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PINE BARRENS COMMISSION  
PUBLIC HEARING

Re: JOSEPH GAZZA

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August 20, 2003  
3:00 p.m.

Southaven Park  
Yaphank, New York

B E F O R E:

GEORGE PRIOIS, Chairman

REPORTED BY: Lorraine D. Berardi

ACCURATE COURT REPORTING  
6 FRANCES COURT  
PORT JEFFERSON, NEW YORK 11777  
631-331-3753

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A P P E A R A N C E S:

JANET LONGO, Commission Member

BRENDA PRUZINOWSKI, Commission Member

JEANNE COMPETILLO, Commission Member

JOHN MILAZZO, Esq.

ED RANDOLPH, Staff Commission

JAMES RIGANO, Esq., Counsel to Staff

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THE CHAIRMAN: I'd like to open up this public hearing. My name is George Priois. I'm the Chairman of the Commission on behalf of Robert J. Gaffney, County Executive, who is the Chairman of the Commission.

I'll ask the other members of the commission to identify themselves and who they represent.

MR. SHEA: My name is Marty Shea. I'm representing Patrick Heeney of the Town of Southampton.

MS. COMPETILLO: Jeanne Competillo, representing Supervisor John J. LaValle, Town of Brookhaven.

MS. PRUZINOWSKI: Brenda Pruzinowski representing John J. LaValle.

MR. SCULLY: Peter Scully, representing the Governor of the State of New York.

MR. RIGANO: James Rigano, Counsel to the Commission.

THE CHAIRMAN: For the record,

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this is an appeal for a letter of interpretation. The applicant is Joseph Gazza and the property is located on Flanders Boulevard and Maple Avenue in Flanders, the Town of Southampton, New York. It's tax map number 900-167-2-7, 8, 9 and lot 900-167-3-8.

The applicant requests an increase in the amount of Pine Barrens credits for the subject parcel.

SPEAKER: Just briefly, there's a map here and an aerial in front of you. The aerial shows the four subject tax lots that we are discussing today and in addition to that there's another sheet with some color coded lots. There are also development lots, six development lots here and Mr. Gazza is looking for an increase from 3.32 credits to a total of six credits for these six development lots and he's been before you a few months ago regarding a grandfathered subdivision

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-Gazza-

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map, land approval map that was put  
into place by the Town of Southampton.  
Today he is going to go ahead and  
explain to you what it is that he has  
come across through research at  
Southampton Town Hall and working with the  
Town Hall and the Planning Department  
there.

I'll let him go ahead and staff  
counsel -- commission counsel go ahead  
and let them explain to you a little  
further what they both found.

THE CHAIRMAN: Thank you.

Could we have Mr. Gazza sworn in,  
please.

J O S E P H G A Z Z A,

after having first been duly sworn by a  
Notary Public of the State of New York,  
testified as follows:

MR. GAZZA: Thank you,  
Mr. Chairman.

This has been going on for at  
least six to eight months but I think  
we are nearing completion. There's

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been quite a bit of research that has been accomplished by staff, by myself, by the Town of Southampton and I believe we are at the point where we recognize that we are dealing with a subdivision map in the Town of Southampton that has been approved by the Planning Department and it is approved for building purposes for single-family dwellings and I do own, with my son, four parcels upon this approved development map which has been designated as six approved development parcels by the Town of Southampton, Planning Department. That approval took place after the magic date of June 1, 1993, which would mean that in a map that is approved by the town after that date would not be subject to the stringent Pine Barrens Core Regulations and would be, in my opinion, exempt as a non-development activity because the lots appear on the map that has been approved by the town

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after the June 1, 1993 date. I am  
citing ECL57-0107-13-9 of that  
exemption.

Continuing on, counsel for the  
commission and I have reviewed this -  
and there is always another opinion  
about whether something is exempt or  
not and I do respect counsel's opinion  
so I'm going to take it to the next  
step and we're going to hopefully prove  
to the commission today that the area  
that my parcels are in is a developed  
area already. The map which has been  
provided, the aerial photograph, shows  
the four Gazza parcels. It's hard to  
see but they are outlined and they are  
also shown on the other map that Steve  
provided to you.

As you could see, they are on the  
edge of a very substantial developed  
area. There's homes on almost every  
lot just to the west of my subject  
parcel. My parcels also have homes to  
the east of them, to the north of them.

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They are scattered, but they are lesser -- to a lesser degree than the substantial development adjacent to the west.

The aerial map also shows the existence of certain dirt roads which are the filed map streets that have been opened. They've been opened for a number of years and these filed map streets give access to my six approved development parcels. They are not improved to the degree of asphalt, concrete curbing, but they are loam based and in some instances they have stone on them and the roads in some cases are passable with a regular automobile. Some cases you need a jeep, but the roads are there any they have been there and I did provide, at a prior meeting with the commissioners, a letter from the Southampton Town Superintendent of Highways, dated 4 October 2002, stating that the main road in question, Flanders Boulevard,



1  
2 is -- has provided the following  
3 services by the Town of Southampton;  
4 Twice a year the town grades the roads  
5 to insure emergency vehicle access and  
6 when the Superintendent of Highways  
7 declares an emergency, the road is  
8 cleared of debris or snow or tree  
9 limbs and storms and also has  
10 a spring and fall cleanup of leaf and  
11 brush are completed by the town. So  
12 it is a road which is --

13 MS. COMPETILLO: Wait a minute.  
14 That's not the dirt road --

15 MR. GAZZA: On the Flanders  
16 Boulevard which is a dirt road. That  
17 is correct.

18 There is some degree of  
19 improvement and maintenance by the  
20 Town of Southampton.

21 There is a section of our Pine  
22 Barrens Code Guidelines referring to  
23 6.7.6.6 that provides that lots that  
24 exceed 4,000 square feet, that front  
25 on an approved road, be allocated one

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credit each. That's another point that  
counsel for the commission and I have  
wrangled over a little bit as to what  
constitutes an approved road.

There's a dirt road and it's  
maintained sometimes by the town, an  
approved road or need it be a paved  
road to be an approved road.

It's a gray area and I guess we  
have differing opinions on this -  
Whether that constitutes an approved  
road for this section of the code.

However, I did find out with the  
assistance of Mr. John Milazzo of the  
Water Authority that the Water  
Authority itself is, at this time,  
contemplating a pumping facility which  
is shown on this map provided to me by  
Mr. Milazzo's office and as you could  
see the proposed pumping facility for  
the Suffolk County Water Authority  
which is shown -- the Water Authority  
property is on the south side of  
Main Boulevard as it intersects with

1  
2 the Flanders Boulevard which is the  
3 two roads that I am proposing -- if I'm  
4 not granted the credit appeal -- I'm  
5 proposing to build on my lots -- on my  
6 lots will take access from Main  
7 Boulevard to Flanders Boulevard. So  
8 although these roads are dirt and  
9 semi-maintained at the present time,  
10 the Water Authority site plan,  
11 preliminary site plan indicates some  
12 type of improvement for Flanders  
13 Boulevard and the Main Boulevard to  
14 get access to their pumping station  
15 facility and their treatment building.

16 So there's something that's going  
17 to happen adjacent to my property in  
18 the near future.

19 I had provided photographs at a  
20 prior hearing showing the condition of  
21 the road and the improvement at the  
22 well site -- I'll pass these around --  
23 which were taken several months ago  
24 showing the activity underway by the  
25 Water Authority on this property.

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-Gazza-

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THE CHAIRMAN: Could we have a  
timeout for a second.

(Discussion held off the record.)

MR. MILAZZO: Joe, do you want to  
mark some of these as exhibits?

MR. GAZZA: These have all been  
provided as part of your files.

Possibly if we could refer to the  
files - the commission has all of the  
maps I'll be speaking about - I won't  
have to give you -- I'll give you  
these -- I can use these for discussion  
purposes.

MR. SHEA: Sure.

Just so the issues are clear, you  
are coming before the commission and  
the clearinghouse to appeal your  
credit allocation. You're looking for  
an increase of that allocation up to  
six credits. Is that correct?

MR. GAZZA: Yes.

MR. SHEA: And your basis for  
that is that you have final plot  
approval from the planning board which

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-Gazza-

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predates the effective date of the plan and that entitles you to six building lots. Is that correct?

MR. GAZZA: That's part of my application, yes.

MR. SHEA: And as part of your appeal to the commission and part of your appeal to the clearinghouse you are willing to provide the appropriate TDR documentation to show that you meet the conditions of the town's final plot approval that is by sterilizing a sufficient amount of land in order to comply with the conditions of the final plot approval.

MR. GAZZA: Yes.

MR. SHEA: And to legally establish those lots as six buildable lots; is that correct?

MR. GAZZA: That's correct.

MR. SHEA: Has that been done yet? Have you already sterilized land that you're offering -- you're bringing before the commission at this time to

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show that those requirements have been met?

MR. GAZZA: That's on page 2 of my presentation. I didn't quite get to that yet but bear with me a couple of moments, I'm almost there.

MS. COMPETILLO: I'm interested in the six lots that you mentioned. Could you clarify that.

MR. GAZZA: The -- I actually have as shown on your aerial, I actually have four tax lot parcels. There's only four. However, the Town of Southampton in their redesign of the subdivision map which was accomplished back on 9/8 of 1988, they redeveloped this entire subdivision map and the town examined the subdivision and they created mergers and separations of lots taking into consideration the environmental features of the area, the wetlands, roads that should be opened, orderly developments, infrastructure that is

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proposed to occur in the future. In their wisdom, they have determined that those four tax lots that my son and I own, are capable of six residential building lots -- have been approved for six residential building lots.

The letters which --

MS. COMPETILLO: There's five --

MS. LONGO: We've determined that one was exempt. We took -- April 16 -- we took one and --

SPEAKER: We were looking to further -- Jeff Murphree came back with a map stating that -- believed all the lots exempt. We were looking at the zoning -- increasing the density -- there wasn't enough density there --

MR. SHEA: It certainly is the position of the town that those lots are exempt; however, Joe is before the commission for a credit allocation and to appeal the initial credit allocation.

Locally, the way the process works

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is that he does have final plot approval from the Planning Board that I believe dates back to 1988.

Prior to filing for a building permit, he would have to come forward with the appropriate TDR documentation to the Planning Board to show that he has met the conditions of approval and that he has sterilized sufficient off-site land to transfer the appropriate development lots to establish these six buildable lots.

The development rights can either come from other sections of this old filed map or they can come from outside that old filed map. Once that is done he, essentially, gets a letter or no objection from the Planning Board and can proceed with filing for a building permit on those lots.

If you look at the town code for the Town of Southampton, an old filed map approval is defined as a subdivision. So that is -- because



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2 it's a subdivision -- that final  
3 subdivision approval predates the  
4 effective date of the plan. That's the  
5 reason why the town has been -- that these  
6 lots are exempt.

7 BOARD MEMBER: I still don't  
8 understand the five versus the six.

9 MR. GAZZA: I can answer that.

10 This parcel in the corner which is  
11 approved development parcel number  
12 43 and 44 was not addressed in the  
13 letter from Kyle Collins on  
14 February 24, 2003. Those are the extra  
15 two lots.

16 BOARD MEMBER: One lot.

17 MR. GAZZA: It's one tax lot  
18 parcel but it's been approved as two  
19 residential development parcels by the  
20 town. This was not part of the initial  
21 application of last year because it's  
22 size exceeds the zoning size.

23 As a developer of real estate, I  
24 always analyze the cost involved with  
25 undertaking a development and making

1  
2 these lots, the building lots, and  
3 the infrastructure extension, the time  
4 delays, the cost of money. I have  
5 created a little estimate to decide  
6 whether it would be in my best interest  
7 to build out of the lots or to preserve  
8 the lots and accept credits to be used  
9 in a more compatible growth area which  
10 is what the focus of the plan is as I  
11 understand it, and I recognize that  
12 to build out the lots, I have to comply  
13 with regulations of the Town of  
14 Southampton. The Planning Department  
15 has a list and I have analyzed that  
16 list and studied what other owners of  
17 lots in my immediate area on the same  
18 old filed map, on the dirt road, have  
19 had to comply with in order to make  
20 their lots buildable lots to support a  
21 home that exists, and the first thing  
22 is the road does have to be improved  
23 beyond its present condition and the  
24 Planning Board has determined, in  
25 connection with another development

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parcel adjacent to my property that the development cost per parcel would be \$6,000 of gross improvement contributions per development parcel. I have provided that to the staff. It's part of your file.

So I'm looking at six lots, possibly, that were approved by the town. So I'm going to have to spend approximately \$6,000 per lot to improve the roadways to obtain approval from the Town of Southampton to build on these lots.

I'm also going to have to extend utilities to these lots. Although they are very close to highly developed areas, there is that extension to have utilities required and I first applied to the Suffolk County Water Authority and I asked them if utilities would be provided to my lots for free based upon this new proposed well field which is developed and the new proposed road system and utility extension of

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electricity which is going to go to  
the front of my lots --

MR. MILAZZO: Just for the  
record -- John Milazzo, Commission to  
the Staff, attorney -- the board has not  
made a final determination on the roads  
or the location of the mains or  
anything coming out.

MR. GAZZA: That decision is  
still pending. However, I will report  
that the photographs -- the photographs  
indicate one well has been driven  
already. It's already a very  
substantial well. A person could climb  
into it. And clearing is underway and  
I met only today at 1:00 with a  
representative, Steven Allworth of LIPA  
who provided me with a cost estimate  
for providing electricity to my lots  
and he informed me that he has an  
application before him at this time  
from the Suffolk County Water Authority  
for a three-phase electric extension to  
their facility which is being reviewed

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2 by LIPA at the present time, and I  
3 was provided with a letter - which I  
4 will submit to the commission -  
5 indicating that electricity will be  
6 provided to my properties, six  
7 development parcels, for free,  
8 regardless of the Water Authority  
9 application because the lots fall  
10 within the required distance and LIPA  
11 has approval already from the Town of  
12 Southampton to extend overhead  
13 utility service on the developed  
14 section of the map, and therefore,  
15 there would be zero cost for  
16 electricity to my six lots.

17 Mr. Chairman, maybe we could make  
18 this part of the file.

19 MR. SHEA: Regarding the Suffolk  
20 County Water Authority site, you said  
21 that wells have been dug. Are these  
22 test wells that you are referring to?

23 MR. GAZZA: No, we have a well  
24 that is -- shown in the bottom  
25 picture -- it's either 28 or 30 feet in

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diameter. It's a -- maybe  
Mr. Milazzo would elaborate --

MR. MILAZZO: I believe it's a  
test well at this time but I'm not  
sure.

MR. GAZZA: It's the largest well  
I've ever seen.

Continuing with the businessman's  
approach to this, the Water Authority  
indicated that if their facility is  
disregarded and I asked for a water  
main extension to all of my lots, there  
would be a cost to me to have it done  
today of \$79,550 and that cost estimate  
has been provided to the commission  
already as part of your file.

So I'm looking at 36,000 for the  
road, zero for the electric, 80,000 for  
water, and I have to bring in  
development rights to satisfy the  
Southampton Town requirements to build  
these lots up to the full development  
size parcels which is, from my benefit,  
in an area is in a CR40 zone which is

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2 40,000 square feet per parcel which  
3 makes the lot in a one-acre zone and I  
4 don't have to bring in a tremendous  
5 amount of rights. If the lots were in  
6 a five-acre zone, which would be just a  
7 little bit south of this property, I  
8 would have to bring in five times as  
9 many rights but fortunately I'm on the  
10 right side of the line, one-acre zoning  
11 and I can comply with less square  
12 footage for development rights in  
13 order to build on the parcels but there  
14 is a cost for that because I have to  
15 buy the lots, I have to preserve them,  
16 and that's the developers cost.

17 I've allocated for development  
18 rights that I need which are, as  
19 outlined in my letter, about 107,400  
20 square feet; about two and a half  
21 acres. That has to be preserved in  
22 order to allow these six lots to be  
23 capable of being utilized for six  
24 single-family dwellings.

25 Now, I thought that I would

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accomplish this by providing two and a half acres, submitting the deeds on my application to your commission for review for Pine Barrens credit once the land had been examined by your own title division and you are acceptable that the land could be preserved and you were in a position to place a conservation easement on the property to preserve it, that we could place that easement on two and a half acres of land and at that time the six credits I'm asking for, six development parcels that the town approved, could be delivered to me to accomplish that two and a half acre preservation, I've already secured one parcel of 58,000 square feet - about an acre and a half. It's been presented; the title has been examined. Ms. Longo of the Commission has prepared a conservation easement that's awaiting my signature. However, I chose not to sign that because I'm prepared to sign it for zero credits



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2 instead of the credit allocation that  
3 would come from that to obtain the six  
4 credits that I'm asking for on this  
5 appeal. I'm still a little short,  
6 still a little over an acre short, but  
7 I'm willing to get that extra acre of  
8 land to preserve it after you have had  
9 a chance to review it and you like the  
10 area, the school district, the zone,  
11 everything meets your satisfaction, and  
12 at that time I would be granted the  
13 six credits.

14 Alternatively, go back to the  
15 dollar and cents figures which is the  
16 way my mind works, I have two builders  
17 in the area who are already anxious to  
18 buy my lots. The homes that they build  
19 I have provided -- I can't pass this  
20 photo around -- but I have provided  
21 this to the commission already. They  
22 have a house for about \$249,000 that  
23 they package out and it would go  
24 perfectly on these lots. The home  
25 builders have stated to me that if I

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can deliver a lot fully approved, paved road, water, electric, building permit ready to go, they are providing \$70,000 a piece. So I've got six lots at 70,000, that's \$420,000 or I get six credits and I forego the building. I don't have to build the road, I don't have to pay for the water extension. I do have to preserve the other two and a half acres of land which I'm prepared to do, and I take those six credits and I gamble on that they're going to give me more money and more return than the sale of the six lots. So I make a business decision and I made it. I said if I could get six credits, one for each of the approved development parcels, I could preserve the two and a half acres of land, I don't build the road, I don't extend the water, I'll do this and I'll take the six credits and the land which -- the land which we're talking about, there's four parcels of those six lots shown in

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yellow which is adjacent to your  
Suffolk County Water Authority  
Development Well System, can be forever  
preserved, and I think that that's  
something that gives this application  
a little something extra. This land  
was just in the middle of another  
developed area. You might look at it  
a little differently but it's adjacent  
to your deep well source. It's going  
to supply water for the whole area. I  
could tell by the site plan that it  
contains a number of wells and wells  
here (indicating). And it's an  
important element for this whole area.  
I think Mr. Milazzo will confirm that.

MR. MILAZZO: I will confirm  
that we have 12 acres there.

THE CHAIRMAN: What's the total  
acres involved in those parcels that  
you would be turning over to us?

MR. GAZZA: I can tell you right  
now it's 132,600 square feet of the six  
approved development lots which is the

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four tax lots. 132,600 square feet.  
A little over three acres.

BOARD MEMBER: Marty, can I ask  
you a question?

MR. SHEA: Sure.

BOARD MEMBER: Do you agree with  
Mr. Gazza's assumption that he would  
only need to sterilize two and a half  
acres to meet -- to basically get his  
six buildable lots?

MR. SHEA: I haven't actually  
done the analysis myself nor have I had  
a chance to review it with Kyle  
Collins, the Town Planning Director,  
so I would have to go through those  
steps first to verify that.

The two and a half acres that  
would be sterilized for the purposes of  
the TDRs would those lots be in the --  
or are those lots located in the core  
preservation area or outside of the  
core?

MR. GAZZA: Well, since I only  
have 58,000 presently available for

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2 you, Ms. Longo could confirm that that  
3 parcel is in the core preservation  
4 area. The Flander's school district  
5 is in the immediate area of the parcels  
6 that I'm choosing to develop and that's  
7 the town requirement that they be in  
8 the same school district. They want it  
9 close and I would be prepared to  
10 provide the other 49,400 in the same  
11 area.

12 THE CHAIRMAN: You have lead us  
13 to some issues, is there any reason  
14 why you don't have one on the 2.5  
15 acres?

16 MR. GAZZA: This particular  
17 parcel, Mr. Chairman, is an acre and  
18 four-tenths and I was close to  
19 accepting the Pine Barrens commission  
20 allocation of credit for this because  
21 you're -- you offered a little bit  
22 more than a credit and a half already  
23 for this one parcel. We were close.  
24 I didn't pursue that when I pursued  
25 these other applications.

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BOARD MEMBER: I believe you said Mr. Murphree at one of our past meetings had confirmed that that particular 1.4 acre lot could easily have subdivision approval on the subdivision map.

MR. GAZZA: Approved as two development parcels.

THE CHAIRMAN: With respect to the importance of the well field, does anybody know what direction the ground water is flowing; is it going from his parcel down towards the well field? Do you know that yet? So it is part of the contribution somewhat?

MR. MILAZZO: George, just so the record is clear, we only need eight acres.

MR. GAZZA: Well, it would make a nice addition to the preservation adjacent to the Suffolk County Water Authority well field.

I'm offering it to you today, I'm offering the extra land to be

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-Gazza-

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preserved; I'm asking for six credits.  
I think it's a fair trade.

Alternatively, I'll have to pursue  
six residential building lots.

BOARD MEMBER: It also has  
132,000 square feet shown here --

MR. GAZZA: I'm offering 132,600  
is the area of the six development  
parcels. I'm offering an additional  
107,400 square feet.

BOARD MEMBER: That's 2.3 acres.

BOARD MEMBER: I'm confused  
though. Previously you had -- I  
thought it was the same acreage, maybe  
it wasn't -- you said you would accept  
one credit for each four lots that --  
you were talking four lots at that  
time --

MR. GAZZA: It has changed  
because initially the acre and a half  
parcel wasn't included in my  
application before you which you had  
already offered a little bit over  
an acre - 1.5 credits. I was close to

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-Gazza-

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accepting that. These other parcels --

BOARD MEMBER: You are looking  
for an extra half --

MR. GAZZA: I'm offering an extra  
half --

BOARD MEMBER: You're asking for  
six now though.

MR. GAZZA: I am because I'm  
offering the six development parcels  
and the extra land to build them all up  
to an acre each. If you want to pull  
one out and let me build on one piece  
that is not part of the equation, we  
could do that. I prefer to do it all  
or nothing but if you're suggesting  
that I take out one piece, take a  
little bit less credit and build one  
of two houses --

BOARD MEMBER: I'm not suggesting  
anything. I'm just asking you to try  
to explain why it changed from the last  
time you discussed this.

I don't see how we can analyze  
this without knowing from the town



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whether they agree with his  
assumption.

If they say no, no, you need to  
sterilize more than two and a half  
acres to make those six buildable  
lots --

THE CHAIRMAN: I want to hear  
from our attorney. We can't have this  
ongoing discussion for public hearing  
purposes.

BOARD MEMBER: I'm sorry, we're  
developing the record, George. It's  
very important. He's making  
assumptions. There's a town  
representative here and I need to know  
whether that's a fairly accurate  
assumption. If it's way off base and  
we have inaccurate information before  
us and you can't make a decision based  
on inaccuracies.

MR. SHEA: Just so I can respond  
to that: prior to coming to this  
hearing I did meet with Kyle Collins  
and Jeff Murphree in the Town of

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Southampton and they indicated that Joe would meet the requirements in terms of the conditions of the final plot approval and in terms of the required TDRs. I did not get verification from them that two and a half acres needed to be sterilized. Whether or not Jeff Murphree at a prior hearing made a statement verifying that, I don't know or whether or not other documentation was submitted by Joe from the town verifying that.

Do you have the original conditions of subdivisions approval or do you have something from Kyle Collins, any analysis that shows that indeed two and a half acres needs to be sterilized and transferred?

BOARD MEMBER: We have something regarding the five parcels but not the six. So that letter is referring to from February 24<sup>th</sup> from Kyle Collins gives a brief overview of the density

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-Gazza-

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but I don't know -- Jim, have you been  
in contact with them --

MR. RIGANO: Not regarding the  
exact number of acres. That is  
something for the town to evaluate.

THE CHAIRMAN: So if nobody has  
that we'll have to wait until our  
next meeting to get that information.  
So we are not going to be able to act  
on this today. So that's the one  
question that you have -- is there  
anything else you want to add for the  
record?

MR. GAZZA: On that issue,  
Mr. Chairman, I'm in a CR40 zone which  
calls for zoning size plots to contain  
40,000 square feet. I am prepared to  
build these parcels up to 40,000 square  
feet each through preservation of other  
properties in order to obtain one  
credit for each 40,000 square foot  
parcel with its rights.

There's going to be -- it's going  
to be complicated to go through the

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process with the town - it's going to take probably months - they have the review process for transferring development rights. There's a bonus factor when we preserve land in a CR200 zone going to a CR40 zone. I believe it's either two or two and a half times the right. There's very -- very complicated. Probably only a handful of people that accomplished it and gone through it in the 15 years that the Town of Southampton had their program in place.

If I go through this for the next several months with the town and I get all my rights approved and the town gives me a stamped map and I go through all the processes it's really in my best interest to build out six houses and --

BOARD MEMBER: But understand, we can't give you six credits unless we know they are truly buildable lots.

MR. RIGANO: Forgetting about

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the commission's approval, if you are going to get the six credits, wouldn't you have to go through that process anyway to sterilize these lots?

MR. GAZZA: I'm to sterilize all the lots and the rights for -- I'm going to get rights for the parcels and bring each of the six lots up to 40,000 square feet to get the one credit.

MR. RIGANO: So you would have to go through that anyway - I think what you're saying is without the approval -- if you're going to go through that process, you might as well just build but if you got the approval subject to going through that process, then you might as well take the six credits.

MR. GAZZA: Well, the town process is cumbersome. Mr. Shea can advise us - it takes months to go through the old file map --

MR. RIGANO: But you are -- if

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you knew you were going to get the six credits and you went through it, that would be okay, you would take the six credits. I think that's what you're saying.

MR. GAZZA: I would accept the six credits - the six development parcels with the added -- right -- to bring it up to 40,000 square feet to resolve this at this time. This has been pending now for eight months. I've been before you three or four times.

BOARD MEMBER: It's your burden to show that you truly have six lots out there if you're looking for six credits.

MR. GAZZA: Six approved development parcels that front on, in my opinion, improved roads. They're approved by the town. At the time that came after your act which makes them exempt in my opinion. I'm in a developed area. I've proven to you

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that the infrastructure extensions are minimal compared to the value of the lots as buildable lots. I'm really offering you preservation of the six lots. It's your call. If you want to see six houses instead, I'll go through the process.

MR. SHEA: Joe has six legal buildable lots obviously conditioned upon the necessary TDRs regarding getting confirmation from the town, two and a half acres, is the total -- the transfer -- I can certainly get that confirmation and bring it to the next meeting.

MR. RIGANO: Marty, I have a couple of other questions for you. Excuse me if I am putting you on the spot here, but -- so, with regard to the installation of these roads, Mr. Gazza would have the right to put in the roads if he got the building permit?

MR. SHEA: Yes.

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-Gazza-

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MR. RIGANO: And --

MR. SHEA: It would be subject to a road review committee, but yes.

MR. RIGANO: And these roads have to be built and designed in a certain way.

BOARD MEMBER: Would it require the 380 for construction of homes -- for the construction of homes they would have to get road approval.

MR. SHEA: Yes.

MR. RIGANO: Beyond the number of acres that he would have to sterilize, are there certain location requirements in terms of the school district or zoning?

MR. SHEA: The credits, I believe they would have to be transferred to the same school district. The credits would not have to come from the same developed plot but they have to come from the same school district.

MR. RIGANO: And do we know



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right now if there's title issues or related issues that would prevent the issuance of credits?

BOARD MEMBER: I believe a title search has not been done on some of the parcels.

BOARD MEMBER: I think -- I wasn't involved with this. I don't know which ones you are referring to --

BOARD MEMBER: There's an easement of --

MR. GAZZA: I haven't placed the easements but I have easements from Ms. Longo which I haven't executed.

BOARD MEMBER: For the subject here - the six development -- the ones you are looking for are the -- but the 58,000 square foot lot does have easement rights to be executed.

MR. GAZZA: All lots have their title in a marketable condition. I know that because I wouldn't build on a lot that didn't have a marketable

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title and I know that Ms. Longo  
wouldn't accept a conservation easement  
of a lot that didn't have a marketable  
title because she would have to examine  
and make that decision after title  
examination came back from the county.  
So I will represent that all lots would  
have marketable titles that would  
either be built on or preserve them  
being built upon in addition to the  
lots that would be preserved to allow  
this development to take place.

MR. RIGANO: I have some other  
thoughts but I don't think they need  
to be on the record.

THE CHAIRMAN: Does anyone have  
any questions for the applicant or  
counsel? Are there any comments from  
the public?

(Whereupon, there was no  
response.)

THE CHAIRMAN: Does anyone from  
the public want to address the  
commission concerning this matter?

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MR. OLSEN: Yes, my name is Walter Olsen. Speaking as a resident in the Flanders area, I would urge the commission to go ahead with this credit appeal and grant the extra credit based on the availability of the other two and a half acres. The reason I say that is as a Flanders resident, the already overburdened school district of Riverhead of which we are a part, does not need the extra children that will come in the six houses. I would normally support development but in this particular case where Mr. Gazza is willing to forego the development, I think it could be a very good thing particularly due to the already overburdened Riverhead School District.

I urge you to grant the extra credits and to do it in an expeditious fashion. Thank you.

THE CHAIRMAN: Anyone else?

(Whereupon, there was no response.)

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THE CHAIRMAN: I will close the public hearing. I'll leave the record open for any additional information the applicant would like to provide the commission especially relating to those additional threats that might be necessary to get the buildable lots.

I leave this open to the next commission --

MR. RIGANO: Off the record.

(Whereupon, there was a discussion held off the record after which the following transpired.)

THE CHAIRMAN: Please mark these exhibits.

(Whereupon, the above-referred to document, a Memo dated February 24, 2003 to Joseph Gazza from Kyle Collins, was marked as Exhibit 1, as of this date.)

(Whereupon, the above-referred to document, a Letter dated July 24, 2003 from Joseph Gazza, was marked as Exhibit 2, as of this date.)

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(Whereupon, the above-referred to document, a Map, was marked as Exhibit 3, as of this date.)

(Whereupon, the above-referred to document, an Aerial Map, was marked as Exhibit 4, as of this date.)

THE CHAIRMAN: I would like to revise my earlier statement and say that we will close the hearing and not leave the record open.

(Whereupon, this hearing was concluded at 5:30 p.m.)

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E X H I B I T S

EXHIBIT	DESCRIPTION	PAGE
1	Memo dated February 24, 2003, to Joseph Gazza from Kyle Collins	44
2	Letter dated July 24, 2003, from Joseph Gazza	44
3	A Map	45
4	An Aerial Map	45

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C E R T I F I C A T E

I, LORRAINE D. BERARDI, a Court Reporter  
and Notary Public of the State of New York, do  
hereby certify:

That the witness whose examination is  
hereinbefore set forth, was duly sworn, and that  
such examination is a true record of the  
testimony given by such witness.

I further certify that I am not related to  
any of the parties to this action by blood or  
marriage; and that I am in no way interested in  
the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my  
hand this 30th day of September, 2003.

LORRAINE D. BERARDI







# Town of Southampton

116 Hampton Road  
Southampton, NY 11968


DEPARTMENT OF LAND MANAGEMENT  
PLANNING DIVISION

JEFFERSON V. MURPHREE, AICP  
TOWN PLANNING AND DEVELOPMENT ADMINISTRATOR

KYLE P. COLLINS, AICP  
TOWN PLANNING DIRECTOR

Telephone 631 287-5735  
Fax 631 287-5706

TO: Joseph Gazza

FROM: Kyle Collins, AICP, Town Planning Director 

RE: Old File Map of Riverhead Estates: Approved Development Parcels and TDR Requirement

DATE: February 24, 2003

Dear Mr. Gazza:

Your letter, regarding approved development parcels and TDR requirements for the Old Filed Map of Riverhead Estates, dated February 8, 2003 has been reviewed.

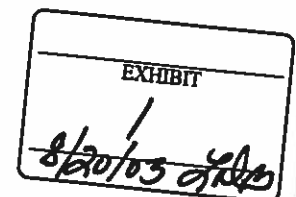
Staff makes the following findings:

1. The following development parcels:
  - a. Block 11, Lots 49-55, App. Dev. Pl. No. 57, Area – 14,000, sq. ft.
  - b. Block 15, Lots 49-53, 93-96, App. Dev. Pl. No. 70, Area – 18,000 sq. ft.
  - c. Block 15, Lots 84-92, App. Dev. Pl. No. 71, Area – 18,000 sq. ft.
  - d. Block 15, Lots 79-83, App. Dev. Pl. No. 72, Area – 10,000 sq. ft.
  - e. Block 15, Lots 66-78, App. Dev. Pl. No. 73, Area – 26,000 sq. ft.

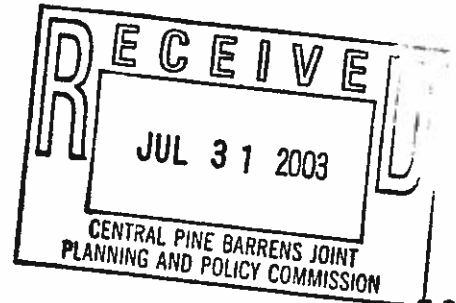
were approved for development rights pursuant to Section 330-56-C by the Planning Board on August 8, 1988.

2. The transfer of development rights from CR-200 Zone to the CR-30 Zone is based upon the formulas:  $\text{development right} = \text{core lot area} \times 2.5 / 200,000$ .
3. The calculations done on the amount of TDR area needed from the CR 200 zone to make the CR-40 lots full development parcels are correct.

Please contact the Planning Division with any further questions.



Joseph Frederick Gazza  
 Attorney at Law  
 P.O. Box 969, 5 Ogden Lane  
 Quogue, NY 11959  
 Tel. (631) 653-5766



7-24-2003

Pine Barrens Commission

Re: Old Filed Map of Riverhead Estates, Section D, Filed 7-8-1914, No. 547

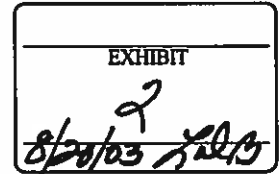
900-167-2-7	BL 15	L 49-53, 93-96	Dev. Pcl. No. 70	Area	18,000 s.f.
	BL 15	L 84-92	Dev. Pcl. No. 71	Area	18,000 s.f.
900-167-2-8	BL 15	L 79-83	Dev. Pcl. No. 72	Area	10,000 s.f.
900-167-2-9	BL 15	L 66-78	Dev. Pcl. No. 73	Area	26,000 s.f.
900-167-3-8	BL 19	L 1-7, 21-25	Dev. Pcl. No. 43	Area	30,300 s.f.
	BL 19	L 8-20	Dev. Pcl. No. 44	Area	30,300 s.f.

Total Area for 6 Lots at present 132,600 s.f.  
 Total Area for 6 Zoning Size Lots 240,000 s.f.  
 107,400 s.f. needed

Dear Commission Members,

I respectfully request to Appeal the Pine Barrens Credit LOI for parcels:

900-167-2-7	from	.9	to	2
900-167-2-8	from	.25	to	1
900-167-2-9	from	.65	to	1
900-167-3-8	from	<u>1.52</u>	to	<u>2</u>
Total offered		3.32	Total Requested PBC 6	



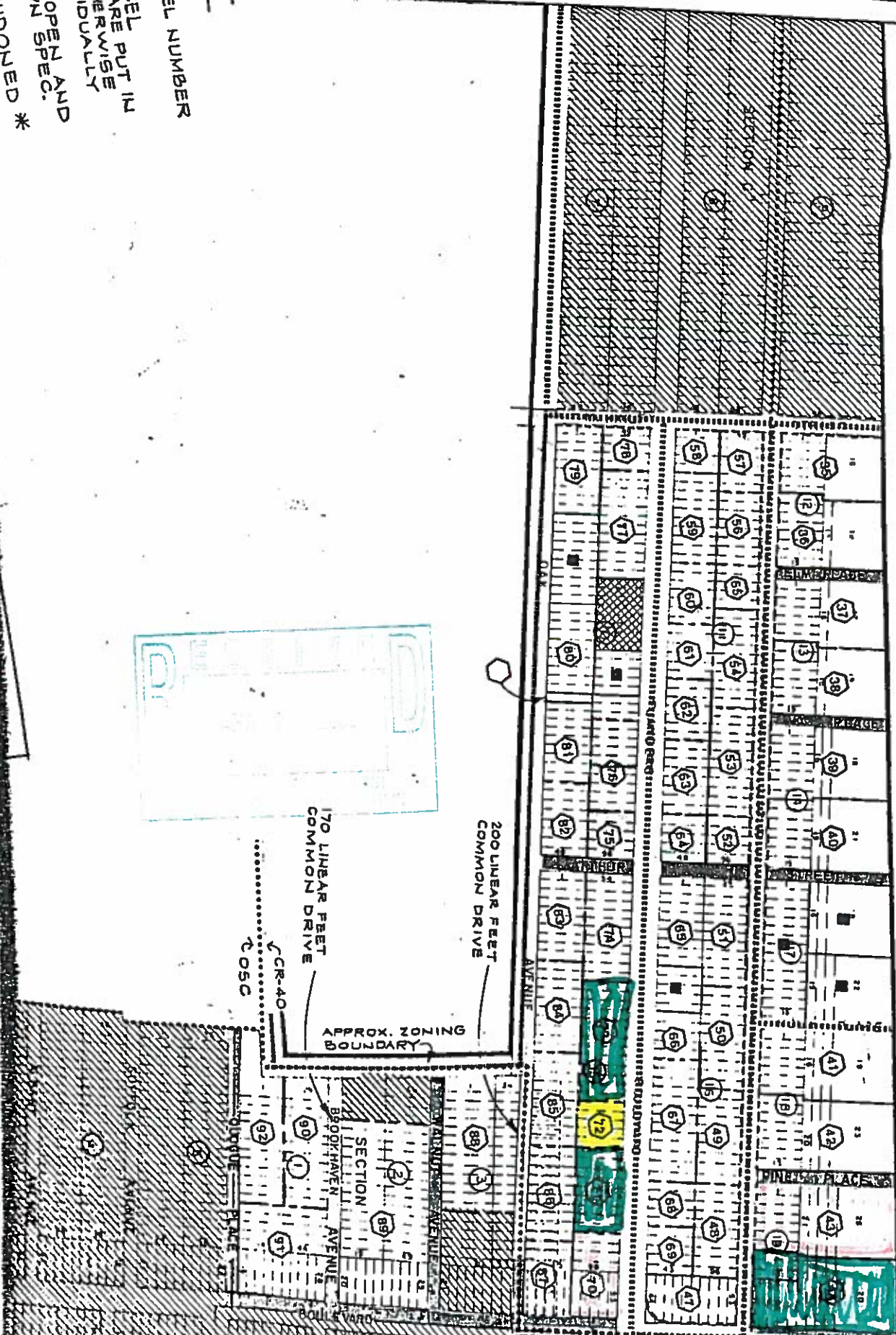
Reasons Supporting Appeal Request

1. Southampton Town Planning Board Approved Plat of 9-8-1988 shows 6 Approved Residential Development Parcels of my property, refer to map & Town's Planning letter, copy attached. My parcels should qualify for an ECL §57-0107 (13) (ix) exemption in order that Residential Homes may be built upon the parcels. (Pre 6-1-1993 Town Approved Residential Development Map).
2. Your current aerial map, copy attached, shows physical features;
  - A) Many area homes contribute to this substantially developed area (9.1.1 (xi) ). (A factor to be considered for Core Hardship Exemptions).
  - B) Subject parcels front on existing improved roads. Although roads are dirt at present, homes exist upon them (see aerial).
    - (i) Refer to Town of Southampton Highway Dept. letter of 10-4-2002 regarding Town maintenance of Flanders Blvd.
    - (ii) 6.7.6.6 provides that Lots over 4,000 s.f. that front on improved roads should be allocated 1.0 PBC each.
    - (iii) Refer to SCWA site plan dated 11-14-02 which shows proposed improvements to Flanders Blvd. and Main Blvd. (Road, public water, and electric) to be undertaken in connection with Flanders Well Field Project.

It is my contention that under Southampton Town Zoning regulations, I have 6 Development Parcels that could support 6 Residential Dwellings. To be in compliance with Town Zoning, it would be required to complete a "fair share" of Road Improvements per Lot that is to be developed. The Town Engineer determined in connection with the Development of Approved Dev. Pcl. No. 75 adjacent to my 6 parcels that the cost estimate for Road improvements for 1 Development Parcel to be \$6,000.00, see report attached. A request has

EXHIBIT  
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8/20/05 *AKC*

CELL NUMBER  
ARE PUT IN  
OTHERWISE  
INDIVIDUALLY  
IN OPEN AND  
OWN SPEC.  
\*  
ABANDONED



**LEGAL NOTICE FOR PUBLIC HEARINGS ON 8/20/03 AT 3:00 PM**

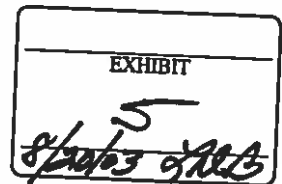
**Letter of Interpretation Appeal**

**Applicant/Owner: Joseph Gazza**

**Location: Flanders Blvd & Maple Ave. Flanders, Town of Southampton, NY**

**Suffolk County Tax Map #s : 900-167-2-7,8,9 & 900-167-3-8**

**Project Description:** Applicant requests an increase in the amount of Pine Barrens Credits for the subject parcels.



le to the Suffolk County Water Authority to determine the cost of water main extension to reach the six  
esent. The SCWA prepared a estimate for main extension on 4-15-03, copy attached, in the amount of  
\$79,550.00. A request had been made to LIPA/Keyspan to determine the cost of Electric/gas extension to reach the  
six Lots at present. LIPA/Keyspan prepared an estimate for their utility extension on \_\_\_\_\_-03, copy attached,  
the amount of \$ \_\_\_\_\_. Thus, the infrastructure improvement costs for 6 lots would be approximately  
\_\_\_\_\_ (to be provided).

The six parcels are in need of Development rights originating from the Riverhead/Flanders School District  
necessary to build each parcel up to Zoning Size ie 40,000 s.f. Therefore a total of 107,400 sq. ft. of land would be  
necessary to be preserved to allow the 6 Development Parcels to be approved for Building Permits. As a condition  
for your grant of this 6 credit appeal, I would preserve 107,400 s.f. of land in the Riverhead/Flanders School  
District by placing conservation easements on the following parcels without receiving any credits:

- |                       |               |                  |
|-----------------------|---------------|------------------|
| 1. 0900-215.02-01-064 | (58,000 s.f.) |                  |
| 2. 0900-              | (49,400 s.f.) | (to be provided) |
| Total                 |               | 107,400 s.f.     |

I have been in negotiations with two of the most active Home Builders in the Flanders Area; 1. Sea and  
Surf Properties LTD, Westhampton Beach tel. (631) 288-2703, and 2. New Age Builders Inc., Hampton Bays, tel.  
(631) 728-6644. Both have expressed a desire to purchase from me all six lots at \$70,000.00 per lot provided each  
lot is fully approved with a building permit, road work, with utilities in place. A flyer of a new home recently sold  
at \$249,000 in the immediate area of our 6 Lots is attached. It is economically feasible to undertake all  
infrastructure improvements and sell the 6 Lots for Residential Development purposes.

This is a unique credit appeal for unique parcels adjacent to the new Flanders SCWA Well Field and Pump  
Station. Should your Comission not be inclined to grant the requested credits, please render a determination as to  
which if not all of the 6 parcels qualify for the ECL §57-0107 (13) (ix) exception.

Very Truly Yours,

  
\_\_\_\_\_  
Joseph Frederick Gazza

attachments

cc: file

: James Rigano Esq. Counsel

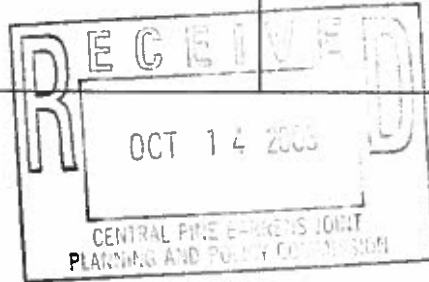
**LORRAINE D. BERARDI  
 ACCURATE COURT REPORTING  
 6 FRANCES LANE  
 PORT JEFFERSON, N. Y. 11777  
 ID# 11-2987992 - 631-331-3753**

# Invoice

DATE	INVOICE #
10/9/03	778

<b>BILL TO</b>	<b>RE:</b>
Suffolk County Water Authority Pine Barrens Commission P.O. Box 587 3525 Sunrise Highway Great River, N. Y. 11739	Public Hearing Gazza

**OK TO PAY**  
**PINE BARRENS ACCOUNT NUMBER**  
 145 01 22 94 2202



<b>DUE DATE</b>	<b>RE:</b>
11/8/03	

DATE	DESCRIPTION	QTY		AMOUNT
8/20/03	Public Hearing Transcript	48	5.50	264.00
	Court Reporter Appearance fee			50.00
	After 5:00 appearance fee			25.00
	Postage and handling			3.85
	<i>Letter of Application Hearing Transcript</i>			

Thank you for your business!	Subtotal	342.85
	0% Tax	
	<b>Total</b>	<b>342.85</b>

Joseph Gazza  
LDC Appeal Request  
2001 Aerial

