

12/11/12

2012-149
Peter E. Johnson, Esq./
Energy Way Corporation
District No. 6

RESOLUTION NO. _____

A RESOLUTION APPROVING A SPECIAL EXCEPTIONS
PERMIT FOR A DUPLEX ON PROPERTY LOCATED AT 110
GARDNER STREET.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA,
TENNESSEE, That there be and is hereby granted a Special Exceptions Permit for a duplex on
property located at 110 Gardner Street, more particularly described in the attached maps attached
hereto.

Parts of Lots 43, 44, 49 and 50, T. M. Clemons and L. T. Prigmore
Plat of Amended Subdivision of East View Terrace, Plat Book 8,
Page 28, ROHC, Deed Book 9745, Page 135, ROHC. Tax Map
No. 157H-K-023

ADOPTED: _____, 2012.

/mms

2012-149 City of Chattanooga
November 12, 2012

RESOLUTION

WHEREAS, Peter E. Johnson, Esquire/Energy Way Corporation petitioned the Chattanooga-Hamilton County Regional Planning Commission to recommend to the Members of the City Council of the City of Chattanooga to grant a Special Exceptions Permit to allow a duplex on property located at 110 Gardner Street.

Parts of Lots 43, 44, 49 and 50, T. M. Clemons and L. T. Prigmore Plat of Amended Subdivision of East View Terrace, Plat Book 8, Page 28, ROHC, Deed Book 9745, Page 135, ROHC. Tax Map 157H-K-023 as shown on the attached map.

AND WHEREAS, the Planning Commission held a public hearing on this petition on November 12, 2012,

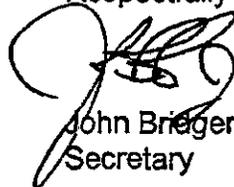
AND WHEREAS, the Planning Commission heard and considered all statements favoring the petition,

AND WHEREAS, there was opposition present to the petition,

AND WHEREAS, the Planning Commission has studied the petition in relation to existing zoning and land use and potential patterns of development.

NOW THEREFORE, BE IT RESOLVED that the Planning Commission, on November 12, 2012, recommended to the Members of the City Council of the City of Chattanooga that this petition be denied.

Respectfully submitted,



John Brieger
Secretary

Special Request Form

Chattanooga-Hamilton County



Regional Planning Agency

1250 Market Street
Suite 2000
Development Resource Center
Chattanooga, Tennessee
37402
Phone: 423-668-2287
Fax: 423-668-2289
www.chcrpa.org

Office Use Only

Case Number: 2012-149
Date Submitted: 10/09/2012
Planning District: 9
County District: 21
City District: 5
Jurisdiction: Chattanooga
Neighborhood: Brainerd Unity Group
Staff Action: [Redacted]
PC Action/Date: [Redacted]
Legis. Action/Date: [Redacted]

- Special Exceptions Permit for Planned Unit Development (P.U.D.) Residential Institutional

Acreage: _____ Density: _____ Preliminary Final Both

P.U.D. Name: _____

- Other Special Permits Mandatory Referral Conditions of a Previous Action
- Special Exceptions Acquisition Surplus Lift Amend
- Conditional Other

Use: Duplex in an R-1 Zone

Resolution/Ordinance No. _____

Previous Case No. _____

Address: 110 Gardner Street	Tax Map No. 157H-K-023	Current Zone: R-1
Current Use: Vacant Duplex	Adjacent Uses: Residential	
Proposed Development or Use: Duplex		

All communication by phone, fax, email, or mail will be with the Applicant. If you are not the property owner, you will need to submit a letter from the property owners(s) indicating that you are acting as their agent in filing this application (e.g. engineer, architect, consultant, broker, etc.).

- Property Owner Architect Engineer Optionee Purchaser of Property Trustee
- Other:

Name	Peter E. Johnson, Esquire	
Address:	4071 South Access Road, Suite 105	
City	Chattanooga	State: TN
Zip Code:	37406	
Daytime Phone:	423-475-8331	
Cell Phone:	423-693-8550	
Other Phone:		
Email:	pete.johnson@sceniccitylegalgroup.com	
Fax:		

Name:	Energy Way Corporation	
Address:	1516 Riverside Drive	
	Chattanooga, TN 37406	
Phone:	423-591-7402	
OFFICE USE ONLY		
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Approved by: [Redacted]	Date: 10/09/2012	

Case Number:	2012-149	
Applicant Request:	Special Exceptions Permit for a Duplex in an R-1 Zone	
Applicant:	Peter E. Johnson, Esquire/ Energy Way Corporation	
Property Address:	110 Gardner Street	
Jurisdiction:	Chattanooga District 6/Hamilton County District 8	
Neighborhood:	Brainerd Unity Group	
Proposed Development	PLANNING COMMISSION ACTION: Deny	
Site Plan Submitted:		No
Proposed Use:		Duplex
Site Characteristics		
Current Zoning:	R-1 Residential Zone	
Current Use:	Vacant Duplex	
Adjacent Uses:	Residential	
Size of Tract :	0.278 Acres	
STAFF RECOMMENDATION:	APPROVE	

Analysis

Extension of Existing Zoning?	Not Applicable
Community Land Use Plan:	No Community Land Use Plan
Proposed Use Supported by Community Land Use Plan?	Not Applicable
Proposed Use Supported by Comprehensive Plan?	Comprehensive Plan Supports Residential Development

Comments

Planning Staff:

Applicant Request Overview

The applicant is requesting a special permit to permit the use of an existing, vacant two-family dwelling in an R-1 Residential Zone neighborhood.

Site Description

This lot, with a little over 12,000 square feet, is presently zoned R-1 Residential. The area is primarily a single-family residential neighborhood. There are no other two-family dwellings in close proximity to this property.

Zoning History

Prior to 1989, this area was zoned R-2 Residential. The R-2 Residential Zone permits two-family residential dwellings. In 1989, the Chattanooga Board of Commissioners at that time adopted Ordinance #9255. Ordinance 9255 rezoned much of Brainerd from R-2 Residential to R-1 Residential. The intent of the rezoning was to prevent any further development two-family dwellings or the conversion of single-family dwellings into two-family dwellings.

The use of this property as a two-family dwelling in an R-1 Residential Zone is allowed to continue as two-family dwelling and is considered to be a legal non-conforming use (grandfathered) so long as the property does not become abandoned, discontinued or vacant for more than 100

days. If the two-family dwelling lost its legal non-conforming status then any future use of the property must be in compliance with the R-1 Residential Zone.

Staff Recommendation

Staff is recommending approval of the special permit.

Several neighborhoods in the Chattanooga area have been rezoned from R-2 Residential and R-3 Residential Zones to R-1 Residential in an effort to stabilize existing single-family neighborhoods and to prevent the further development of two-family dwellings. The existing two-family dwellings are permitted to remain in that use so long as they do not lose their non-conforming status. However, many of these two-family dwellings did lose their non-conforming status and now remain as vacant, boarded-up structures in the neighborhood. These boarded structures, if not brought into some type of occupancy, could negatively impact the livability and diminish property values.

A special permit was created in 2009 in an effort to provide relief to property owners of certain two-family dwellings which under current zoning could only be used for single-family dwellings. *The intent of the special permit for a two-family dwelling in the R-1 Residential Zone is to permit the reuse of certain two-family dwellings that were constructed as two-family dwellings to be able to continue that use after the loss of non-conforming status without rezoning the property in these single-family neighborhoods from R-1 Residential to R-2 Residential Zone.*

To qualify for consideration of a special permit, the subject property must meet the following conditions. The request for the special permit complies with each of the conditions/requirements. Staff comments for each condition are italicized.

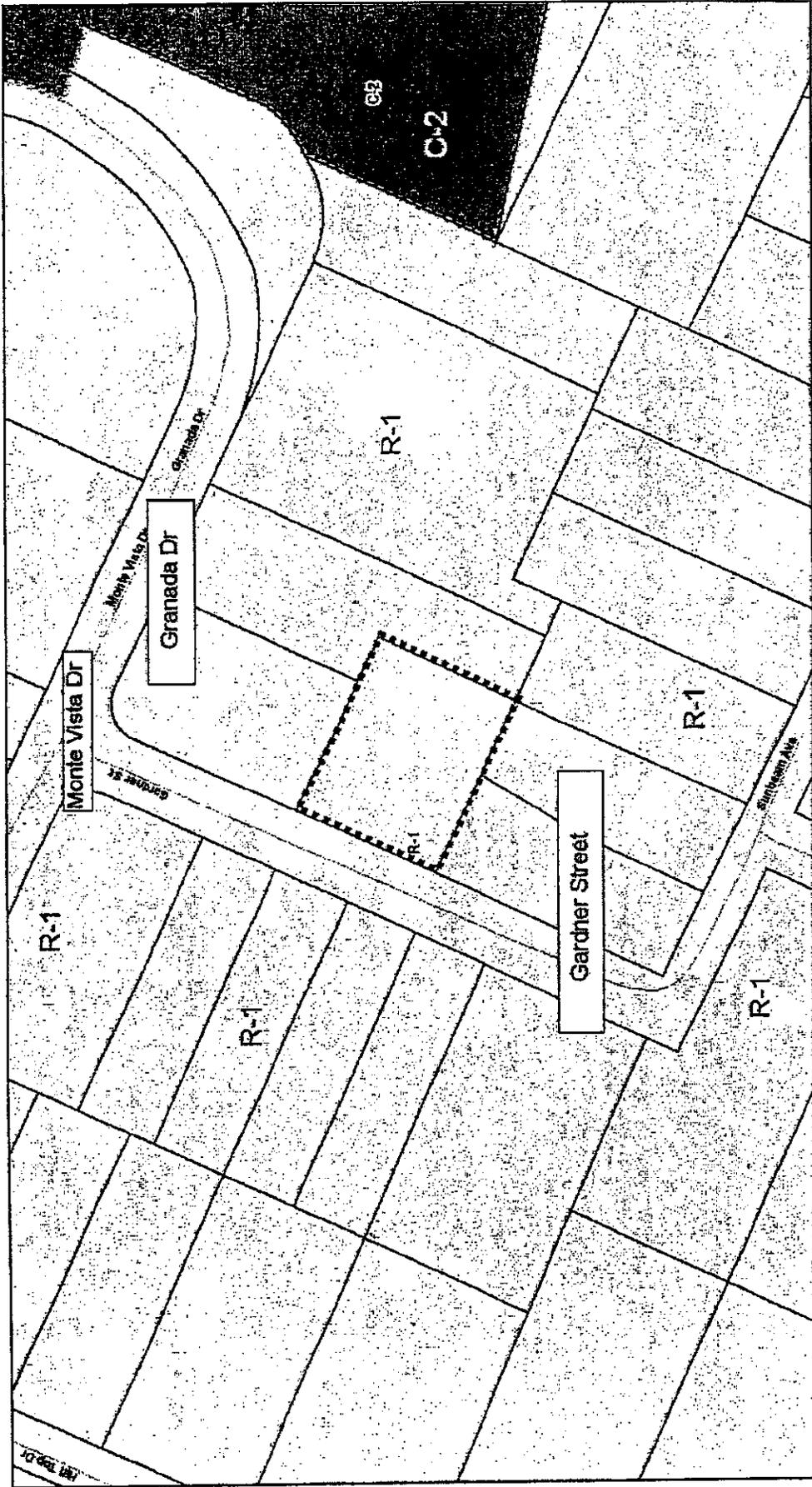
- One duplex for each Special Exceptions Permit, not multiple structures. *This request is for one two-family dwelling and not multiple structures.*
- Two-family dwelling constructed with a building permit and/or constructed on a lot of record. *This site was located within an R-2 Residential Zone that permitted two-family dwellings; therefore, a building permit would have been issued by the city for the construction of the two-family dwelling.*
- Dwellings that are easily identified as being constructed for two-family dwellings. Most often this would be determined by two front doors facing either the same street, or if a corner, one door facing each street, or by the existence of two electric meters. *This two-family dwelling was constructed with two front doors facing Gardner Street, as well as two electric meters.*
- Dwellings that lost non-conforming status due to a rezoning to R-1 Residential through the zoning study process. *This site was included*

in a zoning study process that rezoned this area in 1989 from R-2 Residential to R-1 Residential.

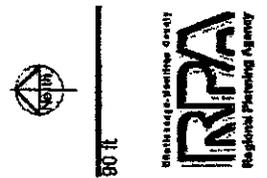
The language states that the special permit may be granted by the Chattanooga City Council, after recommendation by the Chattanooga-Hamilton County Regional Planning Commission and a determination of the following:

- *The request is consistent with adopted plans for the area. The area is not included in a study boundary of any community/neighborhood plan. The Chattanooga-Hamilton County Comprehensive Plan 2030 recommends residential development in this area, but does not speak to specific types of residential development. Therefore the policy does not have a specific recommendation that speaks to the appropriateness of this site for detached single family versus duplex use.*
- *The request is consistent with the zoning study that rezoned the requested property from the R-2 Residential Zone to R-1 Residential Zone. The issuance of the permit would permit the reuse of an existing two-family dwelling without applying for a rezoning of the property from R-1 Residential to R-2 Residential. The issuance of the special permit would not permit further development of two-family dwellings in the neighborhood.*
- *Issuance of the permit will benefit the neighborhood by encouraging an increase in investment in the property. Granting the permit would allow the property owner to invest in the property and to make repairs on the structure and re-establish the use of the structure as a two-family dwelling rather than remaining as a vacant structure in the neighborhood that will continue to remain and even decline in structure appearance, disrepair, and safety. It could also be argued that because the property is located in a stable residential market area with a predominance of single family homes, that the property could be converted to a single family residence. However, since the staff has no information about the costs of performing such a conversion or a proforma indicating how such a project if completed would be marketable, the staff can not substantiate the merits of this option.*

In conclusion, based on the criteria set by the this Special Permit, the staff recommends approval of the request. It should be noted that the criteria set for by this permit allows for very broad interpretation. This recommendation is the staff's best determination based on the information provided with the application.

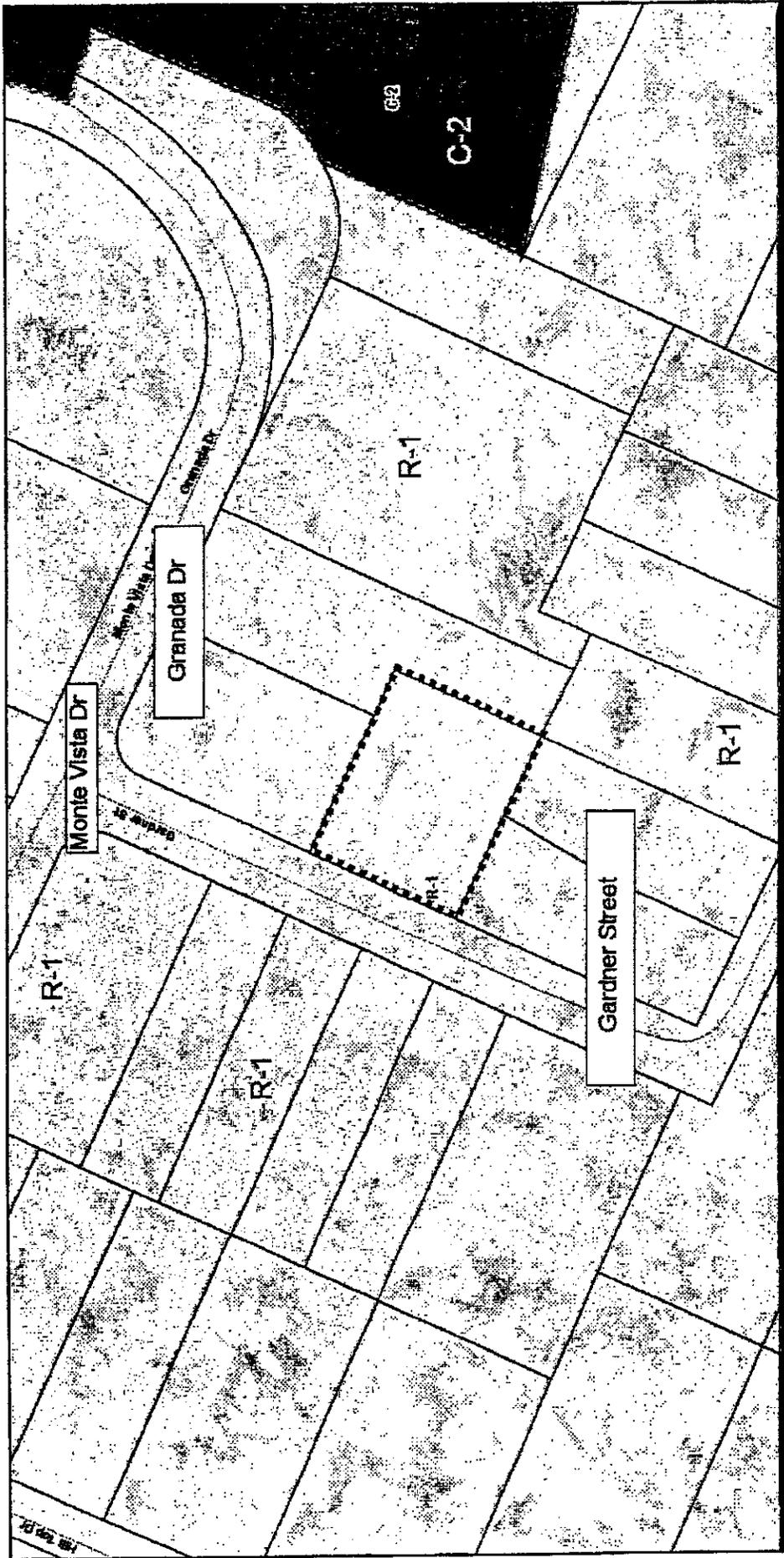


2012-0149 SE Permit: Duplex in R-1 Zone



Chattanooga Hamilton County Regional Planning Agency





PLANNING COMMISSION RECOMMENDATION FOR CASE NO. 2012-149: Deny.

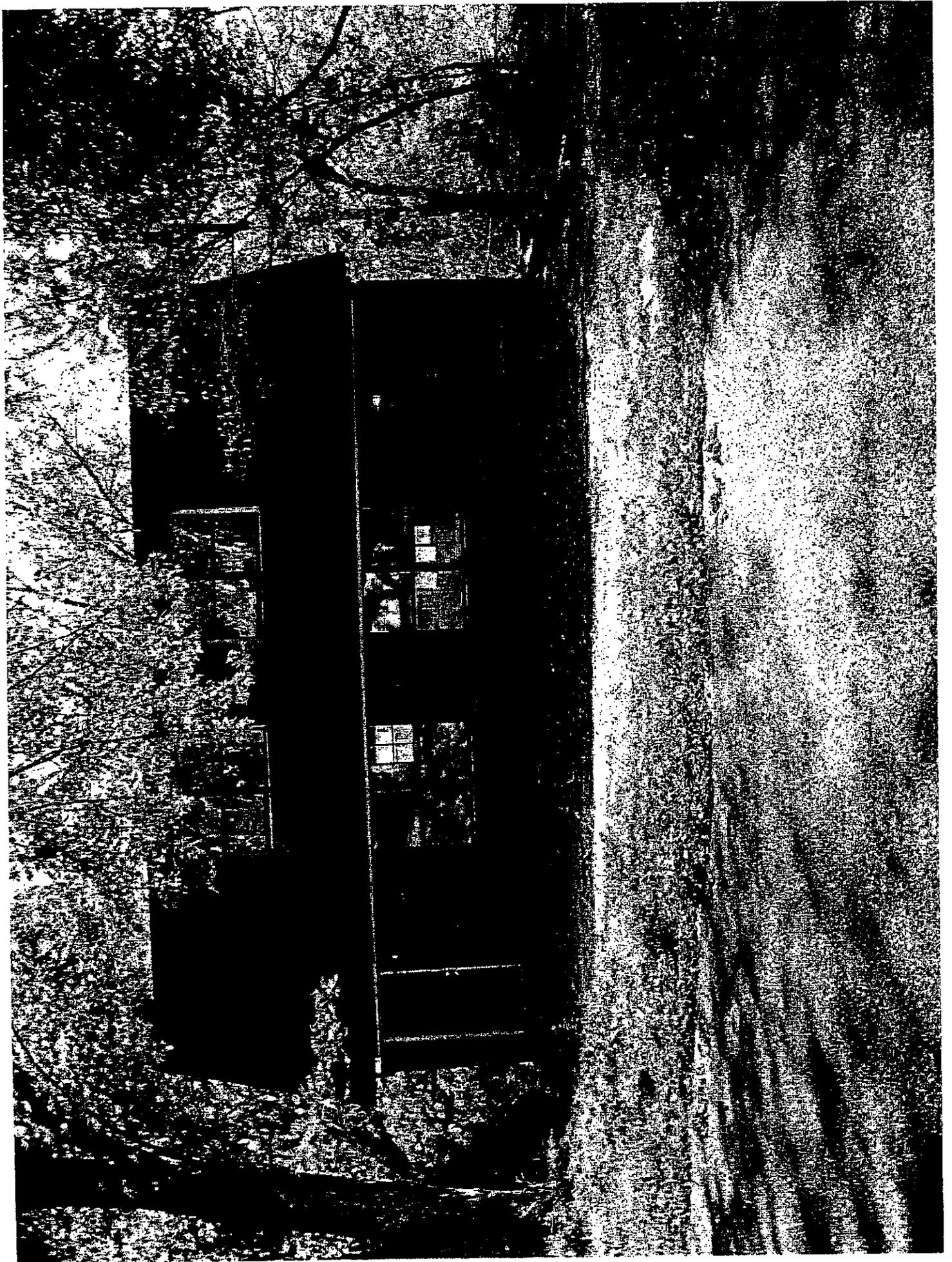
2012-0149 SE Permit: Duplex in R-1 Zone



80 ft



Chattanooga Hamilton County Regional Planning Agency



NOTICE

WHEREAS, petitions to amend Ordinance No. 6958, known as the Zoning Ordinance, have been proposed to the City Council of the City of Chattanooga:

1. The Chattanooga-Hamilton County Regional Planning Commission has recommended that the following petitions to rezone be approved:

2012-148 Young Properties, LLC, 3906 10th Avenue, from R-2 Residential Zone to M-1 Manufacturing Zone, subject to certain conditions.

2012-152 Napier & Associates, GP/Ken Defoor/Wayne Upchurch/John & Vivienne Reeser, 7329, 7331, and 7335 McCutcheon Road and 2405 Gunbarrel Road, from R-1 Residential Zone to MXU Zone, subject to certain conditions.

2012-153 J R Realty/James Vincent, Sr. 6400 block of Hixson Pike, from R-1 Residential Zone to C-2 Convenience Commercial Zone, subject to certain conditions.

2. The Chattanooga-Hamilton County Regional Planning Commission has recommended that the following petition to rezone be denied and approved in part:

2012-108 Yerbey Concrete Construction/Mark L. Settles, 4121, 4123, and 4215 Shallowford Road, from C-2 Convenience Commercial Zone to M-2 Light Industrial Zone, subject to certain conditions.

3. The Chattanooga-Hamilton County Regional Planning Commission has recommended that the following Special Exceptions Permit be denied:

2012-149 Peter E. Johnson, Esquire/Energy Way Corporation, 110 Gardner Street, to allow a duplex.

The City Council of the City of Chattanooga, Tennessee will hold a public hearing in the Council Assembly Room, City Council Building, 1000 Lindsay Street, Room 101, Tuesday,

December 11, 2012

at 6:00 p.m. for the purpose of hearing any person whose property may be affected by, or who may otherwise be interested in, said amendments.

This the ____ day of _____, 2012.

Carol K. O'Neal, CMC
Clerk to the City Council