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1ST READING 9-11-07
2ND READING 9-18-07
INDEX NO. _____

MR-2007-055
Earthworx, LLC


ORDINANCE NO. 12006

AN ORDINANCE TO AMEND ORDINANCE NO. 11540 CAPTIONED, "AN ORDINANCE CLOSING AND ABANDONING A PORTION OF THE OPENED 5500 BLOCK OF CLEAR CREEK ROAD, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS" TO LIFT CONDITION NO. 2 REQUIRING A CUL-DE-SAC.

SECTION 1. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That Ordinance No. 11540, captioned as set forth in the caption hereof, is amended to lift Condition No. 2 requiring a cul-de-sac.

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

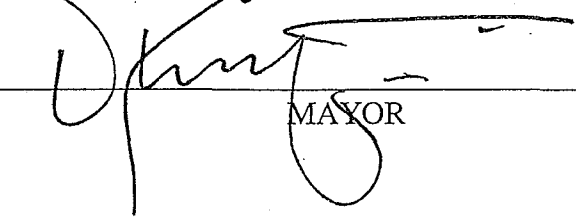
PASSED on Second and Final Reading
September 18, 2007.



CHAIRPERSON

APPROVED: DISAPPROVED: _____

DATE: Sept 21, 2007



MAYOR

Memorandum

To: Bill Payne

From: Gregg Albritton

cc: Steve Leach

Date: August 2, 2007

Re: Earthworx, L.L.C. - Case No. 2007-055
5612 Hixson Pike (BI-LO Site)

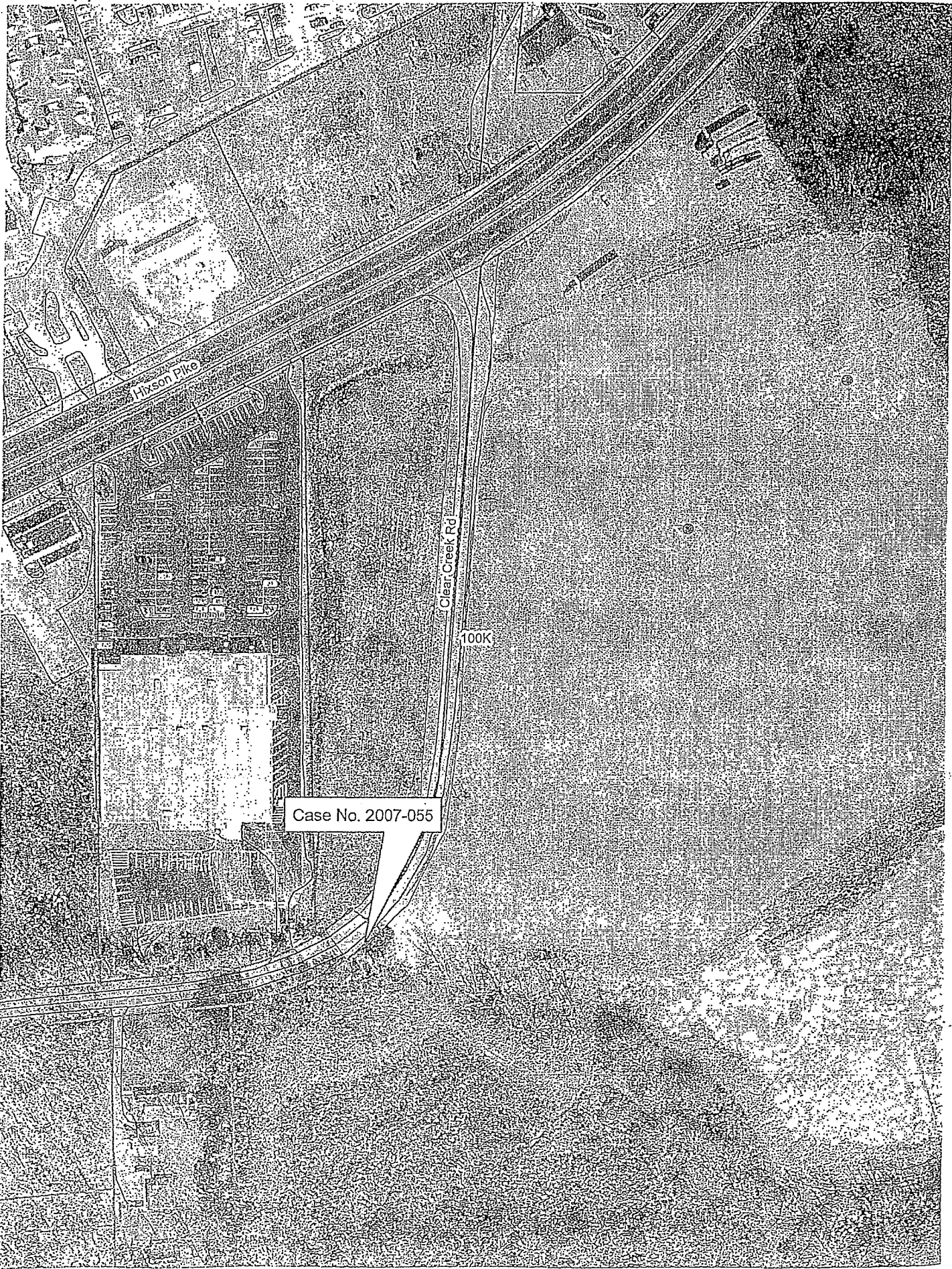
Recommendations for Requested Amendment to ROW Abandonment Ordinance No. 11540

I have completed the review of Earthworx, L.L.C.'s request regarding amendment to the ROW Abandonment Ordinance No. 11540 dated March 31, 2004. This site is located near the 5600 Block of Hixson Pike. The request for amendment is in regards to lifting condition #2 as stated in the ordinance. My comments are as follows:

1. Ordinance No. 11540 allowed for the abandonment of 735'± of ROW for 40' right-of-way for Clear Creek Road with two conditions: 1) Allow for all existing utility easements to remain in affect. 2) A cul-de-sac to be built by Hixson Church of Christ at the end of Clear Creek Road, in compliance with City standards.
2. Technically, this abandoned ROW does not provide access to any properties; however, it was considered a Tier 1 right-of-way prior to abandonment.
3. The abandoned ROW is still used by the public connecting Clear Creek Road to Hixson Pike. Since condition #2 of the above mentioned ordinance has not been fulfilled, which is the construction of the cul-de-sac, it cannot be closed to the general public. The cul-de-sac is necessary to provide a turnaround for school buses, police and fire protection, and the general public traveling on Clear Creek Road.
4. The surface of the abandoned roadway is disheveled and unmaintained. Since this section is still used by the public, the property owners are liable for any damages and/or accidents that may occur while traveling on the unmaintained portion.
5. The abandoned portion of Clear Creek Road was approved for abandonment so it could be included as part of a development already submitted to the Land Development Office. A site grading plan submitted to the City and approved includes a 120' diameter cul-de-sac, which is necessary according to City standards and codes.
6. Chattanooga Gas has addressed their objections in written format stating they would not object if arrangements were made to maintain any easements in the ROW.

After review of all available information, it is evident that this condition cannot be lifted for the safety of the general public. A turnaround point must be provided for school buses and public safety officials, as well as the traveling public, on Clear Creek Road as proposed in the site grading plans approved by the City's Land Development Office.

Therefore, I recommend that the request for lifting of condition #2 of Ordinance No. 11540 be denied.



Hlyson Pike

Clear Creek Rd

100K

Case No. 2007-055