



Town Hall East Board Members, Neighbors and Friends,

As many of you know, Brenda Brooks and I met with MPC Development Review staff member Mike Reynolds on September 22 to discuss Verizon's Use On Review application for a 125 feet cell phone tower at the corner of Martin Luther King Blvd. and Holston Drive at the entrance of the Burlington downtown area. While Mr. Reynolds seemed somewhat sympathetic to our concerns, he was of the opinion that there was little he could personally do.

If you were present at the Town Hall East meeting on September 12, you may have heard various public officials opine that the law allows Verizon to place the tower at this location, and that there's not much we can do about it. Brenda and I don't share that opinion as there are criteria which must be met in accordance with federal law before a tower project is approved, and it is clear in our opinion that Verizon hasn't met many of the criteria.

We believe the Verizon application should be denied for the following reasons:

1. Verizon is seeking this tower because of perceived deficiency of "CAPACITY" of their system, not because they don't already have "COVERAGE." The law would lean much further in Verizon's favor if they had alleged there were gaps in coverage. This is an important distinction from the federal lawsuit last summer involving a tower in North Knoxville. There must be a gap in coverage to invoke the protection of the Telecommunications Act, and that is not the case here.

2. Federal law also requires that a tower developer make "*a good faith effort... to identify and evaluate less intrusive alternatives.*" In other words, are there other, less sensitive sites that have been investigated, evaluated, and found to be not viable?

The MPC's Report states that "*based on the documentation provided by the applicant and verified by the review conducted by the Planning Commissions consultant, it has been*

*determined that **there are no other alternate sites within a mile** that are usable for providing the needed coverage.”*

We believe there has been no effort made, good faith or otherwise, to evaluate other potential sites, and that this inaction alone gives cause for the MPC to deny the application. In the September 12 meeting, the Verizon representative suggested there were four or five sites it had evaluated, but in our meeting with Mike Reynolds, he said there was nothing in their files or the application that referred to other potential site locations. Further, the Commission’s consultant, Larry Perry, makes no reference to the exploration of alternative sites.

The “alternate sites” referred to in Verizon’s discussions and Mr. Perry’s report refer only to their investigation of space on other towers, not an investigation of alternate parcels of real estate upon which to put a new tower.

An amended application is being filed by Verizon to allege that they looked at the Warner Tabernacle and a site at the end of Kirkwood Drive, both of which were viewed only when I personally drove the representative to those locations. Both of those potential locations are treated dismissively in the amended application.

3. The MPC report states that *“the telecommunications tower will be highly visible from the nearby residential district and the downtown Burlington area.”* We think it can be successfully argued that this is “intrusive” in addition to being unnecessary for coverage.

4. As per the MPC’s staff report, the proposed tower would be placed in both an “Opportunity Area” and a “Sensitive Area.” While this does not prevent MPC from approving the application, it should factor negatively into their overall view of the matter.

5. The MPC staff report acknowledges that the City has contracted with Knox Heritage to apply for a designation as a National Register Historic District, yet because the tower would be outside the boundary of that district (by approximately 200 - 300 feet) it is not taken into consideration in Mr. Reynolds’ report. Also, the tower would be directly across the street from residences on Speedway Circle, another historic area. We believe these are highly relevant to the

Commission's consideration.

6. Section 20 of the MPC Ordinance states that *“These regulations are also designed to ensure safety, ensure compatibility with adjacent land uses; **protect revitalization and redevelopment areas, historic districts and other like areas** of considerable city investment; **avoid adverse visual impacts** to the city landscape; and discourage unnecessary proliferation of wireless facilities.”*

Section 20 also states that *“It is the express intent of this section that the **construction of new communication towers be an option of last resort**. To the extent feasible, collocation [sic] of antennas on existing towers and their attachment to building rooftops and other suitable structures should first be sought.”*

These regulations, in our opinion, and in conjunction with the other factors listed above, give the MPC authority to deny this application.

7. There is a setback required from any residential area for this tower facility of 110% of its height. While there is technical compliance with this requirement in the application, both Martin Luther King Blvd. and Holston Drive would be within the fall zone as would the Hardee's restaurant. Isn't there more potential danger to a restaurant with 30 or 40 people in it than to a residence with 3 or 4 people in it?

8. There is duplicity in Verizon's application, and in MPC's recommendation, that the referenced tower is “125 feet” tall. The request is that the tower be designed as a “150 feet” structure so that the additional 25 feet can be added on at a later time. In other words, we think we're opposing a 125 foot tower but it can easily be converted to a 150 foot tower at some time in the near or distant future. The drawings show that in that event, residences would be in the tower's fall zone.

The Ordinance states that *“an existing tower may be modified or rebuilt to a taller height, not to exceed thirty (30) feet over the tower's existing height... **No additional setbacks [i.e., fall zone] shall be required.**”* It states that MPC approval is required only if the addition is 200 feet

high or more. Verizon could build a 125 foot tower then quickly, and without approval, add up to 25 or 30 feet without further approval of the MPC. Residential property in the fall zone would then have no zoning protection.

9. Verizon still needs to obtain a parking variance approved by the Board of Zoning Appeals because they are removing parking stalls from a site that is already nonconforming in regard to parking. This variance should be, in our opinion, denied.

10. The Ordinance requires that *“at least one (1) row of evergreen trees or shrubs capable of forming a continuous hedge at least five (5) feet in height and screening the base of the tower from public view within two (2) years of planting shall be planted and maintained in healthy condition...”* It also requires a chain-link fence behind the greenery.

At the September 8 MPC meeting, Chairman Green strongly suggested that the landscape requirement should be much higher for this site, perhaps 15 or 20 feet. Despite this, Verizon is asking for a variance to allow them to build a wooden fence in lieu of greenery. It is anticipated that their amended application will ask for a variance to allow construction of a brick fence, but still no greenery. Either of these variance requests should, in our opinion, be denied.

11. The MPC staff report relies solely upon Verizon’s opinion that there will be no economic injury to property. *“Based on the valuation report by the applicant Faulk and Foster [Verizon’s representative] ... The use will not significantly injure the value of adjacent property.”* Would you expect Verizon to opine to the contrary? This is a self-serving statement at best and should be disregarded by the Commission.

The hearing for Verizon’s application, which was postponed thirty days, is set for hearing before the full Commission on Thursday, October 13 at 1:30 PM in the large assembly room of the City County Building in downtown Knoxville. The final approval of the fifteen members of the Commission will be either given or denied on that date, and we will do our best to educate the members of the Commission on our view of the matter prior to that time.

The involvement of the community in opposing this application will be critical in their consideration of the matter. **We would like everyone who is opposed to this project to contact, in a respectful manner, the individual Commissioners and let them know their position on the matter and why.** A Federal Court of Appeals held in an AT&T case in Virginia that the *“repeated and widespread opposition of a majority of the citizens who voiced their views – at the Planning Commission hearing, through petitions, through letters, and at the City Council meeting . . .”* provided evidence that could *“persuade a reasonable mind to oppose the application.”*

It’s now up to the community to voice its opposition to this ill-conceived application by contacting the Commissioners. However, we ask that you educate yourself on the issues before you contact them. Their names and email addresses are on the MPC website: <http://knoxmpc.org/aboutmpc/commiss.htm>. You can also send an email which will be circulated to the Commission: [commission@knoxmpc.org](mailto:commission@knoxmpc.org). Please send me a copy of your communications to [townhalleast@gmail.com](mailto:townhalleast@gmail.com).

Finally, we need as many people present as possible at the October 13 MPC meeting to oppose this project. The meeting is at 1:30 pm in the Large Assembly Room of the City-County Building. As Commissioner Green stated at the last meeting, democracy is a participatory sport, and those that don’t participate cannot later complain that things weren’t done right.

On behalf of Town Hall East and the East Knoxville community, we thank you for your involvement in this matter.

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