



LO # 594

L.C. # 342039  
DOC. #

[COPY]

No. 1664

COUNTY COMMISSIONERS

★ NOTE  
County Taking Plan  
is filed with  
this Document.

THOMAS P. McCUSKER, JR.  
and others

PETITIONERS FOR

LAYOUT

of

UNIVERSITY AVENUE SEIZURE

in the Town of WESTWOOD  
AS a Public Way across the Tracks,  
at Grade, of the Penn Central  
Transportation Company

Return and Order of Taking  
for Highway Purposes

Dated April 9, 1974

Worcester County Registry District  
RECEIVED FOR REGISTRATION

APR 10 1974

1 O'CLOCK 41 P.M.  
NOTED ON CERTIFICATE NO. 80926 etc.  
IN REGISTRATION BOOK 405 PAGE 126 etc.

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

At a meeting of the County Commissioners for the County of Norfolk, held at Dedham, within and for said County, on the ninth day of April, 1974, by adjournment of their December meeting next preceding: a notice of said meeting having been posted as required by law:

The petition of the BOARD OF SELECTMEN of the Town of WESTWOOD in said County, represents as follows:

Commonwealth of Massachusetts

Norfolk, ss.

To the Honorable the County Commissioners of the County of Norfolk:

Under the provisions of Chapter 160, Section 104 of the General Laws, as amended, the Board of Selectmen of the Town of Westwood deem that public necessity and convenience require that University Avenue be laid out as a public way across the tracks, at grade, of the Penn Central Transportation Company and herewith respectfully petition your Board to lay out said way in accordance with the above mentioned statute.

Thomas P. McCusker, Jr.  
Thomas M. Darcy  
Janet E. Jeghelian

BOARD OF SELECTMEN OF THE  
TOWN OF WESTWOOD

April 24, 1973

\*\*\*\*\*

This petition was presented to the Commissioners and duly entered at a meeting of said Commissioners, held at Dedham, aforesaid on the thirteenth day of November, 1973 by adjournment of their September meeting next preceding, a notice of said meeting having been posted as required by law: and the eleventh day of December, 1973 and nine-thirty o'clock in the morning at the Court House in said Dedham were appointed by the Commissioners as the time and place for commencing and proceeding to view the premises; and they thereupon caused a copy of said petition and of Order of Notice thereon, to be served upon the Clerk of the Town of WESTWOOD, being the town within which such layout of crossing was

prayed for, and upon the Penn Central Transportation Company, fifteen days at least before the time appointed for said view, and also caused copies of an abstract of said petition and of said order of notice to be posted in two public places in said town; and to be published in The Daily Transcript, a newspaper published in said County, said posting and publication having been seven days at least before the time appointed for said view, that all persons and corporation interested for or against said petition might then and there appear and be heard if they saw fit.

And on the said eleventh day of December, 1973 the Commissioners, James J. Collins and Thomas K. McManus, met at the time and place specified in said order, when and where the petitioners appeared and the Selectmen were represented by Thomas P. McCusker, Jr. of the Board of Selectmen, and Albert A. Pearson, Town Engineer; the Penn Central Transportation Company was represented by Ralph Cahill, Attorney; and Cabot, Cabot and Forbes was represented by Paul M. Dalton, and the said Commissioners heard all persons and corporations interested; and no party interested objected and, thereupon, the Commissioners, having examined the premises and having heard all parties interested, did adjudge that public convenience and necessity require the laying out of said UNIVERSITY AVENUE as a public way across the tracks of the Penn Central Transportation Company, at grade, as prayed for in said petition.

And thence the same was continued and adjourned to a meeting of said Commissioners held on the twelfth day of February, 1974, at which time the said Commissioners issued a partial decree adjudicating that public convenience and necessity required the laying out of UNIVERSITY AVENUE as a public way across the tracks of the Penn Central Transportation Company, at grade, as prayed for in said petition.

And on the said twelfth day of February, 1974, the County Commissioners requested the Department of Public Utilities

to give their consent, in writing, to lay out this crossing as a public way, at grade, in accordance with the provisions of G. L. Chapter 160, Section 104.

And on the thirteenth day of March, 1974 the Department of Public Utilities gave the following consent, in writing:

ORDERED: That the Department hereby consents in writing to the proposal by the Selectmen of the Town of Westwood to the laying out of a public way designated as University Avenue and at the same level with tracks of the Penn Central Transportation Company in the Town of Westwood.

PROVIDED: That this consent is given with the provision: That the crossing shall be protected by A.A.R. type flashing light signals which shall be installed in a manner satisfactory to this Department; and it is

FURTHER PROVIDED: That said signal installation shall include supplementary cantilevered light units which shall extend across each half of the roadway a sufficient distance to insure proper focus of the signals being afforded along both approaches to the grade crossing; and it is

FURTHER PROVIDED: That the operation of the foregoing protection shall be initially activated by means of a manual control and automatically restored by the passage of trains across the crossing or in the case of a track movement by a rail confined vehicle other than a train, the protection shall be manually initiated and manually restored; and it is

FURTHER PROVIDED: That the crossing warning signs required by section 140 and the distant warning signs by section 142, both of Chapter 160 of the General Laws, as amended, shall be reflectorized and of a type approved by the Department; and it is

FURTHER PROVIDED: That the Town of Westwood shall assume all costs for the installation and maintenance by the Penn Central Transportation Company of automatic flashing light signals

which are to serve as the protection at the proposed grade crossing.

And now the Commissioners, in accordance with the provision of G. L. Chapter 160, Section 104, by courses and distances, metes and bounds, do lay out said UNIVERSITY AVENUE as a public way as prayed for in said petition.

And the lines of said location of said UNIVERSITY AVENUE are as follows:

The westerly line begins at a stone bound which is on the westerly line of UNIVERSITY AVENUE and the southerly line of the Penn Central Transportation Company Lead Easement "C-1"; thence N-19-28-43-E, 55.13 ft. to a stone bound which is on the northerly line of the Penn Central Transportation Company Lead Easement "C-1" and the westerly line of said UNIVERSITY AVENUE.

The easterly line begins at a stone bound which is on the easterly side of UNIVERSITY AVENUE and the southerly line of the Penn Central Transportation Company Lead Easement "C-1", said bound being S-79-31-17-E, 65.89 ft. from the first bound on the westerly line as above described; thence northwesterly and northerly by a 20.00 ft. radius curve 14.57 ft. to a stone bound; thence N-19-28-43-E, 31.52 ft. to a stone bound which is on the northerly line of the Penn Central Transportation Company Lead Easement "C-1" and the easterly line of said UNIVERSITY AVENUE; said bound being S-70-31-17-E, 56.05 ft. and by a 338.45 ft. radius curve 3.95 ft. respectively from the last bound on the westerly line as above described.

The easterly line heretofore described, in general, is 60.00 feet easterly from and parallel to the westerly line.

And the said Commissioners do hereby take for the purposes of a highway all the easements and rights incident to a public highway in the lands included within the lines of location hereinbefore described, all as shown upon a plan entitled "Plan of University Avenue, Westwood, Laid out as a Public Way across

the tracks of the Penn Central Transportation Company as made by the Norfolk County Commissioners by Return dated April 9, 1974. Scale: 1 inch = 20 feet. Alvah L. Downs, County Engineer" and signed by "James J. Collins, Chairman" which plan is filed herewith and made a part of this Return in accordance with the provisions of Chapter 79 of the General Laws and all acts and amendments thereof and in addition thereto.

And the Commissioners order that the travelled way portion of UNIVERSITY AVENUE be constructed and maintained by the Town of Westwood not less than forty (40) feet in width as shown on the plan heretofore mentioned.

And the Commissioners further order that the Town of Westwood shall assume all costs for the installation and maintenance by the Penn Central Transportation Company of automatic flashing signals which are to serve as the protection at the proposed grade crossing.

And permanent stone bounds will be erected at the termini and angles of said way located as aforesaid.

And the Commissioners determine that proper measures shall be taken for the protection of the public which will meet with the approval of the Department of Public Utilities.

And the Commissioners have heard the proprietors of lands and property, rights and interests, taken or affected by these proceedings, and have considered and estimated the damages sustained in the premises, having had regard to all the damages done to the parties respectively whether by taking their property or injuring it in any manner, and having allowed by way of set off, the benefits, if any, to the property of said parties in the premises, and do estimate and determine the damages to be paid to said parties respectively in the sums hereafter named.

<u>Parcel Number</u>	<u>Owner</u>	<u>Approximate Sq.Ft. Taken</u>	<u>Award</u>
1	Wheeler Service, Inc. Land Court Cert. No. 80926 Book 405 Page 126	1028	None
2	Samuel Kurr Land Court Cert. No. 76481 Book 383 Page 81 Mtg: The First National Bank of Boston	555	None
3	General Electric Company Land Court Cert. No. 79621 Book 399 Page 21	1465	None

JAMES J. COLLINS

THOMAS K. McMANUS

GEORGE B. McDONALD  
COUNTY COMMISSIONERS

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

At a meeting of the County Commissioners, held at Dedham, on Tuesday, April 9, 1974, by adjournment of their December meeting next preceding: a notice of said meeting having been posted as required by law:-

ORDERED, that the foregoing Return be filed, accepted and recorded, and that attested copies thereof be transmitted to the Clerk of the Town of Westwood, the Department of Public Utilities and the Penn Central Transportation.

JAMES J. COLLINS

THOMAS K. McMANUS

GEORGE B. McDONALD  
COUNTY COMMISSIONERS

A true Copy:

Attest *E. J. Thompson* Clerk