

# Town of Knox, Albany County, NY

## Established 1822

### Planning Board Meeting Minutes February 27, 2014

Members Present: Dan Driscoll, Tom Wolfe, Bob Gwin, Bob Price, Brett Pulliam, Earl Barcomb,  
Recording Secretary Pam Fenoff

The meeting was called to order at 1937.

#### 1. **Business District 1**

Bob P reviewed the proposed boundaries of BD1 and informed the audience that the Planning Board needs to write a draft notice to the Town Board of the proposed Business District #1. The goal is to do this in time for the TB's 3/11 meeting.

Bob P requested that the PB dispose of any previous versions of the ZO they may have in there possession, as a newly updated version has been handed out this evening.

Earl voiced concerns on the 100' buffer zone between businesses and residences mentioned in the Zoning Ordinance, in the BD1 area, which won't work with the lot sizes in this proposed district. Earl referenced a letter from Gail Burgess. Bob P agreed that there are some issues given that most of the lots in this area aren't even 100' wide. Earl, yes, and we'd made a motion a few months ago regarding a change to the definition of the buffer strip in Article V, Section 50E2b6 (page 45) of the Zoning Ordinance. Discussion ensues regarding necessary revisions... Dan suggests we eliminate the last few words of that paragraph – "...at least 100 feet wide". Bob G also agrees that removing those last five words will solve any issues and buffer zones can be determined on a case-by-case basis.

Bob P asked, how does either the Zoning Board of Appeals or the Planning Board get tagged to deal with this. If someone wants to build a business in the hamlet, where does the oversight come from? Wants to make sure the oversight is there. Dan responded that, according to the Use Regulations / Use Tabulations, in the Zoning Ordinance, any business that is permitted in a Business District has to either get a Special Use Permit from the Zoning Board of Appeals or, in a minority of cases, a Site Plan Approval from the Planning Board. Bob P stated that the Zoning Board of Appeals is required to ask the Planning Board if they want us to provide a Site Plan Approval. Dan confirmed yes or they can ask for an advisory opinion.

*NOTE - Amendment made regarding above statement (underlined) by Dan Driscoll, please refer to Planning Board Meeting Minutes from March 13, 2014.*

Bob P... we need a motion to cover this change and to rescind the motion made last October...

Motion by Earl, seconded by Dan – that the last five words "... at least 100 feet wide" be removed from the Zoning Ordinance under Article V, Section 50E2b6 Buffer Strip. Motion passed, 6 ayes / 0 nays.

Bob G proposed that the Planning Board add a #9 to that same section in the Zoning Ordinance (Article V, Section 50E2b). He wants to ensure that new construction in a business district will "fit in" to the community, like the new town hall. Don't want to be too detailed, as other towns are, since Knox has quite a mix of types of buildings. Just want to make sure anyone coming will be on notice that we want to maintain the essential character of the hamlet / town. Standards in adjoining towns will be considered. This wouldn't apply to houses.

Bob P asked Bob G if a note about who does the reviewing should be added to his motion. Dan D referred to page 46 of the Zoning Ordinance, Article V Section 50E3, which defines the requirements of the Planning Board Review of business development. Assuming that we can't tell them exactly what they

want, they can review other towns and they'll have a general idea of what would be acceptable to us. Discussion...

Bob P asked Brett and Earl – neither had a problem with this addition.

Tom suggested we rely more on the architect... Bob P doesn't feel that an architect is required, might just be a PE, if we specify architects then we're making a requirement of the incoming business. Tom agreed that he wasn't sure if an architect was a requirement and didn't mean to make it so.

Tom's second point was he feels these should be some requirements in the hamlet business district for any new construction, including home owners / residents, not just the businesses in this area, so that they conform to the character of the town. Bob P agrees. Dan commented that this is not an appropriate section of the Zoning Ordinance, as this section covers businesses. Bob G agrees. Bob P replied that this is something to discuss at another meeting.

Mr. Lefkaditis requested that the Planning Board and/or the Town Board notify, as early as possible, the property owners in the area affected by the change. Bob P stated that that is standard procedure and that the Town Board would do the notifying them and we always hold Public Hearing for any change to the Zoning Ordinance. Mr. Lefkaditis suggested that the town go further, by having the Planning Board notified the affected property owners about the discussions. He feels this would be common courtesy.

Tom agreed that the Planning Board needs to formally notify people in the hamlet about the proposed Business District. Bob P pointed out that the map of the proposed business district has been published in the Altamont Enterprise. Tom reminded us that not everyone reads the Altamont Enterprise.

Bob P said we can make this recommendation as part of the package we send to the Town Board. Tom, Earl, Dan agree. Bob P stated that this isn't any different than when a resident, who applies for a Special Use Permit or a variance, has to notify his neighbors. In this case the Town's role is similar to that resident.

MOTION by Tom, seconded by Earl – The Planning Board shall notify the Town Board in a memo regarding the Draft Notice of Public Hearing for Business District 1, that the Town Board should notify, in writing, all property owners within the boundary of the proposed Business District 1 of the proposed changes in that area. 6 ayes, 0 nays. Motion passed.

Discussion...

MOTION by Bob P, seconded by Dan – In response to the Town Board's directive that the Planning Board consider the possibility of creating a Business District within the Town, the Planning Board has prepared and recommends the attached proposed Notice of Public Hearing for the Town Board's use in the process of amending the Zoning Ordinance to create a central Business District. The location of this proposed district is consistent with sound planning principles and the Town's Comprehensive Plan. Note that this will make all properties within the proposed district potentially available for development of any businesses allowed by the Zoning Ordinance, and thus subject the Town to the possible impacts, both positive and negative, of such development. However, the area has long served as a town center with various businesses, and the mitigation measures for such business impacts are in place, and we believe any possible negative impacts will be more than offset by the positive benefits of development at the Town center. Please note that this will be a multi-use district, with no restrictions on residential use and everyone should recognize that this will only create the possibility for our private sector to develop new businesses. 6 ayes, 0 nays. Motion passed.

Mr. Lefkaditis pointed out that the Planning Board has just approved a business district where no businesses are permitted, according to the Zoning Ordinance.

Bob P reviewed page 30 in the Zoning Ordinance, Business Uses. Discussion occurred on the differences between A and C in the Use Regulations / Use Tabulations Table. Mr. Lefkaditis pointed out that the letter A / permitted use subject to site plan approval would accomplish oversight options by the Town. Brett stated that he would like to leave this column as is until the Comprehensive Plan revision is finalized. Discussion...

Dan suggested a motion to send the EAF and NEG DEC to the Town Board along with the proposal for Business District 1 – it the other Planning Board members agree with his wording. Bob P stated that those things are already part of the package. Dan stated that these items are not mentioned in the wording. Bob P agreed to add them, all members agreed to the addition.

Revised motion, from above – In response to the Town Board’s directive that the Planning Board consider the possibility of creating a Business District within the Town, the Planning Board has prepared and recommends the attached proposed Notice of Public Hearing, including the EAF & NEG DEC, for the Town Board’s use in the process of amending the Zoning Ordinance to create a central Business District. The location of this proposed district is consistent with sound planning principles and the Town’s Comprehensive Plan. Note that this will make all properties within the proposed district potentially available for development of any businesses allowed by the Zoning Ordinance, and thus subject the Town to the possible impacts, both positive and negative, of such development. However, the area has long served as a town center with various businesses, and the mitigation measures for such business impacts are in place, and we believe any possible negative impacts will be more than offset by the positive benefits of development at the Town center. Please note that this will be a multi-use district, with no restrictions on residential use and everyone should recognize that this will only create the possibility for our private sector to develop new businesses.

2. Approval of the January minutes as written – 6 ayes, 0 nays.
3. Hitmans Towing

Bob P informed the audience that the Town Board has asked the Planning Board to review the situation with Hitmans Towing located on Route 146. He stated that the Planning Board reviewed this for several months last year. He got the Planning Board to look into the possibility of creating a second business in town. The rationale being that Rt 146 is already a business district that starts at Lewis Road all the way to the Town Garage. It seemed to me this made a lot of sense, but, in the end, the Planning Board voted, in October, and the motion was defeated 4 to 3. The record shows that the Planning Board tried to do something, in an effort to correct a couple of bad things. One, that the Town Board has never enforced the Zoning Ordinance for a long time. Everybody needs to understand that the Planning Board has nothing to do with enforcing the zoning laws. That this is a Town Board function and actually, the town’s agent is the Building and Zoning Administrator is the one who enforces the laws. The other part was, from what we can tell, Hitmans Towing was incorrectly allowed to be there. It is a business in a residential district. There has been discussion about an allegation that there was a garage there prior to Hitmans, but I have no evidence to that effect. There was some sort of building there, though it clearly was not there before the Zoning Ordinance was created in 1974. And there is no clear evidence that it ever operated as a garage from what I understand. I’ve not seen anything that contradicts that. If you check county records you’ll find that there was not an operating garage that was public. There might have been someone working on their own equipment. I don’t know of any evidence that, if there was working being done, it was being done for others, making it a public garage. Even if he had been doing it for others and being paid – it was an illegal operation and Hitmans has relied on that so it could start up its business there. Bob mentioned a petition being circulated, he asked if anyone had a copy could they provide it to the Planning Board.

Pam reminded the Planning Board that they should have received a copy of the petition and the suggested changes to the Zoning Ordinance from Mike Hammond. Earl stated that he had also received an email copy from Pam.

Tom asked, haven’t we been asked by the Town Board to review the petition and options presented to them on February 11<sup>th</sup> by the audience and determine which of the three would be the least unsuitable option.

Bob P asked how many signatures are on the petition. Tom pointed out that that is not the issue before the Planning Board... Tom restated his understanding of the directive from the Town Board. Bob P confirmed Tom understands of the directive.

Bob P opened the floor to public comment...

Donald Hempstead – We are here since the Town Board didn't want to go over your (the Planning Board's) heads. The Town Board figures you will make a decision on Hitman Towing. Why not have another business. Their neighbors are all in favor of it. This is their livelihood. Feels this business should be allowed to remain in town and the process of fixing the situation should be taking so long.

Dave Clefbeck (sp?) lives next to Hitmans. Not sure if the Planning Board ever had the opportunity to see the property before the Reynders purchased it. That place was a disaster, he has pictures, was there with troopers. There was definitely a business there that was not legitimate, they were chopping cars. He complained to the town about it years ago and believes nothing was ever done. Hoping to get an answer tonight. Bob P asked when he took the pictures. Mr. Clefbeck moved in in 2004 and took pictures that year and the next, the problems continued until the Reynders bought the property. The Reynders have cleaned up the property and I don't understand why they are being singled out. There are other businesses in that area and they should be allowed to run their business.

Dan Stewart, Quay Road, was at last Town Board meeting, it seems that it's been established that Hitmans came to a town member, Bob Delaney, and told them, as a town representative, they would not have a problem there because there already was a business there. He was wrong, but they approached him in good faith. The Town Board told them Bob Delaney was the correct person to approach. They proceeded, bought the property and had no problems for years. In my mind that constitutes approval. You can't turn around 3-4 years later and tried to kick them out. They were approved by the correct representative of the town to go ahead. I don't see that it's right for the Town to tell them they can't continue.

Robert Smith, Reynders' realtor. Kristen is my niece; I didn't want her to buy a property where there would be a problem. Bob Delaney may not remember the conversation and may not have the authority to give such approval, but given my conversation with him he was aware there was a garage there, that this is a mixed use area and her business would be a continuation of what had been going on there. She bought the property and has improved it. There was a lift in that garage already. It was not simply changing oil or parts on a tractor. It was used in a commercial way. We honestly felt, after approaching the town, we were ok. Several unfortunate comments have been made, ie a woman shouldn't be in the towing business, etc. This whole process is unfortunate, but we have a problem now and we need your help to solve the problem. Solving this problem, in this neighborhood, with the support of the neighbors and others and given that this doesn't change the neighborhood, makes sense. I don't understand why the town hasn't been more proactive. This business is only an improvement to Route 146.

Pat Miller, neighbor to Hitmans. They have been great, have cleaned the place up, and don't hear a bulldozer burying things in on the property. The Reynders are great neighbors, so they park a few tow trucks in the yard, I don't see that as a problem, route 146 is a state highway. Since so many people have come out in support of Hitmans. Aren't you supposed to represent that town and what we want, not what you want or what the superintendent wants? This is our town.

John Elberfeld, Beebe Road, it would be great if you would send something back to the Town Board tonight, something for them to work with. In my mind, create a business district that runs from Altamont Spray Welding to Mickles. You've already studied that entire area, this would legitimize the businesses that are already there. You wouldn't have to let more businesses in there if you didn't want to. You'll still maintain some control over the area.

Vas Lefkaditis asked if the audience has the right to speak after the Planning Board has had their discussion. Bob P stated that that would not be a problem.

Darren Bassler, Knox Cave Road, came in support of Hitmans Towing. I drive by Hitmans all the time and didn't even realize there was a business there. They have definitely cleaned up the property. At some point, everyone on the hill is going to need her towing services. Why should we have to pay someone to come from Albany if we can get a tow truck from our town? Also, I read she wants to do inspections, honestly, I have to take time off from work in order to get that done and we can't even get it done in Altamont anymore. She would be doing that as a service, since she won't make any money off inspections and she'll still have to maintain the equipment. This is a valuable service to the community. I don't think it hurts to have more business in Knox. The fire department solicits businesses to support their calendar, but Knox doesn't have any businesses to do that. Also, they might be ones to support a little league team, again, if we don't have business here how can the little league get that support? This would be an asset to

the town and doesn't detract from the town. Would rather go 5 minutes down the road than have to take time off from work.

Kim Swain, Street Road, came in support of Hitmans Towing. Would rather use someone local than someone off the hill. I was the Town Clerk, when the previous owner came in to the town office. I know for a fact he was running a garage. That is something that he and I spoke about. Why did it take Bob Delaney three years to figure it out? It usually takes Bob a long time to do anything around town. It's a possibility he's getting influence from someone else in the town. I grew up on 146, my parents still live there. I doubt this business has increased traffic. My kids are growing up in this town. One of my kids could work there. I think you should consider supporting this business and others and not push them out of the town.

Bob P closed the public comment section...

Earl has read up on our home occupations allowed in Knox. Earl reviewed that section of the Zoning Ordinance (Article V Section 50A1a & b). Feels Hitmans is similar to the contractors' business that we have in town. Earl suggested that we changed Section 50A1b to be more relaxed which would also legitimize what Reynders are doing right now and legitimize some other businesses in town that are home based but are in violation. This wouldn't solve the problem with Hitmans inspecting cars. That might have to wait for the revision of the Comprehensive Plan. Earl has prepared some wording that the Planning Board can review and possibly send to the Town Board.

Tom stated that that is similar to one of the option in the petition. There are two other options we should discuss. Earl wants to avoid creating zoning just around her property. We need to allow for more than one employee. Any other comments on option #1?

Tom, the second option, from the petition, suggests amending the Zoning Ordinance Article IV Section 45, change the N (not permitted) to a C (conditional use) for a Public Garage in a residential area. Earl - that is reasonable in her area, but not in others area. Feels that's a slippery slope, to allow a Public Garage in all residential areas. Bob G - every property owner should have the same rights. Earl agrees, but what is the justification we would use to allowing her business and not another? Brett - but that's where the Special Use Permit would come into play. The justification is that her business fits that area, Rt 146, and wouldn't fit just anywhere else in town. Tom in the purest sense the SUP is contemplated and the residents have the right to raise their concerns about noise or leaking fluids, etc., during the public hearing. That's how the process should work. Earl - why stop at garages? Tom reminded the PB that this is the issue before us, a public garage on Route 146. He believes that was the TB's directive to make a recommendation on this issue and which, of these three options, is the least objectionable. Pam confirmed that he is correct, as she attended the Town Board meeting.

Bob G. - the problem still comes back to SUP. Is there something unique about this business or location? That a property here should be treated differently from anywhere else? Why should we treat a public garage differently than self service laundry, that's something people need that isn't allowed in a residential district. You can't compare one business to another. Each business is unique. I don't see anyway we can separate that from anything else. If you're a property owner in Knox, you can't start a business according to our - but you say yes to one you have to say yes to them all. It's really the next business that comes in that we need to be worried about. The next business in may be just as deserving as this one. Once we pass this all these business will be legal to develop in the business districts. To say that anywhere in the town can have these businesses goes back to pre-zoning. People went into zoning in the first place because they were afraid of that other people might do on their lots, put business on them, etc., so we wound up with this (our Zoning Ordinance). The big flaw was that when people come in to town there's no place for businesses. We just fixed some of that (with Business District #1). Earl and when the next comprehensive plan comes out, we may have room for more.

Dan - was very interested in the public comments. When first in town he looked at the zoning in town and wanted to make sure his family and my investment here was protected. Referred to the book - Land Use Controls in NYS, this is a handbook on the legal rights of citizens. The underlying premise of this books is that the Zoning Ordinance is a compact of trust with the citizens in the community and if a town doesn't follow that compact of trust, it's violating the rights of the citizens. It also deals with types of controls and says the citizens should monitor implementation of existing controls in terms of statutory requirements and to bring legal action in cases of abuse.

Dan - also wanted to mention that the specific recommendations in the petition and my main reasons for being opposed to a business district along Rt 146, but if you look at the Comprehensive Plan, changes to the Zoning Ordinance have to be in accordance with the Comprehensive Plan which recommends that business districts be located central to the town. Specifically one in the hamlet, one in the township area and at Rt 156 and 157 intersection. Now that there is an interest in businesses in town, the Planning Board has recommended one for the hamlet area.

And in regards to the many interesting contentions being made about the Hitmans property, we don't know if they are true. It's important to ask the Town Board to hold off on making any decisions until the court proceedings determine what is and what is not true.

Tom - How will the court proceedings establish what is true about what has been stated by these speakers, regarding the fact that there was an auto repair shop there prior to their purchase of the property.

Dan - that is exactly what I was talking about. There may be a violation of the Zoning Ordinance and what these people have said might mitigate that. The court has to determine if there is a violation and if so, what the remedy should be. So I'm suggesting the Town Board will hold off until after the court's done. Then the board can determine what they want to do. Dan doesn't feel that any of the suggestions in the petition are legitimate. Tom - we've been asked by the Town Board to make a recommendation as to which of these options is the least objectionable. Dan - right now all of them are objectionable.

Don Hempstead to Dan - they are objectionable in your eyes, not ours.

Dave Clefbeck - is this area, Rt 146, agricultural or residential? Bob P - it's residential? Mr. Clefbeck - then there are other problems as a few of the neighbors have numerous livestock, though one maybe agricultural. He's not sure how many one is allowed to have in a residential district. Don Hempstead - you're only allowed two large animals. Several of my neighbors, over the years, have had many animals and I've complained in the past and nothing was done.

Tom - getting back to Dan's opinion that designating a business district on Township Road would violate the Comprehensive Plan. I don't agree with that since the Comprehensive Plan is a guide, not law. It is to be implemented and enacted upon by the creating of zoning laws. Bob P agrees. Tom - as an example, the Comprehensive Plan does not suggest boundaries for a business district in the hamlet, so one could argue that going as far as we did to the west and encompassing wetlands and so many residents, etc, could be considered a violation of the Comprehensive Plan. Dan - no it's not. Tom - in the same way I would argue that creating a business district on Township Road is the least objectionable solution and will have the least amount of impact on the town, compared to the other options. I would say that one could make a reasonable argument that creating a business district from Lewis Road, along Route 146 to the Town garage and the Township Tavern would be consistent with the character of the town and that area.

Dan - that was the proposal that we review last fall and we voted it down. Tom - yes, that is correct, however, we're being asked by the Town Board to revisit that decision and, along with these other two options

Brett - tend to agree with Earl and Tom. The creation of a second business district would be the least objectionable. To Dan's comment, that the Comprehensive Plan directs us toward the center of town, Route 146 goes from one end of town to the other. I wouldn't be opposed to a business district that runs from Altamont all the way to Knox Cave Road or to the other end of town line on Rt 146.

Bob G - the principle is still, that a lot owner in the town, everyone who owns property in the town be on an equal basis. We have nothing to say that a lot on 146 is different on 156 or a lot on Quay Road. We can't say to one that he can't have a business there and to another that he can. The center of town, is unique in that it has long been recognized as the center of town.

Tom - we're not giving anyone an unfair advantage over another. We suggesting that the least objectionable item on the petition is the creation of a small business district. If we were to implement the second option, changing a not permitted use to a conditional use then Bob G might be right, but this option #3 is different. We just finished our part of Business District #1 and there really isn't that much

difference with this second one. Anyone can come in requesting a business district in another location, but we will consider that if the time comes. Again, reminds the Planning Board that we are to recommend which of these three options is the least objectionable. Tom feels that option #3, creating a business district that encompasses Hitmans Towing is the least objectionable.

Bob P - There is something else to be considered, had a brief conversation with the Town Supervisor today, and I stated the fact that for a long time the Town ignored the existence of Hitmans and the previous garage and therefore the Town has some culpability in this situation. Given that, an agreement that accommodates the Town's need to admit that and do something about the situation and create a business district from Lewis Road to Mickles would be a reasonable solution. The argument that the old Comprehensive Plan refers to the center of town doesn't bode, since the geographic center of town is actually not in the hamlet but is along Middle Road. It seems to me a compromise here between the Town and Hitmans would right a wrong, and with that we can recommend a business district. Bob P - Have no idea if that the previous garage was grandfathered, but feels that Mickles was.

Several members of the audience replied that the previous garage on the Hitmans' property was not grandfathered but neither is Mickles. Bob P recommended that they prove that statement by researching county records. If Mickles is not grandfathered, then it's another case of the Town ignoring a violation and further justifies including it in a small business district. Dan - or bringing charges against it. Bob P agreed that is an option.

Bob P - ultimately my view is that both parties are wrong. Bob Smith's conversation with Bob Delaney is a he said/he said circumstance and can't be proven. My vote is to suggest to the Town Board that they create a small business district from Lewis Road to Mickles to get out from underneath a possible difficult legal situation. I am very much opposed to modifying the meaning of a home based business. Offered some advise to Kristen implying that she would not be allowed to do any repairs in order to remedy a vehicle that won't pass inspection. You were wrong to start the business, even though you were misled, and the Town was clearly wrong in not stopping you. Hopefully, as a result of this the Town will start to pay more attention.

Dan to Bob P -you questioned my statement of the law earlier, from the book - Zoning regulations must be made in accordance with the Comprehensive Plan so it would be illegal to create a business district in the area around Hitmans.

Bob P - I would love to argue that in court, that a 1974 ordinance should be enforced in 2014.

Tom - I understand you're referring to including Altamont Spray Welding all the way to Mickles. Feels that is too ambitious. Bob P - where do you want to start / stop it? Tom - we might want to do a more compact district to lessen the impact. Bob P - has no problem with that.

Tom - in response to Dan's comment... the Comprehensive plan isn't that firm in it's description of things and the Town may determine that this business district in this area, Rt 146, is in keeping with the character of that area and the town. We need to consider the impact of this situation and how it's on the verge of dividing the town and we don't want to see that. Let's do this in the smallest, least obtrusive way possible. Option 2 opens a few doors and Option 1 hinders Hitmans ability to do the inspections they want to do.

Earl - if a business district is approved then they would have to go for a Special Use Permit. Bob P - agrees but doesn't feel that it can be defined as a home occupation. Earl - was referring to the towing operation only. The trucks only leave and come back, they don't tow trucks in or store vehicles on the property. Inspections wouldn't fall into that home occupation description at all. Creating a small business district there doesn't sit well. Sounds like spot zoning. Thinks it makes sense to create a business district that goes all the way to Township Tavern from Lewis Road. That would be a different business district that the one in the hamlet. There are different kinds of lots and there would be different restrictions. We need more time to look at all that and do it right.

Tom to Earl - regarding the separate building. I'm aware of at least one other home owner that operates a business in a building separate from its home. If there is an electrical connection, does that make it the same. Bob P - yes.

John Elberfeld - brought up that same question to the Zoning Board of Appeals - what is a home business, do the buildings have to be attached. The Zoning Ordinance states that the business has to be in the home, but I paint in my garage which is not attached to the house. I sent seven basic questions to the Town Board and have been waiting six weeks for a response. The Town Attorney could not answer any of my questions at the last town meeting. I also know of other in the same situation, where they operate out of their garages or barns. That law is vague and, like others, difficult to enforce. The Town Attorney, John Dorfman, at the last meeting, stated that any verbal commitment from a town official means nothing,

Bob P - admits that the Zoning Ordinance was plagiarized from several different towns / sources. All these subtleties were not written into the ordinance and the writers are fallible. Feels that the term "home occupation" refers to the buildings on the home owner's property.

Ed Ackroyd - What designates the home? Bob P - I think it would be where you go to the bathroom most frequently.

Vas Lefkaditis - Thanks for rescheduling this from the snow day, February 13<sup>th</sup>. Didn't you do a NEG DEC on Business District #2? Bob P - yes. Vas - Was it clean? - Bob P. Yes, there were no bad issues. It was never submitted, didn't go anywhere but it doesn't make any difference, there have been NEG DEC's done on toxic dumping grounds. Vas - I'm asking because - you've done your due diligence, the next step, if not mistaken, would be to go to the public. To Dan - you are right, some of those laws are there to protect the public, but isn't protecting the public is to let them speak? Let them voice their concerns at a public hearing? Dan - yes, that's required. Vas - so by not passing it and sending the Business District #2 proposal on to the Town Board and thereby, a public hearing you're not really protecting the public as much as you are keeping them in the dark. The best way to protect the public is to let them speak, at a formal public hearing. Clearly they can come to any meeting, but the best chance to protect them is by holding a public hearing. In regards to Dan's comment about how the Zoning Ordinance must follow the Comprehensive Plan... wasn't the Comprehensive Plan written in the 1990's? Earl confirmed that the Comp Plan was written in 1995. Vas - so for 20 years the Town was following no Comp Plan, and yet there were Zoning Laws in place. Dan - yes. Vas - And even the Comp Plan makes note of the vicinity around the Town Garage and the Township Tavern. The term vicinity means, from the dictionary, the area near or surrounding a particular place, locality, local area, district, region or zone. This is vague, the vicinity of the Township Tavern could be several feet or a few miles.

Vas to Bob P - your earlier point, needs to be reinforced, the Town does have culpability, significant culpability, what the audience says doesn't matter, but in court the onus will be on the Town to prove something did or did not exist prior to the situation. I don't believe the Town can do that, and that will be quite a law suit and, as a tax payer, I don't want my tax dollars being spent defending a law suit that maybe unwinnable. Bob P - feels that most of the facts can be brought out by visiting the Albany county website. Vas - but the onus is on the town to prove these things. This isn't just about Hitmans, that area should be a business district. If the Town can wipe the slate clean with Mickles and Altamont Spray Welding, you (the Town) needs to do it. It's the prudent thing to do. Unfortunately, the Town has put themselves in this position, over the course of many years, for various reasons, and if we (the Town) has a chance here to clear it up, we need to take it.

Are you leaning toward a smaller business district because it'll be more palatable for the Town Board? I don't understand the rationale. Tom explained, yes and the over all impact for this BD2 for the situation before us, will be less than the others. Vas - Creating a business district makes the most sense. It removes the emotion from the situation, you've done the NEG DEC and you go to the people, thru a public hearing, you need to remove your personal opinion from the decision. Tonight I think you're on the right track.

Bob G - This still doesn't create equal rights for all lot owners. If you give rights to one you have to be ready to give that to all lots. The central hamlet is a unique situation, this 146 is not central.

Vas to Bob G - 146 is a unique situation, you're not comparing apples to apples. There are several businesses already there, making this a business district does coincide with the Comprehensive Plan.

Bob G - but as a lot owner, how do we tell someone who owns property here they can do and some over there they can't. Vas - I just gave you a reason. Bob G - you said some are already there, you can make that argument over the whole town. Vas - Where? Where else in town is there 6+ businesses in one area?

Bob Smith - You've been given the power to set up Zoning Laws / make recommendations and create new zones. One doesn't expect the same treatment living on a main road like Rt 20 as I would in a quiet neighborhood. Doesn't understand Bob G's logic. John Elberfeld - agrees and explains to Bob G - if I want a business district on Beebe Road, I have the right, regardless of what is decided for 146, to come before the town and make the request, get notices from my neighbors, etc. and follow the same process. Any decision on 146 around Hitmans doesn't change my right to do the same. By following the process, you're not denying anyone the right to make a request of the Town.

Bob G - We don't have the power to unilaterally, you can't say that this business is more or less wonderful than another. And we let this one in so we can't deny another. You're saying that for every business

Dave Clefbeck - The woman's neighbors should be informed and then that lot could be made a business district. This seems like a reasonable solution. Take one lot / request at a time, as you get the approval from the neighbors.

Vas to Bob G - your point is well made, but the centrally located business district is ok because it is unique. Can you name another location besides 146, in Knox, where there are a number of businesses, already established? If you can't, then that makes the Township Business District unique in and of itself, which coincides with the Comprehensive Plans recommendations.

Bob G - That is tight criteria. I'm talking about the fairness thing. Simply the rights of a property owner.

Vas - You can't compare my rights, living in an agricultural district to the rights of someone living next to three business. That's apples and oranges. That area, along 146, is a unique area. It warrants another business district.

Pam to Bob G - There is unfairness already with the different zoning laws that exist. I live in a residential district on 6.3 acres and need to have a SUP to have more than 15 chickens and 2 head of livestock, but my neighbor, on the other side of Knox Cave Road, has 1/2 an acre and can have 25 chickens and 6 goats, if she chooses because they are agricultural. You already have fairness across the lots in the town and your argument is not relevant to this situation.

Bob G - A residential zone has different restrictions than an agricultural zone. Those zones are set up to keep residential areas residential.

Bob P - What do we want to do? Tom reviewed the choices / options and recommended we vote on which one to recommend to the Town Board. It doesn't mean they'll do anything... Bob P we need a motion.

Rick Fortuin - If you want to make it fair, like Bob G says, make the whole town a business district and stop wasting time and evading the issue. Have been hear my whole life and we've never had a business district.

Bob P - we are not evading the problem, we're having a good discussion.

Dan would like to recommend we send the minutes of the meeting to the Town Board... Bob P - with out making a decision? Dan - yes.

Tom - would like to make a motion for us to vote on each item and determine what one is most recommended to go to the Town Board... Bob P seconded. 4 Ayes, 2 Nays (Dan, Bob G)

Earl feels that we're over simplifying this, would like to take more time to create a proper business district. Tom - We're not going that far tonight. We're just voting to make a recommendation as to which one of these makes the least impact. The Town Board, if they agree, it'll come back to us for details, then it'll go back to them and to a public hearing.

Pam - asked about the vote / boundaries that were voted on in October, since the work was already done, why not put that proposal back on the table so this subject doesn't have to come back to the Planning Board again? Tom - we're not being asked to do that at this point. Earl - if we want a bigger district it's better to wait on defining it. Bob P - Option #3 needs some clarification to include more lots. Tom pointed out that it already states that Hitmans property will be encompassing... Bob P - ok.

Earl - can we only vote yes on one? Tom - no, but the one that gets the most votes will go to the TB.

Option #1 - changing the home occupation definition - least objectionable? 3 Ayes, 3 Nays (Dan, Bob P & Bob G)

Option #2 - changing Article IV, Section 45 Business Uses change N (not permitted) to C (conditional use), least objectionable? 0 Ayes, 6 Nays

Option #3 - creation of a Business / Mixed Use District to encompass Hitmans Towing property, least objectionable? 4 Ayes, 2 Nays (Dan, Bob G)

Bob P - would like to remove the wording "... the law currently states..." and add the words "...determined by the Town Board..." We'll recommend to the Town Board that a mixed use / business district be created / okay'd by the Town Board.

Bob P - We've just decided to recommend to the Town Board that the create a Business District along Route 146, encompassing Hitmans Towing's property.

Bob Smith asked if the Planning Board could set the boundaries tonight? Earl and Tom agree that this shouldn't be done tonight. Bob S - this will be another month? Bob P - no actually, the Town Board's meeting is on March 11, in two weeks and the Planning Board meets again on the 13<sup>th</sup>. So we could have it back in two weeks.

Ed Ackroyd - will the Planning Board approach the Town Board to ask the court to hold up any proceedings against Hitmans until a decision is made? Bob P doesn't feel that the Planning Board should do that.

4. Chasity McGivern turned in a conceptual plan for the senior housing development. She'll be back on March 13<sup>th</sup> to review it with the Planning Board. 470-9494, Chasity's number.

Motion to Adjourn – Brett, Earl seconded, all agree. Meeting adjourned at 10:30 pm.