

**CONNECTICUT GENERAL ASSEMBLY
CONVEYANCE QUESTIONNAIRE**

**Town of North Canaan
South Greenway Parcel – 9.45 acres**

1. Please submit the following documents:

A. The best available legal map of the property.

The Department of Transportation has a Class D map of the property that it attached to the 7/16/91 lease of the property to the Town recorded in the North Canaan Land Records in Volume 70 at pages 524-530. A copy of that map, which was evidently prepared in connection with the acquisition of the property by the state as part of the now-abandoned Super 7 highway project, is attached hereto. (The property was acquired by the State of Connecticut in 1957 by deeds recorded in the North Canaan Land Records in Volume 29 at Page 613 and Volume 30 at Page 114 (PARCEL 3))

B. An appraisal of the value of the property. If an appraisal has not been prepared, please indicate the estimated value of the property and the methodology used to calculate such estimated value.

There is no formal appraisal of the value of the property. Its 100% assessed value per the North Canaan Assessor's field card for the property is \$170,000.

2. Is this conveyance based upon prior legislation? For example, are you attempting to repeal or amend a prior conveyance or was this request drafted in a bill that was not passed by the legislature? If yes, please give the bill or special act number and year, if known.

This conveyance is not based upon any prior legislation. This is a first request for legislative conveyance of the parcel.

3. Please answer the following questions:

- A. What are the tax assessor's map, block and lot numbers for the property? If such numbers do not accurately describe the property, please provide a metes and bounds legal description of the property.

The property is located between East Main Street (CT Route 44) and North Elm Street in North Canaan, CT, with frontage only on North Elm Street. The North Canaan Assessor's Map and Lot numbers for the property are as follows:

Map 22 Lot 318

The property's UniqueID is 98102045. It was acquired by the state more than 60 years ago by deeds recorded in the North Canaan Land Records in Volume 29 at Page 613 and Volume 30 at page 114 (PARCEL 3). See the DOT map attached hereto.

- B. What is the acreage of the property?

Without a survey we can't be certain. The Assessor's Map shows 8 acres; the DOT map attached hereto indicates an area of 9.45 acres; and the GIS parcel area is shown as 9.64 acres.

- C. Which state agency has custody and control of the property?

The Connecticut Department of Transportation

- D. What costs, if any, would the state incur if the property were conveyed? (e.g. if the Property abutted a highway and needed to be fenced off.)

To the best of our knowledge no such costs would be incurred by the state if the property were conveyed.

- E. How much would the municipality or entity receiving the property agree to pay for it? (e.g. the administrative costs to the state of making the conveyance; a specific dollar amount; or fair market value)

The Town is prepared to pay the administrative costs to the state of making the conveyance, but is fiscally not in a position to spend beyond that to acquire the property. Any additional funds needed to cover expenses associated with the conveyance will need to be raised from private donors.

- F. How will the municipality or entity receiving the property use it? (e.g. open space, recreational, housing, economic development)

The Town's plan for the property is to subdivide off a not-to-exceed four acre parcel in connection with the construction of a not-for-profit emergency services facility to be utilized and managed by the Town's independent 501(c)(3) fire company, with the remainder of the property maintained in perpetuity as open space and used for low-impact (and non-motorized) public recreation. The goal is to have the property conveyed to the Town by a deed that will allow the building of a badly-needed new fire and emergency services facility while containing appropriate restrictive covenants to protect continued use of the remainder of the property for passive recreational uses, specifically including the greenway trail opened there more than 30 years ago. This will ensure that the property's existing recreational, educational and natural benefits will remain available for public use and enjoyment by current residents of our Town and region and will be preserved for future generations as well, while at the same time allowing updating and upgrading of the Town's fire and emergency services protection. Such covenants should include, but not be limited to, the following:

Except to the extent appropriate for construction and operation of the emergency services facility as outlined above,

- Property to be maintained as open space and used for low-impact (and non-motorized) passive public recreation, specifically including an existing greenway.*
- No residential or commercial development or subdivision;*
- No sale or lease of the whole or any part of the property, except to a nonprofit entity formed to facilitate or manage permitted uses; and*
- No gravel mining, logging or other extraction of natural resources.*

G. If the municipality or entity receiving the property has a specified use for the property, would it agree to a provision in the conveyance legislation that, if the property is not used for such purpose, it shall revert to the state?

In theory this should be acceptable. The Town wants to create effective obstacles to changes of heart that might tempt future Town decision-makers to attempt to monetize the property or otherwise devote the passive recreation portion of it to some "practical" use other than open space and public recreation. However, it may be difficult to write a reversionary provision that is unambiguous enough to avoid the dual risks of inadvertent triggering on the one hand and deliberate attempts to get around the purpose of the provision on the other.

Reversionary provisions also need to be coupled with effective enforcement mechanisms if they are to have the desired effect of protecting the property from misuse. The possibility of reversion may be enough to deter most kinds of misuse, but the state may or may not be

interested in policing local uses or in stepping in to litigate misuses brought to its attention. It may be desirable to give townspeople interested in preserving the intended uses of the property standing to challenge deviations from those uses.

[Does the Legislative Commissioner's Office have good sample reversionary provisions? The issues pointed out above must be a problem with many if not most of these legislative conveyances, although the intended purpose of a given conveyance is undoubtedly a lot clearer in some cases than in others.]

H. Has the municipality or entity asked the state agency that has custody of the property to convey the property to the town or entity (i.e. through an administrative rather than legislative process)?

There have been general discussions with the DOT in recent years about the Town's interest in acquiring the property to facilitate the construction of a new emergency services facility, but there has been no specific request for an administrative conveyance.

I. If the answer to question (H) is yes, please indicate the status of such administrative process and why legislation is needed. If the answer to question (H) is no, please indicate why not.

The long and complex process of engaging with the DOT over possible acquisition of the Camp Brook Greenway parcel persuaded the Town, once it learned about the parameters of the legislative conveyance process, that it would be advantageous to couple a request for a legislative conveyance of the South Greenway property with the work that was already being done on a legislative conveyance of the Camp Brook Greenway property.

Space constraints at the Town's current Volunteer Fire Company facility are interfering with needed upgrading of our firefighting apparatus, limiting the capacity and capabilities of the equipment and putting the community at increased risk as a result. The proposed use of a portion of the South Greenway property for construction of a larger facility with improved highway access will address these capacity and safety issues, while the protection of the remaining acreage for greenway and other passive recreation uses will preserve the existing open space and public recreational values of the South Greenway property. Coordination of the South Greenway and Camp Brook Greenway transfers as legislative conveyances promises to bring prompt and simpler resolution of pressing Town concerns on both fronts.

J. Has a title search of the property been conducted?

No title search of the property has been conducted. However, the state has held continuous title to the property since 1957, when it was acquired in connection with the state's Super 7 highway project, which minimizes the chances of any serious title issues.

K. Are there any deed or other restrictions on the use of the property? If so, please specify.

The Housatonic Railroad Company maintains an active railroad spur that abuts the property's southerly boundary. Any deed of conveyance to the Town should be reviewed by Housatonic Railroad and DOT Rail representatives to ensure that any easement or other rights the railroad may have over the edge of the property are properly protected. There may be no issue here, but it ought to be checked.

L. Please state the name of the municipality or entity that would receive the property.

"The Town of North Canaan, a Connecticut municipality in Litchfield County, Connecticut"

4. Please provide the name, address and phone and fax numbers of the person who completed this form.

Jointly completed by

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and

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5. Please provide the name of the legislator(s) sponsoring this legislation.

Stephen Harding, Senate District 30 (Rep.) and Maria Horn, House District 64 (Dem.)