

**PINE BARRENS CREDIT LETTER OF INTERPRETATION APPLICATION  
STAFF REPORT**

Issue Date: 1/3/97

Renewal Issue Date: 4/16/98

Item	Tax Map Number:
	200-413-2-29
Applicant Name	Marilyn McKay
Location/Access	South of LIE, east of Halsey Manor Road, Manorville, Town of Brookhaven. Parcel is located on a paper road, however these paper roads are landlocked due to their accessibility from the LIE, a limited access highway. It should be noted however, that there are a series of dirt trails in this vicinity that may have been created based on earlier maps or colonial use of this area.
Hagstrom Map #	Map 20, M-28
Aerial #	Not available at this time.
Acreage	.42 acre as per application.
Topography/Geologic Features	Steeper, morainal slopes, approximately 150' above mean sea level.
Soils ( <i>SC Soil Survey</i> )	Generally PiC (Plymouth loamy sand 8-15% slopes) with areas of RdC (Riverhead sandy loam 8-15% slopes)
Wetlands, Depth to Seasonal High Water Table, Surface Water, etc.	None.
Vegetative Cover Type	Pitch pine - oak woodland
Rare and Endangered Species	None, according to 1995 Natural Heritage data.
Cultural Resources	Not available at this time
Land Use	Vacant
Zoning	A5 Residence. Minimum lot area 200,000 square feet.
School District	Eastport
Public Water	No
Public Sewer	No
Fire/Police District	Manorville
Comments	

11906PC839

46331

RECORDED

Number of pages

**TORRENS**

Serial # \_\_\_\_\_

Certificate # \_\_\_\_\_

Prior Ctf. # \_\_\_\_\_

RECEIVED  
 \$ 0  
 REAL ESTATE  
 JUL 24 1998  
 TRANSFER TAX  
 SUFFOLK  
 COUNTY

98 JUL 24 PM 2:42  
 EDWARD P. ROMAINE  
 CLERK OF  
 SUFFOLK COUNTY

RECEIVED  
 AUG 3 1998

46331

Deed / Mortgage Instrument

Deed / Mortgage Tax Stamp

REC Recording / Filing Stamps

**4 FEES**

Page / Filing Fee \_\_\_\_\_

Handling \_\_\_\_\_

TP-584 \_\_\_\_\_

Notation \_\_\_\_\_

EA-5217 (County) \_\_\_\_\_ Sub Total \_\_\_\_\_

EA-5217 (State) \_\_\_\_\_

R.P.T.S.A. Mc-

Comm. of Ed. 5.00

Affidavit \_\_\_\_\_

Certified Copy \_\_\_\_\_

Reg. Copy \_\_\_\_\_

Other \_\_\_\_\_

Sub Total \_\_\_\_\_

**GRAND TOTAL** \_\_\_\_\_



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.

**5 Real Property Tax Service Agency Verification**

**6 Title Company Information**

Stamp	Dist.	Section	Block	Lot
<u>7/24/98</u>	<u>0200</u>	<u>413.00</u>	<u>02.00</u>	<u>029.00</u>
Date				
Initials				

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

**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)

Marilyn B. McKay formerly known as Marilyn B. Wagner

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

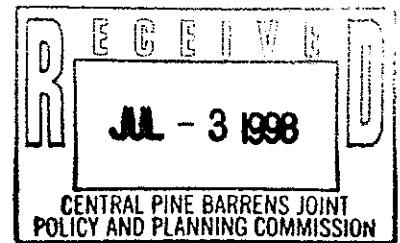
In the Township of Brookhaven

In the VILLAGE or HAMLET of Manorville

TO  
Central Pine Barrens Joint Planning and Policy Commission

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

# Conservation Easement



THIS INDENTURE, made this 29 day of June, 1998,

## Witnesseth:

WHEREAS, Marilyn B. McKay, formerly known as Marilyn B. Wagner, residing at 1157 Eagle Way, Virginia Beach, Virginia 23456, hereinafter is called the Grantor that owns 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*

SCTM: WHEREAS, the Central Pine Barrens Joint Planning and Policy Commission (the  
200 "Commission"), with offices at P.O. Box 587, 3525 Sunrise Highway, 2nd Floor, Great River,  
413 New York 11739-0587, was created pursuant to the Long Island Pine Barrens Protection Act of  
2 1993 (the "Act") codified in New York Environmental Conservation Law Article 57 ("Article  
29 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, Grantor 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, Grantor, 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 Grantor's Letter of Interpretation issued on May 7, 1998, 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 Grantor's forbearance from taking any of those actions constituting development pursuant to ECL Section 57-0107(13), and the Grantor's 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 Grantor, 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 Grantor 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, Grantor shall provide any third party with enforcement rights, or its agents, representatives or employees, access to cross other lands retained by Grantor, 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 Grantor makes the following covenants, on behalf of himself, his 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 Grantor reserves for himself, his 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 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 Grantor, 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. Grantor 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 Grantor herein or his 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 Grantor's 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 Grantor. 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 Grantor. The parties intend that this Conservation Easement, which is by nature and character primarily negative in that Grantor has restricted and limited Grantor's 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 Grantor and Grantee, or their successors, heirs, representatives or assigns. Grantor and Grantee recognize that circumstances could arise which would justify the modification of certain of the restrictions contained herein. To this end, Grantee and Grantor 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 Grantor agrees 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 Grantor divests himself 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 Grantor shall be addressed to Grantor's address as recited herein or to any such other address as the Grantor 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 Grantor, 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 Grantor and Grantor's 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 pertaining to the "Schedule A" premises.
10. The Grantor does further covenant and represent that the Grantor is 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.



IN WITNESS WHEREOF, Grantor has executed and delivered and Grantee has accepted and received this Grant of Conservation Easement on the day and year set forth above.

Marilyn B. McKay  
Marilyn B. McKay, formerly known as Marilyn B. Wagner

STATE OF Virginia )  
 ) SS:  
COUNTY OF        )

On this 29 day of June, 1998, before me personally came Marilyn McKay, to me known and known by me to be the individual described in and who executed the foregoing instrument; and she acknowledged to me that she executed the same.

Dora E. Nolan  
Notary Public

Central Pine Barrens Joint Planning and Policy Commission  
GRANTEE

BY: George Proios, Acting Chairman

STATE OF New York )  
 ) SS:  
COUNTY OF Suffolk )

On this 21 day of July, 1998, before me personally came George Proios, to me known, who, being by me duly sworn, did depose and say that he is the \_\_\_\_\_ of the Central Pine Barrens Joint Planning and Policy Commission, the Commission described in and which executed the foregoing instrument; and he acknowledged to me that he signed his name thereto by order of the Commissioners of the Commission which has no seal.

Deborah Harrison  
Notary Public

DEBORAH HARRISON  
NOTARY PUBLIC, STATE OF NEW YORK  
NO. 52-4780887, SUFFOLK COUNTY  
COMMISSION EXPIRES OCTOBER 31, 1999

**Schedule A**

All that certain tract, piece or parcel of land, situate, lying and being in the Town of Brookhaven, County of Suffolk and State of New York being known and designated as:

Lots 10 to 16 inclusive of Block #100 and designated on a certain map entitled "Colonial Park, Long Island" on map of the Square Realty Company which map was filed in the office of the clerk of Suffolk County under file #305 and surveyed by J.S. Raynor surveyor in the year 1907. Said parcel being and intended to be the same as described in deeds dated June 15, 1970 between Betty and Irving Waldman as grantor and Marilyn B. and Arnold Wagner as grantees and recorded at Liber 6780 and Page 404 in the aforesaid offices of the Suffolk County Clerk and a deed dated September 30, 1976 between Arnold Wagner as grantor and Marilyn B. Wagner as grantee recorded at Liber 8124 and Page 446 in the aforesaid office of the Suffolk County Clerk.

SCTM: 200-413-2-29

**CONVEYED**

Pine Barrens Credit Clearinghouse

**RECEIVED**  
SEP 14 1998  
CENTRAL PINE BARRENS JOINT  
POLICY AND PLANNING COMMISSION

Number: 0200-00122  
Date Issued: August 6, 1998

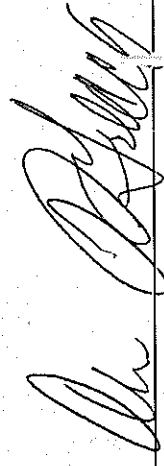
*Pine Barrens Credit Certificate*

Issued Pursuant to the Long Island Pine Barrens Protection Act  
and the *Central Pine Barrens Comprehensive Land Use Plan*

This certifies that Marilyn B. McKay hereby owns:

*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.*



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)  
Name: Walter McKay  
Address: 15760 Ashbury  
City/State/Zip Code: W. Va. 26112-23456  
Signature: Walter McKay

Grantee (Buyer)  
Name: Robert I. Tausse  
Address: 290 Eyster Street  
City/State/Zip Code: Brownsville 11235  
Signature: Robert I. Tausse

Number of Credits Sold, Conveyed or Transferred: 110  
Date of Transaction: 8.17.98  
Interest Secured: 110  
Consideration: \$18000.00

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: \_\_\_\_\_