



## MEETING MINUTES

# Planning & Zoning Commission

Thursday, January 18, 2018

### AGENDA

- 1. St. John's Lutheran Church – Stealth Wireless Facility**  
**17-066CU** **6135 Rings Road**  
**Conditional Use (Disapproved 0 – 7)**

The Chair, Victoria Newell, called the meeting to order at 6:33 p.m. and led the Pledge of Allegiance. Other Commission members present were: Steve Stidhem, Jane Fox, Deborah Mitchell, Bob Miller, and Warren Fishman. City representatives present were: Mayor Greg Peterson, Claudia Husak, Vince Papsidero, Thaddeus Boggs, Logan Stang, and Laurie Wright.

### Administrative Business

Mayor Greg Peterson performed the Oath of Office for Jane Fox as she was appointed by City Council as the Council Representative for the Planning and Zoning Commission.

### Motion and Vote

Mr. Stidhem moved, Ms. Mitchell seconded, to accept the documents into the record. The vote was as follows: Mr. Fishman, yes; Ms. Newell, yes; Ms. Fox, yes; Mr. Miller, yes; Ms. Mitchell, yes; and Mr. Stidhem, yes. (Approved 6 - 0)

The Chair explained the rules and procedures of the Planning and Zoning Commission.

- 1. St. John's Lutheran Church – Stealth Wireless Facility**  
**17-066CU** **6135 Rings Road**  
**Conditional Use**

The Chair, Victoria Newell, said the following application is a proposal for a new Wireless Communication Facility within an 80-foot-tall stealth structure on a 10-acre site zoned R-2, Limited Suburban Residential District. She said the site is on the south side of Rings Road approximately 400 feet southeast of the intersection with Avery Road. She stated this is a request for a review and approval of a Conditional Use for a Wireless Communication Facility under the provisions of Chapter 99 of the Dublin Code of Ordinances and Zoning Code Section 153.236. She said the Commission has final authority on this case and witnesses will have to be sworn in.

The Chair swore in anyone intending to address the Commission on this case.



Logan Stang presented an aerial view of the site to show the relationship of this site with Rings Road and Avery Road for context.

Mr. Stang provided an overview of the review process for Wireless Communications Facilities. He explained within Chapter 99 of the Dublin Code of Ordinances, there are four facility types of wireless structures: co-location; new towers; temporary facilities; and alternative structures. He said this proposal is considered an alternative structure, which is the only type of facility permitted in residential zoning districts. In addition to being reviewed under Chapter 99, this facility type also requires a Conditional Use approval by the Planning and Zoning Commission with any applicable Zoning Code provisions.

Mr. Stang reported this proposal was reviewed by the Planning and Zoning Commission at their meeting on August 10, 2017. He noted the proposal at that time was for a 104-foot-tall stealth bell tower located 93 feet from the closest adjacent property line. He said the design consisted of faux brick fiberglass panels that are color matched to the existing historic brick used on St. John's Lutheran Church on the adjacent property as well as matching its steeple design. He presented a graphic that depicted what the bell tower could look like.

Mr. Stang said the proposal exceeded the maximum permitted height of 80 feet in residential zoning districts and was less than the minimum setback of 100 feet from all property lines. At the time, he said both of those requests required two Code alterations to be approved by the Commission under the Conditional Use application. He recalled the discussion at the meeting focused around concern for the alterations from Code requirements, aesthetics of material weathering, and conformance to the intent of a "Stealth" structure given the design and what is outlined under Chapter 99. As a result, he said the applicants chose to table the application to revise the proposal based on comments brought forth by the Commission, residents, and staff.

Since that August 10th meeting, Mr. Stang said the applicants and staff have worked together and staff facilitated a public meeting with the applicants and residents on October 11th to discuss the proposal and potential alternative sites/designs. Additionally, he said, Staff and the applicants analyzed 16 potential alternative properties in the immediate area for suitability of wireless communications facilities against the City of Dublin's requirements as well as operational requirements from Verizon and tower code requirements. He said the applicants have also met with the property owners and representatives from St. John's Lutheran Church to discuss alternative designs and the applicant has made revisions to the overall proposal based on feedback received at both the August and October meetings.

Mr. Stang presented a graphic showing the proposed tower being considered this evening, which is an 80-foot-tall Stealth wireless tower located 102 feet from the closest adjacent property line. This revised tower meets the height and setback requirements, he said; therefore, the applicant is no longer requesting alterations to the Code requirements. He noted the building material, a faux brick fiberglass panel has remained the same and is color matched to the brick used for St. John's Lutheran Church but the steeple design is no longer identical to the church steeple but still provides an architectural character complementary to the historic church. He pointed out this tower is designed to provide co-location capabilities for a total of four providers including Verizon but any future co-location providers will be required to obtain separate approvals as written in Chapter 99, of the Dublin Code of Ordinances.

Existing site constraints were presented that include a floodplain that extends around the leased area. Mr. Stang pointed out the 500-year flood area and the 100-year area determined for flooding. He explained the applicant has not indicated potential work within the floodplain, but if they were, the applicant would be required to obtain a Special Flood Hazard Area Development Permit Application to be filed and approved prior to work being conducted, which is one of the conditions of approval placed on this application.

Mr. Stang presented a graphic that outlined the parcel owned by the St. John's Lutheran Church but is separated from the main church building as the proposed location of the tower. He noted the highlighted area that is the adjacent property that includes the main church that is included in the Historic Register and is under the Architectural Review Board's purview for development applications. He pointed out the 100-foot setbacks are only taken from the property on which the tower is located as well as the leased area, which is partially located within that setback. He presented a closer look of the site to show how the proposed tower location would meet the Zoning Code because it is outside of the 100-foot setback. He presented an aerial view that also shows the 100-foot setback from the adjacent residential properties to the southwest along Cara Court.

Mr. Stang said the last portion of the application revised by the applicant is with regard to screening proposed at the base of the structure. During the August review, he recalled, the applicant proposed a 6-foot-tall solid wood fence around the perimeter of the leased area with evergreen landscaping. A proposed screening and landscaping graphic for this evening was presented and he noted it consists of a 6-foot-tall wrought iron fence with a matching gate for access to the parking lot. Again, evergreen landscaping is proposed around the outside of the fence to soften the appearance and aid in screening the base of the structure and any future mechanical cabinets.

Mr. Stang concluded the proposal meets the screening requirements for a Wireless Communications Facility under Chapter 99 and applicable Zoning Code requirements with a condition for the applicant to substitute some of the "evergreen" materials with more "site-specific natural landscaping" with the building permit submittal, subject to staff approval.

Mr. Stang explained how the 10 criteria were either met or met with a condition of approval for a Conditional Use from Zoning Code Section 153.236(C):

1. The proposal remains consistent with the Community Plan adhering to future land use recommendations, historic preservation, and permitting development and/or redevelopment to occur on adjacent properties.
2. This proposal is consistent with all applicable development standards as outlined in the Wireless Chapter 99 Section 99.05(C) and the Zoning Code.
3. The proposed use is harmonious with the intended character of the vicinity meeting the Code required maximum height and integrating architecturally with the surrounding built environment, specifically St. John's Lutheran Church. The surrounding area is primarily developed with single-family homes and the siting of this facility will not prevent any future development or redevelopment. As a condition of approval, the applicant will be required to revise the landscape plan to provide a natural buffer along the perimeter of the fence enclosure with the building permit.
4. The proposed use will not contain any hazardous effects or have negative impacts that would impede future development or redevelopment in the area. Per federal law and regulations, potential environmental effects, including health effects, if any, of radio-frequency (RF) emissions are impermissible bases for local decisions on requests to construct Wireless Communications Facilities. As a condition of approval, the applicant will be required to submit a Fire Resistance Study for the building material demonstrating compliance with all applicable regulations to the satisfaction of the Fire Marshal.
5. The proposed use has adequate connections to all public services and facilities through the access and utility right-of-way from Rings Road to the land space. An additional utility right-of-way is provided over Cramer Ditch for service. As a condition of approval, the applicant will be required to

submit a Special Flood Hazard Area Development Permit Application (SFHADPA) for any work proposed within the floodplain and is subject to Chapter 151 – Flood Control of the Dublin Code of Ordinances. Additional calculations and details will be required as a condition of approval to be submitted with the feasibility assessment to demonstrate compliance with Chapter 53 of the Dublin Code of Ordinances and will be subject to approval by the City Engineer.

6. The proposed use will not be detrimental to the property values or development potential of any adjacent property. The construction of this use will aid an existing cellular network that provides services to multiple entities and property owners throughout the community covering both the public and private sectors. This use also creates the ability for multiple providers to co-locate on a single structure, as the Code encourages, further improving cellular service capabilities.
7. The proposed use includes only the operation of a Wireless Communications Facility, which is a Conditional Use within the Limited Suburban Residential Zoning District. The operation of this facility will not generate a material amount of excess traffic or noise, and will not produce smoke, fumes, glare, odor, or other similar characteristics.
8. The proposal will utilize an existing access drive provided for parking lot circulation through the site. The applicants have been provided with a 20-foot wide access and utility right-of-way that connects the Rings Road curb-cut to the outer edge of the land space area leased by the property owner. The use of this access will not impede circulation through the parking lot and will not have any interference on the existing roadway network.
9. Other stealth and non-stealth wireless facilities have operated in residential areas of the City; therefore, it is Staff's opinion that this proposal preserves property values based on Code criteria. The siting of this facility also protects the rights of the surrounding property owners to develop or redevelop their properties and would not impact them adhering to any Code requirements.
10. The location and design of this facility would not hinder conformance with zoning regulations should the property owner, St. John's Lutheran Church, or any surrounding property owner pursue development or redevelopment of their property.

Mr. Stang explained how the 8 criteria under the Wireless Communications Facility in Chapter 99 Section 99.07(B) were either met or met with a condition of approval:

1. The proposal is compliant with all applicable requirements of Chapter 99 Section 99.05 of the Dublin Code of Ordinances covering the "General Requirements" for Wireless Communications Facilities. This includes but is not limited to structure setback and siting, screening, design, height, and landscaping.
2. The proposed structure meets the requirements of the height restriction with the top of the roof appurtenance adhering to the 80-foot height maximum for Wireless Communication Facilities located within residential zoning districts. The proposed location for the stealth tower and associated mechanical equipment areas meet the required 100-foot setback from the closest adjacent property line including the shared property line with the existing residential homes southwest of the site.
3. The proposal will not create any adverse effects on the nearby properties as the only operation proposed is for a Wireless Communications Facility.
4. For the relationship of surrounding topography to the view, the site is relatively flat and open due to the development of St. John's Lutheran Church. In lieu of topography, the proposed location provides at least the Zoning Code required minimum distance of 100 feet from adjacent properties with the

location being approximately 360 feet from the Rings Road right-of-way. The separation further aids in reducing the massing of the overall structure. There is slight grading that occurs behind where the stream comes through but otherwise, this proposal would sit relatively consistent with the remainder of the site.

5. The proposed location of the structure is adjacent to an existing tree row running along Cramer Ditch. The foliage provided by the tree row will serve to screen a significant portion of the base of the structure from any neighboring properties to the south and west. The proposed location provides the most suitable screening by the existing foliage given the neighboring residential on Cara Court to the southwest. Additionally, street trees, landscaped areas, and other foliage on private properties will further limit visibility of the structure from residences and right-of-way.
6. The proposed structure uses design elements such as texture and color, per Chapter 99 Section 99.05(C)(3)(c), to architecturally integrate the stealth structure with the existing St. John's Lutheran Church. The panels will be color injected to match the brick on the existing St. John's Lutheran Church and are capable of being replaced as necessary to ensure a consistent aesthetic quality.
7. The proposed ingress and egress has been established through the utility rights-of-ways in the existing parking lot and drive accesses as well as additional access to the land use area specifically that they are leasing from St. John's Lutheran Church through the form of a gate and then additional access into the structure itself for future maintenance on the wireless antennas as well as the materials if they should need to be replaced.
8. For the availability of suitable towers and alternative technologies, per the requirements of Chapter 99 Section 99.07(B)(8)(a)-(b), the proposal has demonstrated that there is no suitable existing tower, other structure, or alternative technology available in the area to accommodate the Wireless Communications Facility. The applicant has identified that there is nothing that would meet the height sufficient for them to operate this in addition to any other engineering requirements. The applicant has also affirmed through the site analysis conducted by staff and the applicants that there are no alternative properties within the area that would be suitable for the location of this macro tower.

Mr. Stang concluded, based off of all the criteria, staff is recommending approval of a Conditional Use for a Wireless Communication Facility with four conditions:

- 1) That the applicant submit a Special Flood Hazard Area Development Permit Application (SFHADPA) for any work proposed within the floodplain, subject to Chapter 151 – Flood Control of the Dublin Code of Ordinances;
- 2) That the applicant submit additional calculations and details with the feasibility assessment to demonstrate compliance with Chapter 53 of the Dublin Code of Ordinances, subject to approval by the City Engineer;
- 3) That the applicant submit a Fire Resistance Study for the building material demonstrating compliance with all applicable regulations to the satisfaction of the Fire Marshal; and
- 4) That the applicant revise the landscape plan to provide a natural buffer along the perimeter of the fence enclosure with the building permit, subject to staff approval.

Mr. Stang turned over the presentation to Thad Boggs to cover the Federal Laws and Regulations that are in place as related to this application.

Thad Boggs, Assistant Law Director, Frost Brown Todd LLC, said he was going to cover the Federal Law dimension that is included in this type of application that does not come before this Commission in other

contexts. He talked about the Federal Telecommunications Act of 1996. He said one of its stated purposes was to encourage the rapid deployment of new technologies. Among its many provisions, he said, in Section 332(c)(7), title 47 of the US Code, it states it preserves local authority except for listed limitations and those listed limitations provide more scrutiny for the decision-making processes of local, Zoning, and Planning authorities as summarized below:

1. The local regulation decision cannot unreasonably discriminate among providers of equivalent services.
2. The local regulation shall not have the effect or prohibit the provision of personal wireless services.

Mr. Boggs explained that is why there are not blanket legislative bans on new towers; it occurs when the local action causes perpetuation of a significant coverage gap for the provider and it does not have to be a prohibition of all wireless services; and it requires the provider to look for the least intrusive means of filling that coverage gap but they do not have to look forever for the most marginally better alternative.

Mr. Boggs said it also requires local agencies to act within a reasonable period of time and that phrase has been interpreted by a ruling of the Federal Communications Commission, which has been upheld by the U.S. Supreme Court to mean 150 days from the submission of the application of new facility construction. In this case, he said, that so-called "Shot Clock" would have expired in November 2017 but was extended to January 31, 2018, by mutual agreement between the applicant and the City given some of the exploration of other sites and amendments to the application that were being made. He restated it can be extended by mutual agreement but if a decision is not rendered within that shot clock then the applicant has a remedy to go to Federal Court and seek an injunction for the application to be granted.

Any decision to deny an application, he said, has to be given in writing and must be supported by substantial evidence. He indicated there has been numerous interpretations of what substantial evidence is. He explained in our circumstance here in Ohio, under 6th Circuit case-law, that does not mean the lay opinion testimony of non-experts. He further clarified the testimony of somebody who has established some expertise in Real Estate Valuation, or in another relevant factor to considering an application, could be substantial evidence but speculation by someone without that expertise, by law, that has been determined not to be substantial.

Mr. Boggs referenced statements made a couple of times by Mr. Stang and mentioned in the August meeting – The law prohibits consideration of the environmental effects including any perceived health effects of RF Emissions so that cannot be a basis of denial of an application under the Federal Law. He restated there is a remedy under the act for applicants where they can go to Federal Court and ask for an injunction to deem their application be granted for the Court Order, the City to grant the application, more precisely and it is based on a record that is presented at the local level.

Mr. Boggs explained this Act operates as a lens through which to view the local zoning criteria that Mr. Stang explained, Chapter 99 – Wireless Conditional Use Review and Zoning Code Section 153.236, which is the general Conditional Use Review. Those criteria, he said, are the substantive criteria that is up to the Commission to apply based on the evidence presented at the hearing and that was presented at the previous hearing and through the documents that are in front of the Commission this evening. The view through the lens of Federal Law, given the higher standard that this type of decision is held to. By way of conclusion, he said, this Federal Law is a place to encourage these types of applications and to encourage a thorough, evidence-based review by local zoning authorities that is able to be scrutinized by the Federal Courts. At the end of the day, he said, that evidentiary standard is going to be applied in the application of the local zoning criteria to the evidence presented before this Commission this evening.

The Chair, Victoria Newell, asked if any of the members on the Commission had questions for Mr. Boggs. [Hearing none.] Ms. Newell said she was really concerned that the Commission is not the correct reviewing body for this application. She said she believes that this property is historic and should be reviewed by the Architectural Review Board, as such, and not this Commission.

Ms. Newell said she noticed last night when she was looking at the property and the two adjoining parcels that St. John's Lutheran Church crosses the property line on this current site. She reported she went back to what is in the architectural review district boundaries and read the following:

"Jurisdictional Boundaries of the Architectural Review District – the Architectural Review District generally applies to properties in the original Village of Dublin and the City as identified on Appendix F as well as other outlying historic properties specified in Appendix G, which may be added in accordance with Section 153.175"

Ms. Newell remarked that Appendix F does not apply and went to Appendix G. She explained it has a list of all properties that are all listed by address. She reported she went down the list until she got to St. John's Lutheran Church at 6135 Rings Road. She said the application that is sitting in front of her and the address she read for the application this evening, is 6135 Rings Road. She indicated she does property searches all the time as an architect, as part of her job responsibilities. She said she went to the Franklin County Auditor's website and pulled up property records for each of these adjoining parcels. She found the property that the majority of St. John's Lutheran Church is located is Parcel ID: 274-000031-00. She said on the Franklin County Auditor's website, they identify the address of this site parcel as 6115 Rings Road and when she scanned down all the property information for Franklin County she got to the Site Data and it lists this 3.419-acre site as a Historic District. She went to the next adjoining parcel, keeping in mind the property line between these parcels is actually running through the existing St. John's Lutheran Church and that adjoining parcel is 273-005580-00. She looked up that property information, provided on Franklin County Auditor's website, Site Data for the 9.72-acres and again, it is listed as a Historic District. She looked up the City of Dublin Historic and Cultural Assessment, which she indicated is not officially adopted in our Code, and went down the listing of properties and found in this case, it specifically lists a parcel, and that parcel is ID: 274-000031 at 6115 Rings Road, keeping in mind the address on Franklin County Auditor's website for both of these adjoining parcels, was listed at 6115 Rings Road. She said under the property name, they list St. John's Lutheran Church and under this report it is noted as having an alternate address of 6135 Rings Road.

Ms. Newell concluded, when she took all of that information into consideration, she believes this site is actually listed and documented as being historic and that the Planning and Zoning Commission is not the correct reviewing body. She said she became really concerned after reading all of her research materials last night.

Mr. Boggs questioned, when Ms. Newell referenced the Historic District notification on these Auditor's documents, what she was looking for, specifically. Ms. Newell referenced the first page, right down to the bottom. Mr. Boggs suggested that was a header and does not substantively indicate whether that is a property in the Historic District or not. Ms. Newell then referenced adjoining sites where it only appears on these parcels; it is always appearing on the parcels that she could research and go through that were listed as historic. She said her other concern, in regard to that, if there was an addition put on the original St. John's Lutheran Church, and that addition is now part of that church, part of what is the historic structure, and it crosses the property line into the very parcel that this cell phone tower is being placed on. If there was any alteration to that addition, she said, the applicant would have to take that addition in front of the ARB. She concluded, she does not see how the City can say, that this should be reviewed by the PZC at least based on City Regulations.

Ms. Newell referenced the definitions under the ARB, in terms of alterations and read the following:

“Any change, addition, or modification in construction or any change in the structural members of a building, such as a wall, partitions, columns, beams, or girders, the consummated act of which we refer to in this chapter is altered or reconstructed. Any action to change, modify, reconstruct, remove, or demolish any exterior feature of an existing structure or of the site within the Architectural Review District.”

Mr. Boggs apologized for his hesitation here but he is digesting this as it is coming, given that the staff analysis has been that the neighboring parcel, where the sanctuary of St. John’s Lutheran Church is located, is part of the Historic District and would be under the purview of the ARB but this parcel is not.

Ms. Newell said the building now crosses the parcel line and that is the issue. She said she would agree if it was contained completely on that one parcel, but it is crossing a property line.

Claudia Husak said the problem with Appendix G is that it lists the properties by address like Ms. Newell identified them. She indicated if we determined that this property should be on the historic review of the ARB then the Appendix would have to be updated. She said she could not recall the last time that a property was added to Appendix G but that is something that would have had to have happened for this property to be under the purview of the ARB.

Ms. Newell said she found information that identifies both addresses so her application, as it was submitted to her, has the address that is listed on Appendix G; there is nothing on Appendix G that associates it with a particular parcel; it is associated with a particular address. Ms. Husak said the tower is not proposed on that address; the applicant, the authorizer, and St. John’s Lutheran Church is on that address parcel, yes. Ms. Newell said the building goes over that parcel. She suggested that once that addition was built, it becomes part of the Historic structure. Ms. Husak said it does not become part of the ARB district and in terms of that data being 100% accurate that St. John’s Lutheran Church is indeed across the property line.

Mr. Boggs said it sounds like there is a difference of opinion as to whether the parcel map line is accurate that the sliver of the church sanctuary building crosses that parcel line. Ms. Newell said it is shown on the site survey. Ms. Husak said it would be staff’s determination regardless; the address is not part of the ARB review and is not on Appendix G. Vince Papsidero said he agreed with Ms. Husak based on the adopted Community Plan.

Ms. Newell said she could not find anywhere else that it was saying that within our record. So that addition, she said, attached to the original St. John’s Lutheran Church, would come in front of the ARB, if they wanted to alter that structure under our ARB Regulations. As that crosses over the property line into this parcel; she asked how that could be excluded. Mr. Papsidero suggested staff would have to verify that. He said Ms. Newell is on the Franklin County Auditor’s site, as is he, and this is based on an aerial view. He noted we would have to survey that to understand it. He indicated that Ms. Newell’s interpretation is based on an aerial view of property records, whether or not that is really accurate or not. Ms. Newell said there is a survey in the Commission’s documents that clearly shows the boundary of St. John’s Lutheran Church crossing over the parcel line. Mr. Papsidero said the ARB’s review would be tied to the parcel and not what spills over from an adjacent parcel, based on Appendix G, when that was adopted, at that time, which staff would be using.

Mr. Stang said, as Ms. Husak stated, it is Zoning Code Section 153.175, which is a procedure for establishing future historic district boundaries. Mr. Stang said, in this case, the main church property,

which is located on the western site, was listed in Appendix G, however the subject property as to where the tower is leasing the land area from St. John's Lutheran Church was not added as part of that and would have to in the future, go through that process to be added to Appendix G. He said it would have to go through the process of Zoning Code Section 153.175.

Ms. Newell reported she read that Section. She noted that when one goes through the Board Order Standards of Review, Zoning Code Section 153.174, it states the following:

"All buildings, structures, and sites shall be recognized as products of their own time. Additions with no historical basis and which seek to create an earlier appearance inconsistent or inappropriate to the original integrity of the building shall be discouraged."

Mr. Boggs presented his understanding of the situation. He said he asks staff to correct him if his understanding of the history of this particular property is incorrect. First, he said, we have Section 153.170 the Architectural Review District boundaries so it applies to properties in the original Village of Dublin, which this is not in as well as outlying historic properties specified in Appendix G, which may be added in accordance with Section 153.175. He ensured everyone was on the same page, thus far. He said the property where this current application is located, is not in that Appendix G. He asked if that was correct. Mr. Papsidero answered affirmatively. Mr. Boggs said Appendix G may be added to according to Section 153.175. He confirmed Section 153.175 is the procedure for establishing future historic district boundaries, properties, and landmarks. He noted it refers to the designation of any area, place, building, structure, or similar object in the City and it requires the ARB to review criteria and make a recommendation to the PZC. Ultimately, he said, it requires the PZC to review that Board recommendation and make its own recommendation to City Council concerning the proposed designation for an addition to Appendix G. He said City Council then has to consider the findings and recommendations of the Board and of the Commission and then make a decision as to whether to add it to Appendix G.

Ms. Newell indicated the only problem she has with that is the building is crossing a property line on that parcel and that addition is regulated under the ARB criteria. She emphasized if you touch or modify it, regardless of what parcel it is on, once it goes over to the other one, if it is altered, it has to come back in front of the ARB. She emphasized it is over the property line. She said she does not even understand in our Zoning Code how they would have been able to build it over the property line. If you take each of those parcels individually, she said, they have required setbacks for side yard clearance that they are clearly not meeting. She asked how it is not reviewed originally, jointly between these two parcels. Ms. Husak expressed she did not think anyone disagrees with that; if it was indeed built over the property line, it was built over the property line in error. She reported that what staff is continuing to determine, is that, none of that, makes that parcel be under the purview of the ARB.

Mr. Boggs said Council, under Zoning Code Section 153.175, never followed the procedure to add this parcel to the Appendix G, Architectural Review District. He asked if that was an accurate statement. Mr. Papsidero affirmed that was correct.

Ms. Newell said a portion of that addition sitting over the other parcel, is still, because it is attached to the historic structure at 6135 Rings Road. She said when she tried to track through the addresses, the only thing we are identifying is the address of 6135 Rings Road. On the Franklin County Auditor's website, she said, they list a different address for each one of these parcels and the mailing address of the owner is listed at 6135 Rings Road. In our own historical record, that we have just surveyed and had completed by experts hired for the City, it noted both addresses and identified the addresses that are on

Franklin County's website and it said that property is also known at 6135 Rings Road. She suggested there is enough confusion.

Mr. Boggs suggested the Commission has the following options:

1. The Commission could vote as a body on whether it believes it has the jurisdiction to hear this application.
2. Alternatively or additionally, the Commission could ask the applicant if he is willing to agree to an extension of the Shot Clock period, under Federal Law, to a date when this can be resolved, if it is determined to be subject to the ARB's jurisdiction.

The Chair asked if it is appropriate to take public comment since we have someone that has already been sworn in, who expressed to speak that said that they had expert knowledge they could offer. Mr. Boggs answered since she is the Chair, it is her meeting. Ms. Newell said she did not want to violate procedures so that is why she is asking legal counsel. She said it seems to her that the Commission could collect some facts if they are going to potentially vote on whether they have jurisdiction on this case or not. Mr. Boggs said he was looking through the rules to see if the typical order of business is committed to rule and he said he does not believe it is so; it is the decision and at the discretion of the Chair.

The Chair invited Nelson Yoder to come forward to offer expert testimony that he eluded to earlier in the meeting but was not recorded as he had not stepped up to the microphone.

Nelson Yoder, 5927 Rings Road, said he has an escrow property at 5927 Rings Road and just went through the ARB process over about a six-month period this year and that was tied in fact that his property was added as an outlying historic landmark, one of 12 in the City, established back in 2012 or 2013 as part of the City of Dublin's efforts to preserve outlying historic landmarks. He said everything on his property is associated with the property.

Mr. Yoder said the special knowledge he wanted to add to that is he was living on Wilcox Road when St. John's Lutheran Church was built, the addition was built in the 1990's, which was a few years after the Annexation of the church to the City of Dublin. Mr. Yoder said his property was annexed in the early 1990's. So it was built in the City of Dublin. He said he does not know why that parcel would not have been abandoned but one could research the minutes and it may have been a requirement of the applicant to combine parcels and it was never done. He said that would not be the first time that has probably happened but he wanted to add that the Historic Landmark language was added in 2012, the church was built in 1990's, the Annexation happened prior to that. He said the reason why the original addition to the church was not seen by the ARB was because it was in the City of Dublin, the outlying Architectural Review Board Standards did not exist at that time so it would not have come under their purview.

The Chair asked Mr. Yoder what he does for a living. Mr. Yoder answered he is a licensed architect and a National Board Certified Architect from the class of 2004. He said he is also a Real Estate Developer with a Master's Degree in Real Estate Development and Finance.

Jane Fox confirmed she sat on the ARB. She said she was thinking that if St. John's Lutheran Church came to the City and asked to do some renovation at the church at all, even if it was on that parcel side, it would have to go before the ARB. Ms. Newell said that was her point. She said she has a survey by a State of Ohio Registered, Professional, Surveyor, John W. Evers, 7869 and it clearly shows St. John's Lutheran Church sitting over the parcel line of Parcel ID: 273-005580-00 and so anything that happens to that structure, based on our regulations at the City of Dublin, goes in front of the ARB and not this Commission.

Mr. Boggs asked the Chair, in the interest of providing the Commission with the best advice and interpretation of staff that we can, if he could request that the Commission recess for a few minutes so counsel and staff can collect their thoughts on all the information that has been presented over the first few minutes of this meeting so they can more fully and thoroughly advise the Commission. He requested a 15 minute recess.

**Motion and Vote**

Ms. Newell moved, Mr. Stidhem seconded, to adjourn for a 15-minute recess. The vote was as follows: Ms. Fox, yes; Mr. Miller, yes; Ms. Mitchell, yes; Mr. Fishman, yes; Mr. Stidhem, yes; and Ms. Newell, yes.

Mr. Boggs confirmed the recess until 7:45 pm. The Chair called the meeting back into session at 7:47 pm.

Mr. Boggs stated they had the opportunity to look at the history of the parcels as well as the history of Appendix G. The parcel where the tower is proposed is Parcel ID: 273-005580-00 in the Franklin County Auditor's Tax Parcel Information System. He said it has the address of 6115 Rings Road – that parcel was split from the parcel at 6135 Rings Road, in 1976. Appendix G was adopted in 1980, he said, with 6135 Rings Road in the Appendix. However, he said, by that time, the parcel split had occurred according to the Auditor's Historic Transfer Sheets. When St. John's Lutheran Church parcel was designated in Appendix G, in 1980, this parcel was separate, which is now known as 6115 Rings Road. He reported there has been no subsequent action by Council under §153.175 to add 6115 Rings Road to Appendix G and therefore, the 6115 parcel is not under the jurisdiction of the ARB, notwithstanding the encroachment of the structure on 6135 Rings Road onto 6115 Rings Road.

Ms. Newell noted an exception – Parcel ID: 274-000031-00, the address that is listed for that site, on the Franklin County Auditor's is 6115 Rings Road. Both sites have the exact same address on the Auditor's website.

Mr. Boggs asked what the first parcel ID was. Ms. Newell answered 274-000031-00 identifies that address on the Auditor's website as being 6115 Rings Road. She noted the Ohio Registered Survey that is in their packet this evening, was approved by John W. Evers, Registration No: 7869. She indicated the majority of St. John's Lutheran Church is on Parcel ID: 274-000031-00 and that the Auditor's list noted the address as being 6115 Rings Road. Although it is a small portion, she said, and there is not a dimension on that, it could be four feet extending across Parcel ID: 273-005580-00 and that parcel on the Auditor's website. She said St. John's Lutheran Church is also listed at the address of 6115 Rings Road.

Mr. Boggs clarified 6115 Rings Road is not on Appendix G. Ms. Newell agreed but said neither site is identified as 6135, except if you scan on the maps on the website, go through the Auditor's actual map, and scan back, and then the site does identify the structure address of St. John's Lutheran Church on their map as being 6135 Rings and in our Historic and Cultural Assessment, it noted that site was identified under both addresses (6135 and 6115).

Mr. Papsidero said, for clarification, staff uses the City's GIS Mapping database – 'Dubscovery', as the primary source for identifying all tax parcels within the City, not the Auditor's website. He noted Dubscovery has the correct addresses in the database and on the mapping. Ms. Newell said she is still stuck on the building crossing that property line.

Mr. Papsidero said, from a staff perspective, they are bound by what is adopted by City Council. The Council adopted the 1997 Community Plan, which included Appendix G. Subsequent to that, he noted Council adopted the Zoning Code Amendment that added Appendix G at the end of the Zoning Code as an appendix. He said staff is bound by those documents; that is their legal obligation and not what

occurs on the Auditor's website or when a building crosses a property line. He added that is not relevant to what they are bound to do as administering the Zoning Code. Ms. Newell stated she believes it is relevant when it crosses the property line because the structure that is crossing that property line is on the site staff is saying is bound under the ARB. She asked how Mr. Papsidero can separate the portion of that building that is crossing that property line, attached to St. John's Lutheran Church that staff has already agreed needed to be reviewed under the ARB and not say we are affecting that property on this parcel. If they wanted to do anything to their church property with that addition, Ms. Newell said, it has to go, by our regulations, in front of the ARB. Mr. Papsidero said, from a staff perspective, that building, and ARB's legal authority, were tied to the property boundary, however that occurred, because we do not have the ability today, at this moment, to research the construction permitting history of that property because we were given no advance notice of this issue. However, he said based on the fact that Appendix G is tied to a property boundary at an address, they would limit the ARB's authority to any changes on that parcel, regardless of the fact that the building extends onto an adjacent parcel because it is not listed on Appendix G, as adopted by City Council. Staff is bound by that he emphasized.

Ms. Newell asked where Mr. Papsidero is identifying the parcel that is address 6135. Mr. Papsidero answered Dubscovery, the City's GIS map. Ms. Newell asked if Franklin County is identifying the property and tax parcels, how one has authority over the other because they are a legal entity – this property is in Franklin County. Mr. Papsidero once again said staff is bound by City Council's legal authority and our database. Ms. Newell said, as a city, we are bound under the state laws and county laws. Mr. Boggs said that statement is not accurate. He explained the City of Dublin is a municipal corporation, which have a separate basis of authority from counties in the Ohio Constitution. He said the Ohio Constitution gives municipal corporations home rule authority to exercise powers of local self-government. Counties, on the other hand, he said, are instrumentalities of the state and so counties can only do what the state says; the state has direct authority over counties. Counties do not have direct authority of any kind over cities. Mr. Boggs explained there are certain instances when they cooperate, such as in the collection of taxes where by virtue of provisions in the Constitution and State Law that the County Auditor for example collects all real property taxes and then distributes them back out to municipalities but the city is not bound in its Zoning Code to follow the distinctions made by the County Auditor, for his/her tax collecting purposes.

Ms. Newell said she had another question in regards to the church's structure because it is sitting, clearly, over a property line. She said she sat on the Board of Zoning Appeals and chaired that Board. She said they would have residents that came in who had similar instances where they constructed something over the property line and had to come in and get a Variance. In this instance, she said, she is baffled by how there is a structure that is sitting over the property line when it is attached to the existing building that is deemed of being a historic piece of property, how this site is not affected. Mr. Boggs answered the outlying parcel, as opposed to the building, when we speak about this structure having perhaps an encroachment onto Parcel ID: 273-005580-00, where the applicant's proposal is located, that is a separate consideration and whatever the church would need to do to bring their sanctuary structure into compliance with the Zoning Code. It is a separate issue from the application tonight.

Mr. Miller asked if this application were to go to the ARB, would the ARB have any additional criteria to apply than what the Commission has in front of them currently. Mr. Papsidero answered the ARB would; and it would be a more stringent level of criteria in terms of architectural materials etc. under their Code for historic properties.

Mr. Papsidero asked the Commission to recall this past year, when a historic preservation consultant did a Historic and Cultural Inventory of every single building in the city limits and in the planning area boundary. For this property, he said, St. John's Lutheran Church property as listed in their assessment, which he has in front of him, states "the properties listed in the National Register of Historic Places is part

of the Washington Township. RMA, which is a regional designation.” (He indicated the mid 70’s). He said there is confusion about the address, albeit under the address of 6135 Rings Road. Due to a loss of historical integrity, because of the additions to that building, it is recommended that NRHP designation be re-evaluated.” Mr. Papsidero concluded the historic preservation consultant questioned the historic integrity of that property recently because of all those additions, which are 43,000 square feet and an expansion of 405% over the original church, located at the northwest corner of the building at the furthest point away from the subject property. He emphasized that was an important piece of information.

Ms. Newell affirmed she read through that report and it also states, “Although the addition is very large, much of the original building is still intact.” While Mr. Papsidero states the historic preservation consultant recommended the property should be re-evaluated, it is currently historic and the addition onto that building would have to be reviewed under the provisions of the ARB and that addition is sitting over the property line of this parcel that is in front of the Commission this evening. She restated she cannot get around that.

Ms. Husak suggested that if an addition were proposed to the church portion that is across the property line, for that addition, again, staff would have to figure out what kind of process that has to go through. She said she agrees with Ms. Newell that it would require a Variance and require a lot line adjustment but it has nothing to do with what is in front of the Commission this evening. She indicated it is something staff can certainly research and report back to the Commission on when there is more time to do so. Mr. Boggs emphasized that is a different question from the application tonight, which is on a parcel the address of which is not in Appendix G, which delineates the boundaries of the ARB’s jurisdiction.

Ms. Newell said part of the things the Commission considers by review is how a proposal would impact the surrounding property.

Mr. Boggs asked if we are moving on then from the question whether this application should be remanded to ARB and onto the merits portion of the application. He said he wanted to be clear on where we are in our agenda. Ms. Newell said she would like to hear her fellow Commissioner’s comments; therefore, the application should be up for discussion.

Deborah Mitchell stated clearly there was an error at some point because this building extends across the property line and everyone acknowledges that. She said when it comes to historical designation, it is a building and like a baby, you cannot cut it into pieces. At this point, she said it is a building and that building has been designated historical and so when there is a conflict between the holistic building and the property line, she asked which trumps what because logically, it might be different from what the law states. She said sometimes the law is unclear or that there are issues that have to be settled and she does not know if there is any precedence about this but logically, from a human perspective, from a perceptual perspective, that is one building and that building has been designated as historic. She said she does not know how we can state part of this building is historical but part of it is not, and therefore, the part that is across the property line is therefore not that parcel and not subject to historical considerations. Perceptually, it is a building Ms. Mitchell said, and even in what has been brought to the Commission in considering how to build this tower and what it should look like and so on, there were lots of efforts made to make it look like it blends in with that building, which means it is related to that building, which makes sense. She said the Shot Clock is a serious thing and it is a consideration but it is also two weeks away. And while it might not fit the normal planning cycle for PZC and ARB, she said, we can still have time to perhaps settle this beyond tonight and still be consistent with the Shot Clock. She said she would not want us to rush forward based on the fact the shot clock is January 31, when to her, this is a real question. She said clearly there are two different views about what designates what is historic and therefore subject to historical considerations.

Warren Fishman said Mr. Papsidero mentioned that an agency recommended that the church property be reviewed because the addition was so large. It did not get reviewed yet, he said, so it is what it is. He clarified it is a historic building and it is over the property line.

Jane Fox asked if there is anything in the criteria that addresses consideration of historic properties and cellular tower placement. Mr. Boggs answered, the criteria in Code 99.07 for Conditional Use of wireless towers does not specifically note effect on historic properties; they refer to the height and its proximity to residential structures and residential districts; and the nature for the potential for adverse effects on uses on the adjacent and nearby properties and the surrounding tree coverage and foliage and the ability to screen facilities from view of nearby properties. He said the criteria that the wireless application is evaluated on under City Code, does not address historic properties specifically. And the reason for that may be that if there is a wireless application proposed in the Historic District, the application would get that extra ARB review under more stringent criteria. However, as we get to the law versus logic, what the Code states is that 6135 Rings Road, the address, is in Appendix G and Appendix G is in the ARB purview. He said this parcel is 6115 Rings Road, whether it is logical to draw the line based on the address or not, respectfully, is not the legal question. The legal question in Code is the address and the address is 6135 where the church is and 6115, which is the parcel.

Ms. Mitchell asked again if there was any precedence in the law where in other situations there has been this conflict between a structure that extended over a line inadvertently or for whatever reason and a dispute about where a historical district begins and ends. Again she asked, within the law, has anyone dealt with this. Mr. Boggs answered there may be precedent with regard to Federal Historic District type questions but as to the application of this Code, which is what this reviewing body has before them tonight, there is not a precedent and certainly not what he is aware of for a structure that encroaches from a Historic District parcel to a non-historic district parcel. Mr. Boggs said we are talking about the structure on historic parcel encroaching. Yet the parcel and the remainder of the parcel here, is not within Appendix G. So it seems like the question we are getting hung up on is what is the status of the sanctuary structure that encroaches but the status of the remainder of the parcel is still outside of the Historic District. Ms. Mitchell said from her perspective that is the error she is talking about.

Ms. Newell said under Chapter 99 for our wireless communication regulations on page 10, Section D, it states "historic register/district" "in an application to locate a Wireless Communication Facility on a building or structure that is listed on a Federal or State Historic Register are within the architectural review district and should be subject to review of the ARB and Chapter 99.11 in addition to any other required reviewing procedures. She said it is not just how the City has this structure registered. It could be also on a National Registry of Historic Places. She said she did not know if this structure has that designation or a State Historic Registry. She said it is her understanding that this structure is in the State Historic Register. Mr. Papsidero said the parcel that contains the church is on the National Register; there is no state historic register. He clarified there is an Ohio Historic Inventory Data Sheet filed on the church and the parcel that it sits on. He added the subject parcel is not listed on the National Register.

Steve Stidhem asked if the church decided to sell that parcel, if there would have to be a re-drawing of the property line. Mr. Papsidero confirmed the property line would have to be adjusted at the time of the transfer. He added the tower would have to meet the side yard setback requirements. Ms. Fox said, if that were the case, then the 100-foot yard setback would not apply any longer. Mr. Papsidero said it is hypothetical at this moment so it is not relevant to what is before the Commission this evening. Mr. Stidhem said the reason he brought it up is because that could happen and then all of those multiple procedures would have to occur. Mr. Papsidero said the result would be if the tower is existing on that property, it would become non-conforming at that point because of the setback.

Ms. Fox requested clarification when she asked about the Federal Government and its standard of review in the law, concerning the impact of Wireless Communication Facilities and historic structures or properties. She asked if they identify that as a criteria for consideration anywhere in the law. Mr. Boggs answered, under the Telecommunications Act, subject to local zoning authority, historic impact is not one of the limitations or five points that have been laid out. It is the 'reasonable period of time' and the 'substantial evidence' that he outlined previously that is the standard of review in the law.

Mr. Fishman said the church has the right to sell that property and if they do sell that property, and the Commission has already approved the tower's location, the tower now does not meet the setback. Therefore, as responsible citizens, we are setting up a situation that could be a huge problem five or ten years down the road. He said we are aware of that problem now and it is not in our best interests to approve something that we know is going to cause a disaster, if the property gets sold. In other words, he emphasized, it is our responsibility to do the right thing for the City and the applicants. Ms. Newell said that is why we are having this discussion and she does not want to make a bad thing worse. Mr. Fishman confirmed it is a separate lot that this church has the right to sell off but if they do sell off a separate lot, the Commission just approved a tower that sits in a situation that is going to cause a legal problem down the road and he said he does not think the Commission should do that. He indicated he was just trying to be logical.

Ms. Mitchell said, to build on Commissioner Stidhem's comments, even though it is hypothetical, if St. John's Lutheran Church did sell it or want to sell the building it would take precedence over the property line; the property line would be redrawn and setbacks would change. Even though it is hypothetical right now, she suggested the Commission considers that because the church has the right to sell it. She said we do not know what will happen in the future and we know that if a sale was proposed, the property line would have to be re-drawn because again, the building would take precedence over the line.

Mr. Fishman said we are creating a situation that could be a disaster down the road and we have full knowledge of that; the tower placement would not meet the setbacks.

Mr. Boggs repeated what Mr. Papsidero had said, if the lines were drawn in such a way that the tower did not meet new setbacks on a reconfigured lot, in this hypothetical situation, which he does not know from the measurements that that would necessarily be the case. He suggested a property line could be drawn but a non-conforming setback would be created and the structure could not be added or expanded. Ms. Newell said the point is, the Commission knows that we have that issue now.

Mr. Papsidero said we would share that; we could not administratively approve that lot split knowing that we would be creating a non-conforming situation on an adjacent parcel so it would make it very difficult to sell off that property for the church.

Ms. Newell suggested the church would do a Lot Consolidation and then it clearly puts the historic property on this parcel. Mr. Papsidero repeated that would be a hypothetical.

Mr. Fishman said a separate lot can be sold and either way we have a problem. Ms. Newell said staff is asking the Commission to ignore the fact that a legal registered survey shows the property that is listed that is very historic on this parcel.

Ms. Husak said the church also owns the other parcels surrounding this particular parcel and has owned and operated this church for 117 years so we have no indication whatsoever that a sale of this property is in any way, shape, or form, pending.

Mr. Boggs said there are questions about hypothetical sales, etc. but the Commission should be focused back on the criteria for a Conditional Use Review under the Wireless Code and the criteria for Conditional Use under Zoning Code Section 153.236 that are incorporated within the wireless Code. He suggested this meeting is operated in a different order than we generally have in terms of providing the applicant the ability to speak and the members of the public the opportunity to speak. He said he did not want to lose sight of those rules that are spelled out in the Rules and Regulations. Ms. Newell agreed.

Ms. Newell recalled Mr. Boggs potentially had two suggestions that the Commission could vote on: whether they believe they could formally hear this case this evening or ask the applicant if they wanted to extend the timeframe so this could be better researched. Mr. Boggs added, in the event that the Commission determines this should be in the ARB's purview, which in the opinion of staff, it is not, as we have explained, then he would suggest setting a Special Meeting with Planning to determine what ARB's schedule is like. Ms. Husak said staff would not be able to meet notification requirements within the Shot Clock period.

Ms. Newell requested Planning to explain, if potentially the Commission all voted no, how that would affect the City. She said the Commission would take that result into consideration whether they hear this case or not. Mr. Boggs answered, if the Commission voted not to hear this case, staff would direct the application back to the ARB as sort of a remand based on the finding by the Commission that does not believe they have jurisdiction. He said this application would be placed on the ARB's agenda and the timing of that is in question because of the notice requirements. He said the Commission could then set a Special Meeting for the PZC after the ARB makes a recommendation, prior to the January 31, 2018, date, assuming we could get this on the ARB agenda.

Mr. Boggs explained the importance of the January date is that the text of the law states "The action must be taken within a reasonable period of time." The FCC has interpreted the reasonable period of time to be 150 days from the submission of the application; anything under 150 days is presumptively reasonable, after 150 days or extension we already have, to get us to January 31<sup>st</sup>. He said after that, if an applicant has not received a decision, they have the right to file an action in the Federal District Court and they would be arguing the City has not acted within a reasonable period of time. He said it would then be up to the City to defend itself and say that due to complexity issues or any number of factors that could be pulled from the record that indeed the City is moving within a reasonable period of time. He said the City loses that presumption of reasonableness after the expiration of the Shot Clock Period.

Ms. Newell asked Mr. Papsidero what the reality is of being able to accomplish a hearing by the ARB for this applicant and then a return to the PZC by January 31. Mr. Papsidero stated the only thing achievable, assuming we can take this case to the ARB, is that we could have a Special Meeting on the 31<sup>st</sup> of January that allows the City to meet notification requirements. At that point, it will not come back to the Commission. The Conditional Use is still an issue, regardless. Unless the applicant chooses to extend the clock, the next step would be Federal Court.

Ms. Husak said at this point, we would not know if we will have quorum on the 31<sup>st</sup> for the ARB and whether or not the ARB actually does have jurisdiction over this case, which still needs to be researched. Mr. Boggs indicated a possibility would be if this Commission is with the opinion that the ARB has jurisdiction. He said the Commission could vote on the Conditional Use, with a condition of any approval being, if it were to be approved as a Conditional Use or the condition of that approval is that it goes through the ARB process but it is an open question whether the ARB has jurisdiction to hear it. Mr. Stidhem said he is not passionate on whether the ARB hears this proposal or the Commission does but what he is passionate about though is if that property line is in the wrong place then that means that setback is in the wrong place.

Mr. Papsidero said that property line is a legal property line regardless of the placement of the structure so the setback is correct.

Mr. Stidhem suggested if the Church decides to sell the property, then they are going to change where that line is.

Ms. Fox asked legal about the verbiage connected to the Conditional Use – “The nature of the potential for adverse effects on uses on adjacent or nearby properties.” She suggested the Commission is at least at this point, seeing some substantial evidence that there is a potential for an adverse effect on that adjacent property, if they look at it as a separate parcel. Looking at these as two separate parcels, the church being the adjacent property owner, is going to experience the potential for adverse effect, she said, if they try to sell the property. The Commission would then be allowing what they know to be a potential problem with setbacks to occur. She asked if in the criteria, if there is not substantial evidence that says that the Commission is creating a potential for an adverse effect for the adjacent property owner being St. John’s Lutheran Church. Mr. Boggs noted the church owns both properties. Ms. Fox said if we go with the argument that these are two separate parcels, and that St. John’s Lutheran Church is a historic parcel under the ARB’s purview, and this parcel – 6135 is a separate parcel owned by St. John’s Lutheran Church. If the Commission says yes to the cell tower where it is proposed, the Commission is setting it up for the potential adverse effect when St. John’s Lutheran Church goes to sell the other parcel, which they have every right to do. She indicated the City would have created a 100-foot setback that we know they have to change the property line on because they cross over. She said if they did not cross over the property line, of course, there would be no adverse effect, they could sell the property, and someone could create a garden for example and not put up any structure. But the Commission knows that they will be forced to change their property line in order to sell the property in the future and the Commission will have created an adverse effect by allowing the cell phone tower with a 100-foot setback. She said she does not know where the property line could be drawn and not affect that 100-foot setback. It is an adverse effect on the parcel to the left. It is an economical adverse effect because St. John’s Lutheran Church will not be able to sell the property because of the property line issue that they have to change, in order to have clear title.

Mr. Boggs reiterated the church selling the parcel where the sanctuary sits, is a hypothetical. Ms. Newell stated it is not a hypothetical that the church sits over that property line, currently. Therefore, she said, they are in violation of the City’s zoning regulations because they are over that property line. She said there is a real issue; there is an issue for St. John’s Lutheran Church that is ultimately going to have to be resolved in some fashion. She emphasized the church is crossing over a property line on a legal survey on this site. Mr. Boggs said the Commission has that evidence in front of them; the nature of the potential for adverse effects on uses on the adjacent and nearby properties is one of the criteria. He said as the Commission, they are arbiters of whether the evidence in front them, indicates that factor is not met and whether that factor is sufficient to approve or deny this application.

Mr. Fishman suggested the whole problem could be resolved if the Commission asked the applicant to give an extension and then the Commission can work through this and make sure the applicant has a fair chance of getting the proposal approved.

Mr. Boggs said the Commission could certainly ask for an extension. The Chair invited the applicant to come forward.

Jim Mathews, a lawyer with Baker, Dublikar, Beck, Wiley, and Mathews, here on behalf of TowerCo and the applicant this evening. He said he has sat with his clients and listened to the discussion that we have had from the Chair and the Commission so far, and from his observation, part of the purpose or goal of the Telecommunications Act was to avoid the imposition of procedural impediments on the deployment of

cellular telecommunications facilities. He stated what has been brought up tonight, fits that category of a procedural impediment that is inappropriate to interject at this point of the proceeding. When the application was tabled the last time, he said, the applicant was requested to meet with some residents, church officials, planning officials and such to discuss some concerns based on adjustments perhaps and in fact, the applicant has done that. The applicant has taken upon itself to make adjustments to the application, to remediate any concerns about the height and setback requirements, and that is in order to bring this tower into strict compliance with the regulations that were applicable to its construction. Having taken that additional time and followed the City's instructions to meet and try to address those problems, at this point in time, he indicated the applicant is not going to consent to another adjustment of the time in consideration of this application.

Mr. Miller said he wanted to make sure Ms. Fox's point is clear here. The adverse effect ironically, of the re-drawing of that line, the line has to be re-drawn and nobody is disputing that. The existing building is crossing over into the second property. He said the City could be adversely impacting St. John's Lutheran Church per their ability to sell that property in the future and does not believe that is hypothetical. He said we would literally adversely impact the church in a negative way; and they are not even represented here tonight. He said he does not know how we can justify doing that, putting them in harm's way.

Ms. Mitchell confirmed with the current setback that is correct. Mr. Miller said the setback is going to be impacted when/where the line is re-drawn. Ms. Mitchell agreed. Mr. Miller said the question is - will the setback come into play and if it does, it is going to impact the ability of the church to sell that property.

Mr. Boggs said we all know that the church owns both parcels. Mr. Miller said he understands. Ms. Newell restated the church owns both parcels and if each parcel is considered individually, and that church is sitting on and over the property line in the other parcel, because of the survey we have, it has been brought to light to the City of Dublin. She asked if the City is not obligated to inform that church owner that they are in violation of our Zoning Code because they are sitting over a property line. At which, would they not have the opportunity to make an appeal to the Board of Zoning Appeals as one remedy to be allowed to sit over that property line. Mr. Boggs answered we do not know at the moment, based on this evidence brought to everyone's attention this evening, whether that existing encroachment over the property line is a pre-existing non-conforming use, meaning that it is legal, allowed to exist because for whatever reason the parcel was split after it was constructed or the setbacks were made after it was constructed. He emphasized we do not know that history to be able to speak confidently as to whether the church is even in violation of the Zoning Code or whether the church is just a non-conforming structure at the moment.

Mr. Miller clarified his position by stating he really believes when it is all said and done that this particular property is not going to be part of the Historic District. He said he is really stuck now on this point that we are not giving St. John's Lutheran Church the opportunity to understand that we are impacting their ability to sell this property in the future. He said he does not have a problem with hearing this case; he said he applauds incredibly the amount of work that Ms. Newell put in. He restated he really and truly believes, this is not part of the historic property but he is stuck now on impacting St. John's Lutheran Church without them understanding the impact, which could decrease their property value and increase this property value.

The Chair asked if there was a representative in the audience, representing the church. [Hearing no response] She asked if everyone on the Commission was in agreement to hear this case this evening. She said she thinks they have to make a decision on whether they are officially going to hear this case and suggested taking an informal poll.

Mr. Boggs asked what exactly is the question being placed before the body. The Chair explained nobody made a motion so that is why she asked if anyone wanted to make a motion for whether the Commission hears this case or not. Mr. Boggs suggested if there is a motion on this type of question, a motion for whether the opinion of the Commission, that the ARB properly has jurisdiction to participate in this process because we are not foreclosing the possibility that the Commission can act on the Conditional Use request tonight. The Chair determined to just hear the case in front of us.

The Chair called the applicant forward and asked if there was anything else they would like to share with the Commission this evening.

Robert Ferguson, United Acquisition Services, the applicant for Verizon Wireless and TowerCo. He said he appreciated everyone's comments and patience tonight. Because of the new members on the Commission, he said he would provide a brief overview of why they have the need for cell towers.

Mr. Ferguson said when an RF Engineer puts a dot on a map, they generally put it in a location where they desire either coverage or capacity. He said coverage is where there is none and they seek to establish a cell tower or signal, which then puts a signal in that geographical location for people to be able to use their devices and phones. When that started back in the mid-80s, he explained, wireless companies targeted populous areas, downtowns, airports, highway systems, and the connectors, and those were the areas they made the effort to cover first. He added one of the places they waited on, because they were challenging, were residential areas. The advent of the cell phone, iPad, iPhone, and all the devices that many folks here use every day has added additional capacity issues to that network he said, and that is really the problem that this location faces. He said there is coverage here and you will hear folks say, they have no problem placing a phone call and he is sure they do not but there are capacity problems. He asked that we keep in mind, it takes a long time to get a cell tower established and built. In this case, he reported, the search started in 2007 and they looked at multiple properties that were available.

Mr. Ferguson reported there is a tower north of the St. John's Lutheran Church location, 0.9 miles away and called Avery and US 33 and that tower has been there for quite some time. As devices make their way to the market place and as technology increases, he explained, the need for that capacity in a more residential setting increases because that is where you live and sleep, and not always in an industrial zone. He said the advent of those devices contributed to a growing need here over the last 10 years. He restated they have looked at multiple properties here back in 2007. He indicated they looked at Kaltenbach Park, Parks Drilling, the Washington Township properties south of the Kaltenbach Park location and they talked to the City of Dublin about that and they discussed what made the most sense, while trying to be good neighbors to the development of the community. He stated those locations were deemed not suitable for a variety of planning and development standpoints; the only large parcel they had left to go to was St. John's Lutheran Church. He said the applicant continued to talk to St. John's Lutheran Church about what made sense to them in terms of the type of tower that would go on their property. At one point, he said, they were on a wood pole near the park with a lease area and as they did their investigations, and laid things out, the applicant found they would not meet setbacks. They went back to the church and that is what more or less got us here.

Mr. Ferguson indicated the applicant looked at a lot of different opportunities and what would make sense. He said they considered a flag pole made out of pine but when they reviewed the Code changes that Dublin had enacted in 2013, it had become a more restrictive Code. He said one of the criteria was an 80-foot height barrier and that was new for the Columbus Metropolitan area.

Mr. Ferguson said they refocused in on the church being an aesthetically designed structure and they focused in on the church steeple that sits out in front of the school and considered modeling their

application after that. He indicated when they first put the bell tower design together, they were at 144.8 feet and that included a decorative roof structure; 28 feet of that was decorative to make it look like that church steeple, as much as they could. He said they knew they needed coverage at the time but there was that 80-foot height restriction.

Mr. Ferguson said the applicant sent the application to staff to try and get a litmus test on the design within the new Code. He said the response from staff was they suggested the applicant go back and work on the application some more because 144 feet was too tall. He said the bell tower at that time was still an architectural element that mimicked that church steeple but there were open spaces on it and Verizon's rad center would have been at 120 feet and there would be co-locating cell carriers below at 110 feet and 105 feet. He said they met with the City and went over the reasons for the height and they helped firm 80 feet.

Mr. Ferguson indicated the applicant considered dropping that design. First they met in the beginning of 2017 and in February 2017. They considered creating a tower that was 80 feet tall, with a flat roof, that met the Code and then another tower that was 104 feet tall but again had the element of roof structure more to mimic the church steeple. He indicated that effort was discussed and they submitted an application in June 2017 of which they received a lot of feedback from residents and the PZC about the materials proposed. He said they had a full recommendation from staff of approval on that application with the same 4 conditions and criteria that we have before us this evening on a second full approval. After the August 10 meeting, they went back to the drawing board. He reported the applicant met with Bill Yoder as he had 14 properties of which they discussed the merits of and how they would or would not help their cause. He said the one thing the applicant kept coming back to was that St. John's Lutheran Church property because they had the ability to meet the setbacks on that parcel and they had reduced, yet again, the height and scale of the tower to do that in an attempt to make it more aesthetically pleasing to the community.

Jason Woodward, TowerCo, thanked the Commission for hearing their case this evening. After that August meeting, he reported the applicant had a great deal of discussion about how and what properties may be applicable to them. He explained, the applicant considered relocating in the sense of taking in the feedback from the local neighborhood as well as Dublin itself.

An area map was presented with 14 parcels identified that were provided to them as potential sites but some of them are not suitable. The parcels were highlighted as one of the following identifiers: Existing Site; Suitable Alternative, Possible Alternative – Against Community Plan; Not Suitable – Available Land Area; and Not Suitable – Adjacent Residential.

Mr. Woodward discussed with the Commission the pros and cons of the various sites identified:

- He said there was a lot of concern that the Ballantrae neighborhood would be adversely affected by placing a tower near Avery & Woerner-Temple Roads so again, they came back to St. John's Lutheran Church's site as it is more suitable for their application.
- That being said, the car wash was not interested in leasing to them at all. Parcel #5 (Possible Alternative – Against Community Plan) was owned by that exact same company and they approached them about buying the actual house there. The applicant had to consider if they would buy the home and either donate it to the City, or build a stealth pine tree there. He said there are a couple of issues. First of all, they were in a contract agreement so the applicant was too late to the show and they were not willing to walk away from their contract in order to sell the property to the applicant, which is understandable.

- He said they made a very valiant effort going after the car wash. There were some folks in the neighborhood that actually assisted the applicant to reach out to the landowners through their relationships to really investigate if the car wash site - Parcel 6 (Possible Alternative – Against the Community Plan) would work. Once again, they were in the process of expanding their car wash and the only place to build a tower was in a corner parcel property where there was a storm retention drain and they would have been only 50 feet from a residence.
- That led them to the neighboring property – Parks Drilling, he said, and the property owner was not interested.
- He said with Parcel 3 (Possible Alternative – Against Community Plan), the applicant offered the gentleman a pretty respectable lease rate, which was higher than what they were offering the church at the time, to see if they could get some interest. He indicated the applicant had their interest in the beginning and then the gentleman came back stating his property was too valuable. He said if he were to sell it for redevelopment, the tower would be right in the middle and to try and meet setbacks is not going to be viable for him.
- All these doors have been closed to them. Then they were approached by the City for another option. Again, this is the applicant working in correlation with the City to try to come up with ideas to lessen the impact on the communities as much as they could. In this situation, He noted there were two municipal-owned properties and they were targeted for the installation of an 80-foot stealth pine tree. He said the applicant felt that if they could try to get one of these to work, it would not be very viable. Unfortunately, with the park that is to the northeast, Balgriffin Park, it started causing a cross-interference issue with RF. He said they were basically four tenths of a mile further north away from their current proposed parcel. He said in doing so, they started having an adverse effect with the tower at Avery and US 33. He explained that when you get too close to towers, you have to turn down the network and it subsequently affects that tower and then the other tower has to make up for it so they basically start competing for coverage. They are fighting for the use of your phone. In doing that, it adversely affects the whole network. After meeting with Verizon, it is not a viable option.
- That led them to another site that worked a little bit better but was not 100% because once again, they were not going to meet any setback. They decided they did not want to see an 80-foot tree in a flat field with no other brush around it as it would be irresponsible on their behalf.
- In a bigger picture, they have tried to go with other properties but the Dublin Code is drawing them to St. John's Lutheran Church property because of the setback requirements. In a bigger picture of things, not only is it that the hand sets and devices demand the extra capacity and coverage, other sites in Dublin have to be considered too as they are completely capacitated – running at maximum capacity for data that is being used. He said when a text does not get sent or a picture, the problem is usually capacity.

Mr. Woodward noted there are thousands of people at the Dublin Irish Festival or the Muirfield Event each year. He said the drain that is on a network at concept basis is overwhelming for Verizon and that is really why the need is here. He indicated he understands everyone focuses right on this area but this is a Master Plan of sites, not only just this area is being affected.

Mr. Woodward explained when a macro site is built (tall cell tower) it does a lot of work for the overall network of the surrounding sites. It will help offload other sites that are capacitated, trying to infill that hole. He said there are existing sites that are already in place in Dublin because of the Code being so restrictive. He said the applicant is in a position where they have a lot of existing sites and they are

threading the needle to get the best solution. He said they are not just looking for the best solution for Verizon, they have to look for the best solution for all the carriers. He added putting a tower next to an existing tower is counterproductive and they are in a position where they cannot do that.

Mr. Woodward said there is a big influx of service and a huge future demand that they are seeing from Verizon's data. He said the reason they want to go after these sites is because they see in the future that the data peak is actually growing faster than they can keep up. He pointed out that all the kids and their friends are on all these devices all the time and everything is wireless: data, and video, etc. and that drains the network. He stated Dublin is a very big, growing community and a technology based community. He indicated Dublin has more advanced technologies than other cities and those technologies are based on a lot of what Verizon provides.

The Verizon LTE network that is out here today, he said, is basically being used not only for cell phones but it is being used machine to machine, which means something as simple as a vending machine that is owned by Pepsi Cola that has a wireless band in it states how many of those sleeves are empty and how many are full. He said that network controls how many times a delivery truck visits that location to fill up the empty pop cans.

Mr. Woodward added Dublin's 911 system is being run by Verizon LTE. He suggested we need better coverage in our community and it is their job to bring that to Dublin. He said the City of Dublin is a customer of Verizon. He indicated there is a great deal of growth with just general technology. He said there was an announcement this morning by our Governor that actually just signed an amazing deal where we are going to start doing smart-connected corridors around the entire state. He stated the amount of data and driving of these new technologies is the core of everyone's business and in order to have that, we need to have cell sites. The advantage is, he said, they are doing everything they can to conceal them. He said they want them to fit the community as best as possible.

Mr. Woodward said they have chosen this site and worked very diligently to make it look as good as they possibly could with the church. He recalled the last time they were before the PZC there was a lot of questions about the materials proposed. He said they brought a lot of samples tonight and are willing to share those. They have an actual brick sample to reflect the actual color that is being used, matched at the church. He said he has some photographs of actual products that are built by this company, which is called Stealth. He said Stealth is the premier leader of concealment in the wireless industry. Stealth is been in the industry, 20 plus years. Where it is kind of difficult for Planning Commissions is they are seeing photos mainly from us, on presentations and things of that nature. He wanted to share items that have actually been constructed at other communities that have taken that step to go into that Stealth model. He asked to hand out those photographs representing projects completed by this company, to which the Chair answered was acceptable.

Mr. Woodward said the majority of the time, facilities are designed and targeted around churches and the reason is that the steeple is usually an acceptable addition to a church property and that is the main reason they targeted that location. Overall, he said, it meets Dublin's Code and that is most important. He said they meet setbacks, the height, and the stealth requirement. He said a testament to Verizon and their engineering is they came in here wanting a lot higher tower and that was going to give them much better service propagation but at this point it is so important to them that they are willing to reduce the height of the structure in order to meet the Code and get service there for the need that is present.

Mr. Miller asked about the fading of the material. He asked if there is any science around it. Mr. Woodward answered Stealth uses a very strong UV protected paint and actually in one of the samples provided, shows a project in red in a very arid location, which is very risky. He said they stand by their product, thoroughly, in the sense of the color difference. He showed the Commission a product that was

not the color of the church. There is a RF transparent foam property that sits behind it that actually makes the density of it to make it even stronger but that is basically the overall skin value.

Mr. Stidhem confirmed they were looking at just the skin and that was the thickness of it.

Mr. Woodward said there was a lot of concern about the durability the last time they were here. He said some people commented how chewed up the sample was but he said they have been carrying that sample around for almost six years now. He said it has been in a few trunks and it has gotten beat up. That foam core is not exposed in any way shape or form he said and that skin is all that is surrounded. He noted in the sample pictures there was no foam core exposed. He explained it is a four-pillar design, and it has a series of cross members in it as it grows up, and that is all for rigidity and strength and basically all of that is all interweaved and connected into that steel member frame. He said the structure itself is required to meet Ohio Revised Code of what we call REB-G, and he indicated it is 90-mile per hour three second constant bursts of wind. So it has to pass that standard at all times of its existence. He indicated they might put multiple carriers on it and to co-locate additional companies that structure has to meet that Ohio Revised Code at all times. He said there is a tower in Joplin, Missouri, that went through an EF-5 tornado that he has a picture of and it is leaning slightly, with all the antennas still attached to it but everything underneath it is level. He concluded towers are usually designed pretty much at ten-fold compared to what a normal structure is designed for; they go over and above and that is due to the strict regulations they are required to handle.

Mr. Miller said Mr. Woodward referred to allowing co-location on this tower. He said the Commission does not want to see T-Mobile and every Tom, Dick, and Harry coming in looking for a tower. He verified the applicant is open to co-location on this tower and Mr. Woodward answered absolutely. Mr. Woodward added their core business is, as TowerCo is the owner, to co-locate. He said the initial costs of these projects are quite substantial so in order to really fund the project, there has to be co-location.

Mr. Miller said the reverse to that is we talked a lot about sites for new towers. He asked if there was any possible way to co-locate for Verizon onto an existing tower to resolve this conundrum. Mr. Woodward answered not at this time.

Ms. Fox said one of the things that strikes her in reference to our Code, is that obviously there is a lot of concern about adding more towers. She stated the Code requires the Commission to ask the applicant to show on a map other facilities that are around and their type of construction, who owns them, where they are exactly located, and the distances between, to give the Commission the data that the cellular provider cannot find another site that they might be able to go along with. She said the second question is, this is a macro tower, but you also utilize micro towers/small cells, to help with capacity and coverage. She asked if he would tell the Commission a little bit about the use of those or their inability to use them.

Mr. Woodward asked to address the second question first. He said in regards to small cells, they are more of a newer advanced technology that has come out in the last couple of years. Small cells, he explained, are integrated basically to be a helper from the get-go for macro sites. He used Columbus as an example. He said when there was such a densification of towers on roof-top, co-locations where there was a lot of macro sites, the network found an area of what they call "hot spots". He said these are areas that they need to off-load data transmission. As an example, he said if Verizon were on High Street and they needed to make sure there was additional coverage there, and the cell sites were fighting for coverage and another macro could not be added because cross interference is caused, he said they would apply small cell, very close to High Street. He explained small cells basically work at roughly 3 – 500 meters in total, and it would be nothing more than a data off-load. He said that means, if you had your phone it would use it as a data off-load, it would save the macro site from having to feed you. The antennas are actually closer to the handset and it would perform better. That hot spot is targeted. They

would use an engineering spec on their RF configuration software and they would find that the areas on High Street need more service and they would put in small cells to off-load that capacity where they cannot add a macro site. Small cells work very well and they have advanced in the sense of going to now voice so they now have voice and data applicable to them and in doing that, small cells do a great job of off-loading those hot spots, but they do not ever do the job of what a macro site can do on a large scale. Macro site is a full 360 and has a much larger range, provide service for a lot more users. Small cells are great but he does not want to discredit them because they are applicable in your community.

Mr. Woodward said Verizon has a small cell plan in the community and they are an added part of this design. He said there has been a lot of engineering that has gone into this location; they have based a lot of their small cell master plan on a tower being at the St. John's Lutheran Church location. He said he sees small cells being used in more condensed tight areas and a good example for our community is very close to all those dealerships. He said a lot of people are on cars.com shopping. It is data-centric. He indicated sites are starting to get a little warm over there, a little close, and that is where there may be an off-load hot spot. He said he is not privy to any of Verizon's small cell plans; he is solely on the macro side of the business but he does know there is a plan and that is a viable substitute with the macro site but it is not a replacement by any means; it is just too condensed. The other thing is, he believes, a small cell is not to exceed 50 feet and it may be lower. He said it is a pole top like utility pole site application. He said here, we need the height and the propagation and need to be able to use multiple frequencies as well. Sometimes those small cell frequencies are limited, he said, because there is such a small amount of antenna that can fit into those. He described them as small cell canisters that do not take the full consideration.

Mr. Ferguson said a macro site covers roughly 4,500 users at any given time, whereas a small cell covers 500 users. He said there are lots of variables in there but he wanted to demonstrate the difference in the ratio. He said macro and small cells work together. You cannot just have small cells – they augment that macro tower's capacity to perform in that area. He restated a small cell alleviates some of the pressure off the macro, it makes the network perform better, it alleviates that traveling so download speeds are better, upload speeds are better, and it makes the network function better. He emphasized small cells cannot outright replace the macros.

Ms. Fox noted the Washington Township Tornado siren site. She said all she could find for the reason it could not be used was because there was no consensus. She asked what that meant. Mr. Ferguson indicated that was one of the first ideas they had. They looked at taking that tornado siren and putting a dual use there, he said, putting a tower there with the tornado siren, even if it was a way to describe it but the feedback was it does not meet the Code and it is not what they are looking for, long term. Ms. Fox asked who the feedback was received from. Mr. Ferguson answered staff at the time and that was back in 2008. Mr. Woodward said it was a wood pole so that would have to be ripped out of the ground and replace it with a full cellular structure like a monopole. Ms. Fox asked where that is located. Mr. Ferguson said it is just south of the old Township Hall by 30 or 40 feet. Ms. Fox asked if that would be a suitable substitute. Mr. Ferguson said that was the site they looked at originally and they were told that site was not an opportunity for them to go forward. He said they had dialogue with the City about that site.

Ms. Fox asked for clarification on that from Planning as to why the tornado site would not be suitable. Mr. Papsidero answered current Planning staff was not involved at that time so they do not have an answer, currently. Ms. Fox asked if it is still a possible alternative site. Mr. Ferguson answered not at this time. He said currently there is a site to the south called Tuttle West that is on Wilcox Road, and he believes that was just activated this past year. He said in the ten years they have been working on this church site location, Verizon has taken measures to add capacity at the outside area they are trying to supplement with this tower.

Mr. Woodward asked to answer Ms. Fox's first question that she asked earlier re: the exposure of the local towers. He referred to a map of Verizon's proposed sites and existing sites for Dublin as of June 2017 marked with pins over a Google Earth map. The yellow pins represented the proposed Macros and the red pins represented the sites On Air. In some cases, they have towers or X's towers so take into consideration they do not have every single tower being reflected on this map. He noted Verizon is basically on every single structure that is out there. He pointed to a certain location and said if they were to take away that yellow dot, there would be a very sizeable hole. He highlighted the various Verizon existing structures: Tuttle West, America Tower, and the Avery/US 33 location. He said if they move too far off, there is going to be a cross-interference issue. He pointed out another area that is drawing a lot of activity and in that core area it is unbelievable. He said everything the City does up there, like the Irish Festival, the draw is just tremendous; it is a heavy demand. Having this site maximized to where it is at capacity causes a lot of issues and that is why this site helps that one move on a little bit so it can build up additional capacity. He concluded that to be in front of the Commission and state T-Mobile, Sprint, and AT&T may show up and ask for towers, he cannot be in that position to tell the Commission that and he wanted to be very fair with the Commission. He said the applicant will always make the tower available for co-location.

Mr. Stidhem said the analysis now states to see if the cross-interference occurs with the other three cellular vendors. Mr. Woodward said they do not have to do that with the other cellular vendors; they have to do it with the existing sites.

Mr. Stidhem said the applicant obtained the analysis from Verizon that said this site has to be the location for this tower because they cannot move it up a half-mile because they will have cross-interference. He suggested T-Mobile could come in and say they cannot use that location because they already have something close to the church and it will cause cross-interference. He asked if that analysis had been done. Mr. Woodward answered no because they are not his applicant and they are on a different frequency.

Mr. Stidhem said, when Mr. Woodward says that the tower can accommodate up to four cellular providers but the applicant cannot really be sure if they can get those four other vendors because maybe T-Mobile or AT&T says that site does not really work for them. Mr. Woodward said they always open the door for other providers for co-locations. He said we cannot tell a carrier they cannot come onto their tower. Mr. Stidhem indicated the applicant could not refuse a carrier from a financial perspective but that is not his point. He said his point is the analysis has not been done to understand whether or not that location is even a fit for the other providers. Mr. Woodward said he understood that but he cannot take that information and do that, based on not having them as an applicant and he cannot sit here and say he wants T-Mobile. He said he cannot guarantee to this Commission that T-Mobile wants this tower. What he can tell the Commission is, because their site meets Code, the Dublin Code drives the other cellular providers to co-locate. He said if he is building his tower and it is existing up in the air, there is really no other option for the other cellular providers to actually go, unless they ask for a Variance, very similar to the position the applicant is in today. He said they are trying to get on a property to fill a very valid hole and the applicant meets the setbacks and height restrictions. He said it is going to be T-Mobile's responsibility to basically co-locate because if they do not, they are going to have to come in front of this Commission and ask for a Variance at another location, which is going to make it very difficult for them. He restated the Dublin Code is written to co-locate and that is in harmony with their business. He said they have already received some inquiries; because this is a public meeting, he is not allowed to disclose that at this point in time under his non-compete but they have had inquiries already. He said he knows there are capacity needs in the area from other carriers.

Mr. Stidhem asked how much digging will have to occur here - not at the actual site because this is going to have to go all the way back to somewhere to connect into something. Mr. Woodward answered usually

what happens is there is a utility easement that runs along the side of the parking lot that will go to the right-of-way and the right-of-way usually has fiber already stubbed up at the poles. Mr. Stidhem again asked how much demolition is going to occur. Mr. Woodward asked Mr. Stidhem if he had ever seen a Ditch Witch, where it just tills up a line that is about three feet deep, which is basically what it is extended to. He added there is also conduit that goes into the ground that protects the fiber so it is not broken.

Ms. Fox said the requirements ask the applicant to show the reviewing body all the existing wireless facilities. She noted he had presented a graphic that showed Verizon's existing and proposed towers but she wanted to know if there were other wireless towers or sites in the City that are not being shown on that graphic. She said Chapter 99 Section 99.05(C)(1)(j) states the reviewing body is required to ask the applicant for a statement from an engineer of the ability or the inability to use existing towers, not just yours/Verizon but others.

Mr. Woodward said in this actual search area, in the condensed area where they are, there are no existing towers that they are not already on. He presented a hypothetical using the map to demonstrate where a search ring would be in their much targeted vicinity. He said there are no structures in that vicinity to co-locate.

Mr. Ferguson added the ones that are there, they are already on, which are Avery/US 33, Tuttle West, and the other tall structures that they have to look at are at I-270/US 33; there is nothing to the west. He said they are in this bowl, or zone of no coverage, with no tall structures, no tall buildings or water tanks, and no existing towers, which is why they are proposing to put a tower here at St. John's Lutheran Church. He said that has all been looked at and if there was an ability to co-locate, they would do it but there is nothing to co-locate upon in the service area where they are trying to get signals.

Mr. Woodward stated, for carriers to co-locate, that is ultimately the path of least resistance. The timeframe for getting on air is a third of what it is to build a new tower with all the Federal Regulations, etc. He said if there was something there to go on, they would take it in a heartbeat.

Ms. Fox indicated she assumed the applicant has provided all these things: inventory showing the location, address, parcel number, and straight distances between facilities as those are all required in the Code. Mr. Woodward answered he would default to the Planning Staff, as he believes they have met that requirement when they submitted this map and the master plan for everything they did. He said he figured that was sufficient and their understanding was that their application was complete.

Ms. Fox indicated, as a new Commission member, it is important for her to see really clear, concise, and comprehensive data. Staff should have the opportunity to vet that data and to be sure that the Commissioners get the items that the Code asks for having to do with being sure that there are no other alternatives and nothing will surprise any of us later or that we have the opportunity to be sure that we have vetted every possible alternative.

Ms. Fox noted there is a lot of agricultural land, western border, and there is hardly anybody out there so she wonders what the applicant looked at out there. Mr. Woodward indicated Ms. Fox kind of answered her own question there. He reiterated there is hardly anybody out there. He said the cell coverage needs to be where the residents are and where the usage is as that is where the demand is. He added, putting it out on a periphery is basically putting another Band-Aid on a bigger problem, which is in the core. Ms. Fox clarified that we are really looking at a quarter-mile radius. Mr. Woodward said he did not want to go on record stating a quarter-mile because he is not the actual RF Engineer that submitted that. As you can see, he said, they have already looked at properties that were four-tenths of a mile to the north and they are telling them no. He said when this thing was issued, it was issued at that location as that was the

best parcel that met the Code and that was the targeted area, which was St. John's Lutheran Church. He said they had extensively looked around to try and get away from it, to appease the residents, to work with the City of Dublin, and unfortunately, they just cannot make that work. He said a lot of it stems back to Dublin's Code; they would not meet setbacks on those other properties and they would not meet the Code in general. He said there are some harmonious aspects of sites as well; putting an 80-foot pine tree in a middle of an open field, in his opinion, is not very responsible, as it would not look good.

Mr. Ferguson added Lambs Corners went through the same staff; it is a Stealth designed rooftop. He said they went there because it was an opportunity to co-locate. Here, he noted, there is nothing for them to take advantage of. He said the wireless facility at Lambs Corners is a great example of Stealth's product and the ability for the Stealth material to disguise the antennas. He encouraged the Commissioners to visit that site at 6785 Post Road. Mr. Woodward asked if Rings Rd/I-270 was a rooftop facility. Mr. Ferguson answered affirmatively but said it is not yet operational. Mr. Woodward said there is also a rooftop facility at Dublin Coffman High School. He noted that Verizon has shown in the community of Dublin that they will use whatever they can in order to get the best propagation.

Ms. Fox inquired about property in Washington Township and if they looked at those areas. Mr. Woodward said they had and the RF Engineer says it pushes them too far away from the source. He said there are multiple pictures you have to look at to ensure they are helping the overall network. He said the simple way to put it is, the closer your phone is to an antenna, the better it is going to work all day long but then there is still the capacity issue and if there are too many users, it will drain a site down tremendously. He cited an example of the hurricanes down south, all the wireless carriers had to come in with "cows", which is a mobile device that has to sit there to help off-load the capacity that was going on for all the damage and all the communications they needed.

The Chair asked if there were any other questions for the applicant. Ms. Newell said she had a couple as she was not here for the previous review when this case was tabled. She said there were some illustrations that were included to show the applicant's Washington Township existing coverage. She asked if the applicant had those available and if they could explain them to her. Mr. Woodward said when they try to show an infill site or a true coverage site, the old historical maps that they are using go back to the 1990's to early 2000's and it is kind of difficult to read. Overall, it shows they are doing a capacity off-load and not necessarily coverage and not filling a hole where there is no coverage.

Ms. Newell said she is an architect so she tends to be a technical person. She said one of the review issues that they had to consider was public safety and hazards to the community "The use will not be hazardous to or have a negative impact on existing or future surrounding uses." In terms of public safety, she said, that is in the regulation in our Wireless Communication Code, so she is concerned with the materials just from a building standpoint. She said the tower is regulated under the Building Code and it is regulated as a use structure so plastics, the skin, and the cladding that the applicant is using on the building are regulated under the structure. She said she appreciated that the applicant volunteered some of the product information that had been submitted. She said she saw in there the applicant complied with the technical specifications, but some of the things she was concerned with is the foam plastic insulation that are used in between the RF panels. She said the Building Code in Section 2603 for foam plastic insulation, it states the "foam plastic insulation cannot be installed greater than 4 inches." She said when looking at the structure of the roof, it appears much thicker than 4 inches so she wanted to have an understanding of how that fits in the Building Code. Mr. Woodward clarified if she meant the spire at the top. He said it is basically 10 feet. Ms. Newell said it looks like a solid mass of foam insulation so it appeared to be more than 4 inches when looking at the assembling unless the applicant can tell her it is constructed in some other fashion. Mr. Woodward answered he does not have the actual material that the top spire is made from. Ms. Newell said it states 4 x 4 x 3/8 FRP angled bonded into HC Foam with threaded rod and it calls it a HC Foam roof and the height elevations on that HC Foam extend up to 10

feet in height according to the illustration she was provided. Mr. Woodward asked if that was the product sheet and if he could approach the bench to review it. Mr. Stang indicated the information may be from the previous submittal unless it is one of the additional drawings. Mr. Woodward suggested the information was probably from their previous application.

Ms. Newell asked then how the top spire is constructed. Mr. Woodward said he believes it is going to be manufactured out of a foam core backing, very similar to the product shown but he cannot comment on the actual thickness. Ms. Newell noted the structure itself is 70 to 80 feet in height. She suggested if it is constructed similarly, but at a slightly lower profile, it is still going to have more than 4 inches of insulation. Mr. Woodward said the product is not an insulation but more or less RF transparent material that needs to be used in order to back the lining of the product. He said it is a little more technical than what he is advanced on but there is a requirement with these cell-style panels that they actually run that type of material so it has the transparency to send and receive signals. Ms. Newell said she read it is polystyrene. Mr. Woodward said it is not referred to as insulation and it is being used as a formidable backing for mounting and transmission. Ms. Newell noted it is still being sandwiched between panels and that panel is still being cladded on a structure so cladding attachment over foam sheeting for steel framing, which is exactly what the applicant has here. She said it still has to comply with the provisions of the Code so she would like to know the actual material components and how they relate to the building Codes.

Mr. Woodward said they just did a Stealth implementation of material so this material has been used and approved at the Lambs Corner location on a roof. He noted they have facilities all over the state of Ohio as well as all over the country that they obviously have to abide by Ohio Revised Building Code for the state of Ohio or if it is for instance, Michigan, they need to meet their Code as well. He said they are a nationwide corporation and they are required to meet the standards of the state at all times. Ms. Newell said she understood that she just did not see anything presented that will fully meet those standards and that is what she was concerned with. Mr. Woodward said he was certain they could find the data for that. Ms. Newell said, to her, it relates to public safety so she is not familiar with all the components that were put together and so it is one of their duties is to worry about public safety or that it could be hazardous. She said the Washington Township Fire Department has to service this building if there is a fire or a lightning strike and if the materials catch on fire and it is above 75 feet. Mr. Woodward said there is a very sophisticated grounding system that are based on all cell towers and the reason is, if the structure is hit by lightning, the last thing Verizon or any carrier wants is their equipment fried because there is well over a half-million dollars' worth of equipment in there. He said a lightning rod is implemented that goes through a copper cable and then that gets implemented into the ground into a grounding ring. He explained that during construction, they implement a grounding ring along with all the surrounding materials, including the outside fence, the tower itself, and all the equipment gets tied into that grounding ring so if there ever is a lightning strike, it goes immediately to the grounding system and that is required Code for most cell towers.

Mr. Fishman said he walked the site today. He said he was impressed with the pictures of completed projects and noticed that they are attached to a building. He said the proposed tower is going to sit out in the middle of a vacant piece of property and it is really not going to look like a real tower because there is no bell towers like that sitting out in the middle of nowhere; they are generally attached to a church or building. He asked if there is any way the applicant could alter the placement of the proposed tower, like next to the church. Mr. Woodward said there was a recommendation by the local community with that very item. Once again, that would not allow the applicant to meet Code, they would not meet setbacks, it would make it extremely difficult, and it would also basically put the structure into the main entry way of the church so it is not feasible to relocate the tower closer to the building.

Mr. Fishman noted the fence is a wrought iron fence. He said that type of fence will be see-through. Mr. Woodward said that is why they suggested a heavy densification of landscaping around it. He indicated the applicant's original plan was to put up a wood plank-on-plank fence and have it stained to make it look nice but they received a lot of feedback that that was not harmonious with the property and he said he has a tendency to agree. He said they want to make it look right so the best suggestion the applicant felt was a wrought iron fence. He said usually when those are done, they look good but it does require a good amount of dense landscaping. Mr. Fishman asked the applicant if they would be willing to put in pine trees around it and specify that the screening would be opaque. Mr. Woodward answered absolutely. He added as a cautionary tale, he cannot tell the Commission how many times he has gone before a Planning Commission and they state a certain style of plant has to be used. He said he always like to consult with a local nursery or an arborist to give them recommendations. He said Dublin also has a very strict planting style season; certain trees are not very good to be planted in late season or early season just because of freeze capabilities. He said we want to utilize what is best for the property but they are very open to screen the best way they possibly can to make sure the lower tower is really not visible. He said it is important to mention that the initial radio equipment for Verizon is actually inside the bell tower. He said nothing is going to be exposed other than an open area but there are some standard, "H" frames that will hold the electrical and they push those on the backside of the structure so they can keep hidden. He indicated they were even trying to see if they could have it mounted to the building but they have not received confirmation.

Mr. Stidhem indicated that what the applicant will find is that the City of Dublin has their own people that know the planting and all that, which they do really well. He asked what the feature carrier area is going to look like. He asked if there were drawings to which Mr. Woodward answered affirmatively. Mr. Stidhem confirmed it is outside of the tower. Mr. Woodward said there would be a steel platform that would be raised on an average of about six inches off the ground, that steel platform would then have radio cabinets that would be mounted in a row or in a cube configuration on average. Mr. Stidhem said that does not give him a good visual. He asked if it is going to look like a power box. Mr. Woodward said it would look like a power box and then they run coax cable to the tower. Mr. Fishman asked if those could be easily screened. Mr. Stidhem confirmed the radio cabinets will be inside the fence, which is also inside the screening.

Ms. Newell asked if the materials on the structure are repairable if they are damaged to which Mr. Woodward answered affirmatively. She then asked how they would they go about being repaired. Mr. Woodward explained, hypothetically, if there was a damaged panel that they would have to call the manufacturer. He said they have all the manufacturing code and prints on file so it is very similar to a doctor database; they have your file in there after your tower is constructed and if there is any form of problem with your tower, they will go right back to that original template and they produce it. Sometimes the templates are allocated to certain aspects of the architectural design. For instance, if it is part of the window design, they will pull the window template, remanufacture it, but usually with Stealth, they are very strategic about making sure that the colors match up and they will visit the site 98% of the time. He indicated he has never seen Stealth not come out to the site to verify the color and walk away with the true color code, and he has even seen guys chip away a sample at the bottom to make sure everything is matched up so there is no alteration. He added it is their product that is up in the air and they do not want a bad representation of their product.

Ms. Newell asked how they would fix a damaged panel. Mr. Woodward answered typically they are physically removing the panels that are damaged. She asked if there were ever instances where they would just patch the panel. He answered he has not seen that personally but he cannot say under oath if they have done that.

The Chair invited the public to speak and requested they keep their comments to five minutes, given the late hour.

Chris Freeman, 5545 Caron Court, noted there is a lot of construction going on down Avery Road, and will continue up to Caron Court. With the introduction of water and sewer, he said he is either going to have to tie in, which is going to be \$9,000 off the bat, or it will come off the value of his home when he goes to sell it. He said sidewalks are coming in, including in front of his house, and then on Avery Road, which will take a big chunk out of some other peoples' yards, and will decrease value. The Chair said none of those things are in relationship to this case this evening. Mr. Freeman said he was getting there. He referred to a document that states this does not affect the value of anyone's home but then the gentleman behind him said they excluded places because they did not want this tower to affect those home values. He asked if there was data to be shared that shows this tower will not affect the value of their homes. The Chair suggested that expertise testimony has not been presented to make that judgement. She said someone would have to prove to the Commission that it would affect property values. Mr. Stang stated nothing has been provided to staff or the Commission that would say the installation of the tower would impact home values. Mr. Freeman clarified homeowners would have to provide that information and Ms. Newell noted the information must be from expert testimony.

Mr. Freeman referred to slide #4 where the applicant had noted multiple sites that were not suitable because the tower would be adjacent to residential properties. He asked what that meant. Mr. Stang said, as part of the staff analysis for alternative sites, one of the concerns that came out of the August meeting was the proximity of this proposal to existing residential so taking that into consideration for other sites, simply moving this to another area that has adjacent residential to is not something staff would be supportive of with that proposal. He said essentially that would just be moving this to another neighborhood of the city and pushing it further and further into other residential areas. Mr. Freeman said, the site this is on, butts up to a half a dozen residential properties and he will be able to see the tower when he walks out his front door. He asked why this neighborhood is okay for this proposal and others are not. Mr. Stang said many of the other properties that were selected would have required alterations to the setbacks and would have in fact put this closer to residential than where this proposal puts it because this proposal adheres to the 100-foot setback.

Mr. Freeman noted we know there is a property line problem and we do not know where it will go. He indicated this would set up the neighbors, church, or the City to some problem in the future. He said he personally thinks this will look ridiculous and really does not want to see it every time he walks out his front door. He suggested the siren tower 30 feet away is a slightly better option.

Nelson Yoder, 5927 Rings Road, presented slides showing his expertise in architecture and real estate development, including being a past partner of a 90-person firm and being involved in the design of over two dozen churches. He presented a photograph of St. Mathew the Apostle, one of the churches he was involved in. He said he grew up right around the corner and pointed out his childhood home on the slide. He thanked all his family for coming this evening. He said he has spent 42 years in Dublin, and he showed the house that he currently resides in, an 1855 farmhouse, 1000 feet away from the proposed placement of this tower. He indicated he will be adding onto his home next month. He said he has expertise on massing, materials, and aesthetics, long range planning and other options and considerations that we have to look at.

As far as materials go, Mr. Yoder said, the applicant's sample of foam with printed brick and roof on acrylic that went around is a material new to us and not allowed anywhere in the City. He said when we start looking at this particular tower, it is up to the Commission to apply the same standards that would be applied to any other structure in the City, whether it be a Stealth tower, or any other structure. In this case, he did not see how the openings are going to be resolved or how the trim would be executed. To

make this structure look correct and make it look like it belongs on the site, passing muster with any planning commissioner who would review it like any other typical project in the City. He said we understand technical limitations of the transmitters like we heard the signal has to go through but the signals pass through up at the top and not down at the bottom. In attempting to imitate the printing at lower elevations, especially where people can see it and touch it and for a roof, does not make any sense. He said this is asking for an aesthetic appearance that is not believable. He said Verizon has attempted to maximize the transmitter height but avoid a height variance by drastically shortening the roof profile from its original proposal where they were trying to match up the brick and steeple with the existing church.

Mr. Yoder presented a proposal as a solution that he had presented to Verizon over the last week, after they heard the applicant was coming back in front of this Commission on January 6, which they thought was an unusual design to propose. He pointed out how the proportions of this tower would actually look like in three dimensions and how it sits off by itself. He noted the massing had been decreased, as the applicant is trying to avoid a Variance and at the same time, trying to maximize transmitter height, which is resulting in an odd massing that has very poor aesthetics and is not compatible with the existing historic church yet the Building Code and Wireless Codes state that the cell towers need to be compatible with surrounding architecture, and in this case, it is not.

Mr. Yoder said the bell tower, which is called a bell tower but with no bells, is proposed to be located by itself in the corner of the parking lot and he is not aware of any precedent where a bell tower is located in a corner of a parking lot towards an earlier point, so that tall church bell tower could be a good addition to a church provided that it makes sense and is integrated with the entry sequence into that church or it is somehow connected to the church; it does not have to be connected but related to the architecture and the site planning. He restated there is poor massing and a bad location that creates an eyesore instead of an asset to the community and to the church.

Mr. Yoder presented images that showed the context of the massing to demonstrate and to better understand the relevance while not looking at the applicant's images submitted. He said the imaging showed how this becomes a focal point of the end of Norn Street and Blunden Road, which is a very large residential neighborhood. All the residential shown are directly impacted by a view of this tower because it is off by itself. TowerCo said specifically earlier that they do not want to put a tree out in the middle of a field by itself, he recalled, but in this case, there is an oddly proportioned foam tower out by itself. He said he had letters from licensed real estate brokers that are experts that state this is going to have detrimental impact on all of the property owners in the surrounding area and he would provide letters as evidence.

Mr. Yoder said our Code specifically states that tower locations need to consider the effect on long range planning, impact to current and future property values, and land use. He said that was one of the major reasons that he has heard, even from staff, why other locations are not appropriate because they do not want to block future development on those locations, for example – off Avery Road.

Mr. Yoder said the tower itself to be located on this plan, the church actually owns 20 acres of property, not just their own parcel, but two more parcels, which he presented as highlighted. He said they have been considering some development. He said our community loves the agrarian feel but we helped adopt the Southwest Area Plan back in the early 90s that stated high quality, single-family development in this location would be appropriate. In the event that this would move forward, if we have extensive involvement in approving that, we could get behind the right type of plan that affected the neighbors properly. However, he said, constructing this oddly massed tower is going to crimp the development potential of adjacent properties. He emphasized he presented expert testimony that we are going to have issues with future development of this property and surrounding home values will be decreased.

Mr. Yoder presented an image reflecting two different options that he proposes. Option A moves the tower close to the church and changes the proportions, which becomes part of the church building and at that point, a lot of the public's concerns go away. He said there is a tower that looks like part of the church, which will not prompt neighbors to ask what it is, and finding out it's a bell tower and even though health issues not at all permissible per the court of law, every one of the residents that are buying houses and evaluating how much those houses are worth, they are not in a court of law. The National Association of Realtors has documentation on their website showing up to 20% impact of property value just based on the psychological perception that people who are not going to Federal Court, that are just buying a house, and the biggest investment that most people make, they know there is RF up there and are worried about it. Again, he said that is not a reason why this Commission can choose if the health reasons is not a reason to deny the tower but it impacts the property values documented by testimony.

Mr. Yoder presented the proposed shift as a neighborhood proposal to St. John's Lutheran Church, which moves the tower only 270 feet away from its current location and utilizes the existing church building as a screen from the right of way. He indicated part of the reason they like this is because it uses the church building itself to lessen the impact on the surrounding neighborhood, transforming that structure from an eyesore to an asset, observing the value of the remaining church property and getting the tower out of the flood plain, which is where it is located now. He said it also raises it a few feet, which would help from a remote function perspective. The church has plans into the City for a re-work of their entry, which would be a drop-off area with improvements to the entry sequence to the church. He noted that has been through staff review at least and thought it was even on PZC so this is something that could be integrated into that entry sequence, and again, be very additive. As neighbors, he indicated they are very supportive of the church, they love having it in their neighborhood, and they think this can make a real positive impact instead of becoming a real detriment to their neighborhood.

Mr. Yoder suggested other things to consider. He stated Verizon is required to prove that there are no less intrusive options available. He said there was talk earlier about how bad the tree tower looked and presented a photograph from Google map - evidence with a 75-foot tall tree tower at the corner of Woerner-Temple Road, next to the car wash. He said that property was deemed unable to be supported by RF and yet there are trees there that are 50-60 feet tall that could really screen this tower and it is away from all occupied residential. He recommended this is a case where we should really be asking for the licensed Engineer's calculations to prove this location will not work. He believed that would ensure it is not a matter of just not wanting to re-work the cell tower location because it is expensive or difficult. In the application submitted by Verizon, it makes mention that it was costly, expensive, or difficult to re-do the calculations suggesting that other engineering that has already been done would take money but that is not our problem and should not be a problem for the Commission either.

Mr. Yoder said there are lots of other commercially zoned properties that do not occupy residential. He noted in the tower grid that Verizon presented, there is a hole we are trying to fill. He indicated he is a little suspect, honestly, as the hole in that grid is actually closer to the other locations that have very tall trees that could accept the monopine. We are hearing, and it does not make sense to a lot of us, that somehow being closer to the center of the hole is a bad thing, he said. A licensed engineer would need to provide us with calculations that could refute that but those have not been supplied to the City, to his knowledge.

Mr. Yoder recommended we request that the Commission holds Verizon to the requirements of the city Code and that can be done while meeting the letter of the law. The applicant is required to provide signed engineer documentation, as was said.

Mr. Yoder stated he has the letters from licensed Real Estate Brokers stating the impact to property values. He reported the neighbors also performed call offs since there are residents that have Verizon service; their calls from their phones and sent text messages to other users had a 0% failure rate, which is indicative of the fact that there is a functional cell network service now. He recalled they have been told about the need to provide future data off-loading but that may be more of a concern for Verizon than us as that is not what we are seeing right now. He added that is admissible in court, as well. Be aware too, he said, that these antennas may be increased by 20 feet under Federal Law that was passed so if the Commission approves a tower today of 80 feet, suddenly it could be increased in height by 20 more feet without coming back in front of this Commission unless the church and Verizon specifically put in writing that they are not willing to pursue that option. He encouraged the Commission to do that, if and when this would be passed.

Mr. Yoder indicated they are not trying to be unreasonable in any way, shape or form; there is a lot of scare tactics out there and a lot fear involved with having to go to Federal Court. He said there are really specific reasons we can respectfully ask Verizon to work with us on and to provide documentation that our Code requires. He encouraged the Commission to say no for the right reasons, which are not "I do not like the way it looks", or "I'm worried about the health aspect". He stated this Commission can protect itself if it cites the reasons that were said, earlier. He reiterated that call logs that do not support a failure rate have not been provided from the applicant. They have not provided documentation that actually shows that they absolutely need to be at this location or not at any of these other locations that would be much less intrusive have not been fully vetted. He reiterated that he has expert testimony (in Real Estate Broker letters) stating that this is going to have a negative impact on property values because a tower is proposed to be located right in the middle of a residential neighborhood instead of in a commercial district.

Mr. Yoder concluded by thanking the Commission for allowing him more than five minutes to speak. He said he would provide the Commission with the copies of the letters and from some people that could not come this evening or had to leave early that wrote personal letters signed by themselves talking about the detrimental impact that this will have on themselves and their own property values, if this tower is approved in its current configuration.

Ms. Newell said Mr. Yoder had stated earlier that he is both a Registered Architect and a Real Estate Developer. She wanted the record to reflect that Mr. Yoder had a PowerPoint presentation that was also submitted to the Commission along with the additional documents. She asked him to highlight the expert written testimony he had collected. Mr. Yoder explained he had submitted these proposed tower images to Licensed Real Estate Brokers. He said those response letters are summarized as follows:

- Harrison Company - 18 years of experience working the Central Ohio market including Dublin; reviewed tower submitted by Verizon; and in his professional opinion is that the construction of this tower will have a detrimental impact on the value of surrounding homes.
- Jennifer Valentine, ValEquity Real Estate, 10 years of experience working the Central Ohio market; reviewed the proposed tower; and in her professional opinion, the proposed tower will have a detrimental impact. Furthermore, the eyesore will force the majority of the population to over improve their homes or reduce the sale price to compete with other homes in the area that do not have the same negative view. She indicated she has walked into homes that a client loves until they see a cell tower or power line nearby and then they ultimately decide they do not want to purchase the home.
- Licensed Real Estate Broker at Crawford Hoying Development Partners submitted a letter but may not be admitted into evidence due to a conflict of interest since Mr. Yoder works with them.

- Keller Williams Realty submitted a letter but Mr. Yoder was not able to technically display it on the screen so he reported this agency came to the same conclusion as the others. For the sake of time, he said he would not finish reading the letters but would provide hard copies.

Deborah Mitchell asked about the proposal made to the church that included integrating the tower with the church in some way to lessen the kind of visual impact of having a structure that is not integrated. She said she did not think anyone was present to represent the church but she wanted to know their reaction to that proposal.

Mr. Yoder said he simultaneously issued the revised plan, internal to the neighborhood first to make sure people bought into the idea and they are still concerned about RF but understands that is not something that can be discussed here. He indicated the concerns about property values seem to go away when the tower appears to belong with the church.

Mr. Yoder noted that utilizing real materials is very important as well, instead of foam. Our thought is that these foam panels cost \$40 or \$50 a square foot and that is as much or more as real brick. When you consider the structural ability of brick, which can be used from the ground up to about 35 feet, and in some cases it can be stretched to 40 feet, speaking as a licensed architect. He added we could have self-bearing brick walls and masonry walls and then transition to a material that makes more sense above that level. He said trying to imitate brick with a print down where people can see it and touch it is different than up at 30 feet. He noted that by the applicant decreasing the height of this tower and reducing the surface area cuts the cost by  $\pm 40\%$ . Being able to switch out the exterior material with a smaller surface area and use real materials from the ground up to 35 feet, that is what this Commission would require anywhere else in the City, and then maybe going with either a material that is screen printed but high enough it will not be visible, something RF transparent versus something that is trying to be something it is not at a lower elevation would make a gigantic difference, especially if it is integrated in with the church. He restated he simultaneously sent the proposal to the church, Verizon, and the City in order to try and understand so all three could get together and see where this is because it is a complicated project. All four stakeholders are vested in what happens here.

Mr. Yoder reported there was a meeting that occurred at the church after he sent the proposal out but he has yet to receive any feedback. He said the solution he had sent in moving the church bell tower closer to the church sounds very simple and really could be very simple but there are a lot of other cooks in the kitchen that could make it very complicated to do it the right way. Again, he said he had not heard any feedback from the church nor Verizon until tonight when we heard Verizon's testimony that the project seems hard, which for him, is not a good enough reason. He said the reason that it is hard is not a good enough reason for anywhere else in the City of Dublin and this applicant should not receive special treatment. If we were to allow this, we could be giving special treatment in a bad way.

Ms. Mitchell clarified, we had heard earlier from one of the representatives that moving that tower and integrating it with the church would potentially interfere with the entrance to the church or otherwise have a negative impact on the church building. Mr. Yoder said the church has not said whether they agree or disagree or whether they think this is a good idea or not to integrate it with the church. Mr. Yoder confirmed we have no idea what the church wants.

Mr. Yoder indicated he has been basing his statements on his experience with working with two dozen churches and understanding the design and aesthetics of how a building like this could work and should work. He cited St. Bridget as having a bell tower that is right adjacent to the church that is a wonderful addition to the architecture and creating a placemaking element.

Mr. Yoder pointed out that this church has the entrance around the back and the idea of placing a tower at its entrance would be wonderful as the entry is from Rings Road. He said he would even volunteer his architectural services because he is vested as he lives right up the road and believes this can be very nice and wonderful addition there. Not only would he be helping his neighbors but the church too. He indicated he did not think the church knew what they were getting into when they signed up for a Verizon tower until we started showing these pictures with the tower off by itself in the field, not really screened by trees and at the end of North Street.

Judy Yoder, 5661 Wilcox Road, pointed out where her house was in relation to Rings Road and said they can see the church from there. She said using the applicant's own words – "it would look ridiculous to have a tall tree in the middle of a field" and yet that would not impact anyone's property value. What we love about Dublin as a neighborhood is it protects its residents and is a beautiful place to live. She said she would be amazed if this Commission said this was a nice neighborhood but now they are going to put this tower there because it is the best thing for this company. She asked the Commission to consider how ridiculous this monolithic thing will look in their neighborhood.

John Kormanik 5527 Cara Court, said he has lived there for 20 years. He said that cell tower is going to be 300 feet right out his front door. He said he knows everyone did their due diligence but finds there are a lot of contradictions. First, he said, the applicant said they needed a 108-foot cell tower because they needed to get an umbrella over the trees. He said he had asked the applicant why they selected the lowest point on the property then instead of going across the road or out towards Avery and Rings Roads as that would be a more suitable location and would get the applicant away from the flood plain. The applicant responded they just need that location so they said they would work with the residents. He said the neighbors understand they need cellular service, but they need something here that would work. He asked Planning staff if they received all the technical data from Verizon and if they stated why that particular location and other locations were not conducive. He said the tower guy said, the first requirement that he said was that property met the Codes and then also the church was willing to work with them. He said nothing about the data or that particular cross interference with the radio waves and such. He said yes, we have to abide by the FCC and there are not health issues here but everyone has a concerns. As Ms. Newell said, the Commission must ensure it is essentially pretty because this affects the church's property and this also affects planning and moving forward. He said the Commission also has to consider the property values, which at a minimum would be 10%, depending upon how close the resident is to that tower. He indicated his property value would decrease 10% without nodding or blinking. Secondly, the Commission has to consider the aesthetics and the character of the neighborhood, not just Cara Court but the neighborhood. He said that cell tower out there is a white elephant. He said Mr. Yoder brought up a very good alternative - bringing that cell tower closer to the church.

Evidently, the church wants it, Mr. Kormanik said, but now there are issues - the historic value of the site and the church being extended over onto another piece of property. A new boundary line will have to be drawn to move forward but then the current tower may be in violation of zoning regulations. He said if the tower is incorporated with the church, that will all be addressed and then there is no second guessing about properties in the years to come.

Mr. Kormanik said they understand the need for cell towers and it is not as though the neighbors do not want to work with the applicant. He said they put forth alternative sites and even offered money and they would not have done that if the alternative sites were not suitable. This can be worked out, he said. He concluded by asking the Commissioners how they would like it if a cell tower was placed out their front door.

Adam Skuratowicz, 5982 Rings Road, said Mr. Yoder said it best and he really cannot add much. He said he is across the street and about four houses down from St. John's Lutheran Church. He said he does not

want his property value impacted. He reported he and his wife bought the house three and a half years ago and never would have bought it had the tower been there as proposed. He concluded it does not belong there.

Matt Garrido, 5965 Rings Road, thanked all the Commissioners. He indicated there is this fear of getting sued by Verizon and cell phone companies have a history of this. He said the question is...that Mr. Yoder pointed out...is why we deny these structures and the reason is important to protect the Commission from the long term effects. He pointed out there is a court precedence to this with a case of Sprint Spectrum versus Ontario Planning as they denied them their tower request, went through the court of appeals, second circuit court upheld the denials for an application because the court ruled that holes or dead spots are insignificant gaps. He said the second thing that came from that case was that if an area is sufficiently serviced by a wireless provider - states or local government may deny a carrier trying to extend its coverage without violating Subsection B(1) Subsection 2. He noted the gaps in service was the applicant's argument the last time and now the argument from Verizon is that they need to expand coverage.

Mr. Garrido stated he has done a variety of work including wireless data communication for the Department of Defense so he knows a little bit about RF and RF design and planning and it is definitely an art and not a science. So, he indicated that when he hears things like we cannot move the tower 200 feet this way or cannot move 400 feet that way he thinks immediately that is ridiculous because in his opinion, there are ways around all these concerns and constraints, just like the Commission would deal with any kind of property or zoning matter. He emphasized there are ways to deal with it. He asked why we are so stuck on this tower and why it is still proposed in the same location. He said the Commission can legally deny the proposal if the tower need is not justified and he has not seen anything in his opinion that would disqualify the other sites, either. He noted the Commission has not been provided with any kind of documentation from any sort of engineering design or any kind of RF propagation interference.

In terms of intrusiveness, Mr. Garrido said there are many sites and options and in no particular order and no opinion on their feasibility but could be more favorable to the neighborhood: a tree pole in the park; something attached to the church or to the cupola; small cell technology; commercially zoned lots; and undeveloped farm land south and to the west of this property. Again, at least from his burden of proof, he stated he is not sufficiently satisfied that these alternate sites do not exist.

Mr. Garrido emphasized there has been a lot of effort and reasonableness demonstrated to this on-going discussion and everyone recognizes that these cell towers have to exist and are willing to find a way for the cellular service to be provided. He restated what he is not sold on is why this ridiculous foam tower and why this location.

Mr. Garrido said he reviewed the comments from the minutes of the August 10, 2017, meeting and would like to reintroduce those into the record because they are important:

Ms. Salay's feedback: it was not harmonious with the Zoning Code and the Community Plan; had concerns about materials; found this tower intrusive; property devaluation was possible; and the applicants need to find another location, potentially to the west and the south or consider a tree.

Ms. De Rosa's feedback: not harmonious with the Community Plan and also recommended to find alternative locations.

Mr. Miller's feedback: he would not place this structure anywhere else in Dublin, therefore, he cannot support it here because aesthetically it does not work.

Mr. Brown's feedback: he agreed with his fellow Commissioners; and this is a rough and unrefined attempt designed by an engineer and not an architect.

Mr. Garrido said the question that begs is it is disrespectful and a little insulting to us as a neighborhood and to the Commission to return with the same plan and expect a different result. He said we were shown the same materials, same design, same site, and same ridiculous disconnection from the church, and here we are back again. Professionally, we talk about capacity issues and that is certainly a thing cellular networks are experiencing and that is a perfect application of small cells. Obviously, he concluded, we all want this worked out in an effective and suitable way for everyone.

Ms. Newell emphasized the Commissioners all of have copies of the prior meeting minutes and have all had an opportunity to review them. Mr. Garrido said he was merely pointing out that again, we gave the applicants specific direction and they returned with the same thing.

James Bloom, 6167 Turvey Loop West, said he recognizes this is a tough situation for both parties. He said the complexity of the application, the potential location, and as the August meeting clearly indicated, there are significant concerns not just by residents but by Planning and Zoning. In terms of community engagement, he said, was a serious issue for this Commission at the last meeting.

Mr. Bloom said, less than one week ago, the sign at the church was installed announcing this meeting. Upon which he stumbled upon the news that this tower seemed as though it had been quietly resubmitted again as of December 28, 2017, which is less than 30 days. After reading the case updates on Dublin's website, he said he was quite disturbed to read Verizon's statement of a comprehensive Town Hall Meeting with the residents was held. Furthermore, the City of Dublin Planning Office stated they facilitated a public meeting on October 11, 2017. As the former president of the Village of Balgriffin HOA and current advisor to the HOA Board, he can confirm that none of their Board Members or residents were contacted for a Town Hall Meeting or engagement since August. He said their association is immediately across the street from the proposed tower on the north side of Rings Road and has an unfettered line of sight to this proposed tower. Words cannot convey how disappointed he is and how much he strongly disagrees with both of those statements of engagement from Verizon and the Planning and Zoning Office.

After reviewing the documents on the website, Mr. Bloom stated the applicant still has no explanation or data as to why no other alternative site will work within a mile radius, specifically those sites that are southwest of where the church is located. He pointed out a site on an image that is west of Avery Road, south of Rings Road and is basically wide open space. He said he drives by it all the time. He noted this process has been going on for at least four or five months, with regards to the August meeting, and questions why this tower is being shoe-horned when there is all this real estate beyond. He said we are finding small cell technology that is almost like a booster, if he understood it correctly, for macros but we still need the macro. He said we are growing as a community and asked why Verizon would not put a macro out in the rural area and use the small cells to boost service into that macro because Dublin is going to keep growing out and this will not be the last time the City will have this problem. He referred to the map of the City of Dublin that demonstrated a huge hole in the Muirfield Village area where cellular service is lacking, for an example.

Mr. Bloom said the applicant stated the reason they are putting this tower in is because they are running out of capacity. He asked what is going to happen with the rest of the City. He said we will be faced with this same issue again and we need to look at the way technology is evolving and developing and take advantage of that. He said, if in fact these small cells can be placed in the City and use a macro site on the outskirts of the City, now is the time to look at that. He said that is the whole idea of planning long term.

Mr. Bloom said we all know the purpose of zoning laws is to prevent new development from interfering with existing uses and to preserve the character of the community. He said zoning is supposed to protect and maintain property values but this application threatens both. He employed the Commission to remember the purpose of zoning laws. He said the City has been very cognizant of creating zoning laws and crafting neighborhoods and a Community Plan. He said they are designed to help the homeowners such as himself, be assured there is a Community Plan in place to protect their long term investments. As homeowners, we count on the City to maintain and uphold the zoning laws. To approve this business purpose for an application in a limited suburban residential area, he indicated the Commission is choosing to ignore the current zoning designation, Community Plan, and most importantly, the economic welfare of its residents already in this specific area.

Mr. Bloom stated he has lived here 14 years. He said he purchased his property because there was a church there behind his house and his deck faces the front door of the church. He said he had a church and a cemetery that would provide stability in his life but that completely goes out the window with this application currently on the table. He challenged the entire room to take a broader view and consider long term and say, if we are going to grow, this is where Dublin is growing, this is where we should be planning for now for what is going to come in the next 10, 15, 20 years.

The Chair asked if there was anyone else from the public that wanted to speak in regards to this case [Hearing none.] She closed the public portion of the meeting and take conversation with her fellow Commissioners.

Mr. Miller asked how much latitude the Commission has for the materials proposed as compared to if they were reviewing an office building, or school, for example. Mr. Boggs answered the Wireless Code does not require specific materials for wireless structures; it refers to architectural compatibility that may be achieved in any of four ways: materials, texture, color, and screening. Under Chapter 99.07 in the Wireless Code, he said that provides the Conditional Use for wireless applications; the Commission has the ability to impose conditions to the extent necessary to minimize any adverse effects of a proposed tower or intended support structure on adjoining properties or to meet the review considerations of this section. He said if the Commission found that the material caused an adverse effect on nearby or adjacent properties, it would have the ability under the Code to impose a condition to address that and that could be a materials condition. Mr. Miller confirmed the Commission has some influence over that.

Mr. Miller inquired about having the tower close to the church. He reiterated we have not heard from anyone from the church. He said to him, it seems so logical to move the tower and incorporate it into the existing church structure. He asked if that had been vetted and why that was discarded as an option. Mr. Boggs said that might be best addressed from the applicant that received a proposal from Mr. Yoder. Mr. Miller said with the closed public portion, he was not certain he could speak with him. The Chair said the applicant may come forward and answer the question. Mr. Woodward said there was consideration of moving it up against the church, very diligently. He said the problem is, it does not meet Dublin's Code; it would not meet the setback and it would not meet the height bearings, the way the tower was proposed.

Mr. Miller asked if staff supports that. Mr. Stang answered, with the information that was provided to staff on the proposal, what the applicant stated is accurate. He said the proposal would exceed the 80 feet maximum height restriction as well as being within the 100-foot setback from the closest property line.

Ms. Fox asked the applicant whether or not the church was the least bit interested in that option. Mr. Ferguson answered they met with the church last Thursday and discussed their intention to come back in front of this Commission this evening to discuss the changes they made to the scale and height. He said they discussed that proposal and asked the church if they would give consideration to it and the answer

they received was “we have not made any kind of decision, we just received it the day before”. To his knowledge, he said, they have not received an affirmative or a negative to that proposal.

Mr. Miller asked if the church was amenable to that the Commission could approve a Variance on the height and the setback. Mr. Stang said one of the biggest changes, which was the discussion we had at the beginning of the meeting was, that site being the church property, this would fall under the Architectural Review Board’s purview so the PZC would not actually be the reviewing body if this were to move onto the adjacent property based off of staff’s interpretation of what property is listed in Appendix G. Mr. Miller asked if it is doable; the ARB would have the ability to grant those Variances. Mr. Stang said the ARB would have the ability to, through a similar process the application is going through currently but as to whether or not we could say they would be supportive of that and that is their determination to make.

Mr. Fishman said he is disappointed the person representing the church does not have any comment. He said when he walked the property earlier, the piece of the church sticks over into the other property, which the Commission spent an hour and a half deciding was not part of the historical property. He said there were two cars there but the church was locked. He said there is a minor door there - it is not a main entrance where the church crosses to the other lot. He said it seems to him that if the tower were built as it was explained next to the adjoining church that sticks onto non-historical property, it would be a slam dunk.

Mr. Fishman noted that in all of the pictures the applicant showed the Commission this evening, there are no bell towers sitting out in the middle of a field but it looks pretty decent sitting atop an animal medical center and his favorites are the ones attached to a church. He added all the photographs taken of all the other projects are a lot better than this proposal for sure. He indicated it is an easy slam dunk.

Mr. Fishman said the church is leasing this property and they want the income; obviously, that is why they are doing it. He suggested that if the church is willing to make the neighbors happy, make it a compatible 50,000 times better project, they can do what was explained by our expert architect in the audience. He recalled he suggested brick on the bottom to make it pretty like some of their other projects. If a Variance is needed, he indicated he is sure that can be done but he does not think a Variance would be needed, if they put it on the other lot and connect it to the church as it would be another addition to the church. He said he might be simplifying it but that is his feeling. He restated he was disappointed that the representative from the church did not come forward when he was present, earlier this evening.

Mr. Stidhem said we have all made suggestions on how to possibly resolve this by using small cell etc. but we are talking to a company whose business it is, is to build towers. He said they are not going to have a desire to consider any other alternative technology solutions other than building a tower. He said he really appreciated the work Mr. Yoder did to demonstrate the different views of this tower as proposed, because it is hard to envision until a nice three-dimensional rendering is shown. He said he has been trying to figure out where this tower would best fit because where it is proposed is not the best fit. He said he did not realize the bottom of the tower would not be brick and apparently, the whole tower is comprised of this foam, faux brick.

Mr. Woodward said, in fairness, the Commission is looking at Google Earth kind of matte finishes. He said they paid an engineer to actually do like photosims and show the actual relevance. He passed out view sets of what this product is going to look like. He said the pictures the Commission is seeing in those photographs are the actual product from this company so this tower will be built at that standard.

Mr. Fishman said he still thinks it would look a lot better attached to the church or integrated into the church. He added the applicant has done a beautiful job on the other towers that are connected to buildings and he said he bets he cannot find one sitting in the middle of a field, if he were to do a search on the internet.

Mr. Woodward noted there are some universities that have separate bell towers. Mr. Fishman said he had seen those; they are made of brick with working and beautiful bells swinging in them. Mr. Woodward said the only problem is, they are bound by Dublin's Code. Mr. Fishman suggested if there was a Variance to the Code, then the applicant could hook it to a building. Mr. Woodward said in the spirit of Dublin's Code, the goal is not to ask for Variances. He recalled they were told by the Commission not to do that. Ms. Newell said that was in a different context. She explained some of the things they look at are for it to be Stealth. Like Mr. Yoder's testimony, because he is an architect, and she as well, she said she agrees with that testimony in terms of the bell tower being isolated from anything that it would have a relationship to so it becomes more obvious as a screening component. She said she understands the applicant is shielding it and the applicant has presented some very nice photographic evidence that they can do this well but of the evidence presented, they all appear to be attached to other structures; none of them are presented isolated and separated. She said looking at churches historically, they would have bell towers normally part of those structures, not separated and isolated. She stated it is obtrusive and looks that way in the photographs because it is standing all by itself. While it is disguised, she said she would not describe it as being disguised, stealthily.

Ms. Mitchell agreed to the comments made of her fellow Commissioners. She said her concerns echo a lot of what was said back in August. She is concerned about the materials; she thought the bottom would be brick or at least not the same material as higher up. Certainly in other uses, she said those materials in Dublin would not be viewed positively. She said the tower is very segregated from anything else around it and that causes a really negative effect as already described by residents and others earlier this evening. She said for those two reasons that were also discussed in August - location as well as materials, it has a negative effect on what is around it. Comments already said by her fellow Commissioners, alternatively, the examples provided are very acceptable, and being integrated with existing structures there is an integrity to them. She concluded that is not what she sees in what is proposed tonight for this location.

Mr. Stidhem said he takes offense to the applicant's comment that they have to follow the Code. He asked the applicant if he has been to Bridge Park. He said there are examples where the Commission will take aesthetics and fit over the Code, time and time again. He said it is not that applicants have to absolutely 100% have to follow the Code; the City prefers you follow the Code but we also prefer that we have elements that fit in aesthetically. He said there has to be a culture and if one drives around the City that is what will be seen.

Ms. Fox said she believes in many ways in trying to incorporate cell towers because we need the cellular service. She said we are never going to discriminate against a cellular company for being able to provide us a service. In doing that, the applicant must prove to the Planning and Zoning Commission that they have met all of the requirements necessary to convince the Commission that there are no other alternatives. In Chapter 99.05, she said, the applicant must complete these requirements:

- Chapter 99.05 Section (C)(1)(d) - Must provide a separation distance from other existing or planned communication facilities shall be shown on a map and shall include latitudinal and longitudinal location coordinates.

*She said that data is not present.*

- The application should also identify the type of construction of the existing wireless communication facilities and the owner operators of the existing facilities, if known.

*She said that data is not present.*

- Chapter 99 Section 99.05(C)(1)(j) - For all the alternative tower structures or as otherwise required by the reviewing body, a statement from an engineer of the ability or inability to use the existing towers or structures, or alternative technology not requiring the use of towers or structures, to provide the services planned for the use of the proposed wireless communication facility.

*She said that data is not present.*

- Chapter 99 Section 99.05(C)(1)(k) – For all new towers and/or new alternative tower structures or as otherwise required by the required reviewing body, an inventory of existing and approved towers antennas, alternative tower structures, and antenna support structures that are either within the jurisdiction or within two miles of the border of the City with latitudinal and longitudinal location coordinates and the inventory of each tower and antenna should include a map showing each location by address and/or parcel identification number including straight-line distances between each facility.

*She said that data is not present.*

- Chapter 99 Section 99.05(C)(3)(c) – Compatible Design: The design of buildings and related structures for the Wireless Communication Facility shall use materials, colors, textures, and screening so as to be aesthetically and architecturally compatible with the surrounding environment.

*She said she thinks there has been some argument made for that.*

Under Conditional Use Review – Code 99.07:

- Chapter 99 Section 99.07(B)(3) – The nature of the potential for adverse effects on uses on adjacent and nearby properties.

*She said she believes there is a problem here that maybe St. John's Lutheran Church may not be aware of and she is not sure with the concern of the boundary line running through the building and the possibility that the parcel might come into a problem with adverse effect for that landowner.*

- Chapter 99 Section 99.07(B)(6) – The design of the tower or facility with particular regard to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.

*She said there is an alternative that we do not know whether St. John's Lutheran Church is willing to attach it to their building and since that is an unknown, and we do believe from residents' comments and from the evidence of the pictures that there is an element of visual obtrusiveness.*

- Chapter 99 Section 99.07(B)(8) – Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, with regard to the following: New towers shall be approved only when other preferable alternatives are not available. No new tower shall be permitted unless the applicant demonstrates to a reasonable satisfaction of the Commission that no existing tower, structure, or alternative technology is available to fill the communication requirements.

*She said she believes without raw data or real data the Commission is not able to make that decision.*

Mr. Fishman indicated the Commission is making this more complex than it is. He said if the applicant would agree to an extension, we could get this done. Mr. Yoder made excellent points, he noted, and the applicant could work with him and the church. Again, with the church having been here and left before addressing the Commission, we are left with an open end case now because we do not know whether the church will be willing to have the tower attached to the church. He suggested we can probably make that possible, if everyone is willing to cooperate. He said this is a very strange situation because the church was here and left and we have a proposal for a tower to be placed out in the middle of a field. He explained that when he was the president of the Board for his subdivision as well as being on a design review committee, whenever somebody would request a giant swing set that we would have to approve, they always wanted to put the swing set right next to the neighbor's yard on the boundary for which we would turn it down and the applicant would say they want to get it as far away from their house as they can. He indicated that is what is happening with this bell tower. The church wants the rent but they seem to want it placed as far away from the church as they can. He said the residents have done a marvelous job and cannot believe the amount of time these people must have put into this. He repeated if there is some cooperation here, we might be able to get this done so if the applicant could agree to an extension and be patient, we can contact the church, and the church is certainly benefiting from this, and in the end, we can be good to the neighbors, the church, and the community. He emphasized the applicant has not been able to show a tower that sits out in the middle of nowhere and it is made out of plastic that people are happy about.

Mr. Fishman said he did not have a problem with the materials if they can get the product to look like the projects they showed in the photographs. However, he reiterated, he has a problem with a tower like this sitting out in the middle of a field.

Mr. Fishman asked Ms. Newell - if the tower were attached to the church and we received a statement from the church that says they know it will impact their property as far as selling the property as it crosses over the property line, and it was put in the record, if everyone could be happy. Ms. Newell indicated the Commission did not have the authority to do that. She said as discussed earlier and as advised by legal counsel, the case would be reviewed by the Architectural Review Board if it was on the other property.

Ms. Newell emphasized that she was concerned that the historic structure spans across the property line onto this site, as she stated earlier, so she believes any decision the Commission makes in regards to this application has a negative impact on the adjoining parcel of this particular site. In terms of aesthetics, she stated bell towers are attached to church structures so that is where we expect to see them, not in a middle of a field. She said the applicant's proposal complies with the setbacks on that particular parcel at the moment, given the current property line that is crossed by another structure.

Mr. Miller said it is important that we recognize the needs there; it is just a matter of finding a solution. He indicated it is not as though the Commission is trying to block a cell tower; they are trying to find a solution that will fit in the neighborhood in a customer-friendly way.

Ms. Newell noted Ms. Fox made some good points. She said she is going to give the applicant the opportunity to come back because one of the provisions called for statements from an engineer. She asked if any of the applicants were engineers. Mr. Woodward answered he was not an engineer.

Ms. Newell asked the applicant to state why the documentation they presented meets the Code in terms of the regulations. She pointed out that none of the information provided had the needs, the Variance, and the bounds; the Commission received little pin-point images that were just a pin on a map and

nowhere was the coverage shown. She said there is no testimony from an engineer, just the applicant's testimony that the Commission is supposed to believe those pictures.

Mr. Ferguson said he is not sure he understands the question. Ms. Newell suggested going through the regulations out of the Code, one by one. Ms. Fox said the general requirements under Chapter 99.05 state:

The application must be complete and that Chapter 99 Section 99.05(C)(1)(D) - There should be the separation distance from other existing or planned communication facilities shall be shown on a map and shall include latitudinal and longitudinal location coordinates. It shall also identify the type of construction of the existing Wireless Communication Facilities and the owner operators of the existing facilities, if known.

Ms. Fox said the reason she believes these are important at least to her, is that this proposal is very difficult to review and the Commission does not want to act on opinion. Federal Law, she said, guides us on what the Commission can do. She said the Commission cannot say they do not like it because it is ugly, for example. She said it does not look ugly, it is attractive. She said the problem is the Commission has to 'cross all the T's and dot all the I's' so they can feel comfortable that there are no alternative sites and understand the coverage and capacity is needed and no other ways to get it. Without that data, she said, studied by an outside consultant to do so, if needed, studied by the City. She said the Commission will not be able to guarantee the residents that they have done their due diligence. She restated that is why it is so important that the Commission get the data, because we do set a precedent here because other cell phone tower companies will also want to come so everyone has to be treated the same. She asked the Chair if she wanted her to read any more.

The Chair said she wanted the applicant to respond on what information they provided meets that provision. Mr. Ferguson answered they supplied tower locations that Verizon owns - both existing and proposed. Ms. Newell asked the applicant how they identified what those locations are. She said the applicant did not submit the bearings. She said the applicant supplied a visual/graphic image with pins on a map; it does not identify the specifics that are stated in the Code. Mr. Ferguson said that piece of information has been available to the Commission since June 2017 and this is the first time he has been asked that question. He said they were told the application was complete. Ms. Newell asked staff if the applicant had submitted that information. Mr. Ferguson said they had submitted the map she is referring to. He added the original application had both sites that were planned and already built by Verizon.

Ms. Fox said from her perspective, she has to go by the City Code and it requires additional data and that is where she stands on that. She said she wanted to be convinced that the City does not have alternatives.

Todd Boyer, TowerCo, asked if the Code specifies a range as far as existing structures as it is kind of open ended.

Ms. Fox referred him to the Code because it is comprehensive and offered to give the applicant a copy of it.

Mr. Boggs said the Code that Ms. Fox is referencing - Chapter 99 Section 99.05(C)(1)(K) references all new towers or new alternative tower structures, which otherwise required by the reviewing body, an inventory of existing and approved tower, antenna, alternative tower structures and antenna support structures that are either within in the jurisdiction or within two miles of the border of the City with latitudinal and longitudinal location coordinates.

Mr. Ferguson said he thought they made it pretty clear that they had to be within a certain distance. He said Verizon is already on towers one mile north of this proposed structure. He said he thought they pretty well documented that there is a need for this site and the surrounding area where there are not existing structures.

Ms. Fox asked for confirmation that there is no inventory of existing towers, antennas, alternative tower structures, or antenna support structures, anywhere within two miles.

Mr. Boyer said it is irrelevant because if one goes two miles you are not hitting the objective. Mr. Woodward said what they are trying to get at is they are showing the Commission all of the towers that are in Dublin, that Verizon is on, and that are in this whole area. He said that is what they submitted to Planning and Planning confirmed the applicant was okay. He said, if he is not mistaken, if Planning confirms that the application is okay, it is deemed approved. He said it was deemed complete.

Ms. Newell read "For all new towers or new alternative tower structures, which otherwise required by the reviewing body, separation distance from other existing or planned Wireless Communication Facilities shall be shown on a map and shall include latitudinal and longitudinal location coordinates."

Mr. Boggs indicated the question that everyone is trying to drive at is not the completeness of the application per se but where the first line states in the Chapter 99 Section 99.05(C)(1) - The following information must be submitted for all applications required by this chapter unless deemed unnecessary by the Director i.e. if the staff accepts the application and puts it before the Commission, which happened back in June or July 2017. He said there is a limited time period under which the completeness of the application can be put on issue and that passed 10 days after the application was submitted. He said the question is whether the evidence before the Commission and the lack of these items, or any other items, causes pause under the Conditional Use Review requirements related specifically to Chapter 99 Section 99.07(B)(8) that related to the availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures.

Mr. Boggs stated his advice to the Commission would be that this is not a reason to say the application is incomplete, goodbye, but in the calculus of the evidence that has been put before the Commission, whether the Commission feels that the Conditional Use criteria have been met with the information given by the applicant.

Ms. Newell thought the Commission had testimony from the applicant this evening in regards to the surrounding property that they do not know, and did not object to it potentially being on the surrounding property so there is a potential other site, other than this one – other than the one the applicant presented this evening. She said she thinks the applicant agreed that was a potential location that was viable.

Mr. Boggs said he is not arguing with the weighing of that evidence in relation to Chapter 99 Section 99.07(B)(8); he is just trying to steer the Commission away from argument about completeness of the application because that ship has sailed.

Ms. Newell said she was getting back to not so much completeness of the application but completeness of materials so she fully understands what available sites the City has. Those need some bounds and to gain a better understanding she asked if one of the applicants was an engineer. She stated that is one of the qualifications for who could explain this to the Commission better and help the Commission understand why this site, why this location, more specifically than the general information that was presented this evening. She said the applicant has testified that other site is potentially viable. Mr. Ferguson asked which site that was. Ms. Newell answered the site that we stated earlier that has the

historic structure on it. She thought the applicant offered testimony that they had been presented with Mr. Yoder's proposal but did not know if the church was willing to accept that and the applicant did not object that that was not a viable site. From one of our review conditions, she said, the review is to determine if there are no other viable sites.

Mr. Ferguson said we are up here tonight talking about making exceptions to many things but their application is derived from the City's Code. He said the site meets the setbacks and that is what they put forward to the Commission in August and they have since made their adjustments. He said he understands there has been a proposal that has been presented but their property owners, with which they have a contractual agreement have not said yes or no. He reported in their last meeting with the property owners, that is what they told the applicant. He said this is not that application.

Ms. Newell said for like purpose and intent that the applicant collate other existing tower structures for co-location are located on existing structures. Required new towers and other related structures are to accommodate multiple users whenever practical. She said the applicant added testimony that they were doing that. She said the applicant needs to locate the towers in the least obstructive locations in a manner using present and evolving technology. She said she does not believe what the applicant is presenting is the least obstructive location because it is presented as an isolated bell tower.

Ms. Mitchell noted what was presented on the screen was the criteria the Commission should consider, which staff confirmed. She said we could actually structure this discussion around points one through eight and there are multiple points on here that she has heard several of her fellow Commissioners as well as herself, say there are issues around. She suggested that would be one way to organize this.

Mr. Boggs said he would recommend that. He said the Commission has a couple of options:

1. The Commission can ask the applicant if they would be willing, on the record, to agree to an extension of the shot clock date to further pursue the option with the tower being placed on the same parcel as the sanctuary as Mr. Yoder proposed. Ms. Mitchell said that would involve the ARB to which Mr. Boggs confirmed because that parcel unquestionably is within their purview. He said it is the applicant's right to agree or not to agree to an extension and if they did agree then the Commission would table this discussion and it would go through the ARB and it would be back eventually for the Conditional Use Review for the PZC to determine.
2. If the applicant did not want to extend the shot clock, then that would be the time to make a motion on the application that is in front of the Commission this evening and then articulate reasons and vote.

The Chair invited the applicant to come forward. She said she asked this question earlier but she will ask this question again what the applicant would like to do. Mr. Ferguson said he wished to proceed with a vote.

Ms. Newell said when she goes down the review, it states the proposed use will be harmonious in accordance with the general objectives or purpose of the Zoning Code or the Community Plan. She stated she does not believe the proposed use is harmonious because the tower is isolated on the site, away from other structures, and a bell tower would not typically be seen represented in the middle of a field as it is being proposed.

Ms. Newell said she is equally uncomfortable because the proposal will adversely affect the adjoining property because that structure is sitting over the property line so the Commission would be affecting that adjoining property.

Ms. Newell said she does not believe the proposal will comply with all applicable development standards because a portion of the historic structure is over the existing property line on this parcel.

Ms. Newell said she does not think the proposal is harmonious with the existing or intended character of the general vicinity for the reasons previously stated.

Ms. Newell said the proposal will have a negative impact on the existing surrounding uses.

Ms. Fox said her only comment is because of the Conditional Use, she is most interested in Chapter 99.07(8)(a) - A new tower shall be approved only when other preferable alternatives are not available.

Ms. Fox added no new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Committee that no existing tower structure or alternative technologies are available. She said the church property is a possible alternative. By Federal Law, she said the Commission cannot be prejudice or discriminate against having a cell tower; we are trying to find a place for it, a place that works. She concluded these two reasons are the strongest arguments the Commission has. She said in order to help the applicant get the tower, we have to hopefully give a little time here to make this work out if it is possible because there is a viable alternative.

#### **Motion and Vote**

Mr. Stidhem moved, Ms. Mitchell seconded, to approve the Conditional Use for a Wireless Communications Facility with four conditions:

- 1) That the applicant submit a Special Flood Hazard Area Development Permit Application (SFHADPA) for any work proposed within the floodplain, subject to Chapter 151 – Flood Control of the Dublin Code of Ordinances;
- 2) That the applicant submit additional calculations and details with the feasibility assessment to demonstrate compliance with Chapter 53 of the Dublin Code of Ordinances, subject to approval by the City Engineer;
- 3) That the applicant submit a Fire Resistance Study for the building material demonstrating compliance with all applicable regulations to the satisfaction of the Fire Marshal; and
- 4) That the applicant revise the landscape plan to provide a natural buffer along the perimeter of the fence enclosure with the building permit, subject to staff approval.

The Chair asked the applicant if they were in agreement with the four conditions as stated. They answered affirmatively.

The Chair reminded everyone if they were a no vote that they clearly state why they do not believe it complies with the review criteria both in terms of Chapter 99 for the Wireless Communication regulations and the review criteria under Conditional Use applications.

The vote was as follows:

Ms. Fox voted no because of Chapter 99 Section 99.07(B)(8)(a) because she believes there is possible alternative location.

Mr. Miller voted no because item number 6, as he believes because of the conflict with the lot line there will be a negative impact to the owner of the property, which turns out to be St. John's Lutheran Church. Secondly, item number 9, as he truly believes there will be a negative impact to the real estate values of the close residents.

Mr. Fishman voted no because he stated the proposal does not meet Criteria 3, 4, 6, and 9.

Ms. Newell voted no because she believes we have had testimony this evening under our regulations for Wireless Communications Chapter 99 that there is potentially another viable site and that was one of our review factors we had to consider that there were no other viable sites. She said she does not believe that the proposal that they have, based on the testimony we have from Mr. Yoder as an expert that a bell tower will in fact not be harmonious with the purposes of the Zoning Code under the Conditional Use because it is being presented in a manner that it would not customarily be – sited in a field instead of being attached to a structure. She said the proposal does not comply with the Code as it is adversely affecting the surrounding property because there is a discrepancy that the historic structure is placed across the existing property line as the Commission has been presented from a legal survey that was submitted for review.

Ms. Mitchell voted no because of the following reasons utilizing the list provided on the screen that is the same that Mr. Fishman used:

3. The nature for potential adverse effects. She said from what the Commission heard tonight, that there is potential for adverse effects, partly compounded by the issue of the potential for property lines moving but also in general with regard to what might happen to use on the parcel that St. John's Lutheran Church owns of where this tower would be as proposed.
6. The design of the tower she believes from what the Commission has heard, and seen, that in fact, this design is visually obtrusive where it is proposed to be located and the type of placement and materials that are being proposed.
- 8.a She said she has not heard testimony or seen evidence to persuade her that there are not alternative locations for the tower.

Mr. Stidhem voted no because of:

3. He said there is substantial evidence that has been presented that shows that there will be a negative impact on the adjacent properties and Criteria 6 and Criteria 8.a.

(Disapproved 0 - 7)

The Chair stated the motion does not carry and with that the Commission is responsible for writing a motion in writing, which is required within 10 days. She said that could be achieved in conjunction with legal counsel so she suggested the Commissioners make a motion that Victoria Newell as the Chair and Steve Stidhem as the Vice Chair will write that report in conjunction with legal counsel.

Mr. Boggs clarified the reasons for denial of this application with the substantial evidence must be provided in writing as a Federal Requirement as well as local Code Requirements in Chapter 99.07.

#### **Motion and Vote**

Mr. Stidhem moved, Ms. Mitchell seconded, that the Chair and the Vice Chair will work with Legal Counsel to write a report that states why the Commission denied this application and provide substantial evidence within 10 days. The vote was as follows: Ms. Newell, yes; Mr. Stidhem, yes; Ms. Fox, yes; Mr. Miller, yes; Ms. Mitchell, yes; and Mr. Fishman, yes. (Approved 7 - 0)

The Chair asked if there were any further items to discuss. [Hearing none] She adjourned the meeting at 11:43 pm.

As approved by the Planning and Zoning Commission April 5, 2018.