

# Transit making strides in northern suburbs

By Dave Williams  
STAFF WRITER

Transportation planners across Atlanta's northern suburbs are moving forward with several ambitious transit projects, despite the recent defeat of a regional transportation sales tax at the polls.

The Cobb County Commission is expected to recommend this month whether to run MARTA-like heavy rail, light rail or bus rapid transit — a system of buses operating in dedicated lanes — along the Interstate 75/U.S. 41 corridor from Acworth to MARTA's Arts Center station.

Further down the pipeline are studies aimed at extending transit service along the Georgia 400 corridor north of MARTA's

North Springs station and along the Interstate 85 corridor in Gwinnett County.

Slightly more than half of the \$7.2 billion the penny sales tax would have raised for transportation improvements in metro Atlanta would have gone to transit, an aspect of the proposal critics seized upon to oppose the July 31 referendum.

But supporters blamed factors beyond the project list for the plan's defeat, including a sluggish economic recovery that made voters reluctant to raise taxes.

In fact, opinion surveys conducted during the last few years have shown that suburban Atlanta voters once averse to transit are now more supportive of having transit options available, said Ann Hanlon, chief

operating officer of the **North Fulton Community Improvement District**, a self-taxing organization of commercial property owners working with MARTA on the Georgia 400 project.

"People are excited and wish it could be built sooner," she said. "It's really monumental that the attitude toward transit has changed so much."

All three "alternative assessment" studies are being funded primarily by the **Federal Transit Administration**. Under a process put in place by the FTA, local agencies overseeing the work choose among a range of transit options for the corridor they are studying, from doing nothing to launching

► See **TRANSIT, 17A**



Rail: Cobb County may run rail or buses from Town Center to Midtown Atlanta.

## Solar power gaining steam in Georgia

By Dave Williams and Urvaksh Karkaria  
STAFF WRITERS

After years of lagging behind states like Florida and California in developing solar energy, Georgia is showing signs of becoming a major player.

**Georgia Solar Utilities Inc.** of Macon, incorporated just more than two months ago, unveiled plans Aug. 30 to build a \$320 million solar power plant near Milledgeville with a generating capacity of 90 megawatts. If approved and completed, the project could produce energy for 45,000 homes.

Not to be outdone, **Georgia Power Co.** is working on a yet-to-be-unveiled proposal to step up its commitment to solar beyond a 50-megawatt program authorized by the state **Public Service Commission** last year.

Georgia has the nation's third-highest potential for developing solar energy, primarily based on the amount of sunshine the state receives, according to a 2010 study by Arizona State University.

Yet, less than 3 percent of Georgia's electricity comes from renewable sources, according to the Institute for Energy Research.

The solar industry has been politely knocking on the doors of Georgia Power for a long time, said Pete Marte, CEO of **Hannah Solar**, an Atlanta solar project developer.

"Finally, someone has the chutzpah to kick the door in and say, 'Hey, we're here."

► See **SOLAR POWER, 20A**

## Interiors showroom ADAC opening to public

By Amy Wenk  
STAFF WRITER

Atlanta's hub for interior design is, for the first time, opening its doors to the public.

The **Atlanta Decorative Arts Center**, or ADAC for short, will allow people to peruse its approximately 60 showrooms, beginning on Oct. 1. Previously, only interior designers and their clients were able to browse the cutting-edge furniture, fabric, lighting, fine art and other products in the 550,000-square-foot facility.

"If we can't invite the consumer in, they have no way of knowing what's inside," said Katie Belveal, ADAC's general manager.

The move is designed to respond to a changing industry. Interior designers, in recent years, have seen business suffer due to economic pressures and increasing competition from Internet businesses and retail stores. Letting the public into ADAC should bring the designer back into the process since people still will have to hire one to purchase items from ADAC.

"More and more, we are trying to make ADAC more inclusive, not exclusive," said Mickey Steinberg, a senior adviser with **Portman Holdings LLC**, which owns and operates ADAC, which is in the Peachtree Hills neighborhood of South Buckhead. Steinberg joined the company in 1961, the year ADAC opened.

"The building was a mystery to people," he said. "We don't want it to be a mystery."



Built by renowned Atlanta architect and developer John Portman, ADAC opened as "just a couple of small buildings" with

### Atlanta Decorative Arts Center:

The move is designed to respond to a changing industry.

58,000 square feet of rentable space, Steinberg said.

Portman, well-known for shaping Atlanta's skyline with developments such as Peachtree Center, began his career as an interior designer. One of his first clients was Davidson's Department Store, once housed in what's now the 200 Peachtree event venue. At time, Portman was a student at Georgia Tech.

ADAC is "more than just a business," for Portman, Steinberg said. "It's a way of life. It's just hard to put into words

► See **ADAC, 19A**

# Atlanta medical lab facing off against FTC

By Amy Wenk  
STAFF WRITER

A small medical company based in Atlanta is fighting a federal investigation into its data security practices — a potentially damaging blow to its reputation, says its founder.

The **Federal Trade Commission** (FTC) on Aug. 29 filed a petition in federal court to investigate **LabMD Inc.** and its CEO, Michael Daugherty, to determine whether the company had adequate data security for its medical records.

The federal agency says it obtained a copy of a 1,718-page spreadsheet that contained sensitive health information for about 9,000 of LabMD's patients, including

Social Security numbers, birth dates and health insurance policy numbers, according to the petition.

"There is no allegation that anybody has done anything wrong," said Leslie Rice Melman, assistant general counsel for litigation for the FTC. She said the FTC is trying to investigate LabMD but the company has been unwilling to provide oral testimony and other documents.

"In most cases, in the end, we are able to get compliance without seeking the aid of the district court," Melman said. "Citizens have an obligation to respond and cooperate in a lawful government investigation."

Melman said a court hearing is set for

Sept. 19 in the U.S. District Court for the Northern District of Georgia.

Daugherty contends his company is being unreasonably persecuted by the FTC. He said he's already spent about \$500,000 fighting the investigation.

"We are guilty until proven innocent to these people," Daugherty said in a Sept. 5 interview with Atlanta Business Chronicle. "They are on a fishing expedition. We feel like they are beating up small business."

"There's no deception. There's not been a breach," he said.

Founded in 1996, LabMD performs medical testing services and specializes in tissue analysis for cancer. The company has about 35 employees and is headquartered

at 2030 Powers Ferry Road.

Daugherty, a graduate of the **University of Michigan**, worked as a surgical sales rep before starting LabMD. He's served on the advisory board for the **Private Bank of Buckhead** for the past two years.

The trouble started for LabMD in May 2008 when, Daugherty said, he received a phone call from Pennsylvania-based **Tiversa Inc.**, saying the company had possession of a 1,718-page spreadsheet of health insurance billing information.

Tiversa specializes in providing security services for peer-to-peer networks, a component of the Internet that allows people to share digital content, such as music,

► See **MEDICAL LAB, 22A**



BYRON E. SMALL

## Atlanta medical lab facing off against FTC

Continued from 3A

movies and software. On its website, Tiversa says its technology can monitor more than 550 million users, issuing 1.8 billion searches a day.

Tiversa downloaded LabMD's spreadsheet in 2008 as part of a research project in collaboration with **Dartmouth College**, according to a 2009 report from the college. The research was backed with federal funds from the **U.S. Department of Justice**, the **U.S. Department of Homeland Security** and the **National Science Foundation**, among others.

Daugherty said Tiversa hounded LabMD to sign a service agreement to remedy any possible data security flaws in its network.

Daugherty said he refused to purchase

◀ **Michael Daugherty:** "We feel like they are beating up small business."

any services from Tiversa during its several attempts to solicit business from LabMD via email in 2008.

In 2009, Daugherty said he was informed by his lawyer that Tiversa was going to hand over the downloaded spreadsheet to the federal government.

LabMD later sued Tiversa, accusing the company of stealing its property.

On Aug. 15, that lawsuit was dismissed due to a lack of personal jurisdiction, said Daugherty's general counsel, Stephen Fusco. LabMD currently is appealing that decision.

"This is a property theft case," Daugherty said. "[Tiversa] came in and affected our network."

The FTC began its investigation of LabMD in early 2010, requesting it send internal documents to be reviewed.

"We've always complied," Daugherty

said. He said the company has six times submitted thousands of pages of documents to the FTC. He also has visited Washington, D.C., twice to speak with the FTC, he said. "We have nothing to hide."

According to Daugherty, when the FTC asked him to sign a consent decree, he refused. He said it would have required the business to undergo biannual audits for the next 20 years.

"That's where the road is lined with bombs," Daugherty said. "I won't let you assassinate my reputation."

In December 2011, the FTC issued formal demands to investigate LabMD.

The company subsequently filed a petition to reject the request to investigate, which was later overruled by the five-member commission appointed by the U.S. president that governs the FTC.

One commission member dissented.

"Specifically, I am concerned that Tiversa is more than an ordinary witness, informant or 'whistle-blower,'" wrote Commissioner J. Thomas Rosch in a statement on June 21, 2012. "It is a commercial entity that has a financial interest in intentionally exposing and capturing sensitive files on computer networks, and a business model of offering its services to help organizations protect against similar infiltrations ... In my view, while there appears to be nothing per se unlawful about this evidence, the commission should avoid even the appearance of bias or impropriety by not relying on such evidence or information in this investigation."

The FTC says its staff cannot make a proper recommendation without testimony from Daugherty and LabMD.

"This is completely routine," the FTC's Melman said. "This is just how administrative agencies go about carrying out their mission of investigating whether there are unlawful practices."

Melman said it's unusual to have to file a petition in federal court to start an investigation. She said the last instance was about a year ago.

Daugherty said he won't give up his fight against the FTC, no matter the costs.

"It's cheaper than our reputation."

Reach Wenk at awenk@bizjournals.com.

## NEWS BRIEFS

### Ga. manufacturing declines extend through August

Manufacturing activity in Georgia fell for the fourth consecutive month in August due to declines in new orders and supplier delivery time accounting for the decline, according to the Econometric Center at Kennesaw State University's Michael J. Coles College of Business.

Georgia's Purchasing Managers Index (PMI) — a reading of economic activity in the state's manufacturing sector — was down 1.4 points from July to 50.4.

New orders fell 6.8 points to 50, while supplier delivery time fell 7.8 points to 44.4.

### UPS: TNT Express deal to close in early 2013

United Parcel Service Inc. now expects its \$6.5 billion purchase of TNT Express to close in early 2013.

As the Atlanta-based package shipper and logistics company previously reported, it extended to Nov. 9 the offer period for the purchase to give the European Commission more time to review the deal.

However, it also reported at the time the deal would likely close at the end of 2012.



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