

STAFF REPORT

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CASE NUMBER: S.U.P. 10-215 **L.U.C.B. MEETING:** May 13, 2010

LOCATION: South side of Poplar Avenue; +/-433 feet west of Colonial Road

COUNCIL DISTRICT(S): District 5-Super District 9-Positions 1, 2 & 3

OWNERS: Greenwich Partners, LLC

APPLICANTS: Tower Ventures V, LLC

REQUEST: Special use permit to allow a cellular communications tower one-hundred forty-five (145) feet in height of concealed canister monopole design with capacity to accommodate a maximum of four(4) antennae

AREA: 2,357 sq. ft. of 0.29 Acre (12, 632 sq. ft.)

EXISTING LAND USE & ZONING: One & two-story retail center building with multiple tenants in Highway Commercial(C-H) District

SURROUNDING USES AND ZONING:

North: Multiple offices and small retail shops in Highway Commercial(C-H) District.

East: Small office and retail sales in Highway Commercial(C-H) District.

South: Norfolk-Southern Railroad and U.S. Post Office, grocery store, discount store and neighborhood shopping center in 'Colonial C-P' Planned Commercial(C-P) District.

West: Retail shops in 'Knickerbocker Plaza' and grocery store in Highway Commercial(C-H) District.

OFFICE OF PLANNING AND DEVELOPMENT RECOMMENDATION:

Approval with Conditions

Staff: *Brian Bacchus*

E-mail: brian.bacchus@memphistn.gov

CONCLUSIONS:

- 1. The tower will be located in the rear yard of the lot adjacent to the south wall of the building outside of required parking spaces and an ingress/egress easement. The tower compound and equipment shelter will be placed on the roof of the one-story building.**
- 2. The applicant seeks to accommodate the tower placement to the rear of the building with an equipment shelter placed on the roof, because of limited space for the equipment to be placed on the ground.**
- 3. The request for special permit meets the minimum standards in the zoning ordinance, except for: 1) the required distance from residential property, and 2) detailed plans for placement, materials and color of a parapet wall to screen view from public roads.**
- 4. A cell tower one-hundred forty-five(145) feet in height of concealed canister design to co-exist on the same property will not interfere with access and circulation. The cell tower is supported as an accessory structure by special use permit being placed the farthest distance away from single family homes.**

ZONING-AERIAL MAP:

SUP 10 215



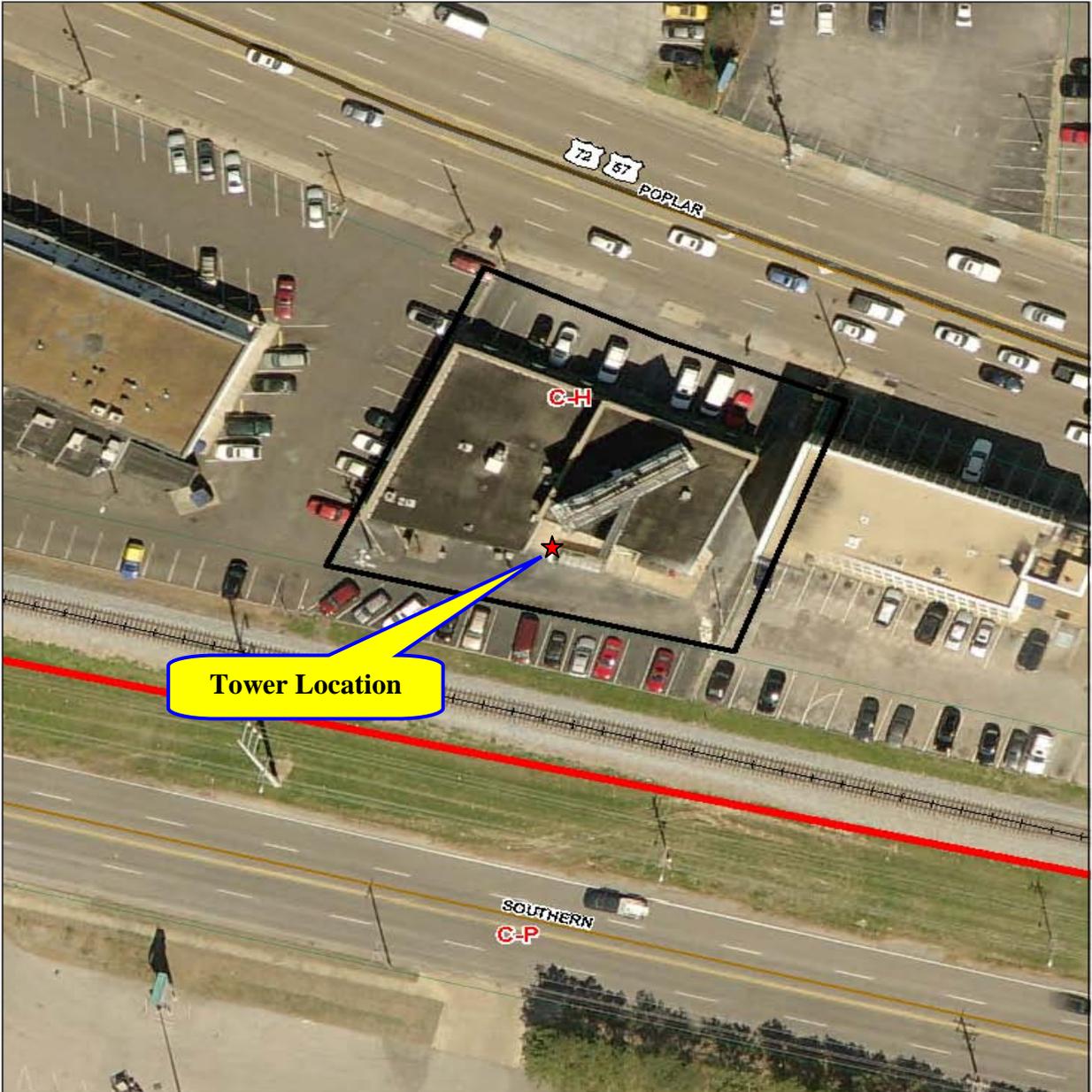
Map Date: 04/26/10
Shelby County ReGIS 678.2470

380 190 0 380 Feet

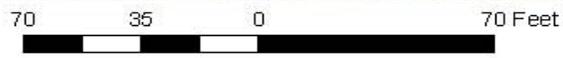


4733 Poplar Avenue
(Aerial View)

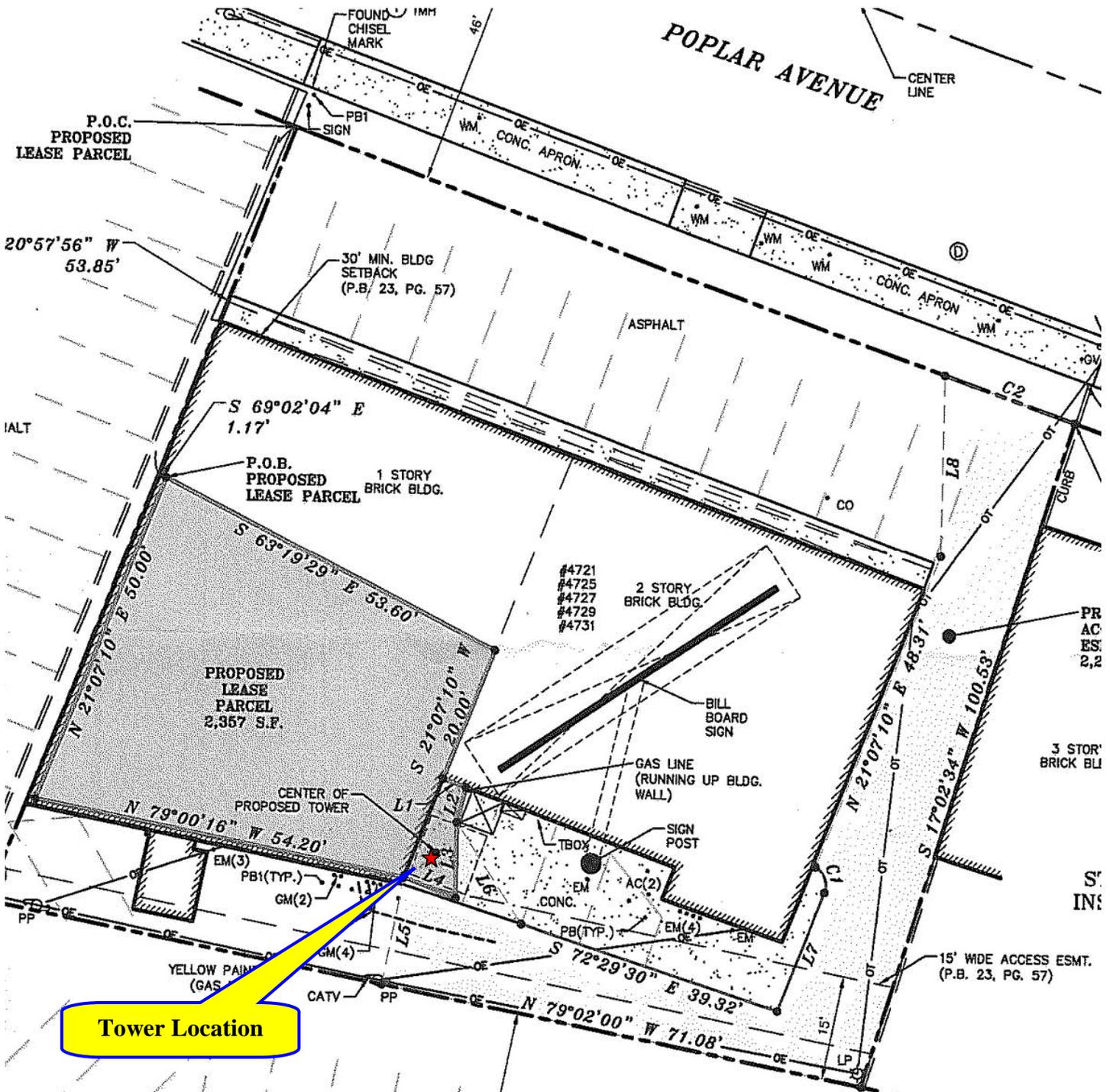
SUP 10 215



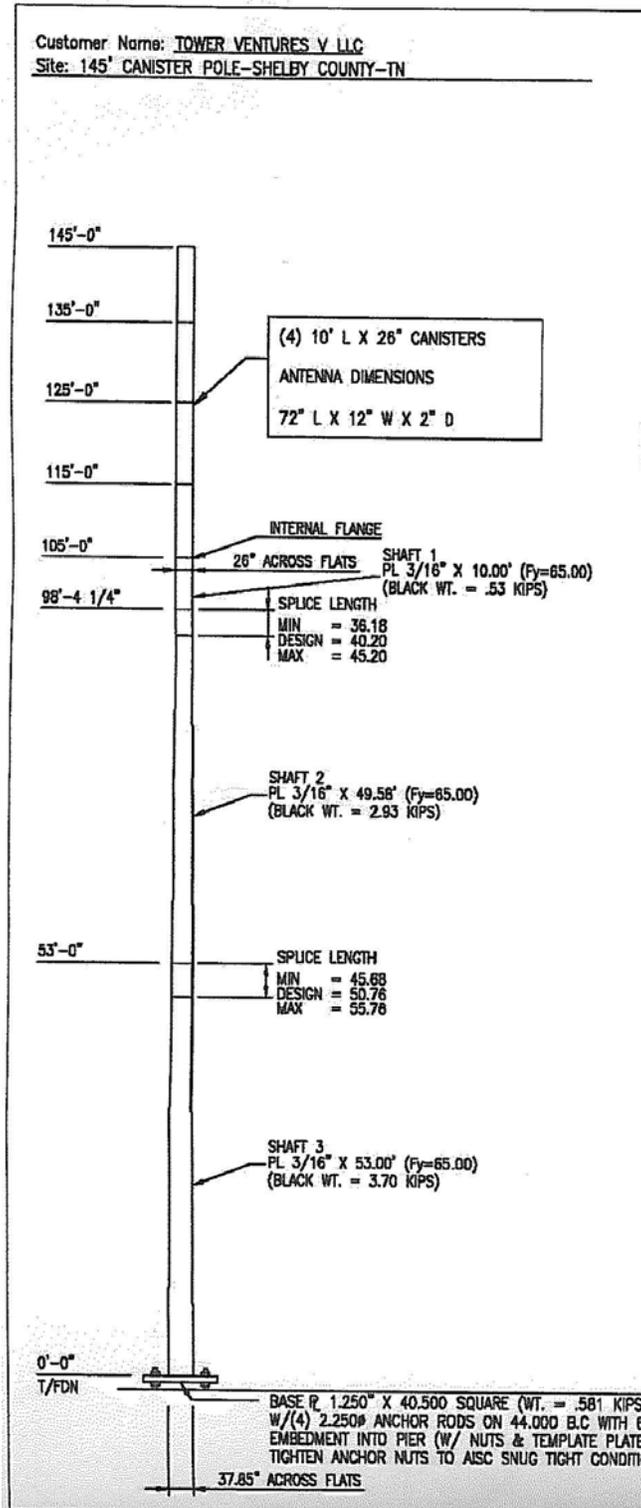
Map Date: 04/26/10
Shelby County ReGIS 678.2470



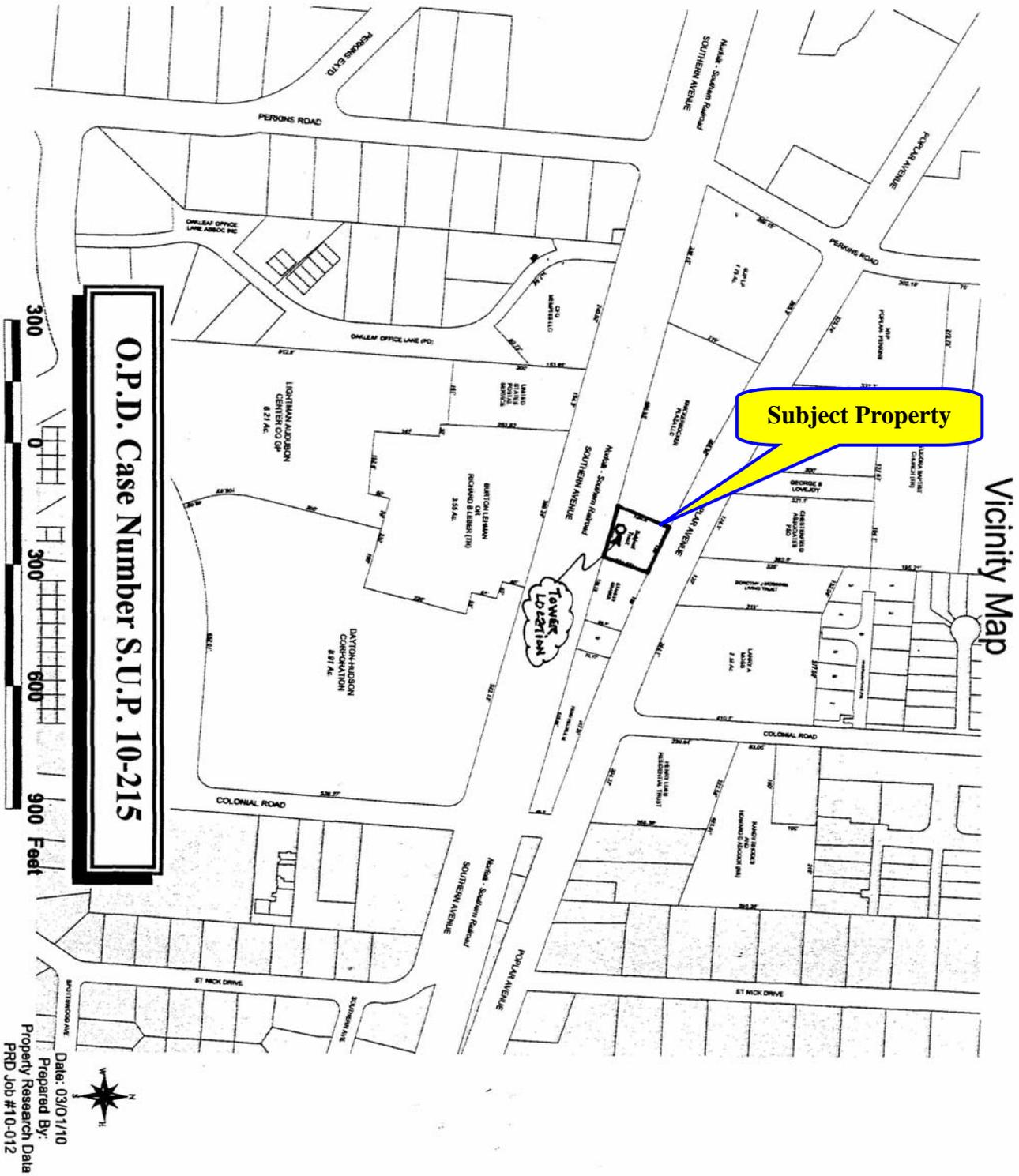
SITE PLAN:



TOWER ELEVATION PLAN:



VICINITY-OWNERSHIP MAP:



O.P.D. Case Number S.U.P. 10-215

Subject Property

Vicinity Map

Date: 03/07/10
Prepared By:
Property Research Data
PRD Job #10-012

STAFF ANALYSIS:

Site Description

The subject property is 2,357 square feet of leased area of a 0.29 acre(12,632 sq. ft.) parcel located at the south side of Poplar Avenue adjacent to Norfolk-Southern Railroad approximately one-quarter mile(1/4) east of Perkins Extended being Lot 2 of Lightman Subdivision. The site is located in the vicinity of Colonial Acres and St. Nick neighborhoods in east Memphis in the University Planning District. The site is occupied by a one and two-story retail building 9,403 sq. ft. with a cantilevered billboard to the rear of the building that extends over the roof of the office lofts. The building has a total of six(6) tenants with shop fronts facing Poplar Avenue.

The site is directly adjacent to Norfolk-Southern Railroad with primary parking in front with employee parking to the rear of the building. The trash dumpster is also located to the rear with an ingress/egress easement fifteen(15) feet in width provided for internal access to the rear of the building, including access to the billboard structure for maintenance. The building on the property is setback from Poplar Avenue thirty(30) feet with no curb, gutter or sidewalk at the street and fifteen(15) feet from the right-of-way of the railroad. The railroad at this location is higher in elevation than most buildings along this segment of Poplar Avenue.

Area Overview

The land use and zoning in the surrounding area north of the site is primarily commercial, including small offices, retail shops, restaurants and small shopping centers in Highway Commercial(C-H) District zoning. The nearest residential developments in the immediate area were approved by planned developments in Aynsley, Kingsgate and Colonial Oaks Planned Developments north along Colonial Road. The Colonial Square Planned Development is also located to the northwest on the east side of Colonial Road with a bank at the immediate intersection with Poplar Avenue. The St. Nick Subdivision is farther east on St. Nick Drive in Single Family Residential(R-S10) District zoning.

The land uses south are separated from the site by Norfolk-Southern Railroad and Southern Avenue. These land uses are primarily large retail establishments for a grocery store, a major discount store and a neighborhood shopping center with retail shops in the Colonial C-P General Plan. This development is concentrated at the northwest corner of Colonial Road and Spottswood Avenue. The land use farther southwest consist of a post office and an Oakleaf Office Park Planned Development, including some office, retail and a new restaurant in South Perkins Planned Development along the east side of Perkins Road. The Eudora Planned Development is northwest of the site at the northeast corner of Perkins Road and Poplar Avenue, including the new retail store and Eudora Baptist Church.

Principal Use vs. Accessory Structure

The applicant's request is for a special use permit to allow a cellular communications tower one-hundred forty-five(145) feet in height of concealed canister monopole design with capacity to accommodate a maximum of four(4) antennae as an accessory structure to a retail building on a lot with a legal nonconforming structure for a billboard. The tower will be located in the rear yard of the lot adjacent to the south wall of the building outside of required parking spaces and an ingress/egress easement. The tower compound and equipment shelters will be placed on the roof of the one-story building, preferably enclosed in a parapet wall to match the design and color of the building.

The building was constructed in 1959 and has been in occupied by multiple tenants for retail and office lofts. The billboard structure extends over the roof of the office lofts in a cantilevered design to maximize visibility from Poplar Avenue. The applicant seeks to accommodate the tower placement to the rear of the building with an equipment shelter placed on the roof, because of limited space for the equipment to be placed on the ground. The tower is considered an accessory structure to be placed in the rear yard between the principal building and rear lot line. In this instance, the tower site is proposed on a lot with two(2) principal structures—retail/office building and a billboard. Generally, a principal building is allowed one accessory structure per zoning lot. This application is for a special use permit for a cell tower accessory to the principal use, because of its location within 500 feet of single family homes and R-S10 District zoning.

The request for special permit to allow a cellular communications tower of concealed canister monopole design with capacity to accommodate a maximum of four(4) antennae meets the minimum standards in the zoning ordinance, except for the following: 1) the required distance from residential property, and 2) detailed plans for placement, materials and color of a parapet wall to screen its view from the public roads. A cell tower one-hundred forty-five(145) feet in height of concealed canister design to co-exist on the same property will not interfere with access and circulation. The cell tower is supported as an accessory structure by special use permit being placed the farthest distance away from single family homes.

RECOMMENDATION: *Approval with Conditions*

SITE PLAN CONDITIONS:

A *Special Use Permit* is hereby authorized to *'Tower Ventures V, LLC'* to allow a *'cellular communications tower one-hundred forty-five (145) feet in height of concealed canister monopole design with capacity to accommodate a maximum of four (4) antennae'* on property located at *'4733 Poplar Avenue'* at the *'south side of Poplar Avenue; +/-433 feet west of Colonial Road'* with an approved *'Site Plan'* and the following supplemental conditions:

- I. Use Permitted: A CMCS communications tower one-hundred forty-five (145) feet in height of concealed canister monopole design with the capacity to accommodate four (4) canister antennae.
- II. Bulk & Structural Requirements:
 - A. The tower shall be located as illustrated on the Site Plan and the tower equipment shall be located on the roof structure of the building enclosed in a parapet wall of similar color and building materials.
 - B. The existing roof assembly shall be certified by a structural engineer or architect and modified if necessary to accommodate the additional roof load for the tower equipment and shelter.
- III. Access & Circulation:
 - A. The existing private drive shall remain and shall be shared as an ingress/egress easement to the tower subject to review and approval by City Engineer.
 - B. The private drive shall maintain a minimum width of twenty-two (22) feet.
- IV. Landscaping and Screening:
 - A. A parapet wall six(6) feet in height shall be installed around the tower equipment shelter placed on the roof and certified by a structural engineer or architect subject to review and approval by the Office of Planning & Development.
 - B. Parapet wall screening shall be installed prior to launch and operation of the tower equipment.
- V. Signs:
 - A. No signs shall be allowed, except for the necessary decal sign for displaying the name, address and phone numbers of the owner and operator of the facilities. The decals shall be placed on and outside the parapet wall.
 - B. No temporary or portable signs shall be permitted.
- VI. A CMCS communications tower one-hundred forty-five(145) feet in height of concealed canister monopole design with structural capacity to accommodate four (4) canister antennae shall be allowed for the above mentioned user and maintained in accordance with site plan conditions subject to administrative site plan review and approval and no zoning violations.

GENERAL INFORMATION:

Street Frontage: Poplar Avenue-----+/-120 linear feet.
Planning District: University
Atlas Page: 2140
Parcel ID: 056005 00002
Zoning History: The Highway Commercial(C-H) District zoning of the site date to the adoption of the 1980 zoning map amendment.

DEPARTMENTAL COMMENTS:

The following comments were provided by agencies to which this application was referred:

City Engineer: No comment.
Memphis Fire Services: No comment.
Memphis & Shelby County Health Department: No comments by the Water Quality Branch & Septic Tank Program.

Memphis Board of Education:

MCS is now considering leasing options for cell tower sites within this area. Please contact Jake Allen via email at allenjakee@mcsk12.net or by calling 901-416-4715.

Construction Code Enforcement: No comment.

Memphis Light, Gas and Water:

MLGW has reviewed referenced application, and has no objection, subject to the following comments:

- **It is the responsibility of the owner/applicant** to identify any utility easements, whether dedicated or prescriptive (electric, gas, water, CATV, telephone, sewer, drainage, etc.), which may encumber the subject property, including underground and overhead facilities. No permanent structures will be allowed within any utility easements.
- **It is the responsibility of the owner/applicant** to pay the cost of any work performed by MLGW to install, remove or relocate any facilities to accommodate the proposed development.
- **It is the responsibility of the owner/applicant** to comply with the **National Electric Safety Code (NESC)** and maintain minimum horizontal/vertical clearances between existing overhead electric facilities and any proposed structures.
- **Landscaping is prohibited** within any MLGW utility easement without prior MLGW approval. It is the responsibility of the owner/applicant to comply with Memphis/Shelby County Zoning Ordinance - Landscape and Screening Regulations.

- **It is the responsibility of the owner/applicant** to contact **TN-1-CALL @ 1.800.351.1111**, before digging, and to determine the location of any underground utilities including electric, gas, water, CATV, telephone, etc..
- **It is the responsibility of the owner/applicant** to submit a detailed plan to MLGW Engineering for the purposes of determining the availability and capacity of existing utility services to serve any proposed or future development(s). Application for utility service is necessary before plats can be recorded.
 - All residential developers must contact MLGW's Residential Engineer at 901-528-4855 for application of utility services.
 - All commercial developers must contact MLGW's Builder Services line at 901-367-3343 to initiate the utility installation process.
- **It is the responsibility of the owner/applicant** to pay the cost of any utility system improvements necessary to serve the proposed development with electric, gas or water utilities.

AT&T: AT&T has no comments.

Memphis Area Transit Authority (MATA): No comments.

OPD-Regional Services: No comments.

OPD-Plans Development: No comments received.

Neighborhood Associations/Organizations:

<i>Audubon Square Condominium Association:</i>	<i>No comments received as of 5/07/'10.</i>
<i>University District Incorporated:</i>	<i>" "</i>
<i>St. Nick Neighborhood Association:</i>	<i>No comments received as of 5/07/'10.</i>
<i>Colonial View Civic Club:</i>	<i>" "</i>
<i>Colonial Acres Neighborhood Association:</i>	<i>No comments received as of 5/07/'10.</i>

Staff: *bb*

Correspondence:

From: Billy Orgel
To: Lou Katzerman
Sent: Mon May 03 19:55:43 2010

Lou

We spoke to Michael Lightman about the center to the south but space was not available. Worked at Target with Assoc. Wholesale who owns center with Sav-A-Lot and they were expanding and did not want to tie up space. Oak Leaf office park was interested at first but when John Elkington went to the association head Jeff Mann declined. Their rules did not allow and would have to be changed. We had Justin Lubin contact Stan Graber about 2 properties and calls were not returned. I have since spoken to him. Spoke to Eudora Church minister but it was around Walgreens time and could not work a deal and it backed up to residential. Lichterman and Moss are neighbors and have no problem with it. Contacted Wold Camera owner as well on north side of Poplar and they were not interested nor was Price Ford at Laurelwood Collection and Leonard Lurie had no room at Laurelwood. We are out of options but found a good spot.

.Billy Orgel

Correspondence (Continued):

From: Lou Katzerman [lou@TOWERVENTURES.COM]
Sent: Monday, May 03, 2010 10:15 AM
To: Bacchus, Brian
Cc: Billy Orgel; Craig Royal
Subject: Nearby Towers, Poplar and Perkins

Importance: High

Attachments: Poplar Perkins Tower Map.docx; Poplar Perkins Tower Map.pdf
Brian,

The nearest tower is 1.24 miles to the north.

Regards,

Lou