

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 LI zoning district to include 25 Olney Street 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 Olney 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 as described below:

A. The land in said Lowell, and more particularly described on Exhibit "A", annexed hereto and made a part hereof.

B. The above area is also shown on plan prepared by Land Engineering & Environmental Services, Inc., 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:



Michael Carlson

EXHIBIT A
Proposed Zoning Change.
25 Olney St.

The land on Olney Street, in Lowell, Middlesex County, Massachusetts, bounded and described as follows:

Beginning on the northerly side of said Olney Street at the easterly corner of the premises at a spike set in the pavement distant westerly, one hundred twenty-four and 48/100 (124.48) feet from a stone bound at the intersection of the northerly line of said Olney Street with the westerly line of Gorham Street;

Thence at a right angle with said Olney Street northwesterly along Lot #30 on a plan hereinafter named, sixty-three and 56/100 (63.56) feet to an iron pin set at the border of Lot #35 on said plan;

Thence, westerly along said Lot #35 and Lot #36 on said plan, forty-six and 84/100 (46.84) feet to a nail set in concrete at Lot #20 on said plan;

Thence southeasterly along said Lot #20, eighty-five (85) feet to an iron pin set at said Olney Street;

Thence southeasterly to the centerline of Olney St.

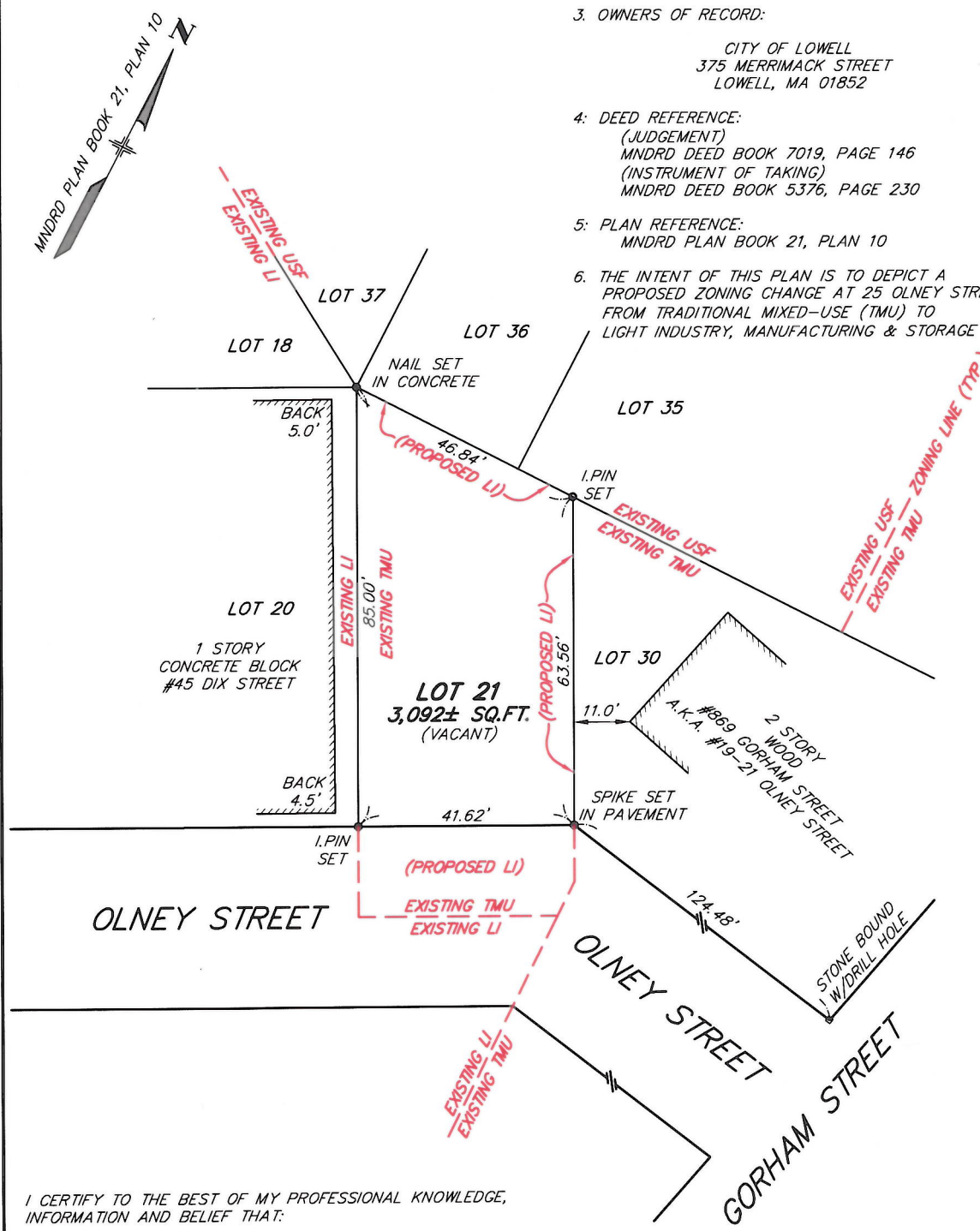
Thence northeasterly along the centerline of Olney St. to the boundary of the existing Light Industry, Manufacturing and Storage ("LI") Zone;

Thence northerly along two legs of the boundary of the existing Light Industry, Manufacturing and Storage ("LI") Zone to the point of beginning.

Containing three thousand ninety two (3,092) square feet, more or less, and being Lot #21 on a plan of land entitled "Plot Plan – Zoning Change, 25 Olney Street., Lowell, Massachusetts," prepared by Land Engineering and Environmental Services, Inc., dated May 18. 2017.

NOTES:

1. ASSESSORS MAP 183, BLOCK 4220, PARCEL 25
2. ZONING DISTRICT - TRADITIONAL MIXED-USE (TMU)
3. OWNERS OF RECORD:
CITY OF LOWELL
375 MERRIMACK STREET
LOWELL, MA 01852
4. DEED REFERENCE:
(JUDGEMENT)
MNRD DEED BOOK 7019, PAGE 146
(INSTRUMENT OF TAKING)
MNRD DEED BOOK 5376, PAGE 230
5. PLAN REFERENCE:
MNRD PLAN BOOK 21, PLAN 10
6. THE INTENT OF THIS PLAN IS TO DEPICT A PROPOSED ZONING CHANGE AT 25 OLNEY STREET FROM TRADITIONAL MIXED-USE (TMU) TO LIGHT INDUSTRY, MANUFACTURING & STORAGE (LI).



I CERTIFY TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, INFORMATION AND BELIEF THAT:

THIS SURVEY AND PLAN CONFORMS TO THE ETHICAL, PROCEDURAL AND TECHNICAL STANDARDS FOR THE PRACTICE OF LAND SURVEYING IN THE COMMONWEALTH OF MASSACHUSETTS.

FOR REVIEW

PROFESSIONAL LAND SURVEYOR

DATE

PLOT PLAN - ZONING CHANGE

25 OLNEY STREET
LOWELL, MASSACHUSETTS

SCALE: 1"=20' MAY 18, 2017

PREPARED FOR
KEVIN FERNANDES

PREPARED BY
Land Engineering & Environmental Services, Inc.
130 Middlesex Road, Tyngsboro, Massachusetts 01879
Telephone (978) 649-4642

JOB NO. 440-02

SHEET 1 OF 1



City of Lowell - Law Department

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June 23, 2017

City Manager Kevin J. Murphy
Mayor Edward J. Kennedy
and
Members of the City Council

REFERENCE: Rezoning of 25 Olney St.

Dear Mr. Manager, Mayor Kennedy and Members of the City Council:

The rezoning petition of Attorney John Geary on behalf of his clients Kevin and Debbie Fernandes was referred to the Law Department to draft a proposed amendment to the Zoning Code.

The petition seeks to extend the existing Light Industry, Manufacturing & Storage (LI) district that is presently zoned Traditional Mixed Use (TMU) at 25 Olney Street.

Mr. and Mrs. Fernandes signed a purchase and sale agreement to buy the property from the City. Mr. Fernandes is the owner of the nearby Mario's Furniture and he desires to use the property for business-related storage and for employee parking. The Fernandes' obligation to purchase the property is contingent upon the proposed rezoning.

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

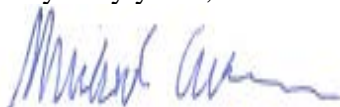
June 23, 2017
City Manager Kevin J. Murphy
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Page 2.

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.

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

A handwritten signature in blue ink, appearing to read "Michael Carlson".

Michael Carlson
Assistant City Solicitor

vote:zoning

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