

**DESCRIPTION
of the
NEGOTIATION PHASE OF CROSS-ACCEPTANCE**

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DESCRIPTION OF THE NEGOTIATION PHASE OF CROSS-ACCEPTANCE

Cross-acceptance of the Preliminary State Development and Redevelopment Plan (PPlan) is comprised of three phases: the "comparison" phase, the "negotiation" phase, and the "issue resolution" phase. The "comparison" phase began on January 9, 1989, and preparation for the "negotiation" phase began on July 10, 1989. This paper describes how these two phases fit together and how the "negotiation" phase will work in terms of its process, format and public involvement components. This description is general, and the State Planning Commission (the Commission) may refine portions of the process as may be necessary for it to effectively discharge its duties under the State Planning Act (the Act).

The purpose of the State planning process is to coordinate and integrate planning at all levels of government, with maximum participation of State agencies, counties, municipalities and the general public. The ultimate aim of the process is to arrive at State, county and local plans that are compatible, or consistent. The Act did not envision that total compatibility among these plans would be achieved during formulation of the first state plan. Compatibility would be achieved over time, as plans at all levels are periodically revised and updated. As part of this broader, more lengthy process, each three-year cross-acceptance period is designed to result in a written statement specifying areas of agreement or disagreement and areas requiring modification by parties to the cross-acceptance. These statements become the bases for revisions both during the negotiation phase and in later cycles of planning at all levels of government.

The first phase of cross-acceptance, the "comparison" phase, is designed to identify areas of agreement and disagreement about the

Preliminary State Development and Redevelopment Plan (PPlan). The second phase, "negotiation," is designed to reduce, but not necessarily totally eliminate, these areas of disagreement. When the negotiation phase is concluded, the Commission will produce an Interim State Development and Redevelopment Plan (IPlan). One IPlan will reflect all of the changes resulting from the comparison and negotiation phases of cross-acceptance.

An impact assessment of the IPlan also will be prepared. It will be initiated during the negotiation phase by collecting data, constructing analytic models, and analyzing trend conditions. The assessment will conclude after Commission approval of the IPlan and will address the impact of the IPlan and Trend (No Plan) on the economy, environment, fiscal capacity of governments, community life and intergovernmental relations within New Jersey. Both the IPlan and the assessment will be made available to the Commission, state agencies, counties, municipalities, and the general public upon their completion.

With both the IPlan and the assessment in hand, municipalities, counties, state agencies and the general public will have sufficient opportunities to comment and seek further revisions during the next deliberative period, called the "issue resolution" phase. This phase will include at least six public hearings on the plan. Information from these hearings, and from other written comments submitted to the Commission, will be considered when revising the IPlan to produce the Final State Development and Redevelopment Plan (FPlan). It is only at the end of this phase that cross-acceptance is over and that the Commission will consider a final plan. Three years later, the process will be repeated to up-date and revise the state plan.

I. The Negotiation Process

A. Format

1. Types of Issues:

Preparations for negotiations began on July 10, 1989, even though many counties are still in the comparison phase that was scheduled to end on July 9, 1989. Several counties have indicated that they need more time, in these cases, appropriate extensions of time have been granted for completion of the comparison phase.

The Commission wants the valuable input of all counties, municipalities and the public in revising the PPlan. It does not want the entire process to come to a standstill if one or several counties were delayed indefinitely. Accordingly, the Commission has devised a process that allows it to begin substantive discussions on issues in preparation for negotiation on July 10, 1989, as originally scheduled, without limiting the participation of counties that are diligently pursuing completion of their reports. The process accomplishes this objective by:

- o distinguishing among the three types of issues that must be dealt with during negotiations: "policy" issues, "application" issues, and "fact" issues; and,
- o creating a process that allows decisions on each type of issues to be made in an appropriate sequence.

The cross-acceptance process is new to everyone -- counties, municipalities, the public, and to the Commission. Even though the Commission established rules to guide cross-acceptance in 1987, it refrained from specifying in too much detail exactly how negotiations can or should be conducted. It wanted a better idea of how the comparison phase would be carried out by the counties and what the county reports would "look like." Having participated in, and watched comparison phase activities, the Commission now has a much clearer idea of the types of issues with which it will have to deal.

- (a) "Policy" Issues -- these are issues that involve fundamental concepts or principles of the Plan (e.g., several county reports recommending that all land presently classified on the Preliminary Cross-Acceptance Map as Tier 6 be changed to Tier 5, not because it does not meet Tier 6 criteria but because of concerns over equity and other "non-criteria" matters).

- (b) "Application" Issues --- these are issues that involve differences of opinion on the appropriateness, applicability, or meaning of a specific provision of the Plan (e.g., a county report stating that proper local implementation of the Plan's regional design system will require new or expanded infrastructure in certain villages and hamlets to accommodate higher densities, contrary to Policy 3.3 of the PPlan).

(c) "Fact" Issues -- these are issues that are resolvable on the basis of correcting and clarifying facts on which the PPlan was based (e.g., reclassifying an area from Tier 6 to Tier 4 because it has sewers and meets other PPlan and Tier 4 criteria).

2. Significance of Issues:

In order to carryout negotiations effectively, it is necessary to establish processes around this hierarchy of issues that will assure that:

- o issues and concerns that could have significance or impacts beyond the county level are considered in that light;
- o issues and concerns are dealt with on a consensual basis, to the maximum extent possible; and
- o the resources of the Commission, counties and municipalities are used in the most efficient manner.

Clearly, some issues will be of concern statewide even though only one or several counties or municipalities may have raised them. On the other hand, some issues will be of concern only to a distinct region of the State or to a limited number of counties or

municipalities with similar circumstances. Still other issues will be of concern to only one county or municipality. It would be a waste of valuable resources and time not to separate consideration of issues along these lines.

Accordingly, there will be four processes initiated:

Preparatory Stage:

- (1) a Statewide Process;
- (2) a Multi-County Process;

Negotiation Stage:

- (1) a County Process; and
- (2) a Municipal Process to address municipal reports.

The first two of these processes---the statewide and the multi-county processes --will explore alternative solutions to policy issues and build toward a consensus on these issues. Accordingly, these processes are included under a preparatory stage, a stage prior to actual negotiations. The county and municipal processes constitute the negotiation stage.

The success of all of these processes in building a consensus on the IPlan depends upon open and representative discussion of municipal, county and public concerns arising out of the comparison phase. In the event that a county chooses not to participate in any one of the processes, therefore, the Commission may, at its discretion, designate an appropriate representative. The Commission will consult with municipalities in the county for suggestions on an appropriate designee.

B. Preparatory Stage

1. Internal Organization

Task 1: OSP compiles a master list of issues, sorts them into categories of policy, application, and fact, and organizes them according to their statewide, multi-county and cxxmty/niunicipal significance. As the negotiation process proceeds, additional issues may be added. The initial sources of these issues include:

- o county reports, as they are received; o

- o municipal reports, as they are received;

- o "status" reports submitted with county requests for extension of the comparison period;

- o written and verbal public communication requesting consideration of specific changes to the PPlan;
- o deliberations of the technical advisory committees.

Task 2: The staff develops its recommendations on the issues and directs them to the appropriate process, described below.

Task 3: Staff establishes the format and process for compiling and making available periodic reports describing subcommittee negotiated changes to the PPlan that will be recommended to the Commission.

2. Exploratory/Consensus-Building Stage:

This stage will include two processes: Statewide and Multi-County. As county and/or municipal reports are received, the staff will add any issues not previously identified for these processes.

(a) The Statewide Process:

Consensus reached at this level will help to define the boundaries of solutions available at the ensuing multi-county and county/municipal levels of negotiation. This begins when the subcommittee begins receiving staff recommendations.

The subcommittee may meet with county representatives in joint sessions to address policy issues with the objective of reaching a consensus on viable alternative solutions, not one specific solution. Agreements reached during these sessions will be published in the periodic reports.

(b) The Multi-County Process:

This process is designed to help refine the alternative solutions identified during the Statewide process. Consideration of these issues depend upon submission of county and municipal reports to the Commission.

Step 1: During this step, we will identify counties with shared concerns on issues classified as "multi-county."

Step 2: These groups of counties will meet in joint sessions with the subcommittee to reach a consensus on solutions. If agreed upon by the counties and subcommittee, a third party facilitator may be used. Agreements reached during these sessions will be published in the periodic reports.

C. *The Negotiations Stage (The County/ Municipal Process)*

This is the stage at which county-level negotiations begin. The subcommittee will begin negotiating with counties when it believes that the Statewide and Multi-County processes have produced sufficient consensus on issues.

Step 1: The Area Planning Managers will meet with the Director of Planning, or the designated staff, of each county, to reach agreement on recommended alternative solutions to issues raised in county or municipal reports and to identify unresolved issues requiring negotiation between the subcommittee and the county. The objective of this step is to deal with changes to the PPlan that may not need detailed subcommittee consideration. The agreed-upon recommended changes to the PPlan will be submitted to the subcommittee for confirmation at the first negotiation session between the county and the subcommittee.

Step 2: The subcommittee and the county's designated representative will meet to confirm agreements and to negotiate any unresolved issues identified in Step 1.

Step 3: Municipalities that submit municipal reports may choose to discuss and negotiate their concerns with the subcommittee, with the appropriate county represented. First, they will meet with the Area Planning Manager to identify unresolved issues requiring negotiation between the subcommittee and the municipality.

Step 4: Agreements reached during these sessions will be published in the periodic reports.

II. Documentation

The periodic reports will document changes to the PPlan recommended by the subcommittee as they evolve. Wording changes will be reflected in a revised narrative. Mapping changes will be coded and reflected on a general location map included in the report. Those wishing to see the dimensions of mapping changes can review the appropriate quad maps at the Office of State Planning or at the county. Agreed-upon changes reflected on these maps will be indicated by initialed lines.

The purpose of the IPlan is to reflect all of the changes to the PPlan that result from the comparison and negotiation phases of cross-acceptance. The subcommittee's draft of the IPlan will reflect all of the final recommendations of the subcommittee to the Commission for changes to the PPlan. Release of the Commission-approved IPlan is followed by release of an impact assessment of the IPlan. Release of the latter initiates the public review, part of the "issue resolution" phase that is expected to last approximately 6 months. Municipalities, counties and the general public can

review the IPlan to determine the extent to which the changes reflect adequate consideration of their concerns.

In some cases, the IPlan will clearly and directly reflect the results of negotiations by a change in the wording of a policy, by a change to tier boundaries, by the addition or deletion of a specific provision contained in the EPlan, etc. In other cases, however, results of negotiations may be reflected in more subtle, but perhaps no less responsive, forms. For instance, during initial stages of negotiation, the subcommittee may agree to a change in tier boundaries to satisfy a local concern. Later, however, as the subcommittee concludes negotiations with other counties or municipalities, it may become apparent that in order to address all valid concerns on a particular issue, the more appropriate action would be to change the tier criteria and several tier policies, leaving the boundaries as they existed in the PPlan. Whether or not this change is appropriate is a proper subject for discussion during the issue resolution phase.

Even though the IPlan is, essentially, documentation of the subcommittee's actions as approved by the Commission, the Commission recognizes the need for some form of documentation and communication during the negotiation phase to ensure that there is a minimum of misunderstandings and disagreements needing resolution during the issue resolution phase. This is the case notwithstanding the fact that, as stated earlier, the Commission expects some inconsistencies and incompatibilities to remain even after the final plan is adopted. These will be resolved over time.

III. Role of the Public

The most critical and important opportunities for the public involvement during cross-acceptance are:

- o during the comparison phase, when counties and municipalities are preparing their reports describing their findings, recommendations and objections regarding the PPlan;
- o during the issue resolution phase, when everyone will have the opportunity, through public hearings and formal comment periods, to review and comment on the IPlan and the impact assessment to see the results of comparison and negotiations of the PPlan; and,
- o at any time during the cross-acceptance period, through correspondence with the Commission or Office of State Planning.

By participating during the comparison phase, the public helps to identify the issues that will be negotiated in the next phase and helps to form county and municipal negotiating positions on these issues. By participating during the issue resolution phase, the public helps to shape Commission decisions on any issues that remain unresolved after negotiations, or to resurface issues that may not have been resolved to the public¹'s satisfaction. Between these two phases, negotiations will ensue between, potentially, three principal parties: representatives from (1) the subcommittee, (2) the counties and, (3) municipalities that submitted reports. Staff of the Office of State Planning will keep counties and participating municipalities informed of subcommittee activities and decisions during the negotiation phase.

There will be adequate opportunities for members of the general public to stay abreast of how negotiations are proceeding and to express their opinions on the issues to municipal, county, and State officials at appropriate times. Specifically,

- A. all proposed changes to the EPlan resulting from the negotiation phase will have to be acted upon in open public sessions of the subcommittee in order for the changes to be included in the subcommittee's recommended IPlan to the Commission;
- B. all meetings of the subcommittee, as in the past, will be open to the public;
- C. all subcommittee recommendations for changes in the PPlan will be compiled and published in periodic reports. The reports will be in a three-hole punched format and indexed to a reference system for volumes 1,2, and 3. The index will be cumulative of all changes recommended by the subcommittee to-date. The reports will be available at the Office of State Planning and at each county-
Public comments on the issues being negotiated will occur:
 - 1. through the Technical Advisory Committees which will be asked to develop alternative solutions for consideration by the subcommittee, counties and municipalities;
 - 2. at monthly meetings of the State Planning Commission during the public comment period;

3. through communication with municipal and/or county officials involved in negotiations;
4. through written communication with the State Planning Commission, or the Office of State Planning. Those comments that propose specific changes to the PPlan will be forwarded to the appropriate counties or municipalities for their consideration during negotiations. Copies of such comments will be retained for consideration by the Commission during the issue resolution phase if the changes are not made during the negotiation phase; and
5. at monthly public meetings to be conducted by the subcommittee for the purpose of taking public comment on recommended changes published in the weekly reports; to the extent possible, these meetings will be held in different parts of the State.

The counties and municipalities are encouraged to establish public involvement opportunities that will assure that individual citizens have input into the negotiating process and the preparation of the IPlan.

To be most effective in helping to shape the plan, members of the public are encouraged to be as specific as possible in the changes they wish to see made. It is particularly effective when an alternative to what the plan recommends is identified and is as effective as the plan's alternative in terms of achieving the goals and objectives of the State Planning Act (the Act). This latter point is important, for the Act clearly identifies certain goals and objectives to which the plan must aspire, and Commission decisions on the Plan must conform to, and support, these legislative mandates.

**Estimated
TIMELINE
for the
NEGOTIATION OFFICE OF CROSS-ACCEPTANCE**

Tentative Target Date	Activity
October 1989	<u>Preparatory Stage</u>
	<ol style="list-style-type: none">1. The staff of the Office of State Planning (OSP) will provide a list of "policy" issues to the State Planning Commission's (SPC) Plan Development Subcommittee (FCC), with recommended alternative solutions (pp. 8,9)2. As county and municipal reports are received, OSP staff will review the reports; identify "policy," "application," and "fact" issues; and, forward any new policy issues to the PDC.3. On statewide issues, counties may be convened to meet with the HDC and devise solutions to major issues (pp.9,10)4. Periodic "update" reports begin; available at OSP and counties (p. 12)5. Public recommendations for specific changes, received by the Commission prior to Activity 11, will be forwarded as they are received to counties for resolution or recommendation6. The consultant(s) for the impact assessment will be retained and begin preliminary data collection, modeling, etc.7. The PDC begins meetings with Multi-county groups to reach consensus on appropriate solution (s) (p. 10)8. After Multi-county groups have concluded their work, OSP staff will begin meeting with county officials to resolve "application" and "fact" issues (p. 11)9. PDC will confirm/reject resolutions (p. 12)10. All county comparison reports will have been received by mid-January and all municipal reports by mid-February.
February 1990	<u>Negotiation Stage</u>
	<ol style="list-style-type: none">11. PDC begins meeting with counties and municipalities, as necessary, to resolve remaining unresolved issues (p. 12)

12. After negotiations are concluded with a county and municipalities, new public recommendations affecting that county and municipalities will be forwarded to the county and retained on file at OSP; those recommendations, along with remaining unresolved public recommendations, will be forwarded to the SPC for consideration following issuance of the Interim Plan, during the "issue resolution" phase (pp. 14,15,16)
13. After county negotiations are concluded, the PDC will finalize its recommendations and submit a draft of the interim Plan to the Commission for approval

August 1990 Impact Assessment

14. After Commission approval, the draft will be forwarded to the printer and to the impact assessment consultants for conclusion of their work

November 1990 Issue Resolution Stage

15. As soon as practicable thereafter, both documents will be released for county, municipal and public review, thereby initiating the "issue resolution" phase of cross-acceptance