

CITY OF MEMPHIS
COUNCIL AGENDA CHECK OFF SHEET

ONE ORIGINAL
ONLY STAPLED
TO DOCUMENTS

Planning & Development
DIVISION

Planning & Zoning COMMITTEE: _____
PUBLIC SESSION: _____
DATE
DATE

ITEM (CHECK ONE)
 ORDINANCE CONDEMNATIONS GRANT ACCEPTANCE / AMENDMENT
 RESOLUTION GRANT APPLICATION REQUEST FOR PUBLIC HEARING
 OTHER _____

ITEM DESCRIPTION: A resolution approving a special use permit. The following item was heard and a recommendation made by the Land Use Control Board on April 12, 2012.

CASE NUMBER: SUP 12-205
 LOCATION: Northwest corner of Walnut Grove Road and Hayden Street
 APPLICANT: TV6 Signal Source Tower LLC (Billy Orgill/Craig Royal)
 REPRESENTATIVE: Prime Development Group - Mike Fahy
 EXISTING ZONING: Commercial Mixed Use-2 (CMU-2) District
 REQUEST: Cellular Tower (160' Tall - Stealth Design)
 AREA: 0.073 Acres

RECOMMENDATION: The Office of Planning and Development and Land Use Control Board recommended:
Approval with Conditions

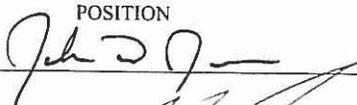
RECOMMENDED COUNCIL ACTION: Set date for public hearing. No opposition at LUCB, no notice required. Suggest May 1, 2012

PRIOR ACTION ON ITEM:
 (1) _____ APPROVAL - (1) APPROVED (2) DENIED
April 12, 2012 _____ DATE
 (1) LUCB _____ ORGANIZATION - (1) BOARD / COMMISSION
 (2) GOV'T. ENTITY (3) COUNCIL COMMITTEE

FUNDING:
 _____ REQUIRES CITY EXPENDITURE - (1) YES (2) NO
 \$ _____ AMOUNT OF EXPENDITURE
 \$ _____ REVENUE TO BE RECEIVED

SOURCE AND AMOUNT OF FUNDS
 \$ _____ OPERATING BUDGET
 \$ _____ CIP PROJECT #
 \$ _____ FEDERAL/STATE/OTHER

ADMINISTRATIVE APPROVAL:

POSITION	DATE	
	<u>4-23-12</u>	<u>Principal Planner</u>
	<u>4/24/12</u>	DIRECTOR
_____	_____	DIRECTOR JOINT APPROVAL)
_____	_____	COMPTROLLER
_____	_____	FINANCE DIRECTOR
_____	_____	CITY ATTORNEY
_____	_____	CHIEF ADMINISTRATIVE OFFICER
_____	_____	COMMITTEE CHAIRMAN



Memphis City Council Summary Sheet

Resolution approving a special use permit (SUP 12-205) for Cellular Tower.

1. Resolution to approve a special use permit for TV6 Signal Source Tower LLC to permit Cellular Tower to be located at the northwest corner of Walnut Grove and Hayden Street.
2. The Memphis and Shelby County Land Use Control Board held a public hearing on April 12, 2012 and recommended approving the special use permit as recommended by the Office of Planning and Development.
3. Approval of this special use permit will be reflected on the Memphis and Shelby County Zoning Atlas.
4. No contracts are affected by this item.
5. No expenditure of funds/budget amendments are required by this item.

LAND USE CONTROL BOARD RECOMMENDATION
CASE #: SUP 12-205

At its regular meeting on April 12, 2012, the Memphis and Shelby County Land Use Control Board held a public hearing on the following application requesting a special use permit on the property described as follows:

LOCATION: Northwest corner of Walnut Grove Road and Hayden Street

APPLICANT: TV-6 Signal Source Tower LLC (Billy Orgill/Craig Royal)

PROPERTY SIZE: 0.073 Acres

EXISTING ZONING: Commercial Mixed Use-2 (CMU-2) District

REQUEST: Cellular Tower (160 ' Tall – Stealth Design)

The following spoke in support of the application:

Michael J. Fahy, Prime Development
7520 Capital Drive, Ste 200
Germantown, TN 38138

Mr. Fahy, on behalf of the applicant, indicated that he was in agreement with staff on the recommendation and introduced 3 changes to the conditions as "friendly amendments". Conditions 3 and 4 shall be deleted and replaced with the site plan that was submitted to staff, and Condition 7 is revised to require a 5 year warranty on the plants in lieu of the requirement for irrigation.

The Chairman called upon the Staff to confirm that an agreement had been reached. Don Jones for OPD stated that the applicant and staff are in agreement.

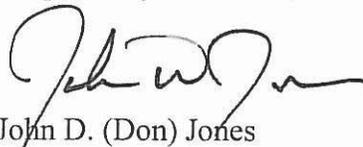
No one spoke in opposition to the application:

The Land Use Control Board reviewed the application of TV6 Signal Source Towers, LLC, requesting a special use permit for a cell tower and the report of the staff. A motion was made and seconded to recommend approval of the application including the friendly amendments.

The motion passed with a unanimous voice vote.

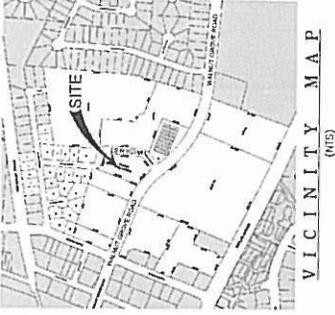
The Board approved the conclusions of the staff as contained in the staff report.

Respectfully submitted,



John D. (Don) Jones
Land Use Controls Section

PLEASE BE ADVISED THAT A BUILDING PERMIT ISSUED BY THE MEMPHIS/DELUYO COUNTY OFFICE OF COMMUNITY CODE ENFORCEMENT DOES NOT ALLOW FOR ALTERATIONS AND/OR ADDITIONS TO THE EXISTING STRUCTURE. ANY SUCH ALTERATIONS AND/OR ADDITIONS ARE LIMITED TO WORK PERFORMED ON SIDEWALKS, CURB AND GUTTER, DRIVEWAY APPROXIS AND UTILITY TRENCHES. NO WORK PERMITS MUST BE OBTAINED FROM THE MEMPHIS CITY ENGINEER'S OFFICE AT PH. 935-9700.



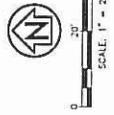
NO BUILDING PERMIT SHALL BE ISSUED ON THE BASIS OF THIS PLAN, EXCEPT WITHIN DESIGNATED LEASE AREA.

A BUILDING PERMIT SHALL BE ISSUED ONLY FOR A COMMUNICATION TOWER AS A RESULT OF THE RECORDING OF THIS PLAN. ANY OTHER USE OF THE LOT IN QUESTION WILL REQUIRE THE OBTAINING OF A SEPARATE BUILDING PERMIT AND PAYMENT OF ALL RELATED FEES TO THE CITY OF MEMPHIS, LAND DEVELOPMENT OFFICE AND RECORDING OF THE PLAN.

NOTES

1. UNDERGROUND UTILITIES NOT SHOWN, BEFORE CONSTRUCTION, CALL 811 (MEMPHIS) OR CALL 615-259-3311 (AND THE UTILITY COMPANIES) MAINTAINING UTILITY SERVICES ACROSS SUBJECT PROPERTY.
2. ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) HAZARDOUS WASTE INFORMATION SYSTEM (HWIS), THIS PROPERTY DOES NOT LIE IN A FLOOD HAZARDOUS AREA AS IDENTIFIED IN COMMUNITY PANEL NUMBER 470177 0250 F, MAP REVISED SEPTEMBER 23, 2007.
3. BENCH MARK - CITY OF MEMPHIS MONUMENT LOCATED ON THE NORTHEAST CORNER OF TULLMAN STREET AND TULLMAN COVE AT BACK OF SIDEWALK AT P.I. OF SIDEWALK - ELEVATION = 254.40 (HAYDENS).
4. SITE BENCH MARK - CUT SQUARE OF TOP OF CURB ON THE WEST SIDE OF HAYDEN STREET - ELEVATION = 253.93.

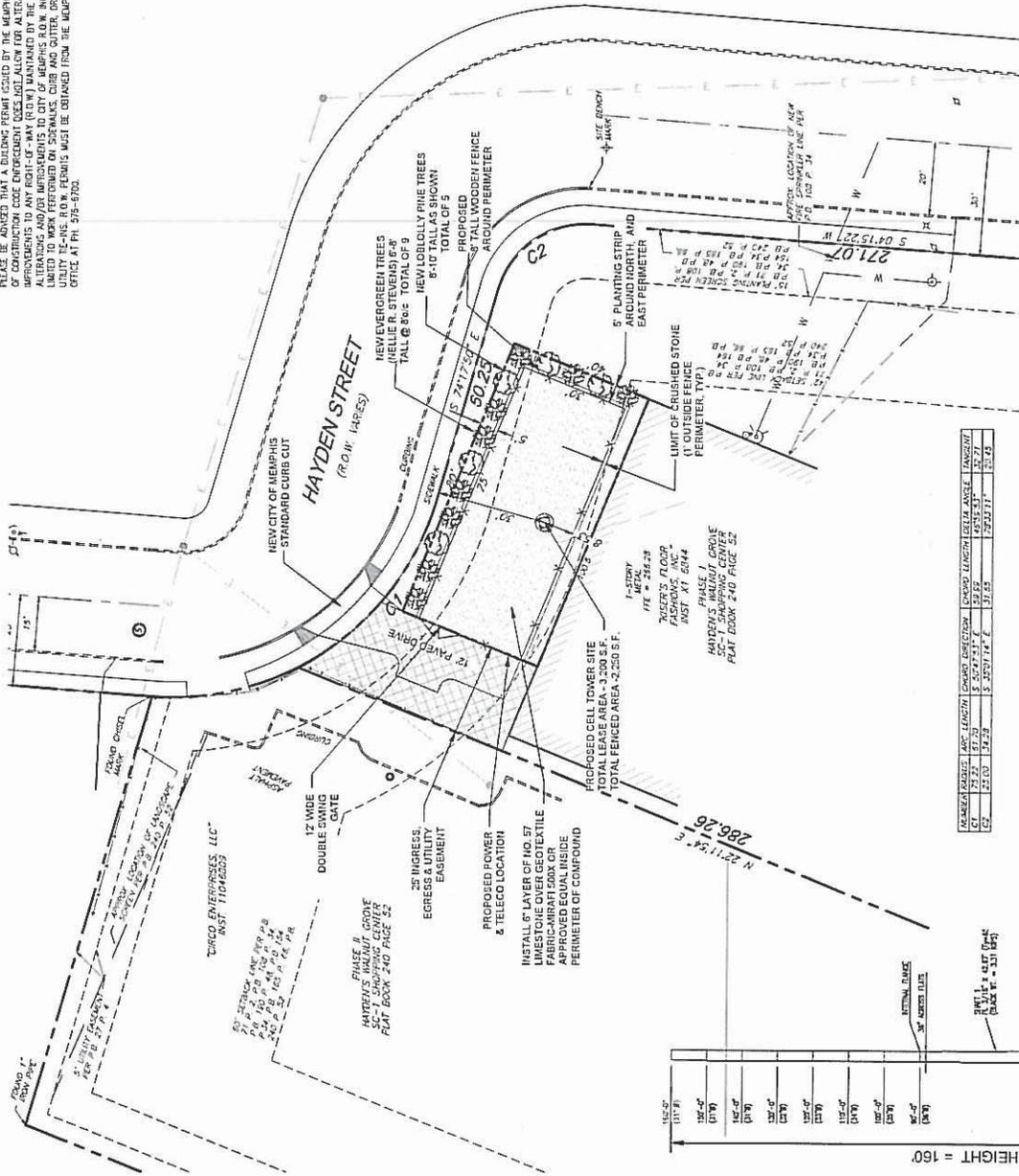
Site Plan
4-12-12



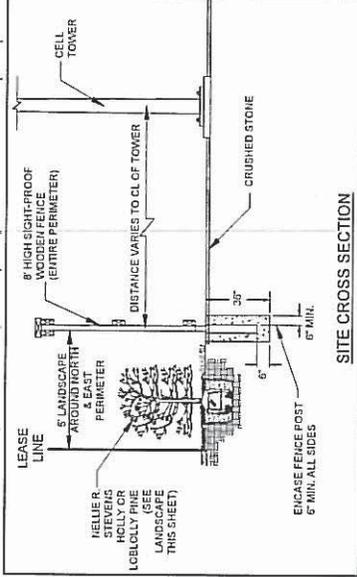
S.U.P. PLAN

HAYDEN'S WALNUT GROVE SC-1 SHOPPING CENTER - PHASE I

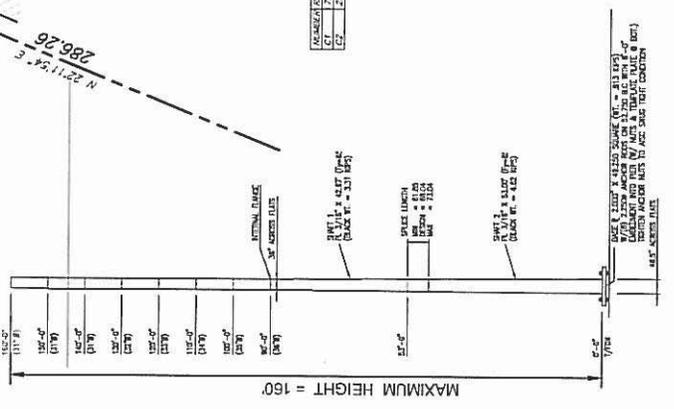
CASE No. -	(FORMERLY 2-311)	PARCEL ID - 04401 00055
MEMPHIS, TENNESSEE		
NO OF LOTS: 1	3,200 +/- LEASED AREA OF 2.65 ACRES	ZONED: CUU-2
DEVELOPER:	TRIMBORG SOURCE TOWER LLC	ENGINEER:
TRIMBORG SOURCE TOWER LLC	PRIME DEVELOPMENT GROUP	MEMPHIS, TENNESSEE
100 TULLMAN BLVD	FEMA MAP PANEL NUMBER: FEMA MAP DATE	DATE: APRIL, 2012
233.00	4757C 0250 F	SCALE: 1" = 20'
	SEPT. 22, 2007	SHEET 1 OF 3



MEMBER	DATE	REV.	DESCRIPTION
CS	12/12/12	1	ISSUED FOR PERMIT
CS	12/12/12	2	REVISED PER PLAN COMMENTS



SITE CROSS SECTION



TOWER ELEVATION PLAN
(CONCEALED CANNISTER MONOPOLE STEALTH DESIGN)

**MEMPHIS AND SHELBY COUNTY OFFICE OF PLANNING AND DEVELOPMENT
STAFF REPORT #13**

CASE NUMBER: SUP 12-205 L.U.C.B. **MEETING:** April 12, 2012
LOCATION: Northwest corner of Walnut Grove and Hayden Street
COUNCIL DISTRICT: 5
SUPER DISTRICT: 9
OWNER OF RECORD / APPLICANT: Kiser's Floor Fashions/TV6 Signal Source Tower LLC
REPRESENTATIVE: Prime Development Group - Mike Fahy
REQUEST: Cellular Tower (Stealth Design) 160' Tall
AREA: 0.073 Acres
EXISTING LAND USE & ZONING: A retail store and vacant land in the Commercial Mixed Use-2 (CMU-2) District

OFFICE OF PLANNING AND DEVELOPMENT RECOMMENDATION

Approval with Conditions

Staff: Don Jones

E-Mail: john.jones@memphistn.gov

CONCLUSIONS

1. Both the General Standards for a Special Use Permit and the more specific Use Standards for Cellular Tower require that all reasonable efforts be undertaken to minimize any negative effects associated with a request.
2. The use of stealth design such as the Canister Style Tower and landscaping and screening are two methods being employed here to address the issue of the tower height and the tower equipment.

GENERAL LOCATION MAP



LAND USE & ZONING MAP



SURROUNDING USES AND ZONING:

- North:** A residential duplex complex in the Residential Urban -1 (RU-1) and Garden Apartments in the Residential Urban - 3 (RU- 3) Districts
- East:** A one-story office building (Walnut Grove Office Gardens) in the Office General (O-G) District
- South:** Commercial and warehouse (Kiser Floor Fashions) and parking for the Memphis Public Library in the Commercial Mixed Use -2 (CMU-2) District
- West:** The State of TN Drivers License Testing Center in the Commercial Mixed Use-2 (CMU-2) District, and a nursing home in the Residential Urban -3 (RU-3) District

Views of Site and Surrounding Area



View of Site Facing West



View of Site from Hayden, facing south

Neighbors

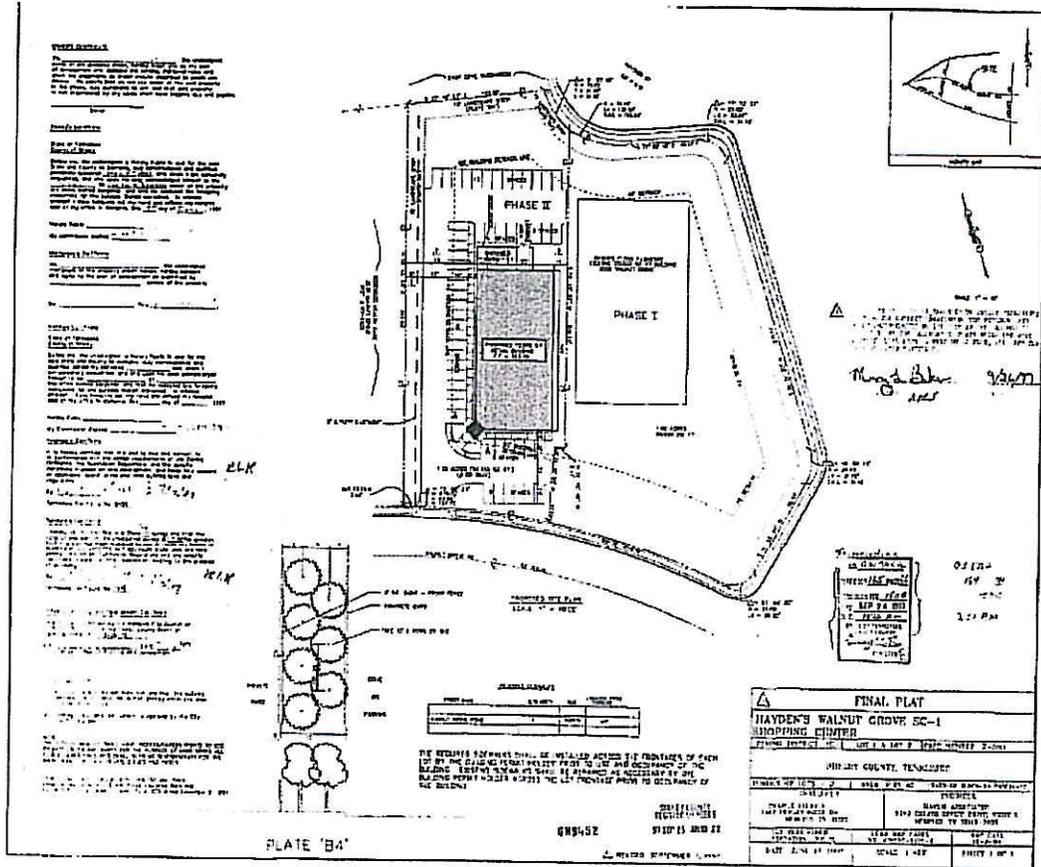


Office Use on the East Side of Hayden Street (N-S section)



Residential Neighbor to the north of site

Recorded Final Plat



Final Plat for SC-1 Plan

STAFF ANALYSIS

General Location and Site Characteristics

The subject property is essentially the rear yard of a parcel that is located at the northwest corner of Walnut Grove Road and Hayden Street. Hayden Street is an usually configured street in that it has a two north-south legs and an east-west leg. This creates a parcel that has three frontages.

The subject of this request is a portion of the rear yard of the Kiser Floor Fashions site which is included in the Phase One of the Hayden's Walnut Grove SC-1 Plan.

Request:

The applicant is requesting the approval of a Special Use Permit to allow the installation of a 160 foot tall cell tower and equipment compound. The tower is a canister design which means that the antennae array is enclosed with the tower itself. The site plan reflects a 30 foot by 75 foot area for the tower compound which will house the equipment boxes.

The compound area is proposed to include an 8 foot tall, sight proof wooden fence with a row of shrubs and trees along the north and east sides.

Review of Request:

Both the General Standards for a Special Use Permit and the more specific Use Standards for Cellular Tower require that all reasonable efforts be undertaken to minimize any negative effects associated with a request. From a Zoning Point of View, the negative effects of a Cell Tower site are its height in relation to other nearby land uses and the antennae array that extends out from the pole and calls further attention to the tower.

When cell towers are proposed in close proximity to residential areas, the staff routinely asks the applicant to consider locations where the cell tower can be placed on the roof of a commercial building or can be placed among or near a grouping of mature trees. The use of stealth designs for towers such as a Tree, or a Flagpole are also considered.

In response to these questions from staff, the applicant has indicated that there is not another tower in reasonable proximity to this request that can be used in lieu of the installation of a new tower. They have also indicated that efforts to locate at another location, such as the wooded area across from this site, were unsuccessful. And efforts to locate on publically owned properties has likewise proven unsuccessful. The proposed style of this tower, which is a canister design, does fit into the category of stealth design. A tree design is not being considered since there is not a large grouping of trees on this site and the flag pole is not being considered because it actually tends to call more

attention to the tower.

The conditions of this SUP will call for changes to the landscape plan to plant an appropriate species of Evergreen Tree that will provide a more effective screen of the tower than the deciduous tree indicated on the site plan.

Other Issues

While the staff does find that this request meets the intent of the Ordinance, there is an issue with respect to the underlying zoning of this property.

This property is zoned CMU-2 and there is a recorded SC-1 plan that governs the development of this site. The SC-1 plan calls for a 42 foot setback from Hayden Street, and a minimum 15 foot landscape area along the Hayden Street frontage.

The setback renders this portion of the site unusable and 15 landscape strip will compromise the area needed for the equipment boxes. Changes to setbacks and landscaping requirements for recorded plats are handled by the Land Use Control Board as Correspondence Applications.

Since the owner of record for this property is a signatory for this SUP application, and since this modification to the requirements of the SC-1 Plan are integral to this request for the SUP, it is the opinion of staff that the public hearing for this SUP is an appropriate venue for considering a modification to the recorded plat.

The conditions below will require that the Hayden Walnut Grove, SC-1 plat be re-recorded to show a modification to the required setback along the section of Hayden Street that abuts the lease area and that the required planting screen will similarly be adjusted.

RECOMMENDATION: Approval with Conditions

SITE PLAN CONDITIONS
S.U.P. 12-205

A Special Use Permit is hereby authorized to allow a 160 foot tall Cellular Tower on the property located at the northwest corner of Walnut Grove and Hayden Street in accordance with the approved site plan and the following supplemental conditions:

1. The tower shall be designed as a "Canister Style" with the antennae located within the tower.
2. The tower shall be designed to accommodate at least 5 additional sectorized antennas.
3. The applicant shall provide a planting screen varying in width from 8 feet to 10 feet along the Hayden Street frontage with a double row of evergreen trees. A single row of Evergreen Trees shall be required along the east side of the lease area.
4. The applicant shall enlist the services of a Registered Landscape Architect to assist with determination of the species of Evergreen Tree, the height of the Tree at Planting, and the spacing of the Trees, subject to the review and approval of the OPD.
5. Screening of the equipment compound shall consist of an 8 foot tall, sight proof, wooden fence with cap.
6. Equivalent alternatives may be presented at Site Plan Review.
7. All required landscaping shall be irrigated.
8. The tower shall be constructed within two years of approval by the City Council. The Land Use Control Board may grant a one year extension through the filing of a correspondence item application with full public notice.
9. The tower and related equipment shall be removed (by this applicant) within 180 days of the cessation of operations. If this applicant is no longer a viable entity, this requirement shall fall to the owner of this property.
10. The City Engineer shall approve the design, number and location of curb cuts.
11. All existing sidewalks and curb openings along the frontage of this site shall be inspected for ADA compliance. The developer shall be responsible for any reconstruction or repair necessary to meet City standards,

12. Prior to the approval of this site plan, the owner of this property shall re-record the Final Plan of the Hayden's Walnut Grove SC-1 Plan to modify the required setback to match the boundary of the lease area. The requirement for the planting screen will also be modified to match the area shown on this site plan.

GENERAL INFORMATION

Street Frontage: Hayden Street -- +/- 105 Feet
Census Tract: 28
Planning District: University
Zoning Atlas Page: 2035
Parcel ID: 044011 00055

Zoning History: A SC-1 Final Plan was recorded on this site in October of 1986. Subsequent recordings permitted additional space to the building and the Phase II Plan for the parcel to the west.

DEPARTMENTAL COMMENTS

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

City Engineer:

1. Standard Subdivision Contract as required in Section 500 of Subdivision Regulations.

Curb Cuts/Access:

2. The City Engineer shall approve the design, number and location of curb cuts.
3. All existing sidewalks and curb openings along the frontage of this site shall be inspected for ADA compliance. The developer shall be responsible for any reconstruction or repair necessary to meet City standards,
4. The width of all existing off-street sewer easements shall be widened to meet current city standards.
5. Required landscaping shall not be placed on sewer or drainage easements.

City Fire Division: No comment.

City Real Estate: No comments received.

City/County Health Department: No comments by the **Water Quality Branch & Septic Tank Program.**

City Board of Education:	No comment.
Construction Code Enforcement:	No comments received.
Memphis Light, Gas and Water:	No comments received.
Bell South:	No comments received.
Memphis Area Transit Authority (MATA):	No comments received.
OPD-Regional Services:	No comments received.
OPD-Comprehensive Planning:	No comments received.
Memphis Park Commission:	No comments received.
Binghampton/Lester Community Organization:	No comments received

ZONING RESOLUTION
(Special Use Permit)

WHEREAS, Chapter 9.6 of the Unified Development Code of the City of Memphis and Shelby County, being a Chapter of the Joint Ordinance-Resolution No. 5367 dated August 10, 2010, authorizes the Council of the City of Memphis to grant a special use permit for certain stated purposes subject to standards of general applicability and any additional standards applicable to specific special uses in the various zoning districts within the Memphis City Limits, and

WHEREAS, Application has been made by TV6 Signal Source Tower LLC for a special use permit (**S.U.P. 12-205**) with respect to the property located in the rear of the property that is located at the northwest corner of Walnut Grove Road and Hayden Street; and

WHEREAS, The Office of Planning and Development has reviewed the application in accordance with the special use permit provisions of Chapter 9.6 and the Use Standards for CMCS Towers and Facilities, Sub-section 2.6.2 of the Unified Development Code and reported said findings and recommendations to the Land Use Control Board; and

WHEREAS, A public hearing in relation thereto was held before the Memphis and Shelby County Land Use Control Board on April 12, 2012, and said Board has studied and reported its recommendation to the City Council regarding the following potential effects of granting the Special Use Permit on:

- A. The character of the neighborhood, traffic conditions, public utility facilities, and other matters pertaining to the public safety and general welfare;
- B. The compatibility of the proposed building or use with the immediate vicinity and the potential interference of said building or use on the development or use of adjacent property;
- C. The adequacy of public facilities including existing streets, parking, drainage, refuse disposal, fire protection, water and sewer or that such facilities will be provided;
- D. The destruction, loss or damage to features of significant natural, scenic or historic importance from the proposed building or use; and

WHEREAS, The Memphis and Shelby County Land Use Control Board and/or the Memphis and Shelby County Office of Planning and Development has recommended certain conditions be attached to the special use permit to reduce any potential adverse impacts of the proposed building or use on the neighborhood, adjacent properties, public facilities and significant natural, scenic or historic features; and

WHEREAS, The Memphis and Shelby County Land Use Control Board has also determined that the proposed building or use complies with all additional standards imposed on it by the particular provision of Article 9 authorizing such particular special use.

NOW, THEREFORE, BE IT RESOLVED By the Council of the City of Memphis that a special use permit is hereby granted for a **Cell Tower, 160 Feet in Height** in accordance with the site plan incorporated in the application, and subject to attached conditions.

BE IT FURTHER RESOLVED That this permit authorizes the appropriate filing of applications to acquire a Certificate of Use and Occupancy, or a Building Permit, and other required permits and approvals, provided that no such Certificate of Use and Occupancy shall be granted until all conditions imposed by the City Council have been met.

ATTEST:

cc: Office of Code Enforcement
City Engineer
OPD – LUC
OPD – LUC (East)
County Assessor

S.U.P. 12-205

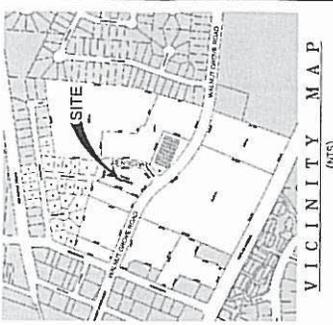
CONDITIONS

S.U.P. 12-205

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1. The tower shall be designed as a "Canister Style" with the antennae located within the tower.
2. The tower shall be designed to accommodate at least 5 additional sectorized antennas.
3. Landscaping/screening shall be as shown on the approved site plan submitted to the Land Use Control Board.
4. Screening of the equipment compound shall consist of an 8 foot tall, sight proof, wooden fence with cap.
5. Equivalent alternatives may be presented at Site Plan Review.
6. In lieu of irrigation the plants shall have a 5-year warranty.
7. The tower shall be constructed within two years of approval by the City Council. The Land Use Control Board may grant a one year extension through the filing of a correspondence item application with full public notice.
8. The tower and related equipment shall be removed (by this applicant) within 180 days of the cessation of operations. If this applicant is no longer a viable entity, this requirement shall fall to the owner of this property.
9. The City Engineer shall approve the design, number and location of curb cuts.
10. All existing sidewalks and curb openings along the frontage of this site shall be inspected for ADA compliance. The developer shall be responsible for any reconstruction or repair necessary to meet City standards,
11. Prior to the approval of this site plan, the owner of this property shall re-record the Final Plan of the Hayden's Walnut Grove SC-1 Plan to modify the required setback to match the boundary of the lease area. The requirement for the planting screen will also be modified to match the area shown on this site plan.

PLEASE BE ADVISED THAT A BUILDING PERMIT ISSUED BY THE MEMPHIS/CREDIT COUNTY OFFICE OF PERMITS AND INSPECTION DOES NOT ALLOW FOR ALTERATIONS AND/OR ADDITIONS TO ANY EXISTING STRUCTURE. ANY SUCH ALTERATIONS AND/OR ADDITIONS TO ANY EXISTING STRUCTURE TO CITY OF MEMPHIS IS LIMITED TO WORK PERFORMED ON SIDEWALKS, CURB AND CHAIR, DRIVEWAY AREAS AND UTILITY TRENCHES. ALL SUCH PERMITS MUST BE OBTAINED FROM THE MEMPHIS CITY ENGINEER'S OFFICE AT PH. 356-9185.

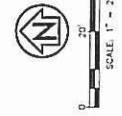


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NOTES

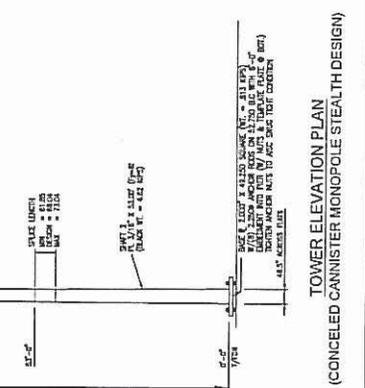
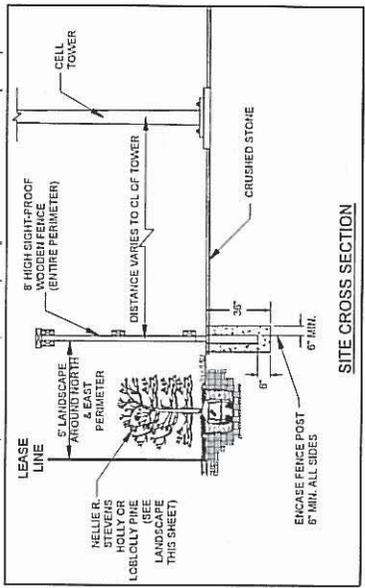
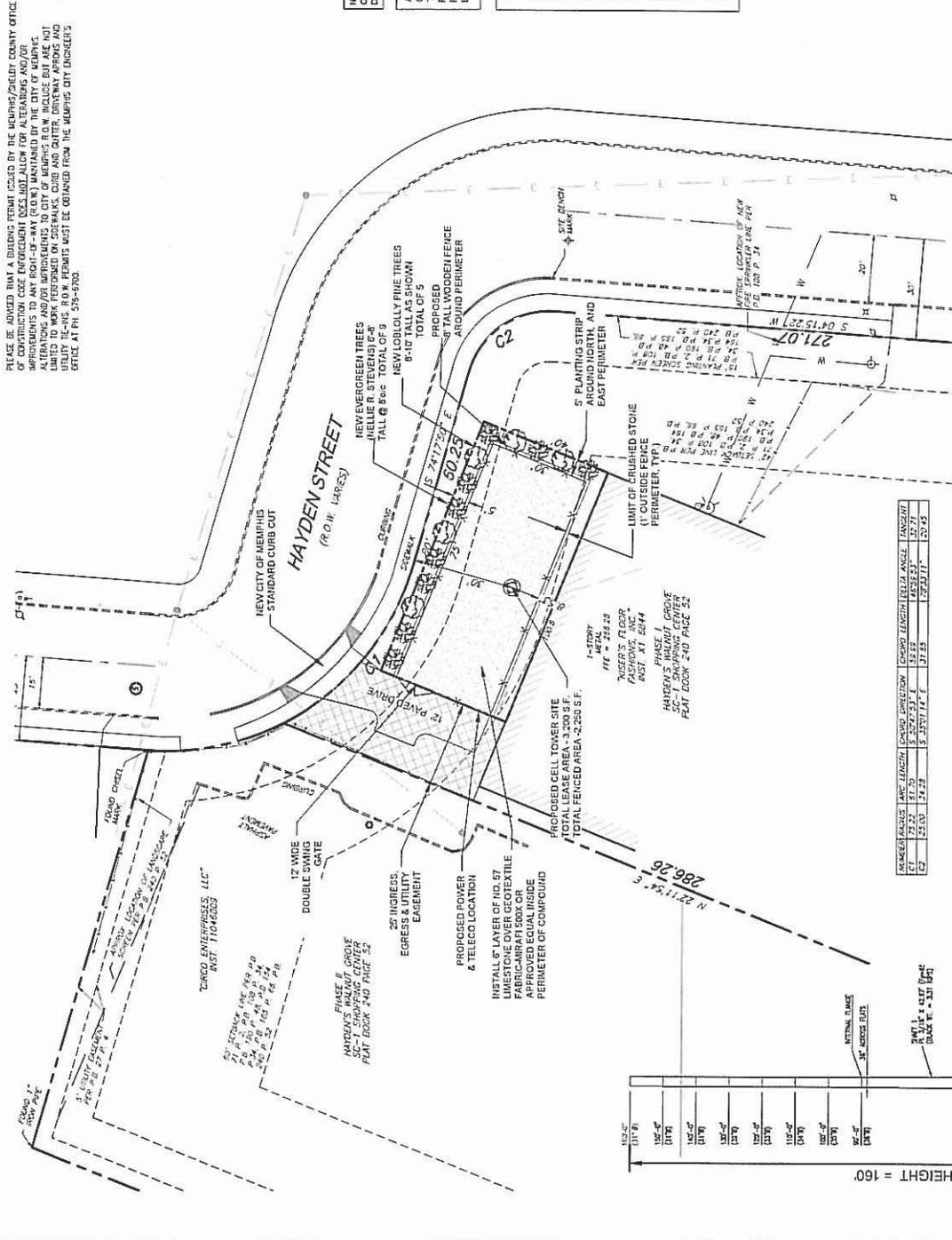
1. UNDERGROUND UTILITIES NOT SHOWN BEFORE COMMENCEMENT OF ANY CONSTRUCTION. UTILITIES CALL @ 1-800-351-1111 AND THE UTILITY COMPANIES MAINTAINING UTILITY SERVICES ACROSS SUBJECT PROPERTY.
2. ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY'S FLOOD INSURANCE RATE MAP, THE SUBJECT PROPERTY DOES NOT LIE IN A FLOOD HAZARD AREA AS IDENTIFIED IN COMMUNITY PANEL NUMBER 470177 0209 F. MAP REVISED SEPTEMBER 28, 2007.
3. BENCH MARK - CITY OF MEMPHIS MONUMENT LOCATED ON THE NORTHEAST CORNER OF TULLMAN STREET AND TULLMAN COVE AT BACK OF SIDEWALK AT P.I. OF SIDEWALK - ELEVATION = 254.40 (11/04/08).
4. SITE BENCH MARK - CUT SQUARE OF TOP OF CURB ON THE WEST SIDE OF HAYDEN STREET - ELEVATION = 203.33.



3/4\"/>

HAYDEN'S WALNUT GROVE SC-1 SHOPPING CENTER - PHASE I

CASE No -	(FORMERLY Z-3111)	PARCEL ID -	04401 00055
MEMPHIS, TENNESSEE			
NO. OF LOTS:	1	3,200 sq LEASED AREA OF 2.05 ACRES	ZONED: CMU-2
DEVELOPER:	TWO SIGNAL MONUMENT TOWERS, LLC		
DESIGNER:	FRANK DEVELOPMENT GROUP		
ADDRESS TO THIS PROJECT:	404 HAYDEN AVENUE		
10 YEAR OLD CITY	TELEPHONE NUMBER	TELEPHONE NUMBER	TELEPHONE NUMBER
233.00	4757C 0200 F	4757C 0200 F	4757C 0200 F
DATE: APRIL, 2012	SCALE: 1\"/>	DATE: APRIL, 2012	SHEET 1 OF 3



TOWER ELEVATION PLAN
(CONCELED CANNISTER MONOPOLE STEALTH DESIGN)