

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

Issue Date: 7/9/96

New Owner Issue Date: 8/31/99

Site Visit Date:

| Item | Tax Map Number: 200-270-4-25 |
|---|---|
| Applicant Name | Madeline MacDonald and Walter De Voe (Former owner Rita Kellar LOI issue date 7/9/96) |
| Location/Access | East side of Pinehurst Blvd., (an improved road), south of Cedar Street and north of Nugent Drive, Calverton, Town of Brookhaven |
| Hagstrom Map # | Map 22, L-29 |
| Aerial # | Not available at this time. |
| Acreage | .49 acre |
| Topography/Geologic Features | Predominantly flat, however gently sloping in a northerly direction. |
| Soils (<i>SC Soil Survey</i>) | CpA (Carver and Plymouth sands 0-3% slopes) |
| Wetlands, Depth to Seasonal High Water Table, Surface Water, etc. | Swan Pond is located to the north and east of the subject parcel as per NYS DEC freshwater wetland map (<i>Riverhead quad</i>) |
| Vegetative Cover Type | Oak - heath woodland, however dumping of leaves and other debris has occurred along the edges of the site, particularly along Pinehurst Blvd. |
| Rare and Endangered Species | There are rare and endangered species associated with Swan Pond to the north and east of the subdivision of which this parcel is a part. (<i>Taken from NYS DEC map of Natural Heritage Data, April 1995</i>) |
| Cultural Resources | Not available at this time |
| Scenic Resources | This parcel is one of the last remaining vacant and wooded parcels in the surrounding neighborhood. |
| Land Use | According to LOI application, site has a movable shed on it. 311 Residential Vacant Land. |
| Zoning | A5 Residence |
| School District | Riverhead |
| Public Water | No |
| Public Sewer | No |
| Fire/Police District | Calverton |
| Other | |

RECORDED

12020841

28988

Cent. Copy

Number of pages 10

TORRENS

Serial # _____

Certificate # _____

Prior Cif. # _____

RECEIVED
REAL ESTATE
FEB 15 2000
TRANSFER TAX
SUFFOLK
COUNTY 28988

00 FEB 15 AM 11:54
EDWARD P. ROMA
CLERK OF
SUFFOLK COUNTY
22 2000
CENTRAL PINE BARRENS JOINT
POLICY AND PLANNING COMMISSION

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

4 FEES

Page / Filing Fee Exempt

Handling _____

TP-584 _____

Notation _____

EA-52 17 (County) _____ Sub Total _____

EA-5217 (State) _____

R.P.T.S.A. Nil

Comm. of Ed. 5.00

Affidavit _____

Certified Copy NC

Reg. Copy _____

Other _____ Sub Total _____

GRAND TOTAL 5.00

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.



Real Property Tax Service Agency Verification 6 Community Preservation Fund

| Dist. | Section | Block | Lot | Consideration Amount \$ |
|-------|---------|-------|---------|-------------------------|
| 0200 | 270.00 | 04.00 | 025.000 | CPF Tax Due \$ _____ |
| | | | | Improved _____ |
| | | | | Vacant Land _____ |

7 Satisfaction/Discharges/Releases List Property Owners Mailing Address
RECORD & RETURN TO:

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

8 Title Company Information

Co. Name _____

Title # _____

9 Suffolk County Recording & Endorsement Page

This page forms part of the attached conservation easement

(SPECIFY TYPE OF INSTRUMENT)

Madeline MacDonald and
Walter DeJae

TO

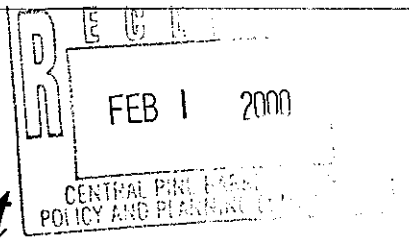
Central Pine Barrens Joint
Planning and Policy Commission

The premises herein is situated in
SUFFOLK COUNTY, NEW YORK

In the Township of Brookhaven

In the VILLAGE
or HAMLET of Calverton

RECEIVED made by
FEB 1 2000



Conservation Easement

THIS INDENTURE, made this 31st day of January, 2000,

Witnesseth:

WHEREAS, Madeline MacDonald and Walter DeVoe both residing at 8 Widener Lane, Southampton, New York 11968, 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

SCTM: WHEREAS, the Central Pine Barrens Joint Planning and Policy Commission (the
0200 "Commission"), with offices at P.O. 587, 3525 Sunrise Highway, 2nd Floor, Great River New
270 York 11739-0587, was created pursuant to the Long Island Pine Barrens Protection Act of 1993
4 (the "Act") codified in New York Environmental Conservation Law Article 57 ("Article 57"), is
25 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' Letter of Interpretation issued on October 25, 1999, totaling 1.00 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.

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 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 Grantor and Grantor's 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 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.

STATE OF NEW YORK
COUNTY OF SUFFOLK

SS:

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 12020 AT PAGE 841 RECORDED 2/15/00 AND THAT IT IS A JUST AND TRUE COPY OF SUCH ORIGINAL EASEMENT AND OF THE WHOLE THEREOF.

IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED THE SEAL OF SAID COUNTY AND COURT THIS 15 DAY OF Feb 2000

Edward P. Romaine

CLERK

12-0168.. 4/98cb

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.

[Signature]

Notary Public

JAMES H. WILLIAMSON
NOTARY PUBLIC, State of New York
No. 4882274, County of Suffolk
Commission Expires June 1, ~~1999~~ 2001

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[Signature]

Notary Public

JAMES H. WILLIAMSON
NOTARY PUBLIC, State of New York
No. 4882274, County of Suffolk
Commission Expires June 1, ~~1999~~ 2001

Central Pine Barrens Joint Planning and Policy Commission

GRANTEE

BY: George Proios, Acting Chair

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

On this 8th day of Feb., ²⁰ 1900, before me personally came George Proios, to me known, who, being by me duly sworn, did depose and say that he is the Acting Chair 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.

Roseann Hansen
Notary Public

ROSEANN HANSEN
Notary Public, State of New York
No. 01HA4917002
Qualified in Suffolk County
Commission Expires December 28, 2001.

12020PG841

Schedule A

ALL that certain plot, piece, or parcel of land situate, lying and being at Calverton, Town of Brookhaven, County of Suffolk and State of New York, shown on a map as follows:

Map of Peconic River Park, Inc. Made by A.W. Young, Licensed Surveyor of Riverhead, New York, dated 5/15/1945 more particularly bounded and described as lot numbers 101 and 102, Block E, Section Number 1 on said map filed in the Suffolk County Clerk's Office as Map Number 1437 on June 27, 1945.

The foregoing parcel being and intended to be the same as described in a deed dated October 24, 1996 between Rita Kellar as grantor and Madeline MacDonald and Walter DeVoe, as grantees and recorded at Liber 11799 Page 904 in the offices of the Suffolk County Clerk. Grantors herein, Madeline MacDonald and Walter DeVoe, are the same parties as the parties of the second part in the deed recorded at Liber 11799 Page 904 in the offices of the Suffolk County Clerk.

SCTM 200-270-4-25

CONVEYED

Pine Barrens Credit Clearinghouse

Number: 0200-00273

Date Issued: February 24, 2000


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 Madeline MacDonald and Walter DeVoe hereby own:

1.00 Pine Barrens Credit

*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

PINE BARRENS CREDITS
PLEGGED AS SECURITY

REDEMPTION
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.

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.

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.

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.

Upon Clearinghouse receipt, a revised Pine Barrens Certificate reflecting the encumbrance will be re-issued

Owner (Person Redeeming)
Name: _____
Address: _____
City/State Zip Code: _____
Signature: _____

Grantor (Seller)
Name: Walter D'Elve + Madeline MacDonald
Address: 8 Videner Lane
City/State/Zip Code: Seton Falls, NY 11968
Signature: Walter D'Elve

Owner (Borrower)
Name: _____
Address: _____
City/State Zip Code: _____
Signature: _____

Town in which Pine Barrens Credits are redeemed.
Town: _____
School District in which Redeemed: _____

Grantee (Buyer)

Name: Robert I. Toussie
Address: 290 Exeter Street,
City/State/Zip Code: Brooklyn, NY 11235
Signature: [Signature]

Lending Institution
Name: _____
Address: _____
City/State Zip Code: _____
Signature: _____
Title: _____

Suffolk County Tax Map of parcel where Pine Barrens Credits redeemed:

Number of Credits Sold, Conveyed or Transferred: 1.00

Amount of loan: _____
Term of Loan: _____
Number of Pine Barrens Credits pledged as collateral: _____

Number of Pine Barrens Credits Redeemed: _____
Municipal development approval was issued: _____

Date of Transaction: 3-30-00
Interest Secured: h/a
Consideration: 30,000.00
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.)

date _____
Municipal Official issuing development approval: _____
Name: _____
Title: _____
Signature: _____