

CITY OF LOWELL

COMMUNICATION

IN THE

CITY COUNCIL

From City Manager
Planning Board
Recommendation
reopening amendment
off Boston St. Foundrest
and School St.

IN CITY COUNCIL

June 20, 2018
Read and

City Clerk

Diane Tradd
Assistant City Manager/Director

Eric Slagle
Director

Shaun Shanahan
Building Commissioner

June 19, 2018

Mayor William Samaras
and
Members of the City Council

REFERENCE: Report and Recommendation on the proposed zoning code amendment to rezone and extend the existing Urban Mixed-Use District (UMU zone) that is presently zoned Urban Neighborhood Multi-Family (UMF) at 232 and 234 Mt. Vernon Street; and to extend the Light Industry, Manufacturing & Storage District (LI Zone) to parcel 268 Mt. Vernon Street and 5 Farnham Street which are presently zoned Urban Neighborhood Multi-Family (UMF), and to a portion of 294 School Street which is presently zoned Urban Mixed-Use District (UMU).

Dear Mayor Samaras and Members of the City Council:

The Lowell Planning Board held a Public Hearing on Monday, June 18, 2018 concerning a proposed Zoning Ordinance amendment for two (2) separate zoning extensions. The first extension proposes extending the existing Urban Mixed-Use District (UMU zone) that is presently zoned Urban Neighborhood Multi-Family (UMF) at 232 and 234 Mt. Vernon Street. The second, extends the Light Industry, Manufacturing & Storage District (LI Zone) to parcel 268 Mt. Vernon Street and 5 Farnham Street which are presently zoned Urban Neighborhood Multi-Family (UMF), and to a portion of 294 School Street which is presently zoned Urban Mixed-Use (UMU).

The following individuals spoke in support of the proposal at the public hearing: John Sumas, (62 Willie Street and 1 Varnum Street), Peter Bergeron, (142 Middle Street), and a letter submitted by Tim Grover, (31 Kirk Street) dated June 6, 2018, was read into the record by Chairman Linnehan. No members of the public spoke in opposition.

Chairman Thomas Linnehan motioned and Member Richard Lockhart seconded to recommend that the proposed rezone petition be APPROVED. Member Frechette abstained from the petition.

The Board voted unanimously in support of the motion, (4-0). A quorum of the Planning Board was present with Member Gys absent.

If you have any questions or need any assistance, please feel free to contact me at the Division of Development Services at 978-674-1472.

Sincerely,



Christine McCall
Senior Planner/Planning Board Administrator

CM/ns
Attachment

cc: Eileen M. Donoghue, City Manager
Christine P. O'Connor, City Solicitor
Diane Tradd, Assistant City Manager/DPD Director
Eric Slagle, Director, Division of Development Services
Shaun Shanahan, Building Commissioner
Thomas C. Linnehan and the Members of the Lowell Planning Board

2018 JUN 19 PM 6:38

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL

In City Council

ORDINANCE

An Ordinance Amending "Code of the City of Lowell, Massachusetts", with respect to Chapter 290, Thereof Entitled, "Zoning" by extending existing UMU zoning district to include 232 Mt. Vernon Street and 234 Mt. Vernon Street, Lowell, MA; and

By extending existing LI zoning district to include 268 Mt Vernon Street, 294 School Street and 5 Farnham Street, Lowell, MA.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOWELL,
as follows

"Code of the City of Lowell, Massachusetts", hereinafter called the "Code", adopted by the City Council on December 23, 2008, as amended, is hereby further amended with respect to Chapter 290, entitled "Zoning," adopted December 7, 2004, as amended, as follows:

1. SECTION 3.2 ZONING MAP: The existing zoning districts in proximity to 232 Mt. Vernon Street, 234 Mt. Vernon Street, 268 Mt Vernon Street, 294 School Street and 5 Farnham Street, as shown on the Zoning Map in the Custody of the City Clerk with an electronic record of the zoning map maintained by the Management Information Systems Department of the City of Lowell, are hereby extended in the manner described in Exhibits A and B.

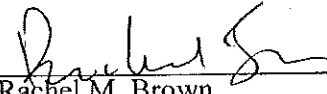
A. The above area in Lowell is more particularly described on Exhibit "A", which is annexed hereto and made a part hereof.

B. The above area is also shown on plan prepared by Hancock Associates, Rezoning Plan, a copy of which is annexed hereto and made a part hereof and described as Attachment "B".

2. The Zoning Map, in the custody of the City Clerk with an electronic record of the zoning map maintained by the Management Information Systems Department of the City of Lowell shall be changed to conform to this amendment.

3. This Ordinance shall take effect upon its passage in accordance with Section 1.7 of the "Lowell Zoning Ordinance" and the provisions of Chapter 43 and 40A of the General Laws of Massachusetts.

APPROVED AS TO FORM:



Rachel M. Brown
First Assistant City Solicitor

Ord/zoning/extend UMU and LI districts broadwayst holdings

Area to be changed to LI

To encompass the following properties, as well as the streets adjacent thereto, to the center lines of said streets:

- 1.) A Portion of Parcel ID 5240-294 (294 Rock Street) Owned by the City of Lowell, described in Book 14941, Page 270 and shown on Plan Book 57, Plan 43;
- 2.) A Portion of Parcel ID 4230-268 (268 Mt. Vernon Street) Owned by the City of Lowell, described in Book 20575, Page 207 and Land Court Book 188, Page 247 (Certificate 37124) and shown on Plan Book 194, Plan 123, Plan Book 222, Plan 10, and Land Court Case 8637-C;
- 3.) Parcel 2245-5 (5 Farnham Street) Owned by the City of Lowell, described in Book 20575, Page 207 and Land Court Book 188, Page 247 (Certificate 37124) and shown on Plan Book 194, Plan 123, Plan Book 222, Plan 10, and Land Court Case 8637-C;
- 4.) Parcel 6400-89 (89 Willie Street) Owned by the City of Lowell, described in Book 20575, Page 207 and Land Court Book 188, Page 247 (Certificate 37124) and shown on Plan Book 194, Plan 123, Plan Book 222, Plan 10, and Land Court Case 8637-C;

And described as follows:

Beginning at the intersection of the center lines of Mount Vernon Street and Rock Street;

Thence northwesterly along the center line of Rock Street about two hundred thirty-seven (237) feet;

Thence northeasterly twenty (20) feet to the northeastern side line of Rock Street;

Thence northeasterly through land owned by the City of Lowell about one hundred thirty-four (134) feet to the southwestern corner of land owned by Ttash Acre Corp.;

Thence easterly along the southerly lot line of land owned by Ttash Acre Corp. about one hundred sixty-five feet to the westerly side line of Mount Vernon Street;

Thence easterly twenty-five (25) feet to the center line of Mount Vernon Street;

Thence northerly along the center line of Mount Vernon Street about one hundred fourteen (114) feet;

Thence easterly twenty-five (25) feet to the easterly side line of Mount Vernon Street;

Thence easterly along the proposed lot line between 'Proposed Lot 1' and 'Proposed Lot 2' two hundred thirty-five & 26/100 (235.26) feet to the westerly lot line of land owned by Willie Street, LLC;

Thence southerly along the westerly lot line of land owned by Willie Street, LLC twenty-nine & 65/100 (29.65) feet to the northwesterly corner of Farnham Street;

Thence southwestery along the westerly side line of Farnham Street seventeen & 15/100 (17.15) feet to the center line of Farnham Street;

Thence easterly along the center line of Farnham Street about ninety (90) feet;

Thence southerly fifteen (15) feet to the southerly side line of Farnham Street at the northern corner of land owned by John Tsoumas;

Thence southwestery along the northwesterly lot lines of land owned by John Tsoumas and land owned by Daniel V. Chea & Sam Som Chea ninety-seven & 90/100 (97.90) to the southwestern corner of land owned by Daniel V. Chea & Sam Som Chea;

"A"

Page 2 of 3

Thence southeasterly along the southwestern lot line of land owned by Daniel V. Chea & Sam Som Chea one hundred & 00/100 (100.00) feet to the northwestern side line of Willie Street;

Thence southeasterly twenty-five (25) feet to the center line of Willie Street;

Thence southwesterly along the centerline of Willie Street six & 77/100 (6.77) feet;

Thence northwesterly twenty-five (25) feet to the northwestern side line of Willie Street at the easterly corner of land owned by Ling Sok;

Thence northwesterly along the northeastern lot line of land owned by Ling Sok seventy & 10/100 (70.10) feet;

Thence westerly along the northern lot line of land owned by Ling Sok twelve & 48/100 (12.48) feet;

Thence southwesterly along the northwestern lot line of land owned by Ling Sok forty-three & 86/100 (43.86) feet to the northeastern lot line of land owned by Acre Triangle Community Development Corporation;

Thence northwesterly along the lot line of land owned by Acre Triangle Community Development Corporation nineteen & 90/100 (19.90) feet;

Thence southwesterly along the lot line of land owned by Acre Triangle Community Development Corporation forty & 13/100 (40.13) feet;

Thence northwesterly along the lot line of land owned by Acre Triangle Community Development Corporation twenty-two & 00/100 (22.00) feet to the southeastern lot line of land owned by A&A Realty Trust;

Thence northeasterly along the lot line of land owned by A&A Realty Trust twenty-one & 25/100 (21.25) feet;

Thence northwesterly along the lot line of land owned by A&A Realty Trust sixty-nine & 28/100 (69.28) feet;

Thence southwesterly along the lot line of land owned by A&A Realty Trust twenty-eight & 28/100 (28.28) feet;

Thence westerly along the lot line of land owned by A&A Realty Trust one hundred eighteen & 15/100 (118.15) feet to the westerly side line of Mount Vernon Street;

Thence westerly twenty-five (25) feet to the center line of Mount Vernon Street;

Thence southerly along the center line of Mount Vernon Street about one hundred (130) feet to the intersection of the center lines of Mount Vernon Street and Rock Street at the point of beginning.

Properties to be changed to UMU

To encompass the following properties, as well as the streets adjacent thereto, to the center lines of said streets:

- 1.) A Portion of Parcel ID 4230-268 (268 Mt. Vernon Street) Owned by the City of Lowell, described in Book 20575, Page 207 and Land Court Book 188, Page 247 (Certificate 37124) and shown on Plan Book 194, Plan 123, Plan Book 222, Plan 10, and Land Court Case 8637-C;
- 2.) A Portion of Parcel ID 4230-234 (234 Mt. Vernon Street) Owned by the City of Lowell, described in Book 20575, Page 207 and Land Court Book 188, Page 247 (Certificate 37124) and shown on Plan Book 194, Plan 123, Plan Book 222, Plan 10, and Land Court Case 8637-C;
- 3.) Parcel ID 4230-232 (232 Mt. Vernon Street) Owned by Broadway Street Holdings, Inc., described in Book 31360, Page 236 and shown on Plan Book 66, Plan 86, Plan Book 194, Plan 123, and Plan Book 222, Plan 10;

And described as follows:

Beginning at the centerline of Mt. Vernon Street, said point being perpendicular to a point on the easterly side of Mt. Vernon Street at the intersection of 'Proposed Lot 1' and 'Proposed Lot 2';

Thence easterly twenty-five (25) feet to the easterly side of Mt. Vernon Street;

Thence easterly two hundred thirty-five & 26/100 (235.26) feet to the westerly lot line of land owned by Willie Street, LLC;

Thence northerly along the western lot line of land owned by Willie Street, LLC eighty-five & 75/100 (85.75) feet to the southern lot line of land owned by Common Ground Development Corporation;

Thence northwesterly along the southern lot lines of land owned by Common Ground Development Corporation and land owned by Dasy & Viroath Danh one hundred four & 94/100 feet;

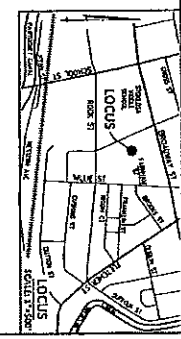
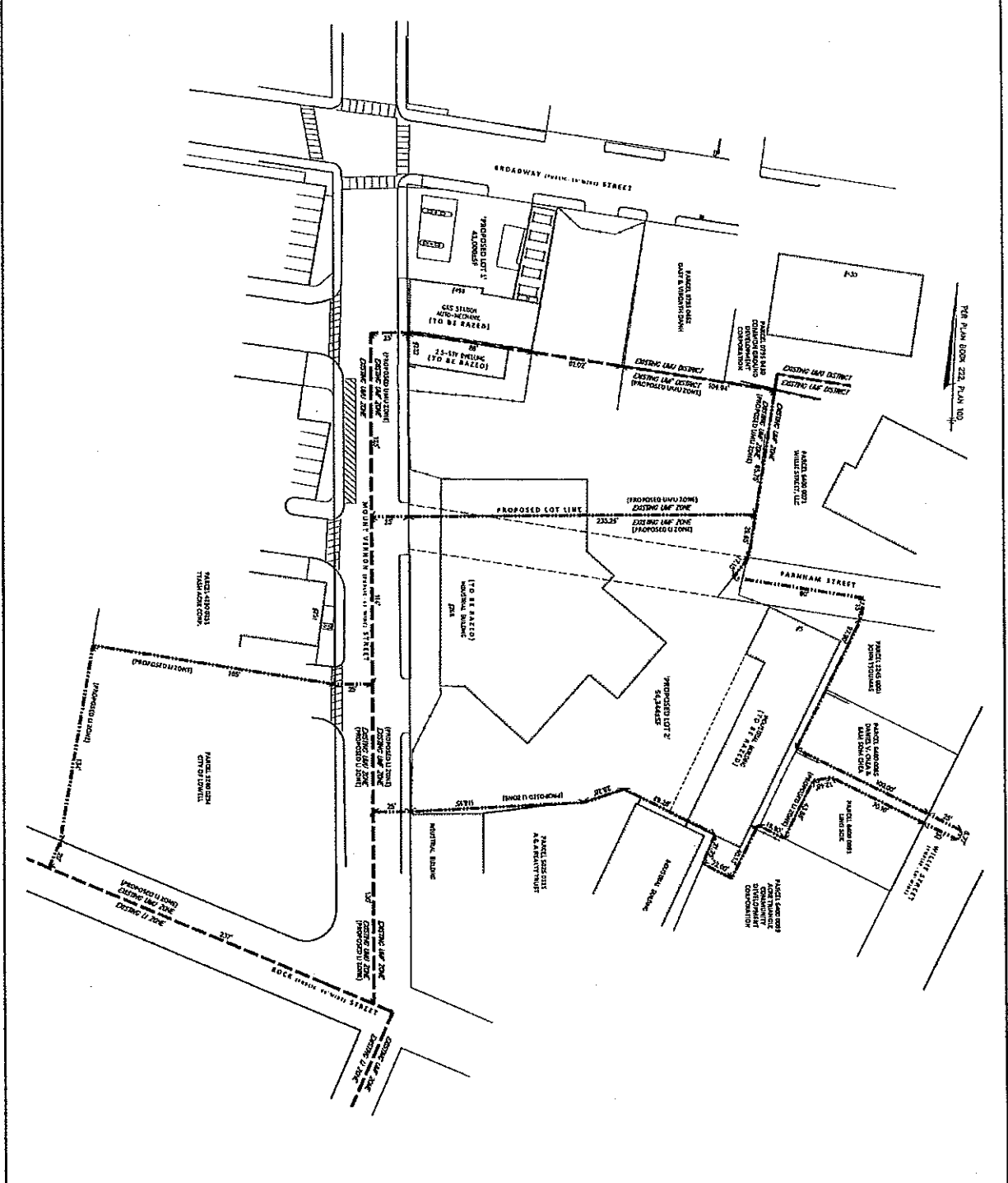
Thence northwesterly sixty-one & 02/100 (61.02) feet;

Thence northwesterly eighty-six (86) feet to the eastern side line of Mount Vernon Street;

Thence westerly twenty-five (25) feet to the center line of Mount Vernon Street;

Thence southerly along the center line of Mount Vernon Street about one hundred twenty-five (125) feet to the point of beginning.

PLAN BOOK 223, PLAN NO.



- ASSESSORS**
- 1. JOHN J. BROWN
 - 2. JOHN J. BROWN
 - 3. JOHN J. BROWN
 - 4. JOHN J. BROWN
 - 5. JOHN J. BROWN
 - 6. JOHN J. BROWN
 - 7. JOHN J. BROWN
 - 8. JOHN J. BROWN
 - 9. JOHN J. BROWN
 - 10. JOHN J. BROWN

- DEED REFERENCES**
- 1. BOOK 1, PAGE 200
 - 2. BOOK 1, PAGE 201
 - 3. BOOK 1, PAGE 202
 - 4. BOOK 1, PAGE 203
 - 5. BOOK 1, PAGE 204
 - 6. BOOK 1, PAGE 205
 - 7. BOOK 1, PAGE 206
 - 8. BOOK 1, PAGE 207
 - 9. BOOK 1, PAGE 208
 - 10. BOOK 1, PAGE 209

- PLAN REFERENCES**
- 1. PLAN BOOK 223, PLAN NO. 1
 - 2. PLAN BOOK 223, PLAN NO. 2
 - 3. PLAN BOOK 223, PLAN NO. 3
 - 4. PLAN BOOK 223, PLAN NO. 4
 - 5. PLAN BOOK 223, PLAN NO. 5
 - 6. PLAN BOOK 223, PLAN NO. 6
 - 7. PLAN BOOK 223, PLAN NO. 7
 - 8. PLAN BOOK 223, PLAN NO. 8
 - 9. PLAN BOOK 223, PLAN NO. 9
 - 10. PLAN BOOK 223, PLAN NO. 10

- NOTES**
1. EXISTING DIMENSIONS AND DISTANCES GIVEN IN THIS PLAN ARE APPROXIMATE AND SHOULD BE CHECKED IN THE FIELD BY THE PROPERTY OWNER AND SURVEYOR.
 2. ALL DIMENSIONS ARE GIVEN IN FEET AND INCHES.
 3. ALL DIMENSIONS ARE GIVEN TO THE CENTER OF THE LOT.
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- LEGEND**
- ADJACENT LOT BOUNDARY
 - - - - - PROPOSED LOT BOUNDARY
 - - - - - EXISTING LOT BOUNDARY
 - - - - - PROPOSED LOT LINE
 - - - - - EXISTING LOT LINE
 - - - - - PROPOSED LOT LINE
 - - - - - EXISTING LOT LINE
 - - - - - PROPOSED LOT LINE
 - - - - - EXISTING LOT LINE
 - - - - - PROPOSED LOT LINE
 - - - - - EXISTING LOT LINE

ZONING EXHIBIT PLAN

289,234, & 232 HIGHT VERNON STREET,
498 BROADWAY,
LOWELL, MASSACHUSETTS

PLAN PREPARED BY:
MORGAN HOUSE FOUNDATION
21 GEEK STREET
LOWELL, MASSACHUSETTS

PLAN PREPARED BY:
CIVIL ENGINEERING & SURVEYING
MORGAN HOUSE FOUNDATION
21 GEEK STREET
LOWELL, MASSACHUSETTS

DATE: MAY 23, 2018

SCALE: 1"=30'

DATE:

"B"

City of Lowell - Law Department

375 Merrimack Street, 3rd Floor • Lowell MA 01852-5909
Tel: 978.674.4050 • Fax: 978.453.1510 • www.lowellma.gov

Christine P. O'Connor
City Solicitor

Rachel M. Brown
1st Assistant City Solicitor

Gary D. Gordon
John Richard Hucksam, Jr.

Adam LaGrassa

Hannah Pappenheim

Elliott J. Veloso

James F. Wellock
Assistant City Solicitors

May 23, 2018

City Manager Eileen M. Donoghue
Mayor William Samaras
Members of the City Council

RE: Ordinance – Extend UMU Zone to include 232 and 234 Mt. Vernon Street; and
Extend LI zone to include 268 Mt. Vernon St., 294 School St., and 5 Farnham St.

Dear Manager Donoghue, Mayor Samaras and Members of the City Council:

The rezoning petition of Attorney George Theodorou on behalf of his clients Broadway Street Holdings, Inc. was referred to the Law Department to draft a proposed amendment to the Zoning Code.

The petition seeks two separate extensions (1) to extend the existing Urban Mixed-Use District (UMU zone) that is presently zoned Urban Neighborhood Multi-Family (UMF) at 232 and 234 Mt. Vernon Street; and (2) to extend Light Industry, Manufacturing & Storage District (LI Zone) to parcel 268 Mt. Vernon St. which is presently zoned Urban Neighborhood Multi-Family (UMF), and 294 School St which is presently zoned Urban Mixed-Use District (UMU zone) and 5 Farnham St which is presently zoned Urban Neighborhood Multi-Family (UMF).

After receiving a legal description from the petitioner I have drafted a proposed Ordinance, which is enclosed, and in accordance with Mass G.L. Ch.40A, §5, the Council must refer it to the Planning Board for a hearing, report and recommendation.

In reference to the proposed Ordinance the following paragraph states the opinion of this office as to whether the proposed zoning amendment would constitute "spot zoning."

The Courts have held that each requested change in zoning must be looked at individually, and from factual input presented to the City Council, such body is to make a determination as to whether the change is in furtherance of the Zoning Act, Mass. G.L. Chapter 40A.

The singling out of a parcel of land for zoning different from that of similar surrounding land may constitute "spot zoning." Not all changes of zoning are considered spot zoning however. The size of the parcel to be rezoned together with other factors with respect to the land and the surrounding land are to be considered in determining whether or not such a zoning change is proper. Our courts, which have upheld various zoning changes, have indicated that the change should be in furtherance of the objects of the zoning ordinance and such change should promote the public welfare.

May 23, 2018
City Manager Eileen M. Donoghue
Mayor William Samaras
Members of the City Council
Page 2.

It is my opinion that this petition does request an extension of the existing UMU Zone for 232 and 234 Mt. Vernon Street and does not constitute spot zoning. The requested zoning appears to be a natural extension of the existing UMU zone; and

It is my opinion that this petition does request an extension of the existing LI Zone for 268 Mt. Vernon Street, 294 School Street and 5 Farnham Street and does not constitute spot zoning. The requested zoning appears to be a natural extension of the existing LI zone; and

Accordingly, the proposed Ordinance should be referred to the Planning Board in accordance with Massachusetts General Laws, Chapter 40A, §5.

Very truly yours,



Rachel Brown
First Assistant City Solicitor

vote:zoning

cc: Planning Board
City Engineers
Diane Tradd-Asst C/M Dir. DPD
George Thodorou, Esq.