

REZONING REPORT

► **FILE #:** 3-E-21-RZ

AGENDA ITEM #: 19

AGENDA DATE: 3/11/2021

► **APPLICANT:** BENJAMIN C. MULLINS

OWNER(S): Ronnie Welch

TAX ID NUMBER: 59 P D 010 & 011

[View map on KGIS](#)

JURISDICTION: City Council District 4

STREET ADDRESS: 2910 2912 & 3000 Greenway Dr.

► **LOCATION:** South side of Greenway Dr., east of Nora Rd.

► **APPX. SIZE OF TRACT:** 4.1 acres

SECTOR PLAN: North City

GROWTH POLICY PLAN: N/A

ACCESSIBILITY: Greenway Drive is a major collector with a 19-ft pavement width inside a 40-ft right-of-way.

UTILITIES: Water Source: Knoxville Utilities Board

Sewer Source: Knoxville Utilities Board

WATERSHED: Whites Creek

► **PRESENT ZONING:** RN-1 (Single-Family Residential Neighborhood) / F (Floodway) on all properties, and HP (Hillside Overlay) on 3000 Greenway Drive

► **ZONING REQUESTED:** RN-4 (General Residential Neighborhood) / F (Floodway) on all properties and HP (Hillside Protection Overlay) on 3000 Greenway Drive

► **EXISTING LAND USE:** Multifamily and single family residential on parcel 59PD011; duplex on 59PD010

► **EXTENSION OF ZONE:** No

HISTORY OF ZONING: A request for the front portion of parcel 059PD010 to be rezoned from R-1 to R-2 was denied by the Planning Commission and appealed to City Council (Case 5-C-84-RZ) who approved the request.

SURROUNDING LAND USE AND ZONING:

North: Single family residential and rural residential - RN-1 (Single Family Residential Neighborhood) and HP (Hillside Protection Overlay) Districts

South: I-640 right-of-way and railroad tracks inside the I-640 right-of-way - ROW (Right of Way)

East: Single family residential - RN-1 (Single Family Residential Neighborhood) District and HP (Hillside Protection Overlay) District

West: Public/quasi-public land (church) - RN-1 (Single Family Residential Neighborhood) and RN-2 (Single Family Residential Neighborhood) Districts

NEIGHBORHOOD CONTEXT: Greenway Drive is bordered by large-lot (1 acre and greater) single family detached residential on the north and by a mix of large and small-lot (down to 1/4 acre) single family residential on the south. This portion of Greenway Drive contains long, narrow lots that back up to I-640.

STAFF RECOMMENDATION:

- **Approve RN-2 (Single Family Residential Neighborhood) / F (Floodway) zoning on all properties, and HP (Hillside Protection Overlay) on 3000 Greenway Drive, because it is consistent with existing development.**

COMMENTS:

A request was denied by the Planning Commission in May 1984 (Case 5-C-84-RZ, Exhibit B) for the front portion of parcel 059PD010 (2910 and 2912 Greenway Dr.) to be rezoned from R-1 (Low Density Residential) to R-2 (General Residential). The applicant appealed the Planning Commission's decision to City Council, who approved the request. The adjacent parcel 059PD011 was already zoned R-2 at that time. Both properties remained the only properties along Greenway Drive zoned R-2 until the adoption of the new zoning ordinance and map in January 2020. At that time, they were reassigned to RN-1 to reflect the large lot, single family uses that dominate the street and create consistency in the zoning. The applicant had originally requested RN-5 as the comparable zone to R-2 but has since amended the request to ask for RN-4 zoning to avoid the need plan amendments to the North City Sector Plan and the One Year Plan.

Per section 17.1, a nonconforming building, structure or use of land lawfully existing at the time of the adoption or amendment of this ordinance may be continued and maintained. Therefore, the multifamily and duplex structures can remain as they are. Routine repair and maintenance are allowed under this provision. Therefore, the rezoning would only affect future development. An email from the applicant's attorney indicated the applicant "understands that if he wants to develop his property at some point at greater than 9 du/ac it would require a special use permit. He just does not want to lose to the value of a zoning that would allow consideration for multi-family as he had that previously." (Exhibit B).

The previous R-2 (General Residential) zone was widely used across the city and allowed a broad mix of residential uses. The broad application of the R-2 zone was problematic, allowing uses by right that could be potentially incompatible depending on the character of the area. The new zoning ordinance takes greater care in assigning where mixed residential uses occur together. It follows a more fine-grained approach to ensure greater compatibility between zones than the previous zoning ordinance allowed.

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 GENERALLY:

1. There have been no recent, significant changes in this area that would prompt a rezoning to RN-4.
2. Planning staff believes general conditions have not changed significantly since the recommendation in 1984 to deny the R-2 zoning.
3. Recent trends in development consist of rezonings from RN-1 to RN-2 zoning (both are Single Family Residential Districts) for properties along Greenway Drive. Two cases were heard within the last few months, cases 10-G-20-RZ and 12-D-20-RZ, both of which are just a few parcels to the east of this request.
4. Staff believes it important to be consistent with rezonings. One of the cases mentioned above (Case 10-G-20-RZ for 3106 Greenway Drive) was requested to be rezoned from RN-1 to RN-3. Staff recommended RN-2 instead, and it was recommended for RN-2 zoning by the Planning Commission and approved by City Council. If RN-4 were approved for this case, it is hard to justify why the previous applicant was restricted to RN-2.
5. The recent adoption of the new zoning ordinance took into account the existing development and character of the area.

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

1. The zoning ordinance describes the RN-4 (General Residential Neighborhood) District as "intended to accommodate mixed medium density residential development within the City of Knoxville. Single-family, two-family, and townhouse dwelling residential development is permitted with low-rise multi-family dwellings and new development forms such as pocket neighborhoods allowed by review and in some cases with special use approval. The RN-4 District is intended to be applied to neighborhoods that are characterized by such mixed residential development, or that have been identified as areas where such development would be suitable in the future. Limited nonresidential uses that are compatible with the character of the district may also be permitted."
2. Based on the above definition, the parcels in question do not meet the RN-4 description as they are neither located in an area characterized by mixed residential uses nor in an area identified for such development.
3. Rezonings should be based on the entire range of uses allowed within a zone to ensure that any development brought forth at a future time would be compatible with the surrounding land uses.

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

1. The area consists mostly of single family detached residential dwellings. Though the property is already developed, future development would be completed under RN-4 standards if the rezoning were approved.
2. RN-4 zoning allows a minimum lot size of 5,000 square feet and would be inconsistent with the lot sizes in the area. Redeveloped at its maximum capacity, whether now or in the future, this property could accommodate up to 35 dwelling units.

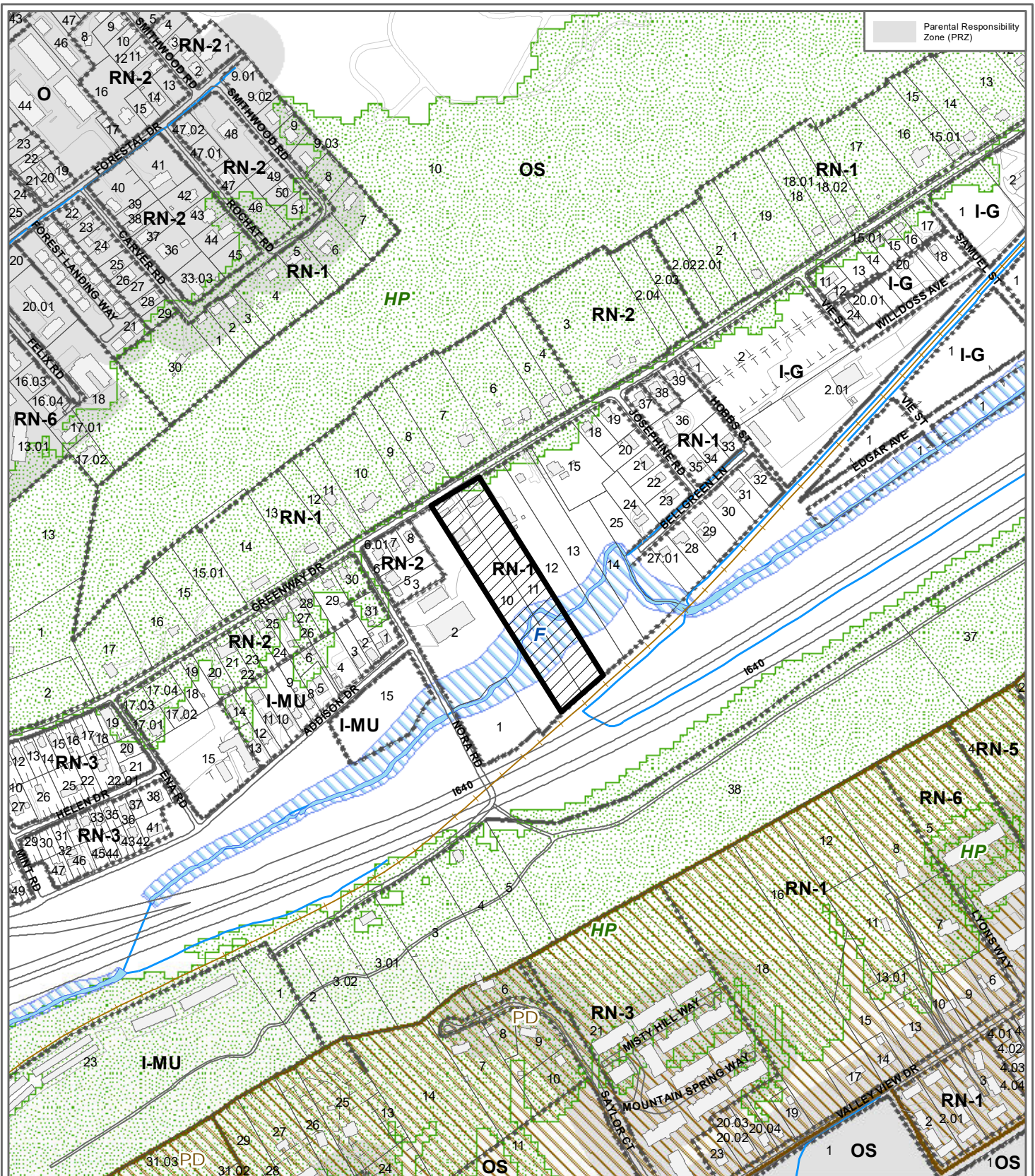
THE PROPOSED AMENDMENT SHALL BE CONSISTENT WITH AND NOT IN CONFLICT WITH THE GENERAL PLAN OF KNOXVILLE AND KNOX COUNTY, INCLUDING ANY OF ITS ELEMENTS, MAJOR ROAD PLAN, LAND USE PLAN, COMMUNITY FACILITIES PLAN, AND OTHERS:

1. The North City Sector Plan's current MDR (Medium Density Residential) designation does support RN-4 zoning. However, that does not mean RN-4 is appropriate at this location. While any zoning district listed under each general land use category can be considered, each district listed is not automatically appropriate for a given property.
2. Lot sizes of properties here are more aligned with the RN-1 zone than with the higher zones allowed in the MDR land use class. The smallest lot is approximately 8,700 square feet. The largest is just over 2 acres. The minimum lot size for duplexes in the RN-1 zone is 15,000 square feet versus the 7,000 square feet allowed in RN-4.
3. For these reasons, these properties were assigned the RN-1 zone despite their location in the MDR land use class.
4. The North City Sector Plan was last updated in 2010 and is due for another update. The designations of the properties along Greenway Drive should be looked at during this next update to better reflect trends in development along Greenway Drive, existing conditions, and to come into alignment with the reassigned zones.
 - a. There are several properties to the east and west on Greenway Drive designated LI (Light Industrial). The LI designation allows industrial zones that are not necessarily appropriate next to single family residential zoning. However, this more intense industrial land use exists on maps only. There are no industrial uses facing Greenway Drive. The Industrial zoning on both sides of these properties are mostly houses or vacant land, though there are 2 commercial businesses, one of which contains outdoor storage.
 - b. The MDR land use class would also be evaluated as part of that process.

ESTIMATED TRAFFIC IMPACT: Not required.

ESTIMATED STUDENT YIELD: Not applicable.

If approved, this item will be forwarded to Knoxville City Council for action on 4/6/2021 and 4/20/2021. If denied, Knoxville-Knox County Planning Commission's action is final, unless the action to deny is appealed to Knoxville City Council. The date of the appeal hearing will depend on when the appeal application is filed. Appellants have 15 days to appeal a Planning Commission decision in the City.



3-E-21-RZ REZONING



From: RN-1 (Single-Family Residential Neighborhood) / F (Floodway) / HP (Hillside Overlay)
To: RN-4 (General Residential Neighborhood) / F (Floodway) / HP (Hillside Overlay)

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

Petitioner: Mullins, Benjamin C.

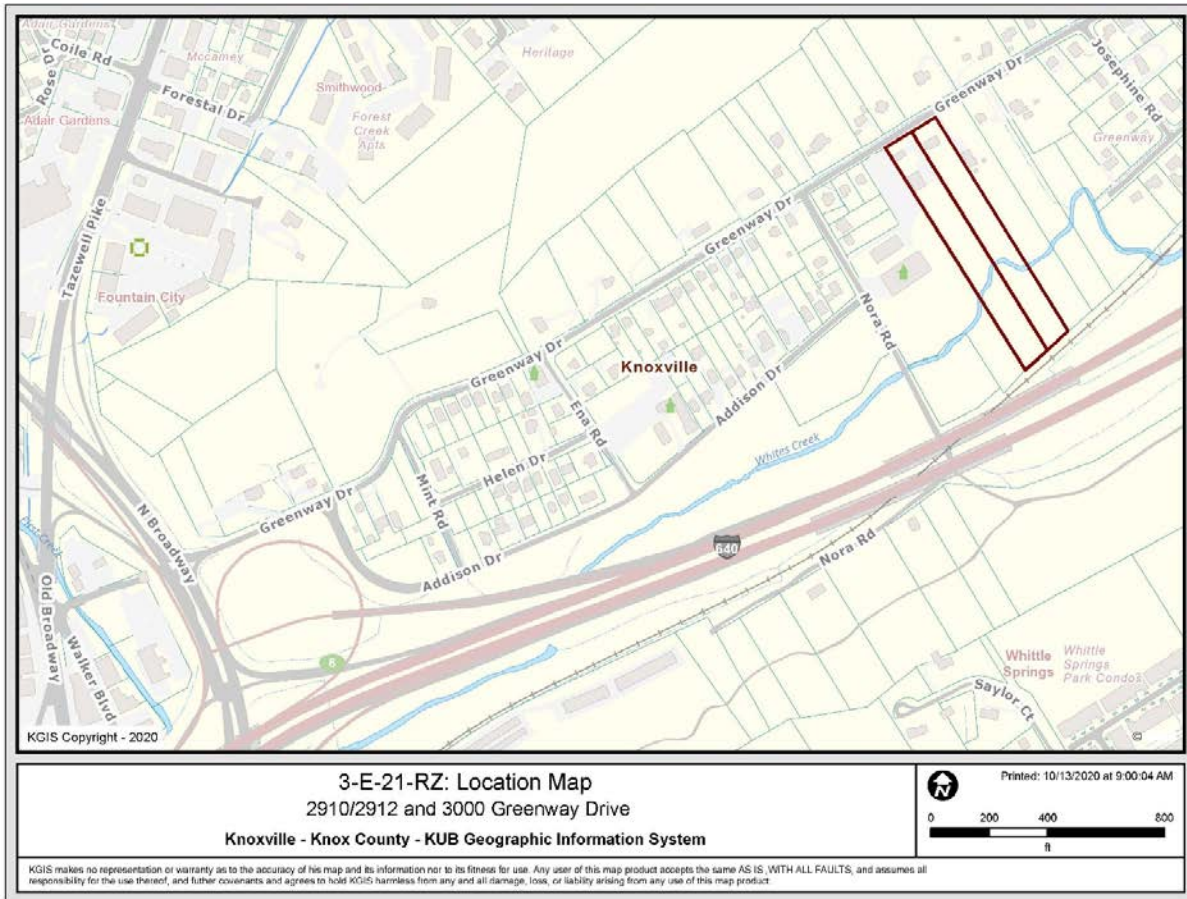
Map No: 59
Jurisdiction: City

0 500
Feet



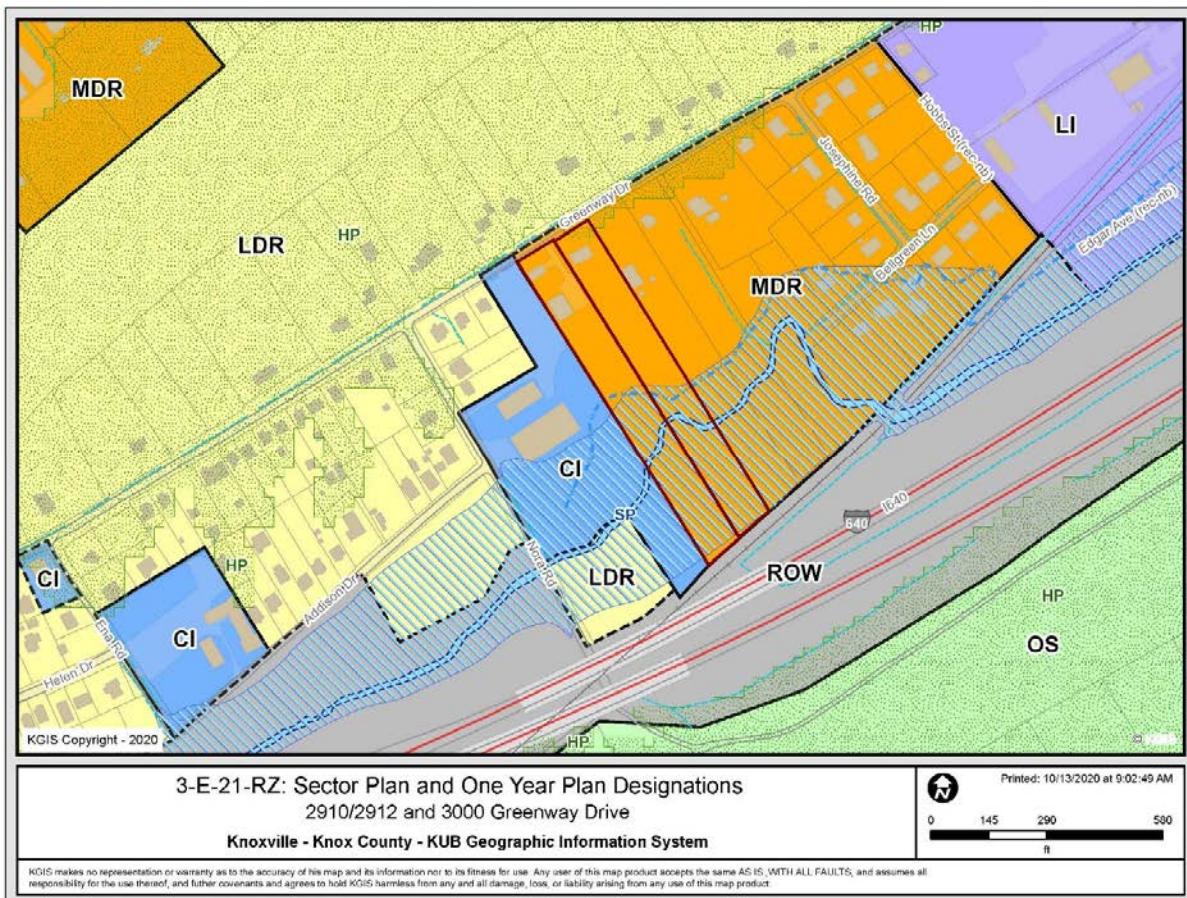
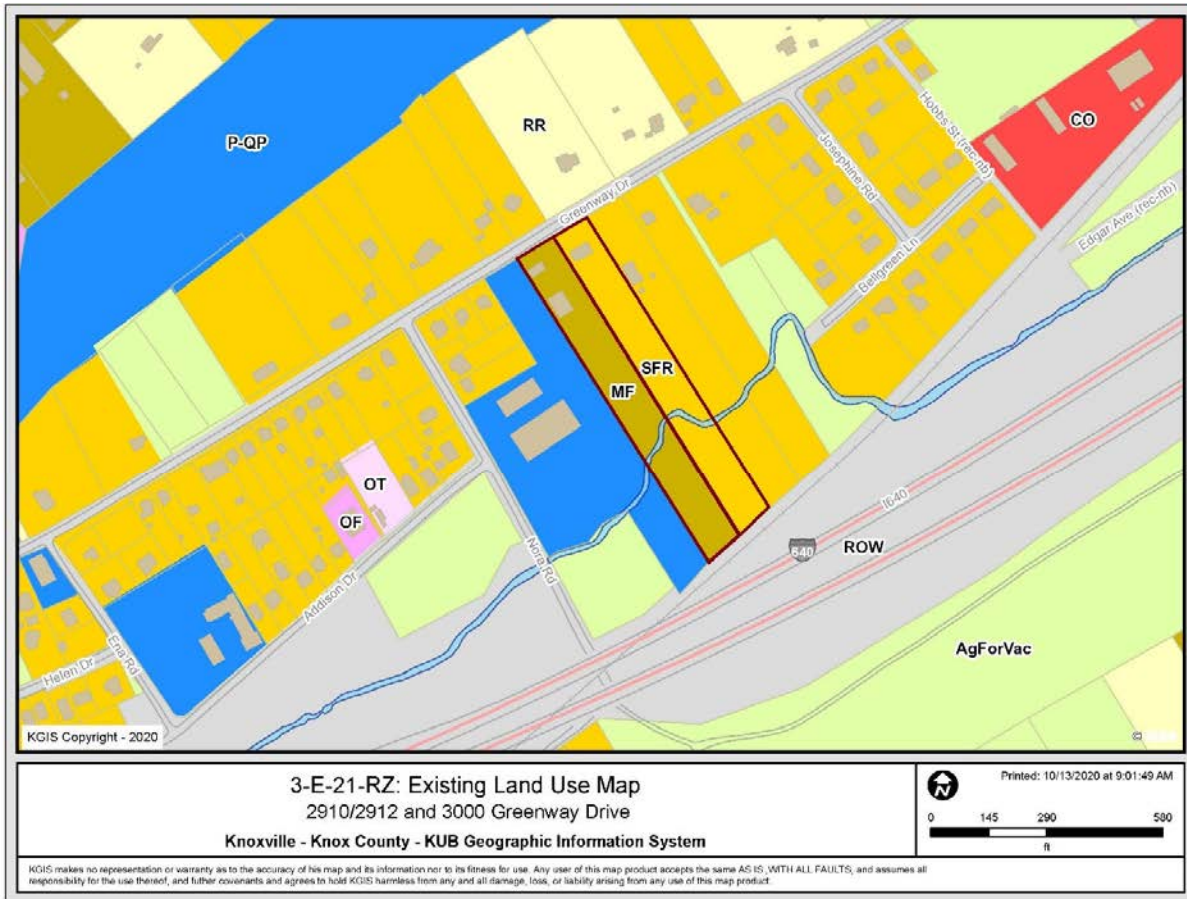
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EXHIBIT A. Contextual Images



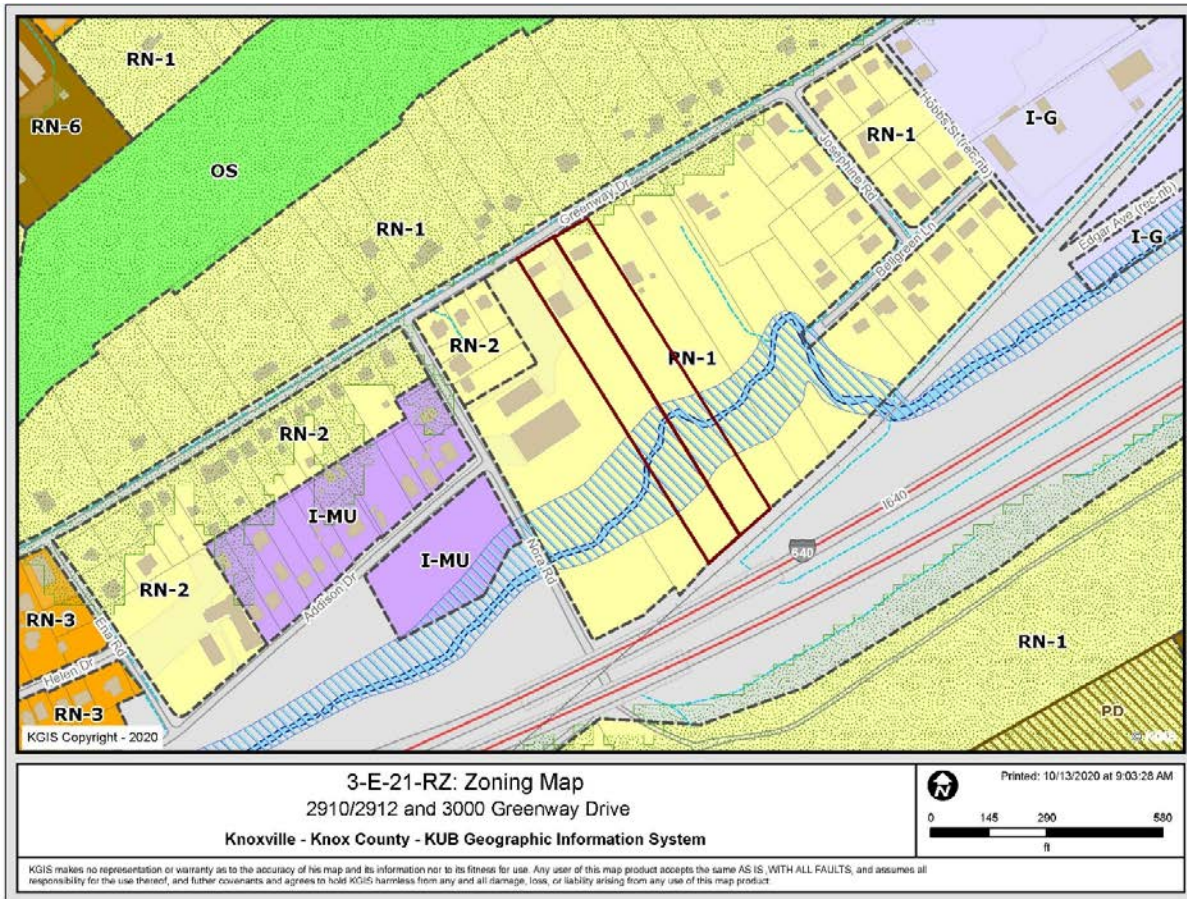
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EXHIBIT A. Contextual Images

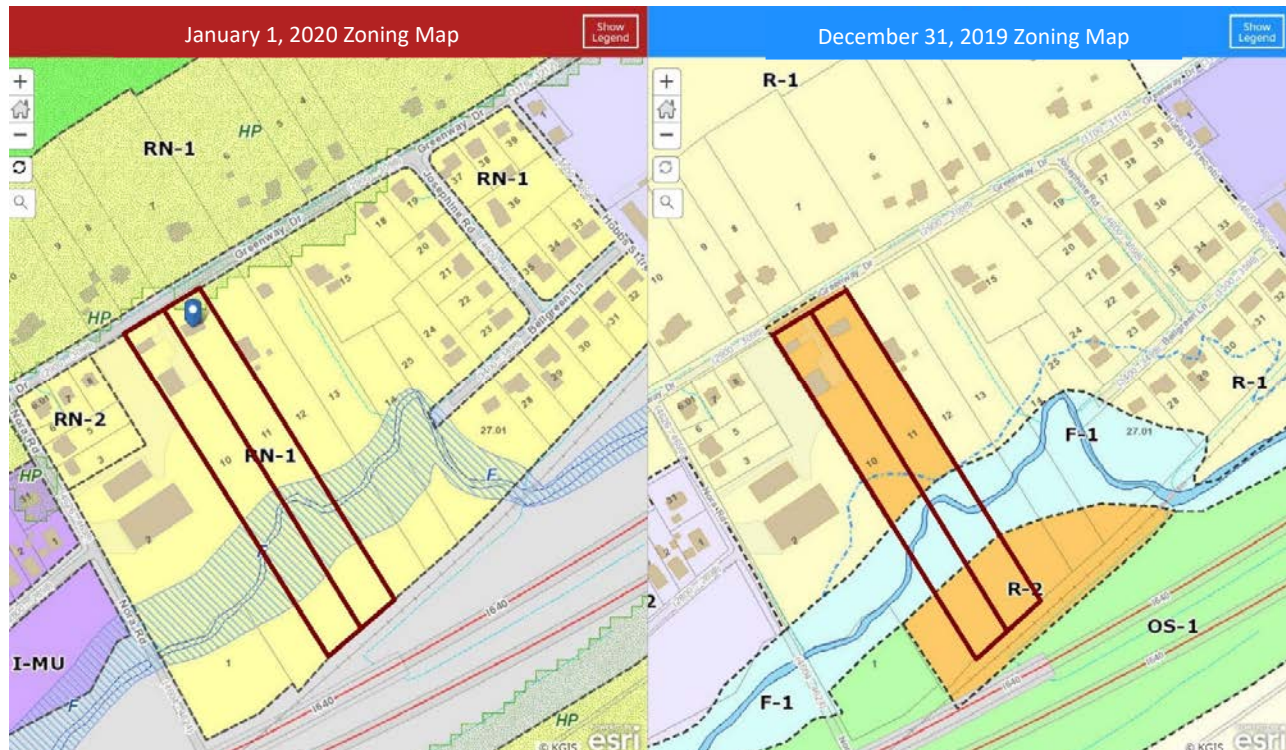


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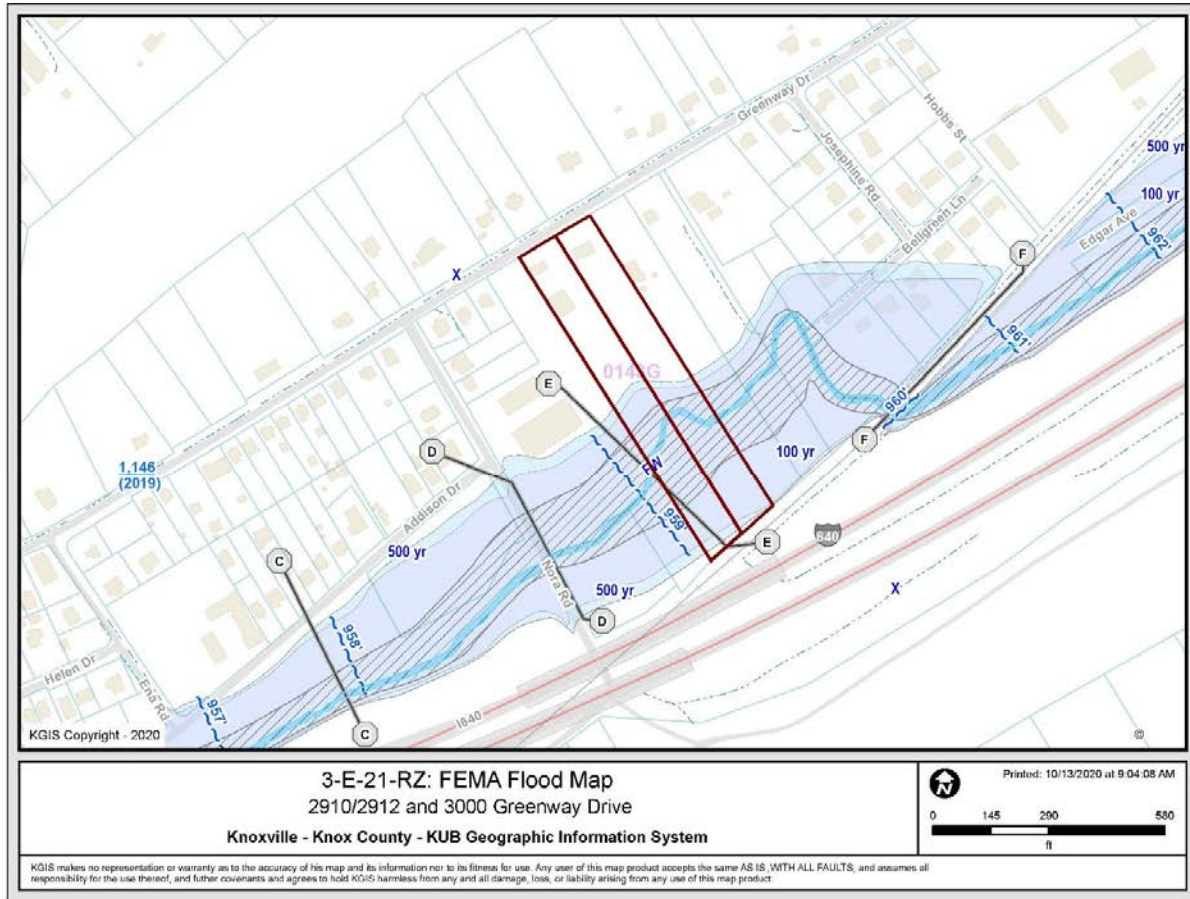
EXHIBIT A. Contextual Images



Comparison map showing zoning before and after the new zoning ordinance and map took effect



3-E-21-RZ
EXHIBIT A. Contextual Images





Michelle Portier <michelle.portier@knoxplanning.org>

Welch 11-G-20-RZ, 1-C-21-PA, 1-C-21-SP

Benjamin C. Mullins <bcmullins@fmsllp.com>

Wed, Jan 20, 2021 at 4:38 PM

To: Michelle Portier <michelle.portier@knoxplanning.org>

Cc: Amy Brooks <amy.brooks@knoxplanning.org>

Michelle,

After further consultation with my client, we would like to withdraw our application for a Sector Plan and One-Year plan amendment and ask that this property be considered for RN-4 zoning. As you know, this property was zoned R-2 previously, and that zoning would have afforded multi-family as "uses permitted." The only current zone that allows multi-family as a permitted use (not as a special exception) is RN-5, but that zone is no longer allowed in the underlying MDR sector designation.

After talking through all of this, my client is agreeable to RN-4 with the understanding that if he wants to develop his property at some point at greater than 9 du/ac it would require a special use permit. He just does not want to lose to the value of a zoning that would allow consideration for multi-family as he had that previously.

Let me know what forms I need to complete to make this amended application official.

Thanks for all of your help.

Benjamin C. Mullins *Attorney*



550 W. Main Street, Suite 500 | Knoxville, Tennessee 37902

phone: 865.546.9321 | fax: 865.637.5249 | email: bcmullins@fmsllp.com



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For additional information about Frantz, McConnell & Seymour, LLP, including a list of attorneys, please visit our website at www.fmsllp.com



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 C. Mullins

Applicant Name

Attorney/Applicant

Affiliation

Jan. 25, 2021

Date Filed

March 11, 2021

Meeting Date (if applicable)

File Number(s)

3-E-21-RZ

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

37902

Address

City

State

ZIP

865-546-9321

bmullins@fmsllp.com

Phone

Email

CURRENT PROPERTY INFO

Ronnie Welch

Owner Name (if different)

P.O. Box 5570; Knoxville, TN 37928

Owner Address

865-556-6244

Owner Phone

2910-2912; 3000 Greenway Dr.

Property Address

059PD010; 059PD011

Parcel ID

KUB

Sewer Provider

KUB

Water Provider

N

Septic (Y/N)

STAFF USE ONLY

South side Greenway Drive, due east of Nora Rd.

General Location

+/- 4.1 acres

Tract Size

☒ City ☐ County
District

4th

RN-11F

Zoning District

MF;SFR

Existing Land Use

North City

Planning Sector

MDR

Sector Plan Land Use Classification

City

Growth Policy Plan Designation

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 _____

☐ Combine Parcels ☐ Divide Parcel

Unit / Phase Number _____

Total Number of Lots Created _____

☐ Other (specify) _____☐ Attachments / Additional Requirements _____

Related Rezoning File Number

ZONING REQUEST☒ Zoning Change

RN-4

Proposed Zoning _____

☐ Plan Amendment Change

Proposed Plan Designation(s) _____

Pending Plat File Number

Proposed Density (units/acre) _____

Previous Rezoning Requests _____

☐ Other (specify) _____**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

0324

600.00

Fee 2

Fee 3

\$600.00

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

Applicant Signature

Benjamin C. Mullins

01-25-2021

Please Print

Date

865-546-9321

bmullins@fmsllp.com

Phone Number

Email

Staff Signature

Sherry Michienzi

01/25/2021

Please Print

Date