

APPLICANT: Municipal Communications, LLC and	PETITION NO:	SLUP-14
Dr. J Enterprises, LLC 770-329-4364	_ HEARING DATE (PC): _	12-03-13
REPRESENTATIVE: Garvis L. Sams, Jr. 770-422-7016	_ HEARING DATE (BOC):	12-17-13
Same, Larkin & Huff, LLP	PRESENT ZONING:	R-20
TITLEHOLDER: Hurt Road Baptist Church, Inc.	_	
	_ PROPOSED ZONING: _	Special Land
PROPERTY LOCATION: South side of Hurt Road, west of	_	Use Permit
Marcela Drive	PROPOSED USE: Wireless Communication	
(17 Hurt Road).	Tov	ver and Antennas
ACCESS TO PROPERTY: Hurt Road	SIZE OF TRACT:	4.639 acres
	_ DISTRICT:	17
PHYSICAL CHARACTERISTICS TO SITE: Church	_ LAND LOT(S):	195, 238
	PARCEL(S):	14, 35
	TAXES: PAID X I	DUE
	COMMISSION DISTRICT: _4	
CONTIGUOUS ZONING/DEVELOPMENT		

OPPOSITION: NO. OPPOSED___PETITION NO:___SPOKESMAN ____

R-20/ Concord Village Subdivision

R-20/ Sycamore Hills Subdivision

R-20/ Single-family Residential

PLANNING COMMISSION RECOMMENDATION

Smyrna City Limits

APPROVED____MOTION BY____ REJECTED___SECONDED____

HELD____CARRIED____

NORTH:

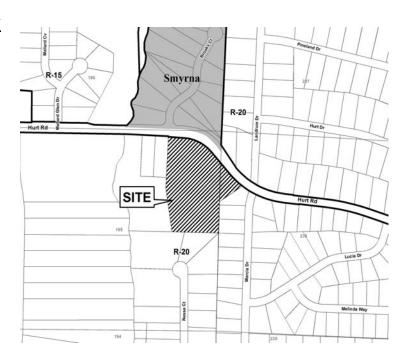
SOUTH:

EAST: WEST:

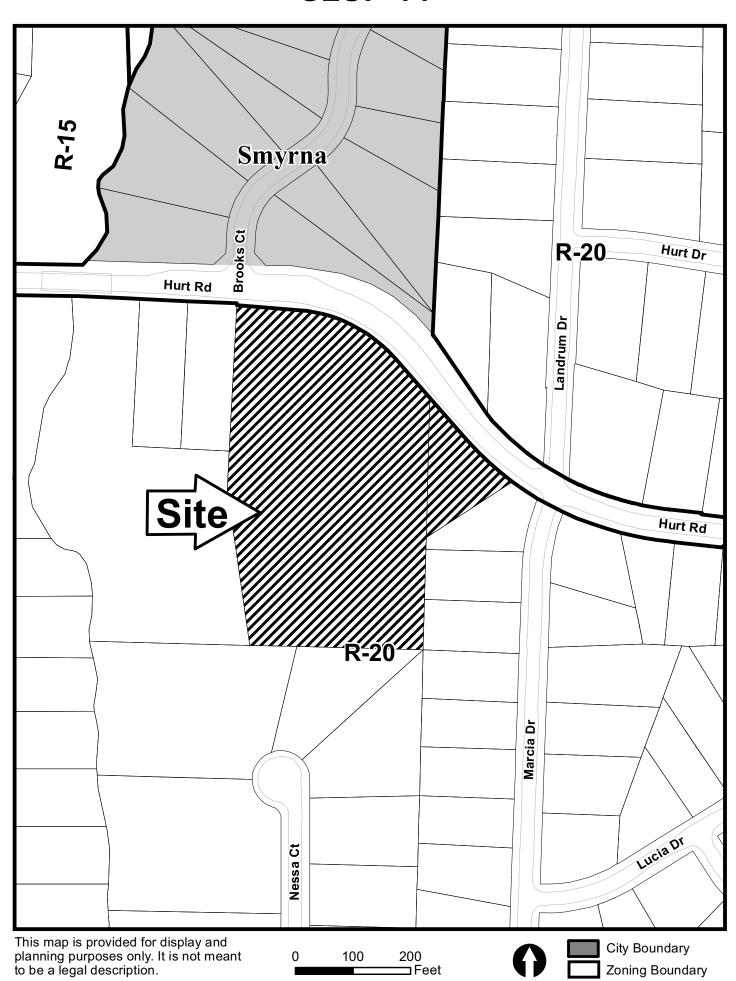
BOARD OF COMMISSIONERS DECISION

APPROVED ____MOTION BY ____ REJECTED ___SECONDED ____ HELD ____CARRIED ____

STIPULATIONS:



SLUP-14



APPLICANT: Municipal Communications, LLC and Dr. J Enterprises, LLC	PETITION NO.:	SLUP-14	
PRESENT ZONING: R-20	PETITION FOR:	SLUP	
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ZONING COMMENTS: Staff Member Responsible	: Terry Martin, MPA		
The applicant is requesting a Special Land Use Permit (SLUP communication tower and antenna as well as accompanying g be a 155 foot "Concealed Monopine" type intended to accomm will be enclosed with a six (6) foot high chain link fence with lease site will be on the 4.6 acre site of Hurt Road Baptist Challot and an access easement across the existing pavement.	ground equipment. The to- modate up to five (5) wire three (3) strands of barbe	wer, as proposed, will less carriers. The site d wire. The intended	
Applicant's proposal adheres to aspects of Sec. 134-273 in prefence plus barbed wire, FAA and FCC compliance, etc. but rewhich requires towers to be set back a distance equal to height is for the 155 foot tower to be located approximately 75 feet fino landscaping is proposed of the lease area as required by Sec.	equests a variance of Sec. at of tower plus 10%. The from the nearest property 1	134-273(3)(a)(2) applicant's proposal	
The County's contracted consultant, CityScape Consultants, I applicant's demonstrated need for the proposed tower. Recog growth area for improved wireless services," the consultant st suggests the need for the proposed wireless communication to consultant has suggested stipulations that are reiterated at the Recommendations."	gnizing that Cobb County states that all available and ower and antenna in this lo	is now a rapid provided data ocation. The	
Historic Preservation: No comment.			
Cemetery Preservation: No comment.			
* * * * * * * * * * * * * * * * * * * *			
WATER & SEWER COMMENTS:			
No comments.			
* * * * * * * * * * * * * * * * * * * *	* * * * * * * * * * * * * * *	* * * * * * * * *	
TRAFFIC COMMENTS:			
Recommend a FAA Airspace Study.			
Recommend applicant be required to meet all Cobb County D project improvements.	evelopment Standards and	Ordinances related to	

APPLICANT: Municipal C	Communications, LLC and Dr. J Enterprises, LLC	PETITION NO.: _	SLUP-14
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FIRE COMMENTS:

NO COMMENTS: After analyzing the information presented for a Preliminary Review, the Cobb County Fire Marshal's Office is confident that all other items can be addressed during the Plan Review Stage.

APPLICANT: Municipal Communications, LLC PETITION NO.: SLUP-14

PRESENT ZONING: R-20 PETITION FOR: SLUP

STORMWATER MANAGEMENT COMMENTS

No comments.

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STAFF RECOMMENDATIONS

SLUP-14 MUNICIPAL COMMUNICATIONS, LLC AND DR. J ENTERPRISES, LLC

The applicant is requesting a SLUP for the construction of a 155 foot wireless communication tower of the "Monopine" type and associated equipment within a lease area on the subject church's 4.6 acre property. The information provided and analyzed by the County contracted consultant indicates the need for such a facility in this area.

Intended for up to five (5) users, the tower's lease area will be fenced with a six (6) foot tall chain link fence that will be topped with barbed wire and is accessed by an easement across the church's existing paved parking lot. However, no landscaping is proposed of the ground lease area and a setback variance is requested as the tower is not set back a distance of the height of the tower plus 10% from the nearest residential property boundary.

Based upon the above analysis as well as the Site Review provided by the County consultant, CityScape, Staff recommends APPROVAL subject to the following conditions:

- Lease area to be moved to location on subject property where setback of height of tower plus 10% is demonstrated from adjacent residential properties;
- Landscape plan to be approved by County Arborist for Code required 15 foot screening buffer around lease site:
- The height of the tower to be no more than 155 feet;
- The Carrier shall provide a statement of compliance with all FCC rules regarding interference and human exposure to radio frequency energy;
- The applicant shall provide the County with an exact representation of the proposed monopine structure for approval by District Commissioner;
- The applicant shall provide satisfactory SHPO and NEPA documentation;
- Should any tenant utilize an emergency power generator the noise shall not exceed 70db at the property boundaries and any such emergency generator shall be tested between the hours of 9 a.m. and 4 p.m. Monday through Friday only;
- All feed lines shall be contained within the support structure and not be visible; and
- All antenna and feed line ports are to be sealed to prevent access by birds and other wildlife.

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.

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GARVIS L. SAMS, JR.
JOEL L. LARKIN
PARKS F. HUFF
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Suite 100 376 Powder Springs Street Marietta, Georgia 30064-3448 770•422•7016 TELEPHONE 770•426•6583 FACSIMILE

JUSTIN H. MEEKS

SAMSLARKINHUFF.COM

October 3, 2013

VIA HAND DELIVERY

Mr. John P. Pederson, AICP, Manager Cobb County Zoning Division Community Development Agency 1150 Powder Springs Road, Suite 400 Marietta, GA 30064

Application for Special Land Use Permit by Municipal Communications, LLC and Dr. J Enterprises, LLC ("Applicants")

Dear John:

Re:

This firm has been engaged by and represents the above Applicants, In that regard, the Applicants respectfully submit their Application, the approval of which will result in the County's issuance of a Special Land Use Permit ("SLUP") to allow the construction and the ultimate operation and maintenance of a Wireless Telecommunications Tower and related antennas and equipment (collectively the "Facility") on an approximately 3,575 sq. ft. portion of the property ("Site").

STATEMENT OF PROPOSED SITE IMPROVEMENTS

The Property and the Site

The property, owned by Hurt Road Baptist Church, Inc. (Owner), is an approximate 4.639 acre tract which is zoned residentially (R-20) with frontage on Hurt Road and is bounded by other residentially zoned and utilized properties, some of which are owned by the Owner. Currently, the property is improved and functions as Hurt Road Baptist Church with related parking and ancillary buildings and improvements. All of the property which surrounds the Site is located in Unincorporated Cobb County except for a residential subdivision directly across Hurt Road which is located within the city limits of Smyrna.

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The Owner has leased the Site, together with utility and ingress/egress easements to the Applicants. The Site is located in the southeast quadrant of the subject property, placing the Facility in a position so that any potential adverse effect upon surrounding properties has been diminished. The Facility is a permitted use for the Site upon the issuance of the requested SLUP.

The Facility/Proposed SLUP

The Facility which the Applicants plan to construct will include a one-hundred and fifty-five (155') high (including the lightning rod) multi-tenant, monopole tower (incorporating a concealment system known as a Stealth Pine), ground-mounted communications equipment and associated minor Site improvements to facilitate operations and maintenance of and access to the Facility on the Site. The carrier located at the top of the tower at the "rad center" (middle of the antennae center) height of one-hundred fifty-five feet (155') is proposed to be AT&T Mobility ("AT&T") and there will be space for antennas for five (5) additional antenna arrays at heights approximately ten feet (10') apart. In that regard, the proposed Facility will comply with the design requirements of § 134-273(3)(b) of Chapter 134 of the Official Code of Cobb County, Georgia, as the same is amended from time to time as there is tower space for at least three (3) carriers.

The equipment and other associated Site improvements which are shown on the plans submitted with this Application are limited to those uses associated with the operation of the antennas or towers and are appropriate in scale and intensity. The entirety of the Site will be enclosed with a six foot (6') high chain link fence with three (3) strands of barbed wire, as more particularly described on the enclosed plans. Additional details relating to the Site and the Facility are set forth in the plans consistent with §§ 134-273(3)(c) & (d).

Access to the Facility will be via the Owner's parking lot and an access easement across the existing pavement. The Applicants confirm that the Facility will meet or exceed current standards of the Federal Aviation Administration ("FAA"), the Federal Communications Commission ("FCC") and all applicable agency guidelines governing the construction and operation of such a Telecommunications Tower. The Applicants do not expect that the FAA will require the Facility to be lighted.

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Once constructed, the Facility will be unmanned. Only monthly Site visits by AT&T's maintenance technicians are anticipated. The Facility will not have water and sewer services and it will not generate any waste. The only utility connections required are electric and telephone services. The electricity demand of the Facility will be similar to that of a single-family residence. The Facility will not create a significant demand for community services. In fact, the Facility will provide a service to the community in the form of a safe, reliable and uninterrupted wireless service for use by the general public, emergency services personnel and others within this sub-area of Cobb County.

The Facility will be an integral part of the AT&T Wireless Network across Cobb County and other portions of the Greater Atlanta area as more particularly described in the Radio Frequency ("RF") Report and Analysis included with this statement.

Concurrent Variance Requests

As a part of its SLUP, the Applicants request that the Cobb County Board of Commissioners ("Board") waive one (1) Zoning Ordinance requirement as set forth in § 134-273(3)(a)(2) which requires towers to be set back a distance equal to one-half (1/2) of the tower's height to any public right-of-way or property boundary. However, this same section gives the Board the discretion to waive this requirement upon a finding that the placement of the proposed tower at a different location on the parcel would mitigate any negative effects of the proposed tower upon the adjoining parcels. In this case, the location of the Facility is driven both by available space on the property but also in effort to locate the Facility on the property in the most appropriate location which provides buffering and screening of the proposed Facility. Accordingly, the Applicant respectfully requests the waiver of this requirement.

Constitutional Statement

The Applicants hereby notify Cobb County of its constitutional concerns. If the Board denies the Application, in whole or in part, then the property does not have a reasonable economic use under the Zoning Ordinance without the SLUP. The Application meets the tests set out by the Georgia Supreme Court to be used in establishing the constitutional balance between private property rights and zoning and planning as an expression of the government's

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police power. If the Board denies the Application, in whole or in part, such an action will deprive the Applicants and the Owner of the ability to use the property in accordance with its highest and best use. Similarly, if the Board limits its approval of the SLUP by attaching conditions adversely affecting any portion of the property or the use thereof, either of such actions being taken without the Applicants' consent, then such action would deprive the Applicants and the Owner of all reasonable uses and development of the property. Any such action is unconstitutional and will result in a taking of property rights in violation of the Just Compensation Clause of the Constitution of the State of Georgia and the Just Compensation Clause of the Fifth Amendment to the United States Constitution.

To the extent that the Zoning Ordinance allows such an action by the Board, the Zoning Ordinance is unconstitutional. Any such denial or conditional approval would discriminate between the Applicants and Owner and the owners of similarly situated properties in an arbitrary, capricious, unreasonable and unconstitutional manner in violation of the Georgia Constitution and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. Finally, a denial or a conditional approval of the Application (with conditions not expressly approved by the Applicants) would constitute a gross abuse of discretion and an unconstitutional violation of the Applicants' rights to substantive and procedural due process as guaranteed by the Georgia Constitution and the Fifth and Fourteenth Amendments of the United States Constitution. The Applicants further challenge the constitutionality and enforceability of the Zoning Ordinance for its lack of objective standards, guidelines or criteria limiting the Board's discretion in deciding applications for SLUP(s).

Furthermore, the Telephone Communications Act of 1996, codified at 47 U.S.C. § 332(c) (the "1996 TCA") was intended to "promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications for consumers and encourage the rapid deployment of new telecommunications technologies" (preamble to the 1996 TCA). The primary mechanisms used by the 1996 TCA to "promote competition and reduce regulation" are prohibitions against local regulations which (i) unreasonably discriminate among providers for functionally equivalent services" or (ii) "prohibit or have the effect of prohibiting the provisions of personal wireless services." 47 U.S.C. § 332(c)(7)(B). Also, § 253 of the 1996 TCA provides that "no state or local statute or regulation . . . may prohibit or have the effect of

SLUP-14 (2013) Statement of Proposed Site Improvements

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prohibiting the ability of any entity to provide any interstate or intrastate telephone communications services." The Board may violate the 1996 TCA on all three (3) grounds if it denies the Application. Nevertheless, the Applicants remain optimistic that the Board's consideration of the Application will be conducted in a constitutional and legally permissible manner.

Zoning Requirements

Chapter 134 of the Zoning Ordinance and, specifically § 134-273, sets the requirements applicable to the placement of communications towers and antennas on property within the County. In satisfaction of these requirements and in addition to this statement, the Applicants hereby submit the following documents for the Zoning Division's review:

- 1. Application for Special Land Use Permit form, including original notarized signatures of the Owner and the Applicants' representative. ¹
- 2. A copy of the Deed reflecting the record Titleholder of the subject property.
- 3. A metes and bounds legal description of the property and Site.
- 4. In view of the fact that the Church is exempt from the payment of ad valorem taxes, there is not a copy of the "paid tax receipt" for the property.
- 5. Zoning Standards Analysis which addresses SLUP considerations.
- 6. The requisite number of copies of the site plan.
- 7. RF Engineer's Affidavit and Analysis, dated September 26, 2013 (AT&T Mobility).
- 8. Documentation of all towers within a three (3) mile radius of the proposed Facility in accordance with § 134-273(3)(m).

¹ The Applicants will submit the Consent of Contiguous Property Owners' signatures under separate cover, acknowledging that the Owner owns certain contiguous parcels.

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SLUP-14 (2013) Statement of Proposed Site Improvements

VIA HAND DELIVERY

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9. A check made payable to Cobb County representing the application fee, consultant fees and the sign deposit and fees in the sum of Six-Thousand, Three-Hundred Dollars (\$6,300.00).

Upon the filing and in accordance with all deadlines, the Applicants will post notice on the property and will mail the requisite notices to property owners within one-thousand feet (1,000 ft.) of the property.

The Application and the accompanying documents support the Applicants' request for the Facility SLUP and comply with all Cobb County zoning requirements. The Owner and Applicants respectfully request that the Zoning Division recommend approval of the Application to the Board for consideration at the next available public hearing.

Please do not hesitate to contact me should you have any questions or need any additional information or documentation. With kind regards, I am

Very truly yours,

RKIN & HUFF, LLP

Garvis L. Sams, Jr. gsams@samslarkinhuff.com

GLS/dsj

Enclosures

cc: Mr. Murray Jones, Senior Vice President

Municipal Communications, LLC (via email w/attachments)

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October 3, 2013

VIA HAND DELIVERY

Mr. John P. Pederson, AICP, Manager Cobb County Zoning Division Community Development Agency 1150 Powder Springs Road, Suite 400 Marietta, GA 30064

Re: Application for Special Land Use Permit

Applicants: Municipal Communications, LLC and Dr. J Enterprises, LLC

Property: 17 Hurt Road, Smyrna, Cobb County, GA 30082

Dear John:

As you know, Section 134-37(e) of the Cobb County Zoning Ordinance requires the Board to consider fifteen (15) guidelines, at a minimum, when deciding whether to grant or deny a SLUP Application. Applying the fifteen (15) guidelines to the Application shows that the Board should grant this Application.

ANALYSIS OF ZONING STANDARDS IN SUPPORT OF MUNICIPAL COMMUNICATIONS, LLC and DR. J ENTERPRISES, LLC'S SLUP 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.

If the Board's decision is to grant the Application, then there will be no significant adverse impact upon the neighborhood or area in which the proposed Facility will be located. In this instance, the Facility will be located within the southeast quadrant of the subject property adjacent to the paved parking area which serves the Church utilizing the proposed tower's incorporation of a concealment system known as Stealth Pine. Furthermore, the location of the Facility on the Site meets the "design, location and safety requirements" described in § 134-273(3) of the Zoning Ordinance which discourages the location of towers on residential properties or the utilization of platted lots within existing subdivisions. In this case, the Facility will be located on property that is not used for



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residential purposes. Accordingly, the Board's approval of the Application will further the goals of the Zoning Ordinance and not significantly or adversely affect the neighborhood or surrounding area.

If the Board decides to reject the Application, the Applicants will be forced to renew their search for property on which they may locate the proposed Facility. In that case, if the Applicants are not allowed to locate the facility on this Site, they may be forced to locate a tower on property on Hurt Road which is more residentially oriented. Likewise, the Applicants' inability to locate the Facility on the Site may force the Applicants to construct more than one (1) tower in the area to allow it to provide the same coverage to AT&T as could be achieved with the proposed Facility. Multiple towers, including the potential of one (1) or more located on residentially utilized property, would be adverse to the stated goals of the Zoning Ordinance and have more of an impact on the neighborhood or surrounding area than if the Board granted this Application.

2. Whether or not the use is otherwise compatible with the neighborhood.

As described in the response to Number 1 above, a Board decision to grant the Application will ensure that the overall character of the area will remain intact. The proposed Facility will be located on institutionally utilized property and is otherwise compatible with the area.

3. Whether or not the proposed use will result in a nuisance defined under state law.

The Board's approval of the Application will not result in a "nuisance" as Georgia law defines that term. No part of the proposed Facility (including the construction, operation and maintenance of the Facility) rises to the level of a "nuisance" under Georgia law.

4. Whether or not the quiet enjoyment of surrounding property will be adversely affected.

The Board will preserve and help maintain the surrounding property owners' current levels of quiet enjoyment of their property if the Board grants the Application. Once the proposed Facility is constructed and operational, the Applicants anticipate that there will

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be limited visits by a single maintenance person to the Site, which visits will not affect surrounding property owners.

5. Whether or not property values of surrounding properties will be adversely affected.

If the Board grants the Application, the property values of the surrounding properties will not be adversely affected. Previously, the Applicants and others within the wireless industry commissioned property appraisal studies which were conducted by MAI, AICP, and Georgia Certified Appraisers regarding the impact of wireless telecommunications towers on surrounding properties in areas of Georgia similar to the area surrounding the proposed Site. These studies confirm that there is no negative or adverse impact upon either the property's value or marketability. Instead, the studies conclude that viewing the towers presents no problems to buyers or prospects and has no influence on the sales price or marketability of the nearby residences. By analogy, Applicants' proposed and similarly situated tower likewise will have no adverse effect upon the surrounding neighborhoods, property values or marketability.

Instead, given the increased use of wireless devices to the exclusion of hard-line telephone systems, there is evidence that the value of properties which do not have wireless coverage or which have poor wireless coverage is lower than properties with adequate and reliable wireless coverage. Accordingly, the location of the Facility will likely serve to maintain or possibly improve the property value of surrounding properties.

6. Whether or not adequate provisions are made for parking and traffic considerations.

Once constructed, the Facility will be unmanned and the Applicants anticipate only monthly visits by a maintenance technician to the Facility plus some additional periodic (but not intense) construction as additional carriers collocate on the Facility. Furthermore, these visits most typically occur at off-peak traffic times, generally not creating an overlap between the Applicants' maintenance and use of the Facility and the Owner's use of the property. There is more than ample parking on the property for both the Church and the Facility uses. Accordingly, if the Board grants the Application, there will be no negative impact upon parking or traffic in the area.

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7. Whether or not the Site or intensity of the use is appropriate.

As described in this statement and above, the Site is appropriate for the location of the proposed Facility. The location and operation of the Facility on the property will not significantly alter the intensity or the use of the property.

8. Whether or not special or unique conditions overcome the Board's general presumption that residential neighborhoods should not allow non-compatible business uses.

Given the present institutional utilization of the property and given the fact that some of the immediately surrounding parcels are also owned by the Church, the Facility is a compatible business use. Accordingly, there is no need for the Applicants to address the Board's general and rebuttable presumption in this instance. Moreover, the Applicants have already met with the District Commissioner, members of the community and intend to continue those dialogues, respectively, during the pendency of the Application.

9. Whether or not adequate provisions are made regarding the hours of operation.

As indicated above, once constructed, the Facility will be unmanned and the Applicants anticipate only monthly visits by a maintenance technician to the Facility. Although the Facility will operate constantly, there will be no visible or tangible impact of such continuous operation on the existing and surrounding uses. Accordingly, the Applicants have made adequate provisions regarding the hours of operation.

10. Whether or not adequate controls and limits are placed on commercial and business deliveries.

During the construction of the Facility, which is a two-three (2-3) week period, there will be some deliveries made to the property. However, thereafter, there will be infrequent visits and virtually no commercial or business deliveries to the site. Even taking into account the initial construction traffic coming to the Site, there will be less delivery traffic to the Facility than to the Church itself.

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11. Whether or not adequate landscape plans are incorporated to ensure appropriate transition.

Given the location of the Facility, which is directly adjacent to the Church's offices and existing paved parking area for the Church, the landscaping shown on the site plan and elevation in concert with the type of tower being utilized which incorporates a concealment system known as a Stealth Pine is entirely appropriate.

12. Whether or not the public health, safety, welfare or moral concerns of the surrounding neighborhood will be adversely affected.

This factor is not relevant to the proposed location of the Facility on the property.

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 Application complies with all specific requirements set forth in the Zoning Ordinance for SLUPs for telecommunications towers. Specifically, Zoning Ordinance § 134-273(3)(m)(l) identifies six (6) specific factors which the Board is to consider with respect to the issuance of SLUPs for towers. In this instance, consideration of all of those factors weigh in support of granting this Application.

First, with respect to the proximity of the tower to off-site residential structures and areas, this Facility has the benefit of being within a property which is utilized for institutional uses.

Second, as discussed in Item 5 above, this Facility is not anticipated to have any adverse effect upon property owners or the purchasers of nearby or adjacent residentially zoned areas.

Third, although the property does have some trees and vegetation in the general location of the Facility, the nature of the proposed landscaping and the utilization of the tower to incorporate the aforementioned concealment system will enhance the positioning and the efficacy of this SLUP proposal.

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Fourth, the existing Church Facility and steeple will effectively block and screen all ground equipment, fencing and the like of the Site. The ground and accessory equipment of the Facility will be visible from some of the contiguous residences, some of which are owned by the Church.

Fifth, the aesthetic design of the tower is a monopole tower which will incorporate a concealment system known as the Stealth Pine and will fit in nicely with existing trees adjacent to the Church and the Church's office. The tower will not have guy wires or a lattice system (both typically viewed as more visually intrusive) and it will be consistent with vegetation among which it is being placed.

Finally, given that the proposed tower will be located in an already improved area, there will be no interruption of the scenic view or the quality of the area. Instead, once constructed, this Facility will blend in with the institutional use on the subject property and with adjacent and surrounding residential uses in the area.

14. Whether the Applicants have provided sufficient information to allow a full consideration of all relevant factors.

In support of their Application, the Applicants have provided all of the information required by the Zoning Ordinance. The Applicants remain, however, willing to provide the Board and the Zoning Division with any additional information which they may desire to allow for full consideration of the Application.

15. In all applications for a Special Land Use Permit, the burden shall be on the Applicant(s) both to provide 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.

In addition to this Analysis, the Applicants have submitted the following in support of the Application:

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- a. Application for Special Land Use Permit form, including original notarized signatures of the Owner and the Applicants' representative. ¹
- b. A copy of the Deed reflecting the record Titleholder of the subject property.
- c. A metes and bounds legal description of Site and attendant easement.
- d. In view of the fact that the Church is exempt from the payment of ad valorem taxes, there is not a copy of the "paid tax receipt" for the property.
- e. The Analysis of Zoning Standards which addresses SLUP considerations.
- f. The requisite number of copies of the site plan.
- g. RF Engineer's Affidavit and Analysis, dated September 26, 2013 (AT&T Mobility).
- h. Documentation reflecting all of the towers within a three (3) mile radius of the proposed Facility in accordance with § 134-273(3)(m).
- i. A check made payable to Cobb County representing the application fee, consultant fees and the sign deposit and fees in the sum of Six-Thousand, Three-Hundred Dollars (\$6,300.00).

Based upon all of these factors, the Applicants have produced sufficient information to allow the Board to fully consider all relevant factors and to demonstrate that the Application complies with all applicable requirements and is otherwise consistent with the policies reflected in the factors enumerated in this chapter for consideration by Cobb County. In that regard, the Board should approve the Application.

¹ The Applicants will submit the Consent of Contiguous Property Owners' signatures under separate cover, acknowledging that the Owner owns certain of the contiguous parcels.

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Mr. John P. Pederson, AICP, Manager Cobb County Zoning Division Community Development Agency October 3, 2013 Page 8

With kind regards, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP

Garvis L. Sams, Jr gsams@samslarkinhuff.com

GLS/dsj

cc: Mr. Murray Jones, Senior Vice President Municipal Communications, LLC (via email)



SLUP-14 (2013) AT&T Affidavit with Maps

AT&TN 12555

Suite 2

Alpharetta, GA 30004

RF Affidavit

To:

Whom it may concern

From:

Lanre Ogun

Date:

9/26/2013

Re:

GA2224 Autumn Lane

AT&T is requesting permission to construct a new wireless telecommunications tower at the Hurt Rd Baptist Church, in Cobb County, as part of our plan to improve wireless, voice, and data service to the in building residences of the 1.2 Mile vicinity of the proposed new tower build. The primary focus of this new site is to provide in-car as well as in-building coverage to the residents in the city of Smyrna, where AT&T currently has minimal in building coverage for our customers, a situation that will worsen given the projected increase in demand.

Extensive site acquisition efforts were conducted to determine if collocation on an existing tower or other structure would be possible, and no adequate structure could be found. There are no structures in the area that could provide the required mounting height of 150' or more and support the load of the antennas, lines, and related apparatus needed for AT&T to deploy its GSM and UMTS equipment, thus no alternative to the construction of a new tower exists. The proposed location for the new tower was selected based upon a comprehensive analysis of the search ring. Factors included: aesthetic impact, compatibility with existing land use, constructability, suitability to meet RF propagation objectives, willingness of landowner to lease land, etc.

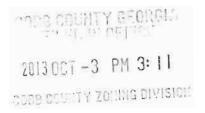
The trigger for this New Build is also to improve on the robust infrastructure AT&T currently maintains by meeting the demands or our current and future customers in the Cobb County area. The AT&T Network team performed a query based on detractors to highlight areas of improvements in the network and the Cobb County location selected is a needed candidate to meet the needs of our customers. Detractors are a culmination of coverage complaints, poor coverage or low signal indicators based on drive and customer device data collection as well as future and potential growth/constraints in the network.

RF Propagation plots are attached showing predicted before and after coverage levels. The attached snapshots show the pre and post coverage for the area affected.

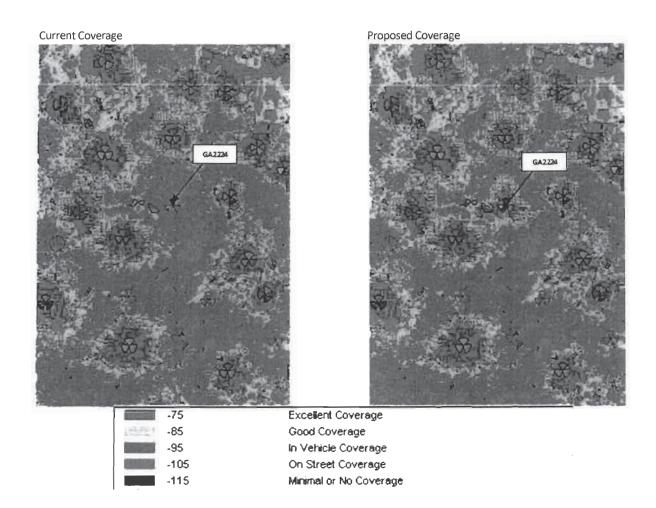
In the Screenshots below we have the Current & Proposed Coverage for the Area as well as the Legend in dBs that show the coverage signals as well as high level descriptions of what the coverage would reflect based on our analysis.

dB Level	Coverage Type
-75	Excellent Coverage with in-building Penetration
-85	Excellent Coverage with in-building Penetration but limited coverage in Basements and buildings with cement builds
-95	Minimal Coverage indoors but will provide coverage in vehicle and On-Street
-105	On-Street Coverage only with minimal and/or even poor Coverage inside
-115	Minimal to no Coverage





SLUP-14 (2013)
AT&T AT&T Affidavit
12555
Suite 2
Alpharetta, GA 30004

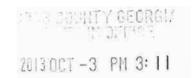


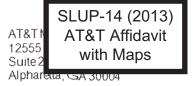
The closest existing AT&T sites that would hand off to this proposed site are on average over 1.4 miles away from the needed coverage zone, and there are currently no existing colocation tower opportunities that we can collocate within 1.4 miles of the proposed tower location.

AT&T certifies that all of its equipment will be installed and operated in keeping with applicable FAA and FCC rules and regulations and appropriate industry standards. The construction of this tower, including AT&T's installation of transmitter/receiver equipment, will not interfere with the usual and customary transmission or reception of radio, television, etc service, enjoyed by adjacent properties.

AT&T further certifies that the proposed telecommunications facility shall be maintained in a safe manner, and in compliance with all conditions of the telecommunications permit, without exception, unless specifically granted relief by the Board of Commissioners of Cobb County in writing, as well as all applicable and permissible local codes, ordinances and regulations, including any and all applicable county, state and federal laws, rules and regulations.







I am currently the AT&T Lead Design Engineer for the New Site Builds in the State of Georgia. I have over 7 years' experience in the field of RF Engineering spanning from different concentrations of Optimization, design as well as performance.

My functionality is reviewing and analyzing each site we propose to ensure it truly meets the objective of its placement as well as to the demand of all of our current and future subscribers. Should you need additional information, please contact me at the following number, 847-293-8230

Respectfully,

tange Ogun

SLUP-14 (2013) Site to Site **Distance Chart**

FOR: Municipal Communications Cobb County Wireless Tower SLUP Application

RE: List of Constructed Towers Within 3 Mile Radius of Proposed Tower Location 2013 OCT -3 PM 3: 11

There are 24 towers within a three (3) mile radius of the proposed location at Hurt Road Baptist Church The closest tower to the proposed location is 1.2 miles to the southwest.

FCC Reg #	Owner	Latitude/Longitude	City, State	Height AGL (meters)
1009929	NEW CINGULAR WIRELESS PCS, LLC	33-54-30.0N 084-31-50.0W	SMYRNA, GA	26.2
1012943	NEW CINGULAR WIRELESS PCS, LLC	33-53-19.0N 084-31-02.0W	SMYRNA, GA	47.9
1016339	Verizon Wireless (VAW) LLC	33-53-57.3N 084-34-38.4W	MARIETTA, GA	71.0
1018997	Verizon Wireless (VAW) LLC	33-51-21.0N 084-31-38.0W	SMYRNA, GA	88.7
1034567	STC Two LLC	33-54-39.3N 084-31-54.7W	MARIETTA, GA	39.0
1039338	American Towers, LLC.	33-50-11.6N 084-30-56.0W	SMYRNA, GA	60.1
1039339	American Towers, LLC.	33-52-16.9N 084-31-46.3W	SMYRNA, GA	46.3
1050264	POWERTEL, INC.	33-53-19.0N 084-31-02.0W	SMYRNA, GA	50.0
1051139	New Cingular Wireless PCS, LLC	33-53-16.3N 084-34-59.6W	SMYRNA, GA	55.4
1200925	CSX Transportation Inc.	33-53-15.3N 084-30-53.7W	SMYRNA, GA	16.8
1204006	American Towers, LLC.	33-54-38.8N 084-32-46.6W	Marietta, GA	46.6
1208434	New Cingular Wireless PCS, LLC	33-52-51.0N 084-30-21.6W	Smyrna, GA	48.2
1219801	Verizon Wireless (VAW) LLC	33-54-00.7N 084-31-36.3W	Smyrna, GA	56.4
1227763	SpectraSite Communications, LLC. through American Towers, LLC.	33-52-40.2N 084-30-07.3W	Smyrna, GA	46.3
1234314	SBA Properties, LLC	33-51-26.4N 084-34-07.3W	Smyrna, GA	48.7
1236608	T-Mobile USA Tower LLC	33-50-07.2N 084-32-23.4W	Mableton, GA	50.3
1243156	T-Mobile USA Tower LLC	33-50-48.5N	Austell, GA	47.9

			CORB CO	INTY GEORGIA
		084-35-16.2W	FUE	D IN OFFICE
1246078	New Towers LLC	33-53-31.8N 084-30-33.4W	Smyrna, 2643 OC	512 PM 3: 11 TY ZONING DIVISION
1246106	T-Mobile USA Tower LLC	33-53-35.5N 084-33-13.3W	Marietta, GA	48.8
1246548	SBA 2012 TC Assets, LLC	33-53-59.5N 084-32-42.7W	Smyrna, GA	50.9
1249965	SBA Monarch Towers I, LLC	33-54-12.0N 084-32-09.2W	Smyrna, GA	33.5
1266753	SBA Monarch Towers II, LLC	33-50-13.9N 084-34-26.5W	Smyrna, GA	48.8
1281455	New Cingular Wireless PCS, LLC	33-50-56.2N 084-31-20.1W	Smyrna, GA	47.2
1281673	New Cingular Wireless PCS, LLC	33-51-29.7N 084-34-33.4W	Marietta, GA	49.1

State of Georgia Telecommunications Site Review New Support Structure

7050 West Palmetto Park Road #15-652 Boca Raton, FL 33433 Tel: 877.438-2851 Fax: 877.220-4593

January 21, 2014

Mr. John Pederson Cobb County Zoning Division Manager 191 Lawrence Street, Suite 300 Marietta, GA 30060

RE: Municipal Communications, LLC and Dr. J Enterprises, LLC Application (AT&T Mobility)

Dear Mr. Pederson,

At your request on behalf of Cobb County, Georgia, CityScape Consultants, in its capacity as telecommunications consultant for the County, has considered the merits of an application submitted by Municipal Communications, LLC and Dr. J Enterprises, LLC ("Applicant") on behalf of AT&T Mobility ("Carrier") to construct a new one hundred fifty-five (155) foot Concealed Monopine type support structure. The facility is intended to accommodate the antennas of up to five (5) wireless service providers, see *figure 1*. The proposed facility will be owned by Municipal Communications, LLC and Dr. J Enterprises, LLC on property owned by Hurt Road Baptist Church, Inc. which is located at 17 Hurt Road in Cobb County, see *figure 2*. AT&T is the initial tenant for this proposed location which qualifies the application to be considered under the federal guidelines of the Telecommunications Act of 1996. AT&T is in the process of developing approximately 46,000 new facilities during this current build cycle.

The Carrier and most other wireless service providers intend to improve reliability of their general service and to upgrade their facilities for advancing technologies. While much of the proposed growth is to continue to meet the carrier mandates of providing emergency services to the public the unprecedented explosion of smartphones is a greater reason for the current level of growth. The fourth generation (4G) of personal wireless services is directed toward the Android, iPhone, iPad, Galaxy and other higher speed smartphone devices. The intent of this application, along with most future applications, is to begin penetration of service into neighborhoods and similar places of residence. The future growth in personal wireless services is directed toward the homes and apartments. Most areas around traveled roadways and commercial areas have coverage, but these higher developed areas still do not have the necessary infrastructure which will be needed in the future. The next generation of wireless services will bring high speed communications for computers and will allow direct access to entertainment sources emitting directly from cell towers; not only communications but entertainment sources such as radio, television and many other applications.



SLUP-14 (2013) Consultant's Report

Consultants, Inc.
Telecommunications Site Review
State of Georgia

Cobb County's current wireless infrastructure is approximately 40% to 45% developed. The future implementation of wireless services will require more sites. The wireless industry has grown at more than 20% over the last 2 decades and that level will continue for no less than another decade. Virtually all aspects of an individual's life are developing into fingertip applications via wireless networks. The major difference is that the overwhelming majority of new locations must be in the reach of the general public and where they live. Currently all cellular type service is spotty in most locations in the County and to some extent in the surrounding counties.

The County requires all new towers to have justification. There are many methods used for that purpose starting with a qualified carrier's showing of need as described in the local ordinance and the federal and sometimes state codes. Cobb County requires an Applicant to provide the locations of surrounding facilities. The Applicant's submittals did list 7 adjacent facilities but omitted 4 others without comment which are in close proximity to the proposed location, see *figure 3*. Upon investigation CityScape found that AT&T has current facilities at these 3 locations.

Justification of a new facility must start with a search ring which was provided and is also shown in *figure 3*. Within the parameters of the submittal is an acceptable distance from the center of the search ring a facility can be situated. The proposed site is 0.70 miles from the search ring so it does fit within the Carrier's parameters. The Hurt Road facility will help provide not only AT&T but other carriers the ability to better penetrate neighborhoods. The Carrier provided signal propagation maps. In *figure 4* is a representation of the current service level by AT&T. The proposed Hurt Road site is identified. Next in *figure 5* it is shown how the Hurt Road site will help eliminate the current poor service. The County should also note this will not be the final requirements in the area. While the Hurt Road site is within the parameter specifications for needed improvement there remains a service void between the proposed Hurt Road site and the existing AT&T facility on the Verizon Tower to the southeast.

Making a qualified determination for proof of need for a new wireless facility requires an understanding of the current conditions along with the projected network deployment concepts and the County's obligations under law. From this information and experience CityScape can offer an opinion and recommendations as to the validly of this application. The federal government has mandated that personal wireless service provider such as AT&T, Verizon, Sprint, T-Mobile and others must provide qualified service to the general public. It is anticipated that in less than 10 years there will no longer be wired telephone service anywhere, all communications will be wireless. Not on will this type of communications be wireless but the majority of what is commonly wired currently will no longer be available except via wireless services. The demand for wireless infrastructure is going to be greater, not reduced in the immediate future.



Report

Consultants, Inc. **Telecommunications Site Review** State of Georgia

The Applicant has requested a Variance regarding the setback to any public right-of-way or property boundary. The Board has the right to grant this variance for specific reasons as defined in the ordinance. Under Part 704 of the Telecommunications Act of 1996 a local jurisdiction cannot discriminate between qualified service providers. Therefore such a variance should be carefully considered as it can affect future comparable applications; what is approved for one carrier must be approved for others. The decision for the variance remains completely with the County. The selected location on the Church property is subjective and the location on the property does relate to the need for a variance.

CityScape recognizes that Cobb County is now a rapid growth area for improved wireless services. The County will be in need of more elevated support structures to accommodate the future demands. Additionally there will be more licensed and unlicensed Carrier providing service in Cobb County. Both licensed and unlicensed operators are protected by the Federal Communications Commission, but all must utilize FCC type approved equipment.

CityScape knows that this facility will operate with various frequencies which could interfere with Public Safety radio operations and there is a concern from the public that the site should not exceed allowable standards for human exposure. It is important that all applicants provide compliance statement.

CityScape Consultants as the wireless expert for the County has determined the applicant with the supporting documentation from the Carrier has met the threshold of evidence to support a new support structure and accommodating ground equipment and recommends approval with the following conditions:

- 1. The Carrier shall provide a statement of compliance with all FCC rules regarding interference and human exposure to radio frequency energy; and,
- 2. The Applicant shall provide the County with an exact representation of the proposed monopine structure for approval; and,
- 3. The applicant shall provide satisfactory SHPO and NEPA documentation; and,
- 4. Should any tenant utilize an emergency power generator the noise shall not exceed 70dB at the property boundaries and any such emergency generator shall be tested between the hours of 9AM and 4PM Monday through Friday only; and,
- 5. All feed lines shall be contained within the support structure and not be visible; and,
- 6. All antenna and feed line ports are to be sealed to prevent access by birds and other wildlife.

Respectfully submitted,

Richard L. Edwards

FCC Licensed PCIA Certified

CityScape Consultants, Inc.

SLUP-14 (2013) Consultant's Report

Consultants, Inc.
Telecommunications Site Review
State of Georgia

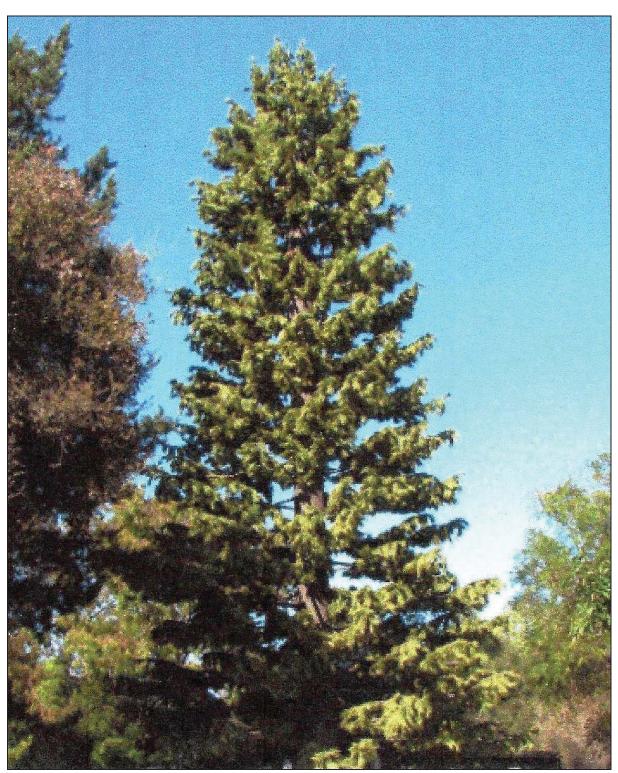


Figure 1. Proposed Support Structure Simulation

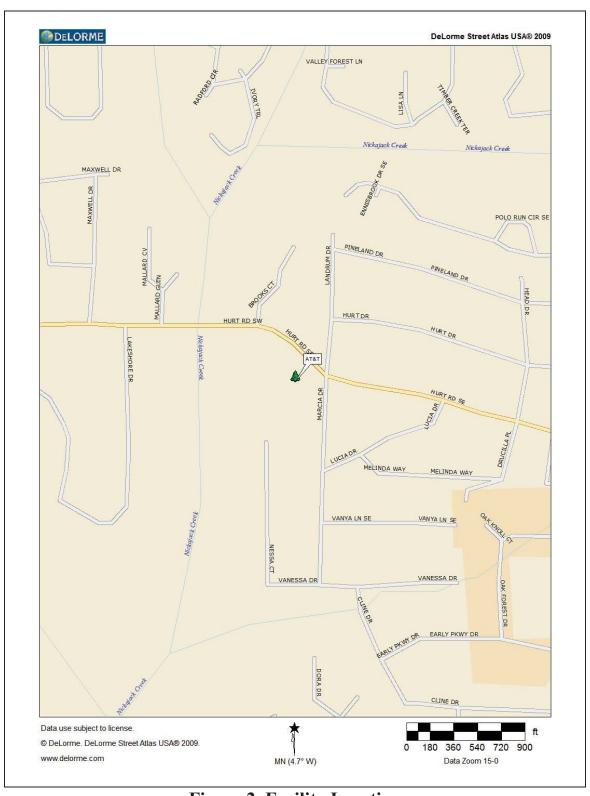


Figure 2. Facility Location

SLUP-14 (2013) Consultant's Report

Consultants, Inc.
Telecommunications Site Review
State of Georgia

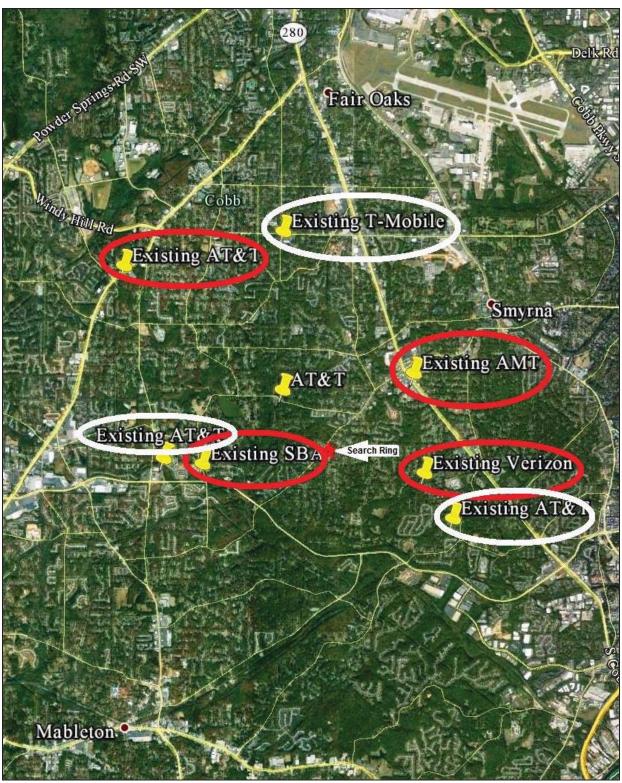


Figure 3. All Facilities and AT&T Search Ring



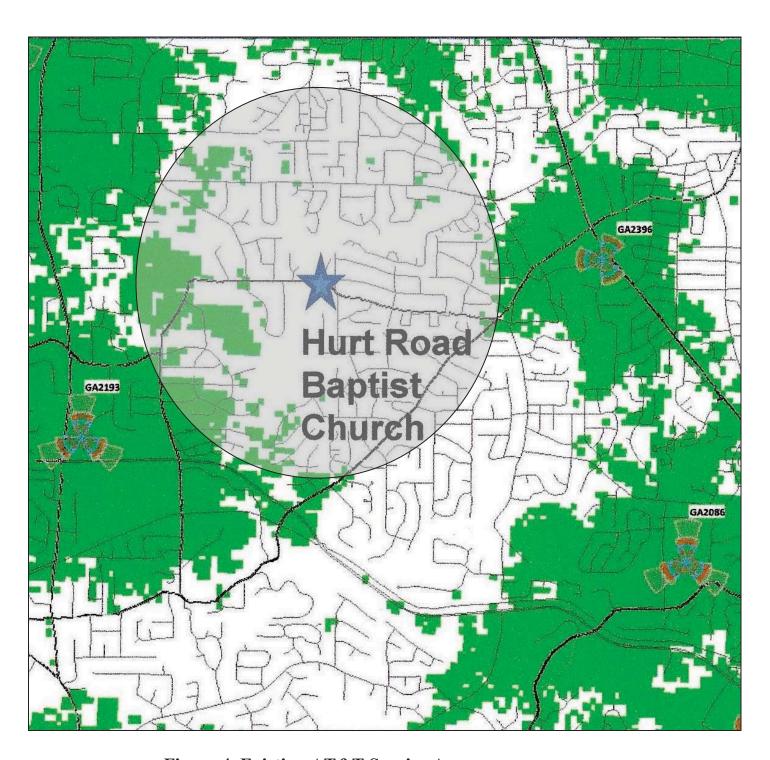


Figure 4. Existing AT&T Service Area (Target Shown in Grey)



Consultants, Inc.
Telecommunications Site Review
State of Georgia

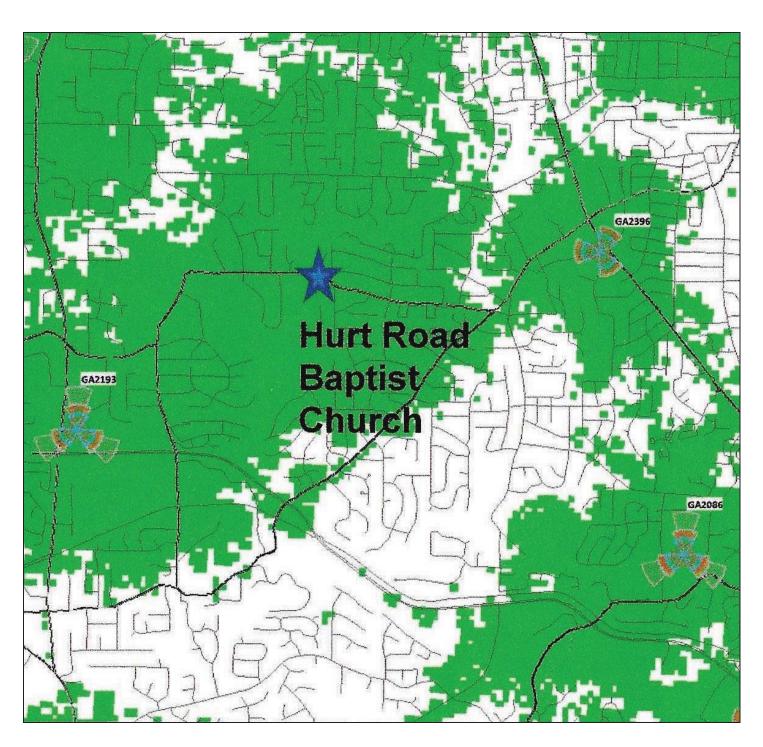


Figure 5. Proposed AT&T Propagation



SLUP-14 (2013) Consultant's Report

Consultants, Inc.
Telecommunications Site Review
State of Georgia

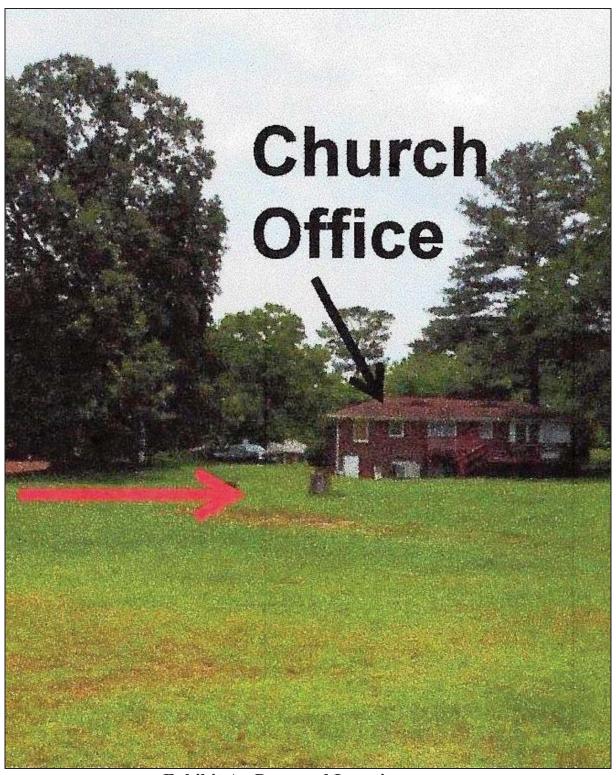
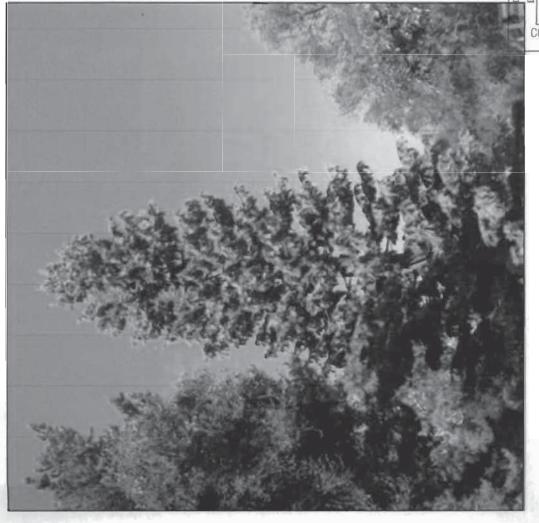


Exhibit A. Proposed Location



JAN 2 3 2014

COBB CO. COMM. DEV. AGENCY ZONING DIVISION







SAMS, LARKIN & HUFF

A LIMITED LIABILITY PARTNERSHIP

GARVIS L. SAMS, JR. JOEL L. LARKIN PARKS F. HUFF JAMES A. BALLI

SUITE 100 376 POWDER SPRINGS STREET MARIETTA, GEORGIA 30064-3448 770-422-7016 TELEPHONE 770-426-6583 FACSIMILE

JUSTIN H. MEEKS

SAMSLARKINHUFF.COM

January 15, 2014

VIA EMAIL

Mr. John P. Pederson, AICP, Manager Cobb County Zoning Division Community Development Agency 1150 Powder Springs Road, Suite 400 Marietta, GA 30064



Re: Special Land Use Application of Municipal Communications, LLC and

Dr. J Enterprises, LLC – SLUP-14 (2013)

Dear John:

As you know, this firm has been engaged by and represents Municipal Communications, LLC and Dr. J Enterprises, LLC ("Applicants") concerning the above-captioned Application for a Special Land Use Permit ("SLUP") with respect to a 4.639 acre tract on Hurt Road which is owned by the Hurt Road Baptist Church ("Subject Property").

As a result of community meetings which have been conducted at the Church and after reviewing preliminary staff comments, we have been authorized by the Applicants to submit this letter of agreeable stipulations which, if the SLUP Application is approved, shall become conditions and a part of the grant of the requested SLUP and binding upon the subject property thereafter. The referenced stipulations are as follows, to wit:

- 1. The stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions, in whatsoever form, which are currently in place concerning the subject property.
- 2. The Applicants seek a SLUP for the subject property in order to allow the construction of a 155 foot multi-tenant, monopole tower and a Wireless Telecommunications Facility to provide wireless telecommunication service to this sub-area of Southeast Cobb, the Hurt Road Corridor and surrounding communities and neighborhoods. After being "continued by staff" from December, 2013, the SLUP Application is scheduled to be heard and considered by the Cobb County Planning Commission on February 4, 2014 and, thereafter, scheduled to be heard and considered for final action by the Cobb County Board of Commissioners on February 18, 2014.

SAMS, LARKIN & HUFF A LIMITED LIABILITY PARTNERSHIP

VIA EMAIL

Mr. John P. Pederson, AICP, Manager Cobb County Zoning Division Community Development Agency January 15, 2014 Page 2

- The carrier located at the top of the tower at the "RAD Center" height of 155 feet is proposed to be AT&T Mobility ("AT&T") and there will be space for antennas for five (5) additional antenna arrays at heights approximately ten feet (10') apart. In that regard, the proposed facility will comply with the design requirements of § 134-273(3)(b) of Chapter 134 of the Official Code of Cobb County, Georgia, as the same is amended from time to time, which requires tower space for at least three (3) carriers.
- 4. The requested SLUP will allow the construction and the ultimate operation and maintenance of a Wireless Telecommunications Tower and related antennas and equipment on an approximate 3,575 sq. ft. portion of the subject property which will be surrounded by a chain link fence a minimum of seven feet (7') in height.
- 5. The tower structure shall be a monopole tower incorporating a concealment system known as a "stealth pine" (instead of a standard monopole design) as shown on the renderings/elevations being submitted contemporaneously herewith.
- 6. Access to the Telecommunications Tower and related facilities will be via the Church's parking lot and an access easement traversing the existing pavement.
- 7. The Telecommunications Tower and the related facility will meet or exceed current standards of the Federal Aviation Administration ("FAA"), the Federal Communications Commission ("FCC") and all applicable agency guidelines governing the construction and operation of such towers and facilities. It is not anticipated that the FAA will not require the facility to be lighted.
- 8. Once constructed, the facility will be unmanned with only monthly site visits by maintenance technicians.
- 9. The facility will be an integral part of the AT&T Wireless Network across Cobb County and other portions of the Greater Atlanta area as has been more particularly described in the Radio Frequency ("RF") Report and Analysis filed contemporaneously with the SLUP Application.

SAMS, LARKIN & HUFF A LIMITED LIABILITY PARTNERSHIP

VIA EMAIL

Mr. John P. Pederson, AICP, Manager Cobb County Zoning Division Community Development Agency January 15, 2014 Page 3

- 10. Subject to the attached Landscape and Tree Replacement/Presentation Plans and an agreement that all existing trees and vegetation adjacent to the proposed facilities and telecommunications tower site will be disturbed as little as possible in order to preserve the visual screening supplied by said trees and vegetation.
- 11. The Applicants agree to set up a Landscape Oversight Committee consisting of the Applicants, a representative of Hurt Road Baptist Church, a representative of the adjacent neighborhoods and a representative from the Community Development Agency who shall be the final arbiter with respect to any issues that can not otherwise be resolved.
- 12. As a part of the Application, the Applicants request that the Cobb County Board of Commissioners waive the requirement which requires telecommunications towers to be set back a distance equal to one-half (½) of the tower's height to any public right-of-way or any property boundary pursuant to § 134-273(3)(a)(2).
- 13. Applicants certify that all of AT&T's equipment shall be installed and operated in keeping with applicable FAA and FCC rules and regulations and appropriate industry standards. The construction of the proposed tower, including AT&T's installation of the transmitter/receiver equipment, will not interfere with the usual and customary transmission or reception of radio, television and other such services enjoyed by adjacent properties and/or property owners.
- 14. The proposed telecommunications facility shall be maintained in a safe manner and in compliance with all conditions of the telecommunications permit (without exception) unless specifically granted relief by the Cobb County Board of Commissioners in writing, as well as compliance with all applicable and permissible local codes, ordinances and regulations, including any and all applicable County, State and Federal laws, rules and regulations.

In this Application, the location of the Telecommunications Tower and facilities is driven both by available space on the property but also in an effort to locate the facility and tower on the property in the most appropriate location which provides buffering and screening.

SLUP-14 (2013) Stipulation Letter

SAMS, LARKIN & HUFF

A LIMITED LIABILITY PARTNERSHIP

VIA EMAIL

Mr. John P. Pederson, AICP, Manager Cobb County Zoning Division Community Development Agency January 15, 2014 Page 4

Based upon the foregoing, the Applicants have produced more than sufficient information to allow the Planning Commission and Board of Commissioners to fully consider relevant factors and to demonstrate that the Application complies with all applicable requirements and is otherwise consistent with the policies reflected and the factors enumerated for consideration by Cobb County. Nevertheless, please do not hesitate to contact me should you or the staff require additional information or documentation prior to the formulation of the Staff Analysis and Recommendations concerning this SLUP Application. With kind regards, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP

Garvis L. Sams, Jr. gsams@samslarkinhuff.com

GLS/dsj Attachments

cc: Members, Cobb County Board of Commissioners (via email w/attachments)

Members, Cobb County Planning Commission (via email w/attachments)

Mr. Robert L. Hosack, Jr., AICP Director (via email w/attachments)

Joseph Atkins, Esq., Assistant County Attorney (via email w/attachments)

Mr. Dana Johnson, AICP, Planning Division Manager, (via email w/attachments)

Mr. Jason Campbell, Planner III (via email w/attachments)

Mr. David Breaden, PE, Cobb County Stormwater Management

(via email w/attachments)

Ms. Jane Stricklin, PE, Cobb County DOT (via email w/attachments)

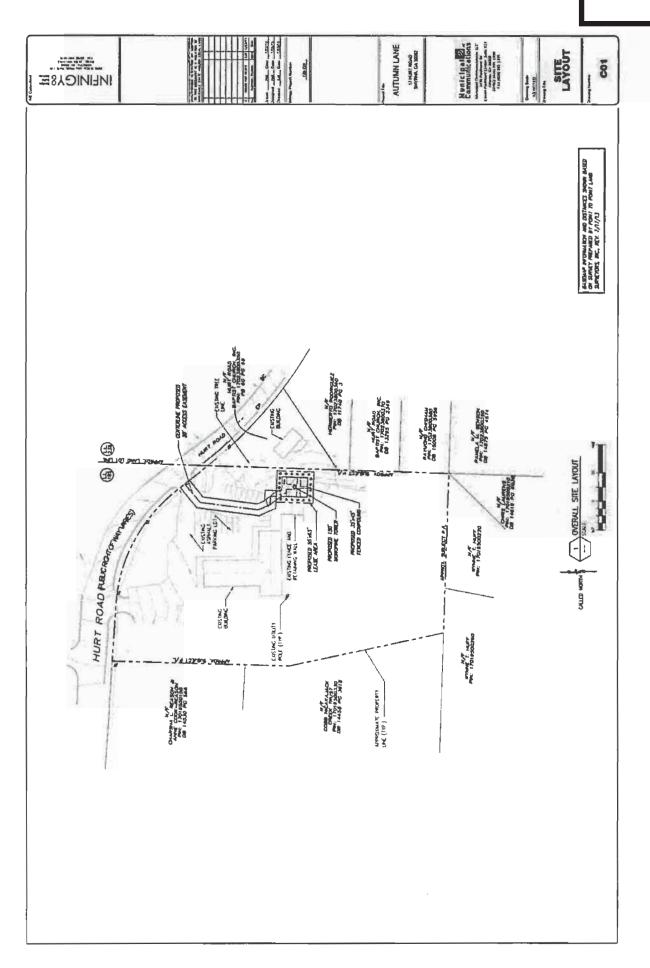
Ms. Karen King, Assistant County Clerk (via email w/attachments)

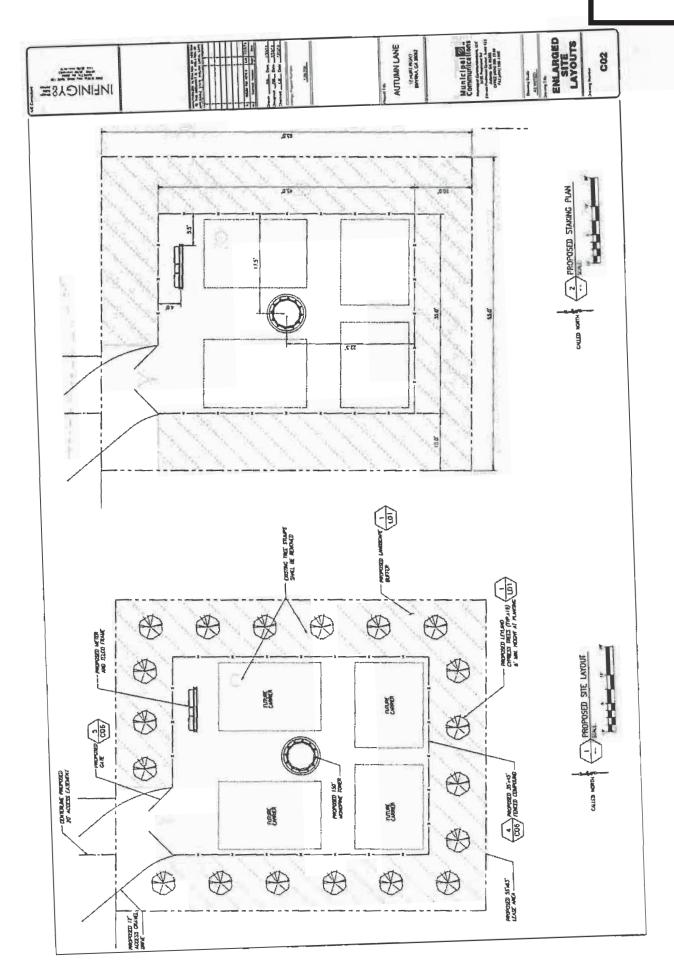
Ms. Lori Barton, Deputy County Clerk (via email w/attachments)

Mr. Murray Jones, Municipal Communications (via email w/attachments)

Mr. Julius Erving, Dr. J. Enterprises (via email w/attachments)

SLUP-14 (2013) Stipulation Letter





SLUP-14 (2013) Stipulation Letter

