

1	PINE BARRENS	COMMISSION
2		X
3	In the Matter	of,
4	Lett	er of Interpretation
5	re:	Joseph Frederick Gazza
6		
7		X
8		Town Hall
9		Riverhead, New York
10		
11		February 6, 2002
12		3:00 P.M.
13		
14	BEFORE:	George Proios
15		Acting Chairman
16		
17		
18	Reported by:	Donna L. Spratt
19		Court Reporter
20		
21		
22		
23		
24		
25		

1	MR. PROIOS: I will open the
2	public hearing. Please take notice that
3	a hearing on the Letter of
4	Interpretation appeals of Joseph
5	Frederick Gazza has been scheduled for
6	February 6, 2002 at 3:00 p.m. at
7	Riverhead Town Hall, 200 Howell Avenue,
8	Riverhead, New York. Said appeals are
9	made pursuant to Section 6.7.3.3 of the
10	Central Pine Barrens Comprehensive Land
11	Use Plan (the Plan).
12	The Central Pine Barrens Joint

The Central Pine Barrens Joint
Planning and Policy Commission will be
holding the appeal hearing pursuant to
Section 6.7.3.4 of the Plan. The
appellant was allocated 0.10 Pine
Barrens Credits in Letters of
Interpretation dated December 10, 2001
for each of two parcels: Suffolk County
Tax Map Parcel # 900-243-1-16, located
south of Sunrise Highway and west of Old
Riverhead Road, Westhampton, Town of
Southampton; and Suffolk County Tax Map
Parcel #900-308-1-5, located west of
Suffolk County Route 31 and southwest of

1	Stewart Avenue, Westhampton, Town of
2	Southampton.
3	Any persons who wish to comment on
4	the appeals are invited to attend the
5	hearing.
6	My name is George Proios, acting
7	chairman on behalf of Robert Gaffney,
8	Suffolk County Executive, chairman of
9	the Commission, and I'll let the others
10	introduce themselves.
11	MR. COWEN: Ray Cowen
12	representing Governor Pataki.
13	MR. MURPHREE: Jeff Murphree from
14	the Town of Southampton, representing
15	Supervisor Patrick Heaney.
16	MR. MACLELLAN: Joey MacLellan
17	representing Supervisor Robert
18	Kozakiewicz in Riverhead.
19	MR. RIGANO: James Rigano,
20	counsel to the Commission.
21	MR. RIZZO: Mark Rizzo, Pine
22	Barrens Commission.
23	MR. PROIOS: Brenda Prusinowski
24	will be joining us shortly representing
25	Supervisor John LaValle from the Town of

1	Brookhaven.
2	Mark, would you care to make a
3	presentation to the Commission?
4	MR. RIZZO: I have 11 exhibits
5	marked for evidence. We'll go through
6	them one by one.
7	The first is the cover sheet.
8	Exhibit 2 is a letter dated today,
9	February 6th, by Mr. Gazza giving the
LO	Commission until February 27, 2002 to
11	act on this appeal. The deadline had
12	fallen before your next meeting. This
13	gives you until the next meeting to act
14	on this appeal.
15	The third exhibit is the letter of
16	interpretation dated December 10, 2001
17	for tax map number 900-243-1-16 giving
18	0.10 of a credit for that lot.
19	Exhibit Number four is a Letter of
20	Interpretation dated December 10, 2001
21	for tax map number 900-208-1-5 giving
22	0.10 of a credit for that parcel.
23	Exhibit number five is a Letter of
24	Interpretation staff report for parcel
25	section 243-1-16 dated November 26, 2001

1	showing that's a .59 acre parcel. It is
2	a vacant parcel zoned Country Residence
3	200. It is five acres for the Town of
4	Southampton.
5	The next exhibit is Letter of
6	Interpretation Staff Report for parcel
7	308-1-5 that shows a .59 acre parcel,
8	vacant land and zoned Country residence
9	200 Town of Southampton.
10	Next is Exhibit 7 which is the
11	Suffolk County Real Property Tax Service
12	Agency map for Section 243 Town of
13	Southampton with the subject parcel
14	number 16 shaded in yellow.
15	MR. COWEN: Why does that say
16	Nature Conservancy?
17	MR. RIZZO: It is pointing to the
18	parcel on the right-hand side. There is
19	a little line, if you get a magnifying
20	glass.
21	Our next Exhibit, 8, is the
22	Suffolk County Real Property Tax Service
23	Agency map for Section 308, Town of
24	Southampton. Again the subject parcel
25	number five is shaded in yellow.

1	MR. COWEN: Different parcels?
2	MR. RIZZO: Yes. We now get to
3	Exhibit 9 which is a Geographic
4	Information System map prepared using
5	ArcView version 3.2, showing the subject
6	parcels in blue. The parcel to the
7	north in blue is section 243, book one,
8	lot 16, the one closer to Sunrise
9	Highway.
10	The other parcel is south of that,
11	almost directly south of that, section
12	308, block one, lot five. In the green
13	area are parcels owned by the County of
14	Suffolk. These are on old file maps
15	with paper streets.
16	Does anybody have any questions on
17	this particular map?
18	Exhibit 10 is another ArcView
19	map. This one is an overlay area
20	photo. The subject parcels are in a
21	yellowish or beige outline and also
22	showing the parcels in a magenta
23	outline.
24	Does anybody have any questions on
25	this map?

1	This last map, Exhibit 11, shows a
2	very good picture of the area. Two
3	vacant parcels outlined in yellow, and
4	we have aerial photos showing that the
5	area is all wooded. The only major road
6	to the north is Sunrise Highway and a
7	development into the southeast quadrant
8	of the area. We'll go through it.
9	Any questions?
10	MR. COWEN: What is that bowling
11	alley strip that goes down there?
12	MR. RIZZO: Could be a fire
13	break. That looks like it is part of
14	the right near the County of Suffolk
15	line.
16	MS. PRUSINOWSKI: Part of the
17	tennis bubble.
18	MR. RIZZO: I don't know.
19	MR. COWEN: It is not important.
20	What is the facility in the lower
21	left hand corner of that photograph?
22	MR. RIZZO: To be honest, I don't
23	know.
24	MR. MURPHREE: Part of Suffolk
25	County owned property. Former missile

1	site. What you're seeing is the police
2	shooting range.
3	MS. PRUSINOWSKI: What is the
4	access to that site?
5	MR. MURPHREE: Old Riverhead
6	Road, way down to the south.
7	MR. COWEN: Did you have anything
8	else to present to us?
9	MR. RIZZO: That concludes the
10	exhibits I have. Do you have any
11	questions?
12	MR. COWEN: One quick question.
13	Unless I misinterpreted what I was
14	reading, the third page in, it says
15	there are no known conditions on this
16	parcel which reduce the allocation of
17	Pine Barren credits.
18	MR. RIZZO: That's standard
19	language. If we knew there was a lien
20	or something.
21	MR. COWEN: Okay.
22	MR. RIZZO: It's standard
23	language that we put in. If we don't
24	have anything
25	MR. COWEN: Okay.

1	MR. PROIOS: Mr. Gazza?
2	MR. GAZZA: My name is Joseph
3	Frederick Gazza. I reside at Five Ogden
4	Lane, Quogue. I'm the owner of two
5	parcels we'll be speaking about for the
6	next ten or 15 minutes.
7	I made application to determine
8	the amount of credits that I could
9	obtain for those two parcels. An
10	application was prepared.
11	MR. RIGANO: Could we swear in Mr.
12	Gazza?
13	J O S E P H G A Z Z A, having first been duly
14	sworn by a Notary Public of the State of New York,
15	testified as follows:
16	MR. GAZZA: The two allocations
17	per Letter of Interpretation came out to
18	one-tenth of a credit for each parcel.
19	The parcels are almost six-tenths of an
20	acre each, and because of the size of
21	the parcel and the minimal amount of
22	credits offered, I decided to research
23	the code a little further, and I came up
24	with a section of the code that I was
25	going to focus on; Section 6.4-4-1, and

1	it pertains to the difference between
2	credits from described property and
3	mapped property.
4	Now, I think that what I'm going
5	to do is try and bring this point out.
6	It will take two minutes of your time.
7	I brought along a little paper example.
8	If you can follow through my example,
9	you will understand my whole argument.
10	I'll pass this out. Everybody gets one
11	piece of paper. You all have pens, so
12	you're ready for this already.
13	Does everybody have one? Let's
14	assume that this represents 100 acres of
15	land in the Town of Southampton in the
16	core Pine Barrens in CR 200 zone. This
17	parcel of land, how many credits would
18	be obtainable for this 100 acre tract?
19	I already figured it out. Mark figured
20	out this morning.
21	MR. PROIOS: 18?
22	MR. GAZZA: We shouldn't guess.
23	We should look at the program which
24	provides an allocation of .16 per acre
25	under our code that we work with. Is

1	that correct?
2	MR. RIZZO: Correct.
3	MR. GAZZA: If we could all agree
4	that the 100 acre parcel in this CR 200
5	zone is entitled to .16 credit per acre,
6	there would be an allocation of 16. Do
7	we all agree with that?
8	If we can't agree with that, we
9	can't take it to the next step. Is
10	there anyone who does not agree with
11	that?
12	MR. COWEN: Is that correct,
13	Mark?
14	MR. RIZZO: Yes.
15	MR. GAZZA: How do we get the 16?
16	We went to the Plan. The Plan says when
17	you have acreage we call acreage
18	described property because it's
19	described by meets and bounds or
20	boundary names. It is not described as
21	a map which might have a map name which
22	is a whole different type of land we'll
23	be talking about in a moment.
24	But for acreage, the Plan
25	determined that an applicant is entitled

1 to .16 Pine Barren credits per acre 2 under these circumstances. Why? Because 3 the Plan -- the drafters of this Plan recognized that before you can develop 100 acres into housing lots, you have to 5 6 make streets. You have to set aside 7 areas for drainage, for park land. 8 You're going to lose land and 9 you're not going to get, for example --10 especially if it was five acre lots --11 you would never get 20 out of 100 acres, 12 but their reasoning -- I studied the 13 reasoning and I've experienced it for 14 many years. Developing land is pretty 15 good because you will get about 16 lots out of 100 acres in a five acre zone. 16 17 So the planners used proper 18 reasoning, came up with this allocation 19 and that's what you get; .16 on 100 20 acres. Now, let's look at another piece 21 of land. Does everybody have one? 22 I have taken another 100 acre 23 track of land. We put this next to this

They are the same size, but this

one I have sectioned up into an old

one.

24

1	filed map. I have allocated the
2	percentage of land in the streets that's
3	in accordance with the Plan, so that my
4	yield on this 100 acre track of an old
5	filed map would be 16 200,000 square
6	foot lots. Each one.
7	So we have the two 100 acre tracts
8	that we're looking at. We know that
9	that tract of described land is worth 16
10	Pine Barrens Barren credits. The next
11	step is how many credits is the filed
12	subdivision map worth when we add up all
13	of the 16 200,000 square foot lots?
14	When you figure that out, then you know
15	my whole argument here this afternoon.
16	Mark, do you want to help us with
17	this?
18	MR. RIZZO: No, thank you.
19	MR. GAZZA: Then you have to take
20	my word for it. If you have a 200,000
21	square foot lot and you convert that
22	into acres, you divide 200,000 by
23	.43560, you come up with 200,000 square
24	feet of land, divided by .43560. We
25	have 4.59136 acres. We know under the

1	Plan that you get .16 of a Pine Barren
2	credit for every acre. That's what it
3	says in the Plan. We multiply that 4.59
4	times .16, and it gives you a yield
5	of .7346 per 200,000 square foot lot.
6	Did I lose anybody? I did.
7	MR. MURPHREE: Where are we going
8	with all this?
9	MR. PROIOS: Do that last part
10	again.
11	MR. GAZZA: For .59 acres which is
12	what a 200,000 square foot lot is when
13	you divide it by .43560 reduced to
14	acres, you go back to the Plan because
15	the Plan says that you get .16 Pine
16	Barren credits per acre if you're in the
17	CR 200 zone, so we multiply the 4.5913
18	times .16, and get .734677 acres.
19	I'll do it again. We got 4.5677.
20	That is the number of acres, multiply
21	that by .16, you get .7346 Pine Barren
22	credits for a 200,000 square foot lot.
23	We're all on track with that?
24	How many lots do we have in this
25	100 acre tract? 16, so we take that

there are 16 of those 200,000 square
foot lots using your formula, and we get
11.75 Pine Barrens credit. So 11.75
times 16. Remember, the pieces are the
same size, the land is next to each
other, it is in the CR 200 zone in
Southampton.

Why 16 credits for the described piece and only 11-and-three-quarter credits for the mapped piece? That is what has been perplexing me, and it started when I only got a tenth of a credit allocation. After reading the Plan several times, I came up with this top paragraph on page 100, and it addresses this very predicament, and maybe I could read to the Commission what it says.

Page 100 talks about the overview of the Southampton and Pine Barrens credit program. In different towns, the Plan has little peculiarities with the credits, where you could use them, how you could allocate them for different

uses, school districts. Each town talks about the credit allocations a little differently, but in the Southampton section they say that Pine Barren credits would be allocated to owners of these lands using the methods outlined in this chapter of the Plan. They're talking about the .16, but then they say however, in the case of old filed maps, allocation of Pine Barren credits does not include a yield factor. The yield factor is the .16. Why not?

It says since those lots were
platted with infrastructure allowances
that coincide with the town's existing
old filed map regulations, it and
results in a slightly higher allocation
of Pine Barren credits for these lots.
So I believe that the lots on filed
subdivision maps should get a little
higher allocation of credits then
acreage, raw acreage because you should
get 16 credits for this 100 acres just
like you're getting 16 credits for this
100 acres for the Plan to be fair and to

1 treat all land the same if it is in the 2 same zone, the same area and all the 3 other elements of a comparison are 4 identical except described property 5 versus mapped property. 6 If you took the streets out of 7 this subdivision map, you would get 16 8 credits on this, but you lose the land 9 to the streets. That's what it comes 10 down to. 11 What I want to do is request the 12 Commission to look at this allocation 13 and say you know, if someone has lots on 14 a map, they should get the same amount 15 of credits as someone who has acreage 16 next door, because this section of the 17 code addresses that in Southampton, and 18 it says that you already have the 19 streets in place. Therefore, the 20 allocation formula does not work the 21 same as it does on described property. 22

Now it is not a big jump. It is a very tiny jump, but the jump in credits reflects the fact that you have streets all over this subdivision which are

23

24

1	never going to be opened and which title
2	vests to the lots per deed anyway.
3	The chances are these streets will never
4	be dedicated. If we look at your key
5	map, the chances of those developments
6	opening up with municipal ownership of
7	70 percent, is already pretty minimal.
8	MR. COWAN: Continue the math
9	lesson and tell us what you think your
10	formula would be under your rules there.
11	MR. GAZZA: Tiny. I go from ten
12	percent of a credit to .129 of a credit.
13	MR. COWEN: Walk us through that.
14	MR. GAZZA: We know that if we use
15	the formula outlined in the Code and we
16	convert everything to acres and multiply
17	it by .16 per acre, you come up with a
18	tenth but
19	MR. COWAN: That is a default
20	number, because you come up with less
21	than that, but the minimum is a tenth.
22	MR. GAZZA: The minimum is a
23	tenth. Because my parcels are so large,
24	we come up with .0944 almost, rounded up
25	to a tenth anyway. But because my

parcels are six-tenths of an acre each, if you take this six-tenths of an acre and you convert it to square feet, one parcel has an area of 25,800 square feet and another 25,600 square feet.

We take a parcel, as they do in Southampton when they work with old filed maps, everything is based on zoning size of lots on a per square foot basis which is what this section of the code addresses.

We take, for example, on lot number 16 which has 25,800 square feet of contents and we divide that by 200,000 which is the minimum plot size for the zone which this is located in, and it gives us a yield of .129 which is exactly what I'm asking for.

We're only talking about
three-hundredths, actually, if you round
it off, but it's in accordance with -the Plan addresses this, and every
hundredth of a credit becomes important
to me, because I'm trying to build up
credits, and three-hundredths on each

1	piece, that's another six-hundredths.
2	Pretty soon I'll have a tenth, and I
3	have numerous other parcels that I have
4	recently submitted to Mr. Rizzo for
5	consideration, and they're all of the
6	same nature. They're all on maps.
7	They're all going to yield slightly
8	more, a few hundredths more using this
9	method of credit allocation.
10	I would like you to review it,
11	think about it. If you feel that the
12	code addresses this as I do on page 100
13	and you follow the reasoning of my two
14	comparisons, then you have to agree,
15	unless there is something wrong with my
16	thinking.
17	MR. MURPHREE: By the Code, you
18	mean the Pine Barrens Plan?
19	MR. GAZZA: The Pine Barrens
20	Plan. We're talking about paragraph
21	one, page 100 of your volume one, Policy
22	Program Standards Pine Barrens
23	Comprehensive Land Use Plan.
24	MR. RIGANO: What are you
25	suggesting? If both parcels are .59

1	acres, what are you requesting in terms
2	of an allocation?
3	MR. GAZZA: I'm requesting to be
4	bumped up from one-tenth percent of a
5	credit to .129 percent of a credit.
6	MR. RIGANO: How did you get
7	that?
8	MR. GAZZA: I take the land area.
9	I worked it down to square footage, it's
10	25,800 square feet for lot 16. I divide
11	that by 200,000 which is the zoning size
12	in the Town of Southampton and that
13	yields .129. That is in accordance with
14	the top paragraph, if anyone would like
15	to see that.
16	I know it is a small increase but
17	I think it applies to mapped lots in
18	Southampton Town, and it should be a
19	procedure that's followed in allocating
20	credits, not only to my application but
21	to future applicants.
22	MR. PROIOS: Have we ever used
23	that particular paragraph before?
24	MR. RIZZO: No.
25	MR. PROIOS: Any specific

1	questions for Mr. Gazza, because what
2	I'm going to do is put Mark on the spot,
3	but I want to ask the Clearing House to
4	look at this. If Mr. Gazza would like
5	to do his presentation before them or
6	have Mark relay it, but I think we need
7	to have their input as well to see how
8	it is going to affect the whole entire
9	program or in Southampton Town.
10	MR. GAZZA: On maps.
11	MR. COWEN: It describes
12	Southampton Town, the page 100?
13	MR. GAZZA: That is what it says.
14	MR. COWAN: How would you
15	distinguish that from the Town of
16	Brookhaven? Why is it different?
17	MR. RIZZO: This was one of the
18	sections that was in there. They
19	overviewed the Southampton plan.
20	MR. MURPHREE: Does Brookhaven
21	have old filed maps?
22	MR. RIZZO: I don't recall that
23	MS. PRUSINOWSKI: Southampton has this
24	provision.
25	MR. RIZZO: in the code, how to

1 deal with them because you have so much 2 within the core of the Pine Barrens. 3 MR. GAZZA: Southampton has 4 tackled the old filed map problem 15, 18 5 years ago and, in effect, they required 6 a developer on an old filed map to meet 7 the zoning in order to be able to build 8 on his lot by code amendment. If you 9 had a one acre lot in a five acre zone, 10 you had to break that one acre lot up to 11 five acres in order to get a building permit, and you did that through 12 13 development rights. 14 Now we're doing it through Pine 15 Barrens credits transfer which is really 16 the same thing using a different name, 17 but Southampton has had this in their 18 It has been a way of handling the 19 maps, and everything comes down to 20 square footage based on zoning. 21 When you have a CR 200 square foot 22 zone, that becomes the denominator; 23 200,000 square feet. You put your lot 24 area over the top. That is what your

percentage of a development right

1	becomes or by today's rules, what a Pine
2	Barren credit should become in
3	accordance with that section of the
4	code.
5	If you were talking about acreage,
6	we wouldn't do it that way. Then you go
7	back to the Plan, because it is not a
8	map. Big difference. It is the
9	streets.
10	MR. COWEN: Interesting
11	observation. We'll look into it.
12	MR. RIGANO: Let me ask you a
13	question. The development yield factor
14	is .16 credit per acre. There is
15	another way to implement the math that
16	gets you to a slightly lower
17	allocation. That is, if the way the
18	development yield factor was arrived at
19	is by reducing the development yield by
20	20 percent for roads and other
21	infrastructure.
22	MR. GAZZA: Exactly. Twenty
23	percent.
24	MR. RIGANO: That's how it works
25	out. If you take the 20 percent out of

1	that .16, the point .16 becomes .2 per
2	acre and you just multiply that by your
3	.59, and I think you get something
4	slightly less.
5	MS. PRUSINOWSKI: Yes, you do.
6	You get .118.
7	MR. GAZZA: The difference is the
8	Southampton Town Code provides that a
9	five acre zoned lot CR 200 has an area
10	content of 200,000 square feet whereas a
11	five acre lot would be a 5.6 acre
12	lot or something.
13	MR. PROIOS: We discussed this
14	quite a bit, the discrepancy depending
15	on how you describe it.
16	MR. GAZZA: I'm hanging my hat on
17	your Code and I'm glad I found this
18	section because I think that gives me
19	the edge to get this couple hundredths
20	extra if it is on a filed map, only if
21	it is in the Town of Southampton.
22	MR. COWEN: When you do your
23	calculations under the Plan using the
24	yield factor, do you use the zoning
25	category size of the property, the

1	200,000 or the actual five acres?
2	MR. RIZZO: Five acres.
3	MR. COWEN: Mr. Gazza, off the top
4	of your head, you've alluded to the fact
5	that you have other parcels that you
6	want to apply this to. Off the top of
7	your head in the core area of the Pine
8	Barrens, how many such parcels do you
9	think you own?
10	MR. GAZZA: Up until a month ago I
11	didn't have any left. I had a couple,
12	but I've been buying. I bought maybe
13	ten pieces in the last two months. I
14	bought them after Mr. Zizzi (phonetic)
15	stirred up the market, so to speak, by
16	offering people \$20,000 a credit and
17	sort of jumped the value of a credit in
18	the Town of Southampton, and I
19	recognized that there are credits to be
20	bought for less than \$20,000 a credit,
21	and I've been taking advantage of that
22	opportunity, that business opportunity.
23	For that reason alone, I have
24	purchased maybe about ten pieces in the
25	last month-and-a-half, small pieces;

half acre, acre, two acres. People are becoming frustrated. I worked with the list that Mr. Rizzo has provided.

People are motivated to market land for Pine Barrens credits.

1

2

3

5

7

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

People have been holding on for municipal acquisition which hasn't happened. People were holding on for results of a lawsuit which has been put together by a property rights group a lot of the people belong to, which has been dragging on and wearing people down and the people have received their tax bills in the last month, and this is the perfect time to move into the buying mode because combined with the frustration of the property owner who can't use his land, where government won't buy it from him -- there's no money, either the town or County or the State -- and they get a tax bill that increased -- the taxes went up in Westhampton district 11 percent, in the Flanders district 22 percent in one year.

1	All these factors are pushing
2	people to move on their land, either by
3	selling them or abandoning them or
4	donating them.
5	MR. COWAN: That was a lot more
6	answer than I needed, but
7	MR. PROIOS: Any other questions
8	of Mr. Gazza? Are there any members of
9	the public wishing to address the
10	Commission on this credit appeal?
11	If not, I will recess the public
12	hearing and leave the comment session
13	open so we could gather additional
14	information from the Clearing House and
15	anyone else who has it and, hopefully,
16	we'll have the ability to act on this at
17	our next meeting.
18	MR. RIZZO: You'll keep the
19	comment period open till the next
20	meeting?
21	MR. PROIOS: Yes.
22	MR. COWEN: Who will take this
23	back to the Clearing House?
24	MR. PROIOS: Mark, do you
25	understand your charge?

1	MR. RIZZO: Yes.
2	MR. GAZZA: I would be happy to
3	accompany to you make a presentation if
4	you feel it would be necessary or
5	appropriate. Tell me a time and date,
6	I'll be there.
7	(TIME NOTED: 4:00 P.M.)
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	

1	
2	
3	CERTIFICATION
4	
5	
6	
7	I, DONNA L. SPRATT, a Notary
8	Public in and for the State of New
9	York, do hereby certify:
10	THAT the foregoing is a true and
11	accurate transcript of my
12	stenographic notes.
13	IN WITNESS WHEREOF, I have
14	hereunto set my hand this 12th day of
15	February 2002
16	$\Lambda$
17	Marin & less
18	10 to law Synav
19	DONNA L. SPRATT
20	
21	
22	
23	
24	
25	