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The Path To New Jersey's Future

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Exclusive: Founder of Unprecedented New Jersey Business Coalition Offers Insights Into Formation of Its Recently Unveiled "Smart Growth Economic Development Stimulus Act of 2008"

Eighteen months ago – well before any signs of a recession were on the horizon – it occurred to me that the time had come for development executives in the private sector to address twin crises to New Jersey's future: the out-migration of jobs and people to neighboring states, and the lack of policies and incentives to produce the sort of "smart growth" that policymakers claim to prefer over sprawl. The result has been the formation of the "Smart Growth Economic Development Coalition," whose members include every real estate and economic development-related trade association in the State, as well as New Jersey's top two business organizations and more recently, labor unions, affordable housing advocacy groups and a well-respected planning/conservation group.

The idea for a more formalized network of trade associations followed two very different meetings that I attended in Trenton on the same day. In the morning, on behalf of a client, I met with a high-ranking member of the Corzine Administration to discuss a 1,000-employee business relocation and consolidation opportunity for the State. I realized that I had this official's undivided attention because I was talking about construction jobs, permanent jobs, payroll taxes, income taxes, sales taxes, real estate taxes and multiplier effects. In contrast, in the afternoon, I attended a legislative hearing on yet another bill that would hurt, not help, our economy. But there, the mood was different. We in the development community did not have legislators' undivided attention because, it seemed to me, we weren't linking our development interests to the jobs and tax revenue that our projects ultimately generate, and we weren't demonstrating the *cumulative* effect of legislative and regulatory mandates. Instead, our interest groups tend to respond only to the issue of the moment and in doing so, are unable to credibly argue that a particular bill or proposed rule will, by itself, ruin the economy.

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I sensed that our industry trade associations needed to harness their collective firepower and reassess how they approach the seemingly endless barrage of legislative and regulatory assaults on development and business in general. Our Coalition would need an effective bumper-sticker message to Trenton. One quickly came to mind: "no groundbreakings mean no ribbon cuttings, no new jobs, no new tax ratables, no new tax revenue." In other words, New Jersey can't have economic development without real estate development. And with most of the State's remaining undeveloped lands now off-limits due to a variety of environmental regulations, a follow-up message naturally emerged: "smart growth redevelopment – on brownfields and portfields, along waterfronts, in the urban core, around transit stations, in our suburban downtowns – is the key to keeping the State's economic development engine running."

So we had a Coalition "retreat" that lasted for seven hours. Forty of the State's leading planners, environmental engineers, land use attorneys, public finance and development incentives experts, traffic and historic preservation consultants, affordable housing specialists and the like gathered to identify what ails New Jersey's effort to attract and retain business and to "grow smart." My suggestion at the retreat was simple: "New Jersey doesn't need another study commission. In fact, we don't need another white paper or set of recommendations. What this Coalition needs to produce is a 'stimulus package' of proposed legislation."

One year later, capped by a breakfast meeting of CEOs from the Coalition's member-organizations with Governor Corzine at Drumthwacket (the Governor's mansion in Princeton), the results of the Coalition's initial efforts are about to be fed into the legislative hopper in Trenton.

The Smart Growth Economic Development Stimulus Act 2008

* *Permit Extension Act*

In response to an unanticipated third crisis that occurred during the end of the Coalition's year-long effort – the subprime mortgage meltdown – this bill was added in order to immediately address the economic downturn. It would extend until the end of 2012, state, county and local permits and approvals issued on development projects after January 1, 2006. With the exception of projects in environmentally sensitive areas, it makes little sense to require builders who

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would have begun construction but for the softening real estate market and credit crunch to begin the land use approvals process anew. Without an extension, permits for many worthwhile projects that have already been exhaustively reviewed and approved by multiple agencies at all levels of government would expire. Few of those projects would be able to survive another costly, multi-year struggle to obtain new approvals. These "shovel-ready" projects – if kept alive through permit extension – have the potential to contribute immensely to the eventual economic recovery in New Jersey.

* *Overhaul of State Planning Act*

There is general agreement that an effective State Development and Redevelopment Plan should guide State policy. But under the current law, the State Planning process has come to a complete stall. If the State's goals of achieving compact, energy efficient communities and preserved open space are to be achieved, the State Plan must have "teeth" to ensure that State agencies follow the Plan, and that local governments cannot thwart the Plan.

Currently, the State Planning Commission is led by a volunteer chair, and consists of an unwieldy mix of State officials (with cabinet officers usually absent and represented by designees) and public members representing specific segments of the community. Under the proposed legislation, the Commission would become citizen-based, with all commissioners being public members. Cabinet-department heads would have ex-officio status without a vote. The chair would be a paid, cabinet-level gubernatorial appointee. The Plan itself would become the central policy document guiding growth, investment and regulatory decisions. All other State-level planning (water supply, transportation, hospital closures, etc.) would be conformed to the Plan.

* *Amendments to Revenue Allocation District (RAD) Financing Act*

Smart growth projects often incur costs not typically encountered on "greenfields" such as environmental remediation, land assemblage and parking decks. In an untested smart growth area such as Newark, the rents, unit sale prices and parking rates do not make construction budgets pencil-out. These projects have enormous catalytic potential for urban renewal but need public subsidies to close the funding gap. The proposed legislation broadens the revenue sources available to fund the repayment of bonds issued to underwrite these unique infrastructure costs. The bill also permits RADs to be utilized without having to satisfy stringent hurdles primarily aimed at curbing eminent domain abuses.

* *Expansion of Brownfields Program to Smart Growth Areas*

If public officials want to promote the re-use of currently unproductive, probably contaminated and certainly obsolete buildings and revitalize neighborhoods and cities in smart growth areas, it must induce responsible companies to do the work – and the only way to do that is to assure these "redevelopers" that such unique development costs will be shouldered by the public. This bill permits funds in the Hazardous Discharge Remediation Fund to be used in any smart growth area (funds are currently limited to brownfield sites).

* *Amendments to Urban Transit Hub Tax Credit (UTHTC) Program*

Expands the UTHTC program to include several additional urban centers with high levels of mass transit ridership and to include ferry stations. Keeps 250-job eligibility requirement but lowers required project cost from $75 million to $50 million. (Currently, the program is limited to rail stations in certain "urban aid" municipalities).

* *Amendments to Business Incentive Programs*

Revises the State's key business retention and attraction incentive programs to make the programs more relevant to today's corporate tenants and other end-users of commercial space. For example, the bill would extend program eligibility to "cooperative associations" so that New Jersey can seek to attract financial, stock and commodities exchanges to the State.

* *NJ Deal Closing Fund*

Creates a fund for disbursement to businesses considering relocation to or expansion in New Jersey when the State's formulaic incentive programs are insufficient to close the gap with financial incentives being offered by competing states.

* *Amendments to Ombudsman Act*

The original legislation was enacted in 2004 but has not been implemented due to a perceived defect – namely, that it would have allowed developers to *pay* for accelerated reviews of their applications. The proposed amendments remove this controversial provision; shift the Ombudsman's responsibilities from reviewing individual development applications to working with various State agencies to streamline the review of permit applications; and expedite permit appeals in smart growth areas.

* *Creation of Science and Policy Review Boards*

One of the myths that permeates discussion about environmental regulation is that "science" should dictate policy. In reality, environmental regulation is an arena where science intersects with law, public policy and even politics. Environmental policy is a blend of what is known about an issue, what is permitted to be done under existing law, what is practical, what is rational, and what affected interest groups seek to achieve. The proposed legislation would install external review boards composed of objective, qualified individuals to review these issues, as is done in several other states, including Pennsylvania.

* *Streamlining of Brownfield Review Process*

Establishes specific timeframes for key NJDEP review and approval functions, and allows licensed site remediation professionals to oversee the remediation of lower priority sites as is being done quite successfully in Maryland, Massachusetts and elsewhere.

* *"Vertical" General Development Plan (GDP) Approvals*

The GDP is a tool that is used to encourage a comprehensive plan for the conceptual design and layout of a large-scale project that will be built in phases over a long period of time. This process allows a town to consider the long-term requirements of substantial projects that will likely impact municipal roads, water supplies and other public infrastructure, and to plan accordingly. However, the GDP is only available for 100+ acre projects – which encourages horizontal "sprawl." This bill would expand the GDP to vertical mixed-use projects in smart growth areas.

* *Elimination of "Time of Decision" Rule*

Currently, local ordinances are subject to change up until the time of decision by the municipal board – often leading to knee-jerk actions by boards in response to public opposition. This legislation would freeze local ordinances in place at the time a development application is formally submitted to a municipal land use board.

* *Smart Growth Liquor Licenses*

Newly minted liquor licenses are a rare commodity in New Jersey because issuance requires a town's population to surge. As a result, existing licenses are often traded at prices exceeding $1 million and, in any event, not enough licenses are available for sale to satisfy the needs of the multiple restaurants that often occupy a large mixed-use project. The proposed legislation provides for the sale at auction of restricted liquor licenses (wine and beer only) for use only at restaurants within a qualifying smart growth project (project must be likely to generate at least $15 million in private investments and at least $250,000 annually in new sales taxes).