

**Town of Leicester Planning Board  
Meeting Minutes**

MEMBERS PRESENT: Jason Grimshaw, Debra Friedman, Sharon Nist, Adam Menard

ASSOCIATE MEMBER:

MEMBERS ABSENT: David Wright, Alaa AbuSalah

IN ATTENDANCE: Michelle Buck, Town Planner; Barbara Knox, Board Secretary

MEETING DATE: January 19, 2016

MEETING TIME: 7:00PM

AGENDA:

- 7:00PM      Application Discussion:  
                 Preliminary Subdivision Application, Marshall Street, Royal Dragon, Inc.
- 7:30PM      Application Discussion:  
                 Site Plan Review, Fire/EMS Headquarters, 1 & 3 Paxton Street, Town of  
                 Leicester
- 8:00PM      Application Discussion Cont:  
                 Site Plan Review, Monopole telecommunications facility (cell tower), 30  
                 Huntoon Memorial Highway, Verizon Wireless
- 8:15PM      Approval of Minutes  
                 12/15/2015
- 8:30PM      Town Planner Report/General Discussion:  
                 • Miscellaneous Project Updates

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Mr. Grimshaw called the meeting to order at 7:00PM

**Application Discussion:**

Preliminary Subdivision Application, Marshall Street, Royal Dragon, Inc.

Mr. Grimshaw read the Notice into the record and then opened discussion to the applicant.

Ms. Shelley Hultgren, JH Engineering, represented the applicants, Ed Escobar and Larry Escobar of Royal Dragon, Inc. This is Preliminary Subdivision proposal to be located off Paxton Street on the westerly side of Marshall Street. It is the former site of the Leicester Airport landing strip, with an old dilapidated building still on the site. The entire site is two parcels that total 54 acres. They designed a conventional subdivision, which will provide 23 lots with 2 means of egress. The thruway will be called Independence Ave, which will be 1,490 feet long and then there's Presidential Drive that will intersect with Independence Ave and be approximately 1,585 feet long.

Ms. Hultgren noted that there is a possibility of having 4 ANR lots located on Marshall Street, lots 1, 23, 18 and 17. These lots are not definite and will depend on the Highway Department's safety concerns and where the egress will be located onto Marshall Street. One comment received was relative to drainage onto Marshall Street, so the road may need to be moved a little bit. The only ANR lot they were pretty sure about was Lot 1 and they've done sewer testing on that lot with passing results. They have also done preliminary sewer testing throughout the development, with most done along Independence Ave.

Ms. Hultgren reviewed the comments received, one from the fire department relative to the requirement for a cistern and another from highway department comments relative to safety concerns exiting onto Marshall Street and also drainage concerns. An OSRD [Open Space Residential Development] has not been considered at this point, although it would be something they might consider, and they have not considered what the potential waivers would be.

Ms. Buck handed out copies of an email just received today from Ms. Hultgren stating they were considering eliminating the dead end length of Independence Way, and reiterated what Ms. Hultgren had already mentioned regarding the waiver requests and OSRD development not yet being decided or discussed. She explained that Ms. Hultgren had contacted the Town Clerk regarding the status of Elliot Street and what was on file with the Town. Elliot Street was officially on the books as being public .59 miles from Paxton Street and there's no designation as to the status on the remainder of the street. Ms. Buck felt more research on the status of Elliot Street would be needed before a Definitive Plan can be submitted. She said Mr. Lennerton from the Historical Commission told her the street, known as Elliot Street, goes from Paxton Street up to where the Leicester Airport was located and used to be a thruway, but when the Airport took the land by eminent domain, the Town closed the road and its unknown whether the Town officially discontinued it.

Ms. Buck said an OSRD development should be considered because this was an area where that type of development would work. She explained for the public that an OSRD was an abbreviation for Open Space Residential Development, which is Leicester's version of a "cluster" development, where the houses would be on smaller lots and closer together and have shorter roadways. There would be a certain percentage of area permanently protected and left for open space, in exchange for the smaller lots and condensing the development.

Ms. Hultgren noted that they would not be able to add any more lots than what is currently proposed. Ms. Buck and Ms. Friedman agreed, noting it would also save on road construction as well as the Town saving on road maintenance.

Mr. Paul Rollo, 351 Marshall Street, asked why lot 1 was being described as an ANR. Ms. Buck explained ANR stands for "Approval Not Required," which means when a parcel of land sits directly adjacent to an existing approved roadway, lots can be carved out and approved by the Planning Board, without having to go through the subdivision approval process, because those lots already have direct frontage on a public way.

Mr. Mark Hanratty, 340 Marshall Street, said an access way will be located directly across from his property. The Town has done a lot of drainage work all along that road because of the drainage problems, and he wanted to know who will protect his well because his property sits lower than the proposed development site. He said the Worcester Reservoir sits at the bottom of Marshall Street hill and that it's a very bad hill. He has to back into his driveway, so he can pull out instead of back out, because his property sits on the blind crest of the hill. Marshall Street is used as an alternate route for Route 9 and Route 122 and people fly on that road and don't slow down. He gave an example that when a school bus stopped to pick up his neighbors kids; a car driving fast down the hill, couldn't stop and went right under the school bus. The school department ended up rerouting the school bus to avoid the hill. There will be 24 more houses, possibly 2 kids per house and there will be more school buses trying to make that hill. The Town will be asking for more money from Town residents to build bigger school for these kids, because the schools right now are outdated. Another concern on snowy or icy days, they will be

dealing with 4 driveways and a roadway in the middle of a hill; there's no power at the intersection and there will be no blinking traffic lights to slow drivers down.

Ms. Hultgren explained the minimum site distance standards required for intersections. Wherever Presidential Ave and Independence Drive proposed exits will be and based on the traffic speed along Marshall Street, there is a required site distance standard that will need to be met.

Mr. Charles Siwek, 350 Marshall Street, said he lives at the top of the hill right beside where one road will come out. He has lived there for 40 years and has witnessed a lot of accidents on that road. He explained how the road has a straightaway before reaching the hill and that was where they plan on having one of the access ways, right at the hill. He had spoken to the developer about considering putting a roundabout there, to bring the cars around the hill. He felt the access at the bottom of the hill won't be as bad, because the people will be on their brakes going down the hill and will see cars at that 2<sup>nd</sup> exit. He felt that should be researched. Another concern was with traffic control because of the increase in traffic during the spring and summer months. There is a golf course right down the road that brings a lot of traffic and a lot of people travel that road to go to the summer camps and ponds in that area. He felt there was a need for some kind of traffic study. He also noticed the lots were big and oversized and had concern with the size of the homes. He asked if they were double-sized lots.

Ms. Friedman explained that the size of the lots conform to what the current zoning is for that area [80,000 square foot minimum] and were not double-sized lots. The zoning has changed from when homes were built 40 years ago and some of the existing homes may be on smaller lots.

Mr. Hanratty said although his lot was a grandfathered lot with 175 feet of frontage and his neighbors has 300 feet, he noticed on the plan that some of the proposed lots were under the 200-foot frontage requirement. He asked if those lots were grandfathered. Ms. Buck said there are two parcels that are shown on the plan having under 200-feet of frontage and that it was an error and the developer plans on fixing that in the definitive plan.

Mr. Hanratty asked if the Worcester Reservoir and MassPort were notified of these meetings being direct abutters. Ms. Friedman said if they are true abutters, they will receive notification at the Definitive Plan stage.

Mr. Hanratty said he received notification by seeing the surveyors on the site and was the homeowner who helped spread the word.

Paul Rollo, 351 Marshall Street, said he has lived there for 25 years and his well currently has very good pressure and was concerned that this development may have some kind of effect on his well and other wells in this area. If this development does affect the wells in the area, he was concerned on what recourse they would have.

Ms. Buck explained that all plans would be referred to the Board of Health and they would be asked to specifically comment on any well related issues. She further explained that whenever someone proposes a subdivision like this, it's a two-stage process. There's a Preliminary Plan, which is what's currently before the Board with not much detail. Then the applicant takes comments from what the Board discussed tonight and comes back at a later date with a Definitive Plan that is significantly more detailed, showing drainage, etc. She explained a Definitive Subdivision submittal has a more formal hearing process that requires abutter

notification, where the Preliminary submittal does not have that notification requirement. As part of the Definitive stage, the Board of Health is required to review and comment, as well as Conservation Commission, Fire, Highway, etc.

Mr. Dan Pasquale, 371 Marshall Street, was concerned with the infrastructure on the electricity that feeds that area. In the last three years, they have been hit pretty hard and there's not enough power up there and a lot of people have lost devices in their homes related to that; there is not enough power to carry that road. Even though the residents have filed numerous complaints with National Grid, the answer everyone gets was that it's just part of the process of rebuilding.

Mr. Hanratty agreed, further explaining how his power came from Whittemore Street and after the new developments were built off Whittemore Street, he was one of the last homes to receive power. Transformers had to be brought in so his home and two other homes next to him had power, but they didn't have water and constantly had brown outs.

Ms. Friedman suggested the developer strongly consider doing an open space plan. Mr. Ed Escobar said they will definitely look into doing an open space plan and will confer with their engineers to make sure that would be in the best interest of the development, but he didn't see why they wouldn't. The Board agreed an open space plan would be within the best interest of the Town and Developer.

Charles Siwek, 350 Marshall Street, asked what the procedure was after the Definitive plan was submitted and if the residents would be able to comment on the safety concerns, etc. at that time. Mr. Grimshaw said yes, tonight's meeting was just the beginning process. Ms. Friedman said with a definitive submittal, abutters will receive notification by certified mail.

Mr. Hanratty asked if the developer was planning on taking down the dilapidated structure on the lot. He explained when the Northborough Town Hall was demolished; a lot of the waste was dumped on the airport property and he was the one who contacted Town officials and put a stop to that. Mr. Larry Escobar said he and his brother are the project managers for this development. They will be requesting removal of the building and will make sure that the project meets all of the Town's and State requirements.

Ms. Hultgren said there are State requirements relative to demolition codes that will be followed, as well as, any potential hazardous materials that may be found there. They will go through all the proper channels.

Ms. Friedman asked if there was any hazardous waste on the property. Mr. Escobar said not that they were aware of.

Mr. Hanratty said it's on Town record when the Northborough Town Hall waste was dumped on the airport site and cleaned up. The granite blocks that are at the property entrance, came from the Northborough Town Hall demolition. He didn't know whether the Town made the owners clean up the waste dumped there.

Ms. Buck explained the preliminary subdivision approval draft. It's a series of conditions detailing what the applicants needs to address before submitting a definitive plan. The draft conditions were; 1) that the applicant address all comments from Town Departments and Town Engineer; 2) to strongly consider an Open Space Residential Design; 3) to provide streetlights at no cost to the Town; 4) to eliminate the dead-end road in access of 500 feet; and 5) to show a grass/landscaped island if Fire Department requires 100 foot radius cul-de-sac.

Mr. Grimshaw asked for any further discussion; hearing none, asked for a motion.

**MOTION:** Ms. Friedman moved to approve the Preliminary Plan, prepared for Royal Dragon, Inc, Marshall Street Subdivision, prepared by JH Engineering Group, LLC & dated 12/7/2015.

**SECONDED:** Ms. Nist – Discussion: None – **VOTE:** All in Favor

**Application Discussion:**

Site Plan Review, Fire/EMS Headquarters, 1 & 3 Paxton Street, Town of Leicester

Mr. Grimshaw read the Notice into the record, and then opened up discussion to the applicant.

Mr. Christopher Logan, Donham & Sweeney Architects made the presentation. He introduced James Downing of Howard Stein Hudson (HSH), civil engineers for the project; Kevin Mizikar, Town Administrator; Sandy Wilson, Chair of the Committee; and Mike Josefek, Project Manager.

The proposed project is for the construction of an 18,000 sf, two-story, Fire/EMS Headquarters on 3 Paxton Street, abutting 1 Paxton Street, which is part of the development package. There will be a 5 bay apparatus room behind the administrative wing that fronts on Paxton Street. There will be a new drive off Main Street primarily for use by the apparatus and staff parking. There will be a loop drive off Paxton Street, with 14 spaces for administrative workers and visitors. The contour of the land off Paxton Street allows for an entrance to the second story of the building and that is where the offices will be located and the apparatus room will be one level down.

They are retaining the land on the back side, being 1 Paxton Street, to make the drive out to Main Street. They've reconfigured the land around the new parking area to provide for the infiltration basins and swales to manage the water runoff. New plantings will be added along the north and west side to buffer from adjoining neighbors. They will continue that planting up along the north side, heading east to buffer from those neighboring properties. The east side, will have plantings along the island that separates the new parking area from Paxton Street and on the south side, will have more shrubs planted between the new building and the existing structure on 1 Paxton Street.

The building elevations, starting at the top elevation, from Paxton Street, looking down at the building, will be a second floor entrance and will be accessible from Paxton Street. There were suggestions received from the Historical Commission on the building's color and use of materials. They plan to incorporate those suggestions into the project as they move forward, but the building will look residential in nature and fit into the style of the neighborhood. The bottom elevation facing the northern abutters will have the larger portion of the building that holds the apparatus. The top level will have the residential quarters for the EMS and firefighters that include the sleeping area, the kitchen, bay room and offices. Standing on Main Street looking towards the building, will be the apparatus garage doors and the administrative offices that cover part of the first bay, up to the second floor. Looking at the north side elevation facing the abutters, the elevation changes from Paxton Street, towards the west side of the site, there is an 18 ft drop in terrain and they are using that terrain to help manage the way the building will sit on the site.

The application addresses lighting, relative to street lighting on site. The goal was for the light reflection at the property line, measured at foot candle or the measurement of light reflecting out, to be at zero. This will ensure that the new complex won't illuminate the entire area. The lighting will focus on the front of the building and illuminate the walkways and parking area. There will be a couple of streetlights illuminating the driveway and on the back side of the site; there will be a couple of poles lights that will illuminate the parking area only. The foot candle level will measure at 1.4 foot candle per foot and within 10 feet it goes down to zero, which is a good 5 to 6 feet from the property line. The lights on the building are wall sconces that will illuminate down and will light the face of the building and entrances.

On the grading and drainage plan, the dark lines represent the new grades and lighter lines represented the existing grades. They're using a lot of the existing grades through 1 Paxton Street and along the front of Paxton Street, so there won't be a lot of change seen from what is currently there. The area at the front of the building we be regraded to ensure proper drainage and will direct the water and capture it onsite, as opposed to having it run off onto the perimeter streets.

They've created a few terraced areas coming down towards the back of the site that are done in a gentle sloping so it can be easily maintained and they are looking to do some additional planting to help absorb water runoff. Off the northeast corner, they are proposing a surface swale that will bring the parking lot water down to the infiltration system. They will be utilizing the natural contours of the site to help address stormwater. There will be catch basins in other areas that will capture water and bring it through the filtration system, where the water will get absorbed back into the ground.

Ms. Friedman asked if the basins will be unfenced. Mr. Logan said they won't be fenced now and noted it was one of the questions from the Town Engineer, but they wanted to leave that up to the Planning Board's discretion.

Ms. Friedman asked if the basins will have standing water. Mr. Logan said during a heavy storm, there will be some degree of standing water. He felt with a 50 year storm or 100 year storm, there would be a short period of standing water. Ms. Friedman asked what a short period of time was, for example, would it be 10 hours or 10 days. Mr. Logan felt the water would drain within 72 hours. The only time that would change was if the stormwater system was not maintained, so there is the possibility it going past 72 hours.

Ms. Friedman said her concern was with the children who live in that neighborhood. Mr. Logan said the plantings around the basins would be taller grasses that require less maintenance and would help with the absorption of water. Because they have to fill those areas to grade these structures, the fill going in has a better drainage quality than the existing soils that are there.

Ms. Friedman asked if that would help the water issues for the people who live behind this site, because there are a lot of water issues in that neighborhood.

Mr. Logan said yes, they feel the design exceeds the standards for stormwater. Ms. Friedman noted with all intents and purposes, this should improve the water issues that neighborhood has had for the past 60-years. Mr. Logan said yes.

Mr. Menard asked about water runoff in the area where it will be slightly sloped. Mr. Logan said there will be catch basins that will capture the natural runoff, discharge it into a smaller basin that would overflow into the larger filtration basin and be absorbed into the ground.

Ms. Friedman asked about the retention wall construction. Mr. Logan said the new design of the site, works in conjunction with the existing design of the site. They are looking to use the building as a large retaining structure and as they head towards the south, there is an existing retaining wall that is a series of rocks, which sits along the property line. The wall will then head out towards Main Street, along the western side of 1 Paxton Street.

Mr. Logan said there are a couple of stone walls along that path and the Historical Commission had asked about salvaging the walls and reusing them on site, which was their intention. The reason the walls can't remain where they are was because during construction, the walls would end up getting destroyed. They will stockpile the stone and relocate the walls where they can on site. In terms of safety along these walls, they are proposing a 42 inch high black chain-link fence that will be located along the lower retaining wall, starting where it drops off 4 feet. As you approach the building, the chain-link fence stops and becomes an actual pipe column retaining wall, keeping with the other metal design on the face of the building along the stone concrete patio. In the back of the building facing the western abutters, a guard rail will be positioned part way along the apparatus building, to help prevent cars from backing into the building. It's a removable 18 inch corrugated metal guard rail and it's removable because that portion of the building will also be used for the ladder training area.

Ms. Friedman asked how snow removal would affect the drainage because there will be a lot of snow being pushed into those two swales. Mr. Logan said it would work out and ensure that area of the parking lot wasn't blocked and will have use of the swales for flow and the other areas will rely upon the catch basins to capture snow runoff and enter it into the filtration system.

Ms. Friedman asked where the plows would be able to stockpile the snow. Mr. Logan pointed out four areas on site where the snow could be stockpiled.

Ms. Friedman said because of the existing drainage concerns in that area, and there will be a lot of snow being pushed into where the swales are, it's a concern. Mr. Logan said as the project moves forward, they will have a more detailed maintenance plan that will be worked out with the Town. Ms. Friedman noted that if the swales were not maintained on a regular basis, there would be more of an issue there than what currently exists.

Ms. Friedman asked where the drive from Main Street was being placed and what they planned on doing with the historic fencing that is currently there. Mr. Logan said the Historical Commission has requested for the fencing to be retained and they felt the Commission's concerns were very fair and they should be able to accommodate that request.

Ms. Friedman felt the plans were done well, considering the concerns between the drainage and lighting, and keeping within the architectural value of the area.

Hearing no further discussion from the Board, Mr. Grimshaw opened discussion to the public.

Ms. Joni Webster, 51 Paxton Street, said she directly abuts the site to the north and asked about arborvitaes being planted as a barrier or will there be some kind of deciduous tree that would lose their leaves in the fall.

Mr. Logan said some of the plantings proposed are deciduous and there will be some arborvitaes planted as well.

Mr. Brian Gentile, 22 Warren Ave, asked if the 4 trees at his property line were going to be saved, and if not, were the new plantings similar to what currently exists. He felt once

excavation starts, they will see that the trees aren't as viable as they may look. Mr. Logan said looking at it from a grading point of view, those 4 trees appeared to be viable and would remain.

Ms. Kristin Bulak, 26 Warren Ave, said she was in favor of a fence being placed around the detention basins because she does have small children.

Ms. Buck explained that the application is sent to all different departments for comment, including an outside engineering firm, Quinn Engineering. Quinn Engineering submitted a comments related to stormwater that would have to be addressed by the applicant. There aren't specific site development standards that the Board would normally look at in other zoning districts, because this is a residential district and is also an exempt use. The main thing the Planning Board looks at are the requirements within the stormwater permit and looking at overall conformance to zoning, which they do conform to and then listening to the abutters concerns related to drainage, landscaping, etc. Revised plans have been submitted which are intended to address Quinn Engineering's comments, but the plans haven't been reviewed yet Quinn. It sounds like they will also be addressing some of the Historic Commission's comments. Ms. Buck recommended a continuance allowing time for Quinn Engineering to review the revised plans.

**MOTION:** Ms. Friedman moved to continue discussion on the Site Plan Review application for the Fire/EMS Headquarters at 1 & 3 Paxton Street to Tuesday, February 02, 2016 at 7PM.

**SECONDED:** Ms. Nist – Discussion: None – **VOTE:** All in Favor

### **Application Discussion, Continued:**

#### Site Plan Review, Monopole telecommunications facility (cell tower), 30 Huntoon Memorial Highway, Verizon Wireless

Mr. Grimshaw gave instructions on the hearing procedures and noting that all comments will be limited in discussion and to questions not yet expressed, to help avoid rehashing what has already been discussed in length at the previous meetings.

Mr. Victor Manougian, Attorney for Verizon made the presentation. New material submitted was FCC Licenses request with their determination results. At the last meeting, it was stated that the site was not within 5 miles of the airport and after further review, they found there was an error made in the coordinates; that has been corrected and resubmitted to the Board. Photo simulations were submitted which he feels are self-explanatory. There's an FAA Report, and also a Real Estate Evaluation Report that shows no difference in values on properties near cell towers.

Mr. Manougian noted that a full set of plans were resubmitted, showing the change made on page 3.1. There was a lot of discussion regarding distances from certain structures, so they revised the plan to show the distances. They show a line from the center of the tower to the existing building that sits directly behind the site and that measurement shows 274 feet. They did a directional distance to an existing barn and home that measured 233 feet from the center of the tower and they ran a line to the church building that measured 336 feet. If the tower were to fall like a tree, it would not land anywhere near any structures.

In regards to the FAA Advisory Circular submitted by Mr. Richardson at the last meeting, AC#70\7460-IR, which is a 90 page document, at that time no one was able to review it. Mr.

Manougian wanted to state for the record that after getting a chance to review the document; he believed it was intentionally presented to be inflammatory. After reading the document, it's just an advisory circular and not law. He looked at the principal changes on page 1, sub part 4, 1-6, and it did not relate to their installation. Further down on page 2 of the Advisory Circular, it clearly states that the FAA recommends the guidelines and standards in the Advisory Circular determine a proper way to light and mark sections that pertain to navigable airspace, but the Advisory Circular does not constitute a regulation and is not mandatory. It further reads on the type of building construction and operation of a structure that may affect national airspace and would be required under the provisions of section 13 of the FAA regulations, to notify them by computing notice of proposed construction and operation form, which they have done and that's item 4, entitled Airspace Summary Report. The results were that notice to the FAA was not required at the analyzed location. He said it's voluntary and they were not subject to that advisory or to the lighting that the Board was lead to believe was applicable. It doesn't require notice to the FAA, the nearest public landing facility, Worcester Regional being 3.7 miles from the site. The document did not indicate that the FAA had changed the markings or lighting required for towers 150 feet tall within 5 nautical miles of an airport. Lightings and markings applies to all towers over 200 feet AGL [above ground level] and any tower that exceeds the constructions standards. Towers under 200 feet AGL are subject to marking & lighting requirements depending on the nautical environment it resides in. The proposed tower does not exceed the standards and it does not require lighting by the FAA. Verizon would not put lights on a tower where it's not required, because once lights are put on a tower, they would be required to keep that bulb burning forever.

Mr. Manougian said when they were presented this Advisory Circular at the last meeting; Mr. Richardson submitted the first two pages of the advisory and inserted page 5-7, highlighting the section about poles, towers and similar skeletal structures that states, two or more steady burning red lights should be installed, etc. What Mr. Richardson failed to tell the Board, that was an advisory and a recommendation within the main recommendation on the first two pages and Mr. Richardson didn't include page 5.6, where it recites the standards and the recommendations. Verizon wireless is in the business of building towers and the department that does regulatory confirmed that this tower does not have to be lit.

Ms. Friedman thanked Mr. Manougian for including the images of the balloon test. She found it extremely helpful and also for the clarification the Board had asked for. She asked Mr. Manougian to confirm that with the fall zone at 150 feet, the tower wouldn't go beyond the property line.

Mr. Manougian said the fall zone analysis showed that if it were to fall, the hilly area where there is no structures, the answer is no and when you go to the street and to the rear of the property where the structures are located, the closest structure is 230 feet. The plan was drawn this way because it was the best place to put the tower for Verizon and the property owner and because the Town doesn't have fall zone requirements. If there were fall zone requirements, it has to be the height of the tower and they would have done that. Even with the fall zone analysis, if it were to collapse, it would not pass the property line.

Ms. Buck noted for the record a letter from an abutter Sandra Flink that was received after the Board's meeting packet was sent and it was a letter of opposition to the project.

Hearing no further questions from the Board, Mr. Grimshaw opened discussion to the public.

Mr. Tom Buckley, 76 King Street, said he has a letter from Father Jack, priest at Saint Aloysius-Saint Jude Parish, who asked him to submit his letter of concern to the Board. He also had copies of the information he shared with the Board from the last meeting. Mr. Buckley read Father Jack's letter of opposition into the record.

Ms. Friedman gave Mr. Buckley copies of the photo images on the balloon test to give to Father Jack that specifically show the church.

Mr. Buckley continued. At the last meeting, the Town Administrator was misrepresented when it was expressed that the Town had been working with Verizon for almost a year to try and find a suitable location. He asked the Town Administrator to be here tonight to help explain what exactly went on. He then asked, within a Site Plan Review, if there was anything within the review that the Board specifically looks at that actually protects the residents. His understanding of the Bylaw that's in place states, nothing can go into that area unless it increases the residential property value. That is why he's here; this proposed cell tower is being put in a RIB Zone that's in the middle of two densely populated neighborhoods.

Mr. Kevin Mizikar, Town Administrator, said Verizon Wireless had contacted him in January 2014 asking questions about locating some type of antenna at the Memorial School property and he expressed concern on the close proximity it would be to a school. Verizon then asked if there were any other sites in the area and he didn't know of any.

Kate Flynn, 492 Pleasant Street, said people in her neighborhood do not want this. She asked if that accounted for anything. These people vote and pay their taxes, does that mean anything in this situation?

Mr. Robert L'Ecuyer, 508 Pleasant Street, said Verizon's experts had all the facts and figures on how many cars use Route 56 and have Verizon service, but didn't show the figures on how many people it would benefit in Town. He asked if that information was available.

Ms. Deborah Clark, 1 Victor Ave, asked if the cell tower were to fall, could it fall into traffic along any one of the streets, or would it fall where there was no traffic. Ms. Buck said the tower would be more than 150 feet from any street.

Ms. Patricia Soucey, 492 Pleasant Street, explained how she could see St Jude's Church and streetlights there when turning onto King Street from Route 56. She felt there weren't enough of trees around to hide it from view.

Mr. Gregg Richardson asked to submit additional information to the Board. Mr. Grimshaw agreed. *Material submitted by Mr. Richardson: (1) copy of letter sent to Judith Dunlap, FCC from L. Johnson, FAA, dated 2/26/1999, (2) Site Data, Leicester 4 – Existing 700 MHz LTE Coverage google map, not dated; (3) affidavit from Scott Richardson (attorney brother), dated 1/19/2016; (4) TOWAIR Determination results, not dated; (4) FAA Summary Report: New Construction Antenna Structure, Leicester-4, not dated; (5) Notice Criteria Tool-Desk Reference Guide for filing with the FAA, not dated; (6) FA&A-Airspace and TERPS Training Course Overview, not dated, printed 1/19/2016; (7) Federal Airways & Airspace Corporate Profile, not dated, printed 1/18/2016, (8) copy of page 30 of the Leicester Zoning Bylaws, Section 5.4 "Wireless Communication Bylaw", from Town Bylaws dated 5/20/2013; (8)FCC, Media Bureau, Antenna Tower Lighting and Marking Requirements, not dated, printed 1/18/2016; (9) TOWAIR determination results, structure does not require registration, not dated.*

He said the TOWAIR coordinates submitted by Verizon were wrong. He explained the coordinates given were to a remote area and was the oldest trick in the book. He felt by sending out false coordinates and it wasn't caught, it would have gone through, but having false coordinates, they would never have to get any type of lighting or any type of FAA Registration. The coordinates were off by 4,273 miles and he considered that very sloppy work.

Mr. Manougian said the mistake was noted at the beginning of this meeting and it would not have snuck by anyone, because the FAA would never have approved it. He explained a colleague in his office put in the wrong numbers and once the error was realized, they fixed it. It was an error from his office, not Verizon. It was not intentional and he apologized.

Mr. Richardson continued. Attachment B, Leicester 4, shows the correct latitude and longitude. *At this point, there was some confusion on finding what document Mr. Richard was referring to. After some time, Ms. Buck pointed out that it was an attachment from the original submittal packet; Attachment B; Radio Frequency Report.*

Mr. Richardson continued. In regards to the Advisory Circular, the tower will need to be lit. There was a question regarding 1-L and 1-K that supersedes 1-L. On page 13 is where there's language that towers, at 150 feet, are going to need lights. It goes on to state that even though the painting and lighting standards are advisory in nature, the FCC rule will make it mandatory. The standards and specifications set forth in the FAA documents are incorporated by reference that the FCC rules, making advisory standards mandatory for all antenna towers. The tower will need lights.

Continuing on the same page, FCC always requires FAA determinations that an antenna tower will not pose an aviation hazard before it will grant permission to build the tower. Information required under FCC construction permit and was not submitted with the application packet, an FCC construction permit. The rules say FCC license is not a permit. The wording is very clear that the FCC wants a construction permit form before the tower is built. The FAA determination takes into consideration the location and height of the proposed tower and safety lighting and markings. Site plan submittal requirements state that the permits are to be included, but there will be no permits submitted there will be licenses and licenses are not permits.

Mr. Richardson continued. Turning to the next page, first 4 paragraphs summarized, the FCC does not constitute a regulation and in general is not mandatory. However, a sponsor proposing any type of construction, or alteration of a structure that may affect national airspace, is required, under the provisions of Title 14 Code of Federal Regulations, to notify the FAA. The FCC requires FAA determination and the applicant states that they did this and that the results were spelt out in the Airspace Summary Report. The applicant did not get a report from the FAA, Federal Aviation Administration; they got their report from the Federal Airways & Airspace, which is a privately owned company working out of Florida.

The applicant states that they contacted the FAA, but not who they are trying to lead the Board to believe. The Federal Airways & Airspace is a company who has established a successful record of solutions for telecommunications companies, etc. Under the Federal Airways & Airspace Business Code, the code is not aviation, it's data processing. They teach people how to use their software and once the Airspace and TERPS class is completed, they can figure the height limitations and be able to file and build accordingly. Mr. Richardson felt this was deceit by the applicant, because they led the Board to believe they went to the FAA, when they didn't go to

the FAA. They went to a private organization that runs classes and has nothing to do with a government agency.

Mr. Manougian said Mr. Richardson was doing exactly what they expected him to do. Mr. Richardson gave the Board an Advisory, 1-K and now he is giving an Advisory, 1-L and attacking a mistake he had made and fixed. Now Mr. Richardson is attacking a report they submitted, which does give the analysis needed and if there is any proof to show that it is wrong, then that is what Mr. Richardson should be doing, not saying that they went to the wrong agency. The Board can't lose site of the fact that this is not law and if it's not law, they are not required to light the tower. They are not within the airspace, which would require lighting based on that report and they will stand by that. It would never make it beyond this Board or beyond the next Board or beyond final regulatory approvals if they are wrong.

Mr. Richardson said this transcends the lighting requirement because it will bring to the fact that the applicant doesn't have a construction permit, which is required under the submittal requirements. A comment was made to prove that their submittal was wrong. He has a Notice Criteria Tool from the Federal Aviation Administration and using the coordinates given on the tower show they exceeded the criteria and that the proposed structure was in proximity of a navigation facility. The FAA, in accordance with 77.9, request that they file and they didn't. Verizon presented a report saying that they didn't need to file and that they're good. They are not good, because looking at the longitude and latitude from that location, it's off by about 420 feet to the south, which he felt put this close to the wetlands.

Verizon uses a bogus FAA Report, which is leading the Board to believe that they used the Federal Aviation Administration, but they are not and being slick. They are using the company Federal Airways and Airspace to deceive and say they've got everything. They just wanted to make everything jive and send out some TOWAIR Determination Reports. The first report was incorrect showing the location down near the Continental Shelf and the second report is also wrong. It shows the site elevation at 254 feet and the grid elevation is at around 835 feet.

Ms. Buck corrected that it was measured in meters and not feet (254 meters). Mr. Richardson said it's still wrong and the second report is wrong and the elevation is wrong.

Mr. Richardson continued. The Federal Airways & Airspace and TOWAIR are competitors and don't get along. The Federal Airways & Airspace sent a letter in 1999 to the FCC that can be found on their website, stating that TOWAIR does not perform the calculation exactly as specified and use bogus reports. In order for permits to be issued, Verizon will have to report to the FAA and they haven't reported to the FAA yet. Instead they send a deceitful FAA report and a wrong TOWAIR report. The pretend FAA sends out paper work and letter to the FCC saying TOWAIR's work can't be trusted.

Verizon does not have a permit to put this tower up and they come in with the audacity, and an insult to the Town. The Town's submittal requirements ask for permits and the FCC states that they will only give permits with an FAA Determination. The FAA Determination won't be seen, Verizon can't present it, because they have never asked for it. With that said, the Board has to deny Site Plan Review.

Mr. Buckley said as an elected official, one of the conditions was to protect the people. He can understand mistakes being made here and there, but it seems Verizon was deliberate in making their calculations and that's not the way this Town should be treated.

Mr. Richardson seconded that statement, because these are people they will be partnering with [Verizon] and if they can't be upfront or honest and are trying to be slick coming in the door. We should not have to partner with people who come in here, mislead, misrepresent and misconstrue; it's an outrage.

Mr. Richardson gave his explanation on the right way and the wrong way to do a balloon test. There wasn't a way to figure out where Verizon did their test because there are two different locations and he didn't know whether the tests were done at the correct location, because Verizon itself is confused.

Mr. Manougian said the balloon test was done on the coordinates measured from the center of the tower. He takes exception to the comments that Verizon was trying to deceive. He showed in Exhibit 2 and Exhibit 4 of the submittal packet that it had the exact same latitude and longitude coordinates as Mr. Richardson noted and there was no reason for him saying they were wrong. He did not know why Mr. Richardson was saying there were two different coordinates on Exhibit 2 dated 1/15/2016, which states the same exact coordinates as Exhibit 4. The height elevation is measured in meters versus feet and there isn't a discrepancy shown there either.

Mr. Grimshaw asked for a brief explanation on the process of the balloon test.

Mr. Manougian said their engineering firm did the balloon test. The process is that they fly the balloon at the center of the tower and the bottom of the balloon would be at the 150 foot mark. It was flown on a day with no wind and pictures were taken from all the vantage points listed on the first page of the photo simulations, which covered 22 locations. Each picture shows the balloon and if the balloon wasn't visible, the photo was marked "not visible" and if it was visible, the engineer would simulate the tower into the photo, to show what it would look like based on the designed proposed. Any shots of the balloon that were visible, the next shot shows the proposed tower, even if it was partially obstructed behind trees.

Mr. Richardson disputed both Exhibit 2 and Exhibit 4 coordinates, stating they were wrong.

Mr. Manougian said both reports are identical, with no discrepancies between the two reports.

Mr. Richardson said they are identically wrong. He asked where the balloon tests were taken, were they taken by an unbiased company, and did the test take place on a windy day. At this point, he submitted an Affidavit from Scott Richardson, which states he observed the test being conducted and observed that the balloon frequently was moved by the wind.

Mr. Richardson felt the balloon test was biased and the trucks usually have 60 foot mast. He didn't know who performed the test, but he didn't see any certificates that it was an unbiased company doing the balloon report.

Mr. Richardson then asked if Verizon has the FCC permits that are needed for the submittal requirements and if they do, if they would produce a copy.

Ms. Buck did not believe that any cell tower applicant has had those permits prior to approval. That's something they typically get after they go through Town approval and is addressed as a condition of approval that they obtain all the necessary permits.

Mr. Richardson said that requirement is very clear in the Bylaw under submittal requirements that copies of all applicable permits, including but not limited to all State and Federal permits required for this project and a certificate of compliance with the terms and provisions of the

license issued for this purpose by the FCC. The permit has not been submitted nor applied for, because the FAA wants to be given a heads up, but they were never notified, even though the Board was lead to believe they were notified.

At this point, Mr. Richardson submitted and read a letter addressed to the Zoning Board of Appeals from Jim DiCentes dated 12/10/2015 stating opposition.

Ms. Deborah Clark, 1 Victor Ave, felt a cell tower does not belong in anyone's backyard.

Mr. George Leary, 487 Pleasant Street, agreed with Mr. Richardson's explanation regarding the application submittal requirements. He said the Town may have been waiving this requirement without really being aware of it, but aren't the Town's people entitled to the protection of their own Bylaws and aren't they entitled to have Town Government enforce their own Bylaws for their benefit, instead of waiving them for the benefit of the petitioner? The residents are the ones who are going to have to bear the burden of this, so the petitioner can have better cell service on Route 56. Why can't we work with the petitioner to find a different location? Six months from now, we'll all be singing together singing kumbaya, and they will get what they want, but not necessarily at the expense of every single homeowner that lives in this area. There are hundreds of homes in this area. Please consider rejecting this tonight.

Ms. Kate Flynn, 492 Pleasant Street, asked if the tower were to fall would there be any repercussion to the Town water supply.

Mr. Manougian said an FCC license is what they submit with every application to the State of Massachusetts and to every Board, they have never had to give more than that. At the outset, they've provided proof to the municipalities that his client is licensed by the FCC for the region to do wireless communication. They have never submitted anything beyond that nor asked for that kind of licensing. At the last meeting, discussion evolved around lighting, so they tried their best to respond to the lighting concerns. Tonight, a shift has been taken to construction permits and they don't have construction permits and they don't get construction permits. As mentioned earlier, they have to meet with two Boards in Town and the Federal Regulatory and he was sure that Verizon knows how to do that. If the Board request information on construction permits they don't have them and they don't have As-Built plans either. He said what they came back for was lighting and that was resolved. As stated in his letter; he fully recommends the guidelines and standards in this for determining the proper way to light and mark construction that's not being navigable airspace. This Advisory Circular does not constitute regulation and comment in general, it's not mandatory. The bottom line is that it's not mandatory. Whatever we keep circling and being dragged through, this Circular being presented is not law and it's not mandatory. He would like to request that the Board approve the application as submitted.

With no further discussion; Mr. Grimshaw asked for a motion to close the public hearing.

**MOTION:** Ms. Friedman moved to close the public hearing

**SECONDED:** Ms. Nist – Discussion:

Mr. Michael Lassard, 4 King Terrace, asked if the Board will now discuss what has happened at tonight's meeting and making a decision. Mr. Grimshaw said the Board will get to that point.

Mr. Lassard said they are all neighbors here and these people come in with the tower and then are gone.

Mr. Buckley asked if the Board will be discussing the Telecommunication Bylaw. Mr. Grimshaw said yes.

Mr. Charles Jordan, 62 King Street, asked after discussion if the Board will take a vote to either approve or deny and how will the people know how the Board voted. Mr. Grimshaw explained that it would not be a secret vote. The Board has the option to vote now or to continue it to the next Planning Board meeting.

Mr. Leary said it just isn't the RIB Zone that applies to this application, the Wireless Communication Bylaw also applies and that states the purpose of the regulations include minimizing adverse impacts of wireless communication facilities on adjacent properties and residential neighborhoods. Mr. Grimshaw noted that this use is allowed in any zone.

Mr. Leary said this placement can never be regarded as one that minimizes impact on a residential neighborhood.

**Vote:** All in Favor

Ms. Friedman noted that the Board has never required an applicant to provide FCC licensing permits in the past and asked if the Board could vote contingent upon the applicant receiving FCC license. Ms. Buck agreed and said it was a standard condition that was already stated in the Draft Site Plan Approval Order of Conditions, under Pre-Construction Condition #2; "prior to the issuance of a building permit, all required federal, state, and local permits and licenses (with the exception of local electrical permits) for the construction of the facility which is the subject matter of the building permit shall be obtained and presented to the Building Inspector."

Ms. Friedman asked if the Zoning Board of Appeals approval of the Special Permit was based upon the Planning Board vote or was it separate and does the Planning Board report to the ZBA or is it a separate permit.

Ms. Buck explained that it was a separate permit. The Bylaw states that the Planning Board can report to the ZBA and she notified the ZBA that she would inform them on the status of the Board's vote tonight. The ZBA can act independently and their vote is not contingent upon Planning Board.

Ms. Friedman reviewed a couple of different things that can be done. The Board can continue based upon applicable permits, but do the applicable permits need some type of approval from this Board. She felt the problem would be, without the Board's approval, Verizon couldn't get the permits. Mr. Menard agreed that without an approved plan how Verizon can get their permits. Ms. Buck said the standard way the Board has handled State and Federal permits for every kind of application, is adding it as a condition of approval.

Ms. Friedman felt the Board would be putting Verizon in a position that they can't even apply for what the Board is looking for them to apply for, without an approved plan. The FCC will not give them the permit if there isn't an approved plan and she felt that was the reason the Board has done it this way in the past. Mr. Menard agreed a contingent vote would solve that concern.

Ms. Friedman asked to have it specified in the decision that there will be no lighting on the tower and then that way it will be required to come back before the Board.

Ms. Buck agreed and suggested adding it under Project Specific Conditions that “the tower, as proposed, has no lighting and the addition of lighting would require an amendment of this decision by the Board.” All Agreed.

Hearing no further discussion; Mr. Grimshaw asked for a motion.

**MOTION:** Ms. Friedman moved to approve the Site Plan Review, Monopole telecommunications facility (cell tower), at 30 Huntoon Memorial Highway, Verizon Wireless with the amendments to the Order of Conditions as discussed; that the addition of lighting would require the application to come back for a modification to the approved plan and prior to the issuance of a building permit, they meet all FCC & FAA requirements.

**SECONDED:** Ms. Nist – Discussion: None -**VOTE:** All in Favor

### **Approval of Minutes**

12/15/2015

**MOTION:** Ms. Nist moved to approve the minutes of December 15, 2015

**SECONDED:** Ms. Friedman –Discussion: None -**VOTE:** All in Favor

### **Town Planner Report**

#### Miscellaneous Project Updates

EDSAT second presentation will be held on Thursday, February 18, 2016 at 7:30PM at Becker College

**MOTION:** Ms. Friedman moved to adjourn

**SECONDED:** Ms. Nist – Discussion: None -**VOTE:** All in Favor

Meeting adjourned at 10:05PM

Respectfully submitted:

*Barbara Knox*

Barbara Knox

### **Documents included in meeting packet:**

1. Agenda
2. Memo to the Board from Michelle Buck regarding January 19, 2016 Planning Board Meeting
3. Comments received regarding the Marshall Street Preliminary Subdivision from: the Police Department; Michelle Buck; Quinn Engineering; Historical Commission; Highway Department; Fire Department; and Conservation Commission.
4. Draft Decision for the Marshall Street Preliminary Subdivision
5. Site Plan Review application for 1 & 3 Paxton Street, Fire/EMS Headquarters

6. Letter to Michelle Buck from Chris Logan of Donham & Sweeny Architects regarding Fire/EMS Headquarters
7. Project Narrative for the Fire/EMS Headquarters Site Plan Review
8. Introduction & Trip Generation for Fire/EMS Headquarters from Chris Logan
9. Comments received regarding Fire/EMS Headquarters Site Plan Review from: Historical Commission; Police Department; Quinn Engineering; Leicester Water/Sewer District; Highway Department; Conservation Commission; Board of Health.
10. Copy of site plan for 30 Huntoon Highway Cell Tower
11. Draft Decision for 30 Huntoon Highway/Verizon
12. Planning Board minutes of December 15, 2015
13. Responses to Quinn Engineering comments regarding Fire/EMS Headquarters
14. Amended Verizon Wireless Site Plan dated 1/8/2016

**Documents submitted at meeting:**

1. Email memo from Shelley Hultgren regarding Marshall Street Preliminary Subdivision
2. Letter from James DiCentes dated 12/10/2015
3. Copy of letter sent to Judith Dunlap, FCC from L. Johnson, FAA, dated 2/26/1999
4. Site Data, Leicester 4 – Existing 700 MHz LTE Coverage google map, not dated
5. Affidavit from Scott Richardson (attorney brother), dated 1/19/2016
6. TOWAIR Determination results, not dated
7. FAA Summary Report: New Construction Antenna Structure, Leicester-4, not dated
8. Notice Criteria Tool-Desk Reference Guide for filing with the FAA, not dated
9. FA&A-Airspace and TERPS Training Course Overview, not dated, printed 1/19/2016
10. Federal Airways & Airspace Corporate Profile, not dated, printed 1/18/2016
11. Copy of page 30 of the Leicester Zoning Bylaws, Section 5.4 “Wireless Communication Bylaw”, from Town Bylaws dated 5/20/2013
12. FCC, Media Bureau, Antenna Tower Lighting and Marking Requirements, not dated, printed 1/18/2016
13. TOWAIR determination results, structure does not require registration, not dated.
14. Letter from Sandra Flink in opposition dated 1-3-2016