



CITY OF CONCORD

REPORT TO THE MAYOR AND CITY COUNCIL

FROM: Carlos P. Baía, Deputy City Manager – Development

DATE: June 24, 2016

SUBJECT: Purchase and Sales Agreement with Neil E. Burt, Jr. of 10 Bow Street

Recommendation

Accept this report approving the attached resolution which authorizes the City Manager to enter into a Purchase and Sales Agreement with Neil E. Burt, Jr. of 10 Bow Street for the sale of +/- 4,600 s.f. of City land to resolve an encroachment.

Background

In 2015, the City was contacted by Neil E. Burt, Jr., owner and resident at 10 Bow Street, concerned about damage done by a City grounds crew to a dog run on what he believed was his private property. Upon receiving his call, the City Surveyor investigated and found that the dog run was, in fact, an illegal encroachment by Mr. Burt's property into abutting City land, known as Deer Park. In addition, the City Surveyor found that Mr. Burt had other significant encroachments including 1) a portion of the northerly driveway of 10 Bow Street; 2) a portion of the driveway that goes behind the house at 10 Bow Street; 3) a carport/shed; 4) a portion of the retaining wall that holds up the driveway behind the house at 10 Bow Street; and 5) culverts draining private storm water onto Deer Park.

Mr. Burt was ordered to remove the encroachments at his cost. The cost and impact on Mr. Burt's property associated with this removal would not have been insignificant. Having only bought the home in October of 2013, Mr. Burt filed a claim with his title company contesting that this encroachment pre-dated his ownership and should have been noted prior to his purchase. The title company subsequently denied Mr. Burt's claim based on the fact that he did not have a survey done before taking ownership which, in theory, would have disclosed those encroachments.

Mr. Burt has stated that he does not have the financial resources to remove the most significant encroachments, particularly the retaining wall, driveways and culverts. Instead, he asked if the City would consider selling him the property in question. He has argued that he did not install the encroachments but would like clarify the situation so as to minimize his costs and the disruption to his property and clear his property's title going forward. Based on the City's

historical aerial maps, City staff concurs that the encroachments were installed prior to Mr. Burt's ownership.

Discussion

The property needed to accommodate the encroachments and provide sufficient area to be compliant with all necessary zoning setbacks is about 4,600 square feet. It is not sufficient to be standalone lot and would only add minimal value to Mr. Burt's existing property.

Mr. Burt is offering \$1,500 for the property. In addition to the purchase price, Mr. Burt would be required to survey the property, apply for a lot line adjustment with the Planning Board and prepare the necessary quitclaim deed—all at his expense—to appropriately incorporate the City land into his residential lot. All fees, taxes and charges associated with this transaction will be Mr. Burt's responsibility.

w/att:

- 1) Resolution
- 2) Draft P&S Agreement
- 3) Aerial map of site with encroachments noted and proposed lot line relocation