

**KNOXVILLE-KNOX COUNTY PLANNING COMMISSION
REPORT OF RECOMMENDATION**

APPEAL OF PLANNING COMMISSION DECISION

9/30/2021 01:54 PM

FILE NUMBER: 6-C-21-SP

PAVEL AND EMILIA GUSHTYUK

APPELLANT: Pavel and Emilia Gushtyuk, Owners of 8819 Rutledge Pike

DECISION APPEALED: Northeast County Sector Plan Amendment

FROM: NC (Neighborhood Commercial)

TO: GC (General Commercial)

COMM. RECOMMENDATION: **Deny the GC (General Commercial) designation since it does not meet the criteria for the GC land use classification and does not meet the requirements for a sector plan amendment.**

COMMISSION VOTE COUNT: 15-0

LOCATION: 8819 Rutledge Pk. / Parcel ID 42 029

DISTRICT: Commission District 8

COMMISSION HEARING ON: 6/10/2021

PUBLISHED IN: News-Sentinel

DATE PUBLISHED: 5/8/2021

LEGISLATIVE HEARING ON: 10/25/2021

PUBLISHED IN: News-Sentinel

DATE PUBLISHED: 10/6/2021

APPELLANT'S ADDRESS: Pavel and Emilia Gushtyuk
7820 Emory Road NE
Corryton, TN 37721

APPLICANT'S ADDRESS: Pavel and Emilia Gushtyuk
7820 Emory Road NE
Corryton, TN 37721

LEGISLATIVE BODY: Knox County Commission



APPEAL OF DECISION

(Please Note: Original application and staff report are made a part of this application.)

Type: ☐ One Year Plan Amendment ☒ ~~Sector Plan Amendment~~ ☒ Rezoning ☐ Variance
☐ Street Name Change ☐ Right-of-Way Closure
☐ Certificate of Appropriateness ☐ Other: _____

Decision by: ☒ Planning ☐ BZA ☐ Other: _____ Date of Decision: 6-10-21
Jurisdiction: ☐ City _____ Councilmanic District ☐ County 8th Commission District

Original Applicant Name: Pavel & Emilia Gushchyuk Original File Number: 662127/662150
Name of Owner of Subject Property: Pavel & Emilia Gushchyuk
Description of Subject Property (Include city block and parcel number or lot number) Parcel ID 042029
8819 Rutledge Pike Knoxville TN 37924
☐ Zoning map of all property within 300 feet of the subject property is attached.

DECISION BEING APPEALED

Denial to change sector plan or rezone to CA

REASON FOR THE APPEAL

Attach additional pages, if necessary. We have consulted with zoning attorney which will be representing us, and he believes that our request is reasonable and should be re-addressed.

PETITIONER INFORMATION

Name of Petitioner: same as applicant
Petitioner's Interest in the Matter (Include a description of affected property owned by Petitioner): _____

Application Authorization: I hereby certify that I am the applicant/authorized representative for the above named petitioner.

Signature: [Signature]

All correspondence should be sent to Name (Print): Pavel & Emilia Gushchyuk
7820 Emory Rd NE Corryton TN 37721
Street Address City State Zip

Phone: 865 253 7150 Fax: _____ E-mail: skyline.homebuild@gmail.com

For Planning Staff Use Only

Application Accepted by Planning Staff Member: Sherry Michienzi
Appeal Fee Amount: \$500.00 Date Appeal Received: 7-12-21

BODY WHO WILL HEAR THE APPEAL & MEETING DATE OF THE APPEAL

☐ City Council - 6 p.m.

☒ County Commission - 7 p.m.

☐ City BZA - 4 p.m.

☐ Planning Commission - 1:30 p.m.

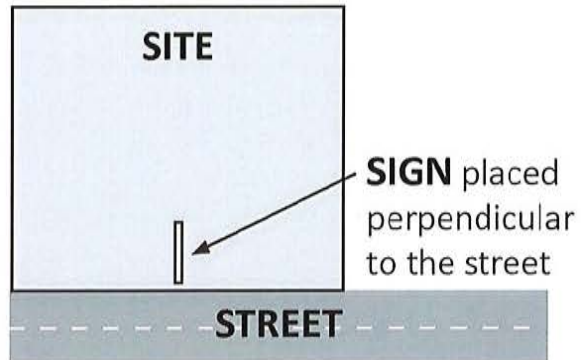
Month • Date • Year

8-23-21
Month • Date • Year

Month • Date • Year

Month • Date • Year

The Administrative Rules and Procedures of the Knoxville-Knox County Planning Commission require a sign to be posted on the property for each application subject to consideration by the Planning Commission, including the following applications: rezoning, plan amendment, concept plan, use on review/special use, planned development, right-of-way closure, and name change.



The required public notice sign(s) will be provided by Planning to the applicant when an application is submitted. If an application is submitted electronically, Planning staff will post the required sign. If a replacement sign(s) is needed, the applicant is responsible for picking up the new sign(s) from Planning and will be charged \$10 for each replacement.

LOCATION AND VISIBILITY

The sign must be posted on the nearest adjacent/frontage street and in a location clearly visible to vehicles traveling in either direction. If the property has more than one street frontage, 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 **not less than 12 days prior to 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 not less than 12 days prior to the next Planning Commission meeting. The applicant is responsible for removing the sign after the application has been acted upon by the Planning Commission.

The individual below is responsible for posting and removing the sign(s) provided consistent with the above guidelines and between the dates of:

10-10-21 and 10-26-21
(applicant or staff to post sign) (applicant to remove sign)

Applicant Name: Pavel & Emilia Gushtuyk

Date: 10-5-2021

File Number: 6-C-21-SP

☐

Sign posted by Staff

☒

Sign posted by Applicant

June 10, 2021

1:30 P.M. | Main Assembly Room
City County Building

The Planning Commission met in regular session on June 10, 2021 at 1:30 p.m. in the Main Assembly room of the City County Building.

Item No.

File No.

1. ROLL CALL, INVOCATION AND PLEDGE OF ALLEGIANCE

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

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

19. PAVEL AND EMILIA GUSHTYUK

8819 Rutledge Pike / Parcel ID 42 029, Commission District 8.

A. NORTHEAST COUNTY SECTOR PLAN AMENDMENT

6-C-21-SP

From NC (Neighborhood Commercial) to GC (General Commercial).

1. STAFF RECOMMENDATION

Deny the GC (General Commercial) designation since it does not meet the criteria for the GC land use classification and does not meet the requirements for a sector plan amendment.

2. MOTION (KORBELIK) AND SECOND (OOTEN) WERE MADE TO DENY PER STAFF RECOMMENDATION.

MOTION CARRIED UNANIMOUSLY 15-0. DENIED

Item No.**File No.****B. REZONING****6-G-21-RZ**

From A (Agricultural) to CA (General Business).

1. STAFF RECOMMENDATION

Deny CA (General Business) zoning because it is not consistent with the Northeast County Sector Plan designation and could cause adverse impacts for neighboring residential properties.

2. MOTION (HILL) AND SECOND (E. SMITH) WERE MADE TO DENY PER STAFF RECOMMENDATION.

MOTION CARRIED UNANIMOUSLY 15-0. DENIED



KNOX CTY METRO PLANN
400 W MAIN ST # 403
KNOXVILLE TN 37902--242

<u>Account</u>	<u>AD#</u>	<u>Net Amount</u>	<u>Tax Amount</u>	<u>Total Amount</u>	<u>Payment Method</u>	<u>Payment Amount</u>	<u>Amount Due</u>
1317419	0004938807	\$86.37	\$0.00	\$86.37	Invoice	\$0.00	\$86.37

Sales Rep: BWeaver

Order Taker: BWeaver

Order Created 09/30/2021

Product	# Ins	Start Date	End Date
KNS-knoxnews.com	1	10/06/2021	10/06/2021
KNS-Knoxville News Sentinel	1	10/06/2021	10/06/2021

* ALL TRANSACTIONS CONSIDERED PAID IN FULL UPON CLEARANCE OF FINANCIAL INSTITUTION

Text of Ad: **09/30/2021**

PUBLIC NOTICE

The following item will be considered by the Knox County Board of Commissioners on Monday, October 25, 2021 at 7:00 p.m. in the Main Assembly Room, City County Bldg., 400 Main St., Knoxville, TN. For information related to this item visit the Knoxville-Knox County Planning website at KnoxPlanning.org/agenda. Knox County does not discriminate on the basis of disability in its provision of services, programs, activities or benefits. If you need assistance or accommodation for a disability, please contact the ADA office at 215-2952 & we will be glad to work with you in obliging any reasonable request.

APPEAL OF DECISION

Appeal by Pavel and Emilia Gushtyuk of the Knoxville-Knox County Planning Commission's denial of a request for a Northeast County Sector Plan Amendment for property located at 8819 Rutledge Pike / Parcel ID 42 029 from NC (Neighborhood Commercial) to GC (General Commercial). Commission District 8. Planning Commission File No. 6-C-21-SP



PLAN AMENDMENT/ REZONING REPORT

► **FILE #:** 6-G-21-RZ
6-C-21-SP

AGENDA ITEM #: 19
AGENDA DATE: 6/10/2021

► **APPLICANT:** PAVEL AND EMILIA GUSHTYUK
OWNER(S): Pavel and Emilia Gushtyuk

TAX ID NUMBER: 42 029 [View map on KGIS](#)
JURISDICTION: Commission District 8
STREET ADDRESS: 8819 Rutledge Pk.
► **LOCATION:** Southwest side of Roberts Road, northwest side of Rutledge Pike
► **TRACT INFORMATION:** 1.34 acres.
SECTOR PLAN: Northeast County
GROWTH POLICY PLAN: Planned Growth Area
ACCESSIBILITY: Access is via Rutledge Pike, a major arterial street with 4 lanes and a center median within 250 ft of right-of-way; and Roberts Rd., a minor arterial with a 22-ft pavement width within a 70-ft of right-of-way.
UTILITIES: Water Source: Northeast Knox Utility District
Sewer Source: septic (KUB lines are available)
WATERSHED: Roseberry Creek

► **PRESENT PLAN DESIGNATION/ZONING:** NC (Neighborhood Commercial) / A (Agricultural)
► **PROPOSED PLAN DESIGNATION/ZONING:** GC (General Commercial) / CA (General Business)
► **EXISTING LAND USE:** Vacant land; the single family dwelling on the site was removed.
►
EXTENSION OF PLAN DESIGNATION/ZONING: No
HISTORY OF ZONING REQUESTS: None noted for this property
SURROUNDING LAND USE, PLAN DESIGNATION, ZONING
North: Rural residential - NC (Neighborhood Commercial) - A (Agricultural)
South: Single family residential - LDR (Low Density Residential) - A (Agricultural)
East: Commercial - NC (Neighborhood Commercial) - CN (Neighborhood Commercial)
West: Single family residential - LDR (Low Density Residential) - A (Agricultural)
NEIGHBORHOOD CONTEXT: This area has developed with large-lot single family residential uses and a few commercial uses scattered along Rutledge Pike near its intersection with

STAFF RECOMMENDATION:

- ▶ **Deny the GC (General Commercial) designation since it does not meet the criteria for the GC land use classification and does not meet the requirements for a sector plan amendment.**
- ▶ **Deny CA (General Business) zoning because it is not consistent with the Northeast County Sector Plan designation and could cause adverse impacts for neighboring residential properties.**

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 have been no changes to conditions to warrant amending the land use plan to the GC land use.

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

1. The Land Use Classification Table, adopted as part of the sector plan, describes the GC land use as, "including previously developed strip commercial corridors providing a wide range of retail- and service-oriented uses. Such land use classification and related zoning should not be extended because of the adverse effects on traffic-carrying capacity, safety, and environmental impacts. Redevelopment of commercial corridors, including mixed use development, should be accommodated under planned or design-oriented zones."
2. TDOT is adding a right turn lane on Roberts Road at its intersection with Rutledge Pike. The turn lane would encompass 200 feet of storage length and 100 ft of taper length. The depth of this property is approximately 141 feet, so an entry onto Roberts Road, which ordinarily would be preferable to an entry on Rutledge Pike, would fall directly into the turn lane taper and is not likely to be approved by TDOT. So, while the new right turn lane planned by TDOT for this intersection is a change of conditions, it also precludes an entry/exit for the property due to the shallow depth of the property.
3. Since the GC land use class is for existing commercial strips and should not be created or extended, any additional roads or utilities would not warrant amending the land use plan to the GC land use.

AN OBVIOUS OR SIGNIFICANT ERROR OR OMISSION IN THE PLAN:

1. There are no obvious or significant errors or omissions in the plan regarding this parcel.

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

1. There are no new trends in development, population, or traffic that warrant reconsideration of this area of the Northeast City Sector Plan.

ADDITIONAL CONSIDERATION:

1. The land use classes that allow the CA land use are listed below. None of them are consistent with the specific property or the area in general.
 - a. CC (Community Commercial) – Designed for big-box commercial uses that service a large population center.
 - b. RC (Regional Commercial) – Designed for retail and service uses in development that typically exceeds 400,000 square feet.
 - c. MU-CC (Mixed Use, Community Center) – Designed to be developed at a moderate intensity with a variety of housing types; the core of the district should be with ¼ mile of higher intensity residential uses (i.e., apartments or townhomes).

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.

PURSUANT TO THE KNOX COUNTY ZONING ORDINANCE, ARTICLE 6.30.01, 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/COUNTY GENERALLY:

1. As stated previously, TDOT is adding a right turn lane on Roberts Road at its intersection with Rutledge Pike. However, the traffic improvement would not warrant a sector plan amendment to the GC land use class since the GC land use is not to be extended per the Land Use Classification Table. The requested CA zone would require a plan amendment.

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

1. The CA (General Business) zone is intended for general retail business and services but not for manufacturing or for processing materials other than farm products, except that portable sawmills are allowed.
2. 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. There are several uses in the CA zone that would not be compatible with the adjacent single-family development, such as hotels, motor vehicle repair shops, school bus storage, self-service storage facilities, commercial mulching operations, composting facilities, and contractor's storage yards.
3. This property is at the intersection of two arterials and is adjacent to residential properties on the west and south, making it more appropriate for CN (Neighborhood Commercial) zoning at this commercial node. CN zoning is intended to service nearby residential areas and provide needed services within a smaller radius.

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. Rutledge Pike contains a mix of uses along its length. However, this property is located in a pocket of single-family homes between Three Points Road and Rutledge Pike. Rezoning this property to GC would likely cause more properties to seek CA zoning nearby, which could have adverse impacts on these residential properties due to the intensity supported by the CA zone.
2. This particular area serves as a Neighborhood Commercial node to serve the nearby residences.

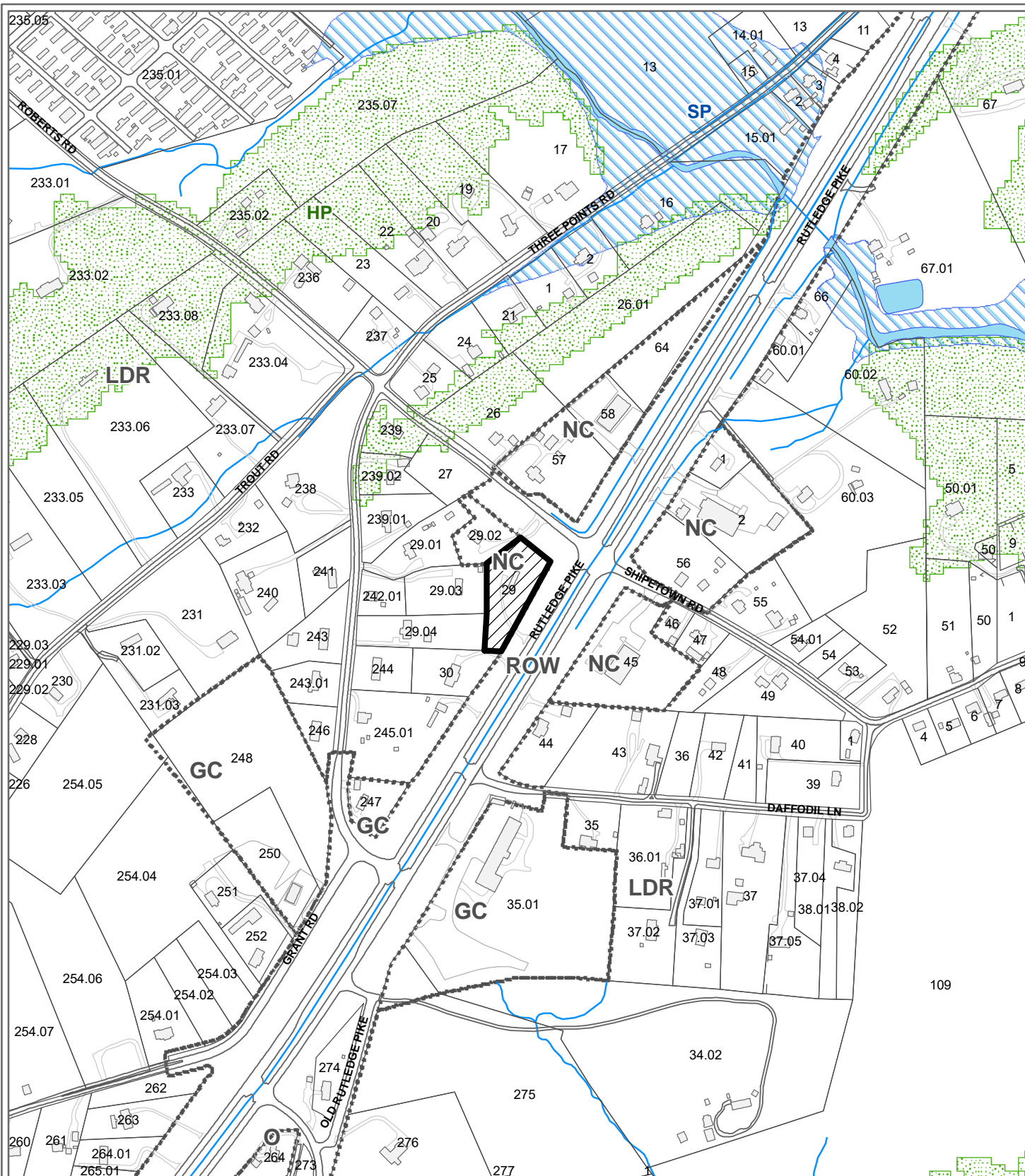
THE PROPOSED AMENDMENT SHALL BE CONSISTENT WITH AND NOT IN CONFLICT WITH THE GENERAL PLAN OF KNOXVILLE AND KNOX COUNTY, INCLUDING ANY OF ITS ELEMENTS, MAJOR ROAD PLAN, LAND USE PLAN, COMMUNITY FACILITIES PLAN, AND OTHERS:

1. CA zoning is not consistent with the current Northeast County Sector Plan's NC land use designation, nor would a sector plan amendment to GC (General Commercial) be appropriate at this location.
2. This property does not meet the description or location criteria prescribed for the General Commercial land use classification in the Land Use Classification Table (as listed above), adopted as part of the sector plan.

ESTIMATED TRAFFIC IMPACT: Not required.

ESTIMATED STUDENT YIELD: Not applicable.

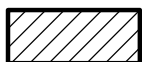
If approved, this item will be forwarded to Knox County Commission for action on 7/26/2021. If denied, Knoxville-Knox County Planning Commission's action is final, unless the action to deny is appealed to Knox County Commission. The date of the appeal hearing will depend on when the appeal application is filed. Appellants have 30 days to appeal a Planning Commission decision in the County.



**6-C-21-SP / 6-G-21-RZ
NORTHEAST COUNTY SECTOR PLAN AMENDMENT**

From: NC (Neighborhood Commercial)

To: GC (General Commercial)



Original Print Date: 5/6/2021 Revised:
Knoxville - Knox County Planning Commission * City / County Building * Knoxville, TN 37902

Petitioner: Pavel and Emilia Gushtyuk

Map No: 42

Jurisdiction: County

0 500
Feet

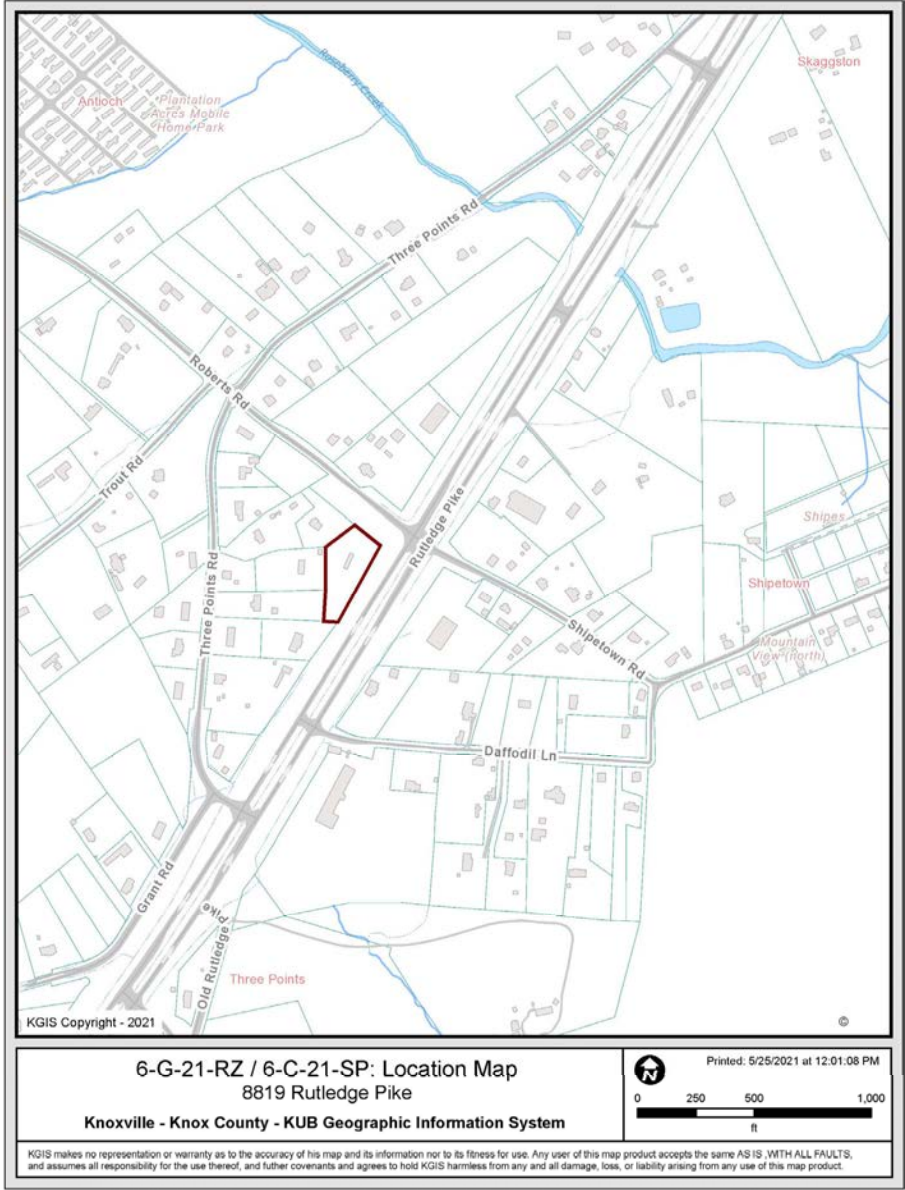


6-G-21-RZ / 6-C-21-SP
Exhibit A. Contextual Images

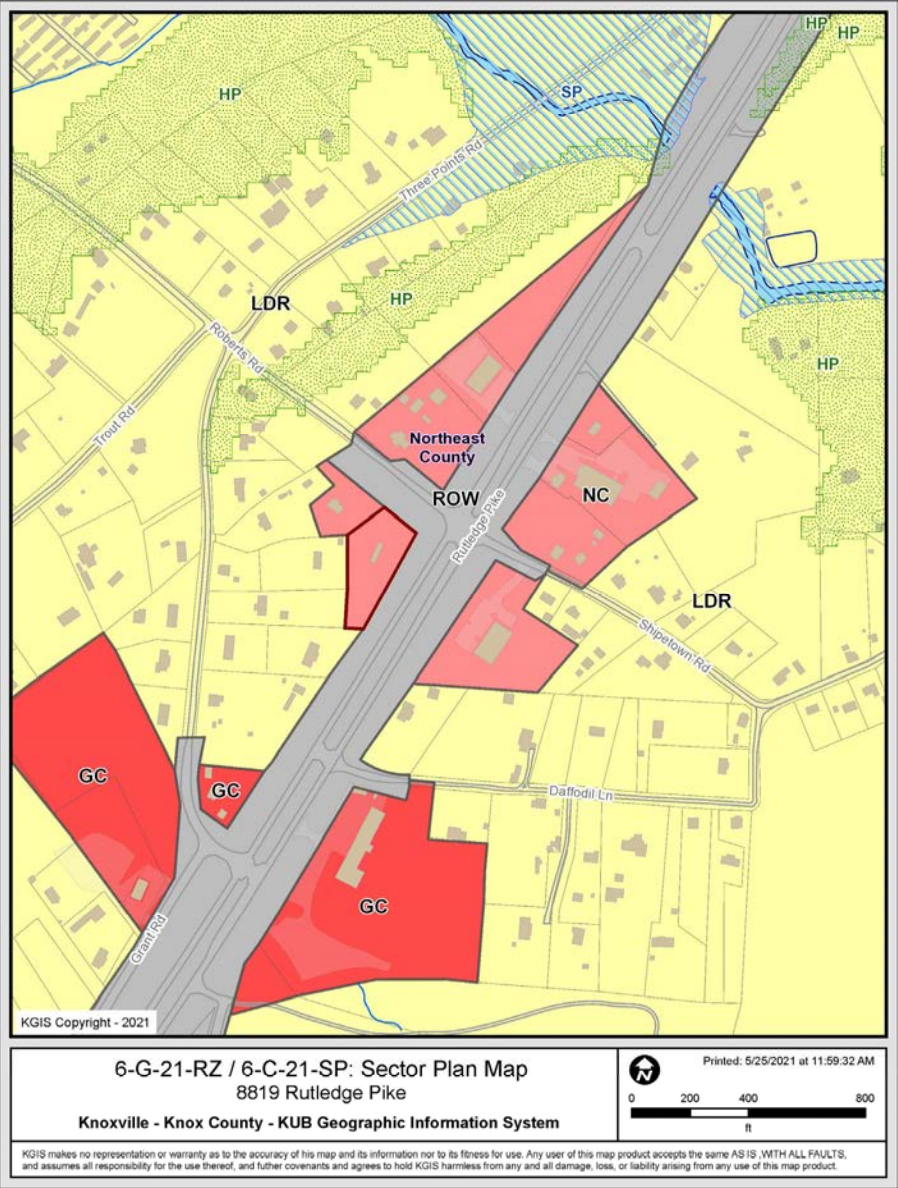
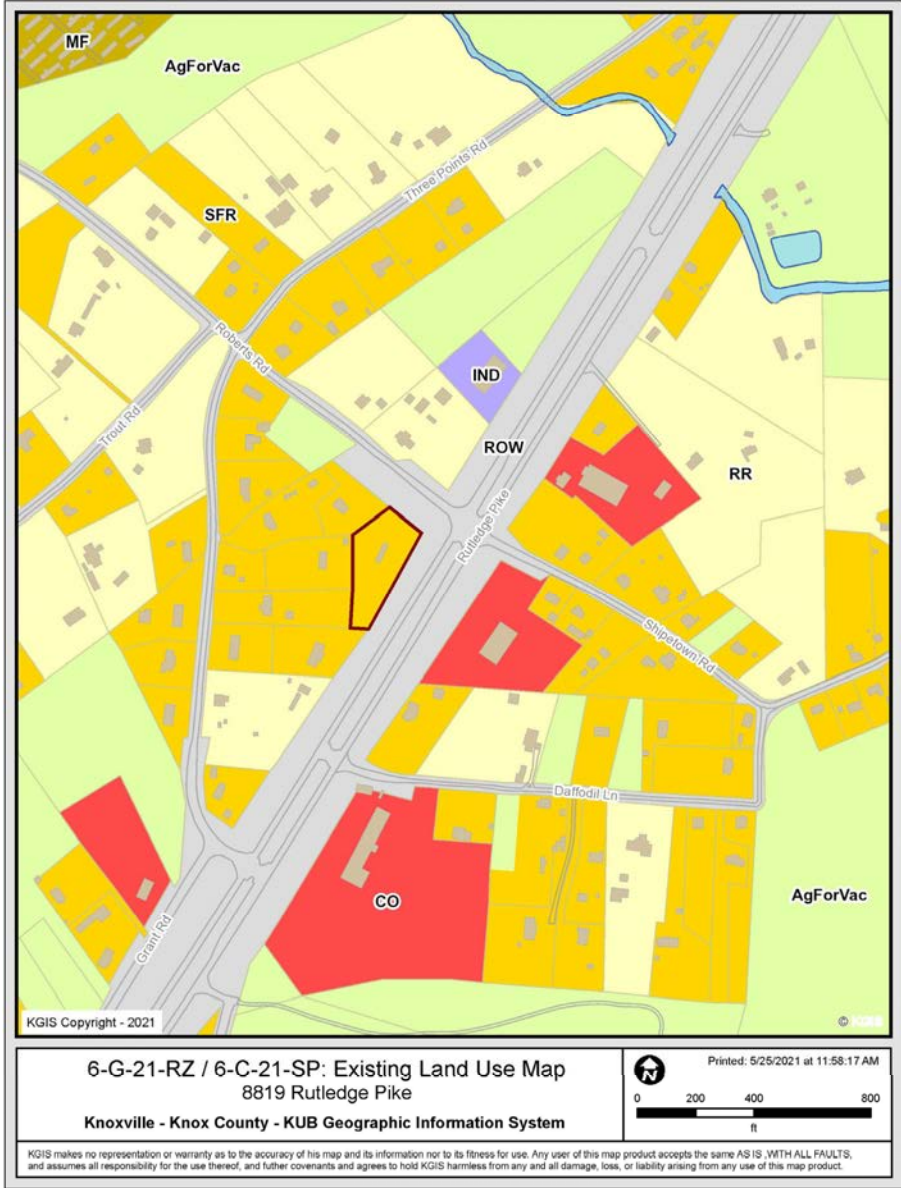
Eagle views of property and surrounding area.



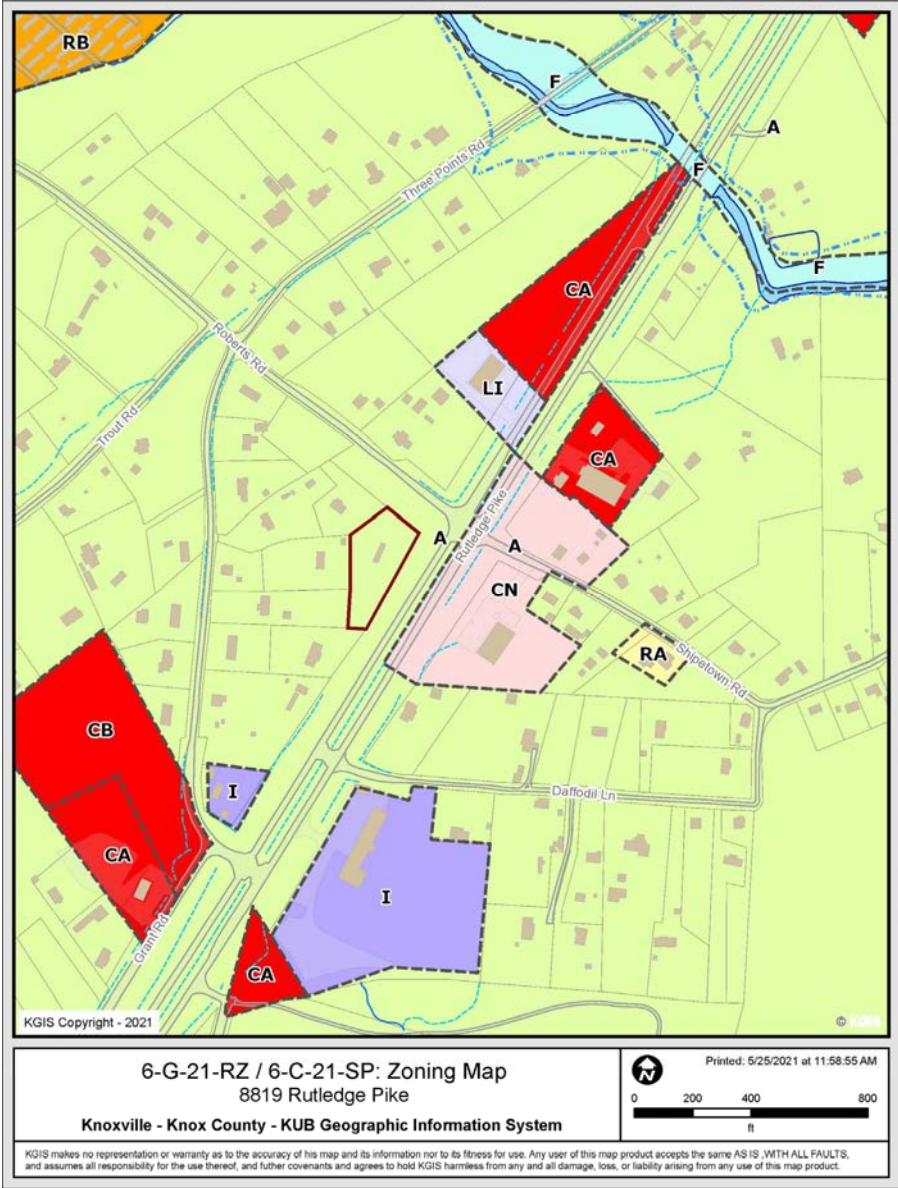
6-G-21-RZ / 6-C-21-SP
Exhibit A. Contextual Images



6-G-21-RZ / 6-C-21-SP
Exhibit A. Contextual Images



6-G-21-RZ / 6-C-21-SP
Exhibit A. Contextual Images



**June 10, 2021****Planning Commission meeting**

Public Comments

2 Comments for 6-G-21-RZ and 6-C-21-SP

Kevin (37918), June 6, 2021 at 8:41 PM

KCPA supports the recommendation to deny the requested CA zone. That zoning designation is very broad with its allowed, does not have sufficient landscape requirements to buffer it from adjacent residential uses, nor does it contain lighting requirements, and the signage requirements are... skimpy. KCPA could support a CN (Neighborhood Commercial) zone which would align it with the other 3 corners of Roberts Rd, but we do not support a CA zone. We ask that you support the sector plan land use designation chart and the staff recommendation.

Kevin (37918), June 6, 2021 at 8:34 PM

KCPA supports the staff recommendation to deny the requested sector plan amendment to CA. The other corners of this intersection are all NC. KCPA does not support the extension of the GC sector plan more than absolutely necessary. Neighborhood Commercial land use designations offer several zoning options for the applicant, particularly the CN (Neighborhood Commercial) ZONE which would align with the other 3 corners of the Rutledge Pike / Roberts Rd intersection.



Development Request

DEVELOPMENT

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

SUBDIVISION

- ☐ Concept Plan
☐ Final Plat

ZONING

- ☐ Plan Amendment
☐ SP ☐ OYP
☐ Rezoning

Pavel and Emilia Gushtyuk

Applicant Name

Affiliation

04/26/2021

6-10-2010

Date Filed

Meeting Date (if applicable)

File Number(s)

6-G-21-RZ

6-C-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

Pavel and Emilia Gushtyuk

Name

Company

7820 Emory Road NE

Corryton

TN

37721

Address

City

State

ZIP

865-253-7150

skyline.homebuild@gmail.com

Phone

Email

CURRENT PROPERTY INFO

same

same

865-253-7150

Owner Name (if different)

Owner Address

Owner Phone

8819 Rutledge Pike Knoxville TN 37924

042 029

Property Address

Parcel ID

Septic

NE Utility District

Y

Sewer Provider

Water Provider

Septic (Y/N)

STAFF USE ONLY

Southwest side of Roberts Road, Northwest side of Rutledge Pike

1.34 ac

General Location

Tract Size

☐ City ☒ County

8th

A

SFR

District

Zoning District

Existing Land Use

Northeast County

NC

Planned

Planning Sector

Sector Plan Land Use Classification

Growth Policy Plan Designation

December 2020

DEVELOPMENT REQUEST

<input type="checkbox"/> Development Plan <input type="checkbox"/> Use on Review / Special Use <input type="checkbox"/> Hillside Protection COA <input type="checkbox"/> Residential <input type="checkbox"/> Non-Residential Home Occupation (specify) _____ Other (specify) _____	Related City Permit Number(s)
--	---------------------------------------

SUBDIVISION REQUEST

Proposed Subdivision Name _____ Unit / Phase Number _____ <input type="checkbox"/> Combine Parcels <input type="checkbox"/> Divide Parcel <input type="checkbox"/> Other (specify) _____ <input type="checkbox"/> Attachments / Additional Requirements _____	Related Rezoning File Number Total Number of Lots Created _____
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ZONING REQUEST


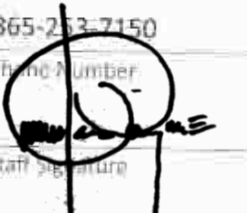
<input checked="" type="checkbox"/> Zoning Change CA Proposed Zoning _____ <input type="checkbox"/> Plan Amendment Change Proposed Plan Designation(s) _____	Pending Plat File Number
Proposed Density (units/acre) _____ <input type="checkbox"/> Other (specify) _____	Previous Rezoning Requests _____

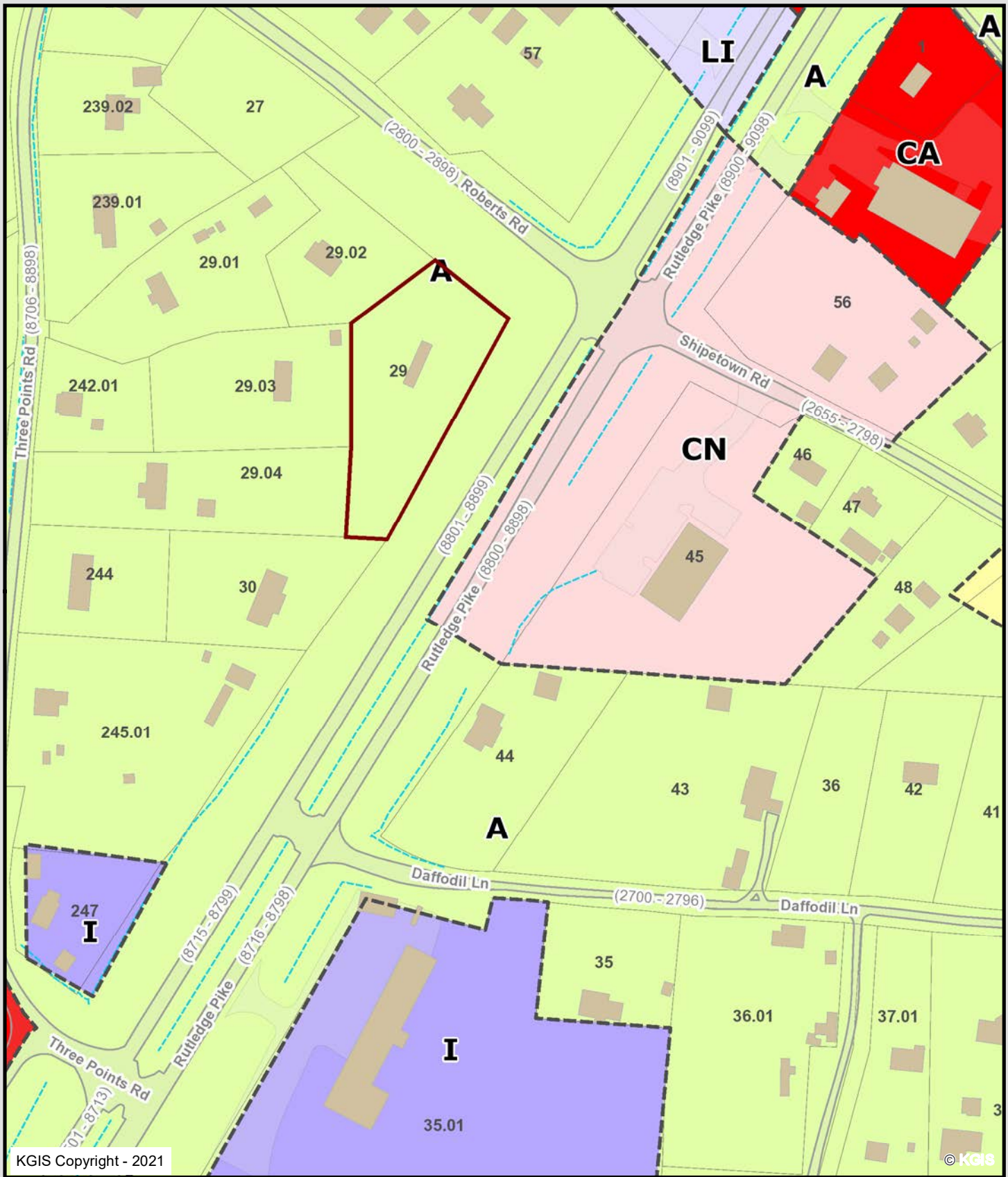
STAFF USE ONLY

PLAT TYPE <input type="checkbox"/> Staff Review <input type="checkbox"/> Planning Commission	Fee 1		Total
ATTACHMENTS <input type="checkbox"/> Property Owners / Option Holders <input type="checkbox"/> Variance Request	0326	1,000.00	
ADDITIONAL REQUIREMENTS <input type="checkbox"/> Design Plan Certification (Final Plat) <input type="checkbox"/> Use on Review / Special Use (Concept Plan) <input type="checkbox"/> Traffic Impact Study <input type="checkbox"/> COA Checklist (Hillside Protection)	Fee 2 0526	600.00	
	Fee 3		1,600.00

AUTHORIZATION

(By signing below, I certify I am the property owner, applicant or the owner's authorized representative.)

 Applicant Signature	Pavel and Emilla Gushtyuk Please Print	4/26/2021 Date
865-213-7150 Phone Number	skyline.homebuild@gmail.com Email	
 Staff Signature	Marc Payne Please Print	4/28/2021 swm Date



Letter Portrait

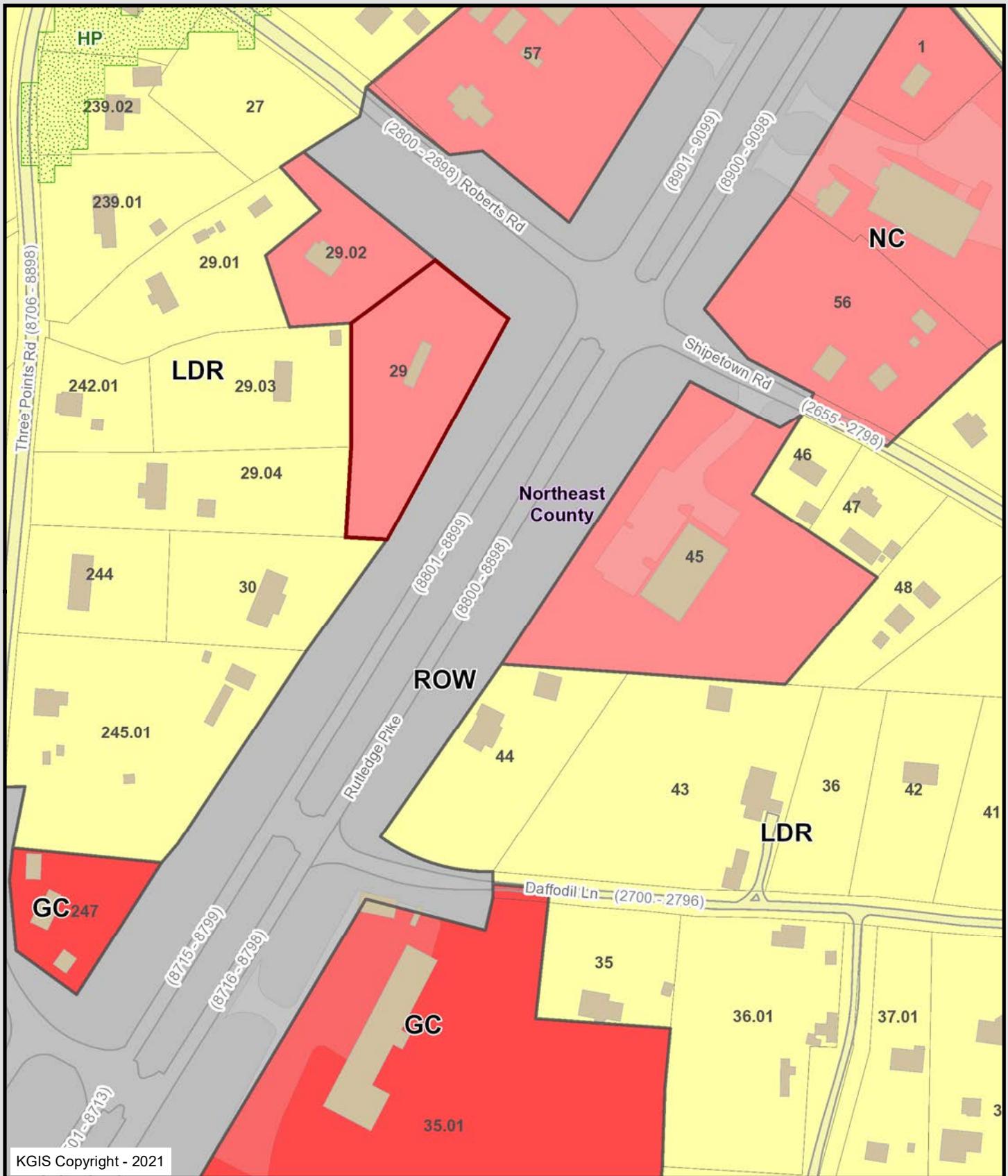
Knoxville - Knox County - KUB Geographic Information System



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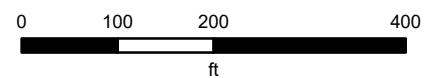


Letter Portrait

Knoxville - Knox County - KUB Geographic Information System



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