

# SUBDIVISION REPORT - FINAL PLAT

▶ <b>FILE #:</b>	<b>5-SD-22-F</b>	<b>AGENDA ITEM #:</b>	<b>39</b>
POSTPONEMENT(S):	5/12/2022	<b>AGENDA DATE:</b>	<b>6/9/2022</b>
▶ <b>SUBDIVISION:</b>	<b>RESUBDIVISION OF LOT 1, FINAL PLAT OF ACRE KINGSTON PIKE, LLC</b>		
▶ <b>APPLICANT/DEVELOPER:</b>	<b>NED FERGUSON</b>		
OWNER(S):	Michael Alterman / Acre Kingston Pike, LLC		

TAX IDENTIFICATION:	120 J A 008	<a href="#"><u>View map on KGIS</u></a>
JURISDICTION:	City Council District 2	
STREET ADDRESS:	8004 Kingston Pk.	
▶ <b>LOCATION:</b>	<b>Located on the south side of Kingston Pike, west of Winston Road</b>	
SECTOR PLAN:	West City	
GROWTH POLICY PLAN:	N/A (within City limits)	
▶ <b>APPROXIMATE ACREAGE:</b>	<b>0.51 acres</b>	
▶ <b>NUMBER OF LOTS:</b>	<b>0</b>	
▶ <b>ZONING:</b>	<b>C-G-1 (General Commercial)</b>	
SURVEYOR/ENGINEER:	Ned D. Ferguson / Professional Land Systems	
▶ <b>VARIANCES REQUIRED:</b>	<b>1. Reduce the Kingston Pike right-of-way width requirement from 50 ft to 39.2 ft from the center line to the property line.</b> <b>2. Reduce the corner radius requirement from 75 ft to 0 ft at the intersection of Kingston Pike and Winston Road.</b>	

## STAFF RECOMMENDATION:

- ▶ **Deny the variance to waive the requirement to dedicate right-of-way and reduce the curb radius needed because the conditions do not meet the variance requirements of the Subdivision Regulations and the applicant has created their own hardship.**

**Deny the subdivision plat because it is not in compliance with the subdivision regulations.**

## COMMENTS:

### CASE HISTORY:

1) This property was rezoned from C-G-3 to C-G-1 in 2020 (Case 11-J-20-RZ). Planning staff had concerns about the applicant being able to fit multiple drive-thru uses in this location and advised the applicant accordingly. The applicant proceeded with the request. Planning recommended denial, but it was approved.  
 2) The applicants also received for a special use request for two drive-thru facilities (Case 1-D-21-SU). The site plan was redesigned and underwent a series of changes during the special use review process, resulting in a three-month delay before the Planning Commission heard the case. The January request was heard in April.

### STAFF ANALYSIS:

1) Staff recommends denial of this request because the applicant does not meet the requirements for a variance as stated in the Subdivision Regulations. According to Section 1.05 (A), The Planning Commission

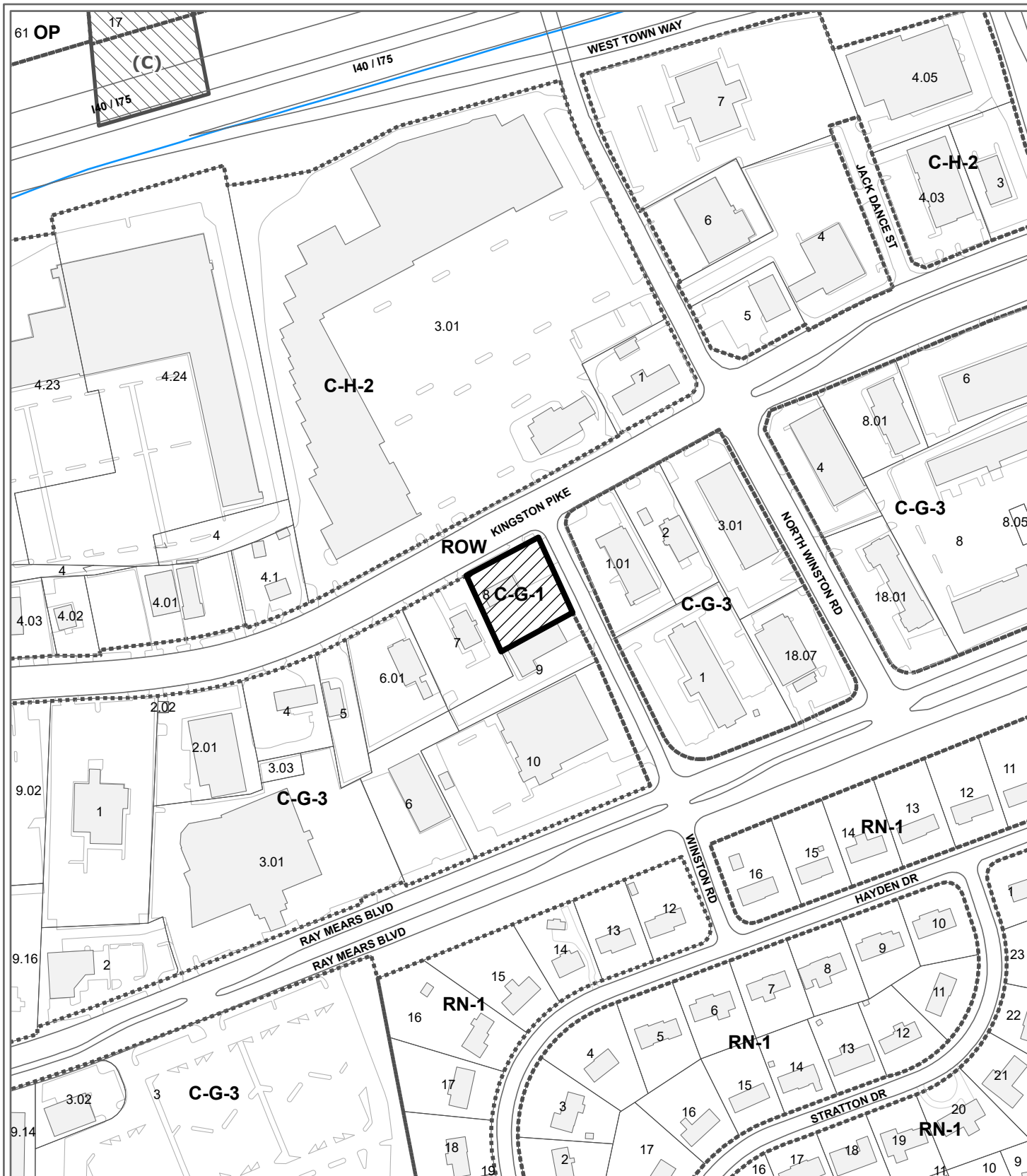
shall not grant variations to the Subdivision Regulations unless they make findings based upon the evidence presented to them in each specific case that:

- a. Because of the particular surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience if the strict letter of the regulations were adhered to.
  - b. The conditions upon which the request for a variation is based is unique to the property for which the variation is sought and is not applicable, generally, to other property, and has not been created by any person having an interest in the property.
  - c. The purpose of the variation is not based exclusively upon a desire for financial gain.
  - d. The granting of the variation will not be detrimental to the public safety, health, or welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
- 2) Regarding each point listed above:
- a. There are no topographical conditions present on the shape causing a particular hardship. The shape and size of the lot were a known quantity when the applicant first sought to rezone the property, before the site design process began, and were told the site was too small to accommodate the two separate buildings they desired.
  - b. The Subdivision Regulations state specifically that a variance should not be granted if the hardship is created by the person with the interest in the property, but that is exactly what has occurred.
    - i. As stated previously, this property was rezoned in 2020. Planning staff had concerns about the applicant being able to fit their intended uses in this location and advised the applicant accordingly. Planning recommended denial of the request, but it was approved.
    - ii. Then the applicants went through the special use process. The applicants were advised at that time that subdivision was not likely to be feasible. When a subdivision creates an additional lot, ROW dedication is required. They were advised that, since the applicant does not have a hardship, approval of a plat would be unlikely. They continued through the special use process, and now request a variance to subdivide.
  - c. Staff would argue that the reason for the plat is for the financial gain of the applicant.
  - d. Staff does not find it would be injurious to the public health, safety, or welfare to other property, though it could impact improvements in the future. Other properties along Kingston Pike are situated similarly along Kingston Pike. Should Kingston Pike ever need to undergo changes, right-of-way dedication may be required for all businesses along that stretch. While that may seem like a stretch, part of the review process is acknowledging that what we approve impacts development 20 years in the future, not just what development looks like now. We should not hamper what may be needed because the applicant failed to do their due diligence when appropriating property on the front end.
- 3) The purpose of this plat is to divide the parcel into two separate lots to accommodate two separate uses.

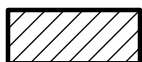
#### OTHER CONSIDERATIONS:

- 1) The applicants were told at every step in the process that what they were trying to do was not the best use of the property, as they were trying to incorporate two buildings on a site that was only meant for one. Additionally, both uses incorporate drive-thru facilities, which require more land for drive aisles. This can be hampered by sites that are too small to accommodate the extra paths of vehicular traffic. It should not be up to a municipality to solve site problems for an applicant that are not related to a hardship and are shared by other property owners in the area through the variance process. Site size, zoning, and subdivision requirements should be taken into consideration by those seeking to buy a property for a specific use.
- 2) The C-G zone allows multiple uses on the same property, so the plat is not needed for the businesses to operate.

Knoxville-Knox County Planning Commission's approval or denial of this request is final, unless the action is appealed to Knox County Chancery Court. The date of the Knox County Chancery Court appeal hearing will depend on when the appeal application is filed.



**5-SD-22-F  
FINAL SUBDIVISION PLAT**



Final Plat For: Resubdivision of Lot 1, Final Plat of Acre Kingston Pike, LLC

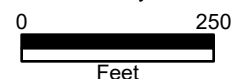
Original Print Date: 4/18/2022  
Knoxville - Knoxville Planning Commission \* City / County Building \* Knoxville, TN 37902

Revised:

Petitioner: Ferguson, Ned

Map No: 120

Jurisdiction: City







# 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

Ned Ferguson

Surveyor

Applicant Name

Affiliation

3/11/2022 3/28/22

5/12/22

Date Filed

Meeting Date (if applicable)

File Number(s)

3-P-22

Meeting File #: 5-SD-22-F

formerly

## 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

Ned D Ferguson

Professional Land Systems

Name

Company

205 Lamar Ave

Clinton

TN

37716

Address

City

State

ZIP

865.689.6169

nedferguson@gmail.com

Phone

Email

## CURRENT PROPERTY INFO

MICHAEL ALTERMAN-ACRE KINGSTON PIKE 3715 NORTHSIDE PKWY #STE 515

678.358.7650

Owner Name (if different)

Owner Address

ATLANTA GA 30327

Owner Phone

8004 KINGSTON PIKE

120JA008

Property Address

Parcel ID

KUB

KUB

N

Sewer Provider

Water Provider

Septic (Y/N)

## STAFF USE ONLY

Located on the south side of Kingston Pike, west of Winston Rd.

0.51 Acres

General Location

Tract Size

☒ City ☐ County

2

C-G-1

Commercial

District

Zoning District

Existing Land Use

West City

GC

N/A

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**RESUB. OF LOT 1, FINAL PLAT<sup>of</sup> ACRE KINGSTON PIKE LLC

Proposed Subdivision Name

2

Related Rezoning File Number

Unit / Phase Number   ☐ Combine Parcels   ☒ Divide Parcel

Total Number of Lots Created

☐ Other (specify) \_\_\_\_\_☐ Attachments / Additional Requirements**ZONING REQUEST**☐ Zoning Change

Proposed Zoning

Pending Plat File Number

☐ Plan Amendment Change

Proposed Plan Designation(s)

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
0201	\$200	
Fee 2		
<del>0202</del>	<del>\$100</del>	<del>\$300</del>
		\$200.00
Fee 3		
0207 on 3/28/22 - \$250		
		<small>payment processed by Marc 3/11/2022</small>

**AUTHORIZATION**

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

Applicant Signature

Ned Ferguson

3/9/2022

Please Print

Date

865.689.6169

nedferguson@gmail.com

Phone Number

Email

Levan King Cranston  
Staff Signature

Levan King Cranston

3/10/2022

Please Print

Date

3/29/22 EK processed \$250 fee