

**MEMPHIS AND SHELBY COUNTY OFFICE OF PLANNING AND DEVELOPMENT  
STAFF REPORT #10**

**CASE NUMBER:** SUP 13-222      **L.U.C.B. MEETING:** October 10, 2013

**LOCATION:** 3412 Park Avenue, 717 feet west of Highland Street

**COUNCIL DISTRICT:** 5

**SUPER DISTRICT:** 9

**OWNER OF RECORD / APPLICANT:** TV6 Signal Source Towers, LLC

**REPRESENTATIVE:** Lou Katzerman

**REQUEST:** CMCS Tower – 150' Tall, Monopole Design

**AREA:** 0.77 Acres

**EXISTING LAND USE & ZONING:** Commercial Mixed Use-1 (CMU-1) District

**OFFICE OF PLANNING AND DEVELOPMENT  
RECOMMENDATION**

**APPROVAL WITH CONDITIONS**

**CONCLUSIONS**

1. Staff has the responsibility to review a SUP request for a CMCS tower with an eye on limiting any potential impacts. Stealth design can be considered in lieu of a requirement for a buffer area to residentially zoned property that is equal to the height of the tower.
2. Staff is recommending a flush mounted antennae, although a canister style is the ideal choice. The applicant points out that the canister style limits the number of co-locators which in the end will result in the need for additional towers.
3. For staff, the issue is that above the natural tree line, it is the antennae, and not so much the tower that catches the eye. A monopole design with a flush mounted array will accommodate the required co-locators, and the flush mount, as opposed to a platform type, will make the antennae array less prominent to the eye.

### General Location

North side of Park Avenue, +/- 700' west of Highland Street  
Messick-Buntyn Neighborhood



### LAND USE & ZONING MAP



#### SURROUNDING USES AND ZONING:

- North:** Single family dwelling units in the Single Family Residential -6 (R-6) District
- East:** Primarily retail commercial uses in the Commercial Mixed Use-1 (CMU-1) District
- South:** A mix of office and retail/service based commercial uses in the Commercial Mixed Use -1 (CMU-1) and General Office (O-G) Districts
- West:** A mix of office and service based commercial uses in the General Office (O-G) District

Birds Eye View



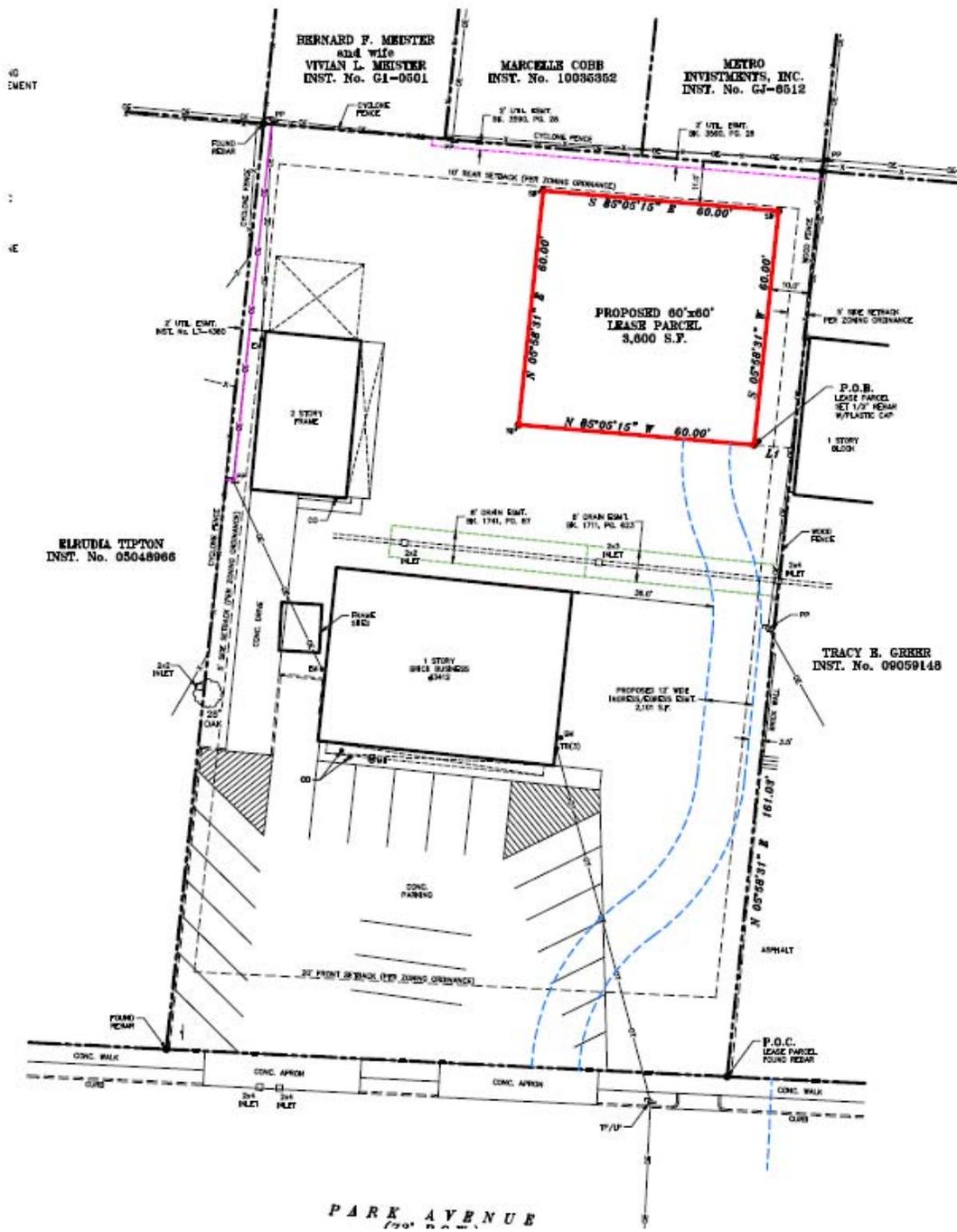
Birds Eye View with approximate location of compound



Zoom In on rear property line – privet hedge and some trees



Site Plan





## **STAFF ANALYSIS**

### Request:

The applicant's Letter of Intent, which is attached to the end of this report, states that they "propose to construct a one hundred fifty foot (150') CMCS tower at 3412 Park. The tower will be a monopole design and it will be built to support cellular communications and wireless data services. The equipment will be placed in a Lease area of 60' x 60'. Tower Ventures is proposing to use landscaping on the South side of the proposed compound. The Tower Site [is] to be enclosed using a 6' Wooden Fence."

A subsequent paragraph discusses the need for the tower at this location due to lack of sufficient coverage and the lack of an existing structures to accommodate the planned equipment.

The "wireless data services" refers to a request to add a dish approximately half way up the tower.

### Review of Request

#### *UDC Requirements*

The Permitted Uses Table found in Chapter 2.5 of the Unified Development Code (UDC), permits a CMCS tower and associated facilities by right in the Commercial Mixed Use -1 District, subject to the Use Standards found in Sub-Item 2.6.2 I (3)(B)(1). This item requires the filing of a Special Use Permit application when the subject tract abuts or is within 500 feet of residential use or residentially zoned property.

#### *Special Use Permits*

Chapter 9.6 addresses the review process for Special Use Permits, including the applicability and the approval criteria.

Under the applicability section, the first point reads: "Special Uses within each zoning district are uses that may be appropriate in a particular zoning district, but because of the increased potential of incompatibility with adjacent uses, require individual review by the governing bodies."

Section 9.6.9 of the UDC discusses the criteria to be applied to a review for a SUP. That criteria includes a finding that the project will not have a "substantial or undue adverse effect upon adjacent property," that it will be operated in a manner that is compatible with the immediate vicinity, and the project will not result in a loss or destruction of "significant natural, scenic, or historic importance".

### Use Standard – 2.6.2 I

Subsection 2.6.2 I of the UDC addresses the technical requirements for filing an application for locating a CMCS Tower and facilities. This section of the Code also addresses issues such as the distance and spacing of towers, the height, setback, screening and fencing, and lighting.

The applicant has filed the required paperwork which are attached to the end of this report, to address the General Requirements that respond to the need for the tower at this location and that they agree to construct the tower to accommodate additional co-locations.

Item 2.6.2. I (2)(e) Setbacks states that “the minimum setback requirement for support structures including associated attachments shall correspond to the zoning district in which they are located, except that a minimum buffer equal to the height of the tower shall be maintained between any support structure (excepting sites incorporating stealth design) and a parcel with a single-family dwelling located in any single-family residential district.”

### *Review of the Site Plan*

From the preceding paragraphs, it follows that staff has the responsibility to review a SUP request for a CMCS tower with an eye on limiting any potential impacts; and that stealth design can be considered in lieu of a requirement for a buffer area to residentially zoned property that is equal to the height of the tower.

Stealth as defined in Chapter 12.3 of the UDC “is the common industry practice of disguising the CMCS tower inside another structure such as, but not limited to, a steeple, clock tower, or other architectural element, or limiting the visibility of the tower by disguising it as a flagpole, tree, painted slick stick, or similar camouflaging technique.” The steeple, clock tower, flagpole or tree are pretty clear examples of stealth, yet none of them are realistic for this site.

A slick stick is defined in the UDC as “A type of stealth design monopole design where all antennae and related equipment are housed inside the pole structure rather than attached to the exterior of the pole.

A canister or style or slick stick style is a good choice here. However both of these types limit the number of co-locators which in the end will result in the need for additional towers.

For staff, the issue is that above the natural tree line, it is the antennae, and not the tower that catches the eye. A monopole design with a flush mounted array will accommodate the required co-locators, and the flush mount as opposed to a platform type, will make the antennae array less prominent to the eye.

**RECOMMENDATION: Approval with Conditions**

## **SITE PLAN CONDITIONS**

A Special Use Permit is hereby authorized to TV6 Signal Source Towers, LLC to allow a CMCS Tower on the property located at 3412 Park Avenue in accordance with the approved site plan and the following supplemental conditions:

1. The tower shall be designed as a monopole with flush mounted antennae, not an array that extends out from the tower. The proposed microwave dish is not included with this approval.
2. The tower height may be a maximum of 150' exclusive of any lighting rod.
3. The tower compound shall be screened by a six foot tall, sight-proof wooden fence. The fence shall include pressure treated lumber with a dog-ear design.
4. Landscaping around the tower shall conform to a Class III Buffer, Type B with the following additional stipulations.
  - a. The landscape material shall include either Savannah or Foster #2 type hollies, maintained as trees.
  - b. Landscaping shall only be required on the north and south elevations of the compound.
  - c. All required landscaping shall be irrigated, unless the applicant can provide an alternative that is acceptable to the OPD .
5. The tower shall be constructed within two years of approval by the Memphis City Council. The Land Use Control Board may grant a one year time extension through the filing of a Major Modification Application.
6. The tower and related equipment shall be removed (by this applicant) within 180 days of cessation of the use. If the applicant/owner of the tower is no longer a viable entity, then this requirement shall fall to the owner of the property.

**GENERAL INFORMATION**

**Street Frontage:** Park Avenue - .... +/- 142.50

**Planning District:** Depot

**Census Tract:** 70.00

**Zoning Atlas Page:** 2135

**Parcel ID:** 045114 00069C

**Zoning History:**

**DEPARTMENTAL COMMENTS**

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

**City Engineer:** No objections to this request as shown on the site plan.

**City Fire Division:** No comments received.

**City Real Estate:** No comments received.

**City/County Health Department-  
Pollution Control:** No comments received.

**Environmental Sanitation:** No comments received.

**City Board of Education:** No comments received.

**Construction Code Enforcement:** No comments received.

**Memphis Light, Gas and Water:**

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 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.
  
- **Landscaping is prohibited** within any MLGW easement or dedicated 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.

**Division of Park Services:**

No comments received.

**Neighborhood Associations:**

No comments received.

Messick-Buntyn NA

Orange Mound Concerned Citizens

**106 Review**

**Applicant's Letter of Intent and Documentation**



A C WHARTON, JR. - Mayor  
GEORGE M. LITTLE - Chief Administrative Officer  
DIVISION OF HOUSING & COMMUNITY DEVELOPMENT  
ROBERT LIPSCOMB - Director  
Debbie Singleton, Administrator, Compliance and Reporting

September 26, 2013

Mr. Mark Christian, PE  
Project Manager  
Terracon  
7876 Stage Hills Boulevard, Suite 105  
Bartlett, TN 38133

Re: Section 106 Review – Proposed Park & Highland Tower, 3412 Park Avenue, Memphis, Tennessee

Dear Mr. Christian:

At your request, I have reviewed the above referenced site and ½ mile Area of Potential Effect (A.P.E.) in regard to a proposed monopole cell tower construction of 150' for compliance with Section 106 of the National Historic Preservation Act. It is my opinion that the site itself is not eligible to the National Register of Historic Places. Within the A.P.E., historic resources were identified and field checked for visibility of the proposed tower with a balloon test on September 24, 2013 resulting in the following:

- 1) East Buntyn Historic District, NR listed, bound by Greer Street on the west, Central Avenue on the North, rear property lines of lots along Southern Avenue on the south, and eastern property lines of Ellsworth Street on the east. A small southern portion of this district is within the A.P.E. There was no visibility.
- 2) Normal Station Historic District, NR listed, bound by rear property lines of east side of Highland Avenue on the west, Goodlett Street on the east, Spottswood on the north, and Park on the South. The western portion of this district is within the A.P.E. There was no visibility.
- 3) Sherwood Forrest Historic District, NR eligible, bound by Echles Street and Robin Hood Lane on the west, Goodman Street on the east, Park Avenue on the north, and Vanuys Avenue on the south. The extreme NW corner of the district is within the A.P.E. There was no visibility.
- 4) St. Anne Catholic Church Historic District, NR eligible, 670 Highland Avenue. District consists of sanctuary, school, rectory, and convent behind the church on Kearney Avenue. There was no visibility.
- 5) Fire Station #18, NR eligible, 3426 Southern Avenue. There was no visibility.

**TV6 Signal Source Towers/Tower Ventures**

Phone: 901 794-

9494

4091 Viscount Ave Memphis, TN 38118-6106

Fax: 901 366-5736

August 19<sup>th</sup>, 2013

Memphis and Shelby County Office of Planning and Development

City Hall

125 North Mid-American Mall

Memphis, TN 38103-2084

RE: Letter of Intent and Requested Zoning Conditions for a One Hundred Fifty Foot (150') Monopole Communications ("CMCS") Tower at 3412 Park Ave, Memphis, TN 38111 (Parcel ID #045114 00069C)

To Whom It May Concern:

Tower Ventures /TV6 Signal Source Towers, LLC of 4091 Viscount Avenue Memphis, TN 38118 proposes to construct a one hundred Fifty foot (150') CMCS tower at 3412 Park Memphis, TN 38111 (Parcel ID#045114 00069C ) The tower will be a monopole design and it will be built to support cellular communications and wireless data services. The tower will be built to support Five (5) antenna arrays. The tower will be equipped with a climbing apparatus.

The equipment will be placed in a Lease area of 60' x 60'. Tower Ventures is proposing to use Landscaping on the South side of the proposed compound. The Tower Site to be enclosed using a 6' Wooden Fence.

There is a need for improved cellular coverage in this area of Memphis. The CMCS equipment planned for the proposed tower cannot be accommodated on any existing structures because there are no appropriate existing structures or pending structures to accommodate the planned equipment, taking into account, among other factors, the licensees' system requirements. Therefore, the proposed tower is needed so that the licensees can provide better cellular coverage and can improve its E911 emergency services network. The citizens of Memphis benefit each time a licensee expands its network coverage because each site enhances the licensee's ability to provide emergency response services. Please see the attached maps that show the distances to the nearby existing CMCS Sites.

Tower Ventures /TV6- Signal Source Towers, LLC appreciates the Memphis and Shelby County Office of Planning and Development's consideration of this application. Please contact me at (901) 794-9494 Ext 117 if you have any questions concerning this application.

Sincerely,

Lou Katzerman

Site Acquisition and Zoning Manager

TV 6 Signal Source Towers, LLC- Tower Ventures

TV6 Signal Source Towers, LLC/Tower Ventures

Phone:

901 794-9494

4091 Viscount Ave Memphis, TN 38118-6106

Fax: 901 366-5736

August 19<sup>th</sup>, 2013

Memphis and Shelby County Office of Planning and Development

City Hall

125 North Mid-American Mall

Memphis, TN 38103-2084

RE: Collocation Letter for Communications Tower at 3412 Park Ave (Parcel ID #045114 00069C),  
Memphis, TN 38111

To Whom It May Concern:

TV6 Signal Source Towers, LLC /Tower Ventures commits to allow shared use of the proposed tower at 3412 Park Ave (Parcel ID #045114 00069C), Memphis, TN 38111 in capacities based on existing and planned use, and if a future applicant agrees in writing to pay any reasonable charge for shared use, the potential use is technically compatible and the future applicant is in good standing.

Sincerely,

Lou Katzerman

Site Acquisition and Zoning Manager

TV6 Signal Source Towers, LLC/Tower Ventures V, LLC