

1ST READING

4-9-08

2ND READING

9-16-08

INDEX NO.

MR-2008-053
Bob Franklin
c/o Girl's Preparatory School

ORDINANCE NO. 12162

AN ORDINANCE CLOSING AND ABANDONING THE 700 BLOCK OF FRAZIER AVENUE, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAPS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS.

SECTION 1. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That there be and is hereby closed and abandoned the 700 block of Frazier Avenue, more particularly described below and as shown on the maps attached hereto and made a part hereof by reference.

Abandonment of the 700 block of Frazier Avenue beginning at the east line of the 600 block of Frazier Avenue, thence southeastwardly and northeastwardly some 990 feet to the west line of Island Avenue. Said portion of Frazier Avenue, AKA Grace Street (Plat Book 3, Page 39), separates Tax Maps 135E-N-020 and 021 from 135E-M-032 and 136H-H-001.

SECTION 2. BE IT FURTHER ORDAINED, That this closure and abandonment shall be subject to:

1. Retention of all utility easements and routing rights, in perpetuity, and at the Utility's discretion; and
2. Execution of an agreement by Girl's Preparatory School ("GPS") agreeing to an open access by the public and maintenance of the roadway to City standards by GPS.

SECTION 3. 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 16, 2008.

Linda Bennett
CHAIRPERSON

APPROVED: DISAPPROVED:

DATE: Sept 19, 2008

[Signature]
MAYOR

/add

This Instrument Prepared By:
Evan A. Allison, Esq.
Miller & Martin PLLC
832 Georgia Avenue, Suite 1000
Chattanooga, Tennessee 37402

AGREEMENT CONCERNING RIGHT OF WAY ABANDONMENT

THIS AGREEMENT CONCERNING RIGHT OF WAY ABANDONMENT
("Agreement") is made and entered into by and between the **CITY OF CHATTANOOGA**, a
municipal corporation of the State of Tennessee ("City") and **GIRLS PREPARATORY**
SCHOOL ("GPS").

RECITALS:

WHEREAS, the City has agreed to abandon that certain right of way in the City of
Chattanooga, Tennessee as more particularly described or shown on **Exhibit "A"** attached hereto
and made a part hereof; and

WHEREAS, such right of way abandonment is conditioned upon GPS maintaining such
right of way and keeping it open for public use.

NOW THEREFORE, in consideration of the premises contained herein and other good
and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the
parties hereto agree as follows:

1. The City agrees to abandon, by ordinance, the right of way more particularly
shown or described on **Exhibit "A"** attached hereto and made a part hereof. GPS agrees, upon
such abandonment, to maintain such right of way to City Subdivision standards with the
Roadway typical section being 6" Compacted Stone Base 33P "Pug", 2" Asphalt 'B' Binder, and
1" Asphalt Type 'E' Surface or an approved equal, at GPS's sole cost and expense and to ensure
that such right of way is and remains ungated and open twenty-four (24) hours per day, seven (7)

days per week to the general public for vehicular and pedestrian ingress and egress in perpetuity. GPS further agrees to permit all utility easements currently in place to remain and be maintained by the appropriate utility.

2. The provisions of this Agreement shall be binding upon the successors and assigns of the parties hereto and shall inure to the benefit of, and be enforceable by, such successors and assigns.

3. This Agreement shall be construed (both as to validity and performance) and enforced in accordance with, and governed by, the laws of the State of Tennessee.

4. The terms of this Agreement may be waived, amended or modified only by an instrument in writing signed by the party against which such waiver, amendment or modification is sought to be enforced, and such written instrument shall set forth specifically the provisions of this Agreement that are to be so waived, amended or modified. Additionally, any modification must comply with all applicable ordinances, including any required public notice.

5. This Agreement may be executed in any number of counterparts and each of such counterpart shall for all purposes be deemed an original, and all such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the City and GPS have executed this Agreement as of the
17th day of September, 2008.

CITY OF CHATTANOOGA, TENNESSEE

By: _____
Name: Ron Littlefield
Title: Mayor

GIRLS PREPARATORY SCHOOL

By: _____
Name: Stanley E. Tucker
Title: Headmaster

STATE OF TENNESSEE

COUNTY OF Hamilton

Before me, RICHARD J. BEELAND of the state and county mentioned, personally appeared Ronald Littlefield with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged such person to be Mayor (or other officer authorized to execute the instrument) of the **CITY OF CHATTANOOGA, TENNESSEE**, the within named bargainor, and that such City or officer as such Mayor, executed the foregoing instrument for the purpose therein contained, by personally signing the name of the organization as Mayor.

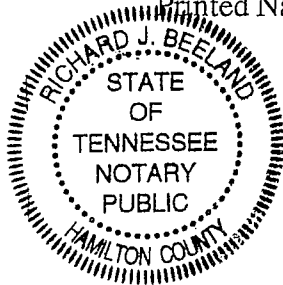
Witness my hand and seal, at office in HAMILTON Co., TENNESSEE, this 26 day of SEPTEMBER, 2008.

[Handwritten Signature]

Notary Public

Printed Name: RICHARD J. BEELAND

My Commission Expires:
JULY 26, 2009



STATE OF TENNESSEE

COUNTY OF Hamilton

Before me, Gary Thompson of the state and county mentioned, personally appeared Stanley R. Tucker, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged such person to be Headmaster (or other officer authorized to execute the instrument) of **GIRLS PREPARATORY SCHOOL**, the within named bargainor, and that such Headmaster or officer as such Headmaster, executed the foregoing instrument for the purpose therein contained, by personally signing the name of the organization as Headmaster.

Witness my hand and seal, at office in Hamilton Co., this 25th day of September, 2008.

[Handwritten Signature]

Notary Public

Printed Name: Gary Thompson

My Commission Expires:
3/25/12

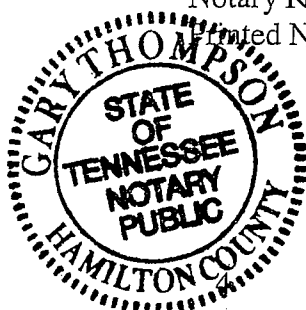


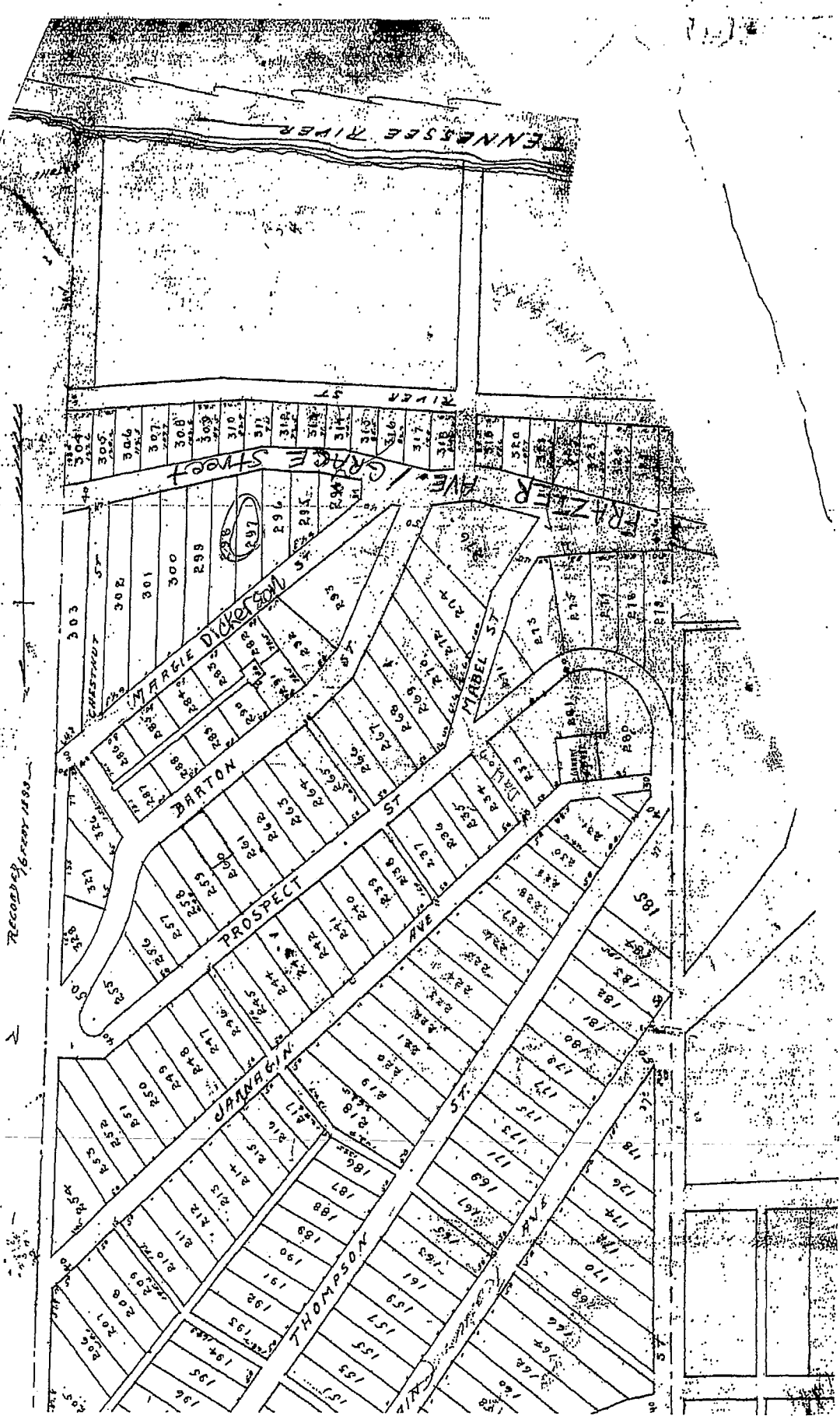
EXHIBIT "A"

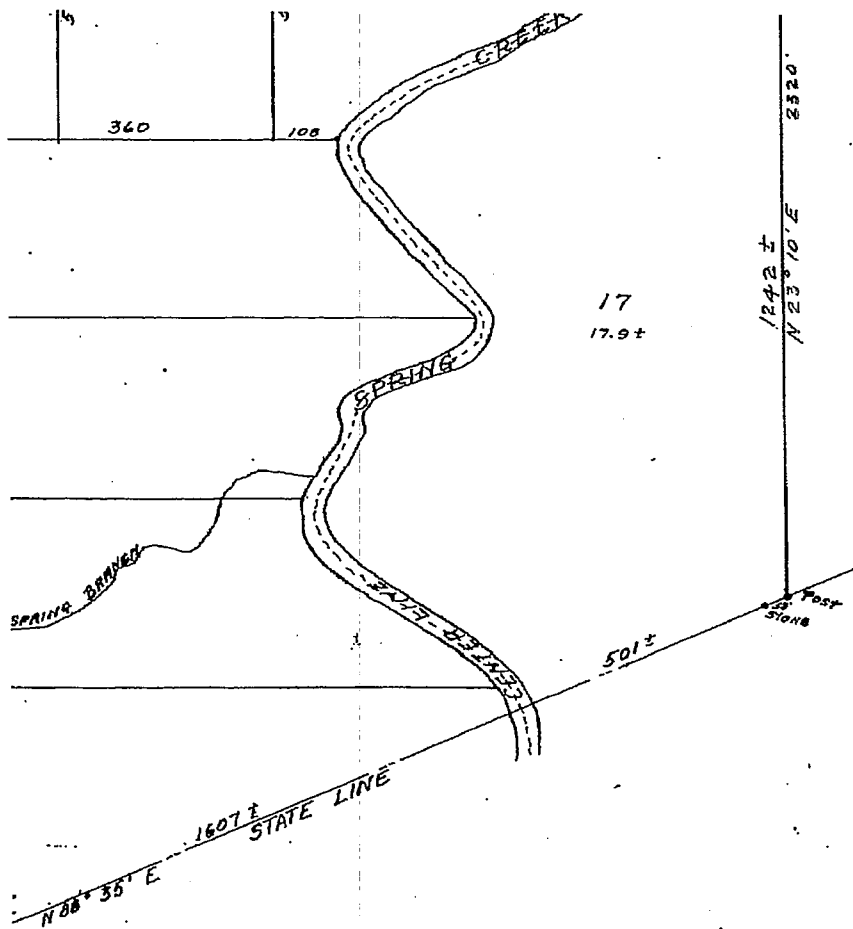
IN THE CITY OF CHATTANOOGA, HAMILTON COUNTY, TENNESSEE:

Abandonment of a portion of the 700 block of Frazier Avenue (AKA Grace Street, E. Frazier Street) beginning at its intersection with Dickerson Street (AKA Margie Street) thence 1,120 feet± to the west line of Block Six (6), C.E. Stiver's Addition to Hill City as shown by plat of record in Plat Book 3, page 38 (Tax Map No. 136H J 014).

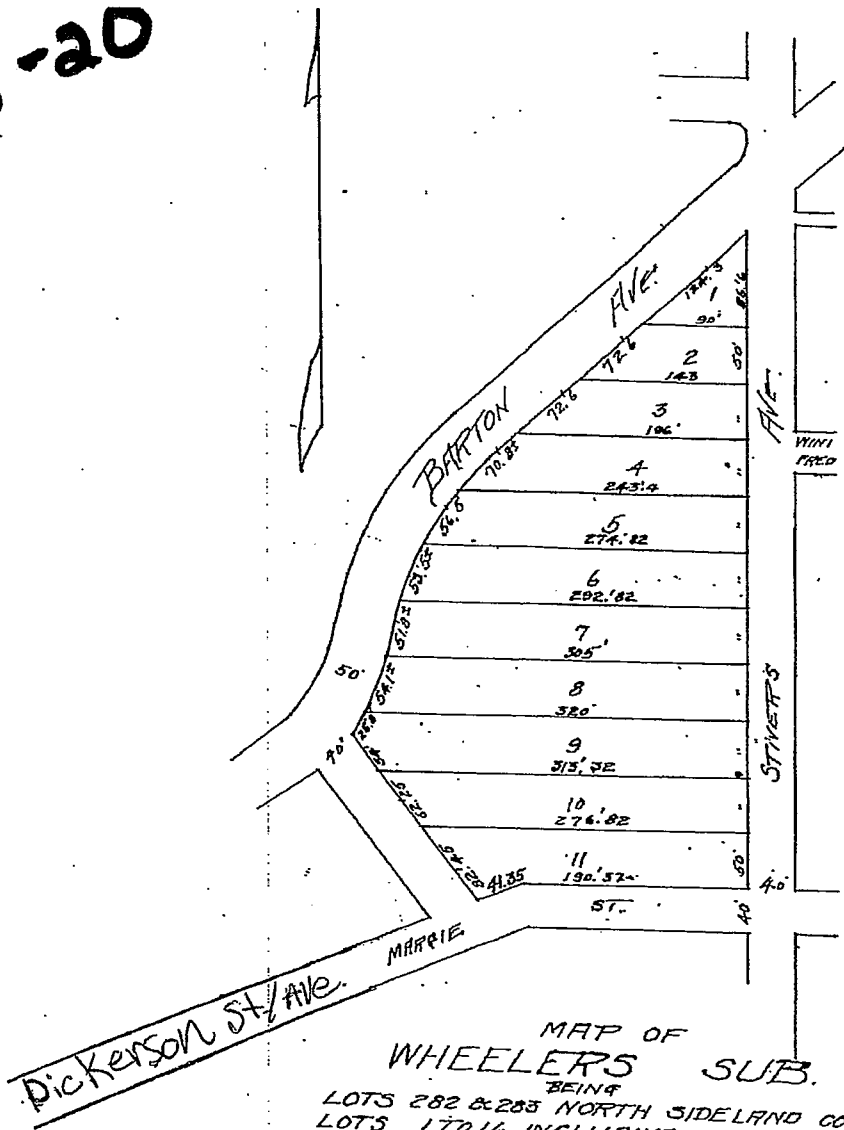
OF LOT NO 1 OF THE COWART ESTATE IN THE THIRD CIVIL DISTRICT OF HAMILTON CO TENN
M 17 1886

RODERTZ CIVIL ENGINEER
RECORDED 16 FEBRUARY 1886





8-20



EDWARD E. BETT'S ENGINEERING CO.
 Chattanooga Tenn.
 Drawing No. 882-3 Aug-1-21.

MAP OF
 WHEELERS SUB.
 BEING
 LOTS 282 & 283 NORTH SIDELAND COS. SUB
 LOTS 17016 INCLUSIVE OF BARTON'S ADD.
 HAMILTON CO. TENN.
 CUSHMAN-FAIRLEIGH ENG. CO.
 SCALE 1"=100' OCT. 14 1920

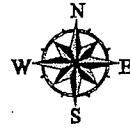
Sept. 2, 1921. at 1:20 P.M.

CHATTANOOGA

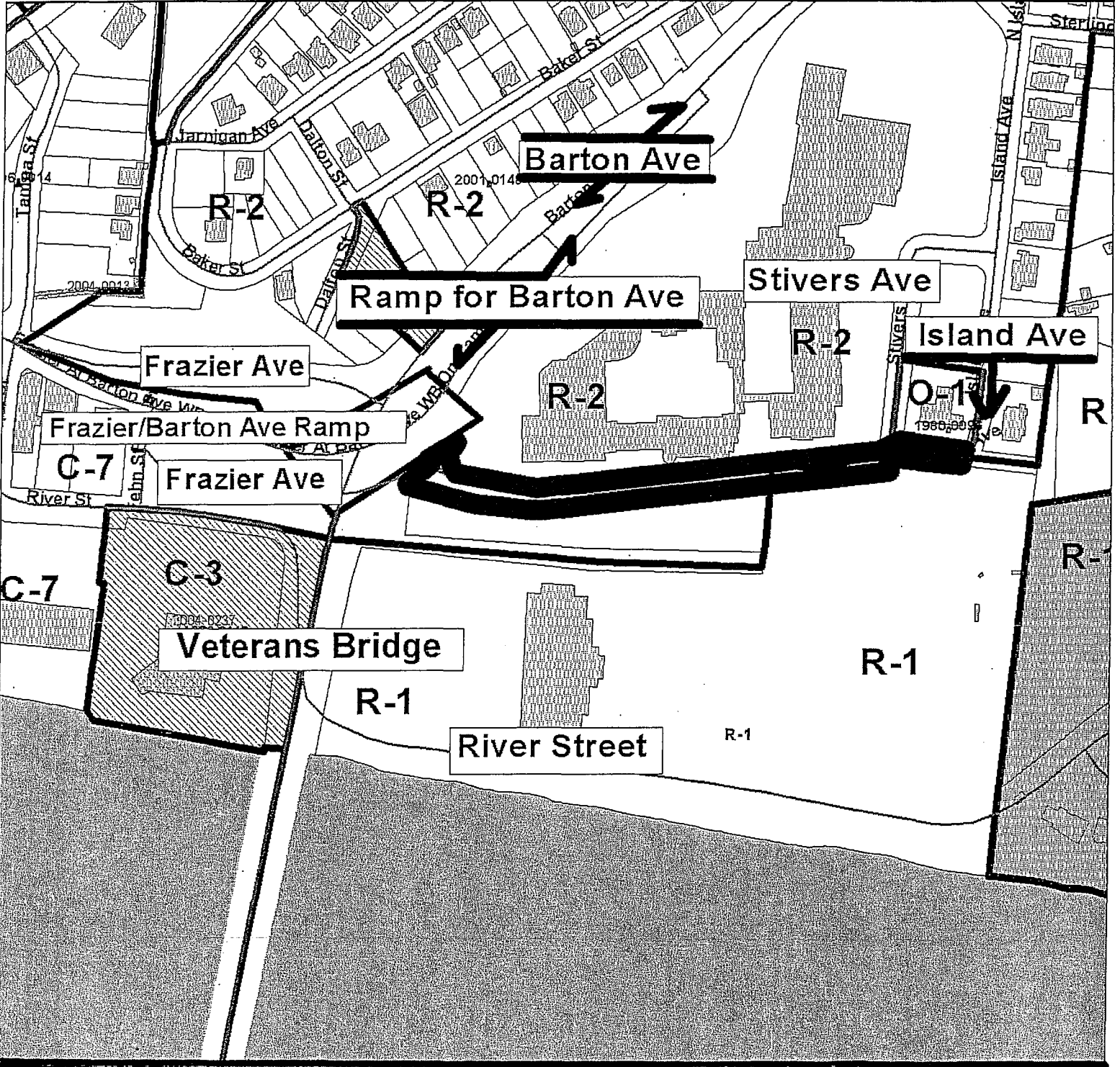
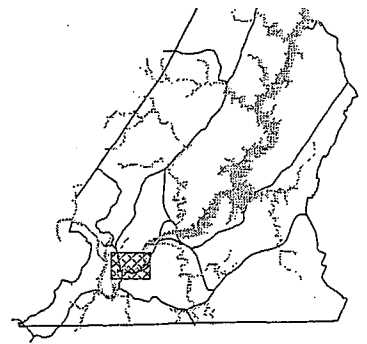
CASE NO.: 2008-0053

PC MEETING DATE: 3/10/2008

MR ABANDON STREET R-O-W



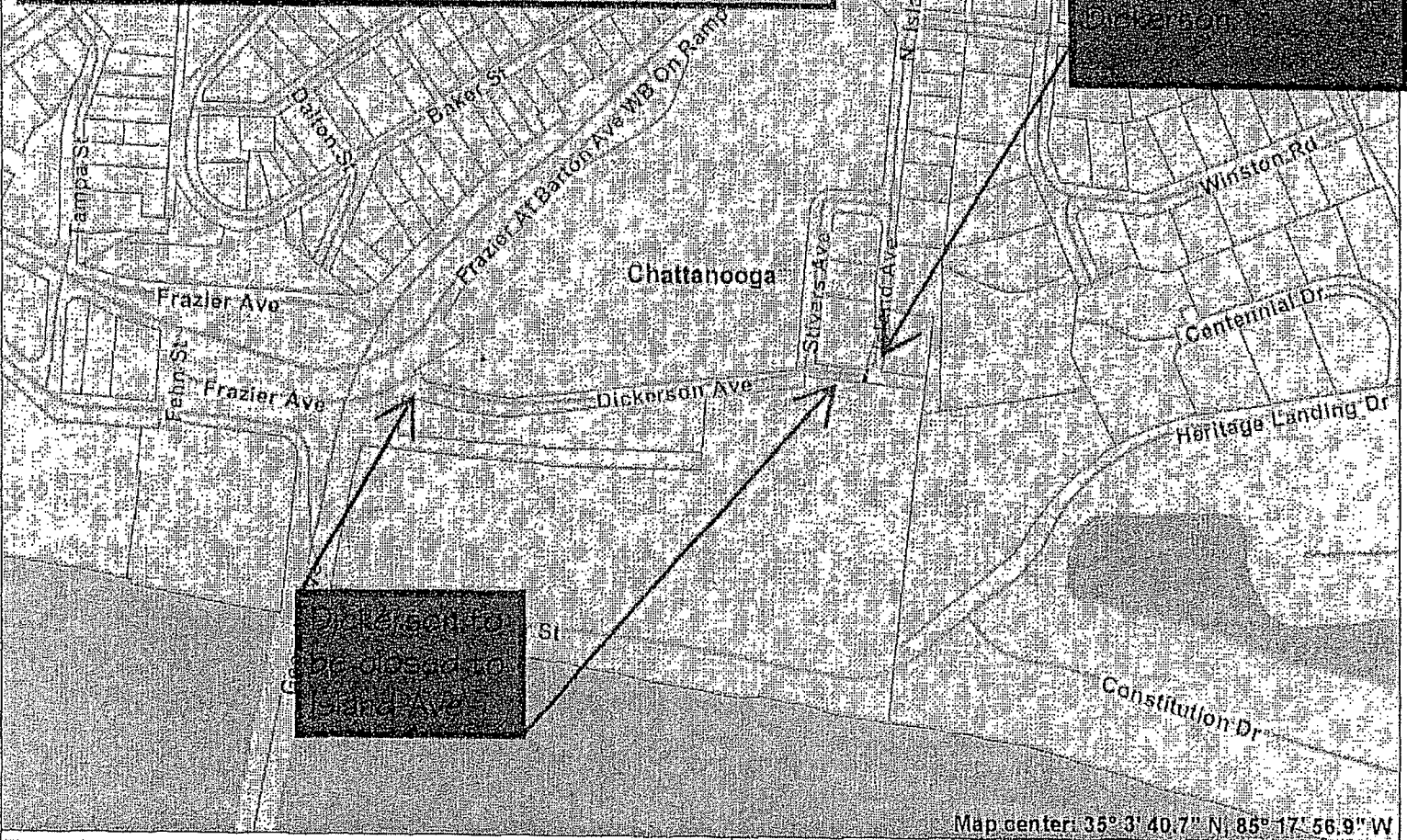
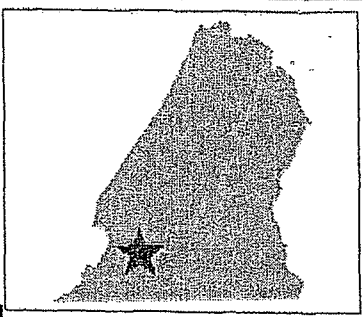
1 in. = 250.0 feet



PLANNING COMMISSION RECOMMENDATION FOR CASE NO. 2008-053: Deny

GPS has requested the city pave Dickerson for many years. GPS is the owner of the property that fronts Dickerson on the north and the south. Presently the school is involved in an expansion that fronts Dickerson on the north. The GPS families utilize this street as a secondary means of exiting the campus, being the primary users of this street. The school would like to resurface the street and make additional improvements. In assuming responsibility for improvements and maintenance the school would like to gain possession.

2008-053



- ### Legend
- Interstates
 - Railways
 - Roads
 - Parcel cover
 - Water Bodies
 - Cities**
 - Chattanooga
 - Collegedale
 - East Ridge
 - Lakesite
 - Lookout Mountain
 - Red Bank
 - Ridgeside
 - Signal Mountain
 - Soddy Daisy
 - Walden



Scale: 1:4,678

Map center: 35° 3' 40.7" N, 85° 17' 56.9" W

This map is a user generated static output from an Internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED AS A LEGAL DOCUMENT.