

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE REPORT

WEDNESDAY, SEPTEMBER 16, 2015

Present: Ald. Danberg (Acting Chair), Johnson, Baker, Leary, yates, Sangiolo, Hess-Mahan and Kalis; Also Present: Ald. Fuller, Laredo and Crossley

Planning & Development Board Present: Peter Doeringer (Acting Chair), Jonathan Yeo, Megan Risen and James Freas

City Staff Present: James Freas (Acting Director, Planning Dept.), Dan Sexton (Senior Planner), Marie Lawlor (Assistant City Solicitor), David Olson (City Clerk), Alice Ingerson (CPA Program Manager), Karyn Dean (Committee Clerk)

#376-14 PLANNING & DEVELOPMENT DEPARTMENT requesting that **Chapter 30 ZONING** be deleted in its entirety and replaced with the Zoning Reform Phase 1 Zoning Ordinance. [10/22/14 @ 7:48PM]

**ACTION:** **HEARING CLOSED; APPROVED AS AMENDED 4-3-1 (Ald. Baker, Yates and Sangiolo opposed; Ald. Kalis abstaining)**  
**PLANNING & DEVELOPMENT BOARD APPROVED AS AMENDED 4-0**

**NOTE:** Dan Sexton, Senior Planner, addressed the Committee. Mr. Sexton presented a PowerPoint which is attached to this report.

Organization/Clarification/Modernization

Mr. Sexton explained that the Zoning Reform Phase One project originated in 2011 as a result of the Zoning Reform Group Report and a Chapter 30 Assessment Memo. These spelled out the need for some reorganization and clarification of the existing zoning ordinance. Phase One has incorporated these recommendations and has endeavored to produce a document that is more user-friendly, eliminating redundancy between sections, clarifying the content to reduce conflict and inconsistencies including those within footnotes, and allowed uses in various districts, and modernizing the approach of the document in terms of format and presentation both in a hard document as well as a digital format.

Illustrations

The Planning Department, in collaboration with a hired consultant, also looked at adding illustrations in the document, new tables to improve legibility and transparency of the regulations as they applied to specific properties and future potential developments, as well as linking abilities in the digital format. The illustrations are for illustrative purposes only and the text dictates what is allowed or not allowed, ultimately.

Table of Contents/Links

The table of contents in the current ordinance was not clear and did not alert a user that they may have to look in several different places in order to get all the necessary information. The new table of contents has been organized to be much more user friendly and page numbers have also

been provided for easier use. Tables have been better organized to illustrate the permitting processes (see presentation for examples). Links are also provided for research purposes and in the digital format will take a user to the appropriate page or pages.

#### Two-Family Definition

A reorganization and redefining has been added to the document of the “two-family, detached” use. Previously this was referenced as “Dwelling, two family”, “common wall connector and common roof connector”. The existing definitions of these can be found in the attached presentation. These had been reorganized into one definition, but after further conversation with the Law Department, Aldermen and members of the public, it was not clear as to what the intent was going to be as a result of the new definition. It also highlighted to a certain extent, based on review of existing developments that have been permitted under these regulations, that it wasn’t really achieving the goal that was originally envisioned. It has been redefined in a much more simple way to better clarify the intent and what is expected through the development process of a specific use. The new definition is now *“Two-Family: a building that contains 2 dwelling units and is either divided vertically so that the dwelling units are side by side but separated by a shared wall extending the entire height of one or both units, or is divided horizontally so that one dwelling unit is above another.”*

#### Floor Area Ratio/Gross

Further clarification has been brought to “Floor Area Ratio” and “Floor Area Gross” definitions. Even after several reviews, it seemed that there was still a fair amount of redundancy in language and they found that the content needed some reformatting. It was not intuitive and this reformatting brings clarity to the reader. This reformatting results in no substantive change and is included in the attached presentation as an amendment to the proposed document.

#### Review Process

Mr. Sexton explained that the Planning Department collaborated with the Clerk’s Office and the Law Department on several reviews of the document. A comparative memo was included in the packet to show the process: the issues that were identified; how they were addressed; and final approval by the Law Department. The document has been gone through word by word and line by line to be sure that all that was in the existing ordinance has been transferred to the new zoning document.

#### Recommendation

Based on the review with the Clerk’s Office and the Law Department, the Planning Department recommends approval of the document as amended.

#### Committee Comments/Questions

##### ISD

It was noted by a Committee member that the Inspectional Services Department is a key implementer of the zoning ordinance and asked what kind of input Commissioner Lojek had in the process. Mr. Sexton explained that ISD has participated throughout the process in Zoning & Planning Committee meetings and in other meetings to clarify intent, how it has been interpreted to be sure the new document reflects the same intent through the building permitting process.

### Two-Family Definition

Ald. Hess-Mahan wanted it to be clear that the two-family detached definition change is a substantive change. It was prompted by several housing developments that connected two houses by garages with a hallway behind. These developments were out of character in their neighborhoods and it was a loophole that builders stated they would exploit as much as possible. The redefinition is meant to get to a very simple definition of what one thinks of as a two-family house and not two single-family homes connected by a breeze-way or a garage.

### Public Comment

*Rena Getz, 192 Pine Ridge Rd.* wanted to commend everyone who worked on the reconciliation of the current and proposed ordinance. She understood it was quite a feat and time consuming. She presented a document to the Committee with some concerns about items that she feels do not correlate. That document is attached to the report. She will speak with James Freas, Dan Sexton or David Olson to clear these items up.

*George Mansfield, 312 Lake Ave.,* former Alderman, said he was familiar with the current zoning ordinance and had served on the Zoning Reform Advisory Committee about 3 years ago. He is an urban planner by profession. Mr. Mansfield said he did not read the most current version of the draft ordinance but felt there were some inconsistencies. For instance, in Section 1.5.1. common roof connector and common wall connectors have been taken out of the draft but they are still referenced in the definitions section. He is worried there might be some other “dead end” references as well and would like to be sure those items are cleaned up. He wanted to be sure that substantive changes are not being made. He felt that 1.5.1 C and D which includes the definitions of single-family attached and multi-family are ambiguous. He understands there were some conscious changes made to the accessory apartment section and they make sense to him but feels they should be reviewed.

*Ron Mauri, 35 Bradford Rd.* commended the staff and the Committee for all the work that has gone into the document and noted that some of his comments from the last public hearing, including his own, directed some of the changes. He still had concerns about the definition of Open Space. He said he was at the ZAP meeting where the definition of two-family’s was brought up. He was concerned about the different effect between the new and old definitions and there may be none at all, but thinks it should be reviewed. It does not deal with garages and there is no diagram with a garage, presumably two garages can be next to each other separating the houses. The dwelling connection only needs to be vertical but not horizontal. Without that, two garages can be next to each other or he may be missing something. He felt the document is more readable but he feels it’s just picking the low-hanging fruit. He also was confused by the difference between attached and detached in single and two-families. Why is a single-family, attached a minimum of two units? There is also no explanation of when lot lines change if they fall under new lot rules or old lot rules. The diagrams show everything on a corner lot that is rectangular or square and Newton is really not laid out that way. It is unclear where the front is and that is not sorted out. He does not think these are Phase 2 items.

*Jackie Wolfe, 83 Paige Rd.* said she’s been a taxpayer for 33 years and there is a need to oversee and make changes in the overall process. She is disappointed in regard to the way decisions are

made in the City and she said residents do not get notifications or calls to hearings when there is any kind of development going on. They own property in another town and they do receive those notifications and have a voice, but they have no voice in Newton. A humongous house was built near them and she and her neighbors objected but they had no recourse and it has affected their quality of life. They don't want to sit on their deck because there is no privacy anymore and it has affected negatively the value of their property and they feel like they're living in Brighton. Another friend is going through the same thing and she wants more respect for the taxpayers and input from the taxpayers.

*Debbie Waller, 10 Bonaire Circle* said she was concerned with 24 properties owned by Newton Wellesley Hospital on her street which includes all homes but hers on her street. She feels the rules in the zoning ordinance are misleading in regard to these 24 parcels. A reasonable person would believe a hospital ordinance would apply to Newton Wellesley Hospital. She was notified by James Freas that the non-profit school ordinance would be applied for these parcels including the hospital because it is a teaching hospital. She feels this is misleading. There is no definition of hospital and should be defined as "as licensed by the state as a hospital" for example. There is a huge hospital in the City and it should be characterized as such to avoid confusion and apply hospital zoning to Newton Wellesley Hospital. She was told all 24 parcels are zoned as non-profit schools as well. Ald. Sangiolo said she would like to have a further conversation off line about this.

*Philip Herr, 20 Marlborough St.* said this is a remarkable event and is an enterprise that began in 2010-2011 with the Zoning Reform Group with three more years of work by City departments, a consultant and the Zoning & Planning Committee. Those 5 years of work have produced this document and there have only been a handful of people with concerns over what has been done. He hopes and suspects that the issues anyone has can be dealt with. He would like people to observe and realize that this was something that was an extraordinarily difficult task and is now ready to move forward. His one process concern is that the effective date is November 2, 2015 and he's not sure how that would affect building or special permits. If a permit was issued but not used before the effective date, it is his understanding that it would be valid for a certain period of time past the effective date. If a special or building permit has been in process but has not been issued yet, Austin Street is an example, which ordinance would apply. He believes the new ordinance would apply as he has read Mass law. These issues should be made very clear to the public and those doing business here. Mr. Herr said the Aldermen should be congratulated on a great piece of work and will make the Phase 2 process much better.

Marie Lawlor, Assistant City Solicitor, stated that the effective date is the date of advertisement (September 2, 2015) of the public hearing for special permits and she believes, building permits. If a permit is issued prior to the date of advertisement the current ordinance applies. Ald. Danberg and Ald. Hess-Mahan explained that the new zoning ordinance is simply a reorganization of the old ordinance. The only substantive change is to the two-family definition so those would be the only developments affected, however, building permits would not be issued from the time of the advertisement for that type of project until the issue is resolved one way or the other by the Board.

*Ken Wolfe, 83 Paige Rd.* wanted to commend Ald. Hess-Mahan for bringing forward the two-family definition issue. It is a good start and he recommends the Committee pass the zoning ordinance and send it to the full Board for approval. He would like to see better definitions of FAR and how it applies to communities and neighborhoods and how big a building can be. He finds FAR very confusing to figure out for the average person. A large house was built behind his house that was supposed to be a two-family but was actually two single-family homes connected by a garage. It was built according to the ordinance but it changed the character of the neighborhood so the definition needs to change to be made clearer. They had no knowledge and there was no notice sent to them about the development. Since it was a non-conforming building there should have been hearings and if there were hearings they were not informed. If the aldermen don't support the residents then he can see why there is some anger over development in the City.

Ald. Yates said they are attempting to accomplish what Mr. Wolfe is expressing. Ald. Hess-Mahan explained that Mr. Wolfe is referring to a development near Watertown, Paige and Harrington Streets. This is the project that prompted him to look at the new definition of two-family and provide illustrations. This project was a by-right development so no notice was required as is required with a special permit project. It was an abuse of the two-family definition which is allowed by-right, which is why he wanted to change the definition to disallow the type of loopholes that lead to this kind of development.

Ald. Danberg hearing no other public comments closed the public hearing.

#### Committee Comments/Questions

Ald. Baker thanked the Clerk's Office, the Law Department and Planning Department for preparing the Comparative Memo and reviewing all the changes and making fixes. There were more than scrivener's errors. He wanted to have a chance to go through the document again to be sure the issues he had have been dealt with. He moved to hold the item to have an opportunity to review the document one more time, then bring it back to Committee to be sure the issues have been fully addressed before sending it out to the full Board. It went out once and it came back to Committee so he doesn't want that to happen again.

Ald. Johnson noted that David Olson led the latest review and prepared the Comparative Memo so she would like to hear from him. Mr. Olson explained that over the course of the summer, much work has been done comparing the current Chapter 30 with the new proposed Chapter 30. He and Karyn Dean spent a number of weeks cross-referencing both documents to be sure the text was translated properly and completely from one to the other. A number of issues were identified and needed review, in both the current and the new ordinance. That work precipitated the Comparative Memo that is before the committee. It shows the question from the Clerk's office, the Planning Department response and solution, and the approval (or not) from the Law Department. He believes all the major issues have been dealt with and the issues he has heard tonight are scrivener's errors that can easily be corrected. Even at this point, changes are being proposed, such as the two-family definitions. As other changes occur over the next weeks, months or years, a Board Order needs to be crafted that correlates to a document. If a Board Order is crafted that correlates to the current ordinance, then the translation will need to be done

again as to where any amendment would end up in the new document. He feels it is appropriate to approve this new document and then craft Board Orders for any amendments so they correlate to the appropriate sections of the new Chapter 30.

Mr. Olson said the document that was provided by Rena Getz describes, for the most part, scrivener's errors and there are other issues that the Planning Department may not agree on in her document. At this point, Mr. Olson wants to be sure they are trying to change one ordinance and not two different ordinances at the same time.

Ald. Danberg asked if it was his recommendation to move forward with this document and that the issues brought up by the public can be dealt with. Mr. Olson said that if this is voted out and anyone wants to make a change, they can make changes as they always have been able to. He does recommend that this document be approved.

#### Two-Family Definition

Ald. Hess-Mahan noted that they combined this definition change into the advertisement to adopt the new zoning ordinance. He would hate for the two-family definition to get delayed by delaying adoption of the zoning ordinance. This is a problem in the City that needs to be addressed now and not put off any longer. The proposed zoning ordinance as presented tonight is as close to perfect as can be. He heard the public comment and he does not agree with some of those and other issues are in line for Phase 2. This has been in process for 5 years and he does not want to be arguing over commas and scrivener's errors at this point. It is time to approve this ordinance and the small errors can be fixed easily and do not require public hearings as was suggested by Ald. Baker. He is very frustrated that it is taking so long. He has supported his colleague from Ward 7 when there were substantive issues such as incomplete and missing tables for example, but he has worked with the City Clerk and others to get this document to a very good place and would hate to delay this further and allow another bad project to be built.

Ald. Kalis agreed with what Ald. Hess-Mahan is saying, however, he has seen in his review that there were some scrivener's errors and has heard tonight other problems. What would be the harm in having two more weeks for review as there are real implications to the decisions they are making.

Ald. Danberg asked about the effective date of November 1 if this is delayed another few weeks. Ald. Sangiolo noted that the date can change and that is not a problem, but the goal is to have this pass before the end of the aldermanic term. The review that occurred since their last meeting brought up substantial and many issues so it makes sense to take as much time as it takes to get it right before the end of the term. Perhaps the two-family item could be separated out so that the Committee can move that forward and hold the zoning ordinance.

Mr. Olson said it could be separated, but it would have to be redefined and structured so that it goes into the current Chapter 30 since a new Chapter 30 would not yet exist. Then when the new version is incorporated it would then have to be transferred to the new Chapter 30. Ald. Yates argued that it would go into the current ordinance, and since it's already in the new ordinance, it would not be problematic. Ald. Baker said the two-family issue is already protected and those

projects cannot go forward as of the advertisement date, which is September 2, 2015. He felt it made sense to keep this together and not break this out, but he does feel it warrants consideration for another two weeks for a final review before sending it to the full Board.

Committee members asked Mr. Freas if he recommends approval of this document. He said that the ordinance is ready to be adopted. He heard comments this evening that could properly be taken up as amendments to the zoning ordinance in Phase Two but are not appropriate for Phase One as it has been defined. One issue that was reviewed was the references to citations. The convention to citations has been changed in order to accommodate the linking tool. It is not a substantive change it is simply how a section is linked and referenced. The fact that Common wall connector and Common roof connector are still referenced in the definitions even though those terms have been removed from the document, is a very simple fix and can just be removed. The document is ready for approval.

Ald. Baker moved to hold this item. The Committee voted 4-4 and the motion failed to carry. Ald. Johnson moved approval. The Committee voted to approve the document as amended 4-3-1 with Ald. Baker, Yates and Sangiolo opposed and Ald. Kalis abstaining.

#### Planning & Development Board Recommendation

Peter Doeringer, Acting Chairman reported that after deliberation, the Planning & Development Board voted to approve the document as amended unanimously, 4-0.

#278-14      ALD. YATES proposing to amend **Chapter 30** of the City of Newton Ordinances to restrict the two-unit structures allowed by-right in the multi-residence districts to structures with the two units side-by-side in a single structure, or one above the other as in double-deckers. [07/31/14 @ 12:03PM]

**ACTION:**      **HELD 8-0**

**NOTE:** This item as well as item #222-13 were held unanimously by the Committee. The definition had been incorporated into the new zoning ordinance document, however, the Committee preferred to keep these on the agenda until they knew the full Board would approve the new zoning ordinance. If the Board votes to approve the new ordinance, these items will be voted No Action Necessary.

#222-13      ALD. HESS-MAHAN, ALBRIGHT, BAKER, CROSSLEY, DANBERG, FISCHMAN & JOHNSON proposing to amend the definitions of "Common roof connector", "Common wall connector", and "Dwelling, two-family" in **Chapter 30**, Section 30-1 of the City of Newton Zoning Ordinances. [06/07/13 @ 1:31 PM]

**ACTION:**      **HELD 8-0**

**NOTE:** See note above.

#195-15      ALDERMAN BAKER, FULLER, LAREDO, DANBERG, AND BLAZAR requesting discussion of possible City acquisition of land, or rights therein,

located west of Hammond Pond Parkway, which land was formerly owned as public open space by the Metropolitan District Commission until conveyed into private ownership in 1954, and which abuts existing Newton conservation land.  
[08/31/15 @ 4:50 PM]

**ACTION:** **HELD 6-0-1 (Ald. Hess-Mahan abstaining; Ald. Johnson not voting)**  
(RES: YATES, BAKER, SANGIOLO, KALIS, LEARY DANBERG.  
ABST. HESS-MAHAN)

**NOTE:** Ald. Danberg mentioned that while there is a purchase and sale agreement between Boston College and Temple Mishkan Tefila in place on this land, and that process needs to run its course. While the current and future owners of the land may be good stewards, there have been several people in the community who have stepped forward with concerns about its long-term disposition. It is an important piece of land to the City. Although this item is not a public hearing, Ald. Danberg said she would entertain limited comments from representatives of any organization on the conservation and recreational aspects and value of this parcel.

Ald. Baker addressed the Committee. He provided a PowerPoint presentation, which is attached to this report and reflects his comments. There are also historical and current maps and photos included in the presentation as well. The parking lot is surrounded by conservation land that is owned either by the state or the city. The assessment of the property was low in the 2000s and now the assessed value has grown to just under \$20M

When the land was conveyed in 1954, it was subject to a restriction that allows religious or educational uses only for a period of 99 years. This restriction is held by the MDC and now the DCR. The Newton Conservators provided a trail map which is also provided. Over 100 acres of the site was acquired by eminent domain. The City has the power of eminent domain and the Mass College of Art was going to locate near Beacon Street in the 1960s. Mayor Basbas along with support of then Representative Ted Mann opposed that siting and the City took the land by eminent domain which defeated a state land taking. Ald. Baker said it was not an adversarial taking and the Webster family who owned the land was amenable.

The maps show some contour lines, a vernal pool, the Temple and other buildings that surround it and the Chestnut Hill Shopping Center. It's varied terrain and not flat. The Newton Conservators provided a trail map of the land which is included as well as the Newton Conservation Area Plan which shows the trails. There are several photos of the current land that Ald. Baker took to see the parcel from different trails and views.

Ald. Baker pointed out that a portion of this land (approximately 15 acres) at 300 Hammond Pond Parkway is called out in the City's revised Open Space Plan, subject to a conservation restriction. He pointed out that walking on the land is peaceful and quiet. If there is development in the area it will have an effect on the parcel.

Ald. Baker spoke with the Mayor about this parcel. The Mayor did not see a need to acquire the whole site, but he was interested in working with whoever the owner might be, to preserve and conserve the open space. The Mayor hopes to convene a conversation along those lines.

Public Comment

Ald. Danberg asked members of the public who were present, to raise their hand if they were interested in seeing this land preserved for conservation. About 40 people raised their hand.

*Beth Wilkinson, President of the Newton Conservators* read from the letters that were provided with the agenda or via email to the Board, in favor of having the City protect the land for open space and conservation. One letter was from the Conservators and the other from Richard Primack a biology professor at Boston University.

*George Mansfield, Vice President of the Newton Conservators* explained that the Newton Conservators letter that was sent to the Board, from which Ms. Wilkinson read, was approved by the Directors and they believe they are representing the interests of the great majority of the 500 members of the Newton Conservators. He feels there is an opportunity now to get into the process and suggests the Committee propose a Resolution to the Mayor to either buy the land; but a portion of it; or negotiate and enter into a conservation restriction on the land. A Resolution voted by the full Board will raise the awareness of this issue both within the City government and the public. Both the Temple and BC are represented by many of the aldermen's constituents.

*Ken Lyons, 170 Suffolk Rd, President of the Chestnut Hill Association* said that the value of this space for open and recreational use is exceedingly high. There are not many opportunities left in the City to preserve such a large tract of open land. People have contacted him when the news became public of an opportunity with respect to this land. If there were any hope of acquiring the land he believes the residents would be extremely eager to do so.

*Rory Altman, 180 Elgin St.* said he appreciated the support for this and he represents residents of Elgin St. This is woodland that is used by many from all around Newton walking their dogs and jogging, walking with children. There is quite a bit of wildlife as well. Once it is developed it's gone forever. There are some terrain challenges and in order to build it would bisect the woods and leave little opportunity for the two parts to connect. They would be interested in any remedy and are agnostic between purchase, conservation restriction or any other remedy. He would like to host a walk at the end of Elgin Street at 9am on Saturday for anyone who would like to take a stroll. He would like to know if someone from the City could outline what the possibilities would be for the neighborhood.

*William Gode-von Aesch, 871 Beacon Street*, he is a member of DCR but speaks for himself as a resident of the City. This is a unique parcel to the City and allows escape to the middle of the woods. Development would change that character. Please recognize that the restrictions in the deed include for the benefit of the grantor of the abutting land. They did not want any changes to the land around this.

*Jeff Goldman, 24 Warren St* echoed the previous speaker. He thanked Ald. Baker and the docketers for bringing this to attention. He is there to represent the Trust for Public Land which is a nationwide organization. He spoke to the Mass state director of the Trust and walked the

property. They think this property is important enough to get involved. It's important to the state as well as the City and beyond. He is willing to help them commit funds to this project. He did not know why this deal with BC was not made known earlier. He believes that the Temple and BC are both quasi-public institutions and that needs to be considered.

Committee Questions/Comments

Ald. Danberg said the goal of this discussion is to educate the Board and members of the public about this property and to find out what the recreational and conservation value is to the City.

Ald. Hess-Mahan would like to see this property preserved as open space. He wondered if it was possible to get some clarification on some key points. There is a big difference between buying the property via eminent domain and buying a conservation restriction from either Mishkan Tefila or a subsequent owner. He wondered if buying less than all the rights is something that would be possible and of interest. There are some CPA funds available, but it would have to be bonded out over a number of years to purchase the property. The land is recorded but not registered land. Ald. Hess-Mahan went through the records at the registry and there is a restriction on the use to religious and/or educational uses. He wondered if keeping it as open space would fulfill that deed restriction. Also, the Board has done both friendly and non-friendly land takings. He wanted to be sure the Board and the public know what's involved. If it's an adverse taking there would be the question of whether or not the land could be taken by eminent domain and then on to court to determine fair market value, which the City would have to pay to take the land. Purchasing land with CPA funds requires a fair market value price. He would like to know what the steps would be in order to accomplish that goal.

CPA funds are different from regular City appropriation because the request can come independently from the Mayor. He spoke with the Law Department and they have used eminent domain in friendly and unfriendly situations. The simplest way with a friendly taking is just to record an order of taking such as happened with the Zervas School homes. An offer has to be acceptable to the owner and if the owner is not acceptable, the owner can take it to court to get a higher price. Ald. Baker felt that if the land came back into public ownership and the DCR felt open space did not satisfy the religious or educational requirements; he felt they would likely release the restriction.

Ald. Baker reminded the Committee that as far as CPA funds are concerned there is about \$8M set aside that is not available and will not be recurring, then a stream of locally generated revenues because the state share has gone down by about \$3M a year. If something is bonded out over time, the revenue stream is relatively stable to use, but it will be consumed with other things. There have been other uses and needs of the CPA funds that the City will need to address. It is not all available money. Ald. Baker introduced Alice Ingerson who is the Program Manager for the Community Preservation Program. She explained that debt financing has been done with CPA funds for three land acquisitions: Kessler Woods; Angino Farm (part cash and part debt financing); and 20 Rogers Street at Crystal Lake. The City can bond against local revenue stream, but you can not bond against the state revenue as it is constantly shifting.

Her funding forecast is that there will be about \$24M over the next 5 years with \$8M of that unexpended funds from previous years and went spent, will not be coming back. Part of the question for the Board and the CPC would be what the appropriate level of debt service would be. The highest peak was about \$1.2M when all three of the previously mentioned properties were being paid off simultaneously. It will hit zero on those at the end of FY17. She expects about \$3M available a year in CPA funds and there other projects and opportunities should be kept in mind for those funds as well.

Ald. Danberg asked about the cost of the Kessler Woods project and Ms. Ingerson said all told it was about \$6M. That included \$5M authorized to bond, and the other \$1M of separate funds for legal, planning, debt issuance costs and other expenses.

More information on CPA funds can be found on the [Reports & Presentations](#) page of the CPC website, at [www.newtonma.gov/cpa](http://www.newtonma.gov/cpa), and includes a Currently Available Funds report, a five-year Funding Forecast, and a cumulative report on All Funds & Spending. The *Community Preservation Plan* on the website's [Guidelines & Forms](#) page lists all currently known potential projects.

Ald. Johnson noted that there could be many options with the land and how it might be parceled out, or what uses could be placed there or allowed. If the congregation does not approve the sale to Boston College, then those options would be good to know if the City is interested in acquiring all or part of it. Ald. Baker agreed and reminded the Committee that there is an ongoing process between Boston College and Mishkan Tefila and the intent is not to get in the way of that, but be prepared and work with whoever the purchaser may be.

Ald. Fuller noted that there is a desire to preserve the open space and she believes that the Mayor is interested in that as well. They are agnostic on the tools used to accomplish that goal. There are options such as eminent domain, purchase, conservation restrictions and others as well. There is no in depth understanding of any of those at this point in time and what might be most appropriate. She reiterated that the docketers are not trying to insert themselves into the Boston College/Mishkan Tefila process and are watching and waiting to see what happens and start a discussion.

Ald. Sangiolo felt there should be more action by the City to acquire this land and it has been on the Open Space Plan for quite a while, therefore, the waiting and watching is not something she thinks makes sense. Ald. Baker said this all came up very quickly. In 2008 he had had contact with the Temple but there was never a response. They just found out recently that a deal had been struck with Boston College when the College contacted the Aldermen in the Ward. That prompted this discussion. There is an existing contractual relationship with the Temple and BC and Ald. Baker said they should not be interfering with that. Ald. Sangiolo felt there could certainly be contact and correspondence.

Ald. Fuller asked the Law Department and lawyers on the Board to look into the ramifications of inserting the City into the ongoing process between BC and the Temple. Marie Lawlor said they just learned of this issue a day or two ago and the Law Department is not prepared to comment

on this at this time. Ald. Laredo said he would be willing to speak with anyone in the Law Department. There is an interest and it could be proper to express that interest but should proceed with caution. Ald. Hess-Mahan agreed.

Ald. Baker feels this is an expensive parcel if buying the whole thing, but the City has an annual budget of one third of a billion dollars. It is not a City without resources, although they certainly have to be reasonable with the resources. They are also stewards of the land within the City and he hopes he can accomplish good things by working with the Mayor. He is not ready to move forward with a Resolution, however, Ald. Sangiolo said she would like to take that suggestion from the Newton Conservators and propose a resolution to the Mayor. Or she could circulate a letter to members of the Board that they could sign separately and send to the Mayor about wanting to have a conversation.

Ald. Yates said the public interest is mostly in acquiring and preserving the open space. Perhaps there could be a conversation to ask BC to just put their development on the front section and leave the rest alone. He would be willing at an appropriate time to propose a Resolution to the Mayor. Other Committee members were also in favor of a Resolution. Ald. Baker proposed the following language:

#195-15(2) THE ZONING & PLANNING COMMITTEE proposing a RESOLUTION to His Honor the Mayor to work to preserve the recreation and conservation character of 300 Hammond Pond Parkway.  
APPROVED 6-0-1 (Ald. Hess-Mahan abstaining; Ald. Johnson not voting)

The Committee voted to approve this Resolution 6-0-1 with Ald. Hess-Mahan abstaining; Ald. Johnson not voting.

#338-14 ALD. HESS-MAHAN, KALIS, SANGIOLO AND DANBERG proposing a Large House Review ordinance requiring design review and approval of by-right single and multi-residence residential structures exceeding certain dimensional limits to be determined, to expire by December 31, 2015. [09/05/14 @ 9:39AM]

**ACTION:** **HELD 6-0 (Ald. Baker and Johnson not voting)**

**NOTE:** Due to the late hour, Ald. Sangiolo requested that this item be held without discussion. She was disappointed, however, that she was unable to get to this item as she had prepared quite a bit of material in anticipation of the discussion. She asked the Acting Chair to accommodate this item as soon as possible, preferably on the next agenda. The Acting Chair said she would consult with Ald. Johnson on scheduling.

The Committee voted to hold this item.

#194-15 HIS HONOR THE MAYOR reappointing James Freas as the Interim Director of Planning and Development effective August 31, 2015 pursuant to Section 3-6 of the City Charter, until a permanent replacement is hired or until November 29,

2015 when the temporary appointment may be extended with Board of Aldermen approval.

**ACTION:** **APPROVED 6-0 (Ald. Baker and Johnson not voting)**

**NOTE:** The Committee voted to approve Mr. Freas' re-appointment unanimously.

#6-15 ALD. BAKER, HESS-MAHAN, ALBRIGHT requesting a discussion by the Zoning and Planning Committee with the Acting Director of Planning and Development of how Phase 2 of Zoning Reform might be undertaken, including the contents of the proposed Village and Master Planning and Zoning Reform Request for Proposals, including the planning process and ordinance revision process the RFP anticipates, as well as the staffing and funding needed to enable both in-house and contracted work under the RFP to be both well done and appropriately supervised. [12/29/14@4:00 PM]

**ACTION:** **NO ACTION NECESSARY 7-0 (Ald. Johnson not voting)**

**NOTE:** The Committee did a review of the RFP at their last meeting and requested a couple of small changes. The changes were made and Ald. Johnson informed the Acting Director of Planning that the RFP was satisfactory to the Committee and could be sent out at the appropriate time.

The Committee voted No Action Necessary on this item.

Meeting adjourned.

Respectfully Submitted,

Victoria Danberg, Acting Chairman

# Zoning and Planning Committee

1

## **ZONING REFORM - PHASE 1** **Draft Zoning Ordinance**

# Origin of Project

2

## Zoning Reform

Final Report  
December 30, 2011



Prepared for the  
City of Newton  
by the  
Zoning Reform Group

Alderman Deb Crossley, Chair  
Marc Hershman, Peter Kilborn, Jennifer Molinsky,  
Terry Morris, Jason Rosenberg, and Steve Vona,



## Chapter 30. Zoning **ASSESSMENT MEMO** Newton, Massachusetts

March 25, 2013  
Prepared by: Code Studio and Joel Russell

# Zoning Reform - Phase 1

3

- Reorganize
- Clarify
- Address Inconsistencies
- Modernize

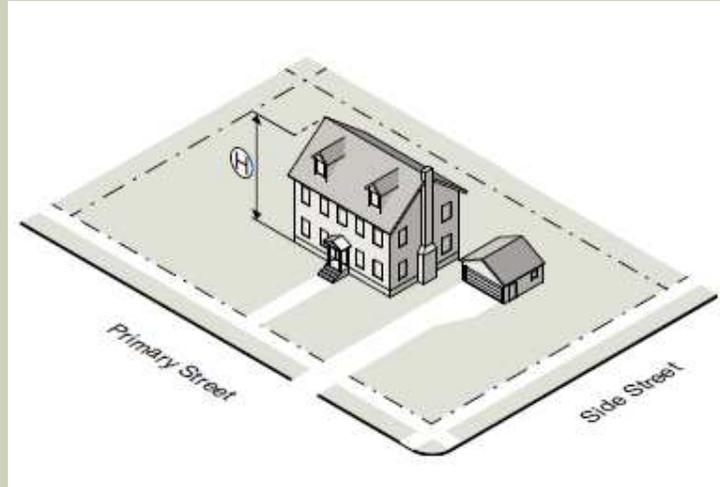
# Zoning Reform - Phase 1

4

- Illustration
- Organization
- Tables
- Links

# Illustrations

5



# Organization

- Art. I. In General**
  - Sec. 30-1. Definitions
  - Sec. 30-2. Purpose of Chapter; short title
  - Sec. 30-3. Determination of district boundary lines
  - Sec. 30-4. Division of City into districts
  - Sec. 30-5. Allowed uses, special permits, prohibitions in all districts
- Art. II. Use Regulations**
  - Division 1. Public Use Districts and Open Space/Recreation Districts**
    - Sec. 30-6. Allowed uses for Public Use Districts
    - Sec. 30-7. Open Space/Recreation Districts
  - Division 2. Residential Districts**
    - Sec. 30-8. Use regulations for Single Residence Districts
    - Sec. 30-9. Multi-Residence Districts
    - Sec. 30-10. Reserved.
  - Division 3. Business, Mixed Use, and Manufacturing Districts**
    - Sec. 30-11. Business Districts
    - Sec. 30-12. Manufacturing Districts
    - Sec. 30-13. Mixed Use Districts
    - Sec. 30-14. Reserved.
  - Division 4. Density and Dimensional Controls**
    - Sec. 30-15. Density/dimensional requirements
    - Sec. 30-15. Density/dimensional tables
    - Sec. 30-16. Requirements for dormitories
    - Sec. 30-17. Alteration of attached garage
    - Sec. 30-18. Permission for heliports
    - Sec. 30-18A. Wireless Communications
- Art. III. Parking and Loading Facilities**
  - Sec. 30-19. Parking and loading requirements
  - Sec. 30-20. Signs and other advertising devices
  - Sec. 30-21. Applicability to existing buildings; nonconforming uses
- Art. IV. Zoning Administration**
  - Sec. 30-22. Reserved.
  - Sec. 30-23. Site Plan Approval
  - Sec. 30-24. Special Permits
- Art. V. Miscellaneous**
  - Sec. 30-25. Applicability to public service corporations
  - Sec. 30-26. Alteration of structure when lot size/shape is changed
- Art. VI. Zoning Board of Appeals**
  - Sec. 30-27. Zoning Board of Appeals
- Art. VII. Miscellaneous; Enforcement**
  - Sec. 30-28. Amendments

## Table of Contents

|   |      |   |      |
|---|------|---|------|
| <b>Article 1. General Provisions</b> .....                                | 1-1  | <b>Article 6. Use Regulations</b> .....         | 6-1  |
| Sec. 1.1. Short Title.....  | 1-2  | Sec. 6.1. Use Determination.....                | 6-3  |
| Sec. 1.2. Purpose of Chapter.....   | 1-2  | Sec. 6.2. Residential Uses.....                 | 6-3  |
| Sec. 1.3. Zoning Districts Established.....                               | 1-2  | Sec. 6.3. Civic/Institutional Uses.....         | 6-6  |
| Sec. 1.4. Legal Status Provisions.....                                    | 1-3  | Sec. 6.4. Commercial Uses.....                  | 6-10 |
| Sec. 1.5. Rules of Measurement.....                                       | 1-4  | Sec. 6.5. Industrial Uses.....                  | 6-14 |
| <b>Article 2. Public Use &amp; Open Space Districts</b> .....             | 2-1  | Sec. 6.6. Open Space Uses.....                  | 6-16 |
| Sec. 2.1. Zoning District Intent.....                                     | 2-2  | Sec. 6.7. Accessory Uses.....                   | 6-17 |
| Sec. 2.2. District Dimensional Standards.....                             | 2-2  | Sec. 6.8. Temporary Uses.....                   | 6-22 |
| Sec. 2.3. Allowed Uses.....   | 2-3  | Sec. 6.9. Wireless Communication Equipment..... | 6-23 |
| <b>Article 3. Residence Districts</b> .....                               | 3-1  | Sec. 6.10. Restricted Uses.....                 | 6-30 |
| Sec. 3.1. Single Residence Districts.....                                 | 3-2  | <b>Article 7. Administration</b> .....          | 7-1  |
| Sec. 3.2. Multi-Residence Districts.....                                  | 3-12 | Sec. 7.1. Development Review Bodies.....        | 7-2  |
| Sec. 3.3. Other Residence Options.....                                    | 3-24 | Sec. 7.2. Amendments.....                       | 7-3  |
| Sec. 3.4. Allowed Uses.....   | 3-26 | Sec. 7.3. Special Permit Review.....            | 7-3  |
| <b>Article 4. Business, Mixed Use &amp; Manufacturing Districts</b> ..... | 4-1  | Sec. 7.4. Site Plan Approval.....               | 7-13 |
| Sec. 4.1. Business Districts.....   | 4-2  | Sec. 7.5. Administrative Site Plan Review.....  | 7-14 |
| Sec. 4.2. Mixed Use Districts.....  | 4-10 | Sec. 7.6. Variances.....                        | 7-16 |
| Sec. 4.3. Manufacturing Districts.....                                    | 4-16 | Sec. 7.7. Appeals.....                          | 7-18 |
| Sec. 4.4. Allowed Uses.....   | 4-18 | Sec. 7.8. Nonconformities.....                  | 7-20 |
| <b>Article 5. Development Standards</b> .....                             | 5-1  | Sec. 7.9. Enforcement and Penalties.....        | 7-26 |
| Sec. 5.1. Parking and Loading.....  | 5-2  | <b>Article 8. Definitions</b> .....             | 8-1  |
| Sec. 5.2. Signs.....  | 5-15 | Sec. 8.1. In General.....                       | 8-2  |
| Sec. 5.3. Stormwater Management.....                                      | 5-24 | Sec. 8.2. Abbreviations.....                    | 8-2  |
| Sec. 5.4. Fences & Retaining Walls.....                                   | 5-24 | Sec. 8.3. Defined Terms.....                    | 8-3  |
| Sec. 5.5. Landscaping.....  | 5-24 |   |      |
| Sec. 5.6. Great Ponds.....  | 5-24 |   |      |
| Sec. 5.7. Noise.....  | 5-24 |   |      |
| Sec. 5.8. Outdoor Lighting.....   | 5-24 |   |      |
| Sec. 5.9. Tree Protection.....  | 5-24 |   |      |
| Sec. 5.10. Floodplain, Watershed Protection.....                          | 5-25 |   |      |
| Sec. 5.11. Inclusionary Zoning.....                                       | 5-25 |   |      |
| Sec. 5.12. Environmental Standards in the Manufacturing District.....     | 5-31 |   |      |

# Tables

7

## Sec. 4.4. Allowed Uses

### 4.4.1. Business, Mixed Use & Manufacturing Districts

| Business, Mixed Use & Manufacturing Districts                          | BU1 | BU2 | BU3 | BU4 | BU5 | MU1 | MU2  | MU3 | MU4 | M  | LM | Definition/<br>Listed<br>Standard |
|--|-----|-----|-----|-----|-----|-----|------|-----|-----|----|----|-----------------------------------|
| <b>Residential Uses</b>  |     |     |     |     |     |     |      |     |     |    |    |                                   |
| <del>Single-Family, detached</del> <del>One-family residential</del>   | L   | L   | L   | L   | =   | =   | =    | =   | =   | =  | =  | <a href="#">Sec. 6.2.1.</a>       |
| <del>Single-Family, detached</del> <del>Two-family residential</del>   | L   | L   | L   | L   | =   | =   | =    | =   | =   | =  | =  | <a href="#">Sec. 6.2.2.</a>       |
| <del>Residential use</del> <del>Multifamily</del> , above ground floor | L   | L   | L   | L   | -   | SP  | L/SP | P   | P   | -  | -  | <a href="#">Sec. 6.2.4.</a>       |
| <del>Residential use</del> <del>Multifamily</del> , ground floor       | SP  | SP  | SP  | SP  | -   | SP  | SP   | P   | SP  | -  | -  | <a href="#">Sec. 6.2.4.</a>       |
| Assisted living, nursing home  | -   | -   | -   | -   | -   | -   | -    | SP  | SP  | -  | -  | <a href="#">Sec. 6.2.5.</a>       |
| Elderly housing with services  | SP  | SP  | SP  | SP  | -   | -   | -    | -   | -   | -  | -  | <a href="#">Sec. 6.2.10.</a>      |
| Live/work space  | -   | -   | -   | -   | -   | -   | -    | P   | P   | -  | -  | <a href="#">Sec. 6.2.11.</a>      |
| Single-room occupancy dwelling, single-person occupancy dwelling       | -   | -   | -   | -   | -   | -   | -    | SP  | -   | -  | -  | <a href="#">Sec. 6.2.14.</a>      |
| <b>Civic/Institutional Uses</b>  |     |     |     |     |     |     |      |     |     |    |    |                                   |
| Cemetery, <del>private</del>   | SP  | SP  | SP  | SP  | SP  | -   | -    | -   | -   | SP | SP | <a href="#">Sec. 6.3.1.</a>       |
| Club, clubhouse  | P   | P   | P   | P   | -   | -   | P    | -   | SP  | -  | P  | <a href="#">Sec. 6.3.2.</a>       |
| Community use space  | -   | -   | -   | -   | -   | -   | -    | P   | P   | -  | -  | <a href="#">Sec. 6.3.3.</a>       |
| Family child care home, large family child care home, day care center  | L   | L   | L   | L   | L   | L   | L    | L   | L   | L  | L  | <a href="#">Sec. 6.3.4.</a>       |

# Links

## Sec. 4.4. Allowed Uses

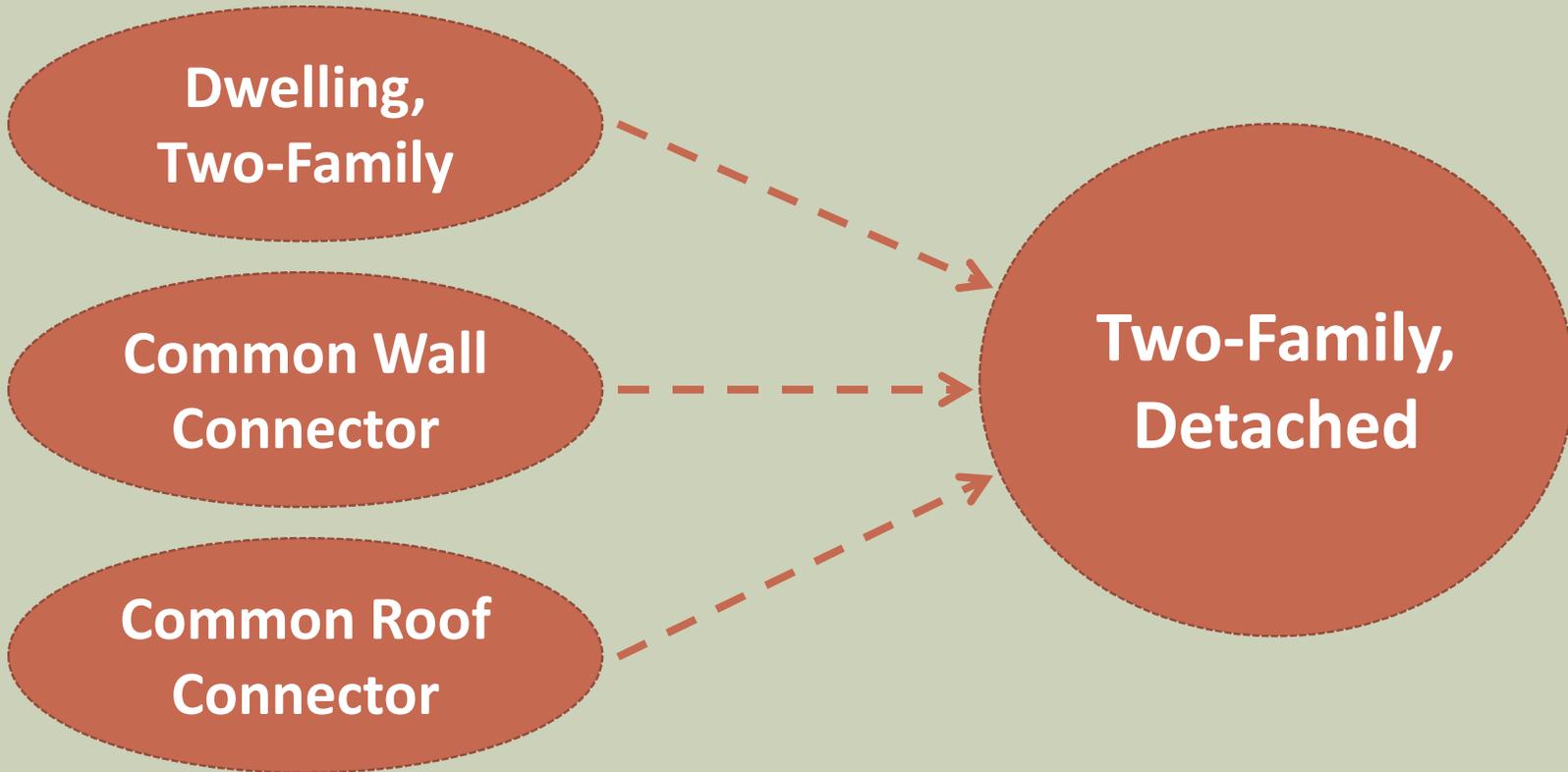
### 4.4.1. Business, Mixed Use & Manufacturing Districts

| Business, Mixed Use & Manufacturing Districts                         | BU 1 | BU 2 | BU 3 | BU 4 | BU 5 | MU 1 | MU 2 | MU 3 | MU 4 | M  | LM | Definition/<br>Standard |
|---|------|------|------|------|------|------|------|------|------|----|----|-------------------------|
| <b>Residential Uses</b>   |      |      |      |      |      |      |      |      |      |    |    |                         |
| <del>Single-Family, detached</del> <del>One-family residential</del>  | L    | L    | L    | L    | =    | =    | =    | =    | =    | =  | =  | <u>Sec. 6.2.1.</u>      |
| <del>Single-Family, detached</del> <del>Two-family residential</del>  | L    | L    | L    | L    | =    | =    | =    | =    | =    | =  | =  | <u>Sec. 6.2.2.</u>      |
| <del>Residential use Multifamily, above ground floor</del>            | L    | L    | L    | L    | --   | SP   | L/SP | P    | P    | -- | -- | <u>Sec. 6.2.4.</u>      |
| <del>Residential use Multifamily, ground floor</del>                  | SP   | SP   | SP   | SP   | --   | SP   | SP   | P    | SP   | -- | -- | <u>Sec. 6.2.4.</u>      |
| Assisted living, nursing home   | --   | --   | --   | --   | --   | --   | --   | SP   | SP   | -- | -- | <u>Sec. 6.2.5.</u>      |
| Elderly housing with services   | SP   | SP   | SP   | SP   | --   | --   | --   | --   | --   | -- | -- | <u>Sec. 6.2.10.</u>     |
| Live/work space   | --   | --   | --   | --   | --   | --   | --   | P    | P    | -- | -- | <u>Sec. 6.2.11.</u>     |
| Single-room occupancy dwelling, single-person occupancy dwelling      | --   | --   | --   | --   | --   | --   | --   | SP   | --   | -- | -- | <u>Sec. 6.2.12.</u>     |
| <b>Civic/Institutional Uses</b>                                       |      |      |      |      |      |      |      |      |      |    |    |                         |
| Cemetery, private   | SP   | SP   | SP   | SP   | SP   | --   | --   | --   | --   | SP | SP | <u>Sec. 6.3.1.</u>      |
| Club, clubhouse   | P    | P    | P    | P    | --   | --   | P    | --   | SP   | -- | P  | <u>Sec. 6.3.2.</u>      |
| Community use space   | --   | --   | --   | --   | --   | --   | --   | P    | P    | -- | -- | <u>Sec. 6.3.3.</u>      |
| Family child care home, large family child care home, day care center | L    | L    | L    | L    | L    | L    | L    | L    | L    | L  | L  | <u>Sec. 6.3.4.</u>      |



# Definition Changes

9



# Proposed Definition

10

## Sec. 1.5. Rules of Measurement

### 1.5.1. Building Types

- A. Single-Family, Detached. A building or structure that contains only one dwelling unit.
- B. Two-Family, Detached. A building that contains 2 dwelling units and is either divided vertically so that the dwelling units are side by side but separated by a shared wall extending the entire height of one or both units, or is divided horizontally so that one dwelling unit is above another.

# Definition Reorganization

11

- **Floor Area Ratio**
  - Content redundancy eliminated
  - Gross floor area clause for “All Other Districts” moved to the Floor Area, Gross definition
- **Floor Area, Gross**
  - Improved transparency of intent
  - Reduced ambiguity

## 1.5.5. Floor Area

### A. Floor Area Ratio.

1. ~~For residential structures in residential districts, The gross floor area of all buildings on the lot divided by total lot area.~~
2. ~~For all other districts, gross floor area of all buildings on the lot divided by total lot area. Any portion of a basement not used for storage, parking or building mechanicals shall be included in determining the floor area ratio.~~
3. FAR tables can be found in Sec. 3.1.9. and Sec. 3.2.11.

### B. Floor Area, Gross.

1. Residential Districts. ~~For residential structures and buildings accessory to residential structures in residential districts, The sum of the floor area of all principal and accessory buildings whether or not habitable shall be taken from the exterior face of the exterior walls of each building without deduction for garage space, hallways, stairs, closets, thickness of walls, columns, atria, open wells and other vertical open spaces, or other features as defined in this Sec. 1.5.5., except as excluded defined below.~~
2. ~~Floor area measurements shall be taken from the exterior face of the exterior walls of each building without deduction for garage space, hallways, stairs, closets, thickness of walls, columns, atria, open wells and other vertical open spaces, or other features as defined in this Sec. 1.5.5.~~
  - a. Gross floor area shall include:
    - i. First and second stories;
    - ii. Any floor area above the second story, whether finished or unfinished, that meets all of the following criteria:
      - d) It lies below the area of a horizontal plane that is 5 feet above it and which touches the side walls and/or the underside of the roof rafters;
      - e) Is at least 7 feet in any horizontal dimension, as measured within the area having a wall height of 5 feet or more;

f) Has a minimum ceiling height of 7 feet on at least 50 percent of its required floor area; and

g) Has a floor area of not less than 70 square feet as measured within the area having a wall height of 5 feet or more;

iii. Atria, open wells, and other vertical open spaces, where floor area shall be calculated by multiplying the floor level area of such space by a factor equal to the average height in feet divided by 10;

iv. Enclosed porches;

v. Attached garages;

vi. Detached garages and any space above the first story of a detached garage that has a ceiling height of 7 feet or greater;

vii. Other detached accessory buildings, such as sheds or cabanas, except as exempted in paragraph ~~b~~ below;

viii. A portion of mass below the first story, to be calculated using the formula in paragraph D below; and

b. Gross floor area shall not include:

i. Unenclosed porches;

ii. Carports; and

iii. One detached accessory building equal to or less than 120 square feet in size.

3. All other Districts. The sum of the floor area of all principal and accessory buildings whether or not habitable shall be taken from the exterior face of the exterior. The floor area within the perimeter of the outside walls of each building without deduction for hallways, stairs, closets, thickness of walls, columns or other features, except as excluded below.

a. Gross floor area shall not include any portion of a basement used for storage, parking, or building mechanicals.

# Final Check

13

- **Inter-Departmental Review**
  - Clerk's Office, Law Dept., and Planning Dept.
- **Comparative Memorandum**
  - Clarified intent of proposed language
  - Cleared up organizational changes
  - Resolved scrivener's errors
- **Adoption Recommended**

# Discussion

# Existing Definitions

**Dwelling, two-family:** A building or structure that meets all of the following requirements:

- (a) It contains two (2) dwelling units;
- (b) It contains either:
  - (1) a common floor-ceiling assembly between the upper and lower level dwelling units; or
  - (2) a common wall connector and a common roof connector, as defined in section 30-1.

**Common roof connector:** An exterior roof surface on a two-family dwelling that meets all of the following requirements:

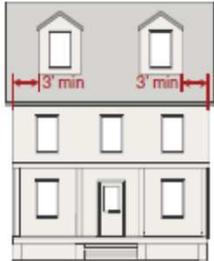
- (a) It extends over the common wall a minimum of twelve (12) feet over the interior space(s) in one dwelling unit and a minimum of twelve (12) feet over the interior space(s) in the other dwelling unit;
- (b) The roofing material over each dwelling unit has identical materials and color;
- (c) The roof surfaces do not have any vertical separation, subject to the following exceptions:
  - (1) A dormer shall not be deemed a vertical separation;
  - (2) A vertical separation between the roof surface of one dwelling unit and the roof surface of the other dwelling unit may be allowed if all of the following conditions are met:
    - a) The difference between the mean grade slope of one dwelling unit and the mean grade slope of the other dwelling unit is more than three (3) feet;
    - b) The vertical separation between the roof surface of one dwelling unit and the roof surface of the other dwelling unit does not exceed the difference between the mean grade slope of each of the two dwelling units;
    - c) The roof surfaces may have varied roof slopes, but if so, they shall conform to the requirements stated in subsections (c)(2)a) and b) above.
- (d) It is designed to give the appearance that it connects the two dwelling units to each other.

**Common wall connector:** An interior wall that is shared by and separates the two dwelling units of a two-family dwelling and meets all of the following requirements:

- (a) It is no less than twelve (12) feet in length;
- (b) It exists at the ground story level and is at least one (1) story in height;
- (c) It separates enclosed interior space(s) in each of the dwelling units;
- (d) It is designed to give the appearance that it connects the two dwelling units to each other.

# Proposed Definition

- c. The vertical plane of the side wall of any dormer shall not be closer than 3 feet from the vertical plane of the intersection of the roof and the main building end wall nearest the dormer.



- d. No dormer may project above the main ridgeline of the single- or two-family dwelling or the accessory structure.



(Rev. Ords. 1973; Ord. No. S-260, 08/03/87; Ord. No. S-288, 12/07/87; Ord. No. V-111, 04/23/97; Ord. No. V-113, 04/23/97; Ord. No. V-247, 06/07/99; Ord. No. V-253, 07/12/99; Ord. No. Z-16, 12/17/07; Ord. No. Z-20, 04/07/08; Ord. No. Z-34, 11/03/08; Ord. No. Z-90, 06/06/11)

## 1.5.5. Floor Area

### A. Floor Area Ratio.

1. The gross floor area of all buildings on the lot divided by the total lot area.
2. FAR tables can be found in Sec. 3.1.9. and Sec. 3.2.11.

### B. Floor Area, Gross.

1. **Residential Districts.** The sum of the floor area of all principal and accessory buildings whether or not habitable shall be taken from the exterior face of the exterior walls of each building without deduction for garage space, hallways, stairs, closets, thickness of walls, columns, atria, open wells and other vertical open spaces, or other features as defined in this Sec. 1.5.5. as defined below:
  - a. Gross floor area shall include:
    - i. First and second stories;
    - ii. Any floor area above the second story, whether finished or unfinished, that meets all of the following criteria:
      - a) It lies below the area of a horizontal plane that is 5 feet above it and which touches the side walls and/or the underside of the roof rafters;
      - b) Is at least 7 feet in any horizontal dimension, as measured within the area having a wall height of 5 feet or more;
      - c) Has a minimum ceiling height of 7 feet on at least 50 percent of its required floor area; and
      - d) Has a floor area of not less than 70 square feet as measured within the area having a wall height of 5 feet or more;
    - iii. Atria, open wells, and other vertical open spaces, where floor area shall be calculated by multiplying the floor level area of such space by a factor equal to the average height in feet divided by 10;
    - iv. Enclosed porches;

#### a. Gross floor area shall include:

- i. First and second stories;
- ii. Any floor area above the second story, whether finished or unfinished, that meets all of the following criteria:
  - a) It lies below the area of a horizontal plane that is 5 feet above it and which touches the side walls and/or the underside of the roof rafters;
  - b) Is at least 7 feet in any horizontal dimension, as measured within the area having a wall height of 5 feet or more;
  - c) Has a minimum ceiling height of 7 feet on at least 50 percent of its required floor area; and
  - d) Has a floor area of not less than 70 square feet as measured within the area having a wall height of 5 feet or more;
- iii. Atria, open wells, and other vertical open spaces, where floor area shall be calculated by multiplying the floor level area of such space by a factor equal to the average height in feet divided by 10;
- iv. Enclosed porches;

- v. Attached garages;

- vi. Detached garages and any space above the first story of a detached garage that has a ceiling height of 7 feet or greater;

- vii. Other detached accessory buildings, such as sheds or cabanas, except as exempted in paragraph b. below;

- viii. A portion of mass below the first story, to be calculated using the formula in paragraph D below; and

#### b. Gross floor area shall not include:

- i. Unenclosed porches;
- ii. Carports; and
- iii. 1 detached accessory building equal to or less than 120 square feet in size.

2. **All Other Districts.** The sum of the floor area of all principal and accessory buildings whether or not habitable shall be taken from the exterior face of the exterior walls of each building without deduction for hallways, stairs, closets, thickness of walls, columns or other features, except as excluded below:
  - a. Gross floor area shall not include any portion of a basement used for storage, parking, or building mechanicals.

- C. **Floor Area, Ground.** The gross floor area enclosed by the perimeter of the lower-most story of a building above the average grade plane.

- D. **Mass Below First Story.** For the purposes of calculating gross floor area, any cellar, crawl space, basement, or other enclosed area lying directly below a first story in a residential structure.
  1. **Standards.** The lesser of 50 percent of the floor area of mass below first story OR:
 
$$X/Y = \text{floor area of mass below first story}$$
 Where:

- X = Sum of the width of those sections of exposed walls below the first story having an exterior height  $\geq 4$  feet as measured from existing or proposed grade, whichever is lower, to the top of the subfloor of the first story.
- Y = Perimeter of exterior walls below first story.

(Ord. No. S-260, 08/03/87; Ord. No. V-112, 04/23/97; Ord. No. V-122, 07/14/97; Ord. No. Z-35, 11/03/08; Ord. No. Z-77, 02/22/11)

# Presentation relating to #195-15 regarding 300 Hammond Pond Parkway

Slides from an introductory presentation to the  
Zoning and Planning Committee of the Newton  
Board of Aldermen on September 16, 2015

prepared by Alderman Lisle Baker

(with thanks for materials supplied by members  
of the City of Newton Assessing, Engineering,  
Law, and Planning Departments)

Exploring the Public Interest in the former Webster Woods now located at 300 Hammond Pond Parkway

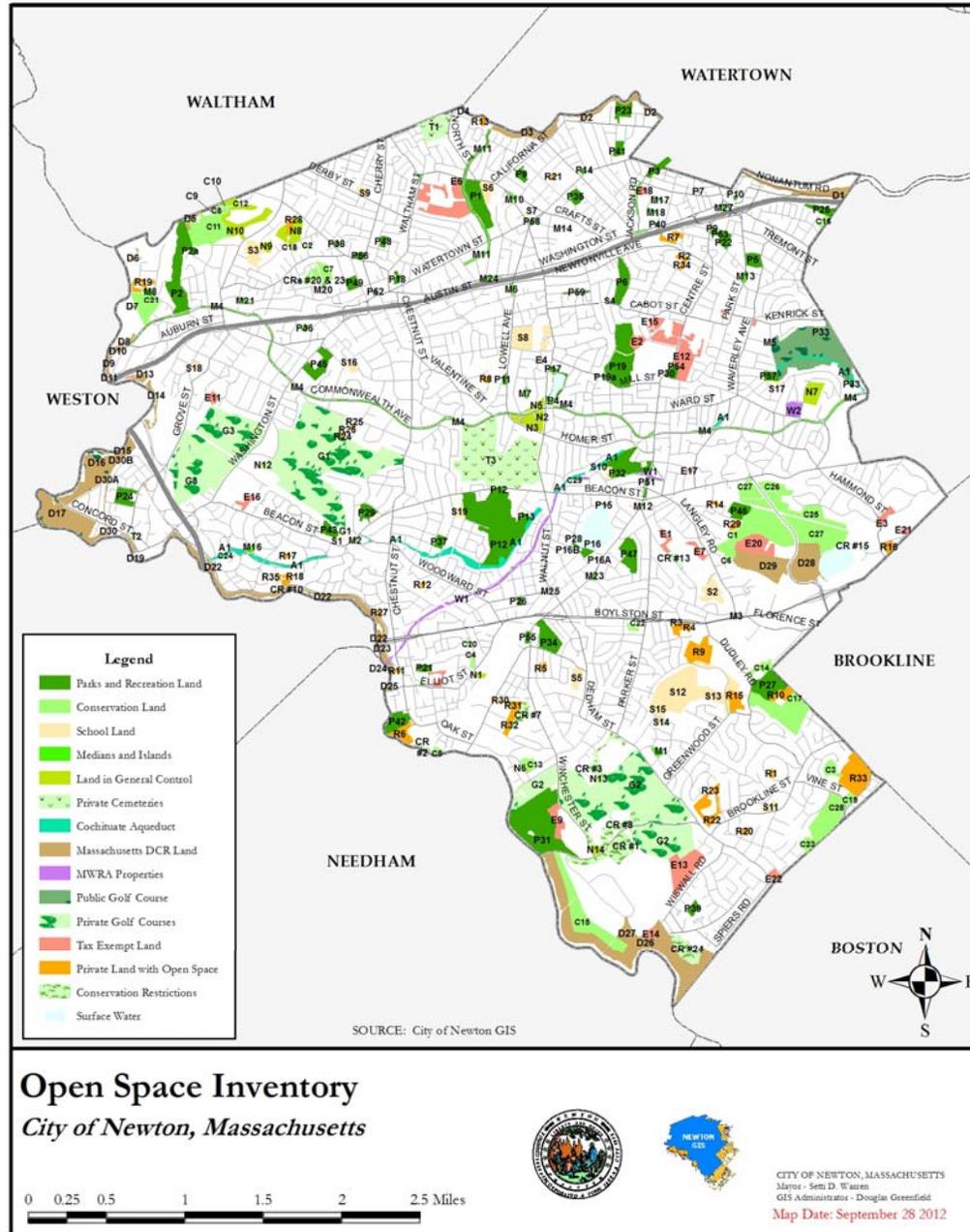
- #195-15 ALDERMAN BAKER, FULLER, LAREDO, DANBERG, AND BLAZAR requesting discussion of possible City acquisition of land, or rights therein, located west of Hammond Pond Parkway, which land was formerly owned as public open space by the Metropolitan District Commission until conveyed into private ownership in 1954, and which abuts existing Newton conservation land.

# Reason for discussion

- While the current owner has been a good steward of the land, and so may a new owner, we have had many citizens come forward to express concern about the long term future of the property, particularly the open space.

# Framework for discussion

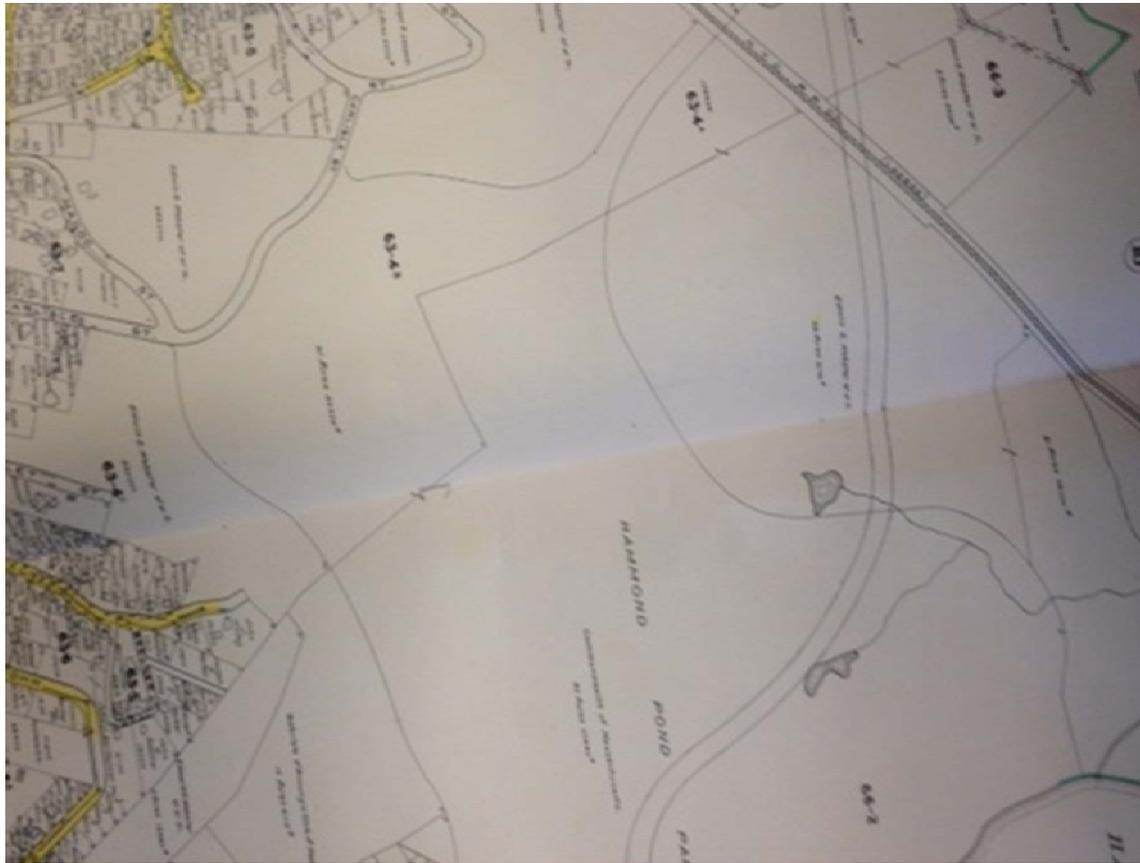
Our Zoning and Planning Committee discussion offers a public chance to articulate the enduring public interest in the conservation and recreational values of the parcel, especially the undeveloped land in the rear. We can also explore how public acquisition in whole or in part, or lesser rights, were that to occur, would help assure that public interest would be protected, recognizing that there is yet no specific proposal before us to do so.



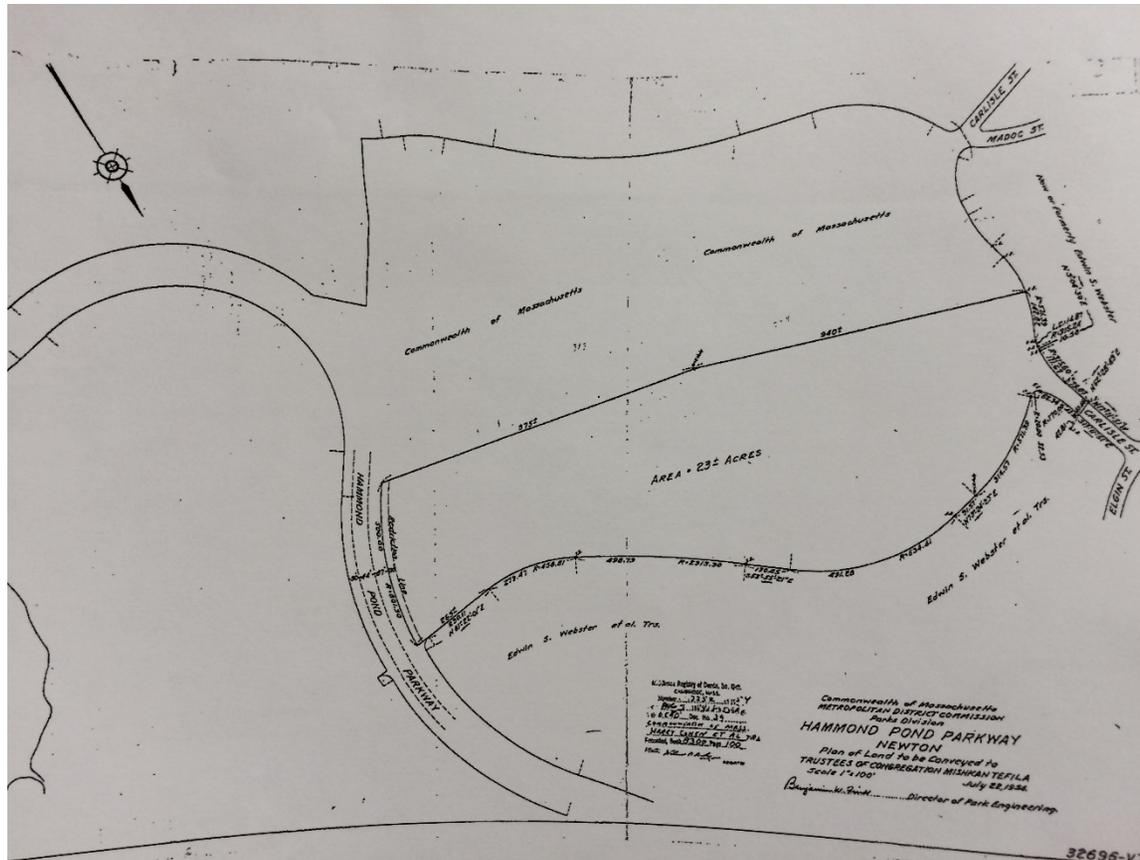
# Some history of the land

The land was given to the Commonwealth by the Webster family in 1915 for conservation and recreation purposes.

The Metropolitan District Commission conveyed it to the Mishkan Tefila Congregation in 1954.



**The Area before 1954 (from the City Atlas)**



1954 map of parcel with MDC land at top and Webster land at bottom (looking southwesterly) [from deed]

# 300 Hammond Pond Parkway

http://assessing.newtonma.gov/NewtonMAWebApp/ Newton, MA - Homepage City of Newton - Assessors' ...

Suggested Sites Bing Maps Google Maps Google Newton - Homepage Newton GIS Browser Newton, MA - Admin - Lo... OWL e-Handbook Study: New human re...

Start New Search

Property Viewer Aerial Photo Assessing Districts Parcel Abutters Neighborhood Sales GIS Mapping \*

Scale 1" = 592.22 ft

1.22 mi

**Print Property Record Card | View Sketch**

Property SBL 65008 0003  
 Address 300 HAMMOND POND PKWY  
 Owner CONGREGATION MISHKAN TEFILA

**Basic Information**

Property SBL 65008 0003  
 Address 300 HAMMOND POND PKWY  
 Tax Bill Number 2605515  
 Land Use \* 960  
 Land Use Description CHURCH/MOSQUE/SYNAGOGUE/TEMPLE \*  
 Lot Size 947,392 sq ft  
 Frontage 160 ft  
 Zoning \*\* SR1  
 Map ID 108SW  
 FY 2015 \$19,179,400

\* The land use and description listed here are for Assessing Department purposes based on historical records in the Assessing Department. For an official ruling on the legal use of the property pursuant to the state building code and/or Newton Zoning Ordinances, contact the Inspectional Services Department.

\*\* For reference purposes only. Please check with Engineering Department for official zoning designation.

**Ownership**

Current Owners CONGREGATION MISHKAN TEFILA

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[Deed Search](#) | [FAQ](#) | [Assessing Dept](#) | [Home](#)

# Deed Excerpts (July 1954)

The Commonwealth of Massachusetts acting through its Metropolitan District Commission, for consideration paid, grants to Harry Cohen, Nathan Yamins and Harry Feinberg, all of Newton, Middlesex County, Massachusetts, Robert Goldstein of Boston, Suffolk County, Massachusetts, and Miah Marcus of Brookline, Norfolk County, Massachusetts, as they are Trustees of Congregation Mishkan Tefila of Roxbury, Massachusetts, with quitclaim covenants, the land situated in Newton in the County of Middlesex and Commonwealth of Massachusetts, bounded and described as follows:

The aforesaid premises are conveyed subject to the following restrictions<sup>8</sup> for the benefit of remaining land of the grantor abutting said land, which restrictions shall remain in effect for a period of ninety-nine (99) years from the date hereof:

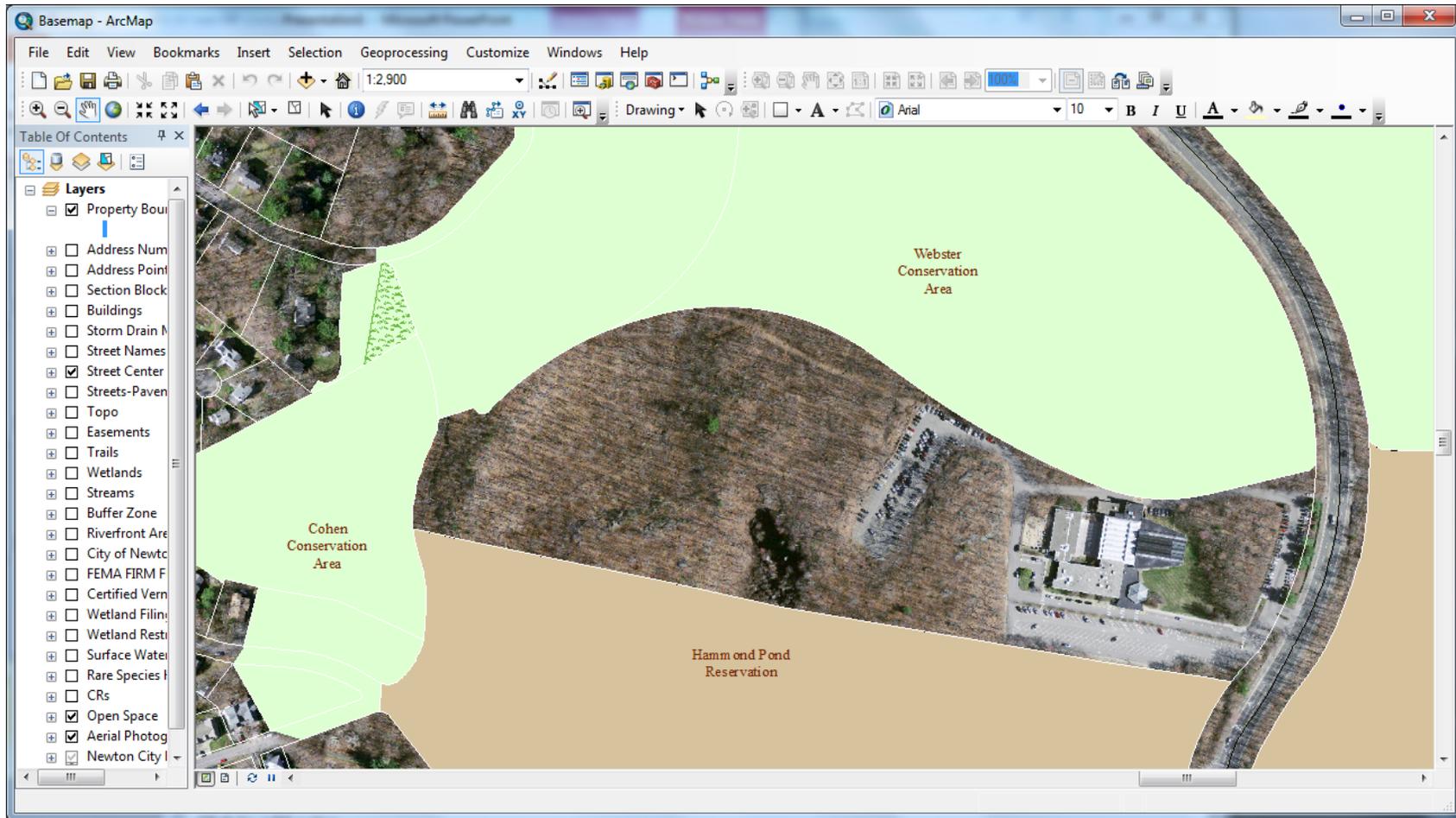
1. That said premises shall be used only for educational or religious purposes and for non-profit recreational activities in connection therewith.
2. That no building or structure or part thereof shall be erected, placed or maintained easterly of a line marked "Restriction Line" on the plan recorded herewith.

## Assessment History for 300 Hammond Pond Parkway – 947,392 sq. ft.-21.5 acres, building 64,500 square feet

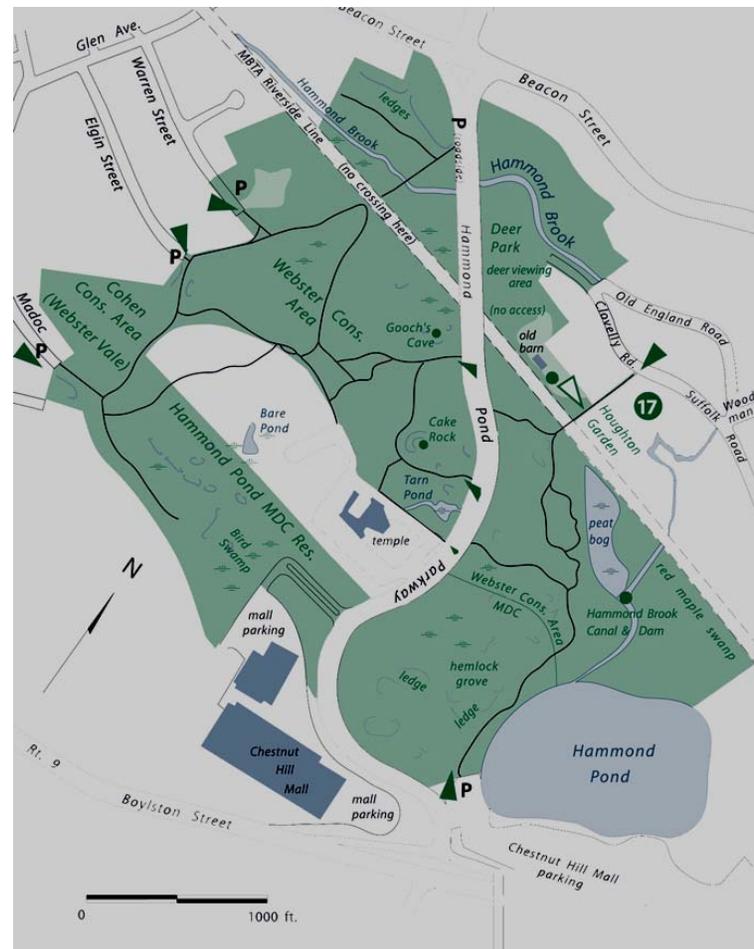
- FY 2015 \$19,179,400
- FY 2014 \$16,347,900 FY 2013 \$16,347,900
- FY 2012 \$16,347,900 FY 2011 \$15,984,100
- FY 2010 \$15,984,100 FY 2009 \$15,984,100
- FY 2008 \$14,538,700
- FY 2007 \$0
- FY 2006 \$0
- FY 2003 \$245,900
- FY 2002 \$245,900



# 300 Hammond Parkway surrounded by public open space



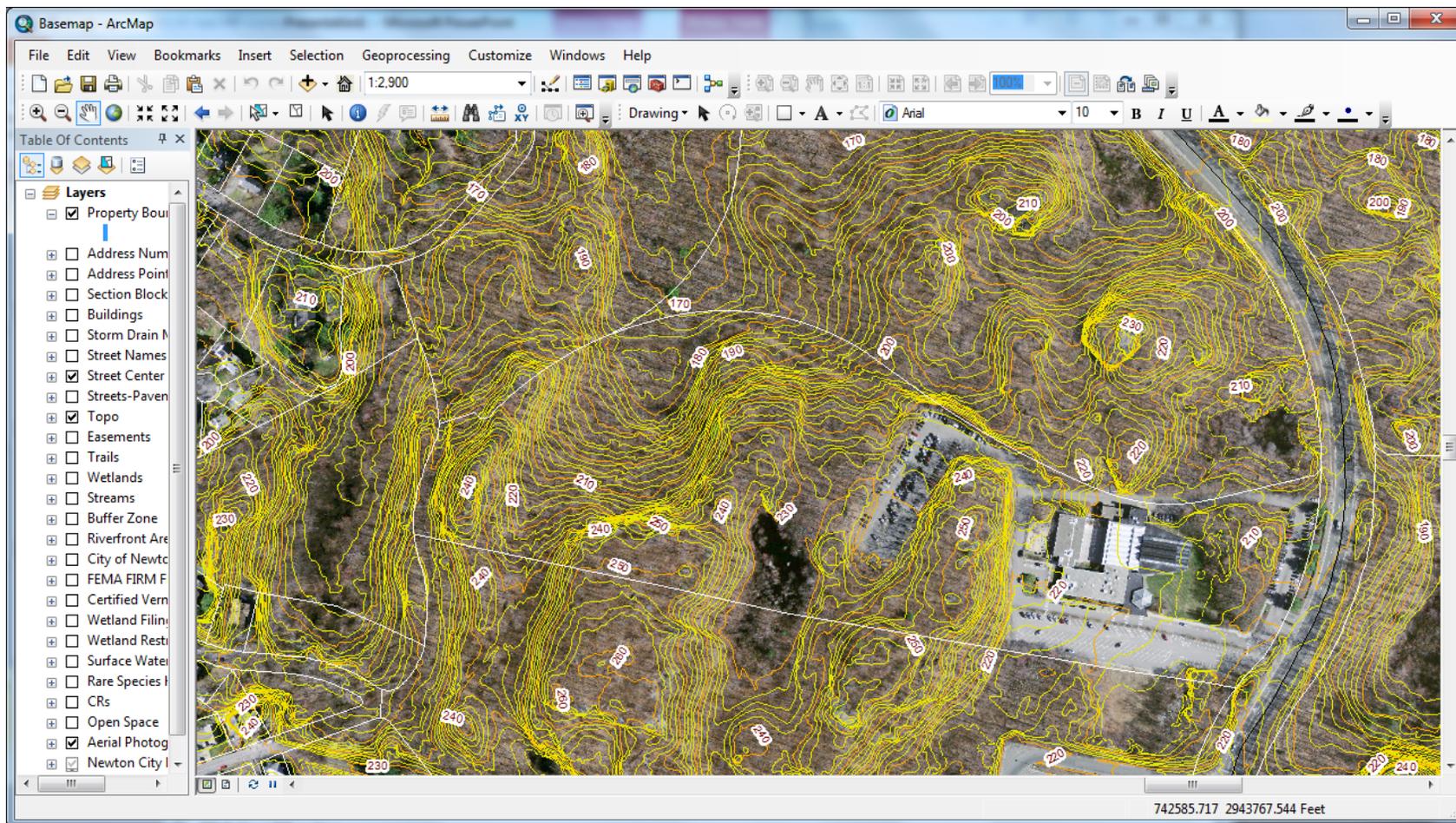
# Newton Conservators Trail Map



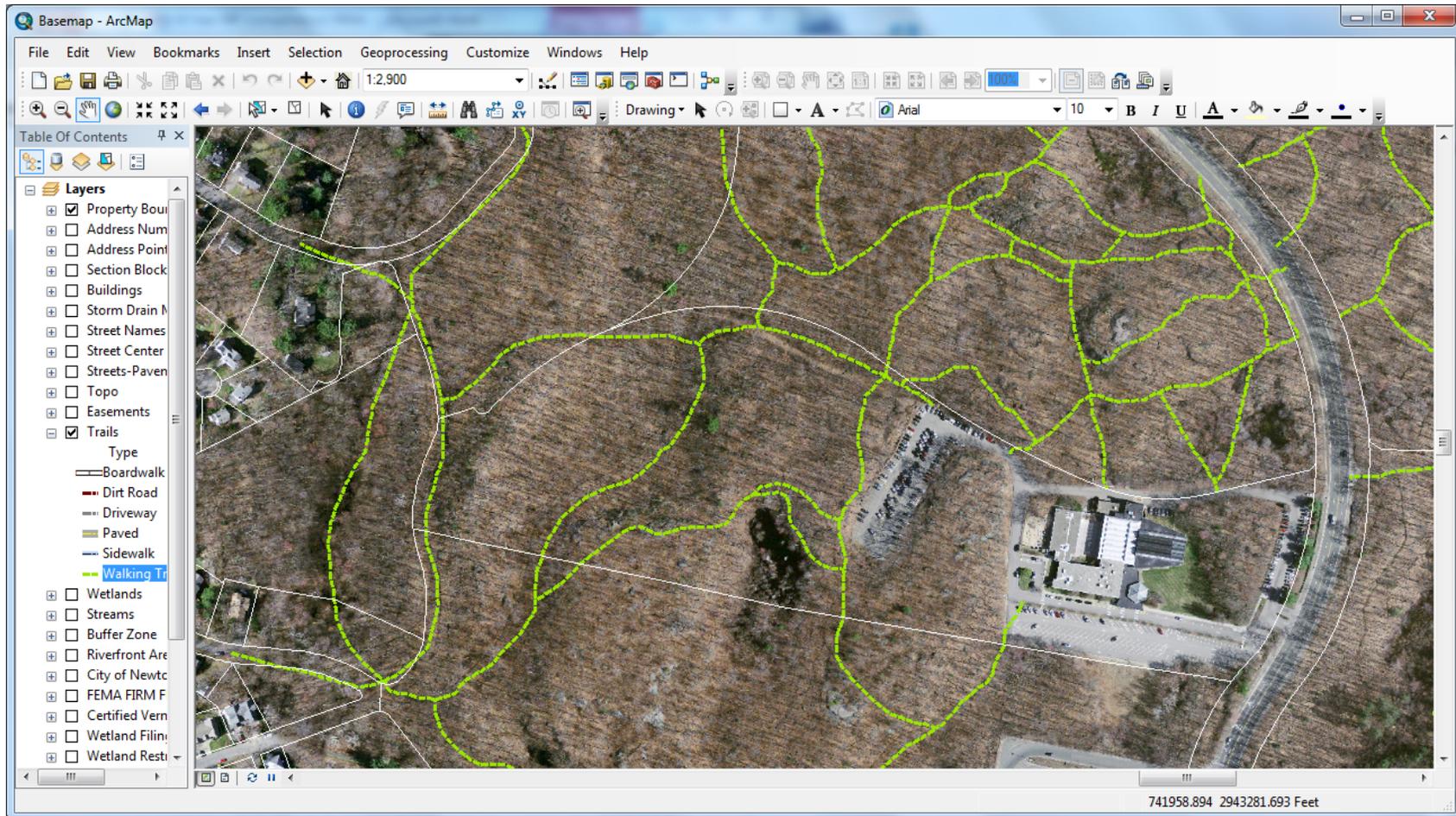
# Newton conservation land nearby

- In the mid 1960's and thereafter, the City of Newton used its power of eminent domain to acquire over 100 acres of former Webster family land from the Webster family, including successfully blocking a taking by the Massachusetts College of Art. Mayor Monte Basbas and then Representative Theodore Mann were actively involved in supporting and facilitating these major purchases.

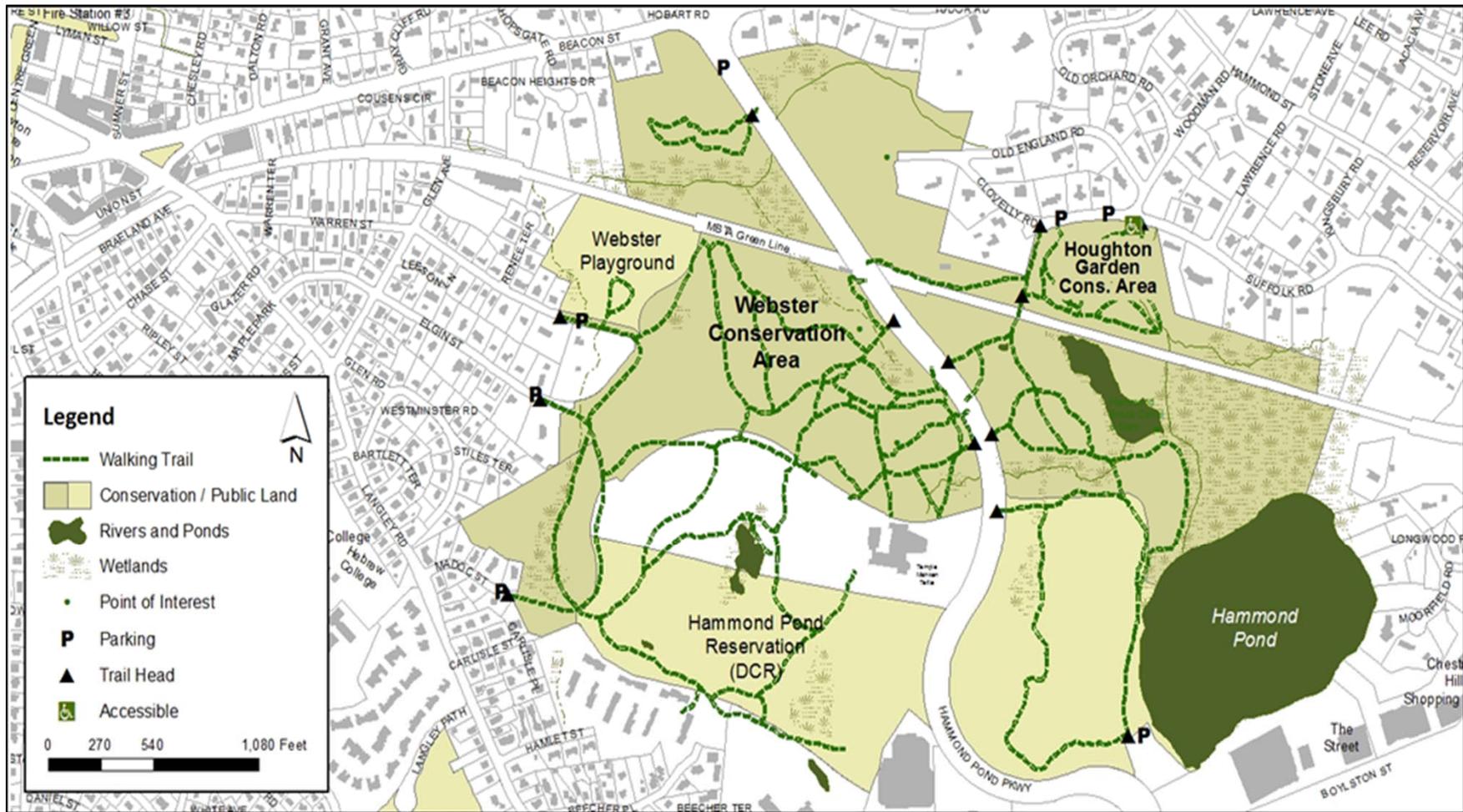
# The topography of 300 Hammond Pond Parkway and its surrounding open spaces



# Trails throughout the open spaces from the Newton GIS system



# Newton Conservation Area Management Plan (2015-2025)





**Walking from Elgin Street**



**Trail toward Temple Land**



**Marker at edge of property**



**Fork at the northwest edge of the property**



**North trail along the property**



**Survey stake at edge of the property**



**Stake on the north edge of the north trail**



**Along north trail**



**Sign to Webster Conservation Area to North**



**Trail to north into Webster Conservation Area**



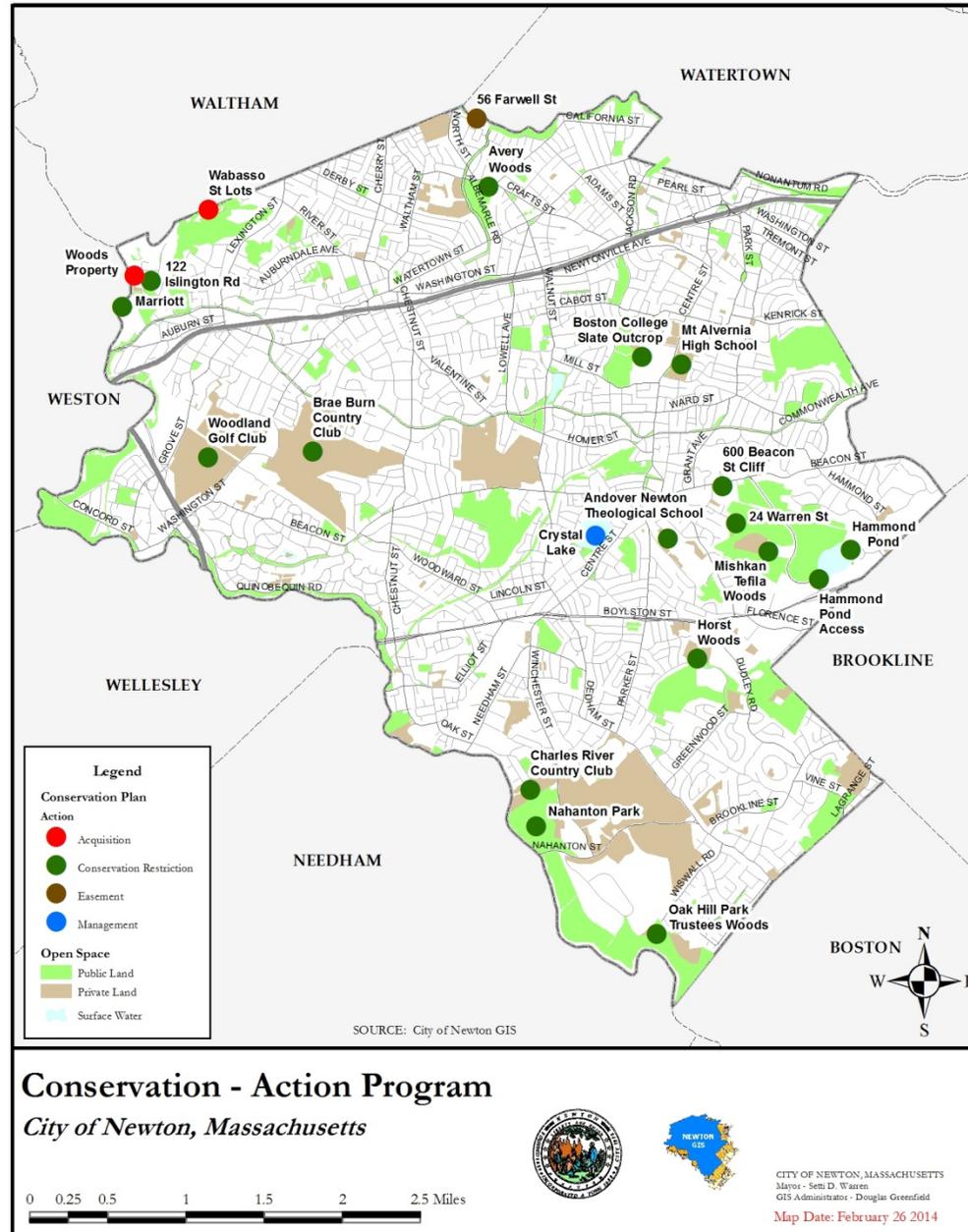
**Trail to south off north trail**

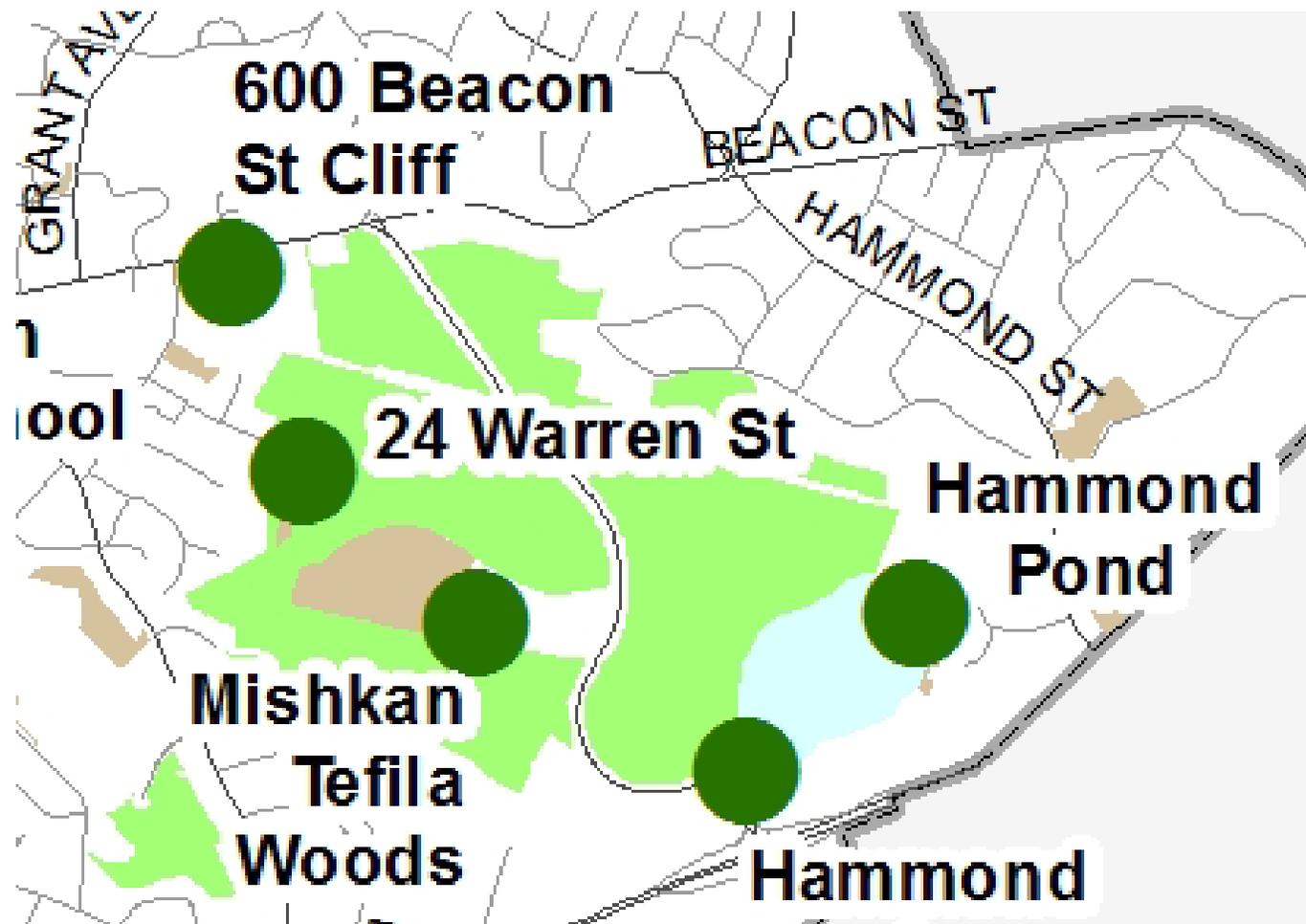


**Small trail into the land**

# How has the City viewed this interest?

- At least a portion of 300 Hammond Pond Parkway – almost 15 acres -- is called out in the City's revised Open Space Plan.





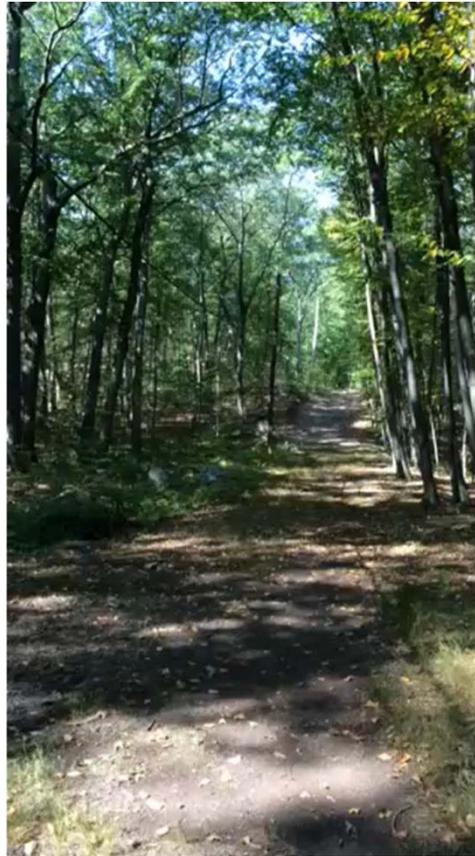
# 2014-2020 Newton Open Space Plan

(excerpt)

***Acquisition of a Conservation Restriction by gift, purchase or negotiation on the following whole or partial parcels***

| Priority | Action  | Lead Org.             | Est. Cost | Timeframe |
|----------|---|-----------------------|-----------|-----------|
| 1        | 56 Farwell Street (bordering on Charles River, 2.8 acres for scenic easement or conservation easement without public access). | DCR                   | \$0       | FY 15     |
| 2        | Temple Mishkan Tefila Woods - woods, pond, and sensitive habitats   | Con Com, Conservators | \$0       | Ongoing   |

|     |  |     |       |                 |   |
|-----|--|-----|-------|-----------------|---|
| E20 | Temple Mishkan Tefila 300 Hammond Pd.<br>Parkway Congregation Mishkan Tefila | SR1 | 14.71 | 65008 0003 part | V, wooded, rock outcrop, Bare Pond, FWR |
|-----|--|-----|-------|-----------------|---|



**A short sound of silence in the woods**