

2011-123
Tim L. McClure
District 6

RESOLUTION NO. 26905

A RESOLUTION APPROVING A SPÉCIAL EXCEPTIONS PERMIT FOR USE OF A LATE NIGHT ENTERTAINMENT CENTER LOCATED AT 6425 LEE HIGHWAY, 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 6425 Lee Highway, 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. An internal floor plan layout shall be submitted to the Land Development Office for review.
3. No outdoor gathering places such as a deck or patio shall be permitted.
4. All exterior doors shall remain closed at all times except for normal ingress/egress.
5. Patron access to the establishment shall be from the front door only. Patron access to the establishment from the rear of the building shall be prohibited except for emergency exit only.
6. No amplified noise, speakers, entertainment or lighting, and the sale of food or beverages shall not be permitted outside of the business establishment.

7. A minimum of three (3) security officers licensed by the State of Tennessee shall be provided between the hours of 11:00 p.m. to thirty minutes (30) past the closing time of the business establishment. At least one security officer shall patrol the parking lot to prevent loitering, disorder and littering.
8. The security officers shall be easily and appropriately identified as security officers.
9. Signs shall be placed around the perimeter of the parking lot prohibiting loitering and solicitation. The signs shall also indicate that parking is provided for the restaurant/entertainment complex only (ex. List the name of the establishment).
10. Applicant shall conduct a lighting study of parking lot and if necessary add additional lighting.
11. Musical or video or live entertainment (live or recorded DJ) that is amplified or very loud shall be prohibited.
12. Stage/platform for floor shows or other live or recorded performances shall be prohibited.
13. Dance floor shall be prohibited.
14. The parking lot shall be cleaned after closing and before any other nearby businesses open the next morning.

ADOPTED: November 29, 2011.

/mms

11/29/11

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.chrcpa.org

Office Use Only

Case Number: 2011-123

Date Submitted: 10/17/2011

Planning District: 10

County District: 5

City District: 5

Jurisdiction: City of Chattanooga

Neighborhood: F.O.E.B./E.B./C/Shepherd Community Council

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 Facility Previous Case No. _____

Property Location / Information			
Address: 6425 Lee Highway	Tax Map No. 148K-A-002.11	Current Zone: C-2	
Current Use: Vacant Building	Adjacent Uses: Commercial/Residential		
Proposed Development or Use:	Similar concept to Dave and Busters, adult arcade, restaurant, bar component		

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	Tim L. McClure	
Address:	8319 Ellie Plaza, Suite C	
City	Hixson	State: TN
Zip Code:	37343	
Daytime Phone:	847-0200	
Cell Phone:	595-4166	
Other Phone:	718-1140 Spouse	
Email:	tmbuilder@comcast.net	
Fax:	847-0207	

Property Owner Information (If not applicant)	
Name:	John Woods
Address:	4279 Roswell Rd
	Atlanta, GA 30242
Phone:	404-386-8853

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: 7511/345
<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: 411/79
<input checked="" type="checkbox"/> Total acres to be considered: 2.96	<input checked="" type="checkbox"/> Notice Signs: How Many
<input checked="" type="checkbox"/> Filing Fee: \$250.00 <input type="checkbox"/> Cash Check No. 12150	
Accepted by: Jennifer Ware	Date: 10/17/2011

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 29, 2011

Case Number: 2011-123

Applicant Request: Special Exceptions Permit: Late Night Entertainment/Event Facility and/or Nightclub-Reduction of required buffer from 750' to 340'.

- 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. An internal floor plan layout shall be submitted to the Land Development Office for review.
 3. No outdoor gathering places such as a deck or patio shall be permitted.
 4. All exterior doors shall remain closed at all times except for normal ingress/egress.
 5. Patron access to the establishment shall be from the front door only. Patron access to the establishment from the rear of the building shall be prohibited except for emergency exit only.
 6. No amplified noise, speakers, entertainment or lighting, and the sale of food or beverages shall not be permitted outside of the business establishment.
 7. A minimum of three (3) security officers licensed by the State of Tennessee shall be provided between the hours of 11:00 p.m. to thirty minutes (30) past the closing time of the business establishment.
 8. The security officers shall be easily and appropriately identified as security officers.
 9. Signs shall be placed around the perimeter of the parking lot prohibiting loitering and solicitation. The signs shall also indicate that parking is provided for the restaurant/entertainment complex only (ex. List the name of the establishment).
 10. Applicant shall conduct a lighting study of parking lot and if necessary add additional lighting.
 11. Musical or video or live entertainment (live or recorded DJ) that is amplified or very loud shall be prohibited.
 12. Stage/platform for floor shows or other live or recorded performances shall be prohibited.
 13. Dance floor shall be prohibited.

Applicant: Tim McClure
Property Address: 6425 Lee Highway
Jurisdiction: Chattanooga District 6 / Hamilton County District 5
Neighborhood: Friends of East Brainerd, East Brainerd Community Council, and Shepherd Community Council
Development Sector: Outer Suburban Growth

Proposed Development

Site Plan Submitted: Yes
Proposed Use: Restaurant & Entertainment Complex

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Staff Report-Chattanooga Land Development Office, Fire Department, Police Department, Traffic Engineering, RPA
City Council Meeting Date: November 29, 2011

Site Characteristics

Current Zoning:	C-2 Convenience Commercial Zone
Current Use:	Vacant building
Adjacent Uses:	Commercial, vacant buildings, church, single-family detached residential dwellings.
Size of Tract:	2.96 acres, overall shopping center +/- 20 acres
Access:	Good, direct access onto Lee Highway

Analysis

Extension of Existing Zoning?	Not Applicable
Community Land Use Plan:	Shallowford Road-Lee Highway Area Plan (2005)
Proposed Use Supported by Community Land Use Plan?	Yes, the plan recommends a Heavy Business Mix at this location
Proposed Use Supported by Comprehensive Plan?	Yes

Comments

Planning Staff Comments: On October 17, 2011 RPA received an application for a Special Exceptions Permit for a Late Night Entertainment/Event Facility and/or Nightclub for 6425 Lee Highway. The proposed use is for an arcade, restaurant entertainment facility concept similar to Dave and Buster's or Incredible Dave's, which are discussed later in this document. The proposed occupancy capacity is over 100 (proposed capacity 500) and 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 are from 11:00 a.m. to 2:00 a.m.

The property is located at 6425 Lee Highway in the former Circuit City building. The building is currently vacant. The building is approximately 36,000 square feet in size and currently zoned C-2 Convenience Commercial Zone. The proposed business establishment is located within a +/- 20 acre shopping center at the intersection of Lee Highway and Highway 153.

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.

It should be noted that the establishment could open now under present zoning as long as alcohol and beer sales and/or consumption stopped at 11:00 p.m.

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 capacity of 100 or more people which serves alcohol or allows alcohol

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Staff Report-Chattanooga Land Development Office, Fire Department, Police Department, Traffic Engineering, RPA
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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.

Additional Information

RPA staff contacted a similar establishment in Nashville, Incredible Dave's, to discuss their policies with regard to minors, security, loitering, and alcohol/beer restrictions. Incredible Dave's is a new establishment located in the Nashville area (www.incredibledaves.com). The building is approximately 60,000 square feet with a restaurant, bar, and entertainment features such as arcade games, dance floor, and a bowling alley.

Incredible Dave's Internal Policies

- Alcohol and/or beer consumption is not restricted to the bar or restaurant areas of the establishment. Alcohol/beer can be consumed in areas outside of the bar and restaurant sections of the establishment.
- No one under the age of 16 permitted without a parent or guardian.
- Starting at 7:00 p.m. on Friday, Saturday, and Sunday no one under the age of 18 permitted without a parent or guardian.
- Starting at 7:00 p.m. on Friday, Saturday, and Sunday four (4) security officers, typically off-duty police officers are provided.
- Signs placed inside the establishment prohibiting loitering and solicitation.

RPA staff also contacted Dave and Busters in Marietta; however, the general manager did not return respond. Staff did find Dave and Buster's overall policies on-line; however, it states that the policies vary by location.

Dave and Buster's Internal Policies

- No one under the age of 21 permitted without a parent or guardian.

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The parent or guardian must be at least 25 years age or older.

- Underage guests must remain with their parent or guardian at all times in the establishment.
- In order to prove you are 21 years of age or older you must have valid identification to enter.
- Smoking permitted only in designated areas only.
- Signs placed on property prohibiting loitering and solicitation.
- Alcohol and/or beer consumption is not restricted to the restaurant or bar areas of the establishment.

Reduction of Required 750' Buffer from any Residential Boundary

Section 38-527, General Provisions (5) of the Chattanooga Zoning Regulations states that any doorway regularly used for ingress/egress shall be located more than 750' from the nearest boundary of any residential zone.

The front doorway of the proposed business establishment is approximately 340' away from the nearest residential boundary, which is an R-1 Residential Zone within the Shepherd Community. An R-4 Special Zone is located behind the proposed business establishment. The use of the property on the R-4 Special Zone is Grace Works Community Church. The Chattanooga Zoning Ordinance states that for purposes of the Special Exceptions Permit for a Late Night Entertainment/Event Facility and/or Nightclub, the R-4 Special Zone shall be considered a non-residential zone if developed with non-residential uses; therefore the distance from the front door to this R-4 Special Zone does not apply. However, because the R-4 Special Zone is used as a church, the applicant will be required to comply with the minimum distance and other requirements of Chapter 5 of the City Code with regard to the issuance of beer permits.

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 building at 6425 Lee Highway has been used as a commercial establishment for many years, formerly Circuit City and most recently Rick Honeycutt Sports. Adjacent land use includes vacant buildings, commercial uses, professional offices, church, a dance studio, and single-family detached residential (Shepherd Community).

There are no existing water or rail lines located near the business

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establishment; however, the establishment is located within an existing +/- 20 acre shopping center that is mostly vacant and underutilized. The establishment of this facility at this location as a restaurant and entertainment concept could potentially help revitalize this existing shopping center.

The shopping center and the proposed establishment is located at the intersection of two major highways, Lee Highway and Highway 153. Utilizing Hamilton County GIS, the right-of-way of Lee Highway appears to measure +/- 230'.

Existing natural vegetation and trees are currently located to the rear of the shopping center. This existing vegetation and trees provide a natural barrier to sound and noise. The topography of the site is such that a small ridge separates the Shepherd Community from the shopping center. The Shepherd Community has an elevation range of 720' to 750'. The shopping center has an elevation of 780'. Grace Community Works Church has an elevation range of 810' to 830'. The existing topography, vegetation, and trees provide a barrier to sound and noise, and visibility from the Shepherd Community.

The Shallowford Road-Lee Highway Area Plan, adopted in 2005 recommends a Heavy Business Mix for this area. The proposed use of this site as a restaurant and entertainment facility would be in compliance with the Shallowford Road-Lee Highway Area Plan.

Existing Outdoor Deck/Patio and Doorway

Section 38-527, General Provisions (5) 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.

The applicant has indicated that there are no plans to construct an outdoor deck or patio on-site.

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 requested a reduction in the required

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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 any time upon notice to the owner after a public hearing. Triggers for revocation include 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, adequate outdoor lighting shall be provided. For additional comments on outdoor lighting please see Land Development Office comments.

Security officers shall be provided to help control noise and nuisance issues in the parking lot during the later operating hours of the establishment.

Signs shall be placed around the perimeter of the parking lot prohibiting loitering and solicitation. The signs shall also indicate that parking is for this restaurant/entertainment establishment only.

Traffic Engineering
Comments:

No comments or issues with the proposed request.

Fire Marshall's Office
Comments:

The applicant will be required to install a fully operational fire suppression system prior to opening. The Chattanooga Fire Marshall's Office will inspect and approve the existing or installed fire suppression.

Land Development
Office/Codes Enforcement
Comments:

Patron access to the establishment shall be restricted to the front door only. Patron access to the establishment from the rear shall not be permitted except for emergency access only. All exterior doors shall remain closed at all times, except for normal ingress/egress, to control

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or limit any potential noise issues.

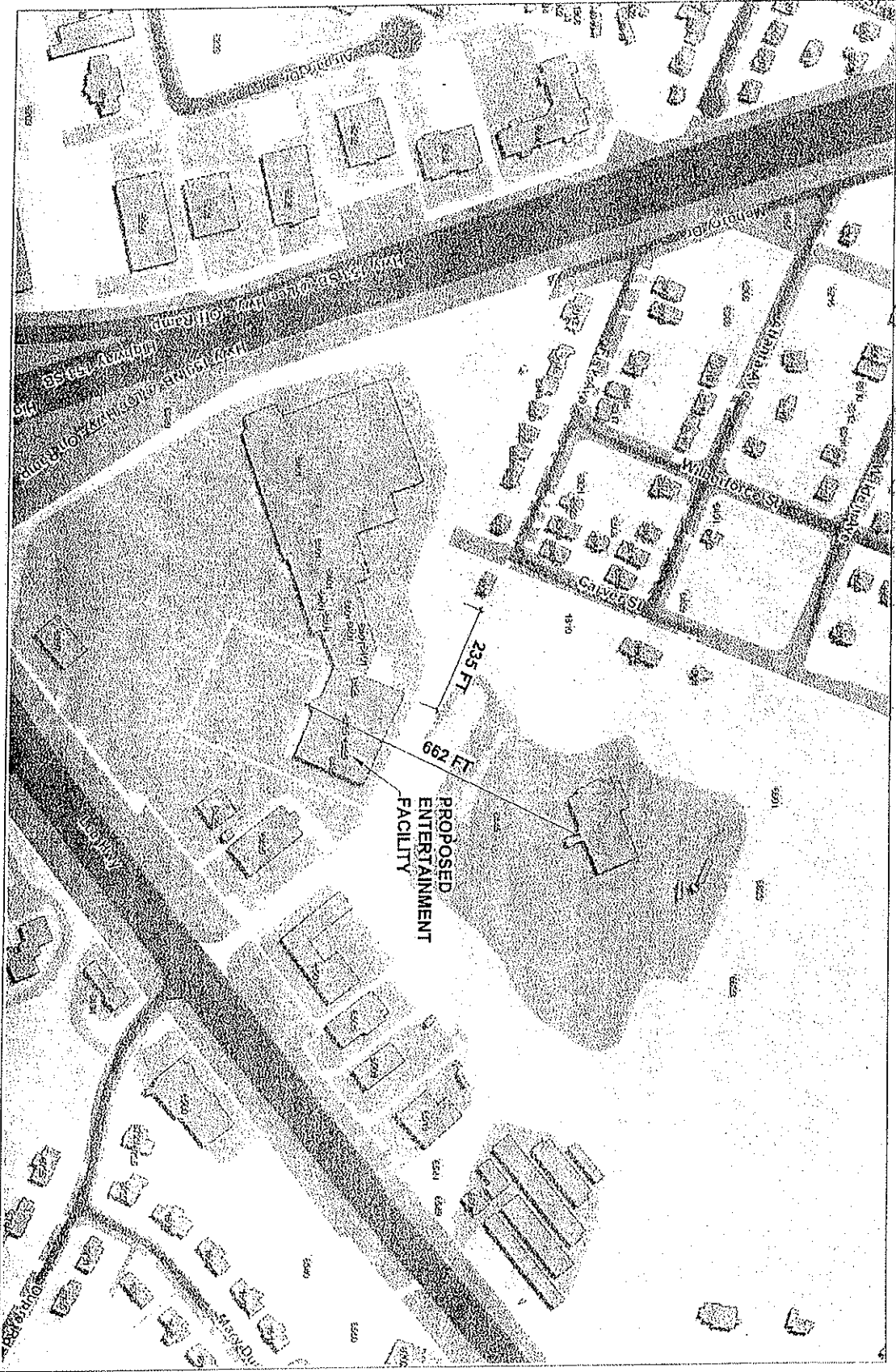
The site contains existing outdoor lights within the parking lot; however, the applicant shall conduct a lighting study of the parking lot, and if necessary add additional outdoor lighting to the parking area.

The applicant shall submit an internal floor layout plan to the Land Development Office for their review and approval.

Every effort should be made to limit and control potential noise and nuisance issues; therefore, there shall be no outdoor gathering places such as a deck or patio. No amplified noise, speakers, entertainment or lighting, and no outside sale of food or beverages shall be permitted outside of the business establishment.

IMPORTANT NOTE: DRAWING NOT TO SCALE. DIMENSIONS ARE BASED OFF OF THE HAMILTON COUNTY GIS MAP ONLINE, AND ACCURACY OF DIMENSIONS CANNOT BE GUARANTEED.

SITE PLAN
NOT TO SCALE

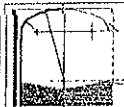


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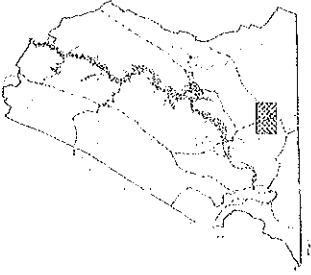
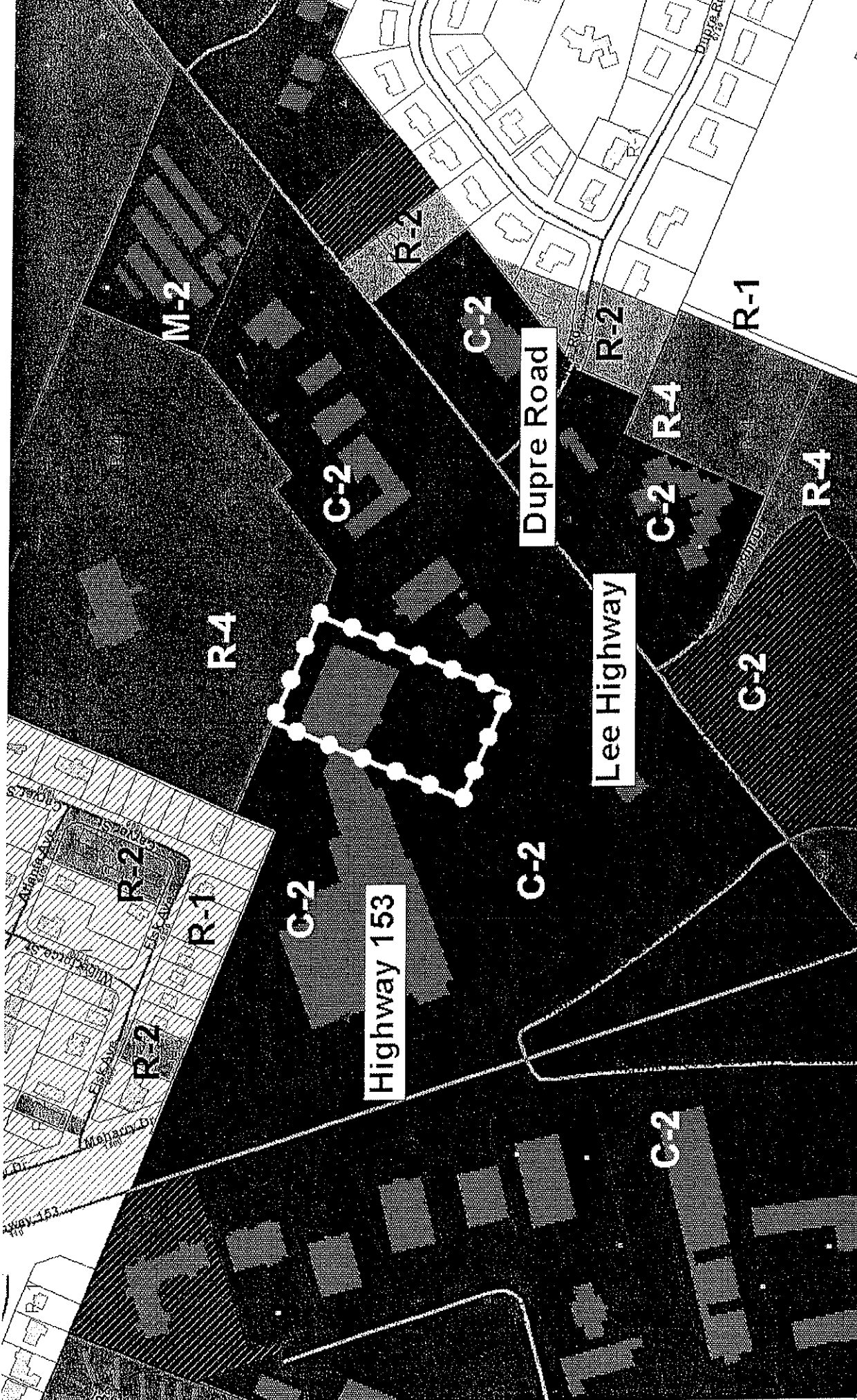
SP-1

NO.	DATE	BY	REVISION

**PROPOSED ENTERTAINMENT FACILITY
FOR TIM MCCLURE**
6425 LEE HIGHWAY
CHATTANOOGA, TN 37421



James M. Spawen Architect, LLC
100 South Main Street, Suite 200, Chattanooga, TN 37402
TEL: 423.263.1111 FAX: 423.263.1112
WWW.JMSA-ARCHITECT.COM



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Chattanooga - Hamilton County Regional
Planning Agency



1 in. = 300.0 feet

