

Town of Clarence
One Town Place, Clarence, NY 14031
Planning Board Minutes
Wednesday February 17, 2021

This meeting was not an in-person meeting, it was strictly virtual.
The Zoom meeting link may always be found on the published agenda, which is accessible
on the Town of Clarence's website.

Work Session 6:00 pm

Status of TEQR Coordinated Reviews
Review of Agenda Items
Miscellaneous

Agenda Items 7:00 pm

Approval of Minutes

Item 1

Horvath Towers & Verizon Wireless
Agricultural Rural Residential

Requests the commencement of a coordinated review under the State Environmental Quality Review Act to consider a proposed 124' tall telecommunication tower located at 5380 Strickler Road.

Item 2

Devonshire Estates
Traditional Neighborhood District

Requests Development Plan Approval for a conceptually approved 12-lot open space design subdivision located at 8196 County Road, SBL 29.18-1-24.1.

Item 3

John & Edward Braddell
Industrial Business Park

Requests Minor Subdivision of land approval to create two (2) new vacant lots located at 6660 Goodrich Road, SBL 44.00-1-22.11.

Item 4

Clarence Community & Schools
Federal Credit Union
Commercial

Requests Concept Plan Approval for a proposed 4,142 +/- sq. ft. new credit union building located at 9145 Sheridan Drive.

Chairman Robert Sackett called the meeting to order at 7:00 p.m.

Planning Board Members present:

Chairman Robert Sackett
2nd Vice-Chair Wendy Salvati
Jeffrey Buckley

Vice-Chair Richard Bigler
Gregory Todaro
Jason Geasling

Town Officials Present:

Director of Community Development Jonathan Bleuer
Junior Planner Andrew Schaefer
Councilman Paul Shear
Deputy Town Attorney Steven Bengart
Timothy Lavocat
Peter DiCostanzo
Patrick Casilio
Robert Geiger

Other Interested Parties Present:

Dan	Steven Dale	Wes Stone	Aroher
Peter Fletcher	dnawrot	*owner*	Jacqueline Phillips Murray
Olivia Paulo-Lee	*iphone*	***-2939	Dam's iphone
Andrew Grimm	Bethany Schneeberger	Devon Schmalze	Dylan Grimins
Ethan	*ipad* (2)	Jaimee Falzarano	Jay Waters
Joey Tripi	Kira Podmayersky	Larry White	Michael Metzger
Mike G.	Nicole Muszynski	*owner*	Ron Bolt
Ss	Tim Faulhaber	Windy Dunn	***-2159
***-6140	Devon Schmalze	Darlene	Shelby Warren
Bruce Schneider	Gail Streng		

Motion by Richard Bigler, seconded by Gregory Todaro, to **approve** the minutes of the meeting held on December 16, 2020, as written.

MOTION CARRIED

Item 1

Horvath Towers & Verizon Wireless
Agricultural Rural Residential

Requests the commencement of a coordinated review under the State Environmental Quality Review Act to consider a proposed 124' tall telecommunication tower located at 5380 Strickler Road.

DISCUSSION:

Mr. Bleuer provided the background on the project, which is located on the west side of Strickler Road, north of Greiner Road.

The existing parcel containing a residence and outbuildings, and is located in the Agricultural Rural Residential zone.

The applicant is present with us virtually this evening, seeking a coordinated review under the State Environmental Quality Review Act for a proposed 124' tall telecommunication tower.

It should be noted that this proposal does not comply with current Town Code regarding overall allowable height. A 24' variance will need to be sought from the Clarence Zoning Board of Appeals prior to the consideration of site plan approval by this Board.

Representing the applicant is Attorney Jacqueline Phillips Murray and Ashley Roher with Horvath Communications.

Ms. Murray updated the project with what has occurred since originally filing the application. The proposed tower is set to support six panel antennas of Verizon Wireless at the 115 ft. center-line level. The top of the mono-pole itself is 120 ft, then the extra 4 ft. consists of a small lightning rod. The mono-pole will also be structurally capable to support two additional future carriers in accord with what the town's code prescribes, which is to promote co-location on a structure.

In addition, they are proposing to secure the pole as well as the related ground equipment of Verizon Wireless and any future users with an 8 ft. tall chain linked fence, with landscaping surrounding the fence compound.

They are not proposing a generator at this time, however if a backup generator was ever sought in the future, they would need to come back to the town for a permit. Due to the proximity to wetlands, that generator would need to have a fuel source that would be compatible with its proximity to wetlands.

In terms of the height limit for the code, that is the only dimensional requirement that the project does not meet. They meet all setback requirements, especially the frontage on Strickler Rd. Additionally, they are proposing to use the existing driveway in part, and then extend it. The project will not require any new curb-cuts. As illustrated in the drawing, there are some wetlands that are on the parcel, they did have a delineation performed, and they will be applying concurrently to the Army Corp of Engineers as well as the New York State Department of Environmental Conservation for the applicable wetlands permits. That is something which was not originally noted in their full EAF, they have since submitted an updated EAF to document that those wetland permits are going to be required as part of the project.

Also included with their updated EAF is a determination from State Historic Preservation office, that the project will not have any negative impact on historic or cultural resources that were identified as present in the full Environmental Assessment.

They also submitted with the original application materials, documentation that the tower will not require any lighting or marking, pursuant to Federal aviation administration regulations, as well as certification that the facility is categorically excluded from further review from compliance with the Federal Communications Commission's radio frequency admissions safety guidelines because it is so

far below the thresholds that it could be categorically excluded. One of the reasons they sought to come to the Planning Board in this instance, is because of the state regulatory compliance requirements, specifically the State Environmental Quality Review Act. Because the facility is over 100 ft. in height, and is in a jurisdiction that has regulations pertaining to height, they believe it is an unlisted action, but they nevertheless submitted a full Environmental Assessment Form, so that the board would have as much disclosure as possible regarding the potential environmental resources in the area, and potential for impact during its State Environmental Quality Review Act.

They also submitted an FAA 1-A survey, which is a survey which the Federal Airlines Administration requires for aviation safety, but they also did one in furtherance of demonstrating that they meet the way that the code prescribes for measuring the tower's height above the ground elevation in the area.

Ms. Murray went on to explain how wireless technology works, leading in to the reasons Verizon Wireless chose this location for a proposed tower site. Every cell site has a finite ability to handle the amount of wireless communications traffic in a given area. Once sites are maxed out of capacity, service degrades in the area. This particular site is needed by Verizon Wireless to solve two issues, one being a coverage issue, while the second is a capacity issue, which Ms. Murray reviewed and explained.

A map was also submitted showing all of the other communication facilities that Verizon has in the area, multiple are co-location facilities. This particular proposed facility is located in the middle of all of the current facilities, and because of that, it has the ability to offload the strain of capacity from the surrounding sites in the area.

Additionally, Ms. Murray discussed how they chose this particular site. It is located in an area that is zoned Agricultural Rural Residential, with the surrounding lands also zoned that way, or they are zoned Residential Single Family, with a few areas that are town owned as well. Back in 2019 when Verizon Wireless first identified the need to have an additional facility in this area, Verizon Wireless approached the town about its existing tower at the Town Hall and its existing town owned property at town center. They did submit in the letter today another update to their application, their correspondence documenting that Verizon Wireless met with the Town Board during a workshop meeting and had worked with the then Director of Community Development, in furtherance of assessing whether or not they could use the existing tower at town hall, or use a rural site on town property. Unfortunately, neither of those options were viable, so Verizon Wireless continued to look at alternative sites in the area, as the other potential sites in the area were zoned similarly to the proposed site. However, they were either heavily wooded, or they did not have existing access and utilities like the proposed site, and that is how Verizon Wireless identified the proposed site as a superior candidate. Additionally, the proposed site was available for lease.

While searching for a site, they had several hurdles to overcome;

- finding a site that will work from a technological perspective;
- finding a site that's available for lease;
- finding a site with other features such as not requiring a terrible amount of land disturbance for environmental purposes, and having existing access and utilities that are close by or present on the site.

This particular site met all of those criteria, and that is how it became the superior candidate out of all of the sites that were looked at.

They also looked at a site at the request of the Planning Board Executive Committee. They looked at whether or not there were other existing structures other than the town hall site in the area. They only identified one, and it was a 124 ft. silo that is located on Davison Road, to the east of this proposed site. They did submit in their packet today, a map that illustrates that it is .9 miles away from their proposed site, and too far to the east to be useful to solve the coverage capacity issues that Verizon Wireless is suffering.

Lastly, they submitted an analysis of the minimum height required for this facility. Before she explains what the analysis shows, she would also like to note that in addition to supporting Verizon Wireless, they are also trying to meet the goal of accommodating additional users, so that the town can have a lack of proliferation of towers based on redundancy. Back in the day when wireless technology was first being proposed and developed, there was not an effort to coordinate co-providers on as many structures. That said, they did submit a plot, which is the last page of the supplement which illustrates how service degrades as Verizon Wireless's antennae were lowered. Referring to a graph, she stated that the circles show the increased coverage that is achieved in the event that the antennae are located at the 115 ft. center line level. As the antennae drop down to 95 ft., service degrades to where it is not cross-hatched, but rather the solid green. It is an illustration showing how dropping the height of the facility will cause a loss in the coverage in the area, hence why they're proposing the height of a 115 ft. center line.

Ms. Murray closed her statement, stating that she's happy to take any questions, and if she is unable to answer them, she will get answers after the meeting in writing.

Mr. Sackett thanked Ms. Murray, stating that since this is the first time she has come before the full Planning Board, Mr. Todaro has some questions.

Mr. Todaro stated that over the course of a couple of days, the town has received correspondence from residents, with numerous questions and concerns regarding the proposed facility. These letters are all on file, so Mr. Todaro summarized the questions and concerns found within those letters, in order to provide a theme and understanding of the major concerns. For the residents in the meeting tonight, please be assured that if Mr. Todaro didn't specifically read your letter or touch on your concern, your letter is on file and on record.

- Unsightliness to the neighborhood
- Will there be aesthetics for this tower to be dressed
- Rural / agricultural setting, where large objects stand out within the area
- Why does the tower need to be so high, will it be 100 ft.
- How are §173-5 and §173-6 met in the code?
- Monitoring of the egress and ingress during construction of this project
- Home values will decline in this area
- Who receives the monetary gain for developing this facility
- Why is this particular location being used when there are other locations nearby may be more suitable.

Mr. Bengart interjected, asking Mr. Todaro to please list the names of all who responded.

Mr. Todaro continued;

- There is a middle school very close to this location including sports facilities that will be impacted
- Will the setbacks for the high tower clear all property lines to the appropriate distances
- Will fences, guidewires and access roads clear 10 ft. from property lines
- Will there be proper buffering to associated residential areas
- Will propane be used for the purposes of auxiliary power if required

Mr. Todaro then cited the authors of the compiled documentation, which he pulled comments from:

- John and Cindy Prise
- Craig and Windy Dunn
- Michelle Prise
- Tim and Abbey Faulhaber

Mr. Bleuer stated that since this meeting began, the town has received two additional email communications regarding this item from:

- Jamie Falzarano located at 5355 Strickler Rd.
- Bethany Schneeberger

These correspondences will be responded to as well as placed in the record, and all correspondences received will be shared with the full Planning Board, as well as the applicant to be addressed.

Mr. Sackett asked Mr. Bleuer if the two additional correspondences received, are they similar to the concerns that Mr. Todaro cited.

Mr. Bleuer responded that the emails he cited refer to concerns of location of tower, property value decreasing, safety, integrity of the area, construction, commercial vehicles, effects on the community, safety measures, and fencing. Mr. Sacketts stated that generally, community character value is a main concern.

At this point, Mr. Sackett stated that the applicant will have an opportunity to attempt to address the issues cited. Some of them have been addressed, but he will allow them to state that.

Ms. Murray noted that she attempted to keep track of the comments and they will respond to them in writing as well. She believes she has already addressed why this location, and that's also set forth in the search ring and related analysis that they submitted on February 12, 2021, but they are happy to answer any further questions regarding that analysis.

In terms of whether or not the project meets §173-5 and §173-6, the site plans illustrate that the project will meet all of the required setbacks, in particular for use of reference, on sheet Z-1 of the plan, there is a zoning data chart that sets forth what is required and what the actual setbacks are. It also indicates that the only dimensional requirement not met is the height requirement, for which they will seek a 24 ft. variance from the Zoning Board of Appeals. In furtherance of that review, as well as the State Environmental Quality Review Act, she feels it's worth noting that they wholeheartedly expect that during the State Environmental Quality Review Act and Zoning Board of Appeals review, they will be asked to document the aesthetics of the facility. To that end, if there is visual analysis that the Planning Board, as State Environmental Quality Review Act lead agency establishes such, or the Zoning Board

of Appeals requests, they are happy to provide that visual analysis, so that they can document objectively what the visibility of the facility is, and hopefully do away with any speculation.

She understands the concerns of the community, they are listening to the concerns, and the best that they can do is to eliminate any speculation regarding the visual aesthetics of the facility, and to provide objective data. She believes this will go hand in hand with addressing some of the other concerns regarding buffering as well as home value.

She would like to point the board and public to the radio frequency supplemental analysis that was submitted today, which has statistics that are set forth regarding the availability of how wireless communications are something that makes an area attractive for homeowners, because everyone relies so heavily on wireless communication for their basic and emergency communications. Particularly now with working and schooling from home, which we hope will all come to an end shortly, but there does not appear to be any end to the trend that people will want quality wireless service in their homes. She would like to refer the board to the radio frequency analysis which sets forth the statistics with regard as to how people select their residences based on the quality of service in a given area.

In terms of the middle school, they will submit any visual analysis that the boards require, and she would like to note as she noted before, to the extent of concern impacting the middle school based on radio frequency emissions, the application does include a certification that the project is categorically excluded from further evaluation for compliance with radio standard emissions, because it meets the low thresholds for categorical exclusion. That is in the record, and she believes they have already addressed that.

Lastly, there was a question regarding any auxiliary power source, which they did also include in the supplement that they provided on February 12, 2021 that they are not proposing an auxiliary power source at this time. However, if one was proposed, it would use either propane or natural gas, because of the proximity of wetlands.

Mr. Todaro responded that he has a couple of questions and comments himself. First, in regards to the power source, which there are many concerns regarding a propane source close to the school, which would be a very big concern, especially in close proximity to sports areas and play areas behind the school.

The second item he would like their feedback on, is the property located to the southeast, close to where the driveway is located – how will that be buffered properly in order to protect the resident on the south.

Ms. Murray shows that parcel as being owned by Meridian Development, and she believes she understands the question to be how they would buffer the access driveway from the parcel. Ms. Murray stated that that portion of the access driveway is already existing, but she will go back to the engineers and ask them. She stated that it looks like there are already some existing trees based on aerial view and site plan, but that they can discern whether any tree removal will be required, and if so, whether they will need to add any because of tree removal, if that is required because of using that access for utilities as well.

Mr. Todaro noted that Ms. Murray had stated that there is no auxiliary power being cited at this time for the facility, but does she know whether natural gas runs in that area, would that be used as a power source. Ms. Murray replied that if it is in that area, it could be a power source, but only if in the future

a generator was proposed and permitted. So right now there is no generator or backup power source that is proposed, they would have to come back to this board to get a permit, and assess what would be permissible per the board's review, as well as the building code.

In that regard, she'd like to address Mr. Todaro's concern regarding any backup power fuel source near the school, she would like to again clarify that it is not proposed at this time.

Mr. Sackett asked if there was a power outage, would that render this facility useless. Ms. Murray replied that she would need to check to see if there were any battery backups, as most of the sites have battery backups. She referred the question to Ms. Roher, but noted that if Ms. Roher doesn't have an answer, Ms. Murray can get an answer from Verizon Wireless, because that would be a matter of what they have proposed within their equipment shelter. Typically there's a short term battery backup, and a fuel generated back up power source would be for a longer duration of an outage. Ms. Murray stated that she can get that answer for them. Mr. Sackett stated that it would be good to know the duration of the power backup if there is any power backup at all. Mr. Sackett noted that it would also be good if they can stipulate that upon investigation they can rule out propane. It appears that they have not investigated whether natural gas is available, but it would be good if they could stipulate in the coordinated review process that they would not use propane for one reason or another.

Ms. Roher stated that she will double check on the backup power source, as she is not sure on that, only that they mentioned they weren't planning on using the backup source. She will confirm that with Verizon, then let Ms. Murray and the board know.

Mr. Sackett stated that it would be nice to know if there is no backup source at all, does that mean if we lose electrical power, it renders the facility useless. Also stipulate that in any event, propane would never be used, which means investigating the availability of natural gas, should in fact they decide to use it.

Richard Bigler asked if the tower site will be fed underground with existing utilities and not with poles, to which Ms. Murray responded yes. His understanding then is if they have batteries for temporary power loss, there is a possibility that they could bring in a portable backup generator on wheels if there will be a long term outage, as opposed to building one on site. Ms. Murray responded that yes, that is a possibility, and when there are natural disasters causing large outages, that is something that occurs.

Mr. Bigler asked about the 50 ft. long fence that they will erect surrounding the existing tower, and to clarify, to his understanding this is a crumbling tower, not a falling tower, and will that crumble within that fenced area.

Ms. Murray responded that she does not have an answer to that question, she would have to look at what the manufacturer's proposed design is. Ms. Roher responded that typically it is a tower that will collapse on itself, so if the tower falls, it won't fall on anything but itself. They can get backup documentation if required, to prove that as well. Mr. Bigler stated that he just wanted to clear that up for everyone listening, to assure them that it won't fall over and cause injury to anyone 200 – 300 ft. away.

Ms. Salvati stated that she reviewed their alternative site analysis documentation that they provided, and she is curious as to why more consideration was not given to candidate site J, which is just east of this location. It is identified with a dot deep in the woods, Ms. Salvati asked if it would need to go that deep in to the woods. One of the concerns that they cited was regarding disturbance, so would that site

have to go that deep in to the wooded area. She would like to know how much consideration was given to that specific alternate site, because it may be a feasible alternative. Ms. Murray responded that she would have to get an answer after the meeting, she does see that the property that the site is on is owned by Donald H. Perrone Trust. Initially she sees that the comment about it was that it is a heavily wooded area, to which Ms. Salvati agreed that it is heavily wooded, but it would depend on where they chose to place the tower. It doesn't necessarily need to go 100 ft. in to the woods, you could bring it out closer to Strickler Rd. where there's a cleared field. Ms. Murray stated that she'd need to get an answer as to why that was not the superior choice.

Ms. Salvati asked Mr. Bleuer if Ms. Murray will be provided with all of the comments and emails that have come in regarding the proposed facility. Mr. Bleuer stated that yes we will, including up to and through the Coordinated Review process. Ms. Salvati replied that the property owners in the home right at the entrance are concerned about more than just the location of the entrance road. They're also concerned about the actual visual impacts of this tower, which they will have a clear view of, which they included illustrations in their email as to how they will be impacted, so it is important that we take note of that.

Mr. Bleuer noted that part of the Coordinated Review as was previously mentioned, the town will request the visual analysis of this proposal in the form of a balloon float. Additionally during the Coordinated Review, we will be asking the applicant to notify all parcels within the range of the town's notification policy of the date and time of that balloon float test, so that neighbors will get a chance to see what the proposed height will look like.

Mr. Sackett stated that he doesn't anticipate any final action being taken tonight, we are strictly gathering information. If you have information that would help us through the Coordinated Review, that is what we are seeking and requesting.

The meeting was now opened for public comment. All questions will be answered collectively, giving the applicant the first opportunity to address them then if appropriate, a town official will be asked to address the question as well.

- Bruce Kreitner residing at 5375 Strickler Road asked what the effect of the tower would have on a television antenna.
- Tim Faulhaber, property owner to the south of the proposed tower, stated that he would like to see proof of that statement that was made regarding the increased signal increasing the property value of the homes nearby.

They are cutting down trees to build the access road, do they plan to plant any new trees in lieu of the trees they are cutting down.

In regards to the road they are building for access, that property is wide open and he is wondering what type of buffer will be provided to block the view of the road. He has a young daughter, he is concerned about the security and safety from vehicles driving back and forth on that access road.

To the north of the property that the tower will be located on is a stream which is where all the water flows through. There are already water issues, water flows pretty heavily on the back of

his property towards the north and he's wondering putting that road in will cause more issues of water back up on to his property.

At this point, Ms. Murray responded to a couple of the questions already posed.

In regards to the antenna television, they can ask the Verizon Wireless radio frequency engineer to confirm that there will be no interference. As the radio frequency studies show, there are already 700 MHz of coverage that seeps in to the area from other sites, and there is no interference that is currently caused by the existing coverage at 700 MHz but they will have Verizon Wireless confirm that no interference will occur based on the new facility coverage and increase in capacity.

Regarding whether new trees will be planted or not, she will have to consult their design engineer for the site plan and get back to the board and the public with the answer to the question about buffering the road.

In regards to the question about vehicle traffic, these facilities have very little traffic after construction, and construction is a very short period. Unlike any other commercial development or development of a single family residence, these facilities take approximately 6-8 weeks to complete, and the tower itself is stacked within 1-2 days. The projects are very short term, and after construction the sites are generally visited once per month for routine purposes, so the traffic will be minimal.

As far as the concern about water issues, they can also confirm with their consulting engineer regarding what types of design features will be incorporated in to the access driveway, to make sure the preexisting stormwater runoff conditions do not exceed pre-construction conditions in post-construction circumstances. What they typically have are swales along both sides of the driveway if necessary, to capture any runoff that's increased by virtue of any new surfaces that are being installed at the access driveway. She will get a more formal answer from their consulting engineer.

In regards of home values, Ms. Murray noted that Verizon included on page 3 of the radio frequency analysis, a table that addresses the statistics that were referenced for home values, which show that more than 75% of perspective home buyers said that good cellular connection was important to them, and there are sources to support his data. 83% of millennials stated that cell service was the most important factor in purchasing a home, and 90% of U.S. households use wireless service. Citizens need wireless service in order to access 911 for emergency services in addition to their basic needs. That said, those are statistics, and at the end of the day the visual analysis will be what most want to see, because that would also go hand in hand with concerns for any aesthetic impact with the facility.

Ms. Murray stated that she appreciates that a balloon test will be required, and when it is performed, they would like to do so in consultation with the board to identify any particular viewpoints that the board would like them to analyze. They would like to do that, because it is your community, and what viewpoints should be analyzed better than they do. They can plot out on a map where we would like them to take photos from, and in addition they will publicly notice, in accord with the code, the date and time of the balloon test, so that people can observe it themselves, and make their own judgements based on it.

Ms. Murray stated that she is optimistic that the visual analysis will also inform the opinions regarding property values.

- Herb Streng, who lives across the street from the proposed project location, asked what the height is of the other towers, why this one needs to be 124 ft., 24 ft. over the allowable 100 ft. height.

He'd also like to know if this is the type of tower that when technology increases, will they go from 5G to something else which will cause even higher micro waves and safety concerns.

What kind of study has been done about the proximity of a tower being this close to a school with children there six hours a day.

Also, he'd like to point out that because Verizon Wireless thinks that property values will increase, he is not a customer of Verizon, so it doesn't matter to him. Does this mean all of the other wireless companies will want to install towers as well, in a beautiful rural area like we have.

- Supervisor Casilio asked if the tower can be located at the back of the property, as it doesn't make sense to have it in the backyards of the homes on Strickler Rd., and so close to the school. If it was located at the back of the property, it would be less of an eye deterrent for the local neighbors. He asks that if when the balloon test is done, that it also be done at the very back of the property. Also, in reference to the statement that the tower would collapse on itself if it ever collapsed, another reason it would be better at the back of the property.

Supervisor Casilio also asked why the driveway is up against an existing home, and why it wouldn't be to the north side of the property, instead of running it along an access road against an existing home. If it was moved to the north side of the property, there would be a creek and no existing homes.

- Michael Sovereign asked how much effort was put in to researching an alternate location for their antenna on to an already existing facility within their broadcast range, whereby they would not be the primary owner of the lease, but rather than a co-locating tenant on an existing tower. Understanding that Verizon Wireless being the primary would demand and control the tower as well as co-locators. What research have they done in terms of finding another location that could just as well serve the area.

Mr. Sackett noted that they do not allow for more than one presentation, but they will go through 30 days at least of Coordinate Review, so that they can request additional questions and writing. He encourages people to write their concerns and comments, as they are easier to go back and re-read, to better comprehend.

Ms. Murray referred to Mr. Streng's question in regards to radio frequency safety, pointing out that they included in their packet a certificate stating they are compliant with the Federal Communication Commission's emissions standards, they are categorically excluded from them.

That said, the Federal Communications Commission has pre-empted state and local regulations of citing of wireless facilities based on radio frequency emissions. They hear concerns often, but it is the Federal Communications Commission that has decided that they are going to exclusively determine what is permissible or not for radio frequency emissions safety. What they are required to do, is to

show that they comply with the Federal Communications Commission requirements, which is what they have done in the record.

It was important to point that out, because it constrains this board from making a decision based on radio frequency emissions.

In terms of the height of the other towers on which Verizon Wireless is already co-located, she will have to get that answer for you. They did point out each of the locations where they are already co-located, but she does not have the actual height of those facilities in the report, so she will need to ask Verizon Wireless's radio frequency engineer.

In relation to Mr. Sovereign's question regarding how much effort in research Verizon Wireless put in as far as co-locating on an existing tower, pursuant to a federal law that was passed back in 2012, the federal law changed and basically said that any wireless provider can co-locate on an existing structure by right. The first thing that Verizon Wireless as well as any other provider does, is to locate an existing structure to join, because then they do not have to go through a permitting process, and they can become operational as soon as possible, it's also less of an investment. She believes that in and of itself shows that they would co-locate if they could. Developing a new tower is both costly as well as time consuming. It is not the path of least resistance to becoming operational, it has become the last resort to solving operational problems in a given area. Because co-location is promoted so heavily by the Federal Communications Commission's regulations, as well as by federal law, they did extensively research whether co-locating was an option. They did put in to the record that they have looked at the town center for an existing tower, and the 124 ft. silo. Otherwise, there are already the other existing structures that they indicated on the map that was initially presented during this meeting.

In terms of Supervisor Casilio's question regarding whether or not the tower could be located in the rear of the property, toward the rear of the property is a delineated wetland area and that precludes them from shifting the tower further to the rear of the property. It was while looking at that property originally, that they discovered the wetland area existed, causing them to shift the tower's location more towards the center of the property, albeit it is still 658 ft. from the boundary line of Strickler Rd. You can see in the diagram that they submitted where the delineated wetland is located. Further to the west they would not have the ability to meet the rear yard setback for the tower.

In terms of the access driveway, she would need to assess that with the consulting engineer who designed the site plan as well as the land owner, but they will note the comment and get an answer.

Ms. Roher commented that the landowner was adamant that they not use the other driveway, so this one is their only option.

Mr. Sackett stated that it's important they state distance in property lines and buffering.

ACTION:

Motion by Gregory Todaro, second by Richard Bigler, Pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 1 Environmental Assessment Form as submitted and to seek Lead Agency status and commence a coordinated review among involved and interested agencies on the proposed Horvath Towers & Verizon Wireless cellular tower located at 5380 Strickler Road. This Type I Action involves the proposed construction of a 124' tall telecommunication tower and associated facilities in the Agricultural Rural Residential Zone.

ON THE QUESTION:

Mr. Bigler stated that this project will require Landscape Committee approval for any future development, and that the Landscape Committee will make sure that all of the adjoining properties are properly buffered.

Mr. Sackett explained that the particular motion that Mr. Bigler has requested will come with Site Plan approval, upon disposition from the Zoning Board of Appeals, should it get there.

It was clarified that Mr. Bigler wishes that the Landscape Committee approves any landscaping.

Jason Geasling	Aye	Jeffrey Buckley	Aye	Gregory Todaro	Aye
Wendy Salvati	Aye	Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED

Mr. Sackett commended the residents on their input and activity with this project. It is the most thorough review of a cell tower that he has taken part of. He believes it is because of their comments that they are at this thorough review. Your participation is not only welcome, but also very much appreciated. Should you decide to raise other issues, please send your emails in to the Planning and Zoning office. They make the board aware of each one of them, and they in turn make sure that the applicant is aware of all of them.

Item 2

Devonshire Estates
 Traditional Neighborhood District

Requests Development Plan Approval for a conceptually approved 12-lot open space design subdivision located at 8196 County Road, SBL 29.18-1-24.1.

DISCUSSION:

Mr. Bleuer introduced this project, stating that it is located on the north side of County Road, east of Stahley Road.

It is an existing vacant parcel, located in the Traditional Neighborhood District.

The applicant is present virtually tonight, seeking Development Plan approval for a 12-lot Open Space Design subdivision.

This project has previously received a negative declaration under the State Environmental Quality Review Act and Concept Plan approval by Planning Board in July of 2015, and an Open Space Overlay was approved by the Town Board in September of 2015. Since that time, the applicant has developed a detailed plan set which has met the technical requirements of the Development Plan stage, per the Town’s Engineering Department. Finally, this proposal has received Landscape Plan approval.

Speaking for the applicant is Wes Stone from Bissell Stone Associates, lead engineers on the project. Mr. Stone added that they are proposing 12 single family home lots on a private road. The site is approximately 7.24 acres, with about 2.3 acres of federal wetland on the property of which an Army Corps of Engineers was permitted to fill .5 of those acres. In the end, the lots in the right-of-way of the property will take up approximately 2.9 acres, with approximately 4.33 acres of open space.

Running through the timeline, the applicant purchased the property in 2007, and this piece of property originally had some frontage along Staley Road, which three lots were sold off from, leaving the 7.3 acres.

The concept for this project was drawn up in 2012. What they currently have is close to the original drawing.

The Planning Board gave sketch plan approval in September, 2014 and at that time, the Town of Clarence was declared lead agency.

Preliminary Planning Board approval was given in July 2015, and the Preliminary Town Board approval was September, 2015 with four conditions, which are as follows:

1. That there will be a final Landscape Plan approved by the Landscape Committee;
2. The rear of lots 1-7 will be designated as Open Space, and protected by a conservation easement, and defined by the placement of permanent monuments;
3. No Parking signs will be installed on the hydrant side of the road;
4. This project will be subject to Open Space and Recreation fees and future Building permits.

Also, the State Environmental Quality Review Act negative declaration was granted in September, 2015.

In approximately July, 2016 engineering plans were completed and submitted to the town. At that time, due to the wetland concerns, Earth Dimensions was hired to prepare the mitigation project. The Army Corp Mitigation Plan was approved in June of 2018. At that time, with that step complete, they were able to move ahead to the sanitary sewer and water line were approved by the Erie County Health Department, which was done in October, 2018.

They received their first engineering plan review in November, 2018.

A couple of issues came up after that, including a road change issue due to a new fire code, which resulted in them needing to change the road width. Additionally, there was a new flood zone, so they needed to be adjusted. A portion of the project is a 100-year flood zone, so that portion of the project will be filled, and then removed from the flood zone before the homes are developed. The Engineering Department then re-reviewed it, in August of 2020, as well as in November, 2020. To Mr. Stone's understanding, Engineering approved it, and he will defer to Mike Metzger later in the meeting for that update. He believes they have met all of the stipulations of the Engineering Department comments. The Landscape plan was approved approximately a week ago.

Mike Metzger of Metzger Engineering handled the storm sewer aspect of this project, so any questions related to the storm sewer part of the project can be addressed to Mike Metzger, the rest can all be addressed to Mr. Stone.

Mr. Metzger spoke on the storm drainage portion of this project, stating that often times when a project has wetlands located on it, concerns regarding the storm water system arise. In this particular case what they have is a storm water pond that all of the drainage from the developed portion of the property will drain to, and then be restricted to its outlet. They have made recent changes to it, in order to detain more water in the pond in order to insure that the downstream systems that are already existing and in place, not on their client's property, have adequate capacity to take the flows from this project, and some flows that actually do pass through the site. The town has a requirement that they actually over – detained water from the site so that they do not create any problems, and in some instances help to rectify existing problems that may be present downstream of the property. They have employed those measures in to this design.

Mr. Geasling reviewed and summarized five emails that the board has received thus far regarding this project, the emails in their entirety will be on file.

- Peter Fletcher residing at 6806 Ava Lane – concerns regarding the public meeting taking place so early after being notified just before the holiday weekend.

The proposal received conceptual approval in 2015 despite considerable opposition from neighbors.

- Dr. William Baier residing at 6838 Rivera Way – Concerned that the narrow entrance will be fairly close to a home on County Road, and also Rivera Green has a retention pond as will this project. Concerned with the high water table, and the effect on existing home's sump pumps.
- Bill and Kim Szelazkiewicz noted easements at 8120 Stahley and noted that no easements exist for 8128 Staley. Asked if the owners located at 8128 Stahley can refuse access to the builder, as there is concern over damage to the current landscaping. Also noted a 25 year old pine tree is located on the property.

Additionally, they are concerned that the flood hazard boundary maps revised by the Federal Emergency Management Agency (FEMA) in 2019, and questioned whether the builder would be responsible for flood damage that occurred due to the proposed construction.

They also noted that the existing elevations and proposed elevations as part of this plan differ by a few feet.

- Jay Waters, no address listed – concerned with the timing of this meeting and when they were notified. Also concerned about drainage and the effect on the surrounding properties, as sump pumps run fairly regularly.
- 5th email noted as from the "Waters" – noted that surrounding homes have geo-thermal and would like to insure that there will be proper drainage, not to effect those systems. Would like to know the distance between property lines required. Concerned about traffic flows and how those will be addressed. What type of homes are proposed. Will there be an effort made to preserve the existing trees.

Mike Metzger spoke regarding storm water, as Mr. Stone mentioned, there are 4.3 acres of open space that will remain on the property upon completion of development, with there being 7.2 acres total, just

under 3.0 will actually be developed. The 4.3 acres of open space will remain untouched, and the vegetation will remain preserved and augmented as part of their mitigation plan with the US Army Corp of Engineers, there is an extensive tree planting plan in place

Every part of the developed portion of the project will have storm water collected handled through the storm water management system. A vast majority of it will go to the storm water detention pond where it will be temporarily stored and detained, then released at a given rate. There will not be any great flow of water in any impervious areas that will be built that will be shed off and drained to neighboring properties, it will all be detained, collected, and handled through the storm water management system.

There is a one-hundred year flood plain here, but all of the development will occur in 100% compliance with the National Flood Insurance Program, Federal Emergency Management Agency, and the town's flood plain in order to insure that this project does not create any flooding problems, whether it's during construction, or after development.

In regards to the question from 8128 Stahley Rd. about the pipe that comes out on to 8120 Stahley, that is an existing pipe which is entirely on that property. There is no plan to do any work along that property, as the existing pipe is going to be used and there is no construction along that property line between 8120 and 8128 Staley Rd.

Mr. Metzger commented in regards to the potential impact of the geothermal systems that may be nearby. He suspects they are located over to the east, but the system that they have as he mentioned, collecting the storm water and property managing it for the developed portions of the project, will not have any impact on that. The 4.3 acres, which is a vast majority of the site, will remain open space and untouched, so the hydrology in that area will remain the same.

In regards to the question about traffic flow, those matters such as traffic, are all handled under the State Environmental Quality Review Act when the Concept Plan was originally approved. Prior to that, the town did an extensive and thorough environmental review, which did include traffic. Beyond that, it is twelve lots, so it won't be a huge generator of traffic, but it has been addressed, reviewed, and handled by the town and resolved through the Negative Declaration that was issued through the town.

Mr. Geasling referred back to the question regarding what type of homes are proposed for the project. Mr. Stone responded that the proposal is for homes that are in the range of 1800 sq. ft. single story to 1.5 story, with setbacks all shown on the cover map.

Mr. Sackett asked Mr. Metzger if his inference is that existing sump pumps wouldn't be affected because of the retention pond. Mr. Metzger responded that they are not affecting the ground water level, therefore it will not have any impact on sump pumps.

Mr. Geasling stated that he noted on the plan that there appears to be a little difference between the open space number – it's very minor, but it doesn't match. Between what is listed and shown on the screen, and then down in the summary of the plan itself, it differs slightly. Mr. Stone commented that he would clarify that and let them know.

Mr. Bleuer commented in regards to the small discrepancy, that whether it is 4.34 or 4.36, it would still comply with the open space requirements.

Mr. Bleuer noted that since the correspondence was sent to the Planning Board, the office has received three additional emails:

- John K. Fiebelkorn residing at 6814 Rivera Way – concerns regarding drainage, elevation changes due to construction as well a small creek, the adjacency of the road to the proximity of his property and Rivera Green, and the traffic with adding 12 additional homes to an already busy thoroughfare is a concern.
- Paul Rokitka and Sonja Fernsted residing at 8112 Stahley Rd. – opposed to the subdivision due to the altering of drainage, changing of the east views, and concern regarding the proposed setbacks.
- Mary Geschwender residing at 8108 Stahley Rd. – disappointed that they only received the meeting notice on Saturday, over the holiday. Their concern regarding traffic as well as drainage.

Mr. Sackett noted that the Planning office did send out to Erie County Department of Public Works relative to the traffic, and they had no concern on that issue since County Road is a public road. Mr. Bleuer confirmed this, stating that during the Coordinate Review period, they did discuss the matter with Erie County Department of Public Works whom of which controls the roadways in that general vicinity, and it was determined by the town that traffic was determined to be a non-significant matter in comparison with the overall volume that occurs in that area.

Mr. Sackett noted that the other issues seem to border on development issues, as well as a couple on site plan. Mr. Sackett deferred to Mr. Metzger for any additional comments relative to the last three emails that were received.

Mr. Metzger noted that a few of the concerns have already been addressed and discussed tonight, and a couple of others were handled under the Concept and State Environmental Quality Review Act phase. Two items he would like to make note of, the first regarding the discussion concerning the raising of the elevation, as well as concern about an existing creek that runs through the property. There aren't any streams or creeks, but there is an existing ditch that runs through the property, and although there will be slightly higher elevation to the site, they have made provisions to carry that water that comes through that ditch through the site, and to its existing natural outlet on the west side of the property, as it flows from east to west.

Those items are handled through the drainage and grading plans that are handled through Mr. Stone's and Mr. Metzger's offices.

Ms. Salvati stated to Mr. Bleuer that the Planning Office had received two phone calls regarding the project, and would he please share the contents of those phone calls so that the project engineers can respond to them.

Mr. Bleuer responded that he has received two recent phone calls from property owners or representatives from 8180 County Road and 8208 County Road. Specifically 8180 County Road which is to the immediate west of the property. The concern is that there is an existing sump pump that is being pumped out to the back property, and there may be an existing ditch or the remnants of a ditch

on the applicant's property that is collecting that water now, and the concern is what will become of that ditch, and what will become of the water being pumped off of that site.

The comments from 8208 County Road it was identified that much of that back land has been sold off to adjoining residents on Rivera Way, a point that we have duly noted, as well as some drainage comments and concerns.

Mr. Metzger responded that from what they're hearing is that the neighboring property has a sump pump that drains on to their client's property, and a concern that the drainage on to their client's property will be cut off. Along that west property line, the ditch that is there currently is not only going to be preserved, but it will also be enhanced to the point where it can easily handle those flows without a problem. There will be no hindrance or creation of an issue as a result of the work that goes on in association with this project.

Ms. Salvati asked in regards to the western property line, behind lots 1, 2 and 3, it shows HDPE piping, there are plantings that are supposed to be going in there according to the Landscape Committee. Will they be able to put the plantings in as designed with that pipe there.

Mr. Metzger replied that yes, they have worked closely with a licensed landscape architect on this project, and he is aware of the piping that will be going in there and is very comfortable with the plantings being nearby.

The meeting was opened to public comment at this point.

Mary and Michael Geschwender residing at 8108 Stahley Road with two concerns.

First, when exactly was the traffic study done, because there have been several accidents at Stahley and County Roads recently.

Second, the ditch runs through their property, and they own past where the ditch goes. How will they be able to enhance the ditch when they would not allow them on their property.

Terence Finn residing at 8208 County Rd. – stated that if you were to take a nail and drive it in to the ground where the proposed driveway entrance is supposed to be and pull a string to the side of his house, it is 4.5 ft. low to his house from where the entrance to the driveway is going to be. He would like to know where the water is going to go from that property to his. Obviously there will be a low spot there, and he will get stuck with all of the water. The proposal is from the driveway back to his property, then it will go a hard right and down his property line. Obviously they will cut in to the trees that are currently there, and he knows that they have said they're not taking any trees down, but it sound to him like they're taking down three and a half acres of trees. The damage to what is his existing woods is going to be substantial, and out in front of his home when all the trucks are going back to prepare this site, he's speaking from experience because he just went through a two and half year nightmare with the Rivera Greens project, where his family was disrespected and treated poorly. The land in front of his house will be destroyed by the trucks.

Also, the traffic is a concern, as someone else also stated, there are accidents out in the front at Stahley all the time, and this entrance is going to be 500 ft. from Stahley Rd., which will make it a hazard.

In regards to the water, where it's debated as to whether there is a creek or not, 160ft. of that creek is on his property, and it's a spring-fed creek, coming from underground, from the west side of the Rivera

Greens property, and runs through his. He doesn't know how they will access or take care of this ditch without his permission to access his property.

He believes his property value on his home will decrease, with a road going in next to his home with all the car lights and street lights, it will be awful and he is not looking forward to another experience like when they built Rivera Greens.

Michael Sovereign lives on Rivera Way, which the neighboring property to this is proposed project, he also owns property which abuts up to this proposal.

He has several concerns, first Rivera Greens is the first recognized green development in New York State by the government of New York State, which means they protect and are concerned about the environment. They have geo-thermal systems, solar panels, all of their street lights are taken care of by a windmill, and so forth. They love the idea of green energy and they also like new neighbors, but in this particular situation, these neighbors are talking about eliminating 50% of the trees, cutting those trees down to build twelve lots. Additionally, they're talking about remediating 4.3 + acres of federally protected wetlands which abut up to his property. No matter how you slice or dice it, federal wetlands doesn't mean wet lands, it means federally protected wetlands for whatever reason. They are concerned about drainage, water run-off, lack of trees, traffic, light pollution, and all of the issues associated with it. He cannot speak enough against this project totally, for the entire community of Clarence, NY.

Lynn Ketterer lives in Rivera Greens on Ava Lane, and has concerns with the number of new houses proposed for this new development, it seems very congested in such a small, compact area. She also agrees with the traffic pattern problem, as she's seen numerous people lined up to the 8129 Stahley property, the traffic is horrendous there. They have attempted to get a signal installed, a traffic study was done and they heard nothing as a result of that study. She objects to this project due to the number of homes.

Peter Fletcher residing at 6906 Ava Lane stated that he is more concerned about procedural issues. Due to the procedural issue, he didn't have time to do the research he would have liked to have done. To send out a mailed notice to arrive on a holiday weekend three days before a final meeting does not seem adequate.

Mr. Sackett responded that as far as notification issues, he will note that, and it will be addressed as per town code.

One call was received at the Planning and Zoning office during the meeting, from Bruce and Teresa Schneider, residing at 8092 Stahley Road, and their concern is regarding drainage.

Mr. Sackett referred to Mr. Bleuer to discuss when there are projects like this, and what the notification process involves as far as standard procedures.

Mr. Bleuer responded that the town meets and exceeds all state and local notification thresholds and guidelines. Our goal is to always notify as many people as we can, as soon as we can. As soon as a Planning Board Agenda is set, we work diligently to send out notices to all potentially affected property owners within the vicinity. Ultimately, the timing of it is when it's delivered by mail. We do encourage people to call to check in to the office, and obviously a project like this which has been in review since 2013, it's a long project and often there is some fatigue, but also constantly checking

town records is a way to stay up to date on projects. We also notify the agendas in the Clarence Bee, they are posted on the town's website, as well as the office during normal business hours. Our effort is to always let people know as soon as an agenda is established.

Mr. Sackett noted that he has always found the Planning and Zoning office to make every effort. The mail with the pandemic tends to take a bit longer as well.

In regards to the comments about water, specifically to the resident at 8208 County Road, and not having permission to go on to his land, as well as bringing construction vehicles on to his land, without his permission.

Mr. Metzger responded to the questions and concerns of the homeowners. Mr. Sackett referred to the concerns of the homeowner at 8208 County Road specifically, and his concerns regarding access on to his property as well as construction vehicles on his property. In regards to the ditch that runs across his property, that is all upstream from them, and is a portion of the ditch that does not need to be touched by them, or altered by anyone for any reason. They do not need to go on to his property to do anything because it is upstream. It carries water to their project which they will be appropriately collecting, handling and transmitting to their property.

As far as the proximity to his house, the entrance to the development is centered on the property, which is over 142 ft. wide so the center of that will be 70 ft. from his property line, and even further to his home.

To his concerns regarding the drainage that may be affected by the development, and in that area adjacent to his home, they have a swale that will be constructed at the property line, which will capture any water that runs off of any of the portion of the property. That will be taken down, and put in to the stormwater management system. Therefore, no water will be crossing the property line on to his property.

To clarify the concerns that a neighbor on Stahley Rd. touched on regarding the ditch that is on their property, Mr. Metzger clarified his comment in regards to the ditch running along the west property line. It related to the property of the neighbor who resides immediately to the west on County Road, this is the ditch he was referring to that will be enhanced. The ditch that runs along the west property line of the homes that back up to Stahley, that ditch will not be touched. Mr. Metzger apologized for the confusion.

There was also some concern raised, and the board is aware, that they are past the Concept Plan phase of this plan, where the number of homes and their proximity has all been worked out, which is done as part of the approved Concept Plan. But he would like to assure anyone with concerns regarding the number of homes, as stated early on by Mr. Bleuer, this is an Open Space design, and was identified by the town early on that they did not want a large number of homes to be built on this property, and that the number of homes that could be built are under the guides of the zoning ordinance. It would be significantly more had the town not chosen to ask the developer to utilize the Open Space design criteria within the town code as an option, which the developer did choose to do. Which is why of the 7.2 acres of this property, they are only developing 2.9 acres, which is less than half of the site. It is because they are utilizing the Open Space Design, which will be like the Rivera Green project, which also has a large open space component to it, off to the north and the east of the area where the trees were removed and the homes were placed. It is very similar to that with the open space component to it, and this particular case it is a very large component. That is an area where there will be not only full

tree preservation, but enhancement as well. They will be planting a lot of trees in that area, to enhance what is already there.

In regard to the wetlands concern, they will be preserving a significant amount of the federal wetland area that is there, and the small amount that they do have to impact for this development, is being mitigated as per the permit which was issued by the United States Army Corp of Engineers. This is all being done in full compliance with the federal guidelines.

In reference to the concerns about traffic, that was all addressed during the Concept Phase and the State Environmental Quality Review Act. As pointed out, the entrance to this project is 500 ft. away from Stahley Rd., which is a significant distance as it relates to traffic compliance.

In regards to the concern raised to the home to the immediate east on County Rd. about contractors going on his property, Mr. Metzger stated that he assures him that any contractor, or anybody who goes on to his property would be trespassing, illegally and would not be condoned by the developer. While Mr. Metzger cannot guarantee the actions of anyone, he can say that it is illegal and he encourages anyone that if that ever happens, to call the police.

Mr. Sackett asked if we can state that Mr. Metzger plans on using their road for development in terms of access, to which Mr. Metzger responded yes. They will install their road first, then that will be utilized for development purposes. They intend to fully respect their neighbor to the east.

Mrs. Salvati asked Mr. Metzger if once the road is put in, the developer will sell off the parcels and then the home sites will be developed individually. Mrs. Salvati is questioning whether the developer will go in and clear cut the entire area as it is laid out. After further review of the plans, Mrs. Salvati determined that the home sites will be cleared out at once, according to the Grading Plan.

Mr. Stone responded, noting that 90% of where these homes are planned for is in the 100 year flood zone, so that area of the property will have to be filled before any homes are built, to have enough cover for the sanitary sewer. It will be pretty much cleared in that area where they will be building.

The Landscape Plan was reviewed, and Mr. Sackett pointed out that Mr. Metzger has noted that less than half of the site is being developed, but there is a good part near the entrance which will be left natural. To the west of the road, they will also be planting quite a few trees. This Landscape Plan indicates their planting along their road, as well as in front. Mrs. Salvati commented that the Landscape Plan does not show the wetland mitigation, which is where they'll be planting most of the trees.

The Landscape Plan has been approved by the Landscape Committee. The neighbor from Rivera Green who noted that they are very concerned about the environment, as is the Planning Board. People have a right to develop their own land, but as a Planning Board, they make a considerable effort to assure every project is as environmentally friendly as they can, and to the extent that the law allows them to, and the project dictates.

Mr. Sackett noted that Mr. Metzger referenced that prior to this, the book has been closed on both the number of lots as well as the highway. As the town expands, there probably does need to be traffic mitigation, but in the county's mind, this project wasn't going to do that. As we grow, there are more petitions for stop signs and street lights, and Mr. Sackett suspects they will come in due time. Right

now, the county controls the road, and as referenced, at the corner of County and Stahley roads, the county did study that intersection, and came to the conclusion that nothing would be done at this time.

Mr. Bleuer asked the applicant to address any site lighting either proposed or not proposed. Mr. Stone responded that there is no site lighting proposed, and that the only lighting would be what the county requested, which is a Cobra Head street light at the corner of Windsor Lane and County Road. That is the only street light that is proposed, the rest would be front porch lighting and such.

Mr. Geasling had a couple additional questions. First, looking at the Grading Plan, he does not see where the catch basins are on the curve, leading in to the cul-de-sac. Also, is 4 ½ inches of asphalt a typical section for a private road?

Mr. Stone responded, stating that 4 ½ inches is what was requested by the Town Engineer, and they met the specification that he requested.

As far as the catch basins, they are down the center of the road. This Grading Plan just shows where the catch basins are, but not where they connect, you need to refer to Mike Metzger's plans for that, where it shows the catch basins going down the center of the road, all going in to the cul-de-sac. You need to refer to two plans, but all of the information is included.

Tim Lavocat, Town Engineer addressed the asphalt question, stating that the strength of the road is in the base, and the pavement section is adequate, and had to meet the requirements of the fire code to handle a fire truck, and that is what the design is based on.

ACTION:

Motion by Jason Geasling, second by Gregory Todaro to **approve** the Development Plan for the Devonshire Estates 12-lot Open Space Design subdivision per the submitted plan set by Bissell Stone dated September 12, 2020 and received in the Engineering Department on January 11, 2021 with the following conditions:

1. Subject to permits and conditions of the Town Engineering Department, per the Development Plan Review #4 letter, dated February 12, 2021.
2. Review and approval of any required drainage and conservation easements by the Town Attorney's Office, as required by the Town Engineer. Any required drainage and conservation easements are to be filed in the Erie County Clerk's Office with a stamp "Filed" copy being provided to the Town Attorney's Office within a reasonable time after filing.
3. Subject to the creation of a Homeowner's Association to ensure proper maintenance of required open space and stormwater management facilities and all other privately owned infrastructure. Homeowner's Association agreement(s) to be reviewed and approved by the Town Attorney's Office. The Homeowner's Association Agreement(s) to be filed in the Erie County Clerk's Office with a stamp "Filed" copy being provided to the Town Attorney's Office within a reasonable time after filing.
4. All land designated as permanent open space shall be protected by conservation easement and defined by placement of permanent monuments at all subdivision lot lines.
5. Installation of landscaping and preservation of existing natural areas per the approved landscape plan submitted by RCW LA Studio's LLC and dated February, 4th 2021.
6. Prior to construction, installation of temporary construction fencing surrounding areas designated "not to be disturbed" within the development plan set.

- 7. Subject to jurisdictional controlling approval of wetland mitigation areas.
- 8. "No Parking" signs are to be installed on the hydrant side of Windsor Lane.
- 9. Installation and activation of an LED cobrahead streetlight at the intersection of County Road and Windsor Lane prior to final plat approval.
- 10. Any site lighting to be dark sky compliant.
- 11. Any subdivision signage subject to review and approval by the Sign Review Committee.
- 12. Subject to Open Space and Recreation Fees.

Mr. Sackett asked Mr. Stone and Mr. Metzger if they understand and agree to all twelve of the aforementioned conditions, to which both Mr. Stone and Mr. Metzger stated that yes they understand, and yes they accept the conditions.

ON THE QUESTION:

Jason Geasling	Aye	Jeffrey Buckley	Aye	Gregory Todaro	Aye
Wendy Salvati	Aye	Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED.

Item 3

John & Edward Braddell
Industrial Business Park

Requests Minor Subdivision of land approval to create two (2) new vacant lots located at 6660 Goodrich Road, SBL 44.00-1-22.11.

DISCUSSION:

Mr. Bleuer introduced the project, which is on the southwest corner of County and Goodrich Roads.

The existing vacant parcel currently utilized by Lakeside Sod Farm is located in the Industrial Business Park zone.

A representative of the applicant present virtually, seeking an action under the State Environmental Quality Review Act and Minor Subdivision of land approval for the creation of two lots on County Road.

It should be noted that the parent parcel will remain at the corner of County and Goodrich, and a portion of the parent parcel will be merged into an existing lot located on Goodrich Road and owned by the applicants.

Attorney Olivia Paulo-Lee spoke on behalf of the applicant, and stated that Mr. Bleuer did a great job introducing the project, so she was open to any questions.

Mrs. Salvati agreed that Mr. Bleuer did a great job explaining the project. She referred to the graphic that was on the screen, and noted that the yellow dots indicates the property line that is currently in existence for 4660 Goodrich Rd., that current property line is going away, and the property that is above the red dashed line, that land will be merged to 6660 Goodrich Rd. That property will be

enlarged by 12.34 acres. The remaining land, designated by the red dashed line will be split in to three parcels, so two new parcels are going to be created from what is left of the parent parcel. Parcel one is 5.16 acres, and parcel two which is 3.67 acres are the two new lots which are being created. The corner property, labeled “Parent Parcel” will become 10.61 acres, is what is left of the large parcel, which was delineated in blue on the first map that was shown.

Mr. Sackett asked if there are any plans for Parcel 1 or Parcel 2 at this time, other than creation. Ms. Paulo-Lee responded that yes, both parcels are being sold off, and to her understanding the buyers of both parcels may be building Pole Barns, though she is not clear on the intended use. Mr. Sackett asked Ms. Paulo-Lee if she knew anything about the nature of the buyer’s business’s, which she replied that she believes one of them is in the construction business.

Mr. Bengart asked Mr. Bleuer if any emails or phone calls prior to the meeting have been received, Mr. Bleuer responded that no emails have been received, and that we have received some general phone calls regarding the potential uses of the properties, but nothing further.

ACTION:

Motion by Wendy Salvati, second by Richard Bigler that pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 1 Short Environmental Assessment Form as submitted and **approve** the Part 2 & 3 Short Environmental Assessment Form as prepared and to issue a Negative Declaration on the proposed Braddell Minor Subdivision. This Unlisted Action involves a lot split to create two additional lots in the Industrial Business Park zone. After thorough review of the submitted sketch plans and Environmental Assessment Forms it is determined that the proposed action will not have a significant negative impact on the environment.

Olivia Paulo-Lee understands and accepts the motion.

ON THE QUESTION:

Jason Geasling	Aye	Jeffrey Buckley	Aye	Gregory Todaro	Aye
Wendy Salvati	Aye	Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED.

Motion by Wendy Salvati, second by Richard Bigler to **approve** the Braddell Minor Subdivision as per the submitted sketch plan received in the Planning Office on January 12th, 2021 with the following conditions:

1. Review and approval by the Erie County Department of Public Works for any future access to County Road from the newly created lots.
2. Review and approval by the Erie County Health Department for any future on-site sewer facilities for the newly created lots.
3. Any future proposed development of the newly created lots shall require a full environmental and Town review.
4. Creation of a 30’ wide drainage easement to the Town of Clarence per the memo from the Town Engineering and Highway Departments, dated February 7th, 2021. The easement shall be submitted to the Town Legal Department for review and approval prior to filing. The

easements shall be filed in the Erie County Clerk’s Office with a stamp “Filed” copy being provided to the Town Attorney’s Office within a reasonable time after filing.

5. Open Space and Recreation Fees.

Olivia Paulo-Lee understands and accepts the conditions.

ON THE QUESTION:

Mrs. Salvati noted that the annexation of the 12.34 acres in to the property located at 6660 Goodrich Road will be handled through an Administrative Action for a lot line adjustment by the Planning and Zoning office.

Jason Geasling	Aye	Jeffrey Buckley	Aye	Gregory Todaro	Aye
Wendy Salvati	Aye	Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED.

Item 4

Clarence Community & Schools
Federal Credit Union
Commercial

Requests Concept Plan Approval for a proposed 4,142 +/- sq. ft. new credit union building located at 9145 Sheridan Drive.

DISCUSSION:

Mr. Bleuer provided the background on this project, which is located on the south side of Sheridan Drive, west of Main Street.

This parcel is located in the Commercial Zone and currently contains the Clarence Federal Credit Union.

The applicant is seeking an action under the State Environmental Quality Review Act (SEQRA) and Concept Plan Approval to construct a new credit union building in front of the existing credit union building. Once the new building is constructed, the old building would be demolished.

This item was administratively coordinated under SEQRA by the Planning Office in August, 2020.

Michael Metzger was present virtually, and spoke on behalf of the applicant, and stated that as Mr. Bleuer mentioned, the property is approximately 1.3 acres in size, zoned Commercial, this is an allowed use.

The property is the current home of the Clarence Community & Schools Federal Credit Union. What they’re hoping to build is a brand new, modern facility to better serve the community. They feel that they have a beautiful building proposed for the project, and there will be a drive-thru on the site also.

The State Environmental Quality Review Act process has been started, with comments received from the involved agencies. The only comments of substance came from the Department of Transportation, they requested the applicant limit it to one curb cut, additionally they asked that some geometric modifications be made to that entrance as well, which they have done. They have addressed any comments that have come in under the State Environmental Quality Review Act for the project, which are in the revised plan that they have submitted to the town.

As mentioned, a single entrance, then employee parking to the right, and the road around the back of the building would be a one-way road, which would leave to the drive-thru on the east side of the property.

They are proposing parking and employee parking in the front, for security purposes.

There were some comments that were raised by the Town Board when they referred the project to the Planning Board. They have met with the Planning Board Executive Committee, to discuss those questions and comments, and there were a few added by the Executive Committee as well.

There was discussion to make sure that the applicant is aware of the fact that the town always requires dark sky compliant lighting. They are currently in the Concept Phase, and that issue would be better addressed in the Development Phase, but they are aware of it, and that would be their intent.

The Town Board was concerned about phasing, and because it is the applicant's intent to stay open and operate in the existing building while the new building is being constructed, because of the location of the existing building which they have amended the plan to show, the location of the existing building blends itself nicely in to remaining open during construction, because they can isolate the whole west side of the site, including the existing parking as well.

They will also make sure that there is adequate fencing in place, so that there are no issues.

Mr. Metzger stated that they are putting together a phased construction plan, to show how that will be done, and that will also be submitted.

There was discussion at the Planning Board Executive Committee regarding a sidewalk, which Mr. Metzger noted they will show a sidewalk along Sheridan Drive, to insure its safety for pedestrians. There are no sidewalks along Sheridan Dr. currently, but there is a bicycle lane, and they will make sure they bring the access out as requested.

They will also amend the plan to show signage, and though any signage will have to be approved at a later date, they will definitely show signage in the amended plan as well including location and size. It will be a monument sign, and consistent with the character of the building itself.

There was some concern of the septic system, which there is one on site now serving the current building. One of the board members was concerned about a nearby property along Sheridan Dr. The septic system at that location is a mound system, and is quite high almost resembling a berm. The concern was that the septic system installed for the proposed project would be similar to the one of that nearby property, and not utilize the existing septic system. Mr. Metzger stated that he can assure the board that if they did need to put in a new septic system, it would be an open bottom sand filter, which is flush to the ground, and would look like a lawn area.

Since the Planning Board Executive Committee meeting that they attended last week, they have looked in to it more fully, and talked to the Health Department. They have found that the existing septic system was actually designed for a single family home, which have a much greater need and a much greater water flow through the system. It's much greater than what would typically be used in an office setting, so it is their intent to utilize the existing septic system that is on site right now, and they will show these points on the amended plan. They have found that for now, the septic system is behind the existing building so it will not be in the way of any construction. The system functions properly and is well maintained.

Although the current plan shows the potential location for a septic system that can be removed with the next version of the plan they will show the existing system.

There was some concern raised at the Town Board regarding other projects that also have existing buildings that were intended to be removed, but were never removed. Now there is a new building, and an existing building that was never removed. Mr. Metzger stated that he assures the board, it is his client's intent to remove that building. The plan wouldn't work if the existing building stayed up, as it would interfere with the location of the proposed drive-thru. Mr. Metzger stated that they can provide whatever assurances are necessary from his client to confirm that once the new proposed building is up and operating, the existing building will be removed.

Mr. Metzger stated that concern regarding intra-connections, or shared parking either existing or proposed with the neighbor to the west, which is quite close to the applicant's property line. It is almost quite close to Sheridan Dr., much closer than what their building will be. With the configuration of how they utilize their property and parking area now, there is no inter-connection or sharing of parking, nor is there any proposed. The only way that could occur would be very close to Sheridan Drive, and there is no desire on part of his client to do that.

There was some discussion in regards to architecture and what they are showing in their plan. The front of the building plans to be more than 50% stone, with the balance being a Cementous type product no vinyl siding. The Town Board was discussing options, but Mr. Metzger talked to the developer, and they feel that it is best addressed by their client, as they have some very strong desires for architectural feel for this project, and for the cost effectiveness of it as well. It is a member owned financial institution, which consists mostly of school teachers.

Mr. Metzger noted that his client is eager to speak on behalf of the architecture as well as parking, which another issue was brought up by the Town Board. His client is very passionate about the location of the parking as well.

Mr. Metzger stated that as much as his client would like to move this project ahead at a quicker pace, unless the board is comfortable with the current architecture and parking as shown, he respectfully requests that the project be tabled until his applicant is able to speak for themselves.

Mr. Buckley thanked Mr. Metzger for his thorough review of the project, and all of the points that had previously been requested be addressed by the Town Board when this project was referred to the Planning Board, because this proposed project is a larger building, a larger project, and one of the first in a very important, developing area of the town. It's drawing a lot of interest, and it appears to be a very nice building, but there were some points of concern and some issues that were raised.

Mr. Buckley stated that Mr. Metzger submitted a letter to the Planning Board after the last meeting, dated February 8, 2021 where he addressed some of the issues. Mr. Buckley stated that because these are two of the more important issues that they will need to address, it is a great suggestion to have Mr. Metzger’s client come to the board where they can have a discussion about the siding of the building itself, where it sits on the property, and where it faces. Also, the design of the building from the standpoint of the materials used on the exterior.

Mr. Buckley doesn’t have anything else specifically that he feels Mr. Metzger hasn’t already addressed in great detail, so he wanted to thank Mr. Metzger.

Mr. Bigler also thanked Mr. Metzger for doing a great job at addressing all of the necessary issues.

Mr. Bleuer stated that one email was received as a follow up to a visit in to the Planning office, made by a resident residing at 9138 Main Street, Mr. John Campagna. He has concerns regarding site lighting, which Mr. Bleuer assured him all lighting will be reviewed by this board, and any and all lighting must be dark-sky compliant and not shed off of the property.

Mr. Metzger agrees and will comply with the town’s requirements for dark sky lighting. He can’t comment on the existing facility and what may have been added, other than to say the sooner this is built, the sooner that problem goes away.

ACTION:

Motion by Jeffrey Buckley, second by Gregory Todaro to **table** this item, and continue the coordinated review of this proposal for a 4,142 +/- sq. ft. credit union building and associated facilities at 9145 Sheridan Drive under the State Environmental Quality Review Act and address comments having been heard from all interested and involved parties.

Mr. Metzger understands and thanks the board.

ON THE QUESTION:

Jason Geasling	Aye	Jeffrey Buckley	Aye	Gregory Todaro	Aye
Wendy Salvati	Aye	Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED.

Motion to adjourn at 9:49 p.m.

Amy Major
Senior Clerk Typist