



Town of Merrimack, New Hampshire

Community Development Department

6 Baboosic Lake Road

Town Hall - Lower level - East Wing

Planning - Zoning - Economic Development - Conservation

603 424-3531

Fax 603 424-1408

www.merrimacknh.gov

MEMORANDUM

Date: May 19, 2020

To: Town Council

CC: Eileen Cabanel, Town Manager
Dawn Tuomala, PE, Deputy Director of Public Works/Town Engineer

From: Timothy J. Thompson, AICP, Community Development Director

Subject: **Petition for Release of Portion of Rita Street from Public Servitude**

Please find this memo as recommendations from the Community Development Department and Public Works Department regarding the petition received from Governor's Hill Corporation for the discontinuance and release of the right-of-way for an undeveloped portion of Rita Street, in the partially developed Level Acres subdivision.

Background

Governor's Hill Corporation purchased the parcels in the Level Acres subdivision in 2019, and is in the process of building new residential homes on those lots that are currently viable for development, and is examining modifications to the remainder of the subdivision (approved in 1970) to create new buildable lots, while most of the lots in the development would be reconfigured into either open space lots (large portions of the subdivision are not developable currently due to wetlands).

The applicant is asking the Town to release from public servitude (in other words, relinquishing the town's interest in the right-of-way) an unimproved segment of Rita Street which was platted and dedicated for the purposes of creating frontage and access for the benefit of Tax Map 6D, Lots 106 and 107. The intent of the applicant is to voluntarily merge Tax Map 6D, Lot 106 with Tax Map 6D, Lot 105, and Tax Map 6D, Lot 107 with Tax Map 6D, Lot 108. Because the merged parcels would enjoy both frontage and access at Constance Street, the need for this undeveloped portion of Rita Street is eliminated, since lots 106 and 107 would no longer exist and need the frontage this portion of Rita St provided (see attached maps).

RSA 231:51 states that the right-of-way "may be released and discharged from all public servitude by vote of the governing body of a city or town if such street, lane, or alley has not been opened, built, or used for public travel within 20 years from such dedication." More than 50 years have passed since this segment of right-of-way for Rita Street became dedicated to public servitude upon the recording of HCRD Plan No. 4425 on March 12, 1970. The applicant requests that the Town Council vote (under RSA 231:51) to release and discharge the subject portion of Rita Street from public servitude. Should the request be granted by the Council, the applicant intends to merge one-half the width of the platted 50 foot right-of-way with each of the two parcels resulting from the voluntary lot mergers described above, and shown on the attached plans.

Recommendation

The staff from Community Development and Public Works have reviewed the applicant's request, and agree that the Town can release the right-of-way without any detrimental impact to the Town and the neighborhood, provided that:

- The applicant shall grant to the Town of Merrimack a 40' wide drainage & access easement and construct the drainage improvements (headwall, treatment swale, and rip rap swale, also shall revise the plan to include a poly liner in the proposed catch basin) indicated on the attached plan entitled "DRAINAGE IMPROVEMENT PLAN - 26 & 24 Constance Street." This plan shall be recorded along with the drainage easement at the Hillsborough County Registry of Deeds (The plan and easement language shall be reviewed, at the applicant's expense, by the Town's legal counsel prior to recording).
- The applicant shall combine Map 6D, Lots 105 and 106 as well as Lots 107 and 108 as generally indicated on the attached plan entitled "Exhibit A - Level Acres" in a manner deemed appropriate by the Town (voluntary lot merger or lot line adjustment plan, depending on recommendation from the Town's legal counsel).

Providing the easement and improvements will ensure that drainage will continue to properly function in the neighborhood and provide the Town with sufficient rights to maintain and manage the drainage from the public roads in the area.

Please contact Deputy Director of Public Works/Town Engineer Dawn Tuomala or I if you have any further questions, or if we can provide any additional information.



February 21, 2020

Mr. Thomas Koenig, Chairman
Merrimack Town Council
6 Baboosic Lake Road
Merrimack, New Hampshire 03054

Subject: **Petition for Release of Portion of Rita Street from Public Servitude**
KNA Project No. 18-0829-1

Dear Mr. Koenig:

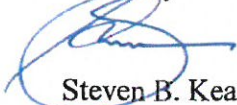
Attached, please find Exhibit 'A' which graphically depicts the location of four vacant parcels of land identified on Merrimack Assessor's Map 6D as Lots 105 through 108. Our client, the Governor's Hill Corporation, purchased these parcels in 2019 (See HCRD Bk. 9212; Pg. 851) with the intention of voluntarily merging Lot 106 with Lot 105; and Lot 107 with Lot 108 to create two parcels for future single-family residential construction. Also, as shown on Exhibit 'A' the subject parcels are currently bifurcated by an unimproved segment of dedicated public way. Based on inspection of an approved subdivision plat entitled "Plan of L.J. Roy; Merrimack, New Hampshire; Level Acres Development"; signed in acknowledgment of approval by the Merrimack Planning Board on March 02, 1970; and subsequently recorded in the HCRD as Plan No. 4425 on March 12, 1970; this unimproved segment of Rita Street was presumably platted and dedicated for the purposes of creating frontage and access for the benefit of Lots 106 and 107. Our client's intent to voluntarily merge Lot 106 with Lot 105, and Lot 107 with Lot 108, serves to make construction of this unimproved segment of Rita Street unnecessary since the two resulting parcels enjoy both frontage and access at Constance Street.

Pursuant to RSA 231:51 (copy attached) the subject segment of Rita Street "may be released and discharged from all public servitude by vote of the governing body of a city or town if such street, lane, or alley has not been opened, built, or used for public travel within 20 years from such dedication." In the current instance approximately 50 years have passed since this segment of right-of-way became dedicated to public servitude upon the recording of HCRD Plan No. 4425 on March 12, 1970.

Correspondingly, we hereby request that Town Council, as the Town of Merrimack's Governing Body, vote to exercise its rights under RSA 231:51 to release and discharge the subject portion of Rita Street from public servitude. Should the requested release come to pass, the Governor's Hill Corporation intends to merge one-half the width of the platted 50 foot right-of-way with each of the two parcels resulting from the voluntary lot mergers described above.

In the event Council or staff have specific questions or seek additional information germane to this petition, please contact the undersigned writer at your earliest convenience.

Sincerely:



Steven B. Keach, P.E.

President

Keach-Nordstrom Associates, Inc.

Enc.

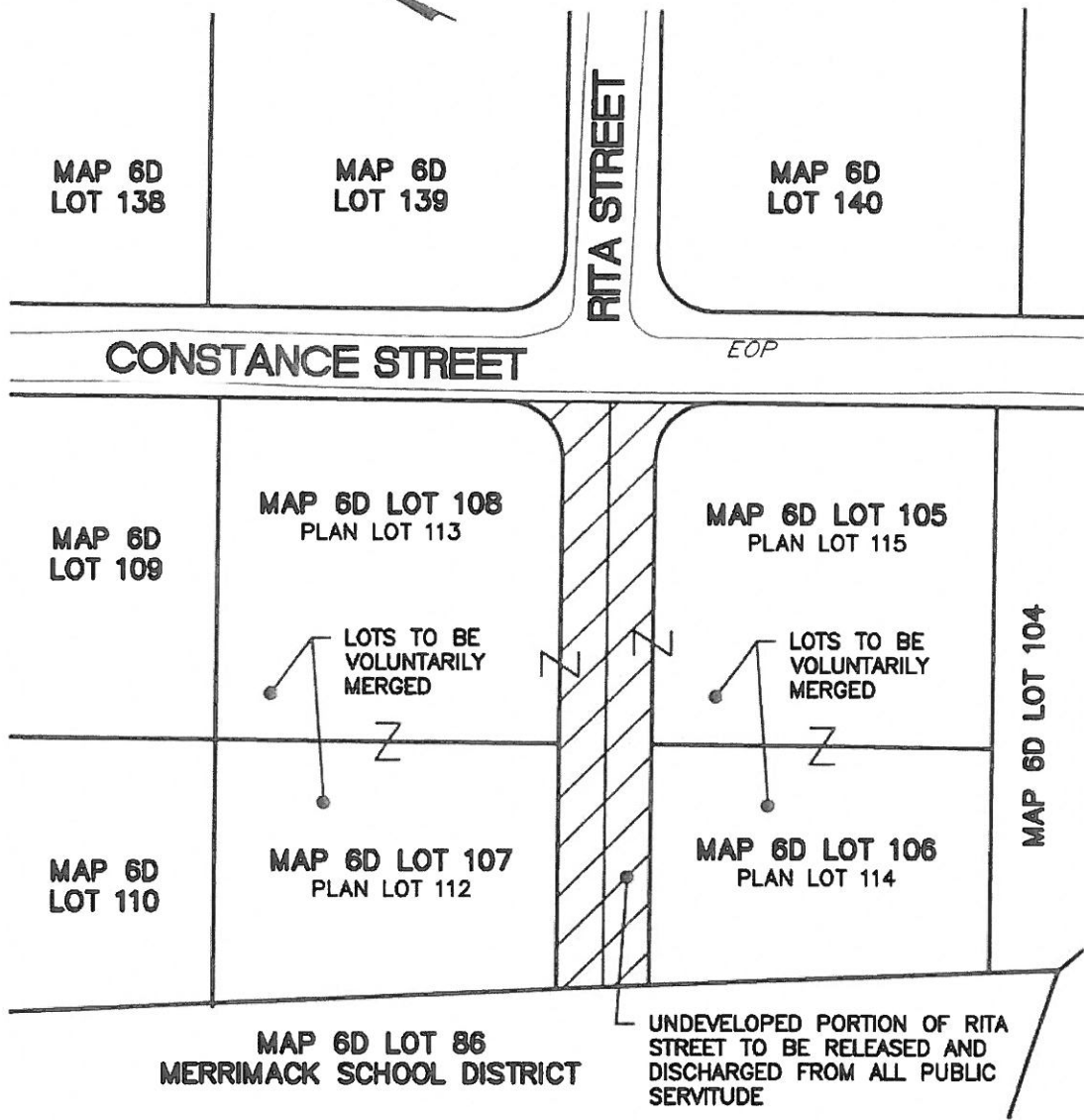
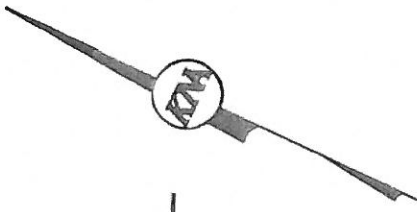
Cc/enc.

Mr. Robert Lamontagne – Governor’s Hill Corporation

Gregory E. Michael, Esq. – Bernstein, Shur, Sawyer & Nelson, P.A.

Mr. Kyle Fox, P.E.; Director – Merrimack Public Works

Mr. Timothy Thompson, AICP; Director – Merrimack Community Development



KNA KEACH-NORDSTROM ASSOCIATES, INC.
 Civil Engineering Land Surveying Landscape Architecture
 10 Commerce Park North, Suite 3B, Bedford, NH 03110
 Phone (603) 827-2881

EXHIBIT A
LEVEL ACRES
CONSTANCE STREET & RITA STREET
MERRIMACK, NEW HAMPSHIRE

DATE: 2/3/2020 SCALE: 1" = 80' JOB. NO.18-0829-1

TITLE XX TRANSPORTATION

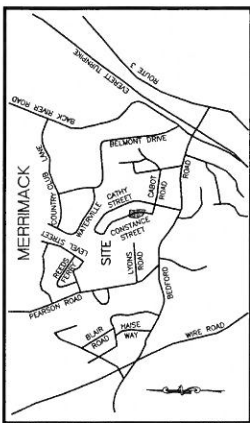
CHAPTER 231 CITIES, TOWNS AND VILLAGE DISTRICT HIGHWAYS

Discontinuance of Class IV, V and VI Highways

Section 231:51

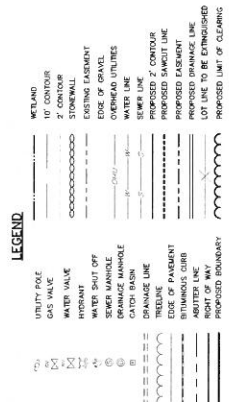
231:51 Dedicated Ways. – Any street, lane or alley within this state which has been dedicated to public use by being drawn or shown upon a plan of lands platted by the owner, and the sale of lots in accordance with such plan, may be released and discharged from all public servitude by vote of the governing body of a city or town if such street, lane, or alley has not been opened, built, or used for public travel within 20 years from such dedication.

Source. 1913, 121:1. PL 79:5. RL 95:5. 1945, 188:1, part 9:7. RSA 238:7. 1981, 87:1. 1989, 131:1, eff. July 16, 1989.



LOCUS MAP
SCALE 1" = 2,000'

NOTES:
1. THE PURPOSE OF THIS PLAN IS TO SHOW THE PROPOSED DRAINAGE IMPROVEMENTS WITHIN THE OLD RITA STREET RIGHT-OF-WAY, AS WELL AS A PROPOSED DRAINAGE EASEMENT FOR THE TOWN OF MERRIMACK.



DRAINAGE IMPROVEMENT PLAN
26 & 24 CONSTANCE ST
MAP 6D: LOTS 105, 106, 107, & 108
26 & 24 CONSTANCE ST
MERRIMACK, NEW HAMPSHIRE
HILLSBOROUGH COUNTY

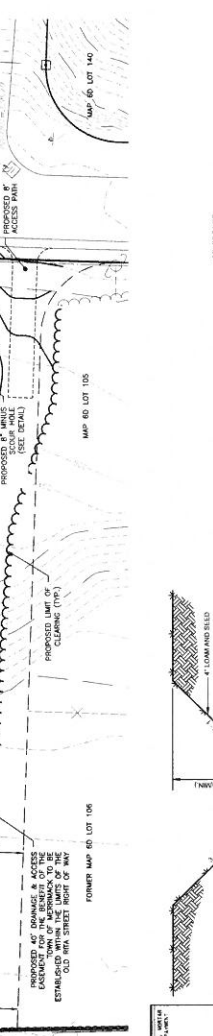
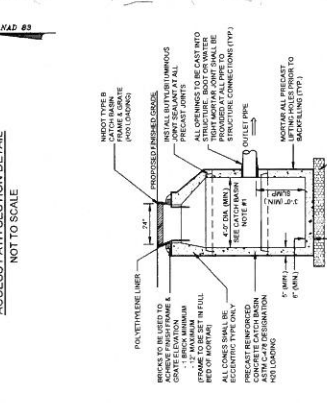
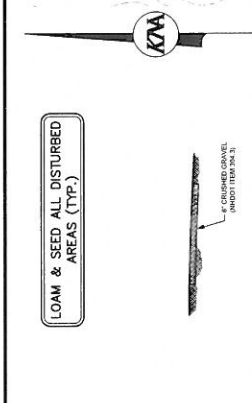
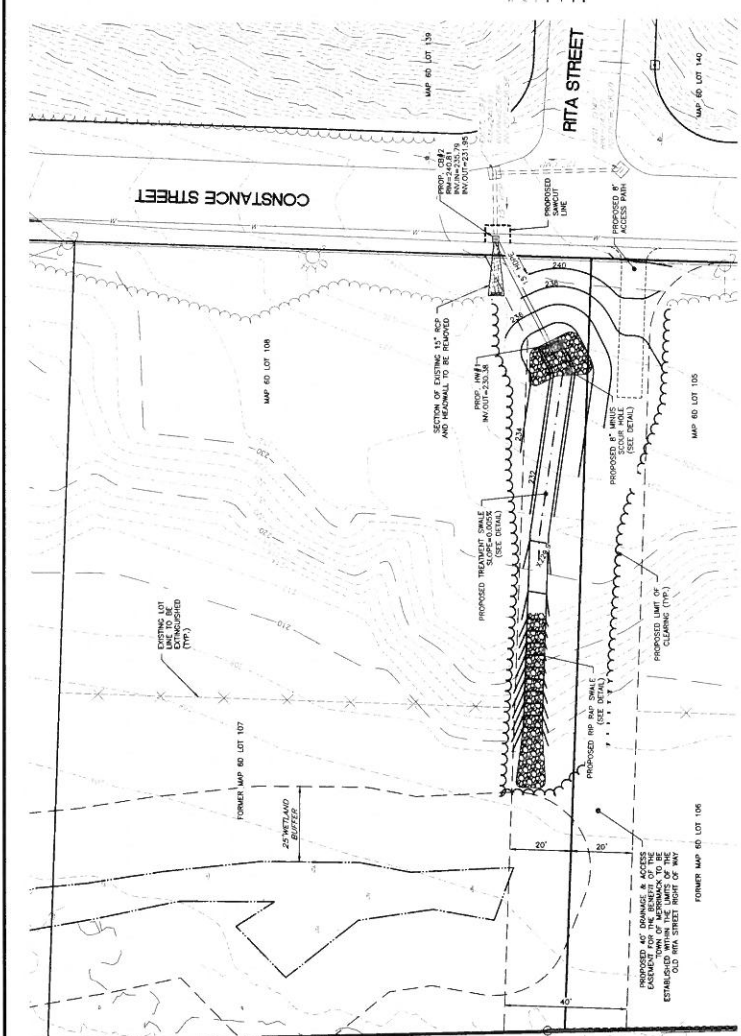
APPLICANT:
GOVERNORS HILL CORP.
300 WINDY HILL ROAD
BEDFORD, N.H. 03110

PREPARED BY:
K&M
KRAIGER-HORSTROM ASSOCIATES, INC.
Civil Engineers
16 Commerce Park North, Suite 30, Bedford, NH 03110 Phone: (603) 857-8881

DATE: 4/23/20
REVISIONS:

No.	DATE	REVISION PER COMMENTS	BY
1	4/23/20	REVISION PER COMMENTS	PCM

DATE: MARCH 12, 2020
SCALE: 1"=20'
PROJECT NO.: 15-052-1
SHEET 1 OF 1



MAINTENANCE

- SMALL MAINTENANCE IS IMPORTANT TO KEEP THE REGISTRATION IN THE SWALE IN GOOD CONDITION. MAINTENANCE SHOULD BE PERFORMED PERIODICALLY AND AFTER EVERY MAJOR STORM TO DETERMINE THE CONDITION OF THE SWALE. THE SWALE SHOULD BE INSPECTED PERIODICALLY AND AFTER EVERY MAJOR STORM TO DETERMINE THE CONDITION OF THE SWALE. THE SWALE SHOULD BE INSPECTED PERIODICALLY AND AFTER EVERY MAJOR STORM TO DETERMINE THE CONDITION OF THE SWALE.
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SECTION A-A

ITEM	DESCRIPTION	QUANTITY	UNIT	PRICE	TOTAL
1	CONCRETE HEADWALL	1	EA	100.00	100.00
2	CONCRETE SWALE	10	LF	10.00	100.00
3	RIP RAP	10	CY	10.00	100.00
4	ACCESS PATH	1	EA	10.00	10.00
5	CATCH BASIN	1	EA	100.00	100.00
6	GRATE	1	EA	10.00	10.00
7	SCOUR HOLE	1	EA	10.00	10.00
8	SWALE	10	LF	10.00	100.00
9	GRASS	10	SF	1.00	10.00
10	SEED	10	SF	1.00	10.00
11	LOAM	10	SF	1.00	10.00
12	MANHOLE	1	EA	100.00	100.00
13	DRAINAGE LINE	10	LF	10.00	100.00
14	GRATE	1	EA	10.00	10.00
15	SCOUR HOLE	1	EA	10.00	10.00
16	SWALE	10	LF	10.00	100.00
17	GRASS	10	SF	1.00	10.00
18	SEED	10	SF	1.00	10.00
19	LOAM	10	SF	1.00	10.00
20	MANHOLE	1	EA	100.00	100.00
21	DRAINAGE LINE	10	LF	10.00	100.00
22	GRATE	1	EA	10.00	10.00
23	SCOUR HOLE	1	EA	10.00	10.00
24	SWALE	10	LF	10.00	100.00
25	GRASS	10	SF	1.00	10.00
26	SEED	10	SF	1.00	10.00
27	LOAM	10	SF	1.00	10.00
28	MANHOLE	1	EA	100.00	100.00
29	DRAINAGE LINE	10	LF	10.00	100.00
30	GRATE	1	EA	10.00	10.00
31	SCOUR HOLE	1	EA	10.00	10.00
32	SWALE	10	LF	10.00	100.00
33	GRASS	10	SF	1.00	10.00
34	SEED	10	SF	1.00	10.00
35	LOAM	10	SF	1.00	10.00
36	MANHOLE	1	EA	100.00	100.00
37	DRAINAGE LINE	10	LF	10.00	100.00
38	GRATE	1	EA	10.00	10.00
39	SCOUR HOLE	1	EA	10.00	10.00
40	SWALE	10	LF	10.00	100.00
41	GRASS	10	SF	1.00	10.00
42	SEED	10	SF	1.00	10.00
43	LOAM	10	SF	1.00	10.00
44	MANHOLE	1	EA	100.00	100.00
45	DRAINAGE LINE	10	LF	10.00	100.00
46	GRATE	1	EA	10.00	10.00
47	SCOUR HOLE	1	EA	10.00	10.00
48	SWALE	10	LF	10.00	100.00
49	GRASS	10	SF	1.00	10.00
50	SEED	10	SF	1.00	10.00
51	LOAM	10	SF	1.00	10.00
52	MANHOLE	1	EA	100.00	100.00
53	DRAINAGE LINE	10	LF	10.00	100.00
54	GRATE	1	EA	10.00	10.00
55	SCOUR HOLE	1	EA	10.00	10.00
56	SWALE	10	LF	10.00	100.00
57	GRASS	10	SF	1.00	10.00
58	SEED	10	SF	1.00	10.00
59	LOAM	10	SF	1.00	10.00
60	MANHOLE	1	EA	100.00	100.00
61	DRAINAGE LINE	10	LF	10.00	100.00
62	GRATE	1	EA	10.00	10.00
63	SCOUR HOLE	1	EA	10.00	10.00
64	SWALE	10	LF	10.00	100.00
65	GRASS	10	SF	1.00	10.00
66	SEED	10	SF	1.00	10.00
67	LOAM	10	SF	1.00	10.00
68	MANHOLE	1	EA	100.00	100.00
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70	GRATE	1	EA	10.00	10.00
71	SCOUR HOLE	1	EA	10.00	10.00
72	SWALE	10	LF	10.00	100.00
73	GRASS	10	SF	1.00	10.00
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80	SWALE	10	LF	10.00	100.00
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91	LOAM	10	SF	1.00	10.00
92	MANHOLE	1	EA	100.00	100.00
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94	GRATE	1	EA	10.00	10.00
95	SCOUR HOLE	1	EA	10.00	10.00
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99	LOAM	10	SF	1.00	10.00
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