TOWN OF BELMONT
PLANNING BOARD

MEETING MINUTES
February 9, 2011

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BELMONT, MA.
FEB 28 2 07 PM '11

7:05 p.m. Meeting called to order.

Attendance: Sami Baghdady, Chair, Michael Battista, Jenny Fallon, Andres Rojas, Karl Haglund; Jay Szklut and Jeffrey Wheeler, Staff.

Absent: Charles Clark, Associate Member.

Minutes of January 26, 2011 were unanimously approved.

Committee Updates

Shade Tree Committee – The Committee recently met and discussed the Tree Preservation and Maintenance By-law proposed by the Energy Committee. Mr. Rojas deferred his report until after the presentation of the Energy Committee later on the Agenda.

7:10 p.m. Town Planners' Report

Concord Avenue/Sandler Skate Shop – The new owner of the property in concert with the Planning Division has scheduled a neighborhood meeting for February 16th to introduce himself and to present his concept for the reuse of the property. Mr. Szklut will attend.

Belmont Center Parking Management RFP – Mr. Szklut notified the Board that the Planning Division would be issuing a "Request for Qualifications" to hire a consultant to update the 2002 Belmont Center Parking Study and to develop a parking management plan for the Center. Board members noted that pedestrian flows and paths should be considered as the plan is developed.

7:15 p.m. Discussion – Energy Committee Proposed By-Laws

Roger Colton and Jan Kruse represented the Energy Committee. Mr. Colton noted recommendations in both the Town's Comprehensive Plan and Climate Action Plan for consideration of energy efficient building codes and prioritization of tree preservation as reasons for why the proposed by-laws are being brought forward. The proposed tree by-law would require replacement of trees removed during residential and commercial construction projects including individual home additions while the other by-law recommends the Town's adoption of the 'stretch code'.

Ms. Fallon asked how adoption of the proposed by-laws and the Town's application to be part of the Green Communities act would interrelate. Mr. Colton noted that the proposed by-laws dovetail with the goals of the green communities act.

Mr. Rojas reported that the Shade Tree Committee did not support the proposed Tree Preservation and Maintenance By-law because of concerns with the expansion of the role of the Tree Warden and lack of staffing to administer and enforce the By-law. Mr. Rojas also expressed a concern that the By-law infringes onto private property rights by imposing burdens

and costs on property owners who desire to cut a tree on their land. Mr. Rojas also noted that he felt both proposed by-laws would be anti-economic development.

Mr. Colton cited several studies that found both by-laws increased home values and did not discourage development.

Mr. Battista also had reservations, citing his personal experiences with the considerable additional costs that would be imposed on homeowners should the stretch code or the tree by-law be adopted.

The Board continued its discussion until its first meeting in March.

8:02 p.m. Discussion – Vendor By-Law

The Board of Selectmen had requested the Planning Board to consider proposing an amendment to allow temporary food vendors to sell their goods on the Town's public parking lots. Board members discussed the proposed use, including whether the use or some limited use is appropriate for the Town, where the use should be located, and impacts of the use on existing retail establishments.

The Board also expressed a concern with attempting to draft a zoning bylaw amendment that has many concerns and questions by the April Town Meeting. Mr. Szklut was requested to draft a letter to the Board of Selectmen expressing the concerns of the Planning Board and requesting a meeting to clarify the interests of the Selectmen.

8:30 p.m. Discussion – Belmont Center Design

Staff presented the most recent drawings and options under consideration by the Traffic Advisory Committee. Board members were pleased that many of the proposed changes were intended to make Belmont Center more pedestrian safe and friendly. After discussion, the Board agreed upon the following recommendations to be presented to the Traffic Advisory Committee at their next meeting.

- Keep parallel parking.
- Consider limiting hours for commercial loading and using loading zones as regular parking spaces during non-loading hours.
- Narrow the entrance to Claflin Street at Channing Road. Do not install an island.
- Consider moving the curb cut at Concord Avenue serving as the Belmont Savings Bank parking garage entrance further West (up along Concord Ave) to further increase the size of the green space in front of the Bank.

Mr. Szklut will draft a memorandum of the Board's recommendations for presentation to the Traffic Advisory Committee.

9:35 p.m. Discussion – South Pleasant Street Forum

Mr. Baghdady distributed a listing of considerations that emerged from the public forum. Board members were asked to think about how these considerations could affect future use along South Pleasant Street. Discussion will be continued to the next Board meeting.

9:51 p.m. **Meeting Adjourned**

Next Meeting: Wednesday, February 23, 2011, 7:00 p.m.
Board of Selectmen's Meeting Room, Town Hall

List of Documents presented:

- Proposed Tree Preservation By-Law
- Proposed Building Stretch Code By-Law
- Communication from Board of Selectmen re: Vendor By-Law
- Belmont Center Re-design drawings
- South Pleasant Street Forum: Next Steps

2/23/11 Minutes Approved

Tree Preservation and Maintenance By-Law

Town of Belmont Energy Committee: Residential Subcommittee

Spring 2011

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Section 1. Preamble.

The Town of Belmont finds that the preservation of existing trees and the promotion of new tree planting is a public purpose that protects the public health, welfare, environment and aesthetics of the Town of Belmont and its citizens. The urban forest serves a wide variety of functions, which promote the health, safety and welfare of residents. These functions include:
(a) conserving energy, by providing shade and evaporative cooling through transpiration;
(b) improving local and global air quality by absorbing carbon dioxide, absorbing particulate matter, and producing oxygen;
(c) reducing wind speed and directing air flow;
(d) reducing noise pollution;
(e) providing habitat for birds, small mammals, and other wildlife;
(f) reducing storm runoff;
(h) increasing real property values; and
(i) enhancing visual and aesthetic qualities that attract visitors and businesses.

Section 2. Intent and Purpose.

This By-law is enacted for the purpose of preserving and protecting certain designated trees.

Section 3: Definitions

When used in this By-law, the following definitions shall apply:

3.1 Correctly replant: Trees that are planted in compliance with American National Standards Institute (ANSI) Standard A300, Part 6.

3.2 Demolition: Any act of pulling down, destroying, removing or razing a building or commencing the work of total or substantial destruction with the intent of completing the same.

3.3 Diameter: The diameter (in inches) of the trunk of a tree (or, for multiple trunk trees, the aggregate diameters of the multiple trunks) measured four (4) feet from the existing grade at the base of the tree.

3.4 Person: Any person, firm, partnership, association, corporation, company or organization of any kind including any public utility or municipal department.

3.5 Protected Tree: Any tree with a diameter of eight inches or greater, or any multiple trunk tree with a diameter of 15 inches or greater.

3.6 Structure: A combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals or property. For the purpose of this definition "roof" shall include an awning or any similar covering, whether or not permanent in nature. The word "building" shall be construed where the context allows as though followed by the words "or part or parts thereof".

3.7 Tree Removal: Any act that will cause a tree to die within a three (3) year period.

The Board of Selectmen may provide other such definitions of terms in rules and regulations deemed useful to implement this By-law.

Section 4: Applicability of the By-law

4.1 Applicability: The circumstances under which the tree removal and replacement regulatory process delineated in this By-law shall apply are as follows:

(a) the proposed demolition of an existing residential structure and its replacement with a new dwelling or structure.

(b) the proposed construction of an addition to an existing residential structure that constitutes a 10% or greater increase in the building footprint.

(c) the proposed demolition of an existing non-residential structure and its replacement with a new dwelling or structure.

(d) the proposed construction of an addition to an existing non-residential structure that constitutes a 10% or greater increase in the building footprint.

(e) the proposed new construction of a residential or non-residential structure on any lot.

4.2 Non-applicability. This By-law shall not apply in any instance where the Conservation Commission has established jurisdiction.

Section 5: Regulation of Protected Trees

5.1 Scope: The removal of Protected Trees is prohibited unless authorized as set forth below.

5.2 Procedures.

(a) In all circumstances identified in Section 4.1(a) – 4.1(e), the owner of the property shall submit a proposal for tree removal and mitigation to the Inspector of Buildings with the application for a demolition or building permit. As part of the permit process, the property owner shall submit to the Inspector of Buildings a site plan drawn and stamped by a registered land surveyor or landscape architect showing all existing Protected Trees as certified by a landscape architect or Certified Arborist.

(b) If any Protected Trees will be removed in connection with the circumstances set forth in Section 4.1(a) – 4.1(e), the owner of the property shall submit a proposal for tree removal and mitigation to the Inspector of Buildings with the application for a building or demolition permit. In addition, if any Protected Trees were removed during the 12 months preceding the application for the building or demolition permit, a tree removal and mitigation proposal regarding the Protected Trees already removed shall be submitted to the Inspector of Buildings. The proposal shall satisfy the mitigation requirements set forth below. The Selectmen shall set an application fee which shall be adequate to compensate the Town for all costs incurred in administering this by-law.

(c) If the Inspector of Buildings determines that the applicant's proposal is consistent with the mitigation requirements herein, he or she will issue a tree permit within 10 business days of receipt of the proposal to authorize the tree work. If the proposal does not meet or satisfy these requirements, the Inspector of Buildings shall so notify the applicant and deny the tree permit.

(d) An applicant may appeal the denial of a tree permit to the Board of Selectmen. The Board of Selectmen shall conduct a public hearing on the appeal and shall give the public notice thereof, at the expense of the applicant. Public notice shall include all persons owning land within 300 feet of any part of applicant's land at least fourteen (14) days before said hearing. The Board of Selectmen shall rule within twenty business (20) days of the public hearing.

5.3 Mitigation

A Protected Tree shall not be removed unless at least one of the following provisions is satisfied:

(a) A commitment is made to correctly replant trees. Such replanting shall be on the basis of one (1.0) inch diameter of new tree(s) for each one (1.0) inch diameter of Protected Tree(s) removed. Each replanted tree must have a minimum diameter of two (2.0) inches. The replanting shall occur no later than 12 months after completion of the construction work, either on the applicant's land or on another site as approved by the Town Tree Warden; or

(b) A payment is made to the Tree Replacement Fund equal to $100 per each inch of diameter of Protected Tree removed not already mitigated as per section 5.3(a), which payment requirement from time to time may be modified in accordance with regulations adopted pursuant to Section 8.

5.4 Tree Replacement Fund

(a) There is hereby established a Tree Replacement Fund which shall be held by the Town Treasurer. Any payments into the Tree Replacement Fund made pursuant to §5.3(b) shall be deposited in said account.

(b) The Director of the Department of Public Works shall have sole discretion concerning the use of funds from the Tree Replacement Fund, provided that such funds shall be disbursed exclusively for the planting (and maintenance, as necessary) of trees on public land or private

property with the express written approval of the owner of such private property or other tree-related activities designed to further the objectives of Section 1 of this By-law.

Section 6. Heritage Trees.

6.1 The Town Tree Warden shall have as one of his/her duties the location, selection and identification of any trees which qualify as "Heritage Trees." A tree may be designated as a Heritage Tree if it meets one or more of the following criteria: species rarity, old age, association with a historical event or person, abnormality, or scenic enhancement, or any tree which is seventy-five (75) years or older, or which is three (3) feet in diameter or more. With regard to trees located on private property: they shall be located within the front, rear, or side yard set-back areas as defined in the zoning By-Law. Each person is held responsible for ascertaining the age and diameter of any tree prior to such person cutting, trimming, or removing same, in whole or in part.

6.2 Except as provided by Chapter 87 of the Massachusetts General Laws, it is unlawful for any person, to cut, trim or remove, in whole or in part, any Heritage Tree, even if such person is the owner of the fee in the land on which such tree is situated, except upon a permit in writing from the Tree Warden, and only to the extent of the terms and condition of such permit.

6.3 The Town Tree Warden shall grant such permit only upon a showing by a preponderance of the evidence that the continued present state of such tree endangers persons, or, in the discretion of the Tree Warden, if such tree is diseased or damaged.

6.4 A person who is aggrieved by the provisions of this section and for cause shown may apply directly to the Board of Selectmen for a permit to cut, trim, or remove in whole or in part, any Heritage Tree, which is otherwise protected under this section so long as the Board of Selectmen in the exercise of its discretion is satisfied that such applicant would sustain a hardship, financial or otherwise, which outweighs any detriment to public interest that would result in the application of this section.

Section 7. Emergencies and Exemptions.

Provisions of this By-law shall not apply to:

(a) emergency projects necessary for public safety, health and welfare as determined by the Director of the Department of Public Works; or

(b) trees that are a threat to life and/or property as determined in writing by the Town Tree Warden.

Section 8. Enforcement.

7.1 The penalty for each violation of this By-law will be a fine in an amount equal to $150 per each inch of diameter of Protected Tree removed not already mitigated as per section 5.3(a).

7.2 Each instance in which a Protected Tree is removed without a permit as required by this By-law shall constitute a violation of this By-law.

7.3 If mitigation is not completed in due time as determined by the Inspector of Buildings, each day beyond the completion date shall constitute a new and separate violation.

7.5 A violation of the provisions of this By-law shall result in the revocation of a building permit.

Section 9. Rules and Regulations

The Selectmen may promulgate, after public notice and hearing, Rules and Regulations to effectuate the purposes and intent of this By-law. Failure by the Selectmen to promulgate such Rules and Regulations shall not act to suspend or invalidate the effect of this By-law.

Section 10. Severability

If any section, paragraph or part of this By-law is for any reason declared invalid or unconstitutional by any court, every other section, paragraph and part shall continue in full force.

Section 11. Relationship to Other By-laws

Nothing in this By-law shall be construed to restrict, amend, repeal, or otherwise limit the application or enforcement of existing Town of Belmont By-laws or Commonwealth of Massachusetts laws.

Section 11. Effective Date

This By-law shall take effect immediately upon enactment.

ARTICLE xxx[1]

To see if the Town will vote to enact Chapter 32 of the Town of Belmont General Bylaws, entitled "Stretch Energy Code," for the purpose of regulating the design and construction of buildings for the effective use of energy, pursuant to Appendix 120 AA of the Massachusetts Building Code, 780 CMR, the "Stretch Energy Code", including amendments or modifications thereto, a copy of which is on file with the Town Clerk, or take any other action relative thereto.

Chapter 32
STRETCH ENERGY CODE
[Adopted April xxx, 2011: Annual Town Meeting by Art. ___]

§ 32-1 Definitions
§ 32-2 Purpose
§ 32-3 Applicability
§ 32-4 Authority
§ 32-5 Stretch Code

§ 32-1 Definitions

International Energy Conservation Code (IECC) 2009 - The International Energy Conservation Code (IECC) is a building code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency. Commencing July 1, 2010, the baseline energy conservation requirements of the MA State Building Code will default to IECC 2009 and MA amendments.

Stretch Energy Code - Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA, the Stretch Energy Code is the International Energy Conservation Code (IECC) 2009 with amendments contained herein.

§ 32-2 Purpose

The purpose of 780 CMR 120.AA is to provide a more energy efficient alternative to the base energy code applicable to the relevant sections of the building code for both new construction and existing buildings.

§ 32-3 Applicability

[1] State provides uniform language through which Towns adopt Stretch Code.

This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 61, or 93, as applicable.

§ 32-4 Authority

A municipality seeking to ensure that construction within its boundaries is designed and built above the energy efficiency requirements of 780 CMR may mandate adherence to this appendix.

780 CMR 120 AA may be adopted or rescinded by any municipality in the commonwealth in the manner prescribed by law.

§ 32-5 Stretch Code

The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 120 AA, including any amendments or modifications, is herein incorporated by reference into the Town of Belmont General Bylaws, Chapter 32.

The Stretch Code is enforceable by the inspector of buildings.

Szklut, Jay

From: Younger, Thomas

Sent: Tuesday, February 01, 2011 9:40 AM

To: Szklut, Jay

Subject: Vendor by-law

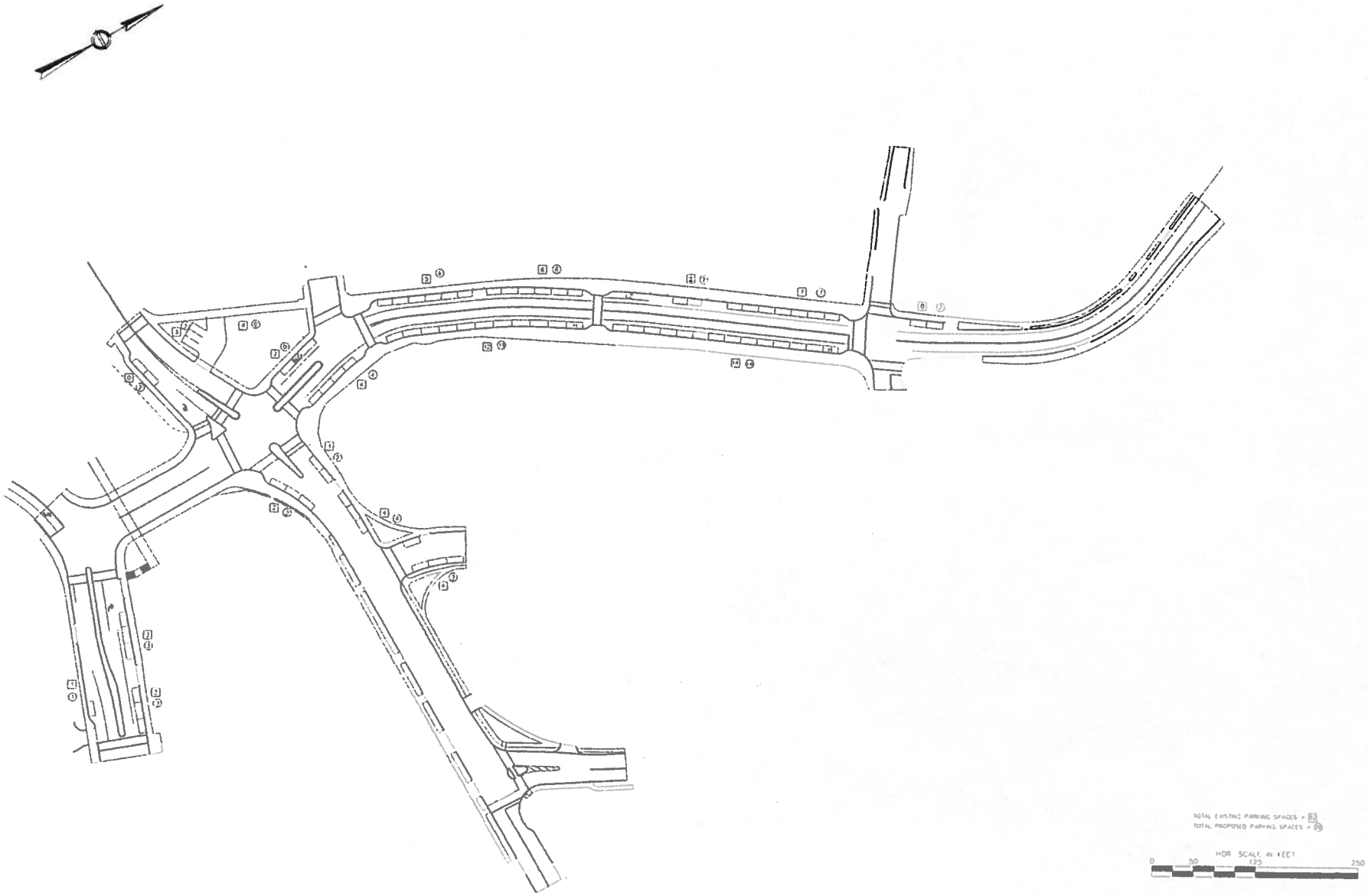
Good morning Jay:

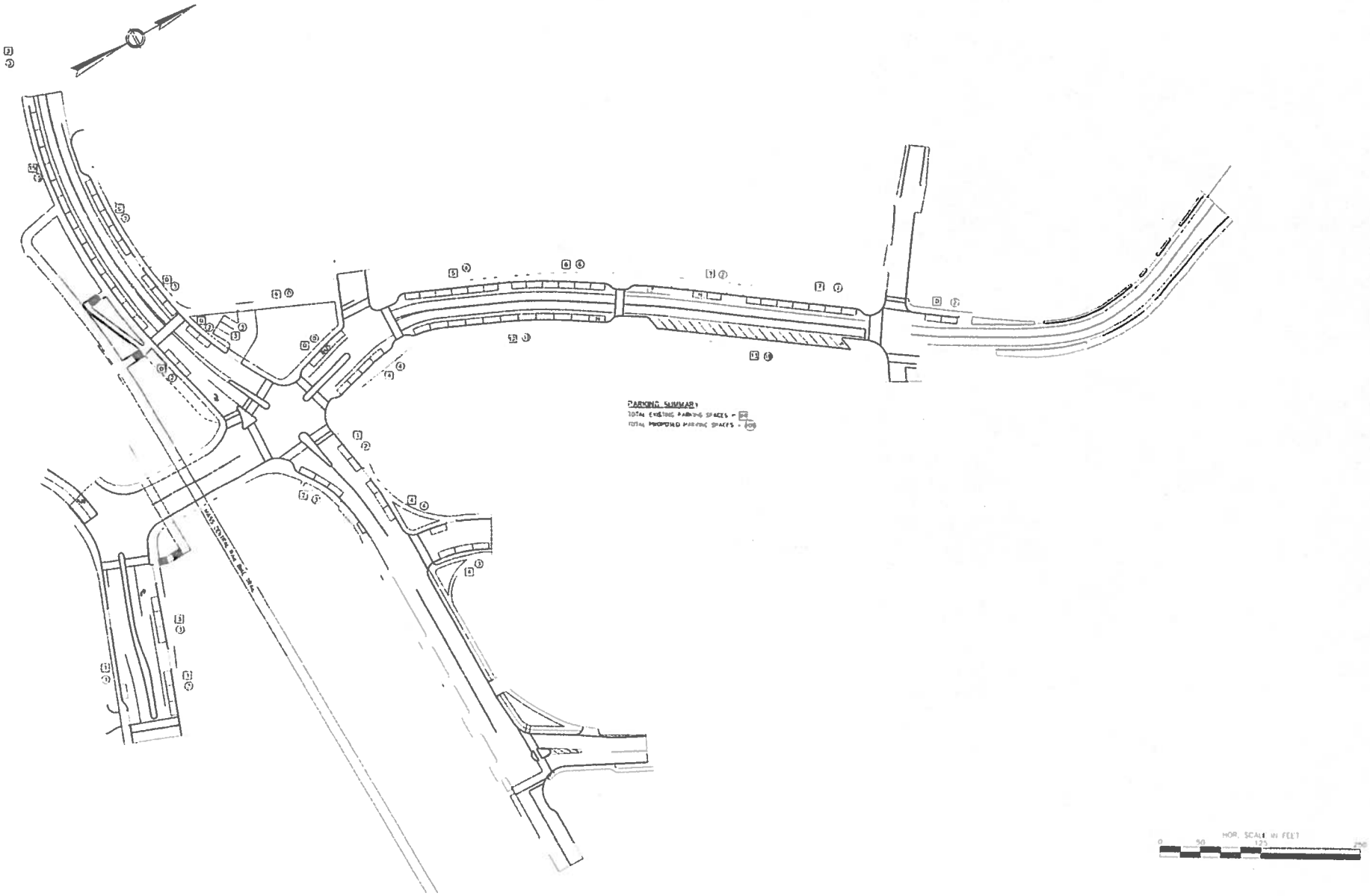
The Board of Selectmen at their meeting last evening supported that they would like to see the Planning Board draft an amendment to our current zoning by-law to allow food serving vendors to set up temporary establishments (carts) in our public parking lots for our upcoming April Town Meeting. It would be appreciated if you could pass this request to the Planning Board.

If there are any questions or comments, please feel free to contact me.

Thank you.

Thomas G. Younger
Town Administrator
Town of Belmont, Massachusetts
(617) 993-2610
tyounger@belmont-ma.gov


TOTAL EXISTING PARKING SPACES = 83
TOTAL PROPOSED PARKING SPACES = 89
HOR SCALE IN FEET
0
50
125
250


PARKING SUMMARY
TOTAL EXISTING PARKING SPACES = 88
TOTAL PROPOSED PARKING SPACES = 109
HOR. SCALE IN FEET
0
50
125
250

SOUTH PLEASANT STREET USE CONSIDERATIONS

	Asset	Liability	Comments
A. LOCATIONAL FACTORS			
Sits above and abuts Waverley Square			
Not "connected" to Waverly Square			
Commuter rail station at either end			
Sits above residential neighborhoods			
MBTA Tracks abut all parcels in rear			
Pleasant Street is a State Highway with fast traffic			
Accessibility to Routes, 2, 3, 95 and Trapelo Road for commuters			
Opposite McLean Open Space/Conservation Hill			
Other			

B. SITE FACTORS			
Narrow Parcels			
Topography (sharply sloped in areas)			
Other			
C. EXISTING USES			
Office buildings			
Small retail			
Gas station			
Auto Repair			
Auto Sales			

D. USE CRITERIA AND FACTORS			
Low traffic generator			
Not a nuisance to residential neighborhoods (low noise generator, odor, etc.)			
Attractive and inviting			
Does not compete with Belmont Center and Waverly Squares			
Complements Belmont Center and Waverly Square			
How will new uses blend with existing uses			
Other			

E. USES TO ENCOURAGE			
F. UNDESIRABLE USES			