

APPLICANT: T-Mobile South, LLC
404-226-8915

REPRESENTATIVE: Kimberly J. Adams
404-226-8915

TITLEHOLDER: LN Gordon Road, LLC

PROPERTY LOCATION: Located on the east side of Mableton Parkway, north of Lynne Circle and on the south side of Gresham Road, west of Mableton Parkway.

ACCESS TO PROPERTY: Gresham Road and Mableton Parkway

PHYSICAL CHARACTERISTICS TO SITE: Existing shopping center

PETITION NO: SLUP-12

HEARING DATE (PC): 10-06-09

HEARING DATE (BOC): 10-20-09

PRESENT ZONING: PSC

PROPOSED ZONING: Special Land Use Permit

PROPOSED USE: Telecommunications Tower And Related Equipment

SIZE OF TRACT: 7.1 acres

DISTRICT: 18

LAND LOT(S): 77, 156

PARCEL(S): 9

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 4

CONTIGUOUS ZONING/DEVELOPMENT

- NORTH:** R-20/ Single-family houses
- SOUTH:** PSC, GC/ Wachovia, Popeyes
- EAST:** R-20/ Single-family houses
- WEST:** R-20/ vacant

OPPOSITION: NO. OPPOSED **PETITION NO:** _____ **SPOKESMAN** _____

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____
REJECTED _____ **SECONDED** _____
HELD _____ **CARRIED** _____

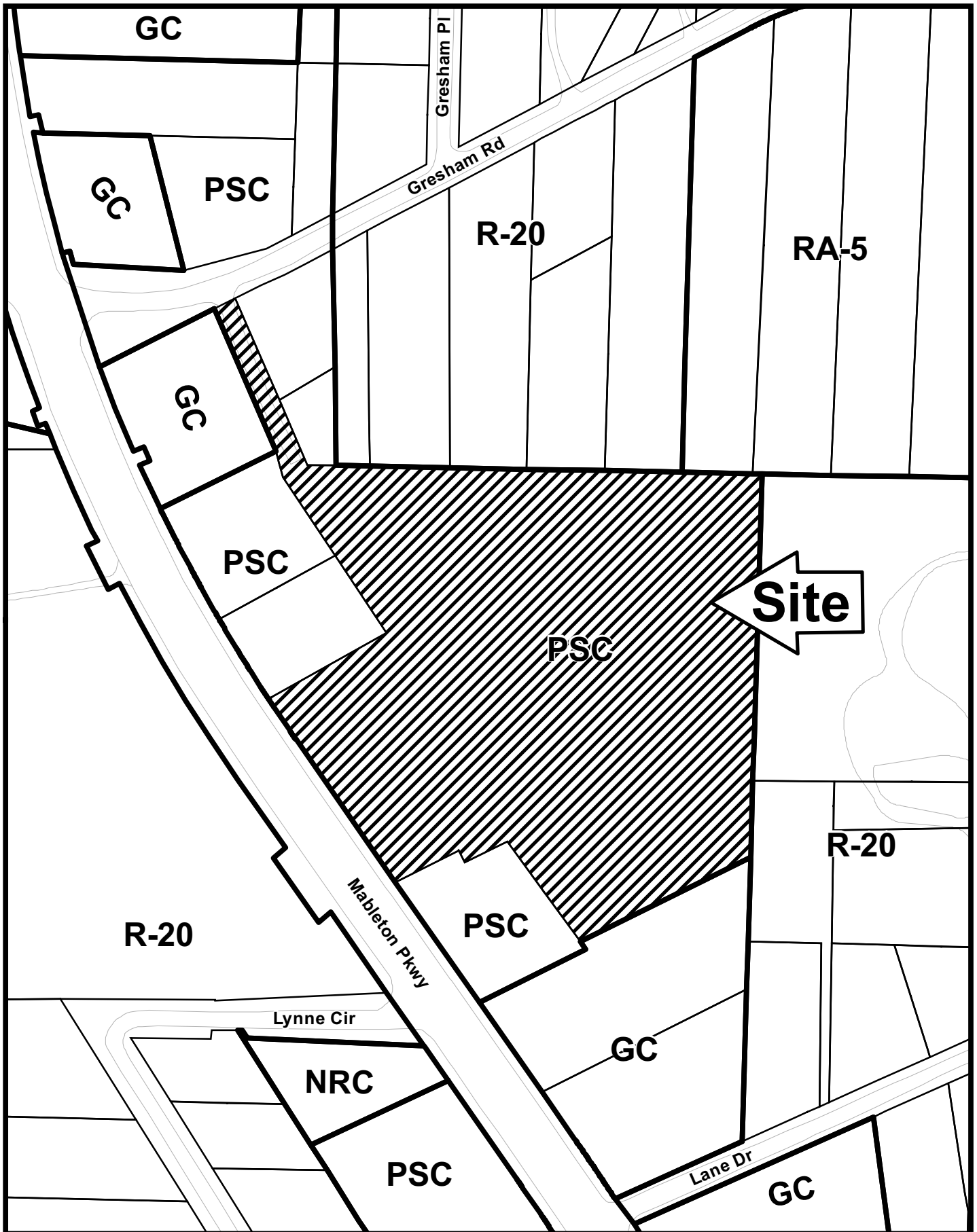
BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____
REJECTED _____ **SECONDED** _____
HELD _____ **CARRIED** _____

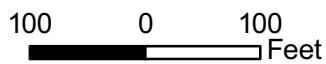
STIPULATIONS:



SLUP-12



This map is provided for display and planning purposes only. It is not meant to be a legal description.



City Boundary
Zoning Boundary

APPLICANT: T-Mobile South, LLC

PETITION NO.: SLUP-12

PRESENT ZONING: PSC

PETITION FOR: SLUP

ZONING DIVISION COMMENTS:

Staff Member Responsible: John P. Pederson, AICP

Applicant is requesting a Special Land Use Permit Application for the purpose of erecting a 150-foot telecommunications tower and related equipment. The communications facility will consist of a monopole together with a small equipment building located at the base of the structure. As noted in Applicant’s Exhibit “A”, the leased area will be fenced entirely with a six-foot fence equipped with anti-climbing devices and will have a locked gate. The tower will be designed to accommodate at least two other carriers. The facility will be maintained on a monthly basis or as needed for emergency service.

Historic Preservation: No comments.

Cemetery Preservation: No comments.

WATER & SEWER COMMENTS:

Water and sewer not necessary for the applicant’s request.

TRAFFIC COMMENTS:

Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

FIRE COMMENTS:

Fire apparatus access to existing structures may not be inhibited by communication equipment or barriers.

Gates securing fire apparatus access shall be a minimum 14 feet in clear width for a single lane and 20 feet for a double lane. Gate shall be swing or sliding type. Electric gates shall be equipped with a means of opening the gate by fire department personnel for emergency access. Emergency opening devices shall be approved by the Cobb County Fire Marshal’s Office.

All fuel tanks must be submitted to Cobb County Fire Marshal’s Office for approval call 770-528-8328.

STORMWATER MANAGEMENT COMMENTS:

The proposed gravel equipment pad will be located over an existing asphalt paved loading area. This portion of the site naturally drains to the adjacent onsite detention pond. No adverse stormwater impacts are anticipated.

STAFF RECOMMENDATIONS

SLUP-12 T-MOBILE SOUTH, LLC

The applicant's proposal is located in an area designated as a Community Activity Center on the Future Land Use Map. The applicant's proposal is located on property that is zoned PSC. Adjacent properties are zoned for offices, retail, restaurants and automotive uses. For cell towers, non-residential sites are encouraged, and the use of platted lots in residential subdivisions are discouraged, which this proposal complies. The tower is setback its full height from all off-site residential structures, and is designed for additional co-locations, as required by code. The property was previously approved for a cell tower about 50-feet south of the applicant's proposal by Powertel in 2004 (SLUP-14). The Powertel tower was never built. Based on the above analysis, Staff recommends APPROVAL subject to the following conditions:

- Site plan received by the Zoning Division on August 06, 2009;
- Letter of Intent from Kimberly Adams, dated August 06, 2009;
- Only one telecommunications tower allowed on this 7.1 acre property; and
- DOT comments and recommendations.

The recommendations made by the Planning and Zoning Staff are only the opinions of the Planning and Zoning Staff and are by no means the final decision. The Cobb County Board of Commissioners makes the final decisions on all Rezoning and Land Use Permits at an advertised public hearing.

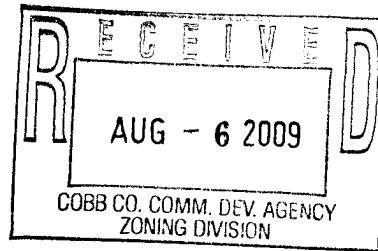


COMPASS Technology Services, Inc • 5449 Bells Ferry Road • Acworth, GA 30102

Phone: 404-226-8915 • Fax: 404-529-4414

August 6, 2009

Mark Danneman
Cobb County Zoning Administrator
191 Lawrence Street
Marietta, GA 30060



Re: T-Mobile's Telecommunications Application for Special Land Use Permit
At 6041 Mableton Parkway, Mableton, Georgia 30126
Cobb County Parcel Number 18015600090
(T-Mobile Site "Boggs Road")

Dear Mr. Danneman:

This letter is written in support of T-Mobile's above-referenced special land use permit application for a proposed telecommunications monopole facility. T-Mobile proposes to construct a 150 foot monopole facility to provide its FCC mandated wireless telecommunication service to the southwest portion of Cobb County along the Mableton Parkway corridor and surrounding neighborhoods.

Description of Proposed Monopole Facility

The subject property consists of an approximately 7 acre tract zoned PSC. The property is located in Cobb County designated Activity Center and is developed as a shopping center. T-Mobile proposes to construct a monopole tower and wireless telecommunications facility behind the existing shopping center.

The purpose of the proposed monopole facility is to provide requisite wireless telecommunications service to the southwest portion of Cobb County. The existing network is not capable of providing the level of coverage required by the customer base in this portion of the County. Specifically, this proposed site will provide coverage along busy Mableton Parkway corridor and the surrounding neighborhoods. In addition to meeting T-Mobile Communications' requisite service needs, the proposed monopole facility will have the added benefit of accommodating at least two other carriers who could co-locate its antennas on the proposed monopole.

The proposed monopole facility will be sited on the subject property in a manner designed to minimize its impact on any other properties. The proposed facility will be located in the rear of the shopping center in a portion of the property in that is buffered by tree growth. The setbacks and existing vegetative growth as well as a proposed landscape strip will provide a buffer to screen the view of the monopole facility from adjacent roads and properties.

The proposed monopole has been designed to be as aesthetically attractive and compatible with the surrounding area as possible. The monopole will be more slender and considerably less visually obtrusive than traditional lattice towers. Finally, the monopole will be constructed of galvanized steel and 150 feet in height.

The proposed facility will be unmanned and will not require water or sewer service. This unmanned site is designed such that it requires minimal visits by a field engineer to maintain the facility of approximately two visits a month. Therefore, the proposed site will not have any substantial negative effect to the traffic, noise, or safety of the surrounding area. The site will be secured with the requisite fencing to prevent unauthorized access. Finally, the proposed site will not cause detriment to the surrounding properties or property owners.

There are no existing towers or other tall structures located within or near T-Mobile's requisite service area on which to locate its antennas. T-Mobile is actually located on the closest existing tower. Additional justification and documentation have been provided to by T-Mobile's Radio Frequency Engineer to further address this issue. The proposed property was selected because it is a multi-acreage, commercially zoned and used tract that is well buffered with existing mature tree growth thus providing better buffering from the surrounding properties.

Compliance with the Zoning Ordinance

T-Mobile's proposed monopole facility will comply with all of the standards of the Cobb County Zoning Ordinance. Pursuant to Section 134-273 (2), T-Mobile proposed facility is allowed with a special land use permit, and such approval is therefore requested to construct this facility. The following information is provided in response to the requirements of Section 134-273:

1. *Setbacks:* The proposed monopole facility meets the Cobb County requirement that the tower be set back a distance equal to the full height of the tower from any adjoining off-site residential structure or as safety dictates. The total tip height of the proposed monopole with lightning rod will not exceed 150 feet, and the closest off-site residential structure is located 333 feet from the proposed monopole.
2. *Accessory Structure:* There will be a small unmanned equipment cabinet at the base of the proposed monopole that will house T-Mobile's switch equipment and is appropriate in scale and intensity with the proposed site.
3. *Fencing:* The proposed monopole facility will be surrounded by an eight security fencing to prevent unauthorized access to the site.
4. *Regulatory Compliance:* The proposed monopole facility will meet or exceed all requirements and standards of the FAA, the FCC, and other governing agencies as may be established and amended.
5. *Structural Compliance:* As required by the Cobb County Zoning Ordinance, at the time of filing for building permit, tower drawings for the monopole will be submitted that have been certified by an independent registered structural engineer as meeting all current safety and design standards of all applicable codes.
6. *Collocation:* T-Mobile has explored the usage of any existing towers and there are no such towers located in or near the area to meet T-Mobile's coverage objectives. Therefore, a new tower is required, but the proposed monopole will be constructed to accommodate at least two additional carriers so that it may collocate on the facility as well.

7. *Nonresidential Sites:* The proposed site is consistent with Cobb County's ordinance in that it is a non-residential property that is both commercially zoned and used.
8. *Height:* The proposed monopole height of 150 feet is the minimum height required to meet T-Mobile's coverage objectives for this area.
9. *Abandonment:* In the unlikely event that T-Mobile should cease operate at this site for a twenty-four month period, T-Mobile understands the special land use permit will be revoked.
10. *Landscaping:* The proposed monopole facility is in compliance with the requirement that a 40 foot setback, 15 feet of which must be a landscape strip, be provided when adjoining residentially zoned property. The proposed fenced compound is located at least 40 feet from all property lines and will be surrounded by a 15 foot landscape buffer on the sides adjoining residential and complies with Cobb County's tree and landscaping requirements. The minimum height of the proposed landscaping trees will be five feet tall at the time of planting, and it will be regularly maintained.

The following statements are made in response to Section 134-37(e) regarding the Board of Commissioners' criteria for consideration of a Special Land Use Permit Application:

1. *Whether or not there will be a significant adverse effect on the neighborhood or area in which the proposed use will be located.* The proposed unmanned monopole facility will not have an adverse impact on the surrounding neighborhoods or area.
2. *Whether or not the use is otherwise compatible with the neighborhood.* The proposed site was selected due to its commercial zoning and use. Further, there is significant tree growth between the proposed tower site in the rear of the shopping center and the adjoining residential properties.
3. *Whether or not the use proposed will result in a nuisance as defined under state law.* The proposed use will not result in such a nuisance.
4. *Whether or not quiet enjoyment of surrounding property will be adversely affected.* The proposed unmanned monopole facility will not adversely affect the quiet enjoyment of surrounding properties. It has been located on the subject property and designed in a way to minimize its visibility from the surrounding neighborhoods. The facility is automated and unmanned.
5. *Whether or not property values of surrounding property will be adversely affected.* The proposed facility will not adversely affect property values of surrounding properties. These monopole facilities are designed to cohabitate in residential areas to provide the wireless communications coverage that is required in these areas.
6. *Whether or not adequate provisions are made for parking and traffic considerations.* Adequate provisions have been made for both parking and traffic. The proposed facility is unmanned and only requires periodic visits from a field engineer. An existing access into the property will be utilized and there is ample parking available in T-Mobile proposed access easement.
7. *Whether or not the site or intensity of the use is appropriate.* The proposed site location is an appropriate location for such a monopole facility as it is allowed by Section 134-273 of the Cobb County Ordinance and meets all the requirements of this section which govern the placement of communications antenna and tower facilities in excess of 35 feet in height.

8. *Whether or not special or unique conditions overcome the board of commissioners' general presumption that residential neighborhoods should not allow noncompatible business uses.* T-Mobile's proposed site is located on a commercially zoned and used property in an Activity Center.
9. *Whether or not adequate provisions are made regarding hours of operation.* As stated previously, the proposed facility is unmanned and will only require periodic visits from a field engineer. These visits are typically made during normal business hours unless there is some sort of an emergency such as a power outage.
10. *Whether or not adequate controls and limits are placed on commercial and business deliveries.* As stated previously, the proposed facility is unmanned and will only require periodic visits from a field engineer. This facility is not a commercial facility that requires any sort of customer visits or deliveries.
11. *Whether or not adequate landscape plans are incorporated to ensure appropriate transition.* The proposed facility will be surrounded by a 15 foot wide landscape buffer on the sides adjoining residentially zoned property. A landscape plan has been provided with this application.
12. *Whether or not the public health, safety, welfare or moral concerns of the surrounding neighborhood will be adversely affected.* The public health, safety, welfare or moral concerns will not be adversely affected by this unmanned monopole facility. On the contrary, this facility provides improved E911 service to this area which is an ongoing cooperative relationship between Cobb County and T-Mobile to improve the safety and welfare of its citizens. Last year, approximately half of all 911 calls were made from mobile devices.
13. *Whether the application complies with any applicable specific requirements set forth in this chapter for special land use permits for particular types of uses.* The proposed application meets all the requirements of Section 134-273 which governs the placement of communications antennas and towers in excess of 35 feet.
14. *Whether the applicant has provided sufficient information to allow a full consideration of all relevant factors.* T-Mobile has provided sufficient information to allow the full consideration of all relevant factors including detailed site plans and coverage plots.
15. *In all applications for a special land use permit the burden shall be on the applicant both to produce sufficient information to allow the county fully to consider all relevant factors and to demonstrate that the proposal complies with all applicable requirements and is otherwise consistent with the policies reflected in the factors enumerated in this chapter for consideration by the county.* T-Mobile has met this requirement with its application materials and information. T-Mobile has provided sufficient information to allow the full consideration of all relevant factors including details site plans and coverage plots.

Finally, T-Mobile has submitted all of the requisite application materials including but not limited to the proposed site plan, T-Mobile's Radio Frequency Engineer's coverage plots and site objective report, and the FAA's Determination of No Hazard to Air Navigation.

Critical Need for This Cell Site

Additionally, T-Mobile submits the following information to help clarify its need for the proposed monopole.

T-Mobile offers two-way wireless telephone service through its use of a wireless radio system. To provide public radio service, a carrier must obtain from the Federal Communications Commission ("FCC") both a permit to construct the requisite facilities and a license to operate a system in defined service areas using designated radio frequencies. The FCC has approved T-Mobile for the subject service area, and T-Mobile is currently offering wireless telecommunications service pursuant to the rules and regulations of the FCC.

In a cellular radio system, low powered transmitters and stored program controllers are located at certain points ("cell-sites") throughout the cellular service area. The cell-sites are connected by telephone facilities to a central switching center. In conjunction with the equipment at the cell-sites, the central switching center provides two critical functions relating to the operation of each system. First, it supervises the setting up of each call and establishes the connection that routes the call over the trunk that leads to the low powered transmitter nearest the mobile unit. Second, the central switching center further reroutes the call to a second low powered transmitter that initially conducted the radio transmission. Regular cable telephone facilities interconnect the central switching center to public telephone networks. Thus, subscribers with mobile telephones are provided with regular telephone service quality.

Currently, in the subject service area approved by the FCC, a network of cell-sites and central switching centers has been installed. In order to provide quality service to all parts of the subject service area, T-Mobile must install additional cell-sites. The height and location of the antennas in the grid system of a cellular radio system (taking into account the contour of the land and the radius of the antennas' reliable transmission area) dictate that each cell-site be precisely located within the grid relative to other cell-sites and the central switching center. The grid for the subject service area establishes that the subject property be one of the cell-sites for the subject cellular radio system.

Statement of Constitutional Rights

Finally, for the purpose of preserving its legal rights, T-Mobile sets forth the following statement of its constitutional rights.

An unnecessary hardship would be created by the denial of the requested special land use permit. Any modification of the grid system and/or relocation of the cell-sites would cause the applicant irreparable damage in terms of time and expense.

The special land use permit requested, if granted, would not cause substantial detriment to the public good or impair the purposes or the intent of the Cobb County Code. The property is zoned such to allow the particular use intended. The monopole and the equipment structures will not interfere with the current or future use of surrounding properties.

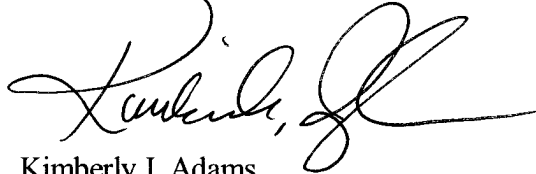
Failure to grant the requested special land use permit would be unconstitutional and would constitute a taking of property without just and adequate compensation and without due process of law in violation of the Fourteenth Amendment to the United States Constitution and Article 1, Section 1, Paragraph 1 and Article 1,

Section III, Paragraph 1 of the Constitution of Georgia. A denial of the requested special land use permit would also be unconstitutional because it would discriminate in an arbitrary and capricious manner between T-Mobile and the owner of the subject property and owners of similarly situated property in violation of Article 1, Section III, Paragraph III of the Constitution of the State of Georgia and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. Such denial would deprive T-Mobile and the property owner of their liberty and property rights. Such action would not substantially advance legitimate state interests but would cause T-Mobile and the property owner significant detriment.

For all the above reasons, T-Mobile respectfully requests that the necessary special land use permit requested be granted.

Very truly yours,

T-Mobile South LLC

A handwritten signature in black ink, appearing to read "Kimberly J. Adams", written in a cursive style.

Kimberly J. Adams
Zoning and Permitting Manager
COMPASS Technology Services
Agent for T-Mobile South LLC