



# CITY OF CONCORD

*New Hampshire's Main Street™*

## REPORT TO THE MAYOR AND CITY COUNCIL

**FROM:** Beth Fenstermacher, Assistant City Planner, on behalf of the Conservation Commission

**DATE:** April 26, 2019

**SUBJECT:** Resolution approving the acquisition of open space watershed protection property located on District 5 Road, and authorizing the expenditure of up to \$355,000 from the Conservation Fund for this purpose, and accept and appropriate the sum of \$350,000 in grant funds from the State of NH Aquatic Resource Mitigation Fund for this purpose.

### Recommendation

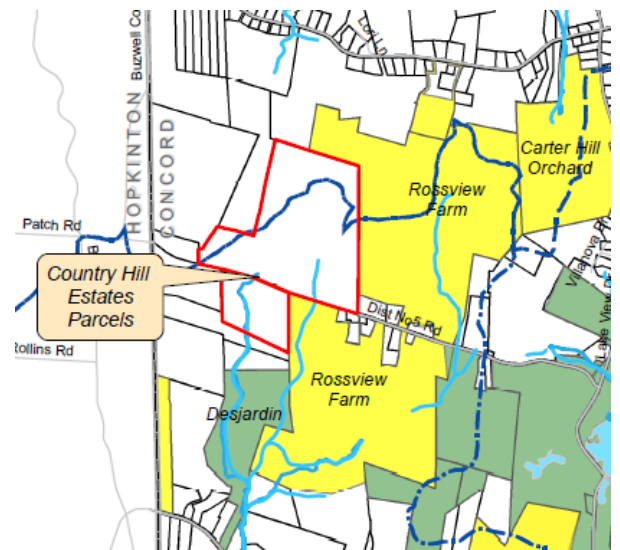
Approve a Resolution authorizing the City Manager to acquire land for open space and watershed protection purposes located off of District 5 Road, and appropriate up to \$355,000 from the Conservation Fund for the acquisition of said parcel, as recommended by the Conservation Commission.

### Background

In 2017, the property owners, Country Hill Estates Associates and Ferrara Investment Associates LLC, approached the Conservation Commission regarding the possibility of the City purchasing two lots totaling 232 acres, identified as 55/Z 1 and 55/Z 17 on District 5 Road.

The Commission's 2017 Conservation Open Space Plan identified the Country Hill Estate parcels as priority land to be conserved. The State's Wildlife Action Plan (WAP) identifies the majority of the subject property as Highest Ranked Habitat in the State and the remainder of the property as Highest Ranked Habitat in the Region. Further, the entire property is located within the Higher Scoring Conservation Focus Area (CFA) and the High Scoring CFA as identified in the Merrimack Valley Regional Strategic Conservation Plan.

The property adds to a large contiguous block of



conservation land totaling over 1700 acres. Rossvie Farm, a 546.5± acre property under conservation easement with the NH Division of Forest and Lands, is located adjacent to the northeast, east, and southeast of the parcel. Other adjacent conservation land includes the Desjardins Property, an 86 acre City-owned parcel of conservation land to the south. These conservation properties link the property to other conservation land in the area, including Carter Hill Orchard, Dimond Hill Farm, and the Penacook Watershed conservation properties. Acquisition of the Country Hill Estates land will provide permanent protection of the aquatic resources and associated forested upland areas so that the resources remain in a natural or undeveloped condition. Further, by protecting these unfragmented lands in perpetuity, this area will continue to support a greater diversity of habitats and species.

### **Discussion**

In 2018, the Country Hill Estates partners agreed to sell the property to the City at a cost of \$705,000, the appraised value of the property as of January 29, 2018. Based upon this agreement, the Conservation Commission applied for grant funding to cover approximately 50% of the purchase price through the State of NH Department of Environmental Services (NHDES) for the Aquatic Resources Mitigation (ARM) Fund Grant program. City Council authorized the submittal of the grant application at their July 9, 2018, meeting. Upon notification of award, City Council authorized the City Manager to enter into a grant agreement with the State of NH at their January 14, 2019 meeting. Governor and Council approved and executed the grant agreement at their meeting on April 17, 2019.

The ARM Fund grant program is aimed at protecting or restoring lands within the Merrimack River watershed to mitigate the loss of aquatic resources in the watershed. The grant utilizes compensatory funds that were collected in lieu of other forms of wetland mitigation. As a recipient of the grant, the City will be obligated to protect the upland and wetland functions on the property. By selecting this site for grant funding, DES has identified the land as a high-quality aquatic resource with upland habitat worth protecting.

In addition to the grant funding, DES has provided preliminary authorization for the City to receive direct payments for impacts to wetlands proposed by Concord Orthopaedics for their parking lot expansion project, and Interchange Development for the proposed commercial development on Whitney Road. If the wetland permits are approved, the applicants will pay for the protection of the Country Hill Estates parcel as compensation for the proposed wetland impacts, per DES requirements. Additional funding through this source is approximately \$267,583 (\$114,425 for the Concord Orthopaedics and \$153,158 for the Whitney Road). Approval of the wetlands permit applications is pending, and if approved, a separate report will be forthcoming to City Council to accept the funds.

The Commission anticipates providing the remainder of the purchase price from the City's Conservation Trust Fund, contingent on a City Council approval.

As part of the due diligence research, the City Surveyor identified a discrepancy in the survey plan and deed to Country Hill Estates regarding the discontinued portion of District 5 Road. Peter Holden of Holden Engineering & Surveying, Inc. prepared the initial survey. Based on additional research in 2019, he amended the survey. The City Surveyor agreed that the corrected survey is in line with his interpretation of the road discontinuance. The abutting land owner at 113 District 5 Road contends the

ownership information in the corrected survey is incorrect. The City Solicitor's office is conducting additional research and will work to resolve this issue. It should be noted that regardless of the outcome of the ownership of the discontinued portion of District 5 Road, the 232 acre property is a valuable ecological asset for the City of Concord. There is undisputed 65 feet of frontage of legal access, and the City will have a legal right of access over the discontinued portion of District 5 Road regardless of ownership. The approximately 4,900 sf of disputed land on the discontinued portion of District 5 Road would not alter the Conservation Commission's desire to acquire and protect the property at this time.

The Conservation Commission is anticipated to undertake final review and action on the potential acquisition of the ±232 acre two-parcel property, allocating up to \$355,000 from the Conservation Fund, at a public hearing on May 8, 2019. Staff will provide an update to the City Council following the action of the Conservation Commission. The Commission has taken steps towards the acquisition of the property to maintain, improve, protect, limit the future use of, and otherwise conserve and properly utilize this property as open space together with other land and water resources within the City.

**Summary of Funding**

Appraised Value - Fee Simple Title:	\$705,000
NHDES ARM Grant:	\$350,000
Potential Additional Wetlands Mitigation Funds:	\$267,583
Request from the Conservation Fund with additional mitigation funds:	\$87,417
Request from the Conservation Fund without additional mitigation funds:	\$355,000