May 2, 2019

Senator Erin Lynch Prata, Chairperson
Senate Committee on Judiciary
Rhode Island State House
Providence, RI 02903

RE: S-0803, Relating to Towns and Cities – Special Economic Development Districts

Dear Chairperson Lynch Prata and Committee Members,

Thank you for the opportunity to comment on this proposed bill. As outlined below, the Rhode Island Chapter of the American Planning Association (APA RI) has concerns with this bill as proposed.

Rhode Island has a decades-long tradition of planning and zoning, enabled by state legislation, and carried out at the local level. The Comprehensive Planning and Land Use Act and the Zoning Enabling Act require a multi-step public process of community engagement to develop a long-range plan and craft zoning regulations consistent with the plan. Critically, a municipality’s comprehensive plan must be reviewed by the state and is granted approval only if it conforms to the state’s own long-range plan, the State Guide Plan. APA RI supports this process, as it is the best way to balance the sometimes-competing interests within a community and between the state and municipalities.

It is important to note that R.I.G.L. § 45-22.2-10(g) requires that once the state approves a local comprehensive plan, actions taken by the state must conform to that plan. Acknowledging that there may be rare instances where the interests of the state outweigh those of a municipality, the General Assembly created a mechanism whereby the State Planning Council holds a public hearing to weigh the interests of the state vs. those of the municipality.

The proposed legislation upsets the balance embodied in our “Home Rule” statutes by prioritizing the interests of the state over those of municipalities and shifting authority over land use decisions accordingly. The General Assembly, through the action of an appointed commission, will be able to decide how a parcel of state-owned land should be developed with enormous discretion. While the state requires municipalities to undertake a deliberate and inclusive process of community engagement to create plans and land-use regulations, the state-level commission established by this law will have no such accountability. This bill will undoubtedly create situations where the new commission permits development that is inconsistent with an approved local comprehensive plan, a plan that the state is required by law to follow. In short, one agent of the state will be legally at odds with another.

This session, the General Assembly is also considering the “State & Local Partnership Act,” which is similar to the subject bill, in that it would allow for a state agency to have significant control over local planning and development decisions. But there are critical differences. Most importantly, the State & Local Partnership Act would allow communities to “opt in” to the program. Also, the program would be a true partnership, where the state and town would work together on the level of technical assistance the state would provide and how much regulatory authority the community would give up in return. APA RI supports this type of collaboration between the state and local governments.
We thank you in advance for your time and consideration and we would like to make ourselves available to discuss this legislation.

Sincerely,

Jeff C. Davis, President Elect
APA RI