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SYNOPSIS
Expands availability of general development plan approvals and long-term vesting of preliminary and final site plan approvals in Smart Growth areas.

CURRENT VERSION OF TEXT
As amended by the General Assembly on January 6, 2011.

(Sponsorship Updated As Of: 1/11/2011)
AN ACT concerning general development plans and site plan
approvals in Smart Growth areas, supplementing and amending
P.L. 1975, c. 291.

BE IT ENACTED by the Senate and General Assembly of the State
of New Jersey:

1. (New section) The Legislature finds and declares that:
   a. It is the policy of the State to encourage development in
      smart growth areas such as the urban core, the older suburban ring,
      developed suburbs, and developed centers of the State while
      discouraging growth in the exurban and rural portions of the State.
   b. Development in smart growth areas is more vertical,
      utilizing less land and avoiding sprawl.
   c. Smart growth development is characterized by a large
      amount of floor area or density on a small amount of land.
   d. It is very costly and time consuming to engage in smart
      growth development because of the challenges of land assemblage,
      environmental clean up, the cost of structured parking, and slower
      market absorption of floor area and units.
   e. The general development plan and site plan vesting
      (C. 40: 55D-1 et seq.) contemplate traditional sprawl development on
      large tracts of land and must be amended to accommodate and
      encourage smart growth development.

2. Section 3.4 of P.L. 1975, c. 291 (C. 40: 55D-7) is amended to
   read as follows:
   3.4. “Sedimentation” means the deposition of soil that has been
      transported from its site of origin by water, ice, wind, gravity or
      other natural means as a product of erosion.
   “Sending zone” means an area or areas designated in a master
   plan and zoning ordinance, adopted pursuant to P.L. 1975, c. 291
   (C. 40: 55D-1 et seq.), within which development may be restricted
   and which is otherwise consistent with the provisions of section 8
   “Site plan” means a development plan of one or more lots on
   which is shown (1) the existing and proposed conditions of the lot,
   including but not necessarily limited to topography, vegetation,
   drainage, flood plains, marshes and waterways, (2) the location of
   all existing and proposed buildings, drives, parking spaces,
   walkways, means of ingress and egress, drainage facilities, utility
   services, landscaping, structures and signs, lighting, screening

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
1Assembly ABU committee amendments adopted December 13, 2010.
2Assembly floor amendments adopted January 6, 2011.
"Smart growth area" means an area designated pursuant to P.L.1985, c.398 (C.52:18A-196 et al.) as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), a designated center, or a designated growth center in an endorsed plan; a smart growth area and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection (i) of section 6 of P.L.1968, c.404 (C.13:17-6); a growth area designated in the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to section 7 of the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-8); an urban enterprise zone designated pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or P.L.2001, c.347 (C.52:27H-66.2 et al.); an area determined to be in need of redevelopment or rehabilitation pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.) and as approved by the Department of Community Affairs; or similar areas designated by the Department of Environmental Protection, the Department of Transportation, or New Jersey Economic Development Authority.

"Standards of performance" means standards (1) adopted by ordinance pursuant to subsection 52d. regulating noise levels, glare, earthborne or sonic vibrations, heat, electronic or atomic radiation, noxious odors, toxic matters, explosive and inflammable matters, smoke and airborne particles, waste discharge, screening of unsightly objects or conditions and such other similar matters as may be reasonably required by the municipality or (2) required by applicable federal or State laws or municipal ordinances.


"Street" means any street, avenue, boulevard, road, parkway, viaduct, drive or other way (1) which is an existing State, county or municipal roadway, or (2) which is shown upon a plat heretofore approved pursuant to law, or (3) which is approved by official action as provided by this act, or (4) which is shown on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of a planning board and the grant to such board of the power to review plats; and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas and other areas within the street lines.

"Structure" means a combination of materials to form a construction for occupancy, use or ornamentation whether installed on, above, or below the surface of a parcel of land.
"Subdivision" means the division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale or development. The following shall not be considered subdivisions within the meaning of this act, if no new streets are created: (1) divisions of land found by the planning board or subdivision committee thereof appointed by the chairman to be for agricultural purposes where all resulting parcels are 5 acres or larger in size, (2) divisions of property by testamentary or intestate provisions, (3) divisions of property upon court order, including but not limited to judgments of foreclosure, (4) consolidation of existing lots by deed or other recorded instrument and (5) the conveyance of one or more adjoining lots, tracts or parcels of land, owned by the same person or persons and all of which are found and certified by the administrative officer to conform to the requirements of the municipal development regulations and are shown and designated as separate lots, tracts or parcels on the tax map or atlas of the municipality. The term "subdivision" shall also include the term "resubdivision."

"Transcript" means a typed or printed verbatim record of the proceedings or reproduction thereof.

"Variance" means permission to depart from the literal requirements of a zoning ordinance pursuant to sections 47 and subsections 29.2b., 57c. and 57d. of this act.

"Wind, solar or photovoltaic energy facility or structure" means a facility or structure for the purpose of supplying electrical energy produced from wind, solar, or photovoltaic technologies, whether such facility or structure is a principal use, a part of the principal use, or an accessory use or structure.

"Zoning permit" means a document signed by the administrative officer (1) which is required by ordinance as a condition precedent to the commencement of a use or the erection, construction, reconstruction, alteration, conversion or installation of a structure or building and (2) which acknowledges that such use, structure or building complies with the provisions of the municipal zoning ordinance or variance therefrom duly authorized by a municipal agency pursuant to sections 47 and 57 of this act.

(cf: P.L.2009, c.146, s.2)

3. Section 5 of P.L.1987, c.129 (C.40:55D-45.3) is amended to read as follows:

5. a. (1) Any developer of a parcel of land greater than 100 acres in size for which the developer is seeking approval of a planned development pursuant to P.L.1975, c.291 (C.40:55D-1 et seq.) may submit a general development plan to the planning board prior to the granting of preliminary approval of that development by the planning board pursuant to section 34 of P.L.1975, c.291 (C.40:55D-46) or section 36 of P.L.1975, c.291 (C.40:55D-48).
(2) Any developer of a parcel of land 100 acres or less in size, located in a smart growth area, for which parcel the developer is seeking approval of a planned development pursuant to P.L.1975 c.291 (C.40:55D-1 et seq.), consisting of not less than 150,000 square feet of nonresidential floor area \[\text{parcel}^2\] or not less than 100 residential dwelling units \[\text{parcel}^2\] may submit a general development plan to the planning board \[\text{prior to the granting of preliminary approval of that development by the planning board}^2\] pursuant to section 34 of P.L.1975, c.291 (C.40:55D-46) or section 36 of P.L.1975, c.291 (C.40:55D-48).

b. The planning board shall grant or deny general development plan approval within 95 days after submission of a complete application to the administrative officer, or within such further time as may be consented to by the applicant. Failure of the planning board to act within the period prescribed shall constitute general development plan approval of the planned development. (cf: P.L.1987, c.129, s.5)

4. Section 37 of P.L.1975, c.291 (C.40:55D-49) is amended to read as follows:

37. [Effect of preliminary approval.] Preliminary approval of a major subdivision pursuant to section 36 of P.L.1975, c.291 (C.40:55D-48) or of a site plan pursuant to section 34 of P.L.1975, c.291 (C.40:55D-46) shall, except as provided in subsections d. and g. of this section, confer upon the applicant the following rights for a three-year period from the date on which the resolution of preliminary approval is adopted:

a. That the general terms and conditions on which preliminary approval was granted shall not be changed, including but not limited to use requirements; layout and design standards for streets, curbs and sidewalks; lot size; yard dimensions and off-tract improvements; and, in the case of a site plan, any requirements peculiar to site plan approval pursuant to section 29.3 of P.L.1975, c.291 (C.40:55D-41); except that nothing herein shall be construed to prevent the municipality from modifying by ordinance such general terms and conditions of preliminary approval as relate to public health and safety;

b. That the applicant may submit for final approval on or before the expiration date of preliminary approval the whole or a section or sections of the preliminary subdivision plat or site plan, as the case may be; and

c. That the applicant may apply for and the planning board may grant extensions on such preliminary approval for additional periods of at least one year but not to exceed a total extension of two years, provided that if the design standards have been revised by ordinance, such revised standards may govern.
d. In the case of a subdivision of or site plan for an area of 50 acres or more, the planning board may grant the rights referred to in subsections a., b., and c. of this section for such period of time, longer than three years, as shall be determined by the planning board to be reasonable taking into consideration (1) the number of dwelling units and nonresidential floor area permissible under preliminary approval, (2) economic conditions, and (3) the comprehensiveness of the development. The applicant may apply for thereafter and the planning board may thereafter grant an extension to preliminary approval for such additional period of time as shall be determined by the planning board to be reasonable taking into consideration (1) the number of dwelling units and nonresidential floor area permissible under preliminary approval, and (2) the potential number of dwelling units and nonresidential floor area of the section or sections awaiting final approval, (3) economic conditions and (4) the comprehensiveness of the development; provided that if the design standards have been revised, such revised standards may govern.

e. Whenever the planning board grants an extension of preliminary approval pursuant to subsection c., d., or g. of this section and preliminary approval has expired before the date on which the extension is granted, the extension shall begin on what would otherwise be the expiration date. The developer may apply for the extension either before or after what would otherwise be the expiration date.

f. The planning board shall grant an extension of preliminary approval for a period determined by the board but not exceeding one year from what would otherwise be the expiration date, if the developer proves to the reasonable satisfaction of the board that the developer was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently pursued the required approvals. A developer shall apply for the extension before (1) what would otherwise be the expiration date of preliminary approval or (2) the 91st day after the developer receives the last legally required approval from other governmental entities, whichever occurs later. An extension granted pursuant to this subsection shall not preclude the planning board from granting an extension pursuant to subsection c. or d. of this section.

g. In the case of a site plan for a development in a smart growth area consisting of not less than 150,000 square feet of nonresidential floor area or not less than 100 residential dwelling units, the planning board may grant the rights referred to in subsections a., b., and c. of this section for such period of time beyond three years, as shall be determined by the planning board to be reasonable taking into consideration (1) the number of dwelling units and nonresidential floor area permissible under preliminary approval, (2) economic conditions, and (3) the comprehensiveness of the development.
units and non-residential floor area permissible under preliminary approval, (2) economic conditions, and (3) the comprehensiveness of the development. The applicant may apply for thereafter, and the planning board may thereafter grant, an extension to the preliminary approval for such additional period of time as shall be determined by the planning board to be reasonable taking into consideration (1) the number of dwelling units and nonresidential floor area permissible under preliminary approval, (2) the potential number of dwelling units and nonresidential floor area of the section or sections awaiting final approval, (3) economic conditions, and (4) the comprehensiveness of the development; provided that if the design standards have been revised, such revised standards may govern.

(cf: P.L.1991, c.256, s.10)

5. Section 40 of P.L.1975, c.291 (C.40:55D-52) is amended to read as follows:

40. a. The zoning requirements applicable to the preliminary approval first granted and all other rights conferred upon the developer pursuant to section 37 of P.L.1975, c.291 (C.40:55D-49), whether conditionally or otherwise, shall not be changed for a period of two years after the date on which the resolution of final approval is adopted; provided that in the case of a major subdivision the rights conferred by this section shall expire if the plat has not been duly recorded within the time period provided in section 42 of P.L.1975, c.291 (C.40:55D-54). If the developer has followed the standards prescribed for final approval, and, in the case of a subdivision, has duly recorded the plat as required in section 42 of P.L.1975, c.291 (C.40:55D-54), the planning board may extend such period of protection for extensions of one year but not to exceed three extensions. Notwithstanding any other provisions of this act, the granting of final approval terminates the time period of preliminary approval pursuant to section 37 of P.L.1975, c.291 (C.40:55D-49) for the section granted final approval.

b. In the case of a subdivision or site plan for a planned development of 50 acres or more, conventional subdivision or site plan for 150 acres or more, or site plan for development of a nonresidential floor area of 200,000 square feet or more, the planning board may grant the rights referred to in subsection a. of this section for such period of time, longer than two years, as shall be determined by the planning board to be reasonable taking into consideration (1) the number of dwelling units and nonresidential floor area permissible under final approval, (2) economic conditions and (3) the comprehensiveness of the development. The developer may apply for thereafter, and the planning board may thereafter grant, an extension of final approval for such additional period of
time as shall be determined by the planning board to be reasonable
taking into consideration (1) the number of dwelling units and
nonresidential floor area permissible under final approval, (2) the
number of dwelling units and nonresidential floor area remaining to
be developed, (3) economic conditions and (4) the
comprehensiveness of the development.

c. Whenever the planning board grants an extension of final
approval pursuant to subsection a. [or], b. , or e. of this section and
final approval has expired before the date on which the extension is
granted, the extension shall begin on what would otherwise be the
expiration date. The developer may apply for the extension either
before or after what would otherwise be the expiration date.
d. The planning board shall grant an extension of final approval
for a period determined by the board but not exceeding one year
from what would otherwise be the expiration date, if the developer
proves to the reasonable satisfaction of the board that the developer
was barred or prevented, directly or indirectly, from proceeding
with the development because of delays in obtaining legally
required approvals from other governmental entities and that the
developer applied promptly for and diligently pursued these
approvals. A developer shall apply for the extension before (1)
what would otherwise be the expiration date of final approval or (2)
the 91st day after the developer receives the last legally required
approval from other governmental entities, whichever occurs later.
An extension granted pursuant to this subsection shall not preclude
the planning board from granting an extension pursuant to
subsection a. [or], b. , or e. of this section.
e. In the case of a site plan for a development in a smart growth
area consisting of not less than 150,000 square feet of
nonresidential floor area or not less than 100 residential dwelling
units, the planning board may grant the rights referred to in
subsection a. of this section for such period of time beyond two
years, as shall be determined by the planning board to be reasonable
taking into consideration (1) the number of dwelling units and
nonresidential floor area permissible under final approval, (2)
economic conditions, and (3) the comprehensiveness of the
development. The developer may apply for thereafter, and the
planning board may thereafter grant, an extension of final approval
for such additional period of time as shall be determined by the
planning board to be reasonable taking into consideration (1) the
number of dwelling units and nonresidential floor area permissible
under final approval, (2) the number of dwelling units and
nonresidential floor area remaining to be developed, (3) economic
conditions, and (4) the comprehensiveness of the development.
(cf: P.L. 1991, c.256, s.11)

6. This act shall take effect immediately.