REGULAR MEETING OF THE TOWN OF EVANS PLANNING BOARD WEDNESDAY, MARCH 22, 2017

MEMBERS PRESENT:	T. Catalano, A. Sellers, J. McEvoy, J. Pinter, B. Bergum, M. Connors
ALSO PRESENT:	Roberta Rappoccio, Director of Planning & Community Development Jared Lusk, Nixon Peabody LLP, Attorneys at Law Theresa Reid, Verizon Wireless Real Estate Consultant
EXCUSED:	C. Castiglia

Chairman Catalano opened the meeting at 7:00 P.M. The meeting took place in the Court Room of the Evans Municipal Center, Erie Road, Angola, NY 14006.

Chairman Catalano: I would like to welcome everyone to the March 22, 2017 Planning Board meeting. Before we begin our agenda items this evening we have some housekeeping to take care of. Whereas, at the Town of Evans January 11th, 2017 Organizational Meeting the Town Board has required the Planning Board Secretary must be a full-time employee of the Town. Therefore, at this time may I please have a motion to appoint Debra Wilson as the Secretary to the Planning Board for 2017?

Ms. Sellers: I will make the Motion.
Mr. Pinter: Second.

Vote: All in favor. Carried.

Chairman Catalano: Regarding minutes from the October 26, 2016 meeting; are there any additions, corrections or questions or may I have a motion to accept them as submitted. Motion please.

Mr. Bergum: Motion to accept as submitted.
Ms. Sellers: Second.

Vote: All in favor. Carried.

Chairman Catalano: The first item on the Planning Board's agenda this evening is a:

Tower Special Permit and Site Plan Review – for a 145' cellular telecommunication tower, plus a 4' lightning rod, to be located at 7929 Dennis Rd., Angola, NY (Robert & Linda McFarland property), SBL# 220.00-2-11.21. Petitioner: Bell Atlantic Mobile Systems of Allentown, Inc., d/b/a Verizon Wireless, One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920.

History –

- In order to remedy service inadequacies along portions of Bennett Road, Erie Road, Route 5, Dennis Road and the surrounding area in the Town of Evans, Bell Atlantic Mobile Systems of Allentown Inc. d/b/a Verizon Wireless proposes to construct a wireless telecommunications facility on property located off Dennis Road in the Town of Evans.
- The site consists of a 80' x 125' parcel leased from Robert McFarland, the landowner. The site is located in the Town's Rural Residential zoning district. As such, the Project is permitted upon the issuance of a tower special use permit from the Town Board and site plan approval from the Planning Board.

Reviews –

- **Director of Planning** – Roberta, do you have any objections or comments?
  - **Ms. Rappoccio** – Just one comment, the Engineer, David Johnson is not here tonight, but we had sent out an Engineering letter to Verizon and they did respond to our comments and have corrected any issues that we had as a Board.

- **Town Engineer** – David Johnson, is not present here this evening.
- **Supervising Code Enforcement Officer and Fire Review** – Paul, do you have any objections or comments at this time.
    - **Mr. Ryerse** – no objections or comments.

Chairman Catalano: Concerning outside agency reviews –

- **Erie County Department of Environment & Planning**
- **NYS Department of Environmental Conservation**
- **NYS Historic Preservation Office** – The Town is still awaiting comments and/or permits from these agencies.

SEQR – The Planning Board has reviewed the Full Environment Assessment Form Part 1 and attached Appendix B Visual EAF Addendum. Based on the SEQR results the Board initiated a coordinated review and sent the 239M to Erie County and notified the Region 9 Office of the Department of Environmental Conservation of the proposed project application for site plan review.

Chairman Catalano: At this time I will ask the applicant and/or his representative to address the Planning Board with further information about the project. Please step up to the microphone, state your name and address, spelling your last name for the record.

Jarek Lusk, Nixon Peabody LLP: Good evening ladies and gentleman, I am with the law firm of Nixon Peabody out of Rochester, NY and here representing Verizon Wireless. With me is Theresa Reid, who is a Verizon Wireless Real Estate Consultant for this project. She helped identify the site that we will be discussing in a few minutes at Verizon Wireless direction. As I go through this presentation I am going to be referring to specific exhibits that are in our application and I would like to make a brief presentation. I am going to assume that everybody has had the opportunity to look at this, so I will not go through it line by line. I will provide the basic highlights of the project as we move forward. As anybody watches the latest commercials, unlimited data is now back on the table. If you were to ask a Verizon Wireless RF Engineer, people's use of data on their cell phones has ballooned and continues to do so. Anytime you want to send a text or make a Facebook post or send photos, that uses data. Phone calls are now on the data network, whereas it use to be phone calls were on the phone network and data was separate. Now everything is digital using the same 'backbone' in the same networks. Verizon Wireless operates the 4G network that you see and the 4G network actually operates on four separate frequencies. The first frequency back in the mid 80's was 850 megahertz frequency so you could put up a tower every 4 or 5 miles. Then in the late 90's and early 2000's the use of that frequency was being maximized. So, they acquired a second frequency from the FCC which was 1900 megahertz. With that, you require more antennas to cover the same area because the frequency didn't follow the same distance as the 850. So we ended up having a few more towers to fill in those gaps, we could put 1900 antennas on the 850 towers that existed, but you still needed some additional in-fill sites to cover the coverage. Recently they went to 4G and that operates on two separate frequencies – 700 megahertz (previously used for analog televisions) which the FCC reallocated those frequencies and they are being used for wireless telecommunications and 2100 megahertz.

So, in order to build out its 4G network, Verizon Wireless needs to put in a number of sites, of which this is one of those sites. Verizon expects in the next few years, the amount of data that's used by all of us will increase 7-fold. So, Verizon is constantly upgrading its facilities to be able to accommodate the expected growth. The site that is currently serving this area is the Angola site and it's about 3.2 miles south of the basic location where this proposed tower is. What happened is too many calls and Facebook data events are occurring in this area and the Angola site is over capacity and can no longer handle the amount of data being used. The more that happens, the more likely delays in sending, receiving, downloading or using data will occur. Each tower can handle about 1200 calls or data events at one time. If you can envision looking down on the tower, there is a triangle of antennas. Each one of those sectors can handle about 400 events at any one time. So, as more and more people try to use that same set of antennas, we have to provide more coverage. This proposed site is to provide that 2100 megahertz coverage that isn't present in that area, as well as to off-load the overcapacity of the Angola site. So, does anyone have any questions as to why we are doing what we are doing?

Okay, so in order to solve that problem, if you would go to Exhibit 'F' to the application, starting at page 8 of 11, there is an RF propagation that the RF Engineer from Verizon relies upon in determining whether or not it has adequate coverage. The blue that you see is the existing 2100 megahertz coverage and the white are the areas that are not covered; therein lies the problem. You have sporadic coverage in the area. The next page, page 9 of 11, is the graph of the capacity use. This is the various levels of use that are measured on a weekly and monthly basis. The orange line that you see on the top of the graph is maxed out, so there are times that the sector is maxed out and there are times that it's not, but you can see that it is on an upward slope and it is maxing out. In order to solve the problem, the Verizon Wireless RF Engineer says if I'm going to relieve this tower in Angola and I want to get coverage to this area I need to pick a location that is evenly spaced between Angola and the next site so the coverage from this tower doesn't overshadow that coverage too much because when your phone has two towers to speak to it gets confused and doesn't go to either. Nor do I want to have it too far from the existing site because I don't want to have a gap in coverage either, which is why we talk about the height that we need later. Using maps and understanding the coverage from the surrounding sites, Verizon Wireless RF Engineer issues a search ring that is based on typography, etc. to find a viable site. That area is then handed to Theresa and she goes out to see if she can find something in that area. That was the task given to Theresa by the RF Engineer. This is done from the Engineer's desk, he doesn't know any of the landowners, he just basically says, put it in this location. He doesn't know the zoning in the Town, he doesn't know if there any available towers or anything in that vicinity, but this is basically where I need to have a facility. So that is how our process begins with the site selection process. The tower has to be in the defined search ring, if it's outside of it there would be a gap or it will be too close and will not relieve the capacity from the Angola site. If we don't put it in that ring, or very close to that ring, then we will not solve the problem.

So within that ring, Theresa drives out to Evans to try and locate some sites. The Town of Evans telecommunication tower ordinance is the same as everyone else. The first place people want us to search is if there are any existing towers that we can hang our set of antennas on and not have to go through the process of building a new tower and further disrupt the surrounding land area and consolidate the visual intrusion. Upon her search she found there is no existing tower anywhere near this search ring. Our next choice is to then go to Town property because municipalities often prefer that so the municipality gets any rent that may be coming from the phone company. Theresa found there are not any municipal owned properties in, or in close proximity, to that search ring either. What Theresa then does is goes out and does what's called a scrub of the search area. She identifies who the property owners are, what the land use is in the area, are there trees where Verizon can sort of nestle this thing in, where are the residents, are there wetlands or things that are going to impact the project? Theresa then provides all that information to the RF Design Engineer, who will put the latitudes and longitudes of the property and determine from his RF Design prospective, which sites of the available properties there, is the best location for his project. At the same time, Theresa is contacting each of the property owners to find out if they are willing to lease to us, because we do not have the right, like a regular utility company, to just put it where we'd like. We need to have a willing landowner. Here we did not have problems securing willing landowners, as we have in other communities, so the RF Engineer picked the best location for the network based upon the available sites, which was the McFarland property. In Tab 'G' on page 9 of 11, the hand-drawn letters refer to particular properties that are within that search ring that we explored. There is the Sasse/Hoch property which is located off Dennis Road (all properties were located off Dennis Road) and is in the north-western portion of the search ring and it's about 48 acres in size, it's an agriculturally developed property and its existing screening is very limiting. It has a wide-open field and to put this tower there, it would be seen much more than compared to other locations. And from an RF prospective this tower would limit the coverage footprint more than the McFarland property. Verizon could live with it, but the McFarland property was a much better site in regards to coverage perspective. The Sasse/Hoch property also has less cell spacing with our existing neighboring sites. It was closer to the existing Angola site and we wanted to keep it within this ring as far away as we could so we have better coverage and better spacing. It provided reduced cell coverage along Lake Shore Road and Route 5. Though it would work, from a marginal perspective it was a less preferable location. Next was the Joseph Boncore property off Dennis Road, in the center of the search ring, parcel B, it too is also an agriculturally developed property. The landowner did not initially express interest in leasing, and when we determined it was an approved candidate, but less preferable. The next property, owned by Eric and Leslie Szafranski, they did express

interest in our leasing the property, but at that point we had already been negotiating with the McFarland's, and again they were a better facility from a coverage perspective. The McFarland property, again farthest northeast and it gave us the better spacing. It's 118 acre parcel and has a wooded area. The proposed height of the tower and location that was agreeable with the landowners complied with all the Town's set-backs. So again, best coverage, met all the tower set-backs and height restrictions and we were able to enter into a lease agreement with the landowner, Mr. McFarland. From an RF perspective, this is the preferred location, the proposed location provides for uniform coverage in all key directions, including along the Lake Shore Road, as well as the residential homes along the lake and the numerous other local roads in the area.

The proposed coverage is provided as an attachment. So the next page in your packet is the green. The green is what's covered from this tower. So you can see that it covers the area that was white before and it is at the 140 ACL ten of centerline so the antennas proceed up to about 144 feet from that and go down four feet from the centerline. They are 8 foot antennas and that's the coverage that's provided. So you can see you have good coverage and you can see how much of the Angola purple that's being covered by this to relieve the traffic that's currently using Angola is now going to be able to use this site as the dominant server. Does anybody have any questions regarding how we chose the location or why we are at 140 feet? For your reference, attachment six shows you the coverage that would have been provided by a 110 foot tower. With 30 feet less, you can see there is still some substantial white area that isn't there at 140 feet.

So once we chose the location, Mr. Chairman did identify it's an 80 x 120 foot lease parcel and there is an 11 x 16 equipment platform. The radio equipment is installed in exterior radio cabinets under the roof platform to keep the snow off, and then there's the 140 foot tower. There is 15 antennas on this tower and up to 145 is the top of the tower with the 4-foot lightning rod at the top of that tower for grounding and lightning protection. As your municipality requires, there is sufficient space in the compound to provide for future co-location of other wireless telecommunication providers and for municipal services if appropriate. The tower is surrounded by an 8-foot fence and it has a stand-by generator in the event the power goes out. That's all that I have.

Chairman Catalano: Excellent. Thank you. Are there any questions or comments from the Planning Board or Planning Consultant before I open it up to the public?

Ms. Sellers: Is it your policy to charge municipalities for co-locating antenna for emergency services?

Mr. Lusk: Verizon Wireless routinely offers space on the towers for municipalities. How much they charge, I can't really say. It is done by a third party and I know it varies depending on what they want to put on the tower. If it's just a whip antenna sometimes it's free. It's like anything, the real estate how much are they taking up of the tower, but again I can't state that it would be free even though they routinely offer space for free on the tower. I can't say in this case they will, it all depends on what the municipality wants to put on.

Ms. Sellers: Do we have any comment from the Police Chief for the need for any more emergency service antennas for the Town for this tower?

Director Rappoccio: The Supervisor did ask me to ask Nixon Peabody about co-locating and if the Town could put their emergency services on this tower and we will discuss this with them. Maybe we would have to discuss this with a third party, I don't know who we would need to put the Supervisor in contact with.

Mr. Lusk: We can provide that information. Verizon Wireless is happy to have them on, they just want to make sure what's going on isn't going to either physically interfere with the space that they would need for their facility or it's not going to interfere from a frequency perspective, so when people are trying to make phone calls and the Police is using the antenna, that it's not going to create interference for either way. So again, it's pretty routine for municipalities to co-locate on these towers. It's more of an Engineering question than it is a real estate question.

Ms. Sellers: Well, we have a little time because we are waiting for the environmental information anyway before we can make a determination on the environmental impact. So, there is time for the Town to negotiate that if the Town wishes to.

Director Rappoccio: I also had a question from a resident who came into our office but couldn't be here tonight. He had noticed on the plans that you had a 4-foot lightning rod up top and he wanted to know how it was engineered to have it grounded from that point. Once it hits the rod, how does it ground at the bottom?

Mr. Lusk: Assuming this gets approved; Verizon Wireless goes through a procurement policy similar to what municipalities go through, where they will present the tower to tower manufacturers for a bid. Once the tower

manufacturer is provided, then the grounding system will be designed with that tower company as part of that tower design. But generally, the grounding system is a brass ring that is installed in the foundation as part of the foundation design of the facility and it is appropriately grounded. Verizon Wireless has no interest in not having a facility grounded. There is too much metal around there and we have the propane fuel tank to run the generator, so we can't take any chances. If you would like, we can get a letter from the engineer regarding the grounding certification prior to our next meeting.

Director Rappoccio: That's fine. If you can get it without too much trouble we can provide a copy to the resident.

Mr. McEvoy: Where are your other towers located, or where are your antennas located other than this one?

Mr. Lusk: The closest one is Angola, which is about 3.2 miles away.

Mr. McEvoy: Is that the one up on Eden Evans Center Road?

Mr. Lusk: I don't know the address, I apologize. I just know it on a map.

Mr. McEvoy: And where is the next closest antenna?

Mr. Lusk: We have one in Eden, I know that, but I can get you that information.

Ms. Sellers: There is one in Derby behind Monroe Muffler.

Chairman Catalano: At this time, there being no further questions from the Planning Board, I will open the floor to the public. If anyone wishes to speak, I ask that you please step up to the microphone, state your name and address, spelling your last name for the record.

Carol Ann Costantino, 235 Dawn Ave., Angola: My only question is, with the other towers that you have, I'm not quite sure if you do have the answers yet, I know that it was spoken about at the Environmental Impact, but do you know have there been any studies on the impact of the other towers that you have with how it affects the land around it. In terms of any kind of impact to the land, the animals, anything in general. I mean it has to impact it around it. Do you know anything about that or no?

Mr. Lusk: As part of the SEQR process for the environment, the Board will undergo that study and whether there are any significant adverse environmental impacts as far as the property. Generally given the limited scope of the coverage, I am unaware of any significant adverse effects.

Chairman Catalano: Erie County is doing a study on that.

Ms. Costantino: Okay, I was just wondering if you had any yourself that you knew, but we'll just wait for the study to come back.

Mr. Lusk: There aren't many adverse effects on the land. We haven't identified any in our analysis, but again, it's up to the Board to decide that.

Ms. Costantino: Okay, thank you.

Chairman Catalano: Is there anyone else who wishes to speak?

Sabina Baeckmann, 9160 Meadow Lane, Angola: How does your tower and antenna affect service for people who have other providers?

Mr. Lusk: Verizon Wireless will serve Verizon Wireless networks. So if you have an AT&T phone, it will not operate on this system. If you are operating, shall we say a Canadian phone and you are over Buffalo and they have a roaming agreement with Verizon Wireless, they will operate on it. That would be contingent. But if you have a T-Mobile, AT&T or Sprint phone, this tower will not operate on this system.

Ms. Baeckmann: No I understand, but would it interfere in any way.

Mr. Lusk: No, each wireless telecommunications company is provided a license and they are obligated to only operate on their frequency.

Chairman Catalano: Thank you. Is there anyone else who wishes to speak? There being no further comments from the public, I will close floor and bring it back to the Planning Board for further questions/comments.

Ms. Sellers: I want to make sure that I understood it correctly. Mr. Lusk, you're going to contact the Supervisor's office to let them know about the third party making an agreement to co-locate municipal services, correct?

Mr. Lusk: I can provide that information to Roberta and you can transfer that information to whomever needs it.

Director Rappoccio: Absolutely, I can do that.

Mr. Lusk: The trouble with you calling them now is they will ask you what the location is of the tower and it won't yet be in their database. They will probably not understand what you're talking about, but again I can give you the name of the people to contact when it's operating if you want to take a shot at calling them and asking them what their requirements would be. They can probably provide you with the application that would be necessary at the time. I will also provide you with the grounding certification.

Chairman Catalano: Thank you. As stated previously the Board is awaiting outstanding comments /permits from the Erie County Department of Environment & Planning, the NYS Department of Environmental Conservation and the State Historic Preservation Office. No action on this Application can be made without the appropriate responses from these Agencies.

With that being said, may I please have a motion to table the decision on the approval of the Site Plan Review for a 145' cellular telecommunication tower, plus a 4' lightning rod, to be located at 7929 Dennis Rd., Angola until the Town Board has declared a Negative Declaration on the SEQR application and a State Historic Preservation Office (SHPO) letter is received by the Applicant and sent to the Town. Motion please.

Ms. Sellers: I would like to make a motion to table the approval of this Site Plan Review based on the following reasons.

- The Town Board must declare a Negative Declaration on the SEQR Application for the Cellular Communication Tower to be located at 7929 Dennis Road, Angola, NY prior to the Planning Board approving the Application.
- However, not until the Town receives the comments from the New York State Department of Environmental Conservation can the Town Board make a determination on the SEQR. I so move.

Mr. Bergum: Second.

Vote: All in favor. Carried.

Mr. Lusk: Quick question procedurally Roberta. I know we are scheduled to be on the Town Board agenda on April 5. Do you anticipate having the comments back from the NYSDEC by then or should we not plan on it?

Director Rappoccio: I do anticipate hopefully having the comments back and we have also set-up the resolutions. So, I will let you know if that is going to happen. It should, but I would certainly let you know if anything changes. I think it's just a small timing issue.

Mr. Lusk: Thank you. No problem, I understand. I just have it on my calendar and wondered if I should take it off or not. Thank you very much.

Chairman Catalano: The Planning Office will tentatively place this Site Plan Review Application on the April 26, 2017 Planning Board Agenda to give the needed time for the coordinated review to be completed and the required documentation to be submitted to the Town.

Mr. Lusk: Thank you very much.

Chairman Catalano: The second item on our agenda this evening is a:

Rezone – Corrective action for the purpose of rezoning properties located at 8996 Erie Road (SBL# 235.00-2-9) and 0 Erie Road (SBL# 235.00-2-8) from Rural Residential (RR) to General Business (GB); and 0 Erie Road (SBL# 235.00-2-3.11) from Residential Two-Family (R-2) to General Business (GB). Petitioner: Town of Evans Planning Board, 8787 Erie Road, Angola, NY 14006.

History –

- Erie Road/Route 5 has long been established as an important commercial corridor in the Town of Evans. The majority of the property fronting along Erie Road from South Creek Road at the Town's northern boundary with Hamburg, down to Commercial Street near the south of the Village of Angola is zoned for commercial use.
- Precedent exists for the rezone at 8996 Erie Road, and the two other Erie Road properties in that the immediate adjacent uses are currently zoned General Business, including the properties immediately across Erie Road

- The rezone would allow the Town to infill the zoning/use gaps (or Spot Zones) along an established commercial corridor.

Reviews –

- **Director of Planning** – Roberta, do you have any objections or comments?
  - **Ms. Rappoccio** – As stated, this is a corrective action by the Town to fix some of the zoning along the Route 5 Corridor. This will not be the only area that will have this correction in the long term. This was spurred on by some interest in development along Route 5/Erie Road in this area.
- **Town Engineer** – David Johnson, is not present here this evening.
- **Supervising Code Enforcement Officer and Fire Review** – Paul, do you have any objections or comments at this time.
  - **Mr. Ryerse** – no objections or comments.

Chairman Catalano: Are there any questions or comments from the Board or Planning Consultant before I open the floor to the public?

Ms. Sellers: It's actually a much better zoning because anything that would come in under a GB zone would need site plan approval, which means that we can ask for environmental things, we can look at and demand plans that show topography. So it actually gives a lot more protection and I don't think we are looking to put residential in that neighborhood. So this makes sense and it is consistent with the Town Master Plan to have that in General Business.

Director Rappoccio: There is also a zoning map if you would like to take a look. It will show each individual parcel along Route 5 in the area and all the way to both borders.

Chairman Catalano: It runs right through the whole town. At this time I will open the floor to the public – please step up to the microphone, state your name and address, spelling your last name for the record.

Gary Welsh, 762 Lake Street, Angola: You say this has been zoned this way for awhile, so why the change? You say there was some interest. Would the interest affect the people on Lake Street? We do have a little bit of privacy back there with the woods. It's a little quiet back there and we kind of like it. How deep would this impact from Route 5 into the back of Lake Street?

Director Rappoccio: This would be a full rezone of the property, it would not be a partial zoning. So the entire property will be rezoned General Business (GB).

Mr. Welsh: So all the way back to Lake Shore?

Director Rappoccio: Yes.

Mr. Welsh: But there is no access. This would create access?

Director Rappoccio: There is frontage on Route 5.

Mr. Welsh: There's frontage, but now you're talking a half mile back toward Lake Shore, right?

Mr. Bergum: It doesn't go all the way back to Lake Shore.

Director Rappoccio: Yeah, I was just going to say I don't think it goes all the way back to Lake Shore, but the entire lot will be zoned GB. If you look at the lots, it's right there.

Mr. Welsh: You say you have interest, has there been interest from some large corporation or company, like a Walmart or something like that? Or is this something that you just want to correct to keep it in consistency with most of Route 5, like you said all the way from Hamburg to Brant?

Director Rappoccio: No. Yes, it's always been known, even in the 1999 Comprehensive Plan that it is a commercial corridor and a major transportation corridor in the Town and are pretty much either Motor Services, General Business, Neighborhood Business – these are all economic commercial properties with little spots that are still Rural Residential from long ago. And we just want to fill in these spots to keep it consistent along Route 5. This is a good area and where we want development. We don't want development further into some other residential areas.

Mr. Welsh: Like I said, we are just concerned to lose our land behind us. That's what we are thinking about, if you're looking at access and obviously you're not looking at that, you're looking at rezoning what you already

had or businesses that have left, like the hotel that was there at one time. You're just trying to change it from that to correct it.

Director Rappoccio: Yes, it's just a corrective action, correcting what's not right anymore.

Mr. Welsh: That's what we're trying to figure out, because unfortunately we are residents here and sometimes we don't get a lot of information. We'd like to hear a little more.

Ms. Sellers: It does actually give you a little more protection because if something came in to build on Rural Residential and they had a building permit that fit that zoning and they did not come for a rezoning, we would never have the opportunity to approve a site plan.

Director Rappoccio: Which means no drainage or grading.

Mr. Welsh: Obviously we have always had that question ever since the Walgreens incidence. We all seemed to have little problem with drainage that's been corrected hopefully and we don't want to experience this again. It came as a big surprise to us, my neighbors are here too, I've been here 10 years and it all of a sudden happened at once. We are just concerned and would like to know.

Ms. Sellers: We understand, but now you would have site plan review. So not only will the Town Engineer review any project that comes in under this commercial zoning, but there would be a public meeting and there would be a notice in the local PennySaver and you could come and voice any concerns. Nobody can keep all of your privacy on land that you don't own, but it gives you more protection, you'd be able to see what it is. If you come early, sometimes the developer may offer more screening if there is a lot of neighbors concerned – more than we can ask for in our code. So it actually provides more protection for you. Although it's also limited with Rural Residential too.

Mr. Welsh: My curiosity was more like has there been a major interest of something large there? That is what we are concerned about. We'd love to see businesses out here; we'd love to see the taxes drop obviously, like anybody. But, we don't want to lose a green area behind us because we do like the privacy, that's one of the reasons we moved here. It's nice to have a little bit of privacy and peace behind us. We all know how that is, nobody wants to lose their backyard.

Ms. Sellers: The only thing I can recommend, not as an official of the Town of anything like that, is if that is the case and there is an owner of record, maybe you could buy more land to protect yourself. I know it also raises your taxes and its backland and it's not as valuable, but it is something to consider. We have it all over Town. On Lake Shore Road, they are used to a big woods behind them and now there is a housing development that's been approved, although it hasn't gone any place, and the neighbors are nervous because they are losing woods and privacy that they were used to. It's the way of the world; if you don't own it you can't do anything. But at least with this rezone it will give you some protection, although not as much as if you could look at buying another 50 feet.

Mr. Welsh: Thank you.

Mr. McEvoy: Paul, do you know what the total acreage is of the land that's going to be rezoned?

Director Rappoccio: Let me see if I have that information. One is 49 acres, one is 9.5 acres and another is 8.2 acres. Just under 70 acres for the 3 parcels total.

Mr. McEvoy: What you have to take into consideration with that is the Route 5 access is very narrow.

Marie O'Connor, 8812 Lake Shore Road, Angola: I know there are a couple of you who are familiar with me because I have been here before. I've been here around and around and about and I certainly have had experience with both the General Business and Site Plan Review experiences and it's not a pleasant one.

Ms. Sellers: I can't remember, what was the project that you were here for?

Ms. O'Connor: Well, Walgreens was one of them. It was declared a negative declaration although the residents around there and many more went to Planning Board meetings, Zoning Board meetings and requested a positive declaration. It wasn't, it was declared a negative declaration so a SEQR was never done, the retention pond was not put in correctly, many of the residents around the surrounding area suffered from those consequences and I, in effect, do because I live where everybody's problem is deposited downhill, which I will say right now is a very sensitive environmental area. The drainage on that area right now is in the midst of discussion in terms of where it's going and what it's doing and who's doing what, where, when

and why. People are seeing the consequences of unmitigated and poorly mitigated drainage and it has to be addressed.

Ms. Sellers: Well, with the land not developed and without anything for us to review to study drainage, it's not for the Planning Board. But were a Site Plan to come in from a developer then we have an engineering firm to review, we have calculations to be drawn, then we have that to look at.

Ms. O'Connor: I am very familiar with that process, but the process is not to the advantage of the people that live in the vicinity. That has been my experience over and over again. I speak this from experience and I know that there are a few of you on the Board that have heard me speak this before. I'm going to step over to the map for a second. Right now, the GP zoning is only very small parcels. I understand that this is a corridor for commerce. I understand that and well and good. But if we look from Beach Road to Lake Street, there are 7 parcels that are small in nature that are zoned General Business. They are small in nature. Three of these I believe have just been zoned General Business in the last few years if I'm not mistaken; they weren't before. So really this stretch, I don't know where your precedence is coming from because this stretch has not had a whole lot of General Business zoned that way. And now you're talking 70+ acres. You're talking about a stretch almost going back to the end of, or at least ¾ of the way down the trailer park development, which is currently an issue for drainage. So is it going to impact our citizens? It sure is. From my experience of this general area and site development and site plans from different things and with SEQR's being completed inappropriately and those that have been determined negative SEQR's when they should have been positive; when we begged for positive SEQR's, so these site reviews could be accomplished and gotten to not get them, it causes me great concern. In my hand right here I have a petition for withdrawal of rezoning of the properties located at 8996 Erie Road, plus 0 in Angola and it reads, and let me add that in this it's only been an hour and a half, so that these signatures were obtained; "We the undersigned are requesting the Planning Board to withdrawal the rezoning of the (I thought) 56 acres (now you're talking 70, which is even larger) at the above location. This action would extremely change the current zoning from one end of the zoning area Rural Residential 2 spectrum to the other General Business. It would also put into place a potential retail development space which would be much greater, much greater, than any other in the area. The location in the zone that is environmentally sensitive and water retentive given the current and ongoing concerns of the community in regard to the exacerbation and the under mitigation of the drainage developed in this area. Environmental factors are needed for further investigation before any such change takes place. To rush through this at this time would be a direct neglect of the concerns and the affects of this action to the adjacent residents and the beach community within this vicinity. Minimally what we are asking is that this action be more appropriately addressed during the Master Plan development in the Town that we are currently engaged in." And I'm not talking about requesting it be dropped now and I have some signatures here.

Director Rappoccio: I just have two comments. The Planning Board, in this case, is just the recommending Board. This is basically just a bureaucratic step. We are not voting on this, we do not have any authority to do that. This goes directly to the Town Board. So I just wonder if maybe your petition is better off in the Town Board's hands. We could certainly take it...

Ms. O'Connor: We could take it and it will be seen at the Town Board's meeting as well. What we are asking you to do is withdrawal it. Was there a request for this rezoning that came from another source, that put this rezoning at this time, in this manner, in front of you? Who put this request in front of you?

Director Rappoccio: The Town of Evans.

Ms. O'Connor: The Town of Evans itself?

Chairman Catalano: Yes. Route 5 is a major corridor for development, so it is in the Town's best interest that this all be zoned correctly. It is a also a layer of protection for the residents who live in that neighborhood. The way it is zoned now, you don't have as much protection. If it is zoned Residential somebody can come in, get a permit, and do what they want there. By zoning it GB, if somebody wants to develop that land they would have to come in front of us, so now there would be all these layers of protection in place for drainage, for the residents that live there. It gives you a voice, an opportunity to speak to us and come in front of us with your petitions.

Ms. Sellers: And if it's a Type 1 Action and they are disturbing that large quantity of road of undisturbed land, you would have a full-blown environmental impact study because that is the law. If its piecemealed, I would like you to think of the Walmart property. Even though the project failed, they had to do that full-blown

environmental impact but by leaving this zoned the way it is, you are not going to have your drainage problem settled either. I understand that you are very doubtful that any of this should work, but we can't tell you anything but that we really do follow the law. If a project comes in that is big, it would be a Type 1 Action and it will have a full-blown environmental impact study.

Ms. O'Connor: If this is to be residential, then from what I'm looking at, would it not need to be broken into parcels? Wouldn't that action itself bring about a Public Hearing?

Ms. Sellers: It could piecemeal be subdivided off.

Ms. O'Connor: But it's not subdivided now.

Ms. Sellers: No, but it could be.

Mr. Bergum: It could be bought and subdivided off.

Director Rappoccio: Absolutely.

Ms. Sellers: We don't know what may come before us. You may get small development anyway that will subdivide it.

Ms. O'Connor: I'd rather have grass and trees and houses than major retail.

Ms. Sellers: Well, you know it's not up for us who don't own the land to say what we would rather have on it. If it's on Route 5 and it's in the best interest of the Town I think that you will be hard-pressed to find people wanting to build a lot of individual homes.

Ms. O'Connor: Well there are people who are living here now that didn't buy for a major retail outlet behind their homes.

Chairman Catalano: There is nothing in front of us now for development there. This hearing tonight is strictly about the zoning. There is nothing here that says what's going to be built there. Nothing has come in front of us that proposes what is going to be built there and that is why we want to change the zoning. There's nothing like that right now. And it's all…

Ms. O'Connor: There is potential for large retail. There's no larger space over in here and you are talking about an area that is on record for having water disturbance and not correct drainage. Right now, that we are dealing with. There shouldn't be anything done until that is resolved first.

Chairman Catalano: There is nothing at this point with this Hearing tonight that is going to be approved for any kind of development right now.

Ed Conboy, 8168 Hillside St., Angola: I understand what you are saying about the protections and a Type 1. I think you said Type 1 – that's like a SEQR, right? Was a Type 1 done on Walgreens?

Chairman Catalano: I wasn't on the Planning Board at that time.

Ms. Sellers: I don't remember.

Mr. Conboy: Well what matters is that it wasn't done and it caused a lot of problems immediately behind, like Weils and the next house down. Immediate problems that was approved by the Town.

Ms. Sellers: And have they been corrected?

Mr. Conboy: Not that I know of, but the one guy moved out of town. He couldn't take it anymore.

Ms. Sellers: You're down on Hillside, right? Down on the lake?

Mr. Conboy: Yes, very close to the lake. I'm asking you if a Type 1 was done because you said a Type 1 would be done here, and a Type 1 was not done there.

Ms. Sellers: It all depends on the size of the project.

Mr. Conboy: And Walgreens was much smaller than 70 acres. The retention pond was not correctly done, yet approved by the Town and the flooding…a guy had an above-ground pool behind his house and he lost it. So I'm just saying historically speaking, you say you are putting in layers of protection that were not utilized before.

Chairman Catalano: You know what Ed, we can't answer to past Boards, because we weren't here. We can only address what's in front of us tonight, which is the rezoning. Once a project comes in front of us, if it ever gets developed there, that will come in front of us. There will be Public Hearings to address those issues. This is a different Board and I wasn't here for that Walgreens project and I don't know how it all came about. But for tonight, what we are talking about is just changing the zoning to GB. There is not even a project in front of us at

this point. Once something comes in front of us, there's going to be public notifications, you're going to be able to come in front of us and speak and you're going to be able to have input on how that plan is put together. That is what the Town residents are given the opportunity to do. We are all Town residents up here. Your concerns are our concerns. We all live here. It's not like we are all from out-of-town and were just running rough-shot.

Mr. Conboy: I understand that. This is all well and good and I hope it all works that way. I'm just saying it hasn't in the past and as you talk about precedence, that's a bad precedence. I have another question. You talk about the Master Plan; is that the same as the Comprehensive Plan?

Director Rappoccio: Yes, it is the same.

Mr. Conboy: Is there a copy of the Master Plan online?

Director Rappoccio: No, there is not and I only have two hard copies myself from 1999. You are certainly welcome to come in and review it as long as you like. We are starting the process next week for the Comprehensive Plan coming up. Which of course Route 5, Erie Road will be reviewed as part of that. We will have numerous Public Meetings and we hope to have as many as people there because that will be the long-term impact of the Town. Now is the time to change or fix or whatever the residents want. That starts on the 28th.

Ms. Sellers: I honestly have to tell you, I don't see Route 5, in that area as being recommended as residential development. I don't see it.

Mr. Conboy: I understand all that and hear you, I'm just concerned about the drainage.

Ms. Sellers: We have engineers that review all of this and they tell us how many cubic feet of water will be retained or slowed in detention ponds. I live near a project from the Erie County Sewer Department was supposed to only overflow in a 100 year storm. We've had a lot of 100 year storms in my neighborhood, regularly. But, we just keep trying. They'll do the calculations for everything, they'll review them.

Mr. Conboy: Okay, I understand. Thank you.

Chris Thomas, 728 Birch St., Angola: I too am a little concerned that our voices are heard, because you have had two residents there at the far end. I would love to have some businesses be developed on that Route 5 area – that would be awesome, but I'm kind of in the middle where my house is and I've lived there 17 years. In that 17 years, it's steadily gotten worse as far as the drainage. So, I just want it to be known that it is a concern. If there is a development, great, but it needs to be addressed because it's just filtering down and it's causing more and more problems.

Mr. Pinter: Where is your house located?

Mr. Thomas: It's on the dead-end road that is off of Lake Street around the bend. The trailer court is their backyard. In the winter time you can see the trailers, but in the summertime it's a perfect spot. So that's my only concern.

Chairman Catalano: Chris, we would welcome you to those meetings.

Mr. Thomas: I know and I will be there for that too, but yes we do need some businesses coming in here for taxes. We just want to make sure that is addressed.

Chairman Catalano: Absolutely and trust me we take your concerns.

Mr. Thomas: Thank you.

Caroline Grassmick, 768 Lake St., Angola: I just have a couple of quick questions. Where our property sits right now, one of our property lines lies on what is called a paper street and as I look at the map I'm trying to get a read as to where this area is that you are looking on going. I too would love to see Erie Road built and done well with, but I'm a little concerned as to how deep you are going. It's one thing to have a business on Erie Road, it's another thing to have a business that goes back into the residential that's alive and well and thriving back there – and also floating back there. When we first moved in 10 years ago, we were proud to say we had an acre and a half of dry land and it was wonderful. We can no longer say that. We have little ponds here and there. They use to just sprout up during the rainy season, but now they just kind of hang-out pretty regularly. And now we love those ponds because in those ponds the deer come and the raccoons hang-out and the birds take baths and it's wonderful and we've made the best of our flooded little areas and it's awesome. But we can't take many more ponds quite honestly. And as I drive down Lake Shore Road and I see the residents, who quite honestly have lakes in their front yards and we're not talking Erie, it's concerning to me that we are looking at more commercial

business and rezoning this when we haven't taken the time and really finished up the old business of fixing from the last kind of big issue that happened the last time business came in. Again, I'm looking at from my own concern, as to how deep we are looking at going. When I looked at the map earlier I couldn't tell if it's going to go all the way back to the paper road. If it does, then of course you're going to see my face a lot more, because I'm going to be like 'no.' Today we had, and I was going to bring you a picture, eight deer standing on that road and it was a beautiful, wonderful sight. I would like to say that those deer are going to be there on a regular basis; hopefully not drowning. I would rather tell you about the deer in my yard than the fish or the mosquitoes. We never had mosquitoes before until recently. Of course not this past winter, but over the years they started coming in. So these are all changes and things that are happening. I grew up in California, which is a very beach community in San Diego and I know the value of what beaches can be for a community. I see the value of what Angola has and the jewel that it has. Then as we get back this direction I am saddened by the way things are progressing. So we have a lot of wonderful valuable business areas already here and many of them are dilapidated and falling down. I think our focus really, rather than new business, let's take care of our old business, let's take care of some of these buildings that are already vacant and awaiting new business. Again, Erie Road would be a fabulous place for commerce, so I don't want to not support that, but I have to protect my own property; a place for my grandchildren to grow up, my swimming pool in the backyard, my animals and just my own privacy. Thank you.

Chairman Catalano: Thank you.

Chris Tucker, 8818 Lake Shore Rd., Angola: *(Addressing the audience)* Just be cautious of one thing, after it's a pond…

Chairman Catalano: Mr. Tucker, we won't be able to hear you on the tape, please use the microphone to address the Board.

Mr. Tucker: I'm sorry. What I was saying to her, was be cautious because right now it's a pond but what happens after that is someone comes along and calls it a wetland and then it becomes a big issue. Part of the story is for us, for the Planning Board, for the Town, to protect these people. That's what we're all here for.

So you're looking at a project. I understand this, I'm a builder and I'm pro-development. I do believe there's a right thing and there's a wrong thing for Erie Avenue. I, as other people have commented, I look at the depth of this property that we're looking at changing the zoning of is not consistent with other properties in the Town that has been zoned GB. These properties are much deeper. These properties are going to come with huge affects. Birch Road; I drove it the other day when I heard about this. I must have been down the end of the street. I did see water and ponds but I didn't see any deer. I looked through at the end of Birch Road to the back of where the trailer park is and you look to the right and you see where these lots are going to be. Now these lots where they end are half way down Nicole. You go down Nicole, there's a jog to the right, there's a jog to the left; that's where this property ends. That property is probably 10 feet, maybe 12 feet, higher in elevation than the property of Birch Road, the property on Lake Street and probably 28 – 30, maybe 40 feet higher than Lake Shore Road. That said, General Business is good, General Business without regard to the size of the property that the Planning Board is recommending to the Town Board to rezone is a real discussion. You guys need to take a look at that and do it, because I understand. Somebody's going to come in with a plan and there's going to be an approval. But we are potentially approving a whole plateau that's going to go back at an elevation this high and you have houses that are this high *(height comparison shown with hands)*; there's no way to fix that. That's a huge problem and it's a huge impact for the developer that's going to develop the property. So, depth is an issue; it's been mentioned before and I thought I would bring it up. I don't understand with a Town Board meeting and a Public Meeting coming up on the 5th what the Town's rush is to change the zoning on this. I know they've asked you to look at it. Do we know who owns these parcels?

Ms. Sellers: Sure, they are all on the tax maps.

Mr. Tucker: Is it one group or several?

Director Rappoccio: There are 3 separate properties.

Chairman Catalano: This was brought to us by the Town, we didn't take into account who the owners were, although I'm sure Roberta has them.

Director Rappoccio: SKG Properties is one, Testamentary Credit Shelter (Hogg) is one and Hogg.

Mr. Tucker: I find it interesting that the Town has a large drainage problem with the Hogg's right now that is either resolved or not resolved; there is going to be a meeting in a couple weeks about it. That said, the Town is asking the Planning Board to look at 3 more pieces that the Hogg's own and change the zoning to create more of the same.

Director Rappoccio: Only 2 of the 3 are owned by the Hogg's.

Mr. Tucker: What's the other one?

Director Rappoccio: SKG Properties.

Mr. Tucker: Look that up, I think you'll find…

Director Rappoccio: It's not Hogg.

Mr. Tucker: It's not? Okay. You know that for sure?

Director Rappoccio: Yes.

Mr. Tucker: Okay, so 2 out of the 3 properties. With that said, go back to the depth, go back to how it's going to be done. You're going to recommend for a zoning change on something that's going to create a real hardship for yourself and the Town. It's going to happen. There's no way to drain that in the back.

Chairman Catalano: Well, there is no development there right now and nothing has been brought in front of us about any development. The only thing in front of us is about correcting the zoning on Route 5 to what it should be; General Business. That is all that's been asked of us right now. When and if any development ever comes in front of us, absolutely there will be Public Hearings and Gary and Ed and Chris and everybody who spoke here tonight, I hope you guys all come with your questions to those meetings because there's always more than one meeting.

Ms. Sellers: Chris there is another thing too. While that land is undeveloped and that natural flow is flowing towards the lake because that's the way the slope goes of the land, there's not a lot we can do about natural flow of that water. If someone does come with a project and they have a parcel, now it may be $1/10^{th}$ of this that they buy, we don't know because we don't have a project. They are not allowed to drain off of their own land onto somebody else's land; that is against the law. So they either have to have a retention or detention pond, they have to come up to Route 5 for the sewer and sometimes the topography has to be changed. So, if we never rezoned anything that had a drainage problem on it, and the Town just can't go on somebody's undeveloped land and make them change these things. If you have a project you don't approve it until those things have been addressed. So, every now and then some builder screws up and he doesn't put the detention pond in first and then the Town has to give them a stop work order and have them go back and do it. But, you know the Building Inspector's office has that job of monitoring those projects. The Town Engineer will make sure that the retention is sized properly, that the drainage goes in the right direction or it has the state permit to drain into that sewer on a state highway. Not rezoning it is not going to solve the drainage problem. People will say how can you rezone it without addressing that problem. I don't know how to address it when it's vacant land.

Mr. Tucker: Well, part of the Master Plan should be looking at…

Ms. Sellers: The Master Plan won't tell you how to drain private land. The Master Plan will tell you what's appropriate for what neighborhoods and what areas.

Mr. Tucker: So does the Master Plan show that General Business on Route 5 goes back as far as these two pieces? It doesn't show that.

Ms. Sellers: Well I guess what we don't know is what kind of a proposal might come. There are areas up in Derby where you only rezone commercial for 400 feet back because of where the housing is. If this is vacant land, I'm not sure we can answer that.

Chairman Catalano: We can't answer that because there is nothing in front of us at this time.

Mr. Tucker: I would respectfully assume that you people have gone and looked at these properties, correct?

Chairman Catalano: Correct.

Mr. Tucker: Ok, so we're aware that the one to the south is a major drainage way coming from the city of Angola. When I walked that property the other day and shot grades with an instrument, there was a difference from the bottom of the invert to the top, in some places 8 feet, in some places 11 feet. I understand it's not the

Planning Board's problem to say, okay we have to worry about what they are going to build or how they are going to build it. I'm just saying you're rezoning a piece, or potentially want to rezone a piece that is deeper than what fits in with the Master Plan and consistent with the rest of the Town that has some inherent logistical issues with it and as the Planning Board I think you guys need to do your due diligence to look at that.

Ms. Sellers: Well the grade slopes because everything goes towards the lake.

Mr. Tucker: It goes this way; if I'm standing on Route 5, the water comes behind me, it comes underneath the road, goes into that area and the lakes way down there. So from that invert…

Mr. Bergum: Doesn't that go all the way to Lake Street though…the drainage ditch does.

Mr. Tucker: It does.

Mr. Bergum: So part of the issue is that is not well kept. If you look at that stream, it's overflowing with brush and a lot of other things and that's probably entering your water too. Correct?

Mr. Tucker: I'm sure that's impacting it and if that's impacting the water, who does the Town have look at that?

Mr. Bergum: That's private property and that's the issue we have.

Director Rappoccio: I hope when you went and graded those you had permission.

Mr. Bergum: That's a big issue, I know what that stream looks like, it's clogged all the time.

Mr. Tucker: So then right in that area where you are talking, as you're looking down there, just to the right is Birch Road.

Mr. Bergum: That ditch is probably 2 to 3 foot down, then there's another grade, then there's Birch Road. Since it's private property we can't do anything, but maybe with a developer in there they could clean that up and maybe the drainage would flow better. But as it is right now, we can't touch it.

Mr. Tucker: Ok, so there are no requirements? Paul would know. So in other words if he were to go there and build a dam the Town…

Mr. Bergum: The DEC would have to address a dam.

Director Rappoccio: He can't just build a dam.

Mr. Tucker: Well, you know what I'm saying though. Whether it's poorly kept or a dam gets built intentionally, it's still retaining the water.

Mr. Bergum: We, as a new Board, we've had water issues already brought to us and we've addressed them with new engineering. Hopefully we can address the water issue when Clark Patterson comes in correctly this time so it doesn't become an issue. Because we don't want you guys coming back to us all the time.

Ms. Sellers: Well, we don't want anybody else's land adversely affected. I think that it's very sad that Caroline Grassmick has ponds on what had been dry land. I don't think that's acceptable. The bottom line is you cannot drain water from your land onto your neighbor's property. You have to take care of it somehow on your property.

Mr. Tucker: There are exceptions to that, but for the most part, you are 100% correct.

Chairman Catalano: Yes, and as projects come in front of us, everybody on this Board is well aware of those water issues. You asked if we saw the sites, yes.

Supervising Code Enforcement Officer, Paul Ryerse: To go along with Ms. Sellers comments and yours as far as exceptions, you can't stop the natural water flow. The natural water flow that has gone through these properties and collecting land water from all around, that's where your creeks and streams are created; 18-mile Creek, Muddy Creek, Big Sister Creek – you can't mess with those. If you go out and build a dam, we have a situation in the Town right now. If there's a natural water way there could be somebody downstream counting on that water so you just can't stop it. The way these ravines and properties are right now, they are vacant properties, and there is absolutely nothing the Town can do, it's private property. Being a natural waterway, the Town can't just go in there and dictate to the landowner, SKG, that they have to fix the problem; there not developing anything.

Ms. Sellers: But if we had a development going in we could do it.

Supervising Code Enforcement Officer, Paul Ryerse: What happens in that area and other areas of the Town, our zoning map right now only depicts what's existing. There's nothing on that map that allows us future development. So when my phone rings and it's more than 4 or 5 people I haven't heard about any problems with the Walgreen's pond in 5 or 6 years. Honestly, I haven't. I know there was a big blow-up when it got built and

took out the guy's pool, but that was 8 or 9 years ago maybe. I haven't heard anyting about Walgreen's pond. Early on there can be problems and then you have to try and fix them, so we have new Engineers, we have a new Planning Board, a new Supervisor, my departments all brand new. When my phone rings and people ask what they can do with that piece of property, my answer is nothing. You can build a single-family home and that's it. You have this huge parcel of property on Route 5, we're talking about developers, not the average resident, and my answer is no, you can't do anything. That has been our answer for 20 years. There's nothing being developed. We have to do something to get some people in here to get our taxes down because our phones have been ringing a lot.

Gary Welsh: What about all the empty properties that are on Route 5, a lot closer to Beach, that are still not developed? Nobody is looking at them right now; the old gas station, the areas around there.

Chairman Catalano: I'm sorry, if you are going to speak you really need to step up to the microphone. I'm not sure we will be able to record your comment, being that you are so far away. That is why we are here tonight; we're trying to make corrective action so when these calls come in, we have an answer for these people. We have an answer for developers; we have an answer for contractors. Right now you can't do anything. When those calls come in they are dead in the water.

Mr. Bergum: The reason why those places are undeveloped is, like they were saying, the existing buildings that are on Route 5, no one is coming here. Now if we get other developers to develop, obviously the land value is going to go up and the vacant buildings are going to be bought. But if no one is coming in, no one's buying.

Ms. Grassmick: Can you limit the depth?

Director Rappoccio: It's not best practice to split zone properties. It's not to say we couldn't, it's just not something that is best practice when you consider zoning.

Ms. Grassmick: It would benefit the residential people in existence. It's not great, but it would offer residential and commercial use.

Chairman Catalano: We don't have anyone in front of us to develop the parcels right now and if those developers come in front of us, then we might be able to do something. But remember, there is nothing here at this point.

Mr. Tucker: I think the Planning Board does look at the depth of those pieces though, because it's not consistent with the other pieces on Route 5 because of the depth, because of the acreage. So we're going to have non-conforming General Business to what we already have and to what the Master Plan's looking for. So I understand it makes a issue of bifurcating the zoning on a piece, but maybe that's what needs to happen. Because then you have a General Business up on Route 5, you'll have rural use, or single-family use behind it and you're going to be able to attack and take care of the drainage with the developer on Route 5 and you'll have less of a problem in the back if you zone to one or two rural houses; that's a potential right there. We're here to work with you. We're here because we live downstream. We're here because we have water in our basements and I think that what happened before happened before. I understand it's a new Town Board, I understand it's a new building department, I understand it's a new Supervisor, there's a lot of new things in the Town and there's a lot of promise. We need to work together so that those things happen in the right direction. Every resident that lives on Lake Shore right now doesn't believe anything. I can say for Marie, she's been told stuff for years, maybe decades she's been told stuff. It's not your guys fault, but we can change it and we can fix it and we can work together to control this.

Chairman Catalano: Absolutely. We can definitely change it, we can definitely fix it as a Planning Board. That's what we're here to do. That's why we need to have that zoned General Business. Let's take it one step at a time. Let's start here and see where this goes. I hope all of you come to these meetings if a developer comes in. I hope you have a list of questions. I hope you nit-pick those projects so we can get them done correctly from the start. But tonight is not the start, tonight is just the zoning; there's no project in front of us, there's nothing to go in there at this point.

Mr. Tucker: Look at bifurcated use for the properties then. That would be my recommendation.

Director Rappoccio: Paul will address you on that issue.

Supervising Code Enforcement Officer, Paul Ryerse: Here's the problem with trying to set a depth. I'll give you a number, 200 feet off Route 5 let's say.

Mr. Tucker: How about consistent with what most properties are along Route 5. I would say the average of what's over there.

Supervising Code Enforcement Officer, Paul Ryerse: It's one parcel of land. If you take the front and zone it GB and the back stays R-2, that which is shown in purple, the person that comes in my office tomorrow and says I want to put in a single-family home, you can't stop them and you just wiped out that whole entire parcel on Route 5. That whole 49 acre parcel drops back to the number you want to give that GB zoning, he wants to build a single-family home.

Mr. Tucker: So, what's the answer to changing that to General Business and have it non-conforming with the rest of the properties that are General Business?

Director Rappoccio: We don't want non-conforming lots first of all and we wouldn't recommend that to any Town Comprehensive Plan.

Ms. Sellers: We also don't have flag lots. Are flag lots still illegal in Town where you give them a tiny bit of access on the road so that they can flag it behind? It's just really hard when they don't have frontage. You are actually kind of tying up land for any kind of development, even residential in the back because of the access. I don't know what the best thing is there, but I do think that people here have a very, very good point that should be alerted to the Town Board before they have the Public Hearing on this; that they look very carefully at the drainage problems in this neighborhood.

Mr. Tucker: The last comment that I had is Marie was going to hand you the signed petition with the people's signatures. To her credit, she started that when she got out of work today at 3:45pm, while I'm on my way to the meeting, I see Marie coming down Lake Street with this in her hand. I said to her, "You're going to be late for the meeting." She asked what time it was and I told her 5:55pm, so she got in the car, but she had stopped to see the neighbors over there to let them know what was going on, so she's not turning that in today, because she's only had about 40 names, which she did in two hours, so there is a lot more people this is impacting. So we're going to go out and get that, bring those back and have those people's signatures or have them here on April 5th.

Ms. Sellers: I'd have it at that Public Meeting, that Public Hearing.

Mr. Tucker: I understand. Thank you.

Ms. O'Connor: I just have one more question that's kind of come up in the conversation. I'm a little confused because I know I brought this issue up at the Town Board meeting. They had said that it was a recommendation from the Planning Board and now when I'm asking you and you are saying the Town came to you recommending this change. So, I'm very confused as to where this originated at this point and time because I still very strongly feel that this belongs at the Master Plan level and does not need to be rushed into right now, given the circumstances. So, where is the generated?

Ms. Sellers: Paul is this generated from your office for people who call looking for what they can do?

Supervising Code Enforcement Officer, Paul Ryerse: Yes.

Ms. Sellers: So then you told the Supervisor and the Supervisor asked for a recommendation on rezoning from the Planning Board.

Supervising Code Enforcement Officer, Paul Ryerse: It all generated from my department when I get a call about a parcel. For example, the old Tick-Tock gas station. The way our zoning works, it is extremely limited as to what you can do on that property. So when I get an abundance of phone calls about Route 5 and even Route 20, we have nothing zoned where people can develop. It is extremely limited, extremely limited! I brought it to the attention of the Supervisor that there are some parcels where I'm seeing a lot of activity between Beach Road and Lake Street and this is where we're at today.

Ms. Sellers: So Marie, I think that is the genesis.

Director Rappocio: I myself, as the Planning Director get a lot of calls myself with developers looking for property.

Ms. O'Connor: Given the other issues of this area, I would strongly recommend again…Master Plan.

Supervising Code Enforcement Officer, Paul Ryerse: We're a long way away from that. How long, a year, year and a half?

Director Rappoccio: Were only given 12 months and typically it takes 18 months to 2 years.

Ms. O'Connor: Well, it belongs more on the Master Plan where it can be consistent and where you can develop the consistency. But also it may be you need to start in another area where there isn't such turmoil downstream.

Chairman Catalano: Are there any further questions or comments from the Planning Board? If not, may I please have a motion to recommend to the Town Board the rezoning of properties located at 8996 Erie Road (SBL# 235.00-2-9) and 0 Erie Road (SBL# 235.00-2-8) from Rural Residential (RR) to General Business (GB); and 0 Erie Road (SBL# 235.00-2-3.11) from Residential Two-Family (R-2) to General Business (GB).

Mr. Connors: Having made this determination, I would like to make a motion to recommend approval of this rezoning to the Town Board based on the following reasons:

- The action is consistent with the Town of Evans Comprehensive Plan. The Plan describes Route 5/Erie Road as a major transportation corridor with a mix of commercial and light industrial uses, with potential for continued commercial growth.
- The action will not result in any changes to the character of the surrounding community. The action will allow a cohesive commercial strip along a major transportation corridor.
- The action will not result in any significant adverse impacts. Any commercial projects proposed on property zoned General Business will be subject to Site Plan Approval by the Town of Evans Planning Board. This will allow any potential adverse impact to be reviewed by the Town via a public meeting prior to development of the project.

I would also like to recommend that the following condition be placed on the approval of this action:

- Any future development of these lands to be rezoned are subject to site plan review and approval by the Planning Board and any landscaping shall follow the requirements of Evans Town Code.

Ms. Sellers: On the question before a second. I would like to add an additional condition be placed on the approval of this action:

- The drainage issue problems in the area be noted as a concern by the Town Board.

Mr. Bergum: I second that motion.

***Vote:** All in favor. Carried.*

Chairman Catalano: Next steps:

- The Planning Office will send a letter to the Town Board notifying them of our recommendation for the rezoning of said properties.

May I please have a motion to adjourn.

Mr. Bergum: I'll make the motion to adjourn.

Ms. Sellers: Second

***Vote:** All in favor. Carried.*

Chairman Catalano: Thank you for attending this evening. Good night.

Respectfully submitted by:

Debra L. Wilson

Debra L. Wilson
Secretary

Approved: 04/26/17

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