



TOWN COUNCIL – AGENDA REQUEST FORM

THIS FORM WILL BECOME PART OF THE BACKGROUND INFORMATION USED BY THE COUNCIL AND PUBLIC

Please submit Agenda Request Form, **including back up information**, 8 days prior to the requested meeting date. **Public Hearing requests must be submitted 20 days prior to requested meeting date to meet publication deadlines** (exceptions may be authorized by the Town Manager, Chairman/Vice Chair).

MEETING INFORMATION

Date Submitted: April 15, 2022
Submitted by: Attorney Greg Michael
Department:
Speakers: Attorney Greg Michael

Date of Meeting: June 9, 2022
Time Required: 20 minutes
Background Info. Supplied: Yes: No:

CATEGORY OF BUSINESS (PLEASE PLACE AN "X" IN THE APPROPRIATE BOX)

Appointment:	<input type="checkbox"/>	Recognition/Resignation/Retirement:	<input type="checkbox"/>
Public Hearing:	<input type="checkbox"/>	Old Business:	<input type="checkbox"/>
New Business:	<input checked="" type="checkbox"/>	Consent Agenda:	<input type="checkbox"/>
Nonpublic:	<input type="checkbox"/>	Other:	<input type="checkbox"/>

TITLE OF ITEM

Request for Restoration of Involuntarily Merged Lots (Tax Map 5D-4/043 - Hadley Road)

DESCRIPTION OF ITEM

The Town Council to consider the request to unmerge Lot 10 from Lot 6 and Lot 8 from Tax Map 5D-4/043 on Hadley Road, in accordance with RSA 674:39-aa, Restoration of Involuntarily Merged Lots.

REFERENCE (IF KNOWN)

RSA:	674:39-aa	Warrant Article:	_____
Charter Article:		Town Meeting:	_____
Other:		N/A	

EQUIPMENT REQUIRED (PLEASE PLACE AN "X" IN THE APPROPRIATE BOX)

Projector:	<input type="checkbox"/>	Grant Requirements:	<input type="checkbox"/>
Easel:	<input type="checkbox"/>	Joint Meeting:	<input type="checkbox"/>
Special Seating:	<input type="checkbox"/>	Other:	<input type="checkbox"/>
Laptop:	<input type="checkbox"/>	None:	<input type="checkbox"/>

CONTACT INFORMATION

Name:	<u>Greg Michael</u>	Address	<u>670 North Commercial Street</u>
Phone Number	<u>603-623-8700</u>	Email Address	<u>gmichael@bernsteinshur.com</u>

APPROVAL

Town Manager: Yes No: Chair/Vice Chair: Yes No:

Hold for Meeting Date: _____

BradNate Development & Management, LLC
579 DW Highway
Merrimack, New Hampshire 03054

May 16, 2022

Paul Micali
Town Manager
6 Baboosic Lake Road
Merrimack, NH 03054

Re: Restoration of Involuntarily Merged Lots
[A Portion of Tax Map/Lot 5D4-43, Lot 10, Hadley Road, Merrimack, NH]
Assessors Map 5D4-43, Lots 6, 8, and 10

Dear Manager Micali:

The lot(s) referenced above were involuntarily merged by town action without the consent of the owner prior to September 18, 2010. **I certify by my signature below that to the best of my knowledge and belief no owner in the chain of title voluntarily merged the lots,** including by any overt action or conduct that indicated that an owner regarded said lots as merged (such as, but not limited to, abandoning a lot line).

In accordance with RSA 674:39-aa, I hereby request that these lots be restored to their premerger status and that all zoning and tax maps be updated to identify the premerger boundaries of said lots or parcels as recorded at the Hillsborough County Registry of Deeds.

Sincerely,

BradNate Development & Management, LLC

A handwritten signature in black ink, appearing to read 'P. McClintick', with a long horizontal flourish extending to the right.

By: Peter McClintick, Manager

Attachments: All relevant **deeds and plans** concerning Lot 10 as recorded at the Registry of Deeds.



R E C E I V E D

APR 15 2022

TOWN OF MERRIMACK
TOWN COUNCIL'S OFFICE

**Bernstein, Shur,
Sawyer & Nelson, P.A.**
Jefferson Mill Building
670 North Commercial Street
Suite 108
PO Box 1120
Manchester, NH 03105-1120

T (603) 623-8700
F (603) 623-7775

Gregory E. Michael
Of Counsel
603-665-8848 direct
gmichael@bernsteinshur.com

April 13, 2022

Merrimack Town Council
Town Council Office
6 Baboosic Lake Road
Merrimack, NH 03054

Re: Request to Unmerge Lot 10 from Lot 5D4-43
Hadley Road, Merrimack, New Hampshire

To the Chair and Members of the Merrimack Town Council:

Our firm represents BradNate Development & Management, LLC (“BradNate”), the owner of Merrimack Tax Map Lot 5D4-43 located on Hadley Road. Lot 5D4-43 actually encompasses Lots 6, 8, and 10 as shown on a plan of land entitled “Plan of Lots of Gordon Woodbury” dated 1899 (a copy of said Plan is attached as Exhibit A).

The same lots appear on a second plan, specifically, the International Shoe Co. Plan dated May 1938, last revised Sept. 1941 and recorded as Plan #690 at the Hillsborough County Registry of Deeds (a copy of said Plan is attached as Exhibit B). The International Shoe plan shows that the Town is using part of Lot 10 as a roadway.

The original Lot 10 is currently vacant apart from the roadway constructed by the Town of Merrimack (see Exhibit C – Town of Merrimack Tax Map).

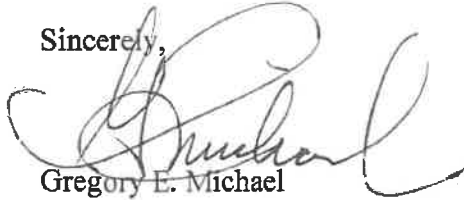
The purpose of this letter is to request the unmerging of Lot 10 from Lot 6 and Lot 8. All three lots were involuntarily merged by the Town of Merrimack without the consent of the then-owner. While Lots 6 and 8 collectively support an existing dwelling and are considered merged, Lot 10, as noted, can be a separate lot of record. Under N.H. RSA 674:39-aa, entitled “Restoration of Involuntarily Merged Lots”, lots that were involuntarily merged prior to September 18, 2010 are allowed to be “unmerged” and restored to their pre-merger status.

We request that the Town Council unmerge Lot 10, subject to any Town road rights that may exist as described above.

Merrimack Town Council
April 13, 2022
Page 2 of 2

Your attention to this matter is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Gregory E. Michael". The signature is fluid and cursive, with a large initial "G" and "M".

Gregory E. Michael

Enclosures

cc: BradNate Development & Management, LLC
Meridian Land Services, Inc.
Robert Price, Planning & Zoning Administrator

Return to:
Gregory Michael, Esq.
Bernstein Shur
670 North Commercial St., Suite 108
Manchester, NH 03101

TOWN OF MERRIMACK, N.H.
NOTICE OF DECISION – Request for Restoration of Involuntarily Merged Lots
(Tax Map 5-D4, Lot 43)

On Thursday, May 26, 2022, the Merrimack Town Council, during a public meeting, approved a motion to “Grant the request of BradNate Development to unmerge from Lot 43 on Tax Map 5D-4, “Lot 10” as shown on the Plan of “Property of International Shoe Company” dated September 1941 and recorded at the Hillsborough County Registry of Deeds as Plan 690, and that Lot 10 remains subject to the Town’s Right of Way for Hadley Road, in accordance with RSA 674:39-aa.”

Appeals from this decision may be taken in accordance with RSA chapter 676.

Town of Merrimack

Date:

Paul Micali, Town Manager

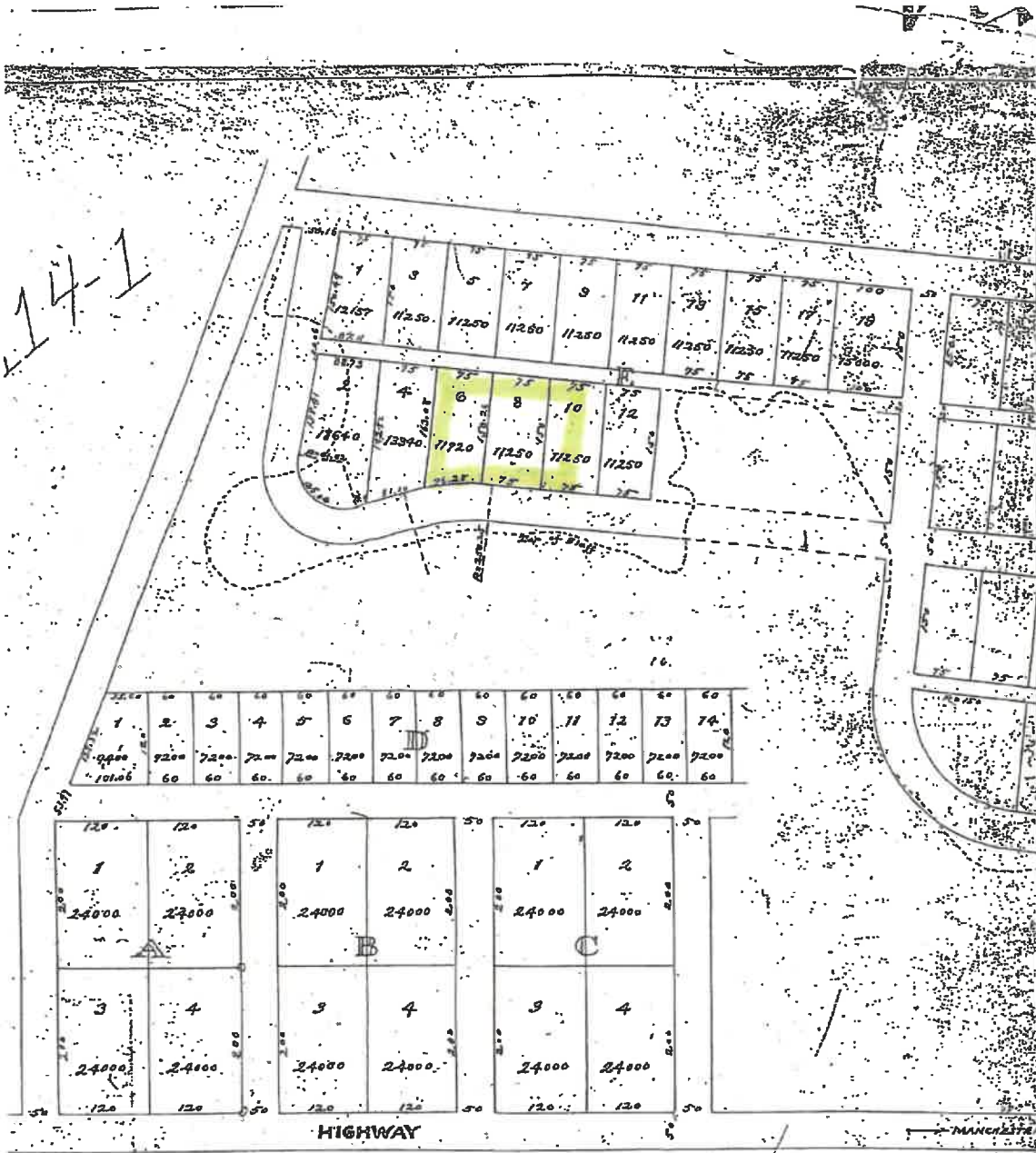
State of New Hampshire
Hillsborough County

On this ___ day of _____ 2022, personally appeared Paul Micali, in his capacity as Town Manager for the Town of Merrimack, and acknowledged that he executed the above, for the purposes contained therein on behalf of the Town of Merrimack.

Notary Public/Justice of the Peace

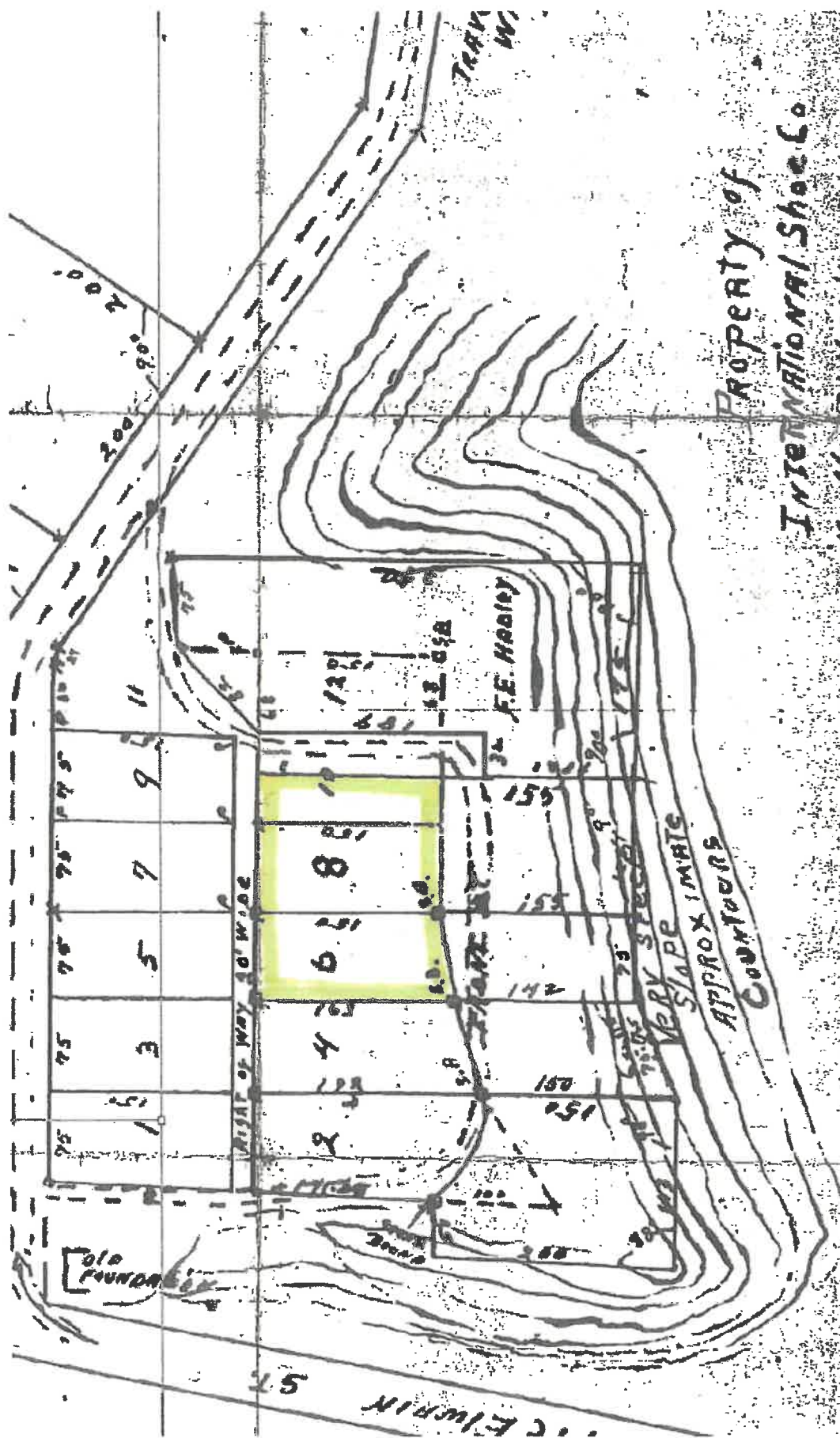
EXHIBIT A

14-1



Woodbury Bought of Jas. W. Parker & Co. Sec. 7. 553 P. 53.
 Filed Sept. 17th 1899
 PLAN OF LOTS OF GORDON WOODBURY, Tisbury R.R.
 MERRIMACK, N. H.
 September, 1899. Scale, 1 inch = 100 feet.
 F. A. GAY, SURVEYOR.

X



PROPERTY OF
INTERNATIONAL SHOE CO.

IN MERIMACK, N.H.

PART OF GONDOR WOODBURY LAKE
PLAT LAY OUT BY F.A. GARY

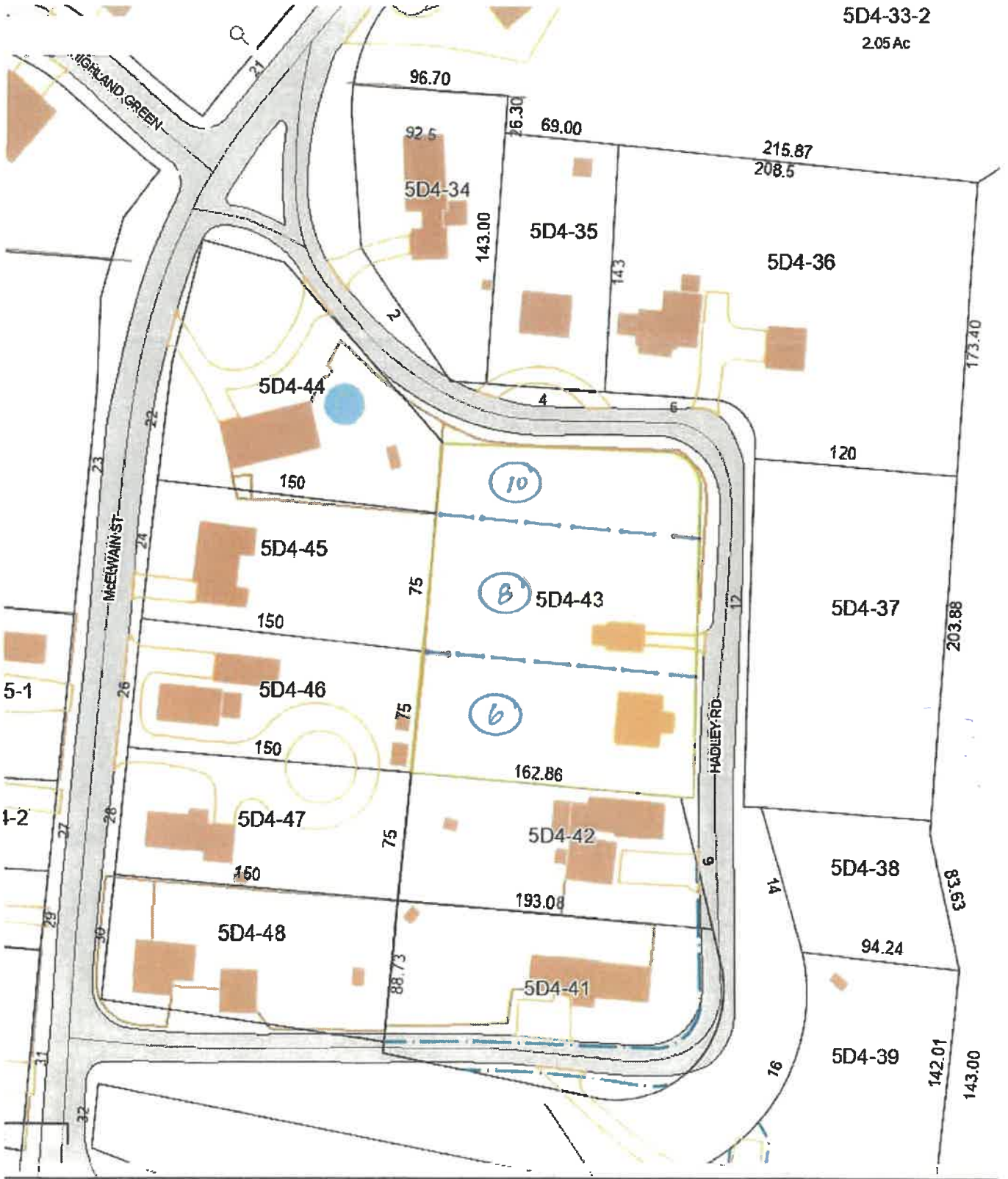
REVISED BY E.F. DOWST MAY 1938

RE-REVISED BY E.D. BROWN JUNE 1940

WITH ADDITIONS
SEPT. 1941

SCALE 1"=100'

EXHIBIT C



5D4-33-2
2.05 Ac

START DATE: GIS EXHIBIT with former lot lines/numbers

TITLE LXIV

PLANNING AND ZONING

CHAPTER 674

LOCAL LAND USE PLANNING AND REGULATORY POWERS

Regulation of Subdivision of Land

Section 674:39-aa

674:39-aa Restoration of Involuntarily Merged Lots. –

I. In this section:

(a) "Involuntary merger" and "involuntarily merged" mean lots merged by municipal action for zoning, assessing, or taxation purposes without the consent of the owner.

(b) "Owner" means the person or entity that holds legal title to the lots in question, even if such person or entity did not hold legal title at the time of the involuntary merger.

(c) "Voluntary merger" and "voluntarily merged" mean a merger under RSA 674:39-a, or any overt action or conduct that indicates an owner regarded said lots as merged such as, but not limited to, abandoning a lot line.

II. Lots or parcels that were involuntarily merged prior to September 18, 2010 by a city, town, county, village district, or any other municipality, shall at the request of the owner, be restored to their premerger status and all zoning and tax maps shall be updated to identify the premerger boundaries of said lots or parcels as recorded at the appropriate registry of deeds, provided:

(a) The request is submitted to the governing body.

(b) No owner in the chain of title voluntarily merged his or her lots. If any owner in the chain of title voluntarily merged his or her lots, then all subsequent owners shall be estopped from requesting restoration. The municipality shall have the burden of proof to show that any previous owner voluntarily merged his or her lots.

III. All decisions of the governing body may be appealed in accordance with the provisions of RSA 676.

IV. Any municipality may adopt local ordinances, including ordinances enacted prior to the effective date of this section, to restore previously merged properties that are less restrictive than the provisions in paragraph I and II.

V. The restoration of the lots to their premerger status shall not be deemed to cure any non-conformity with existing local land use ordinances.

VI. Municipalities shall post a notice informing residents that any involuntarily merged lots may be restored to premerger status upon the owner's request. Such notice shall be posted in a public place no later than January 1, 2012 and shall remain posted through December 31, 2016. Each municipality shall also publish the same or similar notice in its 2011 through 2015 annual reports.

Source. 2011, 206:4, eff. July 24, 2011. 2016, 327:2, eff. Aug. 23, 2016. 2021, 136:1, eff. Sept. 21, 2021.