

2013-066  
Marie and Jeff Fisher  
District No. 2

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION APPROVING A SPECIAL EXCEPTIONS  
PERMIT FOR A RESIDENTIAL HOME FOR THE AGED FOR  
PROPERTY LOCATED AT 4301 FOREST PLAZA DRIVE.

---

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 Residential  
Home for the Aged, more particularly described in the attached maps:

Lot 23, Unit Two Forest Plaza Subdivision, Plat Book 22, Page 37,  
ROHC, Deed Book 9899, Page 111, ROHC. Tax Map No. 109M-  
G-027.

ADOPTED: \_\_\_\_\_, 2013

/mms

2013-066 City of Chattanooga  
June 10, 2013

## RESOLUTION

WHEREAS, Marie and Jeff Fisher petitioned the Chattanooga-Hamilton County Regional Planning Commission to recommend to the Members of the City Council of the City of Chattanooga granting a Special Exceptions Permit for a Residential Home for the Aged for property located at 4301 Forest Plaza Drive.

Lot 23, Unit Two Forest Plaza Subdivision, Plat Book 22, Page 37, ROHC, Deed Book 9899, Page 111, ROHC. Tax Map 109M-G-027 as shown on the attached map.

AND WHEREAS, the Planning Commission held a public hearing on this petition on June 10, 2013,

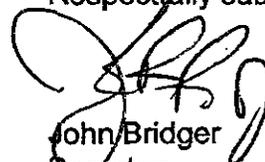
AND WHEREAS, the Planning Commission heard and considered all statements favoring the petition,

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 June 10, 2013, recommended to the Members of the City Council of the City of Chattanooga that this petition be denied.

Respectfully submitted,

  
John Bridger  
Secretary

**Case Number:** 2013-066 **PC Meeting Date:** 06-10-2013

**STAFF RECOMMENDATION:** DENY

**Land Use & Transportation Comments**

**Planning Staff:**

**Applicant Request Overview**

Special Exceptions Permit for a Residential Home for the Handicapped and/or Aged Operated on a Commercial basis.

**Site Description**

This parcel of property is 27,878 square feet, or 0.64 acres in size and is presently a single-family dwelling located in the Forest Plaza Neighborhood. This area is primarily a single-family residential neighborhood. The property and surrounding properties are zoned R-1 Residential with the primary use being single-family residential dwellings.

**Zoning History** The property is presently zoned R-1 Residential. There have been no rezoning requests at this location.

**Plans/Policies**

The Hixson-North River Community Plan recommends Low Density Residential. Low Density Residential is defined in the land use plan as detached single-family dwellings as the primary use with some exceptions made for townhouses, patio homes, and two-family dwellings.

**Staff Recommendation**

Staff recommends denial of this request based on the discussion below.

The Tennessee Department of Mental Health inspects and licenses these facilities regardless of whether they are operated by a 501(c)(3) not-for-profit group or commercial for-profit entity.

Under state law, not-for-profit operators of group homes are exempt from zoning regulations and are therefore not required to obtain a Special Exceptions Permit from the Chattanooga City Council prior to initiating a group home use. In these cases, the use is likely indistinguishable from those operated on a commercial basis since the number of residents for both types of operations is currently capped at eight clients and three houseparents and/or guardians in accordance with Tennessee Code Annotated.

Since this application is for a residential home to be operated on a commercial basis, Tennessee Code Annotated Section 13-24-104 would appear to not apply in this case; therefore, a Special Exceptions Permit must be obtained from the Chattanooga City Council prior to initiating a group home on a commercial basis.

## RPA STAFF RECOMMENDATION

Group residential homes such as these can be difficult to incorporate into single-family residential communities. Staff has previously recommended denial for permits of this type on sites where 1) there was not adequate room to accommodate parking onsite and/or 2) the lot size was perceived as too small and/or 3) the residence is in too close a proximity to adjoining residential uses to adequately accommodate additional activity on the site.

The parcel of property is located in the Forest Plaza Subdivision, which was recorded in 1961 as a single-family residential neighborhood. The property is located on an interior cul-de-sac street within a single-family residential subdivision where there is little expectation of dissimilar land uses. Although non-profit group home operations may locate in the R-1 Residential Zone, the introduction of a commercial operation into a single-family residential area, whose impacts are unclear on the adjacent properties, is generally not in keeping with good land use policy by introducing the potential for additional traffic, parking issues, and noise.

The applicant also did not provide a site plan with the request indicating the size of the existing dwelling, size of the property, any existing and proposed landscaping and/or buffering in an attempt to reduce potential nuisance and noise issues, and existing and proposed parking spaces.

Tennessee Code Annotated (T.C.A.) provides for protection of these uses and compels local authorities to permit them in most cases. Municipalities generally must not create additional barriers to these operations that are more difficult than those applied to other single family residential properties.

**T.C.A. 13-24-101. Purpose-Meaning of "mentally handicapped."**

- (a) *It is the purpose of this part to remove any zoning obstacles which prevent mentally retarded, mentally handicapped or physically handicapped persons living in normal residential surroundings.*
- (b) *As used in this part, "mentally handicapped" does not include persons who are mentally ill and, because of such mental illness, pose a likelihood of serious harm as defined in Section 33-6-501, or who have been convicted of serious criminal conduct related to such mental illness.*

**T.C.A. 13-24-102. Homes in which mentally retarded, mentally handicapped or physically handicapped persons reside classified as single family residence.**

*For the purpose of any zoning law in Tennessee, the classification "single family residence" includes any home in which eight (8) or fewer*

## RPA STAFF RECOMMENDATION

	<p><i>unrelated mentally retarded, mentally handicapped or physically handicapped persons reside, and may include three (3) additional persons acting as houseparents or guardians, who need not be related to each other or to any of the mentally retarded, mentally handicapped, or physically handicapped persons residing in the home.</i></p> <p><b>T.C.A. 13-24-103. Precedence over other laws.</b> <i>This part takes precedence over any provision in any zoning law or ordinance in Tennessee to the contrary.</i></p> <p><b>T.C.A. 13-24-104. Inapplicability to commercial residences for handicapped persons.</b> <i>This part does not apply to such family residences wherein handicapped persons reside when such residences are operated on a commercial basis.</i></p>
<b>Infrastructure &amp; Operational Comments</b>	
<b>Public Works Staff:</b>	<p>All land development projects are reviewed by City Engineering &amp; Water Quality staff, Traffic Engineering &amp; Operations staff, and the Land Development Office staff. In addition to the requirements of the City of Chattanooga Zoning Ordinance, all land development is further required to comply with current City of Chattanooga traffic regulations, building and development codes, storm water/water quality regulations, and the landscape ordinance.</p>

**SPECIAL PERMIT APPLICATION FORM**

<b>CASE NUMBER: 2013-066</b>		<b>Date Submitted: 04-24-2013</b>	
(Sections 1-6 below to be filled out by Applicant- RPA staff will assist, if needed)			
<b>1 Applicant Request</b>			
<b>Special Permit</b>	<b>Type: Special Exceptions Permit/Residential Home for the Aged on a Commercial Basis</b>		
<b>2 Property Information</b>			
<b>Property Address:</b>	4301 Forest Plaza Drive		
<b>Property Tax Map Number(s):</b>	109M-G-027		
<b>3 Proposed Development</b>			
<b>Reason for Request and/or Proposed Use:</b>	Residential Home for the Aged-No more than 8 Residents with 3 support staff		
<b>4 Site Characteristics</b>			
<b>Current Zoning:</b>	R-1 Residential Zone		
<b>Current Use:</b>	Single Family Dwelling		
<b>Adjacent Uses:</b>	Residential		
<b>5 Applicant Information</b>			
All communication will be with the Applicant. If the applicant is not the property owner, the RPA requires a letter from the property owner(s) confirming that the applicant has permission to file this application on his/her behalf.			
<b>Name: Marie Fisher/Jeff Fisher</b>		<b>Address: 4301 Forest Plaza Drive</b>	
<b>Check one:</b>	<input checked="" type="checkbox"/> I am the property owner	<input type="checkbox"/> I am not the property owner	
<b>City: Hixson</b>	<b>State: TN</b>	<b>Zip Code: 37343</b>	<b>Email: marieinthez@gmail.com</b>
<b>Phone 1: 423-304-5512</b>	<b>Phone 2: 423-653-3277</b>	<b>Phone 3:</b>	<b>Fax:</b>
<b>6 Property Owner Information (if not applicant)</b>			
<b>Name: Same</b>		<b>Phone:</b>	
<b>Address:</b>			
<b>Office Use Only:</b>			
<b>Planning District: 5</b>		<b>Neighborhood: Forest Plaza/Hixson Neighborhood</b>	
<b>Hamilton Co. Comm. District: 3</b>		<b>Chatt. Council District: 2</b>	
<b>Other Municipality:</b>			
<b>Staff Rec:</b>	<b>PC Action/Date:</b>	<b>Legislative Action/Date/Ordinance:</b>	
<b>Checklist</b>			
<input checked="" type="checkbox"/> Application Complete	<input checked="" type="checkbox"/> Ownership Verification	<input checked="" type="checkbox"/> Map of Proposed Zoning Area with dimensions	
<input type="checkbox"/> Site Plan, if required	<input checked="" type="checkbox"/> Total Acres to be considered: 64	<input checked="" type="checkbox"/> Deeds	<input checked="" type="checkbox"/> Plats, if applicable
<b>Deed Book(s): 9899-111</b>			
<b>Plat Book/Page: 22-37</b>		<input checked="" type="checkbox"/> Notice Signs	<b>Number of Notice Signs: 1</b>
<input checked="" type="checkbox"/> Filing Fee:	<input checked="" type="checkbox"/> Cash 250.00	<input type="checkbox"/> Check	<b>Check Number:</b>
<b>Planning Commission meeting date: June 10, 2013</b>		<b>Application processed by: Marcia Parker</b>	



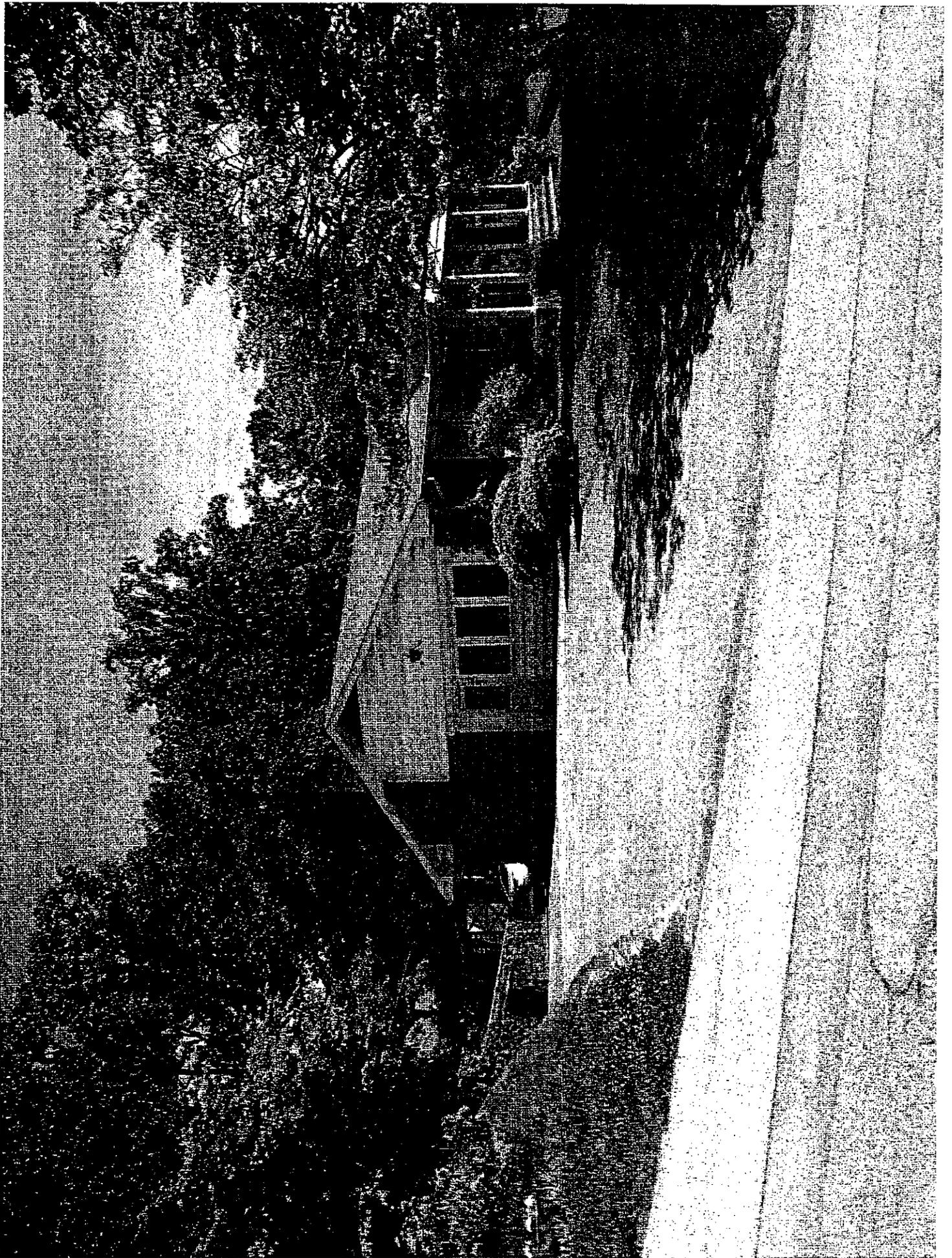
**2013-066 Special Exceptions Permit Residential Home for the Aged**

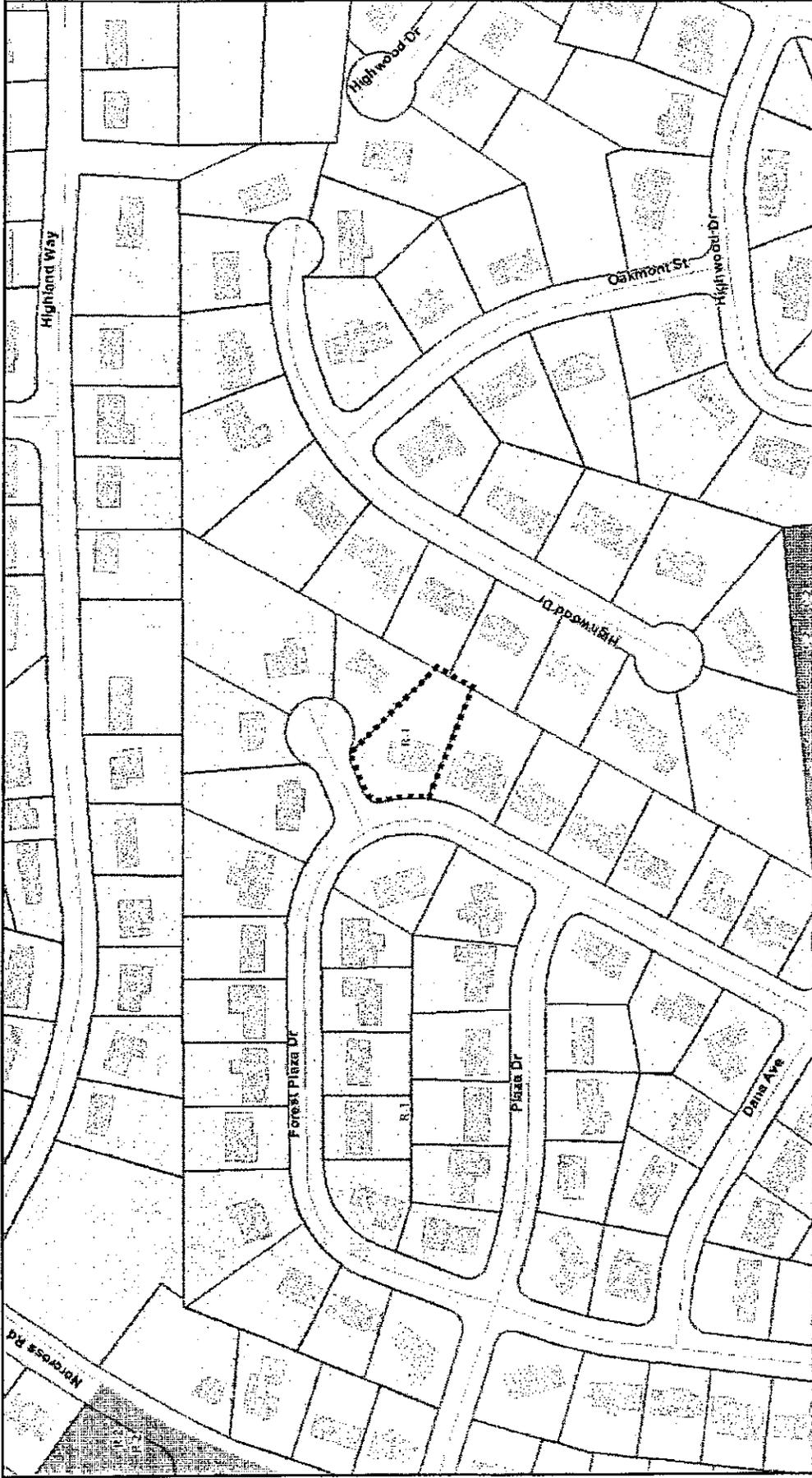


200 ft



**Chattanooga Hamilton County Regional Planning Agency**





**2013-066 Special Exceptions Permit for a Residential Home for the Aged**

PLANNING COMMISSION RECOMMENDATION FOR CASE NO. 2013-066: Deny

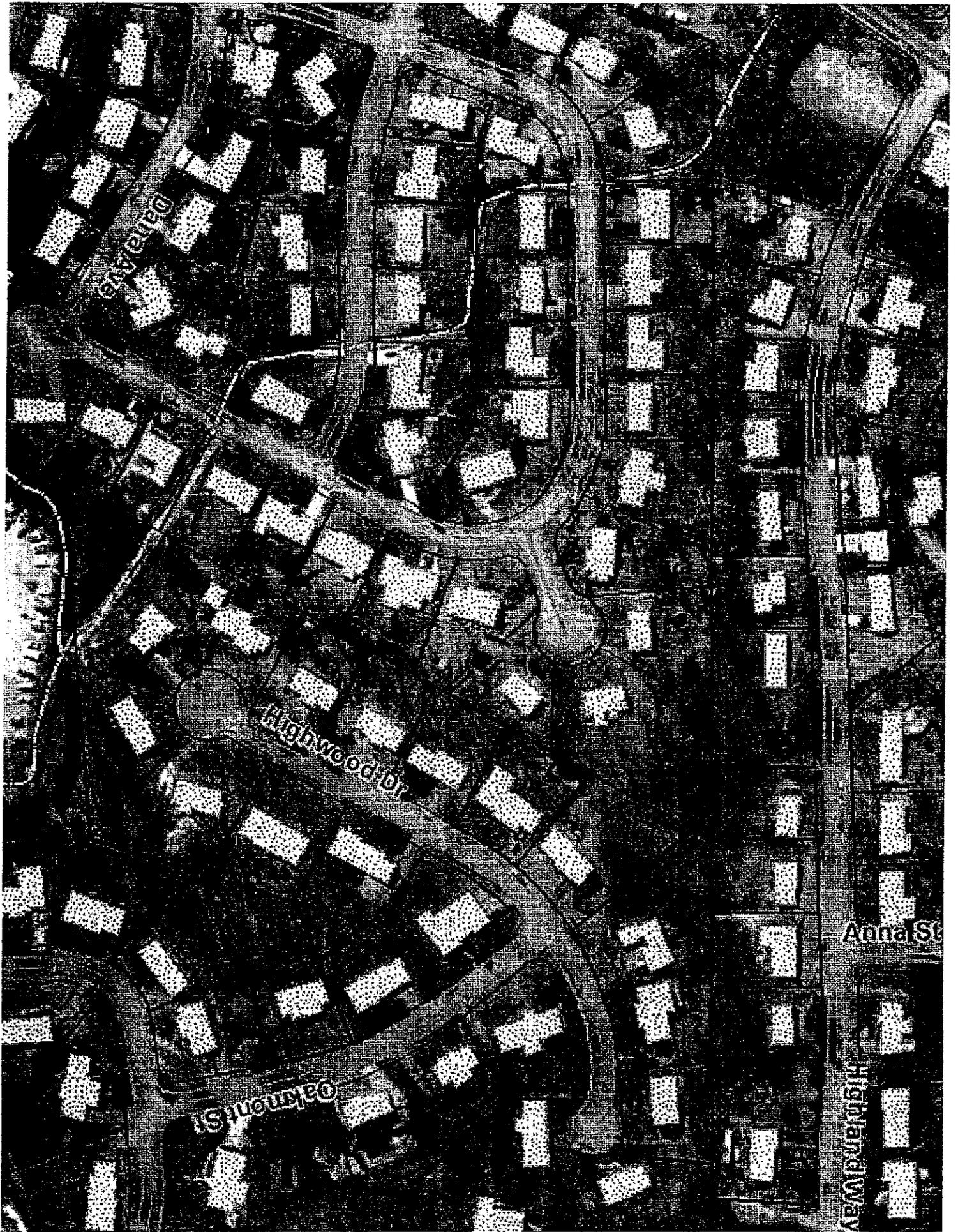


200 ft



**Chattanooga Hamilton County Regional Planning Agency**





# Petition to Deny A Special Exceptions Permit

**CASE #2013-066**

<p>Petition summary and background</p>	<p>Forest Plaza Subdivision homeowners and residents petition to deny a special permit variance for 4301 Forest Plaza Drive, Hixson, TN 37343, to prevent a commercial for-profit business into the neighborhood originally zoned for single-family dwellings.</p> <p>The property is currently zoned for a single family dwelling, with no allowance for commercial ventures such as the proposed Residential Home For The Aged, dba Memory Lane. The Forest Plaza Drive Neighborhood Covenant, which has been in effect for 50 years, mandates a strict limit on the number of families per dwelling as condition of ownership for original "Grantees as well as their heirs or assigns, or anyone deriving title or rights from or through them on any of said lots."</p> <p>Allowing a special permit will open the door to any number of future zoning exceptions, such as halfway houses, duplexes, and multiple family occupancies. To grant this exception would be considered Spot Zoning without the consent or desire of all neighboring properties.</p> <p>There will be disruption to the quiet residential neighborhood as there will be employees, vendors, moving trucks, visitors and changes in resident occupancy, coming and going all the time.</p>
<p>Action petitioned for</p>	<p>We, the undersigned, are concerned Forest Plaza Subdivision residents and owners who urge the commission to deny a special permit to allow a for-profit commercial venture in Forest Plaza Subdivision at 4301 Forest Plaza Drive.</p>

Printed Name	Signature	Address	Telephone Number	Date
Suzanne Keith	<i>Suzanne Keith</i>	4207 Forest Plaza Dr	423-875-2882	5-10-13
Linda Kelly	<i>Linda Kelly</i>	1111 Plaza Dr	423-531-6082	5-10-13
William S Brown	<i>William S Brown</i>	1115 Plaza Drive	423-322-2194	5-10-13
Mrs Margaret Kupertich	<i>Mrs Margaret Kupertich</i>	1112 Plaza Dr	423-875-2882	5/10/13
W. ROONEY FOWLER	<i>W. Rooney Fowler</i>	4120 Forest Plaza Dr	423-875-2237	5/11/13
AL WHITBECK	<i>Al Whitbeck</i>	1114 PLAZA DR.	423-635-4152	5/11/13

Printed Name	Signature	Address	Telephone Number	Date
Karen Keith	Karen Keith	4207 Forest Plaza Dr.	248-4851	5/11/13
Charles M. Owen	Charles M. Owen	4228 Forest Plaza Dr.	685-6936	5/12/13
Annexia A. Kuonen	Annexia A. Kuonen	4229 Forest Plaza Dr.	502-4897	5/12/13
James Vaughn	James Vaughn	4229 Forest Plaza Dr.	805-5998	5/12/13
CONNIE YOUNG	Connie Young	4302 Forest Plaza Dr.	496-7231	5/12/13
Pauline Howard	Pauline Howard	4323 Forest Plaza Dr.	876-8400	5/12/13
Mechtild Boles	Mechtild Boles	4219 Forest Plaza Dr.	877-0467	5/12/13
BETTY McCORMICK	Betty McCormick	4215 Forest Plaza Dr.	875-6587	5/12/13
KERRY McCORMICK	Kerry McCormick	4215 Forest Plaza Dr.	875-6587	5/12/13
SARAH HOOKS	Sarah Hooks	4235 Forest Plaza Dr.	877-5862	5/12/13
Paul & Roger	Paul & Roger	4235 Forest Plaza Dr.	875-5967	5/12/13
Angela McAmis	Angela McAmis	4247 Forest Plaza	875-3902	5/12/13
Sarah McAmis	Sarah McAmis	4247 Forest Plaza	875-3922	5/12/13
Sarah W. Johnson	SARA W. JOHNSON	4305 Forest Plaza	877-5092	5/12/13
Bernard Crutcher	Bernard Crutcher	4227 PLAZA DR	994-7432	5/12/13
ARBUWILL A. HICKINS	Arbuwill A. Hickins	4309 Forest Plaza Dr.	877-4925	5/12/13
LEONARD BORDES	Leonard Bordes	4313 Forest Plaza Dr.	875-2198	5-12-13

Printed Name	Signature	Address	Telephone Number	Date
Dorinda FANNIN	Dorinda Fannin	1115 Park Ave	423-875-0270	5-13-13
Pauline Fannin	Pauline Fannin	1115 Dana Ave	423-875-0270	5-13-13
Ernestine Green	Ernestine Green	1116 Dana Ave.	423-876-1413	5-13-13
William Steer	William Steer	111 Dana Ave.	423-876-1413	5-13-13
Laural L. Taylor	Laura L Taylor	1112 Dana Avenue	423-870-8222	5-13-13
Gregory J. Taylor	Gregory Taylor	1112 Dana Avenue	423-870-8222	5-13-13
Wendy Lowe	Wendy Lowe	1120 Dana Avenue	423-870-3569	5-13-13
Mildred Vandergriest	Mildred Vandergriest	1122 Dana Lane	423-877-2226	5-13-13
KENNETH M. BIRD	Kenneth M. Bird	4329 Forest Plaza Dr	423-598-2893	5-12-13
Elisa Loftin	Elisa Loftin	4321 Forest Plaza Dr	423-443-6608	5/15/13
Sheila Agnew	Sheila Agnew	4324 Forest Plaza Dr.	423-872-2376	5/13/13
Don Agnew	Don Agnew	"	420-667-1287	5/13/13
Ruby Carney	Ruby Carney	1111 Dana Ave	423-870-0929	5/13/13
Bob Carney	Bob Carney	1111 Dana Ave	(423) 870-0929	5/13/13
Russell Crisp	Russell A. Crisp	4320 Forest Plaza Dr.	423-421-2240	5-14-13
MARK E. MAYFIELD	Mark E. Mayfield	4211 Forest Plaza Dr.	423-877-2853	5-15-13

Printed Name	Signature	Address	Telephone Number	Date
LINDA J. CARTER	<i>Linda J. Carter</i>	4302 Forest Plaza	423-490-7231	5-12-13
Nell L. Mayfield	<i>Nell L. Mayfield</i>	4227 Forest Plaza Dr.	423-877-2853	5/12/13
Jerry White	<i>Jerry White</i>	4210 Forest Plaza Dr	423-3640958	5/12/13
Diana White	<i>Diana L. White</i>	4210 Forest Plaza Dr	423-364-0958	5/12/13
RANDALL GRIMSLEY	<i>Randall Grimsley</i>	4121 FOREST PLAZA DR	423-619-1245	5/12/13
Sharon Grimsley	<i>Sharon Grimsley</i>	4121 Forest Plaza Dr.	423-322-2308	5/12/13
Marty Haynes	<i>Marty Haynes</i>	4214 Forest Plaza Dr	423-802-1333	5/12/13
Norma Haynes	<i>Norma J. Haynes</i>	" " "	423-875-0590	5/2/13
Kris Smith	<i>Kris Smith</i>	4222 Forest Plaza Dr	423-875-4101	5/12/13
JEFF SMITH	<i>Jeff Smith</i>	" "	" "	" "
Lynda G. Fihn	<i>Lynda G. Fihn</i>	4239 Forest Plaza Dr.	423-270-8159	5-12-13
DAVID W. FINE, SR	<i>David W. Fine, Sr</i>	4239 Forest Plaza Dr.	423-870-8159	5/12/13
Kendra Waddle	<i>Kendra Waddle</i>	4243 Forest Plaza Dr	423-503-0315	05/12/13
Eric Waddle	<i>Eric Waddle</i>	4243 Forest Plaza Dr	423-504-9018	5/12/13
Jennifer Greever	<i>Jennifer Greever</i>	4317 Forest Plaza Dr.	828-545-9879	5/12/13
Robert L. Greover	<i>Robert L. Greover II</i>	4317 Forest Plaza Drive	(423) 760-0795	5/12/13

Printed Name	Signature	Address	Telephone Number	Date
Karen C. Thrasher	Karen C. Thrasher	4117 Forest Plaza Dr.	423-280-8815	5/13/13
Kelly Thrasher	Kelly Thrasher	4117 Forest Plaza Dr	423-870-2867	5-13-13
Jackie Hall	JACKIE HALL	4109 Forest Plaza Dr	423-870-4423	5/13/13
Alice B. Dial	Cheri B. Dial	4105 Forest Plaza Dr.	877-6562	5-13-13
Riley W. Dial	Riley W. Dial	4105 Forest Plaza Dr	877-6562	5-13-13
Janet L. Coombes	Janet L. Coombes	4033 Forest Plaza Dr.	875-3317	5-13-13
Bernard Coombes	Bernard Coombes	" "	"	5/13/13
KATHY MACK	Kathy Mack	4029 Forest Plaza Dr	875-9491	5/13/13
Kathie-Anne	Kathie-Anne	4027 Forest Plaza Dr	870-3554	5/13
Sammy Beitch	Sammy Beitch	4026 Forest Plaza Dr	8760278	5/13
Jean Hoffman	Jean Hoffman	4030 Forest Plaza Dr	615-779-9440	5/13
Lisa Collins	Lisa Collins	1153 Forest Plaza Circle	423-591-2096	5/13
Jane Cooper	Jane L. Cooper	1156 Forest Plaza Circle	423-877-6798	5/13
Dorcas Durham	Dorcas H. Durham	1160 Forest Plaza Circle	423-875-2705	5/13
Richard F. Durham	Richard F. Durham	1160 Forest Plaza Circle	423-875-2705	5/13
Dewey Harris	Dewey Harris	4108 Forest Plaza Dr	423-875-5747	5/13

Printed Name	Signature	Address	Telephone Number	Date
BRIAN HILL	<i>B. Hill</i>	1123 PLAZA DR	875-4054	5/19/13
ZACH CORRELL	<i>Zach Correll</i>	4318 FOREST PLAZA DR.	423-718-7239	5/13/13
Karen Crutcher	<i>Karen Crutcher</i>	1127 PLAZA DRIVE	423-994-7438	5/11/2012
Jan Marsman	<i>Jan Marsman</i>	1120 Plaza Dr	423-488-8280	5/11/13
Braxton Cotton	<i>Braxton Cotton</i>	4200 Forest Plaza Dr.	423-877-2615	5/13/13
PATRICIA HOWARD	<i>Patricia Howard</i>	1121 FOREST PLAZA CIR	423-875-9813	5/13/13
Rebecca Martens	<i>Rebecca Martens</i>	1137 Forest Plaza Cir	423-874-0690	5/16/13
Tara Freudenberg	<i>Tara Freudenberg</i>	1120 Forest Plaza	423-875-6353	5/17/13
Mark Freudenberg	<i>Mark Freudenberg</i>	1120 Forest Plaza	423-875-6353	5/17/13
MARY KAY HIOFF	<i>Mary Kay Hioff</i>	1132 Forest Plaza Cir	423-718-7414	5/18/2013
<del>Spanda Payne</del>	<del>Spanda Payne</del>	1136 Forest Plaza Circle	875-9395	5-18-13
Tara F. Payne	<i>Tara F. Payne</i>	1136 Forest Plaza Cir	875-9395	5-18-13



WHEREAS, the undersigned, W. A. STRAGAND and L.H. CASE, TRUSTEES, now, and at the time of registration, were, and are, the owners of all the lots in Forest Plaza, Unit #2, a Sub-division, as shown by Plat of Record in Plat Book 22, Page 32, in the Register's Office of Hamilton County, Tennessee.

173

AND for the protection of all purchasers of lots and their successors in title, we hereby impose on all lots in said Subdivision the following conditions:

(1) That said lots shall be devoted exclusively to residential use and that no building other than a one or two family dwelling or building ordinarily appertaining to dwelling houses shall be erected, maintained or used by the Grantees, their heirs or assigns, or anyone deriving title or rights from or through them on any of said lots.

(2) That, no part of any lot shall be used for residential purposes until first, a completed dwelling house, conforming fully to the provisions of this instrument, shall have been erected thereon, the intent of this paragraph "(2)" being to prevent the use, thereon of a garage, incomplete structure, trailer, tent or other structure as living quarters before or after the erection of a permanent dwelling.

(3) That, within a period hereinafter stated, no dwelling of less interior ground floor area than Eleven Hundred (1100) square feet shall be erected, said dimensions shall be exclusive of open porches and garages; this provision shall apply to the dwelling house proper and not to such outbuildings as ordinarily appertain to dwelling houses.

(4) That, no more than one dwelling shall be erected on any one of said lots, and any dwelling or outbuilding on any part of the plot herein described shall be neatly painted or stained, ~~with~~ brick or stone; and any exposed concrete blocks shall be stuccoed; and that no asbestos siding shall be used in construction.

(5) That, no building shall be located on any one of the said residential building plots nearer to the front line of the street bounding same than twenty-five (25) feet; or nearer than ten (10) feet to any side line or alley; any outbuilding or detached garage shall not be located nearer than seventy-five (75) feet from the front line of said lots; on all corner lots the building must be twenty (20) feet from the side street:

(6) That, not one of said residential lots shall be re-subdivided but shall remain as will be shown on said proposed plat, except or unless the said W. A. STRAGAND and L.H. CASE, rearrange boundaries on any lots, and re-plot in such a way that any replatted lot shall not be of less street frontage than seventy (70) feet; and shall not be of less area than ten thousand (10,000) square feet, or combine two or more lots as one lot, and in either event the restrictions contained in paragraph (5) above shall apply to only the outside boundary lines of said building lot formed by such re-platting or by the combination of the two or more lots.

(7) That, no fowls, horses, mules, cattle, sheep or other like animal shall be kept or allowed to remain upon said premises, neither shall any sheep, goats, swine or any such animal belonging to the owners or occupants thereof be allowed to roam or run at large on the streets or alleys bounding said premises:

(8) That, before any dwelling on said premises shall be occupied, a septic tank approved either by the grantor or by the constituted public authorities for sewage disposal shall be installed, all sewage from the premises shall be turned into such tank and the same shall be continuously maintained in proper state of sanitation; provided, that upon any approved system of sewers being installed for the use of the community on which said premises is located and upon proper connection of said premises therewith, said septic tank may be abandoned.

(9) That, all of the streets and roadways shown on the plat or survey above referred to are hereby dedicated to the public use for streets and roadway purposes and shall be subject to the duly constituted public authorities:

(10) Whether expressly stated so or not in deed conveying and one or more of said lots each conveyance shall be subject to the Zoning Act as passed by the State Legislature, Private Acts of 1939, Chapter 460, House Bill No. 1528, as adopted by resolution of the County Council of Hamilton County, Tennessee, on August 13, 1941 and any amendments thereof.

(11) That, for the purpose of property improvement, W. A. STRAGAND and L. H. CASE, TRUSTEES, reserve the right to make deviations and/or revisions from these restrictive covenants in case of conditions which may develop in the Subdivision development stages which may require these necessary deviations and/or revisions to facilitate reasonable full development and use of the land.

In the event that for any reason any one or more of the foregoing protective covenants and restrictions, be construed by judgment or decree of any court of record to be invalid such action shall affect in no wise any of the other provisions, which shall remain in full force and effect, the owner hereby declaring that said restrictions are not interdependent but servable, and any one would have been adopted even without the others.

EACH and everyone of the aforesaid covenants, conditions and restrictions, shall attach to and run with each and every one of the said lots of land and all titles, to, and estates therein, shall be subject thereto and the same shall be binding upon each and every owner and occupant of the same until January 1, 2001, and shall be extended automatically to apply to each of said lots for successive periods of ten years each unless by vote of the then owners of the lots it is agreed to change said covenants in whole or in part, provided the instrument evidencing such action must be in writing and shall be duly recorded in the Register's Office of Hamilton County, Tennessee. Neither the undersigned nor any party or parties claiming under it shall or will convey, devise, or demise any or either of said lots or any part of same except as being subject to the said covenants, conditions, and restrictions and the obligations to observe and perform the same. The said conditions, therefore as fully as if expressly contained in property and obligatory covenants or conditions in each and every contract or conveyance of or concerning any part of the said land or the improvements to be made thereon.

If the undersigned or any party or parties claiming thereunder shall violate or attempt to violate any of the covenants or restrictions herein provided before January 1, 2001 or within the extended time as herein before provided, it shall be lawful for grantors or other person or persons owning any other lot or lots in said development or subdivisions to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenants or conditions and either to prevent him or them from so doing or to recover damages or other dues for such violation.

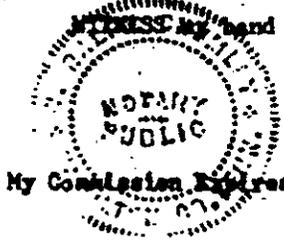
IN WITNESS WHEREOF, and pursuant to authority from each, W. A. STRAGAND and L.H. CASE, Trustees, who declare they are not the sole beneficiaries, has caused his name to be signed to this instrument, and this instrument to be executed in their name as Individual Trustees and owners this 6th day of February, 1962.

(SEAL) W. A. Stragand Trustee  
(SEAL) L. H. Case Trustee

STATE OF TENNESSEE)  
COUNTY OF HAMILTON)

On this 6th day of February, 1962, before me personally appeared W. A. STRAGAND and L.H. CASE, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

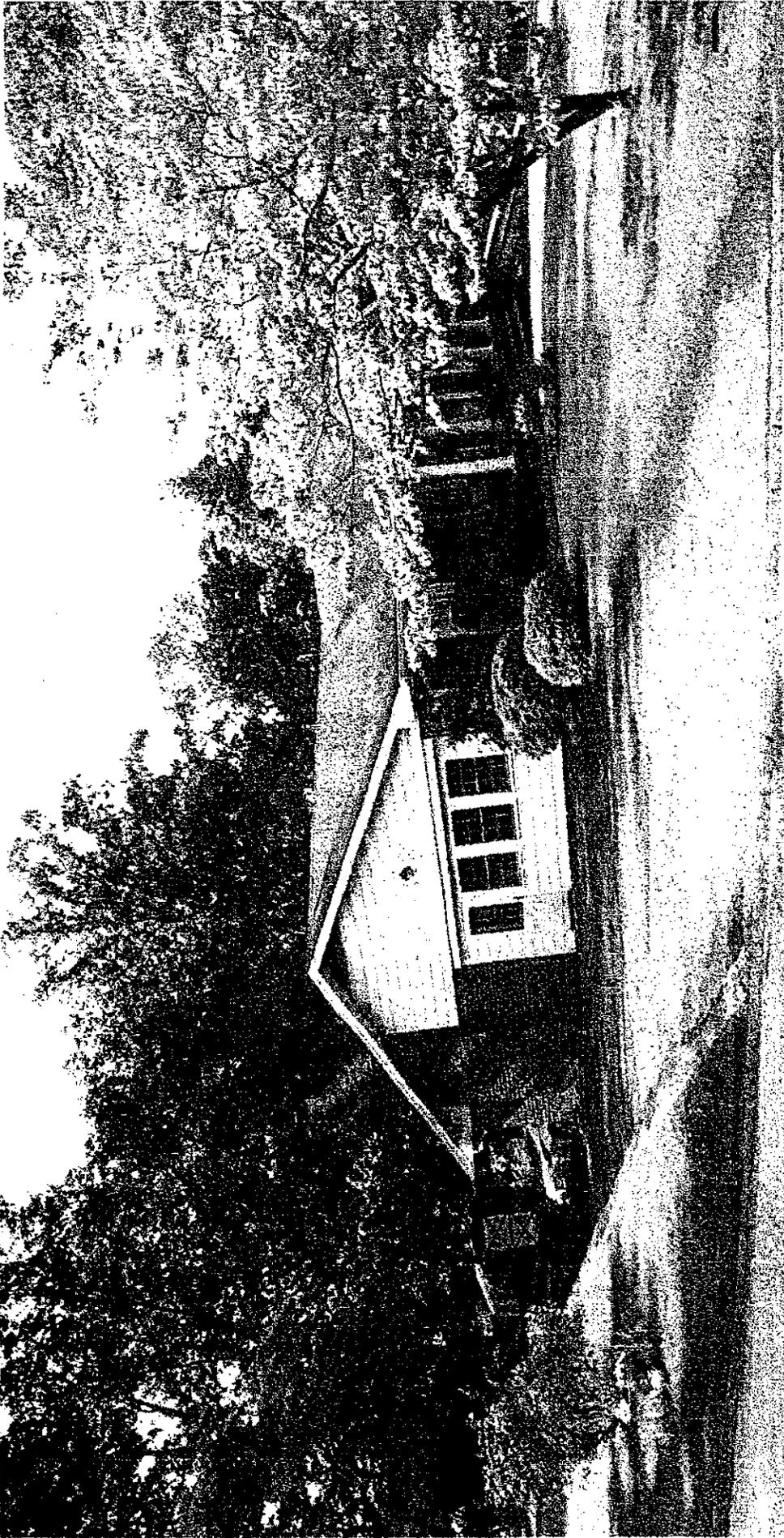
WITNESS My hand and Notarial Seal.



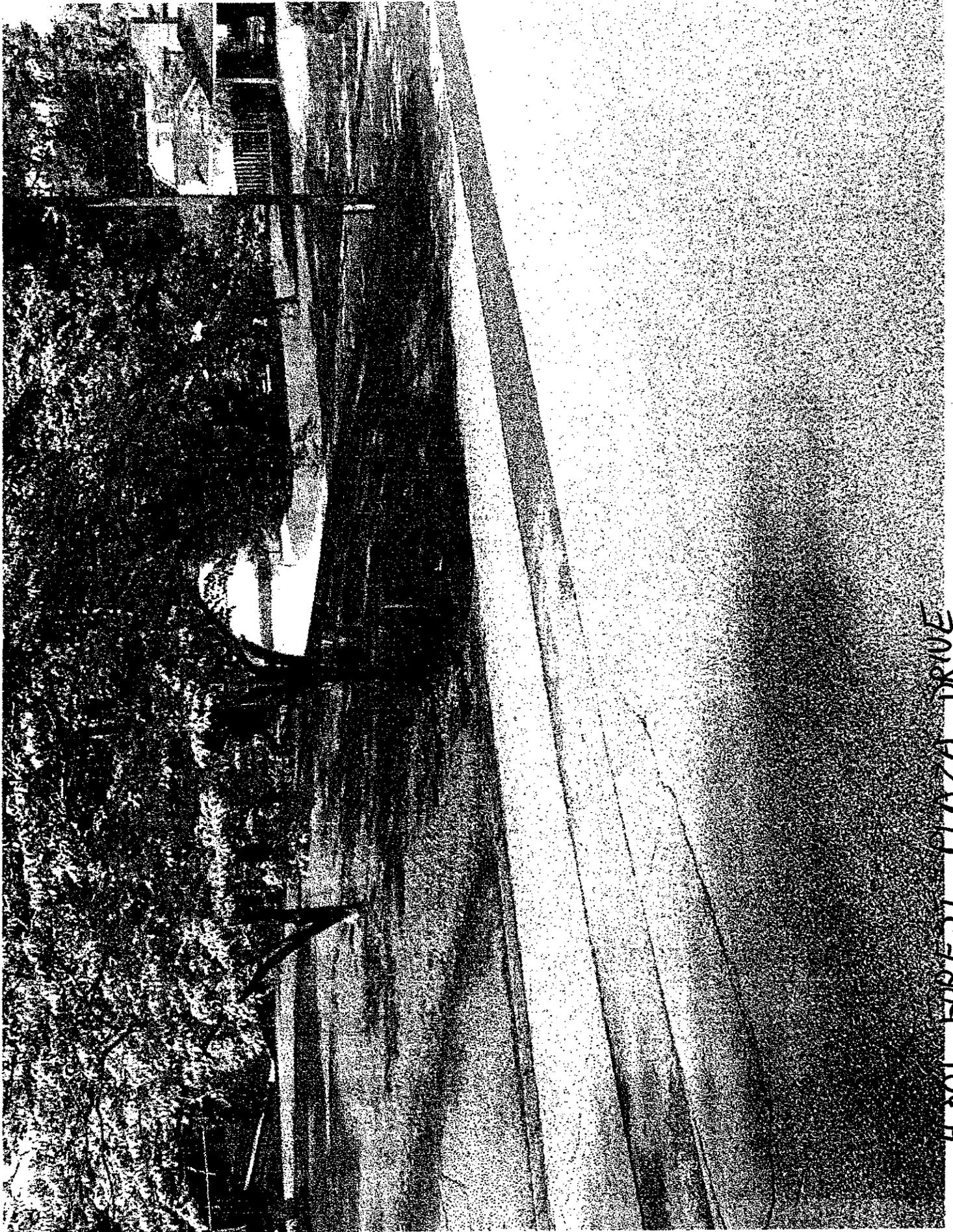
W. Ralph Chambers  
Notary Public

My Commission Expires: 7-16-63

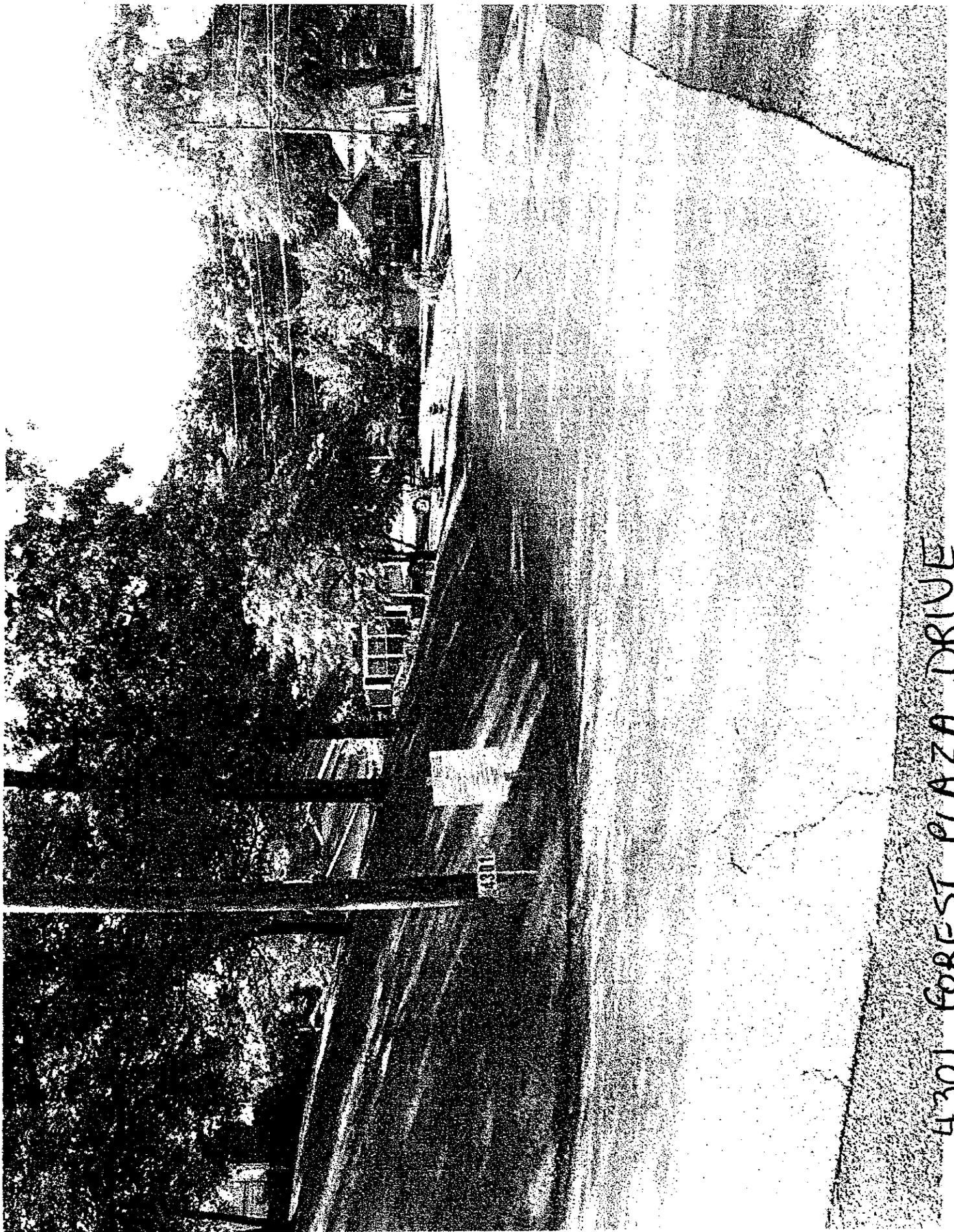
STATE OF TENNESSEE, HAMILTON COUNTY:  
The above instrument and certificate were filed



11211 GUEST PIAZA TORONTO



4.301 FOREST PLAZA DRIVE



4301 FOREST PLAZA DRIVE



## 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:

2013-072 Walk2Campus Properties c/o Roe Elam/UTC Three, LLC. 863 McCallie Avenue, from C-2 Convenience Commercial Zone to C-3 Central Business Zone, subject to certain conditions.

2013-074 Roy Williams/Nathaniel and Linda Long. 1113 East 11<sup>th</sup> Street, from R-1 Residential Zone to R-4 Special Zone.

2013-080 Richard W. McCoy/Arlington Properties, Inc. 5300 block of Highway 58, from C-2 Convenience Commercial Zone to R-3 Residential Zone.

2013-086 Independent Healthcare Properties/National Bank of Tennessee. 7715, 7719, and 7721 Shallowford Road, from R-1 Residential Zone to R-4 Special Zone, subject to approval of the Institutional Planned Unit Development of Case No. 2013-085.

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

2013-085 Independent Health Properties/National Bank of Tennessee. 7715, 7719, and 7721 Shallowford Road, for an Institutional Planned Unit Development, subject to certain conditions.

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

2013-066 Marie and Jeff Fisher. 4301 Forest Plaza Drive, for a Residential Home for the Aged.

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,

**July 9, 2013**

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 \_\_\_\_\_, 2013.

---

Sandra Freeman  
Clerk to the City Council