

**First Reading:** \_\_\_\_\_  
**Second Reading:** \_\_\_\_\_

2013-079  
Continental 171 Fund, LLC/  
Ken Liem/Fenella Pinewood, LLC/  
K&L Enterprises, Inc.  
District No. 4  
Planning Version

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO LIFT CONDITION NO. 1 OF ORDINANCE NO. 12305 FROM CASE NO. 2009-129 UPON STAFF DETERMINATION POSSIBLY CONDITION NO. 2 AND CONDITION NO. 5, ON PROPERTIES LOCATED IN THE 7400 BLOCK OF PINWOOD DRIVE, BEING MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS.

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SECTION 1. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That Chattanooga City Code, Part II, Chapter 38, Zoning Ordinance, so as to lift Condition No. 1 of Ordinance No. 12305 from previous Case No. 2009-129 and upon Staff Determination possibly Condition No. 2 and Condition No. 5, on properties located in the 7400 block of Pinewood Drive, being more particularly described herein.

Lots 1 thru 6, Block 2, Varnell Farms Subdivision, Plat Book 14, Page 140, ROHC, being the properties described as Tracts 1 and 2 in Deed Book 8994, Page 447, Parcels 1 thru 4, Deed Book 9024, Page 938, Deed Book 9030, Page 144, and Deed Book 9114, Page 119, ROHC. Tax Map Nos. 149B-A-016 thru 019 and 022.

SECTION 2. BE IT FURTHER ORDAINED to lift Condition No. 1 only of Ordinance No. 12305 from previous Case No. 2009-129, subject to the following conditions:

- 1) No wallpack lighting fixtures on the sides of the buildings facing the northern or eastern property line;
- 2) Light fixture pole height shall be a maximum of thirteen (13) feet;
- 3) Lighting shall be certified by a lighting architect or engineer to ensure that lighting is designed so that it is directed down and away from adjoining/adjacent residential properties so as to prevent spill over from the site per the requirements of the City Land Development Office;
- 4) A 15 foot natural buffer shall be preserved on the rear property line and a 12 foot natural buffer shall be preserved on the eastern property line where the subject parcel adjoins R-1 properties. Within these buffers existing trees shall be interspersed with evergreens and a mixture of other fast growing specie types striving for a high survival rate among the planted materials;
- 5) The rear building setback shall be thirty-nine (39) feet; the eastern building setback shall vary between twenty-four (24) and forty-four (44) feet;
- 6) Fencing shall be installed around the perimeter of the apartment complex that is wrought iron in appearance; fencing along existing R-1 properties will be six (6) feet high and/or in accordance with City height restrictions;
- 7) Storm water solutions shall be addressed according to feasibility studies and engineering recommendations so existing R-1 properties are not negatively impacted by runoff created from the development and per City/County storm water regulations (WQMP);
- 8) The developer shall work with City Traffic Engineer John Van Winkle pertaining to the impact of the development on traffic conditions and feasible solutions regarding such;
- 9) Exterior lighting around the complex shall be directed away from existing residential homes; and
- 10) Dumpster locations shall be away from view by R-1 property owners with adequate screening added where needed.

SECTION 3. BE IT FURTHER ORDAINED, That this Ordinance shall take effect two

(2) weeks from and after its passage.

Passed on second and final reading: \_\_\_\_\_

\_\_\_\_\_  
CHAIRPERSON

APPROVED: \_\_\_\_\_ DISAPPROVED: \_\_\_\_\_

\_\_\_\_\_  
MAYOR

/mms

First Reading: \_\_\_\_\_  
Second Reading: \_\_\_\_\_

2013-079  
Continental 171 Fund, LLC/  
Ken Liem/Fenella Pinewood, LLC/  
K&L Enterprises, Inc.  
District No. 4  
Staff Version

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO LIFT CONDITION NO. 1 OF ORDINANCE NO. 12305 FROM CASE NO. 2009-129 UPON STAFF DETERMINATION POSSIBLY CONDITION NO. 2 AND CONDITION NO. 5, ON PROPERTIES LOCATED IN THE 7400 BLOCK OF PINWOOD DRIVE, BEING MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS.

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- 2) Light fixture pole height shall be a maximum of thirteen (13) feet; and
- 3) Lighting shall be certified by a lighting architect or engineer to ensure that lighting is directed away from the site per the requirements of the City Zoning Official's office.

SECTION 3. BE IT FURTHER ORDAINED, That this Ordinance shall take effect two (2) weeks from and after its passage.

Passed on second and final reading: \_\_\_\_\_

\_\_\_\_\_  
CHAIRPERSON

APPROVED: \_\_\_\_\_ DISAPPROVED: \_\_\_\_\_

\_\_\_\_\_  
MAYOR

/mms

**First Reading:** \_\_\_\_\_  
**Second Reading:** \_\_\_\_\_

2013-079  
Continental 171 Fund, LLC/  
Ken Liem/Fenella Pinewood, LLC/  
K&L Enterprises, Inc.  
District No. 4  
Applicant Version

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO LIFT CONDITION NO. 1 OF ORDINANCE NO. 12305 FROM CASE NO. 2009-129 UPON STAFF DETERMINATION POSSIBLY CONDITION NO. 2 AND CONDITION NO. 5, ON PROPERTIES LOCATED IN THE 7400 BLOCK OF PINWOOD DRIVE, BEING MORE PARTICULARLY DESCRIBED HEREIN.

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SECTION 2. BE IT FURTHER ORDAINED, That this Ordinance shall take effect two (2) weeks from and after its passage.

Passed on second and final reading: \_\_\_\_\_

\_\_\_\_\_  
CHAIRPERSON

APPROVED: \_\_\_\_ DISAPPROVED: \_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
MAYOR

/mms

2013-079 City of Chattanooga  
June 10, 2013 (Deferred)  
July 8, 2013 (Action Taken)

## RESOLUTION

WHEREAS, Continental 171 Fund, LLC/Ken Liem, Fenella Pinewood LLC, K & L Enterprises, Inc. petitioned the Chattanooga-Hamilton County Regional Planning Commission to recommend to the Members of the City Council of the City of Chattanooga lifting Condition #1 of Ordinance No. 12305 from previous Case 2009-129 and upon Staff Determination possibly Condition #2 and Condition #5, on properties in the 7400 block of Pinewood Drive.

Lots 1 thru 6, Block 2, Varnell Farms Subdivision, Plat Book 14, Page 140, ROHC, being the properties described as Tracts 1 and 2 in Deed Book 8994, Page 447, Parcels 1 thru 4, Deed Book 9024, Page 938, Deed Book 9030, Page 144, and Deed Book 9114, Page 119, ROHC. Tax Map 149B-A-016 thru 019 and 022 as shown on the attached map.

AND WHEREAS, the Planning Commission held a public hearing on this petition on June 10, 2013, at which time hearing was deferred until July 8, 2013,

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

AND WHEREAS, there was opposition present to the petition,

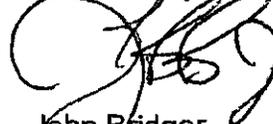
~~AND WHEREAS, the Planning Commission has studied the petition in relation to existing zoning and land use and potential patterns of development.~~

NOW THEREFORE, BE IT RESOLVED that the Planning Commission, on July 8, 2013, recommended to the Members of the City Council of the City of Chattanooga that this petition be approved for lifting Condition #1 only of Ordinance 12305 from previous Case No. 2009-129, subject to the following conditions:

- 1) No wallpack lighting fixtures on the sides of the buildings facing the northern or eastern property line.
- 2) Light fixture pole height shall be a maximum of 13 feet.

- 3) Lighting shall be certified by a lighting architect or engineer to ensure that lighting is designed so that it is directed down and away from adjoining/adjacent residential properties so as to prevent spill over from the site per the requirements of the City Land Development Office.
- 4) A 15 foot natural buffer shall be preserved on the rear property line and a 12 foot natural buffer shall be preserved on the eastern property line where the subject parcel adjoins R-I properties. Within these buffers existing trees shall be interspersed with evergreens and a mixture of other fast growing specie types striving for a high survival rate among the planted materials.
- 5) The rear building setback shall be thirty-nine (39) feet; the eastern building setback shall vary between twenty-four (24) and forty-four (44) feet.
- 6) Fencing shall be installed around the perimeter of the apartment complex that is wrought iron in appearance; fencing along existing R-I properties will be six feet high and/or in accordance with City height restrictions.
- 7) Storm water solutions shall be addressed according to feasibility studies and engineering recommendations so existing R-I properties are not negatively impacted by runoff created from the development and per City/County storm water regulations (WQMP).
- 8) The developer shall work with City Traffic Engineer John Van Winkle pertaining to the impact of the development on traffic conditions and feasible solutions regarding such.
- 9) Exterior lighting around the complex shall be directed away from existing residential homes.
- 10) Dumpster locations shall be away from view by R-I property owners with adequate screening added where needed.

Respectfully submitted,



John Bridger  
Secretary

**RPA STAFF RECOMMENDATION**

<b>Case Number:</b>	<b>2013-079</b>	<b>PC Meeting Date: 07-08-2013</b>
<b>STAFF RECOMMENDATION:</b>	<p><b>APPROVE, lifting Condition #1 only of Ordinance 12305 from previous Case No. 2009-129 , subject to the following conditions:</b></p> <ol style="list-style-type: none"> <li>1) No unshielded or shielded wallpack lighting fixtures on the sides of the buildings facing the northern or eastern property line.</li> <li>2) Light fixture pole height shall be a maximum of 13 feet.</li> <li>3) Lighting shall be certified by a lighting architect or engineer to ensure that lighting is directed away from the site per the requirements of the City Zoning Official's office.</li> </ol>	
<b>Land Use &amp; Transportation Comments</b>		
<b>Planning Staff:</b>	<p><b><u>Applicant Request Overview</u></b></p> <p>The applicant is requesting to lift a condition of Ordinance No. 12305. That ordinance rezoned property north of the Pinewood Drive and Gunbarrel Road intersection to R-3 Residential. Eight conditions were placed on the zoning at that time.</p> <p>Since the 2009 rezoning to R-3 Residential with conditions, this applicant is proposing to develop that site, along with two other adjoining properties, as an apartment complex with 260 units (for a density of 18.09 dwelling units an acre), a pool and a clubhouse.</p> <p><b><u>Site Description</u></b></p> <p>The entire apartment site is 14.37 acres with 11.2 acres of that being the area proposed for the lifting of conditions. The site for the proposed apartments has frontage on Gunbarrel Road and Pinewood Drive. It is located near the roundabout that joins Standifer Gap Road and Gunbarrel Road. Across Gunbarrel Road from the property is a religious facility, and north and east of the site are single-family homes.</p> <p><b><u>Zoning History</u></b></p> <p>In 2009, this property was rezoned from R-1 Residential Zone and R-T/Z Residential Townhouse/Zero Lot Line Zone to R-3 Residential Zone, subject to eight conditions. The proposal at that time was for 184 units of multi-family housing with a pool and club house. This request to amend conditions includes the following condition:</p> <ol style="list-style-type: none"> <li>1) Construction: The apartment development is to be constructed as generally depicted on the developer's preliminary site plan; two story and three story buildings, picnic, pool areas, and garages, etc. are to be placed in the approximate locations shown on the site plan.</li> </ol> <p>The eight conditions were not drafted by staff, but rather proposed by the prior applicant at Planning Commission. The motion at Planning Commission was that the applicant and neighbors work on and confirm</p>	

**RPA STAFF RECOMMENDATION**

a complete set of conditions prior to the City Council hearing.

**Plans/Policies**

The community plan for this area, the Hamilton Place Community Plan (2001), recommends low to medium density residential development at this site.

**Staff Recommendation**

The applicant previously deferred action on this case to meet with the community to present the proposal and discuss the current site plan particularly as those neighbors had been active previously in discussing the current conditions on the property. The applicant intends on meeting the other seven conditions that will remain on the site:

1. **LANDSCAPING:** Developer will preserve a 15 foot natural buffer on the rear property line and a 12 foot natural buffer on the eastern property line where the subject parcel adjoins R-I properties. Within these buffers existing trees will be interspersed with evergreens and a mixture of other fast growing specie types striving for a high survival rate among the planted materials.
2. **BUILDING SETBACKS:** Developer will increase building setbacks as follows:

<u>Property Line Setbacks</u>	<u>Required by Code</u>	<u>Developer's Setback</u>
Rear	25 feet	39 feet
Eastern Side	6 feet	24-44 feet (varying)

The effect of these enhanced setbacks along with aesthetic plantings on the newly created slopes at these locations will further increase the natural type of buffering desired by the surrounding neighbors.

3. **FENCING:** Developer will install fencing around the perimeter of the apartment complex that is wrought iron in appearance; fencing along existing R-I properties will be six feet high and/or in accordance with City/County height restrictions.

4. **STORM WATER RUNOFF:** Storm water solutions should be addressed according to feasibility studies and engineering recommendations so existing R-I properties are not negatively impacted by runoff created from the development and per City/County storm water regulations (WQMP).

5. **TRAFFIC:** Developer will work with City Traffic Engineer John Van Winkle pertaining to the impact of the development on traffic conditions and feasible solutions regarding such.
6. **LIGHTING:** Exterior lighting around the complex to be directed away from existing residential homes.
7. **DUMPSTERS:** Dumpster locations should be away from view by R-I property owners with adequate screening added where needed.

## RPA STAFF RECOMMENDATION

	<p>The site plan for the 2009 zoning had three-story apartments which led in part to the condition on building placement with the idea that the taller units would be to the interior of the development. By adding additional acreage to the site, the applicant's proposal now includes only two-story structures.</p> <p>The new site plan shows that the increased building setbacks, the fencing, dumpster placement and landscaping conditions will be met. Since the applicant is meeting those requirements, and has reduced all of the apartment buildings' heights to two stories, staff is recommending approval of lifting the condition on building placement.</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>

**LIFT/AMEND CONDITIONS APPLICATION FORM**

<b>CASE NUMBER: 2013-079</b>		<b>Date Submitted: 05-10-2013</b>	
(Sections 1-6 below to be filled out by Applicant- RPA staff will assist, if needed)			
<b>1 Applicant Request</b>			
<b>Conditions</b>	<b>Description:</b>		
	Resolution/Ordinance Number: 12305		
	Previous Case Number: 2009-129		
<b>2 Property Information</b>			
<b>Property Address:</b>	Properties in the 7400 block of Pinewood Drive		
<b>Property Tax Map Number(s):</b>	149B-A-016 thru 019 and 022		
<b>3 Proposed Development</b>			
<b>Reason for Request and/or Proposed Use:</b>	Amend Condition #1 for a new site plan and possibly Conditions #2 & #5 based on RPA Staff determination		
<b>4 Site Characteristics</b>			
<b>Current Zoning:</b>	R-3 Residential Zone		
<b>Current Use:</b>	Single Family Residential		
<b>Adjacent Uses:</b>	Single Family Residential and R-4		
<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:</b> Continental 171 Fund LLC		<b>Address:</b> W13N8675 Executive Parkway	
<b>Check one:</b>	<input type="checkbox"/> I am the property owner	<input checked="" type="checkbox"/> I am not the property owner	
<b>City:</b> Menomonee	<b>State:</b> WI	<b>Zip Code:</b> 53072	<b>Email:</b> ethom@properties.com
<b>Phone 1:</b> 262-532-9343	<b>Phone 2:</b> 262-502-5500	<b>Phone 3:</b>	<b>Fax:</b> 262-502-5522
<b>6 Property Owner Information (if not applicant)</b>			
<b>Name:</b> Ken Liem, Fenella Pinewood LLC, K&L Enterprises Inc		<b>Phone:</b> 714-649-4460	
<b>Address:</b> 26741 Portola Parkway 1E-296, Foothill Ranch, CA 92610			
<b>Office Use Only:</b>			
<b>Planning District:</b> 10		<b>Neighborhood:</b> Friends of E. Brainerd, BEBCC	
<b>Hamilton Co. Comm. District:</b> 8		<b>Chatt. Council District:</b> 4	<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 checked="" type="checkbox"/> Site Plan, if required	<input checked="" type="checkbox"/> Total Acres to be considered: 11.069	<input checked="" type="checkbox"/> Deeds	<input checked="" type="checkbox"/> Plats, if applicable
<b>Deed Book(s):</b> 8994/477, 9030/144, 9114/119, 9024/938			
<b>Plat Book/Page:</b> 14/140		<input checked="" type="checkbox"/> Notice Signs	<b>Number of Notice Signs:</b> 1
<input checked="" type="checkbox"/> Filing Fee: \$150.00	Cash	<input checked="" type="checkbox"/> Check	<b>Check Number:</b> 51700
<b>Planning Commission meeting date:</b> June 10, 2013		<b>Application processed by:</b> Jennifer Ware	



## 2013-079 Amend Conditions of Ordinance #12305

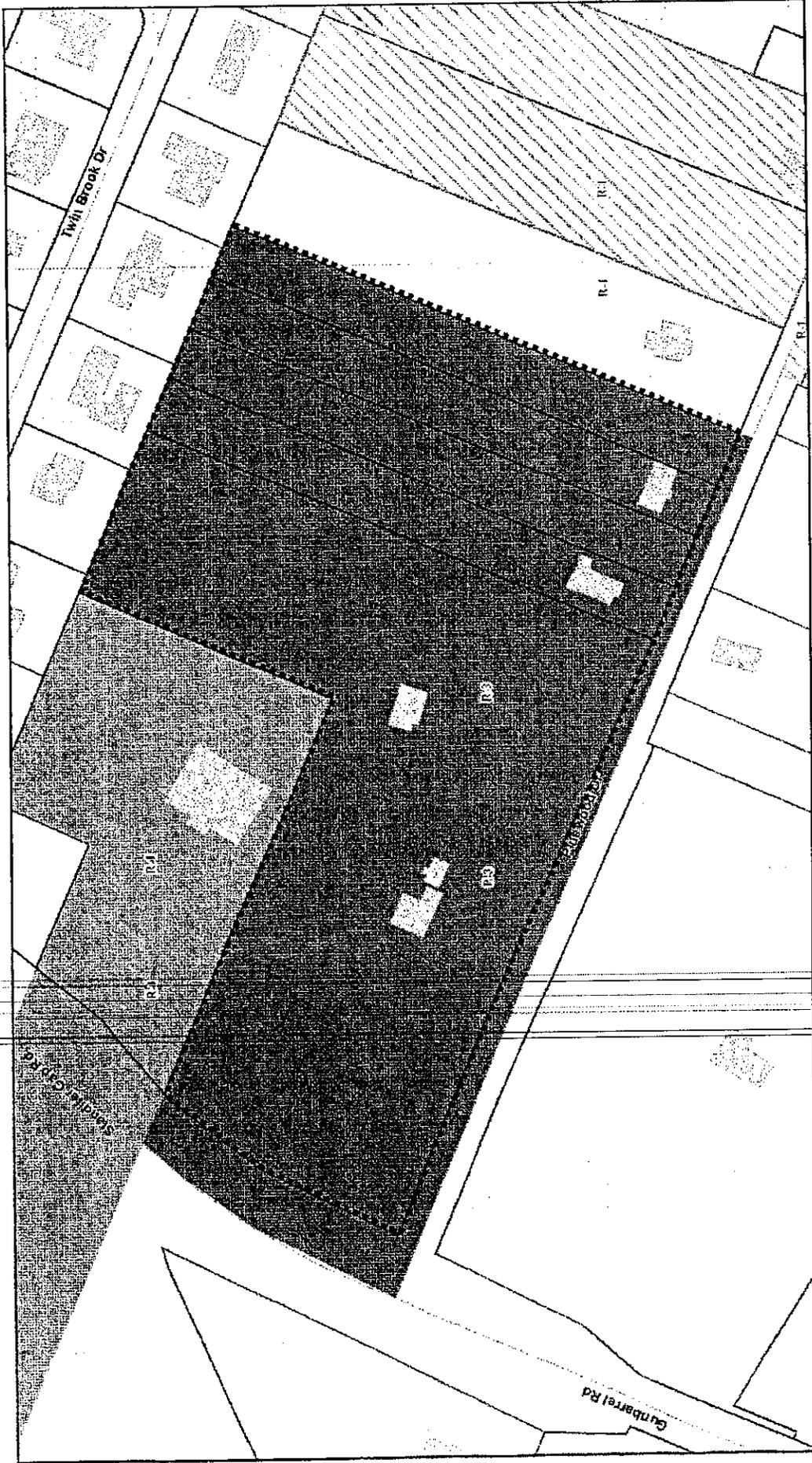
PLANNING COMMISSION RECOMMENDATION FOR CASE NO. 2013-079. Approve, subject the list of conditions in the Planning Commission Resolution.



200 ft



**Chattanooga Hamilton County Regional Planning Agency**



**2013-079 Amend Conditions**

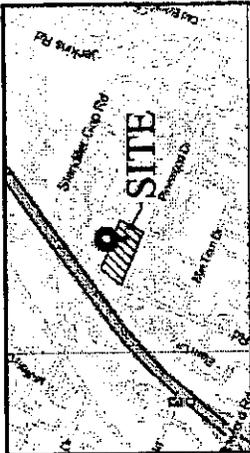


164 ft



Chattanooga-Hamilton County  
**RPA**  
 Regional Planning Agency

Chattanooga Hamilton County Regional Planning Agency



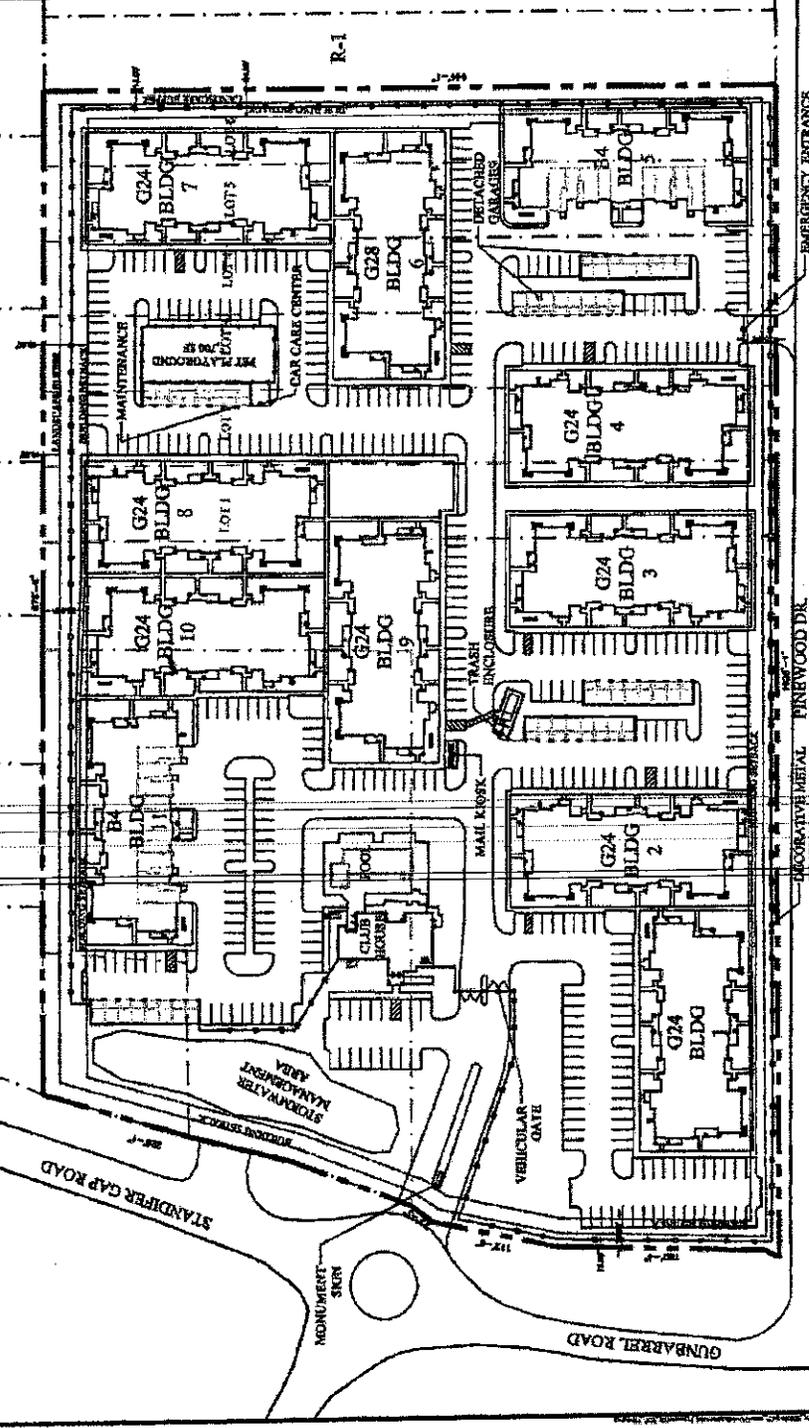
**VICINITY MAP SCALE: NTS**

**CHATTANOOGA**  
 6/04/2013  
 CONTINENTAL PROPERTIES  
 CONTINENTAL AND RUND LLC  
 AS ESTATE OF  
 JMB  
 TN  
 6/04/2013  
 REVISIONS  
 CONTINENTAL AND RUND LLC  
 CHATTANOOGA  
 NORTH  
 0  
 PD-6

NO.	DATE	DESCRIPTION
1	6/04/2013	ISSUED FOR PERMITTING

PROPERTY	ACRES	APR							
1	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00

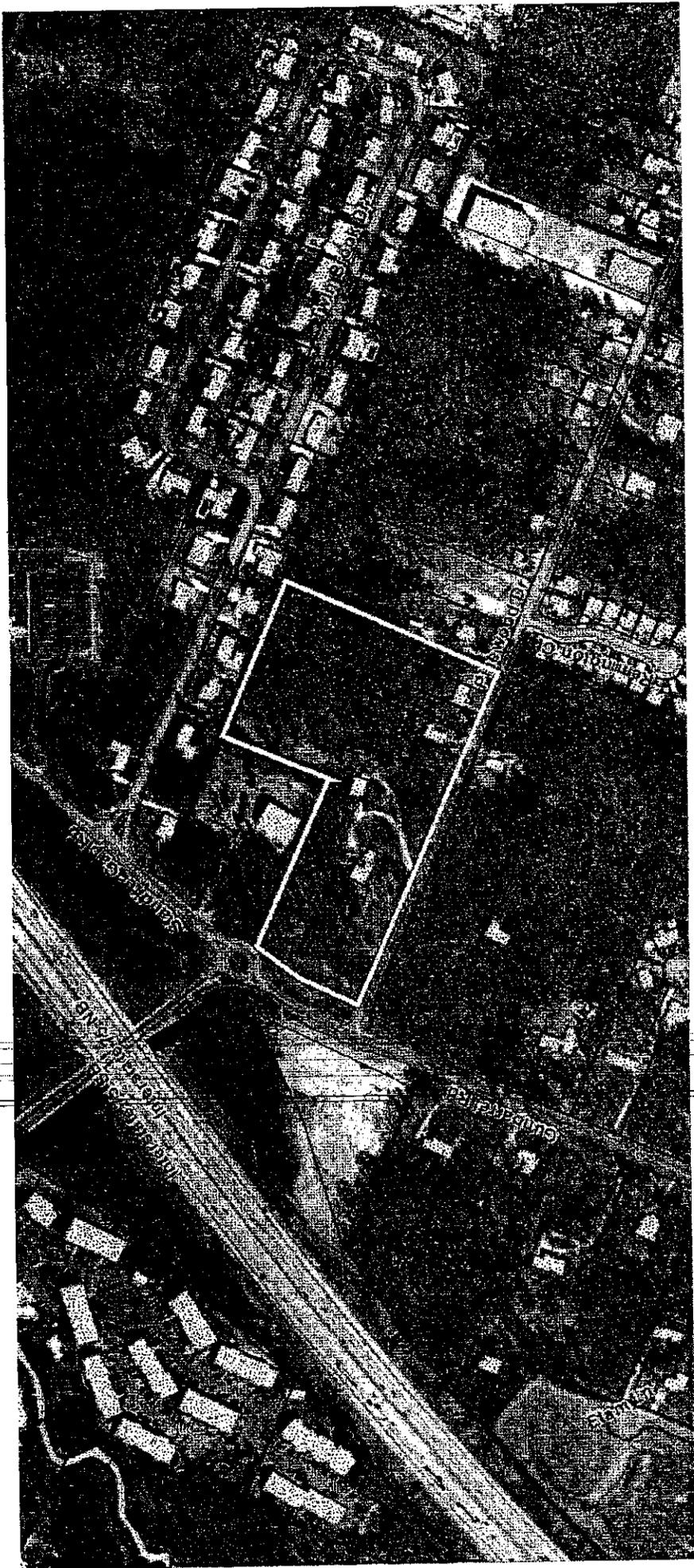
**CURRENT ZONING R-3, R-4, R-1**  
**PROPOSED ZONING: SAME**  
 TM 149B-A-023  
 TM 149B-A-024  
 TM 149B-A-022  
 TM 149B-A-019  
 TM 149B-A-018  
 TM 149B-A-017  
 TM 149B-A-016



**OWNER INFORMATION**  
 Ken Leim  
 26741 Portola Parkway 1B-206  
 Woodstock, CA 92610

**PROJECT CONTACT**  
 Joe Berckshite  
 W134 N8675 Executive Parkway  
 Mequon, WI 53051  
 JoeBerckshite@cpaverities.com  
 262-572-9814





## 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:

2013-073 John R. Anderson/Dallas and Beverly Bunton. 2910 Silverdale Road, from R-1 Residential Zone to O-1 Office Zone, subject to certain conditions.

2013-089 Jacob Becker/PTC Properties. 503 Hamilton Avenue and 502 North Market Street, from R-4 Special Zone to C-7 Northshore Commercial Mixed Use Zone, subject to certain conditions.

2013-091 Britt Goodson/State of Tennessee. 5528 and 5530 Hwy. 153, from R-2 Residential Zone to C-2 Convenience Commercial Zone.

2013-096 Jody Shea/Shea Properties, LLC. 1800 E. 25<sup>th</sup> Street, from R-2 Residential Zone to M-2 Light Industrial Zone, subject to certain conditions.

2013-097 David Jones/Hamilton Avenue Properties. 677 Hamilton Avenue, from RT-1 Residential Townhouse Zone to C-7 Northshore Commercial Mixed Use Zone, subject to certain conditions.

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

2013-099 Caressa Martin. 3820 Montview Drive, from R-1 Residential Zone to R-3MD Moderate Density Zone.

3. The Chattanooga-Hamilton County Regional Planning Commission has recommended that the following conditions be lifted:

2013-079 Continental 171 Fund, LLC/Ken Liem, Fenella Pinewood, LLC, K&L Enterprises, Inc. 7400 block of Pinewood Drive, lifting Condition #1 of Ordinance No. 12305 from previous Case No. 2009-129 and upon Staff Determination possibly Condition #2 and Condition #5, subject to certain conditions.

4. The Chattanooga-Hamilton County Regional Planning Commission has recommended that the following amendments be made to the Chattanooga City Code, Part II, Chapter 38, known as the Chattanooga Zoning Ordinance by:

- (a) Amending Section 38-2, Definitions, by adding "Kennel";
- (b) Amending Section 38-394, Height and area regulations, by deleting items (2) and (3) in their entirety and substituting in lieu thereof;
- (c) Amending Section 38-395, General provisions, by deleting item (1) in its entirety and substituting in lieu thereof;
- (d) Amending Section 38-400, Staging, by adding item (3);
- (e) Amending Section 38-401, Changes and modifications, by deleting same in its entirety and substituting in lieu thereof;
- (f) Amending Section 38-402, Application procedure for planned unit development, by deleting same in its entirety and substituting in lieu thereof;
- (g) Amending Section 38-419, Staging, by deleting same in its entirety and substituting in lieu thereof;
- (h) Amending Section 38-420, Major Changes, by deleting same in its entirety and substituting in lieu thereof; and
- (i) Amending Section 38-421, Application procedure for institutional planned unit development, by deleting same in its entirety and substituting in lieu thereof;

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,

**August 13, 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.

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Sandra Freeman  
Clerk to the City Council