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Local Environment Matters

AN ANJEC RESOURCE PAPER

Land use planning in your community

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INSIDE

The New Jersey State Constitution places responsibility for land use control in the hands of the Legislature, which has delegated much of this authority to municipalities through the *Municipal Land Use Law* (MLUL). But decisions at all levels of government, even neighboring municipalities, ultimately play an important role in the actual patterns of development and preservation of land.

Pollutants that wash into a river in one state foul the drinking water in states downstream. Clearcutting the trees and carving up the natural slopes on a single parcel of land can cause flooding in an entire neighborhood and foul local water bodies with stormwater pollution. Greenhouse gas emissions generated anywhere contribute to heating the entire planet.

Federal, state and local land use laws and environmental regulations are written to help protect natural resources.. Government bodies have the responsibility and authority to decide how land is used for the common good.

MLUL Chapter 291, NJSA 40:55D-1 et. seq. delegates the authority over local land use to

Through the master plan and zoning, the municipality can reduce habitat fragmentation and encourage use of indigenous plants in development.

municipal governments. Under this law, municipalities may:

- adopt a master plan;
- regulate land use consistent with the master plan through land use ordinances;
- develop a capital improvements plan to control capital expenditures; and
- adopt an official map to show the location and extent of present and future development, streets, drainage ways, flood control basins and public areas.

Four important ways municipalities implement the MLUL include:

1. The planning board develops a master plan and, after public hearings, adopts it to "guide the use of lands within the municipality in a manner which protects public health and safety and promotes the public welfare."
2. The governing body adopts zoning, site plan and subdivision, and other land use ordinances that implement the stated intentions of the master plan and must be consistent with it.
3. The planning board and, in some cases, the board of adjustment, review and approve proposals to develop parcels of land in accordance with the master plan and zoning ordinance.
4. The governing body may adopt an official map delineating future areas for preservation, infrastructure and other public uses. This map gives the municipality a right of refusal should these lands become available for sale.

The master plan

The master plan is a blueprint for the appropriate development of a municipality. It affords local officials and citizens a long-term vision for the town, planning approaches to achieve community objectives. The planning board relies on the master plan to guide proper land use, meet local housing and service needs and protect important natural resources.

The planning board must reexamine the master plan at least every ten years to adjust it for changing circumstances.

The municipal master plan should contain a statement of its relationship with contiguous communities' master plans, the county master plan, regional master plans affecting the municipality, the State Plan and the district solid waste management plan. It should also consider the plans of regional sewer and water authorities, the New Jersey Department of Transportation, the New Jersey Department of Environmental Protection (NJDEP), the Council on Affordable Housing, the *Coastal Area Facilities Review Act*, the *Pinelands Comprehensive Management Plan*, the New Jersey Highlands Council and the regional transportation planning organizations. (See page 15 for a discussion of regional plans.)

A master plan must also take into account:

- social needs, including schools, hospitals, a diversity of housing and other services;
- economic considerations, including providing the municipality with a base for property tax revenues, as well as businesses, shopping and service areas for residents, and the infrastructure they need to function;
- environmental factors, including the impact that development will have on the air, water supply and water quality, soil, open space, scenic and cultural values and recreational opportunities;
- the community's sustainability and resilience to climate change.

NJ shore communities like Cape May must plan for sea level rise, which threatens life, property and precious environmental resources.

Master plan contents

The master plan includes maps, diagrams and text. The MLUL requires that it contain at least two elements:

- a statement of the objectives, principles, assumptions, policies and standards upon which proposals for development of the municipality are based;
- A land use element, which considers natural conditions, including topography, soil conditions, water supply, drainage, floodplain areas, marshes and woodlands. The land use element should show existing and proposed land use and describe population and development intensity as well as the natural conditions of the town. Much of this information can be found in the environmental resource inventory (ERI), also known as the natural resource inventory (NRI). Many towns adopt the ERI as part of the master plan.

The land use element

The land use element has the broadest scope of all the master plan elements. It establishes the basic physical form of the community and reflects the data and recommendations from the rest of the plan, providing a detailed and comprehensive framework for development and preservation.

Under the MLUL (NJSA 40:55D-28b), the land use element must reflect the other elements and include the existing and proposed location, extent and density of future public and private development, such as educational, recreational, residential, commercial or industrial uses. It should also show the relationship of future development to existing and future zoning ordinances; existing and proposed locations of airports, the recommended standards of population and development density; and existing and planned infrastructure for roads, sewers and water supply. The municipality's intention to embrace renewable and distributed energy technologies such as solar systems should also be stated in the land use element.

The land use element should also reflect the environmentally critical areas identified in a town's ERI and be consistent with all other elements, especially the conservation plan (see page 4). Background studies like buildout and carrying capacity analysis can also help support specific zoning. The land use plan serves as the basis for the town's zoning ordinance and is also important in the *State Plan* endorsement process (see page 8). Municipalities who obtain *State Plan* endorsement are eligible for increased State funding. Endorsement requires that they demonstrate how their master plan and ordinances are consistent with and support the goals and objectives of the town's State Planning Area designations.

Recent legislation affecting resiliency in the land use element

In February 2021, Governor Murphy signed a bill requiring that the land use element of a municipal master plan including a climate change-related hazard vulnerability assessment (see page 8). This assessment should consider environmental effects associated with climate change and extreme weather-related events including, but not limited to, extreme temperatures, drought and sea-level rise. The land use element should also contain measures to mitigate reasonably anticipated natural hazards, including, but not limited to coastal storms, shoreline erosion, flooding, storm surge and wind, following best management practices recommended by the Federal Emergency Management Agency.

The new law also requires the NJ Department of Environmental Protection to provide, upon request by the planning board, technical assistance to a municipality preparing a climate change-related hazard vulnerability assessment.

This law expands on previous recent legislation requiring the land use element to include a statement of strategy concerning: (1) smart growth, including consideration of potential locations for the installation of electric vehicle charging stations; (2) storm resiliency with respect to energy supply, flood-prone areas, and environmental infrastructure; and (3) environmental sustainability.

In April 2021, The State of New Jersey released its Climate Change Resilience Strategy, which addresses integrating resilience into local and regional planning and increasing technical assistance programs to address community resilience.

Other master plan elements

While a strong land use element is essential to natural resource protection, it is also important to ensure that virtually every master plan element incorporates an awareness of the municipality's important environmental resources and directs growth and development accordingly. Additional optional master plan components include:

The conservation plan – This element provides an environmental framework for the master plan. Using the ERI as a base, it should describe the municipality's natural resources, their value and benefits to the health, safety and general welfare of the community. It should also analyze the impact of the other master plan elements on the preservation and use of the town's natural resources and environmental quality. Other elements of the master plan should incorporate the conservation element's background data and support community open space goals.

The open space plan (OSP) – Ideally, the open space plan, also known as the open space and recreation plan (OSRP), should be incorporated into the conservation plan, or it can stand alone. It is the EC's responsibility to create this plan according to N.J.S.A. 40:56A; originally passed in 1968 and amended in 1972, 1975 and 1989, which establishes the powers and responsibilities of the environmental commission. As part of the master plan, the OSRP receives official recognition and support and will be regularly updated as part of the 10-year master plan reexamination cycle required by the MLUL (see page 9). As part of the master plan, the OSP also lends legitimacy to the targeting of properties for purchase with municipal open space funds and can help in obtaining State funding for the acquisition.

NJ's two major land preservation programs require specific local plans to qualify for special incentive grants.

Both elements delineate where open space or farmland currently exists and clearly set forth a community's vision and justifications for future open space and farmland needs. Both should also be consistent with the data and recommendations of the conservation element.

The green building and environmental sustainability element (GBESE) – In 2008, the MLUL was amended to include the GBESE in the list of permitted master plan elements. Its stated purpose is to:

- provide for, encourage, and promote the efficient use of natural resources;
- consider, encourage and promote the development of public electric vehicle charging infrastructure in locations appropriate for their development, including but not limited to, commercial districts, areas proximate to public transportation and transit facilities and transportation corridors, and public rest stops;
- consider the impact of buildings on the local, regional and global environment;
- allow ecosystems to function naturally;
- conserve and reuse water;
- treat stormwater onsite; and
- optimize climatic conditions through site orientation and design.

The GBESE provides the basis for local ordinances addressing sustainable land use issues. For many communities, this element is a good first step in introducing sustainability concepts into local planning documents, but a more effective approach is to infuse sustainability concepts throughout each of the master plan elements.

The circulation plan – The aim of this element is typically to reduce traffic impacts. It should be informed by data in the conservation element to assure that new roads do not go through or near land desired for preservation. It should consider the needs of pedestrians, cyclists and transit riders. For example, the circulation plan can mark how existing and proposed pedestrian and biking trails connect various areas of the community to one another. NJ law now requires that municipal master plans with circulation elements must identify existing and proposed locations for public electric vehicle charging infrastructure.

The historic preservation plan – Many communities use this element to identify local areas that are important to the town's character and history, such as gateway roads, historic infrastructure like a canal or farm, or battlefields from the American Revolution. Such features often help to create a sense of place that may be important to preserve as examples of the municipality's past.

The community facilities plan – Facilities used by large numbers of people are reflected in this element, including schools, parks and trails, recreational and cultural facilities, sports fields, libraries, municipal buildings, historic sites, public

Wetlands should be protected in the conservation plan.

works yards and garages, the post office, and government buildings. The facilities plan typically focuses on publicly owned and operated facilities, but it can also include nonprofit facilities like places of worship, hospitals, cemeteries, private schools and private operations like golf courses, swimming pools, lakes, marinas and ski resorts. This element can draw upon the conservation plan data to identify appropriate locations for future schools, recreation fields or other facilities.

The housing plan – This element is especially important for preserving land. Under the rules of New Jersey's Council on Affordable Housing, municipalities with certified housing plans are protected from the threat of builders' remedy lawsuits that attempt to force municipalities to accept large, high-density projects. The planning and execution of an appropriate housing element can ensure that the future envisioned for a community is realized and will not be disrupted by outside influences. (*www.state.nj.us/dca/affiliates/coah/index.html*)

The utility plan – This element plays an important role in determining where preservation and development will take place. It should identify existing and future surface and groundwater sources of drinking water, drinking water franchise areas, sewer service, solid waste disposal and recycling, renewable energy sources and wireless communications. Utilities that support increased development should be located away from sensitive environmental areas.

The stormwater management plan – The MLUL requires municipalities to have a stormwater management plan, which can be a standalone element, or can be included in the utility plan, especially if the town has implemented a stormwater utility.

NJ's Stormwater Utility Law was enacted in 2019, authorizing local and county governments to finance their investments in stormwater infrastructure through fees collected from landowners based on the amount of stormwater a property generates. NJDEP provides guidance to municipalities on establishing a stormwater utility at *www.nj.gov/dep/dwq/SWU_stormwaterutility.html*.

Other optional elements – The master plan may also include elements not necessarily addressed in the MLUL, such as the community vision, a neighborhood preservation plan, a design element or a redevelopment plan. All master plan elements should be internally consistent, complement each other and reinforce the rationale for protecting environmentally sensitive areas, critical resources like wells, farmland, surface waters and water quality.

Reexamination of the master plan

The MLUL requires that each NJ municipality undertake a periodic review and reexamination of its local master plan. The purpose of the reexamination report is to determine the need for updates and revisions. For example, recent changes to NJ law now require that the master plan must:

Many communities hold a community visioning session at the beginning of the process of reexamining the master plan.

Stormwater management helps reduce flooding.

Reexamination of the master plan

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- identify critical facilities such as roads and utilities that might be affected by hurricanes or sea-level rise;
- make plans to sustain normal life in the face of anticipated natural hazards;
- integrate climate vulnerability with existing plans such as emergency management or flood-hazard strategies;
- include recommendations concerning locations appropriate for the development of public electric vehicle infrastructure proximate to public transportation and transit facilities, transportation corridors and public rest stops.

The importance of public participation

A master plan should articulate a community's vision of itself. It's important for the environmental commission to get involved with the development of the master plan and its revisions to make sure it protects natural resources and environmental quality.

The master plan process should also involve a wide variety of citizens. With growing public interest in open space preservation, pointing out the connections between the master plan and land conservation can help bring people to the table. In addition to the local planning board, governing body and environmental commission, other participants who should be included in the process are the open space committee, recreation committee, historic preservation commission and agricultural advisory board. Besides municipal officials, many residents will be concerned with recreational, environmental, educational and aesthetic impacts of the plan. Anyone interested in saving natural resources should be invited to review and comment during the planning process. The more public participation, the better the long-term support for local regulation will be.

Many communities hold a community visioning session at the beginning of the process of reexamining the master plan. Visioning looks ten to thirty years into the future, allowing communities to think farther ahead than state planning mandates require and brings the community together to consider opportunities and issues. The goal of visioning is to develop written and visualized statements of a community's long-term goals and strategic objectives. Communication is key in effective visioning and may include not only public meetings but also keeping the public engaged through news articles, surveys, the town website and social media.

As climate change brings more frequent and intense storms, NJ municipalities must plan for resilience.

Climate change and the master plan

As of Feb. 2021, municipalities are required to include a hazard vulnerability assessment in the land use plan element of their master plan to analyze current and future threats associated with climate change-related natural hazards, including increased temperatures, drought, flooding, hurricanes, and sea-level rise.

What is a vulnerability assessment?

Vulnerability to climate change has three dimensions:

- **Exposure** – the degree to which a climate variation or change may affect people, places, or systems;
- **Sensitivity** – the degree to which they could be harmed by that exposure; and
- **Adaptive capacity** – the degree to which the potential for harm could be mitigated by reducing exposure or sensitivity.

A risk assessment takes this analysis one step further by evaluating the probability that certain effects of climate change will occur. This understanding helps determine what actions should be taken to enhance resilience.

The vulnerability assessment must also include a buildout analysis of all future development in the municipality, as well as any threats and vulnerabilities associated with this development, and strategies to reduce the risks of climate change-related natural hazards.

NJDEP has developed a resiliency toolkit to help municipalities assess climate change risks and mitigate or adapt to them. It includes a step-by-step process for risk assessment, strategy formulation and action and numerous planning tools, including but not limited to a:

- **worksheet to assess equity implications and unintended consequences** for potential resilience actions on socially vulnerable populations;
- **vulnerability matrix template** that helps to make a qualitative assessment of risks to various community assets and rank them by level of risk. This is not a replacement for a robust geospatial analysis of hazards and risk, but is a first step to inform the process.
- **resilience action matrix** – capability and capacity building actions to address climate change effects;
- **green infrastructure and nature-based solutions matrix** – resilience strategies using green infrastructure.

More resources for climate change resiliency assessment

- Rutgers course – Integrating Climate Change Resilience into Local Planning and the State Plan Endorsement Process – *https://bloustein.rutgers.edu/climateplanendorsement/*
- Climate Resilience Corps – graduate students trained in climate resilience planning to provide support to New Jersey municipalities in assessing hazards from changing climate conditions. – *https://njclimateresourcecenter.rutgers.edu/*
- NJ Adapt – a suite of online tools for planners and practitioners, including NJ FloodMapper, Municipal Snapshot, and NJ Forest Adapt–*https://njclimateresourcecenter.rutgers.edu/nj-adapt/*
- State of NJ Climate Change Resilience Strategy

State Plan endorsement

In 1985, the NJ Legislature adopted the *State Planning Act* (NJSA 52:18A-196 et seq.) with the goal of providing a vision for the future that would preserve and enhance the quality of life for all residents. The State Development and Redevelopment Plan (State Plan) is the blueprint for achieving these goals and provides the template for coordination. The State Plan aims to coordi-

nate planning activities and establish statewide planning objectives in the areas of: land use, housing, economic development, transportation, natural resource conservation, agriculture and farmland retention, recreation, urban and suburban redevelopment, historic preservation, public facilities and services, and intergovernmental coordination. (NJSA 52:18A-200(f))

Municipal Plan Endorsement is a voluntary review process designed to ensure the coordination of State, county and municipal planning efforts in achieving the goals and policies of the *State Planning Act* and incorporates many planning initiatives of the State agencies. It is through Plan Endorsement that local, county and State governments may work together to develop coordinated capital investment and planning implementation mechanisms that are consistent with the State Plan and with each other. Completion of the Plan Endorsement requirements makes the petitioner eligible for a host of benefits provided by State agencies.

In October 2020, the State Planning Commission approved new Municipal Plan Endorsement guidelines that require municipalities to demonstrate action towards planning for the changing climate. Specifically, the State Planning Commission requires that municipalities complete the following steps:

Step 1: Assess vulnerable areas, critical assets, and infrastructure.

Step 2: Develop a local resiliency strategy.

Step 3: Periodically demonstrate action to address vulnerabilities.

The specifications for each of these steps can be found at https://resilient.nj.gov/guidance. For

Flooding takes a toll on natural resources.

HAZARD MITIGATION PLANNING

Hazard mitigation planning identifies strategies to reduce loss of life and property from the impacts of natural and man-made disasters. It is a non-obligatory process overseen by the Federal Emergency Management Agency (FEMA) that permits local jurisdictions to be eligible for disaster relief and pre-disaster mitigation funding. In New Jersey, many of these plans are created at the county level with active participation by each town in identifying locally important assets, evaluating vulnerabilities, and prioritizing short and long-term risk reduction strategies.

While there are many similarities between hazard mitigation planning and resilience planning, the minimum requirements for hazard mitigation planning in New Jersey will not meet the requirements of the Municipal Land Use Law or Plan Endorsement. The policies for hazard mitigation planning are currently under review by FEMA and the New Jersey Office of Emergency Management. For the purposes of this guidance, your local hazard mitigation plan may provide the baseline risk assessment that is used to develop a vulnerability assessment. Additionally, any actions identified in the local resilience strategy need to be included in the local hazard mitigation plan or local annex to be eligible for FEMA's funding programs.

more information on the Plan Endorsement process as well as a full list of benefits, please refer to the Municipal Plan Endorsement Guidelines and Plan Endorsement Benefits chart. Plan endorsement documents are available at *https://nj.gov/state/planning/plan-endorsement.shtml*.

Planning for environmental justice

In September 2020, New Jersey enacted the strongest environmental justice law in the nation.

It requires the NJDEP to consider the impacts of certain pollution-producing facilities on overburdened communities when reviewing development permit applications. Governor Murphy subsequently instituted a "whole of government" approach to further the promise of environmental justice throughout State government. (*www.nj.gov/dep/ej/*) But ultimately, environmental justice, or the lack of it, happens at the local level.

Local land use decisions have historically resulted in areas of concentrated pollution in communities where people of color and low income reside. Compounding the inequity, these communities often lack access to valuable resources, such as quality housing, health care facilities, transportation to jobs and even grocery stores. Conscientious municipal planning and zoning can help to correct these issues over time. For example, open space planning should consider equitable access to recreational facilities and green spaces for all members of the community.

Ensuring participation in the master planning process by all segments of the population is an important first step in creating fair and equitable access to a clean, healthy environment for all.

Zoning

The MLUL empowers municipalities to designate and map zones of land for different uses: commercial, residential, industrial, recreational, agricultural and special uses such as education and open space. In order to be legally sound, all zoning should be rooted in the master plan and the MLUL.

The governing body adopts, amends, revises and enforces the zoning ordinance, subject to nonbinding review and recommendations of the planning board.

Why do we zone?

The purpose of zoning is to implement the master plan. Zoning controls land use. It prevents incompatibility of neighboring uses and restricts uses that are harmful to the best interests of the community. Specific ordinances may vary depending on the specific needs of the community, but all zoning should carry out the purposes of the MLUL and be consistent with the municipal master plan.

Municipal planning should address environmental justice concerns in overburdened areas

The zoning ordinance should designate space and conformance standards in various locations for multiple land uses and protect public health, safety and welfare by preventing additional air and water pollution. Zoning regulations control many factors. They:

- delineate districts for different land uses;
- specify height, size and situation of buildings on lots with reference to streets and property boundaries;
- specify size of yards;
- control population density in relation to lot size;
- regulate and designate areas subject to flooding;
- regulate location and use of buildings, structures and land for trade, industry, residence and other purposes;
- provide standards of performance for physical improvements;
- provide standards to protect important environmental resources; and
- ensure proper siting, installation, and maintenance of solar energy systems.

The courts have suggested that the following social and economic factors, in addition to environmental resource impacts, be considered in zoning:

- the zoning plan should be comprehensive;
- the zoning ordinance must provide a variety of housing types for a variety of people;
- the ordinance must be compatible with regional considerations;
- the ordinance cannot be arbitrary or exclusionary;
- the zoning plan must demonstrate protection of public health, welfare and safety; and
- the same regulations should apply to all districts having similar zone classifications.

Zoning and the ERI

The ERI provides a database to inform the creation of the master plan and zoning ordinance. While zoning classifies different areas for specific uses, it does not address each site's characteristics. The ERI is an important tool for refining or revising zoning requirements. For example, municipalities can layer some of the maps in the ERI, such as the parcel map and the critical areas maps, to show what buildout might look like under current zoning to determine whether the natural environment or available infrastructure can safely support that level of development.

The environmental commission (EC) should examine the zoning ordinance for its long-term environmental impacts, based on full development of the town in accordance with the ordinance. The EC can evaluate the impacts of the proposed zoning ordinance or its amendments prior to adoption. Will it result in environmental degradation, such as flooding, nonpoint source pollution and septic failures?

Examples of increased building impacts

Water resources	
Direct	Less water infiltration into the ground
Secondary	More stormwater runoff and nonpoint source pollution of surface water
Cumulative	Regional loss of streams or lakes for reservoirs, recreation and associated wildlife; decrease in groundwater recharge
Traffic	
Direct	Increase in traffic to and from site
Secondary	Traffic congestion and lowered air quality
Cumulative	Violations of air quality standards and loss of economic development
Cover and pavement biodiversity	
Direct	Loss of plant species and habitat onsite
Secondary	Increase of invasive plant species and lower wildlife populations in area
Cumulative	Dramatically lowered wildlife populations and some species loss within a region; loss of edge species; overpopulation of invasive species

The commission can use ERI information, including a map of existing land use and a combined factor map or critical areas map, to evaluate whether existing land and natural resource conditions are favorable to the proposed zone.

The commission should also address the impacts of population growth if development occurs as the zone allows. Will there be sufficient roads, water supply and sewerage capacity to handle the new population?

Land use changes result in direct, secondary and cumulative impacts. Direct impacts occur within a specific site as a result of development. Secondary impacts occur in areas outside the site as a result of development on the site. Cumulative impacts occur over time as a result of all development in a region. They are often irreversible or enormously expensive to remedy, requiring capital improvements like flood control projects, sewer plant expansions or upgrades, and bridge and road expansions.

Planning and zoning techniques to control land use intensity (LUI)

The zoning ordinance can incorporate a variety of planning techniques to control and direct land use. Density averaging, for example, establishes a maximum human occupancy per acre for each zone. The planning board can use a variety of techniques to calculate the average density.

The Federal Housing Authority's Land Use Intensity Ratio (LUI) considers physical relationships such as:

- total floor area to land area,
- total open space to land area,
- open space for people and open space for cars,
- large recreational space, parking space for occupants and occupant car ratio plus guest parking.

The LUI offers more comprehensive control than simple maximum density regulations, such as dwelling units per acre.

Floor area ratio, one element of the LUI ratio, refers to a ratio of total floor areas to the area of the lot. Floor area ratio adds flexibility to zoning regulations while still controlling the intensity of development. It can also be applied directly to the building design and adapted to many architectural designs.

The US Green Building Council provides guidance on development density that considers factors such as community connectivity, access to quality transit and use of green building and infrastructure techniques. (*www.usgbc.org/guide/nd*)

Types of ordinances to preserve open lands and protect the environment

Large lot zoning

Large minimum lot sizes can be effective at maintaining low densities and protecting water and other natural resources, particularly in rural areas. However, since zoning is subject to change, they are not an effective device for permanent preservation. Larger lots may also increase real estate values and infrastructure costs and foster sprawl.

Lot size averaging

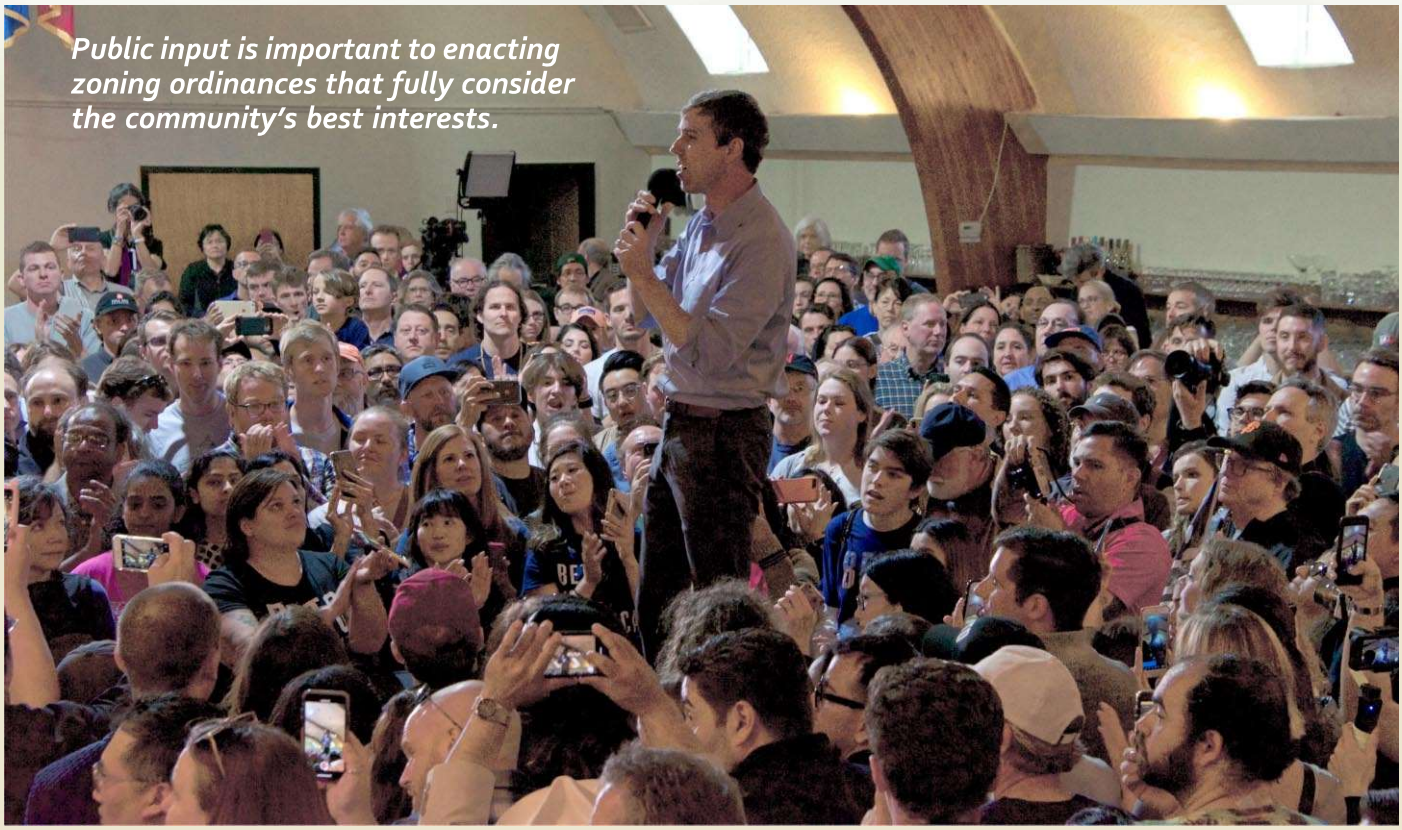
The density remains the same overall but lot sizes within a development can vary. This improves planning for critical areas and keeps land in private ownership.

Performance zoning

Zones are defined by a list of permitted impacts (based on natural resource data and design guidelines) as opposed to permitted uses. This directs development to appropriate places based on a comprehensive, environmentally friendly plan. However, environmental impacts may be hard to measure and criteria hard to establish. The plan can also be expensive to prepare.

Carrying capacity zoning

This zoning is based on the ability of an area to accommodate growth and development within the limits defined by existing infrastructure and natural resource capabilities. This requires a comprehensive environmental inventory for implementation. Determining carrying capacity can be a difficult process, subject to differing opinions. For example, the need for sewage disposal can limit the land's carrying capacity. If a residential subdivision can connect with a sewage treatment plant, the plant's capacity will dictate



Public input is important to enacting zoning ordinances that fully consider the community's best interests.

the number of new homes possible. If homes must rely on septic systems, a nitrate dilution model can determine the number of systems an area can handle.

Cluster zoning/planned unit development (PUD)

This maintains the regular zoning's ratio of housing units to acreage, but permits clustered development through undersized lots, thus allowing for open space preservation within the development. A PUD provision allows clustering for a large, mixed use development. This will reduce construction and infrastructure costs. However, the open space is often preserved in small, disconnected pieces, not necessarily linked to a comprehensive open space system. It may increase processing time for development approval. The MLUL also contains a provision permitting clustering in small-scale developments.

Special zoning districts

Special districts have development restrictions to protect agriculture, natural and historic areas, scenic views or neighborhood character. Zoning can also be used to promote walkable/transit friendly neighborhoods. The language in the special district ordinance must be specific enough to avoid varying interpretations.

Overlay zones

An overlay zone is a mapped zone that imposes a set of requirements in addition to those of the underlying zoning district. Municipalities use overlay zones when a special public interest – such as a stream corridor, aquifer, ridge or steep slope – does not coincide with the underlying zone boundaries. In the overlay zone, the land is simultaneously in two zones and may be developed only under the conditions and requirements of both zones. The overlay zones add an opportunity to implement site-specific public policies, especially with environmental protection.

Zoning to protect critical areas

As the supply of open land diminishes in New Jersey, municipalities face increasing pressure to allow development on tracts with environmental constraints: floodplains, wetlands, ponds, lakes, streams, forests and steep slopes. Destruction of these resources can result in the loss of important natural functions at significant public cost. Many towns have enacted ordinances to control the intensity of land use in these sensitive areas.

Compared with conventional lot zoning, left, conservation zoning preserves open space and natural resources.

Regional protection areas

New Jersey has led the country in understanding the need to provide a regional framework for resource protection, infrastructure planning and land use decisions. Since the late 1960s, the State Legislature has been addressing regional and statewide environmental issues by establishing planning entities with varying degrees of authority.

Local governments should be familiar with regional plans that apply within their boundaries

Regional planning entities in NJ

Coastal Zone	New Jersey's coastal zone encompasses tidal and non-tidal waters, waterfronts and inland areas. This region is important to both the State and federal economy and performs important ecological functions while posing unique concerns in the face of climate change and sea level rise. In 1973 the Legislature passed the *Coastal Area Facility Review Act (CAFRA)* and gave the NJDEP authority to regulate development in a specifically defined Coastal Zone. The Legislature has amended the *CAFRA* law and Coastal Zone Management rules through the years, the latest being in June 2016.
Hackensack Meadowlands	The Hackensack Meadowlands is a 32-square-mile region within three miles of Manhattan, traversing 14 NJ municipalities. The *Hackensack Meadowlands Reclamation and Development Act* created the Hackensack Meadowlands Development Commission (renamed the New Jersey Meadowlands Commission in 2001) and set forth three mandates for the Commission (1) oversee the growth and development of the region; (2) protect the delicate balance of nature; and (3) continue to use the Meadowlands to meet the region's solid waste disposal needs. In 2015, the New Jersey Meadowlands Commission was made part of the New Jersey Sports and Exposition Authority.
Highlands	In 2004, the Legislature passed the *Highlands Water Protection and Planning Act* to safeguard the water resources of most of northern NJ, establishing the Highlands Council, which is charged with preparing a *Regional Master Plan (RMP)* and assigning regulatory control to the NJDEP. The region includes 88 municipalities in seven counties, comprising the Highlands Preservation Area and the Highlands Planning Area. Preservation Area municipalities must conform their planning and zoning to the *RMP* and comply with NJDEP regulations, while conformance is voluntary for those in the Highlands Planning Area.
Pinelands	The Pinelands is the country's first national reserve, spanning all or part of 56 municipalities in seven counties. It is the largest body of open space on the Mid-Atlantic seaboard between Richmond and Boston. After passing the *Pinelands Protection Act* in 1979, the NJ Legislature established the Pinelands Commission with regulatory authority over the region and responsibility for preparing a comprehensive management plan. Ordinances passed by Pinelands municipalities must be approved by the Pinelands Commission.

and should participate in their development and implementation. Municipal and county governments are essential in implementing the objectives of these plans and, conversely, the regional planners should supply local governments with data, information and planning guidance.

Resources

- The Environmental Resource Inventory: ERI – ANJEC resource paper
- NJ Conservation Blue Print (*www.njmap2.com*)
- Stormwater Management for Municipalities: Green Infrastructure designs and options – ANJEC resource paper
- Environmental Commissioners' Handbook – ANJEC resource paper
- Renewable energy ordinance framework for small solar – DVRPC
- NJ Environmental Justice mapping tool

For further information, contact

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For over 50 years, The Association of New Jersey Environmental Commissions has been a statewide nonprofit organization that provides leadership, education, and support for environmental commissions and other local boards and public officials, and partners with other organizations to advocate for strong state and regional environmental policy.