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Barney S. Heath
Director

MEMORANDUM

DATE: June 26, 2020

TO: Councilor Deborah Crossley, Chair, Zoning & Planning Committee
Members of the Zoning & Planning Committee

FROM: Barney Heath, Director, Department of Planning and Development
Zachery LeMel, Chief of Long Range Planning

RE: **#287-20 Rezoning of Takings to Public Use**
DIRECTOR OF PLANNING requesting change of zone to Public Use for portions of land located at 23 Parkview Avenue (currently MR1) acquired in 2016 for the expansion of Cabot School, and at 300 Hammond Pond Parkway, known as Webster Woods, (currently SR1) acquired in 2019 for open space use and conservation purposes.

MEETING: June 29, 2020

CC: City Council
Planning Board
Conservation Planning Commission
Newton Planning Department – Conservation Office

Background Information

23 Parkview (Cabot School)

On March 7, 2016, the City Council voted that the public necessity and convenience required the acquisition by eminent domain of the parcel of land, known as 23 Parkview Avenue ("23 Parkview"). 23 Parkview was acquired under General Law Chapter 79 of the Massachusetts General Laws in the amount of \$1,000,000 (Attachment A).

23 Parkview was taken as part of the expansion of Cabot School to allow for the desired site plan and circulation needed to complete the Cabot Elementary School Project. The acquisition of the property allowed the City to maintain adequate setbacks, provide land area for parking, vehicular and pedestrian site circulation, landscaping, and stormwater systems. Most importantly, the acquisition of this property allowed the City to connect Parkview Avenue to Bridges Avenue, which ultimately allowed for a viable parent drop-off area directly adjacent to one of the main entries to the school. With the taking complete, the City now needs to rezone 23 Parkview from its current zoning of Multi-Residence 1 (MR1) to Public Use (PUB) (Attachment B). The decision to rezone 23 Parkview to PUB is to be consistent with the existing Cabot School parcel zone PUB.

Webster Woods

On December 2, 2019, the City Council voted, upon the recommendation of the Conservation Commission, the Community Preservation Committee and the Mayor, to acquire 17.4 acres of undeveloped woodlands on a portion of a lot located at 300 Hammond Pond Parkway ("300 HPP"), Chestnut Hill, MA Newton Centre, MA 02467; north of state Dept. of Conservation & Recreation Hammond Pond Reservation, abutting City of Newton Webster & Cohen Conservation Areas accessed from Warren & Elgin Streets, Newton Centre, MA 02459 (Attachment C). The parcel was taken in fee by eminent domain, in the amount of \$15,200,000, pursuant to Chapter 79 of the General Law as authorized by Chapter 40C, sec. 8 and Chapter 44B, sec. 5 (e) of the General Law for open space and conservation purposes.

The goal of taking this property is to protect the open space character of this property and ensure public access for passive recreation. With the taking complete, the City now needs to rezone 300 HPP from its current zoning of Single Residence 1 (SR1) to Public Use (PUB) (Attachment D). The decision to rezone 300 HPP to PUB is to be consistent with all other adjacent parcels already zoned PUB. In addition, PUB is the most appropriate zoning designation for conservation parcels as all other City-owned parcels with Conservation Restrictions are also zoned PUB.

Concurrently, City Staff is working to place a Conservation Restriction on 300 HPP, which is a requirement of the CPA funds used to acquire it. To complete the Conservation Restriction the City Council will need to vote on it in the future and will go through ZAP.

Meeting Goal

To proceed with the rezoning of 23 Parkview and 300 HPP the Zoning and Planning Committee must set a public hearing, which is the purpose of taking up this docket item at the upcoming meeting.

Attachments

Attachment A City Council Order – 23 Parkview Avenue

Attachment B 23 Parkview Avenue Zoning Map – Current and Proposed

Attachment C City Council Order – 300 Hammond Pond Parkway (Webster Woods)

Attachment D 300 Hammond Pond Parkway Zoning Map – Current and Proposed

CITY OF NEWTON

IN CITY COUNCIL

March 7, 2016

ORDER OF TAKING
FOR SCHOOL PURPOSES
23 PARKVIEW AVENUE

WHEREAS, in the opinion of the City Council the public necessity and convenience require the acquisition by eminent domain of the parcel of land, together with improvements thereon, known as 23 Parkview Avenue ("the Parcel"); and

WHEREAS, the Parcel consists of approximately 4,300 square feet with buildings thereon, as described in a deed dated August 29, 2002 and recorded on August 30, 2002, with Middlesex County Registry of Deeds, at Book 36268 Page 454; and

WHEREAS, the City has authorized and received an independent professional appraisal of the value of the Parcel; and

THEREFORE, by vote of the City Council, acting on behalf of the City of Newton under General Laws Chapter 79 of the Massachusetts General Laws, it is hereby

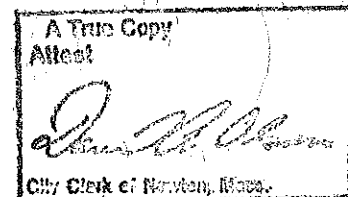
ORDERED: That the Parcel be and hereby is taken in fee, together with all rights, title and interest in the Parcel. So far as is known to the Council, the owner and mortgagee for the Parcel are as follows:

Record Owner: Alan Potter and Daphne Potter
Bk 36268 Pg 454

Mortgagee: MSA Mortgage, LLC
Bk 59461 Pg 560

In accordance with General Laws Chapter 79, it is further

ORDERED: That the award of damages in the amount of one million dollars (\$1,000,000.00) is hereby made as a result of this eminent domain taking, to be paid to the persons entitled thereto; and it is further




ORDERED: That in accordance with General Laws Chapter 79 Section 1, the trees upon and structures affixed to said Parcel are hereby included as part of this taking; and it is further

ORDERED: That the Parcel is taken for school use; and that custody and management of the Parcel is hereby assigned to the Newton Public Schools.

Under Suspension of Rules

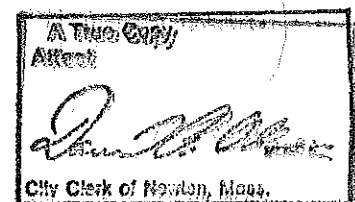
Readings Waived and Approved

21 yeas 0 nays 3 absent (Councilors Laredo, Lipof, and Sangiolo)


(SGD) DAVID A. OLSON
City Clerk


(SGD) SETTI D. WARREN
Mayor

Date: 3/9/2014



23 Parkview Avenue - Existing Zoning

City of Newton, Massachusetts



CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller

0 50 100 200
Feet

Map Date: June 18, 2020



The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

23 Parkview Avenue - Proposed Zoning

City of Newton, Massachusetts



CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller

0 50 100 200
Feet

Map Date: June 18, 2020



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CITY OF NEWTON

IN CITY COUNCIL

December 2, 2019

ORDER OF TAKING

WHEREAS, upon the recommendation of the Conservation Commission, the Community Preservation Committee and Her Honor the Mayor, and in the opinion of the City Council of the City of Newton, the public necessity and convenience require that approximately 17.4 acres of undeveloped woodlands (the "Parcel"), being a portion of a lot located at 300 Hammond Pond Parkway, Newton, Middlesex County, Massachusetts (SBL 65008 0003) be taken in fee by eminent domain pursuant to Chapter 79 of the General Law as authorized by Chapter 40C, sec. 8 and Chapter 44B, sec. 5 (e) of the General Law for open space and conservation purposes; and

WHEREAS, the Parcel is a portion of the lands conveyed in a deed dated May 20, 2016 from Congregation Mishkan Tefila, a Massachusetts religious corporation, to the Trustees of Boston College, a Massachusetts Institution of Higher Education, recorded with the South Middlesex Registry at Book 67338 Page 386; and

WHEREAS, the City authorized and received an independent professional appraisal of the value of the Parcel; and

WHEREAS, the Community Preservation Committee has determined that acquisition of the Parcel, which borders the Webster Conservation Area and the Hammond Pond Reservation held by the Massachusetts Division of Conservation and Recreation, constitutes acquisition of land for open space purposes; and the City Council hereby approves expenditure of Community Preservation funding for such purpose;

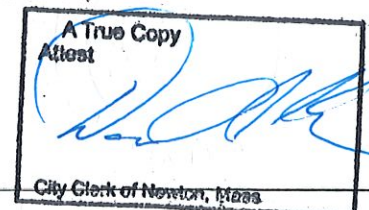
THEREFORE, by vote of the City Council, acting on behalf of the City of Newton under Chapter 79 of the Massachusetts General Laws, it is hereby

ORDERED: That the following described Parcel be and hereby is taken in fee, together with all rights, title and interest in the Parcel.

Beginning at a point in the southwesterly sideline of Carlisle Street at land now or formerly of the City of Newton thence;

N62°08'35"E forty and sixty six hundredths (40.66) feet to a point, thence turning and running;

S17°32'05"E forty and thirty six hundredths (40.36) feet to the point, thence;



Attachment C

Along a curve to the left having a radius of one hundred seventy and zero hundredths (170.00) feet a length of eighty two and thirty four hundredths (82.34) feet, and a chord of $S31^{\circ}24'37''E$ eighty one and fifty four hundredths (81.54) feet to a point, thence;

Along a curve to the left having a radius of twenty and zero hundredths (20.00) feet a length of thirty two and fifty three hundredths (32.53) feet, and a chord of $N88^{\circ}07'05''E$ twenty nine and six hundredths (29.06) feet to a point, thence;

Along a curve to the right having a radius of five hundred seventy one and thirty nine hundredths (571.39) feet a length of three hundred fourteen and fifty seven hundredths (314.57) feet, and a chord of $N57^{\circ}17'38''E$ three hundred ten and sixty one hundredths (310.61) feet to a point, thence;

$N73^{\circ}04'09''E$ ninety one and fifty seven hundredths (91.57) feet to the point, thence;

Along a curve to the right having a radius of five hundred thirty four and forty one hundredths (534.41) feet a length of four hundred ninety one and twenty eight hundredths (491.28) feet, and a chord of $S80^{\circ}35'42''E$ four hundred seventy four and sixteen hundredths (474.16) feet to a point, thence;

$S54^{\circ}15'35''E$ one hundred thirty and forty five hundredths (130.45) feet to the point, thence;

Along a curve to the left having a radius of two thousand nine hundred thirteen and thirty one hundredths (2913.31) feet a length of thirty five and eighty six hundredths (35.86) feet, and a chord of $S54^{\circ}36'44''E$ thirty five and eighty six hundredths (35.86)

$S30^{\circ}04'12''W$ one hundred and nineteen hundredths (100.19) feet to a point, thence turning and running;

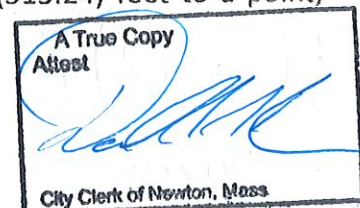
$S58^{\circ}06'41''E$ eighty three and thirteen hundredths (83.13) feet to a point, thence turning and running;

$S29^{\circ}43'29''W$ two hundred fifty three and thirty eight hundredths (253.38) feet to a point, thence;

Along a curve to the left having a radius of forty three and ninety seven hundredths (43.97) feet a length of sixty three and sixty three hundredths (63.63) feet, and a chord of $S11^{\circ}43'42''E$ fifty eight and twenty two hundredths (58.22) feet to a point, thence;

$S58^{\circ}41'43''E$ seventy nine and sixty four hundredths (79.64) feet to a point, thence turning and running;

$N31^{\circ}05'51''E$ three hundred fifteen and twenty four hundredths (315.24) feet to a point, thence turning and running;



Attachment C

S70°47'10"E eighty seven and eighty two hundredths (87.82) feet to a point, thence;

Along a curve to the right having a radius of thirty and zero hundredths (30.00) feet a length of thirty eight and thirty one hundredths (38.31) feet, and a chord of S34°12'12"E thirty five and seventy six hundredths (35.76) feet to a point, thence;

S02°22'46"W four hundred fifty five and fifty three hundredths (455.53) feet to a point on the northerly boundary of land of the Commonwealth of Massachusetts Department of Conservation and Recreation thence turning and running;

S88°39'41"W by land of said Commonwealth of Massachusetts four hundred nine and ninety four hundredths (409.94) feet to a point, thence turning and running;

N63°39'46"W nine hundred forty and zero hundredths (940.00) feet to a point, thence;

Along a curve to the right having a radius of five hundred seventy one and thirty nine hundredths (571.39) feet a length of one hundred forty two and eighty two hundredths (142.82) feet, and a chord of N01°43'12"W one hundred forty two and forty five hundredths (142.45) feet to a point, thence ;

Along a curve to the left having a radius of three hundred fifteen and twenty four hundredths (315.24) feet a length of fourteen and eighty seven hundredths (14.87) feet, and a chord of N04°05'21"E fourteen and eighty seven hundredths (14.87) feet to a point, thence;

N02°44'16"E ten and fifty eight hundredths (10.58) feet to a point in the line of other lands of the City of Newton, thence;

Along a curve to the left having a radius of three hundred fifteen and sixty hundredths (315.60) feet a length of one hundred eleven and sixty seven hundredths (111.67) feet, and a chord of N07°23'55"W one hundred eleven and nine hundredths (111.09) feet thence;

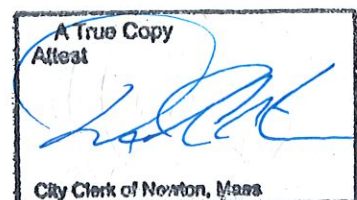
N17°32'05"W seventy nine and seven hundredths (79.07) feet to the point and place of beginning.

The above described parcel contains about seven hundred fifty six thousand nine hundred thirty six (756,936) square feet or seventeen and four tenths (17.4) acres, more or less.

So far as is known to the Council, the owner and mortgagee for the Parcel are as follows:

Record Owner: Trustees of Boston College
Bk 67338 Pg 386

Mortgagee: None



Attachment C

In accordance with General Laws Chapter 79, it is further

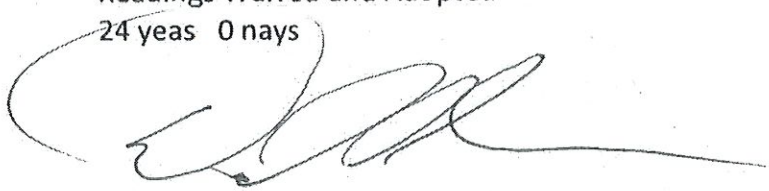
ORDERED: That upon the recommendation of the Community Preservation Committee and Her Honor the Mayor, the award of damages in the amount of Fifteen Million Two Hundred Thousand Dollars (\$15,200,000) is hereby made as a result of this eminent domain taking, to be paid to the persons entitled thereto; and the expenditure therefor by the City Solicitor is authorized and approved; and it is further


ORDERED: That the Parcel is taken for open space use and conservation purposes; and that custody and management of the Parcel is hereby assigned to the Conservation Commission, and it is further

ORDERED that this taking is subject to any restrictions or easements of record, and more specifically, an easement to New England Telephone and Telegraph Company and Boston Edison Company, and their successors and assigns forever as tenants in common with quitclaim covenants, to erect, operate, maintain and remove a line of poles with the necessary cables, wires, anchors, guys, supports and fixtures thereon for the transmission of electricity and the transmission of intelligence by electricity recorded in the Middlesex South Registry of Deeds Bk 9038 Pg 443, and it is further

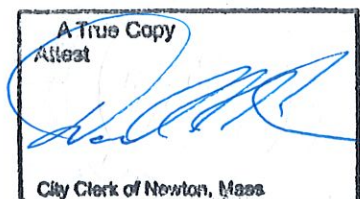
ORDERED: That in accordance with General Laws chapter 79 section 1, the trees and waters upon and structures affixed to said land are hereby included as part of this taking, except that all existing light poles and all existing cables, wires, anchors, guys, supports and fixtures thereon for the transmission of electricity and the transmission of intelligence by electricity are excluded from this taking.

Under Suspension of Rules
Readings Waived and Adopted
24 yeas 0 nays


(SGD) DAVID A. OLSON
City Clerk

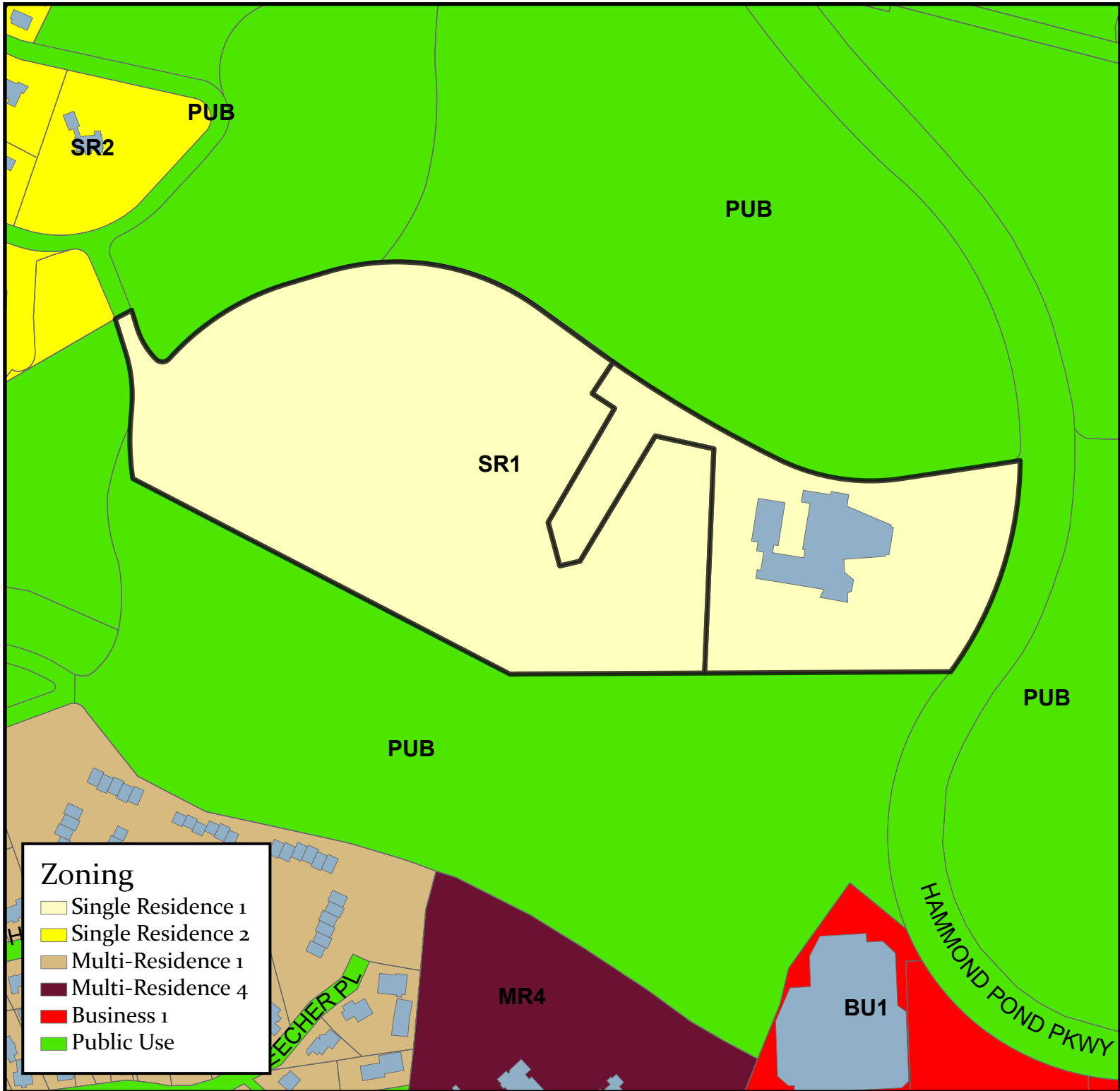

(SGD) RUTHANNE FULLER
Mayor

Date: 12/4/19



300 Hammond Pond Parkway - Existing Zoning

City of Newton, Massachusetts



300 Hammond Pond Parkway - Proposed Zoning

City of Newton, Massachusetts

