

Belmont Citizens Forum

Vol. 1, No. 2

A Newsletter for Belmont Residents

March 2000

Judge Annuls Town Ruling on Temple Spire

By Sharon Vanderslice

On February 22, a Middlesex Superior Court judge struck down a decision by the Belmont Zoning Board of Appeals (ZBA) that would have permitted a 139-foot spire to be built atop the Mormon Temple now under construction on Belmont Hill.

In 1997, the Zoning Board granted the Church of Jesus Christ of Latter-day Saints permission to erect that spire. It based its decision on its interpretation of a state law, commonly known as the Dover Amendment, that allows certain zoning exemptions for religious institutions. The spire would have exceeded the town's normal height limitation by 67 feet.

Justice Elizabeth M. Fahey found, however, that the spire was not essential to the religious use of the building. It was "an architectural element," she said, and thus not entitled to protection under the Dover Amendment.

Therefore, the church had to show, as any landowner would, that it was eligible for a special permit under the town's guidelines. That is, it was required to prove that the spire conferred benefits on the town as a whole that outweighed any adverse effects.

Abutters to the property, who appealed the ZBA decision, demonstrated that a 139-foot spire would

block the sun for certain periods of the day. They also testified that the spire would impair the view from their properties, especially when lit at night. The ZBA permit allowed the building to be illuminated until 11 PM.

In her findings of fact, Judge Fahey stated that:

The Temple spire. . . would be visible from many points around the neighborhood, even through and above the trees. The spire, atop an enormous building sited at the highest point in Belmont, on top of a building 340' above sea level, would clearly be visible for a great distance.

According to court documents, "no evidence was presented concerning any townscape purpose relative
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Summary: *The Mormon Church will not be allowed to build a 139-foot high spire on its temple because it could not prove that the spire would benefit the town. A Superior Court judge found that the spire was an "architectural element" not eligible for exemptions from local height limits.*

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The McLean Case: What Happened in Land Court?

By Nelson Bolen

All sides in the lawsuit over the rezoning of the McLean Hospital land had their day in court on February 17, 2000. The next step will come within a few months, when the judge issues his decision.

McLean Hospital filed the lawsuit against the Town of Belmont on July 21, 1999. McLean asked the Land Court to issue a declaratory judgment affirming the validity of the rezoning voted on in the town referendum on July 20. McLean's attorney explained that the suit was filed because of possible challenges to the rezoning on the grounds of illegal contract zoning. If such a judgment were issued by the court, future legal challenges to the rezoning would be impossible. The town raised no objection to McLean's suit, but eleven citizens did, and they intervened in the case. The Belmont Citizens Forum has been supporting the intervenors in this case.

Judge Mark Green heard oral arguments from attorneys for McLean Hospital, the intervenors, and the Town of Belmont during a two-hour session on February 17. All parties had previously filed motions for summary judgment in the case. A motion for summary judgment means that no material facts are in dispute and the case can be decided on the basis of the law without a trial. McLean's motion for

summary judgment argued that the rezoning was done in accordance with the law, and the court should issue a declaratory judgement validating it. The intervenors' motion argued that both the process leading up to the rezoning vote and the rezoning agreement itself were in violation of the law, and the court should declare the rezoning invalid.

Based upon his opening remarks at the hearing, it was obvious that Judge Green had carefully read the stack of legal documents filed in this case, that he had studied prior cases cited by both sides, and that he understood the basic issues. He identified the central issue as that of illegal contract zoning – the main argument in the intervenors' case.

Summary: The McLean rezoning could be declared illegal in Massachusetts Land Court. Lawyers for the hospital said the deal was approved in a town-wide referendum, but citizen intervenors said that doesn't make it legal.

McLean Hospital's case was argued by Diane Tillotson of the law firm Hemenway & Barnes. Ms. Tillotson began with a lengthy tutorial history of the origins and evolution of the McLean development plan. Her basic argument was that the rezoning was the result of a 2 1/2-year process that involved many public meetings, and that it had been approved decisively by the Town Meeting and affirmed in the townwide referendum. She characterized the intervenors' case as simply the complaints of those who do not like the rezoning and want something better.

The intervenors' case was argued by Gregor McGregor, principal of the law firm McGregor & Associates, which specializes in environmental and land use issues. Mr. McGregor is also the chairman of the Massachusetts Association of Conservation Commissions. Some of the facts he cited to support the argument of illegal contract zoning were:

- The rezoning amendment and the Memorandum of Agreement were presented to the Town Meeting as an integrated and inseparable package – a contract.

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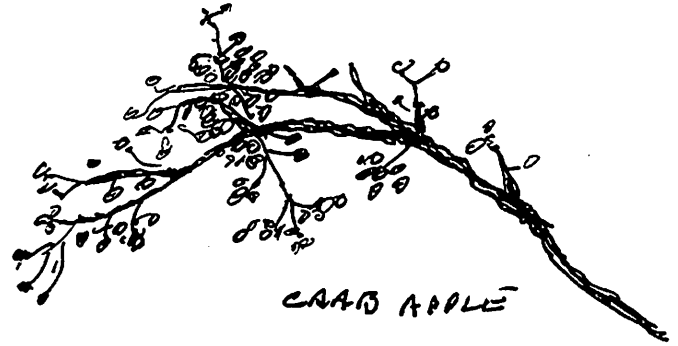
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Address Correspondence to Belmont Citizens Forum,
P.O. Box 609, Belmont MA 02478.

- Development rights were exchanged for open space and land – contract zoning.
- The town agreed to pay McLean Hospital \$2.2 million for nothing – an act not in the public interest.
- Exemption of all roads in the McLean District from the requirements of the Board of Survey is not in the public interest and bargains away the town's police powers – a reason that contract zoning is held to be illegal.
- The side deal for the town to sell a parcel of the McLean land to the Cosmans violates state law – an act not in the public interest.

The town's case was argued by Paul Mordarski of the law firm Morrissey, Hawkins & Lynch. Mr. Mordarski confined his argument to reminding the court that it did not have jurisdiction to consider the intervenors' claim that the town had violated Chapter 30B of the General Laws of the Commonwealth with the provision to sell the parcel of land to the Cosmans.

After hearing the oral arguments and questioning the attorneys in depth on many of the points they raised, Judge Green said he would issue a written decision as quickly as possible. His decision may



come within a few weeks or, given the complexity of the legal issues and the importance of the case, a few months. Judge Green said he fully expects the case to be reviewed by a higher court, since it has the potential to be a landmark case.

It is impossible to predict the outcome of a court case, but we believe that Judge Green will find that the rezoning of the McLean Hospital land was, in fact, illegal contract zoning. If that happens, the zoning of the McLean land will revert to what it was originally – single-family homes. That outcome will give the town the opportunity to pursue alternatives to the massive development that was accepted last year.

Nelson Bolen, a retired engineer, has lived in Belmont for thirty-three years. He is the treasurer of the Belmont Citizens Forum.

Conflict of Interest Law

**An Educational Seminar
Thursday, March 9
7:30 PM**

Belmont High School Auditorium

Become familiar with Massachusetts law.
What is permitted and prohibited?

Guest speaker: Maxene Armour
State Ethics Commission

Sponsored by the Board of Selectmen and the
League of Women Voters

Comments Sought on McLean Concept Plans

The Belmont Planning Board has asked for written comments on the concept plans filed March 1 by the three developers for the senior community, R&D complex, and townhouse development proposed for the McLean land. The plans can be reviewed in the Office of Community Development in the Town Hall Annex or in the main library on Concord Avenue. Plans will be discussed on March 28 at 8 PM in the Chenery Auditorium.

Joe Newberg, Chairman of the Planning Board, asked that comments be submitted to him in writing by March 17. Comments may be mailed or dropped off at the Community Development Office at 19 Moore Street.

Traffic Committee OKs Belmont Center Design

On February 29, Belmont's Traffic Advisory Committee (TAC) voted to recommend a new design for Belmont Center to the Board of Selectmen. Changes would involve narrowing the roadways, widening the sidewalks, adding new crosswalks, and increasing the number of parking spaces to attract more shoppers and make the area safer for pedestrians.

Restrictions on traffic movements, such as the use of right-turn only signs at the intersection of Concord and Channing, had been considered at previous TAC meetings, but the committee decided not to recommend those measures at this time. A suggestion to put a traffic light and pedestrian crosswalks at the intersection of Concord and Common was also put aside. Committee members believe that physical reconstruction of the center could force permanent changes in traffic flow. They would like to evaluate those results before recommending any further action.

Joel Douglas made a motion to recommend that a police officer be stationed at Concord and Common to enhance vehicular and pedestrian safety during peak hours while the TAC is awaiting funding for the redesign project.

A public hearing will be scheduled in April to discuss the plans with business owners and residential abutters.

Simultaneously, the Belmont Planning Board is considering a partial building moratorium for one year in Belmont Center. This Interim Overlay District, as it's called, is an attempt to control large-scale development, not normal renovations. It would require that an owner who wants to do major construction seek a special permit.

"We're trying to craft something that would give us control while we consider redistricting the whole district," said chairman Joe Newberg. A public hearing on the proposal is planned for April 4 and it is expected to come up for a vote at Town Meeting on April 24.

In other business, the Traffic Advisory Committee will hold a public hearing on March 14 at 7:30 in the high school auditorium to discuss the possible reopening of the Clark Street Bridge. Presentations will be made by Chief William Osterhaus of the Fire Department and Chief Ronald

Blanchette of the Police Department on the need for emergency vehicle access. The town's traffic consultant, Charlie Kalouskas of the BSC Group, will present a traffic impact study done in 1995, and Tom Gatzunis of the Community Development Office will discuss the process of reconstructing the bridge, if the opening is approved, and the methods to secure state funding. Suggestions from residents will also be welcome at the hearing. The TAC will subsequently vote on the proposal and present a recommendation to the Selectmen on March 20.

TAC Chairman Mark Paolillo cited a need for updated traffic counts in the area around the bridge, a need to evaluate the effect of development at McLean, and the need for additional sidewalks.

Correction: In contrast to what was reported in our January issue, right-turn-only signs at the intersection of Concord Avenue, Leonard Street, and Channing Road would result in a net decrease in traffic on Concord Avenue between the police station and the railroad bridge.

Should the Clark Street Bridge Be Reopened?

A public hearing

Tuesday, March 15

7:30 PM

High School Auditorium

Speakers:

Fire Chief William Osterhaus
Police Chief Ronald Blanchette
Traffic Consultant Charlie Kalouskas
Community Development Director
Tom Gatzunis
and you

Sponsored by the Traffic Advisory Committee

How Big Can Belmont Buildings Be?

By Sharon Vanderslice

As residents watch the Mormon Temple go up on Belmont Hill, they're wondering how a building of this size could be built in our "town of homes."

In part, it's because religious and educational institutions, under Massachusetts law, are exempt from certain zoning requirements. Chapter 40A, Section 3, the so-called Dover Amendment, states that no local bylaw shall prohibit or restrict the use of land for religious or educational purposes "provided, however, that such land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements."

This law also applies to child-care centers, family day care, farms, homes for the disabled, solar panels, and municipal power plants. Any of these structures may be built in a residential area without a special permit. They are, however, subject to dimensional regulations.

Belmont's zoning regulations allow 2 1/2-story buildings up to thirty-six feet in height in single-family "A" residential areas. A building may be taller than this if it is set back more than the required minimum distance from the lot lines. For example, it is possible for someone to build a four-story house that is sixty feet tall as long as the house is set back forty-nine feet from the property line.

Some people think these rules are too lenient and should be updated.

At a recent zoning forum sponsored by the Board of Selectmen and the League of Women Voters, residents peppered the panelists with questions about ways to control overly large houses, traffic, commercial development, and illumination.

Philip Herr, the planning consultant who helped to revise Belmont's zoning laws in 1988, defined Belmont as "a community dominated by small structures" that could legitimately have a "scale rule." "Virtually the only really big structures," he said, "are the ones that are built by the town."

He cited Block Island and Santa Fe as communities that have preserved their character by

setting specific rules for development, 80% of which must be met before permits are issued. But what kinds of regulations should Belmont institute?

Art Kreiger, a Belmont resident and a lawyer specializing in environmental and land use cases, said that the size of houses or other buildings in town could be controlled by decreasing the allowable lot coverage (the percentage of a property that can be built on). Impervious surfaces like parking areas could also be subject to lot coverage requirements.

Summary: *Should Belmont remain a small town dominated by small structures? Some residents think so. But to effectively control the size of new buildings, we'd need to rewrite the zoning bylaws.*

New zoning bylaws could further limit a building's stories, its height, and the ratio of floor area to lot size. A landowner who wished to exceed these limits would have to apply for a special permit.

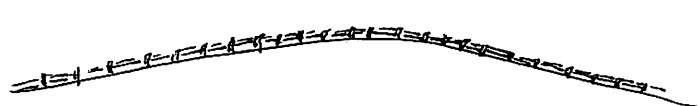
Phil Herr explained that siting requirements (governing the way a structure is placed on a lot) and landscaping can make a building appear smaller. Some towns enforce "ridgeline protection" standards to prevent buildings from rising too far above the natural landscape.

Commercial buildings in Belmont are normally limited to 40,000 square feet. One exception is the research and development facility scheduled to be built on the McLean land. It will total 150,000 square feet--more than twice the floor area of the Mormon Temple, by the way.

Three Belmont residents have gone to court to win greater local control over the siting of some large buildings. In 1998, they filed a lawsuit in U.S. District Court challenging the constitutionality of the state's Dover Amendment as it applies to religious institutions.

Mark White, of O'Brien, Partlow and White, PC, lead attorney for the plaintiffs, said that the suit does not seek to exclude religious buildings from a town. It is intended to give local municipalities greater control over their size and siting. He pointed out that other states have such restrictions. California, for example, does not permit churches in agricultural zones.

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Temple Spire, continued from page 1

to the spire."

In its 1997 decision, Belmont's Zoning Board of Appeals concluded that "by adopting the Dover Amendment, the Legislature intended to favor religions and educational institutions and enshroud their protected activity with a conclusive presumption of 'benefit' regardless of the perceived burden." The Board also concluded that to limit the church to a spire of approximately eleven feet, which it could build by right, would be unreasonable on a building this large.

Grant Bennett, lay bishop of Belmont's Mormon congregation, has said "the spire symbolizes the path to improvement" that is embodied in the ordinances, or ceremonies, that take place in the Temple. The top of the spire is designed to hold a statue of the Angel Moroni, who appeared to the founder of the church, Joseph Smith, in the early 1800s and who "symbolizes the restoration of the gospel truth in this period," Bennett said.

The court conceded that the spire may inspire people, but its presence was not a matter of religious doctrine. Citing Mormon texts, the judge wrote:

Ceremonies in the Temple would have exactly the same use and efficacy under Mormon theology whether the temple is with or without a spire. Neither one, nor a specific number nor a specific height of temple spires has particular religious significance in Mormon theology.

She noted that some Mormon temples do not have spires at all, and she ruled that the height of the spire was "determined by the architect's personal evaluation of aesthetic concerns, which is not entitled to any deference by the municipality." The decision further stated:

The height of the spire does not affect the Mormons' ability to practice their religion in the Temple. . . . To the extent that proportionality is relevant to the aesthetics equation, the Church could have provided for a spire the same height as the Temple by reducing the height of the Temple. . . . Further, the Church could have achieved proportionality by making the Temple

smaller by reducing spaces for non-religious uses such as a lunch room, showers, laundry, storage rooms, audio-visual room, dining room, waiting and study rooms and office space. [These "non-religious" spaces take up between 40% and 50% of the building.]

Grant Bennett responded that those rooms will be needed and used regularly by people who come a great distance to perform sacred ceremonies in the temple. Special dressing rooms, for instance, are set aside for brides and for others who must change out of their street clothes into the white garments worn in a temple.

The judge apparently was unconvinced that a temple of this size was required. She noted that forty-two of the last fifty-two temples built worldwide are just eighteen feet in height. In contrast, the Belmont Temple is fifty-six feet high, with a total floor area of 68,000 square feet.

Grant Bennett said that the church is carefully studying the issues in the case and will shortly make a decision as to whether or not to appeal the ruling.

Art Kreiger of Anderson & Kreiger in Cambridge, counsel for the abutters, has reported that his group, supported by a local citizens' coalition called Action for Neighborhood Zoning, will defend the decision in Appeals Court if necessary.

Big Buildings, continued from page 5

If the suit succeeds, White said, religious institutions would be subject to site plan review and would require a special permit to build in residential areas.

The plaintiffs' contention is that the Dover Amendment violates the First Amendment of the Constitution by giving unfair advantages to religious institutions over secular ones. Religious groups have countered that such zoning protections are needed to prevent discrimination by local boards against religions they do not like.

Arguments were heard in January in the First Circuit Court of Appeals, and the parties are now awaiting the decision. White said he expects that, no matter who wins, the case will be appealed to the United States Supreme Court.

Sharon Vanderslice is a Town Meeting Member in Precinct 2.

How the Mormon Temple Came to Belmont

The Mormon temple stands on virtually the highest point of land in Belmont. Once a cow pasture and later a golf club, the parcel was purchased in 1945 by the Rappoli family, who sold it to members of the Mormon congregation in 1979. The wooded sixteen-acre site was then subdivided into lots, and a Mormon meetinghouse was erected on one of them in the mid-1980s.

Arsonists set fire to the meetinghouse while it was under construction and, according to Steve Wheelwright, a member of the Belmont congregation, the church subsequently decided to sell off five house lots on Ledgewood Place to help make the area more secure. The rest of the property,

Summary: The Church of Jesus Christ of Latter-day Saints chose the rockiest site in Belmont to build a regional temple, but its toughest construction problem may be its neighbors, who never counted on such an enormous building looming over their homes and yards.

approximately nine acres, remained undeveloped until 1995, when Gordon Hinckley, President of the Church of Jesus Christ of Latter-day Saints, arrived to evaluate the site. Several months later, he announced that a temple would be built there.

Mormons believe that temple sites are chosen as a result of divine revelation. Unlike meetinghouses,

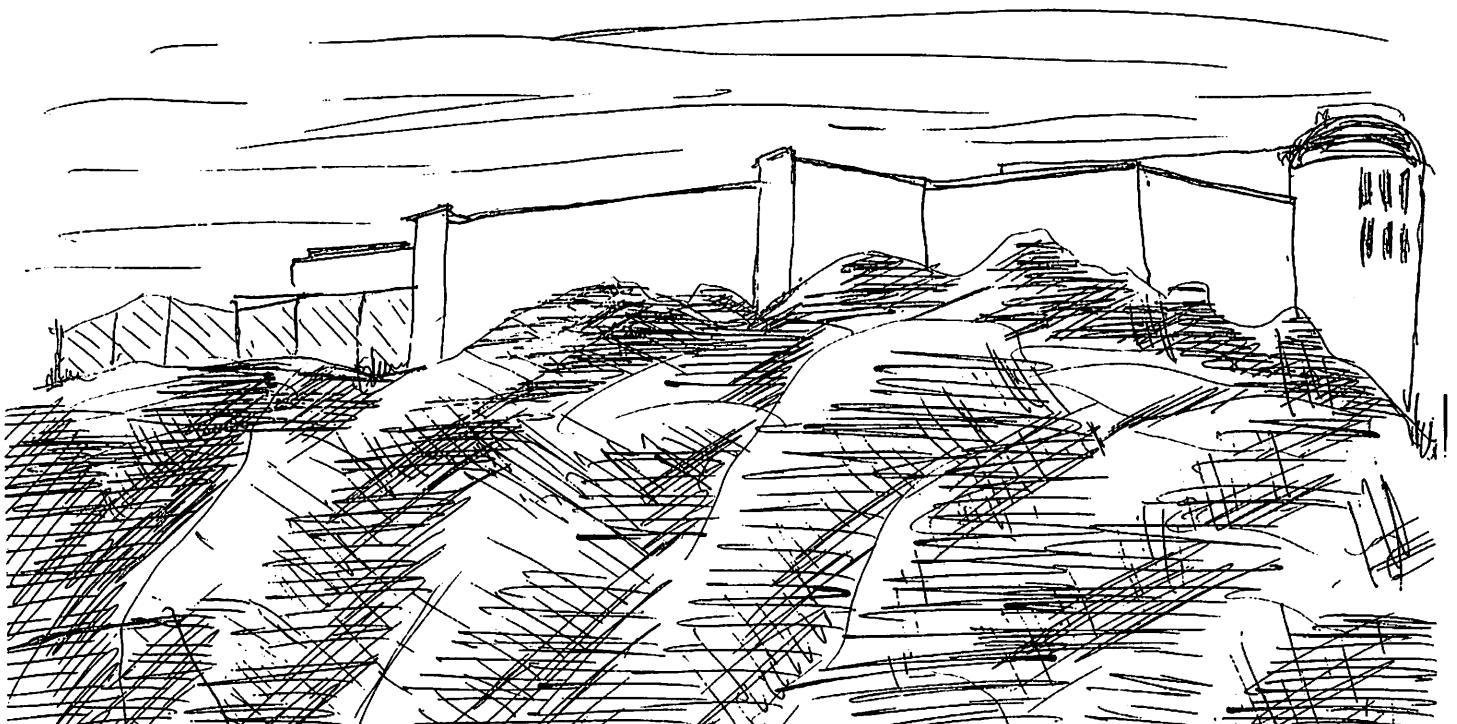
which are regularly used for Sunday services and socials, temples are reserved for sacred ceremonies called ordinances. Many Mormons enter a temple only once in a lifetime. Some may never enter one at all.

There are currently a hundred Mormon families in Belmont and not all have the "recommends" necessary to enter the temple. The temple is intended to serve Mormons from all New England states except Connecticut, though some New Englanders may choose to visit new temples in Montreal, Halifax, and upstate New York. Visitors will come for baptism, sealing (marriage), and endowment (a ceremony recognizing a member's acceptance of church doctrine). Mormon doctrine values (but does not require) an ascendancy of space for the ceremonies associated with the three ordinances. Baptism always takes place on the lowest level, sealing on a higher level, and endowment higher still. This ascendancy can be achieved by a step or two or by putting these rooms on different stories.

The Belmont temple is based on a standard architectural model, called the 450 prototype, which the Church sent from Salt Lake City. The term "450" refers to the four ceremonial sealing rooms inside, each of which holds fifty people.

The parking area will accommodate 241 cars

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Mormon Temple, continued from page 7

and two buses. (It is approximately the size of the Star Market lot in Waverley Square.) Grant Bennett, lay bishop of the Belmont congregation, predicts, however, that the Temple will generate less traffic per week than the meetinghouse next door, which serves about 600 people. His prediction is based on traffic counts commissioned by the Church at other temple sites in Orlando, Atlanta, and Dallas. Saturdays are typically the busiest days at temples, he says. Temples are closed on Sundays so that church members can attend services at their meetinghouses.

The Church was able to build in a residential area under a state law that exempts religious institutions from certain local zoning requirements. (See related article on page 5.)

A building permit was issued to the Church in 1997 and the land was cleared soon after. Because the temple is being built on a cliff, with one story beneath ground level, extensive blasting was required to prepare the site for construction.

Chuck Counselman, a neighbor on Crestview Road and a member of a citizens group called Action for Neighborhood Zoning, says that the Church's contractors repeatedly violated the town's noise bylaws as well as state blasting regulations. According to Counselman, the neighbors have videotape of blasting mats being blown thirty feet in the air and of rock that had fallen on their roofs and yards. These incidents, combined with the town's failure to enforce its own bylaws, says Counselman, created ill will among neighborhood residents, who were already concerned about the enormous size of the project, the night lighting, and the bus and other traffic expected to flow to and from the site. Action for Neighborhood Zoning is helping to fund litigation about the temple in both state and federal courts. The suits deal with the height of the temple spire and the validity of state zoning exemptions for religious use.

Meanwhile, construction is nearing completion, and the temple is scheduled to open this summer.

--Sharon Vanderslice

A Vision of Green Space

By Richard Madden

Remember "the vision thing" from the presidential campaign of 1992? President Bush was said to be lacking in vision. As we all know, he lost the election. But a regional vision of green space is needed if we are to preserve what remains of our natural environment.

Those who live north of Boston have a greenbelt of 2,075 acres in the form of the Middlesex Fells Reservation, extending from Winchester into Medford and Stoneham. Residents south of the city enjoy the 7,000-acre expanse of the Blue Hills Reservation in Milton and Canton. Those of us who live west of Boston must preserve the green space that remains in our area.

Much energy has been expended on the preservation of open land on the McLean site. But we must also look beyond the borders of Belmont.

Belmont shares the Beaver Brook Reservation with Waltham, a community still blessed with sizable areas of open land on the north side of the city. After Trapelo Road crosses Beaver Brook, there are the Fernald School and the Gabler School, both state



institutions. The Gabler School land adjoins that of the former Metropolitan State Hospital, extending almost to what was Middlesex County Hospital. Along Beaver Street are sizable areas of open land belonging to the Girl Scouts and the University of Massachusetts Field Station. The state has already turned over to Waltham, Lexington, and Belmont the land of Metropolitan State Hospital. The other properties are owned by the state or by nonprofit organizations. Is it time for residents to ask that conservation restrictions be put on these properties? Since it is unlikely that taxes are being paid on them, the host community would not suffer any revenue loss if conservation restrictions were put in place.

In the northeast end of our town, Belmont residents are working with Arlington and Cambridge to preserve as much natural land as possible in the Alewife area. At the other end of town, we must join with our neighbors in Waltham and Lexington to preserve what remains of the open land to our west.

Richard Madden is a high school counselor.

Belmont Gets \$25,000 Grant to Develop Affordable Housing Plan

By Roger Colton

The Massachusetts Department of Housing and Community Development (DHCD) has awarded Belmont a \$25,000 grant to develop an affordable housing strategy, that is, to explore ways to increase affordable housing in our community and to draw up a plan for meeting that goal.

The plan will address a long-standing need. Although Belmont is frequently regarded as a wealthy community, many residents find the cost of housing to be too high. In fact, more than a fourth of all Belmont households are in the low-income category. ("Low-income" is defined by state and federal housing officials as below 80 percent of the median income in the Boston metropolitan area.) Many of these households spend more than half their income on housing and utility costs. These costs are considered to be "unaffordable" if they exceed 30 percent of a household's annual income.

Summary: Low-income residents are being priced out of Belmont. Teachers and business employees can not afford to live here. A state grant will help us figure out how to increase the amount of affordable housing in town.

Affordable housing in our town, however, is not simply a low-income issue. For example, most teachers in Belmont schools earn about half the amount needed to buy a home here. Most workers in Belmont business establishments earn less than a third of what's needed.

There are four major reasons that Belmont finds it difficult to pursue local programs to promote affordable housing (or to receive state and federal funds). First, the town is almost completely developed, with insufficient land on which to construct the necessary units. Second, it is a "town of homes." The tax base is nearly exclusively residential, with little revenue from commercial enterprises. As a result, vast portions of the town budget are allocated to providing basic municipal services, leaving little available for other important purposes. Third, housing prices, both rent and

mortgage, continue to skyrocket. And finally, the demographics of Belmont--the number of residents who do have relatively high incomes--give the town low priority for receiving state and federal housing subsidies.

The preparation of the affordable housing strategy will call for:

- A review of previous affordable housing efforts
- A study of the efforts of similar communities to develop or acquire such housing or to promote such development by others
- An inventory of vacant available land, including town properties, that may be appropriate for such housing
- An assessment of zoning bylaws, licensing, and other town requirements to determine their effect on the possibility of developing affordable housing.

These elements will be incorporated into the strategy, together with recommendations for both a two-year action plan and a five-year action plan. Each plan will cover development, purchase and rehabilitation, and other procedures. The strategy will include specific goals for the Town of Belmont with a reasonable schedule for attaining them.

The strategy, to be completed by the end of June 2000, will be distributed to the public, and will then be discussed at a public hearing, before it is submitted to the Selectmen.

If you have suggestions or questions, contact:
Jeffrey Wheeler, Belmont Planning Coordinator
Phone: 489-8221, E-mail: jwheeler@town.belmont.ma.us
Roger Colton, Chairman of Belmont's Fair Housing Committee, E-mail: roger@fsconline.com.
Work Phone: 484-0597, Home Phone: 489-4569

Mystic Watershed Cleanup April 15

Meet at 10 am at the passenger pickup area behind the Alewife T stop. Materials, snacks, and drinks provided. Sponsored by Friends of Alewife Reservation. For information, call 547-1944.

Sign up for a committee

A major part of the Belmont Citizens Forum's work will be done by its committees. Six issue committees will study important questions, bring in speakers, and distribute reports based on findings. Four outreach committees work on the newsletter, publicity, fund raising, and a web site. Volunteers are needed for mailings and other tasks. Please send in the coupon or get in touch with the coordinators of these committees if you are able to help.

Issue Committees

Archeology & Historic Preservation – The committee's goal is to see that development on the McLean land (and elsewhere in town, like Alewife,) respects archeological remains and historically valuable structures. Coordinator Gayle Valiant expects to call a meeting in the next couple of weeks. For more information, call or write us or e-mail Gayle at gvaliant@yahoo.com.

Environmental Protection – The potential scope is enormous: anything that affects the natural environment. But one logical area is the application of environmental laws to development; for example, monitoring encroachment on wetlands and discharges of pollutants. Please call coordinator Jim Toyias at 489-9819.

Hazardous Materials/R&D – The focus is to investigate and understand the regulations and bylaws used by other communities to limit the most dangerous materials and to draw up an adequate response plan for the hazards that remain. Call coordinator Lynne Polcari at 484-4553 or e-mail her at GAPhome@aol.com.

Planning & Zoning – Though Belmont has commissioned a number of studies over the years, not all its decisions have been based on good planning. From our business centers to our residential neighborhoods to our open space, Belmont needs good planning and the will to implement it. The committee will study the issues, bring in outside speakers, and add vital information to the town's discussions of zoning changes over the coming year. Call coordinator Sue Bass at 489-4729 or e-mail her at merrfilms@aol.com.

Stormwater Runoff & Drainage – Wet basements all over town are evidence that our runoff problems

are serious right now, and every bit of additional paved land, at McLean or Alewife or anywhere, will make them worse. We need to understand how the drainage system works, where the trouble spots are, and what can be done to keep the situation from getting worse and, if possible, to make it better. Peg Velie has been trying to pull together a group but really needs help from a co-coordinator. Call her at 489-9693 or e-mail her at stadler@dellnet.com.

Traffic & Transportation – Trucks, bikes, buses, cars, and safety for pedestrians are all among the concerns of this committee. We aim for a broad representation from every part of town. Coordinator Ann Sifneos says new members are welcome. Please e-mail her at acsifneos@msn.com.

Outreach Committees

Fundraising – The current litigation is the biggest expense the Forum will probably undertake; but even after those bills are paid, there'll be the costs of printing and mailing and engaging experts to advise our committees. Volunteers are needed to help with written, personal, and telephone appeals, to set up coffees, and to aid the fundraising events. Get in touch with coordinator Rosemary Chase at 484-2022 or by e-mail at reedhockey@aol.com.

Newsletter – It takes writers, reporters, artists, and editors to get this newsletter out to you. We'd love to have more help. Is there anyone who has layout experience, and perhaps Pagemaker or some similar program? Please call newsletter editor Sharon Vanderslice at 484-5057 or e-mail her at jimsharon593@netzero.net.

Publicity – Belmont's story is more than a local story. It's a classic confrontation of small town and big developers. And we have to get that story out. If you can help, please call Peter Rand at 489-6768 or e-mail him at inuirand@aol.com.

Web site – The Belmont Citizens Forum needs a web site. If you're interested, please call Sue Bass at 489-4729 or e-mail her at merrfilms@aol.com.

Belmont Buzz

Watch Grant Bennett and Chuck Counselman on the first edition of our new talk show on BCTV Channel 8. Hosted by Peter Rand.
Thursday, March 16 7 PM

McLean Land Value, continued from page 12

Of course, even that \$26 million return was questionable. To sell that many house lots, McLean would have needed permission from the town to increase the number of parking spaces on the property. Total parking on the McLean land at the time was limited by special permit to 853 spaces. If it adhered to that legal parking limit, McLean might have been able to sell only a handful of house lots – perhaps just \$2 million or \$3 million worth.

The 853-car parking limitation could have been a potent bargaining tool – and the Task Force knew it. Walter McLaughlin, a real estate lawyer who was a member of the Task Force, explained it to the other members in November 1996, in a memo that was kept secret until this winter:

“If the property were subdivided, the parking spaces would have to be allocated between the McLean campus and the single-family houses. Each house lot would have a restriction on the number of cars which could be parked on the property. I am

sure that an owner of an expensive house on Belmont Hill would insist on at least the right to park 3 cars on his lot, and might even be unhappy with that restriction. If McLean were somehow able to sell 200 to 250 lots, they would have to allocate between 600 and 750 parking spaces to the houses, leaving between 100 and 250 cars for the McLean campus, a number which is probably unacceptable.”

Last week in an interview, McLaughlin said his memo must be considered in context. “It was an advocate position to improve our bargaining proposal ... What you do is try to make the other side think you have more cards than you have.” Others, however, see the issue differently: Why didn’t the Task Force use its cards to get a much better deal for the town?

Here's another unanswered question: What's the current value of the McLean land, since the rezoning? We won't know until the property changes hands and the prices paid by the developers are revealed on the deeds. But some believe these prices could be higher than the \$45 million goal the Task Force adopted.

– Sue Bass

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People Are Asking

How much is the McLean land really worth?

One of the mysteries never solved by the McLean Hospital Land Use Task Force was the financial value of the McLean land before it was rezoned for development.

You'd think that figure would have been the starting point of the Task Force's deliberations. You'd think the goal of the rezoning would have been to give McLean approximately the same monetary return from its land that it would have received before the rezoning, while changing the type and location of the development in ways that helped the town, by preserving open space, and helped McLean, by enabling it to construct buildings related to its health-care mission.

To be fair to McLean, you'd certainly not seek to decrease the value of its land, though that would be legal. To be fair to the town's residents, you'd not want to increase the value of the land too much, since development produces traffic.

But fair value was not the town's standard. The Task Force never commissioned a by-right appraisal, that is, a formal appraisal of the development value of the land under the old zoning.

Instead, the Task Force based its rezoning not on fairness to McLean but on McLean's needs, the \$45 million the hospital said it needed to pay off its debts. Documents obtained as part of the current Land Court litigation show that the Task Force's principal financial goal was to give McLean that \$45 million.

There were good arguments at the time that \$45 million was way too much. For example, in a tax abatement case in 1994, McLean valued all of its property, including the fifty acres it plans to keep, at \$26 million. That means the 190 acres the hospital plans to sell were then worth about \$20.5 million. In 1997, McLean calculated that if it sold about 200 acres for single-family homes under the old zoning, it would get only between \$19 million and \$26 million. Thus, by setting \$45 million as the goal, the Task Force was promising to double McLean's return.

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