Department of Planning and Community Development

Melissa M. Santucci Rozzi, Principal Planner
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Joseph C. Sullivan
Mayor

PLANNING BOARD

Robert Harnais, Chair
Joseph Reynolds, Vice Chair
James Eng, Clerk
Darryl Mikami, Member
Michelle Lauria, Member

Braintree Planning Board
April 10, 2012
Town Hall

APPROVED

Present:
Mr. Robert Harnais, Chair
Mr. James Eng, Clerk
Mr. Darryl Mikami, Member
Ms. Michelle Lauria, Member

Christine Stickney, Director
Melissa Santucci Rozzi, Principal Planner

Note: Mr. Reynolds not present at time the roll was called.

The Chair called the meeting to order at 7:13 P.M. and called the roll: Mr. Harnais, Mr. Eng, Mr. Mikami and Ms. Lauria all present.

New Business/Old Business

Zoning Board of Appeals – April

#12-21
20 Windemere Circle

The Applicant, Scott MacLeod, of 20 Windemere Circle, Braintree, MA 02184, was present and addressed the Planning Board.

Mr. MacLeod explained that due to the needs of his family he would like to increase the size of his home by utilizing the space over the existing garage with the addition of dormers. He would also like to construct a family room/master bedroom addition. The dormers will be on the left

approximately seven (7) Ft. off the property line. The addition will measure 20 Ft. by 20 Ft. and will be located at the rear of the existing dwelling. Mr. MacLeod explained that they have been working with a professional designer and that he had reviewed numerous designs. This design works best with the floor plan and flow of the house as it currently exists. It also takes into consideration ledge that exists on the south end of the property as you move away from the property line that he is trying to avoid. Moving south will also create unusable space in the back yard as well as next to the abutting property. He continued that this design utilizes the existing space the best while at the same time by using a professional designer they are trying to maintain the integrity and look of the existing house.

Ms. Lauria had no questions at this time.

Mr. Mikami asked Mr. MacLeod if he had an opportunity to meet with the Planning Staff to review the plans and to see if they had any issues. Mr. Macleod informed him that he had only met with the Building Department. Mr. Mikami asked if there were any comments that the Planning Staff would like to make. Ms. Santucci Rozzi noted that the proposal included a plot plan, as well as architectural drawings and was well put together. She continued that the Staff had a concern with the left side of the dwelling (the garage side) and wanted to know if the dormers could be shortened. She also pointed out that the left side of the building will be 40 Ft. long which is not typical for a cape style house. Mr. MacLeod mentioned the one (1) foot offset between the existing back of the garage and the new addition which had been designed to break up the 40 Ft. expanse of wall that Ms. Santucci Rozzi had commented on. He stated that the dormers do stop two (2) feet short from either end of the house. Mr. MacLeod acknowledged that Ms. Santucci Rozzi's comment was not new to them and they have worked with designers to come up with the best solution.

Mr. Eng mentioned the existing non-conforming side yard setback wanting to know how this had come about. Ms. Santucci Rozzi stated that the application did not include any information regarding previous variances or relief that may have been granted in the past. Mr. MacLeod informed the Board that the house had been built in 1932. It was noted that this was prior to Zoning. It was confirmed for Mr. Eng that the proposed addition would not be extending further in to the existing non-conforming side yard setback.

There were no further questions or comments by the Planning Board members.

Motion by Mr. Eng, second by Ms. Lauria to grant a favorable recommendation.
Vote: 4/0

At this time Mr. Harnais explained for the public in attendance that the Planning Board is for recommendation only and that the Zoning Board is the final permitting authority.

#12-11
250 Granite Street

Note: The Applicant and/or their representative were not present at the meeting. No testimony heard at this time.

Motion by Mr. Eng, second by Ms. Lauria for no recommendation due to failure of the Applicant to be present at meeting.
Vote: 4/0

#12-20
10 Candlewood Lane

Note: The Applicant and/or their representative were not present at the meeting. No testimony heard at this time.

Motion by Mr. Eng, second by Ms. Lauria for no recommendation due to failure of the Applicant to be present at meeting.
Vote: 4/0

Amendment to Braintree Center Local Historical District
Requested by Braintree Historical Society

Ms. Stickney addressed the Planning Board and explained that the Historical Commission is petitioning the Town Council for an Amendment to the Braintree Center Local Historical District. She gave a brief description of the Historical District along Washington Street from Central Avenue to French's Common and across the street to Thayer Library. She explained that the Historical Commission held a Public Hearing on April 2, 2012 to add two (2) properties to the Historical District. These properties are the Gallivan House at 776 Washington Street and the Mary S. Bean Park located in the rear between the Fire Station and the Museum. These two properties were not included in the original 1980 Historical District. This proposal has been approved by the Massachusetts Historical Commission. Ms. Stickney continued that the Historical Commission would now like as part of the process that the Planning Board's recommendation be favorable noting that no Planning Board Public Hearing would be needed.

The Planning Board members had no questions at this time.

Motion by Mr. Eng, second by Mr. Mikami for a favorable recommendation.
Vote: 4/0

Request for Reduction/Release of Surety – Elmlawn Rd. Ext. Definitive Subdivision [#10-03] Requested by Al Endriunas of Elmlawn, LLC

Ms. Santucci Rozzi addressed the Planning Board and noted that Mr. Endriunas was present at the meeting. She continued that the Town Engineer is back working part time and has not yet had time to complete his report. After speaking with Mr. Campbell and Mr. Endriunas the Planning Staff is suggesting (as has been done in the past) a conditional vote determined by the amount to be set in the inspection report by the Town Engineer. The project is near completion with the possibility of a short list of items that still need to be completed. Mr. Harnais asked for the amount of the bond being held. Ms. Santucci Rozzi replied that the bond held by the Planning Board is about $50,000.00.

Ms. Lauria had no questions at this time.

Mr. Mikami noted that the Board has heard from various neighbors throughout the project and asked Mr. Endriunas for an update as to the "happiness or unhappiness" of the neighbors. Mr. Endriunas replied that he had been working closely with Ms. Santucci Rozzi since the last meeting and that the general tone is that the neighbors are happy. Ms. Santucci Rozzi added by saying that at the last meeting there had been discussion with some of the neighbors regarding buffering and that work has been completed. She continued that an old fence on one of the neighbor's property had been removed. In addition a landscape berm has been planted with a mixture of large and small trees, in which the feedback received by two of the neighbors was positive. Ms. Santucci Rozzi has provided care instructions for these new plantings as well. She continued that work on the patching of the driveways had been done in the last week and will also be looked at by the Town Engineer. Mr. Harnais informed the Planning Board that he had received a letter (it was noted that the Planning Staff had received a copy of the letter) from Mr. Thomas F. Hurlebaus in regards to his property. Mr. Harnais said that in this letter Mr. Hurlebaus indicates that his property is five (5) feet below grade. Ms. Santucci Rozzi clarified that the basement is below grade. Ms. Santucci Rozzi quoted from Mr. Hurlebaus's letter "*My cellar floor is about five (5) feet below grade.*" She noted that with the letter there were pictures of the basement floor showing large cracks. She continued that this was the complaint about the drainage that she had mentioned at the March meeting. Mr. Harnais inquired if the gentlemen who had spoken at the March meeting were present this evening. Ms. Santucci Rozzi told the Board that Mr. Sheehan who had addressed them at the previous meeting had come to the Planning Department office today and that Mr. Smith was the gentleman concerned about the plantings. It was undetermined who the third individual was. Mr. Endriunas pointed out that the property with the complaint regarding water is located much higher than the subdivision noting that they can not make water run up hill. Mr. Harnais stated that he wants to acknowledge receipt of the letter and wants to see what can be done. Mr. Endriunas said that there is no way that they could have caused the water problem.

Mr. Eng asked if there had been any response to Mr. Hurlebaus's letter. Ms. Santucci Rozzi replied that she had not responded but she had spoken with him when he had originally called and the topography and grading had been looked at. She continued that he is of the opinion that the pipes underneath the roadway are now damning off ground water and that isn't something that she necessarily agrees with. She noted that the roadway layout is 50 Ft. wide with a sewer pipe, a water pipe and drain pipe. Noting again this is the only complaint related to drainage. Mr. Eng asked if this had been reviewed by the Town Engineer. This was not known at this time. Mr. Eng then inquired as to the requested reduction in surety. Mr. Endriunas stated that they were looking for full release of the surety held pending the Town Engineer's okay. Mr. Harnais noted that he would like to see a report prior to granting of release of the surety.

Mr. Eng asked Ms. Santucci Rozzi if there were any items that she was aware of that still were outstanding. She replied that regarding construction items there were none that she was aware of. She referenced the As-Built Plan, and noted a question involving water line connection for one of the abutters that is being researched.

Attorney John J. Greene, 15 Foster Street, Quincy, MA 02169, was present to represent Jeffrey Smith, an abutter, and addressed the Planning Board. He stated that he did not represent Mr. Gary Smith who was previously mentioned. Atty. Greene stated that his client had an issue with Mr. Endriunas and that they did not want any release of surety being held at this time. Atty. Greene noted an occurrence in May of 2011 when Mr. Endriunas had come onto Mr. Smith's property and cut in to the concrete surrounding Mr. Smith's pool. In addition a fence (still in existence) was relocated approximately two (2) feet onto his property. It was noted that Mr. Smith has hired Atty. Greene's office to commence litigation against Mr. Endriunas in this matter. Therefore in Atty. Greene's opinion it is premature to take any action regarding release of the surety. Mr. Eng inquired if there was a survey plan showing the fence to which Atty. Greene replied that has been agreed to by the parties involved. Ms. Santucci Rozzi clarified for the Planning Board that the modification approved by the Board at their March meeting was to correct this surveying error. This occurance on Mr. Smith's property was noted in the Staff Report for the modification and there have been discussions between the Staff and the parties involved. It is the understanding of the Planning Staff that there have been efforts made to rectify this situation. Ms. Santucci Rozzi also pointed out to the Planning Board that the surety being held only covers public improvements to the subdivision and that this issue while pertinent does not relate to the bond being held. The bond covers what is specified in the bond table, which is regulated by the covenant and what is designated on the plans. Atty. Greene referenced a copper line that was to be installed to Mr. Smith's property which he does not believe has been completed. Ms. Santucci Rozzi replied that this had not been done and that she is looking in to this situation. She continued that this has not been completed because the connection is off of Roberts Street and not on the road that Mr. Endriunas has been doing construction on. Atty. Greene concluded that based on these issues he respectfully requests that no action be taken on release of the bond at this time.

Motion by Mr. Eng, second by Mr. Mikami to table release of surety to the May Planning Board meeting upon review by the Town Engineer and receipt of status report by the Planning Board. Vote: 4/0

Request for As-Built Approval – Priscilla Avenue Definitive Subdivision [#99-12]
Requested by Kevin Kane of Aspinwall Corporation

It was noted that Kevin Kane of Aspinwall Corporation and Carol Watts were both present.

Mr. Kane addressed the Planning Board and stated that he was requesting approval of the As-Built Plan for Priscilla Avenue and noted that through working with Ms. Watts and Ms. Santucci Rozzi the necessary paper work was in order and the matter can be put to rest.

Ms. Santucci Rozzi explained that the Staff has gone through the decision adding there are some surviving conditions and conditions that will no longer be applicable once the subdivision is accepted as a public way. It was also noted that $10,000 of the subdivision surety posted in 2000 was still being held as well as $2,000 being held as drainage surety. Ms. Santucci Rozzi continued that the Planning Staff is recommending that the surety not be released until the street acceptance process is moving forward. She also explained that should the Town Council not vote to accept this street that it not be a negative reflection on Mr. Kane and that the surety should only be held until Mr. Kane completes the street acceptance process.

Motion by Mr. Eng, second by Mr. Mikami to follow Planning Staff recommendation to grant As-Built Approval and hold release of surety until completion of street acceptance process. Vote: 4/0

Note: At this time Mr. Harnais informed the Planning Board that Mr. Reynolds was present in the building but was attending another meeting.

Note: Mr. Harnais at this time acknowledged the public in attendance that had wanted to speak regarding the release of surety for Elmlawn Road extension and informed them that no action had been taken at this time and had been continued to the next meeting after the Town Engineer has been able to complete his review.

Note: Mr. Reynolds present at 7:45 P.M.

Request to Waive Floodplain Special Permit Jurisdiction – 75 Shepard Road
Requested by Walter Pitts

The Applicant, Mr. Walter H. Pitts, 75 Shepard Road, Braintree, MA 02184 was present and addressed the Planning Board.

Mr. Pitts explained that he and his wife had purchased the above mentioned property 45 years ago and described the existing rear porch that measures 6 Ft. x 16 Ft. that is too narrow for the occupants to utilize fully. The proposed project is to take down this rear porch and to replace it with a sunroom and deck. Mr. Pitts noted that the project has been reviewed by the Braintree Conservation Commission which resulted in a negative determination of applicability.

Ms. Lauria and Mr. Mikami had no questions at this time.

Mr. Eng asked for clarification that when the sunroom and deck were constructed that they would be above the floodplain. Mr. Pitts confirmed that the floodplain elevation in the area is 102.5 and that the new construction will be four (4) Ft. above that at an elevation of 106.7. Mr. Eng pointed out the risk for moisture underneath the construction.

Mr. Reynolds commented that there have been similar successful Applications in the past and asked for clarification that the only disturbance to the ground would be the six (6) sona-tubes being installed. This was confirmed by Mr. Pitts.

Ms. Santucci Rozzi explained that the Applicant was looking for a waiver from the Floodplain Special Permit necessitating that the Planning Board vote to waive that requirement. She continued that the Planning Staff and Conservation Agent had met with Mr. Pitts, looked at the scope of the project and based on the limited displacement of flood storage she is suggesting the request for waiver.

Motion by Mr. Eng, second by Mr. Reynolds to waiver the requirement for the Applicant to file for a Special Permit pursuant to BZB Section 135-608.
Vote: 5/0

Discussion: 405 Franklin Street – T.D. Bank Site [#11-04]

John C. Nalepa, of Core States Group, the Project Manager for the project, was present and addressed the Planning Board.

Mr. Nalepa explained that the project is nearing completion and they are requesting permission from the Planning Board to remove a couple of dead trees. Ms. Santucci Rozzi explained to the Board that Mr. Robert St. John, on behalf of T.D. Bank had supplied some pictures of the dead

trees for review. These pictures had been circulated to the Planning Board and they are requesting that the Board allow for this additional removal.

Ms. Lauria had no questions at this time.

Mr. Mikami inquired if these trees had been initially targeted for removal. Mr. Nalepa replied that they had been marked to remain. However, during the storm events they were damaged and now need to be removed. Mr. Mikami noted that tree removal had been an issue throughout the permitting and wanted to know if there were issues with other trees or plantings. Mr. Nalepa stated that these were the only two (2) to be removed. Mr. Mikami asked if there had been any problems with the neighbors. Mr. Nalepa informed him that that they had met with the neighbors last week and in addition to having no problems they were also happy with the new fence.

Mr. Eng stated that one tree was dead but wanted to know who had made the determination that the second tree near the fence was also dead. Mr. Nalepa replied that the landscaper had made this determination. Mr. Eng asked when T.D. Bank would be opening. Mr. Nalepa told him the opening was set for May 5, 2012.

Mr. Reynolds had no questions at this time.

Motion by Mr. Eng, second by Ms. Lauria to allow for removal of the two dead trees.
Vote: 5/0

Approval of Minutes for February 7, 2012

Motion by Mr. Reynolds, second by Mr. Mikami to approve the minutes from the Planning Board meeting dated Tuesday, February 7, 2012.
Vote: 5/0

Discussion: Planning Board Meeting Schedule and Locations

Ms. Santucci Rozzi referred to the e-mail that had been circulated to the Planning Board regarding the meeting scheduled for Tuesday, May 8, 2012 and Tuesday, August 14, 2012 neither of which will be able to be conducted in Cahill Auditorium. She continued that it was too late to change the date of the May meeting and asked the Board if they would prefer to meet in the Johnson Chambers or Fletcher Hall.

Mr. Harnais inquired about the schedule for May 8, 2012. Ms. Santucci Rozzi replied that there were no Public Hearings scheduled for the May 8th meeting yet. She continued that Almquist

Estates (Elmlawn Road Extension) will be on the Agenda as well as some As-Built Approvals and administrative items. Mr. Harnais stressed that he did not want any Public Hearings on the Agenda if they could not be televised. Ms. Santucci Rozzi asked for clarification that should an item requiring a Public Hearing come in to the Planning Staff that it not be scheduled for the May 8th meeting. This was confirmed by Mr. Harnais. It was decided by the Planning Board that the May 8, 2012 meeting will be held in the Johnson Chambers.

Ms. Santucci Rozzi then noted for the Planning Board that Cahill Auditorium was not available for the meeting scheduled for August 14, 2012, and continued that there was enough time to move this meeting to another date. She inquired if the Board would like to hold the meeting on Tuesday August 7, 2012 or on Tuesday, August 21, 2012. Mr. Harnais stated that he was not available on August 7th.

Motion by Mr. Reynolds, second by Mr. Eng to move the August Planning Board meeting from Tuesday August 14, 2012 to Tuesday August 21, 2012.
Vote: 5/0

Motion by Mr. Reynolds, second by Mr. Mikami to adjourn at 9:46 P.M.
Vote: 5/0

Respectfully submitted,

Beth Herlihy

Department of Planning and Community Development

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APPROVED

Braintree Planning Board
April 10, 2012 – Public Hearing @ 7:30 P.M.
Town Hall

Present:
Mr. Robert Harnais, Chair
Mr. James Eng, Clerk
Mr. Darryl Mikami, Member
Ms. Michelle Lauria, Member

Christine Stickney, Director
Melissa Santucci Rozzi, Principal Planner

361A Washington Street
Application: Use Special Permit and Site Plan Review
#11-09

The Chair opened the Continued Public Hearing at 7:40 P.M.

Ms. Santucci Rozzi addressed the Planning Board and informed them that the Applicant, Ruk Mae, Inc. had requested a withdrawal of the above mentioned pending Special Permit Application for the Thai Restaurant to be located at 361A Washington Street. She requested that at this time the Board vote to accept the last two pieces of correspondence dated March 13, 2012 and March 28, 2012.

Motion by Mr. Eng, second by Mr. Mikami to accept the correspondence (items #23 and #24) dated March 13, 2012 to March 28, 2012.
Vote: 4/0

Motion by Mr. Eng, second by Mr. Mikami to close the Public Hearing.
Vote: 4/0

It was noted at this time by Ms. Santucci Rozzi that the circumstances regarding the withdrawal of the Application were not known but should the Applicant decide to come back before the Planning Board for the Use Special Permit and Site Plan Review that the materials could be reactivated.

Motion by Mr. Mikami, second by Ms. Lauria to allow withdrawal of the Application for Special Permit/Site Plan Review with out prejudice.
Vote: 4/0

Respectfully submitted,

Beth Herlihy

Department of Planning and Community Development

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APPROVED

Braintree Planning Board
April 10, 2012 – Public Hearing @ 8:00 P.M.
Town Hall

Present:
Mr. Robert Harnais, Chair
Mr. Joseph Reynolds, Vice Chair
Mr. James Eng, Clerk
Mr. Darryl Mikami, Member
Ms. Michelle Lauria, Member

Christine Stickney, Director
Melissa Santucci Rozzi, Principal Planner

7 and 11 Independence Avenue
Application: Rezone
TCO #12-009

The Chair opened the Public Hearing at 8:03 P.M. and disclosed for the public in attendance that Attorney John E. Garland, 15 Foster Street, Quincy, MA 02169, representing the Applicant, Scott Palmer has an office in the same building as himself, but there is no professional affiliation between them. Mr. Harnais then read the Public Hearing notice. Mr. Harnais also noted that the Planning Board is not the final authority for the rezone and are for recommendation purposes only. He continued that the Town Council is the final voting authority for the rezone.

Attorney John E. Garland addressed the Planning Board. Atty. Garland explained that Mr. Palmer owns adjoining lots, two (2) of which are in Braintree and another one (1) which is in Quincy. He continued that #7 Independence Avenue lies on the boundary between Braintree and Quincy and presented a photo to the Board depicting the vacant portion of the lots. Atty. Garland pointed out that the lot is in deplorable condition. He informed them that there is a single family house at 11 Independence Avenue. The center portion of the site is vacant and contains the foundation of a gas station/auto repair

facility. Next to the vacant property there are the remains of the old warehouse which is currently falling down. The building constructed around 1940 was used for warehouse storage and was once owned by Charles Ross, the former Mayor of Quincy. In 1969 the property was purchased by Robert Palmer (the Applicant's father) and used as A&T Moving Company until roughly 1986. Atty. Garland informed the Board that some small businesses have occupied the space but there has been nothing of substance there for the past 25 years.

Atty. Garland presented a visual depiction of the existing zoning designations. The rectangular lot at #11, on the Braintree side measures approximately 8,700 Sq. Ft. and is zoned Residence B. The single family home is located on this lot and is currently occupied by the Applicant. As you progress towards Quincy, the larger rectangular lot measuring approximately 19,100 Sq. Ft. is actually divided into three (3) different zoning designations, two (2) of which are in Braintree. The portion to the rear of the lot is zoned Residence B while the portion to the front is zoned General Business. The lot is also divided by the boundary between Braintree and Quincy and a triangular portion which is located in Quincy is zoned Industrial A. The remaining lot that is zoned Industrial A in Quincy, measures 9,300 Sq. Ft. Atty. Garland stated that the Applicant is appearing before the Planning Board to ask for a favorable recommendation to the Town Council to rezone the lot at 11 Independence Avenue and the portion at the rear of 7 Independence Avenue from Residence B to General Business. He continued that Residence B allows for the existence of a single family home. This does not allow for what Mr. Palmer and Mr. Fitzgerald, the potential developer of the site, feel to be a more productive use of the site. Atty. Garland explained that there are substantial tax liens on the property by both the City of Quincy and the Town of Braintree. He went on to say that because the site had once been a gas station there are possible environmental concerns noting that some of these concerns had been addressed over the past few years through working with the Department of Environmental Protection, a Contractor and an Environmental Consultant. Many of the concerns were alleviated through the removal of the tanks and testing of the soil and air. Atty. Garland stressed that the rezone to the General Business designation would allow for the return of the site to some form of productive use. He also stated that there had been a public meeting in January, hosted by Quincy City Councilor Brian Palmucci. This meeting was held at Independence Manor and was well attended by local residents. At this meeting Mr. Fitzgerald had presented plans for what could potentially be developed on the site. Atty. Garland pointed out that this appearance before the Planning Board is only the beginning of the process and they were not presenting any plans this evening requesting only the favorable recommendation for the rezone. He continued that any potential development of the site would only come as a result of community meetings, interaction with elected officials and various boards of both the Town of Braintree and the City of Quincy. Mr. Fitzgerald and Mr. Palmer both plan on working with the community on this proposed project.

Mr. Harnais explained that at this time the Public Hearing would be opened up to the public in attendance and asked that anyone wishing to speak come forward, identify themselves, sign the sign in sheet and present their concerns/comments.

Edward Talbot, of 38 Holmes Street, Braintree, MA 02184 addressed the Planning Board. Mr. Talbot stated that the property as it exists now is an eyesore. However, he expressed concern over potential traffic issues. Mr. Talbot referred to the proposal to construct 44 condominium units that had been presented at the community meeting. He explained that three (3) or four (4) years ago the residents had appeared before the Town Council and the Town had agreed to designate Holmes Street as one way during the hours of 2:00 P.M. to 6:00 P.M. and from 8:00 A.M. to 10:00 A.M. He continued that there are many children in the neighborhood that get buses there and the use of the Holmes Street as a cut through to Independence Avenue and the highway made for a dangerous traffic situation. Mr. Talbot also had concerns regarding parking and he wanted to know if a residential development was constructed on the site would adequate parking be provided or would residents be parking on the street. Mr. Harnais stated that Mr. Talbot's concerns over traffic and parking are legitimate issues. He explained that at the time the proposed development is presented to the required boards that is when those issues will be addressed. He continued that the project proposed does affect the number of parking spaces that are required. Mr. Talbot asked that in regards to the rezone from Residence B to General Business isn't there any concern over the amount of parking needed for a business versus that needed for a residence. Mr. Harnais explained that with out knowing what the proposed development is there is no way to know what the traffic and parking impact will be. He stated that because something is zoned General Business does not mean that the developer is going to be able to build what ever they want at this location. Mr. Reynolds explained for Mr. Talbot that the size of the lot and the type of use are what determines the amount of parking required. He informed Mr. Talbot that he was right in regards to General Business and Residence B having different criteria for determining the amount of required parking. Mr. Harnais told Mr. Talbot that General Business is a zone and that parking requirements depend on the actual business going in to the location and the purpose of this meeting is not to approve any potential business. Mr. Talbot asked if the parking concerns can be raised at the time a potential project is presented. Mr. Harnais said that was the time to raise these concerns regarding parking requirements and also the time when the results of the traffic studies should be examined.

Mr. Talbot stated that he is not a direct abutter and wanted to know how he would find out about future meetings regarding proposed development at the site. He asked specifically if other than reading about the Public Hearings in the newspaper is there any other way for him to find out about the meetings. Ms. Santucci Rozzi explained that the notification requirements according to Chapter 40A, Section 5 had been fulfilled. The notification required is to abutters to abutters and residents directly across the street and unfortunately Holmes Street runs perpendicular to the site. She continued that she had

spoken to the gentleman that lives one in from the corner of Holmes Street and Independence Avenue regarding what constitutes an abutter. Ms. Santucci Rozzi pointed out that the meeting agendas are posted on the Town website and outside the Planning and Community Development Office one (1) week prior to the meeting and that all the Public Hearings are listed. She also stated that anyone can call the Planning and Community Development Office as often as they want for additional information. She noted that to notifying individuals not covered under the requirements of the law would become cumbersome. Mr. Harnais stressed that there should be ample opportunity for any Applicant to meet with the neighborhood prior to a Public Hearing. He stated that the neighborhood should be educated about a proposed project before it is presented to the Planning Board. Mr. Talbot stated that he was not opposed to the property being developed but did have some concerns regarding what would be going in to the site. Mr. Harnais also said that he knew Councilor Palmucci personally and knows that he would be upset if a project went forward with out discussion with the surrounding neighborhood.

Joseph O'Brien, of 24 Holmes Street, Braintree, MA 02184 addressed the Planning Board. Mr. O'Brien stated that he is in agreement with the views expressed by Mr. Talbot and continued that he had received notification of the Public Hearing from a resident of Hughes Street in Quincy. He expressed that the residents should be totally involved with any proposed project and informed the Board that he had attended the neighborhood meeting held previously. Mr. O'Brien said that he is against the proposed project presented to the residents at that time. Mr. Harnais again said that the Planning Board recommendation this evening was for the Rezone only. It was also pointed out that if a developer came before the Board with a proposed project with out having met with the neighbors they would have a difficult time during the permitting process. Mr. Harnais stated that the Planning Board encourages individuals to come before them and voice their concerns and again stressed the responsibility of any potential developer to fully educate the neighborhood of a proposed project.

Marilyn Kearney, of 244 Independence Avenue, Quincy, MA 02169 addressed the Planning Board. Ms. Kearney stated that she had distributed the information she had received regarding the Public Hearing to neighboring residents. She told the Board that Brian Palmucci is her Councilor and that he had sent letters to eleven streets regarding this evenings Public Hearing and that the residents of Holmes Street (directly across from the property) had not received notification. Mr. Harnais explained that the Planning Department is required to send notification to property owners as required by law. He continued that the requirement for notification is set by ordinance and that is what the Planning Department/Planning Board goes by. He also noted that the Councilor for that area is notified as well and he could not answer as to why Councilor Mullaney had not notified the residents.

Pat O'Donnell, of 72 Hughes Street, Quincy, MA 02169 addressed the Planning Board. He noted for the Board that his backyard abuts Holmes Street. Mr. O'Donnell stated that he would be willing to provide his e-mail and when notified of any upcoming meetings he would in turn notify residents in the area. Mr. Harnais again noted for Mr. O'Donnell that the Planning Department/Planning Board would follow the requirements under the law as they regard to notification of abutters. Mr. O'Donnell questioned if it was against the law to notify residents in addition to the required abutter notification. Mr. Harnais stressed for everyone present that the required notification process would be followed and urged the residents to contact their respective Councilors.

Ms. Kearney referred to the meeting that had been held in January and the proposal to develop 41 condominiums on the site. She wanted to go on record that she is opposed to the construction of 41 condominium units on the property. Ms. Kearney sited parking concerns, Archbishop Williams High School up the street, and the large number of children in the surrounding neighborhood. She continued that for the past several weeks there have been two (2) police cars on Independence Avenue with radars to monitor the speed of vehicles travelling on the street. Ms. Kearney told the Board that a young man had recently been hit by a vehicle in this area and that she had gone before the City Council in Quincy to get signs designating the crosswalk in front of the Friendly's Restaurant location. She stated that she is not against development on the property but she is against the construction of 41 condominiums. Mr. Harnais clarified that the Applicant is going before the Town Council at this time for a rezone only. He continued that when the developer comes forward with proposed plans the traffic issues will be addressed.

Mr. O'Donnell again addressed the Planning Board. It was confirmed that the purpose of this Public Hearing was for a rezone of the property as it currently exists to General Business. Mr. Harnais stated that the Town Council not the Planning Board is the granting authority and that the Board is providing a recommendation only. Mr. O'Donnell stated that his neighborhood is primarily residential and that he has been living there for over 20 years. He continued that he would like the recommendation to be against the rezone. Mr. O'Donnell inquired if he could have business cards from the Planning Board/Planning Department to enable him to stay in contact. Mr. Harnais informed him that it would be the Planning Department that he should contact for additional information. It was then confirmed for Mr. O'Donnell that the Public Hearing was being recorded and that he could obtain a copy of the minutes.

Thelma Freedman, of 184 Independence Avenue, Quincy, MA 02169 addressed the Planning Board. She explained that she is an abutter to the site and has lived there since 1986. It was clarified again that the purpose of this Public Hearing is for the rezoning of the property. Ms. Freedman stated that in her opinion the reason for the request for the rezone was to enable the Applicant to develop the property in order to generate revenue.

She noted that the present owner owes the Town of Braintree and the City of Quincy taxes and has made no effort to keep up the property. She said that this is the wrong location for businesses, offices or condominiums due to the traffic issues, parking problems and proximity to Burgin Parkway and the highway. The safety issue created by the illegally parked cars was stressed by Ms. Freedman. She pointed out that it is already difficult to cross Independence Avenue even when using the existing crosswalk. Ms. Freedman is in agreement that the property as it exists is an eyesore and with the Applicant's current revenue issues she is not sure what can be done at this time to rectify the situation. She does not blame the Applicant for looking to obtain profit from his property but the residents in the area have the right to be protected. Ms. Freedman feels that the current zoning serves as a form of protection and questioned the feasibility of the Town of Braintree or the City of Quincy taking the property through eminent domain to make it more attractive as well as safe for the residents.

Patrick Barry, of 11 Oak Grove Terrace, Quincy, MA 02169 addressed the Planning Board. Mr. Barry explained that his is the only house on Oak Grove Terrace which is the small side street to the right of the property and that he would be impacted the most by potential development on the site. He asked for clarification that the proposal that was presented at the neighborhood meeting in January included both condominiums and businesses. Mr. Harnais told him that none of the Planning Board members had seen that proposal since only the rezone was currently before them. Mr. Barry asked if the proposed zoning change to General Business would allow for both business and condominiums. Ms. Santucci Rozzi explained that a General Business zoning designation would allow for multi-family as well as a variety of business uses. Mr. Harnais told him that he could be provided with a table of uses for different zoning designations. Mr. Barry stated that he agrees that the property does need to be developed and he is not opposed to residences and businesses being constructed. He continued that as it exists now the property is a safety hazard. Mr. Barry concluded that he is in opposition to dense development of the site, and is against the rezone.

Barbara Hart, of 10 Holmes Street, Braintree, MA 02184 addressed the Planning Board. Ms. Hart commented on the excessive traffic and mentioned the presence of the police to monitor speed on Independence Avenue. She noted the increased number of accidents in the area and the use of streets in the area for vehicles to access the highway.

At this time Mr. Harnais asked the Planning Board members if they had any questions and/or comments.

Ms. Lauria stated that she had no questions regarding the change in zoning designation but she did want to assure the audience that she has taken all their comments into consideration and will note these concerns at such time any potential plans are presented to the Planning Board.

Mr. Mikami noted that his comments were to be directed toward the rezone not to traffic issues or the proposal that the Planning Board has not yet seen. He asked Atty. Garland to what extent the Town of Braintree General Business zoning designation corresponds to the Industrial A zoning designation in the City of Quincy. Atty. Garland replied that Industrial A is an old zoning designation that came from old uses of the property which had been ice houses and warehouses and businesses that served the transportation network in the area. Referring to the submitted plan he noted that the properties to the right on the Quincy side are zoned Industrial A. He continued by saying that there are actually residences in this location. Mr. Mikami explained that what he is interested in knowing is how the two zoning districts compare, noting Ms. Santucci Rozzi's description of the General Business zoning designation as allowing both business and multi-family uses. He asked if this use is the same as it would be in Quincy. Atty. Garland stated that while they have not formerly filed any applications with the City of Quincy it is his understanding that Quincy would allow a use variance. This in turn would allow for a change in use of the property from industrial use to a residential use. Mr. Mikami inquired if a potential project such as the multi-family project mentioned earlier would work for both Braintree and Quincy, which was confirmed by Atty. Garland. Mr. Mikami asked for confirmation that the Saint Francis Residence next to the Applicant's property is also zoned Residence B and is a Chapter 40B property as well, which was confirmed by Atty. Garland.

Mr. Mikami asked why it has taken so long to propose the redevelopment of this property. Atty. Garland stated that Mr. Fitzgerald, noting that hopefully he will be the developer for the project in the future, had tried to purchase the property 20 years ago but this did not go forward. He continued that it is his understanding that other developers have looked at the site and for whatever reasons those proposals did not move forward. He feels that what ever had been proposed for the site had not been looked upon favorably by the Public Officials. Mr. Mikami asked if the Applicant, Mr. Palmer, owns the entire site. Atty. Garland confirmed this. Mr. Mikami asked if Mr. Fitzgerald is currently or is potentially Mr. Palmer's business partner. Atty. Garland responded that there is no partnership but hopefully Mr. Fitzgerald will purchase the property from Mr. Palmer. Mr. Mikami then asked if the property does get rezoned will he immediately sell it to Mr. Fitzgerald. Atty. Garland stated that he did not want to speculate on that issue but it is his belief that if the rezone is achieved and necessary permits are granted that Mr. Palmer would want to sell the property. Mr. Mikami inquired if the tax liens on the property would have to be cleared up prior to it being sold. Mr. Harnais replied either then or at the latest at the time of the sale. Mr. Mikami pointed out that this is the first step in what could be a very long process, involving not only the Rezone but also the application for any proposed development of the property. He noted that one proposal that had been heard tonight and previously by residents in the area was the potential for a multi-family project. Atty. Garland explained that the plans for the proposed project had been presented at the community meeting held at the Independence Manor on

January 11, 2012 and that the plans proposed a mixed use development for the site. Those plans had been presented to the community for input and both Mr. Palmer and Mr. Fitzgerald heard the input at the presentation as well as the input at tonight's Public Hearing. He continued that community input is essential for any project that may come before the various Boards to be successful.

Mr. Mikami then asked what would happen if the property does not get rezoned. Atty. Garland replied that since the current zoning does not allow for any use other than a single-family home that the proposed development of the property would probably not go forward. He stated that the residents that had spoken this evening all recognize that something needs to be done to improve the site, noting that as it exists it is a disgrace and a safety hazard. He continued that with out the rezoning nothing will happen with the property. Mr. Mikami clarified that assuming the rezoning does get approved and a multi-family residence was to be built there on the property a Special Permit would be required from both Braintree and Quincy. He explained for the audience that this is a multi-part process in both communities requiring numerous meetings and Public Hearings.

Ms. Santucci Rozzi added that the middle piece as it sits now is a split zone. She explained the front portion is zoned General Business and the rear portion is zoned Residence B. She continued that although the analysis has not been done at this time a case could be made to apply the Split Lot Provision to the lot in the middle if the rezone is not successful. This means that if the least restrictive portion is within 150 Ft. of the General Business designation the entire lot can be used for General Business purposes. Ms. Santucci Rozzi stated that the process currently being pursued by the Applicant is a neater and cleaner solution.

Mr. Eng asked Atty. Garland if after hearing the comments made by the public tonight and at the January community meeting would the Applicant consider downsizing the scale of the proposed project to minimize traffic and parking issues. Atty. Garland replied that they need to achieve the rezone first. Mr. Eng clarified that what he was asking was if the Planning Board makes the recommendation to approve the rezone which then goes before the Town Council and receives approval would the Applicant consider a scaled down project to make it more agreeable to the community. Atty. Garland replied that in his opinion no Boards with granting authority in either Quincy or Braintree would grant approval if faced with substantial opposition. Mr. Eng stated that he wanted the Applicant to understand that if there is substantial opposition that it would be a long process to get approval and he wanted to be sure that the input of the community would be taken into consideration.

Mr. Reynolds informed the public in attendance that as a member of the Planning Board he had been involved with several projects that had to do with rezoning from Residential

designations to General Business designations. He continued that he has had experience with how issues like this are handled and what the end result is. Mr. Reynolds stated that the key component to the successful mitigation of a site's proposal to be developed by an Applicant is the Planning Board's diligence and the public's input. He also has been involved in projects in the past that have crossed the boundary with the City of Quincy, noting that they are very diligent and their local representatives serve the residents very well. Mr. Reynolds referred to the two projects in the Five Corners Intersection area, Panera Bread and TD Bank, that have recently gone through the rezone process. He noted that the Planning Board had gone through a lot of work with the public and the Applicant to be sure that the use was compatible with the neighborhood and to ensure that safeguards, specifically those regarding traffic issues, were in place. He stated that there had been a comment this evening about the potential revenue not only for the Applicant but also for the community which is also an important element. He said that the residents rights would also be protected. Mr. Reynolds then explained for the public that a project similar to the one presented would be subject to a Special Permit. He continued that a Special Permit requires a 'super majority' vote by the Planning Board, meaning that the vote can not be a simple majority vote, but instead must be a favorable vote of four (4) out of five (5) of the Board members. He also stated that should approval of the rezone be granted and the Applicant goes forward with a development proposal the Planning Board has the Zoning Laws at their disposal to control the use. This will ensure that not only is the use compatible with the neighborhood but also with what the Town desires. Mr. Reynolds pointed out that they also must respect the owners of the property. He continued that there are opportunities for the residents as well as the Planning Board to be sure that controls are in place to find a balance is met that works out for the Applicant and the neighborhood. He stressed the importance of controls in regards to the traffic which is dependent upon the proposed density and use of the property. He referred to the parking and stated that since this property crosses over two communities both will be monitoring these issues. Mr. Reynolds concluded that he has faith that the system will protect the communities and their residents and should the rezone go through and the project move forward it will involve a collaboration between the developer, the Towns and the neighborhood.

Mr. Harnais clarified for the public in attendance that the Public Hearing this evening is for the rezoning only and the Planning Board will not make a recommendation on the proposed development of the property. He explained that he has been involved with Planning Boards for many years both in Braintree and in other communities and emphasized the importance of community input to shape any potential development so that it is compatible with the surrounding neighborhood. Mr. Harnais also stressed the responsibility of the developer to educate the residents prior to such time that the proposed project is presented to the Planning Board. He continued that should the Town Council grant approval for the rezone the proper process will be followed prior to approval of any proposed project.

Mr. O'Donnell again addressed the Planning Board and asked for a show of hands from the public in attendance those in favor of the zoning change. It was noted for the record that there were four (4) votes for the zoning change and thirteen against the change. Mr. O'Donnell then referred to the unresolved environmental issues noting his concern over any environmental situations that may still exist. He inquired as to how he could obtain information on the status of environmental problems. Mr. Harnais suggested that Mr. O'Donnell contact the Environmental Protection Agency or the Health Department stating that they may have information on the subject if there was an ongoing concern at the site. Mr. Harnais continued that it should be first determined that a health issue exists before continuing any discussion on the matter. Mr. O'Donnell brought up the earlier comment stating that if the rezone was not approved that no redevelopment of the property would take place and stated that he feels there should be some other alternative.

Ms. Santucci Rozzi asked if everyone present that had spoken this evening could please sign the sign in sheet with their name and address.

Mr. Harnais stated that the rezone application was now up to discussion by the Planning Board to determine if the Public Hearing should be closed or if it should be continued. He then inquired when the rezone would come before the Town Council. Ms. Santucci Rozzi was not sure when it would come before the Town Council but informed him that once the Planning Board does its part in the process they have 21 days from the close of the Public Hearing to forward their report to the Town Council. It was noted that should the Board vote to continue the Public Hearing it would have to be continued until the June meeting. Mr. Reynolds asked for clarification that there is the opportunity to continue the Public Hearing if the Board feels that it is necessary. This was confirmed by Mr. Harnais. Mr. Reynolds stated that in his opinion the Board should go forward and make a recommendation this evening. He explained that what exists now is an eyesore and there are mechanisms and controls in place that would protect the neighborhood and the community if this parcel is rezoned. He continued that if the rezone is approved and a subsequent application is submitted, the Board has the ability to vote favorably or unfavorably on the proposal. Mr. Reynolds stated that the owner of the property has the right to submit an application to develop that site that meets the zoning criteria, noting that there are a number of interests involved and that the number one interest is that of the community. Mr. Reynolds concluded that he is comfortable moving forward with a vote on the rezone of the property this evening.

Mr. Talbot asked when the developer actually has to come up with the plans for what is proposed for the site. Mr. Harnais answered that should the rezone get approval there is no time limit as to when the site must be developed. He noted that when the developer wants to move forward with a project they must submit an application and the neighborhood must be notified. Mr. Harnais also stated that it would not be in the developer's best interest to submit a proposal with out first informing and getting input

from the residents.

Ms. Hart referred to the issue of contamination at the site. Mr. Harnais replied that may be the case and that testing of the area would need to be conducted prior to development.

Mr. O'Donnell noted Mr. Reynolds' comment regarding safeguards that are in place to protect the community inquiring if zoning was the first line of defense. Mr. Harnais replied that zoning is the first line of defense. However, in this situation the zoning designation, as is the case in many cities and towns, is antiquated and does not make sense. He continued that in his opinion the requested rezone was not unreasonable but wanted to be sure that any proposed redevelopment was a good fit for the area. Mr. O'Donnell referred to the show of hands indicating that the residents do not want the zoning change. Mr. Harnais pointed out that to not go forward with the change in the zoning designation does not make sense and does not allow for development of the property. Mr. O'Donnell stated that the residential side could be used for a residence and the commercial side could be used for commercial development. Mr. Reynolds noted that Mr. O'Donnell was not the owner of the property. Mr. Harnais explained that as a land owner you have the right to petition for the use of your land as you see fit. He continued that a change in zoning does not mean that there has to be a negative impact. He said that he has no problem with the rezone but does have a problem with a large project being developed on the site. Mr. O'Donnell questioned if the input of the public doesn't matter, then why is a Public Hearing held. Mr. Harnais replied that public input does matter. He used the development of Marina Bay in Quincy as an example stating that at the time of that proposal no one was in favor of it. Mr. O'Donnell said that the example Mr. Harnais presented had been successful, but was sure that there are situations where development has not been successful and wanted it noted for the record that the public in attendance tonight were against the rezone. Ms. Santucci Rozzi pointed out to the Planning Board for the record that Mr. Gramm (also in attendance) had submitted a letter in opposition to the rezone and the President of Archbishop Williams High School had submitted a letter of support.

Motion by Mr. Reynolds, second by Mr. Eng to accept the correspondence list dated March 9, 2012 through April 5, 2012.
Vote: 5/0

Mr. O'Donnell said that he felt that the rezone should be taken off the table for further discussion.

Mr. Reynolds stated that it was not his intention to come across that he was not taking the public's comments into consideration. He continued that a public vote by hand is not how business is conducted in a Public Hearing. He stated that the Planning Board appreciates and welcomes all comments and continued that he is ready to move forward

on the requested rezone.

Motion by Mr. Reynolds, second by Mr. Mikami to close the Public Hearing at 9:42 P.M. Vote: 5/0

Motion by Mr. Reynolds, second by Ms. Lauria based on the history and location of the site, from a zoning perspective to recommend approval for the change in zoning.

Mr. Harnais asked the Board members if there was any further discussion. Mr. Mikami noted that he fully supports Mr. Reynolds statements continuing that the area is in horrible shape and needs improvement. He noted that this is the first step in the process and there are plenty of safeguards for both the City of Quincy and the Town of Braintree. He said that the only way to get the process moving is to allow for the change in zoning designation. There will be additional Public Hearings to address the issue of the proposed development. He cited the numerous times that the Planning Board has imposed conditions on developers to ensure proposals are a good fit for the community. He stated that he has confidence that based on information from the community as well as professionals involved with the development that the Board will make the right decisions. Mr. Mikami concluded by also seconding Mr. Reynolds' motion.

Mr. Eng addressed the public in attendance referring to the long permitting process involved with the Dave & Buster's facility. He noted that it had been in the newspaper for many months and mentioned the neighborhood across from the location had opposed the proposal. Mr. Eng continued that there had been numerous hearings and the developer had been presented with many conditions regarding the development. He concluded that until the community was satisfied the project was not allowed to go through. He asked that the Planning Board be given the chance to make the proposal right. Mr. Eng stated that he agrees with the other members that nothing will be done at the site until the Rezone goes through.

Vote on above noted motion: 5/0

Respectfully submitted,

Beth Herlihy