

PLANNING/ZONING PROCESS

RED BANK PUBLIC LIBRARY

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UNDERSTANDING PLANNING AND LAND USE TERMS

- Difference Between Planning and Zoning
 - Planning refers to a broad category of land use, community facilities, transportation, housing and the environment. Looks 10 to 20 years into the future
 - Zoning refers to the use and regulation of buildings, structures, and land. Looks at current conditions.

MUNICIPAL LAND USE LAW (NJSA 40:55D)

Commonly referred to as MLUL

Purpose based on the protection of public health, safety, morals and general welfare

State enabling legislation for planning and land use control

Provides details and direction to municipalities

Local municipalities legislation must be consistent and in conformance with the MLUL

ZONING ORDINANCE

- Regulates activities, building form and location within zones
- Typical ordinance covers the following:
 - Definitions
 - Establishment of use districts and zoning map
 - District regulations
 - Site plan review
 - Fees and charges
 - Enforcement and compliance
 - Establishment of Land Use Boards

ROLE OF PLANNING BOARD

- Planning Boards consist of seven or nine members
- Prepare and adopt master plan and re-examination reports
- Conduct subdivision and site plan reviews
- Review zoning ordinances and amendments
- Prepare capital improvement projects
- Review official map and amendments
- Approve conditional use permits, C (bulk) variances in conjunction with subdivisions and site plans
- Identify and review area in need of redevelopment and redevelopment plans

ROLE OF ZONING BOARD OF ADJUSTMENT

- Consist of seven members and no more than four alternates
- Deals with administrative aspects of the zoning ordinance
- Hears appeals from administrative (zoning) officer determinations
- Hears and decides request for interpretation of the zoning map or ordinance
- Hears and decides C (bulk) variance applications
- Hears and decides D (use) variance applications
- Prepares an annual report on variance activities
- Hears applications for buildings and structure in the beds of mapped street, public drainage ways, flood control basin, or reserved public areas

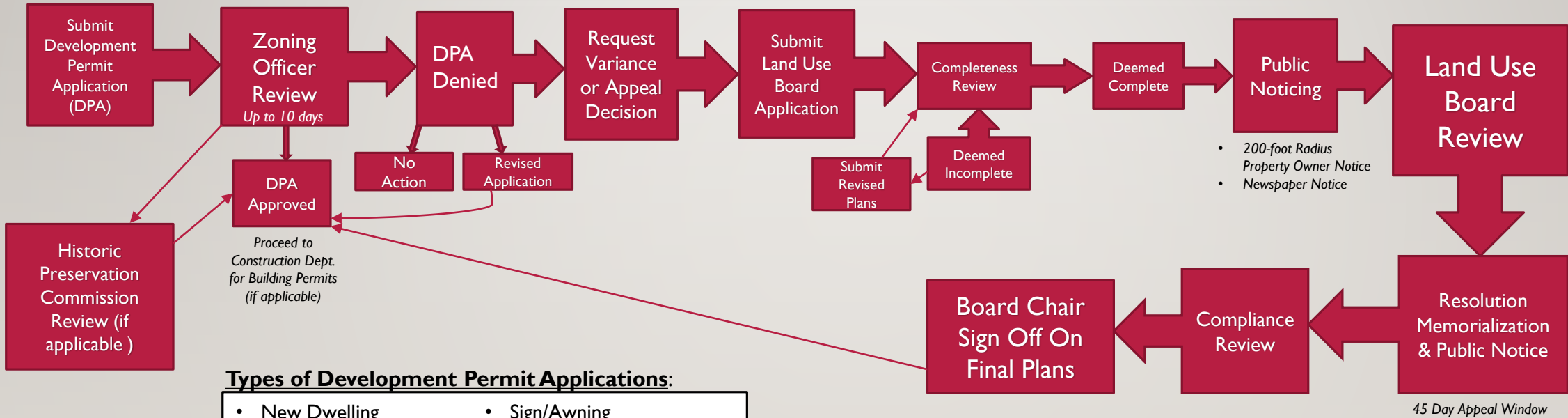
ROLE OF THE GOVERNING BODY (REGARDING LAND USE MATTERS)

- Adopting of zoning ordinance and map (including amendments)
- Adopting of the official map and subdivision regulations
- Approving capital budget and capital improvement programs
- Hears appeals of the Zoning Board approval decisions (if permitted by ordinance)

ROLE OF THE HISTORIC PRESERVATION COMMISSION

- Consist of five, seven or nine members
- Prepares survey of historic sites
- Provides recommendations to the Planning Board on the historic preservation element of the master plan
- Advises the Planning Board on inclusion of historic site in the recommended capital improvement programs
- Advises the Planning Board and Zoning Board on historic sites development applications
- Hears and decides on development activities within a historic district or a historic site

RED BANK LAND USE BOARD PROCESS



Types of Development Permit Applications:

- New Dwelling
- New Construction
- Accessory Building or Structure
- Interior Renovations
- Occupancy of any Building
- Exterior Renovations
- Sign/Awning
- Change of use
- Demolition
- Subdivision
- PODs

LAND USE APPLICATION DEADLINES

Development Permit Application Review: 10 days

Completeness Review	Minor Subdivision & Site Plan (Board Action)	Major Final Subdivision (Board Action)	Major Preliminary Subdivision (Board Action)	Major Site Plan Preliminary and Final (Board Action)	Variance (Board Action)	Appeals of Zoning Officer Decision (ZBA Board Action)
45 Days	45 Days (10 acres or less/10 units or less)	45 Days	45 Days (fewer than 10 lots) 95 Days (10 lots or more)	45 Days (less than 10 acres/10 units) 95 Days (10 acres/units or more)	120 Days 95 Days (PB conditional use approval)	120 Days

*Amount of time given to a board can not exceed 120 days

TYPES OF VARIANCES

C (Bulk) Variances

- Hardship
- Special Exception

Conditional Use (*approved
by Planning Board*)

D (Use) Variances

- D(1) Use
- D(2) Expansion of Nonconforming Use
- D(3) Deviation from a Conditional Use Standard
- D(4) Increase in Floor Area
- D(5) Increase in Density
- D(6) Exceeding Height Requirement

MASTER PLAN NJSA 40:55D-28

- Responsibility of the Planning Board (prepared and adopted by them)
- Represents “Big Picture” of a community
- MLUL identifies seventeen elements (chapters) for inclusion
 - Mandatory Elements:
 - Statement of Objectives, Principles, Assumptions and Standards
 - Land Use Element (*as of February 2021 must incorporate climate change-related hazard vulnerability assessment*)
 - Housing Element (*discretionary **but** is a required element in order for a municipality to enact its zoning ordinance*) NJSA 40:55D-62a

LOCAL REDEVELOPMENT AND HOUSING LAW

NJSA 40A:12A

- Provides municipalities an opportunity to undertake redevelopment and rehabilitation in accordance with a planning process
- Outlines the redevelopment process which begins and ends with the governing body

Redevelopment Planning Steps

1. Identify study area (redevelopment or rehabilitation)
2. Prepare Preliminary Area in Need Study
3. Designate the area as in need of redevelopment or rehabilitation
4. Department of Community Affairs review and approval
5. Prepare and adopt Redevelopment Plan
6. Designate Redeveloper
7. Implement Redevelopment Plan

AREA IN NEED OF REHABILITATION

- Purpose: encourage the renovation or reconstruction of existing structures; to eliminate substandard and structural or housing conditions; prevent the deterioration of the area. Does **NOT** qualify for the exercise of eminent domain (condemnation) and long term tax abatement
- Statutory Criteria: NJSA 40A:12A-14
 - Significant portion of structures are deteriorated or substandard and there is a pattern of vacancy, abandonment or underutilization, with a persistent arrearage of property tax payments
 - More than half of housing stock or water and sewer infrastructure is at least 50 years old and in need of substantial repair or maintenance
 - Rehabilitation program may be use to prevent further deterioration and promote overall development of the area.

REHABILITATION AREA DESIGNATION PROCESS

- Governing Body adopts resolution directing Planning Board to review the proposed rehabilitation area.
- Planning Board approves resolution for Governing Body to designate the area.
- Governing Body adopts resolution designation a rehabilitation area.
- No special public notice needed
- DCA review and approve the rehabilitation designation.

AREA IN NEED OF REDEVELOPMENT

- Purpose: to encourage and assist redevelopment of an area consistent with the goals and objectives of the community, which generally includes upgraded structures and improvements, and the introduction of uses that are appropriate to that area.
- May qualify for eminent domain and long term tax abatement at the discretion of the governing body.
- Study Area must meet at least one of the eight criteria to be designated.
- Condemnation must be stated in the resolution authorizing the study if the municipality would like to practice eminent domain.

CRITERIA FOR DETERMINING AN AREA IN NEED OF REDEVELOPMENT

- A. Building is substandard, unsafe, unsanitary, dilapidated or obsolescent, or lacking light, air space
 - B. Discontinuance or abandonment of use or to the point of disrepair where it is un-tenantable
 - C. Public owned land or unimproved land for a period of 10 years
 - D. Building that is dilapidated obsolete, overcrowded, or having deleterious conditions detrimental to health, safety, welfare
 - E. Growing lack or total lack of proper utilization caused by the condition of the title, diverse ownership of real property.
 - F. Area, in excess of five contiguous acres, destroyed by fire or altered by action of natural disasters (i.e. tornado, earthquake, etc.)
 - G. Urban Enterprise Zone
 - H. Area consistent with smart growth planning principles
- Section 3:** Land which is not detrimental to public health, safety or welfare but inclusion is necessary for effective redevelopment of the area

REDEVELOPMENT AREA DESIGNATION PROCESS

- Governing Body adopts resolution directing Planning Board to undertake an area investigation
- Newspaper notice and letters sent to all property owners within the study area 10 days prior to Planning Board Hearing
- Planning Board completes public hearing and makes recommendation to Governing Body by resolution
- If Planning Board votes in favor, Governing Body adopts a resolution designating all or part of the area as a Redevelopment Area
- Governing Board adopts a resolution directing the Planning Board to prepare a Redevelopment Plan
- Planning Board completes public hearing and by resolution recommends Governing Body to adopt Redevelopment Plan
- Governing Body adopts, by ordinance, the Redevelopment Plan

AFFORDABLE HOUSING

- Red Bank Planning Board has adopted a Housing Element and Fair Share Plan
- The Fair Share Plan describes how Red Bank Borough shall address its fair share for low- and moderate-income housing as documented in the Housing Element and outlined in the terms of the settlement agreement between the Borough and Fair Share Housing Center (FSHC)
- Construction of multifamily or single-family attached residential development at a gross residential density of **six units to the acre or more, and which consists of 11 or more new residential units**, the Borough shall require that an appropriate percentage of the residential units be set aside for low- and moderate-income households.
- A set-aside **shall not** apply to developments containing **10 or fewer dwelling units**

AFFORDABLE SET-ASIDE REQUIREMENT

(3) An affordable set-aside shall be required in accordance with the following:

Total Number of Units	Minimum Percentage of Affordable Units
10 and under	None
11 to 25	10%
26 to 150	15%
151 to 215	17.5%
216 and over	20%

- Developers of 10 units and under are required to pay the Borough's development fee.
- Developers of 11 units and above will be required to provide at least 70% of the units required on-site and will have the option to satisfy the remaining obligation with either:
 - Off-site affordable units; or
 - A payment in lieu of such units

QUESTIONS?

