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Town of Evans

REGULAR MEETING OF THE TOWN OF EVANS PLANNING BOARD WEDNESDAY, SEPTEMBER 28, 2022

MEMBERS PRESENT: A. Sellers, M. Connors, L. Szewczyk, D. Schiedel, J. Wilson

ALSO PRESENT: William Smith, Director of Planning & Community Development
Brittanylee Penberthy, Deputy Town Counsel
David Johnson, Town Engineer; Clark, Patterson, Lee

APPLICANTS/REPRESENTATIVES: Andrew Marino, Tredo Engineers

Chairwoman, A. Sellers opened the meeting at 6:00 P.M. The meeting took place in the Court Room of the Evans Municipal Center, 8787 Erie Road, Angola, NY 14006, as well as online via the ZOOM platform.

I would like to welcome everyone to the September 28, 2022 Planning Board meeting. Due to the continued concern of the COVID-19 pandemic, all public meetings and public hearings currently scheduled before the Planning Board of the Town of Evans, will be held in person and by remote access via the ZOOM Meeting platform/conference call while giving the public the ability to listen in and comment when given the opportunity. For the record, a Planning Board Public Meeting is conducted solely for the pre-determined action items listed on the official Planning Board Agenda and/or any other business that may be presently before the Planning Board as advertised. No other unrelated items may be discussed or brought before the Planning Board at this Public Meeting. That being said, if any resident wishes to comment on these actions, it is their right to do so when the floor is opened to the public. If you are participating via ZOOM, we ask that you raise your hand and we will call on you accordingly. We also ask that all please be considerate of any background noise so that the Board members can communicate effectively. If it is not your turn to speak, we ask that you please mute your phones or the microphone on your computer. Also, all Board members are reminded to state their name before speaking as well.
For the record, all links for past Planning Board Meeting Video Recordings are located on the Town's website at townofevans.org and can be found in the green Quick Links section on the Town's homepage under Agendas, Recordings & Minutes; recordings may be viewed by clicking the links provided.

1. **The first item on the agenda this evening is a:**
   Site Plan Review – for a Drive-up Automatic Teller Machine Kiosk at the corner of Hamilton Drive and Erie Road. Project location – 6836 Erie Rd (a.k.a. NY Route 5), Derby, NY 14047, SBL# 192.20-8-21. Petitioner: Evans Bank, 6460 Main St., Williamsville, NY 14221.

PROJECT BACKGROUND:

- The applicant filed for a Minor Subdivision of the property located at 6836 Erie Road, Derby; the subdivision was approved at the September 7, 2022 meeting of the Town Board.
- Subsequently, a formal Site Plan application was submitted and the project appeared before the Planning Board for an initial review of the ATM Kiosk project at their August 24, 2022 Planning Board Work Session.
- The applicant is before us this evening requesting Site Plan approval to construct a stand-alone drive-thru ATM Kiosk at the corner of Hamilton Drive and Erie Road (NYS Route 5), Derby.

INTERDEPARTMENTAL REVIEWS: Bill, would you please provide yours and the CEO comments.

- **Planning Director, Bill Smith**
  - No concerns, likes the business retention there and happy with the overall improvement to the landscaping on that corner.
  - Need to make sure the easement agreement is maintained with any transfer of ownership of the abutting properties and the Planning Department would want a copy of that.
  - It was noted that a variance was needed for the stacking requirements (10 required and 5 provided) on the drive-up ATM; those can be issued by the Planning Board; so we would also be issuing a variance on those.
- **Code Enforcement Officer, Tony Fischione** – no objection to the project.
- **Town Engineer, David Johnson, Clark Patterson Lee** – no objection to the project.

Chair: OUTSIDE AGENCY REVIEWS:

- **Erie County Department of Environment and Planning:**
  - A 239M Review was sent to the County and returned on September 6, 2022; they offered no comment and determined the proposed action to be of local concern.

SEQR: The Planning Board has reviewed the Site Plan application and has found no significant environmental concerns in regards to the proposed action.

Chair: At this time, I will ask the applicant if they wish to address the Planning Board with any further information than previously submitted.

Andrew Marino, Tredo Engineers: representing Evans Bank for the kiosk drive-thru at 6836 Erie Road. I'm here to answer any questions, but I'm also here to offer that the study of the stacking, based on the examples from stand-alone kiosk in Clarence, to which I've written a letter that states that upon review of the time stamps that were provided, from July 25 to August 26, there does not appear to be more than 4 vehicles utilizing the ATM in any 15-minute time frame, though it is difficult to determine if one vehicle is making multiple transactions. If that is the case, then there would likely be less than 4 vehicles.

Chair: Clarence is comparable population wise to us.

Mr. Marino confirmed they we will be removing one maple tree also.

Chair: There being no further comments from the applicant are there any questions or comments from the Board before I open the floor to the public?
D. Schiedel *questioned if the traffic flow is still from Hamilton to the driveway.*

Mr. Marino further explained the traffic flow pattern.

Chair: There being no further questions or comments from the Board, I will open the floor for any public comment. As always, we ask that anyone who wishes to speak please clearly state your name and address, spelling your last name for the record. Each person is limited to one opportunity to speak and comments shall be limited to 3 minutes. Again, comments must be related solely to the action before the Planning Board this evening. Is there anyone from the public who would like to speak?

There was one person online, but they did not wish to speak on this agenda item.

Chair: There being no further comments online or in person, I will close the floor and bring it back to the Planning Board for further questions/comments. If there no further questions or comments from the Planning Board, may I please have two motions; one regarding SEQR and one regarding approval.

M. Connors: WHEREAS, the Planning Board of the Town of Evans has been declared Lead Agency for the SEQR process for the proposed construction of drive-thru ATM kiosk at 6836 Erie Rd., Derby, NY 14047, SBL# 192.20-8-21; and

WHEREAS, in compliance with Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQRA) of the Environmental Conservation Law, the Evans Planning Board has reviewed the proposed project; and

WHEREAS, the Planning Board carefully considered all of the criteria for Determination of Significance listed in the SEQR regulations (6NYCRR 617.11), and has found that the proposed action is not anticipated to result in any significant adverse impacts on the environment.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board hereby issues a Negative Declaration, thereby concluding that the project will not adversely affect the natural resources of the State and/or health, safety, and welfare of the public and is consistent with social and economic considerations.

J. Wilson: Second.

Roll Call Vote: *All in favor. Motion carried.*

M. Connors: WHEREAS, the Planning Board of the Town of Evans has carefully reviewed the proposed construction of an ATM Kiosk at 6836 Erie Rd., Derby, NY 14047, SBL# 192.20-8-21 and determined that the applicant has met all requirements for site plan approval.

THEREFORE, BE IT RESOLVED, the Planning Board approves the project based, in part, on the following reasons:

- The application and plans are in accordance with the Town's regulations;
- The project is not anticipated to result in any significant adverse impacts.

BE IT FURTHER RESOLVED, the Planning Board hereby approves a variance on the stacking requirement per Section 200-27 of Town Code from ten per booth to five, and

BE IT FURTHER RESOLVED, a copy of the easement agreement shall be provided to the Planning Department upon execution of the contract.

J. Wilson: Second.

Roll Call Vote: All in favor. Motion carried.

Chair - NEXT STEPS: We will send a letter to the Code Enforcement Office advising them of our action this evening; please continue to work closely with their office as you continue through the building process which is under their jurisdiction. The Planning Office will continue to assist you if needed. Good luck and best wishes to you as you continue with the construction process.

2. The second item on the agenda this evening is a:

Rezone – recommend for approval to the Evans Town Board the Rezone of the former Village of Angola Water Plant parcel from Recreational Facility (RF) to Single Family Residential (R-1); conditioned upon an obtained variance for lot width/frontage from the Zoning Board of Appeals. Project location – 8408 Lake Shore Rd., Angola, NY 14006, SBL# 220.00-1-26. Petitioner: Karen Erickson, 8991 Iroquois St., Angola, NY 14006.

PROJECT BACKGROUND:

- The applicant purchased the former Village of Angola Water Treatment Plant and property from the Village of Angola in June of this year.
- A formal Rezone application was filed in August and the project was brought before the Planning Board for initial review at their August 24th Work Session. The applicant is seeking a Rezone recommendation to the Town Board, as the Town Board has final approval of all Rezone actions.
- The applicant is also required to go before the Zoning Board of Appeals to obtain a lot width/frontage variance to meet the requirements in the R-1 Zoning District.

INTERDEPARTMENTAL REVIEWS: Bill, would you please provide yours and the CEO comments.

- **Planning Director, Bill Smith:**
  - No objections
  - Previously zoned as CF district (which doesn't exist anymore) was rezoned as RF in 2002.
  - Property has been vacant and underutilized for many years.
  - Abutting the R-1 district to the south so it would be keeping with the consistency of the character of the surrounding community.
  - According to the survey provided, the action will require a variance to be granted on the frontage requirement for R-1 and the lot width at the Lake Shore Road right-of-way.
  - If granted, the rezone would be contingent on the area variance. Otherwise we'd be creating a nonconforming lot within the R1 district; we wouldn't be able to rezone it without the variance.
    - I believe it was able to exist in the RF district because RF has no minimum lot requirements.
    - R-1 has a 90 feet width requirement (26 ft provided)
  - If recommended, will send letter to ZBA in support of frontage variance.
- **Code Enforcement Officer, Tony Fischione**
  - As a former water treatment plant, there will need to an investigation of the subsurface of the site for any existing infrastructure (intake pipes, outlet pipes etc...) prior to permitting of any future residential development.
- **Town Engineer, David Johnson, Clark Patterson Lee** – provided no comment.

Chair: OUTSIDE AGENCY REVIEWS:

- **Erie County Department of Environment and Planning:** A 239M Review was sent to the County in August and we are awaiting their comments. Any recommendations that may be granted tonight will be contingent upon receipt of the County's review and recommendations.
  - ***Director Smith*** *stated that he did reach out to the County Dept of Environment and Planning yesterday to ask for comment and reminding them of the meeting tonight. Parks Commissioner, Troy Schinzel did however state in an email that he is aware and has no objections as they are seeking alternative access for their equipment. The County had previously been using the private driveway off Schwert Avenue as access to Bennett Beach for their equipment. Any additional comment from the County will be considered by the Planning Dept prior to Town Board approval.*

SEQR: The Planning Board has reviewed the proposed rezone and have found no significant environmental concerns in regards to the rezone of the property

***Bill Smith** advised that Karen Erickson visited the Planning Office yesterday to inform that she is unable to be here this evening.*

Chair: Since the applicant is not here to address the Planning Board and we feel we have all the information that is needed. Are there any questions or comments from the Planning Board before I open the floor to the public?

(No further questions from the Board)

There being no further questions or comments from the Board, at this time I will open the floor for any public comment.

Ed Conboy, 8168 Hillside St., Angola spoke in regard to Erie County online mapping and road frontage.

***Bill Smith** confirmed the property can't be rezoned without an area variance and that the Planning Board would be voting on whether or not to make a recommendation for that variance. Further, when somebody applies for a building permit to construct a residential home on the lot, they would have to work with the Town to bring the drive up to Town standards for fire access, public safety and general welfare of the population.*

Chair: Are there any questions or comments from the Board? There being no further comments we'll move ahead and read the resolution. May I have a volunteer to read the resolution please.

J. Wilson: WHEREAS, it is the responsibility of the Planning Board of the Town of Evans to make recommendation to the Town Board pertaining to the rezone of property; and

WHEREAS, the applicant Karen Erickson wishes to rezone the property located at 8408 Lake Shore Rd, Angola, NY 14006, SBL# 220.00-1-26 from Recreational Facility (RF) to Residential Single Family (R-1) for the purpose of developing the property for residential use; and

WHEREAS, the Planning Department has received the required application, forms and fee from Ms. Erickson and reviewed the proposed rezone with Planning Board at Work Session; and

WHEREAS, the Planning Board has expressed no concerns regarding any potential adverse environmental impacts of the proposed rezone.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board hereby approves recommendation to the Town Board of the proposed rezone of the 1.17-acre parcel located at 8408 Lake Shore Road, (SBL# 220.00-1-26) from Recreational Facility (RF) to Residential Single Family (R-1) for the following reasons:

- The project will constitute the use of an underutilized property.
- The action is not expected to result in any significant adverse impacts.

AND BE IT FURTHER RESOLVED, the Planning Board supports the request for area variance on the lot width frontage requirements of the R-1 Zoning District and instructs the Planning Department to send a letter to the Zoning Board of Appeals, stating as such.

D. Schiedel: Second.

Roll Call Vote: M. Connors abstained due to relationship with the applicant. All in favor. Motion carried.

Chair: NEXT STEPS: The Planning Office will send a letter to the Town Board advising them of our recommendation and request a Public Hearing be set, as the Town Board has final approval on all Rezone actions. The Town Board will schedule the public hearing and a legal notice will appear in the Town's paper of record, The Observer, notifying the public of the date and time of the public hearing. Once published, abutter

notices will be sent out to all property owners within 500-feet of the property with the Legal Notice attached. The public will be given the opportunity to speak at the public hearing in regards to the requested Rezone. Once the public hearing is closed, the Town Board will make their determination in regards to the approval of the Rezone request. Should the Town Board elect to approve the action, we ask the applicant to please continue to work with the Code Enforcement Office as the building permit process is under their jurisdiction.

3. The third item on the agenda this evening is a:

Special Use Permit – recommend for approval to the Evans Town Board a Special Use Permit for the operation of an auto repair shop in an existing building in the Motor Service district. Project Location – 9984 Southwestern Boulevard, Angola, NY 14006, SBL# 251.00-3-46.2. Petitioner: Delkore Auto Group, LLC.

Director Smith *advised the applicant had been in the Planning Office earlier in the day and was notified of tonight's meeting, but the applicant was unable to be here tonight. Should the Board recommend the SUP, it would be a conditioned recommendation. Bill advised the applicant of the conditions, as well as provided all of them in an email; the applicant understood, and agreed. For the sake of time, since there are no online participants, nor anyone in attendance now, there is no need to go through the Project Background, etc. Also, a site inspection must be done by the Code Enforcement Office as well; any recommendation made to the Town Board this evening would be contingent upon further review by their office and the Planning Office.*

INTERDEPARTMENTAL/OUTSIDE AGENCY REVIEWS:

- **Planning Director, Bill Smith:**
  - **Erie County Department of Environment and Planning:** A 239M Review was sent to the County and returned, they offered no comment and determined the proposed action to be of local concern.
  - Site visit needed with the code enforcement to determine any further requirements for operating the proposed auto repair shop. Will report back to Planning with any additional conditions.
  - Biggest concern is making sure the site is kept in good condition and no parts, tires, unregistered vehicles, etc...
  - Overhead doors need to be approved by code enforcement prior to installation.
  - Updated the previously submitted site plan to include screening along the rear property line where abutting residential (fence, plant materials) to be approved by code enforcement and planning.
  - Cars need to be parked in spaces shown on site plan and outside the ROW.
  - Only minor car and truck repairs shall be conducted as defined in town code (including tires and breaks, pump replacements, oil and fluid changes, mufflers, wiring, motor adjustments, etc...)

Chair: An additional condition will be added; "contingent upon the concerns of the Planning Office being met." Motion please.

M. Connors: WHEREAS, it is the responsibility of the Planning Board of the Town of Evans to make recommendation to the Town Board pertaining to the issuance of Special Use Permits (SUP); and

WHEREAS, the applicant, Delkore Auto Group, LLC., is requesting a SUP to operate an auto repair shop from the existing structure located at 9984 Southwestern Boulevard, Angola, NY 14006, SBL# 251.00-3-46.2 and zoned in the Motor Service (MS) District; and

WHEREAS, auto repair shops are a permitted use in the MS with the approval of an SUP.

WHEREAS, the Planning Department has received the required application, forms and fee from the applicant and reviewed the proposal with Planning Board at Work Session.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board hereby approves recommendation to the Town Board of the proposed SUP for the owner of the parcel located at 9984 Southwestern Boulevard for the following reasons:

- The action is consistent with the current zoning of the parcel.
- The project will not result any changes to the character of the surrounding community.
- The action is not expected to result in any significant adverse impacts.

AND BE IT FURTHER RESOLVED, that the following conditions shall be placed on the approval of this action:

1. Prior to Town Board approval of the SUP, a site visit with the Code Enforcement Officer must be conducted to determine any further requirements for operating the proposed auto repair shop.
2. No installation of the two proposed overhead doors shall occur unless an updated site plan is submitted and approved which properly demonstrates adequate turning radius for vehicles on the site.
3. The site must be developed and maintained in accordance with the site plan as approved by the Town of Evans Planning Board on September 28, 2022 and conditions as approved by the Town Board.
4. Parking of any vehicles on the property will be limited to the designated spaces as shown on the plan.
5. No storage of automotive parts, accessories or scrap parts shall be permitted outside of the building unless contained within the fenced in dumpster area.
6. Under no circumstances shall cars be parked in the required 20-foot parking setback or in the NYS Department of Transportation Right-of-Way.
7. Only minor car and truck repairs shall be conducted on the site per definition of "Gasoline, Motor Fuel Service Station" per Section 200-7 B. of the Town Code.
8. All site lighting shall be shielded from Route 20 and adjacent properties and dark sky compliant.
9. Screening in the form of fencing or planting will be installed and properly maintained along the western property line per Section 200-28 D. (12) of the Town Code.
10. Recommendation to the Town Board is contingent upon concerns of the Planning Office being met.
11. The Special Use Permit shall be for a one (1) year period. Applicant may apply for renewal.

J. Wilson: Second.

Roll Call Vote: All in favor. Motion carried.

Chair: 4. The fourth item on the agenda this evening is a:

Code Amendment – Amendment to Town Code with the addition of Chapter 166 to restrict the acts of smoking and vaping use in and around Town-owned buildings, parks, recreation areas and playgrounds.

HISTORY:

- The proposed Code Amendment was reviewed by the Code Review Committee and subsequently reviewed by the Planning Board at their August 24, 2022 Work Session.

INTERDEPARTMENTAL REVIEWS: Bill, would you please provide yours and the CEO comments

- **Planning Director, Bill Smith** – No concerns
- **Code Enforcement Officer, Tony Fischione** – No concerns
- **Town Engineer, David Johnson, Clark Patterson Lee** – No comment provided

OUTSIDE AGENCY REVIEWS:

- **Erie County Department of Environment and Planning:** A 239M Review was sent to the County and returned, they offered no comment and determined the proposed action to be of local concern.

SEQR: The Planning Board has reviewed the code amendment and have found no significant environmental concerns in regards to the action.

Chair: Are there any questions or comments from the Board before I open the floor to the public?

D. Schiedel: Coming of the heels of this Local Law #4, I think that Local Law #3 is inherently bias against the recreational use of cannabis. I have no issue with restricting it from Town owned buildings or playgrounds, but feel it is overly broad by restricting it from parks and recreation areas and it will increase the amount of public/police interactions in a negative way and overly burden Town citizens who may want to use the very sparse amenities, parks or recreation areas, that the Town offers. I would like to see this Local Law tabled until the effects of Local Law #4 are seen to identify if there are any problems that would warrant a Code Amendment.
Chair: You realize it's for tobacco use as well, it's not just cannabis. It's not just prejudicial against one type of smoking.
D. Schiedel: I am aware and that is understood. However, giving the context of the times we are in, and the fact that Local Law #4 will be voted on today, I think that it's easy to see that the two can reasonably be tied together and I see that as an unneeded bias.
Chair: So you would like to see both of the Local Laws tabled?
D. Schiedel: No, and frankly I would be in favor of Local Law #3, being adopted for Town owned buildings and playgrounds, but feel that parks and recreation areas are overly broad.
Chair: Are there any other comments from the Board?
M. Connors: Just to be clear, we are talking about properties owned by the Town; Town owned buildings, Town owned parks, Town owned recreation areas and Town owned playgrounds.
Chair: Correct, so your Firemen's Park, a private grove, a venue would not be affected.
L. Szewczyk: So the concern is, if you step off the playground, then you can smoke?
Chair: It's a tough one to separate, because our Town Park has a playground.
J. Wilson: Potential children in any direction; I have a problem with that.
L. Szewczyk: So what was discussed before was if you designate a specific area within a park; maybe at the very edge of the park, but clearly away from public.
Director: And you feel this would be an undue burden on the police department?
D. Schiedel: I do think that understanding that recreational cannabis is legal in the state of New York, asking a Town, State or County Police Officer to approach a person on a beach, is an unnecessary interaction. Now certainly if a person is smoking right here in the courtroom or on a playground, I don't want anybody passing a

joint around near my kids. However, I don't see how a person sitting by themselves on a beach is really hurting anybody. Diving deeper into it, I'd like to know what is considered a recreational area before restricting that. I've lived in Town my whole life and I don't know if I could tell you what a Town owned recreational area is.
Director: There are recreational areas around our parks, baseball and softball fields, basketball courts, things like that.
L. Szewczyk: I think not including parks and recreational areas would cause more conflict because you will have parents who would be going up to someone who is smoking asking them to remove themselves and if everyone agrees, that would be fine, but if someone gets belligerent, then that has the potential to escalate.
Chair: We have the police probably enforcing no smoking in other areas. I'm sure there is a no smoking ban in Town Hall. Is there a smoking room in Town Hall?
Director: There is no smoking room, but it's not banned; we do have some folks who sit out back and smoke outside. By this law they would have to be 100 feet away though.
Chair: I like that, because there is nothing worse than walking into a building and there's that group of smokers right outside the building and you have to walk through their smoke. I think we could do this a couple of ways, do we move this...
Director: We have a motion on the floor by Don to table this item which we must first vote on. He needs a second.
Chair: Would anyone care to second Don's motion?
Director: We also now have a member from the public online in attendance.
Chair: I guess what people would need to do is go to their car and smoke to stay in compliance unless they are on Town owned property.
D. Schiedel: Which is illegal to smoke cannabis when you're behind the wheel; it is a traffic violation.
Chair: So, if there is a second, we will vote on it, if there is not, Don's motion would die for a lack of a second. Is there a second?
M. Connors: So just to be clear. You want to table this Don, to move to Local Law #4. Your motion to table Local Law #3 in your mind is desired because you believe Local Law #4 should be passed first.
D. Schiedel: I believe Local Law #4 should be passed first.
M. Connors: In doing so, do you believe that by acting on Local Law #4 tonight, it would have an impact on how Local Law #3 is carried out?
D. Schiedel: I think that it would help more clearly define the need to pass such a law because if there's no issues, then we are proactively showing a prejudice. If there are issues and we respond to it, then we are just being responsive. I don't see the pitfall in tabling it.
M. Connors: Can I amend your motion to carry through with Local Law #4 now, and upon its approval or no approval, to readdress your motion on #3? Is there a possibility by passing Local Law #4 tonight, your concerns on Local Law #3 may be met?
Director: No, because Don's not aware of a problem with smoking on Town land.
Chair: I think that now people can smoke in children's play yards, you see that on the Peppertree playground, which is a Town owned recreational facility. I think it's better to be proactive. If we don't want people smoking on the beach, which is where it is generally more offensive; it is always more annoying when you're lying down or sitting and somebody's smoke is coming at you. I don't see that it is discriminating just against cannabis, it's all smoking and we prohibit smoking in so many other public places. I think prohibiting at where we have our children and grandchildren playing seems like a good idea.

Director: One thing that Don said that struck a chord a little bit with me is as police enforcement, and if this is going to create issues and confrontation in our parks, knowing there already could be issues with that, I guess the only thing I can say is should we get Chief Szarowicz's opinion on this because I'm not sure if he reviewed

this. I know that he is aware of it, but I don't know if he closely reviewed it. I would say if Chief is in favor of this law or doesn't see any issues with it, that would be a good thing to get his input on it. This again is a recommendation, it would have to go to Town Board and it could be contingent on the Chief's recommendation.
Chair: I think that is a very good idea.
J. Wilson: I have to agree with that.
Chair: So if we choose, we could pass this tonight with the recommendation that the Town Board get input from the Chief.
Brittanylee Penberthy, Planning Counsel: Yes, you could do that.
Director: If Chief Szarowicz looks at this and thinks it's going to be a nightmare for him, then we would bring it back to Code Review Committee, address the Chief's concerns, and then bring it back to the Planning Board. So there are two ways we can go about it; either Don gets a second on his motion to table, or we move ahead with the recommendation as is, contingent on the Chief of Police approval.
M. Connors: The only thing that I would add is the recommendation by the Town Attorney. This is going on in every Town, stadium, ballpark.
J. Wilson: What I was going to say earlier is it's a broader brush, I work for a school district, there isn't anywhere, including your car, that you can smoke on school property.
D. Schiedel: Is there a path forward to approve Town owned buildings and playgrounds and then readdress parks and recreational areas at a different time?

Town Counsel advised you could make a motion to amend.

Chair: If somebody reads the Planning Board recommendation of Local Law #3, what you would need to do before the second, is move to amend. If anybody seconds you, we vote on it as amended. If they don't move on it as amended, then it dies. Then we go back and ask for a second on Local Law #3 as it is originally written and adding the additional input from the Chief of Police.
Director: We can also still put the condition on input from the Chief of Police regardless of the amendment.
Chair: Yes, reread it and ask for a second. If someone would read the Planning Board recommendation of Local Law #3 of the year 2022, add to it the recommendation by the Chief of Police, then Don, before somebody seconds, you are going to request to amend it and say what your amendment is. If anybody chooses to second it they may, or if no second it would die for the lack of a second. If it is seconded, we would vote on it.
M. Connors: So if I understand correctly, you would like to see the recreational and the parks be omitted from this with the concern that it could cause more interaction with law enforcement. I believe, in my humble opinion, the minority of people in parks are going to be those smoking, where the vast majority in parks and recreation are going to be those that do not smoke and are probably going to be quick to callout someone they see smoking. So, I believe we are going to see more people calling on those few people that are smoking in those areas as opposed to the other way around.
Chair: And I think that now if you ask someone to please put out their cigarette, there response would be yes, and they would apologize that it was bothering them, or it's not against the law. We pass a lot of laws that are very hard for police to enforce, but we pass them because we believe it is for the good of the general public. Would someone please read the amended resolution which adds the contingency.
L. Szewczyk: WHEREAS, the Evans Planning Board seeks to restrict the use of tobacco or cannabis in and around Town-owned buildings, parks, recreation areas and playgrounds.

WHEREAS, the Town Board is to receive recommendation from the Planning Board regarding any amendments to the Town Code; and

WHEREAS, the Planning Board of the Town of Evans has determined that the proposed amendment will not result in any significant adverse impacts to the environment; and

WHEREAS, the Town of Evans has submitted a full statement of proposed action to the Erie County Division of Planning pursuant to GMU Section 239-M, and has received and addressed comments.

NOW THEREFORE BE IT RESOLVED, that the Evans Planning Board hereby recommends adoption of Local Law #3 of the Year 2022 to amend Evans Town Code with the addition of Chapter 166 to restrict the acts of smoking and vaping use in and around Town-owned buildings, parks, recreation areas and playgrounds.

AND BE IT FURTHER RESOLVED, that the recommendation is contingent on the review by the Chief of Police.

D. Schiedel: Motion to amend; I would like to strike, parks and recreation areas from the Local Law and add within 50-feet of playgrounds.
Chair: Is there a second to the amendment? No second, the amendment fails. Is there a second on the Planning Board recommendation of Local Law as previously read before the requested amendment?
M. Connors: Second.

Roll Call Vote: Three in favor, with one 'nay' from Planning Board member Don Schiedel. Motion carried.

Chair: 5. The fifth item on the agenda this evening is a:

Code Amendment – Amendment to Town Code Section 200-21 of the Town Code in order to regulate the location and design of cannabis businesses within the General Business District (GB).

HISTORY:

- The proposed Code Amendment was reviewed by the Code Review Committee and subsequently reviewed by the Planning Board at their August 24, 2022 Work Session.

INTERDEPARTMENTAL REVIEWS: Bill, would you please provide yours and the CEO comments

- **Planning Director, Bill Smith**:
    - In regards to the development of this code, the Code Review Committee worked on this code and Brittany, Planning Board Counsel, did a lot of research on it from other states where it has been legalized, as there has not been a real model code yet developed by New York State. The Town is being proactive in this area.
    - Licensing was addressed, the use of a Special Use Permit, location requirements and considering setbacks from schools, Town buildings and churches. Consideration was also given to the proximity to any stores that serve children.
    - Design requirements, regarding façade and signage, buffering and security, operation of ?, disposal of any waste, cannabis, hours of operation and inspections. I believe we really covered everything on this.
    - The County provided comment on the Renewal process of the Special Use Permit and on Signage. Subsequent to the County review, the signage language was revised by Brittany stating "the Planning Board will be responsible for approval of all signage for businesses operating under this chapter pursuant to Code 200-29, Sign Regulations, balancing the need for a well maintained, safe and attractive community and the need for effective business identification, advertising and communication."
- **Code Enforcement Officer, Tony Fischione** – No concerns.

- **Town Engineer, David Johnson, Clark Patterson Lee** – No comment provided.

OUTSIDE AGENCY REVIEWS:

- **Erie County Department of Environment and Planning:** A 239M Review was sent to the County and returned, Bill provided their comments in his review.

SEQR: The Planning Board has reviewed the code amendment and have found no significant environmental concerns in regards to the action.

Chair: Are there any questions or comments from the public online; please raise your hand. There being no questions or comments from the public, may I have someone read the Planning Board recommendation of Local Law #4 of the year 2022.

J. Wilson: WHEREAS, the Evans Planning Board seeks to mitigate any potential nuisances/adverse impacts to the General Business district, and to protect the overall community character, while also allowing for small business development that provide outlets for hookah or vaping, and for the retail sale of associated products and cannabis for at-home consumption.

WHEREAS, the Town Board is to receive recommendation from the Planning Board regarding any amendments to local zoning regulations; and

WHEREAS, the Planning Board of the Town of Evans has determined that the proposed amendment will not result in any significant adverse impacts to the environment; and

WHEREAS, the Town of Evans has submitted a full statement of proposed action to the Erie County Division of Planning pursuant to GMU Section 239-M, and has received and addressed comments.

NOW THEREFORE BE IT RESOLVED, that the Evans Planning Board hereby recommends adoption of Local Law #4 of the Year 2022 to amend section §200-21B(1) of the Town Code regulating permitted uses and structures in the General Business (GB) District to include cannabis business activity.
D. Schiedel: Second.

Roll Call Vote: All in favor. Motion carried.

Chair: May I have a motion to adjourn.
L. Szewczyk: Motion.
J. Wilson: Second.

Roll Call Vote: All in favor. Motion carried.

Chair: Meeting adjourned.

Respectfully submitted by:

Debra L. Wilson

Debra L. Wilson,
Planning Board Secretary

Approved: 11/09/22