2013-127
Clara Edwards/Tommye Montgomery
District No. 9

RESOLUTION NO. _____

A RESOLUTION APPROVING A SPECIAL EXCEPTIONS PERMIT FOR A RESIDENTIAL HOME FOR HANDICAPPED AND/OR AGED PERSONS OPERATED ON A COMMERCIAL BASIS ON PROPERTY LOCATED AT 1503 TAYLOR STREET.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That there be and is hereby granted a Special Exceptions Permit for a Residential Home for Handicapped and/or Aged Persons operated on a commercial basis on property located at 1503 Taylor Street, more particularly described in the attached maps:

Lot 2, Block 10, Arlington Heights Addition to Chattanooga, Plat Book 5, Page 21, ROHC, being the property described in Deed Book 9522, Page 306, ROHC. Tax Map No. 136M-H-012.

ADOPTED: _____, 2013

/mms

2013-127 City of Chattanooga
October 14, 2013

RESOLUTION

WHEREAS, Clara Edwards/Tommye Montgomery 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 Handicapped and/or Aged Persons Operated on a Commercial Basis on property located at 1503 Taylor Street.

Lot 2, Block 10, Arlington Heights Addition to Chattanooga, Plat Book 5, Page 21, ROHC, being the property described in Deed Book 9522, Page 306, ROHC. Tax Map 136M-H-012 as shown on the attached map.

AND WHEREAS, the Planning Commission held a public hearing on this petition on October 14, 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 October 14, 2013, recommended to the Members of the City Council of the City of Chattanooga that this petition be approved.

Respectfully submitted,

John Bridger
Secretary

Chattanooga-Hamilton County Regional Planning Agency

SPECIAL PERMIT APPLICATION FORM

CASE NUMBER: 2013-127	Date Submitted: 09-10-2013
(Sections 1-6 below to be filled out by Applicant- RPA staff will assist, if needed)	
1 Applicant Request	
Special Permit	**Type: Residential Home for handicapped and/or aged persons**
2 Property Information	
Property Address:	1503 Taylor Street
Property Tax Map Number(s):	136M-H-012
3 Proposed Development	
Reason for Request and/or Proposed Use:	To open a residential/group home for mentally handicapped and/or aged persons
4 Site Characteristics	
Current Zoning:	R-1
Current Use:	R-1
Adjacent Uses:	R-1 and C-2

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: Clara Edwards		Address: 6110 Shallowford Road, Suite 130	
Check one:	I am the property owner	X	I am **not** the property owner
City: Chattanooga	State: TN.	Zip Code: 37421	Email: eclara58@yahoo.com
Phone 1: 423-255-3325	Phone 2:	Phone 3:	Fax:

6 Property Owner Information (if not applicant)

Name: Tommye Montgomery	Phone: 423-635-6344
Address: 2401 Ocoee Street, Chattanooga, TN. 37406	

Office Use Only:

Planning District: 8b		Neighborhood: Avondale Neighborhood Association	
Hamilton Co. Comm. District: 4	Chatt. Council District: 9	Other Municipality:	
Staff Rec:	PC Action/Date:	Legislative Action/Date/Ordinance:	
Checklist			
X Application Complete	X Ownership Verification	X Map of Proposed Zoning Area with dimensions	
X Site Plan, if required	Total Acres to be considered:	X Deeds	X Plats, if applicable
Deed Book(s): 9522-0306			
Plat Book/Page: 5-21		X Notice Signs	Number of Notice Signs: 1
X Filing Fee: $250.00	X Cash	Check	Check Number:
Planning Commission meeting date: October 14, 2013		Application processed by: Trevor Slayton	

Planning Commission Recommendation:
Approve Staff Recommendation

Chattanooga-Hamilton County Regional Planning Agency

STAFF RECOMMENDATION (Special Permit)

Case Number:	2013-127	PC Meeting Date: 10-14-2013
STAFF RECOMMENDATION:	**APPROVE**	
Land Use & Transportation Comments		
Planning Staff:	**Applicant Request Overview** The applicant is requesting a Special Exceptions Permit for a residential home for the handicapped and/or aged persons on a Commercial basis. **Site Description** This parcel is 6,750 square feet in size with a single-family dwelling and is located in the Avondale Neighborhood. This area is primarily a commercial focus area surrounded by a single-family residential neighborhood. The commercial focus area is located around the intersection of Dodson Avenue and Wilcox Boulevard. The subject property and surrounding properties are zoned R-1 Residential and C-2 Convenience Commercial with a variety of uses including religious institutions, commercial service shops, a restaurant, a community recreation center and single-family residential dwellings. **Zoning History** The property is presently zoned R-1 Residential. In 2004, this and other properties in the Avondale neighborhood were rezoned from R-2 Residential Zone and R-3 Residential Zone to R-1 Residential Zone (Ordinance 11622.) **Plans/Policies** The 2004 Avondale Neighborhood Plan recommends low density residential for this property with the option of commercial service uses and multi-family dwellings close to the main commercial focus area. **Staff Recommendation** Staff recommends approval 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, a Special Exceptions Permit must be obtained from the Chattanooga City Council prior to initiating a group home on a commercial basis.

Group residential homes such as these can be difficult to incorporate into single-family residential communities. This property is located on a low activity, dead end road near the commercial area at Dodson Avenue and Wilcox Boulevard. This parcel is less than one block from CARTA's Route 45 bus line, next to a church, and near the community's recreation center. This proposed location is in keeping with good land use policy to introduce group home operations close to neighborhood services in commercial areas.

The applicant has indicated he/she will pursue an informal shared parking agreement with the adjacent church, which is recommended for visitor parking.

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.*

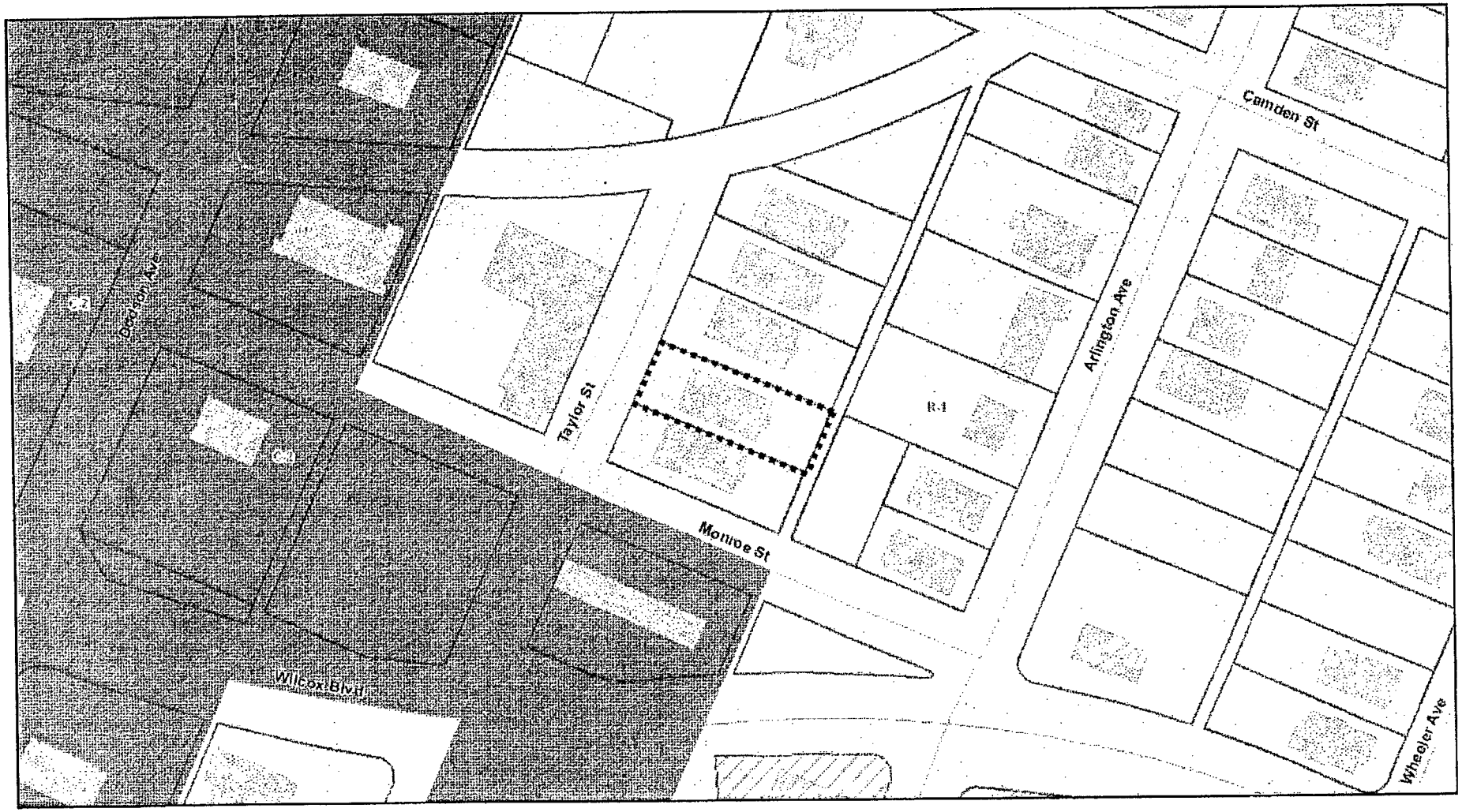
T.C.A. 13-24-102. Homes in which mentally retarded, mentally handicapped or physically handicapped persons reside classified as single family residence.

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

T.C.A. 13-24-103. Precedence over other laws.

This part takes precedence over any provision in any zoning law or

	ordinance in Tennessee to the contrary. **T.C.A. 13-24-104. Inapplicability to commercial residences for handicapped persons.** *This part does not apply to such family residences wherein handicapped persons reside when such residences are operated on a commercial basis.*
Infrastructure & Operational Comments	
	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. Additional requirements, if needed, are indicated by department below either as comments or as conditions recommended to be attached to the final ordinance.



2013-127 Special Exceptions Permit for a Group Home for the Mentally Handicapped and/or Aged

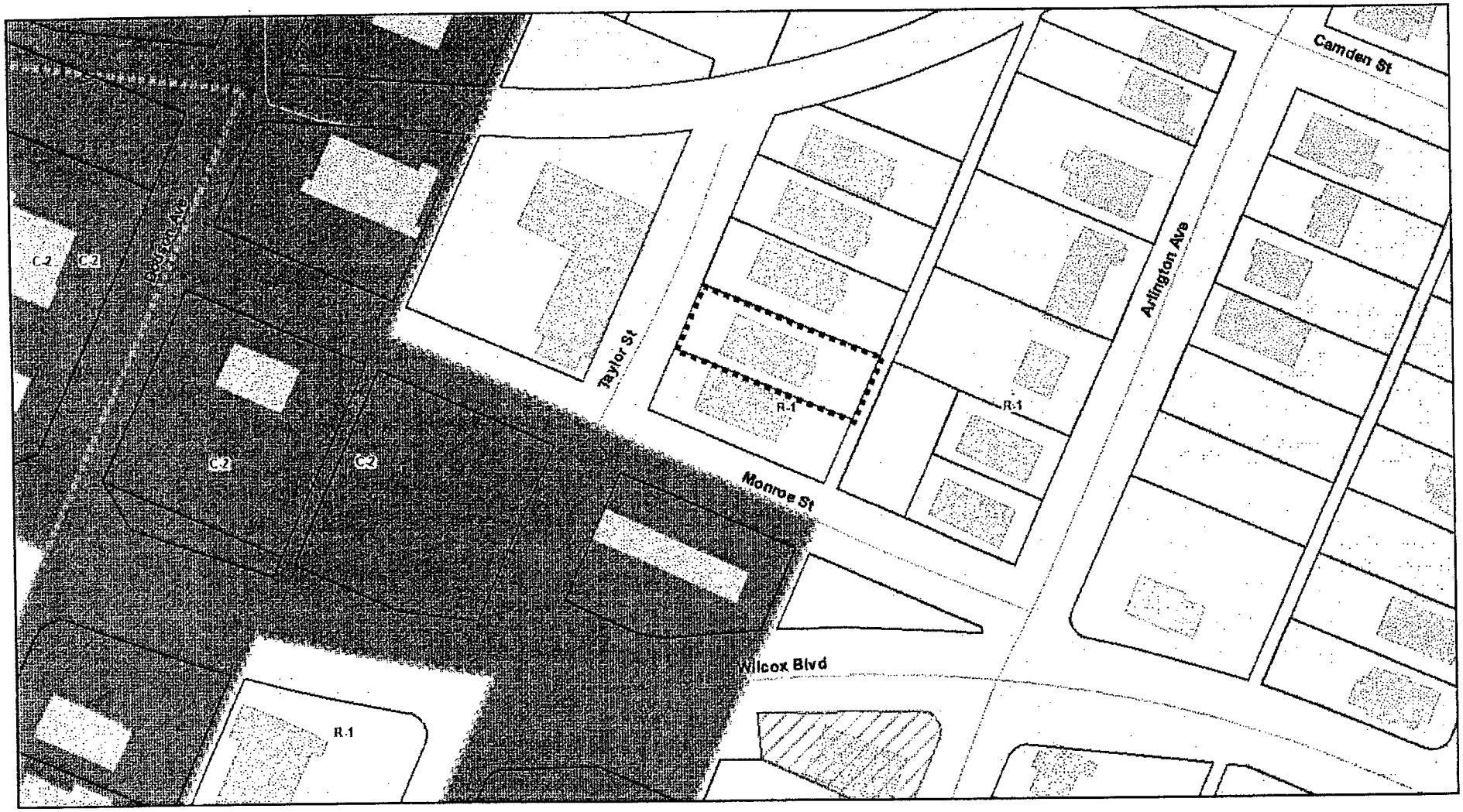
PLANNING COMMISSION RECOMMENDATION FOR CASE NO. 2013-127: Approve.

North

100 ft

Chattanooga Hamilton County Regional Planning Agency

Chattanooga-Hamilton County RPA Regional Planning Agency



2013-127 Special Exceptions Permit for a Group Home for the Mentally Handicapped and/or Aged

North

97 ft

Chattanooga Hamilton County Regional Planning Agency

Chattanooga-Hamilton County RPA Regional Planning Agency

NOTICE

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

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

   2013-119 Jack Edwards. 7630 Bonnie Drive, from R-1 Residential Zone to R-2 Residential Zone, subject to certain conditions.

   2013-128 Aaron White/Vulcan Lands, Inc. 556 Molly Lane, from M-1 Manufacturing Zone to C-3 Central Business Zone, subject to certain conditions.

   2013-130 Green Real Estate Group, LLC/David Devaney. 324 Vine Street, from R-4 Special 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 Permits be approved:

   2013-127 Clara Edwards/Tommye Montgomery. 1503 Taylor Street for a Residential Home for Handicapped and/or Aged Persons Operated on a Commercial Basis.

   2013-137 Richard Burbano. 4038 Smith Lane for a Single-Wide Manufactured Home.

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

   2013-129 Jack Killian. 2857 Northpoint Boulevard, to lift Conditions 1 and 2 of Ordinance No. 11533 of previous Case No. 2004-031.

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,

November 12, 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