

40:55D-45.3 et al.
LEGISLATIVE HISTORY CHECKLIST
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LAWS OF: 2011 **CHAPTER:** 86

NJSA: 40:55D-45.3 et al. (Expands availability of general development plan approvals and long-term vesting of preliminary and final site plan approvals in Smart Growth areas)

BILL NO: S483 (Substituted for A3295)

SPONSOR(S) Lesniak and others

DATE INTRODUCED: January 12, 2010

COMMITTEE: **ASSEMBLY:** Budget
 SENATE: Community and Urban Affairs

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 29, 2011
 SENATE: June 9, 2011

DATE OF APPROVAL: July 1, 2011

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Third reprint enacted)

S483

SPONSOR'S STATEMENT:	(Begins on page 8 of introduced bill)	Yes	
COMMITTEE STATEMENT:	ASSEMBLY:	Yes	.
	SENATE:	Yes	

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL NOTE: No

A3295

SPONSOR'S STATEMENT: (Begins on page 8 of introduced bill) Yes

COMMITTEE STATEMENT:	ASSEMBLY:	Yes	Budget Commerce
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SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL NOTE: No

(continued)

VETO MESSAGE:

Yes

GOVERNOR'S PRESS RELEASE ON SIGNING:

No

FOLLOWING WERE PRINTED:

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No

LAW/RWH

P.L.2011, CHAPTER 86, *approved July 1, 2011*

Senate, No. 483 (*Third Reprint*)

1 AN ACT concerning general development plans and site plan
2 approvals ³[in Smart Growth areas]³, supplementing and
3 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 ³[1. (New section) The Legislature finds and declares that:

9 a. It is the policy of the State to encourage development in
10 smart growth areas such as the urban core, the older suburban ring,
11 developed suburbs, and developed centers of the State while
12 discouraging growth in the exurban and rural portions of the State.

13 b. Development in smart growth areas is more vertical,
14 utilizing less land and avoiding sprawl.

15 c. Smart growth development is characterized by a large
16 amount of floor area or density on a small amount of land.

17 d. It is very costly and time consuming to engage in smart
18 growth development because of the challenges of land assemblage,
19 environmental clean up, the cost of structured parking, and slower
20 market absorption of floor area and units.

21 e. The general development plan and site plan vesting
22 provisions of the "Municipal Land Use Law," P.L.1975, c.291
23 (C.40:55D-1 et seq.) contemplate traditional sprawl development on
24 large tracts of land and must be amended to accommodate and
25 encourage smart growth development.]³
26

27 ³[2 Section 3.4 of P.L.1975, c.291 (C.40:55D-7) is amended to
28 read as follows:

29 3.4. "Sedimentation" means the deposition of soil that has been
30 transported from its site of origin by water, ice, wind, gravity or
31 other natural means as a product of erosion.

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

37 "Site plan" means a development plan of one or more lots on
38 which is shown (1) the existing and proposed conditions of the lot,
39 including but not necessarily limited to topography, vegetation,

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ABU committee amendments adopted December 13, 2010.

²Assembly floor amendments adopted January 6, 2011.

³Senate amendments adopted in accordance with Governor's recommendations May 23, 2011.

1 drainage, flood plains, marshes and waterways, (2) the location of
2 all existing and proposed buildings, drives, parking spaces,
3 walkways, means of ingress and egress, drainage facilities, utility
4 services, landscaping, structures and signs, lighting, screening
5 devices, and (3) any other information that may be reasonably
6 required in order to make an informed determination pursuant to an
7 ordinance requiring review and approval of site plans by the
8 planning board adopted pursuant to article 6 of this act.

9 "Smart growth area" means an area designated pursuant to
10 P.L.1985, c.398 (C.52:18A-196 et al.) as Planning Area 1
11 (Metropolitan), Planning Area 2 (Suburban), a designated center, or
12 a designated growth center in an endorsed plan; a smart growth area
13 and planning area designated in a master plan adopted by the New
14 Jersey Meadowlands Commission pursuant to subsection (i) of
15 section 6 of P.L.1968, c.404 (C.13:17-6); a growth area designated
16 in the comprehensive management plan prepared and adopted by
17 the Pinelands Commission pursuant to section 7 of the "Pinelands
18 Protection Act," P.L.1979, c.111 (C.13:18A-8); an urban enterprise
19 zone designated pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.)
20 or P.L.2001, c.347 (C.52:27H-66.2 et al.); an area determined to be
21 in need of redevelopment ¹ [or rehabilitation] ¹ pursuant to
22 P.L.1992, c.79 (C.40A:12A-1 et al.) and as approved by the
23 Department of Community Affairs; or similar areas designated
24 by the Department of Environmental Protection ¹ [, Department
25 of Transportation, or New Jersey Economic Development
26 Authority] ¹ .

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

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

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

1 pavement, shoulders, gutters, curbs, sidewalks, parking areas and
2 other areas within the street lines.

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

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

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
27 requirements of a zoning ordinance pursuant to sections 47 and
28 subsections 29.2b., 57c. and 57d. of this act.

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

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

42 (cf: P.L.2009, c.146, s.2)]³

43

44 ³[3.] 1.³ Section 5 of P.L.1987, c.129 (C.40:55D-45.3) is
45 amended to read as follows:

46 5. a. (1) Any developer of a parcel of land greater than 100
47 acres in size for which the developer is seeking approval of a

1 planned development pursuant to P.L.1975, c.291 (C.40:55D-1 et
2 seq.) may submit a general development plan to the planning board
3 prior to the granting of preliminary approval of that development by
4 the planning board pursuant to section 34 of P.L.1975, c.291
5 (C.40:55D-46) or section 36 of P.L.1975, c.291 (C.40:55D-48).

6 (2) Any developer of a parcel of land 100 acres or less in size
7 ³[, located in a smart growth area,]³ for which parcel the developer
8 is seeking approval of a planned development pursuant to P.L.1975
9 c.291 (C.40:55D-1 et seq.), consisting of not less than 150,000
10 square feet of nonresidential floor area ²[parcel]² or not less than
11 100 residential dwelling units ²[parcel]² ³, or consisting of a
12 combination of square feet of nonresidential floor area and
13 residential dwelling units, which when proportionately aggregated
14 at a rate of 1,500 square feet of nonresidential floor area to one
15 residential dwelling unit, are equivalent to at least 150,000 square
16 feet of nonresidential floor area or 100 residential dwelling units.³
17 may submit a general development plan to the planning board ²prior
18 to the granting of preliminary approval of that development by the
19 planning board² pursuant to ²section 34 of P.L.1975, c.291
20 (C.40:55D-46) or² section 36 of P.L.1975, c.291 (C.40:55D-48).

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

28
29 ³[4.] 2.³ Section 37 of P.L.1975, c.291 (C.40:55D-49) is
30 amended to read as follows:

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

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

- 1 general terms and conditions of preliminary approval as relate to
2 public health and safety;
- 3 b. That the applicant may submit for final approval on or
4 before the expiration date of preliminary approval the whole or a
5 section or sections of the preliminary subdivision plat or site plan,
6 as the case may be; and
- 7 c. That the applicant may apply for and the planning board may
8 grant extensions on such preliminary approval for additional
9 periods of at least one year but not to exceed a total extension of
10 two years, provided that if the design standards have been revised
11 by ordinance, such revised standards may govern.
- 12 d. In the case of a subdivision of or site plan for an area of 50
13 acres or more, the planning board may grant the rights referred to in
14 subsections a., b., and c. of this section for such period of time,
15 longer than three years, as shall be determined by the planning
16 board to be reasonable taking into consideration (1) the number of
17 dwelling units and nonresidential floor area permissible under
18 preliminary approval, (2) economic conditions, and (3) the
19 comprehensiveness of the development. The applicant may apply
20 for thereafter and the planning board may thereafter grant an
21 extension to preliminary approval for such additional period of time
22 as shall be determined by the planning board to be reasonable
23 taking into consideration (1) the number of dwelling units and
24 nonresidential floor area permissible under preliminary approval,
25 and (2) the potential number of dwelling units and nonresidential
26 floor area of the section or sections awaiting final approval, (3)
27 economic conditions and (4) the comprehensiveness of the
28 development; provided that if the design standards have been
29 revised, such revised standards may govern.
- 30 e. Whenever the planning board grants an extension of
31 preliminary approval pursuant to subsection c., **[or]** d. , or g. of this
32 section and preliminary approval has expired before the date on
33 which the extension is granted, the extension shall begin on what
34 would otherwise be the expiration date. The developer may apply
35 for the extension either before or after what would otherwise be the
36 expiration date.
- 37 f. The planning board shall grant an extension of preliminary
38 approval for a period determined by the board but not exceeding
39 one year from what would otherwise be the expiration date, if the
40 developer proves to the reasonable satisfaction of the board that the
41 developer was barred or prevented, directly or indirectly, from
42 proceeding with the development because of delays in obtaining
43 legally required approvals from other governmental entities and that
44 the developer applied promptly for and diligently pursued the
45 required approvals. A developer shall apply for the extension
46 before (1) what would otherwise be the expiration date of
47 preliminary approval or (2) the 91st day after the developer receives

1 the last legally required approval from other governmental entities,
2 whichever occurs later. An extension granted pursuant to this
3 subsection shall not preclude the planning board from granting an
4 extension pursuant to subsection c. or d. of this section.

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

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

31
32 ³[5.] 3.³ Section 40 of P.L.1975, c.291 (C.40:55D-52) is
33 amended to read as follows:

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

1 provisions of this act, the granting of final approval terminates the
2 time period of preliminary approval pursuant to section 37 of
3 P.L.1975, c.291 (C.40:55D-49) for the section granted final
4 approval.

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

23 c. Whenever the planning board grants an extension of final
24 approval pursuant to subsection a. ~~or~~, b. or e. of this section and
25 final approval has expired before the date on which the extension is
26 granted, the extension shall begin on what would otherwise be the
27 expiration date. The developer may apply for the extension either
28 before or after what would otherwise be the expiration date.

29 d. The planning board shall grant an extension of final approval
30 for a period determined by the board but not exceeding one year
31 from what would otherwise be the expiration date, if the developer
32 proves to the reasonable satisfaction of the board that the developer
33 was barred or prevented, directly or indirectly, from proceeding
34 with the development because of delays in obtaining legally
35 required approvals from other governmental entities and that the
36 developer applied promptly for and diligently pursued these
37 approvals. A developer shall apply for the extension before (1)
38 what would otherwise be the expiration date of final approval or (2)
39 the 91st day after the developer receives the last legally required
40 approval from other governmental entities, whichever occurs later.
41 An extension granted pursuant to this subsection shall not preclude
42 the planning board from granting an extension pursuant to
43 subsection a. ~~or~~, b. or e. of this section.

44 e. In the case of a site plan for a development ³[in a smart
45 growth area]³ consisting of not less than 150,000 square feet of
46 nonresidential floor area or not less than 100 residential dwelling
47 units, ³or consisting of a combination of square feet of

1 nonresidential floor area and residential dwelling units, which when
2 proportionately aggregated at a rate of 1,500 square feet of
3 nonresidential floor area to one residential dwelling unit, are
4 equivalent to at least 150,000 square feet of nonresidential floor
5 area or 100 residential dwelling units,³ the planning board may
6 grant the rights referred to in subsection a. of this section for such
7 period of time beyond two years, as shall be determined by the
8 planning board to be reasonable taking into consideration (1) the
9 number of dwelling units and nonresidential floor area permissible
10 under final approval, (2) economic conditions, and (3) the
11 comprehensiveness of the development. The developer may apply
12 for thereafter, and the planning board may thereafter grant, an
13 extension of final approval for such additional period of time as
14 shall be determined by the planning board to be reasonable taking
15 into consideration (1) the number of dwelling units and
16 nonresidential floor area permissible under final approval, (2) the
17 number of dwelling units and nonresidential floor area remaining to
18 be developed, (3) economic conditions, and (4) the
19 comprehensiveness of the development.

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

21

22 ³[6.] 4.³ This act shall take effect immediately.

23

24

25

26

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

SENATE, No. 483

STATE OF NEW JERSEY
214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:

Senator RAYMOND J. LESNIAK

District 20 (Union)

SYNOPSIS

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

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning general development plans and site plan
2 approvals in Smart Growth areas, supplementing and amending
3 P.L.1975, c.291.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
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8 1. (New section) The Legislature finds and declares that:

9 a. It is the policy of the State to encourage development in
10 smart growth areas such as the urban core, the older suburban ring,
11 developed suburbs, and developed centers of the State while
12 discouraging growth in the exurban and rural portions of the State.

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14 utilizing less land and avoiding sprawl.

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16 amount of floor area or density on a small amount of land.

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18 growth development because of the challenges of land assemblage,
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21 e. The general development plan and site plan vesting
22 provisions of the "Municipal Land Use Law," P.L.1975, c.291
23 (C.40:55D-1 et seq.) contemplate traditional sprawl development on
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27 2. Section 3.4 of P.L.1975, c.291 (C.40:55D-7) is amended to
28 read as follows:

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43 services, landscaping, structures and signs, lighting, screening
44 devices, and (3) any other information that may be reasonably
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EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
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17 subsections 29.2b., 57c. and 57d. of this act.

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

26 (cf: P.L.2004, c.2, s.36)

27

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

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

37 (2) Any developer of a parcel of land 100 acres or less in size,
38 located in a smart growth area, for which the developer is seeking
39 approval of a planned development pursuant to P.L.1975 c.291
40 (C.40:55D-1 et seq.), consisting of not less than 150,000 square feet
41 of nonresidential floor area or not less than 100 residential dwelling
42 units may submit a general development plan to the planning board
43 pursuant to section 36 of P.L.1975, c.291(C.40:55D-48).

44 b. The planning board shall grant or deny general development
45 plan approval within 95 days after submission of a complete
46 application to the administrative officer, or within such further time
47 as may be consented to by the applicant. Failure of the planning
48 board to act within the period prescribed shall constitute general

1 development plan approval of the planned development.
2 (cf: P.L.1987, c.129, s.5)

3

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

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

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

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

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

32 d. In the case of a subdivision of or site plan for an area of 50
33 acres or more, the planning board may grant the rights referred to in
34 subsections a., b., and c. of this section for such period of time,
35 longer than three years, as shall be determined by the planning
36 board to be reasonable taking into consideration (1) the number of
37 dwelling units and nonresidential floor area permissible under
38 preliminary approval, (2) economic conditions, and (3) the
39 comprehensiveness of the development. The applicant may apply
40 for thereafter and the planning board may thereafter grant an
41 extension to preliminary approval for such additional period of time
42 as shall be determined by the planning board to be reasonable
43 taking into consideration (1) the number of dwelling units and
44 nonresidential floor area permissible under preliminary approval,
45 and (2) the potential number of dwelling units and nonresidential
46 floor area of the section or sections awaiting final approval, (3)
47 economic conditions and (4) the comprehensiveness of the

1 development; provided that if the design standards have been
2 revised, such revised standards may govern.

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

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

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

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

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

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

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

39 c. Whenever the planning board grants an extension of final
40 approval pursuant to subsection a. ~~or~~, b. or e. of this section and
41 final approval has expired before the date on which the extension is
42 granted, the extension shall begin on what would otherwise be the
43 expiration date. The developer may apply for the extension either
44 before or after what would otherwise be the expiration date.

45 d. The planning board shall grant an extension of final approval
46 for a period determined by the board but not exceeding one year
47 from what would otherwise be the expiration date, if the developer

1 proves to the reasonable satisfaction of the board that the developer
2 was barred or prevented, directly or indirectly, from proceeding
3 with the development because of delays in obtaining legally
4 required approvals from other governmental entities and that the
5 developer applied promptly for and diligently pursued these
6 approvals. A developer shall apply for the extension before (1)
7 what would otherwise be the expiration date of final approval or (2)
8 the 91st day after the developer receives the last legally required
9 approval from other governmental entities, whichever occurs later.
10 An extension granted pursuant to this subsection shall not preclude
11 the planning board from granting an extension pursuant to
12 subsection a. ~~[or]~~, b. , or e. of this section.

13 e. In the case of a site plan for a development in a smart growth
14 area consisting of not less than 150,000 square feet of
15 nonresidential floor area or not less than 100 residential dwelling
16 units, the planning board may grant the rights referred to in
17 subsection a. of this section for such period of time, longer than two
18 years, as shall be determined by the planning board to be reasonable
19 taking into consideration (1) the number of dwelling units and
20 nonresidential floor area permissible under final approval, (2)
21 economic conditions, and (3) the comprehensiveness of the
22 development. The developer may apply for thereafter, and the
23 planning board may thereafter grant, an extension of final approval
24 for such additional period of time as shall be determined by the
25 planning board to be reasonable taking into consideration (1) the
26 number of dwelling units and nonresidential floor area permissible
27 under final approval, (2) the number of dwelling units and
28 nonresidential floor area remaining to be developed, (3) economic
29 conditions, and (4) the comprehensiveness of the development.

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

31

32 6. This act shall take effect immediately.

33

34

35 STATEMENT

36

37 This bill would amend the "Municipal Land Use Law," P.L.1975,
38 c.291 (C.40:55D-1 et seq.) to expand the availability of General
39 Development Plan approvals to developments with a nonresidential
40 floor area of 150,000 square feet or more or with 100 residential
41 dwelling units or more, on sites of 100 acres or less in areas located
42 in Planning Area 1, Planning Area 2, and Designated Centers as set
43 forth in the 2001 New Jersey State Development and
44 Redevelopment Plan as well as other designated "Smart Growth"
45 areas and expand the ability to provide long term vesting of
46 preliminary and final site plan approvals for such developments.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 483

STATE OF NEW JERSEY

DATED: MAY 10, 2010

The Senate Community and Urban Affairs Committee reports favorably Senate Bill No. 483.

This bill would amend the “Municipal Land Use Law” to expand the availability of General Development Plan approvals to developments with a nonresidential floor area of 150,000 square feet or more or with 100 residential dwelling units or more, on sites of 100 acres or less in areas located in certain areas as set forth in the 2001 New Jersey State Development and Redevelopment Plan as well as other designated “Smart Growth” areas and expand the ability to provide long term vesting of preliminary and final site plan approvals for such developments.

This bill was pre-filed for introduction in the 2010-2011 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

SENATE, No. 483

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 14, 2010

The Assembly Budget Committee reports favorably Assembly Bill No. 483, with committee amendments.

Senate Bill No. 483, as amended, changes the “Municipal Land Use Law” to expand the availability of General Development Plan approvals to developments with a nonresidential floor area of 150,000 square feet or more or with 100 residential dwelling units or more, on sites of 100 acres or less in areas located in certain areas as set forth in the 2001 New Jersey State Development and Redevelopment Plan as well as other designated “Smart Growth” areas and expand the ability to provide long term vesting of preliminary and final site plan approvals for such developments.

As amended and reported by the committee, this bill is identical to Assembly Bill No. 3295, as also amended and reported by the committee.

FISCAL IMPACT

This bill was not certified as requiring a fiscal note.

COMMITTEE AMENDMENTS:

The amendments are technical, slightly modifying the definition of “smart growth area” to conform it to the definition used in significant related statutes.

STATEMENT TO
[First Reprint]
SENATE, No. 483

with Assembly Floor Amendments
(Proposed by Assemblyman COUTINHO)

ADOPTED: JANUARY 6, 2011

This amendment clarifies that when, under the bill, a developer requests approval of a planned development of a parcel of land 100 acres or less in size, located in a smart growth area and consisting of not less than 150,000 square feet of nonresidential floor area or not less than 100 residential dwelling units, the developer must submit a general development plan to the planning board prior to the board's granting of preliminary approval of a site plan or subdivision.

ASSEMBLY, No. 3295

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED OCTOBER 7, 2010

Sponsored by:

Assemblyman ALBERT COUTINHO

District 29 (Essex and Union)

Assemblywoman JOAN M. QUIGLEY

District 32 (Bergen and Hudson)

Assemblywoman CONNIE WAGNER

District 38 (Bergen)

Assemblywoman BONNIE WATSON COLEMAN

District 15 (Mercer)

Co-Sponsored by:

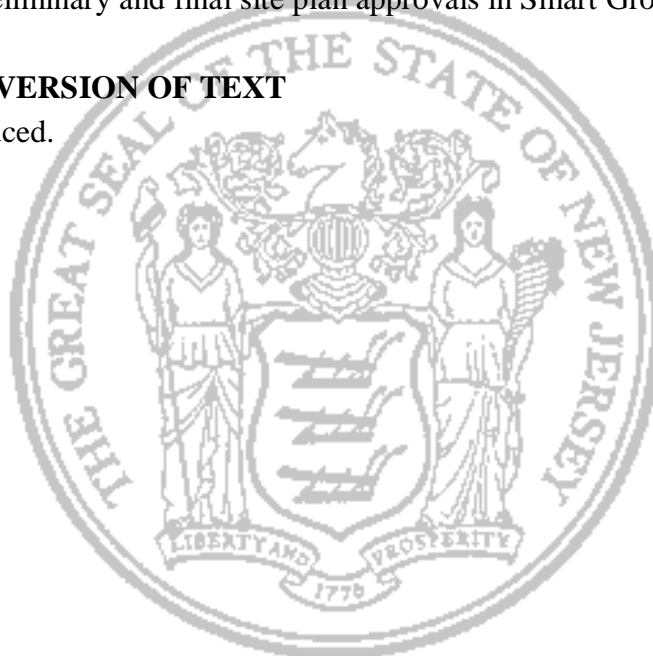
Assemblyman Chivukula, Assemblywoman Pou and Assemblyman Johnson

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/14/2010)

A3295 COUTINHO, QUIGLEY

2

1 AN ACT concerning general development plans and site plan
2 approvals in Smart Growth areas, supplementing and amending
3 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. (New section) The Legislature finds and declares that:

9 a. It is the policy of the State to encourage development in
10 smart growth areas such as the urban core, the older suburban ring,
11 developed suburbs, and developed centers of the State while
12 discouraging growth in the exurban and rural portions of the State.

13 b. Development in smart growth areas is more vertical,
14 utilizing less land and avoiding sprawl.

15 c. Smart growth development is characterized by a large
16 amount of floor area or density on a small amount of land.

17 d. It is very costly and time consuming to engage in smart
18 growth development because of the challenges of land assemblage,
19 environmental clean up, the cost of structured parking, and slower
20 market absorption of floor area and units.

21 e. The general development plan and site plan vesting
22 provisions of the "Municipal Land Use Law," P.L.1975, c.291
23 (C.40:55D-1 et seq.) contemplate traditional sprawl development on
24 large tracts of land and must be amended to accommodate and
25 encourage smart growth development.

26

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

29 3.4 "Sedimentation" means the deposition of soil that has been
30 transported from its site of origin by water, ice, wind, gravity or
31 other natural means as a product of erosion.

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

37 "Site plan" means a development plan of one or more lots on
38 which is shown (1) the existing and proposed conditions of the lot,
39 including but not necessarily limited to topography, vegetation,
40 drainage, flood plains, marshes and waterways, (2) the location of
41 all existing and proposed buildings, drives, parking spaces,
42 walkways, means of ingress and egress, drainage facilities, utility
43 services, landscaping, structures and signs, lighting, screening
44 devices, and (3) any other information that may be reasonably
45 required in order to make an informed determination pursuant to an

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

Matter underlined thus is new matter.

1 ordinance requiring review and approval of site plans by the
2 planning board adopted pursuant to article 6 of this act.

3 "Smart growth area" means an area designated pursuant to
4 P.L.1985, c.398 (C.52:18A-196 et al.) as Planning Area 1
5 (Metropolitan), Planning Area 2 (Suburban), a designated center, or
6 a designated growth center in an endorsed plan; a smart growth area
7 and planning area designated in a master plan adopted by the New
8 Jersey Meadowlands Commission pursuant to subsection (i) of
9 section 6 of P.L.1968, c.404 (C.13:17-6); a growth area designated
10 in the comprehensive management plan prepared and adopted by
11 the Pinelands Commission pursuant to section 7 of the "Pinelands
12 Protection Act," P.L.1979, c.111 (C.13:18A-8); an urban enterprise
13 zone designated pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.)
14 or P.L.2001, c.347 (C.52:27H-66.2 et al.); an area determined to be
15 in need of redevelopment or rehabilitation pursuant to P.L.1992,
16 c.79 (C.40A:12A-1 et al.) and as approved by the Department of
17 Community Affairs; or similar areas designated by the Department
18 of Environmental Protection, Department of Transportation, or New
19 Jersey Economic Development Authority.

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

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

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

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

45 "Subdivision" means the division of a lot, tract or parcel of land
46 into two or more lots, tracts, parcels or other divisions of land for
47 sale or development. The following shall not be considered
48 subdivisions within the meaning of this act, if no new streets are

1 created: (1) divisions of land found by the planning board or
2 subdivision committee thereof appointed by the chairman to be for
3 agricultural purposes where all resulting parcels are 5 acres or
4 larger in size, (2) divisions of property by testamentary or intestate
5 provisions, (3) divisions of property upon court order, including but
6 not limited to judgments of foreclosure, (4) consolidation of
7 existing lots by deed or other recorded instrument and (5) the
8 conveyance of one or more adjoining lots, tracts or parcels of land,
9 owned by the same person or persons and all of which are found
10 and certified by the administrative officer to conform to the
11 requirements of the municipal development regulations and are
12 shown and designated as separate lots, tracts or parcels on the tax
13 map or atlas of the municipality. The term "subdivision" shall also
14 include the term "resubdivision."

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

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

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

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

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

34

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

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

44 (2) Any developer of a parcel of land 100 acres or less in size,
45 located in a smart growth area, for which parcel the developer is
46 seeking approval of a planned development pursuant to P.L.1975
47 c.291 (C.40:55D-1 et seq.), consisting of not less than 150,000
48 square feet of nonresidential floor area parcel or not less than 100

1 residential dwelling units parcel may submit a general development
2 plan to the planning board pursuant to section 36 of P.L.1975,
3 c.291 (C.40:55D-48).

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

11
12 4. Section 37 of P.L.1975, c.291 (C.40:55D-49) is amended to
13 read as follows:

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

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

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

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

40 d. In the case of a subdivision of or site plan for an area of 50
41 acres or more, the planning board may grant the rights referred to in
42 subsections a., b., and c. of this section for such period of time,
43 longer than three years, as shall be determined by the planning
44 board to be reasonable taking into consideration (1) the number of
45 dwelling units and nonresidential floor area permissible under
46 preliminary approval, (2) economic conditions, and (3) the
47 comprehensiveness of the development. The applicant may apply
48 for thereafter and the planning board may thereafter grant an

1 extension to preliminary approval for such additional period of time
2 as shall be determined by the planning board to be reasonable
3 taking into consideration (1) the number of dwelling units and
4 nonresidential floor area permissible under preliminary approval,
5 and (2) the potential number of dwelling units and nonresidential
6 floor area of the section or sections awaiting final approval, (3)
7 economic conditions and (4) the comprehensiveness of the
8 development; provided that if the design standards have been
9 revised, such revised standards may govern.

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

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

32 g. In the case of a site plan for a development in a smart growth
33 area consisting of not less than 150,000 square feet of
34 nonresidential floor area or not less than 100 residential dwelling
35 units, the planning board may grant the rights referred to in
36 subsections a., b., and c. of this section for such period of time
37 beyond three years, as shall be determined by the planning board to
38 be reasonable taking into consideration (1) the number of dwelling
39 units and non-residential floor area permissible under preliminary
40 approval, (2) economic conditions, and (3) the comprehensiveness
41 of the development. The applicant may apply for thereafter, and the
42 planning board may thereafter grant, an extension to the preliminary
43 approval for such additional period of time as shall be determined
44 by the planning board to be reasonable taking into consideration (1)
45 the number of dwelling units and nonresidential floor area
46 permissible under preliminary approval, (2) the potential number of
47 dwelling units and nonresidential floor area of the section or
48 sections awaiting final approval, (3) economic conditions, and (4)

1 the comprehensiveness of the development; provided that if the
2 design standards have been revised, such revised standards may
3 govern.

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

5

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

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

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

44 c. Whenever the planning board grants an extension of final
45 approval pursuant to subsection a. ~~or~~, b. or e. of this section and
46 final approval has expired before the date on which the extension is
47 granted, the extension shall begin on what would otherwise be the

1 expiration date. The developer may apply for the extension either
2 before or after what would otherwise be the expiration date.

3 d. The planning board shall grant an extension of final approval
4 for a period determined by the board but not exceeding one year
5 from what would otherwise be the expiration date, if the developer
6 proves to the reasonable satisfaction of the board that the developer
7 was barred or prevented, directly or indirectly, from proceeding
8 with the development because of delays in obtaining legally
9 required approvals from other governmental entities and that the
10 developer applied promptly for and diligently pursued these
11 approvals. A developer shall apply for the extension before (1)
12 what would otherwise be the expiration date of final approval or (2)
13 the 91st day after the developer receives the last legally required
14 approval from other governmental entities, whichever occurs later.
15 An extension granted pursuant to this subsection shall not preclude
16 the planning board from granting an extension pursuant to
17 subsection a. ~~or~~, b. , or e. of this section.

18 e. In the case of a site plan for a development in a smart growth
19 area consisting of not less than 150,000 square feet of
20 nonresidential floor area or not less than 100 residential dwelling
21 units, the planning board may grant the rights referred to in
22 subsection a. of this section for such period of time beyond two
23 years, as shall be determined by the planning board to be reasonable
24 taking into consideration (1) the number of dwelling units and
25 nonresidential floor area permissible under final approval, (2)
26 economic conditions, and (3) the comprehensiveness of the
27 development. The developer may apply for thereafter, and the
28 planning board may thereafter grant, an extension of final approval
29 for such additional period of time as shall be determined by the
30 planning board to be reasonable taking into consideration (1) the
31 number of dwelling units and nonresidential floor area permissible
32 under final approval, (2) the number of dwelling units and
33 nonresidential floor area remaining to be developed, (3) economic
34 conditions, and (4) the comprehensiveness of the development.

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

36

37 6. This act shall take effect immediately.

38

39

40

STATEMENT

41

42 This bill would amend the “Municipal Land Use Law” to expand
43 the availability of General Development Plan approvals to
44 developments with a nonresidential floor area of 150,000 square
45 feet or more or with 100 residential dwelling units or more, on sites
46 of 100 acres or less in areas located in certain areas as set forth in
47 the 2001 New Jersey State Development and Redevelopment Plan
48 as well as other designated “Smart Growth” areas and expand the

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9

- 1 ability to provide long term vesting of preliminary and final site
- 2 plan approvals for such developments.

ASSEMBLY COMMERCE AND ECONOMIC DEVELOPMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3295

STATE OF NEW JERSEY

DATED: NOVEMBER 8, 2010

The Assembly Commerce and Economic Development Committee reports favorably Assembly Bill No. 3295.

This bill would amend the “Municipal Land Use Law” to expand the availability of General Development Plan approvals to developments with a nonresidential floor area of 150,000 square feet or more or with 100 residential dwelling units or more, on sites of 100 acres or less in areas located in certain areas as set forth in the 2001 New Jersey State Development and Redevelopment Plan as well as other designated “Smart Growth” areas and expand the ability to provide long term vesting of preliminary and final site plan approvals for such developments.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3295

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 14, 2010

The Assembly Budget Committee reports favorably Assembly Bill No. 3295, with committee amendments.

Assembly Bill No. 3295, as amended, changes the “Municipal Land Use Law” to expand the availability of General Development Plan approvals to developments with a nonresidential floor area of 150,000 square feet or more or with 100 residential dwelling units or more, on sites of 100 acres or less in areas located in certain areas as set forth in the 2001 New Jersey State Development and Redevelopment Plan as well as other designated “Smart Growth” areas and expand the ability to provide long term vesting of preliminary and final site plan approvals for such developments.

As amended and reported by the committee, this bill is identical to Senate Bill No. 483, as also amended and reported by the committee.

FISCAL IMPACT

This bill was not certified as requiring a fiscal note.

COMMITTEE AMENDMENTS:

The amendments are technical, slightly modifying the definition of “smart growth area” to conform it to the definition used in significant related statutes.

SENATE BILL NO. 483
(Second Reprint)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 483 (Second Reprint) with my recommendations for reconsideration.

This legislation would expand the current standards governing eligibility for general development plan approvals, which allow for long-term vesting of preliminary and final site plan approvals. Under current law, these approvals are restricted to projects of 100 acres or more in size. This legislation would expand general development plan approval to any project that consists of at least 150,000 square feet of nonresidential floor area or at least 100 residential dwelling units.

While I support the sponsors' intent to expand the projects that will be eligible for general development plan approval, I believe that this legislation should be amended to allow for similar mixed-use projects to qualify for general development plan approval. Mixed-use development projects allow for a complementary mix of uses within a development, which tends to encourage efficient usage of land. These projects provide many benefits to the local community, such as maximizing use of public infrastructure, providing a variety of transportation options, and increasing neighborhood development.

Given the various societal benefits of these projects, I see no compelling reason why a mixed-use project should not be afforded the same benefits as single use projects under this bill. Accordingly, I am returning this legislation with my recommendation that this bill be amended to allow mixed-use projects to be authorized for general development plan approval,

provided they are equivalent to the thresholds established for pure residential and commercial projects under this bill.

This legislation would also require that these newly eligible projects must be located in certain designated "smart growth areas" to qualify for general development plan approval. While there has been widespread support for this legislation, there has been substantial dispute regarding the appropriate definition of "smart growth area". I believe that the requirement that a project be located in a "smart growth area" is extraneous. Under this bill, municipalities would still retain discretion over appropriate land use within their borders, and general development plans merely serve to provide a discretionary vehicle to the municipality for development that is otherwise permissible. Given this municipal discretion, there is no compelling reason why general development plan approval should not be allowed in any municipality that believes such approval to be appropriate. As such, I am also returning this legislation with my recommendation that it be revised so that a general development plan approval may be awarded in any municipality, in order to ensure that a "smart growth area" limitation does not serve to forestall any development that is otherwise deemed appropriate by a host municipality.

Accordingly, I herewith return Senate Bill No. 483 (Second Reprint) and recommend that it be amended as follows:

<u>Page 2, Title, Line 2:</u>	Delete "in Smart Growth areas"
<u>Page 2, Section 1:</u>	Delete Section 1 in its entirety
<u>Pages 2-4, Section 2:</u>	Delete Section 2 in its entirety
<u>Page 4, Section 3, Line 39:</u>	Delete "3." and insert "1."
<u>Page 5, Section 3, Lines 1-2:</u>	Delete ", located in a smart growth area,"

Page 5, Section 3, Line 6:

After "dwelling units" insert ", or consisting of a combination of square feet of nonresidential floor area and residential dwelling units, which when proportionately aggregated at a rate of 1,500 square feet of nonresidential floor area to 1 residential dwelling unit, are equivalent to at least 150,000 square feet of nonresidential floor area or 100 residential dwelling units,"

Page 5, Section 4, Line 19:

Delete "4." and insert "2."

Page 6, Section 4, Lines 41-42:

Delete "in a smart growth area"

Page 6, Section 4, Line 44:

After "units," insert "or consisting of a combination of square feet of nonresidential floor area and residential dwelling units, which when proportionately aggregated at a rate of 1,500 square feet of nonresidential floor area to 1 residential dwelling unit, are equivalent to at least 150,000 square feet of nonresidential floor area or 100 residential dwelling units,"

Page 7, Section 5, Line 16:

Delete "5." and insert "3."

Page 8, Section 5, Lines 28-29:

Delete "in a smart growth area"

Page 8, Section 5, Line 31:

After "units," insert "or consisting of a combination of square feet of nonresidential floor area and residential dwelling units, which when proportionately aggregated at a rate of 1,500 square feet of nonresidential floor area to 1 residential dwelling unit, are equivalent to at least 150,000 square feet of nonresidential floor area or 100 residential dwelling units,"

Page 8, Section 6, Line 47:

Delete "6." and insert "4."

Respectfully,

/s/ Chris Christie

Governor

[seal]

Attest:

/s/ Jeffrey S. Chiesa

Chief Counsel to the Governor