

Core Preservation Area Hardship Application Checklist  
*Adopted 9/5/01*

*Filing an application.*

The Central Pine Barrens Commission interprets the Pine Barrens statute to require the following items as part of a Core Preservation Area application pursuant to the L.I. Pine Barrens Protection Act, New York State Environmental Conservation Law Article 57-0121(10). If these items are not present, the Commission cannot accept the application, and the calendar time periods for holding a public hearing and issuing a decision cannot begin.

Please note that the Commission does not issue advisory opinions on future core area projects or on projects which are insufficiently detailed. The Commission can act only upon substantive, tangible applications. The following checklist is intended to assist applicants with preparing an application.

*Item 1: A written description of the project.*

This should summarize the type number, areas, dimensions, and other pertinent features of proposed structures and clearing. Their proposed uses should be described. The Commission does not require formal (and sometimes costly) engineering drawings or surveys from applicants unless such material has already been produced for other permitting processes.

Please note that much of the information required here may be available from the items which follow.

*Item 2. A description of how the project satisfies the requirements of the Pine Barrens statute.*

Section 57-0121(10) of the Environmental Conservation Law, which describes the hardship provisions of the Pine Barrens Act, lists several specific criteria which projects must meet in order to be granted relief from the core area development restrictions.

Note that the law describes two types of hardships: extraordinary hardship (related to the unique character of the property, as distinguished from other factors) or a compelling public need for the proposed project. Applicants do not have to demonstrate both aspects. Since this section of the law is quite specific, it provides a natural format for demonstrating a project's compliance. Thus, this section of the law is not paraphrased in this checklist.

Copies of this section of the law (as well as the entire statute) are available to prospective applicants directly from the Commission office at no charge.

*Item 3: A Full Environmental Assessment Form (EAF) with Part 1 completed.*

If this project has already been filed with a permit-issuing agency a Full Environmental Assessment Form (EAF; required under the State Environmental Quality Review Act) is likely to have already been completed. If so, applicants must provide a copy of this form.

If the Commission is the first agency to receive the project application, then Part 1 of such an EAF should be filed with the application. This form can be obtained

from the Commission office at no charge.

*Item 4: Determination of significance and designation of lead agency if adopted by any other permit-issuing agency.*

Materials which would fall into this category include, for example, the longer versions of the EAF mentioned above (also known as a Part 3 EAF), a full Draft or Final Environmental Impact Statement (EIS), Supplemental Environmental Impact Statement, site plans, surveys, engineering diagrams and drawings, etc.

When additional items such as these already exist, applicants are encouraged to speak with the Commission staff regarding which of them should be submitted with the initial application.

*Item 5: Copies of any approvals granted by other agencies in connection with the project.*

*Item 6: Completed and Notarized Owner's Affidavit.*

This is only required if the applicant is not the property owner.

**OWNER'S AFFIDAVIT**

*(Use this form if property is owned by an individual or a partnership)*

STATE OF \_\_\_\_\_

)ss:

COUNTY OF \_\_\_\_\_

----- being duly sworn, deposes \_\_\_\_\_  
(Owner's Name(s))

and says that I/we reside at \_\_\_\_\_  
(Owner's Address)

in the County of \_\_\_\_\_ State of \_\_\_\_\_, and that

I/we am/are the owner in fee of the property located at \_\_\_\_\_  
(Property Address)

which is also designated as Suffolk County Tax Map Number(s) \_\_\_\_\_

\_\_\_\_\_ and that I/we have been the

owner(s) of this property continuously since \_\_\_\_\_, and that I/we  
(Date)

have authorized \_\_\_\_\_ to make a permit application to the  
(Applicant's Name)

Central Pine Barrens Joint Planning and Policy Commission for this property. I/we make this Statement knowing that the Central Pine Barrens Joint Planning and Policy Commission will rely upon the truth of the information contained herein.

\_\_\_\_\_  
(Owner's Signature)

\_\_\_\_\_  
(2nd Owner's Signature)

\_\_\_\_\_  
(Owner's Name - Please Print)

\_\_\_\_\_  
(2nd Owner's Name - Please Print)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Date)

\_\_\_\_\_

Sworn to before me this \_\_\_\_ day  
of, 20\_\_

Sworn to before me this \_\_\_\_ day  
of, 20\_\_

\_\_\_\_\_  
Notary

\_\_\_\_\_  
Notary

**OWNER'S AFFIDAVIT**

*(Use this form if property is owned by a corporation)*

STATE OF \_\_\_\_\_

)ss:

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, being duly sworn, deposes and says that I am  
(Authorized Officer's Name)

\_\_\_\_\_ of the \_\_\_\_\_ corporation  
(Official Title) (Landowner's Name)

Located at \_\_\_\_\_,  
(Landowner's Address)

in the County of \_\_\_\_\_ State of \_\_\_\_\_, and that

this corporation is the owner in fee of the property located at \_\_\_\_\_  
(Property Address)

which is also designated as Suffolk County Tax Map Number(s) \_\_\_\_\_

\_\_\_\_\_ and that this corporation has been the

owner of this property continuously since \_\_\_\_\_, and that I have  
(Date)

authorized \_\_\_\_\_ to make a permit application to the  
(Applicant's Name)

Central Pine Barrens Joint Planning and Policy Commission for this property. I make this Statement knowing that the Central Pine Barrens Joint Planning and Policy Commission will rely upon the truth of the information contained herein.

\_\_\_\_\_  
**(Authorized Officer's Signature)**

\_\_\_\_\_  
(Officer's Name – Please Print)

\_\_\_\_\_  
Date

Sworn to before me this \_\_\_\_ day of 20\_\_

\_\_\_\_\_  
(Notary Public)

## **Public Hearings on Development Applications**

Originally adopted 7/13/94; amended 1/7/98 and 3/17/99; Provision regarding hearing extensions adopted 1/15/03.

The Commission applies the following procedures and principles to public hearings required under New York Environmental Conservation Law Article 57 (the statute containing the Long Island Pine Barrens Protection Act) for development applications in the both the Compatible Growth Area and the Core Preservation Area.

***Scheduling of Hearings:*** Where hearings are required for applications within either the Compatible Growth Area or the Core Preservation Area, the Commission determines the date of the hearing, and normally does so by resolution during a work or regular session.

***Coordination of Hearings for Different Applications:*** When applications are pending from several distinct applicants, the Commission will attempt to schedule the required hearings on the same date.

***Locations:*** Hearings are generally held as part of the Commission's regularly scheduled meetings. These meetings are frequently held at the Commission office, one of the three town's Town Halls, or at a Suffolk County facility. Other locations are possible, but applicants will generally know the location of their hearing at the time that the Commission schedules it, usually three weeks prior to the hearing date.

***Fees:*** No application fee is charged by the Commission for submitting an application or holding a public hearing, however, the legal notice costs must be paid by the applicant as noted below.

***Legal Notice:*** Publication of a legal notice of the hearing in a newspaper of general circulation within the Central Pine Barrens is to be arranged by the Commission staff, with the cost to be borne by the applicant. The cost of the legal notice must be paid by the applicant on or before the day of the hearing.

***Stenography:*** Stenographic transcription will be arranged by the Commission staff for use in the Commission's review, with the cost borne by the Commission.

***Withholding of Written Decisions:*** No written decision or permit will be provided to the applicant unless the cost of the legal notice publication has been paid by the applicant as required above.

***Other Costs:*** The applicant may provide for attorneys, consultants or other professional assistance at any hearing, but is responsible for bearing the complete costs of any such assistance. All other costs incurred at the applicant's initiative are, of course, to be paid entirely by the applicant.

***Requests for Extensions and Continuation of Scheduled Hearings:*** The Commission shall consider requests for an extension or continuation of a previously scheduled hearing. Commission staff shall instruct applicants that have requested a first extension or continuation of a hearing, where such request is received at least three weeks before the scheduled hearing date, that such request shall be granted by the Commission. This policy in no way undermines the Commission's authority to grant extensions on its own motion.

## CORE AREA HARDSHIP ECL ARTICLE 57 - 0121 (10)

10. Any person, upon a showing of hardship caused by the provisions of subdivision eight of this section on development in the core preservation area, may apply to the commission for a permit exempting such person from such subdivision eight in connection with any proposed development in the core preservation area. Such application for an exemption pursuant to the demonstration of hardship within the core preservation area shall be approved only if the applicant satisfies the following conditions and extraordinary hardship or compelling public need is determined to have been established under the following standards:
- (a) The particular physical surroundings, shape or topographical conditions of the specific property involved would result in an extraordinary hardship, as distinguished from a mere inconvenience, if the provisions of this act are literally enforced. An applicant shall be deemed to have established the existence of extraordinary hardship only if he demonstrates, based on specific facts, that the subject property does not have any beneficial use if used for its present use or developed as authorized by the provisions of this article, and that this inability to have a beneficial use results from unique circumstances peculiar to the subject property which:
    - (i) Do not apply to or affect other property in the immediate vicinity;
    - (ii) Relate to or arise out of the characteristics of the subject property rather than the personal situation of the applicant; or
    - (iii) Are not the result of any action or inaction by the applicant or the owner or his predecessors in title including any transfer of contiguous lands which were in common ownership on or after June 1, 1993.
  - (b) An applicant shall be deemed to have established compelling public need if the applicant demonstrates, based on specific facts, one of the following:
    - (i) The proposed development will serve an essential health or safety need of the municipality or, in the case of an application serving more than one of the municipalities that the public health and safety require the requested waiver, that the public benefits from the proposed use are of a character that override the importance of the protection of the core preservation area as established in this article, that the proposed use is required to serve existing needs of the residents, and that no feasible alternatives exist outside the core preservation area to meet the established public need and that no better alternatives exist within the county; or
    - (ii) The proposed development constitutes an adaptive reuse of an historic resource designated by the commission and said reuse is the minimum relief necessary to ensure the integrity and continued protection of the designated historic resource and further that the designated historic resource's integrity and continued protection cannot be maintained without the granting of a permit.
  - (c) An application for a permit in the core preservation area shall be approved only if it is determined that the following additional standards also are met:
    - (i) The granting of the permit will not be materially detrimental or injurious to other property or improvements in the area in which the subject property is located, increase the danger of fire, endanger public safety or result in substantial impairment of the resources of the core preservation area;
    - (ii) The waiver will not be inconsistent with the purposes, objectives or the general spirit and intent of this article; or
    - (iii) The waiver is the minimum relief necessary to relieve the extraordinary hardship, which may include the granting of a residential development right to other lands in the compatible growth area that may be transferred or clustered to those lands to satisfy the compelling public need.

Any waiver or exemption granted under the provisions of this part shall only be considered an exemption or waiver of the particular standard of this article which the commission waived. It shall not constitute an approval of the entire development proposal. Nor shall it constitute a waiver from any requirements contained within any local, county or state law or ordinance.

Within thirty days of the application being received, the commission shall provide the applicant and any other person an opportunity to be heard. Notice of any public hearing conducted in connection with an application for such a permit shall be published in a newspaper of general circulation in the Central Pine Barrens area. If the proposed development is not contrary to the policy or any provision of this article and meets the standards of extraordinary hardship or public need herein, and the commission so finds, it may issue a permit allowing the development or such development subject to appropriate conditions or modifications to occur, provided that permission may be revoked by the commission if its terms are violated, and provided further that any such hardship permit issued by the commission shall be in addition to, and not in lieu of, such permit or permits as may be required by any state agency or municipality within whose boundary such development is located.

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 article eight of this chapter is one hundred twenty 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 article eight of this chapter is sixty days from issuance of a findings statement by the commission pursuant to article eight of this chapter. 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 extended by mutual agreement of the applicant and commission.