



**Mayor
Charles C. Kokoros**

Department of Planning and Community Development

Melissa M. SantucciRozzi, Director
1 JFK Memorial Drive
Braintree, Massachusetts 02184
msantucci@braintreema.gov
Phone: 781-794-8234

PLANNING BOARD

Vacant, Chair
Kimberly Kroha, Vice Chair
Darryl K. Mikami, Clerk
William J. Grove, Member
Thomas M. Kent, Member
Jennifer Connolly, Alternate

Approved 8.08.2023

Braintree Planning Board – Tuesday, June 13, 2023, Cahill Auditorium, Braintree Town Hall

Present:

Ms. Kim Kroha, Vice Chair

Melissa SantucciRozzi, Director

Mr. Darryl Mikami, Clerk

Connor Murphy, Assistant Director

Mr. William J. Grove, Member

Absent:

Mr. Thomas Kent, Member

Ms. Jennifer Connolly, Alternate

Acting Chairwoman Kroha calls the meeting to order at 7:02 PM at Cahill Auditorium and then states that we have three (3) full members (Vice Chairwoman Kroha, Member Mikami, Member Grove). She notes that Member Kent and Alternate Member Jennifer Connolly are absent. We will address Old/New Business Items first, and the Public Hearings will begin at 7:15 PM.

OLD/NEW BUSINESS – Approval Not Required Subdivision Plans – 40 Arnold Street - Adams Street Enterprises, LLC, Applicant 7:03 PM – Three Planning Board Members are present.

Acting Chairwoman Kroha asks staff to present information on the Approval not Required request for 40 Arnold Street.

Director SantucciRozzi explains that 40 Arnold Street is an eight-acre parcel that is one of the parcels that comprises Riverside Business Park. As the Board is aware, we recently approved a portion of the Riverside Business Park to be reprogrammed. The George Lang piece is one part, and the second part is the TLC piece. The Approval not Required Plan will carve out 3.246 acres out of the eight-acre parcel, and that will be the TLC lot. The remaining portion of that lot will be combined with 8 and 10 Arnold Street and the lots to the rear in the future, once George Lang's council has completed the de-registration process through the Land Court. Some of the lots are registered and some are unregistered; so, they are just going to unregister everything so they can be a second lot that is part of Riverside Business Park. Attorney Marinelli is here this evening representing his client, TLC. There was one revision that was required on the plans, and that was to the scale. That revised mylar was delivered to the office.

The Planning Director recommends that the Planning Board endorse this Approval Not Required Plan because it meets the definition under the Subdivision Control Law as both proposed lots meet the minimum frontage requirements (150 feet) for the Zoning District in which it is located, and she can answer any questions.

Acting Chairwoman Kroha asks Attorney Marinelli if he would like to speak on this.

Attorney Marinelli states that Director SantucciRozzi summarized it perfectly. Attorney Marinelli represents TLC Supply, who has a comprehensive purchase agreement to buy the 3.24 acres that is being separated from the other land by tonight's ANR plan. There are significant things that need to be complied with by the current owner that has been outlined in the decisions and the agreement. Attorney Marinelli's client is anxious to have that work done so that they can close and build the two buildings that were approved by the Planning Board, which is a very modest development compared to the 49,000 square feet that was previously approved for that site. The purpose of the ANR is to be able to separate this land so that it can be set up for purchase when the obligations are complied with by the current seller.

Acting Chairperson Kroha opens discussion to the Planning Board members.

Member Mikami believes that Attorney Marinelli and his client did a very thorough job with their presentation when the Planning Board approved this project. They have substantial scope of work to do with and without Mr. Lang. That business has been in business for a long time, and they are very anxious to move to their new location. Member Mikami wishes them good luck.

Member Grove is voting against this only for the reason that we don't have a full body that has the correct length of terms. Member Grove's position is that we have one member that has had close to 20 years, and state law specifies either three or five years. Member Grove doesn't want to have the approval being shielded by the color of law. Member Grove states the mayor is aware of the limitations on the terms. He is working through it because he knows there are a number of other bodies that are looking at the same situation. Member Grove will unfortunately be voting against this at this time.

Director SantucciRozzi states that we have received a verbal opinion from our council, which the Director thinks was explained at a prior meeting by our former Solicitor, Nicole Taub. There are no concerns, whatsoever, on the term limits, and she had previously advised that the board members can stay on. They are not concerned with the Board's decisions not being legal, and there was some case law presented and shared with the Chair earlier. The Director explains that staff takes their advice from the Town Solicitor, and staff is not concerned with the Board's action. If Member Grove wants to take this position, which essentially shuts down business for the community, then she would recommend that all the matters this evening be tabled, which would be very unfortunate as we have some very good Approval Not Required plans this evening that are keeping things moving. The Director states it is unfortunate to have this type of demeanor at the meeting because the Town needs to conduct business and needs to move forward.

Acting Chairwoman Kim Kroha acknowledges that she did receive Member Grove's letter today, and while she is not giving an opinion for the town, she did look at the law and she doesn't see any issues. Member Grove states that the mayor has said there are issues. Director SantucciRozzi advises that the Town Solicitor attended a prior Planning Board meeting, and she told the entire board that there was not a concern about the members staying on. The Director advises that the Town Solicitor's opinion is the opinion we go to, respectfully and not a Board Member's. Member Grove advises that the mayor is in process of addressing this, and he states that it may not be an issue if Member Mikami votes because the vote is protected by the color of law, but for Member Grove that is not being transparent. The Director states that Member Grove's opinion is that the entire town is going to shut down and none of the boards will operate. Member Grove states he wants the boards to operate transparently.

Acting Chair Kroha states, because these are Approval not Required Plans, what is being asked of the Planning Board is to make a decision as to whether we need to approve the plan as a subdivision or not. It's

not even an approval. Acting Chair Kroha asks if the applicant would like to table this to another meeting or have any further discussion on it. Attorney Marinelli states this is just a ministerial endorsement. He agrees, to Ms. SantucciRozzi's point, it would be a shame to shut down business under the auspices of Member Grove's comment that this is where the mayor stands, and you have spoken with the mayor. It is shutting down business, and Attorney Marinelli would echo what has been stated by others that this is not appropriate. This is a ministerial endorsement; the only issue on an ANR plan is whether it has the requisite frontage, which it most certainly does have. Attorney Marinelli thinks it is a breach of fiduciary duty to just say that you are going to shut this down when, from what Ms. SantucciRozzi has said, the town solicitor has ruled on this. Attorney Marinelli states there is another attorney here with a ministerial ANR approval, and we expect the town to do what it should do. Attorney Marinelli advises that Member Grove doesn't speak for the town – he has a minority opinion that is not shared by the Town Solicitor, and he should respect the opinion of the Town Solicitor. Attorney Marinelli states he would love to have this plan endorsed tonight because it is a ministerial action by the Board. Director SantucciRozzi states we have 21 days under the subdivision control law to endorse the Approval not Required plan. Today is the 21st day. If Attorney Marinelli chooses not to sign an extension, it is constructively approved tomorrow. Attorney Marinelli can go to the Town Clerk and make a claim on that statutory requirement, and the plan is in effect. The Director wants to make sure everybody is aware of that. Member Grove recognizes town counsel's opinion, but he is seeing a very global opinion that is saying, even if Member Mikami votes, the vote is protected by color of law. Member Grove is concerned about the transparency of this board. If Attorney Marinelli can get the approval without the vote of this Board, that is fine. Attorney Marinelli explains that is not how any of us that are dealing transparently intend to deal. The attorney states that he intends to stand there and present the merits of the proposal, which transparently are valid for an approval. Attorney Marinelli states that is what transparency is about, and he asks Member Grove to please don't hide behind the word "transparency" when everyone here is acting transparently in accordance with the law for endorsement of an ANR plan. That is a ministerial act, and the plan should be voted and signed by the Board.

Acting Chairwoman Kroha states, because we are on the subject, she knows we don't have the terms limits on the agenda this month. What she was going to mention is that we should add it on at the next meeting, whether that be July when she will not be in attendance, or in August. Acting Chairwoman Kroha states that after she received Member Grove's letter, she looked at the statute that he had indicated in Chapter 41, Section 81A that talks about three or five-year terms, and then she looked at Chapter 41, Section 11, that says "the person so appointed or elected shall be a registered voter of the town and shall perform the duties of the office until the next annual meeting or until another is qualified", which indicated to her, and she is not making any opinions for the town, that once a person is appointed they could be replaced through another appointment at the end of the term, but they didn't necessarily need to be reappointed. Acting Chair Kroha states that we only have three members in attendance, and she doesn't want to be in a position of taking a vote that's going to result in an opinion contrary to law. She notes that, as she looked at it, the plan does meet the requirement, as Attorney Marinelli had said. There is only a question of frontage for these endorsements. The Acting Chair would be looking for a motion to table the ANR requests unless there is another suggestion from the Director.

Respectfully, Director SantucciRozzi advises that if she were Attorney Marinelli, why would she wait until next month to deal with the same situation when tomorrow Attorney Marinelli can go to the Town Clerk, and the Town Clerk will state that the Planning Board didn't satisfy their statutory requirements. She advises that we are all trying to work together to get things done, but unfortunately some people are not. Acting Chair Kroha advises that she is looking for a motion to table the Approval Not Required Subdivision Plans.

Member Grove **MOTIONS** to table all ANR applications. Member Grove asks about the possibility of scheduling an additional meeting sooner. The Acting Chair advises that it may be difficult based on availability and need to provide legal notices. Director SantucciRozzi asks what the purpose would be of having another meeting. Member Grove states “valid voting members”. The Director states we have a situation that is not going to go along with the legal advice from our solicitor. Member Mikami seconds the motion; voted 3:0:0.

**OLD/NEW BUSINESS – Approval Not Required Subdivision Plans –
47 Sycamore Road and Rear Forest Street – Christopher and Jennifer Riley, Applicant
7:20 PM – Three Planning Board Members are present.**

This matter has been tabled, as noted above.

Assistant Director Connor Murphy notes that, for the Approval Not Required Subdivision Plan for 47 Sycamore Road, the 21st day to endorse the ANR Plan is June 13, 2023.

**OLD/NEW BUSINESS – Approval Not Required Subdivision Plans –
60 Columbian Street (Rear) – Banner Park Campus LLC, Applicant
7:20 PM – Three Planning Board Members are present.**

This matter has been tabled, as noted above.

**OLD/NEW BUSINESS – Request for As-Built Approval – PB File #05-06 –
16-18 Pearl Street - Bohler Engineering, Applicant
7:20 PM – Three Planning Board Members are present.**

Acting Chairwoman Kroha advises that she is looking for a motion to table the As-Built Approvals.

Member Grove **MOTIONS** to table the As-Built Approvals on the agenda for tonight’s meeting; seconded by Member Mikami; voted 3:0:0.

**OLD/NEW BUSINESS – Request for As-Built Approval – PB File Major Modification #99-04 –
100 Commerce Drive – Frito Lay Inc., Applicant
7:20 PM – Three Planning Board Members are present.**

This matter has been tabled, as noted above.

**NEW PUBLIC HEARING – Town Council Orders (#23-041, #23-042, #23-043)
New “Definitions” Section 135-102, New Uses “Table of Principle Uses” Section 135-601,
New “Schedule Off-Street Parking Requirement” Section 135-806 and Parking Requirements Brewery,
Production Studio and Function/Conference Facility:
7:20 PM – Three Planning Board Members are present.**

Acting Chairwoman Kroha asks the Director to read the legal notice.

Director SantucciRozzi reads the legal notice.

Acting Chair Kroha explains that this is a proposed amendment put forth by the Planning Board. The Director advises that this is a public hearing, so it needs to be continued. The Acting Chair states the question is whether we want to continue this to July or August, as she will not be here in July. The Director advises that in July we will have four members, three that are willing to act as Planning Board members. The Director states she will default to Acting Chair Kroha, and Acting Chair Kroha advises that she has already looked at these proposed revisions, and she is fine if she is not acting on it. She has no issue with the proposal. The Director advises that we were going to discuss the July meeting, but she thinks we should just hold that date now, these definitions are important, and we want to move on them. Given Member Grove's situation, we are dead in the water. The Director suggests not talking about the definitions tonight so that members don't have to do the Mullin Rule, and she also suggests that Acting Chair Kroha send any comments in advance, and they can be included in the record.

Member Grove **MOTIONS** to continue this matter to the July 11, 2023 meeting at 7:15 PM; seconded by member Mikami: voted 3:0:0.

CONTINUED PUBLIC HEARING: 125 Union Street –Site Plan Review and Special Permit (PB File #23-01)
JBM Braintree LLC/Torrington Properties, Applicant

7:24 PM – Three Planning Board Members are present.

Acting Chairwoman Kroha advises that the Applicant has asked that this hearing be continued without testimony to the August 8, 2023, meeting of the Planning Board at 7:15 PM, and we will need a **MOTION**.

Member Mikami **MOTIONS** to continue the hearing for 125 Union Street –Site Plan Review and Special Permit (PB File #23-01) to August 8, 2023, at 7:15 PM; seconded by Member Grove; voted 3:0:0.

OLD/NEW BUSINESS – MASTER PLAN

7:26 PM – Three Planning Board Members

Director SantucciRozzi advises that Connor Murphy and she have completed, along with some of the Master Plan Steering Committee Members, the Road Show. They attended a number of Board Meetings, and last week they had a two-hour session with all the department heads. There was a lot of input and good information shared. The Master Plan Steering Committee will be having a big meeting on June 22, 2023. If folks are interested in understanding the ideas and strategies that have been selected by both support and priority from the various groups in the community, please attend. The meeting will be here in Cahill at 7:00 PM. We also invite folks to visit the Master Plan Website at <https://tinyurl.com/braintreemasterplan> for information. We are heading into Phase III, which addresses how we are going to accomplish this over the next ten years. It has been really exciting, and it is all coming together. Regarding assigning a Planning Board member to the Master Plan Steering Committee (MPSC), the Director advises that Member Kent is away this week, and we are pretty sure he is committed to be the Board Member assigned to the MPSC. Member Mikami salutes Member Kent.

There are no questions from Board Members regarding the Master Plan.

Member Grove **MOTIONS to adjourn** the meeting; seconded by Member Mikami; voted 3:0:0.

The meeting adjourned at 7:28 PM.

Respectfully submitted, Louise Quinlan, Planning/Community Development