

Commission Meeting of February 16, 2011
Brookhaven Town Hall
One Independence Hill, Farmingville, NY



**Resolution to Schedule Hearing on
Amendments to CLUP Chapter 5 and Chapter 6
Concerning Mandatory Pine Barrens Credit Redemption,
Non-Residential Credit Allocation and Limitations on
Credit Allocation**

Peter A. Scully
Chair

Mark Lesko
Member

Steve A. Levy
Member

Anna E. Throne-Holst
Member

Sean M. Walter
Member

Present: Mr. Scully (for the State of New York), Mr. Lesko and Mr. Turner (for Town of Brookhaven), Mr. Isles (for Suffolk County), Mr. Walter (for Town of Riverhead), Ms. Throne-Holst and Mr. Shea (for Town of Southampton)

Whereas, the Commission seeks to amend the Central Pine Barrens Comprehensive Land Use Plan to require the redemption of Pine Barrens Credits for projects that increase the land use density or intensity, and

Whereas, the Commission also seeks to amend the Central Pine Barrens Comprehensive Land Use Plan's Pine Barrens Credit allocation formula for nonresidential property, now therefore be it

Resolved, the Commission hereby schedules a public hearing on the proposed Plan amendments at 3:00 pm at the 3/16/11 Commission meeting, and be it further

Resolved, the Commission hereby directs that a legal notice be published of the Commission's intent to vote on the Plan amendments at the 4/20/11 Commission meeting.

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Highway
2nd Floor
Great River, NY
11739-0587

Motion by: Mr. Lesko

Second by: Ms. Throne-Holst

Ayes: Mr. Scully, Mr. Lesko, Mr. Isles, Ms. Throne-Holst

Nays: Mr. Walter

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I. Chapter 5 Amendments

A. A new Standard shall be added to the Plan Volume 1 Chapter 5 as follows:

(Section # to be added): Development in the Compatible Growth Area that requires Pine Barrens Credit Redemptions

Each Town shall require the redemption of Pine Barrens Credits for projects within the Compatible Growth Area of the Town that increase land use development density or intensity without regard to the type of “sewage disposal system”¹ proposed for the projects. Projects that redeem Pine Barrens Credits pursuant to Sections 6.4 or 6.5 of the Plan or the Suffolk County Department of Health Services Division of Environmental Quality’s Transfer of Development Rights Standards² shall not be required to redeem Pine Barrens Credits pursuant to this Section.

Standard (number to be added): Pine Barrens Credit Redemption Requirement

Each Town shall require the redemption of Pine Barrens Credits in an amount equal to fifteen percent (15%) of the difference between a project’s “density load”³ in excess of the project site’s “population density equivalent,”⁴ divided by 300 for any project in the Compatible Growth Area of the Town. The type of “sewage disposal system”⁵ proposed for the project shall have no effect in determining the required number of Pine Barrens Credits to be redeemed on such project. Projects that redeem Pine Barrens Credits pursuant to Sections 6.4 or 6.5 of the Plan or the Suffolk County Department of Health Services Division of Environmental Quality’s Transfer of Development Rights Standards⁶ shall not be required to redeem Pine Barrens Credits pursuant to this Standard.

¹ As defined by the Suffolk County Department of Health Services, Division of Environmental Quality, Standards for Approval of Plans and Construction for Sewage Disposal Systems for Other Than Single-Family Residences (the “SCDHS Standard”).

² Issued September 30, 1995.

³ As defined by the SCDHS Standard.

⁴ As defined by the SCDHS Standard.

⁵ As defined by the SCDHS Standard.

⁶ Issued September 30, 1995.

II. Chapter 6 Amendments

A. Section 6.3 of the Plan to be revised as follows:

1. 6.3 Allocation of Pine Barrens Credits

For the purpose of computing the allocation of Pine Barrens Credits, a parcel of land is defined as a separately assessed ~~tax lot~~ Suffolk County Real Property Tax Parcel which is within the Core Preservation Area and existed on the Central Pine Barrens Comprehensive Land Use Plan initial adoption date of June 28, 1995.

2. 6.3.2 Allocation for property zoned for other than single family residential use

The Commission ~~may elect to establish an allocation procedure~~ establishes the allocations in Figure 6-2 for property in the Core Preservation Area, which is designated as a sending area, as well as for sending area property within the Compatible Growth Area which is zoned for other than single family residential use.

<p>Figure 6-2: Pine Barrens Credit Program development yield factors for property zoned for other than single family residential use. <i>(Note: Although some of the following zoning classes are now obsolete, those have been retained here in the event that a parcel in a sending area had one of those zoning categories on its relevant record date listed in Section 6.3.)</i></p>	
Zoning Class	Pine Barrens Credits per acre
Defense Institutional District	1.00 PBC per acre*
Industrial A District	1.00 PBC per acre*
Highway Business	1.00 PBC per acre*
J Business 2 District	1.00 PBC per acre*
J Business 3 District	0.20 PBC per acre*
J Business 4 District	1.00 PBC per acre*
J Business 5 District	1.00 PBC per acre*
Light Industrial 1 District	1.00 PBC per acre*
Light Industrial 3 District	0.27 PBC per acre*
Light Industrial 200 District	0.20 PBC per acre*
Light Industrial 40 District	1.00 PBC per acre*

Brookhaven Multi-Family 1 District	0.27 PBC per acre*
Brookhaven PRC	0.10 PBC per acre*
Riverhead Natural Resource Preservation District	0.20 PBC per acre*
Riverhead Open Space Conservation District	0.25 PBC per acre*
All Other Districts	0.10 PBC per acre*
*One acre equals 43,560 square feet; fractional allocations are rounded upward to the nearest one hundredth (1/100 = 0.01) of a Pine Barrens Credit (PBC). No fewer than 0.10 (one tenth) Pine Barrens Credit shall be allocated by the Clearinghouse for any parcel of land, regardless of its size or road accessibility.	

B. Section 6.3.3 of the Plan revised as follows:

6.3.3 Limitations on allocation

The following limitations shall apply to the allocation of Pine Barrens Credits:

- 6.3.3.1 No allocation shall be made for any property owned or held by a public agency, municipal corporation or governmental subdivision, including property held by reason of tax default.
- 6.3.3.2 No allocation shall be made for any property for which the development rights have previously been fully used, or allocated for use, under this Plan or any other program.
- 6.3.3.3 No allocation shall be made for any property owned or held for the purpose of land protection, preservation or conservation.
- 6.3.3.4 Partially improved parcels shall receive a decreased allocation based upon the extent of improvement. Furthermore, there shall be a proportional decrease in allocation based upon the receipt of all discretionary permits for improvement of a parcel or hardship permits issued by the Commission. The Pine Barrens Credit allocation for a parcel of land shall be reduced by one (1) Pine Barrens Credit for each existing single family unit on the parcel or equivalent as such equivalent is described in the document entitled *Standards for Approval of Plans and Construction for Sewage Disposal Systems for Other Than Single Family Residences*, approved by the Suffolk County Department of Health Services, Division of Environmental Quality, on June 15, 1982, revised March 5, 1984 and as implemented prior to February 5, 1988, as amended from time to time (hereinafter referred to as the "Suffolk County Health Department Standards").

6.3.3.5 In situations where a development project site contains a parcel that is split between the Core Preservation Area and Compatible Growth Area, and where the entire project site's acreage (i.e., Core and Compatible Growth Area acreage added together) was used for determining the amount of clearing that can occur on the Compatible Growth Area portion, then no Pine Barrens Credits can be obtained on the Core Preservation Area portion.

6.3.3.6 Pine Barrens Credits can only be allocated to partially developed parcels when the parcel size is at least twice the minimum lot size for the zoning district to which that parcel belongs and the parcel is otherwise eligible for a Credit allocation under this Plan.

6.3.3.7 In allocating Credits to portion(s) of an otherwise eligible parcel, the Clearinghouse shall consider the extent of any prior public acquisition of that parcel or any portion thereof.

6.3.3.8 No allocation of Credits shall be made to any parcel or portion thereof upon which an ownership overlap condition exists among more than one competing owners unless and until such ownership overlap condition is resolved by the applicant to the satisfaction of the Commission. In addition, applications for Credits on such parcels where the overlap condition includes as one of the competing owners any governmental agency or body shall be communicated in writing by the Commission to the relevant governmental agency or body with a request by the Commission for guidance on the overlap condition.