1. 7:00 P.M. Committee On Ordinance & Rules

Documents:

   19 JAN 16 ORDINANCE AND RULES AGENDA.PDF

1.I. 7:00 PM Committee On Ordinance & Rules

Documents:

   19 JAN 16 OR MTG.PDF
AGENDA
Wednesday, JANUARY 16, 2019
Starting Time – 7:00 p.m.

Cahill Auditorium, Town Hall

Pledge of Allegiance

Moment of Silence

Roll Call

Approval of Minutes
• May 9, 2018

New Business
• 18 062 Rezone: Braintree Property Associates LP or take up any action relative thereto
• 19 001 Town Clerk: Request to Amend General Ordinance Chapter 5.580 Taxicabs or take up any action relative thereto

Old Business
• 18 025 Mayor: Demolition Delay Ordinance or take up any action relative thereto

Adjournment
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Adjournment
A meeting of the Committee on Ordinance & Rules was held in the Johnson Chambers on Wednesday, May 9, 2018 beginning at 5:00pm.

Chairman Powers was in the Chair.
Clerk of the Council, Susan Cimino conducted the roll call.

Present: Sean Powers, Chairman
Charles Kokoros, Member
Timothy Carey, Member

Not Present: David Ringius, Jr, Vice- Chairman

Also Present: Joseph Reynolds, Chief of Staff
Ed Spellman, Finance Director
John Goldrosen, Town Solicitor
James Arsenault, DPW Director
Christine Stickney, Director Planning and Community Development
Elizabeth Mees, Historical Commission
Ronald Frazier, Historical Commission
Kate Nedelman Herbst, Historical Commission

There was a moment of silence for all those serving in our armed services, past and present, and the meeting was opened with the pledge of allegiance to the flag.

Approval of Minutes
• April 24, 2018

Motion: by Councilor Kokoros to approve minutes of April 24, 2018
Second: by Councilor Carey

Vote: For (3 - Powers, Kokoros, Carey), Against (0), Absent (1 - Ringius), Abstain (0)
New Business

• **18 025 Mayor: Demolition Delay Ordinance or take up any action relative thereto**

   Joseph Reynolds, Chief of Staff stated the Demolition Delay Ordinance is something the Town has been looking at for a number of years now. The driving force is the Historical Commission.

   Christine Stickney, Director Planning and Community Development stated this was prepared for the Historical Commission by the Town Solicitor’s office a couple of years ago. It allows for some time to take a look at the structure to determine if it is deemed to be historic in nature and if it is worthy of preservation, photography or to keep components of it. This would be for structures 75 years in age or older. There is a 6 month delay. When the applicant applies for the building permit there is a 6 month delay where they present their plans to the Historical Commission. The Historical Commission will make a decision whether or not it is historically significant to have a Public Hearing to move it forward or if they determine it is not significant they will tell the building inspector it can be raised.

   Councilor Kokoros stated 75 years is not that old. Is there any flexibility to increase the age of the buildings beyond 75 to 100 years? A 6 month delay is a pretty significant delay for someone to have to wait. It could put someone in financial hardship.

   Christine Stickney, Director Planning and Community Development stated the Historical Commission could get an answer to the applicant within 45 days if they deem a structure to not be of significance historically. The Historical Commission holds meetings every 30 days. They would be able to at least say it is not significant and it could move forward.

   Councilor Kokoros stated I know how government works and this could put someone in a tough bind as far as the time period. I would love us to identify all the structures deemed historical in value. I want to be cautious in this restriction in somebody’s property rights.

   Elizabeth Mees, Historical Commission stated this by-law would not determine what a property owner can and cannot do. It is merely a pause so we can have the time to document properties. We can discuss the 75 years. 75 years would be for structures constructed prior to 1943. Braintree is one of the oldest municipalities within Massachusetts. We have a beautiful stock of 18 century structures. It would be a shame to lose those. As it stands right now anyone can come in with the proper permit filing and can remove those structures. This is meant just to be a pause.

   Councilor Kokoros stated I can’t support 75 years. I would support 100 years.

   Councilor Powers stated he feels 100 years is too long and 50 years is too short a time. He stated 75 years seems like a good balance. He does not want to put any more burdens on homeowners. There are set and definitive timelines with this ordinance so it cannot be dragged on.

   Councilor Carey asked about the definition in determining a structure significant.

   Elizabeth Mees stated it would be due to its history, use and any certain people connected to a structure.

   Councilor Carey asked about Public Hearings and if it would be a substantial impact to the home/property owner.

   Christine Stickney stated the advertising cost and notification to abutters is probably a cost the applicant would occur.
Councilor Kokoros stated I certainly would not support putting the burden on notifying abutters on the individual owning the property. What happens if a property owner wants to demolish a home more than 75 years old that is deemed historic?

Christine Stickney stated the historical commission primarily wants to be able to document. They want to have the time to go into and document these structures.

Councilor Kokoros asked what if a person does not want them to come into their property. What do you do then?

Christine Stickney stated I would defer to the Town Solicitor if the Town implements this they are subject to it. I do not know what remedy comes if they don’t let you in their home.

Councilor Kokoros stated I think that would violate my rights as the property owner.

Elizabeth Mees stated the documentation would probably be someone from the Historical Commission. We would hopefully take some photos from the public way and work with the property owner. If it was their desire to demolish their building we would work with them. These conversations happen day in and day out. The intent is not to limit the use of the property or gain entry or violate privacy in anyway. It is to achieve a solution we are all comfortable with. It is considered an advantage to the town. It implies we respect our history.

Councilor Kokoros stated I have a problem with 6 months. It is just too long of a period of time.

Christine Stickney stated the longest it could go is 6 months but the shortest would be 30 days. The way it is written right now within 45 days you would be heard and it is determined whether your house is historically significant. Now let's talk about what will be done to document it. If you are not deemed significant you get a quick answer. If you are deemed significant you as the property owner and the historical commission have a discussion about what’s going to happen.

Councilor Powers asked how would 120 days be or 4 months to render a decision?

Elizabeth Mees stated we are all volunteers. We meet once a month. When something comes up it is advertised, then we meet and it is brought forth and could possibly be continued so that is really where the time comes in.

Councilor Powers stated Councilor Kokoros states 160 days is too long of a time. As a compromise how would 120 days be sufficient?

Christine Stickney stated that would be more realistic giving us the time to advertise.

Councilor Kokoros stated we also do not have clarification on who would pay for the advertising and to the process. We should be identifying properties age.

Councilor Powers asked is there any liabilities in identifying homes. Is there a way to compile a list of homes 1943 and older.

Kate Nedelman Herbst, Historical Commission stated trying to identify structures of significance could be a potential liability and financial impact trying to identify every building in the town.

Councilor Kokoros stated I would like an estimate on how many properties we are talking about. Just to know how many properties fit into the 75 year old plus category and the 100 year old category.

Joe Reynolds stated perhaps we choose not to take a vote this evening, if the committee agrees and we could step back and discuss points noted.
Councilor Powers stated this would be an effort to table this to a future meeting.

Councilor Carey stated I would like clarification on what is the full responsibility of the property owner.

Councilor Kokoros stated “Motion to Table Order 18 025 to a future meeting”

**Motion:** by Councilor Kokoros to Table Order 18 025 to a future meeting  
**Second:** by Councilor Carey  
**Vote:** For (3 - Powers, Kokoros, Carey), Against (0), Absent (1 - Ringius), Abstain (0)

• **18 026 Mayor: FY2019 Operating Budget or take up any action relative thereto (Storm Water Ordinance)**

James Arsenault, DPW Director stated the federal mandates separation with drainage with sewerage and the next phase of the EPA requirements is now looking at the drainage system. This is to make sure the drainage is functioning properly and there is no impairment to streams and rivers. This is all being driven from EPA requirements. Stormwater is rain or snow that drains to the nearest water system without any treatment and pollutes the natural habitats. The old approach was general maintenance and cleaning and minimal treatment. The new possible water treatments are bio-treatment areas. The new approach improves public health and safety and meets all the requirements of the clean water act 2016 MS4 – Stormwater program. We achieve this new approach by creating and implementing a Stormwater Master Plan. Environmental regulations are changing. There are stricter requirements and fines for not complying with EPA Stormwater Program. In 2016 EPA and MassDEP co-signed the final permit in April 2016 and it will become effective July 1, 2018. To become authorized to discharge stormwater, a Notice of Intent (NOI) must be submitted before September 29, 2018. The list of impaired waters in Braintree include: Cochato River, Monatiquot River, Town Brook and Weymouth Fore River. The proposed Stormwater Utility Fee is for single family and up to 3 family properties year 1 is $6.25 per quarter or $25 per year on the Water/Sewer bill. 4 plus family, commercial, industrial & tax exempt pay the same but per ERU (equivalent residential unit) which is multiplied per 2,780 SF of impervious surface on the parcel. We do have some latitude if there is undue hardship. We can look at that and make a decision if that is justified.

Councilor Powers stated this is an example of an unfunded federal mandate that forces us to impose these fees on our residents.  
Councilor Kokoros stated I do not like to impose a fee of any kind but because the respect for you and your team and all the expertise and that you all put us in a good position so we do not have to pay any fines with this new mandate. Thank you to all your staff members explaining this thoroughly.
Councilor Kokoros read the following motions for favorable recommendation to the full Council:

MOTION: That the Town Council vote to amend Title 3 of the Town's General Ordinances, by adding "Chapter 3.13: Stormwater Enterprise Fee", as filed with the Office of the Town Clerk.

**Motion:** by Councilor Kokoros

**Second:** by Councilor Carey

**Vote:** For (3 - Powers, Kokoros, Carey), Against (0), Absent (1 - Ringius), Abstain (0)

MOTION: That the Town Council vote to amend Title 13 of the Town's General Ordinances, by adding "Chapter 13.14: Stormwater Management", as filed with the Office of the Town Clerk.

**Motion:** by Councilor Kokoros

**Second:** by Councilor Carey

**Vote:** For (3 - Powers, Kokoros, Carey), Against (0), Absent (1 - Ringius), Abstain (0)

**Old Business**

• None

It was unanimously voted to adjourn the meeting at 6:43 p.m.

Respectfully submitted,
Susan M. Cimino
Clerk of the Council

**Documents provided for Meeting**

• 18 025 Mayor: Demolition Delay Ordinance or take up any action relative thereto
• 18 026 Mayor: FY2019 Operating Budget or take up any action relative thereto
  (Storm Water Ordinance)
Department of Municipal Licenses and Inspections
Mary E. McGrath, R.S., Director
1 JFK Memorial Drive – Braintree, Massachusetts 02184

Building Division Telephone: 781-794-8070  Fax: 781-794-8022
Health Division Telephone: 781-794-8090  Fax: 781-794-8098

Joseph C. Sullivan
Mayor

**DEMO DELAY Time Table**

Please note all “days” are calendar days

**Day 1** – Applicant files for demolition permit.

**Day 10** – Notice is sent to Commission of receipt of application by Inspector of Buildings.

**Day 45** – Notice is sent to Applicant of “Initial Meeting” by Commission.

**Day 52** – Commission makes Initial Determination nearly **eight** weeks after initial application
- Negative – Permit issues
- Positive – Public Hearing is scheduled.

**Day 107** – Public hearing by Commission is conducted with Applicant.

**Day 122** – Notice of decision by Commission is sent to Applicant.
- Negative – Permit issues, **seventeen plus weeks** after initial application
- Positive – Demolition delay is imposed.

**Day 305** – Expiration of demolition delay allowing for demolition permit to be issued, **forty-three plus weeks**
- after initial application

**Proposed Changes to ordinance:**
- Change “Demolition definition so that only demolition of greater than 50% of the buildings which qualify under this ordinance would be effected.
- Change “Significant Building” to cover buildings 100 years or more in age.
- Change all time tables to calendar days from business days. Saves applicant 19 days!
- Change period of demolition delay to a maximum of 90 days and allow the Commission flexibility of imposing 30 and 60 periods of delay as well.

**Rational for changes:**
- Allowing for an optional **30** and **60** day periods of demolition delay as well as making all time periods calendar days would save an applicant between **112 – 172** Days!
- Right now with **75 years** being the dividing line, **36%** of buildings within the Town would be affected, in five years **39%** and in ten years **46%**. Changing to **100 years** reduces initial percentage to **15%**, five years **19%** and ten years **24%** reducing the potential impact to residents.
- Over the past five years an average of **84** projects involved additions requiring partial demolition of a structure which under the definition of “Demolition” could potentially require such projects to go through the Demolition Delay process. Using the **75 year** threshold and applying the percentages of qualifying buildings to this statistic it means the Commission would be hearing **30** projects annually initially, **33** projects annually in five years and **39** projects annually in ten years. Changing to a **100 year** threshold would reduce such project numbers to **12** annually initially, **16** annually in five years and **20** annually in
ten years which would make it more manageable for the Commission to handle in terms of review, advertisement and hearing schedule given that it is staffed by volunteers.
Office of the Mayor  
One JFK Memorial Drive  
Braintree, Massachusetts 02184

Joseph C. Sullivan  
Mayor

To: Charles Ryan, President of the Council  
Susan Cimino, Clerk of the Council  
James Casey, Town Clerk

From: Joseph C. Sullivan, Mayor

Cc: Joseph H. Reynolds, Chief of Staff and Director of Operations  
Christine Stickney, Director of Planning and Community Development

Date: April 24, 2018

Re: Demolition Delay Ordinance

As you know, the Town of Braintree recently celebrated the 375th birthday of incorporation in the year 1640. Braintree has a unique and rich history marked by individual accomplishments and historical events which are well-known in the Commonwealth and across the nation. These individuals and events comprise the historical fabric of our community and are recorded in numerous documents, books and historical markers, preserved for the benefit of all citizens.

I am writing today in an effort to highlight another critical component of our historical record. It is important to identify the many structures within our Town of Braintree that uniquely support our history. These buildings have cultural, architectural, political or historical significance and should, whenever possible, be preserved for the benefit of our residents. In that spirit I ask that you favorably consider a new ordinance, a demolition delay ordinance, that will help us identify and preserve these important buildings.

This ordinance provides a mechanism, not to permanently prevent demolition, but rather to provide an opportunity to identify and develop preservation solutions. Accordingly, your review and approval of the following motion is requested.

MOTION: That the Town of Braintree adopt the provisions and procedures of the Demolition Delay Ordinance, as filed with the Office of the Town Clerk and attached hereto, for the purpose of encouraging and facilitating the preservation and protection of significant buildings within the Town of Braintree which are located outside designated Historic Districts.
Town Council Motion to Amend the General Ordinances, by Enacting
“Chapter 5.700: Demolition Delay”

MOTION: That the Town Council vote to amend Title 5 of the Town’s General Ordinances, by adding “Chapter 5.700: Demolition Delay”, to read as follows:

CHAPTER 5.700. Demolition Delay

5.700.010. Intent and Purpose

A. The Demolition Delay Ordinance is enacted for the purpose of encouraging and facilitating the preservation and protection of significant buildings within the Town of Braintree which are located outside designated Historic Districts. Such buildings reflect distinctive features of the architectural, cultural, economic, political, or social history of the Town, and their preservation promotes the public welfare by making the Town a more attractive and desirable place to live and work.

B. The intent of the Ordinance is not to permanently prevent demolition, but rather to provide an opportunity to develop preservation solutions for significant buildings threatened with demolition. The Ordinance is intended to encourage owners and townspeople to seek out persons who might be willing to purchase, preserve, rehabilitate or restore such buildings rather than demolish them, and to limit the detrimental effect of demolition on the historical architectural resources of the Town. To achieve these purposes, the Braintree Historical Commission (the “Commission”) is empowered to advise the Inspector of Buildings with respect to the issuance of permits for demolition of significant buildings, and, where appropriate and consistent with the intent and purpose of this ordinance, to allow demolition under conditions designed to minimize the loss of distinctive features of significant buildings.

5.700.020. Definitions

For the purposes of this Ordinance only, the following words and phrases shall have the following meanings, whether or not capitalized:

APPLICANT - the person or persons filing an application for review under this Ordinance.

APPLICATION - An application for review under this Ordinance filed pursuant to this Ordinance.

BUILDING - Any combination of materials forming a shelter for persons, animals, or property.

BUSINESS DAY- Any day which is not a legal municipal holiday, Saturday or Sunday.
COMMISSION - The Braintree Historical Commission.

DEMOLITION - Any act of pulling down, destroying, removing, razing or moving a building or any portion thereof, or commencing such work with the intent of completing the same;

PREFERABLY PRESERVED - A Significant Building which, after a public hearing, the Commission determines that demolition of such building would be detrimental to the historical or architectural heritage or resources of the Town.

SIGNIFICANT BUILDING - Any building or portion thereof which in whole or in part is more than 75 years old, or is of unknown age, and which meets one or more of the following two criteria:

(1) the building is listed on, or is within an area listed on, the National Register of Historic Places, or is the subject of a pending application for listing on said National Register; or

(2) the building is determined by vote of the Commission to be of historical or architectural significance by reason of period, style, method or building construction, or by reason of its association with a particular architect, or a builder, or with a person or event of importance to the Town’s history.

5.700.030. Procedure

A. No demolition of a building, or any portion of a building, which is at least 75 years old, or which is of an indeterminate age, shall be permitted except in conformity with the provisions of this ordinance. This Ordinance shall not apply to any building located in a designated Historic District created pursuant to General Laws c. 40C or any special act of the legislature, or to any property certified as a landmark pursuant to G.L. c. 40, s. 8D.

B. Upon receipt of an application for a demolition permit for any building, or portion thereof, which is at least 75 years old, or which is of indeterminate age, the Inspector of Buildings shall forward a copy thereof to the Commission within seven business days, and shall notify the Applicant in writing of this action. No demolition permit shall be issued at that time.

C. Within 45 business days of its receipt of a copy of an application for a demolition permit, the Commission shall make an Initial Determination as to the significance of the subject building. The Commission shall arrange for photographs to be taken of the subject building and collect other documentation related to the subject building as it deems necessary for the Commission to make its Initial Determination. The Initial Determination shall be positive if the building, or a portion thereof, meets the definition of a “Significant Building.” Otherwise, the Initial Determination shall be in the negative. The Commission shall notify the Applicant of the meeting at which it intends to make its Initial Determination at least seven days in advance of said meeting, and the Applicant shall be given an opportunity to make a presentation to the Commission at said meeting.
D. The Commission shall notify the Building Inspector and the applicant in writing within 10 business days of its Initial Determination. If the Initial Determination is in the negative, or if the Commission fails to notify the Building Inspector of its Initial Determination within the said 10 business days, the Building Inspector may, subject to the requirements of the State Building Code and any other applicable law, ordinances, rules and regulations, issue a demolition permit.

E. If the Commission’s Initial Determination is positive, the Commission shall, within 45 days of its Determination, conduct a public hearing to determine whether the Significant Building is Preferably Preserved. The Commission shall give public notice of said hearing by publishing notice of the time, place, and purpose of the hearing in a newspaper of general circulation in the Town twice, the first notice to be published at least 14 days before the hearing and the second notice no more than 7 days before the hearing, and by mailing a copy of said notice to the applicant, to the owner of the premises on which the Significant Building is located (if other than the applicant), to the owners of all property within 300 feet of the premises on which the Significant Building is located as appearing on the most recent tax list, and to such other persons as the Commission shall deem entitled to notice. The Applicant is encouraged to provide any information to the Commission that he or she believes will assist the Commission in reaching its decision. The conduct of the public hearing shall be in accordance with duly adopted ordinances or regulations adopted by the Commission.

F. If, after a public hearing, the Commission determines that demolition of the Significant Building would not be detrimental to the historical or architectural heritage or resources of the Town, the Commission shall so notify the applicant, the owner (if other than the applicant), and the Inspector of Buildings, in writing within 10 business days of such determination. Upon receipt of such notice, or upon the expiration of 10 business days from the date of the close of the Commission’s public hearing without having received any notification from the Commission, the Building Inspector may, subject to the requirements of the State Building Code and any other applicable laws, ordinances, rules and regulations, issue a demolition permit for the subject building.

G. If, after the public hearing, the Commission determines that demolition of the Significant Building would be detrimental to the historical or architectural heritage or resources of the Town, such building shall be considered to be Preferably Preserved and the Commission shall so advise the applicant, the owner (if other than the applicant), and the Inspector of Buildings, in writing, within 10 business days, and no demolition permit shall be issued until six months after the date of such determination by the Commission. In making its determination, the Commission shall consider, among other relevant factors: (a) the building’s condition; (b) whether the building is one of the last remaining examples of its kind in the neighborhood, the town, or the region; and (c) the building’s historic, architectural, and urban design significance.

H. In the event the Commission imposes a demolition delay pursuant to this Ordinance, the Commission shall invite the Applicant (or owner of record, if different) to participate in an investigation of alternatives to demolition of the building. The Commission may also invite any other party to participate in such investigation, on an advisory basis, that it believes can be helpful. The investigation shall consider possibilities such as: the incorporation of the building into future development on the site; adaptive re-use of the building; financial incentives for
rehabilitation; removal of the building to another site; and, with the owner’s consent, a search for a party willing to purchase and preserve, restore, or rehabilitate the building. During the six month delay period, the Commission shall notify the Massachusetts Historical Commission, the Mayor, the Director of Planning and Community Development, the Community Preservation Committee and any other interested party in an effort to obtain assistance in obtaining preservation funding or in finding an adaptive use of the building which will result in its preservation.

I. Upon expiration of any demolition delay period required by this Ordinance, the Inspector of Buildings may issue a demolition permit to the Applicant, subject to the requirements of the State Building Code and any other laws, ordinances, and regulations. Notwithstanding the Commission’s imposition of a demolition delay, the Commission may issue a determination prior to the termination of the six month delay period that it is satisfied that no feasible alternative to demolition exists, thus authorizing the Inspector of Buildings to issue a demolition permit to the Applicant, subject to any other laws, ordinances, and regulations.

J. Notwithstanding the preceding paragraphs, the Inspector of Buildings may issue a demolition permit for a Preferably Preserved building at any time after receipt of written advice from the Commission to the effect that:

(1) notwithstanding the fact that a significant building is Preferably Preserved, the Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate or restore such building; or

(2) the six month demolition delay period has terminated; or

(3) the Commission has determined that the proposed moving or demolition may be conducted in a specified manner so as not to be detrimental to the historical or architectural heritage or resources of the Town.

K. The requirements of this Ordinance are in addition to, and not in lieu of, the requirements of any other codes, ordinances, statutes, or regulations related to the demolition of buildings.

L. Any determination issued pursuant to this Ordinance shall be in writing and shall specify the reasons for such determination. In the event a demolition delay is imposed, the written determination shall specify the date on which such delay period shall terminate.

5.700.040. Responsibilities of the Owner

Once a Significant Building is determined to be Preferably Preserved, the owner shall be responsible for properly securing the building, if vacant, to the satisfaction of the Inspector of Buildings. Should the owner fail to so secure the building, a subsequent destruction of the building at any time during the 6 month demolition delay period, which destruction could have been prevented by the required security measures, shall be considered a voluntary demolition in violation of this Ordinance.
5.700.050. Emergency Demolitions

A. Notwithstanding the foregoing provisions, the Inspector of Buildings may issue a demolition permit at any time in the event of imminent and substantial danger to the health or safety of the public due to deteriorating conditions. Prior to doing so, the Inspector of Buildings shall inspect the building and document, in writing, the findings and reasons requiring an emergency demolition, a copy of which shall be forwarded immediately to the Commission. Before allowing emergency demolition, the Inspector of Buildings shall make every effort to inform the Chairperson of the Commission of his intention to allow demolition before he issues a permit for emergency demolition.

B. Nothing in this Ordinance shall restrict the authority of the Inspector of Buildings to require the Applicant to take reasonable action to prevent the need for required demolition of a significant building, which may include securing the building and making it safe so that it does not present an imminent and substantial danger to the public.

C. No provision of this ordinance is intended to conflict with or abridge any obligations or rights conferred by G.L.c.143 regarding removal or demolition of dangerous or abandoned structures. In the event of a conflict, the applicable provisions of Chapter 143 shall control.

D. Nothing in this ordinance shall be deemed to conflict with the provisions of the Historic Districts Act, Massachusetts General Laws, Chapter 40C, with respect to requirements of notice, hearing and issuance by the Commission of a Certificate of Appropriateness, a Certificate of Non-applicability or a Certificate of Hardship prior to demolition of any building in an historic district.

5.700.060. Enforcement and Remedies

A. If the Commission determines that a significant building has been voluntarily demolished in violation of this Ordinance, the Building Commissioner shall not issue any building permit for new construction, or any use or occupancy permit for any use other than a park or recreational space, with respect to the premises for a period of two years after the date of the Commission’s determination. As used herein, “premises” includes the parcel of land upon which the demolished building was located, and all abutting parcels under common ownership or control.

B. Notwithstanding the foregoing, whenever the Commission shall, on its own initiative, or on application of the landowner, determine that earlier reconstruction, restoration or other remediation of any demolition in violation of this Ordinance better serves the intent and purpose of this Ordinance, it may, prior to the expiration of said period of two years, but no sooner than six months from the date of completion of any demolition in violation of this Ordinance, authorize the Inspector of Buildings to issue a building permit upon such conditions as the Commission deems necessary or appropriate to effectuate the purposes of this Ordinance.

5.700.070. Regulations and Fees

A. The Commission may promulgate regulations to administer the provisions of this Ordinance
B. The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this Ordinance (including the costs of publishing and mailing hearing notices).

5.700.080. Severability

If any section, paragraph or part of this Ordinance for any reason declared invalid or unconstitutional by any court, every other section, paragraph and part shall continue in full force and effect.
Form of Motion for Town Council approval of Braintree Property Associates (South Shore Plaza) Rezoning Request (Order #18-062):

MOTION:

That the Town Council vote, at the request of the property owner, Braintree Property Associates Limited Partnership, to amend the Zoning Map of the Town of Braintree, by rezoning from Residence B District to Highway Business District that portion of Assessors Parcel 2089-0-22 not already zoned as Highway Business District, including the private portion of Lakeside Drive, Silver Road and Bonnieview Road unzoned or not already zoned Highway Business District, and Assessors Parcels 2039-0-56 (off Silver Road), 2039-0-6 (131 Lakeside Drive), and 2039-0-7 (135 Lakeside Drive). The parcels to be rezoned are shown on a plan entitled, “Rezoning Plan Lakeside Drive, Braintree, Mass.,” prepared by Feldman Land Surveyors, dated October 15, 2018 and on file with the Town Clerk. The acreage to be rezoned totals 189,176 square feet or 4.343 acres. The rezoning request has been recommended favorably by the Planning Board, as detailed in its report to the Town Council dated ____________, 2019.
November 23, 2018

Charles B. Ryan, President
Braintree Town Council
c/o Office of the Town Council
Braintree Town Hall
1 JFK Memorial Drive
Braintree, MA 02184

Re:  Petition to Rezone Land

Assessors
Reference:  135 Lakeside Drive, 2039 0 7; 131 Lakeside Drive, 2039 0 6; and
            Silver Road, 2039 0 56

            Portion of 250 Granite Street, 2089 0 22; private portion of Lakeside Drive—being Lot 201 on Land Court Plan 10219-Q

            Silver Road and Bonnieview Road

Petitioner:  Braintree Property Associates Limited Partnership
c/o Richard C. Tonzi, Simon Property Group

Dear Mr. President:

Please find enclosed a petition to rezone land from Residence B to Highway Business District, submitted in accordance with the procedure for rezoning applications promulgated by the Town Council, as follows:


2. Three copies of each plan that further identify the land area to be rezoned, as follows:

   • Plan entitled, “Rezoning Plan Lakeside Drive, Braintree, Mass.” prepared by Feldman Land Surveyors, dated October 15, 2018; and

3. Legal Description for the property to be rezoned.

4. Three copies of a written narrative that identifies the proposed zoning classification change, addressing:
   a) Existing zone classification;
   b) Reason for the proposed zoning change; and
   c) Public benefits to the general area and community.

5. Certified List of Abutters within three hundred (300) feet of the "property proposed to be rezoned" in accordance with Article XV Zoning Amendments – Braintree Zoning Ordinance §135-1501 Amendments.
   - Copy of GIS Plan showing 300 feet from property to be rezoned.

6. Two sets of self-addressed envelopes to abutters, Planning Board’s of adjacent Communities, Massachusetts Department of Housing and Community Development (DHCD) and Metropolitan Area Planning Council.

7. The application is submitted by the property owner to be affected by the proposed change in zoning classification.

We hope that you will find the application to be complete and sufficiently detailed to process the Council Order in accordance with the General Laws and Town Zoning Amendment provisions.

Submitted this 23rd day of November, 2018.

Carl R. Johnson III, Attorney
for Braintree Property Associates Limited Partnership
**ORDER #: 18-062**

**Town of Braintree: Application for Rezoning – Worksheet**

<table>
<thead>
<tr>
<th>SECTION TO BE COMPLETED BY PETITIONER</th>
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<tbody>
<tr>
<td><strong>Petitioner</strong></td>
</tr>
<tr>
<td>Name: Braintree Property Associates Limited Partnership</td>
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<tr>
<td>Address: 250 Granite Street, Braintree, MA 02184</td>
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<tr>
<td>Phone: 781-843-8201</td>
</tr>
<tr>
<td>Email: <a href="mailto:rtonzi@simon.com">rtonzi@simon.com</a></td>
</tr>
<tr>
<td>(Richard C. Tonzi, General Manager, South Shore Plaza, Simon Property Group)</td>
</tr>
</tbody>
</table>

| **Contact/Billing Information**        |
| Name: Carl R. Johnson III, Esq.       |
| Address: 45 Braintree Hill Office Park, Ste. 200 Braintree, MA 02184 |
| Phone: 781-843-0800                    |
| Email: cjohnson@crj-law.com           |

*Petition Submitted By:*

Richard C. Tonzi

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* M.G.L. Chapter 40A Section 5/Attorney General's Handbook: Petitioner who can initiate submissions for adoption and or changes to the zoning bylaws include City/Town Council, board of Appeals, Planning board, Property Owner (not a tenant or lessee), 10 registered voters, Regional Planning Agency, Municipal Charter/Enabling Legislation.

**Date Received**

**Date & Time Stamp**
Charles B. Ryan, President
Braintree Town Council
c/o Office of the Town Council
Braintree Town Hall
1 JFK Memorial Drive
Braintree, MA 02184

Re: Petition to Change Zoning Classification from Residential B to Highway Business District

Record Owner: Braintree Property Associates Limited Partnership

Property Subject
to the Rezone: 135 Lakeside Drive, Assessor’s Parcel 2039 0 7
131 Lakeside Drive, Assessor’s Parcel 2039 0 6
Portion of 250 Granite Street, Assessor’s Parcel 2089 0 22
Private Portion of Lakeside Drive, Lot 201 on Land Court Plan 10219-Q
Fee in Silver Road and Bonnieview Road

LETTER OF AUTHORIZATION

The undersigned, Braintree Property Associates, Limited Partnership, by its General Partner, CPI-Braintree Corporation, with its principal office at 225 W. Washington Street, Indianapolis, Indiana 46204, hereinafter “Braintree Property Associates”; hereby authorizes Richard C. Tonzi of Simon Property Group, Inc. to sign the petition to change the zoning classification for the above-described property and to act as our authorized agent on behalf of Braintree Property Associates, the record property owner with respect to any and all applications, petitions or documents, without exception, in connection with the petition to rezone the above-described property.
BRAINTREE PROPERTY ASSOCIATES, LIMITED PARTNERSHIP

225 West Washington Street | Indianapolis, Indiana 46204

BRAINTREE PROPERTY ASSOCIATES, LIMITED PARTNERSHIP, a Massachusetts limited partnership

By: CPI-BRAINTREE CORPORATION, a Delaware corporation, its general partner

By: 

Name: Steven E. Fivel
Title: General Counsel & Secretary
Introduction

This petition is submitted by Braintree Property Associates Limited Partnership ("BPA") the owner of the South Shore Plaza ("Plaza") located at 250 Granite Street being Braintree Assessor’s Parcel 2089-0-22 and contains 111.654 acres of land. BPA also owns the un-zoned private portion of Lakeside Drive, Silver Road and Bonnieview Road, and residentially zoned Assessor’s Parcels 2039-0-56 (off Silver Road), 2039-0-6 (131 Lakeside Drive) and 2039-0-7 (135 Lakeside Drive) containing a total of 1.78 acres. The total land area owned by BPA is 113.425 acres. The land area subject to the requested change in zoning classification from un-zoned and Residence B to Highway Business District amounts to 4.348 acres or roughly 3.8% of the total land area owned.

The property subject to the rezone petition is shown on the following plans and map to clarify the land area subject to the rezone as follows:

- Plan entitled, “Rezoning Plan Lakeside Drive, Braintree, Mass.”, dated October 15, 2018, prepared by Feldman Land Surveyors (“Rezoning Plan”) (Exhibit Plan 1);
- Plan entitled, “Overall Site Plan, South Shore Plaza, Braintree, MA “ dated November 14, 2018, prepared by RJO’Connell & Associates, Inc. (“OS-1 Plan”) (Exhibit Plan 2);
- Copy of Land Court Plan 10219Q, Sheet 3, Noted on Certificate of Title No. 64123, in Land Court Registration Book 321, Page 123 (“LCP 10219Q”) (Exhibit Plan 3).

Plans and maps are collectively referred to as “Exhibit Plans”.

AMENDED
WRITTEN NARRATIVE
Council Order #18-062
I. EXISTING ZONING CLASSIFICATION

Existing Zoning Classification of the 4.343 acres consists of 1.24 acres of un-zoned private roadway layouts (Silver Road, Bonnieview Road and the private portion of Lakeside Drive) and 3.103 acres of Residence B zoned land (131 and 135 Lakeside Drive plus vacant wooded lots).

The vacant wooded lots comprise 2.563 acres of land although zoned Residence B was commonly owned prior to the 1993 text amendment to Bylaw Section 135-701 Dimensional and Density Requirements, Note (9), and has been used for lot coverage, building coverage and open space calculations as part of the 111.645 acres that comprise the Plaza. As a result, the Plaza has paid real estate taxes on the 2.563 acres as HBD property at the commercial tax rate; the 2.563 acres comprises 60% of the land area petitioned to be rezoned.

II. WHY IS THE REZONE SOUGHT

1. Provide uniformity of zoning for the entire 113.425 acres owned by the petitioner consistent with the Highway Business District zoning for the property at 250 Granite Street used as a Regional Shopping Mall, and to enable the entire property owned by the petitioner to be utilized for dimensional and density calculations.

2. The majority (60%) of the land area subject to the requested reclassification is already taxed and utilized as Highway Business District land as part of the Plaza.

3. The adjoining land area is used for Highway Business. Residential zoning is no longer a suitable or desirable use of the property. The residential zoned land is not adjacent to any other residential zoned land and the South Shore Plaza should be uniformly zoned.

4. The rezone will allow for conformity with established use of the site as provided in the Zoning Ordinance Table of Uses.

III. PUBLIC BENEFITS TO THE GENERAL AREA AND THE COMMUNITY

1. Principal public benefit is increased taxable land area at the commercial tax rate. The 1.78 acres of land not already taxed at the commercial rate (un-zoned roadway layouts and remaining Residence B property) will increase tax dollars paid by roughly $30,000.00 annually.

2. The area subject to the rezone is a small piece of the 113.425 acres owned by BPA; the rezone, however, will permit future development opportunities on the entire property
that is suitable, complementary and vital to the economic future and social vitality of the South Shore Plaza with direct economic and social benefits to the Town of Braintree and South Shore region.
AMENDED

Zoning Boundary Description

A certain parcel of land situated in the Town of Braintree, Norfolk County, Commonwealth of Massachusetts, bounded and described as follows:

Beginning at a point at the southwesterly corner of the parcel, said point being the end of Lakeside Drive at the southerly sideline;

Thence running N 46°11'42" E a distance of 40.00 feet to a point;
Thence turning and running N 48°19'44" E a distance of 123.86 feet to a point;
Thence turning and running S 37°37'48" E a distance of 126.21 feet to a point;
Thence turning and running N 86°02'12" E a distance of 39.85 feet to a point;
Thence turning and running N 03°57'48" W a distance of 120.29 feet to a point
Thence turning and running S 86°02'12" W a distance of 120.00 feet to a point;
Thence turning and running N 03°57'48" W a distance of 40.00 feet to a point
Thence turning and running N 86°02'12" E a distance of 280.00 feet to a point;
Thence turning and running S 03°57'48" E a distance of 20.00 feet to a point;
Thence turning and running N 86°02'12" E a distance of 140.00 feet to a point;
Thence turning and running S 03°57'48" E a distance of 10.00 feet to a point;
Thence turning and running N 86°02'12" E a distance of 140.00 feet to a point;
Thence turning and running S 03°57'48" E a distance of 275.00 feet to a point at the southerly sideline of Lakeside Drive, the previous thirteen courses by land now or formerly of Braintree Property Associates LP;
Thence turning and running S 73°02'12" W a distance of 285.58 feet to a point;
Thence turning and running S 84°19'12" W a distance of 105.10 feet to a point;
Thence turning and running N 78°06'18" W a distance of 103.20 feet to a point;
Thence turning and running N 53°41'48" W a distance of 176.25 feet to a point;
Thence turning and running N 43°48'18" W a distance of 95.91 feet to the point of beginning, the previous five courses by the southerly sideline of Lakeside Drive a 40-foot-wide private way.

The above described land encompasses the entirety of Silver Road and Bonnieview Road, both 40-foot-wide private ways, and contains an area of 189,176 Square Feet, 4.343 Acres more or less.
Office of the Board of Assessors
One JFK Memorial Drive
Braintree, Massachusetts 02184
Telephone: (781) 794-8050 • Fax: (781) 794-8068

DATE: October 31, 2018

OWNER: Braintree Property Associates

ADDRESS: 131 Lakeside Drive, 135 Lakeside Drive, off Silver Road and a portion of 250 Granite Street

MAP & LOT: 2039 0 6, 2039 0 7, 2039 0 56 and 2089 0 22

This is to certify that at the time of submission of this form to the Board of Assessors, the names and addresses of the parties assessed as adjoining owners to the parcel of land shown and described are as written and are the parties according to the records of the Assessors.

Office of the Board of Assessors

Robert M Cusack
Chairman
SSP 131 LAKESIDE, LLC, a Delaware limited liability company, registered to do business in the Commonwealth of Massachusetts, with its principal offices at 225 West Washington Street, Indianapolis, Indiana 46204 (Grantor) in consideration of One Hundred and 00/100 Dollars ($100.00) grants to BRAINTREE PROPERTY ASSOCIATES, LIMITED PARTNERSHIP, a Massachusetts limited partnership, with its principal offices at 225 West Washington Street, Indianapolis, Indiana 46204 (Grantee),

with Quitclaim Covenants

Those two parcels of land situated in Braintree, County of Norfolk in the Commonwealth of Massachusetts, described as follows:

Parcel 1: (Silver Road)

Lot 55 on Land Court Plan No. 10219B filed with Certificate No. 9703, Sheet 1, Book 49.

The above described land is subject to easements referred to in Certificate No. 10301 so far as now in force and applicable.

The above described land is subject also to the restrictions set forth in Document No. 51687, expiring on October 17, 1983.


Premises Address: Silver Road, Braintree, Massachusetts

Parcel 2: (131 Lakeside Drive)

Lots 4 and 5 on Land Court Plan No. 10219B filed with Certificate No. 9703, Sheet 1, Book 49.

The above described land is subject to the easement referred to in Certificate No. 10301, so far as now in force and applicable.

For title see Document No. 1,374,824 filed with Certificate No. 195317.

Premises Address: 131 Lakeside Drive, Braintree, Massachusetts
IN WITNESS WHEREOF, the Grantor has caused these presents to be duly signed and executed this 20th day of November, 2018.

GRANTOR

SSP 131 LAKESIDE, LLC, a Delaware limited liability company

By: ____________________________
Name: Steven E. Fivel
Its: General Counsel & Secretary

STATE OF INDIANA 
COUNTY OF MARION

Before me, a Notary Public in and for said County and State, appeared Steven E. Fivel, to me personally known as the General Counsel of SSP 131 LAKESIDE, LLC, a Delaware limited liability company, who acknowledged his execution of the foregoing instrument, and acknowledged to me that (he)/(she) signed it voluntarily for its stated purpose.

IN WITNESS my hand and Notarial seal this 20th day of November, 2018.

Notary Public

[Signature]
Tabitha S. Calhoun
Commission Exp.: 5/30/2025
SSP 135 LAKESIDE, LLC, a Delaware limited liability company, registered to do business in the Commonwealth of Massachusetts, with its principal offices at 225 West Washington Street, Indianapolis, Indiana 46204 (Grantor) in consideration of One Hundred and 00/100 Dollars ($100.00) grants to BRAIN TREE PROPERTY ASSOCIATES, LIMITED PARTNERSHIP, a Massachusetts limited partnership, with its principal offices at 225 West Washington Street, Indianapolis, Indiana 46204 (Grantee),

with Quitclaim Covenants

A certain parcel of land with buildings thereon, situated in Braintree, Norfolk County, Massachusetts, known as and numbered 135 Lakeside Drive, described as follows:

Lots 6 and 7 on Land Court Plan 10219B filed with Certificate No. 9703, Sheet 1, Book 49.

The above described land is subject to easements as set forth in a deed given by Thomas Forsyth to Michael Meade, dated May 31, 1873, duly recorded in Book 441, Page 149, so far as now in force and applicable.

For title see Document No. 1,369,376 filed with Certificate No. 194798

Premises Address: 135 Lakeside Drive, Braintree, Massachusetts
IN WITNESS WHEREOF, the Grantor has caused these presents to be duly signed and executed this 20th day of November, 2018.

GRANTOR

SSP 135 LAKESIDE, LLC, a Delaware limited liability company

By: [Signature]

Name: Steven E. Fivel

Its: General Counsel & Secretary

STATE OF INDIANA } 
COUNTY OF MARION }

Before me, a Notary Public in and for said County and State, appeared Steven E. Fivel, to me personally known as the General Counsel of SSP 135 LAKESIDE, LLC, a Delaware limited liability company, who acknowledged his execution of the foregoing instrument, and acknowledged to me that (he)/(she) signed it voluntarily for its stated purpose.

IN WITNESS my hand and Notarial seal this 20th day of November, 2018.

Notary Public

[Signature]

Tabitha S. Carlson
Commission Expires: 5/30/2025
Date: January 3, 2019

To: Charles B. Ryan, Council President

Cc: Council Members, Joseph C. Sullivan, Mayor, Joseph Reynolds, Chief of Staff, Nicole Taub, Town Solicitor, Debra Starr, Assistant Town Clerk/Licensing Coordinator

From: James M. Casey, Town Clerk

Subject: TOWN ORDINANCE CHAPTER 5.580 TAXICABS - AMENDMENT

On July 1, 2018 the Office of the Town Clerk had assumed the licensing responsibilities from the Licensing Coordinator position. Absorbing these new responsibilities in the overall operation of the Town Clerk's Office provides an opportunity to improve the administrative processing of the annual relicensing of taxicabs as well as provide a balanced workload during the first quarter of the year.

Chapter 5.580.020 -Expiration of License states, "Licenses issued under this chapter shall expire on the last day in February next after the date thereof and shall not be transferred without the consent of the Board of License Commissioners endorsed thereon." An administrative review of this Chapter reveals two existing conflicts with the current renewal process and creates an amplified strain on current staff workload responsibilities during this time period.

- Annual Auto Excise Tax Bills
  - First and second payment due dates occur after the submission of excise tax payment information and places an added burden on staff in chasing after proper documentation
- Taxicab vehicle annual inspections
  - Taxicab fare meter and vehicle inspections occur each June
  - Taxi medallions are effective July 1 of each year
- Existing office workload
  - January - March: processing of annual Town census forms
  - March 2020 - Presidential Primary Election
  - March - Start of dog registration period

I respectively request your support to amend the Town's General Ordinances, Chapter 5.580 "Taxicabs by deleting, in Section 5.580.020 "Expiration of License" the word "February" and replacing it with the word "June". This change provides a cohesive process of the renewal and inspections functions for the taxi companies as well as addresses workload conflicts in the years ahead.
TOWN OF BRAINTREE

IN COUNCIL

ORDER NO: 19 xxx
ORDERED: Town Clerk

DATE: January 3, 2019

TITLE 5, CHAPTER 5.580: TAXICABS

UPON THE REQUEST OF THE TOWN CLERK, THE TOWN OF BRAINTREE, THROUGH THE BRAINTREE TOWN COUNCIL, IT IS SO ORDERED:

That the Town Council vote to amend the Town's General Ordinances, Chapter 5.580 "Taxicabs", as most recently amended, by deleting, in Section 5.580.020 "Expiration of License" the word "February" and replacing it with the word "June".
Chapter 5.580
Taxicabs

[HISTORY: Adopted by the Town Council of the Town of Braintree 6-15-2010 by Ord. No. 10-012 (former Ch. 5.40 of the Town Bylaws, which derived from prior code Ch. 122, as amended STM 10-5-2004 by Art. 30). Amendments noted where applicable.]

5.580.010 Licensing.
The Board of License Commissioners may license hackney carriage companies or companies which offer motor vehicles for the conveyance of passengers for hire in the Town, and it may revoke such licenses at its discretion, and a record of all licenses so granted or revoked shall be kept by the Board of License Commissioners. Taxi vehicles must be housed in Braintree and pay excise tax in Braintree. The company must have an office in Braintree and have a telephone line in Braintree.

5.580.020 Expiration of License.
Licenses issued under this chapter shall expire on the last day in February June next after the date thereof and shall not be transferred without the consent of the Board of License Commissioners endorsed thereon. For each license the sum of $200 shall be paid to the Town. A license so granted shall become void if the applicant neglects or refuses to take out and pay for his/her license within 10 days after notice that it has been granted.

5.580.030 Violations and Penalties.
No person shall set up, use or drive in the Town any unlicensed hackney carriage or motor vehicle for the conveyance of passengers for hire in the Town under a penalty of $100 for the first offense, $200 for the second offense, and $300 for a third and/or subsequent offense.