

Background – Open Space property R03-020 Woodville Road

The former owner of this subject area purchased a ±61-acre lot of land off Woodville Road in 2005 with the intention of building a home on the property. Those plans changed and he put the property back on the market soon thereafter. In 2010, the property owner was approached by the open space ombudsman about selling the rearmost 51-acres to the town as conservation property, with the proviso that he be able to retain two building lots on the eastern (Woodville Road) end of the property without triggering the town's subdivision ordinance. Those lots were laid out as shown on attached map after he was assured that the two lots would be legal "lots of record." The remaining 51-acres were acquired by the town in 2011 with \$160,000 in grant funds from the Maine Natural Resource Conservation Program (mitigation fund). That parcel is now known as the East Branch Conservation Area. It encompasses nearly one mile of riverfront, a rare Hardwood Terrace Floodplain Forest, and a number of vernal pools. Public access to the property is only legally obtainable by canoe or kayak when water levels are sufficiently high. This is the Town's only conservation property that is not accessible by the public.

As part of that acquisition process, the town contracted with and paid for a metes and bounds survey of the property. The survey included delineation of both the conservation lot and the two house lots that former owner would retain. The rearmost lot (Lot 1) was sold in 2015 for \$150,000.

In the course of the survey, a major error was made. The private right of way (ROW) corridor, essential for access to the Lot 1, was mistakenly recorded as being 50 feet in width, not the 16 feet or so it should have been. The effect of this error, due to the topography of Lot 2, is to significantly reduce the buildable area of this lot in ways that make it unbuildable in its current condition for all but a very narrow house. Thus, this error has greatly reduced the value of this lot.

The survey error was done by a town contractor and not caught by previous owner's agents before the closing. It is recorded in the owner of Lot 1's deed and, according to the town attorney, cannot be corrected.

The former owner of the large tract, that only owns the remaining nearly unbuildable Lot 2, now has a buyer for the lot who has gone to great lengths to try and negotiate a revision of the ROW to make the property more buildable. The buyer for Lot 2 is still very interested in obtaining the property and believes he can build a suitable house on the land if he incurs the considerable additional expense of filling low areas to the north and constructing a barrier wall to divert floodwaters. This additional work will come with a cost.

At the Town Council meeting on August 22, 2016, staff presented a proposal purchase approximately three (3) acres of the easterly portion of the property for \$30,000, as indicated on the attached map. The Town Council adopted an order to execute the purchase. This purchase would add additional riparian and upland habitat to our existing holding and, more importantly, give us public access to the East Branch Conservation Area by making it possible to construct a trail into the parcel.

Since town ordinances require the residential portion of Lot 2 to have 250 of road frontage, that lot will be configured in such a way that a 25 ft. wide strip will run along the southerly and easterly edge of the property. The town will obtain a 50 ft. right of way easement across that strip to accommodate the pedestrian trail and a parking area.

Town staff notified the buyer of the Council decision on August 23, 2016. The buyer informed staff that there must have been a misunderstanding about the terms of the purchase. He said that his proposal was to sell only one acre to provide parking for up to three vehicles along with trail head access. He also informed us that his offer was conditioned upon there being a deed restriction that would prohibit dogs, motorized vehicles and mountain bikes. The Council is therefore being asked to consider adopt a new order to purchase this property with the new terms described above.