



David Cedarholm, PE
City Engineer

CITY OF CONCORD
New Hampshire's Main Street™
Community Development Department

INTEROFFICE MEMORANDUM

TO: Heather Shank, City Planner
Carlos Baia, Deputy City Manager – Development
David Cedarholm, City Engineer

FROM: Paul E. Gendron, LLS, City Surveyor

DATE: February 25, 2019

SUBJECT: Osgood Street – Request for Discontinuance of Public Highway

At your request, I have researched the history of Osgood Street; the unnamed right-of-way at the end of Osgood Street; the abutting lot known as Map 14, Block 1, Lot 3 and owned by the City of Concord; the abutting lot known as Map 14, Block 1, Lot 4 and owned by C500 Limited Partnership; the abutting lot known as Map 14, Block 1, Lot 8 and owned by CFA Corporation; and the abutting lot known as Map 14, Block 1, Lot 9 and owned by CFA Corporation.

BACKGROUND

Osgood Street, formerly known as Home Avenue, (also shown as Homefield Avenue on a subdivision plan entitled Homefield and recorded at the Merrimack County Registry of Deeds (MCRD) Plan Number 192; and Homefield Street on the Engineering Service's layout document) was laid out as a public highway on November 12, 1912. Although Osgood Street is a public highway, the City does not own the entire length or width in fee. The only section owned in fee by the City would be the section up to the centerline of the right-of-way and

adjacent to Map 14, Block 1, Lot 3. [See *Duchesnaye v. Silva*, 118 NH 728 (1978), discussing conveyance of property bounded by street or highway normally conveys title to center of boundary street, unless clearly contrary language appears in deed.] The remaining portion of Osgood Street would be owned by the other two abutting lots, Map 14, Block 1, Lot 4 and Map 14, Block 1, Lot 9. See attached map for reversion rights shown with red, dashed lines, of Osgood Street and the unnamed right-of-way shown as Riverside Drive on MCRD Plan 192 and shown as Old River Road on the 1915 Tax Map.

The unnamed right-of-way at the end of Osgood Street has never been laid out or accepted as a public highway. The abutting lots known as Map 14, Block 1, Lot 4, Map 14, Block 1, Lot 8, and Map 14, Block 1, Lot 9 probably own the unnamed right-of-way in fee. See above and reference to *Duchesnaye v. Silva*. The scope of my research does not include whether the two abutting lots to the south and north, Map 14, Block 1, Lot 5 owned by C500 Limited Partnership and Map 14, Block 1, Lot 7 owned by CFA Corporation, respectively, have any rights of access or ownership in this unnamed right-of-way.

Within the public right-of-way of Osgood Street, the State of New Hampshire owns an 84" subsurface storm water reinforced concrete pipe (RCP) that was designed and installed as part of the Interstate Route 93 improvements about 2002. The pipe is located along the northerly portion of Osgood Street, and the State has a drainage easement across a portion Map 14, Block 1, Lot 9 and Map 14, Block 1, Lot 8. See Drainage Easement Deed from Jeffrey B. Foote to the State of New Hampshire dated January 30, 1998, and recorded at the MCRD on January 30, 1998 at Book 2085, Page 458, and plan set entitled "Plans of Proposed Federal Aid Right-Of-Way Project, STP-BRF-F-017-1(11), NH Project No. C-3311, STP-IR-93-1(186)37, NH Project No. P-4191, Interstate 93, US Route 3 (Manchester and Water Streets), Hall Street, Gulf Street, Old Turnpike Road, Black Hill Road, South Main Street, Home Ave., Basin Street, Hammond Street, Nashua Street," dated and Approved 9/26/02, and recorded on October 22, 2002, at the MCRD at Plan Number 16096.

Map 14, Block 1, Lot 3 owned by the City of Concord, was acquired by Tax Collector's Deed from Jacob Rabinovitz dated September 1, 2009, and recorded at the MCRD on September 8, 2009 at Book 3153, Page 1693. This parcel is a portion of Lot 38 as shown on the Homefield Subdivision Plan recorded as MCRD Plan 192, and a portion of Parcel 3759 on the City's tax maps. This parcel is also a remnant of Lot 38 and Parcel 3759 by virtue of the State of New Hampshire Return of Layout for Interstate Route 93 and Basin Street dated April 29, 1955, and recorded on May 2, 1955 at MCRD Book 765, Page 423.

Map 14, Block 1, Lot 4 owned by C500 Limited Partnership, was acquired by Warranty Deed from Joseph R. Alosa (a/k/a Joseph R. Alosa, Sr.) dated June 29, 1995, and recorded at the MCRD on June 29, 1995 at Book 1991, Page 812. See Parcel 6 on page 813. See also Tract III in Warranty Deed of Pasquale Alosa, Jr. to Joseph R. Alosa dated February 24, 1975, and recorded on February 25, 1975 at Book 1236, Page 159. Tract III consists of Lots 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, and 37 as shown on the Homefield Subdivision Plan recorded as MCRD Plan 192, and as Parcels 3722, 3723, 3724, 3725, 3726, 3727, 3728, 3729, 3730, 3731, 3756, 3757, and 3758 on the City's tax maps.

Map 14, Block 1, Lot 8 owned by CFA Corporation, was acquired by Warranty Deed from Jeffrey B. Foote dated December 24, 2010, and recorded at the MCRD on December 29, 2010 at Book 3234, Page 1321. See Parcel A on page 1321. Parcel A consists of Lots 25, 26, 27, and 28 as shown on the Homefield Subdivision Plan recorded as MCRD Plan 192, and as Parcels 3722, 3723, 3724, and 3725 on the City's tax maps.

Map 14, Block 1, Lot 9 owned by CFA Corporation, was acquired by Warranty Deed from Jeffrey B. Foote dated December 24, 2010, and recorded at the MCRD on December 29, 2010 at Book 3234, Page 1321. See Parcel B, Tract III on page 1322. Parcel B, Tract III consists of Lots 20, 21, 22, 23, and 24 as shown on the Homefield Subdivision Plan recorded as MCRD Plan 192, and as Parcels 3732, 3733, 3734, 3735 and 3736 on the City's tax maps.

RECOMMENDATIONS

In conjunction with the complete discontinuance of Osgood Street, if approved by the Planning Board and the City Council, I would recommend that the City convey Map 14, Block 1, Lot 3 and its ownership of a portion of Osgood Street adjacent to Map 14, Block 1, Lot 3 (see attached map for reversion rights) to the applicant and require that it be merged with the other parcels, Map 14, Block 1, Lot 4, Map 14, Block 1, Lot 8, and Map 14, Block 1, Lot 9.

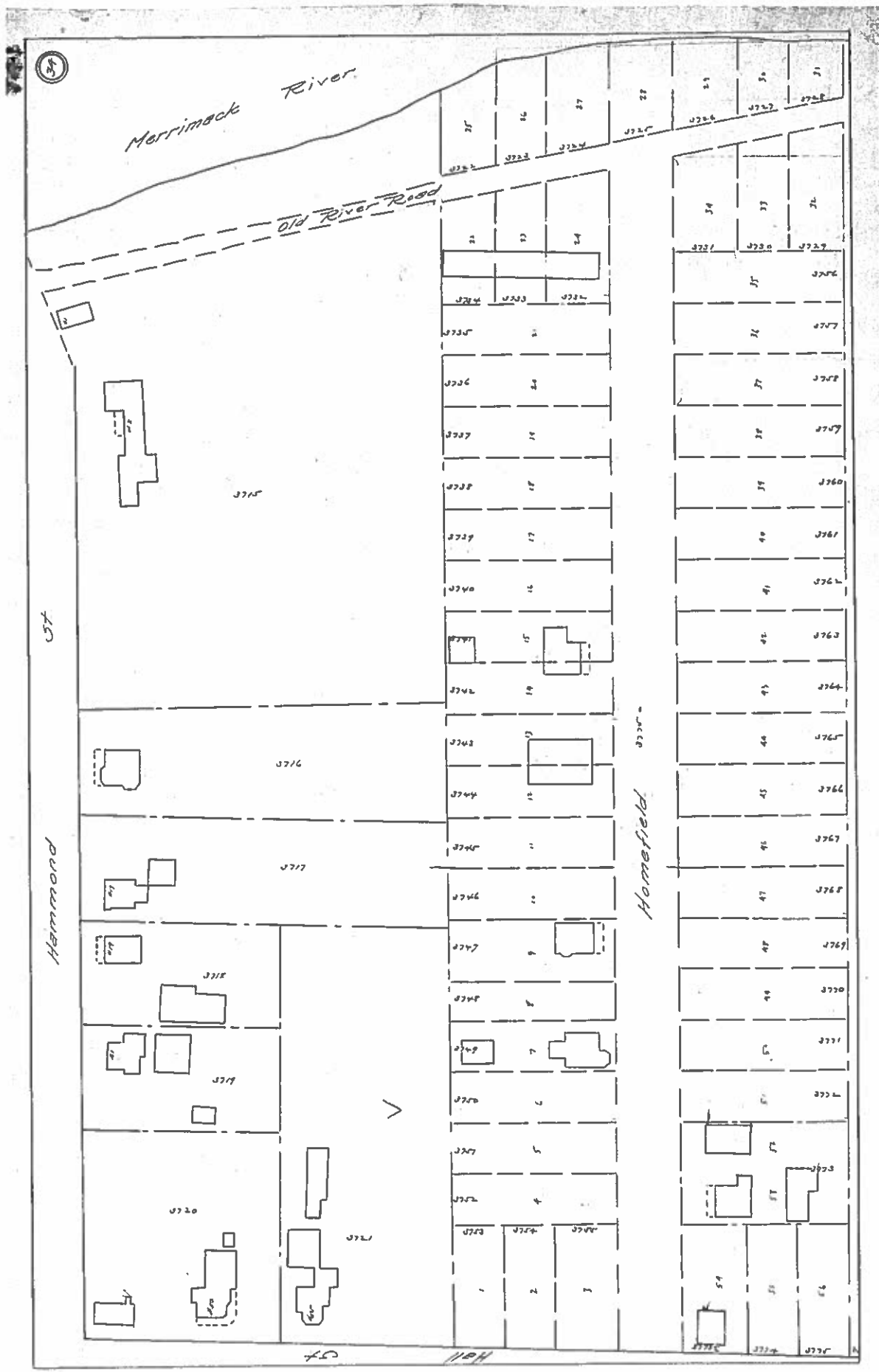
With regard to the applicant's request for Voluntary Merger of Map 14, Block 1, Lot 4, Map 14, Block 1, Lot 8, and Map 14, Block 1, Lot 9, these three lots are currently owned by two different entities, C500 Limited Partnership and CFA Corporation. The lots will need to be conveyed to a single entity. In addition to merging these three parcels, the Voluntary Merger should also reference and include the land known as Osgood Street and the unnamed right-of-way formerly known as Riverside Drive (see attached map for reversion rights).

With regard to the complete discontinuance of Osgood Street, specific reference should be made to the State of New Hampshire's ownership of the 84" subsurface storm water reinforced concrete pipe (RCP) that was designed and installed about 2002 as part of the Interstate Route 93 improvements. The State should be made aware of any Planning Board hearings, and also be included in the statutory notice of discontinuance pursuant to NH RSA 231:43 ([City] shall give written notice by verified mail, as defined in RSA 451-C:1, VII, to all owners of property abutting such highway, at least 14 days prior to the vote of the town.)

ATTACHMENTS

1. 1915 Tax Map number 34.
2. Subdivision Plan entitled "Homefield Situated on the Concord & Manchester Electric Line, Hall St. Concord NH," dated August – 1908, and recorded at the Merrimack County Registry of Deeds as Plan Number 192.

3. 1960 Tax Map number 14.
4. Current Tax Map number 14.
5. GIS map dated February 25, 2019, showing existing property lines and disposition of Osgood Street and unnamed right-of-way upon complete highway discontinuance.
6. Petition for the complete discontinuance of Osgood Street.
7. Resolution for the complete discontinuance of Osgood Street.
8. Draft Quitclaim Deed from the City of Concord to Joseph R. Alosa, Sr.



HOMEFIELD

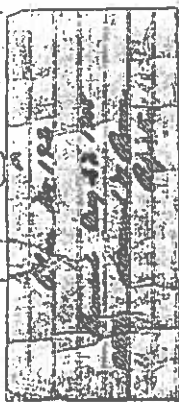
SITUATED ON THE

Concord & Manchester Electric Line

HALL ST. CONCORD N.H.

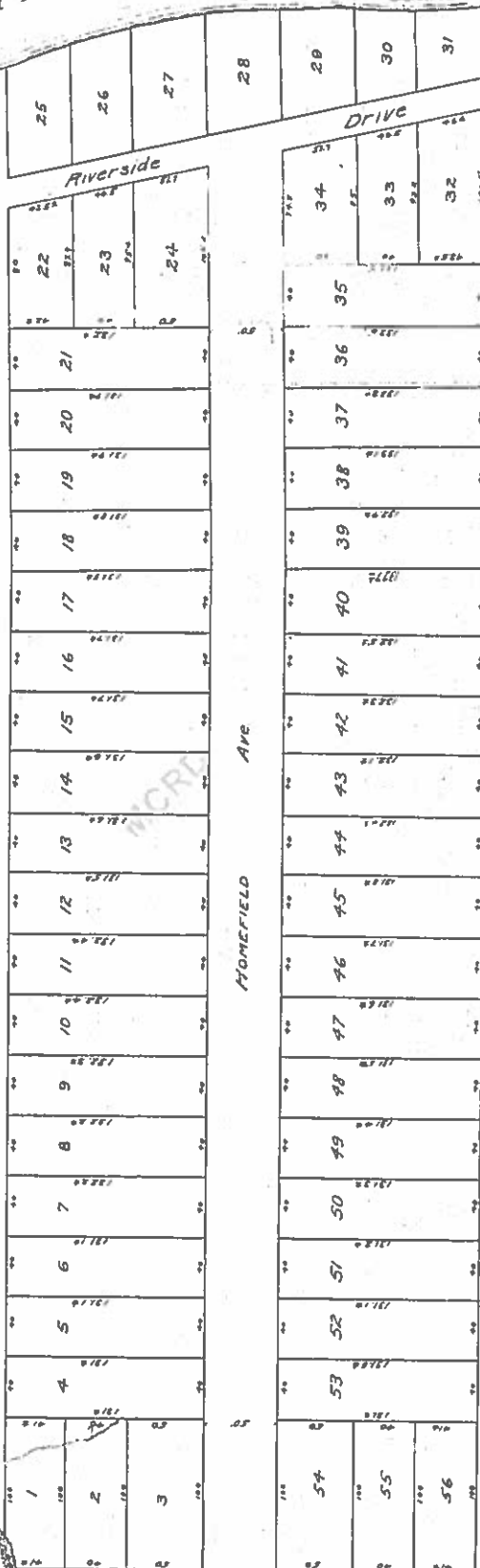
Scale 40ft. to the inch August - 1908.

Surveyed by J.C. Mc C.E.



MERRIMACK

RIVER



To Concord

HALL ST
C&M Electric

To Manchester

TAX MAP 14
(1960)

3715

ST.

3736

3735

3734

3722

3733

3723

3732

3724

OSGOOD ST.

3725

3759

3731

3726

3758

3757

3756

3730

3727

3729

3728

BASIN

3776B

3776D

RIVER

MERRIMACK

TAX MAP 14
(CURRENT)

ST.

RIVER

OSGOOD ST.

BASIN

MERRIMACK

3715

68

3736

3735

3734

3722

3733

3723

3732

3724

3725

3759

3731

3726

3758

3757

3756

3730

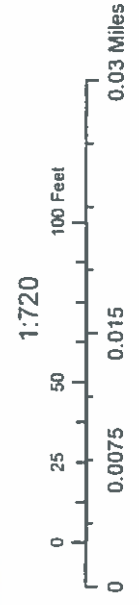
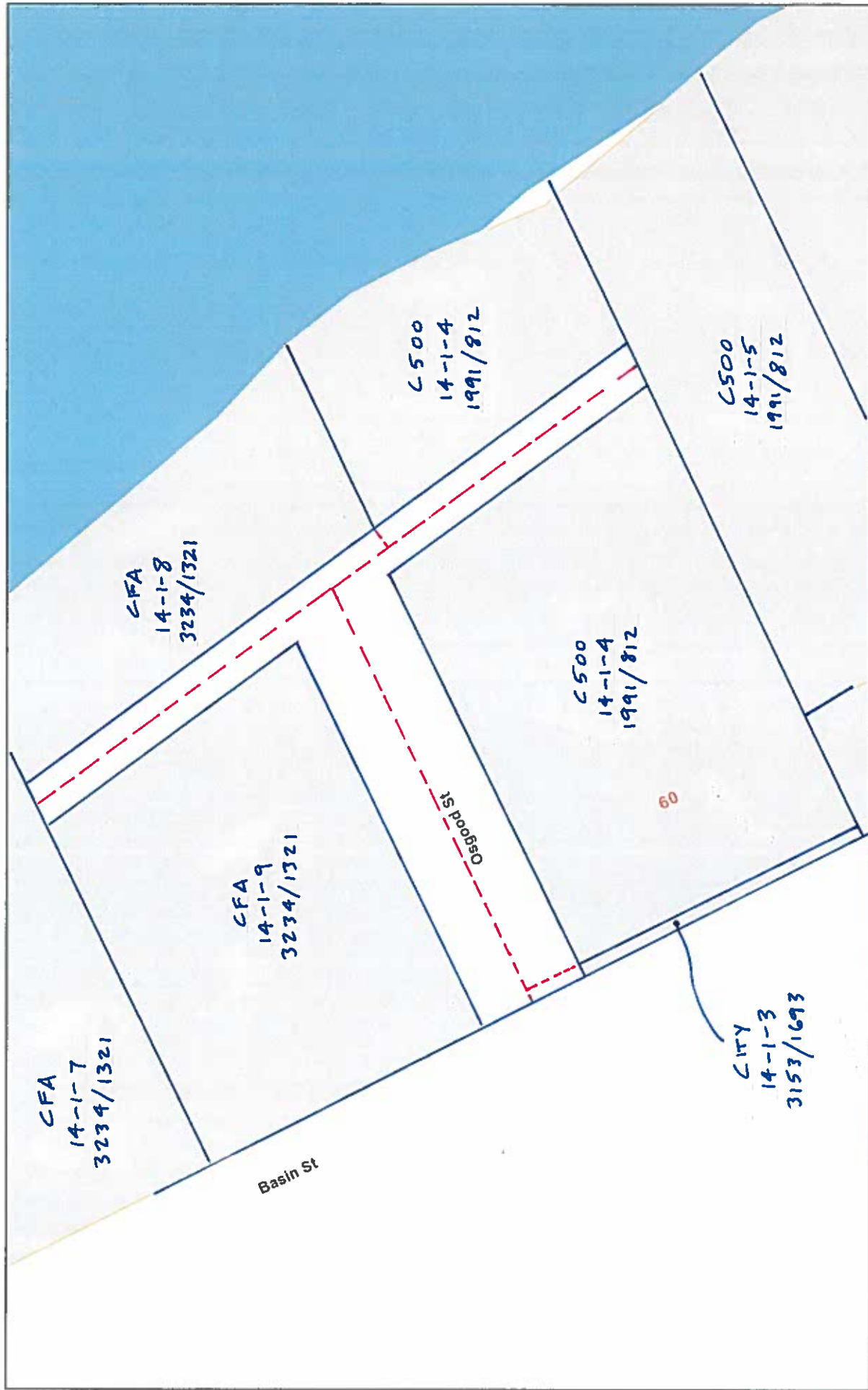
3727

3729

3728

3776B

3776D



CITY OF CONCORD

PETITION

In the year of our Lord two thousand and nineteen

To the City Council of the City of Concord:

The undersigned respectfully represent that for the accommodation of the public there is occasion for the complete discontinuance of a public highway known as Osgood Street

in said city, beginning at the intersection of the easterly line of Basin Street and the northerly line of Osgood Street; thence

Easterly along the northerly line of Osgood Street a distance of 190 feet more or less to the easterly terminus of the right-of-way as laid out by the City of Concord on November 12, 1912; thence

Southerly along easterly terminus of the right-of-way as laid out by the City of Concord on November 12, 1912, a distance of 50 feet more or less; thence

Westerly along the southerly line of Osgood Street a distance of 190 feet more or less to the easterly line of Basin Street; thence

Northerly along the easterly line of Basin Street a distance of 50 feet more or less to the point of beginning.

Containing 9,500 square feet, more or less, and meaning and intending to describe the complete discontinuance of the fifty (50') foot wide public highway known as Osgood Street.

The petitioner waives all his rights to damages as a result of the complete discontinuance and prays that Osgood Street in its entirety as described above be completely discontinued as a public highway.

Respectfully submitted,

Joseph R. Alosa, Sr.
President - New England Kenworth & The Patsy's Companies

CITY OF CONCORD

RESOLUTION

In the year of our Lord two thousand and nineteen

**RESOLUTION Relative to the complete discontinuance of a public highway known as
Osgood Street in Concord, NH**

The City of Concord resolves as follows:

WHEREAS, Osgood Street was originally laid out on November 12, 1912, as a 50 foot wide public highway right-of-way, and

WHEREAS, Osgood Street is a City maintained Class V highway, and

WHEREAS, on March 20, 2019, the Planning Board voted unanimously in support of Joseph R. Alosa Sr.'s petition to discontinue the Osgood Street public right-of-way identified below, and

WHEREAS, a city's governing body may, pursuant to NH RSA 231:43 (Power to Discontinue), vote to discontinue completely any Class IV, V, or VI highway, or any portion thereof.

NOW, THEREFORE, BE IT RESOLVED:

Section 1: That Osgood Street as described below shall be discontinued completely as a public highway. Said legal description is more particularly described as follows:

Beginning at the intersection of the easterly line of Basin Street and the northerly line of Osgood Street; thence

Easterly along the northerly line of Osgood Street a distance of 190 feet more or less to the easterly terminus of the right-of-way as laid out by the City of Concord on November 12, 1912; thence

Southerly along the easterly terminus of the right-of-way as laid out by the City of Concord on November 12, 1912, a distance of 50 feet more or less; thence

Westerly along the southerly line of Osgood Street a distance of 190 feet more or less to the easterly line of Basin Street; thence

Northerly along the easterly line of Basin Street a distance of 50 feet more or less to the point of beginning.

CITY OF CONCORD

RESOLUTION

In the year of our Lord two thousand and nineteen

**RESOLUTION Relative to the complete discontinuance of a public highway known as
Osgood Street in Concord, NH**

(Continued from page 1)

Containing 9,500 square feet, more or less, and meaning and intending to describe the complete discontinuance of the fifty (50') foot wide public highway known as Osgood Street.

Section 2: Pursuant to NH RSA 231:46, the existing 84" subsurface storm water reinforced concrete pipe owned by the State of New Hampshire shall remain in effect as an encumbrance on the underlying land for so long as it remains in active use.

Section 3: That Joseph R. Alosa, Sr., waives all his rights to damages as a result of the complete discontinuance of the public highway known as Osgood Street in its entirety as described above.

Section 4: That this resolution shall become effective upon the date of passage.

Return to: Joseph R. Alosa, Sr.
286 South Street
Concord, NH 03301

QUITCLAIM DEED

The **City of Concord**, a municipal corporation, with a principal place of business at 41 Green Street, City of Concord, County of Merrimack, and State of New Hampshire 03301 ("Grantor"), for consideration paid, grants to **Joseph R. Alosa, Sr.**, of 286 South Street, City of Concord, County of Merrimack, State of New Hampshire 03301 ("Grantee"), with QUITCLAIM COVENANTS, all its right, title, and interest in the following:

A certain tract or parcel of land (the "Premises") situated easterly of Basin Street and southerly of Osgood Street, in the City of Concord, County of Merrimack, State of New Hampshire, known as Map 14, Block 1, Lot 3 on the City of Concord Assessors Maps. Said parcel of land is vacant and contains about 665 square feet, more or less, and is a portion of Lot 38 as shown on a plan entitled "Homefield Situated on the Concord & Manchester Electric Line, Hall St., Concord, NH," dated August – 1908, and recorded August 27, 1908, at the Merrimack County Registry of Deeds as Plan Number 192. Said parcel was taxed by the Assessing Officials in 2006 to Jacob Rabinovitz, successor in title by will of Louis Rabinovitz.

Also conveying any interest the City of Concord may have in the bed of Osgood Street northerly of and adjacent to Map 14, Block 1, Lot 3,

Meaning and intending to convey the parcel of land acquired by the City of Concord by Tax Collector's Deed dated September 1, 2009, and recorded at the Merrimack County Registry of Deeds on September 8, 2009, at Book 3153, Page 1693.

This conveyance is subject to the condition that the Premises being conveyed shall not be considered a separate, buildable lot, and shall be merged with and into the parcel currently owned by the Grantee and known as Map 14, Block 1, Lot 4, as a City of Concord Planning Board condition and a City of Concord City Council condition.

This conveyance is further subject to the condition that the premises is being conveyed with an express perpetual restrictive covenant that the Grantee's land after the merger of the Premises with Map 14, Block 1, Lot 4, shall not be further subdivided. The conditions and covenants set forth in this deed shall run with the premises and shall be enforceable against all future owners and tenants in perpetuity, and the benefits of said covenant shall not be appurtenant to any particular parcel of land but shall be held in gross by the Grantor.

Concord City Council approval for the conveyance of this Quitclaim Deed was granted at a public hearing on _____, 2019.

Executed this _____ day of _____, 2019.

THOMAS J. ASPELL, JR.
ITS CITY MANAGER
DULY AUTHORIZED

STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK

This instrument was acknowledged before me on this _____ day of _____, 2019, by Thomas J. Aspell, Jr., in his capacity as City Manager of the City of Concord.

Notary Public / Justice of the Peace
My Commission Expires: _____