STATE OF NEW YORK

7695

2021-2022 Regular Sessions

IN ASSEMBLY

May 20, 2021

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

AN ACT to amend the environmental conservation law, in relation to land use plan provisions for scientific research relating to the resources of the Central Pine Barrens and to the processing and approval of land use applications for projects relating to the Central 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 15 to read as follows:

15. "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 purposes 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 the 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.

§ 2. Paragraph (h) of subdivision 6 of section 57-0119 of the environmental conservation law, as added by chapter 262 of the laws of 1993, is amended and paragraph (q) is relettered paragraph (r) and a new paragraph (q) is added to read as follows:

(h) To contract for professional and technical assistance and advice**, and scientific research and activities to preserve, manage and restore ecological, hydrological, cultural and historical resources within the central pine barrens, the Long Island pine barrens maritime reserve and pine-oak and grassland ecological communities found in Suffolk county**;

(q) To undertake scientific research and activities to preserve, manage and restore ecological, hydrological, cultural and historical

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

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resources within the central pine barrens, the Long Island pine barrens maritime reserve and pine-oak and grassland ecological communities found in Suffolk county; and

§ 3. Paragraph (s) of subdivision 6 and paragraph (c) of subdivision 10 of section 57-0121 of the environmental conservation law, paragraph (s) of subdivision 6 as added by chapter 262 of the laws of 1993 and paragraph (c) of subdivision 10 as amended by chapter 289 of the laws of 2006, are amended to read as follows:

(s) Provisions for appropriate and relevant scientific research relating to the species, ecological communities and processes, natural landscape features, and surface and groundwater resources of the Central Pine Barrens necessary to ensure and enhance the long-term management of the preserve. Such research may be addressed in a cooperative effort with the state university of New York at Stony Brook through its biological research station, established by the department of ecology and evolution**, the state university of New York College of Environmental Science and Forestry and similar New York state academic institutions**.

(c) [~~An~~] **A complete** 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 title; 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 title 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 **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 **complete** 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 **complete** 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.

§ 4. Paragraph (b) of subdivision 2 and paragraph (c) of subdivision 3 of section 57-0123 of the environmental conservation law, paragraph (b) of subdivision 2 as added by chapter 145 of the laws of 1996 and paragraph (c) of subdivision 3 as amended by chapter 289 of the laws of 2006, are 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. 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 the commission. The commission must make a decision within one hundred twenty days of [~~asserting~~] **receipt of a complete application for a project over which the commission has asserted** 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.

(c) The commission must make a decision **on a complete application** within the time periods established pursuant to subdivision ten of section 57-0121 of this title. 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 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.

§ 5. This act shall take effect on the one hundred eightieth day after it shall have become a law and shall apply to all applications received on and after such effective date. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such date.