



**Commission Meeting of June 20, 2007
Brookhaven Town Hall, Farmingville, NY**

Present: Mr. Scully (for New York State), Ms. Carrie Meek Gallagher (for Suffolk County), Mr. Bartunek (for Riverhead), Ms. Prusinowski (for Brookhaven) and Mr. Shea (for Southampton)

**Resolution on the Letter of Interpretation Appeal
of Edwin Tuccio and Patricia Tuccio**

Whereas, Edwin Tuccio and Patricia Tuccio (hereinafter "Tuccio") own 52.3 acres of property with the Suffolk County Tax Map number 900-248-1-110.004 located in Westhampton in the Town of Southampton in the Core Preservation Area of the Central Pine Barrens as defined by Article 57 of the New York State Environmental Conservation Law (the "Property"), and

Whereas, the Property was part of a larger Core Preservation Area parcel owned by Tuccio which in 1990 totaled approximately 403.5 acres. In 1996, The Nature Conservancy, acting on behalf of New York State, acquired approximately 275 acres of the larger parcel for \$2,755,000. After the sale, Tuccio retained two parcels, the Property which is subject to this appeal and another parcel consisting of approximately 75 acres. Significant title issues related to the 75 acre parcel were resolved following a bar claim action by the placement of a conservation easement on 50 acres of the parcel and the issuance, in total, of 50 Pine Barrens Credits to various individuals. The parcel received a duly authorized Letter of Interpretation allocating 75 PBCs for the parcel, and

Whereas, the Property is developed with at least 15 buildings of various materials and sizes, outdoor storage areas, paved areas, and dirt roads actively used as a storage facility, and

Whereas, there has been no other property in the Central Pine Barrens area that has received Core Preservation Area Hardship Exemption and an allocation of Pine Barrens Credits. In the instant appeal, Tuccio has received two Core Preservation Area Hardship Exemptions for the Property, and

Whereas, on August 10, 1994, Tuccio applied for and received a Core Preservation Area Hardship Exemption from the Commission for the construction of two storage buildings on existing berms located on the Property, and

Whereas, on October 8, 1997, Tuccio applied for and received a second Core Preservation Area Hardship Exemption from the Commission to construct four additional storage buildings totaling 24,000 square feet on the Property, and

Whereas, the primary purpose of the Pine Barrens Credit Program

Peter A. Scully
Chair

Philip J. Cardinale
Member

Brian X. Foley
Member

Patrick A. Heaney
Member

Steve A. Levy
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according to the Central Pine Barrens Comprehensive Land Use Plan (the “CLUP”) is to “maintain value in lands designated for preservation or protection under the Plan,” (CLUP at §6.1), and

Whereas, the CLUP also provides that, “[p]artially improved parcels shall receive a decreased allocation based upon the extent of improvement.” (CLUP at §6.3.3.4), and

Whereas, Tuccio applied for a Letter of Interpretation for the Property and the Clearinghouse considered the application at least two of its meetings, including at its December 18, 2006 meeting, and

Whereas, the Clearinghouse by letter dated January 3, 2007, informed Tuccio that no Pine Barrens Credits could be allocated to the Property and this appeal ensued, and

Whereas, the Clearinghouse based its decision on, among other things, the extent of the improvement on the Property, the issuance by the Commission of two hardships for the Property and its determination that value has been maintained in the Property given the existing use of the Property, and

Whereas, the Commission held a public hearing on the Tuccio appeal on April 18, 2007. During the hearing, Tuccio’s attorney, Murray B. Schneps, made a presentation to the Commission and submitted additional documentation concerning the matter, and comments were received from the public on the appeal, and

Whereas, Mr. Schneps alternatively disputed whether Tuccio received any hardship approvals for the Property arguing, “we don’t believe that our client secured any hardship approvals in this case and the only reason that they (sic) are prior hardship approvals is that there’s no other mechanism for securing approval,” (Hearing at P.12, L.15-19), claimed that any hardship granted “should have been granted” given the Property’s condition, (Hearing at P.15, L.25), that Tuccio “should not be charged as having been granted a hardship exemption.” (Hearing at P.16, L. 10-11), and disputed the Clearinghouse’s determination that the Property was near the Town’s development limits, and

Whereas, the Commission has considered the materials submitted by Mr. Schneps, the testimony at the hearing, and the transcript of the hearing that was provided to the Commission,

Now, therefore, be it

Resolved, the Commission finds that six of the buildings on the Property were developed pursuant to Commission Core Preservation Area Hardship Exemptions, and be it further,

Resolved, the Commission, in reviewing the history of the Tuccio Property and larger Tuccio holdings, determines that value has been maintained in the Property and the larger Tuccio

holdings given the combination of acquisitions, hardships, allocation of Pine Barrens Credits, and the use, in part, of the Pine Barrens Credit Program to resolve title problems associated with a 75 acre portion of the Tuccio holdings, and be it further,

Resolved, in light of the number of buildings constructed on the Property pursuant to hardship exemptions and the continuing use of the facility, value has been maintained in the Property, and be it further,

Resolved, that the Clearinghouse's determination that no Pine Barrens Credits may be allocated to the Property is rationally based on the extent of improvement at the Property, and be it further,

Resolved, that the implementation of the Long Island Pine Barrens Protection Act of 1993 has not prevented the reasonable use of the Property; and be it further,

Resolved, the Tuccio appeal is hereby denied and the Clearinghouse's determination that no Pine Barrens Credits be allocated to the Property upheld.

Record of vote:

Motion by: Mr. Shea

Second by: Ms. Gallagher

Ayes: Mr. Scully, Ms. Gallagher, Ms. Prusinowski, and Mr. Shea

Nayes: None

Abstentions: Mr. Bartunek