



PLAN AMENDMENT/ REZONING REPORT

► **FILE #:** 3-D-21-RZ **AGENDA ITEM #:** 8
3-A-21-SP **AGENDA DATE:** 4/8/2021

POSTPONEMENT(S): 3/11/2021

► **APPLICANT:** BENJAMIN MULLINS OBO HOME FEDERAL BANK OF TENNESSEE
OWNER(S): Home Federal Bank

TAX ID NUMBER: 144 L B 003 [View map on KGIS](#)

JURISDICTION: Commission District 4

STREET ADDRESS: 1401 Bexhill Drive

► **LOCATION:** East of Ebenezer Road, south side of Bexhill Drive, north side of Gatwick Drive

► **TRACT INFORMATION:** 2.51 acres.

SECTOR PLAN: Southwest County

GROWTH POLICY PLAN: Planned Growth Area

ACCESSIBILITY: This property has three frontages. Ebenezer Road is a minor arterial with four lanes and a center turning lane and 65 ft of pavement width within 75 ft of right-of-way. Bexhill Drive and Gatwick Drive are both local roads with a 29-ft pavement width inside a 50-ft right-of-way.

UTILITIES: Water Source: First Knox Utility District

Sewer Source: First Knox Utility District

WATERSHED: Tennessee River

► **PRESENT PLAN DESIGNATION/ZONING:** LDR (Low Density Residential) / PC (Planned Commercial) & RA (Low Density Residential)

► **PROPOSED PLAN DESIGNATION/ZONING:** MU-NC (Mixed Use - Neighborhood Center) / CN (Neighborhood Commercial)

► **EXISTING LAND USE:** Undeveloped land

► **EXTENSION OF PLAN DESIGNATION/ZONING:** No

HISTORY OF ZONING REQUESTS: None noted for this property

SURROUNDING LAND USE, PLAN DESIGNATION, North: Multifamily and single family residential - LDR (Low Density Residential) - RA (Low Density Residential)

ZONING South: Multifamily and single family residential - LDR (Low Density Residential) - RA (Low Density Residential)

East: Single family residential - LDR (Low Density Residential) - RA (Low Density Residential)

West: Single family residential, rural residential, and office - LDR (Low Density Residential) - A (Agricultural)

NEIGHBORHOOD CONTEXT: This area consists of predominantly single family detached residential uses, though there is a small node of Neighborhood Commercial zoning nearby to the south at the corner of Bluegrass and Ebenezer Roads. Bluegrass School is at the northwest quadrant of that intersection.

STAFF RECOMMENDATION:

- ▶ **Deny the Southwest County Sector Plan amendment to MU-NC (Mixed Use - Neighborhood Center) because it does not meet the criteria for a plan amendment.**

- ▶ **Deny CN zoning because it does not meet the zoning amendment criteria and is not consistent with the Southwest County Sector Plan.**

COMMENTS:

SECTOR PLAN AMENDMENT REQUIREMENTS FROM GENERAL PLAN (May meet any one of these):

CHANGES OF CONDITIONS WARRANTING AMENDMENT OF THE LAND USE PLAN:

1. There are no recent significant changes to conditions that would warrant a plan amendment to the MU-NC (Mixed Use - Neighborhood Center).

INTRODUCTION OF SIGNIFICANT NEW ROADS OR UTILITIES THAT WERE NOT ANTICIPATED IN THE PLAN AND MAKE DEVELOPMENT MORE FEASIBLE:

1. No new roads or additional utilities have been introduced in this area.

AN OBVIOUS OR SIGNIFICANT ERROR OR OMISSION IN THE PLAN:

1. The sector plan did not recognize the commercial zoning on the property even though the zoning predates the sector plan. The property is zoned PC (Planned Commercial) and has been since 1976, when it was rezoned from RA (Low Density Residential) to PC (Planned Commercial). The staff report for that rezoning noted that the surrounding area was projected to have one of the greatest population growth rates in the County, which would create a market for commercial services. However, the property was never developed and a commercial node has developed along S. Northshore Drive instead.

2. All uses in the Planned Commercial zone require a use on review approval from the Planning Commission. One of the stipulations of a use on review application is for the plans to be in compliance with the sector plan. But the PC zone only allows commercial uses and the LDR (Low Density Residential) land use only allows residential uses. As such, the property cannot be developed with the current zoning and land use designations.

3. There is an error on the property regarding consistency between the sector plan and zoning. However, the fact that they are inconsistent doesn't necessarily mean it is the sector plan that is in error. Along its length, Ebenezer is developed with single family residential uses with the exception of a small node at the intersection with Westland before Ebenezer Road changes to S. Peters Drive. And there is a large commercial node 1 mile to the south along S. Northshore Drive.

TRENDS IN DEVELOPMENT, POPULATION OR TRAFFIC THAT WARRANT RECONSIDERATION OF THE ORIGINAL PLAN PROPOSAL:

1. There are no trends in development, population, or traffic that warrant reconsideration of the sector plan to MU-NC.

State law regarding amendments of the general plan (which includes Sector Plan amendments) was changed with passage of Public Chapter 1150 by the Tennessee Legislature in 2008. The law now provides for two methods to amend the plan at TCA 13-3-304:

- The Planning Commission may initiate an amendment by adopting a resolution and certifying the amendment to the Legislative Body. Once approved by majority vote of the Legislative Body, the amendment is operative.
- The Legislative Body may also initiate an amendment and transmit the amendment to the Planning Commission. Once the Planning Commission has considered the proposed amendment and approved, not approved, or taken no action, the Legislative Body may approve the amendment by majority vote and the amendment is operative.

REZONING REQUIREMENTS FROM ZONING ORDINANCES (must meet all of these):

THE PROPOSED AMENDMENT SHALL BE NECESSARY BECAUSE OF SUBSTANTIALLY CHANGED OR CHANGING CONDITIONS IN THE AREA AND DISTRICTS AFFECTED, OR IN THE CITY/COUNTY GENERALLY:

1. There are no recent substantial changes to the conditions that would warrant a rezoning to CN (Neighborhood Commercial).

THE PROPOSED AMENDMENT SHALL BE CONSISTENT WITH THE INTENT AND PURPOSE OF THE APPLICABLE ZONING ORDINANCE:

1. The CN (Neighborhood Commercial) zone provides the opportunity to locate limited retail and service uses in a manner convenient to and yet not disruptive to established residential neighborhoods. It is intended to provide for the recurring shopping and personal service needs of nearby residential areas. Development should be compatible with the character of the adjacent neighborhood. This zoning should generally be placed at street intersections that include either a collector or arterial street, as close to the edge of the neighborhood as possible. The range of permitted uses is limited to those that are generally patronized on a frequent basis by neighborhood residents. Development performance standards are provided to maximize compatibility between commercial uses and adjacent residential uses.

2. Rezoning should be based on the entire range of uses allowed within a zone to ensure that any development proposed at a future time would be compatible with the surrounding land uses.

3. Despite the definition cited in number 1 above, the CN zone allows some uses not compatible with the surrounding residential neighborhood. For example, the zoning ordinance refers to NAICS (North American Industry Classification System) codes and includes NAICS 532 and NAICS 621, both of which include some uses that would not be appropriate. NAICS 532 (Rental and Leasing Services) includes truck, utility trailer, and RV leasing, and leasing of commercial and industrial machinery and equipment. NAICS 621 (Ambulatory Health Care Services) includes ambulance centers and organ and blood banks.

THE PROPOSED AMENDMENT SHALL NOT ADVERSELY AFFECT ANY OTHER PART OF THE COUNTY, NOR SHALL ANY DIRECT OR INDIRECT ADVERSE EFFECTS RESULT FROM SUCH AMENDMENT.

1. The CN zone would allow uses that could have adverse impacts on the adjacent residential neighborhood should they be approved.

THE PROPOSED AMENDMENT SHALL BE CONSISTENT WITH AND NOT IN CONFLICT WITH THE GENERAL PLAN OF KNOXVILLE AND KNOX COUNTY, INCLUDING ANY OF ITS ELEMENTS, MAJOR ROAD PLAN, LAND USE PLAN, COMMUNITY FACILITIES PLAN, AND OTHERS:

1. CN zoning is not compatible with the Southwest County Sector Plan's LDR (Low Density Residential) land use designation and would require a plan amendment. The property meets the MU-NC location criteria.

2. The Southwest County Sector Plan calls for this lot to be a park. While this may not be feasible, commercial uses are more intense than single family residential uses.

ESTIMATED TRAFFIC IMPACT: Not required.

ESTIMATED STUDENT YIELD: Not applicable.

If approved, this item will be forwarded to Knox County Commission for action on 5/24/2021. If denied, Knoxville-Knox County Planning Commission's action is final, unless the action to deny is appealed to Knox County Commission. The date of the appeal hearing will depend on when the appeal application is filed. Appellants have 30 days to appeal a Planning Commission decision in the County.



Request to Postpone • Table • Withdraw

Name of Applicant: Benjamin Mullins obo Home Federal Bank of Tennessee

AS IT APPEARS ON THE CURRENT PLANNING COMMISSION AGENDA

Original File Number(s): 3-D-21-RZ & 3-A-21-SP

Date Scheduled for Planning Review: March 11, 2021

Date Request Filed: 03/08/2021

Request Accepted by: Sherry D. Schiavone

REQUEST

☒ **Postpone**

Please postpone the above application(s) until:

April 8, 2021

DATE OF FUTURE PUBLIC MEETING

☐ **Table**

Please table the above application(s).

☐ **Withdraw**

Please withdraw the above application(s).

State reason for request:

Take additional time to meet with neighbors and County Commissioners regarding issues raised by the neighborhood and by Planning Staff.

Eligible for Fee Refund? ☐ Yes ☐ No

Amount: _____

Approved by: _____

Date: _____

APPLICATION AUTHORIZATION

I hereby certify that I am the property owner, applicant, or applicant's authorized representative.

Signature: Benjamin C. Mullins

PLEASE PRINT

Name: Benjamin C. Mullins

Address: 550 W. Main Street, Suite 500

City: Knoxville State: TN Zip: 37902

Telephone: (865) 546-9321

Fax: (865) 546-9321

E-mail: bmullins@fmsllp.com

PLEASE NOTE

Consistent with the guidelines set forth in Planning's *Administrative Rules and Procedures*:

POSTPONEMENTS

Any first time (new) Planning application is eligible for one automatic postponement. This request is for 30 days only and does not require Planning approval if received no later than 3:30 p.m. on the Friday prior to the Planning Commission meeting. All other postponement requests must be acted upon by Planning before they can be officially postponed to a future public meeting.

TABLINGS

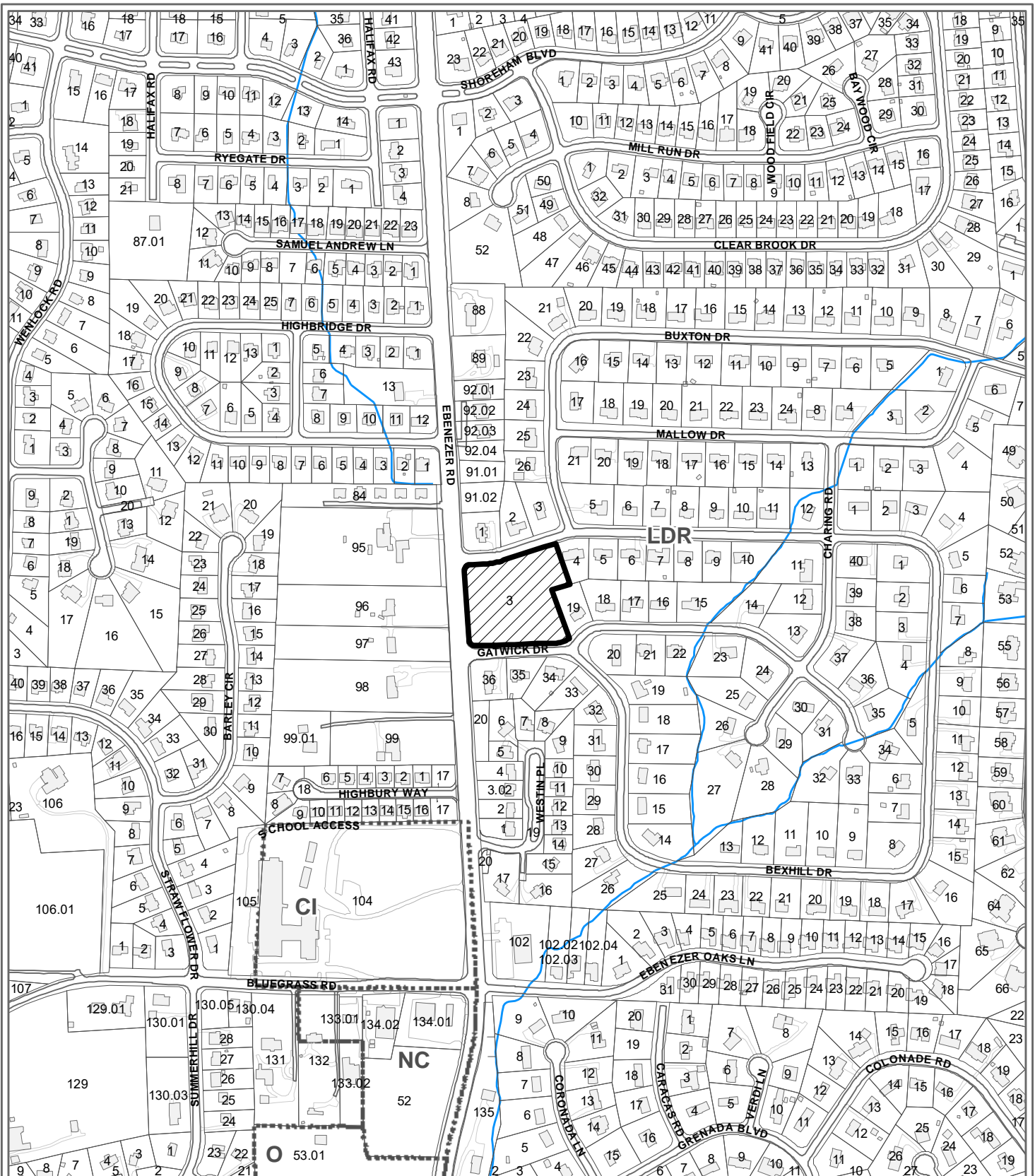
Any item requested for tabling must be acted upon by the Planning Commission before it can be officially tabled.

WITHDRAWALS

Any item is eligible for automatic withdrawal. A request for withdrawal must be received no later than 3:30p.m. on the Friday prior to the Planning Commission meeting. Withdrawal requests that do not meet these guidelines must be acted upon by Planning Commission before they can be officially withdrawn.

Any new item withdrawn may be eligible for a fee refund according to the following:

Application withdrawal with fee refund will be permitted only if a written request is received prior to public notice. This request must be approved by either the Executive Director, or the Planning Services Manager. Applications may be withdrawn after this time, but without fee refund.



3-A-21-SP / 3-D-21-RZ
SOUTHWEST COUNTY SECTOR PLAN AMENDMENT

From: LDR (Low Density Residential)

To: MU-NC (Neighborhood Mixed Use Center)



Original Print Date: 2/5/2021 Revised:
 Knoxville - Knoxville Planning Commission * City / County Building * Knoxville, TN 37902

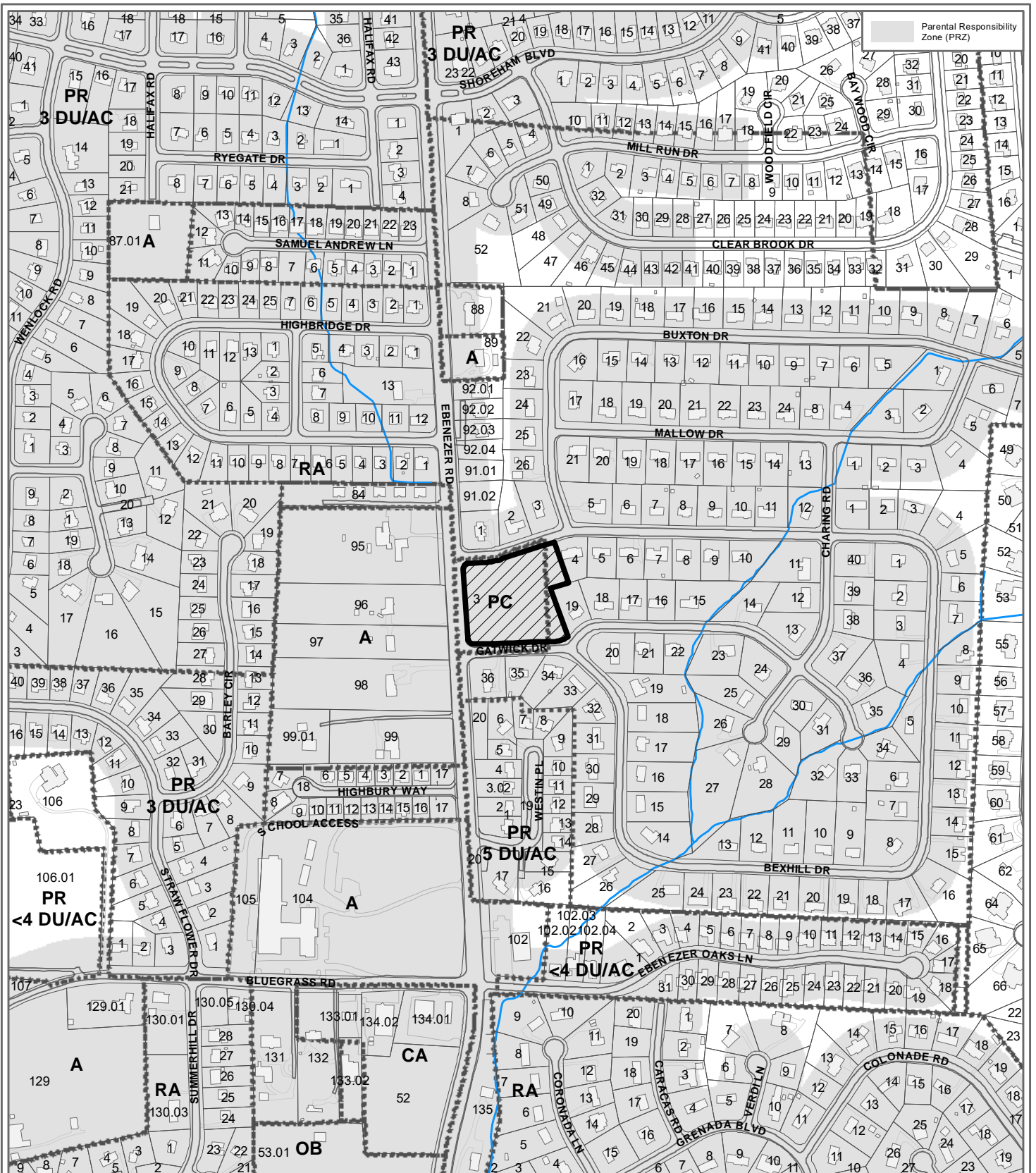
Petitioner: Mullins obo Home Federal Bank
 of Tennessee, Benjamin

Map No: 244

Jurisdiction: County

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 Feet





3-D-21-RZ REZONING

From: PC (Planned Commercial) / RA (Low Density Residential)

To: CN (Neighborhood Commercial)



Original Print Date: 2/5/2021

Revised:

Knoxville - Knox County Planning Commission * City / County Building * Knoxville, TN 37902

Petitioner: Mullins obo Home Federal Bank
of Tennessee, Benjamin

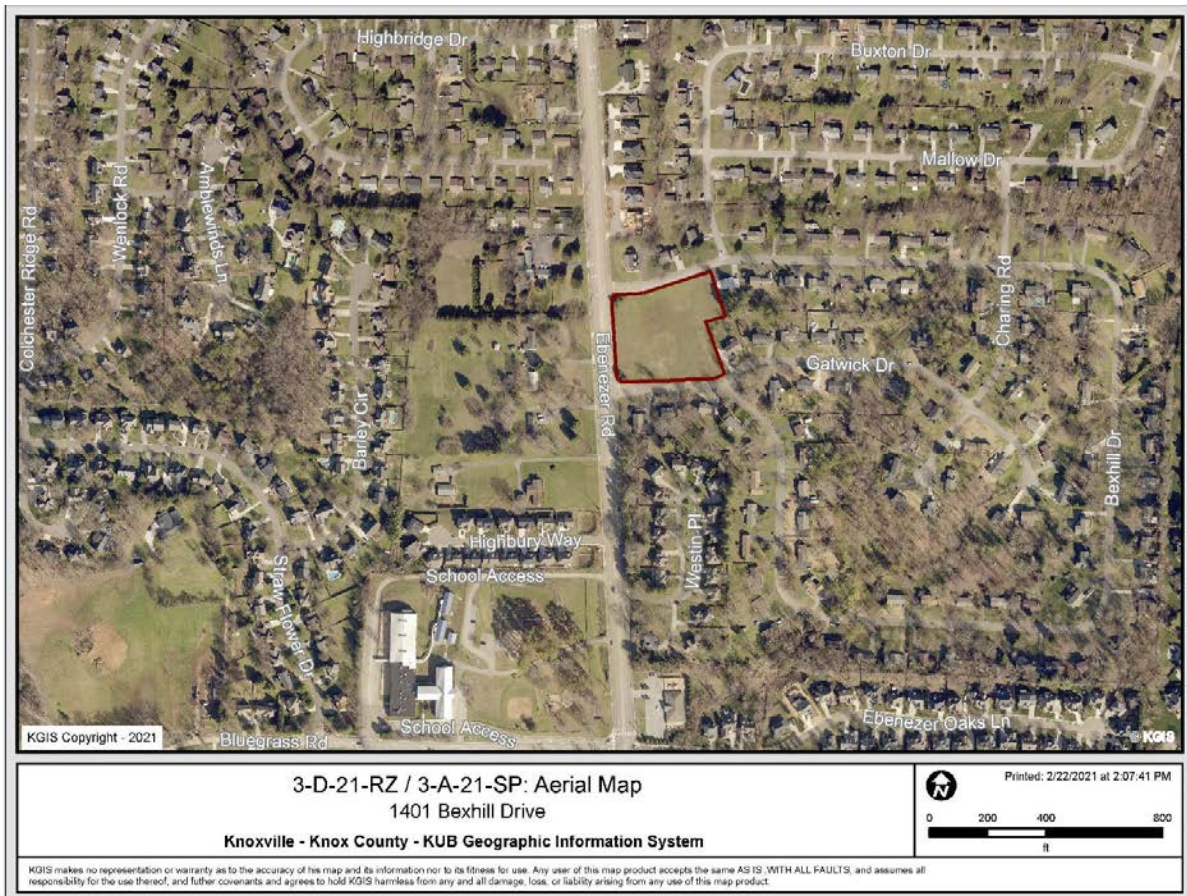
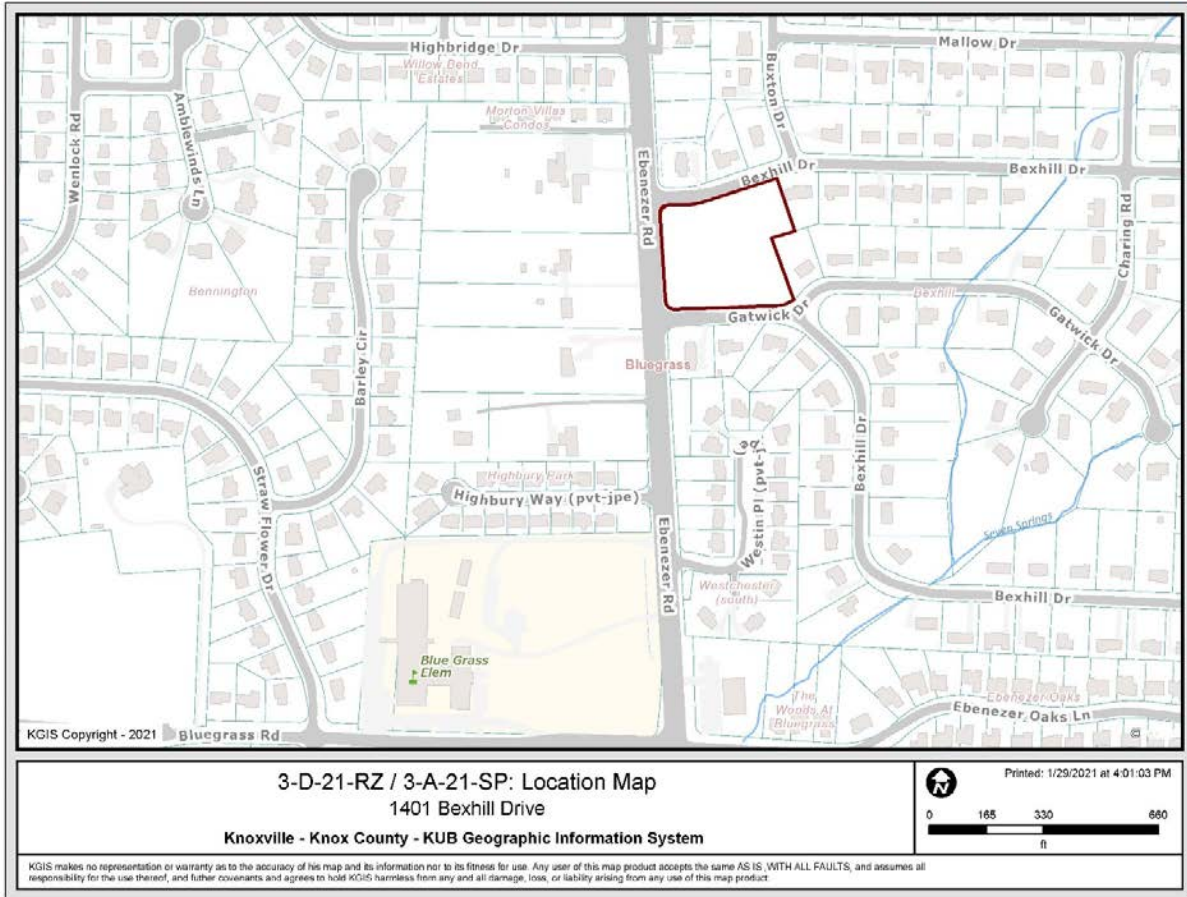
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Jurisdiction: County

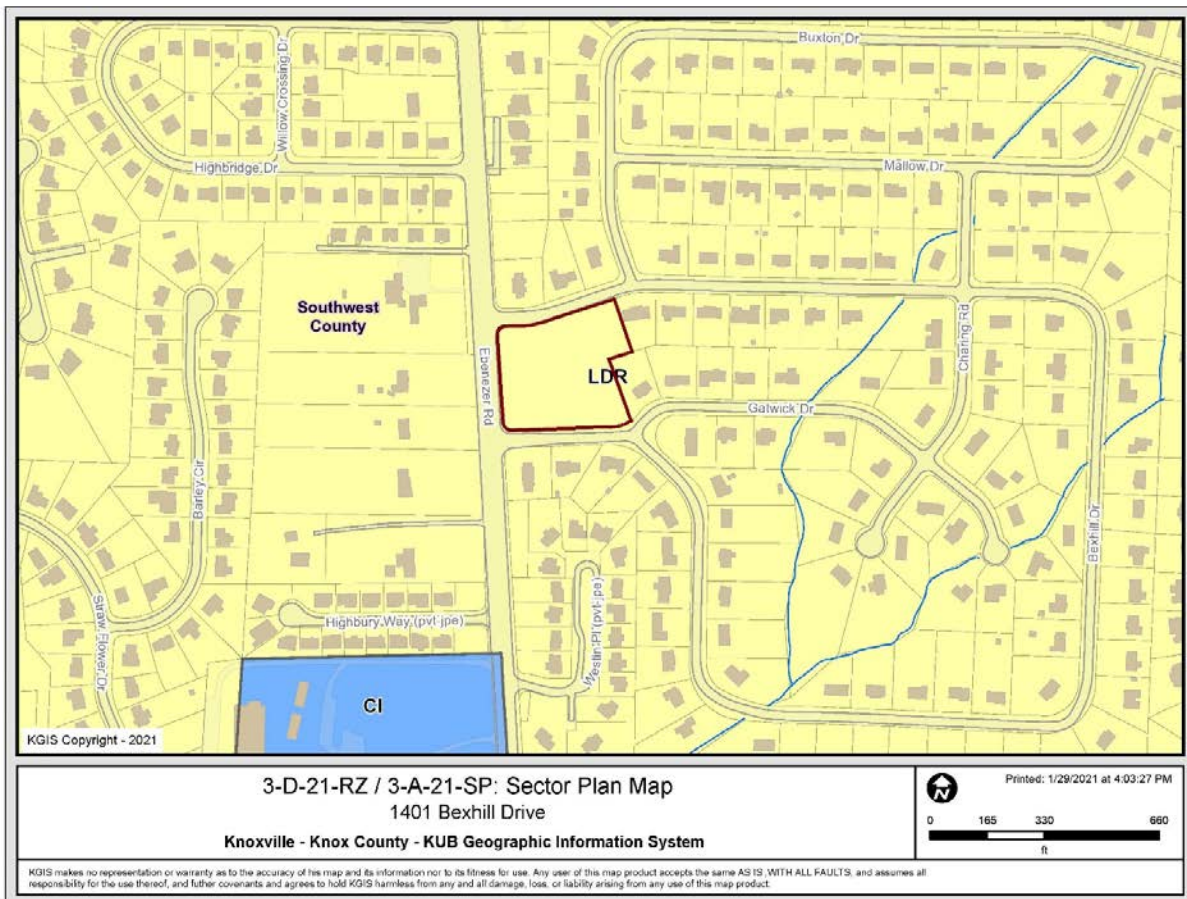
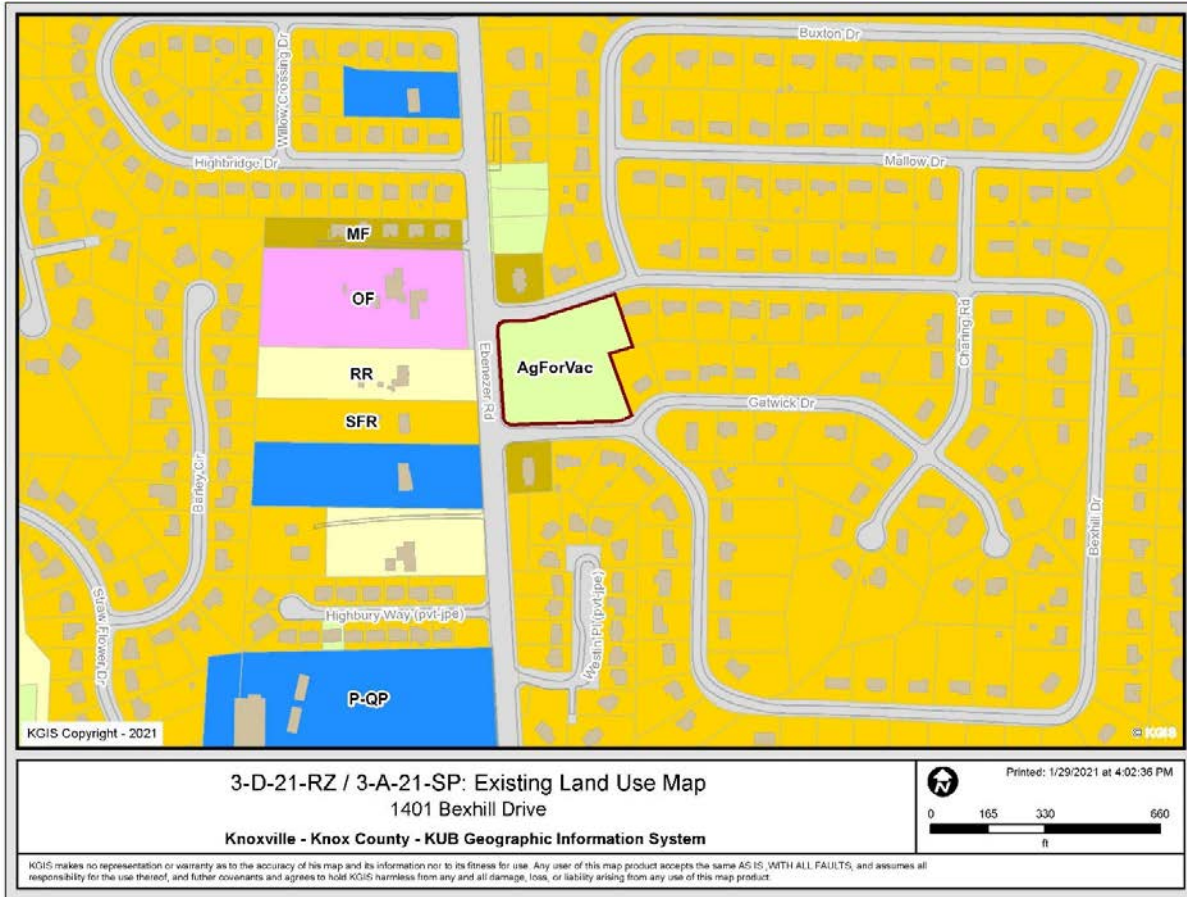
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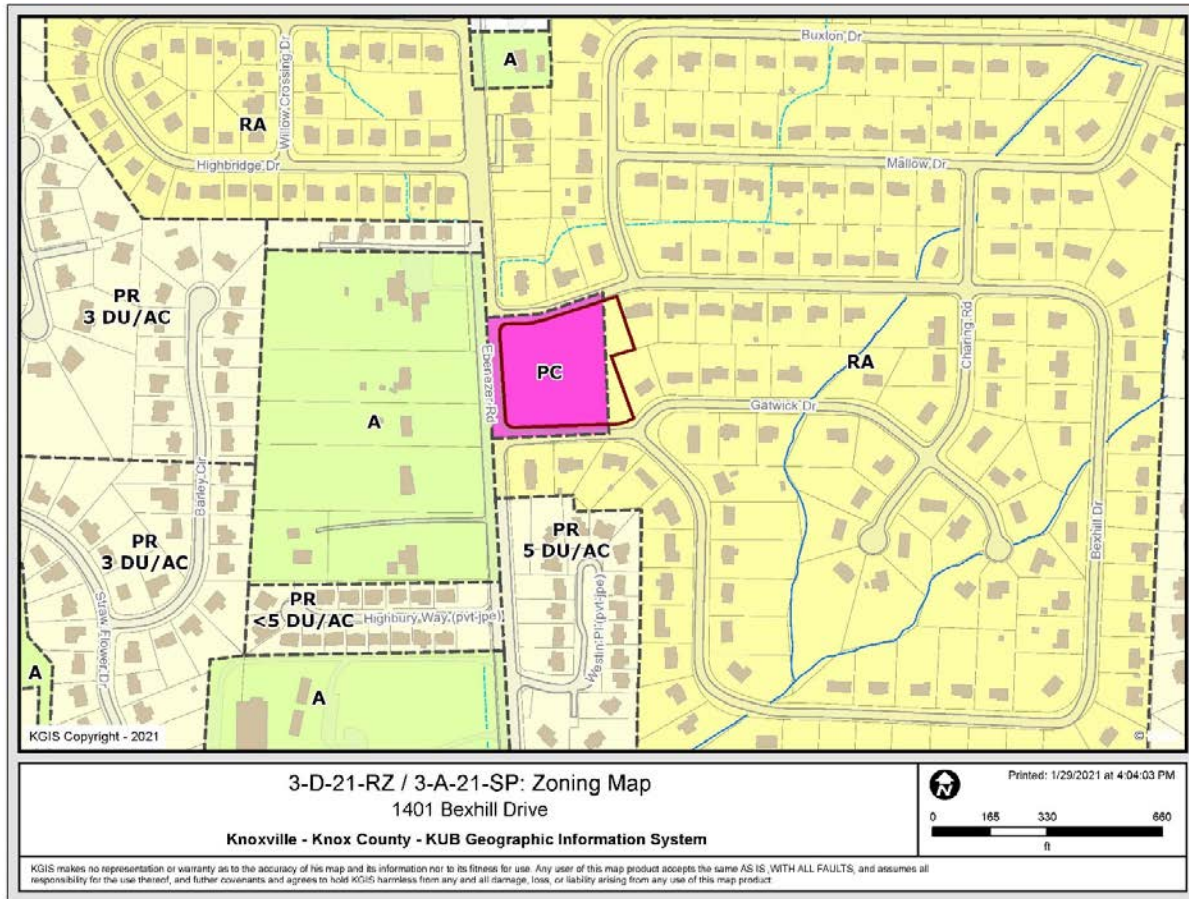
3-D-21-RZ / 3-A-21-SP
EXHIBIT A. Contextual Images



3-D-21-RZ / 3-A-21-SP
EXHIBIT A. Contextual Images



3-D-21-RZ / 3-A-21-SP
EXHIBIT A. Contextual Images





Development Request

DEVELOPMENT

- ☐ Development Plan
☐ Planned Development
☐ Use on Review / Special Use
☐ Hillside Protection COA

SUBDIVISION

- ☐ Concept Plan
☐ Final Plat

ZONING

- ☒ Plan Amendment
☐ SP ☐ OYP
☒ Rezoning

Benjamin Mullins o/b/o Home Federal Bank of Tennessee

Attorney/Applicant

Applicant Name

Affiliation

Jan. 21, 2021

March 11, 2021

Date Filed

Meeting Date (if applicable)

File Number(s)

3-D-21-PZ
3-A-21-SP

CORRESPONDENCE

All correspondence related to this application should be directed to the approved contact listed below.

- ☒ Applicant ☐ Owner ☐ Option Holder ☐ Project Surveyor ☐ Engineer ☐ Architect/Landscape Architect

Benjamin C. Mullins

Frantz, McConnell & Seymour, LLP

Name

Company

550 West Main Street, Suite 500

Knoxville

TN

37922

Address

City

State

ZIP

865-546-9321

bmullins@fmsllp.com

Phone

Email

CURRENT PROPERTY INFO

Home Federal Bank of TN

515 Market St. Knoxville, TN, 37902-2145 865-546-0330

Owner Name (if different)

Owner Address

Owner Phone

1401 Bexhill Drive

144LB003

Property Address

Parcel ID

First Utility

Sewer Provider

First Utility

Water Provider

N

Septic (Y/N)

STAFF USE ONLY

East of Ebenezer Road, South of Bexhill Dr. and North of Gatwick Dr.

+/- 2.51 acres

General Location

Tract Size

☐ City ☒ County

4

PC and RA

AgrforVac (Vacant)

District

Southwest County

Zoning District

Existing Land Use

Planning Sector

LDR (Low Density Residential)

Planned Growth

Sector Plan Land Use Classification

Growth Policy Plan Designation

December 2020

DEVELOPMENT REQUEST

- ☐ Development Plan ☐ Use on Review / Special Use ☐ Hillside Protection COA
☐ Residential ☐ Non-Residential

Home Occupation (specify) _____

Other (specify) _____

Related City Permit Number(s)

SUBDIVISION REQUEST

Proposed Subdivision Name _____

Unit / Phase Number ☐ Combine Parcels ☐ Divide Parcel

Total Number of Lots Created _____

☐ Other (specify) _____☐ Attachments / Additional Requirements

Related Rezoning File Number

ZONING REQUEST☒ Zoning Change Neighborhood Commercial

Proposed Zoning

☒ Plan Amendment Change MU-NCProposed Plan Designation(s)
Unknown

Proposed Density (units/acre)

Previous Rezoning Requests

☐ Other (specify) _____

Pending Plat File Number

STAFF USE ONLY**PLAT TYPE**

- ☐ Staff Review ☐ Planning Commission

ATTACHMENTS

- ☐ Property Owners / Option Holders ☐ Variance Request

ADDITIONAL REQUIREMENTS

- ☐ Design Plan Certification (*Final Plat*)
☐ Use on Review / Special Use (*Concept Plan*)
☐ Traffic Impact Study
☐ COA Checklist (*Hillside Protection*)

Fee 1

Total

0326 | 1000.00

Fee 2

0526 | 600.00

Fee 3

\$1600.00

AUTHORIZATION

By signing below, I certify I am the property owner, applicant or the owners authorized representative.

Applicant Signature

Benjamin Mullins o/b/o Home Federal Bank

Please Print

Date

865-546-9321

bmullins@fmsllp.com

Phone Number

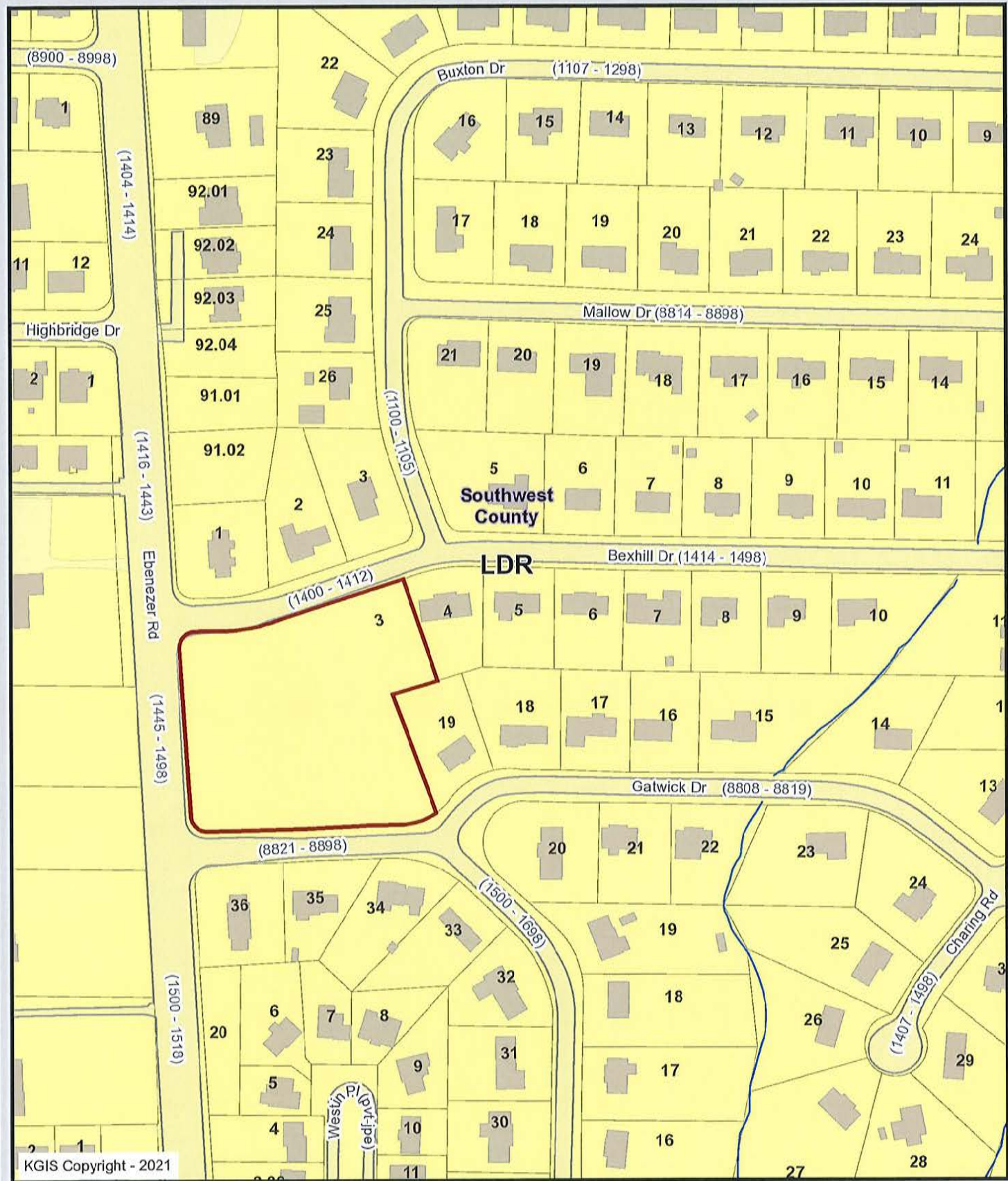
Email

Staff Signature

Please Print

Date

1/21/2021



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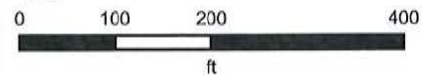
Sector Plan

1401 Bexhill Dr.

Knoxville - Knox County - KUB Geographic Information System



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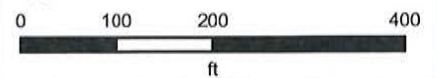
Growth Policy Plan

1401 Bexhill Dr.

Knoxville - Knox County - KUB Geographic Information System



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ARTHUR G. SEYMOUR, JR.
(1945 - 2019)

of counsel
JASON T. MURPHY

January 21, 2021

Knoxville-Knox County Planning

City-County Building

400 Main Street

Suite 403

Knoxville, TN 37902

Re: 1401 Bexhill Drive

Dear Planning Department:

Enclosed herewith please find my application for Rezoning for 1401 Bexhill Drive on behalf of my client, Home Federal Bank of Tennessee. As you are probably aware, the bulk of this property has been zoned PC Planned Commercial for several years and which predated the advent of the County's Growth Policy Plan and subsequent Sector Plans. Home Federal Bank acquired this property with the understanding that it would be able to sell and/or develop this property consistent with its Planned Commercial zoning; however, the underlying Sector Plan (LDR) is incompatible with the base zoning (PC). Since developing property PC zone would require a development plan to be submitted to the planning commission for approval as a use permitted on review, then the Property and/or the Sector Plan would need to be amended in this instance.¹ This application seeks to apply both a zone and plan amendment that would minimize the loss of potential commercial property and place a Sector Plan designation that is both

¹ Tenn. Code Ann. Section 13-3-304(b)(1) states, in pertinent part:

If the legislative body adopts the general regional plan in the form of an ordinance by the municipality or a resolution by the county, **then any land use decisions thereafter made by the legislative body, planning commission or board of zoning appeals when the board of zoning appeals is exercising its powers on matters other than a variance, must be consistent with the general regional plan.**

Id. (*emphasis added*). As any development in the PC zone would require subsequent approval of a development plan by the planning commission, then the Property cannot be developed in a manner that is inconsistent with the underlying Sector Plan and would require either a rezoning or a plan amendment to make the uses compatible. If there were a permitted use by the zoning ordinance, that would not require specific action by either the legislative body, the planning commission, or the board of zoning appeals, then the zoning and sector plan amendment do not have to be in alignment and the property could be developed consistent with the base zone and without a corresponding plan amendment.

consistent with the intended commercial use and the adjacent Low Density Residential development.

It would further appear that this property would be appropriate for CN (Neighborhood Commercial) rezoning. There are two Sector Plan designations which allow for CN zoning: NC and MU-NC. The NC designation contains a location criterion that states that new NC should not be approved “within ½ mile of existing commercial that features sales of day-to-day goods and services.” Since there is a “Marco’s Pizza” at the corner of Ebenezer and Bluegrass (approximately ¼ mile from this Property) it technically does not meet this location criteria.²

There is another option available in the 2016 Southwest County Sector Plan that would allow this property to be rezoned to Neighborhood Commercial with a Sector Plan change to MU-NC Mixed Use-Neighborhood Commercial. This Property at issue fits all the required location criteria for the MU-NC plan designation.

- The property is flat terrain (slopes generally less than 10%).
- The property is currently served by a sidewalk.
- The location does not include auto and truck-oriented uses, such as industrial strip, commercial and warehouse and distribution uses.
- The property is located at an intersection of a local street and thoroughfare.
- The property is next to low or medium density residential.

Importantly, this designation does not have any prohibition for its location criteria to not be within a certain distance from existing commercial sites. As stated by the 2016 Southwest County Sector Plan, page 41,

The neighborhood center mixed use (MU-NC) is the least intense of the proposed mixed used districts. Residential densities of 5 to 12 dwelling units/acre are appropriate within the area. Locations at the intersection of a local street and a thoroughfare are generally most appropriate. The surrounding land uses should primarily be planned for low or medium density residential. The buildings of the center should be designed with a residential character and scale to serve as a complement to surrounding neighborhoods. This category is not available for use when the 2005 Sector Plan was produced.

Once again, because of the corresponding adjacent low density residential property and its compliance with the other location criteria, it appears that the most appropriate commercial zone would be Neighborhood Commercial and this Sector Plan designation would accommodate commercial development that is not only compatible with the surrounding neighborhood but minimizes the potential detrimental impact of loss of investment for my client in property that has been zoned Planned Commercial for quite some time.

² Incidentally, the zoning for the Marco’s Pizza is CA (General Business Zone) which is incompatible with the underlying NC Sector Plan.

There does not appear to be a significant amount of neighborhood center mixed use in the County, with the only known properties with this designation being on Lake Ridge Road (with all properties in the MU-NC designation being zoned CA (General Business)). Similarly, at that location, the MU-NC designation is contiguous to Property LDR plan designation. Certainly, if Lake Hill Drive is considered a thoroughfare street, Ebenezer Road would be as well³.

We would respectfully ask the Staff to carefully consider the rezoning to Neighborhood Commercial and the Sector Plan Amendment to Mixed Use-Neighborhood Center under these circumstances and recommend to Planning Commission our requested zoning and plan amendment. I would welcome an opportunity to discuss this matter with you further and to talk through any potential issues Staff may have.

Sincerely,



Benjamin C. Mullins
FRANTZ, McCONNELL & SEYMOUR, LLP

BCM:erl
Enc.

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³ A "thoroughfare street" is not defined in the zoning ordinance or the 2018 Knoxville-Knox County Major Road Plan. Per the 2018 Major Road Plan, Ebenezer is classified as Minor Arterial between S. Peters Road and S. Northshore Drive. Lake Hill Drive is not listed in the 2018 Major Road Plan.

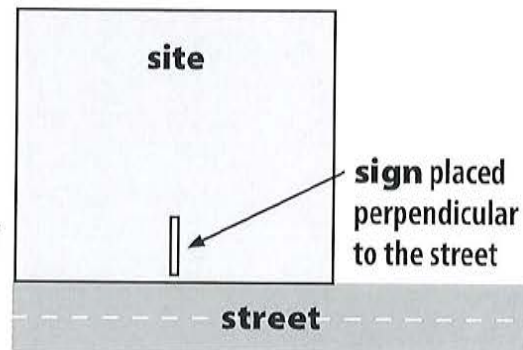
REQUIRED SIGN POSTING AGREEMENT

For all rezoning, plan amendment, concept plan, use on review, right-of-way closure, and street name change applications, a sign must be posted on the subject property, consistent with the adopted Administrative Rules and Procedures.

At the time of application, staff will provide a sign(s) to post on the property as part of the application process. If the sign(s) go missing for any reason and need to be replaced, then the applicant will be responsible for picking up a new sign(s) from the Planning offices. The applicant will be charged a fee of \$10 for each replacement sign.

LOCATION AND VISIBILITY

The sign must be posted in a location that is clearly visible from vehicles traveling in either direction on the nearest adjacent/frontage street. If the property has more than one street frontage, then the sign should be placed along the street that carries more traffic. Planning staff may recommend a preferred location for the sign to be posted at the time of application.




TIMING

The sign(s) must be posted 15 days before the scheduled Planning Commission public hearing and must remain in place until the day after the meeting. In the case of a postponement, the sign can either remain in place or be removed and reposted 15 days before the next Planning Commission meeting.

I hereby agree to post and remove the sign(s) provided on the subject property consistent with the above guidelines and between the dates of:

Feb 24th (Wed) and March 12th (Fri)
 (15 days before the Planning Commission meeting) (the day after the Planning Commission meeting)

Signature: 

Printed Name: Benjamin C. Mullins

Phone: 865-546-9321

Email: bmullins@fmsllp.com

Date: Jan. 21, 2021

File Number: 3-D-21-RZ / 3-A-21-SP