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State Planning Commission (SPC)

RE: Draft Final State Development and Redevelopment Plan

Dear Commissioners:

The New Jersey Builders Association (NJBA), representing the residential construction industry in New Jersey, submits the following comments regarding the Draft Final State Development and Redevelopment Plan (State Plan).

General Comments
NJBA strives to advance public policies that meaningfully address New Jersey's longstanding housing shortage while also supporting measures that enhance resiliency, equity, and sustainability. NJBA believes that development and redevelopment represent the most effective and efficient means for achieving these statewide goals.

NJBA appreciates that striking the proper balance between the State's often competing goals is a near impossible task for the State Planning Commission and greatly appreciates the work of the Commission in its effort to do so. NJBA agrees with the introduction to the State Plan that the Fair Housing Act and the State Planning Act are inextricably linked in their goals to foster inclusive, sustainable, and economically resilient communities. In fact, the first legislative finding of the 1986 State Planning Act declared that New Jersey needs "sound and integrated statewide planning. . . in order to. . . provide needed housing." The Legislature also found in 1986 that "a sound and comprehensive planning process will facilitate the provision of equal social and economic opportunity so that all of New Jersey's citizens can benefit from growth, development and redevelopment." Further, the Legislature passed the State Planning Act as part of its response to the *Mount Laurel* decisions alongside the Fair Housing Act.

However, NJBA believes the Draft State Plan does not clearly prioritize housing and that housing production should be elevated to a higher priority as it is not only statutorily required under the Fair Housing Act but is also a constitutional obligation under the Mount Laurel doctrine. Conversely, the adoption of the State Plan in its current form leans towards a future with less housing development than the status quo, due to a heavier emphasis on avoiding development in flood-prone areas, critical environmental sites, and natural areas than on the need for development. Compounding this concern, the introduction of a new planning area, PA2B, appears likely to reduce both housing development and redevelopment opportunities within its boundaries.

NJBA believes that housing creation is a linchpin for achieving numerous State objectives. Increasing the supply of homes across all income levels not only expands affordability and opportunity for New Jersey residents, but also advances the State Plan goals of revitalization, economic development, promotes

Since 1948, the New Jersey Builders Association (NJBA) has been the State's leading trade association and voice of the homebuilding industry in Trenton. As a major influencer on the state's economic strength, its mission is to advocate for a sustainable and healthy economy and a more affordable and vibrant housing market. NJBA's diverse membership includes residential builders, developers, remodelers, subcontractors, suppliers, engineers, architects, lawyers, consultants and industry professionals that are involved in constructing entry-level to luxury units in for-sale, rental and mixed-use developments.
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environmental remediation through redevelopment of contaminated and underutilized properties, supports equity through the creation of inclusive, diverse communities, creates new energy efficient housing and furthers resiliency through the creation of new and redeveloped housing that meets enhanced flood protection standards. In short housing production is essential to the State achieving the goals outlined in the State Plan.

New Jersey currently faces an undersupply of at least 200,000 units and an older housing stock in need of rehabilitation and increased resiliency. Meanwhile, the state currently has more than 250,000 policies covered by the National Flood Insurance Program[1] which does not include properties in the New Jersey Department of Environmental Protection's (NJDEP) newly proposed Climate Adjusted Flood Elevation (CAFE) and approximately 25% of all affordable housing units in the state are at risk of flooding.[2] These numbers are in striking contrast to NJ's historical development trend of about 30,000 units per year, for new and redeveloped residential units.

Absent a managed retreat from flood prone and high hazard areas, which the State Plan does not call for, the State Plan should on incentivizing redevelopment of the hundreds of thousands of properties already located in higher-risk areas so they can be rebuilt to modern, resilient standards. NJBA appreciates that growth should be targeted to low-risk areas, but the State Plan does not call for automatically offsetting the protection of any high-hazard areas with "growth zones" or other pro-development areas in PA3 or 4, for instance. This could ultimately result in a worst-case scenario, the continued disinvestment and deterioration of vulnerable flood-prone areas without the construction of adequate replacement housing elsewhere. NJBA believes that the State Plan should focus on both redeveloping high-hazard areas and developing low-risk areas simultaneously to help mitigate the effects of climate change and address our housing shortage.

NJBA Comments on Changes from Preliminary Draft Plan

Using This Plan, ID 25.
NJBA questions the additional language referencing "the long-established duties and privileges associated with the power of home rule" and the intent behind its addition, as this phrase is not defined in legislation or regulation. Further, the NJ constitution expressly provides the State Legislature with the ability to enact laws that allow for municipal zoning but expressly states, "the exercise of such authority shall be deemed to be within the police power of the State."

Housing Goal, ID 55.
NJBA understands the intent of this section but points out that if new housing is only located in communities with a diversity of incomes, backgrounds, and opportunities, then that would result in homogeneous communities remaining static. Rather, the creation of new housing in communities throughout the state is what will foster the creation of communities with a diversity of incomes, backgrounds and opportunities.

[1] New Jersey Climate Change Resource Center. (n.d.). *The National Flood Insurance Program and New Jersey*. Retrieved from https://njclimateresourcecenter.rutgers.edu
[2] StoryMaps ArcGIS. (n.d.). *25% of all NJ Affordable Housing is at risk for flooding*. Retrieved from https://storymaps.arcgis.com/stories/dd3e9167297243f8bb3f272afd151063

Housing Goal, ID 63.
NJBA is opposed to removing the word "must" and replacing it with the word "may" regarding a municipality's need to use alternative strategies to meet its affordable housing. The State Plan should be making affirmative statements to help guide municipalities on meeting their constitutional mandate to provide reasonable affordable housing opportunities.

Housing Goal, ID 77 & 78
NJBA is very concerned by these statements because they seem to conflict with the Uniform Construction Code which establishes the life/safety requirements of all residential units in NJ, regardless of whether units are affordable or market rate. We will also note that these statements are an oversimplification of nuanced public policy matters that are governed by several other State agencies and question whether these are planning issues that deserves inclusion in the State Plan.

Infrastructure Goal, ID 108.
The state should be supporting adequate sewer and water infrastructure in all areas of the state, and we question why the State would only encourage growth in this regard in Planning Areas 1 and 2. Further, the courts have repeatedly upheld that sewer authorities need to take steps to increase capacity to help meet affordable housing goals, regardless of the planning area.

Climate Change Goals, numerous.
NJBA is concerned by overwhelming number of statements that promote limiting development in "high-hazard" or "flood-prone" areas because they are not accompanied by any offsetting language to target land for development. Without identifying land for redevelopment and development while protecting certain areas, the State runs the risk of decreasing investment in high-hazard areas without a suitable and ready replacement for current residents. Climate migration should be considered, and the State Plan should do more to help identify new areas for residents to live, if investment in high-risk areas is to be avoided. For the time being, NJBA cautions that investment in high-risk areas should be welcome as it often means buildings are being built to newer, safer and more energy efficient standards.

Natural and Water Resources Goal, ID 157.
NJBA supports the removal of the statement "Consistent with state mandates to reduce the risk of flooding, recognize areas that are prone to flooding now and in the future, including but not limited to Flood Hazard Areas (as determined by DEP), of less than one square mile as Critical Environmental Sites. This will bring planning and protection efforts, such as the implementation of minimum flood protection standards, into alignment." The designation of Critical Environmental Site would impose the most severe impervious cover limits and vegetation preservation requirements pursuant to the Department of Environmental Protection's CAFRA rules which would effectively eliminate development potential of these areas which represent an extremely large portion of land and parcels in the state.

Comprehensive Planning, ID 186.
NJBA believes that one of the objectives of a special resource area should include a reference to affordable housing. NJBA appreciates that development and redevelopment may be coordinated on a regional basis, however this would not relieve municipalities from their affordable housing obligations.

The State Plan Policy Map, ID 196-199.
NJBA is opposed to creating new planning area designations in PA2 without offsetting areas designated for development, redevelopment or increased density in other areas. The introduction of new planning

designations at this stage in the State Plan development process is troublesome and should have been subject to more robust stakeholdering and public hearings.

NJBA is opposed to the creation of PA2B as it will directly affect municipalities affordable housing calculations and restrict development while the state is in the middle of a housing crisis. It should be recognized that development in flood prone areas is not only permissible in NJ but also serves an important function in strengthening resiliency as new development and redevelopment are subject to DEP's enhanced flood protection requirements. NJBA cautions against discouraging investment in these areas. Further, NJBA is opposed to the method of designation of PA2B utilizing, "Any other regulation or standards promulgated by NJDEP" as a standard for inclusion. Essentially every parcel in PA2 would qualify for inclusion in the more restrictive PA2B region given the breadth of NJDEP's regulations.

Smart Growth Explorer Tool, ID 292.
NJBA is disappointed the smart growth explorer tool is being removed and believes that this tool should be further enhanced to help identify areas for smart growth and development in NJ. Currently, the state suffers from a lack of developable land and a shortage of housing options that are affordable across income levels. Identifying opportunities for development and redevelopment with the Smart Growth tool could ultimately help the state meet its housing goals.

Thank you for your consideration of NJBA's comments. Please feel free to reach out to us with any questions.

Sincerely,

Grant Lucking
Chief Operating Officer
New Jersey Builders Association