

APPLICANT: T-Mobile c/o Compass Technology Services

404-226-8915 Kimberly Adams

REPRESENTATIVE: Moore Ingram Johnson & Steele, LLP

John H. Moore 770-429-1499

TITLEHOLDER: Tony K. and Mary Turner

PROPERTY LOCATION: Located on the west side of Dallas Acworth Highway (Georgia Highway 92), north of Cheatham Road.

ACCESS TO PROPERTY: Dallas Acworth Highway (Georgia Highway 92)

PHYSICAL CHARACTERISTICS TO SITE: Existing house on partially wooded site

CONTIGUOUS ZONING/DEVELOPMENT

NORTH: R-30/ Northwest Christain Church

SOUTH: R-30/ Single-family house

EAST: R-30/ Single-family house

WEST: R-30/ wooded

PETITION NO: SLUP-14

HEARING DATE (PC): 08-05-08

HEARING DATE (BOC): 08-19-08

PRESENT ZONING: R-30

PROPOSED ZONING: Special Land Use Permit

PROPOSED USE: 199-Foot Telecommunications Tower and Equipment

SIZE OF TRACT: 4.86 acres

DISTRICT: 20

LAND LOT(S): 77, 78

PARCEL(S): 98

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 1

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

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____

REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

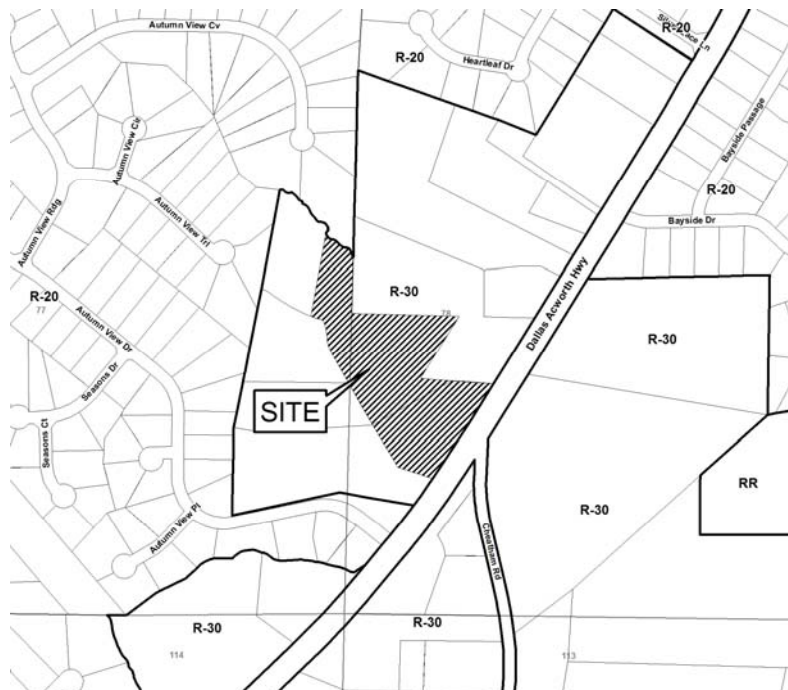
BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____

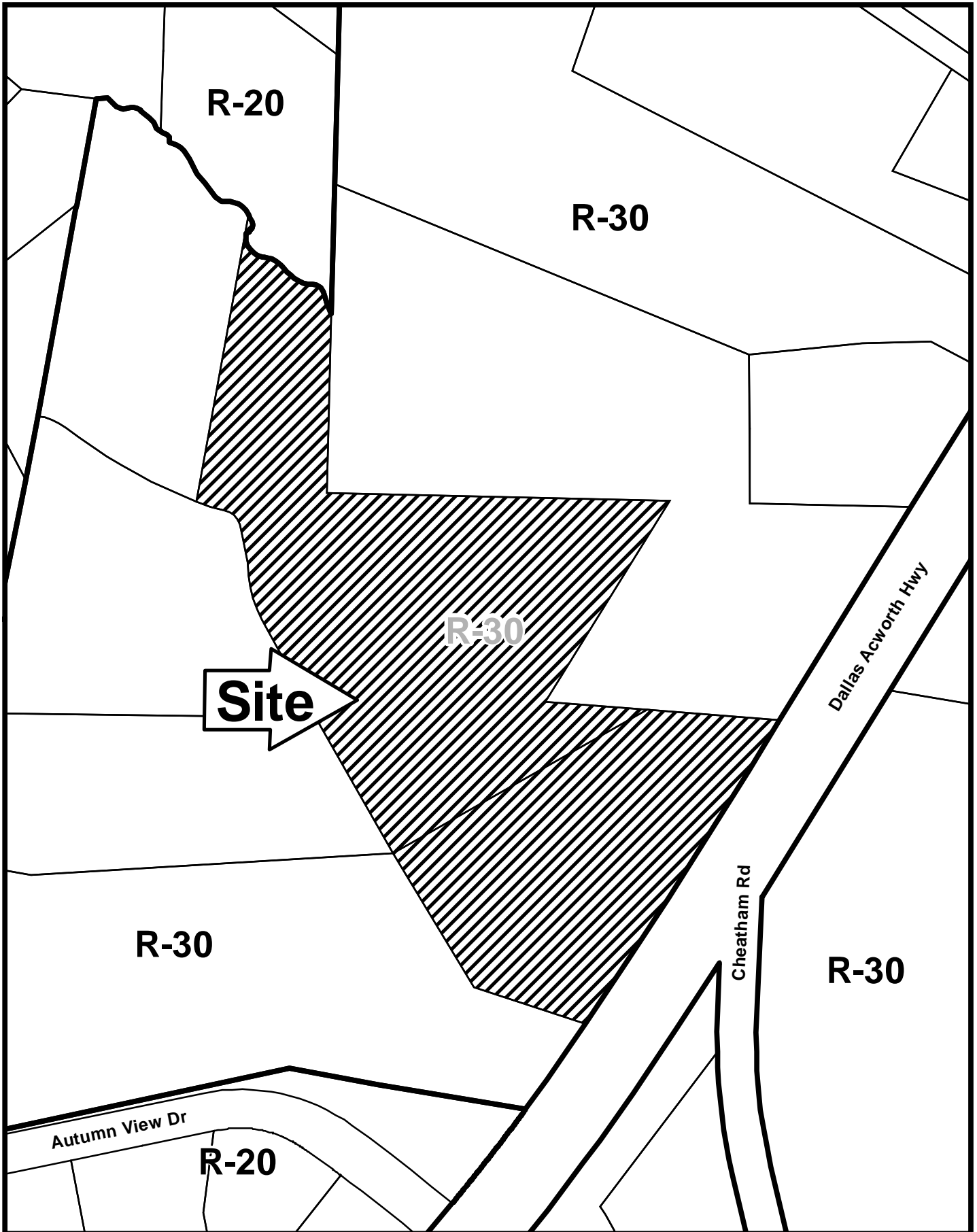
REJECTED _____ **SECONDED** _____

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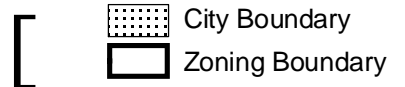
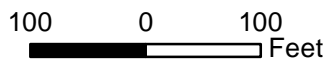
STIPULATIONS:



SLUP-14



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



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PRESENT ZONING: R-30

PETITION FOR: SLUP

PLANNING COMMENTS: Staff Member Responsible: John P. Pederson, AICP

The applicant is requesting a Special Land Use Permit to construct a 199-foot telecommunications tower and related ground equipment. The proposed tower would be a monopole style tower. The tower and ground equipment would be kept in a 90-foot by 90-foot fenced area. The tower would be built to accommodate four users. There would be a 15-foot landscape buffer. The applicant has submitted a letter of intent, which is attached as Exhibit "A".

Historic Preservation: No comment.

Cemetery Preservation: No comment.

WATER & SEWER COMMENTS:

Water and sewer not necessary for tower.

DEPARTMENT OF TRANSPORTATION COMMENTS:

Recommend an FAA study.

Recommend removing curb cut for the old driveway access.

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FIRE DEPARTMENT COMMENTS:

Fire Apparatus Access Road

All access roads shall have an all weather driving surface capable of supporting 75,000 pounds with an unobstructed width of not less than 20 feet, 25 feet inside turning radius, 50 foot outside turning radius and unobstructed vertical clearance of not less than 13 feet 6 inches.

Access road shall extend to within 150-feet of all portions of the facility or any portion of the exterior wall of the first floor.

Dead-end access roads in excess of 150-feet shall be provided with a turn-around by one of the following methods:

Commercial: Cul-d-sac without an island to have a 60 foot paved radius **or** Hammerhead turn-around – total of 110 feet needed (45 feet + 20 foot wide roadway + 45 feet).

Fire Hydrant

Commercial: Fire hydrant within 500 feet of most remote part of structure.

All Fuel tanks must be submitted to Cobb County Fire Marshal’s Offices for approval.
Call 770-528-8328.

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 slide 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.

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DRAINAGE COMMENTS

FLOOD HAZARD: YES NO POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Pumpkinvine Creek FLOOD HAZARD INFO: Zone X

- FEMA Designated 100 year Floodplain Flood.
- Flood Damage Prevention Ordinance DESIGNATED FLOOD HAZARD.
- Project subject to the Cobb County Flood Damage Prevention Ordinance Requirements.
- Dam Breach zone from (upstream) (onsite) lake - need to keep residential buildings out of hazard.

WETLANDS: YES NO POSSIBLY, NOT VERIFIED

Location: _____

- The Owner/Developer is responsible for obtaining any required wetland permits from the U.S. Army Corps of Engineer.

STREAMBANK BUFFER ZONE: YES NO POSSIBLY, NOT VERIFIED

- Metropolitan River Protection Area (within 2000' of Chattahoochee River) ARC (review 35' undisturbed buffer each side of waterway).
- Chattahoochee River Corridor Tributary Area - County review (_____ undisturbed buffer each side).
- Georgia Erosion-Sediment Control Law and County Ordinance - County Review/State Review.
- Georgia DNR Variance may be required to work in 25 foot streambank buffers.
- County Buffer Ordinance: 50', 75', 100' or 200' each side of creek channel.

DOWNSTREAM CONDITION

- Potential or Known drainage problems exist for developments downstream from this site.
- Stormwater discharges must be controlled not to exceed the capacity available in the downstream storm drainage system.
- Minimize runoff into public roads.
- Minimize the effect of concentrated stormwater discharges onto adjacent properties.
- Developer must secure any R.O.W required to receive concentrated discharges where none exist naturally
- Existing Lake Downstream _____.
Additional BMP's for erosion sediment controls will be required.
- Lake Study needed to document sediment levels.
- Stormwater discharges through an established residential neighborhood downstream.
- Project engineer must evaluate the impact of increased volume of runoff generated by the proposed project on downstream _____.

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DRAINAGE COMMENTS CONTINUED

SPECIAL SITE CONDITIONS

- Provide comprehensive hydrology/stormwater controls to include development of out parcels.
- Submit all proposed site improvements to Plan Review.
- Any **spring activity** uncovered must be addressed by a qualified geotechnical engineer (PE).
- Structural fill _____ must be placed under the direction of a qualified registered Georgia geotechnical engineer (PE).
- Existing facility.
- Project must comply with the Water Quality requirements of the CWA-NPDES-NPS Permit and County Water Quality Ordinance.
- Water Quality/Quantity contributions of the existing lake/pond on site must be continued as baseline conditions into proposed project.
- Calculate and provide % impervious of project site.
- Revisit design; reduce pavement area to reduce runoff and pollution.

- No site improvements proposed.

ADDITIONAL COMMENTS/SUGGESTIONS

1. The access drive and tower compound must be pervious surface such as gravel or mulch (with the exception of proposed equipment pads). A minimum 15' planted landscape buffer must be provided around the compound. The landscape buffer should be designed to function as a filter strip to provide for water quality benefit. No significant stormwater management impacts are anticipated.

STAFF RECOMMENDATIONS

SLUP-14 T-MOBILE C/O COMPASS TECHNOLOGY SERVICES

It is Staff's opinion that the applicant's proposal will not permit a use that is suitable in view of the use and development of adjacent and nearby properties. Most of the surrounding properties are used for single-family uses. It is Staff's opinion that the applicant's proposal will have an adverse affect on the usability of adjacent or nearby property. The view sheds from adjacent single-family houses will be negatively affected. A tower would introduce a quasi-commercial use into the community. It is Staff's opinion that the applicant's rezoning proposal is not in conformity with the policy and intent of the *Cobb County Comprehensive Plan*, which delineates this property to be within a Rural Residential (RR) area. The purpose of RR is to provide areas that are suitable for Cobb County's lowest density housing development. There are institutional areas within a one-half-mile that should be examined for telecommunications towers and commercially zoned properties near U.S. Highway 41. Based on the above analysis, Staff recommends DENIAL.

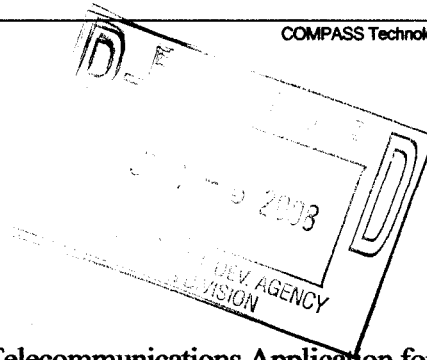
The recommendations made by the Planning and Zoning Staff are only the opinions of the Planning and Zoning Staff and are by no means the final decision. The Cobb County Board of Commissioners makes the final decisions on all Rezoning and Land Use Permits at an advertised public hearing.



COMPASS Technology Services, Inc • 5449 Belts Ferry Road • Acworth, GA 30102
Phone: 404-226-8915 • Fax: 404-529-4414

June 5, 2008

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



Re: T-Mobile's Telecommunications Application for Special Land Use Permit
At 3709 Dallas-Acworth Highway (Georgia Highway 92), Acworth
Cobb County Parcel Number 20007800980
(T-Mobile Site "Autumn View")

Dear Mr. Danneman:

This letter is written in support of T-Mobile's above-referenced special land use permit application for a proposed telecommunications alternative structure facility. T-Mobile proposes to construct a 195 foot monopole facility (with an additional four foot lightning rod allowance) to provide its FCC mandated wireless telecommunication service to the northwest portion of Cobb County along the Highway 92 corridor and surrounding neighborhoods.

Description of Proposed Monopole Facility

The subject property consists of an approximately 4.86 acre tract zoned R-30, and T-Mobile proposes to construct a monopole tower and wireless telecommunications facility.

The purpose of the proposed monopole facility is to provide requisite wireless telecommunications service to the northwest 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 Highway 92 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 three 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 a portion of the property 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 195 feet in height with an additional four foot lightning rod.

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. 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 of a multi-acreage tract that is well buffered with existing mature tree growth thus providing better buffering from the surrounding properties and Dallas-Acworth Highway.

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 199 feet, and the closest off-site residential structure is located 270 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 three additional carriers so that it may collocate on the facility as well.
7. *Nonresidential Sites:* Unfortunately, there is not any non-residentially zoned or used property available in the area on which to locate T-Mobile's site. The Northwest Christian Church on the adjoining property was contacted about potential tower placement, but T-Mobile was unable to negotiate a lease

agreement with this owner. Finally, the subject property is a multi-acreage tract and consistent with the standard of discouraging the usage of platted residential subdivision lots.

8. *Height:* The proposed monopole height of 195 feet (199 feet with lightning rod) 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 landscape buffer that 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.

Finally, T-Mobile has submitted all of the requisite application materials including but not limited to the proposed site plan, T-Mobile's coverage plots and site objective report, and Section 106 Report.

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



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