

**MINUTES OF THE REGULAR SCHEDULED MEETING
OF THE EMERALD ISLE BOARD OF COMMISSIONERS
TUESDAY, APRIL 9, 2019 – 6:00 P.M.
TOWN BOARD MEETING ROOM**

1. Call to Order

The regular monthly meeting of the Emerald Isle Board of Commissioners was called to order by Mayor Eddie Barber at 6:00 PM in the Town Board Meeting Room.

2. Roll Call

Present for the meeting: Mayor Eddie Barber, Commissioner Steve Finch, Jim Normile, and Mark Taylor.

Absent for the meeting: Mayor Pro-Tem Floyd Messer, and Commissioner Candace Dooley.

Commissioner Normile noted that Commissioner Messer was absent and with his wife Bett who had been ill and was currently in the Vidant Heart Center, adding this was the first meeting Commissioner Messer had missed during his 18 years of service to the Board. Commissioner Normile asked for everyone to keep them in their prayers.

Motion was made by Commissioner Normile to excuse the absence of Mayor Pro-Tem Floyd Messer. The Board voted unanimously 3-0 in favor. Motion carried.

Commissioner Taylor noted that Commissioner Dooley had personal travel plans that required her to be absent.

Motion was made by Commissioner Taylor to excuse the absence of Commissioner Candace Dooley. The Board voted unanimously 3-0 in favor. Motion carried.

Also, present during the regular meeting: Interim Town Manager Randy Martin, Attorney Richard Stanley, Town Clerk Rhonda Ferebee, Finance Director Laura Rotchford, Police Chief Tony Reese, EMS Chief David Jones, Fire Chief Bill Walker, and Town Planner Josh Edmondson.

3. Opening Prayer

Mayor Barber offered the opening prayer.

4. Pledge of Allegiance

Mayor Barber led the Pledge of Allegiance.

5. Adoption of Agenda

Motion was made by Commissioner Finch to adopt the Agenda. The Board voted unanimously 3-0 in favor. Motion carried.

6. Employee Recognition

- a. Paul Cheshire, Police Captain (25 Years)**
- b. David Ketchum, Police Lieutenant – Advanced Law Enforcement Certificate**

Police Chief Tony Reese recognized Police Lieutenant David Ketchum for meeting the requirements necessary to receive his Advanced Law Enforcement Certificate. Chief Reese noted this certificate was awarded by the NC Department of Criminal Justice Education and Standards Commission and was the highest professional certification achievable by Law Enforcement Officers in the State of North Carolina. Chief Reese outlined the required years of service and advanced training hours required.

Police Chief Tony Reese also recognized Police Captain Paul Cheshire for his 25 years of service to the department. Chief Reese said the Town had benefited from Captain Cheshire's knowledge, experience, wisdom, and leadership over the past 25 years of service. Chief Reese presented a service plaque and thanked Captain Cheshire for his great service to the Town and department.

7. Introduction of New Employees

- a. Randy Shaffer, Paramedic**
- b. Brandon Jones, Firefighter**
- c. Joe West, Fire Engineer**

EMS Chief David Jones introduced the EMS Department's newest full-time Paramedic Randy Shaffer. Chief Jones noted that Randy was a former full-time employee with EI EMS, Inc., and had been a part-time employee with the Town EMS Department. Chief Jones noted that Randy got his start in 1976 in Erie, Illinois, and throughout his 40+ years in EMS Randy had been a combat medic, instructor for the US Army, critical care paramedic for several hospitals, flight paramedic, and an EMS instructor. Chief Jones stated that Randy had also developed first responder programs for manufacturing facilities, and EMS education programs for community colleges, and EMS departments. Chief Jones stated that Randy was currently a national registered paramedic, and a NC level 2 paramedic instructor. Chief Jones was excited to have Randy onboard with his years of experience and educational background being invaluable to the department.

Fire Chief Bill Walker introduced the Fire Department's newest full-time Firefighter Brandon Jones. Chief Walker noted that Brandon had joined the Princeton, NC Fire Department in 2008 as a volunteer, and came to work in Emerald Isle as a lifeguard in 2014 serving last year as

Assistant Lifeguard Supervisor. Chief Walker stated that Brandon had done a two-year internship with the Salisbury, NC Fire Department and had obtained his Fire Science degree during that time. Chief Walker noted he would now switch from the ATV's as a Lifeguard to be hired as Firefighter.

Chief Walker introduced the Fire Department's newest full-time Fire Engineer Joe West. Chief Walker noted that Joe came to Emerald Isle from Bear Creek Fire Department, having started there as a junior firefighter at 16. Chief Walker stated that Joe had obtained his Fire Fighter 1 & 2 certifications, and his Basic EMT in 2015. Chief Walker said Joe started working at Pender Fire & EMS in 2016 and had started work part-time with the Emerald Isle Fire Department in 2017, and part-time with the Morehead City Fire Department and had now come on full-time with Emerald Isle Fire Department.

8. Appoint New Town Manager Matthew R. "Matt" Zapp

Mayor Barber presented the agenda item regarding the Appointment of New Town Manager Matt Zapp and Approval of Employment Agreement. Mayor Barber briefly discussed the Board's executive search process culminating with the hire of our new Town Manager Matt Zapp who was scheduled to begin work with the Town on June 12, 2019.

a. Resolution Appointing New Town Manager and Approval of Employment Agreement

Motion was made by Commissioner Finch to adopt the Resolution appointing Matthew R. "Matt" Zapp as Town Manager and authorizing Mayor Barber to execute Employment Agreement on behalf of the Town of Emerald Isle. The Board voted unanimously 3-0 in favor. Motion carried.

9. Proclamation / Public Announcements

Mayor Barber noted the following Proclamations and public announcements.

- a. Proclamation – National Day of Prayer**
 - b. Proclamation – Municipal Clerks Week**
 - c. Proclamation – Deck Safety Month**
 - d. Proclamation – Bicycle Month**
 - e. Proclamation – Small Business Week**
 - f. Proclamation – National Travel and Tourism Week**
- **Friday Free Flick – Friday, April 12 – 7 pm – Emerald Isle Community Center**
 - **Emerald Isle Beach-Nesting Stewards Training Sess – Friday, April 12 – 9am-12:30pm – Town Board Meeting Room**
 - **Golf Cart Safety Class – Friday, April 12 – 10 am – Town Board Meeting Room**
 - **Easter Eggstreame – Saturday, April 13 – 10am -11am- Emerald Isle Community Center**

- **Police Educating the Public (PEP) – Tuesday, April 16 – 10am – Town Board Meeting Room**
- **Golf Cart Advisory Committee – Tuesday, April 16 – 10am- Town Board Meeting Room**
- **Dog Park Development Committee – Wednesday, April 17 – 3 pm – Community Center**
- **Good Friday Town Holiday – Friday, April 19 – Town Offices and Community Center Closed**
- **Coffee With a Cop – Thursday, April 25 – 9 am – Ben & Jerry’s**
- **American Red Cross Blood Drive – Friday, April 26 – 2-7pm – Community Center**
- **Planning Board Regular Meeting – Monday, April 29 – 6pm – Town Board Meeting Room**
- **Golf Cart Safety Class – Saturday, May 4 – 10 am – Town Board Meeting**
- **5th Annual Bike the Banks – Saturday, May 4 – 10 am – Town Board Meeting Room**
- **El Garden Club’s 2nd Annual Bikes and Blooms – Sat/Sun – May 4 & 5 – Vote Favorite Display – Welcome Ctr**
- **Neighborhood Watch Committee Meeting – Tuesday, May 7 – 6 pm – Police Conference Room**
- **Friday Free Flick – Friday, May 10 – 7 pm – Emerald Isle Community Center**
- **Fishing Tournament Executive Committee – Monday, May 13 – 3 pm – Town Administration Building**
- **Board of Commissioners Regular Meeting – Tuesday, May 14 – 6 pm – Town Board Meeting Room**

10. Public Comment

Brief Summary:

The public will have the opportunity to address the Board about any items of concern not on the agenda. The Mayor and Board welcome and appreciate all comments from the public, and will take these comments into consideration as they make decisions on Town issues and provide direction to Town staff. Public comment is a time for the Board to listen to the public's concerns and ideas, and is not intended for a lengthy dialogue or question and answer session.

The Mayor, Board, and Town staff are happy to meet with any citizen during normal business hours or at any other mutually agreeable time to discuss Town issues and answer any questions.

There were no comments from the public.

11. Consent Agenda

- a. **Minutes – February 18, 2019 Special Workshop Meeting**
- b. **Minutes – February 18, 2019 Special Meeting**
- c. **Minutes – February 18, 2019 Closed Session**
- d. **Minutes – March 4, 2019 Special Meeting**
- e. **Minutes – March 4, 2019 Closed Session**

- f. Minutes – March 12, 2019 Regular Meeting
- g. Resolution Adopting General Records Retention and Disposition Schedule and Amendment to Municipal Records Retention and Disposition Schedule
- h. Resolution Declaring Surplus Items for Public Auction
- i. Resolution Declaring April Litter-Free Month

Motion was made by Commissioner Finch to approve the items on the Consent Agenda. The Board voted unanimously 3-0 in favor. Motion carried.

12. Special Use Permit – Verizon Wireless – 3301 Emerald Drive – 40 Ft. Monopole Tower

- a. Public Hearing
- b. Consideration of Special Use Permit Request

All individuals wishing to speak during the hearing were sworn in by the Town Clerk.

Motion was made by Commissioner Normile to open the Public Hearing. The Board voted unanimously 3-0 in favor. Motion carried.

(A copy of the verbatim transcript of the Special Use Permit public hearing is attached in its entirety and hereby made a part of the official minutes).

Motion was made by Commissioner Finch to close the Public Hearing. The Board voted unanimously 3-0 in favor. Motion carried.

Motion was made by Commissioner Normile that the proposed use will not materially endanger the public health or safety if located where proposed and if developed according to the plan as submitted and approved. The Board voted unanimously 3-0 in favor. Motion carried.

Motion was made by Commissioner Taylor that the proposed use will meet all conditions and specifications required by the UDO and other applicable Town, county, state and federal laws and regulations. The Board voted unanimously 3-0 in favor. Motion carried

Motion was made by Commissioner Finch that the proposed use will not substantially injure the value of abutting or adjoining property, or that the use is a public necessity. The Board voted unanimously 3-0 in favor. Motion carried.

Motion was made by Commission Normile that the location and character of the use will if developed according to the plan as submitted and approved be in harmony with the area in which it is to be located and in general conformity with the land use plan as updated and amended for the Town. The Board voted unanimously 3-0 in favor. Motion carried.

Motion was made by Commissioner Normile to approve the Special Use permit request for Verizon Wireless to erect a new 40 ft. monopole tower at 3301 Emerald Drive – no conditions. The Board voted unanimously 3-0 in favor. Motion carried.

13. Comments from Town Clerk, Town Attorney, and Interim Town Manager

There were no comments from the Town Clerk or Town Attorney.

Interim Town Manager Randy Martin referred to his report if the Board had questions.

14. Comments from Board of Commissioners and Mayor

There were no comments from the Board of Commissioners and Mayor.

15. Closed Session Pursuant to §NCGS 143-318.11(a)(3) for the Purpose of Maintaining Attorney-Client Privilege

Motion was made by Commissioner Finch to enter Closed Session pursuant to § NCGS 143-318.11(a)(3) for the Purpose of Maintaining Attorney-Client Privilege. The Board voted unanimously 3-0 in favor. Motion carried.

Motion was made by Commissioner Normile to return to Open Session. The Board voted unanimously 3-0 in favor. Motion carried.

16. Adjourn

Motion was made by Commissioner Normile to adjourn the meeting. The Board voted unanimously 3-0 in favor. Motion carried.

The meeting was adjourned at 10:15 pm.

Respectfully submitted:

Rhonda C. Ferebee, CMC, NCCMC
Town Clerk

**Town of Emerald Isle
Excerpt Regular Meeting 04-09-19 SUP**

Barber: Mayor Eddie Barber
Normile: Commissioner Jim Normile
Stanley: Richard Stanley, Town Attorney
Edmondson: Josh Edmondson, Town Planner
Ferebee: Rhonda Ferebee, Town Clerk
LaPann: Jim LaPann, Faulk & Foster
Berkowitz: Michael Berkowitz, Certified General Appraiser
Yeagley: John Yeagley, Chase Real Estate Services
Hill: Seola Hill, Bogue Banks Water Corporation
Daniel: Vincent Daniel, Resident
Parsons: Gavin Parsons, Coats & Bennett
Perry: Kathy Perry, Emerald Isle Realty
Margaret B.: Margaret Browning, Black Angus Holdings LLC, Resident
Emily B.: Emily Browning, Resident
Yauch: Steve Yauch, Resident
M/F: Male/Female Speaker

[BEGIN Excerpt Regular Meeting 04-09-19 SUP-1 of 2]

[TECHNICAL COMMENTS]

M: —a motion to approve the consent agenda [ph]?

M: So moved.

M: Motion to approve the consent agenda.

Barber: All in favor, say “aye.”

M/F: Aye.

Barber: Item 12. Rich [ph], at this time, we need to the call people who wish to speak—

[OVERLAPPING]

Stanley: Not yet [ph]. You need to determine if there’s been any ex parte communications

[INDISCERNIBLE].

Barber: Okay, let me ask the commissioners this question: if they have formed an opinion prior to the hearing that is not susceptible to change, or if they have a close family, business, or association with an affected person or a financial interest in the outcome of the matter that would affect their ability to be impartial and fair?

M: Would each commissioner answer that question, please?

M: I have not formally [ph]—"no" to all that. How about that?

M: [INDISCERNIBLE]

M: I have not.

M: I have not.

M: And I have not either.

Stanley: Okay. I'm—and with the board's permission and the mayor's permission, I'm going to tell everybody what this hearing is about tonight and what the rules and regulations are going to be.

Tonight, the board's going to hear a petition or application for a special use permit requested by Verizon for the location of a wireless communication tower at 3301 Emerald Drive. This hearing is not like a rezoning hearing or approval of a site plan for a commercial structure. There are certain procedures and rules that must be followed, and the decision is subject to review by the Superior Court if the procedures and rules are not adhered to.

This hearing is a quasi-judicial hearing, in that only sworn testimony is to be received. The hearing must be fair and objective, and the decision is not discretionary with the board, like a rezoning decision, but the decision is to be made by competent and substantial evidence presented at the hearing. All

witnesses that testify are going to be subject to cross-examination, and the board is to consider and determine the existence of certain facts and decisions as a basis for approval of the conditional use permit. The mayor and I take no position. Our role is to ensure a fair hearing and a hearing that's based upon competent evidence.

Evident is competent if it is sufficiently trustworthy and is reasonable for the board to rely upon. Competent evidence does not include the opinion testimony of a lay witness as compared to an expert witness as to the use of property in a particular way that would affect the value of the property, or the increase in vehicular traffic resulting from a proposed development would pose a danger to the public safety, or matters about which only expert testimony would generally be admissible.

This means that a lay witness or person testifying at the hearing that has no expertise, background, or sufficient knowledge so as to qualify to give expert testimony will not be allowed to give evidence in this case that the proposed use will substantially injure the value of abutting or adjoining property. Therefore, if you're going to be testifying as to opinion, you're going to need to give your background, training, license, education, your circumstances that particularly qualify you for the ability to give an opinion that this is going to substantially affect the property.

There are four conditions that must be found to exist or are factual under the Town Code of Ordinances with regard to this special use permit. First of all, that the proposed use will not materially endanger the public health or safety if

located where proposed, and if developed according to the plan as submitted and approved.

Second, that the use meets all conditions and specifications required by the ordinance and other applicable town, county, state, and federal laws and regulations. Third, that the proposed use will not substantially injure the value of an abutting or adjoining property, or that the use is a public necessity. And four, that the location and character of the use, if development according to the plan as submitted and approved, will be in harmony with the area in which it is to be located, in general conformity with the land use plan as updated and amended for the town.

Each one of these, at the conclusion of the evidence, will need to be discussed and voted on. In other words, there will be a need for a separate motion and vote on each of the four. If you don't find these to exist, you'll likewise need to find or state the evidence that, based upon your not finding it, does not meet approval [ph]. In other words, justification, we'll have to put in the record, justification for not meeting one or more of these.

Now, to further complicate this hearing tonight, under the paragraph two, the use [ph] _____ conditions, the specifications required by the ordinance, there are other things that you must meet under Section 4.2.

The applicant must provide substantial evidence of the need for the proposed tower in terms of both coverage and capacity. Two, the wireless tower must be placed on an existing structure unless the applicant can demonstrate substantial, clear, and convincing evidence that all co-location opportunities have

been exhausted. Three, the tower must include room for two additional sites for the proposed tower and space for the proposed tower will be offered and negotiated in good faith at the market rate.

Four, the certification from the FAA that the tower will not be a hazard to aviation. Five, the applicant shall file with the FCC that the structural location submitted be location regulated [ph] by the National Environmental Policy Act of 1969. Six, radio frequency exposure levels shall not exceed the lesser of FCC or ANSI exposure standards at any point of exposure to the public.

Seven, the tower must be designed and built to withstand a 50-year hurricane. Eight, liability insurance of a minimum amount of \$1 million shall be provided and maintained. Nine, a bond to cover the removal of the tower in the amount of 110% shall be provided. Ten, the applicant must provide substantial evidence as to the current need for the tower both in terms of coverage area and capacity, and must show why existing sites cannot provide adequate coverage and capacity. Eleven, the applicant must demonstrate the lack of suitable co-location [ph] opportunities. Twelve, the applicant must notify by certified mail all owners within 500 feet and all adjoining owners of the application [ph].

Next, the lot upon which the tower is proposed shall be capable of meeting the minimum lot size necessary to accommodate the minimum setback requirements. The tower must meet the height requirements of the ordinance. The tower shall not be illuminated unless required by FAA standards. And last, the tower's finish shall meet the color requirement, which is a flat gray tone.

So there's a lot going on tonight. I ask you, if you're going to testify, state your field of expertise or your education background, and be succinct on what you're testifying about. Any questions about that from the board?

Barber: At this time, Richard, then, should we call the people to be sworn in?

Stanley: Those that are going to be sworn need to come up, and—

Barber: If you're going to testify tonight, would you please come forward and be sworn in. [INDISCERNIBLE] and the town clerk will do that.

Ferebee: You're good. And I'm going to have you all sign in before you're sworn, if you would. Just your name and address.

[INAUDIBLE]

M: [INDISCERNIBLE]. Have they been sworn _____?

Ferebee: They're going to be. I'm just getting them to sign.

[INAUDIBLE]

[TECHNICAL COMMENTS]

[OATHS ADMINISTERED]

M: Mayor, since the applicant has the burden of proof _____ they should go first [ph].

M: Okay. The applicant will go first.

[INAUDIBLE]

LaPann: Good evening. My name is Jim LaPann.

M: Just a second [ph].

LaPann: Oh, okay.

M: Make a motion _____.

M: We need to have a motion to have the public hearing.

M: I make the motion to open—excuse me—I make the motion to open the public hearing for special use permit request from Verizon Wireless.

M: All in favor, say “aye.”

M/F: Aye.

M: Approved. Sorry.

LaPann: That’s fine. No, I’ll start again. Good evening. My name is Jim LaPann. I’m an employee of Faulk & Foster. And we’ve been hired by Verizon Wireless. My title is a zoning specialist. And as a zoning specialist, what my job is, is that when Verizon finds an area that has a weakness in it, and they determine that a new tower is design—it needs to be placed there, then they designate a certain area called a “search ring.” And so then the site acquisition company goes and tries to look at all the different areas that a site—that a tower can be put within the search ring. And then, once Verizon decides what place they want to do, then it comes to me, and that’s where I start.

And so what my job is, is to take a look at the law of that community. That’s exactly what happened here. I received the assignment to work on this—Emerald Drive is the name that we gave this site. And so what I did is I then looked at of all the elements of the ordinance and all of the requirements, and then put together what I call an “ordinance compliance statement,” which takes the actual ordinance and all the requirements, and it places them down on the paper, and then after each element of it, I demonstrate how I have complied—or how Verizon has complied.

It was my understanding coming to this meeting that first the—that Josh Edmondson would give a brief presentation to outline the—this project, but that's fine. If that's not the way it's going to work, that's fine, but I do need to have the capability to show up on the screen or just somehow show the elements of our application and the exhibits. That was my understanding, that that was going to be done ahead of time. Is there some mechanism, are these in the computer, they can be—

M: You're welcome to call Josh as a witness at this time if you choose [ph].

LaPann: Okay. All right, Josh, would you—can you provide some assistance, technical assistance to help me with the—put the things up on the screen to show the different exhibits?

Edmondson: Yes.

LaPann: Okay, would you do that at this time?

Edmondson: [INDISCERNIBLE]

LaPann: No, I thought you had them in your computer. I mean, you put them in the package. They're in the package.

Edmondson: We do. So we—they have all the exhibits in front of them.

LaPann: Okay. All right. All right then. So I'll just go ahead then and refer to this package.

M: Sure.

LaPann: I think it's available to all the people in the audience as well. Very good, that's what we'll do. Thank you very much. I don't need you, Josh. [LAUGHTER]

M: Don't go anywhere, Josh.

Edmondson: Yeah, they [ph]—Jim, they have all the exhibits, which was provided to them beforehand, before the meeting.

LaPann: Very good [ph].

Edmondson: Any additional information you would like to enter in?

LaPann: I would not [ph].

Edmondson: [INDISCERNIBLE]

LaPann: So, first of all, I—what I'd like to do is to establish that these documents, that you already have and that everyone in the audience has in this package, are part of the record here tonight. Is that—is that accurate? Are these fairly—this is my application, it's been submitted, and I'm—and then this is what we're relying on to establish our case.

M: Rhonda, do you have a set of these documents?

Ferebee: I do, and then we also have it if we can pull the agenda up, if needed, and that is on the agenda. The—

M: They will then be part of the—still make them part of the record.

LaPann: They're part of the record now, so. The only things that I had that I'm going to talk about that are not part of that record are two items. One is what's referred to in one of the items, the supplemental materials that I sent, I referred to a thing called an "EME report" or a radio frequency emissions compliance report, and that—I did not have that at the time I submitted the supplemental.

What this is, is we hired a company to do an evaluation of what are the possible effect of our cell tower on either people on the ground or people in adjoining build—buildings, and is that going to be of any danger to them. I know

that the federal law states that that cannot be a basis to deny our application, but that's the important thing that I wanted to do here today, was to try to reassure the board and everyone else that this tower is of no danger to anyone. And so I have that additional report, and I would submit that at this time. Do I submit to the clerk?

M: Yes.

M: Yes.

M: Yes.

M: Even though your documents are part of the record, you need to cover them.

LaPann: I will. I will go through those, but I'm just presenting that document. The other thing that I have here, and this is in hard copy, and that is the certified mailings receipt—or, not receipts, the—when you send a certified mail item out, you retain one piece of the—of that package. A white—it gets stamped at the post office. And I have all of the ones that we sent to for all of the people. I have all of the proof that we did satisfy that segment of the ordinance, and I will present that also to the clerk.

M: Just more stuff to mail [ph].

LaPann: Okay. So I'm—there's one other aspect that I'm not entitled [ph] or qualified to do, and that's—we'll get to that in a little while, and I'll have my expert come up and testify about that. But first of all, I'd like to go through and move right along, because it is a substantial ordinance, and as the attorney indicated, there are a lot of things that we had to comply with, and I'll get right to it.

So the first one that was referred to by the attorney was the need. Do we have the need? And I would ask you to go to two items to look at that, and to— one is Exhibit B in our initial application, and those are colored maps that say “before” and “after.”

M: Everybody has those?

LaPann: Did everybody get a look at those or have those in front of them, because—okay. The one I’m going to refer to is the “before” map, and you can see there are different colors on this. And green is the color of excellent service, whether in a vehicle, in a building, you’re going to be able to get good service. The next level down is yellow, which means you’re—it’s not as good service. Red is lesser still, and then there’s like a dark—looks like—I don’t know what color that is, gray or something like that, which means there’s no service.

And so on the “before” picture, you see on the right-hand side, you see a tower that we call “Rice Path [ph],” and that is this tower that’s on the water tower right here. That’s our Rice—what we call our Rice Path. I believe we have antennas right on this water tower here. And so that’s the Rice Path that you see here, listed here. That is under a lot of demand, and you’ll see on the ocean, the green just extends, because there’s nothing in the way of it. If you’re out in a boat, you’re going to get great service all over that whole area. But any people that are living in their houses or are in their cars or whatever, or—they’re not going to get such good service. Only right near the tower. As you go down, further down the island, you get into a deeper—a bigger and bigger red area and

yellow area, until you get over by the one that's the furthest to the left on this map.

What we need to do in order to rectify that is to both cover more territory with our—with our signals, because we need to cover, effectively cover, more territory, and we need to improve the cover—improve the capacity. This—what—on the “before,” this Rice Path, it's basically like a failing situation. And as said in the affidavit of the radio frequency engineer that's also in your records, that was in the supplemental materials—it's a two-page affidavit by Zlatko Bibic, who's the radio frequency engineer that worked on this project, furnished me these documents, and signed this affidavit.

And what he says is that—and I'll read to you from his March 20th letter to Josh Edmondson, “An additional tower and antennas is needed to offload capacity from the Rice Path tower.” That's the one I just said on the far right there. This additional tower has—the new one—has been designated and name Emerald Drive. It's located in a small business zone at 3301 Emerald Drive, Emerald Isle, North Carolina. “This additional tower is absolutely necessary for Verizon Wireless, because the traffic in this area, and the maximum improvement in coverage and service can be achieved by placing the tower in this location.” And he has sworn to that.

So basically the need is shown not only in his sworn affidavit, but also in these documents that you have that show that the “after” shows a vast improvement, that the green area, which is the best coverage, extends a substantial distance down. There—the black area that—shows no service is

basically gone, and the red area is greatly reduced. So we have—that's our mechanism of providing the need for coverage and additional capacity and—through those documents.

In addition, in our original application, we have as Exhibit C, is a letter from Michael Haven, Verizon Wireless manager. He's a manager of the entire southeast of the United States for Verizon. He's the big guy. And I went to the highest level to get this statement, and he signed this letter, which states very clearly that they—that the—that Verizon Wireless is—a replacement [ph] there—we have existed [ph] all of the possible alternatives. And he also says that we will allow co-location. So it's a very detailed statement of what we did and how we did it on trying to find alternate locations.

I have John Yeagley here from Chase Property Services [ph], who—his company did the site acquisition, and he is here to answer any questions that you may have about these efforts that are shown on page two of this Exhibit C. It's a list of the—one through seven, of the seven possible places we could put things.

You as the town have decided that towers can go on government properties or business zones. That's it. That's what you decided, that's what we're going by. We tried all the government aspects, and our people talked with the government people, and we tried fire companies, we tried water tower, we tried all the different places we could, and those are listed here. Carteret EMC, the fire department, there was somebody named [ph] Singleton, had some parcels, the Dollar General. And finally we were able to find a spot that is both zone-able

and leasable and buildable. Those are the three things that we need to be able to do.

So, we have established, then, that we have tried to look at all the different options there. And you know, it is a long, thin island, obviously. And when you look at that map that's up on the wall over there, you see on the—on the right-hand side, it's a thin, thin island, and there's only one little section of red on there, and that's the area we're talking about. That's the business zone. That's where you guys said to put it; that's where we want it [ph]. And we've also stated from the highest level there in Verizon and our head of the southeast region that we will co-locate if—at a fair price and reasonable way if anyone is interested.

The next thing that is our exhibit—I'm going to go right through the exhibits.

M: Can I ask a question _____?

LaPann: Yes.

M: I—you had mentioned that you had exhausted all your resources.

LaPann: All the different options, yes.

M: All the different options. But I have a question. Since 2013, Verizon has looked at some of the short cells, towers, especially in densely populated areas.

LaPann: Like the small-cell towers?

M: The small-cell towers.

LaPann: Yes, yeah, that is a—

M: Consider that as well.

LaPann: That is a technique that is being used in certain areas. That would require a large number of towers to be placed throughout the island.

M: These are all four-foot towers—

LaPann: Pardon me?

M: Is that correct? These are four-foot towers on top of poles?

LaPann: Well, they could be. I know I did a project with about 12,000 small cells in the City of Houston, and basically what those were, were all 35-foot tall—looked like telephone poles, but they were 35 feet tall, and they had the little bit of transmission on there, and they were about every—depending on what company it was, they were either 200 feet apart or 400 feet apart. And that is not a technology that's currently being used in an area like this.

What's—that small-cell technology has got to be used in conjunction with what's called a "macro tower." And that's what we're talking about here, is we're asking to get permission to put what's called a "macro tower," which gives the overall radio cover—radio frequency coverage. The small-cell towers, they add and supplement that. But first has to be the macro tower. Yeah.

The next thing I wanted to do was look at Exhibit D, and that is the "no hazard" determination. The federal—the FAA has reviewed this location, and they made a determination that even a taller tower at that exact same location, even if it were 49 feet above sea level, 41 feet above ground level, well, that is our height that we have. They stated that our project is not going to provide any hazard to aviation. So we have satisfied that aspect of the—we have satisfied the FAA requirements of the application.

Exhibit E—

M: Jim?

M: Yes, sir.

M: Could I ask one question _____? I apologize [INDISCERNIBLE].

LaPann: No, no problem.

M: This is just for clarity for the board members.

LaPann: Sure.

M: And for the audience _____. The map “before” and the map “after” you referenced [ph].

LaPann: Yes.

M: That statement is used, the improvement to accomplish the after, would necessitate retention of the existing towers that are in place now?

LaPann: Oh yes, sir. Yes, sir.

M: [INDISCERNIBLE]

LaPann: No, this would not remove the existing towers. Those are basically in essence failing because of the—such high demand.

M: [INDISCERNIBLE]

LaPann: And this would have to be in addition to those. Yes, sir.

M: Just wanted to clarify.

LaPann: Yeah, no. Yes, sir.

M: Thank you.

LaPann: Sure. Next exhibit we are—I’d like to talk about is the engineering certification letter, and that is a letter from the company that is going to be actually building

the tower. And that's Sabre [ph] Industries. They're the manufacturing company that designs and builds the actual tower. Verizon doesn't have their own plant where they build these towers; they buy them from—and in this case, from Sabre. And what they're saying in this letter, dated February 12th—

M: Where is this located in the package?

M: Exhibit E.

M: [INDISCERNIBLE]

LaPann: E, sir, Exhibit E. Initially—our initial Exhibit E stated a lower miles per hour, but we supplemented that with the correct number that—so what I'm talking about is a letter dated February 12th, 2019, where Mr. Beam [ph]—or, Robert Beacom [ph], professional engineer, stamped as an engineer licensed in the State of North Carolina, stated that, “We've propose to design and supply a 40-foot tower at the above-referenced site,” which is our Emerald Drive site. “The tower is to be designed for basic wind speed of 150 miles per hour with no ice and 30 miles per hour with a half-inch radial ice, Structure Class II, Exposure D, Topographic Category 1, in accordance with ANSI/TIA-222-G,” which is the applicable ordinance.

So through that document, we are establishing that the tower that we're going to be putting up [ph] there is going to be safe to 150 miles per hour of wind, when there's no ice.

M: Mr. LaPann, can I ask a brief question?

LaPann: Sure, of course.

M: Thank you.

LaPann: I know just about everything, so go ahead.

M: I'm not an engineer, I don't. That's why I wanted to ask a question.

LaPann: I'm not either. Go ahead.

M: So from this letter, when I look at each of the exhibits—great package, very thorough. Thank you for that.

LaPann: [INDISCERNIBLE]

M: Sure. But when I look at each exhibit, I'm trying to tie them in through questions one through four.

LaPann: Okay, sure.

M: Does everything—

LaPann: Yes, it has to comply with that, yeah.

M: So just my one question from the Sabre [ph] document—

LaPann: Yep.

M: —Mr. Beacom's document, that 30-mile-per-hour engineering item—

LaPann: With ice, you mean?

M: With ice, that's right, and then it cites that code that you mention.

LaPann: Yes.

M: So is that 30-mile-per-hour safety feature, is that number a mandated number that you must comply with? Is that a random number that said, "Hey, it's going to get breezy there, let's make it for 30." How did we come up with 30?

LaPann: No, no—

M: And then may I just say—

LaPann: Sure.

M: —I don't like it.

LaPann: Okay. I understand. In this region, the—there's a certain—because it's in bigger exposure to the wind and that sort of thing [ph]—

M: Right, yeah.

LaPann: —that, you know, they've designed it to comply with the code as stated. You know, if you want us to go above and beyond what the requirements are in the code, then I will be glad to go back to them and talk to them about that. But I can say that what we're trying to do is to fully comply with everything that's the current standard.

M: Sure. And I guess that's the—that is, in essence, my question, and just so I have good clarity: the 30-mile-per-hour number with the ice, the half-inch ice—

LaPann: Yep.

M: Is that a mandated number for our region, is that what you're saying this—that's the deal.

LaPann: Yes. That's what I'm saying, is that—that is, for this region, if you comply with that, you've complied with the ANSI—whatever that other code was

M: Right, sure. Yeah.

LaPann: You've complied with the—everything that's being asked. ANSI/TIA-222-G, that's the standard that everybody uses, and we're in compliance with that. Yes, sir. For this area.

M: Thank you so much.

LaPann: Now, as far as safety goes, I want to jump ahead a little bit on this, and that is that in our—in the code here, in Emerald Isle, there's a requirement that, should that

tower—let's say that tower gets ice on it, and it's going to fall down like a tree, right, just fall down. It's not going to fall on anyone else's property except the owner of the property that we're leasing from. That is because your ordinance requires that our tower be allowed 1.25—125% of its height distance to the boundary lines. Worst case scenario, it's three-quarters of an inch of ice and a 30-mile-an-hour wind, and it fails.

M: Sure.

LaPann: And it falls over. It's going to only fall on this subject property. Not going to fall on anyone else's property.

M: Is that the break-point design?

LaPann: That's not break-point design. That's as if it fell like a tree, and that's the way the ordinance here in this community is, to require that. That's not really the way they break, but I'm not a—you know, I only know that from what I'm told. I'm not an engineer; I can't testify to that. But it's my understanding is that they really don't fall like a tree, but because we have provided for that, we've provided 125% of the height distance to the thing [ph], I want you to know that it is safe, even if this falls down [ph]. So.

The next item is a certificate of insurance, which we have provided, and that is—it allows—it's a million-dollar policy, and it insures the Town of Emerald Isle as an additional insured [ph].

M: That's Exhibit F, for the board.

LaPann: Exhibit F. Yep. And Exhibit G is the tower removal bond. That means that if at some point in time, Verizon stops using that tower, they've got a bond in place

that's going to—even if they just walk away and say, “Forget it, I'm not doing it,” there's a bond in place that will allow for the removal of that tower. So it's a contract that they've entered into with that insurance company or whatever to remove that tower if Verizon doesn't.

I did include a buffer that was—came from the GIS, from the county information system, and—of the parcels that are around. That's where all the addresses came from, was the county—whatever addresses were there on file in the county, that's where we sent these documents. And we also—I have included the letter that I sent to them, which basically mimics the language of the ordinance and states what that is.

M: Sir, could I ask a question also?

LaPann: Yes, sir.

M: I was just thinking about—just to step back just for a second.

LaPann: Of course.

M: With the possibility of the tower falling—

LaPann: Yes.

M: —is there any ordinance that protects—I think in that same location that you're looking at, there's currently a fuel farm [ph] in that area. Is there any requirements for safety if the tower was to fall in the radius of a fuel farm area?

Is—[OVERLAPPING]

LaPann: When you say “fuel farm,” do you mean the gas station there?

M: The gas station, that's correct.

LaPann: Gas station. I have not measured the distance between the tower and the actual gas pumps.

M: Okay.

LaPann: I can't do that, I'm not—I can't stand here today and tell you what it is, but it's on our drawings as to what the distance would be, and it would need to fall across the top of that structure, the building there. You know that it would fall toward—if it falls towards those pumps, it'll go right across the top of the convenience store.

M: I think Josh might could help you out.

Edmondson: Just for clarity, Mark, I think your question—if your question is—

M: [INDISCERNIBLE]

Edmondson: —if I understand your question, there's no town requirement for that. I don't—you know, as far as federal or state regulations or anything else, I'm not sure. But as far as the town goes, to answer that question, there would be—there's no town requirement.

M: Town requirement [ph].

Edmondson: Yes.

M: I understand [ph].

M: Josh, could you scale that to see [INDISCERNIBLE]—because the building is in between [ph] as I understand it. You could do that while he is presenting

_____.

LaPann: There are—in order to allow you to vote positively on this, we need to establish that the proposed—four elements: that the proposed use will not materially

endanger the public health or safety, if located where proposed and if developed according to the plan as submitted and approved.

So what we're talking about is, will it materially endanger public health or safety? And so, what—I did write a thorough response here, and I just want to summarize it. I'm not replacing what I wrote, that's in the record, but I'm here, and I'm testifying today, and I will just say that the first area that I analyzed was physical safety, and that's what I had mentioned before to this gentleman, that—about if it fell like a tree—

M: [INDISCERNIBLE]

LaPann: —that the first element is, it's not tall enough to hit anybody else; it can only hit on this property.

And I think one of the important parts of the ordinance is, what you're trying to protect is, if I'm John Doe and I want to develop my property, I want to put a cell tower right next to my building, you know, I know that—I know it's my building, and I know I'm putting a cell tower there, and I know that I have to protect myself whatever way I do that. But it's the other people, you know, it's the people around. They're not in control of it, and they're not applying for the tower, they're not putting up the tower, they're not getting the benefit of it. They need to be protected. And I'm submitting [ph] that they are perfectly safe from that aspect, the physical safety of it.

Another part of it is what I've talked about with—complying with the full code, about the 150 mile-an-hour, that's established by our engineer report there.

The other part is that, how do we keep people from going in there, kids going in there and climbing up it and doing silly stuff like kids do. Well, we're going to put an eight-foot chain link fence with barbed wire on top of it. And that is the standard that we have used throughout North Carolina, South Carolina, and Tennessee to make sure that nobody goes in there, and we do not have any problems with it. So that is going to keep the people safe, and it's going to keep the equipment safe. So it's—physical safety, the falling, the design to keep it so it doesn't fall, and then the protection from people going in.

The next is the electronic safety, and that, I have already submitted that document, and I'm going to read from it here briefly. This is a document that is done and it's complied to and certified by David H. Kaiser [ph], and he is an engineer, and he's familiar with all of the requirements of FCC, OSHA, et cetera, and has it stated in his certification. And in his compliance statement that I have submitted there, dated April 5th, that based on the information provided by Verizon Wireless and predictive modeling, the Emerald Drive installation proposed by Verizon Wireless will be compliant with a radio frequency radiation exposure limit of 47 CFR Sections 1.1307(b)(3) and 1.1310.

The proposed operation will not expose members of the general public to hazardous levels of RF energy at ground level or in adjacent buildings. As predicted RF power densities will not exceed the FCC general population limits, no mitigation action is needed to achieve or maintain compliance. So that's another area of safety. Everyone is going to be safe from this, as far as any possible radiation goes.

Another—the last area of safety that I have—that I am bringing up to you, and I would like to establish here tonight, is that people today—you know, a big part of this project, and of all these people coming here, is a rubbing of the present and the future. It's kind of rubbing up against each other, and that causes friction, and that causes people to come and be upset, because it's the future that we're talking about here as to why we need this tower—not only for current, but for anticipated use.

A study by Ericsson, a huge multinational provider of telecom, estimates that the demand for data is going to increase something like 38% each year for the next 10 years. It's data, that's what's driving this. Everyone's got their smartphones, they're looking things up, they're looking on their maps, they're doing all this stuff. It's data is the thing that's using it—that's driving this.

And also, in today's everyday life, most people use cell phones. A lot of people don't have home landlines. And the most recent report by the U.S. Center for Disease Control National Health Information Survey states that about 42.8% of American households still use a landline. So that's less than 50% of our households use landlines, and it's down 3% since December '16, 2016. The FCC [ph] estimates that 70% of 911 calls are placed using wireless phones. That's not only people in their houses, that's people driving through—look at all the people that you have here, and they're going to be covered by that in the summertime. Someone gets sick, somebody gets hurt, they're going to pull out their cell phone. There are going to be a lot of people there, there are going to be a lot of use,

they're going to need that additional tower there to provide adequate coverage so that they can be safe and call first providers, either police or fire or EMS.

The next element that we're going to establish here is—I'm not going to present it, but I'm going to come back and do some additional after this. And that is that—Letter B is that the proposed use will not substantially injure the value of abutting or adjoining property, or that the use is a public necessity, okay? And what we're going to do is we're going to have Michael Berkowitz come up and testify. He's an expert, and he'll let you know what his credentials are, and why he's able to testify as an expert. Michael?

Berkowitz: My name is Michael Berkowitz. I'm a certified general appraiser. I have a degree in economics from Duke University. I performed an inspection at this property and was asked to determine whether the proposed development would affect, impact substantially, injure the value of abutting of adjoining property.

The issue at hand is, is that there are only three cell structures on the island, all of which are on top of water towers, and it's not comparable to a 40-foot monopole tower, which is what is proposed here. What you also have—and so there was really little to no quantitative evidence to support an adjustment. The question is, is if you built this tower there, would you adjust downward any of the adjacent or abutting properties? Well, given that there was no quantitative data to support either way, the qualitative data is also another way to be able to look at adjustment [ph] to see whether one is necessary.

What I also notice is on this particular property where it is to be located, there are three existing power poles that this will be nestled amongst, not to

mention there are also light poles that are along the street, not to mention the high-tension power poles that are along Emerald Drive.

The issue at hand is also that it backs up to a commercial property. There's a dumpster enclosure there. What I saw there is that there are significant—there's also existing screening between that property and the adjacent properties to the rear. The mobile home park across the street has maintained its foliage to be able to maintain the screening buffer from the traffic and noise of Emerald Drive, which as we've heard today, has a lot a traffic.

The issue at hand is, is whether this tower, when you look at it with all those factors involved, that is, what is defined as multi-colinearity, in which there are many different factors that could be a nuisance, but to identify it to one of those factors is misleading. That is contrary to the appraisal institute class on how to be able to adjust properties. And therefore this particular—as proposed—it is my professional opinion, would not substantially injure the value of abutting or adjoining property. I'd be happy to answer any questions.

M: Michael, was it?

Berkowitz: Yes, sir.

M: Great appraisal. Dabble in real estate just a little bit, so I'm not an appraiser, just got an easy question if that's okay, all right?

Berkowitz: Sure.

M: In your report, beginning on page 13, and then the same verbiage is mentioned in some other reports that you did not offer. We're talking about—you're mentioning and talking about harmony, that this proposed product to be placed on

a pole in the future would remain in harmony with the surrounding area. I'm not familiar with other dipoles or poles with more poles on top or whatnot—what are you referring to in here that is in harmony with this proposed product [ph]?

Berkowitz: The fact that you have above-ground infrastructure that is obviously visible from the area, from an appraisal standpoint—I also know from a zoning standpoint that's a prima facie case.

M: Right.

Berkowitz: That's not my expertise. But from an appraisal standpoint, if you have above-ground infrastructure, and you add one more piece of above-ground infrastructure, that's common and what I would consider in harmony with the area. That is consistent with how utilities are distributed along Emerald Isle, and especially along the commercial corridor here [ph].

M: Okay.

Berkowitz: Any other questions? Thank you for your time.

Stanley: Does any members of the audience have any questions? Do you have any questions for this [ph].

M: Do I need to ask them now, or should I wait until our portion of the program?

Stanley: You can wait if you'd like [ph].

M: Pardon?

Stanley: You can wait if you like.

M: Sure.

M: Thanks, _____.

LaPann: I think that this is a good time for us to take a look at the photo simulations that we have provided, and I would ask you to do that. Those are a part of the package that you were sent, as well. They are—let me find out where they are [ph]. If these could go up [ph] on the screen, that would be very good. Thank you very much. I would now [ph] ask the board members, you're going to have to turn around to see that, but we're going to put the photo simulations up. Hopefully, that'll—

M: Just for the record, this is part of Exhibit I.

[INAUDIBLE]

F: Did the button push [ph]?

LaPann: And the way this works is, the people that are doing this test take that balloon, and they—are we all looking good? Got it?

M: We're looking good.

M: [INDISCERNIBLE]

LaPann: They go to the exact place where that tower's going to be, and they take that big balloon that you can see in that picture, and they float it up to exactly 40 feet. And there's—there are a couple reasons for that.

One is, we don't know where it's going to be visible from until that goes up. I've been doing this for a while, and it's surprising how many times you can't see a tower because of existing buildings or trees or things like that. So in this particular case, this is looking from Emerald Drive towards the ocean, and it is looking at the front of the convenience store, and you can see that balloon there.

I'd like to point out a couple of things. I think this is one of the most illustrative things of the colinearity argument. Just to the left of the balloon, there's a pole there. And to the immediate right there in the foreground, there's a large pole. To—further right from that pole in the foreground, is another pole that's about the same height as the balloon that has two huge transformers hanging from it. And so, if we could go to the next slide, then, please.

M: Before you do that—

LaPann: Yes?

M: —I just wanted to point out, because this picture shows, I think, the concern, or part of the concern here that Commissioner Taylor asked about. Josh has done the calculation of that—he can offer that testimony now [ph].

M: Yes, sir. _____.

Edmondson: I just scaled it and the mark [ph] is about 110 feet—

M: Okay.

Edmondson: —from that location to the gas tank area.

M: So it's no threat.

M: So it's not _____.

[INAUDIBLE]

M: Thank you, Josh.

M: Thank you.

M: I'm sorry _____.

LaPann: So now we've gone to the next slide, which shows what the tower would look like there. So what they do is, through the use of computer technology, they

superimpose the tower at that exact location, at the exact height shown in the balloon. And you can see, as you look to the right there, that there's already an existing power pole there with those transformers that is, in my opinion, more of an eyesore than the cell tower. And I'm sure there will be many that will not agree with me, but it's not a pristine area with underground utilities or anything like that. That's what that shows, is—

And this picture—and I don't know if any other ones do—doesn't either show the—you can see the lines going across, up at the top of the picture, but those are being carried by very big, substantial power lines that run all the way along Emerald Drive. Could we go to the next slide, please?

M: Mr. LaPann?

LaPann: Yes, sir?

M: Can you go back one slide for an easy clarity question?

LaPann: Of course. Yeah, let's go back. Yeah, of course.

M: Thank you so much. One forward. There you go. So Richard, help me follow suit here if you can. All these moving parts you and Josh have concocted for us [ph].

So I'm going back to item number two, the second item, number two, under paragraph two above, everything must comply with—it says, "The wireless tower must be placed upon an—on an existing structure." So behind the gas station, there is a pole, an existing pole now. I stopped there a couple days, and I know there's a pole.

LaPann: Yeah. Well, yeah, that's been there for some time.

M: That's right.

LaPann: Yeah.

M: So, is that the pole that's being proposed to mount this on, or are you talking about inserting a new product into—

Stanley: Basically he was talking about in our ordinance, he's got to—rather than build a new tower, he's got to locate it on another pole first before he can turn and file an application for this.

LaPann: If there were a cell tower that had a spot at that level that was 200 yards away or whatever, we'd have to go on there. We wouldn't even be here. But there aren't any. There's just—there are no other cell towers that we can co-locate on. And as far as that pole goes, that is not of sufficient strength—

M: Right.

LaPann: —to withstand the ice and things that you were talking about.

M: I agree. That's why I was asking, just waiting to get to this point to ask that question.

LaPann: No, no. We're going to do—put up a tower designed by and built by Sabre engineering, Sabre tower technologies.

Edmondson: And too, also, it—in order for them to co-locate on a pole, it would have to be an approved—a pre-approved existing wireless tower site, and that pole was not a pre-approved location.

M: So that defines “existing structure,” is the question you're asking [ph].

Edmondson: If that makes sense, then—[OVERLAPPING]

M: You couldn't apply it to another building, or another utility pole, anything of that nature, it wasn't designed for it [ph].

LaPann: Great answer _____.

M: Okay _____.

LaPann: Let's go on to the next one, please. This is looking from—is it Connie?

M: That's Connie Street.

F: Connie.

LaPann: Connie Street.

M: Yes, sir [ph].

LaPann: You can see it there, it's going to stick up right there, you can see the balloon where it's going to be. You can also see a pole to the right of where the balloon is. So if you could go to the next one, please? I think there's one in between.

M: _____. Here it is right here.

LaPann: Okay, so that's what it would look like, the proposed tower would be there amongst the other poles there, and the view from Connie Street. Now—okay. And then the next one, this is looking towards Emerald Drive. Correct me if I'm wrong, a person standing in that location, looking in that direction, is looking away from the ocean—is that correct?

Edmondson: Yes, sir.

F: Yes.

LaPann: Okay. All right. So the view scape, that should be most protected, and if we were to be placing a tower in front of these houses, we'd have a big problem, because we would be creating a big problem. We're not. We're proposing it behind these

buildings, not in between their view of the ocean. The houses on the other side of the street, they have views of the bay. They're not looking in this direction either. I mean, they can, but what they're going to look at is a convenience store, a bunch of poles along the power line.

So what I'm submitting to you, based on these pictures, is this is in— basically in harmony and the fact that it's not going to create a significant damage of value to the adjacent or abutting properties. So let's go to the next one, please. I'm not sure I can see where the balloon is on that one.

[INAUDIBLE]

M: To the right of that blue house.

LaPann: Okay, okay. Yeah, thank you, thank you. Okay, Ocean Drive looking northwest. So it's pretty—yeah, there it is. That's where the balloon is, and the next one is where the tower is.

M: And the tower, you can't see it—[OVERLAPPING]

LaPann: Can't see it, no. Okay. And then this one—thank you. This one is the view from Ocean Drive, looking west. I don't—not sure—

M: It's right there _____.

F: Oh, that's real small.

LaPann: It's not very visible, anyway. So, at any rate, thank you. And there's the final one looking back up towards it, and it sits in there, in that business district [ph], which is where the town has determined that these things should be.

So I submit that those photos simulations support the appraiser's statement that you can't just pin it on one thing, that it's—and you know, you got six poles,

is it one pole that's going to create the problem, or the five that were already there? So we're submitting that that's not an issue there.

So the next item that I want to talk about is letter C, that the location and character of the use, if developed—I'm reading from the town code here—"If developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the land use plan as updated and amended by the town." Harmony—I'm in the cell tower placement business, but I can tell you that a cell tower is a cell tower. It's—even if it's made to look like a pine tree, it's basically a cell tower. It's a new thing that's going to be placed somewhere, and someone is likely to find that that's not—it wasn't there before, and they don't want it there, and that—there could be an opinion that it's not in harmony.

What I'm proposing is that, under the ordinance, is that the location and character of use, it really is about what does the town want, what did the town tell me as an applicant's representative, where—what is in harmony? We're not proposing it in a residential zone, we're not proposing it in any other place. We're saying, where do you as the town want us to put it? Either on government items or on—in business.

And in this section, from—in this section of the town, there is no other adequate business area. There just isn't a big enough space for it, and we have looked at it. It's—I'm submitting that it is in character with a use that's anticipated by the town and ordered by the town. That's just where it's got to be.

And secondly—

M: Mister—I apologize for interrupting.

LaPann: No, please do.

M: I could have asked this question earlier. I didn't know we could ask questions going along, but thank you for—

LaPann: Go ahead, go ahead. Glad to answer.

M: On that note, earlier you were talking about location, tower location.

LaPann: Yes, sir.

M: There were seven places, went searching for. Can we—[OVERLAPPING]

LaPann: Yep, those were the only ones available. Yeah.

M: Absolutely. My question is, there's a water tower just east of the gas station. Do you know by chance if anybody asked or if the engineering would work?

LaPann: Just east of that—of this location?

M: On 7th Street.

F: Seventh Street.

M: Seventh Street.

[INAUDIBLE]

M: So there's already a tower, and we need another one a couple blocks over? Okay. I didn't know there was—one already—[OVERLAPPING]

LaPann: We're on all the places that you've got for us. This is the only place to go.

M: I got it. All right.

M: That was what I was referring to, Commissioner Normile [ph], earlier, when I said the existing towers would stay in place to accomplish the buildings _____

that includes the ones on the—both water tanks, one that Bogue Water company [ph] owns and _____.

[INAUDIBLE]

M: Thank you. Thank you.

M: Rich, _____ we do all these questions now or what?

Stanley: If somebody's going to testify, if they have a question to pose to the gentleman, they can ask it now. Or you can _____ wait until they can [ph] give their testimony.

M: I have a question.

[INAUDIBLE]

Hill: My name's Seola Hill. I'm the executive director of Bogue Banks Water Corporation. We have a tower at 7th Street, also called Rice Path by Verizon, here at the office, and on Coast Guard Road. Just in relation to the comments just made, we do have additional space available on the 7th Street tower right now, and we have additional spaces that can be made available on the tower here at the office, and Coast Guard Road obviously has plenty of space available [INDISCERNIBLE].

[APPLAUSE]

M: Which—I think Verizon has existing antennas at both locations.

M: Yes, _____.

LaPann: This is John Yeagley who just made that comment. Yeah, with adding an additional antenna at the same place we already have an antenna is not going to help us. If you look at that before and after, you know, you've got the antenna

here and an antenna here. You could have more antennas there, but it's not going to help the middle. You've got to put something in the middle to be there [ph], and that's what we're talking about. Thank you for your offer, but we can put five more antennas on there, it's not going to reach three miles over to this area. This is, according to our expert, the radio frequency expert, this is the location that needs—that is below standard of presentation—of signals and of our service and needs the increase.

M: Gentleman in the back, have you been sworn in?

Daniel: Yes, sir.

M: Okay, state your name.

Daniel: Vincent Daniel [ph]. So I have a question [INDISCERNIBLE] coverage.

M: Would you—we can't hear you, could you please come to the microphone?

[INAUDIBLE]

Daniel: Based on the maps the gentleman just shared earlier, based on the signal coverage, what I—what my question is, is there an FCC mandate at this point that every location on the island has to have a green coverage?

LaPann: The answer to that is no. There's no FCC mandate. What there is, is, because Verizon—let me explain it—because Verizon—has won the bid to provide a certain type of service in this region, they are mandated to offer a certain level of service. So it's not like the FCC has a general statement saying every place must be perfect service, that's not it. But it says you, as a winning bidder, to put that tower there, you—or, to cover this region with towers in your network, you've got to provide adequate service.

And so that's what we're trying to do. We're trying to come up to the standard that are required under a license. And also, safety and for other—you know, and for the convenience of use of people in the future, in the future, as well.

Daniel: The reason I brought that up is, I have lived here for seven years and I work from home. I have never had a call drop, I use data heavily, never had issues with any cell phone, and to me, this is something that's being rushed at this point, based on my opinion. And I just wanted to express that and also ask the question. Thank you.

LaPann: Well, I would state that it's not an opinion, because it's not based on any scientific evidence or anything else like that. It's an anecdotal statement that the gentleman has made, and certainly, he's entitled to make that statement. You know, but it's not an opinion, he's not testifying about something a layperson couldn't testify about it.

The next thing I want to talk about is this, is that talking more about this harmony, being in harmony, is the very situation that this gentleman said, it's that the town, in 2017, took a thorough review of the town. What are we going to need, what do we need now, what are we going to need in the future? And they made plans, and you guys made plans. You said, "This is what the needs are, and this is what we're going to do about it."

And one of the things that you said is a high need and that we're going to—it's a high demand to do something about is to—the town—and I'm reading from Section 5 of the town plan, "Goals and Implementing Actions, Management

Goals, Planning Objectives and Policies, Implementing Actions. The town supports the improvement and enhancement of information technology infrastructure in Emerald Isle, to better serve residents and visitors, and to promote additional remote work opportunities.”

This is what I talked—made reference to earlier, about the present and the future rubbing up against each other and generating a lot of emotion. People are working from home in the future. Ten years ago, how many people did you know that worked by computer from home? Not too many. There really weren’t very many, and that’s in my experience—not an expert opinion—but just from my general experience. Didn’t know many people that worked from home. How many do I know now that work from home? A lot. I work from home, a lot of people work from home. And what you have to have for that is good computer, good high-speed data. And so what you need here is to have good—you need good cell towers and to help improve that.

So what the town has stated is, “Hey, we know it’s coming, it’s—and we need to do something about it.” And so I’m submitting to you is, is that you guys decided, “This is what we want to do,” and what I’m presenting for—on Verizon’s behalf is exactly what you decided you wanted to do, is, yeah, we’re going to keep it in the business sections, we’re not going to put it in the residential sections, it’s going to be in the business sections, and it’s going—and we support the improvement and enhancement of information technology infrastructure, like a cell tower in Emerald Isle. Yes, sir?

M: I wrote that.

LaPann: Yes.

M: Yes, sir, I did. So I'm agreeing.

LaPann: Yeah, _____ say, yes, sir. Yes.

M: What we're talking about, if you go up and down from that statement, is the intent to serve all [ph] at the state level to increase our broadband infrastructure herein eastern North Carolina, specifically for our zip code. The intent, with what you're reading from, is for buried fiber, competitive—buried fiber competitive product to bring to our consumer, our constituency, our peoples. We only have one. And so, what you're reading from is not necessarily to bring in a cell phone tower, but to bring in additional fiber to service the data needs.

I'm not disputing that we don't need the cell phone tower—don't get me wrong—

M: Right.

M: —but just, I wrote what you read, and that really applies to buried fiber.

LaPann: Well, I would just submit that—

M: And I'm all about technology. Don't get me wrong, sir. I understand.

M: Yes, sir.

LaPann: What I'm submitting to you is the goal is to improve the infrastructure—

M: Right.

M: I agree with that.

LaPann: —both with fiber and with towers. And if we don't have fiber—right? Do we have fiber going up to that area right now, or?

M: We do have seven strands, yes, sir, from one vendor, yes.

LaPann: All right. So what we're doing here is we're augmenting that. We're adding the micro—the macro tower. The small cells work with a macro tower and the cables, what is—fiber optic cables. They go between the macro tower and these small cells. First you have to have this macro tower. Then you put in a fiber [ph] to go to these other things. So as to—this would be the first step in adding small cells down the road if that's the way it goes. But I do submit that—I understand what you're saying, sir, and I'm submitting that, in light of the fact that this is a step, a positive step, towards the town goal.

Which—if you don't mind, I'm just going to glance through my notes. I would ask before I sit down, am I going to have an opportunity to answer questions or to rebut statements that other people make later in this hearing?

Barber: I will ask the town attorney to answer that question.

Stanley: Yes, sir.

LaPann: Thank you.

M: Just like they'll have the opportunity—

LaPann: That's right, they'll have the opportunity to rebut anything I say. Yes, thank you very much. I'm now—done for now. Thank you.

M: Josh, you want to speak to whether or not the [INDISCERNIBLE]?

M: Josh is [INDISCERNIBLE] in your information _____.

Edmondson: Let me first, like Jim said, I was expecting to go first. I'm glad he did. He covered pretty much everything that he had to submit. So the town's job was to take that and look and make sure that everything that was submitted complies with the ordinance of that submittal. That's purely it. We're neutral on the

situation, so we don't give an opinion other than does it—does or does it not comply with the ordinance requirements.

Before I do that, there are a couple of items, just really for the public and for the board. I've had numerous conversations with property owners in that area, phone calls, obviously of concerns. So there's just a couple points of clarity I want to provide to hopefully—I answered some of the questions that I've gotten, one being with the public notice requirement.

Keep in mind, the public notice requirement for special use and for other hearing processes are laid out in the North Carolina General Statutes. In this particular case, for cell towers, we require the applicant to mail everyone certified letters within 500 feet, which he complied with. We have those receipts. Per general statutes, the town's requirement only is those adjacent to the property, which is typically about 100 feet. Under normal rezonings and other circumstances, we mail 100 feet.

Due to the sensitivity of this and really any other special use permit, to be consistent with what the applicant has done, the town's position has always been also to notify those within 500 feet of the property. That was done. We have notification requirements as far as—we have to notify within 25 days and 10 days. So no longer than—no earlier than 25 days before the hearing, and no later than 10 days. Notification was sent out on March 19th to all of those property owners, to of the mailing addresses provided that we have from the Carteret County tax GIS [ph] office.

I can say that is typically one week earlier than we normally send out those notices. We had three successive public notices ran in the paper, the notice was posted on the property. And so, really, those notices went out 22 days before the hearing. So we did comply by law with—we did comply through general statutes with that requirement. We can't send them—we couldn't have sent anything earlier, because at that time, we didn't have a complete application and we didn't know if we would be having the public hearing.

So, 22 days, as I said, met the notification requirement, and as I said, we pretty much sent five times what general statutes say we have to. And again, that's just to be consistent with what the applicant is required to do, and to be honest, staff—we—you know, we felt like it was necessary in this case, because of a lot of the potential effects that this may or may not have on that area of the community.

Also, we've had some—I've had some phone calls about feeling like the application has been incomplete. So the applicant, as we said, he's stood here for quite a while and provided a bunch of information, a bunch of exhibits, that staff has reviewed for compliance as far as its submittal and does it comply with the ordinance. And the applicant did fulfill what staff needed to review in order to come to you tonight to start—or have this hearing.

Now, Mr. LaPann, he did present some additional information at the meeting as evidence, which is okay by law [ph]. He did not have to—actually, there was some information that's provided in your packets that probably he could have waited and presented tonight. But upon my request to try to get as much

information for the commissioners and any of the citizens that wish to view the application and documentation beforetime, they tried their best to get everything to us. But they did not have to do that, because some of this could have been entered as evidence tonight as some of it was.

Also I want—you know, I heard some questions about zoning. And just want to make clear to the community, also commissioners, that we allow wireless telecommunication antennas as a permitted use in the business and government districts through the issuance of a special use permit. So we have established in our ordinances that is where we would like them to go if they go through this process and those findings of fact are found to be in the favor of the applicant.

And lastly, I would just say that just because if the board was to make a favorable finding of fact on each one—each four [ph], finding of fact, that does not mean that this will be built tomorrow. That does not mean that this will be built this month. We are one of the early processes that Verizon has to go through as part of their process with the FCC. They have to go through a NEPA process, have environmental assessments done, and they have to receive other [ph] favorable findings from the FCC before they can even start a building permit process.

Also, at that time, you know, they would turn in building plans, electrical plans, mechanical plans, whatever other plans would be required to get a building permit for this site. That would include a storm water plan that we would have our storm water engineer review for compliance with our storm water ordinance because they are adding additional impervious surface, and the town storm water

ordinance does not specify for commercial uses. Doesn't matter if you have 100 square feet of impervious surface in our commercial uses; by ordinance, it still has to have a storm water report done. So that would be done at that time when building permits are applied for.

And I just wanted to make those points of clarity, try to clarify things, things I've heard from citizens, and really, before I get into my part, so I won't forget them, _____ get those out of the way.

So we're here tonight because of the proposal for the 40-foot monopole tower. This will be located on the Emerald Isle Mini Mart property. Mr. Abdel, the property owner, has agreed to allow this. He has issued, I think, a letter of support in there. He has also signed the application as the owner. It is located in the business district.

The—in total, the parcel size for this parcel is 10,000 square feet, and as you'll see when I get to the site plan, the fall radius and setback distances, while what they're leasing is smaller, the—all the required setbacks can be met on the parcel of—or the piece of property they are leasing from Mr. Abdel.

And something Jim—he didn't hit on [ph], but I will just pull because I wrote it in my memo here. “The main purpose of the proposed site, Emerald Drive, is to offload two neighboring sites. The Verizon Wireless radio frequency engineers have determined that these two neighboring sites cannot provide satisfactory service to customers per Verizon standards, and the addition of the Emerald Drive site is needed.

“They do not have the capacity to provide adequate service. The Town of Emerald Isle is very densely populated. There is tremendous loading and transmission from both the northeast, Rice Path, and southwest site, Emerald Isle. The proposed tower would take some of the demand from the area and handle it, rather than it all being covered by the existing towers. This is called ‘offloading.’ In addition, the proposed new site, Emerald Drive, will provide additional coverage as secondary.” That’s a quote from their application; that is not me speaking.

So just getting into what we’re looking at tonight, what the town’s looking at. First, certification of need. They have provided that. It will be up to the board to determine if that certification of need meets what you guys feel it needs to meet in terms of coverage and capacity, and have they prevented—have they presented substantial evidence of such.

Co-location. That was in Exhibit C. They have—we have been in contact, myself and previous manager Frank Rush, through email, conversation, and numerous phone calls with Verizon for probably two-plus years about sites in this area. Some town sites—actually all town government sites in that area—that would be the fire station, eastern regional access, and I think that’s all the—there may be one more down there that I’m forgetting right now. But we, through phone calls and emails, we’ve had conversations with them about that, about co-locating, or about placing a new tower. And I can’t speak to those conversations because I passed those to Frank, as he was the town manager and that would be his [ph] decision whether to start that process or not. So I can’t speak to to that

too much other than I know those conversations did happen and they were met with unfavorable recommendation or non-interest from the Town of Emerald Isle.

New construction provisions for co-location. Again, they have submitted that in Exhibit C of the application. Federal certification—they did submit their no hazards determination, which Mr. LaPann has touched on. Certification of compliance with FCC and implementation of National Environmental Policy Act of 1969, or NEPA, this is the—this will have to be done after, if this was approved. The FCC requires this review and approval by the local government before construction, and the NEPA is performed as part of their process with the FCC. So this is something that would have to be provided to us once they get to that point, and we would require it as part of the permitting—building permitting process.

Radio frequency. As you can see there as outlined in F, that does not have to be submitted until after completion and before we issue the CO, that information will be provided to us. They have stated that. Structural integrity. Again, that's in Exhibit E. Insurance requirements, that's in Exhibit F. They have submitted as Exhibit G, a statement of financial responsibility.

Demonstration of need. Obviously, Jim was up here giving—trying to demonstrate to you guys that need. That is in Exhibit B of the application, and there's an affidavit that he went over from the radio frequency engineer.

Demonstration of lack of suitable co-location opportunities. There again, they have provided that with Exhibit Z [ph]—with Exhibit C. Requirement

notification. That was in Exhibit H. That was those homeowners that had to be contacted within 500 feet.

What I would like to do now is pull up the site plan just to go over a couple of the aspects that—

F: [INDISCERNIBLE]

Edmondson: —that hopefully everybody can see that. So, this is the entire site, and this is the area that Verizon intends to lease from Mr. Abdel. The minimum lot area requirement for 10,000 square feet, or should be capable of meeting the minimum lot size necessary to accommodate the minimum setback requirements defined below.

And they're defined as this: "When a structure is located adjacent to any church, school, public facility, or residential zone, the center of the support structure shall be located a distance from the nearest property line a minimum of one and one-quarter times the greatest height of the structure, including any WTA or devices that would add to the total height of the structure." The engineer's site plan should show this, and let's see if I can get to that.

I don't know if you can see this. So they have demonstrated, this arrow here to there is 51 feet and some-odd inches—I can't read there. But they have demonstrated obviously that they meet the fall radius or the setback from the nearest, in this case, residentially zoned lot, which is, you know, these lots, really this lot right here behind Emerald Isle Mini Mart.

The support structure, only camouflage or stealth. They provided in the notes that this would be a flat gray color. There is no guy wires. This is a single

monopole structure. As you can see, this is kind of a ground-level view of kind of what it will look like, including equipment and platform.

The permitted height. Obviously, it's well below our 75 feet above the average of adjacent tree or building lines, and it definitely doesn't exceed the 100 feet that ordinance would allow.

Illumination. The FAA is not requiring any lighting, so there will be no illumination, because this structure is less than 200 feet tall. They only require it for structures 200 feet or taller. Color. There again, that's outlined in the site plan. It will be a galvanized steel structure monopole.

Complete application. Obviously, we have application, we have all the exhibits, the documentation to provide you guys with the background and Verizon's effort to comply with all the requirements laid out for you guys to find a favorable, or non-favorable, whichever one, finding of fact.

Visibility. You can see that—let me get back to—this is their landscape plan. “So the base of the structure to the minimum height of six feet shall not be visible from any public right-of-way or area of public congregation, and must be hidden from view by natural vegetation or vegetative screening. All equipment necessary for the function, operation of technology employed shall be located either in lawfully pre-existing structure and equipment housing structure. Colors and external characteristics of equipment housing structure shall be harmonious with and blend with the natural features of the building and structures surrounding it.” So I will just point out, that is outlined in Exhibit A, as well. Access drive,

how they're going to enter and exit the property, that is on the back of page here, on how to get you on and off the property.

The size. Equipment housing structure shall be the minimum size necessary to accommodate the closed [ph] storage of all ground-based equipment and necessary materials for primary occupant's technical needs, and for technical needs of potential tenants. That's been laid out here on the site plans. It's covered the dimensions of any and all buildings and where they will be laid out in the fenced-in area.

Fencing and screening. They will be providing fencing. As you can see, this is the leased area here. This is the fenced area here. And they will have tree plantings that will meet our ordinance at the end of two years. And I can't remember, because I can't read what they are there—Jim, do you remember what they were?

LaPann: What types of trees?

Edmondson: Yeah.

M: Southern magnolias.

Edmondson: Yeah, Southern magnolias. So they have submitted that as evidence that they will meet the town fencing and screening requirements. They also will have the security fencing installed there. And, "Security fence shall be along the full perimeter of the support structure, shall be no less than five feet, no greater than eight feet. Fencing shall incorporate designs for structure security and for making all possible efforts to minimize public exposure to the radio frequency radiation." And all accessories are to be in that fenced-in area as well. And then they've

noted where their drive gates, entrances will be. That area obviously can remain free and clear.

Signage. That is here. This signage is for the cell site itself. It has no bearing on the signage for Emerald Isle Mini Mart. Emerald Isle Mini Mart is allowed their required signage. This signage is additional. It will not be placed out by the street. This signage is for the area there surrounding the fence and surrounding the perimeter of the leasing property where the cell tower and additional housing equipment will be.

So, there's no—obviously no noise-producing equipment, there's no outdoor storage. Everything's going to be housed inside. No two-way or microwave antennas. That was not applicable. Electrical—we mentioned land lines to and from the accessory building shall be installed underground. You know, as we review the ordinance, they have submitted, you know, all the requirements that are required by them, and it will be up to you guys to decide whether what they have submitted is sufficient evidence to give a favorable recommendation.

Mr. Town Attorney, would it be appropriate for me to speak on the harmony as it involves particular uses in that area when it relates to other commercial uses and our land use plan?

Stanley: I think you can speak _____.

Edmondson: Okay. So when we are looking at—you know, talking about our land use plan and commercial uses in this area, you know, we're talking about a monopole tower. What impacts potentially could that have? You know, I don't know as far

as radio frequency, I'm not an expert—they spoke to that. I don't know as far as property values, I'm not an expert in that—they spoke to that.

What I do know is that, if you take a typical commercial lot, you know, it can be built upon with—you know, you could have a hotel here. You could have condominiums. You—well, not condominiums, but you could have a strip with businesses on the bottom and residential units on top. You know, this property could be redeveloped for a number of commercial things that may be 40-foot high, just like the tower. So those impacts, obviously you have additional noise from additional clientele. You have lighting. You have storm water that has to be accounted for. You have parking. So the use itself is not as impactful as a typical commercial use.

You know, also, you do have other above-ground infrastructure in this area that is a lot higher. Some of those big transmission lines, along 58 are higher than this particular pole. And also the pole meets—actually, is below our mean roof-height requirement for single-family residential houses and commercial structures.

I would just say, too, we also have four other tower locations. County Carteret-Craven's location for their antenna, for their communication, metered communications. But on Coast Guard Road, and then the two on Emerald Drive, 7th Street, and then right here adjacent to this building, that have multiple antennas that are also heavily—around heavily densely populated not only commercial but residential areas. And those have been in place for some time, and those were adopted as wireless communicate—wireless telecommunication structures.

So the other thing I will say, as it relates to the land use plan, you know, we have discussed, you know, increasing our—what would you call it, Jim, not broadband? Fiber optic.

M: Correct.

Edmondson: So we have, obviously—the town does have a desire to increase our fiber optics, and I do think—hitting on that a little bit more, I think any infrastructure that the town, whether it be fiber optics or whether it be additional cell service capacity antennas to help service, we had outlined that in the plan. It does—the future land use plan, Chapter 4, you know, the town emphasizes its desire to provide new technology to better equip our emergency services personnel and to explore technology infrastructure improvements as an economic development tool to lure more remotely connected professionals to Emerald Isle, providing a larger [ph] population base to support existing and new commercial ventures.

I do think that includes fiber optics, but, you know, I also think it is not just limited to fiber optics. It is definitely also the wireless capacity that we have, as well. And that point is further highlighted as an action item in Chapter 5 of the land use plan. And it just says, “The town supports the improvement and enhancement of information technology infrastructure in Emerald Isle to better serve residents and visitors and promote additional remote work opportunity. The town places a high priority on this action.”

So I would say that all proper public notices have been advertised, posted, and sent to adjacent property owners. There was a lot of information included for your review. You know, again, I would just remind you that we are one of the

first steps in this process, so if there is a favorable recommendation, that does mean that the tower will go up tomorrow. The tower may never go up if they can't get through other FCC processes. With that, I'll be happy to take any questions from the commissioners, from the audience at this time, or I can sit back and relax. [LAUGHTER] Answer any questions that might come up later.

M: Do any members of the board have questions [ph]?

M: No, sir.

M: No, sir.

Barber: Gentleman in the back?

M: Josh? Was there a reason the RF radio frequency report was not yet—
[OVERLAPPING]

M: I'm sorry, I can't hear what you're saying.

M: Was there a reason the RF frequency study was not _____ to this meeting?
That was the question.

M: [INDISCERNIBLE]

Edmondson: Isn't—Jim, isn't that what we provided? Jim, isn't that what you provided as evidence a while ago [ph]?

M: It's not included in the documentation that was publicly available. That's why—
that's the reason [ph].

M: [INDISCERNIBLE]

LaPann: I submitted the report about any possible dangers. Is that what you're talking about? I don't know what you mean by RF report. What does that mean?

M: So, the application states that you'll want a report ready for this meeting that has the radio frequency settings [ph]. That's what we put on there first [ph].

LaPann: Yes, I did submit it. We—[OVERLAPPING]

[INAUDIBLE]

M: Sure, and what I'm submitting is that I don't have a copy of it, and I don't think anybody else here has a copy of it [ph].

Edmondson: Correct, he submitted that as evidence for the record tonight.

M: Okay. So how do we get a copy of that prior to moving forward?

Edmondson: We can get you a copy of it after the meeting, correct, Richard? It was entered as evidence, so we can give him a copy after the meeting.

Stanley: We haven't [ph] had any other evidence [ph].

M: Sure. But what that would indicate is that the decision could be made prior to the public having that information. Is that an accurate understanding? If this group here decides either way to make a decision on this motion today or tonight, that would mean that the public would not have that evidence prior to the decision.

M: We have that report now. If you want to study it and ask questions later on—

M: I just don't think it's enough time. I could take a look at it, but I don't think it's enough time for me to sit here and look at it, but yeah, sure. Thank you.

Edmondson: Oh, yeah. Well, _____ have here. Let me back up here too, because—sir, if you're talking about radio frequency, this is straight from our ordinance. "Radio frequency exposure levels shall not exceed the lesser of FCC or ANSI exposure standards at any potential point of exposure to the general public. The owners and operators of all WTA shall make reasonable attempts by the design, fencing,

signage, and the like to limit the public's exposure. An engineer-prepared and sealed document attesting to the fact that the calculated proposed radio frequency levels shall remain at lesser of the FCC or ANSI standard is required. This letter shall be required following completion of the structure's construction and before a certificate of occupancy is issued." I think that answers your question.

M: I want to say "yes," but it doesn't, because I live 400 [ph] away from this proposed site. If that report comes back and says that the radio frequency is higher, which I know it will be higher, how do I move forward then?

M: He just got through saying he can't issue _____.

M: I'm sorry, I can't hear you.

Edmondson: I—if it is higher than these exposure levels, then I can't—we cannot issue a certificate of occupancy.

M: Sure. And when would that be—[OVERLAPPING]

M: _____ could not be used.

M: [INDISCERNIBLE]

Edmondson: In other words, they would build something that couldn't be used [ph]. But that would have to—this report would have to be provided before that was issued. That would be noted in the permit and in the—that would be noted on the permit, in the system, it would be flagged, that we would have to have this _____ reviewed, and if those levels were higher, then they built a tower that they cannot use.

M: And would that report be part of the records? In other words, would they keep the records open for this?

Edmondson: It would be part of the permitting record, yes. Which is public record, yes, sir.

M: Permitting record. Understood. Thank you.

Edmondson: Yes, sir.

M: Eddie [ph], if I may? With a slight bit of humor? I had a four-hour session before this one, and I'll be honest, I had a whole pot of coffee—

[OVERLAPPING—INDISCERNIBLE]

M: And this is all good to you [ph]—

[OVERLAPPING—INDISCERNIBLE]

M: I'm on some medication. I need to take a break too. Could we take, like, a five-minute break?

Edmondson: Richard, can I do—just real quick? Richard, I have a letter from Mr. John Sullivan that he sent to me. I don't know if it can be entered into the record, but I told him I would ask you here at the public meeting, could it be entered into the public record. He's not here, but—he's an owner on Gregg Street.

Stanley: We require sworn testimony.

Edmondson: Okay.

[INAUDIBLE]

M: Are you through arriving [ph] at this point?

LaPann: Yes, as far as our application, we've defended it [ph], it's been noted by the staff that it's complete, and yeah, we'll stand on that complete application [ph].

M: [INDISCERNIBLE]

LaPann: I'm glad to answer any questions.

M: [INDISCERNIBLE]

M: Can we take a 10-minute break and then come back, Richard?

M: Sure [ph].

M: Please.

M: _____ do that. Thank you [ph].

[INAUDIBLE]

[END Excerpt Regular Meeting 04-09-19 SUP-1 of 2]

[BEGIN Excerpt Regular Meeting 04-09-19 SUP-2 of 2]

[INAUDIBLE]

M: Well, I think Kathy [ph] and these folks are _____. And _____,
you're an attorney representing _____.

Parsons: Yes, sir.

M: Yes, sir. You want to start then?

Parsons: [INDISCERNIBLE]

M: Go ahead, sir.

[INAUDIBLE]

Parsons: Good evening, folks. My name is Gavin Parsons. I'm an attorney from Wake County with the Coats & Bennett law firm. I have been retained by a neighboring—an adjacent property owner, Black Angus Holdings LLC, so they have standing. I am speaking on their behalf tonight. I have a request: Ms. Kathy Perry from Emerald Isle Realty would like to speak and has some testimony that has direct bearing, and she also have some time constraints that we'd like to be respectful of. So I would like to ask some questions first, before we go into our presentation, of some of the folks earlier. I was trying to hold my questions to let

them get their case out. Could we have Ms. Perry come up and speak, and then could I ask my questions and move forward in that manner?

Barber: You may, if you would like to proceed [ph].

Parsons: Thank you.

Perry: So, my name is Kathy Perry. I'm a real estate broker with Emerald Isle Realty. I've been in the business here since 2005. And I think one of my most important jobs as a realtor is to help protect and defend private property rights. So, one of the things that—

LaPann: I—sir, I object to any testimony from this lady about property values or property rights. She has not identified herself as an expert in any way to have capacity to speak.

Perry: Being a real estate broker in Emerald Isle is not—

M: You need to give the basis—you need to show that you're competent to testify—
[OVERLAPPING]

Perry: I'm a licensed real estate broker with the state of North Carolina. My license number is 223808.

M: Have you done appraisals?

Perry: Pardon me?

M: Have you done appraisals?

Perry: No. No, I do market analysis for properties, for buyers and sellers.

M: Have you ever looked at or studied the effects of cell towers on properties?

Perry: I have looked research based [ph] from other people.

M: That's really not—that's not your knowledge.

Perry: I mean there's—oh, okay.

M: I'm sorry.

Perry: No, no—then, well, that's okay [ph].

Parsons: I'm sorry, Ms. Perry, let me ask you a couple questions, please. Do you work in the area of residential real estate?

Perry: I do.

Parsons: What does your company do?

Perry: We manage vacation rentals and real estate brokerage in Emerald Isle.

Parsons: And does your company, you, part of your employment, set rental rates for those vacation rentals?

Perry: We do.

Parsons: And what do you base that on?

Perry: Based on the property's [ph] location, proximity to the ocean, size, number of bedrooms, bathrooms—a lot of different factors.

Parsons: You and others at your company formulate some opinion about the value of those properties before you assign them?

Perry: We do.

LaPann: I object [ph]. That's clearly—there's clearly—there's no evidence of her—any education, of being licensed as an appraiser, of any of these things [ph]. I could make an opinion as to value myself, but I'm not a licensed appraiser. I wouldn't be able to testify. I could tell you what I think, but it's not an opinion that's based on actual—you know, appraisal science.

M: I think she could argue that an opinion as to the effect—the rental value effect if I have I rental [ph]. But you're going to have to also be able to say that just like next door to a commercial property or next door to a water tower or next door to a highway—

Perry: Sure. And I will tell you, I'm a real estate broker. I am not a vacation rental specialist, so. And I don't speak to the vacation rental crowd so much as what I feel like this property or this tower, the effects that it would have on the homes that are right next to this property. So, I guess you can tell me if you think that's good enough, as far as—

M: Well.

Perry: I mean, I am not an appraiser. I do market analyses, but I do not do appraisals. I'm not allowed to do appraisals.

M: You haven't looked at or valued any properties or given a market analysis of any that's next to a cell tower.

Perry: No.

M: I don't—

[INAUDIBLE]

Parsons: Well, now, we have heard testimony tonight—excuse me—we have heard testimony tonight from a real estate appraiser that did not conduct an appraisal, that did not follow any of the USPAP standards, that gave an opinion based upon no empirical evidence. And you've allowed pretty much every word of his opinion, and, you know, the applicant to mouth [ph] that opinion, and then the town planner to—[OVERLAPPING]

M: He was a certified appraiser.

Parsons: He is a certified appraiser, but he did not—with all due respect, he did not perform an appraisal. He gave an opinion—and I'm going to get into this—he gave an opinion based on nothing but what he observed around the—
[OVERLAPPING]

M: We didn't decide [ph] to get into that, but she hasn't done any research on this [ph].

Perry: I have no first-hand experience. I have just research and my opinion on what will happen to property values. So if what I do for a living is not enough to justify that I'm experienced or knowledgeable, then—[OVERLAPPING]

Parsons: Do you have a particular case law where evidence has been rejected before, is this—I'm just curious?

M: This is straight out of the statute, from what I read _____.

Parsons: Which—yes, and her—

M: [INDISCERNIBLE]

Parsons: —so she's not an expert in terms of the rental value—

M: [OVERLAPPING]—388 and the procedure to be followed at a hearing—

Parsons: I'm well aware of that, but what I'm saying is, her opinion has to do with the effect that on rental values, in this market, here.

M: She just got—this is a lovely lady; I'm not trying to put her down.

Perry: No—

M: I asked her though if she—she herself said she didn't know about rental values.

Perry: Yeah. I am not a rent assessor [ph]. [INDISCERNIBLE]. And all I can speak to is to how I think buyers will perceive the properties with a tower [ph]. But if that is not—and I think you need to—your appraiser needs to also discuss the appraisal of—[OVERLAPPING]

LaPann: I object. I object. The lady's said that she's not qualified to testify; I would ask that she not testify.

Perry: [INDISCERNIBLE]

Parsons: At this point I have a few questions for some of their witnesses. Let's start with anybody that's going to address their effort—their strenuous efforts at co-location.

Yeagley: So my name is John Yeagley. I work with Chase Real Estate Services out of Charlotte, North Carolina. We do site acquisition services for Verizon Wireless and other wireless carriers all over the Carolinas, and I've been doing that for them for 20 years. I'm a licensed real estate broker in North Carolina, South Carolina, and Georgia. And I'm happy to—you know, our firm conducted the search.

We've been working with the town and the town people. We've co-located on both water tanks, talked to Seola over probably 10, 15 years, because Verizon, as we've developed this, the first thing we try to do is co-locate. Why would we want to put ourselves through this, you know? I'd rather not be here. You guys wouldn't rather be here. We would rather be co-locations on water tanks, so that's our goal. We have antennas on both water tanks covering the island.

M: Is there a third water tank in the area?

Yeagley: Not that we can use. There's—I mean, you have to tell us where, but we have one end of the island covered with a water tank, other end of the island covered with a water tank. If you go towards Atlantic Beach, there's another water tank up there that we're on. I mean, that's the way that we have to cover these coastal towns.

Parsons: Let's just—let me ask the questions going in order here. You've got—you identified the Town of Emerald Isle, Carteret EMC [ph], Emerald Isle Fire [ph] Department, Singleton parcels, Centurylink, and Dollar General. Let's start with the Town of Emerald Isle. You're—and I'm referring to the Exhibit C in your application. It said the Town of Emerald Isle was not interested. Could you expand on that just a little bit?

Yeagley: Yes. Are you discussing—

Parsons: I'm discussing—

[OVERLAPPING—INDISCERNIBLE]

Parsons: No, no. I'm discussing number one in Exhibit C. It says, Town of Emerald Isle _____.

M: I'll get it for you in just a second, and you can look at it.

M: Here it is.

Parsons: There you go, got this [INDISCERNIBLE] is that paragraph at the top of the page?

Yeagley: Yes.

Parsons: And then it leads into the sites from left to right are listed below. You with me?

Yeagley: Yep.

Parsons: All right. Number one, Town of Emerald Isle, 2701 Emerald Drive. It says, “Town not interested.” So, explain that.

Yeagley: Yeah. So of course, our first priority is to look at the town-owned government on sites. That’s where the zoning ordinance dictates that we go. My field agent went out. We’ve met with Frank, after speaking to Josh, and they looked at town properties in that area. There’s a fire department, and then there’s the beach parking area.

There—by the time you look at the setback requirements, you know, we walked around, looked at it, you know, they mulled it over, we looked at setbacks. At the beach parking area, there was just—it’s a beach parking lot. There’s no room in there. Where could you fit the tower to meet setbacks and not eat up a tremendous amount of parking. The discussions there ended. So that’s why we said that the town—

Parsons: But that is a parking lot, that’s there’s no residential—there’s no houses there, there’s just—it’s a big—[OVERLAPPING]

Yeagley: There’s condominiums on both sides, big condos.

Parsons: But it’s a big flat _____.

Yeagley: Multiple—yes. Multiple, multi-use, big condos. Both sides. Also, residential use across the other way.

Parsons: So is your testimony that the town told you that they were not interested?

Yeagley: That is correct.

Parsons: Okay, they didn’t say it couldn’t fit, or it couldn’t work, they just weren’t interested.

Yeagley: For multiple reasons, yes.

Parsons: Okay. What about number two, Carteret EMC, 2808 Emerald Drive?

Yeagley: So we probably spent about six months, eight months working with that. We had site visits out there. Again, I believe we had town—first of all, we couldn't get them to talk to us. They weren't cooperating, but we said, "Hey, we need to make this work. Let's get—it's an electric substation; you've got to be able to put a pole there."

After talking to town management, they made some contacts for us, we—they helped us get in the door with Carteret. So we started down that process. We had a site visit, we drafted an engineering drawing, we had a great sketch, compound's going to fit in the back. It was—it was super-duper tight. There's a lot of—to meet all the zoning requirements, again—there was residential in that area as well—it was going to be inside the substation, but because of the electricity and all the electrical components in that substation, we were unable to use that substation property.

I mean, we—we spent at least six months on that project, spent time drawing up site sketches, drawings like this, and it fell apart. The EMC representatives told us, "Sorry, it's not going to work. You can't go here; you've got to go outside our fence," basically right on those adjacent property owners, which doesn't meet any of the zoning requirements, so they were not interested.

Parsons: Okay. What about Emerald Island Fire Department at 2810 Emerald Drive?

Yeagley: So, I was going to say, the fire guys are here, but [ph]. So we tried—looked at that, and again, there's different uses around that. To make the site work, it had to

be in the middle—behind the fire station in the middle of a big storage area that they need for storage. So we'd been speaking to the town management, they looked at it. We said, "Okay, we can go here," but they—at least—the message we got was they weren't interested, because that space is useful for the fire department. If the fire station ever expands, they're going to need it. It's—it wasn't a use that they were interested in putting—using up all that space for the tower because of setbacks.

M: Okay. Not interested.

M: I'm curious, when you say "town management," who specifically are you referring to—[OVERLAPPING]

Yeagley: We worked with Josh and Frank; that was the old manager.

M: I can attest to that.

M: Frank Rush, correct?

Yeagley: Correct.

Parsons: The Singleton parcels at 3100 Emerald Drive.

Yeagley: There's multiple parcels there. We never heard any feedback from them; they were tight, and we couldn't make them work.

Parsons: And Centurylink, at 3105 Emerald Drive?

Yeagley: There's just not adequate space there. It is what it is; it's tight, there's no room to make, you know, anything work.

Parsons: I'm sorry, can you explain that _____.

[OVERLAPPING—INDISCERNIBLE]

- Yeagley: So there's a zoning ordinance. The zoning ordinance says you have to be 1.25 times the height of the tower from any property—
- M: Fifty feet.
- Yeagley: If you're going to build a 40-foot tower. The ordinance allows us to build up to a 100-foot tower. The carriers would have a preference; they'd build a 100-foot tower. So we have to start there and work our way down. When you start to look at the size of these parcels, you end up with a 30-foot tower, 20-foot tower, because they're so tiny and so small. So that's why we run out of room, because you say, "Okay, this is zoned properly, it seems like the use makes sense," but when we look at all the rules, you can't make them work.
- Parsons: So for these prior—you're talking about a 50-foot tower as proposed in the present site.
- M: [INDISCERNIBLE]
- Parsons: What about these prior sites, were you proposing a 100-foot tower there? What was the proposal?
- Yeagley: [OVERLAPPING]. We would do whatever we could do. We were going on [ph]. We'd start at 100, and then we were like, 80, 50. You know, we were trying to find an alternate solution, and we worked at this, like I said, for years. We knew this was going to be challenging, we knew this was difficult. That's why, you know, we settled on the location we did after months and actually years of investigating options.
- Parsons: Did you ever propose a 50-foot site or a 40-foot site at any of the other prior spaces?

Yeagley: I'm digging through some files. I believe we did, yes.

Parsons: Which ones?

Yeagley: I'd have to do some research.

Parsons: Okay. But you understand, you're saying you've made exhaustive attempts, and we're trying to understand that. I think the room full of people would like to understand that. So if you're—is this—the 50-foot or 40-foot tower, is this a new development to this site? Or did you approach other sites, yes or no, with that?

Yeagley: We approached every site trying to get Verizon the best coverage that they could get in that area, and we would start with—like we do with anything, we start with the largest and work our way down to find a suitable location.

Parsons: So is it your testimony tonight that there is not another water tower between the two water towers that you've already located on?

Yeagley: Yes.

M: Okay.

Parsons: Anybody else have any questions _____?

Daniel: I have a question.

M: Why don't you sit down front [ph]? [LAUGHTER]

Daniel: Sorry. From the testimony earlier from the gentleman [ph], I heard that this need for the internet, for the signal that had been here recently—at least, that's what the application says there [ph]. The recent growth of the island requires that _____. But from the conversation as I'm hearing now and the question the gentleman is asking, it sounds like this is has been effort that's been going on for several years, if not earlier, with Verizon or somebody else to come in here and

put in a tower, to claim the area, and build up on it [ph] and give us additional signal. That was a question I had and I just wanted clarification on. Thank you.

LaPann: I'm sorry, what's the question? I didn't understand. Did you ask a question?

Daniel: I'm sorry, were you listening? [LAUGHTER]

LaPann: I was listening, but I couldn't figure out a question in that speech.

Daniel: So.

LaPann: So if there's a question, please let me know what it is, and we'll get it answered for you.

Daniel: The question is, this—earlier this evening, as you were standing here for a long time, actually—we listened to you for a while.

LaPann: Right. I'm listening to you, sir.

Daniel: Sure. You mentioned that the island, based on the recent growth, requires Verizon to come in and provide the services that we need so desperately.

LaPann: Yes, sir.

Daniel: As I'm listening now to the other gentleman's conversation, it sounds like this has been an effort that's been going on for several years, not a new thing, that Emerald Isle has needed this signal for generations, and this is just—we just lived with it until now, that this a desire—

LaPann: I didn't say it was a new thing. I said we were making an application now to get permission now, and we—the need is here now. That's all I'm supposed to talk about. That's why.

M: [INDISCERNIBLE]

LaPann: And maybe something happened in the past—that's not for here tonight.

Daniel: Actually, _____.

LaPann: Tonight is what's happening now.

Daniel: You also mentioned things about emergency calls—the dire need of the signal, basically, is what it came down to, right? So—but what I'm hearing is that this has been an effort that's been going on for several years, and I just want to make sure that everybody here understands that this isn't something dire. We do not need this today. We do not need this right now. I understand your interest, we all do. Everybody has to make money in some way or shape, I understand. But this island has survived for several years with the signal we have. And as a resident of several years [ph], working from home, using a tremendous amount of data, I can tell you that that need is not here today. I get your side of it, but I'm just tell you our side of it.

M: Was the question clear?

LaPann: I certainly—well, no, it really wasn't. It's your statement that he wants everyone to know that this has been a need that's been going on for a while, which isn't really relevant at all. It's not relevant to tonight's inquiry. Tonight's inquiry is, is there a need now and did we prove it? That's the law standard that we need to follow, sir, and we have done that.

Daniel: To prove what, sir?

LaPann: That there's a current need and that we've proven it [ph]. That's all we need to prove tonight—nothing to do with how long it's been going on or _____.

M: Understood [ph]. Thank you.

[INAUDIBLE]

Parsons: I'm going to move on with some additional questions. I guess, is there—Mr.

Berkowitz?

Berkowitz: Yes, sir?

Parsons: I have a couple questions for you.

Berkowitz: Sure.

Parsons: You testified earlier that there were—are there any true comparables in your report?

Berkowitz: True comparables?

Parsons: You were unable to find comparable—there are no cell—there are no cell towers like the tower that are being proposed anywhere on this island, are there?

Berkowitz: That is correct.

Parsons: Every cellular communications equipment is on a water tower, is that correct?

Berkowitz: The primary towers, yes.

Parsons: No, no—are there other towers like this on this island at all [ph]?

Berkowitz: There are some individual ham radio towers that are also listed, and I reference that in the—[OVERLAPPING]

Parsons: All right. I'm not asking about ham radio. I am asking about cellular telephone towers like the one you propose, either 40 feet, 50 feet, or 100.

Berkowitz: No, not that I could—[OVERLAPPING]

Parsons: You didn't find it [ph], and you're the expert.

Berkowitz: That's correct.

Parsons: How far did you look? The scope of your search, how far?

Berkowitz: I drove the entire island and also used a program called AntennaSearch.com, which is also is regulated [ph]—which uses FCC information—

[OVERLAPPING—INDISCERNIBLE]

Parsons: Let me stop—your personal observations, because you've now testified about antenna.com or whatever. Let's talk about what you personally observed. You went from one end of this island on Emerald Isle all the way to Fort Macon?

Berkowitz: I don't know the exact names, but I've driven—I drove the entire length of the island [ph].

Parsons: Okay. Did you go on any other islands on—in coastal North Carolina or the East Coast?

Berkowitz: No.

Parsons: Okay. Did you find any other cellular towers that were not on a water tower on this island?

Berkowitz: No.

Parsons: Okay, so what you're proposing would be one of—the first of its kind on this island?

Berkowitz: As far as a cell tower, yes.

Parsons: Yes, that's what we talking—we are here tonight about cell towers.

Berkowitz: Yes.

Parsons: This would be the first of its kind. So are you aware of any other cellular towers like the one you are proposing anywhere else on a coastal barrier island the State of North Carolina?

Berkowitz: Not that I'm aware of, no.

Parsons: Okay. Your research did not locate any—you said there's no empirical—and I'll get into your report later, but your—in your report, you said there's no empirical data that supports harm to neighboring properties. Is that correct?

Berkowitz: That's correct.

Parsons: There's also no empirical data anywhere, is that correct?

Berkowitz: That's correct. There's no quantitative evidence.

Parsons: It doesn't say one way or another, it's just not there. Because it's—

Berkowitz: Quantitative analysis.

Parsons: Because it's never happened before.

Berkowitz: That's correct.

Parsons: Okay. So you don't really have much to go on in actual data or hard facts.

Berkowitz: No, there is no quantitative evidence.

Parsons: Okay. _____. How many other opinions have you provided for Verizon Wireless, in any context, for cellular telephone towers? _____.

Berkowitz: Opinions?

Parsons: Let me—that was a terrible question. Let me back up, and I'll say that for the record. How many times have you been engaged by Verizon or one of its subsidiaries or parent companies to provide an opinion about the location of a cellular telephone tower?

Berkowitz: The location? None.

Parsons: How many times have you been engaged by Verizon, a parent, or a subsidiary to provide an opinion or written report?

Berkowitz: Your question is misleading.

Parsons: Is this the first of its kind?

Berkowitz: No.

Parsons: How many of these have you written?

Berkowitz: Probably, say, for Verizon, I wouldn't know. But I would probably guess maybe between 30 and 40.

Parsons: Okay. Have any of those reports ever opined that the location of a cellular tower would harm any residential property located nearby?

Berkowitz: A residential property nearby. For Verizon? No.

Parsons: For—okay. Was any other wireless telephone carrier?

Berkowitz: Yes.

Parsons: You've given that opinion for another wireless carrier?

Berkowitz: Yes.

Parsons: That it harmed the residential property and it should not be located there?

Berkowitz: No, it was an existing one, that there wasn't—in my opinion, that was based upon a very large lattice tower that was 250 feet, it was lit, and a piece of farmland that was developed around it.

Parsons: Right. But have you ever given an opinion for wireless carrier that placement of a cellular tower beside a residential area, aside from the one you just mentioned—

Berkowitz: No.

Parsons: Okay. All right. In your opinion—

M: Can I come up and ask—

Parson: Let me _____.

M: I have a question for him, as well.

Parsons: You're more than welcome to. Let me just get through this. Your opinion notes you did not consider the view from the decks looking at the sound. Did you consider any impact to the view of the sound from the residential properties that abut where you're going to put the tower, the impact that it would have on those, the view of the sound?

Berkowitz: The view amenity, which is a significant factor in both beach and mountain properties, is that when it is a desirable characteristic, and the location of the tower does not impact the view, the amenity view of any of the adjacent or abutting properties [ph].

Parsons: But based on what, the view from the deck?

Berkowitz: The actual location of the tower—

Parsons: [INDISCERNIBLE]

Berkowitz: —and the location of the ocean—[OVERLAPPING]

Parsons: Have you been up on any of the—I'm sorry, go up there and just look [ph].

Berkowitz: Well, the proposed location of the tower is not between any of the residential properties and their view amenity [ph].

Parsons: Which is—what is the view amenity?

Berkowitz: The ocean, the bay.

Parsons: Okay, the bay. He's saying sound, bay, _____. Have you been up on any of the decks? These are second-row [ph] homes, and they have multiple decks. Have you been up on any of those decks to look at the view of the sound?

Berkowitz: No.

Parsons: Okay, thank you.

Berkowitz: I would like to correct one thing you said earlier. That is not an appraisal, number one. Number two, it's an impact study. It's called a deemed and appraisal [ph] service under USPAP [ph]. Second of all, it does adhere to USPAP requirements, includes a signed certification as such. So I would like to correct you on that matter because—[OVERLAPPING]

Parsons: I stand corrected. But this is not an appraisal.

Berkowitz: No. It's doesn't report a value [ph] of any property; therefore, it's not considered an appraisal.

Parsons: But you are an appraiser.

Berkowitz: Yes. This is an appraisal service.

Parsons: Yes. And you didn't off—but you're purporting to offer an opinion on diminution of value.

Berkowitz: That is correct. That is an appraisal service.

Parsons: Okay. And it's your opinion that the proposed location doesn't impede the view amenities of any of the adjacent or abutting properties.

Berkowitz: That is correct.

Parsons: Okay. And from what I can tell, and I'll get back to the word that Mr. LaPann used in a moment, but you mentioned large electrical transmission lines along Emerald Drive and a number of other power poles. Are any of those power poles located within 50 feet of a residential property?

Berkowitz: Yes.

Parsons: Where?

Berkowitz: Right on this property.

Parsons: Is it in use?

Berkowitz: Yes.

Parsons: There's a power—because your photos didn't show a power line running to it.
Between—[OVERLAPPING]

Berkowitz: There's a power pole with two—this is going to be, like, right next to where this is.

Parsons: It's on the right side of the property.

Berkowitz: [INDISCERNIBLE]

Parsons: What I'm talking about—can you—

Berkowitz: And they're building a house right there.

Parsons: Can you bring up your photos, please?

M: While he's doing that, can I ask a quick question?

M: Sure.

M: Sure.

M: Question. When you did this opinion, did you—I know you accounted for the pole, but did you account for the prison chain link fence with the razor wire on top of it?

F: Yeah.

Berkowitz: Considering there's a dumpster enclosure there, I think that's much more—I think that is, again, an instance of which that would be there—that would also be what is called—there's already fencing and screening—[OVERLAPPING]

M: So because he has junk behind this place, it's okay to put more junk?

Parsons: That's good. Do you have a pointer?

F: I don't know if he's sworn or not [ph].

M: _____ landscaping and it will clean it up [ph].

M: Okay [ph].

M: It will be landscaped, just like [ph]—not landscaped—[OVERLAPPING]

M: _____ that big, beautiful, blue house with the balloon—
[OVERLAPPING—INDISCERNIBLE]

M: —the compound [ph] will be fenced—
[OVERLAPPING—INDISCERNIBLE]

M: You can't [INDISCERNIBLE] six foot—that's an eight-foot fence and six-inch
hedges, right [ph]?

M: You need to ask a question.

Parsons: Okay. Let me get back to my question _____.

M: [INDISCERNIBLE]

Parsons: I'm trying to move it along—[OVERLAPPING]

M: I did ask my question and you kind of—[OVERLAPPING]

M: Let's get some order here, please.

M: Okay.

M: Would you please finish—let's let this gentleman finish his presentation—

M: Okay.

M: —before people [ph] start asking questions.

Parsons: Okay. Sorry, I've created confusion—[OVERLAPPING]

M: No, you're fine. Just you—[OVERLAPPING]

Parsons: No, it's me, I'm sorry. Okay. And I'll attempt not to zap you with the laser. Real quick, these are some of y'all's pictures, and I think you were talking about a power pole here that's—is that—

M: [INDISCERNIBLE]

Parsons: Is that what you considered?

Berkowitz: There's two more.

Parsons: Where?

Berkowitz: There's one showing right to the left of the balloon, and then there's the other one that you can't see on the slide.

Parsons: Did you—you don't have any photos that there's actually—that's just a pole. You don't have any transmission lines or anything going to that. There's no photo that you've got power going to it.

Berkowitz: There is—I'm sorry, I don't have a photo of it.

Parsons: Well, that's—your—

Berkowitz: It's right there [ph]. It's there. I've seen it.

Parsons: Okay. You don't have the transmission lines on the street going within 50 feet of a home.

Berkowitz: Not on the street, no.

Parsons: No.

Berkowitz: Well, actually, if you go along the—along Emerald Drive, there are plenty of houses—[OVERLAPPING]

Parsons: No, what I'm asking about, though—let me get to it. These houses here are the ones that are impacted. And you don't have—you referenced transmission lines

running down the main drag, and you referenced other power poles and transformers over here. Well, we're not talking about over here. The adjacent property owners are here, and there are not large power lines running right behind, level with a second- or third- or four-story deck that is supposed to overlook the sound.

Berkowitz: There are—[OVERLAPPING]

Parsons: I was there this afternoon. I didn't see power lines running behind it.

Berkowitz: Well, behind it, I—

Parsons: What I'm talking about is right here.

LaPann: He's trying to answer. Could he answer, could Mike—could my witness answer please?

Parsons: Let me ask another question.

LaPann: [INDISCERNIBLE]

Parsons: Is there a power line that runs from here along the back side of those houses that's 50 feet from the—that's within 50 feet of those houses? Is there a transmission line run back there, and if so, do you have a photo of it?

Berkowitz: I do not have a photo of it. I would look at the—I would have to reference the site plan and look at it again. But I know that there are electrical lines that are running towards those houses that are there, that are already—that can be visible from the back window of that house. Because I could—just common sense would tell you that that's visible _____.

Parsons: Within 50 feet of a home. That is a—no [ph], I'm asking him, not you [ph].

Berkowitz: I'm not allowed to enter other people's property, so I didn't measure it.

Parsons: You've given a lot of opinions to not—okay.

Berkowitz: I would say—[OVERLAPPING]

M: Well, they've got power lines [ph].

M: Near the _____ that's already there.

Parsons: Okay. Mr. Stanley [ph], we have property owners that are here tonight that are prepared to rebut that if necessary. So I'm—

M: [INDISCERNIBLE]

Parson: —we—I don't want to talk about opinions—

M: He can certainly testify as to where the power lines are.

[OVERLAPPING—INDISCERNIBLE]

M: Here's the site plans that shows the electrical lines behind where the proposed tower is, the existing—which are actually before—

Parsons: I mean, does that show that they're within 50 feet of a home?

Berkowitz: Well, since that is 50—this is 51 feet from the property line, this would be probably closer than that.

Parsons: Well, we'll ask the property owners to come up and deal with that. But basically your opinion, as I read it, is that you've looked around, you saw other things that you considered—I forget the big word that Mr. LaPann used for it _____.

Berkowitz: It's called multi-colinearity.

Parsons: That's a great word. That are multi-colinearity, that there are other things around that would detract from the view, and that one more thing thrown in there is therefore not going to detract from the view.

Berkowitz: Actually, it would be misleading and a violation of professional appraisal practices to ascribe any diminution of value to that one item without consideration of all the other factors.

Parsons: Okay. But it's your opinion—this is how you arrived at your opinion.

Berkowitz: It's professional appraisal practice procedures.

Parsons: But looking at this—yes, it's professional appraisal practice, you've got a great big word you use to describe it, and what I'm trying to do is understand it. I'm a liberal arts major. I'm not an appraiser.

Berkowitz: I'm a liberal arts major—[OVERLAPPING]

Parsons: I have a law degree, but not—I'm not an appraiser. You have these other things there, and you're opining that it has no impact on that property, based upon the presence of these other things.

Berkowitz: That in consideration is to be able to say, to be able to ascribe it to just that tower is inappropriate. The scope of the assignment is to determine whether the proposed tower would substantially injure the value of adjacent or abutting properties. Based upon the existence of those items, which I described thoroughly in the report, to add an additional tower, to describe that as to substantially injure adjacent or abutting properties would be misleading and inappropriate.

Parsons: And you're constrained by these principles, then, is that what you're saying

Berkowitz: That's the professional appraisal procedures that you do. That is how you value property.

Parsons: Got it. Okay. Well, I think I understand now. Thank you.

Okay, I'm going to launch into my presentation. I'll try to move through this. I am concerning [ph]—representing a neighboring property owner, Black Angus Holdings LLC. They're at 3204 Ocean Drive in Emerald Isle. Verizon essentially wants to put a cell tower—why am I here? They want to put a cell tower in their back yard. There's four properties that are [ph] maybe right there, and Margaret Browning [ph] will speak to this with photos and descriptions more thoroughly. Their rendering here does not quite do this just—do it justice in terms of the site lines and what it is going to do to their property. It's Verizon's burden to move forward and establish the four elements you've heard about, and I think our focus will be on whether it substantially injures the value of the adjoining property.

Their—in terms of the—injury to the value of the adjacent property, their impact study and their appraisal is not sufficient. They have not located any freestanding cell towers next to any residential property anywhere, and they have no idea what this is going to do to property values, and it's not happened anywhere else. He's a professional who's been up and down the island. He could have done research on other areas in coastal North Carolina where this has been done, and you didn't hear it. So y'all are going to be the first. So, you know, buckle up; we're going to see what's going to happen if you do it, but there's no data that we can go off of.

Typically, if there's going to be something that's going to be put somewhere, there is some concrete data that you can say, “Well, it's been put here, we know what it is, this is a nuisance, it's going to hurt my property, we

have data.” Well, there isn’t any. It is his opinion based on walking around and looking at things, essentially.

There are—currently, all cell phone towers are on water towers, and you go to the beach and you expect to see power lines and you expect to see water towers. You don’t expect to see—I mean, you can’t put power underground here—I don’t think—or you haven’t. So you don’t—as somebody that’s rented [ph] property here for years, you expect to see power lines, but they’re not put right off of your back deck with your view of the sound. Somebody—you don’t put them right in front of a beach house with an oceanfront view. You don’t run a power line or put a power pole with a transformer in the dunes right in front of somebody’s ocean view.

What I was talking about, when we’re complaining about the impact on the value, that there’s transmission lines running down on 58 [ph], because they’re further away. We’re talking about putting something right up near somebody’s deck, where they’re going to see it, and it’s going to be right there. Margaret Browning will speak in a moment in terms of the impact on her property and other properties in terms of the sound view. They’re a second-row home. A big part of that is a sound view.

Again, there’s no data about any freestanding cell towers within 50 to 100 feet of residential homes. Again, this study also strangely refers to some property in Guilford County. I don’t—I don’t get that. The—there is no acknowledgment of a potential impact of a stigma on the public, on the value of the property or the rental public, whether people want a cell tower behind the property, a piece of

property that they're going to be renting for a week or two at the beach, right behind the back of the property. There's no reference to that.

Again, his references are to power lines and poles, the type of which you would expect at any North Carolina beach. This—the issue is not line of sight. In other words, you've got a number of pictures here where you can see something off in the distance, you've got a power line here, you've got something there, you have a water tower. But it's not right in the back yard, right up against the back of the house, and that is the distinction here.

Again, Mrs. Browning will address the impact of the value on property. She is a property owner. They can opine on the impact of value of their own property; there's case law on that. Also, she's in a unique position, because she's a business owner, that—her business is the ownership, management, and leasing of property, namely, beach property, here.

At this point, I don't think Verizon has addressed the lightning—I know there was a mention of lightning strikes and mitigation of a home—on a home that's 50 feet away of a cell tower. With the large wire fencing and its impact on residents, they do not address how they would handle a four or five—a Category 4 or 5 hurricane, or the equipment that's attached to the tower, is that also—does that come within the engineer's scope of expertise?

In addition, if you look closer at the application, they've got two different entities described on—as the lessee of the property and then the bonded entity. One is Cellco Partnership; another one is Verizon Wireless LLC. I'm not sure why you would have two different entities that would be listed on two different

parts of the application. I don't know who the FAA statement addresses Cherry Point or Bogue Field in terms of airplanes.

I do need to ask some more questions in terms of, is there a—the Verizon engineering and—is there anybody here that knows anything about the Verizon plan other than what's in the documents?

LaPann: We do not have a radio frequency engineer here tonight. We have presented evidence in the form of affidavit and in documents, as well as the maps. That's the evidence we have submitted.

Parsons: Okay. Thank you for the clarification. So we've got two drawings; there's no additional data. You've got a lot of color. Mr. LaPann is not an expert or a wireless engineer. He is reporting what his client is saying [ph] in a bare-bones affidavit saying, "Take our word for it; we need it." There is no underlying information, no data about dropped calls, customer complaints, FCC directives, no discussion of the Verizon standards. It just simply says, we're—it's not in compliance with our standards, and here's a color chart. I've been on a boat offshore four or five miles off your lovely beach, and my former partner of mine in New York calls me and asks me questions. I have not had difficulty picking up calls there, and I have not noticed that my calls dropped.

You know, I don't understand. There's no data about peak times, is this all year round, is it the dead of winter, is it the height of the summer, are there actual data other than these charts that suggest—you know, is this just all the time? Again, they've put forward some evidence, but no specific data, no standards, no nothing further, they're just—you know, this is a benevolent move

by Verizon to just come in and just put in a tower. How much—I submit to you that that's not quite enough, I'm sorry. If you look throughout their application, there's a number of things in it, but it's only really just barely skin deep. This is not, you know, clear and convincing evidence.

Again, they've asked people to put the tower in in a number of places, and I guess—now, Mr. Stanley [ph], if this is inappropriate, please tell me. Is there anybody with the city that has any—Mr. Martin, it did not sound like you were the gentleman that was in the seat at the time, but is there anybody from the city that could opine on why this was not looked favorably upon _____?

M: Josh was with Frank most of the time.

Parsons: Well, Josh said that he was unable to comment on that during his portion [ph] of the presentation, and I'm—I was taking pretty good notes. So is there somebody that—either Josh or Mr. Martin, that could opine as to why the city did not consider any of their sites appropriate?

LaPann: Sir, it's the opponent's obligation to bring evidence to the board. So far, we've had about 20 minutes of talking about questions, but there's been no evidence that's been submitted. The only way a board can deny our application, after we've put in a prima facie case, is for him to submit substantial evidence in opposition. So far, there has been no evidence, and I would just suggest that, to ask you at this point in time, can you find me somebody to come and give evidence—it's inappropriate. We're here at the meeting, this is the time. If the opponent has evidence, then let's get it on. Or—and if there are neighbors that

just don't want the tower, that's not evidence either. So I'm just asking that this hearing be restricted to evidence in opposition to the petition.

Parsons: We're entitled to ask questions—

M: I'll answer your question, I have no knowledge _____.

Edmondson: One point of clarity. So, Ms. Browning [ph], last Wednesday provided, asked— had a public records request. And our town clerk went through emails from myself and Frank with the communications from Verizon, I think dating back to 2016. I don't know if some of those conversations about why or why not were in there, because I didn't look through each and every of the 800—I don't know how many pages it was. So there could be information in there; I just can't say there is or isn't. So I'm answering your question.

Parsons: You don't know _____.

Edmondson: [INDISCERNIBLE]

Parsons: And you gave me about six or seven hundred pages about two hours before the hearing, and I appreciate that. And I—[OVERLAPPING]

M: Just to clarify, you picked it up two hours before the hearing.

Parsons: I picked it up then, yes.

M: He was there at 3:30 [ph].

M: When was that material available?

Edmondson: It was made available Thursday.

Parsons: My understanding was it was going to available today, or I would have come—
[OVERLAPPING]

Edmondson: Well, actually I had sent an email to Ms. Browning Thursday letting her know, although I had prior work to do, I wanted to get her the information as soon as possible. So although I originally said Monday, I would try my best to get it to her before Monday, and I did that. We had it ready for her Thursday and she said she would pick it up when she got in town. And you picked it up today.

Parsons: Okay.

Edmondson: So seven days before the hearing, you make your call to us, what, I'm supposed to drop everything and do [ph] that request?

Parsons: I'm not quibbling with—I'm not complaining about the data request [ph]. What I am saying is, if it's in—I've asked if there's anybody with the city that has any knowledge, as we've asked Verizon. They told us what they told us. I've asked if there's anybody with the city that can provide further clarification without any—it's a fair question.

Edmondson: And we answered it _____.

M: The answer was no. I agree.

Parsons: Okay. Got it. Six or 800 emails—pages of stuff, I have not been through all of it yet. So you don't know, you don't know. I understand. I'll move on.

Again, I guess—Ms. Browning will address the impact on the property. Again, she's a property owner, but also is in the business of buying, selling, and managing real estate, and can opine about the value on her property. So I would tender Ms. Browning.

LaPann: I would just ask whether this individual has standing. Does she own property that's abutting this project?

Margaret B.: I do, sir.

Parsons: I've said that three times, yes.

LaPann: Well, I'm sorry, I didn't hear you, sir. I was just asking the question.

Parsons: Well, three times.

LaPann: Thank you.

Parsons: Yes.

M: If you could, for the record provide the address, specific address. That would be wonderful [ph].

F: [INDISCERNIBLE]

Margaret B.: Yes, my address is 3204 Ocean Drive.

M: Could you speak into the microphone, please?

Margaret B.: My address is 3204 Ocean Drive. Members of the board of commissioners, I am the sole owner and member manager of Black Angus Holdings. Through Black Angus Holdings, I own numerous homes that I rent.

LaPann: Excuse me. A document has been provided to the board members. Could I have a copy of it, please?

F: It's been submitted to the clerk, in similar due [ph] of the EMCE that you've submitted.

LaPann: Someone just walked up and handed documents to these individuals.

M: You did that at the beginning of the meeting, too.

LaPann: And I'm just saying, if they can get one right now, why can't I get one right now?

Margaret B.: Sir, I would like one, then, of your frequency map and your report from that.

M: Can have mine [ph].

Margaret B.: I own numerous homes that I rent. I manage these properties and have substantial interactions with renters and guests. I personally evaluate and inspect the property and marketing conditions for each investment that I make.

Based on my knowledge of the property that I own at 3204 Ocean Drive, my experience managing millions of dollars in residential, vacation rental property, my experience in working directly with renters, guests, knowledge of relevant market conditions, analysis of studies relating to the impact a cell tower has on property values adjacent, it is my informed opinion that the home I own at 3204 Ocean Drive has a fair market value of \$1,000,000.

I bought this property in 2008. The rental income for that year was \$53,425. My rate in 2018 was 95,115. That is an increase of \$41,690. It is my informed opinion that if the proposed [ph] tower as described in Verizon's application is built, the value of my property will diminish by over \$100,000, and this is marked in multiple studies that are on the internet if you go and look, that says, "Impact of Cell Phone Towers Near Residential Properties." They are cited in the document that I provided to Josh Edmondson. It is all legal.

Parsons: Can we—she submitted a letter that she signed. I meant to tender that into evidence, into the record.

M: Do we have copies for this gentleman?

Parsons: Sure.

Margaret B.: If the proposed tower is built, rental income from my property will decrease by 20 to 25%—[OVERLAPPING]

M: [INDISCERNIBLE]

Margaret B.: —\$25,000 [ph] per year. I have three decks on the back of my house that provide views of the sunset over the sound. On Saturday, April the 6th, 2019, I took pictures from the back decks. Unfortunately, it was a cloudy day, so I do not have a picture of the sunset. The items that I gave you all—here is the view from my top deck taken on Saturday, Exhibit 1. Here is the second picture with the camera position at the deck rail in Exhibit 2. On April the 6th, 2019, I also took measurements of the height of this deck.

What I have done here is to take those measurements and Verizon's construction drawing of the tower and place that drawing where the tower will be located, Exhibit 3. Here I've done the same thing for the picture taken over the deck railing, Exhibit 4. Unfortunately, the views of the sunset will be replaced by a 41- to 45-foot monopole. Verizon's application leaves the impression you can barely see the cell tower from my home.

Here is what the application refers to as simulations showing the cell tower site, done by Kimley-Horn, Exhibit 5. In this photo, my home, A Life of Rilee, you can barely see the red dot next to my house. There is a reason for that. The so-called simulated image is based on a photo that was taken 507 feet away from the proposed tower, roughly one-tenth of a mile away. My property, however, is adjacent to 3301 Emerald Drive, not a tenth of a mile away. Here is a Google Map and satellite image showing the distance of the location of the proposed tower and where Kimley-Horn took its photo, Exhibit 6. Don't be fooled by Verizon simulations. Views of the sound will be obstructed by this

tower, there is barbed wire fencing, a large propane tank with a no-spark zone, signs warning of radio frequency emissions.

The remainder of the property at 3301 Emerald Drive that's not covered—that is not covered by asphalt or buildings will be covered with concrete or compacting soil, increasing storm water runoff. They have written in their application that the ground will be graded away from the site. It will cause more flooding that will impact the homes. If you refer to my document that I submitted, you can see the flooding from the hurricane. Those pictures were taken.

Why would any potential purchaser or renter pick a home that is adjacent to all of this, rather than a comparable home away from these problems? I certainly would not. The beauty and charm of Emerald Isle will be lost if large monopoles start popping up throughout the island. If you conclude that it is fine to build a stand-alone cell tower within a few feet of our homes, a dangerous precedent is going to be set. Barbed wire beside the back yard of a family home is not a harmonious fit. No-spark zones are not a harmonious fit. Unsightly towers adjacent to decks that were built to enjoy beautiful views is not a harmonious fit.

I've been coming to this island for three decades. My father had a house in Pine Knoll Shores. I've used my cell phone repeatedly from my home to coordinate with contractors, Emerald Isle Realty, and local businesses. I have never had a problem with my calls from Emerald Isle, from my carrier [ph], Verizon [ph]—even on the holiday week of July the 4th.

I have tried to make sense of Verizon's purported justification of our current need for an additional tower. Its explanation makes no sense and is inconsistent with the facts. The reasons this application must be rejected is set out in greater detail in my sworn testimony and written submission of April the 2nd. The application is incomplete and does not satisfy the requirements of Emerald Isle's ordinances. I urge you to protect our homes, save our sunsets, and for the sake of this island, our local economy, and many homeowners who will suffer substantially by diminished property values, the application should be denied.

Parsons: I've got one question that I wanted to get in. Is there a power line running directly behind the back of your home?

Margaret B.: There is not. I have pictures. As you can see, they're blown up, you can tell there's no power line there.

M: Is your house served by an underground line, or is it a drop line _____?

Margaret B.: It's in the front.

M: There is one in the front, on the ocean side, is that what you just said [ph]?

Margaret B.: Yes, sir.

Parsons: It's on the ocean side, it's not _____.

M: [INDISCERNIBLE]

M: The view of that utility line from the front of your house?

Margaret B.: You can see in the pictures, the view. You can see in the pictures where the cell tower will be located off my back decks.

M: He's saying in the front, where the line—

M: In the front of your house, the utilities for your electrical power, how far, approximately [ph], are those utilities located from the front of your house?

Margaret B.: Honestly, sir, I have never noticed, because it's not been anything that has been obstructive for the view.

M: It's not in your view of the ocean from the property [ph].

Margaret B.: No, sir.

M: It attaches to your house, though, right?

Margaret B.: What [ph]?

M: The ground line attaches—

M: Underground.

M: No, it's underground from the street to the house.

M: That's what I was asking.

M: Yeah, it's underground from the street to the house.

M: [INDISCERNIBLE]

M: Just out of curiosity with regards to the distance. I was looking at the picture here with the tower, proposed tower. How far is the footage from your house _____?

Margaret B.: One hundred and eighty-two feet.

M: One hundred and eighty-two feet.

Margaret B.: I think the pictures are pretty profound, and I think that they're important. And I think that you also need to understand the four homeowners that are impacted, if there are people to the left of me, even more so.

Edmondson: Just want to state that—Randy, you were asking about the power lines on the front side.

M: And what is the setback there?

Edmondson: So, there's a 30-foot front setback, so Ms. Browning's home's set back about 30 foot from the edge of the road, nearly a 30-foot right-of-way. Those power lines are on the south side [ph]. So in reality, those power lines on the south side of Ocean Drive are over 50 feet, they're probably about 60 feet, from the front of her house.

M: From the house.

Edmondson: Yeah.

M: Thank you.

LaPann: May I cross-examine?

M: Yes, sir. Are you through with her? Any other questions for her?

Parsons: Not from me, no.

LaPann: I'll show you drawing L-1, that's part of our site plan. Would you take a look at that, please? Now, you—have you looked at the back, the—currently what it looks like in the back of the convenience store?

Margaret B.: What would be in the back of the convenience store that would bother me [ph]?

LaPann: Well, have you looked—I'm just asking you that question, because I'm going to ask you a follow-up question. Have you looked at the back of the convenience store area?

Margaret B.: Why is there a need for me to look at the back?

LaPann: Well, you've just testified that there is no wire, as is shown in this drawing, back there, and I'm just saying, have you looked at it? It's on this drawing that there is a pole and a wire, but you're testifying that there isn't one, and I'm just asking you, is that based on your personal observation?

Margaret B.: What is on the pole?

LaPann: It's a pole with a wire going from there to the convenience store. It shows on this drawing. Have you—are you're saying that it's not there, though, right?

Margaret B.: Mr. LaPann, sir.

LaPann: Well, I'm not—don't want to look—

Margaret B.: Sir.

LaPann: —at your drawings, ma'am. I'm just asking you—[OVERLAPPING]

M: She can use this to answer the question.

LaPann: [INDISCERNIBLE]

Margaret B.: I'm showing you, sir.

LaPann: Okay.

Margaret B.: This wire—this is what you're referring to—does not obstruct my sight like the cell tower.

LaPann: Okay. All right. So there is a wire there.

Margaret B.: So yes, I see a wire.

LaPann: There is one.

Margaret B.: And it is fairly insignificant compared to the picture of this, sir.

LaPann: All right. And this—your placement of this—whose drawing it is, let me look.
Your placement of this white thing there—

Margaret B.: It's taken from your drawings.

LaPann: Okay. What—do you have some training in simulation—

Margaret B.: [INDISCERNIBLE]

LaPann: —or something like that that allows you to do this?

Margaret B.: Yes, my daughter helped me do this.

LaPann: Okay.

Margaret B.: And it's basic geometry. [LAUGHTER]

LaPann: All right, so that's the training? That's the training?

Margaret B.: Am I allowed to go into details?

LaPann: Well, you're not testifying, so I'm just cross-examining.

M: Well, not yet. So, you can wait.

LaPann: Yeah. So and this view is from the corner of your house looking to the left, that's where the convenience store is. If you look straight out the back of your—the convenience store is over on your left, is that correct?

Margaret B.: Sir—

LaPann: That's what it shows here. Right? If you're looking at the corner, out the corner of your house—not straight across to where the sunset is—

Margaret B.: Sir—

LaPann: But you're looking over here, to see over here—

Margaret B.: The sun sets in the west, sir, so I would be looking out that way. [LAUGHTER]

LaPann: All right, but let me ask you, if you look straight out from your house towards the sound or the bay or whatever you call it—

Margaret B.: It's the sound.

LaPann: —you're not right behind this—where the cell tower is, are you [ph]?

Margaret B.: It obstructs my view, and I will see it from the back of my decks, Mr. LaPann.

LaPann: All right. But it's not directly between you and the ocean—or the sound, whatever that is. It's over to the side, correct.

Margaret B.: It's right here—

LaPann: Yeah.

Margaret B.: —as the pictures _____.

LaPann: All right. And you based your evaluation of this loss of income on data that you got from the internet, is that right?

Margaret B.: From lawsuits.

LaPann: From what?

Margaret B.: From _____ studies.

LaPann: What studies did you use to show this loss of value?

Margaret B.: There are many. There is—

LaPann: Are these—and you got these from the internet?

Margaret B.: There are case studies that were done.

LaPann: Well, are those cases, do they have any similarity to this case? Because you can't compare—

Margaret B.: They're all talking about cell towers, Mr. LaPann.

LaPann: We're just asking [ph].

Margaret B.: They're all talking about cell towers in residential areas, yes, sir.

LaPann: Okay. But that's a broad topic. What we're talking about here is not, could it ever, a cell tower, affect a house. That's not the issue before this board. The issue before this board is—

Margaret B.: But it is addressing the decrease—

LaPann: —will this tower affect it—

Margaret B.: —in property values.

LaPann: [INDISCERNIBLE]

Margaret B.: It is addressing, sir, the decrease in property values.

LaPann: All right. But you don't have a case that's specifically like the one that we have here today.

Margaret B.: There are no monopolies on Emerald Isle, no, sir. So therefore I can't tell you exactly how it would affect.

LaPann: All right.

Margaret B.: But I can say as a property owner.

LaPann: Okay. All set, thank you.

Parsons: Emily Browning [ph] is going to speak next.

Emily B.: My name is Emily Browning. I have a Bachelor of Science in public health from the University of North Carolina at Chapel Hill, and I anticipate receiving my master's degree in public health and environmental science and engineering from UNC next month. The focus of my study at UNC School of Public Health has been environmental science and engineering, both in the undergraduate and master's program, and both in my honor's thesis as an undergrad and my master's thesis were in the area of environmental science.

Much of my research has been in the area of water quality, and needless to say, I use scientific methods every day in my work and research. I have worked on public health and environmental science and engineering issues in the Galapagos Islands, Peru, and Chile. All these research projects and programs involved impacts in beachfront communities. I, like my mother and the rest of my family, have a vested interest in preserving the beauty of this island and its environment. I have spent a great deal of my time at Emerald Isle over the years and including the home owned by my mother, A Life of Rilee, which is adjacent to the cell tower that Verizon is proposing to build.

Verizon's application and justifications are deeply flawed. Their application provides no data analysis regarding the current need for a new tower that can be replicated by others. There are no details or data offered in support of their analysis. The parameters of their study are missing, and there's no explanation as to how the existing coverage is deficient. Verizon fails to identify one of its existing towers, other than referring it to the Rice Path tower without disclosing its location.

As I heard from the testimony of Mr. LaPann [ph], he mentioned Rice Path, but I believe he misspoke in which part of the map that Rice Path was located. The justification is conclusory. In short, Verizon has offered no competent evidence for defensible support for its conclusion other than it wants to build a cell tower. Similarly, Verizon claims it has been unable to co-locate its antenna on any existing structure, but it's done nothing to explain its negotiations with the owners of the existing structures other than its efforts were considerable.

This board and the people of Emerald Isle cannot evaluate these statements unless and until Verizon comes forward with details and evidence to support its position.

The proposed tower is not in harmony with the neighborhoods that make this beach so—this family beach so attractive. Barbed wire fencing, a no-spark zone around a propane tank, the 41-foot lightning rod in close proximity to the homes, and the fact that it's an eyesore. As set out in the written testimony of my mother, the site poses substantial safety concerns. The application reflects that the proposed tower cannot withstand a Category 4 or Category 5 hurricane, will result in increased storm water runoff, which will likely include contaminants from vehicles and equipment that will service the tower, and there's greater chance of lightning strikes in close proximity to the homes. It's an attractive nuisance, essentially daring teenagers to scale the fence.

I will leave the property evaluation issues to appraisers and experts—like my mother. [INDISCERNIBLE] if a cell tower is built within a few feet of Life of Rilee, I will not be staying there again, and that will be the logical reaction of most renters.

This application is not in compliance with the town's ordinances. Due to the proposed locations, the tower will pose a safety risk. Moreover, the tower is not in harmony with the neighborhood. You've heard strong testimony from others about how it will greatly diminish the property values of the adjacent homes, and the proposed tower stands to destroy [ph] everything that makes this island so special. The evidence before you establishes that this application must be rejected. Questions?

LaPann: Do you have any evidence of any of the things that you talked about? Is there a document, a study, any kind of document, anything that you're going to offer this board in evidence tonight other than the statements that you've just made?

Emily B.: There's a substantial amount of evidence on the internet that you could easily look—

LaPann: No, no. Okay.

Emily B.: —and see that lightning rods in close proximity to homes and other things cause an increase in lightning strikes.

LaPann: Okay.

Emily B.: What is your question, whether I gave them the documents that I can find on the internet?

LaPann: I'm just asking you, we're here at the open—at the hearing, public hearing. You have testified, you have given your statements. Is there some evidence that you would like—that you have offered to this board, or is it merely your statements?

Emily B.: Those are my statements.

LaPann: Thank you.

Emily B.: Would you like to ask me about the pictures?

F: [INDISCERNIBLE]

M: Does the board have any questions? Is there anyone else?

M: Do you want to go first? You're next.

M: Well, I actually have a concern. Mr. LaPann—[OVERLAPPING]

M: Please come to the microphone.

Daniel: Thank you, sorry. I haven't done this. I'm not as professional as some here. Mr. LaPann mentioned that if I stand here, or if someone stands here, they have to present something to you folks. We're ordinary people. We haven't—this is my first hearing ever. I never want to be in one, I have to be in one because of what Verizon's trying to do. So no, I—when I come up, I won't have anything. I'll just have common sense, like these folks do, as well. So if we are going to lose this case because we are not going to provide you some paperwork or some evidence, then why are we here?

LaPann: May I just comment? I mean, it's a law. The State of North Carolina says you can't just give your opinion or say, "I don't like it," or "I don't want it." That it says very clearly in the case law of the appellate courts, you have to submit actual evidence. You can't just say, "I don't want it there," and it spells it right out.

Daniel: Sure, so—

LaPann: So that's all. That's the only reason I keep bringing it up, just because that's what we're doing here, is presenting evidence, and so far, I haven't seen any.

Daniel: Absolutely. And I appreciate that. The only thing I'd like to add is, we as—

F: [INDISCERNIBLE]

Daniel: —myself as a homeowner, I was away. When I received the letter, the certified letter, I returned, and didn't have enough time to hire representation. And so at this point, I'm on the losing side of this. I don't have any documentations, because I don't have an attorney to represent me. So my ask is if it's possible for this decision to be postponed until the next meeting of next month, so that the folks that want to have representation can get the representation and can have

those documentations that Mr. LaPann is asking for to be presented to you. Is that a motion you can grant?

M: That's up to the board.

Daniel: As a homeowner, and I know there's many more that are not here tonight, I plead [ph] that you would make that motion.

M: Richard, if the—would the two commissioners who are absent, they would not—they could not participate in this.

Stanley: No, sir, they could not.

M: It'd just be the three commissioners and the mayor.

Stanley: Yes, sir.

LaPann: Sir—no. We have gone through a lengthy process. We have presented all the information. The staff has indicated that Verizon Wireless has done all—everything that has been asked of it. We have put in an entire application, and there is no—there is so far—

M: I was just asking the attorney for personal [ph] information, sir.

LaPann: All right, sir. Thank you.

M: I understand what you're saying. I was asking him a question for personal information.

LaPann: I oppose that proposal [ph].

Daniel: Mr. LaPann, just so that you know—

M: We can't talk to each other [ph]. To the board.

Daniel: As a homeowner, these are the two only paperworks I have received from the city, two weeks ago, right? I did not have enough time. If you have read this, you will

see that it's a very vague letter that says there's a hearing. Again, this is my first hearing, I've never been here, I would not know what to bring with me today, right, as these folks mentioned, as well. So if we're going to lose this battle because we don't have documentations to provide to you, I'm making a motion if it is possible for this committee to wait until the next meeting.

M: No [ph].

M: I could clarify—this is a hearing to present evidence. That is correct. But this process, as was outlined by the attorney, if I can say it in layman's terms that we'll all understand, it is commonplace under the state law, and that's the way the process is set up. It is appealable by the aggrieved party to the judiciary. The reason it's so important that this evidence be in the record is they're not going to have a hearing. They're not going to have witnesses. They're going to look at the record of this hearing, and solely at the record, to render a decision whether the board has followed the state law.

M: Sure.

M: And again, the city—the town attorney will correct me if I mischaracterize this, but having experienced a number of these over my career, that will be the sole decision that the court will render, and they will determine if this board was fair and followed the procedures and deal with it solely on the record—not opinions and things like that. That's why it's characterized the way it is. It has to be a fair hearing for the applicant, because as Josh pointed out, our planner, this is an allowed use. So their task is to do what the attorney called [ph] those checklists, and if they're in their opinion met, then they act accordingly. If they have some

decision otherwise, they've got to give that reason and document why. And it can't be the community nearby doesn't desire it, doesn't like it. I just want to clarify that _____.

Daniel: Understood. And my point is that I'd like to offer them more chances—
[OVERLAPPING]

M: Well, you've said that, and I want [ph] to take that into consideration when they consider—[OVERLAPPING]

Daniel: But the problem with check boxes, if we had a chance _____ representation, those check boxes would be proven that they're not checked. And so that's the only chance we're looking for.

M: We understand that. Thank you, sir. Thank you.

LaPann: Somebody had time to get a lawyer, you know, _____.

M: [INDISCERNIBLE]

M: _____ this gentleman here, have you been sworn?

F: [INDISCERNIBLE]

Daniel: I don't appreciate that comment at all [ph]

F: What's his name?

[OVERLAPPING—INDISCERNIBLE]

Barber: Let's move on. Let's have the next person, please. Was he sworn—you sworn in?

Yauch: Yes, I was. My name is Steve Yauch. That beautiful blue house with the Palladian windows kind of blocked by the balloon, that would be my house.

These guys are all a lot smarter than me. I'm just a dumb old electrical engineer

from NC State, but I do happen to have experience in that, for 10 years, I owned a piece of property with a cell tower on it. So I think that qualifies me to give some statements about a cell tower. Correct me if I'm wrong, but I owned a piece of property with a cell tower on it.

LaPann: I don't know what you're going to try to give an opinion on, but I can't object to it yet.

Yauch: No worries. It's all fact, and given enough time, I can provide evidence of it. Essentially, this tower was owned by TowerCo, and it was originally just for—

LaPann: I object to some testimony about some tower that's not—it's not applicable here.

Yauch: It is relevant.

LaPann: This is about this tower, in this place, at this time. Not about some other tower at some other place.

Yauch: But you've presented evidence saying that there's no danger and there's no—it's in harmony, and I think we have the chance to say, "No, it's not, and here's why." Correct me if I'm wrong.

M: He hasn't had the opportunity to lay any kind of foundation for his testimony, and he's already cutting you off. I don't—he's a property owner that's had a cell tower—[OVERLAPPING]

M: Go ahead, if—

Yauch: Understood. So, during the course of the 10 years, nine-and-a-half years that I owned a cell tower, I can tell you three things for sure. One is, they first came in, it was supposed to be a single tower with a single carrier; they testified that they were going to all other people to come in. So what they showed you as this little

monopole has the tendency to grow to a big, ugly, gangly thing, and I don't think they've talked about what that's actually going to be after they let other people come in and put stuff on their tower. Ours did. It got to be immensely ugly, but it was in the middle of a field, so it didn't really matter.

A young man tried to climb the fence, sliced—almost sliced his arm off. Signs were posted. So you're going to have kids walking. I own that property, and I know how many people walk from Ocean Drive to what is—what used to be Flip Flops. To say that, you know, saying—it's disingenuous to say that nobody's going to try to climb that tower. That's nuts. They're just going to, and somebody's going to get hurt.

And thirdly, I can tell you that three years ago, there was a lightning strike. It blew up the generator at this tower. Now, I can't testify as to whether this tower is properly protected, but as a guy who has a pool that's exactly 51 feet from this tower, I'm a little concerned about lightning strikes. Any questions?

LaPann: No.

Yauch: Okay, thank you.

LaPann: No, I don't have objections to your concerns or your stories about another site or what other people did at other places. So far, I'm just been saying, do you have evidence that you want to put in before this board—[OVERLAPPING]

Yauch: How long have you been working on this? Seriously, how long have you guys been working on this, did you say? Five years, and you've given us two weeks? I think—I do think this gentleman had a good point. If we're going to—if you're

going to make a decision tonight, the decision should be to give the rest of us a chance, because they presented a lot of information—

F: Yeah.

Yauch: —some of which I think is bogus, but I can't prove that, because I haven't had time to do that. Thank you.

M: Mayor [ph] _____ we've been at this for about two hours.

M: We have.

M: Does anybody else—

M: I have one more question.

M: Make—please make it brief.

Daniel: I will. During the conversation with the gentleman, the appraiser—

M: Is this evidence?

Daniel: It—well, it's page 32, 33—page 33, yeah. It was mentioned that the gentleman had done over 30 appraisals for Verizon, is that correct? Roughly?

Berkowitz: Not appraisals, no. Impact studies, yes.

Daniel: Impact studies? Okay. Is there a reason that Verizon does not show up as your client?

Berkowitz: Because they're not my client.

Daniel: What are they, sir?

Berkowitz: They're—Faulk & Foster is my client.

Daniel: Okay. Because I heard at least—maybe I misheard that—[OVERLAPPING]

Berkowitz: Well, _____ that's actually—you have to identify your client according to appraisal procedures. My client is Faulk & Foster.

Daniel: Okay. Thank you. My point was [ph]—

M: _____ close the public [ph].

[OVERLAPPING—INDISCERNIBLE]

M: Can I ask Richard one question before we close?

M: Yes.

Stanley: Do you need to open—to keep the public hearing open. _____ can ask him anything after the public hearing [ph].

M: I'll do whatever you want me to do _____.

M: Let's close the public hearing.

M: I'll make the motion to close the public hearing.

Barber: All in favor, say "aye."

M/F: Aye.

M: Okay, Commissioner Normile [ph], you can ask Richard a question.

Normile: Thank you. Been a lot said tonight. Just one question, yes or no. I think—I feel like _____ it's just yes or no. A little humor, it's serious business tonight [ph], and I'm—my question is this: has the applicant followed all of our requirements, laws, processes with this submission? To the best of your knowledge, everything you've heard tonight, you've seen, we've been through, has the applicant—this package—followed the correct process to get into our binder so that we can review these four decision-making—[OVERLAPPING]

Stanley: The applicant has offered evidence on all of the points that we talked about. It's now up to you to decide whether or not you accept that evidence or you reject that

evidence. They have offered evidence that meets all the requirements of our ordinance [ph].

Normile: And that decision is not going to be based on what my opinion is, do I want the tower or not. We've got to answer these four questions, is that correct?

Stanley: Yes, sir.

M: Based upon the—

Normile: Evidence.

M: —the record that was created tonight. Because that's what's subject to the review by the judiciary.

Stanley: I can—number one is the proposed use will not materially endanger the public health or safety if located where proposed. Number two is the use meets all conditions and specifications provided by the ordinance and other applicable other town, county, state, and federal laws. Three, the proposed use will not substantially injure the value of an abutting or adjoining property, or that the use is a public necessity. Four, the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located, in general conformity basically the land use plan.

[INAUDIBLE]

Stanley: You're going to need to discuss each one and then make a motion to either approve that or deny it, and you need to state what the basis for it—

Barber: Okay, so let's discuss the first one, then, is that correct, Richard? Are we ready to discuss it now, commissioners?

M: I'm ready.

Barber: The first one is that the proposed use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved. Discussion from the commissioners on this one?

M: My only comment is what I had asked the gentleman earlier. And again, I'm not an engineer, but I'm just concerned about that 35—or excuse me—30-mile-per-hour engineering feature should the pole be surrounded by ice, and so on and so forth.

M: I think it's a half inch of ice.

M: I'm sorry?

M: It was a half inch of ice.

M: _____ half-inch of ice—so from a concern standpoint, concerned about that.

M: That doesn't—[OVERLAPPING]

M: I'm not concerned with the first part, I think it meets the requirement, but that 30-mile-per-hour still stays with me. But I'm not the engineer. Thirty miles per hour, that's a daily event in January and February.

M: But it's 150 for the other part _____.

M: Not worried about that part.

M: That is the code requirements. What _____.

M: And that is what the gentleman said, it was designed per the code, but I'm having a conversation with my colleagues here, and that just still remains a concern. That's all [ph].

M: [OVERLAPPING] requirement [ph], that's the minimum guideline, is it not?

And could we not stipulate what we want instead [ph] for that?

M: You can put conditions on this if you—[OVERLAPPING]

M: Exactly [ph].

M: If justified within reason [ph].

M: Because every code or article [ph], whether it's a local, plumbing whatever, are minimum guidelines to start with.

M: And I guess to clarify that, Josh, the 150 _____ said something different. What did it say?

Edmondson: I think it says Category 4 or 5 hurricane.

M: Which _____.

Edmondson: Build code requirements—

M: _____ give you the minimum. And I'm not sure that's the minimum.

[OVERLAPPING—INDISCERNIBLE]

Edmondson: The code requires—or our wind zone required is 150.

M: Yeah, that is—so that's the minimum.

Edmondson: So that's our wind zone requirement, is 150.

[INAUDIBLE]

M: I personally don't have any problem with that first article [ph].

M: [INDISCERNIBLE]

M: Yeah, I don't—I agree with the—I see where Jim's coming from the 30 degree—30 wind, and I understand that icing can build up, we're talking 40-foot tall. I do get in an airplane [ph] every once in a while, and understand that as a colder day, as the temperature gets higher, the freezing point will get higher. So I was trying to relate that to the situation a little bit with my knowledge [ph]. But what I've

heard tonight, as far as the evidence presented to me, I don't see any reason why I can't disagree with number one has been met [ph] so far, qualifies _____.

We met the standards by the law, by our personal laws, we met the standard by the state, that's been told to me. So as one goes, I can't see any way to disagree with number one [ph].

M: And the—on the other point, is the argument [ph] either way, that it's designed for if it [ph] did collapse—and you heard the evidence relating to the distance—
[OVERLAPPING]

M: Right, I wrote that down, it was 125% of the height.

M: [INDISCERNIBLE]

M: But I would agree with what Richard said, if we could put limitations on it, we could say that we would like it to be stronger. I mean, that's a possibility that we can do, or we just allow it to be just the minimum level, or the state level.

M: Well, if you're considered about safety, you can talk with Verizon, but I think you—you're obviously going to put conditions [ph], reasonable conditions on it.

M: Because as I've learned tonight, this is the first one, the possibility of the first one ever going up in these areas here. So, this is a—

M: I don't know if we have evidence in these areas, but on this island.

M: On this island, because there's no evidence to state. So I don't know the answer to that question, if we could make it stronger or not make it stronger. I mean, it's meeting the basic law of North Carolina, whether it's in the middle of the state—
[OVERLAPPING]

M: Well, it actually is more intense here than in the _____.

- M: Exactly. So the—I mean, right now, I don't have any evidence otherwise to state [ph]; it meets the basic requirements of the law. I've seen so far [ph].
- M: Does Verizon have a problem with a reasonable [ph] condition that would require greater stability, it's 30 miles if you have ice [ph]?
- LaPann: I don't have authority to make decisions for Verizon, but I can say that what I expect would be that they would be willing to go along with this, because this tower is very important to them. So if you have some reasonable conditions—I'm just concerned about setting what those exactly are without—you know, I'm not an expert engineer. You know, what number does it need to be? I—that's my only concern. But I think Verizon would go along with it, no problem.
- M: So I guess this is—if you're looking at that, then one way to approach it might be they would evaluate it and present _____ data before it's constructed on the feasibility of increasing it. Does that seem _____?
- M: I qualify—
- M: [INDISCERNIBLE]
- M: —my concern with, "I'm not an engineer." It's just a concern.
- M: It would require them to present an engineer's evaluation of the feasibility—
- Stanley: When you through all four, and you find they exist, you can then, as a condition, ask for a study or recommendation [ph], and you put that in at the end. You don't have to do that tonight, you can do it—[OVERLAPPING]
- M: So we need to vote on each point, is that correct, Richard?
- Stanley: You need to do it on each one.
- M: Okay, _____.

Stanley: And then again, you need to find either the—they exist or don't exist, and why.

Barber: So I need a motion, correct, for the first one? And I can't make the motion.

M: Well, you can't vote unless it's a tie.

Barber: And I can't vote unless it's a tie _____.

M: Which I think's a mathematic impossibility tonight.

M: The Lord works in mysterious ways [ph]. Okay, I need a motion. If we don't have a motion, what happens, Richard?

Stanley: If no motion—

[OVERLAPPING—INDISCERNIBLE]

M: There's no action.

M: I make a motion that the proposed use will not materially endanger the public health or safety if located where proposed and if developed according to the plan as submitted and approved.

Barber: Okay, the motion is on the floor. Any discussion?

M: Are we going to have any stipulations with this motion about having a—

[OVERLAPPING—INDISCERNIBLE]

M: Attorney suggested we get through all four and then—[OVERLAPPING]

M: So we move on—

[OVERLAPPING—INDISCERNIBLE]

M: So that's the motion. What's the next step?

M: The mayor says—

M: Call for a vote.

Barber: All in favor of this first one, say "aye."

M: Excuse me, sir, was there a second?

M: We don't require—

[OVERLAPPING—INDISCERNIBLE]

M: I'm sorry. Robert's Rules of Order _____. Sorry to interrupt.

Barber: You're fine. Any other discussion? All in favor, say "aye."

M/F: Aye.

Barber: Okay, it passed unanimously. Okay. Number two, that the proposed use will or will not [ph] meet all conditions and specifications required by the UDO and _____ applicable town, county, state, federal law and regulations.

M: I'll make the motion. I don't have anything—I don't see anything where it doesn't meet that.

M: [INDISCERNIBLE]

M: Okay.

M: He—you're making a motion of finding of fact what the mayor just read.

M: Yes, sir. Do I need to read that out?

M: Read it out.

M: He read it, so.

M: Okay.

M: And you—and it's the "will" part, right, Richard? [INDISCERNIBLE]

M: Yeah.

Barber: Okay, all in favor, say "aye."

M/F: Aye.

M: Okay, that's unanimous [ph]. Number three.

M: I'll make a motion on number three, that the proposed use will not substantially injure the value of abutting or adjoining property, or that the use is a public necessity.

Barber: Any discussion? All in favor, say "aye."

M: Well, the discussion part was—and then we vote on it, because I can't fix it, and I'm just trying to follow the rules of "yes" or "no" before I—I don't like the format, by the way. Can you tell? I don't like the format.

M: I know. We have to do it this way.

M: I understand that.

M: Read the state law.

M: My question that none—because I'm talking to my colleagues here, I'm not planning this question out [ph] that way, is the definition of "substantial." And regrettably, I have no written evidence to help me do something in regard to number three. I just want to get that off my chest and I'm ready to vote.

M: I feel the same way, but I feel like there is not any substantial evidence.

M: That's—and I'm the same way, too. I feel like there's nothing I can stand to, to disagree with that question right now. I don't think that it's been proven that—nobody's left a piece of paper in front of me or documentation saying that we can—that we're showing this, other than drawings and pictures of what might be. For that, I'm sorry [ph].

Barber: So are we ready to vote? All in favor, say "aye."

M/F: Aye.

M: Passed unanimously.

Barber: Fourth one. That the location and character will or will not, if developed according to the plan submitted and approved, be in harmony with the area in which it's to be located in general conformity with the land use plan as updated and amended for the town.

M: Well, I said my piece on harmony earlier, but I don't have nothing to work with on that.

M: It's been said numerous times tonight.

M: Who wants to make a motion?

M: Make that motion as you read it [ph].

Barber: Well, I said "will or will not," which one will it be?

M: Will not.

M: [INDISCERNIBLE]

M: Well, if I say that it will—Eddie's reading from a different piece of paper than I have.

Barber: I'll read from the one—this is in the book _____.

M: I don't know what Richard gave you [ph].

M: Yeah, that's the—that is the way—if you disagree with it, then—

[OVERLAPPING]

M: I think the mayor was giving you a choice to decide, will it be in harmony or will it not be?

M: [INDISCERNIBLE]

Barber: I'm giving the choice to decide, based upon the evidence you heard.

M: Okay, the word "will," we're using the one with the word "will."

Barber: Any discussion? All in favor, say “aye.”

M/F: Aye.

Barber: Passed unanimously.

Stanley: And now you can deal with any conditions.

Barber: Now, do we have any conditions that we want to stipulate?

M: Well, not an engineer. We’ll cross that bridge at a later point in the submission—
[OVERLAPPING]

Stanley: You’re going to need to vote overall on the approval of this, but before you do that, I think we need to—if you’ve got concerns about ice and 30-mile, you might ask that they come back and tell you what they can do.

M: The gentleman said he could not speak on behalf of his client specifically, and I’m not an engineer to turn to the gentleman and say, “I want 40 miles or 50 miles.”

Stanley: You can delay your final vote and ask them to come back and tell you what they can do to improve the ice situation.

M: Or you can ask them to evaluate it and present evidence that it’s feasible or not feasible.

M: [INDISCERNIBLE]

M: If we just look at it—to really look at it from an engineering standpoint, simply that—

M: I don’t want to put the community through all this again.

M: [INDISCERNIBLE]

M: Well, that would be a condition that would be approvable, and they can submit the evidence [INDISCERNIBLE].

[OVERLAPPING—INDISCERNIBLE]

LaPann: May I be heard briefly, sir? May I be heard briefly, sir?

Barber: Yes, go ahead. I'm the mayor.

LaPann: Mayor, I think that—I agree with the concern, that you have a concern. And that Verizon—I can speak on behalf of them to say we want to work with you to allay that fear and to have a safe tower. That—there's no question about that. What I'm wondering is, is it possible for that to be a condition of getting the building permit?

In other words, nothing gets built unless we can establish a reasonable or—I don't know how to phrase it, because we don't know, we're not engineers. But I can get the information to you, you know, shortly. I just—I'm trying to make it so that it's an official _____.

M: We understand. Josh, you were shaking your head. Can we do—you were. I saw it [ph].

Edmondson: If you somehow want to tie it to the building permit, if they get to that process and, you know, I'm not an engineer either. I don't know what they're going to look at as far as upping the 30-mile-per-hour wind and a half-inch of ice.

Richard, is there some way that we can vaguely state that, or do we say we want it to be 50 mile—rated for 50-mile-and-hour wind with a half-inch of ice?

Stanley: My recommendation would be you put to an engineer who's qualified to do it and tell you the feasibility of increasing that number.

M: I agree _____.

M: To do that, I think you'd need to delay the final vote. Because you won't be going—there won't be another vote here, but delay the final vote and have them come back with a report from an engineer as to what we can do.

M: You could tie it to the special use.

M: Yes.

M: And then you can have your final vote for the condition on it [ph].

M: Or you do a final vote and don't put the condition [ph].

M: Correct.

M: [INDISCERNIBLE]

M: This one time only, I'm going to agree with my colleague and say that it complies with the state statutes. When I voiced my concern he said, well it's not—it's a good concern, but it does comply with state statutes, so.

M: So—

M: I make a motion to—where is it, let me find it. Make a motion to approve the special use permit requested by Verizon Wireless to erect a new 40-foot monopole tower at 3301 Emerald Drive. I have no conditions.

Barber: Thank you. Any discussion? All in favor, say "aye."

M/F: Aye.

M: And what—from a staff standpoint, we will explore this further in the next phase and then come back and report what [INDISCERNIBLE]. It just wouldn't be a condition of the special use at this time.

Barber: We understand, thank you, _____. Okay. It's been a long night, let's see if we can pack this up pretty quick. Comments from the town clerk?

Ferebee: No, sir.

Barber: Town attorney?

Stanley: There's way too many as it is [ph].

Barber: Town manager, thank you. I talked more than usual. I am—

[END Excerpt Regular Meeting 04-09-19 SUP-2 of 2]

[END RECORDING]