In addition, this bill amends the State Planning Act to provide that the State Development and Redevelopment Plan, like a municipal master plan, is readopted only every six years.

This bill would permit certain regional contribution agreements (RCA) formed before the effective date of P.L.2008, c.46 to be reviewed and approved through the end of 2011. These incomplete RCAs would be governed by the rules of the council in effect at the time the agreements were entered into.

Following a general reexamination of their master plan and housing element, municipalities would be required to adopt an ordinance declaring that they have provided an opportunity for an appropriate variety and choice of

housing and have complied with their fair-share obligations under the Fair Housing Act. This ordinance would be based on a model promulgated by the SPC, and, according to my reading of the bill, the SPC would be responsible for reviewing the adopted ordinance, but the impact of that review isn't clear. It is possible for individuals to challenge the ordinance by filing an appeal to the SPC, which can hear and decide it.

This bill would require those municipalities that do not adopt an ordinance determining compliance, to adopt a specific inclusionary zoning ordinance. Under this legislation, a specific municipal inclusionary zoning ordinance would require developers to set aside 20 percent of the proposed units in a residential development for low- and moderate-income households and for workforce housing. This legislation requires the ordinance to provide for indirect economic incentives to a developer. These incentives include payments in lieu of construction, off-site construction, and alternate design standards for residential development projects that include affordable units. This legislation permits municipalities to tailor the incentives to their specific needs for encouraging development.

If a municipality does not comply with the ordinance procedure and does not adopt a specific inclusionary zoning ordinance, the bill makes available an alternate variance procedure to ensure provision of opportunities for affordable units. Under the provisions of the bill, a proposed inclusionary development seeking a variance is deemed to be inherently beneficial, and thus to have satisfied the

“positive” criteria for a “d” variance pursuant to section 70 of the MLUL. The alternate variance procedure would not be available in a municipality that has adopted an ordinance determining compliance or has adopted a specific inclusionary zoning ordinance.

Because of the current economic situation, this legislation also provides that developers can seek site-specific adjustments of set-asides based on economic feasibility. Jointly with a municipality, a developer would apply to the New Jersey Economic Development Authority for a review of the pro forma and other documentation. In no event would less than 10 percent of the units in an inclusionary development be moderate income, low income or workforce housing under the adjustment.

This bill also amends the Fair Housing Act to prevent the State from calculating prospective need. It also forgives unmet housing need from prior rounds or periods in time before the effective date of the act.

In my opinion, this bill has a lot of problems, but some background first.

Over the past seven years I've worked on two national studies on affordable housing in the U.S. The first of these is *Regional Approaches to Affordable Housing*, published in 2003 by the Planning Advisory Service, the research arm of the American Planning Association, and sponsored by the U.S. Department of Housing and Urban Development and the Fannie Mae Foundation, [<http://www.huduser.org/portal/publications/affhsg/regaffhsg.html>]. The second was

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done for the Lincoln Institute of Land Policy, *Smart Growth Policies: An Evaluation of Programs and Outcomes*, published in 2009. [<http://www.lincolnst.edu/pubs/smart-growth-policies.aspx>]. This study compared New Jersey against other smart growth states—Maryland, Oregon, and Florida—as well as four other non-smart growth states and assessed the impact in terms of production and effect on affordability.

On the basis of these studies—the only two evaluations of the New Jersey to date—I believe that the New Jersey system is the only one in the United States that is producing affordable housing in a quantity that can be measured as significant: over 24,000 units per decade, and we could be doing a lot better if the affordable housing system didn't operate in fits and starts depending on which gubernatorial administration is in office.

The Lincoln Institute study provided empirical evidence that the New Jersey system is in fact making housing more affordable for low- and moderate-income families, who would otherwise be spending 30 percent or more of their household income for housing in comparison with smart growth states like Oregon, Florida, and Maryland and four other selected states of Colorado, Indiana, Texas, and Virginia.

For the analysis period, 1990-2000, New Jersey had the smallest increase among the four smart growth states in terms of cost burden for owners during the decade, and the cost burden percentages actually dropped for renters over the same period, due to the large proportional increase in the construction of rental units in the state. Further, among the

four states, New Jersey had proportionally the most counties showing positive gains in rental housing.

The biggest beneficial impact over the past decade has to do with the fact that the New Jersey system was responsible for the construction of a great deal of affordable rental housing, housing that would not have otherwise been built in a state whose municipalities have often fiercely resisted it. Moreover, the fact that the COAH program imposes long-term restrictions on affordability for rental and sales units means that you see the impact in the proportion of household income spent on housing, which is the true measure of whether housing is affordable.

Finally, at least as it has evolved over the past decade, COAH has slowly been working to build capacity in local government through municipal affordable housing liaisons, individuals trained in administering local programs. Making the provision of affordable housing a routine institutional function of municipal government, just like paving the streets, has been one of COAH's most important contributions.

It would unfortunate to lose these benefits through new legislation.

Some problems with S1:

The bill does away with COAH's substantive certification process, which is an external validation that a municipality has complied with affordable housing rules. In doing this, it does away with defenses to exclusionary zoning litigation, and exposes municipalities to increased risk to lawsuits.

It assumes that municipalities can

self-monitor their progress in planning for affordable housing. I don't believe that will happen at all.

It does away with the requirement that municipalities incur an affordable housing obligation from the growth of nonresidential development, which is currently the case under COAH growth share rules—one affordable unit for every 16 new jobs. The only way affordable housing is going to get built is if market rate housing is built and affordable housing is part of it; the inclusionary ordinance does not apply to nonresidential development.

The nonresidential development affordable housing requirement in current COAH regulations assures that there was some affordable housing consequence for chasing ratables, such as office, warehousing, retail, and industrial development. Thus, the impetus for municipalities will be to attempt to block even market rate housing, because its approval would bring more affordable housing, and there would be no impetus at all to provide housing for workers in new businesses in municipalities—they would have to go elsewhere.

The transfer of COAH's responsibilities to the State Planning Commission is questionable as well. Monitoring affordable housing, in my opinion, requires a specialized agency dedicated to that task, in the same way that regulating the protection of the environment does, and why environmental protection agencies are not typically part of agencies that regulate businesses or professions, and why affirmative action offices are often separate from personnel offices.

(“NJCPA” Continued on page 20)

("President's Corner" Continued from page 7)

finance experts to the Board.

The Energy & Utilities report included a commendation for Sustainable New Jersey, saying it "has proven to be highly successful and the state should support the program". It also called for the creation of a new Energy Master Plan and an updated strategic plan aligned with the policies of the incoming Administration. This latter recommendation seems a waste of time and resources, given the extensive process to adopt the last Energy Master Plan.

Finally, there has been a rumor spreading amongst planners that the Board of Professional Planners and the license are to be eliminated. The Law and Public Safety transition report, which included information on licensing boards, made no recommendations to this effect. The APA-NJ did attend the Board of Professional Planners' last meeting in which they confirmed there was talk of possibly consolidating various professional boards into one "super board", but not that the license would be eliminated altogether. Regardless, this would require a legislative change, and is not likely to happen any time soon.

I have only provided you a small insight into the relevant issues emerging from the Transition Reports—a full synopsis and interpretation would take many more pages of this newsletter. I recommend that you read the reports to come to your own conclusions about the direction Governor Christie may take with regard to land use. Know that the APA-NJ is following the State's policy initiatives, and reaching out to the Administration and Legislature when it can.

The Housing Committee recently testified before the Senate Economic Growth Committee on Senate Bill 1 that "Reforms procedures concerning the provision of affordable housing, and abolishes the Council on Affordable Housing". In addition, President-Elect, Chuck Latini, and I sent a letter to Governor Christie following the release of the Transition Reports in January expressing the APA-NJ's support for state planning, and our endorsement of the Economic Development Subcommittee's report to the Transition Team. Both the hearing testimony and the letter can be found on the front page of our website—www.njapa.org.

We will be expanding our policy initiatives in the coming year, and welcome you to join the Legislative Committee or any of our topical sub-committees by contacting the appropriate Chair (also listed on our website).

("Jersey City" Continued from page 5)

where traders now move equities in the ether.)

Just outside the doors of the giant crystal hall that is the Harborside Atrium is the "Powerhouse." This imposing 1909 marvel was built to generate the power used by the Hudson & Manhattan Railroad, now PATH. It is owned by the city and the Port Authority of NY & NJ and is being stabilized to preserve it for a celebration showplace for entertainment and the arts. The Jersey City Redevelopment Agency has named the Cordish Company as the "designated developer" for the site.

Across the street, we entered the Powerhouse Arts District, scene of yet another redevelopment area. This area of historic warehouses is

emerging as the newest neighborhood in Jersey City and an area of intense change. In less than 20 years, it has gone from empty(ing) warehouses to artists' studios and "alleged" residences, to "work/live" zoning for artists, to evictions and protested demolitions, to several variances and redevelopment plan amendments, to actual rehab and construction, to required (and actually provided) affordable artists' housing, to condo and rental occupancy, to lawsuits and no further comment. (!!!)

Onward one more neighborhood: the Grove Street/Newark Avenue district, aka "Restaurant Row." (Not really, but the politicians like the name.) This is the location of the Grove Street PATH station and on this particular day the farmers' market was in full swing. Bicycles chained up everywhere indicate it works (and more racks are needed). We talked about the juxtaposition of the 3 and 4 story old fabric to the west and the 35 and 50 story towers on the east of the station area. There is a lot of tension between old and new, but the area has a definite buzz these days.

Using redevelopment planning and designated historic districts and very tight site plan review, the Jersey City planners have kept things working as planned.

(*"Complete Streets" Continued from page 3*)

tion supporting the proposed exemption, which is then reviewed and debated by two different project review committees before being presented to the Commissioner of Transportation for final written approval.

NJDOT designers and engineers will need to change their approach to project development to include Complete Streets elements. Perhaps more significant, however, is the provision in the policy that "strongly encourages" local governments to adopt similar policies. NJDOT supplies municipalities and counties with over \$300 million annually in funding for local transportation projects, funding that will now be linked to having a Complete Streets policy in place at the local level. Since most pedestrian and bicycle destinations are served by local streets, smoothing the pathway for biking, walking and transit is a significant step toward reversal of sprawling auto-oriented development in the Garden State.

Save the Date! 2010 NJ Annual Planning Conference

November 4 and 5, 2010
Hyatt Regency, New Brunswick, NJ

Check www.njapa.org regularly for the
Call for Sessions, coming soon.

Questions?

Contact Courtenay Mercer at
pres@njapa.org or Lorissa Whitaker at
whitaker@triadincorporated.com



The 2010 National Planning Conference Saturday, April 10 – Tuesday, April 13, 2010

- Join APA and more than 5,000 planners and officials in New Orleans for the 2010 National Planning Conference.
- Registration is quick and easy at <http://www.planning.org>.
- With hundreds of sessions, workshops, mobile workshops, and networking opportunities, APA's 2010 National Planning Conference is the conference of the year.
- AICP members, earn a maximum of 32 CM credits (including ethics and law) by attending the 2010 National Planning Conference.
- **On Monday, April 12 at 5:30pm, join your fellow Northeast region planners for the Northeast Happy Hour!**

The 2009 Annual Planning Conference

With more workshops than ever, a Thursday night planning awards dinner, Anthony Flint as the Friday keynote, and almost 500 attendees, this year's Annual Planning Conference was one of the most informative and educational yet. The two-day conference, sponsored by the New Jersey Chapter of the American Planning Association and the Edward J. Bloustein School of Planning and Public Policy at Rutgers, was held at the Hyatt Regency Hotel in New Brunswick on November 5 and 6.

Thursday Sessions

On Thursday, planning law and ethics courses were offered in addition to three 190-minute sessions, a new feature at this year's conference: Testifying Effectively and Building a Record for Appeal; GIS and Internet Mapping for Planners; and Design for Planners.

Friday Sessions

On Friday, 20 sessions 90 minutes in duration were offered in a range of topics from the State Plan to transportation to planning ethics.

Luncheon Keynote: Anthony Flint

The Friday lunchtime keynote address was Anthony Flint. Mr. Flint, a 20-year journalist and author at the Lincoln Institute of Land Policy, a think-tank based in Cambridge, Mass., writes about cities and the built environment. A former reporter for The Boston Globe, Loeb Fellow, visiting scholar at Harvard Design School, and policy adviser in Massachusetts state government, he is the author of *Wrestling with Moses: How Jane Jacobs Took on New York's Master Builder and Transformed the American City*, a narrative nonfiction account of the clash of Jane Jacobs and Robert Moses in New York City in the 1950s and 60s, published by Random House (July 2009). Mr. Flint's keynote addressed trends in planning, infrastructure, density, and NIMBYism as cities confront the challenges of energy and climate change. More information on Mr. Flint can be found at: <http://www.anthonylint.net/>

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The 2009 Annual Planning Conference

Award Ceremony

Leadership Awards

Ingrid Reed

Distinguished Civic Leadership Award

Recognizing an elected official or citizen planner who has advanced sound planning in the public arena.

Rick Brown

Elwood "Woody" Jarmer Award for Environmental Achievement

Recognizing a professional planner, elected official or citizen that has demonstrated exceptional creativity in balancing environmental concerns with the realities of real estate development.

Deborah Alaimo Lawlor, PP, AICP

APA-NJ Distinguished Service Award

Recognizing an APA-NJ member who has advanced the mission of the Chapter by consistently and freely giving of themselves and their services.

Kim Warker Ayres, PP, AICP

Budd Chavooshian Award for Outstanding Professional Planner

Recognizing a planner for sustained contributions to the profession through distinguished practice, teaching or writing.

Project Awards

Haddonfield Downtown Code

*Borough of Haddonfield,
DVRPC and Brown & Keener
Urban Design*

Smart Growth Award

Recognizing a plan, project or initiative of unusually high merit that advances sustainable principles.

Jersey City Circulation Element

Jersey City Division of City Planning, Jersey City Department of Housing, Economic Development and Commerce, T&M Associates, Medina Consultants, Eastland Systems Group, and TechniQuest

Outstanding Plan Award

Recognizing a plan of unusually high merit, including, but not limited to neighborhood, economic development, conservation, transportation and other comprehensive plans.

The Box & Beyond: A New House for Newark

City of Newark Division of Planning and Community Development, ULI and RPA

Outstanding Community

Engagement or Education Award:

Recognizing a planning project or initiative that has involved, or resulted in significant advancement of community comprehension of planning issues or outcomes.

2009 Awards Jury

Nicholas Graviano, PP, AICP, JD
Graviano Planning Group

Jennifer Lane, PP, AICP, Rutgers
Dept of Transportation Services

Courtenay Mercer, PP, AICP
Mercer Planning Associates

Karl Hartkopf, PP, AICP
NJ Office of Smart Growth

Charles Latini, PP, AICP, NJ Transit
Sandra Sung, Jersey City Division of
Planning

Creigh Rahenkamp, PP, AICP
Creigh Rahenkamp and Associates

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A companion bill, A2071, in the Assembly, would transfer the function to the new state housing commission, which makes more sense, except that the state housing commission itself has no track record at all, and COAH does.

A better alternative might be to create a process where a developer of affordable housing could seek a single permit from a municipality for an affordable housing development, and do away with the backdoor practice of granting "d" variances for "inherently beneficial uses." This is what Massachusetts does, along with several other states.

If the municipality denies the permit, or imposes unreasonable conditions that make the project infeasible, a state level board in Massachusetts, which is part of the state department of housing and community development, can overrule the municipal decision. Only after more than 10 percent of the municipality's housing stock was affordable would it be exempt from appeals to the state board.

I can't say that the Massachusetts system has been entirely successful either—certainly less successful than COAH, but if the emphasis is on streamlining the review process while retaining some state oversight and accountability, then a state level appeals board would be a better approach.

A437 would override the current "time of decision" principle governing decisions under the MLUL by providing that development regulations in effect on the date an application for development is submitted for review will govern the review of that application and

any decision made with regard to that application for development. The bill also provides that any provisions of an ordinance, except those necessary for the protection of health and public safety, which are adopted after the date an application for development is submitted, would not be applicable to that application for development.

This bill makes a lot of sense to me, and other states have vesting rules like this. A vested right means that there is a particular point—either established by court decision or statute—as here, at which a landowner gains the right to use his or her land for a particular purpose. A437 establishes a bright line rule—the development regulations in place at the time of application are the ones that control, not ones that might be or could be adopted at some point in the future.

This is in lieu of the alternative rule, which is that you don't vest until you have made substantial expenditures in reliance on a permit. This can involve further litigation over what that point actually is, unless the figure is stated in the statute, such as some proportion of the total construction costs. For example, let's say a municipality enacts a change to a side yard regulation after you have put in your footers, but before you have begun construction. Absent a vesting rule like this one, you could conceivably be forced to pull up your footers and move them, because the expenditure on footers is not substantial.

A123 is relatively straightforward. It is intended to clarify that county planning boards have site plan review authority over developments "affecting" county roads as

well as affecting county drainage facilities. The word "affecting" replaces the word "along" in connection with county roads. The word "along" is a better word than the word "affecting" since it gives planning boards clearer authority that the development must be proximate to county roads. Perhaps I am missing something here, but I, although it seems to me to be correcting a problem that is not immediately evident. An alternative might be to include both words, "along" and "affecting," to cover all contingencies.

A144 would prohibit any State department or agency from requiring that a municipality in the Highlands Region planning area revise its master plan and development regulations to conform to the goals, requirements and provisions of the regional master plan, as a condition to any approval or decision concerning the municipality or any person in the municipality, including a decision to award a grant or loan, a decision concerning the amount of a grant or loan, whether to provide aid or assistance, to grant or deny a permit, or concerning the terms or conditions of a permit.

Similarly, the municipality's conformance with the regional master plan or lack of conformance with the plan could not be considered by a State department or agency as a factor in a decision to award a grant or loan, a decision concerning the amount of a grant or loan, whether to provide aid or assistance, to grant or deny a permit, or concerning the terms or conditions of a permit.

I have mixed feelings about this. I don't think the Highlands regional

APA-NJ Policy Briefing

(“NJCPA” Continued from page 20)

master plan is an exemplary planning document and the Highlands act is poorly drawn as well. However, it would to be reasonable for a state agency, in a discretionary award of a grant, to ask that a municipality in the Highlands region take some action in support of the regional master plan. The problem of course is trying to make sense of the Highlands regional master plan so you would know what to do at the local level.

Further, it is not clear to me in this bill whether state agencies are barred from pressuring municipalities in the Highland in connection with local development decisions and the conditions imposed by them. Certainly the Highlands Council and other state agencies ought to be able to make recommendations and views known to municipalities in the Highlands area when they act on applications for development.

Activities & Events



Affordable Housing Professionals of New Jersey Southern Regional Meeting

Potential Amendments to the Fair Housing Act

During the course of the campaign, Governor Christie often cited his desire to 'gut COAH' without offering specifics, which begs the question: how will Governor Christie and the Legislature work together to improve this maligned, yet much needed program? AHPNJ is proud to present an expert group of panelists to offer their unique perspectives to produce and maintain New Jersey's affordable housing stock, as well as present suggestions to make the Fair Housing Act more effective and less burdensome.

Please join the **Affordable Housing Professionals of New Jersey (AHPNJ)** in this important discussion about the future of affordable housing for New Jersey residents.

Panelists include:

- **Senator Raymond J. Lesniak (D), New Jersey Legislative District 20**
- **Michael Cerra, Senior Legislative Analyst, New Jersey League of Municipalities**
- **Shirley Bishop, P.P., Planner, Shirley M. Bishop, LLC**
- **Joel Silver, Developer, Michaels Development.**

This forum will be moderated by **Jerry Velázquez, III, CEO/President, Triad Associates.**

The forum will take place on **Friday, March 5, 2010 at 9:30 AM** at the **Camden County College, Blackwood Campus, Connector Building, College Drive, Blackwood, NJ 08012.**

Registration required. Please **RSVP by March 1, 2010.** Seating is limited. Costs are **\$10 for AHPNJ members** and **\$35 for non-members.** Payment or Purchase Orders must be received by the day of the event. We apologize but we cannot accept walk-ins.

A continental breakfast will also be served.

Forum agendas and registration forms can be downloaded on AHPNJ's website: <http://www.ahpnj.org>. They can also be acquired by contacting Nick Cangelosi, Development Specialist, Camden County Improvement Authority at (856) 751-2242 or via email at ncangelosi@camdencounty.com.

Activities & Events

SAVE THE DATE

Smart Transportation Guidebook Workshop

Friday April 23, 2010

11:00 — 4:00 p.m.

New Brunswick, NJ

At the close of 2009 the New Jersey Department of Transportation made it formal policy that context sensitive design be put into practice on roadway design projects. This is a major shift in thinking away from designing roadways to maximize travel speed for motorist without taking into consideration the peculiarities of the local surroundings.

In light of this, the APA-NJ Transportation Planning Committee is hosting a Smart Transportation Guidebook Workshop to review how this policy is being put into practice in both New Jersey and Pennsylvania, and to provide a practical hands-on workshop that showcases ways that planners can put the transportation elements into practice. PennDOT and NJDOT will give presentations on how they are implementing the Smart Transportation Guidebook and Orth Rodgers will assist on the hands-on interactive component of this event. The APA-NJ will seek AICP CM credits for this program.

Be on the lookout for registration info at www.njapa.org.

Planning Reality 101

Insight and Confessions of Young Planning Professionals

Tuesday, March 9th

6:30 – 8:00 pm

Bloustein School Student Lounge
Second Floor, Civic Square Building

Speed Networking and Candid Planning Career Advice, Tips, and Resources

LIGHT REFRESHMENTS WILL BE SERVED

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The New Jersey Young Planners Group
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Can't make it? Join us afterwards at Doll's Place, 101 Paterson St, New Brunswick

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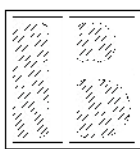
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