

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 Suburban Neighborhood Multi Family (SMF) zoning district to include in the areas of Rivers Edge Road in Lowell.

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: That existing zoning districts in the areas of Rivers Edge Road, 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 as shown on the Zoning District Extension Exhibit Plan.

A. By extending the existing SMF Zoning District (Suburban Neighborhood Multi-Family) to include an area presently zoned TTF (Traditional Neighborhood Two-Family) comprising an area of 12.5 acre parcel, and more particularly described on Exhibit "A", annexed hereto and made a part hereof and being shown on a copy of a plan which is hereto annexed marked Attachment "B".

B. The above area is shown on plan prepared by Whitman & Bingham Associates, LLC, 510 Mechanic Street, Leominster, MA and 21 Central Square, Suite 2, Chelmsford, MA 01824, entitled Proposed Rezoning Plan, prepared for O'Brien Homes July 2020, a copy of which is annexed hereto and made a part hereof and described as Exhibit 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:



Christine P. O'Connor
City Solicitor

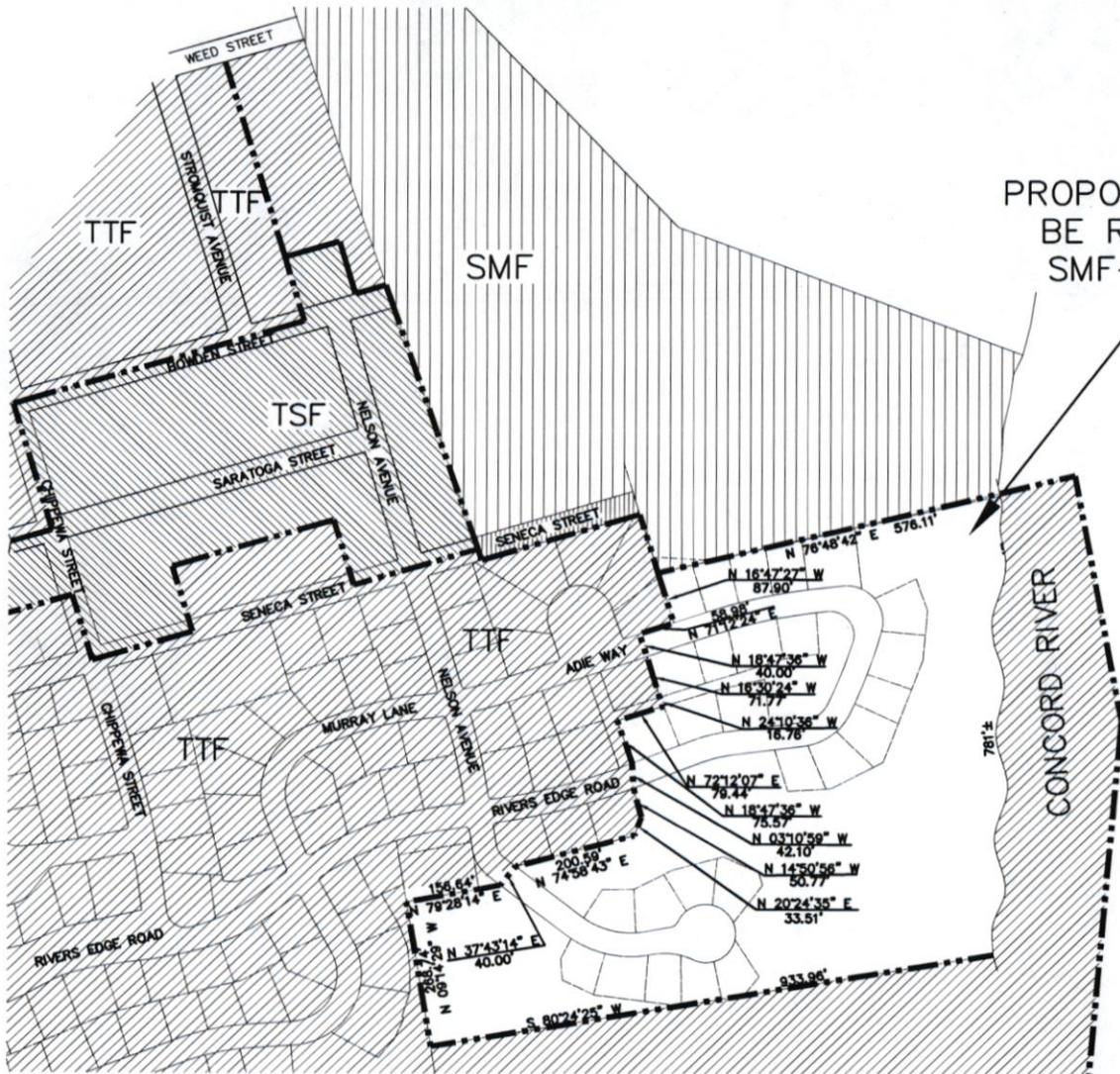
Ordinance/zoning/latestreversedge-reidentsfirs

Rezoned Area
Rivers Edge Rd
Lowell, MA

Beginning at the most southerly point of the area to be rezoned, in the City of Lowell, in the County of Northern Middlesex, Commonwealth of Massachusetts, bounded and described as follows;

Thence N 09°14'29" W a distance of 268.74 feet to a point;
Thence N 79°28'14" E a distance of 156.64 feet to a point;
Thence N 37°43'14" E a distance of 40.00 feet to a point;
Thence N 74°58'43" E a distance of 200.59 feet to a point;
Thence N 20°24'35" E a distance of 33.51 feet to a point;
Thence N 14°50'56" W a distance of 50.77 feet to a point;
Thence N 03°10'59" W a distance of 42.10 feet to a point;
Thence N 18°47'36" W a distance of 75.57 feet to a point;
Thence N 72°12'07" E a distance of 79.44 feet to a point;
Thence N 24°10'36" W a distance of 16.76 feet to a point;
Thence N 16°30'24" W a distance of 71.77 feet to a point;
Thence N 18°47'36" W a distance of 40.00 feet to a point;
Thence N 71°12'24" E a distance of 58.98 feet to a point;
Thence N 16°47'27" W a distance of 87.90 feet to a point;
Thence N 76°48'42" E a distance of 576 feet more or less to a point at the Concord River;
Thence Southerly by said Concord River a distance of 781 feet more or less to a point;
Thence S 80°24'25" W a distance of 933 feet more or less to point of beginning.

The above described area contains an area of 12.5 acres more or less, and is more particularly shown on a plan entitled: "Proposed Rezoning Plan in Lowell, MA, prepared for O'Brien Homes dated September 9, 2020, prepared by Whitman & Bingham Associates, LLC.



PROPOSED AREA TO
BE REZONED TO
SMF-12.5 AC.±

NOTES:

1. DEED REFERENCE: RESIDENTS FIRST DEVELOPMENT CORP. BK. 16926, P. 249
2. PLAN REFERENCES: P.B. 215, P. 60
P.B. 219, 79
P.B. 222, P. 38
P.B. 231, P. 104
P.B. 237, P. 16
3. THE SUBJECT PREMISES IS GRAPHICALLY SITUATED IN THE TTF ZONING DISTRICT. THIS AREA IS PROPOSED TO REZONE TO SMF.

PROPOSED REZONING PLAN

IN LOWELL, MA

PREPARED FOR

O'BRIEN HOMES

JULY, 2020 REVISED: 09-03-20

200 0 200 400

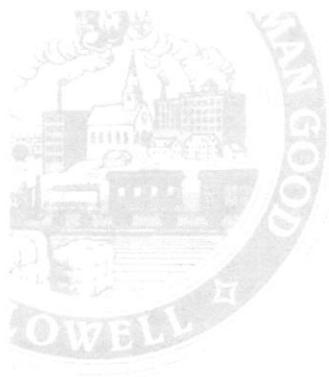


WHITMAN & BINGHAM ASSOCIATES, LLC

REGISTERED PROFESSIONAL ENGINEERS & LAND SURVEYORS

510 MECHANIC STREET - LEOMINSTER, MASSACHUSETTS 01453
21 CENTRAL SQUARE, SUITE 2 - CHELMSFORD, MASSACHUSETTS 01824

EXHIBIT "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

Kerry Regan Jenness
1st Assistant City Solicitor

John Richard Hucksam, Jr.
Stacie M. Moeser
Elliott J. Veloso
Assistant City Solicitors

October 6, 2020

City Manager Eileen M. Donoghue
Mayor John J. Leahy
Members of the City Council

RE: Ordinance – Extend SMF Zone to include Rivers Edge Road

Dear Madam Manager, Mayor Leahy and Members of the City Council:

The rezoning petition of the Law Offices of Kevin J. Murphy on behalf of Residents First Development Corp – Rivers Edge (Reinvention of Julian D. Steele) was referred to the Law Department to draft a proposed amendment to the Zoning Code.

The petition seeks to extend the existing Suburban Neighborhood Multi Family (SMF) zoning district that is presently zoned TTF (Traditional Neighborhood Two-Family) at Rivers Edge (Reinvention of Julian D. Steele).

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, sec.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.

October 6, 2020
City Manager Eileen M. Donoghue
Mayor John J. Leahy
Members of the City Council
Page 2.

It is my opinion that this petition does request an extension of the existing SMF Zone for the above referenced parcels and does not constitute spot zoning. The requested zoning appears to be a natural extension of the existing SMF zone.

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

Very truly yours,



Christine P. O'Connor
City Solicitor

vote:zoning

cc: Planning Board
Ting Chang - City Engineer
Diane Tradd-Asst C/M Dir. DPD
Kevin J. Murphy, Esq.