



SUFFOLK COUNTY CLERK
 RECORDS OFFICE
 RECORDING PAGE

Type of Instrument: EASEMENT
 Number of Pages: 9
 Receipt Number : 08-0097072
 TRANSFER TAX NUMBER: 08-05802

Recorded: 10/07/2008
 At: 01:53:47 PM
 LIBER: D00012567
 PAGE: 698

District: 0200 Section: 327.00 Block: 04.00 Lot: 038.000

EXAMINED AND CHARGED AS FOLLOWS

Deed Amount: \$0.00

Received the Following Fees For Above Instrument

		Exempt			Exempt
Page/Filing	\$27.00	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	\$22.50	NO	RPT	\$30.00	NO
Transfer tax	\$0.00	NO			
			Fees Paid	\$109.50	

TRANSFER TAX NUMBER: 08-05802

THIS PAGE IS A PART OF THE INSTRUMENT
 THIS IS NOT A BILL

Judith A. Pascale
 County Clerk, Suffolk County



COUNTY CLERK'S OFFICE
STATE OF NEW YORK
COUNTY OF SUFFOLK

COPY

I, JUDITH A. PASCALE, Clerk of the County of Suffolk and the Court of Record thereof do hereby certify that I have compared the annexed with the original **EASEMENT** recorded in my office on **10/07/2008** under Liber **D00012567** and Page **698** and, that the same is a true copy thereof, and of the whole of such original.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said County and Court this **10/07/2008** .

SUFFOLK COUNTY CLERK

Judith A. Pascale

JUDITH A. PASCALE

SEAL

1 2

Number of pages 9
TORRENS
Serial # _____
Certificate # _____
Prior Ctf. # _____

RECORDED
2009 Oct 07 01:53:47 PM
Judith S. Pastore
CLERK OF
SUFFOLK COUNTY
L 030010567
F 698
DT# 08-05902

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

FEES

Age / Filing Fee 27
Handling 5.00
P-584 5
Notation _____
A-5217 (County) _____
A-5217 (State) _____
P.T.S.A. 300
Comm. of Ed. 5.00
Affidavit _____
Certified Copy 22.50
Leg. Copy _____
Other 15
Sub Total 37
Sub Total 72.50
Grand Total 109.50



Mortgage Amt. _____
1. Basic Tax _____
2. Additional Tax _____
Sub Total _____
Spec. / Assit. _____
or _____
Spec. / Add. _____
TOT. MTG. TAX _____
Dual Town _____ Dual County _____
Held for Appointment 0
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.

200 District 0200 32700 0400 038000

5 Community Preservation Fund

Real Property Tax Service Agency Verification
PT S
R E A P A
07-OCT-08

Consideration Amount \$ _____
CPF Tax Due \$ _____

Improved _____
Vacant Land _____
TD _____
TD _____
TD _____

Satisfaction/Discharges/Release List Property Owners Mailing Address
RECORD & RETURN TO:
**Central Pine Barrens
Joint Planning and Policy Commission
P.O. Box 587
Great River, New York 11739-0587**

7 Title Company Information
Co. Name _____
Title # _____

Suffolk County Recording & Endorsement Page

This page forms part of the attached CONSERVATION EASEMENT made by:
(SPECIFY TYPE OF INSTRUMENT)

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

TO In the Township of Brook Haven

CENTRAL PINE BARRENS JOINT In the VILLAGE PINDROSB

Conservation Easement

THIS INDENTURE, made this 21st day of AUGUST, 2008.

Witnesseth:

WHEREAS, Robert Ficken doing business as Russell Properties, 302 North Country Road, Wading River, New York 11792, (the "Grantor") owns certain real property located in the Town of Brookhaven, (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. Box 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, 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 December 31, 2007 totaling 0.31 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 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, including the Commission, or local agency.

4. 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 their 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 Grantord 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 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' addresses 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 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.

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.

Robert Ficken d/b/a Russell Properties

Central Pine Barrens Joint Planning and Policy Commission

BY:
Peter A. Scully

STATE OF NEW YORK)
) SS:
COUNTY OF SUFFOLK)

On the 7th day of April in the year 2008 before me, the undersigned, a notary public in and for said state, personally appeared Robert Ficken, 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

DORIS E. KORNEIUSSEN
Notary Public, State of New York
No. 01KO5087599
Qualified in Suffolk County
Commission Expires 11/30/09

STATE OF NEW YORK)
) SS:
COUNTY OF SUFFOLK)

On the 21st day of August in the year 2008 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 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.

Notary Public

Carol A. Sholl
Notary Public, State of New York
No. 01SH6180927
Qualified in Suffolk County
Commission Expires January 22, 2008

Schedule A

All that certain plot, piece or parcel of land situate, lying and being at Ridge, Town of Brookhaven, County of Suffolk, State of New York, bounded and described as follows:

BEGINNING at a point on the northerly side of Elizabeth Way where the same is intersected by the easterly side of land now or formerly of Harris, which point is distant 100 feet easterly from the corner formed by the intersection of the northerly side of Elizabeth Way with the easterly side of Pleasant Way;

RUNNING THENCE along said land, North 02 degrees 18 minutes 55 seconds West, 176.70 feet to the southwesterly side of County Road 111, Port Jefferson Westhampton Road;

THENCE along the southwesterly side of County Road 111, Port Jefferson Westhampton Road in a southeasterly direction along an arc of a curve, bearing to the left, having a radius of 2964.789 feet, a distance of 262.56 feet to the northerly side of Elizabeth Way;

THENCE along the northerly side of Elizabeth Way, South 87 degrees 41 minutes 17 seconds West, 194.07 feet to the point or place of BEGINNING.

Together with all right, title and interest, if any, of the Grantor in and to any streets and road abutting the above described to the center lines thereof.

Being and intended to be the same premises conveyed to Robert Ficken doing business as Russell Properties, who acquired title by deed dated January 22, 1973 recorded March 7, 1973 in Liber 7355 Page 477 in the Office of the Suffolk County Clerk. Robert Ficken doing business as Russell Properties is certified as Grantor in this instrument.

SCTM #200-327-4-38

Number: 0200-567

Date Issued: December 30, 2008

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 Robert Ficken doing business, as Russell Properties, hereby owns:

0.31 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