



# SUBDIVISION REPORT - FINAL PLAT

▶ FILE #: 5-SD-22-F

AGENDA ITEM #: 36

AGENDA DATE: 5/12/2022

▶ SUBDIVISION: RESUBDIVISION OF LOT 1, FINAL PLAT OF ACRE KINGSTON PIKE, LLC

▶ APPLICANT/DEVELOPER: NED FERGUSON

OWNER(S): Michael Alterman / Acre Kingston Pike, LLC

TAX IDENTIFICATION: 120 J A 008

[View map on KGIS](#)

JURISDICTION: City Council District 2

STREET ADDRESS: 8004 Kingston Pk.

▶ LOCATION: Located on the south side of Kingston Pike, west of Winston Road

SECTOR PLAN: West City

GROWTH POLICY PLAN: N/A (within City limits)

▶ APPROXIMATE ACREAGE: 0.51 acres

▶ NUMBER OF LOTS: 0

▶ ZONING: C-G-1 (General Commercial)

SURVEYOR/ENGINEER: Ned D. Ferguson / Professional Land Systems

▶ VARIANCES REQUIRED: 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.  
2. Reduce the corner radius requirement from 75 ft to 0 ft at the intersection of Kingston Pike and Winston Road.

## 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 approval 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

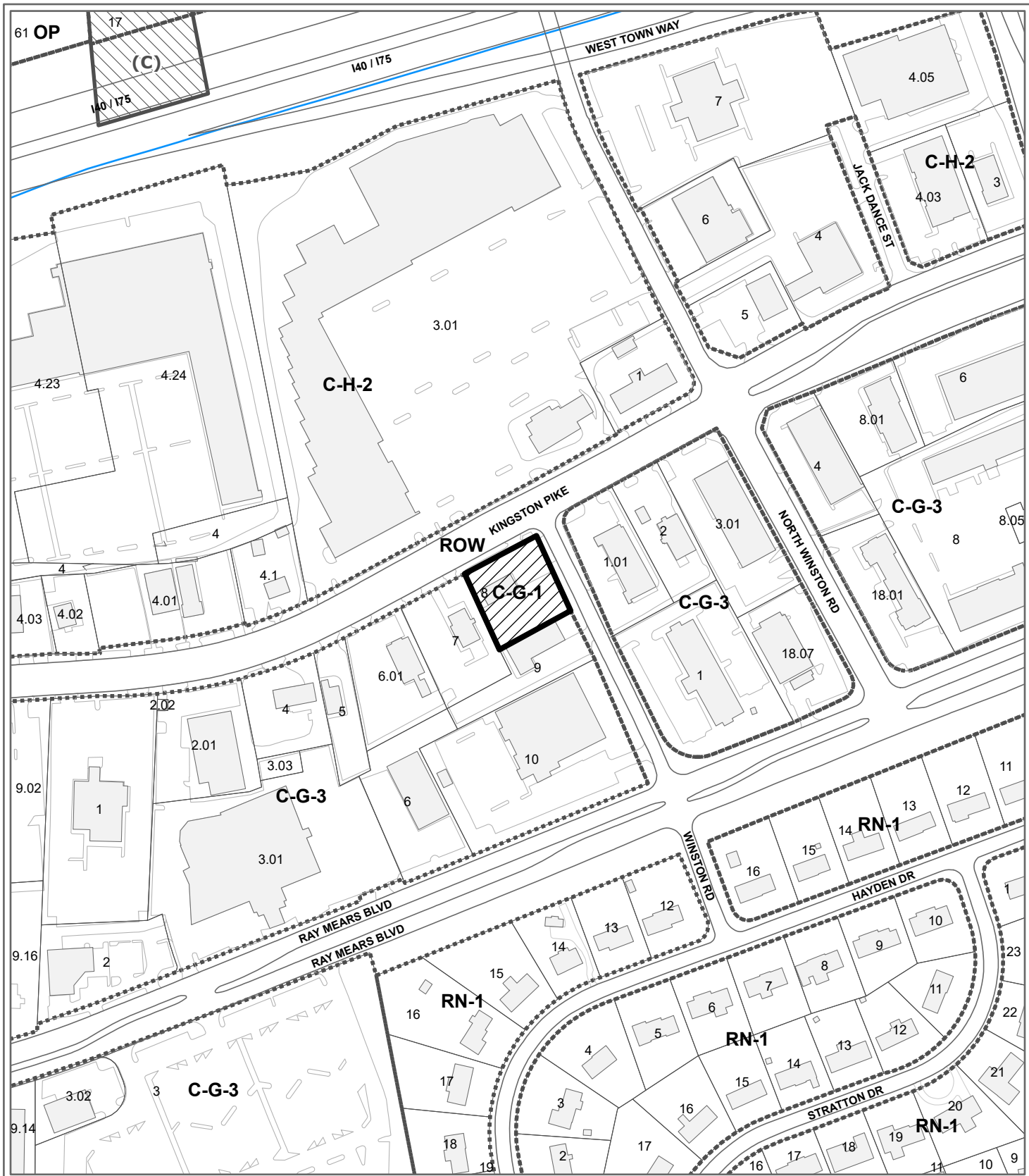
shall not grant variations to the Subdivision Regulations unless they make findings based upon the evidence presented to them in each specific case that:

- 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**

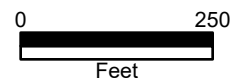


Final Plat For: Resubdivision of Lot 1, Final Plat of Acre Kingston Pike, LLC

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

Petitioner: Ferguson, Ned

Map No: 120  
 Jurisdiction: City



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by Professional Land Systems

**CERTIFICATE OF OWNERSHIP AND GENERAL DESIGNATION.**  
I, the undersigned owner(s) of the property shown herein, hereby certify that the (top view) plan of subdivision and section thereon is correct in its public use, and that the same is in accordance with the laws of the State of Tennessee, and that I am the owner of the property and its property interest, and have no interest in the property or any part thereof which is not shown on this plat.

**CERTIFICATE OF APPROVAL FOR PUBLIC SEWER AND WATER SERVICE - WIND SUBDIVISIONS**  
(1) The undersigned owner(s) of the property shown herein, hereby certify that the subdivision shown herein is in accordance with the laws of the State of Tennessee, and that I am the owner of the property and its property interest, and have no interest in the property or any part thereof which is not shown on this plat.

ADORE KINGTON PIKE LLC  
MICHAEL ALDERMAN, MANAGER

DATE \_\_\_\_\_

State of \_\_\_\_\_ County of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

I, the undersigned, have signed and caused to be signed the foregoing plat, and I am the owner of the property and its property interest, and have no interest in the property or any part thereof which is not shown on this plat.

Witness my hand and related seal, this day and year above.

Where \_\_\_\_\_ History \_\_\_\_\_

ADORE KINGTON PIKE LLC  
MICHAEL ALDERMAN, MANAGER

DATE \_\_\_\_\_

**CERTIFICATE OF APPROVAL OF PUBLIC WATER SYSTEM - WIND SUBDIVISIONS**  
This is to certify that the subdivision shown herein is approved subject to the installation of a public water system, and that the subdivision shall be in accordance with State and local regulations.

It is the responsibility of the property owner to verify with the utility provider the availability of water service in the vicinity of the lot(s) and to pay for the installation of the required connections.

Utility Provider \_\_\_\_\_

Authorized Signature for Utility \_\_\_\_\_ Date \_\_\_\_\_

**CERTIFICATE OF APPROVAL OF PUBLIC SANITARY SEWER SYSTEM - WIND SUBDIVISIONS**  
This is to certify that the subdivision shown herein is approved subject to the installation of public sanitary sewers and treatment facilities, and that such installation shall be in accordance with State and local regulations.

It is the responsibility of the property owner to verify with the utility provider the availability of sanitary sewers in the vicinity of the lot(s) and to pay for the installation of the required connections.

Utility Provider \_\_\_\_\_

Authorized Signature for Utility \_\_\_\_\_ Date \_\_\_\_\_

**CERTIFICATE OF FINAL PLAT - ALL INDICATED MARKERS, MONUMENTS AND DIMENSIONS.**  
I, the undersigned, hereby certify that I am a registered land surveyor and that I have surveyed the property shown herein in accordance with the laws of the State of Tennessee, and that the same is in accordance with the laws of the State of Tennessee, and that I am the owner of the property and its property interest, and have no interest in the property or any part thereof which is not shown on this plat.

My Commission expires \_\_\_\_\_ "Yes"

Registered Land Surveyor \_\_\_\_\_

Tennessee License No. 1643 DATE 3/9/2022

**CERTIFICATE OF CATEGORY AND ACCURACY OF SURVEY**  
I, the undersigned, hereby certify that the subdivision shown herein is in accordance with the laws of the State of Tennessee, and that I am the owner of the property and its property interest, and have no interest in the property or any part thereof which is not shown on this plat.

Registered Land Surveyor \_\_\_\_\_

Tennessee License No. 1643 DATE 3/9/2022

**ZONING** Shown on Official Map \_\_\_\_\_

**ADDRESSING REQUIREMENT CERTIFICATION**  
I, the undersigned, hereby certify that the subdivision shown herein is in accordance with the laws of the State of Tennessee, and that I am the owner of the property and its property interest, and have no interest in the property or any part thereof which is not shown on this plat.

City of Knoxville Department of Engineering \_\_\_\_\_

City of Knoxville Department of Engineering \_\_\_\_\_

City of Knoxville Department of Engineering \_\_\_\_\_

City of Knoxville Department of Engineering \_\_\_\_\_

**CERTIFICATION BY THE KNOXVILLE DEPARTMENT OF ENGINEERING**  
I, the undersigned, hereby certify that the subdivision shown herein is in accordance with the laws of the State of Tennessee, and that I am the owner of the property and its property interest, and have no interest in the property or any part thereof which is not shown on this plat.

City of Knoxville Department of Engineering \_\_\_\_\_

City of Knoxville Department of Engineering \_\_\_\_\_

City of Knoxville Department of Engineering \_\_\_\_\_

City of Knoxville Department of Engineering \_\_\_\_\_

**PAUSES AND ASSIGNMENTS**  
This is to certify that the subdivision shown herein is in accordance with the laws of the State of Tennessee, and that I am the owner of the property and its property interest, and have no interest in the property or any part thereof which is not shown on this plat.

City of Knoxville Department of Engineering \_\_\_\_\_

City of Knoxville Department of Engineering \_\_\_\_\_

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City of Knoxville Department of Engineering \_\_\_\_\_

City of Knoxville Department of Engineering \_\_\_\_\_

City of Knoxville Department of Engineering \_\_\_\_\_

City of Knoxville Department of Engineering \_\_\_\_\_

**CERTIFICATE OF APPROVAL FOR RECORDING - FINAL PLAT**  
This is to certify that the subdivision shown herein is in accordance with the laws of the State of Tennessee, and that I am the owner of the property and its property interest, and have no interest in the property or any part thereof which is not shown on this plat.

City of Knoxville Department of Engineering \_\_\_\_\_

City of Knoxville Department of Engineering \_\_\_\_\_

City of Knoxville Department of Engineering \_\_\_\_\_

City of Knoxville Department of Engineering \_\_\_\_\_

**CERTIFICATION BY THE KNOXVILLE DEPARTMENT OF ENGINEERING**  
I, the undersigned, hereby certify that the subdivision shown herein is in accordance with the laws of the State of Tennessee, and that I am the owner of the property and its property interest, and have no interest in the property or any part thereof which is not shown on this plat.

City of Knoxville Department of Engineering \_\_\_\_\_

City of Knoxville Department of Engineering \_\_\_\_\_

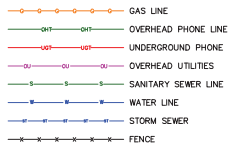
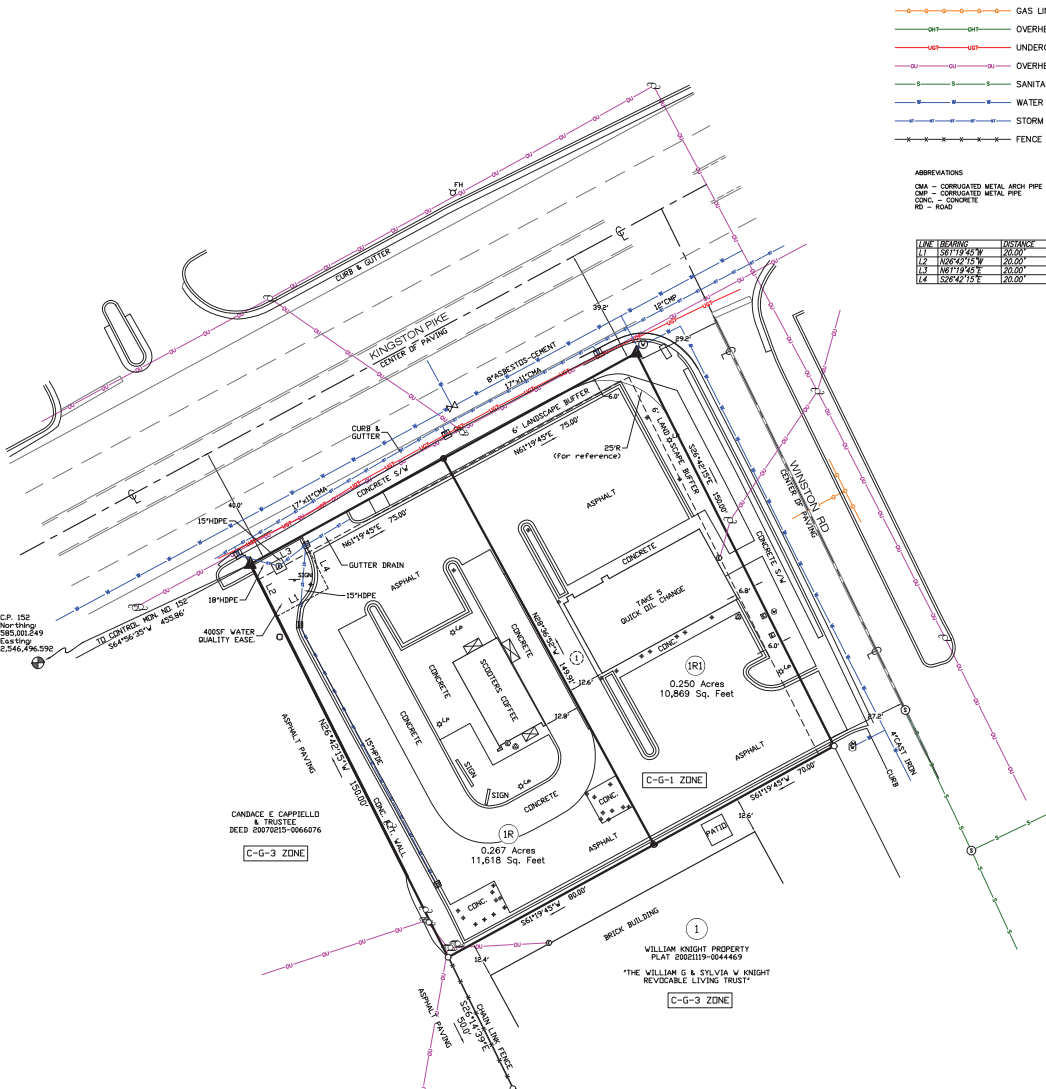
City of Knoxville Department of Engineering \_\_\_\_\_

City of Knoxville Department of Engineering \_\_\_\_\_



I hereby certify that this is a category 1 survey and the north of section of the subdivision shown is 11,181.80 sq. feet or less as shown herein. This survey meets the minimum standards for the State of Tennessee.

This is to certify that the described property is NOT located in a special flood hazard area as shown on the National Flood Insurance Program Flood Insurance Rate Map No. 470620006R ZONE 1 EFFECTIVE 5/2/2007 (FEMA 0620-3-06.)



ABBREVIATIONS

CMA - CORRUGATED METAL ARCH PIPE  
CMP - CORRUGATED METAL PIPE  
CONC - CONCRETE  
RD - ROAD

LINE	BEARING	DISTANCE
11	S57°19'24"W	20.00'
12	N02°42'12"E	20.00'
13	N87°18'25"E	20.00'
14	S52°42'12"E	20.00'



- LEGEND**
- ⊙ ELECTRIC METER
  - ⊙ GAS METER
  - ⊙ OLD CONC. PIER
  - ⊙ MONITORING WELL
  - ⊙ GUY
  - ⊙ WATER VALVE
  - ⊙ WATER MANHOLE
  - ⊙ CURB INLET
  - ⊙ 1/2" IRON PIN SET
  - ⊙ UTILITY POLE
  - ⊙ MANHOLE
  - ⊙ 1/2" IRON PIN END
  - ⊙ WATER METER
  - ⊙ FIRE HYDRANT
  - ⊙ METAL LIGHT POLE
  - ⊙ LIGHT POLE
  - ⊙ BOLLARD
  - ⊙ MAGNAIL/CAP SET
  - ⊙ ELECTRIC JUNCTION

**NOTES:**

- THIS SURVEY IS SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD.
- SETBACKS TO UTILITY AND DRAINAGE EASEMENTS TEN (10) FEET IN WIDTH INSIDE ALL EXTERIOR LOT LINES, EXCLUDING ADJACENT PERMANENT EASEMENTS, EASEMENTS OF FIVE (5) FEET IN WIDTH ALONG BOTH SIDES OF ALL INTERIOR LOT LINES AND ON THE INSIDE OF ALL OTHER EXTERIOR LOT LINES. THESE EASEMENTS ARE NOT REQUIRED ALONG SPECIFIC LOT LINES FOR PROPERTY THAT IS ZONED TO ALLOW LESS THAN A FIVE (5) FOOT BUILDING SETBACK.
- DEED 2020071-00046R
- UTILITY LINES SHOWN ALONG KINGSTON PIKE ARE TAKEN FROM CITY OF KNOXVILLE BUSINESS MAPS. THE LINES ARE INACCESSIBLE FROM THE STRUCTURES. THE STRUCTURES APPEAR TO HAVE 12" DROP SIDE OUTLETS.
- PROPERTY IS ZONED C-3-1. ADJACENT PROPERTIES ARE ZONED C-3-1. BUILDING SETBACKS ARE PER ZONING.
- UTILITIES ARE SHOWN ACCORDING TO UTILITY AGENCY MAPS AND FOUND ABOVE-GROUND STRUCTURES.
- 2 LOTS CONTAINING 22,487 SQUARE FEET
- THE PROPERTY OWNER(S) IS/ARE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND RECORDS FOR ALL UTILITIES. SEE COMMENTS DOCUMENT RECORDED WITH THE REGISTER OF DEEDS AT INSTRUMENT NO. 202008104321.
- THE PROPERTY IS CURRENTLY ZONED C-3-1 WHICH PER THE CURRENT ZONING ORDINANCE ALLOWS A (10) FOOT MINIMUM BUILDING SETBACK ALONG ALL BOUNDARY LINES, UNLESS WRITING A RESIDENTIAL DISTRICT FOR SUBDIVISION REGULATION 3-11-ALL, THE STANDARD UTILITY AND DRAINAGE EASEMENTS INDICATED IS NOT REQUIRED AND THIS PLAT DOES NOT DEVIATE SAID EASEMENTS ALONG THOSE LOT LINES. ADDITIONAL STANDARD UTILITY AND DRAINAGE EASEMENTS THAT ARE REQUIRED SHALL BE DEDICATED AS STATED/SHOWN HEREON, UNLESS NOTED OTHERWISE.



5-SD-22-F

RESUB. OF LOT 1, FINAL PLAT OF  
ACRE KINGSTON PIKE LLC

PLAT REF: 20200920006311 SCALE: 1"=20'  
PARCELID: 126J008 DATE: 3/9/2022 (REV. 3/28/22)  
COUNTY/DISTRICT: KNOX/5  
CITY: KNOXVILLE WARB/BLDDC474620

Client:  
ADORE KINGTON PIKE LLC  
MICHAEL ALDERMAN, MANAGER  
515 HORTONWAY SUITE 515  
ATLANTA, GA 30327  
478.356.7655

When you need to know, knowing is our business.



# 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  
District

C-G-1

Zoning District

Commercial

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

Related City Permit Number(s)

Home Occupation (specify) \_\_\_\_\_

Other (specify) \_\_\_\_\_

## SUBDIVISION REQUEST

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

Related Rezoning File Number

Proposed Subdivision Name

2

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>\$100</del>
		\$200.00
Fee 3		
0207 on 3/28/22 - \$250		
payment processed by Marc 3/11/2022		

## 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

Staff Signature 

Levan King Cranston

3/10/2022

Please Print

Date

3/29/22 EK processed \$250 fee