



Joseph C. Sullivan
Mayor

Department of Planning and Community Development

Melissa M. Santucci, Principal Planner
90 Pond Street – Braintree, Massachusetts 02184
Phone: 781-794-8234 Fax: 781-794-8089

PLANNING BOARD

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

APPROVED

Braintree Planning Board
August 9, 2011
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, Principal Planner

The Chair called the meeting to order at 6:40 P.M. and called the roll: Mr. Harnais, Mr. Reynolds, Mr. Mikami and Ms. Lauria all present. *Mr. Eng arrived at 6:55 P.M.*

New Business/Old Business

Zoning Board of Appeals – August

It was noted at this time that Dave & Buster's, 250 Granite Street [#11-21] were not pursuing any sign variance at this time and had submitted a withdrawal of any existing ZBA application pertaining to proposed building signs that are not compliant with existing town code.

Request for Relief from Bylaw Requirements under Chapter 135, Article 4, Section 135-403, 407, Article 7, Section 135-701
#11-38

Mr. Hank H. Duong of 381 Granite Street, Braintree MA 02184 was present and addressed the Planning Board.

Mr. Duong gave a brief history of the property, explaining that it had been purchased in 2008 and that the house had been in very bad shape. They used the existing footprint and built a new house. At that time they did not finish the sunroom. He stated that he would like to build the sunroom (13-14 ft. deep by 16.3 ft. wide) and did not realize that would violate the setback. Mr. Duong showed photos to the Planning Board. He also presented letters from abutters to his property that have no objection to the construction of the proposed sunroom. Mr. Duong also noted the odd configuration of the lot and mentioned the change in elevation from that of his neighbor.

Mr. Mikami stated that he appreciated Mr. Duong referencing the shape of the lot as it regards to hardship and he also appreciates the quality of the building of the home. He wanted to know if the neighbors were indeed ok with the proposed sunroom. Mr. Duong replied that they were.

Mr. Harnais stated that he had no issues with the proposed project.

Motion by Mr. Reynolds, second by Mr. Mikami to recommend a favorable action on the requested relief.

Vote: 4/0

Request for Relief from Bylaw Requirements under Chapter 135, Article 4, Section 135-403, 407, Article 7, Section 135-701
#11-40

Attorney Carl R. Johnson III, 326 Granite Street, Braintree, MA 02184, was present to represent the applicant, Messina Commercial Properties, LLC 400 Franklin Street, Braintree, MA 02184 and addressed the Planning Board.

Atty. Johnson started by saying that the proposal was well described in the Planning Staff report, being that the applicant was looking to allow the deficient lot width to remain between the existing structure and the street after alteration to the lot through the ANR plan. He went on to give a brief description of the situation. Atty. Johnson stated that the dwelling had been constructed (with a building permit) in 1986 and at that time the

Bylaws did not have requirements regarding lot width from the street to the structure. He also explained that in 2002 the building had been enlarged (also with a building permit) and that in the fall of 2010 an ANR had been granted which altered the lot while maintaining the non-conforming lot width. Atty. Johnson noted that this had been accepted after the 1994 Bylaw requirement. He also pointed out that the history of the lot included frontage on both Franklin and West Streets. Additionally, there will be no impact to abutting properties.

Ms. Lauria had no questions at this time.

Mr. Mikami had no questions at this time.

Mr. Reynolds had no questions at this time saying that he was in agreement with Atty. Johnson.

Motion by Mr. Reynolds, second by Ms. Lauria for a favorable action.
Vote: 4/0

Request for Relief from Bylaw Requirements under Chapter 135, Article 4, Section 135-403, 407, Article 7, Section 135-701
#11-39

Cindy DePalma, of 3 David Road, Randolph, MA 02368, was present to represent the applicant; Tony DePalma of 3 David Road, Randolph, MA 02368, regarding the property located at 451 Quincy Avenue, Braintree, MA 02184, and addressed the Planning Board. Also present was David Fields, Fields Construction, the carpenter for the project.

Note: Mr. Eng was now present at 6:55.

The proposed project would put a second floor on an existing structure previously used as a church to be converted to a handicapped group home with the addition of a second level.

Ms. Lauria inquired if the proposed second story would be directly above the first level.

Ms. DePalma replied that was the case.

Mr. Mikami had no questions at this time.

Mr. Reynolds inquired about issues regarding parking. Ms. DePalma replied that tonight was the first that she had heard about that issue.

The Planning Staff expressed that they would like to see items such as outside area, parking (employee and handicap van) and landscaping shown on the Site Plan. In short, what will the site look like as a finished product?

Mr. Reynolds stated that he feels that the proposed use would work well for Braintree and that the Building Department should be able to offer guidance.

Motion by Mr. Reynolds, second by Ms. Lauria to recommend approval.
Vote: 5/0

Request for As-Built Approval and Release of Surety
239 Shaw Street
[#07-20]

Request for As-Built Approval for Special Permit and Site Plan Review for the property located at 239 Shaw Street, Braintree, MA 02184. Mr. Mark Foley of 239 Shaw Street, Braintree, MA 02184, applicant.

Ms. Santucci noted to the Planning Board that Mr. Foley was unable to attend the meeting tonight. She also explained that work had been completed and that the As-Built plan had been submitted. There is also a request for the \$1,000.00 surety submitted to be released.

Ms. Lauria had no questions at this time.

Mr. Mikami had no questions at this time.

Mr. Reynolds had no questions at this time.

Motion by Mr. Reynolds, second by Mr. Mikami for approval of As-Built and release of funds.
Vote: 5/0

Request for As-Built Approval
Grove Heights Amended Definitive Subdivision Approval
[#06-15]

It was explained by the Planning Staff that the applicant is requesting As-Built approval for the above Definitive Subdivision. It was noted that the public improvements had been completed and that this should be a conditional approval base on the conditions noted in the Staff Report. Conditional pending the submission of recording information.

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Motion by Mr. Reynolds, second by Mr. Eng for As-Built approval based on the Planning Staff's recommendations.

Vote: 5/0

Status Update [Incomplete Public Improvements]:Priscilla Avenue Definitive
Subdivision [#99-12]

Note: At 7:05 P.M. the applicant's engineer was not yet present.

Note: At 9:35 P.M. the applicant's engineer was present and addressed the Planning Board.

Mr. Charles T. Woodward, of Professional Land Survey Associates, 25R Central Street, East Bridgewater, MA 02333-1926, was present to represent the applicant Mr. Kevin Kane of Aspinwall Corporation, 25 Adams Street, Braintree, MA 02184, and addressed the Planning Board.

The Planning Staff informed the Planning Board that they had been working with Mr. Kane and his engineer regarding deviations from the As-Built plans. Mr. Woodward has been asked to put together a solution to get these deviations in line with the approved plans.

Mr. Woodward gave a brief paraphrase of the letter that had been presented to the Planning Board. He discussed the pitch of the last 30 feet of the road which is causing surface run off. He wanted to address the Planning Board before the work was done to rectify the situation.

Ms. Lauria had no questions at this time.

Mr. Mikami had no questions at this time.

Mr. Eng wanted clarification that the plan was to raise the last section of the road. He wanted to know by how much. Mr. Woodward replied by about 4 inches.

Mr. Reynolds had no questions at this time.

Ms. Carol Watts, of 193 Elm Street, Unit 707, North Reading, MA 01864 was present and addressed the Planning Board. She explained that she was a past resident and that she had issues when trying to sell her house. She wanted to know if the road was raised would anything be done to alleviate the puddling in the grassy area. Mr. Woodward pointed out the section of the letter that addressed this issue.

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Mr. Harnais wanted to confirm that Mr. Woodward would come back to the Planning Board meeting in September for further status updates. Mr. Woodward wanted to know if Mr. Kane had permission to do the work described. The Planning Staff confirmed this saying they would draft a memo.

Mr. Woodward stated that the As-Built plan would be revised and thanked the Planning Staff and Planning Board.

Request for Extension and Minor Modification
75 Granite Street/Attorney Frank A. Marinelli, for the Applicant – Herb Chambers
[#10-08]

It was noted by the Planning Staff that the applicant had obtained a contractor and that it was recommended that the extension be granted until September 30, 2011.

Ms. Lauria had no questions at this time.

Mr. Mikami had no questions at this time.

Mr. Eng wanted confirmation that the engineering aspects of the project had been looked at. It was confirmed that David Kelly of Kelly Engineering group had stamped the plans.

Mr. Reynolds had no questions at this time.

Motion by Mr. Eng, second by Mr. Reynolds to grant the extension until September 30, 2011.

Vote: 5/0

Motion by Mr. Reynolds, second by Mr. Eng to grant the minor modification.

Vote: 5/0

Motion by Mr. Reynolds, second by Mr. Mikami to adjourn at 10:05 P.M.

Vote: 5/0

Respectfully submitted,

Beth A. Herlihy



Joseph C. Sullivan
Mayor

Department of Planning and Community Development

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Braintree Planning Board
August 9, 2011 – Public Hearing @ 7:05 P.M.
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Present:

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Christine Stickney, Director
Melissa Santucci, Principal Planner

405 Franklin Street/TD Bank N.A.
Application: Special Permit and Site Plan Review
#11-04

Attorney Carl R. Johnson III, 536 Granite Street, Braintree, MA 02184 was present to represent the Applicant TD Bank, N.A. and addressed the Planning Board regarding the property located at 405 Franklin Street, Braintree, MA 02184.

Attorney Johnson started by thanking the Planning Board for taking the time to discuss the revised draft conditions. Atty. Johnson also presented the Planning Board with suggested substitutions (with reasons for the amendments) to Condition #71 and Condition #81.

Attorney Johnson informed the Planning Board that present with him at the meeting were Mr. Josh Swerling, PE of Bohler Engineering, Mr. Kim E. Hazarvartian PE of TEPP, LLC, Mr. John Depaola, the contractor for TD Bank and Mr. Ron Marshall and Mr. Robert St. John representing Messina Commercial Properties.

Ms. Lauria had no questions at this time.

Mr. Mikami was interested in discussing the issue of traffic noting that there are other Messina properties across the street. Mr. Mikami noted Condition #71. Mr. Mikami raised 3 points: 1) He questioned what would be used as a base line for the traffic counts 2) How would the traffic counts be monitored on this project and other projects in the area and 3) What could be done if action needed to be taken of if there has to be some sort of mitigation? Atty. Johnson replied that they should start by looking at the conditions that deal with traffic issues, which commence with Condition #67. Condition #67 and the trip requirements (generation of 50 new vehicle trips during AM or PM peak hours) needed for a full traffic report (as required by Town Bylaw), were mentioned by Atty. Johnson. He also noted that Condition #67 states that any change in the projected trip generation or any change in the use of the building (from a drive-thru bank) would be subject to review by the PB/SPGA. Atty. Johnson referenced the traffic assessment that had been submitted by Mr. Kim Hazarvartian. He also referred to Condition #69 regarding the applicant undertaking a 2nd look at the traffic conditions 12 months after the issuance of a Final Certificate using the hours of 7 A.M. to 8 P.M. on Thursday and 7 A.M. to 3 P.M. on Saturday. These counts are to be taken at the Site's curb cuts on West Street and Franklin Street. Atty. Johnson stated that this represents the two phases of the traffic counting, the first being the projection as presented in the traffic assessment prepared by the traffic engineer and the second being the verification of the actual counts after completion of the project.

Atty. Johnson stated that it is important to note that this property is located at the intersection (the five legs including portions of the two sides of West Street) that comes under Massachusetts Highway Department jurisdiction. No one has the right to tell Massachusetts Highway what to do, any improvements required come from mitigation dictated by Section 61 findings which are typically from MEPA filings. Atty. Johnson mentioned Section 61 finding many years ago regarding South Shore Plaza where the state felt that there had been impact on state ways. You can not negatively affect state ways with additional traffic. More recently there is a continuing Section 61 finding regarding the recent Plaza expansion, which included about \$100,000.00 in additional mitigation for upgrading signals on the state highway.

Atty. Johnson then mentioned Condition #70 which states that at the completion of the traffic monitoring the Applicant shall prepare a traffic memo that compares the actual counts derived from the monitoring with the projections outlined in Table 1 of the Traffic Assessment. A figure shall also be prepared that clearly depicts the AM, PM Saturday vehicle distribution at each of the curb cuts (West and Franklin).

Atty. Johnson stated that he has some suggested changes along with the reasons for them that he would like to submit to the Planning Board that deal with the next condition, Condition #71.

Mr. Reynolds wanted clarification from Atty. Johnson if the memo submitted to Ms. Santucci on August 5, 2011 was something different. It was confirmed that memo should be disregarded and that this submittal should supersede that. Atty. Johnson stated that during discussions regarding these matters he had made various suggestions and that there had been some follow up including Condition #68 regarding the sight line and the fact that there was some disagreement about the language of Condition #71. He also mentioned that there had been follow up with Mass. Highway and what their plans are for the future. The 5 Corners intersection comes under the jurisdiction of Mass Highway and there is to be an overlay on the southbound side of Granite Street, including restriping and repainting the crosswalk in the fall (October). Atty. Johnson told the Planning Board that TD Bank is concerned that the wording of Condition #71 is open ended, as it involves a state highway which is not under the jurisdiction of the Braintree Planning Board. However, they are willing to continue working with the Town and Mass Highway if this off-site mitigation should be required. They think that the only thing that would be feasible off-site would be for additional marking and other work. They do not feel that they would be able nor would they be required to make geometric changes given the small scope of this project. They are focusing on counts, driveways, internal distribution and possibly if required, restricting certain turning movements. They understand that the Town must do things to protect itself from further traffic problems. Atty. Johnson stated that having worked with the State on numerous projects in this area they dictate and they know what they want and they do not let anybody work in a state way unless it is something that they mandate. They feel that the substitute for Condition #71 provides a protective measure if there are meaningful deviations in the traffic counts. Atty. Johnson emphasized the scale of the project and that there would not be large changes in traffic generation. He feels it is hard to quantify in percentages what is meaningful or substantial and that is up to the Planning Board when they look at the numbers in the future. It is up to the Planning Board to then determine if there is indeed a problem. If it is determined that there is a problem then additional traffic mitigation may be required.

Atty. Johnson also pointed out that there is also a provision that should an independent peer review be required they have agreed to pay for that peer review for the Town. He stated that with Condition #72 there is also the ability to have an outside consultant review these numbers and make recommendations to the Town.

Mr. Mikami said that he realized that this is a different Special Permit than the one done for Panera Bread and other ones in the area. His opinion is that the Planning Board should be as flexible as they possibly can as this is an important area for the town with a lot of traffic, neighborhoods and businesses. He feels that since the Messina Company has so many interests in this area they should take a special consideration of the neighborhood. Mr. Mikami again stated that they should be as flexible as possible and give themselves as much lee way as possible and not get tied in. He thinks that repainting

sidewalks and putting in additional safety features would be a nice thing. Mr. Mikami said the whole area not just this one project has to be looked at.

Attorney Johnson responded by saying that we have to focus, that this has been an ongoing effort, dealing with the Massachusetts Highway Department/DOT. Any time you are going to make a change on a state way you need to get a Chapter 81 Access Permit. That Access Permit is required for the closing of a driveway (Franklin Street) this is what the State requires and what has been worked out with the Project Engineer and the Traffic Engineer. In addition, replacing the sidewalks as shown in the site development plans provide two areas of additional pedestrian access. This will provide additional walkways for pedestrian access as well as handicap accessible walkways at the site driveways on West and Franklin Streets. They are redoing sidewalks for pedestrian access as the Town has suggested. Atty. Johnson went on to say that they are not talking about painting sidewalks; they are talking about restriping of pavement markings for crosswalks and stop lines to provide safe areas, not just focusing on crosswalks. This will coincide with the fixing of the ruts on the southbound side of Granite Street. Atty. Johnson noted the past widening of Franklin Street where property was taken from Messina. He went on to say that anything that the state has required, Messina Commercial Properties LLC has cooperated with. They are not trying to avoid anything and the suggestion is that they continue to work under the State's jurisdiction. It was again stressed that they do not have the right to go in and change things with out Mass Highway telling them to do so. Atty. Johnson again expressed concern over the open ended wording of the conditions. They suggest that they are only able to do things that they get government approval for.

Mr. Mikami said that while he appreciated Atty. Johnson's comments, as a Board they have to stand up for protecting the neighborhood. Traffic is certainly an important issue. Given that Messina Properties have an extensive presence in the area on this as with other projects it is desired that they can make this work for everybody. Atty. Johnson again noted that they do not have the right to do things on a State highway. Mr. Harnais clarified knowing that State approval is needed; the Planning Board just wants to know that if the State gives permission to do the crosswalks that they will cooperate. Atty. Johnson stated that if the State gives them permission to contribute to the pavement markings they would include that. They are not saying that it is the State and they do not want to participate.

Mr. Eng stated that the e-mails from Mass Highway do not talk about milling the south portion of 5 Corners; they just talk about the crosswalk markings. Atty. Johnson said that the milling and overlay were to be done at the end of the construction season, which is the same time period when they were to do the markings. Mr. Eng wanted to know if the milling and overlay had been confirmed by Mass Highway. It was confirmed via e-mail

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Planning Board

August 9, 2011 Public Hearing @ 7:05 P.M.

to Bob Campbell (Town Engineer) that it was to occur on the southbound approach to 5 Corners (in front of The Vitamin Shop and the Tire Store).

Mr. Eng asked if it could be put in the conditions that the crosswalks not be done until after the overlay was completed. Atty. Johnson stated that was his understanding. Mr. Harnais again questioned that if the State does give them approval then they will do the crosswalks. He went on to say that given the state did give them approval that they wait until after the overlay work is done. Atty. Johnson stated that if the State came back and asked them then they would have some jurisdiction given from the State. There was clarification that the milling and overlay project by the State was not all of 5 Corners, but rather confined to the area in front of the Vitamin Shop and Tire Store where the ruts are. It was noted that an aerial had been sent to the State showing the lack of markings. It was also noted that the confirmation e-mail stated that this would be part of the scheduled maintenance. Mr. Eng wanted to know if the State would not do them would the Messina Company be willing to do them. Atty. Johnson stated that (as described in Condition #81) they would make every effort to work with the Town and MassDOT to have the pedestrian crosswalks and pavement markings maintained. The State has not asked them to contribute.

Condition #72 was then discussed and it was agreed upon that if an independent peer review of the traffic monitoring reports was necessary the applicant would be asked to contribute \$5,000.00. Mr. Eng does not feel that this is a lot of money. Atty. Johnson said that this had been discussed with the Planning Staff. Mr. Eng questioned that should the cost exceed \$5,000.00 would Messina contribute until it was finished. Mr. Johnson said that it would not be Messina but TD Bank that was responsible. Mr. Eng asked if TD Bank would do it. Atty. Johnson replied that if it was in scope and reasonable, not to exceed \$7,500.00. It was noted that originally \$10,000. had been requested but the applicant had asked for \$5,000.00. The amount of \$7,500.00 was agreed upon.

Mr. Reynolds asked for clarification that these are the final changes and that the draft conditions submitted by the applicant on August 5, 2011 were now no longer valid. Atty. Johnson confirmed.

Mr. Reynolds wanted to focus on Condition #71. Looking at the wording he inquired as to the time frame of the resulting monitoring reports. Atty. Johnson replied that is stated in Condition #69, 12 months after the Certificate of Occupancy. Mr. Reynolds then asked how substantially different was to be determined. Atty. Johnson stated that as he had said before that is the Planning Board's determination, because they are the reviewing agency. He also noted that the projected changes from a project of this size would be small. It was also noted that peak hours for the bank may not be the peak hours for commuters in the area. The word substantially was noted as being interpretive. Mr. Reynolds asked for clarification that if traffic is adversely affected would the applicant be willing to pay for a

peer review. Atty. Johnson said that based on the wording of Condition #72, yes. Mr. Reynolds noted that made him feel more comfortable. Mr. Reynolds asked if TD Bank strongly stands behind the traffic study. Atty. Johnson replied that this was not a "full blown" study with counts on the highway. Mr. Reynolds said that he stands corrected. Mr. Reynolds stated that if TD Bank stood behind the assessment he would feel more comfortable about the impact and the tools available to the community. Atty. Johnson again pointed out that it is a State highway. Mr. Reynolds said that while he understands the State highway jurisdiction there is still concern over the traffic impact on West Street. Atty. Johnson pointed out that West Street is under local jurisdiction. The Planning Board has the right to dictate what happens on West Street. Mr. Reynolds feels that the importance is state and local jurisdiction working together at this site.

Mr. Reynolds referenced Condition #81 regarding the repainting of crosswalk markings. He said that Mr. Eng had addressed the questions and concerns that he had on the proposed change to that condition. He wants to be sure that the community has the ability to address West Street in particular, and feels that the wording allows for the Planning Board to address issues. Atty. Johnson again stated that TD Bank does not know the scope of what the State is going to do. If something negatively affects a state way the State always has jurisdiction. Mr. Reynolds said that he realizes that TD Bank is aware of the community's concerns but from a personal perspective he wants to ensure that the Planning Board has the necessary tools to address any problems affecting the community. Atty. Johnson asked what more assurance can be given to the Planning Board and the Town that does not leave it open ended for TD Bank. They do not want to commit to something that they can not follow through on. Mr. Harnais stated that even with the word substantial it comes down to the Planning Board to determine what substantial is. Even if the word used is significant, it would still be up to Planning Board determination. Mr. Harnais said that they want the Planning Board to have safeguards.

Ms. Santucci noted that she did meet with the applicant to go over the conditions and they were not happy with Condition #71. One revision had been presented previously and this was now the second. As it pertains to the wording "substantially greater" it is the Planning Boards determination as to what "substantially greater" is. The more important thing to note is that there could be changes in the traffic that are not substantially greater but that still present operational problems. Or the situation could be reversed where the traffic is doubled but where there are no problems. Both sides need to be looked at. It was noted that the wording stated that "should the analysis identify adverse operational issues that were not anticipated by the record traffic assessment"; however, the record traffic assessment did not identify any types of level of service or any of that information. So there is no real comparison. Essentially what was given was a trip generation memo taken from ITE calculations. There was very little analysis done on operational issues related to either West Street or Franklin Street. Ms. Santucci stated that was important to note.

It was noted that the Planning Staff understands the Applicant's position of needing to secure required approval, but the Staff cannot support limiting the Planning Board's ability to just signage and pavement markings. It is important that the Planning Board have the ability to require that is something needs to be done it gets done if it is approved by either the town of Braintree or MassDOT. The characteristics of the trips and how they are flowing with the existing traffic is an important factor.

Mr. Harnais questioned if a wording change to "different" rather than "greater" would cover issues that may arise. Ms. Santucci expressed concern over interpretive words being used in conditions leading to back and forth further interpretation. She also again noted the limited information provided by the trip generation memo. There should be the ability for the Planning Board to exercise what they need to do to insure that there are no issues directly related to this project. The Planning Staff is willing to see if there is a compromise somewhere in between and does not want the Planning Board to be limited too much. Mr. Harnais stated that while he did not disagree he feels that "different" allows for more change rather than just a "greater" change. This gives the Planning Board more flexibility in regards to trips and/or times. Atty. Johnson expressed that in the context of the conditions regarding traffic that he does not see how this limits the Town. If the numbers do not come out right and the Planning Board determines, you go out and have a peer review and the issues are discussed then. They are not trying to not do something they are required to do. Mr. Harnais said that it was his understanding that the traffic assessment did not identify any adverse operational issues, so that if anything pops up that was not addressed TD Bank has to answer to that. It was noted that the wording "adverse operational issues directly linked to the proposed project" offers more protection for TD Bank.

Josh Swerling, PE, of BOHLER Engineering, addressed the Planning Board, agreeing that interpretive words are very open ended. He pointed out that there is a business deal that underlies the project, being that whatever these conditions are, they are the responsibility of TD Bank and not with Messina. He does agree with the Planning Board that since Messina does own a lot of property in the area they have a vested interest, but the responsibility still lies with TD Bank. Mr. Harnais again expressed concern over having no jurisdiction over a State road. Mr. Swerling agreed this was true. Mr. Harnais wants to ensure that they can ensure that things are done where the Planning Board does have jurisdiction. Mr. Swerling again expressed that TD Bank has concern over the open endedness of the wording and the overall condition of the 5 Corners intersection. Mr. Swerling stated that more quantifiable wording would convey to the bank if this is an acceptable risk to proceed with construction or not. The wording "appropriate traffic mitigation" gives the bank no sense of what future conditions may be imposed. He mentioned previous discussions where the primary focus has been around the West Street access. He would like things clearly defined for the bank. Mr. Harnais said that while he understands what TD Bank is saying the Planning Board wants to be able to ensure they

can make them do what they can to make things better. What they can make them do is limited but they want to be sure that they can enforce changes under the law. They know they cannot make them make changes on the state highway. Mr. Harnais pointed out that they push any applicant as much as they can to get things done that they want done. The Planning Board also knows that they can only push so much and then they are out of their jurisdiction. The Planning Board is going to push as much as they can until they are out of their jurisdiction. Mr. Harnais stated that they are all saying the same thing. He knows there are lines that the Planning Board cannot cross. Mr. Swerling again mentioned the open ended language of "appropriate traffic mitigation", and the concern that this gives the bank.

Atty. Johnson stated that while he does not feel there will be a problem, should one arise the Town is fully protected. There is process in place where they do new counts and take a second look at how things are operating and if there is a concern they will look at the numbers and have a peer review of the numbers and the Planning Board may decide if additional mitigation is required. The bank is concerned given the size of the 5 Corners intersection what off-site mitigation means. Mr. Harnais pointed out that the wording "directly linked" narrows the issues down. Atty. Johnson agreed that if the wording of Condition #71 refers to issues arising from the site only than they are arguing about nothing. Mr. Harnais again stated the wording "directly linked" regards to the proposed project. Therefore the Planning Board can only have the bank address those issues. The Planning Board cannot make the bank to something that is illegal to do. Atty. Johnson stated that with Condition #81 they commit to work with the Town.

There was discussion regarding the wording of condition #71. The Planning Staff read the amended version:

If the results of the monitoring reports contains traffic counts significantly different than the projected Am, PM or Saturday peak hour vehicle trips represented in the Record Traffic Assessment by TEPP, LLC or the distribution patterns are significantly different, then the SPGA reserves the right to require the Applicant to conduct additional analysis. Should the analysis identify adverse operational issues that can be directly linked to the proposed project the SPGA may require additional traffic mitigation measures either on-site or off-site. Off-site mitigation shall not be required if the Applicant is unable to secure the required approval from the governmental authorities having jurisdiction.

This was accepted by Atty. Johnson.

Atty. Johnson noted that in regards to repainting the applicant would cooperate with the State. They do not have a problem with contribution.

Mr. Harnais opened the floor to the public at 8:10.

Catherine M. Mosesso, of 99 Colby Road, Braintree, MA 02184, addressed the Planning Board. Ms. Mosesso expressed her concerns regarding the jurisdiction over West Street and does that include the timing of the light cycles. She questioned the total time of the light cycles. Who has jurisdiction over changing the light signal time specifically on West Street which she believes to be a shorter time. Ms. Mosesso also expressed concern if there is a right turn only sign people may use other streets in the area to turn around.

Atty. Johnson stated that the signals are timed by a computer in district 6. The State controls the timing as it wants to keep traffic moving on the main corridor. This issue would become part of the second look and they would then be addressed.

There were no more questions from the public at this time.

Motion by Mr. Reynolds, second by Ms. Lauria to accept the correspondence dated May 17, 2011 through August 5, 2011.

Vote: 5/0

Motion by Mr. Eng, second by Ms. Lauria to close the Public Hearing at 8:15 P.M.

Vote: 5/0

Atty. Johnson questioned Condition #81 asking if it would be accepted that the Applicant would contribute if required. Mr. Reynolds asked if it was just the language around the law. Atty. Johnson questioned the word "shall" saying that they would contribute if the State required it. Ms. Santucci confirmed that Condition #81 in the draft conditions was what had been provided by the applicant on August 5, 2011. Atty. Johnson stated that they would do what the State requires of them. There was clarification that if work was required it would be done after the mill and overlay. Atty. Johnson then said that is why he referenced the end of the construction season, so that it is not open ended, and if the State requires a contribution they will contribute. Mr. Harnais questioned what would happen if the State did not get to it this year. Ms. Santucci asked for confirmation that the Applicant was changing language that they had previously submitted regarding the condition. Atty. Johnson expressed concern over the previous wording of the condition feeling that "maintenance" was open ended. He further stated that to his knowledge the State had not scheduled any work. Mr. Harnais read Condition #81 from the draft conditions:

Due to the poor conditions of the pedestrian crosswalks in all of Five Corners, the Applicant agrees to use reasonable efforts to work with MassDOT to maintain/replace/repair all the pedestrian crosswalk pavement markings within the Five Corners intersection and, if required by MassDOT, the Applicant shall contribute the required cost associated

with the maintenance of such pavement markings. In the event that MassDOT undertakes any Mill and Overlay work within Five Corners or any of its approaches the Applicant shall perform any maintenance of such pavement markings after said work is completed.

Atty. Johnson replied that you cannot tell the State what it is going to do. He again said that they would work with the State. If they require it, they will contribute to the cost. Ms. Lauria pointed out that the applicant can not perform if the State won't let them, mentioning the problem with the wording "the Applicant shall perform". Mr. Harnais suggested the wording "the Applicant shall perform if allowed". Atty. Johnson also expressed concern over the word "maintenance" as maintenance goes on forever. Mr. Harnais stated that the Planning Board wants the crosswalks done and if the State says go ahead will the applicant will do it, or if the State wants the applicant to contribute, they will contribute. In addition, if there is to be overlay done, then the crosswalks will not be done until that work is completed. Atty. Johnson informed the Planning Board that when the State has outside work done they have outside contractors, and the only thing the State may do is ask if they would be willing to contribute, and in that case they would work with the State to contribute a portion.

Ms. Stickney addressed the Planning Board. She stated that the discussion had been going back and forth without an agreement on the language and due to the fact that there are other Public Hearings on the agenda this evening perhaps this should be put forward to another Planning Board meeting so that it can be discussed further.

Atty. Johnson referenced past meetings and stated that if the State asks them to contribute they will contribute. He stated that they cannot commit to work that they do not have jurisdiction over. He would like wording added stating that the Applicant shall contribute to the cost requested by the State.

Ms. Santucci read the amended version of Condition #81:

The Applicant agrees to use reasonable efforts in cooperation with the Town of Braintree and District-6 MassDOT to cause the pedestrian crosswalk pavement markings to be repainted within the Five Corners intersection. If required by MassDOT, the Applicant shall contribute any required cost associated with the restriping of such pavement markings.

Motion by Mr. Eng, second by Mr. Reynolds to approve the Special Permit and Site Plan Review with the findings and language of conditions discussed regarding State required contribution.

Vote: 5/0

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Planning Board
August 9, 2011 Public Hearing @ 7:05 P.M.

Respectfully submitted,

Beth A. Herlihy



Department of Planning and Community Development

Melissa M. Santucci, Principal Planner
90 Pond Street – Braintree, Massachusetts 02184
Phone: 781-794-8234 Fax: 781-794-8089

Joseph C. Sullivan
Mayor

APPROVED

PLANNING BOARD

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

Braintree Planning Board
August 9, 2011 – Public Hearing @ 8:30 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, Principal Planner

268 Quincy Avenue/David Lalama of RDD Development
Application: Special Permit and Site Plan Review
#11-01

Note: The applicant has requested that this matter be withdrawn.

Motion by Mr. Eng, second by Ms. Lauria to accept the withdrawal of the above application.
Vote: 5/0

Respectfully submitted,

Beth A. Herlihy



Joseph C. Sullivan
Mayor

Department of Planning and Community Development

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Phone: 781-794-8234 Fax: 781-794-8089

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Braintree Planning Board
August 9, 2011 – Public Hearing @ 8:30 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, Principal Planner

692-700 West Street/Gerald M. Ridge-Blue Hill Cemetery
Application: Special Permits and Site Plan Review
#11-05

Mr. Harnais read the Public Hearing Notice and opened the Public Hearing.

Attorney Michael F. Modestino, 639 Granite Street, Braintree, MA 02184 was present and addressed the Planning Board. He briefly described the proposed project. He described the area and flood plain requirements and DEP Plan Approval regarding Air Quality Permits. It was also noted that there would be a net reduction in impervious area with no change in run off. They will also be meeting with the Conservation Commission on Thursday, August 11, 2011.

Atty. Modestino also explained the increase in cremation over recent years. He stated that this location was chosen as it is a long established location and is familiar to the public. In addition, this area is the most isolated from the neighbors and casket delivery would be out of sight behind the building. There was a brief discussion of the history of the cemetery including the fact that the use of the cemetery predates the Bylaw enactment in 1940.

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Mr. David Crispin, of BSC Group, Inc., 15 Elkins Street, Boston, MA 02127, was present and addressed the Planning Board.

He again stated that there was no new impervious area planned and therefore no change in run off. Mr. Crispin went on to say that there will be two rain gardens to the rear and there will be no effect on the 100 year flood plain. The building will be over a foot above the FEMA flood plain. There will be no obstruction to flow and no pollution. There will be no change to the 6.6% impervious area, and no change in impervious area equals no change in run off. The proposed building to house the Retorts will be a 2 story structure.

Ron Salvatore, of Matthews International Cremation Division, 2045 Sprint Blvd., Apopka, FL 32703-7762, was present and addressed the Planning Board.

Mr. Salvatore gave a brief overview of the company, the largest and oldest in the design and manufacture of cremation equipment. He stated that their equipment meets all the Mass DEP requirements which are more stringent than those in other districts. The equipment is multi-chambered and re-burns the gases so that there is no smoke or odor. They therefore do not cause impact to operations on the property or to neighboring residents. The temperature is maintained at 1600 degrees Fahrenheit with recording equipment so that if that temperature is not maintained the equipment can not operate. Matthews International performs the installation, calibration and training.

Atty. Modestino presented the Planning Board with an amended application. Ms. Stickney explained that not all the boxes had been correctly checked and that the amended application would be filed with the Town Clerk on August 10, 2011. Atty. Modestino also stated that he had received a letter from the Planning Staff today and that they would need additional time to address.

Mr. Harnais opened the Public Hearing to the public.

Mr. James A. Glynn, of 147 Eleanor Drive, Braintree, MA 02184, addressed the Planning Board. He stated that his property is a direct abutter and that he just had some thoughts that he would like to express. While he understands that the rate of cremation has been increasing in recent years therefore making a crematory necessary he has done some research and found that crematories are one of the highest contributors to air born mercury and that other toxins are emitted. Mr. Glynn went on to say that the effects of living close to a crematory are not yet really known and he is afraid that neighbors could suffer negative health issues. He stated that some communities enforce buffer zones for the neighboring residents. Mr. Glynn also questioned the sound that would be emitted and feels that the public health and environment should be protected. He feels that it should be placed as far away from the neighbors as possible. Mr. Glynn also wanted to

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know if there would be a limit to the number of cremations that would be performed per year.

Atty. Modestino stated that he appreciated the thoughtful concerns of the resident.

Mr. Salvatore again addressed the Planning Board stating that unfortunately all the information found on the internet is not always accurate. He went on to say that the US EPA and the state of California have both done testing and less than 1/10th of 1% of mercury is released. Currently the EPA's position is that mercury is not an issue with crematory facilities. Mr. Salvatore stated that the level of sound is similar to that of an air conditioner.

Ms. Stickney questioned if the Retorts come as one unit or if they would have to be assembled on site. Mr. Salvatore replied that they come as one unit. Ms. Stickney also inquired other than a plumbing permit if any other building permits would be needed. Mr. Salvatore said that he can't answer that.

Mr. Mikami wanted to know how many units there would be. Mr. Crispin responded that initially there would be 3 but the plan allows for the installation of 4 if an additional unit would be needed in the future. Mr. Mikami asked how the number of 3 or 4 units compares to other facilities. Mr. Salvatore stated that nationally there is an average of only 2 units because they are installed in funeral homes. However in the Commonwealth area there are between 2 to 6 due to them being located in cemeteries. The number of units installed depends on scheduling to meet the needs of the families.

Mr. Mikami also had questions regarding Matthews International and their business model. He wanted to know if they just sold the units. Mr. Salvatore said that they are manufacturers but also provide training and servicing as well.

Mr. Mikami asked on average how many cremations are done. Mr. Salvatore replied that per the Cremation Association of North America, facilities on average perform 450 per year. He again stressed that the scheduling aspect is critical to provide for the needs of the families. Mr. Mikami wanted to know how often the units operate. Is it every day, or 5 or 6 days per week? Mr. Salvatore said that again depends on the need. Mr. Crispin stated that it is usually 6 days. It would be very rare to operate on a Sunday.

Ms. Stickney questioned the qualifications of the person(s) responsible for the operation. Mr. Salvatore stated that the person(s) responsible would be trained on two occasions but that no license was required. Ms. Stickney asked that as the manufacturer were they also responsible for the oversight. Mr. Salvatore replied that was the responsibility of the cemetery. Ms. Stickney continued by asking if they were trained for emergencies. Mr. Salvatore stressed that there was comprehensive training. Ms. Stickney wanted to know if

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that included fire safety training. Mr. Salvatore explained that from an OSHA standpoint that is not required.

Ms. Susan M. Verney, of 86 Blossom Road, Braintree, MA 02184 addressed the Planning Board. She wanted to know what waste was produced and how was it handled.

Mr. Salvatore answered that there was very little waste. The remains were returned to the family. Any exotic metals that may remain are recycled and the proceeds from the recycling are donated. He did stress that this is a sensitive subject area.

Ms. Stickney explained that she had given the applicant a lengthy letter and felt that time was needed for review. The dates of the September and October Planning Board meetings were presented. Atty. Modestino stated that the August 31, 2011 submission date for the September meeting could be met unless the Town Council delays. He suggested the meeting on September 13, 2011.

Motion by Mr. Mikami, second by Mr. Eng to table the Public Hearing until the Planning Board meeting on Tuesday, September 13, 2011 at 7:45.

Vote: 5/0

Respectfully submitted,

Beth A. Herlihy



Department of Planning and Community Development

Melissa M. Santucci, Principal Planner
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Phone: 781-794-8234 Fax: 781-794-8089

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APPROVED

Braintree Planning Board
August 9, 2011 – Public Hearing @ 9:30 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, Principal Planner

Zoning Bylaw Amendment/Use & Definition – Municipal Park
Town Council Order [#11-032]

Mr. Harnais read the Public Hearing Notice and opened the Public Hearing.

Ms. Stickney briefly described the proposed amendment to the Zoning Ordinance to include a new use being “Municipal Public Park”. This would allow for the land acquired off Washington Street in Braintree Highlands to be used as a playground having its own use. The amendment would establish the definition of the use of a “Municipal Public Park” and would also subject a municipal public park greater than 1,000 sq. ft. to be subject to site plan review process. It was also stated that the Planning Staff recommends approval.

Mr. Harnais opened the floor to the public. There were no comments from the public in attendance at this time.

Ms. Lauria had no questions at this time.

Mr. Mikami had no questions at this time.

Mr. Eng had no questions at this time.

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Mr. Reynolds had no questions at this time.

Mr. Harnais had no questions at this time.

It was pointed out that this is an initiative that Mayor Sullivan has expressed his interest in.

Motion by Mr. Reynolds, second by Mr. Mikami to close the Public Hearing.
Vote: 5/0

Motion by Mr. Reynolds, second by Mr. Mikami to recommend favorable action to the Town Council.
Vote: 5/0

Respectfully submitted,

Beth A. Herlihy



Joseph C. Sullivan
Mayor

Department of Planning and Community Development

Melissa M. Santucci, Principal Planner
90 Pond Street – Braintree, Massachusetts 02184
Phone: 781-794-8234 Fax: 781-794-8089

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

APPROVED

Braintree Planning Board
August 9, 2011 – Public Hearing @ 9:40 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, Principal Planner

257 Ivory Street/Covanta-SEMASS
Application: Special Permit and Site Plan Review
#11-06

Mr. Harnais read the Public Hearing Notice and opened the Public Hearing.

Mr. Thomas Cipolla, Business Manager with Covanta/SEMASS, 141 Cranberry Highway, Route 28, West Wareham, MA 02576, was present and addressed the Planning Board.

Mr. Cipolla explained how Covanta/SEMASS has been working with Mayor Sullivan to implement positive changes to the transfer station located at 257 Ivory Street, Braintree, MA 02184, saying that the site modification would benefit all. There will be improvements to the aesthetic appearance as well as odor and sound control. There will be no change in the hours of operation or truck volume. In short, there will be improved site appearance with minimum disturbance.

Mr. Len Landry, Manager of the Braintree Transfer Station, located at 257 Ivory Street, Braintree, MA 02184, was present and addressed the Planning Board.

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August 9, 2011 Public Hearing @ 9:40 P.M.

Mr. Landry explained that they had been negotiating for over 2 ½ years and wanted to hit on some of the major points of the negotiation.

He discussed the existing building and footprint and how the proposed improvements would level off the sections and cover the area where the trucks enter. There will be enhanced landscaping, noise reduction and odor control. They will use the same driveway but extend it in order to change the area of the truck queues. The trailers will be scaled, topped and inspected under an enclosed area and they will keep the old scale as a back up. Mr. Landry went on to say that the old incinerator building would be demolished and there will be construction of a maintenance bay to service on-site equipment only. The current residents' area will be replaced with a compactor at another location on the property. The Ivory Street façade will be more commercial in nature and will have enhanced landscaping.

Ms. Stickney informed the Planning Board that the applicant had been given an additional memo tonight.

Ms. Lauria had no questions at this time.

Mr. Mikami wanted to know about the construction plan. When would they start, how long would the project last and what were the phases. Mr. Landry replied that they were still going through the permitting and had just filed with the DEP. They want to start in 2011 and finish in 2012. They hope to have the demolition permit from the DEP by November.

Mr. Mikami also wanted to confirm that the truck volumes would not change. Mr. Landry stated that was the case and that the hours would not change either. Mr. Mikami asked if the volume would change during construction. Mr. Landry explained that there would not be a change in volume during construction. Operations can not stop. There may be some hold ups during the day as well as some work needing to be done on weekends or at night, but they would have to obtain permits for that.

Mr. Mikami brought up resident concerns over rodent control. Mr. Landry said that currently there is weekly control using traps and poison on site. The traps are inspected weekly and if there is an increase they will increase the inspections to twice a week. They have already been in contact with the Board of Health which has requested a report to be supplied by the pest control company.

Mr. Eng brought up odor control, wanting to know if there was information on how this was going to improve. Mr. Landry stated that it would be a carbon filtration system and that there are 38 units proposed.

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August 9, 2011 Public Hearing @ 9:40 P.M

Mr. Reynolds had no questions at this time.

Motion by Mr. Eng, second by Mr. Reynolds to table the Public Hearing until the meeting on September 13, 2011 at 8:15.

Vote: 5/0