

# Department of Planning and Community Development

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Joseph C. Sullivan  
Mayor

## PLANNING BOARD

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

# APPROVED

Braintree Planning Board  
October 4, 2010  
Town Hall

The Vice Chair announced that the Chairman would be arriving late, at which time the Chair would convene the meeting and open the Continued Public Hearing

### Present:

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

Christine Stickney, Director  
Melissa Santucci, Principal Planner

The Chair called the meeting to order at 7:25 P.M. and called the roll: Ms. Lauria, Mr. Mikami, Mr. Eng, Mr. Reynolds, Mr. Harnais all present.

### **New/Old Business**

#### Discussion – Weymouth Landing Re-Zoning

Ms. Stickney informed the Board that the Mayor has been working on initiatives to revitalize Weymouth Landing and that on behalf of the Mayor and Planning Board she has submitted to the Town Council a proposed rezoning of Weymouth Landing, a proposed amendment to Section 135-601 of the Zoning Bylaw and a proposed new Section 135-615. She has prepared a packet which has been distributed to the Planning Board and is proposing that the Planning Board have a public hearing at their November meeting.

#### Discussion – November Meeting Date

Ms. Santucci reminded the Board of the need to confirm a date for the November meeting. Four members are available on Monday, November 15<sup>th</sup> and four are available on Tuesday, November 16<sup>th</sup>. Mr. Harnais said he thought he could be present on the 16<sup>th</sup> after all.

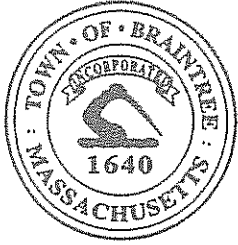
Motion by Mr. Reynolds, second by Mr. Eng to schedule a Planning Board meeting for November 16, 2010 at 7:00 P.M.

Vote: 5/0

Motion by Mr. Reynolds, second by Mr. Eng to adjourn at 8:40 P.M.

Vote: 5/0

Respectfully submitted, Linda Raiss



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Braintree Planning Board  
October 4, 2010 – Public Hearing @ 7:00 P.M.  
Town Hall

Present:

Robert Harnais, Chair  
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James Eng, Clerk  
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Melissa Santucci, Principal Planner

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

The Chair opened the continued public hearing.

Attorney Andrew Upton, representing the applicant, informed the Board that this was the applicant's seventh appearance before the Planning Board. He expressed confidence that Dave & Buster's has responded to the Board's inquiries regarding the hours of operation and the number of games. Jeff Woods, the Senior Vice President and Chief Development Officer for Dave & Buster's, was also in attendance.

Joseph Vajda of Aria Group Architects, Inc. reviewed the interior layout plan which depicts the midway and the Winners' Circle included in the gaming area. He clarified an error in his previous presentation, noted that the midway is 48.9% of the public space and stated that the building contains 33,140 SF of leasable space.

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

Lee Dingee, Councilor-at-Large, noted that Attorney Upton did not address earlier concerns about the façade and asked the Board if those concerns had been resolved or if they would be taken up during the evening. The Chair responded that the Board would be bringing up his concerns.

Laurie Melchionda, resident at 64 Howie Road, raised concerns about people congregating in out-of-the-way areas on the property, consuming alcohol and returning to the establishment. She asked about the hours for those under 21 and who ensures compliance.

Charles Kokoros, District 1 Councilor, mentioned the concerns of his district regarding crowds congregating in front of the building, smoking near points of entry and mitigation to enhance public safety. He reminded the Board of their jurisdiction over places of assembly and the very large number of people who can be accommodated inside. He is aware of the issues which come under the jurisdiction of the Licensing Board, but he would like Dave & Buster's to go on record with commitments to the community regarding public safety and that the area in the front of the building will not become a hang-out.

The Chair asked for a motion to accept the summary of correspondence from 1/15/10 to 10/4/10. Motion by Mr. Reynolds, second by Mr. Eng to accept the summary.  
Vote: 4/0

Mr. Mikami addressed Dave & Buster's team stating that the project is only as good as the information the applicant has provided to the Board. He expressed his disappointment with the applicant's lack of timely and accurate submissions and his belief that the process took longer than necessary for that reason, noting that the newest floor plans were submitted only a couple of days ago. He asked why the Board should have confidence that the numbers presented now are the correct ones.

Attorney Upton responded that the architect redrew the plans to specifications and that Attorney Upton and the engineer had sat down with staff and others regarding the plans. Every number is clear, justified and verifiable. They are ready to answer any question about them.

Mr. Mikami repeated his question, "How can the Board be confident that the numbers are finally correct?" Has the applicant double and triple checked the figures? the percentages and the occupancy numbers? Mr. Mikami wants a guarantee that the numbers are correct, to which Attorney Upton replied he is "confident the numbers are correct."

Mr. Mikami continued with questions about changes in "occupancy," especially in the midway. How has the occupancy changed now that the applicant has submitted plans which are supposed to be correct? Mr. Vajda said he does not have an exact number for the midway, but it is probably a negligible change over the previous figure presented to the Board. *Mr. Mikami repeated his question about the total occupancy load for the midway.* Mr. Vajda responded that total allowable load according to the Massachusetts State Building Code is 1318 people. Mr. Mikami himself came up with an occupancy figure for the midway of 558 people and asked if this is correct. Mr. Vajda stated that he believes it to be correct. Mr. Mikami continued to ask how Dave & Buster's would track occupancy and know if there were 550 or perhaps 570 people in the midway. Attorney Upton responded that it is the responsibility of the six security captains

in charge of crowd control and the police and fire details to keep the occupancy count. Mr. Mikami expressed concern that “Nobody keeps actual track of the numbers of people. So you do not know if you have achieved full occupancy or not.” Attorney Upton stated that the fire details work with management and are paid to keep track of the occupancy level.

Mr. Mikami asked the midway closing time for minors as opposed to closing for adults. It was his understanding that there would be an earlier time for minors. Attorney Upton stated that Dave & Buster’s has no blanket policy and has not proposed hours for the Braintree location. They will abide by the ordinance which states minors can be there with a chaperone over 25. Mr. Mikami strongly suggested that Dave & Buster’s give serious consideration to an earlier closing time for minors in the midway as a gesture to the community. He then asked that the senior representative from Dave & Buster’s give a short statement describing why Dave & Buster’s would be good for Braintree.

Mr. Wood responded that they have submitted written comments in this regard to the Board and repeated the often-heard “we’ve been good corporate citizens wherever we’ve been.” They sponsor teams, want to be here, are the right fit for the Town, and have preferential hiring opportunities for residents. He repeated that the Board could refer to the written comments submitted earlier to the Board.

Mr. Eng posed questions about the first floor exit plan and the crush of the crowd in an emergency. Mr. Vajda responded that they comply with the amount of exit width required by the state building code. There was short discussion about the width of exit paths, whether the reception desk is movable or fixed [fixed] and whether two wheelchairs can pass each other at that point. Mr. Vajda said they are ADA-compliant. He responded to Mr. Eng’s inquiry about people exiting through the kitchen in an emergency. [They do not exit through the kitchen, but on the other side of the bar.]. There will be signage to direct patrons in an emergency.

Mr. Eng asked about guidelines for wristbands [to identify minors] and why wristbands are required only on Fridays and Saturdays from 7 P.M. to closing and not on other nights. Attorney Upton responded by stating that Dave & Buster’s has one of strictest security and alcohol control models and wristbands are in use at five or fewer of their locations. They are putting them in use in Braintree through an abundance of caution and feel that the number of patrons on Fridays and Saturdays would be the only times they might be necessary [if at all]. Mr. Eng asked if Dave & Buster’s would consider revisiting the policy [yes] and then asked why the policy commences at 7 P.M. and not 5 P.M. when lots of families might be visiting. Attorney Upton responded that kids with parents are the least likely to need bands as they would be supervised by their parents. He then read from Dave & Buster’s guidelines and policies which states that prior to opening guidelines and policies are reviewed with the local community and adjusted to address concerns.

Mr. Eng asked Judy Tullius, Manager of the South Shore Plaza, to comment on a previous speaker's concerns about exterior security issues and to describe Plaza security in the area. Ms. Tullius stated that the areas described by the speaker in question are not on the Plaza property, that the Plaza has three vehicles, two of which are always patrolling the parking areas. [Coverage is increased on week-ends.] Pedestrian officers are also assigned to patrol outside the mall. The area around the proposed Dave & Buster's is patrolled by Plaza security.

Brian Cahoon, President of Braintree Police Officers' Association, stated that part of the mitigation to be proposed to the Licensing Board is to have a marked cruiser assigned to the Plaza at least on week-ends [Thursday, Friday and Saturday nights]. In addition, there currently is an unmarked police car with two officers patrolling the Plaza area.

Mr. Reynolds said that his questions have been raised by other members, but he has a comment about security issues. He feels that what has been proposed will satisfy the Board's concerns about security. Regarding the jurisdiction of the Licensing Board, he suggested that the community is at an advantage by having both the Police and Fire Chiefs on the Licensing Board. It provides an opportunity for that Board to work with the applicant and address Councilor Kokoros's proposed mitigation. He feels things are going in the right direction, but it is best for the Town to use wording suggested by our counsel allowing the Town more flexibility and more discretion to the chiefs to deal with any potential issues that may arise. Much work has been done. He appreciates the willingness of the applicant and, more, the willingness of the community to get involved and contribute to the hearing. He ended by reminding all that the Town is breaking new ground with this type of use in the community.

Mr. Harnais stated that it is his opinion that security issues should be left to the professionals and he is confident they will be addressed during the Licensing Board's deliberations. He noted that the willingness of Dave & Buster's to address security issues has resulted in a turnaround on the part of some of the neighbors who expressed concerns about the impact of Dave & Buster's on their neighborhood. Regarding Councilor Kokoros's request for a commitment on mitigation for the neighborhood, he stated that the Board is not in a position to require such mitigation. This comes under the jurisdiction of the Licensing Board. Although he agrees with the neighbors' concerns about security, he is not in a position to have the Planning Board discuss these issues. No one but the Chiefs is qualified to determine security needs. He expects that Dave & Buster's will work with the Licensing Board and will do what the Board wants.

Mr. Mikami referred to the Draft Conditions and Findings prepared by staff and stated he did not know how he would vote. In his opinion there remain controversial issues. He would like to have the Planning Board add a condition which would state that within 9 – 12 months [should the Board vote to approve the request for Special Permits and Site Plan Review] and if Dave & Buster's receives a Certificate of Occupancy that there be a full review of this permit in order to see how it is going, to measure performance versus the requirements of the Conditions of Approval in all the areas which have been of concern [public safety, community acceptance,

control of minors, alcohol policy, preferential hiring, etc.]. He feels that the Board needs a moment to go back and check carefully and explicitly how the applicant has done against all criteria established. In effect it would be conditioning the Conditions of Approval, putting the applicant on probation. This would be a formal review within 9-12 months and once the applicant receives a Certificate of Occupancy to allow the Planning Board to determine if the SP/SPR should continue.

Following on Mr. Mikami's suggestion, Mr. Eng would like to recommend that if there are any incidents which occur and are of concern that Dave and Buster's be invited to a discussion with the Planning Board as soon as possible in order to address concerns immediately and not allow things to fester.

Attorney Upton hesitated to respond positively because of possible multiple jurisdictions over any unforeseen issues/incidents, but he concluded by saying that if it were the pleasure of the Board to do that for information purposes they would be willing to do so.

Mr. Harnais responded to Attorney Upton's remarks by stating that Dave & Buster's is a new concept for the Town and if an incident occurs he would like Dave & Buster's to explain to the Planning Board what happened.

Ms. Santucci responded to Attorney Upton's reticence by informing him that the Planning Board has in the past required that permit holders come in and provide an update on their projects or operations. The Board is well aware of their jurisdiction and knows that they do not have the ability to say whether or not Dave & Buster's has violated the license granted by the Licensing Board. If the Planning Board votes to issue the requested Special Permits and Site Plan Review, they are giving Dave & Buster's the ability to use the building which then allows Dave & Buster's to seek licenses from the Licensing Board. There are two different jurisdictions and she is of the opinion that Mr. Mikami's concern in requesting an additional condition would be to address the overall operation governed by the SP/SPR. If there are violations of the SP/SPR then the Board would invite Dave & Buster's to come to a meeting and explain why.

Mr. Mikami stated that the Planning Board has the responsibility and legal authority to issue special permits and to condition them and to revoke them as well. He would like to see a condition which would require a formal review of all the criteria governed by the SP/SPR, a report card of sorts to determine the success of the Board and the applicant. The SP/SPR is granted for specific reasons and he wants the Board to formally review at a later date the status of Dave & Buster's operation.

Mr. Reynolds added that he sees this as a way for the applicant to assist the community by agreeing to the condition. This is a new concept, a new use and this would be an opportunity for the Planning Board to learn from the experience with Dave & Buster's. It is the right of the Board to call applicants back to review conditions.

Ms. Santucci will draft a new condition and circulate it for comment.

Regarding signage, Ms. Santucci informed the Board that she had met with the applicant who will be filing with the ZBA. The Planning Board will have an opportunity to comment at that time.

Motion by Mr. Eng, second by Mr. Reynolds to close the public hearing.

Vote: 4/0

Ms. Santucci noted that there is an omission in Condition #51. The words "Fire and" should be inserted. Condition #46 has some blanks as she is waiting for Attorney Upton to submit a master document which will be referenced in Condition #46.

Mr. Harnais asked about a dress code policy. Attorney Upton stated that their dress policy has been submitted in writing.

Mr. Reynolds asked about the wording of Mr. Mikami's proposed condition and if the Board would be voting on it.

Ms. Santucci will be drafting the condition.

Mr. Harnais complimented Mr. Mikami on the extraordinary effort that he put in to reviewing and analyzing the multiple submissions of the applicant and thanked him for that effort.

Motion by Mr. Reynolds, second by Mr. Eng, to approve this application based on the conditions which the Board has managed to work out. For those who are concerned, there are protections in place for the community. We have an opportunity to enhance our fiscal position as a community, but by no means is there compromise to the integrity and quality of life in the community with the approval of this project.

Vote: 4/0

Attorney Upton thanked the Chair and the Board, noting that over the years he has worked with dozens of communities and staff, and he wished to single out the staff member of the Planning Board with whom he worked. She was extraordinarily detailed, thorough, responsive and a pleasure to work with.

The Chair repeated his thanks to Mr. Mikami for his thorough attention to reviewing this application.

Respectfully submitted,  
Linda Raiss