

SENATE, No. 2027

STATE OF NEW JERSEY

INTRODUCED MAY 8, 1997

By Senator INVERSO

1 AN ACT concerning county review of certain applications for
2 development approval, amending and supplementing chapter 27 of
3 Title 40 of the Revised Statutes and amending P.L.1975, c.291.

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

7
8 1. Section 4 of P.L.1968, c.285 (C.40:27-6.2) is amended to read
9 as follows:

10 4. The board of freeholders of any county having a county planning
11 board shall provide for the review of all subdivisions of land within
12 the county by [said] the county planning board and for the approval of
13 those subdivisions situated within 500 feet of municipal boundaries, as
14 provided hereunder, and those subdivisions affecting county road or
15 drainage facilities as set forth [and limited hereinafter] in this section.

16 [Such] The approval of major subdivisions situated within 500 feet
17 of municipal boundaries which affect county road or drainage facilities
18 shall be in accordance with the provisions of this section and with
19 criteria adopted by the county governing body, under the provisions
20 of section 12 of P.L. , c. (C.) (pending before the Legislature
21 as this bill). The review and approval of major subdivisions situated
22 within 500 feet of municipal boundaries which do not affect county
23 road or drainage facilities shall be in accordance with the criteria
24 adopted by the county governing body under the provisions of section
25 12 of P.L. , c. (C.) (pending before the Legislature as this
26 bill). The review or approval of subdivisions classified as major or
27 minor subdivisions which affect county roads or drainage facilities but
28 which are not situated within 500 feet of municipal boundaries shall be
29 in accordance with procedures and engineering and planning standards
30 adopted by [resolution of the board of chosen freeholders] the county
31 governing body, as provided hereunder. These standards shall be
32 limited to:

33 a. The requirement of adequate drainage facilities and easements
34 when, as determined by the county engineer in accordance with

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 county-wide standards, the proposed subdivision will cause storm
2 water to drain either directly or indirectly to a county road, or through
3 any drainageway, structure, pipe, culvert, or facility for which the
4 county is responsible for the construction, maintenance, or proper
5 functioning;

6 b. The requirement of dedicating rights-of-way for any roads or
7 drainageways shown on a duly adopted county master plan or official
8 county map;

9 c. Where a proposed subdivision abuts a county road, or where
10 additional rights-of-way and physical improvements are required by
11 the county planning board, such improvements shall be subject to
12 recommendations of the county engineer relating to the safety and
13 convenience of the traveling public and may include additional
14 pavement widths, marginal access streets, reverse frontage and other
15 county highway and traffic design features necessitated by an increase
16 in traffic volumes, potential safety hazards or impediments to traffic
17 flows caused by the subdivision;

18 d. The requirement of performance guarantees and procedures for
19 the release of same, maintenance bonds for not more than 2 years
20 duration from date of acceptance of improvements and agreements
21 specifying minimum standards of construction for required
22 improvements. The amount of any performance guarantee or
23 maintenance bond shall be set by the planning board upon the advice
24 of the county engineer and shall not exceed the full cost of the facility
25 and installation costs or the developer's proportionate share thereof,
26 computed on the basis of his acreage related to the acreage of the total
27 drainage basin involved plus 10% for contingencies. In lieu of
28 providing any required drainage easement a cash contribution may be
29 deposited with the county to cover the cost or the proportionate share
30 thereof for securing said easement. In lieu of installing any such
31 required facilities exterior to the proposed plat a cash contribution may
32 be deposited with the county to cover the cost of proportionate share
33 thereof for the future installation of such facilities. Any and all
34 moneys received by the county to insure performance under the
35 provisions of this act shall be paid to the county treasurer who shall
36 provide a suitable depository therefor. Such funds shall be used only
37 for county drainage projects or improvement for which they are
38 deposited unless such projects are not initiated for a period of 10
39 years, at which time said funds shall be transferred to the general fund
40 of the county, provided that no assessment of benefits for such
41 facilities as a local improvement shall thereafter be levied against the
42 owners of the lands upon which the developer's prior contribution had
43 been based. Any moneys or guarantees received by the county under
44 this paragraph shall not duplicate bonds or other guarantees required
45 by municipalities for municipal purposes.

46 e. Provision may be made for waiving or adjusting requirements

1 under the subdivision resolution to alleviate hardships which would
2 result from strict compliance with the subdivision standards. Where
3 provision is made for waiving or adjusting requirements criteria shall
4 be included in the standards adopted by the board of chosen
5 freeholders to guide actions of the county planning board.

6 Notice of the public hearing on a proposed resolution of the board
7 of chosen freeholders establishing procedures and engineering
8 standards to govern land subdivision within the county, and a copy of
9 such resolution, shall be given by delivery or by certified mail to the
10 municipal clerk and secretary of the planning board of each
11 municipality in the county at least 10 days prior to such hearing.

12 (cf: P.L.1968, c.285, s.4)

13

14 2. Section 5 of P.L.1968, c.285 (C.40:27-6.3) is amended to read
15 as follows:

16 5. Each subdivision application shall be submitted to the county
17 planning board for review and, where required, approval prior to
18 approval by the local municipal approving authority. County approval
19 of any subdivision application affecting county road or drainage
20 facilities or in connection with any property situated within 500 feet
21 of municipal boundaries, as required pursuant to section 4 of
22 P.L.1968, c.285 (C.40:27-6.2), shall be limited by and based upon the
23 rules, regulations and standards established by and duly set forth in a
24 resolution adopted by the board of chosen freeholders pursuant to
25 section 4 of P.L.1968, c.285 (C.40:27-6.2) and section 12 of P.L. .
26 c. (C.) (pending before the Legislature as this bill), as the case
27 may be. The municipal [approval] approving authority shall either
28 defer taking final action on a subdivision application until receipt of
29 the county planning board report thereon or approve the subdivision
30 application subject to its timely receipt of a favorable report thereon
31 by the county planning board. The county planning board shall report
32 to the municipal authority within 30 days from the date of receipt of
33 the application. If the county planning board fails to report to the
34 municipal approving authority within the 30-day period, said
35 subdivision application shall be deemed to have been approved by the
36 county planning board unless, by mutual agreement between the
37 county planning board and municipal approving authority, with
38 approval of the applicant, the 30-day period shall be extended for an
39 additional 30-day period, and any such extension shall so extend the
40 time within which a municipal approving authority shall be required by
41 law to act thereon.

42 (cf: P.L.1971, c.371, s.1)

43

44 3. Section 8 of P.L.1968, c.285 (C.40:27-6.6) is amended to read
45 as follows:

46 8. The governing body of any county having a county planning

1 board may provide for the review and approval of site plans for land
2 development along county roads or affecting county drainage facilities
3 as provided in subsection e. of this section and for the approval of
4 [such development as hereinafter set forth and limited for the purpose
5 of assuring a safe and efficient county road system] those major site
6 plans which do not affect county roads or county drainage facilities,
7 but which are situated within 500 feet of municipal boundaries. Such
8 review and approval shall be in conformance with procedures and
9 standards adopted by resolution or ordinance as appropriate of the
10 governing body for the purpose of assuring a safe and efficient county
11 road system, in the case of those developments which affect county
12 roads. Review and approval of those major site plans situated within
13 500 feet of municipal boundaries shall be in accordance with the
14 provisions of section 12 of P.L. , c. (C.) (pending before the
15 Legislature as this bill).

16 Notice of the public hearing on a proposed resolution or ordinance
17 of the governing body establishing procedures and standards to govern
18 the review and regulation of land development along county roads or
19 affecting county drainage facilities as provided in subsection e. of this
20 section, and a copy of such resolution or ordinance, shall be given by
21 delivery or by certified mail to the municipal clerk, secretary of the
22 planning board and secretary of the board of adjustment of each
23 municipality in the county at least 10 days prior to such hearing.
24 These procedures and standards shall be limited to:

25 a. The submission of a site plan, prior to the issuance of a
26 municipal building permit, drawn in accordance with standards in the
27 resolution or ordinance for any proposed land development, excluding
28 single family residential development but including proposed
29 commercial, industrial, multifamily structures containing five or more
30 units, or any other land development requiring off-street parking area
31 or producing surface runoff in excess of standards set forth in the site
32 plan review and approval resolution or ordinance of the governing
33 body.

34 b. The requirement of dedication of additional right-of-way in
35 accordance with the county master plan adopted by the county
36 planning board or an official county map adopted by the governing
37 body. Where by reason of special or unusual conditions said total
38 additional right-of-way is to be secured from just one side of an
39 existing road, only one-half of the additional right-of-way may be
40 required to be dedicated.

41 c. The requirement of physical improvements subject to
42 recommendations of the county engineer relating to the safety and
43 convenience of the traveling public, including drainage facilities, or
44 other highway and traffic design features as may be deemed necessary
45 on such county road or roads in accordance with the engineering and
46 planning standards established in the site plan review and approval

1 resolution or ordinance of the governing body.

2 d. The requirement of performance and payment guarantees and
3 procedures for the release of same, maintenance bonds of not more
4 than 2 years' duration from the date of acceptance of improvements,
5 cash contributions, and agreements specifying minimum standards of
6 construction for required improvements. Procedures for, and
7 limitations on the requirement of such guarantees or cash
8 contributions shall be governed by the provisions of this act.

9 e. The requirement of adequate drainage facilities and easements
10 when, as determined by the county engineer in accordance with
11 county-wide standards, the proposed site plan will cause storm water
12 to drain either directly or indirectly to a county road or through any
13 drainage-way, structure, pipe, culvert or facility for which the county
14 is responsible for the construction, maintenance or proper functioning.

15 [Site] With the exception of those applications for approval of a
16 major site plan for property situated within 500 feet of municipal
17 boundaries, plans for land development not along a county road that
18 include less than [1] one acre of impervious surfaces are exempt from
19 county site plan review.

20 (cf: P.L.1981, c.50, s.1)

21

22 4. Section 12 of P.L.1968, c.285 (C.40:27-6.10) is amended to
23 read as follows:

24 12. In order that county planning boards shall have a complete file
25 of the planning and zoning ordinances of all municipalities in the
26 county, each municipal clerk shall file with the county planning board
27 a copy of the planning and zoning ordinances of the municipality in
28 effect on the effective date of this act and shall notify the county
29 planning board of the introduction of any revision or amendment of
30 such an ordinance which affects lands adjoining county roads or other
31 county lands, or lands lying within [200] 500 feet of a municipal
32 boundary, or proposed facilities or public lands shown on the county
33 master plan or official county map. Such notice shall be given to the
34 county planning board at least 10 days prior to the public hearing
35 thereon by personal delivery or by certified mail of a copy of the
36 official notice of the public hearing together with a copy of the
37 proposed ordinance.

38 (cf: P.L.1968, c.285, s.12)

39

40 5. Section 13 of P.L.1968, c.285 (C.40:27-6.11) is amended to
41 read as follows:

42 13. The county planning board shall be notified of any application
43 to the board of adjustment under [Revised Statute 40:55-39]
44 subsection d. of section 57 of P.L.1975, c.291 (C.40:55D-70) in such
45 cases where the land involved fronts upon an existing county road or
46 proposed road shown on the official county map or on the county

1 master plan, adjoins the other county land or is situated within [200]
2 500 feet of a municipal boundary. Notice of hearings on such
3 applications shall be furnished by the appellant in accordance with
4 [P.L.1965, c. 162 (C. 40:55-53)] section 7.1 of P.L.1975, c.291
5 (C.40:55D-12).

6 (cf: P.L.1968, c.285, s.13)

7

8 6. Section 7.1 of P.L.1975, c.291 (C.40:55D-12) is amended to
9 read as follows:

10 7.1. Notice pursuant to subsections a., b., d., e., f., g. and h. of this
11 section shall be given by the applicant unless a particular municipal
12 officer is so designated by ordinance; provided that nothing contained
13 herein shall prevent the applicant from giving such notice if he so
14 desires. Notice pursuant to subsections a., b., d., e., f., g. and h. of
15 this section shall be given at least 10 days prior to the date of the
16 hearing.

17 a. Public notice of a hearing on an application for development
18 shall be given, except for (1) conventional site plan review pursuant to
19 section 34 of P.L.1975, c.291 (C.40:55D-46), (2) minor subdivisions
20 pursuant to section 35 of P.L.1975, c.291 (C.40:55D-47) or (3) final
21 approval pursuant to section 38 of P.L.1975, c.291 (C.40:55D-50);
22 provided that the governing body may by ordinance require public
23 notice for such categories of site plan review as may be specified by
24 ordinance; and provided further that public notice shall be given in the
25 event that relief is requested pursuant to section 47 or 63 of P.L.1975,
26 c.291 (C.40:55D-60 or C.40:55D-76) as part of an application for
27 development otherwise excepted herein from public notice. Public
28 notice shall be given by publication in the official newspaper of the
29 municipality, if there be one, or in a newspaper of general circulation
30 in the municipality.

31 b. Notice of a hearing requiring public notice pursuant to
32 subsection a. of this section shall be given to the owners of all real
33 property as shown on the current tax duplicates, located in the State
34 and within 200 feet in all directions of the property which is the
35 subject of such hearing; provided that this requirement shall be deemed
36 satisfied by notice to the (1) condominium association, in the case of
37 any unit owner whose unit has a unit above or below it, or (2)
38 horizontal property regime, in the case of any co-owner whose
39 apartment has an apartment above or below it. Notice shall be given
40 by: (1) serving a copy thereof on the property owner as shown on the
41 said current tax duplicate, or his agent in charge of the property, or (2)
42 mailing a copy thereof by certified mail to the property owner at his
43 address as shown on the said current tax duplicate.

44 Notice to a partnership owner may be made by service upon any
45 partner. Notice to a corporate owner may be made by service upon its
46 president, a vice president, secretary or other person authorized by

1 appointment or by law to accept service on behalf of the corporation.
2 Notice to a condominium association, horizontal property regime,
3 community trust or homeowners' association, because of its ownership
4 of common elements or areas located within 200 feet of the property
5 which is the subject of the hearing, may be made in the same manner
6 as to a corporation without further notice to unit owners, co-owners,
7 or homeowners on account of such common elements or areas.

8 c. Upon the written request of an applicant, the administrative
9 officer of a municipality shall, within seven days, make and certify a
10 list from said current tax duplicates of names and addresses of owners
11 to whom the applicant is required to give notice pursuant to subsection
12 b. of this section. In addition, the administrative officer shall include
13 on the list the names, addresses and positions of those persons who,
14 not less than seven days prior to the date on which the applicant
15 requested the list, have registered to receive notice pursuant to
16 subsection h. of this section. The applicant shall be entitled to rely
17 upon the information contained in such list, and failure to give notice
18 to any owner or to any public utility, cable television company, or
19 local utility not on the list shall not invalidate any hearing or
20 proceeding. A sum not to exceed \$0.25 per name, or \$10.00,
21 whichever is greater, may be charged for such list.

22 d. Notice of hearings on applications for development involving
23 property located within [200] 500 feet of an adjoining municipality
24 shall be given by personal service or certified mail to the clerk of such
25 municipality.

26 e. Notice shall be given by personal service or certified mail to the
27 county planning board of a hearing on an application for development
28 of property adjacent to an existing county road or proposed road
29 shown on the official county map or on the county master plan,
30 adjoining other county land or situated within [200] 500 feet of a
31 municipal boundary.

32 f. Notice shall be given by personal service or certified mail to the
33 Commissioner of Transportation of a hearing on an application for
34 development of property adjacent to a State highway.

35 g. Notice shall be given by personal service or certified mail to the
36 State Planning Commission of a hearing on an application for
37 development of property which exceeds 150 acres or 500 dwelling
38 units. The notice shall include a copy of any maps or documents
39 required to be on file with the municipal clerk pursuant to subsection
40 b. of section 6 of P.L.1975, c.291 (C.40:55D-10).

41 h. Notice of hearings on applications for approval of a major
42 subdivision or a site plan not defined as a minor site plan under this act
43 requiring public notice pursuant to subsection a. of this section shall
44 be given, in the case of a public utility, cable television company or
45 local utility which possesses a right-of-way or easement within the
46 municipality and which has registered with the municipality in

1 accordance with section 5 of P.L.1991. c.412 (C. 40:55D-12.1), by (1)
2 serving a copy of the notice on the person whose name appears on the
3 registration form on behalf of the public utility, cable television
4 company or local utility or (2) mailing a copy thereof by certified mail
5 to the person whose name appears on the registration form at the
6 address shown on that form.

7 i. The applicant shall file an affidavit of proof of service with the
8 municipal agency holding the hearing on the application for
9 development in the event that the applicant is required to give notice
10 pursuant to this section.

11 j. Notice pursuant to subsections d., e., f., g. and h. of this section
12 shall not be deemed to be required, unless public notice pursuant to
13 subsection a. and notice pursuant to subsection b. of this section are
14 required.

15 (cf: P.L.1991, c.412, s.4)

16

17 7. Section 7.5 of P.L.1975, c.291 (C.40:55D-16) is amended to
18 read as follows:

19 7.5 Filing of ordinances. Development regulations, except for the
20 official map, and except for any amendment to the municipal zoning
21 ordinance involving land situated within 500 feet of municipal borders,
22 shall not take effect until a copy thereof shall be filed with the county
23 planning board. In the case of an amendment to the zoning ordinance
24 involving land situated within 500 feet of municipal borders, the
25 zoning amendment shall not take effect without the approval of the
26 county planning board. A zoning ordinance or amendment or revision
27 thereto which in whole or in part is inconsistent with or not designed
28 to effectuate the land use plan element of the master plan shall not take
29 effect until a copy of the resolution required by subsection a. of
30 section 49 of P.L.1975, c.291 (C.40:55D-62) shall be filed with the
31 county planning board; provided, however, that if the zoning
32 amendment which in whole or in part is inconsistent with or not
33 designed to effectuate the land use plan element involves land situated
34 within 500 feet of municipal borders, the amendment shall not take
35 effect without the prior approval of the county planning board. The
36 secretary of the county planning board shall within 10 days of the date
37 of receipt of a written request for copies of any development
38 regulation make such available to the party so requesting with said
39 secretary's certification that said copies are true copies and that all
40 filed amendments and resolutions are included. A reasonable charge
41 may be made by the county planning board for said copies.

42 The official map of the municipality shall not take effect until filed
43 with the county recording officer.

44 Copies of all development regulations and any revisions or
45 amendments thereto shall be filed and maintained in the office of the
46 municipal clerk.

1 (cf: P.L.1985, c.516, s.6)

2

3 8. Section 17 of P.L.1975, c.291 (C.40:55D-26) is amended to
4 read as follows:

5 17. Referral powers. a. Prior to the adoption of a development
6 regulation, revision, or amendment thereto, the planning board shall
7 make and transmit to the governing body and to the county planning
8 board, within 35 days after referral, a report including identification of
9 any provisions in the proposed development regulation, revision or
10 amendment which are inconsistent with the master plan and
11 recommendations concerning these inconsistencies and any other
12 matters as the board deems appropriate. The governing body, when
13 considering the adoption of a development regulation, revision or
14 amendment thereto, shall review the report of the planning board and
15 may disapprove or change any recommendation by a vote of a majority
16 of its full authorized membership and shall record in its minutes the
17 reasons for not following such recommendation. Failure of the
18 planning board to transmit its report within the 35-day period provided
19 herein shall relieve the governing body from the requirements of this
20 subsection in regard to the proposed development regulation, revision
21 or amendment thereto referred to the planning board. Nothing in this
22 section shall be construed as diminishing the application of the
23 provisions of section 23 of P.L. 1975, c. 291 (C. 40:55D-32) to any
24 official map or an amendment or revision thereto or of subsection a.
25 of section 49 of P.L. 1975, c.291 (C.40:55D-62) to any zoning
26 ordinance or any amendment or revision thereto.

27 b. The governing body may by ordinance provide for the reference
28 of any matter or class of matters to the planning board before final
29 action thereon by a municipal body or municipal officer having final
30 authority thereon, except of any matter under the jurisdiction of the
31 board of adjustment. Whenever the planning board shall have made a
32 recommendation regarding a matter authorized by this act to another
33 municipal body, such recommendation may be rejected only by a
34 majority of the full authorized membership of such other body.

35 (cf: P.L.1985, c.516, s.10)

36

37 9. Section 19 of P.L.1975, c.291 (C.40:55D-28) is amended to
38 read as follows:

39 19. Preparation; contents; modification.

40 a. The planning board may prepare and, after public hearing, adopt
41 or amend a master plan or component parts thereof, to guide the use
42 of lands within the municipality in a manner which protects public
43 health and safety and promotes the general welfare.

44 b. The master plan shall generally comprise a report or statement
45 and land use and development proposals, with maps, diagrams and
46 text, presenting, at least the following elements (1) and (2) and, where

1 appropriate, the following elements (3) through (12):

2 (1) A statement of objectives, principles, assumptions, policies and
3 standards upon which the constituent proposals for the physical,
4 economic and social development of the municipality are based;

5 (2) A land use plan element (a) taking into account and stating its
6 relationship to the statement provided for in paragraph (1) hereof, and
7 other master plan elements provided for in paragraphs (3) through (12)
8 hereof and natural conditions, including, but not necessarily limited to,
9 topography, soil conditions, water supply, drainage, flood plain areas,
10 marshes, and woodlands; (b) showing the existing and proposed
11 location, extent and intensity of development of land to be used in the
12 future for varying types of residential, commercial, industrial,
13 agricultural, recreational, educational and other public and private
14 purposes or combination of purposes; and stating the relationship
15 thereof to the existing and any proposed zone plan and zoning
16 ordinance; and (c) showing the existing and proposed location of any
17 airports and the boundaries of any airport safety zones delineated
18 pursuant to the "Air Safety and Zoning Act of 1983," P.L.1983, c.260
19 (C.6:1-80 et seq.); and (d) including a statement of the standards of
20 population density and development intensity recommended for the
21 municipality;

22 (3) A housing plan element pursuant to section 10 of P.L.1985,
23 c.222 (C.52:27D-310), including, but not limited to, residential
24 standards and proposals for the construction and improvement of
25 housing;

26 (4) A circulation plan element showing the location and types of
27 facilities for all modes of transportation required for the efficient
28 movement of people and goods into, about, and through the
29 municipality, taking into account the functional highway classification
30 system of the Federal Highway Administration and the types,
31 locations, conditions and availability of existing and proposed
32 transportation facilities, including air, water, road and rail;

33 (5) A utility service plan element analyzing the need for and
34 showing the future general location of water supply and distribution
35 facilities, drainage and flood control facilities, sewerage and waste
36 treatment, solid waste disposal and provision for other related utilities,
37 and including any storm water management plan required pursuant to
38 the provisions of P.L.1981, c.32 (C.40:55D-93 et seq.);

39 (6) A community facilities plan element showing the existing and
40 proposed location and type of educational or cultural facilities, historic
41 sites, libraries, hospitals, firehouses, police stations and other related
42 facilities, including their relation to the surrounding areas;

43 (7) A recreation plan element showing a comprehensive system of
44 areas and public sites for recreation;

45 (8) A conservation plan element providing for the preservation,
46 conservation, and utilization of natural resources, including, to the

1 extent appropriate, energy, open space, water supply, forests, soil,
2 marshes, wetlands, harbors, rivers and other waters, fisheries,
3 endangered or threatened species wildlife and other resources, and
4 which systemically analyzes the impact of each other component and
5 element of the master plan on the present and future preservation,
6 conservation and utilization of those resources;

7 (9) An economic plan element considering all aspects of economic
8 development and sustained economic vitality, including (a) a
9 comparison of the types of employment expected to be provided by the
10 economic development to be promoted with the characteristics of the
11 labor pool resident in the municipality and nearby areas and (b) an
12 analysis of the stability and diversity of the economic development to
13 be promoted;

14 (10) A historic preservation plan element: (a) indicating the
15 location and significance of historic sites and historic districts; (b)
16 identifying the standards used to assess worthiness for historic site or
17 district identification; and (c) analyzing the impact of each component
18 and element of the master plan on the preservation of historic sites and
19 districts;

20 (11) Appendices or separate reports containing the technical
21 foundation for the master plan and its constituent elements; and

22 (12) A recycling plan element which incorporates the State
23 Recycling Plan goals, including provisions for the collection,
24 disposition and recycling of recyclable materials designated in the
25 municipal recycling ordinance, and for the collection, disposition and
26 recycling of recyclable materials within any development proposal for
27 the construction of 50 or more units of single-family residential
28 housing or 25 or more units of multi-family residential housing and any
29 commercial or industrial development proposal for the utilization of
30 1,000 square feet or more of land.

31 c. The master plan and its plan elements may be divided into
32 subplans and subplan elements projected according to periods of time
33 or staging sequences.

34 d. The master plan shall include a specific policy statement
35 indicating the relationship of the proposed development of the
36 municipality, as developed in the master plan to (1) the master plans
37 of contiguous municipalities, (2) the master plan of the county in
38 which the municipality is located and specifically, a statement of how
39 the land use proposed for that area situated within 500 feet of
40 municipal borders is consistent with the planning criteria adopted by
41 the county governing the granting of approval of development
42 applications adopted pursuant to section 12 of P.L. , c. (C.)
43 (pending before the Legislature as this bill), (3) the State Development
44 and Redevelopment Plan adopted pursuant to the "State Planning
45 Act," sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.)
46 and (4) the district solid waste management plan required pursuant to

1 the provisions of the "Solid Waste Management Act," P.L.1970, c.39
2 (C.13:1E-1 et seq.) of the county in which the municipality is located.
3 (cf: P.L.1991, c.445, s.7)

4

5 10. Section 49 of P.L.1975, c.291 (C.40:55D-62) is amended to
6 read as follows:

7 49. Power to zone. a. The governing body may adopt or amend
8 a zoning ordinance relating to the nature and extent of the uses of land
9 and of buildings and structures thereon. Such ordinance shall be
10 adopted after the planning board has adopted the land use plan element
11 and the housing plan element of a master plan, and all of the provisions
12 of such zoning ordinance or any amendment or revision thereto shall
13 either be substantially consistent with the land use plan element and
14 the housing plan element of the master plan or designed to effectuate
15 such plan elements; provided that the governing body may adopt a
16 zoning ordinance or amendment or revision thereto which in whole or
17 part is inconsistent with or not designed to effectuate the land use plan
18 element and the housing plan element, except as provided hereunder,
19 but only by affirmative vote of a majority of the full authorized
20 membership of the governing body, with the reasons of the governing
21 body for so acting set forth in a resolution and recorded in its minutes
22 when adopting such a zoning ordinance; and provided further that,
23 notwithstanding anything aforesaid, the governing body may adopt an
24 interim zoning ordinance pursuant to subsection b. of section 77 of
25 P.L.1975, c.291 (C.40:55D-90).

26 Notwithstanding any provisions of this subsection to the contrary,
27 any zoning amendment or revision not designed to effectuate the land
28 use plan and the housing plan element affecting land situated within
29 500 feet of municipal boundaries shall not take effect without the prior
30 approval of the county planning board.

31 The zoning ordinance shall be drawn with reasonable consideration
32 to the character of each district and its peculiar suitability for
33 particular uses and to encourage the most appropriate use of land. The
34 regulations in the zoning ordinance shall be uniform throughout each
35 district for each class or kind of buildings or other structure or uses of
36 land, including planned unit development, planned unit residential
37 development and residential cluster, but the regulations in one district
38 may differ from those in other districts.

39 b. No zoning ordinance and no amendment or revision to any
40 zoning ordinance shall be submitted to or adopted by initiative or
41 referendum.

42 c. The zoning ordinance shall provide for the regulation of any
43 airport safety zones delineated under the "Air Safety and Zoning Act
44 of 1983," P.L.1983, c.260 (C.6:1-80 et seq.), in conformity with
45 standards promulgated by the Commissioner of Transportation.

46 d. The zoning ordinance shall provide for the regulation of land

1 adjacent to State highways in conformity with the State highway
2 access management code adopted by the Commissioner of
3 Transportation under section 3 of the "State Highway Access
4 Management Act," P.L.1989, c.32 (C.27:7-91), for the regulation of
5 land with access to county roads and highways in conformity with any
6 access management code adopted by the county under R.S.27:16-1
7 and for the regulation of land with access to municipal streets and
8 highways in conformity with any municipal access management code
9 adopted under R.S.40:67-1. This subsection shall not be construed as
10 requiring a zoning ordinance to establish minimum lot sizes or
11 minimum frontage requirements for lots adjacent to but restricted from
12 access to a State highway.

13 (cf: P.L.1991, c.445, s.9)

14

15 11. Section 57 of P.L.1975, c.291 (C.40:55D-70) is amended to
16 read as follows:

17 57. Powers. The board of adjustment shall have the power to:

18 a. Hear and decide appeals where it is alleged by the appellant that
19 there is error in any order, requirement, decision or refusal made by an
20 administrative officer based on or made in the enforcement of the
21 zoning ordinance;

22 b. Hear and decide requests for interpretation of the zoning map or
23 ordinance or for decisions upon other special questions upon which
24 such board is authorized to pass by any zoning or official map
25 ordinance, in accordance with this act;

26 c. (1) Where: (a) by reason of exceptional narrowness,
27 shallowness or shape of a specific piece of property, or (b) by reason
28 of exceptional topographic conditions or physical features uniquely
29 affecting a specific piece of property, or (c) by reason of an
30 extraordinary and exceptional situation uniquely affecting a specific
31 piece of property or the structures lawfully existing thereon, the strict
32 application of any regulation pursuant to article 8 of this act would
33 result in peculiar and exceptional practical difficulties to, or
34 exceptional and undue hardship upon, the developer of such property,
35 grant, upon an application or an appeal relating to such property, a
36 variance from such strict application of such regulation so as to relieve
37 such difficulties or hardship; (2) where in an application or appeal
38 relating to a specific piece of property the purposes of this act would
39 be advanced by a deviation from the zoning ordinance requirements
40 and the benefits of the deviation would substantially outweigh any
41 detriment, grant a variance to allow departure from regulations
42 pursuant to article 8 of this act; provided, however, that no variance
43 from those departures enumerated in subsection d. of this section shall
44 be granted under this subsection; and provided further that the
45 proposed development does not require approval by the planning
46 board of a subdivision, site plan or conditional use, in conjunction with

1 which the planning board has power to review a request for a variance
2 pursuant to subsection a. of section 47 of this act; and

3 d. In particular cases for special reasons, grant a variance to allow
4 departure from regulations pursuant to article 8 of this act to permit:
5 (1) a use or principal structure in a district restricted against such use
6 or principal structure, (2) an expansion of a nonconforming use, (3)
7 deviation from a specification or standard pursuant to section 54 of
8 P.L.1975, c.291 (C.40:55D-67) pertaining solely to a conditional use,
9 (4) an increase in the permitted floor area ratio as defined in section
10 3.1. of P.L.1975, c.291 (C.40:55D-4), (5) an increase in the permitted
11 density as defined in section 3.1 of P.L.1975, c.291 (C.40:55D-4),
12 except as applied to the required lot area for a lot or lots for detached
13 one or two dwelling unit buildings, which lot or lots either an isolated
14 undersized lot or lots resulting from a minor subdivision or (6) a
15 height of a principal structure which exceeds by 10 feet or 10% the
16 maximum height permitted in the district for a principal structure. A
17 variance under this subsection shall be granted only by affirmative vote
18 of at least five members, in the case of a municipal board, or
19 two-thirds of the full authorized membership, in the case of a regional
20 board, pursuant to article 10 of this act.

21 If an application development requests one or more variances but
22 not a variance for a purpose enumerated in subsection d. of this
23 section, the decision on the requested variance or variances shall be
24 rendered under subsection c. of this section.

25 No variance or other relief may be granted under the terms of this
26 section unless such variance or other relief can be granted without
27 substantial detriment to the public good and will not substantially
28 impair the intent and the purpose of the zone plan and zoning
29 ordinance. In respect to any airport safety zones delineated under the
30 "Air Safety and Zoning Act of 1983," P.L.1983, c.260 (C.6:1-80 et
31 seq.), no variance or other relief may be granted under the terms of
32 this section, permitting the creation or establishment of a
33 nonconforming use which would be prohibited under standards
34 promulgated pursuant to that act, except upon issuance of a permit by
35 the Commissioner of Transportation. An application under this section
36 may be referred to any appropriate person or agency for its report;
37 provided that such reference shall not extend the period of time within
38 which the zoning board of adjustment shall act.

39 No variance or other relief may be granted under the terms of this
40 section for property situated within 500 feet of municipal boundaries
41 unless the application for a variance or relief has been approved by the
42 county planning board; referral to the county planning board shall not
43 extend the period of time within which the zoning board of adjustment
44 shall act.

45 (cf: P.L.1991, c.445, s.10)

46

1 over which they have no control.

2 While preserving the prerogative of municipal home rule, this bill
3 accords greater power to counties to review applications for major
4 subdivision and major site plan approval in those areas situated within
5 500 feet of municipal boundaries according to criteria which counties
6 must adopt by resolution or ordinance, as appropriate to their
7 respective forms of government. These criteria include indices of
8 environmental degradation, such as the impact of the proposed
9 development on traffic congestion, crime, noise, and population
10 density; the compatibility of the proposed development with
11 neighborhood character in that portion of the neighboring municipality
12 which abuts the proposed development; and the extent to which the
13 proposed development will generate an increase in the need for
14 municipal services in the adjacent municipality or municipalities.

15 In addition, the bill requires that applications for a use variance
16 involving property situated within 500 feet of municipal borders be
17 approved by the county planning board. Henceforth, any amendment
18 to or revision of a zoning ordinance involving land situated within 500
19 feet of municipal borders shall not take effect without the approval of
20 the county planning board.

21 The bill expands the provision of existing law governing the
22 municipal master plan concerning the inclusion of a statement as to
23 how the municipal plan is consistent with the county master plan. This
24 statement would be required to be expanded under the bill to
25 encompass a statement of how the land use proposed for that area
26 within 500 feet of municipal borders is consistent with the county's
27 planning criteria governing its approval of development applications
28 in that area under section 12 of the bill.

29 Finally, the bill expands the notice provisions which govern the
30 submission of development application materials under existing law to
31 accommodate the expanded role of the county in development
32 approval.

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37 Broadens county power to review development applications in
38 municipal border areas.