

# CASE SUMMARY

## APPLICATION TYPE: REZONING

KNOXVILLE-KNOX COUNTY

**M P C**  
METROPOLITAN  
P L A N N I N G  
C O M M I S S I O N

T E N N E S S E E

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**File Number:** 12-D-09-RZ                      **Related File Number:**  
**Application Filed:** 11/2/2009              **Date of Revision:**  
**Applicant:** JACQUELINE WHITESIDE

### PROPERTY INFORMATION

**General Location:** South side E. Magnolia Ave., east side N. Kyle St.  
**Other Parcel Info.:**  
**Tax ID Number:** 82 O N 003                      **Jurisdiction:** City  
**Size of Tract:** 0.55 acres  
**Accessibility:** Access is via E. Magnolia Ave., a major arterial street with 4 lanes and a center turning lane within 100' of right of way, or N. Kyle St., a local street with 15-16' of pavement width within 35' of right of way.

### GENERAL LAND USE INFORMATION

**Existing Land Use:** Formerly Regions Bank  
**Surrounding Land Use:**  
**Proposed Use:** Car lot                                      **Density:**  
**Sector Plan:** Central City                      **Sector Plan Designation:** MU-CC05  
**Growth Policy Plan:** Urban Growth Area (Inside City Limits)  
**Neighborhood Context:** This section of E. Magnolia Ave. is developed with commercial uses under C-3 zoning.

### ADDRESS/RIGHT-OF-WAY INFORMATION (where applicable)

**Street:** 2104 E Magnolia Ave  
**Location:**  
**Proposed Street Name:**  
**Department-Utility Report:**  
**Reason:**

### ZONING INFORMATION (where applicable)

**Current Zoning:** C-3 (General Commercial)  
**Former Zoning:**  
**Requested Zoning:** C-4 (Highway and Arterial Commercial)  
**Previous Requests:** None noted  
**Extension of Zone:** No  
**History of Zoning:** MPC approved a sector plan amendment to allow consideration of C-4 on December 10, 2009 (12-C-09-SP).

### PLAN INFORMATION (where applicable)

**Current Plan Category:**  
**Requested Plan Category:**

## **SUBDIVISION INFORMATION (where applicable)**

Subdivision Name:

No. of Lots Proposed:

No. of Lots Approved: 0

Variances Requested:

S/D Name Change:

## **OTHER INFORMATION (where applicable)**

Other Bus./Ord. Amend.:

## **MPC ACTION AND DISPOSITION**

**Planner In Charge:** Michael Brusseau

**Staff Recomm. (Abbr.):** RECOMMEND that City Council DENY C-4 (Highway and Arterial Commercial) zoning.

**Staff Recomm. (Full):** C-4 zoning is not consistent with the established commercial and office development pattern and C-3 zoning found along this section of E. Magnolia Ave. The request is not consistent with the original proposal of the recently adopted Magnolia Avenue Corridor Study, which was amended last month by MPC to allow consideration of C-4 zoning. The applicant has reasonable use of the property with the current C-3 zoning.

**Comments:** MPC staff maintains its previous recommendation from the December 10, 2009 meeting to deny this rezoning request, despite the accompanying sector plan amendment (12-C-09-SP) being approved by MPC last month. Staff had also recommended denial of that request. If MPC opts to deny this rezoning request, as recommended, staff would also recommend that MPC move to reconsider the accompanying sector plan amendment (12-C-09-SP) at the February meeting, as it would no longer be necessary if the zoning is not changed. However, if MPC opts to approve the rezoning request to C-4, staff has provided six recommended conditions to be placed on the rezoning (See attached Exhibit 'A'). MPC commissioners had requested that staff develop conditions that would assist in keeping the C-4 development more consistent with the principles of the recently adopted Magnolia Avenue Corridor Plan.

Another issue that was mentioned at the December meeting with this request was whether the State of Tennessee requires a garage to be located on-site. Documentation is attached, provided by the applicant, with regulations of the State of Tennessee Department of Commerce and Insurance Motor Vehicle Commission. A garage is not required on-site. The applicant has provided documentation showing service agreements with two car repair service businesses in the area, which appear to meet that requirement. If the C-4 zoning is approved, the applicant will also meet the minimum requirement on zoning compliance for a Tennessee Motor Vehicle Dealer License.

### **REZONING REQUIREMENTS:**

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

1. The proposed car lot use, as well as other uses permitted under C-4 zoning, would not be compatible with the scale and intensity of the surrounding land uses and zoning pattern. There are only four instances of C-4 zoning along Magnolia Ave. between downtown and Chilhowee Park, a stretch of a little over two miles. Two are individual properties, being used for outdoor display of vehicles for sale, at 2901 and 3200 Magnolia Ave. There is also a car lot at 1420 Magnolia Ave. which is zoned C-3 and is not in conformance with zoning. Photos of these three properties are attached. There is conditional C-4 zoning at 2350 Magnolia Ave., that was rezoned in 2008. It is conditioned to allow C-3 uses plus truck/trailer rentals (4-D-08-RZ). It appears that the property is not being used for truck/trailer rentals at this time. The final area of C-4 zoning is located about a mile to the northeast, containing 6 parcels at N. Hembree St. Three parcels appear to be vacant or used for parking. The other three parcels are developed with a McDonald's and two other businesses.
2. Properties located along this section of Magnolia Ave. are developed with office and business uses consistent with the current C-3 zoning.
3. The C-4 zone will permit uses that are not consistent with the recently adopted Magnolia Avenue Corridor Plan for the redevelopment of this arterial street. The plan proposes office, residential and retail businesses along this street that will complement and encourage the redevelopment of established historic structures in the area and provide a pleasant, pedestrian-friendly streetscape. The C-4 zone allows sale of merchandise that is expected and encouraged to be displayed outside, contrary to this plan.
4. The closest C-4 zoning is located about 1000 feet to the northeast on the same side of Magnolia Ave. This site's C-4 zoning was approved on appeal by City Council on 6/3/08 with a condition that uses be limited to those in C-3 plus truck/trailer rentals. MPC staff had recommended denial of the

request and MPC voted to deny the request on 4/10/08. The MPC file number for this case was 4-D-08-RZ. This application was filed before the adoption of the Magnolia Avenue Corridor Plan.

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

1. The requested C-4 zone is established to provide areas in which the principal use of land is devoted to commercial establishments which cater specifically to the needs of motor vehicle oriented trade.
2. Based on the above description, the current C-3 zoning is more appropriate and compatible with surrounding development and zoning and gives the applicant reasonable use of the property. Approval of C-4 would allow uses on this property that would not be permitted on adjacent properties.

**THE EFFECTS OF THE PROPOSAL:**

1. Public water and sewer utilities are available to serve the site. The proposal will not have an impact on schools.
2. The effect on adjacent properties will be minimal to the extent that commercial businesses are already located on both sides of E. Magnolia Ave. in this area. However, C-4 zoning would introduce a form of commercial use with the option for outside storage and display of merchandise that would be incompatible with the long term planning objectives for this corridor. The applicant has reasonable use of the property under the current C-3 zoning.

**CONFORMITY OF THE PROPOSAL TO ADOPTED PLANS:**

1. The City of Knoxville One Year Plan proposes general commercial uses for the subject property, consistent with the proposal. However, during the upcoming 2010 One Year Plan update, staff anticipates proposing changes that will bring the One Year Plan into consistency with the recently adopted Magnolia Avenue Corridor Plan.
2. The Central City Sector Plan, as amended by the Magnolia Avenue Corridor Plan shows this property within a mixed use special district (MA7). In the MA7 area, the three recommended zones are C-3, O-3, RP-1 and RP-2. C-4 is not included, which is why a sector plan amendment was required in order for C-4 zoning to be considered. MPC voted in December to approve the sector plan amendment to allow consideration of C-4 zoning.
3. According to members of MPC's Comprehensive Planning staff, who conducted public meetings for the Magnolia Avenue Corridor Plan study, the Magnolia Avenue business association supported the proposed policies of the plan, which clearly excluded C-4 zoning from consideration.
4. Approval of this plan amendment and rezoning could lead to additional requests for C-4 zoning in this area.

**Action:** Denied **Meeting Date:** 1/14/2010

**Details of Action:**

**Summary of Action:** DENY C-4 (Highway and Arterial Commercial)

**Date of Approval:** **Date of Denial:** 1/14/2010 **Postponements:** 12/10/09

**Date of Withdrawal:** **Withdrawn prior to publication?:**  **Action Appealed?:** 1/19/2010

**LEGISLATIVE ACTION AND DISPOSITION**

**Legislative Body:** Knoxville City Council

**Date of Legislative Action:** 2/9/2010 **Date of Legislative Action, Second Reading:**

**Ordinance Number:** **Other Ordinance Number References:**

**Disposition of Case:** Denied (Withdrawn) **Disposition of Case, Second Reading:**

**If "Other":** **If "Other":**

**Amendments:** **Amendments:**

**Date of Legislative Appeal:** **Effective Date of Ordinance:**