

**VOLUNTEERS**

Susanne Hamilton, Chair  
Matthew Sisk, Vice-Chair  
David Killeffer, Secretary  
John M. Millholland  
Andrew Kaye  
Richard Bryan  
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Lee Castignetti  
Kathy Corbo  
Jennifer Wadland  
Tim Burke  
Richard Wentzel  
Rich Bielecki  
Greg Quinn  
Trisha Keegan  
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**TOWN OF BRAINTREE ZONING WORKING GROUP**

One JFK Memorial Drive

Braintree, Massachusetts 02184

Planning/Community  
Development

FEB 24 2020

Received

February 24, 2020

Mayor Charles Kokoros,

As you are aware, a Residents Zoning Working Group (the "ZWG") was formed and tasked with reviewing the proposed Zoning Ordinance of The Town of Braintree (draft dated March 11, 2019) ("Zoning Ordinance") with a goal of providing comments and concerns with such. In furtherance of such goal, the ZWG met thirteen times over a nine-month period. It should be noted that the ZWG was comprised of citizens of the Town of Braintree, many of which were not experienced in Town politics or planning. The ZWG did, however, abide by applicable open meeting rules and regulations and all meeting minutes are available for public review.

Although the Zoning Ordinance has been withdrawn, the ZWG would like to provide its final comments and recommendations for consideration in the event the Zoning Ordinance is reinstated. Accordingly, please find the ZWG's final comments, concerns and proposed changes.

It is the ZWG's understanding that the Town of Braintree intends to review and update the Master Plan for the Town prior to revisiting a revised Zoning Ordinance. It is the ZWG's opinion that our comments and concerns reflect the overall concerns of the citizens of Braintree and will be beneficial to the Town in its pursuit of an updated Master Plan. A Master Plan for the Town needs to reflect the goals of the Town government and its citizens and the Zoning Ordinance needs to support such Master Plan. As you will see from the ZWG comments, the ZWG believes the Zoning Ordinance should be written in such a manner as to be easily interpreted by the residents, protect the existing scale and character of the Town and control high density growth.

As this task would not have been possible without the assistance and support from various Town employees and appointed officials, the ZWG would like to take this opportunity to thank, Christine Stickney, Director of Planning and Community Development; Russell Forsberg, Inspector of Buildings/Code Compliance Officer; and Robert Harnais, Chairman of the Planning Board, for their involvement and support. The guidance provided by these individuals was imperative for the ZWG to identify changes that were needed to accomplish its desired vision for the Town of Braintree. Finally, the ZWG would like to thank former Mayor Joe Sullivan and current Mayor Charles Kokoros for this opportunity to provide a voice for the citizens of Braintree as changes are made to shape the future of our wonderful Town of Braintree.

Very Truly Yours,



Susanne M. Hamilton  
Chairperson of ZWG

Cc: Robert Harnais (Chairman of Planning Board, via hand delivery and email)  
Shannon Hume (Town Council President, via hand delivery and email)  
Christine Stickney (Director of Planning and Community Development, via hand delivery and email)  
Russel Forsberg (Inspector of Building/Code Compliance Officer, via hand delivery and email)

January 19, 2020

The Zoning Working Group (“ZWG”) was created by the Mayor Sullivan’s office in conjunction with Town Council to provide the residents an opportunity to evaluate and provide recommendations on the [Zoning Ordinance of The Town of Braintree- Public Hearing Draft March 11, 2019](#) (“Zoning Ordinance”). The ZWG consisted of resident volunteers with varied backgrounds from across Braintree. Firsthand knowledge of zoning ordinances and town planning was not a requirement for participation. Therefore, recommendations will be made broadly and focus on the following criteria; whether the ZWG supports the intent of the proposed Zoning Ordinance; and whether the proposed Zoning Ordinance is designed to preserve the character of the Town. In some circumstances the ZWG will address specifics related to the proposed language. To extent the ZWG does not provide comments or recommendations on any given section, such omission shall not to be interpreted as an approval. Rather it should be recognized as either (i) an area where the ZWG has neither a favorable or unfavorable recommendation, (ii) a topic that is outside the ZWG’s purview.

It shall be noted the ZWG has not performed a complete review of the following sections as the Planning Department has identified such sections as largely unchanged from the current zoning ordinance or have recommended such to be removed.

Sections 6.6 Trailers as Dwellings unchanged

Section 6.7 Accessory Apartments: recommended to be removed

Section 6.14 Fuel Stations unchanged

Section 7.3 Traffic Standards unchanged also, traffic engineer has resigned and ZWG doesn’t have a Town representative to advise on this section

Section 7.4 Environmental Performance Standards unchanged except for noise standards which were removed, handled outside zoning

Section 7.5 Erosion and Sediment Control existing section retained with minimal edit

Section 7.6 Rules and Regulations for Signs unchanged and ZWG was advised it is currently not compliant with current case law.

In Addition, the Zoning Ordinance draft was withdrawn prior to a review of Sections 8 and Section 9. No comments to such sections will be provided.

## **Section 2 Establishment of Districts**

It is the opinion of the ZWG that the existing districts present a challenge to the core principle of zoning (i.e. limiting the adverse effects of one use on another). Accordingly, the ZWG recommends that the existing maps and districts be reviewed closely prior to any redraft of or amendment to the existing ordinance with the goal of creating cohesive districts which do not adversely affect each other.

### **Residential Districts**

Braintree currently has three (3) established residential districts, A, B and C. The Town may benefit from the creation of additional residential districts in order to identify and preserve the characteristics of individual neighborhoods, while allowing for controlled growth and development where appropriate. The creation of additional residential districts may protect the neighborhoods with smaller homes from growth that is inconsistent with the surrounding properties.

For example: The description for Residence B (RB) indicates that, "it can also accommodate conversion of single-family homes to two-family homes with a special permit". Although this may be appropriate in some areas of Residence B, many neighborhoods are predominantly single family and such conversion is not favorable. Consideration should be given to identifying specific areas best suited to accommodate two-family dwelling conversions by special permit and establishing a new district or overlay district. The same consideration should be applied to Residence C (RC) which currently allows two-family dwelling conversion by right.

### **Commercial Districts**

The addition of a second Commercial district may lessen the negative impacts felt by Residential areas that abut Commercial districts. Certain uses permitted within Commercial districts pose challenges for neighboring residential areas. Identifying these impacted areas and amending the uses to only allow such that are more compatible with surrounding residential neighborhoods should be considered. The creation of a second Commercial district which does not directly abut Residential areas, and which allows the identified challenging uses would limit the negative effects of such Commercial uses on the Residential areas. The "ZWG" acknowledge that this would create some level of nonconformance, and change would not be immediate. Nonetheless, the goal would be to better structure our Commercial areas for supported growth and limit future opposition from residents.

Additionally, consideration should be given to the future of our Commercial Districts and the type of industry best suited for Braintree. There was much discussion about Research and Development and whether these uses, possibly limiting those that could have negative environmental impacts, would be desirable. Changes to our Commercial Districts would need to occur to encourage these uses, creating more of a "Campus" environment as opposed to an industrial one. This issue may be addressed in the Master Plan.

### Transition District

The ZWG followed the approach of Ordinance and Rules Committee and did not commence a formal review of the proposed Transition District. However, we are providing the following comments for future planning and updating of the Master Plan. There is a general consensus that the area along Washington Street connecting the Village Centers lacks identity and could benefit from some revitalization. The scale of development should be consistent with neighboring properties and be designed to complement the surrounding residential neighborhoods. Notwithstanding, development that extends off Washington Street into the established residential neighborhoods should not be permitted and the ZWG does not support such development. The interests of the property owners abutting any newly formed Transition District should be prioritized and protected.

### Open Space and Conservancy (OSC)

In response to the Town's claim of safe harbor from the Massachusetts 40B affordable housing law, much work has been done in identifying all land that could be excluded from the land area minimum. "Guidelines for Calculating General Land Area Minimums" January 17, 2018; states "Total land area shall exclude any flood plain, conservation or open space zone if said zone completely prohibits residential, commercial and industrial use, or any similar zone where residential, commercial or industrial uses are completely prohibited". Consideration should be given to redistricting all town municipal buildings and any additional areas that do not qualify as Open space. Once completed additional consideration should be given to whether a new bylaw is needed to replace Zoning Bylaw 135-702 Buffer Zones currently removed from the proposed ordinance.

Other Areas for Consideration:

#### South Shore Plaza/Simon Properties:

The ZWG recommends further discussion regarding the property currently maintained under common management by Simon Properties. The proposed Zoning Ordinance used a new definition, shown below, to define the area. Given the broad nature of the definition and concerns with the long-term sustainability of the retail model, it may be prudent to create a separate district to better plan for future growth. The "ZWG" does not support the rezoning of approximately 4.348 acres located at the end of Lakeside Drive from Residence B District to Highway Business District, as previously requested by Simon Properties. Consideration of a new district should be exclusive of Lakeside properties. For clarity, "ZWG" supports Lakeside properties remaining zoned residential.

*Shopping Center, Regional: A group of establishments, businesses, and uses that contain any combination of the following: all food service uses, assembly halls, community center, commercial recreation facility, all retail uses, carwash, fuel station, light motor vehicle and equipment related businesses, multifamily dwellings, animal retail/grooming services, animal hospital, personal services, personal services body related, all office uses, medical facility, conference center, hotel, all arts and*

*entertainment uses, all public services uses, alcoholic beverage production, research and development, wireless communication facility, and all accessory business uses; having 1,000,000 square feet or greater, under common management. The establishments may be in single or multiple structures and may be on single or multiple contiguous lots. Ownership may be common or a form of condominium.*

#### Ivory Street Landfill:

During review of Section 5-Dimensional Regulations Table 2 the impact of four-story buildings on areas of higher elevation throughout the Town was identified as an area of concern. It was negatively perceived to create a canyon effect of which is not characteristic of a Town setting. One area of expressed concern was the 27-acre landfill, bordered by Route 3, Ivory Street, Union Street and the Monaquot River, recently proposed as a 40R overlay. Upon further discussion with the Planning Department it is the understanding of the ZWG that the landfill capped under the Massachusetts Landfill Capping Program is currently zoned Highway business but is restricted to passive use. Given the use restriction and long-term contract to operate a solar panel array, consideration should be given to change the designated zoning. This area has also been identified in the past for possible walking trails and expanded access to the Monaquot River. Further discussion may be warranted during the updating of the Master Plan.

#### Armstrong Cork:

ZWG recommends that a future town Master Plan take zoning of this property into consideration, potentially re-zoning this lot from commercial to an alternate use.

#### Review of Section 3 Administration and Enforcement

The ZWG is not in favor of any changes that would allow for a simple majority as opposed to a super majority as required by existing bylaws for approvals.

## **Review of Section 4 Use Regulations**

Recommendations/Comments have not been provided on the Transition District or Village Center

### **4.6 Table of Uses**

#### **Table 1(Part 1): Table of Principal Uses**

##### **Residential Uses**

Dwelling, Single-family detached - Agree with proposed change to N: Prohibited use in GB

Dwelling, two-family - Agree with proposed change to N: Prohibited use in GB

Dwelling, single-family conversion to two-family - Agree with proposed change to N: Prohibited use in GB & BWLD

Dwelling, multifamily – No comment

Dwelling, multifamily small scale- No Comment

Dwelling units in mixed-use development – Recommendation is Special Permit in HB.

Flexible development – No comment

Long-term care facility conversion- Recommendation N: Prohibited use in RA. Agree with proposed change to SP: Use requires a Special Permit in BWLD and N: Prohibited use C.

##### **Institutional Residential Uses**

Congregate housing – The ZWG will not be providing comments, the definition is under review by the Town Solicitor.

Continuing care retirement community - The ZWG will not be providing comments, the definition is under review by the Town Solicitor.

Long-term care facility – Agree with proposed change to N: Prohibited use in Residential Districts B & C. SP: Use requires a Special Permit in BWLD.

### **Institutional/Semi-Public Uses**

Assembly hall – No Comment

Cemetery – Recommendation is N: Prohibited use in Residential Districts A, B & C. Agree with proposed change to N: Prohibited use in GB, HB & C. Change to SP: Use requires a Special Permit in OSC.

Cemetery with crematorium - Recommendation is N: Prohibited use in Residential Districts A, B & C. Agree with proposed change to N: Prohibited use in GB, HB & C. Change to SP: Use requires a Special Permit in OSC.

Community Center - Recommendation is N: Prohibited use in Residential Districts B & C. Agree with proposed change to Y: Use permitted by right BWLD.

Library or Museum - Recommendation is N: Prohibited use in Residential Districts A, B & C

Municipal Facility – Recommendation is to not allow in Res A, Res B, Res C, no comments on other proposed districts.

Municipal public park - Agree with proposed change to Y: Use permitted by right in GB

Place of worship – No comment

School – No comment

### **Recreational and Agricultural Uses**

Agriculture, horticulture, and floriculture – No comment

Boathouse, marina - Agree with proposed change to Y: Use permitted by right IN OSC. Change to N: Prohibited use in RC.

Golf Course - Agree with proposed change to N: Prohibited use in RC, GB, HB & C.

Recreation facility, commercial – No comment

Riding Stable - Agree with proposed change to N: Prohibited use in HB

Rod and Gun club – Planning Department is recommending a change to OSC. The ZWG suggests requesting input from the members of the Rod and Gun club before a significant zoning change to the property is enacted.

Yacht Club – No comment

### **Business: Retail Uses**

Artisan and Craft workshop – No comment

Lawn and garden center - Agree with proposed change to SP: Use requires a Special Permit in GB & HB

Retail store, < 10,000 sq. ft – Agree with proposed change to N: Prohibited use in C

Retail store, 10,000-30,000 sq. ft – Agree with proposed change to N: Prohibited use in C & GB

Retail store, > 30,000 sq. ft – Recommendation N: Prohibited use in General Business given the larger size and possible impact on neighboring residential areas. Agree with proposed change to N: Prohibited use in C

Shopping center – Recommendation is to prohibit in GB.

Shopping center; regional – No comment

### **Business: Food Service Uses**

Catering service - Agree with proposed change to SP: Use requires a Special Permit in HB.

Restaurant, sit-down: fewer than 75 seats - Recommend SP: Use requires a Special Permit in Commercial District to accommodate employees working within.

Restaurant, sit-down: 75 or more seats - Agree with proposed change to N: Prohibited use in C.

Restaurant, fast food – Recommendation SP: Use requires a Special Permit in Commercial District to accommodate employees working within.

Restaurant, take-out – Recommendation SP: Use requires a Special Permit in Commercial District to accommodate employees working within.

### **Business: Motor Vehicle-Related Uses**

Car Wash – No comment

Fuel Station (excluding repair service) – Agree with proposed change to SP: Use requires a Special Permit in HB & C

Motor vehicle and equipment related business, heavy – Agree with proposed change to SP: Use requires a Special Permit in C. Change to N: Prohibited use in HB.

Motor vehicle and equipment related business, light – No comment \*

Parking facility, commercial - Agree with proposed change to SP: Use requires a Special Permit in BWLD

**Business: Personal and Business Services**

Animal retail, grooming service – No comment

Animal Hospital, Veterinarian - No comment

Animal kennel or day care – No comment

Day care, adult – Recommendation N: Prohibited use in all Residential Districts

Day care, commercial – Governed by law and allowed by right

Funeral home- Recommendation N: Prohibited use in all Residential Districts A, B & C. Change to Y: Use permitted by right in Highway Business and SP: Use requires a Special Permit in Commercial.

Personal Services - No comment

Personal services, body related – No comment.

**Business; Office Uses**

Bank or similar financial institution - Agree with proposed change to Y: Use permitted by right in GB.

Billboards (standard or digital/electronic)- Suggest separating standard and electronic Billboards on the Use Table. Recommending Standard Billboards be restricted to Wood Road by SP: Use requires a Special Permit. Digital Billboards be prohibited entirely.

Business or professional office - Agree with proposed change to N: Prohibited use in OSC.

Kiosk, freestanding (including freestanding Automated Teller Machine (ATM) - No comment

Office Park – Recommendation N: Prohibited use in the use in GB district

**Business: Health Care Uses**

Hospital - Agree with proposed change to N: Prohibited use in RB, RC, GB & C.

Medical facility – Agree with proposed change to N: Prohibited use in BWLD

Registered medical marijuana dispensary – Recommending N: Prohibited use in Highway Business.

**Business; Hospitality, Tourism Uses**

Conference center – No comment

Hotel - Agree with proposed change to N: Prohibited use GB & C

Transient Lodging/Short Term Rental – There is currently no definition for “Short Term Rentals”. The “ZWG” will not be providing comments.

**Business; Arts and Entertainment**

Art gallery-No comment

Cinema - No comment

Theatre; live performances – No comment

**Business; Public Services**

Postal service and/or Copy center – No comment

Educational use, non-exempt – No comment

Professional, arts and educational schools and studios, non-degree - Recommendation N: Prohibited use in all Residential Districts A, B & C.

**Business; Other**

Adult uses - Recommending the creation of an overlay district within the Commercial District to accommodate this use by SP: Use requires a Special Permit

**Production Uses**

Alcoholic beverage production – Potentially favorable in some districts depending upon size.

Contractor’s yard - Agree with proposed change to SP: Use requires a Special Permit in C

Flex building – ZWG did not reach consensus based on loosely-written definition.

Fuel storage, bulk – No comment

Hazardous waste facility/transfer station – No comment. Limited to Clean Harbors in an Overlay District.

Heliport – Recommendation N: Prohibited use in Commercial District.

Industrial, heavy - Agree with proposed change to N: Prohibited use in all districts.

Industrial, light – ZWG has some concerns over the applicability of definition as it would apply to some current uses.

Marine-dependent use- No comment

Public utility yard - No comment

Quarry - Agree with proposed change to N: Prohibited use in all Districts.

Recycling station/Redemption center – The ZWG is requesting separate definitions and Uses for Recycling Station and Redemption Center. It is our opinion that these two entities are functionally different and should not be addressed as one.

Research and development – No Comment. Unable to reach consensus.

Self-storage facility - Agree with proposed change to Y: Use permitted by right in C

Solid waste disposal facility or transfer station – Consider change to N; address in new Master Plan.

Transportation terminal – Agree with proposed change to N: Prohibited use in HB.

Warehouse and distribution, wholesale/bulk – no comment

Warehouse and distribution, retail – no comment

Wireless communication facility- Agree with proposed change to SP: Use requires a Special Permit in C

Amateur Radio (needs to be added to use table or accessory table) – Requested by Ordinance & Rules to be added to the Use Table or Accessory uses.

**Table 1 (Part 2) Table of Accessory Use Regulations**

**Residential Accessory Uses**

Accessory apartment – no Comment. Planning Department is recommending the use be removed.

Agriculture, home – No comment

Bed & breakfast - No Comment. Only Proposed in the Transition District

Day care, family home - No comment

Home occupation – No comment

**Institutional/Semi-Public Uses**

Dormitory – Recommendation SP: Use requires a Special Permit for all Residential, highway business, general Business and Commercial zones to allow for administrative site plan review.

**Conservation, Public Recreation, Agricultural Uses**

Farm stand – No comment

Playground - Recommendation Y: Use permitted by right for all Residential, highway business, General Business and Commercial zones. Also recommending the definition be expanded to private entities.

**Business Accessory Uses**

Dock, floating - No comment

Dock, permanent – No comment

Drive-through service accessory to a bank or retail use – No comment

Drive-through service accessory to a food service establishment – No comment

Food Truck – It is the opinion of the ZWG that specific areas within the appropriate Districts should be identified as appropriate for Food Trucks. These areas should not be in direct competition with restaurants and located in areas that lack access to food services.

Fuel station, alternative accessory - No comment

Outdoor sales accessory to retail use - No comment

Heliport accessory to hospital- No comment

Live entertainment incidental to restaurant or retail use - No comment

Outdoor Dining- The “ZWG” is recommending Outdoor Dining accessory to restaurants be added. Recommending Yes (Y) in General Business, Braintree Weymouth Landing District & Highway Business.

#### **Production Accessory Uses**

Warehouse and Distribution accessory to Manufacturing – Currently there is no definition or principal use for Manufacturing. Consideration should be given to updating the accessory use to Warehouse and distribution accessory to Light Industrial. No further comments

Outdoor storage – No comment

#### **Sec. 4.7 Accessory Uses**

##### *C. Permitted Accessory Uses in Residential Districts*

Recommend expanding to 10 ft. minimum from the side lot line.

*(2) The storage of one of the following items registered to the address of the site on which it is stored – one camper, one recreational vehicle or one registered boat on a trailer – and no longer than 35 feet in length, provided that said storage is not located closer than 20 feet from a front lot line and five (5) feet from a side lot line.*

##### *D. Uses Not Considered Accessory in Residential Districts (Not Allowed).*

Recommend removing unregistered vehicles.

*(1) The parking or storage of more than one commercial motor vehicle registered or unregistered.*

#### **4.8 Nonconforming Uses, Structures, and Lots**

Section 4.8 is one of the more complex sections based largely on State and Case law. The ZWG requested the Town Solicitor John Goldrosen be present on August 28, 2019 to facilitate the review. At the start of the meeting members of the ZWG were provided with a significantly revised Section 4.8. limiting the group’s ability to familiarize with the proposed changes prior to the discussion. These revisions are still not publicly available in the Zoning Ordinance. This creates a significant challenge to the ZWG when providing recommendations. For this reason, the ZWG not be providing comments on this section.

## Section 5 Dimensional Regulations

### 5.2 Lot Regulations

#### B. Lot Width-

The ZWG agrees with the Planning Department that the creation of “Pork Chop lots” is not favorable. According to the Planning Department percentage highlighted below is still being evaluated and may need additional adjustment. Given the withdrawal of the proposed Zoning Ordinance, consideration should be given to amending our existing bylaws to prohibit the creation of “Pork Chop Lots”.

*Lot Width. At no point shall the lot width between the street frontage (per the Town assigned frontage) and the principal building be less than 65 percent of the minimum lot width required by Table 2, Table of Dimensional and Density Regulations. No portion of a principal building shall be located on a portion of a lot where the lot width is less than the minimum lot width and said minimum lot width shall be maintained to a point 20 feet beyond the rear portion of the principal building.*

### 5.3 Setbacks

#### B.

As written a **maximum** of two (2) cars or other vehicles are allowed to be parked in a driveway which prohibits tandem parking. This should be reconsidered for single family residential properties, given the possible negative impact of limiting parking and unrealistic enforcement of such ordinance. The ZWG is in support of limiting parking directly in front of the front façade of the home.

*With the exception of driveways necessary for access and egress with a 4-foot pervious setback to the side property line, no required front setback in Residence A, B or C districts shall be used for any accessory use or structure. Such driveways shall not be located in front of the front façade of the home (except in front of a garage, carport, or other parking structure). A maximum of two (2) cars or other light motor vehicles are allowed to be parked in the front setback on such driveway, per the standards of § 7.1.N.1.b*

#### E.

Planning Department recommending being removed.

*All billboards shall require a front yard setback of twenty (20) feet, a side yard setback of twenty (20) feet, and a rear yard setback of thirty (30) feet*

## **5.4 Height Regulations**

### **B. (2) Structures Other than Buildings**

Requesting clarification on structures other than buildings that can be located in the front, rear or side yard.

*(2) Structures other than buildings may be located in a required front, rear or side yard subject to limitations on accessory uses (§ 5.3.B) and provided the height of the structure is not greater than its horizontal distance from the nearest lot line.*

*Accessory Building or Structure: A detached building or structure which is incidental to and customarily associated with a principal use or building on the same site. Detached garages, sheds, and both in-ground and above ground swimming pools, including any elevated or ground-level decking/patio as well as any pool house or shed for pumps or filters, are considered limited accessory structures. Only one of each such limited accessory structure is allowed per lot, unless otherwise explicitly permitted in this Chapter 135.*

## **5.6 Buffer Areas Between Zoning Districts**

The ZWG concludes the 100 feet buffer in the Highway Business and Commercial Zoning Districts may be inadequate to limit negative impacts on neighboring residential Districts; however, increasing the distant will not resolve many issues due to the established Commercial Districts and existing businesses. This issue may partially be addressed with the creation of an additional Commercial District as discussed in the review of Section 2.

Furthermore, the ten (10) feet buffer referenced in this Section is felt to be inadequate. Consideration should be given to extending this to a minimum of twenty (20) feet.

### **B. Applicability.**

*(1) In Highway Business and Commercial Zoning districts, no building or structure or part thereof shall be erected or placed within 100 feet of any Residential or Open Space Conservancy District zoning line.*

*(2) In General Business and Transition Zoning District, no building or structure or part thereof shall be erected or placed within ten (10) feet of any Residential or Open Space Conservancy District zoning line*

**135-702 Landscape & Buffer Zones: Removed from the proposed draft.**

The ZWG agrees that Zoning Bylaw 135-702 Buffer Zones – 1 Applicability (C) is unfairly restrictive to residential properties abutting the Open Space Conservancy District and is in support of it not being included in the proposed Zoning Ordinance.

***B. Buffer Zones -1 Applicability (c)***

*Any building in a Residence A or B District shall be set back at least 30 feet from the Open Space and Conservancy District and, in the case of Residence C District, at least 50 feet.*

*Further, the required buffer strips described in a, b, and c above shall not be used for parking or for any other accessory structure or use except for access.*

*Landscaping and screening of parking areas shall be provided in accordance with Article VIII.*

**5.8 Table of Dimensional and Density Requirements**

-The ZWG is not in agreement with the proposed change to allow buildings up to 6 stories or 75 feet. It is the consensus that buildings of this height are not consistent with the character of the Town and encourages undesirable higher density developments. The ZWG recommends maintaining the existing restriction of a maximum of 4 stories or 45/50 feet.

-No objections to the decrease in the maximum height for residential zoning districts A & B.

-Some concern as to why the height was increased from 3 stories to 3.5 stories in Resident C.

- Current Minimum lot area in Residential C is 43,560 sq. ft. Under the proposed Zoning Ordinance, the Minimum lot area in Residential C would be decreased to 25,00 sq. ft. The ZWG requested lot size data for Resident C; after reviewing it was determined the average size of most lots within the existing Residential C district would still be non-conforming. Given the lack of an acceptable rationale for the change we are not in support of decreasing the minimum lot size.

- Current minimum lot size for Open Space District is 5 acres. Consideration should be given to decreasing the minimum lot size to allow for smaller parcels to be included in Open Space.

- The ZWG has concerns about the implementation of Floor Area Ratio ("FAR") and the availability of resources for both the Planning Department and residents to accurately calculate FAR. The Planning Department has explored the creation of a Floor Area Calculator that could be accessed through the Town website. Support for FAR would be dependent on such technology.

- Additionally, the proposed Maximum FAR for all residential districts should be re-evaluated. Resident C has a proposed FAR of .80 which is greater than two times the proposed FAR of both Residential Districts A FAR (.30) and Resident B FAR (.35).

## 5.9 Table of Dimensional and Density Regulations for Accessory Buildings and Structures in Residential Districts

- The proposed Zoning Ordinance allows for an accessory structure in Residential District A & B to have a maximum height of 18 feet (1.5 stories), 10 feet off the side/rear property lines. Residential District C allows the same maximum height; however, such district requires 15 feet off side/rear property lines. The ZWG opines that an accessory structure (i.e.: garage) of 18 feet would not be appropriate in all residential districts and could negatively impact abutters.

Further discussion was also given to the required rear and side setbacks and the limitations such setbacks could impose on some residents looking to place a smaller accessory structure on a smaller lot. Consideration may be warranted to implement a sliding scale specifically addressing garages/shed height and minimum setbacks to better accommodate varies lot sizes and home owner needs. Accessory structures should be in proportion to the principal residence.

## 5.10 Calculating Floor Area Ratio (FAR)

Step 2. Recommend concise language regarding calculating Floor Area Ratio.

*Step 2. Determine the Floor Area, in terms of square feet, of each story of the building. Calculate the area of each story (floor) of the building, typically measured between the exterior walls. The basement floor area shall be included only where: 1) more than 40% of the total exterior wall area is above grade; or 2) more than 75% of any single wall is above grade.*

## **Section 6 Special Use Regulations**

### **Sec. 6.1 Inclusionary Housing**

The ZWG agrees that the Purpose of section 6.1 Inclusionary Housing is beneficial to the Town of Braintree and should be considered as an amendment for inclusion into our existing bylaws or be brought forth in the Zoning Ordinance of The Town of Braintree Draft – March 11, 2019 (“Zoning Ordinance”). Due to the complexity of Inclusionary Housing the ZWG will be making broad recommendations and requesting that further considerations be made into the adoption of a Housing Production Plan and an Affordable Housing Trust.

Much discussion centered around the applicability of the proposed regulation. The group does support the requirement of 15% of dwelling units be affordable in any multi-family dwelling or dwelling in a mixed use that would result in a net increase of 6 units or more. Affordable units must meet the requirement for inclusion on the Massachusetts Department of Housing and Community Development (DHCD) Chapter 40B Subsidized Housing Inventory (SHI). Although a consensus was made on the percentage of required affordable housing units, 15% should be considered a starting point and warrants further discussion related to the Town reaching the minimum requirement for Safe Harbor. The Town may want to consider an in-lieu fee for developers to buy down the affordable percentage to 10% if it is felt the funds could be directed toward an opportunity that would be more impactful in the Town reaching the required state minimums.

The ZWG is further recommending the addition of an in-lieu fee be applied to any two- family conversion or small-scale multi-family dwelling with a net increase of one (1) unit to five units. The rationale for this recommendation is in response to concerns that developers would be more apt to build fewer than six (6) units to avoid the affordable housing requirement and with the growing trend of two-family conversions the increase of both could negatively impact the Towns Affordable Housing Inventory. Determination of the monetary value of the in-lieu fee will need to be evaluated by the Planning Department and Town Council.

The creation of an Affordable Housing Trust consistent with the Municipal Affordable Housing Trust Fund Law (MGL c.44 s.55C) would allow such funds collected as in-lieu fees to be segregated out of the general Town budget and directed towards reaching Safe Harbor. It is the opinion of the ZWG that the Town of Braintree needs to determine which means of Safe Harbor is most obtainable either 10% of total housing inventory or 1.5 % land area. Once determined all means including zoning regulations, creation of both an Affordable housing Trust and Housing Production Plan should be utilized in collaboration to reach this goal.

In addition, the ZWG identified the following preferred initiatives which could be directed by the Housing Trust; the creation of new affordable housing units for veteran and seniors, increasing affordability in existing housing development projects and creation of a Town sponsored buy down program to convert existing single-family homes/condos into affordable units. These identified directives would limit adverse impacts to our Towns already strained infrastructure and remove the reliance on new construction to provide affordable units.

The ZWG is also requesting that the Planning Department add verbiage into the Basic Requirements that supports local preference during the selection process.

### **Sec. 6.2, Multifamily and Small -Scale Multifamily Dwellings**

The ZWG is not in support of the proposed increased density of 20 units per acre. It is acknowledged that there have been approved residential developments with densities greater than 20 units per acre. The continued development at density's higher than the current zoning, without consideration for future negative impacts to traffic and infrastructure, is of considerable concern.

*C. Dimensional Regulations (1) For multifamily dwellings and small-scale multifamily dwellings, the maximum density shall be 20 dwelling units per acre*

The ZWG is concerned that the referenced distances are too high and that developers will use these as minimum distances. Given that Small-Scale Multifamily Dwellings consists of 3-5 units', consideration should be given to addressing the Architectural Plane based on the size of the building.

*6.2 (D) Architectural Plane. Any exterior wall shall not extend more than 100 feet horizontally or vertically on the same architectural plane. Articulation of entryways, balconies, roofs, window areas, exterior walls, architectural forms, materials, and textures may be used to vary the architectural plane. In the case of townhouse units, this architectural plane should not extend 50 feet and articulation of individual units is encouraged.*

### **Sec. 6.3 Two-Family Dwelling Conversion**

According to the Planning Department, Braintree had a minimum of five (5) two-family conversions during the last calendar year. As proposed, Two-Family Conversions are allowed in Resident B by Special Permit (SP) and by right in Resident C. Some discussion on further limiting Two-Family Conversions to areas where multi-family dwellings already exist (i.e. on either side of the proposed conversion).

Side Note: Although Accessory Apartments are no longer being considered in the proposed Zoning Ordinance, there was concern with the creation of these units adding to the appearance of more two-families and changing the character of single-family neighborhoods.

### **Sec. 6.4 Long-Term Care Facility Conversion**

The ZWG is concerned that by allowing long-term care conversions, the economics may persuade operators of long-term care facilities to convert to residences. Some of these concerns were addressed by B. Applicability (1) & (2).

However, consideration should be given to adding a defined time a facility would need to be closed, minimum of one (1) year, prior to applying for a conversion for 6.4. This requirement was mentioned by the Planning Department but is not explicitly stated. The requirement of inclusionary housing is favorable.

*A. Purpose. The purpose of this section is to facilitate the redevelopment of long-term care facilities that have become obsolete for their original intended use and allow for marketable alternatives for redevelopment and reuse.*

#### *B. Applicability*

*(1) A long-term care facility was in operation on the site for a minimum of 10 years preceding the date of application for conversion.*

*(2) The site containing the long-term care facility use has not been enlarged during the 10- year period immediately preceding the date of application for conversion.*

### **Sec. 6.5 Flexible Development**

The ZWG agrees with the intent of the Flexible development ordinance is to encourage development that offers smaller housing types which may appeal to a variety of households, including seniors looking to down size within the Town of Braintree. Additionally, limiting the impact on resources and encouraging the preservation of open space is favorable.

However, the ZWG does express concern that as currently written the intent is not recognized. Flexible Developments are limited by special permit to the established Residential Districts A, B & C. It is the opinion of the ZWG that given the high cost of land, requirement for a minimum of three (3) dwelling units to qualify as a flexible development and each dwelling unit meeting the minimum lot area in the proposed district; the applicability of the bylaw is limited.

Although smaller housing options are addressed by Housing Choices D (3) these are only recommendations and there are no additional limits to housing size. It again is the opinion of the ZWG that developers will seek to maximize profit and forgo the building of smaller dwelling units for much larger homes with better profit margins. Furthermore, the allowance of shared utilities and maintenance of private roadways has the potential to create hardships for owners and is not supported.

The decision to not support Section 6.5 as written was given after careful consideration and much discussion. We acknowledge the substantial need for greater housing options, especially seniors looking to down-size and remain in Braintree. However, supporting a bylaw with minimal opportunities for implementation, that was created to address an identifiable need may further perpetuate the problem.

As the Town moves forward with the Master Plan, priority should be given to identifying suitable areas for senior housing. The utilization of an overlay district in conjunction with a revised Flexible Development or similar bylaw should be considered to achieve the goal of creating such housing. It is unlikely Senior Housing will be built without active involvement from the Town.

### **Sec. 6.8 Home Occupation**

The ZWG agrees with the stated purpose of the proposed.

*A. Purposes. The purpose of this section is to provide opportunities for residents to conduct homebased businesses, to maintain an office at home, and to reduce commuting time by working all or a portion of the week at home.*

Clarification requested on C. Exception to Applicability and how this relate to single family residents with an approved in-law. Although the Planning Department is recommending that Section 6.7, Accessory

Apartments, be withdrawn, the town currently has many units in existence that would have qualified under 6.7 Accessory Apartments.

*C. Exception to Applicability: The above notwithstanding, any lot that has an approved accessory apartment per § 6.7, shall not be permitted to host a home occupation.*

There was some concern with the allowable maximum gross floor area and whether this is in line with the stated purpose.

*D. Basic Requirements (5) The maximum gross floor area of the home occupation shall not exceed 20 percent of the entire gross floor area of the principal dwelling unit or 700 square feet, whichever is less, and there shall be no more than one home occupation.*

Consideration should be given to identifying and prohibiting Home Occupations that would not be compatible in residential districts and stating within the Basic Requirements.

The ZWG is also requesting an application process be in place where the applicant clearly states the scope of the Home Occupation to evaluate compatibility within the neighborhood.

#### **Sec. 6.9 Registered Marijuana Dispensary (Medical Marijuana Treatment Center)**

Registered Marijuana Dispensary's are restricted to Highway Business and Commercial District. It is the recommendation of the ZWG that an overlay district be considered limiting the use to specific areas within the Highway Business District or Commercial Districts. Both Districts are being proposed and require a special permit.

**Sec. 6.10 Adult Use**

It is the recommendation of the ZWG an overlay district be considered limiting the use to specific areas within the Commercial District

**Sec. 6.11 Wireless Communication Facility**

No Comments

**Sec. 6.12 Drive-Through Service**

No Comments

**Sec. 6.13 Outdoor Dining**

No Comments

**Sec. 6.14 Fuel Stations**

Remains largely the same as the old zoning on fuel stations - No Comments

**Sec. 6.15 Temporary Stage Container**

No Comments

## **Section 7 – General Regulations**

### **§ 7.1 Off-street Parking & Loading**

Sec. 7.1 C(1)(b) Reduction of the Number of Off-Street Parking Spaces – Clarification is requested if shared parking on-site or on adjacent lot is under common ownership. If not, what happens if the adjacent property changes ownership.

*(b) Approval of shared parking on-site or on an adjacent property*

Sec. 7.1 C(1)(c) Reduction of the Number of Off-Street Parking Spaces– Recommending “with proof of written agreement” be changed to “with deeded easement” as recommended by the Planning Department. Furthermore, the language in Sec. 7.1 D(6)(d) will need to be revisited and made consistent.

There are concerns with the feasibility of this bylaw. As written an owner of a separate property would need to allow a permanent easement to their property for purposes of an unrelated business meeting their parking requirements.

*(c) Approval of off-site parking to meet the parking requirement, with proof of written agreement if the site is owned by a different private property owner.*

### **Table 4: Schedule of Off-Street Parking Requirements**

1.3 Continuing Care Retirement Community – Definition uses terms “retirement community” and “independent living” in conjunction with assisted living, long-term care and memory care facilities. Given the inclusion of retirement community/independent living ZWG is concerned with the reduction of parking from 1 space per bedroom to 0.75 spaces per unit or bedroom. ZWG requests clarification as to whether fifty-five (55) and over housing would be included.

3.3 Recreation facility, Commercial – Definition is inclusive of activities such as a gym or personal

training center; yoga and Pilates studios; swimming pools; bowling alleys; tennis clubs; martial arts; golf driving ranges; miniature golf; water parks; outdoor ropes courses; wall climbing; and batting cages. Existing parking requirement is 1 per person at capacity. ZWG is concerned with the change to one parking space per 250 sq. ft. and whether this would be adequate. ZWG suggests that the definition needs to be closely reviewed in order to determine whether all proposed uses should be under the same parking requirements or if there should be subsections which combine similarly situated uses with respect to parking demand. For example, under the proposed Zoning Ordinance, a 1000 sq. ft. yoga studio would only require 4 parking spaces and the parking demand is much greater. Alternatively, a tennis club would have massive square footage and the parking demand would not support the number of spaces required under the ordinance.

9.1 Hospital – Requesting clarification of whether eight (8) spaces per patient bed includes parking for staff.

14.1 Alcoholic Beverage Production – Per the definition Alcoholic Beverage Production facilities are allowed, “restaurant services for onsite consumption, retail sales and tasting facilities of wine, beer, spirits and related promotional items, and areas used for live entertainment, parties, and other such social functions and gatherings, may be permitted for up to 20% of the area of any winery, brewery or distillery operations”. Given the popularity of these facilities and locations away from public transit, ZWG recommends that the 20% be subject to additional parking requirements. ZWG suggests that parking requirements for this type of business may need to be calculated based on a multiple use classification.

14.3 Self-Storage facility – Proposed is one space for every 75 units. ZWG is concerned that this may be inadequate especially for facilities that have employees; consideration should be given to increasing the parking requirement.

#### N. Parking Facility Design Standards

N(1)(b) – ZWG recommends making the wording less restrictive to allow more than 2 cars parked in a driveway when adequate space available.

*(b) In any residential district, there shall be a maximum of two (2) cars or other light motor vehicles allowed to be parked in the front setback of any property. Parking in the front setback shall be on paved surfaces only and shall not be located in front of the front façade of the home (except in front of a garage, carport, or other parking structure)*

N(1)(d) – ZWG recommends reconsideration of the required maximum width of a driveway at the curb; this is much too narrow and overly restrictive.

*(d) (d) The maximum width of any driveway at the curb shall be 10 feet, which may taper toward a parking facility to a maximum width of 20 feet. All driveways must be set back at least four (4) feet from the side property line. See § 5.3.B, Setbacks.*

#### Sec. 7.2 - Site Design Standards

No Comments

#### Sec. 7.6 – Signage Standards

Although the ZWG did not review Signage Standards there is a general consensus that the town could benefit from the creation of a sign standards review board.

## **Section 10 Definitions**

The ZWG will only be providing comments on the definitions that require additional information, clarification or revision. The definitions not addressed does not convey an approval as written.

**Accessory Building or Structure** – As written only one of each Accessory Building or structure is allowed, some discussion of whether this is too restrictive. Consideration should be given to limiting the total number of accessory structures but expanding the definition to allow an additional shed if all dimensional requirements are met. The inclusion of design standards or a review process for accessory structures was also discussed and may warrant further consideration by the Planning Staff. Reference to Chapter 135 of the existing zoning bylaw needs to be removed.

**Accessory Use** – Definition has been expanded to include “or an adjoining lot under the same ownership”. ZWG is concerned that this could increase the size or impact of an accessory use by allowing the lots to be combined for the purpose of accessory uses. Although accessory uses may not occupy more than 25% of the area of a lot would this be determined on the combined lot area or the lot where the principal use is located. Clarification is requested.

**Accessory Apartments** – Currently the Planning Department is recommending removal from the proposed draft. Although the ZWG did not have a formal discussion on Accessory apartments and the challenges they create for the town, it is our opinion that these issues warrant further consideration.

**Adequate Capacity** – The ZWG had initially planned to review Section 7.3 Traffic with guidance from the Town’s traffic engineer. Prior to this occurring, the town engineer resigned, and the position remains vacant. The ZWG is recommending a town wide traffic study to determine current capacity and LOS. Additional Comments will be included in Section 7.

**Alcoholic Beverage Production:** The ZWG expressed some concern on the 20% allowable area for uses other than production and the possible impact on parking. These additional uses would include restaurant services for onsite consumption, retail sales and tasting facilities of wine, beer, spirits and related promotional items, and areas used for live entertainment, parties and other social functions and gatherings. Current parking requirement is one space per 750 sq. ft GFA compared to restaurants without seats which requires one space per 100 sq. ft GFA. Consideration should be given to expand or limit the 20% depending on the location and ability to mitigate any negative impacts to surrounding business. An increase in the parking requirement should be considered given the popularity of tasting rooms, proposed uses and the allowed locations away from public transit.

**Bed and Breakfast:** The ZWG is opposed to allowing Bed & Breakfasts with up to 6 rooms to be rented and the lack of the required breakfast. The current definition is more consistent with a boarding house or short-term rental such as VRBO or Air B&B. Currently Bed & Breakfasts are proposed only within the Transition District which is not being recommended. ZWG would also not support this use as written in any other districts.

**Building Coverage** - As proposed parking structures to a principal use are excluded in the calculation of building coverage. The current definition includes accessory structures and buildings on a lot and does not specifically exclude parking structures from the calculation of building coverage. The removal of parking structures from the building coverage could significantly change the aesthetics of current and future development. Clarification is requested.

**Congregate Residence** - Planning Department will involve the Town Solicitor in clarifying the current definition to distinguish it from group homes.

**Construction** – Requesting clarification from the Town solicitor. As written, demolition is excluded.

**Day Care, Adult** – May be an accessory use to Congregate Care, which is currently undefined. ZWG suggests that Congregate Care be defined.

**Day Care, Child Care Center** – ZWG requests Clarification of Definition

**Day Care, Family Home** - ZWG requests Clarification of Definition

**Daytime** – ZWG requests including Sunday to daytime definition.

**Dormitory** – Majority of the discussion centered around the added use of dormitories and whether the specific mention of junior high school students was for the benefit of any singular educational institution. It is the understanding of the ZWG that schools are exempt from zoning, but by having the

definition in the bylaws the Town has some leeway with site plan review. No additional Comments.

**Fence** – Consider adding “vinyl” as a fencing material.

**Flex Building** – As written the combination and proportions of office, light industrial, wholesale, and warehouse functions are subject to the users need overtime. Given the loosely written definition there is concern about expansion without additional oversight and possible negative impacts on adjacent business or neighboring districts.

**Food Truck** – Definition needs further clarification.

**Fuel Station** – ZWG suggests considering adding “for sale” to the definition of fuel.

**Garage, Residential** – ZWG has concerns over the maximum allowed garage size in relation to the size of the main dwelling; concerns over proportionality.

**Gross Floor Area** – ZWG requests clarification of the definition to be more explicit on including/excluding basement square footage, under what conditions, and how it relates to Floor Area Ratio (FAR). There seems to be some contradictions with this definition and calculating FAR. ZWG suggests clarifying whether “basement/cellar areas that are devoted exclusively to activities accessory to the operation of the building” should be included.

**Hotel** – ZWG requests clarification on why a Hotel must contain a minimum of 20 guest rooms

**Household** – the definition is vaguely written and (c) (up to 6 persons all of whom are not necessarily related to each other by blood, marriage, or adoption and their dependent children) negates the need for (a) or (b). ZWG feels that this definition needs to be re-worked.

**Industrial, Light** - Definition replaces Light Manufacturing in current Bylaws. Proposed definition generated a lot of discussion around the types of industry best suited for Braintree and how to create desirable commercial growth. The possible negative impacts of light manufacturing were also expressed.

**Junkyard** – Removed from the proposed draft. Suggested that definition be included for purposes of prohibiting any additional junkyards except for existing McConnell junkyard.

**Lot Area** – Definition needs to be clarified specifically pertaining to portion which states, “except that if a corner lot has its corner bounded by a curved line connecting other street lines which, if extended, would intersect, the area may be computed as if such boundary lines were so extended”.

**Lot Width** – As written the definition does not identify the position within the lot where the measurement is taken. The point of measurement should be consistent and clarified within the definition.

**Motor Vehicle and Equipment Related Business, Heavy; Auto Repair Service, Auto Body Work** – ZWG suggests considering the addition of Commercial Vehicles

**Motor Vehicle and Equipment Related Business, Light; Auto Repair Service, Non-Auto Body Work** – ZWG suggests considering the addition of Commercial Vehicles

**Personal Services, Body-Related** – Tattooing is defined separately but included within Personal Services, Body Related on the Use table. ZWG suggests considering separating and combining tattooing and body art establishments together; prohibiting locations within 1000 ft of a school and allowing in HB by Special Permit only. ZWG requests clarification of whether body piercing facilities are also included within Personal Services, Body Related.

**Playground-** Currently limits playgrounds to a publicly owned area accessory to a Municipal Public Park or School Property. ZWG recommends the definition be expanded to include private uses such as hotels or like businesses.

**Shopping Center, Regional** – As written the proposed definition is expansive and inclusive of all uses within the highway business district. Some uses are not reasonably associated with a regional shopping center. It is the ZWG’s opinion the definition was created solely for Simon properties to remain viable as the retail market changes. Modification of the definition and reconsideration to the addition of a separate district inclusive of the area under common management/ownership by Simon Properties

maybe advantageous to both the Town and property owners. The ZWG is requesting that multi-family dwellings be excluded from the definition.

**Story, Half** - Building inspector Russ Jenkins would like to have this definition slightly modified to match the existing Building Code definition of a Story, Half. ZWG agrees to the change to unify the codes.

**Transportation Terminal** – ZWG requests clarification as to where this is applicable in the town today