

STAFF REPORT

6

Major Modification

CASE NUMBER: SUP 12-205 **L.U.C.B. MEETING:** April 9, 2015

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: 2 Year Time Extension to install a 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: John D. (Don) Jones

E-Mail: john.jones@memphistn.gov

CONCLUSIONS

1. Pursuant to Section 9.16.3 of the UDC, staff finds that there has been no change in the conditions of the site or the surrounding neighborhood that would warrant the denial of this time extension 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

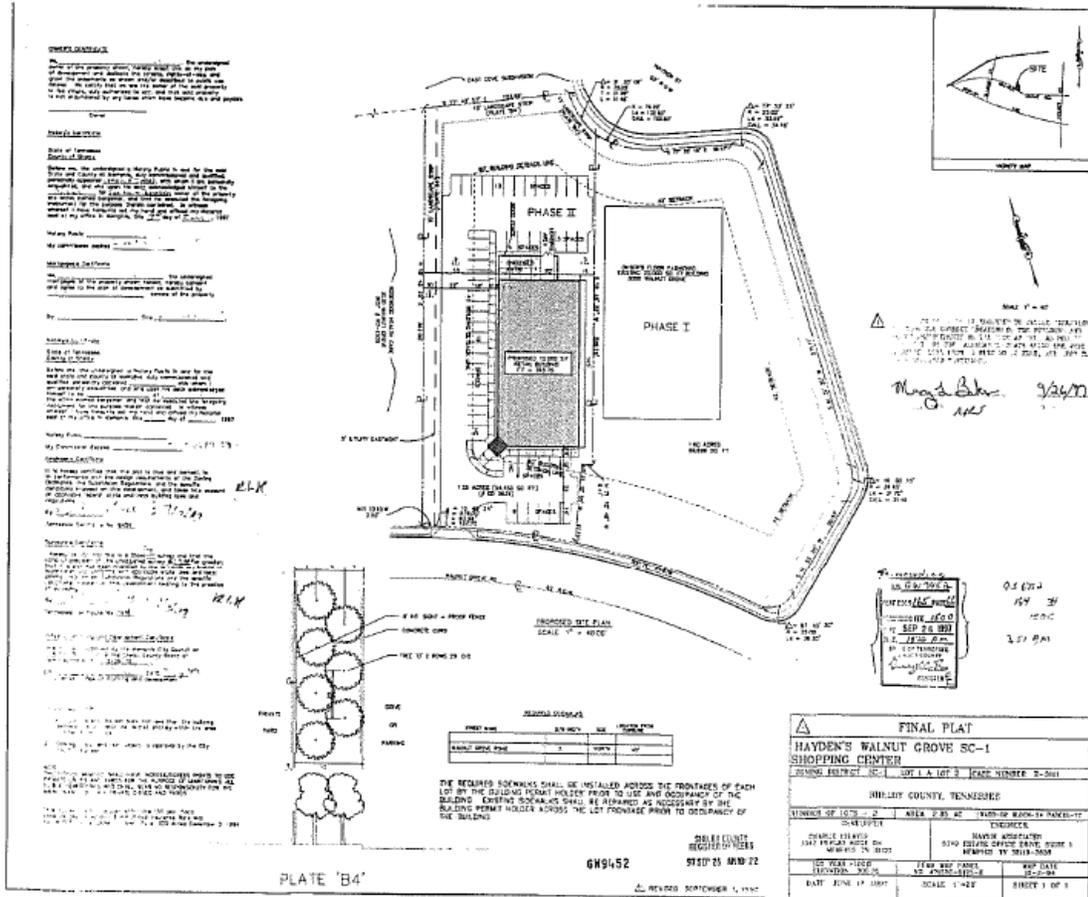


Office Use on the East Side of Hayden Street (N-S section)



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 a 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 a two year time extension to allow for the installation of the cell tower and equipment. A Special Use Permit, S.U.P. 12-205, was approved by the Memphis City Council on May 1, 2012. Subsequent to that approval, the applicant requested and was granted a one year time extension at the May 8, 2014, meeting of the Land Use Control Board.

The staff and the applicant's representative have discussed this time extension request and have agreed that all of the prior approved conditions should remain in place.

Review of Request:

Section 9.16.3 of the Unified Development Code, see appendix, lists the Findings of Fact to be considered in evaluating a time extension.

In this instance, the staff finds that there has been no change in the characteristics associated with the subject site or the surrounding neighborhood which would warrant a change in the recommendation or the recommended conditions associated with this Special Use Permit.

If approved, the applicant shall have until April 9, 2017 to install this cell tower.

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. *The tower color may be a metallic or galvanized gray.*
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 from the date of the approval By the Land Use Control Board (April 9, 2017).
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.

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: No comments received
City Fire Division: No comments received.
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, & Water Division:

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

- **Street Names: It is the responsibility of the owner/applicant** to contact MLGW–Address Assignment @ 729-8628 and submit proposed street names for review and approval. Please use the following link to the MLGW Land & Mapping website for **Street Naming Guidelines** and the **Online Street Name Search**:
<http://www.mlgw.com/builders/landandmapping>
- **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, without prior MLGW approval.
- **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 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.
- **It is the responsibility of the owner/applicant** to comply with Memphis/Shelby County Zoning Ordinance - Landscape and Screening Regulations.
- **Landscaping is prohibited** within any MLGW utility easement without prior MLGW approval.

- **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 Builder Services: (901) 729-8675 to initiate the utility application process.
 - All commercial developers must contact MLGW's Builder Services line at 729-8630 (select option 2) to initiate the utility application 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.

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 Services: No comments received.

Binghampton/Lester Community Organization: No comments received

9.16 TIME EXTENSIONS

9.16.1 Applicability

This Chapter shall apply to all requests for a time extension pursuant to this Article.

9.16.2 Application Requirements

Requests for time extensions may be filed pursuant to individual Chapters of this Article.

9.16.3 Findings of Fact

The appropriate authority, pursuant to the individual Chapters of this Article, shall make the following findings in its approval, approval with conditions or rejection of an extension:

- A. Changed conditions of the neighborhood and area in which the time extension is being made, as compared to conditions present during the original approval;
- B. Changed conditions of the site in which the request is being made, as compared to conditions present during the original approval;
- C. Any administrative or legislative policy, ordinance, regulation or comprehensive or neighborhood plan that has been adopted since the time of the original approval; and
- D. The scope of construction, such as the size of the site or building, involved with the original approval.