

# STATE PROPERTIES REVIEW BOARD

## Minutes of Meeting Held On August 1, 2022

– remotely via telephone conference –

Pursuant to Governor Lamont's Executive Order No. 7B regarding suspension of In-Person Open Meeting requirements, the State Properties Review Board conducted its Regular Meeting at 9:30AM on August 1, 2022 remotely via telephone conference at (866)-692-4541, passcode 85607781.

### Members Present:

Edwin S. Greenberg, Chairman  
Bruce Josephy, Vice Chairman  
John P. Valengavich, Secretary  
Jack Halpert  
Jeffrey Berger  
William Cianci

### Members Absent:

### Staff Present:

Thomas Jerram

### Guests Present

Mr. Valengavich moved and Mr. Halpert seconded a motion to enter into Open Session. The motion passed unanimously.

## OPEN SESSION

### 1. ACCEPTANCE OF MINUTES

Mr. Valengavich moved and Mr. Berger seconded a motion to approve the minutes of the July 28, 2022 Meeting. The motion passed unanimously.

### 2. COMMUNICATIONS

### 3. REAL ESTATE- UNFINISHED BUSINESS

### 4. REAL ESTATE – NEW BUSINESS

<i>PRB #:</i>	22-113
<i>Transaction/Contract Type:</i>	RE – Voucher
<i>Origin/Client:</i>	DOT/DOT
<i>DOT Project #:</i>	44-156-027
<i>Grantor:</i>	Sound and Cove Land LLC
<i>Property:</i>	East Lyme, Flanders Rd (31.0 1)
<i>Project Purpose:</i>	I-95 Interchange 74 Improvements at Route 161 and Replacement of Bridge No. 00250
<i>Item Purpose:</i>	Voucher

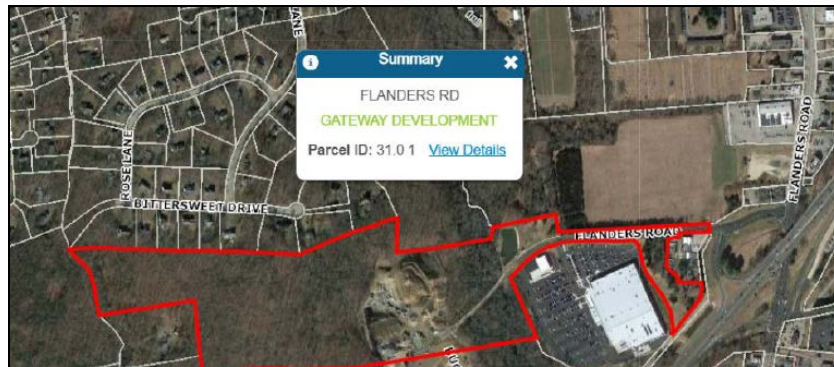
### DAMAGES: \$26,000

The purpose of the project is to address vehicular safety on I-95 at Interchange 74 and address traffic operational concerns between Interchanges 74 and 75 in East Lyme. In addition, this project will address traffic operational concerns and improve safety for all roadway users (motorists, pedestrians and bicyclists) on Route 161 in the vicinity of the exit 74 interchange ramps. It is also

proposed to replace the I-95 bridge over Route 161 due to its poor condition and to accommodate the widening on Route 161.

I-95 will be widened to accommodate three travel lanes in each direction (one of the three lanes is intended for future use). An auxiliary lane will be constructed between exits 74 & 75 in each direction. As a result of the I-95 widening, the bridges over Pattagansett River and Latimar Brook will be extended or replaced contingent on the hydraulic analysis of the existing bridges.

The terminus of the northbound I-95 exit 74 ramp will be relocated southerly to form a new signalized intersection with Route 161 and the Burger King Driveway. Vehicles on southbound Route 161 will be accessing I-95 northbound on a new entrance “loop” ramp approximately 500 feet south of its current location. The entrance ramp to I-95 northbound for vehicles on northbound Route 161 will be realigned slightly at its present location.



**Site Description** – The subject parcel consists of an irregular-shaped 40.558 acre lot (1,766,727 sf) with 81 feet of frontage on a DOT access road referred to as Frontage Road. Frontage Road connects to both Flanders Road and the present southbound on-ramp of Interstate 95 at Exit 74. The appraiser estimates that 31.575± acres, or approximately 78% of the subject property, is encumbered by conservation easements, with 8.983 acres unrestricted.

There are no building improvements on the subject property according to the East Lyme assessor. Site improvements include the access road with sidewalk & curbing that provides ingress & egress from Frontage Road to the Costco retail store at 284 Flanders Road. The aforementioned chain link fenced “dog-run” enclosure is considered a site improvement.

To the immediate southeast of the subject is a 14.76± acre parcel at 284 Flanders Road. This abutting parcel is improved with a Costco retail store. The subject is encumbered with an access easement in favor of this retail store. The easement, which provides ingress & egress to Costco, is over a portion of the subject parcel immediately adjacent to and north of 284 Flanders Road connecting to Frontage Road.

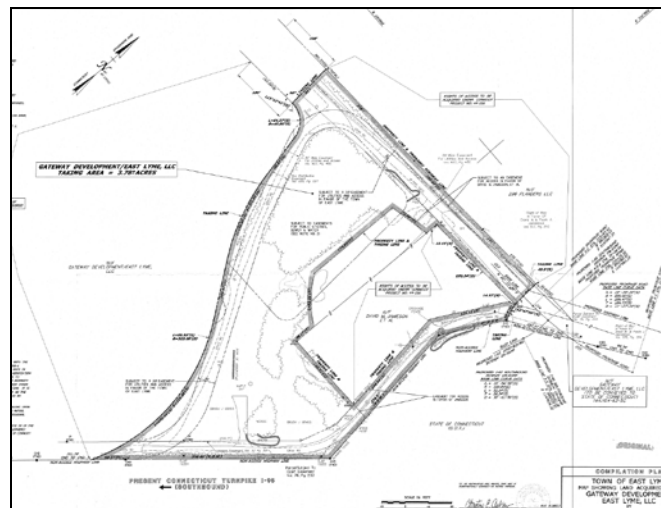
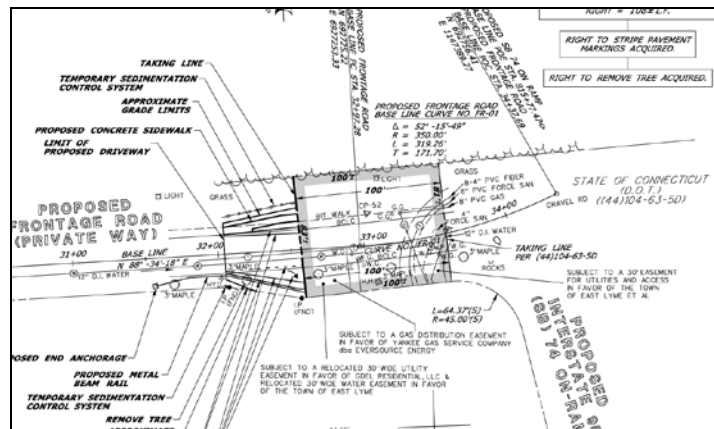


The appraisers estimates that approximately 15% of the subject along its easternmost section is within the East Lyme Gateway Planned Development District (GPDD) zone. Approximate 15% of the subject within the center of the parcel is within Light Industrial (LI) zoning district. The remaining 70% (approximately) is zoned Rural District (RU-40/20).

The Appraiser opined that the Highest and Best Use of the property “as vacant” is the development of the unencumbered land in keeping with the permitted uses of the GPDD, LI and the RU-40/20 zoning designations.

**The Taking:** DOT will acquire the following:

1. Partial taking – 8,243± sq. ft.
2. Right to grade, construct driveway and concrete walk acquired - right area of 714± square feet
3. Right to install curbing acquired - right acquired is 108± linear feet
4. Right to install sedimentation control system acquired – right acquired is 56± linear feet
5. Right to install metal beam rail and end anchorage acquired – right acquired is 108± linear feet
6. Right to strip pavement markings acquired
7. Right to remove tree acquired



From PRB #19-099 – DOT Project #044-104-063-5D

The valuation of the subject property is subject to the following Extraordinary Assumptions and Hypothetical Conditions:

**EXTRAORDINARY ASSUMPTIONS:**

The appraiser makes the Extraordinary Assumption that the subject property in whole is 'Free and Clear' of any and all environmental contamination, hazardous waste material, and any and all other potentially negative soil conditions not specifically indicated, including but not limited to USTs, PCBs, VOCs, SVOCs, ACMs, lead paint, toxic chemicals and gases, and radioactive material.

Gateway Development/East Lyme, LLC, et al. have a Construction, Operational & Reciprocal Easement agreement with Costco Wholesale Corporation. As part of this agreement, the Costco retail store at the abutting property at 284 Flanders Road has an access easement over the subject property. The access easement area is the area immediately adjacent to and north of the Costco parcel connecting to Frontage Road. For the purposes of this report, the appraiser makes the extraordinary assumption that access to both the subject property and to the abutting Costco retail store shall be maintained throughout the course of the DOT project. If this should turn out not to be the case, the appraiser reserves the right to alter the report and valuation.

**HYPOTHETICAL CONDITIONS:** None.

**Restricted Use/Short Form Value Finding** – DOT Appraiser James P. Mansfield appraised the property according to its highest and best use, as of December 21, 2021, based on the 8.983 acres of developable land (conserved land assigned an 'X' value), and based on sales in East Lyme, Old Lyme and Old Saybrook (2019-2021) concluded the market value of the subject property was \$3.00/sq.ft. x 391,309 = \$1,173,927, rounded to \$1,174,000

The Appraiser then calculated the Permanent Damages, as follows:

Item	Calculation	Value
Fee Simple Land	8,243 sf x \$3.00 =	\$24,729
Site Improvements	Contributory Value	\$1,000
	Total	\$25,729
	Rounded	\$26,000

**RECOMMENDATION:** Board approval of damages in the amount of \$26,000 is recommended for the following reasons:

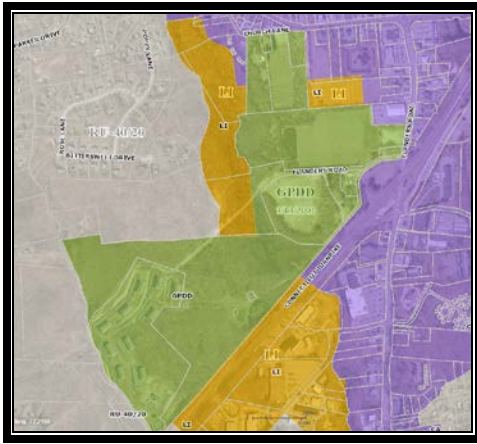
1. The acquisition complies with Section 13a-73(c) of the CGS which governs the acquisition of property by the commissioner of transportation required for highway purposes.
2. The acquisition value is supported by the DOT Appraisal.

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From PRB #19-099

Gateway Development/East Lyme, LLC, a joint venture between affiliates of KGI Properties of Providence, RI and The Simon Konover Company of West Hartford, Connecticut.





East Lyme Gateway Planned Development District

Gateway Commons, located adjacent to exit 74 off Interstate 95, is a planned 200-acre mixed-use development. The first phase of residential development, named The Sound at Gateway Commons, features 280 luxury apartments in ten (10) buildings and was completed in 2015. The luxury community includes a 6,000 square foot private clubhouse with fitness center, billiard room, media center, business center, and heated outdoor resort-style pool.

Proposed for the site is development of a 22.42± acre portion of the district with a 159,000± sf Costco retail with gasoline sales.

To achieve this phase of development of the site, the developer has requested the state provide a break in the non-access highway line (BNHAL - 246.86') on land located off Flanders Road, at the I-95 Exit 74 south-bound on/off ramps to modify the interchange to accommodate the “Gateway commons Offsite Roadway Improvements Project.” This project coincides with the DOT’s Project No. 44-156 for improvements in the vicinity of I-95 and Flanders Road including the improvement of several existing highway ramps and roads, reconstruction of a bridge (crossing RT 161), as well as constructing a new public road that will allow access for commercial development. The DOT’s interchange plans call for a significantly larger footprint of land to accommodate the planned interchange.

East Lyme GIS Mapping



Release of non-access highway line (246.86')

Exchange parcel (3.95 acres)

Exchange parcel (0.62 acre)



DOT Appraiser Michael J. Corazzelli, appraised the proposed development site as of July 18, 2016 and established a 'before' value of \$1,536,000, and an 'after' value (after release of non-access) of \$5,829,000, indicating the BNAHL value at \$4,293,000.

DOT also retained the appraisal services of independent fee appraiser Steven MacCormack. Appraiser MacCormack appraised the proposed development site as of August 25, 2016 and established a 'before' value of \$325,000, and an 'after' value (after release of non-access) of \$6,325,000, indicating the BNAHL value at \$6,000,000.

In a letter dated November 8, 2016, DOT offered Gateway Development/East Lyme, LLC the BNAHL for a sale price of \$6,001,000.

During this process Gateway Development/East Lyme, LLC retained the services of Valbridge Property Advisors. Appraiser Lemp appraised the proposed development site (only 14.25 acres) as of December 24, 2016 and established a 'before' value of \$3,270,000 ("based on near term retail development, without any required off-site improvements to the access road or any state-owned lands), and an 'after' value (after release of non-access) of \$6,900,000, indicating the BNAHL value at \$3,630,000.

DOT estimates there are 51± acres of commercial land that would benefit from the BNAHL, not all of which is owned by Gateway, nor part of the immediate proposed development of the Costco retailer. The DOT's appraisals and the owner's appraisals, both value the BNAHL solely on this proposed development, which represents 45% of the land that would benefit from the BNAHL.



During negotiations, DOT was willing to accept the owner's estimate of value attributable to the BNAHL, and, as the specific development will be the only beneficiary to the BNAHL, agreed to the 45% allocation of the BNAHL Value, or  $\$3,630,000 \times 45\% = \$1,633,500$ .

As part of the future DOT Project No. 44-156, DOT required additional land to accommodate the larger foot print for the future expanded Exit 74 south-bound interchange. DOT accepted the owner's valuation of the 3.95± exchange parcel at \$830,000 (\$4.82/sf).

The final sale price of the BNAHL is then calculated by taking the BNAHL Value less the acquisition parcel, or  $\$1,630,000 - \$830,000 = \$803,500$ . Subsequent to this negotiation, DOT was successful in obtaining an additional 0.611 acre (26,651 sf) of land in fee simple from the owner. This is the existing access to the site from Route 161 to the development and is subject to a ROW in favor of the abutter (pool retailer).

Staff inquired with DOT with respect to the calculation of the BNAHL relative to the development potential of the entire Gateway Commons master development, including the future retail and residential development potential. DOT assured Staff that this release of BNAHL is solely for the owner's development and any future development require DOT approvals.

Terrance Obey from DOT was present to provide an overview of the proposal. DOT informed that their approval for the release of a break in the non-access highway line (BNAHL) is for the sole benefit of the development of the parcel with a Costco retailer in exchange for other lands and compensation as presented by DOT. He also informed that there will be restrictions placed to access all other adjacent lands within Gateway Commons Planned Development District. This restriction will require property owners to seek and receive DOT approval for release of the BNAHL to access said land.

**RECOMMENDATION:** Staff recommends **approval of this Release QC Deed & Acquisition Warranty Deeds** for the following reasons:

1. The conveyance complies with Section 13a-80, and 13a-73(h) of the CGS governing the release/exchange and acquisition of property and easements by the Commissioner of Transportation.
2. The descriptions in the Deeds are consistent with the DOT maps.
3. The exchange facilitates the Town of East Lyme's economic development efforts.
4. The exchange facilitates the DOT's future Project No. 44-156 by acquiring land prior to development and saving scarce state and federal dollars.
5. Assurances provided by DOT about future DOT approvals for release of the BNAHL to access adjacent properties as noted above.

Initial Plan for DOT Project 44-156 – Exit 74 on I-95



**PRB File #:** 22-122-A  
**Transaction/Contract Type:** RE – Agricultural Permit  
**Origin/Client:** DoAG/DoAG  
**Permittee:** James Wargo  
**Property:** Southbury, South Britain Rd (1461) – The Farm at the Southbury Training School  
**Project Purpose:** Amendment for Addition of Farm Structures  
**Item Purpose:** Amended and Restated Permit Agreement

At the State Properties Review Board meeting held on April 6, 2017, under PRB #17-060, the Board approved an Agricultural Land Use Permit for the use of 30.7 acres of a total of 944.725± acres, in Southbury and Roxbury, known as the Farm at the Southbury Training School. The Permittee is James Wargo who pays \$825.40/year, in advance on April 1 of each year.

Under this Proposal (#22-122-A), DoAG is now seeking approval of an Amended and Restated Permit Agreement (1<sup>st</sup> Amendment) to expand the Permittee’s use to include the building known as the “Storage Barn” (Building #130) and the “Covered Patio” (Building #5) on the Farm. The Permittee will pay a \$500 annual Permit Fee upon signing the Agreement and annually thereafter on April 1 of each year.

The amended Agreement will require the Permittee to perform limited routine maintenance and upkeep of the buildings or structures may include mowing, landscaping, painting, replacement or repair of deteriorated wood and replacement of screens or window, all with prior approval by the Commissioner of Agriculture.

The amended Agreement also requires the Permittee to provide specific insurance coverages naming the State as additional insured.

The Department of Agriculture provided this narrative in support of this request:

The Connecticut Department of Agriculture, after consultation with the Office of the Attorney General, released a request for proposals on June 29, 2021, to all agricultural permit holders on the Southbury Training School Property. Two proposals were received, one from James Wargo and one from Ben Platt.

Upon review of the proposals, follow up with each of the applicants to better understand their needs and long-term goals was conducted. As part of the discussion with each bidder about their bid, each agreed to perform certain maintenance responsibilities related to the permitted properties. In addition, we recognized that their use of these buildings enhances the security of the property and prevents vandalism. Based on these factors, we accepted their proposals.

The results were the following:

1. Ben Platt would be granted permitted access to Building 10 on the property. In turn, the additional permit fee per month would be \$100.00 and the permittee would mow the common areas between the building and Cassidy Road and Purchase Brook Road twice a year.
2. James Wargo would be granted permitted access to Buildings 13 and 5 on the property. In turn, an annual fee of \$500 would required and the permittee would mow two to three times per year to maintain the common areas between Cassidy Road and Purchase Brook Road. The permittee would also keep the paved road and parking area free of debris and litter and paint, with white paint, the outside of both permitted structures.

DoAG Staff provided a copy of the RFP as well as a copy of each response to the RFP.



The SPRB presented the following concerns with the Department of Agriculture's (DoAG) submission of drafts of proposed Permits and after written comments and teleconferences, DoAG resubmitted updated drafts with Staff comments, as follows:

- 1) Both Permits lack any reference to the original Permits and lack any reference to amending the terms in the original Permits. The Permits, as presented, are very similar in Form/Structure to the original Agreements approved in 2017, with noted exceptions for expanded Permit Premises, additional Permit Fees and updated statutory language.
  - The document provided now includes “AMENDED AND RESTATED” in the title.
  - There are now eight (8) ‘Whereas’ clauses that provide insight/background to the amended document
  - OK
- 2) For clarity, SPRB Staff believe the Form/Structure of the Permits should include language to reflect said intent of Parties to amend the Permit (eg. “First Amendment to Agricultural Land Use Permit Agreement” etc). Please refer to Old Saybrook \*pdf (attached).
  - See #1 above.
  - OK
- 3) As the two Permits are presented in the Form/Structure of a new Agreement, DoAG should have prepared/issued a RFP as they did when the original Agreements were presented to the SPRB in 2017. This provides all members of the farming community an equal opportunity to obtain a Permit in an open and competitive environment and represent prudent business practices on behalf of the Agency. Staff also believe that in the current scenario, a First Amendment does not warrant a RFP process.
  - With this newly-entitled document (Amended and Restated), I believe a formal RFP is no longer required.
  - DoAG stated in one ‘Whereas’ clause that an RFP was issued to current Permittees at the STS Farm regarding use of farm buildings. DoAG states there was only one response.
  - When this Proposal is formally submitted for SPRB review, a copy of the RFP and response should be provided to the Board. (submitted)
  - OK

Other issues raised by an initial review of the Permits, SPRB Staff believe DoAG should consider and respond to the following:

- A. DoAG should determine if a corporation authorization/consent to enter the Permit Agreement with Platt Farm, LLC is required.
  - DoAG did not respond to this issue.
  - Staff subsequently learned and informed DoAG that this is not required.
- B. DoAG should provide a narrative to address how the Permit Fees assigned to the farm buildings/structures for each Permit was derived.
  - In the amended Permit, the third (3<sup>rd</sup>) Whereas clause stated an RFP was issued with one response.
  - Article #7(a) of the Permit requires the Permittee to provide appropriate insurance covering the Premises, and to name the State as additional insured.
- C. And lastly, as previously discussed there were statutory additions to the Permits. SPRB Staff believe DoAG should ascertain if any of the following statutory changes need to be incorporated into the Permits:
  - a). Access to Contract and State Data (CGS §4e-1);
  - b). Whistleblowing (CGS §4-61dd);
  - c). Iran Energy Investment Certification (CGS §4-252a);

- d). Large State Contract for Agency and/or Contractors (CGS §4-252 & EO 21-2);
- e). Campaign Contribution Restrictions (CGS §9-612); and
  - DoAG did not respond to this issue.
  - This was discussed with DoAG and Staff were informed that the DoAG had conferences with their AG and determined these statutory additions were not required.
  - OK

**Recommendation:** Staff recommend approval of this proposed Amended and Restated Permit Agreement. The RFP was to existing Permittees, the DoAG supported their annual Permit Fees and the Permittee’s use of the structures will provide maintenance when required.

From PRB #17-060

PRB #17-060 Dept. of Agriculture - Permit to Farm 30.7 Acres  
Permittee: James Wargo

SUBJECT: Location: The Farm at Southbury Training School (STS; Farm) located in Southbury and Roxbury, pursuant to CGS §22-2600 (PA 13-90)

Background: The Board recently approved PRB #16-253, wherein the State granted a *Conveyance of Agricultural Conservation Easement Deed* to the Southbury Land Trust Inc., for the permanent protection of 944.725± acres, in Southbury and Roxbury, known as the Farm at the Southbury Training School.

The conservation easement was a requirement of Public Act 13-90, now codified as CGS §22-2600. The legislation set out specific requirements which have be met as indicated below:

<i>Item</i>	<i>Action</i>
Dept. of Agriculture (DoAG) prepares an A-2 survey of the Farm.	944.725 acres identified as Farm. Survey dated May 2014
Dept. of Developmental Services (DDS) transfers custody and control of the Farm at STS to Agriculture, with memorandum of understanding	MOU with DDS signed May 19 & 20, 2016. Three areas of the Farm totaling 24± acres; and the “Wood Program Building” are reserved for DDS use for specified periods of time. (PRB #16-253)
DoAG grants a permanent conservation easement to a qualified nonprofit organization. SPRB approval required.	DoAG, assisted by the AG, prepared an agricultural conservation easement. Southbury Land Trust, Inc., a qualified 501(c)(3) nonprofit organization whose mission included farm and open space preservation, has agreed to accept the conservation easement. (PRB #16-253)
DoAG leases, permits or licenses any portion of the Farm to one or more persons or entities for agriculture, as defined in CGS Section 1-1q, for a period not to exceed 15 years, renewable for an additional 15 years. Agricultural activities require a conservation plan prepared by USDA and approved by DoAG. SPRB approval required.	DoAG prepared a draft permit (with AG assistance) and issued an RFP; permit agreements being processed for 5 potential permittees.

Request for Proposals (RFP) to Lease Farmland at STS

In September 2015, Agriculture issued an RFP, making about 370 acres of the Farm available for farming permits. A total of 12 farmland parcels were offered, ranging in size from 3 acres to 70 acres.

The parcels are located along Cassidy Road and Purchase Brook Road and are northwest of the training school campus. Most of the 370 acres has been planted in corn, hay, or used for pasture; some of the acreage offered would require restoration to become productive.

The RFP indicated that preference would be given to proposals for food and fiber producing agricultural uses, meaning producing crops and raising livestock. Permits were offered for a 10 year period, with the option to extend for an additional 15 years. Farmers awarded permits would be required to develop and follow a USDA – Natural Resources Conservation Service (USDA-NRCS) Conservation Plan and follow best management practices.

Response to RFP

Agriculture has been asked to provide information on the responses received and the permittee selection process.

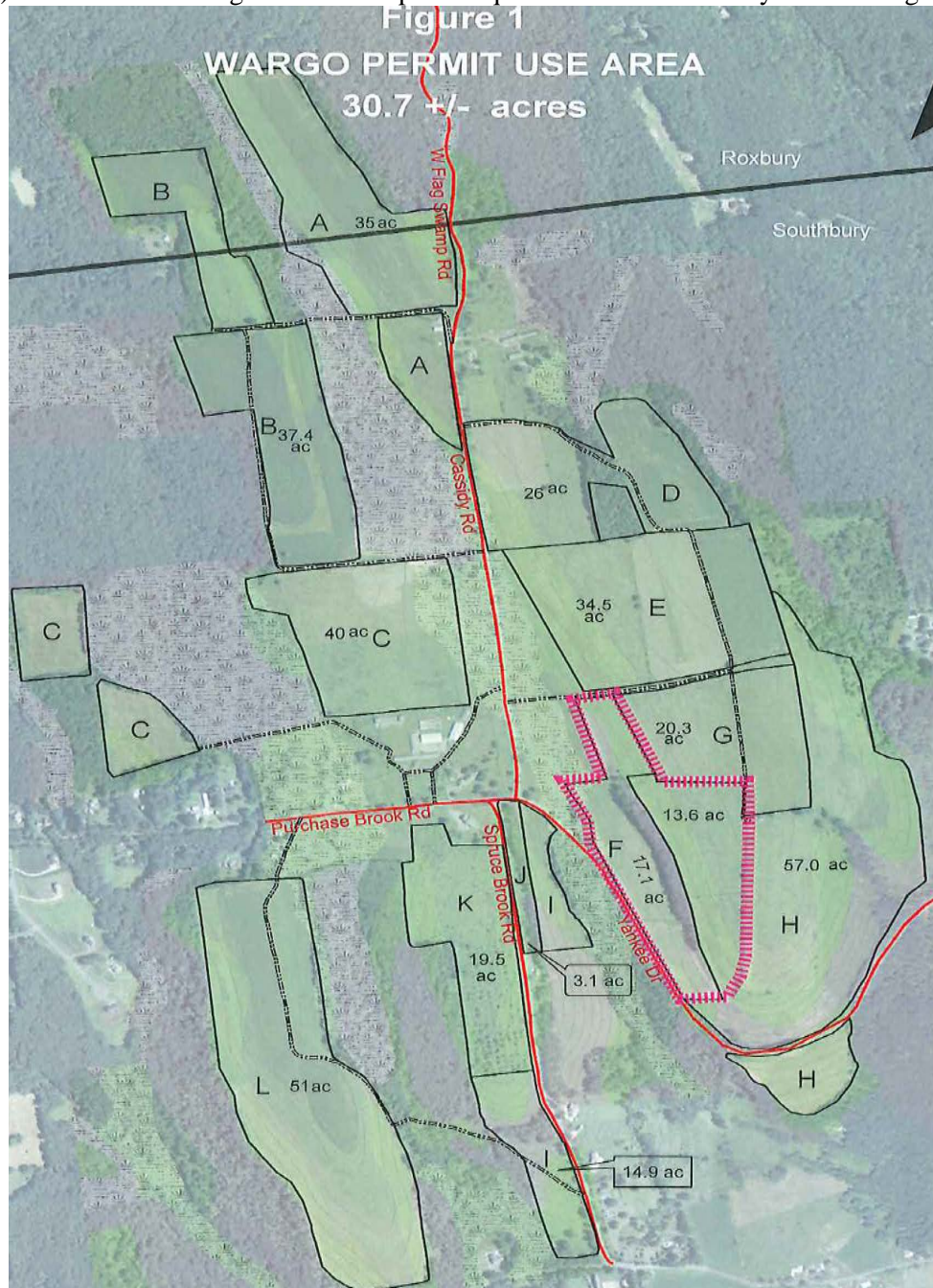
PRB #17-060: Agriculture seeks approval to issue an Agricultural Land Use Permit (Permit) for the use of 30.7 acres to James Wargo with terms and conditions as follows:

Item	PRB #17-060
Permittee	James Wargo
Premises	Parcel F = 17.1 acres A Portion of Parcel H = 13.6 acres With right of way over and across the farm road running easterly from Cassidy Road to Parcels E, F & G Permittee can (with other permittees) use water supply well, located on Parcel G.
Use	Engaging in agriculture limited to fruit, vegetable, dairy and/or other food production. Sale of retail raw milk is prohibited.
Term	Commencing when executed by the AG through December 31, 2026.
Fee	\$825.40 (\$26.89 per acre) per year payable in advance on April 1.
Conservation Plan/Business Plan	Permittee will submit a business plan and agricultural use plan to the Commissioner. All agricultural activities shall be in accordance with a conservation plan approved by USDA-NRCS, and approved by the Commissioner. The conservation plan shall be updated at least every 5 years or whenever the nature of any agricultural operation changes.
Insurance	Commercial General Liability - \$1,000,000; Auto Liability: \$1-m per accident for bodily injury. Workers Compensation Insurance as necessary & as required by law. Employer’s Liability: \$100,000 each accident; \$500,000 disease.
Entry	State can enter at any time, with 24 hours’ notice unless it is an emergency. Permittee will supply keys/key codes to locked structures and gates.
Renewal	May renew up to 15 years, with agreement of Commissioner, terms and conditions to be negotiated.
Assignment	Permit cannot be assigned, sold or transferred to any third party.
Cancellation	State may cancel at any time with 30-day advanced notice.
Other	No alterations or improvements can be made on the premises without the prior written approval of the Department. All pesticides/herbicides shall be used and stored in accordance with application laws and best practices. State reserves all hunting and fishing rights.

Recommendation: It is recommended that this item be suspended pending receipt of information from the Department of Agriculture regarding:

- (1) The responses to the RFP;
- (2) The factors evaluated in selecting the permittee;
- (3) The determination of the rental rate; and

- (4) The business and agricultural use plans required to be submitted by James Wargo.



5. ARCHITECT-ENGINEER - UNFINISHED BUSINESS
6. ARCHITECT-ENGINEER – NEW BUSINESS
7. OTHER BUSINESS
8. VOTES ON PRB FILE:

**PRB FILE #22-113** – Mr. Halpert moved and Mr. Berger seconded a motion to approve PRB FILE #22-113. The motion passed unanimously.

**PRB FILE #22-122-A** – Mr. Berger moved and Mr. Valengavich seconded a motion to approve PRB FILE #22-122-A. The motion passed unanimously.



**9. NEXT MEETING** – Thursday, August 4, 2022.

The meeting adjourned.

**APPROVED:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
John Valengavich, Secretary