

Planning Board Roles

While the specific powers of a planning board are set forth in N.J.S.A. 40:55D-25, a planning board generally performs two roles. The first role is the preparation and adoption of plans and the second is the application of the zoning and development standards to specific construction projects.

As for its planning function, the planning board (under N.J.S.A. 40:55D-28) has the responsibility for preparing and, after public hearing, adopting or amending a master plan (or component parts) to guide the use of lands within the municipality in a manner that protects public health and safety and promotes the general welfare.

The master plan must comprise "a report or statement, and land use and development proposals, with maps, diagrams, and text" that addresses and presents these elements (N.J.S.A. 40:55D-28). The MLUL does mandate that the master plan contain at least two elements. The first element is a statement of objectives, principles, assumptions, policies, and standards upon which the proposals for the physical, economic, and social development of the municipality are based. The second element is a land use plan element, which is a text and plan maps of existing and future land uses.

The MLUL does not technically call for a master plan to include a housing element. However, as a practical matter such an element must be included because, under N.J.S.A. 40:55D-62, the planning board must first adopt the land use plan element and the housing plan element before the governing body adopts a zoning ordinance. The MLUL identifies the requirements of a housing element by referring to the mandatory contents in the New Jersey Fair Housing Act (see N.J.S.A. 55:27D- 310).

Where appropriate, a master plan can also address the other elements set forth in N.J.S.A. 40:55D-28, including a circulation plan element, utility service plan element (which may include a stormwater management plan), community facilities plan element, recreation plan element, conservation plan element, economic plan element, historic preservation plan element, recycling plan element, and separate reports containing the technical foundation for the master plan and its elements.

Also, as part of its planning function, a planning board reviews and recommends adoption of the official map and provides recommendations as to amendments to the map (N.J.S.A. 40:55D-32 and 33). The official map sets forth the location and width of streets and public drainage ways, and the location and extent of flood control basins and public areas, whether or not they are improved, unimproved, or in existence.

Finally, the planning board performs a critical function regarding the enactment of zoning ordinances. After a zoning ordinance has been introduced, a governing body must refer that ordinance to the planning board for review. The board must report back within 35 days with an analysis of whether the proposed ordinance is consistent with the master plan (N.J.S.A. 40:55D-26). The planning board performs this function for any development regulation, amendment, or revision.

The planning board's second role involves reviewing and approving specific applications for development. The board determines whether the application conforms to municipal site plan,

subdivision, and zoning ordinances. In general, a planning board is empowered to hear three types of matters: subdivisions, site plans, and conditional use applications and the planning board can grant ancillary variances (C1/C2, as described in 40:55D-70c) in connection with these matters.

The MLUL defines, in part, a subdivision as "the division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale or development" (N.J.S.A. 40:55D-7). In its role of reviewing subdivisions, both of a preliminary and final nature, a planning board is required to review the division of land in order to determine if the proposed development complies with the municipal subdivision ordinance and development standards. In this context a planning board considers such issues as:

- environmental impact;
- drainage and soil erosion;
- open space;
- location of utilities;
- traffic impact;
- topographical conditions; and
- lot and street layout.

Site plan review usually involves the review of a development plan for a single site, such as a shopping center on a lot or a multifamily development, but excludes one- and two-family dwellings and subdivisions (N.J.S.A. 40:55D-7). The MLUL requires that a municipal site plan/subdivision review ordinance spell out the technical site requirements as well as the procedures for processing applications for development, including standards for preliminary and final review of site plans. In the site plan review process, a planning board reviews many issues in order to determine whether the proposed site conforms to the municipal zoning ordinance requirements. These include, but are not limited to:

- physical locations of structures;
- grading, drainage and storm water detention;
- location of utilities such as water and sewer;
- reservations for open space and natural resources;
- vehicular and pedestrian circulation;
- parking and loading;
- screening, landscaping and signage;
- exterior lighting; and
- solid waste management.

A planning board is authorized to hear conditional use applications. A "conditional use" is defined as "a use permitted in a particular zoning district only upon a showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as contained in the zoning ordinance and upon the issuance of an authorization therefore by the planning board" (N.J.S.A. 40:55D- 3). Thus, the MLUL recognizes that certain uses are acceptable only if tailored to a specific piece of property by virtue of conditions that must be objective and that can be measured, classified, and applied in a consistent manner.

Under N.J.S.A. 40:55D-60, the planning board has power to grant to the same extent, and subject to the same restrictions as a zoning board of adjustment dimensional (bulk) variances from the zoning requirements as well as exceptions and waivers from design standards.