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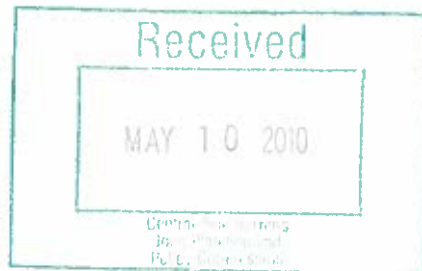
THE STATE OF NEW YORK  
NYS CENTRAL PINE BARRENS COMMISSION

-----X  
In the Matter of

American Physical Society Core  
Preservation Area Extraordinary Hardship  
Waiver

Location: One Research Road, Ridge,  
New York

Suffolk County Tax Map Number  
200-459-1-1.4



-----X  
**Tuccio Credit Appeal**  
**900-248-1-110.4**

Town of Brookhaven  
One Independence Hill  
Farmingville, New York 11738

Wednesday, April 21, 2010

The above entitled matter came on for hearing at 3:45 p.m.

Original Exhibits in file  
under Credit Program SCTM 900-248-1-110.4



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100-548-1-1104  
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A P P E A R A N C E S :

CENTRAL PINE BARRENS JOINT PLANNING AND POLICY  
COMMISSION

PETER SCULLY, CHAIRMAN

MARTY SHEA, Representative of Town of South Hampton

JOHN TURNER, Representative of Brookhaven Town  
Supervisor

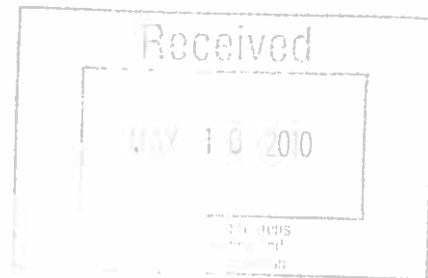
BRENDA PRUZINOSKI, Representative of Town of Brookhaven  
Supervisor

DAN MCCORMICK, Representative of Rivherhead Town  
Supervisor

JULIE HARDGRAVE, Environmental Planner

JOHN MILAZO, Pine Barren Commission Attorney

\* \* \*

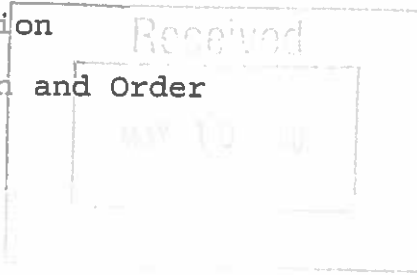


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1  
2 CHAIRMAN SCULLY: I'll read from the notice.  
3 This is a public hearing for Edwin and Patricia Tuccio,  
4 Suffolk County Tax number 900-248.1-110.4.

5 Central Pine Barrens Joint Planning and  
6 Policy Commission will hold a public hearing on April  
7 21, 2010 at 3:00 p.m. at the Brookhaven Town Hall to  
8 determining the number of the Pine Barrens credits for  
9 Suffolk County tax map parcel 900-248.1-110.4 owned by  
10 Edwin and Patricia Tuccio. The parcel is 52.30 acres and  
11 is zoned LI-200. The current use of the parcel is for a  
12 mini storage warehouse facility. The parcel is locate in  
13 the core preservation area of the Central Pine Barrens  
14 south of Sunrise Highway on the west side of County  
15 Route 31, north of Gabreski Airport, Westhampton, Town  
16 of Southampton.

17 I will ask the representatives to identify  
18 themselves for the record.

19 MR. MCCORNICK: Dan McCormick for Supervisor  
20 Sean Walter of the Town of Riverhead.

21 MR. SHEA: Marty Shea, for Supervisor Anna  
22 Throne Holst.

23 MR. TURNER: John Turner representing turn  
24 Town of Brookhaven Supervisor Mark Lesko.

25 MS. PRUZINOSKI: Brenda Pruzinoski,

1 representing Town of Brookhaven Supervisor Mark Lesko.

2 CHAIRMAN SCULLY: Peter Scully, representing  
3 the Governor of State of New York. Mr. Milazo?

4 MR. MILAZZO: Good afternoon. This is a  
5 unique case. This is a hearing to determine how many  
6 credits to allocate to a piece of property owned by  
7 Edwin and Patricia Tuccio in the Town of Southampton.  
8 The property is located in Westhampton.

9 I'll give you a couple of things. Applicant  
10 attorney is here. Whenever we can we will go over  
11 exhibits. Here's the exhibits.

12 The property is owned by Edwin and Patricia  
13 Tuccio. It is a piece that is a 52 acres in size. It is  
14 developed with a mini storage facility. The mini storage  
15 facility has received two commission hardship approvals.

16 There was a third commission application  
17 for a third hardship approval which was withdrawn and  
18 that was in the year 2000. The Tuccios had this piece in  
19 1995. It consisted of 403 acres. Subsequent to that they  
20 sold part of it to the Nature Conservancy for the State  
21 New York in 1996. They then received in 2004 and 2005 --  
22 they had a settlement on a title issue which effected 50  
23 acres of the former 403-acre parcel and they resolved  
24 that with the Court ordered stipulation and also had a  
25 Pine Barrens credit conservation placed on the property,

1 50 credits were allocated to the Tuccios and various  
2 people with competing land claims in settlement of that.  
3 Another 50 acres. That left 52 acre piece of the 403, 52  
4 acre piece and another piece I don't know the exact,  
5 maybe 16 acres that has the shooting range. It's not  
6 part of this application --

7 VOICE: I have no idea.

8 MR. MILAZZO: It's part of the 403-acre  
9 parcel that existed in 1985. Their application is back  
10 before you because the Tuccios applied for a letter of  
11 interpretation; were issued a letter indicating no Pine  
12 Barrens credits would be issued to the parcel; that  
13 letter was issued January 2007.

14 The Tuccios commenced litigation at  
15 Supreme Court. The Commission prevailed and Supreme  
16 Court judge had those findings as to the Pine Barrens.  
17 The decision was upheld and issued zero credits. They  
18 appealed that. They had a favorable ruling of the Second  
19 Department which remitted the case back to the  
20 Commission for determination on how many credits should  
21 be issued to the parcel.

22 So what we have is a prepared Exhibit,  
23 basically a history of the parcel and Exhibit I would  
24 like to have marked and given to the stenographer; our  
25 Commission exhibits are always alphabetical and our

1 exhibits are A. Through U.

2 (Exhibits A-U were so marked and received  
3 in evidence.)

4 MR. MILAZZO: What I think would be appropriate  
5 is if the applicant made his presentation then we can  
6 make ours if that's okay. So the issue before us due to  
7 the Second Department decision it remitted the matter  
8 back to the Commission for determination on how many  
9 credits to allocate.

10 MR. KRUYNSKI: You said "U" it is actually  
11 W.

12 MR. MILAZZO: Yes, I am sorry.

13 AMNENDED: (Exhibits A-W were marked and  
14 received in evidence.)

15 MR. KRUYNSKI: Michael Kruzyński, 21 East  
16 Second Street, Riverhead, New York, 11901 for the  
17 applicant. Do you want me to give my presentation?

18 MR. MILAZZO: Yes.

19 MR. KRUYNSKI: Mr. Milazo apparently has  
20 put together an extensive background of what he  
21 indicated is the history of the parcel.

22 I would respectfully disagree with him and  
23 submit to the Commission the parcel before the  
24 Commission is a 52.299 parcel that is a separately  
25 assessed tax lot. This issue went up to the Appellate



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1 Division. There was the issue of whether the Commission  
2 could consider the applicant's other holdings in the  
3 area, including other parcels, sales of other parcels,  
4 sales of other Pine Barrens credits related to those  
5 parcels, and I think the Appellate Division decision  
6 clearly indicates that is not a proper consideration  
7 under the Pine Barrens credit program.

8 I believe, I just received Commission  
9 exhibits three minutes ago, but I believe the Appellate  
10 Division decision, which is Exhibit A, I think if you  
11 take a look at that, unless the Commission wants me to  
12 point to the specific paragraph of the decision, I know  
13 it's in there, so I would start off by submitting that  
14 whatever is in the Commission's exhibits submitted by  
15 Mr. Milazo, has no bearing as to the application that is  
16 back for an appeal.

17 We are back here for a redetermination, if  
18 you will. At this juncture I would also like to place a  
19 statement on the record, since I haven't had opportunity  
20 to go through this inch and a half stack of documents  
21 prior to a few minutes ago, I would reserve my right on  
22 behalf of the applicant to object to any expansion of  
23 the record.

24 It's my understanding based on the  
25 Appellate Division's decision, it was sent back for a

1 new determination, it's our position that the record  
2 consists of what was submitted to the clearing house and  
3 the hearing and any documents that were submitted to the  
4 Commission at the prior hearing.

5           So, I guess what I am saying is, since I  
6 haven't had a reasonable opportunity to review  
7 everything that is in here, I would like to reserve my  
8 right to do so. The applicants may have objections to  
9 specific documents that were not part of the municipal  
10 return, if you will, and were not before the Appellate  
11 Division. So I am just going to do that.

12           MR. MILAZZO: On behalf of the Commission I  
13 encourage them to give them as much time as they need.  
14 Our reading of the determination is slightly different  
15 from the applicant, which is to be expected.

16           MR. MCCORNICK: Is there anything in here  
17 that was not part of the underlying record?

18           MR. MILAZZO: Yes.

19           MR. MCCORMICK: Can you identify them?

20           MR. MILAZZO: The most important thing is  
21 Exhibit N. This is significant. I suspect they'll need  
22 time to ponder it. Exhibit N. So when we had this --  
23 after the decision came down, we reviewed the Commission  
24 resolutions and we found a resolution which established  
25 as for determining when to look at a parcel, the parcel

1 status fixing a date -- I'll start over. The resolution  
2 fixed a date for determining what a parcel is, the  
3 purposes of allocating Pine Barren Credits. That is  
4 significant. What it said was the date you look at the  
5 parcel is in 1995. Therefore that's why we went through  
6 -- went through the history, this is parcel 95, this is  
7 what is happening with respect to this parcel. That is  
8 news to you.

9 MR. KRUYNSKI: Sorry to interrupt. It's not  
10 news. Maybe the resolution you are pointing to as  
11 Exhibit N maybe news to me but this exact argument was  
12 presented by the Attorney General's office and was  
13 rejected by the Appellate Division.

14 A review of the brief of the Attorney  
15 General's office on the appeal has specific argument  
16 that the parcel to be considered was at the date of the  
17 Pine Barrens Act in 1995. That issue, our position is,  
18 has been resolved.

19 The Appellate Division decisions  
20 specifically indicates what is before us, what the  
21 application concerns is the 52.3-acre parcel. The  
22 Appellate Division decision does discuss some of the  
23 history that it was part of the larger 403.5-acre  
24 parcel. So it's our position that it is not a new  
25 argument that was specifically raised and rejected by

1 the Appellate Court. That is why we are here with what  
2 we believe is a separately assessed tax lot as of the  
3 date of the application which is a 52 acres parcel.

4 MR. MILAZZO: In response. The argument was  
5 made at the Second Department. They are correct. What we  
6 found was a resolution of the Commission fixing the date  
7 was not brought to the Second Department's attention.  
8 While the argument was made to the Second Department in  
9 context of maintaining value on the parcel, this  
10 resolution fixes prior to the issuance of the letter of  
11 interpretation the date the Commission looks at a parcel  
12 in determination how to allocate credits. That is  
13 significant departure and if you use the resolution and  
14 just use the allocation formula with the resolution of  
15 this body on how to allocate credit, and you put equal  
16 weight with the formula that they use to issue credit to  
17 the property. Again I appreciate that this is new to you  
18 and of course we'll give you time.

19 THE WITNESS: Rather than do this all day  
20 why don't you make your argument or if you want to  
21 reserve --

22 MR. KRUYNSKI: One more quick point. Just  
23 because the issue has been raised.

24 MR. MCCORMICK: Counsel, given the fact you  
25 haven't seen certain material in here and your client



1 has a right to due process and the right to effective  
2 assistance of counsel, are you seeking adjourning so you  
3 can review them and address it accordingly?

4 MR. KRUYNSKI: I'll proceed and see how  
5 the hearing develops; if necessary, leave the record  
6 open, and if we need to adjourn, come back at a later  
7 date, I don't see any reason to postpone what I'm here  
8 today prepared to talk about. I presume the counsel for  
9 the Commission is prepared. As long as it's not going to  
10 be me presenting the applicant's position and then the  
11 other side saying let's adjourn until next time -- I  
12 don't think that would be fair. If we are putting our  
13 cards on the table I think we all should be.

14 MR. MILAZZO: The deck has been played.

15 MR. KRUYNSKI: It haven't heard any  
16 recommendation. Again, as I see it, we're on a review.  
17 The Commission is the reviewing body of the clearing  
18 houses letter of interpretation. It's an appeal. The  
19 Clearing House did not take the position on the original  
20 application that the date, the passage of the Pine  
21 Barrens Act constituted the date we look at the  
22 particular parcel.

23 So to change that now as we go before the  
24 Commission I would submit is potentially procedurally  
25 improper. The Appellate Division didn't remand this back

1 to the Clearing House it remanded it back to Commission  
2 for new determination of the number of credits based on  
3 the record that had been put together on the original  
4 application.

5 That being said, I will, I have a handout,  
6 not as long as the other handout in the other hearing  
7 that I would like to pass around and have marked as an  
8 Exhibit that essentially walks through our position in  
9 bullet point. I'll wait until everyone has a copy of it  
10 in front of them. There should be enough to make it  
11 around to you John.

12 (Tuccio Exhibit No. 1 was so marked and  
13 received in evidence.)

14 MR. KRUYNSKI: As I indicated the parcel is  
15 52.299 acres. It is zoned light industrial 200. Pursuant  
16 to the non residential property allocation formula  
17 adopted 1996, adopted pursuant to Section 6.3.2 of the  
18 Central Pine Barrens Commercial Land Use Plan the  
19 property is zoned L. I. 200. It has an allocation of 1.0  
20 Pine Barrens credit per acre. That is where we start  
21 with our allocation. 52.3 Pine Barrens credits pursuant  
22 to -- I am seeing a lot of mistakes. I am writing PCB  
23 instead of PBC. Be that as it may, we would start our  
24 analysis of the rules of the plan allocating 52 point 3  
25 Pine Barrens credits which is rounded upward to the

1 nearest 100. The next step is to look to see whether the  
2 Pine Barrens Credit Program limits any allocation. The  
3 only potential limitation for this parcel are set forth  
4 in Section 6.3.3, Section 6.3.3.4 as I indicated states  
5 "partially improved parcels shall receive a decreased  
6 allocation based upon the extent of improvement.  
7 Furthermore there shall be proportional decrease in  
8 allocation based upon receipt of all discretionary  
9 permits for improvement or a parcel."

10 Prior to 1994 this 52.3 acre parcel was  
11 improved with buildings on point 988 acres, the history  
12 of which was sufficiently set forth in prior hearings,  
13 previously before this Commission.

14 There are two hardship exemptions as Mr.  
15 Milazo pointed out, one in '94 and one in '97 that  
16 allowed construction of additional buildings on  
17 additional point nine acres.

18 Therefore at this time and at the time of  
19 the application the parcel is improved with buildings on  
20 1.88 acres. In accordance with the rules we would submit  
21 that we would start with 52 point 299 subtract one point  
22 88 leaving 50 point four one nine acres that are not  
23 covered by buildings. Pursuant to the rules the  
24 applicant would then be entitled to 50 point 42 Pine  
25 Barrens Credits in accordance with the rules of the

1 program.

2 I would just like to point out that  
3 additionally that, there is no provision in the plan for  
4 limiting an allocation of Pine Barrens credits to the  
5 amount that could have been developed under the  
6 applicable code prior to the passage of the Pine Barrens  
7 act. Any argument that this parcel -- we would agree  
8 that it is in the Town of Southampton and subject to  
9 20 percent lot coverage pursuant the Town of Southampton  
10 code which would yield 10 point four six acres, that  
11 would be 20 percent of the parcel could be covered by  
12 buildings.

13 It's our position that the program is not  
14 written, the allocation formula is not written to limit  
15 allocations based on permissible zoning for  
16 non-residential property which is what we have here.

17 Residential property is a different story.  
18 It's specifically set forth in the program and I would  
19 point the Commission to Section to 6.3.1.1., which is  
20 entitled "Development, Yield Factors and Computation for  
21 Residentially Zoned Property." There is a laundry list  
22 of sections there which specifically start with the  
23 phrase if zoning allows. Repeatedly almost a dozen times  
24 here --

25 MR. MILAZZO: It's in the Exhibit E.

1 MR. KRUYNSKI: Thank you. So it's our  
2 position that the allocation formula adopted for non  
3 residential property contains no similar limitation. Had  
4 that been the intent, it's our position that that should  
5 have been written similarly to the residential property  
6 allocation formula.

7 So I would just like to point out that as  
8 far as my research could reveal, I would commend the  
9 Commission on the availability of the public information  
10 on the website, its incredible, I didn't see any  
11 situation where anybody's application for Pine Barrens  
12 credits for non residential property had ever been  
13 capped, if you will, at the amount of land that could be  
14 developed under the applicable zoning code. I would  
15 submit that such a limitation in these circumstances  
16 would be arbitrary and capricious, and would be error of  
17 law and inconsistent with the plain rules as laid out in  
18 the Pine Barrens credit program. I'll be happy to answer  
19 any questions that the Commission has.

20 CHAIRMAN SCULLY: Thank you. Questions for  
21 Counsel?

22 MR. KRUYNSKI: May I confer with one of my  
23 colleagues?

24 CHAIRMAN SCULLY: Sure.

25 MR. MILAZZO: Off the record.

1 (Discussion held off the record.)

2 CHAIRMAN SCULLY: Ms. Jakobsen?

3 MR. KRUYNSKI: Nothing further at this  
4 time.

5 MR. MILAZZO: We're back on. Thank you. I  
6 wanted to state Judy Jakobsen accompanied counsel,  
7 applicant's counsel on a site visit. I think that was  
8 last Friday.

9 MS. JAKOBSEN: April 16th.

10 MR. MILAZZO: Can you describe what you saw  
11 at the site?

12 MS. JAKOBSEN: Basically what I saw -- Julie  
13 Hardgrave from the staff was also with us, we visited  
14 the site. Basically we saw the mimi storage buildings.  
15 Approximately 15 buildings on the property. We saw also  
16 the additional buildings that have been built as a  
17 result of the two hardships granted. We were not able to  
18 get into the portion of the property that contained the  
19 berth areas; it was a gated area. The main area we drove  
20 around the area where all the main storage facilities  
21 were located. It is a fairly disturbed area. Not much  
22 vegetation present. That's all I have.

23 MR. MILAZZO: I have a couple of questions.  
24 He indicated he searched our website and we agreed it  
25 has everything on there and we'll try to maintain that.

1 EXAMINATION BY MR. MILAZZO:

2 Q. How long have you been with the Commission?

3 A. I have --

4 MR. MCCORMICK: Is she under oath?

5 MR. MILAZZO: She is a staff member.

6 MR. MCCORNICK: She is testifying.

7 MR. MILAZZO: We'll put her under oath.

8 Whereupon,

9 JUDY JAKOBSEN,

10 after having been first duly sworn, was examined and  
11 testified as follows:

12 MR. MCCORNICK: Do you want to ask her if  
13 the testimony given so far is the truth?

14 MR. MILAZZO: We'll stipulate?

15 MR. KRUYNSKI: Yes.

16 THE WITNESS: I have been working the Pine  
17 Barrens Commission probably since 1992, just before the  
18 Pine Barrens Act was passed.

19 Q. And has the Clearing House and the  
20 Commission been faced with determining the number of  
21 credits in similarly situated parcels in the years of  
22 experience with the Commission?

23 A. No. This is a very unique situation in  
24 terms of allocating to a parcel of this nature. The fact  
25 it has received the two hardships and the fact there was

1 additional third one proposed that was withdrawn; in  
2 addition to the portions of the property that were sold  
3 to the State, there was credits received on portions of  
4 the property and this is the first time that I know of  
5 that basically we have been asked to issue credits to  
6 this type of parcel since 1994.

7 Q. Just for procedural purposes, just because  
8 the executive director is not here, the Commission  
9 adopts minutes. Go through the policy of adopting  
10 minutes and resolutions, the draft minutes are  
11 circulated after the meeting the next month?

12 A. That's right.

13 Q. They are adopted the following meeting?

14 A. That's correct.

15 Q. Posted on the web?

16 A. That's correct.

17 Q. That was controlled by Ray Corwin and no  
18 one else had access to the web?

19 A. Not for that purpose.

20 Q. Okay. That's all I have. Can I go off the  
21 record?

22 (Discussion held off the record.)

23 MR. MILAZZO: Back other the record. For  
24 completeness, I'll go through what I have given to the  
25 Commission.



1                   The first one we talked about was the  
2 Second Department decision that is Exhibit A.

3                   Exhibit B is a copy of the deed from 1940  
4 taken from the county clerk's records transferring the  
5 property from the Suffolk County Treasurer to Edwin D.  
6 Fishel (ph).

7                   Exhibit C are two deeds from Suffolk  
8 County National Bank as executor to the Trustee of Ethel  
9 B. Fishel -- reading off the cover to Patricia and Edwin  
10 Tuccio.

11                   Exhibit D is the application approval of  
12 the May 31st, 1994 application to core preservation area  
13 hardship.

14                   Exhibit E is the Pine Barrens application.

15                   Exhibit F is the August 7, 1996 Commission  
16 resolution adopting non residential property, Pine  
17 Barrens credit formula discussed by Counsel.

18                   Exhibit G are deeds dated October 22, 1996  
19 and November 22, 1996 between Edwin F. Tuccio and  
20 Patricia Tuccio and the Nature Conservancy. Each deed  
21 was recorded twice so all four are in the document as  
22 Exhibit G.

23                   H is the application and approval including  
24 hearing transcript of May 26; application for core  
25 preservation hardship exemption submitted by Edwin and

1 Patricia Tuccio, and it has the tax map under there.

2 Exhibit I is the application and withdrawal  
3 of February 16th application for core application  
4 hardship exemption by Edwin and Patricia Tuccio.

5 Exhibit J is the stipulation of settlement  
6 by Edwin and Patricia Tuccio versus the County of  
7 Suffolk and others dated May 25, 2004; so order by  
8 Justice Catterson.

9 Exhibit K is the deeds of May 21 2004 and  
10 June 24 by various parties and the Tuccios.

11 Exhibit L is a conservation easement  
12 granted by the Tuccios to the Pine Barrens Commission  
13 January 28, 2005.

14 Exhibit M is the summary sheet of all of  
15 the primary credits certificates issued to the Tuccios  
16 and their conveyance history. That was prepared using  
17 the records of the Commission publicly available on the  
18 website.

19 Commission Exhibit N is the December 20,  
20 2006 resolution which we talked about earlier.

21 Exhibit O are copies of the Suffolk County  
22 Tax Map. The Tuccio property as of 1994 and '98 both  
23 came from the Suffolk County tax maps folks, prepared by  
24 the Suffolk County Real Property Tax Service.

25 Exhibit P is a much reduced survey of the

1 Tuccio survey of the Tuccio property dated September 20,  
2 1996. We have the original. It is a table top size, we  
3 reduced it but if there's an issue we can produce the  
4 original.

5 Exhibit Q is an August 11, 2006,  
6 correspondence from Murray B. Schneps concerning scope  
7 of development of the Tuccio property and aerial  
8 photographs of the Tuccio property. That includes some  
9 of the surveys dated that applicant's attorney  
10 referenced including 1.18 being covered by buildings.

11 Exhibit R is the January 3, 2007, Clearing  
12 House letter.

13 Exhibit S is correspondence from Mr.  
14 Schneps to the Commission appealing his clients LOI (ph)  
15 hearing transcript and further correspondence from Mr.  
16 Schneps dated April 19, 2007.

17 The Exhibit T is the resolution dated  
18 June 20, 2007 Commission resolution deciding the credit  
19 appeal of the Tuccios.

20 Exhibit U, we talked about which is the  
21 Supreme Court decision.

22 Exhibit F is a survey submitted by the  
23 Tuccios last dated March 21, 1994 with color annotations  
24 that showed extent of development and when the develop  
25 occurred to the hardship. And the last thing is the, the

1 title is incorrect it should be the Town of Southampton,  
2 330-dash R, 38 industrial dimension regulation and the  
3 definition from the Town blueprint, for the Southampton  
4 code.

5 MR. KRUYNSKI: Just for the record I would  
6 like to reiterate the applicant's objection to the  
7 expansion of the record and we reserve our right to  
8 object individually after completion of today's record.

9 MR. MILAZZO: So noted.

10 MS. PRUZINOSKI: The expansion is specific  
11 to which items?

12 MR. KRUYNSKI: What I can do, is ask for  
13 the record on appeal, submitted to the Appellate  
14 Division Second Department, included the municipal  
15 return submitted by the Attorney General's office that  
16 contains every document submitted as part of the prior  
17 proceeding before the Commission rules previously, so I  
18 could take some time, perhaps to go through them  
19 individually and tell you what was in there and what  
20 isn't, but it is substantial.

21 CHAIRMAN SCULLY: To be clear, he is  
22 expressing objection to consideration of anything other  
23 than the record originally developed as part of the  
24 application.

25 MR. KRUYNSKI: If I could, I have an extra

1 copy of the record on appeal.

2 MR. MILAZZO: We can make copies.

3 MR. KRUYNSKI: I have an extra copy of the  
4 bound record on appeal that contains the entire  
5 municipal return as submitted on the Article 78  
6 proceeding. If I could have that marked as Tuccios 2.

7 (Tuccio Exhibit No. 2 was so marked and  
8 received in evidence.)

9 CHAIRMAN SCULLY: Anyone else want to be  
10 heard?

11 MR. KRUYNSKI: I have a couple of others.

12 CHAIRMAN SCULLY: Sure.

13 MR. KRUYNSKI: A couple of things. Are you  
14 done?

15 MR. MILAZZO: Yes.

16 MR. KRUYNSKI: I guess, I am a little  
17 puzzled. Because, if I didn't hear correctly it seems  
18 that the Clearing House is sticking with its letter of  
19 interpretation that no Pine Barrens should be awarded  
20 for this parcel.

21 I don't want to put words in your mouth,  
22 but I didn't hear a number being bandied about as to  
23 what the recommendation is to this Commission to the  
24 number of credits to be awarded.

25 I think the Appellate Division is crystal

1 clear that the only question is how many Pine Barrens  
2 credits, not if. I don't think the Appellate decision  
3 can be read any other way. It specifically indicates, if  
4 I might just to rebut some of what Ms. Jacobsen had  
5 said, I'll quote from the Appellate Division decision,  
6 quote "the Commission could not properly rely on the  
7 benefits the petitioner's derived under the plan from  
8 those other holdings as a basis for affirming the  
9 determination of the Clearing House that no Pine Barrens  
10 credit could be allocated to the property."

11           There are other statements but it's in the  
12 record you can read it for yourselves. I think it's  
13 crystal clear there has to be an award for Pine Barrens  
14 credits here. I am a little surprised that I didn't hear  
15 any discussion, or maybe there doesn't have to be; maybe  
16 I shouldn't be surprised but I didn't hear  
17 recommendation from staff or counsel as to what is  
18 offered. I didn't hear zero either. So maybe I am over  
19 reaching.

20           MR. MCCORMICK: Do you wish to ask any  
21 questions of Ms. Jacobsen based on her testimony?

22           MR. KRUYNSKI: No, based on her testimony,  
23 her testimony is in contradiction to the Appellate  
24 Division holding. Her testimony talked about, she's been  
25 with the Pine Barrens longer than I have.

1 MR. MCCORNICK: Hold on. This is a hearing.  
2 The three of us are attorneys. Four with Mr. Simino in  
3 the back. This is examination stage. Before we get to  
4 summations or arguments or comments we need to be clear  
5 the testimony phase is done. I want to make sure we have  
6 a valid record should a party wish to appeal this  
7 particular matter down the road that we are crystal  
8 clear what we're doing now. I want to establish you have  
9 no questions of Ms. Jacobsen for the record.

10 MR. KRUYNSKI: No questions. My only  
11 comment is with regard to the testimony now. One thing  
12 she mentioned is a third proposed hardship application  
13 had been withdrawn. It is our position that is  
14 absolutely irrelevant. We don't dispute the fact there  
15 were two prior hardship applications granted. The fact a  
16 third was submitted and withdrawn has no bearing on  
17 whether or not any Pine Barrens credits should be  
18 allocated for this property.

19 My other comment is Ms. Jacobsen remarks  
20 Pine Barrens credits had been allocated to a portion of  
21 the parcel, paraphrasing, that refers back to my  
22 original statement that, no, not if you consider this to  
23 be the parcel we believe the Appellate Division ruled  
24 should be considered which is a 52 point 3 acre parcel.

25 CHAIRMAN SCULLY: Anything else you need to

1 put on the record, sir?

2 MR. KRUYNSKI: No. Not at this time.

3 CHAIRMAN SCULLY: Anyone else wish to be  
4 heard on the application? If not we'll recess the  
5 hearing.

6 MR. MILAZZO: Do you want to close it?  
7 It's up to you guys. The Commission will issue a  
8 decision.

9 MR. KRUYNSKI: Are we off or on?

10 MR. MILAZZO: We can go off.

11 (Discussion held off the record.)

12 MR. MILAZZO: Back on. We'll close the  
13 hearing. We're going to give applicant two weeks to  
14 respond to the record on any objections to what the  
15 Commission exhibits were.

16 The Commission has a, the Commission has no  
17 -- it says the Commission shall decide the appeal within  
18 60 days of receipt. That will give you -- you'll have  
19 two weeks to respond. We'll put this -- decision due by  
20 June. The Commission will be, there will be some final  
21 determination by the Commission on how this is.

22 MR. KRUYNSKI: This will be a written  
23 resolution?

24 MR. MILAZZO: That way we have until June to  
25 give a final decision on this hearing on how many



1 credits should be allocated.

2 MR. KRUYNSKI: That's reasonable.

3 MR. MILAZZO: You have to two weeks to  
4 respond and we have time to review. We'll consent to  
5 decision deadline of June 16th.

6 CHAIRMAN SCULLY: Great. Thank you. I make a  
7 motion. Do we agree to the extension of June 16th?

8 MS. PRUZINOSKI: Seconded.

9 CHAIRMAN SCULLY: Motion carries. We'll  
10 close the hearing as indicated on the record. We will  
11 move on to the next public hearing.

12  
13 (Time noted: 4:20 p.m.)  
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C E R T I F I C A T I O N

I, Marie DiMarco, a Shorthand Reporter and notary public, within and for the State of New York, do hereby certify:

That said transcript of said testimony is a true record of the proceedings set forth herein.

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 5th day of May, 2010.

*Marie DiMarco*  
Marie DiMarco 



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THE STATE OF NEW YORK  
NYS CENTRAL PINE BARRENS COMMISSION

-----X  
In the Matter of

~~American Physical Society Core  
Preservation Area Extraordinary Hardship  
Waiver~~

Tuccio

Location: One Research Road, Ridge,  
New York

Suffolk County Tax Map Number  
200-459-1-1.4

-----X

Town of Brookhaven  
One Independence Hill  
Farmingville, New York 11738

Wednesday, April 21, 2010

The above entitled matter came on for hearing at 3:45 p.m.



## ALLOCATION OF PINE BARRENS CREDITS

- Parcel = 52.299 acres
- Zoned Light Industrial 200 District
- Allocation of 1.0 PCB per acre pursuant to Non-residential Property Allocation Formula adopted in 1996 pursuant to 6.3.2 of Central Pine Barrens Comprehensive Land Use Plan (hereinafter the Plan) = 52.3 PCBs (rounded upward to nearest one hundredth of a PCB)
- Potential applicable limitations on allocation are set forth in 6.3.3 of the Plan
- 6.3.3.4 Partially improved parcels shall receive a decreased allocation based upon the extent of improvement.  
Furthermore, there shall be a proportional decrease in allocation based upon the receipt of all discretionary permits for improvement of a parcel.

TUCCI  
1





■ Prior to 1994, parcel was improved with buildings on approximately .98 acres. Two hardship exemptions (1994 and 1997) allowed construction of additional buildings on an additional .9 acre.

■ Presently, parcel improved with buildings on 1.88 acres  
(.98 + .9)

■  $52.299 - 1.88 = 50.419$

■ Applicants entitled to 50.42 PCBs

Lewis Johs Avallone Aviles, LLP  
Attorneys for Applicants



**Supreme Court of the State of New York  
Appellate Division: Second Judicial Department**

D24844  
W/prt

AD3d

Argued - October 6, 2009

WILLIAM F. MASTRO, J.P.  
HOWARD MILLER  
DANIEL D. ANGIOLILLO  
LEONARD B. AUSTIN, JJ.

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2008-01589

DECISION & ORDER

In the Matter of Edwin Fishel Tuccio, et al.,  
appellants, v Central Pine Barrens Joint Planning  
and Policy Commission, et al., respondents.

(Index No. 21497/07)

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Lewis Johs Avallone Aviles, LLP, Riverhead, N.Y. (Michael G. Kruzynski of counsel), for appellants.

Andrew M. Cuomo, Attorney General, New York, N.Y. (Katherine Kennedy, Michael S. Belohlavek, Monica Wagner, Norman Spiegel, and Janice B. Taylor of counsel), for respondents.

In a proceeding pursuant to CPLR article 78 to review a determination of the Central Pine Barrens Joint Planning and Policy Commission dated June 20, 2007, which affirmed a determination of the Pine Barrens Credit Clearinghouse that no Pine Barrens Credits may be allocated to the petitioners' real property, and in the nature of mandamus to compel the Central Pine Barrens Joint Planning and Policy Commission to allocate 50.419 Pine Barrens Credits to that property, the petitioners appeal from a judgment of the Supreme Court, Suffolk County (Pines, J.), dated January 16, 2008, as corrected January 25, 2008, which denied the petition and, in effect, dismissed the proceeding.

ORDERED that the judgment, as corrected, is modified, on the law, by deleting the

November 4, 2009

Page 1.

MATTER OF TUCCIO v CENTRAL PINE BARRENS JOINT  
PLANNING AND POLICY COMMISSION

provision thereof denying that branch of the petition which was to annul the determination of the Central Pine Barrens Joint Planning and Policy Commission that no Pine Barrens Credits may be allocated to the petitioners' real property and substituting therefor a provision granting that branch of the petition; as so modified, the judgment is affirmed, without costs or disbursements, and the matter is remitted to the Central Pine Barrens Joint Planning and Policy Commission to determine the proper number of Pine Barrens Credits that are to be allocated to the subject property.

On June 28, 1995, pursuant to the power granted to it by the Long Island Pine Barrens Protection Act (hereinafter the Act) (*see* ECL 57-0103 *et seq.*), the Central Pine Barrens Joint Planning and Policy Commission (hereinafter the Commission) adopted the Central Pine Barrens Comprehensive Land Use Plan (hereinafter the Plan) (*see* [http://pb.state.ny.us/cpb\\_plan/voll.pdf](http://pb.state.ny.us/cpb_plan/voll.pdf)). The Plan established the Pine Barrens Credit Program, the primary purpose of which is "to maintain value in lands designated for preservation or protection under the Plan by providing for the allocation and use of Pine Barrens Credits" (Plan § 6.1).

The Pine Barrens Credits Program, *inter alia*, provides for the allocation of Pine Barrens Credits—transferable development rights—to owners of property located in the "core preservation area," an area of the "Central Pine Barrens" in which "development" generally is prohibited by the Act (*see* ECL 57-0107[10], [11], [13]; 57-0121[3][c]), in exchange for the placement of a permanent conservation easement on the property (*see* Plan § 6.7.2). The holder of Pine Barrens Credits may then redeem, sell, or transfer the Pine Barrens Credits, as provided for in the Plan (*see* Plan §§ 6.4, 6.5).

The Plan established the Pine Barrens Credit Clearinghouse (hereinafter the Clearinghouse), which is charged, among other things, with determining the number of Pine Barrens Credits to which an owner of a particular parcel of land is entitled (*see* Plan §§ 6.6, 6.7.1; *see also* Plan § 6.2). An owner seeking Pine Barrens Credits must request from the Clearinghouse a "Letter of Interpretation," after which the Clearinghouse "may conduct an analysis of the property and will allocate Pine Barrens Credits based upon the allocation formula and any unique features of a particular parcel of land" (Plan §§ 6.7.3.1, 6.7.3.2).

Thereafter, the Clearinghouse must mail the Letter of Interpretation to the property owner, who may then appeal the allocation to the Commission (*see* Plan §§ 6.7.3.2, 6.7.3.3). The Commission is empowered to "confirm, increase, or decrease the allocation to be received from the Clearinghouse" (Plan § 6.7.3.4).

The Plan provides that, "[f]or the purpose of computing the allocations of Pine Barrens Credits, a parcel of land is defined as a separately assessed tax lot" (Plan § 6.3). The Plan contains various provisions to be used in determining the number of Pine Barrens Credits to be allocated for a particular parcel of land (*see e.g.* Plan §§ 6.3.1, 6.3.1.1; §§ 6.3.2, 6.3.3, 6.7.6.6, 6.7.6.7).

As relevant to this appeal, pursuant to the power granted to it by the Plan, on August 7, 1996, the Commission adopted a non-residential property allocation formula providing, *inter alia*,

that property zoned as "Light Industrial 200 District" is entitled to one Pine Barrens Credit per acre (*see* Plan § 6.3.2; *see also* Code of the Town of Southampton [hereinafter Town Code] § 330-37). However, the Plan itself sets forth various limitations on allocation of Pine Barrens Credits (*see* Plan § 6.3.3), including that "[p]artially improved parcels shall receive a decreased allocation based upon the extent of the improvement [and] there shall be a proportional decrease in allocation based upon the receipt of all discretionary permits for improvement of a parcel" (Plan § 6.3.3.4). The Plan expressly provides that "[n]o fewer than 0.10 (one tenth) Pine Barrens Credit shall be allocated by the Clearinghouse or the Commission for any parcel of land" (Plan § 6.7.6.7).

In the 1980s, the petitioners inherited from their grandparents a 403.5-acre parcel of land located in the Town of Southampton. The entire 403.5 acres of land is situated in the Central Pine Barrens and, more particularly, within the core preservation area.

In 1986 the Nature Conservancy purchased from the petitioners 275 of the 403.5 acres of land for the sum of \$2,750,000. Subsequently, 75 of the remaining 128.5 acres of land were the subject of a "bar claim" action, which the parties thereto resolved by the placement of a conservation easement on 50 of those 75 acres. In exchange for the placement of the conservation easement on those 50 acres of land, the Commission allocated 50 Pine Barrens Credits to the various title holders of those acres, including 27 Pine Barrens Credits to the petitioners. Thereafter, the petitioners sold their 27 Pine Barrens Credits for the sum of approximately \$1,600,000. The remaining 52.299 acres of the original 403.5-acre parcel of land are the subject of the instant proceeding.

In the 1950s, the United States Army constructed buildings on approximately 0.98 acres of the 52.299-acre parcel of land (hereinafter the Property). In or around 1994, the petitioners applied for and received from the Commission a Core Preservation Area Hardship Exemption, permitting them to construct two storage buildings situated on existing berms on the Property. Thereafter, in or around 1997, the petitioners applied for and received from the Commission a second Core Preservation Area Hardship Exemption, permitting them to construct four additional storage buildings, totaling 24,000 square feet, on the Property. Presently, the buildings on the Property cover 1.88 acres, and are used as self-service storage facilities. The Property is located within a "Light Industrial 200 District" (*see* Town Code § 330-37).

In or around 2006 the petitioners applied to the Clearinghouse for a Letter of Interpretation with respect to the Property. The Clearinghouse "determined that value has been maintained in the [Property]," noting that "[t]he [Property] is devoted to a commercial enterprise which has been expanded via Commission granted hardship exemptions," and that "an analysis of the aerial [and surveyor's] calculations indicates that the site is near the Town's development limits as contained in the . . . [Town] Code." Based on the foregoing, on or about January 3, 2007, the Clearinghouse issued a Letter of Interpretation, informing the petitioners "that no Pine Barrens Credits can be allocated to the [Property]."

On or about January 11, 2007, the petitioners appealed to the Commission from the determination of the Clearinghouse. On April 18, 2007, the Commission conducted a public hearing with respect to the petitioners' appeal. In a determination dated June 20, 2007, the Commission

affirmed the determination of the Clearinghouse that no Pine Barrens Credits could be allocated to the Property.

Thereafter, the petitioners commenced the instant proceeding against the Commission and the Clearinghouse to annul the Commission's determination to compel the Commission to allocate 50.42 Pine Barrens Credits to the property. The Supreme Court denied the petition on the merits and, in effect, dismissed the proceeding. We modify.

Judicial review of the Commission's determination, which was made after a public hearing, as opposed to a quasi-judicial evidentiary hearing, is limited to "whether the determination was affected by an error of law, or was arbitrary and capricious or an abuse of discretion, or was irrational" (*Matter of Zupa v Board of Trustees of Town of Southold*, 54 AD3d 957, 958, citing CPLR 7803[3]; *Matter of Halperin v City of New Rochelle*, 24 AD3d 768, 770; see generally ECL 57-0135).

The Commission's determination was affected by an error of law, arbitrary and capricious, an abuse of discretion, and irrational to the extent that it was based on a finding that value has been maintained in the Property, and in the larger of the petitioners' other holdings, based on "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 [petitioners'] holdings." The Plan expressly provides that "[f]or the purpose of computing the allocation of Pine Barrens Credits, a parcel of land is defined as a separately assessed tax lot" (Plan § 6.3). The Property, however, is a separately-assessed tax lot distinct from the petitioners' other holdings, past and present, in the Central Pine Barrens. Thus, the Commission could not properly rely on the benefits that the petitioners derived under the Plan from those other holdings as a basis for affirming the determination of the Clearinghouse that no Pine Barrens Credit could be allocated to the Property.

Moreover, the Commission's determination was affected by an error of law, arbitrary and capricious, an abuse of discretion, and irrational to the extent that it was based on a finding that value has been maintained in the Property "in light of the number of buildings constructed on the Property pursuant to hardship exemptions and the continuing use of the facility." The Commission's finding in that regard ignores the fact that, absent the adoption of the Act, the petitioners could have developed and used approximately 7.16 additional acres on the Property (*see* Town Code §§ 330-37, 330-38). Thus, the value of the Property decreased with the passage of the Act. Therefore, absent the issuance of Pine Barrens Credits for the undeveloped portion of the Property, the value in the Property has not been maintained.

Furthermore, there is nothing in the Plan that prohibits the petitioners from seeking an allocation of Pine Barrens Credits for the undeveloped portion of the Property, notwithstanding the prior issuance of hardship exemptions to construct additional buildings on the Property and the continued use of the buildings on the Property, some of which predate the Act. In fact, the Plan expressly provides that "[p]artially improved parcels shall receive a decreased allocation *based upon the extent of the improvement*" and that "there shall be a *proportional decrease* in allocation based

upon the receipt of all discretionary permits for improvement of a parcel" (Plan § 6.3.3.4 [emphasis added]).

Contrary to the respondents' contention, the foregoing sections of the Plan clearly reflect that the receipt of discretionary permits for improvement of a parcel of land and/or the continued use of improvements on a parcel of land cannot completely displace the right to the allocation of any and all Pine Barrens Credits. Significantly, the Plan specifically provides, without qualification, that "[n]o fewer than 0.10 (one tenth) Pine Barrens Credits shall be allocated by the Clearinghouse or the Commission for any [qualifying] parcel or land," with stated exceptions not relevant to the instant appeal (Plan § 6.7.6.7; *see* Plan §§ 6.3.3.1, 6.3.3.2, 6.3.3.3).

Here, the Commission ignored the plain language of Plan §§ 6.3.3.4 and 6.7.6.7. Clearly, the Property is partially, rather than fully, improved. Thus, the petitioners are entitled at least to some allocation of Pine Barrens Credits, albeit less than that to which they would have been entitled absent any improvements on the Property, and absent their receipt of the discretionary permits for additional improvement of the Property. In that regard, the Commission's determination also was affected by an error of law, arbitrary and capricious, an abuse of discretion, and irrational to the extent that it was based on a finding 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."

Finally, the Commission's determination was arbitrary and capricious, an abuse of discretion, and irrational to the extent that it was based on a finding that "the implementation of the . . . Act . . . has not prevented the reasonable use of the Property," since the petitioners were prevented by the Act from developing approximately 7.16 additional acres on the Property (*see* Town Code §§ 330-37, 330-38).

Accordingly, the Supreme Court should have granted that branch of the petition which was to annul the Commission's determination affirming the determination of the Clearinghouse that no Pine Barrens Credits could be allocated to the Property, since the Commission's determination was affected by errors of law, arbitrary and capricious, an abuse of discretion, and irrational (*see* CPLR 7803[3]).

However, the Supreme Court properly declined to compel the Commission to allocate 50.42 Pine Barrens Credits to the Property. "[T]he extraordinary remedy of mandamus will lie only to compel the performance of a ministerial act, and only when there exists a clear legal right to the relief sought" (*Matter of Best v Queens County Supreme Ct.*, 54 AD3d 438, 439 [emphasis added]).

Here, although the petitioners' property is entitled to some allocation of Pine Barrens Credits in accordance with the Plan upon remittal to the Commission, the petitioners failed to demonstrate a clear legal right to an allocation of 50.42 Pine Barrens Credits. Notably, *inter alia*, such an allocation fails to account for the fact that only 20% of the Property could have been developed under the Town Code absent the adoption of the Act (*see* Town Code §§ 330-37, 330-38; *see generally* Plan § 6.3.1.1). Accordingly, the matter must be remitted to the Commission to determine

the proper number of Pine Barrens Credits that are to be allocated to the Property.

MASTRO, J.P., MILLER, ANGIOLILLO and AUSTIN, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court



378  
L1120

This Indenture, made the nineteenth day of September

in the year of our Lord one thousand nine hundred and forty  
Between JOSEPH A. KIRK as the County Treasurer of the County of Suffolk, State of New York, of the first part, and EDWIN D. FISHEL, residing at Riverhead, N.Y. party of the second part.

Witnesseth That Whereas, by an act of the Legislature of the State of New York, Chapter 62, Laws of 1909, entitled, "An act in relation to taxation, constituting chapter sixty of the consolidated laws," and the several acts amending the same, it was, among other things, enacted, that whenever any tax charged on real estate, in a county not including a portion of the forest preserve is returned to the County Treasurer, he shall not return the same to the Comptroller, but if such tax with interest thereon at the rate of ten per centum per annum, computed from the first day of February, after the same is levied, shall remain unpaid for six months from the date, such County Treasurer shall advertise and sell such real estate, pursuant to said acts;

And Whereas, Default was made in payment of taxes levied in year 1932, so as aforesaid duly charged on sundry parcels of land within the County of Suffolk, with the interest thereon, and the said taxes remained unpaid for six months from the first day of February after the same were levied;

And Whereas, The County Treasurer of the County of Suffolk, for the time being, by virtue of the power in him vested, and after due notices for that purpose published and given according to law, and after a compliance with all the provisions of law of him required, did sell at public auction, at the Court House in Riverhead, in the County of Suffolk, in the month of November in the year one thousand nine hundred and thirty-three so much of each of the parcels of land so as aforesaid charged with taxes remaining unpaid as was sufficient to satisfy and discharge the said taxes, and the interest and charges due thereon, respectively, at the time of the sale;

And Whereas, At said sale the premises hereinafter described were purchased by Edwin D. Fishel to whom the certificate of the County Treasurer of said sale was thereupon issued and delivered;

And Whereas, The said part Y of the second part thereby became entitled to the following tract, piece or parcel of land situated in the Town of Southampton, in said County of Suffolk, viz: 505. Woodland Westhampton Beach Known as part of lot 26 to 30 inc., Quogue Purchase, bounded north and west by Suffolk Airways Inc., east by Lot 25, Quogue Purchase, south by Middle Line 403 Acres.

and to the title and interest therein of J. Francis Magee & Ors., to whom said premises appear heretofore to have belonged and of all other persons except the claims, if any, which the County or the State have thereon for taxes or liens or incumbrance which said piece or parcel of land, above described, was sold by the said County Treasurer at the said sale, under and by virtue of said act and the amendments thereto;

And Whereas, The said piece or parcel of land, so as aforesaid sold and hereby intended to be conveyed has not been redeemed within the time prescribed by law for the redemption thereof; and due notices of redemption having been duly published as required by law;

Now, Therefore, This Indenture witnesseth, that the said party of the first part, as County Treasurer of Suffolk County by virtue of the authority vested in him by law, for and in consideration of the sum of

One hundred seventy-nine and 98/100 dollars paid into the Treasury of this County by the said party of the second part, the receipt whereof is hereby acknowledged, hath granted, bargained, sold, conveyed and released, and by these presents doth grant, bargain, sell, convey and release to the said part Y of the second part, and to his heirs and assigns forever, the said piece and parcel of land above described, with the hereditaments and appurtenances to the same belonging to be located and laid out and possession acquired, however, by and at the expense of the party of the second part: TO HAVE AND TO HOLD the same to the part Y of the second part, his heirs and assigns forever, subject to the claims, if any, of the County of Suffolk and the State of New York for taxes or liens or incumbrance.

Signed, sealed and delivered in the presence of

Anna S. Hartman  
STATE OF NEW YORK  
County of Suffolk

In Witness Whereof, The County Treasurer of the County of Suffolk, the party of the first part, in pursuance of the authority vested in him by law, hath hereunto set his hand and affixed the seal of his office, the day and year first above written.  
(L. S.)

JOSEPH A. KIRK  
As County Treasurer of the County of Suffolk, State of New York

On this nineteenth day of September one thousand nine hundred and forty before me personally came JOSEPH A. KIRK County Treasurer of Suffolk County, New York, to me personally known and known to me to be the individual described in and who executed the foregoing instrument and who duly acknowledged to me that he executed the same as such County Treasurer of Suffolk County.

Sarah M. Petty  
Notary Public in and for Suffolk County, State of New York

Recorded on the 20 day of Sept. 1940 @ 2:06 P.M.

112564285

Standard N. Y. S. T. U. Form 1064-A 12-10-66—Recorder's Deed—(Individual or Corporation—Single Sheet)

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT—THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY.

THIS INDENTURE, made the 18<sup>th</sup> day of October, nineteen hundred and ninety  
BETWEEN THE SUFFOLK COUNTY NATIONAL BANK, a national banking  
corporation organized and existing under and by virtue of the laws  
of the United States, with its principal office at 6 West Second  
Street, Riverhead, New York 11901

2:1393

and Trustee  
as executor/and under the last will and testament of  
ETHEL D. FISHEL, late of

Suffolk County  
who died on the 19<sup>th</sup> day of October, nineteen hundred and sixty-seven  
party of the first part, and

PATRICIA TUCCIO, residing at 163 Woodhull Avenue, Riverhead, New  
York and EDWIN F. TUCCIO, RD 1, Box 19, Riverhead, New York, an  
tenants in common, residing at 547 East Main Street,

party of the second part, and letters of Trusteeship

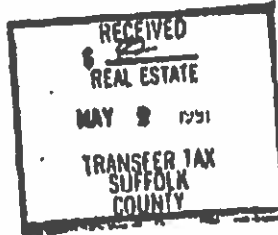
WITNESSETH, that whereas letters testamentary were issued to the party of the first part by the Surrogate's  
Court, Suffolk County, New York, on September 22, 1967 and by virtue  
of the power and authority given in and by said last will and testament, and/or by Article 11 of the Estates,  
Powers and Trusts Law, and in said ~~testamentary~~ distribution of the trustee estate,

the party of the first part ~~and the party of the second part~~ does hereby grant and  
release unto the party of the second part, the distributees or successors and assigns of the party of the second  
part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate,  
lying and being in the

SEE SCHEDULE A ATTACHED HERETO AND MADE A PART HEREOF  
FOR DESCRIPTIONS OF THE PROPERTY CONVEYED

2:1393



TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and  
roads abutting the above described premises to the center lines thereof; TOGETHER with the appurtenances,  
and also all the estate which the said decedent had at the time of decedent's death in said premises, and also  
the estate therein, which the party of the first part has or has power to convey or dispose of, whether in "vid-  
ually, or by virtue of said will or otherwise; TO HAVE AND TO HOLD the premises herein granted unto  
the party of the second part, the distributees or successors and assigns of the party of the second part forever.

~~Subject to the trust fund provisions of section thirteen of the Lien Law.~~  
Subject to the trust fund provisions of section thirteen of the Lien Law.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above  
written.

IN PRESENCE OF:

THE SUFFOLK COUNTY NATIONAL BANK

By Donald Cooper  
VICE PRESIDENT

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112561285

STATE OF NEW YORK, COUNTY OF

On the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, before me personally came

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that executed the same.

STATE OF NEW YORK, COUNTY OF

On the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, before me personally came

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that executed the same.

STATE OF NEW YORK, COUNTY OF BUFFOLK

On the 1<sup>st</sup> day of October 19 90, before me personally came *Dennis Coyle*

to me known, who, being by me duly sworn, did depose and say that he resides at No. 1 *Belding Ave*

*Buff N.Y.* that he is the *Vice President* of THE SUFFOLK COUNTY NATIONAL BANK

the corporation described in and which executed the foregoing instrument; that he is a duly sworn and qualified notary public in and for the County of Suffolk, State of New York, and that he signed his name thereto by the order of the board of directors of said corporation.

STATE OF NEW YORK, COUNTY OF

On the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, before me personally came

the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides at No. \_\_\_\_\_

that he knows \_\_\_\_\_

to be the individual described in and who executed the foregoing instrument; that he, said subscribing witness, was present and saw execute the same; and that he, said witness, at the same time subscribed his name as witness thereto.

*Linda B. Nicholl*  
Notary Public

Notary Public, State of New York  
No. 30-462380  
Qualified in Suffolk County  
Commission Expires May 5, 1991

Executor's Deed

TITLE NO

THE SUFFOLK COUNTY NATIONAL BANK

TO  
PATRICIA TUCCIO and EDWIN F. TUCCIO

SECTION  
BLOCK  
LOT  
COUNTY OR TOWN  
STREET ADDRESS

Recorded at Request of  
CHICAGO TITLE INSURANCE COMPANY

Return by Mail to

STANDARD FORM OF NEW YORK GRANTS OF TITLE INSURANCE  
Distributed by  
CHICAGO TITLE  
INSURANCE COMPANY

Emil F. DePetris, Eng.  
SCHEINBERG, SCINEPS, DePETRIS & DePETRIS  
P. O. Box 599  
Riverhead, New York 11901

Zip No.

REVERSE THIS SIDE USE OF MICROFILM OFFICE

112567287

SCHEDULE A

PARCEL 1 (situate at Manorville, Town of Brookhaven, Suffolk County, New York)

DIST. 0200  
SEC. 412  
BLOCK 0300  
LOT(S) 008.000

BEGINNING at the Northeastly corner thereof and in the southerly line of land now or formerly of Carl Keyser, and sometimes known as the Dayton Tract, and which said point of beginning is distant 2408.20 feet from Shakum Swamp Road on a line which runs South 6 degrees 36 minutes West and running thence South 6 degrees 36 minutes West along land now or formerly of Louis Young, 3625.17 feet to lands now or formerly of Raynor; thence North 82 degrees 02 minutes 40 seconds West 640.24 feet to the lands now or formerly of Raynor and Bitter; thence North 6 degrees 01 minutes 50 seconds East 515.27 feet; thence North 5 degrees 53 minutes 50 seconds East 1541.27 feet to a monument; thence North 10 degrees 10 minutes 30 seconds East 394.06 feet to another monument; thence North 6 degrees 37 minutes 10 seconds East 1159.59 feet to another monument; thence South 83 degrees 28 minutes 30 seconds East 639.16 feet to the point or place of BEGINNING.

PARCEL 2 (situate at Manorville, Town of Brookhaven, Suffolk County, New York)

DIST. 0200  
SEC. 463  
BLOCK 0100  
LOT(S) 14.000

BEGINNING at the southeasterly corner of Parcel 1 above and running thence southerly in a straight line a distance of approximately 850 feet to the land now or formerly of Nienstedt; running thence North 83 degrees 59 minutes 50 seconds West along the land formerly of Nienstedt about 669 feet to an angle; and thence on a course about North 5 degrees 44 minutes 40 seconds East about 875 feet to an angle; and thence along the southerly line of Parcel 1, about 675 feet to the point or place of BEGINNING.

PARCEL 3 (situate at Manorville, Town of Brookhaven, Suffolk County, New York)

DIST. 0200  
SEC. 412  
BLOCK 0300  
LOT(S) 40.000

Lots No. Twenty five (25), Twenty six (26), Twenty seven (27) and Twenty eight (28) in Block No. Thirty (30) as laid down on a certain map entitled "Map of South Manor Park". The above lots are also described as Lots No. 384, 383, 382 and 381, as laid down on a certain map entitled "Map of South Manor, at Manor, L.I., both of which maps are on file in the office of the County Clerk of Suffolk County, N.Y.

PARCEL 4 (situate at Manorville, Town of Brookhaven, Suffolk County, New York)

DIST. 0200  
SEC. 463  
BLOCK 0100  
LOT(S) 15.000

BEGINNING at a point where the westerly side of lands now or formerly of Simbar Development Corp. (formerly Edward McKelvey and Luther Raynor) intersect the northerly side of lands now or formerly of Hilltop 85 (formerly Herman Dietz and Elizabeth Nienstedt) said point beginning being distant the following four (4) courses and distances from a highway angle monument at station number 11 as shown on Map of Hot Water Street filed in the Office of the Town Clerk of the Town of Brookhaven; (1) North 83 degrees 52 minutes 30 seconds East along the northerly side of Hot Water Street 328.09 feet to a monument; (2) North 6 degrees 04 minutes 00 seconds East 2272.06 feet to a monument; (3) South 86 degrees 37 minutes 20 seconds East 462.55 feet to a monument and land now or formerly of Simbar Development Corp.; (4) thence along said land North 6 degrees 23 minutes 30 seconds East 925.04 feet to a fieldstone monument at the point of beginning; running thence from said point of beginning, North 83 degrees 59 minutes 40 seconds West 669.83 feet along land now or formerly of Hilltop 85 (formerly Herman Dietz and Elizabeth Nienstedt) to a monument

11256/288

and other land now or formerly of Hilltop 85 (formerly Herman Dietz and Elizabeth Nienstedt) thence along said last mentioned land North 5 degrees 44 minutes 40 seconds East 357.96 feet to land now or formerly of Kenneth H. Leeds, (formerly Mrs. Joseph Martin and Job Raynor); thence along said last mentioned lands South 83 degrees 59 minutes 40 seconds East 668.80 feet to lands now or formerly of Simbar Development Corp. (formerly Edward McKelvey and Luther Raynor); thence along said last mentioned lands, South 5 degrees 34 minutes 50 seconds West 357.96 feet to the point or place of BEGINNING.

The above four (4) parcels being and intended to be the same premises conveyed to the party of the first part by deed from Central 53 dated November 16, 1979, and recorded in the Suffolk County Clerk's Office on April 30, 1980, in Liber 8814 page 467.

PARCEL 5

ALL that certain plot, piece or parcel of land, situate, lying and being at East Manor, at or near Manorville, in the Town of Brookhaven, County of Suffolk and State of New York, and being more particularly bounded and described as follows:

DIST. ~~2710~~  
SIC. ~~403~~  
BLO. ~~01.00~~  
LOT. ~~11.00~~

BEGINNING at a monument with the initial "N" chiseled thereon which monument is situate at the Northwesterly corner of premises herein described, and the Southwesterly corner of premises formerly owned by Bernard K. Meyer, formerly D.R. Edwards, formerly Ethel H. Fishel; running thence South 82 degrees 02 minutes 40 seconds East along said last mentioned land 640.24 feet; running thence South 83 degrees 49 minutes 50 seconds East along land now or formerly of Herbert Hamburger 28.00 feet; running thence South 5 degrees 39 minutes 05 seconds West along land now or formerly of Simbar Development Corp., formerly Edward McKelvey, formerly Luther Raynor, 355.12 feet to other land of Bernard K. Meyer; running thence South 83 degrees 55 minutes 25 seconds East along said last mentioned land 668.80 feet to land of Hilltop 85, formerly Herman Dietz, formerly Elizabeth Nienstedt; running thence North 5 degrees 48 minutes 55 seconds East along said last mentioned land 376.15 feet to a monument and the point or place of BEGINNING.

PARCEL 5 BEING AND INTENDED to be the same premises conveyed to the party of the first part by deed from Kenneth H. Leeds dated November 15, 1979, and recorded in the Office of the Suffolk County Clerk on April 30, 1980 in Liber 8814 page 463.

PARCEL 6

DIST. ~~280~~  
SIC. ~~048~~  
BLOCK ~~01.00~~  
LOT. ~~11.00~~

ALL that certain plot, piece or parcel of land, situate, lying and being in the Town of Southampton, County of Suffolk and State of New York, known and designated as part of lot 26 to 30 inclusive, Quogue Purchase, bounded north and west by land now or formerly of Suffolk Airways Inc., east by Lot 25, Quogue Purchase, south by Middle Line.

PARCEL 6 BEING AND INTENDED to be the same premises conveyed to Edwin D. Fishel by deed dated September 19, 1940, and recorded in the Suffolk County Clerk's Office on September 20, 1940 in Liber 1180 page 378.

The party of the first part does further remise, release and quitclaim unto the party of the second part any and all parcels of land and improvements thereon which it may possess as Executor or Trustee of the Estate of Ethel Fishel situate in the Towns of Southampton and Brookhaven, Suffolk County, New York.

11256A259

2/168

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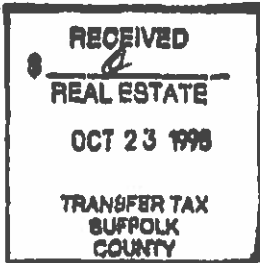
11924PC590

12399

RECORDED

13

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98 OCT 23 AM 9:36  
EDWARD P. ROMAINE  
CLERK OF  
SUFFOLK COUNTY

Number of pages 3 + 2 CTS

TORRENS

Serial #

Certificate # 96185

Prior Est. 77552

12399

Deed / Mortgage Instrument

Deed / Mortgage Tax Stamp

Recording / Filing Stamp

4

Page / Filing Fee 9

Handling 5

TP-584 5

Notation

EA-5217 (County) 5 Sub Total 24

EA-5217 (State) 25

R.P.T.S.A. 15

Comm. of Lid. 5.00

Affidavit

Certified Copy

Reg. Copy

Other

Sub Total 15

GRAND TOTAL 69



Mortgage Amt.

1. Basic Tax

2. Additional Tax

Sub Total

Spec./Analt.  
or  
Spec./Add.

TOT. MTCI. TAX

Dual Town Dual County

Held for Appointment

Transfer Tax 0

Mansion Tax

The property covered by this mortgage is or will be improved by a one or two family dwelling only.

YES or NO

If NO, see appropriate tax clause on page of this instrument.

Real Property Tax Service Agency Verification

Dist.	Section	Block	Lot
0900	248.00	61.00	110.003

Date 10-20-98

Initial

Title Company Information

Aquebogue Abstract Corp...  
Company Name

Title Number

Aquebogue Abstract  
123 Maple Ave  
Riverhead NY 11901

8 FEB PAID BY:

Cash Check  Charge

Payer same as R & R  
(or if different)

NAME: Aquebogue Abstract Corp.

ADDRESS: 123 Maple Ave  
Riverhead, NY 11901

RECORD & RETURN TO (ADDRESS)

Suffolk County Recording & Endorsement Page

This page forms part of the attached Conveyance Deed made by:

SCNB

(SPECIFY TYPE OF INSTRUMENT)

The premises herein is situated in SUFFOLK COUNTY, NEW YORK.

In the Township of Southampton

In the VILLAGE or HAMLET of

TO TOCCIO

BOXES 5 THRU 9 MUST BE TYPED OR PRINTED IN BLACK INK ONLY PRIOR TO RECORDING OR FILING.



CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT--THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY.

THIS INDENTURE, made the 12th day of August, nineteen hundred and 98  
BETWEEN

THE SUFFOLK COUNTY NATIONAL BANK, a national banking corporation organized and existing under and by virtue of the laws of the United States with its principal office at 6 West Second Street, Riverhead, NY

as executor ~~and~~ trustee under the last will and testament of  
Suffolk County ETHEL B. FISHEL, late of  
(party of the first part, and), deceased,

PATRICIA TUCCIO, residing at 163 Woodhull Avenue, Riverhead, NY  
as tenants in common EDWIN F. TUCCIO, residing at 547 East Main St., Riverhead, NY

party of the second part,  
WITNESSETH, that the party of the first part, by virtue of the power and authority given in and by said last will and testament, and in ~~common~~ distribution of the trust estate

the party of the first part ~~and~~ does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of Southampton at Westhampton, COUNTY of SUFFOLK and State of New York, known and designated as part of lot 26 to 30 inclusive Quogue Purchase, bounded north and west by land now or formerly of SUFFOLK Airways, Inc., east by lot 25 Quogue Purchase, south by Middle line.

Block 21, Lots 1-51 & Block 22, Lots 1-51  
\*A portion of the aforesaid description includes the following as part of the premises: lots 19 to 51 in block 13, lots 16 to 51 in block 14, lots 1 to 51 in block 15, lots 1 to 51 in block 16, lots 1 to 51 in block 17, lots 1 to 51 in block 18, lots 1 to 51 in block 19, lots 1 to 51 in block 20, lots 1 to 40 in block 23 and lots 1 to 40 in block 24, all inclusive, on a certain map entitled, "MAP OF WESTHAMPTON BEACH GARDENS" filed in the Office of the Clerk of the COUNTY of SUFFOLK on 4/13/36 as map no. 1201. THIS PORTION OF THE AFORESAID DESCRIPTION ARE PREMISES WHICH ARE REGISTERED IN THE SUFFOLK COUNTY REGISTRARS OFFICE UNDER CERTIFICATE NO'S. 77552 AND 98185. The party of the first part does further remise, release and quitclaim unto the party of the second part any and all parcels of land and improvements thereon which it may possess as executor or trustee of the Estate of Ethel Fishel situate in the Town of Southampton and Brookhaven, SUFFOLK COUNTY, New York, being and intended to be the same premises conveyed to Edwin D. Fishel by deed dated 9/14/1940, recorded on 9/20/1940 in Liber 1180 cp 378.

This is a correction deed which corrects the description set forth as parcel 6 in deed in Liber 11256 cp 285 \*all of the lot information following the asterisk above was inadvertently left out of the original deed.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof; TOGETHER with the appurtenances, and also all the estate which the said decedent had at the time of decedent's death in said premises, and also the estate therein, which the party of the first part has or has power to convey or dispose of, whether individually, or by virtue of said will or otherwise; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been incumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF

*Robert C. Dick*  
ROBERT C. DICK, SR. V.P.  
Suffolk Co. Nat'l Bank

11924PG590

STATE OF NEW YORK, COUNTY OF *Suffolk*

On the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me personally came

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that executed the same.

STATE OF NEW YORK, COUNTY OF \_\_\_\_\_

On the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me personally came

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that executed the same.

STATE OF NEW YORK, COUNTY OF *Suffolk*

On the *13* day of *August* 19*78*, before me personally came *Robert Dick*

to me known, who, being by me duly sworn, did depose and say that he resides at No. *6 W. Second St.*

that he is the *owner* of *SCNB, Riverhead NY*, the corporation described

in and which executed the foregoing instrument; ~~that he knows the cost of said corporation; that the cost of said corporation is such corporate debt; that it was so admitted by order of the board of directors of said corporation, and that he signed his name thereto by like order.~~

STATE OF NEW YORK, COUNTY OF \_\_\_\_\_

On the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me personally came

the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides at No. \_\_\_\_\_

that he knows

to be the individual described in and who executed the foregoing instrument; that he, said subscribing witness, was present and saw execute the same; and that he, said witness, at the same time subscribed his name as witness thereto.

*[Signature]*

KENNETH B. ZAHLER  
Notary Public, State of New York  
Suffolk County - No. 0122451918  
Expires February 28, 1979

Executor's Deed

Title No \_\_\_\_\_

SECTION \_\_\_\_\_  
BLOCK \_\_\_\_\_  
LOT \_\_\_\_\_  
COUNTY OR TOWN \_\_\_\_\_

TO \_\_\_\_\_

Recorded At Request of  
First American Title Insurance Company of New York  
RETURN BY MAIL TO:



Zip No. \_\_\_\_\_

RECEIVE THIS SPACE FOR USE OF RECORDING OFFICE

# THE LAND TITLE REGISTRATION LAW

## Certificate of Title

No. 77552

FIRST REGISTERED September 7, 1926

TRANSFER FROM

CERTIFICATE No.

2995 - 3682 - 3931 - 3991

4036 - 4006 - 4133

4279 - 4590 - 8307

*Lester M. Robertson*

Lester M. Robertson, Registrar, of the County of Suffolk, in the State of New York, DO HEREBY

CERTIFY that

SUFFOLK COUNTY NATIONAL BANK,  
as Trustee Under the Last Will and Testament of  
ETHEL B. FISHEL, deceased

of  
6 West Second Street, Riverhead, New York

Cancelled October 23, 1969

*Edward P. Romaine*

REGISTRAR

~~is~~ the owner of an Estate in fee simple

in the following Land: ALL those parcels of land hereinafter described,  
constituting parts of a tract of land situate north of Westhampton Beach  
and set forth on a map entitled "Map of Westhampton Beach Gardens, situate  
near Westhampton, Town of Southampton, Suffolk County, N.Y.", filed under  
File No. 1201 on April 15, 1936, under Certificate of Registration numbered

- 2995, as follows:
- PARCEL 1:- Lots 19 to 28, inclusive, Block 13.  
Lot 51 in Block 17.  
Lot 51 in Block 18.
  - PARCEL 2:- Lots 16 to 32, inclusive, Block 14.  
Lots 1 to 22, inclusive, Block 15.  
Lots 1 to 40, inclusive, Block 16.
  - PARCEL 3:- Lots 29 to 51 in Block 13.  
Lots 33 to 51 in Block 14.  
Lots 23 to 51 in Block 15.  
Lots 41 to 51 in Block 16.  
Lot 51 in Block 19.  
Lot 51 in Block 20.  
Lots 1 to 51 in Block 21.  
Lots 1 to 51 in Block 22.
  - PARCEL 4:- Lots 21 to 50 in Block 18.
  - PARCEL 5:- Lots 11 to 25 in Block 17.  
Lots 1 to 20 in Block 18.
  - PARCEL 6:- Lots 1 to 10 in Block 17.
  - PARCEL 7:- Lots 26 to 50 in Block 17.
  - PARCEL 8:- Lots 1 to 50 in Block 19.
  - PARCEL 9:- Lots 1 to 30 in Block 20.
  - PARCEL 10:- Lots 31 to 50 in Block 20.

SUBJECT to the estates, encumbrances, encumbrances and  
charges hereunder noted.

WITNESS my hand and official seal at River-  
head, N. Y., this 28th day of April, 1969.

RECORD & RETURN TO  
TORRENS

*Lester M. Robertson*

Registrar.

specified in the foregoing statement of compliance, to be made by the Registrar, and a memorial  
has been prepared, unless the instrument creating and setting forth such compliance  
or matters thereof needs upon the certificate of title covering the property.

OD. SENT TO:  
Salth, Tasker, Pinkelsteir & Lumberg, 456 Griffing Ave., P.O. Box. 289, Riverhead, N.Y. 11901 - on 5/9/1969

## MEMORIALS

of Estates, Estates, Incumbence and Changes on the Land described in the Certificate of Title No. 77552

DOCUMENT NUMBER	END	DATE OF REGISTRATION	RUNNING IN FAVOR OF	TERMS OR REASONS	SIGNATURE OF REGISTRAR
	Deed		Patricia Tuccio and Edwin F. Tuccio	Conveys All Within Premises TRANSFERRED TO COUNTY CLERK	<i>Elsword P. Farnsworth</i>
			TRANSFERRED TO COUNTY CLERK UNDER DEED LIBER	119246590	

# THE LAND TITLE REGISTRATION LAW

## Certificate of Title

No. 98105.....

FIRST REGISTERED April 7, 1926.....

TRANSFER FROM ..... CERTIFICATE No. 5813.....

I, LESTER M. ALBERTSON, Registrar, of the County of Suffolk, in the State of New York, DO HEREBY CERTIFY that

SUFFOLK COUNTY NATIONAL BANK, AS TRUSTEE

UNDER THE LAST WILL AND TESTAMENT OF ETHEL B. FISHEL, DECEASED

of  
6 West Second Street  
Riverhead, New York

is  
X-576 the owner of an Estate in fee simple

Cancelled October 25, 1998  
Edward P. Romaine  
Registrar

In the following Land:

ALL those parcels of land hereinafter described, constituting parts of a tract of land situate north of Westhampton Beach and set forth on a map entitled "Map of Westhampton Beach Gardens, situate near Westhampton, Town of Southampton, Suffolk County, N.Y.", filed under File No. 1201 on April 15, 1936, under Certificate of Registration numbered 2995, as follows:- Lots 1 to 40, inclusive, Block 23. Lots 1 to 40, inclusive, Block 24.

SUBJECT to the estates, easements, encumbrances and charges hereunder noted.

WITNESS my hand and official seal at Riverhead, N.Y., this 30th day of May, 1975.

-----  
Lester M. Albertson  
----- Registrar.

RECORD & RETURN TO  
TORRENS

Statement of exceptions, an incumbrance, charge, lien or transfer shall take effect upon and among lands such incumbrance, charge, lien or transfer has been filed with the said a memorial or notice thereof made upon the certificate of title covering the property.

REC'D: Ser. #211098  
 O.R. RETURNED TO: Reginald C. Sedth Box 389-Overhead, N.Y. 11901, 6/2/75.

## MEMORIALS

of Estates, Estates, Incumbents and Charges on the Land described in the Certificate of Title No. 96185

DOCUMENT NUMBER	KIND	DATE OF REGISTRATION	RUNNING IN FAVOR OF	TERMS OR REMARKS	SIGNATURE OF REGISTRAR
	Deed		Patricia Tuccio and Edwin F. Tuccio	Conveys All within Premises TRANSFERRED TO COUNTY CLERK	<i>Edward P. Francis</i>
			TRANSFERRED TO COUNTY CLERK UNDER DEED LIBER	11924:590	

**DECISION AND FINDINGS OF FACT  
CORE PRESERVATION AREA HARDSHIP EXEMPTION PERMIT**

**Applicant:** Edwin Tuccio: Westhampton Mini Storage

**Property Location:** 400-acre parcel on North Perimeter Road at the Suffolk County Airport, Town of Southampton, County of Suffolk.

**Description of Proposed Development:**

The applicant proposes to construct two, one-story, steel-framed storage buildings in place of two blast deflectors which will be removed, on property zoned 5-acre industrial. The property was previously improved and used by the United States Air Force during the 1950s for the storage and assembly of military ammunition.

**Date of Public Hearing Before the Commission:** June 22, 1994

**Decision of the Central Pine Barrens  
Joint Planning and Policy Commission:**

By resolution dated August 12, 1994, the Commission voted to grant the application for a hardship exemption, subject to certain conditions, based upon the findings of fact set forth herein.

**Findings of Fact:**

The subject property is located in the Core Preservation Area of the Central Pine Barrens as such term is defined in Article 57 of the Environmental Conservation Law ("Article 57").

Pursuant to § 57-0121(9) of Article 57, no development is permitted in the Central Pine Barrens prior to the approval and implementation of a comprehensive land use plan. Prior to the adoption of this land use plan, an application for a hardship permit exempting a Core Preservation Area property owner from the development prohibition in § 57-0121(8) may be submitted to the Commission pursuant to § 57-0121(10).

Section 57-0121(10) sets forth specific standards which must be met before the Commission may grant a hardship exemption in the Core Preservation Area. The applicant must satisfy one of two prongs by establishing either: (a) an extraordinary hardship as distinguished from mere inconvenience if he is precluded from developing the property, or (b) a compelling public need for the proposed development.

In order to establish an extraordinary hardship, the applicant must demonstrate that the subject property has no beneficial use if used for its present use or if used as permitted as of right under Article 57. The lack of beneficial use, furthermore, must be due to the existing unique circumstances of the subject property which: (a) do not apply to or affect other property in the immediate vicinity; (b) relate to or arise out of the characteristics of the subject property rather than the personal situation of the applicant; or (c) are not the result of any action or inaction by the applicant.

The subject property was formerly part of a large tract developed by the United States Air Force for the storage and assembly of military weapons. At that time, the tract was excavated and improved with asphalt and concrete roadways. Eleven concrete buildings were previously constructed on the site. These buildings, consisting of 40,000 square feet, are presently used for self-storage. Two man-made, steep berms, contained by 12-foot high concrete retaining walls and foundations, were also constructed. The steep berms were originally built for use as blast deflectors in the event of an accidental explosion. The construction of these improvements resulted in the removal of all native vegetation from the site.

The subject property is zoned for 5-acre industrial development. The applicant does not seek a change in the property's present zoning, and proposes development on the 40 acre portion of the subject property which is disturbed. The applicant proposes the removal of the two berms and the addition of two, steel-framed, 40 ft. x 150 ft. x 12 ft. buildings. The buildings will be sited where the berms are presently located.

The Central Pine Barrens Joint Policy and Planning Commission (the "Commission"), as lead agency, required the applicant to submit a full Environmental Assessment Form ("EAF"). The EAF states that the subject property has been previously disturbed and the nature of the existing commercial activities, low intensity mini self storage, should result in minimal, if any, negative environmental impacts.

Based upon the statements contained in the written application, submitted on May 31, 1994, an addendum submitted on June 20, 1994, the evidence and testimony provided during the public hearing and on other material in the record, the Commission finds that the subject parcel is substantially disturbed as a result of its prior use as a military ammunition storage facility. Specifically, the prior site development has resulted in the removal of all native vegetation. The retaining walls presently on the subject parcel will be



used as the walls and foundation of the proposed buildings.

Due to the extent and nature of the prior disturbance of the subject parcel, the Commission finds that the parcel is unique and has no beneficial use if used for its present use or as authorized by Article 57. The subject parcel's unique circumstances do not apply to other parcels in the immediate vicinity. The parcel was disturbed when the applicant acquired it and the disturbance is a specific characteristic of the parcel. Thus, the unique circumstances of the parcel are unrelated to the personal situation of the applicant. Further, the unique circumstances of the parcel are not due to any action or inaction of the applicant. The unique circumstances are a result of the use of the parcel as a military ammunition storage facility in the 1950s and its subsequent abandonment.

The applicant has met his burden of demonstrating an extraordinary hardship by strict enforcement of Article 57. The Commission further determines that the addition of two, one-story buildings and the removal of two, man-made steep berms, which are not capable of re-establishing significant native vegetation or habitat, will not have a deleterious impact on the neighboring property. No utilities will be installed except for exterior mounted security lighting. Further, no septic systems will be installed and no effluent will be generated. Based upon the environmental review, it appears that any impairment of natural resources has already occurred in connection with the prior excavation and use of the subject property and that there will be no additional impairment if this development proceeds, subject to the conditions set forth below.

The general purpose of Article 57 is to protect the groundwater and to preserve endangered or threatened species and their habitats. The EAF identified and addressed these areas of concerns. It concluded that the proposed development would result in only small to moderate impact on the groundwater and that, due to the substantial disturbance of the property, no rare or endangered species exist on the site. Long Island Dwarf Pine Plains, which are found in the general vicinity of the subject property, will not be removed or adversely impacted as a result of the proposed development. The pre-existing paved roads, buildings and retaining walls have prevented a natural state from occurring on the site. Thus, the proposed development will be consistent with the purposes, objectives and general intent of Article 57.

Finally, the Commission finds that the relief granted is the minimum necessary to avoid the extraordinary hardship. The Commission's TDR program has not yet

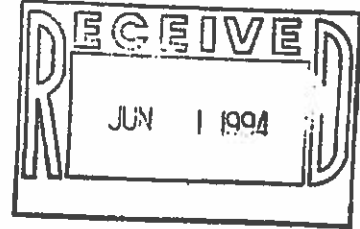
been fully implemented. There is no other relief available to the applicant under Article 57.

The application is granted, subject to the following conditions:

1. This approval is limited to that portion of the 400 acre parcel currently fenced and used for the actual operation of the existing mini-storage facility, as shown on the exhibits submitted by the applicant and retained by the Commission, and this approval expressly excludes all lands outside such fenced area. In particular, this excludes all portions of the subject real property which are not contained within the fence and are therefore not currently used for the mini-storage facility.
2. Necessary site improvements required by the Town of Southampton directly related to the construction of the new storage buildings are permitted and shall include, but not be limited to any minor additional paving or other requirements imposed by the Town of Southampton or other permitting authorities.
3. There shall be no storage of toxic, hazardous, flammable or explosive materials or waste products on the subject property.

Dated: October 13, 1994

MICHAEL NOBILETTI  
8 Stillwater Lane  
Westhampton Beach, N Y 11978



May 31, 1994

Central Pine Barrens Commission  
P O Box 587  
3525 Sunrise Highway  
Great River, N Y 11739

Subject: Core Preservation Area Hardship Application  
Westhampton Mini Storage  
North Perimeter Road, Suffolk Co. Airport

Dear Commissioners:

Enclosed please find the Hardship Application for the subject property. The basis of the hardship is the assertion that the property has no beneficial use as prescribed under the LIPBPA and that this lack of beneficial use is due to the pre-existing extensive development of the property. Further, the proposed development requested is consistent with the intent of the LIPBPA and will not negatively impact endangered species, habitat, vegetation or groundwater.

The appropriate policies and standards contained in the Interim Goals & Standards For Development are the format of this application.

Recognizing the difficulty of visualizing such an extensively developed site within the Core Area the applicant requests a visit to the site by the Commission.

Due to circumstances of the applicant the prompt processing of the application is requested.

Any additional information needed to review this application will be promptly provided.

Very truly yours,

  
Michael Nobiletti

**WESTHAMPTON MINI STORAGE  
547 East Main Street  
Riverhead, NY 11901**

**May 30, 1994**

**Central Pine Barrens Commission  
P O Box 587  
3525 Sunrise Highway  
Great River, NY 11739**

**Subject: Westhampton Mini Storage, Inc.  
Core Preservation Area Hardship Application**

**Dear Commissioners:**

**I, Edwin F. Tuccio, authorize Michael Nobiletti to submit the subject Hardship Application.**

**Very truly yours,**

**Edwin F. Tuccio**

## CORE PRESERVATION AREA HARDSHIP APPLICATION

### APPLICANT INFORMATION

Westhampton Mini Storage  
547 East Main Street  
Riverhead, NY 11901

Patricia Tuccio  
Edwin Fishel Tuccio  
516 727-6644

### APPLICATION PREPARED BY

Michael Nobiletti  
8 Stillwater Lane  
Westhampton Beach, N Y 11978  
516 288-5366

### PROJECT DESCRIPTION

PROJECT NAME	Westhampton Mini Storage
TOWN	Southampton
STREET LOCATION	North Perimeter Road, Suffolk Co Airport
TAX MAP NUMBER	0900 - 248 - 01 - 110002
TOTAL ACREAGE	40
PRESENT LAND USE	40,000 sq ft of self storage, within eleven concrete buildings surrounded by paved asphalt and concrete roads. This use operates as a pre-existing non-conforming use.
PRESENT ZONING	5 Acre Industrial

**PROJECT TYPE** - The addition of two steel framed & skinned buildings 40 ft X 150 ft X 12 ft high; supported on concrete foundations and slabs on grade; containing thirty self storage units each. No utilities will be installed in the buildings with the possible exception of exterior mounted security lighting. No septic systems will be installed and no effluent will be generated. The buildings will be located in an area surrounded by existing asphalt and concrete paved roads, and adjacent to two existing buildings, also with no utilities, of similar size, used for the same purpose as the proposed buildings. The project will require the removal of two man made steep berms [ 50% slopes ], the same size as the proposed buildings, which are contained at both ends by massive 12 ft high pyramid shaped concrete retaining walls and foundations. The site was developed by the U. S. Air Force in the 1950's for the storage and assembly of weapons and is a contiguous part of the now Suffolk Co Airport complex. The two steep berms were to function as blast deflectors in the

event of an accidental explosion. The entire site was excavated at that time and resulted in the removal of all native vegetation, the current site is distinctively in contrast with that of a pristine pine barren. After the proposed excavation the retaining walls will be utilized as the end walls and foundations of the proposed buildings [see Existing Site & Proposed Site photographs]. Due to the management and nature of the existing commercial activities, low intensity mini self storage, the negative impacts on the environment are minimal, if any at all. The addition of the proposed buildings will result in a small increase in intensity but will not introduce any additional environmental threats.

1. **GROUNDWATER** - The proposed buildings are for storage only and will not contain any sanitary facilities and therefore will not generate any sewage effluent. The unpaved / undeveloped land at the site will remain in a native vegetated state and will not be fertilized. No nitrogen loading will occur as a result of these proposed buildings.

The proposed buildings will not store toxic or hazardous materials. The tenants leasing the units are prohibited from such storage and agree to same in the lease agreement. Further the landlord has by lease agreement the right to enter, without prior notice to the tenant, in order to inspect for hazardous materials.

Based on SCDH - Water Table Contours Map, March 1992 the flow of groundwater from the proposed site will be to the southeast into an area that has been subjected to 'Hazardous Spills / Leaks - Groundwater Discharges' [Krulikas 1986 - Suffolk Co. Pine Barrens Hydrologic Report : Point Source #171, Gasoline; # 2, JP 4 Jet Fuel; #262, Aviation Fuel & Sodium Sulfate and other pollutants]. Recognizing the importance to not further degrade the area the applicant will consider, if the P B Commission determines that extreme precautions are necessary, the installation of an appropriate 'Landfill Liner, Leachate Collection & Removal System' as described in 6 NYCRR Solid Waste Management Facilities - Part 360 - 2.13 [ f ] thru [ v ].

2. **WETLANDS** - N/A

3. **SURFACE WATERS** - N/A

4. & 5. **RARE & ENDANGERED SPECIES, & UNIQUE NATURAL COMMUNITIES - NATIVE VEGETATION DISTURBANCE** - The proposed building site consists of two steep [ 50% slope ] manmade berms, circa. 1950, that have not been capable of re-establishing significant P B Core vegetation or habitat. Based on the erosion, rutted surface and minimal vegetation the natural state of repose of the berms has not been achieved. The existing development at the site; the adjacent paved roads, buildings and retaining walls, have prevented this natural state to occur and therefore the site is not capable of contributing to a primary Article 57 objective, the protection of rare native vegetation / habitat and species [ see Berm Habitat & Vegetation Photographs ]. Additionally, the site has been excluded from the L I Dwarf Pine Plains Map - Cryan, 1982 [ see Vicinity Photographs ].

6. **FERTILIZED VEGETATION & LANDSCAPING** - No nitrogen or phosphorous fertilizers will be used at the site. Native vegetation will be permitted to prosper with no assistance or interference.
7. **STEEP SLOPES** - The man made steep slopes within the proposed building envelope area will be removed completely, down to the flat level of the existing surrounding paved roadways.
8. **RUNOFF WATER** - The runoff generated from the proposed buildings will be diverted to dry wells previously installed, adjacent to the proposed building envelope.
9. **AGRICULTURE & HORTICULTURE** - N/A
10. **REZONING OF LAND** - The present storage use is a pre-existing non-conforming use. It is believed that a rezoning will not be necessary for the proposed buildings. The increase in density and minimal increase in intensity will not negatively impact groundwater quality or cause a loss of native vegetation / habitat.
11. **COMMERCIAL & INDUSTRIAL DEVELOPMENT** - This proposed development can be described as one of very low intensity. The storage of toxic or hazardous materials will not be permitted at the proposed development site.
- 12., 13. & 14. **CLUSTERING - COORDINATED DESIGN - OPEN SPACE MANAGEMENT** - The proposed development is within the immediate boundaries of a previously disturbed site and completely surrounded by paved road surfaces. No open space or open space potential will be lost if this development is approved. The existing site is confined within a 10 ft. chain link fence and is routinely patrolled to prevent illegal / detrimental abuses.
15. **WELLHEAD PROTECTION** - The proposed development will not introduce any organic or inorganic pollutants to the site [ see Item 1. GROUNDWATER ]. SCWA water lines are installed at the site.
16. **SCENIC, HISTORIC & CULTURAL RESOURCES** - There are no known Scenic, Historic or Cultural Resources at the site that would be negatively impacted by this development. The site was extensively excavated by the U. S. Air Force in the 1950's.
17. **HARDSHIP** -  
The existing use consists of 40,000 sq ft of storage units in eleven buildings, with 140 tenants on 40 acres surrounded by 10 ft high chain link security fence. The site is further improved with asphalt and concrete roadways which service the existing buildings and will also service the proposed buildings. The units are currently fully rented and provide revenue to the applicant. The site is part of a 200 acre Core Area parcel held by the applicant, 80% of which is not developed and produces no income. The revenue from the

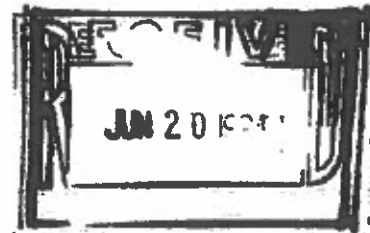
storage facility contributes to the support of the entire parcel and the revenue that will be generated from the proposed buildings are needed immediately in order to offset rising operating costs. Further it is the desire of the applicant to develop the existing otherwise useless structure [ the concrete walls & foundations ] in a manner consistent with the intents of the LIPBPA. The costs of duplicating the existing infrastructure of paved roads, security fencing and existing walls / foundation at a second site will make this development impossible. Additionally, certain economies regarding maintenance, transit & set up time, security, management and others factors will be lost in a two site operation. There are no alternatives or relocation possibilities for this proposed expansion.

The existing development at the site clearly eliminates its ability to contribute as a beneficial use site as described in the LIPBPA and further prevents it from doing so in the future. These hardships are unique to this site and are not shared by others in the immediate vicinity. They are due to the characteristics of the site and not the personal circumstance of the applicant / owner. Further they are not due to any action or inaction on the part of the applicant / owner.

The primary concerns of the LIPBPA, groundwater and native vegetation / habitat, will not be sufficiently impacted such that this development should be denied.



MICHAEL NOBILETTI  
8 Stillwater Lane  
Westhampton Beach, N Y 11978  
516 288-5366



June 20, 1994

Central Pine Barrens Commission  
P O Box 587  
3525 Sunrise Highway  
Great River, N Y 11739

Subject:     **ADDENDUM**  
              **Core Preservation Area Hardship Application**  
              **Westhampton Mini Storage**  
              **North Perimeter Road, Suffolk Co. Airport**

Dear Commissioners:

Attached please find additional information for the subject application.

1. **CERTIFICATE OF OCCUPANCY** - Southampton Town # C15293; USE - Warehouses, Storage, Office, Accessory Storage and Security.
2. **EXCAVATED FILL DISPOSITION** - Letter from Suffolk Cement Products stating that the excavated fill from the proposed development will be removed from the site.
3. **SOUTHAMPTON TOWN 'NATURAL COMMUNITIES' MAP 1993** - This map locates the site within the region and describes the site as one of the "Disturbed Areas with Respect to Natural Plant Cover Types".
4. **LAND SURVEY** - This survey shows the entire 404.16 acre tax map parcel as well as the proposed development site.
5. **ARTIST'S ILLUSTRATION** - An illustration showing the existing buildings, paved roads, concrete retaining walls and the proposed buildings employing the concrete retaining walls as a structural component.
6. **AERIAL PHOTOGRAPHS** - Two photographs locating the site within the immediate area and showing the existing development / proposed development site.
7. **LEASE AGREEMENT** - The applicant lease agreement for the proposed storage buildings prohibiting the tenant from storing or releasing any hazardous materials at the site [ Para. 8, Lines 13 - 19 ].

8. CONCRETE SLAB & FOUNDATION DESIGN DETAIL - This design shows a typical footing and wall foundation with a slab that has a 2 1/2 gallon per square foot liquid holding capacity. The sizes of the individual units are not specified and at this point the actual size mix has not been determined, however the two proposed building envelopes [55' x 150'] are clearly determined by the existing paved roads and existing pyramid shaped concrete retaining walls which will be incorporated into the structure of the proposed buildings. The individual unit containment design shown will maintain traceability of any spill and prevent the collection of an unknown, possibly reactive, mixture that may occur if a communal collection system were used. However, other methods of containment are presently being considered. This may be a worthwhile point of discussion with the Commission staff.

Additionally, two sections of the original Application have been modified so as to be more descriptive. They are Projection Description and Item 6. Fertilized Vegetation & Landscaping; the added text has been underlined.

Very truly yours,

  
Michael Nobiletti

## CORE PRESERVATION AREA HARDSHIP APPLICATION

### APPLICANT INFORMATION

Westhampton Mini Storage  
547 East Main Street  
Riverhead, NY 11901

Patricia Tuccio  
Edwin Fishel Tuccio  
516 727-6644

### APPLICATION PREPARED BY

Michael Nobiletti  
8 Stillwater Lane  
Westhampton Beach, N Y 11978  
516 288-5366

### PROJECT DESCRIPTION

PROJECT NAME	Westhampton Mini Storage
TOWN	Southampton
STREET LOCATION	North Perimeter Road, Suffolk Co Airport
TAX MAP NUMBER	<u>PART OF 0900 - 248 - 01 - 110.002</u>
TOTAL ACREAGE	<u>404.16 ac total tax map parcel; 40 ac existing developed total; 16,500 sq / ft proposed additional development total</u>
PRESENT LAND USE	40,000 sq ft of self storage, within eleven concrete buildings surrounded by paved asphalt and concrete roads. This use operates as a pre-existing non-conforming use.
PRESENT ZONING	5 Acre Industrial

**PROJECT TYPE** - The addition of two steel framed & skinned buildings 40 ft X 150 ft X 12 ft high; supported on concrete foundations and slabs on grade; containing thirty self storage units each. No utilities will be installed in the buildings with the possible exception of exterior mounted security lighting. No septic systems will be installed and no effluent will be generated. The buildings will be located in an area surrounded by existing asphalt and concrete paved roads, and adjacent to two existing buildings, also with no utilities, of similar size, used for the same purpose as the proposed buildings. The project will require the removal of two man made steep berms [ 50% slopes ], the same size as the proposed buildings, which are contained at both ends by massive 12 ft high pyramid shaped concrete retaining walls and foundations. The site was developed by the U. S. Air Force in the 1950's for the storage and assembly of weapons and is a contiguous part of the now Suffolk Co Airport complex. The two steep berms were to function as blast deflectors in the

6. **FERTILIZED VEGETATION & LANDSCAPING** - No nitrogen or phosphorous fertilizers will be used at the site. Native The non-native vegetation that has developed since the extensive U.S. Government excavation of the site in the 1950's will be permitted to prosper with no assistance or interference.
7. **STEEP SLOPES** - The man made steep slopes within the proposed building envelope area will be removed completely, down to the flat level of the existing surrounding paved roadways.
8. **RUNOFF WATER** - The runoff generated from the proposed buildings will be diverted to dry wells previously installed, adjacent to the proposed building envelope.
9. **AGRICULTURE & HORTICULTURE** - N/A
10. **REZONING OF LAND** - The present storage use is a pre-existing non-conforming use. It is believed that a rezoning will not be necessary for the proposed buildings. The increase in density and minimal increase in intensity will not negatively impact groundwater quality or cause a loss of native vegetation / habitat.
11. **COMMERCIAL & INDUSTRIAL DEVELOPMENT** - This proposed development can be described as one of very low intensity. The storage of toxic or hazardous materials will not be permitted at the proposed development site.
- 12., 13. & 14. **CLUSTERING - COORDINATED DESIGN - OPEN SPACE MANAGEMENT** - The proposed development is within the immediate boundaries of a previously disturbed site and completely surrounded by paved road surfaces. No open space or open space potential will be lost if this development is approved. The existing site is confined within a 10 ft. chain link fence and is routinely patrolled to prevent illegal / detrimental abuses.
15. **WELLHEAD PROTECTION** - The proposed development will not introduce any organic or inorganic pollutants to the site [ see Item 1. GROUNDWATER ]. SCWA water lines are installed at the site.
16. **SCENIC, HISTORIC & CULTURAL RESOURCES** - There are no known Scenic, Historic or Cultural Resources at the site that would be negatively impacted by this development. The site was extensively excavated by the U. S. Air Force in the 1950's.
17. **HARDSHIP** -  
The existing use consists of 40,000 sq ft of storage units in eleven buildings, with 140 tenants on 40 acres surrounded by 10 ft high chain link security fence. The site is further improved with asphalt and concrete roadways which service the existing buildings and will also service the proposed buildings. The units are currently fully rented and provide revenue to the applicant. The site is part of a 400 + acre Core Area parcel held by the



# Town of Southampton

## BUILDING DEPARTMENT

# Certificate of Occupancy

BUILDING CONSTRUCTION ORDINANCE CHAPTER 123 Article II 123-18.B.

C15293

Date 06/17 19 93

Plot No 997468

PATRICIA TUCCIO

This is to certify that the

Work ( )	Altered ( )	Addition ( )	Pre-Existing (x)	Building
located	North of Suffolk County Airport, Overlay			
	248-1-110.2, Westhampton Beach			
	Town of Southampton, New York			

has been COMPLETED substantially according to the approved plans, and the requirements of the above ordinances have been met and permission is hereby granted for the OCCUPANCY of building for the following purposes:

This certificate supersedes all previously issued certificates.

### U S E

3 1 STRY BLDGS E/S OF PROPERTY USED AS WAREHOUSES/4 1 STRY BLDGS USED AS STORAGE STRUCT/1 STRY BLDG USED AS OFFICE & STORAGE/1 BLDG USED AS STORAGE AND ACC. SECURITY BLDG./ACCESSORY STORAGE BLDG (METAL)

No of Buildings 07  
Work Completed Prior to Oct. 14, 1957

JAMES N. WILFORD

BLDG & ZON. ADMINISTRATOR

Owner's Copy

**SUFFOLK CEMENT PRODUCTS  
WEST MIDDLE ROAD  
CALVERTON, NEW YORK 11933  
516-727-2317**

June 17, 1994

**Central Pine Barrens  
PO Box 587  
3525 Sunrise Highway  
Great River, New York 11739-0587**

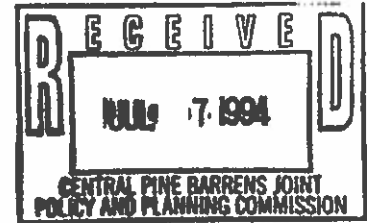
**Dear Sirs;**

**We have contracted with Edwin Fishel Tuccio and Patricia Tuccio to do the following:**

- 1) Remove soil and any other materials that may be found in two berms 50 ft. wide by 150 ft. long between buildings A and B, and building B and Nape building on south side of "mini storage" facility located on N. Perimeter Road, which is located on the north side of the Suffolk County Airport in Westhampton, New York. Tax Map #0900-248-01-11.0002**
- 2) All material will be transported away from the Airport to our facility in Calverton.**
- 3) No surrounding areas will be disturbed. The ground will be leveled. Only the material that will be in the footprint of the new buildings will be removed.**

**Kenneth Lohr  
Suffolk Cement Products**

MICHAEL NOBILETTI  
8 Stillwater Lane  
Westhampton Beach, N Y 11978  
516 288-5368



JULY 5, 1994

Central Pine Barrens Commission  
P O Box 587  
3525 Sunrise Highway  
Great River, N Y 11739

Subject: **ADDENDUM # 2**  
**'Beneficial Use', Sec. 57 - 0121 [ 10 ] ; Discussion**  
**Core Preservation Area Hardship Application**  
**Westhampton Mini Storage**  
**North Perimeter Road, Suffolk Co. Airport**

Dear Commissioners:

As stated at the Jun 22 Hearing the Applicant wishes to enter into the record its interpretation of the meaning and the significance of the term 'Beneficial Use' contained in Sec. 57 - 0121 [ 10 ] as it applies to the subject Application.

Article 57, Sec. 57 - 0121 [ 8 ] states that ".... no development is permitted in the Central Pine Barrens .... " and further states " .... an application for a hardship permit exempting a Core Preservation Area property owner from the development prohibition of Sec. 57 - 0121 [ 8 ] may be submitted to the Commission pursuant to Sec. 57 - 0121 [ 10 ].".

Sec. 57 - 121 [ 10 ] states in part that ".... An applicant shall have been deemed to have established the existence of an extraordinary hardship only if he demonstrates, based on specific facts, that the subject property does not have any beneficial use if used for its present use or developed as authorized by the provisions of this article, .....".

During the Hearing the question was raised by the Commission Representatives and by the audience as to the meaning of 'Beneficial Use'; i.e. does the term refer to 'Beneficial Use' to the Property Owner / Applicant or the intents of the L I Pine Barrens Protection Act itself. It is not the intention of the Applicant to define the meaning of 'Beneficial Use' under the Act; however the Applicant does maintain that it has proven in its Application, photographic and narrative presentation at the Hearing, as well the as its Jun 10 site tour to the Commission Representatives that the Proposed Development Site:

i does not have any 'Beneficial Use' to the Applicant as its present use

- ii does not have any 'Beneficial Use' to the Applicant if used as permitted under Article 57, Sec. 57 - 0121 [ 8 ]
- iii does not have any 'Beneficial Use' to the objectives of the LIPBPA as its present use
- iv does not have the potential to contribute in the future to the objectives of the LIPBPA as a 'Beneficial Use' area due to the type of extensive development performed by the U. S. Air Force in the 1950's

The Applicant maintains that it has successfully demonstrated that the Proposed Development Site is of no 'Beneficial Use' to the Applicant as its present use or if developed as permitted under Article 57 and that the Site is of no 'Beneficial Use' as its present use or future potential use to the intents of the LIPBPA, and therefore the Applicant has met the criteria of the 'No Beneficial Use' portion of the Hardship requirement.

Very truly yours,



Michael Nobiletti

cc: Doris E. Roth  
James Rigano  
McMillan, Rather, Bennett & Rigano, P.C.



June 2, 1994

To: Lorraine Trezza  
From: Michael Nobiletti 288-5366



Lorraine:

I have made two corrections to Item 17 of the Westhampton Mini Storage Hardship Application as indicated on the following page. The nature of the changes are that the total parcel size is 400 + Acres and the amount of developed property is 85%. Kindly replace the following page with that of the one originally submitted. I have mailed to you three copies of same. Thank you.

Regards,

Michael

- 6. FERTILIZED VEGETATION & LANDSCAPING** - No nitrogen or phosphorous fertilizers will be used at the site. Native vegetation will be permitted to prosper with no assistance or interference.
- 7. STEEP SLOPES** - The man made steep slopes within the proposed building envelope area will be removed completely, down to the flat level of the existing surrounding paved roadways.
- 8. RUNOFF WATER** - The runoff generated from the proposed buildings will be diverted to dry wells previously installed, adjacent to the proposed building envelope.
- 9. AGRICULTURE & HORTICULTURE** - N/A
- 10. REZONING OF LAND** - The present storage use is a pre-existing non-conforming use. It is believed that a rezoning will not be necessary for the proposed buildings. The increase in density and minimal increase in intensity will not negatively impact groundwater quality or cause a loss of native vegetation / habitat.
- 11. COMMERCIAL & INDUSTRIAL DEVELOPMENT** - This proposed development can be described as one of very low intensity. The storage of toxic or hazardous materials will not be permitted at the proposed development site.
- 12., 13. & 14. CLUSTERING - COORDINATED DESIGN - OPEN SPACE MANAGEMENT** - The proposed development is within the immediate boundaries of a previously disturbed site and completely surrounded by paved road surfaces. No open space or open space potential will be lost if this development is approved. The existing site is confined within a 10 ft. chain link fence and is routinely patrolled to prevent illegal / detrimental abuses.
- 15. WELLHEAD PROTECTION** - The proposed development will not introduce any organic or inorganic pollutants to the site [ see Item 1. GROUNDWATER ]. SCWA water lines are installed at the site.
- 16. SCENIC, HISTORIC & CULTURAL RESOURCES** - There are no known Scenic, Historic or Cultural Resources at the site that would be negatively impacted by this development. The site was extensively excavated by the U. S. Air Force in the 1950's.
- 17. HARDSHIP** -  
The existing use consists of 40,000 sq ft of storage units in eleven buildings, with 140 tenants on 40 acres surrounded by 10 ft high chain link security fence. The site is further improved with asphalt and concrete roadways which service the existing buildings and will also service the proposed buildings. The units are currently fully rented and provide revenue to the applicant. The site is part of a 400 + acre Core Area parcel held by the applicant, 85% of which is not developed and produces no income. The revenue from the

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CENTRAL PINE BARRENS JOINT  
PLANNING & POLICY COMMISSION

PUBLIC HEARINGS ON CORE  
PRESERVATION AREA HARDSHIP  
APPLICATIONS

-----X

Riverhead Town Hall  
Riverhead, New York

June 22, 1994  
7:40 P.M.

PUBLIC HEARING

RAM COURT REPORTING SERVICE (516) 727-3168

6/94

FORM 12345 PUBLISHED BY, BOSTON, MA 02111

COMMISSION MEMBERS:

ROBERT J. GAFFNEY  
per George Proios

FRED W. THIBLE, JR.  
per Linda Betty Riley

JOSEPH F. JANOSKI  
per Brenda Filmanski

JOHN S. LaMURA  
per Carol Swick

ULRIC S. HAYNES  
(not present)

A L S O P R E S E N T:

DORIS B. ROTH, ESQ.  
General Counsel to Commission

RAY CORWIN

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8/94

RAM COURT REPORTING SERVICE

1  
2 MR. PROIOS: I call the meeting of  
3 Central Pine Barrens Joint Planning &  
4 Policy Commission to order.

5 My name is George Proios and I am  
6 sitting for County Executive Bob Gaffney.  
7 I would like to introduce the members of  
8 the panel.

9 MS. REILLY: I am Linda Reilly and  
10 I am the Town Attorney for Southampton  
11 and I am sitting in for Fred Thiele.

12 MS. FILMANSKI: I am Brenda  
13 Filmanski and I am sitting in for Justice  
14 Janoski.

15 MS. SWICK: My name is Carol  
16 Swick and I am sitting in for John  
17 LaMura.

18 GEORGE PROIOS: I will read these  
19 public notices which were published for  
20 these two hearings.

21 Pursuant to the Environmental  
22 Conservation Law Section 57-0121(10),  
23 notice is hereby given that two public  
24 hearings shall be held by the Central  
25 Pine Barrens Joint Planning and Policy

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Commission on June 22, 1994 on the matter of the applications for core preservation area hardship permits. The subjects of the hearings are:

Hearing 1: Applicant Edwin Tuccio, Westhampton Mini Storage. The description of the project is it involves a 40 acre parcel of land on which the constructions of two commercial storage buildings would replace two existing earthen berms, located within a complex of existing storage buildings. The parcel is located on North Perimeter Road, Suffolk County Airport, Westhampton.

The second hearing will be by applicant Stuart Osleeb, application for a single residence. The description of the project involves a .72 acre parcel of land on which a single family dwelling is proposed to be built. The parcel is located on the east side of Sally Lane, west of William Floyd Parkway, south of the intersection of Cornfield Road and

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FORM NO. 3 REVISION 10/78

1  
2 Sally Lane.

3 The first hearing is for Mr.  
4 Tuccio. Would the applicant like to make  
5 a statement?

6 MR. NOBILETTI: I am Michael  
7 Nobiletti, representing Edwin Tuccio,  
8 Tuccio & Tuccio, the owners and operators  
9 of the property and of Westhampton Mini  
10 Storage. We are here to demonstrate a  
11 hardship basis within the core, that the  
12 property has no beneficial use under the  
13 article as it is written, and it cannot  
14 contribute and will not contribute in its  
15 existing state, therefore, a hardship  
16 application should be granted for the  
17 requested addition of the two storage  
18 buildings.

19 We will further demonstrate that  
20 the project has no negative impacts to  
21 the environment. It has certain  
22 safeguards that have been designed into  
23 the proposed application and the nature  
24 of the operation inherently is one  
25 without utilities, septic systems and

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water, that will pose less of a threat than other types of developments in the area.

Additionally, the site has been extensively developed by the Air Force during the 1950s and we plan to add this development, within a paved, structured area with existing buildings, and add only slab and steel structured buildings within an existing paved roadway within the developed site itself. It is a minimal excavation and removal of berms that were man-made by the Air Force and have not contributed to the species or habitat of the Pine Barrens and, therefore, the contribution these sites have made, or can make, will not address the intent or objectives of the Pine Barrens Protection Act.

Taking the Natural Communities Map which was recently done by Southampton Town, this site is located within the region, within this area here, Suffolk County Airport and Sunrise Highway. The

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significance of this map also is that it does indicate the species in the area and it does isolate the site itself as being one that has previously been disturbed and does not hold any of the endangered vegetative species the Act is intended to protect.

Would you like to see this map up closer?

MS. FILMANSKI: Can you tell me the title of the map.

MR. NOBILETTI: Yes. Plate 2, Natural Communities Special Groundwater Protection Area and Western Town GEIS Study, Town of Southampton, July of 1993.

From a regional photograph basis, we can locate Sunrise Highway, the runway of the airport, and this is our site here (Indicating).

(Whereupon, at this time, the panel reviewed the photographs.)

MS. ROTH: Do you want to read the labels as you're going along?

MR. NOBILETTI: The first

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FORM 100-25 REVISED 10-80

1  
2 photograph is the mini storage site  
3 itself referencing the tax number.

4 MS. FILMANSKI: The 40 acres is  
5 surrounded by that road?

6 MR. NOBILETTI: Yes.

7 These are areas that were  
8 excavated by the Air Force.

9 MS. FILMANSKI: Were you not going  
10 to gear it down to some smaller portion  
11 of the parcel?

12 MR. NOBILETTI: We are going to  
13 include the total development site and we  
14 are proposing to develop two areas 55  
15 feet by 150, for a total of 16,500 square  
16 feet within the development area.

17 MS. SWICK: The berms run between  
18 the building and the asphalt, parallel to  
19 the building; correct?

20 MR. NOBILETTI: Yes, they do.  
21 There are also a set of berms  
22 perpendicular to it. The purpose of  
23 these berms were as blast berms in the  
24 event that there was an explosion in the  
25 buildings, the explosion forces would be

1  
2 deflected north-south, and east-west.

3 MS. ROTH: Let's call this  
4 Applicant's A. This would be an aerial  
5 photograph labelled, "Westhampton Mini  
6 Storage."

7 Applicant's B are aerial site  
8 photographs. These are photographs of  
9 the actual existing site in the proposed  
10 development site area.

11 MR. NOBILETTI: What we are trying  
12 to do is within the existing berm, we  
13 want to keep the existing concrete  
14 structure that exists between the already  
15 developed buildings and in between those  
16 existing concrete walls, remove the berms  
17 and add the buildings.

18 MS. ROTH: Applicant's C consists  
19 of nine photographs labelled "Existing  
20 Developed Site and Proposed Site."

21 MR. NOBILETTI: This is an  
22 artist's concept of what would happen.  
23 We would keep the existing walls and  
24 buildings similar to the existing  
25 buildings. There are two similar to

1  
2 these at the site surrounded by existing  
3 paved roads.

4 MS. ROTH: Applicant's D is an  
5 artist's rendering labelled "Westhampton  
6 Mini Storage Proposed Buildings."

7 MR. NOBILETTI: The total acreage  
8 at the site is 404 acres. Currently  
9 there are 40,000 square feet of self  
10 storage buildings that do exist within  
11 eleven concrete buildings that are  
12 surrounded by the paved roads within the  
13 existing developed site. It's use  
14 operates as a preexisting nonconforming  
15 use and has been issued a Certificate of  
16 Occupancy from Southampton Town for  
17 warehouse and storage uses.

18 Would you like a copy of the CO?

19 MS. REILLY: It is in the packet  
20 that was handed up.

21 MR. NOBILETTI: The proposed  
22 project is to add to the 55 foot by 150  
23 foot area, two steel buildings  
24 approximately 35 to 40 feet in width and  
25 150 feet long. They will be constructed

1  
2 on a concrete slab and formed with a  
3 steel structural frame and skinned with  
4 steel sheathing.

5 As I mentioned before, the site  
6 had been extensively developed during the  
7 1950s by the U.S. Government and all  
8 native vegetation at that point was  
9 removed and the area was bulldozed. For  
10 security purposes, the entire area is  
11 fenced in and remains intact today.

12 Also, add to this, fire protection  
13 for the facility itself. The steep  
14 slopes that exist today add minimal  
15 vegetation to the area due to the nature  
16 of the construction and the slopes  
17 themselves, they have not been able to  
18 sustain a healthy growth that is  
19 indicative of other areas of the site and  
20 is primarily beyond the site itself.

21 These are photographs of the berms  
22 themselves and the vegetation that they  
23 do support or what they don't support.

24 MS. ROTH: We'll mark this as  
25 Applicant's E, a poster containing 15

1  
2 photographs labelled "Proposed Building  
3 Site, Berm Habitat and Vegetation  
4 Photographs."

5 MR. NOBILETTI: The entire parcel,  
6 the 404 acres, is laid out on this  
7 survey. There were questions as to when  
8 the application had originally been  
9 submitted as to the total parcel and tax  
10 map number. The survey indicates the  
11 total parcel and indicates the existing  
12 developed site and the proposed site  
13 where we intend to build the buildings.

14 Do you want the survey entered in?

15 MR. PROIOS: Yes.

16 MS. ROTH: That would be  
17 Applicant's F, survey prepared by Young &  
18 Young, last revised April 1, 1976,  
19 entitled, "Ethel B. Fishel Estate."

20 MR. NOBILETTI: For the purposes  
21 of thoroughness and to demonstrate the  
22 project itself is not detrimental to the  
23 environment, we chose to follow the  
24 compatible growth area format, the  
25 applicable sections of it, recognizing

1  
2 that we are not bound to do so for this  
3 application. But many of the  
4 environmental issues that are questioned  
5 there would be pertinent to this  
6 application.

7 Number one: Groundwater. The  
8 proposed project will not contain any  
9 utilities with the possible exception of  
10 some exterior mounted electrical security  
11 lights. There will be no water to these  
12 facilities, no sanitary, no septic  
13 systems, and there will be no other  
14 utilities that would cause to have any  
15 sort of activities or development there  
16 that could promote something that would  
17 cause a groundwater issue.

18 In regards to the storage within  
19 the buildings, the tenants, under lease  
20 agreement, are not permitted to store any  
21 hazardous or toxic materials or perform  
22 any act or permit to be performed any act  
23 that would endanger the environment  
24 overall, including groundwater, air, or  
25 habitat. A copy of the applicant's

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FORM 1512-3 REVISED 10-1-83

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2 lease, in paragraph eight, specifically  
3 restricts that and is agreed to. Each  
4 tenant agrees to not have any of these  
5 substances on the site.

6 Additionally, the owner has the  
7 right to inspect without permission of  
8 the tenant, in order to inspect for any  
9 sort of hazardous materials or any  
10 conditions that may cause an  
11 environmental problem.

12 The security fence that was  
13 installed by the Air Force in the 1950s  
14 as mentioned before, is still intact and  
15 does secure the area.

16 In addition to that, the road  
17 leading to the site has a security gate  
18 that will be manned on a full-time basis  
19 or partially full-time basis depending on  
20 the circumstances, and the management  
21 will continue to maintain the level of  
22 security and surveillance that it had in  
23 the past, which has resulted in no  
24 incidence, no fires, or no other  
25 activities that were disruptive or

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1  
2 endangered any environmental issues.

3 Further, we have offered a design  
4 that will contain spills within the unit  
5 in the event that something is stored  
6 that could spill. We are proposing that,  
7 if necessary, to have a curb system  
8 within the concrete slab that would  
9 contain any spills in the event of a  
10 spill, within each unit, that would be  
11 traceable to the occupant of that unit,  
12 and render safeguards of that material  
13 getting into the ground. The slab system  
14 and concrete material used would meet the  
15 permeability standards of the Department  
16 of Health for their containment systems  
17 for secondary containment of above ground  
18 oil tanks and would certainly be  
19 effective in this type of operation. The  
20 design itself consists of cast concrete  
21 slabs. These are foundation footings on  
22 top of the slabs and there would be a  
23 depression in the slab itself consisting  
24 of approximately a four inch curb and a  
25 little ramp going down at the entry door

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to each unit, and any liquid spill would be contained in the unit. Depending on the size of the unit, the gallonage could range from 200 gallons in a 10 by 20 foot unit and the containment area could hold about 500 gallons. This would be a significant safeguard with regard to any spills.

MS. SWICK: You said no toxic or hazardous materials. Are you including waste?

MR. NOBILETTI: We didn't address waste, no. If that were a concern, we could add that to the lease.

MS. SWICK: Sometimes it is differentiated. You have toxic materials and you have waste. If materials were implying toxic waste as well as --

MR. NOBILETTI: We are saying that the occupant shall not store nor permit to be stored or spilled or disbursed, any material that could pollute or in any way negatively impact groundwater or the environment at the storage facility.

1  
2 MS. SWICK: It sounds like you are  
3 including waste.

4 MR. NOBILETTI: I think we can  
5 enforce that as part of the lease  
6 agreement to include waste.

7 MS. ROTH: We will include  
8 Applicant's G as another poster of  
9 concrete slabs and foundation design  
10 detail.

11 MS. REILLY: What about fireworks?  
12 Were there not fireworks stored in other  
13 buildings on this site in the past?

14 MR. NOBILETTI: Yes. There were  
15 and there are. Not within these storage  
16 buildings that you see in these  
17 photographs or in that proposed area of  
18 the berms. There are three other  
19 buildings further away that do store  
20 fireworks that have the proper permits to  
21 do so. They are remote buildings and the  
22 buildings have been specially prepared  
23 and treated for non-explosives. Special  
24 epoxy paints have been put on so that no  
25 explosions would take place. They have

1  
2 been permitted for this use and  
3 inspected.

4 MS. REILLY: Those berms you are  
5 removing in no way serve as any kind of  
6 protection agent?

7 MR. NOBILETTI: No. They are not  
8 in that immediate area and would not  
9 afford any protection to any of the  
10 explosives stored here.

11 MS. REILLY: You did mention they  
12 were blast berms. They were erected to  
13 protect against blasts.

14 MR. NOBILETTI: Within the  
15 existing storage buildings that exist  
16 there now.

17 MS. REILLY: Which no longer  
18 contain explosives?

19 MR. NOBILETTI: No. They were  
20 built by the Air Force for the storage of  
21 bombs and in the event of an accidental  
22 explosion, to deflect the gasses up and  
23 away from adjacent buildings.

24 The wetlands component and surface  
25 waters component of the compatible growth

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area are not applicable to this application. In regard to rare and endangered species and unique natural communities and native vegetation disturbances, the two steep berms that exist there today and as per the photographs that were submitted, are basically void of any significant species, and in further support of that, is the Western GIS Natural Communities Map that clearly showed the site well surrounded and described as disturbed areas with respect to native plant cover types. So our removal of the berms would not be removing any of the important native species and the fact that the entire site that we propose to develop, within which is paved, that we would not be having any impact to the areas that do support native vegetation.

Even on that scale, the distance from our site to the first area indicated on the map of the pitch pine is quite some distance and we would have no impact

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2 due to our operation. The existing  
3 vegetation that you do see on the berms  
4 that will remain, will remain. There  
5 will be no fertilizing of those berms, no  
6 nitrogen loading or phosphorous fertilons  
7 will be used and this existing vegetation  
8 will remain to either thrive or to perish  
9 at its own adjustment to the environment  
10 without any interference from the storage  
11 operation.

12 The only steep slopes in the area  
13 are the man-made slopes that were  
14 constructed by the Air Force that will  
15 remain except for the two that we propose  
16 to remove for the project itself. The  
17 fill that is generated by the excavation  
18 will be removed from the site and will  
19 not be placed in any area within the  
20 site. A letter has been submitted from  
21 Suffolk Cement Products of Calverton  
22 indicating that they will be the  
23 contractor to remove the dirt from the  
24 site and bring it to their concrete  
25 production facility.

6/24

FORM 125-3 REVISED BY: BAYVIEW, NJ 1988

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2 The runoff from the proposed new  
3 buildings; there are dry wells installed  
4 at the site and we will direct the runoff  
5 from the roof to the existing dry wells  
6 and we do not believe that there will be  
7 any necessity to have any additional  
8 capacity there of any dry wells.

9 Agricultural and horticultural are  
10 not applicable in this case.

11 In regard to rezoning of land, the  
12 present storage use is a preexisting  
13 nonconforming use and we do not believe  
14 that any rezoning would be necessary for  
15 the proposed building. We do intend to  
16 submit to Southampton Town Planning and  
17 Building Department for the building  
18 permit and for the proper planning  
19 approvals and to further, consistent with  
20 the existing Certificate of Occupancy,  
21 expand its uses within the parameters of  
22 the Southampton Town requirements.

23 With regards to commercial and  
24 industrial development, this development  
25 can be described as one of very low

1  
2 intensity and no hazardous or toxic  
3 materials will be stored or used at the  
4 facility. In contrast to other mini  
5 storage areas that sometimes act as  
6 commercial operations, the remoteness of  
7 this operation is one that is relatively  
8 quiet and in addition to that, the  
9 management has strict rules there and has  
10 supervision and does not permit the  
11 facility to be open at night. It is  
12 closed at night and acts as more in terms  
13 of passive storage as opposed to a  
14 warehouse or commercial type storage  
15 facility that would have activity on a  
16 daily basis. Because of a clustering  
17 design and coordinated open space  
18 management, this is an excellent example  
19 of the use of land that has no beneficial  
20 use, that in itself is clustered within  
21 the developed site and contained within  
22 the paved roadways that, as luck has it  
23 perhaps, is an excellent example of a  
24 coordinated design and the management of  
25 open space by having the development only



1  
2 within an immediate site and the balance  
3 of the area will remain in its  
4 undeveloped state.

5 In regard to well head protection,  
6 the development itself will not generate  
7 any organic or inorganic pollutants  
8 either from fertilizing or as previously  
9 addressed in the groundwater issue  
10 before. There are at the site, Suffolk  
11 County Water lines installed and  
12 available, however, no water will be  
13 brought to these existing buildings or to  
14 the proposed buildings.

15 As far as scenic, historic, or  
16 cultural resources, there are no known  
17 scenic, historic or cultural resources at  
18 the site that would be negatively  
19 impacted. The extensive excavation that  
20 was performed by the Air Force in the  
21 1950s would have clearly disrupted it if  
22 there were and we just intend to remove  
23 what the Air Force had added in the  
24 1950s.

25 In regard to the hardship, the

1  
2 existing use right now as stated before  
3 is 40,000 square feet in eleven  
4 buildings of 140 tenants on 40 acres  
5 surrounded by the chain link security  
6 fence. The site is further improved with  
7 the asphalt and concrete roadways which  
8 service the existing buildings and will  
9 also service the proposed buildings. The  
10 units are currently fully rented and  
11 provide revenue to the applicant.

12 In addition, the site is part of a  
13 400 plus acre area held by the applicant,  
14 85 percent of which is undeveloped and  
15 produces no income. The revenue from the  
16 storage facility contributes to the  
17 entire parcel and the revenue that will  
18 be generated by the additional storage  
19 units is needed in order to offset rising  
20 costs.

21 Additionally, the applicant wishes  
22 to take advantage of the existing  
23 structures, namely that of the concrete  
24 pyramid walls that contain the berms, and  
25 add to those structures and to contain

1  
2 the proposed buildings within those  
3 structures and use them for the purposes  
4 of the foundation and the structural end  
5 of the proposed buildings.

6 The cost of duplicating the  
7 existing infrastructure of roads and  
8 security fencing and the existing walls  
9 with foundations at a second site would  
10 be a hardship on the applicant, if not  
11 impossible.

12 Additionally, there are certain  
13 economies regarding the maintenance and  
14 transit and set up times and security and  
15 management and other factors that would  
16 be lost in a two site operation. There  
17 are no other alternatives or relocation  
18 possibilities for this proposed  
19 expansion. The existing development at  
20 the site clearly eliminates its ability  
21 to contribute as a beneficial use site as  
22 described under the Long Island Pine  
23 Barrens Protection Act and further  
24 prevents us from doing so in the future.

25 Further, it is clear that its

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hardship was not brought upon by the applicant. It was due to the development of the U.S. Government, and the site is certainly unique unto itself. And there are no other sites that have this similar hardship.

We feel that the primary concerns of the Long Island Pine Barrens Protection Act, the Groundwater and Native Vegetation Habitat Protection Act will not be impacted by this proposed development. We therefore feel that this permit should be granted.

Are there any questions?

MS. SWICK: Is this hardship description included within this document that we were presented? Because it is not included in the document that I have except for the first paragraph. Do you have an extra copy?

MR. NOBILETTI: There was a May 31st application and a June 20th addendum.

MR. PROIOS: Are there any other

1  
2 questions?

3 MS. REILLY: My question goes to  
4 whether or not you have any beneficial  
5 use of the property in its present use,  
6 as it is presently being used? It would  
7 seem that there is a beneficial use of  
8 the property as it stands.

9 MR. NOBILETTI: Benefit to the  
10 owner or benefit to the Pine Barrens  
11 Protection Act?

12 MS. REILLY: I am referring to the  
13 criteria for core area hardship. Under  
14 10(a) it says, "and applicant shall be  
15 deemed to establish the existence of an  
16 extraordinary hardship only if he  
17 demonstrates the affected property does  
18 not have any beneficial use --"

19 MR. NOBILETTI: I think what they  
20 are saying is under its present use,  
21 meaning its undeveloped use. The  
22 implication being that it is making a  
23 contribution to the Pine Barrens. We are  
24 saying that it does not make a  
25 contribution so, therefore, it has no

1  
2 beneficial use to the intent of the Act  
3 itself. It is tricky, I know that. I  
4 read that several times and -- beneficial  
5 use, what do you mean?

6 MS. REILLY: Beneficial use to the  
7 owner.

8 MR. NOBILETTI: Yes, that is what  
9 I thought initially. It means, I  
10 believe, beneficial use to the Pine  
11 Barrens Act. Further down it says that  
12 the subject property does not have any  
13 beneficial use if used for its present  
14 use or developed as authorized by the  
15 provisions of this Act. I think they are  
16 addressing the provisions of the act.

17 MS. REILLY: I don't know about  
18 that.

19 MR. NOBILETTI: I think that if  
20 you are coming in for a hardship  
21 application, they are assuming you are  
22 applying to build something which means  
23 that nothing is built already.

24 MS. REILLY: In your case,  
25 something is built already.

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MR. NOBILETTI: What we have is a disturbed site. In the berm itself, nothing is built. But immediately adjacent to it, there is a developed site, a disturbed site. So I am addressing beneficial use meaning it has no beneficial use if it is put under the scrutinies of the Pine Barrens Protection Act. If it is left as it is now, it will not contribute to the habitat or protect the endangered species or, due to the steep slopes, even encourage the growth of any of the endangered species or create a habitat. The habitat photographs and vegetation photographs show the very steep slopes that are in distinct contrast to the rest of Pine Barrens. Those steep slopes will not promote the type of vegetation you are attempting to protect.

MS. SWICK: You basically have two steep slope berms between existing buildings and those will be replaced. And the other thing is that several more

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1  
2 lighting units will be installed to light  
3 the area for access.

4 MR. NOBILETTI: For possible  
5 security lighting, not nightly lighting.  
6 We don't keep the facility open at night.

7 Then it would be the addition of  
8 two concrete slabs within those walls and  
9 the steel structure, frame and steel skin  
10 of the building.

11 MR. PROIOS: Are there any further  
12 questions?

13 Thank you.

14 Are there any members of the  
15 public here who would like to address the  
16 commission regarding this application?

17 MR. MORRIS: I have a couple of  
18 questions. I would like to make sure  
19 that the maps are labelled as to a date  
20 of the aerial photographs so we can  
21 accurately represent what the conditions  
22 might be at the site.

23 I would like to know how much more  
24 traffic would be generated to the area.

25 You indicated that the Pine



1  
2 Barrens Law would prohibit further  
3 expansion. Does he have any expansion  
4 plans tied into this anywhere on the 400  
5 acre site?

6 My interpretation of the reading  
7 is is it beneficial to the owner. Is he  
8 getting income from it or something like  
9 that and as for the developed part, if it  
10 was developed within the guidelines of  
11 the interim rules or the final rules as  
12 they may be adopted, would he then have a  
13 beneficial use for them rather than  
14 having somewhat of another problem of  
15 getting that?

16 MR. PROIOS: The last point seems  
17 to play devil's advocate. The  
18 application is for the areas between the  
19 buildings so the question, if you are  
20 looking at it from that standpoint, the  
21 question is what to do with the berms.  
22 Do they serve any beneficial use to him  
23 right now? But that is not what the  
24 hearing is about. We are only talking  
25 about the removal of the earthen berms.

1  
2 Do they serve as a beneficial use right  
3 now to the applicant or do they not.

4 MR. NOBILETTI: The answer to that  
5 is no. Those berms provide no benefit.

6 MR. PROIOS: They did serve a  
7 purpose when the Air Force built it but  
8 they are not used for anything now?

9 MR. NOBILETTI: No. And they are  
10 not needed as berms for the operation.

11 MR. PROIOS: Can you address the  
12 issue of the aerial photographs?

13 MR. NOBILETTI: The aerial  
14 photographs were after Sunrise Highway  
15 was built. I am not sure. There is a  
16 serial number on that and I would have  
17 to --

18 MS. SWICK: The date is usually  
19 with the serial number.

20 MR. NOBILETTI: I believe I may  
21 have cut those --

22 MR. MORRIS: I got those aerial  
23 maps from the U.S. Department of  
24 Agriculture and Edwin Tuccio. They might  
25 have the date. They have serial numbers

1  
2 and I guess if we ask the Department of  
3 Agriculture, they can determine when they  
4 took those. They did all of Long Island  
5 at the same time.

6 MS. SWICK: They did the Suffolk  
7 County Soil Survey in 1976, so it may  
8 have been done for that because I don't  
9 know if the Department of Agriculture has  
10 done any further aerial photographs since  
11 1976.

12 MR. TUCCIO: I happen to be on the  
13 Board of the United States Department of  
14 Agriculture in Riverhead and we use these  
15 maps to show soil crop growth and soil  
16 conditions. That is the only reason that  
17 I have it.

18 MR. PROIOS: You do have the  
19 aerial photograph that shows the current  
20 conditions depicted in these photographs.

21 MR. NOBILETTI: No. This is the  
22 old photograph. The color photographs  
23 are current, made June of this year which  
24 if you were to look at them, looking at  
25 the vegetation, you can get an accurate,

1  
2 today's accounting of what is going on  
3 there.

4 As far as the aerial photographs  
5 go, no. I think what we can do to answer  
6 that question is to fall back on the  
7 Southampton Western GEIS and use their  
8 legend here, and that will, on an overlay  
9 basis, identify all of the features you  
10 see there, all the whited out areas, the  
11 runways, the roads, the large oval,  
12 Sunrise Highway, and they do so by  
13 identifying the species in each area.

14 I believe Southampton Town  
15 Department of Natural Resources in their  
16 reports with this map can actually give  
17 you species counts or percentages of  
18 species anywhere within those areas. I  
19 know that they have much more detailed  
20 vegetation population information than is  
21 shown on this map even though this map is  
22 an accurate representation of it. We  
23 possibly could go to Southampton Town and  
24 ask them to be more specific with regards  
25 to any of the vegetation.

1  
2 MR. PROIOS: The final point was  
3 on traffic.

4 MR. NOBILETTI: Again, the  
5 remoteness of the site. This is clearly  
6 a long term storage, it is not an active  
7 site where people come and go.

8 Numerically, other than to say it is a  
9 very quiet spot with regards to the  
10 amount of in and out traffic, we truly  
11 meet the criteria for passive storage as  
12 opposed to some of the more active  
13 storage areas. If you are familiar with  
14 other storage areas in other villages,  
15 they are much, much more active and  
16 almost act as a warehouse or commercial  
17 operation as opposed to passive storage.

18 MR. PROIOS: If you were to put  
19 it in percentage increases, what would it  
20 be in terms of additional units,  
21 approximately?

22 MR. NOBILETTI: It would probably  
23 be about a 20 percent increase.

24 MR. PROIOS: Are there any other  
25 questions?

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MR. AMPER: I am Richard Amper and I am the Executive Director of the Long Island Pine Barrens Society. The commission is and should properly explore the applicant's efforts and advocacy of those efforts to properly protect the groundwater supply from anything that may be stored on site. That appears to have been addressed by the applicant. But as long as the commission has satisfied itself about that, that need not provide a particular obstacle. You will want to review, it seems to us, the interpretation of what constitutes beneficial use. The beneficial use of a specific, topographical feature of a parcel is an extraordinary reach in terms of interpreting the purposes of a hardship application. Surely the law is not intended to determine whether a berm or a depression in the land was in itself beneficial, but overall whether there was some beneficial use attending the property overall.

1  
2 Neither of these really need to  
3 interfere with the overall objective of  
4 the commission to evaluate the hardship,  
5 that is, what sort of environmental harm  
6 would be done to the Pine Barrens. The  
7 applicant appears to be reasonably  
8 responsible in addressing those concerns.  
9 The damage previously done is not being  
10 used as an excuse to do more damage but,  
11 in fact, to mitigate any ongoing problem  
12 which is commendable, responsible, and  
13 consistent with the purposes of the Act.

14 The commission, as is responsible  
15 for addressing and responding to the  
16 hardship application, also has a larger  
17 charge and I think it might be useful to  
18 consider here, and that is; that this,  
19 like so many applications, that we  
20 discussed over the development of the Act  
21 and the process, is only part of a larger  
22 effort to protect the Pine Barrens as a  
23 whole. So the commission may want to  
24 explore, with the applicant, on the basis  
25 of the expressed desire to use this

1  
2 particular parcel, the desirability on  
3 the commission's part of obtaining and  
4 the willingness of the applicant for his  
5 part to perhaps grant an easement of some  
6 sort, a conservation easement, on the  
7 portion that does have environmental  
8 utility and which is not necessary to the  
9 economic development of the proposal that  
10 he has before you. That is something  
11 that, at the very least, ought to be  
12 explored and you might want to visit with  
13 the applicant either tonight or at some  
14 future point about.

15 Moreover, the applicant has  
16 additional holdings in the Pine Barrens  
17 which would be contributive to the  
18 overall preservation of the core  
19 preservation area. The Act is a product  
20 of accommodation. It may well be the  
21 case that both the applicant and the  
22 commission and the purpose of the Pine  
23 Barren Act all benefit by our sitting  
24 down with those who have holdings in this  
25 case and in others, to try to determine



1  
2 whether or not we can simultaneously  
3 accommodate the economic needs of the  
4 applicant, and at the same time, the  
5 preservation needs of the people of Long  
6 Island.

7           There are other holdings, some of  
8 which, or at least one of which is on a  
9 target acquisition list of Suffolk County  
10 that is very ecologically important.  
11 And, while it may not go to the heart of  
12 deciding whether or not this constitutes  
13 a hardship application or not, there does  
14 seem to be a spirit of cooperation on  
15 both sides in this particular case and if  
16 there is some way the commission's work  
17 can be expanded in scope to explore the  
18 possibilities of other environmental  
19 benefits of working with the applicant,  
20 that would be desirable as would  
21 attempting to accommodate his bona fide  
22 efforts at trying to use his land in ways  
23 not to compromise either the ecology or  
24 the hydrology of the region. That is  
25 the limit of our contribution tonight.

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MR. NOBILETTI: We do recognize all the statements this gentleman made and that there are important areas within that parcel. We specifically chose this site and approached it the way we did approach it because we truly believe we can do this project and fully meet the intent and objectives of the Pine Barren Protection Act. We do request that the commission review this application on the merits of the application the way it has been presented tonight and we would like to not add to the issue any of the other properties that are involved and just review this application on its own merit.

MR. AMPER: If I could follow up and just suggest that the commission is then indeed charged with, at least with respect to an application that is before them concerning a particular parcel, to address the ecological implication and the beneficial use provision of the parcel as a whole in the same way that we can't merely look at the berms

1  
2 differently from the overall buildable  
3 portion of the site. All applications  
4 that come before the commission address  
5 both the portions that are to be  
6 developed and the portions that will  
7 remain undeveloped and you will, at the  
8 very least, need to consider the overall  
9 environmental impact of granting an  
10 approval for this application without  
11 consideration for the larger portion of  
12 environmentally sensitive land.

13 MR. DARK: Did we get an answer on  
14 the future expansion on the 400 acre  
15 parcel?

16 MR. PROIOS: The commission has no  
17 other proposals before it regarding these  
18 properties.

19 All right, I will call this to a  
20 close. Is there a time limit to which we  
21 can keep the record open?

22 MR. CORWIN: We usually go ten  
23 days to two weeks. If you pick two  
24 weeks, that will take you to July 6.

25 MR. PROIOS: In order to address

1  
2 the issue, can we ask counsel to, within  
3 that time frame, give us an  
4 interpretation of what beneficial use  
5 constitutes in terms of this application.

6 MR. CORWIN: Keeping it open until  
7 the 6th will give us time.

8 MR. PROIOS: We will keep the  
9 record open until July 6th. During that  
10 time, our counsel will try to provide us  
11 with a legal opinion regarding what  
12 constitutes beneficial use.

13 MR. NOBILETTI: Can the applicant  
14 be advised of that decision of your  
15 interpretation of beneficial use?

16 MR. PROIOS: Yes.

17 MR. NOBILETTI: And may we submit  
18 to you our interpretation of beneficial  
19 use?

20 MR. PROIOS: Certainly.

21 MR. NOBILETTI: I think I would  
22 like to do that prior to July 6. I will  
23 send to you our interpretation prior to  
24 July 6.

25 MR. PROIOS: Thank you.

1  
2 (Whereupon, at this time the  
3 public hearing on this matter was closed  
4 with the record being kept open until  
5 July 6, 1994.)  
6

7  
8 MR. PROIOS: Our second  
9 application for public hearing is from  
10 Stuart Osleeb.

11 I read your whole description. As  
12 the applicant or representative here,  
13 would you like to describe the project.

14 MR. OSLEEB: My name is Stuart  
15 Osleeb. My office is at 235 Boyle Road,  
16 P.O. Box 970, Selden, New York.

17 I tried to submit with my letter  
18 application the tax maps; Health  
19 Department approvals, Building  
20 Department, Planning Board permits,  
21 highway permits, photographs, and at that  
22 point, not knowing anything about the  
23 Pine Barrens Act, that was all I could  
24 put in the letter that you have before  
25 you.

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Subsequently I received some correspondence from the commission defining, or what was supposed to define, hardship reasons. So I have two items that I haven't submitted with the application.

One would be a radius map showing the homes that surround the property. The second thing is, and I don't really want to get into this legal business, but my reading of what was sent to me by the commission concerning beneficial use, because I had to address that differently than what I did in my original letter. This would be the radius maps.

MS. ROTH: We will mark as Applicant's Exhibit A titled, "Radius Map for Stuart Osleeb, prepared by William Jaeger." I believe it is for a 200 foot radius around the subject property.

MR. OSLEEB: I would like to read an addendum type letter that I wrote after receiving some material after the letter that I sent to the Pine Barrens

## **6. Pine Barrens Credit Program**

### **6.1 Purpose of the Pine Barrens Credit Program**

As required in the Long Island Pine Barrens Protection Act, the Plan is designed to preserve the pine barrens ecology and to ensure the high quality of surface and groundwater within the Central Pine Barrens. The Act states that the Plan shall discourage piecemeal and scattered development, and accommodate development in a manner consistent with the long term integrity of the pine barrens ecosystem. The Act further states that the Plan should ensure a compact, efficient and orderly plan of development. The Legislature recognized that the Plan may restrict the use of some lands currently in private ownership and that these restrictions are necessary and desirable to protect and preserve the hydrologic and ecologic integrity of the Central Pine Barrens area, as well as the public health and welfare of future generations.

It is the primary purpose of the Pine Barrens Credit Program to maintain value in lands designated for preservation or protection under the Plan by providing for the allocation and use of Pine Barrens Credits (PBCs). The Pine Barrens Credit Program will also promote development which is compact, efficient and orderly, and which is designed to protect the quality and quantity of surface water and groundwater and the long term integrity of the pine barrens ecosystem.

### **6.2 Pine Barrens Credit Certificate defined**

A Pine Barrens Credit (PBC) Certificate is a document issued on behalf of the Commission which indicates the number of Pine Barrens Credits to which the owner of a particular parcel of land is entitled and which attests to the fact that the development rights of a particular parcel of land in a sending district of the Central Pine Barrens have been severed from the land by the recording of a conservation easement, and that these rights are available for sale or use.

### **6.3 Allocation of Pine Barrens Credits**

For the purpose of computing the allocation of Pine Barrens Credits, a parcel of land is defined as a separately assessed tax lot.

#### **6.3.1 Method of allocation**

One (1) Pine Barrens Credit shall be allocated for each single family dwelling permitted on a residentially zoned parcel of land located within the Core Preservation Area or a designated sending area designated within this Plan, based upon the development yield set forth in Sections 6.3.1.1.1 through 6.3.1.1.9 of this Plan under the zoning regulations in existence when this Plan is adopted in June, 1995. Development yield is established by multiplying the gross lot area of the parcel by the development yield factor for each residential zoning category. The development yield factors for the various residential zoning categories are enumerated in Section 6.3.1.1 below, in which one acre equals 43,560 square feet.

#### **6.3.1.1 Development yield factors and computation for residentially zoned property**

6.3.1.1.1 If zoning allows one (1) dwelling unit per ten thousand (10,000) square feet, the development

yield factor is 2.70 Pine Barrens Credits per acre.

6.3.1.1.2 If zoning allows one (1) dwelling unit per fifteen thousand (15,000) square feet, the development yield factor is 2.00 Pine Barrens Credits per acre.

6.3.1.1.3 If zoning allows one (1) dwelling unit per twenty thousand (20,000) square feet, the development yield factor is 1.60 Pine Barrens Credits per acre.

6.3.1.1.4 If zoning allows one (1) dwelling unit per forty thousand (40,000) square feet, the development yield factor is 0.80 Pine Barrens Credit per acre.

6.3.1.1.5 If zoning allows one (1) dwelling unit per sixty thousand (60,000) square feet, the development yield factor is 0.60 Pine Barrens Credit per acre.

6.3.1.1.6 If zoning allows one (1) dwelling unit per eighty thousand (80,000) square feet, the development yield factor is 0.40 Pine Barrens Credit per acre.

6.3.1.1.7 If zoning allows one (1) dwelling unit per one hundred twenty thousand (120,000) square feet, the development yield factor is 0.27 Pine Barrens Credit per acre.

6.3.1.1.8 If zoning allows one (1) dwelling unit per one hundred sixty thousand (160,000) square feet, the development yield factor is 0.20 Pine Barrens Credit per acre.

6.3.1.1.9 If zoning allows one (1) dwelling unit per two hundred thousand (200,000) square feet, the development yield factor is 0.16 Pine Barrens Credit per acre.

6.3.1.1.10 If zoning allows one (1) dwelling unit per four hundred thousand (400,000) square feet, the development yield factor is 0.08 Pine Barrens Credit per acre.

6.3.1.1.11 One (1) acre as used in 6.3.1.1.1 through 6.3.1.1.10 equals forty three thousand five hundred sixty (43,560) square feet.

6.3.1.1.12 A fractional allocation of a Pine Barrens Credit shall be rounded upward to the nearest one hundredth ( $1/100\text{th} = 0.01$ ) of a Pine Barrens Credit.

These development yield factors are summarized in Figure 6-1, and sample computations are shown in Figure 6-2.

<b>Figure 6-1: Pine Barrens Credit Program development yield factors</b>		
<b>Provision</b>	<b>If zoning allows:</b>	<b>Then the development yield factor (*) is:</b>
6.3.1.1.1	1 (one) dwelling unit per 10,000 sq. ft	2.70 PBCs per acre (**)
6.3.1.1.2	1 (one) dwelling unit per 15,000 sq. ft	2.00 PBCs per acre (**)
6.3.1.1.3	1 (one) dwelling unit per 20,000 sq. ft	1.60 PBCs per acre (**)
6.3.1.1.4	1 (one) dwelling unit per 40,000 sq. ft	0.80 PBC per acre (**)
6.3.1.1.5	1 (one) dwelling unit per 60,000 sq. ft	0.60 PBC per acre (**)
6.3.1.1.6	1 (one) dwelling unit per 80,000 sq. ft	0.40 PBC per acre (**)
6.3.1.1.7	1 (one) dwelling unit per 120,000 sq. ft	0.27 PBC per acre (**)
6.3.1.1.8	1 (one) dwelling unit per 160,000 sq. ft	0.20 PBC per acre (**)
6.3.1.1.9	1 (one) dwelling unit per 200,000 sq. ft	0.16 PBC per acre (**)
6.3.1.1.10	1 (one) dwelling unit per 400,000 sq. ft	0.08 PBC per acre (**)
<p>(*) These development yield factors are augmented by section 6.3.1.1.12: fractional allocations are rounded upward to the nearest one hundredth (<math>1/100 = 0.01</math>) of a Pine Barrens Credit (PBC).</p> <p>(**) One acre equals 43,560 sq. ft.</p>		



**Figure 6-2: Pine Barrens Credit allocation examples**

<p><b>Example 1:</b> A 1.00 acre parcel zoned one unit per 40,000 square feet. 1.00 acre X 0.80 Pine Barrens Credit per acre = 0.80 PBC</p>
<p><b>Example 2:</b> A 3.25 acre parcel zoned one unit per 40,000 square feet. 3.25 acres X 0.80 Pine Barrens Credit per acre = 2.60 PBCs</p>
<p><b>Example 3:</b> A 7.89 acre parcel zoned one unit per 80,000 square feet. 7.89 acres X 0.40 Pine Barrens Credit per acre = 3.156 PBCs This is then rounded upward to 3.16 PBCs as per section 6.3.1.1.12.</p>
<p><b>Example 4:</b> A 10.53 acre parcel zoned one unit per 120,000 square feet. 10.53 acres X 0.27 Pine Barrens Credit per acre = 2.8431 PBCs This is then rounded upward to 2.85 PBCs as per section 6.3.1.1.12.</p>
<p><b>Example 5:</b> A 0.25 acre parcel zoned one unit per 200,000 square feet. 0.25 acre X 0.16 Pine Barrens Credit per acre = 0.04 PBC This is then increased to the minimum allocation of 0.10 PBC as per section 6.7.7.7.</p>

### 6.3.2 Allocation for property zoned other than residential

The Commission may elect to establish an allocation procedure for property in the Core Preservation Area which is zoned other than residential.

*(On August 7, 1996, the Commission adopted such a nonresidential formula.  
See this link for the resolution and allocation formula.)*

### 6.3.3 Limitations on allocation

The following limitations shall apply to the allocation of Pine Barrens Credits:

6.3.3.1 No allocation shall be made for any property owned or held by a public agency, municipal corporation or governmental subdivision, including property held by reason of tax default.

6.3.3.2 No allocation shall be made for any property for which the development rights have previously been fully used, or allocated for use, under this Plan or any other program.

6.3.3.3 No allocation shall be made for any property owned or held for the purpose of land protection, preservation or conservation.

6.3.3.4 Partially improved parcels shall receive a decreased allocation based upon the extent of improvement. Furthermore, there shall be a proportional decrease in allocation based upon the receipt of all discretionary permits for improvement of a parcel. The Pine Barrens Credit allocation for a parcel of land shall be reduced by one (1) Pine Barrens Credit for each existing single family unit on the parcel or equivalent as such equivalent is described in the document entitled Standards for Approval of Plans and Construction for Sewage Disposal Systems for Other Than Single Family Residences, approved by the Suffolk County Department of Health Services, Division of Environmental Quality, on June 15, 1982, revised March 5, 1984 and as implemented prior to February 5, 1988, as amended from time to time (hereinafter referred to as the "Suffolk County Health Department Standards").

### 6.4 Designated receiving districts for Pine Barrens Credits

*(Note: For residential projects which are utilizing Pine Barrens Credits in a Residential Overlay District (ROD; see below) within the Compatible Growth Area,*

***"Figure 5-1: Clearance standards" in the preceding Plan chapter should be applied as specified in the Commission resolution of 9/26/01: see either the text version or the pdf file of that resolution available at these links.)***

#### **6.4.1 Definitions**

For the purposes of Chapter 6 of this Plan, the following definitions shall apply.

##### **6.4.1.1 As of right Pine Barrens Credit redemption**

"As of right" means that the redemption of Pine Barrens Credits entitles a person to an increase in intensity or density in accordance with this Plan. Town Planning Boards, and, in the Town of Riverhead, the Riverhead Town Board performing the function of site plan review, may determine compliance with this Plan as part of the subdivision or site plan review procedures, and shall approve such use of Pine Barrens Credits with no additional special permit required.

Pine Barrens Credits generated in any area in the Central Pine Barrens within any town shall be redeemable for any as of right Pine Barrens Credit uses in each respective town as described in this Plan subject only to the restrictions expressed herein.

##### **6.4.1.2 Increased density and increased intensity**

"Increased density" means an increase in the number of residential units. "Increased intensity" means an increase in the gross floor area of a nonresidential structure and/or use. Development in accordance with existing zoning regulations is not considered an increase in permitted land use intensity or density.

#### **6.4.2 Town of Brookhaven designated Pine Barrens Credit receiving districts**

##### **6.4.2.1 Brookhaven Pine Barrens Credit Program overview**

The Pine Barrens Credit Program for the Town of Brookhaven is designed to redirect development for residentially zoned lands within the Core Preservation Area to receiving districts throughout the Town utilizing two basic approaches. These are:

1. The transfer of development rights through Residential Overlay Districts (RODs) to one (1) and two (2) acre residentially zoned lands with increased density through approval of the Planning Board pursuant to the definition in Section 6.4.1.1 of this Plan, and
2. The use of innovative planning techniques such as Planned Development Districts (PDDs), Planned Retirement Communities (PRCs), the use of "R" Districts and other zoning incentives.

##### **6.4.2.2 Brookhaven Residential Overlay District specifications**

The Town of Brookhaven has identified Residential Overlay Districts to receive Pine Barrens Credits from the Core Preservation Area where increased density may be allowed in those residential districts set forth in a map contained in Figure 6-3.

##### **6.4.2.2.1 Brookhaven density increase**

Under the Brookhaven transfer of development rights program, a single Pine Barrens Credit shall permit an increase in density equal to one (1) single family dwelling as defined in the Brookhaven Town Code.

#### **6.4.2.2.2 Brookhaven total yield**

Under the Brookhaven transfer of development rights program, the total yield in all eligible one (1) and two (2) acre residentially zoned receiving districts shall be equal to the square footage of the total parcel contained within the receiving site divided by the minimum square footage allowed under the Brookhaven Town Code in the appropriate residential zone. The minimum lot size in such eligible residentially zoned receiving districts shall allow for the construction of necessary roads and recharge basins, and the possible dedication of open space.

Notwithstanding the above, the minimum lot size shall be as necessary to assure compliance with Section 6.5.2 of this Plan. However, such decrease in the minimum lot size below the formula set forth above shall only be authorized where absolutely necessary to comply with Section 6.5.2 of this Plan, and in no instance shall the minimum lot size be less than 30,000 square feet in A-1 zoning districts and 60,000 square feet in A-2 zoning districts.

#### **6.4.2.2.3 Brookhaven approval subject to criteria**

This increase shall be allowed, subject to the approval of the Town of Brookhaven Planning Board during the subdivision and site plan approval processes, based upon the criteria set forth below.

#### **6.4.2.2.4 Brookhaven criteria**

The following two criteria shall apply:

1. An area of a parcel shall be constituted ineligible as a Residential Overlay District where the area of the parcel is located within:
  - a. five hundred (500) feet of any stream, bluff, surface water, or wetlands regulated by the New York State Department of Environmental Conservation or the Town of Brookhaven;
  - b. the one hundred (100) year flood plain;
  - c. the South Setauket Special Groundwater Protection Area (South Setauket SGPA);
  - d. the state's Wild, Scenic and Recreational River corridors;
  - e. existing public lands;
  
2. A parcel shall be ineligible as a Residential Overlay District where forty percent (40%) or more of the land area of the parcel contains steep slopes of fifteen percent (15%) or greater.

#### **6.4.2.3 Innovative strategies for the redemption of Brookhaven Pine Barrens Credits**

In addition to the Planning Board approval process as described in Section 6.4.1.1 of this Plan, the Town of Brookhaven intends to use creative techniques to provide additional mechanisms for the use of Pine Barrens Credits during the life of the Pine Barrens Credit Program. The use of Planned Development Districts, subject to the approval of the Town Board, will allow for the conversion of residential development rights into commercial, industrial and/or other uses, which will serve to limit the final number of residential dwelling units to be built while avoiding a negative tax impact.

In addition, the Town of Brookhaven will seek to utilize the following initiatives, through approval of the Brookhaven Town Board, for redemption of Pine Barrens Credits where appropriate:

1. Use of "R" districts, consisting of currently residentially zoned parcels, which are too small for Planned Development District use, but which are more appropriately zoned for commercial and industrial use;
2. The use of Planned Retirement Communities as already set forth in the current Brookhaven Town Code;
3. Other innovative zoning incentives.

#### **6.4.2.4 Additional Brookhaven Pine Barrens Credit Program policies**

##### **6.4.2.4.1 Transfers from Hydrogeologic Zone 3 to Hydrogeologic Zone 6**

The Town of Brookhaven may also seek the support of the Commission to obtain a ruling from the Suffolk County Board of Health to allow for the transfer of development rights from the Core Preservation Area, which is located in Hydrogeologic Zone 3, to selected portions of Hydrogeologic Zone 6. This transfer would utilize the increased bonus density formula set forth above, and transfer Pine Barrens Credits to the northern portions of Hydrogeologic Zone 6 so as not to increase nitrogen loadings to the Great South Bay, Moriches Bay or their tributary streams or wetlands.

##### **6.4.2.4.2 Brookhaven acquisition priorities**

The Town of Brookhaven, in addition, requests that the Commission prioritize acquisition of Brookhaven residential parcels within the Core Preservation Area in those school districts which are most adversely impacted by the Plan.

##### **6.4.2.4.3 Brookhaven townwide policy**

It is the intent of the Town of Brookhaven to utilize transfers of development rights in a manner which will allow for the preservation of the Core Preservation Area without a significant negative environmental or economic impact on the rest of the Town.

#### **Figure 6-3: Brookhaven Residential Overlay District receiving area map**

*(Please see printed version of Plan.)*

#### **6.4.3 Town of Riverhead designated Pine Barrens Credit receiving districts**

The Town of Riverhead has identified receiving districts which are eligible to receive Pine Barrens Credits in an as of right manner from the Core Preservation Area, and in which increased intensity shall be allowed. These receiving districts are described in Figures 6-4 and 6-5.

##### **6.4.3.1 Riverhead intensity increase**

A single Pine Barrens Credit shall permit an increase in intensity equal to three hundred (300) gallons per day per acre or the equivalent rated sewage flow as described in the Suffolk County Health Department Standards.

##### **6.4.3.2 Riverhead as of right policy**

The increased intensity shall be available as of right for those receiving districts identified in Figures 6-4 and 6-5.

**Figure 6-4: Riverhead receiving area map**  
**Figure 6-4 (p.2): Riverhead receiving area map**

*(Please see printed version of Plan.)*

<b>Figure 6-5: Riverhead receiving area parcels</b> <i>(All parcels which are within the receiving areas are listed here, regardless of their current land use. All Riverhead parcels are within the same school district.)</i>	
<b>Tax map number Acreage</b>	<b>Tax map number Acreage</b>
<b>Receiving Area "A": Calverton</b>	
0600-97-2-37 0.46	0600-117-1-3 41.98
0600-98-1-4 1.0	0600-117-1-4 22.73
0600-98-1-7 1.0	0600-117-1-5 41.43
0600-98-1-8 1.9	0600-117-1-6 24.16
0600-98-1-10 1.0	0600-117-1-8.4 30.18
0600-98-1-11 0.5	0600-117-2-2.3 3.9
0600-98-1-17 2.0	0600-117-2-2.5 9.5
0600-98-1-20 4.4	0600-117-2-2.6 2.0
0600-98-1-21 10.3	0600-117-2-3.1 4.49
0600-98-1-22 0.85	0600-117-2-3.2 3.0
0600-99-1-2.2 0.90	0600-117-2-4.1 8.0
0600-99-1-3 7.45	0600-117-2-5 0.78
0600-99-2-9 1.0	0600-117-2-6 1.0
0600-99-2-14.1 0.48	0600-117-2-7.2 4.9
0600-99-2-27 0.77	0600-117-2-8.2 52
0600-116-1-1 50.5	0600-117-2-9.1 37.53
0600-116-1-2 30.2	0600-117-2-11 116.30
0600-116-1-3.1 28.2	0600-117-2-12.3 121.91
0600-116-1-4 22.5	0600-117-2-13 14.37
0600-116-1-7.1 113.3	0600-117-2-14 0.62
0600-116-2-1.1 25.1	0600-118-1-1 0.49
0600-116-2-2 25.1	0600-118-1-2.1 31.84
0600-116-2-3 25.4	0600-118-1-2.2 32.76
0600-116-2-4 24.5	0600-118-1-3.1 27.86
0600-116-2-5 48.3	0600-118-1-4 0.33
0600-117-1-1.2 36.39	0600-118-1-13 0.73
0600-117-1-2 8.86	

**Figure 6-5 (p.2): Riverhead receiving area parcels**  
*(All parcels which are within the receiving areas are listed here, regardless of their current land use. All Riverhead parcels are within the same school district.)*

Tax map number Acreage	Tax map number Acreage
<i>Receiving Area "B": West Main Street</i>	
0600-118-3-2.2 4	0600-119-1-35.5 2.4
0600-118-3-2.3 7.6	0600-119-1-36 1.6
0600-118-3-3 4	0600-119-1-37 16.7
0600-118-3-4 47.6	0600-119-1-38 58.2
0600-118-3-5.1 0.42	0600-119-1-40 3.6
0600-118-3-5.2 0.42	0600-119-2-1 0.5
0600-118-3-6 0.65	0600-119-2-2 0.1
0600-118-3-7 4	0600-119-2-4.1 1.7
0600-118-3-8 4.89	0600-119-2-5 0.4
0600-119-1-22.1 21	0600-119-2-7.1 3.6
0600-119-1-23 46.9	0600-119-2-8 0.2
0600-119-1-24 24.8	0600-119-2-10.1 0.4
0600-119-1-25 6.6	0600-119-2-11 0.3
0600-119-1-26.1 2.5	0600-119-2-12 0.6
0600-119-1-28.2 2.3	0600-119-2-13 0.5
0600-119-1-28.4 2.3	0600-119-2-14 0.3
0600-119-1-28.5 2.3	0600-119-2-15 0.1
0600-119-1-28.6 3.7	0600-119-2-16 0.6
0600-119-1-29 3.5	0600-119-2-17 0.4
0600-119-1-30 1.5	0600-119-2-18 0.4
0600-119-1-31.2 1.9	0600-137-1-7 2
0600-119-1-32.1 3.9	0600-137-1-8 1.6
0600-119-1-32.2 3	0600-137-1-32 51.4
0600-119-1-35.3 9.3	0600-137-2-10 12.1
0600-119-1-35.4 4	

#### 6.4.4 Town of Southampton designated Pine Barrens Credit receiving districts

The Town of Southampton has identified receiving districts which are eligible to receive Pine Barrens Credits as of right from the Core Preservation Area and the Compatible Growth Area and in which increased density shall be allowed. These receiving districts are described in Figures 6-7 and 6-8.

##### 6.4.4.1 Overview of the Southampton Pine Barrens Credit Program

The Pine Barrens Credit Program in Southampton is designed to redirect development from all residentially zoned lands within the Core Preservation Area and to preserve other key areas within the Compatible Growth Area.

Two primary approaches are to be used:

1. Redirection of development to other areas of the Town on an as of right basis through residential overlay districts, and
2. Use of innovative planning areas referred to as Planned Development Districts to creatively accommodate Pine Barrens Credits through a variety of development schemes. These approaches would convert Pine Barrens Credits to highly tax ratable uses such as resort and tourism, commercial and retail, senior housing and care centers, and medical centers.

The zoning and total acreage of residential lands which would be eligible for Pine Barrens Credit allocation are shown in Figure 6-6.

<b>Figure 6-6: Southampton zoning and Pine Barrens Credit illustration</b>						
<b>Statutory zone</b>	<b>R-20 acreage</b>	<b>R-40 acreage</b>	<b>CR-60 acreage</b>	<b>R-80 acreage</b>	<b>CR-120 acreage</b>	<b>CR-200 acreage</b>
Core Preservation Area	13	16	169	0	265	3367
Compatible Growth Area	48	0	10	42	221	1015
<b>Totals</b>	<b>61</b>	<b>16</b>	<b>179</b>	<b>42</b>	<b>486</b>	<b>4382</b>
<i>Note:</i> R-20 is a Residence District with a 20,000 square feet minimum lot size. CR-60 is a Country Residence District with a 60,000 square feet minimum lot size.						

Pine Barrens Credits would be allocated to owners of these lands using the method outlined in this chapter of this Plan. However, in the case of old filed map lots, allocation of Pine Barrens Credits does not include a yield factor, since these lots were platted with infrastructure allowances. This coincides with the Town's existing old filed map regulations and results in a slightly higher allocation of Pine Barrens Credits for these lots.

Within the Core Preservation Area, it is vital to have as much of the Towns' industrially zoned land protected by acquisition as possible, due to the difficulty in allocating Pine Barrens Credits. The Town therefore requests the prioritization of these lands for acquisition through the present state and county programs, especially since many of these parcels fall within ecologically sensitive areas such as the dwarf pine plains. However, the Town does recognize that some owners of industrially zoned land may wish to sell or utilize Pine Barrens Credits for such development. In such cases, the Commission may exercise the right to allocate Pine Barrens Credits on a plan basis.

#### **6.4.4.2 As of right redemption of Southampton Pine Barrens Credits**

The primary strategy for the redirection of development from the Core Preservation Area is through Residential Overlay Districts. In these districts, a single Pine Barrens Credit shall allow an increase in density equal to one (1) dwelling unit, as defined by the Southampton Town Code. The end result is an incremental increase in density in selected residentially zoned areas of the Town.

This does not result in a net gain of dwelling units or population within the Town, but simply redirects development and channels growth in order to preserve more ecologically sensitive lands. The as of right receiving areas are designed to accommodate those Pine Barrens Credits from the Core Preservation Area within the same school district. In no case will it be necessary to cross school district boundaries on an as of right basis.

In Southampton, where most of the receiving areas are presently zoned one (1) unit per five acres, the creation of Residential Overlay Districts will allow the redemption of Pine Barrens Credits through an average of one (1) unit per acre. In certain school districts, in order to accommodate all Pine Barrens Credits, the Southampton Town Planning Board may need to require lot sizes less than one (1) unit per acre, though not lower than one (1) unit per one half (0.5) acre.

Where it was necessary to designate receiving sites within areas that are presently zoned one (1) unit per

acre, the establishment of densities higher than one (1) unit per one half (0.5) acre may be essential for full redemption of Pine Barrens Credits within that school district. For those sites, incorporation of a sewage treatment plant would be required by the Suffolk County Sanitary Code.

The net result of these Southampton Town policies is compact and efficient development that will protect Central Pine Barrens lands without significant public expenditure. The designation of receiving sites coincides with those areas where infrastructure and municipal services already exist. Thus, the cost to municipalities and taxpayers with regard to new road construction, water main extension and the provision of police, fire and other services is thereby lowered.

#### 6.4.4.3 Other strategies for the redemption of Southampton Pine Barrens Credits

The redemption of Pine Barrens Credits through mechanisms other than as of right uses may be possible through the many strategies that were outlined in *The Comprehensive Plan Initiative for Groundwater and Pine Barrens Forest Preservation* (the Southampton "Western Generic Environmental Impact Statement" or WGEIS; 1993), and which continue to be outlined through the update of the Town Comprehensive Plan. An overview of possible strategies which will be given future consideration by the Town is listed below, along with the potential areas where such redemption may take place.

These areas would serve to provide more opportunities for future use of Pine Barrens Credits. Furthermore, the use of Planned Development Districts would allow for the conversion of residential development rights into commercial, industrial, tourism, or other uses. These would serve to limit the ultimate amount of residential dwelling units that could be built while still providing for a strong tax base.

The following potential strategies may be employed in the future by Southampton Town, as approved by the Town Board, for the redemption of Pine Barrens Credits. Geographical areas that may be suitable for such redemption mechanisms are also noted.

1. Use of Pine Barrens Credits could permit density increases for senior citizen housing and elder care facilities.
2. Overlay districts along the Montauk Highway and Long Island Railroad corridors could promote revitalization and concentrated development patterns within existing hamlet centers. Potential locations for such activity include, but are not limited to, areas L, R and S.
3. Use of Pine Barrens Credits could allow accessory apartments within existing residential zoning districts.
4. Mixed use overlay districts along existing commercial corridors could allow for alternative uses to counteract strip development. Locations that could be suitable for these receiving districts are Q, T, R and 2.
5. Appropriate industrial development areas have been identified at the Suffolk County airport for the redirection of Pine Barrens Credits from industrially zoned land located in the Core Preservation Area, and for the conversion of residential Pine Barrens Credits.
6. Use of Pine Barrens Credits could promote tourism uses and related facilities. Areas M, I, P, EQ, and RS are identified as suitable for this.
7. Use of Pine Barrens Credits could allow multifamily, or more compact, residential development. Sites that could accommodate this activity include K, J, 2, E, and the county's Bomarc site along Old Country Road in Westhampton.

**Figure 6-7: Southampton receiving area map**  
**Figure 6-7 (p.2): Southampton receiving area map**  
**Figure 6-7 (p.3): Southampton receiving area map**



**Figure 6-7 (p.4): Southampton receiving area map**  
**Figure 6-7 (p.5): Southampton receiving area map**

*(Please see printed version of Plan.)*

<b>Figure 6-8: Southampton receiving area parcels</b> <i>(All parcels which are within the receiving areas are listed here, regardless of their current land use.)</i>	
Receiving Area Tax map number Acreage	Receiving Area Tax map number Acreage
<i>Riverhead school district</i>	
E 900-139-3-10.2 12.5	E 900-141-1-9.2 35
<i>Hampton Bays school district</i>	
2 900-221-3-12.1 12.5 2 900-221-3-16.1 7.6 2 900-221-3-18 2.5	3 900-205-3-12.1 16.3 J 900-225-1-1 33.5 J 900-225-1-21 3.5
<i>Eastport school district</i>	
A 900-325-1-2.2 26.0 A 900-325-1-3.2 11.8 A 900-325-1-4.2 5.6 A 900-325-1-6.3 1.5 A 900-325-1-7.3 12.0	A 900-325-1-8.2 17.4 A 900-325-1-34.1 5.3 A 900-325-1-47.1 1.2 B 900-326-1-3.2 5.5 B 900-326-1-5.2 6.3
<i>Speonk-Remsenburg school district</i>	
A 900-325-1-3.1 6.0 A 900-325-1-4.1 15.7 A 900-325-1-p/o 7.2 16.4 A 900-325-1-p/o 8.1 5.6 A 900-325-1-43 2.3 B 900-326-1-p/o 3.1 8.8 B 900-326-1-p/o 4 8.4	B 900-326-1-p/o 5.1 55.5 B 900-326-1-p/o 6 22.9 B 900-326-1-10 36.7 B 900-326-1-p/o 17 7.8 C 900-276-3-p/o 1 36 C 900-327-1-p/o 6 28.9 C 900-328-1-4 3.3

<b>Figure 6-8 (p.2): Southampton receiving area parcels</b> <i>(All parcels which are within the receiving areas are listed here, regardless of their current land use.)</i>	
Receiving Area Tax map number Acreage	Receiving Area Tax map number Acreage
<i>Westhampton Beach school district</i>	
C 900-305-1-7 (ofm) 1.6 C 900-329-1-1 1.49 C 900-329-1-2 1.49 C 900-329-1-3 1.49 C 900-329-1-4 0.69 C 900-329-1-6 0.57 C 900-329-1-p/o 10 20.2 D 900-330-2-11 8.2 D 900-330-2-14.1 3.2	D2 900-331-3-1 (ofm) 1.93 D2 900-331-3-2 (ofm) 1.93 D2 900-331-3-5 1.84 D2 900-331-3-6 (ofm) 1.93 D2 900-331-3-7 (ofm) 0.96 D2 900-331-3-8 (ofm) 0.96 D2 900-331-3-9 1.33 D2 900-331-3-12 (ofm) 0.96 D2 900-331-3-14 (ofm) 0.64

D 900-330-2-16.2 10.5	D2 900-331-3-16 (ofm) 1.61
D1 900-331-2-4 (ofm) 1.26	D2 900-331-3-17 1.41
D1 900-331-2-7 (ofm) 2.30	D2 900-331-3-28 (ofm) 1.70
D1 900-331-2-8 (ofm) 1.12	D2 900-331-3-29 (ofm) 1.79
D1 900-331-2-9 (ofm) 1.49	D2 900-331-3-31 (ofm) 1.93
D1 900-332-2-1 (ofm) 1.15	D2 900-332-3-3 (ofm) 1.93
D1 900-332-2-2 (ofm) 0.92	D2 900-332-3-6 (ofm) 0.54
D1 900-332-2-3 (ofm) 0.92	D2 900-332-3-7 (ofm) 0.96
D1 900-332-2-4 (ofm) 1.72	D2 900-332-3-8 (ofm) 0.96
D1 900-332-2-5 3.20	D2 900-332-3-9 (ofm) 1.93
D1 900-332-2-6 2.5	D2 900-332-3-10 (ofm) 2.30
D1 900-332-2-7 2.5	D2 900-332-3-11 (ofm) 0.96
D1 900-332-2-10 5	D2 900-332-3-12 (ofm) 0.90
	D2 900-332-3-13 (ofm) 1.70
	D2 900-332-3-15 (ofm) 1.93

*Note:*

*"ofm" indicates an "old filed map" parcel.*

#### **6.4.5 Suffolk County Sanitary Code**

The Suffolk County Health Department has proposed amendments to Article 6 of the Suffolk County Sanitary Code to permit the Department of Health to perform functions heretofore performed by the Board of Review. Insofar as it applies to the Central Pine Barrens, this amendment should be applied so as to facilitate implementation of each town's Pine Barrens Credit program in accordance with this Plan and should sunset no later than the date when the last Pine Barrens Credit allocated in that town is extinguished unless the Commission endorses an earlier sunset date during the five year Plan update as provided in 57-0121(13). Each town, in its Findings Statement, may designate a more restrictive standard, i.e., less than 600 gallons per day per acre.

#### **6.5 Pine Barrens Credit use planning**

##### **6.5.1 Amendment of zoning and land use regulations**

In order for a town to comply with ECL Section 57-0123, it must amend its land use and zoning regulations to conform to this Plan within three (3) months of the Commission's adoption of this Plan. Such amendments shall include the final adoption by each town of a Planned Development District ordinance designed to accommodate Pine Barrens Credits. Each town shall propose a draft Planned Development District ordinance by June 30, 1995.

##### **6.5.2 Establishment of a receiving capacity plan by each town**

Each town shall, within three (3) months of the Commission's adoption of this Plan, submit a plan to the Commission demonstrating the manner in which each town will identify Pine Barrens Credit uses of sufficient quantity and quality within such town to accommodate at least two and one half (2.5) times the number of Pine Barrens Credits available for allocation within the town at that time.

###### **6.5.2.1 One to one receiving capacity to sending credit ratio requirement**

Each town shall include enough absorption capacity in receiving districts that meet the as of right

definition set forth in Section 6.4 of this Plan so as to absorb all of the Pine Barrens Credits on a one to one (1:1) ratio that the Commission estimates it may allocate in that town pursuant to this Plan. The Commission recognizes that a change in zoning upon a town board's own motion that would decrease the receiving capacity so as to reduce this ratio below 1:1 would have an adverse effect on the Pine Barrens Credit program.

#### **6.5.2.2 Review by the Commission of the absorption capacity estimates**

Each town shall present to the Commission its best estimate of the number of Pine Barrens Credits that could be transferred to, and absorbed in, its as of right Residential Overlay Districts, Planned Development Districts, or other kinds of receiving districts, or through incentive zoning strategies with a supporting analysis. The Commission shall review, and then confirm or modify, such estimates based upon the best evidence available to it. In reviewing and approving this plan, the Commission shall consider each town's compliance with Section 6.5.2 of this Plan based upon such estimates.

#### **6.5.3 Establishment of additional receiving districts**

In addition to the receiving districts identified above and the approaches identified by each town for adding additional receiving districts, each town may adopt additional receiving districts to accommodate Pine Barrens Credits as set forth below:

##### **6.5.3.1 Planned Development Districts**

The following policies shall apply to the use of Planned Development Districts for the redemption of Pine Barrens Credits.

###### **6.5.3.1.1 Designation of Planned Development Districts as receiving districts**

Each town may designate receiving districts that are Planned Development Districts (PDDs). Each PDD shall be mapped by the municipality, or otherwise designated by criteria that the town describes in its PDD regulations. Pine Barrens Credits may be redeemed for residential, commercial and other uses in PDDs. Each plan or scheme must include a redemption schedule, a table of densities or a change of use schedule, as appropriate.

###### **6.5.3.1.2 Requirements of the Suffolk County Sanitary Code**

Each PDD must conform to the requirements of the Suffolk County Sanitary Code.

###### **6.5.3.1.3 Regulations regarding the timing of development**

Each town may establish regulations regarding the timing of development within each PDD in order to minimize any adverse fiscal impacts on any taxing jurisdiction, except that any such phasing should not apply to any development allowed under existing zoning. To offset the impact of residential development, commercial and industrial development should occur first whenever possible.

###### **6.5.3.1.4 Inclusion of Planned Development District capacity within townwide Pine Barrens Credit absorption capacity estimate**

A town may include the absorption capacity of its Planned Development Districts as part of the plan that must be submitted to the Commission under section 6.5.2 above by estimating the number of Pine

Barrens Credits that it reasonably expects may be absorbed in its PDDs. However, the estimate must be based upon a local PDD ordinance that shall have been fully adopted in final form within three (3) months of the Commission's adoption of this Plan.

### **6.5.3.2 Residential Overlay Districts**

The following policies shall apply to the use of Residential Overlay Districts for the redemption of Pine Barrens Credits.

#### **6.5.3.2.1 Designation of additional Residential Overlay Districts as receiving districts**

Each town may establish additional receiving districts that are residential overlay districts (RODs) within the town.

#### **6.5.3.2.2 Requirements for designation of additional Residential Overlay Districts**

Each ROD shall be mapped or otherwise designated based on objective geographic criteria.

#### **6.5.3.2.3 Criteria for restricting locations of Residential Overlay District density increases**

No ROD may include any land within the Core Preservation Area or any Critical Resource Area.

#### **6.5.3.2.4 Types of projects in which the Residential Overlay District increase applies**

The ROD yield would apply to subdivisions, land divisions, flag lot clusters, and mother and daughter units.

#### **6.5.3.2.5 Requirements of the Suffolk County Sanitary Code**

The ROD must conform to the requirements of the Suffolk County Sanitary Code.

#### **6.5.3.2.6 Prohibition of unreasonable school district burdens**

Redemption of Pine Barrens Credits in RODs may not produce an unreasonable burden on the receiving school district.

#### **6.5.3.2.7 Inclusion of the Residential Overlay Districts' capacity within the townwide Pine Barrens Credit absorption capacity estimate**

A town may include the absorption capacity of its RODs as part of the plan that must be submitted to the Commission under Section 6.5.2.1 of this Plan only if the ROD meets the definition "as of right" set forth above.

### **6.5.3.3 Incentive Zoning districts**

The following policies shall apply to the use of Incentive Zoning Districts for the redemption of Pine Barrens Credits.

#### **6.5.3.3.1 Designation of receiving districts pursuant to incentive zoning or municipal home rule laws**

Each town may establish receiving districts pursuant to the incentive zoning provisions contained in New York Town Law Section 261-b or pursuant to New York Municipal Home Rule Law. Pine Barrens Credits may be redeemed for a change in land use, or an increase in intensity or density in such receiving districts.

#### **6.5.3.3.2 Requirements for incentive zoning or municipal home rule receiving districts**

For each incentive zoning district designated under Section 6.5.3 of this Plan, the town shall establish a redemption schedule, a table of densities or a change of use schedule, as appropriate. Pine Barrens Credits shall be redeemable in accordance with the specified incentive zoning for each receiving district designated. Upon application to the appropriate jurisdiction(s), additional Pine Barrens Credits may be used to exceed the incentive zoning of a receiving district with the redemption of these additional Pine Barrens Credits.

#### **6.5.3.3.3 Requirements of the Suffolk County Sanitary Code**

Each incentive zoning district must conform to the requirements of the Suffolk County Sanitary Code.

#### **6.5.3.3.4 Increases above incentive zoning**

As part of its incentive zoning ordinance, a town may provide that any additional increases over and above that provided by the incentive zoning schedule may be conditional upon the purchase of additional Pine Barrens Credits.

#### **6.5.3.4 Additional Overlay Districts, Special Permit Uses or Special Exemption Uses**

Additional overlay districts, special permit uses, or special exemption uses may be adopted by the towns to accommodate Pine Barrens Credits.

### **6.6 Establishment of the Pine Barrens Credit Clearinghouse and the Board of Advisors**

The Commission finds that in order to implement the Pine Barrens Credit Program, steps must be taken to promote the use and sale of the Pine Barrens Credits established under the program and that the best means of providing this assurance is through the establishment of a Pine Barrens Credit Clearinghouse that will purchase, sell, and track Pine Barrens Credits. The Commission further finds that it is appropriate to establish a board to perform the functions of a clearinghouse, subject to the provisions set forth below.

#### **6.6.1 Structure and operation of the Board of Advisors**

The Pine Barrens Credit Clearinghouse, referred to as the "Clearinghouse", shall be governed by a Board of Advisors (the "Board") consisting of five (5) members. Each ex officio member of the Commission, and the Governor, shall each appoint one (1) member of the Board. The members of the Board shall serve without compensation. The Commission shall appoint one (1) of these five members as Chairperson of the Board and shall also appoint one (1) other member as a Vice-chair. Four (4) members of the Board shall constitute a quorum for the transaction of services or the exercise of any Board function. An affirmative vote of three (3) or more Board members shall be required to pass a resolution or exercise a function of the Board.

### **6.6.2 Authority of the Board of Advisors**

The Board shall have the authority:

- 6.6.2.1 To advise and make recommendations to the Commission as to the monetary value of Pine Barrens Credits to be purchased by the Clearinghouse.
- 6.6.2.2 To purchase Pine Barrens Credits from property owners to further the objectives of the Pine Barrens Protection Act.
- 6.6.2.3 To sell, exchange or convey Pine Barrens Credits previously purchased by the Clearinghouse to entities willing to purchase such Pine Barrens Credits from the Clearinghouse, and to establish the monetary value of those Pine Barrens Credits which are sold by the Clearinghouse.
- 6.6.2.4 To adopt and, from time to time, amend and repeal suitable bylaws for the management of its affairs;
- 6.6.2.5 To apply for, receive, accept, and utilize, with the approval of the Commission, from any federal, state, or other public or private source, grants or loans for, or in aid of, the Board's authorized purposes;
- 6.6.2.6 To utilize funds allocated for Clearinghouse purposes and to implement appropriate fiscal and accounting practices;
- 6.6.2.7 To appoint such officers, employees and agents as the Board may require for the performance of its duties;
- 6.6.2.8 To call to its assistance, and to avail itself of the services of, employees of any state, county or municipal department, board, commission or agency as may be required and may be made available for these purposes;
- 6.6.2.9 To purchase, at its discretion, nonresidential Pine Barrens Credits.

### **6.7 Pine Barrens Credit Certificates**

The following procedures shall apply to the issuance of Pine Barrens Credit Certificates by the Clearinghouse.

#### **6.7.1 Issuance of Pine Barrens Credit Certificates by the Clearinghouse**

All Pine Barrens Credit Certificates shall be issued by the Clearinghouse.

#### **6.7.2 Overview of the issuance procedure**

Issuance of a Pine Barrens Credit Certificate encompasses the following three steps:

1. A property owner obtains a Letter of Interpretation from the Clearinghouse stating the number of Pine Barrens Credits allocated to the parcel of land.
2. The property owner applies to the Clearinghouse for a Pine Barrens Credit Certificate by submitting a valid Letter of Interpretation, a standard title report, and other necessary documents as determined by the Clearinghouse.
3. A Pine Barrens Credit Certificate is issued when the Clearinghouse receives proof of filing and recording of the conservation easement from the title insurance company.

#### **6.7.3 Detail of Step 1: Obtaining a Letter of Interpretation**

6.7.3.1 A property owner requests a Letter of Interpretation on a form to be supplied by the Clearinghouse.

6.7.3.2 The Clearinghouse staff may conduct an analysis of the property and will allocate Pine Barrens Credits based upon the allocation formula and any unique features of a particular parcel of land. The Clearinghouse staff mails the Letter of Interpretation to the property owner.

6.7.3.3 The property owner has thirty (30) days from the date of the Letter of Interpretation to appeal the allocation to the Commission in writing.

6.7.3.4 The Commission shall consider the appeal within sixty (60) days of receipt of an appeal, and may schedule a hearing. The Commission shall decide the appeal within sixty (60) days of receipt of the appeal. The Commission may confirm, increase, or decrease the allocation to be received from the Clearinghouse.

#### **6.7.4 Detail of Step 2: Applying for a Pine Barrens Certificate**

6.7.4.1 After receiving a Letter of Interpretation, a property owner may request a Pine Barrens Credit Certificate from the Clearinghouse by submitting:

1. The Letter of Interpretation, and
2. A title report which covers a time period extending back a minimum of thirty (30) years for the parcel of land, and
3. A proposed conservation easement, for which the Clearinghouse may propose sample language, and
4. A completed Pine Barrens Credit Certificate Application Form, which shall be supplied by the Clearinghouse.

6.7.4.2 If the title report indicates that the applicant does not have marketable title, that the applicant is not qualified to encumber the property with a conservation easement, or that there are liens on the property, a Pine Barrens Credit Certificate may not be issued until these matters are resolved by the applicant.

#### **6.7.5 Detail of Step 3: Recording a conservation easement and obtaining a Pine Barrens Credit Certificate**

6.7.5.1 The conservation easement may not be recorded until all title issues are resolved and Clearinghouse staff has approved the conservation easement as to its form.

6.7.5.2 The Clearinghouse will issue a preliminary approval concerning the title report and the proposed conservation easement.

6.7.5.3 The conservation easement will then be recorded, and a copy of it submitted along with proof of its recordation, to the Clearinghouse. The title report must be updated to ensure that there has been no conveyance of the property since the report was received and that no liens have been placed upon the property.

6.7.5.4 The Clearinghouse will then issue a Pine Barrens Credit Certificate certifying that the holder of the Certificate is entitled to a specified number of Pine Barrens Credits.

#### **6.7.6 Other provisions relating to the issuance of Pine Barrens Credit Certificates**

##### **6.7.6.1 Expiration of the Letters of Interpretation**

A Letter of Interpretation shall expire one (1) year following its issuance. A property owner is not required to apply for a Pine Barrens Credit Certificate upon receipt of a Letter of Interpretation. However, if such application is not made within one (1) year, the Letter of Interpretation will expire and the property owner will be required to reapply for a new Letter of Interpretation.

### **6.7.6.2 Delayed issuance of a Pine Barrens Credit Certificate**

After receipt of a Letter of Interpretation, a property owner may seek to negotiate the sale of the Pine Barrens Credits described in the letter, and delay obtaining the Pine Barrens Credit Certificate until after reaching an agreement with a prospective buyer of the Pine Barrens Credits.

### **6.7.6.3 Notification of the Clearinghouse of Pine Barrens Credit usage**

A Pine Barrens Credit Certificate shall state that the recipient of the certificate and any party purchasing the Pine Barrens Credits described in the certificate must notify the Clearinghouse of any transaction involving the sale of the Pine Barrens Credits or utilization of the Pine Barrens Credits as security for a loan.

### **6.7.6.4 Tax status of the subject property**

No Pine Barrens Credit Certificates shall be issued for any parcel of land until all real property taxes and ad valorem levies have been paid in full as certified by the town's tax receiver.

### **6.7.6.5 Liability for real property taxes on subject property**

If a transferor of Pine Barrens Credits owns Pine Barrens Credits on the tax status date under the Suffolk County Tax Act, and such Pine Barrens Credits are transferred subsequent to the tax status date, the transferor shall be liable for all real property taxes on such property from the tax status date until the date of transfer of the Pine Barrens Credits.

### **6.7.6.6 Issuance of a full Pine Barrens Credit for certain roadfront parcels**

The Pine Barrens Credit Clearinghouse may elect to allocate one (1) full Pine Barrens Credit for a parcel of land consisting of at least 4,000 square feet with frontage on an existing improved road.

### **6.7.6.7 Minimum Pine Barrens Credit allocation**

No fewer than 0.10 (one tenth) Pine Barrens Credit shall be allocated by the Clearinghouse or the Commission for any parcel of land, regardless of its size or road accessibility.

## **6.8 Registry of Pine Barrens Credits**

### **6.8.1 Establishment and maintenance of the Pine Barrens Credit Registry**

The Board shall establish and maintain a registry of Pine Barrens Credits, which shall include the following information:

1. The name and address of every owner to whom a Pine Barrens Credit certificate is issued pursuant to the Plan, the date of its issuance, the tax district, section, block and lot identification of the parcel of land to which the Pine Barrens Credit has been assigned, the number of Pine Barrens Credits or fraction thereof assigned to each parcel, the total number of Pine Barrens Credits assigned, and the total acreage to which Pine Barrens Credits have been assigned, and
2. The name and address of every person to whom a Pine Barrens Credit is sold or otherwise conveyed, the date of the conveyance, and the consideration, if any, received therefore, and



3. The name and address of any person who pledged a Pine Barrens Credit as security on any loan or other obligation, and the name and address of the lender, and
4. The name and address of any person who has sold a Pine Barrens Credit, the location of the land to which the Pine Barrens Credit was transferred, and the date of the sale; and
5. An annual report of the total number of Pine Barrens Credits purchased and transferred. This report shall list the municipality and school district of each tract of land for which Pine Barrens Credits were issued and the municipality and school district to which the Pine Barrens Credits were transferred.

#### **6.8.2 Notification of the Board of certain actions involving Pine Barrens Credits**

No person shall purchase or otherwise acquire, encumber, or sell any Pine Barrens Credit without notifying the Board in writing within ten business days thereof.

#### **6.8.3 Distribution of the annual report**

The Board shall make available in the form of an annual report the information included in the registry to each municipality located in whole or in part in the Central Pine Barrens and, upon request, to any other person.

#### **6.9 Municipal functions exclusive of state financial assistance**

Nothing in this section shall be construed to prohibit, or in any other way interfere with, the carrying out by any municipality of functions substantially similar to those described and authorized in this Chapter of this Plan.

#### **6.10 Other development rights transfer programs**

Nothing herein shall serve to limit, affect or prohibit the establishment or continuance of any other municipal program for transferring or redirecting development rights.

**Commission Resolution  
adopting a non-residential property  
allocation formula**

**August 7, 1996  
Riverhead Town Hall**

**Resolved**, that the following non-residential property allocation formula is adopted:

<b>Zoning Class</b>	<b>Pine Barrens Credits per acre</b>
Defense Institutional District	1.0 PBCs per acre*
Industrial A District	1.0 PBCs per acre*
J Business 2 District	1.0 PBCs per acre*
J Business 3 District	1.0 PBCs per acre*
J Business 4 District	1.0 PBCs per acre*
J Business 5 District	1.0 PBCs per acre*
Light Industrial 1 District	1.0 PBCs per acre*
Light Industrial 3 District	1.0 PBCs per acre*
Light Industrial 200 District	1.0 PBCs per acre*
Light Industrial 40 District	1.0 PBCs per acre*
Multi-Family 1 District	1.0 PBCs per acre*
Riverhead Open Space Conservation District	0.25 PBCs per acre*

(\*) One acre equals 43,560 square feet; fractional allocations are rounded upward to the nearest one hundredth (1/100 = 0.01) of a Pine Barrens Credit (PBC). No fewer than 0.10 (one tenth) Pine Barrens Credit shall be allocated by the Clearinghouse for any parcel of land, regardless of its size or road accessibility.

**Motion by:** Mr. Girandola (for Brookhaven Town)

**Second by:** Mr. Cowen (for New York State)

**Ayes:** Mr. Proios (for Suffolk County), Mr. Cowen, Mr. Girandola, Ms. Filmanski (for Riverhead), and Mr. Freleng (for Southampton)

**Nays:** None



**CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT - THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY**

T. TAX  
024.00

**THIS INDENTURE**, made the 22<sup>nd</sup> day of October, nineteen hundred and ninety six **BETWEEN EDWIN F. TUCCIO and PATRICIA TUCCIO** (brother and sister), having an address of 547 East Main Street, Riverhead, New York 11901,

party of the first part, and **THE NATURE CONSERVANCY**, a non-profit corporation organized under the laws of the District of Columbia, and having its principal office at 1815 North Lynn Street, Arlington, Virginia 22209,

party of the second part,

**WITNESSETH**, that the party of the first part, in consideration of ten dollars and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

**ALL** that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the hamlet of Westhampton, Town of Southampton, Suffolk County, New York, more fully described on Exhibit "A" attached hereto.

**SUBJECT** to the rights of others set forth in Liber 10927 page 554, rights of New York Telephone Company over a portion of the premises where underground conduit is located, electrical easement set forth in Liber 11605 page 133 and twenty-foot wide utility easement crossing the subject premises.

**BEING AND INTENDED** to be a portion of property acquired by Edwin F. Tuccio and Patricia Tuccio, as tenants in common, by deed dated October 18, 1990 and recorded in the Suffolk County Clerk's office on May 2, 1991 in Liber 11256 page 285, as made by The Suffolk County National Bank, as executor and Trustee under the Last Will and Testament of Ethel B. Fishel, deceased.

DISTRICT  
0900

SECTION  
248.00

BLOCK  
01.00

LOT  
110.002

**TOGETHER** with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof; **TOGETHER** with the appurtenances and all the estate and rights of the party of the first part in and to said premises; **TO HAVE AND TO HOLD** the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

**AND** the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

**AND** the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

**IN WITNESS WHEREOF**, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

*Shirley M. Schenck*

*Edwin F. Tuccio*  
EDWIN F. TUCCIO  
*Patricia Tuccio*  
PATRICIA TUCCIO

STATE OF NEW YORK, COUNTY OF Suffolk) SS:

On the 22<sup>nd</sup> day of October 19 96, before me personally came EDWIN F. TUCCIO

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that he executed the same.

*Shepard M. Scheinberg*  
NOTARY PUBLIC

Shepard M. Scheinberg  
Notary Public, State of New York  
No. 92-3486776, Suffolk County  
Commission Expires, March 30, 1998

STATE OF NEW YORK, COUNTY OF Suffolk) SS:

On the day of 19 before me personally came to me known, who, being by me duly sworn, did depose and say that he resides at No.

that he is the of

the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

STATE OF NEW YORK, COUNTY OF Suffolk) SS:

On the 22<sup>nd</sup> day of October 19 96, before me personally came PATRICIA TUCCIO

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that she executed the same.

*Shepard M. Scheinberg*  
NOTARY PUBLIC

Shepard M. Scheinberg  
Notary Public, State of New York  
No. 92-3486776, Suffolk County  
Commission Expires, March 30, 1998

STATE OF NEW YORK, COUNTY OF Suffolk) SS:

On the day of 19 before me personally came the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides at No.

that he knows

to be the individual described in and who executed the foregoing instrument; that he, said subscribing witness, was present and saw execute the same; and that he, said witness, at the same time subscribed his name as witness thereto.

**Bargain and Sale Deed**  
WITH COVENANT AGAINST GRANTOR'S ACTS

TITLE NO.

EDWIN F. TUCCIO and  
PATRICIA TUCCIO

TO

THE NATURE CONSERVANCY

Part of/  
SECTION 248.00  
BLOCK 01.00  
LOT 110.002  
COUNTY OR TOWN Suffolk/Southampton

Recorded at Request of  
CHICAGO TITLE INSURANCE COMPANY

Return by Mail to

STANDARD FORM OF NEW YORK BOARD OF REAL ESTATE UNDERWRITERS

Distributed by

**CHICAGO TITLE  
INSURANCE COMPANY**

Zip No.

RESERVE THIS SPACE FOR USE OF RECORDING OFFICE

CHICAGO TITLE INSURANCE COMPANY

LEGIBILITY  
POOR FOR  
MICROFILM

TITLE NO: 9608-0177-0016

LEGAL DESCRIPTION

PARCEL B

ALL THAT certain plot, piece or parcel of land, situate, lying and being in the Town of Southampton, County of Suffolk and State of New York, being bounded and described as follows:  
BEGINNING at a point on the division line in the Middle of the Lots, "Quogue Purchase-Last Division" where said line is intersected by the easterly line of land shown on map of "Seaside" County File no. 261; Thence from said point of beginning, north 09 degrees 39 minutes 30 seconds east, along the easterly line of land shown on Map of Seaside, 4601.87 feet to the northeasterly corner of land shown on Map of Seaside; Thence north 80 degrees 20 minutes 30 seconds west, along the northerly line of land shown on Map of Seaside 723.00 feet to land now or formerly Reed Rubin and WJF Realty Corp.; Thence north 09 degrees 39 minutes 30 seconds east, along last mentioned lands, 843.02 feet to a monument; Thence south 80 degrees 20 minutes 30 seconds east, still along the northerly line of lot 10 block 72 crossing Ocean View Avenue, along land now or formerly of Rubin and WJF Realty Corp., 990.56 feet to land now or formerly of County of Suffolk; Thence along land now or formerly of County of Suffolk the following three courses and distances: 1) south 09 degrees 10 minutes 30 seconds west, 8.37 feet; 2) south 80 degrees 49 minutes 30 seconds east, 254.00 feet; 3) north 9 degrees 10 minutes 30 seconds east, 6.24 feet to land now or formerly of Thomas J. Troiano Keogh Plan; Thence south 80 degrees 20 minutes 30 seconds east, along last mentioned lands crossing Old Quogue Road and along land now or formerly of Isaacs and Green, 1,935.25 feet to a monument found and land now or formerly of Nuzzi; thence south 9 degrees 41 minutes 10 seconds west, along land now or formerly of Nuzzi and along land now or formerly of East Quogue Mobil Home Park, Inc. 3,998.87 feet; Thence the following eight courses and distances: 1) north 16 degrees 15 minutes 25 seconds west, 368.73 feet; 2) south 73 degrees 40 minutes 44 seconds west, 1,211.81 feet; 3) north 16 degrees 15 minutes 11 seconds west, 80.00 feet; 4) south 73 degrees 37 minutes 50 seconds west, 636.13 feet; 5) south 16 degrees 27 minutes 30 seconds east, 654.79 feet; 6) south 53 degrees 31 minutes 15 seconds west, 226.13 feet; 7) south 70 degrees 58 minutes 20 seconds west, 233.64 feet; 8) south 40 degrees 58 minutes 20 seconds west, 379.62 feet to the line in the Middle of lots, Quogue Purchase, Last Division and along land now or formerly of County of Suffolk; Thence north 56 degrees 01 minutes 40 seconds west, along the line in the Middle of the Lots, Quogue Purchase-Last Division and land now or formerly of County of Suffolk 358.91 feet to the point or place of BEGINNING.  
Portions of above description are affected by the following three subdivision maps; 1) Map of Westhampton Beach Gardens, map no. 1201. 2) Map of Glover Tract, map no. 289; 3) map of Westhampton Beach Terrace, map no. 551.  
Subject to the rights of others in and to that portion of Old Quogue Road which traverses the northeasterly corner of above described parcel.

Exhibit A

11798 PG 627

CHICAGO TITLE INSURANCE COMPANY

LEGIBILITY  
POOR FOR  
MICROFILM

PARCEL E

ALL that certain plot piece or parcel of land, situate, lying and being at Westhampton, Town of Southampton, County of Suffolk and State of New York being bounded and described as follows;

BEGINNING at a point on the line in the Middle of the Lots, "Quogue Purchase Last Division" where said line is south 74 degrees 51 minutes 40 seconds west, 482.06 feet from the division line between lot 25 and lot 26 Quogue Purchase-Last Division; Thence from said point of beginning along the Line in the Middle of the Lots, "Quogue Purchase" last division and along land now or formerly of County of Suffolk the following four courses and distances: 1) south 74 degrees 51 minutes 40 seconds west, 93.20 feet; 2) south 75 degrees 45 minutes 00 seconds west, 665.29 feet; 3) north 88 degrees 43 minutes 10 seconds west, 648.14 feet; 4) north 56 degrees 01 minutes 40 seconds west, 123.46 feet to a point; Thence still along lands now or formerly County of Suffolk the following four courses and distances: 1) north 09 degrees 10 minutes 30 seconds east, 51.32 feet; 2) north 80 degrees 49 minutes 30 seconds west, 100.00 feet; 3) north 09 degrees 10 minutes 30 seconds east, 60.00 feet; 4) north 80 degrees 49 minutes 30 seconds west, 40.70 feet to a point; Thence the following eight courses and distances: 1) north 40 degrees 58 minutes 20 seconds east, 342.69 feet; 2) north 70 degrees 58 minutes 20 seconds east, 177.36 feet; 3) south 16 degrees 25 minutes 54 seconds east, 518.84 feet; 4) north 73 degrees 38 minutes 41 seconds east, 1,381.94 feet; 5) north 16 degrees 18 minutes 38 seconds west, 89.00 feet; 6) north 73 degrees 38 minutes 41 seconds east, 126.00 feet; 7) north 16 degrees 18 minutes 38 seconds west, 498.95 feet; 8) north 73 degrees 35 minutes 55 seconds east, 408.10 feet to land now or formerly of East Quogue Mobile Home Park; Thence south 09 degrees 41 minutes 10 seconds west, along last mentioned lands, 601.04 feet; Thence south 54 degrees 38 minutes 40 seconds west, 619.19 feet to the point or place of BEGINNING.

A portion of the above described parcel is affected by the following two realty subdivision maps; 1) Map of Westhampton Beach Gardens, map no. 1201; 2) Map of Glover Tract, map no. 289.

The above described parcel is a portion of lots 26, 27, 28 and 29 "Quogue Purchase-Last Division."



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16303

11805 R038

RECORDED

1 2

3

Number of pages 5

TORRENS

Serial # \_\_\_\_\_

Certificate # \_\_\_\_\_

Prior Cif. # \_\_\_\_\_

RECEIVED  
REAL ESTATE  
DEC 06 1996  
TRANSFER TAX  
SUFFOLK  
COUNTY  
16303

96 DEC -6 PM 12:05

EDWARD P. ROMAINE  
CLERK OF  
SUFFOLK COUNTY

Deed / Mortgage Instrument

Deed / Mortgage Tax Stamp

Recording / Filing Stamp

4

FRB

Page / Filing Fee 15

Handling 5

TP-584 5

Notation \_\_\_\_\_

EA-5217 (County) 5

Sub Total 30

EA-5217 (State) 25

R.P.T.S.A. 15.00

Comm. of Bd. 1.00

Affidavit \_\_\_\_\_

Certified Copy \_\_\_\_\_

Reg. Copy \_\_\_\_\_

Other \_\_\_\_\_

Sub Total 45

GRAND TOTAL 75



Mortgage Amt. \_\_\_\_\_

1. Basic Tax \_\_\_\_\_

2. Additional Tax \_\_\_\_\_

Sub Total \_\_\_\_\_

Spec./Asst. or Spec./Add. \_\_\_\_\_

TOT. MTO. TAX \_\_\_\_\_

Dual Town \_\_\_\_\_ Dual County \_\_\_\_\_

Held for Apportionment \_\_\_\_\_

Transfer Tax 0

Mansion Tax \_\_\_\_\_

The property covered by this mortgage is or will be improved by a one or two family dwelling only.

YES \_\_\_\_\_ or NO \_\_\_\_\_  
If NO, see appropriate tax clause on page # \_\_\_\_\_ of this instrument.

Real Property Tax Service Agency Verification

Title Company Information

Dist. Section Block Lot

0900 248.00 01.00 110.002

Company Name: CORP.  
123 M...  
RIVERHEAD NY 11901

Title Number

9608 0177 0016

Shepard Scheinberg, Esq.  
1 Union Square  
Aquebogue, N.Y.  
11931

FBB PAID BY:

Cash \_\_\_\_\_ Check  Charge \_\_\_\_\_

Payor same as R & R  
(or if different)

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

RIVERHEAD, N.Y. 11901

RECORD & RETURN TO  
(ADDRESS)

### Suffolk County Recording & Endorsement Page

This page forms part of the attached Deed made by:

(SPECIFY TYPE OF INSTRUMENT)

EDWIN F. TUCCIO

PATRICIA TUCCIO

TO

The NATURAL

CONSERVANCY

The premises herein is situated in  
SUFFOLK COUNTY, NEW YORK.

In the Township of SOUTHAMPTON

In the VILLAGE  
or HAMLET of WESTHAMPTON

BOXES 5 THRU 9 MUST BE TYPED OR PRINTED IN BLACK INK ONLY PRIOR TO RECORDING OR FILING.

**CORRECTION DEED**

Standard N.Y.S.T.U. Form 1001

Begin and End Deed, with Covenants against Grantor's Act - Individual or Corporation (single deed)

**CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT - THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY.**

T. TAX  
-0-

THIS INDENTURE, made the 22<sup>nd</sup> day of November, nineteen hundred and ninety-six  
BETWEEN

Edwin F. Tuccio and Patricia Tuccio (brother and sister)  
having an address of 547 East Main Street, Riverhead, NY 11901

party of the first part, and

THE NATURE CONSERVANCY, a non-profit corporation organized  
under the laws of the District of Columbia and having its  
principal office at 1015 North Lynn Street, Arlington,  
Virginia 22209,

party of the second part,

WITNESSETH, that the party of the first part, in consideration of Ten Dollars and other valuable consideration  
paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs  
or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate,  
lying and being in the hamlet of Westhampton, Town of Southampton  
Suffolk County, New York, more fully described on Exhibit "A"  
attached hereto.

SUBJECT to the rights of others set forth in Liber 10927 page  
554, rights of New York Telephone Company over a portion of the  
premises where underground conduit is located, electrical  
easement set forth in liber 11605 op 133 and twenty-foot wide  
utility easement crossing the subject premises.

BEING AND INTENDED to be a portion of the property acquired by  
Edwin F. Tuccio and Patricia Tuccio, as tenants in common, by  
deed dated October 18, 1990 and recorded in the Suffolk County  
Clerk's Office on May 2, 1991 in liber 11256 op 285 as made by  
The Suffolk County National Bank, as executor and Trustee under  
the Last Will and Testament of Ethel B. Fishel, deceased.

THIS IS A CORRECTION DEED INTENDED TO CORRECT THE DESCRIPTION OF  
PARCEL B IN THE DEED RECORDED IN THE SUFFOLK COUNTY CLERKS OFFICE  
IN LIBER 11798 CP 627 ON 10/24/96.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and  
roads abutting the above described premises to the center lines thereof; TOGETHER with the appurtenances  
and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO  
HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of  
the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything  
whereby the said premises have been encumbered in any way whatever, except as aforesaid.  
AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of  
the first part will receive the consideration for this conveyance and will hold the right to receive such consid-  
eration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply  
the same first to the payment of the cost of the improvement before using any part of the total of the same for  
any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above  
written.

IN PRESENCE OF:

*Shirley Schuler*

*Edwin F. Tuccio*  
Edwin F. TUCCIO

*Patricia Tuccio*  
Patricia TUCCIO

STATE OF NEW YORK, COUNTY OF SUFFOLK

On the 22<sup>nd</sup> day of November 1946, before me personally came Edwin F. Tuccio and Patricia Tuccio

to me known to be the individual(s) described in and who executed the foregoing instrument, and acknowledged that they executed the same.

*Shepard M. Schenker*

SHEPARD M. SCHENKER  
Notary Public, State of New York  
Qualified in Suffolk County  
Commission Expires March 30, 1948

STATE OF NEW YORK, COUNTY OF

On the day of 19, before me personally came to me known, who, being by me duly sworn, did depose and say that he resides at No.

that he is the of

, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is said corporation's seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

STATE OF NEW YORK, COUNTY OF

On the day of 19, before me personally came

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that he executed the same.

STATE OF NEW YORK, COUNTY OF

On the day of 19, before me personally came the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides at No.

that he knows

to be the individual described in and who executed the foregoing instrument; that he, said subscribing witness, was present and saw execute the same; and that he, said witness, at the same time subscribed his name as witness thereto.

**Mortgage and Sale Deed**

WITH COVENANT AGAINST GRANTEE'S ACES

TITLE NO.

SECTION  
BLOCK  
LOT  
COUNTY OR TOWN

TO

Recorded At Request of  
First American Title Insurance Company of New York  
RETURN BY MAIL TO:

STANDARD FORM OF NEW YORK DEED OR TITLE UNDERWRITER  
Distributed by

First American Title Insurance Company  
of New York



Zip No.

RESERVE THIS SPACE FOR USE OF RECORDING OFFICE

CHICAGO TITLE INSURANCE COMPANY

PARCEL E

ALL that certain plot piece or parcel of land, situate, lying and being at Westhampton, Town of Southampton, County of Suffolk and State of New York being bounded and described as follows; BEGINNING at a point on the line in the Middle of the Lots, "Quogue Purchase Last Division" where said line is south 74 degrees 51 minutes 40 seconds west, 482.06 feet from the division line between lot 25 and lot 26 Quogue Purchase-Last Division; Thence from said point of beginning along the Line in the Middle of the Lots, "Quogue Purchase" last division and along land now or formerly of County of Suffolk the following four courses and distances: 1) south 74 degrees 51 minutes 40 seconds west, 93.20 feet; 2) south 75 degrees 45 minutes 00 seconds west, 668.29 feet; 3) north 88 degrees 43 minutes 10 seconds west, 648.14 feet; 4) north 86 degrees 01 minutes 40 seconds west, 123.46 feet to a point; Thence still along lands now or formerly County of Suffolk the following four courses and distances: 1) north 09 degrees 10 minutes 30 seconds east, 51.32 feet; 2) north 80 degrees 49 minutes 30 seconds west, 100.00 feet; 3) north 09 degrees 10 minutes 30 seconds east, 60.00 feet; 4) north 80 degrees 49 minutes 30 seconds west, 40.70 feet to a point; Thence the following eight courses and distances: 1) north 40 degrees 58 minutes 20 seconds east, 342.69 feet; 2) north 70 degrees 58 minutes 20 seconds east, 177.36 feet; 3) south 16 degrees 25 minutes 54 seconds east, 518.84 feet; 4) north 73 degrees 38 minutes 41 seconds east, 1,381.94 feet; 5) north 16 degrees 18 minutes 38 seconds west, 89.00 feet; 6) north 73 degrees 38 minutes 41 seconds east, 126.00 feet; 7) north 16 degrees 18 minutes 38 seconds west, 498.95 feet; 8) north 73 degrees 38 minutes 55 seconds east, 408.10 feet to land now or formerly of East Quogue Mobile Home Park; Thence south 09 degrees 41 minutes 10 seconds west, along last mentioned lands, 601.04 feet; Thence south 84 degrees 38 minutes 40 seconds west, 619.19 feet to the point or place of BEGINNING.

A portion of the above described parcel is affected by the following two realty subdivison maps; 1) Map of Westhampton Beach Gardens, map no. 1201; 2) Map of Glover Tract, map no. 289. The above described parcel is a portion of lots 26, 27, 28 and 29 "Quogue Purchase-Last Divison."

**11805 11038****CHICAGO TITLE INSURANCE COMPANY****TITLE NO: 9608-0177-0016****LEGAL DESCRIPTION****PARCEL B**

ALL THAT certain plot, piece or parcel of land, situate, lying and being in the Town of Southampton, County of Suffolk and State of New York, being bounded and described as follows:

BEGINNING at a point on the division line in the Middle of the Lots, "Quogue Purchase-Last Division" where said line is intersected by the easterly line of land shown on map of "Seaside" County File no. 261; Thence from said point of beginning, north 09 degrees 39 minutes 30 seconds east, along the easterly line of land shown on Map of Seaside, 4656.74 feet to the northeasterly corner of land shown on Map of Seaside; Thence north 80 degrees 20 minutes 30 seconds west, along the northerly line of land shown on Map of Seaside 723.00 feet to land now or formerly Reed Rubin and WJF Realty Corp.; Thence north 09 degrees 39 minutes 30 seconds east, along last mentioned lands, 843.02 feet to a monument; Thence south 80 degrees 20 minutes 30 seconds east, still along the northerly line of lot 10 block 72 crossing Ocean View Avenue, along land now or formerly of Rubin and WJF Realty Corp., 990.56 feet to land now or formerly of County of Suffolk; Thence along land now or formerly of County of Suffolk the following three courses and distances: 1) south 09 degrees 10 minutes 30 seconds west, 8.37 feet; 2) south 80 degrees 49 minutes 30 seconds east, 254.00 feet; 3) north 9 degrees 10 minutes 30 seconds east, 6.24 feet to land now or formerly of Thomas J. Troiano Keogh Plan; Thence south 80 degrees 20 minutes 30 seconds east, along last mentioned lands crossing Old Quogue Road and along land now or formerly of Isaacs and Green, 1,935.25 feet to a monument found and land now or formerly of Nuzzi; thence south 9 degrees 41 minutes 10 seconds west, along land now or formerly of Nuzzi and along land now or formerly of East Quogue Mobil Home Park, Inc. 3,998.87 feet; Thence the following eight courses and distances: 1) north 16 degrees 15 minutes 25 seconds west, 368.73 feet; 2) south 73 degrees 40 minutes 44 seconds west, 1,211.81 feet; 3) north 16 degrees 15 minutes 11 seconds west, 80.00 feet; 4) south 73 degrees 37 minutes 50 seconds west, 636.13 feet; 5) south 16 degrees 27 minutes 30 seconds east, 654.79 feet; 6) south 53 degrees 31 minutes 15 seconds west, 226.13 feet; 7) south 70 degrees 58 minutes 20 seconds west, 233.64 feet; 8) south 40 degrees 58 minutes 20 seconds west, 430.00 feet to the line in the Middle of lots, Quogue Purchase, Last Division and along land now or formerly of County of Suffolk; Thence north 56 degrees 01 minutes 40 seconds west, along the line in the Middle of the Lots, Quogue Purchase-Last Division and land now or formerly of County of Suffolk 330.18 feet to the point or place of BEGINNING.

Portions of above description are affected by the following three subdivision map; 1) Map of Westhampton Beach Gardens, map no. 1201. 2) Map of Glover Tract, map no. 289; 3) map of Westhampton Beach Terrace, map no. 551.

Subject to the rights of others in an to that portion of Old Quogue Road which traverses the northeasterly corner of above described parcel.

Exhibit A

100



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12400

119241591

RECORDED

98 OCT 23 AM 9:36  
EDWARD P. ROMAINE  
CLERK OF  
SUFFOLK COUNTY

RECEIVED  
\$ 0  
REAL ESTATE  
OCT 23 1998  
TRANSFER TAX  
SUFFOLK  
COUNTY

Previously Recorded 12400

Number of pages 6  
TORRENS  
Serial # \_\_\_\_\_  
Certificate # \_\_\_\_\_  
Prior C.U. # \_\_\_\_\_

Deed / Mortgage Instrument      Deed / Mortgage Tax Stamp      Recording / Filing Stamps

4		FEES	
Page / Filing Fee	<u>18.00</u>	Mortgage Amt.	_____
Handling	<u>5.00</u>	1. Basic Tax	_____
TP-584	_____	2. Additional Tax	_____
Notation	_____	Sub Total	_____
EA-5217 (County)	_____	Spec./Asst.	_____
EA-5217 (State)	_____	or	_____
R.P.T.S.A.	<u>15</u>	Spec./Adj.	_____
Comm. of Fid.	<u>3.00</u>	TOT. MTO. TAX	_____
Affidavit	_____	Dual Town _____ Dual County _____	_____
Certified Copy	_____	Held for Apportionment	_____
Reg. Copy	_____	Transfer Tax	_____
Other	_____	Mansion Tax	_____
	Sub Total <u>20.00</u>	The property covered by this mortgage is or will be improved by a one or two family dwelling only.	
	GRAND TOTAL <u>43.00</u>	YES _____ or NO _____	
		If NO, see appropriate tax clause on page # _____ of this instrument.	



Real Property Tax Service Agency Verification					6	Title Company Information
Dist.	Section	Block	Lot			<u>Aguebogus Abst Corp</u>
<u>0900</u>	<u>248.00</u>	<u>01.00</u>	<u>110.002</u>			Company Name
Date						Title Number
<u>10/15/98</u>						
Instr #						
		<u>10-20-1518</u>				

Aguebogus Abst Corp  
123 Maple Ave  
Riverhead NY 11901

FEB PAID BY:  
Cash \_\_\_\_\_ Check  Charge \_\_\_\_\_  
Payer name as R & R \_\_\_\_\_  
(or if different)  
NAME: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_

RECORD & RETURN TO (ADDRESS)

9 Suffolk County Recording & Endorsement Page

This page forms part of the attached Deed made by:  
(SPECIFY TYPE OF INSTRUMENT)  
Edwio F Tuccio  
Patricia Tuccio  
The premises herein is situated in  
SUFFOLK COUNTY, NEW YORK.  
In the Township of Southampton  
In the VILLAGES  
or HAMLETS of \_\_\_\_\_

BOXES 5 THRU 9 MUST BE TYPED OR PRINTED IN BLACK INK ONLY PRIOR TO RECORDING OR FILING.

11051

RECORDED

11798 K627

RECEIVED  
11798  
REAL ESTATE  
OCT 24 1986  
TRANSFER TAX  
SUFFOLK COUNTY

96 OCT 21 AM 11:42  
EDWARD J. RUMAH  
SUFFOLK COUNTY

LEGIBILITY POOR  
FOR MICROFILM

11051

Number of pages

TERMINATE

Serial #

Certificate #

Prior CV #

Deed / Mortgage Instrument

Deed / Mortgage Tax Stamp

Recording / Filing Stamp

FRK9

Page / Filing Fee

Handling

TP.564

Mortgage

SA-5217 (County)

SA-5217 (State)

RPTAA

Copy of Md

Affidavit

Certified Copy

Reg. Copy

Other

Sub Total

Sub Total

GRAND TOTAL



Mortgage Amt

1. Home Tax

2. Additional Tax

Sub Total

Spec / Annt

Spec / Add

TOT. MTO. TAX

Deed Town Deed County

Item for Appurtenance

Transfer Tax

Mortgage Tax

The property covered by this mortgage is or will be improved by a one or two family dwelling only.

Y/N or NO

If NO, see appropriate tax stamp on page 2 of this instrument.

Real Property Tax Service Agency Verification

Title Company Information

Tract	Section	Block	Lot
1900	248.00	01.00	110.002

AQUEBOGUS ABSTRACT CORP  
123 MARLBOROUGH AVENUE  
RIVERHEAD, NY 11901

Title Number

THE NATURE CONSERVANCY  
PO BOX 5225  
EAST HAMPTON, N.Y.

11937

RECORD & RETURN TO  
(ADDRESS)

IF PAID BY:

Cash  Check  Charge

Payer same as B & R  
(or if different)

NAME:

ADDRESS:

AQUEBOGUS ABSTRACT CORP.  
123 MARLBOROUGH AVENUE  
RIVERHEAD, NY 11901

### Suffolk County Recording & Endorsement Page

This page forms part of the attached Mortgage & Sale Used made by:

(SPECIFY TYPE OF INSTRUMENT)

ROBIN P. TUCCO and PATRICIA TUCCO

The premises herein is situated in  
SUFFOLK COUNTY, NEW YORK.

TO

The Nature Conservancy

In the Township of Southampton

In the VILLAGE

or HAMLET of Westhampton

BOXES 1 THRU 9 MUST BE TYPED OR PRINTED IN BLACK INK ONLY PRIOR TO RECORDING OR FILING.



UNLESS SHOWN OTHERWISE, THIS INSTRUMENT SHOULD BE VIEWED BY LAWYERS ONLY

TAX  
11,024.00

THIS INDENTURE, made the 22<sup>nd</sup> day of October, nineteen hundred and ninety six  
BETWEEN EDWIN F. TUCCIO and PATRICIA TUCCIO (brother and sister), having an  
address of 347 East Main Street, Riverhead, New York 11601,

party of the first part, and THE NATURE CONSERVANCY, a non-profit corporation organized  
under the laws of the District of Columbia, and having its principal office at  
at 1815 North Lynn Street, Arlington, Virginia 22209,

party of the second part.

WITNESSETH, that the party of the first part, in consideration of ten dollars and other valuable consideration  
paid by the party of the second part, has hereby grant and release unto the party of the second part, the heirs  
or successors and assigns of the party of the second part forever,

All that certain lot, piece or parcel of land, with the buildings and improvements thereon erected, situate,  
lying and being in the hamlet of Southampton, Town of Southampton, Suffolk County,  
New York, more fully described on Exhibit "A" attached hereto.

SUBJECT to the rights of others set forth in Liber 10977 page 534, rights of  
New York Telephone Company over a portion of the premises where underground  
conduit is located, electrical easement set forth in Liber 11005 page 133  
and twenty-foot wide utility easement crossing the subject premises,

BEING AND INTENDED to be a portion of property acquired by Edwin F. Tuccio  
and Patricia Tuccio, as tenants in common, by deed dated October 18, 1990  
and recorded in the Suffolk County Clerk's office on May 3, 1991 in Liber  
11254 page 281, as made by The Suffolk County National Bank, as executor  
and Trustee under the Last Will and Testament of Ethel B. Fisher, deceased.

LEGIBILITY POOR  
FOR MICROFILM

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and  
roads abutting the above described premises to the center lines thereof; TOGETHER with the appurtenances  
and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO  
HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of  
the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything  
whereby the said premises have been encumbered in any way whatsoever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of  
the first part will receive the consideration for this conveyance and will hold the right to receive such consid-  
eration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply  
the same first to the payment of the cost of the improvement before using any part of the total of the same for  
any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above  
written.

IN PRESENCE OF:

*Richard M. Schaefer*

*Edwin F. Tuccio*  
EDWIN F. TUCCIO  
*Patricia Tuccio*  
PATRICIA TUCCIO

DISTRICT  
3400

SECTION  
348.00

BLOCK  
01.00

LOT  
110.002

STATE OF NEW YORK COUNTY OF Suffolk ss:  
On the 22<sup>nd</sup> day of October 19 96, before me  
personally came  
EDWIN F. TUCCIO

to me known to be the individual described in and who  
executed the foregoing instrument, and acknowledged that  
she executed the same.

*Edward M. Schenck*  
Notary Public

Edward M. Schenck  
Notary Public, State of New York  
No. 62-348277, Suffolk County  
Comm. Ex. 12,000, March 20, 1995

STATE OF NEW YORK COUNTY OF Suffolk ss:  
On the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_, before me  
personally came \_\_\_\_\_,  
to me known, who, being by me duly sworn, did depose and  
say that he resides at No. \_\_\_\_\_

that he is the  
of \_\_\_\_\_

the corporation described  
in and which executed the foregoing instrument; that he  
knows the seal of said corporation; that the seal affixed  
to said instrument is such corporate seal; that it was an  
affixed by order of the board of directors of said corpora-  
tion; and that he signed his name thereto by like order.

STATE OF NEW YORK COUNTY OF Suffolk ss:  
On the 22<sup>nd</sup> day of October 19 96, before me  
personally came  
PATRICIA TUCCIO

to me known to be the individual described in and who  
executed the foregoing instrument, and acknowledged that  
she executed the same.

*Edward M. Schenck*  
Notary Public

Edward M. Schenck  
Notary Public, State of New York  
No. 62-348277, Suffolk County  
Comm. Ex. 12,000, March 20, 1995

STATE OF NEW YORK COUNTY OF Suffolk ss:  
On the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_, before me  
personally came \_\_\_\_\_,  
the subscribing witness to the foregoing instrument, with  
whom I am personally acquainted, who, being by me duly  
sworn, did depose and say that he resides at No. \_\_\_\_\_

that he knows

to be the individual  
described in and who executed the foregoing instrument;  
that he, said subscribing witness, was present and saw  
execute the same; and that he, said witness,  
at the same time subscribed his name as witness thereto.

**Margate and Gule Nord**

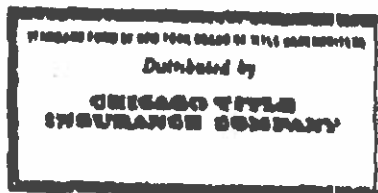
With COVENANT AGAINST GRANTEE'S ACTS

TITLE NO. \_\_\_\_\_

EDWIN F. TUCCIO and  
PATRICIA TUCCIO

TO

THE NATIVE CONSERVANCY



Part of/  
SECTION 148.00  
BLOCK 01.00  
LOT 110.003  
COUNTY OR TOWN Suffolk/Southampton

Branch of Chicago of  
CHICAGO TITLE INSURANCE COMPANY

Bound by this to



STATE OF NEW YORK

ss:

County of Suffolk

I, EDWARD P. ROMAINE, Clerk of the County of Suffolk and Clerk of the Supreme Court of the State  
of New York in and for said County (said Court being a Court of Record) DO HEREBY CERTIFY that  
I have compared the annexed copy of

Deed Liber 4798 Pg. 627 RECORDING 10-24-96

and that it is a just and true copy of such original  
of the whole thereof.

*Deed*

and

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said County  
and Court this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

*13<sup>th</sup> July*

*Edward P. Romaine*  
Clerk.

## CHICAGO TITLE INSURANCE COMPANY

LEGIBILITY  
POOR FOR  
MICROFILM

TITLE NO: 4608-0177-0016

## LEGAL DESCRIPTION

## PARCEL 2

ALL THAT certain plot, piece or parcel of land, situate, lying and being in the Town of Southampton, County of Suffolk and State of New York, being bounded and described as follows:  
 BEGINNING at a point on the division line in the Middle of the Lots, "Queque Purchase-Last Division" where said line is intersected by the easterly line of land shown on Map of "Seaside" County File no. 241; Thence from said point of beginning, north 09 degrees 39 minutes 30 seconds east, along the easterly line of land shown on Map of Seaside, 4601.67 feet to the northeasterly corner of land shown on Map of Seaside; Thence north 80 degrees 20 minutes 30 seconds west, along the northerly line of land shown on Map of Seaside 713.00 feet to land now or formerly Reed Rubin and WJF Realty Corp.; Thence north 09 degrees 39 minutes 30 seconds east, along last mentioned lands, 843.02 feet to a monument; Thence south 80 degrees 20 minutes 30 seconds east, still along the northerly line of lot 10 block 72 crossing Ocean View Avenue, along land now or formerly of Rubin and WJF Realty Corp., 990.56 feet to land now or formerly of County of Suffolk; Thence along land now or formerly of County of Suffolk the following three courses and distances: 1) south 09 degrees 10 minutes 30 seconds west, 0.37 feet; 2) south 80 degrees 49 minutes 30 seconds east, 254.00 feet; 3) north 9 degrees 10 minutes 30 seconds east, 6.24 feet to land now or formerly of Thomas J. Treliane Joseph Plan; Thence south 80 degrees 20 minutes 30 seconds east, along last mentioned lands crossing Old Queque Road and along land now or formerly of Isaacs and Green, 1,838.28 feet to a monument found and land now or formerly of Wussel; thence south 9 degrees 41 minutes 10 seconds west, along land now or formerly of Wussel and along land now or formerly of East Queque Mobil Home Park, Inc. 3,498.87 feet; Thence the following eight courses and distances: 1) north 16 degrees 18 minutes 28 seconds west, 368.73 feet; 2) south 73 degrees 40 minutes 44 seconds west, 1,211.81 feet; 3) north 16 degrees 18 minutes 11 seconds west, 88.00 feet; 4) south 73 degrees 37 minutes 30 seconds west, 834.11 feet; 5) south 18 degrees 27 minutes 30 seconds east, 844.79 feet; 6) south 83 degrees 31 minutes 18 seconds west, 226.13 feet; 7) south 70 degrees 58 minutes 20 seconds west, 233.44 feet; 8) south 40 degrees 58 minutes 20 seconds west, 379.62 feet to the line in the Middle of lots, Queque Purchase, Last Division and along land now or formerly of County of Suffolk; Thence north 34 degrees 01 minutes 49 seconds west, along the line in the Middle of the Lots, Queque Purchase-Last Division and land now or formerly of County of Suffolk 328.91 feet to the point or place of BEGINNING.  
 Portions of above description are affected by the following three subdivisions: 1) Map of Westhampton Beach Gardens, map no. 1201. 2) Map of Clover Tract, map no. 189; 3) Map of Westhampton Beach Terrace, map no. 851.  
 Subject to the rights of others in and to that portion of Old Queque Road which traverses the northeasterly corner of above described parcel.

Exhibit A

LEGIBILITY  
POOR FOR  
MICROFILM

## PARCEL 1

All that certain plot piece or parcel of land, situate, lying and being at Westhampton, Town of Southampton, County of Suffolk and State of New York being bounded and described as follows;  
 BEGINNING at a point on the line in the Middle of the Lots, 'Queque Purchase Last Division' where said line is south 74 degrees 31 minutes 43 seconds west, 492.00 feet from the division line between lot 15 and lot 26 Queque Purchase-Last Division; Thence from said point of beginning along the line in the Middle of the Lots, 'Queque Purchase' last division and along land now or formerly of County of Suffolk the following four courses and distances: 1) south 74 degrees 31 minutes 40 seconds west, 93.20 feet; 2) south 75 degrees 45 minutes 00 seconds west, 649.29 feet; 3) north 88 degrees 43 minutes 10 seconds west, 648.14 feet; 4) north 36 degrees 01 minutes 40 seconds west, 133.46 feet to a point; Thence will along lands now or formerly County of Suffolk the following four courses and distances: 1) north 09 degrees 10 minutes 10 seconds east, 81.32 feet; 2) north 80 degrees 49 minutes 30 seconds west, 100.00 feet; 3) north 09 degrees 10 minutes 30 seconds east, 60.00 feet; 4) north 80 degrees 49 minutes 30 seconds west, 40.70 feet to a point; Thence the following eight courses and distances: 1) north 40 degrees 30 minutes 20 seconds east, 342.69 feet; 2) north 70 degrees 30 minutes 20 seconds east, 177.36 feet; 3) south 16 degrees 28 minutes 34 seconds east, 810.84 feet; 4) north 73 degrees 36 minutes 41 seconds east, 1,381.94 feet; 5) north 16 degrees 18 minutes 38 seconds west, 09.00 feet; 6) north 73 degrees 36 minutes 41 seconds east, 126.00 feet; 7) north 16 degrees 18 minutes 38 seconds west, 490.98 feet; 8) north 73 degrees 36 minutes 59 seconds east, 400.10 feet to land now or formerly of East Queque Mobile Home Park; Thence south 09 degrees 41 minutes 10 seconds west, along last mentioned lands, 401.04 feet; Thence south 54 degrees 38 minutes 40 seconds west, 619.19 feet to the point or place of BEGINNING.  
 A portion of the above described parcel is affected by the following two realty subdivision maps: 1) Map of Westhampton Beach Gardens, map no. 1201; 2) Map of Clever Tract, map no. 200.  
 The above described parcel is a portion of lots 16, 17, 18 and 19 'Queque Purchase-Last Division.'

119246592

12401

RECORDED

Number of pages 6

TORRENS

Serial # \_\_\_\_\_

Certificate # \_\_\_\_\_

Prior Cif. # \_\_\_\_\_

RECEIVED  
 3  
 REAL ESTATE  
 OCT 23 1998  
*Previously Recorded*  
 TRANSFER TAX  
 SUFFOLK  
 COUNTY

12401

98 OCT 23 AM 9:36

EDWARD P. ROMAINE  
CLERK OF  
SUFFOLK COUNTY

Deed / Mortgage Instrument

Deed / Mortgage Tax Stamp

Recording / Filing Stamps

4

FEE'S

Page / Filing Fee 18.00

Handling 5.00

TP-584 \_\_\_\_\_

Notation \_\_\_\_\_

EA-5217 (County) \_\_\_\_\_

Sub Total 23.00

EA-5217 (State) \_\_\_\_\_

R.P.T.S.A. 15.

Comm. of Bd. 3.00

Affidavit \_\_\_\_\_

Certified Copy \_\_\_\_\_

Reg. Copy \_\_\_\_\_

Sub Total 20.00

Other \_\_\_\_\_

GRAND TOTAL 43.00



Mortgage Amt. \_\_\_\_\_

1. Basic Tax \_\_\_\_\_

2. Additional Tax \_\_\_\_\_

Sub Total \_\_\_\_\_

Spec./Asst. \_\_\_\_\_

or \_\_\_\_\_

Spec./Add. \_\_\_\_\_

TOT. MTG. TAX \_\_\_\_\_

Dual Town \_\_\_\_\_ Dual County \_\_\_\_\_

Hold for Apportionment \_\_\_\_\_

Transfer Tax \_\_\_\_\_

Mansion Tax \_\_\_\_\_

The property covered by this mortgage is or will be improved by a one or two family dwelling only.

YES \_\_\_\_\_ or NO \_\_\_\_\_

If NO, see appropriate tax clause on page # \_\_\_\_\_ of this instrument.

Real Property Tax Service Agency Verification

Title Company Information



Dist.	Section	Block	Lot
0900	248.00	01.00	110.002

Agambone Abst Corp  
 Company Name  
9608-0177-0016  
 Title Number

Stamp  
 Date 10/19/98  
 Initials [Signature]

10-20-18-4

Agambone Abst Corp  
123 Maple Ave  
Rivershead NY 11901

FEE PAID BY:  
 Cash \_\_\_\_\_ Check  Charge \_\_\_\_\_  
 Payer same as R & R \_\_\_\_\_  
 (or if different)  
 NAME: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_

RECORD & RETURN TO (ADDRESS)

Suffolk County Recording & Endorsement Page

This page forms part of the attached Corrected Deed made by:

Edwin F. Tuccio  
Patricia Tuccio

(SPECIFY TYPE OF INSTRUMENT)  
The premises herein is situated in SUFFOLK COUNTY, NEW YORK.

TO  
The Nature Conservancy

In the Township of Southampton

In the VILLAGES or HAMLETS of \_\_\_\_\_

BOXES 5 THRU 9 MUST BE TYPED OR PRINTED IN BLACK INK ONLY PRIOR TO RECORDING OR FILING.

16303

11805 K038

RECORDED

17

3

Number of pages

TORRENS

Serial #

Certificate #

Prior Cl. #

RECEIVED  
 REAL ESTATE  
 DEC 06 1996  
 TRANSFER TAX  
 SUFFOLK  
 COUNTY  
 16303

96 DEC -6 PM 12:05

EDWARD P. ROMANIE  
CLERK OF  
SUFFOLK COUNTY

LEGIBILITY POOR  
FOR MICROFILM

Deed / Mortgage Instrument

Deed / Mortgage Tax Stamp

Recording / Filing Stamp

FEE

Page / Filing Fee 15  
 Handling 5  
 TP-194 5  
 Notation \_\_\_\_\_  
 RA-3217 (County) 5 Sub Total 30  
 RA-3217 (State) 25  
 R.P.T.S.A. 15.00  
 Comm. of Rd. 3.00  
 Affidavit \_\_\_\_\_  
 Certified Copy \_\_\_\_\_  
 Reg. Copy \_\_\_\_\_  
 Other \_\_\_\_\_

Sub Total 45  
 GRAND TOTAL 75



Mortgage Amt. \_\_\_\_\_  
 1. Base Tax \_\_\_\_\_  
 2. Additional Tax \_\_\_\_\_  
 Sub Total \_\_\_\_\_  
 Spec./Asmt. \_\_\_\_\_  
 Spec./Add. \_\_\_\_\_  
 TOT. MTG. TAX \_\_\_\_\_  
 Deed Town \_\_\_\_\_ Deed County \_\_\_\_\_  
 Field for Appurtenance \_\_\_\_\_  
 Transfer Tax 5  
 Mortgage Tax \_\_\_\_\_  
 The property covered by this mortgage is or  
 will be improved by a one or two family  
 dwelling only.  
 YES \_\_\_\_\_ or NO \_\_\_\_\_  
 If NO, see appropriate tax clause on page 2  
 of this instrument.

Real Property Tax Service Agency Verification

Title Company Information

Dist.	Section	Block	Lot
12-54	247.00	21.00	110.002
12-54			
12-54			

ADRIANO Company Name CORP.  
 127 St.  
 RIVERHEAD NY 11901  
 Title Number  
 9605-0177-0016

SHEPARD SCHEINBERG, ESQ.  
 UNION SQUARE  
 APURBOGUE NY  
 11931

PAID BY:  
 Cash \_\_\_\_\_ Check  Charge \_\_\_\_\_  
 Payer same as R & R \_\_\_\_\_  
 (or if different)  
 NAME: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_ CORP.  
 RIVERHEAD NY 11901

RECORD & RETURN TO (ADDRESS)

### Suffolk County Recording & Endorsement Page

This page forms part of the attached Deed made by:

EDWIN P. TUCCIO  
BATRICIA TUCCIO

The premises herein is situated in  
SUFFOLK COUNTY, NEW YORK.

TO  
THE NATURAL  
CONSENYANCE

In the Township of SOUTHAMPTON  
In the VILLAGE  
or HAMLET of WESTHAMPTON

BOXES 3 THRU 9 MUST BE TYPED OR PRINTED IN BLACK INK ONLY PRIOR TO RECORDING OR FILING.

**CORRECTION DEED**

Form 1041 (Rev. 1-1-76) Page 1041 (See Instructions) This instrument should be filed in the County of Suffolk, New York.

**CONVEY YOUR LANDS UNDER THIS INSTRUMENT - THIS INSTRUMENT SHOULD BE FILED BY LAWYER ONLY.**

T-7AY  
-0-

**THE FOREPART, made the 22<sup>nd</sup> day of November, nineteen hundred and ninety-six BETWEEN**

**Edwin F. Tuccio and Patricia Tuccio (brother and sister) having an address of 547 East Main Street, Riverhead, NY 11901**

party of the first part, and

**THE NATURE CONSERVANCY, a non-profit corporation organized under the laws of the District of Columbia and having its principal office at 1815 North Lynn Street, Arlington, Virginia 22209,**

party of the second part,

**WITNESSETH, that the party of the first part, in consideration of Ten Dollars and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the lot 1 or successors and assigns of the party of the second part forever,**

**ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the hamlet of Westhampton, Town of Southampton Suffolk County, New York, more fully described on Exhibit "A" attached hereto.**

**SUBJECT to the rights of others set forth in Liber 10927 page 934, rights of New York Telephone Company over a portion of the premises where underground conduit is located, electrical easement set forth in Liber 11605 op 133 and twenty-foot wide utility easement crossing the subject premises.**

**BEING AND INTENDED to be a portion of the property acquired by Edwin F. Tuccio and Patricia Tuccio, as tenants in common, by deed dated October 10, 1990 and recorded in the Suffolk County Clerk's Office on May 2, 1991 in Liber 11286 op 288 as made by The Suffolk County National Bank, as executor and Trustee under the Last Will and Testament of Ethel B. Fishel, deceased.**

**THIS IS A CORRECTION DEED INTENDED TO CORRECT THE DESCRIPTION OF PARCEL B IN THE DEED RECORDED IN THE SUFFOLK COUNTY CLERK'S OFFICE IN LIBER 11798 OP 627 ON 10/24/96.**

**LEGIBILITY FOR  
FOR MICROFILM**

**TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and trails abutting the above described premises to the center lines thereof; TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.**

**AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid. AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.**

**The word "party" shall be construed as if it read "parties" whenever the sense of this instrument so requires. IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.**

In presence of:

*Abraham Schuler*

*Edwin F. Tuccio*  
Edwin F. Tuccio

*Patricia Tuccio*  
Patricia Tuccio

STATE OF NEW YORK, COUNTY OF SUFFOLK  
On the 22<sup>nd</sup> day of November 1946, before me  
personally came  
Edwin F. Tuccio and Patricia Tuccio

STATE OF NEW YORK, COUNTY OF  
On the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, before me  
personally came

to me known to be the individual(s) described in and who  
executed the foregoing instrument, and acknowledged that  
they executed the same.

to me known to be the individual described in and who  
executed the foregoing instrument, and acknowledged that  
they executed the same.

*[Signature]*

EDWARD H. SCHMIDT  
Notary Public, State of New York  
Qualified in Suffolk County  
Commission Expires March 20, 1950

STATE OF NEW YORK, COUNTY OF

STATE OF NEW YORK, COUNTY OF

On the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, before me  
personally came \_\_\_\_\_, who, being by me duly sworn, did depose and  
say that he resides at No. \_\_\_\_\_

On the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, before me  
personally came \_\_\_\_\_, the subscribing witness in the foregoing instrument, with  
whom I am personally acquainted, who, being by me duly  
sworn, did depose and say that he resides at No. \_\_\_\_\_

that he is the  
of \_\_\_\_\_

that he knows \_\_\_\_\_

the corporation described  
in and which executed the foregoing instrument, that he  
knows the seal of said corporation; that the seal affixed  
to said instrument is the corporate seal; that it was so  
affixed by order of the board of directors of said corpora-  
tion, and that he signed his name thereto by the order

to be the individual  
described in, and who executed the foregoing instrument;  
that he, said subscribing witness, was present and saw  
execute the same; and that he, said witness,  
at the same time subscribed his name as witness thereto.

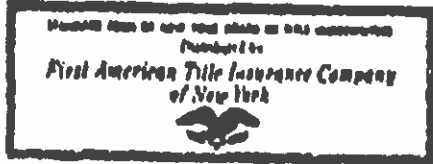
Mortgage and Debt Bond  
WITH COVENANT AGAINST CREDITORS' ASSETS

Title No. \_\_\_\_\_

SECTION  
SICR  
LOT  
COUNTY OF TOWN

TO

Recorded in Report of  
First American Title Insurance Company of New York  
RETURN BY MAIL TO



STATE OF NEW YORK

ss.:

County of Suffolk

I, EDWARD P. ROMAINE, Clerk of the County of Suffolk and Clerk of the Supreme Court of the State  
of New York in and for said County (said Court being a Court of Record) DO HEREBY CERTIFY that  
I have compared the annexed copy of

Deed Liber 11205 Pg. 38 RECORDING 12-6-46

and that it is a just and true copy of such original  
of the whole thereof.

Deed

and

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said County  
and Court this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

13<sup>th</sup> July

1946 Edward P. Romaine

Clerk.



CHICAGO TITLE INSURANCE COMPANY

LIABILITY FOR  
FOR MICROFILM

PARCEL 2

ALL that certain plot piece or parcel of land, situate, lying and being at Westhampton, Town of Southampton, County of Suffolk and State of New York being bounded and described as follows:  
**BEGINNING** at a point on the line in the Middle of the Lots, "Queque Purchase Last Division" where said line is south 74 degrees 31 minutes 40 seconds west, 402.04 feet from the division line between lot 25 and lot 26 Queque Purchase-Last Division; Thence from said point of beginning along the line in the Middle of the Lots, "Queque Purchase" last division and along land now or formerly of County of Suffolk the following four courses and distances: 1) south 74 degrees 31 minutes 40 seconds west, 93.20 feet; 2) south 73 degrees 43 minutes 00 seconds west, 688.29 feet; 3) north 88 degrees 42 minutes 10 seconds west, 648.14 feet; 4) north 84 degrees 01 minutes 40 seconds west, 123.48 feet to a point; Thence still along lands now or formerly County of Suffolk the following four courses and distances: 1) north 09 degrees 10 minutes 30 seconds east, 51.32 feet; 2) north 09 degrees 49 minutes 30 seconds east, 100.00 feet; 3) north 09 degrees 10 minutes 30 seconds east, 40.00 feet; 4) north 80 degrees 49 minutes 30 seconds west, 40.70 feet to a point; Thence the following eight courses and distances: 1) north 48 degrees 10 minutes 20 seconds east, 342.69 feet; 2) north 70 degrees 10 minutes 20 seconds east, 177.36 feet; 3) south 16 degrees 25 minutes 34 seconds east, 518.04 feet; 4) north 73 degrees 28 minutes 41 seconds east, 1,381.94 feet; 5) north 16 degrees 10 minutes 38 seconds west, 89.00 feet; 6) north 73 degrees 28 minutes 41 seconds east, 126.00 feet; 7) north 16 degrees 10 minutes 38 seconds west, 498.98 feet; 8) north 73 degrees 28 minutes 35 seconds east, 408.10 feet to land now or formerly of East Queque Mobile Home Park; Thence south 09 degrees 41 minutes 10 seconds west, along last mentioned lands, 461.04 feet; Thence south 84 degrees 28 minutes 40 seconds west, 819.19 feet to the point or place of **BEGINNING**.  
 A portion of the above described parcel is affected by the following two realty subdivision maps: 1) Map of Westhampton Beach Gardens, map no. 1201; 2) Map of Clover Tract, map no. 189.  
 The above described parcel is a portion of lots 26, 27, 28 and 29 "Queque Purchase-Last Division."

11924 PG 592

11805 K038

CHICAGO TITLE INSURANCE COMPANY

TITLE NO: 9408-0177-0016

LEGAL DESCRIPTION

PARCEL 2

ALL THAT certain plot, piece or parcel of land, situate, lying and being in the Town of Southampton, County of Suffolk and State of New York, being bounded and described as follows:  
BEGINNING at a point on the division line in the Middle of the Lots, "Quogue Purchase-Last Division" where said line is intersected by the easterly line of land shown on map of "Seaside" County File no. 761; Thence from said point of beginning, north 09 degrees 39 minutes 30 seconds east, along the easterly line of land shown on Map of Seaside, 4656.74 feet to the northeasterly corner of land shown on Map of Seaside; Thence north 80 degrees 20 minutes 30 seconds west, along the northerly line of land shown on Map of Seaside 723.00 feet to land now or formerly Reed Rubin and WJP Realty Corp.; Thence north 09 degrees 39 minutes 30 seconds east, along last mentioned lands, 843.02 feet to a monument; Thence south 80 degrees 20 minutes 30 seconds east, still along the northerly line of lot 10 block 77 crossing Ocean View Avenue, along land now or formerly of Rubin and WJP Realty Corp., 990.36 feet to land now or formerly of County of Suffolk; Thence along land now or formerly of County of Suffolk the following three courses and distances: 1) south 09 degrees 10 minutes 30 seconds west, 8.37 feet; 2) south 80 degrees 49 minutes 30 seconds east, 154.00 feet; 3) north 9 degrees 10 minutes 30 seconds east, 6.24 feet to land now or formerly of Thomas J. Troiano Rough Plan; Thence south 80 degrees 20 minutes 30 seconds east, along last mentioned lands crossing Old Quogue Road and along land now or formerly of Isaac and Green, 1,938.25 feet to a monument found and land now or formerly of Nuzzi; thence south 9 degrees 41 minutes 10 seconds west, along land now or formerly of Nuzzi and along land now or formerly of East Quogue Mobil Home Park, Inc. 3,998.87 feet; Thence the following eight courses and distances: 1) north 16 degrees 18 minutes 23 seconds west, 368.73 feet; 2) south 73 degrees 40 minutes 44 seconds west, 1,311.81 feet; 3) north 16 degrees 18 minutes 11 seconds west, 80.00 feet; 4) south 73 degrees 37 minutes 20 seconds west, 636.13 feet; 5) south 16 degrees 27 minutes 30 seconds east, 634.79 feet; 6) south 53 degrees 31 minutes 18 seconds west, 226.13 feet; 7) south 70 degrees 58 minutes 20 seconds west, 233.84 feet; 8) south 40 degrees 58 minutes 20 seconds west, 430.00 feet to the line in the Middle of lots, Quogue Purchase, Last Division and along land now or formerly of County of Suffolk; Thence north 56 degrees 01 minutes 40 seconds west, along the line in the Middle of the Lots, Quogue Purchase-Last Division and land now or formerly of County of Suffolk 330.18 feet to the point of place of BEGINNING.  
Portions of above description are affected by the following three subdivision maps: 1) Map of Westhampton Beach Gardens, map no. 1701, 2) Map of Clover Tract, map no. 289; 3) map of Westhampton Beach Terrace, map no. 551.  
Subject to the rights of others in and to that portion of Old Quogue Road which traverses the northeasterly corner of above described parcel.

Exhibit A

2nd  
Hardship

**Central Pine Barrens  
Joint Planning and Policy Commission**

Robert J. Gaffney, *Chairman*  
Felix Gruccl Jr., *Vice Chairman*  
Vincent Cannuscio, *Member*  
Ray E. Cowen, *Member*  
James R. Stark, *Member*

P.O. Box 587  
3525 Sunrise Highway, 2nd Floor  
Great River, New York 11739  
516-563-0385 / Fax 516-224-7633

**Commission Meeting of October 8, 1997  
Riverhead Town Hall**

**Present: Mr. Duffy (for Southampton), Ms. Wiplush (for Town of Brookhaven),  
Mr. Cowen (for New York State) Mr. Proios (for Suffolk County), Ms. Filmanski (for Town of Riverhead)**

**Resolution on Application of Westhampton Mini-Storage  
Core Preservation Area Hardship  
Property located north of Gabreski Airport  
Westhampton, Town of Southampton  
SCTM # 900-248-1-110.2**

Whereas, on June 11, 1997, Edwin Tuccio submitted a Core Preservation Area hardship exemption application to add four storage buildings totaling 24,000 square feet on a 53 acre site which contains 11 concrete storage buildings and,

Whereas, on July 16, 1997 a public hearing on the Core Preservation Area hardship was held by the Commission and a transcript was thereafter made available to the Commission and,

Whereas, on July 23, 1997, pursuant to the New York State Environmental Quality Review Act ("SEQRA") Part 617.6, the Commission determined that the application is an Unlisted action and coordinated lead agency review and,

Whereas, on September 17, 1997 the Commission designated itself as lead agency and determined that the proposed action will not have a significant impact on the environment pursuant to SEQRA; now be it

**Resolved, that the Commission hereby determines that the application, as submitted, does meet all of the requirements for extraordinary hardship pursuant to New York State Environmental Conservation Law 57-0121 (10)(a) and (c) and be it further**

**Resolved, that the application for a Core Preservation Area hardship exemption is granted and that this approval together with the previous hardship exemption granted by this Commission do not exceed minimum relief.**

**Record of Motion:  
Motion by Mr. Cowen  
Seconded by Ms. Filmanski**

**Yes Votes:  
Unanimous**

2<sup>nd</sup> Hardship 1997

**State Environmental Quality Review Act  
NEGATIVE DECLARATION  
Notice of Determination of Non-Significance**

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Central Pine Barrens Joint Planning & Policy Commission, as lead agency, has determined that the proposed action described below will not have a significant adverse impact on the environment and a Draft Environmental Impact Statement will not be prepared.

**LEAD AGENCY:** The Central Pine Barrens Joint Planning & Policy Commission  
P. O Box 587  
3525 Sunrise Highway, 2nd Floor  
Great River, New York 11739

**TITLE OF ACTION:** Westhampton Mini-Storage  
Core Preservation Area Hardship Exemption

**APPLICANT:** Edwin Tuccio  
547 East Main Street  
Riverhead, Ny 11901

**LOCATION:** North of Gabreski Airport, east side of County Road 31, Westhampton, Town of Southampton

**TAX MAP:** 0900-248-1-110.2

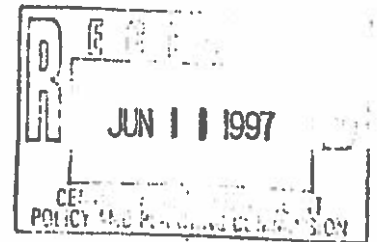
**REQUEST:** The addition of four storage buildings totalling 24,000 square feet on a 53 acre parcel which contains 11 concrete storage buildings totalling 46,000 square feet on property zoned LI200.

**SEQRA STATUS:** Unlisted action.

**REASONS SUPPORTING THIS DETERMINATION:**

Completion of Part II of the Environmental Assessment Form completed by lead agency staff revealed that the proposed development will not cause potentially large impacts. Furthermore, a review of the criteria for determining significance in 617.7(c) revealed that the proposed action does not meet any of these thresholds.

EDWIN & PATRICIA TUCCIO  
547 EAST MAIN STREET  
RIVERHEAD, NEW YORK 11901



Central Pine Barrens Commission  
P.O. Box 587  
3525 Sunrise Highway  
Great River, New York 11739

Dear Commissioners:

Enclosed please find original and one copy of the Hardship Application for the property owned by my sister and myself - The Westhampton Mini Storage.

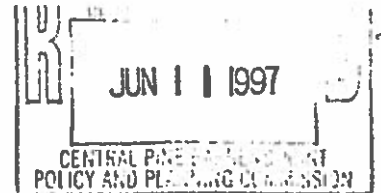
Also enclosed are three copies of the survey for the above property. If you should need anything else, please feel free to call me.

Sincerely,

A handwritten signature in black ink, appearing to read "Edwin F. Tuccio".

Edwin F. Tuccio

ET:rd  
encls.



**PINE BARRENS COMMISSION**

**WESTHAMPTON MIN/SELF STORAGE  
EDWIN F. TUCCIO & PATRICIA TUCCIO  
547 EAST MAIN STREET  
RIVERHEAD, NEW YORK 11901**

**PETITIONER**

**CORE PRESERVATION AREA HARDSHIP APPLICATION**

**PETITION**

**OWNER & PETITIONER:**

**EDWIN F. TUCCIO  
PATRICIA TUCCIO  
547 EAST MAIN STREET  
RIVERHEAD, N. Y. 11901**

**May 26, 1997**

## DOCUMENT SUBMITTAL INDEX

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EDWIN & PATRICIA TUCCIO  
547 EAST MAIN STREET  
RIVERHEAD, NEW YORK 11901

May 26, 1997

Central Pine Barrens Commission  
P.O. Box 587  
3525 Sunrise Highway  
Great River, New York 11739

Subject: Core Preservation Area Hardship Application  
Westhampton Mini Storage  
North Perimeter Road, Suffolk County Airport

Dear Commissioners:

Enclosed please find the Hardship Application for the subject property. The basis of the hardship is the assertion that the property has no beneficial use as prescribed under the LIPBPA and that this lack of beneficial use is due to the pre-existing extensive development of the property. Further, the proposed development requested is consistent with the intent of the LIPBPA and will not negatively impact endangered species, habitat, vegetation or groundwater.

The appropriate policies and standards contained in the Interim Goals & Standards for Development are the format of this application.

Due to circumstances of the applicant, the prompt processing of the application is requested.

Any additional information needed to review this application will be promptly provided.

Very truly yours,



Patricia Tuccio  
Edwin F. Tuccio  
Patricia Tuccio



**CORE PRESERVATION AREA HARDSHIP APPLICATION**

**Applicant Information**

Westhampton Mini Storage  
547 East Main Street  
Riverhead, New York 11901

Patricia Tuccio  
Edwin Fishel Tuccio  
516 727 6644

**Application Prepared by**

Edwin Fishel Tuccio  
547 East Main Street  
Riverhead, New York 11901  
516 727 6644

**Project Description**

Project Name	Westhampton Mini Storage
Town	Southampton
Street Location	North Perimeter Road, Suffolk Co. Airport
Tax Map Number	<u>Part Of</u> 0900-248-01-110.002
Total Acreage	<u>52.2997 ac total tax map parcel: 40 ac existing developed total: 24,000 sq/ft proposed additional development total</u>
Present Land Use	46,000 sq ft of self storage, within eleven concrete buildings surrounded by paved asphalt and concrete roads. This use operates as a pre-existing non-conforming use.
Present Zoning	5 Acre Industrial

**PROJECT TYPE-** The addition of four steel framed & skinned buildings 40ft X 150 ft X 12 ft high; supported on concrete foundations and slabs on grade; containing approximately thirty self storage units each. No utilities will be installed in the buildings with the possible exception of exterior mounted security lighting. No septic systems will be installed and no effluent will be generated. The buildings will be located in an area surrounded by existing asphalt and concrete paved roads, and adjacent to four existing buildings, also with no utilities, of similar size, used for the same purpose as the proposed buildings. The project will require the removal of two man made steep berms (50% slopes), approximately the same size as the four proposed buildings and the obsolete climate control equipment installed by the air force in the berm. The site was developed by the U.S. Air Force in the 1950's for the storage and assemble of weapons and is a contiguous part of the now Suffolk Co Airport complex. The two steep berms were to function as blast deflectors in the event of an accidental explosion. The entire site was excavated at that time and resulted in the removal of all native vegetation, the current site is distinctively in contrast with that of a pristine pine barren. Due to the management and nature of the existing commercial activities, low intensity mini self storage, the negative impacts on the environment are minimal, if any at all. The addition of the proposed buildings will result in a small increase in intensity but will not introduce any additional environmental threats.

1. **GROUNDWATER** - The proposed buildings are for storage only and will not contain any sanitary facilities and, therefore, will not generate any sewage effluent. The unpaved/undeveloped land at the site will remain in a native vegetated state and will not be fertilized. No nitrogen loading will occur as a result of these proposed buildings.

The proposed buildings will not store toxic or hazardous materials. The tenants leasing the units are prohibited from such storage and agree to same in the lease agreement. Further the landlord has by lease agreement the right to enter, without prior notice to the tenant, in order to inspect for hazardous materials.

Based on SCDH - Water Table Contours Map, March 1992, the flow of groundwater from the proposed site will be the southeast into an area that has been subjected to 'Hazardous Spills/Leaks - Groundwater Discharges' (Krulik 1986 - Suffolk Co. Pine Barrens Hydrologic Report: Point Source #171, Gasoline; # 2, JP 4 Jet Fuel; #262, Aviation Fuel & Sodium Sulfate and other pollutants). Recognizing the importance to not further degrade the area, the applicant will consider, if the P B Commission determines that extreme precautions are necessary, the installation of an appropriate 'Landfill Liner, Leachate Collection & Removal System' as described in 6 NYCRR Solid Waste Management Facilities- Part 360 - 2.13 (f) thru (v).

2. WETLANDS - N/A

3. SURFACE WATERS - N/A

4. & 5. RARE & ENDANGERED SPECIES, & UNIQUE NATURAL COMMUNITIES - NATIVE VEGETATION DISTURBANCE - The proposed building site consists of two steep (50% slope) manmade berms, circa. 1950, that have not been capable of re-establishing significant P B Core vegetation or habitat. Based on the erosion, rutted surface and minimal vegetation, the natural state of repose of the berms has not been achieved. The existing development at the site; the adjacent paved roads, buildings and retraining walls, have prevented this natural state to occur and therefore the site is not capable of contributing to a primary Article 57 objective, the protection of rare native vegetation/habitat and species (see Berm Habitat & Vegetation Photographs). Additionally, the site has been excluded from the L I Dwarf Pine Plains May - Cryan, 1982 (see Vicinity Photographs).

6. FERTILIZED VEGETATION & LANDSCAPING - No nitrogen or phosphorous fertilizers will be used at the site. The non-native vegetation that has developed since the extensive U. S. Government excavation of the site in the 1950's will be permitted to prosper with no assistance or interference.

7. STEEP SLOPES - The man made steep slopes within the proposed building envelope area will be removed completely, down to the flat

8. **RUNOFF WATER** - The runoff generated from the proposed buildings will be diverted to dry wells previously installed, adjacent to the proposed building envelope.

9. **AGRICULTURE & HORTICULTURE - N/A**

10. **REZONING OF LAND** - The present storage use is a pre-existing non-conforming use. It is believed that a rezoning will not be necessary for the proposed buildings. The increase in density and minimal increase in intensity will not negatively impact groundwater quality or cause a loss of native vegetation/habitat.

11. **COMMERCIAL & INDUSTRIAL DEVELOPMENT** - This proposed development can be described as one of very low intensity. The storage of toxic or hazardous materials will not be permitted at the proposed development site.

12., 13. & 14. **CLUSTERING - COORDINATED DESIGN - OPEN SPACE MANAGEMENT** - The proposed development is within the immediate boundaries of a previously disturbed site and completely surrounded by paved road surfaces. No open space or open space potential will be lost if this development is approved. The Existing site is confined within a 10 ft. chain link fence and is routinely patrolled to prevent illegal/detrimental abuses.

15. **WELLHEAD PROTECTION** - The proposed development will not introduce any organic or inorganic pollutants to the site (see Item 1. **GROUNDWATER**). SCWA water lines are installed at the site.

16. **SCENIC, HISTORIC & CULTURAL RESOURCES** - There are no know Scenic, Historic or Cultural Resources at the site that would be negatively impacted by this development. The site was extensively excavated by the U. S. Air Force in the 1950's.

**17. HARDSHIP -**

The existing use consists of 46,878 sq ft of storage units in thirteen buildings with 214 tenants on 40 acres surrounded by 10 ft high chain link security fence. The site is further improved with asphalt and concrete roadways which service the existing buildings and will also service the proposed buildings. The units are currently fully rented and provide revenue to the applicant. The site is part of a 52.299 + acre Core Area parcel held by the applicant, 20% of which is not developed and produces no income. The revenue from the storage facility contributes to the support of the entire parcel and the revenue that will be generated from the proposed buildings are needed immediately in order to offset rising operating costs. Further, it is the desire of the applicant to develop the existing otherwise useless structure with existing obsolete climate control systems and foundations in a manner consistent with the intents of the LIPBPA. The costs of duplicating the existing infrastructure of paved roads, security fencing and existing walls/foundation at a second site will make this development impossible. Additionally, certain economies regarding maintenance, transit & set up time, security, management and others factors will be lost in a two site operation. There are no alternatives or relocation possibilities for this proposed expansion.

The existing development at the site clearly eliminates its ability to contribute as a beneficial use site as described in the LIPBPA and further prevents it from doing so in the immediate vicinity. They are due to the characteristics of the site and not the personal circumstance of the applicant/owner. Further they are not due to any action or inaction on the part of the applicant/owner.

The primary concerns of the LIPBPA, groundwater and native vegetation/habitat, will not be sufficiently impacted such that this development should be denied.

## PART 1—PROJECT INFORMATION

Prepared by Project Sponsor

NOTICE: This document is designed to assist in determining whether the action proposed may have a significant effect on the environment. Please complete the entire form, Parts A through E. Answers to these questions will be considered as part of the application for approval and may be subject to further verification and public review. Provide any additional information you believe will be needed to complete Parts 2 and 3.

It is expected that completion of the full EAF will be dependent on information currently available and will not involve new studies, research or investigation. If information requiring such additional work is unavailable, so indicate and specify each instance.

NAME OF ACTION <b>Westhampton Mini Storage</b>		
LOCATION OF ACTION (Include Street Address, Municipality and County) <b>North Perimeter Rd., Suffolk County Airport, Westhampton, N.Y.</b>		
NAME OF APPLICANT/SPONSOR <b>Edwin &amp; Patricia Tuccio</b>		BUSINESS TELEPHONE <b>(516) 727 6644</b>
ADDRESS <b>547 547 East Main Street, Riverhead, New York 11901</b>		
CITY/PO	STATE	ZIP CODE
NAME OF OWNER (if different)		BUSINESS TELEPHONE ( )
ADDRESS		
CITY/PO	STATE	ZIP CODE
DESCRIPTION OF ACTION <b>The addition of 4 steel framed storage buildings on a concrete slab, one story high, no utilities will be added to the building with the possible exception of exterior security lighting. Each building is 40 ft x 150 ft x 12 ft high for a total of 24,000 sq ft. The site is defined as an area within a Disturbed/Developed area and is part of a parcel that in other areas contain undeveloped core Pine Barrens Lands. SEE Applicant's May 26, 199</b>		

Core Hardship Application  
specific Protect Details

Please Complete Each Question—Indicate N.A. if not applicable

### A. Site Description

Physical setting of overall project, both developed and undeveloped areas.

1. Present land use:  Urban  Industrial  Commercial  Residential (suburban)  Rural (non-farm)  
 Forest  Agriculture  Other \_\_\_\_\_

2. Total acreage of project area: 40 acres.

APPROXIMATE ACREAGE

Meadow or Brushland (Non-agricultural) \_\_\_\_\_

Forested \_\_\_\_\_

Agricultural (Includes orchards, cropland, pasture, etc.) \_\_\_\_\_

Wetland (Freshwater or tidal as per Articles 24, 25 of ECL) \_\_\_\_\_

Water Surface Area \_\_\_\_\_

Unvegetated (Rock, earth or fill) \_\_\_\_\_

Roads, buildings and other paved surfaces \_\_\_\_\_

Other (Indicate type) Partially vegetated man-

3. What is predominant soil type(s) on project site? sand

- a. Soil drainage:  Well drained 100 % of site  Moderately well drained \_\_\_\_\_ % of site  
 Poorly drained \_\_\_\_\_ % of site

- b. If any agricultural land is involved, how many acres of soil are classified within soil group 1 through 4 of the NYS Land Classification System? \_\_\_\_\_ acres. (See 1 NYCRR 370).

4. Are there bedrock outcroppings on project site?  Yes  No

- a. What is depth to bedrock? \_\_\_\_\_ (in feet)

5. Approximate percentage of proposed project site with slopes:  0-10% 99.975 %  10-15% \_\_\_\_\_ %  
 15% or greater 0.25 %
6. Is project substantially contiguous to, or contain a building, site, or district, listed on the State or the National Registers of Historic Places?  Yes  No
7. Is project substantially contiguous to a site listed on the Register of National Natural Landmarks?  Yes  No
8. What is the depth of the water table? 50+ (in feet)
9. Is site located over a primary, principal, or sole source aquifer?  Yes  No
10. Do hunting, fishing or shell fishing opportunities presently exist in the project area?  Yes  No
11. Does project site contain any species of plant or animal life that is identified as threatened or endangered?  
 Yes  No According to ~~However an area within the same parcel beyond the~~  
Identify each species proposed development site contains core Pine Barrens lan
12. Are there any unique or unusual land forms on the project site? (i.e., cliffs, dunes, other geological formations)  
 Yes  No Describe \_\_\_\_\_
13. Is the project site presently used by the community or neighborhood as an open space or recreation area?  
 Yes  No If yes, explain \_\_\_\_\_
14. Does the present site include scenic views known to be important to the community?  
 Yes  No
15. Streams within or contiguous to project area: None  
a. Name of Stream and name of River to which it is tributary \_\_\_\_\_
16. Lakes, ponds, wetland areas within or contiguous to project area:  
a. Name None b. Size (in acres) \_\_\_\_\_
17. Is the site served by existing public utilities?  Yes  No  
a) If Yes, does sufficient capacity exist to allow connection?  Yes  No  
b) If Yes, will improvements be necessary to allow connection?  Yes  No
18. Is the site located in an agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304?  Yes  No
19. Is the site located in or substantially contiguous to a Critical Environmental Area designated pursuant to Article 8 of the ECL and 6 NYCRR 617?  Yes  No
20. Has the site ever been used for the disposal of solid or hazardous wastes?  Yes  No

Unknown - The site was used by the U.S. Air Force to store weapons in the 1950's

## B. Project Description

1. Physical dimensions and scale of project (fill in dimensions as appropriate)
- a. Total contiguous acreage owned or controlled by project sponsor 53 acres.
- b. Project acreage to be developed: 2/3 acres initially; \_\_\_\_\_ acres ultimately.
- c. Project acreage to remain undeveloped \_\_\_\_\_ acres.
- d. Length of project, in miles: n/a (if appropriate)
- e. If the project is an expansion, indicate percent of expansion proposed 51.4 %;
- f. Number of off-street parking spaces existing 0; proposed 0.
- g. Maximum vehicular trips generated per hour 5 (upon completion of project)?
- h. If residential: Number and type of housing units:
- |            | One Family | Two Family | Multiple Family | Condominium |
|------------|------------|------------|-----------------|-------------|
| Initially  | _____      | _____      | _____           | _____       |
| Ultimately | _____      | _____      | _____           | _____       |
- i. Dimensions (in feet) of largest proposed structure \_\_\_\_\_ height; \_\_\_\_\_ width; \_\_\_\_\_ length.
- j. Linear feet of frontage along a public thoroughfare project will occupy is none ft.

2. How much natural material (i.e., rock, earth, etc.) will be removed from the site? 6000 tons/cubic yards
3. Will disturbed areas be reclaimed?  Yes  No  N/A
- a. If yes, for what intended purpose is the site being reclaimed? \_\_\_\_\_
- b. Will topsoil be stockpiled for reclamation?  Yes  No
- c. Will upper subsoil be stockpiled for reclamation?  Yes  No
4. How many acres of vegetation (trees, shrubs, ground covers) will be removed from site? 2/3 acres.
5. Will any mature forest (over 100 years old) or other locally-important vegetation be removed by this project?  
 Yes  No
6. If single phase project: Anticipated period of construction 6 months, (including demolition).
7. If multi-phased: N/A
- a. Total number of phases anticipated \_\_\_\_\_ (number).
- b. Anticipated date of commencement phase 1 \_\_\_\_\_ month \_\_\_\_\_ year, (including demolition).
- c. Approximate completion date of final phase \_\_\_\_\_ month \_\_\_\_\_ year.
- d. Is phase 1 functionally dependent on subsequent phases?  Yes  No
8. Will blasting occur during construction?  Yes  No
9. Number of jobs generated: during construction 30; after project is complete 1
10. Number of jobs eliminated by this project 0.
11. Will project require relocation of any projects or facilities?  Yes  No If yes, explain \_\_\_\_\_
12. Is surface liquid waste disposal involved?  Yes  No
- a. If yes, indicate type of waste (sewage, industrial, etc.) and amount \_\_\_\_\_
- b. Name of water body into which effluent will be discharged \_\_\_\_\_
13. Is subsurface liquid waste disposal involved?  Yes  No Type \_\_\_\_\_
14. Will surface area of an existing water body increase or decrease by proposal?  Yes  No  
Explain \_\_\_\_\_
15. Is project or any portion of project located in a 100 year flood plain?  Yes  No
16. Will the project generate solid waste?  Yes  No
- a. If yes, what is the amount per month \_\_\_\_\_ tons
- b. If yes, will an existing solid waste facility be used?  Yes  No
- c. If yes, give name \_\_\_\_\_; location \_\_\_\_\_
- d. Will any wastes not go into a sewage disposal system or into a sanitary landfill?  Yes  No
- e. If Yes, explain \_\_\_\_\_
17. Will the project involve the disposal of solid waste?  Yes  No
- a. If yes, what is the anticipated rate of disposal? \_\_\_\_\_ tons/month.
- b. If yes, what is the anticipated site life? \_\_\_\_\_ years.
18. Will project use herbicides or pesticides?  Yes  No
19. Will project routinely produce odors (more than one hour per day)?  Yes  No
20. Will project produce operating noise exceeding the local ambient noise levels?  Yes  No
21. Will project result in an increase in energy use?  Yes  No  
If yes, indicate type(s) \_\_\_\_\_
22. If water supply is from wells, indicate pumping capacity: none gallons/minute.
23. Total anticipated water usage per day 0 gallons/day.
24. Does project involve Local, State or Federal funding?  Yes  No  
If Yes, explain \_\_\_\_\_



4. Approvals Required:

	Type	Submittal Date
City, Town, Village Board	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	_____
City, <u>Town</u> Village Planning Board	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<u>Site Plan &amp; Special Exception</u>
City, <u>Town</u> Zoning Board	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<u>Zoning increase of pre-existing use</u>
City, County Health Department	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	_____
Other Local Agencies	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<u>Town Building Permit</u>
Other Regional Agencies	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<u>Pine Barrens Commission</u>
State Agencies	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<u>Core Waiver Permit</u>
Federal Agencies	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	_____

C. Zoning and Planning Information

- Does proposed action involve a planning or zoning decision?  Yes  No  
 If Yes, indicate decision required:  
 zoning amendment    zoning variance    special use permit    subdivision    site plan  
 new/revision of master plan    resource management plan    other Expansion of pre-existing conforming use
- What is the zoning classification(s) of the site? 5 Ac Industrial
- What is the maximum potential development of the site if developed as permitted by the present zoning?  
16%
- What is the proposed zoning of the site? Same      5 Ac Industrial
- What is the maximum potential development of the site if developed as permitted by the proposed zoning?  
Same      16%      No Zoning change is requested
- Is the proposed action consistent with the recommended uses in adopted local land use plans?  Yes  No
- What are the predominant land use(s) and zoning classifications within a 1/4 mile radius of proposed action?  
Existing Storage Building, Vegetated Land and Airport Runway
- Is the proposed action compatible with adjoining/surrounding land uses within a 1/4 mile?  Yes  No
- If the proposed action is the subdivision of land, how many lots are proposed? N/A  
 a. What is the minimum lot size proposed? \_\_\_\_\_
- Will proposed action require any authorization(s) for the formation of sewer or water districts?  Yes  No
- Will the proposed action create a demand for any community provided services (recreation, education, police, fire protection)?  Yes  No  
 a. If yes, is existing capacity sufficient to handle projected demand?  Yes  No
- Will the proposed action result in the generation of traffic significantly above present levels?  Yes  No  
 a. If yes, is the existing road network adequate to handle the additional traffic?  Yes  No

D. Informational Details

Attach any additional information as may be needed to clarify your project. If there are or may be any adverse impacts associated with your proposal, please discuss such impacts and the measures which you propose to mitigate or avoid them. SBS Applicant's May 26, 1997 Core Hardship Application for complete details of the project.

E. Verification

I certify that the information provided above is true to the best of my knowledge.

Applicant/Sponsor Name Edwin E. Tuccio/Patricia Tuccio Date May 26, 1997  
 Signature \_\_\_\_\_ Title OWNER

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment.

**EDWIN & PATRICIA TUCCIO  
547 EAST MAIN STREET  
RIVERHEAD, NEW YORK 11901**

**May 26, 1997**

**Central Pine Barrens Commission  
P.O. Box 587  
3525 Sunrise Highway  
Great River, New York 11739**

**Subject: ADDENDUM  
Core Preservation Area Hardship Application  
Westhampton Mini Storage  
North Perimeter Road, Suffolk Co. Airport**

**Dear Commissioners:**

**Attached please find additional information for the subject application.**

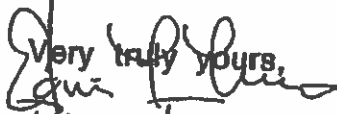
- 1. CERTIFICATE OF OCCUPANCY - Southampton Town # C15293;  
#C17521-00; USE - Warehouses, Storage, Office, Accessory Storage  
and Security.**
- 2. EXCAVATED FILL DISPOSITION - Letter from Suffolk Cement Products  
stating that the excavated fill from the proposed development will be  
removed from the site.**
- 3. SOUTHAMPTON TOWN NATURAL COMMUNITIES Map 1993 - This map  
locates the site within the region and describes the site as one of the  
"Disturbed Areas with Respect to Natural Plant Cover Types".**

**TOPOGRAPHICAL & WATER FLOW MAPS OF SITE**

- 4. LAND SURVEY - This survey shows the entire 52.299 acre tax map  
parcel # 900-248-01-P/O 110.002 as well as the proposed  
development site.**

5. ARCHITECTURAL PLANS & PHOTOGRAPHS - Showing the existing buildings, paved roads, obsolete climate control equipment and the supporting concrete foundations.
6. LEASE AGREEMENT - The applicant lease agreement for the proposed storage buildings prohibiting the tenant from storing or releasing any hazardous materials at the site (Para. 8, Lines 13-19).
7. CONCRETE SLAB & FOUNDATION DESIGN DETAIL - This design shows a typical footing and wall foundation with a slab that has a 2 1/2 gallon per square foot liquid holding capacity. The sizes of the individual units are not specified and at this point the actual size mix has not been determined, however, the two proposed building sites (55' x 150') are clearly determined by the existing paved roads. The individual unit containment design shown will maintain traceability of any spill and prevent the collection of an unknown, possibly reactive mixture that may occur if a communal collection system were used. However, other methods of containment are presently being considered. This may be a worthwhile point of discussion with the Commission staff.
8. NEGATIVE DECLARATION - State Environmental Quality Review dated August 10, 1994 for Westhampton Mini Storage and the description of the action being this: Application to replace two man-made berms and associated concrete retaining walls with two, one-story buildings on the 40 acre disturbed portion of a 400 acre parcel. The disturbed portion is improved with eleven concrete buildings used for private self-storage. The proposed buildings will contain the same use. This Negative Declaration is for the almost identical development undertaken in this new application.

9/ Deed

Very truly yours,  
  
Edwin F. Tuccio  
Patricia Tuccio

Tax Map No: 473689 248-1-110.2



# Town of Southampton

DEPARTMENT OF LAND MANAGEMENT  
BUILDING AND ZONING DIVISION

## Certificate of Occupancy

BUILDING CONSTRUCTION ORDINANCE CHAPTER 123 Article II 123-18.B.

No C17521-00

Date 12/13 19 96

Permit No 033749-0

WESTHAMPTON MINI/SELF STORAGE

547 EAST MAIN ST

RIVERHEAD NY 11901

This is to certify that the

New (x)	Altered ( )	Addition ( )	Pre-Existing ( )	Updated ( )	Building
Located	Perimeter Road, North of Suffolk County Airport,				
	Westhampton				
	Town of Southampton, New York				

has been COMPLETED substantially according to the approved plans, and the requirements of the above ordinances have been met and permission is hereby granted for the OCCUPANCY of building for the following purposes:

This certificate supersedes all previously issued certificates.

U S E

TWO MINI STORAGE BUILDINGS

ZBA Decision(s)

No. of Buildings

02

Work Completed

12/96

PAUL HOULIHAN

CHIEF BUILDING INSPECTOR



# Town of Southampton

## BUILDING DEPARTMENT

# Certificate of Occupancy

BUILDING CONSTRUCTION ORDINANCE CHAPTER 123 Article II 123-18.B.

C15293

Date 06/17 19 93

Plot No 897469

PATRICIA TUCCIO

This is to certify that the

Work ( )	Altered ( )	Addition ( )	Pre-Existing (x)	(Building
new				
North of Suffolk County Airport, Overlay				
248-1-110.2, Southampton Beach				
Town of Southampton, New York				

has been COMPLETED substantially according to the approved plans, and the requirements of the above ordinances have been met and permission is hereby granted for the OCCUPANCY of building for the following purpose:

This certificate supersedes all previously issued certificates.

### U S E

3 1 STRY BLDGS E/S OF PROPERTY USED AS WAREHOUSES/4 1 STRY BLDGS USED  
 AS STORAGE STRUCT/1 STRY BLDG USED AS OFFICE & STORAGE/1 BLDG USED AS  
 STORAGE AND ACC. SECURITY BLDG./ACCESSORY STORAGE BLDG (METAL)

No of Buildings 07  
 Work Completed Prior to Oct. 14, 1987

JAMES H. WILFORD  
 BLDG & CON. ADMINISTRATOR

*James H. Wilford*

Owner's Copy

**SUFFOLK CEMENT PRODUCTS  
WEST MIDDLE ROAD  
CALVERTON, NEW YORK 11933  
516-727-2317**

May 29, 1997

Central Pine Barrens  
PO Box 587  
3525 Sunrise Highway  
Great River, New York 11739-0587

Dear Sirs;

We have contracted with Edwin Fishel Tuccio and Patricia Tuccio to do the following:

- 1) Remove soil and any other materials that may be found in two berms 50 ft. wide by 350 ft. long perpendicular to buildings A and AA and B and BB and running East and West of the Mini-Storage facility.
- 2) All material will be transported away from the Airport to our facility in Calverton.
- 3) No surrounding areas will be disturbed. The ground will be leveled. Only the material that will be in the footprint of the new buildings will be removed.

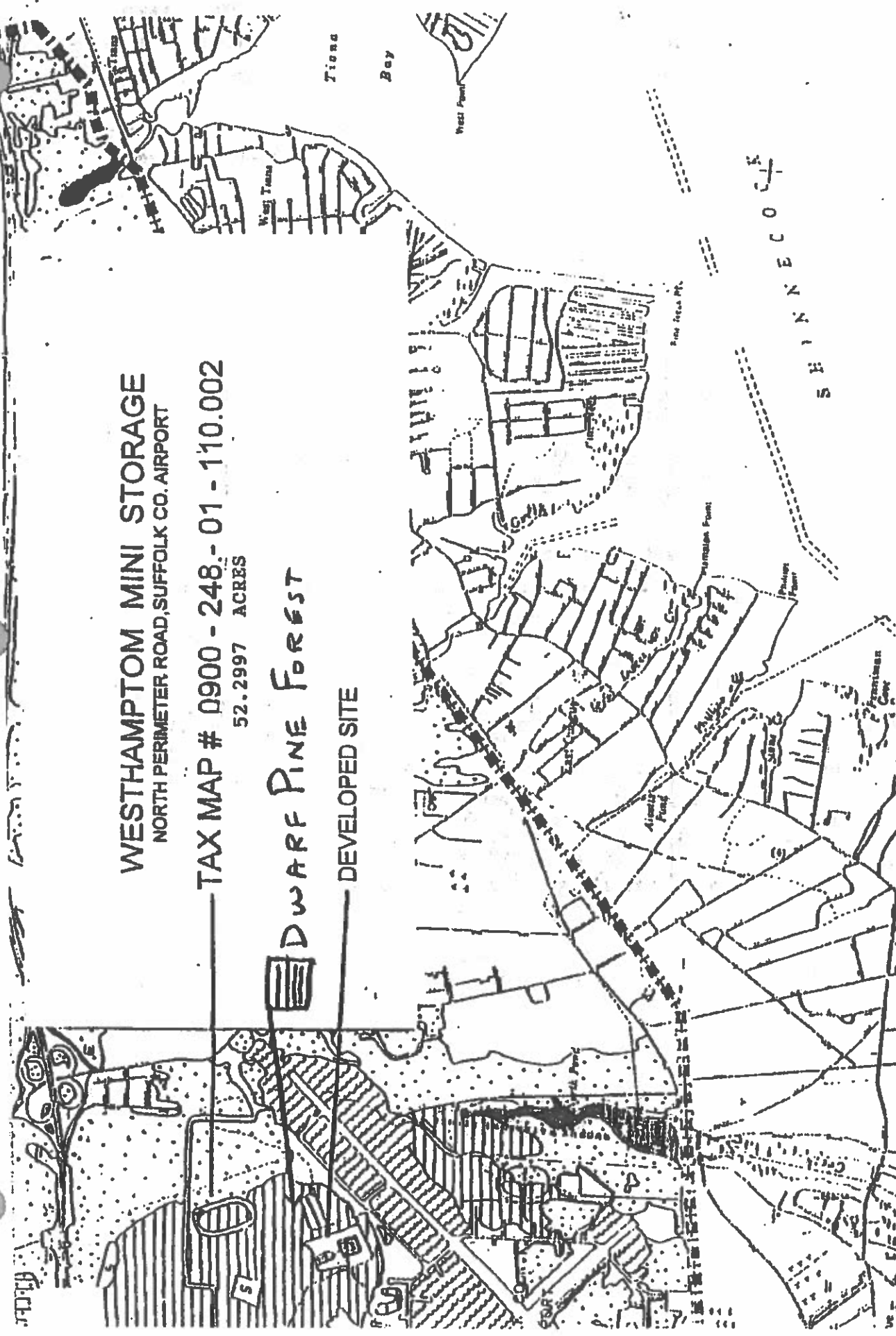
**Kenneth Lohr  
Suffolk Cement Products**

**WESTHAMPTON MINI STORAGE**  
NORTH PERIMETER ROAD, SUFFOLK CO. AIRPORT

**TAX MAP # 0900 - 248.- 01 - 110.002**  
52.2997 ACRES

**DWARF PINE FOREST**

DEVELOPED SITE



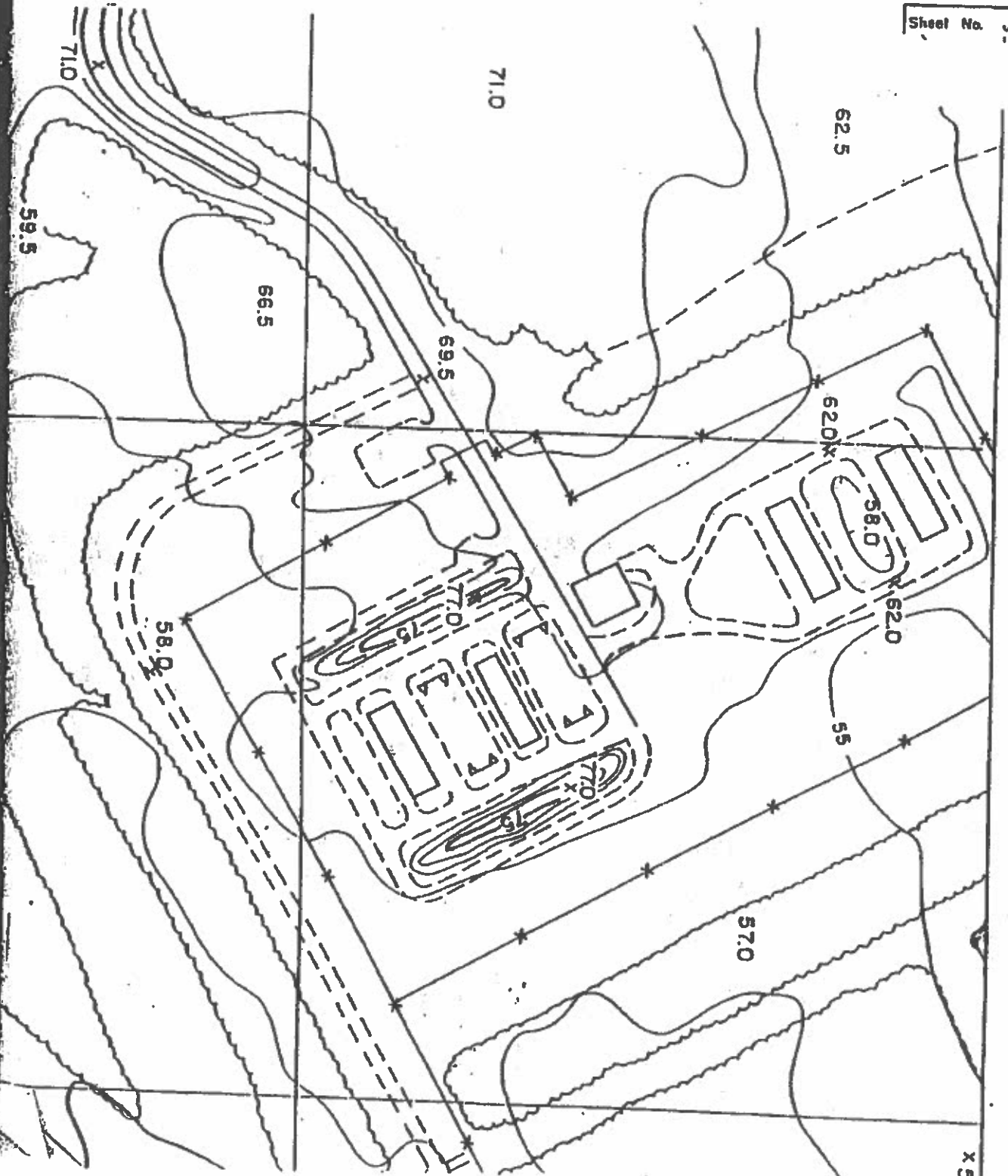
PREPARED FOR THE  
SUFFOLK COUNTY  
DEPARTMENT OF PUBLIC WORKS

R. M. KAMMERER, COMMISSIONER  
YAPHANK NEW YORK

TOPOGRAPHIC MAP  
FIVE EASTERN TOWNS  
SUFFOLK COUNTY, N.Y.

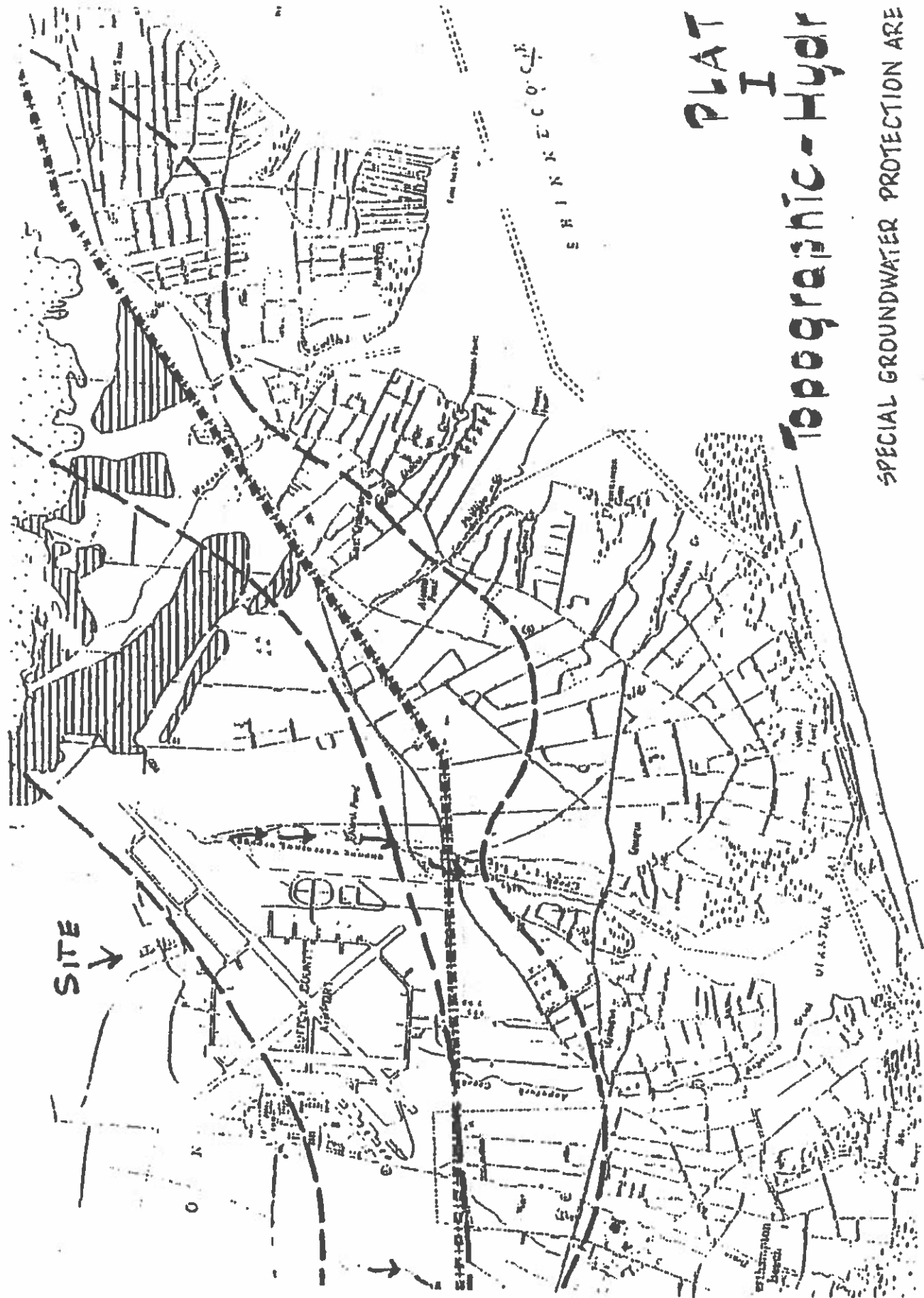
RIVERHEAD, SOUTHAMPTON, SOUTHOLD  
SHELTER ISLAND, EAST HAMPTON

Sheet No. J-31



X 5





# PLAT I Topographic-Hydro

SPECIAL GROUNDWATER PROTECTION ARE

TOWN OF SOUTHAMPTON, SUFF

40'-0"

6 X 15	42	6 X 25	18
6 X 15	41	8 X 25	17
6 X 15	40	8 X 25	16
6 X 15	39	8 X 25	15
6 X 15	38	8 X 25	14
6 X 15	37	8 X 25	13
6 X 15	36	10 X 25	12
8 X 15	35	10 X 25	11
5 X 15	34	10 X 25	10
5 X 15	33	8 X 25	9
8 X 15	32	8 X 25	8
8 X 15	31	8 X 25	7
8 X 15	30	8 X 25	6
8 X 15	29	8 X 25	5
8 X 15	28	10 X 25	4
5 X 15	27	10 X 25	3
5 X 15	26	10 X 25	2
6 X 15	25	10 X 25	1
6 X 15	24	8 X 25	
6 X 15	23	8 X 25	
6 X 15	22	8 X 25	
6 X 15	21	8 X 25	
6 X 15	20	8 X 25	
6 X 15	19	8 X 25	

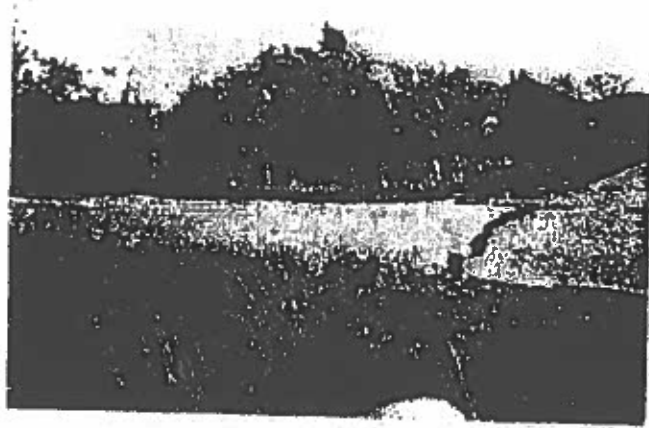
BUILDING "A"

127'-0"

128'-0"

30° STEEPDOWN

**EAST BERM**



**VIEW OF NORTH END OF  
EAST BERM**

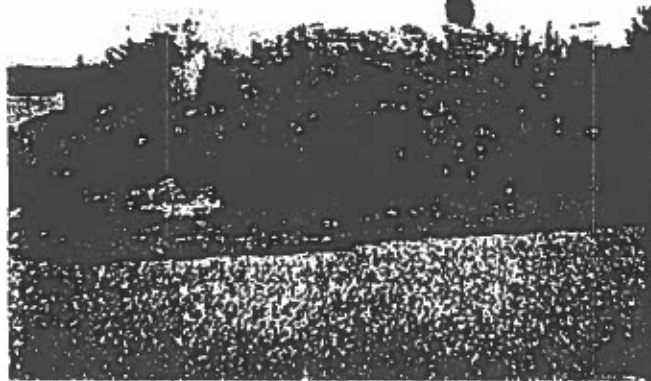


**VIEW OF SOUTH END OF  
EAST BERM**

**WEST BERM**

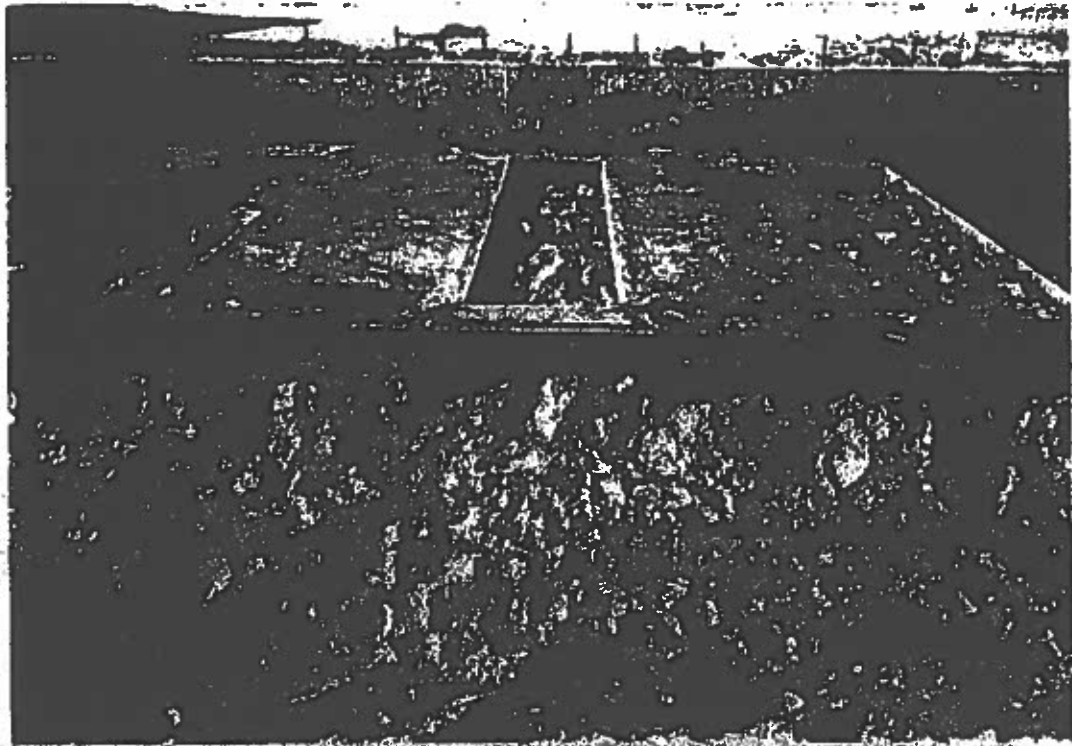


**VIEW OF OBSOLETE CLIMATE CONTROL  
TOWER & WEST BERM**

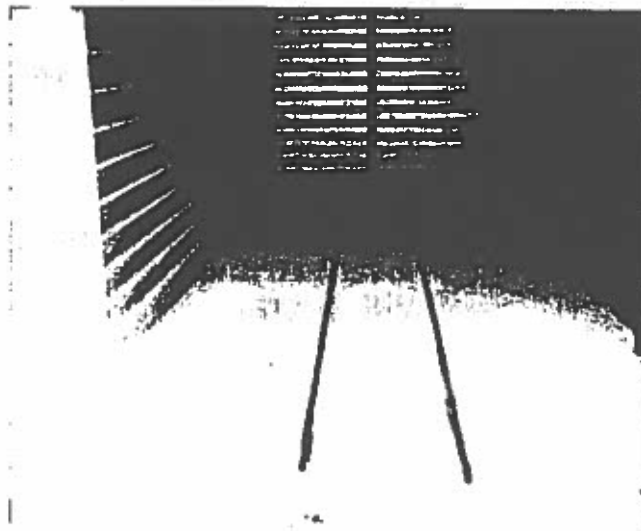


**VIEW OF NORTH END OF  
WEST BERM**

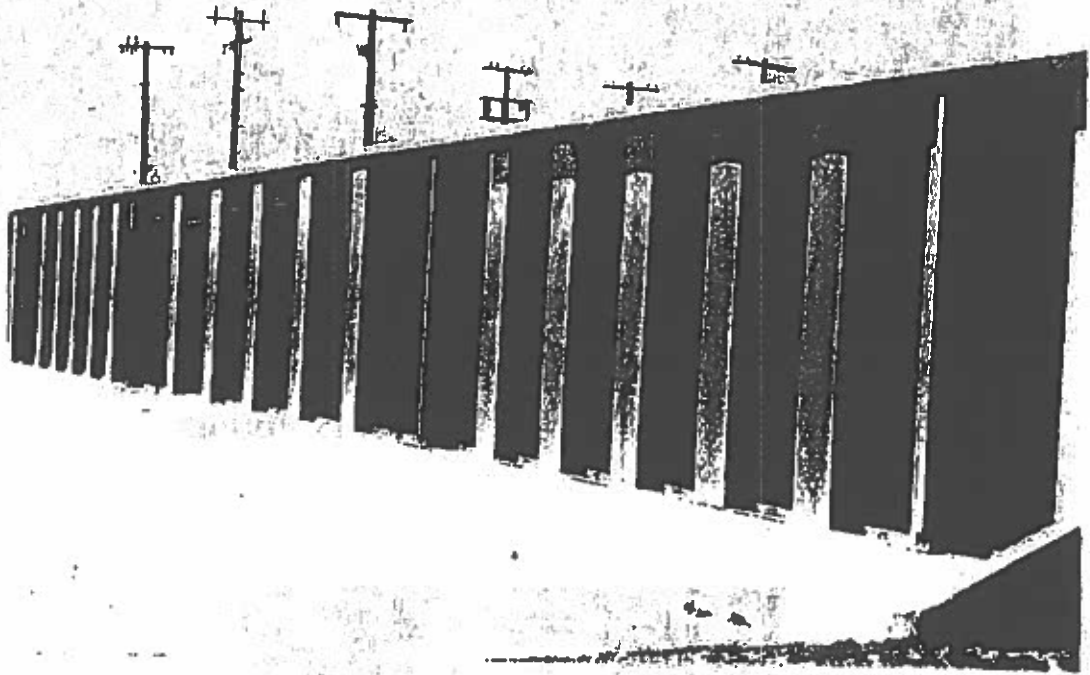
**GROUND WATER PROTECTION**



**VIEW OF FLOORS UNDER CONSTRUCTION SHOWING  
AREA IN UNITS BEFORE BASE IS POURED**



**UNITS FINISHED WITH GROUND WATER  
PROTECTION IN PLACE**



**FINISHED UNITS WITH CONCRETE APRONS  
GIVING ADDED PROTECTION TO  
GROUND WATER**

WESTHAMPTON MINI-STORAGE  
547 EAST MAIN STREET  
RIVERHEAD, NEW YORK 11901  
516-727-6802 OR 727-6644

UNIT# \_\_\_\_\_  
UNIT SIZE \_\_\_\_\_  
OCCUPANT'S NAME \_\_\_\_\_  
MAILING ADDRESS \_\_\_\_\_  
TELEPHONE#-HOME \_\_\_\_\_ WORK \_\_\_\_\_ FAX \_\_\_\_\_  
DRIVER'S LICENSE# \_\_\_\_\_ STATE \_\_\_\_\_  
SOCIAL SECURITY# \_\_\_\_\_

THIS AGREEMENT MADE THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 19\_\_\_\_ BY  
AND BETWEEN WESTHAMPTON MINI-STORAGE, HEREINAFTER KNOWN AS OWNER AND  
THE OCCUPANT NAMED ABOVE.

WITNESSETH:

IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED HEREIN, THE PARTIES  
HERETO AGREE AS FOLLOWS:

1. PROPERTY RENTED.  
OCCUPANT AGREES TO RENT THE FOLLOWING PROPERTY LOCATED AT THE SELF-  
STORAGE FACILITY AT THE ABOVE ADDRESS.

2. TERM.  
THIS AGREEMENT SHALL COMMENCE UPON THE DATE OF EXECUTION AND SHALL  
CONTINUE FOR A PERIOD OF \_\_\_\_\_ MONTHS. ANY HOLDOVER BEYOND THE TERM OF  
MONTHS SHALL BE CONSIDERED MONTH-TO-MONTH OCCUPANCY AT THE THEN  
PREVAILING MONTHLY RENTAL RATE FOR SIMILAR UNITS AT WESTHAMPTON MINI-  
STORAGE AND SUBJECT TO ANY CONDITIONS PLACED UPON OCCUPANCY BY THE  
OWNER.

3. RENT.  
THE MONTHLY OCCUPANCY CHARGE SHALL BE \$ \_\_\_\_\_ PER MONTH IN ADVANCE DUE  
AND PAYABLE UPON THE SAME DAY EACH MONTH THEREAFTER. THIS DATE SHALL BE  
KNOWN AS THE "ANNIVERSARY DATE." FAILURE TO PAY THE RENT BY THE TENTH  
(10TH) DAY AFTER THE ANNIVERSARY DATE OF EACH MONTH SHALL RESULT IN A  
LOCK-OUT AND AN ADDITIONAL CHARGE OF \$10.00. ALL PAYMENTS ARE TO BE MADE  
OUT TO:

WESTHAMPTON MINI-STORAGE  
547 EAST MAIN STREET  
RIVERHEAD, NEW YORK 11901

4. DEPOSIT.  
OCCUPANT SHALL DEPOSIT WITH OWNER THE SUM OF \$ \_\_\_\_\_ AS SECURITY FOR  
OCCUPANT'S PERFORMANCE HEREUNDER. ANY CHARGES FOR LATE PAYMENT OR  
DEFAULT MAY BE TAKEN FROM THIS DEPOSIT AT THE END OF THE OCCUPANCY OR  
OTHERWISE AT THE DISCRETION OF THE OWNER.

**5. TERMINATION, NOTICE AND SUBLETTING.**

THIS IS A MONTH-TO-MONTH OCCUPANCY AGREEMENT AND OCCUPANT MAY TERMINATE THIS LEASE BY GIVING OWNER A FIVE DAY NOTICE. OCCUPANT MAY NOT SUBLET THE PREMISES OR ASSIGN THIS LEASE AGREEMENT WITHOUT WRITTEN CONSENT OF OWNER. THIS AGREEMENT SHALL BE BINDING ON ALL HEIRS OR SUCCESSORS OF THE PARTIES HERETO. WE DO NOT PRORATE.

**6. RIGHT OF ENTRY.**

OWNER SHALL HAVE THE RIGHT TO ENTER INTO AND UPON SAID PREMISES AT ALL REASONABLE TIMES FOR THE PURPOSE ON INSPECTING OR REPAIRING THE PREMISES.

**7. ALTERATIONS.**

OCCUPANT SHALL NOT MAKE ANY ALTERATIONS, INSTALL FIXTURES OR ATTACH SIGNS, MARKINGS, OR ANY OTHER IDENTIFICATION WITHOUT FIRST OBTAINING OWNER'S WRITTEN CONSENT.

**8. USE OF PREMISES AND COMPLIANCE WITH LAW.**

OCCUPANT SHALL NOT STORE ON THE PREMISES PERSONAL PROPERTY IN OR TO WHICH ANY OTHER PERSON HAS ANY RIGHT, TITLE OR INTEREST. IT IS UNDERSTOOD AND AGREED THAT OCCUPANT MAY STORE PERSONAL PROPERTY OF VARIOUS TYPES AND VALUES IN, ON, OR ABOUT THE PREMISES WITHOUT OWNER'S KNOWLEDGE, SUPERVISION OR CONTROL, THE VALUE OF WHICH MAY BE DIFFICULT OR IMPOSSIBLE TO ASCERTAIN. IT IS SPECIFICALLY UNDERSTOOD AND AGREED THAT OWNER NEED NOT BE CONCERNED WITH THE KIND, QUANTITY OR VALUE OF PERSONAL PROPERTY OR OTHER GOODS STORED BY OCCUPANT IN OR ABOUT THE PREMISES. OCCUPANT SHALL NOT STORE ANY PERSONAL PROPERTY ON THE PREMISES WHICH WOULD RESULT IN THE VIOLATION OF ANY LAW OF ANY GOVERNMENTAL AUTHORITY AND OCCUPANT SHALL COMPLY WITH ALL THE LAWS, RULES, REGULATIONS AND ORDINANCES OF ANY AND ALL GOVERNMENTAL AUTHORITIES CONCERNING THE PREMISES OR THE USE THEREOF. OCCUPANT SHALL NOT USE THE PREMISES IN ANY MANNER THAT WILL CONSTITUTE WASTE, NUISANCE, OR UNREASONABLE ANNOYANCE OF THE OTHER OCCUPANTS. OCCUPANT SHALL NOT STORE ANY FLAMMABLE LIQUIDS, HIGHLY COMBUSTIBLE, RADIOACTIVE, EXPLOSIVE MATERIALS OR HAZARDOUS CHEMICALS. OCCUPANT SHALL NOT STORE PETS OR ANY ANIMALS. OCCUPANT ALSO AGREES THAT THE PROPERTY MAY NOT BE USED AS ANY OTHER USE THAN DEAD STORAGE. OCCUPANT SHALL NOT STORE, SPILL OR DISPERSE ANY MATERIAL THAT COULD POLLUTE OR IN ANY WAY NEGATIVELY IMPACT GROUND WATER OR THE ENVIRONMENT AT THE STORAGE FACILITY. THE OCCUPANT AGREES TO BE LIABLE FOR ALL REMEDIATION COSTS AND OTHER ASSOCIATED COSTS OR PENALTIES IN THE EVENT THAT THE OCCUPANT CAUSES OR PERMITS SUCH ENVIRONMENTAL POLLUTION AT THE FACILITY. OCCUPANT FURTHER AGREES TO MAINTAIN THE UNIT IN A GOOD REPAIR AND CLEAN MANNER AND SANITARY CONDITION. UPON TERMINATION OF THE OCCUPANCY, OCCUPANT SHALL SURRENDER THE UNIT IN A CLEAN AND SANITARY CONDITION, BROOM CLEAN AND IN GOOD REPAIR. OWNER DOES NOT PROVIDE GARBAGE RECEPTACLES AND OCCUPANT MUST HAUL AWAY HIS OWN REFUSE.

**9. LOSS, DAMAGE AND INSURANCE.**

OWNER SHALL NOT BE LIABLE FOR THE LOSS OF OR DAMAGE TO THE PROPERTY OR PERSON OF OCCUPANT, OCCUPANT'S AGENTS, INVITEES, OR OTHERS DUE TO THEFT, THE ELEMENTS, FIRE, WATER, VANDALISM, ANIMALS, ACTS OF GOD, DEFECTS, LATENT OR MANIFEST, IN THE PREMISES, OR ITS EQUIPMENT, OR ACTS OF OWNER OTHER THAN OCCUPANTS. OWNER DOES NOT INSURE THE PERSONAL PROPERTY STORED IN THE PREMISES



**10. NO INSURANCE.**

OCCUPANT MUST OBTAIN INSURANCE, COVERING DAMAGE BY FIRE, EXTEND COVERAGE PERILS, VANDALISM AND BURGLARY FOR THE FULL VALUE OF OCCUPANT'S PROPERTY. OCCUPANT UNDERSTANDS THAT OWNER WILL NOT INSURE OCCUPANT'S PROPERTY. OCCUPANT MAY OBTAIN INSURANCE FROM THE INSURANCE COMPANY OF OCCUPANT'S CHOICE. OCCUPANT MAY OBTAIN CERTAIN OF THE INSURANCE REQUIRED BY THIS PARAGRAPH BY SIGNING UP FOR THE INSURANCE PLAN DESCRIBED IN THE INSURANCE BROCHURE MADE AVAILABLE BY OWNER. INSURANCE COVERAGE FOR GOODS STORED IN THE PARKING SPACE AND OTHER INSURANCE COVERAGE NOT AVAILABLE UNDER THE INSURANCE PLAN DESCRIBED IN THE INSURANCE MUST BE OBTAINED FROM AN INSURANCE COMPANY OTHER THAN THE ONE NAMED IN THE BROCHURE. IF OCCUPANT DOES NOT OBTAIN INSURANCE FOR THE FULL VALUE OF THE OCCUPANT'S PROPERTY STORED IN THE ENCLOSED SPACE AND THE PARKING SPACE, OCCUPANT WILL BE CONSIDERED TO BE "SELF-INSURED" (PERSONALLY ASSUME ALL RISK OF LOSS). OWNER WILL NOT BE RESPONSIBLE FOR ANY DAMAGE TO OCCUPANT'S PROPERTY THAT WOULD HAVE BEEN INSURED UNDER AN INSURANCE POLICY OR POLICIES COVERING DAMAGE BY FIRE, EXTENDED COVERAGE PERILS, VANDALISM AND BURGLARY. OCCUPANT ACKNOWLEDGES THAT HE UNDERSTANDS THAT INSURANCE IS HIS RESPONSIBILITY AND THAT HE AGREES TO OBTAIN ALL NECESSARY INSURANCE REQUIRED BY THIS PARAGRAPH.

**11. OWNER'S LIEN.**

OWNER HAS A LIEN ON ALL PROPERTY OF OCCUPANT HELD AT THE FACILITY FOR ALL CHARGES OR ANY OTHER CHARGES PAST DUE OR DUE IN THE FUTURE AS WELL AS EXPENSES NECESSARY AND REASONABLY INCURRED FOR THE PROTECTION OF ANY MONIES DUE THE OWNER. THIS LIEN IS SUPERIOR TO ANY OTHER LIEN OR SECURITY INTEREST AND GOES INTO EFFECT AS OF THE DATE ANY PROPERTY IS BROUGHT TO THE FACILITY.

**12. DEFAULT.**

IF OCCUPANT BREAKS ANY PROMISE HE OR SHE HAS MADE IN THIS OCCUPANCY AGREEMENT, INCLUDING FAILING TO PAY RENT WHEN DUE, OWNER MAY PURSUE ANY REMEDIES AVAILABLE TO OWNER UNDER NEW YORK LAW. IF OCCUPANT IS THIRTY (30) DAYS LATE IN PAYING RENT, OWNER MAY ENTER AND REMOVE OCCUPANT'S PROPERTY FROM THE ENCLOSED SPACE. UNTIL OWNER SELLS THE PROPERTY UNDER NEW YORK LAW, OWNER'S DECISION TO PURSUE ONE REMEDY SHALL NOT PREVENT OWNER FROM PURSUING ANY OTHER AVAILABLE REMEDIES. OWNER SHALL NOT BE LIABLE TO OCCUPANT OR ANYONE ELSE FOR THE REMOVAL OR SALE OF PERSONAL PROPERTY WHICH IS OWNED BY SOMEONE OTHER THAN OCCUPANT, OR IN WHICH SOMEONE OTHER THAN OCCUPANT HAS AN INTEREST, UNLESS OWNER IS NOTIFIED THAT THE PROPERTY IN OCCUPANT'S SPACE WAS NOT OCCUPANT'S PROPERTY. OCCUPANT AGREES TO NOTIFY OWNER, IN WRITING, OF ANY PROPERTY STORED IN OCCUPANT'S SPACE WHICH IS NOT THE SOLE PROPERTY OF OCCUPANT AND OF THE NAME OF ANY OTHER PERSON WHO HAS AN INTEREST IN THE PROPERTY. NOTICE BY OCCUPANT TO OWNER SHALL NOT MEAN THAT OWNER HAS AGREED THAT OCCUPANT MAY STORE PROPERTY OWNED BY ANYONE OTHER THAN OCCUPANT IN THE ENCLOSED SPACE.

**13. LIMITATION OF LIABILITY AND DEFAULT.**

IF OCCUPANT IS IN DEFAULT, AND OWNER ENFORCES ITS LIEN BY SELLING PROPERTY STORED IN THE ENCLOSED SPACE, OWNER SHALL BE LIABLE TO OCCUPANT ONLY IN THE AMOUNT OF MONEY RECEIVED BY OWNER AT ANY SALE OF SUCH PROPERTY. OCCUPANT AGREES THAT ANY MONEY RECEIVED BY OWNER AT ANY SALE OF SUCH PROPERTY

13. LIMITATION OF LIABILITY AND DEFAULT CONT.  
SHALL BE USED FIRST TO SATISFY FULLY OWNER'S LIEN. OCCUPANT AGREES THAT THE VALUE OF PROPERTY STORED SHALL NOT EXCEED \$10.00 PER SQUARE FOOT OF RENTED SPACE AND SHALL, IN NO EVENT, EXCEED THE SUM OF \$5,000.00 WITHOUT REGARD TO THE SPACE RENTED.

14. CONDITION OF UNIT.  
OCCUPANT ACKNOWLEDGES RECEIVING THE UNIT IN GOOD CONDITION, BROOM CLEAN WITH NO DAMAGE TO DOORS, WALLS OR FIXTURES OR ANY PART OF SAID IDENTIFIED FACILITY. OCCUPANT AGREES TO RETURN THE POSSESSION OF THE UNIT TO THE OWNER IN THE SAME CONDITION.

15. OWNER WARRANTIES.  
OWNER AGREES TO PERMIT QUIET ENJOYMENT OF THE OCCUPANT'S UNIT FOR THE PURPOSE SET FORTH IN ITEM 8 HEREOF AND AGREES TO MAINTAIN THE PREMISES IN GOOD REPAIR PROVIDED OCCUPANT BRINGS TO THE ATTENTION OF OWNER ANY NEED FOR REPAIR TO THE ROOF, DOORS, OR STRUCTURE.

16. LOCK-OUT.  
UPON DEFAULT BY OCCUPANT IN THE PAYMENT OF RENT WHEN DUE, OWNER IS HEREBY AUTHORIZED TO DENY OCCUPANT ACCESS TO THE UNIT BY MEANS OF CHANGING LOCKS OR REMOVAL OF OCCUPANT'S LOCK AND REPLACEMENT BY OWNER'S LOCK. OWNER'S LOCK WILL BE REMOVED UPON PAYMENT OF AMOUNT DUE INCLUDING LATE CHARGES AND LOCK-OUT CHARGES. SHOULD IT BECOME NECESSARY TO DESTROY THE OCCUPANT'S LOCK IN THE ACT OF REMOVAL, THE OWNER SHALL NOT BE LIABLE FOR THE REPLACEMENT OF OCCUPANT'S LOCK. SHOULD OCCUPANT'S LOCK BE REPLACED, A FEE OF \$20.00 TO CUT LOCK AND INVENTORY WILL BE CHARGED. IF A SALE IS CONDUCTED UNDER NEW YORK LAW, A \$50.00 ADVERTISING FEE WILL BE CHARGED.

17. LIMITATIONS OF OWNER'S LIABILITY; INDEMNITY.  
OWNER AND OWNER'S AGENTS SHALL NOT BE LIABLE TO OCCUPANT FOR DAMAGE OR LOSS TO ANY PERSON, OCCUPANT OR ANY PROPERTY STORED IN, OR ABOUT THE PREMISES OR THE UNIT, ARISING MYSTERIOUS DISAPPEARANCE, RODENTS, ACTS OF GOD OR THE ACTIVE OR PASSIVE ACTS, OMISSIONS OR NEGLIGENCE OF OWNER OR OWNER'S AGENTS. OCCUPANT SHALL INDEMNIFY AND HOLD OWNER AND OWNER'S AGENTS HARMLESS FROM ANY DAMAGE TO ANY PERSON OR PROPERTY OCCURRING IN, ON, OR ABOUT THE PREMISES WHETHER OCCASIONED BY OCCUPANT'S ACTIVE OR PASSIVE ACTS, OMISSIONS OR NEGLIGENCE OR OTHERWISE.

18. NO WARRANTIES.  
OWNER HEREBY DISCLAIMS ANY IMPLIED OR EXPRESS WARRANTIES, GUARANTEES OR REPRESENTATIVES OF THE NATURE, CONDITION, SAFETY OR SECURITY OF THE PREMISES AND THE PROJECT AND THE OCCUPANT HEREBY ACKNOWLEDGES THAT OCCUPANT HAS INSPECTED THE PREMISES AND HEREBY ACKNOWLEDGES AND AGREES THAT OWNER DOES NOT REPRESENT OR GUARANTEE THE SAFETY OR SECURITY OF THE PREMISES OR ANY PROPERTY STORED THEREIN. THIS LEASE SETS FORTH THE ENTIRE AGREEMENT OF THE PARTIES WITH RESPECT TO THE SUBJECT MATTER HEREOF AND SUPERSEDES ALL PRIOR AGREEMENTS OR UNDERSTANDINGS WITH THE RESPECT

19. NO WARRANTIES CONT.  
THERE TO. ANY ALARM SYSTEM UPON THE PREMISES IS FOR THE CONVENIENCE OF OWNER AND NOT TO BE RELIED UPON BY OCCUPANT AS GUARANTEEING SECURITY OF THE PREMISES.

**19. NOTICES.**

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS OCCUPANCY AGREEMENT, OR WRITTEN NOTICES OR DEMANDS REQUIRED OR PERMITTED TO BE GIVEN UNDER THE TERMS HEREOF MAY BE PERSONALLY SERVED OR MAY BE SERVED BY FIRST CLASS MAIL DEPOSIT IN THE UNITED STATES MAIL WITH POSTAGE THEREIN FULLY PRE-PAID AND ADDRESSED TO THE PARTY SO AS TO BE DELIVERED AT THE ADDRESS OF SAID PARTY PROVIDED FOR IN THE OCCUPANCY AGREEMENT. SERVICE OF ANY SUCH NOTICE OR DEMAND SHALL BE DEEMED COMPLETE ON THE DATE OF DEPOSIT IN THE UNITED STATES MAIL, WITH POSTAGE THEREON FULLY PRE-PAID AND ADDRESSED IN ACCORDANCE WITH THE PROVISIONS HEREOF. NOTICES SENT PURSUANT TO CURRENT STATUTES SHALL BE SENT TO THE OCCUPANT'S ADDRESS AND THE ALTERNATIVE ADDRESS IF BOTH ADDRESSES ARE PROVIDED BY OCCUPANT IN THIS AGREEMENT.

**20. ASSIGNMENT.**

OCCUPANT SHALL NOT ASSIGN OR SUBLEASE THE PREMISES OR ANY PORTION THEREOF WITHOUT IN EACH INSTANCE THE PRIOR WRITTEN CONSENT OF OWNER.

**21. SUCCESSION.**

ALL OF THE PROVISIONS OF THIS LEASE SHALL APPLY TO, BIND AND BE OBLIGATORY UPON THE HEIRS, EXECUTORS, ADMINISTRATORS, REPRESENTATIVES, SUCCESSORS AND ASSIGNS OF THE PARTIES HERETO.

**22. CONSTRUCTION.**

WHENEVER POSSIBLE EACH PROVISIONS OF THIS OCCUPANCY AGREEMENT SHALL BE INTERPRETED IN SUCH MANNER AS TO BE EFFECTIVE AND VALID UNDER APPLICABLE LAW, BUT IF ANY PROVISIONS OF THIS AGREEMENT SHALL BE INVALID OR PROHIBITED BY LAW, SUCH PROVISIONS SHALL BE INEFFECTIVE ONLY TO THE EXTENT OF SUCH PROVISIONS OR THE REMAINING PROVISIONS OF THIS AGREEMENT. THIS SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.

**23. EXECUTION.**

BY EXECUTION OF THIS LEASE AGREEMENT, OCCUPANT ACKNOWLEDGES HAVING BEEN PRESENTED WITH THE OCCUPANCY AGREEMENT AND HAVING READ IT PRIOR TO OCCUPANT TAKING ACTUAL POSSESSION OF THE LEASED PREMISES.

**24. ENTIRE AGREEMENT.**

THERE ARE NO REPRESENTATIONS, WARRANTIES, OR AGREEMENTS BY OR BETWEEN THE PARTIES WHICH ARE NOT FULLY SET FORTH HEREIN AND NO REPRESENTATIVE OF OWNER OR OWNER'S AGENT IS AUTHORIZED TO MAKE ANY REPRESENTATIONS, WARRANTIES OR AGREEMENTS OTHER THAN AS EXPRESSLY SET FORTH HEREIN.

IN WITNESS WHEREOF, THE PARTIES HEREIN HAVE EXECUTED THIS LEASE AGREEMENT.

OWNER

WEBTHAMPTON MINI-STORAGE

BY \_\_\_\_\_

EDWIN FISHEL TUCCIO

OCCUPANT

\_\_\_\_\_  
signature

\_\_\_\_\_  
name (please print)

## CONCRETE FOUNDATION SPECIFICATIONS WESTHAMPTON MINI STORAGE

**FOOTING** 12" X 24"  
3,000 psi, key as indicated.

**WALLS** 10" X 24" or 48" X L  
3,000 psi

**SLAB** 6" X 40 ft X 148 ft, +, -  
3,000 psi

Disregard below grade rings & trench drains on plans. Do not pitch slab floor as indicated on Arch. plan; the slab is to be flat & level.

Haunch below containment depressions & at intersection of slab with walls; caulk at intersection of interior walls & slab.

Depression for spill containment centered in all units, 2" X 24" X 12 ft-23 ft [varies each unit]

Finish; machine steel trowel

Saw cut the width @ 15 ft intervals, depth of cut to be determined by the Architect.

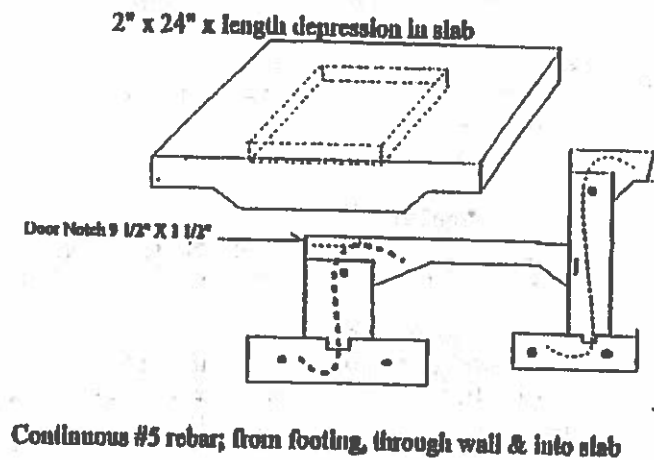
Pin slab into existing concrete walls with #5 rebar @ 24" intervals; embed 4" into existing walls & 12" into slab. The foundation immediately adjacent to the existing concrete walls will support steel structural members of the building (see American Int'l Drawing, page E2.1). These areas must contain 12" H X 12" W X 40 ft L of concrete and be pinned as above.

### TOLERANCES

The Tolerances of the footings, walls & slabs dimensions, and pitch, flatness, out of square, etc. are to be maintained overall within +, - 1/4".

### STEEL RE-ENFORCEMENT

Per plan and continuous #5 from footing, through wall and into slab @ 24" intervals. The steel is to be placed & supported by hangers or other methods such that it remains in the central portions of the concrete as indicated in the drawings and specification sheets.



## CONCRETE FOUNDATION SPECIFICATIONS WESTHAMPTON MINI STORAGE

**FOOTING** 12" X 24"  
3,000 psi, key as indicated.

**WALLS** 10" X 24" or 48" X L  
3,000 psi

**SLAB** 6" X 40 ft X 148 ft, +, -  
3,000 psi

Disregard below grade rings & trench drains on plans. Do not pitch slab floor as indicated on Arch. plan; the slab is to be flat & level.

Haunch below containment depressions & at intersection of slab with walls; caulk at intersection of interior walls & slab.

Depression for spill containment centered in all units, 2" X 24" X 12 ft-23 ft [varies each unit]

Finish; machine steel trowel

Saw cut the width @ 15 ft intervals, depth of cut to be determined by the Architect.

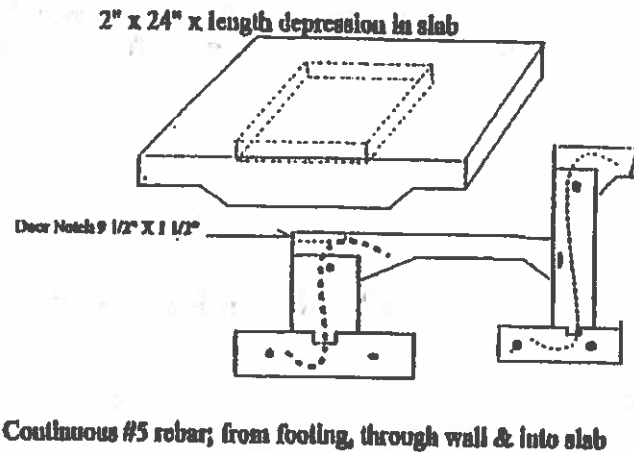
Pin slab into existing concrete walls with #5 rebar @ 24" intervals; embed 4" into existing walls & 12" into slab. The foundation immediately adjacent to the existing concrete walls will support steel structural members of the building [see American Int'l Drawing, page E2.1]. These areas must contain 12" H X 12" W X 40 ft L of concrete and be pinned as above.

### TOLERANCES

The Tolerances of the footings, walls & slabs dimensions, and pitch, flatness, out of square, etc. are to be maintained overall within +/- 1/4".

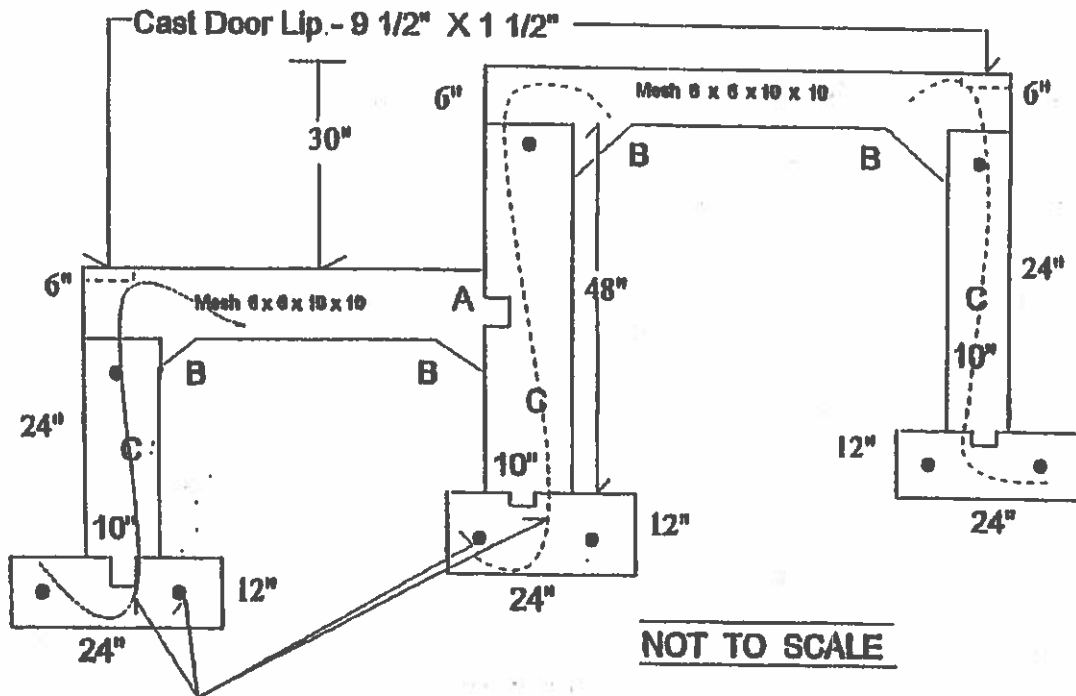
### STEEL RE-ENFORCEMENT

Per plan and continuous #5 from footing, through wall and into slab @ 24" intervals. The steel is to be placed & supported by hangers or other methods such that it remains in the central portions of the concrete as indicated in the drawings and specification sheets.



## WESTHAMPTON MINI STORAGE CONCRETE FOUNDATION PROFILE DETAIL

The elevation and location of the foundations will be established and staked by the Contractor / Owner, in the field, prior to the placement of the Subcontractor's forms.



**# 5 Rebar, Typical all footings, walls & slabs.**

**A : Key 48" wall to receive lower slab.**

**B : Haunch slab 6" X 6", 45 degrees at wall intersection.**

**C : Continuous # 5 rebar from footing, through wall & into slab.**

**Figure 1**

## Appendix A

State Environmental Quality Review  
**FULL ENVIRONMENTAL ASSESSMENT FORM**

**Purpose:** The full EAF is designed to help applicants and agencies determine, in an orderly manner, whether a project or action may be significant. The question of whether an action may be significant is not always easy to answer. Frequently, there are aspects of a project that are subjective or unmeasurable. It is also understood that those who determine significance may have little or no formal knowledge of the environment or may be technically expert in environmental analysis. In addition, many who have knowledge in one particular area may not be aware of the broader concerns affecting the question of significance.

... The full EAF is intended to provide a method whereby applicants and agencies can be assured that the determination process has been orderly, comprehensive in nature, yet flexible to allow introduction of information to fit a project or action.

**Full EAF Components:** The full EAF is comprised of three parts:

- Part 1:** Provides objective data and information about a given project and its site. By identifying basic project data, it assists a reviewer in the analysis that takes place in Parts 2 and 3.
- Part 2:** Focuses on identifying the range of possible impacts that may occur from a project or action. It provides guidance as to whether an impact is likely to be considered small to moderate or whether it is a potentially-large impact. The form also identifies whether an impact can be mitigated or reduced.
- Part 3:** If any impact in Part 2 is identified as potentially-large, then Part 3 is used to evaluate whether or not the impact is actually important.

### DETERMINATION OF SIGNIFICANCE—Type 1 and Unlisted Actions

Identify the Portions of EAF completed for this project:     Part 1     Part 2     Part 3

Upon review of the information recorded on this EAF (Parts 1 and 2 and 3 if appropriate), and any other supporting information, and considering both the magnitude and importance of each impact, it is reasonably determined by the lead agency that:

- A. The project will not result in any large and important impact(s) and, therefore, is one which will not have a significant impact on the environment, therefore a negative declaration will be prepared.
- B. Although the project could have a significant effect on the environment, there will not be a significant effect for this Unlisted Action because the mitigation measures described in PART 3 have been required, therefore a **CONDITIONED** negative declaration will be prepared.\*
- C. The project may result in one or more large and important impacts that may have a significant impact on the environment, therefore a positive declaration will be prepared.

\* A Conditioned Negative Declaration is only valid for Unlisted Actions

WESTHAMPTON MINI STORAGE

Name of Action

Name of Lead Agency

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (if different from responsible officer)

617.21

## Appendix F

State Environmental Quality Review

**NEGATIVE DECLARATION**

Notice of Determination of Non-Significance

Project Number \_\_\_\_\_

Date August 10, 1994

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Central Pine Barrens Joint Planning and Policy Commission as lead agency, has determined that the proposed action described below will not have a significant effect on the environment and a Draft Environmental Impact Statement will not be prepared.

Name of Action: Westhampton Mini Storage

SEQR Status: Type I   
Unlisted

Conditioned Negative Declaration:  Yes  
 No

Description of Action: Application to replace two man-made berms and associated concrete retaining walls with two, one-story buildings on the 40 acre disturbed portion of a 400 acre parcel. The disturbed portion is improved with eleven concrete buildings used for private self-storage. The proposed buildings will contain the same use.

Location: (Include street address and the name of the municipality/county. A location map of appropriate scale is also recommended.)

North Perimeter Road at Suffolk County Airport, Town of Southampton,  
Suffolk County; Suffolk County Tax Map Dist. 900, Section 248, Block 1,  
Lot 110 .002



**Reasons Supporting This Determination:**

(See 617.6(g) for requirements of this determination; see 617.6(h) for Conditioned Negative Declaration)

1. The 40 acre portion of the property is substantially disturbed as a consequence of its prior use as a military ammunition storage facility.
2. There is no native vegetation or habitat on the disturbed portion.
3. The existing retaining walls will be used as a part of the proposed buildings.
4. No additional impairment to the site beyond the existing disturbance will occur as a result of the development.

**If Conditioned Negative Declaration, provide on attachment the specific mitigation measures imposed.**

**For Further Information:**

Contact Person: Raymond P. Corwin, Executive Director  
Central Pine Barrens Joint Planning & Policy Commission  
Address: 3535 Sunrise Highway-P.O. Box 587, 2nd Floor  
Great River, New York 11739  
Telephone Number: (516) 563-0307

**For Type I Actions and Conditioned Negative Declarations, a Copy of this Notice Sent to:**

Commissioner, Department of Environmental Conservation, 50 Wolf Road, Albany, New York 12233-0001  
Appropriate Regional Office of the Department of Environmental Conservation  
Office of the Chief Executive Officer of the political subdivision in which the action will be principally located.

Applicant (if any)

Other involved agencies (if any)      Town of Southampton

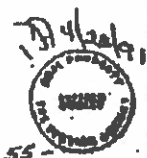
11256-285

Standard N. Y. S. T. U. Form 697-A • 12-28-62—Executor's Deed—Individual or Corporation (State Blank)

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT—THIS INSTRUMENT SHOULD BE VIEWED BY LAWYERS ONLY.

THIS INDENTURE, made the 18<sup>th</sup> day of October, nineteen hundred and ninety  
BETWEEN THE SUFFOLK COUNTY NATIONAL BANK, a national banking  
corporation organized and existing under and by virtue of the laws  
of the United States, with its principal office at 6 West Second  
Street, Riverhead, New York 11901

21393



and Trustee  
as executor/ etc

ETHEL B. FISHEL

under

the last will and testament of  
late of

55-  
0200  
41200  
0300  
008086

Suffolk County  
who died on the 19<sup>th</sup> day of October, nineteen hundred and sixty-seven  
party of the first part, and

PATRICIA TUCCIO, residing at 163 Woodhull Avenue, Riverhead, New  
York and EDWIN F. TUCCIO, RFD Box 19, Riverhead, New York, as  
tenants-in-common ... /residing at 547 East Main Street,

0200  
46300  
0100  
014000  
0200  
41200  
0300  
040000

party of the second part,

and letters of Trusteeship  
WITNESSETH, that whereas letters testamentary were issued to the party of the first part by the Surrogate's  
Court, Suffolk County, New York, on September 22, 1967 and by virtue  
of the power and authority given in and by said last will and testament, and/or by Article II of the Estate,  
Powers and Trusts Law, and in accordance with distribution of the trustee estate,

the party of the first part ... does hereby grant and  
release unto the party of the second part, the distributees or successors and assigns of the party of the second  
part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate,  
lying and being in the

0200  
46300  
0100  
011000  
0900  
24500  
0100  
110.002

... ~~... DESCRIBE A ATTACHED HERETO AND MADE A PART HEREOF~~  
FOR DESCRIPTIONS OF THE PROPERTY CONVEYED

21393



TOGETHER with all right, title and interest, if any, of the party of the first part in and to any deeds and  
records relating to the above described premises in the center lines thereof; TOGETHER with the appurtenances,  
and also all the estate which the said decedent had at the time of decedent's death in said premises, and also  
the estate therein, which the party of the first part has or had power to convey or dispose of, whether individ-  
ually, or by virtue of said will or otherwise; TO HAVE AND TO HOLD the premises herein granted unto  
the party of the second part, the distributees or successors and assigns of the party of the second part forever.

Subject to the trust fund provisions of section thirteen of the Lien Law.  
The word "party" shall be construed as it is read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above  
written.

IN PRESENCE OF:

THE SUFFOLK COUNTY NATIONAL BANK

BY Daniel Cicca  
VICE PRESIDENT

Handwritten notes and initials on the left margin.

11'206'288

and other land now or formerly of Hilltop 85 (formerly Herman Dietz and Elizabeth Nienstedt) thence along said last mentioned land North 5 degrees 44 minutes 40 seconds East 357.96 feet to land now or formerly of Kenneth H. Leeds, (formerly Mrs. Joseph Martin and Job Raynor); thence along said last mentioned lands South 83 degrees 59 minutes 40 seconds East 668.80 feet to lands now or formerly of Simbar Development Corp. (formerly Edward McKelvey and Luther Raynor); thence along said last mentioned lands, South 5 degrees 34 minutes 50 seconds West 357.96 feet to the point or place of BEGINNING.

The above four (4) parcels being and intended to be the same premises conveyed to the party of the first part by deed from Central 53 dated November 16, 1979, and recorded in the Suffolk County Clerk's Office on April 30, 1980, in Liber 8814 page 467.

PARCEL 5

ALL that certain plot, piece or parcel of land, situate, lying and being at East Manor, at or near Manorville, in the Town of Brookhaven, County of Suffolk and State of New York, and being more particularly bounded and described as follows:

DIST. ~~2.00~~  
SEC. ~~16.3~~  
BLOCK ~~01.00~~  
LOT(S) ~~11.00~~

BEGINNING at a monument with the initial "N" chiseled thereon which monument is situate at the Northwesterly corner of premises herein described, and the Southwesterly corner of premises formerly owned by Bernard K. Meyer, formerly D.E. Edwards, formerly Ethel B. Fishel; running thence South 82 degrees 02 minutes 48 seconds East along said last mentioned land 640.24 feet; running thence South 83 degrees 49 minutes 50 seconds East along land now or formerly of Herbert Hamburger 28.00 feet; running thence South 5 degrees 39 minutes 05 seconds West along land now or formerly of Simbar Development Corp., formerly Edward McKelvey, formerly Luther Raynor, 355.12 feet to other land of Bernard K. Meyer; running thence South 83 degrees 55 minutes 25 seconds East along said last mentioned land 668.80 feet to land of Hilltop 85, formerly Herman Dietz, formerly Elizabeth Nienstedt; running thence North 5 degrees 48 minutes 55 seconds East along said last mentioned land 376.15 feet to a monument and the point or place of BEGINNING.

PARCEL 5 BEING AND INTENDED to be the same premises conveyed to the party of the first part by deed from Kenneth H. Leeds dated November 15, 1979, and recorded in the Office of the Suffolk County Clerk on April 30, 1980 in Liber 8814 page 463.

PARCEL 6

DIST. ~~2.00~~  
SEC. ~~27.8~~  
BLOCK ~~01.00~~  
LOT(S) ~~110.00~~

ALL that certain plot, piece or parcel of land, situate, lying and being in the Town of Southampton, County of Suffolk and State of New York, known and designated as part of lot 26 to 30 inclusive, Quogue Purchase, bounded north and west by land now or formerly of Suffolk Airways Inc., east by Lot 25, Quogue Purchase, south by Middle Line.

PARCEL 6 BEING AND INTENDED to be the same premises conveyed to Edwin D. Fishel by deed dated September 19, 1940, and recorded in the Suffolk County Clerk's Office on September 20, 1940 in Liber 1180 page 378.

The party of the first part does further remise, release and quitclaim unto the party of the second part any and all parcels of land and improvements thereon which it may possess as Executor or Trustee of the Estate of Ethel Fishel situate in the Towns of Southampton and Brookhaven, Suffolk County, New York.

112561286

STATE OF NEW YORK, COUNTY OF ...  
On the ... day of ... 19 ... before me  
personally came

to me known to be the individual described in and who  
executed the foregoing instrument, and acknowledged that  
executed the same.

STATE OF NEW YORK, COUNTY OF ...  
On the ... day of ... 19 ... before me  
personally came

to me known to be the individual described in and who  
executed the foregoing instrument, and acknowledged that  
executed the same.

STATE OF NEW YORK, COUNTY OF SUFFOLK  
On the 17th day of December, 1990, before me  
personally came Daniel Cicale  
to me known, who, being by me duly sworn, did depose and  
say that he resides at No. 1 Welding, Ave.  
Six Hills, NY.  
that he is the VICE PRESIDENT  
of THE SUFFOLK COUNTY NATIONAL BANK  
the corporation described  
in and which executed the foregoing instrument; and that  
he is the VICE PRESIDENT  
of the corporation described in and which executed the foregoing instrument;  
and that he signed his name thereto by the order  
of the board of directors of said corporation.

STATE OF NEW YORK, COUNTY OF ...  
On the ... day of ... 19 ... before me  
personally came  
the subscribing witness to the foregoing instrument, with  
whom I am personally acquainted, who, being by me duly  
sworn, did depose and say that he resides at No.  
that he knows  
to be the individual  
described in and who executed the foregoing instrument;  
that he, said subscribing witness, was present and saw  
execute the instrument and that he, said witness,  
at the same time subscribed his name as witness thereto.

Linda B. Schell  
Notary Public

LINDA B. SCHELL  
Notary Public, State of New York  
110 ...  
Suffolk County, New York

Executor's Deed

TITLE NO.  
THE SUFFOLK COUNTY NATIONAL BANK

TO  
PATRICIA TUCCIO and EDWIN F. TUCCIO

SECTION  
BLOCK  
LOT  
COUNTY OR TOWN  
STREET ADDRESS

Recorded at Request of  
CHICAGO TITLE INSURANCE COMPANY

Forward by Mail to

CHICAGO TITLE INSURANCE COMPANY  
Distributed by  
CHICAGO TITLE  
INSURANCE COMPANY

Edi P. DePetris, V. Esq.  
SCHREIBER, SCHIFFS, DePETRIS & DePETRIS  
P. O. Box 589  
Riverhead, New York 11901  
21p No.

THIS SPACE FOR USE OF RECORDING OFFICE

**DECISION AND FINDINGS OF FACT  
CORE PRESERVATION AREA HARDSHIP EXEMPTION PERMIT**

**Applicant:** Edwin Tuccio; Westhampton Mini Storage

**Property Location:** 400-acre parcel on North Perimeter Road at the Suffolk County Airport, Town of Southampton, County of Suffolk.

**Description of Proposed Development:**

The applicant proposes to construct two, one-story, steel-framed storage buildings in place of two blast deflectors which will be removed, on property zoned 5-acre industrial. The property was previously improved and used by the United States Air Force during the 1950s for the storage and assembly of military ammunition.

**Date of Public Hearing Before the Commission:** June 22, 1994

**Decision of the Central Pine Barrens  
Joint Planning and Policy Commission:**

By resolution dated August 12, 1994, the Commission voted to grant the application for a hardship exemption, subject to certain conditions, based upon the findings of fact set forth herein.

**Findings of Fact:**

The subject property is located in the Core Preservation Area of the Central Pine Barrens as such term is defined in Article 57 of the Environmental Conservation Law ("Article 57").

Pursuant to § 57-0121(8) of Article 57, no development is permitted in the Central Pine Barrens prior to the approval and implementation of a comprehensive land use plan. Prior to the adoption of this land use plan, an application for a hardship permit exempting a Core Preservation Area property owner from the development prohibition in § 57-0121(8) may be submitted to the Commission pursuant to § 57-0121(10).

Section 57-0121(10) sets forth specific standards which must be met before the Commission may grant a hardship exemption in the Core Preservation Area. The applicant must satisfy one of two prongs by establishing either: (a) an extraordinary hardship as distinguished from mere inconvenience if he is precluded from developing the property, or (b) a compelling public need for the proposed development.

In order to establish an extraordinary hardship, the applicant must demonstrate that the subject property has no beneficial use if used for its present use or if used as permitted as of right under Article 57. The lack of beneficial use, furthermore, must be due to the existing unique circumstances of the subject property which: (a) do not apply to or affect other property in the immediate vicinity; (b) relate to or arise out of the characteristics of the subject property rather than the personal situation of the applicant; or (c) are not the result of any action or inaction by the applicant.

The subject property was formerly part of a large tract developed by the United States Air Force for the storage and assembly of military weapons. At that time, the tract was excavated and improved with asphalt and concrete roadways. Eleven concrete buildings were previously constructed on the site. These buildings, consisting of 40,000 square feet, are presently used for self-storage. Two man-made, steep berms, contained by 12-foot high concrete retaining walls and foundations, were also constructed. The steep berms were originally built for use as blast deflectors in the event of an accidental explosion. The construction of these improvements resulted in the removal of all native vegetation from the site.

The subject property is zoned for 5-acre industrial development. The applicant does not seek a change in the property's present zoning, and proposes development on the 40 acre portion of the subject property which is disturbed. The applicant proposes the removal of the two berms and the addition of two, steel-framed, 40 ft. x 150 ft. x 12 ft. buildings. The buildings will be sited where the berms are presently located.

The Central Pine Barrens Joint Policy and Planning Commission (the "Commission"), as lead agency, required the applicant to submit a full Environmental Assessment Form ("EAF"). The EAF states that the subject property has been previously disturbed and the nature of the existing commercial activities, low intensity mini self storage, should result in minimal, if any, negative environmental impacts.

Based upon the statements contained in the written application, submitted on May 31, 1994, an addendum submitted on June 20, 1994, the evidence and testimony provided during the public hearing and on other material in the record, the Commission finds that the subject parcel is substantially disturbed as a result of its prior use as a military ammunition storage facility. Specifically, the prior site development has resulted in the removal of all native vegetation. The retaining walls presently on the subject parcel will be

used as the walls and foundation of the proposed buildings.

Due to the extent and nature of the prior disturbance of the subject parcel, the Commission finds that the parcel is unique and has no beneficial use if used for its present use or as authorized by Article 57. The subject parcel's unique circumstances do not apply to other parcels in the immediate vicinity. The parcel was disturbed when the applicant acquired it and the disturbance is a specific characteristic of the parcel. Thus, the unique circumstances of the parcel are unrelated to the personal situation of the applicant. Further, the unique circumstances of the parcel are not due to any action or inaction of the applicant. The unique circumstances are a result of the use of the parcel as a military ammunition storage facility in the 1950s and its subsequent abandonment.

The applicant has met his burden of demonstrating an extraordinary hardship by strict enforcement of Article 57. The Commission further determines that the addition of two, one-story buildings and the removal of two, man-made steep berms, which are not capable of re-establishing significant native vegetation or habitat, will not have a deleterious impact on the neighboring property. No utilities will be installed except for exterior mounted security lighting. Further, no septic systems will be installed and no effluent will be generated. Based upon the environmental review, it appears that any impairment of natural resources has already occurred in connection with the prior excavation and use of the subject property and that there will be no additional impairment if this development proceeds, subject to the conditions set forth below.

The general purpose of Article 57 is to protect the groundwater and to preserve endangered or threatened species and their habitats. The EAF identified and addressed these areas of concerns. It concluded that the proposed development would result in only small to moderate impact on the groundwater and that, due to the substantial disturbance of the property, no rare or endangered species exist on the site. Long Island Dwarf Pine Plains, which are found in the general vicinity of the subject property, will not be removed or adversely impacted as a result of the proposed development. The pre-existing paved roads, buildings and retaining walls have prevented a natural state from occurring on the site. Thus, the proposed development will be consistent with the purposes, objectives and general intent of Article 57.

Finally, the Commission finds that the relief granted is the minimum necessary to avoid the extraordinary hardship. The Commission's TDR program has not yet

been fully implemented. There is no other relief available to the applicant under Article 57.

The application is granted, subject to the following conditions:

1. This approval is limited to that portion of the 400 acre parcel currently fenced and used for the actual operation of the existing mini-storage facility, as shown on the exhibits submitted by the applicant and retained by the Commission, and this approval expressly excludes all lands outside such fenced area. In particular, this excludes all portions of the subject real property which are not contained within the fence and are therefore not currently used for the mini-storage facility.
2. Necessary site improvements required by the Town of Southampton directly related to the construction of the new storage buildings are permitted and shall include, but not be limited to any minor additional paving or other requirements imposed by the Town of Southampton or other permitting authorities.
3. There shall be no storage of toxic, hazardous, flammable or explosive materials or waste products on the subject property.

Dated: October 13, 1994



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CENTRAL PINE BARRENS

JOINT PLANNING AND POLICY COMMISSION

----- :  
In the Matter of the Application of :  
: :  
: :

WESTHAMPTON MINI-STORAGE :  
: :  
: :

For a core preservation area hardship :  
exemption and Compatible Growth Area :  
approval within a Critical Resource :  
Area. :  
: :  
----- :

HEARING in the above-captioned matter, held  
on the 16th day of July, 1997 at 5:00 P.M., at  
Brookhaven Town Offices, Building 4 Conference  
Room, Medford, New York, pursuant to Notice of  
Hearing, and before Sheila Pariser, R.P.R., a Notary  
Public of the State of New York.

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

ROBERT J. GAFFNEY, Chairman  
Suffolk County Executive  
BY: ROY S. DRAGOTTA

VINCENT CANNUSCIO, Member  
Supervisor, Town of Southampton  
BY: ANDREW P. FRELENG, AICP

JAMES R. STARK, Member  
Supervisor, Town of Riverhead  
BY: BRENDA A. FILMANSKI, Planner

RAY E. COWEN, P.E., Member  
DEC Regional Director  
Representing George Pataki, Governor

DONNA PLUNKETT, Staff to Commission

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[THE HEARING WAS CALLED TO ORDER BY THE  
ACTING CHAIRMAN, ROY S. DRAGOTTA, AT  
5:00 P.M.]

MR. DRAGOTTA: I would like to call the public hearing portion of the meeting open. My name is Roy Dragotta. I am Acting Chairman on behalf of County Executive Robert Gaffney, Chairman of the Commission; and I will ask each of the members to introduce themselves.

MR. FRELENG: Andrew Freleng, Town of Southampton; representing Vincent Cannuscio, Supervisor.

MR. COWEN: Ray Cowen, representing Governor Pataki.

MS. FILMANSKI: Brenda Filmanski, representing the Supervisor of the Town of Riverhead, James R. Stark.

MR. DRAGOTTA: At this time, I will ask the meeting notice to be put into the record.  
"Notice of Public Hearing  
"Pursuant to the Environmental Conservation Law Article 57-0121(10),  
notice is hereby given that two public

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1 hearings will be held by the Central Pine  
2 Barrens Joint Planning and Policy  
3 Commission on July 16, 1997 on the matter  
4 of two applications for core preservation  
5 area hardship exemptions. The subject of  
6 hearing is:

7 "Applicant: Westhampton Mini-  
8 Storage.

9 "Project Description: The  
10 addition of four storage buildings totaling  
11 twenty-four thousand square feet on a forty  
12 acre portion of a larger site which  
13 contains eleven concrete buildings totaling  
14 forty-six thousand square feet on property  
15 zoned L1200.

16 "Project Location: North of  
17 Gabreski Airport, east side of County Road  
18 31, Westhampton, Town of Southampton.

19 "Suffolk County Tax Map Number:  
20 900-248-1-110.2.

21 "The hearing will be held at five  
22 p.m., Brookhaven Town Offices, Building 4  
23 conference room. Copies of the  
24 applications are available for examination  
25 during regular business hours between

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1 eight-thirty a.m. and five p.m. at the  
2 Commission's office at 3525 Sunrise  
3 Highway, Second Floor, Great River, New  
4 York."

5 Who is representing Westhampton  
6 Mini-Storage?

7 MR. TUCCIO:

8 My name is Edward Tuccio, and  
9 this is my sister, Pat Tuccio. We are here  
10 to ask for relief from the Pine Barrens for  
11 dealing with the expansion of our mini-  
12 storage facility at Westhampton.

13 This site is a site of  
14 approximately fifty-three acres in an  
15 industrial zone. The site has been taken  
16 out of a much larger site by -- we sold  
17 part of it to the Nature Conservancy and  
18 the State of New York. They removed this  
19 site because this was a very highly  
20 developed site, and they weren't interested  
21 and didn't feel that it fit their criteria  
22 for the purchases.

23 Essentially, this is the same  
24 exact application that we came to you for a  
25 couple of years ago. The mounds that exist  
here, the berms, [INDICATING ON SURVEY],

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1 the blast berms that were built by the  
2 United States Air Force to deflect any  
3 explosion that might have occurred at the  
4 site, are to be removed and replaced with  
5 the same exact buildings as we put in the  
6 previous application.

7 The sites are surrounded by  
8 streets. There is only forty foot between  
9 each street, so these mounds are in between  
10 these streets.

11 In these mounds are utilities,  
12 including drainage, City water and in one  
13 of the mounds is an air-conditioning power  
14 that was built by the Air Force to cool the  
15 buildings because one of the buildings had  
16 missile heads in it that required the  
17 temperature and humidity to be held at a  
18 certain point.

19 Essentially, in our previous  
20 application, we came to you and told you  
21 that we would make every attempt possible  
22 to protect the groundwater. We designed  
23 floors that retained any spill that might  
24 be incurred in the unit, and it went on to  
25 be written up nationally as an example of

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1 how to protect the groundwater, and this is  
2 a standard that is going to be used  
3 probably all across the United States.

4 This was an innovative idea, and it is  
5 because of the floor that we went to those  
6 lengths to make our units this way.

7 We also installed sprinkler  
8 systems in all units that are individually  
9 controlled by each unit. In case there was  
10 ever a fire, each unit would be protected.

11 This facility also includes an  
12 underground storage facility of water and a  
13 fire hydrant. It is the only water  
14 protection for the whole north side of the  
15 Suffolk County Air Base. If there were  
16 ever a fire out there, the only hydrant out  
17 there is in our facility, and we do have  
18 City water.

19 We feel it is the least possible  
20 use for our property that wouldn't  
21 interfere with any surrounding areas. You  
22 know, it is dead storage. There is almost  
23 no traffic, and we have been doing this for  
24 over twenty years.

25 We have had no problems. We have

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1 a person on there staying all day long so  
2 there is always somebody there to watch the  
3 place.

4 Basically, the application I  
5 think is -- we have covered everything I  
6 think that I think we can possibly cover.

7 MR. DRAGOTTA: All right.

8 MR. COWEN: Can you indicate for us on the  
9 plans here which are the existing and which  
10 are the proposed structures?

11 MS. PLUNKETT: You can point to it here so that  
12 everyone in the room could see what you are  
13 pointing to.

14 MR. TUCCIO: Sure. These buildings exist,  
15 these right here. These are the proposed  
16 new buildings. They are all the way back  
17 in the same size, forty by one hundred  
18 fifty. There are four new buildings.

19 All these streets are existing  
20 all the way around.

21 MR. COWEN: Where is the property line  
22 approaching this particular property?

23 MR. TUCCIO: The fifty-three acres --

24 MS. PLUNKETT: [INTERPOSING] Is it the fenced-  
25 in area?

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1 MR. TUCCIO: No, no; it is beyond the fenced-  
2 in area. Here is the fenced-in area, and  
3 here is the property line. [INDICATING ON  
4 PLANS]

5 When we cut this piece out, the  
6 Nature Conservancy -- we did a study to see  
7 where the Pine Barrens stopped. So, we  
8 kept the property where the Pine Barrens  
9 stopped, and they took the property where  
10 there were Pine Barrens. That's why it  
11 looks like this.

12 MR. COWEN: What is the nature of the  
13 property to the east of the fence?

14 MR. TUCCIO: This in here?

15 MR. COWEN: No, east of the fence, but within  
16 your fifty-three acres.

17 MR. TUCCIO: This is storage buildings. It is  
18 all cleared.

19 MR. COWEN: Are those bunkers of some kind?

20 MR. TUCCIO: Those were built by the Air Force  
21 for high storage facility.

22 MR. COWEN: What are the future plans?

23 MR. TUCCIO: We don't have any future plans.

24 This is rented to Bay Fireworks. It is a -  
25 long-term lease and it is all licensed.

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1                   These buildings are also four feet thick.  
2                   The doors are a foot thick, solid steel.  
3                   As a matter of fact, they were so high  
4                   security we -- well, let's just say things  
5                   that belong to someone else that they  
6                   didn't want them to have. It was the only  
7                   facility they could find that was big  
8                   enough to store that kind of stuff. They  
9                   are like bank vaults, essentially.

10       MR. COWEN:                    You don't have any plans to  
11                   develop this area?

12       MR. TUCCIO:                  No, we don't.

13       MR. COWEN:                    This would represent then your  
14                   final application for the property?

15       MR. TUCCIO:                  For the foreseeable future. We  
16                   thought it would be easier to do all our  
17                   future expansion at once. The berms are  
18                   there. If we are going to do the work, we  
19                   might as well complete it at once.

20       MS. PLUNKETT:                 What about to the north of the  
21                   existing facility, the area in here where  
22                   you have more bunkers?

23       MR. TUCCIO:                  We don't have any plans on doing  
24                   any kind of expansion. Unless the  
25                   Westhampton Airport, all of a sudden -- it

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1 seems to be slipping instead of expanding.  
2 There seems to be half the buildings there  
3 now than there were two weeks ago.

4 MS. FILMANSKI: The buildings constructed as a  
5 result of the last application, that were  
6 last requested relief for, are which ones?

7 MR. TUCCIO: This one and this one.

8 MR. COWEN: Can you show us on the bigger  
9 map?

10 MR. TUCCIO: This building and this building.

11 MR. FRELENG: Is that the most northerly  
12 building?

13 MR. TUCCIO: The most northerly building in  
14 that group is here, and this one in  
15 between.

16 Essentially, these berms were  
17 built so this was completely surrounded  
18 when they were storing explosives in here.

19 MR. FRELENG: If I can just ask you, you did  
20 state that the berms were going to be  
21 removed?

22 MR. TUCCIO: Yes.

23 MR. DRAGOTTA: The material was going to go  
24 where?

25 MR. TUCCIO: The material probably will go to

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1 Suffolk.

2 MR. FRELENG: They will remove the material  
3 from the site?

4 MR. TUCCIO: Actually, I think the last  
5 material ended up on Westhampton, on Dune  
6 Road, when they were doing -- trying to  
7 fill it in.

8 MR. FRELENG: To the best of your knowledge, it  
9 is just clean sand?

10 MR. TUCCIO: Yes, the Air Force went to no --  
11 expense was not an issue here. When we  
12 took these berms down, they were all sand  
13 inside.

14 MR. FRELENG: Just one other question.  
15 Do you know the current zoning on  
16 the property?

17 MR. TUCCIO: Yes, industrial.

18 MS. PLUNKETT: LI40.

19 MR. COWEN: It is your intention, then, to  
20 build the buildings on the footprints of  
21 where these berms are right now?

22 MR. TUCCIO: Yes. We intend to put concrete  
23 ramps to the road.

24 MR. COWEN: Virtually no native vegetation  
25 will be sacrificed on the property?

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1 MR. TUCCIO: No, it is surrounded by roads.  
2 The Nature Conservancy has done a complete  
3 study of this area. They spent a month out  
4 here, you know, going through everything,  
5 and the Army Corps of Engineers as well.

6 MR. COWEN: How long have you owned this  
7 property?

8 MR. TUCCIO: We have owned this property --  
9 well, my sister and I inherited it. Our  
10 family has owned it since the '30's, but  
11 the Air Force was in control of it from  
12 1940 to 1970. So, we had no -- we couldn't  
13 go on the property. We had no idea there  
14 were any buildings there, to be quite  
15 frank.

16 MR. FRELENG: When you negotiated with the  
17 Nature Conservancy and they wanted, for  
18 want of a better term, wanted to purchase  
19 the remaining parcel, this was an out-  
20 parcel?

21 MR. TUCCIO: There was a five lot subdivision.  
22 This parcel was out, and the rifle range  
23 that the Air Force had built, that's out.

24 MR. FRELENG: They are not connected in any  
25 way?

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1 MR. TUCCIO: No, they are not. We have  
2 another sixty-three acre parcel that we are  
3 in contract to sell to the Nature  
4 Conservancy.

5 MS. PLUNKETT: The portion to the very west,  
6 that's out, also?

7 MR. TUCCIO: We are in contract to sell that  
8 right now.

9 MR. PLUNKETT: You said five lots. I only heard  
10 of four.

11 MR. TUCCIO: I can show you on this map.  
12 There were five because -- this parcel,  
13 12.75 acres, that was also sold to the  
14 Nature Conservancy.

15 MS. PLUNKETT: Why wasn't that left in with the  
16 larger ones? Is that just because it is  
17 isolated?

18 MR. TUCCIO: Which isolated are you talking  
19 about, Parcel E or Parcel B? We went with  
20 Parcel B, the larger one, if that's what  
21 you mean. The Nature Conservancy owns this  
22 one here, and we own this and this.

23 MR. COWEN: Just to complete the record, when  
24 Mr. Tuccio referred to the Nature  
25 Conservancy, they are acting as agents of

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1 the State DEC.

2 MS. PLUNKETT: If I could just clarify  
3 something.

4 Mr. Tuccio describes how the  
5 project meets the standards that are used  
6 in the compatible growth area. I would  
7 like it to go on the record that these are  
8 not the standards that we use for a core  
9 area hardship application. Where you  
10 reiterate one through seventeen, these are  
11 actually taken from the compatible growth  
12 area standards, just so that you and the  
13 Commission understand that. This is not  
14 really relevant information to the  
15 application at hand. Just for  
16 clarification.

17 I just have another question for  
18 you. On the other remaining bunkers within  
19 the area where the first buildings were  
20 built, I think there are four or five more,  
21 that would be these right here, this one,  
22 [INDICATING].

23 MR. TUCCIO: These are all buildings here.

24 MS. PLUNKETT: Before the question was asked

25 which buildings were built subject to the

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1 previous approval.

2 MR. TUCCIO: This one and that one.

3 MS. PLUNKETT: You are saying these were there?

4 MR. TUCCIO: Yes.

5 MS. PLUNKETT: Were those part of the original  
6 approval?

7 MR. TUCCIO: No, the Air Force Built those and  
8 the Air Force built these.

9 MS. PLUNKETT: They were rented as mini-storage?

10 MR. TUCCIO: They were all eighteen by  
11 seventeen and a half. They were all  
12 garages. They were built to store  
13 missiles.

14 MS. PLUNKETT: I just would need to look at the  
15 previous approval to clarify something for  
16 myself. We don't need to discuss that  
17 here.

18 MR. TUCCIO: Any other questions?

19 MR. COWEN: Yes, actually, I do. Let me  
20 think a minute here.

21 One of the criteria that we have  
22 to find when we issue or when we consider  
23 hardship, you know variance applications  
24 for the core, is that the waiver is a  
25 minimum relief necessary to relieve the

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1 extraordinary hardship.

2 Can you expand on that a little  
3 bit for us as to how allowing you to build  
4 four more buildings there would represent  
5 the minimum relief necessary?

6 MR. TUCCIO:

7 The hardship is to the core,  
8 itself. This property does not fit into  
9 the intent of the law. This topography and  
10 the development that exists here is so, you  
11 know -- I only can think of it in O.J.'s  
12 terms, if it doesn't fit, it quits. No way  
13 does it fit into the intent of the Pine  
14 Barrens Law. It is so developed and so  
15 unusual that it was never intended to be  
16 part of this law and it doesn't fit.

16 MR. COWEN:

17 Notwithstanding that, could you  
18 think of an argument for us that would go  
19 to that issue of minimum relief? Why is it  
20 you need four more buildings here and why  
21 is it that would represent minimum relief  
22 for you?

22 MR. TUCCIO:

23 It doesn't fit into the law. It  
24 is a fifty-three acre parcel. We are only  
25 developing a fraction of this, and it is -  
already subject to -- there are already

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1 structures there. These mounds are  
2 structures, and there are structures in the  
3 mounds. We aren't converting one thing to  
4 another.

5 MR. COWEN: Okay. Again, notwithstanding the  
6 argument you don't believe this fits within  
7 the law, it is within the core of the Pine  
8 Barrens one way or another?

9 MR. TUCCIO: But the Nature Conservancy and  
10 the State also found it does not fit within  
11 the law.

12 MR. COWEN: We have to make this minimum  
13 relief finding, and if you can just give us  
14 a few words about how this represents  
15 minimum relief for you?

16 MR. TUCCIO: It is so underutilized. This is  
17 a fifty-three acre industrial piece, and  
18 you know, the development potential of a  
19 fifty-three acre parcel is hundreds of  
20 thousands of square feet. I mean, this is  
21 a minimum.

22 MR. COWEN: How many square feet do you end  
23 up with if this is approved?

24 MR. TUCCIO: About eighty thousand.

25 MS. PLUNKETT: In total?

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1 MR. TUCCIO: In total, eighty-three and  
2 change.  
3 MR. COWEN: How much percent of a fifty-three  
4 acre parcel?  
5 MR. TUCCIO: Sixteen percent, twenty. Four  
6 hundred thousand square feet?  
7 For every acre it is  
8 approximately seven thousand square feet.  
9 So, it would be -- the potential is, you  
10 know, it is sixteen percent coverage.  
11 MR. COWEN; Three hundred seven thousand.  
12 MR. TUCCIO: This is only a fraction of the  
13 potential development.  
14 MR. COWEN: Are you representing to us, as  
15 far as you know, that would be the maximum  
16 build-out that you could be looking for, at  
17 least in the foreseeable future?  
18 MR. TUCCIO: Yes, sir, that is correct.  
19 MR. COWEN; You have represented this is a  
20 unique property in this area, and it does  
21 not represent any characteristics of the  
22 surrounding properties. It is totally  
23 unique?  
24 MR. TUCCIO: Absolutely unique. We are  
25 surrounded by hundreds and hundreds of

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1                    acres of Pine Barrens. This site is very  
2                    remote. It is right on the runways, and I  
3                    don't think there is another site like it  
4                    on Long Island.

5        MR. COWEN:                    That's all I have.

6        MR. DRAGOTTA:                Do you have anything?

7        MR. FRELENG:                No, I have no questions.

8        MS. FILMANSKI:                No.

9        MS. PLUNKETT:                Can you possibly supply us with a  
10                   copy of that subdivision map?

11       MR. TUCCIO:                    Yes.

12       MR. DRAGOTTA:                Do you have any other testimony  
13                   to present?

14       MR. TUCCIO:                    No. You have the application.

15       MR. DRAGOTTA:                We have these photographs. These  
16                   photographs are being submitted tonight as  
17                   part of the record.

18                                    Thank you.

19                                    Is there anyone in the audience  
20                   that wishes to address the Commission? If  
21                   not, I will declare the hearing closed,  
22                   except I will keep the public comment  
23                   period open until August 6, 1997.

24                                    Thank you.

25       MR. TUCCIO:                    Thank you very much.

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MR. DRAGOTTA:

Have a good night.

[WHEREUPON THIS PUBLIC HEARING WAS CLOSED  
AT 5:20 P.M. WITH THE PUBLIC COMMENT PERIOD  
BEING LEFT OPEN UNTIL AUGUST 6, 1997.]

o0o

*Modern Shothead*

261 WOODBURY ROAD, HUNTINGTON, N. Y. 11743  
421-2288 682-7383



EDWIN & PATRICIA TUCCIO  
547 EAST MAIN STREET  
RIVERHEAD, NEW YORK 11901

May 26, 1997

Central Pine Barrens Commission  
P.O. Box 587  
3525 Sunrise Highway  
Great River, New York 11739

Subject: Core Preservation Area Hardship Application  
Westhampton Mini Storage  
North Perimeter Road, Suffolk County Airport

Dear Commissioners:

Enclosed please find the Hardship Application for the subject property. The basis of the hardship is the assertion that the property has no beneficial use as prescribed under the LIPBPA and that this lack of beneficial use is due to the pre-existing extensive development of the property. Further, the proposed development requested is consistent with the intent of the LIPBPA and will not negatively impact endangered species, habitat, vegetation or groundwater.

The appropriate policies and standards contained in the Interim Goals & Standards for Development are the format of this application.

Due to circumstances of the applicant, the prompt processing of the application is requested.

Any additional information needed to review this application will be promptly provided.

Very truly yours,

*Edwin F. Tuccio*

Patricia Tuccio

Edwin F. Tuccio

Patricia Tuccio

**CORE PRESERVATION AREA HARDSHIP APPLICATION**

**Applicant Information**

**Westhampton Mini Storage  
547 East Main Street  
Riverhead, New York 11901**

**Patricia Tuccio  
Edwin Fishel Tuccio  
516 727 6644**

**Application Prepared by**

**Edwin Fishel Tuccio  
547 East Main Street  
Riverhead, New York 11901  
516 727 6644**

**Project Description**

<b>Project Name</b>	<b>Westhampton Mini Storage</b>
<b>Town</b>	<b>Southampton</b>
<b>Street Location</b>	<b>North Perimeter Road, Suffolk Co. Airport</b>
<b>Tax Map Number</b>	<b><u>Part Of 0900-248-01-110.002</u></b>
<b>Total Acreage</b>	<b><u>52.2997 ac total tax map parcel: 40 ac existing developed total: 24,000 sq/ft proposed additional development total</u></b>
<b>Present Land Use</b>	<b>46,000 sq ft of self storage, within eleven concrete buildings surrounded by paved asphalt and concrete roads. This use operates as a pre- existing non-conforming use.</b>
<b>Present Zoning</b>	<b>5 Acre Industrial</b>



**PROJECT TYPE-** The addition of four steel framed & skinned buildings 40ft X 150 ft X 12 ft high; supported on concrete foundations and slabs on grade; containing approximately thirty self storage units each. No utilities will be installed in the buildings with the possible exception of exterior mounted security lighting. No septic systems will be installed and no effluent will be generated. The buildings will be located in an area surrounded by existing asphalt and concrete paved roads, and adjacent to four existing buildings, also with no utilities, of similar size, used for the same purpose as the proposed buildings. The project will require the removal of two man made steep berms (50% slopes), approximately the same size as the four proposed buildings and the obsolete climate control equipment installed by the air force in the berm. The site was developed by the U.S. Air Force in the 1950's for the storage and assemble of weapons and is a contiguous part of the now Suffolk Co Airport complex. The two steep berms were to function as blast deflectors in the event of an accidental explosion. The entire site was excavated at that time and resulted in the removal of all native vegetation, the current site is distinctively in contrast with that of a pristine pine barren. Due to the management and nature of the existing commercial activities, low intensity mini self storage, the negative impacts on the environment are minimal, if any at all. The addition of the proposed buildings will result in a small increase in intensity but will not introduce any additional environmental threats.

**1. GROUNDWATER -** The proposed buildings are for storage only and will not contain any sanitary facilities and, therefore, will not generate any sewage effluent. The unpaved/undeveloped land at the site will remain in a native vegetated state and will not be fertilized. No nitrogen loading will occur as a result of these proposed buildings.

The proposed buildings will not store toxic or hazardous materials. The tenants leasing the units are prohibited from such storage and agree to same in the lease agreement. Further the landlord has by lease agreement the right to enter, without prior notice to the tenant, in order to inspect for hazardous materials.

Based on SCDH - Water Table Contours Map, March 1992, the flow of groundwater from the proposed site will be the southeast into an area that has been subjected to 'Hazardous Spills/Leaks - Groundwater Discharges' (Krulik 1986 - Suffolk Co. Pine Barrens Hydrologic Report: Point Source #171, Gasoline; # 2, JP 4 Jet Fuel; #262, Aviation Fuel & Sodium Sulfate and other pollutants). Recognizing the importance to not further degrade the area, the applicant will consider, if the P B Commission determines that extreme precautions are necessary, the installation of an appropriate 'Landfill Liner, Leachate Collection & Removal System' as described in 6 NYCRR Solid Waste Management Facilities- Part 360 - 2.13 (f) thru (v).

2. WETLANDS - N/A

3. SURFACE WATERS - N/A

4. & 5. RARE & ENDANGERED SPECIES, & UNIQUE NATURAL COMMUNITIES - NATIVE VEGETATION DISTURBANCE - The proposed building site consists of two steep (50% slope) manmade berms, circa. 1950, that have not been capable of re-establishing significant P B Core vegetation or habitat. Based on the erosion, rutted surface and minimal vegetation, the natural state of repose of the berms has not been achieved. The existing development at the site; the adjacent paved roads, buildings and retraining walls, have prevented this natural state to occur and therefore the site is not capable of contributing to a primary Article 57 objective, the protection of rare native vegetation/habitat and species (see Berm Habitat & Vegetation Photographs). Additionally, the site has been excluded from the L I Dwarf Pine Plains May - Cryan, 1982 (see Vicinity Photographs).

6. FERTILIZED VEGETATION & LANDSCAPING - No nitrogen or phosphorous fertilizers will be used at the site. The non-native vegetation that has developed since the extensive U. S. Government excavation of the site in the 1950's will be permitted to prosper with no assistance or interference.

7. STEEP SLOPES - The man made steep slopes within the proposed building envelope area will be removed completely, down to the flat

8. **RUNOFF WATER** - The runoff generated from the proposed buildings will be diverted to dry wells previously installed, adjacent to the proposed building envelope.

9. **AGRICULTURE & HORTICULTURE - N/A**

10. **REZONING OF LAND** - The present storage use is a pre-existing non-conforming use. It is believed that a rezoning will not be necessary for the proposed buildings. The increase in density and minimal increase in intensity will not negatively impact groundwater quality or cause a loss of native vegetation/habitat.

11. **COMMERCIAL & INDUSTRIAL DEVELOPMENT** - This proposed development can be described as one of very low intensity. The storage of toxic or hazardous materials will not be permitted at the proposed development site.

12., 13. & 14. **CLUSTERING - COORDINATED DESIGN - OPEN SPACE MANAGEMENT** - The proposed development is within the immediate boundaries of a previously disturbed site and completely surrounded by paved road surfaces. No open space or open space potential will be lost if this development is approved. The Existing site is confined within a 10 ft. chain link fence and is routinely patrolled to prevent illegal/detrimental abuses.

15. **WELLHEAD PROTECTION** - The proposed development will not introduce any organic or inorganic pollutants to the site (see item 1. **GROUNDWATER**). SCWA water lines are installed at the site.

16. **SCENIC, HISTORIC & CULTURAL RESOURCES** - There are no known Scenic, Historic or Cultural Resources at the site that would be negatively impacted by this development. The site was extensively excavated by the U. S. Air Force in the 1950's.

**17. HARDSHIP -**

The existing use consists of 46,878 sq ft of storage units in thirteen buildings with 214 tenants on 40 acres surrounded by 10 ft high chain link security fence. The site is further improved with asphalt and concrete roadways which service the existing buildings and will also service the proposed buildings. The units are currently fully rented and provide revenue to the applicant. The site is part of a 52.299 + acre Core Area parcel held by the applicant, 20% of which is not developed and produces no income. The revenue from the storage facility contributes to the support of the entire parcel and the revenue that will be generated from the proposed buildings are needed immediately in order to offset rising operating costs. Further, it is the desire of the applicant to develop the existing otherwise useless structure with existing obsolete climate control systems and foundations in a manner consistent with the intents of the LIPBPA. The costs of duplicating the existing infrastructure of paved roads, security fencing and existing walls/foundation at a second site will make this development impossible. Additionally, certain economies regarding maintenance, transit & set up time, security, management and others factors will be lost in a two site operation. There are no alternatives or relocation possibilities for this proposed expansion.

The existing development at the site clearly eliminates its ability to contribute as a beneficial use site as described in the LIPBPA and further prevents it from doing so in the immediate vicinity. They are due to the characteristics of the site and not the personal circumstance of the applicant/owner. Further they are not due to any action or inaction on the part of the applicant/owner.

The primary concerns of the LIPBPA, groundwater and native vegetation/habitat, will not be sufficiently impacted such that this development should be denied.

**CENTRAL PINE BARRENS JOINT PLANNING & POLICY COMMISSION  
STAFF REPORT**

Issued: October 7, 1997

Field Visit: 10/7/97

**APPLICATION REC'D/HEARING/DECISION DEADLINE DATES:**

- 6/11/97 receipt
- 8/16/97 public hearing
- 10/9/97 decision deadline

**APPLICANT:** Edwin & Patricia Tuccio (Westhampton Mini-Storage)  
547 East Main Street  
Riverhead, NY 11901

**LOCATION:** North of Gabreski Airport, east side of County Road 31, Westhampton, Town of Southampton

**TAX MAP:** 0900-248-1-110.2

**REQUEST:** Core hardship exemption for the addition of four storage buildings totaling 24,000 square feet on a 53 acre parcel which contains 11 concrete storage buildings totaling 46,000 square feet.

**ZONING:** LI200 Light Industrial 200,000 square feet minimum.

**LAND USE:** Vacant with public land to the north and east. Gabreski Airport to the south.

**SITE DESCRIPTION**

**Topography:** Generally flat approximately 100' above mean sea level.

**Vegetation:** The area proposed for development is cleared and disturbed due to previous use of the area by the military. The remainder of the 53 acres does contain dwarf pine plain vegetation as per the map submitted at the public hearing dated July 17, 1996.

**REQUIRED APPROVALS :**

- **SEQRA** The Commission adopted a negative declaration at their meeting of September 17, 1997
- **Town of Southampton Planning Board Site Plan and Special Exception Permit**
- **Town of Southampton ZBA Increase of non-conforming use**
- **Town of Southampton Building Permit**
- **SC Dept. of Health Services Article 6 Permits**

## **RECOMMENDATIONS**

The Commission should discuss how the additional development meets the minimum relief component of the hardship criteria. As the property can be further developed, the Commission may want to consider how clustering of the future development can be done to minimize impacts to the native vegetation on the remainder of the site. Under the Town Code, 10.6 acres or 20% of the lot can be developed. Existing and current proposed development of the site will only amount to 3.1% lot coverage.

**TWOMEY, LATHAM, SHEA & KELLEY, LLP**

ATTORNEYS AT LAW  
33 WEST SECOND STREET  
P. O. BOX 398

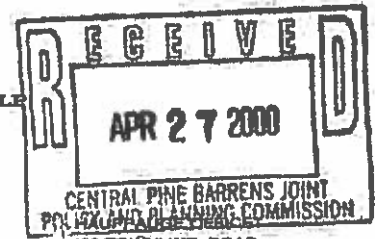
RIVERHEAD, NEW YORK 11901

MAUREEN T. LICCIONE  
MANAGING PARTNER  
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SOUTHAMPTON OFFICE  
51 HILL STREET  
SOUTHAMPTON, N.Y. 11968  
(631) 287 - 0090

April 26, 2000

Mr. Raymond Corwin, Executive Director  
Central Pine Barrens Commission  
P.O. Box 587  
Great River, NY 11739

Re: Tuccio/Westhampton Mini-Storage  
Hearing Date: 5/10/00

Dear Mr. Corwin:

Yesterday, April 25, 2000 this office had faxed a letter to yours indicating that we sought an indefinite adjournment of the above-referenced hearing.

Since that time I have spoken with Doris Roth, counsel to the Commission who advised me that the proper procedure would be to withdraw the above-referenced application without prejudice to renewal. Please consider this letter a request to do so.

Thank you for your assistance.

Very truly yours,

A handwritten signature in cursive script that reads "Maureen T. Liccione".

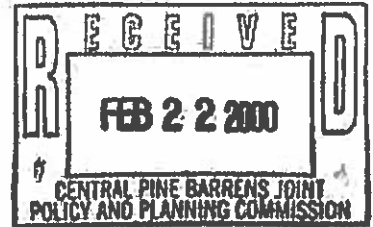
Maureen T. Liccione

MTL:lsw

cc: Judy Jacobson  
Doris Roth, Esq.  
Ed Tuccio







**PINE BARRENS COMMISSION**

**WESTHAMPTON MINI/SELF STORAGE  
EDWIN F. TUCCIO & PATRICIA TUCCIO  
193 GRIFFING AVENUE  
RIVERHEAD, NEW YORK 11901**

**CORE PRESERVATION AREA HARDSHIP APPLICATION**

**FEBRUARY 16, 2000**

**PETITION**

**OWNER & PETITIONER:**

**EDWIN F. TUCCIO  
PATRICIA TUCCIO**

## DOCUMENT SUBMITTAL INDEX

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EDWIN & PATRICIA TUCCIO  
547 EAST MAIN STREET  
RIVERHEAD, NEW YORK 11901

February 16, 2000

Central Pine Barrens Commission  
P.O. Box 587  
3525 Sunrise Highway  
Great River, New York 11739

Subject: Core Preservation Area Hardship Application  
Westhampton Mini Storage  
North Perimeter Road, Suffolk County Airport

Dear Commissioners:

Enclosed please find the Hardship Application for the subject property. The basis of the hardship is the assertion that the property has no beneficial use as prescribed under the LIPBPA and that this lack of beneficial use is due to the pre-existing extensive development of the property. Further, the proposed development requested is consistent with the intent of the LIPBPA and will not negatively impact endangered species, habitat, vegetation or groundwater.

The appropriate policies and standards contained in the Interim Goals & Standards for Development are the format of this application.

Due to circumstances of the applicant, the prompt processing of the application is requested.

Any additional information needed to review this application will be promptly provided.

Very truly yours,



Patricia Tuccio

Edwin F. Tuccio

Patricia Tuccio

CORE PRESERVATION AREA HARDSHIP APPLICATION

Applicant Information

Westhampton Mini Storage  
193 Griffing Avenue  
Riverhead, N. Y. 11901

Patricia Tuccio  
Edwin Fishel Tuccio  
516-727-6644

Application prepared by:

Edwin Fishel Tuccio  
193 Griffing Avenue  
Riverhead, N.Y. 11901  
516-727-6644

Project Description

Project Name Westhampton Mini Storage  
Town Southampton, N.Y. 11968  
Street Location North Perimeter Road, Suffolk County Airport  
Tax Map Number Part Of 0900-248-01-110.002  
Total Acreage 52.2997 ac total tax map parcel: 40 ac  
existing developed total: 20,200 sq. ft.  
proposed additional development total  
Present Land Use 48,000 sq. ft. of self storage, with 13 concrete buildings surrounded by paved asphalt and concrete roads, having 12,000 sq. ft. under construction. This use operates as a pre-existing non-conforming use.  
Present Zoning 5 acre industrial

**PROJECT TYPE** The addition of three steel framed and skinned buildings. Two will be 40ft x 150ft x 12 ft high; One will be 40 x 150 x 70 x 40 ft. and 12 feet high, all supported on concrete foundations and slabs on grade; containing approximately thirty self storage units in two buildings and approximately 50 units in the larger building. No utilities will be installed in the buildings with the possible exception of exterior mounted security lighting. No septic systems will be installed and no effluent will be generated. The buildings will be located in an area surrounded by existing asphalt and concrete paved roads, and adjacent to thirteen existing buildings, also with no utilities, of similar size, used for the same purpose as the proposed buildings. The site was developed by the U.S. Air Force in the 1950's for the storage and assemble of weapons and is a contiguous part of the now Suffolk County Airport complex. The entire site was excavated at that time and resulted in the removal of all native vegetation, the current site is distinctively in contrast with that of a pristine pine barren. Due to the management and nature of the existing commercial activities, low intensity mini self storage, the negative impacts on the environment are minimal, if any at all. The addition of the proposed buildings will result in a small increase in intensity but will not introduce any additional environmental threats.

1. **GROUNDWATER-** The proposed buildings are for storage only and will not contain any sanitary facilities and, therefore, will not generate any sewage effluent. The unpaved/underdeveloped land at the site will remain in a native vegetated state and will not be fertilized. No nitrogen loading will occur as a result of these proposed buildings.

The proposed buildings will not store toxic or hazardous materials. The tenants leasing the units are prohibited from such storage and agree to same in the lease agreement. Further, the landlord has by lease agreement the right to enter, without prior notice to the tenant, in order to inspect for hazardous materials.

Based on SCDH - Water Table Contour Map, March 1992, the flow of groundwater from the proposed site will be southeast into an area that has been subjected to "Hazardous Spills/Leaks - Groundwater Discharges" (Krulik 1986 - Suffolk Co. Pine Barrens Hydrologic Report: Point Source #171, Gasoline; #2, JP 4 Jet Fuel; #262, Aviation Fuel & Sodium Sulfate and other pollutants). recognizing the importance to not further degrade the area, the applicant will consider, if the P B Commission determines that extreme precautions are necessary, the installation of an appropriate "Landfill Liner, leachate Collection & Removal System" as described in 6 NYCRR Solid Waste Management Facilities - Part 360 - 2.13 (f) thru (v).

2. WETLANDS - N/A

3. SURFACE WATERS - N/A

4. & 5. RARE AND ENDANGERED SPECIES, & UNIQUE NATURAL COMMUNITIES - NATIVE VEGETATION DISTURBANCE - The proposed building site consists of 3 cleared areas between existing roads, circa 1950, that have not been capable of re-establishing significant P B Core vegetation or habitat. The existing development at the site; the adjacent paved roads, buildings and retaining walls, have prevented this natural state to occur and therefore the site is not capable of contributing to a primary Article 57 objective, the protection of rare native vegetation/habitat and species (see Bern habitat & Vegetation Photographs). Additionally, the site has been excluded from the L.I. Dwarf Pine Plains May - Cryan, 1982 (see vicinity photographs).

6. FERTILIZED VEGETATION & LANDSCAPING - No nitrogen or phosphorous fertilizers will be used at the site. The non-native vegetation that has developed since extensive U.S. Government excavation of the site in the 1950's will be permitted to prosper with no assistance or interference.

7. RUNOFF WATER - The runoff generated from the proposed buildings will be diverted to dry wells previously installed, adjacent to the proposed building envelope.

8. AGRICULTURE & HORTICULTURE - N/A

9. **REZONING OF LAND** - The present storage use is a pre-existing non-conforming use. It is believed that a rezoning will not be necessary for the proposed buildings. The increase in density and minimal increase in intensity will not negatively impact groundwater quality or cause a loss of native vegetation/habitat.

10. **COMMERCIAL & INDUSTRIAL DEVELOPMENT** - This proposed development can be described as one of very low intensity. The storage of toxic and hazardous materials will not be permitted at the proposed development site.

11., 12., & 13. **CLUSTERING - COORDINATED DESIGN - OPEN SPACE MANAGEMENT** - The proposed development is within the immediate boundaries of a previously disturbed site and completely surrounded by paved road surfaces. No open space, or open space potential will be lost if this development is approved. The existing site is confined within a 10 ft. chain link fence and is routinely patrolled to prevent illegal/detrimental abuses.

14. **WELLHEAD PROTECTION** - The proposed development will not introduce any organic or inorganic pollutants to the site (see item #1, GROUNDWATER). SCWA water lines are installed at the site.

15. **SCENIC, HISTORIC & CULTURAL RESOURCES** - There are no Scenic, Historic or Cultural Resources at the site that would be negatively impacted by this development. The site was extensively excavated by the U.S. Air Force in the 1950's.

16. **HARDSHIP** - The existing use consists of 60,000 sq.ft. of storage units in 15 buildings with 298 tenants on 40 acres surrounded by 10 ft. high chain link security fence. The site is further improved with asphalt and concrete roadways which service the existing buildings and will also service the proposed buildings. The units are currently fully rented and provide revenue to the applicants. The site is part of a 52.299+ acre Core Area parcel held by the applicant 80% of which is not developed and produces no income.

The revenue from the storage facility contributes to the support of the entire parcel and the revenue that will be generated from the proposed buildings are needed immediately in order to offset rising operating costs and taxes. Further is the desire of the applicant to develop the otherwise existing useless improvements which consist of existing roads and drainage in a manner consistent with the intents of the LIPBPA. The costs of duplicating the existing infrastructure of paved roads, security fencing and existing walls/foundation at a second site will make this development impossible. Additionally certain economies regarding maintenance, transit & set up time, security, management, and other factors will be lost in a two site operation. There are no alternatives or relocation possibilities for this proposed expansion.

The existing development at the site clearly eliminates its ability to contribute as a beneficial use site as described in the LIPBPA and further prevents it from doing so in the immediate vicinity. They are due to the characteristics of the site and not the personal circumstance of the applicant/owner. Further they are not due to any action or inaction on the part of the applicant/owner.

The primary concerns of the LIPBPA, groundwater and native vegetation/habitat, will not be sufficiently impacted such that this development should be denied.



## PART 1—PROJECT INFORMATION

Prepared by Project Sponsor

NOTICE: This document is designed to assist in determining whether the action proposed may have a significant effect on the environment. Please complete the entire form, Parts A through E. Answers to these questions will be considered as part of the application for approval and may be subject to further verification and public review. Provide any additional information you believe will be needed to complete Parts 2 and 3.

It is expected that completion of the full EAF will be dependent on information currently available and will not involve new studies, research or investigation. If information requiring such additional work is unavailable, so indicate and specify each instance.

NAME OF ACTION <u>Westhampton Mini Storage</u>		
LOCATION OF ACTION (include Street Address, Municipality and County) <u>North Perimeter Rd., Suffolk County Airport, Westhampton, N. Y.</u>		
NAME OF APPLICANT/SPONSOR <u>Edwin &amp; Patricia Tucclo</u>		BUSINESS TELEPHONE <u>(516) 727 6644</u>
ADDRESS <u>193 Griffing Avenue, Riverhead, New York 11901</u>		
CITY/PO	STATE	ZIP CODE
NAME OF OWNER (if different)		BUSINESS TELEPHONE ( )
ADDRESS		
CITY/PO	STATE	ZIP CODE
DESCRIPTION OF ACTION The addition of 3 steel framed storage buildings on a concrete slab, one story high, no utilities will be added to the building with the possible exception of exterior security lighting. Each building is 40 ft x 150 ft x 12 ft high for a total of 220,200 sq ft. The site is defined as an area within a Disturbed/developed area and is part of a parcel that in other areas contain undeveloped core pine Barrens lands. <u>SKR Applicant's May 26, 1997 Core Hardship Application for specific Protect Details</u>		

Please Complete Each Question—Indicate N.A. if not applicable

### A. Site Description

Physical setting of overall project, both developed and undeveloped areas.

1. Present land use:  Urban  Industrial  Commercial  Residential (suburban)  Rural (non-farm)  
 Forest  Agriculture  Other \_\_\_\_\_

2. Total acreage of project area: 40 acres.

APPROXIMATE ACREAGE	PRESENTLY	AFTER COMPLETION
Meadow or Brushland (Non-agricultural)	<u>20</u> acres	<u>20</u> acres
Forested	<u>0</u> acres	<u>0</u> acres
Agricultural (Includes orchards, cropland, pasture, etc.)	<u>0</u> acres	<u>0</u> acres
Wetland (Freshwater or tidal as per Articles 24, 25 of ECL)	<u>0</u> acres	<u>0</u> acres
Water Surface Area	<u>0</u> acres	<u>0</u> acres
Unvegetated (Rock, earth or fill)	<u>0</u> acres	<u>0</u> acres
Roads, buildings and other paved surfaces?	<u>10</u> acres	<u>10.75</u> acres
Other (Indicate type)	<u>7</u> acres	<u>0</u> acres

3. What is predominant soil type(s) on project site? Sand
- a. Soil drainage:  Well drained 100 % of site  Moderately well drained \_\_\_\_\_ % of site  
 Poorly drained \_\_\_\_\_ % of site
- b. If any agricultural land is involved, how many acres of soil are classified within soil group 1 through 4 of the NY State Land Classification System? \_\_\_\_\_ acres. (See 1 NYCRR 370).
4. Are there bedrock outcroppings on project site?  Yes  No
- a. What is depth to bedrock? \_\_\_\_\_ (in feet)

1. Approximate percentage of proposed project site with slopes:  0-10% 100%  10-15% \_\_\_\_\_ %  
 15% or greater \_\_\_\_\_ %

2. Is project substantially contiguous to, or contain a building, site, or district, listed on the State or the National Registers of Historic Places?  Yes  No

3. Is project substantially contiguous to a site listed on the Register of National Natural Landmarks?  Yes  No

What is the depth of the water table? 5.0± (in feet)

4. Is site located over a primary, principal, or sole source aquifer?  Yes  No

5. Do hunting, fishing or shell fishing opportunities presently exist in the project area?  Yes  No

6. Does project site contain any species of plant or animal life that is identified as threatened or endangered?  
 Yes  No According to however an area within the same parcel beyond the  
Identify each species ~~development site contains rare pine barrens~~ land

7. Are there any unique or unusual land forms on the project site? (i.e., cliffs, dunes, other geological formations)  
 Yes  No Describe \_\_\_\_\_

8. Is the project site presently used by the community or neighborhood as an open space or recreation area?  
 Yes  No If yes, explain \_\_\_\_\_

9. Does the present site include scenic views known to be important to the community?  
 Yes  No

10. Streams within or contiguous to project area: None  
a. Name of Stream and name of River to which it is tributary \_\_\_\_\_

11. Lakes, ponds, wetland areas within or contiguous to project area:  
a. Name None b. Size (in acres) \_\_\_\_\_

12. Is the site served by existing public utilities?  Yes  No  
a) If Yes, does sufficient capacity exist to allow connection?  Yes  No  
b) If Yes, will improvements be necessary to allow connection?  Yes  No

13. Is the site located in an agricultural district certified pursuant to Agriculture and Markets Law, Article 25-Section 303 and 304?  Yes  No

14. Is the site located in or substantially contiguous to a Critical Environmental Area designated pursuant to Article of the ECL, and 6 NYCRR 617?  Yes  No

15. Has the site ever been used for the disposal of solid or hazardous wastes?  Yes  No  
Unknown - The site was used as  
by the U.S. Air Force to store  
weapons in the 1950's

### 3. Project Description

a. Physical dimensions and scale of project (fill in dimensions as appropriate)  
i. Total contiguous acreage owned or controlled by project sponsor 53 acres.  
ii. Project acreage to be developed: 2.3 acres initially; \_\_\_\_\_ acres ultimately.

iii. Project acreage to remain undeveloped \_\_\_\_\_ acres.  
iv. Length of project, in miles: 1/2 (if appropriate)  
v. If the project is an expansion, indicate percent of expansion proposed: 30 %

vi. Number of off-street parking spaces existing 0; proposed 0  
vii. Maximum vehicular trips generated per hour 0 (upon completion of project).

viii. If residential: Number and type of housing units:  
Initially \_\_\_\_\_  
Ultimately \_\_\_\_\_  
One Family  Two Family  Multiple Family  Condominium

ix. Dimensions (in feet) of largest proposed structure 40 x 150 x 70 x 40 ft. and 12 ft. high.  
x. Linear feet of frontage along a public thoroughfare project will occupy \_\_\_\_\_ ft.

2. How much natural material (i.e., rock, earth, etc.) will be removed from the site? 0 tons/cubic yards

3. Will disturbed areas be reclaimed?  Yes  No  N/A

a. If yes, for what intended purpose is the site being reclaimed? \_\_\_\_\_

b. Will topsoil be stockpiled for reclamation?  Yes  No

c. Will upper subsoil be stockpiled for reclamation?  Yes  No

4. How many acres of vegetation (trees, shrubs, ground covers) will be removed from site? 2/3 acres.

5. Will any mature forest (over 100 years old) or other locally-important vegetation be removed by this project?  Yes  No

6. If single phase project: Anticipated period of construction 6 months, (including demolition).

7. If multi-phased: N/A

a. Total number of phases anticipated \_\_\_\_\_ (number).

b. Anticipated date of commencement phase 1 \_\_\_\_\_ month \_\_\_\_\_ year, (including demolition).

c. Approximate completion date of final phase \_\_\_\_\_ month \_\_\_\_\_ year.

d. Is phase 1 functionally dependent on subsequent phases?  Yes  No

8. Will blasting occur during construction?  Yes  No

9. Number of jobs generated: during construction 30; after project is complete 1

10. Number of jobs eliminated by this project 0.

11. Will project require relocation of any projects or facilities?  Yes  No If yes, explain \_\_\_\_\_

12. Is surface liquid waste disposal involved?  Yes  No

a. If yes, indicate type of waste (sewage, industrial, etc.) and amount \_\_\_\_\_

b. Name of water body into which effluent will be discharged \_\_\_\_\_

13. Is subsurface liquid waste disposal involved?  Yes  No Type \_\_\_\_\_

14. Will surface area of an existing water body increase or decrease by proposal?  Yes  No

Explain \_\_\_\_\_

15. Is project or any portion of project located in a 100 year flood plain?  Yes  No

16. Will the project generate solid waste?  Yes  No

a. If yes, what is the amount per month \_\_\_\_\_ tons

b. If yes, will an existing solid waste facility be used?  Yes  No

c. If yes, give name \_\_\_\_\_ location \_\_\_\_\_

d. Will any wastes not go into a sewage disposal system or into a sanitary landfill?  Yes  No

e. If Yes, explain \_\_\_\_\_

17. Will the project involve the disposal of solid waste?  Yes  No

a. If yes, what is the anticipated rate of disposal? \_\_\_\_\_ tons/month.

b. If yes, what is the anticipated site life? \_\_\_\_\_ years.

18. Will project use herbicides or pesticides?  Yes  No

19. Will project routinely produce odors (more than one hour per day)?  Yes  No

20. Will project produce operating noise exceeding the local ambient noise levels?  Yes  No

21. Will project result in an increase in energy use?  Yes  No

If yes, indicate type(s) \_\_\_\_\_

22. If water supply is from wells, indicate pumping capacity \_\_\_\_\_ gallons/minute.

23. Total anticipated water usage per day 0 gallons/day.

24. Does project involve Local, State or Federal funding?  Yes  No

If Yes, explain \_\_\_\_\_

25. Approvals Required:

Agency	Type	Submitted Date
City, Town, Village Board	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
City, <u>Town</u> , Village Planning Board	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
City, <u>Town</u> , Zoning Board	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
City, County Health Department	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Other Local Agencies	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Other Regional Agencies	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
State Agencies	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Federal Agencies	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
	Site Plan & Special Exception	
	Zoning Increase of pre-existing use	
	Town Building Permit	
	Pine Barrens Commission	
	Core Habitat Permit	

C. Zoning and Planning Information

- Does proposed action involve a planning or zoning decision?  Yes  No  
 If Yes, indicate decision required:  
 zoning amendment  zoning variance  special use permit  subdivision  site plan  
 new/revision of master plan  resource management plan  other expansion of pre-existing non-conforming use
- What is the zoning classification(s) of the site? 5 Ac Industrial
- What is the maximum potential development of the site if developed as permitted by the present zoning?  
16%
- What is the proposed zoning of the site? Same 5 Ac Industrial
- What is the maximum potential development of the site if developed as permitted by the proposed zoning?  
Same 16% No zoning change is requested
- Is the proposed action consistent with the recommended uses in adopted local land use plans?  Yes  No
- What are the predominant land use(s) and zoning classifications within a 1/4 mile radius of proposed action?  
Existing Storage Building, Vegetated Land and Airport Runway
- Is the proposed action compatible with adjoining/surrounding land uses within a 1/4 mile?  Yes  No
- If the proposed action is the subdivision of land, how many lots are proposed? N/A
  - What is the minimum lot size proposed?
- Will proposed action require any authorization(s) for the formation of sewer or water districts?  Yes  No
- Will the proposed action create a demand for any community provided services (recreation, education, police, fire protection)?  Yes  No
  - If yes, is existing capacity sufficient to handle projected demand?  Yes  No
- Will the proposed action result in the generation of traffic significantly above present levels?  Yes  No
  - If yes, is the existing road network adequate to handle the additional traffic?  Yes  No

D. Informational Details

Attach any additional information as may be needed to clarify your project. If there are or may be any adverse impacts associated with your proposal, please discuss such impacts and the measures which you propose to mitigate or avoid them. Applicant's May 26, 1997 Core Hardship Application for complete details of the project.

Verification

I certify that the information provided above is true to the best of my knowledge.  
 Applicant/Sponsor Name: Edwin R. Turcotte/Patricia Turcotte Date: 2/16/2000  
 Signature: [Signature] Title: OWNER  
 If action is in a wetland area, did you ask a state agency to complete the Coastal Assessment Form before proceeding with this assessment?

EDWIN & PATRICIA TUCCIO  
193 GRIFFING AVENUE  
RIVERHEAD, N.Y. 11901

February 16, 2000

Central Pine Barrens Commission  
P.O. Box 587  
3525 Sunrise Highway  
Great River, N.Y. 11739

Subject: ADDENDUM  
Core Preservation Area Hardship Application  
Westhampton Mini Storage  
North Perimeter Road, Suffolk County Airport

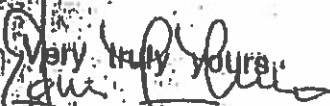
Dear Commissioners:

Attached please find additional information for the subject application.

1. CERTIFICATE OF OCCUPANCY - Southampton Town #C15293, #C17521-00, and AO17974
2. EXCAVATED FILL DISPOSITION - Letter from Wa stating that the excavated fill from the proposed development will be removed from the site.
3. SOUTHAMPTON TOWN NATURAL COMMUNITIES Map 1993 - This map located the site within the region and describes th site as one of the "disturbed areas with respect to natural plant cover types".
4. LAND SURVEY - This survey shows the entire 52.299 acre tax map parcel #0900-248-01-p/o 110.002 as well as the proposed development site.

5. ARCHITECTURAL PLANS & PHOTOGRAPHS - Showing the existing buildings, paved roads, obsolete climate control equipment and the supporting concrete foundations.
6. LEASE AGREEMENT - The applicant lease agreement for the proposed storage buildings prohibiting the tenant from storing or releasing any hazardous materials at the site (Para. 8, Lines 13-19).
7. CONCRETE SLAB & FOUNDATION DESIGN DETAIL - This design shows a typical footing and wall foundation with a slab that has a 2 1/2 gallon per square foot liquid holding capacity. The sizes of the individual units are not specified and at this point the actual size mix has not been determined, however, the two proposed building sites (55' x 150') are clearly determined by the existing paved roads. The individual unit containment design shown will maintain traceability of any spill and prevent the collection of an unknown, possibly reactive mixture that may occur if a communal collection system were used. However, other methods of containment are presently being considered. This may be a worthwhile point of discussion with the Commission staff.
8. NEGATIVE DECLARATION - State Environmental Quality Review dated August 10, 1994 for Westhampton Mini Storage and the description of the action being this: Application to replace two man-made berms and associated concrete retaining walls with two, one-story buildings on the 40 acre disturbed portion of a 400 acre parcel. The disturbed portion is improved with eleven concrete buildings used for private self-storage. The proposed buildings will contain the same use. This Negative Declaration is for the almost identical development undertaken in this new application.

9/ Deed

Very truly yours,  
  
Patricia Tuccio  
Edwin F. Tuccio  
Patricia Tuccio

Tax Map No: 473689 248-1-110.2



# Town of Southampton

DEPARTMENT OF LAND MANAGEMENT  
BUILDING AND ZONING DIVISION

## Certificate of Occupancy

BUILDING CONSTRUCTION ORDINANCE CHAPTER 123 Article II 123-18.B.

No C17521-00

Date 12/13 19 96

Permit No 033749-0

WESTHAMPTON MINI/SELF STORAGE

547 EAST MAIN ST

RIVERHEAD NY 11901

This is to certify that the

New ( <input checked="" type="checkbox"/> )	Altered ( <input type="checkbox"/> )	Addition ( <input type="checkbox"/> )	Pre-Existing ( <input type="checkbox"/> )	Updated ( <input type="checkbox"/> )	Building
Located	Perimeter Road, North of Suffolk County Airport,				
	Westhampton				
	Town of Southampton, New York				

has been COMPLETED substantially according to the approved plans, and the requirements of the above ordinances have been met and permission is hereby granted for the OCCUPANCY of building for the following purposes:

This certificate supersedes all previously issued certificates.

U S E

TWO MINI STORAGE BUILDINGS

ZBA Decision(s)

No. of Buildings

02

Work Completed

12/96

PAUL HOULIHAN

CHIEF BUILDING INSPECTOR

FROM : H C Mobilitti/FAX

PHONE NO. : 516 288 5366

Aug. 29 1994 01:24PM P1

Tax Map No: 473609,248.-1-110.2-



# Town of Southampton

## BUILDING DEPARTMENT

# Certificate of Occupancy

BUILDING CONSTRUCTION ORDINANCE CHAPTER 123 Article II 123-10.B.

C15293

Date 08/17 19 93

Permit No 897468

PATRICIA TUCCIO

I hereby certify that the

Work	Altered ( )	Addition ( )	Pre-Existing (x)	Building
located	North of Suffolk County Airport, Overlay			
	248-1-110.2, Southampton Beach			
	Town of Southampton, New York			

has been COMPLETED substantially according to the approved plans and the requirements of the above ordinance and permission is hereby granted for the OCCUPANCY of building for the following purposes:

This certificate supersedes all previously issued certificates.

### USE

3.1 BULK STORAGE USE OF PROPERTY USED AS WAREHOUSE / 3.1 BULK STORAGE USED AS STORAGE BLDG / 3.1 BULK STORAGE USED AS OFFICE & STORAGE / 1. BLDG USED AS STORAGE AND ACCOUNTANCY BLDG / ACCOUNTANCY STORAGE BLDG (METAL)

No. of Buildings 07  
Work Completed Prior to Oct. 14, 1957

James H. Mobilitti  
TOWN ADMINISTRATOR

*James H. Mobilitti*





**Town of Southampton**  
**Department of Land Management**  
**Building and Zoning Division**

**CERTIFICATE OF COMPLIANCE**

ZONING ORDINANCE CHAPTER 330 article XX 330-177.E.

March 24, 1999

**NO:** A017974  
**PERMIT NO:** P038999  
**OWNER:** Westhampton Mini Storage  
**ADDRESS:** 547 E Main St  
Riverhead, NY 11901

This is to certify that the structure

New (X)

Altered ( )

Addition ( )

Located

Gabrinski Airport, north side of Perimeter Road, Westhampton

has been COMPLETED substantially according to approved plans, and the requirements of the above ordinances have been met and permission is hereby granted for the USE of building(s) or structure(s) for the following purposes:

**USE**

Two self storage buildings, 6000 sq. ft. each

**No of Buildings:** 02  
**Work Completed:** March 1999  
**ZBA Decision(s):**

**Paul Houlhan, Chief Building Inspector**

**S.L. WORBY & SON, INC.**  
**P.O. BOX 1369**  
**WESTHAMPTON BEACH, N.Y. 11978**

December 6, 1999

Central Pine Barrens  
P.O. Box 587, 3525 Sunrise Highway  
Great River, N.Y. 11739-0587

Dear Sirs:

We have contracted with Edwin Fishel Tuccio and Patricia Tuccio to do the following:

1. Remove any usable fill that may be found in the three areas to be developed. We will leave any other material on site.
2. No surrounding areas will be disturbed. The ground will be leveled. Only material (usable fill) that will be in the footprint of the new buildings will be removed.
3. We will not remove any concrete, hazardous materials, or any other unusable materials found

Sincerely,

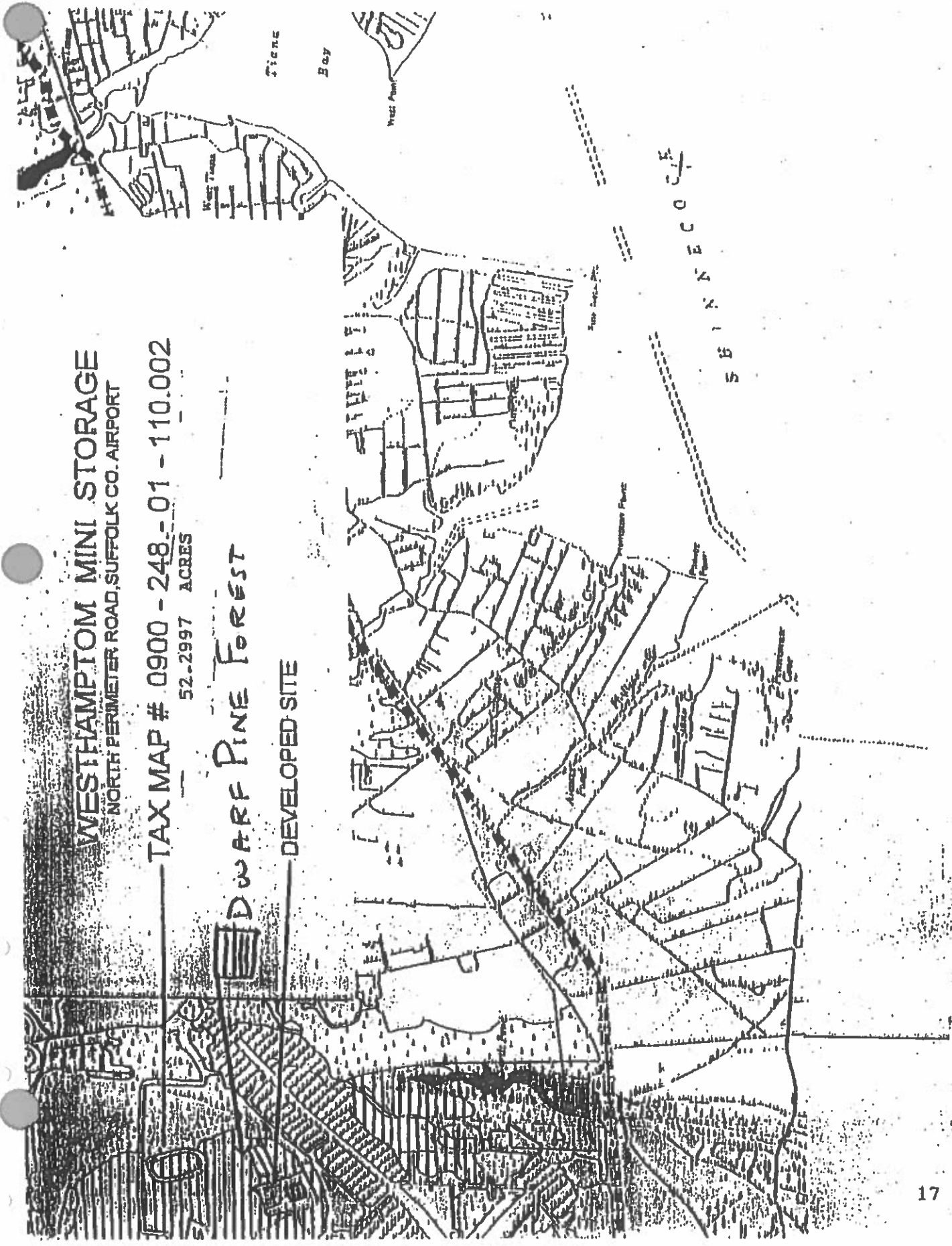
  
Dean F. Worby

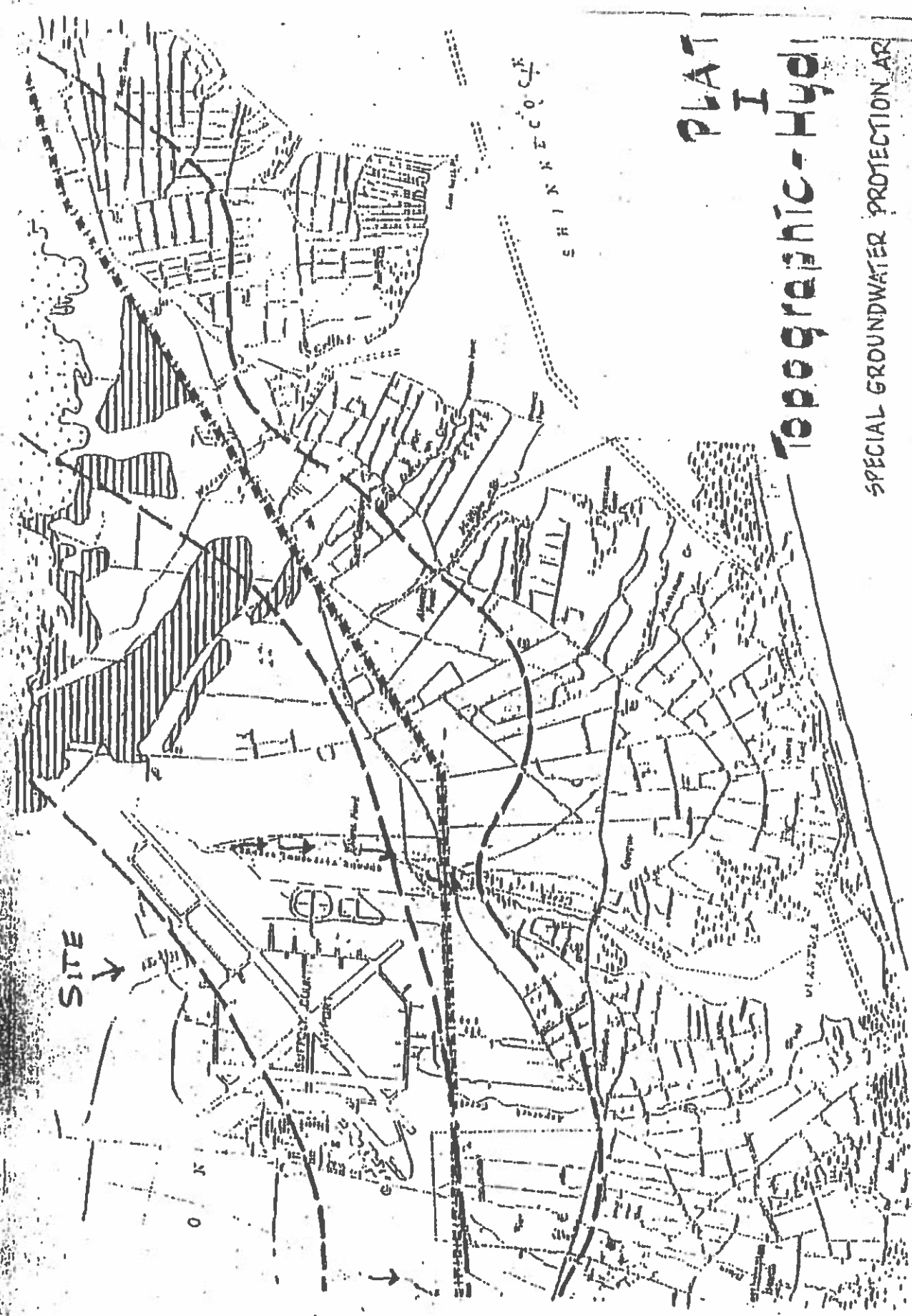
**WESTHAMPTON MINI STORAGE**  
NORTH PERIMETER ROAD, SUFFOLK CO. AIRPORT

TAX MAP # 0900 - 248 - 01 - 110.002  
52.2997 ACRES

**DWARF PINE FOREST**

DEVELOPED SITE





# PLAT I Topographic-Hydro

SPECIAL GROUNDWATER PROTECTION AREA  
TOWN OF SOUTHAMPTON, SUFFOLK COUNTY, VERMONT

SHIN ECOC

SITE  
↓

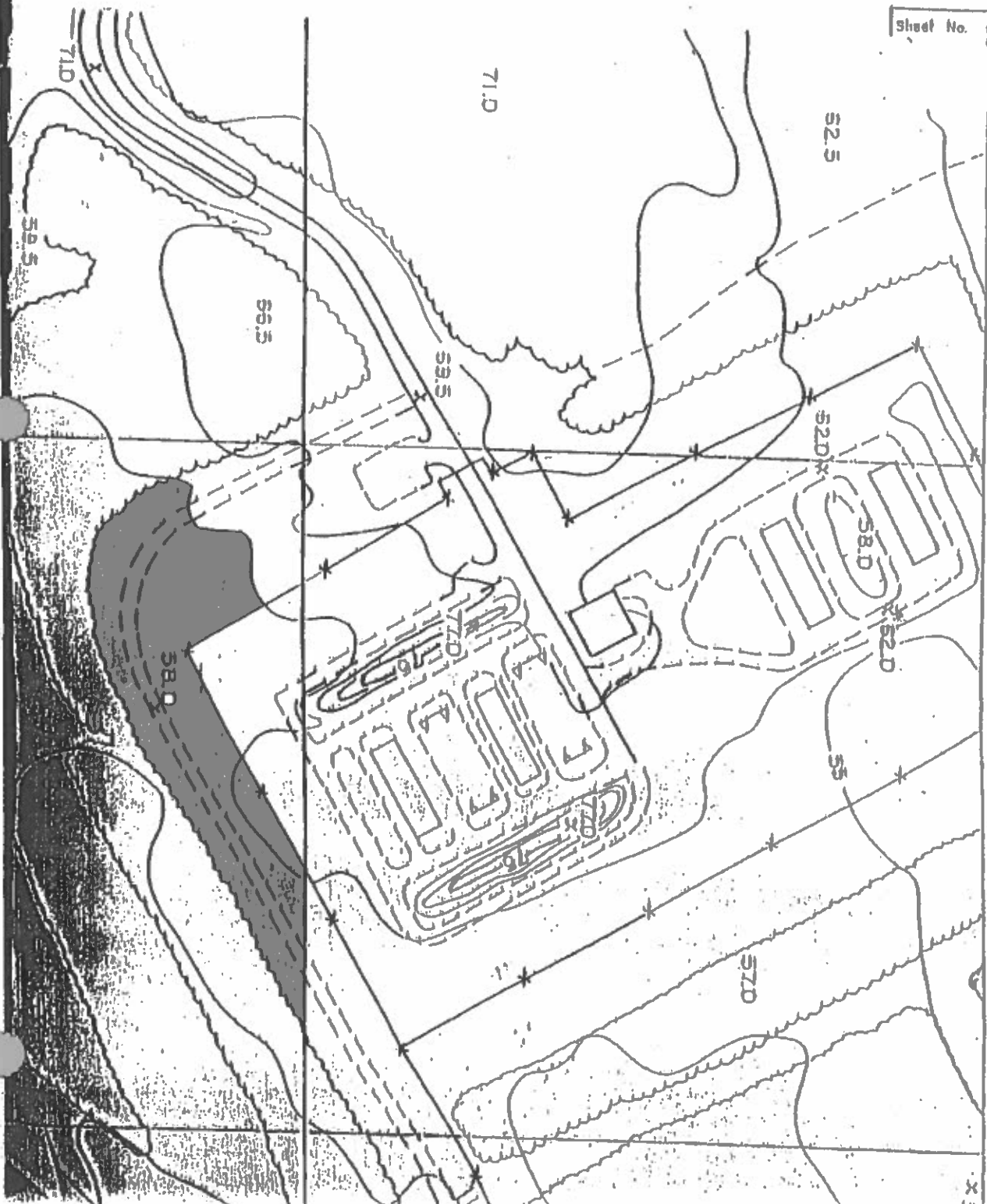
PREPARED FOR THE  
SUFFOLK COUNTY  
DEPARTMENT OF PUBLIC WORKS

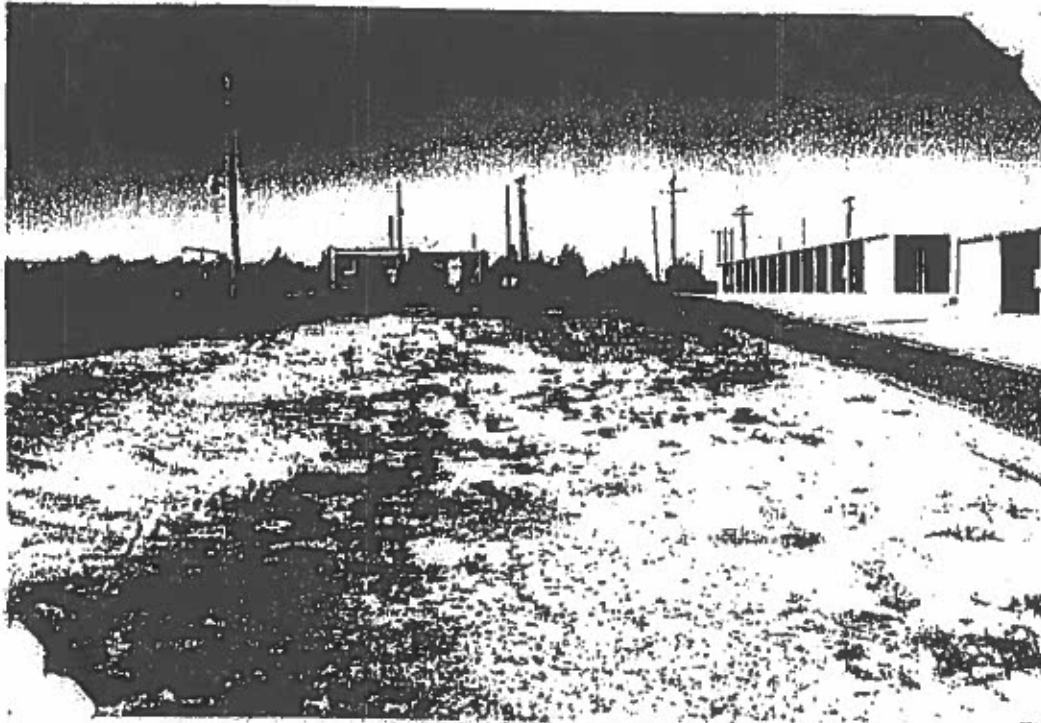
R. M. KAMMERER, COMMISSIONER  
YAPHANK NEW YORK

TOPOGRAPHIC MAP  
FIVE EASTERN TOWNS  
SUFFOLK COUNTY, N.Y.

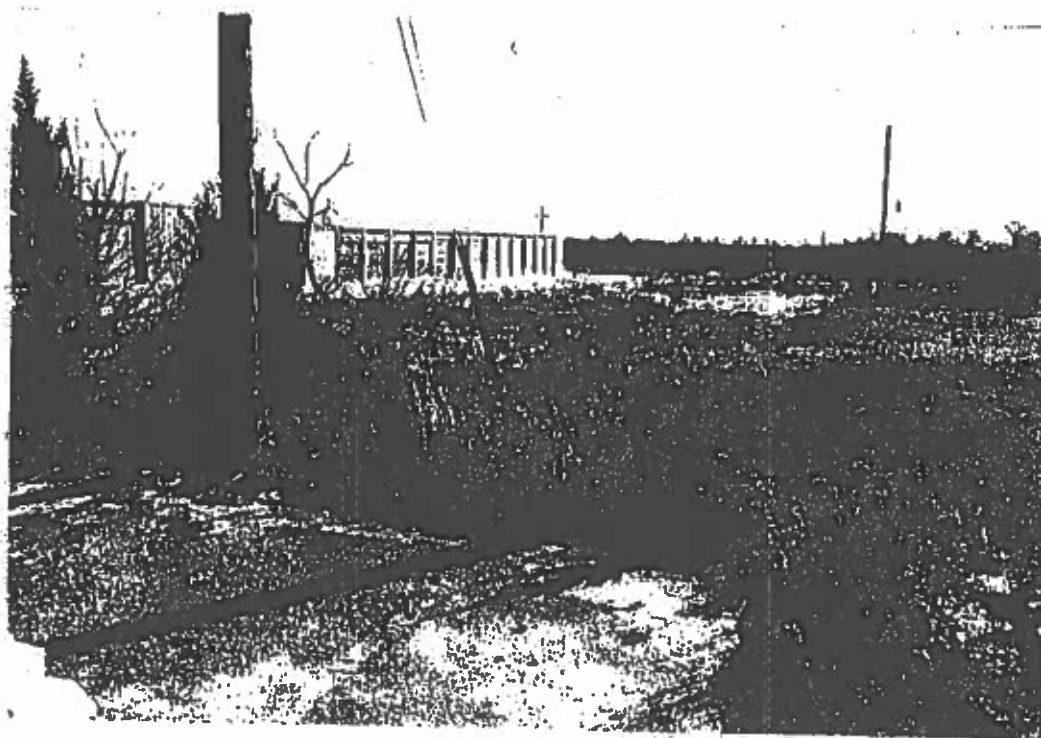
RIVERHEAD, SOUTHAMPTON, SOUTHOLD  
SHELTER ISLAND, EAST HAMPTON

Sheet No. J-31



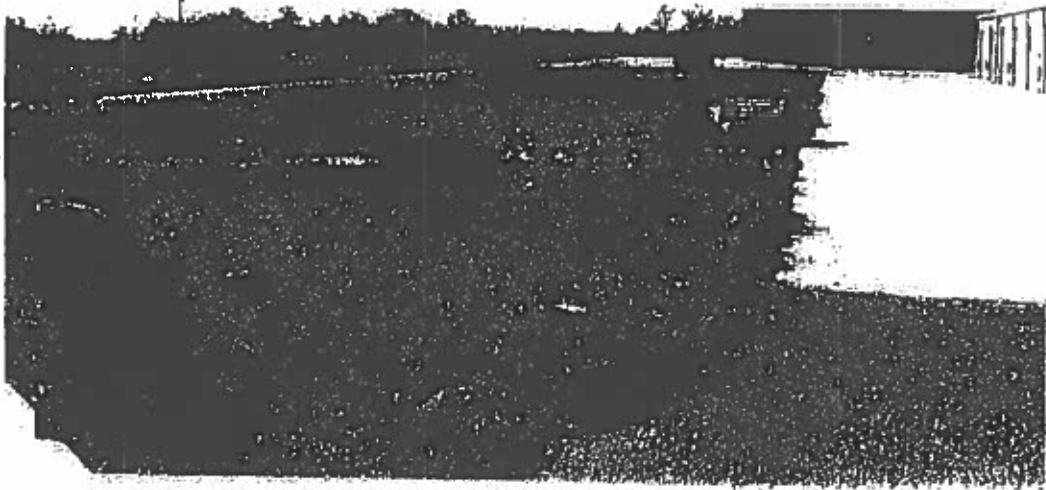


**WEST SIDE OF PROJECTED EXPANSION**



**NORTH SIDE OF PROJECTED EXPANSION**



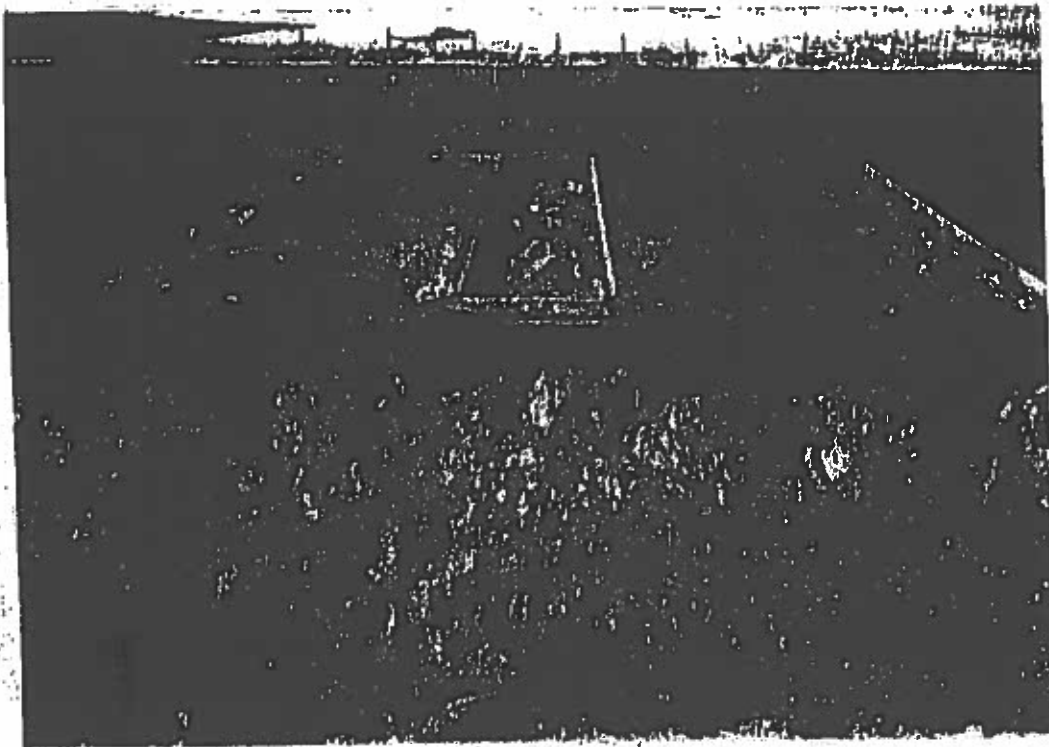


**SOUTH SIDE OF PROJECTED EXPANSION**

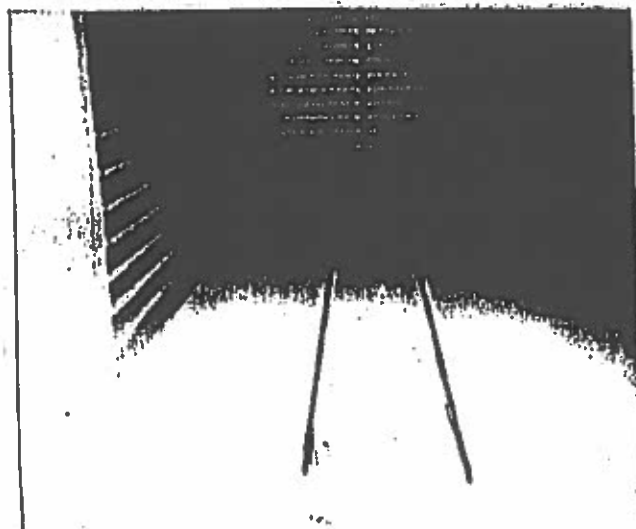




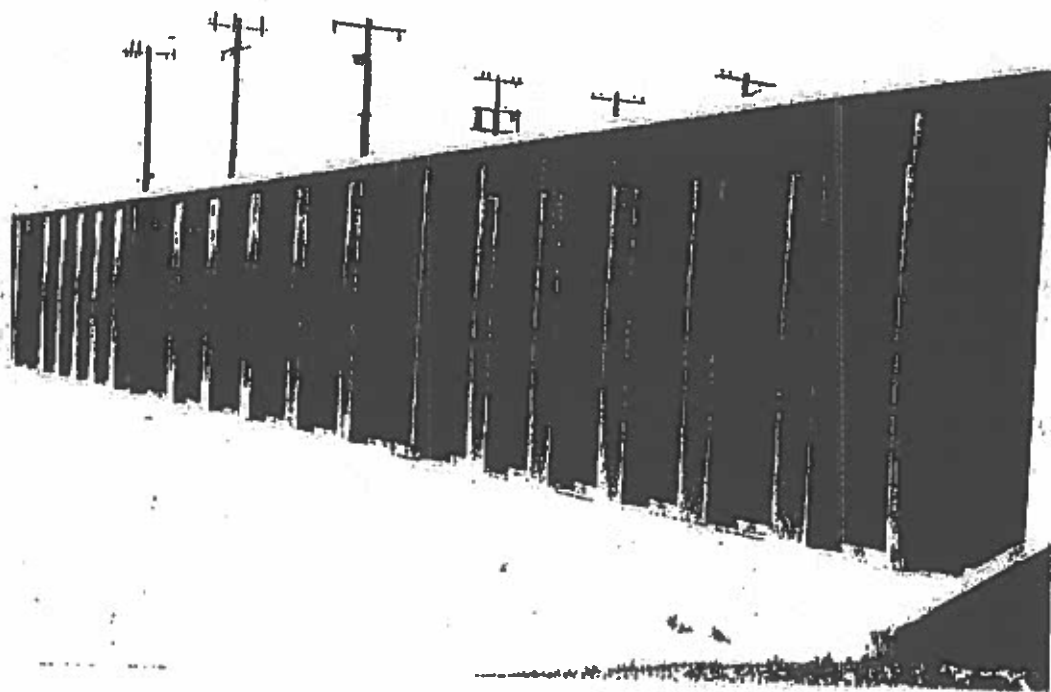
**GROUND WATER PROTECTION**



**VIEW OF FLOORS UNDER CONSTRUCTION SHOWING  
AREA IN UNITS BEFORE BASE IS Poured**



**UNITS FINISHED WITH GROUND WATER**



**FINISHED UNITS WITH CONCRETE APRONS  
GIVING ADDED PROTECTION TO  
GROUND WATER**

WESTHAMPTON MINI-STORAGE  
193 GRIFFING AVENUE  
RIVERHEAD, NEW YORK 11901  
516-727-6802 OR 727-6644

UNIT# \_\_\_\_\_  
UNIT SIZE \_\_\_\_\_  
OCCUPANT'S NAME \_\_\_\_\_  
MAILING ADDRESS \_\_\_\_\_  
TELEPHONE#-HOME \_\_\_\_\_ WORK \_\_\_\_\_ FAX \_\_\_\_\_  
DRIVER'S LICENSE# \_\_\_\_\_ STATE \_\_\_\_\_  
SOCIAL SECURITY# \_\_\_\_\_

THIS AGREEMENT MADE THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_ BY  
AND BETWEEN WESTHAMPTON MINI-STORAGE, HEREINAFTER KNOWN AS OWNER AND  
THE OCCUPANT NAMED ABOVE.

WITNESSETH:

IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED HEREIN, THE PARTIES  
HERETO AGREE AS FOLLOWS:

1. PROPERTY RENTED.

OCCUPANT AGREES TO RENT THE FOLLOWING PROPERTY LOCATED AT THE SELF-  
STORAGE FACILITY AT THE ABOVE ADDRESS.

2. TERM.

THIS AGREEMENT SHALL COMMENCE UPON THE DATE OF EXECUTION AND SHALL  
CONTINUE FOR A PERIOD OF \_\_\_\_ MONTHS. ANY HOLDOVER BEYOND THE TERM OF  
MONTHS SHALL BE CONSIDERED MONTH-TO-MONTH OCCUPANCY AT THE THEN  
PREVAILING MONTHLY RENTAL RATE FOR SIMILAR UNITS AT WESTHAMPTON MINI-  
STORAGE AND SUBJECT TO ANY CONDITIONS PLACED UPON OCCUPANCY BY THE  
OWNER.

3. RENT.

THE MONTHLY OCCUPANCY CHARGE SHALL BE \$ \_\_\_\_ PER MONTH IN ADVANCE DUE  
AND PAYABLE UPON THE SAME DAY EACH MONTH THEREAFTER. THIS DATE SHALL BE  
KNOWN AS THE "ANNIVERSARY DATE." FAILURE TO PAY THE RENT BY THE TENTH  
(10TH) DAY AFTER THE ANNIVERSARY DATE OF EACH MONTH SHALL RESULT IN A  
LOCK-OUT AND AN ADDITIONAL CHARGE OF \$10.00. ALL PAYMENTS ARE TO BE MADE  
OUT TO:

WESTHAMPTON MINI-STORAGE  
193 GRIFFING AVENUE  
RIVERHEAD, NEW YORK 11901

4. DEPOSIT.

OCCUPANT SHALL DEPOSIT WITH OWNER THE SUM OF \$ \_\_\_\_ AS SECURITY FOR  
OCCUPANT'S PERFORMANCE HEREUNDER. ANY CHARGES FOR LATE PAYMENT OR  
DEFAULT MAY BE TAKEN FROM THIS DEPOSIT AT THE END OF THE OCCUPANCY OR  
OTHERWISE AT THE DISCRETION OF THE OWNER.

**5. TERMINATION, NOTICE AND SUBLETTING.**

Page 2

THIS IS A MONTH-TO-MONTH OCCUPANCY AGREEMENT AND OCCUPANT MAY TERMINATE THIS LEASE BY GIVING OWNER A FIVE DAY NOTICE. OCCUPANT MAY NOT SUBLET THE PREMISES OR ASSIGN THIS LEASE AGREEMENT WITHOUT WRITTEN CONSENT OF OWNER. THIS AGREEMENT SHALL BE BINDING ON ALL HEIRS OR SUCCESSORS OF THE PARTIES HERETO. WE DO NOT PRORATE.

**6. RIGHT OF ENTRY.**

OWNER SHALL HAVE THE RIGHT TO ENTER INTO AND UPON SAID PREMISES AT ALL REASONABLE TIMES FOR THE PURPOSE ON INSPECTING OR REPAIRING THE PREMISES.

**7. ALTERATIONS.**

OCCUPANT SHALL NOT MAKE ANY ALTERATIONS, INSTALL FIXTURES OR ATTACH SIGNS, MARKINGS, OR ANY OTHER IDENTIFICATION WITHOUT FIRST OBTAINING OWNER'S WRITTEN CONSENT.

**8. USE OF PREMISES AND COMPLIANCE WITH LAW.**

OCCUPANT SHALL NOT STORE ON THE PREMISES PERSONAL PROPERTY IN OR TO WHICH ANY OTHER PERSON HAS ANY RIGHT, TITLE OR INTEREST. IT IS UNDERSTOOD AND AGREED THAT OCCUPANT MAY STORE PERSONAL PROPERTY OF VARIOUS TYPES AND VALUES IN, ON, OR ABOUT THE PREMISES WITHOUT OWNER'S KNOWLEDGE, SUPERVISION OR CONTROL, THE VALUE OF WHICH MAY BE DIFFICULT OR IMPOSSIBLE TO ASCERTAIN. IT IS SPECIFICALLY UNDERSTOOD AND AGREED THAT OWNER NEED NOT BE CONCERNED WITH THE KIND, QUANTITY OR VALUE OF PERSONAL PROPERTY OR OTHER GOODS STORED BY OCCUPANT IN OR ABOUT THE PREMISES. OCCUPANT SHALL NOT STORE ANY PERSONAL PROPERTY ON THE PREMISES WHICH WOULD RESULT IN THE VIOLATION OF ANY LAW OF ANY GOVERNMENTAL AUTHORITY AND OCCUPANT SHALL COMPLY WITH ALL THE LAWS, RULES, REGULATIONS AND ORDINANCES OF ANY AND ALL GOVERNMENTAL AUTHORITIES CONCERNING THE PREMISES OR THE USE THEREOF. OCCUPANT SHALL NOT USE THE PREMISES IN ANY MANNER THAT WILL CONSTITUTE WASTE, NUISANCE, OR UNREASONABLE ANNOYANCE OF THE OTHER OCCUPANTS. OCCUPANT SHALL NOT STORE ANY FLAMMABLE LIQUIDS, HIGHLY COMBUSTIBLE, RADIOACTIVE, EXPLOSIVE MATERIALS OR HAZARDOUS CHEMICALS. OCCUPANT SHALL NOT STORE PETS OR ANY ANIMALS. OCCUPANT ALSO AGREES THAT THE PROPERTY MAY NOT BE USED AS ANY OTHER USE THAN DEAD STORAGE. OCCUPANT SHALL NOT STORE, SPILL OR DISPERSE ANY MATERIAL THAT COULD POLLUTE OR IN ANY WAY NEGATIVELY IMPACT GROUND WATER OR THE ENVIRONMENT AT THE STORAGE FACILITY. THE OCCUPANT AGREES TO BE LIABLE FOR ALL REMEDIATION COSTS AND OTHER ASSOCIATED COSTS OR PENALTIES IN THE EVENT THAT THE OCCUPANT CAUSES OR PERMITS SUCH ENVIRONMENTAL POLLUTION AT THE FACILITY. OCCUPANT FURTHER AGREES TO MAINTAIN THE UNIT IN A GOOD REPAIR AND CLEAN MANNER AND SANITARY CONDITION. UPON TERMINATION OF THE OCCUPANCY, OCCUPANT SHALL SURRENDER THE UNIT IN A CLEAN AND SANITARY CONDITION, BROOM CLEAN AND IN GOOD REPAIR. OWNER DOES NOT PROVIDE GARBAGE RECEPTACLES AND OCCUPANT MUST HAUL AWAY HIS OWN REFUSE.

**9. LOSS, DAMAGE AND INSURANCE.**

OWNER SHALL NOT BE LIABLE FOR THE LOSS OF OR DAMAGE TO THE PROPERTY OR PERSON OF OCCUPANT, OCCUPANT'S AGENTS, INVITEES, OR OTHERS DUE TO THEFT, THE ELEMENTS, FIRE, WATER, VANDALISM, ANIMALS, ACTS OF GOD, DEFECTS, LATENT OR MANIFEST, IN THE PREMISES OR ITS EQUIPMENT, OR ACTS OF OWNER OTHER THAN OCCUPANTS. OWNER DOES NOT INSURE THE PERSONAL PROPERTY STORED IN THE PREMISES.

**10. NO INSURANCE.**

OCCUPANT MUST OBTAIN INSURANCE, COVERING DAMAGE BY FIRE, EXTEND COVERAGE PERILS, VANDALISM AND BURGLARY FOR THE FULL VALUE OF OCCUPANT'S PROPERTY. OCCUPANT UNDERSTANDS THAT OWNER WILL NOT INSURE OCCUPANT'S PROPERTY. OCCUPANT MAY OBTAIN INSURANCE FROM THE INSURANCE COMPANY OF OCCUPANT'S CHOICE. OCCUPANT MAY OBTAIN CERTAIN OF THE INSURANCE REQUIRED BY THIS PARAGRAPH BY SIGNING UP FOR THE INSURANCE PLAN DESCRIBED IN THE INSURANCE BROCHURE MADE AVAILABLE BY OWNER. INSURANCE COVERAGE FOR GOODS STORED IN THE PARKING SPACE AND OTHER INSURANCE COVERAGE NOT AVAILABLE UNDER THE INSURANCE PLAN DESCRIBED IN THE INSURANCE MUST BE OBTAINED FROM AN INSURANCE COMPANY OTHER THAN THE ONE NAMED IN THE BROCHURE. IF OCCUPANT DOES NOT OBTAIN INSURANCE FOR THE FULL VALUE OF THE OCCUPANT'S PROPERTY STORED IN THE ENCLOSED SPACE AND THE PARKING SPACE, OCCUPANT WILL BE CONSIDERED TO BE "SELF-INSURED" (PERSONALLY ASSUME ALL RISK OF LOSS). OWNER WILL NOT BE RESPONSIBLE FOR ANY DAMAGE TO OCCUPANT'S PROPERTY THAT WOULD HAVE BEEN INSURED UNDER AN INSURANCE POLICY OR POLICIES COVERING DAMAGE BY FIRE, EXTENDED COVERAGE PERILS, VANDALISM AND BURGLARY. OCCUPANT ACKNOWLEDGES THAT HE UNDERSTANDS THAT INSURANCE IS HIS RESPONSIBILITY AND THAT HE AGREES TO OBTAIN ALL NECESSARY INSURANCE REQUIRED BY THIS PARAGRAPH.

**11. OWNER'S LIEN.**

OWNER HAS A LIEN ON ALL PROPERTY OF OCCUPANT HELD AT THE FACILITY FOR ALL CHARGES OR ANY OTHER CHARGES PAST DUE OR DUE IN THE FUTURE AS WELL AS EXPENSES NECESSARY AND REASONABLY INCURRED FOR THE PROTECTION OF ANY MONIES DUE THE OWNER. THIS LIEN IS SUPERIOR TO ANY OTHER LIEN OR SECURITY INTEREST AND GOES INTO EFFECT ADS OF THE DATE ANY PROPERTY IS BROUGHT TO THE FACILITY.

**12. DEFAULT.**

IF OCCUPANT BREAKS ANY PROMISE HE OR SHE HAS MADE IN THIS OCCUPANCY AGREEMENT, INCLUDING FAILING TO PAY RENT WHEN DUE, OWNER MAY PURSUE ANY REMEDIES AVAILABLE TO OWNER UNDER NEW YORK LAW. IF OCCUPANT IS THIRTY (30) DAYS LATE IN PAYING RENT, OWNER MAY ENTER AND REMOVE OCCUPANT'S PROPERTY FROM THE ENCLOSED SPACE. UNTIL OWNER SELLS THE PROPERTY UNDER NEW YORK LAW, OWNER'S DECISION TO PURSUE ONE REMEDY SHALL NOT PREVENT OWNER FROM PURSUING ANY OTHER AVAILABLE REMEDIES. OWNER SHALL NOT BE LIABLE TO OCCUPANT OR ANYONE ELSE FOR THE REMOVAL OR SALE OF PERSONAL PROPERTY WHICH IS OWNED BY SOMEONE OTHER THAN OCCUPANT, OR IN WHICH SOMEONE OTHER THAN OCCUPANT HAS AN INTEREST, UNLESS OWNER IS NOTIFIED THAT THE PROPERTY IN OCCUPANT'S SPACE WAS NOT OCCUPANT'S PROPERTY. OCCUPANT AGREES TO NOTIFY OWNER, IN WRITING, OF ANY PROPERTY STORED IN OCCUPANT'S SPACE WHICH IS NOT THE SOLE PROPERTY OF OCCUPANT AND OF THE NAME OF ANY OTHER PERSON WHO HAS AN INTEREST IN THE PROPERTY. NOTICE BY OCCUPANT TO OWNER SHALL NOT MEAN THAT OWNER HAS AGREED THAT OCCUPANT MAY STORE PROPERTY OWNED BY ANYONE OTHER THAN OCCUPANT IN THE ENCLOSED SPACE.

**13. LIMITATION OF LIABILITY AND DEFAULT.**

IF OCCUPANT IS IN DEFAULT, AND OWNER ENFORCES ITS LIEN BY SELLING PROPERTY STORED IN THE ENCLOSED SPACE, OWNER SHALL BE LIABLE TO OCCUPANT ONLY IN THE AMOUNT OF MONEY RECEIVED BY OWNER AT ANY SALE OF SUCH PROPERTY. OCCUPANT AGREES THAT ANY MONEY RECEIVED BY OWNER AT ANY SALE OF SUCH PROPERTY

13. LIMITATION OF LIABILITY AND DEFAULT CONT. Page 4  
SHALL BE USED FIRST TO SATISFY FULLY OWNER'S LIEN. OCCUPANT AGREES THAT THE VALUE OF PROPERTY STORED SHALL NOT EXCEED \$10.00 PER SQUARE FOOT OF RENTED SPACE AND SHALL, IN NO EVENT, EXCEED THE SUM OF \$5,000.00 WITHOUT REGARD TO THE SPACE RENTED.

14. CONDITION OF UNIT.  
OCCUPANT ACKNOWLEDGES RECEIVING THE UNIT IN GOOD CONDITION, BROOM CLEAN WITH NO DAMAGE TO DOORS, WALLS OR FIXTURES OR ANY PART OF SAID IDENTIFIED FACILITY. OCCUPANT AGREES TO RETURN THE POSSESSION OF THE UNIT TO THE OWNER IN THE SAME CONDITION.

15. OWNER WARRANTIES.  
OWNER AGREES TO PERMIT QUIET ENJOYMENT OF THE OCCUPANT'S UNIT FOR THE PURPOSE SET FORTH IN ITEM 8 HEREOF AND AGREES TO MAINTAIN THE PREMISES IN GOOD REPAIR PROVIDED OCCUPANT BRINGS TO THE ATTENTION OF OWNER ANY NEED FOR REPAIR TO THE ROOF, DOORS, OR STRUCTURE.

16. LOCK-OUT.  
UPON DEFAULT BY OCCUPANT IN THE PAYMENT OF RENT WHEN DUE, OWNER IS HEREBY AUTHORIZED TO DENY OCCUPANT ACCESS TO THE UNIT BY MEANS OF CHANGING LOCKS OR REMOVAL OF OCCUPANT'S LOCK AND REPLACEMENT BY OWNER'S LOCK. OWNER'S LOCK WILL BE REMOVED UPON PAYMENT OF AMOUNT DUE INCLUDING LATE CHARGES AND LOCK-OUT CHARGES. SHOULD IT BECOME NECESSARY TO DESTROY THE OCCUPANT'S LOCK IN THE ACT OF REMOVAL, THE OWNER SHALL NOT BE LIABLE FOR THE REPLACEMENT OF OCCUPANT'S LOCK. SHOULD OCCUPANT'S LOCK BE REPLACED, A FEE OF \$20.00 TO CUT LOCK AND INVENTORY WILL BE CHARGED. IF A SALE IS CONDUCTED UNDER NEW YORK LAW, A \$50.00 ADVERTISING FEE WILL BE CHARGED.

17. LIMITATIONS OF OWNER'S LIABILITY; INDEMNITY.  
OWNER AND OWNER'S AGENTS SHALL NOT BE LIABLE TO OCCUPANT FOR DAMAGE OF LOSS TO ANY PERSON, OCCUPANT OR ANY PROPERTY STORED IN, OR ABOUT THE PREMISES OR THE UNIT, ARISING MYSTERIOUS DISAPPEARANCE, RODENTS, ACTS OF GOD OR THE ACTIVE OR PASSIVE ACTS, OMISSIONS OR NEGLIGENCE OF OWNER OR OWNER'S AGENTS. OCCUPANT SHALL INDEMNIFY AND HOLD OWNER AND OWNER'S AGENTS HARMLESS FROM ANY DAMAGE TO ANY PERSON OR PROPERTY OCCURRING IN, ON, OR ABOUT THE PREMISES WHETHER OCCASIONED BY OCCUPANT'S ACTIVE OR PASSIVE ACTS, OMISSIONS OR NEGLIGENCE OR OTHERWISE.

18. NO WARRANTIES.  
OWNER HEREBY DISCLAIMS ANY IMPLIED OR EXPRESS WARRANTIES, GUARANTEES OR REPRESENTATIVES OF THE NATURE, CONDITION, SAFETY OR SECURITY OF THE PREMISES AND THE PROJECT AND THE OCCUPANT HEREBY ACKNOWLEDGES THAT OCCUPANT HAS INSPECTED THE PREMISES AND HEREBY ACKNOWLEDGES AND AGREES THAT OWNER DOES NOT REPRESENT OR GUARANTEE THE SAFETY OR SECURITY OF THE PREMISES OR ANY PROPERTY STORED THEREIN. THIS LEASE SETS FORTH THE ENTIRE AGREEMENT OF THE PARTIES WITH RESPECT TO THE SUBJECT MATTER HEREOF AND SUPERSEDES ALL PRIOR AGREEMENTS OR UNDERSTANDINGS WITH THE RESPECT THERETO. ANY ALARM SYSTEM UPON THE PREMISES IS FOR THE CONVENIENCE OF OWNER AND NOT TO BE RELIED UPON BY OCCUPANT AS GUARANTEEING SECURITY OF THE PREMISES.

19. NOTICES.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS OCCUPANCY AGREEMENT, OR WRITTEN NOTICES OR DEMANDS REQUIRED OR PERMITTED TO BE GIVEN UNDER THE TERMS HEREOF MAY BE PERSONALLY SERVED OR MAY BE SERVED BY FIRST CLASS MAIL DEPOSIT IN THE UNITED STATES MAIL WITH POSTAGE THEREIN FULLY PRE-PAID AND ADDRESSED TO THE PARTY SO AS TO BE DELIVERED AT THE ADDRESS OF SAID PARTY PROVIDED FOR IN THE OCCUPANCY AGREEMENT. SERVICE OF ANY SUCH NOTICE OR DEMAND SHALL BE DEEMED COMPLETE ON THE DATE OF DEPOSIT IN THE UNITED STATES MAIL, WITH POSTAGE THEREON FULLY PRE-PAID AND ADDRESSED IN ACCORDANCE WITH THE PROVISIONS HEREOF. NOTICES SENT PURSUANT TO CURRENT STATUTES SHALL BE SENT TO THE OCCUPANT'S ADDRESS AND THE ALTERNATIVE ADDRESS IF BOTH ADDRESSES ARE PROVIDED BY OCCUPANT IN THIS AGREEMENT.

20. ASSIGNMENT.

OCCUPANT SHALL NOT ASSIGN OR SUBLEASE THE PREMISES OR ANY PORTION THEREOF WITHOUT IN EACH INSTANCE THE PRIOR WRITTEN CONSENT OF OWNER.

21. SUCCESSION.

ALL OF THE PROVISIONS OF THIS LEASE SHALL APPLY TO, BIND AND BE OBLIGATORY UPON THE HEIRS, EXECUTORS, ADMINISTRATORS, REPRESENTATIVES, SUCCESSORS AND ASSIGNS OF THE PARTIES HERETO.

22. CONSTRUCTION.

WHENEVER POSSIBLE EACH PROVISIONS OF THIS OCCUPANCY AGREEMENT SHALL BE INTERPRETED IN SUCH MANNER AS TO BE EFFECTIVE AND VALID UNDER APPLICABLE LAW, BUT IF ANY PROVISIONS OF THIS AGREEMENT SHALL BE INVALID OR PROHIBITED BY LAW, SUCH PROVISIONS SHALL BE INEFFECTIVE ONLY TO THE EXTENT OF SUCH PROVISIONS OR THE REMAINING PROVISIONS OF THIS AGREEMENT. THIS SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.

23. EXECUTION.

BY EXECUTION OF THIS LEASE AGREEMENT, OCCUPANT ACKNOWLEDGES HAVING BEEN PRESENTED WITH THE OCCUPANCY AGREEMENT AND HAVING READ IT PRIOR TO OCCUPANT TAKING ACTUAL POSSESSION OF THE LEASED PREMISES.

24. ENTIRE AGREEMENT.

THERE ARE NO REPRESENTATIONS, WARRANTIES, OR AGREEMENTS BY OR BETWEEN THE PARTIES WHICH ARE NOT FULLY SET FORTH HEREIN AND NO REPRESENTATIVE OF OWNER OR OWNER'S AGENT IS AUTHORIZED TO MAKE ANY REPRESENTATIONS, WARRANTIES OR AGREEMENTS OTHER THAN AS EXPRESSLY SET FORTH HEREIN.

IN WITNESS WHEREOF, THE PARTIES HEREIN HAVE EXECUTED THIS LEASE AGREEMENT.

OWNER

WESTHAMPTON MINI-STORAGE

BY \_\_\_\_\_  
EDWIN FISHEL TUCCIO

DATE \_\_\_\_\_

OCCUPANT

\_\_\_\_\_  
signature

\_\_\_\_\_  
name (please print)

## CONCRETE FOUNDATION SPECIFICATIONS WESTHAMPTON MINI STORAGE

**FOOTING** 12" X 24"  
3,000 psi, key as indicated.

**WALLS** 10" X 24" or 48" X L  
3,000 psi

**SLAB** 6" X 40 fl X 148 fl, +, -  
3,000 psi

Disregard below grade rings & trench drains on plans. Do not pitch slab floor as indicated on Arch. plan; the slab is to be flat & level.

Launch below containment depressions & at intersection of slab with walls; caulk at intersection of interior walls & slab.

Depression for spill containment centered in all units, 2" X 24" X 12 fl-23 fl (varies each unit)

Finish; machine steel trowel

Saw cut the width @ 16 fl intervals, depth of cut to be determined by the Architect.

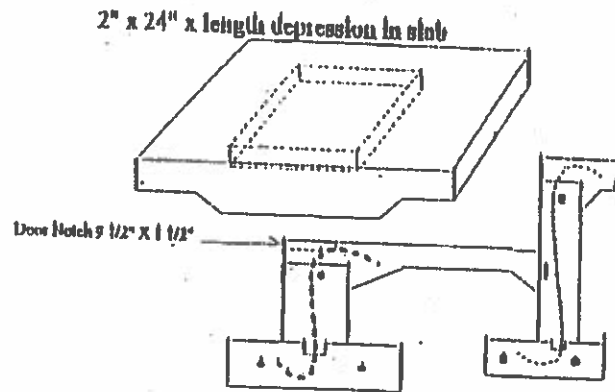
Pin slab into existing concrete walls with #5 rebar @ 24" intervals; embed 4" into existing walls & 12" into slab. The foundation immediately adjacent to the existing concrete walls will support steel structural members of the building (see American Int'l Drawing, page E2.1). These areas must contain 12" H X 12" W X 40 fl L of concrete and be pinned as above.

### TOLERANCES

The Tolerances of the footings, walls & slabs dimensions, and pitch, flatness, out of square, etc. are to be maintained overall within +/- 1/4".

### STEEL RE-ENFORCEMENT

Per plan and continuous #5 from footing, through wall and into slab @ 24" intervals. The steel is to be placed & supported by hangers or other methods such that it remains in the central portions of the concrete as indicated in the drawings and specification sheets.

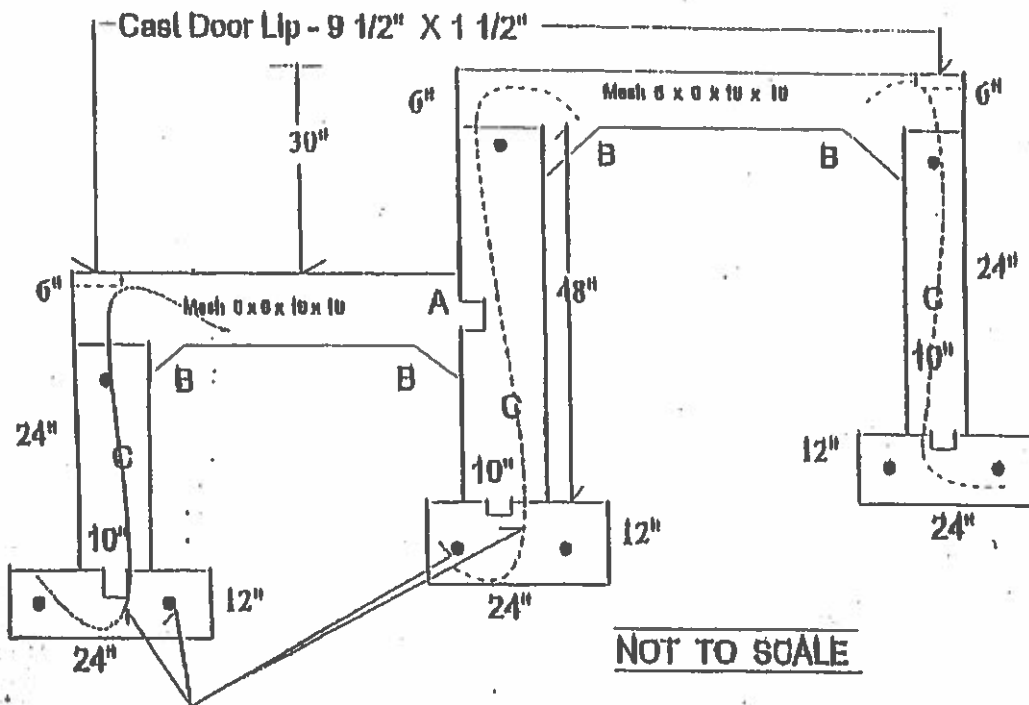


Continuous #5 rebar; from footing, through wall & into slab



## WESTHAMPTON MINI STORAGE CONCRETE FOUNDATION PROFILE DETAIL

The elevation and location of the foundations will be established and staked by the Contractor / Owner, in the field, prior to the placement of the Subcontractor's forms.



# 5 Rebar, Typical all footings, walls & slabs.

A : Key 48" wall to receive lower slab.

B : Haunch slab 6" X 6", 45 degrees at wall intersection.

C : Continuous # 5 rebar from footing, through wall & into slab.

Figure 1

017.21  
Appendix A

SEUW

State Environmental Quality Review  
FULL ENVIRONMENTAL ASSESSMENT FORM

**Purpose:** The full EAF is designed to help applicants and agencies determine, in an orderly manner, whether a project or action may be significant. The question of whether an action may be significant is not always easy to answer. Frequently, there are aspects of a project that are subjective or unmeasurable. It is also understood that those who determine significance may have little or no formal knowledge of the environment or may be technically expert in environmental analysis. In addition, many who have knowledge in one particular area may not be aware of the broader concerns affecting the question of significance.

... The full EAF is intended to provide a method whereby applicants and agencies can be assured that the determination process has been orderly, comprehensive in nature, yet flexible to allow introduction of information to fill a project or action.

**Full EAF Components:** The full EAF is comprised of three parts:

- Part 1: Provides objective data and information about a given project and its site. By identifying basic project data, it assists a reviewer in the analysis that takes place in Parts 2 and 3.
- Part 2: Focuses on identifying the range of possible impacts that may occur from a project or action. It provides guidance as to whether an impact is likely to be considered small to moderate or whether it is a potentially-large impact. The form also identifies whether an impact can be mitigated or reduced.
- Part 3: If any impact in Part 2 is identified as potentially-large, then Part 3 is used to evaluate whether or not the impact is actually important.

## DETERMINATION OF SIGNIFICANCE—Type 1 and Unlisted Actions

Identify the Portions of EAF completed for this project:  Part 1  Part 2  Part 3

Upon review of the information recorded on this EAF (Parts 1 and 2 and 3 if appropriate), and any other supporting information, and considering both the magnitude and importance of each impact, it is reasonably determined by the lead agency that:

- A. The project will not result in any large and important impact(s) and, therefore, is one which will not have a significant impact on the environment, therefore a negative declaration will be prepared.
- B. Although the project could have a significant effect on the environment, there will not be a significant effect for this Unlisted Action because the mitigation measures described in PART 3 have been required, therefore a **CONDITIONED** negative declaration will be prepared.<sup>1</sup>
- C. The project may result in one or more large and important impacts that may have a significant impact on the environment, therefore a positive declaration will be prepared.

<sup>1</sup> A Conditioned Negative Declaration is only valid for Unlisted Actions

*WEST HAMPTON MINI STORAGE*

Name of Action

Name of Lead Agency

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (if different from responsible officer)

617.21

## Appendix F

## State Environmental Quality Review

**NEGATIVE DECLARATION**

## Notice of Determination of Non-Significance

Project Number \_\_\_\_\_

Date August 10, 1994

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Central Pine Barrens Joint Planning and Policy Commission, as lead agency, has determined that the proposed action described below will not have a significant effect on the environment and a Draft Environmental Impact Statement will not be prepared.

Name of Action: Westhampton Mini StorageSEQH Status: Type I  
UnlistedConditioned Negative Declaration:  Yes  
 No

Description of Action: Application to replace two man-made berms and associated concrete retaining walls with two, one-story buildings on the 40 acre disturbed portion of a 400 acre parcel. The disturbed portion is improved with eleven concrete buildings used for private self-storage. The proposed buildings will contain the same use.

Location: (Include street address and the name of the municipality/county. A location map of appropriate scale is also recommended.)

North Perimeter Road at Suffolk County Airport, Town of Southampton,  
Suffolk County; Suffolk County Tax Map Dist. 900, Section 248, Block 1,  
Lot 110.002

SEQR Negative Declaration

Page 2

Reasons Supporting This Determination:  
(See 617.6(g) for requirements of this determination; see 617.6(h) for Conditioned Negative Declaration)

1. The 40 acre portion of the property is substantially disturbed as a consequence of its prior use as a military ammunition storage facility.
2. There is no native vegetation or habitat on the disturbed portion.
3. The existing retaining walls will be used as a part of the proposed buildings.
4. No additional impairment to the site beyond the existing disturbance will occur as a result of the development.

If Conditioned Negative Declaration, provide on attachment the specific mitigation measures imposed.

For Further Information:

Contact Person: Raymond P. Corwin, Executive Director  
Central Pine Barrens Joint Planning & Policy Commission  
Address: 3535 Sunrise Highway-P.O. Box 587, 2nd Floor  
Great River, New York 11739  
Telephone Number (516) 563-0307

For Type I Actions and Conditioned Negative Declarations, a Copy of this Notice Sent to:

Commissioner, Department of Environmental Conservation, 60 Wolf Road, Albany, New York 12233-0001  
Appropriate Regional Office of the Department of Environmental Conservation  
Office of the Chief Executive Officer of the political subdivision in which the action will be principally located.

Applicant (if any)

Other Involved agencies (if any) Town of Southampton

1125 of 285

Standard N. Y. S. T. U. Form 400-A - 12/10/66 - Executor's Deed - Full-Blind by Corporation (Mails Blank)

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT - THIS INSTRUMENT SHOULD BE SIGNED BY LAWYERS ONLY.

THIS INSTRUMENT, made the 18<sup>th</sup> day of October, nineteen hundred and sixty seven BETWEEN THE SUFFOLK COUNTY NATIONAL BANK, a national banking corporation organized and existing under and by virtue of the laws of the United States, with its principal office at 6 West Second Street, Riverhead, New York 11901

and Trustee as executor of

ETHEL B. FISHEL

under

the last will and testament of

Suffolk County, who died on the 19th day of

October, nineteen hundred and sixty-seven

party of the first part, and PATRICIA TUCCIO, residing at 163 Woodhull Avenue, Riverhead, New York and EDWIN F. TUCCIO, RFD, Box 19, Riverhead, New York, as tenants in common, residing at 547 East Main Street,

party of the second part,

and letters of Trusteeship

WITNESSES, that whereas letters testamentary were issued to the party of the first part by the Surrogate's Court, Suffolk County, New York, on September 27, 1967 and by virtue of the power and authority given in and by said last will and testament, and/or by Article 11 of the Estates, Powers and Trusts Law, and in the distribution of the trustee estate,

the party of the first part has hereby irrevocably released and released into the party of the second part, the distributees or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon located, situate, lying and being in the

... A ATTACHED HEREON AND MADE A PART HEREOF FOR DESCRIPTIONS OF THE PROPERTY CONVEYED

134121  
0200  
41200  
0300  
008080  
0200  
46300  
0100  
014000  
0200  
41200  
0300  
040000  
0200  
46300  
013000  
0200  
46300  
0100  
011000  
0900  
24900  
0100  
110000

RECEIVED  
HEN. LEVINE  
MAY 2 1967  
TRANSFER TAX  
SUFFOLK COUNTY

FOURTEEN will all right, title and interest, if any, of the party of the first part in and to any plots and parcels of land described in the above described instrument to the party of the second part, with the appurtenances, and also all the estate which the said decedent had at the time of decedent's death in said parcels, and also the whole thereof, which the party of the first part has or has power to convey or dispose of, whether lawfully, or by virtue of said will or otherwise, TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, (or distributees or successors and assigns of the party of the second part forever,

Subject to the trust (and provisions of Section 1201(a) of the Lien Law

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written

In presence of:

THE SUFFOLK COUNTY NATIONAL BANK

By James C. ...  
VICE PRESIDENT

112561287

SCHEDULE A

PARCEL 1 (situate at Manorville, Town of Brookhaven, Suffolk County, New York)

17.00  
412  
11.00  
3.00  
3.00  
8.000

BEGINNING at the Northeasterly corner thereof and in the southerly line of land now or formerly of Carl Heyser, and sometimes known as the Dayton Tract, and which said point of beginning is distant 2408.20 feet from Shakum Swamp Road on a line which runs South 6 degrees 36 minutes West and running thence South 6 degrees 36 minutes West along land now or formerly of Louis Young, 3625.17 feet to lands now or formerly of Raynor; thence North 82 degrees 02 minutes 40 seconds West 640.24 feet to the lands now or formerly of Raynor and Bitter; thence North 6 degrees 01 minutes 50 seconds East 515.27 feet; thence North 5 degrees 53 minutes 50 seconds East 1541.27 feet to a monument; thence North 10 degrees 10 minutes 30 seconds East 394.06 feet to another monument; thence North 6 degrees 37 minutes 10 seconds East 1159.59 feet to another monument; thence South 83 degrees 28 minutes 30 seconds East 639.16 feet to the point or place of BEGINNING.

PARCEL 2 (situate at Manorville, Town of Brookhaven, Suffolk County, New York)

2.00  
163  
JCK  
1.000  
1.000

BEGINNING at the southeasterly corner of Parcel 1 above and running thence southerly in a straight line a distance of approximately 850 feet to the land now or formerly of Nienstedt; running thence North 83 degrees 59 minutes 50 seconds West along the land formerly of Nienstedt about 669 feet to an angle; and thence on a course about North 5 degrees 44 minutes 40 seconds East about 875 feet to an angle; and thence along the southerly line of Parcel 1, about 675 feet to the point or place of BEGINNING.

PARCEL 3 (situate at Manorville, Town of Brookhaven, Suffolk County, New York)

2.00  
412  
JCK  
03.000  
10.000

Lots No. Twenty five (25), Twenty six (26), Twenty seven (27) and Twenty eight (28) in Block No. Thirty (30) as laid down on a certain map entitled "Map of South Manor Park". The above lots are also described as Lots No. 384, 383, 382 and 381, as laid down on a certain map entitled "Map of South Manor, at Manor, L.I., both of which maps are on file in the office of the County Clerk of Suffolk County, N.Y.

PARCEL 4 (situate at Manorville, Town of Brookhaven, Suffolk County, New York)

17.00  
46.3  
JCK  
01.00  
1.00  
3.000

BEGINNING at a point where the westerly side of lands now or formerly of Simbar Development Corp. (formerly Edward Mckelvey and Luther Raynor) intersect the northerly side of lands now or formerly of Hilltop 85 (formerly Herman Dietz and Elizabeth Nienstedt) said point beginning being distant the following four (4) courses and distances from a highway angle monument at station number 11 as shown on Map of Hot Water Street filed in the Office of the Town Clerk of the Town of Brookhaven; (1) North 83 degrees 52 minutes 30 seconds East along the northerly side of Hot Water Street 328.09 feet to a monument; (2) North 6 degrees 04 minutes 00 seconds East 2272.06 feet to a monument; (3) South 86 degrees 37 minutes 20 seconds East 462.55 feet to a monument and land now or formerly of Simbar Development Corp.; (4) thence along said land North 6 degrees 23 minutes 30 seconds East 995.04 feet to a fieldstone monument at the point of beginning; running thence from said point of beginning, North 83 degrees 59 minutes 40 seconds West 669.83 feet along land now or formerly of Hilltop 85 (formerly Herman Dietz and Elizabeth Nienstedt) to a monument

11'06'288

and other land now or formerly of Hilltop 85 (formerly Herman Dietz and Elizabeth Wiestedt) thence along said last mentioned land North 9 degrees 44 minutes 40 seconds East 357.96 feet to land now or formerly of Kenneth H. Leeds, (formerly Mrs. Joseph Martin and Job Raynor); thence along said last mentioned land South 03 degrees 59 minutes 40 seconds East 660.00 feet to lands now or formerly of Simbar Development Corp. (formerly Edward McKelvey and Luther Raynor); thence along said last mentioned lands, South 5 degrees 34 minutes 50 seconds West 357.96 feet to the point or place of BEGINNING.

The above four (4) parcels being and intended to be the same premises conveyed to the party of the first part by deed from Central 53 dated November 16, 1979, and recorded in the Suffolk County Clerk's Office on April 30, 1980, in Liber 8814 page 467.

PANCEL 5

ALL that certain plot, piece or parcel of land, situate, lying and being at East Manor, at or near Manorville, in the Town of Brookhaven, County of Suffolk and State of New York, and being more particularly bounded and described as follows:

~~DIST.~~  
~~0.00~~  
~~SEG.~~  
~~103~~  
~~BLOCK~~  
~~0.00~~  
~~LOT(S)~~  
~~11.000~~

BEGINNING at a monument with the initial "N" chiseled thereon which monument is situate at the Northwesterly corner of premises herein described, and the Southwesterly corner of premises formerly owned by Bernard K. Meyer, formerly D.E. Edwards, formerly Ethel B. Fishel; running thence South 82 degrees 02 minutes 40 seconds East along said last mentioned land 640.24 feet; running thence South 83 degrees 49 minutes 50 seconds East along land now or formerly of Herbert Hamburger 28.00 feet; running thence South 5 degrees 39 minutes 05 seconds West along land now or formerly of Simbar Development Corp., formerly Edward McKelvey, formerly Luther Raynor, 355.12 feet to other land of Bernard K. Meyer; running thence South 83 degrees 55 minutes 25 seconds East along said last mentioned land 660.00 feet to land of Hilltop 85, formerly Herman Dietz, formerly Elizabeth Wiestedt; running thence North 9 degrees 44 minutes 55 seconds East along said last mentioned land 376.15 feet to a monument and the point or place of BEGINNING.

PARCEL 5 BEING AND INTENDED to be the same premises conveyed to the party of the first part by deed from Kenneth H. Leeds dated November 16, 1979, and recorded in the Office of the Suffolk County Clerk on April 30, 1980 in Liber 8814 page 463.

PANCEL 6

~~DIST.~~  
~~0.00~~  
~~SEG.~~  
~~215~~  
~~BLOCK~~  
~~0.00~~  
~~LOT(S)~~  
~~110.000~~

ALL that certain plot, piece or parcel of land, situate, lying and being in the Town of Southampton, County of Suffolk and State of New York, known and designated as part of lot 26 to 30 inclusive, Quogue Purchase, bounded north and west by land now or formerly of Suffolk Airways Inc., east by Lot 25, Quogue Purchase, south by Middle Line.

PARCEL 6 BEING AND INTENDED to be the same premises conveyed to Edwin D. Fishel by deed dated September 19, 1940, and recorded in the Suffolk County Clerk's Office on September 20, 1940 in Liber 1100 page 370.

The party of the first part does further remise, release and quitclaim unto the party of the second part any and all parcels of land and improvements thereon which it may possess as Executor or Trustee of the Estate of Ethel Fishel situate in the Towns of Southampton and Brookhaven, Suffolk County, New York.

112561286

STATE OF NEW YORK, COUNTY OF ...  
On the ... day of ... 19... before me  
personally came

to me known to be the individual described in and who  
executed the foregoing instrument, and acknowledged that  
executed the same.

STATE OF NEW YORK, COUNTY OF ...  
On the ... day of ... 19... before me  
personally came

to me known to be the individual described in and who  
executed the foregoing instrument, and acknowledged that  
executed the same.

STATE OF NEW YORK, COUNTY OF SUFFOLK  
On the 18th day of October, 1990, before me  
personally came DANIEL COLE  
to me known, who, being by me duly sworn, did depose and  
say that he resides at No. 1 ... AVE.  
DIX HILLS, N.Y.  
that he is the VICE PRESIDENT  
of THE SUFFOLK COUNTY NATIONAL BANK

the corporation described  
in and which executed the foregoing instrument, and  
acknowledged that he executed the same as Vice President  
of said corporation, and that he is a member of the board of directors of said corporation.

STATE OF NEW YORK, COUNTY OF ...  
On the ... day of ... 19... before me  
personally came  
the subscribing witness in the foregoing instrument, with  
whom I am personally acquainted, who, being by me duly  
sworn, did depose and say that he resides at ...  
that he knows

to be the individual  
described in and who executed the foregoing instrument,  
that he, said subscribing witness, was present and saw  
execute the same, and that he, said witness,  
of the same date subscribed as a witness thereto.

*Glenda B. Schell*  
Notary Public

1681483001  
Notary Public, State of New York  
Commission Expires on May 1, 1991

Executor's Seal

TITLE No.  
THE SUFFOLK COUNTY NATIONAL BANK

TO  
PATRICIA TUCCIO and EDWIN F. TUCCIO

SECTION  
BLOCK  
LOT  
COUNTY OF SUFFOLK  
STREET ADDRESS

Notarized as Required at  
CHICAGO TITLE INSURANCE COMPANY

Return by Mail to

Mail P. Corbett, Esq.,  
SCHUMBERG, SCHUMBERG, DOPETRIS & DOPETRIS  
P. O. Box 899  
Riverhead, New York 11901  
Tel. No.

STANDARD FORM OF NEW YORK HOME OF THE DEPARTMENT  
Distributed by  
CHICAGO TITLE  
INSURANCE COMPANY

SEE BACK FOR LIST OF RECORDING OFFICES



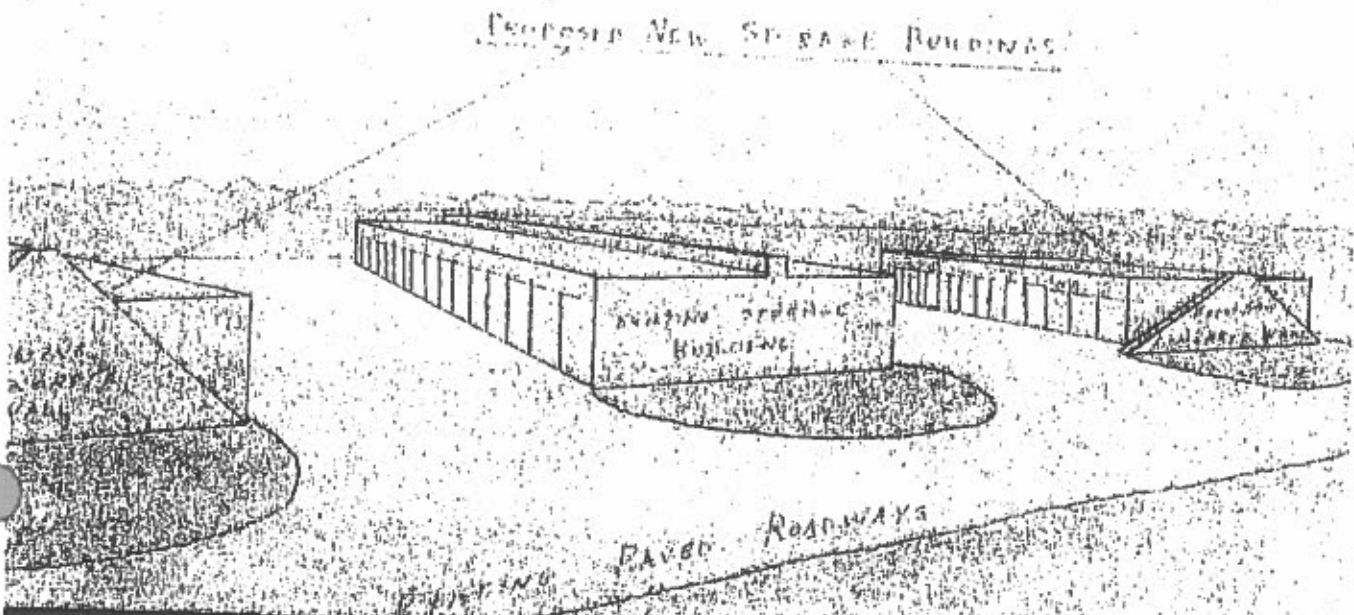
# Inside Self-Storage

October 1994



# A Case Study of Patience in Development

By Valerie A.M. Demetras



**Y**ou wouldn't think that building onto an existing storage facility would involve a tiger salamander and clear water, but in Long Island, they take their water and wildlife seriously.

As evidenced across the country more and more, environmental issues are being laid on the table when the construction of self-storage is discussed. So when Edwin and Patricia Tuccio decided to expand their facility in Westhampton, New York, they hired an environmental engineer, Michael Nobiletti. Nevertheless, satisfying the town turned into a test of endurance.

*Michael Nobiletti's drawing (above) submitted to the commission shows the proposed building sites, which would replace the berms shown at right*

## RULES AND REGULATIONS

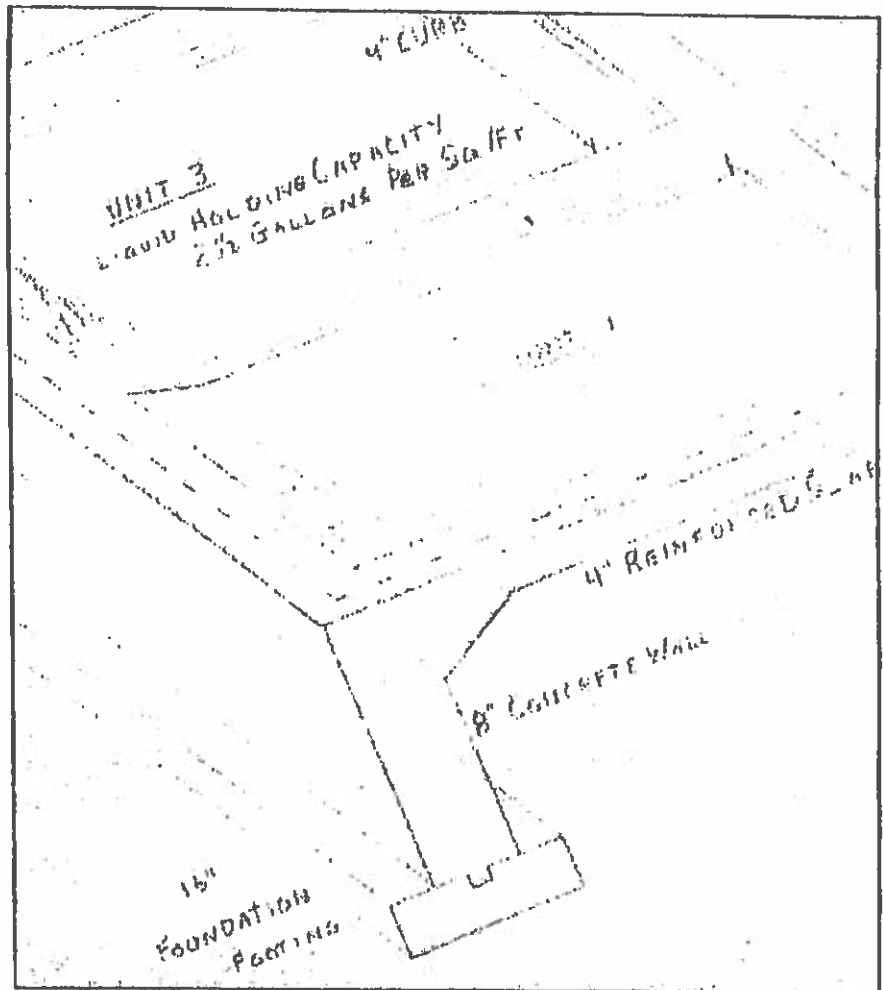
According to the Long Island Pine Barrens Joint Planning and Policy Commission, the project design had to ensure that no toxic waste, which *might* be stored in the facility, would leak into the aquifer located beneath the facility. The reason the commission was so intent on preventing water contamination was simple: The aquifer supplies all the drinking water for Long Island.

"This is the sole source of drinking water out there," Nobiletti says. And for this reason, as well as the protection of wildlife and dwarf trees on the island, the commission passed the Long Island Pine Barrens Protection Act last year.

"Long Island was formed by glaciers moving down," Nobiletti says. "As these glaciers came down from Connecticut, they crushed the rock in front of them. Long Island has mineral deposits of sand deep beneath it, and it is this sand that holds the groundwater and filters it. The water in these aquifers is very pure, very pristine."

The project began in November 1993, when the Tuccio's made plans to expand their facility. They decided to wait until May to submit their application. "The law was signed in July of 1993. It was very unclear at that time and it took some time for it to be a workable law that this commission could pass on," Nobiletti says.

The original hearing was on June 22. Prior to that hearing, he attended several meetings with the commission, its staff, and its hydrogeologists and environmentalists. "Then we went through a series of procedural filings for state and environmental quality laws for the township that we're involved in," he says.



*"This is the sole source of drinking water out there."*

*Michael Nobiletti*

## THE ANSWER

After determining the requirements, it was necessary to develop a slab that, when built correctly, could hold a spill. In addition to the environmental position to save the trees and insects, the big issue is reserving the drinking water supply and hence the design of the slab to contain any spills that should occur," Nobiletti says.

The slab was designed with a depression in each unit and a four-

inch lip around the edge. "If something were to spill, an 8-by-10 unit would be able to hold about 200 gallons of spilled material before it would overflow," Nobiletti says.

The structure is built with a 4-inch reinforced slab below the curb, 16-inch foundation footings and an 8-inch concrete wall.

The design for construction resulted from a study of what other owners had come up with in the past, many of whom went overboard, Nobiletti said. "Others have come up with elaborate designs. There would be a drain in each unit and it would all drain into this thing, and collectively you could have a cocktail of unknown waste. This is something you don't want to do.

## REASONS FOR REGULATIONS

Is all of this really necessary? Yes, Nobiletti says. Although it is just speculation as to whether anyone would store toxic substances, it's better to be safe. There have been instances in the past on the island, he says, where mistakes have happened. "There really are flagrant violations," he says. "Lawnmowing companies, which are seasonal, use a storage facility as a commercial warehouse. Swimming companies store chemicals for the pools and they do have spills that get into the groundwater. I think in areas where you have drinking-water aquifers, it is a sensitive issue."

In areas where environmental issues are just coming to light, many business owners feel as if they are being singled out as an example. he Tuccio's don't feel as if they are one of them.

*"Swimming pool companies store chemicals for pools and they do have spills that get into the groundwater"*

*Michael Nobiletti*

On Long Island gas stations must comply with strict rules when storing gas underground, and even residential fuel tanks have specific guidelines.

What is more important is the self-storage property is over a sensitive recharge area for the aquifer, meaning the water under his facility flows down into all of the water supply for the city, just as a contaminated river flows into the ocean.

Keeping recharge areas safe is an important issue in any underground water supply, says James Carter of The RabCo Corp. in San Antonio, Texas.

San Antonio is in the same situation Long Island with its aquifer situations, and that can lead to interesting building problems, Carter says.

"There are all kinds of regulations because of the aquifer," he says. "There is a mini storage being built here that had to put in not only a retention pond, but also a filtration pond. The filtration pond is meant to catch a lot of those contaminants, such as oil dropping off of your car. They design it and engineer it so that the first thirty minutes or so washes off all the contaminants. That goes into the filtration pond. Then after that, it goes into the retention pond."

Carter says that although he has not heard of a containment situation at a self-storage facility such as the one that Nobiletti devised, he has heard of similar restrictions for chemical plants. The bottom line is to know what you are dealing with before it comes up.

"It is out of the ordinary, but there are certainly other instances across the country where you would run into the same thing," he says. "It just points out that there are so many regulations right now that you've got to really investigate these things. If you don't, you're going to be surprised by a lot of extra costs in your project that you were unaware of."

Carter's advice: due diligence investigation process. Check out jurisdictional regulations from any governmental agency and restrictions they might have. "You have to do that on a piece of property," he says. "You should do it during the option period, when you have the property optioned and are not committed to buy it yet."

## REGULATIONS FOR THE SALAMANDER AND THE PINE

The regulations are not just for the water, as mentioned earlier. The protection of the aquifer is compounded by the protection of wildlife and, at

times, endangered species indigenous to the area. For Nobiletti, this includes the tiger salamander, lady's slipper and buck moth. According to the commission's Interim Goals and Standards for Development:

*"Development shall not have a significant negative impact on a habitat essential to those species identified by New York State-maintained lists as rare, endangered, or threatened, nor on natural communities classified by the NYS Natural Heritage Program as unique and ranked G1, G2, G3, or S1, S2 or S3."*

Even vegetation native to the area is protected by the commission, "including pitch pines and various species of oak trees, plus numerous understory and groundcover plants such as blueberry and bearberry and grasses such as prairie bluestem and indian grass," according to the commission.

In order to ensure the proliferation of these species, the commission requires that each "subdivision and site design must support preservation of natural vegetation in large unbroken blocks that allow contiguous open spaces to be established when adjacent parcels are developed." in other words, when building, you must leave open spaces for the natural vegetation to grow.

Carter recalls instances in Austin, Texas, where endangered species have dictated development. "In some areas, there are endangered species that have virtually shut down development," he says. "you might have, say 10 acres, and they might let you develop one acre of it. The rest needs to be left natural and sometimes you even put out bond money to preserve it and ensure that it stays natural."

## A POUND OF PREVENTION

Unfortunately for the Tuccio's, the laws were not in place when the land was converted to Westhampton Mini Storage. The facility, with 200 tenants, was originally built by the U.S. Air Force to store sensitive cargo.

"These buildings are adjacent to an airport that was operated by the Air Force in the fifties, and the airport had built several fortified, concrete garages used to store and assemble weapons," Nobiletti says. "In the Cold War, this airport was active. There were bombers and fighters and they stored a lot of weapons there. These are very strong and fortified buildings for that purpose. There are several, hundred of them.

In the early '70's, with great foresight, Edwin Tuccio, a young real estate broker, converted the fortresses. He saw that they offered the perfect self-storage opportunity. Despite their out-of-the-way location, the business gradually took off. By the '90's, the business had grown to the point that more space is needed.

The existing site consists of 40,000 square feet of self-storage in 11 concrete buildings. Between the buildings, large berms with 50-percent slopes were constructed to be used as blast deflectors in the case of accidental explosions. A pyramid-shaped, massive 12-foot-high concrete retaining wall and foundation were built on each end. The Tuccio's proposed to build new sites on these locations. The plan was to erect two buildings, 40-by-150 each, for a total of about 12,000 square feet and 30 units in each building. The changes required by the commission have slowed his progress and, more importantly, have added costs to the production.

Unfortunately, there is only so much an owner can do to prevent storage of toxic chemicals at a

facility. What is in the owner's favor is the fact that spills happen very infrequently. Although the commission and other organizations may be worried about toxic spills, the incidence of spills is very low. They can't be completely prevented, but by the same token, they don't happen very often.

"The situation is similar to the person lives across the street from you," says Bob Bradley, executive vice president of The Dahm Corp. in Irvine, Calif. "You don't know what he's got in his garage. Nobody can be 100-percent sure of what someone else has on their premises. You can take steps to try and lessen the risk by professionally designing and constructing facilities to meet or exceed codes, but can you guarantee that there will never be toxic chemicals on the property? Unfortunately not."

Important measures to follow include having managers keep an eye on tenants, good security and restrictive language in rental contracts. These can lessen the instances, but making changes to development construction is not always the answer, according to Bradley.

"I would take the approach that I'm going to build this professionally and manage it professionally and do the best job I can," he says.

## THE END RESULTS

Hard work and perseverance have paid off. The project has cleared the bureaucratic hoops and received verbal approval of his design changes from the commission on Aug. 10. As this story goes to print, written approval is expected by mid-September. In light of all these difficulties, others, may decide to forego development and in order not deal with all the hassles.

The end result is that somewhere, compromise has to be made. That

compromise is usually on the part of the developer and the added costs end up coming out of someone's pocket. "The consumer is the one who ends up paying for it," Carter says.

*Important measures to follow include having managers keep an eye on tenants, good security and restrictive language in rental contracts.*

"That's the bottom line. The cost has to be passed through somehow. Either you don't develop or the rates have to go up to compensate."

The Tuccio's and Nobiletti believes the extra work is worth the effort. The drinking water in the area is important, they says, and feel it is imperative that it is kept safe. "We don't feel as if we're being singled out." "This is an important issue"

*minor editing to correct factual errors by Rosemary Danielowich and Patricia Tuccio*



**FILE COPY**

*Westhampton Mini-Storage*

193 Griffing Avenue  
Riverhead, New York 11901  
631-727-6802 or 631-727-6644  
Fax: 631-369-2727

March 2, 2000



Ms. Judy Jakobsen, Environmental Analyst  
P.O. Box 587  
3525 Sunrise Highway  
2nd Floor  
Great River, New York 11739-0587

Dear Ms. Jakobsen:

As per our telephone conversation on today's date, we are responding to the items you mentioned in your fax dated February 29, 2000.

As in the past, we have used the same application for the previous two times that we have expanded our mini-storage. We believe that we have filed the proper hardship application.

Regarding the Site Plan:

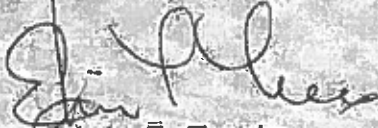
1. We have enclosed a copy of the original map and have shaded the area, as per your request.
2. There was a discrepancy in the total sq. ft. of all the proposed buildings. We have corrected this error and are enclosing a copy of the correction.
3. We do not believe the area containing a few small pine trees located by the light pole will be in the area of the expansion. As per the Pine Barrens instruction, we would be more than happy to remove or relocate these few trees.

Page 2

4. The proposed buildings will have containment like the other buildings in prior hardship applications. See Page 12 of the application.
5. At the present time, we are not considering further expansion of this facility. But we cannot rule it out because of our ability to obtain TDR credits.

I wish to thank you for your kind help in this matter. If you have any further questions, please feel free to contact me.

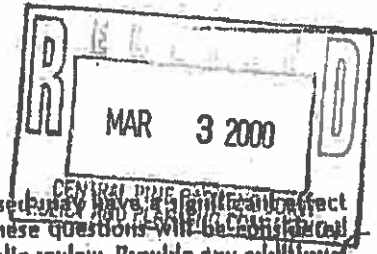
Sincerely yours,



Edwin F. Tuccio

ET:rd  
encls.

**PART 1—PROJECT INFORMATION**



Prepared by Project Sponsor

**NOTICE:** This document is designed to assist in determining whether the action proposed may have a significant effect on the environment. Please complete the entire form, Parts A through E. Answers to these questions will be considered as part of the application for approval and may be subject to further verification and public review. Provide any additional information you believe will be needed to complete Parts 2 and 3.

It is expected that completion of the full EAF will be dependent on information currently available and will not involve new studies, research or investigation. If information requiring such additional work is unavailable, so indicate and specify each instance.

NAME OF ACTION <u>Westhampton Mini Storage</u>		
LOCATION OF ACTION (include Street Address, Municipality and County) <u>North Perimeter Rd., Suffolk County Airport, Westhampton, N.Y.</u>		
NAME OF APPLICANT/SPONSOR <u>Edwin &amp; Patricia Tucclo</u>		BUSINESS TELEPHONE <u>(516) 727 6644</u>
ADDRESS <u>193 Griffing Avenue, Riverhead, New York 11901</u>		
CITY/PO	STATE	ZIP CODE
NAME OF OWNER (if different)		BUSINESS TELEPHONE ( )
ADDRESS		
CITY/PO	STATE	ZIP CODE
DESCRIPTION OF ACTION <u>The addition of 3 steel framed storage buildings on a concrete slab, one story high, no utilities will be added to the building with the possible exception of exterior security lighting. Each building is 40 ft x 150 ft x 12 ft high for a total of 120,800 sq ft. The site is defined as an area within a Disturbed/Developed area and is part of a parcel that in other areas contain undeveloped core Pine Barrens lands.</u>		

Please Complete Each Question—Indicate N.A. if not applicable

RR Applicant's May 26, 1997 Core Hardship Application & specific Protect Details

**A. Site Description**

Physical setting of overall project, both developed and undeveloped areas.

1. Present land use:  Urban  Industrial  Commercial  Residential (suburban)  Rural (non-farm)  Forest  Agriculture  Other \_\_\_\_\_

2. Total acreage of project area: 40 acres.

APPROXIMATE ACREAGE	PRESENTLY	AFTER COMPLETION
Meadow or Brushland (Non-agricultural)	<u>20</u> acres	<u>20</u> acres
Forested	<u>0</u> acres	<u>0</u> acres
Agricultural (Includes orchards, cropland, pasture, etc.)	<u>0</u> acres	<u>0</u> acres
Wetland (Freshwater or tidal as per Articles 24, 25 of EGL)	<u>0</u> acres	<u>0</u> acres
Water Surface Area	<u>0</u> acres	<u>0</u> acres
Unvegetated (Rock, earth or fill)	<u>0</u> acres	<u>0</u> acres
Roads, buildings and other paved surfaces	<u>10</u> acres	<u>10.75</u> acres
Other (Indicate type: _____)	<u>7</u> acres	<u>0</u> acres

3. What is predominant soil type(s) on project site? Sand

a. Soil drainage:  Well drained 100 % of site  Moderately well drained \_\_\_\_\_ % of site  Poorly drained \_\_\_\_\_ % of site

b. If any agricultural land is involved, how many acres of soil are classified within soil group 1 through 4 of the NYC Land Classification System? \_\_\_\_\_ acres. (See 1 NYCRR 370).

4. Are there bedrock outcroppings on project site?  Yes  No

a. What is depth to bedrock? \_\_\_\_\_ (in feet)



**CENTRAL PINE BARRENS JOINT PLANNING & POLICY COMMISSION  
STAFF REPORT**

Issued: March 29, 2000  
Field Visit: February 29, 2000

**APPLICATION REC'D/HEARING/DECISION DEADLINE DATES:**

- 2/22/00            receipt  
- 6/21/00            decision deadline

**APPLICANT:** Edwin & Patricia Tuccio (Westhampton Mini-Storage)  
547 East Main Street  
Riverhead, NY 11901

**LOCATION:** North of Gabreski Airport, east side of County Road 31, Westhampton, Town of Southampton

**TAX MAP:** 0900-248-1-110.2

**CURRENT REQUEST (Third Request):**

Core hardship exemption for the addition of three steel framed storage buildings totaling 20,800 sf., to an complex of existing self storage buildings, a pre-existing non-conforming use. Two buildings will be 40 ft by 150 ft by 12 ft high and a third building will be "T" shaped with the dimensions of 40 ft by 70 ft by 40 ft by 150 ft by 12 ft. high for a total of 20,800 sf. No utilities will be added except for possible exterior security lighting and no septic system will be installed.

**Second Hardship Request:**

A core hardship exemption for the addition of four storage buildings totaling 24,000 square feet on a 53 acre parcel which contains 11 concrete storage buildings was made to the Commission in 1997.

**First Hardship Request:**

A core hardship exemption for the construction of two commercial storage buildings that would replace two existing earthen berms, located within a complex of existing storage buildings was made to the Commission in 1994.

**ZONING:** LI200 Light Industrial 200,000 square feet minimum.

**LAND USE:** Existing mini storage with public land to the north and east. Gabreski Airport to the south. Total existing building area over entire site is approx. 70,878 sf with a total lot coverage of 3.11% (as per site plan dated March 21,1999). Proposed building area over entire site would be 91,678 sf, resulting in a proposed lot coverage of 4.02 %.

**SITE DESCRIPTION** **Topography:** Generally flat approximately 100' above mean sea level.  
**Vegetation:** The overall site is cleared and very disturbed due to previous use of the area by the military. The remainder of the 53 acres does contain dwarf pine plain vegetation as per the map submitted at a prior public hearing, held in July 17, 1996. The locations of the proposed buildings are in proximity to existing buildings, in disturbed areas that contain grasses, pine barrens heather, bearberry and few, if any trees/ shrubs other than occasional eastern red cedar, pitch pine and native cherry.

**REQUIRED APPROVALS :**

- SEQRA
- Town of Southampton Planning Board - Site Plan and Special Exception Permit
- Town of Southampton ZBA - Increase of non-conforming use
- Town of Southampton Building Permit
- SC Dept. of Health Services Article 6 Permits

**RECOMMENDATIONS**

The Commission should discuss how the additional development meets the minimum relief component of the hardship criteria. Under the Town Code, 10.6 acres or 20% of the lot can be developed.

There are a few small pitch pines located near the area for the building proposed on the southwest portion of the site, adjacent to the chain link fence. The Commission may want the applicant to relocate these, if they will be disturbed by the construction. Applicant has indicated willingness to relocate these in letter dated 3/2/00.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SUFFOLK

-----X  
EDWIN FISHEL TUCCIO and PATRICIA TUCCIO,

Plaintiffs,

- against -

COUNTY OF SUFFOLK, JAMES EUGENE STERNBRIDGE,  
LOUIS HARTNING, J. OVERTON WALTON, GEORGE AARON  
BEARDEN, WARE W. ROBERTSON, JOHN G. TRAYLOR,  
CHRISOULA CORODEMUS, HARRY C. MCKEEVER, SEASIDE  
REALTY & IMPROVEMENT CO., NATIONAL ALUMNI, ANGELO  
VALTZ, FRANK SPECIALE, RICHARD C. DITTMER,  
FLORENCE BEYER, A.W. WARD, CARL H. BURG, THOMAS  
STETTINE, MILDRED McSKIMMING, HENRY R.  
DITTMER, WILLIAM M. FEIL, HENRY TREVELT, REVIDA  
CORP., HERBERT SWANSON, CHARLES CAMPACCI, DR.  
HEYWOOD A. HEFFRON, A.V. MILLS, VINCENT SPINELLA,  
THOMAS QUIGLEY, FRAN SCHWEITZER, ROBERT L.  
KERSCH, SARAH L. DEAN, JULIA HOLT DEAN, DOROTHY  
ANN TODD, ROBERT C. DOAD, SHLOMO BAKHASH,  
MORIS BAKHASH, JOSHUA TERRY JACKSON, JOHN  
ANDREW McCRORY, HILDA FREEMAN, DRUSILLA ILMA  
TUDURY, EVE TAYLOR, MRS. GEO LOTZ, THOMAS P.  
COYLE, MARY COYLE, EUGENE AUGUSIEWICZ, CHRISTIAN  
SCHLOBOHM, ROBERT SCHREIB, ARTHUR SCHREIB,  
GEORGE SCHREIB, CHARLOTTE O'CONNOR, BETTE  
McCASLIN, GEORGE ARNOLD SCHREIB, DOMINICK  
DEGRORY, MARIO DEGREGORY, LIBBY DIGREGORIO,  
JAMES DEGREGORIO, LOUIS INDOVINO, JOE INDOVINO,  
THOMAS INDOVINO, SERAFINA INDOVINO, VIVIAN KUSS,  
JOHN MANNINO, HENRY M. ZIEGLER, H. RULF PEECKSEN,  
BARBARA GAGLIARDO, MARY PARISI, JOSEPH L. PARISI,  
KAY PARISI, CLINTON E. DYER, CANDACE WILLIAMS BUTLER,  
JOHN R. BUTLER, JR., NEIL PALADINO, ROSE PALADINO,  
HARRIET MURPHY, LOUIS REDMOND, BEATRICE REDMOND,  
ESTATE OF WALTER J. HARON, ESTATE OF JEAN A. FORCINA,  
JOSEPH W. HARON, BENEDICT KEMPINSKI, AGNES KEMPINSKI,  
CATHERINE GAGLIARDO, PAUL CAROLLO, FRANCES CAROLLO,  
JAMES W. BRAZELL, TONI SANTORE, HENRY C. BRAUN,  
REALTY REDEMPTION CO., INC., ANTHONY J. SCHERIFF,  
JOSEPH SCHERIFF,

Defendants.

Index No.: 98-11876

STIPULATION OF  
SETTLEMENT

IT IS HEREBY STIPULATED by and between the undersigned counsel for the respective parties, that the within action be and the same hereby is in all respects settled and discontinued with prejudice, without costs or disbursements to any party, on the following terms, conditions and provisions and that the within stipulation of settlement shall be "SO ORDERED" by the Court and have the same force and effect as if the same were a judgment entered after trial:

1. Plaintiffs', EDWIN FISHEL TUCCIO and PATRICIA TUCCIO, claims for sole title to the real property at issue in fee simple absolute, consisting of 75.520 acres, more or less, known as SCTM 0900-248-001-11003, is hereby acknowledged, recognized, accepted and established; and

2. Plaintiffs have paid all real property taxes to date due and owing on the property pursuant to tax bills generated by the Receiver of Taxes of the Town of Southampton; and

3. The claims to title to various lots on a filed map known as Map of Seaside Realty & Improvement Company, filed in the Office of the Clerk of the County of Suffolk on April 28, 1908, as Map No. 261, which Map and lots overlay and overlap the aforesaid 75.520 acres, more or less, interposed by defendants Chrisoula Corodemus, Richard C. Dittmer, Henry R. Dittmer, Dr. Heywood A. Heffron, Robert Schreib, Arthur Schreib, Arnold Schreib, George Schreib, Charlotte O'Connor, Vergil McCaslin, Louis Indovino, Estate of Thomas Indovino, Estate of Joseph Indovino, Serafina Indovino, Candace W. Butler, John F. Butler, Estates of Louis Redmond and Beatrice Redmond, Realty Redemption Co., Inc., Toni Santore, Harriet Murphy, John Mannino, Barbara Gagliardo, Catherine Gagliardo, Paul Carollo and Frances Carollo, Mario and Libby DeGregory, James DiGregorio, Eugene Augusiewicz, Schlomo and Moris Bakhsh, Frank Speciale, Anthony Sheriff and Joseph Sheriff (hereinafter referred to collectively as "Settling Defendants") are hereby withdrawn, dismissed and discontinued with prejudice, said overlay or overlap being deemed and agreed to have been erroneous, incorrect and improper; and

4. The parties hereto agree and acknowledge that the said Map of Seaside is an erroneous overlay or overlap over plaintiffs' real property aforesaid and that the said real property represented by the erroneous overlay or overlap of the Map of Seaside on or over plaintiffs' real property is located, if at all, on property other than the 75.520 acres, more or less, owned by the plaintiffs at issue herein; and

5. The Settling Defendants' and the Defendant County of Suffolk's claims that the said Map of Seaside is physically located within the boundary of the land claimed by plaintiffs herein is hereby withdrawn, deemed to have been determined in favor of plaintiffs' and discontinued with prejudice.

6. The Settling Defendants have paid taxes on the overlay property as designated by other SCTM numbers, to wit: District 0900, Section 248, Block 1, Lots 076, 089, 009, 026, 014, 020, 066, 008, 046, 052, 040, 004, 038, 048, 050, 077, 074, 018, 016, 015, 013, 034, 084, 061, 058, 036, 012, and 045; and Section 217, Block 3, Lot 1, 11, 13, 5, 6, 14, 2, 4, 9 and 10; and Section 217, Block 1, Lot 6.

7. In the event that the Settling Defendants or any of them make application to the Town of Southampton for refunds of taxes paid by them, with reference to the lots mentioned in paragraph 6 hereof, the Defendant, County of Suffolk shall not oppose and shall reasonably cooperate in the processing of any erroneous assessment or similar form and any application for tax refunds. In addition to the Pine Barrens Credits which shall be given to the Settling Defendants, as hereinafter set forth, said Settling Defendants may also receive real estate tax refunds of real estate taxes each Settling Defendant paid upon application therefor to the Town of Southampton. Such refunds may be made from the date of commencement of the action to and including the most recent date for which real estate taxes have been paid and in addition for 6 years prior to the commencement of this action, i.e., the 1992-93 tax lien. The Defendant County of Suffolk agrees to refund any taxes received and retained by it from the Settling Defendants for a like period, pursuant to tax bills generated by the Receiver of Taxes of the Town of Southampton.

8. The property at issue is situate within the Central Pine Barrens region.

9. The Pine Barrens Credit Clearinghouse has issued a letter dated February 20, 2002, stating that the property would be eligible for the issuance of 75.52 "Pine Barrens Credits" for SCTM #0900-248-001-11003 in accordance with the practices and regulations of that agency, and provided a conservation easement were placed on the property.

10. The Settling Defendants and the County of Suffolk will interpose no objection to any application that may be made for the entry of default judgment, in favor of the plaintiffs, by the plaintiffs against all defendants other than the Settling Defendants and the County of Suffolk for

all of the relief prayed for in the verified complaint in this action, so as to result in the plaintiffs being the owners of the fee of the entire 75.520 acres, more or less.

11. The Settling Defendants, and the County of Suffolk will execute quit claim deeds and all ancillary documents reasonably required by the plaintiffs and deemed necessary by them for recording the deeds, conveying to the plaintiffs all of their right, title and interest and claims to and against any right, title or interest, in and to any part of the property of plaintiffs, to wit: SCTM # 0900-248-001-11003. The respective Settling Defendants will also execute quit claim deeds and all ancillary documents reasonably required by the Plaintiffs and deemed necessary by them for recording the deeds, to the following parcels: SCTM #s 0900-248-01-076, 0900-248-01-089, 0900-248-01-009, 0900-248-01-026, 0900-248-01-014, 0900-248-01-020, 0900-248-01-066, 0900-248-01-008, 0900-248-01-046, 0900-248-01-052, 0900-248-01-040, 0900-248-01-004, 0900-248-01-038, 0900-217-03-001, 0900-217-03-011, 0900-217-03-013, 0900-217-03-004, 0900-217-03-002, 0900-217-03-005, 0900-217-03-006, 0900-217-03-014, 0900-217-01-006, 0900-217-03-010, 0900-248-001-048, 0900-248-001-050, 0900-248-001-009, 0900-248-001-077, 0900-248-001-074, 0900-248-001-018, 0900-248-001-016, 0900-248-001-015, 0900-248-001-013, 0900-248-001-034, 0900-248-001-084, 0900-248-001-061, 0900-248-001-058, 0900-248-001-036, 0900-248-001-012, and 0900-248-001-045. Said deeds will be for no consideration. The Settling Defendants hereby irrevocably nominate and appoint and consent to the nomination and appointment by this Court by way of the Court Ordering the compliance with the terms, conditions and provisions of this stipulation of settlement, of the plaintiffs to act for and on behalf of each of the defendants herein to execute said quit claim deeds for and on behalf of each such defendant so that the contemplated transfers by deed may be accomplished with the execution of two (2) separate deeds and render the recording process less complicated and lengthy. The form of Quit Claim deeds to be utilized by or on behalf of said defendants are annexed hereto as Exhibit A and Exhibit B, respectively. The costs associated with recording of the deeds shall be borne by plaintiffs. Such deeds shall be delivered to Fidelity National Title Insurance Company, in escrow, pursuant to the provisions of paragraph 21 hereof.

12. The Settling Defendants and plaintiffs hereby agree that certificates for a total of twenty three (23) Pine Barrens Credits associated with the property previously claimed by the Settling Defendants shall be caused to be issued to the Settling Defendants in care of their undersigned respective counsel as follows:

- A. Certificate issued to Edward J. Ledogar, as attorney, on behalf of Chrisoula Corodemus, Richard C. Dittmer, Henry R. Dittmer, Dr. Heywood A. Heffron, Robert Schreib, Arthur Schreib, Arnold Schreib, George Schreib, Charlotte O'Connor, Vergil McCaslin, Estate of Louis Indovino, Estate of Thomas Indovino, Estate of Joseph Indovino, Serafina Indovino, Candace W. Butler, John F. Butler, Estate of Louis Redmond, Beatrice Redmond, Realty Redemption Co., Inc., Toni Santore, Mario and Libby and James DeGregory, James DiGregorio, Anthony Sheriff, and Joseph Sheriff – 10.712 credits
  - B. Certificate issued to Harriet Murphy – 2.488 credits;
  - C. Certificate issued to Richard J. Handler, as attorney, on behalf of John Mannino, Barbara Gagliardo, Catherine Gagliardo, Paul Carollo and Frances Carollo – 2.56 credits;
  - D. Certificate issued to Eugene Augusiewicz -- .44 credits;
  - E. Certificate issued to Gleich, Siegel & Farkas, as attorney, on behalf of Schlomo and Moris Bakhach and Frank Speciale – 6.8 credits
- all certificates to be delivered to the respective counsel at the addresses set forth below.

13. Plaintiffs shall execute all documents reasonably necessary for issuance of the aforesaid five certificates totaling twenty three (23) Pine Barrens Credits to the Settling Defendants and plaintiffs shall procure a survey and title certification in accordance with the Commission's Title Policy Requirements, it being expressly understood and agreed that plaintiffs shall have the exclusive right to determine and designate which twenty three (23) acres of the 75.520 acres, more or less, held solely in the name and fee title absolute of the plaintiffs, shall be applied to and for the said twenty three (23) Pine Barrens Credits and which acreage shall be encumbered by a conservation easement. It is understood and agreed that the acreage to be encumbered by a conservation easement shall be in all respects eligible for the issuance of Pine Barrens Credits and not acreage that has been cleared or improved. The application is annexed hereto as Exhibit C and the Conservation Easement is annexed hereto as Exhibit D. Such documents shall also be delivered to Fidelity National Title Insurance Company, in escrow, pursuant to the provisions of paragraph 21 hereof.

14. The answers of the Settling Defendants and the County of Suffolk to the plaintiffs' complaint shall be and hereby are withdrawn with prejudice.

15. The parties covenant and agree that in the event the Pine Barrens Clearinghouse requires additional documentation or information from the parties in order to effectuate the issuance of the credits in accordance with the terms hereof, that the parties will cooperate in the delivery and/or execution thereof.

16. The parties covenant and agree that in the event any party hereto requires the execution of any paper or document of any kind in order to effectuate the provisions of this stipulation of settlement, each such party shall promptly execute and promptly return such paper or document to the party making such request.

17. The Settling Defendants and County of Suffolk consent to the entry of a final judgment herein awarding title to the property (the 75.520 acres, more or less) to plaintiffs or the court executing this stipulation of settlement as being "SO ORDERED" or both. This action was instituted on May 21, 1998; plaintiffs moved for summary judgment pursuant to CPLR 3212 and for a default judgment against all defaulting parties pursuant to CPLR 3215 by notice of motion dated February 3, 1999, originally returnable March 19, 1999, and by Order of Justice Robert W. Doyle dated September 27, 1999, plaintiffs' motion for summary judgment was denied and plaintiffs' motion for a default judgment against the non-answering defendants was "denied at this time pending resolution of the underlying issues." A copy of said order is annexed hereto and made a part hereof as Exhibit E.

18. The Suffolk County Real Property Tax Service Agency, the Suffolk County Treasurer and the Town of Southampton Tax Assessor shall remove from the tax rolls all references for real property tax purposes to all lots which overlap or overlay plaintiffs' real property known as SCTM # 0900-248-001-11003, including the Map of Seaside, thereby eliminating the duplicative assessment of the property.

19. The Settling Defendants hereby agree that the Map of Seaside insofar as the same overlays or overlaps the 75.520 acres, more or less, of real property of the plaintiffs heretofore described is improperly located, and that they shall, without any cost to the plaintiffs, execute and deliver to plaintiffs all documents reasonably necessary and required by the plaintiffs to effectuate the elimination of the Map of Seaside or its effects, as may negatively impact upon plaintiffs' title to their real property known as SCTM # 0900-248-001-11003, in fee simple

absolute, so as to forever eliminate the same as a possible source of any claim to title to the real property owned by the plaintiffs as described herein.

20. This stipulation and a proposed judgment as to the defaulting defendants shall be submitted to the Court for execution by the Court without any costs or disbursements to be granted in favor of plaintiffs against the Settling Defendants and the Defendant County of Suffolk or in favor of the Settling Defendants and the Defendant County of Suffolk against the plaintiffs.


21. In order to implement the spirit and intent of this Stipulation, the plaintiffs designate Fidelity National Title Insurance Company to act as escrow agent. The title company shall be furnished with the executed deeds, related forms, the completed and executed application to the Pine Barrens Clearinghouse and the conservation easement. Upon receipt of said documents, the title company shall prepare the title certification required to accompany the application. Upon the so-ordering, filing and entering of this Stipulation, the title company, as escrow agent, shall record the deeds and submit the application, easement and certification and any other documents to the Pine Barrens Clearinghouse for preparation of the Pine Barrens Credits certificates as set forth herein.

22. If the Settlement contemplated herein does not occur through no fault of the parties hereto for any reason and the Settling Defendants are not issued the Pine Barrens Credits certificates as set forth herein and the Stipulation is determined to be null and void, then (i) the defendants shall not be charged with the Stipulated facts contained herein and (ii) the quit claim deeds delivered in accordance herewith shall be cancelled of record and the parties shall be returned to their respective positions as if this Stipulation were not executed and delivered, other than the default judgment plaintiffs may have entered against the defaulting defendants.

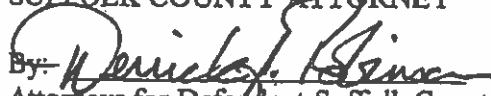
23. It is agreed that the Court shall retain jurisdiction over this matter for the purpose of enforcing the spirit and intent and terms of this Stipulation.

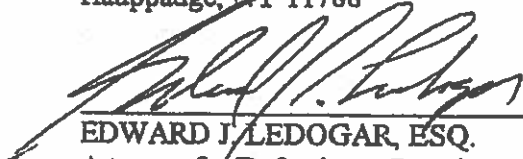
Dated: May , 2004



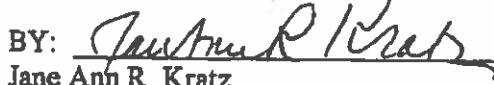
  
MURRAY B. SCHNEFS, ESQ.  
Attorney for Plaintiffs  
P.O. Box 599  
Riverhead, New York 11901  
(631) 722-5100

SUFFOLK COUNTY ATTORNEY

By:   
Attorneys for Defendant Suffolk County  
H. Lee Dennison Building  
100 Veteran's Memorial Highway  
P.O. Box 6100  
Hauppauge, NY 11788

  
EDWARD J. LEDOGAR, ESQ.  
Attorney for Defendants Corodemus, Richard C.  
Dittmer, Henry Dittmer, Heffron, Robert Schreib,  
Arthur Schreib, Arnold Schreib, O'Connor,  
McCaslin, George A. Schreib,  
Louis Indovino, Estate of Thomas Indovino,  
Estate of Joseph Indovino, Serafina Indovino,  
Candace W. Butler, John F. Butler, Estates of Louis  
Redmond and Beatrice Redmond, Realty  
Redemption Co., Inc., Toni Santore and Anthony  
Sheriff, and Joseph Sheriff  
630 Montauk Highway  
P.O. Box 275  
West Islip, NY 11795

ESSEKS, HEFTER & ANGEL

BY:   
Jane Ann R. Kratz  
Attorneys for Defendant Harriet Murphy  
P.O. Box 279,  
Riverhead, NY 11901  
(631) 369-1700

LUSTIG & HERMER, LLP

By: \_\_\_\_\_  
Attorneys for Defendant Eugene Augusiewicz  
2100 Deer Park Avenue  
P.O. Box 788  
Deer Park, New York 11729

GLIECH, SIEGEL & FARKAS, ESQS.

By: \_\_\_\_\_  
Attorneys for Defendants Schlomo and  
Moris Bakhsh and Frank Speciale  
36 South Station Plaza  
Great Neck, NY 11021

\_\_\_\_\_  
Richard G. Handler, Esq.  
Attorney for Catherine Gagliardo,  
Barbara Gagliardo, John Mannino, Paul &  
Frances Corollo  
50 Broadway  
P.O. Box 427  
Amityville, NY 11701

SO ORDERED:

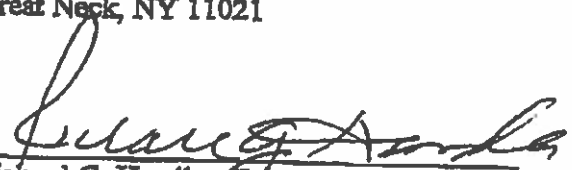
\_\_\_\_\_  
JUSTICE OF THE SUPREME COURT

LUSTIG & HERMER, LLP

By: \_\_\_\_\_  
Attorneys for Defendant Eugene Augustiewicz  
2100 Deer Park Avenue  
P.O. Box 788  
Deer Park, New York 11729

GLIECH, SIEGEL & FARKAS, ESQS.

By: \_\_\_\_\_  
Attorneys for Defendants Schlomo and  
Moris Bakhsh and Frank Speciale  
36 South Station Plaza  
Great Neck, NY 11021

  
\_\_\_\_\_  
Richard G. Handler, Esq.  
Attorney for Catherine Gagliardo,  
Barbara Gagliardo, John Mannino, Paul &  
Frances Corollo  
50 Broadway  
P.O. Box 427  
Amityville, NY 11701

SO ORDERED:

\_\_\_\_\_  
JUSTICE OF THE SUPREME COURT

LUSTIG & HERMER, LLP

By: 

Attorneys for Defendant Eugene Augustewicz  
2100 Deer Park Avenue  
P.O. Box 788  
Deer Park, New York 11729

GLIECH, SIEGEL & FARKAS, ESQS.

By: \_\_\_\_\_

Attorneys for Defendants Schlomo and  
Moris Bakhsh and Frank Speciale  
36 South Station Plaza  
Great Neck, NY 11021

\_\_\_\_\_  
Richard G. Handler, Esq.  
Attorney for Catherine Gagliardo,  
Barbara Gagliardo, John Mannino, Paul &  
Frances Corollo  
50 Broadway  
P.O. Box 427  
Amityville, NY 11701

SO ORDERED

  
\_\_\_\_\_  
JUSTICE OF THE SUPREME COURT  
JAMES M. CATTERSON

5/25/04



**SUFFOLK COUNTY CLERK  
RECORDS OFFICE  
RECORDING PAGE**

Type of Instrument: DEEDS/DDD  
 Number of Pages: 4  
 Receipt Number : 04-0100465  
**TRANSFER TAX NUMBER: 04-06558**

Recorded: 09/10/2004  
 At: 04:25:08 PM  
 LIBER: D00012342  
 PAGE: 781

District:	Section:	Block:	Lot:
0900	248.00	01.00	110.003

**EXAMINED AND CHARGED AS FOLLOWS**

Deed Amount: \$0.00

**Received the Following Fees For Above Instrument**


		Exempt		Exempt
Page/Filing	\$12.00	NO	Handling	\$5.00 NO
COE	\$5.00	NO	NYS SRCHG	\$15.00 NO
EA-CTY	\$5.00	NO	EA-STATE	\$165.00 NO
TP-584	\$5.00	NO	Cert.Copies	\$10.00 NO
RPT	\$30.00	NO	SCTM	\$0.00 NO
Transfer tax	\$0.00	NO	Comm.Pres	\$0.00 NO
			Fees Paid	\$252.00


**TRANSFER TAX NUMBER: 04-06558**

**THIS PAGE IS A PART OF THE INSTRUMENT  
THIS IS NOT A BILL**

Edward P.Romaine  
County Clerk, Suffolk County

	1	2	
Number of pages <u>4</u>			3
<b>TORRENS</b>			RECORDED 2004-Sep 10 04:25:08 PM Edward P. Romaine CLERK OF SUFFOLK COUNTY L 000012342 P 781 DT# 04-06558
Serial # _____			
Certificate # _____			
Prior Ctr. # _____			
Deed / Mortgage Instrument	Deed / Mortgage Tax Stamp	Recording / Filing Stamps	

<b>FEES</b>		
Page / Filing Fee <u>12</u>		<u>OK</u>
Handling <u>5</u>		
TP-584 _____		
Notation <u>5</u>		
EA-5217 (County) <u>5</u>	Sub Total <u>27</u>	
EA-5217 (State) <u>1105</u>		
R.P.T.S.A. <u>30</u>		
Comm. of Ed. <u>5.00</u>		
Affidavit <u>10</u>		
Reg. Copy <u>1</u>	Sub Total <u>225</u>	
Other <u>15</u>	GRAND TOTAL <u>252</u>	
		
Mortgage Amt. _____ 1. Basic Tax _____ 2. Additional Tax _____ Sub Total _____ Spec./Assit. _____ Or _____ Spec. /Add. _____ TOT. MTG. TAX _____ Dual Town _____ Dual County _____ Held for Apportionment _____ Transfer Tax _____ Mansion Tax _____ The property covered by this mortgage is or will be improved by a one or two family dwelling only. YES _____ or NO _____ If NO, see appropriate tax clause on page # _____ of this instrument. <u>6-11-04</u>		

5 Real Property Tax Service Agency Verification 04037478 0900 24800 0100 110003 Stamp  Date _____ Initials _____	6 Community Preservation Fund Consideration Amount \$ <u>0</u> CPF Tax Due \$ <u>0</u> Improved _____ Vacant Land <u>X</u> TD <u>09</u> TD _____ TD _____
7 Satisfactions/Discharges/Releases List Property Owners Mailing Address <b>RECORD &amp; RETURN TO:</b>  Murray B. Schneps, Esq. P.O. Box 1080 Aquebogue, NY 11931	

	<b>Title Company Information</b>
Co. Name _____	
Title # _____	

**Suffolk County Recording & Endorsement Page**

This page forms part of the attached Quitclaim Deed made by:

(SPECIFY TYPE OF INSTRUMENT)

County of Suffolk The premises herein is situated in  
 SUFFOLK COUNTY, NEW YORK.

TO  
Edwin Fishel Tuccio and Patricia Tuccio In the Township of Southampton  
 In the VILLAGE  
 or HAMLET of West Hampton

## **IMPORTANT NOTICE**

If the document you've just recorded is your **SATISFACTION OF MORTGAGE**, please be aware of the following:

If a portion of your monthly mortgage payment included your property taxes, **\*you will now need to contact your local Town Tax Receiver so that you may be billed directly for all future property tax statements.**

Local property taxes are payable twice a year: on or before January 10<sup>th</sup> and on or before May 31<sup>st</sup>. Failure to make payments in a timely fashion could result in a penalty.

**Please contact your local Town Tax Receiver with any questions regarding property tax payment.**

Babylon Town Receiver of Taxes  
200 East Sunrise Highway  
North Lindenhurst, N.Y. 11757  
(631) 957-3004

Brookhaven Town Receiver of Taxes  
250 East Main Street  
Port Jefferson, N.Y. 11777  
(631) 473-0236

East Hampton Town Receiver of Taxes  
300 Pantigo Place  
East Hampton, N.Y. 11937  
(631) 324-2770

Huntington Town Receiver of Taxes  
100 Main Street  
Huntington, N.Y. 11743  
(631) 351-3217

Islip Town Receiver of Taxes  
40 Nassau Avenue  
Islip, N.Y. 11751  
(631) 224-5580

Riverhead Town Receiver of Taxes  
200 Howell Avenue  
Riverhead, N.Y. 11901  
(631) 727-3200

Shelter Island Town Receiver of Taxes  
Shelter Island Town Hall  
Shelter Island, N.Y. 11964  
(631) 749-3338

Smithtown Town Receiver of Taxes  
99 West Main Street  
Smithtown, N.Y. 11787  
(631) 360-7610

Southampton Town Receiver of Taxes  
116 Hampton Road  
Southampton, N.Y. 11988  
(631) 283-6514

Southold Town Receiver of Taxes  
53095 Main Street  
Southold, N.Y. 11971  
(631) 785-1803

Sincerely,



Edward P. Romaine  
Suffolk County Clerk

dw  
2/99

**SCHEDULE A**

**Surveyor's Description**

ALL that certain plot, piece or parcel of land with the buildings and improvements thereon erected, situate, lying and being at Westhampton, Town of Southampton, County of Suffolk and State of New York, known and designated as Parcel A and Parcel C as shown on Survey prepared by Young & Young for The Nature Conservancy, last dated September 20, 1996, more particularly bounded and described as follows:

**BEGINNING** at a point marked by the intersection of the division line between Lot 31 and Lot 30, "Quogue Purchase - Last Division" and the "line in the middle of the lots" (Middle Line) "Quogue Purchase - Last Division";

**RUNNING** thence from said point of beginning North 09 deg. 39 min. 30 sec. East along said division line, also being along land now or formerly Reed Rubin & W.J.F. Realty Corp. 4,446.00 feet to a point;

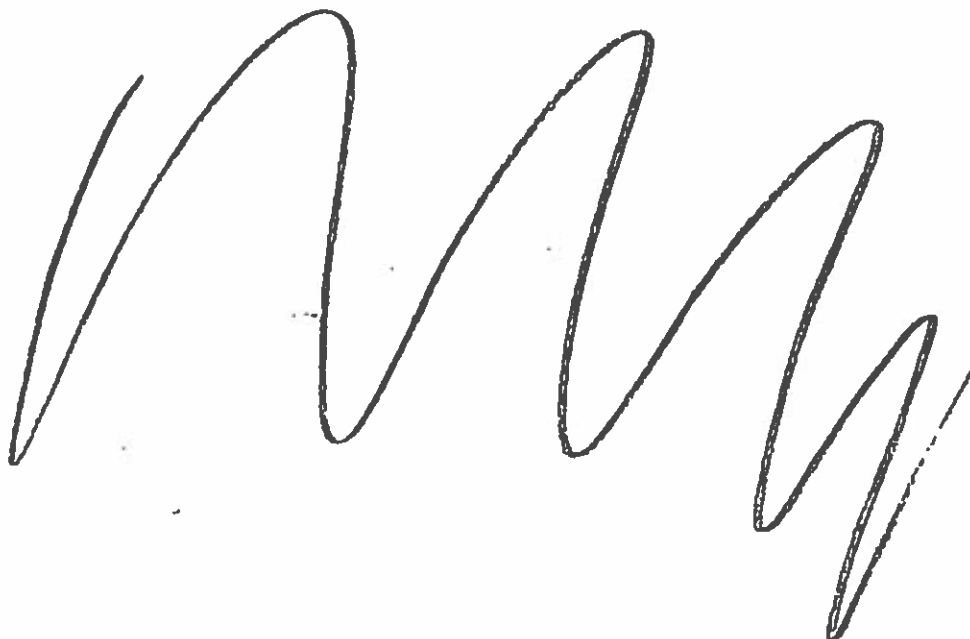
**RUNNING** thence through land now or formerly Ethel B. Fishel Estate the following two (2) courses and distances:

1. South 80 deg. 20 min. 30 sec. East 723.00 feet,
2. South 09 deg. 39 min. 30 sec. West 4,656.74 feet to said Middle Line;

**RUNNING** thence along said Middle Line the following two (2) courses and distances:

1. North 56 deg. 01 min. 40 sec. West 18.54 feet,
2. North 64 deg. 17 min. 40 sec. West 734.73 feet to the point or place of Beginning.

**CONTAINING** an area of 75.5202 Acres.





**SUFFOLK COUNTY  
QUITCLAIM DEED**

THIS INDENTURE, made the 11th day of June, 2004

BETWEEN the COUNTY OF SUFFOLK, a municipal corporation of the State of New York, having its principal office at the Suffolk County Center, Center Drive, Riverhead, New York 11901, party of the first part, and

EDWIN FISHEL TUCCIO and PATRICIA TUCCIO, 193 Griffing Avenue, Riverhead, New York 11901, party of the second part,

WITNESSETH, that the party of the first part, by way of the Supreme Court, County of Suffolk "Ordering" the compliance with the terms, conditions and provisions of a stipulation of settlement dated May 25, 2004 under Index No. 98-11876, in consideration of ten dollars paid by the party of the second part, does hereby remise, release, and quitclaim unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL, that certain plot, piece or parcel of land with any buildings and improvements thereon erected, situate, lying and being in the Town of Southampton, County of Suffolk and State of New York, described on the Tax Map of the Suffolk County Real Property Tax Service Agency as District 0900, Section 248.00, Block 01.00, Lot 110.003, and designated as Parcel A and Parcel C as shown on Survey prepared by Young & Young for the Nature Conservancy, last dated September 29, 1996, more particularly bounded and described as follows: SEE SCHEDULE A SCHEDULE A ATTACHED HERETO

TOGETHER with all right, title and interest, if any, of the party of the first part of, in and to any streets and roads abutting the above-described premises to the center lines thereof;

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises;

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

SUBJECT to all covenants, restrictions and easements of record, if any.

AND the party of the first party, in compliance with Section 13 of the Lien Law, hereby covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

THE WORD "PARTY" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

-----  
DISTRICT  
0900

-----  
SECTION  
248.00

-----  
BLOCK  
01.00

-----  
LOT  
110.003

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

COUNTY OF SUFFOLK, NEW YORK

In Presence Of:

By: *Derrick J. Robinson*  
DERRICK J. ROBINSON  
Assistant County Attorney  
Department of Law

STATE OF NEW YORK )  
                                  )    SS.:  
COUNTY OF SUFFOLK )

On the 11 day of June in the year 2004  
before me, the undersigned, a Notary Public in and for said state, personally appeared Derrick J. Robinson, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

*Marilyn A. Rompel*  
Notary Public

MARILYN A. ROMPEL  
Notary Public, State of New York  
No. 0100383128  
Qualified in Suffolk County  
Commission Expires Feb. 8, 2007

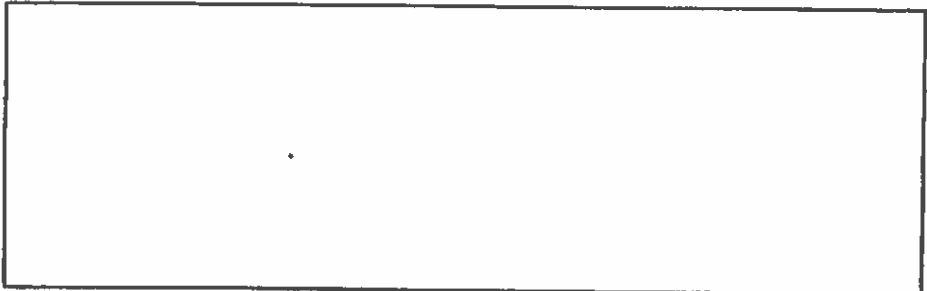
MARILYN A. ROMPEL  
State of New York  
NO. 0100383128  
Suffolk County  
Exp. 2-9-07

QUITCLAIM DEED

.....

SUFFOLK COUNTY  
TO  
EDWIN FISHEL TUCCIO  
and  
PATRICIA TUCCIO

RECORD AND RETURN TO:  
Murray B. Schneps, Esq.  
P.O. Box 1080  
Aquebogue, NY 11931





**SUFFOLK COUNTY CLERK  
RECORDS OFFICE  
RECORDING PAGE**

Type of Instrument: DEEDS/DDD  
 Number of Pages: 15  
 Receipt Number : 04-0100465  
**TRANSFER TAX NUMBER: 04-06559**

Recorded: 09/10/2004  
 At: 04:25:08 PM  
 LIBER: D00012342  
 PAGE: 782

District:	Section:	Block:	Lot:
0900	248.00	01.00	110.003

**EXAMINED AND CHARGED AS FOLLOWS**

Deed Amount: \$0.00

**Received the Following Fees For Above Instrument**

		Exempt			Exempt
Page/Filing	\$45.00	NO	Handling	\$5.00	NO
COE	\$5.00	NO	NYS SRCHG	\$15.00	NO
EA-CTY	\$5.00	NO	EA-STATE	\$165.00	NO
TP-584	\$5.00	NO	Cert.Copies	\$37.50	NO
RPT	\$30.00	NO	SCTM	\$0.00	NO
Transfer tax	\$0.00	NO	Comm.Pres	\$0.00	NO
			Fees Paid	\$312.50	

**TRANSFER TAX NUMBER: 04-06559**

**THIS PAGE IS A PART OF THE INSTRUMENT  
THIS IS NOT A BILL**

Edward P.Romaine  
 County Clerk, Suffolk County

1 2		3
Number of pages <u>15</u>		RECORDED 2004 Sep 10 04:25:08 PM Edward P. Romaine CLERK OF SUFFOLK COUNTY L 000012342 P 782 DT# 04-06559
TORRENS		
Serial # _____		
Certificate # _____		
Prior Crt. # _____		
Deed / Mortgage Instrument		Deed / Mortgage Tax Stamp
Recording / Filing Stamps		

4 FEES		
Page / Filing Fee	<u>45</u> -	Mortgage Amt. _____
Handling	<u>5</u> -	1. Basic Tax _____
TP-584	<u>5</u> -	2. Additional Tax _____
Notation	_____	Sub Total _____
EA-52 17 (County)	<u>5</u> -	Spec./Assit. _____
EA-5217 (State)	<u>1005</u> -	Or _____
R.P.T.S.A.	<u>30</u> -	Spec. /Add. _____
Comm. of Ed.	<u>5 00</u> -	TOT. MTG. TAX _____
Sub Total <u>60</u>		Dual Town _____ Dual County _____
Mortgage Amt. _____		Held for Apportionment _____
Reg. Copy _____		Transfer Tax <u>-0-</u>
Other <u>15</u> -		Mansion Tax _____
Sub Total <u>252.50</u>		The property covered by this mortgage is or will be improved by a one or two family dwelling only.
GRAND TOTAL <u>312.50</u>		YES _____ or NO _____
		If NO, see appropriate tax clause on page # _____ of this instrument <u>6-11-04</u>



3 Copies Certified Copy

5 Real Property Tax Service Agency Verification	6 Community Preservation Fund
Stamp: 04037509 0900 24800 0100 110003	Consideration Amount \$ <u>-0-</u>
Date: PTS R DHO A 01-SEP-04	CPF Tax Due \$ <u>-0-</u>
Initials: _____	Improved _____
7 Satisfactions/Discharges/Releases List Property Owners Mailing Address RECORD & RETURN TO:	Vacant Land <u>X</u>
Murray B. Schneps, Esq. 1 Union Square P.O. Box 1080 Aquebogue, NY 11931	TD _____
	TD _____
	TD _____

8 Title Company Information
Co. Name <u>Apuebogke</u>
Title # _____

9 Suffolk County Recording & Endorsement Page

This page forms part of the attached Quitclaim Deed made by: \_\_\_\_\_

(SPECIFY TYPE OF INSTRUMENT)

EDWIN FISHEL TUCCIO The premises herein is situated in \_\_\_\_\_  
SUFFOLK COUNTY, NEW YORK.

Court order # 98-11876 AS PER  
TO \_\_\_\_\_  
Edwin Fishel Tuccio and \_\_\_\_\_  
In the Township of Southampton

Patricia Tuccio In the VILLAGE \_\_\_\_\_  
or HAMLET of Westhampton Beach

BOXES 5 THRU 9 MUST BE TYPED OR PRINTED IN BLACK INK ONLY PRIOR TO RECORDING OR FILING.

Dear Taxpayer,

Your satisfaction of mortgage has been filed in my office and I am enclosing the original copy for your records.

If a portion of your monthly mortgage payment included your property taxes, you will now need to contact your local Town Tax Receiver so that you may be billed directly for all future property tax bills.

Local property taxes are payable twice a year: on or before January 10<sup>th</sup> and on or before May 31<sup>st</sup>. Failure to make payments in a timely fashion could result in a penalty.

Please contact your local Town Tax Receiver with any questions regarding property tax payment.

Babylon Town Receiver of Taxes  
200 East Sunrise Highway  
North Lindenhurst, N.Y. 11757  
(516) 957-3004

Riverhead Town Receiver of Taxes  
200 Howell Avenue  
Riverhead, N. Y. 11901  
(516) 727-3200

Brookhaven Town Receiver of Taxes  
250 East Main Street  
Port Jefferson, N.Y. 11777  
(516) 473-0236

Shelter Island Town Receiver of Taxes  
Shelter Island Town Hall  
Shelter Island, N.Y. 11964  
(516) 749-3338

East Hampton Town Receiver of Taxes  
300 Pantigo Place  
East Hampton, N.Y. 11937  
(516) 324-2770

Smithtown Town Receiver of Taxes  
99 West Main Street  
Smithtown, N.Y. 11787  
(516) 360-7610

Huntington Town Receiver of Taxes  
100 Main Street  
Huntington, N.Y. 11743  
(516) 351-3217

Southampton Town Receiver of Taxes  
116 Hampton Road  
Southampton, N.Y. 11968  
(516) 283-6514

Islip Town Receiver of Taxes  
40 Nassau Avenue  
Islip, N.Y. 11751  
(516) 224-5580

Southold Town Receiver of Taxes  
53095 Main Road  
Southold, N.Y. 11971  
(516) 765-1803

Sincerely,

*Edward P. Romaine*  
Edward P. Romaine  
Suffolk County Clerk

dw  
2/99

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT. THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY.

THIS INDENTURE, made the 21<sup>st</sup> day of May, in the year 2004,

BETWEEN CHRISOULA CORODEMUS, RICHARD C. DITTMER, HENRY R. DITTMER, DR. HEYWOOD. A. HEFFRON, ROBERT SCHREIB, ARTHUR SCHREIB, GEORGE ARNOLD SCHREIB a/k/a ARNOLD SCHREIB, GEORGE SCHREIB, CHARLOTTE O'CONNOR, VIRGIL McCASLIN, BETTE McCASLIN, LOUIS INDOVINO, THOMAS INDOVINO, individually and as Executor of the Estate of Joseph Indovino a/k/a Joe Indovino, SERAFINA INDOVINO, CANDACE W. BUTLER a/k/a CANDACE WILLIAMS BUTLER, JOHN F. BUTLER, ESTATES OF LOUIS REDMOND AND BEATRICE REDMOND, REALTY REDEMPTION CO., INC., TONI SANTORE, ANTHONY J. SCHIERIFF, JOSEPH SCHIERIFF, HARRIET MURPHY, EUGENE AUGUSIEWICZ, SCHOLOMO BAKHASH, MORIS BAKHASH, FRANK SPECIALE, BARBARA GAGLIARDO, CATHERINE GAGLIARDO, MARIO DeGREGORY, DOMINIC DeGREGORY, JOHN MANNINO, JAMES DIGREGORIO, LIBBY DIGREGORIO, \*PAUL COROLLO a/k/a PAUL CAROLLO and FRANCES CAROLLO \*a/k/a/ LIBBY DE GREGORY party of the first part, and

EDWIN FISHEL TUCCIO and PATRICIA TUCCIO. *Edwin and Patricia Tuccio*  
*Union Square, Aquebogue N.Y. 11931*

WITNESSETH, that the party of the first part, in consideration of Ten Dollars and other valuable consideration paid by the party of the second part, does hereby remise, release and quitclaim unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in at Westhampton, Town of Southampton, County of Suffolk and State of New York, known and designated as Parcel A and Parcel C as shown on Survey prepared by Young & Young for The Nature Conservancy, last dated September 29, 1996, more particularly bounded and described as follows:

SEE SCHEDULE A ATTACHED HERETO

SCTM #s 0900-248-01-076, 0900-248-01-089, 0900-248-01-009, 0900-248-01-026, 0900-248-01-014, 0900-248-01-020, 0900-248-01-066, 0900-248-01-008, 0900-248-01-046, 0900-248-01-052, 0900-248-01-040, 0900-248-01-004, 0900-248-01-038, 0900-217-03-001, 0900-217-03-011, 0900-217-03-013, 0900-217-03-004, 0900-217-03-002, 0900-217-03-005, 0900-217-03-006, 0900-217-03-014, 0900-217-01-006, 0900-217-03-010, 0900-248-001-048, 0900-248-001-050, 0900-248-001-009, 0900-248-001-077, 0900-248-001-074, 0900-248-001-018, 0900-248-001-016, 0900-248-001-013, 0900-248-001-013, 0900-248-001-034, 0900-248-001-084, 0900-248-001-061, 0900-248-001-058, 0900-248-001-036, 0900-248-001-012,\*

\*EDWIN FISHEL TUCCIO has been authorized by a Judgment dated and entered May 25, 2004, to execute this Deed on behalf of the Grantors as can be seen from a copy of the Judgment attached hereto.

TOGETHER with all right, title and interest, if any, of the party of the first part of, in and to any streets and roads abutting the above-described premises to the center lines thereof; TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

*Edwin Fishel Tuccio*  
EDWIN FISHEL TUCCIO

**SCHEDULE A**

**Surveyor's Description**

ALL that certain plot, piece or parcel of land with the buildings and improvements thereon erected, situate, lying and being at Westhampton, Town of Southampton, County of Suffolk and State of New York, known and designated as Parcel A and Parcel C as shown on Survey prepared by Young & Young for The Nature Conservancy, last dated September 20, 1996, more particularly bounded and described as follows:

**BEGINNING** at a point marked by the intersection of the division line between Lot 31 and Lot 30, "Quogue Purchase - Last Division" and the "line in the middle of the lots" (Middle Line) "Quogue Purchase - Last Division";

**RUNNING** thence from said point of beginning North 09 deg. 39 min. 30 sec. East along said division line, also being along land now or formerly Reed Rubin & W.J.F. Realty Corp. 4,446.00 feet to a point;

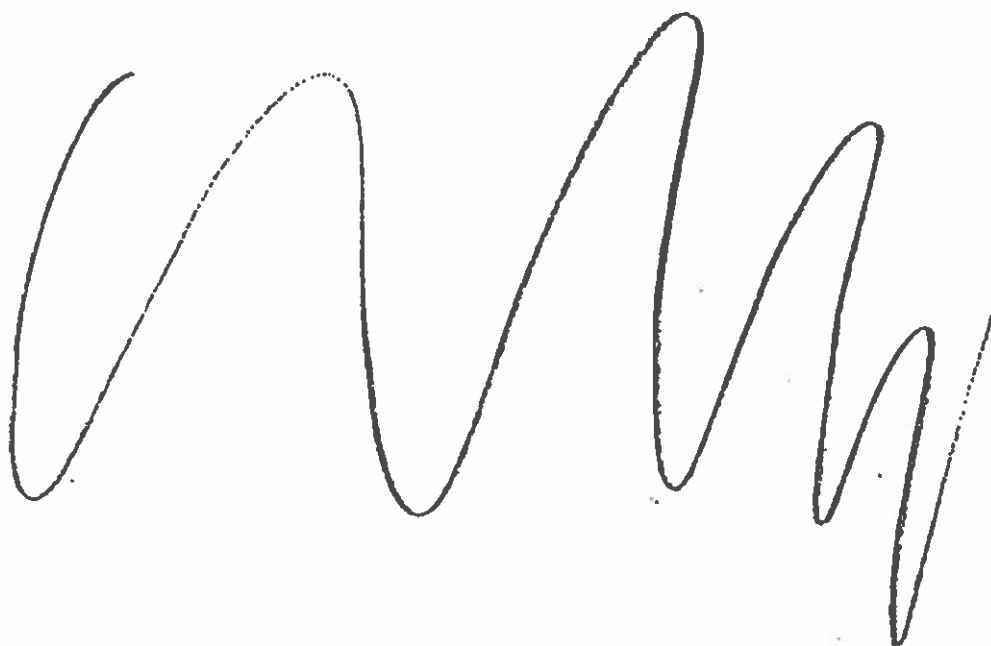
**RUNNING** thence through land now or formerly Ethel B. Fishel Estate the following two (2) courses and distances:

1. South 80 deg. 20 min. 30 sec. East 723.00 feet,
2. South 09 deg. 39 min. 30 sec. West 4,656.74 feet to said Middle Line;

**RUNNING** thence along said Middle Line the following two (2) courses and distances:

1. North 56 deg. 01 min. 40 sec. West 18.54 feet,
2. North 64 deg. 17 min. 40 sec. West 734.73 feet to the point or place of Beginning.

**CONTAINING** an area of 75.5202 Acres.



STATE OF NEW YORK, COUNTY OF SUFFOLK

On the 21st day of May in the year 2004

before me, the undersigned, personally appeared

EDWIN FISHEL TUCCIO

personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

MURRAY B. SCHNEPS  
Notary Public, State of New York  
No. 3520525  
Qualified in Suffolk County  
Commission Expires Oct. 31, 2005

STATE OF

On the day of in the year

before me, the undersigned, a Notary Public in and for said State, personally appeared

the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he/she/they reside(s) in if the place of residence is in a city, include the street and street number of say, thereof; that he/she/they know(s) to be the individual described in and who executed the foregoing instrument; that said subscribing witness was present and saw said execute the same; and that said witness at the same time subscribed his/her/their name(s) as a witness thereto

[add the following if the acknowledgment is taken outside NY State] and that said subscribing witness made such appearance before the undersigned in the (insert the city or other political subdivision and the State or country or other place the proof was taken).

### Quitclaim Deed

TITLE NO.

CHRISOULA CORODEMUS, et al.

TO

EDWINS FISHEL TUCCIO and PATRICIA TUCCIO

Distributed By  
Chicago Title Insurance Company

STATE OF NEW YORK, COUNTY OF

On the day of in the year

before me, the undersigned, personally appeared

personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument

[add the following if the acknowledgment is taken outside NY State] and that said individual made such appearance before the undersigned in the (insert the city or other political subdivision and the State or country or other place the acknowledgment was taken).

STATE OF COUNTY OF

On the day of in the year

before me personally came

to me known, who, being by me duly sworn, did depose and say that he resides at that he is the of the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

SECTION  
BLOCK  
LOT  
COUNTY OR TOWN

Recorded at Request of TITLEVEST AGENCY, INC.

RETURN BY MAIL TO:

MURRAY B. SCHNEPS, ESQ.  
1 Union Square  
P.O. Box 1080  
Aquebogue, New York 11901



SELLER

ADDRESS

Chrisoula Corodemus

139 Throckmorton Lane  
Old Bridge, NJ 08857

Richard c. Dittmer

139 West Main Street  
Bay Shore, NY 11706

Henry R. Dittmer

P.O. Box 202 / 200 Main St.  
Brightwaters, NY 11718

Dr. Haywood A. Heffron  
(Estate of)

c/o Mark Heffron, Executor  
59 East mall Drive  
Melville, NY 11747  
or  
c/o Jerry Limmoncelli, Esq.  
Limmoncelli & Sperendi  
229 Seventh Street, Suite 305  
Garden City, New York 11530

Robert Schreib

44 Georgetown Drive  
Toms River, NY 08757-4320

Arthur Schreib (Estate of)

Fred Schreib, Beneficiary  
Arthur Schreib, Jr., Beneficiaries  
c/o George Schreib  
62 1/2 Hackensack Street  
East Rutherford, NY 07073

George Arnold Schreib a/k/a  
Arnold Schreib

52 Barn Owl Drive  
Hackettstown, NJ 07840

George Schreib

62 1/2 Hackensack Street  
East Rutherford, NJ 07073

Charlotte O'Connor

243 Cedar Grove Road  
Little Falls, NJ 07424

Virgil McCaslin (Estate of)  
Bette McCaslin (Estate of)

assigned to GEORGE SCHREIB  
62 1/2 hackensack Street  
East Rutherford, NJ 07073

Louis Indovino (Estate of)  
Thomas Indovino, individually  
and as Executor of the Estate of  
Joseph Indovino a/k/a Joe  
Indovino

c/o Sal Indovino  
315 Roosevelt Boulevard  
W. Hempstead, NY 11552

<b>Serafina Indovino</b>	<b>c/o Sal Indovino 315 Roosevelt Boulevard W. Hempstead, NY 11552</b>
<b>Candace W. Butler a/k/a Candace Williams Butler</b>	<b>70 Little Cove Road Quincy, FL 32351</b>
<b>John F. Butler</b>	<b>70 Little Cove Road Quincy, FL 32351</b>
<b>Estate of Louis Redmond Estate of Beatrice Redmond</b>	<b>c/o Amelia L. Hawkins, Co- Executrix 106-50 Ruscoe Street Jamaica, NY 11434</b>
<b>Realty Redemption Co., Inc.</b>	<b>c/o Edward J. Ledogar ✓ P.O. Box 275 / 1260 Nichols Rd West Islip, NY 11795</b>
<b>Toni Santori</b>	<b>4 Lark Avenue White Plains, NY 10607</b>
<b>Anthony J. Scheriff</b>	<b>6 Hinton Avenue Babylon, NY 11702</b>
<b>Joseph Scheriff (Estate of)</b>	<b>Anthony J. Sheriff c/o Kenneth Scheriff 39 Maple Glen Lane Nesconset, NY 11767</b>
<b>Harriet Murphy</b>	<b>43 Green Street North Caldwell, NJ 07006</b>
<b>Eugene Augusiewicz</b>	<b>29 South Country Commons West Islip, NY 11795</b>
<b>Scholomo Bakhash</b>	<b>225 West 35<sup>th</sup> Street, Suite 1500 New York, NY 10001</b>
<b>Moris Bakhash</b>	<b>49 N. Franklin Street Hempstead, NY 11550</b>
<b>Frank Speciale</b>	<b>1111 South Ocean Boulevard Apartment 120 Boca Raton, FL 33432</b>
<b>Barbara Gagliardo</b>	<b>16 East Lakeland Street Bay Shore, NY 11706</b>

**Catherine Gagliardo**

**25 East Lakeland Street  
Bay Shore, NY 11706**

**Mario DeGregory**

**c/o James DiGregorio  
22 Wendy Lane  
East Northport, NY 11731**

**Dominic DeGregory**

**c/o James DiGregorio  
22 Wendy Lane  
East Northport, NY 11731**

**John Mannino**

**2519 Regan Avenue  
Virginia Beach, VA 23454-3210**

**James DiGregorio**

**22 Wendy Lane  
East Northport, NY 11731**

**Libby DiGregorio**

**c/o James DiGregorio  
22 Wendy Lane  
East Northport, NY 11731**

**Paul Corollo a/k/a Paul Carollo**

**49 Lakewood Avenue  
Ronkonkoma, NY 11779**

**Frances Carollo**

**49 Lakewood Avenue  
Ronkonkoma, NY 11779**

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SUFFOLK

EDWIN FISHEL TUCCIO and PATRICIA TUCCIO,

Plaintiffs.

-against-

COUNTY OF SUFFOLK, JAMES EUGENE STERNBRIDGE,  
LOUIS HARTNNG, J. OVERTON WALTON, GEORGE AARON  
BEARDEN, WARE W. ROBERTSON, JOHN G. TRAYLOR,  
CHRISOULA CORODEMUS, HARRY C. MC KEEVER,  
SEASIDE REALTY & IMPROVEMENT CO., NATIONAL  
ALUMNI, ANGELO VALTZ, FRANK SPECIALE, RICHARD C.  
DITTMER, FLORENCE BEYER, A.W. WARD, CARL H. BURG,  
THOMAS STETTINE, MILDRED MCSKIMMING, HENRY R.  
DITTMER, WILLIAM M. FEIL, HENRY TREVELT, REVIDA  
CORP., HERBERT SWANSON, CHARLES CAMPACCI,  
DR. HEYWOOD A. HEFFRON, A.V. MILLS, VINCENT  
SPINELLA, THOMAS QUIGLEY, FRAN SCHWEITZER,  
ROBERT L. KERSCH, SARAH L. DEAN, JULIA HOLT DEAN,  
DOROTHY ANN DODD, ROBERT C. DOAD, SHLOMO  
BAKHASH, MORIS BAKHASH, JOSHUA TERRY JACKSON,  
JOHN ANDREW MC CRORY, HILDA FREEMAN, DRUSILLA  
ILMA TUDURY, EVE TAYLOR, MRS. GEO. LOTZ,  
THOMAS P. COYLE, MARY COYLE, EUGENE AUGUSTIEWICZ,  
CHRISTIAN SCHLOBOHM, ROBERT SCHREIB, ARTHUR  
SCHREIB, GEORGE SCHREIB, CHARLOTTE O'CONNOR,  
BETTE MC CASLIN, GEORGE ARNOLD SCHREIB, DOMINICK  
DEGREGORY, MARIO DEGREGORY, LIBBY DIGREGORIO,  
JAMES DEGREGORIO, LOUIS INDOVINO, JOE INDOVINO,  
THOMAS INDOVINO, SERAFINA INDOVINO, VIVIAN KUSS,  
JOHN MANNINO, HENRY M. ZIEGLER, H. RULF PEECKSEN,  
BARBARA GAGLIARDO, MARY PARISI, JOSEPH L. PARISI,  
KAY PARISI, CLINTON E. DYER, CANDACE WILLIAMS BUTLER,  
JOHN F. BUTLER, JR., NEIL PALADINO, ROSE PALADINO,  
HARRIET MURPHY, LOUIS REDMOND, BEATRICE REDMOND,  
ESTATE OF WALTER J. HARON, ESTATE OF JEAN A. FORCINA,  
JOSEPH W. HARON, BENEDICT KEMPINSKI, AGNES KEMPINSKI,  
CATHERINE GAGLIARDO, PAUL CAROLLO, FRANCES CAROLLO,  
JAMES W. BRAZELL, TONI SANTORE, HENRY C. BRAUN, REALTY  
REDEMPTION CO., INC., ANTHONY J. SCHERIFF, JOSEPH SCHERIFF,

Defendants.

*At on 1st Term, Page 38, of  
the Supreme Court of the  
State of New York, held in  
and for the County of Suffolk,  
at the Courthouse located  
at 235 Griffin Ave, Riverhead  
Hawfok. JUDGMENT 11901, on the  
29<sup>th</sup> of May 2004.*

Index No.:  
98-11876

ENTERED: MAY 25 2004  
AT: 12 03 PM

The summons with notice having been duly served upon all of the defendants, and the complaint having been duly served upon all of the defendants who interposed an appearance, and the following defendants, the Settling Defendants, having interposed an answer to the verified complaint served herein or otherwise appeared herein, to wit: COUNTY OF SUFFOLK, by ROBERT J. CIMINO, Suffolk County Attorney by, DERRICK J. ROBINSON, ESQ., CHRISOULA CORODEMUS, RICHARD C. DITTMER, HENRY DITTMER, HEYWOOD A. HEFFRON, ROBERT SCHREIB, ARTHUR SCHREIB, GEORGE SCHREIB, CHARLOTTE O'CONNOR, BETTE McCASLIN, GEORGE ARNOLD SCHREIB, LOUIS INDOVINO, THOMAS INDOVINO, individually and as Executor of the Estate of Joseph Indovino, SERAFINA INDOVINO, CANDACE W. BUTLER, JOHN F. BUTLER, LOUIS REDMOND, BEATRICE REDMOND, REALTY REDEMPTION CO., INC., TONI SANTORE, ANTHONY J. SCHERIFF and JOSEPH SCHERIFF, by EDWARD J. LEDOGAR, ESQ., HARRIET MURPHY by ESSEKS, HEFTER & ANGEL, ESQS. by JANE ANN R. KRATZ, ESQ., EUGENE AUGUSIEWICZ, by LUSTIG & HERMER, LLP, SCHLOMO BAKHASH, MORIS BAKHASH and FRANK SPECIALE, by GLEICH, SIEGEL & FARKAS, ESQS., by JONATHAN FREIBERGER, ESQ. and BARBARA GAGLIARDO, JOHN MANNINO, PAUL

COROLLO and FRANCES CAROLLO, by RICHARD G.HANDLER, ESQ., and the issues in this action to compel a determination of claims to real property having come to be heard at IAS Part 38 of the Supreme Court of the State of New York, County of Suffolk, at the Courthouse, located at 235 Griffing Avenue, Riverhead, New York, before Justice JAMES MICHAEL CATTERSON, and plaintiffs having appeared by MURRAY B. SCHNEPS, ESQ., their attorney, and the Settling Defendants having appeared by ROBERT J. CIMINO, ESQ., ESSEKS, HEFTER & ANGEL, ESQS., EDWARD J. LEDOGAR, ESQ., LUSTIG & HERMER, LLP and GLEICH, SIEGEL & FARKAS, ESQS. and counsel for the plaintiff and the Settling Defendants having entered into a stipulation of settlement in open Court, before Justice JAMES MICHAEL CATTERSON on the 12<sup>th</sup> day of March, 2004, wherein and whereby the underlying issues were resolved in favor of the plaintiffs establishing in the plaintiffs all of the right, title and interest in the 75.5202 acres, more or less, of the real property at issue, and the plaintiffs were recognized and determined to be the owners of the real property at issue in fee title absolute, and the plaintiffs and the Settling Defendants having converted the said stipulation into a written stipulation of settlement, executed by all counsel, dated May 25, 2004, and having been "SO ORDERED" by this Court on May 25, 2004;

Now on motion of MURRAY B. SCHNEPS, ESQ., the attorney for the plaintiffs, it is hereby ADJUDGED, as follows:

1. Plaintiffs are the owners in fee simple absolute and seized and possessed of real property situate in Westhampton, the Town of Southampton, County of Suffolk, State of New York, known as SCTM # 0900-248-001-11003, comprising 75.520 acres, more or less, being bounded and described as follows:

ALL that certain plot, piece or parcel of land with the buildings and improvements thereon erected, situate, lying and being at Westhampton, Town of Southampton, County of Suffolk and State of New York, known and designated as Parcel A and Parcel C as shown on Survey prepared by Young & Young for The Nature Conservancy, last dated September 20, 1996, more particularly bounded and described as follows:

BEGINNING at a point marked by the intersection of the division line between Lot 31 and Lot 30, "Quogue Purchase - Last Division" and the "line in the middle of the lots" (Middle Line) "Quogue Purchase - Last Division";

RUNNING thence from said point of beginning North 09 deg. 39 min. 30 sec. East along said division line, also being along land now or formerly Reed Rubin & W.J.F. Realty Corp. 4,446.00 feet to a point;

RUNNING thence through land now or formerly Ethel B. Fishel Estate the following two (2) courses and distances:

1. South 80 deg. 20 min. 30 sec. East 723.00 feet,
2. South 09 deg. 39 min. 30 sec. West 4,656.74 feet to said Middle Line;

RUNNING thence along said Middle Line the following two (2) courses and distances:

1. North 56 deg. 01 min. 40 sec. West 18.54 feet,
2. North 64 deg. 17 min. 40 sec. West 734.73 feet to the point or piace of Beginning.

CONTAINING an area of 75.5202 Acres.

2. Any claim which any of the Settling Defendants, herein above named, may have or might claim to have in and to the aforesaid premises is without validity and of no force and effect;

3. The said Settling Defendants, herein above named and every person or entity claiming by, under or through any of them by title accruing by, under or through any of them, be and they are forever barred from asserting such claim, the invalidity of which is established in this action, to an estate or interest in the real property above described, of any kind or nature whatsoever.

4. Settling Defendants' claims to title to various lots on a filed map known as Map of Seaside Realty & Improvement Company, filed in the Office of the Clerk of the County of Suffolk on April 28, 1908, as Map No. 261, which Map and lots overlay and overlap the aforesaid 75.5202 acres, more or less, are hereby dismissed with prejudice, said overlay or overlap being deemed and found to be erroneous, incorrect and improper.

5. The Suffolk County Real Property Tax Service Agency, the Suffolk County Treasurer and the Town of Southampton Tax Assessor shall remove from the tax rolls all references for real property tax purposes to all lots which overlap or overlay plaintiffs' real property known as SCTM # 0900-248-001-11003, including the Map of Seaside, thereby eliminating the duplicative assessment of the property.



6. The Map of Seaside insofar as the same overlays or overlaps the 75.520 acres, more or less, of real property of the plaintiffs heretofore described is improperly located, and that the Settling Defendants shall execute and deliver to plaintiffs all documents reasonably necessary and required by the plaintiffs to effectuate the elimination of the Map of Seaside or its effects, as may negatively impact upon plaintiffs' title to their real property known as SCTM # 0900-248-001-11003, in fee simple absolute, so as to forever eliminate the same as a possible source of any claim to title to the real property owned by the plaintiffs as described herein.

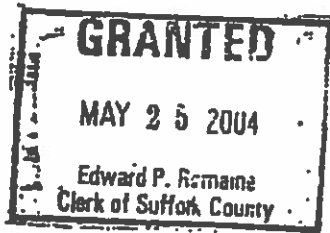
7. EDWIN FISHEL TUCCIO is hereby irrevocably appointed, designated and empowered to execute and deliver to plaintiffs, quit claim deeds for, on behalf of and as agents and designees for the Settling Defendants and each of them, transferring all right, title, interest and claims of the Settling Defendants in and to the following parcels: SCTM #s 0900-248-01-076, 0900-248-01-089, 0900-248-01-009, 0900-248-01-026, 0900-248-01-014, 0900-248-01-020, 0900-248-01-066, 0900-248-01-008, 0900-248-01-046, 0900-248-01-052, 0900-248-01-040, 0900-248-01-004, 0900-248-01-038, 0900-217-03-001, 0900-217-03-011, 0900-217-03-013, 0900-217-03-004, 0900-217-03-002, 0900-217-03-005, 0900-217-03-006, 0900-217-03-014, 0900-217-01-006, 0900-217-03-010, 0900-248-001-048, 0900-248-001-050, 0900-248-001-009, 0900-248-001-077, 0900-248-001-074, 0900-248-001-018, 0900-248-001-016, 0900-248-001-015, 0900-248-001-013, 0900-

248-001-034, 0900-248-001-084, 0900-248-001-061, 0900-248-001-058, 0900-248-001-036, 0900-248-001-012, and 0900-248-001-045, and for SCTM 0900-248-001-11003, to the plaintiffs, EDWIN FISHEL TUCCIO and PATRICIA TUCCIO.

8. All of the terms, conditions and provisions of the written stipulation of settlement, a copy of which is annexed hereto, entered into herein by the Settling Defendants and Plaintiffs and executed by their respective counsel hereinabove noted, be and the same hereby are incorporated into this judgment by reference but shall not merge herein.

9. The addresses of the parties named in and affected by this judgment are the addresses of their respective attorneys set forth above.

Dated: May 25, 2004



ENTER.

JUSTICE OF THE SUPREME COURT

JAMES M. CATTERSON

**FILED**

MAY 25 2004

EDWARD P. ROMAINE  
COUNTY CLERK

EDWIN FISHEL TUCCIO and PATRICIA TUCCIO,

Plaintiffs,

-against-

COUNTY OF SUFFOLK, et al.,

Defendants.

**JUDGMENT**

**MURRAY B. SCHNEPS**

Attorney(s) for Plaintiffs

Office and Post Office Address, Telephone

1 UNION SQUARE

POST OFFICE BOX 1080

AQUINNOGUE, NEW YORK 11081-1080

(631) 722-5100

To

Signature (Rule 130-1.1-a)

Print name beneath

Service of a copy of the within is hereby admitted.

Attorney(s) for

Dated: \_\_\_\_\_

**PLEASE TAKE NOTICE:**

**NOTICE OF ENTRY**

that the within is a (certified) true copy of a  
duly entered in the office of the clerk of the within named court on

**NOTICE OF SETTLEMENT**

that an order  
will be presented for settlement to the HON.  
within named Court, at

on

at

M.

Dated.

of which the within is a true copy  
one of the judges of the

Yours, etc.

**MURRAY B. SCHNEPS**



SUFFOLK COUNTY CLERK  
 RECORDS OFFICE  
 RECORDING PAGE

Type of Instrument: EASEMENT/DOP  
 Number of Pages: 11  
 Receipt Number : 05-0009432  
 TRANSFER TAX NUMBER: 04-26163

Recorded: 01/26/2005  
 At: 04:07:19 PM

LIBER: D00012368  
 PAGE: 152

District: 0900                      Section: 248.00                      Block: 01.00                      Lot: 110.003

EXAMINED AND CHARGED AS FOLLOWS  
 \$0.00

Fee Amount:

Received the Following Fees For Above Instrument

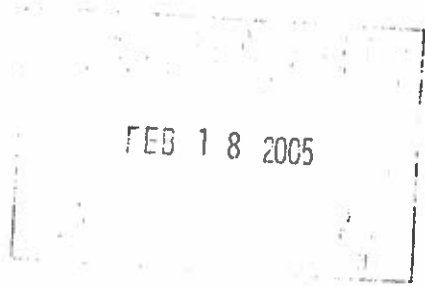
		Exempt			Exempt
Page/Filing	\$33.00	NO	Handling	\$5.00	NO
COE	\$5.00	NO	NYS SRCHG	\$15.00	NO
TP-584	\$5.00	NO	Notation	\$0.00	NO
Cert.Copies	\$13.75	NO	RPT	\$30.00	NO
SCTM	\$0.00	NO	Transfer tax	\$0.00	NO
Comm.Pres	\$0.00	NO			

Fees Paid \$106.75

TRANSFER TAX NUMBER: 04-26163

THIS PAGE IS A PART OF THE INSTRUMENT  
 THIS IS NOT A BILL

Edward P.Romaine  
 County Clerk, Suffolk County





# Conservation Easement

THIS INDENTURE, made this <sup>20th</sup> ~~5th~~ day of <sup>January, 2005</sup> ~~November, 2004~~,

## Witnesseth:

WHEREAS, Edwin Fishel Tuccio and Patricia Tuccio, 193 Griffing Avenue, Riverhead, New York 11901, hereinafter "Grantors," own certain real property, hereinafter called the "Property," which has ecological, scientific, groundwater recharge, scenic, educational, recreational and aesthetic value (the "Natural Values") in its present state as a natural area which property is described as follows:

*See Schedule A annexed hereto and made a part hereof*

SCTM: WHEREAS, the Central Pine Barrens Joint Planning and Policy Commission (the  
900 "Commission"), with offices at P.O. Box 587, 3525 Sunrise Highway, 2nd Floor, Great River,  
248 New York 11739-0587, was created pursuant to the Long Island Pine Barrens Protection Act of  
1 1993 (the "Act") codified in New York Environmental Conservation Law Article 57 ("Article  
110.003 57"), is hereinafter described as the "Grantee;" and

p/o) WHEREAS, the Central Pine Barrens is a 100,000 acre area within the central and  
eastern portions of New York's Suffolk County which includes parts of the towns of  
Brookhaven, Riverhead and Southampton, and which is divided into two areas, the Core  
Preservation Area (the "Core") and the Compatible Growth Area (the "CGA"), as delineated in  
Article 57; and

WHEREAS, the Commission adopted the Central Pine Barrens Comprehensive Land  
Use Plan (the "Plan") which is designed to protect, preserve and enhance the functional integrity  
of the Pine Barrens ecosystem and its significant natural resources, including plant and animal  
populations and communities, to protect the quality of surface water and groundwater, discourage  
piecemeal and scattered development, promote recreational and environmental educational uses  
that are consistent with the Plan, to accommodate development in a manner consistent with the  
long term integrity of the Pine Barrens ecosystem, and to ensure that the pattern of development  
is compact, orderly and efficient; and

WHEREAS, the Plan's goals for the Core include protecting and preserving the ecologic  
and hydrologic functions of the Central Pine Barrens by preserving the Central Pine Barrens area  
in its natural state, promoting compatible agricultural, horticultural and open space and certain  
recreational uses within the framework of maintaining a Pine Barrens environment and  
minimizing the impact of such activities thereon, prohibiting or redirecting new construction or  
development, accommodating specific Pine Barrens management practices, and protecting and  
preserving the quality of surface and groundwaters; and

WHEREAS, this grant of Conservation Easement is made pursuant to Environmental Conservation Law ("ECL"), Title 3, Article 49 or its similar successor statute, and this Conservation Easement is intended to comply with said statute; and

WHEREAS, Grantors and Grantee recognize the ecological, scientific, groundwater recharge, scenic, educational, recreational and aesthetic value of the Property and have the common purpose of conserving the Natural Values of the Property by the conveyance to the Grantee of a Conservation Easement on, over and across the Property which shall conserve the Natural Values of the Property and advance the goals of the Commission pursuant to the Act and the Plan;

NOW, THEREFORE, Grantors, for and in consideration of the facts above and hereinafter recited including, but not limited to, entitlement to receipt of the Pine Barrens Credits pursuant to Grantors' Letter of Interpretation issued on September 30, 2004 in the amount of 50.00 Pine Barrens Credits and of the mutual covenants, terms, conditions and restrictions herein contained, does hereby give, grant, bargain, sell and convey unto the Grantee, its successors and assigns forever a Conservation Easement in perpetuity over the Property consisting of the following:

1. The right of visual access to and view of the Property in its natural, scenic and open condition.
2. The Grantors' forbearance from taking any of those actions constituting development pursuant to ECL Section 57-0107(13), and the Grantors' forbearance from operations or uses pursuant to ECL Section 57-0107(13)(i-xiv) unless such operations or uses are otherwise expressly reserved herein.
3.
  - a. The right of the Grantee, its respective agents, employees or other representatives, to enforce this Conservation Easement in an action at law or in equity or both.
  - b. The right of the State of New York, the County of Suffolk, the Township in which the Property is situated or their respective agents, employees or other representatives, exercising a third party enforcement right, to enforce this Conservation Easement in an action at law or in equity or both.

Enforcement pursuant to (a) and (b) hereinabove shall not be defeated because of any subsequent adverse possession, laches, estoppel or waiver. Grantee or any party with a third party enforcement right or their respective agents, employees or other representatives shall be permitted access, if necessary, to cross other lands retained by the Grantors, and to enter upon the Property at all reasonable times but solely for the purpose of inspection in order to enforce and assure compliance with the terms and conditions herein contained. Grantee, its agents, employees or

other representatives, agree to give Grantors reasonable advance notice of its intention to enter and inspect the Property, and further such entrance and inspection shall be in a reasonable manner and at reasonable times. Furthermore, Grantors shall provide any third party with enforcement rights, or its agents, representatives or employees, access to cross other lands retained by Grantors, and permission to enter upon the Property, upon receipt of advance notice of such third party's intention to enter and inspect. Such entrance and inspection shall be in a reasonable manner and at reasonable times.

## ***Covenants***

In furtherance of the foregoing affirmative rights, the Grantors make the following covenants, on behalf of themselves, their successors, heirs and assigns, lessees, personal representatives and other successors in interest, which covenants shall run with and bind the Property in perpetuity:

1. There shall be no construction activity, alteration of vegetation or change in topography, no development as defined by ECL Section 57-0107(13) and no operations or uses not constituting development pursuant to ECL Section 57-0107(13)(i-xiv), unless otherwise expressly reserved herein.
2. There shall be no storing, dumping, discharging or placing of any substance in or on the Property in contravention of any applicable federal, state or local law or ordinance.

## ***Reserved Rights***

NEVERTHELESS, and notwithstanding any of the foregoing provisions to the contrary and as expressly limited herein, the Grantors reserve for themselves, their heirs, successors and assigns the following reserved rights in addition to all those rights previously retained, reserved and defined herein, which may be exercised without written notice to the Grantee.

1. The right of exclusive possession of the Property.
2. The right to use the Property for passive recreational activities such as, but not limited to, hunting, fishing, camping, hiking and activities associated therewith so long as such activities conform to local zoning regulations and do not constitute development as defined in ECL Section 57-0107(13).
3. The right to use the Property for any existing, expanded, or new activity involving agriculture or horticulture if such use does not involve the material alteration of



native vegetation; the right to use the Property for the erection of agricultural buildings, including but not limited to barns, greenhouses and farm stands, required for the production of plants or animals as reflected under ECL Section 57-0107(14), if such activity does not involve material alteration of native vegetation and does not have the potential to generate sanitary waste.

4. The right to use the Property for operations or uses described in ECL Section 57-0107(13) (i, ii and vi), or environmental restoration projects commenced by the Grantor or his heirs, successors or assigns upon approval of any applicable Federal, State or local agency, or any activity authorized under the federal natural gas act (15 U.S.C. Sections 717- 717w), as same may be amended from time to time.
5. The right to sell, give or otherwise convey the Property or, consistent with the Covenants herein, any portion or portions of the Property, subject to the terms of this Conservation Easement. The Grantors, upon the sale, gift or other conveyance of his fee interest in the Property, shall have no further obligations or liabilities under this Conservation Easement. Grantors shall promptly notify Grantee of any conveyance of any interest in the Property, including the full names and mailing addresses of all Grantees, and the individual principals thereof, under any such conveyance. The instrument of any such conveyance shall specifically set forth that the interest thereby conveyed is subject to this Conservation Easement, without modification or amendment of the terms of this Conservation Easement, and shall incorporate this Conservation Easement by reference, specifically setting forth the date, office, liber and page of the recording thereof. The failure of any such instrument to comply with the provisions hereof shall not affect Grantee's rights hereunder.

## *Rights of the Public*

Nothing contained in this Conservation Easement shall give or grant to the public a right to enter upon or to use the Property or any portion thereof where no such right existed in the public immediately prior to the execution of this Conservation Easement except as may be granted by the Grantors herein or their successors.

## *Miscellaneous*

1. The parties hereto understand and agree that all the terms and provisions of ECL, Title 3, Article 49, as the same may be hereafter amended, entitled Conservation Easements, shall apply to this Conservation Easement.
2. This Conservation Easement contains the entire understanding between its parties

concerning its subject matter. Any prior agreement between the parties concerning its subject matter shall be merged into this Conservation Easement and superseded by it.

3. Any provision of this Conservation Easement restricting Grantors' activities, which is determined to be invalid or unenforceable by a court, shall not be rendered a nullity. Instead, that provision shall be reduced or limited to whatever extent that the court determines will make it enforceable and effective. Any other provision of this Conservation Easement which is determined to be invalid or unenforceable by a court shall be severed from the other provisions, which shall remain enforceable and effective.
4. Regardless of any contrary rule of construction, no provision or alleged ambiguity of this Conservation Easement shall be construed in favor of one of the parties because it was drafted by the other party's attorney. If any provision of this Conservation Easement is ambiguous or shall be subject to two or more interpretations, one of which would render that provision invalid, then that provision shall be given such interpretation as would render it valid and consistent with the purposes of this Conservation Easement as intended by Grantors. Any rule of strict construction designed to limit the breadth of the restrictions on use of the Property shall not apply in the construction or interpretation of this Conservation Easement, and, this Conservation Easement shall be interpreted broadly to effect the purposes of this Conservation Easement as intended by Grantors. The parties intend that this Conservation Easement, which is by nature and character primarily negative in that Grantors have restricted and limited Grantors' right to use the Property, except as otherwise recited herein, be construed at all times and by all parties to effectuate its purposes.
5. This Conservation Easement can be terminated only in accordance with the law of the State of New York applicable to the termination of easements and covenants running with the land. This Conservation Easement may be modified only upon the written consent of both Grantors and Grantee, or their successors, heirs, representatives or assigns. Grantors and Grantee recognize that circumstances could arise which would justify the modification of certain of the restrictions contained herein. To this end, Grantee and Grantors shall mutually have the right, in their sole discretion, to agree to amendments to this Conservation Easement which are not inconsistent with the basic purpose of this Conservation Easement, provided, however, that the Grantee shall have no right or power to agree to any amendments hereto that would result in this Conservation Easement failing to qualify as a valid conservation easement under ECL, Title 3, Article 49 as the same may be hereafter amended.
6. The Grantors agree that the terms, conditions, restrictions and purposes of this Conservation Easement shall continue as a servitude running in perpetuity with the Property and will be incorporated by reference in any subsequent deed or other legal instrument by which the Grantors divest themselves of either the fee simple title to or their possessory interest in the Property or any portion thereof specifically setting forth

the date, and the liber and page of the Suffolk County Clerk's records of the recording hereof.

7. Any notices required in this Conservation Easement shall be written. Notices shall be given either by manual delivery or by mailing in a mail receptacle maintained by the United States Postal Service. Mailed notices must be contained in an accurately addressed, sealed envelope, marked for delivery by first class registered or certified mail, with sufficient prepaid postage affixed and with return receipt requested. Mailed notice to the Grantors shall be addressed to Grantors' addresses as recited herein or to any such other addresses as the Grantors may designate by notice in accordance with this section. Mailed notice to the Grantee shall be addressed to Grantee's address as recited herein or to any such other address as the Grantee may designate by notice in accordance with this section.
8. It is understood and agreed by the Parties hereto that the Grantors, its successors, heirs and assigns, shall not be liable for any changes to the Property caused by any natural disaster or Act of God.
9. The Grantors and Grantors' lessees, representatives, successors, heirs and assigns, shall not apply to the Commission or the Pine Barrens Credit Clearinghouse for a hardship, other permit or Pine Barrens Credits under the Plan or under ECL Article 57 pertaining to the "Schedule A" premises.
10. The parties hereto recognize and agree that the benefits of this Conservation Easement are in gross and assignable, and the Grantee hereby covenants and agrees that any transferee or assignee will be an organization or public body qualified to hold a Conservation Easement pursuant to ECL, Title 3, Article 49, as the same may be hereafter amended, and the regulations promulgated thereunder.
11. All references to statutory provisions of Article 57 shall be as such provisions were in effect on the date of execution of this Conservation Easement.

IN WITNESS WHEREOF, Grantors have executed and delivered and Grantee has accepted and received this Grant of Conservation Easement on the day and year set forth above.

GRANTORS:

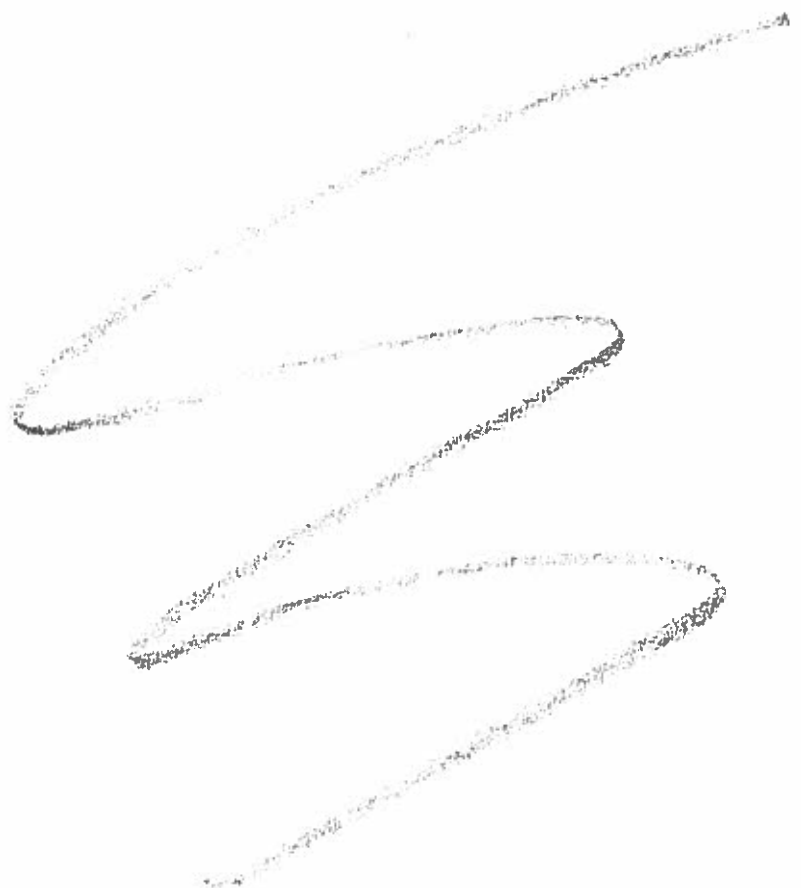
GRANTEE:

Commission  
Edwin Fishel Tuccio  
Edwin Fishel Tuccio

Central Pine Barrens Joint Planning and Policy

By: Peter A. Scully  
Name: Peter A. Scully  
Title: Chairman

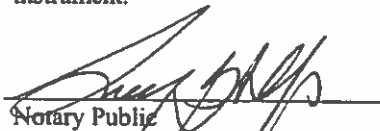
Patricia Tuccio  
Patricia Tuccio



ACKNOWLEDGMENTS

STATE OF NEW YORK )  
COUNTY OF SUFFOLK ) ss.:

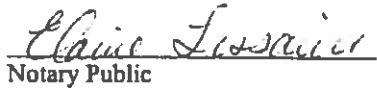
On the 5<sup>th</sup> day of November in the year 2004, before me, the undersigned, a notary public in and for said state, personally appeared EDWIN FISHEL TUCCIO, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

  
Notary Public

MURRAY B. SCHNEPS  
Notary Public, State of New York  
No. 3520525  
Qualified in Suffolk County  
Commission Expires Oct. 31, 10/2005

STATE OF New York )  
COUNTY OF Suffolk ) ss.:

On the 20th day of January in the year 2005, before me, the undersigned, a notary public in and for said state, personally appeared Peter A. Scully, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

  
Notary Public

ELAINE LISSAUER  
Notary Public, State of New York  
No. 01115021405  
Qualified in Suffolk County  
Commission Expires Dec. 13, 2005

STATE OF NEW YORK )  
COUNTY OF SUFFOLK ) ss.:

On the 4<sup>th</sup> day of November in the year 2004, before me, the undersigned, a notary public in and for said state, personally appeared PATRICIA TUCCIO, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

  
Notary Public

MURRAY B. SCHNEPS  
Notary Public, State of New York  
No. 3520525  
Qualified in Suffolk County  
Commission Expires Oct. 31, 10/2005

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) ss.:

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2004, before me, the undersigned Notary Public, personally appeared \_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed in the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual made such appearance before the undersigned in the \_\_\_\_\_.

(Insert city or other political subdivision and the state or country or other place the acknowledgment was taken).

\_\_\_\_\_  
Notary Public

**AQUEBOGUE ABSTRACT CORP.**

**SCHEDULE A  
TITLE NO: AQ-04-S-1142  
Amended 12/28/2004**

**PARCEL #1 ON SURVEY BY YOUNG & YOUNG-DATED 6/21/96 LAST DATED 5/28/2004**

ALL that certain plot piece or parcel of land, situate, lying and being in the Town of SOUTHAMPTON, at WESTHAMPTON, County of Suffolk and State of New York, being known and designated as Parcel 1 as shown on Survey prepared by Young & Young, for EDWIN FISHEL TUCCIO AND PATRICIA TUCCIO, last dated 5/28/2004 more particularly bounded and described as follows:

BEGINNING at a point when measured from a point where the "Middle Line" or line in the Middle of the lots "Quogue Purchase – Last Division" intersects the easterly side of Westhampton Riverhead Road being the following seven (7) courses and distances:

- 1) south 17 degrees 00 minutes 28 seconds east, 119.73 feet to a point;
- 2) south 21 degrees 59 minutes 08 seconds east, 1,146.16 feet to a point;
- 3) south 26 degrees 14 minutes 08 seconds east, 1,156.17 feet to a point;
- 4) south 42 degrees 06 minutes 08 seconds east, 818.67 feet to a point;
- 5) south 50 degrees 52 minutes 38 seconds east, 539.27 feet to a point;
- 6) south 81 degrees 50 minutes 58 seconds east, 454.94 feet to a point marked by the intersection of the division line between lot 30 and lot 31, "Quogue Purchase – Last Division", and said "Middle Line"; THENCE

7) north 09 degrees 39 minutes 30 seconds east, 3,060.27 to the point or place of BEGINNING; THENCE from said point of beginning along lands now or formerly of Reed Rubin & WJF Realty Corp., north 09 degrees 39 minutes 30 seconds east, 1,385.73 feet to lands now or formerly of State of New York; THENCE along last mentioned land now or formerly of the State of New York, the following courses and distances:

- 1) south 80 degrees 20 minutes 30 seconds east, 723.00 feet;
1. south 09 degrees 39 minutes 30 seconds west, thru part of lot 29 on "QUOGUE PURCHASE-LAST DIVISION", 1,385.73 feet to parcel II on aforementioned survey;

THENCE along said division line between parcels I and II, on aforementioned survey north 80 degrees 20 minutes 30 seconds west, 723.00 feet to the point or place of BEGINNING.

**AQUEBOGUE ABSTRACT CORP.**

**SCHEDULE A  
TITLE NO: AQ-04-S-1143  
Amended 12/28/2004**

**PARCEL #2 ON SURVEY BY YOUNG & YOUNG-DATED 6/21/96 LAST DATED 5/28/2004**

ALL that certain plot piece or parcel of land, situate, lying and being in the Town of SOUTHAMPTON, at WESTHAMPTON, County of Suffolk and State of New York, being known and designated as Parcel 2 as shown on Survey prepared by Young & Young, for EDWIN FISHEL TUCCIO AND PATRICIA TUCCIO, last dated 5/28/2004 more particularly bounded and described as follows:

BEGINNING at a point when measured from a point where the "Middle Line" or line in the Middle of the lots "Quogue Purchase - Last Division" intersects the easterly side of Westhampton Riverhead Road being the following seven (7) courses and distances:

- 1) south 17 degrees 00 minutes 28 seconds east, 119.73 feet to a point;
- 2) south 21 degrees 59 minutes 08 seconds east, 1,146.16 feet to a point;
- 3) south 26 degrees 14 minutes 08 seconds east, 1,156.17 feet to a point;
- 4) south 42 degrees 06 minutes 08 seconds east, 818.67 feet to a point;
- 5) south 50 degrees 52 minutes 38 seconds east, 539.27 feet to a point;
- 6) south 81 degrees 50 minutes 58 seconds east, 454.94 feet to a point marked by the intersection of the division line between lot 30 and lot 31, "Quogue Purchase - Last Division" and said "Middle Line"; THENCE

- 7) north 09 degrees 39 minutes 30 seconds east, 1,433.55 to the point or place of BEGINNING;

THENCE from said point of beginning, along lands now or formerly of Reed Rubin & WJF Realty Corp., north 09 degrees 39 minutes 30 seconds east, 1,626.72 feet to lands shown as Parcel 1 on aforesaid survey; THENCE along last mentioned lands, the following courses and distances:

1. south 80 degrees 20 minutes 30 seconds east, 723.00 feet;
2. south 09 degrees 39 minutes 30 seconds west, thru part of lot 29 on "QUOGUE PURCHASE-LAST DIVISION", 1,626.72 feet to parcel III on aforementioned survey;

THENCE along said division line between parcels II and III, on aforesaid survey, north 80 degrees 20 minutes 30 seconds west, 723.00 feet to the point or place of BEGINNING.

Certificate Number Conveyed	Seller	Buyer	New Certificate #	# PBCS sold	Date	Reported Price	Per PBC \$	Original SCIM
900-169	Edwin Fishel Tuccio Patricia Tuccio	Greg Davis	900-201 900-202	1.50	4/11/2005	\$120,000.00	\$80,000.00	900-248-1-110.3
900-170	Edwin Fishel Tuccio Patricia Tuccio	Eleanor Auer	900-179	1.00	2/17/2005	\$80,000.00	\$80,000.00	900-248-1-110.3
900-202	Edwin Fishel Tuccio Patricia Tuccio	JSC Resources	900-215 900-216	2.00	7/7/2005			900-248-1-110.3
900-216	Edwin Fishel Tuccio Patricia Tuccio	170 Westhampton Beach Corp.	900-223 900-224	0.50	7/7/2005	\$20,000.00	\$40,000.00	900-248-1-110.3
900-224	Edwin Fishel Tuccio Patricia Tuccio	Burkshire Plaza, LTD / Edward Burke St.	900-232 900-233 900-234	2.50	3/16/2005	\$200,000.00	\$80,000.00	900-248-1-110.3
900-232	Edwin Fishel Tuccio & Patricia Tuccio	John Bennett	900-241	1.50	10/20/2005	\$120,000.00	\$80,000.00	900-248-1-110.3
900-242	Edwin Fishel Tuccio & Patricia Tuccio	Ford-Spoleti Holdings, Inc	900-288	2.00	2/15/2006	\$170,000.00	\$85,000.00	900-248-1-110.3
900-289	Edwin Tuccio & Patricia Tuccio	Chabad of Southampton	900-307	0.50	3/22/2006	\$40,000.00	\$80,000.00	900-248-1-110.3
900-290	Edwin Tuccio & Patricia Tuccio	Landes Commercial Real Estate	900-315 = 1.5 Remainder of 6.5 of 8.0 issued as 900- 308 to Tuccio	1.50	5/18/2006	\$27,500.00	\$18,333.33	900-248-1-110.3
900-308	Edwin Tuccio & Patricia Tuccio	Brewan Isip, III. Associates LP	900-355, 5.5 credits 900-356 2.0 credits	2.00	7/31/2006	\$180,000.00	\$90,000.00	900-248-1-110.3
900-316	Edwin Fishel Tuccio & Patricia Tuccio	J.L. Rivkin Assoc.	900-341 remainder 6 of 6.5 issued as 900-342	0.50	4/25/2006	\$47,500.00	\$95,000.00	900-248-1-110.3



900-342	Edwin Fishel Tuccio & Patricia Tuccio	Peri Wolfman & Charles Gold	900-353, 4.5 of 6 credits 900-354, 1.5 of 6 credits cert	1.50	4/12/2007	\$135,000.00	\$90,000.00	900-248-1-110.3
900-355	Edwin Fishel Tuccio & Patricia Tuccio	Hamptons Little Neck LLC	900-363 4.0 cr 900-364 1.5 cr	4.00	6/21/2007	\$380,000.00	\$95,000.00	900-248-1-110.3
			Total PBC sold	21.00	Total Price	\$1,520,000.00		

Remaining for Tuccio: 6 out of 27 PBC						
Certificate #	SCTM	Issued to	Acres	# of PBCs	School District	Issue Date (date on cert)
900-353	remainder of 900-342	Edwin Fishel Tuccio Patricia Tuccio		4.5	Westhampton Beach	4/13/2007
900-364	1.5 or remainder of 900-355	Edwin Fishel Tuccio Patricia Tuccio		1.5	Westhampton Beach	6/21/2007
				6.0		

**CONVEYED**

Number: 0900-00169  
Date Issued: January 27, 2005

Pine Barrens Credit Clearinghouse

**RECONFIGURED**

Pine Barrens Credit Clearinghouse

## *Pine Barrens Credit Certificate*

Issued Pursuant to the Long Island Pine Barrens Protection Act  
and the *Central Pine Barrens Comprehensive Land Use Plan*

This certifies that Edwin Fishel Tuccio & Patricia Tuccio hereby owns:

### *26.0 Pine Barrens Credits*

*This certificate entitles the owner to a land use density or intensity increase as provided in the Central Pine Barrens Comprehensive Land Use Plan and pursuant to local ordinances.*

26.0 credits generated from the Westhampton Beach School District



Vice-Chairman, Pine Barrens Credit Clearinghouse

SALE, CONVEYANCE OR TRANSFER  
OF  
PINE BARRENS CREDITS

Within ten (10) business days the person selling, conveying, transferring or pledging a Pine Barrens Credit, or any interest therein, shall deliver to the Pine Barrens Credit Clearinghouse this Certificate representing the Credits sold, conveyed, transferred, or pledged.

Upon Clearinghouse receipt, a Certificate will be issued in the name of the person(s) who have secured an interest in the Credits. A new Certificate will be issued to the grantor if he has retained any interest in the Credits represented by this Certificate.

Grantor (Seller): Edna Fabel Lewis  
Name: Edna Fabel Lewis  
Address: 193 Griffing Ave, Elizabeth, NJ 07201  
City/State/Zip Code: Elizabeth, NJ 07201

Signature: [Signature]  
Signature: [Signature]

Grantee (Buyer): Gregory Davis  
Name: Gregory Davis  
Address: 325 Meeting House Lane  
City/State/Zip Code: Southampton, NY 11968  
Signature: [Signature]

Number of Credits Sold, Conveyed or Transferred: 1.5  
Date of Transaction: \_\_\_\_\_  
Interest Secured: \_\_\_\_\_  
Consideration: \_\_\_\_\_

Attach written evidence of the transaction (e.g., Contract of Sale, Bill of Sale)

PINE BARRENS CREDITS  
PLEGGED AS SECURITY

When Pine Barrens Credits are pledged as security for loans, the lending institution shall return this certificate to the Pine Barrens Credit Clearinghouse properly completed, within ten (10) business days.

Upon Clearinghouse receipt, a revised Pine Barrens Certificate reflecting the encumbrance will be re-issued

Owner (Borrower)  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip Code: \_\_\_\_\_  
Signature: \_\_\_\_\_

Lending Institution  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip Code: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Title: \_\_\_\_\_

Amount of loan: \_\_\_\_\_  
Term of Loan: \_\_\_\_\_  
Number of Pine Barrens Credits pledged as collateral: \_\_\_\_\_

Attach written evidence of the transaction (Note: When Pine Barrens Credits are released as security, the Clearinghouse will again issue a Pine Barrens Certificate upon notification by the owner and the lender.)

REDEMPTION  
OF  
PINE BARRENS CREDITS

When Pine Barrens Credits are redeemed in association with a development project approved by a municipal approving agency, the person redeeming the Pine Barrens Credit shall return this Certificate to the Pine Barrens Credit Clearinghouse within ten (10) business days of their redemption.

Owner (Person Redeeming)  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip Code: \_\_\_\_\_  
Signature: \_\_\_\_\_

Town in which Pine Barrens Credits are redeemed:  
Town: \_\_\_\_\_

School District in which Redeemed: \_\_\_\_\_

Suffolk County Tax Map of parcel where Pine Barrens Credits redeemed: \_\_\_\_\_

Number of Pine Barrens Credits Redeemed: \_\_\_\_\_

Municipal development approval was issued: \_\_\_\_\_ date \_\_\_\_\_

Municipal Official issuing development approval:  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Signature: \_\_\_\_\_

**CONVEYED**

Pine Barrens Credit Clearinghouse

Number: 0900-00170

Date Issued: January 27, 2005

## *Pine Barrens Credit Certificate*

Issued Pursuant to the Long Island Pine Barrens Protection Act  
and the *Central Pine Barrens Comprehensive Land Use Plan*

This certifies that Edwin Fishel Tuccio & Patricia Tuccio hereby owns:

### *1.0 Pine Barrens Credits*

*This certificate entitles the owner to a land use density or intensity increase as provided in the Central Pine Barrens Comprehensive Land Use Plan and pursuant to local ordinances.*

1.0 credits generated from the Westhampton Beach School District



Vice-Chairman, Pine Barrens Credit Clearinghouse

SALE, CONVEYANCE OR TRANSFER  
OF  
PINE BARRENS CREDITS

Within ten (10) business days the person selling, conveying, transferring or pledging a Pine Barrens Credit, or any interest therein, shall deliver to the Pine Barrens Credit Clearinghouse this Certificate representing the Credits sold, conveyed, transferred, or pledged.

Upon Clearinghouse receipt, a Certificate will be issued in the name of the person(s) who have secured an interest in the Credits. A new Certificate will be issued to the grantor if he has retained any interest in the Credits represented by this Certificate.

Grantors (Sellers)  
 Name: Edwin Fisher Tuccillo  
 Name: Patricia Tuccillo  
 Address: 93 Corliss Ave  
 City/State/Zip Code: Putnam NY 11761  
 Signature: [Signature]  
 Signature: Edwin attorney in fact  
 Grantee (Buyer)  
 Name: Eleanor Auer  
 Address: P.O. Box 2003  
 City/State/Zip Code: Rensselaer NY  
 Signature: Eleanor Auer 11960  
 by her attorney in fact Barbara Wheeler  
 Number of Credits Sold, Conveyed or Transferred: 1 Credit  
 Date of Transaction: 2/17/05  
 Interest Secured: \_\_\_\_\_  
 Consideration: \$0.000 -

Attach written evidence of the transaction (e.g., Contract of Sale, Bill of Sale)

PINE BARRENS CREDITS  
PLEGGED AS SECURITY

When Pine Barrens Credits are pledged as security for loans, the lending institution shall return this certificate to the Pine Barrens Credit Clearinghouse properly completed, within ten (10) business days.

Upon Clearinghouse receipt, a revised Pine Barrens Certificate reflecting the encumbrance will be re-issued

Owner (Borrower)  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City/State Zip Code: \_\_\_\_\_  
 Signature: \_\_\_\_\_

Lending Institution  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City/State Zip Code: \_\_\_\_\_  
 Signature: \_\_\_\_\_  
 Title: \_\_\_\_\_

Amount of loan: \_\_\_\_\_  
 Term of Loan: \_\_\_\_\_  
 Number of Pine Barrens Credits pledged as collateral: \_\_\_\_\_

Attach written evidence of the transaction (Note: When Pine Barrens Credits are released as security, the Clearinghouse will again reissue a Pine Barrens Certificate upon notification by the owner and the lender.)

REDEMPTION  
OF  
PINE BARRENS CREDITS

When Pine Barrens Credits are redeemed in association with a development project approved by a municipal approving agency, the person redeeming the Pine Barrens Credit shall return this Certificate to the Pine Barrens Credit Clearinghouse within ten (10) business days of their redemption.

Owner (Person Redeeming)  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City/State Zip Code: \_\_\_\_\_  
 Signature: \_\_\_\_\_

Town in which Pine Barrens Credits are redeemed: \_\_\_\_\_  
 Town: \_\_\_\_\_

School District in which Redeemed: \_\_\_\_\_

Suffolk County Tax Map of parcel where Pine Barrens Credits redeemed: \_\_\_\_\_

Number of Pine Barrens Credits Redeemed: \_\_\_\_\_

Municipal development approval was issued: \_\_\_\_\_ date: \_\_\_\_\_

Municipal Official issuing development approval: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Signature: \_\_\_\_\_

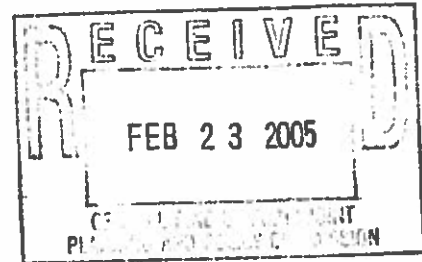
THE LAW FIRM OF  
**THOMAS T. McVANN, JR.**

100 MILL ROAD - PO Box 827  
WESTHAMPTON BEACH, NEW YORK 11978  
PHONE: (631) 288-6500 FAX (631) 288-6546  
EMAIL: mcvannlaw@aol.com

**By Express Mail**  
**#EV 595627264 US**

February 22, 2005

Pine Barrens Credit Clearing House  
3525 Sunrise Highway  
Great River, New York 11739-0587



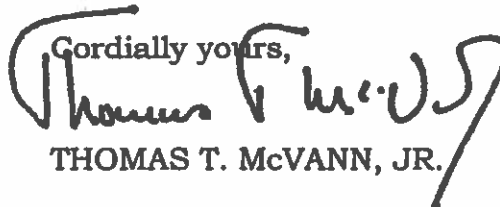
Re: Purchase of Credit

Gentlemen:

Please be advised that this office represents Eleanor Auer in the purchase of one (1) credit for which the certificate is enclosed. Also enclosed are copies of the powers of attorney and the contract of sale. Please issue a Pine Barrens Credit Certificate for (1) Pine Barrens Credit to Eleanor Auer and forward the original certificate to my offices.

If anything further is required, please contact the undersigned.

With every kind regard, I am

Gordially yours,  
  
THOMAS T. McVANN, JR.

TTM:bjm  
encl

**CONVEYED**

Pine Barrens Credit Clearinghouse

Number: 0900-00202  
Date Issued: April 18, 2005

**RECONFIGURED**

Pine Barrens Credit Clearinghouse

## *Pine Barrens Credit Certificate*

Issued Pursuant to the Long Island Pine Barrens Protection Act  
and the *Central Pine Barrens Comprehensive Land Use Plan*

This certifies that Edwin Fishel Tuccio & Patricia Tuccio hereby owns:

### *24.5 Pine Barrens Credits*

*This certificate entitles the owner to a land use density or intensity increase as provided in the Central Pine Barrens Comprehensive Land Use Plan and pursuant to local ordinances.*

24.5 credits generated from the Westhampton Beach School District



Vice-Chairman, Pine Barrens Credit Clearinghouse

SALE, CONVEYANCE OR TRANSFER  
OF  
PINE BARRENS CREDITS

Within ten (10) business days the person selling, conveying, transferring or pledging a Pine Barrens Credit, or any interest therein, shall deliver to the Pine Barrens Credit Clearinghouse this Certificate representing the Credits sold, conveyed, transferred, or pledged.

Upon Clearinghouse receipt, a Certificate will be issued in the name of the person(s) who have secured an interest in the Credits. A new Certificate will be issued to the grantor if he has retained any interest in the Credits represented by this Certificate.

Grantors (Sellers)

Name: Dawn F. Small Tuccio  
 Name: Patricia Tuccio  
 Address: 193 Cedar Pine Ave. Poughkeeps, NY  
 City/State/Zip Code: NY 11901  
 Signature: [Signature]  
 Signature: Patricia Tuccio

Grantee (Buyer)

Name: ISC Resources Inc  
 Address: P.O. Box 1571  
 City/State/Zip Code: Queeny NY 11959  
 Signature: [Signature]

Number of Credits Sold, Conveyed or Credits Transferred: 2 credits  
 Date of Transaction: \_\_\_\_\_  
 Interest Secured: \_\_\_\_\_  
 Consideration: \_\_\_\_\_

Attach written evidence of the transaction (e.g., Contract of Sale, Bill of Sale)

REDEMPTION  
OF  
PINE BARRENS CREDITS

When Pine Barrens Credits are redeemed in association with a development project approved by a municipal approving agency, the person redeeming the Pine Barrens Credit shall return this Certificate to the Pine Barrens Credit Clearinghouse within ten (10) business days of their redemption.

Owner (Person Redeeming)

Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City/State/Zip Code: \_\_\_\_\_  
 Signature: \_\_\_\_\_

Town in which Pine Barrens Credits are redeemed: \_\_\_\_\_  
 Town: \_\_\_\_\_

School District in which Redeemed: \_\_\_\_\_

Suffolk County Tax Map of parcel where Pine Barrens Credits redeemed: \_\_\_\_\_

Number of Pine Barrens Credits Redeemed: \_\_\_\_\_

Municipal development approval was issued: \_\_\_\_\_ date \_\_\_\_\_

Municipal Official issuing development approval: Name: \_\_\_\_\_ Title: \_\_\_\_\_ Signature: \_\_\_\_\_

PINE BARRENS CREDITS  
PLEGGED AS SECURITY

When Pine Barrens Credits are pledged as security for loans, the lending institution shall return this certificate to the Pine Barrens Credit Clearinghouse properly completed, within ten (10) business days.

Upon Clearinghouse receipt, a revised Pine Barrens Certificate reflecting the encumbrance will be re-issued

Owner (Borrower)

Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City/State/Zip Code: \_\_\_\_\_  
 Signature: \_\_\_\_\_

Lending Institution

Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City/State/Zip Code: \_\_\_\_\_  
 Signature: \_\_\_\_\_  
 Title: \_\_\_\_\_

Amount of loan: \_\_\_\_\_

Term of Loan: \_\_\_\_\_

Number of Pine Barrens Credits pledged as collateral: \_\_\_\_\_

Attach written evidence of the transaction (Note: When Pine Barrens Credits are released as security, the Clearinghouse will again reissue a Pine Barrens Certificate upon notification by the owner and the lender.)



**CONVEYED**  
Pine Barrens Credit Clearinghouse

**RECONFIGURED**  
Pine Barrens Credit Clearinghouse

Number: 0900-00216  
Date Issued: July 7, 2005

## *Pine Barrens Credit Certificate*

Issued Pursuant to the Long Island Pine Barrens Protection Act  
and the *Central Pine Barrens Comprehensive Land Use Plan*

This certifies that **Edwin Fishel Tuccio & Patricia Tuccio** hereby owns:

### *22.5 Pine Barrens Credits*

*This certificate entitles the owner to a land use density or intensity increase as provided in the Central Pine Barrens Comprehensive Land Use Plan and pursuant to local ordinances.*

22.5 credits from the Westhampton Beach School District

  
\_\_\_\_\_  
Vice-Chairman, Pine Barrens Credit Clearinghouse

SALE, CONVEYANCE OR TRANSFER  
OF  
PINE BARRENS CREDITS

Within ten (10) business days the person selling, conveying, transferring or pledging a Pine Barrens Credit, or any interest therein, shall deliver to the Pine Barrens Credit Clearinghouse this Certificate representing the Credits sold, conveyed, transferred, or pledged.

Upon Clearinghouse receipt, a Certificate will be issued in the name of the person(s) who have secured an interest in the Credits. A new Certificate will be issued to the grantor if he has retained any interest in the Credits represented by this Certificate.

Grantors (Sellers)  
Name: Edwin Fisher Tucci  
Name: Enrico Tucci  
Address: 93 GARDENS UNIT 4100  
City/State/Zip Code: Brooklyn NY 11210  
Signature: [Signature]  
Signature: [Signature]  
Take Care not in fact.  
Grantee (Buyer)  
Name: 170 Westhampton Beach Corp  
Address: P.O. Box 1406  
City/State/Zip Code: Long B. N.Y. 11978  
Signature: [Signature]

Number of Credits Sold, Conveyed or Transferred: 12 Credits  
Date of Transaction: June 7, 2005  
Interest Secured:  
Consideration: \$40,000.00

Attach written evidence of the transaction (e.g., Contract of Sale, Bill of Sale)

PINE BARRENS CREDITS  
PLEDGED AS SECURITY

When Pine Barrens Credits are pledged as security for loans, the lending institution shall return this certificate to the Pine Barrens Credit Clearinghouse properly completed, within ten (10) business days.

Upon Clearinghouse receipt, a revised Pine Barrens Certificate reflecting the encumbrance will be re-issued

Owner (Borrower)  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip Code: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Lending Institution  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip Code: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Title: \_\_\_\_\_

Amount of loan: \_\_\_\_\_  
Term of Loan: \_\_\_\_\_  
Number of Pine Barrens Credits pledged as collateral: \_\_\_\_\_

Attach written evidence of the transaction  
(Note: When Pine Barrens Credits are released as security, the Clearinghouse will again reissue a Pine Barrens Certificate upon notification by the owner and the lender.)

REDEMPTION  
OF  
PINE BARRENS CREDITS

When Pine Barrens Credits are redeemed in association with a development project approved by a municipal approving agency, the person redeeming the Pine Barrens Credit shall return this Certificate to the Pine Barrens Credit Clearinghouse within ten (10) business days of their redemption.

Owner (Person Redeeming)  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip Code: \_\_\_\_\_  
Signature: \_\_\_\_\_

Town in which Pine Barrens Credits are redeemed.  
Town: \_\_\_\_\_

School District in which Redeemed: \_\_\_\_\_  
Suffolk County Tax Map of parcel where Pine Barrens Credits redeemed: \_\_\_\_\_

Number of Pine Barrens Credits Redeemed: \_\_\_\_\_

Municipal development approval was issued: \_\_\_\_\_ date

Municipal Official issuing development approval:  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Signature: \_\_\_\_\_

**CONVEYED**

Pine Barrens Credit Clearinghouse **RECONFIGURED**  
Pine Barrens Credit Clearinghouse

Number: 0900-00224

Date Issued: July 15, 2005

## *Pine Barrens Credit Certificate*

Issued Pursuant to the Long Island Pine Barrens Protection Act  
and the *Central Pine Barrens Comprehensive Land Use Plan*

This certifies that Edwin Fishel Tuccio and Patricia Tuccio hereby owns:

### *22.0 Pine Barrens Credits*

*This certificate entitles the owner to a land use density or intensity increase as provided in the Central Pine Barrens Comprehensive Land Use Plan and pursuant to local ordinances.*

22.0 credits from the Westhampton Beach School District



Vice-Chairman, Pine Barrens Credit Clearinghouse

**SALE, CONVEYANCE OR TRANSFER  
OF  
PINE BARRENS CREDITS**

Within ten (10) business days the person selling, conveying, transferring or pledging a Pine Barrens Credit, or any interest therein, shall deliver to the Pine Barrens Credit Clearinghouse this Certificate representing the Credits sold, conveyed, transferred, or pledged.

Upon Clearinghouse receipt, a Certificate will be issued in the name of the person(s) who have secured an interest in the Credits. A new Certificate will be issued to the grantor if he has retained any interest in the Credits represented by this Certificate.

Name: Edwam J. Williams Grantors  
 Name: Faticia Tuccio  
 Address: 193 68 (S. of Bx)  
 City/State/ Zip Code: 19380  
 Signature: [Signature]  
 Signature: [Signature]  
 as Affirming in fact  
 Name: Buckeye Plaza, Ltd. Grantee (Buyer)  
 Address: 3330 Major Road  
 City/State/ Zip Code: Southampton, N.Y. 1968  
 Signature: [Signature]

Number of Credits Sold, Conveyed or Transferred: 2.5 Credits  
 Date of Transaction: March 16, 2005  
 Interest Secured: ---  
 Consideration: \$200,000.00

Attach written evidence of the transaction (e.g., Contract of Sale, Bill of Sale)

**PINE BARRENS CREDITS  
PLEGGED AS SECURITY**

When Pine Barrens Credits are pledged as security for loans, the lending institution shall return this certificate to the Pine Barrens Credit Clearinghouse properly completed, within ten (10) business days.

Upon Clearinghouse receipt, a revised Pine Barrens Certificate reflecting the encumbrance will be re-issued

Owner (Borrower)  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City/State Zip Code: \_\_\_\_\_  
 Signature: \_\_\_\_\_

Lending Institution  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City/State Zip Code: \_\_\_\_\_  
 Signature: \_\_\_\_\_  
 Title: \_\_\_\_\_

Amount of loan: \_\_\_\_\_  
 Term of Loan: \_\_\_\_\_  
 Number of Pine Barrens Credits pledged as collateral: \_\_\_\_\_

Attach written evidence of the transaction (Note: When Pine Barrens Credits are released as security, the Clearinghouse will again reissue a Pine Barrens Certificate upon notification by the owner and the lender.)

**REDEMPTION  
OF  
PINE BARRENS CREDITS**

When Pine Barrens Credits are redeemed in association with a development project approved by a municipal approving agency, the person redeeming the Pine Barrens Credit shall return this Certificate to the Pine Barrens Credit Clearinghouse within ten (10) business days of their redemption.

Owner (Person Redeeming)  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City/State Zip Code: \_\_\_\_\_  
 Signature: \_\_\_\_\_

Town in which Pine Barrens Credits are redeemed: \_\_\_\_\_  
 Town: \_\_\_\_\_

School District in which Redeemed: \_\_\_\_\_  
 Suffolk County Tax Map of parcel where Pine Barrens Credits redeemed: \_\_\_\_\_

Number of Pine Barrens Credits Redeemed: \_\_\_\_\_

Municipal development approval was issued: \_\_\_\_\_ date

Municipal Official issuing development approval:  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Signature: \_\_\_\_\_

**CONVEYED**

**Pine Barrens Credit Clearinghouse**

Number: 0900-00232

Date Issued: September 19, 2005

## *Pine Barrens Credit Certificate*

Issued Pursuant to the Long Island Pine Barrens Protection Act  
and the *Central Pine Barrens Comprehensive Land Use Plan*

**RECONFIGURED**

**Pine Barrens Credit Clearinghouse** This certifies that Edwin Fishel Tuccio & Patricia Tuccio hereby owns:

### *19.5 Pine Barrens Credits*

*This certificate entitles the owner to a land use density or intensity increase as provided in the Central Pine Barrens Comprehensive Land Use Plan and pursuant to local ordinances.*

19.5 credits from the Westhampton Beach School District



Vice-Chairman, Pine Barrens Credit Clearinghouse

SALE, CONVEYANCE OR TRANSFER  
OF  
PINE BARRENS CREDITS

Within ten (10) business days the person selling, conveying, transferring or pledging a Pine Barrens Credit, or any interest therein, shall deliver to the Pine Barrens Credit Clearinghouse this Certificate representing the Credits sold, conveyed, transferred, or pledged.

Upon Clearinghouse receipt, a Certificate will be issued in the name of the person(s) who have secured an interest in the Credits. A new Certificate will be issued to the grantor if he has retained any interest in the Credits represented by this Certificate.

Grantors (Sellers)  
 Name: Edwin Fisher Tuccio  
 Name: Patricia Tuccio  
 Address: 193 Griffing Ave; Riverhead, N.Y. 11961  
 City/State/Zip Code: \_\_\_\_\_  
 Signature: Edwin Fisher Tuccio  
 Signature: Patricia Tuccio by Edwin Fisher Tuccio  
as attorney in fact  
 Grantee (Buyer)  
 Name: John Bernet  
 Address: 212 W. 111th Lane  
 City/State/Zip Code: Saltwaterpton, N.Y. 11968  
 Signature: \_\_\_\_\_

Number of Credits Sold, Conveyed or Transferred: 1.5 Credits  
 Date of Transaction: June 7, 2005  
 Interest Secured: \_\_\_\_\_  
 Consideration: \$ 120,000.00

Attach written evidence of the transaction (e.g., Contract of Sale, Bill of Sale)

PINE BARRENS CREDITS  
PLEGGED AS SECURITY

When Pine Barrens Credits are pledged as security for loans, the lending institution shall return this certificate to the Pine Barrens Credit Clearinghouse properly completed, within ten (10) business days.

Upon Clearinghouse receipt, a revised Pine Barrens Certificate reflecting the encumbrance will be re-issued

Owner (Borrower)  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City/State/Zip Code: \_\_\_\_\_  
 Signature: \_\_\_\_\_  
 Lending Institution  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City/State/Zip Code: \_\_\_\_\_  
 Signature: \_\_\_\_\_  
 Title: \_\_\_\_\_

Amount of loan: \_\_\_\_\_  
 Term of Loan: \_\_\_\_\_  
 Number of Pine Barrens Credits pledged as collateral: \_\_\_\_\_

Attach written evidence of the transaction (Note: When Pine Barrens Credits are released as security, the Clearinghouse will again reissue a Pine Barrens Certificate upon notification by the owner and the lender.)

REDEMPTION  
OF  
PINE BARRENS CREDITS

When Pine Barrens Credits are redeemed in association with a development project approved by a municipal approving agency, the person redeeming the Pine Barrens Credit shall return this Certificate to the Pine Barrens Credit Clearinghouse within ten (10) business days of their redemption.

Owner (Person Redeeming)  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City/State/Zip Code: \_\_\_\_\_  
 Signature: \_\_\_\_\_

Town in which Pine Barrens Credits are redeemed.  
 Town: \_\_\_\_\_

School District in which Redeemed: \_\_\_\_\_

Suffolk County Tax Map of parcel where Pine Barrens Credits redeemed: \_\_\_\_\_

Number of Pine Barrens Credits Redeemed: \_\_\_\_\_

Municipal development approval was issued: \_\_\_\_\_ date

Municipal Official issuing development approval:  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Signature: \_\_\_\_\_

**CONVEYED**

Pine Barrens Credit Clearinghouse

Number: 0900-00242

Date Issued: October 20, 2005

## *Pine Barrens Credit Certificate*

Issued Pursuant to the Long Island Pine Barrens Protection Act  
and the *Central Pine Barrens Comprehensive Land Use Plan*

This certifies that **Edwin Fishel Tuccio & Patricia Tuccio** hereby owns:

### *18.00 Pine Barrens Credits*

*This certificate entitles the owner to a land use density or intensity increase as provided in the Central Pine Barrens Comprehensive Land Use Plan and pursuant to local ordinances.*

18.00 credits generated from the ~~Westhampton Beach School District~~

  
Vice-Chairman, Pine Barrens Credit Clearinghouse

SALE, CONVEYANCE OR TRANSFER  
OF  
PINE BARRENS CREDITS

Within ten (10) business days the person selling, conveying, transferring or pledging a Pine Barrens Credit, or any interest therein, shall deliver to the Pine Barrens Credit Clearinghouse this Certificate representing the Credits sold, conveyed, transferred, or pledged.

Upon Clearinghouse receipt, a Certificate will be issued in the name of the person(s) who have secured an interest in the Credits. A new Certificate will be issued to the grantor if he has retained any interest in the Credits represented by this Certificate.

Grantors (Sellers)  
Name: Edward Finkelstein  
Name: Patricia Tuccio  
Address: 193 Griffith Ave  
City/State/Zip Code: 11414  
Signature: [Signature]  
Signature: [Signature]  
Grantee (Buyer)  
Name: Ford Spolethi Holdings, Inc.  
Address: 37 Madison Ave  
City/State/Zip Code: 11772  
Signature: [Signature]

Number of Credits Sold, Conveyed or Transferred: 2.0  
Date of Transaction: February 15, 2006  
Interest Secured: 170,000.00  
Consideration: 170,000.00

Attach written evidence of the transaction (e.g., Contract of Sale, Bill of Sale)

PINE BARRENS CREDITS  
PLEGGED AS SECURITY

When Pine Barrens Credits are pledged as security for loans, the lending institution shall return this certificate to the Pine Barrens Credit Clearinghouse properly completed, within ten (10) business days.

Upon Clearinghouse receipt, a revised Pine Barrens Certificate reflecting the encumbrance will be re-issued

Owner (Borrower)  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip Code: \_\_\_\_\_  
Signature: \_\_\_\_\_

Lending Institution  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip Code: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Title: \_\_\_\_\_

Amount of loan: \_\_\_\_\_  
Term of Loan: \_\_\_\_\_  
Number of Pine Barrens Credits pledged as collateral: \_\_\_\_\_

Attach written evidence of the transaction (Note: When Pine Barrens Credits are released as security, the Clearinghouse will again reissue a Pine Barrens Certificate upon notification by the owner and the lender.)

REDEMPTION  
OF  
PINE BARRENS CREDITS

When Pine Barrens Credits are redeemed in association with a development project approved by a municipal approving agency, the person redeeming the Pine Barrens Credit shall return this Certificate to the Pine Barrens Credit Clearinghouse within ten (10) business days of their redemption.

Owner (Person Redeeming)  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip Code: \_\_\_\_\_  
Signature: \_\_\_\_\_

Town in which Pine Barrens Credits are redeemed.  
Town: \_\_\_\_\_

School District in which Redeemed: \_\_\_\_\_

Suffolk County Tax Map of parcel where Pine Barrens Credits redeemed: \_\_\_\_\_

Number of Pine Barrens Credits Redeemed: \_\_\_\_\_

Municipal development approval was issued: \_\_\_\_\_ date

Municipal Official issuing development approval: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Signature: \_\_\_\_\_



**CONVEYED**  
Pine Barrens Credit Clearinghouse

Number: 0900-00289

Date Issued: February 17, 2006

*Pine Barrens Credit Certificate*

Issued Pursuant to the Long Island Pine Barrens Protection Act  
and the *Central Pine Barrens Comprehensive Land Use Plan*

This certifies that Edwin Fishel Tuccio & Patricia Tuccio hereby owns:

*8.00 Pine Barrens Credits*

*This certificate entitles the owner to a land use density or intensity  
increase as provided in the Central Pine Barrens Comprehensive Land  
Use Plan and pursuant to local ordinances.*

8.00 credits generated from the Westhampton Beach School District



Vice-Chairman, Pine Barrens Credit Clearinghouse

SALE, CONVEYANCE OR TRANSFER  
OF  
PINE BARRENS CREDITS

Within ten (10) business days the person selling, conveying, transferring or pledging a Pine Barrens Credit, or any interest therein, shall deliver to the Pine Barrens Credit Clearinghouse this Certificate representing the Credits sold, conveyed, transferred, or pledged.

Upon Clearinghouse receipt, a Certificate will be issued in the name of the person(s) who have secured an interest in the Credits. A new Certificate will be issued to the grantor if he has retained any interest in the Credits represented by this Certificate.

Grantors (Sellers)  
Name: Edwin Fisher Tuccio  
Name: Patricia Tuccio  
Address: 193 Briarling Ave. Birchwood, N.Y. 11901  
City/State/ Zip Code: Edinboro Pa 16710  
Signature: [Signature]  
Signature of Edwin Fisher Tuccio  
as offering in full  
Grantee (Buyer)  
Name: City of Southampton  
Address: 214 Hill Street  
City/State/ Zip Code: Southampton, NY 11968  
Signature: [Signature]

Number of Credits Sold, Conveyed or Transferred: 15 (one-half)  
Date of Transaction: July 11, 2005  
Interest Secured:  
Consideration: \$40,000.00

Attach written evidence of the transaction (e.g., Contract of Sale, Bill of Sale)

PINE BARRENS CREDITS  
PLEGGED AS SECURITY

When Pine Barrens Credits are pledged as security for loans, the lending institution shall return this certificate to the Pine Barrens Credit Clearinghouse property completed, within ten (10) business days.

Upon Clearinghouse receipt, a revised Pine Barrens Certificate reflecting the encumbrance will be re-issued

Owner (Borrower)  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State Zip Code: \_\_\_\_\_  
Signature: \_\_\_\_\_

Lending Institution  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State Zip Code: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Title: \_\_\_\_\_

Amount of loan: \_\_\_\_\_  
Term of Loan: \_\_\_\_\_  
Number of Pine Barrens Credits pledged as collateral: \_\_\_\_\_

Attach written evidence of the transaction (Note: When Pine Barrens Credits are released as security, the Clearinghouse will again reissue a Pine Barrens Certificate upon notification by the owner and the lender.)

REDEMPTION  
OF  
PINE BARRENS CREDITS

When Pine Barrens Credits are redeemed in association with a development project approved by a municipal approving agency, the person redeeming the Pine Barrens Credit shall return this Certificate to the Pine Barrens Credit Clearinghouse within ten (10) business days of their redemption.

Owner (Person Redeeming)  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State Zip Code: \_\_\_\_\_  
Signature: \_\_\_\_\_

Town in which Pine Barrens Credits are redeemed: \_\_\_\_\_  
Town: \_\_\_\_\_

School District in which Redeemed: \_\_\_\_\_

Suffolk County Tax Map of parcel where Pine Barrens Credits redeemed: \_\_\_\_\_

Number of Pine Barrens Credits Redeemed: \_\_\_\_\_

Municipal development approval was issued: \_\_\_\_\_ date \_\_\_\_\_

Municipal Official issuing development approval:  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Signature: \_\_\_\_\_

**RECONFIGURED**

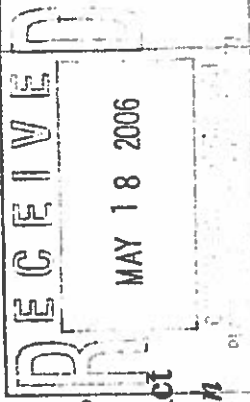
Pine Barrens Credit Clearinghouse

Number: 0900-00290

Date Issued: February 17, 2006

**CONVEYED**

Pine Barrens Credit Clearinghouse



## *Pine Barrens Credit Certificate*

Issued Pursuant to the Long Island Pine Barrens Protection Act  
and the *Central Pine Barrens Comprehensive Land Use Plan*

This certifies that **Edwin Fishel Tuccio & Patricia Tuccio** hereby owns:

### *8.00 Pine Barrens Credits*

*This certificate entitles the owner to a land use density or intensity increase as provided in the Central Pine Barrens Comprehensive Land Use Plan and pursuant to local ordinances.*

8.00 credits generated from the Westhampton Beach School District

A handwritten signature in black ink, appearing to read "Linda P. Kelly".

Vice-Chairman, Pine Barrens Credit Clearinghouse

SALE, CONVEYANCE OR TRANSFER  
OF  
PINE BARRENS CREDITS

Within ten (10) business days the person selling, conveying, transferring or pledging a Pine Barrens Credit, or any interest therein, shall deliver to the Pine Barrens Credit Clearinghouse this Certificate representing the Credits sold, conveyed, transferred, or pledged.

Upon Clearinghouse receipt, a Certificate will be issued in the name of the person(s) who have secured an interest in the Credits. A new Certificate will be issued to the grantor if he has retained any interest in the Credits represented by this Certificate.

Grantors (Sellers)

Name: Francis J. Lupo by Gloria L. Lupo  
Name: Francis J. Lupo by Gloria L. Lupo  
Address: 143 So Long Ave; Riverhead, NY 11901  
City/State/ Zip Code: \_\_\_\_\_

Signature: Francis J. Lupo  
Signature: Gloria L. Lupo

Grantee (Buyer)

Name: Landes Commercial Real Estate, LLC.  
Address: 21 Blue Point Court  
City/State/ Zip Code: 509 Harrisburg, NY 11963  
Signature: John B. Landes

Number of Credits Sold, Conveyed or Transferred: 1.5

Date of Transaction: 11/1/06

Interest Secured: -

Consideration: \$127,500.00

Attach written evidence of the transaction (e.g., Contract of Sale, Bill of Sale)

PINE BARRENS CREDITS  
PLEGGED AS SECURITY

When Pine Barrens Credits are pledged as security for loans, the lending institution shall return this certificate to the Pine Barrens Credit Clearinghouse properly completed, within ten (10) business days.

Upon Clearinghouse receipt, a revised Pine Barrens Certificate reflecting the encumbrance will be re-issued

Owner (Borrower)

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State Zip Code: \_\_\_\_\_  
Signature: \_\_\_\_\_

Lending Institution

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State Zip Code: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Title: \_\_\_\_\_

Amount of loan: \_\_\_\_\_

Term of Loan: \_\_\_\_\_

Number of Pine Barrens Credits pledged as collateral: \_\_\_\_\_

Attach written evidence of the transaction

(Note: When Pine Barrens Credits are released as security, the Clearinghouse will again reissue a Pine Barrens Certificate upon notification by the owner and the lender.)

REDEMPTION  
OF  
PINE BARRENS CREDITS

When Pine Barrens Credits are redeemed in association with a development project approved by a municipal approving agency, the person redeeming the Pine Barrens Credit shall return this Certificate to the Pine Barrens Credit Clearinghouse within ten (10) business days of their redemption.

Owner (Person Redeeming)

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State Zip Code: \_\_\_\_\_  
Signature: \_\_\_\_\_

Town in which Pine Barrens Credits are redeemed: \_\_\_\_\_  
Town: \_\_\_\_\_

School District in which Redeemed: \_\_\_\_\_

Suffolk County Tax Map of parcel where Pine Barrens Credits redeemed: \_\_\_\_\_

Number of Pine Barrens Credits Redeemed: \_\_\_\_\_

Municipal development approval was issued: \_\_\_\_\_

\_\_\_\_\_ date

Municipal Official issuing development approval: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

**CONVEYED**

Pine Barrens Credit Clearinghouse

Number: 0900-00308

Date Issued: March 22, 2006

## *Pine Barrens Credit Certificate*

Issued Pursuant to the Long Island Pine Barrens Protection Act  
and the *Central Pine Barrens Comprehensive Land Use Plan*

This certifies that **Edwin Fishel Tuccio & Patricia Tuccio** hereby owns:

### *7.50 Pine Barrens Credits*

*This certificate entitles the owner to a land use density or intensity increase as provided in the Central Pine Barrens Comprehensive Land Use Plan and pursuant to local ordinances.*

7.50 credits generated from the Westhampton Beach School District



Vice-Chairman, Pine Barrens Credit Clearinghouse

REDEMPTION  
OF  
PINE BARRENS CREDITS

PINE BARRENS CREDITS  
PLEGGED AS SECURITY

SALE, CONVEYANCE OR TRANSFER  
OF  
PINE BARRENS CREDITS

When Pine Barrens Credits are redeemed in association with a development project approved by a municipal approving agency, the person redeeming the Pine Barrens Credit shall return this Certificate to the Pine Barrens Credit Clearinghouse within ten (10) business days of their redemption.

When Pine Barrens Credits are pledged as security for loans, the lending institution shall return this certificate to the Pine Barrens Credit Clearinghouse properly completed, within ten (10) business days.

Within ten (10) business days the person selling, conveying, transferring or pledging a Pine Barrens Credit, or any interest therein, shall deliver to the Pine Barrens Credit Clearinghouse this Certificate representing the Credits sold, conveyed, transferred, or pledged.

Upon Clearinghouse receipt, a revised Pine Barrens Certificate reflecting the encumbrance will be re-issued

Upon Clearinghouse receipt, a Certificate will be issued in the name of the person(s) who have secured an interest in the Credits. A new Certificate will be issued to the grantor if he has retained any interest in the Credits represented by this Certificate.

Owner (Person Redeeming)

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State Zip Code: \_\_\_\_\_  
Signature: \_\_\_\_\_

Town in which Pine Barrens Credits are redeemed: \_\_\_\_\_  
Town: \_\_\_\_\_

School District in which Redeemed: \_\_\_\_\_

Suffolk County Tax Map of parcel where Pine Barrens Credits redeemed: \_\_\_\_\_

Number of Pine Barrens Credits Redeemed: \_\_\_\_\_

Municipal development approval was issued: \_\_\_\_\_ date \_\_\_\_\_

Municipal Official issuing development approval: Name: \_\_\_\_\_ Title: \_\_\_\_\_ Signature: \_\_\_\_\_

Owner (Borrower)

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State Zip Code: \_\_\_\_\_  
Signature: \_\_\_\_\_

Lending Institution

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State Zip Code: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Title: \_\_\_\_\_

Amount of loan: \_\_\_\_\_

Term of Loan: \_\_\_\_\_

Number of Pine Barrens Credits pledged as collateral: \_\_\_\_\_

Attach written evidence of the transaction (Note: When Pine Barrens Credits are released as security, the Clearinghouse will again reissue a Pine Barrens Certificate upon notification by the owner and the lender.)

Grantors (Sellers)

Name: Edna Fishel Tuccio  
Name: Kathleen Tuccio  
Address: 193 Conroy Ave. Larchmont, NY 10501  
City/State/Zip Code: NY, N.Y. 10501  
Signature: [Signature]  
Signature: [Signature]

Grantee (Buyer)

Name: Brewer Tisho III Associates, L.P.  
Address: 900 Third Ave  
City/State/Zip Code: NY, N.Y. 10022

Attorney-in-Fact

Number of Credits Sold, Conveyed or Transferred: 200 credits

Date of Transaction: July 31, 2006

Interest Secured: \_\_\_\_\_

Consideration: \$ 180,000.

Attach written evidence of the transaction (e.g., Contract of Sale, Bill of Sale)

**CONVEYED**

Pine Barrens Credit Clearinghouse

Number: 0900-00316

Date Issued: May 18, 2006

## *Pine Barrens Credit Certificate*

Issued Pursuant to the Long Island Pine Barrens Protection Act  
and the *Central Pine Barrens Comprehensive Land Use Plan*

This certifies that **Edwin Fishel Tuccio & Patricia Tuccio** hereby owns:

### *6.50 Pine Barrens Credits*

*This certificate entitles the owner to a land use density or intensity increase as provided in the Central Pine Barrens Comprehensive Land Use Plan and pursuant to local ordinances.*

6.50 credits generated from the Westhampton Beach School District



Vice-Chairman, Pine Barrens Credit Clearinghouse

SALE, CONVEYANCE OR TRANSFER  
OF  
PINE BARRENS CREDITS

Within ten (10) business days the person selling, conveying, transferring or pledging a Pine Barrens Credit, or any interest therein, shall deliver to the Pine Barrens Credit Clearinghouse this Certificate representing the Credits sold, conveyed, transferred, or pledged.

Upon Clearinghouse receipt, a Certificate will be issued in the name of the person(s) who have secured an interest in the Credits. A new Certificate will be issued to the grantor if he has retained any interest in the Credits represented by this Certificate.

Grantors (Sellers) John L. King  
 Name: John L. King  
 Name: John L. King  
 Address: 193 Onfries Ave. Lincoln, N.Y. 11401  
 City/State/Zip Code: Lincoln, N.Y. 11401  
 Signature: [Signature]  
 Signature: [Signature]

Grantee (Buyer)  
 Name: JACK GILKIN and JANE M. GILKIN  
 Address: P.O. Box 2219

City/State/Zip Code: Amagansett, N.Y. 11930  
 Amount of loan: \_\_\_\_\_  
 Term of Loan: \_\_\_\_\_  
 Number of Pine Barrens Credits pledged as collateral: \_\_\_\_\_

Number of Credits Sold, Conveyed or Transferred: 1 (1/2 credit)  
 Date of Transaction: 4/25/80  
 Interest Secured: \_\_\_\_\_  
 Consideration: \$ 47,500.00

Attach written evidence of the transaction (e.g., Contract of Sale, Bill of Sale)

PINE BARRENS CREDITS  
PLEGGED AS SECURITY

When Pine Barrens Credits are pledged as security for loans, the lending institution shall return this certificate to the Pine Barrens Credit Clearinghouse properly completed, within ten (10) business days.

Upon Clearinghouse receipt, a revised Pine Barrens Certificate reflecting the encumbrance will be re-issued

Owner (Borrower)  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City/State/Zip Code: \_\_\_\_\_  
 Signature: \_\_\_\_\_

Lending Institution  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City/State/Zip Code: \_\_\_\_\_  
 Signature: \_\_\_\_\_  
 Title: \_\_\_\_\_

Amount of loan: \_\_\_\_\_  
 Term of Loan: \_\_\_\_\_  
 Number of Pine Barrens Credits pledged as collateral: \_\_\_\_\_

Attach written evidence of the transaction (Note: When Pine Barrens Credits are released as security, the Clearinghouse will again reissue a Pine Barrens Certificate upon notification by the owner and the lender.)

REDEMPTION  
OF  
PINE BARRENS CREDITS

When Pine Barrens Credits are redeemed in association with a development project approved by a municipal approving agency, the person redeeming the Pine Barrens Credit shall return this Certificate to the Pine Barrens Credit Clearinghouse within ten (10) business days of their redemption.

Owner (Person Redeeming)  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City/State/Zip Code: \_\_\_\_\_  
 Signature: \_\_\_\_\_

Town in which Pine Barrens Credits are redeemed:  
 Town: \_\_\_\_\_

School District in which Redeemed: \_\_\_\_\_  
 Suffolk County Tax Map of parcel where Pine Barrens Credits redeemed: \_\_\_\_\_

Number of Pine Barrens Credits Redeemed: \_\_\_\_\_

Municipal development approval was issued: \_\_\_\_\_ date

Municipal Official issuing development approval:  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Signature: \_\_\_\_\_



**CONVEYED**

Pine Barrens Credit Clearinghouse

Number: 0900-00342

Date Issued: December 26, 2006

## *Pine Barrens Credit Certificate*

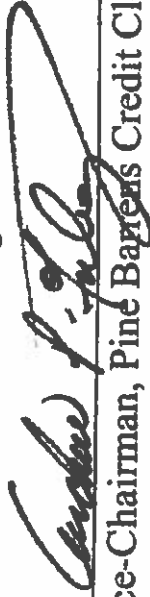
Issued Pursuant to the Long Island Pine Barrens Protection Act  
and the *Central Pine Barrens Comprehensive Land Use Plan*

This certifies that **Edwin Fishel Tuccio & Patricia Tuccio** hereby owns:

### *6.00 Pine Barrens Credits*

*This certificate entitles the owner to a land use density or intensity increase as provided in the Central Pine Barrens Comprehensive Land Use Plan and pursuant to local ordinances.*

6.00 credits generated from the Westhampton Beach School District



Vice-Chairman, Pine Barrens Credit Clearinghouse

REDEMPTION  
OF  
PINE BARRENS CREDITS

When Pine Barrens Credits are redeemed in association with a development project approved by a municipal approving agency, the person redeeming the Pine Barrens Credit shall return this Certificate to the Pine Barrens Credit Clearinghouse within ten (10) business days of their redemption.

Owner (Person Redeeming)  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State Zip Code: \_\_\_\_\_  
Signature: \_\_\_\_\_

Town in which Pine Barrens Credits are redeemed: \_\_\_\_\_  
Town: \_\_\_\_\_  
School District in which Redeemed: \_\_\_\_\_  
Suffolk County Tax Map of parcel where Pine Barrens Credits redeemed: \_\_\_\_\_

Number of Pine Barrens Credits Redeemed: \_\_\_\_\_  
Municipal development approval was issued: \_\_\_\_\_ date  
Municipal Official issuing development approval: Name: \_\_\_\_\_ Title: \_\_\_\_\_ Signature: \_\_\_\_\_

PINE BARRENS CREDITS  
PLEGGED AS SECURITY

When Pine Barrens Credits are pledged as security for loans, the lending institution shall return this certificate to the Pine Barrens Credit Clearinghouse properly completed, within ten (10) business days.

Upon Clearinghouse receipt, a revised Pine Barrens Certificate reflecting the encumbrance will be re-issued

Owner (Borrower)  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State Zip Code: \_\_\_\_\_  
Signature: \_\_\_\_\_

Lending Institution  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State Zip Code: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Title: \_\_\_\_\_

Amount of loan: \_\_\_\_\_  
Term of Loan: \_\_\_\_\_  
Number of Pine Barrens Credits pledged as collateral: \_\_\_\_\_

Attach written evidence of the transaction (Note: When Pine Barrens Credits are released as security, the Clearinghouse will again reissue a Pine Barrens Certificate upon notification by the owner and the lender.)

SALE, CONVEYANCE OR TRANSFER  
OF  
PINE BARRENS CREDITS

Within ten (10) business days the person selling, conveying, transferring or pledging a Pine Barrens Credit, or any interest therein, shall deliver to the Pine Barrens Credit Clearinghouse this Certificate representing the Credits sold, conveyed, transferred, or pledged.

Upon Clearinghouse receipt, a Certificate will be issued in the name of the person(s) who have secured an interest in the Credits. A new Certificate will be issued to the grantor if he has retained any interest in the Credits represented by this Certificate.

Grantors (Sellers)  
Name: Edwin Fished Tuccio  
Name: Patricia Tuccio  
Address: 143 W. Kings Hwy, Riverhead NY 11954  
City/State/Zip Code: \_\_\_\_\_  
Signature: [Signature]  
Signature: Patricia Tuccio

Grantee (Buyer)  
Name: Pr. Wolfman & Charles God  
Address: 148 Greene Street, Apt. 4, [unclear]  
City/State/Zip Code: New York, N.Y. 10012  
Signature: [Signature]  
Signature: [Signature]  
Number of Credits Sold, Conveyed or Transferred: 1.5 Credits  
Date of Transaction: MARCH 22, 1989  
Interest Secured: \_\_\_\_\_  
Consideration: \$135,000

Attach written evidence of the transaction (e.g., Contract of Sale, Bill of Sale)

**CONVEYED**

Pine Barrens Credit Clearinghouse

Number: 0900-355

Date Issued: April 17, 2007

# *Pine Barrens Credit Certificate*

issued pursuant to the Long Island Pine Barrens Protection Act  
and the *Central Pine Barrens Comprehensive Land Use Plan*

**This certifies that Edwin Fishel Tuccio & Patricia Tuccio hereby own:**

## *5.50 Pine Barrens Credits*

*This certificate entitles the owner to a land use density or intensity increase as provided  
in the Central Pine Barrens Comprehensive Land Use Plan and pursuant to local ordinances.*

5.50 credits generated from the Westhampton Beach School District.

  
Vice-Chairman, Pine Barrens Credit Clearinghouse

SALE, CONVEYANCE OR TRANSFER  
OF  
PINE BARRENS CREDITS

Within ten (10) business days, the person (Grantor) selling, conveying, transferring or pledging a Pine Barrens Credit, or any interest therein, or the Buyer (Grantee), shall deliver to the Pine Barrens Credit Clearinghouse this Certificate representing the Credits sold, conveyed, transferred, or pledged.

Upon Clearinghouse receipt, a Certificate will be issued in the name of the new owner(s) (Buyers or Grantees) A new Certificate will be issued to the original owner (Sellers or Grantors) for any residual credits he/she retains.

Grantors (Sellers)

Name: Patricia Tuccio

Name: Edwina F. Tuccio

Address: 193 Giffing Ave

City/State/Zip Code: Riverhead, NY, 11901

Signature: [Handwritten Signature]

Signature: [Handwritten Signature]

Grantee (Buyer)

Name: Hamptons Little Neck LLC

Address: 60 Shea Marcusk & Bryn M

City/State/Zip Code: 350 North Sea Rd

Signature: BY: [Handwritten Signature]

Number of Credits Sold, Conveyed or

Transferred: 4.0 credits

Date of Transaction: 6/13/07

Interest Secured:

Consideration: \$380,000.00

Attach written evidence of the transaction  
(e.g., Contract of Sale, Bill of Sale)

PINE BARRENS CREDITS  
PLEGGED AS SECURITY

When Pine Barrens Credits are pledged as security for loans, the lending institution shall return this certificate to the Pine Barrens Credit Clearinghouse properly completed, within ten (10) business days.

Upon Clearinghouse receipt, a revised Pine Barrens Certificate reflecting the encumbrance will be re-issued

Owner (Borrower)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State Zip Code: \_\_\_\_\_

Signature: \_\_\_\_\_

Lending Institution

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State Zip Code: \_\_\_\_\_

Amount of loan: \_\_\_\_\_

Term of Loan: \_\_\_\_\_

Number of Pine Barrens Credits pledged as collateral: \_\_\_\_\_

Attach written evidence of the transaction  
(Note: When Pine Barrens Credits are released as security, the Clearinghouse will again reissue a Pine Barrens Certificate upon notification by the owner and the lender.)

REDEMPTION  
OF  
PINE BARRENS CREDITS

When Pine Barrens Credits are redeemed in association with a development project approved by a municipal agency, the person redeeming the Pine Barrens Credit or the agency shall return this Certificate to the Pine Barrens Credit Clearinghouse within ten (10) business days of redemption.

Owner (Person Redeeming - name must appear as owner on front of Certificate)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State Zip Code: \_\_\_\_\_

Owner's Signature \_\_\_\_\_

Town in which Pine Barrens Credits are redeemed.

Town: \_\_\_\_\_

School District in which Redeemed: \_\_\_\_\_

Suffolk County Tax Map of parcel where Pine Barrens Credits will be redeemed (used): \_\_\_\_\_

Number of Pine Barrens Credits Redeemed: \_\_\_\_\_

Credits used for: Sanitary flow, increased sf  
or residential units

Type of Project: residential commercial or  
industrial

Municipal development approval was issued: \_\_\_\_\_

Municipal Official issuing development approval:

Name: \_\_\_\_\_

Agency (Town or SCDHS): \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Number: 0900-353  
Date Issued: April 13, 2007

# *Pine Barrens Credit Certificate*

issued pursuant to the Long Island Pine Barrens Protection Act  
and the *Central Pine Barrens Comprehensive Land Use Plan*

This certifies that **Edwin Fishel Tuccio & Patricia Tuccio** hereby owns:

## *4.50 Pine Barrens Credits*

*This certificate entitles the owner to a land use density or intensity increase as provided in the Central Pine Barrens Comprehensive Land Use Plan and pursuant to local ordinances.*

4.50 credit generated from the Westhampton Beach School District

  
Vice-Chairman, Pine Barrens Credit Clearinghouse

**SALE, CONVEYANCE OR TRANSFER  
OF  
PINE BARRENS CREDITS**

Within ten (10) business days, the person (Grantor) selling, conveying, transferring or pledging a Pine Barrens Credit, or any interest therein, or the Buyer (Grantee), shall deliver to the Pine Barrens Credit Clearinghouse this Certificate representing the Credits sold, conveyed, transferred, or pledged.

Upon Clearinghouse receipt, a Certificate will be issued in the name of the new owner(s) (Buyers or Grantees) A new Certificate will be issued to the original owner (Sellers or Grantors) for any residual credits he/she retains.

Grantors (Sellers)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/ Zip Code: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Grantee (Buyer)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/ Zip Code: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Number of Credits Sold, Conveyed or

Transferred: \_\_\_\_\_

Date of Transaction: \_\_\_\_\_

Interest Secured: \_\_\_\_\_

Consideration: \_\_\_\_\_

Attach written evidence of the transaction

(e.g., Contract of Sale, Bill of Sale)

**PINE BARRENS CREDITS  
PLEDGED AS SECURITY**

When Pine Barrens Credits are pledged as security for loans, the lending institution shall return this certificate to the Pine Barrens Credit Clearinghouse property completed, within ten (10) business days.

Upon Clearinghouse receipt, a revised Pine Barrens Certificate reflecting the encumbrance will be re-issued

Owner (Borrower)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State Zip Code: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Lending Institution

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State Zip Code: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Amount of loan: \_\_\_\_\_

Term of Loan: \_\_\_\_\_

Number of Pine Barrens Credits pledged as collateral: \_\_\_\_\_

Attach written evidence of the transaction

(Note: When Pine Barrens Credits are released as

security, the Clearinghouse will again reissue a Pine

Barrens Certificate upon notification by the owner and

the lender.)

**REDEMPTION  
OF  
PINE BARRENS CREDITS**

When Pine Barrens Credits are redeemed in association with a development project approved by a municipal agency, the person redeeming the Pine Barrens Credit or the agency shall return this Certificate to the Pine Barrens Credit Clearinghouse within ten (10) business days of redemption.

Owner (Person Redeeming - name must appear as owner on front of Certificate)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State Zip Code: \_\_\_\_\_

Owner's Signature \_\_\_\_\_

Signature: \_\_\_\_\_

Town in which Pine Barrens Credits are redeemed.

Town: \_\_\_\_\_

School District in which Redeemed: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Suffolk County Tax Map of parcel where Pine

Barrens Credits will be redeemed (used): \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Number of Pine Barrens Credits Redeemed: \_\_\_\_\_

Credits used for \_\_\_\_\_ Sanitary flow, \_\_\_\_\_ increased sf

or \_\_\_\_\_ residential units

Type of Project: \_\_\_\_\_ residential \_\_\_\_\_ commercial or

\_\_\_\_\_ industrial

Municipal development approval was issued: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Municipal Official Issuing development approval:

Name: \_\_\_\_\_

Agency (Town or SCDHS): \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Number: 0900-364  
Date Issued: June 21, 2007

# *Pine Barrens Credit Certificate*

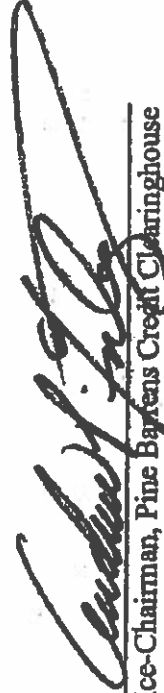
issued pursuant to the Long Island Pine Barrens Protection Act  
and the *Central Pine Barrens Comprehensive Land Use Plan*

This certifies that **Edwin Fishel Tuccio & Patricia Tuccio** Hereby own:

## *1.50 Pine Barrens Credits*

*This certificate entitles the owner to a land use density or intensity increase as provided  
in the Central Pine Barrens Comprehensive Land Use Plan and pursuant to local ordinances.*

1.50 credits generated from the Westhampton Beach School District

  
Vice-Chairman, Pine Barrens Credit Clearinghouse

**SALE, CONVEYANCE OR TRANSFER  
OF  
PINE BARRENS CREDITS**

Within ten (10) business days, the person (Grantor) selling, conveying, transferring or pledging a Pine Barrens Credit, or any interest therein, or the Buyer (Grantee), shall deliver to the Pine Barrens Credit Clearinghouse this Certificate representing the Credits sold, conveyed, transferred, or pledged.

Upon Clearinghouse receipt, a Certificate will be issued in the name of the new owner(s) (Buyers or Grantees) A new Certificate will be issued to the original owner (Sellers or Grantors) for any residual credits he/she retains.

Grantors (Sellers)  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/ Zip Code: \_\_\_\_\_  
Signature: \_\_\_\_\_

Grantee (Buyer)  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/ Zip Code: \_\_\_\_\_  
Signature: \_\_\_\_\_

Number of Credits Sold, Conveyed or Transferred: \_\_\_\_\_  
Date of Transaction: \_\_\_\_\_  
Interest Secured: \_\_\_\_\_  
Consideration: \_\_\_\_\_

Attach written evidence of the transaction (e.g., Contract of Sale, Bill of Sale)

**PINE BARRENS CREDITS  
PLEGGED AS SECURITY**

When Pine Barrens Credits are pledged as security for loans, the lending institution shall return this certificate to the Pine Barrens Credit Clearinghouse property completed, within ten (10) business days.

Upon Clearinghouse receipt, a revised Pine Barrens Certificate reflecting the encumbrance will be re-issued

Owner (Borrower)  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State Zip Code: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Lending Institution  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State Zip Code: \_\_\_\_\_

Amount of loan: \_\_\_\_\_  
Term of Loan: \_\_\_\_\_  
Number of Pine Barrens Credits pledged as collateral: \_\_\_\_\_

Attach written evidence of the transaction (Note: When Pine Barrens Credits are released as security, the Clearinghouse will again reissue a Pine Barrens Certificate upon notification by the owner and the lender.)

**REDEMPTION  
OF  
PINE BARRENS CREDITS**

When Pine Barrens Credits are redeemed in association with a development project approved by a municipal agency, the person redeeming the Pine Barrens Credit or the agency shall return this Certificate to the Pine Barrens Credit Clearinghouse within ten (10) business days of redemption.

Owner (Person Redeeming - name must appear as owner on front of Certificate)

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State Zip Code: \_\_\_\_\_  
Owner's Signature \_\_\_\_\_

Town in which Pine Barrens Credits are redeemed.  
Town: \_\_\_\_\_  
School District in which Redeemed: \_\_\_\_\_

Suffolk County Tax Map of parcel where Pine Barrens Credits will be redeemed (used): \_\_\_\_\_

Number of Pine Barrens Credits Redeemed: \_\_\_\_\_  
Credits used for \_\_\_\_\_ Seminary flow, \_\_\_\_\_ increased sf or \_\_\_\_\_ residential units

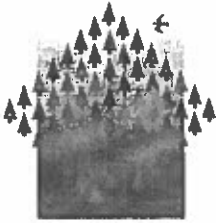
Type of Project: \_\_\_\_\_ residential \_\_\_\_\_ commercial or \_\_\_\_\_ industrial

Municipal development approval was issued: \_\_\_\_\_

Municipal Official issuing development approval:  
Name: \_\_\_\_\_  
Agency (Town or SCDHS): \_\_\_\_\_

Signature: \_\_\_\_\_  
Title: \_\_\_\_\_





**CENTRAL  
PINE  
BARRENS**  
JOINT  
PLANNING  
&  
POLICY  
COMMISSION

**Commission Meeting Summary (FINAL)  
for Wednesday, December 20, 2006 (Approved 1/17/07)  
at the Brookhaven Town Hall,  
1 Independence Hill, Farmingville, NY, 2:00 pm**

Commission members present: Mr. Scully (for New York State), Ms. Gallagher (for Suffolk County), Ms. Prusinowski and Mr. Turner (for Brookhaven), Mr. Kent (for Riverhead), and Mr. Shea (for Southampton).

Others present: Staff counsel was Mr. Milazzo. Staff members included Mr. Corwin, Ms. Jakobsen, and Ms. Mills (from the Commission), Mr. Pavacic and Mr. Spitz (from the NYS Department of Environmental Conservation (NYS DEC)), Ms. Longo (from the Suffolk County Department of Environment and Energy), and Sgt. Pendzick (from the Suffolk County Park Police and Chair of the Pine Barrens Law Enforcement Council). Additional attendees are shown on the attached sign-in sheet.

The meeting was called to order at approximately 2:08 pm by Mr. Scully, with a five member quorum. The Pledge of Allegiance was recited.

Peter A. Scully  
Chair

Philip J. Cardinale  
Member

Brian X. Foley  
Member

Patrick A. Heaney  
Member

Steve A. Levy  
Member

**Public Comment and Administrative**

Recognition of two individuals' service (*not on the original agenda*)

Summary: Mr. Scully noted the recent and pending departures of two individuals with whom the Commission has worked on pine barrens issues. The first was Mr. Anthony Limoli, an Environmental Planner with the Commission who has just left the Commission to begin a new career as a teacher (he was not present today). Mr. Scully noted that Mr. Limoli was professional and dedicated, and that he will be missed.

Mr. Scully then noted the pending departure of Ms. Susie Husted of the Long Island Pine Barrens Society, who is leaving the region. He noted that he respects her dedication and abilities, and presented the attached Certificate of Appreciation to Ms. Husted.

**Land Use, Stewardship, and Compliance & Enforcement**

Longwood School District - Ridge Elementary School / Ridge (Brookhaven; 200-294-2-6,7 (CGA); easement on p/o 200-325-1-11(Core DEC property)) / post 1993 development violation: revised draft order on consent among District, Commission, and NYS DEC (*originally approved by Commission 8/109/05; revised orders approved 7/19/06 and 8/16/06*)

Summary: Mr. Scully noted for the record that Mr. Turner is signing at today's meeting the order on consent approved by the Commission on 8/19/06 to settle previously discussed pine barrens law violations at this site. Following Mr. Turner's signature, the NYS DEC will also have to sign the order, along with the Longwood School District.

P.O. Box 587  
3525 Sunrise  
Highway  
2<sup>nd</sup> Floor  
Great River, NY  
11739-0587

Phone (631) 224-2604  
Fax (631) 224-7653  
www.pb.state.ny.us

**Public Comment and Administrative**

Public comments

*Summary:* The first speaker was Mr. Richard Amper, representing the Long Island Pine Barrens Society. He stated that he has written to the Commission regarding the Island Water Park project and associated clearing. Mr. Milazzo noted that the Commission cannot take any action regarding this project because there is a court issued stay against doing anything on this project. Mr. Amper then asked whether there is a potential for a default decision on this application, and Mr. Milazzo stated that he does not believe that there is.

The second speaker was Brookhaven Town Councilman Kevin McCarrick, who stated that he is representing Miller Place residents regarding the Birchwood Development Corporation residential project proposed for the DeLalio Sod Farm and which is now pending before Brookhaven Town. He stated that it will soon be before the Commission; that the developer has been cooperative; and that the community and the school board are behind the application.

The third speaker was Mr. David Sloane, an attorney representing the Birchwood Development Corporation. He stated that Birchwood is a contract vendee on 270 acres; that no additional clearing is proposed; that the site is 100% cleared; that a part of the site will be developed with homes and a portion deeded to the Town and the school district; that the major issue of concern in pine barrens projects has always been clearing and that the clearing restriction does not apply here; and that the Town's Environmental Division has taken the position that a percentage of the site must be left intact.

Mr. Sloane raised the question of whether the school portion of the project is exempt, and Mr. Milazzo stated that it is not. Mr. Sloane stated that he would like a "reading" of the project by the Commission before it is submitted. Mr. Scully asked what the timetable for the project is, and Mr. Sloane noted that it has been pending before the Town for "some time".

The fourth speaker was Mr. Chic Voorhis, a consultant representing the Birchwood Development Corporation. He noted that any input received from the Commission will be helpful, and that the project currently is undergoing a preliminary subdivision approval and that a Draft Environmental Impact Statement exists. He described the project as containing 234 detached residential units within the Compatible Growth Area.

The fifth speaker was Ms. Claire Mangelli, the President of the Miller Place Board of Education. She stated that she is a lifelong Long Island resident, and recognizes the need for open space and stewardship. She noted that the district currently has 3,100 children in four buildings owned by the district, plus a rented administration building; that the enrollment is greater than the capacity; that hallways are being utilized; that a new building is needed to expand; that the district is not yet fully developed and more students are expected; that the district is land poor and a new school will be needed within ten years; and that this is the only opportunity to acquire more land for the district.

The sixth speaker was Mr. James Marran, the Vice President of the Miller Place Civic Association. He stated that he has been involved in every meeting regarding this project; that this is a hardship situation; that the district can only build a Miller Place school in Miller Place; that the project will result in 120 acres of open space, of which 40 would be for the school district; and that the Civic Association will support this project based upon the new facility being owned by the Miller Place School District and that the all of the District's "credits" are exhausted from another, 10 acre CGA parcel.

The seventh speaker was again Mr. David Sloane (affiliation noted above). Mr. Sloane noted that 40 of the 120 acres to be deeded over by the developer will go to the school district, and 80 will remain in open space.

Mr. Scully then thanked the speakers for bringing the matter of the Birchwood development project to the Commission's attention.

Minutes for 11/15/06: review, approval (faxed)

**Summary:** A motion was made by Ms. Prusinowski and seconded by Ms. Gallagher to approve the 11/15/06 minutes as final without any changes. The motion was approved by a 5-0 vote.

## Project Decisions

### **Compatible Growth Area (CGA)**

Brookhaven Walk Shopping Center / Yaphank (200-553-1-1.3; 200-584-2-1.2) / Development of Regional Significance: sense resolution; decision extension request (hearing held 6/21/06; decision currently due today)

**Summary:** Ms. Jakobsen summarized this project, and explained that the attached request for a decision extension until the Commission's February meeting has been received from this project's sponsor. A motion was then made by Mr. Turner and seconded by Mr. Shea to agree to, and approve, the requested decision extension until 2/21/07. The motion was approved by a 5-0 vote.

Ms. Jakobsen explained that Brookhaven Town is the lead agency under the State Environmental Quality Review Act (SEQRA); that the Final EIS has been accepted by the Town; that the Town must issue findings and a decision; and that the Commission would then also issue findings and a decision. Mr. Sloane requested that a preliminary review of this project's compliance with the Pine Barrens Plan's standards and guidelines be sent to the Town. A brief discussion ensued regarding past projects such as the Newport Estates Residential Subdivision and the Hampton Club project for which the Commission has provided such an evaluation. The discussion then focused upon changes to the draft evaluation letter provided by Commission staff, with the agreement that a final version of that letter would be sent out by Commission staff this week.

Developmental Disabilities Institute Residence / Yaphank (200-579-2-55) / CGA hardship: status (hearing held 11/15/06; decision deadline is 2/15/07)

Morais Residence / Yaphank (200-611-1-p/o 4) / CGA hardship: status (hearing held 11/15/06; decision deadline is 2/15/07)

**Summary:** Present for today's discussion was Mr. Daniel Morais and his consultant, Mr. Thomas Cramer. Mr. Cramer explained that he is only here to represent Mr. Morais, and not DDI. He stated that his client's property meets standards and the project would only clear 20% of the site; that the Brookhaven Zoning Board of Appeals (ZBA) approved the application for the original lot split by the prior owner of the larger lot; that the site was cleared prior to 1990; and discussed a November 2003 letter from Ms. Prusinowski to the ZBA.

He also stated that his client is maintaining an old field and not clearing; spoke about the Town's processing of the application; stated that the issue is not his client's project, but rather the subdivision of the original parcel by the Town; that the Town has a stricter clearing standard than the Commission; and that the Commission is putting the burden on his client and not the original subdivision applicant.

Mr. Amper of the LI Pine Barrens Society stated that no one is being penalized yet, and that the Commission is handling this application as it ought to. Mr. Cramer then stated that his client wants to move ahead, and is only here because the Town sent him here.

#### **Pine Barrens Credit Program**

Plan interpretation: reference tax map year to be used for Credit allocations; recommendation to use 6/28/1995 Plan adoption date

Summary: Mr. Milazzo explained that there is a need for the Commission to establish a specific historical reference date on which the Credit Program would rely in order to identify precisely which parcels of land are eligible for an allocation of Pine Barrens Credits. Specifically, only parcels which existed on that date would be eligible for Credit allocation.

He then described two current situations (see attached description) which have arisen before the Commission staff and the Clearinghouse for the issuance of Letters of Interpretation (LOIs) in which the question arises as to what point in time a parcel must have existed in order to receive Credits. He explained that it is the staff recommendation that the date of the 1995 Plan adoption be used, which is June 28, 1995 as the basis for LOIs, and that this is the same date upon which zoning is determined when issuing LOIs. A motion was then made by Mr. Scully and seconded by Ms. Prusinowski to accept this recommendation and to establish the Plan adoption date of June 28, 1995 as the date on which a parcel must have existed in order to be eligible for a Pine Barrens Credit allocation. The motion was approved by a 5-0 vote.

#### **Compatible Growth Area (CGA)**

Developmental Disabilities Institute (DDI) Residence / Yaphank (200-579-2-55) / CGA hardship: status (hearing held 11/15/06; decision deadline is 2/15/07)

Morais Residence / Yaphank (200-611-1-p/o 4) / CGA hardship: status (hearing held 11/15/06; decision deadline is 2/15/07)

Summary: Mr. Kevin Gray representing DDI stated that he is present to answer any questions which the Commission might have for him. There were no questions.

#### **Land Use, Stewardship, and Compliance & Enforcement**

Plan update: summary of Advisory Committee meetings of 12/6, 12/12

Summary: Mr. Corwin summarized the 12/6/06 working session and the 12/12 regular meeting of the Advisory Committee, both of which focused upon the Plan update. He explained that the Committee is focusing upon Chapters 4 and 5 of Volume 1 of the Plan.

He described the Committee's deliberations on the jurisdiction of the Commission over development and land use in Chapter 4, Review Procedures and Jurisdiction, including questions of both procedure and substance. Topics addressed include, in part, determination of an application's completeness, acquisition of additional materials after review by the staff, definition of a "project site", and quantitative thresholds for identifying Developments of Regional Significance.

With respect to Chapter 5, Standards and Guidelines for Land Use, the Committee has focused upon reviewing both new materials and the reorganization and relocation of existing items. Topics of particular attention have included, in part, both the existing vegetation clearance standard and the new, complementary open space standard; the

*use of updated groundwater data such as the Source Water Assessment Program information in project reviews; and drainage requirements.*

**Law Enforcement Council (LEC):** authorization to transfer ownership of recently purchased ATVs and trailer to NYS DEC and Suffolk County, respectively

***Summary:*** *Mr. Corwin summarized the recent approval by the Commission for the purchase of two all terrain vehicles (ATVs), and one ATV trailer, using the Environmental Benefit Funds for the Pine Barrens LEC. He noted that these items have been purchased, and are in storage at the SC Water Authority's Oakdale facility. He requested that the Commission authorize the transfer of titles of these items to NYS DEC and SC Parks Police, as has previously been done with other vehicles purchased under this program.*

*Present for today's discussion was SC Park Police Sgt. Arthur Pendzick, the Chair of the LEC. Sgt. Pendzick distributed and summarized the attached 2006 Multi Agency ATV Task Force Report. He described the statistics contained therein for field enforcement activities by the LEC, the patterns and trends that the LEC has observed, and the need for a permanent interagency field enforcement unit akin to other standard special units such as marine, arson, etc. A discussion ensued regarding the increasing level of ATV problems; the recent passage by Nassau County of ATV legislation based upon Suffolk County's; the point of sale sign posting requirements; the possibility of requiring buyers of ATVs to sign for copies of the law and regulations; and related issues.*

*Mr. Scully thanked Sgt. Pendzick for the fine efforts of the LEC agencies and officers. He then returned to the need to authorize the title transfer of the recently purchased items. A motion was then made by Mr. Turner and seconded by Mr. Kent to authorize the Executive Director to execute and sign all necessary papers for the transfer of title and ownership of the two ATVs to NYS DEC and the one ATV trailer to the SC Park Police. The motion was approved by a 5-0 vote.*

#### **Closed Advisory Session**

***Summary:*** *A motion was made by Ms. Prusinowski and seconded by Mr. Shea to enter into a closed advisory session for the purpose of receiving legal advice from counsel. The motion was approved by a 5-0 vote, and the Commission entered into closed session from approximately 3:26 pm to 4:19 pm.*

#### **Adjournment**

***Summary:*** *The meeting was adjourned immediately following the closed session without a formal adjournment resolution.*

#### **Attachments (in order of discussion):**

1. Attendance sheet (12/20/06; 2 pages)
2. Project location map for today's meeting (12/20/06; 1 page)
3. Certificate of appreciation to Ms. Husted (12/20/06; 1 page)
4. Brookhaven Walk decision extension request (12/11/06; 1 page)
5. Plan excerpt re Credit Program; current tax lot questions (misc. dates; 2 pages)
6. Examples raising PBC policy on tax lot status dates (misc. dates; 2 pages)
7. LEC Multi Agency ATV Task Force 2006 Report (2006; 6 pages)

12/20/06 Att.# 45  
(2 pgs.)

## 6. Pine Barrens Credit Program

### 6.1 Purpose of the Pine Barrens Credit Program

As required in the Long Island Pine Barrens Protection Act, the Plan is designed to preserve the pine barrens ecology and to ensure the high quality of surface and groundwater within the Central Pine Barrens. The Act states that the Plan shall discourage piecemeal and scattered development, and accommodate development in a manner consistent with the long term integrity of the pine barrens ecosystem. The Act further states that the Plan should ensure a compact, efficient and orderly plan of development. The Legislature recognized that the Plan may restrict the use of some lands currently in private ownership and that these restrictions are necessary and desirable to protect and preserve the hydrologic and ecologic integrity of the Central Pine Barrens area, as well as the public health and welfare of future generations.

It is the primary purpose of the Pine Barrens Credit Program to maintain value in lands designated for preservation or protection under the Plan by providing for the allocation and use of Pine Barrens Credits (PBCs). The Pine Barrens Credit Program will also promote development which is compact, efficient and orderly, and which is designed to protect the quality and quantity of surface water and groundwater and the long term integrity of the pine barrens ecosystem.

### 6.2 Pine Barrens Credit Certificate defined

A Pine Barrens Credit (PBC) Certificate is a document issued on behalf of the Commission which indicates the number of Pine Barrens Credits to which the owner of a particular parcel of land is entitled and which attests to the fact that the development rights of a particular parcel of land in a sending district of the Central Pine Barrens have been severed from the land by the recording of a conservation easement, and that these rights are available for sale or use.

### 6.3 Allocation of Pine Barrens Credits

For the purpose of computing the allocation of Pine Barrens Credits, a parcel of land is defined as a separately assessed tax lot.

#### 6.3.1 Method of allocation

One (1) Pine Barrens Credit shall be allocated for each single family dwelling permitted on a residentially zoned parcel of land located within the Core Preservation Area or a designated sending area designated within this Plan, based upon the development yield set forth in Sections 6.3.1.1.1 through 6.3.1.1.9 of this Plan under the zoning regulations in existence when this Plan is adopted in June, 1995. Development yield is established by multiplying the gross lot area of the parcel by the development yield factor for each residential zoning category. The development yield factors for the various residential zoning categories are enumerated in Section 6.3.1.1 below, in which one acre equals 43,560 square feet.

#### 6.3.1.1 Development yield factors and computation for residentially zoned property

12/20/06

Attachment # 76  
(1 page)

## Examples for Plan Interpretation

### Issue: What Date should be used to determine the Status of a Separately Assessed Tax Parcel for the Purpose of Allocating Pine Barrens Credits?

#### Example 1:

Owner has 5 separate tax map parcels as of 1995, all in same name that he has owned as of the effective date of the Plan and submits an Letter of Interpretation application. In this example, the owner is entitled to 0.10 PBC for each separately assessed tax parcel. Prior to the owner moving forward to getting credits, the Town or County merges the parcels into one tax map parcel. Instead of getting an allocation for each parcel, the owner would now get an allocation for just the one parcel.

In this case the owner would only receive 0.10 PBC for the one merged parcel instead of 0.50 PBCs (.1 PBC for each of the 5 parcels)

#### Example 2:

Parcel ownership as of 1995 is split between the Owner and the Town or County. There is a cloud on the title of the parcel. To resolve the title issue, the County creates separate parcels. The owner as of 1995, proves clean title for the newly created parcels he owns . The question is whether these newly created parcels should each be allocated credits as per the Plan instead of the original parcel or portion of the parcel the private person owns.

In this case, the owner would receive 0.20 PBCs (0.10 PBC for each parcel) instead of just 0.10 PBC. This could be a substantial issue and potential abuse of the Clearinghouse program should parcels be newly subdivided (post 1995) in the Core Preservation Area.

**Staff Recommendation:** The separately assessed tax parcel should be as of the date of the Plan. This date is already used to determine what zoning is used for the PBC allocation formula.



Peter A. Scully  
*Chair*

Philip J. Cardinale  
*Member*

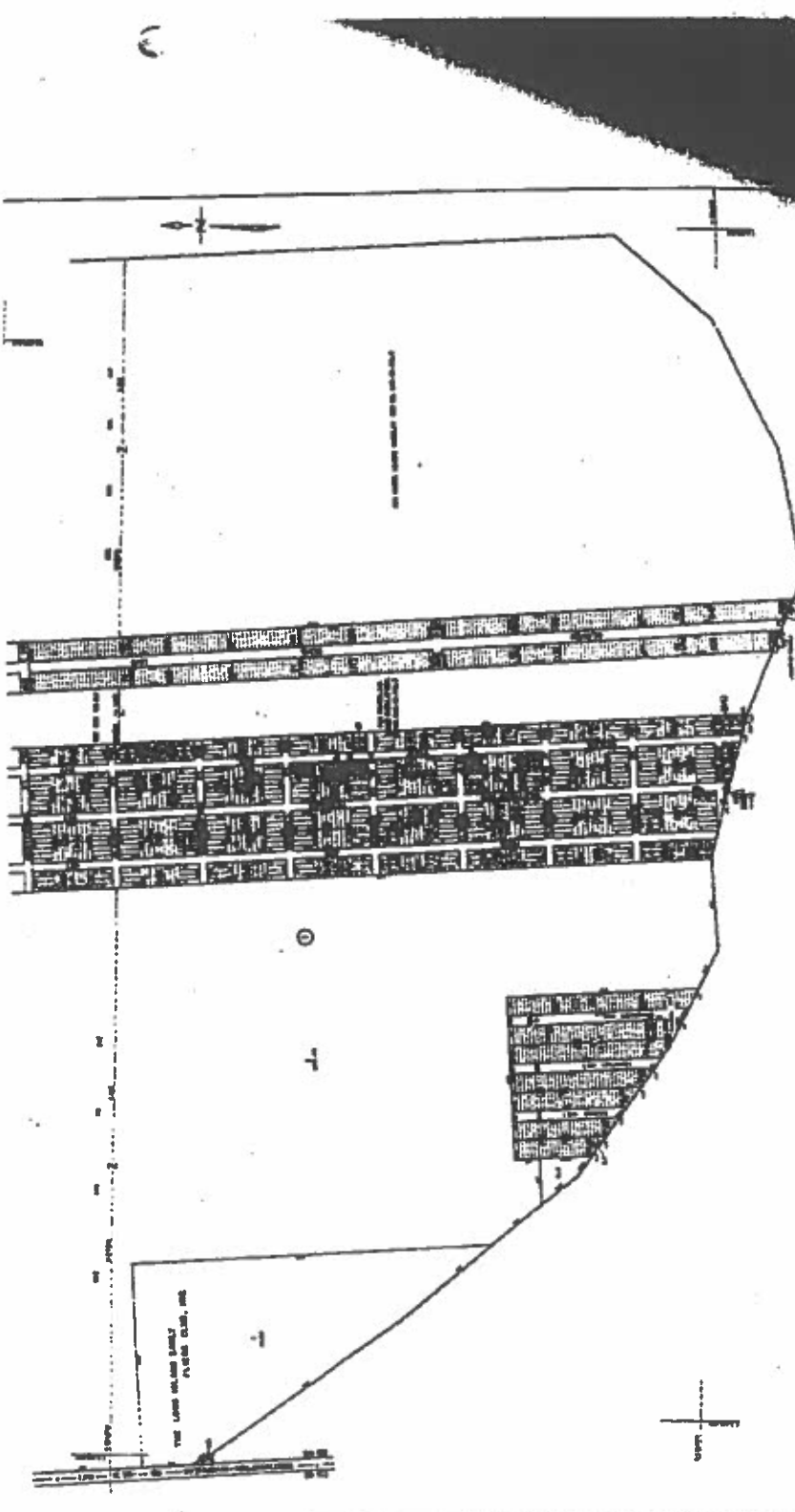
Brian X. Foley  
*Member*

Patrick A. Heaney  
*Member*

Steve A. Levy  
*Member*

P.O. Box 587  
3525 Sunrise Highway  
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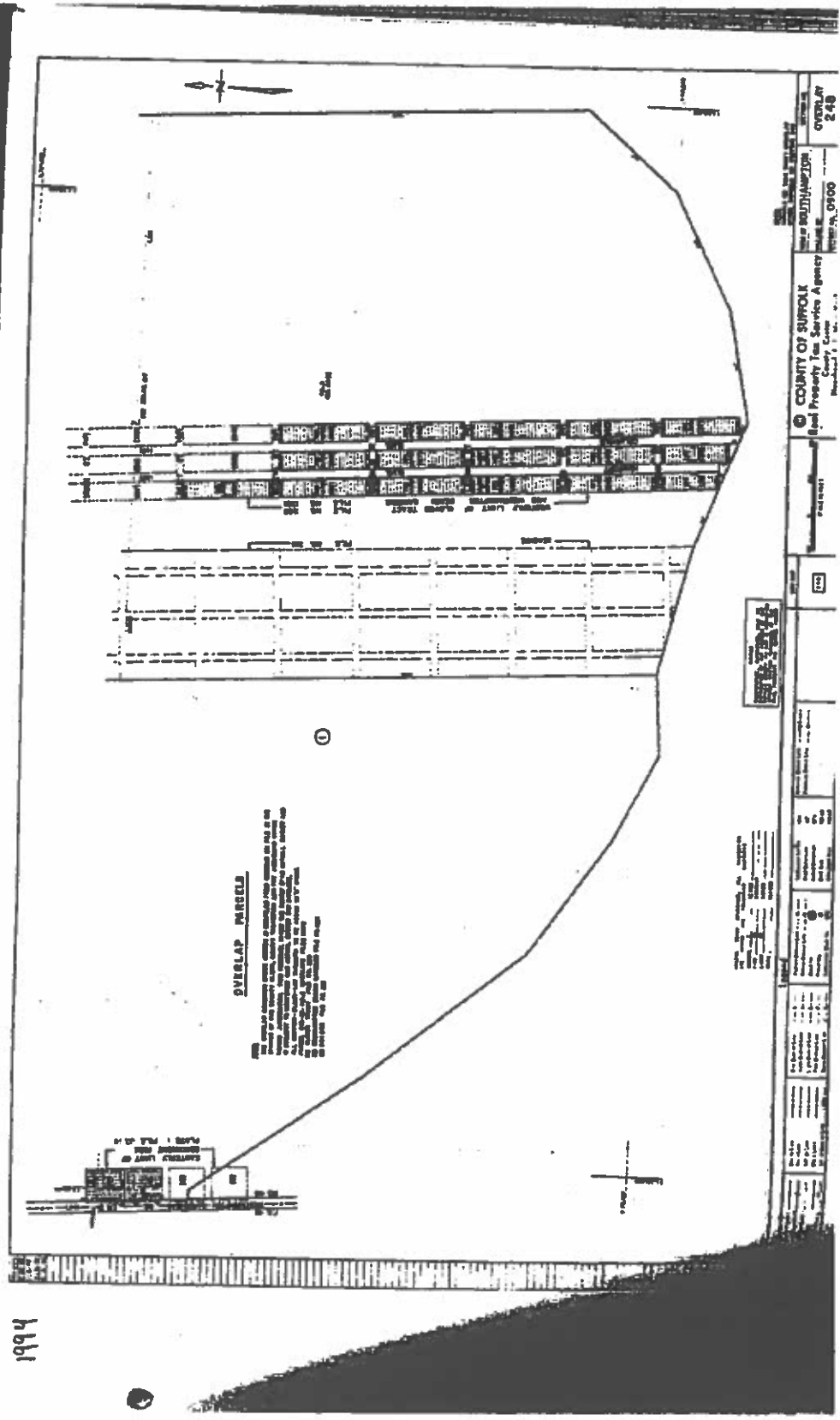
COUNTY OF SUFFOLK  
 Property Tax Services Agency  
 Suffolk, Virginia

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Volume	10000000000000000000
Value	10000000000000000000
Assessment	10000000000000000000
Exemptions	10000000000000000000
Notes	10000000000000000000

1221



1994



**OVERLAP PARCELS**

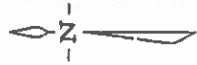
THIS MAP OF OVERLAP PARCELS, SHOWS A PORTION OF THE MAP OF THE COUNTY OF SUFFOLK, MASSACHUSETTS, AS OF THE YEAR 1994. THE MAP IS A REPRODUCTION OF THE ORIGINAL MAP, WHICH WAS FILED IN THE OFFICE OF THE COUNTY CLERK OF SUFFOLK COUNTY, MASSACHUSETTS, ON THE 15TH DAY OF APRIL, 1994. THE MAP IS A REPRODUCTION OF THE ORIGINAL MAP, WHICH WAS FILED IN THE OFFICE OF THE COUNTY CLERK OF SUFFOLK COUNTY, MASSACHUSETTS, ON THE 15TH DAY OF APRIL, 1994.

COUNTY OF SUFFOLK  
 Real Property Tax Service Agency  
 248  
 0900



Map No.	248
Year	1994
Scale	1" = 100'
Projection	NAD 83
Units	Feet
Author	County of Suffolk
Editor	County of Suffolk
Reviewer	County of Suffolk
Approved	County of Suffolk
Date	1994





898

SECTION NO. OVERLAY

TOWN OF SOUTHAMPTON

COUNTY OF SUFFOLK  
Red Property Tax Service Agency

NOTICE

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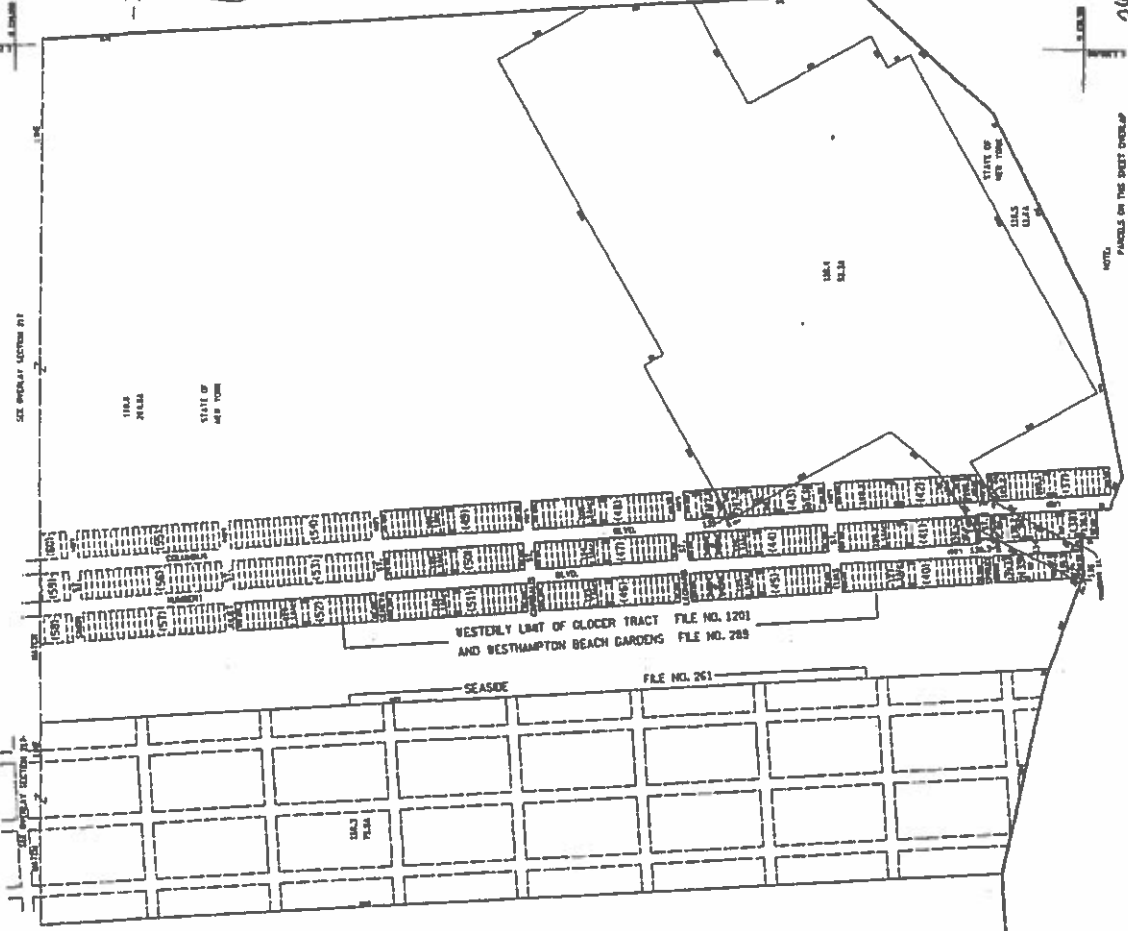
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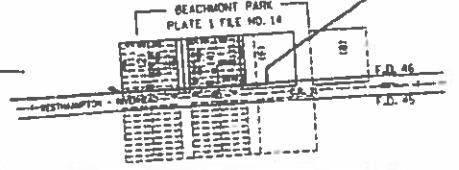
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**OVERLAP PARCELS**

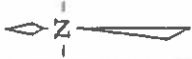
NOTE:  
THE OVERLAP CONDITION SHOWN HEREON IS DERIVED FROM RECORDS ON FILE IN THE OFFICE OF THE COUNTY CLERK, COUNTY THESAURUS AND THE LIENHOLDER OFFICE. THE OVERLAP CONDITION IS NOT NECESSARILY A REFLECTION OF ACTUAL MARKET AND IS SUBJECT TO SURVEY AND ACTUAL MARKET AND RECORDS.  
ALL SECTION - BLACK - LOT NUMBERS TO BE ADDED TO "P" SHEET.  
PARCELS SHOWN WITH OVERLAP FILED MAPS  
19 SEASIDE FILE NO. 261  
19 SEASIDE FILE NO. 261

EASTERLY LIMIT OF  
BEACHMONT PARK  
PLATE 5 FILE NO. 14



1998

1998



11/20/20  
MTC

SECTION NO.

SEC. SEC. NO. 217

SEC. SEC. NO. 217

SEC. SEC. NO. 217

SEC. SEC. NO. 217

FOR POL. NO. 217 SEE SUPPLEMENTARY SEC. NO. 217

FOR POL. NO. 217 SEE SUPPLEMENTARY SEC. NO. 217

WITH APPLICABLE PROVISIONS OF THE REAL ESTATE LAW, SEE SUPPLEMENTARY SECTION NO. 217

SECTION NO. 217

COUNTY OF SUFFOLK  
Real Property Tax Service Agency

NOTICE  
APPOINTMENT, SECTION 54.1 (b)

APPOINTMENT, SECTION 54.1 (b)

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APPOINTMENT, SECTION 54.1 (b)

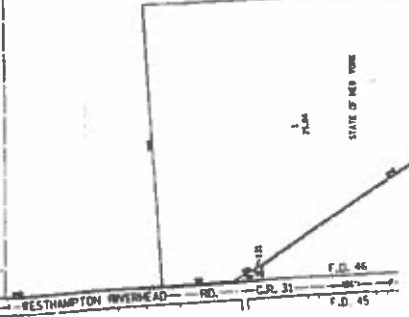
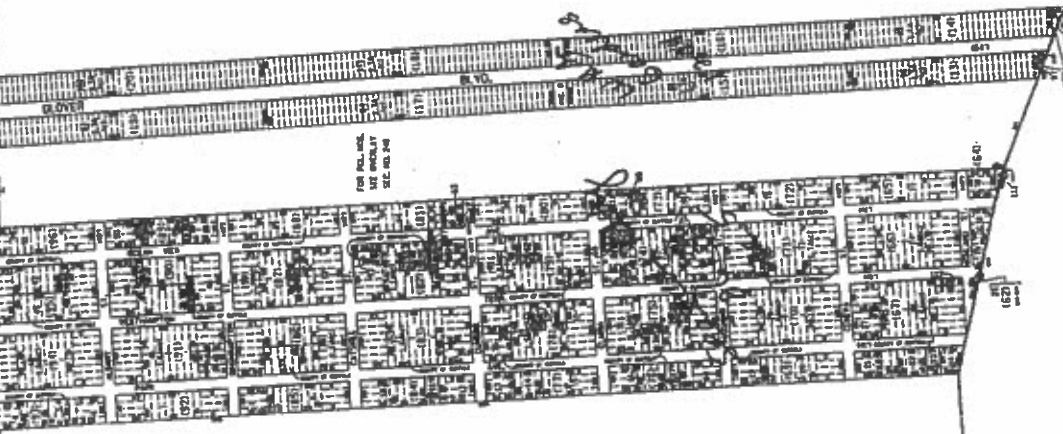
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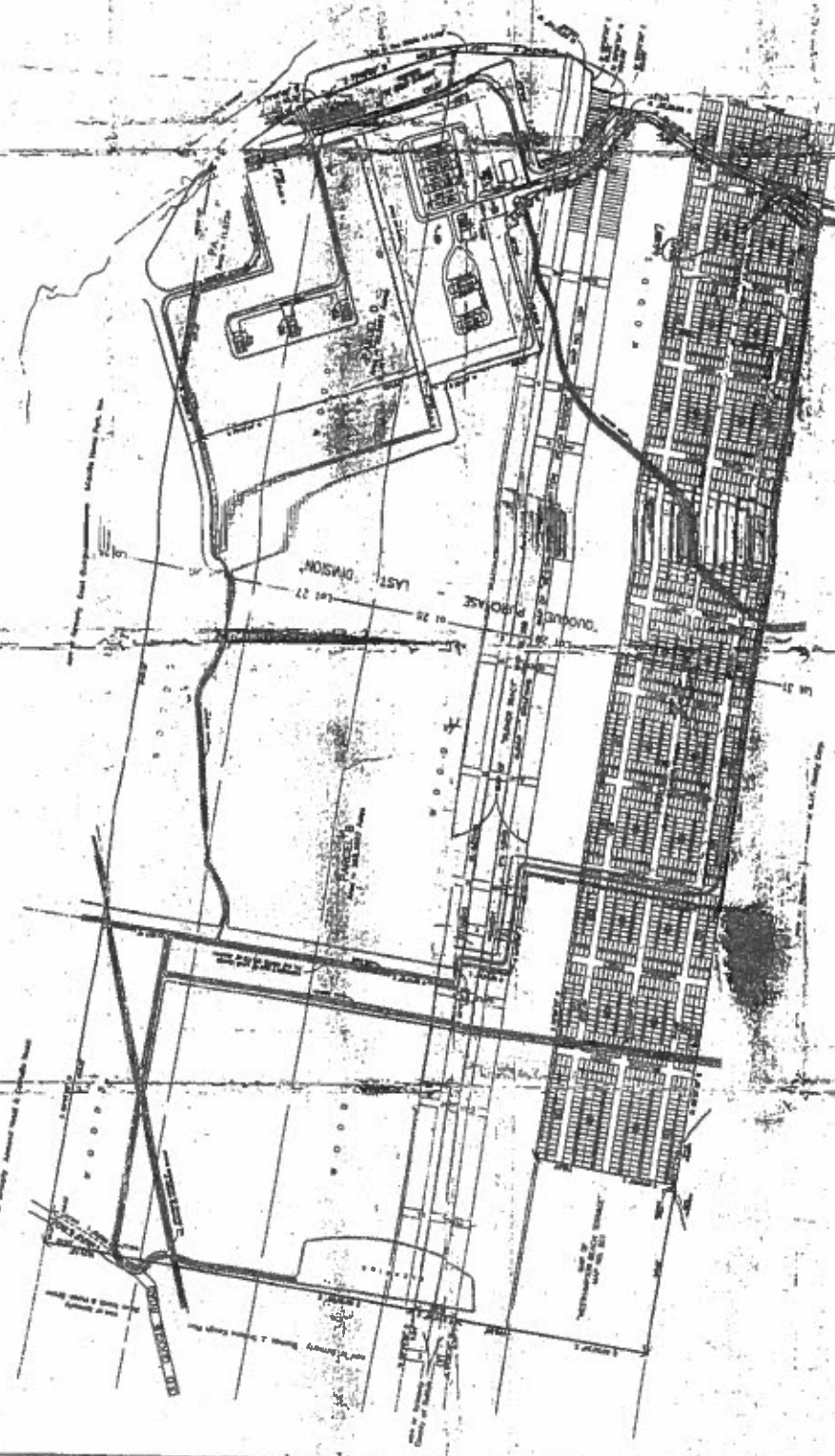


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THE NATURE CONSERVANCY  
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City of Berkeley County of Alameda



LAUREL AVENUE

LAUREL AVENUE

LAUREL AVENUE



1-1-68

**MURRAY B. SCHNEPS**  
ATTORNEY AT LAW  
445 GRIFFING AVENUE  
P.O. Box 926  
RIVERHEAD, NEW YORK 11901  
  
(631) 722-5100  
FAX (631) 722-5093



August 11, 2006

Judy Jakobsen, Esq.  
Pine Barrens Credit Clearinghouse  
P. O. Box 587  
3525 Sunrise Highway - 2<sup>nd</sup> Floor  
Great River, New York 11739-0587

Re: Letter of Interpretation for Tuccio - 900-248-1-110.4

Dear Ms. Jakobsen:

As requested, I am enclosing an updated hi-lited aerial photograph provided by our surveyor, Joseph A. Ingegno, together with Mr. Ingegno's analysis of the areas scaled from the said aerial photographs.

Mr. Ingegno's analysis establishes that the areas for roofed over buildings (1.97 acres - pink coloration), paved areas (4.30 acres - green coloration) and dirt roads (1.42 acres - blue coloration) covers a total of 7.69 acres. These items total 7.69 acres and represent all of the developed area. The total property covers 52.30 acres, so that the total undeveloped area covers 44.61 acres, for which my client seeks Pine Barrens Credits.

In the event you require any further information or explanation, please call me.

In the event you do not agree with the aforesaid developed and undeveloped areas, I would be appreciate an opportunity to respond to your analysis, prior to your final determination .

Judy Jakobsen, Esq.

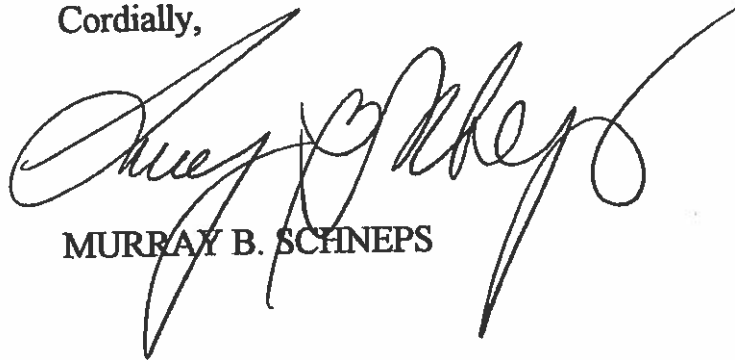
-2-

August 11, 2006

Thank you for your prompt courtesy and consideration.

Kindest personal regards.

Cordially,

A handwritten signature in black ink, appearing to read "Murray B. Schneps", written in a cursive style.

MURRAY B. SCHNEPS

MBS:vm  
Enclosures

cc.: Mr. Edwin Fishel Tuccio

# Joseph A. Ingegno Land Surveyor

Tel: (631) 727-2090  
Fax: (631) 727-1727

P.O. Box 1931  
Riverhead, N.Y. 11901-0965

Email: [jaisurveyors@aol.com](mailto:jaisurveyors@aol.com)

OFFICES LOCATED AT  
322 Roanoke Avenue  
Riverhead, N.Y. 11901

August 9, 2006

Murray Schneps, Esq.  
193 Griffing Avenue  
Riverhead, New York 11901

RE: S.C. tax no. 900-248-01-110.4 (52.3 ± acres)

Dear Murray:

The areas for the above property your requested are as follows:

(1) Roofed over buildings	1.97 acres
(2) Paved areas	4.30 acres
(3) Dirt roads	1.42 acres
Total:	7.69 acres
(4) Un-built area	44.61 acres
(5) Total property area	52.30 acres

These areas were scaled from the aerial photographs that were provided to us.

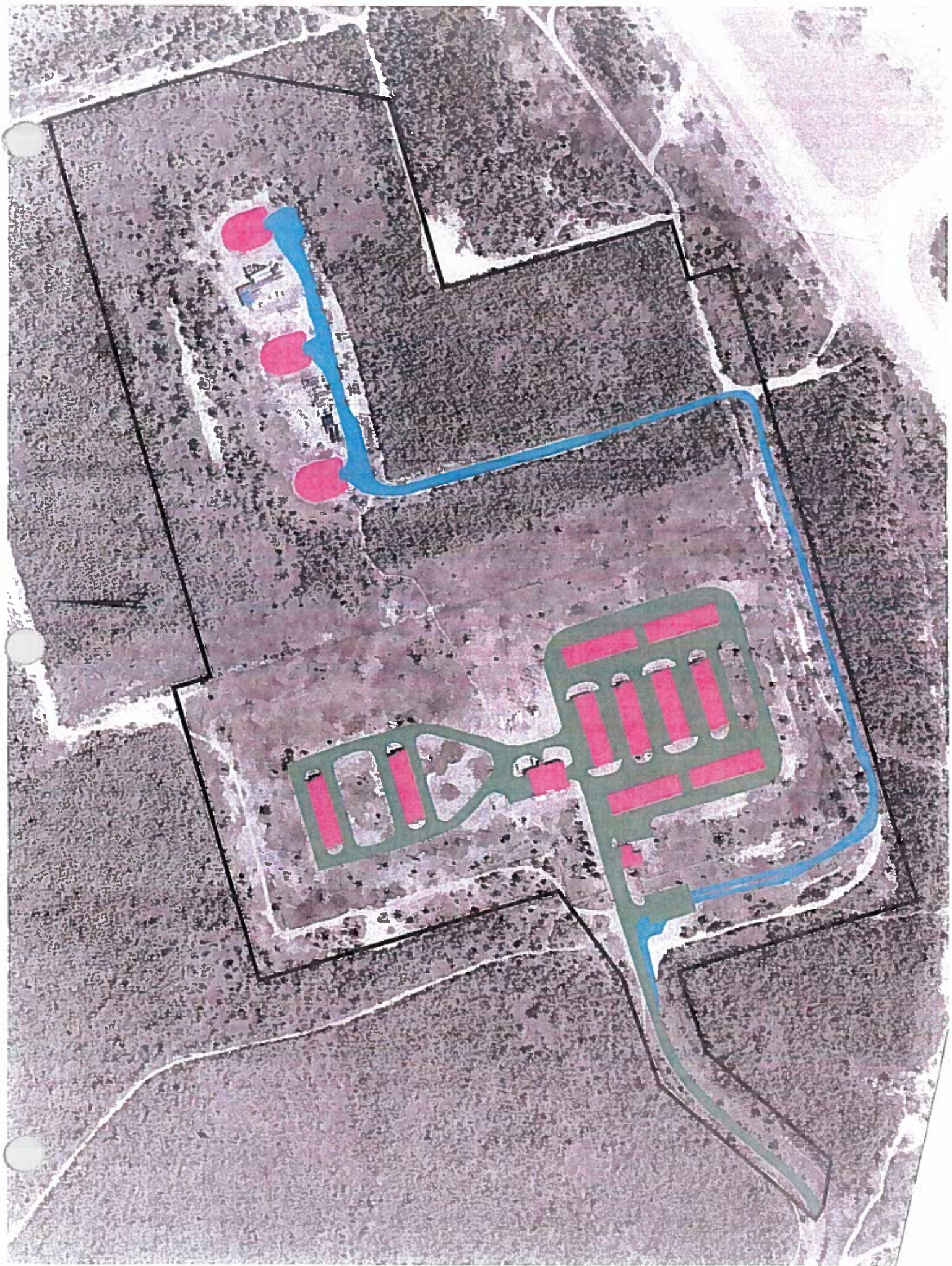
Should you have any questions regarding this information, please do not hesitate to contact me at anytime at the above number.

Very truly yours,

Joseph A Ingegno, P.L.S.

djc





## **PINE BARRENS CREDIT CLEARINGHOUSE**

James T.B. Tripp, Esq., Chairman  
Andrew P. Freleng, AICP, Vice Chairman  
Richard W. Hanley, Member  
Mitchell H. Pally, Esq., Member  
Robert Anrig, Member

*Staff Ex 6  
Credit Appeal*

January 3, 2007

Murray Schneps, Esq.  
PO Box 1080  
Aquebogue, NY 11931

Subject: Letter of Interpretation for Edwin Tuccio, SCTM# 900-248-1-110.4

Dear Mr. Schneps:

The Pine Barrens Credit Clearinghouse reviewed your client's Letter of Interpretation Application at its December 18, 2006 meeting. The Clearinghouse considered the materials you supplied including the aerial photograph of the site, the calculations prepared by your client's surveyor, Joseph Ingegno, the pre-existing use of the parcel, that predates the Long Island Pine Barrens Act, and the two hardship approvals granted by the Commission for the parcel in 1994 and 1997. Each of these hardship approvals authorized the expansion of a mini-storage facility on the parcel. Included within the approvals was the limited right to clear and disturb portions of the parcel to facilitate each expansion.

The Clearinghouse evaluated your client's application in the context of Section 6.1 of the Central Pine Barrens Comprehensive Land Use Plan. Section 6.1 states that the primary purpose of the Pine Barrens Credit Program, "to maintain value in lands designated for preservation or protection under the Plan by providing for the allocation and use of Pine Barrens Credits (PBCs)".

The Clearinghouse has determined that value has been maintained in the subject parcel. The parcel is devoted to a commercial enterprise which has been expanded via Commission granted hardship exemptions. Moreover, an analysis of the aerial and Mr. Ingegno calculations indicates that the site is near the Town's development limits as contained in the Town Code.

On the basis of the foregoing, the Clearinghouse directed the issuance of this letter stating that no Pine Barrens Credits can be allocated to the parcel. The Board, did note, that it would reconsider this determination if your client was to remove the bunkers (out buildings) and revegetation of the area.

Your client may appeal this determination within thirty (30) days of the date of this letter by giving notice, in writing, to the Central Pine Barrens Joint Planning and Policy Commission. The Commission address is P.O. Box 587, 3525 Sunrise Highway, 2<sup>nd</sup> Floor, Great River, New York 11739-0587. Included with this notice shall be the reasons supporting the appeal as well as the number of Pine Barrens Credits requested. The Commission shall consider and decide the appeal within sixty (60) days of receipt of an appeal and will schedule a public hearing on the appeal.

If you have any further questions, please don't hesitate to give me a call at 631-563-0306.

Sincerely,

  
Judy Jakobsen  
Clearinghouse Staff

cc: J. Milazzo  
R. Corwin  
Clearinghouse Board Members

**MURRAY B. SCHNEPS**  
ATTORNEY AT LAW  
448 GRIFFING AVENUE  
P.O. Box 926  
RIVERHEAD, NEW YORK 11901  
—  
(631) 722-5100  
FAX (631) 722-5093

January 11, 2007

Pine Barrens Joint Planning and Policy Commission  
P. O. Box 587  
3525 Sunrise Highway - 2<sup>nd</sup> Floor  
Great River, New York 11739-0587

Re: Letter of Interpretation of Edwin Tuccio, SCTM# 900-248-1-110.4

Gentlemen/Ladies:

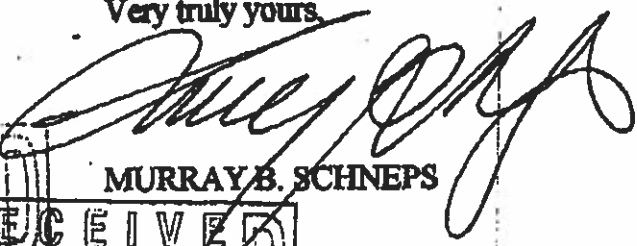
Please be advised that Edwin Tuccio hereby appeals from your determination dated January 3, 2007, that no Pine Barrens Credits can be allocated to the parcel.

My client deems the determination to be contrary to the facts and law in this matter, resulting in the wrongful, illegal and improper taking from my client's property without due process and without reasonable compensation.

It is hereby demanded that you promptly provide all copies of all documents in your possession relating to and determining each hardship approval in 1994 and 1997; all facts and documents you possess which serve as the basis for the determination that the value of the subject parcel and the amount of such value determined by you; and the basis supporting the position that "the site is near the Town's development limits as contained by the Town Code."

Thank you for your prompt responses which must be provided prior to the scheduled hearing on the appeal.

Very truly yours,



MBS:st

cc.: Mr. Edwin Fishel Tuccio

RECEIVED  
MURRAY B. SCHNEPS

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JAN 16 2007  
GENERAL COUNCILS RIGHT  
PLANNING AND POLICY COMMISSION

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Please take notice that a hearing on the Letter of Interpretation Appeal for Edwin and Patricia Tuccio has been rescheduled to April 18, 2007 (rescheduled from March 21, 2007) at 3:00 p.m. at Brookhaven Town Hall, 1 Independence Hill, Farmingville, New York. Said appeals are made pursuant to Section 6.7.3.3 of the Central Pine Barrens Comprehensive Land Use Plan, dated 1995 (the Plan). 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 did not receive an allocation of Pine Barrens Credits for reasons stated in the Letter of Interpretation dated January 3, 2007 for parcel: Suffolk County Tax Map #900-248-1-110.4 located south of Sunrise Highway, on the west side of CR 31, north of Gabreski Airport, Westhampton, Town of Southampton.

-----X

Brookhaven Town Hall  
Farmingville, New York

April 18, 2007  
4:15 p.m.



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

- PETER SCULLY - Chairman
- JOHN MILAZZO - CDBC Counsel
- CARRIE MEEKS-GALLAGHER - Representative, Suffolk County
- MARTIN SHEA - Representative, Town of Southampton
- JOHN TURNER - Representative, Town of Brookhaven
- BRENDA PRUSINHOWSKI - Representative, Town of Brookhaven

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Tuccio SCTM 900-248-1-110-4

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PHIL CARDINALE - Representative, Town of Riverhead

JUDY JAKOBSEN - Principal Environmental Analyst

JOHN PAVACIC

JANET LONGO

RAY CORWIN

ROBIN MILLS

ROSEMARY MORELLINO

(631) 289-1154

Tuccio SCTM 900-248-1-110-4

1  
2 THE CHAIRMAN: Please take notice that  
3 a hearing on the Letter of Interpretation  
4 Appeal for Edwin and Patricia Tuccio has  
5 been rescheduled to April 18, 2007  
6 (rescheduled from March 21, 2007) at 3:00  
7 p.m. at Brookhaven Town Hall, 1 Independence  
8 Hill, Farmingville, New York. Said appeals  
9 are made pursuant to Section 6.7.3.3 of the  
10 Central Pine Barrens Comprehensive Land Use  
11 Plan, dated 1995 (the Plan). The Central  
12 Pine Barrens Joint Planning and Policy  
13 Commission will be holding the appeal  
14 hearing pursuant to Section 6.7.3.4 of the  
15 Plan. The appellant did not receive an  
16 allocation of Pine Barrens Credits for  
17 reasons stated in the Letter of  
18 Interpretation dated January 3, 2007 for  
19 parcel: Suffolk County Tax Map  
20 #900-248-1-110.4 located south of Sunrise  
21 Highway, on the west side of CR 31, north of  
22 Gabreski Airport, Westhampton, Town of  
23 Southampton.

24 THE CHAIRMAN: I'll just ask the people  
25 on the Commission to put there names on the

Tuccio SCTM 900-248-1-110-4

record.

MS. MEEKS-GALLAGHER: Carrie Meeks-Gallagher, Suffolk County.

MR. SHEA: Marty Shea, representing Southampton Town supervisor, Patrick Heaney.

MR. TURNER: John Turner, representing Town of Brookhaven supervisor, Brian Foley.

MS. PRUSINHOWSKI: Brenda Prusinhowski, representing Brookhaven town supervisor, Brian Foley.

THE CHAIRMAN: Peter Scully representing the State of New York and Supervisor Phil Cardinale is representing the Town of Riverhead.

We turn first to staff.

MS. JAKOBSEN: I am admitting for the record five staff exhibits, which I provided to the stenographer. I would like to go over a few items initially with regard to this appeal.

The parcel is 52.3 acres. It's current use is a mini-storage warehouse facility. The issue for the Clearinghouse was how to allocate the commercial use, such as a

Tuccio SCTM 900-248-1-110-4

1 mini-storage warehouse facility. And  
2 whether this parcel was eligible for credits  
3 due to its existing use and the fact that  
4 parcel received two Core Preservation Area  
5 hardships to expand a building.  
6

7 In the packet I sent to the Commission  
8 members, there were included a number of  
9 staff exhibits. I would like to briefly go  
10 over them. These items that were included  
11 in the Commission packet were what the  
12 Clearinghouse members used to determine  
13 whether or not they should be allocating  
14 credits to Suffolk County Tax Map number  
15 900-248-1-110.4. I had attached the items  
16 in your packet, but I didn't identify them  
17 by staff numbers.

18 The first exhibit is the correspondence  
19 from Mr. Schneps to Commission staff dated  
20 August 11, 2006 with an attached aerial with  
21 the developed areas highlighted in pink  
22 along with a calculation of these areas in  
23 acres that was prepared by a surveyor named  
24 Joseph Ingegno I-N-G-E-G-N-O who prepared  
25 the aerial along with the calculations.



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The second exhibit is a 2001 aerial with the development outlined in bold red. In addition, at the Clearinghouse meeting on December 18, 2006, as part of their decision and consideration for this credit allocation, there was a discussion that the applicant received two prior hardships in '94 and '97 to add buildings to the property that were considered minimum relief necessary under New York State DCL Article 57, and more importantly is the fact that any future expansion of the facility would require a Core Preservation Area hardship permit, which is questionable that would be granted due to the prior hardship that provided minimum relief.

I also provided in the packet copies of resolutions that approved the hardships and it should be noted that a third hardship was in 2000 that was subsequently withdrawn. I have provided minutes from the Commission meeting of March 29, 2000 that brought up whether the two permit approvals for minimum relief as referred to in the Pine Barrens

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Law.

The fifth staff exhibit is a map of the property situated at Westhampton, which is reduced scale, as staff Exhibit 5, and the map shows highlighted areas in yellow the building that were added as of the '94 Core Preservation Area Hardship approval. The orange areas were for buildings added in 1977 Core hardship permit application and outlined in aqua are the buildings that were proposed for the 2000 Core hardship application, which was withdrawn.

The last exhibit is Exhibit 6, which is a letter to the applicant from Commission staff stating that the parcel is not eligible to receive credits.

I would like to enter that letter into the record. January 3, 2007. Dear Mr. Schneps: The Pine Barrens Credit Clearinghouse reviewed your client's -- Counsel informed me I can just introduce it, I don't need to read it. It's a letter that's dated January 3, 2007 to Mr. Schneps from myself and it outlines the manner in

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which the Clearinghouse considered materials for determination that the parcel could not receive credits. I think it is important to point out that the Clearinghouse, in the second paragraph of the letter, evaluated your client's application in the context of Section 6.1 of the Central Pine Barrens Comprehensive Land Use Plan, and the primary purpose of the credit program is to maintain value in lands designated for preservation or protection under the plan by providing for the allocation and use of Pine Barrens Credits. It says maintain value. That's all I have.

MR. MILAZZO: John Milazzo, counsel. The Commission issued the Letter of Interpretation. The Letter of Interpretation was for zero credits. The applicant owns 53 acres and is zone LI200 which normally would receive one credit per acre. The Clearinghouse spent some time analyzing this application. It was before the Clearinghouse at least twice. At the third meeting, struggled with the

Tuccio SCTM 900-248-1-110-4

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2 allocation. Clearinghouse exercising its  
3 discretion, all be it limited, looked at the  
4 property, considered the improvements and  
5 considered the criterion in the plan in  
6 allocating credit and came to the  
7 determination that this parcel was eligible  
8 for zero Pine Barrens credits. The appeal  
9 is on that allocation of zero PBC.

10 THE CHAIRMAN: The basis of the  
11 determination?

12 MR. MILAZZO: Combination of existing  
13 use and the fact that the parcel has already  
14 received two hardship approvals from the  
15 Commission. When the Clearinghouse looked  
16 at that and the purpose of the credit  
17 program which is to preserve value property.

18 THE CHAIRMAN: You said, for the most  
19 part, this provision is utilized to provide  
20 compensation of value to owners of property  
21 that are not useful in the core which they  
22 can't derive any use, therefore, they are  
23 entitled to credits.

24 MR. MILAZZO: It's not compensation.  
25 It's use.

1  
2 THE CHAIRMAN: In this case, we have  
3 property that's a commercial operation and  
4 received two prior hardship approvals for  
5 expansion.

6 MR. MILAZZO: The attorney and the  
7 applicant is here. Murray Schneps.

8 MR. SCHNEPS: I'm going to stand up  
9 because I don't think I can see you all.  
10 I'll sit down when I can't stand up any  
11 more.

12 I have a presentation that I have  
13 basically organized by addressing the denial  
14 letter, which I believe you have as exhibit  
15 number four. I have broken it out into  
16 basically four issues to address, that are  
17 addressed in the letter, and a fifth section  
18 which will be our conclusions with regard to  
19 each one of the items. They may be  
20 self-obvious when I get to the final point.

21 In your letter, the denial, you pointed  
22 out the point the primary purpose of Pine  
23 Barrens credit program is quote to maintain  
24 value in the lands designated for  
25 preservation or protection under the plan by

1  
2 providing for the allocation and use of Pine  
3 Barrens Credits.

4 However, we think there is more to state  
5 about what the main purpose is. We would  
6 like to address Section 6.1 of Chapter 6 of  
7 the Pine Barrens Credits program. It is to  
8 preserve the Pine Barrens ecology and ensure  
9 the high quality of the surface and  
10 groundwater within the Central Pine Barrens.

11 The act also states that the plan is to  
12 discourage peaceful and scattered  
13 development and accommodate development in a  
14 manner consistent with the long term  
15 integrity of the Pine Barrens ecosystem.

16 Considering who you people are, I'm a  
17 little bit embarrassed about this, because  
18 you know more about the Pine Barrens than I  
19 do. I think it's important for my  
20 presentation to hear the provisions.

21 Further, the interim goals and standards  
22 for the compatible growth area of the  
23 Commission principles for review of  
24 applications or development within the  
25 Suffolk County Pine Barrens zone, it

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addresses the groundwater, wetlands, surface water, rare and endangered species, and unique national communities, native vegetation disturbance and refers to creating a plan to develop a plan upon a demonstration of hardship.

Hardship is a very important issue in this presentation because it's a very important issue in the denial. Where it seems that there's a great deal of emphasis on the idea that my clients have sought and received two previous hardships. I would like to say this before I really deal with that. Firstly, that we don't believe that our client secured any hardship approvals in this case and the only reason that they are prior hardship approvals is that there's no other mechanism for securing an approval. Additional, the Environmental Conservation Law, Section 570121 subdivision 2 provides that you protect, preserve and enhance the functional integrity of the Pine Barrens ecosystems and the significant natural resources. That includes plant and animal

Tuccio SCTM 900-248-1-110-4

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2 populations and communities thereof; protect  
3 the quality of the surface water and  
4 groundwater, and discourage piecemeal and  
5 scattered development.

6 I point to this item again because my  
7 clients did not attach the property in any  
8 way. It didn't diminish the property in any  
9 way. For the most part, the buildings that  
10 there were on the premises have been on the  
11 premises since the 1940s and some of the  
12 1950s. These buildings were established by  
13 the United States Army who built a lot of  
14 these buildings and roads. Further, all of  
15 these requirements to maintain the Pine  
16 Barrens have been met by my clients. They  
17 did not affect in any negative way the Pine  
18 Barrens. They did not bring improper water.  
19 They did not have any other types of  
20 involvement in the property. To this point  
21 and continuing, my clients are in full  
22 compliance with the act and its intent and  
23 they have not negatively impacted upon the  
24 Pine Barrens ecosystem.

25 The second point in the denial letter is



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that my clients were granted hardship exemptions. While it's true my clients are involved in a commercial enterprise, it's unfair to contend that they sought or were actually granted a hardship exemption. I mean realistically was it a hardship application? It was called a hardship application. There is no other manner to secure approval.

At the time my clients secured title, the area had already been isolated which was fenced and still fenced. The property has been always extensively disturbed, cleared of vegetation and contained buildings. This was not caused by my clients. They seek, however, at some point in time to use on this same unpristine property some additional buildings and that permission was granted to them.

None of applicants' construction or any of the part of the fenced area has been an intrusion on the vegetation, the habitat of the species, animals or aquifers. The construction did not improve or contravene

Tuccio SCTM 900-248-1-110-4

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2 the intent of the law. The development is a  
3 dry use and contributes no negative impact  
4 upon the aquifers. No unique species or  
5 vegetation exist. There's no affect, again,  
6 on the aquifer. There's no runoff on the  
7 property. There's no discharge on the area.  
8 Given the fact that the area had been  
9 disturbed since, actually, I said the '50s,  
10 actually since 1940s, it was never pristine,  
11 and surrounded by a fence.

12 In addition to all stated facts, the  
13 applicants should have had the right to  
14 develop the area, but for the requirement to  
15 secure approval. The sole mechanism to  
16 secure approval is an application for a  
17 hardship exemption. The fact that's the  
18 sole mechanism should not be utilized to  
19 penalize my client and call their prior  
20 application to be a hardship application.

21 The construction sought by my client was  
22 granted because all the construction was  
23 within a disturbed area and which did not  
24 affect the Pine Barrens and the approval  
25 should have been granted on that basis. But

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a hardship exemption was the sole mechanic, other than litigation. Litigation would have been a wasteful process. The applicants should have been granted approval for the construction sought, as it would not have and did not have any negative affect on the Pine Barrens, the act or the intention of the act. Accordingly, the applicants should not be charged as having been granted a hardship exemption.

It is urged that the exclusion you have to seeking permission for use upon the hardship exemption is an omnibus clause term because there's no other term. In an all inclusive manner, the applicants are obligated to utilize that sole manner.

There's another issue that is raised. That is a suggestion, I say suggestion, in the denial letter that the calculations indicate that the site is near the town's development limits as contained in the town code. That is grossly untrue. Pursuant to the Town of Southampton under Section 330-37, industrial districts of use

Tuccio SCTM 900-248-1-110-4

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2 regulations part three, provide that a  
3 self-service storage facility is deemed to  
4 be under LI200 light industry and permits  
5 such as a special exemption. So that  
6 utilization is permissible. It is not  
7 prevented. The Town of Southampton under  
8 330-38 industrial district table of  
9 dimensional regulations provides that lot  
10 coverage for main and accessory buildings  
11 under LI200 light industry is 20 percent.  
12 The acreage in the lot that we are speaking  
13 about is 52.299 acres, and just based on lot  
14 coverage, my client would be entitled to 20  
15 percent coverage, and they do not have that.

16 As a matter of fact, in further looking  
17 at the code of the Town of Southampton,  
18 Chapter 330 in zoning, Article 1, the  
19 general provisions say word usage, the word  
20 structure includes the word building.  
21 Further in definitions is a definition for  
22 building, building area, lot coverage and  
23 other matters, and I am going to deliver  
24 copies of those statements, and it indicates  
25 that a structure is only a building. The

1  
2 aprons are not buildings. The roads are not  
3 buildings. According to our evaluation and  
4 in the updated survey -- I would like to  
5 provide and have them marked as, I guess,  
6 Exhibit A for us. I have several copies.  
7 The updated survey from Joseph Ingegno also  
8 designates each one of the buildings and  
9 roads and aprons on the property, measuring  
10 them out size wise and providing a true  
11 indication of the size. I have two CO  
12 surveys which break out the percentages and  
13 acres for the buildings and asphalt, roads,  
14 the concrete aprons for the survey. It  
15 deals with four constructions that existed  
16 prior to the Pine Barrens. That's work that  
17 was done by the government in the 1940s and  
18 50s. It has another break out and listing  
19 of coverage in those areas made by the  
20 applicant and the government in advance.

21 THE CHAIRMAN: Is this a survey not  
22 previously provided to the staff or  
23 Clearinghouse?

24 MR. SCHNEPS: It's the same survey that  
25 has additional information on it.

1 Tuccio SCTM 900-248-1-110-4

2 THE CHAIRMAN: So the answer is, this  
3 was not previously provided to the  
4 Clearinghouse.

5 MR. SCHNEPS: That is correct.

6 THE CHAIRMAN: So it has new and  
7 additional information they should have  
8 considered and didn't? Didn't have it  
9 available?

10 MR. SCHNEPS: It's the same information.

11 MS. JAKOBSEN: Are you saying that your  
12 letter, the information that Mr. Ingegno  
13 provided on the survey --

14 MR. SCHNEPS: You have the same survey  
15 but the breaking out of the building size,  
16 aprons and road works are specifically  
17 pinpointed and the sizes are separated as  
18 demonstrated.

19 MR. MILAZZO: The survey is the same,  
20 but he has further broken down the exact  
21 physical dimensions of the structures on the  
22 property. He just measured the buildings  
23 and other structures. It's been marked as  
24 Exhibit A.

25 MR. SCHNEPS: This would be Exhibit B.

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2 I know you produced this already. This is  
3 section 330-38.

4 MR. MILAZZO: The dimensional  
5 requirements, we will mark these as C.

6 MR. SCHNEPS: I have the zoning  
7 definitions.

8 MR. MILAZZO: We will mark as Exhibit C  
9 the dimensional requirements of the zoning  
10 district at 330-38. Exhibit D will be the  
11 general provision definition section of  
12 Chapter 330 of the town zoning code.

13 Exhibit E will be Town of Southampton  
14 dimensional regulations for the LI business  
15 district, for the business districts.

16 Any other exhibits, Mr. Schneps?

17 MR. SCHNEPS: I think that may be them  
18 all, unless I change my mind.

19 THE CHAIRMAN: Are there additional  
20 comments you want to put on the record?

21 MR. SCHNEPS: Yes. As can be seen from  
22 looking at the documents submitted, the  
23 original buildings that were built in the  
24 '40s and '50s, all of which were prior to  
25 the Pine Barrens, cover buildings on .98

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acres. The additional buildings that were constructed by my client were .90 buildings. There are fewer than two acres of lot average on the 52.299 acres. In spite of that fact, a fast calculation of 20 percent of 52.299 exceeds ten acres. That's a substantial difference in the number of acres and just dealing with that issue is a substantial difference in terms of the number of credits to which my client would be entitled. We are talking about approximately eight additional credits just on the 20 percent basis. This was rejected.

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We are not asking to do anything else to the property. We are not asking to supplement any construction in any way whatsoever. We are simply asking to receive the credits that we are entitled to on the property.

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As a matter of fact, we are really asking for more than that number of credits. We are really asking for credits for the whole 52.299 acres, less than those that were constructed upon. We do believe that



1  
2 there is precedent for doing that.

3 My clients could seek a subdivision  
4 approval and vacate and have some of that  
5 property without any buildings on it.  
6 However, that should not be necessary. My  
7 clients should not be pressed to do that.

8 In the previous case of Tuccio against  
9 the County of Suffolk, a case that you  
10 should be familiar with, that was the action  
11 against the county for related property,  
12 index number 98-11876. I'm offering that as  
13 an exhibit.

14 MR. MILAZZO: Do you want to mark the  
15 exhibit? I don't think it's relevant, but  
16 we will mark it.

17 MR. SCHNEPS: I think it is. This is  
18 the nature conservancy survey that was in  
19 connection with the bar clear action where  
20 it was approved that this lot was separated  
21 into four separate lots without the use of a  
22 subdivision approval. It was done  
23 independently into separate lots labeled A,  
24 B, C and D. Credits were awarded to two of  
25 those new parcels without the need of my

Tuccio SCTM 900-248-1-110-4

1  
2 clients securing an approval of  
3 subdivisions. We are asking that you do the  
4 same thing and give us all the credits.

5 Some people may say, well, these people  
6 were able to use the property and made  
7 money, but the Constitution in the states  
8 and in New York is pretty clear. People are  
9 entitled to maximize the value of their  
10 property and they don't have to minimize  
11 that value by anybody else's feelings or  
12 anybody else's beliefs that someone should  
13 have more or should have less. My clients  
14 are entitled to maximize their value and it  
15 is both false and improper for the  
16 Commission to make a determination that my  
17 clients have earned enough money for their  
18 property. I don't think you have the right  
19 to do that.

20 You have a right to make a  
21 determination, but you have to make a  
22 determination that's fair and proper under  
23 the law. Under the law, an owner of  
24 property is effected in diminution in their  
25 right of the property because of the Pine

1  
2 Barrens.

3 We should make a statement that should  
4 this Commission in reviewing your position  
5 and granting to us the credits that we are  
6 asking for, for the entire amount, we are  
7 willing to issue an appropriate easement so  
8 there will be no further development  
9 whatsoever on the property.

10 THE CHAIRMAN: Thank you.

11 MR. MILAZZO: I need one question  
12 answered. How many credits are you seeking?  
13 Seven, 52, 49?

14 MR. SCHNEPS: Since I'm not able to  
15 calculate them at this moment, I would say  
16 52.299 less the buildings.

17 MR. MILAZZO: That's 49.

18 THE CHAIRMAN: What did you seek at the  
19 Clearinghouse?

20 MR. MILAZZO: It was unspecified.

21 MR. SCHNEPS: In response to that, in  
22 other discussion that were had, everybody  
23 was really viewing the property as if the  
24 lot coverage included things other than the  
25 buildings. As we dug deeper, not everybody

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2 was correct about what the lot coverage is.

3 MR. SHEA: You had spoken with regard to  
4 the town's structural coverage for this  
5 property. I think what you need to  
6 recognize the permitted structural coverage  
7 is indicative of the potential maximum use  
8 or value of the property. That's a lot  
9 different from the Pine Barrens Credits  
10 program, which is to maintain value over  
11 use. There is a distinction between the  
12 maximum use permitted pursuant to the town  
13 code outside of the Pine Barrens and the  
14 intent of the Pine Barrens Act.

15 MR. SCHNEPS: We are not looking to  
16 maximize the use of construction. We are  
17 looking to maximum our credits.

18 MR. SHEA: You are using the town's  
19 permitted structural coverage as a basis to  
20 ask for additional credits.

21 MR. SCHNEPS: Unfortunately, we have to  
22 use the facts as we have them and use the  
23 law as we have them. My understanding under  
24 the DCL and the Constitution, you're bound  
25 by the code of the Town of Southampton.

1  
2 That's their code. If that's their rules,  
3 that's the way you calculate how much the  
4 lot coverage is. How else would you  
5 determine lot coverage? Otherwise, I could  
6 say lot coverage, you shouldn't charge --

7 MR. SHEA: I'm not questioning whether  
8 or not you would use the term maximum  
9 coverage. What I'm saying is that's  
10 indicative of the maximum use of the  
11 property as opposed to the intent of the  
12 Pine Barrens program which is to maintain  
13 value, reasonable value. That's a big  
14 distinction.

15 MR. SCHNEPS: All that language really  
16 is, you recognize the fact that people who  
17 own property have a right to maximize their  
18 value and really what you're suggesting in  
19 that language, they have a right to earn an  
20 appropriate amount of money. We are not  
21 looking to construct anything further.

22 MR. SHEA: It is correct an owner of a  
23 piece of property is entitled to reasonable  
24 return on the property. That's different  
25 from the maximum use.

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2 MR. SCHNEPS: Is it your point of view  
3 that the Commission is going to make a  
4 determination as to how much value in  
5 dollars is a party supposed to get?

6 MR. SHEA: I'm making a distinction  
7 between Pine Barrens Credit program and the  
8 town's structural coverage.

9 MR. SCHNEPS: There has to be a basis to  
10 make a determination how much money or value  
11 or construction you can do on a property in  
12 terms of buildings and lot coverage.

13 THE CHAIRMAN: I would agree. I don't  
14 know whose obligation it to determine that.  
15 I wouldn't disagree with that. Any other  
16 questions? Anybody from the public?

17 MR. AMPER: Richard Amper, executive  
18 director of the Long Island Pine Barrens  
19 Society. First of all, the applicant in  
20 this case has been a person who has  
21 supported the efforts of the Pine Barrens  
22 preservation through the sale of other  
23 holdings to the government for that purpose.

24 Secondly, I would point out that the  
25 document, the site survey that has been

1  
2 supplied, did provide the same information  
3 to the Clearinghouse as being provided here  
4 with the exception that they have made it  
5 easier to sort out what has been developed  
6 in what ways. Otherwise, the information  
7 has not changed.

8 And the final thing, the question is  
9 whether the Commission has addressed  
10 previous applications from this applicant,  
11 was it made known the granting of the  
12 applications constituted the minimum relief  
13 necessary to lift the hardship. The  
14 question is not the maximum he might have  
15 gotten for his land but the minimum  
16 necessary to relieve and can the  
17 Commissioner speak to that? Was what the  
18 Commission did either in the communication  
19 to the applicant or another resolution, did  
20 that indicate that the Commission believed  
21 that it was granting the minimum relief  
22 necessary? That's the question.

23 MR. MILAZZO: We will have to look at  
24 the resolution.

25 THE CHAIRMAN: Any other questions?

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Anybody else wish to be heard? If not, we will close the hearing for deliberation of the Commission.

Thank you, Mr. Schneps.

MR. SCHNEPS: Thank you.

(Time noted: 4:45.)



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April 19, 2007

**BY FACSIMILE**

Judy Jakobsen, Esq.  
Pine Barrens Credit Clearinghouse  
P. O. Box 587  
3525 Sunrise Highway - 2<sup>nd</sup> Floor  
Great River, New York 11739-0587

Re: Tuccio - Appeal of Denial - SCTM# 900-248-1-110.4

Dear Ms. Jakobsen:


At the time of the Hearing held on April 18, 2007, some members of The Central Pine Barrens Joint Planning and Policy Commission raised the issue as to whether my clients are entitled to maximize their utilization of the all of the twenty (20%) percent lot coverage provided. I responded that the Zoning Code of the Town of Southampton bound your commission. Enclosed please find a copy of ECL § 57-0133 which provides the village and town local zoning powers shall regulate land uses.

Kindly add this letter and the enclosed section as a part of the record.

Kindly also add to the record, as discussed immediately following the hearing, that the Applicants may not remove the "bunkers (outbuildings)" referred to in the Denial Letter as they are committed to a long term written lease agreement to such property and are not at liberty to remove same.

Thank you for your courtesy and consideration.

Very truly yours,

  
MURRAY B. SCHNEPS

MBS:st

cc.: John Milazzo, Esq.  
Mr. Edwin Fishel Tuccio  
Ms. Patricia Tuccio

APR 19 2007

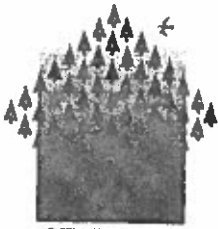
**NY CLS ECL § 57-0133 (2007)**

**§ 57-0133. Affect on other laws**

**Except as otherwise provided in the provisions of this [fig 1] title, this [fig 2] title shall not affect:**

- 1. the police powers, local planning powers, zoning powers or authority to regulate land uses by villages and towns within the Long Island Pine Barrens maritime reserve; or**
- 2. the police power of the state to regulate any activity carried upon any lands, in the Long Island Pine Barrens maritime reserve; or**
- 3. the authority of any state or public agency in the management of any state or public lands in the Long Island Pine Barrens maritime reserve.**

APR 19 2007



**CENTRAL  
PINE  
BARRENS**

JOINT  
PLANNING  
&  
POLICY  
COMMISSION

Peter A. Scully  
*Chair*

Philip J. Cardinale  
*Member*

Brian X. Foley  
*Member*

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*Member*

Steve A. Levy  
*Member*

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**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. Cardinale (for Riverhead), Mr. Turner (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").

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.

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.

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.

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.

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.

Whereas, the primary purpose of the Pine Barrens Credit Program



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).

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).

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.

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.

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.

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.

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.

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.

SHORT FORM ORDER

INDEX No. 21497-2007

**SUPREME COURT - STATE OF NEW YORK  
I.A.S. PART 23 - SUFFOLK COUNTY**

**PRESENT:**

Hon. EMILY PINES  
Justice of the Supreme Court

MOTION DATE 8-10-07  
ADJ. DATE 10-11-07  
Mot. Seq. # 001 - MD; CASEDISP

-----X	
In the Matter of the Application of	:
EDWIN FISHEL TUCCIO and PATRICIA	:
TUCCIO,	:
	:
Petitioners,	:
	:
For a Judgment Pursuant to Article 78 of the	:
Civil Practice Law and Rules	:
	:
- against -	:
	:
CENTRAL PINE BARRENS JOINT PLANNING	:
AND POLICY COMMISSION and PINE	:
BARRENS CREDIT CLEARINGHOUSE,	:
	:
Respondents.	:
-----X	

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**ORDERED**, that this Petition pursuant to CPLR Article 78 seeking an Order reversing, vacating, annulling and voiding the determination of the respondents, Central Pine Barrens Joint Planning and Policy Commission and Pine Barrens Credit Clearinghouse is denied in its entirety.

Petitioners, Edwin Fishel Tuccio and Patricia Tuccio ("petitioners") commenced this proceeding pursuant to CPLR Article 78 by filing a Notice of Petition and Petition on July 19, 2007. Petitioners seek an Order reversing, vacating, annulling and voiding the determination of respondents which denied their application for an allocation of Pine Barrens Credits for property located in Westhampton, Town of Southampton, Suffolk County New York. The property consists of 52.299 acres and is designated on the Suffolk County Tax Map as district 0900, section 248, block 1, lot 110.004 (hereinafter, the "subject premises"). The subject premises is located in the Core Preservation Area of the Central Pine Barrens.

In or about December, 2006, petitioners applied to the respondent, Pine Barrens Credit Clearinghouse (the "Clearinghouse") for a Letter of Interpretation for the Property for the allocation of Pine Barrens Credits for the subject premises. By letter dated January 3, 2007, the Clearinghouse denied petitioners' request and advised that no Pine Barrens Credits could be allocated for the subject premises. The Clearinghouse did advise, however, that it would reconsider this determination if

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petitioners removed the out buildings and revegetated the subject premises. Petitioners declined this offer and appealed the Clearinghouse denial to respondent Central Pine Barrens Joint Planning and Policy Commission (the "Commission") and a hearing was held on April 18, 2007 before the Commission. By resolution dated June 20, 2007, the Commission unanimously voted to deny the appeal. In the resolution denying the appeal, the Commission made the following findings:

1. Six of the buildings on the Property were developed pursuant to Commission Core Preservation Area Hardship Exemption;
2. The 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;
3. In light of the number of buildings constructed on the Property pursuant to hardship exemptions and continuing use of the facility, value has been maintained in the Property;
4. The determination to deny allocation of Pine Barrens Credits is based on the extent of the improvement of the Property; and
5. The implementation of the Long Island Pine Barrens Protection Act of 1993 has not prevented reasonable use of the Property.

With regard to the development of the property, the following facts, as set forth in the Memorandum of Law in opposition to the Petition, appear uncontroverted. In the 1980's, petitioners inherited approximately 403.5 acres of property, including the subject premises, in the Core Preservation Area. The Nature Conservancy purchased 275 acres of this parcel from petitioner in 1986 for \$2.75 million dollars and petitioners retained approximately 125 acres. Thereafter, approximately 75 acres of the remaining 125 acres was the subject of a bar claim action, resolved by the placement of a conservation easement on 50 of the disputed 75 acres. In January of 2005, the Commission issued 50 Pine Barrens Credits to various title-holders, including 27 Pine Barrens Credits to petitioners. Petitioners subsequently sold their 27 Pine Barrens Credits for approximately \$1.6 million dollars. The remaining 52.3 acres is the subject of this Article 78 proceeding.

Petitioners argue that the determination of the Commission denying the appeal of the Clearinghouse denial of allocation of Pine Barren Credits to the remaining 52.3 acre parcel was arbitrary and capricious and unsupported by substantial evidence. Petitioners further argue that respondents' determination denied petitioners rights under the Constitution, Amendments V and XIV, in that it deprived them of property without due process and just compensation. Petitioners also argue that the determination of respondents' was untimely in that it was rendered more than sixty (60) days after the public hearing on April 18, 2007. Petitioners take issue with respondents' findings which relied on the Central Pine Barrens Comprehensive Land Use Plan (the "Plan") §6.1, in that the value of the property has been maintained. Petitioners argue that their intent is to maintain the undisturbed portion of the property, to wit, 50.42 acres of the 52.299 acre parcel, and the hardship exemptions previously granted

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are not dispositive of the relief sought herein. Petitioners assert they are in full compliance with the Pine Barrens Act and that they simply seek to receive Pine Barrens Credits for the portion of the subject premises they will maintain without future development.

Respondents submit a Verified Answer with Certified Return of Record and a Memorandum of Law in opposition to the Petition. Respondents set forth a detailed history of the adoption of the Long Island Pine Barrens Protection Act and the Comprehensive Land Use Plan. Respondents also detail the history of the subject premises and the hardship exemptions previously granted. Specifically, as set forth above, in 1994, the Commission granted petitioners an "extraordinary hardship exemption" to enable petitioners to add two buildings to the existing storage facility on the subject premises. Again, in 1997, the Commission granted a second "extraordinary hardship exemption", allowing petitioners to construct four additional buildings, driveways and parking areas on the subject premises. As a result of this second hardship exemption, a total of 15 buildings are now present and used on the subject premises.

Respondents argue that the subject premises is not entitled to Pine Barrens Credit allocation because the value of the property has been maintained. Respondents assert that the provisions of the Plan which limit the allocation of Pine Barrens Credits on partially improved property and restrict allocation for any property on which the development rights have previously been fully used, justify the denial in the case *sub judice*. Respondents refer to the prior hardship applications granted to petitioners, demonstrating that petitioners elected to expand the income generating potential of the property by increasing the number of buildings on the site. Such election, respondents argue, like petitioners' rejection of the offer to remove the outbuildings and revegetate, demonstrates petitioners' "gainful utilization of the property". Moreover, respondents argue that the overall value of the subject premises has been maintained by virtue of the combination of acquisitions, hardship exemptions and prior Pine Barrens Credits allocated.

With regard to petitioners' claim that the denial of the allocation of Pine Barrens Credits amounts to an unconstitutional taking, respondents argue that this Court lacks subject matter jurisdiction because a "takings" claim cannot be raised in an Article 78 proceeding. Additionally, respondents assert that petitioners have failed to properly plead such claim in that they have not identified any adverse impact resulting from the Commission's resolution.

Finally, respondents argue that petitioners are not entitled to mandamus relief to compel the issuance of Pine Barrens Credits. Respondents argue that petitioners cannot establish entitlement to mandamus because the decision to allocate Pine Barrens Credits, and how many such Credits, rests in the discretion of the Commission and is not a ministerial act.

In reply, petitioners argue that the prior grant of a hardship exemption does not mandate denial of the current application and that the Commission cannot base its determination on the fact that petitioners received Pine Barrens Credits on their other property. Rather, petitioners assert that the prior issuance of a hardship exemption and a proportional allocation of Pine Barrens Credits is a remedy available. Petitioners argue that the failure to allocate Pine Barrens Credits amounts to an impermissible taking and that they are entitled to receive 50,419 Credits based on the amount of undeveloped property. Therefore, petitioners assert that the Petition should be granted in all respects and respondents be

Tuccio v Central Pine Barrens Joint Planning  
Index No. 21497-2007  
Page No. 4

compelled to allocate the requested Pine Barrens Credits.

The law is well settled that judicial review of administrative agency determinations is limited to whether the action taken by the agency was "illegal, arbitrary and capricious, or an abuse of discretion." *Gjerlow v. Graap*, 43 A.D.3d 1165, 842 N.Y.S.2d 580 (2d Dept. 2007); citing, *Sasso v. Osgood*, 86 N.Y.2d 374, 633 N.Y.S.2d 259, 657 N.E.2d 254. Arbitrary action "is without sound basis in reason and is generally taken without regard to the facts." *Matter of Pell v. Board of Education*, 34 N.Y.2d 222, 356 N.Y.S.2d 833, 313 N.E.2d 321. In applying the arbitrary and capricious standard, the Court looks to whether the determination at issue had a rational basis. *Halperin v. City of New Rochelle*, 24 A.D.3d 768, 809 N.Y.S.2d 98 (2d Dept. 2005). See also, *Rendely v. Town of Huntington*, 44 A.D.3d 864, 843 N.Y.S.2d 668 (2d Dept. 2007). In a proceeding seeking judicial review of an administrative action, "the Court may not substitute its judgment for that of the agency responsible for making the determination." *Ball v. New York State Department of Environmental Conservation*, 35 A.D.3d 732, 826 N.Y.S.2d 698 (2d Dept. 2006).

Chapter 6 of the Central Pine Barrens Comprehensive Land Use Plan sets forth the rules and regulations of the Pine Barrens Credit Program. Section 6.1 states that the primary purpose of the Pine Barrens Credit Program is "to maintain value in lands designated for preservation or protection under the Plan for providing for the allocation and use of Pine Barrens Credits (PBCs). The Pine Barrens Credit Program will also promote development which is compact, efficient and orderly, and which is designed to protect the quality and quantity of surface water and groundwater and the long term integrity of the pine barrens ecosystem." Section 6.3.3.4 sets forth limits on the allocation of Pine Barrens Credits for partially developed properties. That section provides that "partially improved parcels shall receive a decreased allocation based upon the extent of improvement. Furthermore, there shall be a proportional decrease in allocation based upon the receipt of all discretionary permits for improvement of a parcel."

Respondents rely on *Toussie v. Central Pine Barrens Commission*, 182 Misc.2d 582, 700 N.Y.S.2d 358 (Sup. Ct. Suffolk Co. 1999), in support of their position. In that case, petitioner challenged the Pine Barrens Credit allocation formulas contained in Section 6 of the Central Pine Barrens Comprehensive Land Use Plan as arbitrary, unreasonable and unconstitutional and violative of the Environmental Conservation Law. There, petitioner owned eight single and separate parcels ranging from less than 4,000 square feet to 13,000 square feet in size, in a residential zoning district requiring 20,000 square feet. Petitioner was awarded a total of 1.1 Pine Barrens Credit for all of the parcels and argued that he should have received one full credit for each parcel because they were single and separate. The Court disagreed, finding that if petitioner accepted the Pine Barrens Credits allocated he would have realized a \$9,000 profit on his investment, that the parcels were located more than 1,000 feet from any roads, and that the single and separate ownership did not mandate allocation of one credit per parcel. The Court held that petitioner was compensated for his development rights and thus could not demonstrate an unconstitutional taking. Moreover, the Court reiterated that the process of transferring development rights pursuant to the Plan had withstood constitutional challenge. Citing, *W.J.F. Realty Corp. v. State of New York*, 172 Misc.2d 763. Finally, the Court noted that "In any event, landowners who are dissatisfied with the Pine Barrens Credit Program need not participate in the program. They may seek to develop their own property by permit, or, in limited situations, not available here, as of right."

Tuccio v Central Pine Barrens Joint Planning  
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Page No. 5

In the case *sub judice*, petitioners have not demonstrated that the determination by the respondent Commission was arbitrary and capricious or an abuse of discretion. The Court agrees with respondents that the determination comports with the intent of the Central Pine Barrens Comprehensive Land Use Plan in that the subject premises has clearly maintained its value. Respondents have developed the property as a commercial storage facility and previously obtained two hardship exemptions to expand the facility so that it now currently contains fifteen (15) buildings and driveways and roadways appurtenant thereto. The subject premises, having originally been part of a larger parcel, has yielded value to petitioners in terms of prior allocation of Pine Barrens Credits and the resultant sale thereof. Petitioners have elected to develop the subject premises resulting in the maintenance of its value. Additionally, although the Clearinghouse agreed to reconsider petitioners' application if they agreed to remove certain out buildings located on the property, respondents declined. These factors demonstrate a rational basis for respondents' determination denying the allocation of Pine Barrens Credits.

Petitioners' claim that the denial of the allocation of Pine Barrens Credits amounts to an unconstitutional taking of their property without just compensation is also without merit. Petitioners have not demonstrated any adverse economic impact resulting from the Commission's determination or that the denial has interfered with reasonable investment-backed expectations. *See, Gazza v. State Dept of Environmental Conservation*, 89 N.Y.2d 603, 657 N.Y.S.2d 555, 679 N.E.2d 1035 (1999), *citing Lucas v. South Carolina Coastal Commission*, 505 U.S. 1003, 112 S.Ct. 2886, 120 L.Ed.2d 798 (1997).

The Court has considered petitioners' remaining contentions and find them without merit.

Based upon the foregoing, the Petition is denied in its entirety.

The foregoing constitutes the Decision and Order of the Court.

Dated: 1/16/08

Emily Pines  
J.S.C.





ZONING

330 Attachment 7

**Town of Southampton**  
**§ 330-38, Industrial Districts Table of**  
**Dimensional Regulations**  
**[Amended 5-13-1986 by L.L. No. 7-1986]**

<b>Dimension</b>	<b>LI-40 Light Industry</b>	<b>LI-200 Light Industry</b>
Lot area		
Minimum (square feet)	40,000	200,000
Minimum per dwelling unit (square feet)	Not permitted	Not permitted
Lot coverage		
Maximum lot coverage by main and accessory buildings (percent)	30%	20%
Lot width, minimum (feet)	150	300
Height, maximum		
Stories	3	3
Feet	40	40
Yards, principal building, minimum (feet)		
Front	50	60
Side, minimum for 1	20	60
Side, total for both on interior lot	60	120
Side, abutting side street on corner lot	60	60
Rear	60	60
Yards, accessory buildings and structures, except fences and retaining walls, minimum (feet)		
Distance from street	60	60
Distance from side and rear lot	60	60

NOTES:

<sup>1</sup> Where public sewerage is not available, no lot shall be built upon which has insufficient space for a private sanitary waste disposal system, as determined by the Town and the Suffolk County Department of Health Services.

Properties selected as Hamlet Heritage Resource Areas are not designated as Town landmarks or Town historic districts. The Hamlet Heritage Resource Area selection is for honorary purposes only.  
[Added 8-12-2003 by L.L. No. 63-2003]

**HEIGHT OF STRUCTURE OR BUILDING**  
[Amended 5-13-1988 by L.L. No. 7-1988; 8-9-2005 by L.L. No. 41-2005; 4-22-2008 by L.L. No. 25-2008]

- A. For buildings and structures in any AE or VE Zone as shown on the applicable Flood Insurance Rate Map (FIRM) prepared by the Federal Emergency Management Agency for the Town of Southampton, the vertical distance measured from the mean sea level (MSL) to the highest point of the highest roof or, in the case of a structure, to the highest point.
- B. In all other cases, the vertical distance measured from the average elevation of the existing natural grade (before any fill has been or is proposed to be placed thereon) as established on a plan prepared by a licensed professional surveyor, at and along the side of the building or structure fronting on the nearest street to the highest point of the highest roof or, in the case of a structure, to the highest point. On all flag lots and lots utilizing a right-of-way, the flagpole access or right-of-way shall be considered the street front.

**HOMELESS SHELTER**

An establishment licensed by the State of New York Department of Social Services primarily engaged in providing temporary or transitional residential care, room, board, supervision, information and/or referrals to persons voluntarily seeking such service.  
[Added 12-22-1992 by L.L. No. 64-1992]

**HOME OCCUPATION**

Any gainful occupation customarily conducted within a dwelling by the residents thereof that is clearly secondary to the residential use and that does not change the character of the structure as a residence. Said activity shall not occupy more than 1/3 of the ground floor area of the dwelling or its equivalent elsewhere in the dwelling if so used, and further provided that there shall be no external evidence other than an announcement sign, and in no event shall there be any equipment used in connection with said occupation which is capable of emanating noise outside the structure. However, home occupations shall not be construed to include such uses as the following: clinic or hospital, barbershop or beauty parlor, restaurant, breeding kennel or antique dealer.

**HOME PROFESSIONAL OFFICE**

The office or studio of a resident physician, surgeon, dentist or other person licensed by the State of New York to practice a healing art, lawyer, architect, artist, real estate broker or salesman, insurance broker or agent or teacher, as herein restricted, provided that not more than two persons who are not members of the family are employed by or are associated with said office use. If more than two persons who are not members of the family are employed by or are associated with said office use, a home professional office use shall be prohibited and can only be treated as a use variance as a commercial office by the Zoning Board of Appeals. Each lot shall only have one such home professional office use. If more than one home professional office is requested, a home professional office shall be prohibited and can only be treated as a use variance by the Zoning Board of Appeals. Such home professional office may either be in the main building, provided that it shall not occupy more than 1/2 of the area of one floor of said building, or, in the case of an accessory structure which is clearly incidental and secondary to the residential building, said office or studio shall not occupy more than the equivalent of 1/2 of the minimum first-floor area of the principal dwelling for the respective district as provided in §§ 330-104 through 330-108 of this chapter. There shall be no external evidence other than an announcement sign, and in no event shall there be any equipment within the office which is capable of emanating noise outside the structure. A home professional office shall not include the office of any person professionally engaged in the purchase or sale of economic goods. For the purposes of this definition, a teacher shall be restricted to a person giving individual instruction in academic or scientific subjects to a single pupil at one time. Dancing instruction, band instrument or piano or voice instruction, tearooms, tourist homes, beauty parlors, barbershops, hairdressing and manicuring establishments, convalescent homes, mortuary establishments and stores, trades or businesses of any kind not herein excepted shall not be deemed to be home professional offices. The home professional office of a physician shall not include a biological or other medical testing laboratory.  
[Amended 4-24-2001 by L.L. No. 13-2001]

**HORSE FARM, HORSE STABLING FACILITY OR HORSEBACK RIDING ACADEMY**

A facility, being a land use together with buildings and accessory structures, designed and used for the boarding, breeding, raising, training or stabling of four or more horses or other equines, as either a commercial or noncommercial (private) enterprise.  
[Added 6-12-1990 by L.L. No. 14-1990]

**HOSPICE RESIDENCE HOME**

A home licensed by the state and operated by a certified hospice agency, which is residential in character and physical structure, and is operated for the purpose of providing more than two hospice patients, but not more than eight hospice patients, with hospice care.  
[Added 5-28-2009 by L.L. No. 22-2009]

**HOSPITALS**

Includes public or private buildings, structures, premises or places, together with the grounds thereof, which are used primarily for medical services, including but not limited to general and specialized hospitals, clinics, infirmaries, sanitariums or asylums, and certified by the State of New York.  
[Added 10-26-2001 by L.L. No. 48-2001]

**HOTEL OR MOTEL, TRANSIENT**

A building or group of buildings, whether detached or in connected units, containing individual guest units providing sanitary and sleeping facilities for tourists and vacationers on a transient basis.  
[Amended 8-8-1993 by L.L. No. 15-1993]

**HOUSEHOLD**

Any number of persons, related or unrelated, legally occupying a dwelling, not to exceed the maximum occupancy requirements pursuant to § 330-109.  
[Added 10-25-2005 by L.L. No. 57-2005]

**HOUSE TRAILER**

A movable one-family dwelling originally equipped with or having a vehicular chassis but lacking one or more of the following mechanical systems and equipment: plumbing, heating, electrical, cooking and refrigeration. See "mobile home." Editor's Note: The former definition of "housing Director," which was added 12-13-2005 by L.L. No. 69-2005 and which immediately followed, was repealed 8-12-2008 by L.L. No. 46-2008.

**INCOME-ELIGIBLE HOUSEHOLD**

As defined in § 216-2 of the Town Code.  
[Added 12-13-2005 by L.L. No. 69-2005]

**INDEPENDENT-LIVING RETIREMENT COMMUNITY**

A development geared to serve the housing and lifestyle needs of active seniors (age 55 years and up). Retirement communities typically include on-site recreational amenities such as clubhouse, tennis, and a swimming pool.  
[Added 8-13-2002 by L.L. No. 29-2002]

**JUNK-SCRAP YARD**

Any land or structure or part thereof exceeding 300 square feet in area and used for collecting, storage or sale of wastepaper, rags, scrap metal or other scrap or discarded materials or for the collecting, dismantling, storage or salvage of machinery or vehicles not in running condition or for the sale of the parts thereof.

**LANDMARK, HISTORIC OR CULTURAL**

Shall have a quality of significance in American history, architecture, archeology and culture as may be found in a district, site, building, structure or object of state and local importance that possesses integrity of location, design, setting, materials, workmanship, feeling and association and that is associated with an event that has made a significant contribution to the broad patterns of our history or that is associated with the life of a person significant in our past; or that embodies the distinctive characteristics of a type, period or method of construction; or that represents the work of renowned architect or craftsman; or that possesses high artistic value; or that represents a significant or distinguishable entity whose components may lack individual distinction; or that has yielded or may be likely to yield information in prehistory or history, all of the above criteria of evaluation being the same required for the National Register pursuant to the provisions of the National Historic Preservation Act of 1966. Furthermore, in order to constitute an historical or cultural landmark within the meaning of this chapter, the authenticity of the landmark must be acknowledged by the Planning Board and/or by the Town Historian or such other expert or experts as may be designated for this purpose by the Town Board.

**LIBRARIES**

Includes public or private buildings, structures, premises or places, together with the grounds thereof, which are used primarily for collection and use of books, periodicals, manuscripts, publications, recordings, maps or other materials for reading, viewing, listening, study, archives, ethnicaums, reference and research.  
[Added 10-26-2001 by L.L. No. 48-2001]

**LIFE-CARE FACILITY**

Also called a "continuing-care retirement community" (CCRC), a life-care facility is a development which encompass multifaceted housing options, typically providing independent living, assisted living, and guaranteed nursing care, to accommodate the lifestyle needs of seniors as they age in place. Life-care facilities offer a complete continuum of senior housing and health-care services.  
[Added 8-13-2002 by L.L. No. 29-2002]

**LOT**

A parcel of land occupied or capable of being occupied by one or more principal buildings and accessory buildings or uses in accordance with the provisions of this chapter, including such open spaces as are required by this chapter, except that a parcel of land located within a single-family, residential district (CR-200, CR-120, CR-80, CR-60, CR-40, R-120, R-80, R-60, R-40, R-20, R-15, and R-10) shall be occupied by only one single-family detached dwelling subject to the conversion of §§ 330-130 and 330-10 and Residence Districts Table of Use Regulations, Subsection A(4).

Editor's Note: The Residence Districts Table of Use Regulations is located at the end of this chapter.

**LOT, AREA OF**

The total horizontal area of a lot exclusive of land in the bed of any street or right-of-way or waterway.

**LOT, CORNER**

A lot at the junction of and fronting on two or more intersecting streets having an interior angle of less than 135° at their intersection. A lot abutting upon a curved street shall also be considered a corner lot if the tangents to the curve at the points of intersection of the side lot lines intersect at an interior angle of less than 135°.

**LOT, COVERAGE**

The portion of the lot area covered by the area of a building or buildings.

**LOT DEPTH**

The length of the shortest line which can be drawn from the front lot line to the rear lot line which crosses the portion of the lot on which a building can be located.  
[Added 12-9-1988 by L.L. No. 20-1988]

**LOT, FLAGPOLE**

A lot having road frontage less than the required 40 feet at the street line, and where access is provided by means of a narrow strip of land running from the street to the bulk of the lot.  
[Added 2-11-2003 by L.L. No. 7-2003; amended 5-27-2003 by L.L. No. 44-2003]

**LOT, INTERIOR**

A lot other than a corner lot.

**LOT LINE, FRONT**

- The street right-of-way line at the front of a lot, except that:
- In the case of a flagpole lot, the front lot line used for the determination of width of lot and the required front yard shall be one of the internal lot lines designated by the owner.
  - In the case of a waterfront lot, with the exception of an oceanfront lot:

[Amended 7-10-1990 by L.L. No. 19-1990]

(1) A waterfront lot line shall be considered the front lot line. The line opposite the front lot line shall be considered the rear lot line.

(2) When a lot is formed by a waterfront lot line and a street right-of-way line intersecting, as in this section, such lot shall be considered a corner lot.

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# New York Supreme Court

APPELLATE DIVISION-SECOND DEPARTMENT

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**In the Matter of the Application of  
EDWIN FISHEL TUCCIO and PATRICIA TUCCIO,**  
*Petitioners-Appellants,*

*App. Div. No.*  
2008-01589

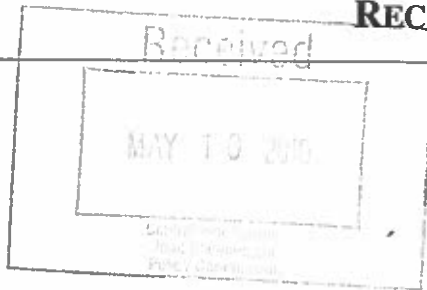
**For a Judgment Pursuant to Article 78 of the  
Civil Practice Law and Rules,**

*-against-*

**CENTRAL PINE BARRENS JOINT PLANNING and POLICY  
COMMISSION and PINE BARRENS CREDIT CLEARINGHOUSE,**  
*Respondents-Respondents.*

---

**RECORD ON APPEAL**



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*Suffolk County Clerk's Index No. 21497/07*

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STATEMENT PURSUANT TO CPLR §5531

SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION SECOND DEPARTMENT

-----x  
In the Matter of the Application of  
Edwin Fishel Tuccio and Patricia Tuccio,  
Petitioners-Appellants,

App Div No.  
2008-01589

For a Judgment Pursuant to Article 78 of the  
Civil Practice Law and Rules,

-against-

Central Pine Barrens Joint Planning and Policy Commission  
and Pine Barrens Credit Clearinghouse,  
Respondents-Respondents.

- x
- 1] The index number in the Court below is 21497/07.
  - 2] The full names of the original parties are as above.  
There has been no change.
  - 3] This proceeding was commenced in the Supreme Court, Suffolk  
County.
  - 4] The proceeding was commenced by the filing of a Notice of Petition  
and Petition on or about July 19, 2007. Issue was joined by service of  
Respondents' answer on or about October 3, 2007.
  - 5] The nature and object of the proceeding is to reverse, vacate, annul,  
and void the determination of respondents which denied an  
application for an allocation of Pine Barrens Credits for property  
located in Westhampton.
  - 6] The appeal is from an Order entered in the office of the County Clerk  
of Suffolk County, dated January 16, 2008 as corrected by the same  
Court dated January 25, 2008 (Emily Pines, J.).
  - 7] This appeal is on a full reproduced record.

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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SUFFOLK

-----X  
In the Matter of the Application  
EDWIN FISHEL TUCCIO and PATRICIA TUCCIO,

Petitioners-Appellants,

**NOTICE OF  
APPEAL**

For a Judgment Pursuant to Article 78 of the  
Civil Practice Law and Rules

Index Number  
21497/2007

-against-

**FILED**

CENTRAL PINE BARRENS JOINT PLANNING AND  
POLICY COMMISSION,

FEB 19 2008

Respondents-Respondents.  
-----X


Judith A. Priscato  
CLERK OF SUFFOLK COUNTY

S I R S:

PLEASE TAKE NOTICE, that the plaintiffs hereby appeal to  
the Appellate Division of the Supreme Court of the State of New York,  
Second Department, from the Order of Justice EMILY PINES dated January  
16, 2008 and entered in the office of the Clerk of the County of Suffolk on  
the 16<sup>th</sup> day of January, 2008 which denied petitioners' Article 78  
Proceeding

Dated: February 14, 2008

Yours, etc.

  
MURRAY B SCHNEPS ESQ  
Attorney for Petitioner

SHORT FORM ORDER

INDEX No. 21497-2007

SUPREME COURT - STATE OF NEW YORK  
L.A.S. PART 23 - SUFFOLK COUNTY

**P R E S E N T :**

Hon. EMILY PINES  
Justice of the Supreme Court

MOTION DATE 8-10-07  
ADJ. DATE 10-11-07  
Mot. Seq. # 001 - MD; CASEDISP

-----X	
In the Matter of the Application of	:
EDWIN FISHEL TUCCIO and PATRICIA	:
TUCCIO,	:
Petitioners,	:
For a Judgment Pursuant to Article 78 of the	:
Civil Practice Law and Rules	:
- against -	:
CENTRAL PINE BARRENS JOINT PLANNING	:
AND POLICY COMMISSION and PINE	:
BARRENS CREDIT CLEARINGHOUSE,	:
Respondents.	:
-----X	

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**ORDERED**, that this Petition pursuant to CPLR Article 78 seeking an Order reversing, vacating, annulling and voiding the determination of the respondents, Central Pine Barrens Joint Planning and Policy Commission and Pine Barrens Credit Clearinghouse is denied in its entirety.

Petitioners, Edwin Fishel Tuccio and Patricia Tuccio ("petitioners") commenced this proceeding pursuant to CPLR Article 78 by filing a Notice of Petition and Petition on July 19, 2007. Petitioners seek an Order reversing, vacating, annulling and voiding the determination of respondents which denied their application for an allocation of Pine Barrens Credits for property located in Westhampton, Town of Southampton, Suffolk County New York. The property consists of 52.299 acres and is designated on the Suffolk County Tax Map as district 0900, section 248, block 1, lot 110.004 (hereinafter, the "subject premises"). The subject premises is located in the Core Preservation Area of the Central Pine Barrens.

In or about December, 2006, petitioners applied to the respondent, Pine Barrens Credit Clearinghouse (the "Clearinghouse") for a Letter of Interpretation for the Property for the allocation of Pine Barrens Credits for the subject premises. By letter dated January 3, 2007, the Clearinghouse denied petitioners' request and advised that no Pine Barrens Credits could be allocated for the subject premises. The Clearinghouse did advise, however, that it would reconsider this determination if

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petitioners removed the out buildings and revegetated the subject premises. Petitioners declined this offer and appealed the Clearinghouse denial to respondent Central Pine Barrens Joint Planning and Policy Commission (the "Commission") and a hearing was held on April 18, 2007 before the Commission. By resolution dated June 20, 2007, the Commission unanimously voted to deny the appeal. In the resolution denying the appeal, the Commission made the following findings:

1. Six of the buildings on the Property were developed pursuant to Commission Core Preservation Area Hardship Exemption;
2. The 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;
3. In light of the number of buildings constructed on the Property pursuant to hardship exemptions and continuing use of the facility, value has been maintained in the Property;
4. The determination to deny allocation of Pine Barrens Credits is based on the extent of the improvement of the Property; and
5. The implementation of the Long Island Pine Barrens Protection Act of 1993 has not prevented reasonable use of the Property.

With regard to the development of the property, the following facts, as set forth in the Memorandum of Law in opposition to the Petition, appear uncontroverted. In the 1980's, petitioners inherited approximately 403.5 acres of property, including the subject premises, in the Core Preservation Area. The Nature Conservancy purchased 275 acres of this parcel from petitioner in 1986 for \$2.75 million dollars and petitioners retained approximately 125 acres. Thereafter, approximately 75 acres of the remaining 125 acres was the subject of a bar claim action, resolved by the placement of a conservation easement on 50 of the disputed 75 acres. In January of 2005, the Commission issued 50 Pine Barrens Credits to various title-holders, including 27 Pine Barrens Credits to petitioners. Petitioners subsequently sold their 27 Pine Barrens Credits for approximately \$1.6 million dollars. The remaining 52.3 acres is the subject of this Article 78 proceeding.

Petitioners argue that the determination of the Commission denying the appeal of the Clearinghouse denial of allocation of Pine Barren Credits to the remaining 52.3 acre parcel was arbitrary and capricious and unsupported by substantial evidence. Petitioners further argue that respondents' determination denied petitioners rights under the Constitution, Amendments V and XIV, in that it deprived them of property without due process and just compensation. Petitioners also argue that the determination of respondents' was untimely in that it was rendered more than sixty (60) days after the public hearing on April 18, 2007. Petitioners take issue with respondents' findings which relied on the Central Pine Barrens Comprehensive Land Use Plan (the "Plan") §5.1, in that the value of the property has been maintained. Petitioners argue that their intent is to maintain the undisturbed portion of the property, to wit, 50.42 acres of the 52.299 acre parcel, and the hardship exemptions previously granted



Tuccio v Central Pine Barrens Joint Planning  
Index No. 21497-2007  
Page No. 3

are not dispositive of the relief sought herein. Petitioners assert they are in full compliance with the Pine Barrens Act and that they simply seek to receive Pine Barrens Credits for the portion of the subject premises they will maintain without future development.

Respondents submit a Verified Answer with Certified Return of Record and a Memorandum of Law in opposition to the Petition. Respondents set forth a detailed history of the adoption of the Long Island Pine Barrens Protection Act and the Comprehensive Land Use Plan. Respondents also detail the history of the subject premises and the hardship exemptions previously granted. Specifically, as set forth above, in 1994, the Commission granted petitioners an "extraordinary hardship exemption" to enable petitioners to add two buildings to the existing storage facility on the subject premises. Again, in 1997, the Commission granted a second "extraordinary hardship exemption", allowing petitioners to construct four additional buildings, driveways and parking areas on the subject premises. As a result of this second hardship exemption, a total of 15 buildings are now present and used on the subject premises.

Respondents argue that the subject premises is not entitled to Pine Barrens Credit allocation because the value of the property has been maintained. Respondents assert that the provisions of the Plan which limit the allocation of Pine Barrens Credits on partially improved property and restrict allocation for any property on which the development rights have previously been fully used, justify the denial in the case *sub judice*. Respondents refer to the prior hardship applications granted to petitioners, demonstrating that petitioners elected to expand the income generating potential of the property by increasing the number of buildings on the site. Such election, respondents argue, like petitioners' rejection of the offer to remove the outbuildings and revegetate, demonstrates petitioners' "gainful utilization of the property". Moreover, respondents argue that the overall value of the subject premises has been maintained by virtue of the combination of acquisitions, hardship exemptions and prior Pine Barrens Credits allocated.

With regard to petitioners' claim that the denial of the allocation of Pine Barrens Credits amounts to an unconstitutional taking, respondents argue that this Court lacks subject matter jurisdiction because a "takings" claim cannot be raised in an Article 78 proceeding. Additionally, respondents assert that petitioners have failed to properly plead such claim in that they have not identified any adverse impact resulting from the Commission's resolution.

Finally, respondents argue that petitioners are not entitled to mandamus relief to compel the issuance of Pine Barrens Credits. Respondents argue that petitioners cannot establish entitlement to mandamus because the decision to allocate Pine Barrens Credits, and how many such Credits, rests in the discretion of the Commission and is not a ministerial act.

In reply, petitioners argue that the prior grant of a hardship exemption does not mandate denial of the current application and that the Commission cannot base its determination on the fact that petitioners received Pine Barrens Credits on their other property. Rather, petitioners assert that the prior issuance of a hardship exemption and a proportional allocation of Pine Barrens Credits is a remedy available. Petitioners argue that the failure to allocate Pine Barrens Credits amounts to an impermissible taking and that they are entitled to receive 50.419 Credits based on the amount of undeveloped property. Therefore, petitioners assert that the Petition should be granted in all respects and respondents be

Tuccio v Central Pine Barrens Joint Planning  
 Index No. 21497-2007  
 Page No. 4

compelled to allocate the requested Pine Barrens Credits.

The law is well settled that judicial review of administrative agency determinations is limited to whether the action taken by the agency was "illegal, arbitrary and capricious, or an abuse of discretion." *Gjerlow v. Graap*, 43 A.D.3d 1165, 842 N.Y.S.2d 580 (2d Dept. 2007); *citing, Sasso v. Osgood*, 86 N.Y.2d 374, 633 N.Y.S.2d 259, 657 N.E.2d 254. Arbitrary action "is without sound basis in reason and is generally taken without regard to the facts." *Matter of Pell v. Board of Education*, 34 N.Y.2d 222, 356 N.Y.S.2d 833, 313 N.E.2d 321. In applying the arbitrary and capricious standard, the Court looks to whether the determination at issue had a rational basis. *Halperin v. City of New Rochelle*, 24 A.D.3d 768, 809 N.Y.S.2d 98 (2d Dept. 2005). *See also, Rendely v. Town of Huntington*, 44 A.D.3d 864, 843 N.Y.S.2d 668 (2d Dept. 2007). In a proceeding seeking judicial review of an administrative action, "the Court may not substitute its judgment for that of the agency responsible for making the determination." *Ball v. New York State Department of Environmental Conservation*, 35 A.D.3d 732, 826 N.Y.S.2d 698 (2d Dept. 2006).

Chapter 6 of the Central Pine Barrens Comprehensive Land Use Plan sets forth the rules and regulations of the Pine Barrens Credit Program. Section 6.1 states that the primary purpose of the Pine Barrens Credit Program is "to maintain value in lands designated for preservation or protection under the Plan for providing for the allocation and use of Pine Barrens Credits (PBCs). The Pine Barrens Credit Program will also promote development which is compact, efficient and orderly, and which is designed to protect the quality and quantity of surface water and groundwater and the long term integrity of the pine barrens ecosystem." Section 6.3.3.4 sets forth limits on the allocation of Pine Barrens Credits for partially developed properties. That section provides that "partially improved parcels shall receive a decreased allocation based upon the extent of improvement. Furthermore, there shall be a proportional decrease in allocation based upon the receipt of all discretionary permits for improvement of a parcel."

Respondents rely on *Toussie v. Central Pine Barrens Commission*, 182 Misc.2d 582, 700 N.Y.S.2d 358 (Sup. Ct. Suffolk Co. 1999), in support of their position. In that case, petitioner challenged the Pine Barrens Credit allocation formulas contained in Section 6 of the Central Pine Barrens Comprehensive Land Use Plan as arbitrary, unreasonable and unconstitutional and violative of the Environmental Conservation Law. There, petitioner owned eight single and separate parcels ranging from less than 4,000 square feet to 13,000 square feet in size, in a residential zoning district requiring 20,000 square feet. Petitioner was awarded a total of 1.1 Pine Barrens Credit for all of the parcels and argued that he should have received one full credit for each parcel because they were single and separate. The Court disagreed, finding that if petitioner accepted the Pine Barrens Credits allocated he would have realized a \$9,000 profit on his investment, that the parcels were located more than 1,000 feet from any roads, and that the single and separate ownership did not mandate allocation of one credit per parcel. The Court held that petitioner was compensated for his development rights and thus could not demonstrate an unconstitutional taking. Moreover, the Court reiterated that the process of transferring development rights pursuant to the Plan had withstood constitutional challenge. *Citing, W.J.F. Realty Corp. v. State of New York*, 172 Misc.2d 763. Finally, the Court noted that "In any event, landowners who are dissatisfied with the Pine Barrens Credit Program need not participate in the program. They may seek to develop their own property by permit, or, in limited situations, not available here, as of right."

Tuccio v Central Pine Barrens Joint Planning  
Indcx No. 21497-2007  
Page No. 5

In the case *sub judice*, petitioners have not demonstrated that the determination by the respondent Commission was arbitrary and capricious or an abuse of discretion. The Court agrees with respondents that the determination comports with the intent of the Central Pine Barrens Comprehensive Land Use Plan in that the subject premises has clearly maintained its value. Respondents have developed the property as a commercial storage facility and previously obtained two hardship exemptions to expand the facility so that it now currently contains fifteen (15) buildings and driveways and roadways appurtenant thereto. The subject premises, having originally been part of a larger parcel, has yielded value to petitioners in terms of prior allocation of Pine Barrens Credits and the resultant sale thereof. Petitioners have elected to develop the subject premises resulting in the maintenance of its value. Additionally, although the Clearinghouse agreed to reconsider petitioners' application if they agreed to remove certain out buildings located on the property, respondents declined. These factors demonstrate a rational basis for respondents' determination denying the allocation of Pine Barrens Credits.

Petitioners' claim that the denial of the allocation of Pine Barrens Credits amounts to an unconstitutional taking of their property without just compensation is also without merit. Petitioners have not demonstrated any adverse economic impact resulting from the Commission's determination or that the denial has interfered with reasonable investment-backed expectations. *See, Gazza v. State Dept of Environmental Conservation*, 89 N.Y.2d 603, 657 N.Y.S.2d 555, 679 N.E.2d 1035 (1999), *citing, Lucas v. South Carolina Coastal Commission*, 505 U.S. 1003, 112 S.Ct. 2886, 120 L.Ed.2d 798 (1997).

The Court has considered petitioners' remaining contentions and find them without merit.

Based upon the foregoing, the Petition is denied in its entirety.

The foregoing constitutes the Decision and Order of the Court.

Dated: 1/16/08

Emily Pines  
J.S.C.

Corrected Decision Appealed from dated  
January 25, 2008 of Honorable Emily Pines (7-11)

7

SHORT FORM ORDER

INDEX No. 21497-2007

SUPREME COURT - STATE OF NEW YORK  
L.A.S. PART 23 - SUFFOLK COUNTY

**PRESENT:**

Hon. EMILY PINES  
Justice of the Supreme Court

MOTION DATE 8-10-07  
ADJ. DATE 10-11-07  
Mot. Seq. #001 - MD, CASEDISP

In the Matter of the Application of  
EDWIN FISHEL TUCCIO and PATRICIA  
TUCCIO,  
Petitioners,

MURRAY B. SCHNEPS, ESQ.  
Attorney for Petitioners  
445 Griffing Avenue  
P.O. Box 926  
Riverhead, New York 11901

For a Judgment Pursuant to Article 78 of the  
Civil Practice Law and Rules

ANDREW M. CUOMO, ESQ.  
Attorney General of the State of New York  
Attorney for Respondents  
120 Broadway, 26<sup>th</sup> Floor  
New York, New York 10021

- against -

CENTRAL PINE BARRENS JOINT PLANNING  
AND POLICY COMMISSION and PINE  
BARRENS CREDIT CLEARINGHOUSE,

Respondents.

**CORRECTED DECISION**

**ORDERED**, that this Petition pursuant to CPLR Article 78 seeking an Order reversing, vacating, annulling and voiding the determination of the respondents, Central Pine Barrens Joint Planning and Policy Commission and Pine Barrens Credit Clearinghouse is denied in its entirety.

Petitioners, Edwin Fishel Tuccio and Patricia Tuccio ("petitioners") commenced this proceeding pursuant to CPLR Article 78 by filing a Notice of Petition and Petition on July 19, 2007. Petitioners seek an Order reversing, vacating, annulling and voiding the determination of respondents which denied their application for an allocation of Pine Barrens Credits for property located in Westhampton, Town of Southampton, Suffolk County New York. The property consists of 52.299 acres and is designated on the Suffolk County Tax Map as district 0900, section 248, block 1, lot 110.004 (hereinafter, the "subject premises"). The subject premises is located in the Core Preservation Area of the Central Pine Barrens.

In or about December, 2006, petitioners applied to the respondent, Pine Barrens Credit Clearinghouse (the "Clearinghouse") for a Letter of Interpretation for the Property for the allocation of Pine Barrens Credits for the subject premises. By letter dated January 3, 2007, the Clearinghouse denied petitioners' request and advised that no Pine Barrens Credits could be allocated for the subject premises.

Tuccio v Central Pine Barrens Joint Planning  
 Index No: 21497-2007  
 Page No. 2

The Clearinghouse did advise, however, that it would reconsider this determination if

petitioners removed the out buildings and revegetated the subject premises. Petitioners declined this offer and appealed the Clearinghouse denial to respondent Central Pine Barrens Joint Planning and Policy Commission (the "Commission") and a hearing was held on April 18, 2007 before the Commission. By resolution dated June 20, 2007, the Commission unanimously voted to deny the appeal. In the resolution denying the appeal, the Commission made the following findings:

1. Six of the buildings on the Property were developed pursuant to Commission Core Preservation Area Hardship Exemption;
2. The 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;
3. In light of the number of buildings constructed on the Property pursuant to hardship exemptions and continuing use of the facility, value has been maintained in the Property;
4. The determination to deny allocation of Pine Barrens Credits is based on the extent of the improvement of the Property; and
5. The implementation of the Long Island Pine Barrens Protection Act of 1993 has not prevented reasonable use of the Property.

With regard to the development of the property, the following facts, as set forth in the Memorandum of Law in opposition to the Petition, appear uncontroverted. In the 1980's, petitioners inherited approximately 403.5 acres of property, including the subject premises, in the Core Preservation Area. The Nature Conservancy purchased 275 acres of this parcel from petitioner in 1986 for \$2.75 million dollars and petitioners retained approximately 125 acres. Thereafter, approximately 75 acres of the remaining 125 acres was the subject of a tax claim action, resolved by the placement of a conservation easement on 50 of the disputed 75 acres. In January of 2005, the Commission issued 50 Pine Barrens Credits to various title holders, including 27 Pine Barrens Credits to petitioners. Petitioners subsequently sold their 27 Pine Barrens Credits for approximately \$1.6 million dollars. The remaining 52.3 acres is the subject of this Article 78 proceeding.

Petitioners argue that the determination of the Commission denying the appeal of the Clearinghouse denial of allocation of Pine Barrens Credits to the remaining 52.3 acre parcel was arbitrary and capricious and unsupported by substantial evidence. Petitioners further argue that respondents' determination denied petitioners rights under the Constitution, Amendments V and XIV, in that it deprived them of property without due process and just compensation. Petitioners also argue that the determination of respondents' was untimely in that it was rendered more than sixty (60) days after the public hearing on April 18, 2007. Petitioners take issue with respondents' findings which relied on the

Tuccio v Central Pine Barrens Joint Planning  
 Index No. 21497-2007  
 Page No. 3

Central Pine Barrens Comprehensive Land Use Plan (the "Plan") §6.1, in that the value of the property has been maintained. Petitioners argue that their intent is to maintain the undisturbed portion of the property, to wit, 50.42 acres of the 52.299 acre parcel, and the hardship exemptions previously granted are not dispositive of the relief sought herein. Petitioners assert they are in full compliance with the Pine Barrens Act and that they simply seek to receive Pine Barrens Credits for the portion of the subject premises they will maintain without future development.

Respondents submit a Verified Answer with Certified Return of Record and a Memorandum of Law in opposition to the Petition. Respondents set forth a detailed history of the adoption of the Long Island Pine Barrens Protection Act and the Comprehensive Land Use Plan. Respondents also detail the history of the subject premises and the hardship exemptions previously granted. Specifically, as set forth above, in 1994, the Commission granted petitioners an "extraordinary hardship exemption" to enable petitioners to add two buildings to the existing storage facility on the subject premises. Again, in 1997, the Commission granted a second "extraordinary hardship exemption", allowing petitioners to construct four additional buildings, driveways and parking areas on the subject premises. As a result of this second hardship exemption, a total of 15 buildings are now present and used on the subject premises.

Respondents argue that the subject premises is not entitled to Pine Barrens Credit allocation because the value of the property has been maintained. Respondents assert that the provisions of the Plan which limit the allocation of Pine Barrens Credits on partially improved property and restrict allocation for any property on which the development rights have previously been fully used, justify the denial in the case *sub judice*. Respondents refer to the prior hardship applications granted to petitioners, demonstrating that petitioners elected to expand the income generating potential of the property by increasing the number of buildings on the site. Such election, respondents argue, like petitioners' rejection of the offer to remove the outbuildings and revegetate, demonstrates petitioners' gainful utilization of the property. Moreover, respondents argue that the overall value of the subject premises has been maintained by virtue of the combination of acquisitions, hardship exemptions and prior Pine Barrens Credits allocated.

With regard to petitioners' claim that the denial of the allocation of Pine Barrens Credits amounts to an unconstitutional taking, respondents argue that this Court lacks subject matter jurisdiction because a "takings" claim cannot be raised in an Article 78 proceeding. Additionally, respondents assert that petitioners have failed to properly plead such claim in that they have not identified any adverse impact resulting from the Commission's resolution.

Finally, respondents argue that petitioners are not entitled to mandamus relief to compel the issuance of Pine Barrens Credits. Respondents argue that petitioners cannot establish entitlement to mandamus because the decision to allocate Pine Barrens Credits, and how many such Credits, rests in the discretion of the Commission and is not a ministerial act.

In reply, petitioners argue that the prior grant of a hardship exemption does not mandate denial of the current application and that the Commission cannot base its determination on the fact that petitioners received Pine Barrens Credits on their other property. Rather, petitioners assert that the prior issuance of a hardship exemption and a proportional allocation of Pine Barrens Credits is a remedy available.

Tuccio v Central Pine Barrens Joint Planning  
 Index No. 21497-2007  
 Page No. 4

Petitioners argue that the failure to allocate Pine Barrens Credits amounts to an impermissible taking and that they are entitled to receive 50,419 Credits based on the amount of undeveloped property. Therefore, petitioners assert that the Petition should be granted in all respects and respondents be compelled to allocate the requested Pine Barrens Credits.

The law is well settled that judicial review of administrative agency determinations is limited to whether the action taken by the agency was "illegal, arbitrary and capricious, or an abuse of discretion." *Gjerlow v. Graap*, 43 A.D.3d 1165, 842 N.Y.S.2d 580 (2d Dept. 2007); citing, *Sasso v. Osgood*, 86 N.Y.2d 374, 633 N.Y.S.2d 259, 657 N.E.2d 254. Arbitrary action "is without sound basis in reason and is generally taken without regard to the facts." *Matter of Pell v. Board of Education*, 34 N.Y.2d 222, 356 N.Y.S.2d 833, 313 N.E.2d 321. In applying the arbitrary and capricious standard, the Court looks to whether the determination of issue had a rational basis. *Halperin v. City of New Rochelle*, 24 A.D.3d 763, 809 N.Y.S.2d 98 (2d Dept. 2005). See also, *Rendely v. Town of Huntington*, 44 A.D.3d 864, 843 N.Y.S.2d 668 (2d Dept. 2007). In a proceeding seeking judicial review of an administrative action, "the Court may not substitute its judgment for that of the agency responsible for making the determination." *Ball v. New York State Department of Environmental Conservation*, 35 A.D.3d 732, 826 N.Y.S.2d 698 (2d Dept. 2006).

Chapter 6 of the Central Pine Barrens Comprehensive Land Use Plan sets forth the rules and regulations of the Pine Barrens Credit Program. Section 6.1 states that the primary purpose of the Pine Barrens Credit Program is "to maintain value in lands designated for preservation or protection under the Plan for providing for the allocation and use of Pine Barrens Credits (PBCs). The Pine Barrens Credit Program will also promote development which is compact, efficient and orderly, and which is designed to protect the quality and quantity of surface water and groundwater and the long-term integrity of the pine barrens ecosystem." Section 6.3.3.4 sets forth limits on the allocation of Pine Barrens Credits for partially developed properties. That section provides that "partially improved parcels shall receive a decreased allocation based upon the extent of improvement. Furthermore, there shall be a proportional decrease in allocation based upon the receipt of all discretionary permits for improvement of a parcel."

Respondents rely on *Toussie v. Central Pine Barrens Commission*, 182 Misc.2d 582, 700 N.Y.S.2d 358 (Sup. Ct. Suffolk Co. 1999), in support of their position. In that case, petitioner challenged the Pine Barrens Credit allocation formulas contained in Section 6 of the Central Pine Barrens Comprehensive Land Use Plan as arbitrary, unreasonable and unconstitutional and violative of the Environmental Conservation Law. There, petitioner owned eight single and separate parcels ranging from less than 4,000 square feet to 13,000 square feet in size, in a residential zoning district requiring 20,000 square feet. Petitioner was awarded a total of 1.1 Pine Barrens Credit for all of the parcels and argued that he should have received one full credit for each parcel because they were single and separate. The Court disagreed, finding that if petitioner accepted the Pine Barrens Credits allocated he would have realized a \$9,000 profit on his investment, that the parcels were located more than 1,000 feet from any roads, and that the single and separate ownership did not mandate allocation of one credit per parcel. The Court held that petitioner was compensated for his development rights and thus could not demonstrate an unconstitutional taking. Moreover, the Court reiterated that the process of transferring development rights pursuant to the Plan had withstood constitutional challenge. Citing, *W.J.F. Realty Corp. v. State of New York*, 172 Misc.2d 763. Finally, the Court noted that "In any event, landowners

Tuccio v Central Pine Barrens Joint Planning  
 Index No. 21497-2007  
 Page No. 5

who are dissatisfied with the Pine Barrens Credit Program need not participate in the program. They may seek to develop their own property by permit, or, in limited situations, not available here, as of right."

In the case *sub judice*, petitioners have not demonstrated that the determination by the respondent Commission was arbitrary and capricious or an abuse of discretion. The Court agrees with respondents that the determination comports with the intent of the Central Pine Barrens Comprehensive Land Use Plan in that the subject premises has clearly maintained its value. Respondents have developed the property as a commercial storage facility and previously obtained two hardship exemptions to expand the facility so that it now currently contains fifteen (15) buildings and driveways and roadways appurtenant thereto. The subject premises, having originally been part of a larger parcel, has yielded value to petitioners in terms of prior allocation of Pine Barrens Credits and the resultant sale thereof. Petitioners have elected to develop the subject premises resulting in the maintenance of its value. Additionally, although the Clearinghouse agreed to reconsider petitioners' application if they agreed to remove certain out buildings located on the property, petitioners declined. These factors demonstrate a rational basis for respondents' determination denying the allocation of Pine Barrens Credits.

Petitioners' claim that the denial of the allocation of Pine Barrens Credits amounts to an unconstitutional taking of their property without just compensation is also without merit. Petitioners have not demonstrated any adverse economic impact resulting from the Commission's determination or that the denial has interfered with reasonable investment-backed expectations. See, *Garcia v. State Dept. of Environmental Conservation*, 89 N.Y.2d 603, 657 N.Y.S.2d 555, 679 N.E.2d 1035 (1999), citing, *Lucas v. South Carolina Coastal Commission*, 505 U.S. 1003, 112 S.Ct. 2886, 120 L.Ed.2d 798 (1997).

The Court has considered petitioners' remaining contentions and find them without merit.

Based upon the foregoing, the Petition is denied in its entirety.

The foregoing constitutes the Decision and Order of the Court.

Dated: January 25, 2008

  
 Hon. Emily Pines

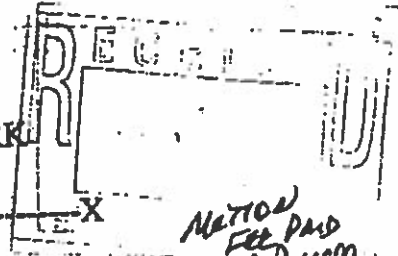


Notice of Petition dated July 19, 2007 to Reverse, Vacate, Annul, and Void the Determination of Respondents (12-13)

2007-07-23 18:40

PINE BARRENS 6312247653 >>

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SUFFOLK



In the Matter of the Application of  
EDWIN FISHEL TUCCIO and PATRICIA TUCCIO,

*NOTICE*  
*Fee Paid*  
*Judith A. Pascale*  
*Suffolk County Clerk*  
*JUL 19 2007*

Petitioners,  
For a Judgment Pursuant to Article 78 of the  
Civil Practice Law and Rules

OF  
PETITION

Index Number  
07-21497

-against-

CENTRAL PINE BARRENS JOINT PLANNING AND  
POLICY COMMISSION and PINE BARRENS CREDIT  
CLEARINGHOUSE,

*Filed*  
*JUL 19 2007*  
*Judith A. Pascale*  
*CLERK OF SUFFOLK COUNTY*

Respondents.

PLEASE TAKE NOTICE that upon the annexed Petition of EDWIN FISHEL TUCCIO, verified on the 19<sup>th</sup> day of July, 2007, together with all of the papers and proceedings heretofore had herein, the undersigned will move at an IAS Part of this Court, to be held at the Courthouse located at Court Street, Riverhead, New York, on the 10th day of August, 2007, at 9:30 a.m. or as soon as thereafter as counsel can be heard, for an Order and Judgment pursuant to Article 78 of the CPLR, reversing, vacating, annulling and voiding the determination of the Respondents, resolving that Petitioners' appeal is denied and that no Pine Barrens Credits shall be allocated to the Petitioners, real property, on the ground of errors of law and fact, was an abuse of discretion, is unsupported by substantial evidence and is arbitrary and capricious,

007-07-23 18:40

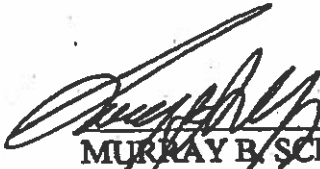
PINE BARRENS 6312247653 &gt;&gt;

P 4/38

and determining that Petitioners' are entitled and shall be issued 50.42 Pine Barrens Credits, and for such other and further relief as may be just, proper and equitable.

Please take further notice that an Answer and supporting affidavits, if any, as well as all documents admitted into evidence at the hearing, must be served at least five (5) days before the aforesaid date of the return date, whereupon reply papers shall be served one (1) day prior to the return date.

Dated: July 19, 2007



---

MURRAY B. SCHNEPS  
Attorney for Petitioners  
446 Griffing Avenue - P.O. Box 926  
Riverhead, New York 11901  
(631) 722-5100

Verified Petition to Reverse, Vacate, Annul,  
and Void the Determination of Respondents (14-29)

007-07-23 18:40

PINE BARRENS 6312247653>>

P5/38

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SUFFOLK

-----X  
In the Matter of the Application of  
EDWIN FISHEL TUCCIO and PATRICIA TUCCIO,

**VERIFIED  
PETITION**

Petitioners,

For a Judgment Pursuant to Article 78 of the  
Civil Practice Law and Rules

Index Number

-against-

CENTRAL PINE BARRENS JOINT PLANNING AND  
POLICY COMMISSION and PINE BARRENS CREDIT  
CLEARINGHOUSE,

Respondents.

-----X  
TO THE SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SUFFOLK

Petitioners, EDWIN FISHEL TUCCIO and PATRICIA TUCCIO, for their  
verified petition, respectfully allege:

1. This proceeding is instituted pursuant to Article 78 of the Civil Practice  
Law and Rules to annul and reverse the determination of the Respondents denying  
Petitioner's request for 50.42 Pine Barrens Credits.

2. Petitioners, EDWIN FISHEL TUCCIO and PATRICIA TUCCIO, are  
owners and holders of title to 52.299 acres of real property, known as the Suffolk  
County Tax Map number 900-248-1-110.004, located in Westhampton, Town of

Southampton, County of Suffolk, State of New York, located within the Pine Barrens.

3. Petitioners seek a judgment pursuant to Article 78 of the CPLR annulling and reversing the determination of the CENTRAL PINE BARRENS JOINT PLANNING AND POLICY COMMISSION, on the grounds of its errors of law and fact, its abuse of discretion, its being unsupported by substantial evidence and its being arbitrary and capricious, and a determination that Petitioners' are entitled to and shall be issued 50.42 Pine Barrens Credits, and for such other and further relief as may be just, proper and equitable.

4. Petitioners further urge that pursuant to §§ 6.7.3, 6.7.3.3 and 6.7.3.4 of the Central Pine Barrens Comprehensive Land Use Plan, Respondents' Resolution issued on June 20, 2007, and served on June 22, 2007, was untimely. As an outside date, the hearing held and completed on April 18, 2007, mandated that the Commission decide the appeal within sixty (60) therefrom. However, the resolution was made on June 22, 2007, sixty-two (62) days thereafter and is therefore untimely

5. Petitioners additionally urge that Respondents' determination wrongfully and improperly denied Petitioners' rights pursuant to the United States Constitutional [Amendment V and XIV] which provides that no citizen shall " be deprived of life, liberty or property, without due process of law; nor shall private

property be taken for public use, without just compensation” and “nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within the jurisdiction the equal protection of the laws” and the New York State Constitution [Article 1, § 6 and § 7(a)] which provides that “no person shall be deprived of life, liberty or property without due process of law” and [p]rivate property shall not be taken for public use without just compensation.”

6. On January 3, 2007, Respondents rendered their determination to Petitioners' Letter of Interpretation Application seeking Pine Barrens Credits for their real property, which denied Petitioners' request for Pine Barrens Credits on the grounds that

- a) the parcel is devoted to a commercial enterprise;
- b) the parcel had been previously granted hardship exemptions; and
- c) the site is near the Southampton Town's development limits

contained in the Town's Code.

7. Annexed hereto and marked “Exhibit A” is a copy of Respondents' denial of Petitioners' request for Pine Barrens Credits dated January 3, 2007.

8. On January 11, 2007, Respondents timely served and filed their appeal from the determination dated January 3, 2007, a copy of which is annexed hereto

and marked "Exhibit B."

9. Subject to adjustments by the parties extending Respondents' time and opportunity to prepare, Petitioners' appeal was presented to the Respondents on April, 18, 2007.

10. Respondents' denial relied upon Section 6.1 of the Central Pine Barrens Comprehensive Land Use Plan which states that it is a primary purpose of the Pine Barrens Credit Program, "to maintain value in lands designated for the preservation or protection under the Plan by providing for the allocation of use of the Pine Barrens Credits (PBCs)".

11. However, the Petitioners have not violated nor do they seek to violate the primary purpose of the Central Pine Barrens either in fact or intent. Their intent is to maintain the undisturbed portion of their property (50.42 acres of the 52.299 acre parcel), as undisturbed, the clear mandate of the Plan. Petitioners also argue that the prior "hardship exemptions," the exclusive provision for use within the Pine Barrens are not determinative of the relief sought herein. Respondents are incorrect in their assertion that the parcel is near the development limits contained in the Town Code. Moreover, there is no provision within the Central Pine Barrens Comprehensive Land Use Plan which permits Respondents to refuse to issue at least

a *minimum* Pine Barrens Credits to a parcel (see, section 6.7.6.7).

### **PETITIONERS' ARGUMENT AT APPEAL**

12. Petitioners agreed with Respondents that a primary purpose of the Pine Barrens Credit Program is to protect the area, and Petitioners further noted, the following:

a) Paragraph 6.1 of Chapter 6 of the Pine Barrens Credit Program states that its goal is "to preserve the pine barrens ecology and to ensure the high quality of surface and ground water within the Central Pine Barrens." The Act also states that the Plan shall discourage piecemeal and scattered development, and accommodate development in a manner consistent with the long term integrity of the pine barrens ecosystems.

b) The Goals and Standards for the Compatible Growth Area Within the Suffolk County Pine Barrens Zone, addresses groundwater, wetlands, surface waters, rare and endangered species and unique natural communities, native vegetation disturbance, etc., and refers to creation of a plan for development upon a demonstration of hardship.

c) The Environmental Conservation Law (ECL) Section 57-0121(2)

states that the Central Pine Barrens shall (a) protect, preserve and enhance the functional integrity of the Pine Barrens ecosystems and the significant natural resources, including plant and animal populations and communities, thereof; (b) protect the quality of the surface water and groundwater; (c) discourage piecemeal and scattered development; etc.

13. All of these goals and requirements are met by Petitioners' property. Other than the recent construction and maintenance of the storage facilities, all construction was established by the United States Army many years prior to the establishment of the Pine Barrens Act. Therefore, petitioners assert that the Army construction and related affects were pre-existing and do not relate to the current request.

14. The Petitioners are in full compliance with the Act and its intent, they have not negatively impacted the Pine Barrens ecosystem, nor do they seek to do so in the future.

15. Petitioners disagree that the property is limited by the prior hardship exemptions granted. The exemptions were the only avenue previously available to petitioners.

16. Petitioners do not seek the right to affect the subject real property by



development in any manner, now or in the future, and simply seek to receive Pine Barrens Credits for the real property which they own and Petitioners propose to maintain the subject property without future development.

17. At the time that the Petitioners secured title in or about 1990 (by inheritance from their grandparents), the parcel was an isolated area which was fenced. A portion of the property had already been extensively disturbed, cleared of vegetation and contained buildings. This parcel was not pristine.

18. None of the Petitioners' own construction, or any part of the fenced area, has been an intrusion upon any of the vegetation, habitat for species, animals or aquifers. The construction did not intrude upon or contravene the intent of the law. The development is a dry use and contributes no negative effect upon the aquifer. No unique species or vegetation exists thereon. There is no run-off issue. There is no discharge from the area.

19. Moreover, Petitioners are neither seeking a hardship exemption nor the right to utilize or intrude upon or into the parcel. Petitioners merely seek to optimize their rights to secure Pine Barrens Credits for the undisturbed portion of the parcel.

20. Petitioners disagree with Respondents' statement that the "calculations

indicates that the site is near the Town's development limits as contained in the Town Code."

21. Petitioners established that of the 52.299 acres owned by them, only 1.88 acres are covered with buildings (used as a self-service storage facility), making 50.42 acres available for Pine Barrens Credits, as follows:

a) The Town of Southampton under § 330-37, Industrial Districts of Use Regulations, Part 3 provides that a "Self-service storage facility" is deemed to be, under LI-200, Light Industry and permits such use as a "special exception."

b) The Town of Southampton under § 330-38, Industrial Districts Table of Dimensional Regulations, provides that lot coverage for main and accessory buildings under LI-200 Light Industry, is 20%.

c) The Code of the Town of Southampton, Chapter 330: ZONING, ARTICLE I General Provision, provides the following:

§ 330-4. Word usage.

E. The word "structure" includes the word "building."

§330-5. Definitions.

**BUILDING** - A structure with a roof supported by columns or walls and having a horizontal area of more than 50 square feet

and intended for the shelter, housing or enclosure of persons, animals or chattels.

**BUILDING, AREA OF** - The area computed at the maximum horizontal cross section of the main and accessory buildings on a lot, including the area of all roofed porches, terraces and similar features.

**LOT, COVERAGE** - The portion of the lot area covered by the area of a building or buildings.

**NONCONFORMING BUILDING OR STRUCTURE** - A building or structure lawfully existing at the effective date of this chapter or any amendment thereto affecting such building or structure, which does not conform to the dimensional regulations of this chapter for the district in which it is situated, irrespective of the use to which such a building or structure is put.

**SELF-SERVICE STORAGE FACILITY** - A facility consisting of a building or group of buildings in a controlled-access compound that contains varying sizes of individual compartmentalized and controlled access stalls or lockers for the

dead storage of customer's goods and wares. [Added 3-9-1993  
by L.L. No. 6-1993]

STRUCTURE - Anything constructed or erected on or under the  
ground or upon another structure or building, excluding  
walkways and driveways.

d) It is undisputed that the lot contains 52.299 acres.

e) The original buildings, which were built by the United States Army  
in the 1950s, cover 0.98 acres. This amount is 1.72% of Lot Coverage.

f) The Applicants constructed buildings which cover 0.90 acres. This  
amount is 1.58% of Lot Coverage.

g) It is Petitioners' position that the original buildings, which were pre-  
existing, should not be applied. Accordingly, 18.28% of the lot coverage is  
permissible.

h) Nevertheless, the total construction of all buildings (both pre-  
existing and built by the Petitioners) covers 1.88 acres. This amount is 3.30% of  
Lot Coverage.

i) At minimum, 16.70% of the 52.299 acres or 7.16 acres are available  
for further construction or credits (20% of 52.299 acres = 10.46 acres).

j) Pursuant to the Code of the Town of Southampton, only buildings may be included in determining lot coverage. Neither asphalt roadway nor concrete aprons may be included in determining lot coverage. Further, buildings are defined as structures with roofs supported by columns or walls and lot coverage only applies to buildings.

22. Annexed hereto and marked "Exhibit C" is a Certified Copy of the updated Land Survey of Joseph A. Ingegno dated July 27, 1994, updated April 9, 2007, to add before and after construction lot coverage, (now in the name of the successor in interest surveyor, Nathan Taft Corwin III, Land Surveyor).

23. Petitioners refute Respondents' holding that "The Board did note that it would reconsider this determination if your client was to remove the bunkers (out buildings) and revegetation of the area." Petitioners informed Respondents that due to the existence of a long-term lease agreement they are not at liberty to remove the bunkers.

24. There is precedent for issuance of the Pine Barrens Credits without first making Petitioners go through a subdivision approval, as follows:

a) It is the Petitioners' position that they are entitled to receive 50.419 Pine Barrens Credits. Petitioners are seeking Pine Barrens Credits for the entire lot,

except for the areas covered by buildings.

b) Further, the Petitioners agree to execute a covenant agreeing to bar any further development upon any part of the lot.

c) It is urged that securing subdivision approval is not required. As precedent, Petitioners refer to the Pine Barrens Credits issued in the action of Tuccio v. County of Suffolk, et al., Supreme Court, County of Suffolk, under Index No.: 98-11876, wherein Pine Barrens Credits were issued by Respondents to the Petitioners, as Plaintiffs, and to the Defendants, in that action, designating and establishing Parcels I, Parcels II and Parcels III, for such credits, without the benefit of subdivision approval.

d) Petitioners should not be subjected to the time and expense of a protracted application for subdivision approval.

e) Annexed hereto and marked "Exhibit D" is a certified copy of the survey of Young & Young completed June 21, 2004, relating to the aforesaid lot.

25. The lot owned by the Petitioners is within the Zoning Class designated as Light Industrial 200 District, therefore, Petitioners are entitled to receive 1.0 Pine Barrens Credits per acre.

26. Annexed hereto and marked "Exhibit E" is a copy of the Pine Barrens

Commission's, policy adopted on August 7, 1996, which provides that property within the Light Industrial 200 District shall be allocated 1.00 PBCs per acre.

27. The Respondent, Pine Barrens Credit Clearinghouse, acknowledges and agrees that pursuant to the policy of the Respondents, "parcels zoned Light-200, are eligible for 1.0 pine barrens credits per acre (43,560 sq.ft.)."

28. Annexed hereto and marked "Exhibit F" is a copy of the letter of the Pine Barrens Credit Clearinghouse dated February 20, 2002, relating to property owned by the Petitioners involved in the action referred to in paragraph "16." subdivision "c)" of this Petitioner.

#### **DENIAL AFTER APPEAL**

29. On June 20, 2007, Respondents issued their determination (served by mail on June 22, 2007) that no Pine Barrens Credits be allocated to Petitioners' property.

30. Annexed hereto and marked "Exhibit G" is a copy of the Decision/Resolution of the Respondents, dated June 20, 2007.

31. Respondents offered no support for their assertion that their "calculations indicates that the site is near the Town's development limits as

contained in the Town Code.”

32. Respondents simply assert that Petitioners are not entitled to Pine Barrens Credits due to the fact that hardship exemptions to maintain or erect buildings on the lot were previously sought and secured, and an opinion that Petitioners have earned sufficient money from their real property.

33. Petitioners previously sought the right to maintain pre-existing and long standing buildings constructed by the United States Army and to utilize that portion of their property which had previously been extensively disturbed, cleared of vegetation and contained buildings. This area was not pristine. Further, such construction is a dry use and imparts no negative effect upon the aquifer. No unique species or vegetation exists thereon. There is no run-off issue. There is no discharge from the area.

34. At all times hereinafter mentioned, Respondents fail to deny the truth and accuracy of the foregoing.

**CONCLUSION**

35. Petitioners have not violated and do not seek to violate the primary purposes of the Central Pine Barrens either in fact or intent. Their acts did not



negatively affect any of the interests the Central Pine Barrens seeks to protect and maintain and granting of the Credits sought will have no negative impact.

36. The Petitioners application should not turn on having previously been granted a "hardship exemption." It is urged that this exclusive provision for seeking permission for use, and using the term "hardship exemption" is utilized as an omnibus term, in an all-inclusive manner, without any relationship to the facts. The Petitioners simply utilized the sole mechanism available. Moreover, even with the granting of an exemption or permission, such is not determinative of the instant matter. Respondents are not at liberty to disregard their own formula, which provides for 1.00 Pine Barren Credit per acre.

37. Petitioners' analysis, application and calculations as to the Zoning Code of the Town of Southampton, is correct.

38. Petitioners are entitled to be allocated 50.419 Pine Barrens Credits for the undisturbed portions of their parcel.

WHEREFORE, Petitioners pray for a judgment pursuant to CPLR 7803, as follows:

a) vacating, annulling and voiding the Resolution of the Respondents issued at the meeting of the Commission of June 20, 2007, determining that no Pine

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PINE BARRENS 6312247653&gt;&gt;

P20/38

Barrens Credits be allocated to the Petitioners property;

b) directing that the Respondents allocate for and issue to the Petitioners

50.419 Pine Barrens Credits to the Petitioners' Property;

c) for such other and further relief as to the Court may seem just and proper.



MURRAY B. SCHNEPS

Attorney for Petitioners

445 Griffing Avenue - P. O. Box 926

Riverhead, New York 11901

(631) 722-5100

Exhibit: A. to Verified Petition  
 Respondents' Denial dated January 3, 2007  
 of Petitioners' Request for Pine Barrens Credit (30)

007-07-23 18:45

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James T.B. Tripp, Esq., Chairman  
 Andrew P. Freleng, AICP, Vice Chairman  
 Richard W. Hanley, Member  
 Mitchell H. Pally, Esq., Member  
 Robert Anrig, Member

Staff Ex 6  
 Credit Appeal

January 3, 2007

Murray Schneps, Esq.  
 PO Box 1080  
 Aquebogue, NY 11931

Subject: Letter of Interpretation for Edwin Tuccio, SCTM# 900-248-1-110.4

Dear Mr. Schneps:

The Pine Barrens Credit Clearinghouse reviewed your client's Letter of Interpretation Application at its December 18, 2006 meeting. The Clearinghouse considered the materials you supplied including the aerial photograph of the site, the calculations prepared by your client's surveyor, Joseph Ingegno, the pre-existing use of the parcel, that predates the Long Island Pine Barrens Act, and the two hardship approvals granted by the Commission for the parcel in 1994 and 1997. Each of these hardship approvals authorized the expansion of a mini-storage facility on the parcel. Included within the approvals was the limited right to clear and disturb portions of the parcel to facilitate each expansion.

The Clearinghouse evaluated your client's application in the context of Section 6.1 of the Central Pine Barrens Comprehensive Land Use Plan. Section 6.1 states that the primary purpose of the Pine Barrens Credit Program, "to maintain value in lands designated for preservation or protection under the Plan by providing for the allocation and use of Pine Barrens Credits (PBCs)".

The Clearinghouse has determined that value has been maintained in the subject parcel. The parcel is devoted to a commercial enterprise which has been expanded via Commission granted hardship exemptions. Moreover, an analysis of the aerial and Mr. Ingegno calculations indicates that the site is near the Town's development limits as contained in the Town Code.

On the basis of the foregoing, the Clearinghouse directed the issuance of this letter stating that no Pine Barrens Credits can be allocated to the parcel. The Board, did note, that it would reconsider this determination if your client was to remove the bunkers (out buildings) and revegetation of the area.

Your client may appeal this determination within thirty (30) days of the date of this letter by giving notice, in writing, to the Central Pine Barrens Joint Planning and Policy Commission. The Commission address is P.O. Box 587, 3525 Sunrise Highway, 2<sup>nd</sup> Floor, Great River, New York 11739-0587. Included with this notice shall be the reasons supporting the appeal as well as the number of Pine Barrens Credits requested. The Commission shall consider and decide the appeal within sixty (60) days of receipt of an appeal and will schedule a public hearing on the appeal.

If you have any further questions, please don't hesitate to give me a call at 631-563-0306.

Sincerely,

  
 Judy Jakobsen  
 Clearinghouse Staff

cc: J. Milazzo  
 R. Corwin  
 Clearinghouse Board Members

Exhibit: B. to Verified Petition  
Letter dated January 11, 2007 from Murray B. Schneps, Esq.  
to Pine Barrens Joint Planning and Policy Commission (31)

2007-07-23 18:45

PINE BARRENS 6312247653&gt;&gt;

P24/38

**MURRAY B. SCHNEPS**  
ATTORNEY AT LAW  
445 GRIFING AVENUE  
P.O. Box 926  
RIVERHEAD, NEW YORK 11901  
—  
(631) 722-5100  
FAX (631) 722-5093

January 11, 2007

Pine Barrens Joint Planning and Policy Commission  
P. O. Box 587  
3525 Sunrise Highway - 2<sup>nd</sup> Floor  
Great River, New York 11739-0587

Re: Letter of Interpretation of Edwin Tuccio, SCTM# 900-248-1-110.4

Gentlemen/Ladies:

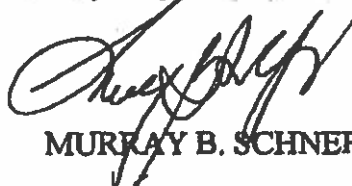
Please be advised that Edwin Tuccio hereby appeals from your determination dated January 3, 2007, that no Pine Barrens Credits can be allocated to the parcel.

My client deems the determination to be contrary to the facts and law in this matter, resulting in the wrongful, illegal and improper taking from my client's property without due process and without reasonable compensation.

It is hereby demanded that you promptly provide all copies of all documents in your possession relating to and determining each hardship approval in 1994 and 1997; all facts and documents you possess which serve as the basis for the determination that the value of the subject parcel and the amount of such value determined by you; and the basis supporting the position that "the site is near the Town's development limits as contained by the Town Code."

Thank you for your prompt responses which must be provided prior to the scheduled hearing on the appeal.

Very truly yours,



MURRAY B. SCHNEPS

MBS:st

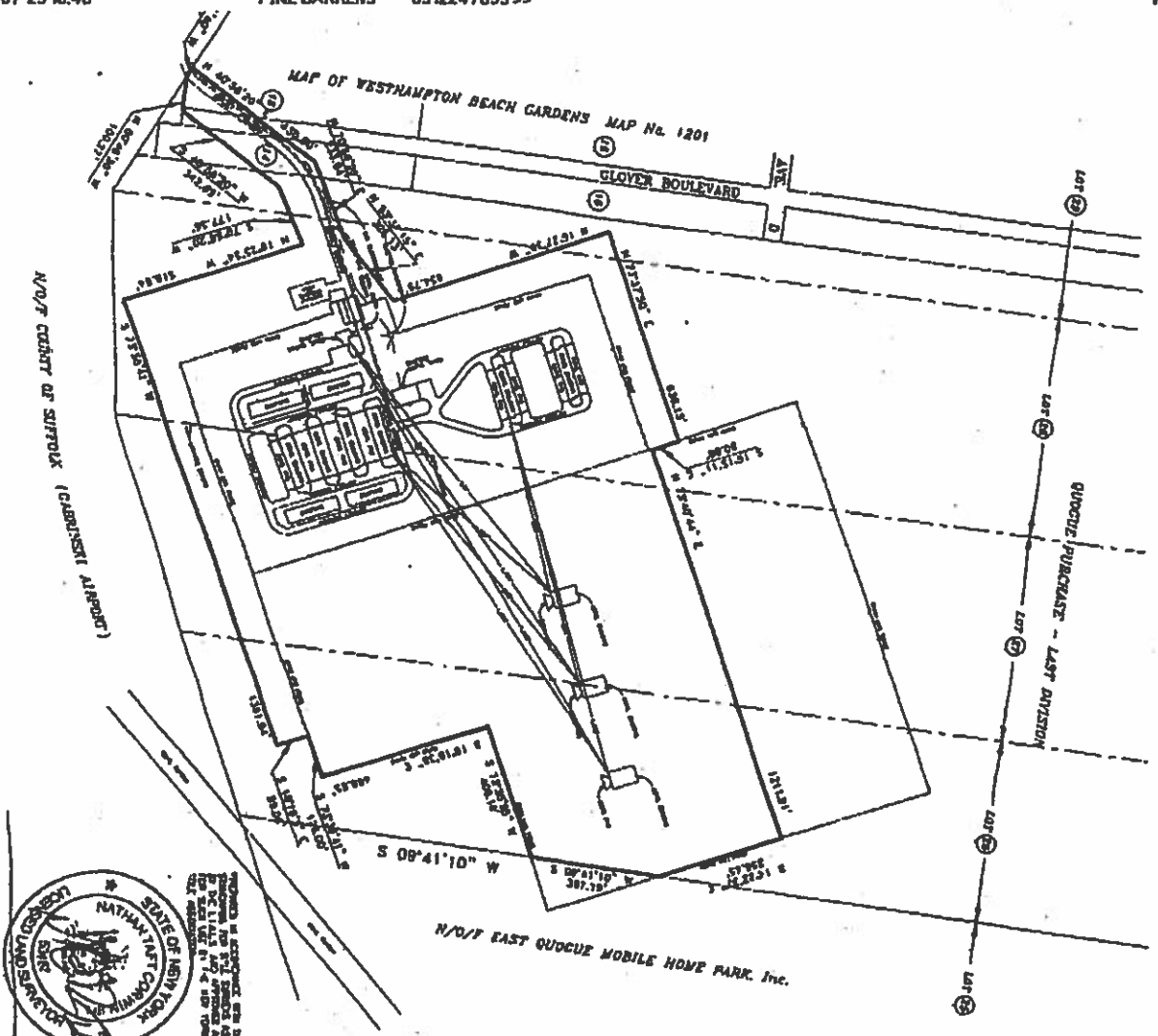
cc.: Mr. Edwin Fishel Tuccio

Exhibit: C. to Verified Petition  
 Updated Land Survey dated July 27, 1994, Updated April 9, 2007 (32)

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NOTICE: A LICENSEE SHALL NOT BE PERMITTED TO SIGN ANY SURVEY MAP OR INSTRUMENT WHICH IS NOT HIS OWN WORK OR TO SIGN ANY INSTRUMENT WHICH IS NOT HIS OWN WORK OR TO SIGN ANY INSTRUMENT WHICH IS NOT HIS OWN WORK.

N/O/F EAST QUOCUE MOBILE HOME PARK, Inc.



MAP OF PROPERTY  
 SITUATED AT  
 WESTHAMPTON  
 TOWN OF SOUTHAMPTON  
 SUFFOLK COUNTY, NEW YORK  
 S.C. TAX No. 000-248-01-8/D 110,004  
 SCALE: 1" = 500'  
 MAY 27, 1994

TOTAL LOT AREA = 2,278,190.10 sq. ft. OR 52,299 ACRES

DEEDS

1. DEED FROM THE STATE OF NEW YORK TO THE TOWN OF SOUTHAMPTON, SUFFOLK COUNTY, NEW YORK, DATED MAY 27, 1994, RECORDED IN THE OFFICE OF THE CLERK OF THE SUPREME COURT, SUFFOLK COUNTY, NEW YORK, IN BOOK 11801, PAGE 0945.

2. DEED FROM THE TOWN OF SOUTHAMPTON, SUFFOLK COUNTY, NEW YORK, TO THE EAST QUOCUE MOBILE HOME PARK, INC., DATED MAY 27, 1994, RECORDED IN THE OFFICE OF THE CLERK OF THE SUPREME COURT, SUFFOLK COUNTY, NEW YORK, IN BOOK 11801, PAGE 0945.

3. DEED FROM THE EAST QUOCUE MOBILE HOME PARK, INC. TO THE TOWN OF SOUTHAMPTON, SUFFOLK COUNTY, NEW YORK, DATED MAY 27, 1994, RECORDED IN THE OFFICE OF THE CLERK OF THE SUPREME COURT, SUFFOLK COUNTY, NEW YORK, IN BOOK 11801, PAGE 0945.

4. DEED FROM THE TOWN OF SOUTHAMPTON, SUFFOLK COUNTY, NEW YORK, TO THE EAST QUOCUE MOBILE HOME PARK, INC., DATED MAY 27, 1994, RECORDED IN THE OFFICE OF THE CLERK OF THE SUPREME COURT, SUFFOLK COUNTY, NEW YORK, IN BOOK 11801, PAGE 0945.

5. DEED FROM THE EAST QUOCUE MOBILE HOME PARK, INC. TO THE TOWN OF SOUTHAMPTON, SUFFOLK COUNTY, NEW YORK, DATED MAY 27, 1994, RECORDED IN THE OFFICE OF THE CLERK OF THE SUPREME COURT, SUFFOLK COUNTY, NEW YORK, IN BOOK 11801, PAGE 0945.

THE DISTRICT OF SENESCALE COUNTY, NEW YORK, HAS REVIEWED AND APPROVED THIS SURVEY MAP AND INSTRUMENT FOR RECORDATION IN THE OFFICE OF THE CLERK OF THE SUPREME COURT, SUFFOLK COUNTY, NEW YORK, IN BOOK 11801, PAGE 0945.

**Nathan Taft Corwin III**  
 Land Surveyor

Robt. S. Myers - Supervisor - Site Plans - Construction Layout  
 PHONE: (516) 732-1100  
 OFFICES LOCATED AT:  
 322 Grand Ave. P.O. Box 1031  
 Roseton, New York 11971

FOR: (516) 732-1172  
 MAILING ADDRESS:  
 P.O. Box 1031  
 Roseton, New York 11971

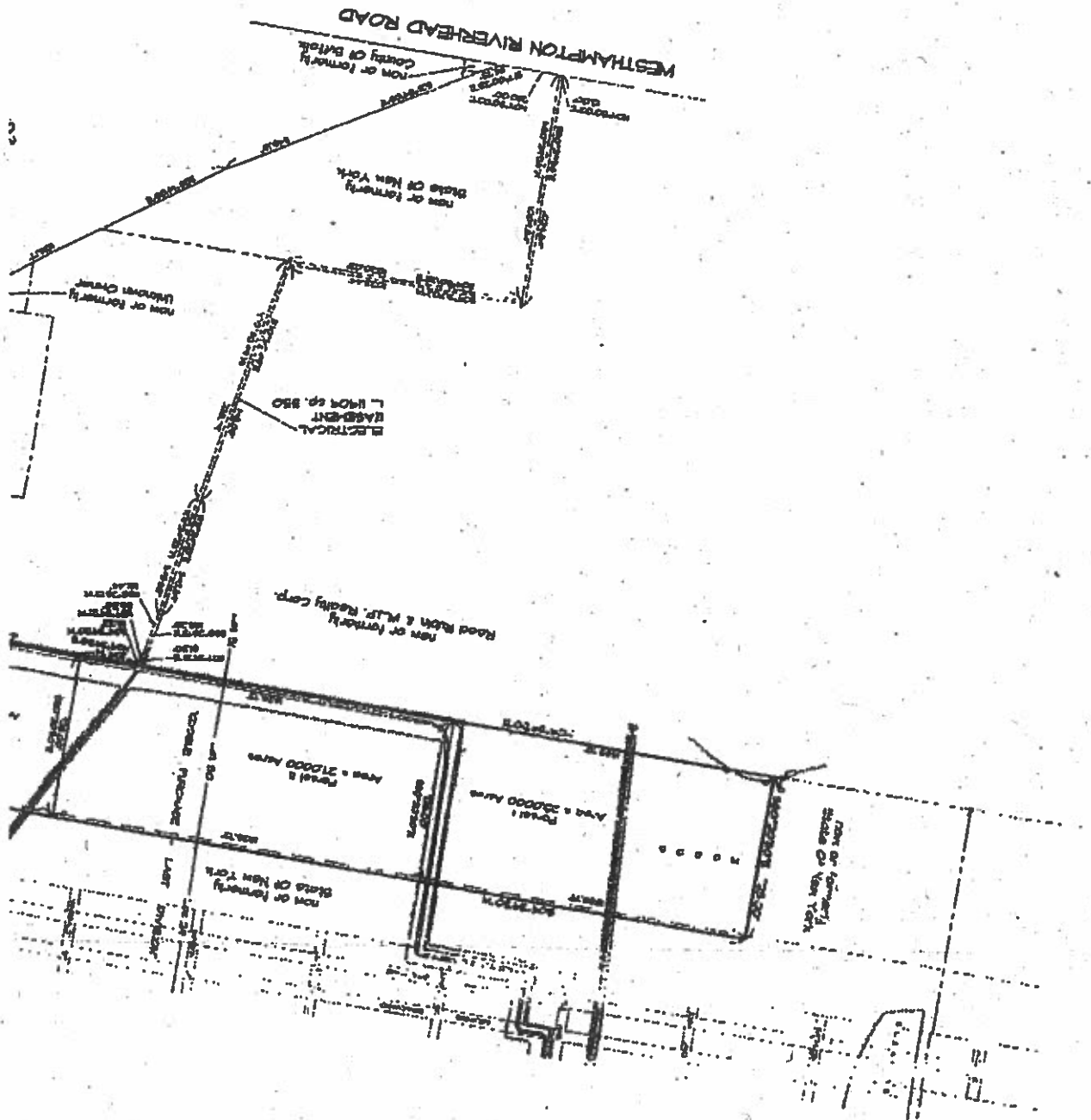
11801-0945

Exhibit: D. to Verified Petition  
Survey completed June 21, 2004 of Young & Young (33)

2007-07-23 18:48

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**Commission Resolution  
adopting a non-residential property  
allocation formula**

August 7, 1996  
Riverhead Town Hall

Resolved, that the following non-residential property allocation formula is adopted:

Zoning Class	Pine Barrens Credits per acre
Defense Institutional District	1.0 PBCs per acre*
Industrial A District	1.0 PBCs per acre*
J Business 2 District	1.0 PBCs per acre*
J Business 3 District	1.0 PBCs per acre*
J Business 4 District	1.0 PBCs per acre*
J Business 5 District	1.0 PBCs per acre*
Light Industrial 1 District	1.0 PBCs per acre*
Light Industrial 3 District	1.0 PBCs per acre*
Light Industrial 200 District	1.0 PBCs per acre*
Light Industrial 40 District	1.0 PBCs per acre*
Multi-Family 1 District	1.0 PBCs per acre*
Riverhead Open Space Conservation District	0.25 PBCs per acre*
(*) One acre equals 43,560 square feet; fractional allocations are rounded upward to the nearest one hundredth (1/100 = 0.01) of a Pine Barrens Credit (PBC). No fewer than 0.10 (one tenth) Pine Barrens Credit shall be allocated by the Clearinghouse for any parcel of land, regardless of its size or road accessibility.	

**Motion by:** Mr. Girandola (for Brookhaven Town)

**Second by:** Mr. Cowen (for New York State)

**Ayes:** Mr. Prolos (for Suffolk County), Mr. Cowen, Mr. Girandola, Ms. Filmanski (for Riverhead), and Mr. Freleng (for Southampton)

**Nays:** None

Exhibit: F. to Verified Petition  
Letter dated February 20, 2002 of Pine Barrens  
Credit Clearinghouse to Derrick Robinson, Esq. (35-37)

007-07-23 18:47

PINE BARRENS 6312247653>>

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## PINE BARRENS CREDIT CLEARINGHOUSE

James T.B. Tripp, Esq., Chairman  
Andrew P. Prelog, AICP, Vice Chairman  
Richard W. Hanley, Member  
Mitchell H. Pally, Esq., Member  
Herbert Phillips, Member

February 20, 2002

Derrick Robinson, Esq.  
Assistant County Attorney  
P.O. Box 6100  
Hauppauge, NY 11788-0099

RECEIVED  
2002 AUG 25 11:10:23  
COUNTY CLERK  
SULLY COUNTY

Re: Pine Barrens Letters of Interpretation

Dear Mr. Robinson:

Below, please find a listing of the SCTM parcels you made reference to in your July 31, 2003 letter, along with the amount of pine barrens credits that could be issued for each of those, if and when they were to meet all of the requirements included in Volume 1 of Chapter 6 of the *Central Pine Barrens Comprehensive Land Use Plan*; the *Central Pine Barrens Credit Program Handbook*; and Article 57 of the *NYS Environmental Conservation Law*, which apply to the issuance of pine barrens credits.

It appears that all of the SCTM parcels referenced in your letter were all zoned Light Industrial-200 when the Central Pine Barrens Plan was adopted in June of 1995. On August 7, 1996 the Pine Barrens Commission adopted a policy for non-residential property. According to that policy parcels zoned Light Industrial-200, are eligible for 1.0 pine barrens credits per acre (43,560 sq. ft.).

In order for the Clearinghouse to issue Letters of Interpretations for each of the lots listed below, we would need a completed Letter of Interpretation application, a copy of a recent survey and or deed, and a recent tax bill, for each one. Below is just an estimate of the amount of credits that could possibly be issued after a conservation easement were placed on the subject parcels.

P.O. Box 587, 3525 SUNRISE HIGHWAY, 2ND FLOOR, GREAT RIVER, NEW YORK 11739-0587  
631-224-2604 / FAX 631-224-7653  
<http://www.ph.state.ny.us>



SCTM #	Acreage	PBCs
1.0900-248-001-11003	75.520	75.52
2.0900-248-01-076	.24	.24
3.0900-248-01-089	.06	*.10
4.0900-248-01-009	.63	.63
5.0900-248-01-026	1.55	1.55
6.0900-248-01-014	.23	.23
7.0900-248-01-020	.63	.63
8.0900-248-01-066	.08	*.10
9.0900-248-01-008	.30	.30
10.0900-248-01-046	.86	.86
11.0900-248-01-052	.75	.75
12.0900-248-01-040	.11	.11
13.0900-248-01-004	.46	.46
14.0900-248-01-038	1.6	1.6
15.0900-217-03-001	1.20	1.20
16.0900-217-03-011	1.47	1.47
17.0900-217-03-013	.92	.92
18.0900-217-03-005	1.20	1.20
19.0900-217-03-006	1.10	1.10
20.0900-217-03-014	.06	*.10
21.0900-217-03-002	2.4	2.4
22.0900-217-03-004	.46	.46
23.0900-217-01-006	5.0	5.0
24.0900-217-03-010	.80	.80
25.0900-248-01-048	.75	.75
26.0900-217-01-050	.90	.90
27.0900-217-23-009	.75	.75
28.0900-248-01-077	.92	.92
29.0900-248-01-074	1.84	1.84
30.0900-248-01-018	.34	.34
31.0900-248-01-016	.46	.46
32.0900-248-01-015	.46	.46
33.0900-248-01-013	.23	.23
34.0900-248-01-034	1.50	1.50

P.O. BOX 587, 3525 SUNRISE HIGHWAY, 2ND FLOOR, GREAT RIVER, NEW YORK 11739-0587  
 631-224-2604 / FAX 631-224-7653  
<http://www.pb.state.ny.us>

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35.0900-248-01-084	.86	.86
36.0900-248-01-061	1.60	1.60
37.0900-248-01-058	.29	.29
38.0900-248-01-036	.17	.17
39.0900-248-01-012	.29	.29
40.0900-248-02-045	.09	*.10

**\*No parcel, regardless of its size or road accessibility, will receive less than .10 PBCs**

**If you have any questions on the above matter, please feel free to contact me at (631) 224-2604.**

Very truly yours,

*Edward W. Randolph*  
 Edward W. Randolph  
 Clearinghouse staff

cc: Andrew P. Freleng

P.O. BOX 587, 3525 SUNRISE HIGHWAY, 2ND FLOOR, GREAT RIVER, NEW YORK 11739-0587  
 631-224-2604 / FAX 631-224-7653  
<http://www.pb.state.ny.us>



Peter A. Scully  
*Chair*

Phillip J. Cardinals  
*Member*

Brian X. Foley  
*Member*

Patrick A. Heaney  
*Member*

Steve A. Levy  
*Member*

P.O. Box 587  
 3525 Sunrise  
 Highway  
 2<sup>nd</sup> Floor  
 Great River, NY  
 11739-0587

Phone (631) 224-2604  
 Fax (631) 224-7653  
 www.ph.state.ny.us

**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  
 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

**Nays:** None

**Abstentions:** Mr. Bartunek

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SUFFOLK

-----X  
In the Matter of the Application of  
EDWIN FISHEL TUCCIO and PATRICIA TUCCIO,

Petitioners,

- against-

CENTRAL PINE BARRENS JOINT PLANNING  
and POLICY COMMISSION AND PINE BARRENS  
CREDIT CLEARINGHOUSE,

Respondents.  
-----X

VERIFIED ANSWER  
WITH CERTIFIED  
RETURN OF RECORD

Index No. 07-21497

Respondents, the Central Pine Barrens Joint Planning and Policy Commission, and the Pine Barrens Credit Clearinghouse, by their attorney, Andrew M. Cuomo, Attorney General of the State of New York (Janice B. Taylor, Assistant Attorney General, of Counsel), answering the Petition verified on July 19, 2007:

1. Admit that this proceeding was commenced pursuant to CPLR Article 78, deny that petitioner requested 50.42 Pine Barrens Credits, and refer the Court to the accompanying administrative record for the precise number of Pine Barrens Credits that petitioners requested of respondents.

2. Admit the allegations in paragraph 2, but deny information sufficient to form a belief relating to title to the property in question, and admit only that the parcel is approximately 52.299 acres.

3. Aver that paragraph 3 does not warrant an admission or denial, and respectfully refer the Court to the petition for a

complete and accurate recitation of its claimed jurisdictional predicates and requested relief.

4. Deny the allegations in paragraph 4.

5. Deny the allegations in paragraph 5.

6. Deny the allegations in paragraph 6 as an incomplete description of the challenged determination, and respectfully refer the Court to the determination for its complete content.

7. Aver that paragraph 7 does not warrant an admission or denial.

8. With respect to paragraph 8, admit that respondent Pine Barrens' Credit Clearinghouse rendered a Letter of Interpretation dated January 3, 2007 and that, by letter dated January 11, 2007, petitioners appealed from that determination, and affirmatively allege that the Commission received petitioners' letter on January 16, 2007.

9. Deny the allegations in paragraph 9, except admits that the appeal was adjourned, and affirmatively alleges that a public hearing on the appeal was held April 18, 2007.

10. Deny the allegations in paragraph 10 as an incomplete description of the challenged determination, and respectfully refer the Court to the determination for its complete content.

11. Deny or deny information sufficient to form a belief as to the truth of the allegations in paragraph 11.

12. Deny the allegations in paragraph 12 as incomplete or inaccurate characterizations of the provisions cited, and respectfully refer the Court to those provisions for their complete and accurate content.

13. Deny the allegations in paragraph 13.

14. Deny or deny information sufficient to form a belief as to the truth of the allegations in paragraph 14.

15. Deny or deny information sufficient to form a belief as to the truth of the allegations in paragraph 15.

16. Deny information sufficient to form a belief as to the truth of the allegations in paragraph 16.

17. Deny information sufficient to form a belief as to the truth of the allegations in paragraph 17.

18. Deny or deny information sufficient to form a belief as to the truth of the allegations in paragraph 18.

19. Admit that petitioners' request that is the subject of this proceeding did not seek a hardship exemption, and deny the remainder of paragraph 19.

20. Deny information sufficient to form a belief as to the truth of the allegations in paragraph 20.

21. Deny the allegations in paragraph 21.

22. Aver that paragraph 22 does not warrant an admission or denial.



23. With respect to paragraph 23, admit that petitioners dispute respondents' holding, and admit that, in a letter to respondents dated April 19, 2007, petitioners alleged that they "may not remove the 'bunkers (outbuildings)'.... as they are committed to a long-term written lease agreement....."

24. Deny the allegations in sub-paragraphs 24(a)-(d), and aver that sub-paragraph 24(e) does not warrant an admission or denial.

25. Admit the allegations in paragraph 25 that the site at issue is zoned "Light Industrial", but deny that petitioners are entitled to receive 1.0 Pine Barrens Credits per acre.

26. Aver that paragraph 26 does not warrant an admission or denial, and respectfully refers the Court to the cited document for its full and accurate provisions.

27. Deny as incomplete and inaccurate the allegation in paragraph 27.

28. Aver that paragraph 28 does not warrant an admission or denial.

29. Admit the allegations in paragraph 29.

30. Aver that paragraph 30 does not warrant an admission or denial.

31. Deny the allegations in paragraph 31.

32. Deny the allegations in paragraph 32.

33. Deny knowledge or information sufficient to form a belief as to the allegations in paragraph 33.

34. Deny the allegations in paragraph 34.

35. Deny the allegations in paragraph 35.

36. Deny the allegations in paragraph 36 and affirmatively allege that the "hardship exemption" was not "the sole mechanism available to petitioners."

37. Deny the allegations in paragraph 37.

38. Deny the allegations in paragraph 38.

**STATEMENT OF GROUNDS FOR RESPONDENT'S RESOLUTION**

39. The grounds for respondent's June 20, 2007 Resolution are fully set forth therein. The Resolution was unaffected by any error of law, comported in all respects with lawful procedure, and was neither arbitrary and capricious nor an abuse of discretion and is fully supported by the administrative record. Annexed hereto as Exhibit A is a certified copy of the administrative record relating to the challenged Resolution.

**OBJECTIONS IN POINT OF LAW**


40. Respondents' objections in point of law are set forth in the memorandum of law submitted herewith and are incorporated herein.

WHEREFORE, the respondents respectfully requests a judgment dismissing the petition or, in the alternative, denying the petition on the merits, and granting such other relief as to the Court seems just and proper.

Dated: New York, New York  
October 3, 2007

Respectfully submitted,

ANDREW M. CUOMO  
Attorney General of the  
State of New York  
Attorney for Respondents

By:   
Janice B. Taylor  
Norman Spiegel  
Assistant Attorneys General  
120 Broadway, 26th Floor  
New York, New York 10271  
(212) 416-8462



**Exhibit: A. to Certified Copy of Administrative Record  
Resolution of Respondents dated June 20, 2007 (48-50)**



Peter A. Scully  
*Chair*

Philip J. Cardinale  
*Member*

Brian X. Foley  
*Member*

Patrick A. Heaney  
*Member*

Steve A. Levy  
*Member*

P.O. Box 587  
3525 Sunrise  
Highway  
2<sup>nd</sup> Floor  
Great River, NY  
11739-0587

Phone (631) 224-2604  
Fax (631) 224-7653  
www.pb.state.ny.us

**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**

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

**MURRAY B. SCHNEPS**  
ATTORNEY AT LAW  
445 GRIFFIN AVENUE  
P.O. Box 926  
RIVERHEAD, NEW YORK 11901  
—  
(631) 722-5100  
FAX (631) 722-5093

June 20, 2007

BY FACSIMILE

John Milazzo, Esq.  
Pine Barrens Credit Clearinghouse  
P. O. Box 587  
3525 Sunrise Highway - 2<sup>nd</sup> Floor  
Great River, New York 11739-0587

Re: Tuccio - Appeal - SCTM# 900-248-1-110.4

Dear Mr. Milazzo:

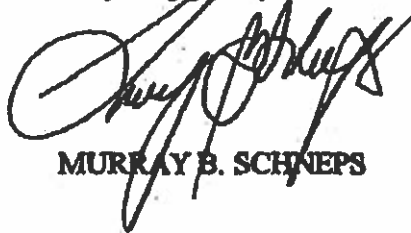
As you know, I represent Edwin Fishel Tuccio and Patricia Tuccio the owners of 52.3 acres of property located in Westhampton, Town of Southampton, New York.

Demand is hereby made on behalf of my clients that the Pine Barrens Credit Clearinghouse, the Central Pine Barrens Joint Planning & Policy Commission and related agencies, immediate issue to my clients fifty-two (52.42) Pine Barrens Credits sought herein, as the purported decision rendered in this matter was untimely and is a nullity. As you know, the appeal was held and completed on April 18, 2007.

Accordingly, pursuant to §§ 6.7.3, 6.7.3.3 and 6.7.3.4 of the Central Pine Barrens Comprehensive Land Use Plan, "[t]he Commission shall decide the appeal within sixty (60) days from receipt of the appeal." (emphasis added) The decision was not issued until June 20, 2007, in spite of my request on June 18, 2007, for a copy of the decision.

Clearly, the issuance of the decision on June 20, 2007, is untimely as it falls on the sixty-third day following the hearing. Your clients are in default.

Very truly yours,



MURRAY B. SCHNEPS

MBS:st

cc.: Judy Jakobsen, Esq.  
Mr. Edwin Fishel Tuccio  
Ms. Patricia Tuccio



**MURRAY B. SCHNEPS  
ATTORNEY AT LAW  
1 Union Square  
Post Office Box 1080  
Aquebogue, New York 11931**

**(631) 722-5100  
Fax (631) 722-5093**

**TELECOPIER COVER SHEET**

**DATE: June 20, 2007**

**FROM: MURRAY B. SCHNEPS, ESQ.**

**TO: John Milazzo, Esq.**

**NUMBER OF PAGES TRANSMITTED (including cover sheet): -2-**

**LOCATION:**

**FAX #: 563-0370**

**Re: Pine Barrens Credit Clearinghouse**

Exhibit: A. to Certified Copy of Administrative Record  
Letter dated April 19, 2007 from Murray B. Schneps, Esq.  
to Judy Jakobsen, Esq. with Attachment (53-54)

53

**MURRAY B. SCHNEPS**  
ATTORNEY AT LAW  
440 GRIFFING AVENUE  
P.O. Box 926  
RIVERHEAD, NEW YORK 11901

(631) 722-5100  
FAX (631) 722-5093 April 19, 2007

**BY FACSIMILE**

Judy Jakobsen, Esq.  
Pine Barrens Credit Clearinghouse  
P. O. Box 587  
3525 Sunrise Highway - 2<sup>nd</sup> Floor  
Great River, New York 11739-0587

Re: Tuccio - Appeal of Denial - SCTM# 900-248-1-110.4

Dear Ms. Jakobsen:

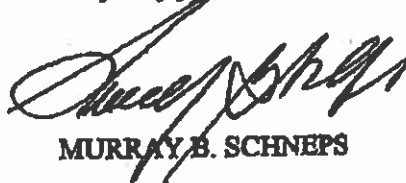
At the time of the Hearing held on April 18, 2007, some members of The Central Pine Barrens Joint Planning and Policy Commission raised the issue as to whether my clients are entitled to maximize their utilization of the all of the twenty (20%) percent lot coverage provided. I responded that the Zoning Code of the Town of Southampton bound your commission. Enclosed please find a copy of ECL § 57-0133 which provides the village and town local zoning powers shall regulate land uses.

Kindly add this letter and the enclosed section as a part of the record.

Kindly also add to the record, as discussed immediately following the hearing, that the Applicants may not remove the "bunkers (outbuildings)" referred to in the Denial Letter as they are committed to a long term written lease agreement to such property and are not at liberty to remove same.

Thank you for your courtesy and consideration.

Very truly yours,



MURRAY B. SCHNEPS

MBS:st

cc.: John Milazzo, Esq.  
Mr. Edwin Fishel Tuccio  
Ms. Patricia Tuccio

**NY CLS ECL § 57-0133 (2007)****§ 57-0133. Affect on other laws**

Except as otherwise provided in the provisions of this [fig 1] title, this [fig 2] title shall not affect:

1. the police powers, local planning powers, zoning powers or authority to regulate land uses by villages and towns within the Long Island Pine Barrens maritime reserve; or
2. the police power of the state to regulate any activity carried upon any lands, in the Long Island Pine Barrens maritime reserve; or
3. the authority of any state or public agency in the management of any state or public lands in the Long Island Pine Barrens maritime reserve.

Exhibit: A. to Certified Copy of Administrative Record  
Letter dated March 15, 2007 from  
Murray B. Schneps, Esq. to Judy Jakobsen, Esq. (55-56)

55

**MURRAY B. SCHNEPS**  
ATTORNEY AT LAW  
445 GRIFFING AVENUE  
P.O. BOX 986  
RIVERHEAD, NEW YORK 11901  
—  
(631) 722-5100  
FAX (631) 722-5093

March 15, 2007

BY FACSIMILE

Judy Jakobsen, Esq.  
Pine Barrens Credit Clearinghouse  
P. O. Box 587  
3525 Sunrise Highway - 2<sup>nd</sup> Floor  
Great River, New York 11739-0587

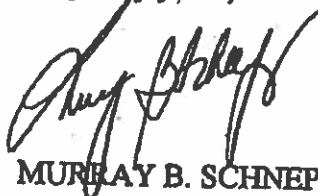
Re: Letter of Interpretation for Tuccio - SCTM# 900-248-1-110.4

Dear Ms. Jakobsen:

This is to confirm my agreement with John Milazzo, Esq., adjourning the hearing on the Letter of Interpretation Appeal in this matter from March 21, 2007, at 3:00 p.m. until April 18, 2007, at 3:00p.m. It is expressly agreed that in consideration of the adjournment, The Central Pine Barrens Joint Planning and Policy Commission will have an additional period of time within which to render a decision.

Thank you for your courtesy and consideration.

Very truly yours,



MURRAY B. SCHNEPS

MBS:st

cc.: John Milazzo, Esq.

Mr. Edwin Fishel Tuccio

**MURRAY B. SCHNEPS**  
**ATTORNEY AT LAW**  
1 Union Square  
Post Office Box 1080  
Aquebogue, New York 11931

**(631) 722-5100**  
**Fax (631) 722-5093**

**TELECOPIER COVER SHEET**

**DATE: March 15, 2007**

**FROM: MURRAY B. SCHNEPS, ESQ.**

**TO: John Milazzo, Esq.**

**NUMBER OF PAGES TRANSMITTED (including cover sheet): -2-**

**LOCATION:**

**FAX #: 563-0370**

**Re: Pine Barrens Credit Clearinghouse**

**PINE BARRENS CREDIT CLEARINGHOUSE**

---

James T.B. Tripp, Esq., Chairman  
Andrew P. Freleng, AICP, Vice Chairman  
Richard W. Hanley, Member  
Mitchell H. Pally, Esq., Member  
Robert Anrig, Member

February 22, 2007

Murray Schneps  
PO Box 1080  
Aquebogue, NY 11931

Subject: Credit Appeal Public Hearing on Letter of Interpretation Application for  
Tuccio – 900-248-1-110.4

Dear Mr. Schneps:

Please be advised that the Commission at its meeting on February 21, 2007 has postponed the public hearing for the above subject appeal, per your request, to March 21, 2007. The hearing will be held at 3:00 pm at Brookhaven Town Hall, 1 Independence Hill, Farmingville.

Please let me know if this is agreeable with your schedule since either you or the owner will need to be present to discuss your case.

If you have any questions, please call me at 563-0306.

Sincerely,

Judy Jakobsen  
Clearinghouse Staff

ecc: J Milazzo (ns)

Exhibit: A. to Certified Copy of Administrative Record  
Letter dated February 16, 2007 from  
Murray B. Schneps, Esq. to Judy Jakobsen, Esq. (58-59)

**MURRAY B. SCHNEPS**  
**ATTORNEY AT LAW**  
1 Union Square  
Post Office Box 1080  
Aquebogue, New York 11931

**(631) 722-5100**  
**Fax (631) 722-5093**

**TELECOPIER COVER SHEET**

**DATE:** February 16, 2007                      **FROM:** MURRAY B. SCHNEPS, ESQ.

**TO:** John Milazzo, Esq.

**NUMBER OF PAGES TRANSMITTED (including cover sheet):** -2-

**LOCATION:**

**FAX #:** 563-0370

**Re:** Pine Barrens Credit Clearinghouse

MURRAY B. SCHNEPS  
ATTORNEY AT LAW  
445 GRIFFING AVENUE  
P.O. BOX 926  
RIVERHEAD, NEW YORK 11901  
—  
(631) 722-5100  
FAX (631) 722-5093

February 16, 2007

BY FACSIMILE

Judy Jakobsen, Esq.  
Pine Barrens Credit Clearinghouse  
P. O. Box 587  
3525 Sunrise Highway - 2<sup>nd</sup> Floor  
Great River, New York 11739-0587

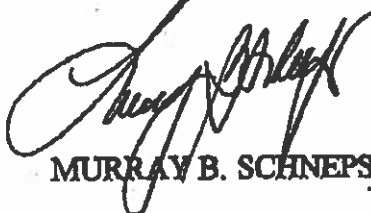
Re: Letter of Interpretation for Tuccio - SCTM# 900-248-1-110.4

Dear Ms. Jakobsen:

This is to confirm my agreement with John Milazzo, Esq., adjourning the hearing on the Letter of Interpretation Appeal in this matter from February 21, 2007, at 3:00 p.m. until March 21, 2007, at 3:00p.m. It is expressly agreed that in consideration of the adjournment, The Central Pine Barrens Joint Planning and Policy Commission will have an additional period of time within which to render a decision.

Thank you for your courtesy and consideration.

Very truly yours,



MURRAY B. SCHNEPS

MBS:vm

cc.: John Milazzo, Esq.

Mr. Edwin Fishel Tuccio



Exhibit: A. to Certified Copy of Administrative Record  
Letter dated January 26, 2007 from  
Judy Jakobsen, Esq. to Murray Schneps, Esq. (60)

## **PINE BARRENS CREDIT CLEARINGHOUSE**

---

James T.B. Tripp, Esq., Chairman  
Andrew P. Freleg, AICP, Vice Chairman  
Richard W. Hanley, Member  
Mitchell H. Pally, Esq., Member  
Robert Amrig, Member

January 26, 2007

Murray Schneps, Esq.  
PO Box 1080  
Aquebogue, NY 11931

Subject: Information Request - Letter of Interpretation for Edwin Tuccio, SCTM# 900-248-1-110.4

Dear Mr. Schneps:

I have completed putting together the information you have requested. Please note that we charge 25cents per page as a copying cost and therefore we will need to receive a check made out to the Central Pine Barrens Commission for \$32.25 (129 pages @.25 cents/page)

Please be advised that site plans are not included due to their size and difficulty in copying. You are welcome to make an appointment to come in and review the Credit Program files for this parcel to determine whether other information available in the files may be of interest or assistance.

If you would like to make an appointment to review the files, please call Carol Sholl at 563-0385 at your earliest convenience.

Sincerely,

Judy Jakobsen  
Clearinghouse Staff

cc: J. Milazzo  
R. Corwin

Exhibit: A. to Certified Copy of Administrative Record  
Letter dated January 11, 2007 from  
Murray B. Schneps, Esq. to Pine Barrens  
Joint Planning and Policy Commission (61)

61

FROM : Pine Barrens Comm

PHONE NO. : 6312247653

Jan. 16 2007 04:49PM P3

**MURRAY B. SCHNEPS**  
ATTORNEY AT LAW  
445 GRIFFING AVENUE  
P.O. BOX 926  
RIVERHEAD, NEW YORK 11901  
—  
(631) 722-8100  
FAX (631) 722-8093

January 11, 2007

Pine Barrens Joint Planning and Policy Commission  
P. O. Box 587  
3525 Sunrise Highway - 2<sup>nd</sup> Floor  
Great River, New York 11739-0587

Re: Letter of Interpretation of Edwin Tuccio, SCTM# 900-248-1-110.4

Gentlemen/Ladies:

Please be advised that Edwin Tuccio hereby appeals from your determination dated January 3, 2007, that no Pine Barrens Credits can be allocated to the parcel.

My client deems the determination to be contrary to the facts and law in this matter, resulting in the wrongful, illegal and improper taking from my client's property without due process and without reasonable compensation.

It is hereby demanded that you promptly provide all copies of all documents in your possession relating to and determining each hardship approval in 1994 and 1997; all facts and documents you possess which serve as the basis for the determination that the value of the subject parcel and the amount of such value determined by you; and the basis supporting the position that "the site is near the Town's development limits as contained by the Town Code."

Thank you for your prompt responses which must be provided prior to the scheduled hearing on the appeal.

Very truly yours,

MBS:st

cc.: Mr. Edwin Fishel Tuccio

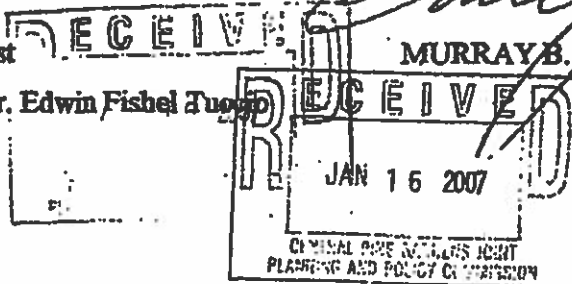


Exhibit: A. to Certified Copy of Administrative Record  
Hearing Transcript dated April 18, 2007 (62-95)

COPY

1  
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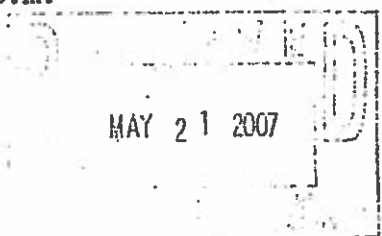
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Please take notice that a hearing on the Letter of Interpretation Appeal for Edwin and Patricia Tuccio has been rescheduled to April 18, 2007 (rescheduled from March 21, 2007) at 3:00 p.m. at Brookhaven Town Hall, 1 Independence Hill, Farmingville, New York. Said appeals are made pursuant to Section 6.7.3.3 of the Central Pine Barrens Comprehensive Land Use Plan, dated 1995 (the Plan). 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 did not receive an allocation of Pine Barrens Credits for reasons stated in the Letter of Interpretation dated January 3, 2007 for parcel: Suffolk County Tax Map #900-248-1-110.4 located south of Sunrise Highway, on the west side of CR 31, north of Gabreski Airport, Westhampton, Town of Southampton.

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Brookhaven Town Hall  
Farmingville, New York

April 18, 2007  
4:15 p.m.



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

- PETER SCULLY - Chairman
- JOHN MILAZZO - CDBC Counsel
- CARRIE MEEKS-GALLAGHER - Representative, Suffolk County
- MARTIN SHEA - Representative, Town of Southampton
- JOHN TURNER - Representative, Town of Brookhaven
- BRENDA PRUSINHOWSKI - Representative, Town of Brookhaven

1 Tuccio SCTM 900-248-1-110-4  
2 PHIL CARDINALE - Representative, Town of Riverhead  
3 JUDY JAKOBSEN - Principal Environmental Analyst  
4 JOHN PAVACIC  
5 JANET LONGO  
6 RAY CORWIN  
7 ROBIN MILLS  
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ROSEMARY MORELLINO

(631) 289-1154

Tuccio SCTM 900-248-1-110-4

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2 THE CHAIRMAN: Please take notice that  
3 a hearing on the Letter of Interpretation  
4 Appeal for Edwin and Patricia Tuccio has  
5 been rescheduled to April 18, 2007  
6 (rescheduled from March 21, 2007) at 3:00  
7 p.m. at Brookhaven Town Hall, 1 Independence  
8 Hill, Farmingville, New York. Said appeals  
9 are made pursuant to Section 6.7.3.3 of the  
10 Central Pine Barrens Comprehensive Land Use  
11 Plan, dated 1995 (the Plan). The Central  
12 Pine Barrens Joint Planning and Policy  
13 Commission will be holding the appeal  
14 hearing pursuant to Section 6.7.3.4 of the  
15 Plan. The appellant did not receive an  
16 allocation of Pine Barrens Credits for  
17 reasons stated in the Letter of  
18 Interpretation dated January 3, 2007 for  
19 parcel: Suffolk County Tax Map  
20 #900-248-1-110.4 located south of Sunrise  
21 Highway, on the west side of CR 31, north of  
22 Gabreski Airport, Westhampton, Town of  
23 Southampton.

24 THE CHAIRMAN: I'll just ask the people  
25 on the Commission to put there names on the

1 Tuccio SCTM 900-248-1-110-4 4

2 record.

3 MS. MEEKS-GALLAGHER: Carrie  
4 Meeks-Gallagher, Suffolk County.

5 MR. SHEA: Marty Shea, representing  
6 Southampton Town supervisor, Patrick Heaney.

7 MR. TURNER: John Turner, representing  
8 Town of Brookhaven supervisor, Brian Foley.

9 MS. PRUSINHOWSKI: Brenda Prusinhowski,  
10 representing Brookhaven town supervisor,  
11 Brian Foley.

12 THE CHAIRMAN: Peter Scully representing  
13 the State of New York and Supervisor Phil  
14 Cardinale is representing the Town of  
15 Riverhead.

16 We turn first to staff.

17 MS. JAKOBSEN: I am admitting for the  
18 record five staff exhibits, which I provided  
19 to the stenographer. I would like to go  
20 over a few items initially with regard to  
21 this appeal.

22 The parcel is 52.3 acres. It's current  
23 use is a mini-storage warehouse facility.  
24 The issue for the Clearinghouse was how to  
25 allocate the commercial use, such as a

1 Tuccio SCTM 900-248-1-110-4

2 mini-storage warehouse facility. And  
3 whether this parcel was eligible for credits  
4 due to its existing use and the fact that  
5 parcel received two Core Preservation Area  
6 hardships to expand a building.

7 In the packet I sent to the Commission  
8 members, there were included a number of  
9 staff exhibits. I would like to briefly go  
10 over them. These items that were included  
11 in the Commission packet were what the  
12 Clearinghouse members used to determine  
13 whether or not they should be allocating  
14 credits to Suffolk County Tax Map number  
15 900-248-1-110.4. I had attached the items  
16 in your packet, but I didn't identify them  
17 by staff numbers.

18 The first exhibit is the correspondence  
19 from Mr. Schneps to Commission staff dated  
20 August 11, 2006 with an attached aerial with  
21 the developed areas highlighted in pink  
22 along with a calculation of these areas in  
23 acres that was prepared by a surveyor named  
24 Joseph Ingegno I-N-G-E-G-N-O who prepared  
25 the aerial along with the calculations.

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The second exhibit is a 2001 aerial with the development outlined in bold red. In addition, at the Clearinghouse meeting on December 18, 2006, as part of their decision and consideration for this credit allocation, there was a discussion that the applicant received two prior hardships in '94 and '97 to add buildings to the property that were considered minimum relief necessary under New York State DCL Article 57, and more importantly is the fact that any future expansion of the facility would require a Core Preservation Area hardship permit, which is questionable that would be granted due to the prior hardship that provided minimum relief.

I also provided in the packet copies of resolutions that approved the hardships and it should be noted that a third hardship was in 2000 that was subsequently withdrawn. I have provided minutes from the Commission meeting of March 29, 2000 that brought up whether the two permit approvals for minimum relief as referred to in the Pine Barrens



Tuccio SCTM 900-248-1-110-4

7

1  
2 Law.

3 The fifth staff exhibit is a map of the  
4 property situated at Westhampton, which is  
5 reduced scale, as staff Exhibit 5, and the  
6 map shows highlighted areas in yellow the  
7 building that were added as of the '94 Core  
8 Preservation Area Hardship approval. The  
9 orange areas were for buildings added in  
10 1977 Core hardship permit application and  
11 outlined in aqua are the buildings that were  
12 proposed for the 2000 Core hardship  
13 application, which was withdrawn.

14 The last exhibit is Exhibit 6, which is  
15 a letter to the applicant from Commission  
16 staff stating that the parcel is not  
17 eligible to receive credits.

18 I would like to enter that letter into  
19 the record. January 3, 2007. Dear Mr.  
20 Schneps: The Pine Barrens Credit  
21 Clearinghouse reviewed your client's --  
22 Counsel informed me I can just introduce it,  
23 I don't need to read it. It's a letter  
24 that's dated January 3, 2007 to Mr. Schneps  
25 from myself and it outlines the manner in

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1  
2 which the Clearinghouse considered materials  
3 for determination that the parcel could not  
4 receive credits. I think it is important to  
5 point out that the Clearinghouse, in the  
6 second paragraph of the letter, evaluated  
7 your client's application in the context of  
8 Section 6.1 of the Central Pine Barrens  
9 Comprehensive Land Use Plan, and the primary  
10 purpose of the credit program is to maintain  
11 value in lands designated for preservation  
12 or protection under the plan by providing  
13 for the allocation and use of Pine Barrens  
14 Credits. It says maintain value. That's  
15 all I have.

16 MR. MILAZZO: John Milazzo, counsel.  
17 The Commission issued the Letter of  
18 Interpretation. The Letter of  
19 Interpretation was for zero credits. The  
20 applicant owns 53 acres and is zone LI200  
21 which normally would receive one credit per  
22 acre. The Clearinghouse spent some time  
23 analyzing this application. It was before  
24 the Clearinghouse at least twice. At the  
25 third meeting, struggled with the

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1  
2 allocation. Clearinghouse exercising its  
3 discretion, all be it limited, looked at the  
4 property, considered the improvements and  
5 considered the criterion in the plan in  
6 allocating credit and came to the  
7 determination that this parcel was eligible  
8 for zero Pine Barrens credits. The appeal  
9 is on that allocation of zero PBC.

10 THE CHAIRMAN: The basis of the  
11 determination?

12 MR. MILAZZO: Combination of existing  
13 use and the fact that the parcel has already  
14 received two hardship approvals from the  
15 Commission. When the Clearinghouse looked  
16 at that and the purpose of the credit  
17 program which is to preserve value property.

18 THE CHAIRMAN: You said, for the most  
19 part, this provision is utilized to provide  
20 compensation of value to owners of property  
21 that are not useful in the core which they  
22 can't derive any use, therefore, they are  
23 entitled to credits.

24 MR. MILAZZO: It's not compensation.

25 It's use.

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1  
2 THE CHAIRMAN: In this case, we have  
3 property that's a commercial operation and  
4 received two prior hardship approvals for  
5 expansion.

6 MR. MILAZZO: The attorney and the  
7 applicant is here. Murray Schneps.

8 MR. SCHNEPS: I'm going to stand up  
9 because I don't think I can see you all.  
10 I'll sit down when I can't stand up any  
11 more.

12 I have a presentation that I have  
13 basically organized by addressing the denial  
14 letter, which I believe you have as exhibit  
15 number four. I have broken it out into  
16 basically four issues to address, that are  
17 addressed in the letter, and a fifth section  
18 which will be our conclusions with regard to  
19 each one of the items. They may be  
20 self-obvious when I get to the final point.

21 In your letter, the denial, you pointed  
22 out the point the primary purpose of Pine  
23 Barrens credit program is quote to maintain  
24 value in the lands designated for  
25 preservation or protection under the plan by

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1  
2 providing for the allocation and use of Pine  
3 Barrens Credits.

4 However, we think there is more to state  
5 about what the main purpose is. We would  
6 like to address Section 6.1 of Chapter 6 of  
7 the Pine Barrens Credits program. It is to  
8 preserve the Pine Barrens ecology and ensure  
9 the high quality of the surface and  
10 groundwater within the Central Pine Barrens.

11 The act also states that the plan is to  
12 discourage peaceful and scattered  
13 development and accommodate development in a  
14 manner consistent with the long term  
15 integrity of the Pine Barrens ecosystem.

16 Considering who you people are, I'm a  
17 little bit embarrassed about this, because  
18 you know more about the Pine Barrens than I  
19 do. I think it's important for my  
20 presentation to hear the provisions.

21 Further, the interim goals and standards  
22 for the compatible growth area of the  
23 Commission principles for review of  
24 applications or development within the  
25 Suffolk County Pine Barrens zone, it

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1 addresses the groundwater, wetlands, surface  
2 water, rare and endangered species, and  
3 unique national communities, native  
4 vegetation disturbance and refers to  
5 creating a plan to develop a plan upon a  
6 demonstration of hardship.  
7

8 Hardship is a very important issue in  
9 this presentation because it's a very  
10 important issue in the denial. Where it  
11 seems that there's a great deal of emphasis  
12 on the idea that my clients have sought and  
13 received two previous hardships. I would  
14 like to say this before I really deal with  
15 that. Firstly, that we don't believe that  
16 our client secured any hardship approvals in  
17 this case and the only reason that they are  
18 prior hardship approvals is that there's no  
19 other mechanism for securing an approval.  
20 Additional, the Environmental Conservation  
21 Law, Section 570121 subdivision 2 provides  
22 that you protect, preserve and enhance the  
23 functional integrity of the Pine Barrens  
24 ecosystems and the significant natural  
25 resources. That includes plant and animal

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1  
2 populations and communities thereof; protect  
3 the quality of the surface water and  
4 groundwater, and discourage piecemeal and  
5 scattered development.

6 I point to this item again because my  
7 clients did not attach the property in any  
8 way. It didn't diminish the property in any  
9 way. For the most part, the buildings that  
10 there were on the premises have been on the  
11 premises since the 1940s and some of the  
12 1950s. These buildings were established by  
13 the United States Army who built a lot of  
14 these buildings and roads. Further, all of  
15 these requirements to maintain the Pine  
16 Barrens have been met by my clients. They  
17 did not affect in any negative way the Pine  
18 Barrens. They did not bring improper water.  
19 They did not have any other types of  
20 involvement in the property. To this point  
21 and continuing, my clients are in full  
22 compliance with the act and its intent and  
23 they have not negatively impacted upon the  
24 Pine Barrens ecosystem.

25 The second point in the denial letter is

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1  
2 that my clients were granted hardship  
3 exemptions. While it's true my clients are  
4 involved in a commercial enterprise, it's  
5 unfair to contend that they sought or were  
6 actually granted a hardship exemption. I  
7 mean realistically was it a hardship  
8 application? It was called a hardship  
9 application. There is no other manner to  
10 secure approval.

11 At the time my clients secured title,  
12 the area had already been isolated which was  
13 fenced and still fenced. The property has  
14 been always extensively disturbed, cleared  
15 of vegetation and contained buildings. This  
16 was not caused by my clients. They seek,  
17 however, at some point in time to use on  
18 this same unpristine property some  
19 additional buildings and that permission was  
20 granted to them.

21 None of applicants' construction or any  
22 of the part of the fenced area has been an  
23 intrusion on the vegetation, the habitat of  
24 the species, animals or aquifers. The  
25 construction did not improve or contravene

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Tuccio SCTM 900-248-1-110-4

1  
2 the intent of the law. The development is a  
3 dry use and contributes no negative impact  
4 upon the aquifers. No unique species or  
5 vegetation exist. There's no affect, again,  
6 on the aquifer. There's no runoff on the  
7 property. There's no discharge on the area.  
8 Given the fact that the area had been  
9 disturbed since, actually, I said the '50s,  
10 actually since 1940s, it was never pristine,  
11 and surrounded by a fence.

12 In addition to all stated facts, the  
13 applicants should have had the right to  
14 develop the area, but for the requirement to  
15 secure approval. The sole mechanism to  
16 secure approval is an application for a  
17 hardship exemption. The fact that's the  
18 sole mechanism should not be utilized to  
19 penalize my client and call their prior  
20 application to be a hardship application.

21 The construction sought by my client was  
22 granted because all the construction was  
23 within a disturbed area and which did not  
24 affect the Pine Barrens and the approval  
25 should have been granted on that basis. But

1 Tuccio SCTM 900-248-1-110-4  
2 a hardship exemption was the sole mechanic,  
3 other than litigation. Litigation would  
4 have been a wasteful process. The  
5 applicants should have been granted approval  
6 for the construction sought, as it would not  
7 have and did not have any negative affect on  
8 the Pine Barrens, the act or the intention  
9 of the act. Accordingly, the applicants  
10 should not be charged as having been granted  
11 a hardship exemption.

12 It is urged that the exclusion you have  
13 to seeking permission for use upon the  
14 hardship exemption is an omnibus clause term  
15 because there's no other term. In an all  
16 inclusive manner, the applicants are  
17 obligated to utilize that sole manner.

18 There's another issue that is raised.  
19 That is a suggestion, I say suggestion, in  
20 the denial letter that the calculations  
21 indicate that the site is near the town's  
22 development limits as contained in the town  
23 code. That is grossly untrue. Pursuant to  
24 the Town of Southampton under Section  
25 330-37, industrial districts of use

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2 regulations part three, provide that a  
3 self-service storage facility is deemed to  
4 be under LI200 light industry and permits  
5 such as a special exemption. So that  
6 utilization is permissible. It is not  
7 prevented. The Town of Southampton under  
8 330-38 industrial district table of  
9 dimensional regulations provides that lot  
10 coverage for main and accessory buildings  
11 under LI200 light industry is 20 percent.  
12 The acreage in the lot that we are speaking  
13 about is 52.299 acres, and just based on lot  
14 coverage, my client would be entitled to 20  
15 percent coverage, and they do not have that.

16 As a matter of fact, in further looking  
17 at the code of the Town of Southampton,  
18 Chapter 330 in zoning, Article 1, the  
19 general provisions say word usage, the word  
20 structure includes the word building.  
21 Further in definitions is a definition for  
22 building, building area, lot coverage and  
23 other matters, and I am going to deliver  
24 copies of those statements, and it indicates  
25 that a structure is only a building. The

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aprons are not buildings. The roads are not  
buildings. According to our evaluation and  
in the updated survey -- I would like to  
provide and have them marked as, I guess,  
Exhibit A for us. I have several copies.  
The updated survey from Joseph Ingegno also  
designates each one of the buildings and  
roads and aprons on the property, measuring  
them out size wise and providing a true  
indication of the size. I have two CO  
surveys which break out the percentages and  
acres for the buildings and asphalt, roads,  
the concrete aprons for the survey. It  
deals with four constructions that existed  
prior to the Pine Barrens. That's work that  
was done by the government in the 1940s and  
50s. It has another break out and listing  
of coverage in those areas made by the  
applicant and the government in advance.

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23  
THE CHAIRMAN: Is this a survey not  
previously provided to the staff or  
Clearinghouse?

24  
25  
MR. SCHNEPS: It's the same survey that  
has additional information on it.

Tuccio SCTM 900-248-1-110-4

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2 THE CHAIRMAN: So the answer is, this  
3 was not previously provided to the  
4 Clearinghouse.

5 MR. SCHNEPS: That is correct.

6 THE CHAIRMAN: So it has new and  
7 additional information they should have  
8 considered and didn't? Didn't have it  
9 available?

10 MR. SCHNEPS: It's the same information.

11 MS. JAKOBSEN: Are you saying that your  
12 letter, the information that Mr. Ingegno  
13 provided on the survey --

14 MR. SCHNEPS: You have the same survey  
15 but the breaking out of the building size,  
16 aprons and road works are specifically  
17 pinpointed and the sizes are separated as  
18 demonstrated.

19 MR. MILAZZO: The survey is the same,  
20 but he has further broken down the exact  
21 physical dimensions of the structures on the  
22 property. He just measured the buildings  
23 and other structures. It's been marked as  
24 Exhibit A.

25 MR. SCHNEPS: This would be Exhibit B.

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1  
2 I know you produced this already. This is  
3 section 330-38.

4 MR. MILAZZO: The dimensional  
5 requirements, we will mark these as C.

6 MR. SCHNEPS: I have the zoning  
7 definitions.

8 MR. MILAZZO: We will mark as Exhibit C  
9 the dimensional requirements of the zoning  
10 district at 330-38. Exhibit D will be the  
11 general provision definition section of  
12 Chapter 330 of the town zoning code.

13 Exhibit E will be Town of Southampton  
14 dimensional regulations for the LI business  
15 district, for the business districts.

16 Any other exhibits, Mr. Schneps?

17 MR. SCHNEPS: I think that may be them  
18 all, unless I change my mind.

19 THE CHAIRMAN: Are there additional  
20 comments you want to put on the record?

21 MR. SCHNEPS: Yes. As can be seen from  
22 looking at the documents submitted, the  
23 original buildings that were built in the  
24 '40s and '50s, all of which were prior to  
25 the Pine Barrens, cover buildings on .98

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acres. The additional buildings that were constructed by my client were .90 buildings. There are fewer than two acres of lot average on the 52.299 acres. In spite of that fact, a fast calculation of 20 percent of 52.299 exceeds ten acres. That's a substantial difference in the number of acres and just dealing with that issue is a substantial difference in terms of the number of credits to which my client would be entitled. We are talking about approximately eight additional credits just on the 20 percent basis. This was rejected.

We are not asking to do anything else to the property. We are not asking to supplement any construction in any way whatsoever. We are simply asking to receive the credits that we are entitled to on the property.

As a matter of fact, we are really asking for more than that number of credits. We are really asking for credits for the whole 52.299 acres, less than those that were constructed upon. We do believe that

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1  
2 there is precedent for doing that.

3 My clients could seek a subdivision  
4 approval and vacate and have some of that  
5 property without any buildings on it.  
6 However, that should not be necessary. My  
7 clients should not be pressed to do that.

8 In the previous case of Tuccio against  
9 the County of Suffolk, a case that you  
10 should be familiar with, that was the action  
11 against the county for related property,  
12 index number 98-11876. I'm offering that as  
13 an exhibit.

14 MR. MILAZZO: Do you want to mark the  
15 exhibit? I don't think it's relevant, but  
16 we will mark it.

17 MR. SCHNEPS: I think it is. This is  
18 the nature conservancy survey that was in  
19 connection with the bar clear action where  
20 it was approved that this lot was separated  
21 into four separate lots without the use of a  
22 subdivision approval. It was done  
23 independently into separate lots labeled A,  
24 B, C and D. Credits were awarded to two of  
25 those new parcels without the need of my



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1 clients securing an approval of  
2 subdivisions. We are asking that you do the  
3 same thing and give us all the credits.  
4

5 Some people may say, well, these people  
6 were able to use the property and made  
7 money, but the Constitution in the states  
8 and in New York is pretty clear. People are  
9 entitled to maximize the value of their  
10 property and they don't have to minimize  
11 that value by anybody else's feelings or  
12 anybody else's beliefs that someone should  
13 have more or should have less. My clients  
14 are entitled to maximize their value and it  
15 is both false and improper for the  
16 Commission to make a determination that my  
17 clients have earned enough money for their  
18 property. I don't think you have the right  
19 to do that.

20 You have a right to make a  
21 determination, but you have to make a  
22 determination that's fair and proper under  
23 the law. Under the law, an owner of  
24 property is effected in diminution in their  
25 right of the property because of the Pine

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1  
2 Barrens.

3 We should make a statement that should  
4 this Commission in reviewing your position  
5 and granting to us the credits that we are  
6 asking for, for the entire amount, we are  
7 willing to issue an appropriate easement so  
8 there will be no further development  
9 whatsoever on the property.

10 THE CHAIRMAN: Thank you.

11 MR. MILAZZO: I need one question  
12 answered. How many credits are you seeking?  
13 Seven, 52, 49?

14 MR. SCHNEPS: Since I'm not able to  
15 calculate them at this moment, I would say  
16 52.299 less the buildings.

17 MR. MILAZZO: That's 49.

18 THE CHAIRMAN: What did you seek at the  
19 Clearinghouse?

20 MR. MILAZZO: It was unspecified.

21 MR. SCHNEPS: In response to that, in  
22 other discussion that were had, everybody  
23 was really viewing the property as if the  
24 lot coverage included things other than the  
25 buildings. As we dug deeper, not everybody

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1  
2 was correct about what the lot coverage is.

3 MR. SHEA: You had spoken with regard to  
4 the town's structural coverage for this  
5 property. I think what you need to  
6 recognize the permitted structural coverage  
7 is indicative of the potential maximum use  
8 or value of the property. That's a lot  
9 different from the Pine Barrens Credits  
10 program, which is to maintain value over  
11 use. There is a distinction between the  
12 maximum use permitted pursuant to the town  
13 code outside of the Pine Barrens and the  
14 intent of the Pine Barrens Act.

15 MR. SCHNEPS: We are not looking to  
16 maximize the use of construction. We are  
17 looking to maximum our credits.

18 MR. SHEA: You are using the town's  
19 permitted structural coverage as a basis to  
20 ask for additional credits.

21 MR. SCHNEPS: Unfortunately, we have to  
22 use the facts as we have them and use the  
23 law as we have them. My understanding under  
24 the DCL and the Constitution, you're bound  
25 by the code of the Town of Southampton.

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1  
2 That's their code. If that's their rules,  
3 that's the way you calculate how much the  
4 lot coverage is. How else would you  
5 determine lot coverage? Otherwise, I could  
6 say lot coverage, you shouldn't charge --

7 MR. SHEA: I'm not questioning whether  
8 or not you would use the term maximum  
9 coverage. What I'm saying is that's  
10 indicative of the maximum use of the  
11 property as opposed to the intent of the  
12 Pine Barrens program which is to maintain  
13 value, **reasonable value**. That's a big  
14 distinction.

15 MR. SCHNEPS: All that language really  
16 is, you recognize the fact that people who  
17 own property have a right to maximize their  
18 value and really what you're suggesting in  
19 that language, they have a right to earn an  
20 appropriate amount of money. We are not  
21 looking to construct anything further.

22 MR. SHEA: It is correct an owner of a  
23 piece of property is entitled to reasonable  
24 return on the property. That's different  
25 from the maximum use.

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MR. SCHNEPS: Is it your point of view that the Commission is going to make a determination as to how much value in dollars is a party supposed to get?

MR. SHEA: I'm making a distinction between Pine Barrens Credit program and the town's structural coverage.

MR. SCHNEPS: There has to be a basis to make a determination how much money or value or construction you can do on a property in terms of buildings and lot coverage.

THE CHAIRMAN: I would agree. I don't know whose obligation it to determine that. I wouldn't disagree with that. Any other questions? Anybody from the public?

MR. AMPER: Richard Amper, executive director of the Long Island Pine Barrens Society. First of all, the applicant in this case has been a person who has supported the efforts of the Pine Barrens preservation through the sale of other holdings to the government for that purpose.

Secondly, I would point out that the document, the site survey that has been

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2 supplied, did provide the same information  
3 to the Clearinghouse as being provided here  
4 with the exception that they have made it  
5 easier to sort out what has been developed  
6 in what ways. Otherwise, the information  
7 has not changed.

8 And the final thing, the question is  
9 whether the Commission has addressed  
10 previous applications from this applicant,  
11 was it made known the granting of the  
12 applications constituted the minimum relief  
13 necessary to lift the hardship. The  
14 question is not the maximum he might have  
15 gotten for his land but the minimum  
16 necessary to relieve and can the  
17 Commissioner speak to that? Was what the  
18 Commission did either in the communication  
19 to the applicant or another resolution, did  
20 that indicate that the Commission believed  
21 that it was granting the minimum relief  
22 necessary? That's the question.

23 MR. MILAZZO: We will have to look at  
24 the resolution.

25 THE CHAIRMAN: Any other questions?

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2 Anybody else wish to be heard? If not, we  
3 will close the hearing for deliberation of  
4 the Commission.

5 Thank you, Mr. Schneps.

6 MR. SCHNEPS: Thank you.

7 (Time noted: 4:45.)  
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Exhibit: A. to Certified Copy of Administrative Record  
Letter dated January 3, 2007 from Judy Jakobsen, Esq.  
to Murray Schneps, Esq. with Attachments (96-105)

## **PINE BARRENS CREDIT CLEARINGHOUSE**

James T.B. Tripp, Esq., Chairman  
Andrew P. Freleng, AICP, Vice Chairman  
Richard W. Hanley, Member  
Mitchell H. Pally, Esq., Member  
Robert Anrig, Member

January 3, 2007

Murray Schneps, Esq.  
PO Box 1080  
Aquebogue, NY 11931

Subject: Letter of Interpretation for Edwin Tuccio, SCTM# 900-248-1-110.4

Dear Mr. Schneps:

The Pine Barrens Credit Clearinghouse reviewed your client's Letter of Interpretation Application at its December 18, 2006 meeting. The Clearinghouse considered the materials you supplied including the aerial photograph of the site, the calculations prepared by your client's surveyor, Joseph Ingegno, the pre-existing use of the parcel, that predates the Long Island Pine Barrens Act, and the two hardship approvals granted by the Commission for the parcel in 1994 and 1997. Each of these hardship approvals authorized the expansion of a mini-storage facility on the parcel. Included within the approvals was the limited right to clear and disturb portions of the parcel to facilitate each expansion.

The Clearinghouse evaluated your client's application in the context of Section 6.1 of the Central Pine Barrens Comprehensive Land Use Plan. Section 6.1 states that the primary purpose of the Pine Barrens Credit Program, "to maintain value in lands designated for preservation or protection under the Plan by providing for the allocation and use of Pine Barrens Credits (PBCs)".


The Clearinghouse has determined that value has been maintained in the subject parcel. The parcel is devoted to a commercial enterprise which has been expanded via Commission granted hardship exemptions. Moreover, an analysis of the aerial and Mr. Ingegno calculations indicates that the site is near the Town's development limits as contained in the Town Code.

On the basis of the foregoing, the Clearinghouse directed the issuance of this letter stating that no Pine Barrens Credits can be allocated to the parcel. The Board, did note, that it would reconsider this determination if your client was to remove the bunkers (out buildings) and revegetation of the area.

Your client may appeal this determination within thirty (30) days of the date of this letter by giving notice, in writing, to the Central Pine Barrens Joint Planning and Policy Commission. The Commission address is P.O. Box 587, 3525 Sunrise Highway, 2<sup>nd</sup> Floor, Great River, New York 11739-0587. Included with this notice shall be the reasons supporting the appeal as well as the number of Pine Barrens Credits requested. The Commission shall consider and decide the appeal within sixty (60) days of receipt of an appeal and will schedule a public hearing on the appeal.

If you have any further questions, please don't hesitate to give me a call at 631-563-0306.

Sincerely,

  
Judy Jakobsen  
Clearinghouse Staff

cc: J. Milazzo  
R. Corwin  
Clearinghouse Board Members

Prior hardships in 1994 + 97  
Application in 2000 - withdrawn

900-248-1-110.2 (Core)

Westhampton Mini-Storage expansion  
with 2 new buildings  
Westhampton Airport  
c/o Ed Tuccio  
547 East Main Street  
Riverhead, NY 11901  
727-6644

- 6/1/94 Receipt
- 6/6/94 Comm. mtng - hearing set
- 7/9/94 Legal notice
- 6/22/94 Hearing (open till 7/6)
- 7/22/94 SEQR Lead Agency Coordination
- 8/26/94 Letter from appl'nt decision ext.
- 8/10/94 Lead Agency Designation & SEQR Determination
- 8/12/94 Project approval - Applicant has our hearing exhibits on loan for use at Town proceedings
- 9/14/94 SEQR Filing w/ DEC
- 11/29/94 New Correspondence - amended site plan/will clarify w/ counsel
- 6/11/97 Receipt (additional bldgs)
- 7/16/97 Public Hearing
- 8/22/97 SEQR Coordination deadline
- 9/17/97 Comm mtng - negative declaration
- 10/15/97 \$198.93 fee paid

Westhampton Mini-Storage Expansion  
with 4 new buildings  
Westhampton Airport  
c/o Edwin & Patricia Tuccio  
547 East Main Street  
Riverhead, NY 11901  
727-6644

- 2/22/00 Receipt (3 additional bldgs)
- 3/8/00 Comm. Mtg. - legal counsel to review prior hardships
- 3/29/00 Comm. Mtg. - hearing set
- 4/27/00 Rec'd letter from applicant's attorney withdrawing application.
- 5/10/00 Comm Mtg - hearing, letter of withdrawing applic. accepted.
- 6/2/00 \$131.60 fee paid
- 6/21/00 120 day period ends

8/1994.

regarding the abandonment. Mr. Sloan stated that under the Real Property Law, his client has the right to abandon this property. Mr. Rigano will review the subject of abandonment. Mr. Sloan stated that as long as one is not landlocking another parcel of property, the assessor has to sign off on the street, and that this is only a formality. Mr. Sloan asked that the Commission not force his client to go through an abandonment and then get denied. A discussion ensued regarding the model used, and that the model be evaluated to determine its completeness. Commissioner Thiele stated it must be determined as to whether or not someone met the standard. If we do not have a mechanism to advise us on this, then there is not much of a standard.

A motion was made by Commissioner Thiele and seconded by Ms. Filmanski to extend the application until September 14, 1994.

4.

#### Core Preservation Area

Tuccio/Westhampton application

Summary: Mr. Rigano stated that a motion be made to designate the Commission as lead agency.

A motion was made by Commissioner Thiele and seconded by Ms. Filmanski designating the Commission as lead agency. The motion was carried unanimously.

Mr. Rigano mentioned that the Environmental Assessment Form has been completed, and noted that either a positive or negative declaration be adopted. Mr. Corwin summarized the issues of concern, and described the site area. Mr. Corwin suggested that the Commission's decision should be limited to the most microscopic level of approval; the berm area. The second issue is the impact on the water. The applicant has proposed a containment structure in each of the storage units, which would contain substances, much like the Suffolk County Sanitary Code requires for hazardous waste. The other item is the impact on public health. Mr. Corwin's concern was that something may catch fire or explode, and felt that certain items be prohibited. Mr. Corwin felt that any approval without these conditions would not be valid. A discussion took place regarding the conditions mentioned.

A motion was made by Commissioner Thiele and seconded by Ms. Filmanski to adopt a negative declaration on this application. The motion was carried unanimously.

A further motion was made by Commissioner Haynes and seconded by Commissioner Thiele to approve this application with conditions. The motion was carried unanimously.

Manor Pines/Manorville project

Summary: Mr. Rigano stated that on July 29, 1994, he mailed correspondence to the developer and notified him that if he continues with construction, he will

## Central Pine Barrens Joint Planning and Policy Commission

Robert J. Gaffney, *Chairman*  
John LaMura, *Vice Chairman*  
Ulric S. Haynes, *Member*  
Joseph F. Janoski, *Member*  
Fred W. Thiele, Jr., *Member*

P.O. Box 587  
3525 Sunrise Highway, 2nd Floor  
Great River, New York 11739

Session of August 10, 1994  
Riverhead County Center

*Present: Mr. Protos (for Commissioner Gaffney), Ms. Swick (for Commissioner LaMura), Commissioner Haynes, Commissioner Thiele, Ms. Filmanski (for Commissioner Janoski).*

*Resolution on the Core Preservation Area Hardship  
Application of Edwin Tuccio Regarding the Project  
Known as Westhampton Ministorage*

Whereas, Mr. Edwin Tuccio has filed with the Commission an application for a core preservation area hardship exemption permit for construction of storage facilities in place of existing earthen berms located on the applicant's property in Westhampton, Town of Southampton, which is located immediately north of Gabreski Airport, identified as Westhampton Ministorage, and located upon a portion of Suffolk County Tax Map Number 900-248-1-110.2, and

Whereas, a public hearing on the application was held by the Commission on June 22, 1994, and the results of that hearing have been considered by the Commission, and

Whereas, the application has undergone coordinated review for determination of lead agency status as per the State Environmental Quality Review Act and regulations, and no objections have been raised to the Commission's proposed lead agency status, and

Whereas, the Commission has designated itself as lead agency on this date, and

Whereas, the Commission has considered the Environmental Assessment Form submitted by the applicant, and

Whereas, it is the determination of the Commission that the application meets all requirements of the Environmental Conservation Law Section 57-0121(10), now, therefore, be it

Resolved that the proposed action will not have a significant effect on the environment within the meaning of Article 8 of the Environmental Conservation Law, and be it further

Resolved that the requested core preservation area hardship exemption permit is hereby granted on this date, subject to the following conditions:

1. This approval is limited to that area currently fenced in and used for the actual operation of the ministorage facility as described in the exhibits submitted to the Commission, and does not apply to any lands outside the fence. In particular, this excludes all portions of the subject real property parcel which are not contained within the fence and are therefore not currently used for the storage facility.
2. There shall be no storage of toxic, hazardous, flammable or explosive materials or waste products.
3. Necessary site improvements required by the Town of Southampton directly related to the construction of the new storage buildings are also permitted, and shall include, but not be limited

**Commission Meeting of October 8, 1997  
Riverhead Town Hall**

**Present:** Mr. Duffy (for Southampton), Ms. Wiplush (for Town of Brookhaven),  
Mr. Cowen (for New York State) Mr. Proios (for Suffolk County), Ms. Filmanski (for Town of  
Riverhead)

**Resolution on Application of Westhampton Mini-Storage  
Core Preservation Area Hardship  
Property located north of Gabreski Airport  
Westhampton, Town of Southampton  
SCTM # 900-248-1-110.2**

Whereas, on June 11, 1997, Edwin Tuccio submitted a Core Preservation Area hardship exemption application to add four storage buildings totaling 24,000 square feet on a 53 acre site which contains 11 concrete storage buildings and,

Whereas, on July 16, 1997 a public hearing on the Core Preservation Area hardship was held by the Commission and a transcript was thereafter made available to the Commission and,

Whereas, on July 23, 1997, pursuant to the New York State Environmental Quality Review Act ("SEQRA") Part 617.6, the Commission determined that the application is an Unlisted action and coordinated lead agency review and,

Whereas, on September 17, 1997 the Commission designated itself as lead agency and determined that the proposed action will not have a significant impact on the environment pursuant to SEQRA; now be it

**Resolved,** that the Commission hereby determines that the application, as submitted, does meet all of the requirements for extraordinary hardship pursuant to New York State Environmental Conservation Law 57-0121 (10)(a) and (c) and be it further

**Resolved,** that the application for a Core Preservation Area hardship exemption is granted and that this approval together with the previous hardship exemption granted by this Commission do not exceed minimum relief.

**Record of Motion:**  
Motion by Mr. Cowen  
Seconded by Ms. Filmanski

**Yea Votes:**  
Unanimous



1011731

Brookhaven Town in an interagency clean up of a portion of Jerusalem Hollow Road, in Manorville on 11/17 and 11/18. Two days have been allotted for this. In the event that those two days are not needed for the quantity of debris there, the extra time will be devoted to cleaning a portion of Brookhaven State Park, in Ridge.

Ms. Plunkett then described the current effort by a Council subcommittee to develop a plan for public lands management. Mr. Corwin noted that there was a discussion at the 10/7/97 Council meeting regarding the possible use of one of several existing Suffolk County facilities in the Central Pine Barrens for an interagency law enforcement site. Ms. Plunkett then described the possible submission of an Environmental Protection Fund grant application by the Commission.

#### Core Preservation Area

- Westhampton Ministorage / Westhampton / site plan: decision (10/9 deadline)

**Summary:** Ms. Plunkett summarized this previously discussed application for construction of additional storage units on a partially developed site in the Westhampton area of Southampton Town (Suffolk County Tax Map number 900-248-1-110.2). The decision deadline for this application is 10/9/97. She noted that on the approximately 53 acre site which is zoned Light Industrial-200, 20% of the lot area, or approximately 10.6 acres, could be covered by buildings under the town code. The total lot coverage that would exist once the additional buildings requested in this application are constructed will be 3.1% of the total lot area.

A brief discussion was then held regarding minimum relief under the state pine barrens law. Following this, a motion was made by Mr. Cowen and seconded by Mr. Duffy to grant approval of this application for a core area hardship exemption permit, and to note that this relief combined with the relief previously granted by the Commission on this parcel, does not exceed minimum relief. The motion was then approved by a 5-0 vote.

- Exact Technology / Westhampton / site plan: new correspondence

**Summary:** Ms. Plunkett distributed the attached two correspondence items regarding the Exact Technology core hardship application previously approved by the Commission: one from Ms. Julie Penny of the South Fork Coalition for Fresh Water (with attachments) opposing the project; and one from Mr. Kenneth Tuthill of Pine Barrens Pure (the project sponsor). A brief discussion ensued regarding the Commission's approval of this application and the contents of the hearing transcripts. It was agreed that counsel will draft a reply to the first letter, and that the reply will go out from the Commission office.

- Mahfar Associates / Ridge / site plan: new application; schedule hearing

**Summary:** Ms. Plunkett reported that a new application has been received for this site just east of Country Route 46 (William Floyd Parkway) and north of NYS Route 25 (Middle Country Road), and distributed copies. She noted that the prior application for this site, for which the Commission issued a positive declaration, included a driving range, parking lot, and restaurant. That application was withdrawn, and the new application differs in that the restaurant has been replaced with a lumber yard. She

3/2000.

proposed modular building would be treated at the existing plant. She noted that the proposed modular building does not appear to have any impact on core area resources.

A discussion then ensued regarding the College's existing Master Plan Phase 1 (which does not include the proposed modular building); the fact that the existing Master Plan Phase 1 was deemed by the Commission to be nondevelopment; whether the current proposal was "development" under the pine barrens law; whether a Core hardship permit would be required; the provision of the Pine Barrens Plan that says that the Commission shall seek lead agency status on Core area projects; the desire expressed by Mr. Amper to obtain a complete picture of the County's plans for future Core area facilities; the difficulty in discerning what the College's current plans or desires are; and what written materials the Commission currently has at its disposal to determine whether the project constitutes development.

It was agreed that Commission counsel will examine the current materials, the pine barrens legislation and the Pine Barrens Plan and make a report at the next Commission meeting.

- Westhampton Mini Storage / Westhampton (Southampton) / expansion: new hardship; set hearing  
Summary: Ms. Jakobsen distributed the new hardship request for this 53 acre parcel, zoned LI-200 (Light Industrial, 5 acre lot size), identified as Suffolk County Tax Map 900-248-1-110.2, and located on the North Perimeter Road on the north side of Gabreski Airport, in Westhampton, Southampton Town. The project consists of the addition of 3 buildings containing 20,800 square feet to the site, which already contains 48,000 square feet of self storage buildings. She further described the proposal's details.

A discussion then followed regarding whether the two previous Core area hardships which the Commission has granted to this property already constitute the minimum relief necessary to which the pine barrens law refers; whether the proposed project is an unlisted action (which Mr. Cowen asserted that it is); and whether the Commission should perform a coordinated or uncoordinated review under SEQRA regulations. It was agreed that this will be placed on the next Commission agenda for counsel's report.

- Hidden Pond Stables / Manorville (Brookhaven) / riding arena: new hardship; set hearing  
Summary: Ms. Jakobsen distributed the new hardship request for this 34.22 acre parcel, zoned HF (Horse Farm, 1 house permitted for each 30,000 square feet), identified as Suffolk County Tax Map 200-460-1-5, and located on the north side of North Street, west of Center Moriches Road and Wading River Road, in Manorville, Brookhaven Town. The project consists of the construction of a 100 by 200 by 16 foot indoor equestrian riding facility with a dirt floor, with no additional septic system and no clearing of native vegetation. She further described the proposal's details.

- 4/10/00
- Westhampton Mini Storage / Westhampton (Southampton) / expansion: counsel's report on new hardship (from 3/9/00)  
*Summary:* Ms. Roth reported that she has examined the prior two core hardship approvals for the site, and the documentation that accompanied them. She then specifically read from a portion of the 7/16/97 hearing transcript for this site (which was the hearing for the second hardship application) which dealt with the question of the extent of the relief being granted at that time, and whether that grant of relief combined with the prior grant would constitute the minimum relief necessary as specified in the pine barrens law. A brief discussion ensued regarding whether a hearing should be held on this new application, and it was agreed that one will be held. A motion was then made by Mr. Shea and seconded by Mr. Cowen to hold a hearing on this new application on 5/10/00 at 4:00 pm. The motion was approved by a 5-0 vote.

Mr. Gaffney arrived at this time.

#### Administrative

- SC Water Authority 2000-01 agreement: review, approval  
*Summary:* Mr. Gaffney signed the attached agreement approved earlier today, and it was notarized. It will now be forwarded to the Suffolk County Water Authority for approval and signing.

#### Pine Barrens Credit Program

- Presentation of commemorative plaques in memory of Mr. Jack Hanley to his family and the Suffolk County National Bank (Mr. Gaffney, Sup. Kozakiewicz, and Clearinghouse members)  
*Summary:* Present for the awarding of the commemorative plaques in honor of Mr. Hanley's service to the Clearinghouse were Ms. Gail Hanley and her immediate family, and Mr. Gordon Huszagh, Executive Vice President and Chief Financial Officer, and Ms. Jeanne Hamilton, Senior Vice President, from the Suffolk County National Bank. Mr. Corwin introduced Mr. Gaffney and Supervisor Kozakiewicz, who each spoke about Mr. Hanley and who presented both plaques (see attached text). Mr. Corwin then introduced Mr. Andrew Freleng (the Suffolk County representative to the Clearinghouse), Mr. James Burke (who represented Mr. Allan Grecco, former Vice Chair of the Clearinghouse), and Mr. Mitchell Pally (the Governor's representative to the Clearinghouse), each of whom spoke briefly.

Mr. Gaffney departed at this time.

#### Core Preservation Area

**MURRAY B. SCHNEPS**  
ATTORNEY AT LAW  
445 GRIFFING AVENUE  
P.O. BOX 926  
RIVERHEAD, NEW YORK 11901  
—  
(631) 722-5100  
FAX (631) 722-5093

AG 14 2006

August 11, 2006

Judy Jakobsen, Esq.  
Pine Barrens Credit Clearinghouse  
P. O. Box 587  
3525 Sunrise Highway - 2<sup>nd</sup> Floor  
Great River, New York 11739-0587

Re: Letter of Interpretation for Tuccio - 900-248-1-110.4

Dear Ms. Jakobsen:

As requested, I am enclosing an updated hi-lited aerial photograph provided by our surveyor, Joseph A. Ingegno, together with Mr. Ingegno's analysis of the areas scaled from the said aerial photographs.

Mr. Ingegno's analysis establishes that the areas for roofed over buildings (1.97 acres - pink coloration), paved areas (4.30 acres - green coloration) and dirt roads (1.42 acres - blue coloration) covers a total of 7.69 acres. These items total 7.69 acres and represent all of the developed area. The total property covers 52.30 acres, so that the total undeveloped area covers 44.61 acres, for which my client seeks Pine Barrens Credits.

In the event you require any further information or explanation, please call me.

In the event you do not agree with the aforesaid developed and undeveloped areas, I would be appreciate an opportunity to respond to your analysis, prior to your final determination .

## Joseph A. Ingegno Land Surveyor

Tel: (631) 727-2090  
Fax: (631) 727-1727

P.O. Box 1931  
Riverhead, N.Y. 11901-0965

Email: [jaisurveyors@aol.com](mailto:jaisurveyors@aol.com)

OFFICES LOCATED AT  
322 Roanoke Avenue  
Riverhead, N.Y. 11901

August 9, 2006

Murray Schneps, Esq.  
193 Griffing Avenue  
Riverhead, New York 11901

RE: S.C. tax no. 900-248-01-110.4 (52.3 ± acres)

Dear Murray:

The areas for the above property your requested are as follows:

(1)	Roofed over buildings	1.97 acres
(2)	Paved areas	4.30 acres
(3)	Dirt roads	1.42 acres
	<b>Total:</b>	<b>7.69 acres</b>
(4)	Un-built area	44.61 acres
(5)	Total property area	52.30 acres

These areas were scaled from the aerial photographs that were provided to us.

Should you have any questions regarding this information, please do not hesitate to contact me at anytime at the above number.

Very truly yours,

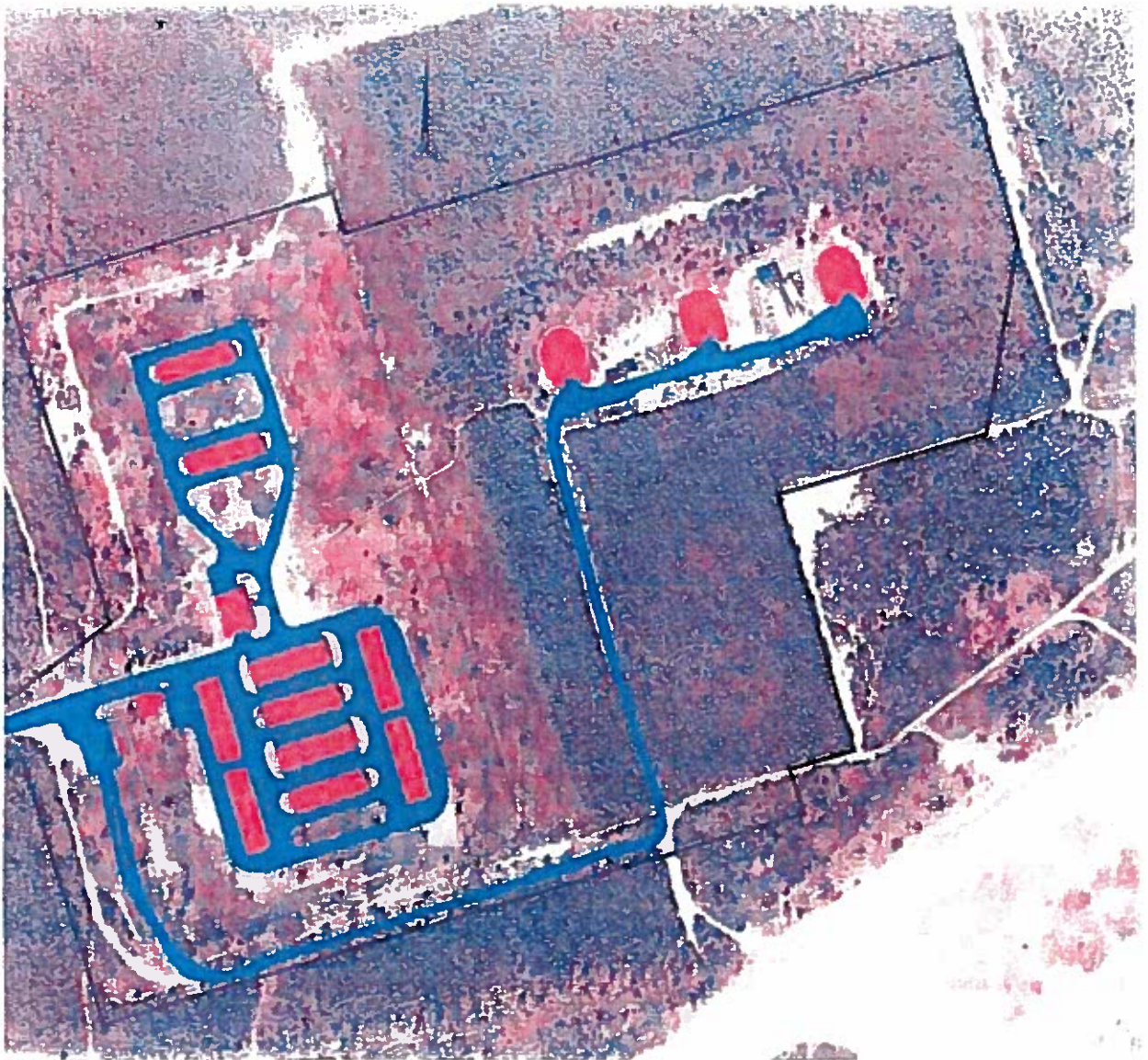
Joseph A Ingegno, P.L.S.

djc

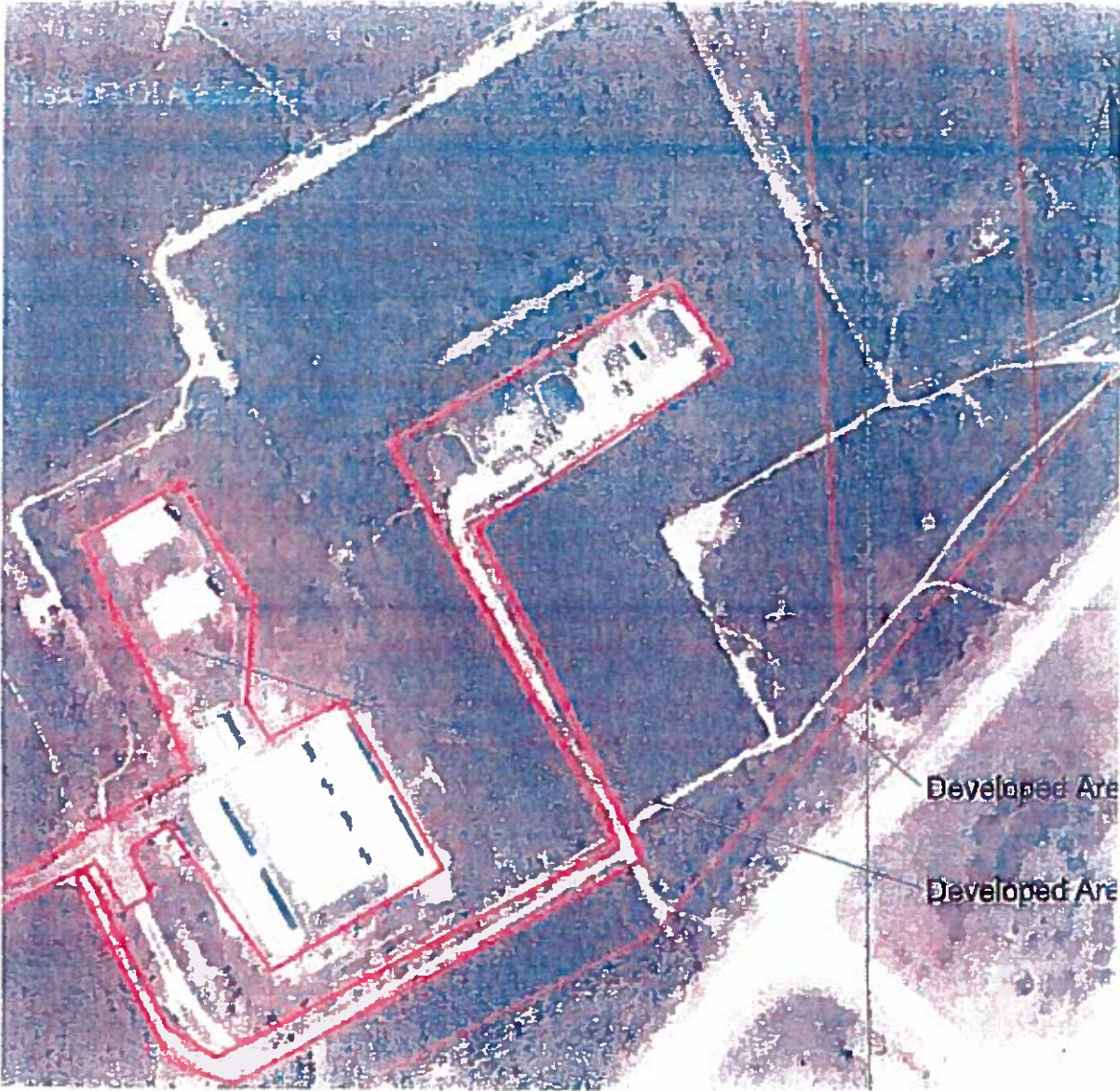
Exhibit: A. to Certified Copy of Administrative Record  
Aerial Picture (106)



*Submitted by Applicant*



**Exhibit: A. to Certified Copy of Administrative Record  
Aerial Picture (107)**



↑  
2000

Exhibit: A. to Certified Copy of Administrative Record  
Aerial Picture (108)

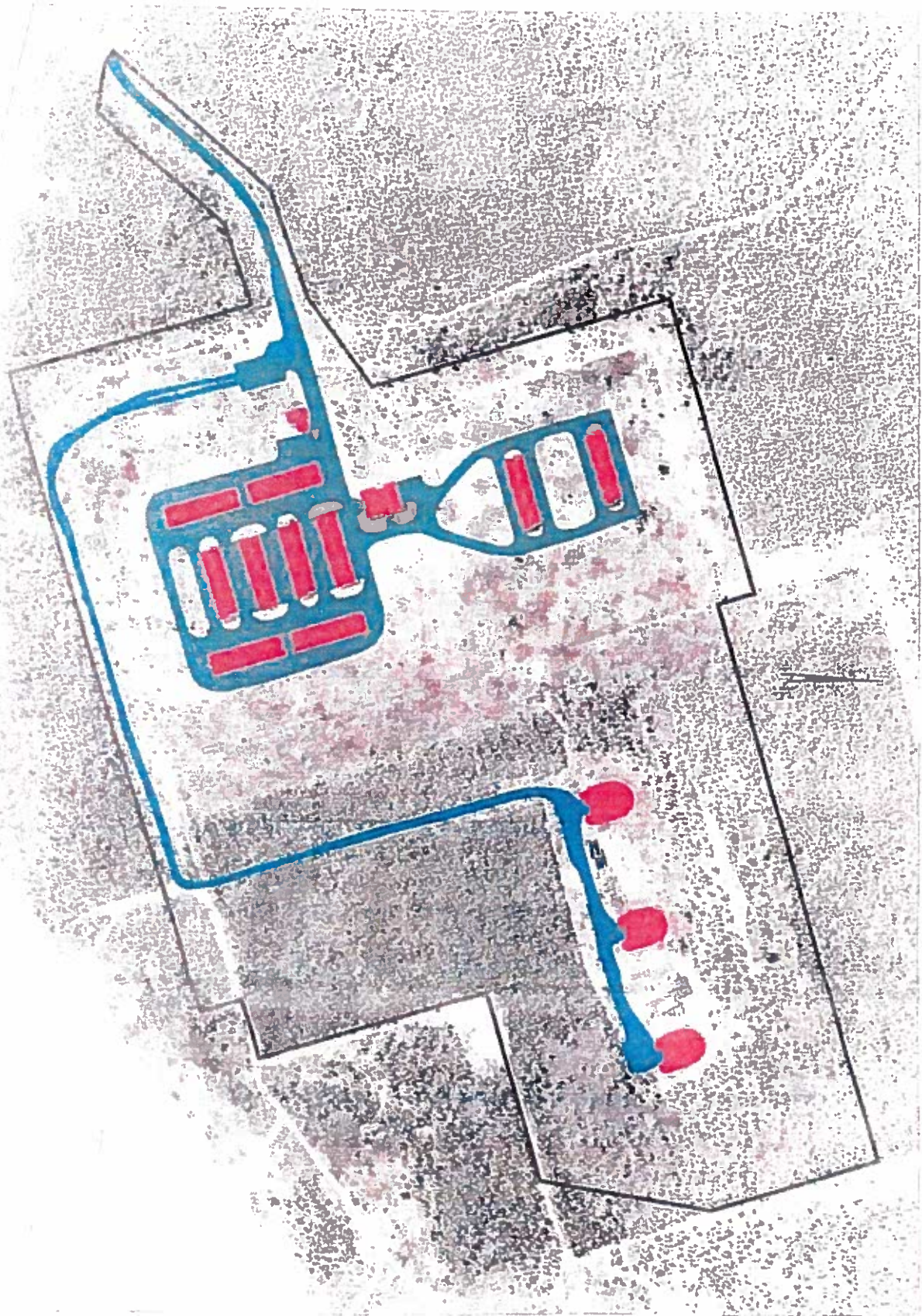
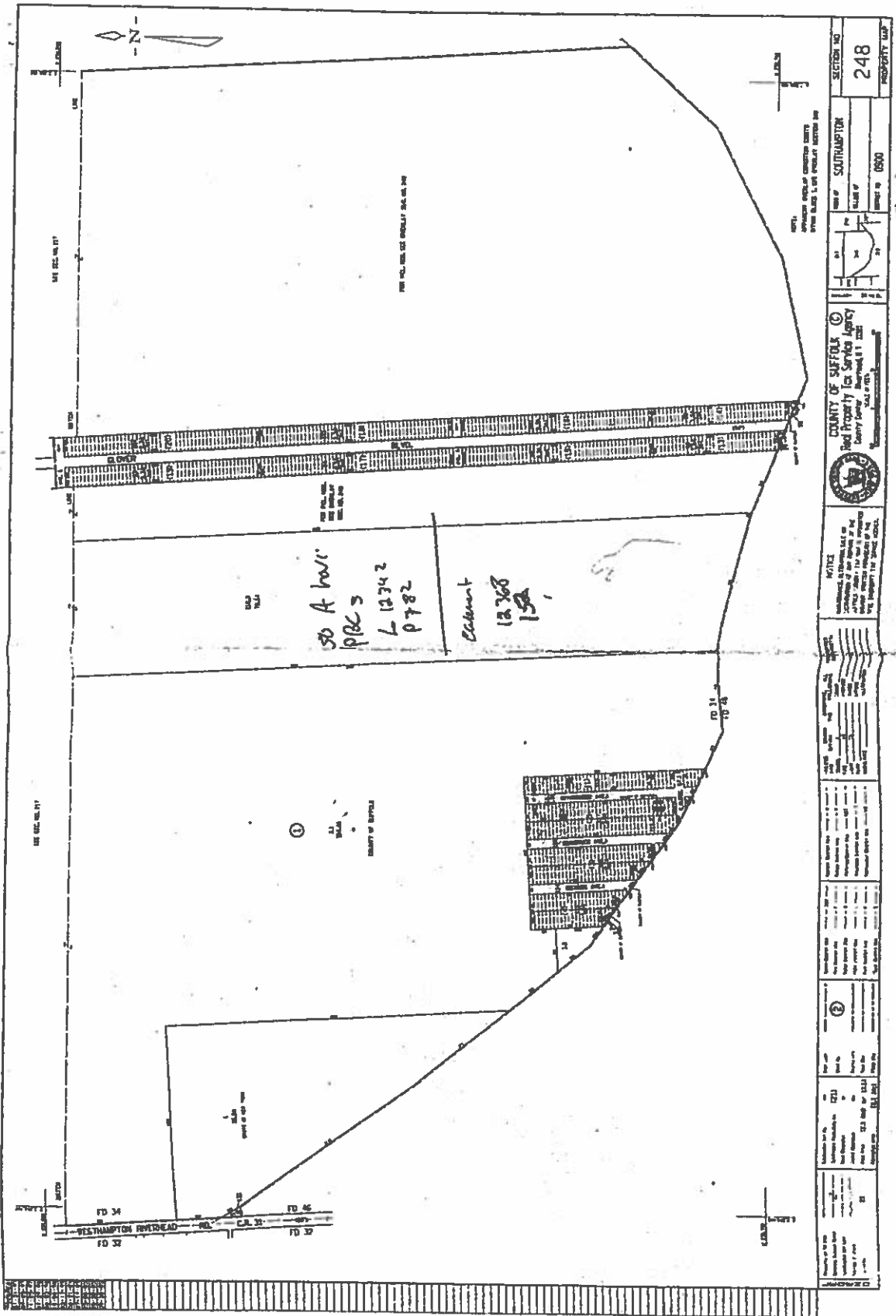


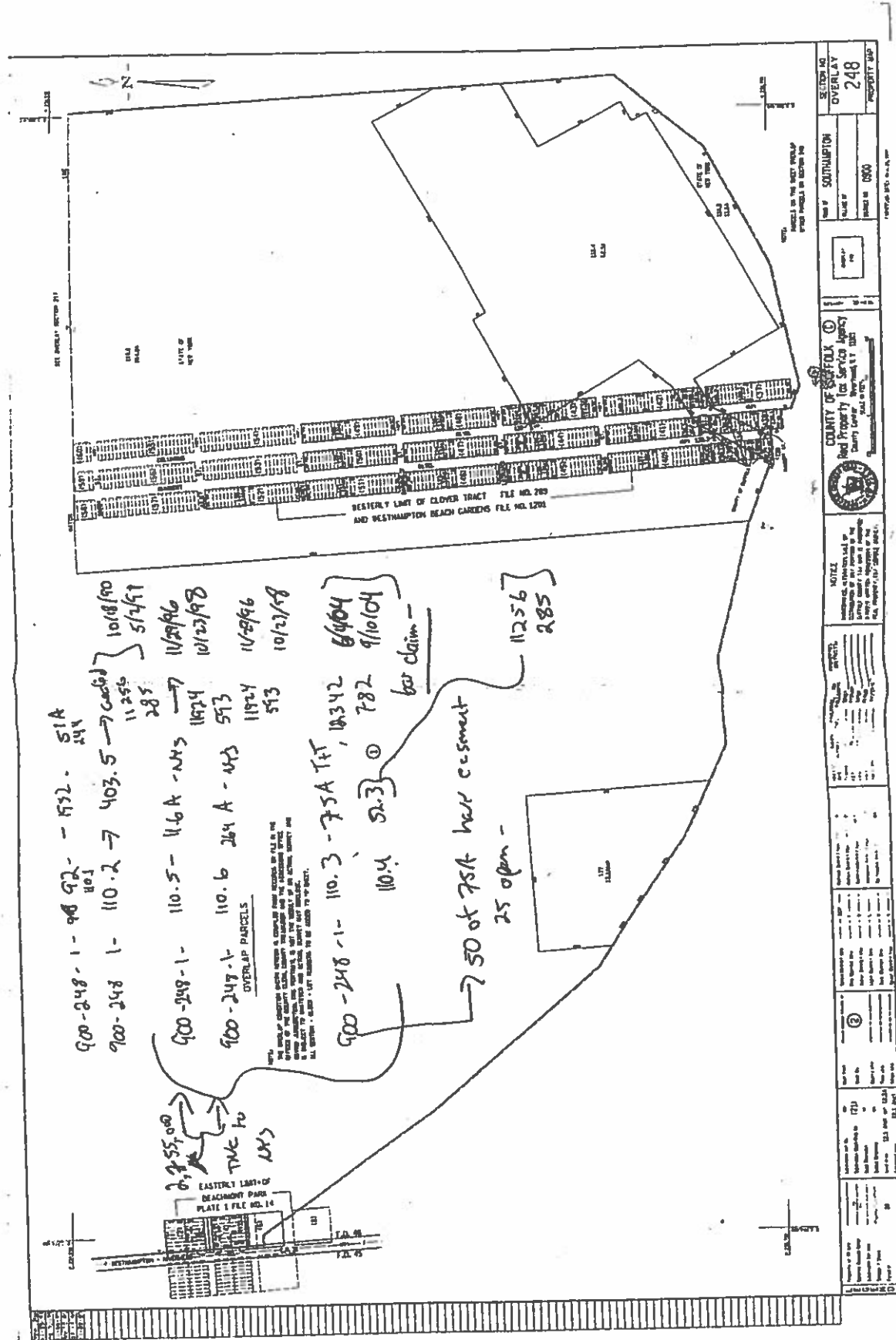


Exhibit: A. to Certified Copy of Administrative Record  
Property Map (109)



COUNTY OF SUFFOLK Real Property Tax Service Agency County Office, Department 11, 228 Suffolk, VA 23401	
SECTION 248 MAP OF SOUTHAMPTON SCALE OF 1" = 100'	DATE OF 08/00 PROPERTY MAP
NOTICE: This map is a certified copy of the original map on file in the office of the County Surveyor. It is subject to the provisions of the Virginia Code, Chapter 13.1, Article 1.	
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

Exhibit: A. to Certified Copy of Administrative Record  
Property Map (110)



17-200 - special except permit for mini-storage -

20% Lot ~~20%~~ coverage - 52.299 Ac

3.1% lot coverage -

$$\begin{array}{r} 2.98 \\ 1.880 \\ .900 \\ \hline 3.76 \end{array}$$

→ 3.76 acres of building

---

5A zoning -

516 - 250-4055 -

Exhibit: A. to Certified Copy of Administrative Record  
Property Map dated July 27, 1994 (112)

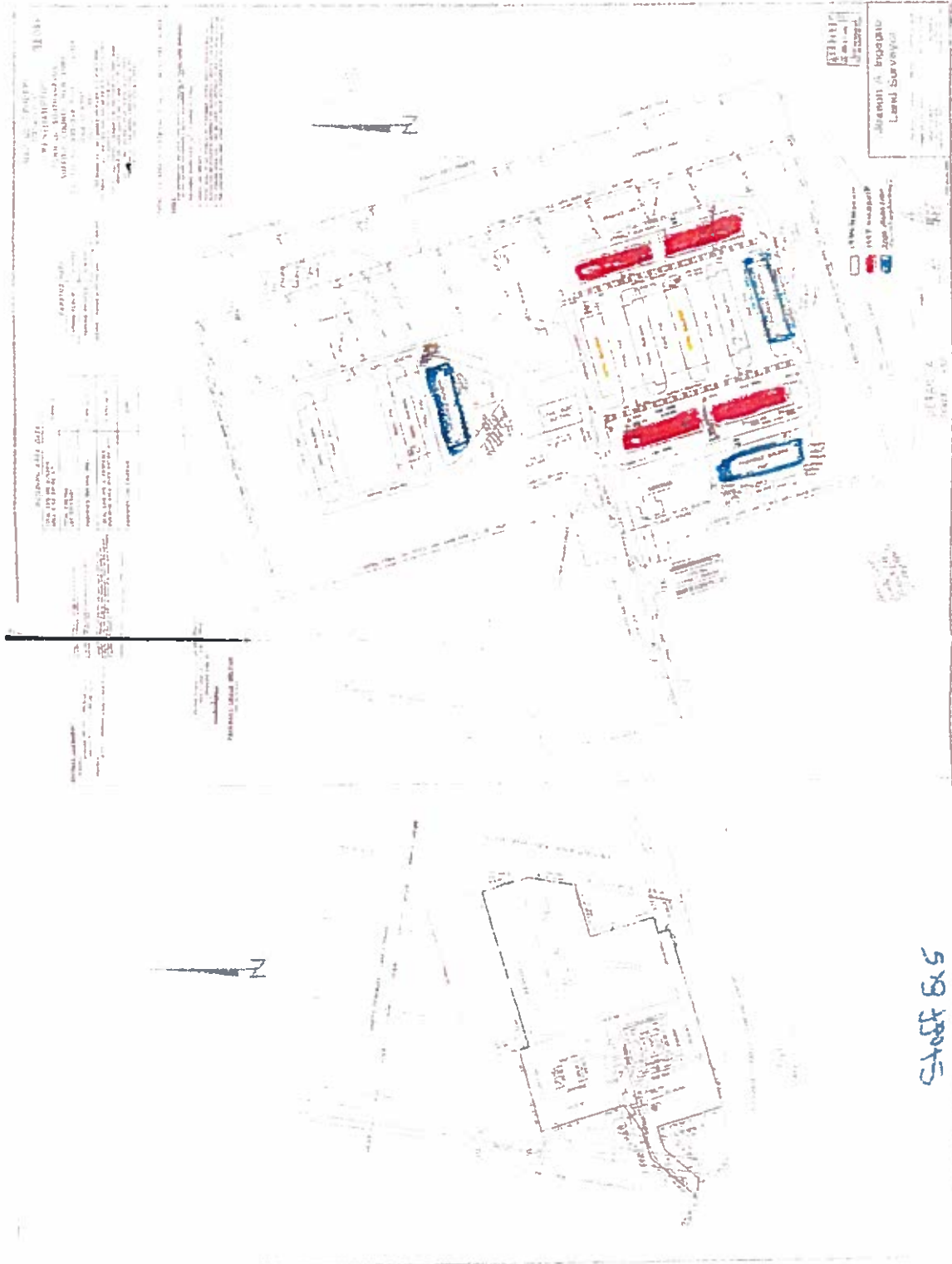


Exhibit: A. to Certified Copy of Administrative Record  
Central Pine Barrens Joint Planning and  
Policy Commission Resolution dated August 10, 1994 (113)

113

Central Pine Barrens  
Joint Planning and Policy Commission

Robert J. Gaffney, *Chairman*  
John LaMura, *Vice Chairman*  
Ulric S. Haynes, *Member*  
Joseph F. Janoski, *Member*  
Fred W. Thiele, Jr., *Member*

P.O. Box 587  
3525 Sunrise Highway, 2nd Floor  
Great River, New York 11739

Session of August 10, 1994  
Riverhead County Center

*Present: Mr. Prolos (for Commissioner Gaffney), Ms. Swick (for Commissioner LaMura), Commissioner Haynes,  
Commissioner Thiele, Ms. Filmanski (for Commissioner Janoski).*

*Resolution on the Core Preservation Area Hardship  
Application of Edwin Tuccio Regarding the Project  
Known as Westhampton Ministorage*

Whereas, Mr. Edwin Tuccio has filed with the Commission an application for a core preservation area hardship exemption permit for construction of storage facilities in place of existing earthen berms located on the applicant's property in Westhampton, Town of Southampton, which is located immediately north of Gabreski Airport, identified as Westhampton Ministorage, and located upon a portion of Suffolk County Tax Map Number 900-248-1-110.2, and

Whereas, a public hearing on the application was held by the Commission on June 22, 1994, and the results of that hearing have been considered by the Commission, and

Whereas, the application has undergone coordinated review for determination of lead agency status as per the State Environmental Quality Review Act and regulations, and no objections have been raised to the Commission's proposed lead agency status, and

Whereas, the Commission has designated itself as lead agency on this date, and

Whereas, the Commission has considered the Environmental Assessment Form submitted by the applicant, and

Whereas, it is the determination of the Commission that the application meets all requirements of the Environmental Conservation Law Section 57-0121(10), now, therefore, be it

Resolved that the proposed action will not have a significant effect on the environment within the meaning of Article 8 of the Environmental Conservation Law, and be it further

Resolved that the requested core preservation area hardship exemption permit is hereby granted on this date, subject to the following conditions:

1. This approval is limited to that area currently fenced in and used for the actual operation of the ministorage facility as described in the exhibits submitted to the Commission, and does not apply to any lands outside the fence. In particular, this excludes all portions of the subject real property parcel which are not contained within the fence and are therefore not currently used for the storage facility.
2. There shall be no storage of toxic, hazardous, flammable or explosive materials or waste products.
3. Necessary site improvements required by the Town of Southampton directly related to the to, any minor additional paving or other requirements imposed by the Town of Southampton or other permitting authorities.

*Record of Motion:*  
Motion by Commissioner Haynes  
Seconded by Commissioner Thiele

*Yea Votes:*  
Commissioner Haynes  
Commissioner Thiele  
Ms. Filmanski  
Mr. Prolos  
Ms. Swick

*Nay Votes:*  
None

Exhibit: A. to Certified Copy of Administrative Record  
Resolution of Commission Meeting of October 8, 1997 (114)

Commission Meeting of October 8, 1997  
Riverhead Town Hall

Present: Mr. Duffy (for Southampton), Ms. Wiplush (for Town of Brookhaven),  
Mr. Cowen (for New York State) Mr. Proios (for Suffolk County), Ms. Filmanski (for Town of  
Riverhead)

Resolution on Application of Westhampton Mini-Storage  
Core Preservation Area Hardship  
Property located north of Gabreski Airport  
Westhampton, Town of Southampton  
SCTM # 900-248-1-110.2

Whereas, on June 11, 1997, Edwin Tuccio submitted a Core Preservation Area hardship exemption application to add four storage buildings totaling 24,000 square feet on a 53 acre site which contains 11 concrete storage buildings and,

Whereas, on July 16, 1997 a public hearing on the Core Preservation Area hardship was held by the Commission and a transcript was thereafter made available to the Commission and,

Whereas, on July 23, 1997, pursuant to the New York State Environmental Quality Review Act ("SEQRA") Part 617.6, the Commission determined that the application is an Unlisted action and coordinated lead agency review and,

Whereas, on September 17, 1997 the Commission designated itself as lead agency and determined that the proposed action will not have a significant impact on the environment pursuant to SEQRA; now be it

Resolved, that the Commission hereby determines that the application, as submitted, does meet all of the requirements for extraordinary hardship pursuant to New York State Environmental Conservation Law 57-0121 (10)(a) and (c) and be it further

Resolved, that the application for a Core Preservation Area hardship exemption is granted and that this approval together with the previous hardship exemption granted by this Commission do not exceed minimum relief.

Record of Motion:  
Motion by Mr. Cowen  
Seconded by Ms. Filmanski

Yea Votes:  
Unanimous

Respondents' Memorandum of Law dated October 3, 2007  
in Opposition to Petition to Reverse, Vacate, Annul, and  
Void the Determination of Respondents (115-140)

115

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SUFFOLK

-----X  
In the Matter of the Application of  
EDWIN FISHEL TUCCIO and PATRICIA TUCCIO,

Petitioners,

- against-

Index No. 07-21497

CENTRAL PINE BARRENS JOINT PLANNING  
and POLICY COMMISSION AND PINE BARRENS  
CREDIT CLEARINGHOUSE,

Respondents.

-----X

**RESPONDENTS' MEMORANDUM OF LAW**  
**IN OPPOSITION TO THE PETITION**

**PRELIMINARY STATEMENT**

In this CPLR article 78 proceeding, petitioners Edwin Fishel Tuccio and Patricia Tuccio challenge a June 20, 2007 resolution ("Resolution") adopted by the respondent, Central Pine Barrens Joint Policy and Planning Commission ("Commission"), which upheld an earlier determination by co-respondent, Pine Barrens Clearinghouse ("Clearinghouse"), that denied petitioners' application for transferrable development credits for a 52.3 acre parcel of land located in the Core Preservation Area of the Central Pine Barrens, owned by petitioners. Petitioners seek a judgment vacating the Commission's June 20, 2007 determination and directing the Commission to issue 50.419 development credits ("Pine Barrens Credits") for the property in issue.

The petition should be denied in all respects because the Commission's resolution is rational, lawful and fully supported

by the administrative record. Moreover, it is well established that mandamus is not available to compel an agency to perform an act that the legislature has committed to the agency's discretion.

The 1993 Long Island Pine Barrens Protection Act (the "Act"), article 57 of the Environmental Conservation Law ("ECL"), in relevant part, strictly limits development in the statutorily defined Core Preservation Area but provides property owners with various options, including continuation of a pre-existing use, as-of-right development, hardship exemption permits and transferrable development credits, in order to maintain economic value in property which is designated for protection or preservation under the Act. Here the administrative record amply demonstrates that value in the subject parcel has been maintained obviating any alleged right to transferable development credits.

Pursuant to the Act's provision for the continuation of pre-existing uses, the petitioners continue to use the property as a commercial storage facility comprised of fifteen buildings located in various parts of the property as well as parking areas and roadways which crisscross the property. Moreover, in 1994 and again in 1997, two years after the 1995 establishment of the Pine Barrens Credit Program, petitioners applied to the Commission and obtained special development permits known as "hardship exemptions" which they utilized to expand the storage



facility by constructing additional buildings and roadways. Finally, the record shows that the 52.3 acre parcel of property at issue here was once part of an approximately 403.5 acre parcel inherited by petitioners in or about 1990 and that petitioners have recovered very significant value from the property as-a-whole. Indeed, in 1996 petitioners sold some 275 acres of that original parcel to the Nature Conservancy for \$2.755 million and they obtained a Letter of Interpretation from the Clearinghouse that they were entitled to 75 transferrable development credits for another 75 acres.<sup>1</sup>

Petitioners nonetheless assert that they are entitled to an allocation of 50.419 Pine Barrens Credits for the remaining 52.3 acre parcel, even though this parcel is being used for a commercial enterprise with 15 building and various roadways and parking areas interspersed throughout the parcel. Applying the provisions of Chapter 6 of the Pine Barrens' Land Use Plan, described more fully below, the Commission declined to allocate any Pine Barrens Credits to this developed parcel. The Commission reasoned that, when viewed in totality with

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<sup>1</sup>In return for placing an easement on 50 of the 75 acres, the Clearinghouse issued 50 Pine Barrens Credits. Of these, 23 credits were distributed to third parties in settlement of a title dispute. Petitioners subsequently sold the 27 Pine Barren Credits allocated to them for an amount in excess of \$1.6 million. To-date, petitioners have not placed an easement on the remaining 25 acres of this 75 acre parcel and, consequently, they are not yet entitled to receive the full allotment of development credits.

petitioners' larger holdings, from which they earned both in excess of \$2.7 million and 27 Pine Barrens Credits, and the fact that petitioners had elected to avail themselves of the Act's "extraordinary hardship exemption" provisions to expand the use of the parcel as an income-generating commercial enterprise, the parcel had already demonstrably maintained its value, and was not entitled to a Credit allocation.

Because the purpose of the Pine Barrens Credit program is to provide an alternative mechanism "to maintain value in lands" in the Core Preservation Area, and because Pine Barrens Credit allocations are limited in cases where properties for which development or improvement rights have already been exercised, the Commission rationally concluded that the 52.3-acre parcel was not entitled to any Pine Barrens Credit allocation.

For these reasons, and for the additional reasons set forth below, the Court should deny the petition in its entirety.

#### STATEMENT OF APPLICABLE LAW AND FACTS

##### A. Statutory Framework

###### 1. The Central Pine Barrens And Their Significance

The Central Pine Barrens is a critical ecological resource for the State of New York and its citizens, a fact long recognized by the state Legislature and the federal government, as well as by the courts. The Central Pine Barrens overlies the primary groundwater aquifer for Long Island, which provides the

"sole or principal drinking water supply" for the more than 2.5 million people in Nassau and Suffolk Counties. See 43 Federal Register 26611-12 (June 21, 1978). Contamination of the aquifer "would create a significant hazard to public health." Id. at 26612.

In 1992, in Long Island Pine Barrens Society, Inc., v. Planning Bd. of the Town of Brookhaven, 80 N.Y.2d 500 (1992), the New York Court of Appeals recognized the fragility and critical environmental attributes of the Central Pine Barrens and catalogued the many governmental efforts to protect its endangered resources. 80 N.Y.2d at 510-11. The Court of Appeals stated that "[t]he Pine Barrens' singular geological and meteorological history, as well as its highly unusual soil, vegetation and water levels, make it particularly hospitable to a wide variety of life forms whose survival could well be threatened by development." 80 N.Y.2d at 509. The Court recognized that the "Pine Barrens is an indispensable component of the aquifer system that is the sole natural source of drinking water for over two and a half million inhabitants of Long Island," 80 N.Y.2d at 508, and is:

especially vulnerable to the risk of pollution, since its permeable soil is not readily capable of filtering or degrading contaminants. As indicated by at least one study, once the deep recharge system in this area becomes contaminated, it would take centuries to flush it sufficiently to return it to clean groundwater quality. Thus, as a practical matter, contamination would be irreversible. . . . It is thus apparent that

the protection of the Pine Barrens region from sources of pollution is vital to the health of Long Island's human population.

Id., at 509; see also Environmental Defense Fund v. Costle, 439 F. Supp. 980, 986 n. 3 (E.D.N.Y. 1977).

For these reasons, the Court of Appeals highlighted the need for comprehensive regional planning to protect the Central Pine Barrens, and the desirability and even necessity to their preservation of "an exhaustive and thorough approach" to evaluating projects in this critical area. 80 N.Y.2d at 515, 517. Significantly, the Court called for "centralized planning by a single regional agency" and for a legislative resolution to the problems caused by piecemeal development, stating that "the solution must be devised by the Legislature, which is responsible for crafting sensible deadlines and mandating prompt action by the designated planning bodies to address this matter of urgent public concern." 80 N.Y.2d at 518.

## 2. The Long Island Pine Barrens Protection Act

Following the Pine Barrens Society decision, the New York State Legislature unanimously enacted the Long Island Pine Barrens Protection Act, which Governor Cuomo signed into law on July 14, 1993. See L. 1993, chs. 262, 263. In the Act, the Legislature declared the protection of the Central Pine Barrens to be of "critical" importance to the State because it lies over "the largest source of pure groundwater in New York" and

"contains one of the greatest concentrations and diversities of endangered, threatened and special concern species of plants and animals to be found in the state," ECL § 57-0105, and because its "hydrological and ecological integrity is endangered." ECL § 57-0119(1). The Legislature expressly defined and delineated the Central Pine Barrens area (ECL § 57-0107(10)) and the Core Preservation Area, which is at issue in this case (ECL § 57-0107(11)), and described the remaining Compatible Growth Area as those portions of the Central Pine Barrens not included in the Core Preservation Area, ECL § 57-0106(12). In order to achieve its purposes, the Act restricts "development" within the Core Preservation Area as that term is defined by ECL § 57-0107 (13). However, the Act does not proscribe the continuation of pre-enactment activities and structures.

The Legislature found that the Central Pine Barrens area required the preparation and implementation of a state supported regional comprehensive land use plan ("Land Use Plan") that would provide for preservation of the Core Preservation Area. ECL § 57-0105.

(a) The Commission

The Act also established the Commission, which consists of the Suffolk County Executive, the Supervisors of the Towns of Brookhaven, Riverhead, and Southampton, and a gubernatorial appointee, "to plan, manage and oversee land use" within the Pine

Barrens. ECL § 57-0119 (1), (2); see also W.J.F. Realty Corp. v. State, 176 Misc. 2d 763, 767-68 (Sup. Ct. Suffolk Co. 1998), aff'd, 267 A.D.2d 233 (2d Dept 1999), leave denied and appeal dismissed, 95 N.Y.2d 831 (2000) (discussing the establishment of the Commission and its responsibilities); Dittmer v. County of Suffolk, 975 F. Supp. 440, 442 (E.D.N.Y. 1997). Among other powers, the Legislature authorized the Commission "to prepare, adopt, enforce and ensure the implementation of the comprehensive land use plan." ECL § 57-0119(6) (a).

(b) The Land Use Plan and Prohibition Against Development

The Commission drafted and, after environmental review and public comment, adopted the Land Use Plan in 1995. ECL § 57-0121(1), (7), (12). The Land Use Plan was designed, first and foremost, "to protect, preserve and enhance the functional integrity of the Pine Barrens ecosystem and the significant natural resources, including plant and animal populations" and, with respect to the Core Preservation Area, that would prohibit or redirect new construction or development. ECL §§ 57-0121(2) (a), (3) (a)-(c).

(c) Hardship Permits

To effectuate the Legislature's salutary purposes, the Act proscribes all development activities in Core Preservation Area unless a property owner first applies for and obtains a permit from the Commission exempting that activity as necessary to

alleviate "extraordinary hardship" or based on a "compelling public need." ECL § 57-0121(10); ECL § 57-0123(3)(a) (incorporating permit procedure contained in ECL § 57-0121(10)).

An applicant for such an "extraordinary hardship" exemption must show that the subject property has no beneficial use if used for its present purpose or is developed in accordance with the Act, and that the absence of a beneficial use results from unique circumstances peculiar to the affected property. ECL § 57-0102(10).

(d) Land Use Restrictions and Benefits

Recognizing that the Act, "may restrict the beneficial use of some lands" (ECL § 57-0105), the Legislature also made clear its intent that land owners be "afforded an opportunity to receive benefits from the Land Use Plan, such as transferable development rights ["TDRs"], conservation easements, rights and values transfers, purchase of development rights and/or fee acquisition with monetary compensation" or a "package" of such benefits. Id.; see also ECL § 57-0121(6)(m); ECL § 57-0119(6)(j), (p). The Act required the Commission to establish a voluntary TDR system for willing landowners, whereby values are set and standards established with respect to the purchase, sale, ownership, and transfer of development rights. ECL § 57-0119(6)(j); ECL § 57-0119(7)(b); ECL § 57-0119(8)(a); ECL § 57-0121(6)(f); see also Town Law § 261-a.

The TDR program, is set forth in the 1995 Land Use Plan as "Pine Barrens Credit Program". Land Use Plan § 6.1, et seq. The Land Use Plan identifies "Sending Districts" within the Core Preservation and Compatible Growth Areas, and "Receiving Districts" outside of the Core Preservation Area. ECL § 57-0121(6) (f). Core Preservation Area landowners may utilize TDRs in one of two ways. First, landowners may sell or transfer development rights from a Sending District in the Core Preservation Area to a Receiving District in the Compatible Growth Area. ECL § 57-0121(6) (f); see also Town Law § 261-a(1)(c), (d). Alternatively, the Clearinghouse, which administers the development rights, can facilitate this process by purchasing development rights directly from owners within the Core Preservation Area and selling those rights to interested developers for use on land in receiving districts outside of the Core Preservation Area. The allocation framework ultimately chosen by the Commission is found in Land Use Plan Sections 6.3, 6.7.6.6 and 6.7.6.7, and is based on the following criteria: (1) the acreage of the particular parcel; (2) the zoning category of the particular parcels so the correct development yield factor could be applied; (3) whether the parcel is on an existing improved road; and (4) whether there are any factors which would limit the allocation pursuant to Section 6.3.3 of the Land Use Plan. Under the Land Use Plan "no allocation shall be made for



any property for which the development rights have previously been fully used" and "[p]artially improved parcels shall receive a decreased allocation based upon the extent of improvement".

Land Use Plan §§ 6.3.3.2; 6.3.3.4.

(e) Applying for Pine Barrens Credits

The procedure for applying for Pine Barrens Credits begins with the submission to the Clearinghouse of an application to obtain a "Letter of Interpretation", which states, where applicable, how many Pine Barrens Credits can be allocated to a parcel of land. Land Use Plan § 6.7.3.1. Upon receipt of an application, the Clearinghouse staff may conduct an analysis of the property to determine whether and how many Credits to allocate, and then issues a "Letter of Interpretation". Land Use Plan § 6.7.3.2. If a property-owner is dissatisfied with the allocation determination, it may appeal that determination to the Commission. Land Use Plan § 6.7.3.3. The Commission may schedule a hearing in the matter, and may confirm, increase, or decrease the allocation assigned by the Clearinghouse. Land Use Plan § 6.7.3.4.

B. BACKGROUND FACTS

1. Petitioners Economic Utilization of Parcel As-A-Whole

Some time before 1990, petitioners inherited approximately 403.5 acres of property in the Core Preservation Area. In 1996, the Nature Conservancy, acting on behalf of the State of New

York, paid petitioners in excess of \$2.75 million to acquire approximately 275 acres of the property. After the sale, petitioners retained approximately 125 acres. Of the retained acreage, approximately 75 acres was the subject of a subsequent bar claim action, resolved by the placement of a conservation easement on 50 of the disputed acres and the Commission's issuance in January 2005 of 50 Pine Barrens Credits to various title-holders, 27 of which were issued to petitioners. Petitioners subsequently sold their 27 Pine Barrens Credits for an amount in excess of \$1.6 million. The remaining parcel, totaling approximately 52.3 acres, is the subject of this proceeding.

2. **Commission's Issuance of Hardship Development Permits to Petitioners in 1994 and 1997**

In 1994 the Commission granted petitioners' application for an "extraordinary hardship exemption" for the 52.3-acre parcel to further develop, by the addition of two buildings, the existing commercial storage facility on the site. In 1997, two years after the Pine Barrens Credit Program came into effect, the petitioners again applied for and were granted a second "extraordinary hardship exemption" permit for the 52.3-acre parcel, allowing them to further expand the storage facility by constructing four additional buildings and attendant driveways, parking areas, etc., for a total of 15 buildings.

3. **Petitioners' Application for Pine Barrens Credits**

In or about December, 2006, petitioners submitted a Letter of Interpretation Application to respondent Clearinghouse requesting that they be awarded Pine Barrens Credits for the 52.3 acre parcel. At its December 18, 2006 meeting, the Clearinghouse considered the application and accompanying materials, including an aerial photograph of the site and calculations prepared by petitioners' surveyor.

The Clearinghouse considered the application in light of the stated purpose of the Pine Barrens Credit program "to maintain value in lands designated for preservation or protection under the plan by providing for the allocation and use of Pine Barrens Credits," Land Use Plan § 6.1., and in a January 3, 2007 Letter of Interpretation, it determined that no Pine Barrens Credits could be allocated to the property. (A copy of the Clearinghouse's January 3, 2007 letter is annexed to the Verified Answer as part of the certified administrative record.) The Clearinghouse based its decision on the facts that petitioners had already received two extraordinary hardship exemptions to twice expand the commercial storage facility, and a limited right to clear and disturb portions of the site to facilitate both expansions. The Clearinghouse also noted that the existing development at the site was already "near the Town's development limits of what would be allowed under the Town Code." The Clearinghouse offered to reconsider its denial if petitioners

were willing to remove the buildings and roadways that had been constructed under the authority of the Hardship Exemptions. Petitioners declined this offer.

#### 4. Petitioners' Appeal to the Commission

By letter dated January 11, 2007, petitioners appealed the Clearinghouse's determination to respondent Commission. At petitioners' request, the Commission adjourned its consideration of petitioners' appeal from February 21, 2007 until March 21, 2007, and again until April 18, 2007. On April 18, 2007, the Commission held a public hearing on the appeal. At the hearing, petitioners' counsel made a presentation to the Commission and submitted additional documentation in support of the application, and comment was received from the public. (A transcript of the hearing, together with the application materials, is annexed to the Verified Answer as part of the certified administrative record.) Petitioners supplemented the record with a letter dated April 19, 2007, which was made part of the record.

#### 5. The Challenged Resolution

On June 20, 2007, the Commission issued a unanimous Resolution denying petitioners' appeal from the Clearinghouse's Letter of Interpretation. (A copy of the Resolution is annexed to the verified Answer as part of the administrative record.)

The Commission based its determination on its explicit findings that:

(1) the property is already developed with at least 15 buildings of various materials and sizes, outdoor storage areas, paved areas, and dirt roads, and is actively used as a storage facility;

(2) 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, whereas petitioners had received two such extraordinary hardship exemptions for the property, on August 10, 1994, and October 8, 1997, and that six of the buildings on the property were developed pursuant to those exemptions;

(3) as set forth in the Land Use Plan, the primary purpose of the Pine Barrens Credit Program is to "maintain value in lands designated for preservation or protection under the Plan";

(4) under the Land Use Plan "[p]artially improved parcels shall receive a decreased allocation based upon the extent of improvement";

(5) because of the history of petitioners' property and larger holdings, value has been maintained in the property and the larger holdings by virtue of 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 petitioners' holdings; and

(6) the number of buildings constructed on the property pursuant to hardship exemptions and the continuing use of the facility demonstrate that value has been maintained in the property.

See Resolution, annexed to the Verified Answer as part of the certified administrative record (citing Land Use Plan §§ 6.1 and 6.3.3.4 [emphasis supplied]).

Accordingly, the Commission concluded that the Clearinghouse's determination that no Pine Barrens Credits could be allocated to the property was rationally based, denied the

appeal, and upheld the Clearinghouse's Letter of Interpretation. This article 78 proceeding ensued.

By Notice of Petition and Verified Petition filed July 19, 2007 ("Petition"), petitioner seeks a judgment: (1) annulling the June 20, 2007, Resolution; and (2) directing respondents to allocate and issue 50.419 Pine Barrens Credits to petitioners' property.<sup>2</sup> For the reasons below, the petition should be denied and the Resolution should be confirmed.

#### ARGUMENT

##### POINT I

#### PETITIONERS' PROPERTY IS ENTITLED TO NO PINE BARRENS CREDIT ALLOCATION BECAUSE ITS VALUE HAS BEEN MAINTAINED

The Legislature afforded property owners an opportunity to receive benefits from the Pine Barrens' Credit Program because it recognized that the Act might "restrict the beneficial use of some lands" (ECL § 57-0105). However, the right to receive those benefits is not absolute; Pine Barrens Credit determinations are

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<sup>2</sup> Petitioners have not claimed they are entitled to any judicial relief for their spurious assertion that the challenged Resolution was not timely issued. See Petition ¶ 4. That assertion is belied by the administrative record because the parties plainly agreed that, in exchange for successive adjournments of the hearing date, granted at petitioners' request, the Commission would be accorded additional time to issue its determination. Even had the determination not been timely issued, however, there is no relief to which petitioners would be entitled, and they claim none. Furthermore, petitioners do not allege that they were in any way prejudiced by the alleged two-day delay.

necessarily site- and fact-specific. For example, "no allocation shall be made for any property for which the development rights have previously been fully used", and "[p]artially improved parcels shall receive a decreased allocation based upon the extent of improvement". Land Use Plan §§ 6.3.3.2; 6.3.3.4.

The Commission applied these limitations to petitioners' property in the context of the overall purpose of the Pine Barrens Credit program "to maintain value in lands" in the Core Preservation Area whose use would otherwise be restricted, as well as in the context of petitioners' historical gains from the property, pre-existing commercial use of the remaining parcel, and decision to expand that use through hardship determinations.

At the April 18, 2007 hearing, petitioners' counsel alternatively conceded and disputed whether petitioners ever received any hardship approvals for the property but that, in any event, petitioners "should not be charged as having been granted a hardship exemption" (Hearing Transcript, annexed to the Verified Answer as part of the certified administrative record, at p. 12, ll. 15-19; p. 15, l. 25; p.16, ll. 10-11) and, in their petition, contend that, by seeking hardship determinations to expand the commercial storage facilities, they "simply used the sole mechanism available." The facts are to the contrary, because in 1997, when petitioners submitted their second hardship application to add four storage buildings totaling 24,000 square

feet to their 52.3-acre parcel, the Pine Barrens Credit program was already in effect. Rather than exercise the option to seek Pine Barrens Credits for those 52.3-acres, as they do now, petitioners elected to expand the income-generating potential of the parcel by increasing the number of buildings at the site by more than 35%.

This Court (Cannavo, J.) has recognized the alternative nature of the Pine Barrens Credit, stating that "landowners who are dissatisfied with the Pine Barrens Credit program need not participate... [t]hey may seek to develop their own property by [hardship] permit... ." Matter of Toussie v. Central Pine Barrens Commission, 182 Misc.2d 582 (Suffolk Co. 1999). That is precisely what petitioners did.

Notably, the Clearinghouse stated that it might reconsider its decision to deny any allocation of Pine Barrens Credits to the property if petitioners were "to remove the bunkers (outbuildings) and revegetation of the area." See January 3, 2007 Letter of Interpretation, annexed to the Verified Answer as part of the administrative record. Petitioners rejected this offer due to their long-term lease commitments for the storage facilities. That decision, however, like petitioners' decision to expand the facilities through hardship exemptions, is petitioners' choice alone and attests to petitioners gainful utilization of the property.



Petitioners devote the bulk of their petition, however, to disputing the Clearinghouse's statement, not expressly adopted by the Commission, that existing improvements on the property are already "near the Town's development limit" for Light Industrial-200 of 20% of the parcel and, citing Land Use plan § 6.7.6.7, claim that the Commission is obligated to allocate a minimum of one-tenth of a Credit to the 53-acre parcel. Verified Petition, ¶¶ 11, 20-27.<sup>3</sup> These contentions are fundamentally flawed, however, because they erroneously assume that the Clearinghouse and the Commission based their determinations on the Town Code, rather than on the purposes of the Pine Barrens Credit program and Land Use Plan § 6.3.3, which limits allocations that might otherwise be made if a parcel has already been improved or developed. Land Use Plan §§ 6.3.3.1 and 6.3.3.4. Furthermore, those arguments fail to take into account the overall value that has been maintained in the property by virtue of the unique combination of acquisitions, hardships, the use, in part, of the Pine Barrens Credit Program to resolve petitioners' title problems associated with the 75-acre portion of property, and the ensuing allocation to petitioners of 27 Pine Barrens Credits in connection with the bar claim action.

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<sup>3</sup> Elsewhere, the petition asserts that the property must receive a minimum of one credit per acre. Verified Petition, ¶ 26. For the reasons set forth supra, neither provision is dispositive in the case because both are limited by Land Use Plan § 6.3.3.

To be sure, the Clearinghouse closely considered the extent to which the Town Zoning Code, in isolation, might have allowed further development at the site, after which it noted, almost anecdotally, that the site is "near the Town's development limits as contained in the Town Code." See, Letter of Interpretation, dated January 3, 2007, annexed to the Answer as part of the administrative record.<sup>4</sup> The Commission, too, analyzed the calculations that petitioners submitted, as well and the additional survey "break-outs" that petitioners presented at the hearing. In the end, however, the Commission found it unnecessary to rely on those calculations because of its conclusion that any Credit allocation would necessarily be limited by Land Use Plan §§ 6.1 and 6.3.3. That the Commission considered, but did not rely in petitioners' surveyors' calculations is evident from the administrative record and the absence from the Commission's Resolution of language similar to that used by the Clearinghouse relating to the Town Code. Compare January 3, 2007 Letter of Interpretation to June 20, 2007 Resolution, both of which are annexed to the Verified Answer as part of the administrative record.

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<sup>4</sup> The Clearinghouse based its statement on an August 11, 2006 letter submitted by petitioners' surveyor, who concluded that 7.69 acres of the parcel was developed with buildings, paved area, and dirt roads. Thus, at the Town's development limit of 20% (or 10.46 acres of the 52.3-acre parcel), petitioners could, they contended, develop an additional 2.77 acres but-for the property being located in the Core Development Area.

The Commission based its determination on the totality of facts and circumstances set forth above that demonstrate the use value that petitioners' parcel has maintained. The precise extent of the development, in the context of petitioners prior hardship exemptions and the combination of acquisitions, allocation of 27 Pine Barrens Credits, and the use, in part, of the Pine Barrens Credit Program to resolve petitioners' title problems, rationally form the basis for the Commission's Resolution. Irrespective of whether the Town Code would allow petitioners to develop an additional 5%, 10%, 20% or any other percentage of the property, the pivotal inquiries for purposes of the Pine Barrens Credit program are whether: (1) Pine Barrens Credits are necessary to "maintain value in lands designated for preservation or protection under the Plan"; and (2) are limited by prior improvements of development on the property.

Petitioners also argue that a letter dated February 20, 2002, in which the Clearinghouse advised the County Attorney that parcels zoned Light Industrial-200, the same zoning applicable to petitioners' parcel, establishes that the parcel should be allocated 1.0 Pine Barrens Credit per acre. However, even if that letter were part of the administrative record, and even if this argument were preserved for judicial review--it is neither--it cannot save petitioners' cause. See, Matter of Yarborough v. Franco, 95 N.Y.2d 342, 347 (2000) (preservation). This is so,

first, because if the letter in fact relates to the bar claim action, it is one of the very transactions that have preserved the use value of petitioners' property. Second, the letter merely states the starting point of any Pine Barrens Credit analysis. As set forth above, use value maintenance and allocation limitations are the dispositive inquiries.

Petitioners also contend, in essence, that neither their existing use of the property nor the issuance of Pine Barrens Credits for the property would adversely affect the Pine Barrens ecosystem and, as such, their allocation should not be limited by their prior hardship exemptions. Verified Petition, ¶¶ 12-19.

This argument is unavailing because the Commission's determination is not based on any finding that petitioners have degraded or seek to degrade the ecosystem, and no provision of the ECL or Land Use Plan requires such a finding to support the denial of Pine Barrens Credits. The Land Use Plan does, by contrast, expressly provide for limitations on allocations based upon whether development rights have previously been used on the property and whether the property has already been improved. Land Use Plan, § 6.3.3. It is those limitations cited by the Commission and its findings thereunder that support its conclusion that the property's value has been maintained and has not been compromised by passage of the Pine Barrens Act. Even

without more those findings would rationally support the Commission's Resolution.

POINT II

THIS COURT LACKS JURISDICTION OVER  
PETITIONERS' "TAKINGS" CLAIM WHICH,  
IN ANY EVENT, IS NOT PROPERLY PLED

Petitioners also vaguely assert a claim for just compensation, stating that "respondents' determination wrongfully and improperly denied petitioners' rights pursuant to the United States Constitution...", but do not develop the argument or request any related relief. Verified Petition ¶ 5. This assertion, to the extent that it is a "claim," should be dismissed for want of subject matter jurisdiction and for failure to state a claim upon which relief can be granted.

The Court lacks subject matter jurisdiction because a "takings" claim is not among those that may be raised in an Article 78 proceeding. See CPLR 7803. Moreover, the "claim" is not properly pled because petitioners have not alleged the factors set forth in Penn Central Transp. Co. v. City of New York, 438 U.S. 104, 124-25 (1978), which the Court of Appeals has applied to takings claims in this State. See, Gazza v. New York State Dep't of Env. Cons., 89 N.Y.2d 603 (1997), cert. denied, 118 S.Ct. 58, 139 L.Ed.2d 22 (1997); Rochester Gas & Electric Corp. v. Public Service Comm., 71 N.Y.2d 313, 324 (1988). As relevant here, petitioners have not identified any adverse

economic impact stemming from the Commission's Resolution. Indeed they could not, inasmuch as the Act has not restricted petitioners' pre-existing use of the property to operate and even to expand their commercial enterprise. Petitioners also have not alleged any investment-backed expectations with which the Resolution has interfered. Accordingly, petitioners' "takings" claim, to the extent that the petition may be read as asserting such a claim, should be dismissed for want of subject matter jurisdiction and for failure to state a claim upon which relief can be granted.

POINT III

PETITIONERS ARE NOT ENTITLED TO THE EXTRAORDINARY  
REMEDY OF MANDAMUS TO ISSUE PINE BARRENS CREDITS

In addition to annulling the challenged Resolution, petitioners also ask this Court to substitute its judgment for that of the Commission and "direct[] that the respondents allocate for and issue to the petitioners 50.419 Pine Barrens Credits to the petitioners' property." Verified Petition, ¶ 16. Petitioners thus seek mandamus, a judicial writ "commanding the performance of a particular act therein specified," within the scope of the subject's "public, official or ministerial duty ..." BLACK'S LAW DICTIONARY 961 (6th ed. 1990).

An order of mandamus is extraordinary and drastic relief, and lies only to compel the performance of an official duty clearly imposed by law and involving no exercise of discretion.

Matter of Hamptons Hospital v. Moore, 52 N.Y.2d 88, 96 (1981);  
Matter of Fried v. Fox, 49 A.D.2d 877, 878, 373 N.Y.S.2d 197 (2d  
Dept. 1975). The act sought to be compelled must be  
"ministerial, nondiscretionary and nonjudgmental, and [must be]  
premised upon specific statutory authority mandating performance  
in a specified manner (see Matter of Stutzman v. Fahey, 62 A.D.2d  
1070, Matter of Posner v. Levitt, 37 A.D.2d 331)." Matter of  
Peirez v. Cago, 72 A.D.2d 797, 421 N.Y.S.2d 627 (2d Dept. 1979).  
Mandamus will not lie to compel an administrative agency to  
exercise discretionary regulatory powers. Matter of Stannard v.  
Axelrod, 100 Misc.2d 702, 710 (Broome County Supreme Court 1979).

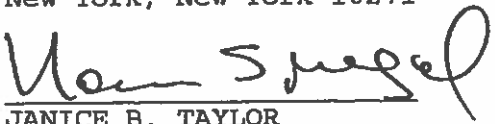
Petitioners cannot establish their entitlement to the  
extraordinary remedy of mandamus to compel the issuance of Pine  
Barrens Credits because the decision to allocate Credits, and how  
many, rests in the discretion of the Commission and is inherently  
discretionary, rather than ministerial. Accordingly,  
petitioner's request for an order directing issuance of 50.419  
Pine Barrens Credits must be denied.

CONCLUSION

For all of the above reasons, the Court should deny the Verified Petition in its entirety.

Dated: New York, New York  
October 3, 2007

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of New York  
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By:   
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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SUFFOLK

\_\_\_\_\_  
In the Matter of the Application  
EDWIN FISHEL TUCCIO and PATRICIA TUCCIO,

**REPLY  
AFFIRMATION**

Petitioners,  
For a Judgment Pursuant to Article 78 of the  
Civil Practice Law and Rules

Index Number  
21497/2007

-against-

CENTRAL PINE BARRENS JOINT PLANNING AND  
POLICY COMMISSION and PINE BARRENS CREDIT  
CLEARINGHOUSE,

Respondents.  
\_\_\_\_\_X

MURRAY B. SCHNEPS, an attorney at law duly admitted to practice in the State of New York, affirms as to the truth of the following under the penalties of perjury:

I am the attorney for the Petitioners herein, am fully familiar with all of the facts and circumstances in this matter and make this affirmation in reply to Respondents' answer and in further support of the petition in this matter. I respectfully urge that the Petition must be in all respects granted on both procedural

and substantive grounds.

Procedurally, Respondents failed to serve their decision/resolution within sixty (60) days following the hearing, mandated by § 6.7.3.4. Respondents do not dispute their untimeliness and counsels' gratuitous personal assault does not alter the fact that the decision/resolution was untimely. Accordingly, notwithstanding petitioners additional arguments, the petition must be granted.

Substantively, Respondents have similarly failed to present a valid position. At page 13., of its memorandum of law, Respondents agree that its decision is based upon three (3) points, to wit: (1) "that petitioners had already received two extraordinary hardship exemptions to twice expand the commercial storage facility;" (2) that petitioners have "a limited right to clear and disturb portions of the site to facilitate both expansions;" and (3) "that the existing development at the site was already 'near the Town's development limits of what would be allowed under the Town Code.' "

As to (1), aside from the fact that Petitioners are not seeking any exemption (much less a hardship exemption), the applicable law does not support

Respondents' argument and there is nothing in Matter of Toussie v. Central Pine Barrens Commission, 182 Misc.2d 582 (Suffolk Co. 1999) and nothing in the Plan which supports Respondents' position.

Respondents' reliance upon the holding of Matter of Toussie v. Central Pine Barrens Commission, 182 Misc.2d 582, is erroneous. Toussie does not determine that a prior hardship exemption results in a petitioner's exclusive right under the Plan. Rather, Toussie holds that, for separate parcels of land, less than one (1) acre in size, each such parcel is entitled Pine Barrens Credits of not less than 0.10 Pine Barrens Credits, no matter how small the parcel is. Moreover, all parcels of one (1) acre located within the Zoning Class designated as Industrial 200 District, are entitled to one (1) Pine Barrens Credits.<sup>1</sup> Respondents cannot point to the specific provision in the Plan which states that a prior exemption for a portion of the parcel mandates the denial of Pine Barrens Credits for the remainder of the parcel because there is no such provision.

While the Court may not substitute its judgment for that of the Commission on matters which are discretionary, such is not the case here. Mandamus is

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<sup>1</sup> See Verified Petition paragraphs "25. through "27."and "Exhibit E" therein.

addressed to the discretion of a court and lies to compel the performance of a purely ministerial act where there is a clear legal right to the relief sought (County of Albany v Connors, 300 AD2d 902, 745 NYS2d 678 [2002]; Cohalan v Caputo, 94 AD2d 742, 462 NYS2d 510 [1983]). The Commission is not at liberty to deny the Petitioners the minimum Pine Barrens Credits based upon the unique factors relative to Petitioners' *other* properties or the prior exemptions for a portion of the property. There is simply no provision in the Plan to permit the Commission to circumnavigate its own rules.

Specifically, § 6.3.3.4 provides:

**Partially improved parcels shall receive a decreased allocation based upon the extent of improvement. Furthermore, there shall be a proportional decrease in allocation based upon the receipt of all discretionary permits for improvement. (Emphasis added)**

Therefore, the Plan itself contemplates that a discretionary permit is not the exclusive remedy and that both a permit AND a proportional allocation of Pine Barrens Credits are available.

As to (2), Petitioners do not seek to clear and/or disturb the property at issue. Historically, a small portion of the property had been extensively disturbed and cleared of vegetation when used by the U.S. Army as a munitions site. This 1.88 acres, which petitioners later built on, required no additional clearing, and was determined not to contain unique species or vegetation or to present any run-off or discharge issue. No further development is sought by petitioners.

As to (3), Respondents argue “that the existing development at the site was already ‘near the Town’s development limits of what would be allowed under the Town Code.’” However, the Town Code provides for development of 20% of the 52.99 acre parcel. Therefore, the Town Code permits 10.46 acres to be developed but only 1.88 acres have been covered with improvements. Accordingly, the Town Code permits development on the remaining 8.58 acres, and the property is not “near the Town’s development limits.”

Petitioners are not arguing that the Pine Barrens Credits to which they are entitled represent an impermissible taking. Rather, Petitioners are arguing that denying them the credits to which they are entitled under the statute is an impermissible taking. Petitioners are guaranteed by the Federal and State

Constitutions the right to receive just compensation for the taking of the development rights for their property (Van Etten v. New York, 226 NY 483 [1919]; Re Bronx River Parkway, 259 AD 552, 20 NYS2d 53 [1940], affd 284 NY 48, remittitur amd 284 NY 701, affd 313 US 540, 61 S Ct 839 [1941]). Where, as here, the legislature has enacted a Plan to provide just compensation to property owners for their inability to develop land which is otherwise permitted, the administrative agency entrusted with its implementation is not at liberty to disregard the statute. Here, Respondents have disregarded § 6.3.3.4 by their unilateral interpretation of the phrase "value has been maintained in the property" to include prior exemptions and unrelated and distinct separate properties.

The Gazza v. New York State Dept of Env. Cons., 89 NY2d 603 [1997], Penn Central Transp. Co. v. City of New York, 438 US 104 [1978] and Rochester Gas & Electric Corp. v. Public Service Comm., 71 NY2d 313 [1988] cases, cited by the Respondents present wholly different facts. In Gazza, the plaintiff sought a variance from a restriction against the real property which existed prior to the time the plaintiff acquired title. In Rochester Gas & Electric, the plaintiff, a public utility, was asserting that the statute was unconstitutional. Petitioners herein do not claim

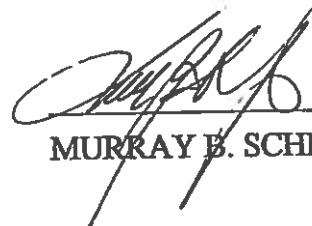
that the statute is an impermissible taking. Petitioners simply seek credits mandated by the statute. In Penn Central, the landmark owner enjoyed a tax exemption and an enhanced economic position. Moreover, “[u]nder the New York City zoning laws, owners of real property who have not developed to the full extent permitted by the applicable zoning laws are allowed to transfer development rights to contiguous parcels on the same city block.” Respondents herein refused to grant Pine Barrens Credits due and owing under the statute “to the full extent permitted by the applicable zoning laws.

Additionally, Respondents have wholly failed to dispute Petitioners’ right to receive Pine Barrens Credits for 8.58 credits, plus 41.839 credits, for a total of 50.419 Pine Barrens Credits. As previously stated, the plot totals 52.299 acres, Petitioners are entitled to enjoy lot coverage of twenty (20%) percent thereof or 10.46 acres, and only 1.88 acres are currently subject to lot coverage, leaving 8.58 acres available for Pine Barrens Credits. Further, it is not necessary for subdivision approval in order to provide Petitioners with Pine Barrens Credits for the remaining eighty (80%) percent of the property, to wit: 41.839 acres. Accordingly, Petitioners are entitled to an additional 41.839 Pine Barrens Credits. (See. Exhibit E as part of

the Petition establishing that the adopted allocation formula for nonresidential property mandates "1.0 PBCs per acre" under the Light Industrial 200 District).

Accordingly, it is respectfully urged that the Petition be in all respects granted.

Dated: November 7, 2007



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MURRAY B. SCHNEPS



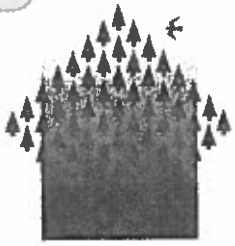
**CERTIFICATION PURSUANT TO CPLR §2105**

I, Michael G. Kruzynski, attorney for the appellant in this action, hereby certify, pursuant to Section §2105 of the Civil Practice Law and Rules, that the foregoing papers constituting the Record on Appeal have been personally compared by me with the original papers and have been found to be true and complete copies of said papers, all of which are now, on file in the Office of the County Clerk of Suffolk County.

Dated: \_\_\_\_\_

2/19/09  
\_\_\_\_\_  
Michael G. Kruzynski, Esq.

Lewis Johns Avallone Aviles, LLP  
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Riverhead, New York 11901  
(631) 369-7600



**CENTRAL  
PINE  
BARRENS**

**JOINT  
PLANNING  
&  
POLICY  
COMMISSION**

Peter A. Scully  
*Chair*

Mark Lesko  
*Member*

Steve A. Levy  
*Member*

Anna E. Throne-Holst  
*Member*

Sean M. Walter  
*Member*

**Pine Barrens Credit Allocation Hearing**

**Edwin F. Tuccio and Patricia Tuccio**

**Property located at Westhampton, Suffolk County**

**SCTM #900-248-1-110.4**

**Commission Exhibits**

**April 21, 2010**

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Highway  
2<sup>nd</sup> Floor  
Great River, NY  
11739-0587

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Fax (631) 224-7653  
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## Exhibits

- A: Decision and Order - Tuccio et al., v. Central Pine Barrens Joint Planning and Policy Commission et al., Supreme Court of the State of New York, Appellate Division: Second Judicial Department, November 4, 2009
- B: Deed dated September 19, 1940 between Joseph A. Kirk, Suffolk County Treasurer and Edwin D. Fishel
- C: Deeds dated October 18, 1990 and August 12, 1998 between The Suffolk County National Bank as Excutor and Trustee under the Last Will and Testament of Ethel B. Fishel and Patricia Tuccio and Edwin F. Tuccio
- D: Application and Approval, including hearing transcript, of May 31, 1994 Application for Core Preservation Area Hardship Exemption submitted by Edwin Tuccio and Patricia Tuccio, SCTM #900-248-1-110.002 (part of)
- E: Section 6 of the Central Pine Barrens Comprehensive Land Use Plan
- F: August 7, 1996 Pine Barrens Commission Resolution Adopting Non-Residential Property Pine Barrens Credit Allocation Formula
- G: Deeds dated October 22, 1996 and November 22, 1996 between Edwin F. Tuccio and Patricia Tuccio and The Nature Conservancy (each deed was recorded twice)
- H: Application and Approval, including hearing transcript, of May 26, 1997 Application for Core Preservation Area Hardship Exemption submitted by Edwin Tuccio and Patricia Tuccio, SCTM #900-248-1-110.002 (part of)
- I: Application and Withdrawal of February 16, 2000 Application for Core Preservation Area Hardship Exemption submitted by Edwin Tuccio and Patricia Tuccio, SCTM #900-248-1-110.002 (part of)
- J: Stipulation of Settlement, Edwin Fishel Tuccio and Patricia Tuccio v. County of Suffolk, et al., dated May 25, 2004
- K: Deeds dated May 21, 2004 and June 11, 2004 between various parties and Edwin F. Tuccio and Patricia Tuccio
- L: Conservation Easement dated January 20, 2005 between Edwin F. Tuccio and Patricia Tuccio and the Central Pine Barrens Joint Planning and Policy Commission
- M: Pine Barrens Credits issued to Edwin F. Tuccio and Patricia Tuccio and Summary Sheet of Tuccio Pine Barrens Credits Conveyances

- N: December 20, 2006 Central Pine Barrens Joint Planning and Policy Commission Resolution Establishing June 28, 1995 as the Date for Determining Parcel Status for Purposes of the Allocation of Pine Barrens Credits
- O: Suffolk County Tax Maps of Tuccio Property as of 1994 and 1998
- P: Survey of Tuccio Property dated September 20, 1996
- Q: August 11, 2006 Correspondence of Murray B. Schneps, Esq., with data concerning scope of development on the Tuccio Property and aerial photographs of the Tuccio Property
- R: January 3, 2007 Pine Barrens Credit Clearinghouse Letter
- S: January 11, 2007 Correspondence of Murray B. Schneps, Esq., appealing determination that no Pine Barrens Credits be allocated to the Tuccio Parcel, April 18, 2007 Hearing Transcript and April 19, 2007 Correspondence from Murray B. Schneps, Esq.
- T: June 20, 2007 Commission Resolution deciding Pine Barrens Credit Appeal of Edwin Tuccio and Patricia Tuccio
- U: Decision and Order - Tuccio et al., v. Central Pine Barrens Joint Planning and Policy Commission et al., Supreme Court of the State of New York, Suffolk County, January 16, 2008
- V: Survey of Tuccio Property last dated March 21, 1994 with color annotations
- W: Town of Southampton Code §330-38 Industrial Districts Table of Dimensional Regulations