



Commission Meeting of March 21, 2012
Town Hall, Town of Southampton
116 Hampton Road, Southampton, NY

**Resolution to Request Amendment to
New York State Environmental Conservation Law Article 57,
Sections 57-0107, 57-0121 and 57-0123**

Present: _

Whereas, the Commission requests that the New York State Legislature amend New York State Environmental Conservation Law (ECL) Article 57, the Long Island Pine Barrens Protection Act of 1993; and

Whereas, one of the development/"non-development" definitions in ECL § 57-0107(13), specifically provision (xiii), currently reads: "*in the compatible growth area, land divisions and subdivisions in the compatible growth area consisting of five or fewer residential lots which conform to the lot area requirement of the existing zoning district for the subject parcel*"; and

Whereas, the current definition has resulted in unintended consequences in that a parcel of land may be subdivided and further subdivided over several cycles resulting in a development project that, had it been reviewed cumulatively and in its entirety at the outset, should have been subject to both the Long Island Pine Barrens Protection Act and the Central Pine Barrens Comprehensive Land Use Plan, and

Whereas, on July 19, 2006, the Commission adoption a resolution entitled "Resolution on the Clarification of Non-Development Provision – Article 57-0107(13)(xiii), Request of Central Pine Barrens Commission staff;" and

Whereas, the July 19, 2006 resolution clarified that the "lot area requirement" be applied based on the actual square footage of the lots; and

Whereas, the Commission clarified that the "nondevelopment" provision enumerated in ECL §57-0107(13)(xiii), may only be applied to any parcel once and cannot be applied to any resulting parcels that are capable of further subdivision; and

Whereas, Commission requests that an amendment to ECL Article 57 be adopted to integrate this past practice and to address this long-standing issue and has prepared suggested amendment language for consideration by the Legislature, and

Peter A. Scully
Chair

Steven Bellone
Member

Mark Lesko
Member

Anna E. Throne-Holst
Member

Sean M. Walter
Member

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Whereas, currently, the term complete application is applied in Sections 57-0121 and 57-0123 only to certain categories of development projects reviewed by the Central Pine Barrens Joint Planning and Policy Commission, and

Whereas, having a complete application requirement ensures that applicants for such development projects provide a sufficient amount of information that permits a thorough analysis and review by the Commission in its deliberations and ensures that a resulting Commission decision is balanced and based on consideration of all applicable facts, and

Whereas, this complete application requirement also sets aside adequate time for the Commission to render its decisions, and

Whereas, however, the term complete application is not applied within the Long Island Pine Barrens Protection Act to other types of development applications subject to Commission review, primarily those for which a hardship waiver is sought for exceedance of one or more development criteria contained in the Central Pine Barrens Comprehensive Land Use Plan, and

Whereas, there have been a number of occasions, since the implementation of the Act, in which the Commission has received only partial application materials or incorrect application materials for such development projects which have at times required several attempts by the Commission to rectify, and

Whereas, although applicants are responsible for the quality and adequacy of their application materials, the Commission has been forced to forfeit precious statutory review time as there is no current allowance in the one hundred twenty day application review time frame which authorizes the Commission to implement a formal but temporary suspension during which an applicant would rectify an incomplete application, and

Whereas, a reasonable accommodation is sought, similar to that already available to other state agencies, which would allow the Commission to temporarily halt its review of a specific development project until such time as it receives a complete application and the Commission has prepared suggested amendment language for consideration by the Legislature, now therefore be it

Resolved, the Commission requests that the New York State Legislature amend ECL Article 57, §57-0107, §57-0121 and §57-0123, as requested and described in the appended Article 57 amendment text.

Motion by:
Second by:
Ayes:
Nays: