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LAW

P.L.1996, CHAPTER 384, approved January 5, 1996

1994 Assembly No. 1684

1 AN ACT changing definition of and standards governing planned
2 unit developments and amending P.L.1975, c.291.

3

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

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

8 3.3. "Party immediately concerned" means for purposes of
9 notice any applicant for development, the owners of the subject
10 property and all owners of property and government agencies
11 entitled to notice under section 7.1 of P.L.1975, c.291
12 (C.40:55D-12).

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

17 "Planned commercial development" means an area of a
18 minimum contiguous or noncontiguous size as specified by
19 ordinance to be developed according to a plan as a single entity
20 containing one or more structures with appurtenant common
21 areas to accommodate commercial or office uses or both and any
22 residential and other uses incidental to the predominant use as
23 may be permitted by ordinance.

24 "Planned development" means planned unit development,
25 planned unit residential development, residential cluster, planned
26 commercial development or planned industrial development.

27 "Planned industrial development" means an area of a minimum
28 contiguous or noncontiguous size as specified by ordinance to be
29 developed according to a plan as a single entity containing one or
30 more structures with appurtenant common areas to accommodate
31 industrial uses and any other uses incidental to the predominant
32 use as may be permitted by ordinance.

33 "Planned unit development" means an area with a specified
34 minimum contiguous or noncontiguous acreage of 10 acres or
35 more to be developed as a single entity according to a plan,
36 containing one or more residential clusters or planned unit
37 residential developments and one or more public, quasi-public,
38 commercial or industrial areas in such ranges of ratios of
39 nonresidential uses to residential uses as shall be specified in the
40 zoning ordinance.

41 "Planned unit residential development" means an area with a
42 specified minimum contiguous or noncontiguous acreage of 5
43 acres or more to be developed as a single entity according to a
44 plan containing one or more residential clusters, which may

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

Matter underlined thus is new matter.

1 include appropriate commercial, or public or quasi-public uses all
2 primarily for the benefit of the residential development.

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

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

7 "Preliminary approval" means the conferral of certain rights
8 pursuant to sections 34, 36 and 37 of P.L.1975, c.291
9 (C.40:55D-46; C.40:55D-48; and C.40:55D-49) prior to final
10 approval after specific elements of a development plan have been
11 agreed upon by the planning board and the applicant.

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

16 "Public areas" means (1) public parks, playgrounds, trails, paths
17 and other recreational areas; (2) other public open spaces; (3)
18 scenic and historic sites; and (4) sites for schools and other public
19 buildings and structures.

20 "Public development proposal" means a master plan, capital
21 improvement program or other proposal for land development
22 adopted by the appropriate public body, or any amendment
23 thereto.

24 "Public drainage way" means the land reserved or dedicated
25 for the installation of storm water sewers or drainage ditches, or
26 required along a natural stream or watercourse for preserving the
27 biological as well as drainage function of the channel and
28 providing for the flow of water to safeguard the public against
29 flood damage, sedimentation and erosion and to assure the
30 adequacy of existing and proposed culverts and bridges, to induce
31 water recharge into the ground where practical, and to lessen
32 nonpoint pollution.

33 "Public open space" means an open space area conveyed or
34 otherwise dedicated to a municipality, municipal agency, board of
35 education, State or county agency, or other public body for
36 recreational or conservational uses.

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

39 "Quorum" means the majority of the full authorized
40 membership of a municipal agency.

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

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

48 "Resubdivision" means (1) the further division or relocation of
49 lot lines of any lot or lots within a subdivision previously made
50 and approved or recorded according to law or (2) the alteration of
51 any streets or the establishment of any new streets within any
52 subdivision previously made and approved or recorded according
53 to law, but does not include conveyances so as to combine
54 existing lots by deed or other instrument.

55 (cf: P.L.1991, c.412, s.3)

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

3 52. A zoning ordinance may:

4 a. Limit and restrict buildings and structures to specified
5 districts and regulate buildings and structures according to their
6 type and the nature and extent of their use, and regulate the
7 nature and extent of the use of land for trade, industry,
8 residence, open space or other purposes.

9 b. Regulate the bulk, height, number of stories, orientation,
10 and size of buildings and the other structures; the percentage of
11 lot or development area that may be occupied by structures; lot
12 sizes and dimensions; and for these purposes may specify floor
13 area ratios and other ratios and regulatory techniques governing
14 the intensity of land use and the provision of adequate light and
15 air, including, but not limited to the potential for utilization of
16 renewable energy sources.

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

44 d. Establish, for particular uses or classes of uses, reasonable
45 standards of performance and standards for the provision of
46 adequate physical improvements including, but not limited to,
47 off-street parking and loading areas, marginal access roads and
48 roadways, other circulation facilities and water, sewerage and
49 drainage facilities; provided that section 41 of this act shall apply
50 to such improvements.

51 e. Designate and regulate areas subject to flooding (1)
52 pursuant to P.L.1972, c.185 (C.58:16A-55 et seq.) or (2) as
53 otherwise necessary in the absence of appropriate flood hazard
54 area designations pursuant to P.L.1962, c.19 (C.58:16A-50

1 et seq.) or floodway regulations pursuant to P.L.1972, c.185 or
2 minimum standards for local flood fringe area regulation pursuant
3 to P.L.1972, c.186.

4 f. Provide for conditional uses pursuant to section 54 of this
5 act.

6 g. Provide for senior citizen community housing.

7 h. Require as a condition for any approval which is required
8 pursuant to such ordinance and the provisions of this chapter,
9 that no taxes or assessments for local improvements are due or
10 delinquent on the property for which any application is made.

11 i. Provide for historic preservation pursuant to section 5 of
12 P.L.1991 c.199 (C.40:55D-65.1).

13 (cf: P.L.1991, c.199, s.4)

14 3. This act shall take effect immediately.
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17 STATEMENT

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19 This bill redefines the terms "planned commercial
20 development," "planned development," "planned industrial
21 development," "planned unit development," and "planned unit
22 residential development" under the Municipal Land Use Law,
23 P.L.1975, c.291 (C.40:55D-1 et seq.) to allow for clustering
24 among noncontiguous parcels of land. Currently, as those terms
25 are defined under that law, only areas that fulfill a minimum
26 contiguous size as specified by ordinance may be considered a
27 planned development.

28 In addition, the bill redefines the term "residential cluster" to
29 allow an area which is contiguous or noncontiguous to fulfill the
30 definition of that term. The current definition does not
31 distinguish between contiguity and noncontiguity.

32 The bill amends subsection c. of C.40:55D-65 which sets forth
33 the standards governing the zoning of districts for planned
34 developments to provide for the clustering of development
35 between noncontiguous parcels of land.

36 In addition, the amendments to that section make changes in
37 the language governing a deviation from the density or intensity
38 of use established for an entire planned development. Under
39 current law, the standards, in order to encourage the flexibility
40 of housing density, design and type, may authorize a deviation in
41 various residential clusters from the density or intensity of use.

42 The amendments would broaden the standard for allowing such
43 a deviation by extending the deviation to include non-residential
44 clustering in order to encourage the flexibility of non-residential
45 density and intensity of land uses.
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50 Allows clustering among noncontiguous parcels under Municipal
51 Land Use Law and broadens deviation from planned unit
52 development standards for nonresidential development.

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S P O N S O R ' S STATEMENT

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40 of use established for an entire planned development. Under
41 current law, the standards, in order to encourage the flexibility
42 of housing density, design and type, may authorize a deviation in
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44 The amendments would broaden the standard for allowing such
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47 density and intensity of land uses.

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52 Allows clustering among noncontiguous parcels under Municipal
53 Land Use Law and broadens deviation from planned unit
54 development standards for nonresidential development.

ASSEMBLY LOCAL GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1684

STATE OF NEW JERSEY

DATED: JUNE 8, 1995

The Assembly Local Government Committee reports favorably Assembly Bill No. 1684.

Assembly Bill No. 1684 redefines the terms "planned commercial development," "planned development," "planned industrial development," "planned unit development," and "planned unit residential development" under the Municipal Land Use Law, P.L.1975, c.291 (C.40:55D-1 et seq.) to allow for clustering among noncontiguous parcels of land. Currently, as those terms are defined under that law, only areas that fulfill a minimum contiguous size as specified by ordinance may be considered a planned development.

The bill also redefines the term "residential cluster" to allow an area which is contiguous or noncontiguous to fulfill the definition of that term. The current definition does not distinguish between contiguity and noncontiguity.

The bill also amends subsection c. of C.40:55D-65 which sets forth the standards governing the zoning of districts for planned developments to provide for the clustering of development between noncontiguous parcels of land. The amendments to that section also make changes in the language governing a deviation from the density or intensity of use established for an entire planned development. Under current law, the standards, in order to encourage the flexibility of housing density, design and type, may authorize a deviation in various residential clusters from the density or intensity of use.

The changes to these definitions made by this bill would broaden the standard for allowing such a deviation by extending the deviation to include non-residential clustering in order to encourage the flexibility of non-residential density and intensity of land uses.

SENATE COMMUNITY AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1684

STATE OF NEW JERSEY

DATED: NOVEMBER 27, 1995

The Senate Community Affairs Committee reports favorably Assembly, No. 1684.

This bill would redefine the terms "planned commercial development," "planned development," "planned industrial development," "planned unit development," and "planned unit residential development" under the Municipal Land Use Law, P.L.1975, c.291 (C.40:55D-1 et seq.) to allow for clustering among noncontiguous parcels of land. Currently, as those terms are defined under that law, only areas that fulfill a minimum contiguous size as specified by ordinance may be considered a planned development.

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The changes to these definitions proposed by this bill would broaden the standard for allowing such a deviation by extending the deviation to include non-residential clustering in order to encourage the flexibility of non-residential density and intensity of land uses.

Assembly, No. 1684 is identical to Senate, No. 2333 which was also reported out of this committee on November 27, 1995.

SENATE COMMUNITY AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 2333

STATE OF NEW JERSEY

DATED: NOVEMBER 27, 1995

The Senate Community Affairs Committee reports favorably Senate, No. 2333.

This bill would redefine the terms "planned commercial development," "planned development," "planned industrial development," "planned unit development," and "planned unit residential development" under the Municipal Land Use Law, P.L.1975, c.291 (C.40:55D-1 et seq.) to allow for clustering among noncontiguous parcels of land. Currently, as those terms are defined under that law, only areas that fulfill a minimum contiguous size as specified by ordinance may be considered a planned development.

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The changes to these definitions proposed by this bill would broaden the standard for allowing such a deviation by extending the deviation to include non-residential clustering in order to encourage the flexibility of non-residential density and intensity of land uses.

Senate, No. 2333 is identical to Assembly, No. 1884, which was also reported out of this committee on November 27, 1995.