

TO: BOARD OF LEGISLATORS  
COUNTY OF WESTCHESTER

Your Committee is in receipt of a report from the Westchester County Agriculture and Farmland Protection Board, dated May 10, 2022 and revised June 9, 2022, stating its recommendations concerning six requests for the inclusion of viable agricultural land within Westchester County Agricultural District No. 1.

Your Committee has carefully reviewed the above-referenced report and is aware that this Honorable Board is charged with the duty, pursuant to Section 303-b of the New York State Agriculture and Markets Law and Westchester County Act No. 95-2017, of scheduling a Public Hearing concerning requests to add parcels to an existing Westchester County Agricultural District and the recommendations of the Westchester County Agriculture and Farmland Protection Board concerning those requests.

Your Committee recommends that this Honorable Board carry out the foregoing statutory duty by adopting a Resolution scheduling a Public Hearing upon the proposed additions to Westchester County Agricultural District No. 1 as soon as possible.

Your Committee would further advise, based upon its careful review of the report of the Westchester County Agriculture and Farmland Protection Board and barring the emergence of any adverse information during the course of the scheduled Public Hearing, that this Honorable Board, by Resolution, approve the inclusion in Westchester County Agricultural District No. 1 of so many of the pending requests as are consistent with the recommendation of the Westchester County Agriculture and Farmland Protection Board.

Additionally, and as you know, your Honorable Board must comply with the requirements of the State Environmental Quality Review Act (“SEQRA”). The Department of Planning has advised that this proposed Resolution is classified as an Unlisted Action under SEQRA regulations that requires the adoption of the attached Negative Declaration. Your Committee concurs in this conclusion.

As this project is an “Unlisted” action under SEQRA, your Committee is also in receipt of an Environmental Assessment Form prepared by the Department of Planning to assist this Honorable Board in making a determination as required by SEQRA, which is necessary if this Honorable Board is to approve the attached Resolution.

Your Committee has carefully considered the proposed legislation. It has reviewed the attached Environmental Assessment Form and the criteria contained in Section 617.7 of 6 NYCRR Part 617, the SEQRA regulations, to identify the relevant areas of environmental concern.

Your Committee has thoroughly analyzed the identified relevant areas of concern to determine if the proposed action may have a significant impact on the environment. For reasons set forth in the attached proposed Negative Declaration, your Committee believes that the proposed action will not have any significant impact on the environment and accordingly recommends passage of the annexed Resolution.

Your Committee has carefully considered the proposed legislation and recommends that your Honorable Board adopt a Resolution scheduling a public hearing concerning pending requests to add additional parcels to Westchester County Agricultural District No. 1 as well as a further Resolution, barring the emergence of any adverse information during the course of the scheduled Public Hearing, approving the inclusion in Westchester County Agricultural District

No. 1 of so many of the pending requests as are consistent with the recommendation of the Westchester County Agriculture and Farmland Protection Board.

Your Committee requests that the Clerk of the Board notify each community in which the additional parcels are located of the date and time of the Public Hearing.

Dated: 2022  
White Plains, New York

COMMITTEE ON \_\_\_\_\_

# FISCAL IMPACT STATEMENT

SUBJECT: Agricultural District Adds  NO FISCAL IMPACT PROJECTED

## OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

### SECTION A - FUND

GENERAL FUND       AIRPORT FUND       SPECIAL DISTRICTS FUND

### SECTION B - EXPENSES AND REVENUES

Total Current Year Expense      \$                     -

Total Current Year Revenue      \$                     -

Source of Funds (check one):     Current Appropriations     Transfer of Existing Appropriations  
 Additional Appropriations       Other (explain)

Identify Accounts: \_\_\_\_\_

Potential Related Operating Budget Expenses:      Annual Amount    0

Describe:      No impact.

Potential Related Operating Budget Revenues:      Annual Amount    0

Describe:      No impact.

### Anticipated Savings to County and/or Impact on Department Operations:

Current Year:      Processing of applications is performed by Planning Department staff.

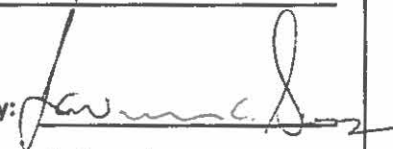
Next Four Years: Annual application period is required by New York State Agricultural Districts  
Law.

Prepared by:      David Kvinge

Title:      Assistant Commissioner

Department:      Department of Planning

Date:      June 16, 2022

Reviewed By:   
Budget Director

Date:      6/16/22

RESOLUTION NO. \_\_\_\_\_ - 2022

RESOLVED, THAT THIS Board hold a public hearing pursuant to Section 303-b of the New York State Agriculture and Markets Law and Westchester County Act No. 95-2017 upon the proposed inclusion of additional parcels of land within Westchester County Agricultural District No. 1. The public hearing will be held at 7:30 p.m. on the \_\_\_\_ day of \_\_\_\_\_, 2022 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of this hearing, in the form annexed hereto, to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose and shall further provide written notice, in the form annexed hereto, to each municipality with territory that would be encompassed within the proposed district and to the New York State Commissioner of Agriculture and Markets.

## NOTICE

NOTICE IS HEREBY GIVEN that, pursuant to Section 303-b of the New York State Agriculture and Markets Law and Westchester County Act No. 95-2017, the Westchester County Board of Legislators has received requests for the inclusion of additional parcels of predominantly viable agricultural land within Westchester County Agricultural District No. 1.

Those additional parcels are described as follows:

<b>Request No.</b>	<b>Street Address</b>	<b>Municipality</b>	<b>Acreage (approx.)</b>
2022-01	371 Smith Ridge Rd	Lewisboro	16
2022-02	20 Boutonville Rd So.	Lewisboro	43.8
2022-03	131 Route 100	Somers	3.2
	129 Route 100	Somers	5.9
	198 Route 100	Somers	2
	194 Route 100	Somers	1.9
	190 Route 100	Somers	5
	190 Route 100	Somers	4.3
2022-04	9 Orchard Hill Rd	Somers	5.4
	12 Orchard Hill Rd	Somers	3.6
2022-05	387 Smith Ridge Rd	Lewisboro	0.5
	469 Smith Ridge Rd	Lewisboro	3
	475 Smith Ridge Rd	Lewisboro	1.3
	5 East St	Lewisboro	0.7
2022-06	1225 Whitehill Rd	Yorktown	7

The Westchester County Board of Legislators, pursuant to Section 303-b of the New York State Agriculture and Markets Law and Westchester County Act No. 95-2017, shall hold a public hearing to consider the proposed inclusion of these additional parcels of land in Westchester County Agricultural District No. 1 and the recommendations of the Westchester County Agriculture and Farmland Protection Board. The public hearing will be held at 7:30 p.m.

on the \_\_\_\_\_ day of \_\_\_\_\_, 2022 in the Chambers of the Board of Legislators, 8th Floor,  
Michaelian Office Building, White Plains, New York.

**Report of the**  
**Westchester County Agriculture and Farmland Protection Board**  
**for the Addition of New Parcels to**  
**Westchester County Agricultural District No. 1**  
**Calendar Year 2022**  
Adopted May 10, 2022  
Revised June 9, 2022

**Background:**

Westchester County encourages the preservation of agricultural land and the promotion of the agricultural industry within the county in recognition of the important role it plays in protecting open space and the environment; preserving community, cultural, and scenic character; providing locally grown agricultural products; offering unique agricultural services and educational opportunities; and supporting the economy. The County has implemented a number of programs and initiatives to protect its remaining farmland and encourage a strong agricultural industry, including the creation of the County Agriculture and Farmland Protection Board and the Westchester County Agricultural District. Agricultural districts provide benefits that help make and keep farming as a viable economic activity, thereby maintaining land in active agricultural use. Agricultural districts encourage development pressure to focus on other areas of a community and provide farm owners protection under the state's Right to Farm laws.

Agricultural Districts must be recertified periodically (the review period for Westchester's Agricultural District is every eight years). The Westchester County Agricultural District was certified by the New York State Commissioner of Agriculture in 2001. The County began the evaluation and recertification process in 2008, culminating with the submission in 2010 of proposed modifications to the District. The District was recertified by the Commissioner of Agriculture in September 2011, incorporating those proposed modifications, which include limiting the District to the Towns of Cortlandt, Yorktown, Somers, North Salem, Bedford and Lewisboro; the Village of Sleepy Hollow and the portion of Mount Pleasant west of the Taconic State Parkway. The following criteria were also developed to be used in the evaluation of proposals to include additional land within the district. The District was recertified in 2017 with the same geographic limitations and evaluation criteria.

1. **Farm operations must be of a minimum size or scale.** For each farm operation (not each individual parcel), the total area of the farm parcels must be a minimum of seven acres and the farm must have a minimum of \$10,000 annual gross sales value, as defined in Ag and Markets Law. A farm operation that does not meet the seven-acre minimum may be eligible for inclusion if it has a minimum of \$50,000 annual gross sales value, as defined in Ag and Markets Law.
2. **Individual parcels must function as a single farm.** If parcels of land are not contiguous, the applicant must adequately demonstrate that the individual parcels function as a single farm operation.
3. **The parcel(s) must be able to support the agricultural activity.** The applicant must demonstrate that the land is capable of supporting the agricultural activity.
4. **The agricultural operation must be the predominant commercial land use of the site.** The agricultural activity on each parcel of land must constitute a minimum of 51% of the land area of the parcel, excluding fallow land, wooded portions of the property or portions of the property used as a



residence. The agricultural activity on each parcel of land must also constitute a minimum of 51% of the annual gross sales value generated on the parcel.

5. **Sound agricultural practices must be employed to protect environmental resources.** Applicants must demonstrate that the agricultural operation is operating under a Whole Farm Plan, nutrient management plan, integrated pest management plan or similar plan to ensure that excess nutrients, pesticides, herbicides and pathogen transfer off-site is avoided to the maximum extent practical through the implementation of agricultural best management practices.
6. **Other information may be required.** The Agriculture and Farmland Protection Board reserves the right to request additional information it determines necessary to fully evaluate the operation or land.

In 2003 New York State Agriculture and Markets Law (AML) was amended to allow property owners to petition to include their lands within an existing agricultural district. Prior to the 2003 amendment, property owners would have to wait until the district was renewed at the end of the recertification period. Lands to be included in the district must be determined to be predominantly viable agricultural land per AML §301.7 and also serve the public interest by assisting in maintaining a viable agricultural industry within the district. Applications are made to the Westchester County Board of Legislators, which refers the requests to the Westchester County Agriculture and Farmland Protection Board (AFPB) for review and recommendation back to the Board of Legislators. Final recommendations are sent to the State Commissioner of Agriculture for review and certification. The application period ends March 31 of each year. This report represents the results of the review of the AFPB for applications received for 2022.

**2022 Recommendations:**

For calendar year 2022, the Westchester County Agriculture and Farmland Protection Board received five (5) applications for the inclusion of additional land within Westchester County Agricultural District Number 1. The AFPB recommends inclusion of the following:

Application	Farm Name	SBL	Acres	Street Address	Municipality
2022-01	Three Feathers Haberny's Farm	77.11-2-5	±16.0	371 Smith Ridge Rd	Lewisboro
2022-02	Birdstone Farm	53.1-3-20	±43.8	20 Boutonville Rd So.	Lewisboro
2022-03	Katonah Nursery	38.13-1-6	±3.2	131 Route 100	Somers
		38.13-1-7	±5.9	129 Route 100	Somers
		28.17-2-1	±2.0	198 Route 100	Somers
		38.05-2-1	±1.9	194 Route 100	Somers
		38.05-2-2	±5.0	190 Route 100	Somers
		38.05-2-3.1	±4.3	190 Route 100	Somers
2022-04	Orchard Hill Organics	37.14-1-10	±5.4	9 Orchard Hill Rd	Somers
		37.14-1-2	±3.6	12 Orchard Hill Rd	Somers
2022-05	Cipriano Farm	77.11-2-11	±0.5	387 Smith Ridge Rd	Lewisboro
		77.04-3-61	±3.0	469 Smith Ridge Rd	Lewisboro
		77.04-3-59	±1.3	475 Smith Ridge Rd	Lewisboro
		77.04-3-58	±0.7	5 East St	Lewisboro
2022-06	Anther Farm	36.15-1-19	±7.0	1225 Whitehill Rd	Yorktown

**Date of Report:**

The Westchester County Agriculture and Farmland Protection Board (AFPB) adopted this report by a unanimous vote at its May 10, 2022 meeting and revised it by email vote on June 9, 2022.

**Detailed Information:**

Following is a more detailed review of each of the applications, along with the recommendations of the AFPB.

## DETAILED REVIEW

**Application Number:** 2022-01

**Applicant:** Joseph Haberny

**Farm Name:** Haberny's Three Feathers Farm

**Farm Operation:** Farm (produce and livestock products) and Farm Stand

**Property Address:** 371 Smith Ridge Road, Lewisboro

**Tax Parcel Identification (Section-Block-Lot):** 77.11-2-5                      **Acres:** ±16.0

**AFPB Site Visit Date:** April 25, 2022

**Description of Property and Operation:**

The farm was previously included in the Agricultural District (2006), but the application wasn't renewed during the last recertification. The farm consists of one parcel approximately 16 acres in size, mostly flat but with some wetlands. The applicant proposes to continue to farm approximately 9 acres of the property for a variety of produce, as well as eggs and beef grown/raised at the farm, all sold at the farm stand. Additionally, Christmas trees and berries are also grown and sold at the farm. The applicant has plans to expand the operation to include additional livestock and Christmas trees.

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**Agriculture and Farmland Protection Board Assessment and Recommendation:**

The AFPB recommends against inclusion of the parcel at this time. A majority of the parcel is adjacent to or within existing wetlands (NYSDEC wetland D-45). The AFPB recommends that the applicant work with the Watershed Agricultural Council or other qualified consultant to develop and implement a nutrient management plan to minimize impacts to the wetlands, particularly from the livestock operation, and resubmit an application once a plan is in place.

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## DETAILED REVIEW

**Application Number:** 2022-02

**Applicant:** Lee Vogelstein

**Farm Name:** Birdstone Farm

**Farm Operation:** Equine

**Property Address:** 20 Boutonville Road South, Lewisboro

**Tax Parcel Identification (Section-Block-Lot):** 53.1-3-20                      **Acres:** ±43.8

**AFPB Site Visit Date:** April 25, 2022

**Description of Property and Assessment of Operation:**

The farm was previously included in the original Agricultural District (2001), but the application wasn't renewed during the last recertification. The property is an existing equine operation, located near the County-owned Ward Pound Ridge Reservation. The applicant proposes to continue the equine operation, expanding the current small horse boarding operation to meet the definition of a commercial boarding operation or commercial equine operation. Properties located in the Town of Pound Ridge are not eligible for inclusion in the Westchester County Agricultural District and consequently the application is only concerning the parcel located in Lewisboro.

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**Agriculture and Farmland Protection Board Recommendation:**

The AFPB recommends against inclusion of the parcel at this time. The property and existing infrastructure are well suited for the agricultural operation. However, the operation is currently not commercial in nature. The AFPB recommends that the applicant resubmit with supporting information demonstrating that the operation meets the definition of a commercial operation pursuant to Ag and Markets Law (Section 301 of 25-AA), which requires the stabling or boarding of at least ten horses and receipt of ten thousand dollars or more in gross revenue.

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## DETAILED REVIEW

**Application Number:** 2022-03

**Applicant:** Joseph and Elisa Lopane

**Farm Name:** Katonah Nursery

**Farm Operation:** Nursery (ornamental horticulture)

**Property Address:** 131 and 194 Route 100, Somers

<b>Tax Parcel Identification</b>	<b>(Section-Block-Lot):</b>	<b>Acres:</b>
131 Route 100	38.13-1-6	±3.2
	38.13-1-7	±5.9
194 Route 100	28.17-2-1	±2.0
	38.05-2-1	±1.9
	38.05-2-2	±5.0
	38.05-2-3.1	±4.3

**AFPB Site Visit Date:** April 25, 2022

**Description of Property and Assessment of Operation:**

The farm was previously included in the original Agricultural District (2001), but the application wasn't renewed during the last recertification. The operation is a nursery and commercial horticulture operation, for plants grown on-site as well as plants grown on approximately 140 acres of other property in Dutchess County. The applicant proposes to continue the commercial nursery operation on the property. The operation is also a participant in the Watershed Agricultural Council's program.

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**Agriculture and Farmland Protection Board Recommendation:**

The AFPB recommends inclusion of all parcels.

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## DETAILED REVIEW

**Application Number:** 2022-04

**Applicant:** David J. Rowe

**Farm Name:** Orchard Hill Organics

**Farm Operation:** Produce

**Property Address:** 9 and 12 Orchard Hill Road, Somers

<b>Tax Parcel Identification (Section-Block-Lot):</b>	37.14-1-10	<b>Acres:</b>	±5.4
	37.14-1-2		±3.6

**AFPB Site Visit Date:** April 25, 2022

**Description of Property and Assessment of Operation:**

The applicant is currently operating a commercial farm producing a variety of fruits and vegetables, grown in greenhouses and outdoors, for sale at farm markets and directly to consumers through a Community Supported Agriculture operation and online. The parcel on the west side of Orchard Hill Road has relatively steep, wooded slopes but has been improved to provide level growing beds and greenhouses. A parcel on the east side of Orchard Hill Road has been purchased. It is currently wooded and includes an existing residence, ancillary buildings and lawn area. The additional parcel is proposed to be improved to include fruit trees and shrubs. The farm is being considered for inclusion in the Watershed Agricultural Council's programs for agricultural best management practices to better manage composting and other operations at the farm.

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**Agriculture and Farmland Protection Board Recommendation:**

The AFPB recommends inclusion of the parcel on the west side of Orchard Hill Road only and recommends that the applicant resubmit an application for the parcel on the east side of Orchard Hill Road once an operation has commenced or more detailed plans have been prepared. The AFPB notes that both parcels are located in a relatively dense residential neighborhood with minimal setback or buffers from adjacent residences and recommends that the applicant pursue the installation and maintenance of vegetated buffers where appropriate to minimize any impacts to neighboring residences.

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## DETAILED REVIEW

**Application Number:** 2022-05

**Applicant:** Avraam Apazidis c/o Cipriano Farm

**Farm Name:** Cipriano Farm

**Farm Operation:** Nursery (commercial horticulture)

**Property Address:** 387, 469, 475 Smith Ridge Road and 5 East Street, Lewisboro

<b>Tax Parcel Identification</b>	<b>(Section-Block-Lot):</b>	<b>Acres:</b>
387 Smith Ridge Road	77.11-2-11	±0.5
469 Smith Ridge Road	77.04-3-61	±3.0
475 Smith Ridge Road	77.04-3-59	±1.3
5 East Street	77.04-3-58	±0.7

**AFPB Site Visit Date:** The applicant was not available for a site visit. The Board will continue to attempt to arrange a site visit with the applicant and may update its recommendation based on the site visit and any additional supporting information provided.

**Description of Property and Assessment of Operation:**

The applicant was not able to schedule a site visit and on-site meeting with the Agriculture and Farmland Protection Board. An approximately 4.8-acre parcel owned by the applicant, located at 24 East Street, was included in the agricultural district in 2017 and is currently being used to grow ornamental horticultural products. However, the parcels proposed to be added at this time appear to be primarily for the storage and/or resale of ornamental horticulture products. While a portion of the products sold are grown at the 24 East Street property, the Agriculture and Farmland Protection Board criteria requires that a minimum of 51% of the gross sales must be from products grown on the farm operation (the AFPB notes that a farm operation can include parcels that are not contiguous or even located in the same municipality).

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**Agriculture and Farmland Protection Board Recommendation:**

The AFPB recommends against inclusion of the parcels at this time. The AFPB recommends that the applicant resubmit next year with adequate information demonstrating that the operation meets the definition of a commercial nursery and is not predominantly reselling products grown elsewhere, which would be considered a retail operation. The Board will continue to attempt to arrange a site visit with the applicant and may update its recommendation based on the site visit and any additional supporting information provided.

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## DETAILED REVIEW

**Application Number:** 2022-06

**Applicant:** Ken and Myra Marsocci

**Farm Name:** Anther Farm

**Farm Operation:** Nursery (cut flowers)

**Property Address:** 1225 Whitehill Road, Yorktown

**Tax Parcel Identification (Section-Block-Lot):** 36.15-1-19                      **Acres:** ±7.0

**AFPB Site Visit Date:** June 8, 2022

**Description of Property and Assessment of Operation:**

The site is approximately seven acres in size, relatively flat along Whitehill Road and sloping back to the south towards a NYSDEC wetland (A-33) in the rear of the property. Much of the parcel is appropriate for the proposed use, and the applicant has already developed approximately one acre of the front portion with greenhouses, in-ground growing areas, a farm stand and a small unpaved parking area. The operation is an organic cut flower and horticultural operation, including native plants. Part of the organic operation is the use of compost tea, and the applicants intend to be included as a pollinator friendly site in the pollinator pathway network. As the applicant continues to develop the operation and property, plans for walking trails through the woodland and wetlands will be implemented. They are consulting with the USDA Farm Services Agency to develop a plan for the use of the site that minimizes impacts to existing wetlands and buffer areas. The wetlands and an associated buffer area are regulated by the New York State Department of Environmental Conservation and will require their review.

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**Agriculture and Farmland Protection Board Recommendation:**

The AFPB recommends inclusion of this parcel. The Board agreed that an organic operation specializing in cut flowers and native plants, incorporating best management practices such as compost tea, and promoting environmental initiatives such as the pollinator pathway would be a good addition to Westchester's agricultural community and the agricultural district.

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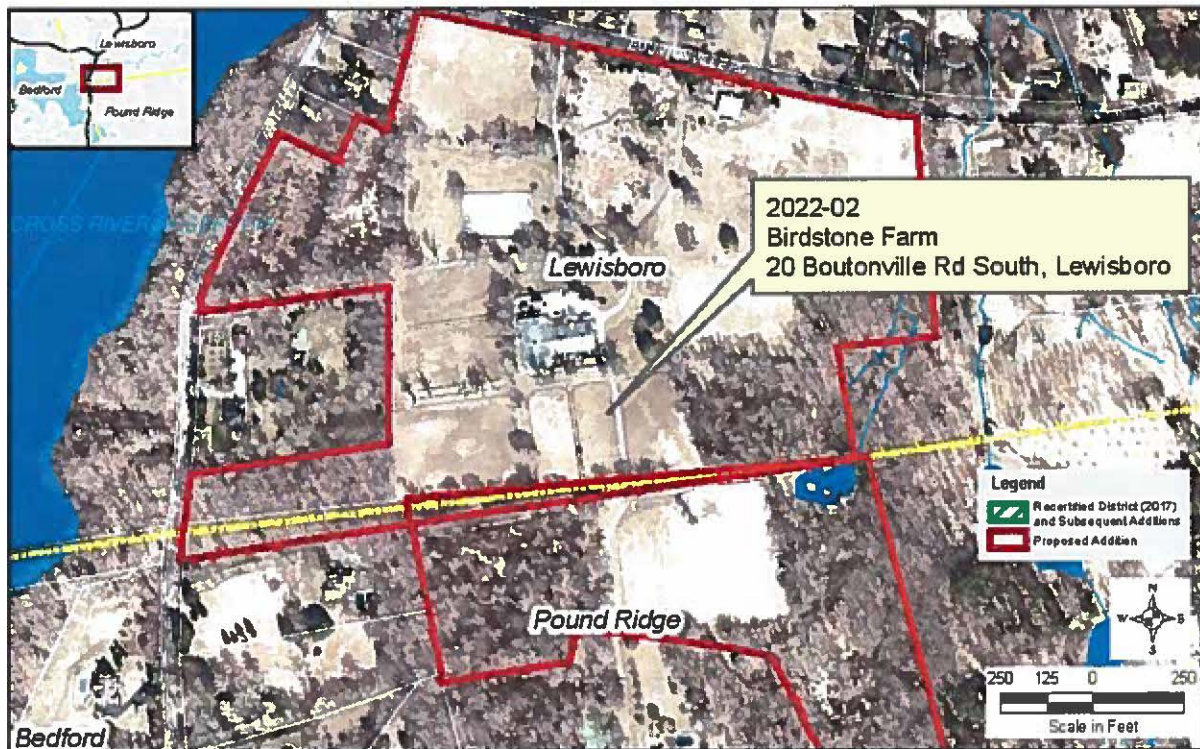
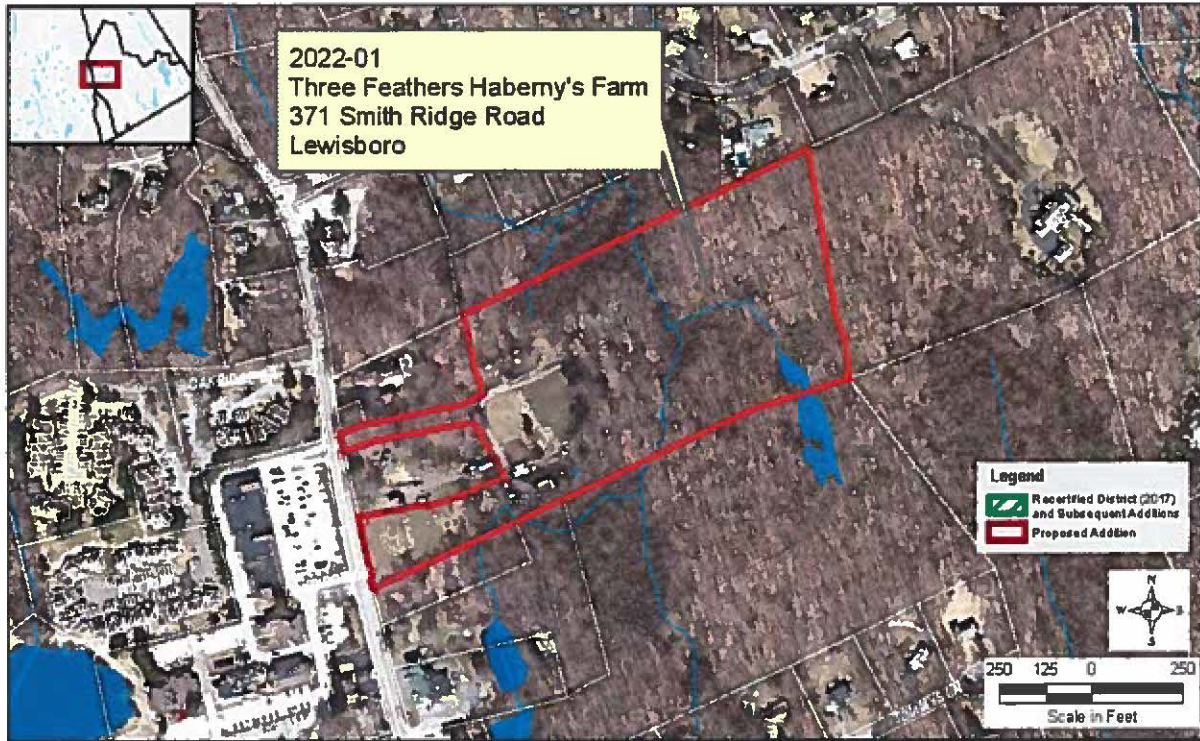
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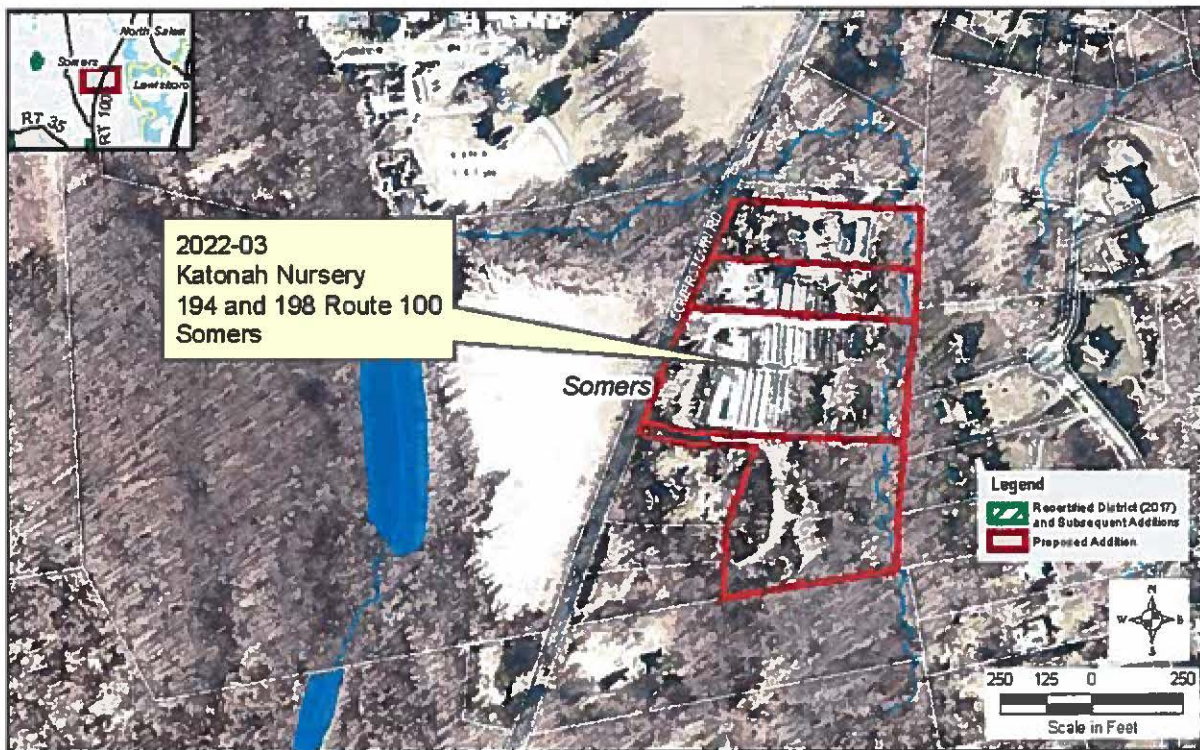


MAPS



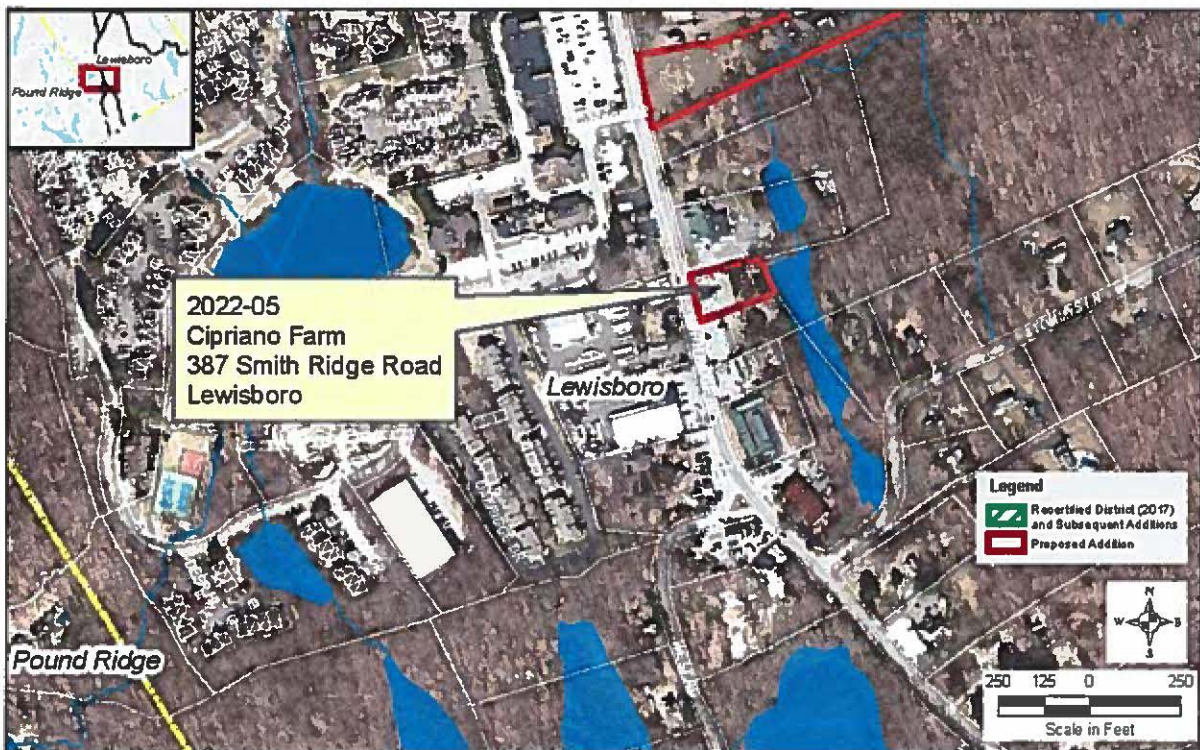


## MAPS





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