CITY COUNCIL MEETING

Donna Pittman-Mayor

Robert J. Patrick-District 1
Trudy Jones Dean – District 2
Karen Pachuta – District 3

Pam Fleming – District 1
Brian Bates – District 2
Maria Alexander – District 3
Mayor Pro-Tem

AGENDA

April 15, 2013 6:30 PM

1. **CALL TO ORDER**

2. **PLEDGE OF ALLEGIANCE**

3. **EXECUTIVE SESSION**

   - Litigation

4. **CEREMONIAL PRESENTATIONS, CITY ANNOUNCEMENTS, SPECIAL GUESTS:**

5. **ROLL CALL**

6. **APPROVAL OF MINUTES:**
   - February 19, 2013
   - March 04, 2013
   - March 18, 2013

7. **PUBLIC COMMENTS ON AGENDA ITEMS**

8. **REPORTS: DEPARTMENTS**
   a) Mayor
   b) City Attorney
      - First Read and discussion of Ordinance to revise Chapters 11 (Nuisances), Sections 11-111, 11-112 and 11-121 through 11-125- City Attorney Cecil McLendon, Jr.
      - First Read and discussion of Ordinance to revise Chapter 4 (Alcohol Code), Section 3-31, in regards to certain conduct provisions-City Attorney Cecil McLendon Jr.

   c) Stormwater
   d) Police
   e) Courts
   f) Public Works
   g) Library
   h) Parks & Recreation
   i) City Hall
      - Proclamation Presentation Mr. Patrick Ewe of Sweet Hut

   j) Planning & Zoning
   k) IT Department
   l) Finance

9. PUBLIC HEARING

- Special Use Permit (Conditional Use Permit) for New for Cell Tower at 5788 South Peachtree Road Represented by David Kirk, Esq. Troutman Sanders LLP for TowerCom V, LLC

- Application for Variance to Sec. 23-903 (f) Dimensional Requirements in theR-1 Residential Zoning District at Property 2415 Ridgeway Drive, Doraville GA by Chadwick Estrada (tax parcel # 18 342 11 008)

10. OLD BUSINESS

- Salary for Part-time Mayor-Councilmember Karen Pachuta

11. NEW BUSINESS

12. EXECUTIVE SESSION

13. REPORTS; COMMITTEES, COMMISSIONS, BOARDS AND APPOINTMENTS

14. PUBLIC COMMENTS

15. ADJOURNMENT

THE CITY OF DORAVILLE
AGENDA ITEM SHEET

Subject: **Ordinance to revise Nuisance Chapter 11 To Remove Certain Obscenity Provisions**

Date of Meeting: April 15, 2013

Regular Meeting	(X)
Work Session	( )
Recommendation	(X)
Policy/Discussion	( )
Report	( )
Other	( )

Budget Impact: ___Y _X__ N

Budget Impact Amount: $____N/A_____

Funding Source:
( )Annual
( )Capital
( )N/A

CITYOFDORAVILLE CITYOFDORAVILLE CITYOFDORAVILLE CITYOFDORAVILLE CITYOFDORAVILLE

The City Attorney's Office, in the process of reviewing City regulations that may apply to sexually oriented businesses, has noticed certain obscenity provisions in Chapter 11 that were passed in 1980. Said provisions, specifically Chapter 11, Sections 11-111, 11-112, 11-121, 11-122, 11-123, 11-124 and 11-125 are, in light of the City's updated Sexually Oriented Business Ordinance, unnecessary and in potential conflict with that ordinance. It is recommended that these provisions be removed from the Code as the regulatory interests they serve are adequately and more properly addressed in the SOB Ordinance.

Options: ____To Adopt Ordinance.

Recommended Action: _**We recommend that Council waive First Read and adopt at April 15th Meeting.**

Department: _Legal Department Head: _Cecil G. McLendon, Jr.

Administrative Comments and Recommendation: _____

_____

_____

Action Taken By Board: _____

_____

_____

STATE OF GEORGIA

CITY OF DORAVILLE

ORDINANCE NO. 2013-__

AN ORDINANCE TO AMEND CHAPTER 11 ("OFFENSES"), ARTICLE III ("OBSCENITY AND RELATED OFFENSES"), BY REPEALING SECTIONS 11-111, 11-112, 11-121, 11-122, 11-123, 11-124, AND 11-125; TO PROVIDE FOR AN ADOPTION AND EFFECTIVE DATE; TO PROVIDE FOR CODIFICATION; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES

WHEREAS, the City Council hereby incorporates herein its stated findings and legislative record related to the adverse secondary effects of sexually oriented businesses that were before the City Council during its consideration of Ordinance 2012-18; and

WHEREAS, Ordinance 2012-18 regulates sexually oriented businesses in order to prevent and control these adverse effects and thereby protect the public health, safety, and welfare.

THEREFORE, THE MAYOR AND COUNCIL OF THE CITY OF DORAVILLE, GEORGIA HEREBY ORDAIN:

Section 1

That sections 11-111, 11-112, 11-121, 11-122, 11-123, 11-124, and 11-125, of the Code of Ordinances, City of Doraville, Georgia, are hereby repealed in their entirety.

Section 2

a. It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

b. It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section paragraph, sentence, clause or phrase of this Ordinance.

c. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section 3

All ordinances or parts of ordinances in conflict herewith are hereby expressly repealed.

Section 4

This Ordinance shall be codified in accordance with state law and the Code of the City of Doraville, Georgia. This Ordinance shall become effective upon adoption.

SO ORDAINED, this _____ day of _____, 2013.

CITY OF DORAVILLE, GEORGIA

_____
Mayor

_____
First Reading

_____
Second Reading

ATTEST:

APPROVED AS TO FORM:

_____(SEAL)
Acting City Clerk

_____
Cecil G. McLendon, Jr., City Attorney

	Yea	Nay
Maria Alexander	☐	☐
Brian Bates	☐	☐
Pam Fleming	☐	☐
Karen Pachuta	☐	☐
Trudy Jones Dean	☐	☐
Robert Patrick	☐	☐

THE CITY OF DORAVILLE
AGENDA ITEM SHEET

Subject: **Ordinance to revise Alcohol Chapter 4**
To amend Conduct Provisions in Sec. 3-31
Date of Meeting: April 15, 2013

Budget Impact: ___Y _X__ N

Budget Impact Amount: $____N/A_____

Funding Source:
( )Annual
( )Capital
( )N/A

Regular Meeting	(X)
Work Session	( )
Recommendation	(X)
Policy/Discussion	( )
Report	( )
Other	( )

CITYOFDORAVILLE CITYOFDORAVILLE CITYOFDORAVILLE CITYOFDORAVILLE CITYOFDORAVILLE

The City Attorney's Office, in the process of reviewing conduct regulations that apply to alcohol-licensed establishments, has noticed certain provisions in section 3-31 related to nudity and partial nudity in such establishments. Said provisions are, in light of the City's updated Sexually Oriented Business Ordinance, in need of updating and strengthening to avoid potential conflict with that ordinance. In order to strengthen the Alcoholic Beverages Code, and avoid potential conflicts within the Code, it is recommended that that section 3-31 be revised, strengthened, and supplemented with legislative findings consistent with those found in the Sexually Oriented Business Ordinance.

Options: ____To Adopt Ordinance.

Recommended Action: _**We recommend that Council waive First Read and adopt at April 15th Meeting.**

Department: _Legal Department Head: _Cecil G. McLendon, Jr.

Administrative Comments and Recommendation: _____

_____

_____

Action Taken By Board: _____

_____

_____

STATE OF GEORGIA

CITY OF DORAVILLE

ORDINANCE NO. 2013-___

AN ORDINANCE TO AMEND CHAPTER 3 ("ALCOHOLIC BEVERAGES"), ARTICLE III ("REGULATIONS ON SALES"), BY AMENDING SECTION 3-31; TO PROVIDE FOR AN ADOPTION AND EFFECTIVE DATE; TO PROVIDE FOR CODIFICATION; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES

WHEREAS, certain businesses require special supervision from the public safety agencies of the City in order to protect and preserve the health, safety, and welfare of the patrons of such businesses as well as the citizens of the City; and

WHEREAS, the City Council finds that nudity, semi-nudity, conduct by bikini-clad persons, and/or sexual conduct coupled with alcohol in public places begets undesirable behavior, and that sexual, lewd, lascivious, and salacious conduct among patrons and employees within alcoholic beverage establishments results in violation of law and dangers to public health, safety and welfare, *see Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007); and

WHEREAS, there is convincing documented evidence that certain physical contact between performers and patrons of alcoholic beverage establishments leads to unlawful sexual activities, including masturbation, lewdness, illicit sexual activity, and other behaviors which the City seeks to prevent; and

WHEREAS, the City recognizes its constitutional duty to interpret, construe, and amend its laws and ordinances to comply with constitutional requirements as they are announced; and

WHEREAS, with the passage of any ordinance, the City and the City Council accept as binding the applicability of general principles of criminal and civil law and procedure and the rights and obligations under the United States and Georgia Constitutions, Georgia Law, and the Georgia Rules of Civil and Criminal Procedure; and

WHEREAS, it is not the intent nor the effect of this ordinance to suppress any speech activities protected by the U.S. Constitution or the Georgia Constitution, but to enact an ordinance to further the substantial governmental interests of the City, to wit, the controlling of secondary effects associated with physical contact in alcoholic beverage establishments; and

WHEREAS, the City Council hereby incorporates herein its stated findings and legislative record of the adverse secondary effects of sexually oriented businesses that were before the Council during its consideration of Ordinance 2012-18, much of which concerns the adverse secondary effects of nudity, semi-nudity, and sexualized conduct in alcoholic beverage establishments.

THEREFORE, THE MAYOR AND COUNCIL OF THE CITY OF DORAVILLE, GEORGIA HEREBY ORDAIN:

Section 1

That Chapter 3 ("Alcoholic Beverages"), Section 3-31 of the Code of Ordinances, City of Doraville, Georgia, is hereby amended in its entirety to read as follows:

Sec. 3-31. - Prohibited conduct.

(a) *Purpose. It is the purpose of this section to regulate establishments licensed to sell, serve, or dispense alcoholic beverages in order to promote the health, safety, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of various forms of nudity and physical contact in such establishments between patrons and employees of the establishment. The provisions of this section have neither the purpose nor effect of imposing a restriction on the content or reasonable access to any communicative materials or performances, including sexually oriented materials or performances. Neither is it the purpose nor effect of this ordinance to condone or legitimize the distribution or presentation of obscene material or conduct.*

(b) *Findings and Rationale. Based on evidence of adverse secondary effects associated with certain conduct in alcoholic beverage establishments, which effects have been presented in hearings and in reports made available to the City Council, and on findings, interpretations, and narrowing constructions incorporated in numerous cases, including, but not limited to City of Littleton v. Z.J. Gifts D-4, L.L.C., 541 U.S. 774 (2004); City of Los Angeles v. Alameda Books, Inc., 535 U.S. 425 (2002); City of Erie v. Pap's A.M., 529 U.S. 277 (2000); City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986); Young v. American Mini Theatres, 427 U.S. 50 (1976); Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991); California v. LaRue, 409 U.S. 109 (1972); N.Y. State Liquor Authority v. Bellanca, 452 U.S. 714 (1981); Sewell v. Georgia, 435 U.S. 982 (1978); FW/PBS, Inc. v. City of Dallas, 493 U.S. 215 (1990); City of Dallas v. Stanglin, 490 U.S. 19 (1989); and*

Flanigan's Enters., Inc. v. Fulton County, 596 F.3d 1265 (11th Cir. 2010); Peek-a-Boo Lounge v. Manatee County, 630 F.3d 1346 (11th Cir. 2011); Daytona Grand, Inc. v. City of Daytona Beach, 490 F.3d 860 (11th Cir. 2007); Jacksonville Property Rights Ass'n, Inc. v. City of Jacksonville, 635 F.3d 1266 (11th Cir. 2011); Artistic Entertainment, Inc. v. City of Warner Robins, 331 F.3d 1196 (11th Cir. 2003); Artistic Entertainment, Inc. v. City of Warner Robins, 223 F.3d 1306 (11th Cir. 2000); Williams v. Pryor, 240 F.3d 944 (11th Cir. 2001); Williams v. A.G. of Alabama, 378 F.3d 1232 (11th Cir. 2004); Williams v. Morgan, 478 F.3d 1316 (11th Cir. 2007); Gary v. City of Warner Robins, 311 F.3d 1334 (11th Cir. 2002); Ward v. County of Orange, 217 F.3d 1350 (11th Cir. 2002); Boss Capital, Inc. v. City of Casselberry, 187 F3d 1251 (11th Cir. 1999); David Vincent, Inc. v. Broward County, 200 F.3d 1325 (11th Cir. 2000); Sammy's of Mobile, Ltd. v. City of Mobile,

140 F.3d 993 (11th Cir. 1998); Lady J. Lingerie, Inc. v. City of Jacksonville, 176 F.3d 1358 (11th Cir. 1999); This That And The Other Gift and Tobacco, Inc. v. Cobb County, 285 F.3d 1319 (11th Cir. 2002); DLS, Inc. v. City of Chattanooga, 107 F.3d 403 (6th Cir. 1997); Grand Faloon Tavern, Inc. v. Wicker, 670 F.2d 943 (11th Cir. 1982); International Food & Beverage Systems v. Ft. Lauderdale, 794 F.2d 1520 (11th Cir. 1986); 5634 E. Hillsborough Ave., Inc. v. Hillsborough County, 2007 WL 2936211 (M.D. Fla. Oct. 4, 2007), aff'd, 2008 WL 4276370 (11th Cir. Sept. 18, 2008) (per curiam); Fairfax MK, Inc. v. City of Clarkston, 274 Ga. 520 (2001); Morrison v. State, 272 Ga. 129 (2000); Flippen Alliance for Community Empowerment, Inc. v. Brannan, 601 S.E.2d 106 (Ga. Ct. App. 2004); Oasis Goodtime Emporium I, Inc. v. DeKalb County, 272 Ga. 887 (2000); Chamblee Visuals, LLC v. City of Chamblee, 270 Ga. 33 (1998); World Famous Dudley's Food & Spirits, Inc. v. City of College Park, 265 Ga. 618 (1995); Airport Bookstore, Inc. v. Jackson, 242 Ga. 214 (1978); Imaginary Images, Inc. v. Evans, 612 F.3d 736 (4th Cir. 2010); LLEH, Inc. v. Wichita County, 289 F.3d 358 (5th Cir. 2002); Ocello v. Koster, 354 S.W.3d 187 (Mo. 2011); 84 Video/Newsstand, Inc. v. Sartini, 2011 WL 3904097 (6th Cir. Sept. 7, 2011); East Brooks Books, Inc. v. Shelby County, 588 F.3d 360 (6th Cir. 2009); Entm't Prods., Inc. v. Shelby County, 588 F.3d 372 (6th Cir. 2009); Sensations, Inc. v. City of Grand Rapids, 526 F.3d 291 (6th Cir. 2008); World Wide Video of Washington, Inc. v. City of Spokane, 368 F.3d 1186 (9th Cir. 2004); Ben's Bar, Inc. v. Village of Somerset, 316 F.3d 702 (7th Cir. 2003); H&A Land Corp. v. City of Kennedale, 480 F.3d 336 (5th Cir. 2007); Hang On, Inc. v. City of Arlington, 65 F.3d 1248 (5th Cir. 1995); Fantasy Ranch, Inc. v. City of Arlington, 459 F.3d 546 (5th Cir. 2006); Illinois One News, Inc. v. City of Marshall,

477 F.3d 461 (7th Cir. 2007); G.M. Enterprises, Inc. v. Town of St. Joseph, 350 F.3d 631 (7th Cir. 2003); Richland Bookmart, Inc. v. Knox County, 555 F.3d 512 (6th Cir. 2009); Bigg Wolf Discount Video Movie Sales, Inc. v. Montgomery County, 256 F. Supp. 2d 385 (D. Md. 2003); Richland Bookmart, Inc. v. Nichols, 137 F.3d 435 (6th Cir. 1998); Spokane Arcade, Inc. v. City of Spokane, 75 F.3d 663 (9th Cir. 1996); City of New York v. Hommes, 724 N.E.2d 368 (N.Y. 1999); Taylor v. State, No. 01-01-00505-CR, 2002 WL 1722154 (Tex. App. July 25, 2002); Fantasyland Video, Inc. v. County of San Diego, 505 F.3d 996 (9th Cir. 2007); Gammoh v. City of La Habra, 395 F.3d 1114 (9th Cir. 2005); Starship Enters. of Atlanta, Inc. v. Coweta County, No. 3:09-CV-123, R. 41 (N.D. Ga. Feb. 28, 2011); High Five Investments, LLC v. Floyd County, No. 4:06-CV-190, R. 128 (N.D. Ga. Mar. 14, 2008); 10950 Retail, LLC v. Fulton County, No. 1:06-CV-1923, R. 62 Order (N.D. Ga. Dec. 21, 2006); 10950 Retail, LLC v. Fulton County, No. 1:06-CV-1923, R. 84 Contempt Order (N.D. Ga. Jan. 4, 2007); Z.J. Gifts D-4, L.L.C. v. City of Littleton, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001); People ex rel. Deters v. The Lion's Den, Inc., Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005); Reliable Consultants, Inc. v. City of Kennedale, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005);

and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas - 1986; Indianapolis, Indiana - 1984; Garden Grove, California - 1991; Houston, Texas - 1983, 1997; Phoenix, Arizona - 1979, 1995-98; Tucson, Arizona – 1990; Chattanooga, Tennessee - 1999-2003; Los Angeles, California - 1977; Whittier,

California - 1978; Spokane, Washington - 2001; St. Cloud, Minnesota - 1994; Littleton, Colorado - 2004; Oklahoma City, Oklahoma - 1986; Dallas, Texas - 1997; Ft. Worth, Texas – 2004; Kennedale, Texas – 2005; Greensboro, North Carolina - 2003; Amarillo, Texas - 1977; Jackson County, Missouri – 2008; Louisville, Kentucky – 2004; New York, New York Times Square - 1994; the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota); Dallas, Texas – 2007; "Rural Hotspots: The Case of Adult Businesses," 19 Criminal Justice Policy Review 153 (2008); "Correlates of Current Transactional Sex among a Sample of Female Exotic Dancers in Baltimore, MD," Journal of Urban Health (2011); "Stripclubs According to Strippers: Exposing Workplace Sexual Violence," by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota; Fulton County, Georgia – 2001; "Sexually Oriented Businesses: An Insider's View," by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000; Memphis, Tennessee – 2005-11; and Assorted Reports Concerning Secondary Effects,

the City Council finds:

(1) Nudity, partial nudity, conduct by bikini-clad persons, and/or sexual conduct coupled with alcohol in public places begets negative secondary effects, including sexual, lewd, lascivious, and salacious conduct among patrons and employees resulting in violation of laws and in dangers to the health, safety and welfare of the public;

(2) *Physical contact between employees of alcoholic beverage establishments, including "bed" dances, "couch" dances, and "lap" dances as they are commonly called, are associated with and can lead to illicit sexual activities, including masturbation, lewdness, and prostitution, as well as other negative effects, including sexual assault;*

(3) *The City finds that the foregoing conduct, even when said employees are technically not nude or semi-nude as defined in other portions of Doraville City regulations, is substantially similar to and presents similar concerns as conduct by nude and semi-nude performers in sexually oriented businesses;*

(4) *Each of the negative effects targeted by this section constitutes a harm which the City has a substantial government interest in preventing and/or abating. This substantial government interest in preventing such negative effects, which is the City's rationale for this section, exists independent of any comparative analysis between the regulated establishments and other, non-regulated establishments. The City finds that the cases and secondary effects documentation relied on in this section are reasonably believed to be relevant to the City's interest in preventing illicit sexual behavior.*

The City hereby adopts and incorporates herein its stated findings and legislative record related to adverse secondary effects, including the judicial opinions and reports related to such secondary effects.

(c) *On-premises conduct. No licensee, as defined in this Chapter, shall knowingly violate the following regulations or knowingly or recklessly allow an employee or any other person to violate the following regulations:*

(1) No person shall engage in masturbation, sexual intercourse, fellatio, cunnilingus, sodomy, bestiality, or flagellation on the licensed premises.

(2) No employee shall knowingly touch, engage in physical contact with, caress, or fondle the breast, buttocks, lap, pubic region, or genitals of a patron, whether directly or through clothing or other covering, on the licensed premises.

(3) No patron shall knowingly touch, engage in physical contact with, caress, or fondle the breast, buttocks, lap, pubic region, or genitals of an employee, whether directly or through clothing or other covering, on the licensed premises.

(4) No employee shall expose his or her genitals, pubic hair, buttocks, natal cleft, perineum, anus, vulva, or the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point (except that the exposure of the cleavage of the female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel is not prohibited) to a patron on the licensed premises. This subsection (4) does not apply to conduct in theaters, concert halls, art centers, museums, or similar establishments that are primarily devoted to the arts or theatrical performances, when the performances that are presented are expressing matters of serious literary, artistic, scientific, or political value. The exception in the previous sentence shall not be

construed to apply to any sexually oriented business as defined in the Doraville Code of Ordinances.

(d) *Employee, for purposes of this section, means any person who regularly performs any service on the licensed premises on a full-time, part-time, or contract basis, regardless of whether the person is denominated an employee, independent contractor, lessee, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.*

(d) *Severability. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this section, or the application thereof to any person or circumstance is held to be invalid, then the remaining provisions and the application of such provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that the provisions would have been passed independently of such provision so known to be invalid. Should any procedural aspect of this chapter be invalidated, such invalidation shall not affect the enforceability of the substantive provisions of this section.*

Section 2

a. It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

b. It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of

this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section paragraph, sentence, clause or phrase of this Ordinance.

c. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section 3

All ordinances or parts of ordinances in conflict herewith are hereby expressly repealed.

Section 4

This Ordinance shall be codified in accordance with state law and the Code of the City of Doraville, Georgia. This Ordinance shall become effective upon adoption.

SO ORDAINED, this _____ day of _____, 2013.

CITY OF DORAVILLE, GEORGIA

_____
Mayor

First Reading

Second Reading

ATTEST:

APPROVED AS TO FORM:

_____(SEAL)

Acting City Clerk

_____

Cecil G. McLendon, Jr., City Attorney

	Yea	Nay
Maria Alexander	☐	☐
Brian Bates	☐	☐
Pam Fleming	☐	☐
Karen Pachuta	☐	☐
Trudy Jones Dean	☐	☐
Robert Patrick	☐	☐

the city of Doraville℠
DIVERSITY | VITALITY | COMMUNITY

AGENDA ITEM REQUEST SHEET
April 3, 2013

Subject: **Proclamation Presentation Mr. Patrick Ewe of Sweet Hut**

Regular	■
Work Session	□
Recommendation	□
Policy/Discussion	□
Report	□
Ceremonial	■
Other	□

Date of Meeting: **April 15, 2013**

Budget Impact: □ Yes ■ N/A

Budget Impact Amount: N/A

Funding Source:

- □ Annual
- □ Capital
- □ Grant(s)/ Technical Assistance
- □ N/A

Department: Administrative

Department Head: Mayor

Action Requested: Beginning this month, the Mayor will be presenting proclamations to a "Business of the Month." Mr. Ewe, owner of Sweet Hut (a bakery and coffee shop located in Asian Square), has heeded resident desires for such an establishment. Mr. Ewe is also leading efforts to redevelop the aging shopping district. Each month an outstanding business owner will be showcased in order to demonstrate the City's appreciation.

Respectfully,

S/ Luke Howe
Assistant to the Mayor

THE CITY OF DORAVILLE
AGENDA ITEM SHEET and REPORT

Subject: Special Use Permit (Conditional Use Permit) for New for new Cell Tower at 5788 South Peachtree Road represented by David Kirk, Esq. Troutman Sanders LLP for TowerCom V, LLC

Regular Meeting ☒
Work Session ☐
Recommendation ☐

Date of Meeting: 4/15/13

Policy/Discussion ☐
Report ☐
Other ☐

Budget Impact: ☐ Yes ☒ No

Budget Impact Amount: $ n/a

Funding Source:

- ☐ Annual
- ☐ Capital
- ☒ N/A

CITYOFDORAVILLE CITYOFDORAVILLE CITYOFDORAVILLE CITYOFDORAVILLE CITYOFDORAVILLE

Action Requested: Applicant is requesting a conditional use permit to install a telecommunications tower at 5788 S. Peachtree Road, Doraville, GA.

History, Facts, Issues:

This application is for a new telecommunications tower approximately 84 feet in height on property currently zoned M-2 at 5788 S. Peachtree Road. Said property is owned by Cobalt Properties LLC and The property is located in the M-2 zoning district on the north side of South Peachtree Road and south of the Southern rail lines. Property to the east and west are both zoned M-2. The property south of South Peachtree Road located at the intersection of South Peachtree and New Peachtree Road is zoned M-2. The property further south across New Peachtree Road is zone R-3 (Shallowford Garden Apartments). (see attached zoning map and aerial photos).

Telecommunication towers are allowed as a permitted us in the M-2 Heavy Manufacturing zoning district, but that such tower shall be set back from any existing off-site residence a distance of not less than five hundred (500) feet from the property line of such residence. The proposed tower is located approximately 263 feet from parcel number 18 310 02 007 (Shallowford Garden Apartments) and hence requires a Special Use Permit. The tower is approximately 84 feet in height and to be located between the existing building on the site and the rail lines to the north. The Applicant has provided the documents required for the application and has received a Certificate of No Hazard to Air Navigation from the FAA which is attached.

When considering an application for a CUP, the Planning Staff, Planning Commission, Mayor, and City Council shall evaluate the impact of the proposed conditional use on and its compatibility with surrounding properties and residential areas to ensure the appropriateness of the use at the particular location, and shall consider the extent to which:

(1) The proposed use at the specified location is consistent with the policies embodied in the adopted comprehensive plan;

The property is identified as being in the Industrial Character Area of the comprehensive plan and in the Mixed Use Redevelopment Opportunity area of the Future Development Map of the Comprehensive Plan. The Comprehensive Plan does not address locations for telecommunication towers as a use. Locations are, however, addressed within the zoning district regulations.

(2) The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;

As per City of Doraville code, telecommunication towers are a permitted use in the M-2 zoning district, however, if within 500 feet of a residentially zoned property they are an allowed use by Special Use Permit (conditional use permit).

(3) The proposed use is compatible with and preserves the character and integrity of adjacent developments and neighborhoods, and includes improvements either on-site or within the public rights-of-way to mitigate development related adverse impacts, such as traffic, noise, odors, visual nuisances, drainage or other similar adverse effects to adjacent developments and neighborhoods;

The proposed use is within an existing area of automotive sales, repair shops and other uses allowed in the M-2 zoning district. It is located in a triangle formed by S. Peachtree Road, to the dead end of S. Peachtree Road and the Southern Rail railroad tracks. The proposed location of the tower and the associated ground-level equipment would not be visible from S. Peachtree Road in that they are behind the existing used car dealership building. The Applicant has provided photo simulations of views of the tower from various locations in the surrounding area addressing the visual impact of the tower.

(4) The proposed use does not generate pedestrian and vehicular traffic which will be hazardous or conflict with the existing and anticipated traffic in the neighborhood;

The proposed use does not generate an increase of vehicular or pedestrian traffic other than occasional maintenance trucks.

(5) The proposed use incorporates roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development generated traffic on neighborhood streets;

No additional adjustments are foreseen based upon the size and intensity of use.

(6) The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed conditional use on adjacent properties; and the proposed use meets the standards for the zoning district, or to the extent variations from such standards have been requested, that such variations are necessary to render the use compatible with adjoining development and neighborhoods.

The Applicant has provided photo simulations of the tower as proposed from different locations in the surrounding area.

(7) The proposed use is based on the site plan in conformity with all space limits, buffers, parking and loading provisions, and other provisions of this article.

The proposed use meets all development requirements, but must obtain a CUP in that it is within 500' of a residentially zoned property as per code.

(8) **The proposed use applicant has agreed to any specific limitations or conditions necessary to protect the public interest and assure the continued beneficial use and enjoyment of nearby properties or that no special limitations are necessary to protect the public.**

No specific limitations or CUP conditions have been recommended by Staff.

Planning Commission Recommendation: Approval of Conditional Use Permit: 2 in favor, 1 opposed.

Staff Recommendation: The application meets all code development requirements but must obtain a CUP to insure no negative impacts will be incurred to the residentially zoned properties within 500 feet of the tower. Staff has found no significant negative impact to the apartment complex within the 500 distance. It is well outside of the potential fall zone of the 84' tower, across two streets (S. Peachtree Rd and New Peachtree Rd.), and the orientation of the apartment complex building is away from New Peachtree Road and the proposed tower site. The ground-level equipment will not be visible from the road in that it is located behind the existing commercial structure. The tower may be visible from uses on the GM site as it is redeveloped, but we do not have any specific development plans under consideration for the GM site at this time. Staff recommends approval of the Conditional Use Permit.

Department: Planning & Development **Department Head:** Joe Cooley

Action Taken By Council: _____

_____

Michael F. Plahovinsak, P.E.

October 8, 2012

TowerCom
2870 Peachtree Rd., Suite 839
Atlanta, GA 30305

Attn: Chip Bulloch

Re: Proposed 80-ft Monopole
Located in Dekalb Co., GA: Site SRDORA - Doraville
MFP #23512-363 / TAPP 12-1752

Dear Mr. Bulloch:

I understand that there may be some concern on the part of local building officials regarding the potential for failure of the proposed communication monopole. Communication structures are designed in accordance with the Telecommunications Industry Association ANSI/TIA-222-G, "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures".

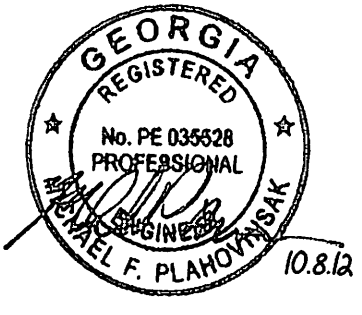
I have designed this monopole to withstand a basic wind speed of 90 mph as recommended by ANSI/TIA-222-G for Dekalb County. The design also conforms to the requirements of the 2006-2009 International Building Code.

This monopole has been intentionally designed to accommodate a theoretical fall radius. The upper 48' of the pole has been designed to meet the wind loads of the design, however, the lower portion of the pole has been designed with a minimum 10% extra capacity. Assuming the pole has been fabricated according to our design and well maintained, in the event of a failure due to extreme wind and a comparable appurtenance antenna loads (winds in excess of the design wind load), it would yield at the 32' elevation, resulting in a maximum 48' fall radius.

The structure has been designed with all of the applicable factors as required by the code. Communication poles are safe structures with a long history of reliable operation.

I hope this review of the monopole design has given you a greater degree of comfort regarding the design capacity inherent in pole structures. If you have any additional questions please call me at 614-398-6250 or email *mike@mfpeng.com*.

Sincerely,



Michael F. Plahovinsak, P.E.
Professional Engineer

18301 State Route 161 - Plain City, OH 43064
(614) 398-6250 - mike@mfpeng.com

EXHIBIT H

AIRSPACE®

Site ID Number: Doraville

AERONAUTICAL IMPACT

FAR Part 77 Subpart-C Obstruction Standards

The height of the Proposed structure will exceed obstruction standards as defined by FAR Part 77.17(a)(1), 77.17(a)(2) or 77.19. To avoid delays and aeronautical impact reduce requested height.

Terminal Instrument Procedure Standards - FAR Part 77.17(a)(3)

An adverse impact with a US Terminal Approach or Departure Procedure has been identified.

Minimum Obstacle Clearance Altitude (MOCA) - FAR Part 77.17(a)(4)

The proposed structure is located within a low altitude airway area. The maximum allowable height is Max Height: 2100 ft AMSL.

VFR Traffic Pattern Airspace

The proposed structure is located within a VFR Traffic Pattern Airspace. The maximum allowable height is 1193 ft AMSL.

FCC Licensed AM Broadcast Station Proof-of-Performance

The proposed structure is not located within the specified range of an FCC Licensed AM radio and will not require Proof-of-Performance analysis.

Date Printed: 09-20-2012

AIRSPACE®

Site ID Number: Doraville

LANDING FACILITY INFORMATION

The nearest public use landing facility to the proposed location is:
DEKALB-PEACHTRE (Ident: PDK)

The distance to the nearest runway of this landing facility is 5999 feet or 1.1 statute miles. The true bearing is 209.74° to this landing facility.

Private landing facilities are exempt from review by the FAA under FAR Part 77. However, locating near a private landing facility may affect aircraft operations during take-off and landing.

The nearest private landing facility is: GA52: SAIN
The proposed structure is located 20051 feet or 3.8 statute miles.
The true bearing to this landing facility is 283 degrees.

The proposed structure is not within 3 nautical miles (3.45 statute miles) of the private landing facility. The likely hood of adverse impact to aircraft operations at the private facility is remote.

FAA NOTICE REQUIREMENTS

Notice to the FAA is required for the following reasons:

The proposed structure exceeds a slope begining at the runway and extending towards the proposed structure. The airport runway elevation, the structure's total elevation above mean sea level (AMSL), the distance between the runway and the proposed structure and the airport slope (100:1 or 50:1) are the factors considered during the calculations. This requirement is specified in FAR Part 77.9(b). The maximum height permitted by this FAR is 1042 feet AMSL.

The proposed structure is located within an instrument procedure area used by aircraft during landings and take-offs. If the FAA had knowledge of the proposed structure within an instrument procedure area they would require notification to determine Instrument Flight Rules (IFR) impact. This requirement is specified under FAR Part 77.9 IFR criteria.

Date Printed: 09-20-2012

AIRSPACE®

Site ID Number: Doraville

AERONAUTICAL RECOMMENDATIONS

Notice to the FAA is mandatory.

Proposed structure is located within a FAA defined terminal procedure area. By law FAA Form 7460-1 must be filed with the Federal Aviation Administration a minimum of 45 days prior to the start of construction. However, we recommend 60 days before the planned construction start date.

TERPS® analysis has been completed for the proposed site. The maximum allowable height identified is 1131 feet AMSL based upon the Departure Surface at PDK: Atlanta/Dekalb-Peachtree Airport.

The height of the proposed structure will exceed obstruction standards. The FAA will require an extended study to determine the aeronautical impacts. The maximum not to exceed height is 1147 feet AMSL based upon the Approach Surface at PDK: Atlanta/Dekalb-Peachtree Airport.

Marking and Lighting of the proposed structure is required.

Possible IFR flight operations impact with a low altitude federal airway.

Possible VFR Traffic Pattern operations impact.

No Potential FCC Licensed AM Broadcast Station interference identified.

Date Printed: 09-20-2012

EXHIBIT G

AIRSPACE®

Federal Aviation Regulations Part 77 Sub-Part C
Obstruction Analysis Report

TowerCom
Chip Bulloch
2870 Peachtree Rd, Suite 839
Atlanta, GA 30305

E-mail: chipbulloch@gmail.com
Phone: 4049317328 Fax:2396560881

Site Identification: Doraville
Nearest City: Doraville, GA

Site Information (Coordinate Datum - NAD83)

Latitude:	33° - 53' - 52.82"	**Decimal Degrees:** 33.8980055555556°
Longitude:	84° - 17' - 11.63"	**Decimal Degrees:** 84.2865638888889°
Ground Elevation:	1062 feet AMSL	
Structure Height:	85 feet AGL	
Overall Height:	1147 feet AMSL	

FAA Number: Null
Airspace Study #: 2012-APS-1422-OE

Analyzed on: 11/13/2012. Using Airspace® 2012.11.190. Airspace® Data Date: 11/15/2012

This Airspace Analysis was completed under all obstacle evaluation rules specified in Federal Aviation Regulations (FAR) Part 77 sub-Part C.

Approved,

Candice M Koenig, Airspace Consultant
Federal Airways & Airspace®
1423 S. Patrick Dr.
Satellite Beach, FL 32937
(321)777-1266

Clyde J Pittman, Aerospace Engineeer

AEROSPACE ENGINEER AIRSPACE FA&A TERPS® CLYDE J. PITTMAN

Date Printed: 11-13-2012

Exhibit "D"

Existing Coverage with Proposed TowerCom Site

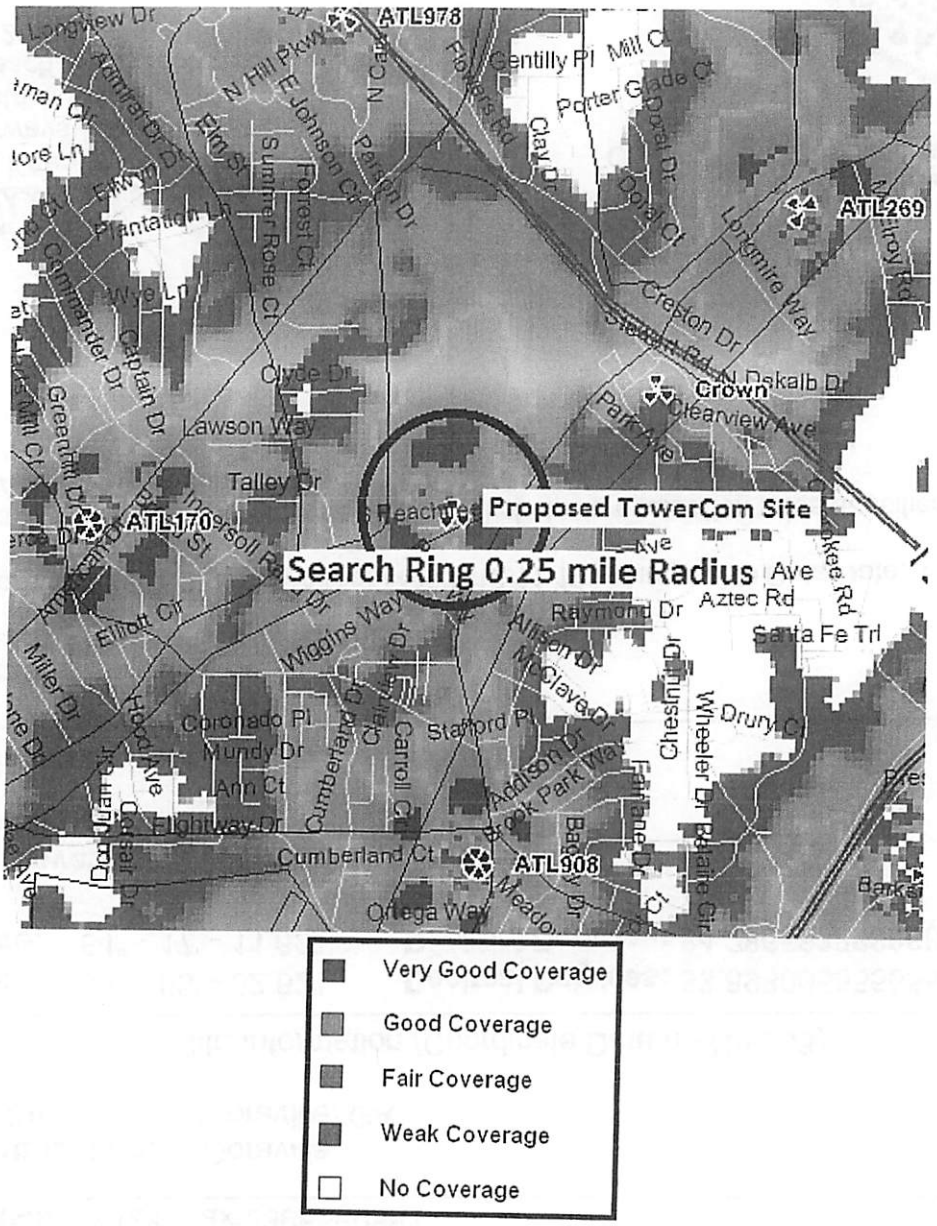


Exhibit "C"

Existing Coverage with Crown Site

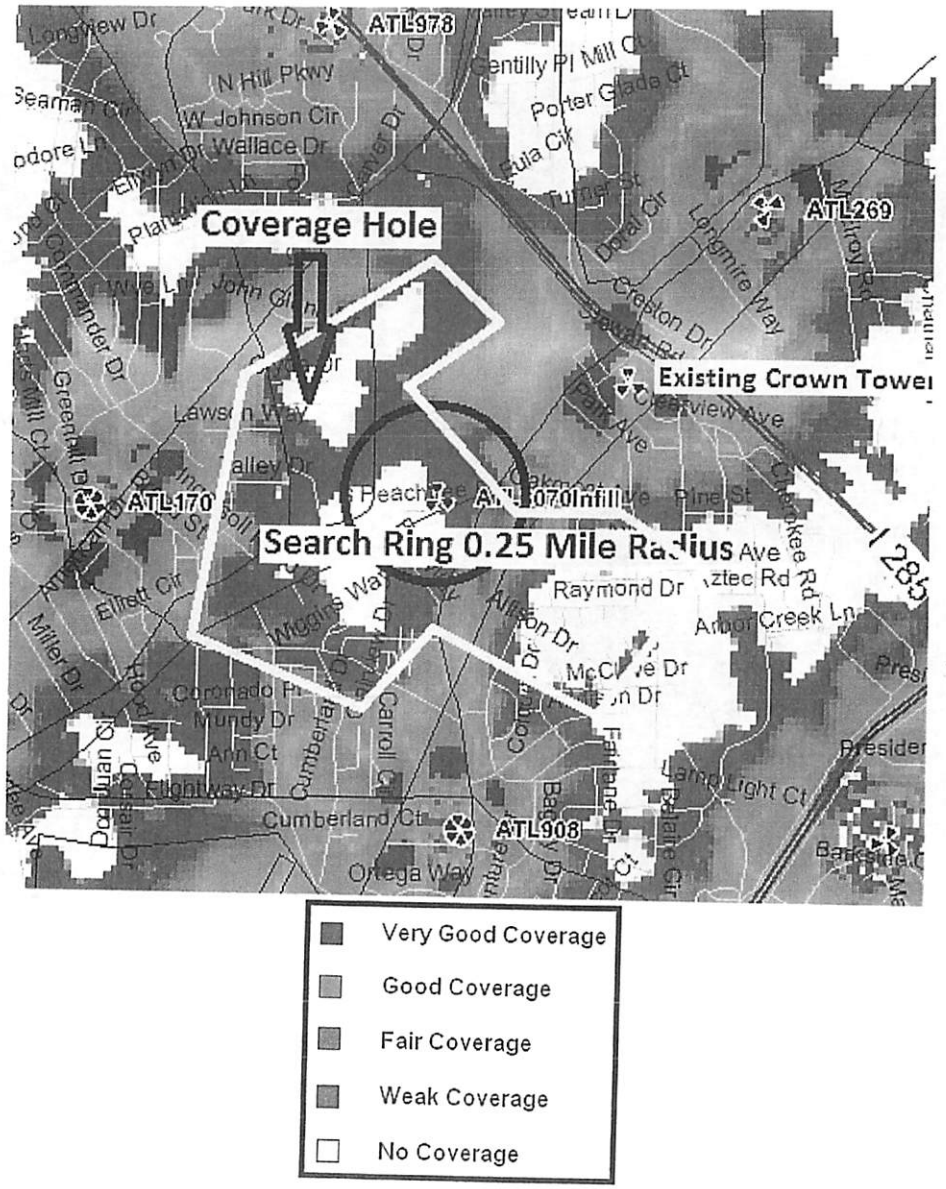
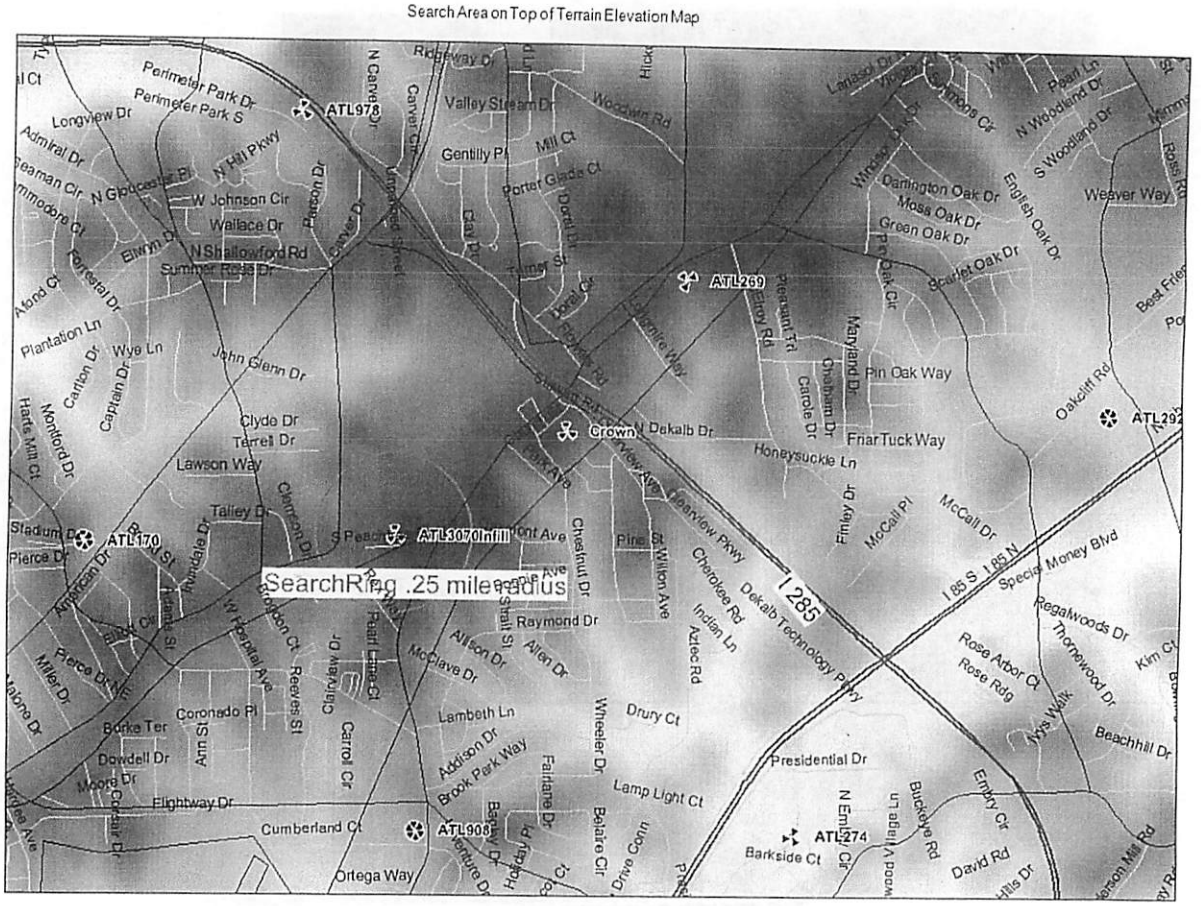


Exhibit "B"

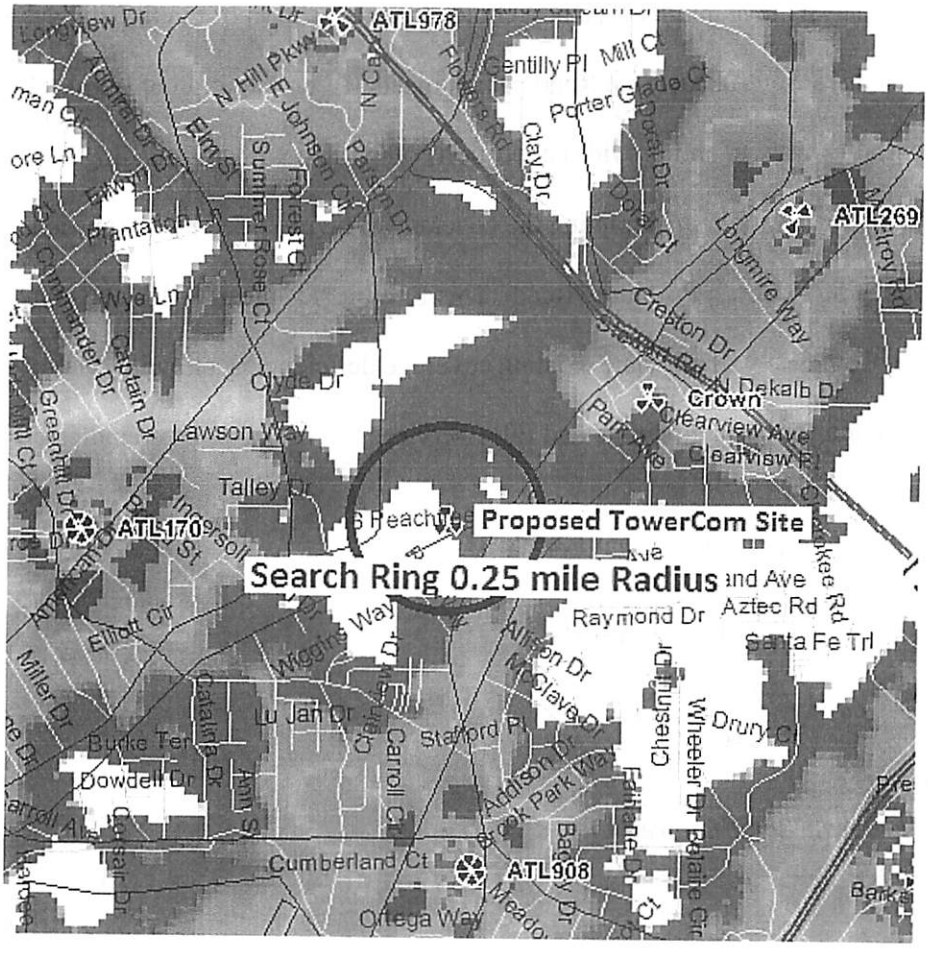
Search Area on Top of Terrain Elevation Map



ATL3070

Exhibit "A"

Existing MetroPCS Coverage Without Proposed Site



Further analysis revealed that the best choice for the location of the facility is the proposed Site at 5578 South Peachtree Road, which meets RF propagation objectives by its location in central Doraville, and provides a location compatible with surrounding land use. Exhibit "D" is a propagation map depicting the coverage to be provided by a proposed TowerCom Site at 5578 South Peachtree Road. This Exhibit "D" clearly illustrates that the proposed TowerCom Site will alleviate existing coverage deficiencies, allowing MetroPCS to meet market demand for basic coverage and E911 services (on the map, green indicates good coverage).

Respectfully submitted,

Karen Albregts
Manager Radio Frequency Engineering
MetroPCS Georgia

- Aesthetic impact
- Compatibility with existing land use
- Site constructability
- Suitability to meet RF propagation objectives
- Willingness of landowner to lease land

As a general rule, MetroPCS first looks to determine whether there are existing structures on which it may collocate its facilities. In this 0.25 mile search ring, there were no usable communications towers, and no towers within two miles of the search area target will provide adequate coverage for MetroPCS in this area. We were unable to find any viable tall structures on which to locate, such as water tanks or existing buildings.

4.

The only existing telecommunications tower that MetroPCS is not already on that is within 0.75 mile radius of the desired centerpoint of our search ring is located at the intersection of Stewart Avenue and Church Drive, approximately 0.63 miles east of our desired center location. This location is owned by Crown Tower Company, tower ID 874782. MetroPCS analyzed this location as a potential collocation, but this location would not provide adequate services to the target area. This tower is located outside of our 0.25 mile search ring. Distance and terrain (with foliage) would prevent signals from providing adequate coverage for this area. This location would not provide needed capacity relief to the MetroPCS cell sites on the southern and western sides of this area. Attached is Exhibit "C", a map of coverage with this Crown site indicating how the site does not cover South Peachtree Road, New Peachtree Road, and the surrounding areas (the gap is reflected by the areas in red and blue; the green indicates good coverage).

City of Doraville, Georgia
Application for Approval of Telecommunications Tower
Site Location: 5578 South Peachtree Road

RADIO FREQUENCY ANALYSIS

This document contains a radio frequency analysis performed by metroPCS, LLC of GA to determine the most effective way to provide wireless 3G CDMA and 4G LTE coverage to the primarily residential areas along Shallowford Road, New Peachtree Road, and Buford Highway in Doraville, Georgia, where MetroPCS currently has poor voice and data coverage due to high use and lack of suitable facilities. This area has been the source of many customer complaints, and is a concern for residents who may need to use E911 services, using wireless facilities only.

2.

Attached (as Exhibit "A") is a propagation map reflecting the large gap in MetroPCS's existing coverage of this area (the gap is reflected by the areas in red and blue; the green indicates good coverage). The primary areas of concern are the residential (as well as industrial and commercial) areas within approximately a 0.5 mile radius in all directions from the intersection of South Peachtree Road and New Peachtree Road.

3.

The proposed location for the tower was selected based upon a comprehensive analysis of the search ring included (as Exhibit "B"). The search ring depicts, on a map, the desired centerpoint and the 0.25 mile radius in which the proposed facility should be located in order to meet defined coverage objectives required by MetroPCS's network. In analyzing the search ring to select the proposed Site, we assessed the following factors for each candidate considered:

EXHIBIT F

Letter of Intent / Description of Project (continued)

c. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large wooded lots, natural growth around the property perimeter may be a sufficient buffer.

The proposed facility is designed to meet this design criterion.

We believe that the information provided in this Letter of Intent together with the documentation provided in our SUP Application, demonstrates that our proposed development meets all the aspects and intent of the City's Ordinance. We respectfully request your approval of our petition to receive a Special Use Permit to allow the development of this needed Wireless Telecommunications Facility.

Sincerely,

Wireless Vision, LLC

Letter of Intent / Description of Project (continued)

been the source of many customer complaints, and is a concern for residents who may need to use E911 services.

(5) Setbacks and separation: The following setbacks and separation requirements shall apply to all towers and antennas for which a special use permit is required, provided, however, that the governing authority may reduce the standard setbacks and separation requirements if the goals of this section would be better served thereby.

a. Towers must be set back a distance equal to the height of the tower from any off-site residential structure.

b. Towers, guys, and accessory facilities must satisfy the minimum zoning district setback requirements.

c. In zoning districts other than industrial or heavy commercial zoning districts, towers over ninety (90) feet in height shall not be located within one-quarter (1/4) of a mile from any existing tower that is over ninety (90) feet in height.

The height of the proposed tower is eight-five (85') feet and will be located 3 times the tower height form the closest residential property line (Shallowford Gardens Apartments to the South) and will satisfy all zoning district setback requirements. Finally, because this tower is less than 90 feet in height, the separation requirements do not apply.

(6) Security fencing: Towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device; provided, however, that the governing authority may waive such requirements, as it deems appropriate.

The Proposed facility is designed to meet this design criterion.

(7) Landscaping: The following requirements shall govern the landscaping surrounding tower for which a special use permit is required; provided, however, that the governing authority may waive such requirements if the goals of this section would be better served thereby.

a. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound form adjacent residential property. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.

b. In location where the visual impact of the tower would be minimal, the landscaping requirements may be reduced or waived altogether.

within the boundaries of the Parent Tract. This will limit any danger to the adjoining property owners.

The proposed means of ingress and egress is shown on the zoning drawings which accompany our SUP application. We will discuss further in the next section why no other available tower or structure is suitable and we have provided the non-refundable filing fee.

(4) Availability of suitable existing towers and other structures: No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the governing authority that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:

a. No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements.

b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.

c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna

e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to unreasonable.

f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

As provided in MetroPCS' radio frequency analysis, no other existing facilities in this area meet the engineering needs of MetroPCS in providing wireless 3G DDMA and 4G LTE coverage to the primarily residential areas along Shallowford Road, New Peachtree Road, and Buford Highway in Doraville, Georgia. MetroPCS currently has poor voice and data coverage in the listed areas. This area has

Letter of Intent / Description of Project (continued)

In regards to the above Subsection (2), we have provided all the requested information and would be pleased to provide any additional information that may assist City Staff or the Council in reviewing our application.

(3) Factors considered in granting special use permits: The governing authority shall consider the following factors in determining whether to issue a special use permit, although the governing authority may waive or reduce the burden on the applicant of one (1) or more of these criteria if the governing authority concludes that the goals of this section are better served thereby.

a. Height of the proposed tower;

b. Proximity of the tower to residential structures and residential district boundaries;

c. Name of uses on adjacent and nearby properties;

d. Surrounding topography;

e. Surrounding tree coverage and foliage;

f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

g. Proposed ingress and egress;

h. Availability of suitable existing towers and other structures as discussed in subsection (f)(4) of this section; and

i. Each applicant for a special use permit shall pay a nonrefundable filing fee of five hundred dollars ($500.00) in addition to any other fees required by the Doraville Zoning Ordinance.

In regards to the above Subsection (3), we have met the height requirements of the zoning ordinance by designing a proposed tower at 85 feet in height. The proposed tower structure is located 3 times the tower height away from any residential property line which meets the standards set-forth below in Subsection (5)a.. We have described the adjacent uses on the surrounding properties and believe that we are suitably located for the development of the proposed Wireless Telecommunications Facility. We have addressed topographic features as well as surrounding tree coverage and foliage in the documents provided with our application. We have demonstrated that, in the extraordinarily rare event of a catastrophic failure of the proposed tower structure, the tower structure will fall

Letter of Intent / Description of Project (continued)

a. If the tower or antenna is not a permitted use under subsection (d) of this section or permitted to be approved administratively pursuant to subsection (e) of this section, then a special use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts.

   While the proposed tower is more than 3 times its height away from residential property it does not meet the 500' separation required for administrative approval.

b. In granting a special use permit, the governing authority may impose conditions to the extent the governing authority concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.

   The applicant is willing to discuss reasonable conditions relating to the proposal.

c. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical shall be certified by a licensed professional engineer.

   All such information is appropriately certified.

In regards to all areas of the above Subsection (1), we meet all the required criteria.

(2) Information requested: Each applicant requesting a special use permit under this section shall submit a scaled site plan and a scaled elevation view and other supporting drawings, calculations, and other documentation, signed and sealed by appropriate licensed professionals, showing the location and dimensions of all improvements, including information concerning topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses, and other information deemed by the governing authority to be necessary to assess compliance with this section.

WIRELESS VISION L.L.C.

P.O. Box 1100, Boone, North Carolina 28607
OFF: (828) 297-3333 **FAX:** (828) 297- 9696

Site Development Services

TowerCom-V

SRDORA
Wireless Telecommunications Facility

Letter of Intent / Project Description

December 5, 2012

On behalf of TowerCom V, LLC (the "Applicant") this letter and the accompanying documentation respectfully requests the City of Doraville's approval of a Special Use Permit for the construction of a wireless telecommunication facility which includes the erection of an eight-five (85) foot antenna tower located at 5788 New Peachtree Road, Doraville, Georgia 30340. The proposed facility will be designed for the co-location of up to three users. The anchor tenant will be MetroPCS. MetroPCS has established their need to utilize the proposed facility to expand their network capacity.

The proposed development site is located in an M-2 Zoning District. Lying north of the site is a railroad right-of-way. On the north side of the rail road right-of-way lies property zoned C-1. South of the proposed site, across the New Peachtree Road right-of-way is an existing multifamily development zoned R-3. The properties to the east and west of the Parent Tract are zoned M-2.

The closest affected residential property is the multi-family apartment complex to the South across New Peachtree Road, the Shallowford Gardens Apartments. The nearest property line of the Shallowford Gardens Apartments is approximately 263 feet distance from the proposed 85' monopole tower structure.

The proposed Wireless Telecommunications Facility design meets all of the provisions of Section 23-706(f) Special Use Permits of the City's Code of Ordinances, as recited below:

(1) General: The following provisions shall govern the issuance of special use permits:

EXHIBIT E

SPECIAL USE REQUEST DESCRIPTION (continued)

If the City Council approves this request for a Special Use Permit the proposed Wireless Telecommunications Facility will provide in part for the future wireless service needs to the City of Doraville. Providing for these needs will enable enhanced wireless service within the City. The Telecommunications Act of 1996 establishes the fact that wireless telecommunications service promotes and protects the public health, safety, and general welfare of the citizens of the United States.

We assert that the approval of our request for a Special Use Permit by the City Council will not be harmful to the surrounding uses nor the residents of the City of Doraville. To the contrary, we believe, by permitting the development of the proposed wireless telecommunications co-location facility, the City will be promoting the public health, safety and general welfare of the residents of Doraville, Georgia.

WIRELESS VISION L.L.C.

P.O. Box 1100, Boone, North Carolina 28607
OFF: (828) 297-3333 **FAX:** (828) 297- 9696

Site Development Services

TOWERCOM V, LLC

SRDORA
Wireless Telecommunications Co-Location Facility

SPECIAL USE PERMIT REQUEST DESCRIPTION

TowerCom V, LLC, requests approval of a Special Use Permit to allow for the construction and operation of a wireless telecommunications co-location facility on property owned by Cobalt Properties, LLC, Zoned "M-2", Heavy Manufacturing, and located at 5578 South Peachtree Road in the City of Doraville, Georgia. The proposed development will include an 85' monopole tower structure. The proposed facility is required by MetroPCS who has a license from the Federal Government to provide needed wireless telecommunications services to the residents of Doraville, Georgia.

MetroPCS has provided documentation as a part of this application that demonstrates they have made a diligent effort to pursue the co-location of their antennas on existing structures within the prescribed Search Ring. The result of their work indicates that there are no suitable existing structures within the Search Ring that can met their engineering objectives.

The development of a wireless telecommunications facility with an 85 foot tower structure on property zoned M-2 within the City of Doraville is permitted as a Special Use in accordance with Section 23-706 (f) of Article VII, Chapter 23 of the City's Code of Ordinances.

The proposed facility meets all of the City's set back and separation criteria. The proposed monopole structure shall be designed with break point technology to insure that the proposed rear and side property line setbacks accommodate any potential tower structure collapse, however unlikely. This will insure that no risk of injury or property damage is imposed on the adjoining property owners.

Both the tower structure design, and the design of the overall facility, contains added capacity that will minimize the future proliferation of towers by providing for the co-location needs of the community. The proposed tower structure will be structurally engineered to support the co-location of as many as three (3) service provider antenna arrays. Additionally, the proposed facility will enhance the existing E-911 system in the City of Doraville. We believe our design effort is in the spirit of the City's Ordinance, and will promote harmony with the general purpose and intent of the ordinance.

EXHIBIT D

WIRELESS VISION L.L.C.

P.O. Box 1100, Boone, North Carolina 28607
OFF: (828) 297-3333 **FAX:** (828) 297- 9696

Site Development Services

December 5, 2012

Mr. Joe Cooley, AICP, Director
City of Doraville
Planning and Zoning Department
City Hall
3725 Park Avenue
Doraville, Georgia 30340

Re: Special Use Permit
Cobalt Properties, LLC
TP No.: 18-310-05-005
5578 New Peachtree Road

Dear Mr. Cooley:

Please find enclosed our application package for the above-referenced Special Use Permit which we are submitting on behalf of TowerCom V, LLC.

Included in the referenced application package are the following required and supplemental documents: a letter of intent and project description, a fall zone certification, a FAA Airspace Study, a FAA 1-A certification, a survey of the property, zoning drawings showing the proposed construction, a warranty deed of the property, a ground lease, and an owner's letter of authorization.

Thank you for your assistance with this application. Please contact David Kirk, TowerCom's legal counsel, at 404-885-3415, or me if we can provide any additional information to facilitate the City's review of our zoning application.

Very truly yours,

Wireless Vision, LLC

G.A. Muldowney
Gerald A. Muldowney, BSCE.
Project Manager

Enc.

cc: David C. Kirk, Esq.

EXHIBIT C

Deed Book 16454 Pg 218
Linda Carter
Clerk of Superior Court
DeKalb County, Georgia

EXHIBIT "A"

All that tract or parcel of land lying and being in Land Lot 310 of the 18th District of DeKalb County, Georgia, and being described as follows:

Beginning at a point which is located on the north right-of-way line of Old Peachtree Road (formerly known as South Peachtree Road), which point is 100 feet west of the intersection of said north line of said Old Peachtree Road with the northwest right of way line of New Peachtree Road; running thence in a westerly direction along said north line of said Old Peachtree Road a distance of 152.40 feet to an iron pin; running thence north 00°56' east 347.39 feet to an iron pin point on the northeast right-of-way line of the Southern Railway Company; running thence north 52°49'39" east along said northeast line of said Railway a distance of 192.55 feet to an iron pin; running thence south 00°56' west 449.80 feet to an iron pin point which is the point of beginning.

The within property is described on the plat prepared by Eston Pendley & Assoc., Inc., dated September 25, 1984, prepared for Samuel C. McEntyre.

AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of all persons whomsoever.

IN WITNESS WHEREOF, the Grantor has signed and sealed this deed, the day and year first above written.

Signed, sealed and delivered in the presence of:

Samuel C McEntyre (SEAL)
SAMUEL C. McENTYRE

Witness

Notary Public
My Commission Expires:
(Affix Notarial Seal Stamp) GA

LIVINGSTON NOTARY PUBLIC DEKALB COUNTY GA EXPIRES JULY 13, 2008

Deed Book 16454 Pg 216
Filed and Recorded Aug-05-2004 10:46am
2004-0157796
Real Estate Transfer Tax $350.00
Linda Carter
Clerk of Superior Court
Dekalb County, Georgia

SPACE ABOVE THIS LINE FOR RECORDING DATA

AFTER RECORDING RETURN TO:
Richard F. Livingston, Jr., Esq.
Chesnut, Livingston & Pye, P.C.
6485 Peachtree Ind. Blvd
Doraville, Georgia 30360
File No. 5-04-0471

WARRANTY DEED

STATE OF GEORGIA

DEKALB COUNTY

THIS INDENTURE, made as of the 29th day of July, 2004, between

SAMUEL C. McENTYRE

as party or parties of the first part, hereinafter called Grantor, and

COBALT PROPERTIES, LLC, a Georgia limited liability company

as party or parties of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration of the sum of TEN ($10.00) DOLLARS and other good and valuable consideration, in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee the following described property, to wit:

All that tract or parcel of land lying and being in Land Lot 310 of the 18th District of DeKalb County, Georgia, and being more particularly described on Exhibit "A" attached hereto and incorporated herein by reference.

This conveyance is made subject to all easements and road rights-of-way of record.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of the said Grantee forever in FEE SIMPLE.

EXHIBIT A

AGENCY AUTHORIZATION

DATE: October 12, 2012

RE: **Telecommunications Tower**

Site Name:	SRDORA "Doraville"
Site Address:	5788 New Peachtree Road, Doraville, GA 30340
County:	Fulton
Parcel ID:	18-310-05-005

TO WHOM IT MAY CONCERN:

TowerCom V, LLC a Florida limited liability company, as authorized agent for the above referenced parcel, does hereby authorize **Wireless Vision, LLC.** and its agents and/or representatives, to act on behalf of and as agent in any and all matters relating to obtaining any and all local, governmental and regulatory approvals from the City of Doraville, for placement of a telecommunications tower and related facilities on the referenced property.

By: _____

Name: Paul Bulloch JR.

Title: Vice President

STATE OF GEORGIA
COUNTY OF FORSYTH

I, the undersigned Notary Public for said County and State, do hereby certify that *Paul Bulloch, Jr*, as *Vice President* of *TowerCom V, LLC, a Florida limited liability company*, personally appeared before me this day, and acknowledged the due execution of the foregoing instrument on behalf of said company.

WITNESS my hand and notarial seal, this 13th day of October, 2012.

Notary Public: Teri Lynn Hagler

Print Name: Teri Lynn Hagler

Commission Expires: April 25, 2014

City of Doraville Planning & Development Department

OWNER'S AGENT AUTHORIZATION

Date: 11-9-2012

TYPE OF APPLICATION

( ) Land Use Plan
( ) Rezone
(x) Conditional Use Permit
( ) Minor Modification
( ) Other _____

SUBJECT PROPERTY ADDRESS

5578 South Peachtree Road Suite/Unit #_____

Doraville, Georgia 30340

Tax Parcels # 18-310-05-005

TO WHOM IT MAY CONCERN:

(I) (WE), Cobalt Properties, LLC, by Christopher Suthin, CEO
(NAME OF OWNER(S)) (print or type)

being (owner)/(owners) of the property described above or as attached hereby delegate authority to

TowerCom V, LLC; Wireless Vision, LLC and Troutman Sanders LLP
(PRINTED NAME OF APPLICANT OR AGENT REPRESENTING OWNER(S)) (print or type)

to file an application on (my) / (our) behalf.

LILLIAM MEDINA DERNEHL
NOTARY PUBLIC
DeKalb County
State of Georgia
My Comm. Expires Feb. 28, 2013

_____ Notary Public

_____ Owner
Christopher Suthin CEO

_____ Notary Public

_____ Owner

_____ Notary Public

_____ Owner

APPLICATION FOR CONDITIONAL USE PERMIT
IN THE CITY OF DORAVILLE, GEORGIA

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

In accordance with the Conflict of Interest in Zoning Act, O.C.G.A. Ch 36-67A, the following questions must be answered: Have you the applicant made $250 or more in campaign contributions to a local government official within two years immediately preceding the filing of this application? Yes _____ No ✓

If the answer is Yes, you must file a disclosure report with the governing authority of the City of Doraville showing:

1. The name and official position of the local government official to whom the campaign contribution was made.
2. The dollar amount and description of each campaign contribution made during the two years immediately preceding the filing of this application and date of each such contribution.

12-5-12 — NOTARY — DATE

12/5/2012 — SIGNATURE OF APPLICANT — DATE

EXPIRATION DATE / SEAL

Check One: Owner _____ Agent ✓ (Attorney)

DALE P. OVERSTREET NOTARY PUBLIC DOUGLAS COUNTY EXPIRES GEORGIA MAY 7, 2013

****

NOTE: 12 COPIES OF THE COMPLETED PACKAGE ARE REQUIRED FOR SUBMITTAL FOR REVIEW BY STAFF, PLANNING COMMISSION AND CITY COUNCIL. ALL APPLICATIONS SHALL BE COLATED AND SUBMITTED AS 12 SEPERATE PACKAGES INCLUDING ALL PLANS WHICH ARE TO BE FOLDED TO APPROXIMATELY 9" X 12" SIZE.

PLEASE READ THE FOLLOWING BEFORE SIGNING

This form must be completed in its entirety before it will be accepted. It must include all required attachments and filing fees. **An application which lacks any of the required attachments or information shall be deemed incomplete and shall not be accepted.**

12-5-12 — NOTARY — DATE

12/5/2012 — SIGNATURE OF APPLICANT — DATE

5-7-13 — EXPIRATION DATE / SEAL

Check One: Owner _____ Agent ✓ (Attorney)

DALE P. OVERSTREET NOTARY PUBLIC DOUGLAS COUNTY EXPIRES GEORGIA MAY 7, 2013

APPLICATION FOR CONDITIONAL USE PERMIT
IN THE CITY OF DORAVILLE, GEORGIA

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

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1. The name and official position of the local government official to whom the campaign contribution was made.
2. The dollar amount and description of each campaign contribution made during the two years immediately preceding the filing of this application and date of each such contribution.

Terri W. Miller — NOTARY

DATE APR 15 2014

TERRI W. MILLER NOTARY PUBLIC FULTON COUNTY, GA MY COMMISSION EXPIRES

April 15, 2014 — EXPIRATION DATE / SEAL

Laura K. Muldowney — SIGNATURE OF APPLICANT — 10/15/12 DATE

Check One: Owner _____ Agent ✓

****

NOTE: 12 COPIES OF THE COMPLETED PACKAGE ARE REQUIRED FOR SUBMITTAL FOR REVIEW BY STAFF, PLANNING COMMISSION AND CITY COUNCIL. ALL APPLICATIONS SHALL BE COLATED AND SUBMITTED AS 12 SEPERATE PACKAGES INCLUDING ALL PLANS WHICH ARE TO BE FOLDED TO APPROXIMATELY 9" X 12" SIZE.

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This form must be completed in its entirety before it will be accepted. It must include all required attachments and filing fees. **An application which lacks any of the required attachments or information shall be deemed incomplete and shall not be accepted.**

Terri W. Miller — NOTARY

DATE APR 15 2014

TERRI W. MILLER NOTARY PUBLIC FULTON COUNTY, GA MY COMMISSION EXPIRES

April 15, 2014 — EXPIRATION DATE / SEAL

William E. Pell — SIGNATURE OF APPLICANT — DATE

Check One: Owner _____ Agent ✓

APPLICATION FOR CONDITIONAL USE PERMIT

SITE PLAN REQUIREMENTS:

The site plan shall be clearly drawn at a scale of not less than 100 feet per inch on a sheet size not to exceed 24" x 36". The Director may approve other sheet sizes as deemed appropriate.

The following information shall be depicted on the site plan if applicable:

_____ Project name;
_____ Project owner and address (both local and permanent if different), telephone numbers and e-mail address;
_____ Date, scale and north arrow:
_____ Site location / vicinity map;
_____ Proposed use of property;
_____ Required yard setbacks;
_____ Project acreage including breakdown of pervious / impervious area, and/or dedicated greenspace;
_____ Total number of lots and minimum lot sizes (if applicable);
_____ Names, locations, and right-of-way widths of adjoining existing streets or access drives and proposed right-of-ways and roadways;
_____ Topography with contour interval no greater than 10 feet;
_____ Sewage disposal method (note);
_____ Property lines with bearings and distances; location of utility and private easements, ;
_____ All proposed development features and layout;
_____ Location of floodplains, lakes, ponds, water courses, conservation areas, and environmental areas of concern;
_____ Building heights;
_____ Proposed buffers, landscape development, sidewalks and other hardscape;
_____ Land lot and district;
_____ General development data in tabular form;
_____ Name of person or company preparing the site plan;
_____ Any other data requested by the Planning Director necessary for an understanding and evaluation of the project.

APPLICATION FEE: See current City Fee Schedule. The current application fees on November 15, 2011 are as follows:
CUP Application: $450.00
Concurrent Variance Request: $150.00/variance request
Public Notice / Advertisement Fee: $45.00

City of Doraville Planning & Development Department

APPLICATION FOR CONDITIONAL USE PERMIT
IN THE CITY OF DORAVILLE, GEORGIA

12-07-1215

Date Received: 12/6/12 (incomplete applications shall not be accepted) CUP # _____

APPLICANT

Name: TowerCom V, LLC (Gerald Muldowney - Agent; David C. Kirk - Attorney)

Mailing Address: c/o Chip Bullock, 2870 Peachtree Road, NW, Suite 839, Atlanta GA 30305

E-mail: GAM@WirelessVisionLLC.com Daytime Phone: 828-297-3333 828-297-9686 (muldowney) Fax: 404-962-6794 (Kirk)
David.Kirk@frostmansanders.com 404-885-3415

OWNER

Name: Cobalt Properties, LLC

Mailing Address: 5788 New Peachtree Road, Doraville, GA 30340

E-mail: cobaltcars@gmail.com Daytime Phone: 770-452-0809 Fax: N/A

SUBJECT PROPERTY

Street Address: 5578 South Peachtree Road, Doraville, GA 30340

Tax ID Parcel No.: 18-310-05-005 District(s) 18 LL 310 Block 05 Council District: 2

Current Zoning Category: M-2 Conditional Use Requested Construction and operation of a wireless telecommunication facility to include an 84-foot monopole tower structure.

Future Land Use Character Area: Industrial Area

REQUIRED DOCUMENTS:

_____ Boundary Survey of the property;

_____ Full site survey to scale for projects with any proposed construction and/or site development work other than interior or façade renovations or uses with special requirements as per zoning requirements such as screening, etc. (see site plan check list for plan requirements);

_____ Floor plan for proposed use for projects involving adaptive reuse or interior renovations (to scale);

_____ Letter of Intent / Description of the Project: describing the requested conditional use, adjacent land uses and/or businesses; justification of how the requested use meets the Standards (listed above) and any information the Applicant would like to include in the information package (photos, renderings, etc.);

_____ Any additional information required by the City based upon the initial application meeting with staff;

_____ Owner's Authorization of Agent (if Applicant is not the owner).

(9) *Conditions*. The City Council may require such modifications in the proposed use and attach such conditions to the CUP as they deem necessary to mitigate adverse effects of the proposed use and to carry out the spirit and intent of the ordinance. Conditions and modifications may include, but are not limited to: limitation of building size or height, increased open space, limitations on impervious surfaces, enhanced loading and parking requirements, additional landscaping, curbing, sidewalk, vehicular access and parking improvements, placement or orientation of buildings and entryways, buffer yards, landscaping and screening, signage restrictions and design, maintenance of buildings and outdoor areas, duration of the permit, and hours of operation.

STANDARDS

When considering an application for a CUP, the Planning Staff, Planning Commission, Mayor, and City Council shall evaluate the impact of the proposed conditional use on and its compatibility with surrounding properties and residential areas to ensure the appropriateness of the use at the particular location, and shall consider the extent to which:

(1) The proposed use at the specified location is consistent with the policies embodied in the adopted comprehensive plan;

(2) The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;

(3) The proposed use is compatible with and preserves the character and integrity of adjacent developments and neighborhoods, and includes improvements either on-site or within the public rights-of-way to mitigate development related adverse impacts, such as traffic, noise, odors, visual nuisances, drainage or other similar adverse effects to adjacent developments and neighborhoods;

(4) The proposed use does not generate pedestrian and vehicular traffic which will be hazardous or conflict with the existing and anticipated traffic in the neighborhood;

(5) The proposed use incorporates roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development generated traffic on neighborhood streets;

(6) The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed conditional use on adjacent properties; and the proposed use meets the standards for the zoning district, or to the extent variations from such standards have been requested, that such variations are necessary to render the use compatible with adjoining development and neighborhoods.

(7) The proposed use is based on the site plan in conformity with all space limits, buffers, parking and loading provisions, and other provisions of this article.

(8) The proposed use applicant has agreed to any specific limitations or conditions necessary to protect the public interest and assure the continued beneficial use and enjoyment of nearby properties or that no special limitations are necessary to protect the public.

City of Doraville Planning & Development Department

APPLICATION FOR CONDITIONAL USE PERMIT
IN THE CITY OF DORAVILLE, GEORGIA

PURPOSE OF CONDITIONAL USE PERMIT

A conditional use permit (CUP) is to allow the establishment of uses which may be suitable only in certain locations in a zoning district or only when subject to standards and conditions that assure compatibility with adjoining uses. Conditional uses are those uses which are generally compatible with the permitted land uses in a given zoning district, but which require individual review of their proposed location, design and configuration, and the imposition of conditions in order to ensure the appropriateness of the use at a particular location within a given zoning district. Only those uses enumerated as conditional uses in a particular zoning district shall be authorized as conditional uses. The CUP application must be accompanied by a site plan drawn to scale depicting how the proposed conditional use will conform to all space limits, buffers, parking and loading provisions, and other provisions of the Code of Ordinances.

PROCESS

Application process:

(1) *Meet with City staff*. Prior to submitting for a conditional use permit, the applicant shall meet with the planning department to discuss the process, zoning, conditional use permits, and development of the property.

(2) *Submittal of the application*. The applicant or property owner should submit all items as listed on the conditional use permit application.

(3) *Review by City staff*. The planning department will process the CUP. Staff may contact the applicant or owner for additional information during the review period.

(4) *Presentation to Planning Commission.* The Planning Commission shall review the application and hear any presentation which the Applicant may wish to make. The Planning Commission shall make a recommendation to the City Council for approval, denial, or approval with conditions to the City Council.

(5) *Notification of public hearing*. Staff will notify the applicant of the date of the public hearing. A legal notice is also sent to the local newspaper for publication.

(6) *Posting of signs on property for zoning notification*. As required by ordinance, the applicant will be responsible for the cost of posting the zoning notification signs on the property for which the change in zoning has been requested prior to the public hearing in accordance with the Georgia Zoning Procedures Law.

(7) *City Council public hearing*. A public hearing is required for a conditional use permit application. During the public hearing, staff will present a summary of the proposed development to the Mayor and Council. Persons in support of the proposed request and persons in opposition to the proposed request may speak during the public hearing. The applicant, property owner, and/or their representative, may be present at the meeting and should be prepared to discuss the conditional use permit and answer any questions that arise.

(8) *City Council decision*. After hearing the evidence and reviewing the application as well as any staff comments, the City Council considers the proposed CUP.

Conditional Use Permit Application for a Proposed 84-foot Wireless Facility on Property Located at 5578 South Peachtree Road, City of Doraville, Georgia

Applicant: TowerCom V, LLC

ATTACHMENT AND LIST OF EXHIBITS

Attachment - City of Doraville Application for Conditional Use Permit Form, including all appropriate Authorizations and Disclosures

Exhibit A – Copy of Warranty Deed vesting title to the Subject Property in Cobalt Properties, LLC

Exhibit B – Design Package including Survey (with Legal Descriptions of Parcel, Lease Area, and Access/Utility Easement), Demolition Plan, Overall Site Plan, Detailed Site Plan, and Tower Elevation and Antenna Plan

Exhibit C – Application Transmittal Letter from Wireless Vision, LLC, agent for the Property Owner and TowerCom

Exhibit D – "Special Use Permit Request Description" prepared by Wireless Vision, LLC

Exhibit E – "Letter of Intent/Project Description" prepared by Wireless Vision, LLC

Exhibit F – Radio Frequency Analysis prepared by Karen Albregts, Manager of Radio Frequency Engineering for Metro PCS Georgia

Exhibit G – Federal Aviation Regulations Part 77 Sub-Part C Obstruction Analysis Report prepared by Federal Airways & Airspace, consultants to TowerCom

Exhibit H – Engineering Analysis of the Proposed Monopole Tower prepared for TowerCom by Michael F. Plahovinsak, P.E.

The proposed location of the wireless facility was selected based upon a comprehensive analysis of the search ring. MetroPCS first looked to determine whether there were any existing wireless facilities suitable for collocation. As provided in the Radio Frequency Analysis, MetroPCS' Radio Frequency Engineer determined that there are no wireless facilities or structures that will meet the necessary coverage objectives for the area. MetroPCS already is located on a number of nearby towers and the only existing communication tower where MetroPCS currently is not sited is located more than a half-mile for this site and, based on the radio frequency analysis, would not provide adequate service to the target area. Accordingly, the proposed facility is essential to providing much-needed wireless service coverage improvements to MetroPCS customers in the area and to customers of other carriers that will collocate on this facility in the future.

The proposed wireless facility meets all requirements of the Ordinance, including required setbacks. The proposed facility will be made of galvanized steel. The perimeter of the site will be secured by a 6-foot chain link fence, a locked gate, and other anti-climbing features to prevent unauthorized entry. The facility will be constructed to accommodate MetroPCS and three additional wireless carriers for collocation.

TowerCom asserts that the proposed facility will be maintained in a safe manner, and in compliance with all applicable and permissible local codes, ordinances, and regulations, as well as any and all applicable county, state, and federal ordinances, rules, and regulations. In addition, all necessary Federal Communications Commission ("FCC") and Federal Aviation Administration ("FAA") approvals for the construction and operation of the wireless facility at this location will be obtained.

TowerCom respectfully requests the City's approval of this Conditional Use Application. I appreciate your thoughtful consideration of this request and I look forward to working with you on this important matter. Should you have any questions or need any additional information, please do not hesitate to let me know.

Sincerely,

David C. Kirk, FAICP

/dck
Attachments
cc: Honorable Brian Bates (with attachments)
Honorable Trudy Jones Dean (with attachments)

TROUTMAN SANDERS LLP

ATTORNEYS AT LAW
A LIMITED LIABILITY PARTNERSHIP

BANK OF AMERICA PLAZA
600 PEACHTREE STREET, N.E. - SUITE 5200
ATLANTA, GEORGIA 30308-2216
www.troutmansanders.com
TELEPHONE: 404-885-3000
FACSIMILE: 404-885-3900

David C. Kirk, FAICP
david.kirk@troutmansanders.com

Direct Dial: 404-885-3415
Direct Fax: 404-962-6794

December 6, 2012

VIA HAND DELIVERY

Mr. Joseph Cooley, AICP
Director of Planning and Development
City of Doraville
3725 Park Avenue
Doraville, GA 30340

12-06-12P04:37 PAI

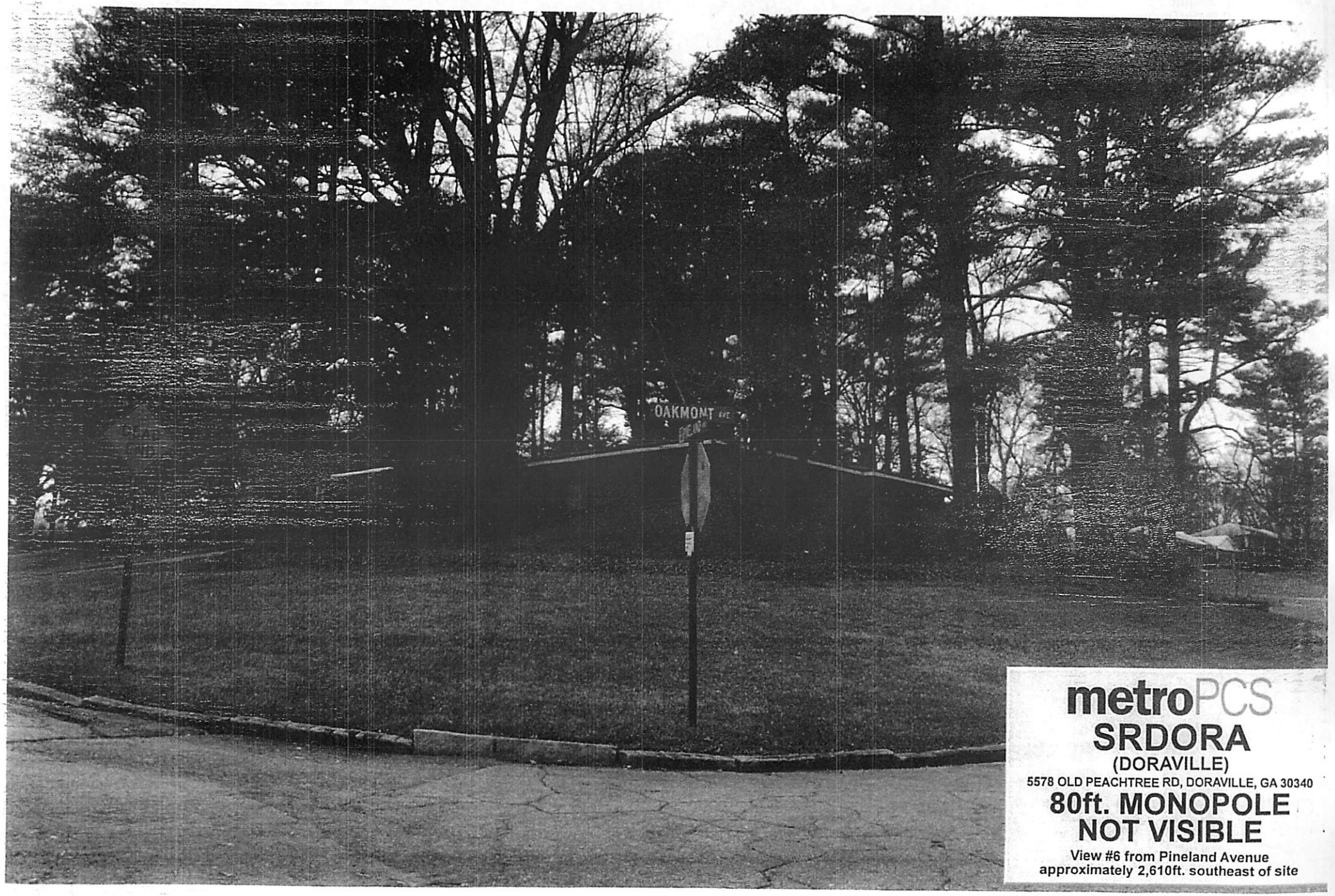
RE: Conditional Use Permit Application for a Proposed 84-foot Wireless Facility on Property Located at 5578 South Peachtree Road, City of Doraville, Georgia

Dear Mr. Cooley

I am pleased to submit on behalf of TowerCom V, LLC ("TowerCom"), this Conditional Use Permit Application to allow for the construction and operation of an 84-foot wireless facility (80-foot monopole with a 4-foot lightning rod) on property owned by Cobalt Properties, LLC and located at 5578 South Peachtree Road in the City of Doraville. Pursuant to the requirements of Section 23-706, "Standards for Telecommunications Antennas and Towers," of the City of Doraville's Zoning Ordinance (the "Zoning Ordinance"), the attached application and exhibits provide all basic and supplementary information required by the City for consideration of this request. Attached to this letter is a key to all exhibits submitted in support of the application.

TowerCom's proposed wireless facility will help MetroPCS meet its wireless coverage objectives through the location of MetroPCS's antennas at the top of this proposed monopole. The Radio Frequency Analysis included as part of this application determined the proposed wireless facility is the most effective way to provide wireless 3G CDMA and 4G LTE coverage to areas in the City along Shallowford Road, New Peachtree Road, and Buford Highway, where MetroPCS currently has poor voice and data coverage due to high use and lack of suitable facilities. This area has been a source of many customer complaints and is a concern for residents who need service in the area, particularly in the event of an emergency or severe weather. The primary coverage area includes the residential as well as commercial and industrial areas within an approximately .5 mile radius of the intersection of South Peachtree Road and New Peachtree Road.


metroPCS
SRDORA
(DORAVILLE)
5578 OLD PEACHTREE RD, DORAVILLE, GA 30340
80ft. MONOPOLE
NOT VISIBLE
View #7 from Buena Vista Avenue
approximately 2,250ft. east of site



metroPCS

SRDORA

(DORAVILLE)

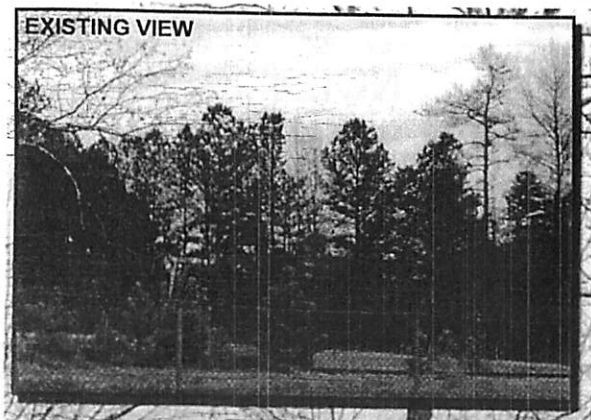
5578 OLD PEACHTREE RD, DORAVILLE, GA 30340

80ft. MONOPOLE

NOT VISIBLE

View #6 from Pineland Avenue
approximately 2,610ft. southeast of site


metroPCS
SRDORA
(DORAVILLE)
5578 OLD PEACHTREE RD, DORAVILLE, GA 30340
80ft. MONOPOLE
NOT VISIBLE
View #5 from Raymond Drive
approximately 2,265ft. south-southeast of site



metroPCS

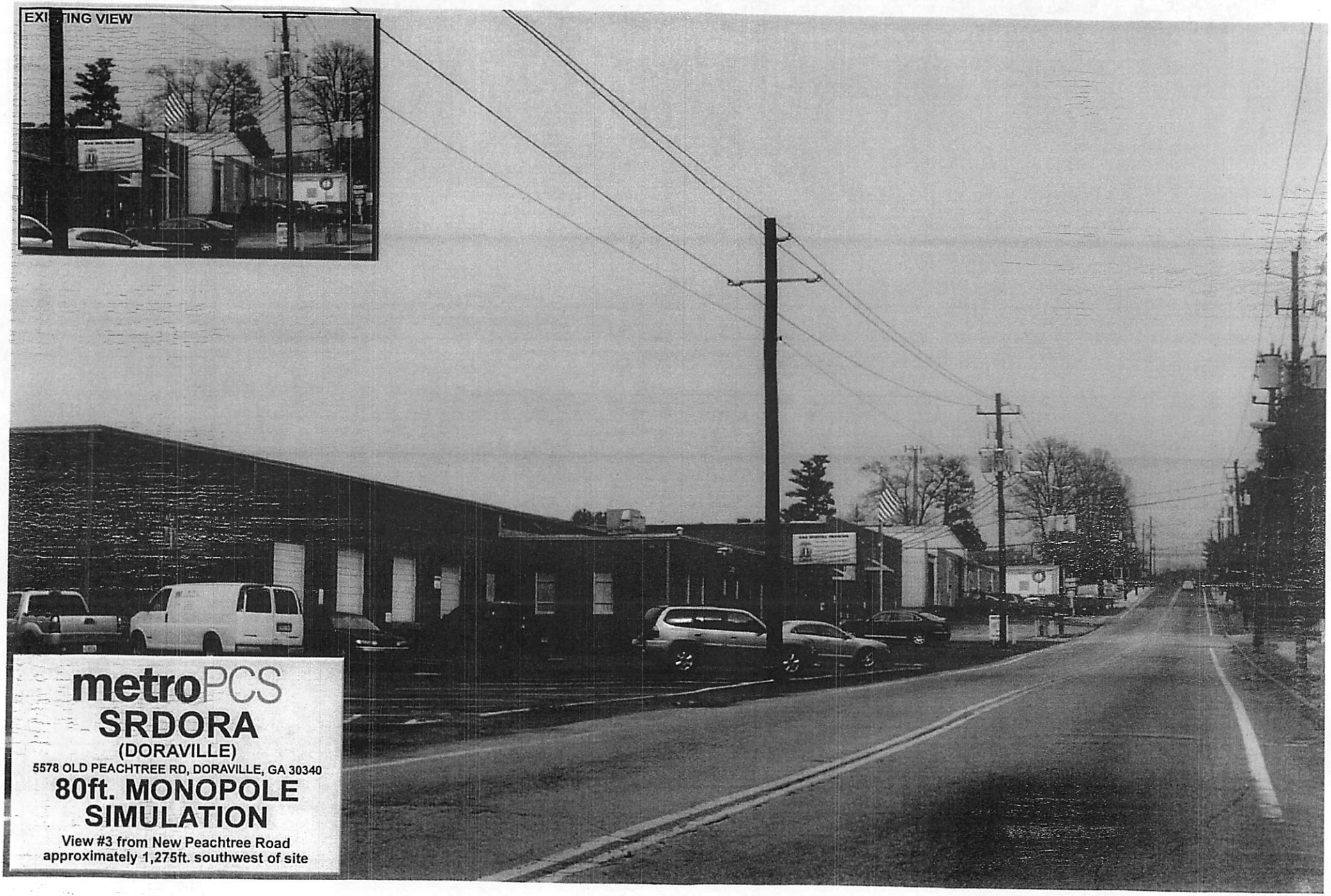
SRDORA

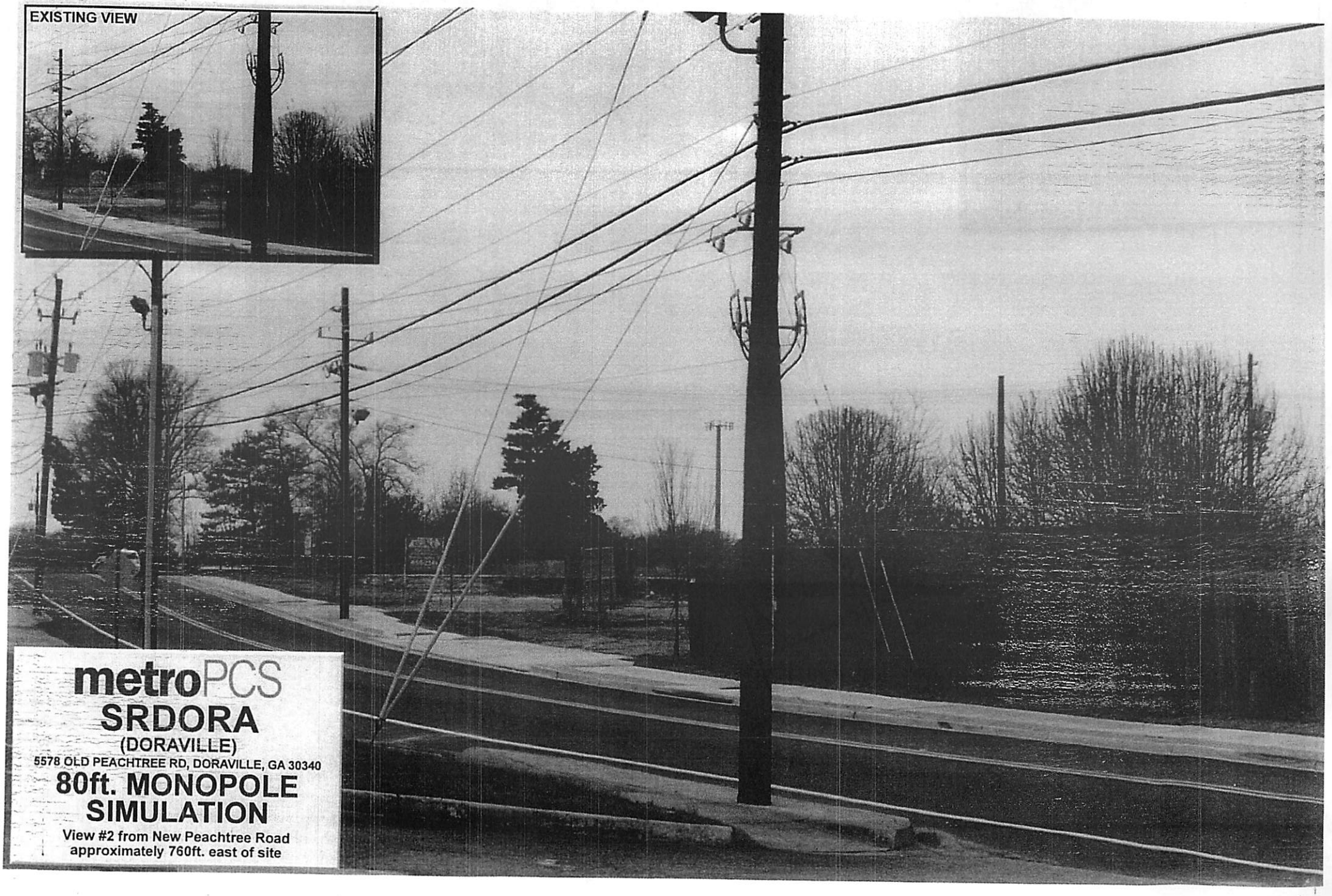
(DORAVILLE)

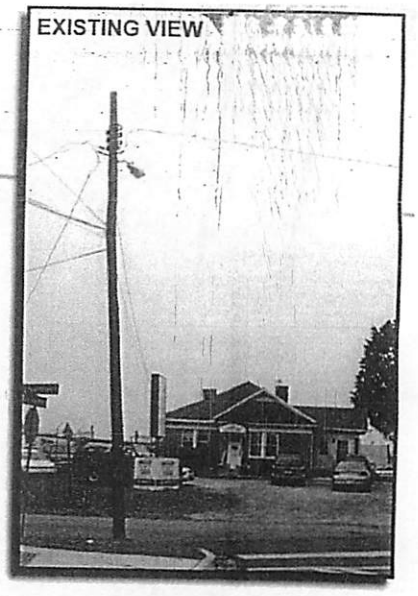
5578 OLD PEACHTREE RD, DORAVILLE, GA 30340

80ft. MONOPOLE SIMULATION

View #4 from Peachtree Road
approximately 1,090ft. northwest of site


EXISTING VIEW
metroPCS
SRDORA
(DORAVILLE)
5578 OLD PEACHTREE RD, DORAVILLE, GA 30340
80ft. MONOPOLE
SIMULATION
View #3 from New Peachtree Road
approximately 1,275ft. southwest of site


EXISTING VIEW
metroPCS
SRDORA
(DORAVILLE)
5578 OLD PEACHTREE RD, DORAVILLE, GA 30340
80ft. MONOPOLE
SIMULATION
View #2 from New Peachtree Road
approximately 760ft. east of site



metroPCS

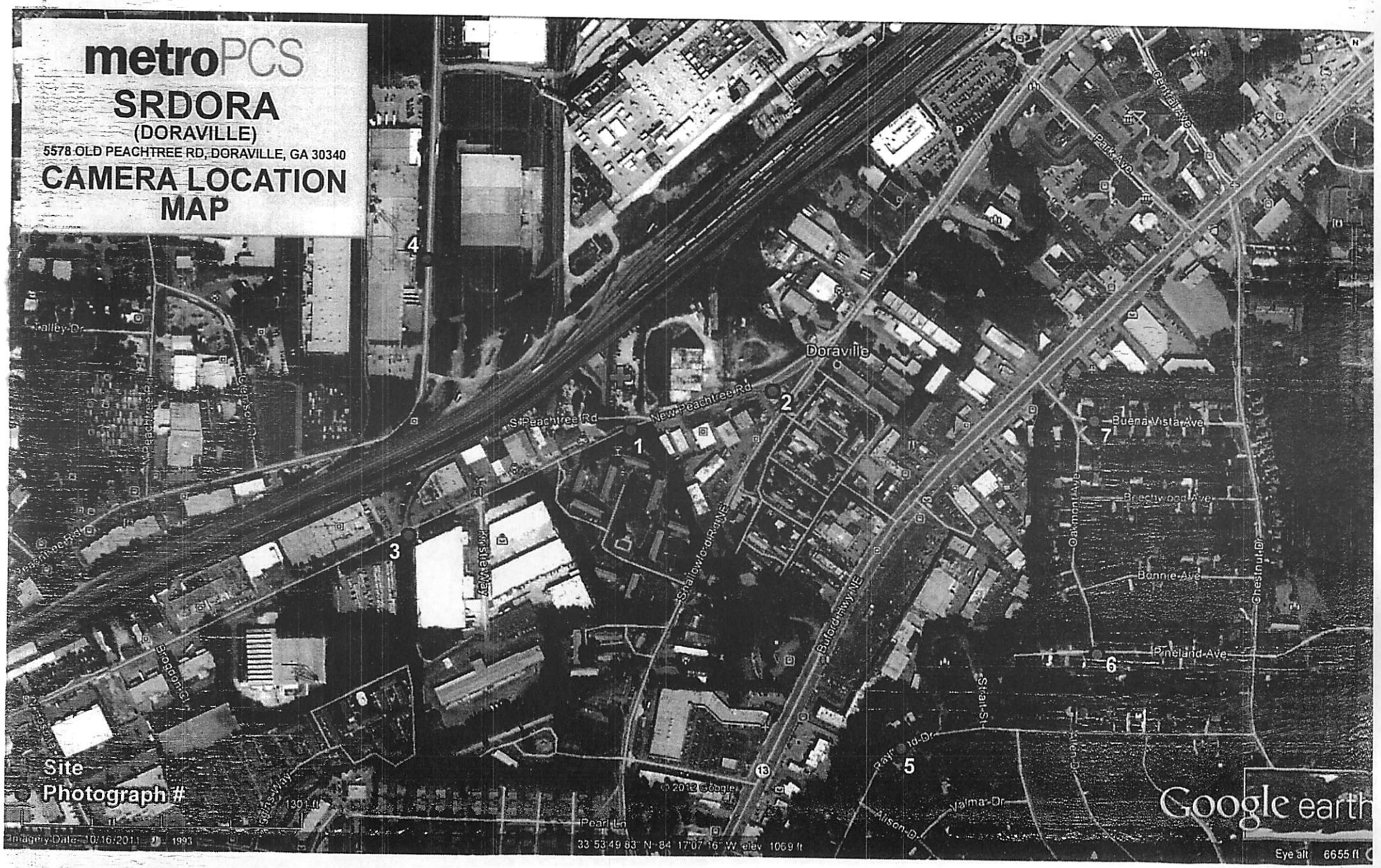
SRDORA

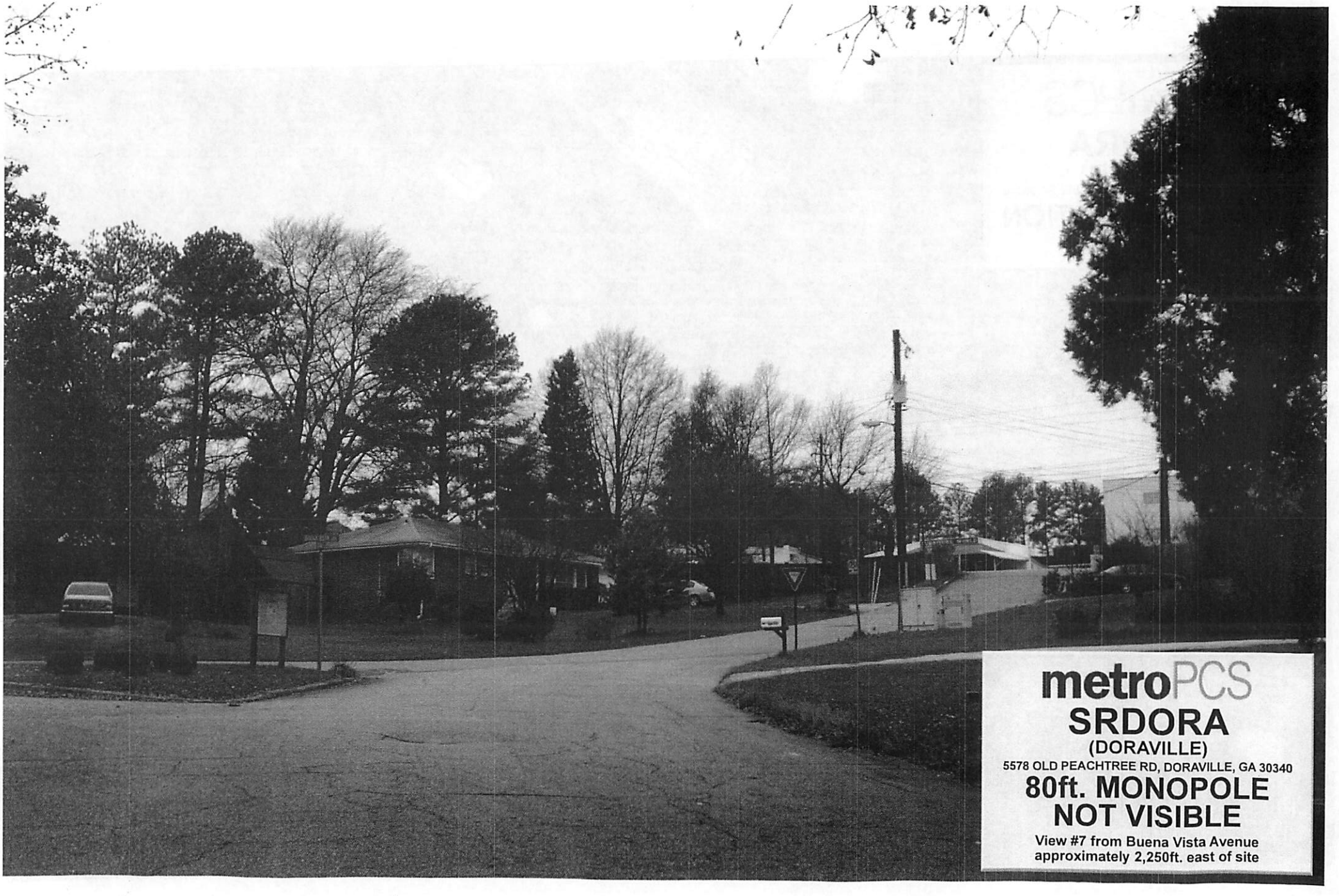
(DORAVILLE)

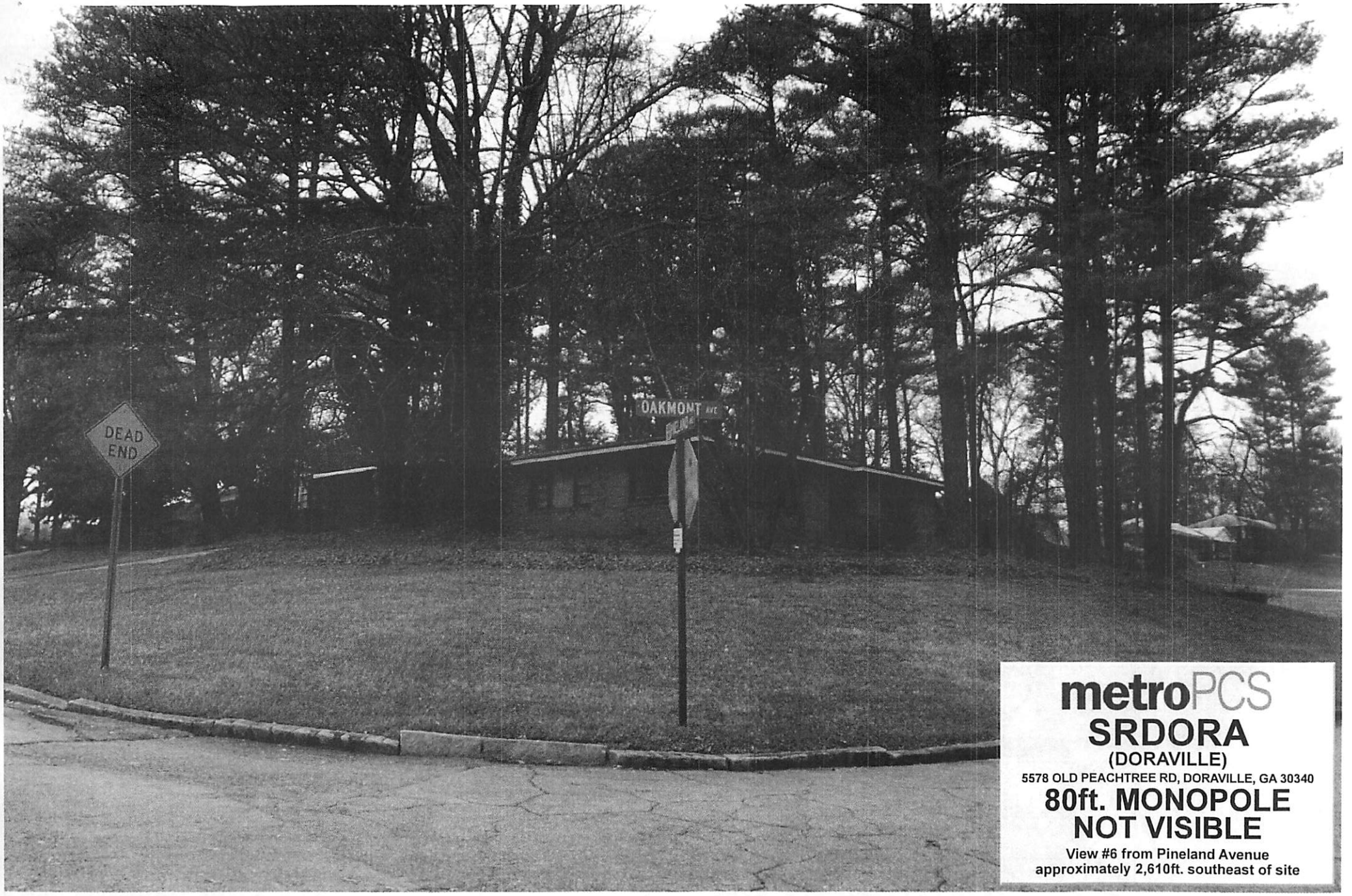
5578 OLD PEACHTREE RD, DORAVILLE, GA 30340

80ft. MONOPOLE SIMULATION

View #1 from New Peachtree Road
approximately 265ft. south of site


metroPCS
SRDORA
(DORAVILLE)
5578 OLD PEACHTREE RD, DORAVILLE, GA 30340
CAMERA LOCATION MAP
Site
Photograph #
1
2
3
4
5
6
7
Doraville
S Peachtree Rd
New Peachtree Rd
Buford Hwy NE
Shallowford Rd NE
Park Ave
Buena Vista Ave
Briarcliff Rd
Oakmont Ave
Bonnie Ave
Pineland Ave
Chestnut Dr
Broadmoor
Pearl Ln
Valma Dr
Alison Dr
Google earth


metroPCS
SRDORA
(DORAVILLE)
5578 OLD PEACHTREE RD, DORAVILLE, GA 30340
80ft. MONOPOLE
NOT VISIBLE
View #7 from Buena Vista Avenue
approximately 2,250ft. east of site



metroPCS

SRDORA

(DORAVILLE)

5578 OLD PEACHTREE RD, DORAVILLE, GA 30340

80ft. MONOPOLE
NOT VISIBLE

View #6 from Pineland Avenue
approximately 2,610ft. southeast of site


metroPCS
SRDORA
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5578 OLD PEACHTREE RD, DORAVILLE, GA 30340
80ft. MONOPOLE
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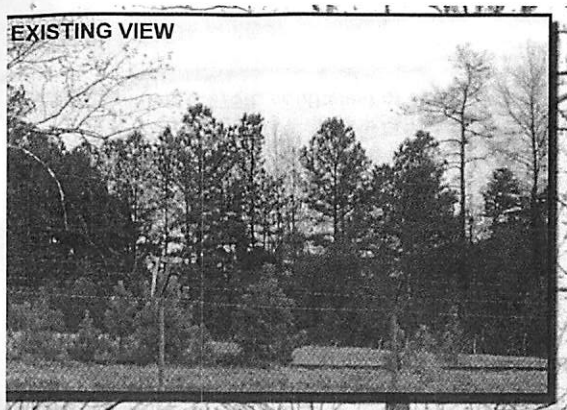
View #5 from Raymond Drive
approximately 2,265ft. south-southeast of site



metroPCS

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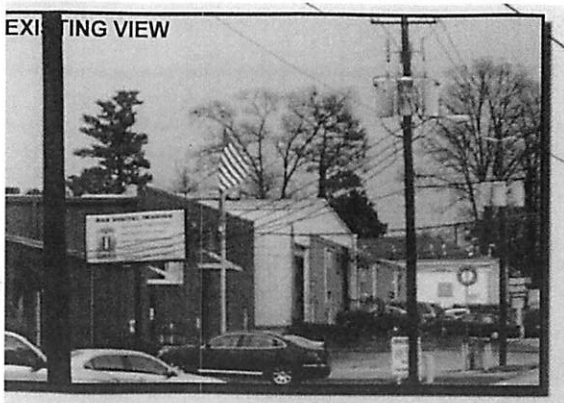
View #4 from Peachtree Road
approximately 1,090ft. northwest of site



metroPCS

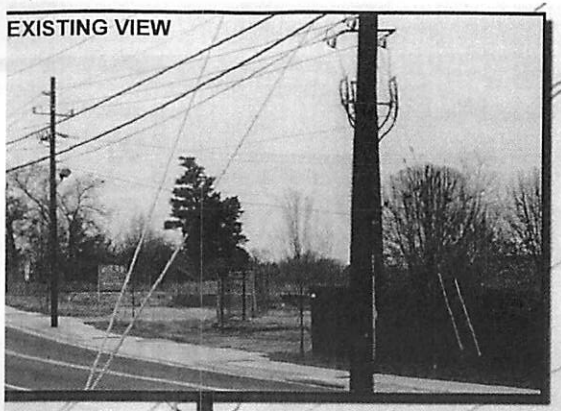
SRDORA

(DORAVILLE)

5578 OLD PEACHTREE RD, DORAVILLE, GA 30340

80ft. MONOPOLE SIMULATION

View #3 from New Peachtree Road
approximately 1,275ft. southwest of site



metroPCS

SRDORA

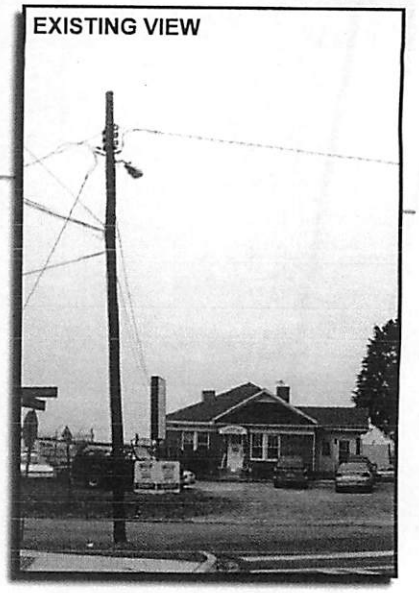
(DORAVILLE)

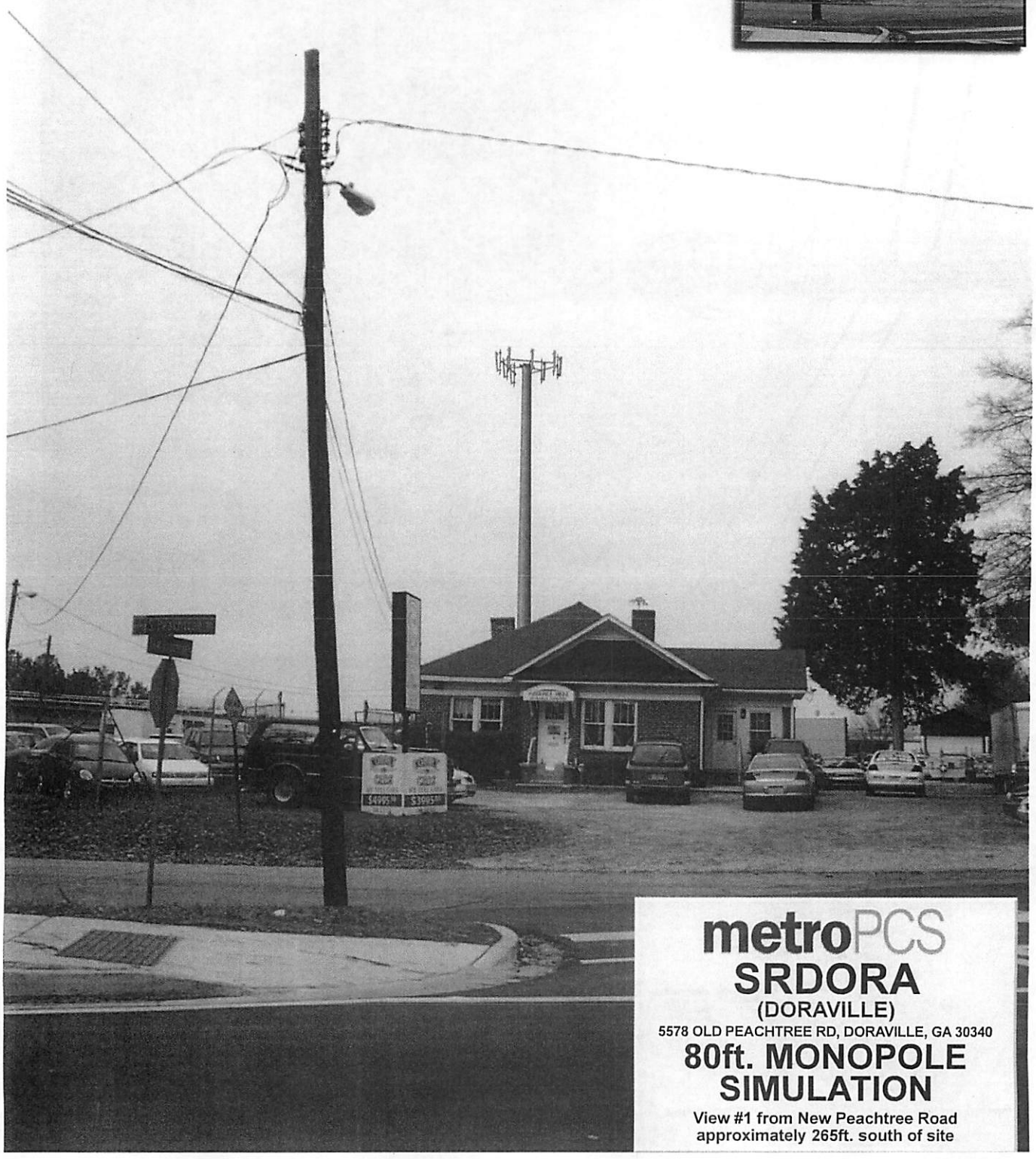
5578 OLD PEACHTREE RD, DORAVILLE, GA 30340

80ft. MONOPOLE SIMULATION

View #2 from New Peachtree Road
approximately 760ft. east of site

EXISTING VIEW





metroPCS

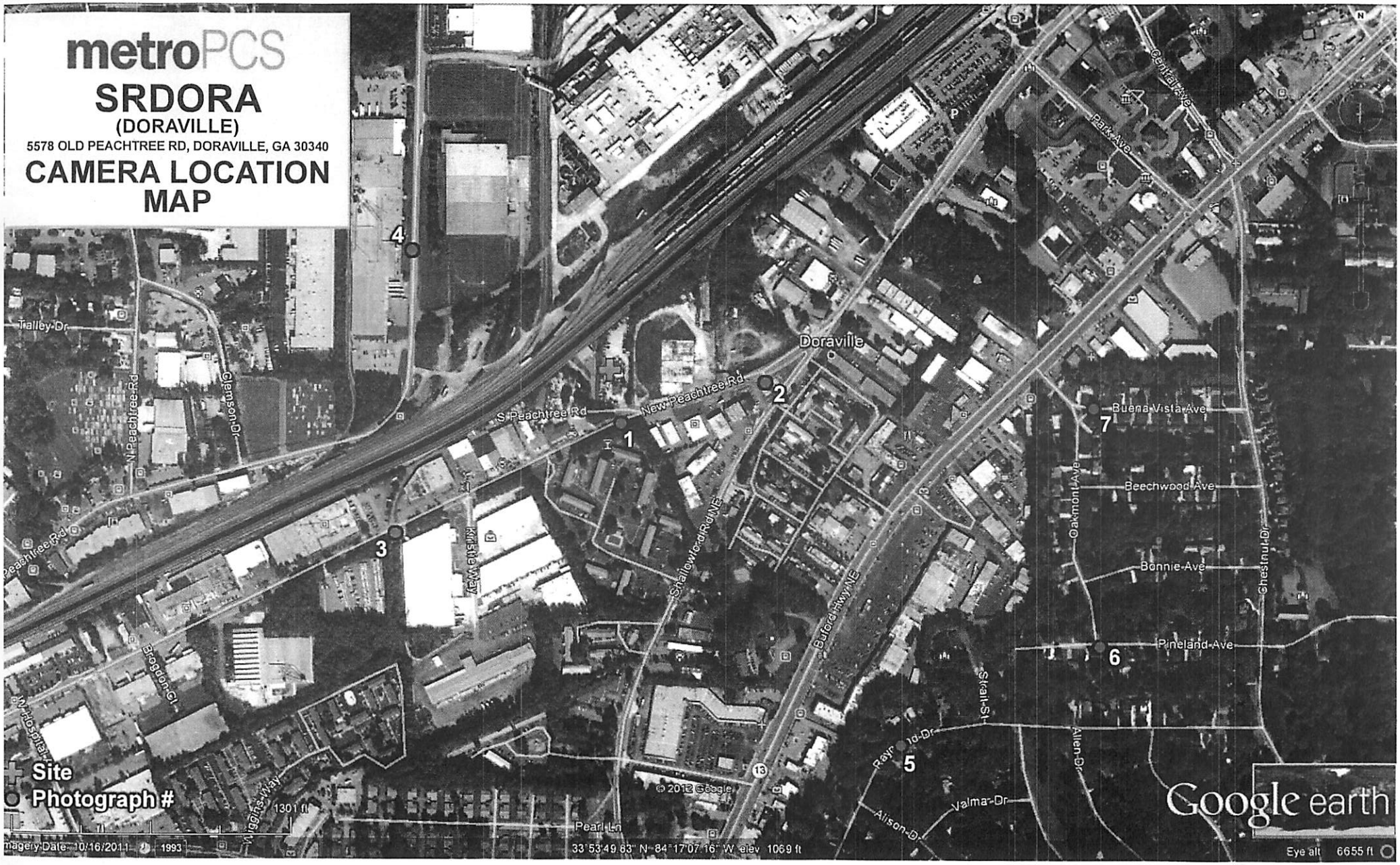
SRDORA

(DORAVILLE)

5578 OLD PEACHTREE RD, DORAVILLE, GA 30340

80ft. MONOPOLE SIMULATION

View #1 from New Peachtree Road
approximately 265ft. south of site


metroPCS
SRDORA
(DORAVILLE)
5578 OLD PEACHTREE RD, DORAVILLE, GA 30340
CAMERA LOCATION MAP
1
2
3
4
5
6
7
Site
Photograph #
Doraville
New Peachtree Rd
S Peachtree Rd
N Peachtree Rd
Peachtree Rd
Tralley Dr
Glenson Dr
Shallowford Rd NE
Buford Hwy NE
Park Ave
Central Ave
Buena Vista Ave
Beechwood Ave
Bonnie Ave
Pineland Ave
Oakmont Ave
Chestnut Dr
Allen Dr
Valma Dr
Alison Dr
Pearl Ln
Broadon Ct
Wiggins Way
1301 ft
© 2013 Google
Google earth
Imagery Date: 10/16/2011 1993
33°53'49.83" N 84°17'07.16" W elev 1069 ft
Eye alt 6655 ft

Frequency Data for ASN 2012-ASO-9434-OE

LOW FREQUENCY	HIGH FREQUENCY	FREQUENCY UNIT	ERP	ERP UNIT
698	806	MHz	1000	W
806	824	MHz	500	W
824	849	MHz	500	W
851	866	MHz	500	W
869	894	MHz	500	W
896	901	MHz	500	W
901	902	MHz	7	W
930	931	MHz	3500	W
931	932	MHz	3500	W
932	932.5	MHz	17	dBW
935	940	MHz	1000	W
940	941	MHz	3500	W
1850	1910	MHz	1640	W
1930	1990	MHz	1640	W
2305	2310	MHz	2000	W
2345	2360	MHz	2000	W

Additional information for ASN 2012-ASO-9434-OE

Proposal: To construct a(n) Antenna Tower to a height of 85 feet above ground level, 1146 feet above mean sea level.

Location: The structure will be located 1.55 nautical miles northeast of PDK Airport reference point.

Part 77 Obstruction Standard(s) Exceeded:

Section 77.17 (a) (5) a height that affects an Airport Surface by penetrating

Section 77.19 (d) Approach Surface by 50 feet as applied to PDK.

Preliminary FAA study indicates that the above mentioned structure would:

have no effect on any existing or proposed arrival, departure, or en route instrument/visual flight rules (IFR/ VFR) minimum flight altitudes.

not exceed traffic pattern airspace

have no physical or electromagnetic effect on the operation of air navigation and communications facilities.

have no effect on any airspace and routes used by the military.

Details of the proposed structure were circularized for public comment. There were no letters of objection received during the comment period.

The proposed structure proximity to the airport was considered and found to be acceptable.

The impact on arrival, departure and en route procedures for aircraft operating under VFR/IFR conditions at existing and planned public use and military airports, as well as aeronautical facilities, was considered during the analysis of this structure. The aeronautical study disclosed that the structure, at a height of 1146 feet above mean sea level (AMSL), would have no adverse effect upon any terminal or en route instrument procedure or altitude.

The cumulative impact (IFR/VFR) resulting for the structure, when combined with the impact of other existing or proposed structures was considered and found to be acceptable

Therefore, it is determined that the proposed structure would not have a substantial adverse effect on the safe and efficient use of the navigable airspace by aircraft or on any navigation facility and would not be a hazard to air navigation.

//////////END OF COMMENTS////////

An account of the study findings, aeronautical objections received by the FAA during the study (if any), and the basis for the FAA's decision in this matter can be found on the following page(s).

A copy of this determination will be forwarded to the Federal Communications Commission (FCC) because the structure is subject to their licensing authority.

If we can be of further assistance, please contact Earl Newalu, at (404) 305-7082. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2012-ASO-9434-OE.

Signature Control No: 174173833-183184874 (DNH)
John Page
Manager, Obstruction Evaluation Group

Attachment(s)
Additional Information
Frequency Data

cc: FCC

(a) the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.

(b) extended, revised, or terminated by the issuing office.

(c) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.

This determination is subject to review if an interested party files a petition that is received by the FAA on or before March 16, 2013. In the event a petition for review is filed, it must contain a full statement of the basis upon which it is made and be submitted in triplicate to the Manager, Airspace Regulations & ATC Procedures Group, Federal Aviation Administration, Airspace Regulations & ATC Procedures Group, 800 Independence Ave, SW, Room 423, Washington, DC 20591.

This determination becomes final on March 26, 2013 unless a petition is timely filed. In which case, this determination will not become final pending disposition of the petition. Interested parties will be notified of the grant of any review. For any questions regarding your petition, please contact Airspace Regulations & ATC Procedures Group via telephone -- 202-267-8783 - or facsimile 202-267-9328.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

Any failure or malfunction that lasts more than thirty (30) minutes and affects a top light or flashing obstruction light, regardless of its position, should be reported immediately to (877) 487-6867 so a Notice to Airmen (NOTAM) can be issued. As soon as the normal operation is restored, notify the same number.

This aeronautical study considered and analyzed the impact on existing and proposed arrival, departure, and en route procedures for aircraft operating under both visual flight rules and instrument flight rules; the impact on all existing and planned public-use airports, military airports and aeronautical facilities; and the cumulative impact resulting from the studied structure when combined with the impact of other existing or proposed structures. The study disclosed that the described structure would have no substantial adverse effect on air navigation.

Mail Processing Center
Federal Aviation Administration
Southwest Regional Office
Obstruction Evaluation Group
2601 Meacham Boulevard
Fort Worth, TX 76137

Aeronautical Study No.
2012-ASO-9434-OE

Issued Date: 02/14/2013

Chip Bulloch
TowerCom
2870 Peachtree Rd
Suite 839
Atlanta, GA 30305

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure:	Antenna Tower Doraville
Location:	Doraville, GA
Latitude:	33-53-52.80N NAD 83
Longitude:	84-17-11.70W
Heights:	1061 feet site elevation (SE)
	85 feet above ground level (AGL)
	1146 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure would have no substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities. Therefore, pursuant to the authority delegated to me, it is hereby determined that the structure would not be a hazard to air navigation provided the following condition(s) is(are) met:

As a condition to this Determination, the structure is marked/lighted in accordance with FAA Advisory circular 70/7460-1 K Change 2, Obstruction Marking and Lighting, a med-dual system - Chapters 4,8(M-Dual),&12.

It is required that FAA Form 7460-2, Notice of Actual Construction or Alteration, be e-filed any time the project is abandoned or:

_____ At least 10 days prior to start of construction (7460-2, Part I)
__X__ Within 5 days after the construction reaches its greatest height (7460-2, Part II)

See attachment for additional condition(s) or information.

To coordinate frequency activation and verify that no interference is caused to FAA facilities, prior to beginning any transmission from the site you must contact Martin Crane at 404 968-7938.

This determination expires on 08/14/2014 unless:

THE CITY OF DORAVILLE
AGENDA ITEM SHEET

Subject: Application for Variance to Sec. 23-903(f) Dimensional Requirements in the R-1 Residential zoning district at property at 2415 Ridgeway Drive, Doraville GA by Chadwick Estrada (tax parcel # 18 342 11 008)

Date of Meeting: 4/15/2013

Budget Impact: ☐ Yes ☒ No

Budget Impact Amount: $ n/a

Funding Source:

☐ Annual
☐ Capital
☒ N/A

CITYOFDORAVILLE CITYOFDORAVILLE CITYOFDORAVILLE CITYOFDORAVILLE CITYOFDORAVILLE

Action Requested: Variance of Sec. 23-903 of the Doraville zoning code – requirement for minimum side yard setback of ten (10) feet

History, Facts, Issues: The applicant owns a home at 2415 Ridgeway Drive, Doraville, GA. The parcel was incorporated into the City of Doraville as part of the unincorporated island annexation on December 31, 2012. The applicant has constructed garage within less than one (1) foot of the property line. Construction was initiated and partially completed prior to the annexation into the City of Doraville. At that time the DeKalb County side yard setback in force was seven (7) feet. The building (garage) was built to within 0.89 feet of the property line. A setback variance was not issued by DeKalb County and no building permit was applied for in DeKalb County. City of Doraville Quality of Life officers placed a stop-work order in that no building permit had been issued by the City. The structure is currently mostly built, but not completed. The location of the building violates Sec. 23-903(f), setback requirement in the R-1 zoning district of ten (10) feet. The applicant has submitted a site plan with photos for Council review.

Options: Grant the variance, grant variance with conditions or deny the variance.

Staff Comments: Under Sec. 23-1402 Variance are the seven (7) conditions required to be found present or not present in staff review, planning commission review and city council consideration when determining approval or denial of a variance application. The Council may grant a variance upon finding all seven conditions are present. Those conditions are as follows:

(1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district.

The subject parcel is part of an older subdivision which was annexed into the City of Doraville on December 31, 2012. The parcel is consistent with other lots within the subdivision in size and general shape. It is located on a portion of the curve of Ridgeway Drive and narrows to the rear of the property.

(2) A literal interpretation of the provisions of this article would deprive the applicant of rights commonly enjoyed by other properties of the district in which the property is located.

There is sufficient parking area on the parcel for the required two parking spaces required by the zoning code. However, there is insufficient area on the property to build an attached garage on the side of the existing structure. It appears that detached garage could be located behind the main structure and meet the required 15 foot rear yard setback and the 10 foot side yard setback. The site is not flat and the topography may constitute a constraint.

(3) Granting the variance requested will not confer upon the property of the applicant any special privileges that are denied to other properties of the district in which the applicant's property is located.

Other properties in the same zoning district R-1 would not be granted a building permit for a structure that encroaches in required yards without a variance. This, however, is an old neighborhood with other properties not meeting current setback regulations.

(4) The requested variance will be in harmony with the purpose and intent of this article and will not be injurious to the neighborhood or to the general welfare.

The intent of the parking requirement in the R-1 zoning district is to insure each parcel has sufficient (2) parking spaces per residence on site.

(5) The special circumstances are not the result of the actions of the applicant.

While the circumstances of the lot shape, location and topography of the existing lot are not the result of the applicant's actions, the applicant built the structure without obtaining required DeKalb County building permits necessary on the date that the construction was begun and the structure does not meet the DeKalb County side yard setback (7 feet) in place at that time.

(6) The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.

The existing house meets setback requirements. It is the addition of the attached garage which has been illegally constructed that does not meet the requirements. Granting of the variance would bring the structure into legal conformity.

(7) The variance is not a request to permit a use of land, buildings, or structures which is not permitted by right in the district involved.

Garages are a permitted use in the R-1 zoning district.

Options: Approve application for variance as submitted, approve with modifications, or deny the variance request.

Planning Commission Recommendation: Recommendation of the Planning Commission was to approve variance with the request that the applicant provide city council additional information in the form of an appearance of adjacent neighbors or an affidavit of same neighbors stating their position on the variance application; motion passed 3 in favor, 1 opposed.

Staff Recommended Action: Denial of the variance application.

Department: Planning & Development **Department Head:** Joe Cooley

Action Taken By Board: _____

_____

City of Doraville Planning & Development Department

APPLICATION FOR VARIANCE

PURPOSE OF VARIANCE

The Mayor and/or City Council as relevant are authorized upon appeal in specific cases to consider such variances from the terms of this article as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the article will, in an individual case, result in practical difficulty or unnecessary hardship, so that the spirit of the article shall be observed, public safety and welfare secured, and substantial justice done. The existence of a nonconforming use of neighboring land, buildings or structures in the same or in other districts shall not constitute a reason for a variance. A variance may be granted in an individual case of unnecessary hardship upon a finding by the Mayor and/or City Council as relevant that **all the conditions described below in items 1 - 7 are met**.

CONDITIONS NECESSARY FOR APPROVAL

(1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district.

(2) A literal interpretation of the provisions of this article would deprive the applicant of rights commonly enjoyed by other properties of the district in which the property is located.

(3) Granting the variance requested will not confer upon the property of the applicant any special privileges that are denied to other properties of the district in which the applicant's property is located.

(4) The requested variance will be in harmony with the purpose and intent of this article and will not be injurious to the neighborhood or to the general welfare.

(5) The special circumstances are not the result of the actions of the applicant.

(6) The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.

(7) The variance is not a request to permit a use of land, buildings, or structures which is not permitted by right in the district involved.

MAYOR & COUNCIL VARIANCES

The Mayor and Council has the authority to grant variances (except for density and use variances) from the development standards of this chapter based upon the conditions above. The Mayor and Council may attach thereto any specific conditions which may be deemed advisable so that the purpose of this article will be served, public safety and welfare secured, and substantial justice done.

The authority to grant variances is limited to variances from the following requirements:

(a) In the case of a front, side or rear yard, the variance may not exceed fifty (50) percent of the minimum district requirement.

(b) In the case of the distance between the buildings on the same lot, the variance may not exceed ten (10) feet.

(c) In the case of parking requirements, the variance may not exceed fifty (50) percent of that required.

(d) Variance may be approved to grant parking in a required front yard in an old district if a ten-foot buffer area is retained between the street right-of-way and parking area.

(e) In nonresidential districts, a height variance may not exceed approving building heights in excess of five (5) stories in planned centers of not less than four (4) acres.

(f) In the case of the minimum single-family lot area required to be above and the distance of dwelling unit from intermediate regional flood contour elevation, the variance is limited to reducing the minimum single-family lot area required to be above intermediate regional flood contour elevation to fifty (50) percent and the distance of the dwelling unit from the intermediate regional flood contour elevation to the minimum yard requirements of applicable zoning districts and only upon written approval of the Site Development Department of DeKalb County, Georgia.

PROCESS

An applicant for a variance shall file a written request with the City of Doraville. The City Council shall establish a reasonable time for hearing the variance request and shall give public notice thereof and due notice to the parties in interest; and shall decide the variance request within reasonable time. At the hearing any party may appear in person, or by agent, or by attorney.

ADMINISTRATIVE VARIANCE

The Mayor shall have the option to grant variances from the development standards of this article, where, in his opinion, the intent of the article can be achieved and equal performance obtained by granting a variance. The authority to grant such variances shall be limited to variance from the following requirements:

(1) Front yard or yard adjacent to public street—Variance not to exceed five (5) feet.

(2) Side yard—Variance not to exceed two (2) feet.

(3) Rear yard—Variance not to exceed four (4) feet.

(4) Height of building—Variance not to exceed five (5) feet.

PROCESS

An applicant for a variance shall file a written request with the City of Doraville and include a drawing with dimensions and to scale showing property lines, required setbacks, structures and proposed variance. The Mayor shall decide the variance request within reasonable time.

City of Doraville Planning & Development Department

APPLICATION FOR VARIANCE

(CHECK ONE) **MAYOR & COUNCIL VARIANCE** ____ **ADMINISTRATIVE VARIANCE** ____

Date Received: 3/4/13 (incomplete applications shall not be accepted) VAR # _____

APPLICANT

Name: Chadwick Estrada

Mailing Address: 2499 Vanfleet cr Doraville GA 30360

E-mail: Chad.estrada@Gmail.com Daytime Phone: (4)6629025 Fax: _____

OWNER

Name: Chadwick Estrada

Mailing Address: 2499 Vanfleet cr Doraville GA 30360

E-mail: Chad.estrada@Gmail Daytime Phone: 404 662 9025 Fax: _____

SUBJECT PROPERTY

Street Address: 2415 Ridgeway Dr. Doraville GA 30360

Tax ID Parcel No.: 18 342 11 008 District(s) _____ LL 342 Block C Council District: _____

Current Zoning Category: R75 Variance(s) Requested Land Variance

REQUIRED DOCUMENTS:

MAYOR & COUNCIL VARIANCE

____ Boundary Survey of the property;

____ Site plan to scale showing existing and/or proposed development and structures, building setbacks, dimensions of pertinent structures to property lines, site topography, existing landscape, buffers and tree, and other information which will assist the City in determining whether a hardship exists meeting variance requirements.

____ Letter of Intent / Description of the Project: describing the requested variance; adjacent land uses and/or businesses; justification of how the requested use meets the Conditions Necessary for Approval (listed above) and any information the Applicant would like to include in the information package (photos, renderings, etc.);

____ Any additional information required by the City based upon the initial application meeting with staff;

____ Owner's Authorization of Agent (if Applicant is not the owner).

City of Doraville Planning & Development Department

APPLICATION FOR VARIANCE

APPLICATION FEE: See current City Fee Schedule.

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

In accordance with the Conflict of Interest in Zoning Act, O.C.G.A. Ch 36-67A, the following questions must be answered: Have you the applicant made $250 or more in campaign contributions to a local government official within two years immediately preceding the filing of this application? Yes _____ No _____

If the answer is Yes, you must file a disclosure report with the governing authority of the City of Doraville showing:

1. The name and official position of the local government official to whom the campaign contribution was made.
2. The dollar amount and description of each campaign contribution made during the two years immediately preceding the filing of this application and date of each such contribution.

Dorothy Evenable 3-4-13

NOTARY Dorothy Evenable DATE

Notary Public, DeKalb County GA
My Commission Expires:
September 8, 2015

EXPIRATION DATE / SEAL

SIGNATURE OF APPLICANT DATE

Check One: Owner ✓ Agent _____

City of Doraville Planning & Development Department

APPLICATION FOR VARIANCE

NOTE: 12 COPIES OF THE COMPLETED PACKAGE ARE REQUIRED FOR SUBMITTAL FOR REVIEW BY STAFF, PLANNING COMMISSION AND CITY COUNCIL. ALL APPLICATIONS SHALL BE COLATED AND SUBMITTED AS 12 SEPERATE PACKAGES INCLUDING ALL PLANS WHICH ARE TO BE FOLDED TO APPROXIMATELY 9" X 12" SIZE.

PLEASE READ THE FOLLOWING BEFORE SIGNING

This form must be completed in its entirety before it will be accepted. It must include all required attachments and filing fees. **An application which lacks any of the required attachments or information shall be deemed incomplete and shall not be accepted.**

Dorothy Ellerbe 3/4/13

NOTARY DATE

Dorothy F Venable
Notary Public, DeKalb County GA
My Commission Expires:
September 8, 2015

EXPIRATION DATE / SEAL

SIGNATURE OF APPLICANT DATE

Check One: Owner ✓ Agent _____

City of Doraville Planning & Development Department

OWNER'S AGENT AUTHORIZATION

Date: _____

TYPE OF APPLICATION

( ) Land Use Plan
( ) Rezone
( ) Conditional Use Permit
(V) Variance
( ) Other _____

SUBJECT PROPERTY ADDRESS

2415 Ridgeway Dr
Doraville GA 30360

Suite/Unit #_____

Tax Parcels # 18 342 11 008

TO WHOM IT MAY CONCERN:

(I) (WE), Chadwick Estrada

(NAME OF OWNER(S)) (print or type)

being (owner)/(owners) of the property described above or as attached hereby delegate authority to

_____

(PRINTED NAME OF APPLICANT OR AGENT REPRESENTING OWNER(S)) (print or type)

to file an application on (my) / (our) behalf.

_____ _____
Notary Public Owner

_____ _____
Notary Public Owner

_____ _____
Notary Public Owner

I Chadwick Estrada am petitioning for a variance for the construction of a garage at 2415 Ridgeway Drive, Doraville Georgia

Any home improvements in an area can only serve to improve and increase the values of all properties in a neighborhood. In signing this we acknowledge and accept that the distance of the garage to the property line is less than 10 feet required by the city of Doraville.

	Name/signature	address/map #	Phone Number/date
1	Ana White	2499 Van Fleet Cir	404-735-7288
		#14	1/19/13
2	Jimmy Woy	2491 Ridgeway	
3		2429 RIDGEWAY DR.	770-936-7055
		DORAVILLE GA 30360	1/19/13
4	Patsy M. Cordle	2423 Ridgeway Dr. Doraville, Ga. 30338	404-550-0185 1/19/13
5	Bill & Joyce	2414 Ridgeway PK.	770-895-3092
6	Jefferson	2407 Ridgeway DR	4042463487
7			
8			

Chadwick Estrada
2415 Ridgeway Dr
Doraville, GA 30360

Application For Variance

1. I believe that I have an "exceptional condition pertaining to my property" because of the shape of the lot. The lot is 101 ft in front and tapers to 49 ft. at the rear property line. Most of my buildable area is less than the 85 ft. required for construction after 2009.

2. The 10-side setback severely limits my options for a proper location of a 2-car garage. Two-car garages are a standard feature for most current homes. If I were to place the garage in any other location it would not be in harmony with the rest of the neighborhood; and if I were to place it in the back of the house it would greatly diminish the size of my back yard, and lastly, if I were to place it in the front of the house it would look out of place to the rest of the neighborhood.

3. Granting of this variance is consistent with the neighborhood. Several homes in the neighborhood are less than 10 ft from their side property lines and have been like that since they were built back in the 1960's. One for example is 2499 Van fleet Circle, which is only a 1 1/2ft from her neighbor's property line.

4. This Garage is an improvement and I feel is a necessity for the security of the vehicles and most importantly for the safety of my wife and myself. Not to long ago a neighbor across the street had his car stolen from right in front of his home.

5. If I had applied for a permit initially, I would have still been in front of this board. The width of the one car garage that was built is the minimum width needed to get into and out of my car. The attached single width garage best fits my property and the existing location of the home.

6. The variance request is the minimum required for my particular lot size and building location.

7. This is not a "use" variance. It is a "land" variance.

On the actual application:
Under Subject property
Variance requested: Section 23-903.f – min. side yard building setback. This variance request is to reduce the required setback of 10 ft. to .89 ft.

From: Chadwick Estrada (404) 662-9025
2415 Ridgeway Drive
Doraville, GA 30360

To: City of Doraville

January 27, 2013

Regarding: **Variance Petition for the construction of a garage at 2415 Ridgeway Drive, Doraville Georgia**

Dear Sirs,

I recently bought a house in the newly annex area of Doraville. I am petitioning a variance for the garage that I had built on an already pre-existing concrete slab /driveway adjacent to my house.

In hindsight we should have check with Zoning and gone thru the permit process. We just started and did not think to stop for a permit. We are now working diligently with Building and Zoning departments to correct the situation. The first step is this variance request. Our variance request is to allow a .89 side yard setback in lieu of the new R1 zone side setback of 10 ft. side.

I believe I have a unique and unusual hardship pertaining to the character of the neighborhood. Most of the homes were constructed in 1950's and 1960's; this predates Dekalb country zoning regulations. Growth has occurred overtime due to the efforts of its middle income families.* We have been somewhat ignored for decades and there are many examples of existing zoning regulation inconsistencies. My Mother's home at 2499 Van Fleet circle is one example. Her home built in 1960 and is 1.1 ft from one side property line.

I believe my attached garage is in harmony with the neighborhood. Most the homes have attached garages. An alternate location would NOT be consistent with the neighborhood. A standard 12 x 24 garage would not fit in the front yard (near the northern property line). A garage structure in the front yard obscures the main house and is NOT architecturally pleasing. Locating a one-car garage in the rear yard increases impervious surface area substantially and reduces the use of a backyard considerably. It would be an excessive addition to attach the home in either scenario.

If this variance were granted the essential character of the neighborhood would not be altered and would not diminish the value of the surrounding properties. Granting of this variance would be beneficial to the public interest.

I ask you to consider my petition for this variance for I have put great time and effort in to making my future home a better place to live. I also have the consent and blessing of my neighbor Pat Cordle phone number 404-450-0585 as well as other neighbors in the area.

Chadwick Estrada

02-01-13A10:25 PAID

DUNLAP ASSOCIATES
Consulting Engineers

1301 Shiloh Road, Suite 1830
Kennesaw, Georgia 30144
678-581-1000
Email:sdunlap@da-engineers.com

January 28, 2013 (UPDATED 2-11-13)

Structural Engineer's Letter of Certification

Client: Chadwick Estrada

Location: 2415 Ridgeway Drive, Doraville, Georgia

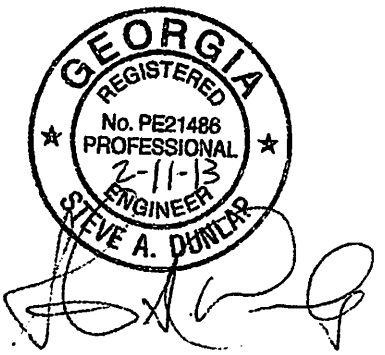
I visited the referenced location at the client's architect's request to inspect structural framing of rear deck addition, garage addition, and stairway addition.

Based upon my observation the framing systems for deck, garage, and stairs are acceptable and in accordance with IRC2006.

ADDITIONALLY:

At the request of the owner's agent, I understand the City of Doraville Building Inspections requests a statement that plumbing, electrical, and mechanical services are not adversely affecting the integrity of the structural components. Based upon my observations late last week, the structural components do not appear to be compromised or adversely affected.

Signed and sealed this 11th day of February, 2013.



THE CITY OF DORAVILLE
AGENDA ITEM SHEET

Subject: Salary for Part-time Mayor

Regular Meeting (x)

Date of Meeting: 3/18/13

Budget Impact: Yes

Work Session ( )
Recommendation ( )
Policy/Discussion ( )
Report ( )
Other ( )

Budget Impact Amount: $ TBD

Funding Source:
(X)Annual
( )Capital
( )N/A

CITYOFDORAVILLE CITYOFDORAVILLE CITYOFDORAVILLE CITYOFDORAVILLE CITYOFDORAVILLE

Determine a salary for the part-time mayor position as the City transitions to a City Manager form of government.

History, Facts, Issues: The City is scheduled to complete its transition to a City Manager/part-time Mayor form of government on 7/1/2013. The transition process begins 4/17/13 as the new City Manager, Dr. Gillen, begins employment. Council recently passed Charter changes that include the removal of certain administrative functions and the supervision of daily operations from the Mayor's position. Those powers, as detailed in the new Charter, will now be entrusted to the City Manager. A salary adjustment for the Mayor will need to be made to accommodate the change to a more ceremonial role. Per the new Charter, the salary may be set by ordinance after a public hearing on the matter.

The Georgia Department of Community Affairs conducts an annual survey of elected officials' salaries. That data may be reviewed at http://www.dca.state.ga.us/dcawss/reports/static/2012/2012_Muni_Elected_FINAL.pdf. In addition, I contacted the city clerks for surrounding municipalities to obtain supplemental information on benefits for part-time mayors. Those results are entered into the attached spreadsheet.

Options: 1) Agree to salary and terms for the part-time mayoral position and direct the City Attorney to draft an ordinance for a 7/1/13 start date; 2) Retain the current full-time salary and terms for the Mayor's position.

Recommended Action: Set a reasonable salary for the part-time Mayor's position and direct the City Attorney to draft the necessary ordinance.

Department: City Council

Submitted by: Karen Pachuta

Mayoral Salaries - Sorted by Population

City	Population	Mayoral Salary	Health Insurance?	City cost	Mayoral contribution	Expense Account	Other benefits
Sandy Springs	96,856	$ 25,000.00	No	N/A	N/A	budget for travel and training	None
Johns Creek	79,192	$ 25,000.00	No	N/A	N/A	may submit mileage/meals, approved by CM	None
Albany	77,437	$10,000.00	Yes	75%	25%	yes; unknown amount	Mayor may pay 100% cost of Vision, Life, disability
Alpharetta	59,397	$ 30,000.00	Yes	same as employees	same as employees	$9,000	457 and 401 plan
Marietta	57,357	$ 18,000.00	Yes	$337.25/mo single $828.77/mo family	$47.76/mo single $138.05/mo family		
Smyrna	51,982	$ 22,800.00	Yes	same as employees	same as employees	reimbursements for mileage, etc	Retirement
Brookhaven	49,000	$ 16,000.00	they have not decided yet				
Dunwoody	46,809	$ 16,000.00	Yes	90%	10%	$5000/yr	None
East Point	34,784	$ 20,799.00	Yes	for POS: $339.70 - 730.56 for HMO: $339.79 - 730.57	for POS: $194.84 - 993.64 for HMO: $37.76 - 487.04	$1300/yr expenses; $6000 car allowance	
Kennesaw	30,196	$ 19,200.00	Yes	$620/mo single $1560/mo family	$52/mo single $179/mo family		
Duluth	27,258	$ 9,600.00	No	N/A	N/A	travel reimbursement	
Woodstock	24,346	$ 12,000.00	Yes	unknown	unknown	reimbursement for training	may participate in 457 plan
Snellville	18,686	$ 5,000.00	No	N/A	N/A	No	cell phone
Suwanee	15,734	$ 15,000.00	No	N/A	N/A	No	can elect to participate in retirement
Chamblee*	15,500	$ 10,800.00	Yes	for family $1613.78	$34.66		health, dental, vision and life
Lilburn	11,951	$ 5,000.00	No	N/A	N/A	$225 per quarter	
Norcross	9,340	$ 6,400.00	Yes; single only		$60/mo		if Mayor chooses to opt out of insurance, receives extra $250/mo
Clarkston	7,641	$ 6,500.00	Yes; single only	$545/mo	$0	$3000/yr travel; $700/yr ed	officials may pay 100% premium cost to add dependent to insurance
Vienna	4,000	$1,680.00	No	N/A	N/A	reimbursements for expenses	Retirement
**Additional cities contacted that did not respond:							
Roswell	91,168	$ 40,000.00					
Fayetteville	16,124	$ 11,400.00					
Riverdale	15,251	$ 14,400.00					
Dallas	11,638	$ 10,000.00					
Loganville	10,601	$ 14,000.00					
Notes:							
*The mayoral salary for Chamblee is set to raise to $18,000/yr on 1/1/14.							
**Salary data was collected from DCA survey; benefit information was collected by request from each city's city clerk							

Mayoral Salaries - Sorted by Salary

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Notes:							
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STATE OF GEORGIA

CITY OF DORAVILLE

ORDINANCE NO. 2013-__

AN ORDINANCE TO REVISE CHAPTER 2 ("ADMINISTRATION"), ARTICLE II ("CITY COUNCIL") AND III ("MAYOR") TO ADOPT SALARIES AND EXPENSES FOR MAYOR AND COUNCIL PURSUANT TO THE CHARTER; TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES; TO PROVIDE FOR AN ADOPTION AND EFFECTIVE DATE; TO PROVIDE FOR CODIFICATION; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES

WHEREAS, the Georgia Legislature adopted House Bill 544 in 2011, and the voters approved same by Referendum in November, 2011, to provide a change in the Charter for the City of Doraville to provide for a new position of City Manager and a transition of the Mayor's position to be changed from full-time to part-time; and

WHEREAS, pursuant to said authority, the Mayor and City Council amended the City's Charter by Home Rule to provide, among other things, that the Mayor and Council's salaries and expenses would hereafter be prescribed by Ordinance; and

WHEREAS, in order to ensure that proper salaries for Mayor and Council are established by the July 1, 2013 effective date of the new Charter revisions, the Mayor and City Council wish to provide for same in this Ordinance; and

WHEREAS, in accordance with the revised Charter provisions, the Mayor and City Council held a Public Hearing on the contents of this Ordinance on _____, 2013, prior to its adoption.

THEREFORE, THE MAYOR AND COUNCIL OF THE CITY OF DORAVILLE, GEORGIA HEREBY ORDAIN:

Section 1

That the Code of Ordinances for the City of Doraville, Georgia, is hereby amended by revising Chapter 2 ("Administration"), Article II ("City Council"), by adding a new Section 2-43, to read as follows:

Sec. 2-43. Council Salaries; Expenses; Benefits.

(a) The salary of each member of the elected City Council shall be $8,400 per year, paid in accordance with the established pay periods of all other employees of the City.

(b) Each member of the City Council shall be afforded $3,000 in expenses per year, reimbursed pursuant to the established policy and ordinances of the City. Qualified expenditures shall be categorized as follows:

(1) General Office supplies necessary for the performance of Council duties;

(2) Travel expenses to educational seminars and conferences as provided by the yearly budget appropriation, including per diem meal expenses in accordance with the City's policies and mileage reimbursement;

(3) Professional memberships necessary for the performances of their duties as Councilmembers;

(4) Educational materials, as well as copying and printing costs, necessary for the performance of their duties;

(5) Business meals;

(6) Customary mileage reimbursement while performing their duties as Councilmembers, excluding travel to and from the City Council regular Meeting Location;

(7) Use of cellular phone for performance of Council duties; and

(8) Other expenses as specifically provided in the yearly budget.

(c) Each Councilmember shall be entitled to participate in the group benefits afforded each employee of the City, with the exception that each Councilmember shall be responsible for payment of 100% of the premiums for said benefits.

Section 2

That the Code of Ordinances for the City of Doraville, Georgia, is hereby further amended by revising Chapter 2 ("Administration"), Article III ("Mayor"), by adding a new Section 2-64, to read as follows:

Sec. 2-64. Mayor's Salary; Expenses; Benefits.

(a) The salary of the Mayor shall be $14,800 per year, paid in accordance with the established pay periods of all other employees of the City.

(b) The Mayor shall be afforded $3,000 in expenses per year, reimbursed pursuant to the established policy and ordinances of the City. Qualified expenditures shall be categorized as follows:

(1) General Office supplies necessary for the performance of Mayoral duties duties;

(2) Travel expenses to educational seminars and conferences as provided by the yearly budget appropriation, including per diem meal expenses in accordance with the City's policies and mileage reimbursement;

(3) Professional memberships necessary for the performances of his/her duties as Mayor.

(4) Educational materials, as well as copying and printing costs, necessary for the performance of his/her duties;

(5) Business meals;

(6) Customary mileage reimbursement while performing his/her duties as Mayor, excluding travel to and from the City Council regular Meeting Location;

(7) Use of Cell Phone for performing Mayoral duties; and

(8) Other expenses as specifically provided in the yearly budget.

(c) The Mayor shall be entitled to participate in the group benefits afforded each employee of the City, with the exception that the Mayor shall be responsible for payment of 100% of the premiums for said benefits.

Section 3

That the Code of Ordinances for the City of Doraville, Georgia, is hereby further amended by deleting Section 2-191 in its entirety.

Section 4

a. It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

b. It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section paragraph, sentence, clause or phrase of this Ordinance.

c. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section 5

All ordinances or parts of ordinances in conflict herewith are hereby expressly repealed.

Section 6

This Ordinance shall be codified in accordance with state law and the Code of the City of Doraville, Georgia. With the exception of Section 3, which shall be effective immediately upon adoption, this Ordinance shall become effective on July 1, 2013.

SO ORDAINED, this ___ day of _____, 2013.

CITY OF DORAVILLE, GEORGIA

_____
Mayor

_____ _____
First Reading Second Reading

ATTEST:

_____(SEAL)

Sandra Bryant, Acting City Clerk

APPROVED AS TO FORM:

_____

Cecil G. McLendon, Jr., City Attorney

	Yea	Nay
Maria Alexander	☐	☐
Brian Bates	☐	☐
Pam Fleming	☐	☐
Karen Pachuta	☐	☐
Trudy Jones Dean	☐	☐
Robert Patrick	☐	☐