SANDY SPRINGS
GEORGIA

CITY COUNCIL AGENDA ITEM

TO: Mayor & City Council **DATE:** December 12, 2012

FROM: John McDonough, City Manager

AGENDA ITEM: **TA12-007** - An Ordinance Amending Article III, Section 3.3., Definitions, Article XIX, Section 19.3.2.3., Antenna, Tower And Associated Structures (Radio, Television, Microwave Broadcasting, Etc.) Which Will Exceed The Maximum Zoning District Height In Districts O-I, MIX, C-1, C-2, M-1A, M-1 And M-2, And Article XIX, Section 19.4.8., Antenna Tower, And Associated Structure (Radio, Television, Microwave Broadcasting, Etc.) Which Will Exceed The Allowed Zoning District Height In Residential And AG-1, Of The City Of Sandy Springs Zoning Ordinance

MEETING DATE: For Submission onto the December 18, 2012, City Council Regular Meeting Agenda

BACKGROUND INFORMATION: (Attach additional pages if necessary)

See attached:

Memorandum
Resolution
Article III Amendment

APPROVAL BY CITY MANAGER: JM *APPROVED*

PLACED ON AGENDA FOR: 12-18-2012

CITY ATTORNEY APPROVAL REQUIRED: (✓) *YES* ( ) *NO*

CITY ATTORNEY APPROVAL: SM

REMARKS:

SANDY SPRINGS
GEORGIA

To: John McDonough, City Manager

From: Angela Parker, Director of Community Development

Date: December 4, 2012 for Submission onto the December 18, 2012 Planning Commission Meeting

Agenda Item: TA12-007 An Ordinance Amending Article III, Section 3.3., Definitions, Article XIX, Section 19.3.2.3., Antenna, Tower And Associated Structures (Radio, Television, Microwave Broadcasting, Etc.) Which Will Exceed The Maximum Zoning District Height In Districts O-I, MIX, C-1, C-2, M-1A, M-1 And M-2, And Article XIX, Section 19.4.8., Antenna Tower, And Associated Structure (Radio, Television, Microwave Broadcasting, Etc.) Which Will Exceed The Allowed Zoning District Height In Residential And AG-1, Of The City Of Sandy Springs Zoning Ordinance

---

Department of Community Development Recommendation:

APPROVAL of the proposed cell tower ordinance amendments.

Background:

Under the City's current ordinances, the approval of a cell tower in certain districts requires that a Use Permit be granted. Though our ordinances provide regulations which have proved successful, in working through previous applications, staff believes that our evaluation process would be improved by requiring additional information at the time of the application. Additionally, this proposal enhances the guidelines to be considered by the Council in determining whether the Use Permit was appropriate.

Discussion:

The proposed ordinance (a copy of which is attached hereto) does several primary things:

1. The Ordinance adds O-I, MIX, C-1 and C-2 zoning districts to those which will now require a Use Permit as opposed to an administrative permit for towers exceeding the maximum district height. Currently the Use Permit is only required for towers in AG-1 and Residential.

2. The Ordinance creates a new subsection D which sets forth specific information which must be provided by the applicant at the time of application. This information is designed to provide the City staff and ultimately the Planning Commission and Mayor and Council with information necessary to evaluate the application.

Public Works

3. The Ordinance creates a new subsection E which modifies the criteria to be considered by the Planning Commission and Mayor and Council as they determine whether the proposed location is appropriate for the tower.

Through these additions, staff feels that the process of application, review, and decision making regarding cell tower applications which exceed the maximum district height will be more efficient and effective for not only the applicant and staff, but also the Planning Commission and Mayor and Council.

Planning Commission Recommendation:

The amendment was heard at the November 15, 2012 Planning Commission meeting. The Commission recommended approval as presented by staff (6-0, Frostbaum, Maziar, Pond, Squire, Tart and Rubenstein for; Duncan not voting).

Attachments:

Proposed Ordinance.

RESOLUTION NO. 2012-_____

STATE OF GEORGIA

COUNTY OF FULTON

A RESOLUTION TO ADOPT AN ORDINANCE AMENDING ARTICLE III, SECTION 3.3., DEFINITIONS, ARTICLE XIX, SECTION 19.3.2.3., ANTENNA, TOWER AND ASSOCIATED STRUCTURES (RADIO, TELEVISION, MICROWAVE BROADCASTING, ETC.) WHICH WILL EXCEED THE MAXIMUM ZONING DISTRICT HEIGHT IN DISTRICTS O-I, MIX, C-1, C-2, M-1A, M-1 AND M-2, AND ARTICLE XIX, SECTION 19.4.8., ANTENNA TOWER, AND ASSOCIATED STRUCTURE (RADIO, TELEVISION, MICROWAVE BROADCASTING, ETC.) WHICH WILL EXCEED THE ALLOWED ZONING DISTRICT HEIGHT IN RESIDENTIAL AND AG-1, OF THE CITY OF SANDY SPRINGS ZONING ORDINANCE PROVIDING FOR THE ADDITION OF DEFINITIONS RELATED TO ARTICLE XIX, THE APPLICABILITY OF SECTION 19.4.8. TO THE CITY'S OVERLAY DISTRICTS, AND THE ADDITION OF CERTAIN REQUIREMENTS TO OBTAIN USE PERMITS FOR WIRELESS COMMUNICATIONS STRUCTURES.

WHEREAS, the Mayor and City Council of the City of Sandy Springs are charged with the protection of the public health, safety, and welfare of the citizens of Sandy Springs ("City"); and

WHEREAS, the Federal Telecommunications Act authorizes the City to regulate the placement of wireless telecommunication towers and facilities through proper zoning procedures, so long as wireless service coverage is not prohibited; and

WHEREAS, the City desires to adopt certain requirements for applicants to obtain a telecommunications tower use permit, which will ensure adequate wireless coverage while preserving the health, safety and welfare of the citizens of the City, as well as preserving the aesthetic and historic nature of certain areas in the City; and

WHEREAS, the City desires to provide for such requirements to be applicable to the City's overlay districts; and

WHEREAS, in order to accomplish the foregoing, the City desires to amend Article III, Section 3.3., DEFINITIONS, of the City's zoning ordinance ("Zoning Ordinance") to include definitions of certain terms utilized in Article XIX of the Zoning Ordinance, as set forth in the amendment to Article III attached to this resolution ("Article III Amendment"); and

WHEREAS, in order to accomplish the foregoing, the City further desires to amend Article XIX, Section 19.3.2.3., ANTENNA, TOWER AND ASSOCIATED STRUCTURES

(RADIO, TELEVISION, MICROWAVE BROADCASTING, ETC.) WHICH WILL EXCEED THE MAXIMUM ZONING DISTRICT HEIGHT IN DISTRICTS O-I, MIX, C-1, C-2, M-1A, M-1, AND M-2 of the Zoning Ordinance to describe the City's requirements for obtaining a telecommunications tower administrative use permit, as provided in the amendment to Article XIX attached to this resolution ("Article XIX Amendment"); and

WHEREAS, in order to accomplish the foregoing, the City further desires to amend Article XIX, Section 19.4.8., ANTENNA TOWER, AND ASSOCIATED STRUCTURE (RADIO, TELEVISION, MICROWAVE BROADCASTING, ETC.) WHICH WILL EXCEED THE ALLOWED ZONING DISTRICT HEIGHT IN RESIDENTIAL AND AG-1 of the Zoning Ordinance to describe the City's requirements for obtaining a telecommunications tower use permit, as provided in the Article XIX Amendment attached to this resolution, and to include the City's Overlay Districts, as set forth in Article XII of the Zoning Ordinance, within the requirements described in Section 19.4.8.; and

WHEREAS, a properly advertised hearing has been noticed and conducted pursuant to the requirements of the Zoning Procedures Act.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Sandy Springs, Georgia, as follows:

1. The City Council hereby approves and adopts the Article III Amendment, as set forth in the attachment to this resolution.

2. The City Council hereby approves and adopts the Article XIX Amendment, as set forth in the attachment to this resolution.

Adopted by the City Council of Sandy Springs on _____, 2012.

Approved:

_____
Eva Galambos
Mayor, City of Sandy Springs, Georgia

Attest:

_____
Michael Casey, City Clerk

ARTICLE III AMENDMENT

BE IT ORDAINED by the Mayor and City Council of the City of Sandy Springs, Georgia, as follows:

The City of Sandy Springs Zoning Ordinance, Article III, Section 3.3., DEFINITIONS, is hereby amended by adding thereto the following definitions in their appropriate alphabetical order, to read as follows:

"Antenna Array. A single set or group of Antennas and associated mounting hardware, transmission lines or other appurtenances which share a common attachment device such as a mounting frame or mounting support.

Applicant. A person or entity submitting an application for a Wireless Telecommunications Structure, including the Property Owner, Antenna support Structure Owner, and any proposed tenants for the Structure.

Co-Location. A situation in which two (2) or more wireless personal service providers place a wireless telecommunications Antenna or Antennas and feed lines on a common Antenna support Structure or other Structure on which there is an existing Antenna Array.

Concealed. A Wireless Telecommunications Structure that is disguised, hidden, part of an existing or proposed Structure or placed within an existing or proposed Structure, to include Antennas, Accessory Structures, and utilities.

Coverage. The geographic area reached by an individual Wireless Telecommunications Structure installation.

District, Historic. A geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, Buildings, Structures, or objects united by past events or aesthetically by plan or physical development. Historic District may also comprise individual elements separated geographically but linked by association or history.

F.C.C. The Federal Communications Commission.

Geographic Search Area. An area designated by a wireless provider or operator for a new base station, produced in accordance with generally accepted principles of wireless engineering.

Guy Tower. A Tower supported, in whole or in part, by guy wires and ground anchors.

Height, Structure. The distance measured vertically from the average ground elevation adjacent to the Structure being measured to the highest point when positioned for

operation. The Structure Height of a Tower includes the Structure Height of any Antenna positioned for operation attached to the highest point on the Tower.

Owner. Any person, agent, firm, or legal entity having a legal or equitable interest in the premises.

Propagation Study. A computer simulated model of how a radio system should perform. It gives an idea of the Coverage, dead-spots and performance of a proposed radio system for planning purposes, as well as an existing system for diagnostic purposes.

Properties, Historic. A Property which contains Historic Structures or which otherwise has sufficient historic merit as determined by the City Council so as to require preservation.

Radiofrequency Engineer. A radiofrequency expert with specialized training and experience in the development and analysis of Telecommunication Structures and networks, or a professional engineer licensed in the State of Georgia and experienced in the telecommunications field; however, in the event that this Ordinance requires an engineering certification regarding structural loading or other certification associated with the safety or integrity of Structures, a certification by a professional engineer licensed in the State of Georgia shall be required.

Scenic View. A wide angle or panoramic field of sight that may include natural and/or manmade Structures and activities. A Scenic View may be from a stationary viewpoint or be seen as one travels along a roadway, waterway, or Path. A Scenic View may be to a far away object, such as a mountain, or a nearby object.

Siting. The method and form of placement of a Wireless Telecommunications Structure on a specific area of a Property.

Stealth Technology Installation. Manmade trees, clock towers, bell steeples, light poles and similar alternative design Structures that, in the opinion of City Council, are compatible with the natural setting and surrounding Structures, and effectively camouflage or conceal the presence of Antennas or Towers.

Structure, Attached Wireless Telecommunications. An Antenna or Antenna Array that is secured to an existing Building or Structure (except an Antenna support Structure) with any accompanying pole or device which attaches it to the Building or Structure, together with transmission cables, and an equipment cabinet, which may be located either on the roof or inside/outside of the Building or Structure. An Attached Wireless Telecommunications Structure is considered to be an Accessory Use to the existing Principal Use on a site.

Structure, Historic. A Structure which has been formally designated as an Historic Structure as designated by the Georgia Historic Preservation Division of the Department of Natural Resources or the United States Department of the Interior or a City Historic

Preservation Commission, if one is established, or which has sufficient historic merit as determined by the City Council so as to require preservation.

Structure, Telecommunications. A telecommunications Tower, Monopole Tower, Antenna or any and all Buildings, Structures, or other supporting equipment used in connection with a telecommunications Tower, Monopole Tower, or Antenna.

Structure, Wireless Telecommunications. A staffed or unstaffed commercial Structure for the transmission and/or reception of radiofrequency signals, or other wireless communications, and usually consisting of an Antenna or groups of Antennas, transmission cables and equipment enclosures, and may include an Antenna support Structure. The following nonexclusive list shall be considered a Wireless Telecommunications Structure: new and existing Antenna support Structures, replacement Antenna support Structures, Co-Locations on existing Antenna support Structures, Attached Wireless Telecommunications Structures and concealed Wireless Telecommunications Structures. Also see "Telecommunications Structure."

Tower, Lattice. A guyed or self-supporting, open frame Structure that has three (3) or four (4) sides used to support telecommunications equipment.

Tower, Monopole. A cylindrical, self-supporting, i.e., not supported by guy wires, communications Tower constructed of a single spire, used to support telecommunications equipment."

ARTICLE XIX AMENDMENT

BE IT ORDAINED by the Mayor and City Council of the City of Sandy Springs, Georgia, as follows:

The City of Sandy Springs Zoning Ordinance, Article XIX, Section 19.3.2.3., ANTENNA, TOWER AND ASSOCIATED STRUCTURES (RADIO, TELEVISION, MICROWAVE BROADCASTING, ETC.) WHICH WILL EXCEED THE MAXIMUM ZONING DISTRICT HEIGHT IN DISTRICTS O-I, MIX, C-1, C-2, M-1A, M-1, AND M-2, is hereby amended as follows:

I. The first paragraph of Section 19.3.2.3. shall be amended to provide that it applies only to M-1A, M-1, and M-2 districts; therefore, the first paragraph of Section 19.3.2.3. shall hereafter read as follows:

"19.3.2.3. ANTENNA, TOWER AND ASSOCIATED STRUCTURES (RADIO, TELEVISION, MICROWAVE BROADCASTING, ETC.) WHICH WILL EXCEED THE MAXIMUM ZONING DISTRICT HEIGHT IN DISTRICTS M-1A, M-1, AND M-2. (See applicable provisions of this Ordinance for Zoning Districts, if any, which allow this Use within the district.) (For use in Residential Districts, AG-1, Overlay Districts, O-I, MIX, C-1, and C-2 districts, see Section 19.4.8. of this Ordinance for Use Permit Standards.)"

II. Paragraph designated "B." of Section 19.3.2.3. shall hereafter read as follows:

"Allowed Only in These Districts with Administrative Permit: M-1A, M-1, and M-2 (See Section 19.4.8. of this Ordinance for Use Permit Standards in Residential Districts, AG-1, Overlay Districts, O-I, MIX, C-1, and C-2 districts.)"

The City of Sandy Springs Zoning Ordinance, Article XIX, Section 19.4.8., ANTENNA TOWER AND ASSOCIATED STRUCTURE (RADIO, TELEVISION, MICROWAVE BROADCASTING, ETC.) WHICH WILL EXCEED THE ALLOWED ZONING DISTRICT HEIGHT IN RESIDENTIAL AND AG-1, is hereby amended as follows:

III. The first paragraph of Section 19.4.8. shall be amended to provide that it applies to Residential, AG-1, Overlay Districts, O-I, MIX, C-1, and C-2 districts; therefore, the first paragraph of Section 19.4.8. shall hereafter read as follows:

"19.4.8. ANTENNA TOWER, AND ASSOCIATED STRUCTURE (RADIO, TELEVISION, MICROWAVE BROADCASTING, ETC.) WHICH WILL EXCEED THE ALLOWED ZONING DISTRICT HEIGHT IN RESIDENTIAL DISTRICTS, AG-1 OVERLAY DISTRICTS, O-I, MIX, C-1, AND C-2. (See applicable provisions of this Ordinance for Zoning Districts, if any, which allow this Use within the district.) (For use in districts M-1A, M-1 and M-2, see Section 19.3.2.3. of this Ordinance for Administrative Permit Standards.)"

IV. Paragraph designated "B." of Section 19.4.8. shall be amended to provide that it applies to Residential, AG-1, Overlay Districts, O-I, MIX, C-1, and C-2 districts; therefore, paragraph designated "B." shall hereafter read as follows:

"B. Allowed in These Districts with Use Permit Only: Residential, AG-1, Overlay Districts, O-I, MIX, C-1, and C-2 districts. (For other districts, see Section 19.3.2.3. of this Ordinance for Administrative Permit Standards.)"

V. There shall be added to Section 19.4.8. a new paragraph designated "D." following paragraph "C.", which shall read as follows:

"D. The Applicant for a Use Permit under this section shall provide the following:

1. A scaled site plan which shall clearly indicate: (a) location, type, dimensions and Structure Height of the proposed Tower and any Accessory Structure to be utilized, (b) cable/electrical elements to be utilized, (c) parking to be utilized, (d) current and proposed on-site land uses and zoning of the Property, (e) adjoining land uses and zoning designations, (f) distance from the nearest edge of the Tower and all related Structures to Historic Properties, Historic Structures, Historic Districts, or Scenic Views within one (1) mile of the proposed site, (g) adjacent roadways and proposed means of access to the site and parking,

(h) Setbacks from adjacent Property lines, (i) elevation drawings of the proposed Tower, Accessory Structure and any other Structures, and (j) topography of the proposed site including any existing streams, wetlands and floodplains or similar features;

2. Legal description of the Lot and leased parcel (if applicable), for which the Use Permit is to apply, and (if applicable) a signed lease containing the lease terms of any lease agreement pertaining to a leased parcel;

3. An independent engineering study which includes a current and a future projected definition of the area of Coverage, capacity and radiofrequency goals for voice and data (delineated individually and combined) to be served by the proposed Antenna or Tower and the extent to which such Antenna or Tower is needed for Coverage and/or capacity. The study shall include the following information for each Tower, Antenna, and adjoining sites within a two (2) mile radius of the proposed site: (a) all planned, proposed, in-service, Co-Location or existing Antenna and/or Tower locations and sites used by the Applicant and all other carriers, to include address of and distance from each of the current locations and sites to the proposed site, (b) a description of each of the Applicant's current Antenna and Tower locations and sites, to include the types and kinds of services, Coverage, capacity and radiofrequencies provided by each Antenna and Tower, (c) an analysis and detailed Coverage maps of the current and projected usage in the service area, indicating lack of Coverage in the area (Coverage gaps), and (d) a color Propagation Study indicating the existing Coverage of all Wireless Telecommunications Structures owned and proposed by the Applicant within the two (2) mile radius Geographic Search Area. The study shall also provide justification that the proposed Structure Height is the minimum necessary to achieve the required Coverage delineated in the study. The study shall bear the signature and certification of a Radiofrequency Engineer that the information provided in the application is true and correct;

4. An engineer scaled drawing which shall clearly indicate the distance between the closest edge of the Tower and the nearest point of the related proposed Telecommunications Structure(s) and the nearest Residential property Structure The drawing shall also clearly indicate the distance to the Right-of-Way.

5. When requesting a Use Permit for a new Telecommunications Structure greater than one hundred (100) feet in Structure Height on Property which Adjoins residentially zoned Property, written certification and analysis by a Radiofrequency Engineer justifying the need for a Structure Height in excess of one hundred (100) feet;

6. Design plans illustrating that the Wireless Telecommunications Structure and any Accessory Structures to be constructed are designed in accordance with all applicable local ordinances, state and federal laws, rules and regulations. For Towers, Antennas and equipment to be added to existing Wireless Telecommunications Structures, the Applicant shall provide certification by a professional structural engineer as to the integrity of the Structure to support the additional wireless communications equipment;

7. Landscaping shall comply with the Tree Conservation Ordinance, shall be reviewed by the City Arborist, and shall provide a suitable Buffer of plant materials that mitigates the view of the Telecommunications Structure and Accessory Structures from surrounding Property, as determined by the City Arborist;

8. Detailed plan for security of the site/facility;

9. Written study regarding the noise-generating equipment and anticipated noise level of said equipment and its impact on nearby residents;

10. Detailed plan for parking, including the location of spaces and ingress/egress;

11. Hours of operation and full maintenance plan for the Property, Tower, related Structures, Fences and Buffer landscape;

12. Proof of compliance with F.A.A. requirements under 14 C.F.R. Section 77, as amended;

13. Proof of compliance with the National Environmental Policy Act (NEPA) and the State Historic Preservation Office (SHPO) for the proposed Telecommunications Structure;

14. Proof of licensing by the F.C.C. for the intended use of the Structure;

15. Proof that a Stealth Technology Installation cannot be used; and

16. Proof of: (a) all Co-Location and other alternative sites in the area that are/were being pursued or have been denied, (b) proof there does not exist the ability to Co-Locate using existing Structures, and (c) proof regarding all actions taken by the Applicant to achieve Co-Location."

VI. There shall be added to Section 19.4.8. a new paragraph designated "E." following new paragraph "D." above, which shall hereafter read as follows:

"E. Regarding a decision pursuant this section, in lieu of the Use Permit considerations set forth in Section 19.2.4., the Planning Commission shall

review the application and documents submitted and may adopt a recommendation of approval or denial of the Use Permit. The City Council shall, after public hearing, approve or deny the Use Permit, giving consideration to the following factors:

1. Demonstrated need for the Telecommunications Structure at the specified site, including need for service Coverage;

2. Proximity and impact, if any, on residential structures in Residential District boundaries and Historic Structures, or other potentially environmentally or historically sensitive areas;

3. Demonstrated need for the proposed Structure Height of the Tower;

4. Impact on the use of adjacent Properties and surrounding areas;

5. Topography and tree coverage of the area where the Structures are to be located, and foliage that buffer the potential visual impact of the Telecommunications Structure;

6. Design of the Telecommunications Structure, with particular reference to design characteristics which have the effect of reducing or eliminating visual obtrusiveness, to include consideration of Stealth Technology Installations;

7. Proposed ingress and egress;

8. Availability of suitable existing Towers or other Structures for Co-Location not requiring the construction of additional Towers or Structures."

This Ordinance shall become effective immediately upon its adoption by the City Council, and incorporated into the Zoning Ordinance of the City of Sandy Springs, Georgia. This Ordinance hereby repeals any and all conflicting ordinances and amendments.

SO ORDAINED this the _____day of _____, 2012.

Approved:

_____
Eva Galambos
Mayor, City of Sandy Springs, Georgia

Attest:

_____

Michael Casey, City Clerk

(Seal)

Approved as to Form:

_____

Wendell Willard, City Attorney