

ASSEMBLY, No. 2827

STATE OF NEW JERSEY

INTRODUCED MARCH 20, 1997

By Assemblymen KELLY and DORIA

1 AN ACT concerning municipal land use and other development permit
2 approvals, and amending, supplementing and repealing various
3 parts of the statutory law.

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

7
8 1. (New section) The Legislature finds and declares that:

9 a. The health, safety and welfare of the State of New Jersey and its
10 citizens are dependent on a viable, competitive State economy.

11 b. It is vital to the quality of life of the citizens of the State that
12 they be provided with good employment and housing opportunities.

13 c. Creation of employment and housing opportunities requires
14 multiple approvals and permits from a complex multi-layered,
15 overlapping, duplicative land use regulatory structure. The complexity
16 and uncertainty of the process make it almost impossible to predict the
17 outcome of even the simplest applications, and the many delays
18 throughout the approval and permitting process make it virtually
19 impossible to anticipate the economic conditions and market
20 preferences that will prevail when a project eventually gains all of its
21 approvals. Today there are over 150 different permits or approvals
22 that may be necessary to obtain permission to construct a
23 development. On average it takes over three years to obtain the
24 necessary development approvals and permits; but in many other states
25 it takes only months.

26 d. While each approval and permit was initially designed for a
27 specific purpose, almost without exception new requirements have
28 been layered atop of old, without regard to redundancy or the
29 relevancy of programs that may have been superseded. As a result, the
30 land use regulatory process functions as a compilation of multiple
31 separate actions and not as one cohesive system.

32 e. New Jersey is experiencing many negative economic effects from
33 this expensive and inefficient land use regulatory structure. Although
34 in 1980 the median price of a home in New Jersey was 7.5 percent

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

Matter underlined thus is new matter.

1 below the national median, by 1988 the New Jersey median price was
2 58 percent higher than the national median. It remains today well
3 above the national median. The hard building costs accounted for 70
4 percent of the cost of a new home in 1960, but today these costs
5 constitute only about 42 percent. This inefficient structure also
6 contributes to the very high cost of living in New Jersey which is the
7 third highest in the nation, 20 percent above the national average.

8 f. The ability to make prudent business decisions concerning
9 development in New Jersey is seriously compromised. Artificial
10 inflation erodes New Jersey's competitive position and retards its
11 economic vitality. It forces tens of thousands of households into
12 substandard dwellings, even homelessness; it increases unemployment
13 by making the state less attractive to employers. New businesses are
14 reluctant to locate in New Jersey, and existing businesses are leaving
15 the state. High real estate costs impede recovery from the recession,
16 which occurred at the beginning of the decade when 280,000 jobs
17 were lost in New Jersey. Recovery has lagged behind the rest of the
18 nation. At the current pace, it will still be many years before lost jobs
19 are recovered.

20 g. Although many aspects of the current regulatory structure were
21 designed to protect the environment, New Jersey would be better able
22 to achieve improved protection through a simplified, efficient land use
23 regulatory process that does not alter or eliminate any of the required
24 environmental protections afforded under existing environmental
25 programs.

26 h. Failure to correct the land use regulatory process will render
27 other efforts to improve New Jersey's economy largely useless.

28 i. The land use regulatory process requires major reform and
29 restructuring to reduce costs and create predictability. Layers of
30 jurisdictional authority requiring separate applications, review and
31 permits have to be eliminated. The authority for permitting decisions
32 under the land use regulatory process must be created within only one
33 level of government. The new process requires one cohesive
34 structure, without duplication in reviews and approvals, and for which
35 there is a clear critical path for required permits and approvals.

36 j. The current land use approval situation is similar to that which
37 existed prior to the enactment of the "State Uniform Construction
38 Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.). At that time
39 building construction was regulated by a multiplicity of construction
40 codes in the State. The enactment of the "State Uniform Construction
41 Code Act" successfully established model codes and located
42 administration and management at the municipal level, thereby creating
43 a nationwide precedent-setting model. Efficiencies continue to be
44 demonstrated to this day.

45 k. Since zoning power is delegated to municipalities, and since the
46 regulatory process under the "Municipal Land Use Law," P.L.1975,

1 c.291 (C.40:55D-1 et seq.), the "State Uniform Construction Code
2 Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and P.L.1993, c.32
3 (C.40:55D-40.1 et seq.) providing for statewide site improvement
4 standards, all rely upon municipal administration and management of
5 the land use regulatory process, locally based permitting has the
6 potential to enhance the efficiency and coherence of land use
7 decisions.

8 l. It is necessary for municipalities to create comprehensive master
9 plans to guide growth and provide a clear framework for the
10 regulatory process.

11 m. Standards for all regulatory programs must be clear and
12 objective so that review officials do not have undue discretion.

13 n. The original statutory concept of the preliminary approval was
14 that the application and plans would be submitted "in tentative form
15 for discussion purposes" only. Detailed plans were to be submitted
16 only at the time of final approval. In practice, many planning boards
17 require plans with considerable detail, increasing the cost and slowing
18 the process of preliminary approval. It is beneficial to return to the
19 original concept of a less detailed preliminary application and a more
20 detailed final application.

21 o. Review officials must be free from political interference so that
22 they fairly implement ordinances, statutes, rules and regulations.

23 p. The restructured land use regulatory process must provide for
24 consolidated review and permitting so that all competing engineering,
25 design, and environmental factors are evaluated simultaneously to
26 resolve conflicting policies and regulatory inconsistencies under a best
27 management practices standard based on municipal objectives and the
28 characteristics of the site and surrounding region.

29 q. Development applications that meet legally established standards
30 should be entitled to required approvals and permits.

31

32 2. Section 3 of P.L.1975, c.291 (C.40:55D-3) is amended to read
33 as follows:

34 3. For the purposes of this act, unless the context clearly indicates
35 a different meaning:

36 The term "shall" indicates a mandatory requirement, and the term
37 "may" indicates a permissive action.

38 "Administrative officer" means the clerk of the municipality, unless
39 a different municipal official or officials are designated by ordinance
40 or statute.

41 "Applicant" means a developer submitting an application for
42 development.

43 "Application fee" means the municipal charge to cover the
44 administrative processing of an application or provision of a service,
45 but not including professional review of an application.

46 "Application for development" means the application form and all

1 accompanying documents required by ordinance for approval of a
2 subdivision plat, site plan, planned development, conditional use,
3 zoning variance or direction of the issuance of a permit pursuant to
4 section 25 or section 27 of P.L.1975, c.291 (C.40:55D-34 or
5 C.40:55D-36), and the application form and all accompanying
6 documents required by ordinance, statute or regulation for approval
7 of a permitting decision under a regulatory program.

8 "Approving authority" means the planning board of the municipality
9 and the permit review official, unless a different agency is designated
10 by ordinance when acting pursuant to the authority of P.L.1975, c.291
11 (C.40:55D-1 et seq.).

12 "Best management practices standards" means the resolution of
13 conflicts among regulatory program standards through the selection of
14 a standard that best meets the public policies and goals for the specific
15 area and project consistent with the master plan.

16 "Board of adjustment" means the board established pursuant to
17 section 56 of P.L.1975, c.291 (C.40:55D-69).

18 "Building" means a combination of materials to form a construction
19 adapted to permanent, temporary, or continuous occupancy and having
20 a roof.

21 "Cable television company" means a cable television company as
22 defined pursuant to section 3 of P.L.1972, c.186 (C.48:5A-3).

23 "Capital improvement" means a governmental acquisition of real
24 property or major construction project.

25 "Checklist" means a specific list that identifies all of the information
26 that an applicant is required to submit as a complete application.

27 "Circulation" means systems, structures and physical improvements
28 for the movement of people, goods, water, air, sewage or power by
29 such means as streets, highways, railways, waterways, towers,
30 airways, pipes and conduits, and the handling of people and goods by
31 such means as terminals, stations, warehouses, and other storage
32 buildings or transshipment points.

33 "Commissioner" means the Commissioner of Community Affairs.

34 "Common open space" means an open space area within or related
35 to a site designated as a development, and designed and intended for
36 the use or enjoyment of residents and owners of the development.
37 Common open space may contain such complementary structures and
38 improvements as are necessary and appropriate for the use or
39 enjoyment of residents and owners of the development.

40 "Conditional use" means a use permitted in a particular zoning
41 district only upon a showing that such use in a specified location will
42 comply with the conditions and standards for the location or operation
43 of such use as contained in the zoning ordinance, and upon the
44 issuance of an authorization therefor by the planning board.

45 "Conventional" means development other than planned
46 development.

1 "County master plan" means a composite of the master plan for the
2 physical development of the county in which the municipality is
3 located, with the accompanying maps, plats, charts and descriptive and
4 explanatory matter adopted by the county planning board pursuant to
5 R.S.40:27-2 and R.S.40:27-4.

6 "County planning board" means the county planning board, as
7 defined in section 1 of P.L.1968, c.285 (C.40:27-6.1), of the county
8 in which the land or development is located.
9 (cf: P.L.1991, c.412, s.1)

10

11 3. Section 3.1 of P.L.1975, c.291 (C.40:55D-4) is amended to read
12 as follows:

13 3.1. "Days" means calendar days.

14 "Density" means the permitted number of dwelling units per gross
15 area of land to be developed.

16 "Department" means the Department of Community Affairs.

17 "Developer" means the legal or beneficial owner or owners of a lot
18 or of any land proposed to be included in a proposed development,
19 including the holder of an option or contract to purchase, or other
20 person having an enforceable proprietary interest in such land.

21 "Development" means the division of a parcel of land into two or
22 more parcels, the construction, reconstruction, conversion, structural
23 alteration, relocation or enlargement of any building or other structure,
24 or of any mining excavation or landfill, and any use or change in the
25 use of any building or other structure, or land or extension of use of
26 land, for which permission may be required pursuant to this act.

27 "Development regulation" means a zoning ordinance, subdivision
28 ordinance, site plan ordinance, official map ordinance or other
29 municipal regulation of the use and development of land, or
30 amendment thereto adopted and filed pursuant to this act.

31 "Development review charge" means the charge against an
32 applicant's escrow account to cover the cost of professional review of
33 an application for development or an application under regulatory
34 programs.

35 "Drainage" means the removal of surface water or groundwater
36 from land by drains, grading or other means and includes control of
37 runoff during and after construction or development to minimize
38 erosion and sedimentation, to assure the adequacy of existing and
39 proposed culverts and bridges, to induce water recharge into the
40 ground where practical, to lessen nonpoint pollution, to maintain the
41 integrity of stream channels for their biological functions as well as for
42 drainage, and the means necessary for water supply preservation or
43 prevention or alleviation of flooding.

44 "Environmental commission" means a municipal advisory body
45 created pursuant to P.L.1968, c.245 (C.40:56A-1 et seq.).

46 "Erosion" means the detachment and movement of soil or rock

1 fragments by water, wind, ice and gravity.

2 "Federally-related programs" means the "Freshwater Wetlands
3 Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.) and the New
4 Jersey Pollution Discharge Elimination System Program of the "Water
5 Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.).

6 "Final application" means an application for development for which
7 approval is sought from the permit review official that the application
8 is in conformance with the preliminary approval, or a section thereof,
9 and all applicable municipal regulatory program requirements.

10 "Final approval" means the [official action of the planning board
11 taken on a preliminarily approved major subdivision or site plan, after
12 all conditions, engineering plans and other requirements have been
13 completed or fulfilled and the required improvements have been
14 installed or guarantees properly posted for their completion, or
15 approval conditioned upon the posting of such guarantees] approval
16 of a final application.

17 "Final decision" means a formal determination of the permit review
18 official that a development application has met the requirements of a
19 final approval, or the requirements of a specific regulatory program,
20 or the requirements for a master permit.

21 "Floor area ratio" means the sum of the area of all floors of
22 buildings or structures compared to the total area of the site.

23 "General development plan" means a comprehensive plan for the
24 development of a planned development, as provided in section 4 of
25 P.L.1987, c.129 (C.40:55D-45.2).

26 "Governing body" means the chief legislative body of the
27 municipality. In municipalities having a board of public works,
28 "governing body" means such board.

29 "Governmental entity" means state departments, State agencies,
30 regional commissions, counties and their regulatory agencies,
31 municipalities and their regulatory agencies, utility authorities, regional
32 boards, and districts with jurisdictional authority for regulatory
33 programs.

34 "Historic district" means one or more historic sites and intervening
35 or surrounding property significantly affecting or affected by the
36 quality and character of the historic site or sites.

37 "Hearing examiner" means an official designated by the governing
38 body to take testimony and public comments as part of the official
39 public hearing record on an application for development.

40 "Historic site" means any real property, man-made structure,
41 natural object or configuration or any portion or group of the
42 foregoing of historical, archeological, cultural, scenic or architectural
43 significance.

44 "Interested party" means: (a) in a criminal or quasi-criminal
45 proceeding, any citizen of the State of New Jersey; and (b) in the case
46 of a civil proceeding in any court or in an administrative proceeding

1 before a municipal agency, any person, whether residing within or
2 without the municipality, whose right to use, acquire, or enjoy
3 property is or may be affected by any action taken under this act, or
4 whose rights to use, acquire, or enjoy property under this act, or under
5 any other law of this State or of the United States have been denied,
6 violated or infringed by an action or a failure to act under this act.

7 "Interim compliance report" means a report issued by the permit
8 review official listing the permits and approvals which are required for
9 a particular development and indicating the status of each. If any of
10 the approvals listed on the report have been granted subject to
11 conditions, the report shall state the conditions.

12 "Land" includes improvements and fixtures on, above or below the
13 surface.

14 "Local utility" means any sewerage authority created pursuant to
15 the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.);
16 any utilities authority created pursuant to the "municipal and county
17 utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.); or any
18 utility, authority, commission, special district or other corporate entity
19 not regulated by the Board of Regulatory Commissioners under Title
20 48 of the Revised Statutes that provides gas, electricity, heat, power,
21 water or sewer service to a municipality or the residents thereof.

22 "Lot" means a designated parcel, tract or area of land established
23 by a plat or otherwise, as permitted by law and to be used, developed
24 or built upon as a unit.

25 (cf: P.L.1991, c.412, s.2)

26

27 4. Section 3.2 of P.L. 1975, c.291 (C.40:55D-5) is amended to
28 read as follows:

29 3.2. "Maintenance guarantee" means any security which may be
30 accepted by a municipality for the maintenance of any improvements
31 required by this act, including but not limited to surety bonds, letters
32 of credit under the circumstances specified in section 16 of P.L.1991,
33 c.256 (C.40:55D-53.5), and cash.

34 "Major subdivision" means any subdivision not classified as a minor
35 subdivision.

36 "Master permit" means a formal determination by the permit review
37 official that a development application has met the requirements of
38 final approval and all regulatory programs for either the entire
39 development or a specified section of the development.

40 "Master plan" means a composite of one or more written or graphic
41 proposals for the development of the municipality as set forth in and
42 adopted pursuant to section 19 of P.L.1975, c.291 (C.40:55D-28).

43 "Mayor" means the chief executive of the municipality, whatever his
44 official designation may be, except that in the case of municipalities
45 governed by municipal council and municipal manager the term
46 "mayor" shall not mean the "municipal manager" but shall mean the

1 mayor of such municipality.

2 "Minor site plan" means a development plan of one or more lots
3 which (1) proposes new development within the scope of development
4 specifically permitted by ordinance as a minor site plan; (2) does not
5 involve planned development, any new street or extension of any
6 off-tract improvement which is to be prorated pursuant to section 30
7 of P.L.1975, c.291 (C.40:55D-42); and (3) contains the information
8 reasonably required in order to make an informed determination as to
9 whether the requirements established by ordinance for approval of a
10 minor site plan have been met.

11 "Minor subdivision" means a subdivision of land for the creation of
12 a number of lots specifically permitted by ordinance as a minor
13 subdivision; provided that such subdivision does not involve (1) a
14 planned development, (2) any new street or (3) the extension of any
15 off-tract improvement, the cost of which is to be prorated pursuant to
16 section 30 of P.L.1975, c.291 (C.40:55D-42).

17 "Municipality" means any city, borough, town, township or village.

18 "Municipal agency" means a municipal planning board or board of
19 adjustment, or a governing body of a municipality when acting
20 pursuant to this act and any agency which is created by or responsible
21 to one or more municipalities when such agency is acting pursuant to
22 this act.

23 "Nonconforming lot" means a lot, the area, dimension or location
24 of which was lawful prior to the adoption, revision or amendment of
25 a zoning ordinance, but fails to conform to the requirements of the
26 zoning district in which it is located by reason of such adoption,
27 revision or amendment.

28 "Nonconforming structure" means a structure the size, dimension
29 or location of which was lawful prior to the adoption, revision or
30 amendment of a zoning ordinance, but which fails to conform to the
31 requirements of the zoning district in which it is located by reasons of
32 such adoption, revision or amendment.

33 "Nonconforming use" means a use or activity which was lawful
34 prior to the adoption, revision or amendment of a zoning ordinance,
35 but which fails to conform to the requirements of the zoning district
36 in which it is located by reasons of such adoption, revision or
37 amendment.

38 "Official county map" means the map, with changes and additions
39 thereto, adopted and established, from time to time, by resolution of
40 the board of chosen freeholders of the county pursuant to R.S.40:27-5.

41 "Official map" means a map adopted by ordinance pursuant to
42 article 5 of P.L.1975, c.291.

43 "Offsite" means located outside the lot lines of the lot in question
44 but within the property (of which the lot is a part) which is the subject
45 of a development application or contiguous portion of a street or
46 right-of-way.

1 "Off-tract" means not located on the property which is the subject
2 of a development application nor on a contiguous portion of a street
3 or right-of-way.

4 "Onsite" means located on the lot in question.

5 "On-tract" means located on the property which is the subject of a
6 development application or on a contiguous portion of a street or
7 right-of-way.

8 "Open-space" means any parcel or area of land or water essentially
9 unimproved and set aside, dedicated, designated or reserved for public
10 or private use or enjoyment or for the use and enjoyment of owners
11 and occupants of land adjoining or neighboring such open space;
12 provided that such areas may be improved with only those buildings,
13 structures, streets and offstreet parking and other improvements that
14 are designed to be incidental to the natural openness of the land.

15 (cf: P.L.1991, c.256, s.1)

16

17 5. Section 3.3 of P.L.1975, c.291 (C.40:55D-6) is amended to read
18 as follows:

19 3.3. "Party immediately concerned" means for purposes of notice
20 any applicant for development, the owners of the subject property and
21 all owners of property and government agencies entitled to notice
22 under section 7.1 of P.L.1975, c.291 (C.40:55D-12).

23 "Performance guarantee" means any security, which may be
24 accepted by a municipality, including but not limited to surety bonds,
25 letters of credit under the circumstances specified in section 16 of
26 P.L.1991, c.256 (C.40:55D-53.5), and cash.

27 "Permit review official" means a person appointed by a municipality
28 and licensed by the department to administer, review, approve and
29 enforce applications for development and make all permitting decisions
30 for regulatory programs in accordance with the provisions of P.L. ,
31 c. (C.) (pending before the Legislature as this bill).

32 "Permitting decisions" means the administration, management,
33 processing, or any other government authorization of any development
34 application or any permit related thereto for any regulatory program,
35 whether that authorization is in the form of a permit, approval, license,
36 certification, variance, waiver, letter of interpretation, agreement,
37 executive or administrative decision, or stipulation of settlement or
38 court order which allows a development to proceed.

39 "Planned commercial development" means an area of a minimum
40 contiguous or noncontiguous size as specified by ordinance to be
41 developed according to a plan as a single entity containing one or
42 more structures with appurtenant common areas to accommodate
43 commercial or office uses or both and any residential and other uses
44 incidental to the predominant use as may be permitted by ordinance.

45 "Planned development" means planned unit development, planned
46 unit residential development, residential cluster, planned commercial

1 development or planned industrial development.

2 "Planned industrial development" means an area of a minimum
3 contiguous or noncontiguous size as specified by ordinance to be
4 developed according to a plan as a single entity containing one or
5 more structures with appurtenant common areas to accommodate
6 industrial uses and any other uses incidental to the predominant use as
7 may be permitted by ordinance.

8 "Planned unit development" means an area with a specified
9 minimum contiguous or noncontiguous acreage of 10 acres or more to
10 be developed as a single entity according to a plan, containing one or
11 more residential clusters or planned unit residential developments and
12 one or more public, quasi-public, commercial or industrial areas in
13 such ranges of ratios of nonresidential uses to residential uses as shall
14 be specified in the zoning ordinance.

15 "Planned unit residential development" means an area with a
16 specified minimum contiguous or noncontiguous acreage of five acres
17 or more to be developed as a single entity according to a plan
18 containing one or more residential clusters, which may include
19 appropriate commercial, or public or quasi-public uses all primarily for
20 the benefit of the residential development.

21 "Planning board" means the municipal planning board established
22 pursuant to section 14 of P.L.1975, c.291 (C.40:55D-23).

23 "Plat" means a map or maps of a subdivision or site plan.

24 "Preliminary application" means an application for development for
25 which approval is sought that the development is in overall
26 conformance with the zoning ordinance of the municipality.

27 "Preliminary approval" means an approval of a minor or major
28 application for development or an approval of a section of a general
29 development plan of an approved planned development, and the
30 conferral of certain rights pursuant to sections 34, 36 and 37 of
31 P.L.1975, c.291 (C.40:55D-46; C.40:55D-48; and C.40:55D-49) prior
32 to final approval [after specific elements of a development plan have
33 been agreed upon by the planning board and the applicant].

34 "Preliminary floor plans and elevations" means architectural
35 drawings prepared during early and introductory stages of the design
36 of a project illustrating in a schematic form, its scope, scale and
37 relationship to its site and immediate environs.

38 "Procedural decision" means a determination of the permit review
39 official that affects or controls the processing of a development
40 application or an application for a permitting decision under a
41 regulatory program.

42 "Public areas" means (1) public parks, playgrounds, trails, paths and
43 other recreational areas; (2) other public open spaces; (3) scenic and
44 historic sites; and (4) sites for schools and other public buildings and
45 structures.

46 "Public development proposal" means a master plan, capital

1 improvement program or other proposal for land development adopted
2 by the appropriate public body, or any amendment thereto.

3 "Public drainage way" means the land reserved or dedicated for the
4 installation of storm water sewers or drainage ditches, or required
5 along a natural stream or watercourse for preserving the biological as
6 well as drainage function of the channel and providing for the flow of
7 water to safeguard the public against flood damage, sedimentation and
8 erosion and to assure the adequacy of existing and proposed culverts
9 and bridges, to induce water recharge into the ground where practical,
10 and to lessen nonpoint pollution.

11 "Public open space" means an open space area conveyed or
12 otherwise dedicated to a municipality, municipal agency, board of
13 education, State or county agency, or other public body for
14 recreational or conservational uses.

15 "Public utility" means any public utility regulated by the Board of
16 Regulatory Commissioners and defined pursuant to R.S.48:2-13.

17 "Quorum" means the majority of the full authorized membership of
18 a municipal agency.

19 "Regulatory programs" means: soil conservation control pursuant
20 to R.S.4:24-1 et seq; any permit required pursuant to the "Water
21 Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) any
22 supplement adopted thereunder or rule or regulation adopted pursuant
23 thereto; any permit required under the "Coastal Area Facility Review
24 Act," P.L.1973, c.185 (C.13:19-1 et seq.) or any rule or regulation
25 adopted pursuant thereto; any waterfront development permit issued
26 pursuant to R.S.12:5-1 et seq.; any permit involving a "regulated
27 activity" required under "The Wetlands Act of 1970, P.L.1970, c.272
28 (C.13:9A-1 et seq.); any permit involving a "regulated activity" in a
29 freshwater wetland required under the "Freshwater Wetlands
30 Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.); any permit
31 involving the development or use of land in a delineated floodway or
32 flood hazard area required under the "Floor Hazard Area Control
33 Act," P.L.1962, c.19 (C.58:16A-50 et seq.); any permit required for
34 the construction of a realty improvement pursuant to "The Realty
35 Improvement Sewerage and Facilities Act (1954)," P.L.1954, c.199
36 (C.58:11-23 et seq.); any permit required to drill a well pursuant to
37 section 10 of P.L.1947, c.377 (C.58:4A-14); any permit or water
38 supply allocation determination required under the "Water Supply
39 Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.), any
40 supplement adopted thereunder, or rule or regulation adopted pursuant
41 thereto; any certification, permit or approval required under the "Safe
42 Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.); any
43 permit or approval required under the "Water Quality Planning Act,"
44 P.L.1977, c.73 (C.58:11A-1 et seq.); any approval required to build
45 any reservoir or construct any dam pursuant to R.S.58:4-1 et seq.; any
46 approval for shutting off or drawing off the waters of any pond, stream

1 or lake pursuant to R.S.23:5-29; any permit required by an owner or
2 operator of an underground storage tank facility pursuant to section
3 4 of P.L.1986, c.102 (C.58:10A-24); any permit or approval required
4 pursuant to section 12 of P.L.1970, c.33 (C.13:1D-9), or any rule or
5 regulation adopted thereunder; any construction permit required
6 pursuant to section 2 of P.L.1975, c.232 (C.13:1D-30) or any rule or
7 regulation adopted pursuant thereto; any access permit required
8 pursuant to section 4 of P.L.1989, c.32 (C.27:7-92); any drainage
9 permit or utility opening permit required in connection with a
10 development abutting a State highway pursuant to the "State Highway
11 Access Management Act," P.L.1989, c.32 (C.27:7-90 et al.); any
12 permit required with regard to an improvement undertaken within the
13 district pursuant to P.L.1968, c.404 (C.13:17-1 et seq.); any approval
14 by the commission required pursuant to the "Pinelands Protection
15 Act," P.L.1979, c.111 (C.13:18A-1 et seq.); any approval required
16 under the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et
17 seq.); any approval required under the "municipal and county utilities
18 authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.); any approval
19 required in connection with water supply facilities pursuant to the
20 "County and Municipal Water Supply Act," P.L.1989, c.109
21 (C.40A:31-1 et seq.); any approval required with regard to sewerage
22 facilities pursuant to the "Municipal and County Sewerage Act,"
23 P.L.1991, c.53 (C.40A:26A-1 et seq.); any approval required by a
24 developer pursuant to an ordinance or resolution adopted by a county
25 governing body under chapter 27 of Title 40 of the Revised Statutes;
26 any approval of a map filing pursuant to "the map filing law,"
27 P.L.1960, c.141 (C.46:23-9.9 et seq.) or any amendment adopted
28 pursuant thereto;

29 any other municipal approvals required as a condition of final
30 approval, including shade tree commission approvals, soil removal
31 approvals, historic determinations, and any other municipal, county,
32 or State approval granted under the general authority conferred by
33 State law or municipal or county ordinances, or any other government
34 authorization of any development application or any permit related
35 thereto whether the authorization is in the form of a permit, approval,
36 license, certification, variance, waiver, letter of interpretation,
37 agreement, executive or administrative decision, or stipulation of
38 settlement or court order which allows a development to proceed.

39 "Residential cluster" means a contiguous or noncontiguous area to
40 be developed as a single entity according to a plan containing
41 residential housing units which have a common or public open space
42 area as an appurtenance.

43 "Residential density" means the number of dwelling units per gross
44 acre of residential land area including streets, easements and open
45 space portions of a development.

46 "Resubdivision" means (1) the further division or relocation of lot

1 lines of any lot or lots within a subdivision previously made and
2 approved or recorded according to law or (2) the alteration of any
3 streets or the establishment of any new streets within any subdivision
4 previously made and approved or recorded according to law, but does
5 not include conveyances so as to combine existing lots by deed or
6 other instrument.

7 (cf: P.L.1995, c.364, s.1)

8

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

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

14 "Site plan" means a development plan of one or more lots on which
15 is shown (1) the existing and proposed conditions of the lot, including
16 but not necessarily limited to topography, vegetation, drainage, flood
17 plains, marshes and waterways, (2) the location of all existing and
18 proposed buildings, drives, parking spaces, walkways, means of
19 ingress and egress, drainage facilities, utility services, landscaping,
20 structures and signs, lighting, screening devices, and (3) any other
21 information that may be reasonably required in order to make an
22 informed determination pursuant to an ordinance requiring review and
23 approval of site plans by the planning board adopted pursuant to
24 article 6 of this act.

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

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

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

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

18 "Substantive decision" means a determination of the permit review
19 official that affects or controls how regulatory program standards are
20 applied to a development application.

21 "Substantive regulatory program standards" means the rules and
22 regulations for regulatory programs which govern how a property may
23 be developed.

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

26 "Variance" means permission to depart from the literal requirements
27 of a zoning ordinance pursuant to section 47 and subsection 29.2b.,
28 57c. and 57d. of this act.

29 "Vested rights" means (a) the right to obtain approval of a
30 development in accordance with all substantive regulatory program
31 standards and zoning in effect on the date the application for
32 development is certified complete; and (b) rights which have accrued
33 for the development of a property in accordance with approvals and
34 permitting decisions and which are not subject to revisions or
35 cancellation for an established period of time.

36 "Waiver" means a deviation from a procedural or substantive
37 regulatory program standard, or an application or checklist
38 requirement.

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

1 pursuant to sections 47 and 57 of this act.

2 (cf: P.L.1979, c.216, s.4)

3

4 7. (New section) The following administrative provisions shall
5 apply to applications for development and for permitting decisions
6 under the regulatory programs:

7 a. Applications for development shall be classified as follows:
8 minor, preliminary, final, and planned development.

9 b. Applications for development shall require that information be
10 submitted as follows in support of the application:

11 (1) The information required to be submitted in support of a minor
12 application shall be shown on a minor checklist.

13 (2) The information required to be submitted in support of a
14 preliminary application shall be shown on a preliminary checklist, shall
15 show the layout and scope of the development and demonstrate its
16 conformance to the master plan and zoning ordinance, and shall be
17 limited to the information prescribed in sections 34 and 36 of
18 P.L.1975, c.291 (C.40:55D-46 and C.40:55D-48).

19 (3) The information required to be submitted for general
20 development plans in support of a planned development application
21 shall be shown on a checklist, but shall show only the layout and scope
22 of the development and demonstrate its conformance to the master
23 plan and zoning ordinance, and shall be limited to the information
24 prescribed in section 3 of P.L.1987, c.129 (C.40:55D-45.1).

25 (4) The information required to be submitted in support of a final
26 application shall be shown on a final checklist, shall be in sufficient
27 detail to demonstrate that it is in conformance with all municipal
28 regulatory program requirements, and shall include technical
29 engineering documentation, plans, calculations, elevations, profiles,
30 construction details, landscaping, lighting, parking, recreation
31 improvements and other similar subdivision or site design elements.
32 All such details shall be provided in a final approval application, and
33 shall not be provided in an application for minor or preliminary
34 approval.

35 c. The information required to be submitted in support of an
36 application for a permitting decision under a regulatory program shall
37 be shown on a checklist for the regulatory program.

38 d. All minor, preliminary, and planned development applications
39 shall be filed with the approving authority; simultaneously, an
40 additional copy of the application shall be filed with the permit review
41 official for determination of completeness in accordance with section
42 5 of P.L.1984, c.20 (C.40:55D-10.3). All other applications for
43 development and applications for permitting decisions under the
44 regulatory programs shall be filed directly and exclusively with the
45 permit review official.

46 e. The applicant may apply for final approval and for approval of

1 permitting decisions under the regulatory programs as a consolidated
2 application or as separate applications. An applicant may also apply
3 for a permitting decision under a regulatory program prior to filing a
4 preliminary or a final application. When the applicant files a
5 consolidated application, the required information in support of the
6 application may be shown on the same set of plans. Different sheets
7 of the plans may be utilized to demonstrate compliance with specific
8 regulatory program requirements. All background data and identifying
9 information need not be repeated.

10
11 8. Section 6 of P.L.1975, c.291 (C.40:55D-10) is amended to read
12 as follows:

13 6. a. The municipal agency shall hold a hearing [on each
14 application for development, or] only on preliminary, minor,
15 conditional use, variance, and planned development applications, and
16 on adoption, revision or amendment of the master plan.

17 b. The municipal agency shall make the rules governing such
18 hearings. The municipal agency shall conduct as many special
19 meetings as necessary in order to hear and complete consideration of
20 the application for development within the time frames provided in
21 P.L.1975, c.291 (C.40:55D-1 et seq.). Any maps and documents for
22 which approval is sought at hearing shall be on file and available for
23 public inspection at least 10 days before the date of the hearing, during
24 normal business hours in the office of the administrative officer. The
25 applicant may produce other documents, records, or testimony at the
26 hearing to substantiate or clarify or supplement the previously filed
27 maps and documents. Copies of any reports prepared by municipal
28 consultants shall be provided to the applicant and shall be on file and
29 available for public inspection at least 10 days before the date of the
30 hearing.

31 c. The officer presiding at the hearing or such person as he may
32 designate shall have power to administer oaths and issue subpoenas to
33 compel the attendance of witnesses and the production of relevant
34 evidence, including witnesses and documents presented by the parties,
35 and the provisions of the "County and Municipal Investigations Law,"
36 P.L.1953, c. 38 (C. 2A:67A-1 et seq.) shall apply.

37 d. The testimony of all witnesses relating to an application for
38 development, including municipal employees, experts and consultants,
39 shall be taken under oath or affirmation by the presiding officer, and
40 the right of cross-examination shall be permitted to all interested
41 parties through their attorneys, if represented, or directly, if not
42 represented, subject to the discretion of the presiding officer and to
43 reasonable limitations as to time and number of witnesses.

44 e. Technical rules of evidence shall not be applicable to the
45 hearing, but the agency may exclude irrelevant, immaterial or unduly
46 repetitious evidence.

1 f. The municipal agency shall provide for the verbatim recording of
2 the proceedings by either stenographer, mechanical or electronic
3 means. The municipal agency shall furnish a transcript, or duplicate
4 recording in lieu thereof, on request to any interested party at his
5 expense; provided that the governing body may provide by ordinance
6 for the municipality to assume the expense of any transcripts necessary
7 for appeal to the governing body, pursuant to section 8 of this act, of
8 decisions by the zoning board of adjustment pursuant to subsection
9 57d. of this act, up to a maximum amount as specified by the
10 ordinance.

11 The municipal agency, in furnishing a transcript of the proceedings
12 to an interested party at his expense, shall not charge such interested
13 party more than the maximum permitted in N.J.S.2A:11-15. Said
14 transcript shall be certified in writing by the transcriber to be accurate.

15 g. The municipal agency shall include findings of fact and
16 conclusions based thereon in each decision on any application for
17 development and shall reduce the decision to writing. The municipal
18 agency shall provide the findings and conclusions through:

19 (1) A resolution adopted at a meeting held within the time period
20 provided in the act for action by the municipal agency on the
21 application for development; or

22 (2) A memorializing resolution adopted at a meeting held not later
23 than 45 days after the date of the meeting at which the municipal
24 agency voted to grant or deny approval. Only the members of the
25 municipal agency who voted for the action taken may vote on the
26 memorializing resolution, and the vote of a majority of such members
27 present at the meeting at which the resolution is presented for
28 adoption shall be sufficient to adopt the resolution. An action
29 pursuant to section 5 of the act (C. 40:55D-9) (resulting from the
30 failure of a motion to approve an application) shall be memorialized by
31 resolution as provided above, with those members voting against the
32 motion for approval being the members eligible to vote on the
33 memorializing resolution. The vote on any such resolution shall be
34 deemed to be a memorialization of the action of the municipal agency
35 and not to be an action of the municipal agency; however, the date of
36 the adoption of the resolution shall constitute the date of the decision
37 for purposes of the mailings, filings and publications required by
38 subsections h. and i. of this section (C. 40:55D-10). If the municipal
39 agency fails to adopt a resolution or memorializing resolution as
40 hereinabove specified, any interested party may apply to the Superior
41 Court in a summary manner for an order compelling the municipal
42 agency to reduce its findings and conclusions to writing within a stated
43 time, and the cost of the application, including attorney's fees, shall
44 be assessed against the municipality.

45 h. A copy of the decision shall be mailed by the municipal agency
46 within 10 days of the date of decision to the applicant or, if

1 represented, then to his attorney, without separate charge, and to all
2 who request a copy of the decision, for a reasonable fee. A copy of
3 the decision shall also be filed by the municipal agency in the office of
4 the administrative officer. The administrative officer shall make a
5 copy of such filed decision available to any interested party for a
6 reasonable fee and available for public inspection at his office during
7 reasonable hours.

8 i. A brief notice of the decision shall be published in the official
9 newspaper of the municipality, if there be one, or in a newspaper of
10 general circulation in the municipality. Such publication shall be
11 arranged by the applicant unless a particular municipal officer is so
12 designated by ordinance; provided that nothing contained in this act
13 shall be construed as preventing the applicant from arranging such
14 publication if he so desires. The municipality may make a reasonable
15 charge for its publication. The period of time in which an appeal of
16 the decision may be made shall run from the first publication of the
17 decision, whether arranged by the municipality or the applicant.

18 (cf: P.L.1984, c.20, s.4)

19

20 9. (New section) The planning board and zoning board of
21 adjustment may appoint hearing examiners to take testimony on
22 specific development issues arising during the review of an application
23 for development or on the application for development itself, and to
24 provide reports to the full planning board or zoning board, as the case
25 may be. The hearing examiner shall prepare a detailed report on all
26 issues referred by the board and all comments and testimony
27 presented. To qualify to vote on an application when the services of
28 a hearing examiner have been used, the board members shall certify in
29 writing to the board that they have read the hearing examiner's report.
30 The use of hearing examiners under this section shall not extend the
31 time limits for decisions by the planning board and zoning board of
32 adjustment otherwise established in P.L.1975, c.291 (C.40:55D-1 et
33 seq.) or the provisions of P.L. , c. (C.) (pending before the
34 Legislature as this bill). Hearing examiners shall be appointed as
35 provided in the "Administrative Procedure Act," P.L.1968, c.410
36 (C.52:14B-1 et seq.) and shall be compensated by the applicant in the
37 same manner as provided for municipal professionals in section 1 of
38 P.L.1985, c.315 (C.40:55D-53.1), section 13 of P.L.1991, c.256
39 (C.40:55D-53.2), and section 3 of P.L.1995, c.54 (C.40:55D-53.2a.).

40

41 10. Section 5 of P.L. 1984, c.20 (C.40:55D-10.3) is amended to
42 read as follows:

43 5. An application for development and an application for permitting
44 decisions under regulatory programs shall be complete for purposes of
45 commencing the applicable time period for action by a municipal
46 agency, or by the permit review official, as the case may be, when so

1 certified by the [municipal agency or its authorized committee or
2 designee] permit review official. In the event that the [agency,
3 committee or designee] permit review official does not certify the
4 application to be complete within [45] 20 days of the date of its
5 submission, the application shall be deemed complete upon the
6 expiration of the [45] 20-day period for purposes of commencing the
7 applicable time period, unless: a. the application lacks information
8 indicated on a checklist adopted by ordinance , rule or regulation and
9 provided to the applicant; and b. the [municipal agency or its
10 authorized committee or designee] permit review official has notified
11 the applicant, in writing, of the deficiencies in the application within
12 [45] 20 days of submission of the application. The applicant may
13 request that one or more of the submission requirements be waived, in
14 which event the [agency or its authorized committee] permit review
15 official shall grant or deny the request within [45] 20 days. Nothing
16 herein shall be construed as diminishing the applicant's obligation to
17 prove in the application process that he is entitled to approval of the
18 application. The [municipal agency] permit review official may
19 subsequently require correction of any information found to be in error
20 and submission of additional information not specified in the ordinance
21 or any revisions in the accompanying documents, as are reasonably
22 necessary to make an informed decision as to whether the
23 requirements necessary for approval of the application for
24 development or permitting decision have been met. The application
25 shall not be deemed incomplete for lack of any such additional
26 information or any revisions in the accompanying documents so
27 required by the municipal agency or permit review official.
28 (cf: P.L.1984, c.20, s.5)

29

30 11. (New section) Upon a determination by the permit review
31 official that a minor, preliminary, or planned development application
32 to the planning board or zoning board of adjustment is complete, the
33 applicant shall have vested rights for five years against any changes in
34 the procedures, requirements, and standards of all municipal
35 ordinances and under all of the regulatory programs. Despite any
36 change in any programs, procedures, requirements, or standards, the
37 applicant shall have a right to process and obtain approval of
38 applications for development and applications for permitting decisions
39 under all regulatory programs, including all modifications of any such
40 applications, except to the extent such modifications require a remand
41 to the planning board or board of adjustment in accordance with
42 section 33 of P.L., c. (C.) (pending before the Legislature
43 as this bill), in accordance with the rules in effect on the date the
44 application for development is determined complete by the permit
45 review official. The protection granted in this section shall not apply
46 to the federally-related programs where federal law requires that new

1 program standards be applied.

2

3 12. Section 5 of P.L.1985, c.516 (C.40:55D-10.4) is amended to
4 read as follows:

5 5. An applicant shall comply with the provisions of this section
6 whenever the applicant wishes to claim approval of his application for
7 development for minor, preliminary, or planned development approval
8 by reason of the failure of the municipal agency to grant or deny
9 approval within the time period provided in the "Municipal Land Use
10 Law," P.L.1975, c.291 (C.40:55D-1 et seq.) or any supplement
11 thereto.

12 a. The applicant shall provide notice of the default approval to the
13 municipal agency and to all those entitled to notice by personal service
14 or certified mail of the hearing on the application for development; but
15 for purposes of determining who is entitled to notice, the hearing on
16 the application for development shall be deemed to have required
17 public notice pursuant to subsection a. of section 7.1 of P.L.1975,
18 c.291 (C.40:55D-12).

19 b. The applicant shall arrange publication of a notice of the default
20 approval in the official newspaper of the municipality, if there be one,
21 or in a newspaper of general circulation in the municipality.

22 c. The applicant shall file an affidavit of proof of service and
23 publication with the administrative officer[, who in the case of a minor
24 subdivision or final approval of a major subdivision, shall be the officer
25 who issues certificates pursuant to section 35, subsection b. of section
26 38 or subsection c. of section 63 of P.L.1975, c.291 (C.40:55D-47;
27 C.40:55D-50; C.40:55D-76), as the case may be]. Upon the filing of
28 the affidavit by the applicant, the administrative officer shall refund to
29 the applicant in full all application fees paid by the applicant.

30 d. Within two business days of a written request by the applicant,
31 the administrative officer shall send to the applicant and the permit
32 review official a certificate stating that the application for development
33 has been approved.

34 e. Within 10 days of the mailing of the notice or publication of
35 notice of the default approval as provided in this section, whichever
36 occurs later, any interested party may file an appeal from the default
37 approval with the state land use appeal board established under section
38 72 of P.L. _____, c. _____ (C. _____) (pending before the Legislature as
39 this bill).

40 f. The failure of an interested party to file an appeal shall result in
41 final, unconditional, unappealable default approval with regard to the
42 application.

43 (cf: P.L.1985, c.516, s.5)

44

45 13. Section 7.3 of P.L.1975, c.291 (C.40:55D-14) is amended to
46 read as follows:

1 7.3 Any notice made by certified mail pursuant to sections 7.1 and
2 7.2 of [this act] P.L.1975, c.291 (C.40:55D-12 and C.40:55D-13),
3 section 5 of P.L.1985, c.516 (C.40:55D-10.4), and section 36 of
4 P.L. , c. (C.) (pending before the Legislature as this bill) shall be
5 deemed complete upon mailing.
6 (cf: P.L.1975, c.291, s.7.3)

7
8 14. Section 12 of P.L.1975, c.291 (C.40:55D-21) is amended to
9 read as follows:

10 12. In the event that, during the period of approval heretofore or
11 hereafter granted to an application for development, or to a permitting
12 decision under a regulatory program, the developer is barred or
13 prevented, directly or indirectly, from proceeding with the
14 development otherwise permitted under such approval by a legal
15 action instituted by any State agency, political subdivision or other
16 party to protect the public health and welfare or by a directive [or] ,
17 order or regulation issued by any State agency, political subdivision or
18 court of competent jurisdiction to protect the public health or welfare
19 and the developer is otherwise ready, willing and able to proceed with
20 said development, the running of the period of approval under this act
21 or under any act repealed by this act, or under the act or regulations
22 for the permitting program, as the case may be, shall be suspended for
23 the period of time said legal action is pending or such directive or
24 order is in effect, except that the tolling provided in this section shall
25 not apply to the federally-related programs where federal law
26 prescribes the duration and extension of permits.

27 (cf: P.L.1975, c.291, s.12)

28

29 15. Section 13 of P.L.1975, c.291 (C.40:55D-22) is amended to
30 read as follows:

31 13. [a.] In the event that a developer submits an application for
32 development or for a permitting decision under a regulatory program
33 proposing a development that is barred or prevented, directly or
34 indirectly, by a legal action instituted by any State agency, political
35 subdivision or other party to protect the public health and welfare or
36 by a directive or order issued by any State agency, political subdivision
37 or court of competent jurisdiction to protect the public health and
38 welfare, the municipal agency or permit review official, as the case
39 may be, shall process such application [for development] in
40 accordance with this act and [municipal] applicable development
41 regulations, and, if such application [for development] complies with
42 [municipal] the development regulations, the municipal agency or
43 permit review official shall approve such application conditioned on
44 removal of such legal barrier to development.

45 [b. In the event that development proposed by an application for
46 development requires an approval by a governmental agency other

1 than the municipal agency, the municipal agency shall, in appropriate
2 instances, condition its approval upon the subsequent approval of such
3 governmental agency; provided that the municipality shall make a
4 decision on any application for development within the time period
5 provided in this act or within an extension of such period as has been
6 agreed to by the applicant unless the municipal agency is prevented or
7 relieved from so acting by the operation of law.]

8 (cf: P.L.1975, c.291, s.13)

9
10 16. Section 16 of P.L.1975, c.291 (C.40:55D-25) is amended to
11 read as follows:

12 16. a. The planning board shall follow the provisions of this act
13 and shall accordingly exercise its power in regard to:

14 (1) The master plan pursuant to article 3;

15 (2) ~~Subdivision control and site plan review~~ Minor, preliminary,
16 and planned development applications pursuant to article 6;

17 (3) The official map pursuant to article 5;

18 (4) The zoning ordinance including conditional uses pursuant to
19 article 8;

20 (5) The capital improvement program pursuant to article 4;

21 (6) Variances and certain building permits in conjunction with
22 preliminary subdivision[,] and site plan and conditional use approval
23 pursuant to article 7.

24 b. The planning board may:

25 (1) Participate in the preparation and review of programs or plans
26 required by State or federal law or regulation;

27 (2) Assemble data on a continuing basis as part of a continuous
28 planning process; and

29 (3) Perform such other advisory duties as are assigned to it by
30 ordinance or resolution of the governing body for the aid and
31 assistance of the governing body or other agencies or officers.

32 c. (1) In a municipality having a population of 10,000 or less, a
33 nine-member planning board, if so provided by ordinance, shall
34 exercise, to the same extent and subject to the same restrictions, all the
35 powers of a board of adjustment; but the Class I and the Class III
36 members shall not participate in the consideration of applications for
37 development which involve relief pursuant to subsection d. of section
38 57 of P.L.1975, c.291 (C.40:55D-70).

39 (2) In any municipality, a nine-member planning board, if so
40 provided by ordinance, subject to voter referendum, shall exercise, to
41 the same extent and subject to the same restrictions, all the powers of
42 a board of adjustment; but the Class I and the Class III members shall
43 not participate in the consideration of applications for development
44 which involve relief pursuant to subsection d. of section 57 of
45 P.L.1975, c.291 (C.40:55D-70).

46 d. In a municipality having a population of 2,500 or less, the

1 planning board, if so provided by ordinance, shall exercise, to the same
2 extent and subject to the same restrictions, all of the powers of an
3 historic preservation commission, provided that at least one planning
4 board member meets the qualifications of a Class A member of an
5 historic preservation commission and at least one member meets the
6 qualifications of a Class B member of that commission.

7 e. In any municipality in which the planning board exercises the
8 power of a zoning board of adjustment pursuant to subsection c. of
9 this section, a zoning board of adjustment may be appointed pursuant
10 to law, subject to voter referendum permitting reconstitution of the
11 board. The public question shall be initiated through an ordinance
12 adopted by the governing body.

13 (cf: P.L.1996, c.113, s.8)

14

15 17. Section 28 of P.L.1975, c.291 (C.40:55D-37) is amended to
16 read as follows:

17 28. a. The governing body may by ordinance require preliminary
18 approval of subdivision plats by resolution of the planning board and
19 final approval by the permit review official as a condition for the filing
20 of such plats with the county recording officer and preliminary
21 approval of site plans by resolution of the planning board and final
22 approval by the permit review official as a condition for the issuance
23 of a permit for any development, except that subdivision or individual
24 lot applications for detached one or two dwelling-unit buildings shall
25 be exempt from such site plan review and approval; provided that the
26 resolution of the board of adjustment shall substitute for that of the
27 planning board whenever the board of adjustment has preliminary
28 approval jurisdiction over a subdivision or site plan pursuant to
29 subsection 63b. of this act.

30 b. Prior to the hearing on adoption of an ordinance providing for
31 planning board approval of either [subdivisions] preliminary
32 subdivision or site [plans] plan applications or both or any amendment
33 thereto, the governing body shall refer any such proposed ordinance
34 or amendment thereto to the planning board pursuant to subsection
35 17a. of this act.

36 c. [Each application for subdivision approval, where required
37 pursuant to section 5 of P.L.1968, c. 285 (C. 40:27-6.3), and each
38 application for site plan approval, where required pursuant to section
39 8 of P.L.1968, c.285 (C.40:27-6.6) shall be submitted by the applicant
40 to the county planning board for review or approval, as required by
41 the aforesaid sections, and the municipal planning board shall
42 condition any approval that it grants upon timely receipt of a favorable
43 report on the application by the county planning board or approval by
44 the county planning board by its failure to report thereon within the
45 required time period.]

46 The scope of planning board review and action on development

1 applications shall be limited to the following:

2 (1) Upon a determination that a minor, preliminary, or planned
3 development application is in conformance with the zoning ordinance
4 of the municipality, the planning board shall approve the application;

5 (2) The planning board shall act on variances in accordance with
6 the provisions of section 47 of P.L.1975, c.291 (C.40:55D-60);

7 (3) The planning board shall act on conditional use applications in
8 accordance with the provisions of section 54 of P.L.1975, c.291
9 (C.40:55D-67); and

10 (4) The planning board may make recommendations for the
11 consideration of the permit review official in the review of the final
12 application.

13 (cf: P.L.1975, c.291, s.28)

14

15 18. Section 29 of P.L.1975, c.291 (C.40:55D-38) is amended to
16 read as follows:

17 29. Contents of ordinance. An ordinance requiring preliminary
18 approval by the planning board or final approval by the permit review
19 official of either subdivisions or site plans, or both, shall include the
20 following:

21 a. Provisions, not inconsistent with other provisions of this act, for
22 submission and processing of applications for development, including
23 standards for preliminary and final approval and provisions for
24 processing of final approval by stages or sections of development;

25 b. Provisions ensuring:

26 (1) Consistency of the layout or arrangement of the subdivision or
27 land development with the requirements of the zoning ordinance;

28 (2) Streets in the subdivision or land development of sufficient
29 width and suitable grade and suitably located to accommodate
30 prospective traffic and to provide access for firefighting and
31 emergency equipment to buildings and coordinated so as to compose
32 a convenient system consistent with the official map, if any, and the
33 circulation element of the master plan, if any, and so oriented as to
34 permit, consistent with the reasonable utilization of land, the buildings
35 constructed thereon to maximize solar gain; provided that no street of
36 a width greater than 50 feet within the right-of-way lines shall be
37 required unless said street constitutes an extension of an existing street
38 of the greater width, or already has been shown on the master plan at
39 the greater width, or already has been shown in greater width on the
40 official map;

41 (3) Adequate water supply, drainage, shade trees, sewerage
42 facilities and other utilities necessary for essential services to residents
43 and occupants;

44 (4) Suitable size, shape and location for any area reserved for
45 public use pursuant to section 32 of this act;

46 (5) Reservation pursuant to section 31 of this act of any open

1 space to be set aside for use and benefit of the residents of planned
2 development, resulting from the application of standards of density or
3 intensity of land use, contained in the zoning ordinance, pursuant to
4 subsection c. of section 52 of this act;

5 (6) Regulation of land designated as subject to flooding, pursuant
6 to subsection e. of section 52 of this act, to avoid danger to life or
7 property;

8 (7) Protection and conservation of soil from erosion by wind or
9 water or from excavation or grading;

10 (8) Conformity with standards promulgated by the Commissioner
11 of Transportation, pursuant to the "Air Safety and Hazardous Zoning
12 Act of 1983," P.L.1983, c.260 (C.6:1-80 et seq.), for any airport
13 hazard areas delineated under that act;

14 (9) Conformity with a municipal recycling ordinance required
15 pursuant to section 6 of P.L.1987, c.102 (C.13:1E-99.16);

16 (10) Conformity with the State highway access management code
17 adopted by the Commissioner of Transportation under section 3 of the
18 "State Highway Access Management Act," P.L.1989, c.32
19 (C.27:7-91), with respect to any State highways within the
20 municipality;

21 (11) Conformity with any access management code adopted by the
22 county under R.S.27:16-1, with respect to any county roads within the
23 municipality;

24 (12) Conformity with any municipal access management code
25 adopted under R.S.40:67-1, with respect to municipal streets;

26 (13) Protection of potable water supply reservoirs from pollution
27 or other degradation of water quality resulting from the development
28 or other uses of surrounding land areas, which provisions shall be in
29 accordance with any siting, performance, or other standards or
30 guidelines adopted therefor by the Department of Environmental
31 Protection;

32 (14) Conformity with the public safety regulations concerning
33 storm water detention facilities adopted pursuant to section 5 of
34 P.L.1991, c.194 (C.40:55D-95.1) and reflected in storm water
35 management plans and storm water management ordinances adopted
36 pursuant to P.L.1981, c.32 (C.40:55D-93 et al.); and

37 (15) Conformity with the model ordinance promulgated by the
38 Department of Environmental Protection and Department of
39 Community Affairs pursuant to section 2 of P.L.1993, c.81
40 (C.13:1E-99.13a) regarding the inclusion of facilities for the collection
41 or storage of source separated recyclable materials in any new
42 multifamily housing development.

43 c. Provisions governing the standards for grading, improvement
44 and construction of streets or drives and for any required walkways,
45 curbs, gutters, streetlights, shade trees, fire hydrants and water, and
46 drainage and sewerage facilities and other improvements as shall be

1 found necessary, and provisions ensuring that such facilities shall be
2 completed either prior to or subsequent to final approval of the
3 subdivision or site plan by allowing the posting of performance bonds
4 by the developer;

5 d. Provisions ensuring that when a municipal zoning ordinance is
6 in effect, a subdivision or site plan shall conform to the applicable
7 provisions of the zoning ordinance, and where there is no zoning
8 ordinance, appropriate standards shall be specified in an ordinance
9 pursuant to this article; and

10 e. Provisions ensuring performance in substantial accordance with
11 the final development plan; provided that the [planning board] permit
12 review official may permit a deviation from the final plan, if caused by
13 change of conditions beyond the control of the developer since the
14 date of final approval, and the deviation would not substantially alter
15 the character of the development or substantially impair the intent and
16 purpose of the master plan and zoning ordinance.

17 (cf: P.L.1993, c.81, s.1)

18

19 19. Section 29.1 of P.L.1975, c.291 (C.40:55D-39) is amended to
20 read as follows:

21 29.1 An ordinance requiring preliminary approval by the planning
22 board or final approval by the permit review official of either
23 subdivisions or site plans or both may include the following:

24 a. Provisions for off-tract water, sewer, drainage, and street
25 improvements which are necessitated by a subdivision or land
26 development, subject to the provisions of section 30;

27 b. Provisions for standards encouraging and promoting flexibility,
28 and economy in layout and design through the use of planned unit
29 development, planned unit residential development and residential
30 cluster; provided that such standards shall be appropriate to the type
31 of development permitted; and provided further that the ordinance
32 shall set forth the limits and extent of any special provisions applicable
33 to such planned developments, so that the manner in which such
34 special provisions differ from the standards otherwise applicable to
35 subdivisions or site plans can be determined;

36 c. Provisions for planned development:

37 (1) Authorizing the planning board to grant general development
38 plan approval to provide the increased flexibility desirable to promote
39 mutual agreement between the applicant and the planning board on the
40 basic scheme of a planned development and setting forth any variations
41 from the ordinary standards for preliminary and final approval;

42 (2) Requiring that any common open space resulting from the
43 application of standards for density, or intensity of land use, be set
44 aside for the use and benefit of the owners or residents in such
45 development subject to section 31 of this act;

46 (3) Setting forth how the amount and location of any common

1 open space shall be determined and how its improvement and
2 maintenance for common open space use shall be secured subject to
3 section 31 of this act;

4 (4) Authorizing the planning board to allow for a greater
5 concentration of density, or intensity of land use, within a section or
6 sections of development, whether it be earlier, later or simultaneous
7 in the development, than in others;

8 (5) Setting forth any requirement that the approval by the planning
9 board of a greater concentration of density or intensity of land use for
10 any section to be developed be offset by a smaller concentration in any
11 completed prior stage or by an appropriate reservation of common
12 open space on the remaining land by grant of easement or by covenant
13 in favor of the municipality; provided that such reservation shall, as far
14 as practicable, defer the precise location of common open space until
15 an application for final approval is filed, so that flexibility of
16 development can be maintained;

17 (6) Setting forth any requirements for timing of development
18 among the various types of uses and subgroups thereunder and, in the
19 case of planned unit development and planned unit residential
20 development, whether some nonresidential uses are required to be built
21 before, after or at the same time as the residential uses.

22 d. Provisions ensuring in the case of a development which proposes
23 construction over a period of years, the protection of the interests of
24 the public and of the residents, occupants and owners of the proposed
25 development in the total completion of the development.

26 e. Provisions that require as a condition for local municipal
27 approval the submission of proof that no taxes or assessments for local
28 improvements are due or delinquent on the property for which any
29 subdivision, site plan, or planned development application is made.

30 f. Provisions for the creation of a Site Plan Review Advisory Board
31 for the purpose of reviewing all preliminary site plan applications and
32 making recommendations to the planning board in regard thereto.

33 (cf: P.L.1987, c.129, s.2)

34

35 20. Section 29.2 of P.L.1975, c.291 (C.40:55D-40) is amended to
36 read as follows:

37 29.2 An ordinance requiring preliminary subdivision approval by
38 the planning board or final subdivision approval by the permit review
39 official pursuant to this article may also include:

40 a. Provisions for minor subdivision approval pursuant to section 35
41 of this act; and

42 b. Standards encouraging and promoting flexibility, economy and
43 environmental soundness in layout and design in accordance with
44 which the planning board and permit review official may approve the
45 varying, within a conventional subdivision, of lot areas and
46 dimensions, and yards and setbacks otherwise required by municipal

1 development regulations in such a way that the average lot areas and
2 dimensions, yards and setbacks within the subdivision conform to the
3 conventional norms of the municipal development regulations;
4 provided that such standards shall be appropriate to the type of
5 development permitted.

6 (cf: P.L.1975, c.291, s.29.2)

7

8 21. Section 29.3 of P.L.1975, c.291 (C.40:55D-41) is amended to
9 read as follows:

10 29.3 An ordinance requiring preliminary site plan review and
11 approval by the planning board or final site plan review and approval
12 by the permit review official pursuant to this article shall include and
13 shall be limited to, except as provided in sections 29 and 29.1 of this
14 act standards and requirements relating to:

15 a. Preservation of existing natural resources on the site;

16 b. Safe and efficient vehicular and pedestrian circulation, parking
17 and loading;

18 c. Screening, landscaping and location of structures;

19 d. Exterior lighting needed for safety reasons in addition to any
20 requirements for street lighting;

21 e. Conservation of energy and use of renewable energy sources;
22 and

23 f. Recycling of designated recyclable materials.

24 (cf: P.L.1987, c.102, s.28)

25

26 22. Section 30 of P.L.1975, c.291 (C.40:55D-42) is amended to
27 read as follows:

28 30. The governing body may by ordinance adopt regulations
29 requiring a developer, as a condition for final approval of a
30 subdivision or site plan, to pay his pro-rata share of the cost of
31 providing only reasonable and necessary street improvements and
32 water, sewerage and drainage facilities, and easements therefor,
33 located outside the property limits of the subdivision or development
34 but necessitated or required by construction or improvements within
35 such subdivision or development. Such regulations shall be based on
36 circulation and comprehensive utility service plans pursuant to
37 subsections 19b.(4) and 19b.(5) of this act, respectively, and shall
38 establish fair and reasonable standards to determine the proportionate
39 or pro-rata amount of the cost of such facilities that shall be borne by
40 each developer or owner within a related and common area[, which
41 standards shall not be altered subsequent to preliminary approval].

42 The calculation of the developer's pro-rata share as provided in this
43 section shall be the responsibility of the permit review official during
44 review of the application for final approval. Where a developer pays
45 the amount determined as his pro-rata share under protest he shall
46 institute legal action within 1 year of such payment in order to

1 preserve the right to a judicial determination as to the fairness and
2 reasonableness of such amount.

3 (cf: P.L.1975, c.291, s.30)

4

5 23. Section 32 of P.L.1975, c.291 (C.40:55D-44) is amended to
6 read as follows:

7 32. If the master plan or the official map provides for the
8 reservation of designated streets, public drainageways, flood control
9 basins, or public areas within the proposed development, before
10 approving a subdivision or site plan, the [planning board] permit
11 review official may further require that such streets, ways, basins or
12 areas be shown on the plat in locations and sizes suitable to their
13 intended uses. The [planning board] permit review official may
14 reserve the location and extent of such streets, ways, basins or areas
15 shown on the plat for a period of 1 year after the approval of the final
16 plat or within such further time as may be agreed to by the developer.
17 Unless during such period or extension thereof the municipality shall
18 have entered into a contract to purchase or institute condemnation
19 proceedings according to law for the fee or a lesser interest in the land
20 comprising such streets, ways, basins or areas, the developer shall not
21 be bound by such reservations shown on the plat and may proceed to
22 use such land for private use in accordance with applicable
23 development regulations. The provisions of this section shall not
24 apply to the streets and roads, flood control basins or public
25 drainageways necessitated by the subdivision or land development and
26 required for final approval.

27 The developer shall be entitled to just compensation for actual loss
28 found to be caused by such temporary reservation and deprivation of
29 use. In such instance, unless a lesser amount has previously been
30 mutually agreed upon, just compensation shall be deemed to be the fair
31 market value of an option to purchase the land reserved for the period
32 of reservation; provided that determination of such fair market value
33 shall include, but not be limited to, consideration of the real property
34 taxes apportioned to the land reserved and prorated for the period of
35 reservation. The developer shall be compensated for the reasonable
36 increased cost of legal, engineering, or other professional services
37 incurred in connection with obtaining subdivision approval or site plan
38 approval, as the case may be, caused by the reservation. The
39 municipality shall provide by ordinance for a procedure for the
40 payment of all compensation payable under this section.

41 (cf: P.L.1975, c.291, s.32)

42

43 24. Section 3 of P.L.1987, c.129 (C.40:55D-45.1) is amended to
44 read as follows:

45 3. a. The general development plan shall set forth the permitted
46 number of dwelling units, the amount of nonresidential floor space, the

1 residential density, and the nonresidential floor area ratio for the
2 planned development, in its entirety, according to a schedule which
3 sets forth the timing of the various sections of the development.

4 The planned development shall be developed in accordance with the
5 general development plan approved by the planning board
6 notwithstanding any provision of P.L.1975, c.291 (C.40:55D-1 et
7 seq.), or an ordinance or regulation adopted pursuant thereto after the
8 effective date of the approval.

9 b. The information required to be submitted in support of a general
10 development plan application may be shown on a single plan or plans,
11 or may be contained in separate elements or plans, as the applicant
12 chooses, and shall be limited to the following:

13 (1) overall land use at a scale of 1 inch=200 feet, indicating the
14 tract area, general locations of land uses included in the planned
15 development, total number of dwelling units and amount of non-
16 residential floor area to be provided, and general topography at
17 contour line, with five-foot contours shown;

18 (2) circulation, showing the location and types of streets, roads,
19 and other transportation facilities, including connections with existing
20 transportation systems outside the planned development;

21 (3) open space, showing the proposed land area and location of the
22 parks and other land areas to be set aside for conservation, recreation,
23 and open space;

24 (4) utilities, showing the location and source of sewage and water
25 lines, stormwater management, any water tower, sewage pumping
26 stations, or other utility features which will be needed to provide
27 service to the site; and

28 (5) environmental impact, including a general description of the
29 vegetation, soils, wildlife, and cultural resources on the site.

30 c. The term of the effect of the general development plan approval
31 shall be determined by the planning board using the guidelines set forth
32 in subsection [c.] d. of this section, except that the term of the effect
33 of the approval shall not be less than 10 years from general
34 development plan approval nor exceed 20 years from the date upon
35 which the developer receives final approval of the first section of the
36 planned development pursuant to P.L.1975, c.291 (C.40:55D-1 et
37 seq.).

38 [c.] d. In making its determination regarding the duration of the
39 effect of approval of the development plan, the planning board shall
40 consider: the number of dwelling units or amount of nonresidential
41 floor area to be constructed, prevailing economic conditions, the
42 timing schedule to be followed in completing the development and the
43 likelihood of its fulfillment, the developer's capability of completing
44 the proposed development, and the contents of the general
45 development plan [and any conditions which the planning board
46 attaches to the approval thereof].

1 (cf: P.L.1987, c.129, s.3)

2

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

5 5. a. Any developer of a parcel of land greater than 100 acres in
6 size for which the developer is seeking approval of a planned
7 development pursuant to P.L.1975, c.291 (C.40:55D-1 et seq.) may
8 submit a general development plan to the planning board prior to the
9 granting of preliminary approval of that development by the planning
10 board pursuant to section 34 of P.L.1975, c.291 (C.40:55D-46) or
11 section 36 of P.L.1975, c.291 (C.40:55D-48).

12 b. The planning board shall grant or deny general development plan
13 approval within [95] 75 days after [submission of a complete
14 application to the administrative officer, or within such further time as
15 may be consented to by the applicant] the date upon which the
16 application is determined complete by the permit review official.
17 Failure of the planning board to act within the period prescribed shall
18 constitute general development plan approval of the planned
19 development. There shall be no extensions of time for the planning
20 board to act.

21 c. Planning board approval of a general development plan shall be
22 considered planned development approval. The applicant may then file
23 an application with the planning board for preliminary approval for the
24 entire development or for any section or sections thereof.

25 (cf: P.L.1987, c.129, s.5)

26

27 26. Section 7 of P.L.1987, c.129 (C.40:55D-45.5) is amended to
28 read as follows:

29 7. a. Except as provided hereunder, the developer shall be
30 required to gain the prior approval of the planning board if, after
31 approval of the general development plan, the developer wishes to
32 make any variation in the location of land uses within the planned
33 development or to increase the density of residential development or
34 the floor area ratio of nonresidential development in any section of the
35 planned development.

36 b. A developer, without violating the terms of the approval
37 pursuant to this act, may, in undertaking any section of the planned
38 development, reduce the number of residential units or amounts of
39 nonresidential floor space by no more than 15 percent or reduce the
40 residential density or nonresidential floor area ratio by no more than
41 15 percent; provided, however, that a developer may not reduce the
42 number of low or moderate income residential units to be provided
43 pursuant to P.L.1985, c.222 (C.52:27D-301 et al.), or otherwise,
44 without prior municipal approval.

45 c. Any variation in the location of land uses or increase in density
46 or floor area ratio proposed in reaction to a negative decision of, or

1 condition of development approval imposed by, the [Pinelands
2 Commission] permit review official pursuant to P.L.1979, c.111
3 (C.13:18A-1 et seq.) or [the Department of Environmental Protection
4 pursuant to] P.L.1973, c.185 (C.13:19-1 et seq.) shall be approved by
5 the planning board if the developer can demonstrate, to the satisfaction
6 of the planning board, that the variation being proposed is a direct
7 result of such determination by the [Pinelands Commission or the
8 Department of Environmental Protection, as the case may be] permit
9 review official.

10 (cf: P.L.1987, c.129, s.7)

11

12 27. Section 9 of P.L.1987, c.129 (C.40:55D-45.7) is amended to
13 read as follows:

14 9. a. Upon the completion of each section of the development as
15 set forth in the approved general development plan, the developer shall
16 notify the administrative officer, by certified mail, as evidence that the
17 developer is fulfilling his obligations under the approved plan. For the
18 purposes of this section, "completion" of any section of the
19 development shall mean that the developer has acquired a certificate
20 of occupancy for every residential unit or every nonresidential
21 structure, as set forth in the approved general development plan and
22 pursuant to section 15 of P.L.1975, c.217 (C.52:27D-133). If the
23 municipality does not receive such notification at the completion of
24 any section of the development, the municipality shall notify the
25 developer, by certified mail, in order to determine whether or not the
26 terms of the approved plan are being complied with.

27 If [a developer does not complete any section of the development
28 within eight months of the date provided for in the approved plan, or
29 if] at any time the municipality has cause to believe that the developer
30 is not fulfilling his obligations pursuant to the approved plan, the
31 municipality shall notify the developer, by certified mail, and the
32 developer shall have 10 days within which to give evidence that he is
33 fulfilling his obligations pursuant to the approved plan. The
34 municipality thereafter shall conduct a hearing to determine whether
35 or not the developer is in violation of the approved plan. If, after such
36 a hearing, the municipality finds good cause to terminate the approval,
37 it shall provide written notice of same to the developer and the
38 approval shall be terminated 30 days thereafter.

39 b. In the event that a developer who has general development plan
40 approval does not apply for preliminary approval for any section or
41 sections of the planned development which is the subject of that
42 general development plan approval within [five] ten years of the date
43 upon which the general development plan has been approved by the
44 planning board, the municipality shall have cause to terminate the
45 approval.

46 (cf: P.L.1987, c.129, s.9)

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

3 34. a. An ordinance requiring site plan review and approval shall
4 require that the developer submit to the administrative officer and to
5 the permit review official a site plan and such other information not to
6 exceed that specified in subsection b. of this section as is reasonably
7 necessary to make an informed decision as to whether the
8 requirements necessary for preliminary site plan approval have been
9 met. The site plan and any [engineering] other documents to be
10 submitted shall be required in tentative form for discussion purposes
11 for preliminary approval. [If any architectural plans are required to be
12 submitted for site plan approval, the preliminary plans and elevations
13 shall be sufficient.]

14 b. The information required to be submitted in support of a
15 preliminary site plan application shall be limited to the following:

16 (1) a narrative describing the proposed development and how it
17 conforms with the municipal zoning ordinance and master plan;

18 (2) a location map, showing the site in relationship to other land
19 uses within one mile;

20 (3) a specific development map, at the scale of 1 inch=100 feet,
21 which shall show:

22 (a) topographic information with 5 foot contours;

23 (b) the location of proposed buildings and structures in sufficient
24 detail to demonstrate the conformance of the proposed application to
25 the zoning ordinance and the master plan;

26 (c) the number and type of dwelling units and the square footage
27 of non-residential structures, and their conformance with use, density
28 and bulk standards;

29 (d) the location of the streets and circulation layout and of parking
30 areas;

31 (e) the location of drainage basins;

32 (f) the location of water and sewer facilities;

33 (g) the areas of open space and recreational lands and facilities;

34 (h) the location and description of site constraints, including
35 wetlands, and flood plain information; and

36 (i) property boundaries based on deed information or survey, at the
37 applicant's option; and

38 (4) any variances requested by the applicant.

39 [b.]c. If the planning board requires any substantial amendment in
40 the layout of improvements proposed by the developer that have been
41 the subject of a hearing, an amended application for development shall
42 be submitted and proceeded upon, as in the case of the original
43 application for development. The submission of an amended
44 application shall not extend the time period for preliminary approval
45 provided in subsection d. of this section. The planning board shall, if
46 the proposed development complies with the ordinance and this act,

1 grant preliminary site plan approval.

2 [c.]d. Upon the submission to the administrative officer of a
3 completed application for a site plan which involves 10 acres of land
4 or less, and 10 dwelling units or less the planning board shall grant or
5 deny preliminary approval within 45 days of the date [of such
6 submission or within such further time as may be consented to by the
7 developer] the application is determined complete by the permit
8 review official. Upon the submission of a completed application for
9 a site plan which involves more than 10 acres, or more than 10
10 dwelling units, the planning board shall grant or deny preliminary
11 approval within [95] 60 days of the date [of such submission or within
12 such further time as may be consented to by the developer] the
13 application is determined complete by the permit review official.
14 Otherwise, the planning board shall be deemed to have granted
15 preliminary approval of the site plan. There shall be no extensions of
16 time for the planning board to act.

17 e. Planning board approval of a preliminary site plan application
18 shall be considered preliminary approval. The applicant may then file
19 an application with the permit review official for final approval. The
20 preliminary approval shall be the basis for the permit review official's
21 review of the final application. The applicant may file a final
22 application for the entire development or for any section or sections
23 thereof.

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

25

26 29. Section 14 of P.L. 1979, c.216 (C.40:55D-46.1) is amended to
27 read as follows:

28 14. An ordinance requiring, pursuant to section 7.1 of P.L.1975,
29 c.291 (C.40:55D-12), notice of hearings on applications for
30 development for conventional site plans, may authorize the planning
31 board to waive notice and public hearing for an application for
32 development, if the planning board or site plan subcommittee of the
33 board appointed by the chairman finds that the application for
34 development conforms to the definition of "minor site plan." Minor
35 site plan approval shall be deemed to be final approval of the site plan
36 by the board, provided that the board or said subcommittee may
37 condition such approval on terms ensuring the provision of
38 improvements pursuant to sections 29, 29.1, 29.3 and 41 of P.L.1975,
39 c.291 (C.40:55D-38, 40:55D-39, 40:55D-41 and 40:55D-53).

40 a. Minor site plan approval shall be granted or denied within 45
41 days of the date [of submission of a complete application to the
42 administrative officer, or within such further time as may be consented
43 to by the applicant] the application is determined complete by the
44 permit review official. Failure of the planning board to act within the
45 period prescribed shall constitute minor site plan approval. There shall
46 be no extensions of time for the planning board to act.

1 b. [Whenever review or approval of the application by the county
2 planning board is required by section 8 of P.L.1968, c.285
3 (C.40:27-6.6), the municipal planning board shall condition any
4 approval that it grants upon timely receipt of a favorable report on the
5 application by the county planning board or approval by the county
6 planning board by its failure to report thereon within the required time
7 period.]

8 Planning board approval of a minor application shall be considered
9 preliminary approval. The applicant may then file an application with
10 the permit review official for final approval. The preliminary approval
11 shall be the basis for the permit review official's review of the final
12 application.

13 c. The zoning requirements and general terms and conditions[,
14 whether conditional or otherwise,] upon which minor site plan
15 approval was granted, shall not be changed for a period of [two] five
16 years after the date of minor site plan approval. The planning board
17 shall grant an extension of this period for a period determined by the
18 board but not exceeding one year from what would otherwise be the
19 expiration date, if the developer proves to the reasonable satisfaction
20 of the board that the developer was barred or prevented, directly or
21 indirectly, from proceeding with the development because of delays in
22 obtaining legally required approvals from other governmental entities
23 and that the developer applied promptly for and diligently pursued the
24 approvals. A developer shall apply for this extension before: (1) what
25 would otherwise be the expiration date, or (2) the 91st day after the
26 date on which the developer receives the last of the legally required
27 approvals from the other governmental entities, whichever occurs
28 later.

29 (cf: P.L.1991, c.256, s.8)

30

31 30. Section 35 of P.L.1975, c.291 (C.40:55D-47) is amended to
32 read as follows:

33 35. a. Minor subdivision. An ordinance requiring preliminary
34 approval of subdivisions by the planning board may authorize the
35 planning board to waive notice and public hearing for an application
36 for development if the planning board or subdivision committee of the
37 board appointed by the chairman find that the application for
38 development conforms to the definition of "minor subdivision" in
39 section 3.2 of P.L.1975, c.291 (C.40:55D-5). Minor subdivision
40 approval shall be deemed to be [final] preliminary approval of the
41 subdivision by the board[; provided that the board or said
42 subcommittee may condition such approval on terms ensuring the
43 provision of improvements pursuant to sections 29, 29.1, 29.2 and 41
44 of P.L.1975, c.291 (C.40:55D-38, C.40:55D-39, C.40:55D-40, and
45 C.40:55D-53)]. The applicant may then file an application with the
46 permit review official for final approval.

1 b. Minor subdivision approval shall be granted or denied within 45
2 days of the date [of submission of a complete application to the
3 administrative officer, or within such further time as may be consented
4 to by the applicant] upon which the application is determined complete
5 by the permit review official. Failure of the planning board to act
6 within the period prescribed shall constitute minor subdivision
7 approval and a certificate of the administrative officer as to the failure
8 of the planning board to act shall be issued on request of the applicant;
9 and it shall be sufficient in lieu of the written endorsement or other
10 evidence of approval, herein required, and shall be so accepted by the
11 county recording officer for purposes of filing subdivision plats. There
12 shall be no extensions of time for the planning board to act.

13 c. [Whenever review or approval of the application by the county
14 planning board is required by section 5 of P.L.1968, c.285
15 (C.40:27-6.3), the municipal planning board shall condition any
16 approval that it grants upon timely receipt of a favorable report on the
17 application by the county planning board or approval by the county
18 planning board by its failure to report thereon within the required time
19 period.

20 d.] Except as provided in subsection [f.] e. of this section,
21 approval of a minor subdivision shall expire 190 days from the date on
22 which the [resolution of municipal approval is adopted] permit review
23 official grants final approval unless within such period a plat in
24 conformity with such approval and the provisions of the "Map Filing
25 Law," P.L.1960, c.141 (C.46:23-9.9 et seq.), or a deed clearly
26 describing the approved minor subdivision is filed by the developer
27 with the county recording officer, the municipal engineer and the
28 municipal tax assessor. Any such plat or deed accepted for such filing
29 shall have been signed by the [chairman and secretary of the planning
30 board] permit review official. In reviewing the application for
31 development for a proposed minor subdivision the planning board may
32 be permitted by ordinance to accept a plat not in conformity with the
33 "Map Filing Law," P.L.1960, c.141 (C.46:23-9.9 et seq.); provided
34 that if the developer chooses to file the minor subdivision as provided
35 herein by plat rather than deed such plat shall conform with the
36 provisions of said act.

37 [e.] d. The zoning requirements and general terms and conditions,
38 [whether conditional or otherwise,] upon which minor subdivision
39 approval was granted, shall not be changed for a period of [two] five
40 years after the date on which the resolution of minor subdivision
41 approval is adopted[; provided that the approved minor subdivision
42 shall have been duly recorded as provided in this section].

43 [f.] e. The [planning board may] permit review official shall extend
44 the 190-day period for filing a minor subdivision plat or deed pursuant
45 to subsection [d.] c. of this section if the developer proves to the
46 reasonable satisfaction of the [planning board] permit review official

1 (1) that the developer was barred or prevented, directly or indirectly,
2 from filing because of delays in obtaining legally required approvals
3 from other governmental or quasi-governmental entities and (2) that
4 the developer applied promptly for and diligently pursued the required
5 approvals. The length of the extension shall be equal to the period of
6 delay caused by the wait for the required approvals, as determined by
7 the [planning board] permit review official. The developer may apply
8 for the extension either before or after what would otherwise be the
9 expiration date.

10 [g.] f. The planning board shall grant an extension of preliminary
11 minor subdivision approval for a period determined by the board but
12 not exceeding one year from what would otherwise be the expiration
13 date, if the developer proves to the reasonable satisfaction of the board
14 that the developer was barred or prevented, directly or indirectly, from
15 proceeding with the development because of delays in obtaining legally
16 required approvals from other governmental entities and that the
17 developer applied promptly for and diligently pursued the required
18 approvals. A developer shall apply for the extension before (1) what
19 would otherwise be the expiration date of preliminary minor
20 subdivision approval or (2) the 91st day after the developer receives
21 the last legally required approval from [other governmental entities]
22 the permit review official, whichever occurs later.
23 (cf: P.L.1991, c.256, s.9)
24

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

27 36. a. An ordinance requiring preliminary subdivision approval by
28 the planning board shall require that the developer submit to the
29 administrative officer and the permit review official a plat and such
30 other information not to exceed that specified in subsection b. of this
31 section as is reasonably necessary to make an informed decision as to
32 whether the requirements necessary for preliminary approval have been
33 met; provided that minor subdivisions pursuant to section 35 of this
34 act shall not be subject to this section. The plat and any other
35 [engineering] documents to be submitted shall be required in tentative
36 form for discussion purposes for preliminary approval.

37 b. The information required to be submitted in support of a
38 preliminary subdivision application shall be limited to the following:

39 (1) a narrative describing the proposed development and how it
40 conforms with the municipal zoning ordinance and master plan;

41 (2) a location map, showing the site in relationship to other land
42 uses within one mile;

43 (3) a specific development map, at the scale of 1 inch=100 feet,
44 which shall show:

45 (a) topographic information with 5 foot contours;

46 (b) the location of proposed buildings and structures in sufficient

- 1 detail to demonstrate the conformance of the proposed application to
2 the zoning ordinance and the master plan;
- 3 (c) the number and type of dwelling units and the square footage
4 of non-residential structures, and their conformance with use, density
5 and bulk standards;
- 6 (d) the location of the streets and circulation layout and of parking
7 areas;
- 8 (e) the location of drainage basins;
- 9 (f) the location of water and sewer facilities;
- 10 (g) the areas of open space and recreational lands and facilities;
- 11 (h) the location and description of site constraints, including
12 wetlands, and flood plain information; and
- 13 (i) property boundaries based on deed information or survey, at the
14 applicant's option; and
- 15 (4) any variances requested by the applicant.
- 16 c. If the planning board required any substantial amendment in the
17 layout of improvements proposed by the developer that have been the
18 subject of a hearing, an amended application shall be submitted and
19 proceeded upon, as in the case of the original application for
20 development. The submission of an amended application shall not
21 extend the time period for preliminary approval provided for in
22 subsection d. of this section. The planning board shall, if the proposed
23 subdivision complies with the ordinance and this act, grant preliminary
24 approval to the subdivision.
- 25 [c.] d. Upon the submission to the administrative officer of a
26 complete application for a subdivision of 10 or fewer lots, the planning
27 board shall grant or deny preliminary approval within 45 days of the
28 date [of such submission or within such further time as may be
29 consented to by the developer] upon which the application is
30 determined complete by the permit review official. Upon the
31 submission of a complete application for a subdivision of more than
32 10 lots, the planning board shall grant or deny preliminary approval
33 within [95] 60 days of the date [of such submission or within such
34 further time as may be consented to by the developer] upon which the
35 application is determined complete by the permit review official.
36 Otherwise, the planning board shall be deemed to have granted
37 preliminary approval to the subdivision. There shall be no extensions
38 of time for the planning board to act.
- 39 e. Planning board approval of a preliminary subdivision application
40 shall be considered preliminary approval. The applicant may then file
41 an application with the permit review official for final approval. The
42 preliminary approval shall be the basis for the permit review official's
43 review of the final application. The applicant may file a final
44 application for the entire development or for any section or sections
45 thereof.
- 46 (cf: P.L.1984, c.20, s.9)

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

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

10 a. ~~[That the general terms and conditions on which]~~ The
11 preliminary approval [was granted shall not be changed,] shall be
12 exempt from any change in any regulatory program under which the
13 preliminary approval was granted, including the requirements of any
14 newly adopted or enacted programs, including but not limited to use
15 requirements; layout and design standards for streets, curbs and
16 sidewalks; lot size; yard dimensions and off-tract improvements; and,
17 in the case of a site plan, any requirements peculiar to site plan
18 approval pursuant to section 29.3 of P.L.1975, c.291 (C.40:55D-41);
19 except that [nothing herein shall be construed to prevent the
20 municipality from modifying by ordinance such general terms and
21 conditions of preliminary approval as relate to public health and
22 safety] ~~the protection granted in this subsection shall not apply to~~
23 those federally-related programs where federal law requires that new
24 program standards be applied;

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

29 c. That the applicant may apply for and the planning board may
30 grant extensions on such preliminary approval for additional periods
31 of at least one year but not to exceed a total extension of two years [,
32 provided that if the design standards have been revised by ordinance,
33 such revised standards may govern.] ;

34 d. Approval and vesting periods specified in this section shall be
35 automatically extended without any application to the planning board
36 or zoning board of adjustment, if any municipal, county, state,
37 regional, or utility moratorium or prohibition on development or
38 construction, or similar delay resulting from a judicial or administrative
39 order would prevent the applicant or owner from obtaining any
40 necessary permitting decision or utility service, or from proceeding
41 with construction of improvements or buildings. The tolling of
42 approval periods and vested rights provided in this section shall extend
43 for the period of any such moratorium or prohibition;

44 e. In the case of a subdivision of or site plan for an area of 50 acres
45 or more, the planning board may grant the rights referred to in
46 subsections a., b., and c. of this section for such period of time, longer

1 than ~~[three]~~ five years, as shall be determined by the planning board to
2 be reasonable taking into consideration (1) the number of dwelling
3 units and nonresidential floor area permissible under preliminary
4 approval, (2) economic conditions, and (3) the comprehensiveness of
5 the development. The applicant may apply for thereafter and the
6 planning board may thereafter grant an extension to preliminary
7 approval for such additional period of time as shall be determined by
8 the planning board to be reasonable taking into consideration (1) the
9 number of dwelling units and nonresidential floor area permissible
10 under preliminary approval, and (2) the potential number of dwelling
11 units and nonresidential floor area of the section or sections awaiting
12 final approval, (3) economic conditions and (4) the comprehensiveness
13 of the development~~];~~ provided that if the design standards have been
14 revised, such revised standards may govern.] :

15 [e.] f. Whenever the planning board grants an extension of
16 preliminary approval pursuant to subsection c. or ~~[d.]~~ e. of this section
17 and preliminary approval has expired before the date on which the
18 extension is granted, the extension shall begin on what would
19 otherwise be the expiration date. The developer may apply for the
20 extension either before or after what would otherwise be the
21 expiration date~~].~~ ; and

22 [f.] g. The planning board shall grant an extension of preliminary
23 approval for a period determined by the board but not exceeding one
24 year from what would otherwise be the expiration date, if the
25 developer proves to the reasonable satisfaction of the board that the
26 developer was barred or prevented, directly or indirectly, from
27 proceeding with the development because of delays in obtaining legally
28 required approvals from other governmental entities and that the
29 developer applied promptly for and diligently pursued the required
30 approvals. A developer shall apply for the extension before (1) what
31 would otherwise be the expiration date of preliminary approval or (2)
32 the 91st day after the developer receives the last legally required
33 approval from ~~[other governmental entities]~~ the permit review official,
34 whichever occurs later. An extension granted pursuant to this
35 subsection shall not preclude the planning board from granting an
36 extension pursuant to subsection c. or ~~[d.]~~ e. of this section.

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

38

39 33. (New section) a. The permit review official may approve a
40 final application or an application for a permitting decision under a
41 regulatory program that differs from the preliminary approval.
42 However, if the permit review official determines that the application
43 for final approval or an application for a permitting decision requires
44 a change to one of the items listed in subsection b. of this section from
45 the preliminary approval, the permit review official shall remand the
46 application to the planning board or to the zoning board of adjustment

1 if the board of adjustment granted preliminary approval in accordance
2 with section 63 of P.L.1975, c.291 (C.40:55D-76).

3 b. The permit review official shall remand to the planning board
4 or zoning board of adjustment the following modifications:

5 (1) increase in approved number of dwelling units;

6 (2) change in building type that significantly affects the scope of
7 the development;

8 (3) increase in square footage of non-residential development;

9 (4) decrease in approved number of low or moderate income
10 housing units to be provided pursuant to P.L.1985, c.222 (C.52:27D-
11 301 et al.) or otherwise;

12 (5) change from conventional development to planned development
13 or vice versa; or

14 (6) need for variances not previously approved by the planning
15 board.

16 c. In the event that the permit review official determines that an
17 application requires remand to the planning board, the applicant shall
18 be so advised within two business days of such determination. The
19 applicant shall have such time as necessary to determine (1) how to
20 modify the application to eliminate the need for remand, in which case
21 the application shall remain with the permit review official; or (2)
22 whether to seek amended preliminary approval from the planning
23 board or zoning board of adjustment.

24 d. In the event that the application is remanded to the planning
25 board for its review, the applicant shall prepare engineering or
26 planning text and documents, as the case may be, to support the
27 revised application.

28 e. Upon remand of an application to the planning board or zoning
29 board of adjustment, the board's scope of review shall be limited to the
30 specific item under remand.

31 f. The board shall schedule a hearing and render a decision on the
32 amended application within 45 days following receipt of the amended
33 application. There shall be no extensions of time for the board to act.
34 The board decision shall be memorialized by resolution.

35 g. Upon the board's initial vote to approve the remanded
36 application, the permit review official shall resume review of the
37 application. The time for action by the permit review official shall be
38 tolled during the period of any remand to the planning board or zoning
39 board of adjustment.

40

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

43 38. a. The [planning board] permit review official shall grant final
44 approval if the detailed drawings, specifications and estimates of the
45 application for final approval conform to the standards established by
46 ordinance for final approval[, the conditions of preliminary approval]

1 and, in the case of a major subdivision, the standards prescribed by
2 the "Map Filing Law," P.L.1960, c.141 (C.46:23-9.9 et seq.);
3 provided that in the case of a planned unit development, planned unit
4 residential development or residential cluster, the [planning board]
5 permit review official may permit minimal deviations from the
6 [conditions of] preliminary approval necessitated by change of
7 conditions beyond the control of the developer since the date of
8 preliminary approval without the developer being required to submit
9 another application for development for preliminary approval.

10 b. [Final approval shall be granted or denied within 45 days after
11 submission of a complete application to the administrative officer, or
12 within such further time as may be consented to by the applicant.] The
13 permit review official shall grant or deny final approval, or issue a
14 draft decision of approval, no later than 90 days after the date the
15 permit review official determines that the application is complete. If
16 the permit review official issues a draft decision, the applicant shall
17 have the opportunity to respond to the issues indicated by the draft
18 decision. Upon receipt of the applicant's response to all issues raised
19 by the draft decision, the permit review official shall grant or deny final
20 approval within 30 days. There shall be no extensions of time for the
21 permit review official to act. Failure of the [planning board] permit
22 review official to act within the [period] periods prescribed shall
23 constitute final approval and a certificate of the administrative officer
24 as to the failure of the [planning board] permit review official to act
25 shall be issued on request of the applicant, and it shall be sufficient in
26 lieu of the written endorsement or other evidence of approval, herein
27 required, and shall be so accepted by the county recording officer for
28 purposes of filing subdivision plats.

29 [Whenever review or approval of the application by the county
30 planning board is required by section 5 of P.L.1968, c.285
31 (C.40:27-6.3), in the case of a subdivision, or section 8 of P.L.1968,
32 c.285 (C.40:27-6.6), in the case of a site plan, the municipal planning
33 board shall condition any approval that it grants upon timely receipt of
34 a favorable report on the application by the county planning board or
35 approval by the county planning board by its failure to report thereon
36 within the required time period.]

37 (cf: P.L.1975, c.291, s.38)

38
39 35. Section 39 of P.L.1975, c.291 (C.40:55D-51) is amended to
40 read as follows:

41 39. a. The planning board when acting upon applications for
42 preliminary or minor subdivision approval shall have the power to
43 grant such exceptions from the requirements for subdivision approval
44 as may be reasonable and within the general purpose and intent of the
45 provisions for subdivision review and approval of an ordinance
46 adopted pursuant to this article, if the literal enforcement of one or

1 more provisions of the ordinance is impracticable or will exact undue
2 hardship because of peculiar conditions pertaining to the land in
3 question.

4 b. The planning board when acting upon applications for
5 preliminary or minor site plan approval shall have the power to grant
6 such exceptions from the requirements for site plan approval as may
7 be reasonable and within the general purpose and intent of the
8 provisions for site plan review and approval of an ordinance adopted
9 pursuant to this article, if the literal enforcement of one or more
10 provisions of the ordinance is impracticable or will exact undue
11 hardship because of peculiar conditions pertaining to the land in
12 question.

13 c. The planning board shall have the power to review and approve
14 or deny conditional uses or preliminary site plans simultaneously with
15 review for preliminary subdivision approval without the developer
16 being required to make further application to the planning board, or
17 the planning board being required to hold further hearings. The
18 longest time period for action by the planning board, whether it be for
19 subdivision, conditional use or site plan approval, shall apply.
20 Whenever approval of a conditional use is requested by the developer
21 pursuant to this subsection, notice of the hearing on the plat shall
22 include reference to the request for such conditional use.

23 (cf: P.L.1975, c.291, s.39)

24

25 36. (New section) a. The permit review official shall grant all
26 applications for permitting decisions under the regulatory programs,
27 with the exception of the federally-related programs, if the detailed
28 drawings, applications, and specifications for the permitting decision
29 conform to the standards established by ordinance, rule or regulation
30 for the regulatory program.

31 b. The permit review official shall grant or deny the permitting
32 decision under the regulatory program, or issue the certification
33 required by subsection e. of section 59 of P.L. , c. (C.)
34 (pending before the Legislature as this bill) for the federally-related
35 programs, or issue a draft decision of approval, no later than 90 days
36 after the date the permit review official determines that the application
37 is complete. If the permit review official issues a draft decision, the
38 applicant shall have the opportunity to respond to the issues indicated
39 by the draft decision. Upon receipt of the applicant's response to all
40 issues raised by the draft decision, the permit review official shall grant
41 or deny the permitting decision within 30 days. There shall be no
42 extensions of time for the permit review official to act. Failure of the
43 permit review official to act within the periods prescribed shall
44 constitute approval of the permitting decision, subject to the procedure
45 set forth in subsection c. of this section, with the exception of
46 permitting decisions under the federally-related programs.

1 c. An applicant shall comply with the provisions of this subsection
2 whenever the applicant wishes to claim approval of an application for
3 a permitting decision under a regulatory program, with the exception
4 of the federally-related programs, by reason of the failure of the permit
5 review official to grant or deny approval as required by subsection b.
6 of this section.

7 (1) The applicant shall notify by personal service or certified mail
8 (a) the agency with jurisdiction over the regulatory program for which
9 the applicant asserts default approval, and (b) the municipality, that the
10 applicant asserts a default approval due to the failure of the permit
11 review official to act within the period prescribed.

12 (2) The applicant shall file an affidavit of proof of service with the
13 permit review official. Upon the applicant filing the affidavit, the
14 permit review official shall refund to the applicant in full all application
15 fees paid by the applicant for the permitting decision.

16 (3) Within two business days of written request by the applicant,
17 the permit review official shall send to the applicant a certificate
18 stating that the application has been approved.

19 (4) Within 20 days of the mailing of the notice, the relevant agency
20 or the municipality may file an appeal from the default approval with
21 the county land use review board established under section 65 of
22 P.L. , c. (C.) (pending before the Legislature as this bill).

23 (5) The failure of the agency or municipality to file an appeal shall
24 result in final, unconditional, unappealable default approval with
25 regard to the application or permitting decision.

26
27 37. (New section) The permit review official shall issue other
28 permits and certificates as follows:

29 a. Within 10 days after the permit review official approves the last
30 permit or approval necessary for the development to proceed, the
31 permit review official shall issue a master permit for the development.

32 b. Within 10 days of written request by the applicant or owner,
33 the permit review official shall issue an interim compliance report for
34 the development.

35
36 38. Section 40 of P.L.1975, c.291 (C.40:55D-52) is amended to
37 read as follows:

38 40. a. The zoning requirements applicable to the preliminary
39 approval first granted and all other rights conferred upon the
40 developer pursuant to section 37 of P.L.1975, c.291 (C.40:55D-49),
41 [whether conditionally or otherwise,] shall not be changed for a period
42 of [two] five years after the date on which [the resolution of] final
43 approval is [adopted] granted; provided that in the case of a major
44 subdivision the rights conferred by this section shall expire if the plat
45 has not been duly recorded within the time period provided in section
46 42 of P.L.1975, c.291 (C.40:55D-54). If the developer has followed

1 the standards prescribed for final approval, and, in the case of a
2 subdivision, has duly recorded the plat as required in section 42 of
3 P.L.1975, c.291 (C.40:55D-54), the [planning board] permit review
4 official may extend such period of protection for [extensions of one
5 year but not to exceed three extensions] an additional five years.
6 Notwithstanding any other provisions of this act, the granting of final
7 approval terminates the time period of preliminary approval pursuant
8 to section 37 of P.L.1975, c.291 (C.40:55D-49) for the section
9 granted final approval. The developer shall be protected against any
10 changes in any regulatory program under which the final approval was
11 granted, including the requirements of any newly adopted or enacted
12 programs, except that the protection granted in this subsection shall
13 not apply to the federally-related programs where federal law
14 prescribes the duration of permits or requires that new program
15 standards be applied.

16 b. Upon commencement of any construction of site improvements
17 or structures, the final approval shall remain valid and be protected
18 against subsequent changes in the municipal ordinances. The
19 developer is likewise protected against any changes in any regulatory
20 program under which the final approval was granted, including the
21 requirements of any newly adopted or enacted programs, except the
22 protection granted in this subsection shall not apply to the federally-
23 related programs where federal law requires that new program
24 standards be applied.

25 c. Approval and vesting periods specified in this section shall be
26 automatically extended without any application to the permit review
27 official, if any municipal, county, state, regional, or utility moratorium
28 or prohibition on development or construction, or similar delay
29 resulting from a judicial or administrative order, would prevent the
30 applicant or owner from obtaining any necessary permitting decision
31 or utility service, or from proceeding with construction of
32 improvements or buildings. The tolling of approval periods and vested
33 rights provided in this section shall extend for the period of any such
34 moratorium or prohibition.

35 d. In the case of a subdivision or site plan for a planned
36 development of 50 acres or more, conventional subdivision or site plan
37 for 150 acres or more, or site plan for development of a nonresidential
38 floor area of 200,000 square feet or more, the [planning board] permit
39 review official may grant the rights referred to in subsection a. of this
40 section for such period of time, longer than [two] five years, as shall
41 be determined by the [planning board] permit review official to be
42 reasonable taking into consideration (1) the number of dwelling units
43 and nonresidential floor area permissible under final approval, (2)
44 economic conditions and (3) the comprehensiveness of the
45 development. The developer may apply for thereafter, and the
46 [planning board] permit review official may thereafter grant, an

1 extension of final approval for such additional period of time as shall
2 be determined by the [planning board] permit review official to be
3 reasonable taking into consideration (1) the number of dwelling units
4 and nonresidential floor area permissible under final approval, (2) the
5 number of dwelling units and nonresidential floor area remaining to be
6 developed, (3) economic conditions and (4) the comprehensiveness of
7 the development.

8 [c.] e. Whenever the [planning board] permit review official grants
9 an extension of final approval pursuant to subsection a. or [b.] d. of
10 this section and final approval has expired before the date on which the
11 extension is granted, the extension shall begin on what would
12 otherwise be the expiration date. The developer may apply for the
13 extension either before or after what would otherwise be the
14 expiration date.

15 [d.] f. The [planning board] permit review official shall grant an
16 extension of final approval for a period determined by the [board]
17 official but not exceeding one year from what would otherwise be the
18 expiration date, if the developer proves to the reasonable satisfaction
19 of the [board] official that the developer was barred or prevented,
20 directly or indirectly, from proceeding with the development because
21 of delays in obtaining legally required approvals from other
22 governmental entities and that the developer applied promptly for and
23 diligently pursued these approvals. A developer shall apply for the
24 extension before (1) what would otherwise be the expiration date of
25 final approval or (2) the 91st day after the developer receives the last
26 legally required approval from [other governmental entities] the permit
27 review official, whichever occurs later. An extension granted pursuant
28 to this subsection shall not preclude the planning board from granting
29 an extension pursuant to subsection a. or [b.] d. of this section.

30 (cf: P.L.1991, c.256, s.11)

31
32 39. (New section) a. Should the applicant seek an approval for a
33 permitting decision under a regulatory program independent of a
34 preliminary or final approval, upon certification of completeness of the
35 application by the permit review official, the applicant shall have
36 vested rights against all changes in all procedures and standards of the
37 regulatory program for five years from the date of certification of
38 completeness. Upon approval by the permit review official of the
39 permitting decision, the applicant shall have vested rights in the
40 approval for five years from the date of approval. No change in any
41 program, rule or regulation under which such approval was granted
42 and no newly adopted program, rule or regulation shall affect the
43 approval or the development. The land use review officer may extend
44 such period of protection for an additional five years.

45 b. Upon commencement of any construction of site improvements
46 or structures, the approval shall remain valid and be protected against

1 subsequent changes in the regulatory program standards.

2 c. The vesting periods specified in this section shall be
3 automatically extended without any application to the permit review
4 official, if any municipal, county, state, regional, or utility moratorium
5 or prohibition on development or construction, or similar delay
6 resulting from a judicial or administrative order, would prevent the
7 applicant or owner from obtaining any necessary permitting decision
8 or utility service, or from proceeding with construction of
9 improvements or buildings. The tolling of vested rights provided in
10 this section shall extend for the period of any such moratorium or
11 prohibition.

12 d. If the permit review official approves some permitting decisions
13 and denies others, the rights granted in section 40 of P.L.1975, c.291
14 (C.40:55D-52) and in this section shall remain valid for the final
15 approval and for all approved permitting decisions. The applicant shall
16 have the right to reapply for approval of any permitting decisions that
17 were denied. Existing approvals shall not be altered unless absolutely
18 necessary for approval of revised submissions.

19 e. The protections granted in this section shall not apply to the
20 federally-related programs where federal law prescribes the duration
21 of permits or requires that new program standards be applied.

22
23 40. (New section) Upon the receipt of final approval, but prior to
24 filing a map in accordance with the "Map Filing Law," P.L.1960, c.141
25 (C.46:23-9.9 et seq.), and prior to the issuance of a construction
26 permit, the applicant may install infrastructure improvements shown
27 on approved plans without the posting of a performance guarantee as
28 required in section 41 of P.L.1975, c.291 (C.40:55D-53), provided
29 that the applicant posts the necessary inspection escrow as required by
30 subsection h. of section 41 of P.L.1975, c.291 (C.40:55D-53).

31
32 41. Section 3 of P.L.1995, c.54 (C.40:55D-53.2a) is amended to
33 read as follows:

34 3. a. An applicant shall notify in writing the governing body with
35 copies to the chief financial officer, the approving authority and the
36 professional whenever the applicant disputes the charges made by a
37 professional, including the permit review official, for service rendered
38 to the municipality in reviewing applications for development, review
39 and preparation of documents, inspection of improvements, or other
40 charges made pursuant to the provisions of P.L.1975, c.291
41 (C.40:55D-1 et seq.). The governing body, or its designee, shall within
42 a reasonable time period attempt to remediate any disputed charges.
43 If the matter is not resolved to the satisfaction of the applicant, the
44 applicant may appeal to the county [construction board of appeals
45 established under section 9 of P.L.1975, c.217 (C.52:27D-127)] land
46 use review board established under section 65 of P.L. , c. (C.)

1 (pending before the Legislature as this bill) any charge to an escrow
2 account or a deposit by any municipal professional or consultant, or
3 the cost of the installation of improvements estimated by the municipal
4 engineer pursuant to section 15 of P.L.1991, c.256 (C.40:55D-53.4).
5 An applicant or his authorized agent shall submit the appeal in writing
6 to the county [construction board of appeals] land use review board.
7 The applicant or his authorized agent shall simultaneously send a copy
8 of the appeal to the municipality, approving authority, and any
9 professional whose charge is the subject of the appeal. An applicant
10 shall file an appeal within 45 days from receipt of the informational
11 copy of the professional's voucher required by subsection c. of section
12 13 of P.L.1991, c.256 (C.40:55D-53.2), except that if the professional
13 has not supplied the applicant with an informational copy of the
14 voucher, then the applicant shall file his appeal within 60 days from
15 receipt of the municipal statement of activity against the deposit or
16 escrow account required by subsection c. of section 13 of P.L.1991,
17 c.256 (C.40:55D-53.2). An applicant may file an appeal for an
18 ongoing series of charges by a professional during a period not
19 exceeding six months to demonstrate that they represent a pattern of
20 excessive or inaccurate charges. An applicant making use of this
21 provision need not appeal each charge individually.

22 b. The county [construction board of appeals] land use review
23 board shall hear the appeal, render a decision thereon, and file its
24 decision with a statement of the reasons therefor with the municipality
25 or approving authority not later than 10 business days following the
26 submission of the appeal, unless such period of time has been extended
27 with the consent of the applicant. The decision may approve,
28 disapprove, or modify the professional charges appealed from. A copy
29 of the decision shall be forwarded by certified or registered mail to the
30 party making the appeal, the municipality, the approving authority, and
31 the professional involved in the appeal. Failure by the board to hear
32 an appeal and render and file a decision thereon within the time limits
33 prescribed in this subsection shall be deemed a denial of the appeal for
34 purposes of a complaint, application, or appeal to a court of
35 competent jurisdiction.

36 c. The county [construction board of appeals] land use review
37 board shall provide rules for its procedure in accordance with this
38 section. The board shall have the power to administer oaths and issue
39 subpoenas to compel the attendance of witnesses and the production
40 of relevant evidence, and the provisions of the "County and Municipal
41 Investigations Law," P.L.1953, c.38 (C.2A:67A-1 et seq.) shall apply.

42 d. During the pendency of any appeal, the municipality or
43 approving authority shall continue to process, hear, and decide the
44 application for development, and to inspect the development in the
45 normal course, and shall not withhold, delay, or deny reviews,
46 inspections, signing of subdivision plats or site plans, the reduction or

1 the release of performance or maintenance guarantees, the issuance
2 of construction permits or certificates of occupancy, or any other
3 approval or permit because an appeal has been filed or is pending
4 under this section. The chief financial officer of the municipality may
5 pay charges out of the appropriate escrow account or deposit for
6 which an appeal has been filed. If a charge is disallowed after
7 payment, the chief financial officer of the municipality shall reimburse
8 the deposit or escrow account in the amount of any such disallowed
9 charge or refund the amount to the applicant. If a charge is disallowed
10 after payment to a professional or consultant who is not an employee
11 of the municipality, the professional or consultant shall reimburse the
12 municipality in the amount of any such disallowed charge.

13 e. The Commissioner of Community Affairs shall promulgate rules
14 and regulations pursuant to the "Administrative Procedure Act,"
15 P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of
16 this section. [Within two years of the effective date of P.L.1995, c.54
17 (C.40:55D-53.2a et al.), the commissioner shall prepare and submit a
18 report to the Governor, the President of the Senate, and the Speaker
19 of the General Assembly. The report shall describe the appeals
20 process established by section 3 of P.L.1995, c.54 (C.40:55D-53.2a)
21 and shall make recommendations for legislative or administrative
22 action necessary to provide a fair and efficient appeals process.]
23 (cf: P.L.1995, c.54, s.3)

24

25 42. Section 15 of P.L.1991, c.256 (C.40:55D-53.4) is amended to
26 read as follows:

27 15. The cost of the installation of improvements for the purposes
28 of section 41 of P.L.1975, c.291 (C.40:55D-53) shall be estimated by
29 the municipal engineer based on documented construction costs for
30 public improvements prevailing in the general area of the municipality.
31 The developer may appeal the municipal engineer's estimate to the
32 county [construction board of appeals established under section 9 of
33 P.L.1975, c.217 (C.52:27D-127)] land use review board established
34 under section 65 of P.L. , c. (C.) (pending before the Legislature
35 as this bill).

36 (cf: P.L.1995, c.54, s.2)

1 43. Section 42 of P.L.1975, c.291 (C.40:55D-54) is amended to
2 read as follows:

3 42. Recording of final approval of major subdivision; filing of all
4 subdivision plats. a. Final approval of a major subdivision shall expire
5 95 days from the date of signing of the plat unless within such period
6 the plat shall have been duly filed by the developer with the county
7 recording officer. The [planning board] permit review official may for
8 good cause shown extend the period for recording for an additional
9 period not to exceed 190 days from the date of signing of the plat.
10 The [planning board] permit review official may extend the 95-day or
11 190-day period if the developer proves to the reasonable satisfaction
12 of the [planning board] permit review official (1) that the developer
13 was barred or prevented, directly or indirectly, from filing because of
14 delays in obtaining legally required approvals from other governmental
15 or quasi-governmental entities and (2) that the developer applied
16 promptly for and diligently pursued the required approvals. The length
17 of the extension shall be equal to the period of delay caused by the
18 wait for the required approvals, as determined by the [planning board]
19 permit review official. The developer may apply for an extension
20 either before or after the original expiration date.

21 b. No subdivision plat shall be accepted for filing by the county
22 recording officer until it has been approved by the [planning board]
23 permit review official as indicated on the instrument by the signature
24 of the [chairman and secretary of the planning board] permit review
25 official or a certificate has been issued pursuant to sections 35, 38, 44,
26 48, 54 or 63 of P.L.1975, c.291 (C.40:55D-47, 40:55D-50,
27 40:55D-56, 40:55D-61, 40:55D-67, 40:55D-76). The [signatures]
28 signature of the [chairman and secretary of the planning board] permit
29 review official shall not be affixed until the developer has posted the
30 guarantees required pursuant to section 41 of P.L.1975, c.291
31 (C.40:55D-53). If the county recording officer records any plat
32 without such approval, such recording shall be deemed null and void,
33 and upon request of the municipality, the plat shall be expunged from
34 the official records.

35 c. It shall be the duty of the county recording officer to notify the
36 planning board and permit review official in writing within seven days
37 of the filing of any plat, identifying such instrument by its title, date of
38 filing, and official number.

39 (cf: P.L.1991, c.256, s.18)

40

41 44. Section 44 of P.L.1975, c.291 (C.40:55D-56) is amended to
42 read as follows:

43 44. The prospective purchaser, prospective mortgagee, or any
44 other person interested in any land which forms part of a subdivision,
45 or which formed part of such a subdivision 3 years preceding the
46 effective date of this act, may apply in writing to the [administrative

1 officer of the municipality] permit review official, for the issuance of
2 a certificate certifying whether or not such subdivision has been
3 approved by the [planning board] permit review official. Such
4 application shall contain a diagram showing the location and dimension
5 of the land to be covered by the certificate and the name of the owner
6 thereof.

7 The [administrative officer] permit review official shall make and
8 issue such certificate within 15 days after the receipt of such written
9 application and the fees therefor. Said [officer] official shall keep a
10 duplicate copy of each certificate, consecutively numbered, including
11 a statement of the fee charged, in a binder as a permanent record of his
12 office.

13 Each such certificate shall be designated a "certificate as to
14 approval of subdivision of land," and shall certify:

15 a. Whether there exists in said municipality a duly established
16 planning board and whether there is an ordinance controlling
17 subdivision of land adopted under the authority of this act.

18 b. Whether the subdivision, as it relates to the land shown in said
19 application, has been approved by the planning board and permit
20 review official, and, if so, the date of such approval and any extensions
21 and terms thereof, showing that subdivision of which the lands are a
22 part is a validly existing subdivision.

23 c. Whether such subdivision, if the same has not been approved, is
24 statutorily exempt from the requirement of approval as provided in this
25 act.

26 The [administrative officer] permit review official shall be entitled
27 to demand and receive for such certificate issued by him a reasonable
28 fee not in excess of those provided in R.S.54:5-14 and 54:5-15. The
29 fees so collected by such official shall be paid by him to the
30 municipality.

31 (cf: P.L.1979, c.216, s.18)

32

33 45. Section 45 of P.L.1975, c.291 (C.40:55D-57) is amended to
34 read as follows:

35 45. Any person who shall acquire for a valuable consideration an
36 interest in the lands covered by any such certificate of approval of a
37 subdivision in reliance upon the information therein contained shall
38 hold such interest free of any right, remedy or action which could be
39 prosecuted or maintained by the municipality pursuant to the
40 provisions of section 43 of this act.

41 If the [administrative officer designated to issue any such
42 certificate] permit review official fails to issue the same within 15
43 days after receipt of an application and the fees therefor, any person
44 acquiring an interest in the lands described in such application shall
45 hold such interest free of any right, remedy or action which could be
46 prosecuted or maintained by the municipality pursuant to section 43

1 of this act.

2 Any such application addressed to the clerk of the municipality shall
3 be deemed to be addressed to the [proper designated officer] permit
4 review official and the municipality shall be bound thereby to the same
5 extent as though the same was addressed to the designated official.
6 (cf: P.L.1975, c.291, s.45)

7

8 46. Section 48 of P.L.1975, c.291 (C.40:55D-61) is amended to
9 read as follows:

10 48. Whenever an application for approval of a subdivision plat, site
11 plan or conditional use includes a request for relief pursuant to section
12 47 of this act, the planning board shall grant or deny approval of the
13 application within [120] 60 days [after submission by a developer of
14 a complete application to the administrative officer or within such
15 further time as may be consented to by the applicant] of the date on
16 which the application is determined complete by the permit review
17 official. In the event that the developer elects to submit separate
18 consecutive applications, the aforesaid provision shall apply to the
19 application for approval of the variance or direction for issuance of a
20 permit. The period for granting or denying [and] any subsequent
21 approval shall be as otherwise provided in this act. Failure of the
22 planning board to act within the period prescribed shall constitute
23 approval of the application and a certificate of the administrative
24 officer as to the failure of the planning board to act shall be issued on
25 request of the applicant, and it shall be sufficient in lieu of the written
26 endorsement or other evidence of approval herein required, and shall
27 be so accepted by the county recording officer for purposes of filing
28 subdivision plats.

29 [Whenever review or approval of the application by the county
30 planning board is required by section 5 of P.L.1968, c.285
31 (C.40:27-6.3), in the case of a subdivision, or section 8 of P.L.1968,
32 c.285 (C.40:27-6.6), in the case of a site plan, the municipal planning
33 board shall condition any approval that it grants upon timely receipt
34 of a favorable report on the application by the county planning board
35 or approval by the county planning board by its failure to report
36 thereon within the required time period] There shall be no extensions
37 of time for the planning board to act.

38 (cf: P.L.1984, c.20, s.11)

39

40 47. Section 52 of P.L.1975, c.291(C.40:55D-65) is amended to
41 read as follows:

42 52. a. A zoning ordinance may:

43 [a.] (1) Limit and restrict buildings and structures to specified
44 districts and regulate buildings and structures according to their type
45 and the nature and extent of their use, and regulate the nature and
46 extent of the use of land for trade, industry, residence, open space or

1 other purposes.

2 [b.] (2) Regulate the bulk, height, number of stories, orientation,
3 and size of buildings and the other structures; the percentage of lot or
4 development area that may be occupied by structures; lot sizes and
5 dimensions; and for these purposes may specify floor area ratios and
6 other ratios and regulatory techniques governing the intensity of land
7 use and the provision of adequate light and air, including, but not
8 limited to the potential for utilization of renewable energy sources.

9 [c.] (3) Provide districts for planned developments; provided that
10 an ordinance providing for approval of subdivisions and site plans by
11 the planning board has been adopted and incorporates therein the
12 provisions for such planned developments in a manner consistent with
13 article 6 of this act. The zoning ordinance shall establish standards
14 governing the type and density, or intensity of land use, in a planned
15 development. Said standards shall take into account that the density,
16 or intensity of land use, otherwise allowable may not be appropriate
17 for a planned development. The standards may vary the type and
18 density, or intensity of land use, otherwise applicable to the land
19 within a planned development in consideration of the amount, location
20 and proposed use of open space; the location and physical
21 characteristics of the site of the proposed planned development; and
22 the location, design and type of dwelling units and other uses. Such
23 standards may provide for the clustering of development between
24 noncontiguous parcels and may, in order to encourage the flexibility
25 of density, intensity of land uses, design and type, authorize a
26 deviation in various clusters from the density, or intensity of use,
27 established for an entire planned development. The standards and
28 criteria by which the design, bulk and location of buildings are to be
29 evaluated shall be set forth in the zoning ordinance and all standards
30 and criteria for any feature of a planned development shall be set forth
31 in such ordinance with sufficient certainty to provide reasonable
32 criteria by which specific proposals for planned development can be
33 evaluated.

34 [d.] (4) Establish, for particular uses or classes of uses, reasonable
35 standards of performance and standards for the provision of adequate
36 physical improvements including, but not limited to, off-street parking
37 and loading areas, marginal access roads and roadways, other
38 circulation facilities and water, sewerage and drainage facilities;
39 provided that section 41 of this act shall apply to such improvements.

40 [e.] (5) Designate and regulate areas subject to flooding (1)
41 pursuant to P.L.1972, c.185 (C.58:16A-55 et seq.) or (2) as otherwise
42 necessary in the absence of appropriate flood hazard area designations
43 pursuant to P.L.1962, c.19 (C.58:16A-50 et seq.) or floodway
44 regulations pursuant to P.L.1972, c.185 or minimum standards for
45 local flood fringe area regulation pursuant to P.L.1972, c.185.

46 [f.] (6) Provide for conditional uses pursuant to section 54 of this

1 act.

2 [g.] (7) Provide for senior citizen community housing.

3 [h.] (8) Require as a condition for any approval which is required
4 pursuant to such ordinance and the provisions of this chapter, that no
5 taxes or assessments for local improvements are due or delinquent on
6 the property for which any application is made.

7 [i.] (9) Provide for historic preservation pursuant to section 5 of
8 P.L.1991 c.199 (C.40:55D-65.1).

9 b. A zoning ordinance may include only regulations establishing
10 use, bulk, and area requirements, as provided in subsection a. of this
11 section. More detailed regulations shall be placed only in the
12 subdivision and site plan ordinances.

13 (cf: P.L.1995, c.364, s.2)

14

15 48. Section 54 of P.L.1975, c.291 (C.40:55D-67) is amended to
16 read as follows:

17 54. a. A zoning ordinance may provide for conditional uses to be
18 granted by the planning board according to definite specifications and
19 standards which shall be clearly set forth with sufficient certainty and
20 definiteness to enable the developer to know their limit and extent.
21 The planning board shall grant or deny an application for a conditional
22 use within [95] 60 days of [submission of a complete application by
23 a developer to the administrative officer, or within such further time
24 as may be consented to by the applicant] the date on which the
25 application is determined complete by the permit review official.

26 b. The review by the planning board of a conditional use shall
27 include any required site plan review pursuant to article 6 of this act.
28 The time period for action by the planning board on conditional uses
29 pursuant to subsection a. of this section shall apply to such site plan
30 review. Failure of the planning board to act within the period
31 prescribed shall constitute approval of the application and a certificate
32 of the administrative officer as to the failure of the planning board to
33 act shall be issued on request of the applicant, and it shall be sufficient
34 in lieu of the written endorsement or other evidence of approval,
35 herein required, and shall be so accepted by the county recording
36 officer for purposes of filing subdivision plats.

37 [Whenever review or approval of the application by the county
38 planning board is required by section 5 of P.L.1968, c.285
39 (C.40:27-6.3), in the case of a subdivision, or section 8 of P.L.1968,
40 c.285 (C.40:27-6.6), in the case of a site plan, the municipal planning
41 board shall condition any approval that it grants upon timely receipt of
42 a favorable report on the application by the county planning board or
43 approval by the county planning board by its failure to report thereon
44 within the required time period.] There shall be no extensions of time

1 for the planning board to act.

2 (cf: P.L.1975, c.291, s.54)

3

4 49. Section 60 of P.L.1975, c.291 (C.40:55D-73) is amended to
5 read as follows:

6 60. a. The board of adjustment shall render a decision [not later
7 than 120 days after the date (1) an appeal is taken from the decision
8 of an administrative officer or (2) the submission of a complete
9 application for development to the board of adjustment pursuant to
10 section 59b. of this act] in accordance with the following time
11 schedule: (1) not later than 90 days after the date an appeal is taken
12 from the decision of an administrative officer; (2) not later than 90
13 days after the date the application is determined complete by the
14 permit review official for an application seeking preliminary approval
15 of a subdivision plat or site plan together with a request for variance
16 pursuant to subsection d. of section 57 of P.L.1975, c.291 (C.40:55D-
17 70), as provided in subsection b. of section 63 of P.L.1975, c.291
18 (C.40:55D-76); or (3) in the event that the developer elects to submit
19 separate consecutive applications for variance pursuant to subsection
20 d. of section 57 of P.L.1975, c.291 (C.40:55D-70) and for preliminary
21 subdivision or site plan approval, as provided in subsection b. of
22 section 63 of P.L.1975, c.291 (C.40:55D-76), not later than 60 days
23 after the date the application is determined complete by the permit
24 review official, for each separate application.

25 b. Failure of the board to render a decision within [such 120-day
26 period or within such further time as may be consented to by the
27 applicant] the periods prescribed, shall constitute a decision favorable
28 to the applicant. There shall be no extensions of time for the board of
29 adjustment to act.

30 (cf: P.L.1975, c.291, s.60)

31

32 50. Section 63 of P.L.1975, c.291 (C.40:55D-76) is amended to
33 read as follows:

34 63. a. Sections 59 through 62 of this article shall apply to the
35 power of the board of adjustment to:

36 (1) Direct issuance of a permit pursuant to section 25 of this act
37 for a building or structure in the bed of a mapped street or public
38 drainage way, flood control basin or public area reserved pursuant to
39 section 23 of this act; or

40 (2) Direct issuance of a permit pursuant to section 27 of this act
41 for a building or structure not related to a street.

42 b. The board of adjustment shall have the power to grant, to the
43 same extent and subject to the same restrictions as the planning board,
44 preliminary subdivision or site plan approval pursuant to article 6 of
45 this act or conditional use approval pursuant to section 54 of this act,
46 whenever the proposed development requires approval by the board

1 of adjustment of a variance pursuant to subsection d. of section 57 of
2 this act (C.40:55D-70). The developer may elect to submit the
3 variance and preliminary applications simultaneously or submit a
4 separate application requesting approval of the variance and a
5 subsequent application for [any required] preliminary approval of a
6 subdivision, or site plan or conditional use. The separate approval of
7 the variance shall be conditioned upon grant of [all required
8 subsequent] preliminary approvals by the board of adjustment. [No
9 such subsequent approval shall be granted unless such approval can be
10 granted without substantial detriment to the public good and without
11 substantial impairment of the intent and purpose of the zone plan and
12 zoning ordinance.] Board of adjustment consideration of the
13 preliminary application shall proceed under provisions established in
14 this act for preliminary applications before planning boards. The
15 number of votes of board members required to grant any such
16 subsequent approval shall be as otherwise provided in this act for the
17 approval in question, and the special vote pursuant to the aforesaid
18 subsection d. of section 57 shall not be required.

19 c. Whenever an application for development [requests relief]
20 pursuant to subsection b. of this section seeks variance and preliminary
21 approval simultaneously, the board of adjustment shall grant or deny
22 approval of the application within [120] 90 days after [submission by
23 a developer of a complete application to the administrative officer or
24 within such further time as may be consented to by the applicant] the
25 date the application is determined complete by the permit review
26 official. In the event that the developer elects to submit separate
27 consecutive applications, the [aforesaid provision shall apply to the
28 application for] board of adjustment shall grant or deny approval of
29 the variance within 60 days after the date the application is determined
30 complete by the permit review official. The period for granting or
31 denying any subsequent preliminary approval shall be as otherwise
32 provided in this act. There shall be no extensions of time for the board
33 of adjustment to act. Failure of the board of adjustment to act within
34 the period prescribed shall constitute approval of the application, and
35 a certificate of the administrative officer as to the failure of the board
36 of adjustment to act shall be issued on request of the applicant, and it
37 shall be sufficient in lieu of the written endorsement or other evidence
38 of approval herein required, and shall be so accepted by the county
39 recording officer for purposes of filing subdivision plats.

40 [Whenever review or approval of the application by the county
41 planning board is required by section 5 of P.L.1968, c.285
42 (C.40:27-6.3), in the case of a subdivision, or section 8 of P.L.1968,
43 c.285 (C.40:27-6.6), in the case of a site plan, the municipal board of
44 adjustment shall condition any approval that it grants upon timely
45 receipt of a favorable report on the application by the county planning
46 board or approval by the county planning board by its failure to report

1 thereon within the required time.]

2 d. If the zoning board of adjustment grants the variance and
3 preliminary applications, the applicant shall thereafter file a final
4 application with the permit review official in the same manner as if
5 preliminary approval were granted by the planning board.

6 An application under this section may be referred to any appropriate
7 person or agency for its report; provided that such reference shall not
8 extend the period of time within which the zoning board of adjustment
9 shall act.

10 (cf: P.L.1984, c.20, s.13)

11

12 51. Section 64 of P.L.1975, c.291 (C.40:55D-77) is amended to
13 read as follows:

14 64. The governing bodies of two or more municipalities,
15 independently or with the board or boards of chosen freeholders of any
16 county or counties in which such municipalities are located or of any
17 adjoining county or counties or the governing body of any municipality
18 and the board of chosen freeholders in which such municipality is
19 located, or the boards of chosen freeholders of any two or more
20 adjoining counties, may, by substantially similar ordinances or
21 resolutions, as the case may be, duly adopted by each of such
22 governing bodies within 6 calendar months after the adoption of the
23 first such ordinance or resolution after notice and hearing as herein
24 required, enter into a joint agreement providing for the joint
25 administration of any or all of the powers conferred upon each of the
26 municipalities or counties pursuant to this act. Such ordinance may
27 also provide for the establishment and appointment of a regional
28 planning board, a regional board of adjustment, or a joint building
29 official, joint permit review official, joint zoning officer or other
30 officials responsible for performance of administrative duties in
31 connection with any power exercised pursuant to this act.

32 (cf: P.L.1975, c.291, s.64)

33

34 52. Section 65 of P.L.1975, c.291 (C.40:55D-78) is amended to
35 read as follows:

36 65. The ordinance shall, subject to this article, set forth the specific
37 duties to be exercised jointly; the composition, membership and
38 manner of appointment of any regional board including the
39 representation of each municipality or county; the qualifications and
40 manner or appointment of any joint building official, joint permit
41 review official, joint zoning officer or other joint administrative
42 officer; the term of office, the manner of financing, the expenses of
43 such joint exercise of powers, the share of financing to be borne by
44 each county and municipality joining therein, the duration of such
45 agreement and the manner in which such agreement may be terminated
46 or extended.

1 (cf: P.L.1975, c.291, s.65)

2

3 53. Section 17 of P.L.1985, c.516 (C.40:55D-85.1) is amended to
4 read as follows:

5 17. [a.] In the case of any final decision of a regional planning
6 board or regional zoning board of adjustment approving an application
7 for development, the [governing body of the municipality in which the
8 land is situated which is the subject of the application for
9 development] state land use appeal board created pursuant to section
10 72 of P.L. , c. (C.) (pending before the Legislature as this
11 bill) may hear and decide an appeal by any interested party of this
12 approval [if the application for development is of a class of
13 applications for development specified by ordinance as so subject to
14 appeal]. The appeal shall be made [within 10 days of the date of
15 publication of the final decision pursuant to subsection i. of section 6
16 of P.L.1975, c.291 (C.40:55D-10)] as provided in section 74 of
17 P.L. , c. (C.) (pending before the Legislature as this bill).
18 [The appeal to the governing body shall be made by serving the
19 municipal clerk in person or by certified mail with a notice of appeal
20 specifying the grounds thereof and the name and address of the
21 appellant and name and address of his attorney, if represented. The
22 appeal shall be decided by the governing body only upon the record
23 established before the regional board.

24 b. Notice of the meeting to review the record below shall be given
25 by the governing body by personal service or certified mail to the
26 appellant, to those entitled to notice of a decision pursuant to
27 subsection h. of section 6 of P.L.1975, c.291 (C.40:55D-10) and to
28 the board from which the appeal is taken, at least 10 days prior to the
29 date of the meeting. The parties may submit oral and written
30 argument on the record at the meeting, and the governing body shall
31 provide for verbatim recording and transcripts of the meeting pursuant
32 to subsection f. of section 6 of P.L.1975, c.291 (C.40:55D-10.)

33 c. The appellant shall, (1) within five days of service of the notice
34 of the appeal pursuant to subsection a. hereof, arrange for a transcript
35 pursuant to subsection f. of section 6 of P.L.1975, c.291
36 (C.40:55D-10) for use by the governing body and pay a deposit of
37 \$50.00 or the estimated cost of such transcription, whichever is less,
38 or (2) within 35 days of service of the notice of appeal, submit a
39 transcript as otherwise arranged to the municipal clerk; otherwise, the
40 appeal may be dismissed for failure to prosecute.

41 The governing body shall conclude a review of the record not later
42 than 95 days from the date of publication of notice of the decision
43 below pursuant to subsection i. of section 6 of P.L.1975, c.291
44 (C.40:55D-10) unless the applicant consents in writing to an extension
45 of the period. Failure of the governing body to hold a hearing and
46 conclude a review of the record below and to render a decision within

1 the specified period shall constitute a decision affirming the action of
2 the board.

3 d. The governing body may reverse, remand, or affirm with or
4 without the imposition of conditions the final decision of the regional
5 board.

6 e. The affirmative vote of a majority of the full authorized
7 membership of the governing body shall be necessary to reverse,
8 remand, or affirm with or without conditions any final action of the
9 regional board.

10 f. An appeal to the governing body shall stay all proceedings in
11 furtherance of the action in respect to which the decision appealed
12 from was made unless the board from whose action the appeal is taken
13 certifies to the governing body, after the notice of appeal shall have
14 been filed with the board, that by reason of acts stated in the certificate
15 a stay would, in its opinion, cause imminent peril to life or property.
16 In such case, proceedings shall not be stayed other than by an order of
17 the Superior Court on application upon notice to the board from
18 whom the appeal is taken and on good cause shown.

19 g. The governing body shall mail a copy of the decision to the
20 appellant or if represented then to his attorney, without separate
21 charge, and for a reasonable charge to any interested party who has
22 requested it, not later than 10 days after the date of the decision. A
23 brief notice of the decision shall be published in the official newspaper
24 of the municipality, if there is one, or in a newspaper of general
25 circulation in the municipality. The publication shall be arranged by
26 the applicant unless a particular municipal officer is so designated by
27 ordinance; but nothing contained herein shall be construed as
28 preventing the applicant from arranging the publication if he so
29 desires. The governing body may make a reasonable charge for its
30 publication. The period of time in which an appeal to a court of
31 competent jurisdiction may be made shall run from the first
32 publication, whether arranged by the municipality or the applicant.

33 h. Nothing in this act shall be construed to restrict the right of any
34 party to obtain a review by any court of competent jurisdiction
35 according to law.]

36 (cf: P.L.1985, c.516, s.17)

37

38 54. Section 73 of P.L.1975, c.291 (C.40:55D-86) is amended to
39 read as follows:

40 73. The governing bodies of two or more constituent municipalities
41 may provide by agreement, pursuant to procedures set forth herein, for
42 the appointment of a joint building official, permit review official,
43 zoning officer, planning administrative officer or any thereof, and any
44 other personnel necessary for the enforcement of the provisions of this

1 act.

2 (cf: P.L.1975, c.291, s.73)

3

4 55. Section 74 of P.L.1975, c.291 (C.40:55D-87) is amended to
5 read as follows:

6 74. The building official, permit review official, zoning office and
7 planning administration functions, or any thereof, or a joint office shall
8 be exercised in the same manner, to the same extent and with the same
9 obligation to attend and report to the governing bodies, boards,
10 communities and officials of each of the several municipalities as
11 though such functions were exercised in each municipality separately,
12 and all records for each of the municipalities shall be maintained
13 separately and shall be available for public inspection pursuant to law.

14 Except as otherwise provided by joint agreement, any person or
15 persons who may hereafter be appointed as a joint building official,
16 permit review official, zoning officer or planning administrative officer
17 shall serve at the pleasure of the regional planning board.

18 (cf: P.L.1975, c.291, s.74)

19

20 56. (New section) a. The governing body of each municipality
21 shall appoint a permit review official to administer, review, approve
22 and enforce applications for development in the municipality and make
23 all related permitting decisions under regulatory programs.

24 b. No person shall act as a permit review official for any
25 municipality unless the commissioner licenses such person, with the
26 exception of New Jersey licensed professional engineers as provided
27 in subsection b. of section 58 of P.L. , c. (C.) (pending before
28 the Legislature as this bill).

29 c. The permit review official shall exercise all power and authority
30 granted in this act. A municipality shall not reduce the permit review
31 official's scope of authority as granted in this act.

32 d. The permit review official shall not be appointed to serve on
33 any agency or body for which the review official administers
34 regulatory programs under the provisions of this act.

35 e. If the municipality replaces the permit review official during the
36 pendency of an application, the municipality shall be responsible for all
37 time and expenses of the new permit review official to become familiar
38 with the application, and the municipality shall not bill the applicant or
39 charge the applicant's deposit or escrow account for any such services.

40 f. Two or more municipalities may provide by ordinance, subject
41 to regulations established by the commissioner, for the joint
42 appointment of a permit review official, by interlocal agreement, or the
43 joint exercise of power as provided in article 10 of P.L.1975, c.291
44 (C.40:55D-77 through 40:55D-88) for the purpose of complying with
45 and enforcing the provisions of this act.

- 1 57. (New section) a. The permit review official shall have the
2 following powers, duties and responsibilities:
- 3 (1) Convene preapplication conferences to expedite the approval
4 process.
- 5 (2) Determine and certify completeness of all applications for
6 development in accordance with section 5 of P.L.1984, c.20
7 (C.40:55D-10.3), and all applications under the regulatory programs
8 in accordance with the submission requirements established under the
9 regulatory programs.
- 10 (3) Review and act on applications for development seeking final
11 approval, in accordance with the preliminary approval and
12 recommendations of the planning board.
- 13 (4) Review and act on applications for permitting decisions under
14 the regulatory programs.
- 15 (5) Review and issue certifications on applications for permitting
16 decisions under the federally-related programs.
- 17 (6) Issue draft decisions of approval.
- 18 (7) Review and act on exceptions and waivers from application
19 submission requirements and substantive standards under municipal
20 ordinances or regulatory programs requested in or necessary for
21 approval of any application for development or application for a
22 permitting decision under a regulatory program.
- 23 (8) Determine compliance with any conditions placed on planned
24 development or final subdivision or site plan approvals, or any
25 permitting decision under any of the regulatory programs.
- 26 (9) Execute subdivision plats and site plans on behalf of the
27 municipality.
- 28 (10) Compile and distribute application forms and checklists for
29 applications for development and permitting decisions under the
30 regulatory programs,
- 31 (11) Grant final approval if the application for development
32 conforms with preliminary approval and meets municipal regulatory
33 program requirements.
- 34 (12) Issue the appropriate approval, license, or permit under the
35 regulatory program, when an application for any permitting decision
36 under any regulatory program, other than the federally-related
37 programs, conforms with the standards and requirements of the
38 regulatory program.
- 39 (13) Issue master permits.
- 40 (14) Prepare and issue an interim compliance report upon written
41 request by any interested party and payment of the appropriate fee.
- 42 (15) Base decisions only on standards contained in the regulatory
43 programs and municipal ordinance.
- 44 (16) Set forth the reasons for denial in writing, with specific
45 reference to the substantive regulatory program or municipal
46 ordinance standards on which the denial is based, if the permit review

1 official denies an application in whole or in part.

2 (17) Notify all governmental entities that have responsibility to
3 install, provide, or inspect improvements or infrastructure relating to
4 the application following final approval of a subdivision or site plan
5 application.

6 (18) Resolve any inconsistencies that may occur when an
7 application requires permitting decisions under several regulatory
8 programs which contain conflicting standards on the same issue or
9 development impact, and make the permitting decision by applying the
10 statewide site improvement standards duly adopted in accordance with
11 P.L.1993, c.32 (C.40:55D-40.1 et seq.), or by applying a best
12 management practices standard, which must be consistent with the
13 preliminary approval, to resolve other areas of conflict.

14 (19) File a copy of permitting decisions with the governmental
15 entities having jurisdiction over the regulatory programs.

16 (20) Post weekly in the municipal building a list of all final
17 decisions rendered within the past 30 day period.

18 b. The permit review official may exercise the following powers
19 in the performance of the powers, duties, and responsibilities
20 established in subsection a. of this section:

21 (1) Grant approvals subject to conditions, as appropriate.

22 (2) Approve any development or plan changes, unless those
23 changes require a remand to the planning board under section 33 of
24 P.L., c..... (C.....) (pending before the Legislature as this bill), if
25 during the course of review the application for development is altered.

26 (3) Request that the applicant supply additional information, or
27 request that information found to be in error be corrected, or request
28 additional detail or revisions in plans or other documents, as
29 reasonably necessary for the permit review official to make an
30 informed decision. The application shall not be deemed incomplete for
31 lack of any such additional information or any revisions in the
32 accompanying documents so required by the review official.

33 (4) Request additional details on the balance of the development,
34 if an applicant requests final approval for a section or sections of a
35 larger development, as necessary to assure that the entire development
36 can be developed in a manner that complies with all rules under all
37 regulatory programs. The application shall not be deemed incomplete
38 for lack of any such additional information or any revisions in the
39 accompanying documents so required by the review official.

40 (5) Accept and rely upon professional certifications in making
41 permitting decisions and granting final approval of development
42 applications, if the applicant's licensed professional has certified to the
43 permit review official compliance with any standards for any permit or
44 approval requested by the applicant.

45 (6) Grant, upon application by the applicant, extensions of final
46 approval and of permitting decisions under the regulatory programs,

1 beyond those specified in section 40 of P.L.1975, c.291 (C.40:55D-
2 52) and section 39 of P.L. , c. (C.) (pending before the
3 Legislature as this bill) for an additional period of five years.

4 c. In carrying out the duties under this act, the permit review
5 official shall not hold public hearings on review of any final application
6 or any permitting decision under a regulatory program unless explicitly
7 required by the regulatory program.

8

9 58. (New section) a. The position of the permit review official is
10 hereby created as a municipally appointed, state licensed official to
11 administer, review, approve and enforce applications for development
12 and make all permitting decisions for regulatory programs in
13 accordance with the provisions of P.L. , c. (C.) (pending before
14 the Legislature as this bill).

15 b. The permit review official shall be technically trained,
16 experienced and licensed by the commissioner in accordance with the
17 provisions of section 64 of P.L. , c. (C.) (pending before the
18 Legislature as this bill), except that New Jersey licensed professional
19 engineers are recognized as having sufficient qualifications to serve as
20 a permit review official and are exempt from the licensing
21 requirements of section 64 of P.L. , c. (C.) (pending before the
22 Legislature as this bill).

23 c. The jurisdiction and authority of the permit review official to
24 determine completeness of applications, to grant final approval to an
25 application for development under this act, and to make permitting
26 decisions under the regulatory programs, shall be comprehensive and
27 exclusive, except for the federally-related programs as provided in
28 subsection e. of section 59 of P.L. , c. (C.) (pending before the
29 Legislature as this bill), and except for the appeal process from permit
30 review official decisions as specified in this act.

31

32 59. (New section) a. Notwithstanding any other statute or
33 regulation, except as provided in subsections b., c., and e. of this
34 section, all permitting decisions for regulatory programs shall be the
35 responsibility of a municipally appointed, state licensed official created
36 and appointed in accordance with the provisions of P.L. , c. (C.)
37 (pending before the Legislature as this bill).

38 b. The permit review official is empowered to administer the
39 "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.) in
40 all municipalities and counties that have been certified by the Pinelands
41 Commission pursuant to regulation. For any municipality or county
42 not certified by the Pinelands Commission, all permitting decisions
43 shall be made by a permit review official to be appointed and certified
44 by the Pinelands Commission.

45 c. All permitting decisions within the Hackensack Meadowlands
46 as defined pursuant to section 3 of P.L.1968, c.404 (C.13:17-3) shall

1 be made by the Hackensack Meadowlands Development Commission,
2 which shall act as the permit review official.

3 d. This act shall not give the permit review official review
4 authority for permitting construction of a sewerage treatment plant
5 pursuant to the "Water Pollution Control Act," P.L.1977, c.74
6 (C.58:10A-1 et seq.).

7 e. In consideration of the fact that the federally-related programs
8 have been specifically delegated to and are administered by the
9 Department of Environmental Protection, permitting decisions under
10 the federally-related programs shall remain with the Commissioner of
11 Environmental Protection, subject to the procedures established in this
12 subsection. The permit review official shall initially review all
13 applications for permitting decisions under the federally-related
14 programs, and shall certify to the Department of Environmental
15 Protection that in the permit review official's professional judgment the
16 application is approvable under the rules and regulations of the
17 applicable federally-related program. The Department of
18 Environmental Protection shall thereupon review and act on the permit
19 review official's certification and the application on an expedited basis.
20

21 60. (New section) a. For all regulatory programs, the
22 jurisdictional authority for promulgating substantive standards,
23 comprehensive management plans, master plans, maps, tables, charts,
24 diagrams, and other similar regulatory provisions shall be retained by
25 the governmental entity established by the applicable statute,
26 ordinance, resolution, or agreement. Any subsequent adoption or
27 amendment of a regulatory program shall proceed under the
28 established administrative procedure standards of the governmental
29 entity.

30 b. Every regulatory program shall include a checklist of
31 submission requirements, which shall be adopted by ordinance,
32 resolution or rule, as appropriate.

33 c. The governmental entities shall cooperate with the
34 commissioner to (1) provide additional training for permit review
35 officials as needed, (2) clarify confusing, conflicting or contradictory
36 provisions of regulatory programs, and (3) cooperate in administrative
37 disciplinary action.
38

39 61. (New section) If the permit review official or municipality is
40 sued as a result of a substantive decision based on substantive
41 regulatory program standards or other similar regulatory provisions,
42 or based on a claim that a substantive regulatory program standard or
43 regulatory provision constitutes a taking of property, the governmental
44 entity with the jurisdictional authority for promulgating the regulatory
45 substantive program standards and regulatory provisions shall
46 substitute for the permit review official as the defendant in the

1 litigation. Said governmental entity shall assume and provide for the
2 defense of the litigation, shall be responsible for any monetary
3 judgment rendered, and shall indemnify and hold harmless the permit
4 review official or the municipality from any such liability and the
5 expenses of the litigation.

6
7 62. (New section) The permit review official may utilize
8 supporting staff, consultants, and experts and receive support from
9 governmental entities as follows:

10 a. The municipality is authorized to hire staff for the permit review
11 official in sufficient numbers and with appropriate expertise so that the
12 permit review official can fulfill the duties under this act.

13 b. The permit review official is authorized to retain outside experts
14 or consultants, including governmental entities when an application
15 requires expertise beyond the scope of the permit review official or the
16 official's staff. All outside experts and consultants shall be
17 appropriately licensed in their area of expertise.

18 c. When the workload of the permit review official is such that the
19 official requires additional help on a temporary basis to meet the time
20 periods for final action specified in this act, the permit review official
21 is authorized to retain outside experts or consultants, including
22 governmental entities. All outside experts and consultants shall be
23 appropriately licensed in their area of expertise.

24 d. The permit review official is authorized to consult with any
25 governmental entity for information and assistance in reviewing
26 applications, to the extent necessary.

27 e. When the permit review official uses a governmental entity as an
28 expert or consultant, such consultation shall be informational only and
29 shall not constitute a delegation of the permit review official's
30 authority to review and decide all applications and permitting
31 decisions within the permit review official's jurisdiction. Each such
32 governmental entity shall fully cooperate with the permit review
33 official in providing information, documentation, personnel, or
34 facilities requested by the permit review official, and shall do so in a
35 sufficient time frame that the permit review official can meet the time
36 periods for final action specified in this act.

37 f. When an application for development has a regional impact, the
38 permit review official is authorized to consult with the other permit
39 review official or officials in the regional area for information and
40 assistance in reviewing the application. Such consultation shall be
41 informational only and shall not constitute a delegation of the permit
42 review official's authority to review and decide all applications and
43 permitting decisions within the permit review official's jurisdiction.

44
45 63. (New section) The operation of the office of the permit review
46 official, staff and consultants shall be funded as follows:

1 a. The municipal governing body of each municipality shall set
2 application fees by ordinance, in accordance with standards established
3 by the commissioner. Flat fees may be set for certain classes of
4 services, including but not limited to master permits, interim
5 compliance reports, and certificates certifying approval.

6 b. The municipal governing body of each municipality shall set the
7 initial escrow deposits required for the review of applications by
8 ordinance, in accordance with standards established by the
9 commissioner.

10 c. The municipal governing body of each municipality shall set the
11 hourly rates for review charges by the permit review official, by
12 resolution, in accordance with standards established by the
13 commissioner.

14 d. All matters relating to the escrow accounts and the permit
15 review official's review charges, including but not limited to
16 administration, collection, disbursement and appeal, shall be regulated
17 in the same manner as provided in section 41 of P.L.1975, c.291
18 (C.40:55D-53), section 1 of P.L.1985, c.315 (C.40:55D-53.1),
19 sections 13 and 15 of P.L.1991, c.256 (C.40:55D-53.2, and C.40:55D-
20 53.4) and section 3 of P.L.1995, c.54 (C.40:55D-53.2a).

21 e. The standards established by the commissioner for application
22 fees shall reflect the following principles: (1) fees shall cover the
23 administrative costs of processing applications; (2) there shall be no
24 diversion of application fee revenues to unrelated municipal functions;
25 and (3) there shall be no cross-subsidization of applicants through
26 application fee differentials of any kind.

27 f. The standards established by the commissioner for development
28 review charges and the initial escrow deposits to cover the costs of the
29 permit review official in reviewing applications shall reflect the
30 following principles: (1) to the maximum extent possible, the escrow
31 deposit schedule and development review charges shall rely on rates
32 that represent the cost-per-unit of a service (e.g., hourly rates for the
33 services of consulting professionals) rather than flat fees; and (2) the
34 system shall be self-financing, with the escrow deposits of an applicant
35 (private or public) covering the development review charges for the
36 review of the application.

37
38 64. (New section) The commissioner shall have all the powers
39 necessary or convenient to effectuate the purposes of this act,
40 including, but not limited to, the following powers in addition to all
41 others granted by this act:

42 a. To adopt, amend and repeal rules and regulations:

43 (1) which may be necessary, desirable, or proper to carry out the
44 commissioner's powers and duties under this act;

45 (2) relating to the administration and enforcement of this act by
46 permit review officials;

1 (3) establishing qualifications, standards, training, examination, and
2 licensing of all persons appointed or serving as permit review officials,
3 including various levels of licensing for the staff, experts and
4 consultants of permit review officials;

5 (4) relating to all services and activities, licenses and approvals
6 performed or issued by the commissioner pursuant to this act,
7 including but not limited to review of applications for and issuance of
8 licenses certifying an individual's qualifications to act as a permit
9 review official, or their staff, experts and consultants, under this act;

10 (5) providing for charging of and setting the range of application
11 fees, development review charges, and escrow deposits for all services
12 and activities carried out under this act by permit review officials,
13 including but not limited to review of applications, permitting
14 decisions under the regulatory programs, and review for compliance
15 with conditions of approval.

16 b. To hold hearings and take testimony relating to any aspect or
17 matter relating to the administration or enforcement of this act, and to
18 render decisions thereon which shall be binding on municipalities and
19 permit review officials.

20 c. To develop master application procedures, forms and
21 checklists, utilizing those adopted under regulatory programs including
22 those developed by the Site Improvement Advisory Board created
23 pursuant to section 3 of P.L.1993, c.32 (C.40:55D-40.3), for
24 applications for development and permitting decisions under the
25 regulatory programs, in order to consolidate, expedite, simplify and
26 rationalize the application and permitting process.

27 d. To take such actions as are necessary to establish and conduct
28 educational and training programs for permit review officials, their
29 staff, experts and consultants.

30 e. To devise and administer examinations and other means of
31 determining qualifications for the initial licensing of permit review
32 officials and their staff and for periodic license renewal.

33 f. To require each permit review official and staff periodically to
34 demonstrate a working knowledge of standards and procedures,
35 including recent changes in and additions to the Municipal Land Use
36 Law and regulatory programs; the commissioner may accept successful
37 completion of appropriate programs of training as proof of such
38 working knowledge.

39 g. To monitor the compliance of municipalities, governmental
40 entities, and permit review officials with the provisions of this act,
41 order corrective action as may be necessary where the commissioner
42 finds a municipality, governmental entity, permit review official, staff,
43 consultant, or expert is failing to carry out its responsibilities under
44 this act, appoint a permit review official if a municipality fails to do so
45 in accordance with section 56 of P.L. , c. (C.) (pending before
46 the Legislature as this bill), replace a permit review official for a

1 specific project, and dismiss a permit review official and replace the
2 permit review official by the department or appoint a replacement
3 permit review official where the permit review official fails to properly
4 carry out the duties under this act.

5 h. The commissioner shall take all steps necessary and appropriate
6 to effectuate the provisions of this act by its effective date.

7
8 65. (New section) In each county there is hereby established a
9 county land use review board as follows:

10 a. The governing body of each county shall appoint a five member
11 land use review board. No more than three members may be members
12 of any one political party. Board members shall be appointed for a
13 term of four years. For the members first appointed, the appointing
14 authority of the county shall designate the appointees' terms so that
15 one shall be appointed for a term of one year, one for a term of two
16 years, one for a term of three years, and two for a term of four years.
17 Vacancies on the board shall be filled for the unexpired term.

18 b. Members must be qualified by knowledge, experience or
19 training to perform the responsibilities of a member of the land use
20 review board.

21 c. The land use review board may sit in panels composed of three
22 members or as a whole board.

23 d. Expenses of the land use review board shall be paid with funds
24 from appellant fees.

25 e. Members may be removed by the authority appointing them for
26 cause following a hearing conducted by the commissioner in
27 accordance with P.L.1968, c.410 (C.52:14B-1 et seq.).

28 f. The land use review board shall provide rules of procedure and
29 forms to file appeals in accordance with this act and regulations
30 promulgated by the commissioner.

31 g. Administrative staff for the land use review board, including
32 but not limited to legal counsel, shall be provided by the county.

33 h. Two or more counties may join together to create a regional
34 land use review board under rules promulgated by the commissioner.

35
36 66. (New section) a. The land use review board shall have
37 exclusive jurisdiction to review any final decision of the permit review
38 official if an appeal is filed within 20 days of the posting of the
39 decision pursuant to section 57 of P.L. , c. (C.) (pending before
40 the Legislature as this bill), except that the current system of
41 administrative appeal shall remain in effect for permitting decisions
42 under the federally-related programs.

43 b. If a final decision results through inaction of the permit review
44 official, an appeal shall be filed within 20 days of applicant notification
45 to all parties required to be notified in accordance with section 5 of
46 P.L.1985, c.516 (C.40:55D-10.4) or section 36 of P.L. , c. (C.)

1 (pending before the Legislature as this bill) that the development was
2 deemed approved because no timely decision was made.

3 c. The land use review board shall also review any procedural or
4 substantive or non-final decisions or requests for additional
5 information made by the permit review official if an appeal is filed
6 within 10 days of the date the decision is made or deemed to have
7 been made.

8 d. The land use review board jurisdiction shall include any powers
9 that may be necessary to effectuate its decision, judgments and orders.

10 e. Appeals shall be filed in writing using standardized forms, as
11 provided in section 65 of P.L. , c. (C.) (pending before the
12 Legislature as this bill).

13 f. Notice of appeal shall be served on the permit review official,
14 the governmental entity with jurisdictional authority for the regulatory
15 program subject to the appeal, and the applicant in cases of an appeal
16 not initiated by the applicant.

17 g. All time limits set forth in this section shall be jurisdictional,
18 and no appeal or other challenge to the decision of the permit review
19 official shall lie in any tribunal or court in the absence of such timely
20 appeal.

21

22 67. (New section) Appeals to the land use review board may be
23 filed only by the following parties in the circumstances indicated:

24 a. For decisions on final development applications, appeals to the
25 land use review board may be filed by the following: (1) applicants for
26 development; (2) governmental entities whose standards are the
27 subject of a permitting decision; (3) persons personally, directly and
28 seriously affected beyond general impacts of the development.

29 b. For permitting decisions under the regulatory programs, other
30 than final approvals, appeals to the land use review board may be filed
31 by the following: (1) applicants for development; (2) governmental
32 entities whose standards are the subject of a permitting decision.

33

34 68. (New section) The land use review board shall review the
35 decision of the permit review official to determine whether the
36 regulatory program standards have been correctly applied or correctly
37 construed to the facts, or whether the appropriate standards have been
38 applied to the development. If an appeal is taken from a final decision
39 resulting from inaction by the permit review official, the only
40 determination to be made by the land use review board shall be
41 whether the permit review official did or did not act in a timely
42 manner. If the land use review board determines that the permit
43 review official did not act in a timely manner, the board shall affirm the
44 default approval. The land use review board shall base its decision on
45 the maps, plans and documents on file with the permit review official.
46 An applicant for development may present additional testimony

1 through witnesses or documents.

2

3 69. (New section) The land use review board shall hear the appeal
4 and render a decision thereon in accordance with the following
5 provisions:

6 a. The land use review board shall hear the appeal, render a
7 decision thereon, and file its decision with a statement of the reasons
8 therefor within 20 business days following the filing of the appeal in
9 the case of an appeal of a procedural or substantive non-final decision
10 or a request for additional information. The land use review board
11 shall hear the appeal, render a decision thereon, and file its decision
12 with a statement of the reasons therefor within 30 business days
13 following the filing of the appeal in the case of an appeal of a final
14 decision, unless the applicant presents additional testimony as
15 permitted in section 68 of P.L. , c. (C.) (pending before the
16 Legislature as this bill), in which case the board shall render a decision
17 within 60 business days.

18 b. All decisions of the land use review board shall be in writing.
19 A copy of the decision shall be forwarded by certified or registered
20 mail to the party taking the appeal, the permit review official, the
21 governmental entity with jurisdictional authority for the regulatory
22 program subject to the appeal, and the applicant.

23 c. The land use review board may affirm, reverse, or modify the
24 decision of the permit review official, or remand the matter to the
25 official for further action.

26 d. Failure by the land use review board to hear an appeal and
27 render and file a decision thereon within the time limits prescribed in
28 this section shall be deemed a denial of the appeal for purposes of a
29 complaint, application or appeal to the Appellate Division of the
30 Superior Court.

31

32 70. (New section) The vested rights periods provided in P.L.1975,
33 c.291 (C.40:55D-1 et seq.) and in P.L. , c. (C.) (pending before
34 the Legislature as this bill) shall be tolled pending decision of the land
35 use review board, but shall not be otherwise affected by an appeal
36 unless the land use review board finds that the permit review official
37 improperly failed to rule an application complete or improperly
38 disapproved an application for development or for a permitting
39 decision under a regulatory program, in which event the applicant's
40 rights shall be vested from the date the application was initially filed
41 with the permit review official.

42

43 71. (New section) Review of land use review board decisions shall
44 be limited to the following:

45 a. Decisions of the land use review board may be appealed as of
46 right to the Appellate Division of the Superior Court, pursuant to the

1 Rules of the Supreme Court.

2 b. An appeal of a land use review board decision shall be limited
3 to review of errors of law; there shall be no review of factual
4 determinations unless there was no conceivable factual basis for the
5 decision of the land use review board.

6

7 72. (New section) There is hereby established a state land use
8 appeal board as follows:

9 a. The land use appeal board shall have statewide jurisdiction.

10 b. The land use appeal board shall consist of seven members
11 appointed by the Governor with the advice and consent of the Senate.
12 No more than four members may be members of any one political
13 party. Members must represent different geographic areas of the
14 State. Members shall be appointed for a term of four years. For the
15 members first appointed, the Governor shall designate the appointees'
16 terms so that one shall be appointed for a term of one year, two for a
17 term of two years, two for a term of three years, and two for a term
18 of four years. Vacancies on the board shall be filled for the unexpired
19 term.

20 c. Members shall have been admitted to the practice of law in the
21 State for at least 10 years prior to appointment and must be qualified
22 by knowledge, experience or training to perform the responsibilities of
23 a member of the land use appeal board. During their service on the
24 board members shall not engage in the practice of law or other gainful
25 pursuit nor shall they hold other office or position of profit under this
26 state, any other state or the United States.

27 d. The land use appeal board shall maintain a permanent location
28 in Trenton and may hold sessions at other locations throughout the
29 state. The state shall provide hearing rooms, chambers and offices for
30 the land use appeal board at the required permanent location in
31 Trenton and shall arrange for hearing rooms, chambers and offices or
32 other appropriate facilities as necessary at other locations throughout
33 the State.

34 e. The Governor shall assign one of the members of the land use
35 appeal board to be the presiding member of the board. The presiding
36 member shall, subject to the supervision of the commissioner, be
37 responsible for the administration of the land use appeal board.

38 f. The commissioner shall appoint to serve at the commissioner's
39 pleasure a clerk and a deputy clerk of the land use appeal board,
40 neither of whom shall be subject to the provisions of Title 11A, Civil
41 Service, of the New Jersey Statutes.

42 g. The land use appeal board may sit in panels composed of three
43 members or as whole board.

44 h. The Legislature shall appropriate such funds as necessary to
45 fund the land use appeal board, including compensation for the
46 members of the board in amounts prescribed by the commissioner by

1 regulation.

2 i. Members may be removed by the Governor for cause following
3 a hearing conducted by the commissioner in accordance with
4 P.L.1968, c.410 (C.52:14B-1 et seq.).

5 j. The land use appeal board shall provide rules of procedure and
6 forms to file appeals in accordance with this act and regulations
7 promulgated by the commissioner.

8 k. Administrative staff for the land use appeal board, including but
9 not limited to legal counsel, shall be provided by the department.

10 l. Decisions of the land use appeal board shall be published in the
11 manner directed by the commissioner.

12

13

14 73. (New section) The land use appeal board shall have exclusive
15 jurisdiction to review the following:

16 a. The validity of municipal master plans.

17 b. The validity of land development regulations, as authorized in
18 P.L.1975, c.291 (C.40:55D-1 et seq.).

19 c. The validity of plans or substantive regulatory program
20 standards promulgated by a governmental entity for a regulatory
21 program.

22 d. Decisions establishing, expanding or contracting utility service
23 or franchise areas.

24 e. Decisions granting or denying variances.

25 f. Decisions granting or denying minor approval, preliminary
26 approval, preliminary default approval, conditional use approval, and
27 planned development approval.

28 g. Other decisions regarding projects or developments that are the
29 subject of any proceeding or decision described in this section, where
30 the land use appeal board deems it appropriate, provided that the land
31 use appeal board shall not review matters subject to review by the
32 Council on Affordable Housing.

33 h. The land use appeal board jurisdiction shall include any powers
34 that may be necessary to effectuate its decisions, judgments and
35 orders.

36

37 74. (New section) Appeals shall be filed with the land use appeal
38 board within the following time frames and subject to the following
39 procedures:

40 a. Appeals shall be filed within 30 days of the date of the decision
41 as provided in subsections e., f., and g. of section 73 of P.L. , c.
42 (C.) (pending before the Legislature as this bill).

43 b. Where a decision on a development under subsections e., f.,
44 and g. of section 73 of P.L. , c. (C.) (pending before the
45 Legislature as this bill) results through inaction of the planning board,
46 zoning board of adjustment, or other governmental entity, an appeal

1 shall be filed within 30 days of applicant notification to all parties who
2 were entitled to receive notice of the application for preliminary
3 approval, variance, conditional use, or planned development.

4 c. In the case of decisions under subsections a., b., c., and d. of
5 section 73 of P.L. , c. (C.) (pending before the Legislature as
6 this bill) appeals may also be filed within 30 days after a decision on
7 a request for a change in a plan or development regulation or within
8 90 days after submission of the request if no final action has been
9 taken on the request.

10 d. Appeals challenging the validity of master plans or elements
11 thereof and land development regulations, as authorized in P.L.1975,
12 c.291 (C.40:55D-1 et seq.), or of plans or substantive regulatory
13 program standards promulgated by a governmental entity for a
14 regulatory program, or establishing, expanding or contracting a utility
15 service or franchise area, as provided in subsections a., b., c., and d.
16 of section 73 of P.L. , c. (C.) (pending before the Legislature
17 as this bill), may be filed at any time, there being no requirement that
18 a request for a change be first filed with the governmental entity.

19 e. Appeals shall be filed in writing using standardized forms, as
20 provided in section 72 of P.L. , c. (C.) (pending before the
21 Legislature as this bill).

22 f. Notice of appeal must be served on the official or governmental
23 entity that made the decision being challenged, and the developer or
24 applicant in cases of an appeal not initiated by the developer or
25 applicant.

26 g. All time limits set forth in this section shall be jurisdictional,
27 and no appeal or other challenge shall lie in any tribunal or court in the
28 absence of such timely appeal.

29
30 75. (New section) a. Appeals to the land use appeal board
31 challenging the validity of master plans, land development regulations,
32 or substantive regulatory program standards, as provided in
33 subsections a., b., and c. of section 73 of P.L. , c. (C.) (pending
34 before the Legislature as this bill), may be filed by any interested party.

35 b. Appeals to the land use appeal board on utility service or
36 franchise areas, variances, minor approvals, preliminary approvals,
37 conditional uses, planned developments, and other decisions deemed
38 appropriate by the land use appeal board, as provided in subsections
39 d., e., f., and g. of section 73 of P.L. , c. (C.) (pending before
40 the Legislature as this bill), may be filed by the following: (1)
41 applicants for development; (2) governmental entities whose standards
42 are the subject of a permitting decision; (3) persons personally,
43 directly and seriously affected beyond general impacts of the
44 development or decision.

45
46 76. (New section) a. The land use appeal board shall hear the

1 appeal and base its decision only on the record supporting the decision
2 being appealed. No further testimony shall be required or permitted
3 for any matters for which there is a record of proceedings, including
4 sworn testimony.

5 b. For appeals in which there is no record of proceedings below,
6 the land use appeal board shall receive: (1) information of which
7 judicial notice would be taken in a judicial proceeding; (2) official and
8 duly adopted functional plans and construction programs; (3) expert
9 reports pursuant to rules to be established by the land use appeal
10 board; and (4) additional testimony to be taken in accordance with
11 regulations established by the commissioner with the approval of the
12 land use appeal board.

13 c. If an appeal is taken from a final decision resulting from
14 inaction by the planning board, zoning board of adjustment or other
15 governmental entity, the only determination to be made by the land use
16 appeal board shall be whether the board or entity did or did not act in
17 a timely manner. If the land use appeal board determines that the
18 board or entity did not act in a timely manner, the land use appeal
19 board shall affirm the default approval.

20

21 77. (New section) a. The land use appeal board shall hear the
22 appeal, render a decision thereon, and file its decision with a statement
23 of the reasons therefor within 75 business days following the filing of
24 the appeal.

25 b. All decisions of the land use appeal board shall be in writing.
26 A copy of the decision shall be forwarded by certified or registered
27 mail to the party taking the appeal, the permit review official, the
28 governmental entity with jurisdictional authority for the regulatory
29 program subject to the appeal, and the developer or applicant.

30 c. The land use appeal board may affirm, reverse, or modify the
31 decision of the planning board, zoning board of adjustment, or other
32 governmental entity, or remand the matter for further action.

33 d. The land use appeal board, in all causes within its jurisdiction,
34 and subject to law, may grant legal and equitable relief so that all
35 matters in controversy between the parties may be completely
36 determined.

37 e. Failure by the land use appeal board to hear an appeal and
38 render and file a decision thereon within the time limits prescribed in
39 this section shall be deemed a denial of the appeal for purposes of a
40 complaint, application or appeal to the Appellate Division of the
41 Superior Court.

42

43 78. (New section) The vested rights periods provided in P.L.1975,
44 c.291 (C.40:55D-1 et seq.) and in P.L. , c. (C.) (pending before
45 the Legislature as this bill) shall be tolled pending decision of the land
46 use appeal board, but shall not be otherwise affected by an appeal

1 unless the land use appeal board finds that the planning board, zoning
2 board of adjustment or other governmental entity improperly
3 disapproved an application for development, in which event the
4 applicant's rights shall be vested from the date the application was
5 initially filed with the permit review official.

6
7 79. (New section) Judgments of the land use appeal board may be
8 appealed to the Appellate Division of the Superior Court.

9
10 80. (New section) a. All existing approvals shall be governed by
11 statutes, ordinances, and regulations existing prior to the effective date
12 of this act.

13 b. All applications in process on the effective date of this act shall
14 be governed by the provisions of this act as follows:

15 (1) Those applications which have received minor or preliminary
16 planning board approval shall submit applications to the permit review
17 official for all remaining approvals.

18 (2) Applications for preliminary approval which are pending before
19 the planning board on the effective date of this act may, at the
20 applicant's option, remain before the planning board, and upon receipt
21 of preliminary approval, proceed as in paragraph (1) of this subsection,
22 or the applicant may withdraw the pending application and submit a
23 preliminary application to the planning board for review and action in
24 accordance with the provisions of this act.

25 (3) Applications for permitting decisions under regulatory
26 programs which are pending before governmental entities on the
27 effective date of this act may, at the applicant's option, remain before
28 the governmental entity until the permitting decision is received, or the
29 applicant may withdraw the pending application and submit the
30 application to the permit review official for review and action in
31 accordance with the provisions of this act.

32 (4) Applications for final approval which are pending before the
33 planning board on the effective date of this act may, at the applicant's
34 option, remain before the planning board, or the applicant may
35 withdraw the pending application and submit a final application to the
36 permit review official for review and action in accordance with the
37 provisions of this act.

38
39 81. The following statutes are hereby repealed:

40 Section 8 of P.L.1975, c.291 (C.40:55D-17)

41 Section 4 of P.L.1987, c.129 (C.40:55D-45.2)

42 Section 6 of P.L.1987, c.129 (C.40:55D-45.4)

43 Section 8 of P.L.1987, c.129 (C.40:55D-45.6)

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45 82. This act shall take effect one year next following the date of
46 enactment.

1 STATEMENT

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4 This bill is intended to streamline the existing development review
5 process in order to expedite development approval and thereby achieve
6 significant economies in construction costs throughout the State in all
7 sectors of the building economy. Not only does the bill address
8 approvals required on the part of builders from municipalities, but any
9 approval necessary in order to undertake construction, regardless of
10 which governmental entity issues the approval. In order to fulfill these
11 broad objectives, the bill significantly changes the manner in which
development approval would be carried out in the future.

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Specifically, the bill establishes a new position within the municipality, referred to as the "permit review official," who is appointed by the municipality and licensed by the Department of Community Affairs to administer, review, approve and enforce applications for development and make all permitting decisions for "regulatory programs." The bill defines regulatory programs very broadly to include any approval which current law requires as a prerequisite for a developer to obtain a construction permit. Not only does this include municipal site plan and subdivision approval and any required county approval, but all approvals issued by the Department of Environmental Protection, Pinelands Commission, Hackensack Meadowlands Development Commission, Department of Transportation, county and municipal utilities and sewerage authorities, shade tree commissions, and any other approval granted under the general authority conferred by State law or municipal or county ordinances, or any other government authorization of any development application or any permit related thereto.

The bill requires that any application for development be classified as minor, preliminary, final or a planned development. The bill prescribes the information which must be submitted in connection with each development depending upon the type of classification which it receives and requires that the information required be shown on a checklist. An applicant is required to file a copy of a development application determined to be a minor, preliminary or planned development application with the approving authority and the permit review official for determination of completeness in accordance with section 5 of P.L.1984, c.20 (C.40:55D-10.3). Once the permit review official determines that the application is complete, the applicant shall have vested rights for five years against any changes in the procedures, requirements, and standards of all municipal ordinances and under all of the regulatory programs. The only exception to this vesting is federal law which requires that new program standards be applied. All other applications for development and applications for permitting decisions under the regulatory programs shall be filed directly and exclusively with the permit review official.

1 The bill provides very specific parameters within which information
2 may be solicited of developers in connection with any development
3 application. In connection with an application for preliminary site plan
4 approval, for example, section 28 of the bill limits the information
5 required to be submitted to: (1) a narrative describing the proposed
6 development and its conformance with the municipal zoning ordinance
7 and master plan; (2) a location map, showing the site in relationship to
8 other land uses within one mile; and (3) a specific development map,
9 at the scale of 1 inch = 100 feet, which shall show topographic
10 information; the location of proposed buildings and structures; and six
11 other pertinent pieces of information. Similarly, section 31 of the bill
12 sets forth the information required to be submitted in support of a
13 preliminary subdivision application.

14 Section 24 of the bill sets forth five categories of information which
15 may be requested of an application submitting a general development
16 plan application: specifically, the scale of the land use map and
17 pertinent physical details of the planned development; circulation; open
18 space; utilities; and environmental impact. The bill establishes 10
19 years from the date of final approval of the first section of a planned
20 development as the minimum period within which general development
21 plan approval shall be effective; under current law, there is a 20 year
22 maximum effective period, but no minimum.

23 The bill increases from three to five years the period within which
24 a developer is held harmless from any change in any regulatory
25 program under which the preliminary approval was granted, *including*
26 *the requirements of any newly adopted or enacted programs*. Under
27 current law, the general terms and conditions on which preliminary
28 approval was granted shall prevail for three years from the date on
29 which the resolution of preliminary approval is adopted, and a
30 developer is not explicitly held harmless from a change in the
31 requirements of any newly adopted or enacted program. Additionally,
32 the bill grants these approval and vesting periods without application
33 to the planning board or zoning board.

34 The bill provides for the establishment of the position of the permit
35 review official, who shall be technically trained, experienced and
36 licensed by the Commissioner of Community Affairs; the bill exempts
37 New Jersey licensed professional engineers from licensing
38 requirements otherwise applicable to these officials.

39 Unlike current law, the municipal agency is required to hold a
40 hearing on each application for development; this bill would require
41 the municipal agency to hold hearings only on preliminary, minor,
42 conditional use, variance and planned development applications and on
43 adoption, revision or amendment of the master plan. The bill
44 constrains the planning board's scope of review and action on
45 development applications, limiting its purview to a determination as to
46 whether the development application is in conformance with the

1 zoning ordinance of the municipality. The planning board is
2 authorized, however, to make recommendations for the consideration
3 of the permit review official in the review of the final application.

4 The bill authorizes planning and zoning boards to appoint hearing
5 examiners to take testimony on specific development issues arising
6 during the review of an application for development and to finance the
7 professional costs which arise therefrom using the moneys held in
8 escrow, as provided for under existing law.

9 The bill grants the power to grant final approval of a development
10 application to the permit review official, who makes the determination
11 as to whether the application is in conformance with the preliminary
12 approval or a section thereof, and all applicable municipal regulatory
13 program requirements. The calculation of the developer's pro-rata
14 share is the responsibility of the permit review official during review
15 of the application for final approval.

16 In addition to these myriad changes in the way in which land use
17 decisions are made, the bill also establishes a land use review board
18 which shall have exclusive jurisdiction to review any final decision of
19 the permit review official.

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24 Streamlines development approval process.