

## CHAPTER 86

AN ACT concerning general development plans and site plan approvals, supplementing and amending P.L.1975, c.291.

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

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

C.40:55D-45.3 Submission of general development plan.

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

(2) Any developer of a parcel of land 100 acres or less in size for which parcel the developer is seeking approval of a planned development pursuant to P.L.1975, c.291 (C.40:55D-1 et seq.), consisting of not less than 150,000 square feet of nonresidential floor area or not less than 100 residential dwelling units, or consisting of a combination of square feet of nonresidential floor area and residential dwelling units, which when proportionately aggregated at a rate of 1,500 square feet of nonresidential floor area to one residential dwelling unit, are equivalent to at least 150,000 square feet of nonresidential floor area or 100 residential dwelling units, may submit a general development plan to the planning board prior to the granting of preliminary approval of that development by the planning board pursuant to section 34 of P.L.1975, c.291 (C.40:55D-46) or section 36 of P.L.1975, c.291 (C.40:55D-48).

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

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

C.40:55D-49 Preliminary approval, extension.

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

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

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

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

d. In the case of a subdivision of or site plan for an area of 50 acres or more, the planning board may grant the rights referred to in subsections a., b., and c. of this section for such period of time, longer than three years, as shall be determined by the planning board to be reasonable taking into consideration (1) the number of dwelling units and nonresidential floor area permissible under preliminary approval, (2) economic conditions, and (3) the comprehensiveness of the development. The applicant may apply for thereafter and the planning board may thereafter grant an extension to preliminary approval for such additional period of time as shall be determined by the planning board to be reasonable taking into consideration (1) the number of dwelling units and nonresidential floor area permissible under preliminary approval, and (2) the potential number of dwelling units and nonresidential floor area of the section or sections awaiting final approval, (3) economic conditions and (4) the comprehensiveness of the development; provided that if the design standards have been revised, such revised standards may govern.

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

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

g. In the case of a site plan for a development consisting of not less than 150,000 square feet of nonresidential floor area or not less than 100 residential dwelling units, or consisting of a combination of square feet of nonresidential floor area and residential dwelling units, which when proportionately aggregated at a rate of 1,500 square feet of nonresidential floor area to one residential dwelling unit, are equivalent to at least 150,000 square feet of nonresidential floor area or 100 residential dwelling units, the planning board may grant the rights referred to in subsections a., b., and c. of this section for such period of time beyond three years, as shall be determined by the planning board to be reasonable taking into consideration (1) the number of dwelling units and non-residential floor area permissible under preliminary approval, (2) economic conditions, and (3) the comprehensiveness of the development. The applicant may apply for thereafter, and the planning board may thereafter grant, an extension to the preliminary approval for such additional period of time as shall be determined by the planning board to be reasonable taking into consideration (1) the number of dwelling units and nonresidential floor area permissible under preliminary approval, (2) the potential number of dwelling units and nonresidential floor area of the section or sections

awaiting final approval, (3) economic conditions, and (4) the comprehensiveness of the development; provided that if the design standards have been revised, such revised standards may govern.

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

C.40:55D-52 Final approval of site plan or major subdivision; extension.

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

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

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

d. The planning board shall grant an extension of final approval for a period determined by the board but not exceeding one year from what would otherwise be the expiration date, if the developer proves to the reasonable satisfaction of the board that the developer was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently pursued these approvals. A developer shall apply for the extension before (1) what would otherwise be the expiration date of final approval or (2) the 91st day after the developer receives the last legally required approval from other governmental entities, whichever occurs later. An extension granted pursuant to

this subsection shall not preclude the planning board from granting an extension pursuant to subsection a., b., or e. of this section.

e. In the case of a site plan for a development consisting of not less than 150,000 square feet of nonresidential floor area or not less than 100 residential dwelling units, or consisting of a combination of square feet of nonresidential floor area and residential dwelling units, which when proportionately aggregated at a rate of 1,500 square feet of nonresidential floor area to one residential dwelling unit, are equivalent to at least 150,000 square feet of nonresidential floor area or 100 residential dwelling units, the planning board may grant the rights referred to in subsection a. of this section for such period of time beyond two years, as shall be determined by the planning board to be reasonable taking into consideration (1) the number of dwelling units and nonresidential floor area permissible under final approval, (2) economic conditions, and (3) the comprehensiveness of the development. The developer may apply for thereafter, and the planning board may thereafter grant, an extension of final approval for such additional period of time as shall be determined by the planning board to be reasonable taking into consideration (1) the number of dwelling units and nonresidential floor area permissible under final approval, (2) the number of dwelling units and nonresidential floor area remaining to be developed, (3) economic conditions, and (4) the comprehensiveness of the development.

4. This act shall take effect immediately.

Approved July 1, 2011.