

First Reading: _____
Second Reading: _____

2013-134
B & M Development
District No. 6
Applicant Version

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO LIFT CONDITION NO. 1 FROM ORDINANCE NO. 12581 OF PREVIOUS CASE NO. 2012-015, ON PROPERTY LOCATED AT 1309 PANORAMA DRIVE, BEING MORE PARTICULARLY DESCRIBED HEREIN.

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 from Ordinance No. 12581 of previous Case No. 2012-015, on property located at 1309 Panorama Drive, being more particularly described herein.

Revised Lot 7, Block A of J. F. Bork's Mountain View Addition to East Brainerd, Plat Book 95, Page 99, ROHC, being the property described in Deed Book 9663, Page 919, ROHC. Tax Map No. 158F-G-004.

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

First Reading: _____
Second Reading: _____

2013-134
B & M Development
District No. 6
Staff Version

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO LIFT CONDITION NO. 1 FROM ORDINANCE NO. 12581 OF PREVIOUS CASE NO. 2012-015, ON PROPERTY LOCATED AT 1309 PANORAMA DRIVE, BEING MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS.

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 from Ordinance No. 12581 of previous Case No. 2012-015, on property located at 1309 Panorama Drive, being more particularly described herein.

Revised Lot 7, Block A of J. F. Bork's Mountain View Addition to East Brainerd, Plat Book 95, Page 99, ROHC, being the property described in Deed Book 9663, Page 919, ROHC. Tax Map No. 158F-G-004.

SECTION 2. BE IT FURTHER ORDAINED, That this Ordinance shall be subject to the following conditions:

1. Sit-down restaurants (as defined by the Chattanooga Zoning Ordinance) under 5,000 square feet are allowed and may operate between the hours of 7:00 am to 11:00 pm. Outdoor seating may be allowed in front of the building but shall not have any sound amplification system. All non-restaurant uses shall operate between the hours of 7:00 am and 9:00 pm;

2. No late night special event facilities or gasoline stations, oil change operation or similar use;
3. No pawn shops or tattoo parlors;
4. No liquor store;
5. The development shall have no more than two means of ingress/egress onto East Brainerd Road, one of which to be a right-in right-out only with an approved design as determined by the City Traffic Engineer to discourage left turn movement into or out of the development. No more than one ingress/egress shall be located onto Panorama Drive;
6. Panorama Drive shall be widened to three lanes from the entrance to this development off Panorama Drive and East Brainerd Road as indicated on the submitted site plan. In addition, a sidewalk shall be installed along the right-of-way frontage of Panorama Drive;
7. Grading shall be generally executed as shown on the conceptual grading plan as submitted to the Regional Planning Agency for case 2012-015;
8. One connecting driveway shall be allowed between the two buildings depicted on the site plan for case 2012-015 occurring between the two buildings and East Brainerd Road;
9. No dumpster service between 9:00 p.m. and 7:00 a.m.;
10. Heating and cooling mechanical equipment shall be ground mounted and it shall be screened from appearance as viewed from the residents along Panorama Drive;
11. The proposed neighborhood commercial center shall be a one story building, with a height not to exceed fifteen (15) feet (not including roof). Building shall retain similar architectural features as those presented to Planning Commission for case 2012-015;
12. The existing stone house, presently located at 7120 East Brainerd Road shall be retained and the exterior of the structure shall be essentially retained for the new use intended;

13. A 30-foot Type "A" City of Chattanooga standard landscape buffer shall be installed where this development abuts the property located at 1303 Panorama Drive. The remaining rear landscape buffer shall conform to the City of Chattanooga Type B landscape buffer to be located along the rear perimeter of this development or a portion of the adjoining lot of 1223 King Arthur Road;
14. Minimum four-foot high vinyl-coated, chain-link fence to be located about the perimeter of the detention pond located to the rear of the development;
15. Free-standing detached sign to front of East Brainerd Road only. No free-standing detached sign shall front Panorama Drive;
16. All signage, located on the building, for the individual tenants shall be of a similar look; and
17. Lighting shall be directed away from all of the residential areas.

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

2013-134 City of Chattanooga
November 11, 2013

RESOLUTION

WHEREAS, B & M Development 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 Request to Lift Condition #1 from Ordinance No. 12581 of Previous Case No. 2012-015 from property located at 1309 Panorama Drive.

Revised Lot 7, Block A of J. F. Bork's Mountain View Addition to East Brainerd, Plat Book 95, Page 99, ROHC, being the property described in Deed Book 9663, Page 919, ROHC. Tax Map 158F-G-004 as shown on the attached map.

AND WHEREAS, the Planning Commission held a public hearing on this petition on November 11, 2013,

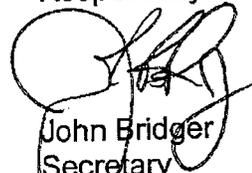
AND WHEREAS, the Planning Commission heard and considered all statements favoring the petition,

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 November 11, 2013, recommended to the Members of the City Council of the City of Chattanooga that this petition be denied.

Respectfully submitted,


John Bridger
Secretary

LIFT/AMEND CONDITIONS APPLICATION FORM

CASE NUMBER: 2013-134		Date Submitted: 09-18-2013	
(Sections 1-6 below to be filled out by Applicant- RPA staff will assist, if needed)			
1 Applicant Request			
Conditions	Description: To Lift Condition #1		
	Resolution/Ordinance Number: 12581		
	Previous Case Number: 2012-015		
2 Property Information			
Property Address:	1309 Panorama Drive		
Property Tax Map Number(s):	158F-G-004		
3 Proposed Development			
Reason for Request and/or Proposed Use:	To allow restaurants, not a bar. Have been approached by Tea Room and sandwich place/deli/coffee shop - some may want to be open until 10 or 11 P.M.		
4 Site Characteristics			
Current Zoning:	C-2		
Current Use:	Mixed Use Business/Mercantile		
Adjacent Uses:	Same		
5 Applicant Information			
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.			
Name: B & M Development		Address: 1271 Torbett Lane	
Check one:	<input checked="" type="checkbox"/> I am the property owner	<input type="checkbox"/> I am not the property owner	
City: Ooltewah	State: Tn.	Zip Code: 37363	Email: matthwlander@hwlcoexteriors.com
Phone 1: 423-593-6288	Phone 2: 423-443-6555	Phone 3:	Fax: 423-899-0612
6 Property Owner Information (if not applicant)			
Name:		Phone:	
Address:			
Office Use Only:			
Planning District: 10		Neighborhood: Audubon Neighborhood Association Friends of East Brainerd, Brainerd-East Brainerd Chamber	
Hamilton Co. Comm. District: 8		Chatt. Council District: 6	Other Municipality:
Staff Rec.	PC Action/Date:	Legislative Action/Date/Ordinance:	
Checklist			
<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"/>	Deeds
<input checked="" type="checkbox"/>	Plats, if applicable	<input checked="" type="checkbox"/>	Notice Signs
Deed Book(s): 9663-919		Number of Notice Signs: 1	
Plat Book/Page: 14-72		<input checked="" type="checkbox"/>	Check Number: 3260
<input checked="" type="checkbox"/>	Filing Fee: \$150.00	<input checked="" type="checkbox"/>	Cash
Planning Commission meeting date: 11-11-13		Application processed by: Trevor Slayton	

STAFF RECOMMENDATION (Rezoning, Special Permits & Mandatory Referrals)

Deny

Case Number:	2013-134	PC Meeting Date: 11-11-2013
STAFF RECOMMENDATION:	APPROVE , subject to the conditions listed under the "Staff Recommendation" section of the report below.	
Land Use & Transportation Comments		
Planning Staff:	<p><u>Applicant Request Overview</u> Applicant is requesting the lifting of a condition currently on the property to allow for a restaurant use with possible working hours beyond 9:00pm. Condition 1 of Ordinance 12581 currently states: "No restaurants and other businesses are to operate only between the hours of 7:00am to 9:00pm." Application requests to lift condition number 1 to permit a "tea room, sandwich place or deli/coffee shop."</p> <p><u>Site Description</u> The site is 3.03 acres fronting both Panorama Drive and East Brainerd Road. The site has a significant slope that has been terraced for an existing single linear building with build-out divisions for multiple tenants (common vernacular: strip center). The developed portion of the site sits more than 10 feet above both East Brainerd Road and the parcel adjacent to the west. The parcel adjacent to the south sits more than 10 feet higher than the development on the site. To the east is a 27.72 acre apartment complex on R-3 Residential zoning. This development sits on significantly higher elevation. To the north, across East Brainerd Road are R-1 residential and O-1 Office zoning. To the west is C-2 Convenience Commercial zoning with a residential development on 1.83 acres and sitting at a significantly lower elevation. To the south is R-1 Residential single family residences sitting on significantly higher elevation. Entrance to the site for vehicles is from East Brainerd Road and Panorama Drive. Exiting from the site is only available on Panorama Drive. Pedestrian sidewalk access is provided on both streets.</p> <p><u>Zoning History</u> In 2012 an application to rezone from R-1 Residential to C-2 Convenience Commercial was heard. Opposition by neighborhood members led to a meeting with the applicant who then submitted 16 conditions agreed upon by the applicant and neighborhood members. The approved C-2 Convenience Commercial zoning was granted by City Council along with 17 conditions. Condition 1 reads: "No restaurants and other businesses are to operate only between the hours of 7:00 a.m. to 9:00 p.m."</p>	

Deny

STAFF RECOMMENDATION (Rezoning, Special Permits & Mandatory Referrals)

According to City Council minutes, City Attorney McMahan explained that the condition prohibits restaurants then regulates the hours of operation for other retail uses to 7:00 a.m. and 9:00 p.m.

Plans/Policies

There is no adopted plan for this area. However, the Hamilton Place Community Plan (2001) provides recommendations for the East Brainerd Road Corridor to the North. The plan recommends properties develop as Low to Medium Density Residential across the street from the site.

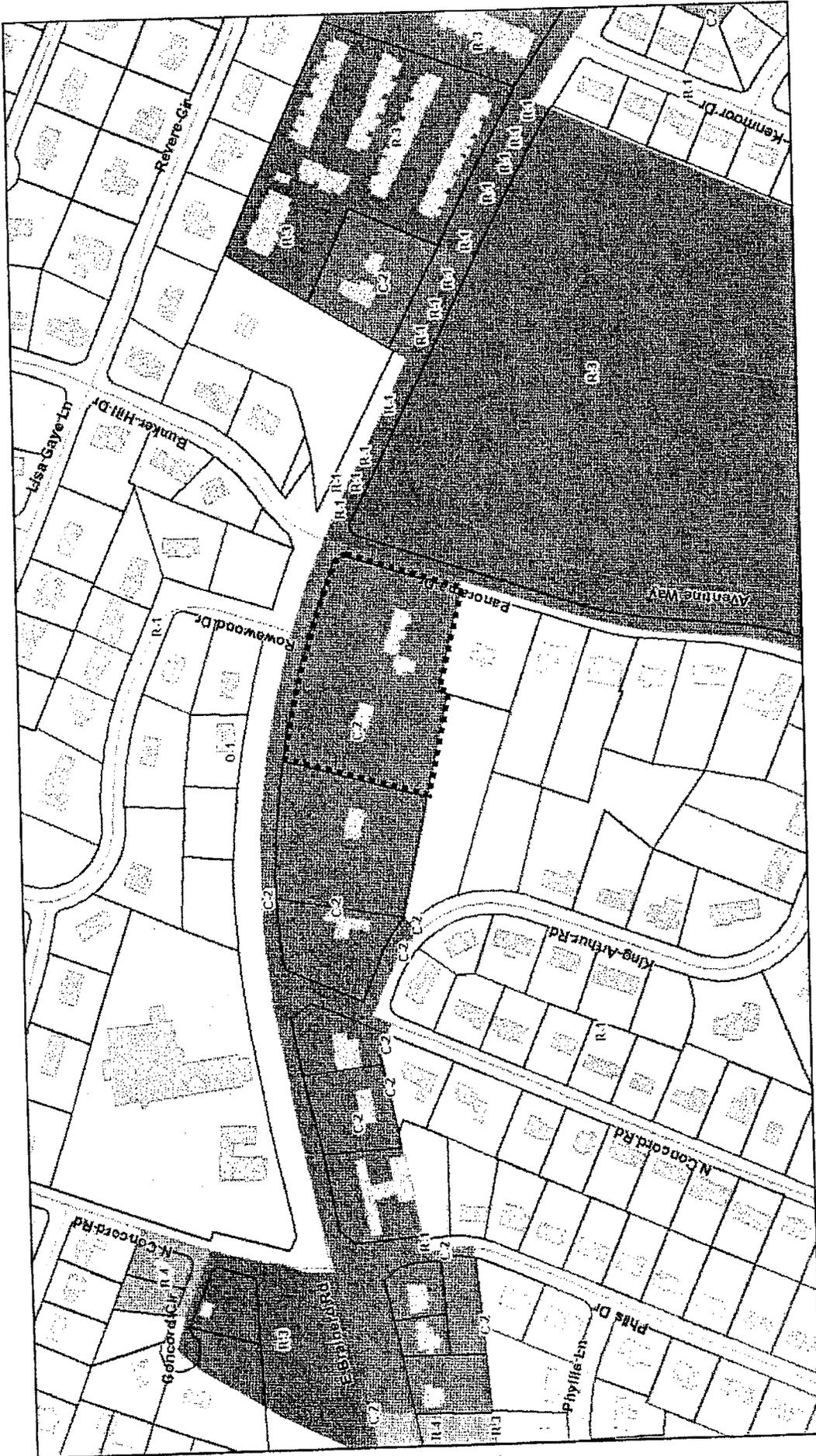
Staff Recommendation

Condition 1 was created out of a concern of noise and traffic. To allow for appropriate uses staff recommends to amend condition one. The other sixteen conditions will remain unchanged. The complete list of conditions, including the amended first condition, is listed below so that all conditions carry over to the new ordinance, if approved by the City Council:

1. **Sit-down restaurants (as defined by the Chattanooga Zoning Ordinance) under 5,000 square feet are allowed and may operate between the hours of 7:00 am to 11:00 pm. Outdoor seating may be allowed in front of the building but shall not have any sound amplification system. All non-restaurant uses shall operate between the hours of 7:00 am and 9:00 pm;**
2. No late night special event facilities or gasoline stations, oil change operation or similar use;
3. No pawn shops or tattoo parlors;
4. No liquor store;
5. The development shall have no more than two means of ingress/egress onto East Brainerd Road, one of which to be a right-in right-out only with an approved design as determined by the City Traffic Engineer to discourage left turn movement into or out of the development. No more than one ingress/egress shall be located onto Panorama Drive;
6. Panorama Drive shall be widened to three lanes from the entrance to this development off Panorama Drive and East Brainerd Road as indicated on the submitted site plan. In addition, a sidewalk shall be installed along the right-of-way frontage of Panorama Drive;
7. Grading shall be generally executed as shown on the conceptual grading plan as submitted to the Regional Planning Agency for case 2012-015;
8. One connecting driveway shall be allowed between the two buildings depicted on the site plan for case 2012-015 occurring between the two buildings and East Brainerd Road;
9. No dumpster service between 9:00 pm and 7:00 am;

STAFF RECOMMENDATION (Rezoning, Special Permits & Mandatory Referrals)

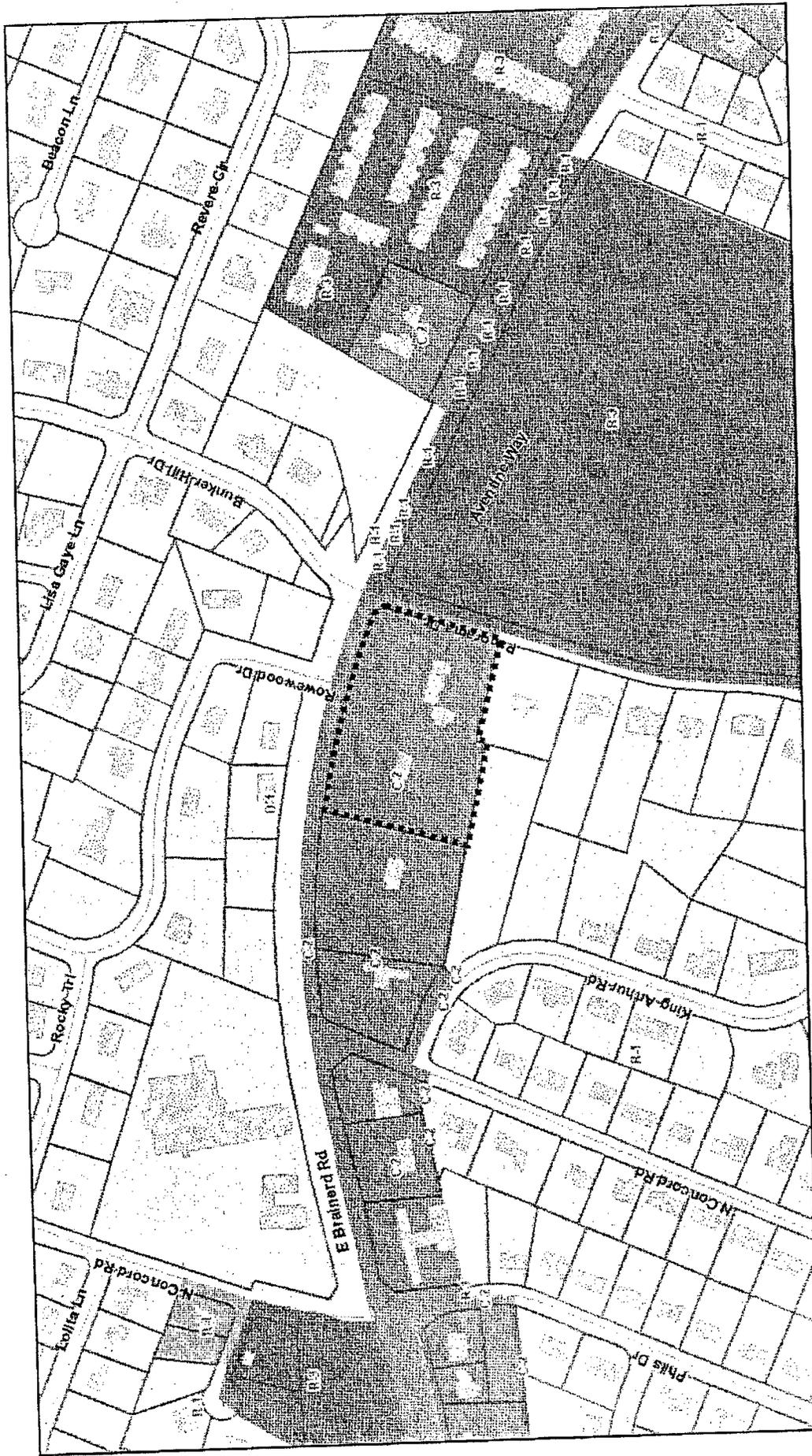
	<ol style="list-style-type: none">10. Heating and cooling mechanical equipment shall be ground mounted and it shall be screened from appearance as viewed from the residents along Panorama Drive;11. The proposed neighborhood commercial center shall be a one story building, with a height not to exceed 15 feet (not including roof). Building shall retain similar architectural features as those presented to Planning Commission for case 2012-015;12. The existing stone house, presently located at 7120 East Brainerd Road shall be retained and the exterior of the structure shall be essentially retained for the new use intended;13. A 30-foot Type "A" City of Chattanooga standard landscape buffer shall be installed where this development abuts the property located at 1303 Panorama Drive. The remaining rear landscape buffer shall conform to the City of Chattanooga Type B landscape buffer to be located along the rear perimeter of this development or a portion of the adjoining lot of 1223 King Arthur Road;14. Minimum four-foot high vinyl-coated, chain-link fence to be located about the perimeter of the detention pond located to the rear of the development;15. Free-standing detached sign to front of East Brainerd Road only. No free-standing detached sign shall front Panorama Drive;16. All signage, located on the building, for the individual tenants shall be of a similar look; and17. Lighting shall be directed away from all of the residential areas.
Infrastructure & Operational Comments	<p>All land development projects are reviewed by City Engineering & Water Quality staff, Traffic Engineering & 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> <p>Additional requirements, if needed, are indicated by department below either as comments or as conditions recommended to be attached to the final ordinance.</p>



2013-134 Lift Conditions



287 ft



2013-134 Lift Conditions

PLANNING COMMISSION RECOMMENDATION FOR CASE NO. 2013-134: Deny.



287 ft



We, the undersigned, support the Audubon Neighborhood Association in the efforts to prohibit lifting condition 1 of Ordinance 12581. Col signature

By lifting this condition it will give restaurants the opportunity to cause our neighborhood to endure the affect of increased traffic and bring less pleasurable people driving through the Audubon Neighborhood. The builder agreed to previous conditions and these conditions should not be changed for his benefit only.

The impact of lifting this condition on the Audubon Neighborhood will cause the neighbors to detach themselves from all of the hard work we have been doing to prevent crime. This decision should not be left up to the discretion of the builder, as this particular property resides within the boundaries of the Audubon Neighborhood Association.

Name Address email/phone

1. CSS 1109 Panorama 499-0896
2. Betty B Johnson 1113 Panorama Dr 892-5310
3. Roy V. COOPER Jr 1217 PANORAMA DR 305-0737
ROY.COOPER@YAH
- ⑦ 4. Steve & Brenda Claudus 1221 Panorama Dr. 37421
5. Virginia Wiehert 1225 Panorama Dr. 37421-892-0563
LASUAREZ1@Gmail.com
6. Luis SUAREZ 1211 PANORAMA Dr. 37421 855-4149
7. Harold Tallant 1202 King Arthur Rd. 508-8283
8. Qutha Conner 1216 King Arthur Rd 893-0775

.NAME

ADDRESS

EMAIL/PHONE

- ①
9. Ruth + Erik Kvaren 1114 Panorama Dr. 892-2496
10. FRED BOSNUNGER 1103 PANORAMA 645-6782
11. SANDRA BUTLER 1111 PANORAMA 605 4685
- ②
12. TINA & PAUL Pelletier 1303 PANORAMA DR 510-0535
13. Inez P. O'Rear 1110 Panorama Dr 892-3079
14. Janette Bukett 1115 Panorama Dr. 37421
15. Jean McKenney 1211 King Arthur Rd 37421
16. Annette Craig 1331 N Concord Rd annettecraig@bellsouth.net
17. Cindy Glasgow 1304 N. CONCORD R cindy@theglasgownsa
- 18.
- 19.
- 20.
- 21.
- 22.

We, the undersigned, support the Audubon Neighborhood Association in the efforts to prohibit lifting condition 1 of Ordinance 12581.

By lifting this condition it will give restaurants the opportunity to cause our neighborhood to endure the affect of increased traffic and bring less pleasurable people driving through the Audubon Neighborhood. The builder agreed to previous conditions and these conditions should not be changed for his benefit only.

The impact of lifting this condition on the Audubon Neighborhood will cause the neighbors to detach themselves from all of the hard work we have been doing to prevent crime. This decision should not be left up to the discretion of the builder, as this particular property resides within the boundaries of the Audubon Neighborhood Association.

<u>Name</u>	<u>Address</u>	<u>email/phone</u>
1. Jim Ingersoll	1001 Wren Cir Chatt. TN 37421	
2. Mary K. Cullen	1213 Durham Dr Chattervoosa TN 37421	
3. Brian Boynton	1306 Phyllis Ln Chatt 37421	
4. Regina Partap	1229 Radmar Dr Chatt 37421	653-7343
5. Ka Wjo	1225 Durham Dr. Chatt TN	37421
6. Kim Barton	161 Durham Dr	316-0590 Chatt TN 37421
7. Barbara Skelley	1237 N. Concord Rd.	Chatt TN 37421
8. Joel Dumbell	1219 Durham DR	37421 423-355-7647

9. Verma Dawson - 1160 Ridgeway Dr 37421
KNVRDA@aol.com
10. Barbara R. Reeves 1205 N. Concord Rd 892-5969
11. Bob E. Reeves 1205 N. Concord Rd. 37421
12. Brenda Latham 1105 Elaine Dr. 37421
13. Anita L. Kerns 1103 Elaine Trail 37421
- 14.
- 15.
- 16.
- 17.
- 18.
- 19.
- 20.
- 21.
- 22.

We, the undersigned, support the Audubon Neighborhood Association in the efforts to prohibit lifting condition 1 of Ordinance 12581.

By lifting this condition it will give restaurants the opportunity to cause our neighborhood to endure the affect of increased traffic and bring less pleasurable people driving through the Audubon Neighborhood. The builder agreed to previous conditions and these conditions should not be changed for his benefit only.

The impact of lifting this condition on the Audubon Neighborhood will cause the neighbors to detach themselves from all of the hard work we have been doing to prevent crime. This decision should not be left up to the discretion of the builder, as this particular property resides within the boundaries of the Audubon Neighborhood Association.

<u>Name</u>	<u>Address</u>	<u>email/phone</u>
1. Bill & Vicky Smith	7201 SYLVIA TR	WM51043@COMCAST.net
2. MINI THOMAS	7313 KENWOOD TR	423-894-0240
3. Sherita Blenset	7304 Kenwood Dr	894-4997
4. Mary Adam	7302 Kenwood Dr	602-7704
5. MARVIN LAWZAR	7305 KENWOOD DR.	423-838-3768
6. Stanley Dallas	7309 KENWOOD DR	423-4860-1412
7. With Hines	7319 KENWOOD	423-8554261
8. Thom Ansari	7321 Kenwood	423 894 8695

9. Jo Everton 7314 Kenmoor Ter. 356-6743
10. ~~Alan Ray~~ 7314 Kenmoor Ter. 37421
11. Jeanette Spallone 7312 Kenmoor Terrace
619-1095
899-6797
12. Bob Hays 7312 Kenmoor Dr. 488-2404
13. Sam Nino 7314 Kenmoor Dr. 423-9917353
14. Annie Miller 7315 Kenmoor Dr. 423-305-1401
15. Jason Lee 7315 Kenmoor Dr. 423-653-0866
16. Joe Hobbs 7312 KENMOOR LA
17. John Cupp 7318 Kenmoor Lane 423-892-4661
18. Kenneth Palmer 7320 Kenmoor Ln 892-7800
19. Virginia Pierce 7320 Kenmoor Ln 892-9800
20. John Morrison 7319 Kenmoor Ln 855 3911
21. BreAnn Reinbold 7313 Kenmoor Dr. 423 298-6077
22. Amy Andfield 7317 Kenmoor Dr. 423 208 2347

We, the undersigned, support the Audubon Neighborhood Association in the efforts to prohibit lifting condition 1 of Ordinance 12581.

By lifting this condition it will give restaurants the opportunity to cause our neighborhood to endure the affect of increased traffic and bring less pleasurable people driving through the Audubon Neighborhood. The builder agreed to previous conditions and these conditions should not be changed for his benefit only.

The impact of lifting this condition on the Audubon Neighborhood will cause the neighbors to detach themselves from all of the hard work we have been doing to prevent crime. This decision should not be left up to the discretion of the builder, as this particular property resides within the boundaries of the Audubon Neighborhood Association.

<u>Name</u>	<u>Address</u>	<u>email/phone</u>
1. Cher Fletcher	1101 Panorama Dr.	855-5017
2. Gary Fletcher	Same	
3. Thelma Henley	7321 Elaine Cir.	
4. Martha Cartwright	7319 Elaine Cir.	
5. Leland J. Jew	1218 King Arthur Rd.	⁴²³ 65 892-6623
6. Buford O. Jew	1218 King Arthur Rd.	423-892-662
7. Roy Pitzer	1219 King Arthur	⁴²³ 892-861
8. Rhoda J. Pass	1224 King Arthur Road	423-892-1859

NAME

ADDRESS

EMAIL/PHONE

9. Caron Shelton

7309 Elaine Cir.

CE537421@AOL.com

10.

11.

12.

13.

14.

15.

16.

17.

18.

19.

20.

21.

22.

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:

2013-146 John Anderson/James P. Little. 1418 O'Grady Drive, from R-1 Residential Zone to R-3 Residential Zone, subject to certain conditions.

2013-148 Thomas Palmer/Dan Rose. 1512 Market Street and 5 East 16th Street, from M-1 Manufacturing Zone to C-3 Central Business Zone, subject to certain conditions.

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

2013-149 Joseph Ingram/Leslie C. Fox. 1000 Block of Dallas Road for a Residential Planned Unit Development.

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

2013-134 B & M Development. 1309 Panorama Drive, to lift condition #1 from Ordinance No. 12581 of previous Case No. 2012-015.

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 10, 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