

STAFF REPORT

CASE NUMBER: UV 10-11CC **L.U.C.B. MEETING:** September 9, 2010

LOCATION: West side of Benjestown Road, +/-430 feet south of Carrolton Avenue

APPLICANT: Entercom Memphis, LLC

REPRESENTATIVE: Mike Schwartz

REQUEST: Radio Tower (605 feet)

AREA: 44.27 Acres

EXISTING LAND USE & ZONING: Single Family Residential (R-S6) and Agricultural Flood Plain (AG{FP}) Districts

**OFFICE OF PLANNING AND DEVELOPMENT RECOMMENDATION
APPROVAL WITH CONDITIONS**

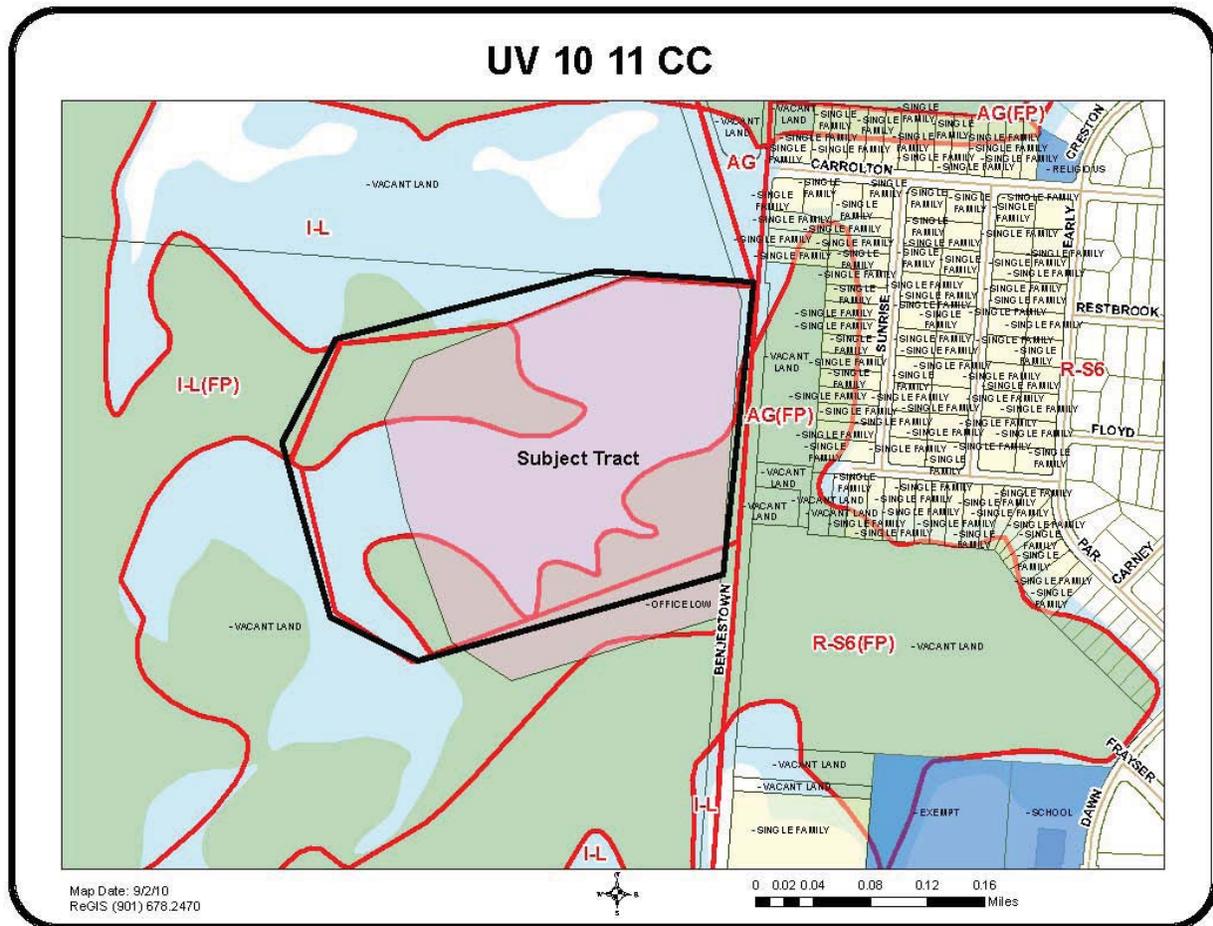
Staff Planner: Sheila Pounder

E-mail Address: sheila.pounder@memphistn.gov

CONCLUSIONS:

1. **The subject site is located in the Frayser Community of Memphis and Shelby County, south of Shelby Farms.**
2. **There are four 400 foot tall radio towers and one 605 foot tall tower currently located on the subject site that are used jointly for the local broadcast stations of WHRK, KJMS, and WMFS.**
3. **The applicant is requesting approval of a use variation to permit a 605 foot tall radio tower on the subject site due to the need to replace an existing 605 foot tall tower that is currently located within the same vicinity as the newly proposed tower.**
4. **Based on the minimum history available about the current operation at this location, it appears that some of the radio towers may have been on this site since the 1930's and may be legal non-conforming uses which predate the establishment of zoning on this site in 1960 with the adoption of County wide zoning.**
5. **The approval of this use variance will permit the replacement of a tower adjacent to a residential community in northwestern Shelby County that is currently part of the visual skyline. The approval of this request will not change the current impact to this community.**
6. **There is no objection to granting approval to continued using this site for the radio tower location and, thereby, permitting the replacement of the 605 foot structure.**
7. **The approval of this use variance is contingent upon the applicant receiving approval of a Board of Adjustment variance for the 605 foot height of the proposed replacement tower.**

LAND USE & ZONING MAP



SURROUNDING USES AND ZONING:

- North:** Vacant land and single family homes in the Single Family Residential (R-S6), Agricultural (AG), and Light Industrial (I-L) Districts
- East:** Vacant land and single family homes in the Single Family Residential (R-S6) and Single Family Residential Flood Plain (R-S6[FP]) Districts
- South:** Vacant land and single family homes in the Single Family Residential (R-S6), Agricultural (AG), and Light Industrial (I-L) Districts
- West:** Vacant land in the Light Industrial (I-L), Light Industrial Flood Plain (I-L[FP]), and Single Family Residential Flood Plain (R-S6[FP]) Districts

AERIAL MAP

UV 10 11 CC



Map Date: 9/2/10
ReGIS (901) 678.2470

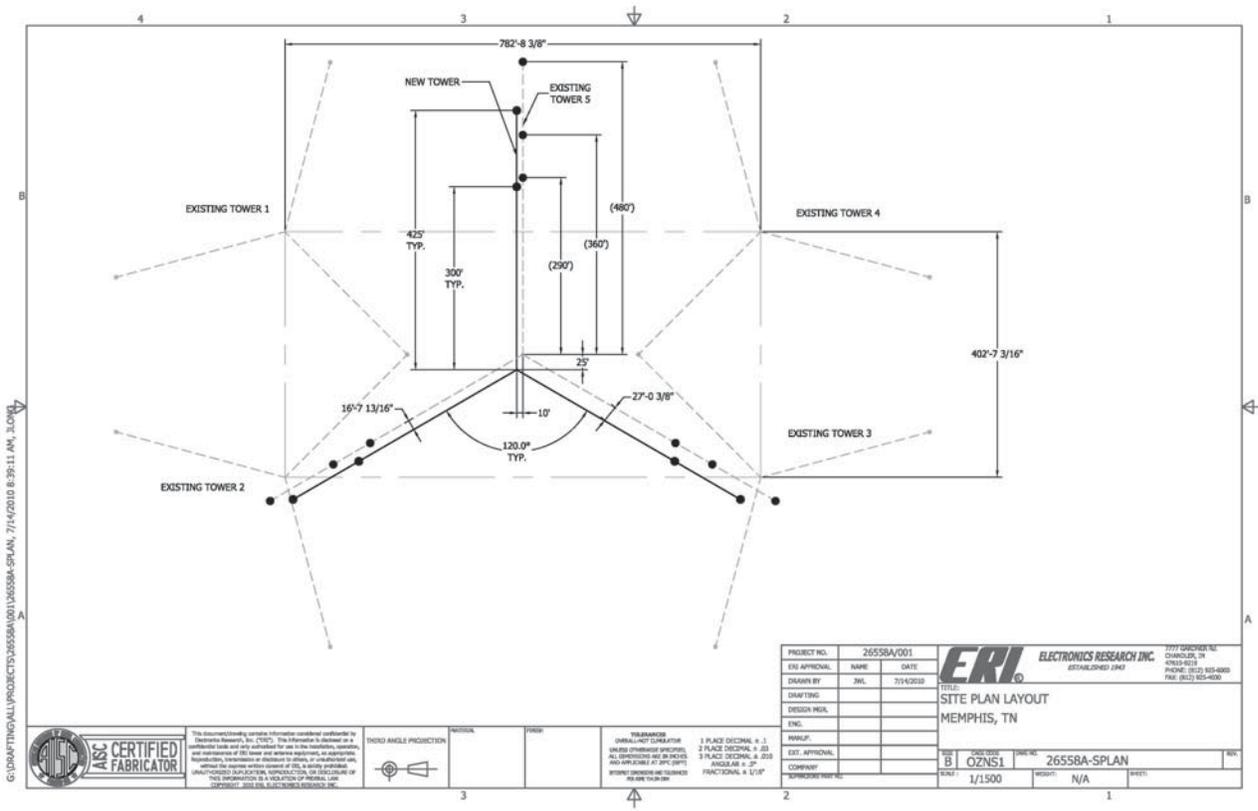


0 0.02 0.04 0.08 0.12 0.16 Miles

SUBJECT SITE



Site Plan of Existing Tower



C:\DRAFTING\PROJECTS\26558A\001\26558A-SPLAN_7/14/2010 8:39:11 AM - JNL.dwg



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THIRD ANGLE PROJECTION

TERMINOLOGY
OVERALL NET DIMENSIONS
ALL DIMENSIONS ARE IN INCHES
AND FRACTIONS OF INCHES
UNLESS NOTED OTHERWISE

1 PLACE DECIMAL & .1
2 PLACE DECIMAL & .05
3 PLACE DECIMAL & .025
FRACTIONS & 1/16"

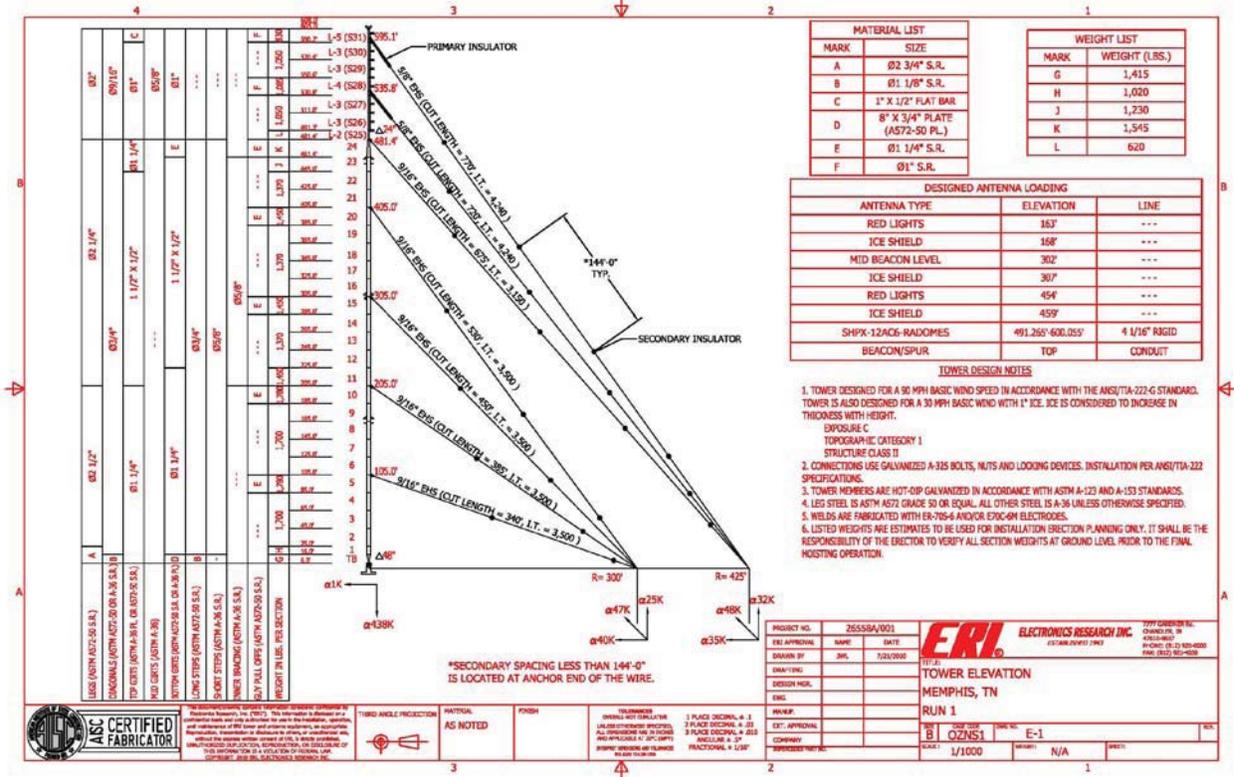
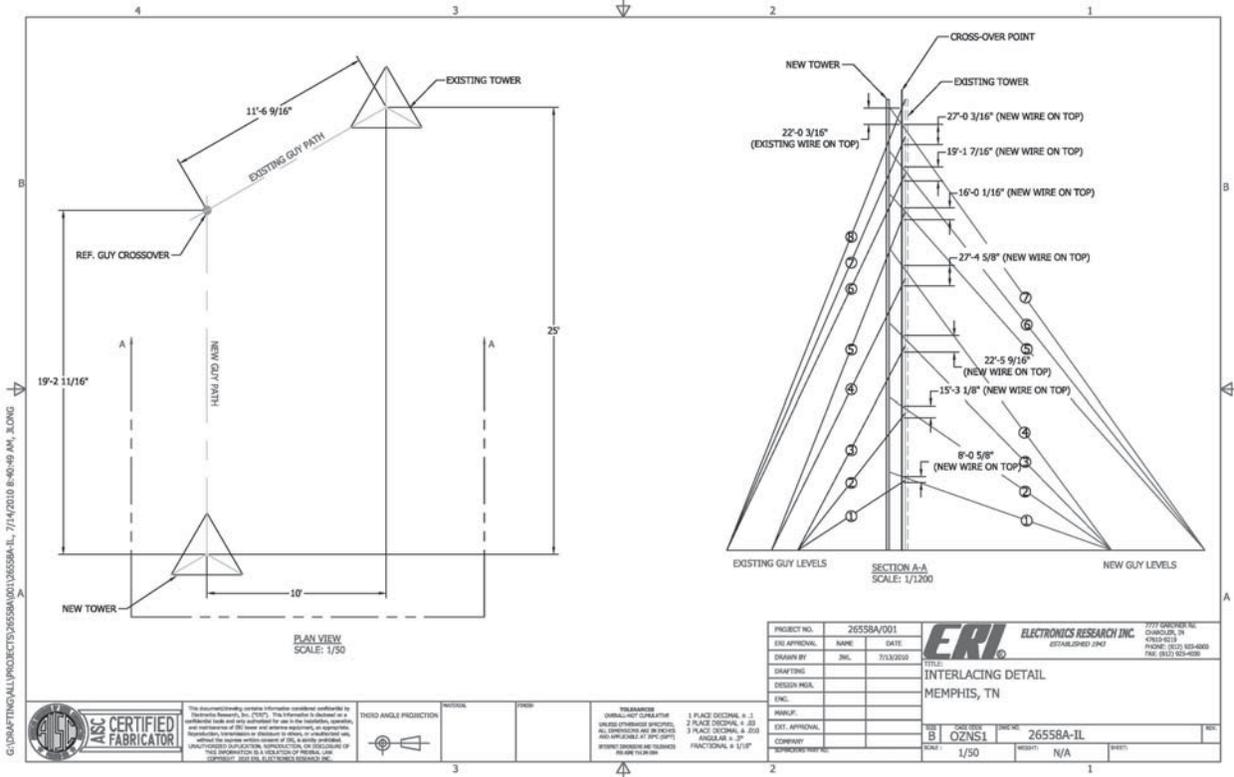
ERI ELECTRONICS RESEARCH INC.
ESTABLISHED 1967
1077 GARDNER BL.
CHARLOTTE, TN
37033-6073
PHONE: (615) 658-4800
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PROJECT NO. 26558A/001
DATE 10/14/2010
DRAWN BY JNL
DESIGNER
ENGINEER
DATE 10/14/2010
SCALE AS SHOWN

PROJECT TITLE SITE PLAN LAYOUT
PROJECT LOCATION MEMPHIS, TN

SCALE	1/1500	HEIGHT	N/A
DATE	10/14/2010	SCALE	AS SHOWN

ELEVATIONS OF REPLACEMENT TOWER





Directly across
the street from
site

Both sides of
Benjestown Road,
north of the site



Both sides of
Benjestown Road,
south of the site

STAFF ANALYSIS:

Location of Subject Property

The subject site is located in the Frayser Community of Memphis and Shelby County, south of Shelby Farms. The area west of Benjestown Road is primarily undeveloped while the east side is developed with single family homes.

The Applicant's Request

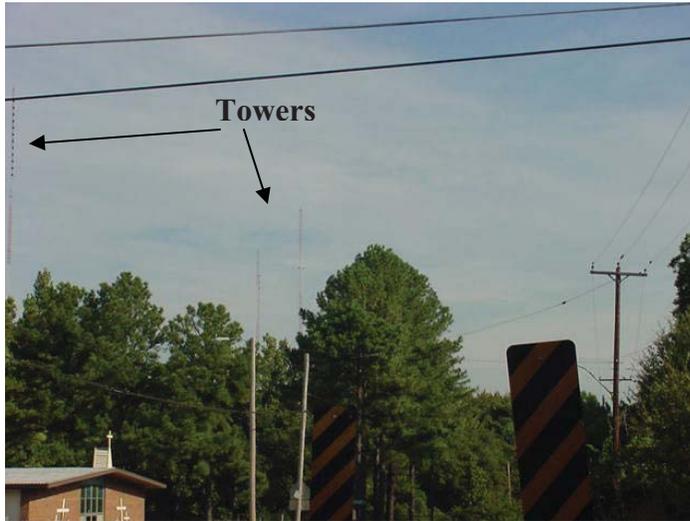
There are four 400 foot tall radio towers and one 605 foot tall tower currently located on the subject site, along with an existing equipment structure. The property is owned by Clear Channel Radio Memphis, LLC and the towers are owned by Entercom of Memphis, LLCA. The site is used jointly for the local broadcast stations of WHRK, KJMS, and WMFS. A of portion of the site is currently zoned AG while the majority of the approximately 44 acre site is zoned Single Family Residential Flood Plain (R-S6[FP]) District. Radio Towers are permitted by Special Use Permit in the AG District, but are not a permitted use in the R-S6 District where the structures are actually sited on the property. Consequently, the applicant is requesting approval of a use variation to permit a 605 foot tall radio tower on the subject site. The request is due to the need to replace an existing 605 foot tall tower that is currently located within the same vicinity as the newly proposed tower. According to the applicant, the existing tower is being replaced due to it's "age and the need to update the technology and materials". The plan is to build the new radio tower first while the radio stations remain on the air on the old tower. After the new tower is completed the antennas on the old towers will be moved to the new structure thereby allowing a minimum down time for service.



Request Analysis

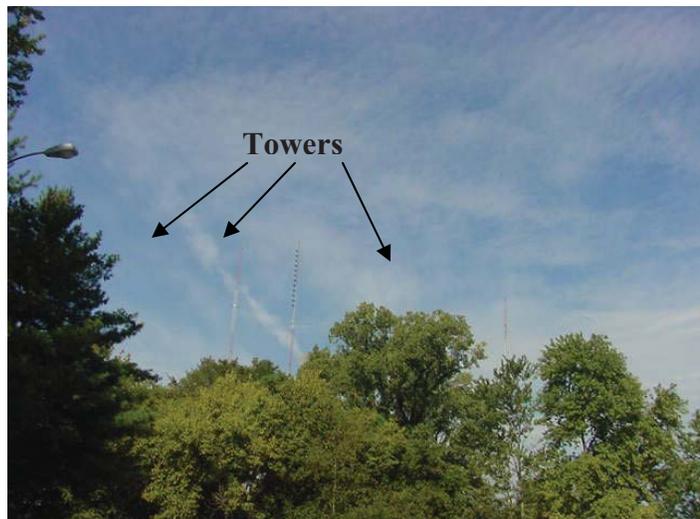
Based on the minimum history available about the current operation at this location, it appears that some of the radio towers may have been on this site since the 1930's. The current structures appear to be legal non-conforming uses which predate the establishment of zoning on this site in 1960 with the adoption of County wide zoning.

The Section 9.C. of Zoning Ordinance provides standards for approval of a special use permit to allow radio and television towers in Memphis and Shelby County. These same standards should be considered in determining the approval of this type of use on any site regardless of the type of application reviewed by staff. The Ordinance requires that the location, size, and design, of such uses have a minimum impact on the surrounding area. The approval of this use variance will permit the replacement of a tower adjacent to a residential community in northwestern Shelby County. Since the request is to replace an existing tower that is now part of the visual skyline in this neighborhood, the approval of this request will not change the impact to this community.



Existing skyline view from the residential neighborhood to the southeast at Benjestown Rd. and Frayser Dr.

Existing skyline view from the residential neighborhood to the east at Par Ave. and Sunrise St.



It would be a hardship on the applicant to not be able to replace the existing tower based upon the decade's worth of investment here in the current lower complex that was apparently established legally more than 70 years ago. There have been several telephone calls from the surrounding residential neighbors, whom have indicated that since this request does not include any expansion plans they do not object to the facility continued presence on this site. Consequently, there is no objection to granting approval to continued using this site for the radio tower location and, thereby, permitting the replacement of the 605 foot structure.

There is one issue that must be address on the proposed site plan which deals with the 605 foot height of the tower. The R-S District permits a maximum height of 35 feet. Given the current of the existing tower and proposed height of the replacement tower approval of a bulk variation is needed to allow the additional height needed for this use. The approval of this Use Variance should be contingent upon the applicant filing and obtaining approvals of the necessary bulk variations from the Board of Adjustment.

RECOMMENDATION: APPROVAL WITH CONDITIONS

SITE PLAN CONDITIONS:

A Use Variation is hereby authorized to *Entercom of Memphis, LLC* to allow a *radio tower* on the property located at the *west side of Benjestown Road, +/-430 feet south of Carrolton Avenue* in accordance with the approved site plan and the following supplemental conditions:

1. The maximum tower height shall be six hundred five feet (605') as illustrated on the approved site plan.
2. The tower and related equipment shall be removed within one-hundred eighty (180) days of ceasing operations.
3. The tower shall be constructed within two (2) years of approval by the Memphis City Council. The Land Use Control Board may grant a time extension through the applicant filing a correspondence item application with public notice sent to all property owners within five hundred feet (500') feet of the property.
4. No signage shall be permitted on this site.
5. The Tree Ordinance shall be enforced with respect to the entire tract of land, and not merely with respect to the tower site.
6. All private drives/rear service drives shall be constructed to meet pavement requirements of the Subdivision Regulations, applicable City Standards, and provide a minimum width of twenty-two feet (22').
7. Access to the site shall be restricted by a gate at the entranceway connected to the perimeter fencing to prevent access by neighborhood children.
8. The City Engineer shall approve the design, number and location of all curb cuts.

GENERAL INFORMATION:

Street Frontage: 957.66 feet along B Benjestown Road

Planning District: Frayser

Census Tract: 99

Annexation Reserve Area: Memphis

Zoning Atlas Page: 1730

Parcel ID: D0154 00035

Zoning History: The current Single Family Residential (R-2 or its equivalent R-S6) and Agricultural Flood Plain zoning on this site dates back to the adoption of County wide zoning in 1960.

DEPARTMENTAL COMMENTS:

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

City Engineer: No comments.

County Engineer: No comments received.

City Fire Division: No comments received.

County Fire Services: No comments received.

City Real Estate: No comments received.

County Real Estate: No comments received.

City/County Health Department: No comments received.

City Board of Education: No comments received.

County Board of Education: No comments received.

Construction Code Enforcement: No comments received.

Memphis Light, Gas and Water:

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

- **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 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/Bell South:	No comment.
Memphis Area Transit Authority (MATA):	No comments received.
OPD-Regional Services:	No comments received.
OPD-Plans Development:	No comments received.
Memphis Park Commission:	No comments received.

Neighborhood Association/Organizations:

Frayser Environmental Committee:

No comments received.

Frayser Community Association:

No comments received.

Frayser CDC:

At this point, we don't see any reason to object to this proposal.

Westside Neighborhood Association:

No comments received.