

Municipal Considerations

At the local level, where the Municipal Land Use Law (MLUL) grants towns the power to enact a master plan to set land-use priorities and direction, as well as adopt a zoning ordinance to dictate where and in what form and size various types of development should happen. Municipalities are entrusted with the responsibility to ensure that uses like warehousing are developed properly so that they can contribute to the economy and consumer welfare without harming local communities and the environment.

Conduct Master Plan Reexaminations and update relevant land use, zoning, land development and redevelopment plans, policies, and programs to ensure that they clearly define and reflect various warehouse typologies, including new sub-categories of industrial development. Zoning should ensure that projects are appropriately located, scaled, and designed to mitigate and avoid conflicts with surrounding uses, infrastructure, resources, sensitive receptors and adjacent municipalities; particularly overburdened communities.

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Update Master Plan and Zoning first

Warehouse development comes in many shapes and sizes, and zoning should evolve to keep up with the changing variety of uses and trends. These differences could mean dramatically different impacts and outcomes, and whether a project is compatible with a site and beneficial to a community. Land use regulations should not simply lump “general industrial” or “warehouse” together, as they can be profoundly different, entailing different impacts, which warrant greater specificity as to appropriate siting and design standards where permitted. As such, it has never been more important that municipalities update and refine their planning, zoning, and development regulations to differentiate among warehouse use types. This will ensure that local reviewing boards are equipped to adequately assess the extent to which a community’s transportation network and land uses can handle the proposed traffic and resultant impacts, or whether other infrastructure such as water, sewer, and municipal services, can meet demand.

Many towns in New Jersey are finding that their communities are particularly vulnerable to poorly sited and scaled warehousing projects because they zoned large areas of their community, particularly farmland in rural areas, for broadly applied “light industrial” uses without consideration or limitation on the size and intensity of today’s distribution warehouses. As a result, many land-use plans and zoning ordinances may be inadequate in their present form, to address the pace and scale of new warehousing proposals and their impacts on neighborhoods, local roads, adjacent communities, and finite resources. Indeed, much of the current outcry from residents in municipalities reviewing and approving warehouse proposals that they are unhappy with are cases where the projects largely conform to local zoning standards. Given the scale and intensity of new and emerging warehousing trends and building types, zoning that simply permits generic warehousing may not be

sufficient to address the different types of warehousing uses, nor to give a municipality the performance standards it needs to adequately review an application or require developers to properly minimize and mitigate impacts.

To systematically address warehouse development, communities should proactively plan for warehouse projects to prevent land-use conflicts that harm residents, other communities, and the environment before they materialize, and guide sustainable development. Proactive planning ensures long-term benefits and provides a predictable business environment, with consistent expectations for developers and residents alike. At a minimum, communities should conduct a Master Plan reexamination and update their zoning ordinances, relevant redevelopment plans, and land development policies. In this way, local governing bodies can ensure that they clearly define and distinguish between more traditional industrial-commercial uses and a variety of warehouse types. These uses can range from the smaller last-mile delivery facilities (50,000 and 150,000 sq. ft.) with limited truck trailer traffic to largescale distribution centers and high cube warehouses that generate much greater levels of heavy truck traffic that are mobile sources of air pollution.

Zoning districts should likewise be appropriately scaled to match the type and intensity of land use in surrounding areas to minimize and avoid on-and-offsite impacts and offer the best outcome for all communities, including sensitive receptors such as schools, daycare centers, recreational parks, places of worship, hospitals, and overburdened communities. While municipalities are understandably attracted to the tax revenue that comes from warehouses, it is imperative that as part of both the planning and development review process they analyze the potential for wider regional impacts, particularly to adjacent and nearby communities be adequately examined and addressed, so that impacts and are not unfairly placed on other municipalities and their residents.

Mitigate and avoid conflicts with other uses, sensitive populations and receptors by locating large warehouses away from residential areas/neighborhoods, downtown commercial/retail areas and main streets, schools, daycare centers, places of worship, hospitals, overburdened communities, scenic corridors and historic districts, important public and civic outdoor spaces, and recreational facilities.

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Municipalities seeing greater pressure for larger (above 150,000 sq. ft. of gross floor area) and/or multiple projects should consider undertaking comprehensive updates to their Master Plans and associated land use and circulation elements, with particular emphasis on appropriately accommodating warehousing and goods movement where it makes sense. Additionally, implementing a Complete & Green Streets Policy in areas where delivery trucks and vans will interact with passenger vehicles, pedestrians and bicyclists should be considered. Planners should examine opportunities and constraints; consider infrastructure needs, existing deficiencies, and capacity (e.g., water/sewer, truck parking and services, transportation facilities, levels of service, and access tolerance). This will ensure that permitted uses are compatible with planning goals (e.g., public health, safety, climate resilience, environmental justice, etc.) of the community, of adjacent

communities, and the county, regional, and state plans.

These efforts should also be informed by local and regional transportation plans and corridor studies undertaken and coordinated early in the planning process by municipalities, and their county, regional, and metropolitan planning partners. Proactive transportation planning will support zoning changes that will avoid and mitigate adverse impacts and restrict warehouse development and intensity (e.g., impervious surface, height, building footprint, and amount of semi-truck parking) where necessary.

The most important consideration when planning a logistics facility is its location. Warehouses located in residential neighborhoods or near other sensitive receptors expose community residents and visitors to the air pollution, noise, traffic congestion, and other environmental impacts they generate. Even a warehouse located in an otherwise ideal location can result in substantial detriment to the transportation network if its intensity is completely out of scale and incompatible with roadway capacity and associated infrastructure. Once a property is zoned for warehousing, a local land use board has little authority to deny a compliant application based on off-site conditions such as traffic. Likewise, unless a project is accessed by a State roadway, the New Jersey Department of Transportation has little authority to review it. Finally, in reviewing existing zoning districts, municipalities should consider zoning to support manufacturing or a mix of compatible activities, as this type of space might create better-paying jobs than warehousing spaces.

Areawide Siting Considerations

Local zoning should exclude large warehouse development in areas located outside of State-approved sewer service areas, or other areas lacking the appropriately scaled infrastructure, transportation systems, emergency, or other municipal services necessary to sustain the costs, and maintenance, or improvements that such projects will entail over their lifetime. Unless appropriate regional highway or freight rail infrastructure and access are in immediate proximity, larger warehouse development should be excluded outside of State-designated Smart Growth Areas, Centers, and Nodes, and sewer service areas, particularly in Rural Planning Area (PA-4) and Environmentally Sensitive Planning Areas (PA-4B, 5 and 5B).

Warehouse-related zoning should likewise exclude areas and/or avoid sites comprising State-regulated areas, including, flood hazard areas, freshwater wetlands, riparian zones, transition areas, steep slopes, and threatened and endangered species habitats as identified under NJDEP's Landscape Project. In addition, areas and sites targeted for preservation under local, county, regional, or state programs and plans (including Agricultural Development Areas), should also be avoided.

In all cases, zoning should only permit major largescale facilities (above 500,000 square feet of impervious surface), where there is direct access to interstate and major highways (of adequate capacity) and/or freight rail lines, preferably from industrial zoning districts. Large regional distribution facilities should not be mixed with other land uses due to the vast scale and intensive nature of their activities. Warehouse development, especially larger projects, should not occur outside State-approved sewer service areas, or other areas lacking the appropriately scaled infrastructure, transportation systems, emergency, or other municipal services necessary to sustain the costs, and maintenance, or improvements that such projects will entail over their lifetime.

Smaller facilities, such as last mile stations (e.g., those using a preponderance of smaller delivery vans) under 150,000 sq. ft. in gross floor area that primarily serve local markets, may be appropriate in Fringe Planning Areas (PA-3), and Centers and Nodes located within Rural and Environmentally Sensitive (PA 4B and 5) Planning Areas, and overburdened communities, Urban Cores and Clusters where adequate infrastructure and transportation, including proximity to a regional/major highway network, ports, rail yards, and other key intermodal transportation facilities and more immediate access exists.

In addition, accommodation should be made for customers in more rural and less suburban areas, where smaller last-mile facilities may be needed to address the final leg of the delivery system or for purposes of cold storage, and generally involve less noxious equipment, comprising a greater proportion of delivery vans than tractor-trailers. It should be noted that last-mile facilities, can, however, still generate high levels of traffic, and should be located in State-designated Centers, Cores, Nodes, Redevelopment Areas, and other formerly developed and underutilized sites, proximate to appropriately scaled interchanges, highways (including along highways), and other transportation infrastructure. In addition, some rural communities may contain abandoned manufacturing, and resource extraction sites (e.g., quarries) where warehouse uses may be a realistic and appropriate choice for local economic development.

Should be organized in a compact form and located in State-designated Smart Growth Areas, Centers, Nodes, State-approved sewer service areas, and other appropriate areas proximate to regional highway network and rail lines/yards access in Metropolitan, Suburban or Fringe Planning Areas.

Exclude, adequately buffer, and protect areas and/or avoid sites comprising a prevalence of State-regulated areas and natural resources of local, regional, and state significance, including aquatic resources, flood hazard areas, freshwater wetlands, riparian zones, transition areas, steep slopes, and threatened and endangered species habitats as identified under NJDEP's Landscape Project.

Areas and sites identified for preservation and/or protection under local, county, regional, or state programs and plans, including any portion of land or site within a designated Agricultural Development Area, should be excluded from warehouse development. Larger properties (e.g., 10 or more acres) comprising a prevalence of Primary Soils should likewise be avoided.

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Other planning and zoning tools

Impact Analysis

Subdivision and land development ordinances should include requirements for impact studies so communities can make more informed decisions on warehouse proposals and to help ensure that residents and neighboring communities do not bear the brunt of costs and adverse impacts associated with the proposed development. An analysis of project impacts should consider land use, traffic, truck and employee routes, the transportation network, supporting infrastructure (e.g., water supply and sewer capacity), wetlands, flood plains, riparian lands, stormwater drainage, habitats, site remediation, cultural and historic resources, proximity/buffers to residential dwellings, as well as economic and employment factors and potential effects on public and emergency services and facilities, local businesses, workforce, residents, and overburdened communities. The analysis must also assess the proposed development for consistency with local and regional master plans.

Cost-Benefit Analysis

In addition to required impact studies, towns should request or conduct their own cost-benefit analysis to weigh projected revenues against costs (e.g., municipal services) and impacts, including wages, benefits, and employment demand. Asking these important questions will help ensure that a community doesn't mistakenly focus on projected job creation, wages, and tax revenue, without fully understanding whether such benefits justify the potential costs in terms of providing and maintaining municipal services, facilities, infrastructure, local businesses, and potential loss of value in surrounding real estate, diminished community character, quality of life, public health and safety over the construction and lifetime of the project. Subdivision and land development ordinances should likewise be amended to include standards that consider the equipment and capital needs of emergency service operations, including the participation of such personnel in the application review process. Finally, towns should consult with their land use attorney to ensure that they are not requiring excessive reports.

Special Exceptions and Conditional Uses

Large-scale distribution warehouses are not benign uses and can have substantial health, air quality, noise, traffic, and inequitable impacts based on their intensity and siting. Rather than allowing uses that are more intensive by right as part of the local land-use regulations, municipalities can exert greater control over the site plan review process by permitting them as special exceptions and conditional uses. This may provide better outcomes, particularly for large warehouse projects (e.g., above 150,000 sq. ft. of gross floor area and/or above 32 feet in height), particularly major structures (e.g., above 250,000 sq. ft., including high cube buildings). Usually reserved for those land uses that are almost certain to have a significant impact on the zoning district or the community and region as a whole, special exception areas and conditional uses are for those uses that warrant additional safeguards, such as landfills, telecommunications towers, asphalt plants, and quarries.

For example, under Conditional Use, an applicant could be required to meet certain criteria regarding design, bulk, or circulation standards. Municipalities must take care, however, to ensure the zoning ordinance provision for conditional uses satisfies the State law and requires that the standards be specific and clear enough that applicants for conditional use permits know the “limit and extent” of the conditions, as some local ordinances with vague generalities have been declared invalid.

Overlay Zones

Municipalities can explore enacting an overlay zoning district, which applies an alternate land development scenario and criteria to all areas within a defined overlay boundary, regardless of the underlying base zone. Overlay zoning provides the ability to apply a unique set of standards, tailored to a specified area without having to amend all other relevant sections of the code, or to negotiate additional measures on a project-by-project basis that would not otherwise be applicable or needed outside of the overlay zone. Similar to a redevelopment plan, overlay zoning allows existing zoning regulations to be superseded or complemented to solve a known problem, or to meet specific community goals.

Overlay zones are often used to protect special features within the defined area, such as cultural and natural resources, wetlands, steep slopes, flood hazard areas, beaches, etc. They can also be used to promote specific or anticipated development, such as warehouse developments while restricting or limiting polluting activities, development density, and intensity. Other potential standards or regulations in an overlay zone may include setbacks (building and vegetation buffers), lot sizes, building height and footprint, impervious surface reduction, enhanced standards or performance measures for landscaping, stormwater and green infrastructure, façade, green building, and resilience measures such as flood-proofing to high water levels, and greater setbacks and management along scenic roads, driveways, or highway access along a commercial corridor. Overlay zones should be used with caution and empirical conditions should be documented in the Master Plan as quickly as possible after adoption to justify and support the overlay zone.