

2011-126
Gwen Blackmon
District 5

RESOLUTION NO. 26901

A RESOLUTION APPROVING A SPECIAL EXCEPTIONS PERMIT FOR USE OF A LATE NIGHT ENTERTAINMENT CENTER LOCATED AT 3201 WILCOX BOULEVARD, AS MORE PARTICULARLY DESCRIBED IN THE ATTACHED REPORT AND MAP, SUBJECT TO CERTAIN CONDITIONS.

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 use of a late night entertainment center located at 3201 Wilcox Boulevard, as more particularly described in the attached report and maps, subject to certain conditions:

1. A fully operational fire suppression system shall be installed prior to opening. The fire suppression system shall be reviewed and approved by the Chattanooga Fire Marshall's Office.
2. Patron access shall be from the front door only. No patron access shall be permitted from the rear of the business establishment except for emergency exit only.
3. All exterior doors shall remain closed at all times, except for normal ingress/egress.
4. No outdoor gathering places such as a deck or patio shall be permitted.
5. No amplified noise, speakers, entertainment or lighting and the sale of food or beverages shall not be permitted outside of the establishment.

6. A minimum of two (2) security officers licensed by the State of Tennessee shall be provided between the hours of 11:00 p.m. to thirty (30) minutes past the closing time of the event/entertainment facility.

The security officers shall be easily and appropriately identified as security officers.

ADOPTED: Nov. 22, 2011.

/mms

11/22/11

Special Request Form

Print Form

Chattanooga-Hamilton County



Regional Planning Agency

1250 Market Street
Suite 2000
Development Resource Center
Chattanooga, Tennessee 37402
Phone: 423-668-2287
Fax: 423-668-2289
www.chcrpa.org

Office Use Only
Case Number: 2011-126
Date Submitted: 10/21/2011
Planning District: 9
County District: 5
City District: 5
Jurisdiction: City of Chattanooga
Neighborhood: Eastdale N. Brainerd C.C.
Staff Action:
PC Action/Date:
Legis. Action/Date:

Special Exceptions Permit for Planned Unit Development (P.U.D.) Residential Institutional

Acreage: _____ Density: _____ Preliminary Final Both

P.U.D. Name: _____

Other Special Permits Mandatory Referral Conditions of a Previous Action

Special Exceptions Acquisition Surplus Lift Amend

Conditional Other Resolution/Ordinance No. _____

Use: Late Night Entertainment Event Ctr Previous Case No. _____

Property Location/Information			
Address: 3201 Wilcox Blvd	Tax Map No. 137P-N-008 (Part of)	Current Zone: C-2	
Current Use: Commercial	Adjacent Uses: Commercial/Residential		
Proposed Development or Use: Wedding Events/Restaurant			

Applicant Information

All communication by phone, fax, email, or mail will be with the Applicant. If you are not the property owner, you will need to submit a letter from the property owners(s) indicating that you are acting as their agent in filing this application (e.g. engineer, architect, consultant, broker, etc.).

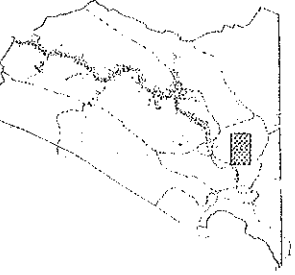
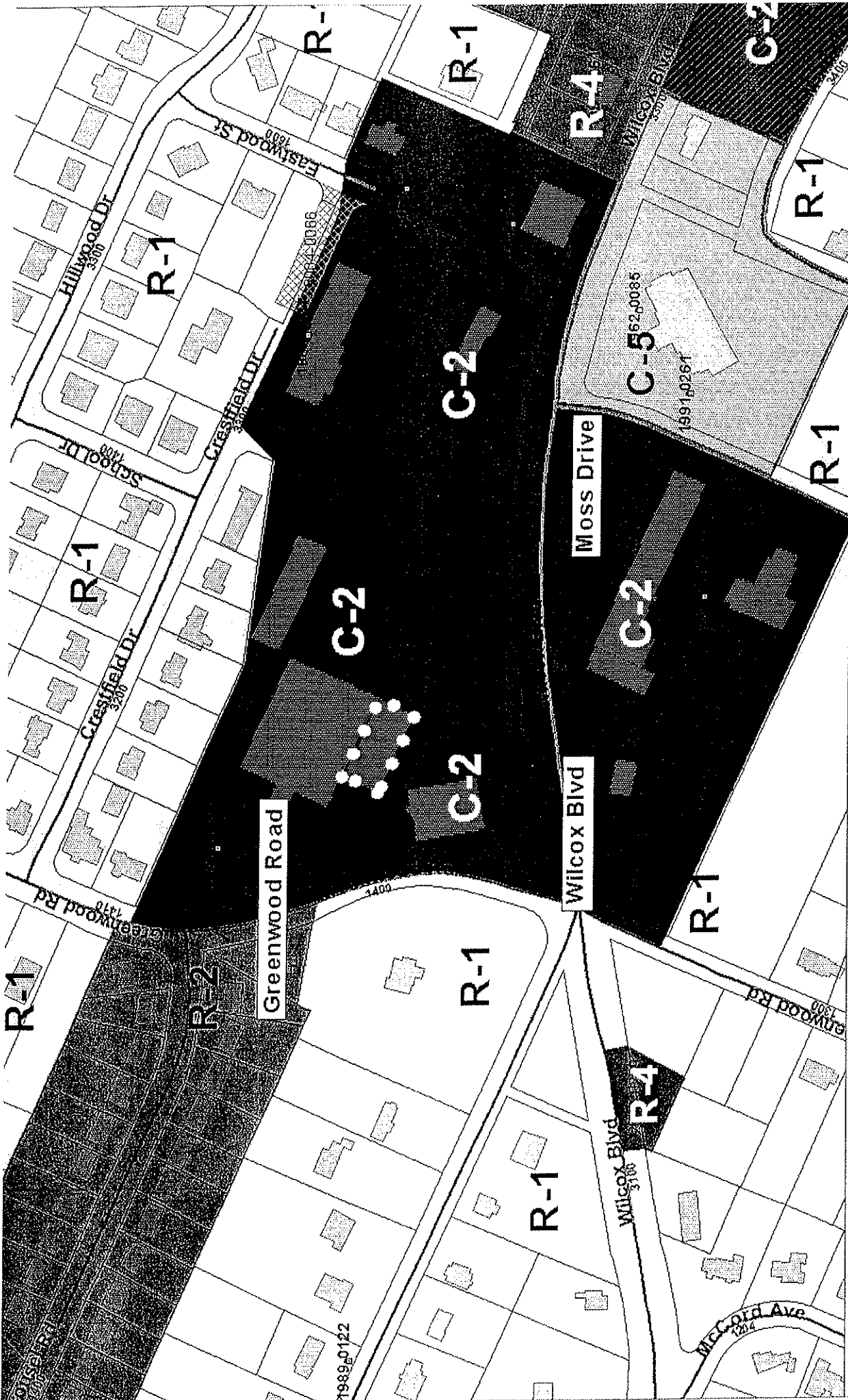
- Property Owner Architect Engineer Optionee Purchaser of Property Trustee
- Other:

Name	Gwen Blackmon		
Address:	3201 Wilcox Blvd		
City	Chattanooga	State:	TN
Zip Code:	37411		
Daytime Phone:	423-521-7101		
Cell Phone:	423-505-6443		
Other Phone:			
Email:	423-521-7101		
Fax:			

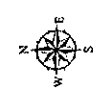
Property Owner Information (If not applicant)	
Name:	Same
Address:	
Phone:	

CHECKLIST (OFFICE USE ONLY)

<input checked="" type="checkbox"/> Application Complete	<input checked="" type="checkbox"/> Deeds for property to be rezoned
<input checked="" type="checkbox"/> Ownership Verification (Tax Map Printout, Letter)	Deed Book: 3866/776
<input checked="" type="checkbox"/> Map showing property to be rezoned	<input checked="" type="checkbox"/> Copy of Plats (if applicable)
<input checked="" type="checkbox"/> Site Plan (if applicable)	Plat Book/Page: 46/30
<input checked="" type="checkbox"/> Total acres to be considered: 1.95	<input checked="" type="checkbox"/> Notice Signs: How Many? 1
<input checked="" type="checkbox"/> Filing Fee: 250.00 MO	<input type="checkbox"/> Cash <input type="checkbox"/> Check No. _____
Accepted by: Jennifer Ware	Date: 10/21/2011



2011-0126 SEPermit: Late Night Entertainment Center



1 in. = 200.0 feet



Chattanooga - Hamilton County Regional Planning Agency

Special Exceptions Permit Late Night Entertainment/Event and/or Nightclub

Staff Report-Chattanooga Land Development Office, Fire Department, Police Department, Traffic Engineering, RPA
City Council Meeting Date: November 22, 2011

Case Number: 2011-126

Applicant Request: Special Exceptions Permit: Late Night Entertainment/Event Facility and/or Nightclub-Reduction of required buffer from 750' to 235'.

Possible Conditions:

1. A fully operational fire suppression system shall be installed prior to opening. The fire suppression system shall be reviewed and approved by the Chattanooga Fire Marshall's Office.
2. Patron access shall be from the front door only. No patron access shall be permitted from the rear of the business establishment except for emergency exit only.
3. All exterior doors shall remain closed at all times, except for normal ingress/egress.
4. No outdoor gathering places such as a deck or patio shall be permitted.
5. No amplified noise, speakers, entertainment or lighting and the sale of food or beverages shall not be permitted outside of the establishment.
6. A minimum of two (2) security officers licensed by the State of Tennessee shall be provided between the hours of 11:00 p.m. to thirty (30) minutes past the closing time of the event/entertainment facility.
7. The security officers shall be easily and appropriately identified as security officers.

Applicant: Gwen Blackmon
Property Address: 3209 Wilcox Blvd
Jurisdiction: Chattanooga District 5 / Hamilton County District 5
Development Sector: Inner Suburban Infill

Proposed Development

Site Plan Submitted: Yes
Proposed Use: Expansion of existing restaurant (River City Buffet) into a late night entertainment/event facility from 11:00 p.m. to 3:00 a.m.

Site Characteristics

Current Zoning: C-2 Convenience Commercial Zone
Current Use: Restaurant
Adjacent Uses: Commercial, single-family detached residential, vacant buildings, and professional offices
Size of Tract: Leased space within an existing shopping center-Shopping Center +/- 8 acres
Access: Good, access onto Wilcox Blvd and Greenwood Road

Analysis

Extension of Existing Zoning? Not Applicable
Community Land Use Plan: Eastdale Plan (1998)
Proposed Use Supported by Community Land Use Plan? Not Applicable
Proposed Use Supported by Comprehensive Plan? Not Applicable

Comments

Planning Staff Comments: The applicant originally applied for a beer permit from the Chattanooga

Special Exceptions Permit Late Night Entertainment/Event and/or Nightclub

Staff Report-Chattanooga Land Development Office, Fire Department, Police Department, Traffic Engineering, RPA
City Council Meeting Date: November 22, 2011

Beer Board in January 2011 for a business establishment at 3209 Wilcox Boulevard. The applicant was advised that a Special Exceptions Permit was required for the establishment based on occupancy and the proposed hours of operation with beer sales and/or consumption within the C-2 Convenience Commercial Zone.

The applicant appeared before the Chattanooga City Council in March, 2011 appealing the Chief Zoning Official's determination that the business establishment met the definition of a nightclub requiring the issuance of a Special Exceptions Permit. The City Council upheld the Chief Zoning Official's determination. The applicant agreed that the business establishment did meet the definition of a nightclub as defined in the Chattanooga Zoning Ordinance; however, the main issue is the name of the Special Exceptions Permit.

The City Council recommended RPA prepare an ordinance to change to the name of the Special Exceptions Permit. RPA drafted an amendment with the City Council adopting the amendment in July, 2011.

On October 21, 2011 RPA received an application for a Special Exceptions Permit for a Late Night Entertainment/Event Facility and/or Nightclub for 3209 Wilcox Boulevard. The property is currently zoned C-2 Convenience Commercial Zone. The present use of the property is River City Buffet with a proposal to use the facility to host late night events or entertainment between the hours of 11:00 p.m. and 3:00 a.m.

The proposed business establishment has an occupancy capacity over 100 (364 seats) and the applicant will apply for a city or state license to serve or allow consumption of alcohol between the hours of 11:00 p.m. to 3:00 a.m. The proposed hours of operation for River City Buffet are from 11:00 a.m. to 7:00 p.m. and from 11:00 p.m. to 3:00 a.m. for the event/entertainment facility.

In addition to occupancy capacity and later operating hours with alcohol sales and/or consumption the applicant states that a dance floor will be available, music and live entertainment, stage platform for floor shows and other live or recorded performances will be provided on-site.

Based on the existing definition of a Late Night Entertainment/Event Facility and/or Nightclub, the proposed business establishment meets the definition of a Late Night Entertainment/Event Facility and/or Nightclub requiring a Special Exceptions Permit issued by the Chattanooga City Council.

Nightclub: A commercial establishment, which may or may not be held out to the public as a Bar or social gathering place, with an occupancy

Special Exceptions Permit Late Night Entertainment/Event and/or Nightclub

Staff Report-Chattanooga Land Development Office, Fire Department, Police Department, Traffic Engineering, RPA
City Council Meeting Date: November 22, 2011

capacity of 100 or more people which serves alcohol or allows alcohol on the premises and which is operated as a place of entertainment at night for eating, drinking, dancing and provides live or recorded entertainment, characterized by any or all of the following activities as a principal use:

- Festival Seating: Accommodation for entertainment events in which limited or no seating is available.
- Music or video or live entertainment-live or recorded (DJ) that is amplified or very loud.
- Dance floor available.
- Later operating hours-defined as after midnight.
- Low lighting levels or darkness during any music, video or live entertainment event.
- Stage/platform for floor shows or other live or recorded performances.
- Serve alcohol or allows consumption between the hours of 11:00 p.m. to 3:00 a.m.

Previous Zoning Study & Zoning Cases

In 1991 A zoning study was conducted by the Regional Planning Agency. The Chattanooga City Council adopted the zoning study, Ordinance Number 9665 in early 1992. The zoning study rezoned several areas from C-2 Convenience Commercial, which permits alcohol and/or beer sales to C-5 Neighborhood Zone, which does not permit alcohol and/or beer sales.

Since, the adoption of the zoning study in 1992 the Eastdale Neighborhood and the North Brainerd Community Council have consistently opposed the rezoning of properties located along Wilcox and Tunnel Boulevards. Specifically those properties seeking a rezoning to a higher commercial zoning classification (C-2 Convenience Commercial) that would permit alcohol/beer sales.

Reduction of Required 750' Buffer from any Residential Boundary

Section 38-527, General Provisions (5) of the Chattanooga Zoning Regulations requires that the front door regularly used for entrance to the establishment be a minimum of 750' from the nearest residential boundary. The distance requirements is from the nearest residential boundary and not nearest residential structure.

Utilizing Hamilton County GIS, the distance from the doorway entrance of the business establishment to the nearest residential zoned boundary is approximately 235'. The nearest residential zone boundary is located along Crestfield Road, which is zoned R-1 Residential. R-1 Residential Zoning is also located along Greenwood Road; however, the front door of the business establishment is approximately 250';

Special Exceptions Permit Late Night Entertainment/Event and/or Nightclub

Staff Report-Chattanooga Land Development Office, Fire Department, Police Department, Traffic Engineering, RPA
City Council Meeting Date: November 22, 2011

therefore, the closest distance is used which is 235'.

Section 38-527, General Provisions (5) of the Chattanooga Zoning Regulations states that the 750' buffer distance may be decreased in part or entirety and the City Council may impose additional conditions for the protection of residential properties from excessive noise or other nuisance issues depending on the proximity and location of water, rail, and road rights-of-way, topography, adjoining land uses, or other natural or man-made barriers to sound and noise.

Site Characteristics and Adjacent Land Use

The applicant is leasing a space within an existing shopping center. The size of the overall shopping center is approximately +/- 8 acres. The shopping center is located at the corner of Wilcox Boulevard and Greenwood Road. A review of adjacent land use includes commercial uses, vacant buildings, dental office, and single-family detached residential dwellings.

There are no existing water or rail lines located near the proposed business establishment. Utilizing Hamilton County GIS the right-of-way of Wilcox Boulevard appears to measure around 80'.

Existing natural vegetation and trees are located to the rear of the shopping center which does provide a natural buffer between the single-family residential dwellings and the existing shopping center. There appear to be no topography or steep slope issues that would serve as a natural buffer to sound and noise.

Outdoor Gathering Places-Deck/Patio and Doorway

Section 38-527, General Provisions (6) of the Chattanooga Zoning Regulations states that any doorway entrance regularly used for egress/ingress or outdoor place of gathering such as a deck/patio shall be located more than seven hundred and fifty (750') from the nearest boundary of any residential zone.

Every attempt should be made to reduce any potential nuisance and noise issues on the adjacent residential dwellings. Because of the requested reduction of the minimum required buffer of 750' to 235' no outdoor gathering places such as an outdoor deck or patio shall be permitted. The applicant has no plans to install an outdoor deck or patio at the business establishment.

The doorway entrance used for access to the business establishment should remain closed at all times in an effort to reduce noise issues during the later operating hours of the event facility. Patron access to the establishment shall be from the entrance door along the front of the business establishment. Any doorway located to the rear of the

Special Exceptions Permit Late Night Entertainment/Event and/or Nightclub

Staff Report-Chattanooga Land Development Office, Fire Department, Police Department, Traffic Engineering, RPA
City Council Meeting Date: November 22, 2011

business establishment shall not be used for patron access to the establishment, except for emergency exit only.

Outdoor Amplified Music

Section 38-527, General Provisions (6) of the Chattanooga Zoning Regulations states that outdoor gathering places such as decks, balconies, covered areas and patios ***shall have no*** amplified noise, no entertainment or theatrical lighting, and no outside sale of food or beverages.

Previous Special Exception Permit Requests

Since the adoption of the Special Exceptions Permit in 2009, and later amendments, there have been five (5) requests and one (1) appeal. Each of the previous requests has asked for a reduction in the required buffer distance.

- (1) Pinstrikes-6241 Perimeter Drive-Reduction in buffer from 750' to 700'. Request approved by City Council.
- (2) Fanatics-5425 Highway 153-Reduction in buffer from 750' to 200'. Request approved by City Council.
- (3) Skyzoo-5709 Lee Highway-Reduction in buffer from 750' to 700'. Request approved by City Council.
- (4) Mocha, LLC-3116 Brainerd Road-Reduction in buffer from 750' to 100'. Request denied by City Council.
- (5) Meo Mio's-4119 Cummings Highway-Reduction in buffer from 750' to 75'. Request denied by City Council.

Revocable Permit

Section 38-527, General Provisions (9) of the Chattanooga Zoning Regulations states that the Special Exceptions Permit may be revoked by the City Council at anytime upon notice to the owner after a public hearing. Triggers for revocation include at the time of a third suspension of a license by the beer board or any other state alcohol licensing board; recommendation from the Zoning Official, Chief Building Official, Police Department, or the Beer Board.

Police Department
Comments:

In an effort to control potential noise and nuisance issues and to increase public safety for patrons a minimum of two (2) security officers shall be provided to help control noise and nuisance issues in the establishment, as well as the parking lot during the later operating hours. These security officers should be appropriately identified as security officers and shall be provided on-site from 11:00 p.m. until 30 minutes past the closing time of the event facility.

Traffic Engineering
Comments:

No comments or issues with the proposed establishment.

Special Exceptions Permit Late Night Entertainment/Event and/or Nightclub

Staff Report-Chattanooga Land Development Office, Fire Department, Police Department, Traffic Engineering, RPA
City Council Meeting Date: November 22, 2011

Fire Marshall's Office
Comments:

The applicant shall have installed a fully operational fire suppression system prior to the opening of the business establishment. The Chattanooga Fire Marshall's Office will review and approve the fire suppression system.

Land Development
Office/Codes Enforcement
Comments:

Section 38-527, General Provisions (6) of the Chattanooga Zoning Regulations states that outdoor gathering places such as decks, balconies, covered areas and patios shall have no amplified noise, no entertainment or theatrical lighting, and no outside sale of food or beverages. In order to reduce noise and nuisance issues on the adjacent residential structures and because of a requested reduction in the minimum required 750' buffer to a 235' buffer there should be no outdoor gathering places such as a deck or patio permitted.

Patron access to the establishment should be restricted to the front door only. All exterior doors should remain closed at all times, except for normal ingress/egress, to control or limit any potential noise issues.

**NOTICE OF HEARING BY CHATTANOOGA CITY COUNCIL FOR
SPECIAL EXCEPTIONS PERMIT FOR A LATE NIGHT ENTERTAINMENT/EVENT FACILITY
AND/OR NIGHTCLUB FOR THE
CITY OF CHATTANOOGA, TENNESSEE**

TAKE NOTICE That the City Council of the City of Chattanooga, Tennessee, will on **November 22, 2011** at **6:00 p.m.** in the City Council Assembly Room at 1000 Lindsay Street in the City Council Building, hold a hearing pursuant to the Zoning Ordinance for the following request:

Case Number 2011-126 at 3201 Wilcox Boulevard for a Special Exceptions Permit for Late Night Entertainment/Event Facility and/or Nightclub. Ms. Gwen Blackmon, who owns River City Buffet is requesting a Special Exceptions Permit for a Late Night Entertainment/Event Facility and/or Nightclub in the C-2 Convenience Commercial Zone for River City Buffet.

Late Night Entertainment/Event Facility and/or Nightclub is defined as a commercial establishment, which may or may not be held out to the public as a bar or social gathering place, with an occupancy capacity of more than **100** or more people which **serves alcohol or allows alcohol** on the premises and which is operated as a place of entertainment at night for eating, drinking, dancing and provides live or recorded entertainment.

This Notice is sent to you as a notice of public hearing and does not require you to attend the meeting or to take any other action. Any person whose property may be affected by the grant or denial thereof may attend and be heard.

ATTENTION: THIS IS NOT A REZONING OF THE PROPERTY.

This the 1st day of November 2011

If you have any questions please contact the Regional Planning Agency Office at (423) 668-2287.