



# Department of Planning and Community Development

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

## PLANNING BOARD

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

Braintree Planning Board  
September 13, 2010  
Town Hall

**APPROVED**

### Present:

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

Christine Stickney, Director  
Melissa Santucci, Principal Planner

The Chair called the meeting to order at 7:00 P.M. and called the roll: Ms. Lauria, Mr. Mikami, Mr. Eng, Mr. Reynolds, Mr. Harnais all present.

### **New/Old Business**

Zoning Board of Appeal Petitions – September  
*For details see staff reports.*

#### *19-71 Shaw Street/Windjammer Realty Trust*

Reda Veitas appeared seeking relief from the rear yard setback to construct balconies to second floor units at the rear of six existing buildings. The applicant stated that the intent of the construction is to increase the value of the properties.

Mr. Eng questioned whether the location of the balconies could be adjusted in order to reduce the amount of relief requested. Ms. Veitas gave a detailed explanation, which included the fact that each unit has a patio window door and the balconies are centered on the doors.

Mr. Reynolds asked about staff's comment that the balconies are proposed to be constructed of wood. Ms. Veitas stated that the choice of material was to retain the character of the property as the existing balconies are wooden. He also asked about supports for the second floor balconies. Ms. Veitas stated that they would be supported by posts anchored in the concrete patios on the lower level.

Mr. Eng followed up by commenting in that case the balconies themselves do not seem to invade the rear setback any more than the pads below.

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Motion by Mr. Eng, second by Mr. Reynolds to forward a favorable recommendation to the ZBA because the proposed construction of the balconies is above existing patios and does not really push the limits of the existing setbacks.

Vote: 5/0

*40 Longwood Road/R. Maynard [and J. Padula]  
42 Georgianna Avenue*

Attorney Greg Galvin informed the Board that the applicant was before the ZBA because of the frontage requirement. The lot has 35.5' of frontage and is at the end of a dead-end street. The applicant proposed to tear down the existing house which is close to the street and build a larger and more pleasing structure further back on the more than 33,000 SF lot.

Motion by Mr. Reynolds, second by Mr. Eng to forward a favorable recommendation to the ZBA.

Vote: 5/0

*268 Peach Street/B. Doherty*

Ms. Santucci noted that the applicant was not in attendance.

Mr. Reynolds would like to consider this application at a future date because there are outstanding issues.

Motion by Mr. Reynolds, second by Ms. Lauria, to take no vote based on the fact the applicant failed to appear to answer questions.

Vote: 5/0

#### Approval of Minutes

Motion by Mr. Eng, second by Mr. Mikami to approve the minutes of 8/10/10 and 8/31/10 and the Executive Session minutes of 5/11/10.

Vote: 5/0

#### Request for As-Built Approval – 84 Glenrose Avenue/G.Gabriel

*For details please see Ms. Santucci's staff report dated 8/210.*

Ms. Santucci summarized the staff report.

Motion by Mr. Reynolds, second by Mr. Eng to grant As-Built Approval with Conditions #17, #28, #29, #30, #58, #60, #61 and #63 to survive.

Vote: 5/0

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Request for As-Built Approval – 303 Grove Street/D.Lefas  
*For details please see Ms. Santucci's staff report dated 9/13/10.*

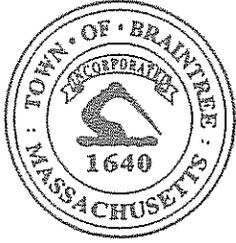
Motion by Mr. Reynolds, second by Mr. Eng to grant As-Built Approval with Conditions 1, 12, 15, 28, 32, 37, 38, 40, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 62, 63, 64, 65, 67, 68, 69, and 71 to survive.

Vote: 5/0  
Discussion on Weymouth Landing  
This item was not taken up.

Motion by Mr. Reynolds, second by Mr. Eng to adjourn at 9:25 P.M.  
Vote: 5/0

Respectfully submitted,

Linda Raiss



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Mayor

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### PLANNING BOARD

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Braintree Planning Board  
September 13, 2010 – Public Hearing @ 7:30 P.M.  
Town Hall

Present:

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

Christine Stickney, Director  
Melissa Santucci, Principal Planner

84 Monatiquot Avenue/M.Farina

Application for Use Special Permit and Site Plan Review – Two-Family Conversion

The Chair opened the public hearing and read the legal notice.

Mr. Farina addressed the Board and informed them that he would like to convert the structure to a two-family home. It has been a one-family home with an in-law accommodation for 27 years. His parents have recently passed away. Everything is code-compliant and he would like to rent the second living space legally.

The Chair asked the public to comment for or against the application.

Margaret Prioli, 77 West Street, stated that her property abuts 84 Monatiquot Avenue. She strongly objects to the proposal because the neighborhood is not a two-family area. Changing this property into a two-family home would change the character of the neighborhood. A renter would not treat the home in the same manner as a homeowner.

Bill Fleming, 48 Oak Street, stated that his property is around the corner from 84 Monatiquot Avenue and he rises in objection to the proposal. For the most part, the neighborhood is a single-family residential area of owner-occupied homes with some grandfathered two-families. Converting this property to a two-family home would alter the property and the character of the neighborhood.

John Devine, 39 Oak Street which is adjacent to the property in question, expressed his opposition to the proposal based on the fact that this is a single-family neighborhood and he feels making 84 Monatiquot Avenue into a two-family home would negatively affect the property values in the neighborhood.

Bill Crockan, 87 Monatiquot Avenue, stated that his property is directly across the street from the Farinas. He knew Mr. Farina's father and is sure that he, above everyone else, would oppose the proposal as it will change the make-up of the neighborhood. While the current owner is around he would not expect any issues to arise, but future owners may not take as good care of property.

Dan Barry, 95 Monatiquot Avenue, opposes proposal. He moved from two-family neighborhood to Monatiquot Avenue 14-15 years ago and sees the pluses and minuses of two-family neighborhoods. He repeated that he was present to oppose the proposal.

Dave Chomas, 49 Oak Street, opposes the proposal for the same reasons as other speakers. He moved from another part of town because of the character of his current neighborhood. He understands how the character of a neighborhood can change and would not want this to set a precedent.

Anne Gibson-Vosikas, 100 Monatiquot Avenue, opposes the petition. She sees pluses and minuses, but is looking for a different solution than what is being proposed.

Ms. Lauria asked if the in-law unit is currently rented. [no]

Mr. Mikami asked the applicant to explain how the dwelling would be separated into two units. Mr. Farina responded that it is actually two separate units now divided by a common entryway. The main house to the left and in-law to the right [and described the interior]. The front door goes to the main house and can access the in-law accommodation which has a separate entrance to the rear. Mr. Mikami continued with questions about the in-law addition [constructed in 1983], the parking [Parking would remain the same with the rental unit having the 3 spaces in the driveway.], the tennis court [renters could use] and property maintenance [As owner, Mr. Farina would maintenance the property.].

Mr. Eng asked the applicant if there were a hardship for the Board to consider. Mr. Farina responded that since the passing of his parents the in-law unit is empty. Mr. Eng noted that when the addition was constructed it was known that the property was in a Residence B zoning district. The fact it is now empty is not a hardship for Planning Board consideration. He is looking for a hardship besides the need for rental income. Mr. Farina responded that he cannot afford the upkeep on the property and neglecting it would bring down the neighborhood. Renting a second unit would allow him to be able to keep the property as is now.

Mr. Reynolds asked if the applicant was planning on staying in his home [yes], how many bedrooms the in-law had [2], and how much he would charge for rent [about \$1700 – \$1800 per month]. Mr. Reynolds continued by asking the applicant what response he might have to the concerns that the neighbors were raising. Mr. Farina said that everyone likes things to stay the same. They don't like change. However, he needs rental income, otherwise he will not be able to maintain the property to the neighborhood standard and it will deteriorate. Mr. Reynolds asked if he could discuss the neighbors' concerns with them. Mr. Farina responded that there are 2-family houses in the neighborhood in pretty close proximity to his property. With this two-family conversion nothing will change except one of the units will be rented.

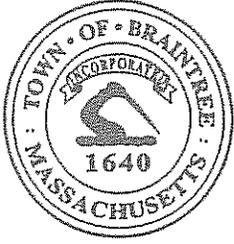
Mr. Reynolds has questions for staff about the original application to construct the in-law addition. Ms. Santucci responded that the Town does not have regulations for in-law accommodations. The Building Department probably issued a Building Permit [for the addition]. Now the Building Department requires an affidavit that the unit would be used by family. For a two-family conversion the dwelling cannot be enlarged at all. The Building Department referred Mr. Farina to Planning staff and they have provided comment about the application. Usually a two-family conversion requires accommodation for egress and safety. In this instance no changes are necessary as the two units are already set up for independent living.

Mr. Reynolds continued by referring to the site plan, noting that the entire structure can be seen from the street and is on a very good size lot. He is not ready to vote this evening as he would like more information from Town records relative to modifying the original house.

Motion by Mr. Eng, second by Mr. Reynolds to continue the public hearing to October 12, 2010 at 7:30 P.M.  
Vote: 5/0

Respectfully submitted,

Linda Raiss



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Braintree Planning Board  
September 13, 2010 – Public Hearing @ 8:00 P.M.  
Town Hall

Present:

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

Christine Stickney, Director  
Melissa Santucci, Principal Planner

250 Granite Street/Dave & Buster's of Massachusetts  
Application for Special Permits and Site Plan Review

The Chair opened the continued public hearing.

Attorney Andrew Upton, representing the applicant, noted that this was the sixth appearance before the Planning Board. In addition, Dave & Buster's has met with the Town Council, neighbors, administration, and elected officials, conducted an outreach campaign, and spent hundreds of hours and significant sums pursuing Planning Board approval. Dave & Buster's has received the support of hundreds of union members who have come to hearings, the support of the Braintree Business Council, and has received hundreds of cards in support of their project. The people of Braintree are solidly in support of the project. He reviewed the presentations at past meetings and the extensive submissions submitted in support of their proposal and stated that the applicant has responded to each and every request of the Planning Board in a straight forward and sincere manner.

He is present tonight with a team of architects and engineers and Jeff Wood, Senior Vice President and Development Officer for Dave & Buster's, Fred Henninghausen, Senior Director of Development and Construction and James Brusseau, National Director of Security – top full-time employees of Dave & Buster's. He summarized the remaining areas of concerns as "occupancy, hours of operation, signage, floor plan and the number of amusement games" and continued by stating that Dave & Buster's, after extensive internal review and discussion with staff and stakeholders, has agreed to cap the number of games at 170 and keep the closing hour Sunday through Tuesday at midnight and 1 A.M. on Saturday/Sunday for an initial 6-month period.

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Public Hearing @ 8:00 P.M.

Joseph Vajda of Aria Group Architects, Inc. mentioned that the **occupancy numbers** advanced at the last meeting [1600 – 1800] were not accurate. After discussion with Building Department and staff it was agreed that the allowable occupancy is 1318, but the actual number will be 992 based on seats in the private dining rooms, restaurant, bar, and waiting area. Attorney Upton stated that it is unlikely that the 992 number would be reached more than 6 times in an average year.

Attorney Upton continued by addressing **signage**, noting that Dave & Buster's originally planned to propose 3 medallion signs, 3 stick signs, and a sculpture. Discussions with the administration and Planning Board staff have resulted in Dave & Buster's now seeking only 3 medallion signs. There will be no "advertising" of "eat, drink and play" on the building. He noted that the vast majority of the restaurants in the mall have between 3 and 7 signs each and the Circuit City building – which they hope to occupy – had between 4 and 6 signs.

Regarding the **floor plan**, Attorney Upton noted that the game area must not exceed 49% of the total public space and contended that the "Winners' Circle" – the area for prizes - is not part of the game room and should not be counted as floor area of the allowable percentage for games. Including the Winners' Circle in the game area has serious implications for the floor plan and would require a complete redraw of the floor plan, which would have a negative financial implication for the applicant.

The Chair opened the hearing to audience participation, reminding them that the Board has heard extensive comment to date and urged that individuals coming forward present new information or new concerns.

Alan Flowers, 48 Fallon Circle, wished to respond to Attorney Upton's outrageous statement that the vast majority of residents are in support of Dave & Buster's coming to Braintree. It would be more like the opposite, that the vast majority is against this terrible project. The proposed hours of operation are out of the question. It is within the Board's jurisdiction to set hours and 1 A.M. is out of the question. He added that he did not realize that they could fit 1,000 people in the building and questioned the traffic impact during Christmas time when the Plaza is at its busiest.

Dave Cushing from Granite Park referred to the plans and noted that the State Building Code requires that 50% of the occupants must leave by the front door [in an emergency]. Looking at the plans he questioned how 50% of the occupants could get passed the choke point and exit through the front doors and asked if the Building Department had reviewed the plans. Ms. Santucci responded that the drawings were submitted to give the Planning Board an idea of the areas of the restaurant, the public spaces and the midway. Mr. Cushing added that he considers this a life safety hazard, to which the Chair responded that it will be the responsibility of the Building Department to review the plans and make sure they comply with applicable codes.

The Planning Board does not get into this area, nor into hours of operation or the number of games to be allowed. Mr. Cushing continued by mentioning that Attorney Upton stated it would be a hardship to redo the plans. Mr. Cushing's contention is that the applicant is trying to squeeze square footage into the gaming area, an accessory use which is not essential to the principal use of the building [restaurant].

Mr. Mikami noted that the Board had asked during the last hearing for additional information regarding **preferential hiring** of residents [included in the most recent packet] and asked how Dave & Buster's knows they will be successful in hiring Braintree residents. What is their measure of success? Attorney Upton responded that he wanted to hear from the Planning Board what is an acceptable level. Since jobs are very important to the Town, there should be lots of applicants. Dave & Buster's will provide the "firsthand best opportunity for Braintree residents to get the vast majority of these jobs." It is up to residents to apply. Mr. Mikami reminded Attorney Upton that it had been the applicant who brought up the preferential hiring of Braintree residents in their initial presentations and repeated his question, "What is the criteria for success? 100%? 10%? 80%?" Attorney Upton: The criteria of success is equality of opportunity and not a guaranteed outcome. A qualified Braintree resident who applies would be given a job. Mr. Mikami wished Dave & Buster's to state what percentage of their staff would be Braintree residents in order to be able to measure whether or not Dave & Buster's was successful in hiring local residents. Attorney Upton said that Mr. Wood feels that Dave & Buster's would be happy if 20% of their employees were from Braintree. Of course, they would be happier with 100%.

Mr. Mikami sought information about the **Winners' Circle**, which Attorney Upton declared to be an area of the restaurant. Given that Dave & Buster's considers this part of the restaurant, Mr. Mikami asked how many servers are serving in that area and if patrons can order drinks and food there. Attorney Upton: no food is served in the Winners' Circle. Mr. Mikami: What happens in the Winners' Circle? Attorney Upton: people get to see the prizes available. Dave & Buster's sees it as part of the retail operation. Mr. Mikami: If it is a retail operation intimately connected to the gaming space, how is it not part of the gaming space? Mr. Upton: Dave & Buster's looked at definition of game room [**"Amusement Device room"** means a building or place containing five or more amusement games....] The Winners' Circle contains "0" amusement games so the floor plan does not include it as part of the game space. It is ancillary to amusement games and to Dave & Buster's concept, but the applicant can only go by words written in the title [of the ordinance]. The drawings adhere to the letter and spirit of law and the 49%. Mr. Mikami: Maybe Town Council needs to review this again. Yours is an interpretation of the wording [of the ordinance]. Maybe our Town Council needs to go back and review this. It does not make sense that the Town Council would approve a controversial amendment [which was close vote] thinking that the Winners' Circle would not be considered gaming space. It is not an unreasonable interpretation, not semantics [as Attorney Upton had stated], to say the only reason the Winners' Circle exists is to service the gaming space. It is part of the gaming space and the applicant needs to go back and rework drawings. He would hate to say this should be referred back to the Council and have them review it for several months to "amend the amendment."

Attorney Upton: The Council members seemed to understand the concept of the game room and he continued to maintain that this is one integrated facility and repeated Dave & Buster's contention that the Winners' Circle is an ancillary use [such as restrooms and waiting areas] as clearly it is not a place containing games. Mr. Mikami: "Clearly it is not part of the restaurant. It is not attached to it. You can't get food there. You can't get drinks there. There are no servers there. We are stuck" and it is very clear in his mind what the Winners' Circle is.

Mr. Mikami continued by asking about the **policy on minors**. How are minors and chaperones identified? How are they tracked? Attorney Upton: If we see someone who we think is a minor, we ask who the chaperone is. Mr. Mikami: How is that tracked? Attorney Upton: The captains keep track of it. Further the establishment requires an ID before serving alcoholic beverages to guests and they allow each guest to purchase only one alcoholic beverage at a time. It is the strictest possible policy. He feels it doubtful that any other establishment in Braintree has such a strict policy. Mr. Mikami: No other facility in the Plaza has gaming devices either and given the combination of gaming, alcohol and controversy he strongly suggests Dave & Buster's come up with a plan to identify chaperones and minors. He has visited other facilities and feels it is difficult to know who is in charge of whom, as people wander around. He suggests the possibility of bracelets [in order to identify minors] and is looking for Dave & Buster's to demonstrate sensitivity given the controversies that have swirled around this new concept coming into Braintree. This is the first implementation of the gaming ordinance and a first mixing alcohol, minors/chaperones and gaming together. He feels it is in the best interest of Dave & Buster's to propose and implement additional measures to enforce restrictions.

Mr. Eng asked if they have a track record on the **training [alcohol/minors]** throughout the country and how successful it is. Attorney Upton: It is very successful at their 57 other operations. It is uniformly successful, uniformly held as examples of compliance, and popular with businesses, parents and police and fire alike. The policy of Dave & Buster's and the effectiveness of the policy speak for themselves. Nationwide there are very few problems and little non-compliance. The police log for Providence shows that in eight years there have been very few violations. All are petty burglaries/alarms going off. Police calls in the "average city where they operate is minimal." Mr. Eng: He wants to give the community a level of comfort that the serve-safe system is successful throughout the country and wants Attorney Upton to say so. Attorney Upton: It is successful. Dave & Buster's also subscribes to the "bars program," a private sting operation where outside contractors who appear to be underage come in and try to buy alcohol. Dave & Buster's has passed stings in all locations on a weekly basis. On the rare occasion when a server does not pass, he/she is disciplined.

Mr. Eng noted that Dave & Buster's is proposing **170 games**, but earlier submissions indicated they would seek licenses for 150 games. Why are they now proposing 170? Attorney Upton said that Dave & Buster's had not earlier been prepared to give a detailed floor plan of all games. At first it was the feeling of the Games Department that they needed 150 individual games, 150 different types of games. The 170 figure comes because you need more than one of the popular

games. The second reason was that when the floor plan was redrawn, they lost space complying with various regulations and they need 170 games to meet their revenue expectations. Mr. Eng: How many games are in Providence? [178] and what is the average throughout the country?

*There was some confusion, with Attorney Upton mentioning he could guess, but did not have the figure. Braintree is a smaller footprint than other locations. Mr. Wood indicated that 170 is in the middle range. Some locations have 200+ games. Attorney Upton later stated that the average number of games throughout the country is 181.*

Mr. Eng asked about the **hours of operation** and the fact that past submissions stated that the closing time Monday through Thursday would be earlier than 1 A.M. This submission proposes hours of operation to be from 11 A.M. to 1 A.M. He asked a representative from the Plaza about their closing times. Rick Tonzi from Simon Properties stated that the retail operations shut down by 10 P.M. The Cheesecake Factory does stay open until 1 A.M. on Fridays and Saturdays and indicated that other establishments have various closing times [Fridays/Saturdays they probably are between 11 and 12 P.M.]. These hours are also affected by seasonal business [Christmas] because the mall stays open until 11 P.M. Mr. Eng: During week most close before midnight? [Yes] Mr. Eng asked if the applicant would consider closing at the same time as the rest of the mall or if they are set on staying open until 1 A.M. Attorney Upton: Internal review and discussions have led the applicant to propose closing at midnight Sunday through Thursday and 1 A.M. on Friday/Saturday. He apologized for the confusion stating that the Liquor License allows them to close at 1 A.M. They do want optimum flexibility on hours as they move forward to the Licensing Board for the gaming activity.

Regarding **signage** Mr. Eng asked for the square footage of the three large medallions. Mr. Vajda responded that each is 113 SF [339 SF in total]. Mr. Eng noted that the applicant is seeking double the allowable square footage [150 SF]. Mr. Vajda stated that their proposal was determined by the size of building and the setback from street.

**Mr. Reynolds** commented on this application, stating in his two tenures on the Board it is the most unusual application process he has been through. He wished to state for the benefit of all that the length of the hearing was due primarily to the new ordinance, both the time it took the Town Council to adopt the Ordinance and the need for the Planning Board to consider all the ramifications of this new type of establishment coming to Braintree. He acknowledged the need of the Board to be mindful of the community comments, while they needed to keep in mind that many of the topics raised were not in the Planning Board's jurisdiction [hours of operation, number of games, liquor license requirements]. This being the first time that such an establishment has been proposed in Braintree, it is important to educate the public so they may have confidence that all concerns have been fully aired. His main concern has been that the lines of communication remain open as the Board assists the community in becoming familiar with the Dave & Buster's operation. And, he expressed his appreciation for the indulgence of all.

Attorney Upton wished to emphasize that Dave & Buster's operates 57 other successful locations where millions of people come every month for food and entertainment. Dave and Buster's would not be successful unless they appealed to the community. They don't make money unless they have a safe, secure, positive, and friendly business, a good value for people. It has been working since 1982. It is in their financial interest to give value to customers.

Mr. Reynolds referred to the September 8, 2010 submission: He noted that the applicant has agreed to modify the hours proposed, but that the final decision would be the Licensing Board's. The number of games is the purview of the Licensing Board and the Board will not be voting on them. Regarding security, he feels it is a good plan and asked if Dave & Buster's worked on it with Town officials or if it were only a proposal Attorney Upton responded that it had been formulated as result of discussions with the Police Department and the Police union as well as neighbors and elected officials. It is also a product of the "best practices generated at other locations." Mr. Reynolds was pleased with the incorporation of mall security in the overall plan and with the future review process. *[He read from the September 8<sup>th</sup> submission.]*

Regarding the security proposal, Attorney Upton stated that the extensive security plans come at a significant additional cost, a "five-figure monthly cost" compared to other locations. One reason the applicant has been "pushing back" on the Winners' Circle and the gaming space is that they are starting with a much higher security cost than at other locations.

Mr. Reynolds stated that the interior layout is within the Board's jurisdiction and it is up to the applicant to settle the matter by responding to the questions raised by the other Board members. The policy of minors and alcohol is the jurisdiction of the Licensing Board.

**Mr. Harnais** wished the record to reflect that the Planning Board did not drag out the hearing time. Rather, the length of time it has taken to get to this point was a result of the Town Council process. It is his feeling that the awards room should not be considered retail because items are not for purchase. The awards room is a direct function of the gaming activity and the applicant simply cannot say it is not directly associated with the games. Mr. Wood provided an explanation on why they consider it separate from the gaming area.

Ms. Santucci stated that the Winners' Circle would not be there if there were no game room. She explained that the Planning Board was looking at the floor plans and information relative to the Winners' Circle not because they have jurisdiction over the 49%, but because they do have jurisdiction over people assembling in the facility. That is what the Special Permit is for. The 49% is governed by a separate ordinance. The Winners' Circle is a "direct product of the game room." In some other locations Dave & Buster's actually has the Winners' Circle in the middle of the game room.

Mr. Harnais summarized his responses to the project: He does not see the Winners' Circle as retail, but rather as part of the game room; he has no problem with signage; he feels the security would work well and has addressed the neighbors' concerns. It has been a long process and he thanked everyone for their participation and patience.

Attorney Upton asked if it were appropriate for the Planning Board to vote tonight and leave the decision on the 49% and the issue of the Winners' Circle to the Licensing Board.

Mr. Harnais indicated he wanted it addressed by the Board.

Mr. Mikami thanked the applicant for providing the average number of games per location and asked that they provide the average number of games for other locations of similar size [35,000 SF or less] and the average number of games in locations that have 10,000 to 12,000 SF of gaming space [including the Winners' Circle in other facilities]. He emphasized that he wants specifics. The issues may be out of the Board's jurisdiction, but he does not want to sign off on a floor plan which has been out of compliance from the beginning. When the Winner's Circle is included in the 49%, the facility is totally out of compliance and he does not see how the Board can approve plans for a Special Permit when the plans are out of compliance. Mr. Mikami proposed that the Planning Board forward to the Licensing Board a narrative of the controversial issues raised during the public hearing - i.e. the number of games, the square footage, the hours of operation, issues which the Planning Board has considered and discussed in the best interest of the community. He continued by adding that Attorney Upton had brought up the fact that Dave & Buster's likes to appeal to the community and asked that Dave & Buster's describe in a succinct way how will they be a good neighbor if they move to Braintree. Again, he is requesting specifics.

Attorney Upton responded that Dave & Buster's participates in community activities, donates to charities, underwrites charity events by providing meeting space and/or food and drink. [The Providence Police Department had their Christmas party at Dave & Buster's.] They donate [used] basketballs to children's programs and leftover items from the Winners' Circle to nursery schools and charities.

Mr. Mikami said it would be helpful for Dave & Buster's to provide a memo to the Town explicitly stating how they will be a good neighbor if they move to Braintree.

The Chair recognized William Devine, 59 Davis Road, who was concerned with Dave & Buster's exterior security, noting that it is the only restaurant at the Plaza that has a police detail. [The Chair later commented that the Braintree Police Department has a substation at the Plaza and that the extra security details have been proposed by Dave & Buster's in direct response to the concerns and requests of the neighbors. Mr. Reynolds also noted that Dave & Buster's is a different model than a pure restaurant use like The Cheesecake Factory or Legal Seafoods.] Extensive dialogue ensued between Mr. Devine and the Chair regarding the security plan,

whether the Planning Board has jurisdiction over the plan, where the plan would be filed and what recourse residents would have should there be incidents in the parking area. Mr. Devine specifically asked if the security plan would be filed at the Police Department and if there had been any alternate plan submitted to the Board which might provide for better security for the Town. Mr. Harnais said the Planning Board would take under consideration any alternative proposal that might be submitted, although to date no other had been received. Mr. Devine asked whether or not security was under the jurisdiction of the Planning Board. Mr. Harnais emphasized that the security plan was being worked out with the Town and that security fell under the jurisdiction of the Police Department. In response to the question of where the security plan could be viewed, the Chair indicated it was submitted in narrative form and would be made part of the Conditions of Approval.

Regarding lighting, the applicant's concerns were addressed by Ms. Santucci who indicated that there was to be no change in exterior lighting, the Plaza maintains the lighting fixtures, and that the illuminated signs will be shut off one hour after close of business. The Board has a plan of the locations of the exterior cameras and what areas will be visible.

Attorney Upton responded to Mr. Devine's question regarding whether or not the Town had access to what was recorded on the cameras by indicating that there are six cameras on the roof and Dave & Buster's has a policy of sharing any data requested with the Police Department and will cooperate 100% with the Police Department.

In response to the Chair's indication that he would entertain a motion, Mr. Reynolds wished it to be understood that continuing the hearing would be to allow the applicant time to submit further information on the one outstanding issue – whether or not the square footage of the Winners' Circle would be included in the 49% amusement percentage.

Mr. Mikami stated that it is essential that the issue of the Winners' Circle be resolved or it becomes clear how the Board moves forward. Regarding the contention of Dave & Buster's on this issue, he does not see their logic, the common sense of it. It is not in the spirit or letter of the law, nor does it demonstrate sensitivity to the community. Even if the Planning Board does not have jurisdiction over the gaming activity, it makes no sense to be working with [and approving] a plan which has been out of compliance from day one. He would not be in favor of approving such plan. There is much controversy surrounding this application and the Board has been looking for the applicant to demonstrate sensitivity to the community and to submit specific information in a timely fashion. The applicant seems to submit information only shortly before meetings and this does not allow for people, including the Planning Board, to review and comment. The Planning Board members are only as good as the information they receive. When the Board asks questions, it is up to the applicant and attorney to provide precise

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information and to be honest and sincere. The applicant must demonstrate to the Planning Board that this is a good project. He contrasted the Board's fine experience with the Simon group relative to the permitting for the mall expansion to accommodate Nordstrom with their experience with Dave & Buster's.

Mr. Eng asked that the applicant look at moving the Winners' Circle and the issue of the pinch point raised by Mr. Cushing earlier in the meeting. Attorney Upton responded that the nationally renowned architectural team would be "blackberried" instructions within the hour to work on this. They will respond to Mr. Mikami's concerns at a future meeting.

Motion by Mr. Mikami, second by Mr. Eng to continue October 4, 2010 at 7:00 P.M.  
Vote: 4/0

Respectfully submitted,

Linda Raiss