

[First Reprint]

**SENATE, No. 2788**

---

**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

---

INTRODUCED NOVEMBER 14, 2016

**Sponsored by:**

**Senator JEFF VAN DREW**

**District 1 (Atlantic, Cape May and Cumberland)**

**Senator STEVEN V. OROHO**

**District 24 (Morris, Sussex and Warren)**

**SYNOPSIS**

Modifies requirements for preliminary site plans and subdivisions under Municipal Land Use Law.

**CURRENT VERSION OF TEXT**

As reported by the Senate Community and Urban Affairs Committee on February 27, 2017, with amendments.



**(Sponsorship Updated As Of: 3/15/2017)**

1 AN ACT concerning site plans and subdivisions and amending  
2 P.L.1975, c.291.

3

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

6

7 1. Section 3.4 of P.L.1975, c.291 (C.40:55D-7) is amended to  
8 read as follows:

9 3.4. "Sedimentation" means the deposition of soil that has been  
10 transported from its site of origin by water, ice, wind, gravity or  
11 other natural means as a product of erosion.

12 "Sending zone" means an area or areas designated in a master  
13 plan and zoning ordinance, adopted pursuant to P.L.1975, c.291  
14 (C.40:55D-1 et seq.), within which development may be restricted  
15 and which is otherwise consistent with the provisions of section 8  
16 of P.L.2004, c.2 (C.40:55D-144).

17 "Site plan" means a development plan of one or more lots on  
18 which is shown (1) the existing and proposed conditions of the lot,  
19 including but not necessarily limited to topography, vegetation,  
20 drainage, flood plains, marshes and waterways, (2) the location of  
21 all existing and proposed buildings, drives, parking spaces,  
22 walkways, means of ingress and egress, drainage facilities, utility  
23 services, landscaping, structures and signs, lighting, screening  
24 devices, and (3) any other information that may be reasonably  
25 required in order to make an informed determination pursuant to an  
26 ordinance requiring review and approval of site plans by the  
27 planning board adopted pursuant to article 6 of **[this act]** P.L.1975,  
28 c.291 (C.40:55D-37 et seq.); provided, however, with respect to an  
29 application for development for preliminary approval of a site plan,  
30 the site plan shall be limited to the information specified in section  
31 34 of P.L.1975, c.291 (C.40:55D-46).

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

40 "State Transfer of Development Rights Bank," or "State TDR  
41 Bank," means the bank established pursuant to section 3 of  
42 P.L.1993, c.339 (C.4:1C-51).

43 "Street" means any street, avenue, boulevard, road, parkway,  
44 viaduct, drive or other way (1) which is an existing State, county or  
45 municipal roadway, or (2) which is shown upon a plat heretofore

**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:**

**<sup>1</sup>Senate SCU committee amendments adopted February 27, 2017.**

1 approved pursuant to law, or (3) which is approved by official  
2 action as provided by this act, or (4) which is shown on a plat duly  
3 filed and recorded in the office of the county recording officer prior  
4 to the appointment of a planning board and the grant to such board  
5 of the power to review plats; and includes the land between the  
6 street lines, whether improved or unimproved, and may comprise  
7 pavement, shoulders, gutters, curbs, sidewalks, parking areas and  
8 other areas within the street lines.

9 "Structure" means a combination of materials to form a  
10 construction for occupancy, use or ornamentation whether installed  
11 on, above, or below the surface of a parcel of land.

12 "Subdivision" means the division of a lot, tract or parcel of land  
13 into two or more lots, tracts, parcels or other divisions of land for  
14 sale or development. The following shall not be considered  
15 subdivisions within the meaning of this act, if no new streets are  
16 created: (1) divisions of land found by the planning board or  
17 subdivision committee thereof appointed by the chairman to be for  
18 agricultural purposes where all resulting parcels are 5 acres or  
19 larger in size, (2) divisions of property by testamentary or intestate  
20 provisions, (3) divisions of property upon court order, including but  
21 not limited to judgments of foreclosure, (4) consolidation of  
22 existing lots by deed or other recorded instrument and (5) the  
23 conveyance of one or more adjoining lots, tracts or parcels of land,  
24 owned by the same person or persons and all of which are found  
25 and certified by the administrative officer to conform to the  
26 requirements of the municipal development regulations and are  
27 shown and designated as separate lots, tracts or parcels on the tax  
28 map or atlas of the municipality. The term "subdivision" shall also  
29 include the term "resubdivision."

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

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

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

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

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

1       2. Section 34 of P.L.1975, c.291 (C.40:55D-46) is amended to  
2 read as follows:

3       34. a. (1) An ordinance requiring site plan review and approval  
4 shall require **【that】** the developer to submit to the administrative  
5 officer **【a site plan and such other information as is reasonably**  
6 **necessary to make an informed decision as to whether the**  
7 **requirements necessary】** an application for development for  
8 preliminary approval of the site plan **【approval have been met.**  
9 **The】** , which shall include a site plan **【and any engineering**  
10 **documents to be submitted shall be required】** in tentative form and  
11 supporting documents for discussion purposes for preliminary  
12 approval. **【If any architectural plans are required to be submitted**  
13 **for site plan approval, the preliminary plans and elevations shall be**  
14 **sufficient.】**

15       (2) (a) Review of an application for development for  
16 preliminary approval of a site plan shall be limited to the following  
17 'zoning ordinance and site plan'<sup>1</sup> ordinance criteria only:

18       (i) layout and arrangement of proposed buildings, streets,  
19 parking, and other proposed site improvements; and

20       (ii) compliance with the use, density, floor area ratio, height,  
21 and other **【zoning】<sup>1</sup>** standards <sup>1</sup>in the zoning ordinance<sup>1</sup> applicable  
22 to the zoning district.

23       (b) Review of an application for development for preliminary  
24 approval of a site plan shall not include review of: stormwater  
25 design and drainage calculations; grading; utility; soil erosion and  
26 sediment control; architectural design; lighting; or landscaping  
27 plans and specifications.

28       (c) (i) A developer shall include in an application for  
29 development for preliminary approval of a site plan any variances  
30 for which the developer seeks approval pursuant to subsection c. of  
31 section 57 of P.L.1975, c.291 (C.40:55D-70) from zoning ordinance  
32 provisions governing the criteria set forth in subparagraph (a) of  
33 this paragraph.

34       (ii) A developer may include in an application for development  
35 for preliminary approval of a site plan any other variances for  
36 which the developer seeks approval under subsection c. of section  
37 57 of P.L.1975, c.291 (C.40:55D-70) and any exceptions for which  
38 the developer seeks approval pursuant to subsection b. of section 39  
39 of P.L.1975, c.291 (C.40:55D-51). A developer may defer requests  
40 for other variances or exceptions until final approval.

41       (iii) If an application for development for preliminary approval  
42 of a site plan requests a variance or variances under subsection c. of  
43 section 57 of P.L.1975, c.291 (C.40:55D-70), the planning board  
44 may request and consider additional information as is reasonably  
45 necessary for the board to render a decision on the requested  
46 variance or variances in accordance with the **【statutory】<sup>1</sup>** criteria

- 1 for approval of the variance or variances <sup>1</sup>under subsection c. of  
2 section 57 of P.L.1975, c.291 (C.40:55D-70)<sup>1</sup> .
- 3 (d) Review relative to assessment of contributions for off-tract  
4 improvements pursuant to section 30 of P.L.1975, c.291 (C.40:55D-  
5 42) shall occur at the time of final approval.
- 6 (3) Except as provided in paragraph (3) of subsection b. of this  
7 section, an ordinance providing for the review of an application for  
8 development for preliminary approval of a site plan <sup>1</sup>【may】 shall<sup>1</sup>  
9 require an applicant to submit only the following documents and  
10 information in order for the application for development, with or  
11 without variances or exceptions, to be deemed complete:
- 12 (a) A location map of the subject property showing land within  
13 200 feet.
- 14 (b) A site plan, at a minimum scale of one inch per 50 feet,  
15 except that for sites less than three acres, a 30 foot scale and for  
16 sites less than two acres, a 20 foot scale, showing:
- 17 (i) topography with two-foot contours; provided, however, that  
18 for sites less than three acres the planning board may require  
19 topography with one-foot contours or spot grades reasonably  
20 necessary to determine the elevations of the existing conditions on  
21 the site;
- 22 (ii) the location, square footage, and floor area of proposed  
23 residential buildings and the number of proposed dwelling units;
- 24 (iii) the location, square footage, floor area, and conceptual  
25 elevations of proposed multi-family and non-residential buildings;
- 26 (iv) conformance with applicable use, density, floor area ratio,  
27 height, and other bulk <sup>1</sup>【zoning】<sup>1</sup> standards <sup>1</sup>in the zoning  
28 ordinance<sup>1</sup>;
- 29 (v) location and classification of streets, parking areas, and  
30 circulation layout, as applicable, along with a statement from the  
31 design engineer addressing the safety and sufficiency of onsite  
32 vehicular and pedestrian circulation and ingress and egress to and  
33 from the subject property;
- 34 (vi) location and type of any stormwater detention or retention  
35 facilities, with a statement from the design engineer setting forth the  
36 basis for the estimated size of these facilities. No other engineering  
37 design of proposed grading or stormwater management structures,  
38 detailed stormwater management plans, or drainage calculations  
39 shall be required;
- 40 (vii) the approximate location of onsite streams, lakes, ponds,  
41 wetlands, wetlands transition areas, flood hazard areas, and riparian  
42 zones, identifying the source for this information, and a statement  
43 setting forth the anticipated impacts the proposed development may  
44 have on these environmental resources. Any survey submitted to  
45 satisfy this requirement shall be prepared and signed by a licensed  
46 land surveyor, however, a copy of the survey with a copy of the

1 original signature shall be accepted if the source of the survey is  
2 clearly identified;

3 (viii) property boundaries based on deed information or a  
4 survey, at the developer's option. Any survey submitted to satisfy  
5 this requirement shall be prepared and signed by a licensed land  
6 surveyor, however, a copy of the survey with a copy of the original  
7 signature shall be accepted if the source of the survey is clearly  
8 identified;

9 (ix) If a current survey is not submitted, the application shall  
10 include a certification signed by a licensed professional engineer or  
11 licensed land surveyor indicating that the submitted survey truly  
12 represents current conditions of the site.

13 (c) An identification of proposed sources of potable water and  
14 wastewater treatment facilities.

15 (d) Any variances or exceptions being requested by the  
16 developer for the proposed development.

17 With regard to any application for development for preliminary  
18 approval of a site plan or other relief submitted under this section  
19 after the effective date of P.L. , c. , the list of documents and  
20 information in this paragraph shall supersede the requirements of  
21 any checklist adopted by ordinance pursuant to section 5 of  
22 P.L.1984, c.20 (C.40:55D-10.3). <sup>1</sup>This paragraph shall not  
23 supersede the requirements of any checklist adopted by ordinance  
24 pursuant section 5 of P.L.1984, c.20 (C.40:55D-10.3) for an  
25 application for development for final approval of a site plan.<sup>1</sup>

26 b. **【If the planning board required any substantial amendment in**  
27 **the layout of improvements proposed by the developer that have**  
28 **been the subject of a hearing, an amended application for**  
29 **development shall be submitted and proceeded upon, as in the case**  
30 **of the original application for development.】 (1) The planning**  
31 **board shall 【, if the proposed development complies with the**  
32 **ordinance and this act,】 grant preliminary approval of a site plan**  
33 **【approval】 if the proposed development complies with ordinance**  
34 **provisions governing the criteria subject to review in connection**  
35 **with an application for development for preliminary approval of a**  
36 **site plan under subsection a. of this section.**

37 (2) A developer granted preliminary approval of a site plan  
38 based on an application for development limited to the documents  
39 and information set forth in paragraph (3) of subsection a. of this  
40 section shall not construct site infrastructure improvements prior to  
41 the grant of final site plan approval.

42 (3) (a) A developer seeking authorization to construct site  
43 infrastructure improvements prior to the grant of final site plan  
44 approval shall:

45 (i) specifically request authorization to construct site  
46 infrastructure improvements prior to the grant of final site plan

1 approval in the application for development for preliminary  
2 approval of the site plan, and

3 (ii) submit as part of the application for development for  
4 preliminary approval of the site plan all of the required plans and  
5 specifications for the proposed site infrastructure improvements.

6 (b) The planning board may require a developer seeking to  
7 construct site infrastructure improvements prior to the grant of final  
8 site plan approval to submit information as is reasonably necessary  
9 for the board to review the plans and specifications with a sufficient  
10 level of scrutiny to determine whether the proposed site  
11 infrastructure improvements have been adequately designed to  
12 accommodate and support the proposed development.

13 (c) Preliminary approval of a site plan authorizing a developer  
14 to construct site infrastructure improvements prior to the grant of  
15 final site plan approval shall specifically so provide in the  
16 resolution of approval.

17 (4) As used in this section, “site infrastructure improvements”  
18 shall include, but not be limited to: roadways, grading, sidewalks,  
19 street lighting, storm drainage, <sup>1</sup>[and] <sup>1</sup>underground utility systems  
20 for sewage, water, and natural gas <sup>1</sup>and clearing, and grubbing<sup>1</sup> .

21 c. [Upon the submission to the administrative officer of a  
22 complete application for a ] (1) A planning board shall grant or  
23 deny preliminary approval of a site plan which involves 10 acres of  
24 land or less, and 10 dwelling units or less, [the planning board shall  
25 grant or deny preliminary approval] within 45 days of the date [of  
26 such submission] a complete application for development for  
27 preliminary approval of the site plan is submitted to the  
28 administrative officer or within such further time as may be  
29 consented to by the developer. [Upon the submission of a complete  
30 application for a ]

31 (2) A planning board shall grant or deny preliminary approval of  
32 a site plan which involves more than 10 acres, or more than 10  
33 dwelling units, [the planning board shall grant or deny preliminary  
34 approval] within [95] <sup>1</sup>[60] <sup>1</sup>75<sup>1</sup> days of the date [of such  
35 submission] a complete application for development for  
36 preliminary approval of the site plan is submitted to the  
37 administrative officer or within such further time as may be  
38 consented to by the developer. [Otherwise]

39 (3) If a planning board does not grant or deny preliminary  
40 approval of a site plan within the timeframe specified in paragraph  
41 (1) or (2) of this subsection, the planning board shall be deemed to  
42 have granted preliminary approval of the site plan.

43 d. A developer shall submit an application for development for  
44 amended preliminary approval of a site plan if, after the grant of  
45 preliminary site plan approval, the developer:

46 (1) seeks to make any substantial revisions to the layout of  
47 improvements;

1       (2) seeks to increase the density for residential development by  
2 more than 10 percent or the floor area ratio for nonresidential  
3 development by more than 10 percent;

4       (3) seeks to make any change to the site plan that requires a  
5 variance from a zoning ordinance governing criteria subject to  
6 review in connection with an application for development for  
7 preliminary approval of a site plan pursuant to subparagraph (a) of  
8 paragraph (2) of subsection a. of this section; or

9       (4) seeks to make any change to the site plan that affects the  
10 basis upon which any variance had been granted.

11       e. A developer may, at its option, submit an application for  
12 development for preliminary approval of a site plan, or an  
13 application for development for amended preliminary approval of a  
14 site plan, simultaneous with an application for development for  
15 final approval of a site plan, in which case the planning board shall  
16 simultaneously review and act upon the applications for preliminary  
17 approval and final approval.

18 (cf: P.L.1984, c.20, s.8)

19

20       3. Section 36 of P.L.1975, c.291 (C.40:55D-48) is amended to  
21 read as follows:

22       a. (1) An ordinance requiring subdivision approval by the  
23 planning board shall require [that] the developer to submit to the  
24 administrative officer [a plat and such other information as is  
25 reasonably necessary to make an informed decision as to whether  
26 the requirements necessary] an application for development for  
27 preliminary approval [have been met; provided that minor  
28 subdivisions pursuant to section 35 of this act shall not be subject to  
29 this section. The] of the subdivision, which shall include a plat  
30 [and any other engineering documents to be submitted shall be  
31 required] in tentative form and supporting documents for discussion  
32 purposes for preliminary approval. Minor subdivisions pursuant to  
33 section 35 of P.L.1975, c.291 (C.40:55D-47) shall not be subject to  
34 this section.

35       (2) (a) Review of an application for development for  
36 preliminary approval of a subdivision shall be limited to the  
37 following <sup>1</sup>zoning ordinance and site plan<sup>1</sup> ordinance criteria only:

38       (i) layout and arrangement of proposed lots, as well as any  
39 proposed streets, parking, known easements, and other proposed  
40 site improvements; and

41       (ii) compliance with the use, density, and other <sup>1</sup>[zoning]<sup>1</sup>  
42 standards <sup>1</sup>in the zoning ordinance<sup>1</sup> applicable to the zoning district.

43       (b) Review of an application for development for preliminary  
44 approval of a subdivision shall not include review of: stormwater  
45 design and drainage calculations; grading; utility; soil erosion and  
46 sediment control; architectural design; lighting; or landscaping  
47 plans and specifications.



1     (c) (i) A developer shall include in an application for  
2 development for preliminary approval of a subdivision any  
3 variances for which the developer seeks approval pursuant to  
4 subsection c. of section 57 of P.L.1975, c.291 (C.40:55D-70) from  
5 zoning ordinance provisions governing the criteria set forth in  
6 subparagraph (a) of this paragraph.

7     (ii) A developer may include in an application for development  
8 for preliminary approval of a subdivision any other variances for  
9 which the developer seeks approval under subsection c. of section  
10 57 of P.L.1975, c.291 (C.40:55D-70) and any exceptions for which  
11 the developer seeks approval pursuant to subsection b. of section 39  
12 of P.L.1975, c.291 (C.40:55D-51). A developer may defer requests  
13 for other variances or exceptions until final approval.

14     (iii) If an application for development for preliminary approval  
15 of a subdivision requests a variance or variances under subsection c.  
16 of section 57 of P.L.1975, c.291 (C.40:55D-70), the planning board  
17 may request and consider additional information as is reasonably  
18 necessary for the board to render a decision on the requested  
19 variance or variances in accordance with the <sup>1</sup>**['statutory']** criteria  
20 for approval of the variance or variances <sup>1</sup>under subsection c. of  
21 section 57 of P.L.1975, c.291 (C.40:55D-70)<sup>1</sup> .

22     (d) Review relative to assessment of contributions for off-tract  
23 improvements pursuant to section 30 of P.L.1975, c.291 (C.40:55D-  
24 42) shall occur at the time of final approval.

25     (3) Except as provided in paragraph (3) of subsection b. of this  
26 section, an ordinance providing for the review of an application for  
27 development for preliminary approval of a subdivision <sup>1</sup>**['may']**  
28 shall<sup>1</sup> require an applicant to submit only the following documents  
29 and information in order for the application for development, with  
30 or without variances or exceptions, to be deemed complete:

31     (a) A location map of the subject property showing land within  
32 200 feet.

33     (b) A subdivision, at a minimum scale of one inch per 50 feet,  
34 except that for sites less than three acres, a 30 foot scale and for  
35 sites less than two acres, a 20 foot scale, showing:

36     (i) topography with two-foot contours; ; provided, however, that  
37 for sites less than three acres the planning board may require  
38 topography with one-foot contours or spot grades reasonably  
39 necessary to determine the elevations of the existing conditions on  
40 the site;

41     (ii) the location and layout of proposed lots;

42     (iii) conformance with applicable use, density, and bulk  
43 <sup>1</sup>**['zoning']** standards <sup>1</sup>in the zoning ordinance<sup>1</sup>;

44     (iv) location and classification of streets, parking areas, and  
45 circulation layout, as applicable, along with a statement from the  
46 design engineer addressing the safety and sufficiency of onsite

1 vehicular and pedestrian circulation and ingress and egress to and  
2 from the subject property;

3 (v) location and type of any stormwater detention or retention  
4 facilities, with a statement from the design engineer setting forth the  
5 basis for the estimated size of these facilities. No other engineering  
6 design of proposed grading or stormwater management structures,  
7 detailed stormwater management plans, or drainage calculations  
8 shall be required;

9 (vi) the approximate location of streams, lakes, ponds, wetlands,  
10 wetlands transition areas, flood hazard areas, and riparian zones,  
11 identifying the source for this information, and a statement setting  
12 forth the anticipated impacts the proposed development may have  
13 on these environmental resources. Any survey submitted to satisfy  
14 this requirement shall be prepared and signed by a licensed land  
15 surveyor, however, a copy of the survey with a copy of the original  
16 signature shall be accepted if the source of the survey is clearly  
17 identified;

18 (vii) property boundaries based on deed information or a survey,  
19 at the developer's option. Any survey submitted to satisfy this  
20 requirement shall be prepared and signed by a licensed land  
21 surveyor, however, a copy of the survey with a copy of the original  
22 signature shall be accepted if the source of the survey is clearly  
23 identified;

24 (viii) If a current survey is not submitted, the application shall  
25 include a certification signed by a licensed professional engineer or  
26 licensed land surveyor indicating that the submitted survey truly  
27 represents current conditions of the site.

28 (c) An identification of proposed sources of potable water and  
29 wastewater treatment facilities.

30 (d) Any variances or exceptions being requested by the  
31 developer for the proposed subdivision.

32 With regard to any application for development for preliminary  
33 approval of a subdivision or other relief submitted under this  
34 section after the effective date of P.L. , c. , the list of documents  
35 and information in this paragraph shall supersede the requirements  
36 of any checklist adopted by ordinance pursuant to section 5 of  
37 P.L.1984, c.20 (C.40:55D-10.3). <sup>1</sup>This paragraph shall not  
38 supersede the requirements of any checklist adopted by ordinance  
39 pursuant section 5 of P.L.1984, c.20 (C.40:55D-10.3) for an  
40 application for development for final approval of a subdivision.<sup>1</sup>

41 b. **【**If the planning board required any substantial amendment in  
42 the layout of improvements proposed by the developer that have  
43 been the subject of a hearing, an amended application shall be  
44 submitted and proceeded upon, as in the case of the original  
45 application for development.**】** (1) The planning board shall **【**, if  
46 the proposed subdivision complies with the ordinance and this act,**】**  
47 grant preliminary approval **【to】** of the subdivision if the proposed

1 subdivision complies with ordinance provisions governing the  
2 criteria subject to review in connection with an application for  
3 development for preliminary approval of a subdivision under  
4 subsection a. of this section.

5 (2) A developer granted preliminary approval of a subdivision  
6 based on an application for development limited to the documents  
7 and information set forth in paragraph (3) of subsection a. of this  
8 section shall not conduct or construct site infrastructure  
9 improvements prior to the grant of final subdivision approval.

10 (3) (a) A developer seeking authorization to construct site  
11 infrastructure improvements prior to the grant of final subdivision  
12 approval shall:

13 (i) specifically request authorization to construct site  
14 infrastructure improvements prior to the grant of final subdivision  
15 approval in the application for development for preliminary  
16 approval of the subdivision, and

17 (ii) submit as part of the application for development for  
18 preliminary approval of the subdivision all of the required plans and  
19 specifications for the proposed site infrastructure improvements.

20 (b) The planning board may require a developer seeking to  
21 construct site infrastructure improvements prior to the grant of final  
22 subdivision approval to submit information as is reasonably  
23 necessary for the board to review the plans and specifications with a  
24 sufficient level of scrutiny to determine whether the proposed site  
25 infrastructure improvements have been adequately designed to  
26 accommodate and support the proposed development.

27 (c) Preliminary approval of a subdivision authorizing a  
28 developer to construct site infrastructure improvements prior to the  
29 grant of final subdivision approval shall specifically so provide in  
30 the resolution of approval.

31 (4) As used in this section, "site infrastructure improvements"  
32 shall include, but not be limited to: roadways, grading, sidewalks,  
33 street lighting, storm drainage, <sup>1</sup>~~and~~<sup>1</sup> underground utility systems  
34 for sewage, water, and natural gas <sup>1</sup>and clearing, and grubbing<sup>1</sup> .

35 c. **【Upon the submission to the administrative officer of a**  
36 **complete application for a】** (1) A planning board shall grant or  
37 deny preliminary approval of a subdivision of 10 or fewer lots **【,**  
38 the planning board shall grant or deny preliminary approval**】** within  
39 45 days of the date **【of such submission】** a complete application for  
40 development for preliminary approval of the subdivision is  
41 submitted to the administrative officer or within such further time  
42 as may be consented to by the developer. **【Upon the submission of**  
43 a complete application for a**】**

44 (2) A planning board shall grant or deny preliminary approval of  
45 a subdivision of more than 10 lots **【,** the planning board shall grant  
46 or deny preliminary approval**】** within **[95]** <sup>1</sup>~~**【60】**~~ <sup>1</sup>**75** days of the  
47 date **[of such submission]** a complete application for development

1 for preliminary approval of the subdivision is submitted to the  
2 administrative officer or within such further time as may be  
3 consented to by the developer. **[Otherwise]**

4 (3) If a planning board does not grant or deny preliminary  
5 approval of a subdivision within the timeframe specified in  
6 paragraph (1) or (2) of this subsection, the planning board shall be  
7 deemed to have granted preliminary approval to the subdivision.

8 d. A developer shall submit an application for development for  
9 amended preliminary approval of a subdivision if, after the grant of  
10 preliminary subdivision approval, the developer:

11 (1) seeks to make any substantial revisions to the layout of  
12 improvements;

13 (2) seeks to increase the density for residential development by  
14 more than 10 percent;

15 (3) seeks to make any change to the subdivision plat that  
16 requires a variance from a zoning ordinance governing criteria  
17 subject to review in connection with an application for development  
18 for preliminary approval of a subdivision pursuant to subparagraph  
19 (a) of paragraph (2) of subsection a. of this section; or

20 (4) seeks to make any change to the subdivision that affects the  
21 basis upon which any variance had been granted.

22 e. A developer may, at its option, submit an application for  
23 development for preliminary approval of a subdivision, or an  
24 application for development for amended preliminary approval of a  
25 subdivision, simultaneous with an application for development for  
26 final approval of a subdivision, in which case the planning board  
27 shall simultaneously review and act upon the applications for  
28 preliminary approval and final approval.

29 (cf: P.L.1984, c.20, s.9)

30

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

33 37. Preliminary approval of a major subdivision pursuant to  
34 section 36 of P.L.1975, c.291 (C.40:55D-48) or of a site plan  
35 pursuant to section 34 of P.L.1975, c.291 (C.40:55D-46) shall,  
36 except as provided in subsections d. and g. of this section, confer  
37 upon the applicant the following rights for a **[three-year]** five-year  
38 period from the date on which the resolution of preliminary  
39 approval is adopted; however, a preliminary approval authorizing a  
40 developer to construct site infrastructure improvements prior to the  
41 grant of final site plan approval pursuant to paragraph (3) of  
42 subsection b. of section 34 of P.L.1975, c.291 (C.40:55D-46) or  
43 paragraph (3) of subsection b. of section 48 of P.L.1975, c.291  
44 (C.40:55D-48) shall confer upon the applicant the following rights  
45 for a three-year period from the date on which the resolution of  
46 preliminary approval is adopted:

47 a. That the general terms and conditions on which preliminary  
48 approval was granted shall not be changed, including but not

1 limited to use requirements; layout and design standards for streets,  
2 curbs and sidewalks; lot size; yard dimensions and off-tract  
3 improvements; and, in the case of a site plan, any requirements  
4 peculiar to site plan approval pursuant to section 29.3 of P.L.1975,  
5 c.291 (C.40:55D-41); except that nothing herein shall be construed  
6 to prevent the municipality from modifying by ordinance such  
7 general terms and conditions of preliminary approval as relate to  
8 public health and safety;

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

13 c. That the applicant may apply for and the planning board may  
14 grant extensions on such preliminary approval for additional  
15 periods of at least one year but not to exceed a total extension of  
16 two years, provided that if the design standards have been revised  
17 by ordinance, such revised standards may govern.

18 d. In the case of a subdivision of or site plan for an area of 50  
19 acres or more, the planning board may grant the rights referred to in  
20 subsections a., b., and c. of this section for such period of time,  
21 longer than three years, or five years, as applicable, as shall be  
22 determined by the planning board to be reasonable taking into  
23 consideration (1) the number of dwelling units and nonresidential  
24 floor area permissible under preliminary approval, (2) economic  
25 conditions, and (3) the comprehensiveness of the development. The  
26 applicant may apply for thereafter and the planning board may  
27 thereafter grant an extension to preliminary approval for such  
28 additional period of time as shall be determined by the planning  
29 board to be reasonable taking into consideration (1) the number of  
30 dwelling units and nonresidential floor area permissible under  
31 preliminary approval, and (2) the potential number of dwelling units  
32 and nonresidential floor area of the section or sections awaiting  
33 final approval, (3) economic conditions and (4) the  
34 comprehensiveness of the development; provided that if the design  
35 standards have been revised, such revised standards may govern.

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

43 f. The planning board shall grant an extension of preliminary  
44 approval for a period determined by the board but not exceeding  
45 one year from what would otherwise be the expiration date, if the  
46 developer proves to the reasonable satisfaction of the board that the  
47 developer was barred or prevented, directly or indirectly, from  
48 proceeding with the development because of delays in obtaining

1 legally required approvals from other governmental entities and that  
2 the developer applied promptly for and diligently pursued the  
3 required approvals. A developer shall apply for the extension  
4 before (1) what would otherwise be the expiration date of  
5 preliminary approval or (2) the 91st day after the developer receives  
6 the last legally required approval from other governmental entities,  
7 whichever occurs later. An extension granted pursuant to this  
8 subsection shall not preclude the planning board from granting an  
9 extension pursuant to subsection c. or d. of this section.

10 g. In the case of a site plan for a development consisting of not  
11 less than 150,000 square feet of nonresidential floor area or not less  
12 than 100 residential dwelling units, or consisting of a combination  
13 of square feet of nonresidential floor area and residential dwelling  
14 units, which when proportionately aggregated at a rate of 1,500  
15 square feet of nonresidential floor area to one residential dwelling  
16 unit, are equivalent to at least 150,000 square feet of nonresidential  
17 floor area or 100 residential dwelling units, the planning board may  
18 grant the rights referred to in subsections a., b., and c. of this  
19 section for such period of time beyond three years, or five years, as  
20 applicable, as shall be determined by the planning board to be  
21 reasonable taking into consideration (1) the number of dwelling  
22 units and non-residential floor area permissible under preliminary  
23 approval, (2) economic conditions, and (3) the comprehensiveness  
24 of the development. The applicant may apply for thereafter, and the  
25 planning board may thereafter grant, an extension to the preliminary  
26 approval for such additional period of time as shall be determined  
27 by the planning board to be reasonable taking into consideration (1)  
28 the number of dwelling units and nonresidential floor area  
29 permissible under preliminary approval, (2) the potential number of  
30 dwelling units and nonresidential floor area of the section or  
31 sections awaiting final approval, (3) economic conditions, and (4)  
32 the comprehensiveness of the development; provided that if the  
33 design standards have been revised, such revised standards may  
34 govern.

35 (cf: P.L.2011, c.86, s.2)

36

37 5. Section 38 of P.L.1975, c.291 (C.40:55D-50) is amended to  
38 read as follows:

39 38. Final approval of site plans and major subdivisions.

40 a. The planning board shall grant final approval if the detailed  
41 drawings, specifications and estimates of the application for final  
42 approval conform to the standards established by ordinance for final  
43 approval, <sup>1</sup>substantially and materially<sup>1</sup> conform <sup>1</sup>to <sup>1</sup>in all  
44 material respects with<sup>1</sup> the conditions of preliminary approval and,  
45 in the case of a major subdivision, conform to the standards  
46 prescribed by N.J.S.46:26B-1 et seq.; provided that the planning  
47 board:

48 (1) shall permit changes to the preliminary site plan or  
49 subdivision plat, as the case may be, that do not require the

1 developer to submit an application for development for amended  
2 preliminary approval pursuant to subsection d. of section 34 of  
3 P.L.1975, c.291 (C.40:55D-46) or subsection d. of section 36 of  
4 P.L.1975, c.291 (C.40:55D-48);

5 (2) shall consider and may grant requests for variances  
6 authorized pursuant to subsubparagraph (ii) of subparagraph (c) of  
7 paragraph (2) of subsection a. of section 34 of P.L.1975, c.291  
8 (C.40:55D-46), and subsubparagraph (ii) of subparagraph (c) of  
9 paragraph (2) of subsection a. of section 36 of P.L.1975, c.291  
10 (C.40:55D-48); and

11 (3) in the case of a planned development, [the planning board]  
12 may permit minimal deviations from the conditions of preliminary  
13 approval necessitated by change of conditions beyond the control of  
14 the developer since the date of preliminary approval without the  
15 developer being required to submit another application for  
16 development for preliminary approval.

17 b. Final approval shall be granted or denied within **[45]** 95  
18 days after submission of a complete application to the  
19 administrative officer, or within such further time as may be  
20 consented to by the applicant. Failure of the planning board to act  
21 within the period prescribed shall constitute final approval and a  
22 certificate of the administrative officer as to the failure of the  
23 planning board to act shall be issued on request of the applicant,  
24 and it shall be sufficient in lieu of the written endorsement or other  
25 evidence of approval, herein required, and shall be so accepted by  
26 the county recording officer for purposes of filing subdivision plats.

27 Whenever review or approval of the application by the county  
28 planning board is required by section 5 of P.L.1968, c. 285 (C.  
29 40:27-6.3), in the case of a subdivision, or section 8 of P.L.1968, c.  
30 285 (C. 40:27-6.6), in the case of a site plan, the municipal planning  
31 board shall condition any approval that it grants upon timely receipt  
32 of a favorable report on the application by the county planning  
33 board or approval by the county planning board by its failure to  
34 report thereon within the required time period. <sup>1</sup>Nothing in P.L. ,  
35 c. (C. ) (pending before the Legislature as this bill) shall  
36 supersede or relieve any applicant from satisfying any provision of  
37 section 5 of P.L.1968, c. 285 (C.40:27-6.3) or section 8 of  
38 P.L.1968, c. 285 (C.40:27-6.6).<sup>1</sup>

39 (cf: P.L.2013, c.106, s.12)

40

41 6. This act shall take effect on the first day of the fourth month  
42 next following enactment.