
Creating Economic Opportunity in Areas Limited by Zoning

Tennessee Certified Economic
Developer Capstone

Marie Lisco, RLA
Economic Development Manager
City of Germantown
August 20, 2015

2 | **Creating Economic Opportunity in Areas Limited by Zoning**

As communities expand and times change, many economic developers face the challenge of doing more with fewer resources, improving the standard of living in their communities, finding ways to increase the tax base, meeting the needs of existing and prospective businesses as well as the community, etc. This challenge can be especially difficult if the community does not have large undeveloped property tracts or the ability to grow its borders through annexation. Instead, the land discussion centers around the highest and best use of the remaining greenfields or how to facilitate infill projects. The City of Germantown experienced this challenge and found an opportunity in the area of zoning.

Why is zoning important?

While perhaps not immediately considered by many as a tool within the economic developer's toolbox, zoning should not be overlooked. Potential projects can be lost or significantly delayed due to the existing zoning classification, allowed uses, and process for approval. This is not always negative. Zoning is a reflection of a community's overall desires and exists to protect and guide development in a community. The wrong project can be avoided by established codes and guidelines. However, with changes in technology, workplace needs, society, etc, zoning plans and codes should be examined routinely to maintain a current, business-friendly environment welcoming to desired projects while maintaining property values and quality of life for residents. A community can help accomplish this by having a strategic plan with a defined vision supported by a carefully prepared zoning ordinance. The expectation of such planning is development which implements the vision.

3 | **Creating Economic Opportunity in Areas Limited by Zoning**

What caused Germantown to consider zoning as an economic development tool?

In 2005, the City of Germantown recognized the opportunities with zoning while developing its Vision 2020 plan. The community-driven process revealed a desire to focus on the City's central business district (CBD) which at that time utilized traditional, Euclidean zoning (as existed City-wide). Euclidean zoning is described by Jerome Rose in *Legal Foundations of Land Use Planning* as, “The conventional zoning ordinance, based upon the Standard State Zoning Enabling Act and upheld in the landmark *Euclid* decision, provides for the delineation of designated zoning districts in which regulations relating to land use, lot size, bulk and density are applied uniformly throughout the district.” - which is also commonly known as use-separated zoning. The result was the City's first small area plan in 2007. This in-depth study of the CBD examined land uses, traffic patterns, and infrastructure, and identified limitations with the existing zoning code. The outcome was a concept plan that broke away from conventional, use-separated zoning and instead established a new, mixed-use zoning overlay and corresponding “SmartCode” for the CBD. The Center for Applied Transect Studies (CATS) provides the SmartCode template for communities and defines it as “a form-based code that incorporates Smart Growth and New Urbanism principles. It is a unified development ordinance, addressing development at all scales of design, from regional planning on down to the building signage. It is based on the rural-to-urban transect rather than separated-use zoning, thereby able to integrate a full range of environmental techniques.” A compelling portion of the study projected the increased tax revenue that would be generated if the CBD developed/redeveloped in accordance with the plan. This was significant because the City is primarily residential and the majority of the City's revenue

4 | **Creating Economic Opportunity in Areas Limited by Zoning**

comes from property taxes. Without other ways of increasing the tax base, property taxes might eventually have to increase. Following the plan and zoning overlay, there was immediate interest from the development community, and a major mixed-use project utilizing the SmartCode received Board of Mayor and Aldermen approval.

Unfortunately, shortly thereafter, the City (like many communities across the U.S. at this time) saw development screech to a halt with the onset of the recession. However, Germantown did not remain idle. It utilized the slow-down as an opportunity to make improvements to City infrastructure identified in the 2007 plan and necessary to support the envisioned future development in the CBD. The City made improvements to and increased capacity in the public sewer system as well as contracted the design for public roads and associated drainage. TDOT widened one of the City's main arterials: Poplar Avenue.

Also during this time, the City examined its priorities and placed Germantown schools and economic development at the top. The City hired an economic development consultant who prepared the City's Economic Development Strategic Plan (EDSP) in 2012 and Work Plan in 2013. The plan is organized around 5 Guiding Principles:

- Create an Enabling Environment
- Leverage Assets to Attract New Investment
- Build Value from Within
- Reposition Germantown within the Regional Economy
- Monitor Success with Continued and Expanded Measures of Performance.

The EDSP addressed a significant challenge for the City which had been identified in the previous 2020 Vision and 2007 Smart Growth Plan: Germantown is landlocked with few undeveloped land parcels remaining in its non-residential areas. The City does not have a

5 | **Creating Economic Opportunity in Areas Limited by Zoning**

zoning classification that allows heavy industry; a decision made in the City's early years. Instead, 17.2 out of 20 square miles of the City are comprised of residential, making property taxes the primary source of revenue. Therefore, the City resolved that it must find ways to increase the tax base without being able to expand its boundaries or grow "out" by annexation.

Small Area Plans and Economic Development Nodes/Districts

Among other things, the EDSP looked to zoning and identified the importance of creating defined key economic development districts throughout the City. Ultimately, five areas were selected, including the CBD. Each of these areas became the primary focus of commercial development as they have the greatest opportunity to significantly influence and impact the fiscal health of the City. The EDSP required that the areas be designated as "nodes" *until* they undergo a small area planning process which will then convert them to the designation of "district". A node can be defined as, "geographic points where economic or social resources/activities are (or will be) concentrated for the benefit of a community. Nodes facilitate cost effective economic and community development efforts by pulling people, resources and certain land uses together within a close distance." In Germantown, these areas have not yet been through the small area planning process. The small area planning process was determined to be a vital step in the node to district process as the City recognized that each of the five areas exist within their own unique context and must be studied as such. What is appropriate in one area may not be appropriate in another. Factors such as existing businesses, utilities, the natural environment, transportation patterns, nearby residents, developments adjacent to the node, and more were considered. The process must have participation from all

6 | **Creating Economic Opportunity in Areas Limited by Zoning**

sectors in the node. Collaboration among City planners, engineers, public works, police, fire, administration, elected officials, county and state officials along with input from the business and residential community produced a plan that attempted to address concerns, expectations and contained community support. To date, only 2 of the 5 areas have been designated a "district." Modeled by the small area plan process for the CBD in 2007, the district designation allows that area to be guided by the SmartCode.

What is the SmartCode?

The SmartCode can have a notable economic impact as it allows the opportunity to do more with less land. It provides:

- flexibility with building setbacks and lot coverage
- building heights (previously limited to 35' max.)
- a mix of uses, greater density (growing "up" instead of "out")
- shared parking between uses
- parking maximums instead of minimums
- overall more efficient use of land

A developer or property owner now has multiple project types and users they can target without asking for a zoning change or variance. The City's SmartCode states that the intent is, "to promote the health, safety and general welfare of the City of Germantown, Tennessee ("city") and its citizens, including without limitation: protection of the environment; conservation of land, energy and natural resources; reduction in vehicular traffic congestion; more efficient use of public funds; economic development; a more balanced and sustainable tax revenue stream; health benefits of a pedestrian environment; historic preservation; education and recreation; reduction in sprawl development; and improvement of the built environment and human habitat. The purpose of this article is

7 | **Creating Economic Opportunity in Areas Limited by Zoning**

to implement the various small area plans and to fulfill the Guiding Principles of the Germantown Vision 2020 Strategic Plan.”

Other zoning-related areas where there may be opportunities

In conjunction with the adoption of the SmartCode, the City examined its development approval process and created a shorter process for projects in Smart Growth areas. Rather than needing approval from the Planning Commission, Design Review Commission, and Board of Mayor and Aldermen (and associated subcommittees), a Smart Growth subcommittee was formed consisting of representation from the Planning Commission, Design Review Commission, and the Economic Development Commission. This newly formed body eliminated the Design Review Commission step for Smart Growth projects, and only requires review by the Planning Commission (and Smart Growth subcommittee) and the Board of Mayor and Aldermen. The City also looked for opportunities to streamline project approvals by making some qualifying items administrative (ex: certain signage approvals), and added a “Sketch Plan” review at the start of a project which is designed to resolve issues prior to the formal Planning Commission application.

Benefits and Outcomes

These seemingly small adjustments to a zoning code and approval process can translate to a shorter project approval timeline which in turn equates to project savings. The small area plan also serves to educate and prepare the community for future mixed-use projects. This adds value from the perspective of future developers. As long as they propose a plan that is consistent in concept and intent of the approved small area plan,

8 | **Creating Economic Opportunity in Areas Limited by Zoning**

they should have fewer concerns about potential community resistance to their project (which can be costly in both time and finances). In addition, the information about the area, the property and the vision and goals for the area compiled during the study helps mitigate some risk of the unknown for the developer (which lessens costs). It also helps City leaders make decisions about needed infrastructure improvements that should be incorporated into the City's capital improvement projects. The modifications can present opportunities for business expansion and retention due to a property's zoning flexibility. Entrepreneurs and small businesses have opportunities in this environment due to more options for workspace, the variety of businesses nearby, and better exposure to potential customers and resources from the ability to mix uses and increase density (residents closer to service and retail, often more walkable developments, etc). Another advantage of a "district" in Germantown is that a development project has the option to apply for the City's Public-Private Partnership Program which offers incentives such as priority permitting or the possibility of receiving a TIF.

After becoming the first Smart Growth district and weathering the recession, the CBD (366 acres) is finally starting to see some new and redevelopment projects including a \$50 million greenfield mixed-use project and the \$20 million redevelopment/expansion of the country's first lifestyle center: The Shops of Saddle Creek. The west end of the City, also known as the Western Gateway (58 acres), was the second area to complete the node to district process in 2014 and is now seeing its first mixed-use development application. The City is not only seeing support for Smart Growth by increased interest and project applications in these areas, but also by financial participation toward the small area plan and investment from property owners in the nodes. When the Western

9 | **Creating Economic Opportunity in Areas Limited by Zoning**

Gateway small area plan took place, the majority property owners in the node (who all happened to be local developers) agreed to help fund 50% of the study on a pro rata share by acreage basis. This public-private partnership not only generated new excitement for an older area of the City, but also increased communication with the existing property owners/developers. Within months of the plan and zoning approval, a bank which had previously sold its property and was instead leasing its location in the district, bought it back for 30% more than the current owner had paid. They informally noted later that the investment was based on the expectation that the value of the property will significantly increase on account of the approved plan and Smart Growth overlay.

Lessons Learned

The City learns from each node to district experience and applies the knowledge going forward with the next small area plan. For example, the City found language in the SmartCode adopted after the CBD plan that needed to be revised to more appropriately address parking, refine the review process, and create consistent buffer zones. With the 2014 plan, more detailed studies of the traffic and sewer capacities at full build-out of the district were requested by developers. Also, while the plans demonstrated the tax revenue potential based on phased development scenarios (with Western Gateway property tax revenue increasing tenfold over current collections), information about specific target markets was lacking. The City has strengths and has historically marketed those in targeting business. These include a strong and growing medical community with Methodist Le Bonheur Hospital, Campbell Clinic, and Baptist Rehabilitation among Germantown's top employers. It is an attractive place for corporate headquarters including Orgill, ThyssenKrupp, and West Fraser. The City has one of the lowest crime

10 | **Creating Economic Opportunity in Areas Limited by Zoning**

rates for any city its size in the state, and is one of only 61 cities in the nation which retain a triple-A Bond rating from both Moody's and Standard & Poor's. Quality of life consistently rates highly annually by residents. The City has a highly educated population with more than half of the City's population earning a bachelor's degree or higher. Germantown is also known for its quality education institutions and premier shopping options. However, the City recognizes that each *node* also has strengths and certain target markets that would succeed over others, so future small area plans will include a market research component. The City will use this information and past experience to improve the process and end product as it prepares for the third small area plan (322 acres) in 2015 for the south end of the City (which has already secured a financial commitment toward the study from one of the node's largest property owners). In addition, the City will have the benefit of recent community input through the (currently in progress) Vision 2030 plan.

Case Studies

Other communities have seen the benefits of this type of planning as noted in IEDC's report: Economic Development and Smart Growth. The report states, "Smart growth is based on mixing land uses, using land and infrastructure efficiently, creating walkable neighborhoods that are attractive and distinctive, providing transportation and housing choices, and encouraging community and stakeholder collaboration in development decisions." The report presented communities that, "implemented projects that incorporate smart growth principles and have also experienced economic development success in the form of increased tax revenue, more jobs, higher income levels, downtown revitalization, business growth and other economic indicators."

11 | **Creating Economic Opportunity in Areas Limited by Zoning**

Communities included: Brewery Blocks, Portland, OR; Silver Spring Station, Silver Spring, MD; East Carson Street, Pittsburgh, PA; Main Street program, Burlington, IA; Arena District, Columbus, OH; Belmar, Lakewood, CO; Fountain Square, Indianapolis, IN; and Lower Town, Paducah, KY. The most similar examples in the approach taken by Germantown are Columbus, OH and Lakewood, CO which focused on targeted area redevelopment and infill.

A recent article in REBusiness Online demonstrated how El Paso, TX has seen positive economic impact by using their SmartCode to guide development. Like Germantown, El Paso adopted a SmartCode prior to the economic downturn, but did not see development take advantage of the code's opportunities until recent years. Combined with a comprehensive plan adopted in 2012, El Paso has several mixed-use communities recently completed, approved, or under construction. The Venue, a 2011 residential project with retail on the first floor, contains the highest rents in the area and boasts 100% occupancy along with a waiting list. Smart Growth America produced a report this year which examined company locations/relocations from 2010-2015 and identified factors which influenced their decisions. In closing in the "Note to Cities", the report states, "A smart growth approach to development can create a durable economic asset for a community: after all, a company that received tax breaks may move away but a great neighborhood will keep attracting businesses over and over. A smart growth approach can help municipalities create the places where companies of all sizes want to locate. Plenty of cities across the country already use these strategies, and they are helping those cities become more attractive to companies and the people those companies want to employ."

Conclusion

While it will take time for Germantown to see the long-term economic impact of having key economic development districts and SmartCode zoning, there are some convincing early indicators. In FY15 new commercial building permits doubled compared to FY14 and new commercial permit values increased by 450% in comparison. FY15 commercial renovation permits increased by 32% with total values more than five times over the previous fiscal year's totals. The City anticipates that the approach of studying an area (guided by community involvement, evaluating the location's context in the community and market research) and changing the zoning to provide more development opportunities is moving in the direction of becoming a productive effort toward helping Germantown achieve the goal of increasing the tax base.

References and Works Cited

Center for Applied Transect Studies (CATS). SmartCode Version 9.2. Introduction. The Town Paper, 2009.

City of Germantown. (2013). Smart Growth Zoning Districts (Smartcode). Intent, Section 23-741.

Dept. Of Local Government Affairs and Traditional Affairs, Kwa - Zulu Natal, South Africa. 2004. Spatial development framework. Accessed August 20, 2015 <

<http://www.nearnorthconnect.org/wp-content/uploads/2012/09/Nodes-Fact-Sheet.pdf>>

IEDC. “Economic Development and Smart Growth: 8 Case Studies on the Connections Between Smart Growth Development and Jobs, Wealth, and Quality of Life in Communities.” August 2006.

Prestridge, Max. “Smart Code Helps El Paso Develop for the Future,” *REBusiness Online*, 29 May 2015.

Rose, Jerome G. *Legal Foundations of Land Use Planning: Textbook-Casebook and Materials on Planning Law*. New Brunswick: Rutgers, 1979.

Smart Growth America. “Core Values: Why America’s Companies are Moving Downtown,” 18 June 2015.