

LEGISLATIVE HISTORY CHECKLIST

NJSA 40:55D-2 et al. (Municipal Land Use Law—technical amendments)

LAWS 1979 CHAPTER 216

Bill No. S1125

Sponsor(s) Greenberg and others

Date Introduced May 1, 1978

Committee: Assembly Municipal Government

Senate County and Municipal Government

Amended during passage Yes ~~xx~~ Amendments denoted by asterisk

Date of Passage: Assembly June 21, 1979

Senate June 5, 1978

Date of approval Oct. 11, 1979

Following statements are attached if available:

Sponsor statement Yes ~~xx~~

Committee Statement: Assembly Yes ~~xx~~

Senate Yes ~~xx~~

Fiscal Note ~~xxx~~ No

Veto Message ~~xxx~~ No

Message on signing ~~xxx~~ Yes ~~xx~~

Following were printed:

Reports Yes ~~xx~~

Hearings ~~xxx~~ No

For drafts of law, see Law Librarian.

974.90 New Jersey. Division of Local Government
R336 Services.

1976b The N.J. municipal land use law (a
comprehensive informational symposium)-
a series of monographs. Trenton, 1976.

6/22/81

Newspaper article: Land Use Law Reform Legislation,
114 N.J.L.J. Index Page 553,
November 29, 1984.

1979, S-1125,

²⁹
Sponsor's
STATEMENT

This bill is the result of extensive deliberations by the subcommittee of the Municipal Land Use Law Drafting Committee of the New Jersey League of Municipalities. The drafting committee was itself instrumental in the preparation of the basic draft document of what ultimately became the Municipal Land Use Law. The subcommittee, comprising many of the same members who served on the draft committee, was created shortly after enactment of the Municipal Land Use Law in order to monitor the workings of the new law and to make recommendations thereon. The subcommittee was encouraged in this task by the Senate County and Municipal Government Committee.

The subcommittee reviewed all of the reported as well as many of the unreported decisions by the courts on the new law. It also invited the comments of, and consulted with local officials and other concerned citizens on their experiences under the Municipal Land Use Law and on various draft proposals.

The provisions of this bill are primarily of a technical nature. The principal thrust of bill's provisions is twofold:

- (1) To clarify the law in those areas in which there has been significant controversy; and,
- (2) To further simplify and make more predictable the process of development application review, which was a primary objective of the 1975 revision.

The main provisions of the bill are as follows:

Section 1 of the bill amends C. 40:55D-2 by deleting the senior citizen housing density restriction criticized by the New Jersey Supreme Court in *Taxpayers Association of Weymouth Township vs. Weymouth Township*, 71 N. J. at 292.

Section 2 amends C. 40:55D-3 in order to provide a definition of "complete application" and to clarify the time frame within which a municipal agency must act on such application.

Section 3 amends C. 40:55D-5 in order to (1) add a definition of "minor site plan", (2) clarify the definition of "minor subdivision" and (3) allow this category to apply when the developer pays for all of the cost of the new improvements located off his tract of land necessitated by his development.

Section 4 amends C. 40:55D-7 in order to (1) clarify that the exclusion from subdivision procedures of divisions of property upon court order, includes foreclosure of mortgages, (2) clarify the exclusion from subdivision procedures of the consolidation of existing lots, (3) exclude from subdivision procedures the transfer of lots which the municipality finds conform to its land use controls

and which are already designated as lots on the municipal tax map and (4) add a definition of "transcript".

Section 5 amends C. 40:55D-8 in order to clarify that fees to be charged to applicants and appellants must be established by ordinance.

Section 6 amends C. 40:55D-9 in order to clarify that the votes of a majority of all the municipal agency members present are necessary to take action, not simply the votes of a majority of the minimum quorum requirement.

Section 7 amends C. 40:55D-10 in order to limit the charge for transcripts of proceedings before municipal agencies to the maximum permitted by law for court proceedings and (2) permit the adoption of the written resolution with findings of fact and conclusions within a mandatory 35 days after the vote to grant or deny approval of the application.

Section 8 requires that the planing board informally review a concept plan of a proposed development upon request by the developer.

Section 9 and section 12 (amending C. 40:55D-23) permit members of the board of adjustment, as well as the planning board, who have missed meetings at which a hearing was conducted to vote on the matter upon which the hearing was held if they read a transcript or listen to a recording of that portion of the hearing which they missed. The requirement that the hearing carry over two or more meetings has been deleted.

Section 10 amends C. 40:55D-12 in order to (1) clarify that the requirement of notice to owners of property within 200 feet of the property for which development is proposed includes the owners of property outside the municipality but still within the State of New Jersey, (2) limit the notice to owners of individual units in condominiums and horizontal property regimes to owners whose units could have been on separate lots (townhouses), (3) limit notice to the owners of common elements or areas within 200 feet of the property proposed for development to the entity which owns the common element or area without the necessity of separate notice to owners who participate in the entity but whose individual property is located beyond the 200 feet, (4) lift the ceiling on charges by the municipalities to developers for lists of names and addresses of owners of property within 200 feet of the property proposed for development from a maximum of \$10.00 for the list to \$0.25 per name for a list containing over 40 names and (5) clarify that notice to the adjoining municipality, county planning board, Commissioner of Transportation and the Director of State and

Regional Planning need not be given if newspaper notice and notice to property owners within 200 feet is not required.

Section 11 amends C. 40:55D-17 in order to (1) clarify that a dissatisfied interested party must appeal first to the governing body wherever that opportunity has been provided, (2) permit municipal ordinances to provide for appeals to the governing body of denials of special reasons variances, (3) establish procedures for obtaining the transcript of the hearing before the board for use by the governing body in deciding appeals, (4) require the governing body to decide the appeal within a total of 95 days from the required newspaper publication of the notice of the decision by the board below and (5) provide that the applicant's consent, rather than the appellant's, must be obtained for extensions of the period of time in which the governing body must decide the appeal.

Section 12 amending C. 40:55D-23—See discussions of section 13 below and section 9 above.

Section 13 allows municipalities to provide for alternate members for seven-member planning boards.

Section 14 provides for minor site plan review to parallel the provisions of C. 40:55D-47 on minor subdivision approval.

Section 15 amends C. 40:55D-46 in order to clarify that a notice of an incomplete site plan application must specify in what respects it is incomplete.

Section 16 amends C. 40:55D-48—The same as section 15 except that a major subdivision is involved instead of a site plan.

Section 17 amends C. 40:55D-53 in order to (1) require, for partial performance, the reduction of the amount of the performance guarantee but only upon completion or substantial completion and connection of utilities, (2) permit the municipality to require the developer to deposit money toward payment of the anticipated fees to be paid to the municipal engineer by the municipality for inspection of improvements to be installed by the developer and (3) clarify that posting and reduction of performance guarantees is by stage or section whenever final approval has been granted in that manner.

Section 18 amends C. 40:55D-60 in order to remove the restrictions on the categories of "c" (also termed "hardship" or "bulk") variances which the planning board can rule on in conjunction with its review of subdivisions and site plans.

Section 19 amends C. 40:55D-61—See point "(2)" of the discussion of section 22 below.

Section 20 amends C. 40:55D-65—See discussion of section 1 above.

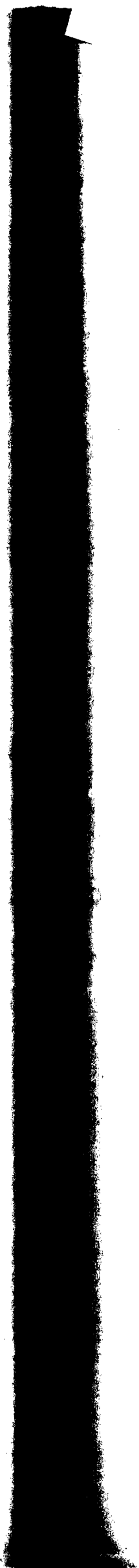
Section 21 amends C. 40:55D-69 to provide for alternate members of the board of adjustment.

Section 22 amends C. 40:55D-70 in order to (1) require that any variance for a conditional use be processed as a "d" (special reasons) variance, (2) clarify that "d" variances can be granted for bulk restrictions for the special reasons defined in case law even if the structure or use is permitted in the zoning district and (3) clarify that five affirmative votes (out of a total of seven members on the municipal board of adjustment) are necessary to approve a "d" variance. (References to the planning board's power to rule on "c" variances, in conjunction with its review of conditional uses, have been deleted from C. 40:55D-60 and 40:55D-61 in sections 17 and 18 respectively.)

Section 23 amends C. 40:55D-72 in order to shorten to 20 days the period of time in which an appeal to the board of adjustment may be taken from a decision in zoning enforcement.

Section 24 amends C. 40:55D-76 so as to provide that the developer may find out from the board of adjustment whether the proposed development meets the statutory criteria for a variance in the location proposed before the developer undergoes the expense of having a site plan or subdivision plat prepared.

Section 25 amends C. 40:55D-79 to permit the appointment (to the Lake Hopatecong Regional Planning Board) by the Commissioner of Environmental Protection of a representative of the Division of Parks and Forestry and an additional representative member who is required to be a resident of the area served by the board.



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SENATE COUNTY AND MUNICIPAL
GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 1125
with Senate committee amendments

STATE OF NEW JERSEY

DATED: MAY 18, 1978

The purposes and provisions of the bill as received by the committee are adequately set forth in the sponsor's statement.

The committee amendments for the most part are technical in nature. The new section 18 was submitted by the Drafting Committee of the League of Municipalities, and would restore a provision of law concerning approval certificates which was in the old land use law (C. 40:55-1.24) prior to the enactment of P. L. 1975, c. 291. The major committee amendments are designed to clarify that the term "county planning board" as it occurs in the "Municipal Land Use Law" and in chapter 27 of Title 40 of the Revised Statutes (County Planning), shall include county planning agencies established in Optional County Charter counties to perform the duties previously performed by county planning boards.

The committee amendments also incorporate the provisions of Senate Bill No. 1149, which would have amended one of the same sections of law as does Senate Bill No. 1125. This amendment would provide that whenever the municipal government body by resolution extends the time allowed for improvements, the performance guarantee required for the purpose of assuring installation shall be recalculated on the basis of the cost of installation as of the date of the resolution granting the extension.

SENATE COMMITTEE AMENDMENTS TO
SENATE No. 1125

STATE OF NEW JERSEY

ADOPTED MAY 18, 1978

Amend page 1, title, line 2, after "C. 291)", insert ", and amending P. L. 1968, c. 285".

Amend page 3, section 2, line 42, after "agency", insert ",".

Amend page 3, section 2, line 45, after "require", insert "such".

Amend page 3, section 2, line 46, after "information", insert "not specified in the ordinance as is".

Amend page 4, section 2, line 66, after "means the", insert "county"; after "board", insert ", as defined in section 1 of P. L. 1968, c. 285 (C. 40:27-6.1)".

Amend page 11, section 8, line 5, omit ";", insert ",".

Amend page 14, section 11, line 44, after "\$50.00", omit "of", insert "or".

Amend page 20, section 17, line 35, after "resolution.", insert "As a condition or as part of any such extension, the amount of any performance guarantee shall be increased or reduced, as the case may be, to an amount not to exceed 120% of the cost of the installation as determined as of the time of the passage of the resolution."

Amend page 22, section 17, line 89, after line 89, insert new section as follows:

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

44. Certificates showing approval; contents. The prospective purchaser, prospective mortgagee, or any other person interested in any land which forms part of a subdivision, or which formed part of such a subdivision 3 years preceding the effective date of this act, may apply in writing to the administrative officer of the municipality, for the issuance of a certificate certifying whether or not such subdivision has been approved by the planning board. Such application shall contain a diagram showing the location and dimension of the land to be covered by the certificate and the name of the owner thereof.

The administrative officer shall make and issue such certificate within 15 days after the receipt of such written application and the fees therefor. Said officer shall keep a duplicate copy of each certificate, consecutively numbered, including a statement of the fee charged, in a binder as a permanent record of his office.

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

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

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

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

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

Amend page 22, section 18, line 1, omit "18.", insert "19."

Amend page 22, section 18, line 7, omit ".", insert ":".

Amend page 22, section 18, line 15, after ";", insert "and,".

Amend page 22, section 19, line 1, omit "19.", insert "20."

Amend page 23, section 20, line 1, omit "20.", insert "21."

Amend page 24, section 21, line 1, omit "21.", insert "22."

Amend page 25, section 22, line 1, omit "22.", insert "23."

Amend page 25, section 22, line 7, omit ".", insert ";".

Amend page 25, section 22, line 12, omit ".", insert ";".

Amend page 26, section 22, line 29, omit ".", insert "; and,".

Amend page 26, section 23, line 1, omit "23.", insert "24."

Amend page 26, section 24, line 1, omit "24.", insert "25."

Amend page 28, section 25, line 1, omit "25.", insert "26."

Amend page 28, section 25, line 26, after line 26, insert new section as follows:

"27. Section 1 of P. L. 1968, c. 285 (C. 40:27-6.1) is amended to read as follows:

1. As used in this act and in chapter 27 of Title 40 of the Revised Statutes, unless the context otherwise requires:

'County master plan' and 'master plan' means a composite of the ~~master plan for the physical development of the county, with the accompanying maps, plats, charts and descriptive and explanatory matter adopted by the county planning board pursuant to Revised Statutes 40:27-2;~~

'County planning board' means a county planning board established by a county pursuant to R. S. 40:27-1 to exercise the duties set forth in such chapter, and means, in any county having adopted the provisions of the "Optional County Charter Law" (P. L. 1972, c. 154; C. 40:41A-1 et seq.), any department, division, board or agency established pursuant to the administrative code of such county to exercise such duties, but only to the degree and extent that the requirements specified in such chapter for county planning boards do not conflict with the organization and structure of such department, division, agency or board as set forth in the administrative code of such county;

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

"Site plan" means a plan of an existing lot or plot or a subdivided lot on which is shown topography, location of all existing and proposed buildings, structures, drainage facilities, roads, rights-of-way, easements, parking areas, together with any other information required by and at a scale specified by a site plan review and approval resolution adopted by the board of chosen freeholders pursuant to this act;

'Subdivision' means the division of a lot, tract, or parcel of land into two or more lots, sites or other divisions of land for the purpose, whether immediate or future, of sale or building development; except that where no new streets or roads are involved the following divisions shall not be considered subdivisions within the meaning of this act: divisions of land for agricultural purposes where the resulting parcels are 3 acres or larger in size, divisions of land by testamentary or intestate provisions, or divisions of land upon court order; 'subdivision' also includes resubdivision, and where appropriate to the context, relates to the process of subdividing or to the lands or territory divided.

'Subdivision application' means the application for approval of a subdivision pursuant to the 'Municipal Planning Act (1953)' (P. L. 1953, c. 433) (C. 40:55-1.1 et seq.) as amended and supplemented or an application for approval of a planned unit development pursuant to the 'Municipal Planned Unit Development Act (1967)' (P. L. 1967, c. 61) (C. 40:55-54 et seq.).'

Amend page 28, section 26, line 1, omit "26.", insert "28.".

ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 1125

[OFFICIAL COPY REPRINT]

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 25, 1979

This bill is the result of extensive deliberations by the subcommittee of the Municipal Land Use Law Drafting Committee of the New Jersey League of Municipalities. The drafting committee was itself instrumental in the preparation of the basic draft document of what ultimately became the Municipal Land Use Law. The subcommittee, comprising many of the same members who served on the draft committee, was created shortly after enactment of the Municipal Land Use Law in order to monitor the workings of the new law and to make recommendations thereon. The subcommittee was encouraged in this task by the Senate County and Municipal Government Committee.

The subcommittee reviewed all of the reported as well as many of the unreported decisions by the courts on the new law. It also invited the comments of, and consulted with local officials and other concerned citizens on their experiences under the Municipal Land Use Law and on various draft proposals.

The provisions of this bill are primarily of a technical nature. The principal thrust of bill's provisions is twofold:

(1) To clarify the law in those areas in which there has been significant controversy; and,

(2) To further simplify and make more predictable the process of development application review, which was a primary objective of the 1975 revision.

The main provisions of the bill are as follows:

Section 1 of the bill amends C. 40:55D-2 by deleting the senior citizen housing density restriction criticized by the New Jersey Supreme Court in *Taxpayers Association of Weymouth Township vs. Weymouth Township*, 71 N. J. at 292.

Section 2 amends C. 40:55D-3 in order to provide a definition of "complete application" and to clarify the time frame within which a municipal agency must act on such application. Assembly committee amendments provide clarifying language to the definition of "complete application."

Section 3 amends C. 40:55D-5 in order to (1) add a definition of "minor site plan", (2) clarify the definition of "minor subdivision" and (3) allow this category to apply when the developer pays for all of the cost of the new improvements located off his tract of land necessitated by his development.

Section 4 amends C. 40:55D-7 in order to (1) clarify that the exclusion from subdivision procedures of divisions of property upon court order, includes foreclosure of mortgages, (2) clarify the exclusion from subdivision procedures of the consolidation of existing lots, (3) exclude from subdivision procedures the transfer of lots which the municipality finds conform to its land use controls and which are already designated as lots on the municipal tax map and (4) add a definition of "transcript".

Section 5 amends C. 40:55D-8 in order to clarify that fees to be charged to applicants and appellants must be established by ordinance.

Section 6 amends C. 40:55D-9 in order to clarify that the votes of a majority of all the municipal agency members present are necessary to take action, not simply the votes of a majority of the minimum quorum requirement.

Section 7 amends C. 40:55D-10 in order to limit the charge for transcripts of proceedings before municipal agencies to the maximum permitted by law for court proceedings and (2) permit the adoption of the written resolution with findings of fact and conclusions within a mandatory 35 days after the vote to grant or deny approval of the application.

Assembly committee amendments attempt to clarify the language of section 7 while increasing the 35 day period to 45 days—this in the light of the stringent provision that failure to adopt such resolution shall result in approval of the application for development, notwithstanding any prior action taken thereof.

Section 8 requires that the planning board informally review a concept plan of a proposed development upon request by the developer.

The Assembly committee amendment specifies that a developer not be charged fees for such informal review.

Section 9 and section 12 (amending C. 40:55D-23) permit members of the board of adjustment, as well as the planning board, who have missed meetings at which a hearing was conducted to vote on the matter upon which the hearing was held if they read a transcript or listen to a recording of that portion of the hearing which they missed. The requirement that the hearing carry over two or more meetings has been deleted.

Section 10 amends C. 40:55D-12 in order to (1) clarify that the requirement of notice to owners of property within 200 feet of the property for which development is proposed includes the owners of

property outside the municipality but still within the State of New Jersey, (2) limit the notice to owners of individual units in condominiums and horizontal property regimes to owners whose units could have been on separate lots (townhouses), (3) limit notice to the owners of common elements or areas within 200 feet of the property proposed for development to the entity which owns the common element or area without the necessity of separate notice to owners who participate in the entity but whose individual property is located beyond the 200 feet, (4) lift the ceiling on charges by the municipalities to developers for lists of names and addresses of owners of property within 200 feet of the property proposed for development from a maximum of \$10.00 for the list to \$0.25 per name for a list containing over 40 names and (5) clarify that notice to the adjoining municipality, county planning board, Commissioner of Transportation and the Director of State and Regional Planning need not be given if newspaper notice and notice to property owners within 200 feet is not required.

Section 11 amends C. 40:55D-17 in order to (1) clarify that a dissatisfied interested party must appeal first to the governing body wherever that opportunity has been provided, (2) permit municipal ordinances to provide for appeals to the governing body of denials of special reasons variances, (3) establish procedures for obtaining the transcript of the hearing before the board for use by the governing body in deciding appeals, (4) require the governing body to decide the appeal within a total of 95 days from the required newspaper publication of the notice of the decision by the board below and (5) provide that the applicant's consent, rather than the appellant's, must be obtained for extensions of the period of time in which the governing body must decide the appeal.

Section 12 amending C. 40:55D-23—See discussions of section 13 below and section 9 above.

The Assembly committee in amending section 12 inserted subsection d to bring this section into conformity with the existing amended version of the law; at the same time, subsection d may be deleted because it is incorporated in section 13.

Section 13 allows municipalities to provide for alternate members for seven-member planning boards.

Section 14 provides for minor site plan review to parallel the provisions of C. 40:55D-47 on minor subdivision approval.

Section 15 amends C. 40:55D-46 in order to clarify that a notice of an incomplete site plan application must specify in what respects it is incomplete.

The Assembly committee in amending subsection c provides that the intensity of development (as well as the acreage of a site) shall deter-

mine whether a planning board shall issue preliminary site plan approval within 45 or within 95 days.

Section 16 amends C. 40:55D-48—The same as section 15 except that a major subdivision is involved instead of a site plan.

Section 17 amends C. 40:55D-53 in order to (1) require, for partial performance, the reduction of the amount of the performance guarantee but only upon completion or substantial completion and connection of utilities, (2) permit the municipality to require the developer to deposit money toward payment of the anticipated fees to be paid to the municipal engineer by the municipality for inspection of improvements to be installed by the developer and (3) clarify that posting and reduction of performance guarantees is by stage or section whenever final approval has been granted in that manner.

Section 18 amends C. 40:55D-56. Submitted by the drafting committee of the League of Municipalities to the Senate Committee, it would restore a provision of law concerning approval certificates which was in the old land use law (C. 40:55-1.24) prior to the enactment of P. L. 1975, c. 291.

Section 19 amends C. 40:55D-60 in order to remove the restrictions on the categories of "c" (also termed "hardship" or "bulk") variances which the planning board can rule on in conjunction with its review of subdivisions and site plans.

Section 20 amends C. 40:55D-61—See point "(2)" of the discussion of section 22 below.

Section 21 amends C. 40:55D-65—See discussion of section 1 above. The Assembly committee amendment to section 21 specifies that planning as well as zoning boards may withhold approval for a conditional use permit where delinquent taxes are due.

Section 22 amends C. 40:55D-69 to provide for alternate members of the board of adjustment.

The Assembly committee in amending section 22 inserted a line providing for alternate board of adjustment members to bring the section into conformity with the existing amended version of the law; at the same time this line may be deleted because the language is incorporated in the bill's amendment to this section.

Section 23 amends C. 40:55D-70 in order to (1) require that any variance for a conditional use be processed as a "d" (special reasons) variance, (2) clarify that "d" variances can be granted for bulk restrictions for the special reasons defined in case law even if the structure or use is permitted in the zoning district and (3) clarify that five affirmative votes (out of a total of seven members on the municipal board of adjustment) are necessary to approve a "d" variance. (References to the planning board's power to rule on "c" variances, in conjunction

with its review of conditional uses, have been deleted from C. 40:55D-60 and 40:55D-61 in sections 17 and 18 respectively.)

Section 24 amends C. 40:55D-72 in order to shorten to 20 days the period of time in which an appeal to the board of adjustment may be taken from a decision in zoning enforcement.

Section 25 amends C. 40:55D-76 so as to provide that the developer may find out from the board of adjustment whether the proposed development meets the statutory criteria for a variance in the location proposed before the developer undergoes the expense of having a site plan or subdivision plat prepared.

Section 26 amends C. 40:55D-79 to permit the appointment (to the Lake Hopatcong Regional Planning Board) by the Commissioner of Environmental Protection of a representative of the Division of Parks and Forestry and an additional representative member who is required to be a resident of the area served by the board.

Section 27 amends chapter 27 of Title 40 of the Revised Statutes (County Planning) to specify that county planning agencies established in Optional County Charter counties shall perform duties previously performed by county planning boards. The Assembly committee amended the definition of "subdivision" so that it would conform to the definition in section 4. Additionally, references to two repealed sections of law were deleted and replaced by reference to the "Municipal Land Use Law" which is applicable.

ASSEMBLY COMMITTEE AMENDMENTS TO
SENATE, No. 1125
[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED JANUARY 25, 1979

Amend page 3, section 2, line 46, omit "as is", insert ", or any revisions in the accompanying documents, as are".

Amend page 3, section 2, line 50, after "information", insert "or any revisions in the accompanying documents".

Amend page 3, section 2, line 51, after "be", insert "certified as complete immediately upon the meeting of all requirements specified in the ordinance and in the rules and regulations of the municipal agency, and shall be".

Amend page 3, section 2, line 52, omit "was submitted in such complete form to", insert "is so certified by".

Amend page 9, section 7, line 47, after "writing", insert "as provided in this subsection,".

Amend pages 9-10, section 7, lines 48-60, after "thereon", omit remainder of paragraph.

Amend page 10, section 7, lines 63-64, after "application.", omit remainder of paragraph, insert new paragraphs as follow:

"The municipal agency may provide such written decision and findings and conclusions either on the date of the meeting at which the municipal agency takes to grant or deny approval, or, if the meeting at which such action is taken occurs within the final 45 days of the applicable time period for rendering a decision on the application for development, within 45 days of such meeting by the adoption of a resolution of memorialization setting forth the decisions and the findings and conclusions of the municipal agency thereon. An action resulting from the failure of a motion to approve an application shall be memorialized by resolution as provided above, notwithstanding the time at which such action occurs within the applicable time period for rendering a decision on the application.

The adoption of a resolution of memorialization pursuant to this subsection shall not be construed to alter the applicable time period for rendering a decision on the application for development. Such resolution shall be adopted by a vote of a majority of the members of the

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

municipal agency who voted for the action previously taken, and no other member shall vote thereon. The vote on such resolution shall be deemed to be a memorialization of an action of the municipal agency, and not to be an action of the municipal agency; except that failure to adopt such a resolution within the 45-day period shall result in the approval of the application for development, notwithstanding any prior action taken thereon.”.

Amend page 10, section 7, line 65, omit “In the event that”, insert “Whenever”.

Amend page 10, section 7, line 66, omit “the date of the prior vote to grant”.

Amend page 10, section 7, lines 67-69, omit these lines in their entirety, insert “the date of such adoption”.

Amend page 10, section 8, line 4, after “development.”, insert “The developer shall not be required to submit any fees for such an informal review.”.

Amend page 17, section 12, after line 82 insert new paragraph as follows:

“[d. The governing body may provide in the ordinance creating the board for alternate members in Classes II, III, and IV. Such alternate members shall not exceed one in Class II, one in Class III, and two in Class IV. Alternate members of Classes II and III shall be appointed for terms to expire at the same time as the terms of regular members of their respective classes. Alternate members of Class IV shall serve for terms of 2 years; provided, however, that in the event that two alternate members of Class IV are appointed, the initial terms of such members shall be 1 and 2 years respectively. Such alternate members shall be designated by the chairman “Alternate No. 1” and “Alternate No. 2” and shall serve in rotation during the absence or disqualification of any regular member or members of Class IV. Alternate members of each class shall be appointed by the same appointing authority as regular members of that class.]”.

Amend page 19, section 15, line 26, after “plan”, omit “for”, insert “which involves”; after “less,”, insert “and 10 dwelling units or less,”.

Amend page 19, section 15, line 30, after “plan”, omit “of”, insert “which involves”; after “acres,”, insert “or more than 10 dwelling units,”.

Amend page 25, section 21, lines 56-57, omit “by the zoning board of adjustment”, insert “which is required pursuant to such ordinance and the provisions of this chapter,”.

Amend page 26, section 22, after line 30 insert new paragraph as follows:

“[The governing body may provide in the ordinance creating the board for not more than two alternate members. Alternate members shall be designated by the chairman “Alternate No. 1” and “Alternate No. 2” and shall serve in rotation during the absence or disqualification of any regular member or members. The term of each alternate member shall be 2 years.]”.

Amend page 30, section 27, lines 33-42, after “lots,” omit remainder of paragraph, insert “tracts, parcels or other divisions of land for sale or development. The following shall not be considered subdivisions within the meaning of this act, if no new streets are created: (1) divisions of land found by the planning board or subdivision committee thereof appointed by the chairman to be for agricultural purposes where all resulting parcels are 5 acres or larger in size, (2) divisions of property by testamentary or interstate provisions, (3) divisions of property upon court order, including but not limited to judgments of foreclosure, (4) consolidation of existing lots by deed or other recorded instrument and (5) the conveyance of one or more adjoining lots, tracts or parcels of land, owned by the same person or persons and all of which are found and certified by the administrative officer to conform to the requirements of the municipal development regulations and are shown and designated as separate lots, tracts or parcels on the tax map or atlas of the municipality. The term “subdivision” shall also include the term “resubdivision.”

Amend page 30, section 27, line 44, omit “ “Municipal Planning Act (1953) ” ”, insert “ “Municipal Land Use Law” (P. L. 1975, c. 291; C. 40:55D-1 et seq.) ”.

Amend page 30, section 27, line 45, omit line in entirety.

Amend page 30, section 27, line 46, omit “mented”.

Amend page 30, section 27, line 47, omit “ “Municipal Planned Unit Development Act” ”, insert “ “Municipal Land Use Law” (P. L. 1975, c. 291; C. 40:55D-1 et seq.) ”.

Amend page 30, section 27, line 48, omit line in entirety.

ASSEMBLY AMENDMENTS TO

SENATE, No. 1125

[OFFICIAL COPY REPRINT]

[ASSEMBLY REPRINT]

STATE OF NEW JERSEY

ADOPTED JUNE 14, 1979

Amend page 18, section 13, line 2, omit "a seven-member", insert "the".

Amend page 18, section 13, line 2, omit "only,".

Amend page 18, section 13, line 4, omit "mayor", insert "appointing authority for Class IV members,".

Amend page 18, section 13, line 13, omit "mayor", insert "appointing authority".

Amend page 24, section 19, line 5, omit "or", insert ","; after "uses]", insert "or conditional uses".

Amend page 24, section 20, line 4, omit "or", insert ","; after "use]", insert "or conditional use".

Amend page 27, section 23, line 22, after "hardship", insert ", including a variance for a conditional use".

Amend pages 27-28, section 23, lines 23-24, omit "for a conditional use or".

Amend page 28, section 23, line 27, omit "or", insert ","; after "use]", insert "or conditional use".

216 1979
10-11-79
[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 1125

STATE OF NEW JERSEY

INTRODUCED MAY 1, 1978

By Senators GREENBERG, FELDMAN and MUSTO

Referred to Committee on County and Municipal Government

AN ACT to amend and supplement the "Municipal Land Use Law," approved January 14, 1976 (P. L. 1975, c. 291)*, and amending P. L. 1968, c. 285*.

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

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

3 2. Purpose of the act. It is the intent and purpose of this act:

4 a. To encourage municipal action to guide the appropriate use
5 or development of all lands in this State, in a manner which will
6 promote the public health, safety, morals, and general welfare;

7 b. To secure safety from fire, flood, panic and other natural and
8 man-made disasters;

9 c. To provide adequate light, air and open space;

10 d. To ensure that the development of individual municipalities
11 does not conflict with the development and general welfare of
12 neighboring municipalities, the county and the State as a whole;

13 e. To promote the establishment of appropriate population densi-
14 ties and concentrations that will contribute to the well-being of
15 persons, neighborhoods, communities and regions and preservation
16 of the environment;

17 f. To encourage the appropriate and efficient expenditure of
18 public funds by the coordination of public development with land
19 use policies;

20 g. To provide sufficient space in appropriate locations for a
21 variety of agricultural, residential, recreational, commercial and

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

22 industrial uses and open space, both public and private, according
 23 to their respective environmental requirements in order to meet
 24 the needs of all New Jersey citizens;

25 h. To encourage the location and design of transportation routes
 26 which will promote the free flow of traffic while discouraging loca-
 27 tion of such facilities and routes which result in congestion or
 28 blight;

29 i. To promote a desirable visual environment through creative
 30 development techniques and good civic design and arrangements;

31 j. To promote the conservation of open space and valuable na-
 32 tural resources and to prevent urban sprawl and degradation of
 33 the environment through improper use of land;

34 k. To encourage planned unit developments which incorporate
 35 the best features of design and relate the type, design and layout
 36 of residential, commercial, industrial and recreational development
 37 to the particular site; **[and]**

38 l. To encourage senior citizen community housing construction
 39 **[consistent with provisions permitting other residential uses of a**
 40 **similar density in the same zoning district.]**; *and*

41 m. To encourage coordination of the various public and private
 42 procedures and activities shaping land development with a view
 43 of lessening the cost of such development and to the more efficient
 44 use of land.

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

3 3. For the purposes of this act, unless the context clearly indi-
 4 cates a different meaning:

5 The term "shall" indicates a mandatory requirement, and the
 6 term "may" indicates a permissive action.

7 "Administrative officer" means the clerk of the municipality
 8 unless a different municipal official or officials, are designated by
 9 ordinance or statute.

10 "Applicant" means a developer submitting an application for
 11 development.

12 "Application for development" means the application form and
 13 all accompanying documents required by ordinance for approval
 14 of a subdivision plat, site plan, planned development, conditional
 15 use, zoning variance or direction of the issuance of a permit pur-
 16 suant to section 25 or section 27 of this act.

17 "Approving authority" means the planning board of the munici-
 18 pality unless a different agency is designated by ordinance when
 19 acting pursuant to the authority of this act.

20 "Board of adjustment" means the board established pursuant to
21 section 56 of this act.

22 "Building" means a combination of materials to form a con-
23 struction adapted to permanent, temporary, or continuous occu-
24 pancy and having a roof.

25 "Capital improvement" means a governmental acquisition of
26 real property or major construction project.

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

33 "Common open space" means an open space area within or re-
34 lated to a site designated as a development, and designed and in-
35 tended for the use or enjoyment of residents and owners of the
36 development. Common open space may contain such comple-
37 mentary structures and improvements as are necessary and
38 appropriate for the use or enjoyment of residents and owners of
39 the development.

40 "*Complete application*" means an application form completed
41 as specified by ordinance and the rules and regulations of the
42 municipal agency*,* and all accompanying documents required by
43 ordinance for approval of the application for development, includ-
44 ing where applicable, but not limited to, a site plan or subdivision
45 plat; provided that the municipal agency may require *such* addi-
46 tional information *not specified in the ordinance **[as is]** ** ,
47 or any revisions in the accompanying documents, as are** reason-
48 ably necessary to make an informed decision as to whether the
49 requirements necessary for approval of the application for develop-
50 ment have been met. The application shall not be deemed incomplete
51 for lack of any such additional information **or any revisions in
52 the accompanying documents** so required by the municipal agency.
52A An application shall be **certified as complete immediately upon
52B the meeting of all requirements specified in the ordinance
52C and in the rules and regulations of the municipal agency,
52D and shall be** deemed complete as of the day it **[was sub-
52E mitted to such complete form to]** **is so certified by** the
52F administrative officer for purposes of the commencement of the time
52G period for action by the municipal agency.

53 "Conditional use" means a use permitted in a particular zoning
54 district only upon a showing that such use in a specified location
55 will comply with the conditions and standards for the location or

56 operation of such use as contained in the zoning ordinance, and
 57 upon the issuance of an authorization therefor by the planning
 58 board.

59 "Conventional" means development other than planned develop-
 60 ment.

61 "County master plan" means a composite of the master plan
 62 for the physical development of the county in which the munici-
 63 pality is located, with the accompanying maps, plats, charts and
 64 descriptive and explanatory matter adopted by the county planning
 65 board pursuant to R. S. 40:27-2 and R. S. 40:27-4.

66 "County planning board" means the *county* planning board*,
 67 as defined in section 1 of P. L. 1968, c. 285 (C. 40:27-6.1),* of the
 68 county in which the land or development is located.

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

3 3.2. "Maintenance guarantee" means any security, other than
 4 cash, which may be accepted by a municipality for the maintenance
 5 of any improvements required by this act.

6 "Major subdivision" means any subdivison not classified as
 7 a minor subdivision.

8 "Master plan" means a composite of one or more written or
 9 graphic proposals for the development of the municipality as set
 10 forth in and adopted pursuant to section 19 of this act.

11 "Mayor" means the chief executive of the municipality, what-
 12 ever his official designation may be, except that in the case of
 13 municipalities governed by municipal council and municipal man-
 14 ager the term "mayor" shall not mean the "municipal manager"
 15 but shall mean the mayor of such municipality.

16 "*Minor site plan*" means a development plan of one or more lots
 17 which (1) proposes new development within the scope of develop-
 18 ment specifically permitted by ordinance as a minor site plan; (2)
 19 does not involve planned development, any new street or extension
 20 of any off-tract improvement which is to be prorated pursuant to
 21 section 30 of this act (C. 40:55D-42); and (3) contains the informa-
 22 tion reasonably required in order to make an informed determina-
 23 tion as to whether the requirements established by ordinance for
 24 approval of a minor site plan have been met.

25 "Minor subdivision" means a subdivision of land [that does not
 26 involve (1)] for the creation of [more than the maximum] a
 27 number of lots specifically permitted by ordinance as a minor sub-
 28 division[, (2)]; provided that such subdivision does not involve (1)
 29 a planned development, [(3)] (2) any new street or [(4)] (3) the
 30 extension of any off-tract improvement, the cost of which is to be
 31 prorated pursuant to section 30 of this act (C. 40:55D-42).

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

34 "Municipal agency" means a municipal planning board or board
35 of adjustment, or a governing body of a municipality when acting
36 pursuant to this act and any agency which is created by or responsi-
37 ble to one or more municipalities when such agency is acting pur-
38 suant to this act.

39 "Nonconforming lot" means a lot the area, dimension or location
40 of which was lawful prior to the adoption, revision or amendment
41 of a zoning ordinance, but fails to conform to the requirements of
42 the zoning district in which it is located by reason of such adoption,
43 revision or amendment.

44 "Nonconforming structure" means a structure the size, dimen-
45 sion or location of which was lawful prior to the adoption, revision
46 or amendment of a zoning ordinance, but which fails to conform to
47 the requirements of the zoning district in which it is located by
48 reasons of such adoption, revision or amendment.

49 "Nonconforming use" means a use or activity which was lawful
50 prior to the adoption, revision or amendment of a zoning ordinance,
51 but which fails to conform to the requirements of the zoning dis-
52 trict in which it is located by reasons of such adoption, revision
53 or amendment.

54 "Official county map" means the map, with changes and addi-
55 tions thereto, adopted and established, from time to time, by resolu-
56 tion of the board of chosen freeholders of the county pursuant to
57 R. S. 40:27-5.

58 "Official map" means a map adopted by ordinance pursuant to
59 article 5.

60 "Offsite" means located outside the lot lines of the lot in ques-
61 tion but within the property (of which the lot is a part) which is
62 the subject of a development application or contiguous portion
63 of a street or right-of-way.

64 "Off-tract" means not located on the property which is the sub-
65 ject of a development application nor on a contiguous portion of
66 a street or right-of-way.

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

68 "On-tract" means located on the property which is the subject
69 of a development application or on a contiguous portion of a street
70 or right-of-way.

71 "Open-space" means any parcel or area of land or water essen-
72 tially unimproved and set aside, dedicated, designated or reserved
73 for public or private use or enjoyment or for the use and enjoy-
74 ment of owners and occupants of land adjoining or neighboring

75 such open space; provided that such areas may be improved with
76 only those buildings, structures, streets and offstreet parking and
77 other improvements that are designed to be incidental to the na-
78 tural openness of the land.

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

3 3.4 "Sedimentation" means the deposition of soil that has been
4 transported from its site of origin by water, ice, wind, gravity or
5 other natural means as a product of erosion.

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

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

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

36 "Structure" means a combination of materials to form a con-
37 struction for occupancy, use or ornamentation whether installed
38 on, above, or below the surface of a parcel of land.

39 "Subdivision" means the division of a lot, tract or parcel of
 40 land into two or more lots, tracts, parcels or other divisions of land
 41 for sale or development. The following shall not be considered
 42 subdivisions within the meaning of this act, if no new streets are
 43 created: (1) divisions of land found by the planning board or sub-
 44 division committee thereof appointed by the chairman to be for
 45 agricultural purposes where all resulting parcels are 5 acres or
 46 larger in size, (2) divisions of property by testamentary or in-
 47 testate provisions, (3) divisions of property upon court order
 48 [and], *including but not limited to judgments of foreclosure*, (4)
 49 [conveyances so as to combine] *consolidation of existing lots by*
 50 *deed or other recorded instrument and (5) the conveyance of one or*
 51 *more adjoining lots, tracts or parcels of land, owned by the same*
 52 *person or persons and all of which are found and certified by the*
 53 *administrative officer to conform to the requirements of the municipi-*
 54 *pal development regulations and are shown and designated as*
 55 *separate lots, tracts or parcels on the tax map or atlas of the*
 56 *municipality.* The term "subdivision" shall also include the term
 57 "resubdivision."

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

60 "Variance" means permission to depart from the literal re-
 61 quirements of a zoning ordinance pursuant to section 47 and sub-
 62 sections 29. 2b., 57 c. and 57 d. of this act.

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

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

3 4. Administrative procedures; fees. a. Every municipal agency
 4 shall adopt, and may amend reasonable rules and regulations, not
 5 inconsistent with this act or with any applicable ordinance, for the
 6 administration of its functions, powers and duties, and shall fur-
 7 nish a copy thereof to any person upon request and may charge a
 8 reasonable fee for such copy. Copies of all such rules and regula-
 9 tions and amendments thereto shall be maintained in the office of
 10 the administrative officer.

39 "Subdivision" means the division of a lot, tract or parcel of
40 land into two or more lots, tracts, parcels or other divisions of land
41 for sale or development. The following shall not be considered
42 subdivisions within the meaning of this act, if no new streets are
43 created: (1) divisions of land found by the planning board or sub-
44 division committee thereof appointed by the chairman to be for
45 agricultural purposes where all resulting parcels are 5 acres or
46 larger in size, (2) divisions of property by testamentary or in-
47 testate provisions, (3) divisions of property upon court order
48 [and], including but not limited to judgments of foreclosure, (4)
49 [conveyances so as to combine] consolidation of existing lots by
50 deed or other recorded instrument and (5) the conveyance of one or
51 more adjoining lots, tracts or parcels of land, owned by the same
52 person or persons and all of which are found and certified by the
53 administrative officer to conform to the requirements of the municipi-
54 pal development regulations and are shown and designated as
55 separate lots, tracts or parcels on the tax map or atlas of the
56 municipality. The term "subdivision" shall also include the term
57 "resubdivision."

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67 or building and (2) which acknowledges that such use, structure
68 or building complies with the provisions of the municipal zoning
69 ordinance or variance therefrom duly authorized by a municipal
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5 inconsistent with this act or with any applicable ordinance, for the
6 administration of its functions, powers and duties, and shall fur-
7 nish a copy thereof to any person upon request and may charge a
8 reasonable fee for such copy. Copies of all such rules and regula-
9 tions and amendments thereto shall be maintained in the office of
10 the administrative officer.

11 b. [A municipality may by ordinance provide for reasonable
12 fees] *Fees* to be charged (1) an applicant for review of an appli-
13 cation for development by a municipal agency, and (2) an appellant
14 pursuant to section 8 of this act *shall be reasonable and shall be*
15 *established by ordinance.*

1 6. Section 5 of P. L. 1975, c. 291 (C. 40:55D-9) is amended to
2 read as follows:

3 5. Meetings; municipal agency. a. Every municipal agency shall
4 by its rules fix the time and place for holding its regular meetings
5 for business authorized to be conducted by such agency. Regular
6 meetings of the municipal agency shall be scheduled not less than
7 once a month and shall be held as scheduled unless canceled for
8 lack of applications for development to process. The municipal
9 agency may provide for special meetings, at the call of the chair-
10 man, or on the request of any two of its members, which shall be
11 held on notice to its members and the public in accordance with
12 municipal regulations. No action shall be taken at any meeting
13 without a quorum being present. All actions shall be taken by a
14 majority vote of [a quorum] *the members of the municipal agency*
15 *present at the meeting* except as otherwise required by sections
16 23, 25, 49, 50, and subsections 8e., 17a., 17b. and 57d. of this act.
17 Nothing herein shall be construed to contravene any act providing
18 for procedures for governing bodies.

19 b. All regular meetings and all special meetings shall be open
20 to the public. Notice of all such meetings shall be given in accord-
21 ance with municipal regulations. An executive session for the
22 purpose of discussing and studying any matters to come before
23 the agency shall not be deemed a regular or special meeting within
24 the meaning of this act.

25 c. Minutes of every regular or special meeting shall be kept
26 and shall include the names of the persons appearing and address-
27 ing the municipal agency and of the persons appearing by attorney,
28 the action taken by the municipal agency, the findings, if any, made
29 by it and reasons therefor. The minutes shall thereafter be made
30 available for public inspection during normal business hours at
31 the office of the administrative officer. Any interested party shall
32 have the right to compel production of the minutes for use as
33 evidence in any legal proceedings concerning the subject matter
34 of such minutes. Such interested party may be charged a reason-
35 able fee for reproduction of the minutes for his use.

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

3 6. Hearings. a. The municipal agency shall hold a hearing on
4 each application for development, or adoption, revision or amend-
5 ment of the master plan.

6 b. The municipal agency shall make the rules governing such
7 hearings. Any maps and documents for which approval is sought at
8 a hearing shall be on file and available for public inspection at
9 least 10 days before the date of the hearing during normal business
10 hours in the office of the administrative officer. The applicant
11 may produce other documents, records, or testimony at the hearing
12 to substantiate or clarify or supplement the previously filed maps
13 and documents.

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

21 d. The testimony of all witnesses relating to an application for
22 development shall be taken under oath or affirmation by the pre-
23 siding officer, and the right of cross-examination shall be permitted
24 to all interested parties through their attorneys, if represented,
25 or directly, if not represented, subject to the discretion of the
26 presiding officer and to reasonable limitations as to time and num-
27 ber of witnesses.

28 e. Technical rules of evidence shall not be applicable to the
29 hearing, but the agency may exclude irrelevant, immaterial or
30 unduly repetitious evidence.

31 f. The municipal agency shall provide for the verbatim recording
32 of the proceedings by either stenographer, mechanical or electronic
33 means. The municipal agency shall furnish a transcript, or dupli-
34 cate recording in lieu thereof, on request to any interested party
35 at his expense; provided that the governing body may provide by
36 ordinance for the municipality to assume the expense of any tran-
37 scripts necessary for appeal to the governing body pursuant to
38 section 8 of this act of decisions by the zoning board of adjustment
39 pursuant to subsection 57d. of this act, up to a maximum amount
40 as specified by the ordinance.

41 *The municipal agency in furnishing a transcript of the proceed-*
42 *ings to an interested party at his expense shall not charge such*
43 *interested party more than the maximum permitted in N. J. S.*
44 *2A:11-15. Said transcript shall be certified in writing by the tran-*
45 *scriber to be accurate.*

46 g. Each decision on any application for development shall be
 47 [in] reduced to writing ***as provided in this subsection,*** and
 48 shall include findings of facts and conclusions based thereon***;*
 48A *provided that such reduction to writing and findings and con-*
 49 *clusions may be provided by a resolution of memorialization*
 50 *adopted not later than 35 days after the date of the meeting*
 51 *at which the municipal agency voted to grant or deny approval;*
 52 *provided further that failure to adopt such resolution shall*
 53 *be deemed an approval of the application for development*
 54 *(even if the time period for granting or denying approval as other-*
 55 *wise provided in this act has not expired). Only the members of*
 56 *the municipal agency who voted for the action taken may vote on*
 57 *the resolution of memorialization, and the vote of a majority of*
 58 *such members shall be sufficient to adopt such resolution. The vote*
 59 *on such resolution shall be deemed to be a memorialization of an*
 60 *action and not as an action of the municipal agency]**.*

61 *Failure of a motion to approve an application for development*
 62 *to receive the number of votes required for approval shall be*
 63 *deemed an action denying the application. **[Such denial shall be*
 64 *memorialized by resolution as provided in this subsection.])***

64A ***The municipal agency may provide such written decision and*
 64B *findings and conclusions either on the date of the meeting at which*
 64C *the municipal agency takes to grant or deny approval, or, if the*
 64D *meeting at which such action is taken occurs within the final 45 days*
 64E *of the applicable time period for rendering a decision on the appli-*
 64F *cation for development, within 45 days of such meeting by the*
 64G *adoption of a resolution of memorialization setting forth the deci-*
 64H *sion and the findings and conclusions of the municipal agency*
 64I *thereon. An action resulting from the failure of a motion to approve*
 64J *an application shall be memorialized by resolution as provided*
 64K *above, notwithstanding the time at which such action occurs within*
 64L *the applicable time period for rendering a decision on the appli-*
 64M *cation.*

64N *The adoption of a resolution of memorialization pursuant to this*
 64O *subsection shall not be construed to alter the applicable time period*
 64P *for rendering a decision on the application for development. Such*
 64Q *resolution shall be adopted by a vote of a majority of the members*
 64R *of the municipal agency who voted for the action previously taken,*
 64S *and no other member shall vote thereon. The vote on such resolu-*
 64T *tion shall be deemed to be a memorialization of an action of the*
 64U *municipal agency, and not to be an action of the municipal agency;*
 64V *except that failure to adopt such a resolution within the 45-day*
 64W *period shall result in the approval of the application for develop-*
 64X *ment, notwithstanding any prior action taken thereon.***

65 **[In the event that]** **Whenever** a resolution of memorial-
 65A ization is adopted in accordance with this subsection, **[the date
 66 of the prior vote to grant or deny approval shall govern for pur-
 67 poses of the applicable time period for rendering a decision on the
 68 application for development, but the date of the adoption of the
 69 resolution of memorialization]** **the date of such adoption**
 70 shall constitute the date of the decision for purposes of the mail-
 71 ings, filings and publications required by subsections h. and i. of
 72 this section.

73 h. A copy of the decision shall be mailed by the municipal agency
 74 within 10 days of the date of decision to the applicant, or if repre-
 75 sented then to his attorney, without separate charge, and to all
 76 who request a copy of the decision for a reasonable fee. A copy
 77 of the decision shall also be filed by the municipal agency in the
 78 office of the administrative officer. The administrative officer shall
 79 make a copy of such filed decision available to any interested party
 80 for a reasonable fee and available for public inspection at his
 81 office during reasonable hours.

82 i. A brief notice of the decision shall be published in the official
 83 newspaper of the municipality, if there be one, or in a newspaper
 84 of general circulation in the municipality. Such publication shall
 85 be arranged by the applicant unless a particular municipal officer
 86 is so designated by ordinance; provided that nothing contained in
 87 this act shall be construed as preventing the applicant from arrang-
 88 ing such publication if he so desires. The municipality may make a
 89 reasonable charge for its publication. The period of time in which
 90 an appeal of the decision may be made shall run from the first
 91 publication of the decision, whether arranged by the municipality
 92 or the applicant.

1 8. (New section) At the request of the developer, the planning
 2 board shall grant an informal review of a concept plan for a de-
 3 velopment for which the developer intends to prepare and submit
 4 an application for development. ***The developer shall not be*
 4A *required to submit any fees for such an informal review.*** The
 5 developer shall not be bound by any concept plan for which review
 6 is requested***[;]*** **, and the planning board shall not be bound by
 7 any such review.

1 9. (New section) A member of a municipal agency who was
 2 absent for one or more of the meetings at which a hearing was
 3 held shall be eligible to vote on the matter upon which the hearing
 4 was conducted, notwithstanding his absence from one or more of
 5 the meetings; provided, however, that such board member has
 6 available to him the transcript or recording of all of the hearing

7 from which he was absent, and certifies in writing to the board
8 that he has read such transcript or listened to such recording.

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

3 7.1. Notice of applications. Notice pursuant to subsection a.,
4 b., d., e., f. and g. of this section shall be given by the applicant
5 unless a particular municipal officer is so designated by ordinance;
6 provided that nothing contained herein shall prevent the applicant
7 from giving such notice if he so desires. Notice pursuant to sub-
8 sections a., b., d., e., f. and g. of this section shall be given at least 10
9 days prior to the date of the hearing.

10 a. Public notice of a hearing on an application for development
11 shall be given except for (1) conventional site plan review pursuant
12 to section 34 of this act, (2) minor subdivisions pursuant to section
13 35 of this act or (3) final approval pursuant to section 38 of this
14 act; provided that the governing body may by ordinance require
15 public notice for such categories of site plan review as may be
16 specified by ordinance; and further provided that public notice
17 shall be given in the event that relief is requested pursuant to
18 section 47 or 63 of this act as part of an application for develop-
19 ment otherwise excepted herein from public notice. Public notice
20 shall be given by publication in the official newspaper of the
21 municipality, if there be one, or in a newspaper of general circula-
22 tion in the municipality.

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

37 Notice to a partnership owner may be made by service upon
38 any partner. Notice to a corporate owner may be made by service
39 upon its president, a vice president, secretary or other person
40 authorized by appointment or by law to accept service on behalf
41 of the corporation. *Notice to a condominium association, horizontal*

42 *property regime, community trust or homeowners' association,*
43 *because of its ownership of common elements or areas located*
44 *within 200 feet of the property which is the subject of the hearing,*
44A *may be made in the same manner as to a corporation without*
45 *further notice to unit owners, co-owners, or homeowners on account*
46 *of such common elements or areas.*

47 c. Upon the written request of an applicant, the administrative
48 officer of a municipality shall, within 7 days, make and certify a
49 list from said current tax duplicates of names and addresses of
50 owners to whom the applicant is required to give notice pursuant
51 to subsection b. of this section. The applicant shall be entitled
52 to rely upon the information contained in such list, and failure to
53 give notice to any owner not on the list shall not invalidate any
54 hearing or proceeding. A sum not to exceed \$0.25 per name, or
55 \$10.00, *whichever is greater*, may be charged for such list.

56 d. Notice of **[all]** hearings on applications for development in-
57 volving property located within 200 feet of an adjoining munici-
58 pality shall be given by personal service or certified mail to the
59 clerk of such municipality.

60 e. Notice shall be given by personal service or certified mail to
61 the county planning board of a hearing on an application for
62 development of property adjacent to an existing county road or
63 proposed road shown on the official county map or on the county
64 master plan, adjoining other county land or situated within 200
65 feet of a municipal boundary.

66 f. Notice shall be given by personal service or certified mail to
67 the Commissioner of Transportation of a hearing on an applica-
68 tion for development of property adjacent to a State highway.

69 g. Notice shall be given by personal service or certified mail to
70 the director of the division of a hearing on an application for
71 development of property which exceeds 150 acres or 500 dwelling
72 units. Such notice shall include a copy of any maps or documents
73 required to be on file with the municipal clerk pursuant to sub-
74 section 6 b. of this act.

75 h. The applicant shall file an affidavit of proof of service with
76 the municipal agency holding the hearing on the application for
77 development in the event that the applicant is required to give
78 notice pursuant to this section.

79 *i. Notice pursuant to subsections d., e., f., and g. of this section*
80 *shall not be deemed to be required, unless public notice pursuant to*
81 *subsection a. and notice pursuant to subsection b. of this section*
82 *are required.*

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

3 8. Appeal to the governing body; time; notice; modification;
4 stay of proceedings.

5 a. Any interested party **[may]** *desiring to appeal the decision*
6 *of a municipal agency shall* appeal to the governing body (1) any
7 final decision of a board of adjustment approving an application
8 for development pursuant to subsection 57 d. of this act, and (2)
9 if so permitted by ordinance, any other final decision of a board
10 of adjustment or planning board on any **[other]** class of applica-
11 tions for development. Such appeal shall be made within 10 days
12 of the date of publication of such final decision pursuant to
13 subsection 6i. In the case of any board established pursuant to
14 article 10 of this act, the governing body of the municipality in
15 which the land is situated shall be the "governing body" for pur-
16 poses of this section. The appeal to the governing body shall be
17 made by serving the municipal clerk in person or by certified mail
18 with a notice of appeal specifying the grounds thereof and the
19 name and address of the appellant and name and address of his
20 attorney, if represented. Such appeal shall be decided by the gov-
21 erning body only upon the record established before the planning
22 board or board of adjustment.

23 b. Notice of the meeting to review the record below shall be
24 given by the governing body by personal service or certified mail
25 to the appellant, to those entitled to notice of a decision pursuant
26 to subsection 6 h. and to the board from which the appeal is
27 taken at least 10 days prior to the date of the meeting. The
28 parties may submit oral and written argument on the record at such
29 meeting, and the governing body shall provide for verbatim record-
30 ing and transcripts of such meeting pursuant to subsection 6 f.

31 c. **[The governing body shall conclude a review of the record**
32 **below not later than 45 days from the date of receipt of the tran-**
33 **script of the hearing unless the appellant consents in writing to**
34 **an extension of such period. The appellant shall arrange for a**
35 **transcript pursuant to subsection 6 f., or otherwise, for use by**
36 **the governing body. Failure of the governing body to hold a**
37 **hearing and conclude a review of the record below and to render**
38 **a decision within such specified period, without such written consent**
39 **of the appellant, shall constitute a decision affirming the action**
40 **of the board.]** *The appellant shall, (1) within 5 days of service*
41 *of the notice of the appeal pursuant to subsection a. hereof, arrange*
42 *for a transcript pursuant to subsection f. of section 6 of this act*
43 *(C. 40:55D-10) for use by the governing body and pay a deposit*

44 of \$50.00 ***[of]*** *or* the estimated cost of such transcription,
45 whichever is less, or (2) within 35 days of service of the notice of
46 appeal, submit a transcript as otherwise arranged to the municipal
47 clerk; otherwise, the appeal may be dismissed for failure to
47A prosecute.

48 The governing body shall conclude a review of the record below
49 not later than 95 days from the date of publication of notice of the
50 decision below pursuant to subsection i. of section 6 of this act
51 (C. 40:55D-10) unless the applicant consents in writing to an
52 extension of such period. Failure of the governing body to hold
53 a hearing and conclude a review of the record below and to render
54 a decision within such specified period shall constitute a decision
55 affirming the action of the board.

56 d. The governing body may reverse, remand or affirm, wholly
57 or in part, or may modify the final decision of the planning board
58 or board of adjustment, as the case may be.

59 e. The affirmative vote of a majority of the full authorized
60 membership of the governing body shall be necessary to reverse,
61 remand or modify any final action of either board.

62 f. An appeal to the governing body shall stay all proceedings
63 in furtherance of the action in respect to which the decision
64 appealed from was made unless the board from whose action the
65 appeal is taken certifies to the governing body, after the notice
66 of appeal shall have been filed with such board, that by reasons
67 of facts stated in the certificate a stay would, in its opinion, cause
68 imminent peril to life or property. In such case, proceedings shall
69 not be stayed other than by an order of the Superior Court on
70 application upon notice to the board from whom the appeal is
71 taken and on good cause shown.

72 g. The governing body shall mail a copy of the decision to the
73 appellant or if represented then to his attorney, without separate
74 charge, and for a reasonable charge to any interested party who
75 has requested it, not later than 10 days after the date of the
76 decision. A brief notice of the decision shall be published in the
77 official newspaper of the municipality, if there be one, or in a
78 newspaper of general circulation in the municipality. Such
79 publication shall be arranged by the applicant unless a particular
80 municipal officer is so designated by ordinance; provided that
81 nothing contained herein shall be construed as preventing the
82 applicant from arranging such publication if he so desires. The
83 governing body may make a reasonable charge for its publication.
84 The period of time in which an appeal to a court of competent

85 jurisdiction may be made shall run from the first publication,
86 whether arranged by the municipality or the applicant.

87 h. Nothing in this act shall be construed to restrict the right
88 of any party to obtain a review by any court of competent juris-
89 diction according to law.

1 12. Section 14 of P. L. 1975, c. 291 (C. 40:55D-23) is amended
2 to read as follows:

3 14. Planning board membership. a. The governing body may,
4 by ordinance, create a planning board of seven or nine members.
5 The membership shall consist of, for convenience in designating
6 the manner of appointment, the four following classes:

7 Class I—the mayor or, in the case of the council-manager form
8 of government pursuant to the “Optional Municipal Charter Law,”
9 P. L. 1950, c. 210 (C. 40:69A-1 et seq.) or “The Municipal Manager
10 Form of Government Law” (Subtitle 5 of Title 40 of the Revised
11 Statutes), the manager, if so provided by the aforesaid ordinance.

12 Class II—one of the officials of the municipality other than a
13 member of the governing body, to be appointed by the mayor;
14 provided that if there be an environmental commission, the member
15 of the environmental commission who is also a member of the
16 planning board as required by section 1 of P. L. 1968, c. 245
17 (C. 40:56A-1), shall be deemed to be the Class II planning board
18 member for purposes of this act in the event that there be among
19 the Class IV [member] or *alternate members* of the planning board
20 both a member of the zoning board of adjustment and a member
21 of the board of education.

22 Class III—a member of the governing body to be appointed
23 by it, except that no member for Class III shall be appointed to
24 the planning board if the governing body consists of only three
25 members.

26 Class IV—other citizens of the municipality, to be appointed
27 by the mayor or, in the case of the council-manager form of
28 government pursuant to the “Optional Municipal Charter Law,”
29 P. L. 1950, c. 210 (C. 40:69A-1 et seq.) or “The Municipal Manager
30 Form of Government Law” (Subtitle 5 of Title 40 of the Revised
31 Statutes), by the council, if so provided by the aforesaid ordi-
32 nance.

33 The members of Class IV shall hold no other municipal office,
34 except that in the case of nine-member boards, one such member
35 may be a member of the zoning board of adjustment. No member of
36 the board of education may be a Class IV member of the planning
37 board, except that in the case of a nine-member board, one Class
38 IV member may be a member of the board of education. If there

39 be a municipal environmental commission, the member of the
40 environmental commission who is also a member of the planning
41 board, as required by section 1 of P. L. 1968, c. 245 (C. 40:56A-1),
42 shall be a Class IV planning board member, unless there be among
43 the Class IV *or alternate* members of the planning board both a
44 member of the zoning board of adjustment and a member of the
45 board of education, in which case the member common to the plan-
46 ning board and municipal environmental commission shall be
47 deemed a Class II member of the planning board.

48 b. The term of the member composing Class I shall correspond
49 to his official tenure. The terms of the members composing Class
50 II and Class III shall be for 1 year or terminate at the completion
51 of their respective terms of office, whichever occurs first except
52 for a Class II member who is also a member of the environmental
53 commission. The term of a Class II or Class IV member who
54 is also a member of the environmental commission shall be for 3
55 years or terminate at the completion of his term of office as a mem-
56 ber of the environmental commission, whichever occurs first. The
57 term of a Class IV member who is also a member of the board of
58 adjustment, or board of education shall terminate whenever he is
59 no longer a member of such other body or at the completion of his
60 Class IV term, whichever occurs first. The terms of all Class IV
61 members first appointed under this act shall be so determined that
62 to the greatest practicable extent the expiration of such terms shall
63 be distributed evenly over the first 4 years after their appointment;
64 provided that the initial Class IV term of no member shall exceed
65 4 years. Thereafter, the Class IV term of each such member shall
66 be 4 years. If a vacancy in any class shall occur otherwise than by
67 expiration of the planning board term, it shall be filled by appoint-
68 ment, as above provided, for the unexpired term. No member of
69 the planning board shall be permitted to act on any matter in
70 which he has, either directly or indirectly, any personal or financial
71 interest. Any member other than a Class I member, after a public
72 hearing if he requests one, may be removed by the governing body
73 for cause.

74 [c. When any hearing before a planning board shall carry over
75 two or more meetings, a member of the board who was absent for
76 one or more of the meetings, shall be eligible to vote on the matter
77 upon which the hearing was conducted, notwithstanding his absence
78 from one or more of the meetings; provided, however, that such
79 board member has available to him a transcript or recording of
80 the meeting from which he was absent, and certifies in writing to

5 affected by any decision of an administrative officer of the munici-
 6 pality based on or made in the enforcement of the zoning ordinance
 7 or official map. Such appeal shall be taken within [65] 20 days by
 8 filing a notice of appeal with the officer from whom the appeal is
 9 taken specifying the grounds of such appeal. The officer from
 10 whom the appeal is taken shall immediately transmit to the board
 11 all the papers constituting the record upon which the action ap-
 12 pealed from was taken.

13 b. A developer may file an application for development with the
 14 board of adjustment for action under any of its powers without
 15 prior application to an administrative officer.

1 ***[24.]*** *25.* Section 63 of P. L. 1975, c. 291 (C. 40:55D-76) is
 2 amended to read as follows:

3 63. Other powers. a. Sections 59 through 62 of this article shall
 4 apply to the power of the board of adjustment to:

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

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

11 b. The board of adjustment shall have the power to grant to the
 12 same extent and subject to the same restrictions as the planning
 13 board subdivision or site plan approval pursuant to article 6 of
 14 this act or conditional use approval pursuant to section 54 of this
 15 act whenever [the board of adjustment is reviewing an application
 16 for approval of a variance pursuant to subsection 57 d. of this act.]
 17 *the proposed development requires approval by the board of ad-
 18 justment of a variance pursuant to subsection d. of section 57
 19 of this act (C. 40:55D-70). The developer may elect to submit a sep-
 20 arate application requesting approval of the variance and a sub-
 21 sequent application for any required approval of a subdivision,
 22 site plan or conditional use. The separate approval of the variance
 23 shall be conditioned upon grant of all required subsequent ap-
 24 provals by the board of adjustment. No such subsequent approval
 25 shall be granted unless such approval can be granted without sub-
 26 stantial detriment to the public good and without substantial im-
 27 pairment of the intent and purpose of the zone plan and zoning
 28 ordinance. The number of votes of board members required to
 29 grant any such subsequent approval shall be as otherwise provided
 30 in this act for the approval in question, and the special vote pur-
 31 suant to the aforesaid subsection d. of section 57 shall not be re-
 32 quired.*

33 c. Whenever an application for development requests relief
 34 pursuant to subsection b. of this section, the board of adjustment
 35 shall grant or deny approval of the application within 120 days
 36 after submission by a developer of a complete application to the
 37 administrative officer or within such further time as may be con-
 38 sented to by the applicant. *In the event that the developer elects*
 39 *to submit separate consecutive applications, the aforesaid provi-*
 40 *sion shall apply to the application for approval of the variance.*
 41 *The period for granting or denying any subsequent approval shall*
 42 *be as otherwise provided in this act.* Failure of the board of ad-
 43 justment to act within the period prescribed shall constitute ap-
 44 proval of the application and a certificate of the administrative
 45 officer as to the failure of the board of adjustment to act shall be
 46 issued on request of the applicant, and it shall be sufficient in lieu
 47 of the written endorsement or other evidence of approval, herein
 48 required, and shall be so accepted by the county recording officer
 49 for purposes of filing subdivision plats.

50 Whenever review or approval of the application by the county
 51 planning board is required by section 5 of P. L. 1968, c. 285
 52 (C. 40:27-6.3), in the case of a subdivision, or section 8 of P. L.
 53 1968, c. 285 (C. 40:27-6.6), in the case of a site plan, the municipal
 54 board of adjustment shall condition any approval that it grants
 55 upon timely receipt of a favorable report on the application by the
 56 county planning board or approval by the county planning board
 57 by its failure to report thereon within the required time.

58 An application under this section may be referred to any appro-
 59 priate person or agency, including the planning board pursuant
 60 to section 17 of this act, for its report; provided that such reference
 61 shall not extend the period of time within which the zoning board
 62 of adjustment shall act.

1 ***[25.]*** *26.* Section 66 of P. L. 1975, c. 291 (C. 40:55D-79) is
 2 amended to read as follows:

3 66. Membership of regional boards. Every joint agreement
 4 creating a regional board under this article shall provide for a
 5 representative member on such board for each constituent municipi-
 6 tality or county and may provide for additional representative
 7 members for any such constituent municipality or county. The
 8 representative member or members on a regional board for a
 9 constituent municipality shall be appointed by the mayor.

10 Any such member, after a public hearing if he requests one, may
 11 be removed for cause by the governing body of such constituent
 12 municipality. The representative member or members of a regional
 13 board for a constituent county shall be appointed by the board of

14 chosen freeholders of such county. Any such member, after public
 15 hearing if he requests one, may be removed for cause by the board
 16 of chosen freeholders of such constituent county. *In addition to*
 17 *such members, any regional planning board may adopt a resolution*
 18 *providing that the Commissioner of the Department of Environ-*
 19 *mental Protection appoint as a member of the regional planning*
 20 *board a representative of that department's Division of Parks*
 21 *and Forestry and an additional member who shall be a resident*
 22 *of the area served by the regional board but who shall not hold*
 23 *any public office or position excepting an appointive membership*
 24 *on a municipal or other planning board. Within 30 days of the*
 25 *adoption of such resolution the commissioner shall make the ap-*
 26 *pointments as requested.*

1 *27. Section 1 of P. L. 1968, c. 285 (C. 40:27-6.1) is amended to
 2 read as follows:

3 1. As used in this act and in chapter 27 of Title 40 of the Revised
 4 Statutes, unless the context otherwise requires:

5 "County master plan" and "master plan" means a composite
 6 of the master plan for the physical development of the county,
 7 with the accompanying maps, plats, charts and descriptive and
 8 explanatory matter adopted by the county planning board pursuant
 9 to Revised Statutes 40:27-2;

10 "County planning board" means a county planning board
 11 established by a county pursuant to R. S. 40:27-1 to exercise the
 12 duties set forth in such chapter, and means, in any county having
 13 adopted the provisions of the "Optional County Charter Law"
 14 (P. L. 1972, c. 154; C. 40:41A-1 et seq.), any department, division,
 15 board or agency established pursuant to the administrative code
 16 of such county to exercise such duties, but only to the degree and
 17 extent that the requirements specified in such chapter for county
 18 planning boards do not conflict with the organization and structure
 19 of such department, division, agency or board as set forth in the
 20 administrative code of such county;

21 "Official county map" means the map, with changes and addi-
 22 tions thereto, adopted and established, from time to time, by
 23 resolution of the board of chosen freeholders of the county pur-
 24 suant to R. S. 40:27-5;

25 "Site plan" means a plan of an existing lot or plot or a sub-
 26 divided lot on which is shown topography, location of all existing
 27 and proposed buildings, structures, drainage facilities, roads,
 28 rights-of-way, easements, parking areas, together with any other
 29 information required by and at a scale specified by a site plan
 30 review and approval resolution adopted by the board of chosen
 31 freeholders pursuant to this act;

32 "Subdivision" means the division of a lot, tract, or parcel of
 33 land into two or more lots, **[sites or other divisions of land for the
 34 purpose, whether immediate or future, of sale or building develop-
 35 ment; except that where no new streets or roads are involved the
 36 following divisions shall not be considered subdivisions within the
 37 meaning of this act: divisions of land for agricultural purposes
 38 where the resulting parcels are 3 acres or larger in size, divisions
 39 of land by testamentary or intestate provisions, or divisions of
 40 land upon court order; "subdivision" also includes resubdivision,
 41 and where appropriate to the context, relates to the process of sub-
 42 dividing or to the lands or territory divided]** ***tracts, parcels or*
 43 *other divisions of land for sale or development. The following shall*
 44 *not be considered subdivisions within the meaning of this act, if no*
 45 *new streets are created: (1) divisions of land found by the planning*
 46 *board or subdivision committee thereof appointed by the chairman*
 47 *to be for agricultural purposes where all resulting parcels are*
 48 *5 acres or larger in size, (2) divisions of property by testamentary*
 49 *or intestate provisions, (3) divisions of property upon court order,*
 50 *including but not limited to judgments of foreclosure, (4) consoli-*
 51 *dation of existing lots by deed or other recorded instrument and*
 52 *(5) the conveyance of one or more adjoining lots, tracts or parcels*
 53 *of land, owned by the same person or persons and all of which are*
 54 *found and certified by the administrative officer to conform to the*
 55 *requirements of the municipal development regulations and are*
 56 *shown and designated as separate lots, tracts or parcels on the tax*
 57 *map or atlas of the municipality. The term "subdivision" shall also*
 58 *include the term "resubdivision."***

59 "Subdivision applications" means the application for approval
 60 of a subdivision pursuant to the **["Municipal Planning Act
 61 (1953)" (P. L. 1953, c. 433) (C. 40:55-1.1 et seq.) as amended and
 62 supplemented]** **"*Municipal Land Use Law*" (P. L. 1975, c. 291;
 63 *C. 40:55D-1 et seq.*)** or an application for approval of a planned
 64 unit development pursuant to the **["Municipal Planned Unit
 65 Development Act (1967)" (P. L. 1967, c. 61) (C. 40:55-54 et
 66 seq.)]** **"*Municipal Land Use Law*" (P. L. 1975, c. 291;
 67 *C. 40:55D-1 et seq.*)**

1 ***[26.]** *28.* This act shall take effect on the first day of the
 2 month immediately following 3 full calendar months after the date
 3 of approval thereof.

October 15, 1979

Governor's Statement

-- revise the tagging requirements for these birds.

-- revise the semi-wild preserve hunting season to clear up confusion in the existing language and make it consistent with other changes.

-- increase the annual semi-wild preserve license fees from \$25.00 to \$50.00 and the commercial shooting preserve license fees from \$100 to \$200.

A-1782, sponsored by Assemblyman W. Cary Edwards (R-Bergen), which permits local governments to buy new or used materials at public auctions for a price not to exceed 85 percent of the equivalent materials when new.

The purpose of the bill is to allow local governments to save money by purchasing used materials. The bill sets down several safeguards against abuse of the law.

A-3120, sponsored by Assemblyman Robert E. Littell (R-Sussex), which eliminates the present 30 year ceiling for water district bond maturity, substituting instead the provision that bonds shall mature within the period or average period of usefulness of the development to be financed as determined in the bond ordinance.

S-181, sponsored by Senator Wayne Dumont, Jr. (R-Warren), which authorizes the Delaware River Joint Toll Bridge Authority to construct and operate the proposed I-78 Phillipsburg-Easton Bridge as a toll bridge.

✓ S-1125, sponsored by former Senator Martin L. Greenberg (D-Essex), which amends and clarifies the Municipal Land Use Law and further simplifies and makes more predictable the development application and review process.

The changes the bill makes are primarily technical in nature.

~~NOTE~~

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