

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 INST zoning district to include all of 39 Plymouth Street in Lowell.

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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 area of 39 Plymouth 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 is hereby extended as described below:

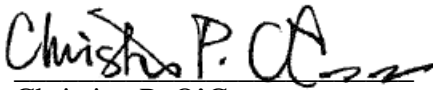
A. The land in said Lowell, and more particularly described on Exhibit "A", annexed hereto and made a part hereof.

B. The above area is also shown on plan from the City of Lowell Massachusetts GIS, 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:

  
Christine P. O'Connor  
City Solicitor

Ordin/zoning/39plymouth

DESCRIPTON PORTION OF  
39 PLYMOUTH STREET

The land in said Lowell, Middlesex County, Massachusetts, situated on the north easterly side of Plymouth Street and being shown as Part of Lot C on a plan of land entitled "Plan of Land & Buildings in the City of Lowell, Mass., belonging to Lizzie McClean Carney" Prepared by Smith & Brooks, C.E.'s, April 26, 1919" which plan is recorded in Middlesex North District Registry of Deeds, Plan Book 59, Plan 59B and being bounded and described as follows:

Beginning at a point at the westerly corner of the lot labeled as "Lot C", said point being a distance of One Hundred Sixty Nine and 98/100 (169.98) feet southeasterly from the southeasterly sideline of Riverside Street.

Thence:           Northeasterly at an angle of 90 degrees with said Plymouth Street, Eighty Nine and 98/100 (89.98) feet to a point;

Thence:           northwesterly at an angle of 90° from last said line, Ninety Two and 15/100 (92.15) feet to a stonebound;

Thence:           continuing northwesterly, Fourteen and 28/100 (14.28) feet to a point;

Thence:           southwesterly at an angle of 89° 33' from last said line, Eighty Nine and 98/100 (89.98) feet to a point;

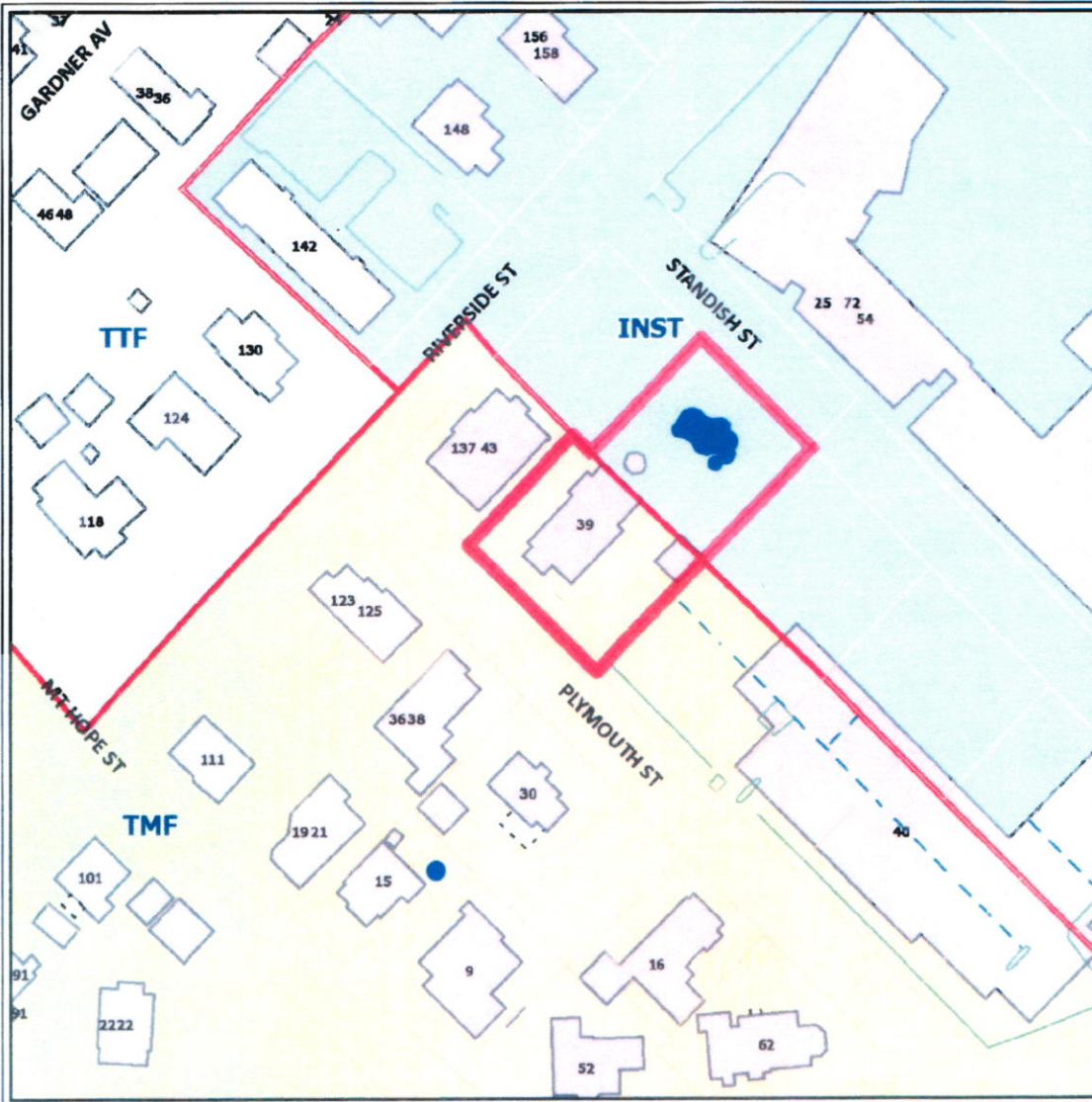
Thence:           southeasterly at an angle of 90° 27' from last said line, One Hundred Five and 65/100 (105.65) feet to the point of beginning;

Said Parcel contains Nine Hundred Twenty eight (9540±) square feet.

"A"



### City of Lowell Massachusetts



- Lowell Boundary
- Parcels
- Zoning Boundary
- Buildings
  - Building
  - Foundation
  - Mobile Home
  - Tank
  - Deck
  - Pool - Above Ground
  - Pool - In-Ground
- Zoning
  - USF
  - HCD
  - INST
  - NB
  - RR
  - LI
  - GI
  - OP
  - HRC
  - SMU
  - UMU
  - PDMI
  - PDMU
  - SSF
  - TSF
  - SMF
  - TTF
  - TMF
  - UMF
  - DMU
  - TMU

**DISCLAIMER**  
 Any map printed from this system is considered unofficial unless it has been stamped/signed/certified by the Office of the City Assessor. The City of Lowell makes no warranty of Representation as to the accuracy, timeliness or Completeness of any of the data. The City of Lowell Shall have no liability for the data or lack thereof, or Any decision made or action taken or not taken in Reliance upon any of the data.  
 1" = 80 ft      April 18, 2018

"B"



## City of Lowell - Law Department

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*City Solicitor*

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**Gary D. Gordon**  
**John Richard Hucksam, Jr.**

**Adam LaGrassa**  
**Hannah Pappenheim**

**Elliott J. Veloso**  
**James F. Wellock**

*Assistant City Solicitors*

April 26, 2018

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

RE: Ordinance – Extend INST Zone to include all of 39 Plymouth Street

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

The rezoning petition of Mr. Tirso Chavez, Plymouth Street Realty LLC was referred to the Law Department to draft a proposed amendment to the Zoning Code.

The petition seeks to extend the existing Institutional mixed-use (INST) zoning district that is presently zoned half Traditional Neighborhood Multi-Family (TMF) and half Institutional mixed-use (INST). It is the desire to have the property zoned as all inclusive Institutional mixed-use (INST) at 39 Plymouth Street.

After receiving a legal description of the portion of property the petitioner wishes to have rezoned, 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.

April 26, 2018  
City Manager Eileen M. Donoghue  
Mayor William Samaras  
Members of the City Council  
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It is my opinion that this petition does request an extension of the existing INST Zone for the above referenced parcel and does not constitute spot zoning. The requested zoning appears to be a natural extension of the existing INST 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 black ink that reads "Christine P. O'Connor". The signature is written in a cursive style with a large, stylized "C" and "O".

Christine P. O'Connor  
City Solicitor

vote:zoning

cc: Planning Board  
City Engineer  
Diane Tradd-Asst C/M Dir. DPD  
Tirso Chavez, Plymouth St. Realty LLC