

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

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

AN ORDINANCE GRANTING UNTO PUBLIX TENNESSEE, LLC, C/O JOHN W. WILCOX, III, A FRANCHISE TO INSTALL RETAINING WALL TIEBACKS FOR THE AREA LOCATED WITHIN THE 400 BLOCK OF HAMILTON AVENUE, THE 300 AND 400 BLOCKS OF WOODLAND AVENUE, AND THE UNIT BLOCK OF EAST KENT STREET BORDERING ON THE EAST SIDE OF, AND PART OF THE SOUTH SIDE OF TAX MAP NO. 135D-C-014, AS SHOWN ON THE PHOTO AND DRAWING ATTACHED HERETO AND MADE A PART HEREOF REFERENCED IN MR-2013-160, SUBJECT TO CERTAIN CONDITIONS.

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SECTION 1. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That there be and is hereby granted unto Publix Tennessee, LLC (hereinafter “Grantee”), c/o John W. Wilcox, III, a franchise to install retaining wall tiebacks for the area located within the 400 block of Hamilton Avenue, the 300 and 400 blocks of Woodland Avenue, and the unit block of East Kent Street bordering on the East side of, and part of the South side of Tax Map No. 135D-C-014, as shown on the photo and drawing attached hereto and made a part hereof referenced in MR-2013-160.

SECTION 2. BE IT FURTHER ORDAINED, That this franchise is granted upon the conditions as set forth below:

1. All underground City utilities must maintain their respective easements;
2. Tennessee-American Water Company, Chattanooga Gas Company, AT&T, EPB, and Comcast to retain their respective easements;
3. Grantee will comply with all applicable City ordinances and state laws;

4. Grantee will comply with any special requirements by City Engineer or Chattanooga Department of Transportation with respect to the specific locations of retaining wall tieback anchors;

5. Engineering Design for the tieback anchors will be prepared by a competent geotechnical engineering group, and installation will be performed by a competent licensed contractor;

6. Construction and placement of the tieback anchors will have no adverse effect on any adjacent properties on public right-of-way;

7. Grantee will assume full and complete responsibility for maintenance of the tieback anchors and permanently maintain them in a safe condition;

8. City of Chattanooga will suffer no cost of any kind as a result of granting this franchise;

9. Grantee will defend, indemnify, and hold harmless the City of Chattanooga, Tennessee, its officers, employees, successors, and assigns from any and all actions or claims for damages arising out of or related to the installation or maintenance of the tieback anchors; and

10. Grantee provides for approval of evidence of insurance to further indemnify the City against losses whatever kind and nature during construction and as a result of the tiebacks being constructed and placed in the right-of-way.

SECTION 3. BE IT FURTHER ORDAINED, That the term of this franchise shall be for a period of forty (40) years.

SECTION 4. BE IT FURTHER ORDAINED, That this ordinance shall not be operative, as distinguished from its effectiveness, unless and until the franchise herein granted is accepted by the Grantee by due execution of the acceptance attached hereto.

SECTION 5. 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

ACCEPTANCE

The foregoing franchise and its terms and conditions are hereby accepted.

This the \_\_\_\_ day of \_\_\_\_\_, 2014.

PUBLIX TENNESSEE, LLC

BY: \_\_\_\_\_  
John W. Wilcox, III

WITNESS:

\_\_\_\_\_



# Memorandum

**To:** Bill Payne

**From:** Ed Bowen

**cc:** Dennis Malone

**Date:** January 21, 2014

**Re:** Publix Tennessee, LLC  
c/o John W. Wilcox, III  
Case No. 2013-160  
400 Block of Hamilton Avenue, the 300 and 400 Blocks of Woodland Avenue, and the Unit Block of East Kent Street  
Recommendations for Franchise Agreement

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I have completed the review of Mr. Wilcox's request for a franchise agreement within the 400 block of Hamilton Avenue, the 300 and 400 blocks of Woodland Avenue, and the Unit Block of East Kent Street and bordering on the east side of, and part of the south side of, Tax Map 135D-C-014 as shown on the attached photo and drawing.

My comments are as follows:

1. The applicant wants to install retaining wall tieback anchors for development of Publix Tennessee, LLC (approximately 220' on Hamilton Avenue, 420' on Woodland Avenue, and 120' on East Kent Street).
2. The city of Chattanooga has drainage and access infrastructure in the subject portion of the easements.
3. The Planning Commission recommended approval.

Therefore, I recommend the following: The request for a franchise agreement of said portions of rights-of-way is approved with the following conditions:

- Section 1. Be it ordained by the City Council of the city of Chattanooga, Tennessee, that there be and is hereby granted unto Publix Tennessee, LLC (herein after "Grantee") a franchise to construct and maintain retaining wall tieback anchors as shown on the map attached hereto and made a part hereof by reference, in the city of Chattanooga.
- Section 2. Be it further ordained, that this franchise is granted subject to the following terms and conditions:

1. All underground city utilities must maintain their respective easements;
  2. Tennessee American Water Company, Chattanooga Gas Company, AT&T, EPB, and Comcast to retain their respective easements;
  3. That Grantee will comply with all applicable city ordinances and state laws;
  4. That Grantee will comply with any special requirements by the City Engineer or Chattanooga Department of Transportation with respect to the specific locations of retaining wall tieback anchors;
  5. That engineering design for the tieback anchors be prepared by a competent geotechnical engineering group, and installation will be performed by a competent licensed contractor;
  6. That construction and placement of the tieback anchors will have no adverse effect on any adjacent properties on public right-of-way;
  7. That Grantee will assume full and complete responsibility for maintenance of the tieback anchors and permanently maintain them in a safe condition;
  8. That the city of Chattanooga will suffer no cost of any kind as a result of granting this franchise;
  9. That Grantee will defend, indemnify, and hold harmless the city of Chattanooga, Tennessee, its officers, employees, successors, and assigns from any and all actions or claims for damages arising out of or related to the installation or maintenance of the tieback anchors; and
  10. That Grantee provide for approval evidence of insurance to further indemnify the city against losses whatever kind and nature during construction and as a result of the tiebacks being constructed and placed in the right-of-way.
- Section 3. Be it further ordained, that the term of this franchise shall be for a period of (40) years.
  - Section 4. Be it further ordained, that this ordinance shall not be operative, as distinguished from its effectiveness, unless and until the franchise herein granted is accepted by the Grantee by due execution of the acceptance attached hereto.
  - Section 5. Be it further ordained, that this ordinance shall take effect two weeks from and after its passage.





WO# 124601

# CLOSURE/ABANDONMENT APPLICATION FORM

<b>CASE NUMBER: MR 2013-160</b>		<b>Date Submitted: 11-12-2013</b>	
(Sections 1-6 below to be filled out by Applicant- RPA staff will assist, if needed)			
<b>1 Applicant Request</b> (Mandatory Referral per TCA 13-4-104)			
Closure/Abandonment	<input type="checkbox"/> Alley	<input type="checkbox"/> Street	<input type="checkbox"/> Sewer
			<input checked="" type="checkbox"/> Other: Franchise Agreement
Name of Street or Right-Of-Way:			
	<input type="checkbox"/> Open	<input type="checkbox"/> Unopened	Length/Width:
Beginning:			
Ending:			
<b>2 Property Information</b>			
Property Address:	400 Block of Hamilton Avenue, the 300 and 400 block of Woodland Avenue, and the Unit Block of East Kent Street		
Property Tax Map Number(s):			
<b>3 Proposed Development</b>			
Reason for Request and/or Proposed Use:	Retaining wall tieback anchors for development of Publix (approximately 220' on Hamilton Avenue, 420' on Woodland Avenue, and 120' on East Kent)		
<b>4 Site Characteristics</b>			
Current Zoning:	C-7		
Current Use:	R.O.W.		
Adjacent Uses:			
<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.			
Name: City of Chattanooga Engineering, William C. Payne		Address: 1250 Market Street, Suite 2100	
Check one:	<input checked="" type="checkbox"/> I am the property owner	<input type="checkbox"/> I am not the property owner	
City: Chattanooga	State: Tn.	Zip Code: 37402	Email: payne_bill@chattanooga.gov
Phone 1: 423-643-6160	Phone 2:	Phone 3:	Fax: 423-643-6008
<b>6 Property Owner Information (if not applicant)</b>			
Name:		Phone:	
Address:			
<b>Office Use Only:</b>			
Planning District: 8b		Neighborhood: Hill City, North shore Neighborhood, North Shore Merchant Collective	
Hamilton Co. Comm. District: 6	Chatt. Council District: 2	Other Municipality:	
Staff Rec:	PC Action/Date:	Legislative Action/Date/Ordinance:	
<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	Total Acres to be considered:	<input checked="" type="checkbox"/> Deeds	<input checked="" type="checkbox"/> Plats, if applicable
Deed Book(s): 9856-212			
Plat Book/Page: 5-11		Notice Signs	Number of Notice Signs:
Filing Fee:	Cash	Check	Check Number:
Planning Commission meeting date: 12-9-13		Application processed by: Trevor Slayton	



REGIONAL PLANNING AGENCY  
DEVELOPMENT RESOURCE CENTER  
DEVELOPMENT SERVICES 1250 MARKET ST.  
Chattanooga, Tennessee 37402  
423-668-2287

Dear Property Owner:

This notice is sent to you as a courtesy to inform you that an application has been made for a change in your neighborhood. A description of the proposed change is included below.

This notice does not require action on your part, nor is it a summons. However, if you wish to support or oppose the proposed change, you may want to attend a public hearing to be held by the Chattanooga-Hamilton County Regional Planning Commission.

The hearing will take place at **1:00 p.m. In County Commission Room, Hamilton County Court House, 4<sup>th</sup> Floor, 625 Georgia Avenue, Chattanooga, Tennessee.**

The Planning Commission recommendation will be sent to the local government having jurisdiction, for their action.

**Schedules of when cases will be heard by local governments (if not deferred at Planning Commission)**

**City of Chattanooga: Second Tuesday of the following month, 6:00 p.m. (closures will be placed on agenda by the City Engineers Office)**

**Hamilton County: Third Wednesday of the following month, 9:30 a.m.**

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**DATE OF PUBLIC HEARING: December 9<sup>th</sup>, 2013**

**TIME: 1:00 PM**

**LOCATION: County Commission Room, 4<sup>th</sup> Floor  
Hamilton County Court House  
625 Georgia Avenue  
Chattanooga, Tennessee 37402**

**CASE NO. MR 2013-160**

**JURISDICTION: Chattanooga**

**APPLICANT: City of Chattanooga/William Payne**

**TYPE OF CHANGE: Franchise Agreement for a Retaining Wall tieback anchors for development of Publix (approximately 220' on Hamilton Ave, 420' on Woodland Ave, & 120' on East Kent)**

**LOCATION: 400 blk of Hamilton Avenue, 300 & 400 blocks of Woodland & the unit Blk of Kent Street**



**CITY OF CHATTANOOGA**  
**PUBLIC WORKS DEPARTMENT**  
**UNIFIED WORK ORDER**

Project/Funding:

Work Order Number: \*



\* 1 2 4 5 0 1 \*

**Address: 400 BLOCK OF HAMILTON AVENUE, THE 300 AND 400 BLOCK OF WOODLAND AVENUE,  
 AND THE UNIT BLOCK OF EAST KENT STREET**  
 Tax Map/Grid: 145L

Required Work Type: ENG - RPA Cases		Category: ADMIN		Date Needed: 12/13/2013	
WO Initiated: 12/3/2013 4:01:36 PM	Initiated By: KING, CAROL A	Requested By: BOWEN, EDWARD L	Priority: 3	District: 8	Transferred To/Submitted to: BOWEN, EDWARD L - 12/3/2013 4:01:51 PM
					Status: UNFINV

Instructions:

Comments: By KING, CAROL A: 12/3/2013 4:07:20 PM  
 Retaining wall tieback anchors for development of Publix (approximately 220' on Hamilton Avenue, 420' on Woodland Avenue, and 120' on East Kent)

Date Completed: Supervisor: WO Closed :

Associated Service Request(s), If Any:

SR#	Date/Time Init.	Priority	Description	Customer Work Phone	Customer Home Phone	Problem Address	Customer Zip
				William Payne (423) 643-6190			37402

Work Comments/Results:

MR-2013-160 City of Chattanooga  
December 9, 2013

RESOLUTION

WHEREAS, City of Chattanooga Engineering/Bill Payne petitioned the Chattanooga-Hamilton County Regional Planning Commission to recommend to the Members of the City Council of the City of Chattanooga to grant approval of a Mandatory Referral pursuant to T.C.A. 13-4-104 for Franchise Agreement for area located within the 400 Block of Hamilton Avenue, the 300 and 400 Block of Woodland Avenue, and the Unit Block of East Kent Street.

A franchise agreement within the 400 Block of Hamilton Avenue, the 300 and 400 Block of Woodland Avenue, and the Unit Block of East Kent Street and bordering on the east side and part of the south side of Tax Map 135D-C-014.

AND WHEREAS, the Planning Commission held a public hearing on this petition on December 9, 2013,

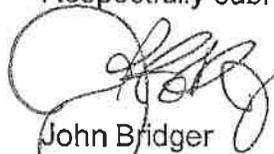
AND WHEREAS, the Planning Commission heard and considered all statements favoring the petition,

AND WHEREAS, no one was present in opposition 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 December 9, 2013, recommended to the Members of the City Council of the City of Chattanooga that this petition for a Mandatory Referral to grant a Franchise Easement for Retaining Wall Tieback Anchors for Development of Publix, be approved.

Respectfully submitted,

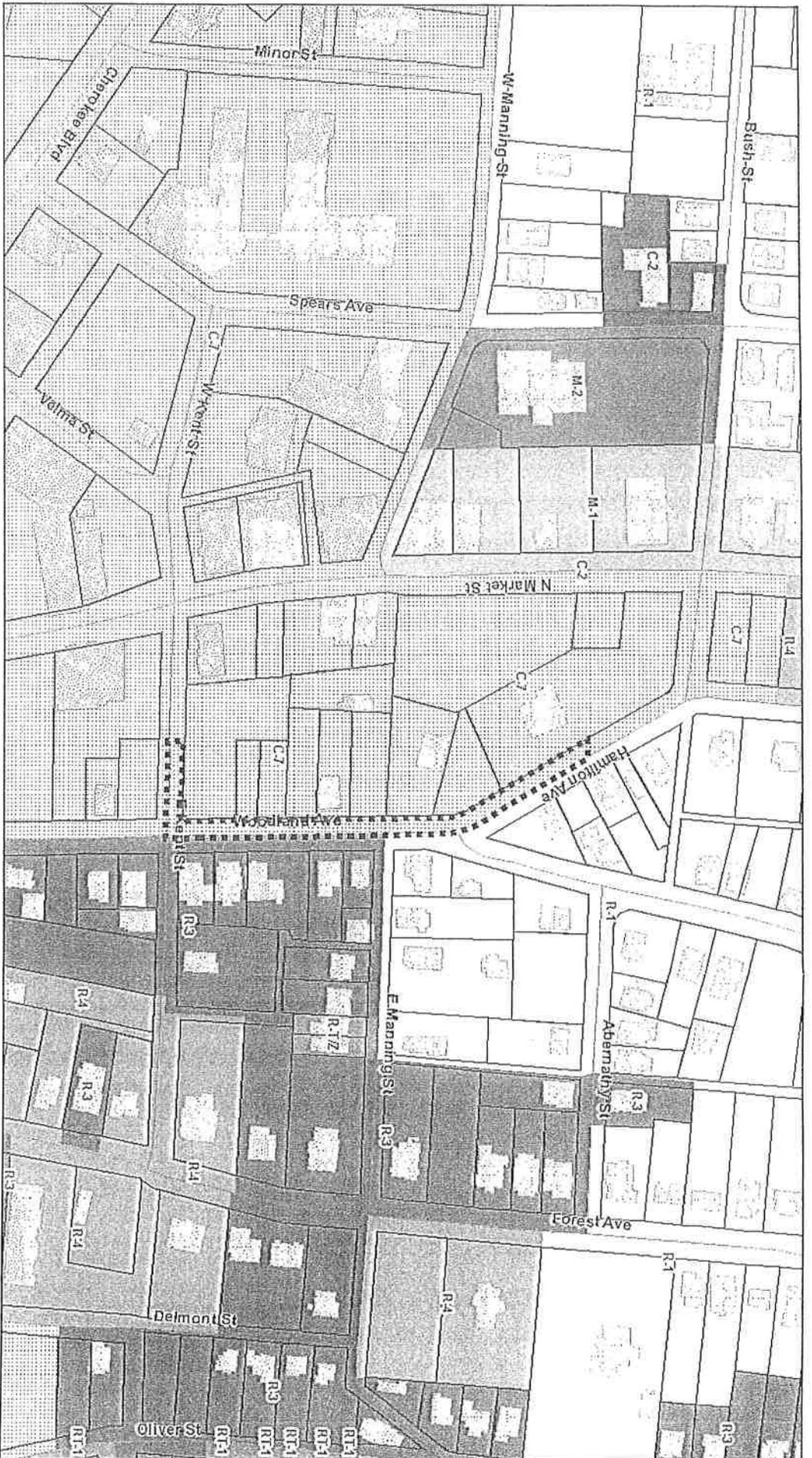


John Bridger  
Secretary

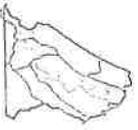
## RPA STAFF RECOMMENDATION

<b>Case Number:</b>	<b>2013-160</b>	<b>PC Meeting Date: 12-09-2013</b>
<b>STAFF RECOMMENDATION:</b>	<b>APPROVE</b>	
<b>Land Use &amp; Transportation Comments</b>		
<b>Planning Staff:</b>	<p><u><b>Applicant Request Overview</b></u>                      The City of Chattanooga is requesting to enter into a franchise agreement with Publix Tennessee LCC for the installation, repair, and maintenance of retaining wall tieback anchors under a portion of the rights-of-way of Hamilton Avenue, Woodland Avenue, and East Kent Street for the development of Publix on North Market Street.</p> <p><u><b>Site Description</b></u>                      The site is currently zoned C-7 North Shore Commercial/Mixed-Use Zone. The site is currently used as right-of-way.</p> <p><u><b>Staff Recommendation</b></u>                      The Regional Planning Agency is recommending approval of the franchise agreement. Installation of the retaining wall tieback anchors under portions of Hamilton Avenue, Woodland Avenue, and East Kent Street will only temporarily impact their use as rights-of-way, if at all.</p>	
<b>Infrastructure &amp; Operational Comments</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> <p>Additional requirements, if needed, are indicated by the appropriate department below.</p>	
<b>Public Works Staff:</b>	<p>The City Engineer confirmed that the installation of retaining wall tieback anchors under portions of Hamilton Avenue, Woodland Avenue, and East Kent Street will only temporarily impact their use as rights-of-way, if at all.</p>	





**MR 2013-160 Franchise Agreement**



Chattanooga Hamilton County Regional Planning Agency

207 ft



City of Chattanooga/Engineering  
400 Blk Hamilton Ave, 300-400 Blk Woodland Ave  
Case: MR 2013-160

