

particular cause for concern. He said he would like to point out that they have not been asked to analyze the matter and provide an opinion.

Deputy Mayor Bates said he has not heard a satisfactory response to Mr. Pettipas question - What would happen if there were cattle. He said there is no one against the hobby farm but in his opinion what Mr. Pettipas said, on behalf of the ratepayers association, that staff went about it the wrong way. He said he feels that they should have had a comprehensive development agreement to permit Mr. Baker to do what he wants to do. He said then the people living in the R1-B zoning around him are not going to have this hanging over their heads for the next number of years. He said the chairman has every right to come on behalf of the ratepayers and advise council of the concern. He feels that Mr. Pettipas is correct in what he says which is he is not against the development but write it down in a comprehensive development agreement. He said the ratepayers association is saying don't change the zoning so we don't know what is going to take place from this day forward. He said he is concerned that this could have been done a different way to the satisfaction of everyone with no concern to the residents from this point forward.

Mayor Lichter said nobody has in any way stated that Mr. Pettipas did not have the right to come down and speak on behalf of the ratepayers association and nobody suggested to council, at any time, that you don't have an obligation to hear what every speaker says. He said then you have to weight the pros and cons.

Councillor Ball said this was discussed at PAC several times. He said what he sees is that people are having a tendency to overlook is that a zone is being put on something that was in existing use for many years. He said all council is doing is recognizing that. He said one concern he has is that when people come in to represent an association they perhaps should have a recorded resolution or minutes of their meeting portraying the fact that they object to it. He said council accepts on face value people speaking on behalf of an association when council is not always sure whether they are speaking on their own behalf or the association. He asked Mr. Pettipas has minutes of the meeting whereby the ratepayers discussed it and basically are in opposition to the R6 zone or is it Mr. Pettipas' viewpoint solely.

Councillor Cooper said he feels the report has given council the interpretation of what an R6 zone is going to be. He said the premise behind this thing is to support an existing agricultural use and not to permit it to become intensive. He said by implication this means that it should be there to the extent it is now. He said because it is a point that could be applied for other properties under that plan and in the report there is a specific statement that says intensive agricultural uses would

not appear consistent with the policy. He said the premise of this whole report is based on that. The protection of the single family residents in the area and the intention to create the residential mixed use for R6 and the recognition of the concerns which could arise if it was to become intensive.

It was moved by Councillor Cooper, seconded by Councillor Sutherland:

"THAT THE DECISION BE DEFERRED UNTIL THE NEXT COUNCIL SESSION WITH A REPORT FROM THE SOLICITOR AS TO THE INTERPRETATION OF THE SENTENCE "PROVISIONS FOR INTENSIVE AGRICULTURAL USES IN THIS ZONE WOULD NOT APPEAR CONSISTENT WITH THE POLICY INTENTIONS"

MOTION OF DEFERRAL DEFEATED

3 IN FAVOUR

15 AGAINST

MAIN MOTION CARRIED

15 IN FAVOUR

3 AGAINST

It was moved by Councillor Peters, seconded by Councillor Snow:

"THAT APPENDIX B OF THE STAFF REPORT DATED NOVEMBER 8, 1993 BE APPROVED"

MOTION CARRIED

15 IN FAVOUR

3 AGAINST

RA-24-17-93-04 - APPLICATION TO REZONE THE LANDS OF LEO MILES AT 354 PROSPECT BAY ROAD IN PROSPECT BAY

Mr. Paul Morgan gave the staff report. He said the application has been made under zoning by-law No. 24. The property is owned by Leo Miles and is approximately one acre. He referenced the maps attached to the staff report. He said there are currently two buildings on the property. He said the intention would be to obtain an entertainment license. He said there would be music provided in the evenings and live entertainment on weekends. He said the hours of operation are from 11 a.m. to 12 midnight during the week and until 1 a.m. or 2 a.m. in the morning on the weekends. The property is currently zoned C-1 (local business zone) which would not permit the lounge and application has been made to rezone to C-2 (general building zone). He proceeded to show slides of the property to council.

He said Mr. Miles is looking at expanding the marina facilities which are on the property and it would be the intention of the club to cater to people with boats. The first structure, closest

to the highway, is approximately four thousand two hundred square feet. The club building is roughly eight thousand square feet. He said according to Mr. Miles it is twenty five years old. It had previously been used for a building and marina supply outlet until 1986. He said at that time it was converted to a private club.

He said at this point there is no municipal planning strategy in effect for this area so there are no policies to guide council. It is explained in the report that a draft planning strategy is being prepared as well as a land use by-law. He said under the proposal that is now being put forward by the public participation committee the intention is to zone the property general business zone which would permit restaurants and marinas. There is also provision under the policies to allow for lounge by development agreement. He said both these documents are in draft form and have not been reviewed by council. He said it is being brought to councils attention because it does give some indication of the residents of the community are contemplating at this point in time. He said possibly what is being considered here isn't out of context with the documents being prepared right now.

He said they look at such factors as the transportation network. The property is on a collector road so it would not be introducing traffic onto local roads or increase traffic on residential streets. He said the property has been developed at this point and there is not a lot of change anticipated. He said the only change may be more finger piers or wharves for boaters. He said the department of health has investigated this and they were made aware by staff that the intention is to have a lounge with a seating capacity of up to 350 persons. He said Mr. Miles has filled out a health permit application and a health inspector did go down and do dye tests. The department concluded that it should be adequate although it did suggest that measures be introduced to reduce water consumption.

He said the department of transportation has looked at the entrance and has suggested that the access meets the siting requirements for commercial use. There appears to be adequate parking on site. He said for a lounge the major concern would be, from the neighbouring residents perspective, would be the possibility of nuisance from noise. He said the zoning by-law has no regulations to address that but there are provincial regulations in place. Under the Liquor Control Act a lounge license will have to be granted by the Liquor Licensing Board and also a lounge license. He said these licenses are revokable which has happened in the past. He said it is the opinion of staff that there is adequate control in place. He said the license is reviewed on an annual basis and if there are complaints it could be revoked. He said it is the staff recommendation that council approve this application.

Councillor Harvey asked how many of the commercial activities in the area have gone on until two o'clock in the morning or seven days a week.

Mr. Morgan said that it is his understanding that this lounge is a private lounge and it is used for functions such as weddings and receptions. He said it is his understanding that the functions presently held there do go until two in the morning.

Councillor Harvey said that at the present time these functions would only go on infrequently.

Mr. Morgan said he does not know the frequency of the events. He said there is presently a band area and bar in the building.

Councillor Smiley asked if the Liquor License Board held any public hearings in the area.

Mr. Morgan said they have not to this point. He said they normally request the applicant to get municipal approval first. He said they have, on occasion, waived the public hearing requirements where the municipality has already held a public hearing.

#### SPEAKERS IN FAVOUR

Mr. Jamie Miles, applicant, spoke in favour of the application. He said he does not live in the area but grew up in the area and plans to move back to the area. He said his plan is to put in a marina facility. He said there is presently a partially developed marina there which consists of a couple of floating wharves, ramp for putting boats in and out of the water, and a building for dances and community events. He said the major part of his plan would be to put in a licensed restaurant as well as lounge. He said he intends to carry on what he has been doing to this point which is approximately twelve to eighteen dances per year. He said it would not be profitable to have a band there three or four nights per week. He said he has priced a twelve finger floating dock which would be put in to complement what is presently in place. He said he presently has twelve moorings that people rent on a yearly or seasonal basis. He said there are people who store their boats on the premises year round. He said he plans to continue to do that.

He said he would like to put in a fuelling dock for gas and diesel. He said presently when people want to get fuel they have to drive to a garage and transport it in a gas can. He said there is the possibility of putting in a pumping station for sewage disposal for the bigger boats. He said also a marine repair shop and a small shop that sells marine hardware, etc. He said it is not his intention to have dances there six nights a week. He said through the liquor license laws the dances being

held presently are only open to the club members and their guests. He said he would like to put in a public lounge and restaurant so that these dances would be open to the community. He said as it was pointed out the liquor board always has the right to come in and revoke the license.

He said he has received no formal complaints with regards to noise over the last eight years nor has he received any complaints with regards to vandalism. He said this would provide employment for approximately twenty people which would go to the people of the area. He said he feels that this is needed in the community.

Councillor Bayers asked if there were parties going on during the week.

Mr. Miles said at the present time he only has twelve to eighteen functions a year. He said he hires a live band for these functions. He said they are not open during the week at the present time. He said recorded music would not be played loud but to provide an atmosphere and the volume would be kept down.

Councillor Sutherland said he would like to compliment Mr. Miles on what he is attempting to do because he feels there is a need to provide for ship repairs and refuelling. He asked Mr. Miles if he has in any way addressed the soundproofing.

Mr. Miles said it is quite sound proof when the doors are shut. He said they do have horsehair sound panels throughout the club which helps to absorb a lot of the sound.

Councillor Sutherland said that a problem had been experienced in the Sackville area and it was not easy to push the liquor commission into reviewing the license and revoking it.

Councillor Hendsbee said there has been a request to erect a fence and be responsible for maintenance and upkeep of same.

Mr. Miles said that is a responsibility he would be willing to take on. He said he has staff hired to see that bottles are not brought into or taken out of the club. He said as far as he is aware there has not been a problem of beer bottles ending up on neighbours property. He said he is willing to erect a fence to prevent this from happening.

Councillor Hendsbee asked if the same would apply to the shoreline.

Mr. Miles said yes he would clean up the shoreline. He said the finger wharves would allow people a place to dispose of their garbage rather than throw it over the side of the boat.

Councillor Mitchell said the Mr. Miles was born and has lived in the area. His family has built the subdivision across from the mini mall. His father built this club years ago. He said the family has built approximately eighty houses in the subdivision. He said the family owns the building supply and the grounds have been kept clean.

Mr. George Pike, Bayside, spoke in favour of the application. He said he is presently negotiating for a lot that would be within five hundred feet of the proposed club and marina. He said from past experience as deputy mayor of a small town he knows it is very important to stimulate positive economic activity in rural areas. He said as past vice commodore of a large yacht club and marina he knows the potential of such a business to generate economic activity and employment. He said the Prospect Bay area is in a prime location between Halifax and the Chester area. There are no facilities for serious yachters in terms of fuel supplies, provisions, repairs, etc. He said you either have to go to Halifax or Chester. He said both places are fairly filled up and you have to wait to get in. He said the closest a boat can go is to a place called Rogues Roost because there are no facilities in the bay. He said the Bay is missing out on some economic opportunities. He said the facilities for these people to come in and tie up is not there. He said there is little or no repair or maintenance. He said there is the opportunity for employment if the facilities are in place. He said most of the infrastructure is now in place. There are two machine shops in the local area; there is a marine supply store; a building supply store. He said the only thing holding up the development of the whole operation is money to take care of the daily overhead. He said if council would consider rezoning and providing the license and lounge the development of a top rate marina would occur.

Mr. Ingles spoke in favour of the application. He said he has been at the club many times and there has not been any problem. He said he does not feel this will involve any extra traffic. He said he feels Mr. Miles is trying to develop the community. He said if people experience problems they should speak with Mr. Miles with regards to finding a solution.

#### SPEAKERS IN OPPOSITION

Mr. Hugh Vincent spoke in opposition to the application. He said he is co owner of the property immediately adjacent to the proposed club. He said he is not here in opposition but more for clarification. He said he has found Mr. Miles' family to be considerate and they show very good judgement in what they have done with the property. He said there has been a substantial increase in vandalism in the area but he does not feel it is because of the development. He said there has been a lot of broken glass which is the reason he wrote the letter about the fence. He said he was also concerned about the sound. He said

they have not found the dances held during the year to be obnoxious. He said his concern is more for the future. He said if it could be arranged to have Mr. Miles build that 25 foot fence and ensure the sound levels were kept to a reasonable degree and work jointly to make sure there was a minimum of broken glass and garbage. He said he feels it is a good idea to have that type of development and if his concerns were addressed he would be in support of the development.

Mayor Lichter said all the councillors have a copy of the letter from Mr. Vincent and it will be tabled.

Mr. Harvey Matthews spoke in opposition to the application. He said he lives in the subdivision that Mr. Miles built. He said the area is zoned R-2. He said there are two commercial areas. He said Mr. Miles has made application to put a lounge in the area and that is what he is going to address. He said there is a tavern in Bayside, there is a Royal Canadian Legion a mile north, there is a club in Terrence Bay. There is a golf club in Bayside. He said there are restaurants in the area and does not feel that there is a need for any more of these types of establishments. He said all these businesses are marginal money makers and one more may cause half of them to go bankrupt. He said there have been no marketing studies. He asked how it would attract traffic to come down the road. He said the building is over twenty five years old and, in his opinion, needs major uplifting. He said equipment and tables are not evident in the building. He said when he moved in the area in 1973 it was a building supplies and the present location of the building supply store housed a supermarket. He said the supermarket went out of business and the building supply business was moved. He said what replaced the building supply business was a marine repair and a boat building operation. He said from 1976 to 1986 the building was vacant with very little activity until the club was set up. He said he would suggest to council that such an investment at this time is risky because there are very limited financial resources to back this up. He said there is a daycare centre in the strip mall. He said across the highway is a playground and a tennis court. He said there are kids along the waterfront during the summer. He said this will allow drinking drivers to operate a boat which puts the lives of these children at stake. He said he feels this is not an ideal site for a lounge. He said the nearest RCMP headquarters is in Timberlea which is approximately eighteen miles away and it would take awhile for them to get there.

He said he called the liquor license board and was informed that Mr. Miles has a special events license which allow twelve parties a year. He said he could live with twelve parties a year. He said the sound of the base is the only sound that comes through. He said sound travels on water and any one in the bay will be able to hear it. He said lounges attract people who like to

party and he is concerned with regards to the potential for drug trafficking. He said also there is the potential for problems associated with gambling machines.

He referenced the staff report with regards to parking and a boat launching facilities. He said the wharves that are there are marine plywood but ordinary building plywood which is questionable whether it is safe or not. He said the staff report stated the restaurant would have a seating capacity of three hundred and also the hours it would be open. He said as the result of the hours of operation he feels it is going to be a part time restaurant. He said the staff report says the health department checked this out. He said if there was a capacity crowd in the place and each made three trips to the washroom over a two hour period he does not feel the system can handle the sewage.

He said the report says "future plans may". He said he is not against development providing it is something that meets the requirements of the area. He said he is not against Mr. Miles. He said this is not the kind of development this area needs. He asked what the phrase "out of character with the surrounding environment" meant. He said if you build buildings and put a wharf in then, in his opinion, it is out of character with the surrounding area. He said the report says services provided may benefit the community, not will, but may. He said the report states that the existing sewage system should be adequate, not is, but should. He said it has to be adequate if this is going to be put here and he said, in his opinion, it is not.

He said he had received calls from Mr. Leo Miles expressing concerns about this. He said Mr. Miles does not want to go against his son.

Councillor Mitchell said he had a meeting with Mr. Leo Miles and it was his impression that he was in support of his sons endeavours.

Mayor Lichter said he would urge council not to take a second hand opinion.

Mr. Matthews said he believes it would be a mistake to allow the zoning to change for such a development. He said he is not against development. If it were to be a marina or private club it would be a different story. He said he does not believe that it will provide employment for the number of people indicated. He said it is a residential and he feels it is the wrong location.

Councillor Mitchell asked Mr. Matthews if he owned a boat and knew what it was like to have to go five miles or more to fill a tank. He said the lounge is being stipulated but the marina is



the biggest part of it.

Mr. Matthews said the letter and report he had received says a lounge and that is what he is fighting against.

Mayor Lichter said Mr. Matthews is quite correct. The application and the staff report in front of council is the application that was advertised and that is the one council hears.

Mr. John Lewis, 376 Prospect Bay Road, spoke in opposition to the application. He said he has invested a great deal of money and time in building his home on the waterfront close to this property. He said the dances that are held have been intrusive from a noise point of view. He said you can live with this if it is once every three or four weeks. He said he would be opposed to the installation of a lounge and having these dances go on every weekend. He said he is speaking in opposition to the lounge application but he said he wishes to state he is in favour of a marina and restaurant.

Mayor Lichter confirmed with Mr. Lewis that he has written to council in opposition to the application. He tabled the letter with the secretary.

Beverley Upsdale spoke in opposition to the application. She said she lives on the lot across the street from the building. She said she does not object to having a licensed restaurant but the report says that Mr. Miles wants to make it into a restaurant and lounge. She said she does object to a lounge. She said they can hear the base from the club. She said it is not real loud but in the summertime with windows open it is annoying. She said she does not object to the marina. She said the playground is close by it would mean increased traffic. She said she objects to the lounge part being open every night.

Mr. Terry Langille spoke in opposition to the application. He said he lives across the street from the proposed application. He said he has been a PPC representative for the district and have some knowledge of this particular application. He said approximately a year ago he contacted residents and they have some reservations with regards to the noise control aspect of the lounge application. He said that primarily was the only concern because traffic concerns did not seem to be of great importance. He said the noise control was the main consideration. He said most people would like to see the property developed in a coordinated fashion, being the restaurant, marina and the complete facility rather than, as this application indicates, just the lounge at this point. He said it appears that this is just a lounge application and future plans may also include the expansion of a boat launch, docks and fuel distribution facilities.

Councillor Randall asked if the speaker was still a member of the PPC.

Mr. Langille said the PPC has recessed at this time while the draft is being approved. He said he is still involved in the process.

Mayor Lichter said according to the report the PPC looked at the situation and recommended that the C2 zone would have a development agreement provision in it. He asked if it was intended that this particular undertaking to be addressed with a development agreement.

Mr. Langille confirmed this. He said in appendix B of the proposed land use by-law light industrial uses it was implicated that the property owners would be allowed to develop under development agreement.

Mayor Lichter asked if Mr. Langille if he personally had the feeling that the development agreement could address the noise concern.

Mr. Langille said there were provisions with the liquor licensing board with regards to the noise concerns. He said they are not explicit. He said there are no hard and fast specifications that they could send him a copy of. He said there are nuisance regulations in the document they had prepared. He said with those two items and the entering into of a development agreement they felt that they had the necessary protection required for the residents and the developer.

Mayor Lichter asked if there was an anticipated date for when the draft might be ready.

Mr. Langille said he is not aware of a set date at this time.

Mike Boutilier, Prospect Bay, said the main problem seems to be the noise pollution. He said if Mr. Miles has already proposed there is not going to be any change in the dances that would mean there would still just be twelve to eighteen dances per year. He said if a lounge goes through and the docks are built for the boats this could be controlled with the music. He said the sound pollution would be the same as it is now. He said he had not been aware that it had been a problem in the past. He said it is an upstanding establishment and the community uses the facility now. He said he feels there are a lot of what if's being played into this.

Mayor Lichter said it is his understanding is that right now with an occasional license a person can have about twelve of those events during the year. With a license to operate a lounge they can have one every night. He said that does not mean there will

be one every night but, theoretically speaking, you have the license to do it every night. He said this is the concern that some people are speaking about.

Mr. Jamie Miles spoke in rebuttal. He said he would not have a band six nights a week. He said it is not economically feasible for him to have dances that many times. He said there are controls with regards to noise pollution concerns. He said he would be willing to listen to any suggestions. He said he would like council to realize that the word lounge does not automatically mean loud entertainment, drugs, etc. He said there were comments made on the building and its suitability. He said in his opinion the building is ready and set up except for the restaurant part. He said he has price quotes with regards to the dock but he would not consider putting this in place without a lounge to complement it because he does not feel the business would be there.

Councillor Hendsbee asked if the lounge and restaurant is dealt with tonight would another hearing be required with regards to a marina operation.

Mr. Morgan said under the C2 general business zone under zoning by-law 24 if approved it allows any commercial use which, in the opinion of the building inspector, would not create a nuisance. He said he feels that would cover the marina as well.

Mayor Lichter if there was a time frame with regards to the completion of the MPS and Land Use By-law for district 4.

Mr. Morgan said it is his understanding it is going to be forwarded to the PAC for review in the near future.

Mayor Lichter has how long ago did the municipality receive the application that is being dealt with tonight.

Mr. Morgan said the application was originally received in August but because it was not a complete application the applicant had been asked to provide additional information.

Mayor Lichter said all he is trying to establish is that the applicant has been waiting approximately eight months to get to this point. He said he was looking at whether or not it would be fair to make him wait for the plan that has not yet been adopted.

Mr. Morgan said it is his understanding that the PPC is satisfied with the document. If goes for review but it has to go back to the public and some plans have taken a considerable amount of time.

DECISION OF COUNCIL

It was moved by Councillor Mitchell, seconded by Councillor Rankin:

"THAT THE LANDS OF LEO MILES AT 354 PROSPECT ROAD, PROSPECT BAY, BE ZONED FROM C-1 TO C-2 AS PROPOSED IN THE STAFF REPORT"

Councillor Harvey said while he is interested in the economic development that might come from such a proposal he has in the past been involved with a noise problem involving a lounge. He said the RCMP and the liquor board was involved but it takes a long time for these things to be pushed to the wall and a point where anything is done if there is a problem. He said his experience with this is that the lounges that operate until two in the morning near residential areas end up with the residential areas upset. He said he would not be able to support the motion.

Councillor Cooper said it is unfortunate that the amendment to by-law no. 24 did not include marinas under local business and let the other process complete itself. He said he is on the side of the community with regard to the development. It is not an isolated site and is in the area of a developing residential community which is saying have it under controls, basically a development agreement. He said the possible ramifications for the community outweigh the granting, under by-law 24 of this rezoning, a local business which permits pretty well everything but the marina which was one of the prime concerns. It could have been addressed that way. He said he would ask council to consider the number of times there has been difficulties with licensed establishments.

Councillor Ball said it is his understanding that the occasional lounge facility has been in existence since 1986. He asked how long the daycare facility has been in existence. He said he wanted to establish whether the lounge existed before the daycare centre moved in and were they aware of what was next door.

Deputy Mayor Bates said he was speaking in favour of the application. He said it would not be fair to compare this situation with others. He said this has been in existence for some time and the applicant has indicated they don't propose to expand beyond the number of functions they have with a band there. He said they have the ability to do that. He said he likes the development aspect of it. He said he feels there are real possibilities. He said you can't stop a businessman from going after a new venture simply because somebody else is not making money. He said he feels that what is being proposed in the staff report is good.

MOTION CARRIED

RA-LM-20-93-04 - APPLICATION BY NABIL TOULANY TO REZONE LANDS AT

THE INTERSECTION OF THE MINESVILLE ROAD AND HIGHWAY NO. 7 IN LAKE ECHO

Mr. Paul Morgan made the staff presentation. He said this is an application pertaining to the communities of North Preston/ Lake Major/Lake Loon/Cherrybrook/East Preston. He said Mr. Bill Toulany has applied to rezone three properties that he owns at the intersection of the Minesville Road and Highway No. 7 in Lake Echo. He said there are three lots. Lots 1 and 2 were purchased in 1991 and Lot 3 was subsequently purchased in 1992. He said in 1991 the development division received a preliminary subdivision application to consolidate lots 1 and 2. The stated purpose on the application form was to permit a convenience store with a single unit apartment. At the time the application was made the property was zoned RS (rural settlement) zone which would permit that proposal. The zone permits a variety of commercial uses of up to 2,000 square feet of floor area. The Planning Strategy and Land Use By-law were amended by council in 1992. He said this was a comprehensive review of both documents and at that time a request was made, through the area councillor, to rezone all the lands on the West side of the Minesville Road from Highway No. down to 107 to RA (residential zone).

The residential zone does allow for home businesses of up to 750 square feet in conjunction with a dwelling. Since that time Mr. Toulany contacted staff and advised that he was one of the property owners that was rezoned and he was unaware of the public hearing and councils intentions. He said it was brought before the PAC and it was brought to their attention that although notices were placed in the newspaper, of the public hearing, Mr. Toulany has difficulty reading English. He said Mr. Toulany is requesting that the lands be rezoned back to the RS (rural settlement) zone to allow him to proceed with his proposal. Mr. Morgan showed slides of the property to council for information.

He said these properties and everything on the same side as this property on the West side of the Minesville Road are within the Lake Major plan area and are within a mixed used designation. The lands on the other side of the road are within the 8 & 9 area which is referred to as the Lake Echo designation. He said the mixed use designation is to allow for uses traditionally found in rural communities. He said that is the overall intent. He said they include a variety of small scale commercial uses, institutional uses as well as residential uses. The base zone for this area is the rural settlement zone. The majority of the lands are zoned rural settlement. It allows for residential uses of up to four units provided you have sufficient lot size. He said for the purpose of tonights hearing it allows for commercial uses up to 2,000 square feet. It would allow for a convenience store as is being proposed by Mr. Toulany.

He said there are a variety of other uses permitted. Within the

designation there is also policy provisions to put the more restrictive residential RA zone on properties. There are certain areas where residents may prefer to have the more restrictive zoning. He said placing either zone would be reasonably consistent with the policies for this plan area. He referenced the land use and zoning map on page 3 of the staff report. He said there are a lot of S's representing single unit dwellings. He said these properties are in an area that is predominantly single unit dwellings. He said the RA zone would not seem inconsistent.

He said allowing for a small scale commercial use such as be permitted under the RS zone would not seem unreasonable. There are provisions in the planning strategy to allow for a general commercial zone by rezoning and it would allow up to 5,000 square feet by right. He said it was primarily intended for the communities of North Preston and East Preston and the intention of the rezoning was for larger scale commercial uses to go through the rezoning process to allow for a review by council. He said one of the criteria is that the property have access to a main collector road as designated under the planning strategy. He said the no. 7 highway is designated as such.

He said there is also provisions for commercial uses exceeding 2,000 square feet by development agreement. One of the criteria council would consider is whether the property has access to a designated collector road as the No. 7 highway is. He said within portions of this plan area, that are designated primarily for residential development, there are provisions to allow for rezoning to a local business zone, a C-1 zone. A C-1 zone would allow for up to 2,000 square feet floor area which is the same as what the rural settlement zone would allow. One of the criteria is the property would have to have access to a minor collector and the Minesville Road is designated as such. He said allowing for corner convenience stores was contemplated by the planning strategy. He said this would seem like a reasonable location. He said by putting them on major or minor collector roads you don't introduce new traffic on to local subdivision streets. Generally the traffic created is passer by traffic. The floor area limitations would seem reasonable in ensuring that the scale of the development is not out of character with the surrounding residents. He said an apartment unit would be above that scale.

He said during the preliminary subdivision review the plan of subdivision was assessed by the department of health and the department of transportation. He said there were no indications that the proposal could not comply with either departments respective regulations. He said the only thing that seems to be an obstacle in this instance is the fact that there is going to be fill required. He said any development on these sites would require placement of fill and it is not obvious that a lot more fill is going to be required than what would be needed for a

residence. He said staff has recommended approval.

Deputy Mayor Bates said the background information indicates that when Mr. Toulany bought the property in 1991 it was zoned RS at that time. He said the revisions were made to the planning strategy and it was changed. He said it is his understanding that Mr. Toulany was not aware of this change taking place. He asked if the planning strategy had not been changed would Mr. Toulany have been able to do what is being applied for.

Mr. Morgan said if the changes in the zoning weren't made Mr. Toulany would have the zone he is seeking approval of.

Deputy Mayor Bates asked if Mr. Toulany had come forward when the planning strategy went through and said he wanted to keep the zone the way it was what would have occurred.

Mr. Morgan said possibly council would have heard the arguments and decided not to put a rural settlement zone on the property. He said it is noted in the report that the abutting lots along the No. 7 highway and most of the lands around it are zoned rural settlement. He said Mr. Toulany would have had an opportunity to make his presentation and council still could have rezoned those land RA. He said Mr. Toulany's point was that he wasn't afforded a fair opportunity to make his case.

Mayor Lichter said the general principle was for a long period of time that the municipality try to avoid downzoning property whenever possible.

Councillor Sutherland asked if the three lots are approved lots.

Mr. Morgan said they are three separate lots.

Councillor Randall referenced appendix A item 5 of the staff report. He said there is the potential for the creation of erosion and sedimentation. He said the evaluation states that no apparent problems were identified by the department of health. He asked if the department of health deal with erosion and sedimentation.

Mr. Morgan said it would be more the department of the environment. He said the department of the environment did not assess this land because there was no watercourse identified on the property. He said there is a lot of concern expressed in this planning strategy about potential for polluting the Lake Major watershed. He said this property is outside the Lake Major watershed. He said no matter what the zone, if fill was to be placed, the department of the environment would not be involved unless you were altering a watercourse.

Councillor Randall asked for confirmation with regards to the

addition of fill.

Mr. Morgan said it is a low lying depression.

Councillor Deveaux referenced page 7 of the plan. He asked if the properties close to these lots zoned RS when the development plan was approved.

Mr. Morgan said every property to the West of Bell Street and Minesville Road, under the initial land use by-law, was zoned rural settlement zone. This RA zone extends from lot 1 and every property on the West side of the Minesville Road all the way down to highway 107.

Councillor Deveaux said on page 7 there are two large lots which indicate RS zoning. He asked if they were zoned RS at the time this plan was changed and the property in question was changed.

Mr. Morgan said it is his understanding that those two properties are zoned RS initially in 1982.

Councillor Deveaux asked if there was any reason why they wouldn't have changed at the same time.

Mr. Morgan said he was not certain. The reason the RA zone was placed was because the request was made from the councillor at the time that the residents along that side of the Minesville Road wanted the residential zone. He said on the other side of the road the lands are zoned R-1 (single unit dwelling unit) zone. He said these are under the 8 and 9 plan area.

Councillor Hendsbee asked who was the owner of the property across the street from this development.

Mr. Morgan said it is his understanding that the property is owned by Sobey's.

Councillor Hendsbee asked if the lot to the immediate right of lot 1 has also been acquired by Mr. Toulany.

Mr. Morgan confirmed that this was his understanding.

SPEAKERS IN FAVOUR

Melanie McGrath, solicitor for Mr. Toulany, spoke in favour of the application. She said there are three different lots under discussion and two of those lots were purchased by Mr. Toulany on February 27, 1991. She said at that time they were zoned RS. On March 27, 1992 he purchased lot 3 which was, at that time, zoned RS. Mr. Toulany specifically purchased these lots in order to put some sort of commercial development on them. He had undertaken a consolidation process for lots 1 and 2 in order to



gain that commercial development. She said this file was sitting in the Cole Harbour office. In the meantime the councillor of the area had written to the county to ask that the lots on the West side of Minesville Road, between the two highways, be rezoned RA. In 1992 the councillor encouraged the PAC to rezone the area and said he could not recall anyone having difficulty with the rezoning. She said it seems evident that he did not talk to Mr. Toulany.

She said Mr. Toulany has recently spoken with Mr. Adams and Mr. Adams has forwarded a letter to them. She circulated a copy of the letter to members of council. She read the letter to council. She said according to the planning act notice may be given to existing landowners when a rezoning is to occur. This is not mandatory. She said the municipality evidently believed councillor Adams when he said no one had difficulty and so they did not send notice to the exiting landowners. She said a notice was published in the newspaper of the day but to some people, including Mr. Toulany, notice in a newspaper is not notice at all. She said Mr. Toulany had his consolidation application before the county and they should have known he had an interest in this rezoning and could have sent him a direct notice but did not. At some later point Mr. Toulany found out that the zoning unbeknownst to him had been changed from RS to RA. She said bringing this application tonight to have the original zoning returned to him.

She said municipal corporations law states that in Nova Scotia the planning advisory committee and the council owe of duty of fairness to those affected by their decisions. She said they are saying that when this zoning was redone it was not done in fairness to Mr. Toulany. She said it was only the West side of the Minesville Road, between the two highways, that was rezoned. She said all the other lots in that area are zoned RS and the base zone for the whole district is RS. She said when looking at the zoning standards one must look at the applicable by-law and the intent of the municipal planning strategy. She said the Halifax County municipal planning strategy for the area is the plan that governs. It states on page 12 that new development is essential to furthering community development objectives, broadening the municipal tax and providing economic opportunities for plan area residents. She said it further states that the range of local commercial services should be increased. She said this particular piece of property is in the mixed use designation. The planning strategy further indicates on page 60 that the mixed use designation is intended to retain the mixture of residential community commercial and resource uses which are traditionally found within rural communities and permits most uses that might occur within residential, commercial, institutional resource designations. She said the strategy later indicates that the zone permits limited home business activities as well as general commercial activities up to 2,000 square feet

of floor area. It also states that it is the intent of the strategy to permit the continued development of commercial operations in conjunction with residential uses. She said the strategy states, on page 64 and 65, that there is a need to provide an opportunity for existing small businesses to expand as well as to provide for the development of larger operations.

She said under the mixed use designations there are various types of commercial operations that are allowed. It allows for commercial uses to a maximum of 5,000 square feet and if you are going to follow a development agreement it allows you to have commercial activities in excess of 2,000 square feet.

She said Mr. Toulany is only requesting to be rezoned back to his original zoning. He is requesting that to be returned to him and it allows for up to 2,000 square feet of commercial use. In allowing him to regain this designation there is an opportunity for job creation and an increase in municipal tax base. He said Mr. Toulany is guided by the zoning by-law and that regulates sewage disposal and water systems, road entrance reserves as required by the department of transportation, minimum setback from roads, height regulations in terms of the buildings, setbacks from watercourses, parking requirements, loading space requirements and sign requirements. His establishment, when he builds it, if he builds it, would also be subject to department of environment regulations and department of health requirements. She said it is their submission that the only applicable and appropriate criteria for examining this application to rezone are set out in the implementation portion of the strategy. She outlined the criteria identified in the implementation portion.

She said with regards to the second criteria there are no costs to the municipality in this instance. Proximity to schools is not a factor. The adequacy of sewer and water service as well as the potential for contamination of water sources are factors to be determined by the department of health and department of environment at the appropriate time. The adequacy of road network is not a problem. Potential damage to historic buildings or sites is not a concern. As well the access to community facilities is not a concern in this instance.

She said criteria three deals with items that have already been regulated by the zoning by-law such as the type of use, the height of the building, access, storage, etc.

She said the fourth criteria which is with regards to suitability in terms of grade, soil, watercourses and flooding. She said this is something that will have to be dealt with Mr. Toulany in conjunction with the department of health and the department of environment.

She said the fifth criteria with regards to other relevant

matters of planning concern. She said it is their submission that other relevant matters have to do with consistency with the planning strategy and conformity with the zoning by-law. She said since the properties are formally zoned RS and it is consistent with the zoning by-law and the planning strategy that the properties be rezoned RS again. She said the regulation of competition within is not a relevant matter of planning concern.

She said the staff report refers to page 7 of the plan. She said it shows the three lots in question. She said the properties directly to top of the page are all zoned RS and the properties to the lots are zoned RS. She said the piece of property directly across the street from lot 1 is owned by Sobey's and has a commercial designation. She said the lot to the left of lot 1 is owned by Mr. Toulany and has the RS designation. She said looking at lot 1 the lot across the street is zoned RS. She said if they have a commercial designation she cannot see them objecting. She said the lot to the left of lot 1 it owned by Mr. Toulany who obviously does not have an objection. The two lots directly below lot 1 are owned by Mr. Toulany as well.

She said it is her understanding that there are some concerns in terms of the safety of this particular intersection. She said the slides provided by Mr. Morgan showed that there is a flashing amber and red light. She said people believe that this is not adequate for the traffic that comes through this area. She said it is their position that it would be better for a four way stop sign to be installed at this intersection. She said they would urge council to speak with the department of transportation on this aspect.

She said there are concerns with regards to competition in the community. She said this is not a valid planning consideration. She said Mr. Toulany is one of the owners of the other convenience stores and he does not want to compete with himself. She said she would ask council to keep in mind the fact that three years ago when Mr. Toulany first purchased these properties the zoning was RS. She said this application is not going to radically alter the property, it will merely restore it to its former zoning. She said there has been no drastic change that warrants the refusal of this application as per accepted planning principles.

Councillor Harvey referenced page 7 map 3 of the staff report. He said lot 1 is on the corner of highway 7 and going along highway 7 there are three single lots with mobile homes.

Ms. McGrath said Mr. Toulany owns just the one lot next to this.

Mr. Bill Toulany spoke in favour of the application. He said he bought lot 1 and lot 2 and was informed that they were zoned

commercial. He said he checked with Cole Harbour planning who informed him that they were zoned commercial. He asked if he could keep them that way and they informed him that there would be no problem with this and he would have to apply for it. He applied for the first lot to have 2,000 square foot commercial zone and the second lot to have the same. He said he was informed that they were not big enough to have 2,000 square foot commercial zoning and he would have to put the two lots together. He said he consolidated the two lots and applied. He said he was told that this would not be changed and to his knowledge he understood that no one could change the zoning without his permission. He said he did not hear about the change until he had an inquiry about selling the property. He said when he went to check he found that the zoning had been changed to RA. He said he spoke with Mr. Morgan who informed him of the letter from councillor Adams. He was informed that he would have to go through the rezoning and public hearing process to make it legal. He said he does not like the idea that it was zoned commercial and then it was taken away from him.

Mr. Wendell Thomas spoke in favour of the application. He said he is a resident of the community of East Preston. He said Mr. Toulany contacted him and he looked at the situation. He said he is supporting Mr. Toulany's position. He said all Mr. Toulany wants is what he bought and paid for when he originally purchased the property. He said it will create employment in the community. He said the property in question is in the community of East Preston not Lake Echo. He said what Mr. Toulany is proposing will expand the tax base. He said there is RS zoning across the street. He said most of the abutting properties are still zoned RS. He said under the RS designation there are provisions which state that you can't have over a 2,000 square foot business. He said when the original change to the RS zone was made it was with regards to mobile home development. He said he has heard some concerns in the community but he does not feel these concerns have any relevancy tonight.

Mr. Fred Copping spoke in favour of the application. He said he is here more in personal support than on the issue itself. He said Mr. Toulany has difficulty reading English. He said he also understands how hard it is to learn to read and write a new language. He said he feels it is always a value, in today's economy, to be able to put up something that furthers the community business wise and provides jobs. He said he does not feel that a store on that corner would create more traffic problems than the mailboxes on the other side.

A resident spoke in favour of the application. He said he works with Mr. Toulany. He said he has no problem with a store being built.

A resident spoke in favour of the application. He said Mr.

Toulany is a good businessman.

Florence Brown, East Preston, spoke in favour of the application. She said she would like to see Mr. Toulany build a store in East Preston because it is needed.

Mr. Ross spoke in favour of the application. He said he was the previous owner of the lots which, at the time of sale, were zoned commercial. He said he does not see why the zoning should be changed now.

SPEAKERS IN OPPOSITION

Mr. Alvin Boudreau, Carlton Drive, spoke in opposition to the application. He said the people he represents are sorry that Mr. Toulany was wronged in a rezoning but they are at this meeting to stop a commercial building going on that corner. He said in the last seven years there have been eleven accidents on that corner. He said most people on Carlton Drive have children and they are concerned because the children go to school on Bell Road. He said a lot of them have to cross the road. He said there concern is the traffic on the corner and the traffic they feel will happen on Carlton Drive if there is a commercial building there. He said they feel Carlton Drive will be used as a means of getting away from the corner. She said the possibility of a four way stop sign should be looked at. He said they are mainly concerned with safety.

Mayor Lichter said he has received a petition with 283 signatures which was tabled with council.

Councillor Fralick asked if the main issue was transportation.

Mr. Boudreau said his main issue was transportation because he has children and he lives two lots down from the corner. He said his children walk if they pick up the mail. He said there have been a lot of accidents.

Councillor Fralick said maybe the intersection should be upgraded but Mr. Toulany had commercial zoning on his property and then had it taken away.

Mr. Boudreau said they don't feel they need another store in Lake Echo.

Councillor Fralick asked if the intersection was a problem.

Mr. Boudreau said the intersection has been a problem in the past.

Mayor Lichter said it is not really councils business to control competition. He asked Mr. Boudreau if he was involved in

collecting the names for the petition. Mr. Boudreau confirmed this. Mayor Lichter asked if anyone signed the petition who was connected in any way with any one of those stores. Mr. Boudreau said he was not aware of it. He said there was only three people who did not sign the petition.

Barbara Ryan, Lake Echo, spoke in opposition to the application. She said the immediate area around that site is residential. She said when she purchased her home it was all residential except for the church and one convenience store. She said there has been no development in the area since. She said that intersection has involved a lot of fender benders, near misses with children going to school. She said they are concerned with any changes in traffic patterns. She said people would be coming up the No. 7 and doing an S turn or coming down the No. 7 from Preston and coming around the corner and into it. She said it is a very poor intersection. She said they have sympathy with Mr. Toulany but there was a lot of notice given and a lot of fuss about the zoning and various changes. She said there must have been someone who should have been aware of it and informed Mr. Toulany. She said they all have either artesian or dug wells. She said their concern about the infilling of the lots if it would change drainage in any way the water flow may affect the wells. She said the site is approximately 150 metres from the end of her driveway so she is close enough to hear everything at the intersection.

She clarified, from Mr. Morgan, what the other uses that might be permitted under that zoning would be. She said traffic noise may increase.

Deputy Mayor Bates asked Ms. Ryan that when she bought her property and most of the time that she has been there, the property being discussed tonight, has been zoned RS. He said what is being suggested is because of the misfortune that Mr. Toulany did not hear of the application to revise the planning strategy that he not be given back the zoning that was on the property when he bought it.

She said there was plenty of notice given.

Deputy Mayor Bates said Mr. Toulany paid for property that was zoned commercial. He asked if Mr. Ryan was suggesting that council not give him what he paid for.

Councillor Bayers asked where she lived. She said she lived on the No. 7. He asked if she had been concerned with traffic at the time she purchased her property. She said to a certain extent.

Councillor Bayers said when Ms. Ryan bought her property the 107 was not completed and all the traffic from the Eastern Shore used

to go up Minesville Road and turned at that intersection onto the No. 7. He said at the time she bought her home there was no promise to her when the 107 was going to be open. She said traffic has increased tremendously over the years with the build up of the subdivisions in Lake Echo.

Mayor Lichter officially tabled a letter sent by Ms. Ryan.

Mayor Lichter said a great deal has been made with regards to whether or not someone can speak a language. He asked Ms. Ryan when she bought her home had she gone around and checked the zoning in every direction within a certain distance from her home.

Ms. Ryan said she relied on her solicitor for information who had informed her that it was residential.

Mayor Lichter said she could not rely on her solicitor but she expects other people to rely on their solicitor. He said people sometimes expect land around them, that has not been built on when they build their homes, to remain vacant. He said the land was not zoned in such a way that it would remain empty.

Councillor Deveaux said Mr. Toulany bought the land in good faith which was zoned RS and now finds out that it isn't. He said he fails to see the fairness of that regardless of how it happened. He said there will be concern about wells no matter what type of building is on the property. He said the health department designates what type of system is required to go there to be able to handle whatever effluent will be coming out of the building. He said that traffic problems exist in many areas other than this one and that is the responsibility of the Department of Transportation. He asked if it was indicated to everyone who signed the petition that Mr. Toulany had purchased the property, when purchased, was zoned RS.

She said she was not involved with the petition.

Theresa Ellis spoke in opposition to the application. She said she was involved in the circulation of the petition and each person that signed the petition read the staff report along with the letter that came from the county if they chose. She said the people were told it was for a rezoning. She said she is not opposed to Mr. Toulany having this as a residential place but is opposed to the store because there are three stores presently in Lake Echo. She said she was told about a development agreement and feels this would be a good thing and may be needed. She said there was a letter issued to Mr. Toulany on April 16, 1992 specifying that there. She said they don't have the letters because Mr. Toulany hasn't applied for construction.

Mayor Lichter informed Ms. Ellis that the county planning

department has all the letters on file and are public record.

Ms. Ellis said there was two deaths at the intersection and has only become a major intersection only since highway 107 has been completed.

Councillor Harvey said he is hearing from people that a terrible thing has happened to Mr. Toulany but they are going to use it to obtain what they want.

Ms. Ellis said they are not opposed to the rezoning but the convenience store/apartment.

Councillor Harvey asked if Sobey's owned the other RS land have they thought what they might do with that would improve or not improve the intersection.

Ms. Ellis said it would be the same. She said there are twenty five hundred residents in Lake Echo and business may be taken away from an exiting business.

Mayor Lichter asked if anyone associated with the other stores signed the petition. Ms. Ellis said not to her knowledge.

Mr. Colin McKay spoke to council. He said he is not in opposition to Mr. Toulany having a store but he does have a number of concerns one of which is what is going to be sold in the store. He said he is worried how Mr. Toulany will get rid of blood, etc. He said he would like to know if this has been put forward to the department of health and been passed by the department of health.

Mayor Lichter said foodshops are regulated by the Atlantic Health Unit and under the health regulations they describe as to what the individual must have and they have frequent inspection programs. He said regulations are there but they cannot be applied until after somebody starts to operate something and the regulations need to be put into action.

Mr. McKay said they have heard that Mr. Toulany is building a convenience store. He said this would only be a fifteen minutes away from a present convenience store. He said as a result of these stores there is litter in the ditches along the roads. He said they realize this is not the problem of the store owners. He said they are not trying to stifle business but they do want some studies by the traffic division of the department of highways. He said there are school buses coming in that intersection. He said he feels it would be fair to Mr. Toulany and the county if studies were done by the different department into anything that can come out of having a store here. He said he also feels Mr. Toulany specifies what type of store it is going to be.



Mayor Lichter said business have to adapt and change in todays economy for people to make a living.

Mr. McKay said he is not concerned about what Mr. Toulany is going to sell and how he is going to sell it but what the repercussions will be if for instance he does not have the proper sewage system. He said he is concerned that if the system is not adequate would the effluent go into the surrounding wells or into the watercourse that goes into the Lake Major watershed area.

Mayor Lichter said that when an individual applies for a building permit even if it is talking about a single family dwelling depending on the number of bedrooms the design of the septic tank disposal field is different. He said the same applies to the store. Depending the size of the store and the nature of the store, not the specific items that will be sold, the Atlantic Health Unit design of the septic tank disposal field and the demand that they put on the individual is going to be different. He said they do not make or cannot make that demand until there is a building permit application put in.

Mr. McKay he knows there are some problems to be worked out and said that Mr. Toulany has been good in the community.

Frances Connor, Carlton Drive, Lake Echo spoke in opposition to the application. She said she was a member of the PPC committee for the Lake Echo community designation as well as for the plan for the district 8 and 9. She said she is also aware of the plan for the Lake Major. She said she understands that every effort is made to advise every person but cannot make sure that everyone is advised of an issue. She said she is not at this meeting as a member of the PPC. She said she understands the long process things have to go through and in some cases people are missed. She said the letter that is referred to from Mr. Adams to county staff was submitted on April 2, 1990 which was almost a full year before Mr. Toulany purchased the properties. She said at that point in time it was in the hands of the planning committees and/or staff. It is in the book published, by the county, with the amendments and proposed for revision in district 8 with the Lake Major plan. She said at the time the letter was submitted Mr. Toulany did not own the properties.

She outlined some portions of the plans for Lake Echo and Lake Major. She said policy P-26 in the Lake Echo plan states that council take into consideration the traffic. She said the intersection of the No. 7, Bell Street/Minesville Road is the focus of her objection. She said the policy of council in both plans states that council will take into consideration this as a major identified mapped intersection. She said she is asking council to deny the application for rezoning. She said there is a zone in the Lake Major Plan that allows for Mr. Toulany's 2,000 square feet. It allows for him to have access onto the No. 7

highway alone. The major traffic pattern along the Minesville Road and Bell Street and highway 7 going into the Preston area is to come directly up Minesville Road and to turn right onto the No. 7.

She said with Mr. Toulany's store accessing onto Minesville Road the traffic pattern will not increase but the traffic pattern itself cutting back and forth across the intersection is the problem. She said with a general commercial zone access would be allowed onto the No. 7 highway only. It does not allow for traffic onto a minor collector road and has a development agreement. She said if it is the zone which Mr. Toulany is given she would not have any problem with it. She said the only difference between the two zones, as far as building size, is very little. She said the major concerns of the residents would be answered with a development agreement and/or access onto the No. 7 highway versus the Minesville Road as the access/egress for traffic flow. She said she does not feel the tax base would increase significantly. She said she has worked for Mr. Toulany and she can definitely say he creates employment and would be a fair and equitable employer.

She said it has been submitted in the staff report that the Department of Highways has okayed this. She said staff cannot say "based on .... we think the department of highways is wrong". She said there are reasons to say no to this particular rezoning and/or apply for the rezoning in a commercial capacity with the exact same footage, use, and location. She said it is in an excellent location because it is the focal point and first point of contact with every resident coming into Lake Echo. She said having the access on the Minesville Road will be a detriment to the community more so than actually employing people and increasing a tax base.

Councillor Harvey said a more recent letter has been received from former councillor Adams which indicates his request, as a resident and councillor at that time in 1991, was concern mainly with the possibility of mobile home development. He asked if the speaker could confirm if that was the main concern at that time.

She said she did not agree.

Councillor Harvey asked if there could be mobile home development in RS zones.

Mr. Morgan confirmed that RS zones do allow for mobile homes.

Mayor Lichter asked if somebody went to the PPC committee before planning strategies and land use by-laws were approved and said they bought land with a certain designation which had a proposed change to the zoning would the committee have considered doing something.

She said it probably would have considered it. She asked if council would have afforded the same consideration to Mr. Toulany.

Mayor Lichter said up until 1988 he sat as chairman of PAC he said he argued on many occasions that you do not take something away that people have.

She said she is saying that she does not disagree that Mr. Toulany shouldn't be able to build. She said she has no objections except for the traffic and therefore strongly ask council to vote no in favour of the rezoning to an RS zone and if this should go through let him apply for a zone that only has access to the No. 7 highway versus the Minesville Road.

Mayor Lichter said if the planners are saying that there is a possibility to apply for another zone and there is enough site to get the proper entrance from the highway and not from the Minesville Road and the rezoning is required and council hears the case, council will hear a lot of concerns. He said council has heard that there are three other grocery stores in the area, that there is a garbage problem in the area. He said council has heard about traffic which does not stop or reduce because of the entrance, traffic is still going through that intersection. He said the same arguments, to some extent, will still be facing council regardless of where the entrance is.

She said the concerns can be addressed by a by-law enforcement officer. She said the traffic pattern will not increase but she said she is asking consideration by council be taken with the fact that the traffic pattern as it comes up the Minesville Road makes a sharp right into Lake Echo and goes across and intersection. She said this means they have to come to a complete stop and they would be hampered by people coming out of the store. She said she is asking that this intersection be recognized as a dangerous intersection. She said the RS zone would alleviate this traffic flow problem. She said she is not saying that the rezoning be denied for the fact that it should not be given but it can be and should be given in a commercial application with a commercial zone and access to the No. 7 highway.

Mayor Lichter asked Mr. Morgan what zone is there that could, theoretically, be granted with access only from the No. 7 highway and yet not be so extensive a commercial zone that council could be inundated with objections because of the kind of things that would go into that zone.

Mr. Morgan said there is a local business zone and in the zone there is a requirement that access be given only onto the No. 7 highway. He said if you only allow access from highway No. 7 what you would do would be force someone who would come up the

Minesville Road and go into the store to go through that intersection and onto the No. 7 highway and across oncoming traffic lanes.

She said there is a flashing light at the intersection and they have to come to a stop and check traffic to go across. She said when they are coming up and fifty feet from the intersection and they want to go into Mr. Toulany's store they just whip across the street and don't have to come to a stop. She said that is the process she is trying to alleviate which is they will have to come to an intersection where it is illegal to go through the red light and/or stop sign before making the left turn. She said she is trying to alleviate the problem of trying to legally just whip across the street and have someone come around, legally, just at the same time someone else is making the turn, without slowing down, into Mr. Toulany's.

Mayor Lichter said once the public hearing is completed council has the option to reject or approve the application. All the other solutions would have to wait for a future time.

Ms. McGrath said if someone enters only on the No. 7 highway that means they have to go through this intersection that everyone has been complaining about and also means they have to cross across the No. 7 highway which is the more busy road. She said when Ms. Ryan bought her house 15 years ago this property was zoned RS. She said traffic is a concern but that is something beyond their control. She said there are areas that have development agreements in place so there is development along that road. She said no matter what zone is on these properties it has to be expected that some infilling is going to take place. She said the present store is in Preston and not Lake Echo. She said she has not heard anything here tonight that she feels would be solved with a development agreement but if council wishes that is always a possibility.

Mayor Lichter asked Mr. Morgan if there was something in the MPS policy that would permit, in this particular area, a development agreement without any MPS amendment.

Mr. Morgan confirmed that there was.

Councillor Hendsbee said there are two communities side by side and two planning zones. He said he believes that Mr. Toulany may have not been privy to the full information. He said he feels that adequate notice to the community at large has been served. He said he hoped that everyone who signed the petition had had the opportunity to read the information that was provided to them. He said he sympathizes with Mr. Toulany with regards to the loss of his property rights but also sympathizes with the concern of the residents. He said there are five development agreements in existence in East Preston. He referenced sections