Braintree Planning Board – June 14, 2016 – Cahill Auditorium

Present:
Mr. Robert Harnais, Chair
Mr. Joseph Reynolds, Vice Chair
Mr. James Eng, Clerk
Mr. Darryl Mikami
Ms. Erin Joyce

Christine Stickney, Director
Melissa SantucciRozzi, Principal Planner
Jeremy Rosenberger, Zoning Administrator

Chair, Robert Harnais, called roll call at 7:10 PM.

Member Reynolds **Motion** to go to Executive Session; seconded by Member Mikami; voted by Roll Call unanimously 5:0:0.

EXECUTIVE SESSION

Pursuant to MGL Chapter 30A Section 21(3) for the purpose of discussing strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares to discuss the strategy with respect to the following litigation:

1. Total Outdoor Corporation vs. Braintree Planning Board (Appeal of 290 Wood Road Decision)
2. Kenneth Ingber, Trustee Wood Road Nominee Trust vs. Braintree Planning Board and Lamar Central Outdoor, LLC (Appeal of 340 Wood Road Decision)

Motion was made by Member Eng to exit Executive Session; seconded by Member Joyce; voted by Roll Call unanimously 5:0:0.

Zoning Board of Appeal Petitions – June 28, 2016

NEW PETITIONS:

Petition #16-16 100 River Street

Gary Gabriel, 10 Sheffield Drive, Braintree, MA 02184, (owner, Life Resources, Inc., 66 Brooks Drive, Braintree, MA 02184) for relief from Bylaw requirements under Chapter 135, Sections 403, 407, 701, and 808 to demolish existing building and construct a new building within the same footprint containing three contractor bays. The applicant seeks a permit, variance and/or finding that the proposed alteration will not be more detrimental to the neighborhood. The property is located at 100 River Street, Braintree, MA 02184 and is within a Commercial District Zone, as shown on Assessors Map 2001, Plot 6, and contains a land area of +/-10,100 sq. ft.

The Zoning Administrator states this is a petition that went before the Zoning Board of Appeals in 2013, but it was never exercised. It is same proposal as seen before, for which the Planning Board recommended a favorable recommendation.

There were no questions or comments from Member Joyce, Member Mikami, Member Reynolds and Chair Harnais. Member Eng confirmed with the Zoning Administrator that there were no changes since the previous petition. Member Reynolds **MOTION** for a favorable recommendation; seconded by Member Eng; unanimously voted 5:0:0.

Petition #16-17 68 Kimball Road
William Mason, 68 Kimball Road, Braintree, MA 02184 seeks relief from Bylaw requirements under Chapter 135, Sections 403, 407 and 701 to construct a 13 ft. x 25.6 ft. one-story addition, 6.1 ft. from the side yard lot line. The applicant seeks a variance to extend into a side yard. The property is located at 68 Kimball Road, Braintree, MA 02184 and is within a Residential B District Zone, as shown on Assessors Map 1087, Plot 14, and contains a land area of +/- 13,000 sq. ft.

This is to accommodate a master bedroom; there are some slope issues to the site. There were discussions between the Zoning Administrator and the Applicant about trying to build to the setback, but the Applicant felt that it would render his project less than valuable. He wants to keep front yard, which is the most level part of the property. The Zoning Administrator recommended approval. This is consistent with a number of side yard variances that the Zoning Board of Appeals has granted.

Member Joyce asks about letter of support from a neighbor. The Zoning Administrator will share this note. Member Joyce asks if the Applicant actually provided topography in their plan to show that there was a hardship on slope or did the Zoning Administrator provide that comment. The Zoning Administrator stated he pulled it up, and there is a very large, deep slope on the other side of the property. Member Joyce is curious about any opportunity to do addition out the rear and not encroach on the side setback so much. Director Stickney pointed out that in the rear there is Town Forest, which requires a 30' setback. Member Joyce confirms that driveway would stay the same. She further states that, If an applicant is seeking a variance for a hardship on topography, but they do not show topography, it seems a little misleading. She feels they could have looked at other options.

Member Eng agrees with Member Joyce's last comment. He confirms from the topography map that there is quite a slope and understands why they wouldn't go on the other side.

There were no questions or comments from Members Joyce, Mikami, Reynolds or Chair Harnais.

Member Reynolds **MOTION** for a favorable recommendation; seconded by Member Eng; voted 4:1(Joyce):0.

Petition #16-18 16 Park Avenue
Ryan Atkinson, 16 Park Avenue, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 403, 609 and 701 to remove an existing breezeway and garage; construct an attached garage with master bedroom above (28'10" x 24') and a new full second story (26' x 38'10") to an existing one-story Cape-style home. The property is located at 16 Park Avenue, Braintree, MA 02184 and is within a Watershed Residential B District Zone, as shown on Assessors Map 1080, Plot 59, and contains a land area of +/- 11,668 sq. ft.

This will not cause any new nonconformity; so, they are actually seeking a finding.

There were no questions or comments by Planning Board members.

Member Eng **MOTION** for a favorable recommendation; seconded by Member Reynolds; unanimously voted 5:0:0.

Petition #16-19 44 Judson Street
John McDonough, 44 Judson Street, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 403, 407 and 701 to construct a new 7 ft. x 5 ft. front foyer within the front yard setback and to construct a 12 ft. x 5 ft. two-story addition within the existing footprint in the rear. The property is located at 44 Judson Street, Braintree, MA 02184 and is within a Residential B District Zone, as shown on Assessors Map 2036, Plot 38, and contains a land area of +/- 5,554 sq. ft.

The applicant seeks relief for the front yard. They might be able to apply for a modal set-back, which is taking they average of all the front yards. If you take a look at Judson Street, all of the homes along Judson Street are within the front yard set-back. Being that it is an existing condition, they could probably get a modal set-back, and the Zoning Administrator felt that it warranted approval.

There were no questions or comments by Planning Board members.

Member Reynolds **MOTION** for a favorable recommendation; seconded by Member Eng; unanimously voted 5:0:0.

Petition #16-20 15 Ash Street
Paul Tedesco, 15 Ash Street, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 403 and 701 to construct a new 10 ft. x 15 ft., one story rear addition, within the existing footprint. The applicant seeks a permit, variance and/or finding that the proposed alteration is not more detrimental to the neighborhood. The property is located at 15 Ash Street, Braintree, MA 02184 and is within a Residential B District Zone, as shown on Assessors Map 2029, Plot 10, and contains a land area of +/- 5,500 sq. ft.

This will be a small bathroom and closet to go above an existing one-story dwelling in the rear. This is just a finding because it is within the existing footprint. The Zoning Administrator recommended approval. There were no questions or comments by Planning Board members.

Member Reynolds **MOTION** for a favorable recommendation; seconded by Member Eng; unanimously voted 5:0:0.

Petition #16-21 15 Old Country Way
Keith and LeeAnn Dionne, 15 Old Country Way, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 403, 407, 609 and 701 to construct an 18 ft. x 42 ft. second story addition above an existing garage and dwelling. The property is located 15 Old Country Way, Braintree, MA 02184 and is within a Watershed Residential B District Zone, as shown on Assessors Map 1057, Plot 11, and contains a land area of +/- 7,920 sq. ft.

They are seeking a finding as they currently have 10 feet in rear yard that is an existing condition since it was constructed. The Zoning Administrator recommended approval; he will note that the existing one-story garage is not the most desirable construction, but putting second story on this may make it look a bit better and more conforming to the neighborhood.

There were no questions or comments by Planning Board member. Member Reynolds **MOTION** for a favorable recommendation; seconded by Member Joyce; unanimously voted 5:0:0.

Petition #16-22 200 Grossman Drive
Batten Bros. Sign Advertising, 893 Main Street, Wakefield, MA 01880 (owner, Michael Fainer c/o Seritage Growth Properties) for relief from Bylaw requirements under Chapter 135, Sections 407 and 904.2 to construct a 20 ft. x 10 ft. halo lit wall sign displaying Sak's Fifth Avenue/Off 5th. The applicant seeks a permit, variance and/or finding that the proposed alteration is not more detrimental to the neighborhood. The property is located at 200 Grossman Drive, Braintree, MA 02184 and is within a Highway Business District Zone, as shown on Assessors Map 2019, Plot 4-1, and contains a land area of +/- 34.36 acres.

The building has 170 feet of frontage; they needed a number of variances due to having existing pylon signs exceeding the size of four feet. The Zoning Administrator took a look at all recent signage approvals; this falls in between all the recent signage approvals ranging from very large (being Sports Authority and Staples) to very small (like Five Below). He felt it was pretty close to its linear frontage and lettering is smaller than existing. It will look less imposing at night. It seems consistent with what is approved across the country. The Zoning Administrator recommended approval.

There were no questions or comments from Members Joyce, Mikami or Eng.

Member Reynolds mentioned that there are a few stores going out of business on Grossman Drive. He wondered that in the absence of those stores, was there a replacement one-for-one of signage or does that help the Zoning Administrator in his deliberations? The Zoning Administrator feels this is much smaller in scale and more tasteful than existing. The Principal Planner states that one Kmart sign is now going to be four signs because of four new businesses.

Chair Harnais feels that it is a nicer sign than what existed before.

Member Eng **MOTION** for a favorable recommendation; seconded by Member Reynolds; unanimously voted 5:0:0.

Petition #16-23 28 Massachusetts Avenue
Barry and Erica Newell, 28 Massachusetts Avenue, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 403, 609 and 701 to construct a new two story addition (26.2 ft. x 21.5 ft. approximate footprint), 13.1 ft. from the front yard setback. The property is located at 28 Massachusetts Avenue, Braintree, MA 02184 and is within a Watershed Residential B District Zone, as shown on Assessors Map 1080, Plot 37, and contains a land area of +/- 7,479 sq. ft.

They are seeking a finding; this is a corner lot, which brings up the main issue of why they need to go before the Zoning Board of Appeals. The building is 13 feet and 17.4 feet from the property line. Working with the Applicant, they have some new kids coming along, and they want to stay in the area. Thus, more bedrooms are needed. They aren't exceeding lot coverage or building footprint, but it is a growing size house. The Zoning Administrator would say that it is probably one of the nicest houses on the block, and the design will be very desirable and add value to the neighborhood. The Zoning Administrator recommended approval.

There were no questions or comments by Planning Board members.

Member Reynolds **MOTION** for a favorable recommendation; seconded by Member Eng; unanimously voted 5:0:0.

CONTINUED PUBLIC HEARING
Special Permit(s) and Site Plan Review –
Applicant: Brian Yeary of Blackwater Towing, 130 Allen Street – (PB File #16-04)

The Applicant was not present.

7:53 PM – All five Planning Board members participated.

The Principal Planner states that the Applicant provided a letter to withdraw the application without prejudice. There were no questions or comments from the Planning Board members. Member Eng **MOTION** to accept the withdrawal without prejudice; seconded by Member Reynolds; unanimously voted 5:0:0.

CONTINUED PUBLIC HEARING

Special Permit(s) and Site Plan Review –
Town of Braintree c/o Mayor Sullivan and BSC Partners LLC
128 Town Street (Braintree High School Property) – (PB File #15-19)

Present for the Applicant:
Scott Lacy, Attorney representing Applicant
Bruno Campea, Traffic Engineer
Nick Facendola, Civil Engineer
Dan Boucher, Applicant
Paul Brooks, Applicant

8:20 PM – All five Planning Board members participated.

Attorney Scott Lacy states that when they were last before the board they were scheduled to meet with Planning Staff regarding a number of different items; subsequent to that meeting, they did meet with staff regarding traffic and parking and drainage on two different dates. Subsequent to that meeting, they did submit supplemental information with regard to drainage and an updated traffic report. They did get feedback from staff with respect to traffic late Friday; they got feedback from staff with respect to drainage this afternoon.

Additionally, during the interim between Planning Board Meetings, they worked with the School Department to try to put together a frame-work for a shared parking agreement, and they think they have done that. Attorney Lacy's understanding is that the School Committee last night voted in favor of the framework that was put together for a shared parking agreement at the facility. He feels that they have materials and staff comments that they need to respond to formally. With respect to traffic, Ken Cram, who is the Traffic Engineer that has been working on this project from the beginning and who met with staff with respect to the traffic, unfortunately is not here tonight. There is another member from his office that is here. Attorney Lacy is not

sure if the Planning Board wants them to go forward. Their preference is to meet with staff next week to review comments on traffic and drainage and prepare a formal response to the Board with respect to issues raised and any remaining issues that come out of that meeting. He knows the engineers have not had a chance to look at the comments regarding drainage as they got them this afternoon.

Director Stickney feels that if the Traffic Engineer is here, we should have a discussion about the Traffic Report. The Director submitted to the Applicant and to the Board on Friday afternoon quite an extensive report about the traffic. She feels there should be a presentation, at least on traffic, as we have not had one by Bayside Engineering. Attorney Lacy states that some of the issues in the Traffic Report are unresolved. Chair Harnais asks if there is anything that could be presented tonight.

Attorney Lacy states there is one aspect that came up in a number of comments and in the Staff Report. There is an entrance on Franklin; as of right now, they have not been given permission from the Town to look at that for purposes of egress or ingress. Part of the analysis by the Traffic Engineer is just what they have permission to use right now.

Member Joyce mentions the entrance on Franklin Street requires exiting onto Town Street and taking a right to get back in parking lot because those areas are not connected. For a facility of this magnitude on the site, it might be beneficial to the project to see if it is viable to open up the Franklin Street entrance directly into parking lot. She feels it is valuable to look at circulation on the property, as a whole. She wonders if the connectivity from that access way has been looked at and who that would fall under: the School Committee, the Applicant or the Town. Attorney Lacy states that it has not been looked at, as that is not something under their control, but they can ask. Member Joyce asks for an outline of what was voted on by School Committee.

Attorney Lacy states that they provided an ebb and flow to the day for the facility. For the most part, the uses don't conflict in terms of parking, but there were a number of events that do necessitate planning. Part of the Agreement was identifying about 16 high school events that have conflicting demands. Either the facility will be closed or it will have reduced hours during those events based upon what the high school needs for parking demand.

A key component going forward, on an annual basis, we have a review of events. Each month we are going to have communication between the facility and the school to capture what might be coming up that might not be predictable at the beginning of the school year. The School Committee voted favorably on that framework. The execution is all dependent upon permits. If the project does not receive permits from the Planning Board or the ZBA, they don't get to execute it.

Member Joyce asks if you have an overall existing count on spaces vs. a new count on spaces. Attorney Lacy states it goes from 461 to 495. School Committee was very clear that they want to maintain control over the parking lot. Member Joyce asks for a presentation on proposed entryway off Granite Street. She has concern for the nature of the driveway, as it is pretty steep coming down into the slope. It seems to be just used for bus drop-off. Was there any investigation looking at linking the area in front of that building to the main parking lot, as opposed to coming right onto Granite Street? Attorney Lacy states his understanding from an aesthetics standpoint they wanted access off Granite. His understanding is that there are concerns with linking the main driveway around that side of the building. This is an ongoing

discussion with staff. Member Joyce wondered if a one-way drive was possible. Member Joyce had provided extensive comments on drainage. Her concern is in understanding where the existing site drains to. She knows there has been some discussion about looking up existing records. She was wondering if there had been any progress on that.

Attorney Lacy states that his understanding was that they were looking for existing records for drainage under the football field. They can go over the connection points for the existing drainage system for the proposed site.

Nick Facendola, Level Design Group and Civil Engineer for the Applicant, states based on conversations with Planning Staff and the Town Engineer, the Town Engineer stated that he is comfortable with the way the system operates now. The water does drain to Sunset Lake. That is where all the discharge for the football field and this existing parking lot goes to via existing catch basins. Mr. Facendola explains the current drainage and catch basin system. The goal of the drainage design in the study is to mitigate the flow of what goes to those pipes. They are trying to not increase the flow which travels to those points. Member Joyce asks how confident are you that your site will adequately drain appropriately and not provide a problem to the drainage at the track and field area, given that you don't know where those pipes go or what condition they're in or what size they are. The Civil Engineer states based on his conversations with the Town Engineer, they were going to handle the investigative work on that and he is still waiting for that information. He has assumed that the information provided to him by the Town Engineer is correct. It is quite possible that the rims for those structures have been covered over so the catch basins essentially act as connection points. They don't receive any additional flow if they have been covered over, but the drain lines still exist, which travels to Sunset Lake. They are confident in the Town Engineer's description of the system, but they would like to receive a final report on that from the Town.

Member Joyce states it sounds like nobody knows where those go or what condition they are in, but we are banking on these new acres of pavement to drain to this system. She is concerned about functionality and feasibility of the drainage given that. She understands that maybe the Town is working on it, but perhaps there should be some discussion between the Civil Engineer and the Town to figure that out, as due diligence to address these questions. Member Joyce states soil testing that was done at the site did note some higher levels of ground water. She asks when you are doing building construction is there any concern for issues with ground water once the building is constructed.

Mr. Facendola states, with this type of construction and the size of the building, there would most likely be some required de-watering. He would be more than happy to provide a Construction De-watering Plan. Member Joyce asks if there is foundation drainage associated with the design. Mr. Facendola states he does not believe they have a fully designed Foundation Drainage Plan; they are still under conceptuals until they get through this part of the permitting, but they have assumed that there would be some dewatering required. Member Joyce's only comment with regard to foundation drainage is that we are putting the big building on an area that is grass, that could potentially have ground water, that would be intercepted by the foundation drains continually, that would be directed into a drainage system that we don't know where it is going. She just wants to make sure that we dot all our "I's" and cross all our "t's" with respect to drainage. Member Joyce realizes we will still work out details with the proposed drainage design.

Mr. Facendola states that we will hopefully get all questions addressed early next week. Member Joyce had one other question on the sanitary sewer from the building; it is now proposed to go out a lift station towards Town Street/Granite Street. At some point there might have been the possibility of taking the sewer out to the sewer easement that is running through the track. Has any further thought been put into that? Mr. Facendola states they are under discussion with the Sewer Department on that. It would be a more cost effective solution than the proposed pump station. That is something they are definitely looking into at the moment.

Chair Harnais clarified that the staff issues referenced during this meeting included some of the items that were brought up during prior meetings. Chair Harnais does not want to leave the impression that these items were brought up for the first time today; they were actually brought up during prior meetings.

Member Mikami would endorse Member Joyce's comments that we need to guarantee any drainage issues to ensure that it is not going to fail. Member Mikami asks if the Applicant is going to be responsible for safety at the facility (like locker rooms or crowd control)? Attorney Lacy clarified that, if it is inside the building, it is in the control of the developers. If it is outside the building and outside the leased area, it is still under the control of the School Committee. Member Mikami asks if there is some sort of safety plan relative to interior of building. Member Mikami suggests they submit this in writing. Member Mikami states another point was resolution of conflict dates. Who is going to be responsible for adjudicating conflict dates? Attorney Lacy states during 16 events that are high parking use events for the school, school has priority. Member Mikami asks for this to be formally submitted in writing. Attorney Lacy states it is under the School Committee, but the high school is taking the lead on identifying the events. Each year on August 1st, there would be a meeting between the Applicant and the School to see if there needs to be an adjustment to the list. Member Mikami asked for clarification, and Attorney Lacy said the meeting would be with the High School, as they are taking the lead in identifying events at that property. Member Mikami feels it is important to have a definitive plan in writing so that we know how conflicts are going to be resolved. Member Mikami's concern is public safety, parking and traffic.

Chair Harnais provided clarification on the comment earlier where it was stated "after the permitting, we will get things finalized"; things, such as the foundation drainage system, need to be finalized before the permits get issued. This was mentioned in discussion regarding design of the foundation and the flow through. The plans have to be finalized before the permits get issued.

Member Eng poses question on traffic volume from this project. He realizes the Applicant has done a lot of work on traffic counts; the appendix was quite thick; he wants the Applicant to summarize for the Planning Board and the Public what the Applicant feels the Build Volume has increased to, the level of service that has dropped in areas, and what are you doing to mitigate or help fix it.

Bruno Campea, with Bayside Engineering, the thing to look at is the difference in level of service between the future "No-Build" and "Build". The traffic volumes were projected using a factor of 1% per year compounded for five years. The actual difference between No-Build and Build is relatively negligible even when you look at the delay time. The difference is seconds (the majority is less than 5 to 10 seconds). In general, he thinks the statement that the impacts overall are minimal is true. You need to make sure you look at the difference between the "No-

Build" and "Build", not between the existing and the Build. Member Eng wants to let people know that the volume will not cause major delays going down Granite Street or at the end of Town Street.

Member Eng wants them to talk about "Existing plus Build". Mr. Campea clarified that at Granite Street/Town Street, the existing level of service is B (12.7 seconds delay). If you look at 2022 No-Build, the level of service is still B (a delay of 16.3 seconds). If you look at 2022 Build, the level of service is still B (a delay of 18.3 seconds). So the difference between the delay of Build and No-Build is 2 seconds. Member Eng asks what the methodology for determining the delay. Mr. Campea states the methodology is a standard Mass. DOT acceptable software package called Syncro Analyses. Member Eng asks if the software has been tested and is accurate. Mr. Campea states that it is a computer software package that is commonly used throughout the country and not just Massachusetts. Mr. Campea states they are only allowed to use certain ones, which are approved by Mass. DOT. From Mr. Campea's past experience, the software is very reliable with the signalized intersections. For the un-signalized intersections, the analysis is a lot more conservative. The analysis would indicate a level of service worse than actual condition. There is uncertainty in the un-signalized intersections. Member Eng states that he is asking this question because abutters will be concerned that they will not be able to get out of their driveways. Mr. Campea states when they evaluate intersections, it is always during the rush hours (both morning and evening). Mr. Campea provides the additional delay numbers for Existing vs. Build and states that they are not significant differences. Member Eng asks if they have looked at delays during events, which might cause a Level of Service F. Mr. Campea states they have not looked at that specifically, but he would anticipate that those events would not be occurring during rush hours. Therefore, although there would be more traffic added, the traffic on the street would be significantly less than rush hour.

Attorney Lacy stated that they looked at a real analysis for an MIAA event, which would be the largest even here. The parking would still fit within the parking lot. There is no event that would be hosted at this facility that would expand beyond the parking lot. That was done to confirm the maximum parking requirements needed. Member Eng asks if the results say you need three police for this event, will the facility provide that. Attorney Lacy clarified that the MIAA controls those events and they require police details.

Chair Harnais clarified the software used on traffic study. He confirmed that you have to plug in existing numbers. Where did the Applicant get the numbers to plug in? Bruno Campea states that they went out and counted several locations. Chair Harnais asked for clarification on where the number came from for the vehicles that this facility will generate in a day. Mr. Campea states they looked at the three different usages (hockey rink, pool and field house) and generated numbers for each of those usages. Attorney Lacy states that there is a table within the report that breaks down each of the actual usages of facility that generates numbers for a rink or a pool. Part of the traffic analysis was generated from that. Chair Harnais brings up the example of the difference between the Shea Rink in Quincy and Quincy Youth Hockey. One site is significantly bigger than the other and used more. Mr. Campea stated their might not be an answer for this, as the general accepted practice to get projected or generated trips is using the ITE. For a lot of usages, the ITE Trip Generation Manual has dozens of these studies. In general, they try to match up, but they don't. So, you can either use these studies or go out and make counts at a facility. Chair Harnais asks what facility was used for the count. Attorney Lacy states the rink in Bourne was counted for the MIAA event. The developers spoke with each party that was going to be using the facility to generate numbers. This was done from 5:00 AM

until 11:30 PM for all of the usages across the different categories to give an accurate representation. However, in agreement with Chair Harnais' point, it can vary extraordinarily from ice rink to ice rink. These are discussions that they need to continue to have with staff.

Chair Harnais states both the drainage and traffic plans were not stamped. They need to be stamped. Attorney Lacy stated that was an oversight.

Member Reynolds is thankful for this discussion because he feels there is a lack of understanding by the public of where this process stands. Member Reynolds feels that there has been some insight provided to both the Planning Board and the public. Member Reynolds notes that he is eager for the Town Engineer to be present for these discussions and points of clarification because they are acting as a consulting service to the Planning Board. Member Reynolds' hope is that Franklin Street could be included as an access point to get traffic through to the rink and pool facility. It would ease the burden on Granite Street and Town Street.

Member Reynolds continues discussion regarding traffic mitigation, specifically related to Five Corners, and recommends that the Applicant consult with the Department of Transportation, as there may be points of perspective or interest that may be offered. Attorney Lacy feels there are limited things that can be done with Five Corners. Member Reynolds confirmed that there would be further discussion regarding offsite parking for large anticipated events that could potentially help mitigate traffic.

Member Reynolds next addresses comments from staff related to drainage. He asked for clarification from Mr. Facendola about the foundation plan mentioned. Mr. Facendola stated that it depends on ground water elevations throughout the location of the building footprint, the depth of the footings, slab elevations, and if water will be interfering with the actual foundation. If that is the case, a sub-drain would be designed by the Structural Engineer to take the water away from the foundation. That can be accomplished by a number of means. There could be an internal pumping system. There could be a gravity drain. At this point, they do not have the full foundation plan designed.

Member Reynolds clarified that what Mr. Facendola was discussing was not a plan to mitigate but a design to address any potential high water around the foundation location. Mr. Facendola agrees that Member Reynolds is correct and states that they also spoke about dewatering during construction, which is another function that happens during the construction process where, if you are digging deep trenches, you have a dewatering plan in place for the installation of that structure. It is accomplished by a variety of methods. We could bring in a surface tank, where the water from the hole goes into the tank. Another type of system would be a temporary detention basin with different chambers. Member Reynolds confirms that would address the slowing down of the rates of runoff. Mr. Facendola clarified that what he just described was more construction related. The slowing down of the rates of the runoff would be associated with the onsite storm water systems that they would be proposing. Member Reynolds confirmed that volume and rate are two of the biggest challenges.

Member Reynolds had questions about locations being used related to traffic. He recognized that data points and methodology doesn't seem to fit easily into a category, which is part of the challenge; however, Town Engineer and Planning Staff also will be part of coming together with what standard will be acceptable. Member Reynolds assumes that we will be getting a Peer document from the Engineering Department. Director Stickney clarified that in Member's

package is a memo of approval with 12 conditions that are being recommended by Town Engineer.

Chair Harnais urges the Applicant to answer the questions of the Department as fully as possible. The questions need to be answered before the permits are issued. These answers are part of the deliberation that the Planning Board goes through. Things cannot be left to be worked on later. Attorney Lacy states they will do the best they can. Chair Harnais states the Planning Board has a responsibility to make sure that whatever is built will last and be beneficial.

Chair Harnais opens the hearing up to the public and clarifies that there will still be opportunities for the public to speak at the next meeting, if they are unable to speak at this meeting.

Alan Flowers, 48 Fallon Circle, wants to make a couple of quick points. He was opposed to this project before, and he is still opposed to it. Nothing he has heard tonight or at the School Committee Meeting last night changes anything. Basically, he is talking about the events. He feels the events are going to overwhelm the Town. The traffic is inadequate for just the Athletic Center, not taking into account the high school at the same time. He feels there are vastly more than 16 events going on at the high school. The events at the Athletic Center will be going on in December when traffic is at its worse in the Five Corners area. He doesn't see anything about mitigation to address this issue. Mr. Flowers asks when there are water restrictions for residents, will the rink have to contribute to lowering their use.

Director Stickney has a question for the Traffic Engineer. The Traffic Report had three different Average Daily Traffic figures or ADT's. What is the Average Daily Traffic under the "Build" for the proposal? She states the report had three figures throughout it. Which one are we expected to rely on? Director Stickney is looking for the Average Daily Traffic for the new build proposal, not existing ADT. Attorney Lacy clarified that this is something that needs to be reviewed with staff. Part of the RFP requested that there be community skate times and community swim times. Part of the ADT was trying to show trip generation with that factored in, which is not typical usage. Director Stickney clarified that her reason for asking this question is because the three figures that are provided all exceed the allowable increase of traffic in the bylaw under Article XIV. So, she needs the justification for that from the Traffic Engineer because the Planning Board will have to consider that in their final deliberations. Attorney Lacy states that is something they are going to have to discuss. They are basing their traffic numbers off the projected uses for the facility. If it's a situation where the Board finds that this is an inappropriate location for this type of facility, it would be up to the Planning Board. Director Stickney doesn't feel that it is that; she just would like to know which figure is the actual figure. Attorney Lacy states they are trying to account for three different circumstances. He feels that community skate and community swim does increase traffic and maybe that is something they need to revisit with the administration on whether that can be included or a different way on how to account for that. There are a lot of different numbers with respect to this project because it is unique and it has a number of different circumstances.

Member Joyce clarifies whether Attorney Lacy was insinuating that they would eliminate Community Swim or Community Skate. Attorney Lacy says he is not stating at all that he wants to eliminate anything, but they would have to evaluate what is generating a lot of traffic. If there is a specific number they need to get to, everything would have to be on the table at that point.

At the end of the day, although they want this to be a premier facility for the Town of Braintree, it needs to work for the developers too. Member Joyce states at the end of the day, the Petersen Pool project is supposed to be a community pool project. The money was left behind for swimming lessons and such in Braintree. She wants to go on the record saying she absolutely does not think we should eliminate Community Swim or community use of the facility. She is not saying Attorney Lacy said that, but she wants to clarify her thought on that.

Chair Harnais states he does not want to make this an adversarial relationship, but the Planning Board needs to get questions addressed, as that is the Planning Board's responsibility.

Chair entertains a motion to continue this hearing until the Planning Board Meeting on July 12, 2016 at 7:30 PM.

Member Eng **MOTION** to continue this hearing until July 12, 2016 at 7:30 PM; seconded by Member Reynolds; unanimously voted 5:0:0.

CONTINUED PUBLIC HEARING

Administrative Hearing – Planning Board Fees –
Applicant: Braintree Planning Board
MGL Chapter 40 Section 22F/MGL Chapter 40A Section 9 & 11/
MGL Chapter 41 Section 81-Q

8:30 PM – All five Planning Board members participated.

The Applicant has requested that this Matter be withdrawn Without Prejudice.

Member Reynolds **MOTION** to approval the withdrawal; seconded by Member Eng; unanimously voted 5:0:0.

NEW BUSINESS/OLD BUSINESS

Request for As-Built Approval/Release of Surety – 233 Middle Street (PB File #01-06)
Welch Healthcare & Retirement Group Inc., Applicant

This Request has been tabled until the July 12 Planning Board Meeting.

Request for As-Built Approval/Release of Surety – 177-179 Commercial Street (PB File #13-06), James O'Leary, Applicant

Melissa SantucciRozzi, Principal Planner, states, as she is sure Members have seen, Mr. O'Leary did a really nice job. The site came out great; the units are beautiful. Mr. O'Leary has a fully ADA accessible unit in the lower level, which is a nice asset to the community. The staff is recommending As-Built Approval with surviving conditions.

Member Reynolds **MOTION** to endorse the As Built Approval; seconded by Member Eng; unanimously voted 5:0:0.

Request for As-Built Approval/Release of Surety – 575 Quincy Avenue (Dry Docks) (PB File #04-06), March Fourth LLC, Applicant

This Request has been tabled until the July 12 Planning Board Meeting.

Request for As-Built Approval/Release of Surety – 1091/1093 Washington Street (PB File #12-01), Richard Clancy, Applicant

Melissa SantucciRozzi, Principal Planner, states the Applicant had done some illegal grading and made some corrective actions. He is currently all set.

Member Reynolds **MOTION** to endorse the As Built Approval; seconded by Member Mikami; unanimously voted 5:0:0.

Request for As-Built Approval/Release of Surety – 400-432 John Mahar Highway (Jonathan's Landing) (PB File #04-09), Pulte Homes of New England, Applicant

This Request has been tabled until the July 12 Planning Board Meeting.

Request for Minor Modification – 29-39 Hayward Street (PB File #05-09), McGourty Company, Inc. , Applicant

Mr. McGourty has requested some modifications; the staff has agreed with some and brought up other points. The only point from the Staff Report that Mr. McGourty had issue with was Number 2, related to his request to remove a Landscape Berm. The reason this berm was requested in 2005 was to protect the previous neighbor's view of the condos going in. That property has since been sold; it is now a parking lot. Mr. McGourty's thought on removing the berm was to allow a grassed area to be in the back of the units for people to use as a backyard, as opposed to a raised berm with plantings.

Melissa SantucciRozzi, Principal Planner, provides background information. In 2005, Mr. McGourty sought Planning Board approval for retail use and some condominiums. He has built out a good portion of the site; some are outlined in the report not in accordance with the plan. He has requested some modifications, and the staff has outlined these modifications and is recommending approval for some of them, some more information for some other ones, and identified some items that really need to be rectified immediately, such as the location of the dumpster blocking handicap access.

The Principal Planner states Mr. McGourty's time to submit the As-Built has lapsed. He should ask for an extension.

Vice Chair Reynolds asks if Mr. McGourty would be comfortable answering the Principal Planner's questions as they come up.

The Principal Planner states that when Mr. McGourty submitted his As-Built Surety, he had one year to provide the As-Built Plans; that was in 2008. Obviously, we need to grant some further extensions. If the Board is so inclined to allow a verbal request, that extension can be incorporated into any decisions the Planning Board makes.

Mr. McGourty states that he would like to request an extension of one-year to the As-Built Plan to June 14, 2017.

Vice Chair Reynolds points out that, in getting to the topic that Mr. McGourty is here for this evening, we need to address the Planning Staff administrative issues. He states that we will take matters on a point-by-point basis.
Member Mikami states, since there has been such an extensive delay, why shouldn't the Surety Bond be lost and Mr. McGourty not only ask for an extension, but also post a new Surety Bond? The Principal Planner states, if the Town was to take the Surety, it would be to go out and hire someone to do the As-Built, as the project isn't completed at this time. Mr. McGourty has posted the surety; he will be required to post an additional $1000 if he wants to seek CO's for those last three units. While the extension has lapsed, the staff is comfortable that the $8000 would be sufficient to As-Build what has been completed, if Mr. McGourty decides to not finish the project.

The Principal Planner states the second issue was brought up previously on some former modifications that Mr. McGourty was seeking and Planning Board did give some direction at that time. Unfortunately, that information has not been submitted. The site, in the front, was supposed to be graded out up to Units 1 and 2, and there is a retaining wall and plantings that provide some very good screening. However, the location of those has triggered a question from the staff to verify the sight lines. In 2007, the Planning Board directed Mr. McGourty to have a Professional Engineer calculate the site lines and provide us with something. We haven't received that to date. When we do receive that, if the site lines are sufficient, the staff would support that modification. Mr. McGourty states he had extensive problems getting information from engineering company that they were working with. He will need to get a different engineer to provide the information proving that the site line is suitable. The Principal Planner states we should put a timeline on this. Mr. McGourty says he can get this done in three months.

The Principal Planner states that in 2014 some things were requested, but we can go to current ones, as some of them overlap. The first item was the retaining wall that was just discussed. The second item was the landscape berm. Part of the original approval did include some landscape berm with an elevation up to three feet, with some plantings at the top to provide screening for the abutting resident. As the residential neighbor has changed, Mr. McGourty has proposed to eliminate the plantings and the berm and grade it out. Staff suggests that the berm and the landscaping stay. Mr. McGourty explains that the landscape and berm was to accommodate a residential neighbor in 2005. As that abutting neighbor is no longer there, Mr. McGourty feels it would be better for the homeowners of the condos to have a backyard, rather than these plantings, so they can be able to use a backyard. There are still trees and a good buffer strip between Mr. McGourty's property and parking lot. There would be a grassed area with six foot stockade fence.

Member Joyce asks if there is a wetland area next to where berm is proposed. The Principal Planner states there are some wetlands adjacent to this on the Temple property. There has been some change in the wetland conditions and some filling done by Mr. McGourty. However, that has been resolved by the Conservation Commission. Within the last six months, Mr. McGourty's Notice of Intent expired. He had to re-permit that in the last few months. Mr. McGourty donated money to tree fund at the request of Conservation Commission. Member Joyce can understand the thought between abutting a neighbor and abutting a parking lot and also the consideration for owners wanting a flat yard; she suggests some compromise such as do the plantings but not the berm. The Principal Planner refers to the hand-sketch provided. Mr. McGourty would have an engineer provide accurate numbers to ensure that it is not creating runoff. Mr. McGourty points out that he no longer abuts wetlands because the Temple was allowed to relocate wetlands to another portion of their property. The Principal Planner states basically are we okay with eliminating 39 trees and a berm.

Member Mikami agrees with supporting the original plan.

Member Eng agrees with supporting what was designed originally. Member Eng asks for clarification from Mr. McGourty on eliminating the berm and landscaping. Mr. McGourty states he is not looking to eliminate trees. He is proposing putting them along the fence; that way owners would still have a backyard. The Principal Planner can support eliminating the berm but keeping trees in the plan but moving them back against the fence.

Member Mikami agrees with that, but it needs to get done soon. It shouldn't take 11 years to do a condition. Member Eng agrees with Member Mikami. This should be done by the end of Calendar Year 2016.

Chair Harnais likes that idea and asks when this can be done. Mr. McGourty states he can get it done by November 30, 2016.

The Principal Planner states Item 3 required a loading dock for the retail use. It requires one in the Ordinance, and it wasn't constructed. It needs to be constructed or he needs to obtain a variance. That leads to the second comment. Basically, in the design in the entryway in the back of Dunkin Donuts, the dumpster was going to be tucked in the corner and the loading dock was in front. The dumpster servicer could back in there, empty that out and do loading off-peak. That whole area has been reconfigured. Unfortunately, the dumpster is located in ADA accessible travel way, and the loading space is not provided. These are two things that need to be resolved immediately – this week. The Principal Planner doesn't know how they are operating without a loading dock. She states that Mr. McGourty fortunately has a lot of open space.

Mr. McGourty is proposing relocating one of the handicap spots to the left. Chair Harnais suggests relocating the dumpster to the dirt area behind the garages. Mr. McGourty's reasoning for keeping the dumpster close is for the convenience of the retail store so that they don't have to walk further away from the building at night. The Principal Planner states that, if Mr. McGourty is going to start reworking handicap spots, this will need a Professional Engineer and a stamped revision plan. The Principal Planner's immediate action is moving the dumpster, as it is blocking the handicap aisle. She agrees with Chair Harnais' suggestion. Vice Chair Reynolds confirms that the dumpster needs to be moved immediately; however, it doesn't need to be moved to its final location if you are doing a design modification with parking. The Planning Board and Applicant review the Plan to look for potential locations for the dumpster. The Principal Planner

states you cannot have any obstructions in front of any of the ADA spaces or the cross-hatch. Vice Chair Reynolds confirmed that Mr. McGourty will come up with an interim solution to relocate the dumpster, but it will be part of an overall design modification of the parking lot to accommodate the dumpster relocation and the loading dock. This will require review by Staff.

The Principal Planner states Item 5 was that a Stormcepter was switched to a CDS unit. Mr. McGourty hired Tetra Tech to do the analysis of that, and we have a report. Staff is recommending favorable action on that. There were no comments or questions from Planning Board members on this.

The Principal Planner states Item 6 relates to reconfiguring parking lot. The parking lot, in addition to this obstruction with ADA access, is also missing a spot. They were going to propose adding a third spot behind the residential garage Number 2. If the Planning Board agrees, we can approve that, but in this reconfiguration something else might work out better. Member Joyce and the Principal Planner clarify that this might be a striping issue. Member Joyce states it makes sense to look at this holistically.

Member Mikami states it seems like all these other things should be incorporated into this.

The Principal Planner states Item 7 is the installation of wall pack lights and decorative lighting. A photo is included for reference. Staff does not have issue with those.

The Principal Planner had an additional comment to add and credits Mr. McGourty and Jennifer. They have put up numerous signs "No Parking – Fire Lane". It is constant abuse. Staff has visited the site several times and has taken several photos. She had discussion with some of the residents about this being a Fire Lane. Staff was going to ask the Planning Board for clarification, as this is safety issue. Mr. McGourty states they can put signs up related to towing and send certified letters to the home owners; he has done snow removal and confirms how difficult it is when residents park in the No Parking zone. Chair Harnais suggests putting up a "No Parking or You Will Be Towed" sign. He further suggests involving the Fire Department. The Principal Planner will request that.

Vice Chair Reynolds asks if there were any additional comments related to Item 7.

The Principal Planner confirms all that is being voted on as follows: (1) the one-year extension to June 14, 2017 to submit the As-Built; (2) the site-line verification within three months; (3) a plan for revised grading and relocation of 39 trees by November 30, 2016; (4) for Items 3 and 4, Mr. McGourty will appear before the Planning Board in July to provide an update on loading dock and dumpster after working with staff for resolution; (5) favorable approval of Items 5, 6 and 7.

Chair Harnais **MOTION** to endorse the Minor Modification with all recommendations as proposed; seconded by Member Eng; unanimously voted 5:0:0.

Request for Minor Modification – 501-551 John Mahar Highway (PB File #95-13), Mahar Highway LLC and Grand Slam Restaurant Concepts Braintree LLC, Applicant

The Principal Planner begins the discussion regarding Jake & Joe's and states that Attorney Carl Johnson is here representing them for a Minor Modification. The Staff Report was provided

today, and she further provides the updated Landscaping and Site Plan for this portion of the site.

Present for the Applicant are: 1) Attorney Carl Johnson, representing Grand Slam Restaurant Concepts Braintree LLC – doing business as Jake & Joe's Sports Grill; 2) James Nocera, Manager of the LLC; 3) Adam Amonte, Cafco Construction; and 4) William Whitlock, Architect.

Attorney Johnson states the Staff Report is rather clear. He agrees with the Staff Memo that this is going to be a substantial improvement to the former Bugaboo Creek Restaurant. There are plans on elevation. What is being proposed is demolition of three walls of the structure and the construction of new masonry and steel exterior. There are plans on the elevation on the inside; there is going to be substantial hardscape removal and landscape improvements to the site. It is same size as the existing site, which was permitted in 1995. Without going into any further detail, Mr. Whitlock is going to describe the restaurant and some of the improvements to the restaurant. In particular he wanted to show a screening plan for mechanicals on the roof because you are about at eye-level on Mahar Highway, as you pass the structure.

Mr. Whitlock, states with Jake and Joe's, the back portion of building is remaining intact as a structure. The front section is largely going to be totally rebuilt so that we can get the ceiling heights that we want. With our design, the spaces are quite high and communal and resemble being at a sporting event. They have also created a new look for the building, which has a high entry with steel to evoke a feel of a ballpark. They are also going to be using brick and very traditional materials on the building. We did a rendering based on a photograph from Mahar looking down at the building. It's actually looking across at the building because the height of the new structure is at eye-level as you're driving by on Mahar. They have added screening to the structure to hide all the mechanical units that are on the high roof. The screen is 6' high in total off of the roof deck; the lowest two feet are open for air infiltration and so snow won't build up. The areas above are totally a louvre; air flows through but it stops the eye, as you cannot visually see through it. They are proposing it to be a light beige color or something lighter; you wouldn't see the roof top units and your eyes wouldn't be drawn to it either.

Other things of note include a new handicap ramp. We haven't changed the number of seats in the building. Mr. Whitlock points out where handicap parking is found and where the newly created ramp will be located. He brought some pictures of other locations for Jake & Joe's to show exterior dining and interior shots. Jake & Joe's is very clean, very community oriented and very family oriented. Similar elements will be repeated in Braintree.

Attorney Johnson points out that this landscaping is a substantial improvement and should be a real asset to the community. The Chateau Restaurant, which is adjacent to this, is owned by the same family. Attorney Johnson understands the conditions that are proposed with this, as does Mr. Messina. Before a Certificate of Occupancy is issued, the As-Built Plan has to be approved.

Member Joyce asks if the exterior patio is one long communal table. Mr. Whitlock shows a photograph of patio to clarify. Member Joyce clarifies that the whole outdoor seating area is fenced in. Mr. Whitlock confirms that it has control fencing.

Member Mikami asks for clarification on outdoor seating with some sort of protective fence to ensure safety. Mr. Whitlock states it is an elevated area that is 3.5' above the paved sidewalk. There is a rail for safety that goes around the perimeter. The seating is very separated from the

public way. Mr. Whitlock states you couldn't drive in that area because there is a retaining wall that the patio area is above. It is an impediment to driving. Attorney Johnson states there is a canopy that protects the handicap area. Member Mikami asks about landscaping improvements in the area. Attorney Johnson points out the landscape plan, which has a detailed schedule of the kind of plantings that will be included. It is a great improvement to what is currently there. Rocks are being replaced by living things. The entire area will be improved. Attorney Johnson states the only change in parking is the addition of one handicap spot.

Member Mikami asks if there are going to be any potential synergies between both businesses (Chateau and Jake & Joe's) such snowplowing or employee transportation. Jim Nocera stated the Norwood Chateau and Jake & Joe's provide different concepts, with different clientele. Mr. Nocera clarified that hours of operation are different, with Chateau closing earlier than Jake & Joe's. Messina takes care of snowplowing for both restaurants as part of their contract. Member Mikami concluded that there were basically no synergies.

Member Eng asks for clarification on where emergency exits are shown. Mr. Whitlock clarified where egresses are found. Member Eng confirmed that they have followed all code requirements. Attorney Johnson stated that the ADA Coordinator has reviewed these plans.

Member Reynolds confirmed that seating count was the same and there were no parking changes other than addition of one handicap spot. Attorney Johnson clarified that this can be found in the Parking Table in report. Member Reynolds further asked for information on signage. Attorney Johnson states that what is shown on the pictures is just a sample of what could be there. Signage is not being addressed at this point. Member Reynolds confirmed that the illumination is low-lighting because of nearest abutters from a residential perspective across the street.

Chair Harnais feels that it is a good change and he has no questions.

The Principal Planner recommends favorable recommendation, as this is a nice addition with some nice improvements.

Member Reynolds **MOTION** to recommend approval for the Minor Modification; seconded by Member Eng; unanimously voted 5:0:0.

Member Mikami **MOTION to approve** the minutes from the regular May 10, 2016; seconded by Member Eng; unanimously voted 5:0:0.

Member Mikami **MOTION to adjourn** the meeting; seconded by Member Reynolds; unanimously voted 5:0:0.

The Meeting adjourned at 10:20 PM.

Respectfully submitted,

Louise Quinlan
Planning/Community Development