



Department of Planning and Community Development

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Joseph C. Sullivan
Mayor

PLANNING BOARD

Robert Harnais, Chair
Joseph Reynolds, Vice Chair
James Eng, Clerk
Darryl Mikami, Member
Erin V. Joyce, Member

APPROVED

Braintree Planning Board – December 8, 2015 – Cahill Auditorium

Present:

Mr. Robert Harnais, Chair, arrived at 7:43 PM	
Mr. Joseph Reynolds, Vice Chair, arrived at 7:40 PM	
Mr. James Eng, Clerk	Christine Stickney, Director
Mr. Darryl Mikami	Melissa SantucciRozzi, Principal Planner
Ms. Erin V. Joyce	Jeremy Rosenberger, Zoning Administrator

Clerk James Eng called roll call at 7:03 PM.

Zoning Board of Appeal Petitions – December 2015 - Old Business

Zoning Administrator, Jeremy Rosenberger presents update on old business items.

Petition #14-33 639 Washington Street (Bonnie Tan), this was before you last month for six units; the board recommended scaling down the units or withdraw; the applicant asked for another month to entertain that offer.

Petition #15-10 60-80 Campanelli Drive (Thayer Academy), this will most likely be extended to January for a status update. We now have hired a Peer Review for this project; the company is Stantec. They will be reviewing all documents submitted to ZBA for this case. The goal is for them to have some Report for the Board to review on January 12th.

Petition #15-42 405 Commercial Street (Krishnakant Patel) This is a two family structure, which the PB recommended favorable with the condition that the basement area not be used for apartment; the Zoning Board asked them to revise the plan with no kitchen in the basement; the applicant is going to come back with updated plans, but no plans have been received yet.

NEW PETITIONS FOR ZBA MEETING ON DECEMBER 22, 2015:

Petition #15-47 250 Granite Street (Golden Dragon)

David Lin, 59 Bower Road, Quincy, MA 02169 (owner of property, Simon Properties) for relief from Bylaw requirements under Chapter 135, Sections 135-407 and 904 to install a 28 inch x 224 inch sign with internally lit L.E.D. channel letters. 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 250 Granite Street, Braintree, MA 02184 and is within a Highway Business District Zone, as shown on Assessors Map 2089, Plot 22, and contains a land area of +/-111.67 acres.

Zoning Administrator, Jeremy Rosenberger, they were before you in June for approval of a sign, but they have since changed their façade and changed their sign, but it is relatively the same size. It is 2.6SF larger, but they have put together a new grand entrance. In light of the fact that PB has approved a similar sign, the Zoning Administrator recommends approval.

Member Mikami **MOTION** for favorable recommendation; seconded by Member Joyce Vote 3:0:0

Petition #15-48 183 Common Street

Richard Chalone, 15 Commerce Way, Woburn, MA 01801 (owner of property, Stacy A. Murphy) for relief from Bylaw requirements under Chapter 135, Sections 135-403 and 701 to replace existing rear 7.5 ft. x 17 ft. deck with same size deck, and construct an additional 20 ft. x 14 ft. rear deck adjacent to that with stairs. 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 183 Common Street, Braintree, MA 02184 and is within a Residential B District Zone, as shown on Assessors Map 2060, Plot 39, and contains a land area of +/- 20,835 sq. ft. Zoning Administrator, Jeremy Rosenberger, recommends approval. This is just for a finding. Member Eng noted this property has a significant irregular shape, so there is really no issues.

Member Mikami **MOTION** for favorable recommendation; seconded by Member Joyce; Vote 3:0:0.

Petition #15-49 970 Washington Street

Lefteris and Anastasia Zotos, Trustees, NCZ 970 Washington Street Trust, and Braintree House of Pizza, LLC, c/o 958 Washington Street, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403, 407, 613, 701, 806 and 814 to improve and occupy the existing nonconforming building for the Braintree House of Pizza (BHOP). The applicant seeks a permit, variance and/or finding that the proposed alteration is not more detrimental to the neighborhood. The property is located 970 Washington Street, Braintree, MA 02184 and is within a General Business District Zone and the Village Zoning Overlay District, as shown on Assessors Map 1009, Plot 42, and contains a land area of +/- 2,490 sq. ft.

Attorney Frank Marinelli spoke on behalf of the Applicant who owns and operates a popular small business known as Braintree House of Pizza, currently located at 958 Washington Street. Approximately 4 years ago Mr. & Mrs. Zotos purchased the business. They have worked long hours and nurtured the business to its current successful state. It is a popular food establishment. They still pay installment payments on the purchase of the business. They pay rent at the current location at 958 Washington Street. Like most small business owners, they want to do what they can to control their own business destiny. In 2014, they purchased the building at 970 Washington with the intent to move their business. This is located in the general business zone. They intend to invest (along with the several hundred of thousands of dollars) over \$150,000 to improve the building, create some seating and a restaurant-like atmosphere. The property at 970 Washington is a pre-existing, under-sized lot that is about 2490SF. The property has hosted a building since 1930, according to Patriot Properties. The building is a decades old retail property with no off street parking. The building has had retail uses including a meat and produce market, a retail office, sound system and vacuum sales and more recently a dog grooming business. The building covers nearly 100% of the lot, which is a hardship of the land. When we go to ZBA, there are two things: (1) the hardship of the land and (2) that there is no detriment. A demonstration of the hardship is that if you attempt to take down any portion of the building to create one or two parking spots, you will devalue the property and destroy value in an already small

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retail building. They want to seek relief to improve the property, invest in South Braintree Square and create a better building. There is no detriment for the requested relief from the off street parking requirements. First, this is a small pre-existing lot that has functioned without any private off street parking. Secondly, there is a municipal parking lot right across the street with 60 off street parking spaces, and there are multiple on-street parking spaces. When you add all of that up, it makes sense that the current location of Braintree House of Pizza has functioned for many years. This restaurant and use will operate just fine a few yards away. This is in the nature of the South Braintree business district. Fourth, 65% of the BHOP business is delivery, which requires no parking at all. Another approximate 30% is takeout, and 5% is dining in. The application has support of all parties of interest on the abutters list who signed a petition. It has great support in the neighborhood. A Town Councilor, Michael Owens, is here in support of this. Finally, this is also similar to Jimmy Johns, a new business in the area. We will be back to the Planning Board for the Special Permit on the use, again similar to Jimmy Johns, which took over a portion of the Richmond Hardware building.

First, Member Eng opens the discussion up to the public for comments or questions.

Councilor Michael Owens, 29 Crescent Avenue, Braintree, wants to rise in support of Mr. Zotos and BHOP, an anchor in South Braintree Square. The business as it exists contributes to the vibrancy of the Square. Mr. Zotos contributes greatly to the quality of life in Town. He has been a strong supporter of Braintree Community Youth Center, as well as a number of schools and other endeavors in town. He has been a strong advocate for the Square, with a dozen trees being planted in that area where his business is located, which Mr. Zotos originated and advocated that idea. He has always done things in the interest of the Square and the interest of the Town. As you know, this space serves as a cornerstone to the square in its positioning, but it is an underused and tired building. The financial investment and improvements will add a lot to this building and to the Square. With that, Mr. Owens would rise in support and appreciates the Planning Board's consideration of this project.

Member Joyce thinks it is a great re-location for BHOP. It is really nice to see a business trying to make the Square a better place and grow. Member Joyce asks if Hall Avenue parking is restricted to residents. Attorney Marinelli did not see any restrictions other than time limit.

Member Mikami asks if the current location will then be vacant. Attorney Marinelli states there may be a period of overlap due to lease contract. Member Mikami asks about the upstairs office in the new property. Attorney Marinelli states there is storage and one office; the hope is to do some internal improvements. Member Mikami asks if it is the plan to rent the upstairs office; Attorney Marinelli states currently Mr. Zotos is going to use it, but possibly rent it at some time. Member Mikami asks where do delivery vehicles park. Attorney Marinelli states the side façade is curbside pullup and can be used for delivery vehicles, but there is no reserved spot. Member Mikami states it is tight for parking. Was there any special exemption for parking given to the current business (the dog grooming)? Attorney Marinelli states he doesn't think there had to be since it was a pre-existing, non-conforming use. The occupancy certificate for the current business, dog grooming service, is dated 2007, and the file in the Building Department doesn't show any special exemption. Mr. Zotos wants to do everything right. There has been considered

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a change of use when you go from normal retail to a food service establishment. He wants to get the relief based upon potential change of use.

Member Eng has a couple of questions looking through the plans. The second floor shows the office and storage space but behind that there is a space called dead space. Is there a plan to build out that space? Attorney Marinelli states there is no change to roofline. Member Eng states that it is a busy square and parking is full all the time. Is the Applicant comfortable with the lack of parking? The Applicant is familiar with the parking situation. Mr. Zotos pointed out that he did go to State Building Commission Board for approval of a residence upstairs, which was approved with a pull down stairway, which hasn't been exercised. That is an alternative that might be processed in the future.

Member Joyce **MOTION** for favorable recommendation for a parking and loading space variance; seconded by Member Mikami; Vote: 3:0:0.

Petition #15-50 3 Howie Road

Penns Hill Development, LLC, 12 Chickadee Lane, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403 and 701 to construct a 1,022 sq. ft., 1.5 story addition over the existing first floor. 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 3 Howie Road, Braintree, MA 02184 and is within a Residential B District Zone, as shown on Assessors Map 2037, Plot 18 and contains a land area of +/- 7,797.24 sq. ft.

Zoning Administrator, Jeremy Rosenberger, recommends approval. This needs a finding. I worked with the petitioner who has since revised this plan. He removed a front farmer's porch, so he will not need a variance.

Member Joyce asks what is the existing city water easement that is cutting across the lot. Is there a water line in it? I know that the addition isn't really impacted. The house is sitting within that water easement. The Zoning Administrator is guessing a water line. The revised plans have pulled it off of any encroachment of that easement. The applicant also felt it wasn't wise to build over that.

Member Joyce said one note, it looks like the side set-back tie they show, that 17.9, is off of the corner of the existing house and not the corner of the proposed. I don't think it impacts the set-back requirement. The Zoning Administrator thinks that was left over from the original plot plan. Member Joyce clarifies November 22nd is the most current plan. The Zoning Administrator clarifies the side set-back is a little less than 17.9. Member Joyce suggests it should be corrected.

Member Mikami **MOTION** for favorable recommendation; seconded by Member Joyce; Vote 3:0:0.

Petition #15-51 175 Hollingsworth Avenue

Benjamin Stanton, 175 Hollingsworth Avenue, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403, 407, 609 and 701 to construct a two story rear addition of +/- 1,250 sq. ft. to an existing single family dwelling. The applicant seeks a

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permit, variance and/or finding that the proposed alteration will not be more detrimental to the neighborhood. The property is located at 175 Hollingsworth Avenue, Braintree, MA 02184, and is within a Residential B Watershed District Zone, as shown on Assessors Map 1017, Plot 13, and contains a land area of +/- 8,205 sq. ft.

Zoning Administrator, Jeremy Rosenberger, recommends approval with a note that existing footprint of the single-family dwelling is about 760SF; the new footprint is 1000SF or roughly about 12.5% building coverage, which is still under the zoning maximum. He has revised memo.

Member Joyce clarifies that they are removing garage. Given that they are removing the garage and this addition is closer to the house, I think the size and set-backs are appropriate. It shows + or – set-backs; She is questioning if they are going to get a variance on a rear yard set-back, that we know exactly what it is. I am not sure how the survey was prepared. I would make sure that is accurate.

Member Eng states the plot plan is pretty rough, but it was stamped by a registered land surveyor so we will have to accept it. The only other thing I am concerned with is they did not have the required setback in the rear yard already. It was 28.5 and now we are taking another foot off. Jeremy Rosenberger clarifies, because the rear lot line is irregular in shape, they are trying to make the rear extension to be flush. The rear lot line in on an angle, it reduces.

Member Mikami **MOTION** for favorable recommendation; seconded by Member Joyce; Vote 3:0:0.

Petition #15-52 120 Plain Street

Braintree Electric Light Department (BELD), 150 Potter Road, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403 and 701 to construct a 60 ft. x 6 ft. side addition to existing electrical equipment/control building. 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 120 Plain Street, Braintree, MA 02184, and is within a Residential B District Zone and General Business District Zone, as shown on Assessors Map 1031, Plot 5B, and contains a land area of +/- 32,432 sq. ft.

Zoning Administrator, Jeremy Rosenberger, states this is a BELD site; this needs a finding to continue a not allowed use in a General Business District, as a public utility. Zoning Administrator recommends a favorable decision.

Member Eng asks what exactly are they seeking. Jeremy Rosenberger states first this is in a split zone; it is Residence B and also a General Business, but because Residence B resides within 150' of that Residence B line, the least restrictive zoning district governs—that is General Business. As far as use for both zoning districts, a public utility is not allowed. It is a continuance of a non-conforming use.

Member Mikami **MOTION** for favorable recommendation; seconded by Member Joyce; Vote 3:0:0

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Chair Harnais and Vice Chair Reynolds join the meeting at the conclusion of the ZBA Applications. The meeting has now been turned over to Chair Harnais.

PUBLIC HEARINGS

Continued Public Hearing

Definitive Subdivision Plan – 459 West Street LLC, 459 West Street (Del’s Way)
(PB File #15-01)

Present for the applicant:

Eric Dias, Tunison Dias Engineering

Rich Whittington, Whitman Homes

Carl Johnson, Attorney

7:45 PM All five PB members participated

Eric Dias begins the discussion with a brief update. They were last before the Planning Board on November 10th and talked quite a bit about Peer Review comments. They were before the ZBA for the lot size variance on November 24th; the variance was approved; a ZBA decision was filed with the Town Clerk today. Also on November 24th we resubmitted a revised plan set in the calculations; we addressed comments made by the Board at the last meeting, the Fire Department, BELD, the Town Engineer, and the Board’s Peer Review Consultant. With the revised plan set, I am glad to walk the Board through changes. Mainly, minor revisions; some things did focus on the drainage design, which was a big thing we talked about last time -- most notably comments 11 through 18 in the Peer Review Consultant’s review letter.

Member Joyce asks for an update on the Peer Review. Mr. Dias states he had gone back and forth with Peer Review Consultant, Peter Williams; in his last review letter we had five outstanding comments, which I responded to yesterday. That didn’t give him much time to review. Mr. Dias would be glad to defer to Peter Williams.

Mr. Williams, GZA and Peer Review Consultant for the Board, begins; as Eric indicated there were a number of comments presented prior to the previous hearing; he has supplied a revised plan, which has addressed the majority of those; there are five comments that have been left open. One was just a certification on a plan—just procedural. The second was the identification of the sewer line in the easement area on the east of the site where they are going to be putting in the drainage swale. Initially, I was concerned about a new drain pipe, but it is not within the easement. The only concern is if we have significant loss of culvert. If that occurred during construction, we could request that they provide some additional frost protection prior to executing that drain swale. I concur with their request to allow that to be handled during the construction period. There were a couple elevations that seemed a little off; it may be just the contouring or that the structures were set below the grade. It is not a major thing. They still feel that their grading and contouring is appropriate. It doesn’t affect anything in the design. They did have, with the plans they submitted last week, the water lines over the utility lines within the roadway; I didn’t think that was practical. In the revised plans that they have submitted, they are relocated the utilities underground so there is proper separation and the Water Department can

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access the lines if there is a break. In the storm water management standards, they had used a flow rate method to determine water quality volume. I had asked them to submit the information to back that up; they have done that. I feel comfortable with that now.

Member Joyce asks do you think that given the extent of the site and the design as shown, we have done what we can to meet the recharge requirement. I know it has to meet it to the maximum extent practicable. Member Joyce states the roof liters are going to discharge to the surface, the gutters. Mr. Dias responds it is his understanding that the Town Engineer prefers that the roof liters be incorporated into the closed drainage system in the street in the Town of Braintree. They calculations they have done for the closed drainage system does incorporate that.

The Principal Planner replies that she thinks they were talking about the sump pumps not the roof drains for the tie-in. Mr. Dias states he may be confusing the two and replies, yes, they would discharge over land and be incorporated into the closed drainage system in the street.

Peter William feels that it is a perched system and you are really doing very little infiltration to the deep ground water. This is probably an appropriate design. Member Joyce and Eric Dias continue discussion regarding the perch water table. Member Joyce asks where does the water go when it drains to West Street. Today, when the site drains to West Street it does one of two options. There is a catch basin located in the front of the site. No one seems to know where that goes, but our anticipation and everyone seems to belief it discharges through a pipe through the neighboring properties on the opposite side of the street to the south and goes back toward the river and swamp area back there. Aside from that, it will flow down gradient toward Burton Road, into the closed drainage system on Burton Road, run down Rex Drive and discharge to that same water body. In both cases, it's going to the same place ultimately; it is just taking a different route; because of that and because we know where the system on Burton Road goes and it is solid, we chose to extend the line up from Burton Road. Member Joyce asks if there is any issue for capacity. Mr. Dias states no.

Member Joyce states on the O&M plan there is still a lot of reference to infiltration. Given the fact that we have the 20' buffer around the extent of the subdivision, on the layout plan you show the 20' buffer but you don't show the clearing limit; I think it would be helpful to show that there is a clearing limit that extends internal to the site a little more than the clearing buffer. Mr. Dias states they can put that on the final plan.

Member Mikami states if this goes forward, how do we test this and monitor it because we cannot have any water impact on West Street or the homes; I think we need some sort of regular reporting and testing and knowledge confirmation. This is something that is being asked of both the Applicant and Staff. Mr. Dias can say with certainty, that they have taken the "belt and suspenders" approach. They have added the swale on the side for recharge. Precautions have been taken. It is designed to mitigate the 100 Year Storm Event. That is bigger than any storm event we have seen in Braintree in more than recent history. Member Mikami respects that, but the proof will be in the results. We have had other situations, with other projects over the last several years, where things have not worked out as planned. He is likely to recommend a Performance Bond. He wants a guarantee that there will be no water impact. If something happens, we need to be able to take care of it.

Member Eng states he knows the Engineer has done “due diligence”, but if this system fails, what is your contingency plans. Mr. Dias would have to investigate why the failure occurred. If there is an issue to address, Mr. Dias is confident they can address them. Member Eng states they are trying to protect the Town and the abutters. Member Eng has looked through some of the comments made by Mr. Campbell, the Town Engineer. Mr. Dias has responded to those formally and provided responses to the Board. Member Eng asks if staff is comfortable with the responses. The Principal Planner states there were two memos from Mr. Dias, one was responding to the Fire Department’s concerns and one responding to the Town Engineer’s concerns. He was also forwarded the most recent revision, but we have not received comment on that. The Town Engineer has been involved in all our technical review meetings.

Member Reynolds asks about the maintenance plan. He feels confident with the level of technical mitigation and detail of the maintenance plan. Regarding the tree line situation at the west corner, do you feel that has been mitigated to the satisfaction of the abutters? Is the applicant open to some replanting? Mr. Dias states he believes the Applicant is open to it, and at ZBA some abutters spoke in favor of the project at the ZBA hearing. Member Reynolds clarifies with Mr. Williams issues regarding Items 11 through 18, the construction details; you didn’t have any particular concerns this evening that you had expressed. Mr. Williams responds that the Applicant has provided the details and procedures that are appropriate. Mr. Williams feels if it can be constructed as is indicated with the proper lining, insulation, welding and special adaptors that are used for pipe penetration. If those are properly installed, this should function as proposed. The maintenance plan is more to maintain the flow capacity and performance of the TSS removal systems.

Chair Harnais opens discussion to the public; there are no comments or questions from the public.

SUBDIVISION WAIVERS

In addition to the presentation the Planning Staff recommends that the Board begin to consider action on some of the Subdivision Waivers that have been requested in the Memo dated October 28, 2015.

WAIVER #1 Section V J 4 (a)(1) – Horizontal Datum

A waiver is sought from Section V J 4 (a)(1); requirement for plans to reference horizontal datum NAD83. The horizontal datum provided on the revised plan set references West Street, Norfolk County Layout, dated April 11, 1923 as depicted on a plan previously prepared by Field Resources, Inc. for the Town of Braintree Zoning Board of Appeals, recorded at the Norfolk County Registry of Deeds In Plan Book 635, Plan #85, dated November B, 2014. Allowing the alternative datum requested will help to ensure continuity between all associated project documents.

Chair Harnais confirmed that the Planning Staff has no objections to the granting of this waiver as it is just the manner in which the data is shown on the Definitive Plan.

Member Eng **Motion** to approve Waiver #1; seconded by Member Joyce; Vote: 5:0:0

WAIVER #2 Section V J 4 (c)(1) - Bearings

A waiver is sought from Section V J 4 (c)(1); requirement for all bearings to refer to true meridian with reference to magnetic meridian and year. All bearings depicted on the revised plan set refer to West Street, Norfolk County Layout, dated April 11, 1923 as depicted on the plan referenced above.

Chair Harnais confirmed that the Planning Staff has no objections to the granting of this waiver as it is just a manner in which the data is shown on the Definitive Plan and is tied into Waiver #1 noted above.

Member Eng **Motion** to approve Waiver #2; seconded by Member Joyce; Vote: 5:0:0

WAIVER #3 Section V J 4 (d)(1) - Contours

A waiver is sought from Section V J 4 (d)(1); requirement to provide existing topography at one foot contours. For clarity purposes, the revised plan provides one foot contours in areas of flatter topography and two foot contours supplemented with spot elevations in areas with steeper topography.

Chair Harnais confirmed that the Planning Staff has no objections to the granting of this waiver upon the Plan being Revised/Clarified.

Member Eng **Motion** to approve Waiver #3; seconded by Member Joyce; Vote: 5:0:0

WAIVER #4 Section VIII D – Roadway Length

A waiver is sought from Section VIII D; requirement for a Type I dead-end roadway to have a maximum length of 400'. The revised plan set provides a dead-end roadway with a length of 485'. The proposed roadway length has been increased from the previous submission of 482.7' to accommodate necessary revisions to the proposed storm water management design. The proposed number of lots and/or curb cuts along the proposed roadway has not increased.

Chair Harnais confirmed that the Planning Staff has no objections to the granting of this waiver.

Member Reynolds **Motion** to approve Waiver #4; seconded by Member Joyce; Vote: 5:0:0

WAIVER #5 Section VIII B Cross-Sections – Pavement Width

A waiver is sought from Section VIII B; requirement for a Type I Roadway to have a minimum pavement width of 28'. The revised plan set provides a proposed pavement width of 24'. The proposed reduction in width allows a reduction in Impervious area to support required stormwater mitigation while still providing adequate travel way for the anticipated traffic demand associated with a proposed eight (8) lot subdivision.

Chair Harnais confirmed that the Planning Staff has no objections to the granting of this waiver. Waivers for reduction in Pavement width have been granted in the past for similar subdivisions. The pavement width requirement of 28 Feet for an eight (8) lot subdivision is excessive. Given the volume of cars that would use the roadway and given the use is solely residential, 24 Feet as proposed is sufficient for two-way traffic. The Planning Staff will consult the Fire Department and Town Engineer to determine if on-street parking needs to be restricted to one side only.

Member Reynolds Motion to approve Waiver #5; seconded by Member Joyce; Vote: 5:0:0

WAIVER #6 Section VIII B Cross-Sections – Sidewalks on Both Sides of the Street

A waiver is sought from Section VIII B; requirement for a Type I Roadway to include sidewalks on both sides of the roadway. The revised plan set provides a 5' wide sidewalk along the east side of the proposed roadway which continues around the extents of the turnaround. The elimination of the additional sidewalk will provide a reduction in impervious area to support required stormwater mitigation while still providing adequate and safe passage for the anticipated pedestrian travel demand associated with a proposed 8 lot subdivision.

Chair Harnais confirmed the Planning Staff does not support granting this waiver. There is a sufficient room within the layout to provide the sidewalk on both sides and around the cul-de-sac. Furthermore, there is a sidewalk along West Street that can be tied into on both sides. Given the reduction of Pavement Width requested sidewalks on both sides will ensure that pedestrians have a safe and adequate area to walk on.

Member Joyce clarified that the drainage system was designed for sidewalk on both sides.

Member Joyce Motion to deny Waiver #6; seconded by Member Reynolds; Vote: 5:0:0

WAIVER #7 Section VIII B Cross-Sections – Position of Sidewalk in Relation to Layout Edge

A waiver is sought from Section VIII B; requirement for the back of the proposed sidewalk to be positioned along the proposed Right of Way line. In conjunction with the two waivers sought from this Section above, the revised plan set depicts the 6' grass planting strip and 5' sidewalk being spaced from edge of the proposed paved surface as shown on the Typical Cross Section to provide a two foot vegetated strip prior to the Right of Way boundary.

Chair Harnais confirmed that the Planning Staff has no objections to the granting of this waiver as given the 50 Foot Wide Street Layout proposed and the reduced pavement width there is excess width that is not accounted for in the Roadway, grass strip or sidewalk. Therefore, the remaining area will be a 2 Ft. wide grass strip adjacent to the layout line that will appear to be a continuation of the Front Yards.

Member Eng Motion to approve Waiver #7; seconded by Member Joyce; Vote: 5:0:0

WAIVER #8 Section VIII B Cross-Sections – Utility Locations

A waiver is sought from Section VIII B and associated Typical Cross Section for a Type I roadway to support requested waivers 5-7 given above and to further allow an alternative subsurface utility layout as depicted on the cross section given on Sheet D-1 of the revised plan set. The subsurface utility layout proposed has been provided to accommodate a request made by the Town of Braintree Water Department to provide a looped water main to service the proposed project.

Chair Harnais confirmed that the Planning Staff has no objections to the granting of this waiver. However, suggestions on waiting until final Comments are received from all Town Departments.

Member Eng Motion to approve Waiver #8; seconded by Member Reynolds; Vote: 5:0:0

WAIVER #9 Section VIII D – Outside Diameter of the Pavement within the Cul-de-Sac

A waiver is sought from section VIII D; requirement for the outside diameter of the paved cul-de-sac to be 100'. The revised plan set provides a 94' outside diameter of the paved cul-de-sac. The proposed reduction in diameter allows a reduction in impervious area to support required stormwater mitigation while still providing adequate emergency vehicle access.

The Planning Staff recommended the Applicant reduce the pavement width to less than 100 Feet. The Applicant is currently seeking a waiver for 94 Feet of pavement. The Planning Staff recommends the Applicant evaluate the Design to determine if a greater reduction can be achieved. This waiver has been granted in the past on several Definitive Subdivision Plans. The provided width still allows for adequate access of life and fire safety equipment/apparatus and greatly decreases impervious surfaces, which reduces the creation of Stormwater Run-off.

Member Eng **Motion** to approve Waiver #9; seconded by Member Reynolds; Vote: 5:0:0

WAIVER #10 Section X(E)9(h)

A waiver is sought from Section X E (9)(h) requirement for stormwater basins and associated outlet aprons and swales to be positioned on separate land parcels exclusively for the purpose of stormwater management. The revised plan set depicts subsurface stormwater detention basins and/or associated stormwater management features on proposed Lots 1 and 5-8. Requiring these features to be located on separate and exclusive lots will result in the loss of buildable lots and result in a significant financial hardship to the applicant. Easements are depicted and will be provided to the Town for access and maintenance of all stormwater management facilities located on these lots.

Chair Harnais confirmed the Planning Staff has no objections to the granting of this waiver. The drainage easement will never be accepted as part of the roadway and will be required to be maintained privately in perpetuity, Similar to Whites Hill, Oregon Avenue Ext, Elmlawn Road Extension and Stone Crest Drive. Locating drainage basins within easements on house lots has been standard practice of the Planning Board over the past 10 years.

Member Reynolds **Motion** to approve Waiver #10; seconded by Member Joyce; Vote: 5:0:0

WAIVER # 11 Section X(E)9(a)

A waiver is sought from Section X.E(9)(a); requirement for drainage basins to be a minimum of 2' above seasonal high groundwater level. Observations performed by this office at the request of the Planning Board indicate a more shallow seasonal high groundwater level than the data that was originally provided by others. All proposed stormwater detention facilities are subsurface and located within the seasonal high groundwater level as no feasible alternative exists to manage stormwater runoff from the site. All subsurface stormwater management systems have been designed to include an impervious barrier to provide separation between the systems and probably groundwater table.

Chair Harnais confirmed that the Planning Staff has no objections to the granting of this waiver.

Member Reynolds **Motion** to approve Waiver #11; seconded by Member Joyce; Vote: 5:0:0

WAIVER # 11 Section X (E)9 C, G and J

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A waiver is sought from Sections X.E.9c, g, and J as these requirements do not typically apply to subsurface stormwater management facilities. (*Staff Suggests adding in X.E.9k*)

Chair Harnais asks for Planning Staff comments. Staff clarified that this is the condition that talks about offsets from the property line. The granting of this waiver is just the Board recognizing the location of these swales, which are to help the neighbors, and the additional drainage mitigation associated with the subservice detention that may or may not be within the 50 feet of these property lines. Staff would say that, if the Board was willing to grant this waiver, they would just be reconfirming the drainage design that is in front of them.

Member Reynolds asks for point of clarification on references to adding X (E) 9 K. Staff states E is drainage, 9 is drainage basins and K is the 50' offset. Chair Harnais confirmed that the Applicant had no objection.

Member Reynolds **Motion** to approve Waiver with the addition of X.E.9c, 9g, 9j and 9k; seconded by Member Joyce; Vote: 5:0:0

Staff clarified that there were no further waivers.

Member Eng **MOTION** to continue Public Hearing and work on draft conditions for January 12 at 7:45 PM; seconded by Member Joyce; Vote: 5:0:0

Continued Public Hearing

Site Plan Review – Riverwalk Development LLC – 205 Elm Street (PB File #15-16)

Present for the applicant:

Tom Cavanaugh, Attorney

George Clements, Engineer, Riverwalk Development LLC

Mike Walsh, Landscape Architect, Horticulture Concepts

Shawn Hardy, Engineer, Hardy Engineering

Abdula Hamadeh, Structural Engineer, West Bay Associates, LLC

Pat Fisher, Architect

8:20 PM Four PB members participated – Chair Harnais recused himself from this hearing

Vice Chair Reynolds entertained motion to accept correspondence. Member Eng **MOTION** to accept correspondence since last meeting dated November 12, 2015 through December 8, 2015 into record; seconded by Member Mikami; Vote: 4:0:0.

Ms. Santucci states since the last meeting the applicant and team of consultants have been working with Principal Planner and Conservation Planner to fine tune design and drawings; in particular, we have been back and forth on drainage design, which they are going to report to the Board this evening and which was as a result of Conservation Commission meeting last week. On page 3 of most recent staff report dated December 3rd, there is a long list of items outstanding, number 10 has been satisfied. The Applicant's Landscape Architect is here this evening to review the landscape design and the planting schedule. On the comments related to drainage, Mr. Hardy is here this evening and he will be presenting that material as an update.

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There are some other things that are detail items that the Applicant and Principal Planner have been discussing but have not been made to plans yet in the level of detail that we would be looking for. They were asked to present on these items tonight so that Board can clarify or further condition any items, as they see fit. A couple items that do need to be discussed are ADA access to the actual building and through the site and public access down to the river.

Attorney Tom Cavanaugh begins presentation by reminding Board where things were left off at last month's meeting. At that time, it was clear that there were some revisions and housekeeping items needed. One of the biggest items was related to drainage. As pointed out by Member Joyce, the site had no TSS removal and what we were proposing was within the 44% range. At that time, Members Eng and Mikami stressed doing the best that we could. Subsequent to that meeting, the team decided to propose two 450 Stormceptors to do additional TSS; at that point TSS was going to be 81%, which is a huge increase. That was presented to Conservation Commission last week. After meeting with Conservation Commission, we agreed, on the spot, to do a 900 Stormceptor, which would bring TSS up to about 86%; we made a considerable amount of strides. We took your advice seriously and have made vast improvements. With regard to the Staff Report, I will be able to discuss some of the items. The easement on record is a plan filed in 1938, which Attorney Cavanaugh would be happy to provide a certified copy from the Registry of Deeds to this Board; for ZBA decision, we will be able to reference that on any subsequent site plans for your review. This is essentially a housekeeping item. Details shall be added for curbing, lighting, pavers, drainage structures, sewer structures, sidewalks, ADA ramps and services. Mr. Hardy will discuss those items. Clarification of parking table can be done, which is essentially calculating the number of garage spaces with what is required vs. zoning. Number 5, clarification of downspouts goes into proposed condition #35. The downspouts will be coming in front of the units with the areas landscaped with plantings and mulch. Understandably, we don't want a river of mulch flowing around the area. So, we will propose some sort of infiltration in those areas or extenders to the downspouts to put into the grass area rather than draining into mulch. We will be able to reference this on the plan. With regard to location and detail for signage, we are going to have "No Parking", "Entrance Only", and "Exit Only" signs to help with flow and circulation of traffic. With this type of signage, which we will reference on the plan, it should clarify any circulation of traffic, and we will make sure to put No Parking Signs where they are required to lessen any traffic jams or prevent people from parking where they shouldn't. Method and location of trash removal, we are not going to have a dumpster; we will propose private trash removal both waste and recyclables; all containers will be kept in garage units. This will be paid through HOA fees. As it relates to Public Access, at this point nothing has been set in stone; the Applicant has been in contact with Mayor's office related to public access. We cannot grant unfettered public access – conversations are ongoing with the Mayor's office. Number 10, landscaping plan has been complied with. Number 11 went part-in-parcel with Number 5, as it relates to downspouts. Guardrail at the top of the slope, which was suggested by the Principal Planner, is a great idea. Location of all exterior HVAC units can be done. Those will be depicted on the plan. Number 14, why does the driveway have a bituminous curb? That is going to be removed. It will be pavement and then we will have the grass paver system, which will allow for infiltration, but there will be no bituminous curb.

Vice Chair Reynolds opens discussion up to the public; no comments or questions from the public. Discussion is now open to Planning Board Members.

Member Joyce asks to start with Landscape Architect going over what cleanup is proposed along the river and what is proposed from an overall perspective. Mike Walsh, from Horticultural Concepts, states the job was to identify what is there, keep what is native and stabilize the site going forward for maintenance purposes on a long term basis. The vast percentage of this area is populated with two non-native plants (a Norway maple and Japanese knotweed). Both of these plants are very invasive and difficult to control. They have identified all of the native trees. They are proposing to remove all of the Norway maples that are of any size; currently the Japanese knotweed is dormant, and they will control it next year when it is vigorous again. They are controlling the Norway maples by cutting them down; they are leaving the root masses; they will re-sprout so they will be recut by hand-work, as needed. There is a first control of cut, a second control of spray, and the third control is to rent goats to eat anything that sprouts. Mother Nature will repopulate after the goats are gone; they propose a hand spreading of native seeds that will populate the area. This will be included in condominium documents so that the Association will be responsible to the Conservation Commission and the Planning Board for ongoing maintenance of the property. The rest of the site is also within the Rivers Protection Act; we are using mostly native plants, about 1200 plants in all. We are using non-native, non-invasive plants that have more ornamental qualities on the street scape up close to Elm Street. The grass we will be using is a low maintenance blue fescue grass. In horticulture, there is genetic modification at an incredible rate. They are proposing the latest types of seed for turf grass construction; they require less mowing, less chemical maintenance, less water and they have great ornamental characteristics throughout the season. As we have worked and identified with the Principal Planner, the plant list here is the same plant list we have used with Conservation Commission. Plants are identified in a different way than usual in that they have taken the symbols but left open selection and not specified by each plant because types of plants that are available change quickly. Mr. Walsh discusses the plans for trees and dense plantings so that there will not be a need for high maintenance on an ongoing basis with chemicals.

Member Joyce clarifies that in the area that you are doing mitigation for invasive species, it is going to look like what it does today, but only cleaned up. She further asks how things are going with Conservation Commission. Mr. Walsh said the Chairman of the Commission said it was wonderful. They are very happy with what the Applicant's representative has come up with.

Member Joyce has a question to the engineer, there are new walkways going to the units along Elm Street and she didn't see many grades on the Elm Street sidewalks. Is there any concern that there would not be accessible grades or is everything achievable along Elm Street with regards to ADA accessibility?

Staff recommends that Mr. Hardy do the presentation on the changes and updates to site plan.

Mr. Hardy said there were revised plans submitted today based on staff comments as well as Conservation Commission and Town Engineer discussions. The major changes since the last time, from a comment from the Fire Department we are proposing grass pave to widen drives to 20' widths. We have taken comments on TSS removal and gotten information from manufacturer that suggested based on drainage calculations that we could either use two 450 inlet units to swap out catch basins to get the TSS removal rate or one single 900 unit. We had proposed to

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swap out catch basin with the Stormceptor 900 unit. Both Planning and Conservation staff had asked for revised TSS calculations. The Town Engineer asked whether or not catch basins would allow water to get into the system vs. over topping and overflowing. In the revised drainage report Mr. Hardy had done some supporting calculations both to support the TSS removal but also to model those catch basins. The site generally cuts in half to show than in the 25 year storm there was less than 1/10 of an inch of a puddle. Never does it make it to the garage, which was a concern of the Town Engineer. Never does it overtop the curbing. The purpose of the Town Engineer's comments was, in case of overtopping or overflowing, to armor the areas to prevent erosion.

As far as some of the other details, there are some walkways that were added in closing the loop on some of the landscape plans; those are proposed to be paver type. The grading out front is minimal; the site is relatively flat. The architect is here to talk about ADA accessibility and compliance.

Member Eng states in your drawing was it concrete or granite curb. Mr. Hardy states it is granite curb, as identified in the Plan View, other than on the approach down the slope to meet the Fire Department's request. Member Eng clarified during the 100 Year Storm, the puddle is going to be 2 inches. Mr. Hardy stated about 1.5 inches; they wanted to make sure there would not be impact at the bottom. Mr. Eng and Mr. Hardy confirm that plans need to be updated in final version.

Member Joyce asks Mr. Hardy to touch on overall drainage strategy. For the existing conditions sub-catchment, was that stopping at the slope or did it include the whole site? Mr. Hardy says it was the whole 77000 SF of the site. Member Joyce asks how you have such significance decrease in the rates from existing to proposed model. Mr. Hardy states taking credit for improvement in landscaping. Member Joyce states if we are not changing the ground cover, we shouldn't be giving ourselves a better curve number. Member Joyce understands that there is an improvement on the site, but she doesn't feel that the calculation is an accurate representation. Mr. Walsh states what they are proposing is a restoration in a way that is not going to cause a disturbance. He feels it is going to protect the river better than the original proposal and better than it is now.

Member Joyce asks about grading at the back of the units along the river; it looked like there wasn't any proposed. Is that correct? Mr. Hardy confirmed that was correct. There was clarification that the five extra spaces was overflow visitor parking. Member Joyce also agrees that the Stormceptor 900 is a good decision.

Vice Chair Reynolds confirmed that the four major issues they wanted to address were: (1) drainage; (2) landscaping; (3) ADA access; (4) public access to the river.

Member Mikami asks if there is access to the new paths created for residents in back units. Mr. Hardy confirmed by going up the driveway. Is the driveway two-way? Mr. Hardy states the driveway is one-way on a clock-wise basis.

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George Clements provides clarification. Entrance point to residents in rear units is a newly created entrance point. The exit is an existing curb cut. Currently there are three curb cut openings. They are reducing to two.

Member Mikami asks if they are going to have a “Resident’s Only” sign or just “Entrance” and “Exit”. This gets into public access. This is a private association; however, we are in discussion about public access. Mr. Clements feels they are not intending to have signs related to “keep out”.

Mr. Mikami asks, given the landscaping plan, if there is any discussion about public access or even for the residents, does that mean you will need to make any changes to landscaping in the back. Mr. Clements states that discussion will evolve; if they need to make adjustments based upon and agreement, they will do that.

Mr. Mikami ask for an update on structural issues. Mr. Clements states Abdul Hamadeh, the Structural Engineer, has a plan to remedy the structural issues. They have worked with Russ Forsberg from the Building Department, who is willing to grant the Applicant a permit; Russ is in the process of reviewing the plans, but he asked the Applicant to request approval from Planning Board to start the process. Melissa SantucciRozzi clarifies that Mr. Clements approached her last week, explained the structural situation and that there is work that could remedy the situation. There is also some additional work that can be done during the remedy; the additional work would be over the 500 square foot limitation that would trigger the Site Plan Review. Mr. Clements and the Structural Engineer wanted to appear before the Board this evening and present this for the Board to vote on the ability to move forward. Staff explained there is structural repair work and work in excess of the repair that makes sense from a construction standpoint. The Planner was not in a position to allow that work to go forward because it triggers Site Plan Review. The Board would need to vote that separately, allowing the Applicant to move forward with something that would be covered under Site Plan Review scope. The Planner thought this should be presented to the Board by the Applicant and their Structural Engineer to clarify what is being proposed, what additional work would be done beyond the work that needs to be done and allow the Board to ask any questions. Vice Chair Reynolds asked if this was basically repair work. The Planner clarified that there was repair work and work in excess of the repair that makes sense but is beyond the structural repair.

Mr. Clements provides a quick analysis. The rear wall of the building is kicked out and some beams have failed, Abdul Hamadeh, Structural Engineer, has created a plan. As a structural component, you need to view it as a whole; minor repairs are not going to fix it. They are up against weather, snow coming, it is only prudent, and they are trying to preserve the building. Mr. Hamadeh, Structural Engineer in practice since 1973, states when he looked at building first time, it looked fine other than minor cosmetic issues on inside. When we looked further, there are two beams; one on the first floor that has twisted on one corner. As a result, the beam above it also tilted, which took the outside wall inward. The space frame on the roof has turn-buckled to keep the walls together. Those turn-buckles have brackets at the end, and the brackets have separated from the walls. That needs to be addressed before winter. To do permanent repair, we have to do the additional work to prevent having to do the same job twice, which will be a big expense. Secondly, the second floor addition on one side is going to be leaning on the existing

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structure, which will be adding additional pressure. To do the other work after the wall is done will be going back to “square one”.

Member Joyce clarified that there is an opportunity to do a temporary repair but, given the fact that you are fixing the building and expanding it a bit, it just makes sense to do it all now, correct. Mr. Hamadeh states they cannot do the repair permanently based on the new load they are going to put on building, they do it based on what they have now. When we come back later to modify back wall by window or door openings or by putting the roof of the new addition on, they will have to go back and do more work on it. Member Joyce asks were the structural issues always in the building or were they caused by doing the rehab work? Mr. Clements state when they were doing exploratory demolition and working with the Town to preserve the building, they discovered this issue. The building is more of a challenge every day. They either need to move forward with it, or the building will have to come down. Member Joyce confirmed that time is of the essence, especially with the weather.

Member Mikami asks a procedural question. If we had known from the beginning that there was this issue, it would become part of the Site Plan Review. Staff clarifies that it is part of the Site plan Review, but they are asking the Board that they allow a request to undertake work before all the approvals have been filed and the appeal period is exhausted, outside of the Site Plan Review Scope.

Director Stickney states you run the risk that if you do not succeed with four out of four votes and it is not approved or if someone appeals the decision. What is the contingency plan?

Mr. Clements states that if they do not get a positive vote, they are not going to stabilize the building and will have to take down the building. They have a Demolition Permit and that is their next step.

Member Eng is looking at some of the details that were submitted by the Structural Engineer. Member Eng asks if the Building Department has reviewed it and made comments back to the Applicant. Mr. Clements states the Building Department feels strongly that it is something that should be dealt with, but procedurally Mr. Forsberg wanted to make sure it came through Planning Board. Member Eng states looking at the details, you are going to have to act on this quickly because there could be a failure if there was a heavy snow storm. Is that true? The Applicant agrees. If the Building Department came back and said it looks like a good fix, are you ready to do this? Mr. Clements states absolutely; again, we are willing to do this based upon the assumption that the proposed Site Plan Review is signed off. If we need to continue the hearing, we will need to re-evaluate their plan. Member Eng feels the Applicant needs to assess his risk and figure out how he should proceed. Mr. Clements feels if they implement what the Structural Engineer has proposed, we will have a solid plan provided it is done in the manner specified.

Director Stickney states that if this is as much of a public safety issue as Mr. Hamadeh is reporting, it really should be the determination of the Building Inspector to decide that and not the Planning Board. The Building Inspector has powers beyond what the Site Plan approval process has to deal with, and he is putting a lot on the Planning Board, and the decision should be made with the Building Inspector. The Director is saying that the Planning Board should

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continue the process, and if it is that critical, the Building Inspector makes that judgement call and issues the permit.

Mr. Clements feels they went through that with the Building Inspector, who will not issue the permit because he needs to make sure the Planning Board is okay with it. The Principal Planner intervenes to provide explanation, as she was involved in discussion with Building Inspector and the Applicant. She explains that the Applicant can do a temporary fix (that the Building Inspector could approve because it is not structurally sound) now that will need to be undone and redone if they cannot do the permanent fix. Time and money are crucial. They want to do the full repair, including the third floor, which puts it over 500 square feet, so that they are not re-doing things.

Member Reynolds feels that we are close in finalizing this application. With the structural issues brought in, because of the safety perspective, I would be willing to say go ahead with the repairs. Plus I would like to see that building preserved in its current form.

Mr. Clements provides a more detailed explanation on what they are requesting. Currently, the existing building is a single story structure. This particular habitable addition is 400SF; this uninhabitable attic space is 400SF. This brings us above the 500SF threshold. The bump out added a header beam, and by doing that it kicked the supporting wall in. This is a condition that runs the whole length of the building on the back wall. On the rear side of the building with this wall being kicked in, we want to do whatever repair that is needed, with steel plating, to tie this new wall to match the existing wall, so that it is one structural component and not piecemeal. It is the proper approach. Whatever weight needs to be added to that roof, this is the time to do it as a single structural component. Member Reynolds asks if that is a one or two-step process. Mr. Clements clarified that it is a multi-part process. Member Joyce asks if they are building all on existing foundation. Mr. Clements states the problem in the building lies in the top floor; we want to stabilize that top floor. The addition is merely a second floor on the existing building and not an extension of that building. Member Eng clarified with Mr. Clements what the next steps for stabilization would be. Member Eng feels that if we don't move forward in stabilizing the building, the Applicant is at risk. Member Reynolds is satisfied with explanation and ready to move on to additional questions.

Member Reynolds asks about comments regarding the run-off being improved from landscape measures. The Landscape Architect states in 2-3 years you would see an improvement. The least stable part is the part at the top of the slope. There is quite a distance between the top of the slope and the riverbank. It is pretty well protected, as it is now, and the mitigation we are going to do will not de-stabilize the slope. Member Reynolds asks staff what is the percentage of open space. The Principal Planner states open space was at 65%. Shawn Hardy states pre and post open space was a match.

Member Joyce asks for an overview of public access. Attorney Cavanaugh states there will be a walkway down to the river from the driveway entrance, with a gazebo area down by the river. There needs to be some discussion in an ongoing process with the Mayor's Office related to determining public access, but they are not comfortable giving unfettered public access. From a marketing standpoint, they cannot tell potential buyers that at any time someone can walk by your house. Member Joyce asks a question on the rendering of the buildings, is that what they

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are going to look like? Tom Cavanaugh states, yes; those are early renditions, but it will look pretty close to that.

Member Mikami asks staff if we are missing anything to proceed and do we have enough protections. The Principal Planner did prepare a detailed staff report; she feels everyone is clear based on discussion this evening; she did prepare draft conditions, which are inclusive of ADA accessibility and the drainage system. There are some things that will be filled in based on revised materials. Condition 66, related to Public Access, is open, but would default to Planning Board on language for Public Access. Member Mikami states if the building has to come down, the Applicant would have to come before us again for a revised plan in a separate application. The Planner confirmed this Site Plan is based on rehabbing the existing structure and seven additional units. Any changes would be subject to modification by the Planning Board.

Member Eng asks how close Conservation Commission approving this project? Mr. Clements states they are expecting draft condition at next hearing on January 7th. The Applicant has discussed draft conditions in detail at the hearing. They addressed every issue Conservation Commission had concerns with, and there were very limited concerns. They were very pleased about Stormceptor 900 and accomplishments within river front area. Principal Planner states Conservation Commission's review and scope is completely separate; Conservation has been focusing on river front, while the Planner is focusing on top of site. They are concerned with drainage quality. They will have monitoring of the slope over a two year process.

Member Eng has question on page 17 of 20, condition number 46 talks about parking spaces, have we resolved the number of parking spaces for this project. Attorney Cavanaugh states they need to tighten up the parking table. The Principal Planner clarifies there is sufficient parking, which complies with Zoning Regulations for parking; it is just a matter of clarifying the parking table on the plan, which does not allow the tandem spaces to be counted.

Member Reynolds trusts that the administration will be able to handle public access issues. Secondly, the final plan needs to be submitted before the end of the year. Member Reynolds feels that there are some housekeeping issues that need to be cleaned up, but should not prevent approval. Discussion continues about how to word Public Access requirement in Final Conditions. The Principal Planner requests direction from the Planning Board.

Attorney Cavanaugh states the Mayor's office would like the Conservation Planner, Kelly Phelan, to be the point person for Public Access. Vice Chair Reynolds does not feel that Public Access has to be a hard and fast requirement. Member Joyce personally would like to see Public Access and would hope that it could be worked out, but she understands that there may be legal reasons that prevent it.

Member Eng **MOTION** to close the Public Hearing; seconded by Member Mikami; Vote: 4:0:0

Member Eng **MOTION** to move ahead with repairs to the building based on receiving a clear scope of what those repairs are, in the original letter from the Applicant's Structural Engineer, professionally stamped; seconded by Member Mikami; Vote: 4:0:0

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Member Eng **MOTION** to approve application on the Site Plan Review based on draft conditions as amended, with Public Access being coordinated and approved by Conservation Commission with final approval by the Mayor's Office; seconded by Member Mikami; Vote: 4:0:0

Chair Harnais rejoins the meeting.

Continued Public Hearing

Grading Permit – John Mento of Mento Homes – 1091 Liberty Street (PB File #15-17)

Present for the applicant:

Shawn Hardy, Engineer

10:15 PM All five PB members participated

Shawn Hardy, Engineer for the Applicant, is here to provide status. They were before Conservation Commission. As a result, they had a site walk, and they received comments from Town Engineer and Conservation Staff. The Applicant had another meeting with Conservation Commission. They want clarification of a comment from the Town Engineer about draining impacts, as well as replacement and mitigation of trees. The ANR Plan is on the Agenda for tonight. Chair Harnais clarifies that an ANR is an Approval Not Required Plan, which allows a person to subdivide their lot legally because it has the required frontage; a variance or special permit is not required. They have the minimum lot area required for both lots.

With regard to the Public Hearing for the Grading Permit, Mr. Hardy advises that they are working through issues structurally, and they are requesting a continuance.

Chair Harnais states we are not discussing issues with the wall, as we do not have any new information. However, he opens the discussion up to the public.

Councilor Michael Owens states he is planning to have a neighborhood meeting with residents of the neighborhood and developer to discuss legitimate concerns, hopefully before this matter is taken up again.

Member Reynolds **MOTION** to continue Public Hearing to January 12, 2016 at 8:30 PM; seconded by Member Eng; Vote: 5:0:0

Public Hearing

Grading Permit – Citgo Petroleum Corporation – 385 Quincy Avenue (PB File #15-18)

10:30 PM – All five PB members participated

Present for the applicant:

Joe Callahan, Project Manager, Environmental Strategies and Management

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Doug Heely, Environmental Strategies and Management
Allen Morris, Citgo Terminal Manager

Chairman Harnais read the Legal Notice into the record.

Mr. Callahan is appearing before the Planning Board to seek a Grading Permit for MCP remedial work that they are performing on a portion of the property shown in the plan. As you know, the property is a petroleum storage terminal, and that portion of the property was formerly a refinery from 1920 to 1949. There is a series of structures and pipes that we have been doing remedial work on over the years. In the last 7 or 8 years, Citgo Petroleum has also completed a comprehensive review of their storm water management system. In the course of that, we have closed a 500,000 gallon open concrete oil water structure that was built around 1920. That oil water structure remediated all of the storm water for the terminal from their dike area under existing individual permit. In the course of closing that structure, we found that, not only that it impounded a portion of water in that area, it also was infiltrating ground water. Since that time, we have reduced the amount of storm water going out into the river by 1/3 or more, possibly 40%. In the same token, we have found that we have exacerbated the ground water level in that area because it was being infiltrated by ground water. It also exacerbated the series of pipes and structures in the area that caused a series of oil seeps that have come to the surface in that area. We are coming before you today to do remediation work on an MCP release abatement measure to clean up contaminated soil and remove these structures and pipes that have been causing preferential pathways in that area and also put a liner, covered by permeable material, to re-soak that area and grade it accordingly.

Doug Heely, Environmental Strategies, provides an update on where they are with the project. They have started the excavation a couple weeks ago, after a hearing with Conservation Commission. They are probably about 90% done with it. As you see in your plans, there are six cells they divided the work area into. They are really in their last cell right now. They have not removed that much contaminated soil because it is isolated pockets that they have found. They have removed about 1800 feet of piping from the refinery. Some of that piping had oil in it, and they have been able to vacuum that out and recover it. They found some old structures in the ground, which they fully expected. The project is progressing exactly the way we thought it would. The contaminated soil has been removed along with a lot of old piping. They are in the process of putting the clean fill back in the ground and getting back to their existing grade. What they want to talk about tonight is just moving forward with the rest of this, finishing the backfill, getting the liner down and getting some of the new clean fill back in place to bring our grade up before winter sets in. We don't expect to fully complete this until next Spring to repave the access road that goes to the Clean Harbors gate, but we do, in the next two weeks, hope to be able to bring that grade up a bit so that we can get through the winter without flooding that area and causing some safety concerns.

Member Joyce confirms the work associated with the Grading Permit is basically related to cleaning up the site and there are no changes to the site, other than what is underground. Mr. Heely states it is cleanup work other than the need to bring the grading up so that they don't have this continual ground water problem that they have experienced in the past year or so.

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Member Mikami asks if there is more contamination in other areas. Doug Heely states it is a very large facility, and they are focused in this area because this is where they have had operational problems with the oil seeps coming to the surface. There are some storm water structures in the areas that we are trying to be very sensitive to. This is an immediate situation that we want to get cleaned up before winter. It is a large facility, and we have other remedial programs going on throughout the facility. Member Mikami asks who monitors you to ensure that your systems are working and petroleum is not leaking in, you are next to the river and you talked about some impact. Mr. Heely responds that there are many phases to the DEP regulations that they work under. They are in Phase 5; they have been through various phases of assessment; they have been through the remedial investigations of what to do about it; now we are in this monitoring phase which is overseen by Mr. Heely as the Licensed Site Professional (LSP); Mr. Heely's license is like a PE or Registered Architect; he is subject to oversight by the Massachusetts Department of Environmental Protection (DEP). There is a program that has been in place for many years now; routine monitoring has been going for many years and probably will continue into the future.

Member Eng confirms looking at your cross section, the proposed gravel backfill is what you are doing, as far as re-grading the area. How many yards of gravel backfill are you planning to bring in? Mr. Heeley states it is going to amount to about 2500-3000 yards of soil. After that, are you planning to put down some bituminous asphalt on top of it? Mr. Heeley responds just on the road part, which is the part that has been paved all along. Member Eng confirms this will take care of any drainage issues in the area. Mr. Heely states they have had a storm water collection system in this area all along; they are not changing that; they are just bringing the grade up and the structures up with it. The drainage program really isn't changing. Any storm water that is collected in this area along the road will be pumped back up into the treatment system and then discharged through our NPDES Permit.

Member Reynolds has no questions.

Chair Harnais asks if the Planning Department is waiting for anything. Director Stickney states there are some unknowns and questions. The Applicant has no idea on the cubic yards of material. The Director asked for a couple of measurements that were not provided. Mr. Heely states the Director asked how much contaminated soil will be generated and he will not know how much soil is being removed until they are complete with the project. Director Stickney clarified that what they wanted to know was how much soil was being excavated. Mr. Heely states that the soil being excavated is the contaminated soil they are removing and they will not know that until the project is done. They had an outer limit of 2000 cubic yards, but that was for budgeting purposes with the client; they are nowhere near that, but he cannot provide the final tally until they are done. They are removing what needs to be removed, but it is not a set amount. Director Stickney clarifies that in order to be able to do the conditions for this application, is the Board agreeable to an unlimited excavation. Mr. Heely states that it is no more than 2000 cubic yards, but they are almost done with project and they are at about 400-500 cubic yards. They have not excavated anywhere near what they thought they would. Director Stickney states that, if you are removing 2000 cubic yards, why are you bringing in close to 4500 cubic yards of material? Mr. Heely states they are replacing what they remove and that brings it back to the grade today and they are bringing the grade up after that another 2-3 feet. Director Stickney states that was one of the questions on the profiles—she asked how much of that material, above

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the existing grade, you would be bringing in. Mr. Heely said it was about half and half. He states he didn't understand the Director's question, but the idea when they set out was that they would remove no more than 2000 cubic yards; they would replace that and it would take about another 2000-3000 yards to bring the grade up. Director Stickney asks if the Applicant is agreeable to capping it at 5400 cubic yards coming onto the site. Mr. Heely states they imported 2200 and then another 2200 and another 1000 on top of that. Director Stickney confirmed that it was agreeable if they conditioned 5400 coming into the site; she clarified that she was trying to get the numbers for what is going offsite vs. what is coming onsite. Mr. Heely clarified that the full amount was onsite, and Director Stickney clarified that no further trucking was necessary other than to take material offsite.

Member Reynolds confirms with staff that all other questions have been answered satisfactorily. Director Stickney clarifies that the Applicant has gone ahead and done the work without the Planning Board's approval. We talked about the fact that there was a time element, but what I didn't understand was that they had already brought the material onsite. We usually condition the truck route and the amount of material. She wants to be clear that nothing else is coming onsite.

Chair Harnais reminds the Applicant that they have to go through the process. Mr. Heely states he didn't realize that about bring materials onsite because they were not going to use it, but they had an opportunity to get this material from another site. Director Stickney asked, for the record, where did the material come from? Joe Callahan states all the material came from 134 Cross Street in Winchester. Director Stickney clarified that is another hazardous waste site; they can make the call and bring materials from one site to another and she wants the Board to be clear on that. Chair Harnais asks for clarification. Director Stickney explains if it is above certain thresholds, and the LSP says it is okay to bring onto that site, they don't have to do the normal Bill of Lading, which would tell where it comes from. Mr. Callahan confirmed that if it below certain thresholds, they are able to do that, as they are both similar site. He further stated the material that you bring in is cleaner than what you are taking out. What the Director finds unusual is that the Bill of Lading out of Winchester had it going somewhere else, not to Citgo. So, she is asking this for the record where the material is coming from.

Chair Harnais states this all should have been done ahead of time.

Member Reynolds **MOTION** to continue until January 12 at 8:45 PM for draft conditions; seconded by Member Eng; Vote: 5:0:0.

Mr. Heely clarified that they are not allowed to go ahead with grading until after next hearing.

Director Stickney points out that basically the work is done; they have taken material offsite and the new material in onsite. Chair Harnais provides explanation to the Applicant, as to why the process is necessary.

Member Reynolds **MOTION** to rescind prior continuance; seconded by Member Eng; unanimously voted.

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Member Reynolds **MOTION** to approve Grading Permit with Staff Conditions that there will be As Built Plan; seconded by Member Eng; Vote: 4:1:0.

NEW BUSINESS/OLD BUSINESS:

Approval Not Required Subdivision Plans – John Mento of Mento Homes -1091 Liberty Street

Present for the applicant:

Shawn Hardy, Professional Engineer, Hardy Engineering

Staff provides background information on the ANR and the size of the lots being subdivided meeting ANR and frontage requirements; staff recommends endorsement.

Michael Owens asks question. If current landowner decides not to utilize two separate lots are they held to two separate lots? Staff clarifies that it needs to be recorded at the Registry of Deeds in order for that lot to be created.

A resident asked question about whether Mr. Mento signed the application to subdivide the land, as he does not own the land. It was clarified that the current owner signed the application to subdivide the land.

Member Reynolds **MOTION** to endorse the ANR; seconded by Member Eng; Vote: 5:0:0

Approval Not Required Subdivision Plans – Weston Crossing LLC/Weston Ave. and Weston Court - 607 Washington Street

Present for the applicant:

Shane Mallon, Land Surveyor, Weston Crossing LLC

The Principal Planner explains that this is a Confirmatory ANR Plan. These are apartment buildings located on the corner of Washington Street and Weston Avenue. The Surveyor and Principal Planner have been working on a plan to satisfy the clearing up of the title for the current owner and a refinance. This is a little different than the ANR's we typically look at; there are no new lots being proposed. There is actually land being excluded from the three parcels that make up these Assessor's lots, which is a roadway.

Shane Mallon explains the intent of this plan is to help clarify the boundaries; there is no new construction; there are no changes—these buildings have been here for 60 or 70 years. The ANR shows a two-lot subdivision. To the left of Weston Court, which divides the two, will be lot one and to the right will be lot two. It is just to simplify and help clarify the title for Weston Court LLC.

There are no questions from Planning Board or Staff.

Member Eng **MOTION** to endorse ANR; seconded by Member Reynolds; Vote: 5:0:0

Project Update – 7, 7R and 11 Independence Avenue – File #14-06
Thomas Fitzgerald, Independence Avenue Associates LLC

Chair Harnais asked for the Applicant to come forward to explain what the delay is in this whole process with regard to the building. Attorney for the Applicant explains that after the Planning Board approved the applicant's request, an abutter filed an appeal in Land Court. In brief and summation form, every effort has been made to negotiate a settlement. Mr. Fitzgerald has agreed to a number of different numbers that the abutter has asked Mr. Fitzgerald for to drop his suit, and every time Mr. Fitzgerald met those conditions, there was another condition imposed. There was never any serious effort made by the abutter to negotiate a settlement on the matter. Land Court is a very long, drawn out process. Part of the negotiation on the number of units was the abutter agreeing that there would be no appeal if Mr. Fitzgerald removed the top penthouse unit; Mr. Fitzgerald removed the penthouse and there was still an appeal.

Chair Harnais states that the abutter stood before Planning Board and said he would not appeal if the Applicant removed the penthouse. Chair Harnais has some strong concerns with the abutter's misrepresentation to the Board. Chair Harnais suggests adding the penthouse back because the action was disingenuous by the abutter. Secondly, it is an appeal based on density, which can be resolved by paying a lump sum of money. A lump sum of money will not decrease density of project, and Chair Harnais thinks it is shameful that people feel they can just bring lawsuits for issues like this – there is a habit of people holding developers hostage for money purposes. The abutter was not present to be able to explain his position.

Request for Release of Surety – 60 Pearl Street – File #13-09
William Frazier, Sunset Realty Trust

The Applicant is requesting a Release of Funds under an As-Built Surety in the amount of \$4200 for work that has been completed related to the installation of a Railing System above the Salon.

Member Reynolds **MOTION** to the release funds to Sunset Realty Trust; seconded by Member Mikami; unanimously voted 5:0:0.

Discussion – 257 Ivory Street (Covanta Facility) – File #11-06

Present for the applicant:

Daniel Peters, Covanta Energy, Senior Environmental Engineer
Richard O'Connor, Covanta Energy, Business Manager
Jeff Kunz, Braintree Solid Waste Representative

Daniel Peters provided Planning Board members with a letter from Covanta dated 11/24/15 relative two potential changes with the Special Permits issued in 1988 and 2011. Covanta is seeking a change to the surviving condition #20 of the 1988 Special Permit that allows for overnight waste storage within trailers. Presently Covanta can have two additional full trailers

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stored within the facility and 15 empty trailers on-site permitted per condition #20. Covanta suggested changing this condition to permit additional full trailers increase from 2 to 4 and be allowed outside the facility. Chairman Harnais questioned the redline handout version in the first sentence that seemed to contradict exactly how many full trailers could be stored on site. Ms. Stickney noted that changing the wording of the condition would be a major modification and requires a public hearing. It was her understanding that Covanta sought to discuss operational changes in order to try to understand the local process before seeking a more formal change to their site assignment for the facility. Member Mikami commented that he thinks the public hearing should be reopened and expressed his dissatisfaction with the current conditions there as they relate to odor. Member Reynolds agreed with Mr. Mikami and expressed his concern that the Planning Board was misled with the public hearing that the odor situation would be improved with the enclosure of the tipping floor. Chairman Harnais added that if waste is to be stored outside the facility then the neighbors should be able to have a say on the matter as well and agreed with staff a major modification is warranted. This is a substantial change to a Special Permit, and must be done as a Public Hearing.

Discussion and Action-Abutter Restoration Plan – 400 West Street – File #14-09

Staff informed the Planning Board that Mr. Noble had concerns about the property stakes. The plan is a condition; it has been funded; it just needs to be done.

Mr. Rader has completed his portion of the drainage; he is requesting that the Board put some emphasis to get things done with Mr. Noble. A meeting was set up with surveyors, Mr. Noble, the Principal Planner, but Mr. Noble did not show up. Mr. Rader is requesting that the Planning Board have a start date.

Chair Harnais suggests that Mr. Noble be advised to provide the Board with a start date or to appear at the January Planning Board Meeting to explain what the delay is.

Staff agreed to reach out to Mr. Noble.

Member Reynolds **MOTION** to approve the Meeting Minutes of August 18, 2015, September 29, 2015 and December 1, 2015; seconded by Member Mikami; unanimously voted 5:0:0.

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

The Meeting adjourned at 11:39 PM.

Respectfully submitted,

Louise Quinlan
Planning/Community Development