



Programs & Services Committee Agenda

City of Newton In City Council

Wednesday, September 20, 2023

7:00 PM

The Programs & Services Committee will hold this meeting as a virtual meeting on Wednesday, September 20, 2023 at 7:00 pm. To view this meeting using Zoom use this link: <https://newtonma-gov.zoom.us/j/81012491659> or call 1-646-558-8656 and use the Meeting ID: 810 1249 1659.

Items Scheduled for Discussion:

Chair's Note: The Committee will discuss the schedule for upcoming meetings regarding the following two items.

Referred to Programs & Services and Finance Committees

#411-22

Request for Amendment to Chapter 21, Art III Trees to extend tree protection and update permits

COUNCILORS MALAKIE, NORTON, LEARY, RYAN, WRIGHT, LUCAS, HUMPHREY, BOWMAN, MARKIEWICZ, OLIVER, DOWNS, LAREDO, AND GROSSMAN requesting revisions and amendments to Chapter 21, Art. III Trees (sec. 21-60 through 21-89) to extend tree protection to all trees 6 inches DBH (diameter at breast height) and greater within the City (with no exempt lots); to update tree removal permits, fees, and compensation; and to strengthen protection for existing and replacement trees.

Programs & Services Held 7-0 (Councilor Noel Not Voting) on 08/16/23

Referred to Programs & Services and Finance Committees

#412-22

Request for Review and Amendments to Chapter 21, Art. III, Division 3

HER HONOR THE MAYOR requesting review and amendments to Chapter 21, Art. III, Division 3, Tree Preservation to increase replacement requirements for larger trees, add protections for smaller trees, limit removal of trees without replacement, enhance procedures for protecting trees, increasing payment

The location of this meeting is accessible and reasonable accommodations will be provided to persons with disabilities who require assistance. If you need a reasonable accommodation, please contact the City of Newton's ADA Coordinator, Jini Fairley, at least two business days in advance of the meeting: jfairley@newtonma.gov or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.

required for trees cut without replacement, protect trees on lots adjacent to construction, provide Tree Warden with additional professional input on trees on private properties.

Programs & Services Held 7-0 (Councilor Noel Not Voting) on 08/16/23

#300-23

Request for Confirmatory Order of Taking for Webster Woods

HER HONOR THE MAYOR requesting a Confirmatory Order of Taking for Webster Woods and a litigation update from the Law Department.

Note: A motion for Executive Session may be entertained

**Respectfully Submitted,
Josh Krintzman, Chair**



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Office of the Mayor

#300-23

Telephone
(617) 796-1100

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(617) 796-1113

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(617) 796-1089

Email
rfuller@newtonma.gov

August 25, 2023

Honorable City Council
Newton City Hall
1000 Commonwealth Avenue
Newton Centre, MA 02459

Dear Councilors:

I respectfully submit a docket item to your Honorable Council requesting that the City Council pass the attached Confirmatory Order of Taking for Webster Woods. The original Order of Taking used a metes and bounds description of the portion of the parcel the City took which was based on a survey of the entire parcel done by BC shortly after it purchased the property. That survey stated that the parcel was approximately 25 acres in total.

The City had a new survey prepared in order to set boundary markers and to prepare a Taking Plan to be recorded in the South Middlesex Registry of Deeds. This new survey, done by CHA, revealed errors in the metes and bounds described in the original survey which resulted in the total size of the parcel being overstated by approximately 2 acres. Also attached here is a plan showing the area erroneously included by the original survey versus the CHA survey.

Accordingly, the City has prepared a Confirmatory Order of Taking which will correct the error and accurately reflect the boundary between Webster Woods, BC and the MDC/DRC, as well as the actual acreage of the Webster Woods parcel and BC's remaining lands.

This Confirmatory Order does not affect the City's ownership of Webster Woods nor does the Council's consideration of this Order require action by the Conservation Commission or the Community Preservation Committee.

Thank you for your consideration of this matter.

Sincerely,

Ruthanne Fuller
Mayor

RECEIVED
2023 AUG 28 PM 2:29
CITY CLERK
NEWTON, MA 02459

CITY OF NEWTON

IN CITY COUNCIL

[DATE]

CONFIRMATORY ORDER OF TAKING

WHEREAS, on December 24, 2019 the City of Newton recorded an Order of Taking, dated December 2, 2019, at the Middlesex South Registry of Deeds in Book 73890, Page 239, taking a parcel of land constituting a portion of a lot located at 300 Hammond Pond Parkway, Newton, Middlesex County, Massachusetts, and

WHEREAS, the description of the parcel of land taken was discovered to have contained certain errors, and

WHEREAS, the City of Newton has caused a survey to be made of the entire lot at 300 Hammond Pond Parkway, including both the portion of the lot intended to be taken as well as the remainder property not taken, and a "Taking Plan" based on such survey to be created, which "Taking Plan" is identified below, and

WHEREAS, the City of Newton desires to correct the record as to the description of the portion of said lot actually taken and the portion of the lot remaining.

NOW THEREFORE, the City of Newton, in City Council, has duly enacted the following to be hereby recorded as a CONFIRMATORY ORDER OF TAKING solely to correct the record as to the description of the land actually taken by Order of Taking recorded on December 24, 2019 at the Middlesex South Registry of Deeds in Book 73890, Page 239, to wit:

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 14.766 Acres more or less 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 being Taken 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 Middlesex South District Registry of Deeds in Deed Book 67338, Page 386, and said Parent Parcel being shown on a plan entitled "Commonwealth of Massachusetts, Metropolitan District Commission, Park Division, Hammond Pond Parkway, Newton, Plan of Land to be conveyed to Trustees of Congregation Mishkan Tefila, scale 1"=100', date July 22, 1954, Benjamin W. Fink, Director of Park Engineering", said plan being recorded in the Middlesex South District Registry of Deeds August 3, 1954 as Plan # 1254 of 1954; and

WHEREAS, the Parcel being Taken is depicted as the lot & area labeled "Fee Taking" on a plan entitled "Taking Plan of Land", Prepared for the City of Newton, scale: 1"=80', dated: January 20, 2021, Prepared jointly by CHA Consulting Group, Inc. & The City of Newton Engineering Division, said Taking Plan to be recorded at the Middlesex South District Registry of Deeds herewith; and

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

WHEREAS, the Community Preservation Committee has determined that the 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.

NOW 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.

A certain Parcel of land situated in Newton, County of Middlesex, Commonwealth of Massachusetts, lying on the southerly end of Carlisle Street being shown on a Taking Plan of Land prepared for the City of Newton, prepared by: CHA Consulting Group, Inc. and the City of Newton Engineering Division dated: January 20, 2021, bounded and described as follows:

Beginning at the "Point of Commencement", said point being a drill hole in a triangular shaped stone bound, said bound point is depicted as the historic angle point of former boundary line of the Estate of Edwin S. Webster on Plan Book 230, Plan 15 of 1915 recorded at the Middlesex South District Registry of Deeds, now or formerly land of the City of Newton, said triangular stone bound is located N62°00'27"E forty two and eighty one hundredths (42.81) feet from the northeasterly sideline of Carlisle St., thence;

"To the Point of Beginning";
S62°00'27"W forty two and eighty one hundredths (42.81) feet to an iron pin on the northeasterly sideline of said Carlisle St., said point being the "True Point of Beginning", thence;

S17°31'18"E forty and twenty hundredths (40.20) feet to a drill hole in a stone bound, thence;

Southeasterly along a tangential curve to the left having a radius of one hundred seventy and zero hundredths (170.00) feet through a central angle of 27°45'02", an arc length of eighty two and thirty four hundredths (82.34) feet, and a chord of S31°23'49"E eighty one and fifty four hundredths (81.54) feet to a stone bound, thence;

Southeasterly and northeasterly along a compound curve to the left having a radius of twenty and zero hundredths (20.00) feet through a central angle of 93°11'20", an arc length of thirty

two and fifty three hundredths (32.53) feet, and a chord of N88°08'00"E twenty nine and six hundredths (29.06) feet to a stone bound, thence;

Northeasterly along a reverse curve to the right having a radius of five hundred seventy one and thirty nine hundredths (571.39) feet through a central angle of 31°33'10", an arc length of three hundred fourteen and sixty seven hundredths (314.67) feet, and a chord of N57°18'55"E three hundred ten and seventy hundredths (310.70) feet to an escutcheon pin in a lead plug in a drill hole, thence;

N73°05'30"E ninety one and fifty seven hundredths (91.57) feet along a tangential line to a drill hole in a stone bound, thence;

Northeasterly and southeasterly along a tangential curve to the right having a radius of five hundred thirty four and forty one hundredths (534.41) feet through a central angle of 52°40'16", an arc length of four hundred ninety one and twenty seven hundredths (491.27) feet, and a chord of S80°34'22"E four hundred seventy four and sixteen hundredths (474.16) feet to a point, thence;

S54°14'14"E one hundred thirty and forty five hundredths (130.45) feet along a tangential line to a point, thence;

Southeasterly along a non-tangential curve to the left having a radius of two thousand nine hundred thirteen and thirty hundredths (2913.30) feet through a central angle of 0°41'25", an arc length of thirty five and ten hundredths (35.10) feet, and a chord of S54°39'09"E thirty five and ten hundredths (35.10) feet to a rebar with cap set in ledge, the last eight described courses being along other land of the City of Newton, thence;

S30°03'46"W one hundred and fourteen hundredths (100.14) feet to a rebar with cap set in ledge, thence turning and running;

S58°07'13"E eighty three and thirteen hundredths (83.13) feet to a mag nail set in stone, thence turning and running;

S29°42'45"W two hundred fifty three and thirty seven hundredths (253.37) feet to a rebar with cap set in ledge, thence;

Southwesterly and southeasterly along a non-tangential curve to the left having a radius of forty three and ninety seven hundredths (43.97) feet through a central angle of 82°55'09", an arc length of sixty three and sixty three hundredths (63.63) feet, and a chord of S11°44'20"E fifty eight and twenty two hundredths (58.22) feet to a rebar with cap set in ledge, thence;

S58°42'25"E seventy nine and sixty five hundredths (79.65) feet along a non-tangential line to a rebar with cap set in ledge, thence turning and running;

N31°05'06"E three hundred fifteen and twenty four hundredths (315.24) feet to a rebar with cap set, thence turning and running;

S70°47'54"E eighty seven and eighty one hundredths (87.81) feet to a rebar with cap set in ledge, thence;

Southeasterly along a tangential curve to the right having a radius of thirty and zero hundredths (30.00) feet through a central angle of 73°09'51" an arc length of thirty eight and thirty one hundredths (38.31) feet, and a chord of S34°12'58"E thirty five and seventy six hundredths (35.76) feet to a rebar with cap set in ledge, thence;

S02°21'58"W three hundred seventy and eighty two hundredths (370.82) feet along a tangential line to a rebar with cap set on the northerly boundary of land of the Commonwealth of Massachusetts Department of Conservation and Recreation, the last nine courses being along remainder land of the Trustees of Boston College, thence turning and running;

N80°40'35"W four hundred and fifty two hundredths (400.52) feet by land of said Commonwealth of Massachusetts to the remains of a drill hole found at the end of the stone wall, thence turning and running;

N73°45'38"W nine hundred forty nine and eighty six hundredths (949.86) feet by land of said Commonwealth of Massachusetts to a point on the southeasterly boundary line of other lands of the City of Newton, the last two courses being by land of the Commonwealth of Massachusetts Department of Conservation and Recreation, thence;

Northeasterly along a non-tangential curve to the right having a radius of two hundred twenty nine and ninety five hundredths (229.95) feet through a central angle of 0°03'26", an arc length of twenty three hundredths (0.23) feet, and a chord of N12°17'09"E twenty three hundredths (0.23) feet to a point, thence;

Northeasterly along a compound curve to the right having a radius of five hundred seventy one and thirty nine hundredths (571.39) feet through a central angle of 14°22'24", an arc length of one hundred forty three and thirty four hundredths (143.34) feet, and a chord of N19°30'04"E one hundred forty two and ninety six hundredths (142.96) feet to a point, thence;

Northeasterly along a non-tangential curve to the left having a radius of three hundred fifteen and twenty four hundredths (315.24) feet through a central angle of 2°36'21", an arc length of fourteen and thirty four hundredths (14.34) feet, and a chord of N03°57'27"E fourteen and thirty four hundredths (14.34) feet to a drill hole in a stone bound, thence;

N02°39'16"E ten and fifty eight hundredths (10.58) feet along a tangential line to a drill hole in a stone bound, thence;

Northwesterly along a tangential curve to the left having a radius of three hundred fifteen and sixty hundredths (315.60) feet through a central angle of 20°13'36", an arc length of one hundred eleven and forty one hundredths (111.41) feet, and a chord of N07°27'32"W one hundred ten and eighty four hundredths (110.84) feet to a drill hole in a stone bound, thence;

N17°31'18"W seventy nine and seven hundredths (79.07) feet along a non-tangential line to a point, the last six courses being along other lands of the City of Newton, thence turning and running;

N62°00'27"E forty and sixty eight hundredths (40.68) feet crossing said Carlisle St. to the iron pin first mentioned and said point being the point of beginning,

The above described parcel contains about six hundred forty three thousand two hundred and one (643,201) square feet or fourteen and seventy six tenths (14.76) acres, more or less and being shown on a plan entitled, "Taking Plan of Land", Prepared for the City of Newton, scale: 1"=80', dated: January 20, 2021, Prepared jointly by CHA Consulting Group, Inc. & The City of Newton Engineering Division, said Taking Plan to be recorded at the Middlesex South District Registry of Deeds herewith.

The aforesaid description of the taken land hereby supersedes and replaces the description set forth in the Order of Taking recorded on December 24, 2019 at the Middlesex South Registry of Deeds in Book 73890, Page 239,

In all details and respects other than as to the superseding description of the property taken as set forth in this CONFIRMATORY ORDER OF TAKING, including the award of damages made therefore, the other conditions and circumstances to which the taking is subject, and all other matters, the City of Newton hereby confirms are as set forth in the Order of Taking recorded on December 24, 2019 at the Middlesex South Registry of Deeds in Book 73890, Page 239.

Under Suspension of Rules
Readings Waived and Adopted

Yeas Nays

Signed Carol Moore
 City Clerk

Signed Ruthanne Fuller
 Mayor

Dated _____ 2023



AREA NOTES:

CHA AREA HOLDING DRILL HOLE LOCATION
TAKING = 84242 SQ. FT. OR 14.78 ACRES
REMAINING LAND = 334,725 SQ. FT. OR 7.58 ACRES

I CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN CONFORMANCE
WITH THE PLACE AND REGULATIONS OF THE RECORDS OF
MAPS OF THE COMMONWEALTH OF MASSACHUSETTS

PROGRESS PRINT

DECEMBER 11, 2014

WILLIAM J. DOMINIAN, PLM 89531 DATE: _____

GENERAL NOTES:

1. THIS SURVEY IS BASED ON THE RESULT OF AN
ON-TOPOGRAPHIC SURVEY PERFORMED BY CHA CONSULTING, INC.
AS INDICATED AND SPECIFIED BY 2014. THE SURVEY
CONTAINS INFORMATION FROM AERIAL AND COMPILED FROM
RECORD PLANS.

2. ALL BOUNDARY POINTS ARE TO BE MARKED WITH CITY
IDENTITY OF RECORD UNDER FINANCIAL NOTES.

3. LOCUS ORDER OF RECORD:

BRANCHES OF NEWTON COLLEGE
RECORD BOOK 3738 PAGE 288
PARCEL 18 BOUNDARY

4. THE PROJECT AREA IS NOW LOCATED IN A SPECIAL PLANNED
ZONING DISTRICT (SPD) WITH AN UNDERLYING ZONING DISTRICT (ZD)
AS SHOWN ON THE ZONING MAP FOR THE
SUFFOLK COUNTY, COMMUNITY PLANNED ZONING DISTRICT,
OFFICIAL MAP 10/1/10.

5. THE LOCAL PARCEL IS LOCATED IN THE CITY OF NEWTON
UNDEVELOPED (DISTRICT 001) AS SHOWN BY THE MAP
OF NEWTON COMMON MAP.

URBAN SETBACK REQUIREMENTS ARE:

FRONT SETBACK: _____ FT.

SIDE SETBACK: _____ FT.

REAR SETBACK: _____ FT.

6. PLAN REFERENCES:

PLAN 1004 OF 1988

PLAN 1005 OF 1988

PLAN 1201 OF 1988

PLAN 1007 OF 1971

PLAN 88 OF 1974

PLAN 88 OF 1988

PLAN BOOK 3738 PAGE 47

PLAN 1013 OF 1989

FOR FLEXIBILITY USE ONLY

PREPARED FOR:

CITY OF NEWTON

1000
COMMONWEALTH
AVENUE

NEWTON CENTRE,
MA 02459

PROPERTY LOCATION:
300 HAMBOND POND
PARKWAY
NEWTON, MA

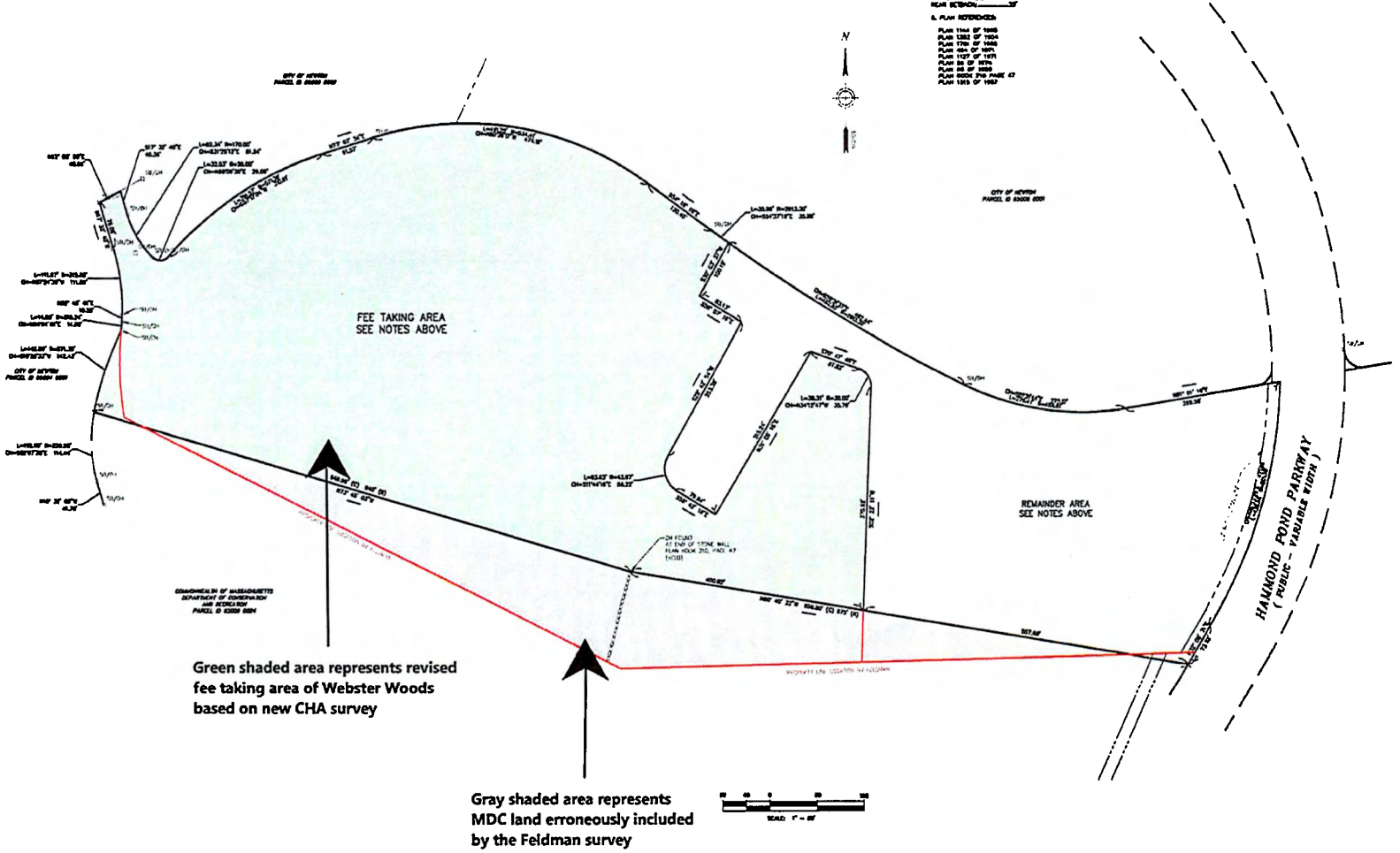
City of Newton, Massachusetts
Department of Conservation and Recreation
300 Hammond Pond Parkway
Newton, MA 02459
Tel: 617-554-3300
Fax: 617-554-3300
www.cityofnewton.com

TAKING PLAN OF LAND

Designed By: _____ Drawn By: _____ Checked By: _____
Issue Date: 2/20/14 Printed On: 8/27/14 Scale: 1" = 100'

Drawing No.:

SHEET 1 OF 1



Green shaded area represents revised
fee taking area of Webster Woods
based on new CHA survey

Gray shaded area represents
MDC land erroneously included
by the Feldman survey

