

## **I. Chapter 4 Amendments**

### **4.1 Introduction**

The following sets forth the procedures to be used by the Central Pine Barrens Joint Planning and Policy Commission for review of development in the Central Pine Barrens as provided for in the Long Island Pine Barrens Protection Act.

This process does not exempt any development project from the provisions of the New York State Environmental Quality Review Act, the National Environmental Policy Act and other regulatory requirements and applicable federal, state, county, or local laws. For development that adheres to the standards for land use contained herein and the Statement of Findings adopted upon completion of the Generic Environmental Impact Statement prepared pursuant to the Act, the cumulative impact analysis pursuant to the State Environmental Quality Review Act will be deemed to be satisfied. *(Source: Staff recommendation for clarification.)*

### **4.3.3 Commission**

"Commission" shall mean the Central Pine Barrens Joint Planning and Policy Commission as defined within the New York Environmental Conservation Law Article 57. *(Source: Staff recommendation for clarification.)*

### **4.3.4 Act**

"Act" shall mean New York State Environmental Conservation Law, Article 57 as may be amended from time to time. *(Source: Staff recommendation for clarification.)*

### **4.3.6 Central Pine Barrens**

"Central Pine Barrens" shall have the meaning set forth in Section 57-0107 (10) of the Act. *(Source: Staff recommendation for clarification.)*

### **4.3.7 Core Preservation Area**

"Core Preservation Area" shall have the meaning set forth in Section 57-0107 (11) of the Act. *(Source: Staff recommendation for clarification.)*

### **4.3.8 Compatible Growth Area**

"Compatible Growth Area" shall have the meaning set forth in Section 57-0107 (12) of the Act. *(Source: Staff recommendation for clarification.)*

#### **4.5.1 Development located within the Core Preservation Area (“Core development”)**

The Act requires the prohibition or redirection of development in the Core Preservation Area and sets forth the jurisdiction of the Commission over, and certain requirements for processing, hardship exemptions. The Act authorizes the Commission, by majority vote, to waive strict compliance with this Plan upon finding that such waiver is necessary to alleviate hardship according to the conditions and finding of extraordinary hardship or compelling public need pursuant to subdivision 10 of Section 57-0121 of the Act.

##### **4.5.1.1 Core development: Lead agency assertion**

The Commission shall seek lead agency status for development proposed in the Core Preservation Area pursuant to the State Environmental Quality Review Act.

##### **4.5.1.2 Core development: Filing of an application**

The application shall be filed with the Commission by the project sponsor. A municipal application to the Town is not required for an application under this subsection.

##### **4.5.1.3 Core development: Hearing**

Within thirty (30) days of an application being submitted to the Commission, a public hearing on the development shall be held. At this time, the project sponsor and any other person shall have an opportunity to comment on the development proposal. (*Source: Staff recommendation for clarification.*)

##### **4.5.1.4 Core development: Statutory basis for the Commission's decision**

The decision by the Commission on the application shall be based upon the standards in subdivision 10 of Section 57-0121 of the Act, which describes the criteria for determining that a hardship has been demonstrated.

##### **4.5.1.5 Core development: Decisions, default decisions and extensions of decisions**

The time within which the Commission must decide a Core Preservation Area hardship application for which a negative declaration has been made by the Commission pursuant to Environmental Conservation Law Article 8 is one hundred twenty (120) days from receipt of such application. The time within which the Commission must decide a Core Preservation Area hardship application for which a positive declaration has been made by the Commission pursuant to Environmental Conservation Law Article 8 is sixty (60) days from issuance of a findings statement by the Commission pursuant to Environmental Conservation Law Article 8. If the Commission fails to make a decision within the aforesaid time periods, the development shall be deemed to be approved by the Commission, unless such time periods are extended by mutual agreement of the applicant and the Commission.

#### **4.5.2.2 Nonconforming development: Changes in consistent projects**

If, during the local review, a proposed development project is modified such that the local municipality finds that it becomes inconsistent with any standard in Volume 1, Chapter 5, the local municipality shall notify the Commission and the project sponsor immediately. Upon receipt of said notice, the project sponsor shall be notified that an application for hardship relief as provided herein shall be required. Alternatively, the project sponsor shall be afforded an opportunity to revise the development project so that it is consistent with the standards.

#### **4.5.2.4 Nonconforming development: Review standards**

The Commission's standard for review pursuant to this section shall be the hardship standard provided in Section 57-0123(3) of the Act, as amended from time to time.

#### **4.5.2.5 Nonconforming development: Hearing**

Within thirty (30) days of the application being deemed complete, a public hearing on the development proposal shall be held. The Commission shall provide the project sponsor and any other person an opportunity to be heard as provided for, and in accordance with the procedures provided in the Act.

#### **4.5.2.6 Nonconforming development: Decisions, default decisions and extensions of decisions**

The time within which the Commission must make a decision on a Compatible Growth Area application which does not conform to the standards contained within Volume 1, Chapter 5 of the Plan is one hundred twenty (120) days from said application being deemed complete. If the Commission fails to make a decision within the aforesaid time period, the application shall be deemed to be approved by the Commission, unless such time period is extended by mutual agreement of the applicant and the Commission.

#### **4.5.3.1 Assertion development: Assertion of jurisdiction by the Commission over the project**

Upon a majority vote of the commissioners, the Commission may assert review jurisdiction over said project.

#### **4.5.3.4 Assertion development: Hearing**

The Commission shall request necessary information from the project sponsor. Within sixty (60) days of the Commission asserting review jurisdiction, a public hearing on the development proposal shall be held, unless the Commission by majority vote deems a hearing unnecessary, in accordance with the procedures provided in the Act. If a hearing is held, the Commission shall provide the project sponsor and any other person an opportunity to be heard as provided for, and

in accordance with, the procedures provided in the Act.

#### **4.5.3.5 Assertion development: Decision on projects over which jurisdiction is asserted by the Commission**

The decision of the Commission on any project which is before it by virtue of the assertion of jurisdiction by the Commission shall be made within one hundred twenty (120) days of the date of said assertion of jurisdiction.

#### **4.5.3.6 Assertion development: Default decisions**

In the event that the Commission fails to make a decision within one hundred twenty (120) days, the development proposal shall be deemed to be approved by the Commission. *(Source: Staff recommendation for clarification.)*

#### **4.5.6 Adoption of sense resolutions by the Commission for development projects**

With respect to a development project undergoing review pursuant to the State Environmental Quality Review Act (SEQRA) by another government agency and which is also a pending application being processed and reviewed by the Commission, the Commission may elect to adopt a sense resolution expressing its review and evaluation to date of such project and forward the same to those other agencies. The primary purpose of such a sense resolution shall be to facilitate the completion of the other agencies' SEQRA review and thereby enable the Commission to make a final decision on such a development project. *(Source: Staff recommendation based upon Commission experience with following both ECL Article 8 and 57.)*