S T A T E O F N E W Y O R K

5463

2013-2014 Regular Sessions

I N A S S E M B L Y

February 27, 2013

Introduced by M. of A. SWEENEY -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to the Long Island Pine Barrens

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 57-0107 of the environmental conservation law is amended by adding a new subdivision 16 to read as follows:

16. "COMPLETE APPLICATION" SHALL MEAN AN APPLICATION FOR A COMMISSION APPROVAL WHICH IS IN A FORM APPROVED BY THE COMMISSION AND WHICH IS DETERMINED BY THE COMMISSION TO BE COMPLETE FOR THE PURPOSE OF COMMENCING REVIEW OF THE APPLICATION, BUT WHICH MAY NEED TO BE SUPPLEMENTED DURING THE COURSE OF ITS REVIEW AS TO MATTERS CONTAINED IN THE APPLICATION NECESSARY FOR THE COMMISSION TO MAKE ITS FINDINGS AND DECISIONS REQUIRED BY LAW. A COMPLETE APPLICATION SHALL INCLUDE SUCH DRAFT ENVIRONMENTAL IMPACT STATEMENT AS MAY BE REQUIRED PURSUANT TO ARTICLE EIGHT OF THIS CHAPTER.

S 2. Subdivision 9 and the closing paragraph of subdivision 10 of section 57-0121 of the environmental conservation law, subdivision 9 as amended by chapter 448 of the laws of 2005, the closing paragraph of subdivision 10 as amended by chapter 289 of the laws of 2006, are amended to read as follows:

9. Within three months of the effective date of this section, the commission shall publish interim goals and standards for development and for hardship before the land use plan is implemented in compatible growth areas identified in the map. The commission may vary the procedures and time periods for compliance with article eight of this chapter as necessary and appropriate to comply with the three month deadline of this subdivision. Upon such publication, development may proceed in such compatible growth areas subject to existing laws, regulations and approval procedures and subject to the review and approval of the

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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commission. Any person, the state or a public corporation applying for development in such compatible growth areas who has received all necessary local and state approvals may petition the commission for approval of the development. Within thirty days of [an] A COMPLETE application being received, the commission shall provide the applicant and any other interested party an opportunity to be heard. Notice of such hearing shall be published in a newspaper having a general circulation in the Central Pine Barrens area, and notice of such hearing shall also be given by registered mail to the chief administrative officer of each town and village within whose boundary any proposed development is located. If the proposed development is consistent with the commission's interim goals and standards, the commission shall approve the development and may include conditions for approval. If the applicant seeks an exemption based upon a demonstration of hardship, the commission may approve development in the compatible growth area upon the finding that such interim goals and standards caused an unnecessary hardship. In making such finding the commission shall consider the criteria for a use variance pursuant to section two hundred sixty-seven-b of the town law. The commission must make a decision within one hundred twenty days of receipt of a complete application. If the commission fails to make a decision within one hundred twenty days, the development shall be deemed to be approved by the commission, unless extended by mutual agreement of the applicant and commission.

Within thirty days of the COMPLETE application being received, the commission shall provide the applicant and any other interested party 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 title 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] COMPLETE 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] COMPLETE 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.

S 3. Paragraph (b) of subdivision 2 of section 57-0123 of the environmental conservation law, as added by chapter 145 of the laws of 1996, is amended to read as follows:

(b) The commission must make a decision ON A COMPLETE APPLICATION within [one hundred twenty days of the receipt of a complete application] THE TIME PERIOD ESTABLISHED PURSUANT TO SUBDIVISION TEN OF SECTION 57-0121 OF THIS TITLE. If the commission fails to make a decision within

[one hundred twenty days] THE AFORESAID TIME PERIODS, the development shall be deemed to be approved by the commission, unless extended by mutual agreement of the applicant and the commission. [The commission must make a decision within one hundred twenty days of asserting jurisdiction over a project that is before the commission based on the petition by a commissioner. If the commission fails to make a decision within one hundred twenty days of the date of asserting jurisdiction, the development shall be deemed to be approved by the commission, unless extended by mutual agreement of the applicant and the commission.] THE AFORESAID TIME PERIOD AND THE PROCESSING AND REVIEW OF AN APPLICATION SHALL BE SUSPENDED BY THE COMMISSION WITH NOTICE TO THE APPLICANT WHERE A PROCEEDING PURSUANT TO SECTION 57-0136 OF THIS TITLE IS PENDING AGAINST THE APPLICANT WITH RESPECT TO THE PROPERTY AT ISSUE OR OTHERWISE ARISING OUT OF THE OWNERSHIP OR USE OF SUCH PROPERTY.

S 4. This act shall take effect January 1, 2014 and shall apply to all applications received on and after such effective date.