

**CREDIT APPLICATION STAFF REPORT**

Issue Date: 9/27/96

<b>Item</b>	<b>Tax Map Number</b>
	900-307-2-53
Applicant Name	Robert Smith
Location/Access	North of Old Country Road, east of Summit Blvd., Westhampton, Town of Southampton. Parcel has access unimproved, paper road ( <i>Bryan Avenue</i> )
Hagstrom Map #	Map 24, P-30
Aerial #	Not available at this time.
Acreage	.09 acre as per data base.
Topography/Geologic Features	The site sits approximately 50' above mean sea level. In the vicinity, drainage is in a southeasterly direction which contributes to glacial swales that drain towards the southerly creeks.
Soils ( <i>SC Soil Survey</i> )	Predominantly PiA (Plymouth loamy sand, 0-3% slopes)
Wetlands, Depth to Seasonal High Water Table, Surface Water, etc.	None.
Vegetative Cover Type	Pitch Pine - Oak forest and Pitch Pine-Scrub Oak Barrens in swale areas as per Town of Southampton Western GEIS.
Rare and Endangered Species	Not available at this time.
Land Use	Vacant
Zoning	CR200 Residence. Minimum lot area 200,000 square feet.
School District	Westhampton Beach
Public Water	No
Public Sewer	No
Fire/Police District	Westhampton Beach
Comments	

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11825 PG 229

31337

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Number of pages 9  
TORRENS  
Serial # \_\_\_\_\_  
Certificate # \_\_\_\_\_  
Prior Cif. # \_\_\_\_\_

RECEIVED  
\$ 0  
REAL ESTATE  
APR 14 1997  
TRANSFER TAX  
SUFFOLK COUNTY

31337

97 APR 14 AM 9:46  
EDWARD J. FOMANNE  
CLERK OF  
SUFFOLK COUNTY

RECORDED

Deed / Mortgage Instrument      Deed / Mortgage Tax Stamp      Recording / Filing Stamps

4 FEES

Page / Filing Fee \_\_\_\_\_  
Handling \_\_\_\_\_  
TP-584 \_\_\_\_\_  
Notation \_\_\_\_\_  
EA-5217 (County) \_\_\_\_\_ Sub Total 0  
EA-5217 (State) \_\_\_\_\_  
R.P.T.S.A. N/C  
Comm. of Ed. 5.00  
Affidavit \_\_\_\_\_  
Certified Copy 0  
Reg. Copy \_\_\_\_\_  
Other \_\_\_\_\_  
Sub Total \_\_\_\_\_  
GRAND TOTAL 0

*Exempt*



Mortgage Amt. \_\_\_\_\_  
1. Basic Tax \_\_\_\_\_  
2. Additional Tax \_\_\_\_\_  
Sub Total \_\_\_\_\_  
Spec./Assit. \_\_\_\_\_  
or  
Spec./Addl. \_\_\_\_\_  
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.

5 Real Property Tax Service Agency Verification

Dist.	Section	Block	Lot
0900	307.00	02.00	053.000

Date 4/14/97  
Initials AF

6 Title Company Information

Company Name \_\_\_\_\_  
Title Number \_\_\_\_\_

Central Pine Barrens  
Joint Planning and Policy Commission  
P.O. Box 587  
3525 Sunrise Highway, 2nd Floor  
Great River, New York 11739-0587

7 RECORD & RETURN TO (ADDRESS)

8 FEE PAID BY:  
Cash \_\_\_\_\_ Check \_\_\_\_\_ Charge \_\_\_\_\_  
Payer same as R & R \_\_\_\_\_  
(or if different)  
NAME: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_

9 Suffolk County Recording & Endorsement Page

This page forms part of the attached Conservation easement made by:  
(SPECIFY TYPE OF INSTRUMENT)  
Robert C. Smith and Joan A. Smith  
TO  
Central Pine Barrens Joint Planning and Policy Commission  
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.

## Conservation Easement

THIS INDENTURE, made this 2nd day of April, 1997.

*Witnesseth:*

WHEREAS, Robert C. Smith and Joan A. Smith, both residing at 3643 Trevino Drive, Sierra Vista, Arizona 85635, hereinafter called the Grantors, are the owners in fee simple of 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*

WHEREAS, the Central Pine Barrens Joint Planning and Policy Commission (the "Commission"), with offices at P.O. 587, 3525 Sunrise Highway, 2nd Floor, Great River New York 11739-0587, was created pursuant to the Long Island Pine Barrens Protection Act of 1993 (the "Act") codified in New York Environmental Conservation Law Article 57 ("Article 57"), is hereinafter described as the "Grantee;" and

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' Letters of Interpretation issued on the 30th day of September 1996, in the amount of 0.10 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-xiii) 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-xiii), 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.

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 Grantors or their 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 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 the Grantors have restricted and limited the 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 the 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 the 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 divests themselves of either the fee simple title to or its 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' address as recited herein or to any such other address 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, their 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 for a hardship or other permit under the Plan or under ECL Article 57.
10. The Grantors do further covenant and represent that the Grantors are seized of the Property in fee simple and has good right to grant and convey the aforesaid Conservation Easement, that the Property is free and clear of any and all encumbrances, other than those of record, and that the Grantee shall have the use of, and enjoy all of the benefits derived from and arising out of, the aforesaid Conservation Easement.
11. 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.
12. 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.





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*Schedule A*

All that certain plot, piece or parcel of land situate, lying and being in the Town of Southampton County of Suffolk, State of New York described as Westhampton Beach Park, Map Number 344, Section 4, Block 8 and as Lot 37. Said map being filed in the offices of the Suffolk County Clerk at Riverhead, New York on January 27, 1910. Said parcel being and intended to be the same as described in a deed dated July 9, 1969 between the County of Suffolk as grantor and Robert C. Smith and Joan A. Smith as grantees recorded at Liber 6581 and Page 515 in the offices of the Suffolk County Clerk.

**CONVEYED**

Pine Barrens Credit Clearinghouse

Number: 0900-00020  
Date Issued: April 15, 1997

*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: *Robert C. Smith and Joan A. Smith* hereby own(s)

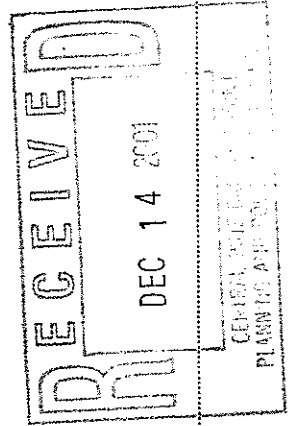
*0.10 Pine Barrens Credits*

*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.*

*These Credits were generated from property in the Westhampton Beach School District*

*Allan Grace*

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.

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: \_\_\_\_\_

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: WESTHAMPTON BAY COMPANY LLC  
Address: 41 SUNSET AVENUE  
City/State Zip Code: WESTHAMPTON BEACH NY  
Signature: [Signature] 1978

Town in which Pine Barrens Credits are redeemed:  
Town: SOUTHAMPTON

School District in which Redeemed: RIVERHEAD

Suffolk County Tax Map of parcel where Pine Barrens Credits redeemed:  
90D-307-2-57

Number of Pine Barrens Credits Redeemed:  
0.10

Municipal development approval was issued:  
SEPT 28, 2001 (209-01-0028)

date  
Municipal Official issuing development approval:

Name: S.C. DEPT HEALTH SERVICES  
Title: CHAIR - BD. OF REVIEW  
Signature: JAMES, H. PIH

Grantor (Buyer)  
Name: WESTHAMPTON BAY COMPANY LLC  
Address: 41 SUNSET AVENUE  
City/State/ Zip Code: WESTHAMPTON BEACH NY  
Signature: [Signature] 1978

Grantor (Seller) JOAN M. SMITH  
Name: ROBERT C. SMITH  
Address: 24 CORAL BROOKE DRIVE  
City/State/ Zip Code: SIERRA VISTA AZ 85650  
Signature: [Signature]

Number of Credits Sold, Conveyed or Transferred: 0.10

Date of Transaction: DECEMBER 4, 2001

Interest Secured: \_\_\_\_\_

Consideration: \$ 2,000.00

Attach written evidence of the transaction (e.g., Contract of Sale, Bill of Sale)

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.)

Amount of loan: \_\_\_\_\_

Term of Loan: \_\_\_\_\_

Number of Pine Barrens Credits pledged as collateral: \_\_\_\_\_