

**MEMPHIS AND SHELBY COUNTY OFFICE OF PLANNING AND DEVELOPMENT**

**STAFF REPORT**

#11

**CASE NUMBER:** SUP 14-207 CC

**L.U.C.B. MEETING:** May 8, 2014

*Held from April 10, 2014*

**LOCATION:** +/- 550 feet west of Grinder Lane (pvt drive) and Houston Levee Rd.

**COMMISSION DISTRICT:** District 1 (future District 2)

**OWNER OF RECORD:** Vickie G. Rhudy

**APPLICANT:** New Cingular Wireless PCS, LLC (AT&T)

**REPRESENTATIVE:** Gene McDonald/Patrick Pope

**REQUEST:** CMCS Tower, 180' Tall, Flush Mounted Antenna

**AREA:** 8.61 Acres Compound Size 10,000 Sq. Ft.

**EXISTING LAND USE & ZONING:** Vacant land in the Commercial Mixed Use -2  
(CMU-2) District

**OFFICE OF PLANNING AND DEVELOPMENT  
RECOMMENDATION**

**APPROVAL WITH CONDITIONS**

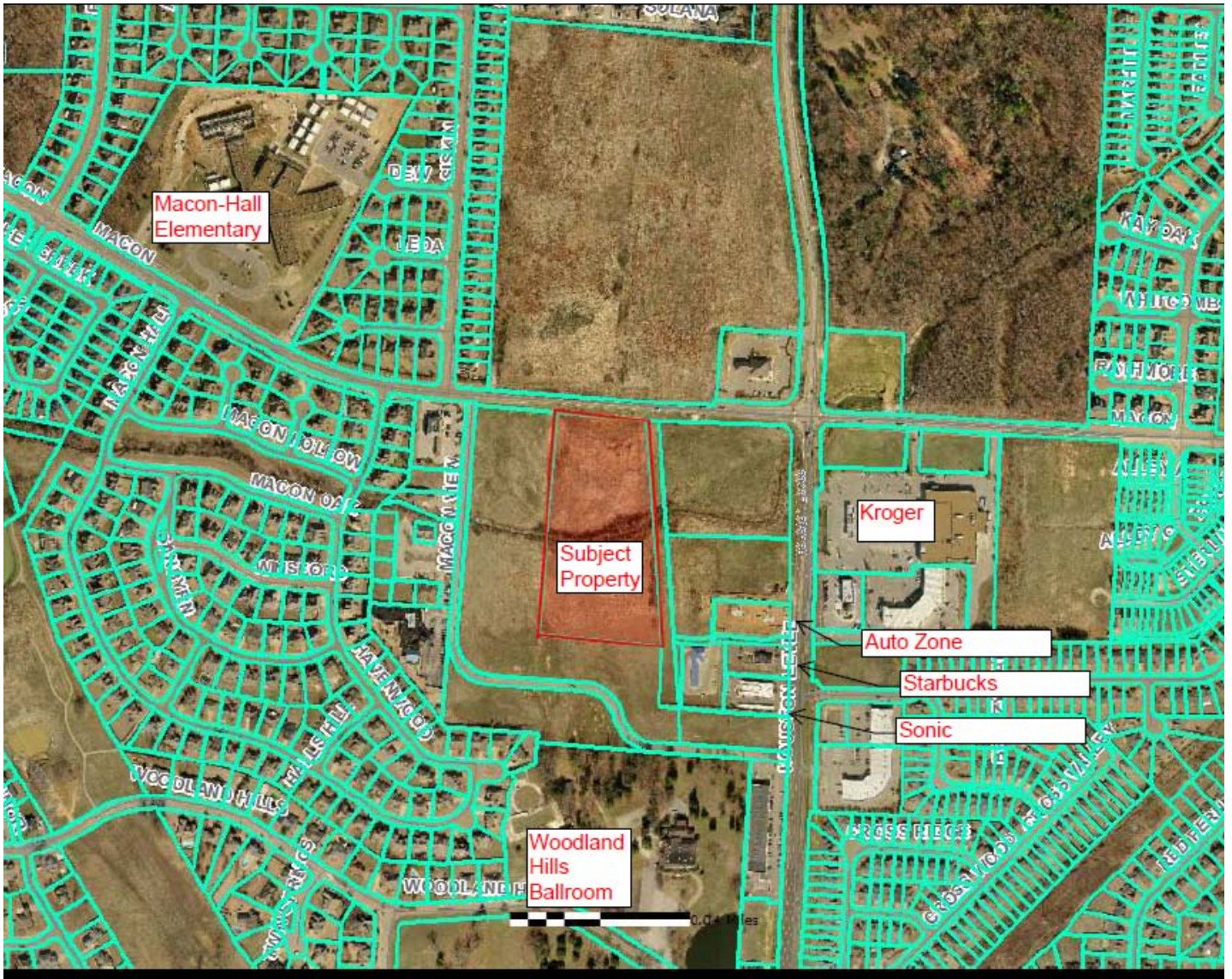
Staff: John D. ( Don) Jones

E-Mail: john.jones@memphistn.gov

**CONCLUSIONS:**

1. Staff's initial recommendation is to re-locate the tower site to the north some 350 feet to take advantage of existing mature vegetation and provide a greater separation between the tower and the single family residential. However, the applicant has indicated that there is a significant drop in the property's elevation which will prove problematic, and the applicant is concerned about developing in close proximity to a drainage feature.
2. As a condition of approval for the proposed location, staff recommends a stealth design such as a Slick Stick or Canister Design where the antenna array is contained within the pole.

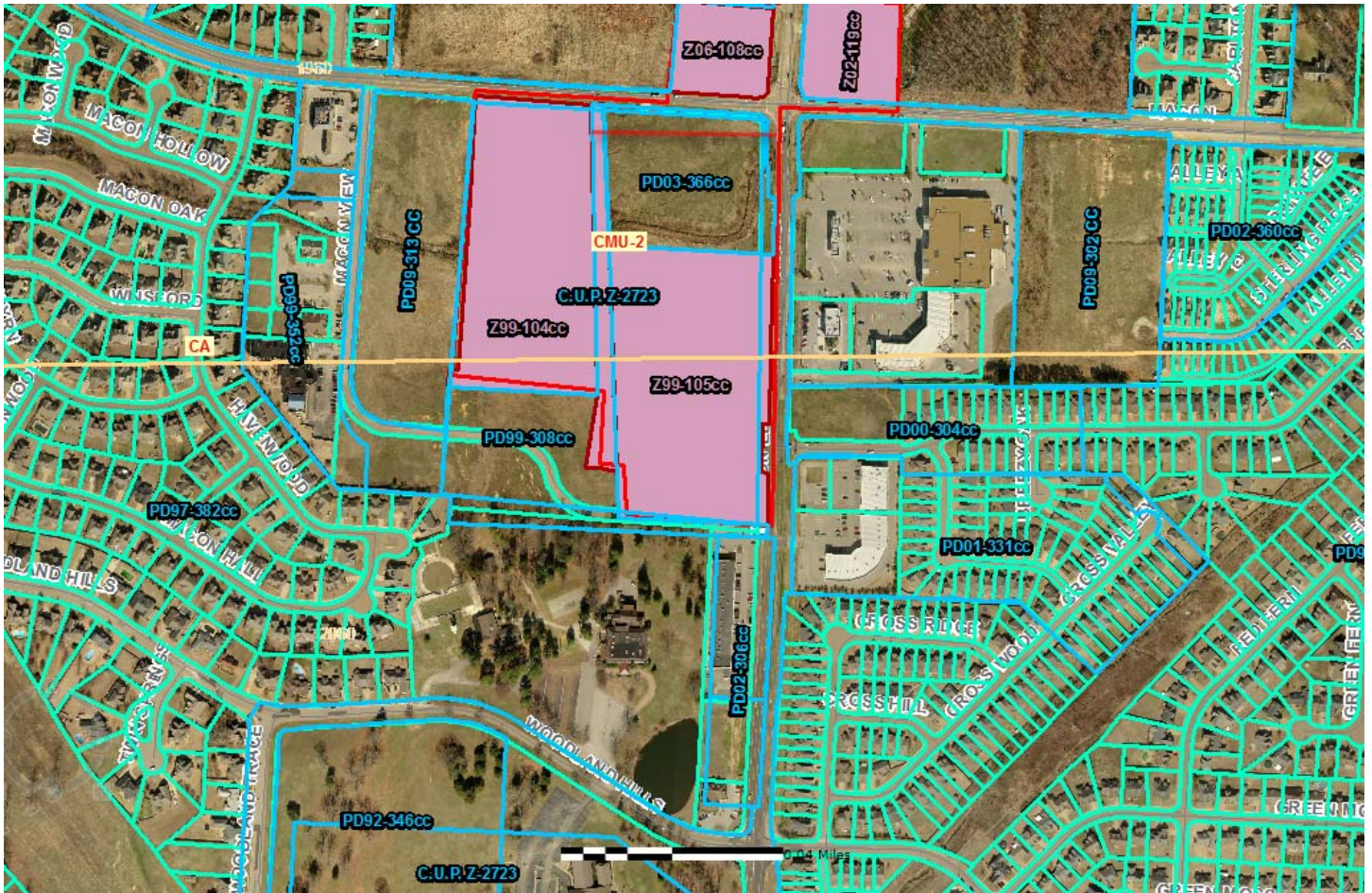
### General Location Map



South side of Macon Road +/- 530' west of intersection with Houston Levee



### LAND USE & ZONING MAP



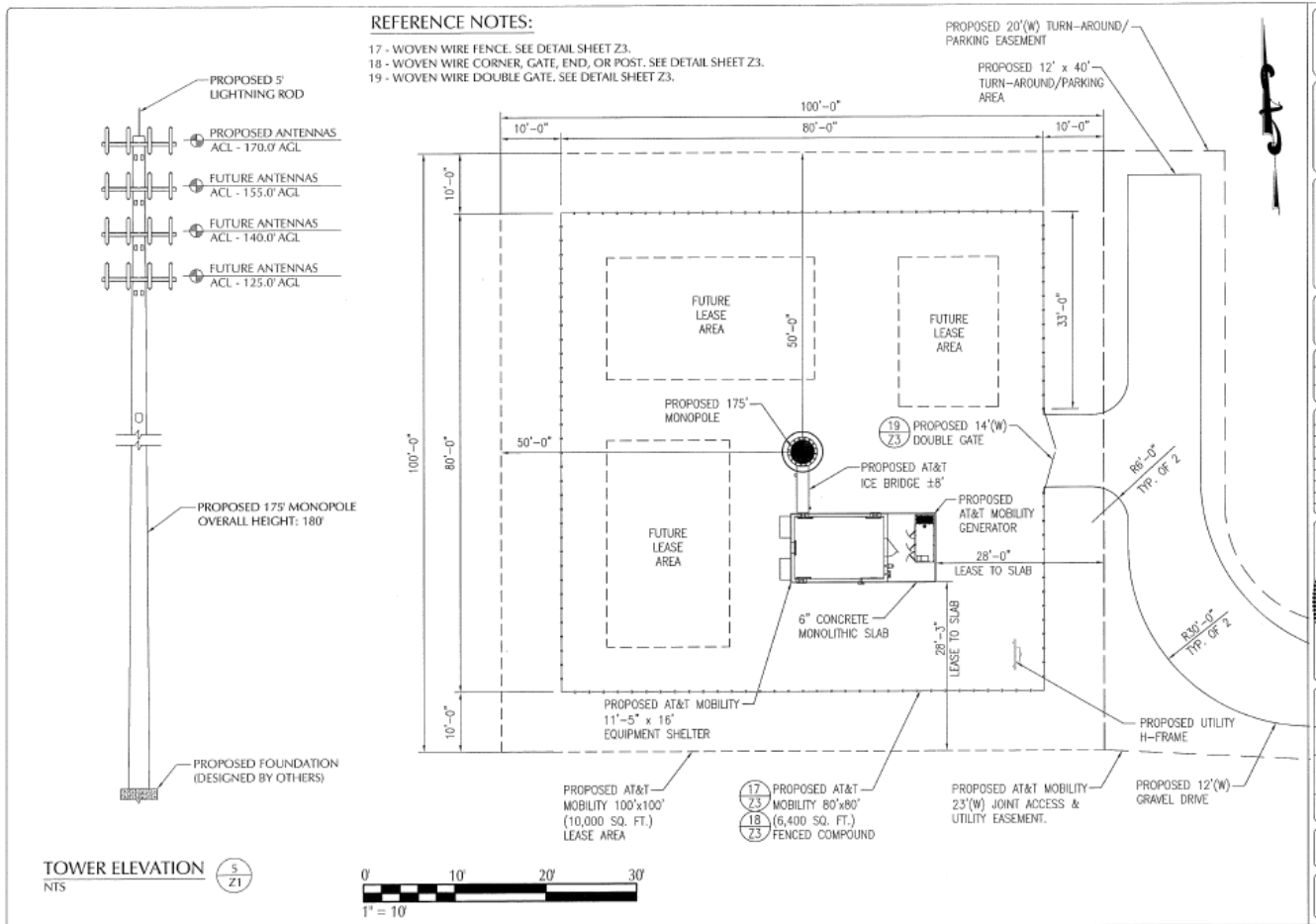
#### SURROUNDING USES AND ZONING:

- North:** Vacant land in the Lee Line Farms Planned Development, Area F, P.D. 06-314 CC
- East:** Vacant land in the Rain Forest and North Houston Levee Planned Commercial Districts, retail commercial uses including auto parts sales, and fast food in the regulated by the North Houston Levee Planned Commercial (C-P) Plan
- South:** Vacant land in the Crossing at Woodland Hills Planned Development, P.D. 99-308CC
- West:** Vacant land in the Woodland Hills Planned Development, Parcel 5, P.D. 03-352 CC









Site Plan with detail of proposed tower

**STAFF ANALYSIS:**

## General Location and Site Characteristics:

The subject property is an 8.6 acre tract located on the south side of Macon Road some 530 feet west of Houston Levee Road. This site is somewhat irregular in shape with 384 feet of frontage at Macon Road and extending southward some 538 feet.

The site is vacant and for the most part devoid of mature vegetation. A drainage feature bisects the site and there is some existing mature vegetation located along both sides of the drainage feature, (see page 4.)

## Request:

The request is to construct a Cellular Communications Tower with a maximum height of 180 feet. The design of the tower is described as a monopole with a flush mounted antenna. A flush mount antenna is allowed to extend from the tower a maximum of 30 inches, per the definition of “flush mount” in the Unified Development Code.

As illustrated by the drawings on page 5, the tower compound will be located in the southeast corner of the subject property. Access to the tower compound will be gained via the private drive, Grinder Lane, which will provide access to Houston Levee Road.

## Plans and Policies:

Grays Creek Area Plan – The subject property is designated as a commercial center. A CMCS Tower is a permitted use within the commercial zoning district.

Unified Development Code (UDC) – A Cellular Communications Tower is a use that is permitted by right in the Commercial Mixed Use -2 District, except when any part of the subject property is located within 500 feet of residentially zoned land or land in use for a residential purpose. In such instances, a Special Use Permit is required. Where a Special Use Permit is required, the criteria for a Special Use Permit and Use Standards apply.

Section 9.6.9 of the UDC sets out criteria for the approval of Special Use Permits. The full criteria is attached to the appendix of this report. In summary, the intent of the criteria is to ensure that any proposed use will not have an adverse effect on surrounding properties; can be adequately served by existing public facilities, and will not interfere with the future development of the subject property and adjacent properties.

Letter H. of the criteria is specific to Cell Towers and requires that any decision to deny a request for a Cell Tower be consistent with the Telecommunications Act.

The current zoning designation of this site is Commercial Mixed Use -2. The predecessor to the CMU-2 designation, the Planned Commercial (C-P) District, dates to 1999 with the adoption of Zoning Case Z 99-104CC. The Planned Commercial District requires that a General Plan for the entire property be recorded at the Shelby County Registers Office and then a Final Plan for any portion of the General Plan is recorded. The General and Final Plans are subject to the conditions that were approved by the governing bodies, (see addendum). A General Plan has not been recorded on this tract.

#### Review of Request

As noted above, the subject property is a vacant tract which is almost totally devoid of mature trees except for the area of the site where a small drainage feature bisects the site. As a general rule, staff recommends that tower sites locate as close as possible to existing mature vegetation. While the Use Standards in the UDC will require that landscaping be added to help screen the tower and the compound, such screening takes years to grow tall enough to become an effective screen. So in this instance, relocating the tower compound to the north some 350 feet will allow the existing vegetation to be incorporated into the screening plan and further separate the tower from the existing single family residential located to the southwest of the subject property in the Woodland Hills development. At this location, staff would be comfortable with the use of the requested monopole with flush mounted antenna..

In response to this suggestion, the applicant has responded that while they are willing to work with staff, the suggested location is some 18'-20' lower in elevation. They have also expressed concern that the property may be susceptible to flooding.

To consider leaving the tower at the proposed location, staff would require the use of stealth design in order to meet the requirements of the Special Use Permit criteria to limit any adverse impacts. A painted slick stick, otherwise known as a Canister style, may not accommodate as many additional carriers as the proposed monopole, but given the lack of vegetation, it is preferable to a tall pole with a tower array extending from it. In time, the required landscaping will screen the lower half of the tower, but trees in this part of the country do not grow to 150 or more feet so the upper half of the tower will be easily visible to existing uses and the public.

#### **RECOMMENDATION:**

**Approval with Conditions**



**SITE PLAN CONDITIONS:**

**S.U.P. 14-207 CC**

Macon Road; +/- 305' west of Houston Levee Road

A Special Use Permit is hereby authorized to TV6 Signal Source Towers, LLC to allow a CMCS Tower on the property located on the south side of Macon Road; +/- 350' west of Houston Levee Road (Assessors Parcel ID D021500114) in accordance with the approved site plan and the following supplemental conditions:

1. The tower shall be designed as a Painted Slick Stick (a.k.a. Canister style).
2. The tower height shall be a maximum of 180' exclusive of any lighting rod.
3. Screening for the tower compound shall include a six foot tall, sight-proof wooden fence with cap and a row of Evergreen Trees consistent with the requirements for a Class III, Type B Buffer
4. All required landscaping shall be irrigated unless the applicant can show an alternative approach that is acceptable to the Office of Planning and Development. south, and east boundaries of the equipment compound.
5. The First 50 feet of the drive as it extends past the improved section of Grinder Lane shall be paved subject to the review and approval of the County Engineer.
6. The tower shall be constructed within two years from the approval of the legislative Bodies. The Land Use Control Board may grant a one year time extension through the filing of a Major Modification Application.
7. 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.
8. The Owner and/or Applicant shall submit a General Plan for the entire site subject to the approved conditions of Z 99-104 CC. The General Plan shall be recorded at the Shelby County Registers Office.
9. A Final (Phase 1) Site Plan for the Cell Tower and Compound incorporating these conditions shall be filed for recording at the Shelby County Registers Office.

**GENERAL INFORMATION:**

**Street Frontage:** Macon Road ... 384'

**Planning District:** East Central Shelby

**Census Tract:** 210.20

**Annexation Reserve Area:** Memphis on

**Zoning Atlas Page:** 1960

**Parcel ID:** D021500114

**Zoning History:** The current CMU-2 District or its predecessor C-P was approved circa 1999 – Zoning Case Z 99-104CC

**DEPARTMENTAL COMMENTS**

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

**City Engineer:** No comment

**County Engineer:** No comment

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

**County Fire Department:** No comments received.

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

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

**City/County Health Department:** No comment.

**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:

- **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.
- **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.
  - o All residential developers must contact MLGW's Residential Engineer at Builder Services: (901) 729-8675 to initiate the utility application process.
  - o 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.

**AT&T:** 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.

Alliance of Cordova Neighborhoods

Appendix:

Approval Criteria – Special Use Permits

Approved Conditions – Z 99-104CC

9.6.9 **Approval Criteria**

No special use permit or planned development shall be approved unless the following findings are made concerning the application:

- A. The project will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety, and general welfare.
- B. The project will be constructed, arranged and operated so as to be compatible with the immediate vicinity and not interfere with the development and use of adjacent property in accordance with the applicable district regulations.
- C. The project will be served adequately by essential public facilities and services such as streets, parking, drainage, refuse disposal, fire protection and emergency services, water and sewers; or that the applicant will provide adequately for such services.
- D. The project will not result in the destruction, loss or damage of any feature determined by the governing bodies to be of significant natural, scenic or historic importance.
- E. The project complies with all additional standards imposed on it by any particular provisions authorizing such use.
- F. The request will not adversely affect any plans to be considered (see Chapter 1.9), or violate the character of existing standards for development of the adjacent properties.
- G. The governing bodies may impose conditions to minimize adverse effects on the neighborhood or on public facilities, and to insure compatibility of the proposed development with surrounding properties, uses, and the purpose and intent of this development code.
- H. Any decision to deny a special use permit request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record, per the Telecommunications Act of 1996, 47 USC 332(c)(7)(B)(iii). The review body may not take into account any environmental or health concerns.

Approved Conditions

**Z 99-104 CC**

**GENERAL PLAN CONDITIONS:**

I. Uses Permitted:

In accordance with the Planned Commercial (C-P) District

II. Bulk Regulations: In accordance with the Planned Commercial (C-P) District with the following exception: Maximum F.A.R. .25

III. Landscaping and Screening:

- A. Provide Landscape Plate "A-3" along Macon Road and the eastern boundary.
- B. Provide Landscape Plate "B-4" along the southern boundary.

IV. Access, Parking, and Circulation:

- A. Macon Road is designated as a Priority 1 on the MPO Major Road Plan. Dedicate 42 feet from centerline and improve in accordance with Subdivision Regulations.
- B. The City/County Engineer shall approve the design, number and location of curb cuts.
- C. 1 curb cut along the Macon Road frontage will be permitted, to be located a minimum of 200 feet west of the eastern property line of the site.

V. Sewers and Drainage:

- A. The developer shall extend sanitary sewers through the site to serve upstream properties.
- B. Drainage improvements, including possible on-site detention, shall be provided under a Standard Subdivision contract in accordance with Subdivision Regulations and the City of Memphis Drainage Design Manual.

VI. Other:

The Land Use Control board may modify the bulk, access, circulation, parking, landscaping, signage and other site design requirements if equivalent alternates are presented; provided, however, any adjacent property owner who is dissatisfied with the modifications by the Land Use Control Board hereunder may, within ten (10), days of such action, file a written appeal to the Director of Planning and Development to have such action reviewed by the Appropriate Governing Bodies.



VII. Final Plan Requirements:

Any final plan shall include the following:

- A. The outline plan conditions.
- B. A standard subdivision contract as defined by the Subdivision Regulations for any needed public improvements.
- C. The exact location and dimensions including height of buildings, parking areas, utility easements, drives, trash receptacles, loading facilities and required landscaping and screening areas.
- D. The location, owner, whether public or private for any easement.
- E. The number of parking spaces.
- F. If applicable, a statement conveying all common facilities and areas to a property owners' association or other entity, for ownership and maintenance purposes.
- G. The following note shall be placed on the final plat of any development requiring on-site storm water detention facilities: The areas denoted by "Reserved for Storm Water Detention" shall not be used as a building site or filled without first obtaining written permission from the City and/or County Engineer. The storm water detention systems located in these areas, except for those parts located in a public drainage easement, shall be owned and maintained by the property owner and/or property owners' association. Such maintenance shall be performed so as to ensure that the system operates in accordance with the approved plan on file in the City and/or County Engineer's Office. Such maintenance shall include, but not be limited to: removal of sedimentation, fallen objects, debris and trash, mowing, outlet cleaning, and repair of drainage structures.
- H. Required landscaping shall not be placed on sewer or drainage easements.
- I. Required landscaping shall be exclusive of all easements.
- J. All final plans shall conform to the design guidelines for mixed-use centers recommended by the Gray's Creek Area Study.

K. All final plans shall be subject to approval of the Office of Planning and Development