

# REZONING REPORT

▶ <b>FILE #:</b>	<b>3-E-21-RZ</b>	<b>AGENDA ITEM #:</b>	<b>11</b>
POSTPONEMENT(S):	4/8/2021	<b>AGENDA DATE:</b>	<b>5/13/2021</b>
▶ <b>APPLICANT:</b>	<b>BENJAMIN C. MULLINS</b>		
OWNER(S):	Ronnie Welch		
<hr/>			
TAX ID NUMBER:	59 P D 010 & 011	<a href="#"><u>View map on KGIS</u></a>	
JURISDICTION:	City Council District 4		
STREET ADDRESS:	2910 2912 & 3000 Greenway Dr.		
▶ <b>LOCATION:</b>	<b>South side of Greenway Dr., east of Nora Rd.</b>		
▶ <b>APPX. SIZE OF TRACT:</b>	<b>4.1 acres</b>		
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		
<hr/>			
▶ <b>PRESENT ZONING:</b>	<b>RN-1 (Single-Family Residential Neighborhood) / F (Floodway) on all properties, and HP (Hillside Overlay) on 3000 Greenway Drive</b>		
▶ <b>ZONING REQUESTED:</b>	<b>RN-4 (General Residential Neighborhood) / F (Floodway) on all properties and HP (Hillside Protection Overlay) on 3000 Greenway Drive</b>		
▶ <b>EXISTING LAND USE:</b>	<b>Multifamily and single family residential on parcel 59PD011; duplex on 59PD010</b>		
▶			
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, HP (Hillside Protection Overlay) and F (Floodplain Overlay) District	
	West:	Public/quasi-public land (church) - RN-1 (Single Family Residential Neighborhood), RN-2 (Single Family Residential Neighborhood) and F (Floodplain Overlay) 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.		

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**STAFF RECOMMENDATION:**

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

**COMMENTS:**

Staff's recommendation of RN-2 zoning for this request was approved by the Planning Commission in March 2021 by a vote of 7-6. However, there were technical issues with the internet during the discussion of this case at the March Planning Commission meeting. The Planning Commission took a short break so that all Commissioners who lost internet connection could reconnect and vote on the item, and all Commissioners affected by the outage were able to vote. However, one Commissioner was absent for this discussion and vote. City Council has sent the request back to the Planning Commission to be heard and voted on again prior to the request going to City Council.

A prior request 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) was denied by the Planning Commission in May 1984 (Case 5-C-84-RZ, Exhibit B). 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 ones 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 this is the comparable zone to R-2 but has since amended his request to ask for RN-4 zoning to avoid the need for plan amendments to the North City Sector Plan and the One Year Plan.

Following the rezoning in 1984 (parcel 059PD010), the applicant demolished the existing building on the lot at the time and built a multifamily building and a duplex. These remain the only structures on that lot.

The applicant has stated he would like RN-4 zoning so that any future development he would undertake could be similar to what he could have developed prior to adoption of the new zoning ordinance. One of these lots already has a multifamily use, so such development could potentially maximize the number of multifamily units allowed for the property.

PURSUANT TO THE CITY OF KNOXVILLE ZONING ORDINANCE, SECTION 16.1.3, SUBSECTIONS 1-3: THE FOLLOWING CONDITIONS MUST BE MET FOR ALL REZONINGS (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. Planning staff believes general conditions have not changed significantly since the recommendation by planning staff and the Planning Commission in 1984 to deny the R-2 zoning.
2. 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.
3. 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 so that plans would require further planning commission approval as a special use. RN-2 zoning was recommended by the Planning Commission then approved by City Council. Since the previous applicant was restricted to RN-2, it is hard to justify why RN-4 should be approved for this applicant.
4. The recent adoption of the new zoning ordinance reflects a change in public policy regarding these properties, and the zoning was reassigned to RN-1 to reflect the general uses and character of this section of Greenway Drive. 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. Rezoning 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.

a. The RN-2 and RN-4 zones have the same lot size requirement for single family homes - both require a minimum lot size of 5,000 square feet. Therefore, the RN-2 zone would not restrict development beyond what would be allowed by RN-4 if the lots were redeveloped and/or subdivided into single family lots.

b. For comparison purposes, the minimum lot size for duplexes in the recommended RN-2 zone is 10,000 square feet versus the 7,000 square feet allowed in RN-4.

c. The biggest difference between the RN-2 and RN-4 zones is the fact that the RN-4 zone allows multifamily uses, while the RN-2 zone does not. Since one of the lots contains a small, multifamily apartment, the multifamily requirements are the more relevant standards by which to look at future development opportunities.

d. At the minimum of 2,000 square feet required per multifamily dwelling unit, the property cumulatively has a maximum development potential of 89 multifamily dwelling units (4.1 acres = 178,596 square feet; 178,596 square feet / 2,000 square feet per dwelling unit = 89 units). This equates to a density of 21 dwelling units per acre.

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 surrounding area consists of predominantly single family detached residential dwellings. Though the applicant's property is already developed, future development would be completed under RN-4 standards if the rezoning were approved. As stated previously, further multifamily dwellings that could be developed under RN-4 zoning is out of character with the surrounding area and would be an anomaly along Greenway Drive.

2. 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). This seems to indicate an interest on the part of the applicant to develop the land further at some point in the future, so this rezoning is not just a legitimization of the current use. Rezoning sets the standard for future development.

3. There are FEMA designated floodplains and a floodway running through the middle of the property. Therefore, the most likely scenario for development is the front portions of the lots to the north of these FEMA areas. Otherwise, the development would need to meet the requirements of both the TN Department of Environment and Conservation and the City's Engineering Department to cross the stream and/or develop within the floodplains.

4. Since multifamily development is attached and is typically multistory, a building can be located out of the FEMA flood-designated areas and still potentially maximize the number of units, which in this case would be 89 multifamily 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 allow consideration of 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. Planning staff, the Planning Commission and City Council should recommend and approve the best zoning district, within the conforming range, for the area.

a. As stated previously, the uses allowed in the requested RN-4 zone are out of character with existing residential lots and uses. The applicant's properties were therefore reassigned to the RN-1 zone despite their location in the MDR land use class.

2. 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.

#### ADDITIONAL CONSIDERATIONS:

##### 1. Nonconforming Uses:

a. 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.

b. The recent adoption of the new zoning ordinance reflects a change in public policy regarding these properties, and the base zoning was changed to RN-1 to reflect the general uses and character of this section of Greenway Drive. The adoption of the new zoning ordinance took into account the existing development and character of the area.

2. Comparable Zoning Requests:

a. The zoning ordinance allows for those aggrieved by the new zoning code to request a comparable zone [§ 1.4 (H)]. It does not state that the previous zoning will be reinstated upon the readings of the request by the Planning Commission and City Council. These cases are treated as other rezoning applications in that the application gives the applicant the opportunity to make their arguments for why that zoning should remain, and planning staff forms a recommendation based on the criteria for rezonings [§ 16.1 (E)] and the requested zone's compatibility with the character of the area, the surrounding zoning, and surrounding land uses.

b. The opportunity to request the comparable zone should not be construed to mean it will be granted because it existed before. If a request for a comparable zone were to be automatically granted, there would be no need to request the rezoning, thereby requiring a vote by both the Planning Commission and City Council.

c. There are many examples of incompatible zoning across the city. Said granting of comparable zones would mean the old zoning would take effect into perpetuity. This is not supported by state law and there is no such guarantee with zoning.

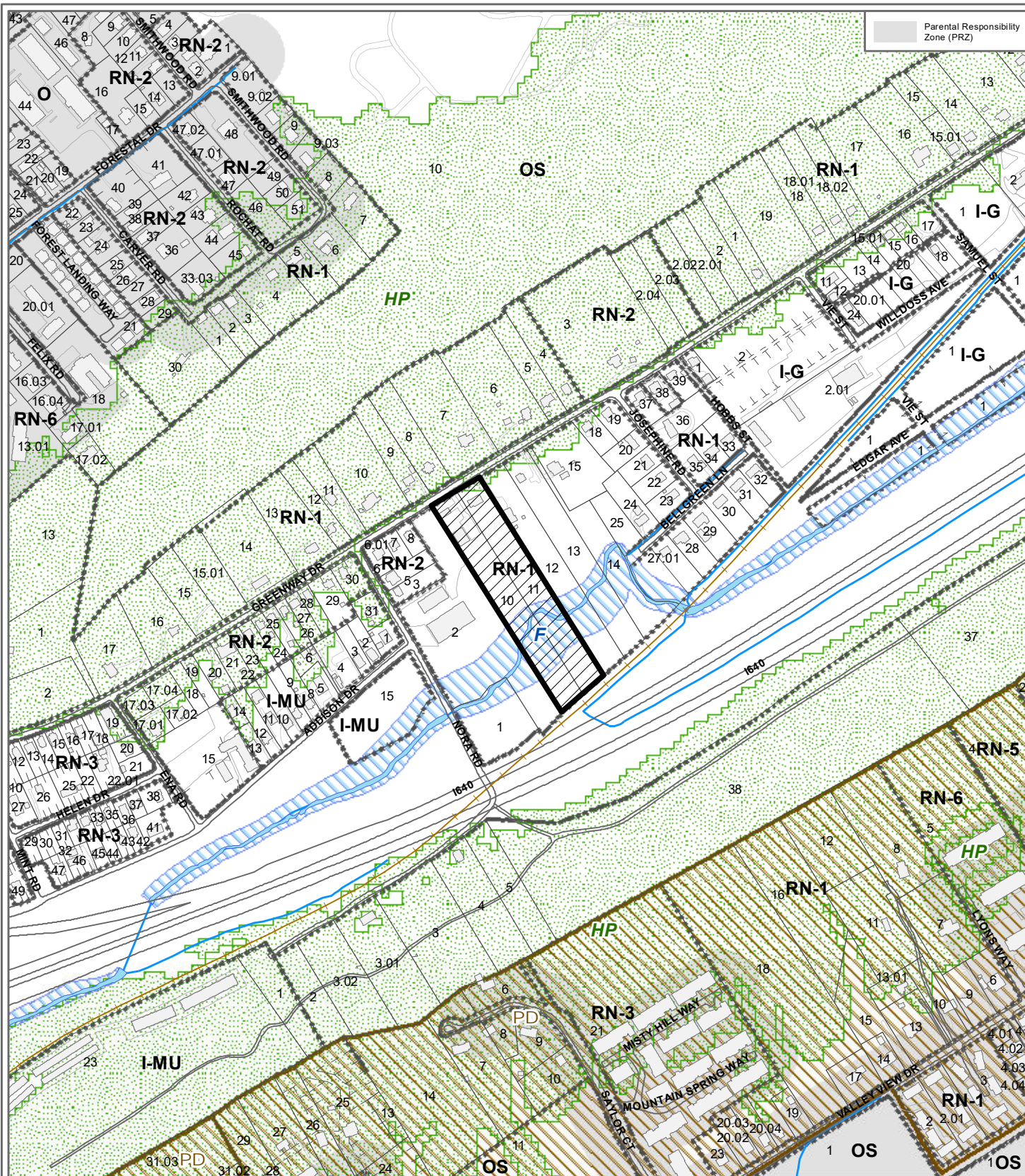
d. The previous R-2 (General Residential) zone was widely used across the city and allowed a broad mix of residential uses. The broad application of the R-2 zone was problematic, allowing uses by right that could be potentially incompatible depending on the character of the area. The new zoning ordinance 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.

ESTIMATED TRAFFIC IMPACT: Not required.

ESTIMATED STUDENT YIELD: Not applicable.

If approved, this item will be forwarded to Knoxville City Council for action on 6/15/2021 and 6/29/2021. 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.

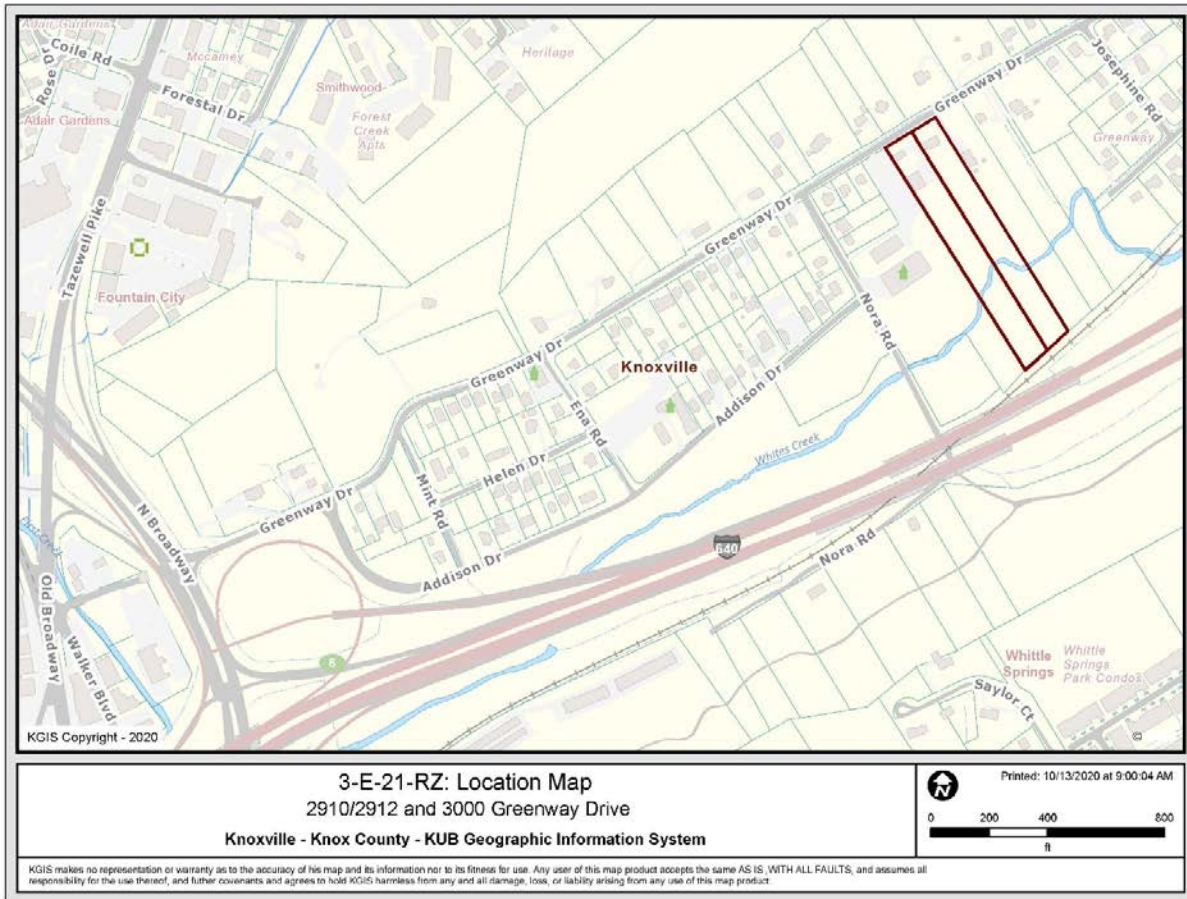
Map No: 59  
Jurisdiction: City

0 500  
Feet



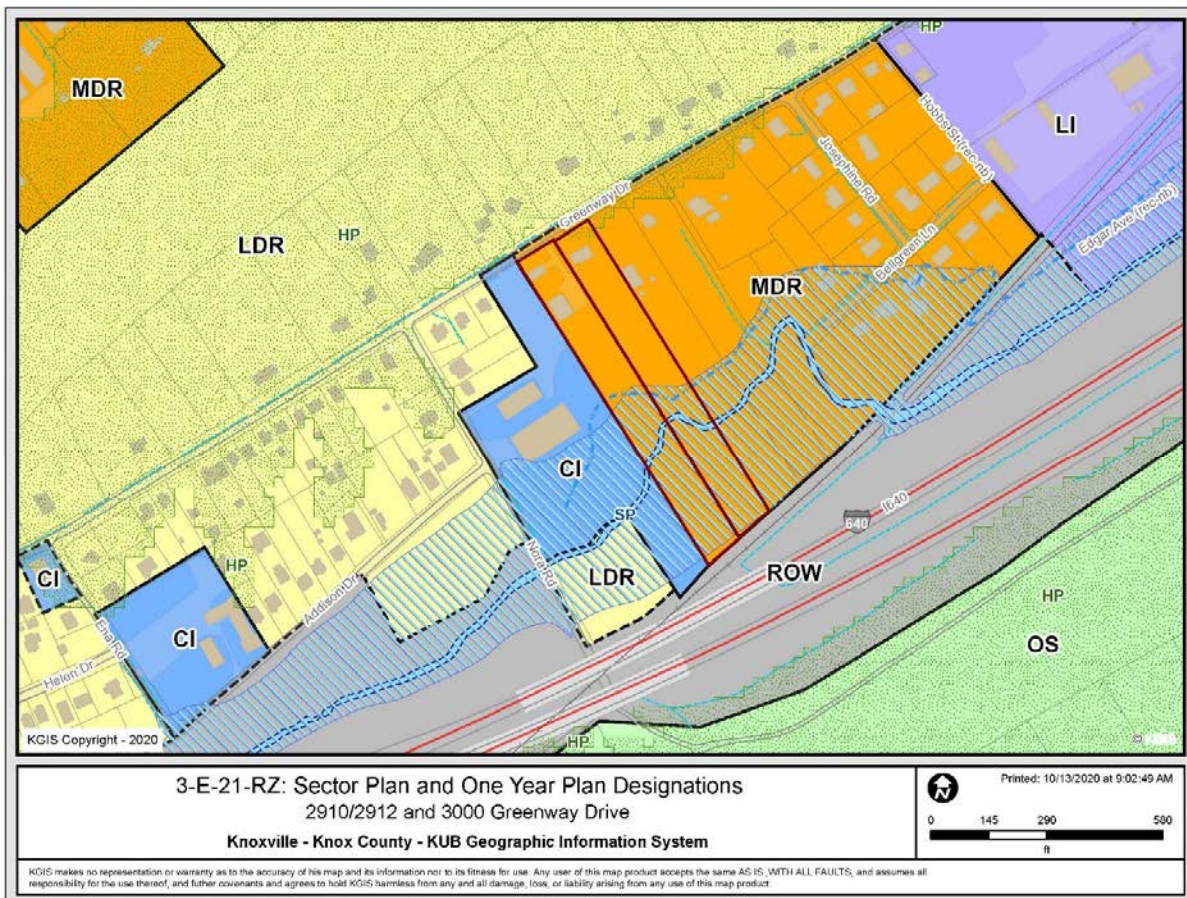
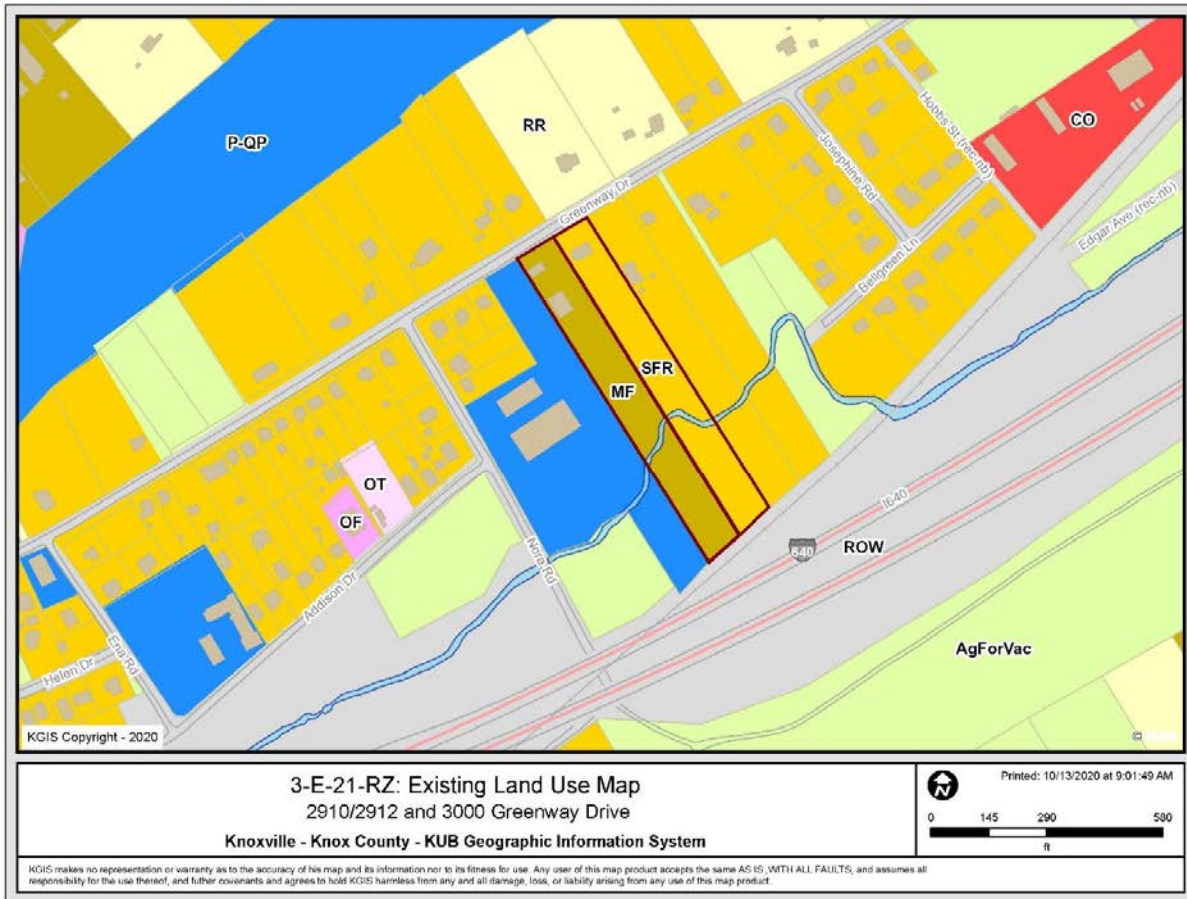


**3-E-21-RZ**  
**EXHIBIT A. Contextual Images**





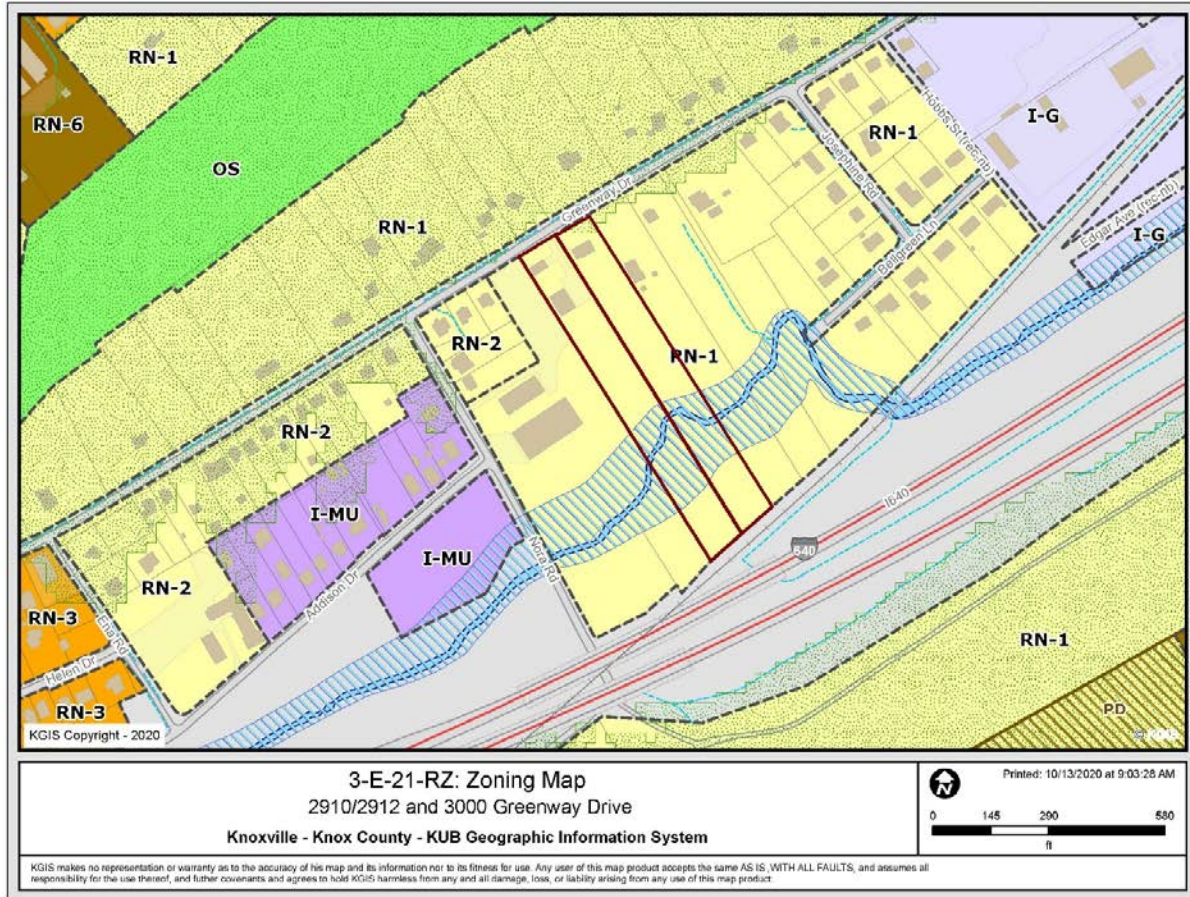
**3-E-21-RZ**  
**EXHIBIT A. Contextual Images**



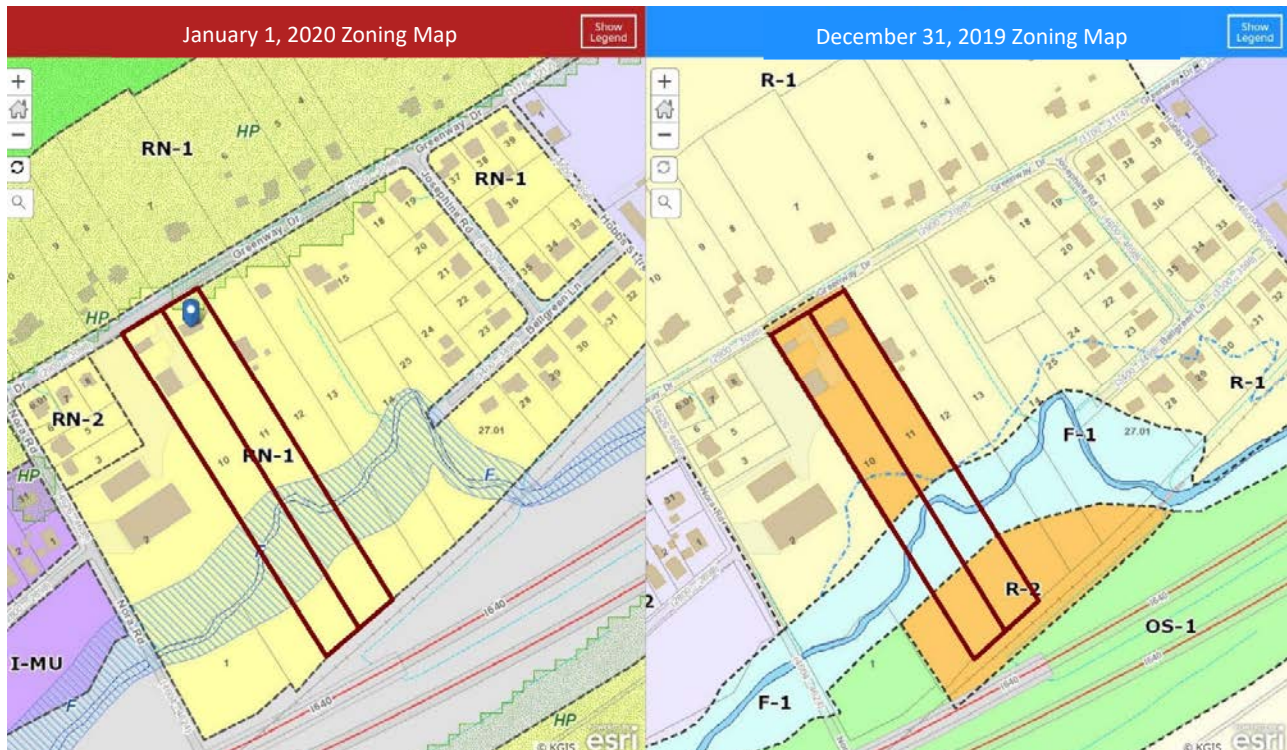


### 3-E-21-RZ

#### EXHIBIT A. Contextual Images

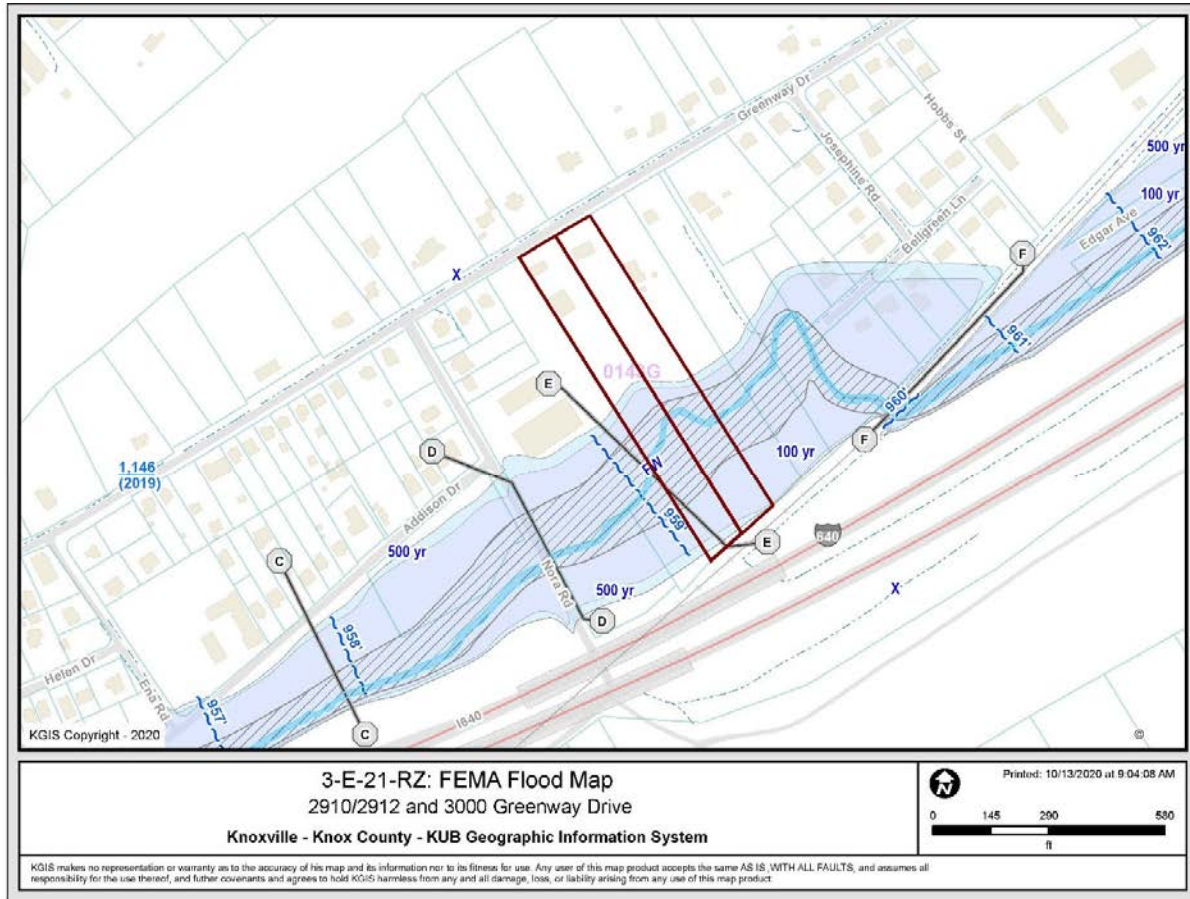


Comparison map showing zoning before and after the new zoning ordinance and map took effect





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





Michelle Portier <michelle.portier@knoxplanning.org>

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

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**Benjamin C. Mullins** <bmullins@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: [bmullins@fmsllp.com](mailto:bmullins@fmsllp.com)**



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**March 11, 2021**

1:30 P.M. | Telemeeting via ZOOM

The Planning Commission met in regular session on March 11, 2021 at 1:30 p.m. via an electronic meeting through ZOOM.

Item No.

File No.

## 1. ROLL CALL, INVOCATION AND PLEDGE OF ALLEGIANCE

Ms. Tamara Boyer	Ms. Gayle Bustin	Ms. Elizabeth Eason
*Ms. Karyn Adams	Mr. Richard Graf	Ms. Jacqueline Dent
Ms. Sandra Korbelik	Mr. Patrick Phillips, Chair	**Mr. Jeff Roth
**Mr. Chris Ooten	Mr. Tim Hill	*Mr. Eddie Smith
Mr. Scott Smith, Vice-Chair	**Mr. Louis Browning	Open

\* Arrived late to the meeting, \*\* Left early in the meeting, A – Absent from the meeting

## 19. BENJAMIN C. MULLINS

**3-E-21-RZ**

2910, 2912 & 3000 Greenway Drive / Parcel ID 59 P D 010 & 011, Council District 4. Rezoning from RN-1 (Single-Family Residential Neighborhood) / F (Floodway) to RN-4 (General Residential Neighborhood) / F (Floodway) for 2910 and 2912 Greenway Drive and from RN-1 (Single-Family Residential Neighborhood) / F (Floodway) / HP (Hillside Protection Overlay) to RN-4 (General Residential Neighborhood) / F (Floodway) / HP (Hillside Protection Overlay) for 3000 Greenway Drive. Council District 4.

### 1. STAFF RECOMMENDATION

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

### 2. MOTION (KORBELIK) AND SECOND (ADAMS) WERE MADE TO APPROVE PER STAFF RECOMMENDATION.

A roll-call vote was taken.

**Item No.**

**File No.**

**MOTION CARRIED 7-6 (OOTEN, ROTH, BROWNING,  
GRAF, BOYER, HILL NO). APPROVED**





# 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

Attorney/Applicant

Applicant Name

Affiliation

Jan. 25, 2021

March 11, 2021

File Number(s)

Date Filed

Meeting Date (if applicable)

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

P.O. Box 5570; Knoxville, TN 37928

865-556-6244

Owner Name (if different)

Owner Address

Owner Phone

2910-2912; 3000 Greenway Dr.

059PD010; 059PD011

Property Address

Parcel ID

KUB

KUB

N

Sewer Provider

Water Provider

Septic (Y/N)

## STAFF USE ONLY

South side Greenway Drive, due east of Nora Rd.

+/- 4.1 acres

General Location

Tract Size

☒ City ☐ County

4th

RN-11F

MF;SFR

District

Zoning District

Existing Land Use

North City

MDR

City

Planning Sector

Sector Plan Land Use Classification

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

0324

600.00

Fee 2

Fee 3

Total

\$600.00

**AUTHORIZATION**

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