

▶ **FILE #:** 9-I-09-RZ

**AGENDA ITEM #:** 39

**AGENDA DATE:** 9/10/2009

▶ **APPLICANT:** MURPHY ROAD PARTNERSHIP, LLC / MURPHY ROAD CAR WASH, LLC

**OWNER(S):** VICTOR JERNIGAN MURPHY ROAD CAR WASH LLC

**TAX ID NUMBER:** 49 09207

**JURISDICTION:** City Council District 4

▶ **LOCATION:** Southeast side Washington Pk., southeast of Murphy Rd.

▶ **APPX. SIZE OF TRACT:** 0.8 acres

**SECTOR PLAN:** Northeast County

**GROWTH POLICY PLAN:** Urban Growth Area (Inside City Limits)

**ACCESSIBILITY:** Access is via Washington Pike, a minor arterial street with 23' of pavement width within 60' of right of way.

**UTILITIES:** Water Source: Northeast Knox Utility District

Sewer Source: Knoxville Utilities Board

**WATERSHED:** Whites Creek

▶ **PRESENT ZONING:** C-4 (k) Highway and Arterial Commercial with conditions

▶ **ZONING REQUESTED:** C-4 (Highway and Arterial Commercial)

▶ **EXISTING LAND USE:** Vacant

▶ **PROPOSED USE:** Conveyor type automatic car wash

**EXTENSION OF ZONE:** Yes, property is bordered on two sides by conditional C-4 zoning.

**HISTORY OF ZONING:** Property was rezoned C-4 with conditions in 2007 (11-N-07-RZ).

**SURROUNDING LAND USE AND ZONING:** North: Washington Pike - Vacant land and residence / A (Agricultural)

South: Cleared, graded site / C-4 (Highway & Arterial Commercial) with conditions

East: Cleared, graded site / C-4 (Highway & Arterial Commercial) with conditions

West: Weigels convenience store with gas pumps / CN (Neighborhood Commercial)

**NEIGHBORHOOD CONTEXT:** This area is developed with a mix of commercial and residential uses under CN. C-3, C-4, SC, PR, RA, R-1 and RB zoning.

**STAFF RECOMMENDATION:**

▶ **RECOMMEND that City Council APPROVE C-4 (General Commercial) zoning, with 2 conditions.**

1. Use of the site is limited to C-1 uses plus a conveyor type car wash facility.
2. The building setbacks, signage, site lighting and landscaping requirements of the Knox County CN zone will apply to this development (sections 5.38.06, 5.38.07, 5.38.08, 5.38.09, 5.38.11 and 5.38.14 of the Knox County Zoning Ordinance) (See attached ordinance sections).

With the above conditions, staff maintains that this site can be compatibly used for a conveyer car wash business. This area around the intersection of Murphy Rd. and Washington Pike is already established as an appropriate commercial node serving surrounding residential areas.

**COMMENTS:**

The site, as well as additional acreage to the south, is currently zoned C-4, limited to C-1 zoning plus mini-storage warehouses, liquor stores and restaurants. The applicant has filed this rezoning application to have the conditions released for this site specifically, in order to allow the proposed conveyor car wash. Staff is recommending approval of C-4 with the above specified conditions.

**NEED BASED ON SUBSTANTIALLY CHANGED/CHANGING CONDITIONS IN THE AREA OR THE COUNTY GENERALLY:**

1. Conditional C-4 zoning is already established at this location. Staff has recommended approval of the C-4 zoning with the above modified conditions for this particular site.
2. The surrounding area is developing with commercial uses. With the application of the specified regulations of the County CN zone, this site can be developed in such a way that it is compatible with surrounding development, minimizing the visual impact to the residence on the north side of Washington Pike.
3. The requested zoning and use is appropriate at this developing commercial node located at the intersection of a minor arterial street (Washington Pike) and a major collector street (Murphy Rd.).

**CONSISTENCY WITH INTENT AND PURPOSE OF THE ZONING ORDINANCE:**

1. The conditioned C-4 zone permits uses in the C-1 zone and the proposed conveyor car wash. C-1 is a restricted commercial district, limited to a narrow range of retail, service and convenience goods in the first floor of a structure. This district is designed for areas where large commercial operations are undesirable, but where individual proprietary stores are useful and desirable for the neighborhood. Offices are also permitted in accordance with the regulations of the O-1 district.
2. In addition, a condition has been included that the development must meet certain requirements of the County's CN zone, which will require that landscaping, setbacks, lighting and signage will be more compatible with the residential uses in the area.

**THE EFFECTS OF THIS PROPOSAL**

1. Public water and sewer utilities are available to serve the site.
2. The recommendation is compatible with surrounding development and should have a minimal impact on adjacent properties.
3. The recommendation will permit the applicant's proposed use, but will require more compatible landscaping, setback, signage and lighting standards than the C-4 or C-1 zone would require.

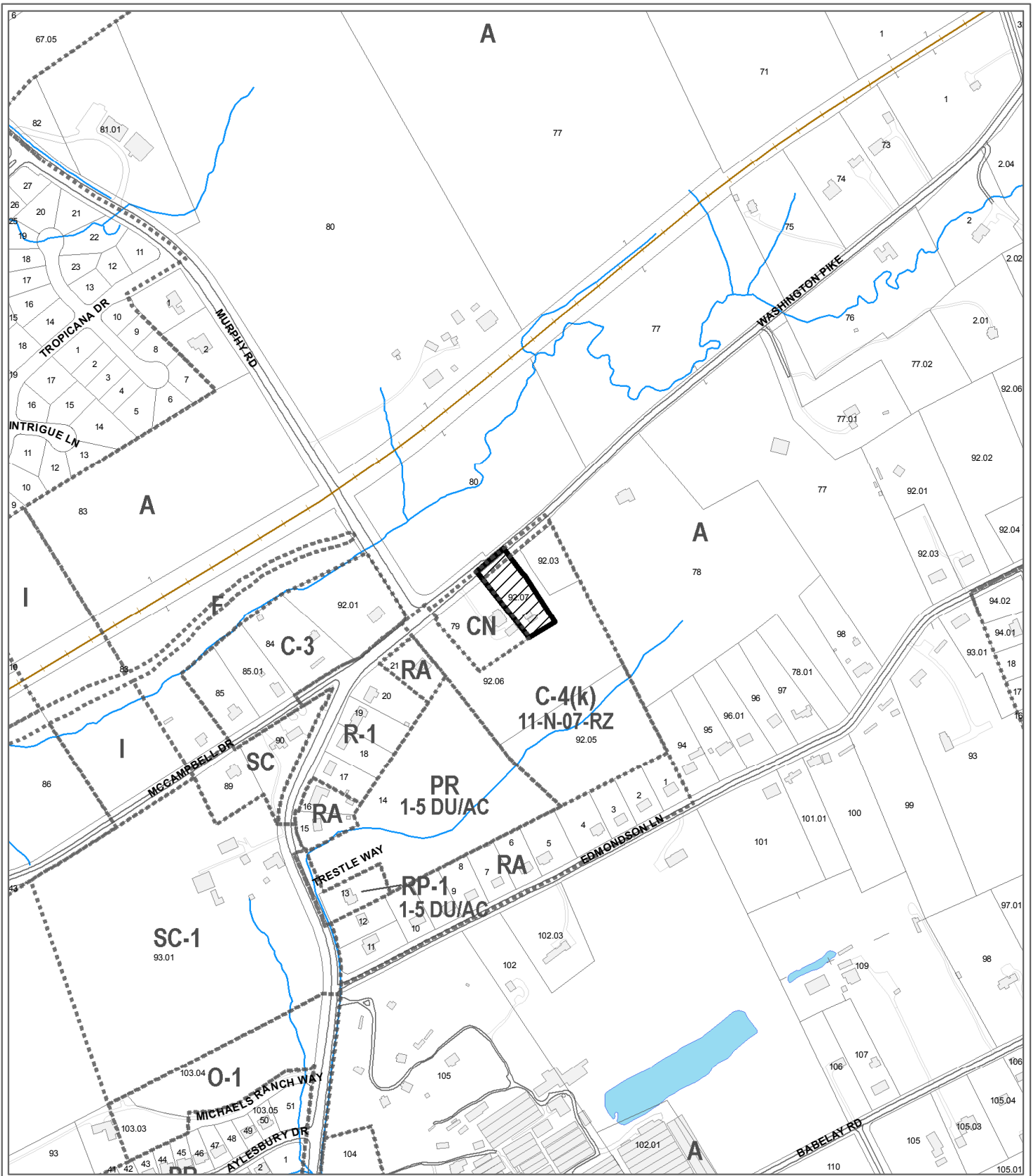
**CONFORMITY OF THE PROPOSAL TO ADOPTED PLANS**

1. The Northeast County Sector Plan proposes neighborhood commercial uses for the site, consistent with staff's recommendation.
2. The City of Knoxville One Year Plan proposes general commercial uses for the site, consistent with the proposal.
3. The site is located within the City Limits of Knoxville on the Knoxville-Knox County-Farragut Growth Policy Plan map.
4. Approval of this request to drop all C-4 conditions could lead to a future request to drop conditions on the adjacent C-4 zoning also, opening up the property to more intense, less compatible commercial uses.

**ESTIMATED TRAFFIC IMPACT:** Not calculated.

**ESTIMATED STUDENT YIELD:** Not applicable.

If approved, this item will be forwarded to Knoxville City Council for action on 10/6/2009 and 10/20/2009. If denied, MPC'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 an MPC decision in the City.



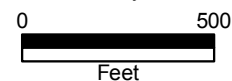
**9-I-09-RZ  
REZONING**

From: C-4 (k) Highway and Arterial Commercial with conditions  
 To: C-4 (Highway and Arterial Commercial)



Petitioner: Murphy Road Partnership, LLC /  
 Murphy Road Car Wash, LLC

Map No: 49  
 Jurisdiction: City



Original Print Date: 8/24/2009 Revised:  
 Metropolitan Planning Commission \* City / County Building \* Knoxville, TN 37902

residence or residential zone, provided they meet the requirements of Article 4.92.

5.38.04 Building Size and Type Regulations

- A. No building shall exceed 35 feet in height.
- B. No individual building or commercial establishment shall have a floor area exceeding 5,000 square feet.

5.38.05 Lot area

The building lot must be a minimum of 10,000 square feet in size.



5.38.06 Front yard setbacks and landscaping requirements

All buildings shall be setback from the street right of way lines not less than thirty-five feet. Parking must be setback a minimum of ten feet. The parking setback area must contain a minimum of one native shade tree, capable of reaching 50 feet in height at maturity, per every 60 feet or portion thereof of linear street frontage. The native shade trees must be spaced a minimum of 50 feet apart at the time of planting. One ornamental tree is required per every 25 feet or portion thereof of linear street frontage, to be placed between and among the shade trees, with a minimum of 15 feet spacing from the shade trees.

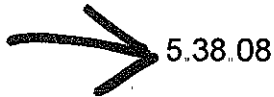


5.38.07 Side yard setbacks and landscaping requirements

- A. Where the side yard is adjacent to a residential district, the building setback shall be not less than twenty feet. The required side yard must be landscaped with a minimum of one evergreen tree per every 30 feet or portion thereof of side yard property depth (portion outside of required front and rear yards). The evergreen trees must be spaced a minimum of 30 feet apart at the time of planting. Shrubs and/or ground cover plantings must cover the

remainder of the side yard, except for the space within 10 feet from the base of the evergreen trees.

- B. Where the side yard is not adjacent to a residential or agricultural district, the building setback shall be not less than ten feet. The side yard must be landscaped with a minimum of one native shade tree per every 60 feet or portion thereof of side yard property depth (portion outside of required front and rear yards). The native shade trees must be spaced a minimum of 50 feet apart at the time of planting. One ornamental tree is required per every 25 feet or portion thereof of side yard property depth (portion outside of required front and rear yards), to be placed between and among the shade trees, with a minimum of 15 feet spacing from the shade trees.



5.38.08

Rear yard setbacks and landscaping requirements

- A. Where the rear yard is adjacent to a residential or agricultural district, the building setback shall be not less than twenty-five feet. The required rear yard must be landscaped with a minimum of one evergreen tree per every 25 linear feet or portion thereof of rear yard property length. The evergreen trees must be spaced a minimum of 30 feet apart at the time of planting. Shrubs and/or ground cover plantings must cover the remainder of the rear yard, except for within 10 feet from the base of the evergreen trees.
- B. Where the rear yard is not adjacent to a residential or agricultural district, the building setback shall be not less than ten feet. The rear yard must be landscaped with a minimum of one native shade tree per every 60 feet or portion thereof of rear yard property length. The native shade trees must be spaced a minimum of 50 feet apart at the time of planting. One ornamental tree is required per every 25 feet or portion thereof of side yard property depth (portion outside of required

front and rear yards), to be placed between and among the shade trees, with a minimum of 15 feet spacing from the shade trees.



5.38.09

Additional Landscaping and Site Development Standards

A. Parking areas:



1. All parking lots of 20 or more spaces shall contain within the interior of the parking lot not less than one native shade tree, capable of reaching 50 feet in height at maturity for every ten spaces or fraction thereof. In no case shall more than 10 parking spaces be located in a row without a planting island (minimum of 9 feet in width) containing at least one native shade tree surrounded by shrubs and groundcovers.
2. Where parking abuts the building, there must be a sidewalk of at least five feet in width between the parking spaces and the building.
3. At the end of any parking row, there must be a terminal planting island (minimum of five feet in width) containing at least one native shade tree surrounded by shrubs and groundcovers.
4. At least 50 percent of the length of the exterior walls of the building must have a landscaping strip of at least four feet in width.

B. Any pre-existing, healthy, applicable landscaping on a proposed site may be counted toward any of the landscaping requirements of this zoning district.

5.38.10

Off-street Parking

As regulated in Article 3, Section 3.50 of this resolution.

-  5.38.11 Signs  
As permitted by Article 3.90 of this resolution. *(attached)*
- 5.38.12 Health Department Approval  
The development shall not be approved until the Knox County Department of Code Administration has been notified in writing by the Knox County Health Department that the disposal system for sewage abides by all applicable standards.
- 5.38.13 Utilities  
All utility transmission lines serving individual uses shall be placed underground.
-  5.38.14 Site Lighting  
Lighting of all types shall be directed away from all residential or agricultural districts and any public rights-of-way.
- 5.38.15 Administration  
For uses listed as permitted uses within the CN (Neighborhood Commercial) zoning district, no building or structure shall be erected or altered until and unless a plan for such development has been filed with and approved by the Knox County Department of Code Administration. The plan shall be filed in accordance with the requirements of Article 6, Section 6.70 (Administrative Site Plan Review), of this zoning ordinance.
- 5.38.16 Sidewalks  
Pedestrian sidewalks must be provided on each site to allow access to the adjacent neighborhood. If adjacent properties have a sidewalk, the sidewalk must connect with it. If adjacent properties are vacant, then the developer must post

lamberts and indirect illuminated signs shall not exceed seventy-five foot candles of surface illumination.

H. SC, Shopping Center Zone business signs shall be designed as an integral part of the shopping center development and shall be harmonious with the other design features of the center. The aggregate area of such signs shall not exceed one square foot per ten square feet of usable floor area. The signage shall be approved by MPC staff as part of the development plan Use on Review approval process.

I. Signs in the CR (Rural Commercial) zone:

1. One illuminated monument sign is permitted per site.
2. The total square footage of the monument sign face may not exceed 60 square feet per sign face and the height may not exceed 6 feet as measured from the natural or finished grade, whichever is lower.
3. Billboards and other advertising signs are prohibited.
4. Signs shall be set back a minimum of 15 feet from all property lines.
5. One indirectly illuminated wall sign shall be permitted for each tenant of a building. Such sign may have one (1) square foot of area for each lineal foot of building frontage the tenant has, not to exceed forty (40) square feet in area. Such sign shall be attached to the front face of the building and may not project above the parapet wall.

 J. Signs in the CN (Neighborhood Commercial) zone:

1. One indirectly illuminated monument sign is permitted per site. The total square footage of the monument sign face may not exceed 50 square feet and the height may not exceed 5 feet as measured from the natural or finished grade, whichever is lower.

(cont. next pg.)





- 2. Billboards and other advertising signs are prohibited.
- 3. Signs shall be set back a minimum of 10 feet from all property lines.
- 4. One non-illuminated wall sign shall be permitted for each tenant of a building. Such sign may have one (1) square foot of area for each linear foot of building frontage, not to exceed forty (40) square feet in area. Such sign shall be attached to the front face of the building and may not project above the parapet wall.

3.90.10 BUSINESS AND TECHNOLOGY PARK ZONE:

In a BP Business and Technology Park Zone, the following regulations shall apply:

- A. Each development shall be limited to one free standing sign of not more than one hundred square feet and not exceeding six feet in height. For double faced signs a maximum of fifty square feet will be permitted per side.
- B. One face sign will be permitted per building at one square foot of sign space for each foot of building road frontage up to a maximum one hundred square feet per building. Sign shall not project above parapet wall.
- C. Additional signs may be permitted if approved by the Planning Commission through the Use on Review procedure provided that scale drawings of the signs indicate they will not detract from the attractive, park-like character of the zone; and that the development plan clearly shows that because of unusual topography, building locations and relationships of developments with multiple structures, additional signs are essential to inform and direct the public.
- D. No sign may have flashing, intermittent or animated illumination.
- E. Billboards and other advertising signs are prohibited.

3.90.11 INDUSTRIAL ZONES:

**From:** Mike Brusseau  
**To:** Betty Jo Mahan  
**Date:** 9/1/2009 1:13:27 PM  
**Subject:** Fwd: RE: Rezoning 9-I-09-RZ - Murphy Road Car Wash

>>> "Murphy, Kevin P" <Kevin.Murphy2@ca.com> 9/1/2009 1:00 PM >>>  
Hi Mike,

Here are some of my concerns about the proposed rezoning. I apologize that I have not gotten back to you earlier.

Our main concerns are light and noise emanating from development in the area that cross our property line. A secondary concern is increase in vehicular traffic (because of the light and noise from vehicles). A tertiary concern is an increase in vehicle traffic which will require widening of roads; that means acquiring additional right-of-way from our family for land that we've held for 212 years.

#### Light Trespass

The proposed car wash location is located at an elevation above the old house. Poorly designed lighting easily spills across the field and onto the house. The existing Weigels is an example of how a use, which received a number of zoning variances from the BZA, can cause significant detriment to the neighborhood.

We are trying to preserve an example of an early farm settlement, complete with outbuildings, yards and outdoor spaces. Any light trespass from neighboring properties impacts the rural nature of this farm settlement, which was located out in the country with no light from neighbors visible.

The city zoning ordinance (Article V Sec 17) does not require lighting to be shielded from adjacent agricultural land; only from adjacent residential land, and unfortunately does not help protect our land.

Article IV Section 2.2.7 B. 21. e. requires that "outdoor lighting, when provided, shall have an arrangement of reflectors and an intensity of lighting which will not interfere with adjacent land uses or the use of adjacent streets, and shall not be of a flashing or intermittent type."  
I have not seen any lighting plan yet.

I do not believe that the proposed zoning places any restrictions on hours of operations. The car wash, or other business, could be open 24x7. At least Weigels closes from midnight to 5:30AM. When they close, the lights are shut off, and the area transforms into a rural oasis. Once a car wash is in place operating 24 hours a day, there will be no more oasis, even at 1AM.

#### Noise

A car wash will generate noise from the following sources:

- \* Noise from vehicles idling to enter the car wash
- \* Noise from the washing mechanism
- \* Noise from the dryer blower
- \* Noise from the vehicles themselves (stereos playing)

Some of these noises - stereos and idling - are already generated from the existing Weigels and are a nuisance.

The sound of a car wash blower activating detracts from the rural setting we try to create for some things at the farm. The East Tennessee Draft Horse and Mule Association plows the field along Murphy Road each year and sows a crop of winter oats. The sound from a car wash drifting across the fields is not in harmony with the mules pulling old plows through the tough soil with chains clanking.

Due to the location of the car wash across a field and above my historic

house, noise will carry very clearly. If there is no noise from cars on Washington Pike, I can hear the radios playing at the self-service gas pumps at the existing Weigels across the field. A car wash will be more intensive noise than those radios are.

I like to leave the windows open during the day when I work from home, but a car wash will force me to close windows on that side of the house so that conference calls with customers aren't interrupted when the drying cycle starts.

I do not believe that my cousin, who lives adjacent to the other parcels that are to be developed, will enjoy listening to a car wash either from his bedroom windows which face the proposed car wash.

I do not believe that the proposed zoning places any restriction on hours of operation. The noise levels allowed from a commercial use property would probably prevent me from going to sleep with the windows open.

#### Enforcement

The proposed zoning does not require a use-on-review for the proposed use. There is no public comment period for input about noise and lighting plans.

The applicant can also, once rezoning is approved, undertake other uses since there is no requirement that he stick with a car wash. Under C-4 zoning the applicant could undertake other uses that we would not be agreeable to, such as an animal kennel; drive-in commercial uses; motorcycle sales, repair and services; auction house; outdoor advertising.

#### Appropriateness

\* Signage regulations vary drastically from C-1 (current conditioning) to C-4. I don't believe large signs are appropriate for a

rural heritage corridor (which Washington Pike is envisioned to be in the Northeast county sector plan)

\* An old family cemetery (earliest grave - 1847) is located approximately 300 feet from the proposed car wash. That's a lot of noise to have next to an old cemetery.

\* I do not believe that a car wash is an appropriate neighbor for a rural, heritage agricultural farm. The Tennessee Department of Agriculture is sending me signs (see attachment) that I would like to place on Washington Pike. I don't think that the car wash and these signs make appropriate, well-thought out neighbors.

#### Existing Sector Plan Concepts

The existing northeast county sector plan calls for two items that aren't addressed in the North City sector plan, but are very relevant to this area:

1. Washington Pike Rural Heritage Corridor  
<[http://archive.knoxmpc.org/plans/necounty/sd\\_wash.htm](http://archive.knoxmpc.org/plans/necounty/sd_wash.htm)> . I believe this corridor should start at the Murphy Road and Washington Pike intersection at our farm, which has been designated a Tennessee Century Farm.
2. Ritta: A Neighborhood on the Rural Fringe  
<[http://archive.knoxmpc.org/plans/necounty/sd\\_ritta.htm](http://archive.knoxmpc.org/plans/necounty/sd_ritta.htm)> . The Murphy Farm is located in the heart of the Ritta Community. Ritta was named by my great, great, great aunt Zula Foster Murphy.

The Murphy Farm is split across the North City sector plan and the Northeast County sector plan. Unfortunately the recent updates to the North City sector plan did not address these two concepts where the two plans separate at Washington Pike and Murphy Road.

A car wash does not fit into either of these concepts in the sector plan and is not appropriate.

### Vehicular Traffic

I am opposed to uses which will substantially increase vehicular traffic because:

1. Vehicles generate light and noise which cross our property boundaries
2. Additional vehicles may necessitate widening Washington Pike, which will require acquisition of right-of-way from our family's lands that we have held for 212 years and that are designated a Tennessee Century Farm.

### Plan for remaining parcels

The remaining parcels owned by the applicant, Victor Jernigan, through his Murphy Road Partnership LLC and Murphy Road Storage LLC entities are not covered by use-on-review either. The car wash is not part of the original proposed comprehensive development plan; therefore we must assume that the original plan has been scrapped. We have not seen a new plan for the remaining parcels and cannot determine if their use will be compatible with the parcel that is proposed to be rezoned.

I am concerned that a car wash would not be a desirable outbuilding for the front of the nicely planned Shoppes at Murphy Road.

### Lack of Communication from Applicant to Surrounding Community

The applicant has not proactively contacted any member of my family or the North East Knox Preservation Association about the proposed changes to the land use. I contacted his construction manager, Jeff McBride, on July 22, 2009 when I saw grading equipment in operation, but I did not receive a reply until after their application for a building permit was denied by the city. Then the applicant expressed an interest in meeting to discuss the plans. That meeting is scheduled for Sept 2. The applicant has not

I appreciate your attention to this matter.

Sincerely,

--Kevin

-----Original Message-----

From: Ann Bennett [<mailto:Ann.Bennett@knoxmpc.org>]

Sent: Thursday, August 27, 2009 9:37 AM

To: Murphy, Kevin P

Cc: Mike Brusseau

Subject: Re: Rezoning 9-I-09-RZ - Murphy Road Car Wash

Kevin:

Thanks for your e-mail. I wanted to let you know that I have talked with Mike Brusseau and he wants to try to address your concerns. It would be helpful to both of us if you could itemize those concerns, both general and specific, regarding the use and its potential impact

Thanks.

Ann

>>> "Murphy, Kevin P" <[Kevin.Murphy2@ca.com](mailto:Kevin.Murphy2@ca.com)> 8/26/2009 12:21:38 PM >>>

Hi Michael,

I received a postcard in the mail today regarding a rezoning on the agenda for the September MPC meeting for 5908 Washington Pike (9-I-09-RZ)

As you put together the staff report and recommendation, please be sure to talk to Ann Bennett regarding the area. She and I are working on a historical overlay zoning for my agricultural and historical farm on the north side of the property. There's an old house and other structures that we plan to put on the National Register. MTSU is also evaluating an application for a Tennessee Century Farm designation for our family's old farm, which comprises the parcels to the north and east of Murphy Road Partnership and Murphy Road Car Wash's land.

Thanks for your time,