COUNTY AGENDA REQUEST

Department:	Planning and Zoning	Presenter(s):	Pete Frisina
Meeting Date:	Thursday, May 24, 2012	Type of Request:	Old Business

Wording for the Agenda:

Consideration of staff's recommendation to contract with Diversified Electronics, Inc. for a $1,000 fee on an as needed basis, to review the county's inventory of Existing or Planned Tower Sites as required by Fayette County Zoning Ordinance, Article V., 5-44, and to authorize the Chairman to sign the contract and related documents contingent upon the County Attorney's review.

Background/History/Details:

Per the recommended amendments to the Zoning Ordinance concerning Standards for Telecommunications Antennas and Towers, staff is requesting the ability to engage an independent expert to review the existing inventory of towers and any other planned towers whenever a proposed tower cannot meet the separation requirements between towers. Peachtree City and Gwinnett County use an independent expert to evaluate cell tower applications and some of the requirements and language from these ordinances were used to formulate the County's ordinance concerning this subject. The inventory of existing and planned towers is required for a request to reduce or waive the separation requirement which is considered in public hearings before the Planning Commission and the Board of Commissioners, and its purpose is to indicate that no other towers within the search area can accommodate the applicant's antenna.

Staff recommends entering into a contract with Diversified Electronics Incorporated to do the review of the inventory of existing and planned towers on as as needed basis for a fee of $1,000.

This request is in conjunction with the request to approve Resolution 2012-12 establishing an application fee that would offset the $1,000 cost from Diversified Electronics Incorporated resulting in no cost to Fayette County if this requirement ever come into play.

What action are you seeking from the Board of Commissioners?

Consideration of staff's request to enter into a contract with Diversified Electronics, Inc. for a $1,000 fee on an as needed basis, to review the inventory of Existing or Planned Tower Sites as required by Fayette County Zoning Ordinance, Article V., 5-44, and to authorize the Chairman to sign the contract and related documents contingent upon the County Attorney's review.

If this item requires funding, please describe:

There would not be any cost to the county. Fees would be imposed on applicants if needed.

Has this request been considered within the past two years?	Yes	If so, when?	Wednesday, April 4, 2012
Is Audio-Visual Equipment Required for this Request?*	No	Backup Provided with Request?	Yes

**** All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.***

Approved by Finance	Not Applicable	Reviewed by Legal	Yes
Approved by Purchasing	Not Applicable	County Clerk's Approval	Yes
Administrator's Approval	Yes		

Staff Notes:

Minutes

Board of Commissioners
April 4, 2012
3:30 P.M.

Notice: A complete audio recording of this meeting can be heard by accessing Fayette County's Website at www.fayettecountyga.gov. Click on "Board of Commissioners", then "County Commission Meetings", and follow the instructions. The entire meeting or a single topic can be heard.

The Board of Commissioners of Fayette County, Georgia, met in Official Session on Wednesday, April 4, 2012, at 3:30 p.m. in the Public Meeting Room of the Fayette County Administrative Complex, 140 Stonewall Avenue, Fayetteville, Georgia.

Commissioners Present:
Herb Frady, Chairman
Robert Horgan, Vice Chairman
Steve Brown
Lee Hearn
Allen McCarty

Staff Present:
Jack Krakeel, County Administrator
Scott Bennett, County Attorney
Karen Morley, Chief Deputy Clerk

Chairman Frady called the meeting to order.

Acceptance of Agenda: Commissioner Brown made a motion to approve the agenda as presented. Commissioner Horgan seconded the motion. The motion carried 5-0.

Old Business:

2. Discussion of proposed amendments to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance, Article III, V, VI, VII, IX and XI:

Director of Zoning Dennis Dutton presented this item for discussion. A copy of the request and backup, identified as "Attachment No. 3", follow these minutes and are made an official part hereof. He reviewed the proposed amendments with the Board including the adding of verbiage

for thoroughfare, definition of training facility and recreational vehicle, front yard setbacks and common areas, accessory structures, buffers, and standards for telecommunications antennas and towers.

Commissioner Brown questioned notifying adjacent landowners of a variance request. He asked if there had been any discussion regarding notification to these adjacent landowners. Mr. Dutton replied that based on discussions with the Planning Commission there was no practice of mailing out letters to adjacent landowners. He said the newspaper advertising and posting of the property are done but it was felt that mailing out notices would not be economical. He said he would be glad to bring this issue back up again for discussion, but the Planning Commission felt the signage was sufficient. Commissioner Brown said he would like to at least have something sent to the adjacent landowners notifying them that the County has received an application for a cell tower. He said this could be a good faith effort and be sent certified mail return receipt requested.

County Attorney Scott Bennett expressed concern with the time frame for the County to make a decision on a cell tower application which is 150 days for review and a decision. He said mailing out a notice to adjacent landowners would place the responsibility on the property owners and not the Planning and Zoning Department. He said this would be up to the Board to add this extra step in the process.

After some further discussion, there was consensus by the Board not to make any change in this and to follow the normal zoning procedures that are currently in place.

Mr. Dutton also discussed page 13 of the summary regarding independent expert review for existing and planned towers. Also discussed were walking paths and running trails for churches which included the language for setbacks and buffers as well as outdoor lighting for churches and recreational purposes.

There was a consensus of the Board to move this item forward in the public hearing process and come back to the Board at a future meeting for consideration.

To: Board of Commissioners

From: Pete Frisina

Date: May 9, 2012

Subject: Review of Cell Tower Inventory and Application Fee for Cell Tower Public Hearings

Per the recommended amendments to the Zoning Ordinance concerning Standards for Telecommunications Antennas and Towers, the County will engage an independent expert to review the Inventory of Existing and Planned Towers when a proposed tower cannot meet the separation requirements between towers. Peachtree City and Gwinnett County use an independent expert to evaluate cell tower applications and some of the requirements and language from these ordinances was used to formulate the County's ordinance concerning this subject. The Inventory of Existing and Planned Towers is required for a request to reduce or waive the separation requirement which is considered in public hearings before the Planning Commission and Board of Commissioners and its purpose is indicate that no other towers within the search area can accommodate the applicant's antenna. Staff's intent is to set an application fee that will cover the cost of the independent expert.

In workshop discussions with the Planning Commission regarding ordinance amendments and the resulting cost of an independent expert review, a cell tower industry attorney that has worked with the County through the ordinance amendment process, said her experience was that some independent experts specializing in cell tower review could be expensive. She said that some communities have found that the companies they already use to maintain their 911 communications systems could do the review at a reduced cost. Diversified Electronics Incorporated maintains the County's 911 system and has the expertise on staff to do the review.

Staff is recommending that the County enter into a contract with Diversified Electronics Incorporated to do the review of the Inventory of Existing and Planned Towers on an as needed basis for a fee of $1,000.00 pending approval of the contract by the County Attorney (see attached draft contract). In addition, staff recommends that the Fee Schedule be amended to set the application fee for Public Hearings Required to Reduce or Waive Requirements to $175.00 which includes the reduction or waiver of one requirement, $25 per each additional reduction or waiver of a requirement, and an additional $1,000.00 for the reduction or waiver of the separation requirements between towers. An additional $20.00 deposit is required (per public hearing sign posted on property.) One public hearing sign per each road frontage of the property shall be required to be posted. If the sign frame(s) is returned to the Planning & Zoning Department within five working days of the last applicable public hearing, the sign deposit can be reimbursed.

FAYETTE COUNTY, GEORGIA

Contract for Consulting Services

AGREEMENT

THIS CONTRACT, made and entered into as of the _____ day of _____ 2012, by and between Fayette County, Georgia, a political subdivision of the State of Georgia (hereinafter referred to as the "County"), and Diversified Electronics Incorporated (hereinafter referred to as the "Consultant").

WITNESSETH THAT:

WHEREAS, the County desires to engage the Consultant to perform certain services relating to assisting the County with review of the Inventory of Existing or Planned Tower Sites for accuracy per Article V Standards for Telecommunications Antennas and Towers of the Fayette County Zoning Ordinance; and

WHEREAS, the Consultant is fully staffed with professional engineers, specialists and technicians and is fully equipped and has facilities to perform such review.

NOW, THEREFORE, the County and the Consultant in consideration of the promises and mutual obligations contained herein, the sufficiency of which is hereby expressly acknowledged, and under the conditions hereinafter set for, do agree as follows:

SECTION 1

EMPLOYMENT OF CONSULTANT

The County hereby engages the Consultant and the Consultant hereby aggress to perform the services hereinafter set forth.

SECTION 2

SCOPE OF SERVICES

The Consultant shall perform and carry out services as specified herein in (Exhibit A.) conformance with the standard practices and procedures of its profession. The services will be on an "as needed" project basis for the life of the contract. The County or its representative shall notify the Consultant, either verbally or in writing, as to the need of required services. Since the need for services is not known at this time of execution, the County does not guarantee any minimum amount.

SECTION 3

SERVICES PROVIDED BY CONSULTANT

The Consultant agrees to perform the services in accordance with this agreement. All services shall be performed in accordance with applicable stands and acceptable engineering practice. Any modifications to this contract shall be in writing and shall be made only with the express approval of the parties hereto. Any modifications to this contract must be approved by the Board of Commissioners prior to such modifications becoming effective.

SECTION 4

CONTRACT TIME

The contract time for the services is to commence immediately upon execution of this Contract by the County. Thereafter, unless terminated as set forth herein this Agreement shall automatically renew beginning on January 1 and ending on December 31 of each such succeeding year.

SECTION 5

COMPENSATION FOR SERVICES

As full compensation for the performance of services (review of an Inventory of Existing or Planned Tower Sites for Telecommunication Antennas and Towers), the County shall pay fee in the amount of One Thousand Dollars ($1,000.00) per review. Such payment shall be made only for the actual quantities of work accomplished as determined by the County through inspections and measurements of the work completed.

a. Payment: The Consultant shall bill for his services on a work order basis. Any variation from this fee must be approved in writing by the County prior to execution of the work.

b. No fee can be increased during the life of the contract, except with the express written approval of the County.

SECTION 6

GENERAL CONDITIONS

a. Indemnification: Consultant agrees to protect, defend, indemnify, and hold harmless the County, its Commission members, agents and employees for any liabilities, damages, claims, suits, liens, and judgments, for injuries to or death of any person or persons, or damage to the property or

other rights of any person or persons to the extent caused, in whole or in part, by the Consultant. Consultant's obligation to protect, defend, indemnify, and hold harmless, shall also extend to any claims for the alleged infringement of any patent, trademark, copyright, or service mark, or any actual or alleged unfair competition, disparagement of product or service, or other business tort, or any actual or alleged violation of trade regulations arriving out of the performance of Consultant's duties under this contract.

b. Outside Bids: The County has the right to solicit outside bids or let separate contracts.

c. Subcontracting: The Consultant shall not subcontract any part of the work covered by this Contract or permit subcontracted work to be further subcontracted without the County's prior written approval. The County will not approve any subcontractor for work covered by this Contract that has not been recommended for approval by the County.

d. Audits and Inspections: At any time during normal business hours, and as often as the County may deem necessary, the Consultant shall make available for examination to the County and/or representatives of the County, for examination of all of its records with respect to all matters covered by this Contract. It shall also permit the County and/or its representatives to audit, examine and make copies, excerpts or transcripts from such records of personnel, conditions of employment and other relating to all matters covered by this Contract. The Consultant shall maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred on each project and used in support of its project proposal and shall make such material available at all reasonable times during the period of the Contract and for three years from the date of final payment under the Contract, for inspection by the County or any reviewing agencies, and copies thereof shall be furnished upon request. The Consultant agrees that this provision shall be included in any agreements it may make with any subcontractor, assignee, or transferee. Any fees incurred by the County in connection with such audit or inspection shall be at the expense of the County.

e. Ownership, Publication, Reproduction and Use: All documents and materials prepared pursuant to this Contract are the property of the County. The County shall have the unrestricted authority to publish, disclose, distribute, and otherwise use, in whole or in part, any reports, data, maps, or other materials prepared under this Contract without according credit of authorship.

f. Oral Agreements or Conversations: No oral agreements or conversation with any representative of the County, either before, during or after the execution of this Contract, shall affect or modify any of the Contract's terms or general conditions.

g. Conflict of Interest: The Consultant agrees that it presently has no interest, and shall acquire no interest, whether direct or indirect, that would conflict in any material manner with the performance of its services hereunder. The Consultant further agrees that no person having such an interest will be utilized in the performance of this Contract.

h. Termination of Contract for Cause: If, through any cause, the Consultant shall fail to fulfill in a timely and proper manner its obligations under this Contract, or if the Consultant shall materially violate any of the covenants, agreements or stipulations of this Contract, the County shall thereupon have the right to terminate this Contract by giving written notice to the Consultant of such termination, and specifying the effective date thereof, at least five (5) days before the effective date of such termination. Continual failure to maintain the scheduled level of effort as proposed and prescribed shall constitute cause for termination. In such event, all finished or unfinished documents, data, and reports prepared by the Consultant under this Contract shall become the property of the County, and the Consultant shall be entitled to receive just and equitable compensation for any satisfactory work completed on such document, as well as for any other work performed as of the termination date.

i. Termination for Convenience of County: The County may terminate this Contract for its convenience at any time by providing thirty (30) days written notice to the Consultant. If the Contract is terminated by the County, the Consultant will be paid compensation for those services actually performed. Partially completed tasks will be compensated on the basis of a signed Statement of Completion to be submitted by the Consultant which shall itemize each task element and briefly state what work has been completed and what work remains to be done.

   All expenses shall be properly documented and submitted to the County for processing and payment. The County Council shall be the final authority in the event of any disputes over authorized costs.

j. Cooperation with Other Consultants: If the County undertakes or awards other contract for additional project-related work, the Consultant shall fully cooperate with such other consultants

and County employees or appointed committee(s), and carefully accommodate its own work to such additional work as may be directed by the County. The Consultant shall not commit or permit any act which will materially interfere with the performance of work by any other Consultant or by County employees.

k. Confidentiality: The Consultant agrees that its conclusions and any reports generated pursuant to a project are for the confidential information of the County and that it will not disclose its conclusions in whole or in part or any persons whatsoever, other than to submit its written documentation to the County, and will only discuss the same with the County or its authorized representatives.

Articles, papers, reports, or other materials reporting the results and findings of the work conducted under this Agreement, shall not be presented publicly or published without prior approval in writing by the County.

It is further agreed that if any information concerning a project, its conduct, results, or data gathered or processed should be released by the Consultant without prior approval from the County, the release of same shall constitute grounds for the termination of this Contract without indemnity to the Consultant, but should any such information be released by the County or by the Consultant with prior written approval of the County, the same shall be regarded as public information and no longer subject to the restrictions of this Agreement.

l. Consultant shall complete all necessary documents to comply with O.C.G.A. § 50-36-1 *et seq.*

SECTION 8

SUCCESSORS AND ASSIGNS.

County and Consultant each is hereby bound and the partners, successors, executors, administrators, assigns and legal representatives of each are bound, to the other party to this Contract and to the partners, successors, executors administrators, assigns and legal representatives of such other party, in respect to all covenants, agreements and obligations of this Contract.

Neither County nor Consultant shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Contract without the written consent of the other.

Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than County and Consultant.

IN WITNESS WHEREOF, the Parties hereto, acting through their duly authorized agents, have signed and sealed this agreement.

Executed this _____day of _____ 2012.

FAYETTE COUNTY, GEORGIA

ATTEST:

BY:_____
Herb Frady Chairman

_____
Karen Morely, County Clerk (SEAL)

DIVERSIFIED ELECTRONICS INCORPORTAED

ATTEST:_____

BY:_____

Title:_____

Title:_____

DRAFT

EXHIBIT A
SCOPE OF SERVICES

Consultant shall review the Inventory of Existing or Planned Tower Sites for accuracy based on the following

When a proposed tower cannot meet the separation requirements between towers, an Inventory of Existing or Planned Tower Sites shall be required to sufficiently demonstrate that no existing or planned tower can accommodate the proposed antenna. Each applicant for a new tower shall contact the owners of all existing and planned tower sites, including those located within all adjacent municipalities and counties that are within the search area of the applicant's proposed tower location. The inventory shall be prepared by a radio frequency engineer. The inventory shall include the following information:

i. All tower owners and the number of carriers for each tower site;
ii. The site location, total height, and design type of each tower;
iii. Details of all existing and planned towers or structures located within the search area and the ability of such to meet the applicant's engineering requirements, including, but not limited to: sufficient height, structural support strength, and electromagnetic interference with antenna(s) on the existing towers or structures;
iv. Other limiting factors that render existing towers and structures unsuitable; and
v. Letters of rejection for requests to co-locate on all existing and planned towers within the service search area of the proposed tower.

Consultant's review of the Inventory of Existing or Planned Tower Sites shall be completed and sent to the County via e-mail or fax within two (2) weeks from the receipt of the Inventory of Existing or Planned Tower Sites from the County.

Consultant shall notify the County via e-mail or fax within one (1) week from the receipt of the Inventory of Existing or Planned Tower Sites with a list of information listed above that is lacking from the inventory. The County will contact the applicant to denote the deficiencies and request the lacking information. Consultant's review of the Inventory of Existing or Planned Tower Sites shall be completed and sent to the County via e-mail or fax within two (2) weeks from the receipt of the information lacking from the Inventory of Existing or Planned Tower Sites from the County.

:

State of Georgia
County of Fayette

RESOLUTION
2012 -12

A RESOLUTION ESTABLISHING FEES AS REQUIRED BY THE FAYETTE COUNTY ZONING ORDINANCE FOR COSTS ASSOCIATED WITH THE ADMINISTRATION OF CERTAIN REQUIREMENTS OF THE FAYETTE COUNTY ZONING ORDINANCE, DEVELOPMENT REGULATIONS, SUBDIVISION REGULATIONS AND SIGN ORDINANCE.

Whereas, The Fayette County Zoning Ordinance, Article X, Schedule of Fees, requires the Board of Commissioner to establish a schedule of fees from time for the purpose of allaying the cost of administering certain requirements of Fayette County's Zoning Ordinance, Development Regulations, Subdivision Regulations, and Sign Ordinance;

Now, therefore, the fees indicated below as the "Fayette County Planning and Zoning Department Schedule of Fees" are hereby established and shall become effective upon passage of this resolution:

FAYETTE COUNTY PLANNING & ZONING DEPARTMENT SCHEDULE OF FEES

The fees below are payable to the Fayette County Planning and Zoning Department:

REQUEST FOR REZONING (Filing for a change of zoning classification, including required Public Hearings before the Planning Commission and Board of Commissioners)

NUMBER OF ACRES	FEE
0-5 acres	$250.00*
6-20 acres	$350.00*
21-100 acres	$450.00*
101+ acres	$550.00*

* An additional $20.00 deposit is required (per public hearing sign posted on property). Staff is required to post one (1) public hearing sign per each road frontage of the property to be rezoned. If the sign frame(s) is returned to the Planning & Zoning Department within five (5) working days of the last applicable public hearing, the sign deposit can be reimbursed

REQUEST FOR A VARIANCE, A CHANGE OF USE, AN EXTENSION OR ENLARGEMENT OF A NONCONFORMING USE, OR A CONTINUANCE OF NONCONFORMANCE FROM THE ZONING BOARD OF APPEALS

$175.00* plus $25 for each additional variance requested

An additional $20.00 deposit is required (per public hearing sign posted on property). Staff is required to post one public hearing sign per each road frontage of the property. If the sign frame(s) is returned to the Planning & Zoning Department within five working days of the last applicable public hearing, the sign deposit can be reimbursed.

REQUEST FOR ADMINISTRATIVE VARIANCE $50.00

APPLICATION FEE FOR PUBLIC HEARINGS REQUIRED TO REDUCE OR WAIVE REQUIREMENTS OF ARTICLE V., STANDARDS FOR TELECOMMUNICATIONS ANTENNAS AND TOWERS OF THE FAYETTE COUNTY ZONING ORDINANCE

$175.00 which includes the reduction or waiver of one requirement, plus $25 per each additional reduction or waiver of a requirement, and an additional $1,000.00 for the reduction or waiver of the separation requirements between towers

An additional $20.00 deposit is required (per public hearing sign posted on property.) Staff is required to post one public hearing sign per each road frontage of the property. If the sign frame(s) is returned to the Planning & Zoning Department within five working days of the last applicable public hearing, the sign deposit can be reimbursed.

REVIEW OF FINAL PLAT or MINOR SUBDIVISION PLAT

A fee of $100.00 per lot shall be imposed for all residential and nonresidential lots except that the fee for the first three (3) lots of a residential subdivision shall be $35.00 per lot. Any applicant whose final plat is returned for resubmission due to deficiencies and such deficiencies are not corrected when resubmitted, shall incur an additional fee of $5.00 per lot for the additional review required.

REVIEW OF FINAL PLAT REVISION or MINOR SUBDIVISION PLAT REVISION

All revisions to final plats or minor subdivisions plats shall have imposed thereon the following fees:

No lots added: …….$25.00 plus advertising cost, if any
Lots added: ……..$100.00 per lot

REQUEST FOR CONDITIONAL USE PERMITS (Administrative)…….....$30.00

SITE PLAN REVIEW (NONRESIDENTIAL) AND COMPLIANCE FEES

Less than one (1) acre……..$150.00
One (1) to five (5) acres……...$200.00
Five (5) to ten (10) acres……..$250.00
More than ten (10) acres……..$300.00*
* plus $50.00 for every five (5) acres or fraction thereof in excess of ten (10) acres

Note: If a site plan is resubmitted without previously-noted deficiencies corrected, the applicable fee from the above schedule shall be DOUBLED.

LAND DISTURBANCE PERMIT

Land Disturbance Permits are imposed and collected by the Stormwater Management Department

SIGN PERMIT FEES

Banners and Signage During Construction……$10.00
Permanent signs smaller than 60 square feet…….$30.00
Permanent signs larger than 60 square feet……...$30.00*
* Plus $3.00 for each square foot in excess of 60 square feet.

Note: The fee for placing or erecting a sign without a permit shall be an amount that is DOUBLE the amount of the applicable fee from the schedule above.

TEMPORARY STRUCTURE PERMIT

Office Trailer, Storage Trailer or Guardhouse……$25.00
Office Trailer, Storage Trailer or Guardhouse – Renewal……..$25.00
Mobile Classroom……...$50.00
Mobile Classroom – Renewal……$50.00

MISCELLANEOUS OTHER FEES

SITE RE-INSPECTION FEE…… $25.00

COPIES

Copies in excess of 10 pages…… 25 cents each
11" x 17" or larger copies……...$2.00 each

Note: There are no fees associated with a "Courtesy Review" of a Site Plan or Plat, a Zoning Confirmation Letter, or a Pre-Application Conference with a Conceptual Plan Review, Master Plan Review or Preliminary Plat.

So resolved this 24th day of May, 2012, by the

BOARD OF COMMISSIONERS
FAYETTE COUNTY, GEORGIA

Attest:

_____
Herbert Frady, Chairman

_____
Clerk/Deputy Clerk