

PLANNING COMMISSION SPECIAL CALLED MEETING
Economic Community Development
Blue Conference Room
Wednesday, December 17, 2014

The Special Called meeting of the Planning Commission was scheduled and held in the Economic Community Development Blue Conference Room on December 17, 2014. Chairman Klevan welcomed everyone and asked the Commission members as well as the audience to please speak into the microphone so they could be heard. Chairman Klevan then called the meeting to order at 7:15 p.m. asking the secretary for the roll. Ms. Rush called the roll of the Board to establish a quorum. A quorum for tonight's Special Call Planning Commission meeting was established.

Commissioners Present: Susan Burrow, David Klevan, Hale Barclay, Alderman Forrest Owens, Dike Bacon, and Mike Harless

Commissioners Absent: George Hernandez

Staff Present: David Harris, Wade Morgan, Tim Gwaltney, Cameron Ross, Sheila Pounder, and Pam Rush

2. Thornwood Planned Unit Development, Northeast Corner of Germantown Rd. and Neshoba Rd. – Request Preliminary and Final Site Plan Approval of Phase 4, including warrants

INTRODUCTION:

Applicant Name: ***M. Spence Ray, w/McNeill Commercial Real Estate - Applicant***

Location: Northeast Corner of Neshoba Rd and Germantown Rd.

Zoning District: "T-4" General Urban and "T-5" Urban Center Districts

BACKGROUND: The property was rezoned from the "R" Single Family Residential District to the T-4 and T-5 districts as part of the Germantown Smart Growth Plan in 2007. The Thornwood Outline Plan was approved by the Planning Commission on April 1, 2014 and by the Board of Mayor and Aldermen on May 12, 2014. The Planning Commission approved the Phase 1 preliminary and final site plan, on June 3, 2014.

DISCUSSION: Phase 1 of the project consisted of the interior drives, utility infrastructure and mass grading of the site. Phase 2 consists of a 5,000 square foot retail jewelry store building. Phase 3 consists of a 108 room, 4-story hotel. Phase 4 consists of a 258-unit apartment complex.

PHASE 4:

| | |
|-------------------------|--------------------------|
| DEVELOPMENT PROGRAM: | 5.275 ac. |
| Apartment Building | 258 units; |
| | 366,904 sq. ft footprint |
| Parking provided | 395 spaces |
| Parking required | 387 spaces |
| Maximum parking allowed | NA |

A Project Description from the applicant is attached.

WARRANTS: The following warrant from the standard development regulations is required for Phase 4:

WARRANT: Section 23-786. C. (Building entrances) requires all buildings with more than four sidewalk-level residential units along a single street shall have individual entrances to such units directly accessible from the required Sidewalk or adjoining Open Space. The plan proposed access to individual dwelling units from the interior of the development. Common access is provided at a lobby entrance at the building's southwest corner (near the Thornwood roundabout).

In those instances where reasons are shown that would justify a deviation from the strict requirements of the provisions of the SmartCode, the Planning Commission shall have authority to permit such deviations. A warrant is an official decision that permits a practice that is not consistent with a specific provision(s) of this Code, but is justified by its "intent" and is consistent with the urban design guidelines and/or development concepts in the "Germantown Smart Growth Plan".

The following is from the SmartCode section of the zoning regulations: "In determining justifiable reasons for granting a warrant, the PC shall take into account, among other relevant factors that may be applicable, the relationship of the property to other properties, whether the deviation would be in accord with the intent of the SmartCode, principles of good land use planning as same may evolve over time, the topography of the property, and peculiar and exceptional practical difficulties or undue hardship upon the owner of the property. In determining whether to grant a warrant, financial hardship shall not alone be considered sufficient to justify a deviation. In all events, the PC shall take into consideration whether the proposed deviation may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the SmartCode provisions."

STAFF COMMENTS:

A. PRIOR CONSTRUCTION PLAN APPROVAL

1. Modify plan to reflect Phase 1 construction plan review comments.
2. Final Plat Sheet – add a note and show pictorially with dashed lines the Neshoba/Exeter intersection: "Future Roundabout"
3. Remove/relocate decorative crosswalks appropriately.
4. The fire protection water supply for each structure shall be a minimum of 8 inches in diameter to supply the required fire flow demand. A fire flow calculation shall be submitted to the fire marshal's office, by a fire protection engineer, for the Thornwood development, illustrating the fire flow demand. The fire flow calculations shall be completed for the entirety of the development as well as each structure. This shall be completed prior to the start of the developments infrastructure.
5. The water supply for the fire protection system shall be fed from two separate water sources and looped so as not to create a dead end.
6. Lower level parking below fire department access shall meet all the requirements of the International Fire Code (IFC) 2006 edition, NFPA 2010 edition, Tennessee Code Annotated **68-101-103. Parking garages and bus terminals**, and the International Building Code (IBC) 2009 edition.

7. Lower level parking below fire department access and parking garages shall accommodate the fire department ambulance and brush truck vehicles. (Dimensions of vehicles available upon request)
8. There shall be a minimum of 2 points of ingress/egress from each lot at the fire department access level as required by NFPA and IFC.

B. GENERAL COMMENTS AND REQUIREMENTS

1. All recorded easements shall be shown on the plat. A five (5) foot utility easement is required along all property lines, adjacent to and not within any other easement.
2. All survey data shall be tied to Tennessee State Plane Coordinates and the City of Germantown monumented survey control. The final plat, construction drawings and "as built" plans shall be submitted on electronic media in DXF format.
3. The developer shall enter into a Project Development Contract with the City of Germantown for this project after it has received Final approval from the Design Review Commission.
4. If approved, all materials shall be specified on the construction plans for the proposed project. The applicant must receive Final Construction Plan approval from the Department of Community Development before the Memphis/Shelby County Office of Construction Code Enforcement may issue a building permit for the project.
5. The applicant is required to include the following formal written statement by a certified and licensed professional engineer to be placed on the grading and drainage plans, signed, dated and sealed:

I, _____, a duly licensed professional engineer in the State of Tennessee, hereby certify that I have designed the drainage in accordance with the Design Standards of the City of Germantown and have considered upstream and downstream conditions that affect drainage to include topography, present and future land use, existing zoning, and location of natural water courses.

6. No owner, developer, or tenant of property within the subdivision shall commit an act, or allow a condition to exist on property within the subdivision, which act or condition endangers life or health, violates the laws of decency, or obstructs or interferes with the reasonable and comfortable use of other property in the vicinity.
7. The Developer agrees to comply with the following requirements, unless otherwise authorized in writing by the City Engineer:
 - (a) All streets shall be kept clear and free of dirt and debris;
 - (b) All construction activity shall begin no earlier than 7:00 a.m. and end no later than 6:00 p.m., Monday thru Saturday, and no construction activity shall be permitted on Sundays; and
 - (c) The Developer and Lot Purchasers shall provide the Department of Community Development with the name, address and phone number of person(s) to be contacted and responsible for correcting any of the above should the occasion arise to do so.
8. Total acres disturbed shall be provided. A NOC is required for TDEC for the NPDES, Phase II. The NOC shall be posted on the site at all times and the stormwater reports/documentation/inspections shall be available at all times. The SWPP shall be posted at the

site and available. Inspections must be performed by personnel who have completed the Level I – Fundamentals of Erosion Prevention and Sediment Control course.

STAFF RECOMMENDATION: Approval, subject to the conditions listed above

SMARTGROWTH SUBCOMMITTEE: The Smart Growth subcommittee met on November 19, 2014 and withheld a recommendation, and the Smart Code Review Subcommittee met on December 17, 2014 and voted to recommend approval.

The following persons spoke regarding the request:

Against:

Sarah Wilkinson Freeman, 7684 Apahon Lane was concerned about safety and traffic. The notices regarding the Planning Subcommittee meeting was received on Friday and today is Wednesday. There is no interest by the neighbors to meet with Mr. Andy Pouncey because he is considered unethical.

Jim Jacobs, 7684 Apple Valley Road, asked why does the Smart Growth Ordinance require street level access to the apartments?

Mr. Ross answered that the code as designed looks at the multitude of building and frontage types associated with those buildings. This is a design oriented Code; a Code that tries to address as many design situations as possible. This planned unit development is using difference pieces and parts of this design code to put together this plan. Another planned development in another area of town could use difference pieces and parts to put together different pieces onto its design, utilizing different piece of the Smart Code that look for, based on their market study or their proposal, to have townhouse developments that have entrances from the street. This is similar to what could be seen built off Poplar Pike in the Brownstone development. That already does exist outside of the Smart Code area but can only be utilized under its current zoning because it does not have a mix of uses as an office orientation. Buildings built like that in a more urban setting allow for a mix of uses from office and residential. It allows for that street frontage access when you have four or more of them together as required by the code.

WARRANTS

PROPOSED MOTION 1: To approve warrant number 1, that will allow access to individual dwelling units from the interior of the development instead of individual entrances to such units directly accessible from the required Sidewalk.

Chairman Klevan moved to approve warrant number 1, that will allow access to individual dwelling units from the interior of the development instead of individual entrances to such units directly accessible from the required Sidewalk, subject to the preceding comments, seconded by Mr. Harless.

Chairman Klevan asked for a roll call.

Roll Call: Barclay – yes; Burrow –yes; Hernandez – absent; Bacon –yes; Harless –yes; Owens -yes; Klevan –yes. **The motion was passed**

Alderman Owens voted yes; I find for reasons of grading that was on the site, and because of the use of the effective principles of urban design, and as well as the effective used of the parking structure.

Mr. Bacon voted yes; with the six foot elevation change on the south side of the building and the eight foot elevation change on the east side of the building it is not easily accommodated with this kind of development to create multiple entrance points. I think with this kind of development given the security

concerns, developer and the City to have a secure investment development. I think having multiple entrancing points is counter-intuitive and the lower level is perfect for that.

Mr. Barclay voted yes; based on the same reasons such as grading issues, the layout, and use of the parking garage.

Ms. Burrow voted yes; for the security reasons and this is a good plan.

Mr. Harless voted yes; this is actually an improvement with this warrant, over what the Smart Growth requires. You take the topography in to account and the safety of our citizens and this just makes a lot of sense.

Chairman Klevan voted yes; this is a great urban planning feature. It proves the Lawrence Group provided a good overlay, but this proves this is better. You have to have that freedom and flexibility to work in the structure that was given.

PROPOSED MAIN MOTION: To approve the preliminary and final plan for the Phase 4 of the Thornwood Planned Unit Development subject to the comments listed in the staff report.

Chairman Klevan moved to approve the preliminary and final plan for the Phase 4 of the Thornwood Planned Unit Development, subject to the preceding comments, seconded by Mr. Harless.

Chairman Klevan asked for a roll call.

Roll Call: Barclay – yes; Burrow –yes; Hernandez – absent; Bacon –yes; Harless –yes; Owens -yes; Klevan –yes. **The motion was passed**

3. Thornwood Planned Unit Development, Northeast Corner of Germantown Rd. and Neshoba Rd. – Request Preliminary and Final Site Plan Approval of Phase 5

INTRODUCTION:

Applicant Name: *M. Spence Ray, w/McNeill Commercial Real Estate - Representative*

Location: Northeast Corner of Neshoba Rd and Germantown Rd.

Zoning District: “T-4” General Urban and “T-5” Urban Center Districts

BACKGROUND: The property was rezoned from the “R” Single Family Residential District to the T-4 and T-5 districts as part of the Germantown Smart Growth Plan in 2007. The Thornwood Outline Plan was approved by the Planning Commission on April 1, 2014 and by the Board of Mayor and Aldermen on May 12, 2014. The Planning Commission approved the Phase 1 preliminary and final site plan, on June 3, 2014.

DISCUSSION: Phase 1 of the project consisted of the interior drives, utility infrastructure and mass grading of the site. Phase 2 consists of a 5,000 square foot retail jewelry store building. Phase 3 consists of a 108 room, 4-story hotel. Phase 4 consists of 258-unit apartment complex. Phase 5 consists of a 32,182 square foot of retail space, 6,156 office space, and 20 apartment units.

PHASE 3:

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|----------------------|----------------|
| DEVELOPMENT PROGRAM: | 2.576 ac. |
| Mixed Use Building | 34,069 sq. ft. |

| | |
|-----------------------------------|------------------|
| Retail | 6,156 sq. ft |
| Office | 20 dwelling unit |
| Multi-family | |
| Vehicle Parking provided | 261 spaces |
| Bicycle parking provided/required | 14 spaces |
| Vehicle Parking required | 135 spaces |
| Maximum parking allowed | 203 spaces |

PLAN REVISIONS: *The building site and elevation plans have been revised to address the Fire Dept.'s requirements for providing adequate fire protection. Access from Germantown Rd. frontage to each tenant space on that side of the building is to be provided. In addition, an elevated sidewalk is being provided along the Germantown Rd. frontage as a means to provide access and staging areas for firefighters.*

A Project Description from the applicant is attached.

WARRANTS:

The following warrants from the standard development regulations are required for Phase 5:

- 1. Section 23-758 (Civic Space) - defines Civic Space as “an outdoor area dedicated for public use, such as a park, a green, a square, a plaza or a play area. Civic Space may be approved by Warrant in any Smart Code zoning district. Within the Smart Code districts, the number of dwelling units multiplied by 0.0033 (acres) yields the amount of land required for Civic Space. The Smart Code establishes a minimum of 0.25 acre for a Square. Thornwood proposes a 0.344 acre square at the intersection of the internal streets, in the northeast corner of Phase 5. The Civic Space is to be used for entertainment and passive activities and will be owned/maintained by the Thornwood developers.**
- 2. Section 23-792, Table A: sets the maximum number of permitted parking spaces for office and retail functions at five spaces per 1,000 sq. ft. A maximum of 203 spaces are permitted for the office and retail component of this development. The plan proposes a total of 266 parking spaces, of which 248 will be located in a parking structure and 18 spaces will be in an uncovered parking field.**

In those instances where reasons are shown that would justify a deviation from the strict requirements of the provisions of the SmartCode, the Planning Commission shall have authority to permit such deviations. A warrant is an official decision that permits a practice that is not consistent with a specific provision(s) of this Code, but is justified by its "intent" and is consistent with the urban design guidelines and/or development concepts in the "Germantown Smart Growth Plan".

The following is from the SmartCode section of the zoning regulations: “In determining justifiable reasons for granting a warrant, the PC shall take into account, among other relevant factors that may be applicable, the relationship of the property to other properties, whether the deviation would be in accord with the intent of the SmartCode, principles of good land use planning as same may evolve over time, the topography of the property, and peculiar and exceptional practical difficulties or undue hardship upon the owner of the property. In determining whether to grant a warrant, financial hardship shall not alone be considered sufficient to justify a deviation. In all events, the PC shall take into consideration whether the proposed deviation may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the SmartCode provisions.”

STAFF COMMENTS:

C. PRIOR TO CONSTRUCTION PLAN APPROVAL

1. Reflect the roundabout at Neshoba and Exeter.
2. Incorporate all Phase I infrastructure comments into Phase 5 submittals.
3. The fire protection water supply for each structure shall be a minimum of 8 inches in diameter to supply the required fire flow demand. A fire flow calculation shall be submitted to the fire marshal's office, by a fire protection engineer, for the Thornwood development, illustrating the fire flow demand. The fire flow calculations shall be completed for the entirety of the development as well as each structure. This shall be completed prior to the start of the developments infrastructure.
4. The water supply for the fire protection system shall be fed from two separate water sources and looped so as not to create a dead end.
5. Lower level parking below fire department access shall meet all the requirements of the International Fire Code (IFC) 2006 edition, NFPA 2010 edition, Tennessee Code Annotated **68-101-103. Parking garages and bus terminals**, and the International Building Code (IBC) 2009 edition.
6. Lower level parking below fire department access and parking garages shall accommodate the fire department ambulance and brush truck vehicles. (Dimensions of vehicles available upon request)
7. There shall be a minimum of 2 points of ingress/egress from each lot at the fire department access level as required by NFPA and IFC.

C. GENERAL COMMENTS AND REQUIREMENTS

1. All recorded easements shall be shown on the plat. A five (5) foot utility easement is required along all property lines, adjacent to and not within any other easement.
2. All survey data shall be tied to Tennessee State Plane Coordinates and the City of Germantown monumented survey control. The final plat, construction drawings and "as built" plans shall be submitted on electronic media in DXF format.
3. The developer shall enter into a Project Development Contract with the City of Germantown for this project after it has received Final approval from the Design Review Commission.
4. The applicant shall provide proof of TDEC approval for the water system and sanitary sewer system. Contact Bill Hinch with TDEC for information.
5. If approved, all materials shall be specified on the construction plans for the proposed project. The applicant must receive Final Construction Plan approval from the Department of Community Development before the Memphis/Shelby County Office of Construction Code Enforcement may issue a building permit for the project.

6. The applicant is required to include the following formal written statement by a certified and licensed professional engineer to be placed on the grading and drainage plans, signed, dated and sealed:
7. I, _____, a duly licensed professional engineer in the State of Tennessee, hereby certify that I have designed the drainage in accordance with the Design Standards of the City of Germantown and have considered upstream and downstream conditions that affect drainage to include topography, present and future land use, existing zoning, and location of natural water courses.
8. No owner, developer, or tenant of property within the subdivision shall commit an act, or allow a condition to exist on property within the subdivision, which act or condition endangers life or health, violates the laws of decency, or obstructs or interferes with the reasonable and comfortable use of other property in the vicinity.
9. The Developer agrees to comply with the following requirements, unless otherwise authorized in writing by the City Engineer:
 - (a) All streets shall be kept clear and free of dirt and debris;
 - (b) All construction activity shall begin no earlier than 7:00 a.m. and end no later than 6:00 p.m., Monday thru Saturday, and no construction activity shall be permitted on Sundays; and
 - (c) The Developer and Lot Purchasers shall provide the Department of Community Development with the name, address and phone number of person(s) to be contacted and responsible for correcting any of the above should the occasion arise to do so.

STAFF RECOMMENDATION: Approval, subject to the conditions listed above

Mr. Harless asked on a project such as this, do I understand that there would not be a civic or green space area required?

Mr. Harless asked if you had added a parkland dedication fee, then there would not have been any warrant?

Mr. Ross answered yes that is correct. There is a parkland dedication fee, associated with any development and with smart code included.

Mr. Morgan answered the fee goes for improvement of others parks in the City.

Alderman Owens stated we should encourage any development such as this to incorporate that type of open space.

Spence Ray answered the developer will pay the parkland dedication fee because it is a great amenity, which is in the smart code for the civic open space.

Chairman Klevan stated if you do not see the value of the civic space, if you have ever been down to the gulf coast and you lived on 30A all those little community developments have those civic spaces. That is the reason for this development; it is the center of the focal point.

Against:

Sarah Wilkerson Freeman, 7684 Apahon Lane, noted she was still confused about a missing warrant. There are land use issues with the property. As you well know, it is on the Smart Growth regulating zoning map, which is legally binding. A 32-foot landscape preservation area that is unbroken, so the land

used is being use differently across that zoning feature by two entrances and two exits. Mr. Harris, isn't a warrant required to change the land use over the landscape preservation area?

Jim Jacobs, 7684 Apple Valley Road, asked who would be responsible for maintaining the civic space, will it be the developer or the City?

The developer is responsible 100% for building and maintaining the civic space.

SMARTGROWTH SUBCOMMITTEE: (DAVID KLEVAN, CHAIRMAN) The Smart Growth subcommittee met on November 19, 2014 and withheld a recommendation, and the Smart Code Review Subcommittee met on December 17, 2014 and voted to recommend approval.

WARRANTS

PROPOSED MOTION 1: To approve warrant number 1, that will approve a 0.344 acre private Civic Space as shown on the Phase 5 site plan.

Chairman Klevan moved to approve warrant number 1, that will approve a 0.344 acre private Civic Space as shown on the Phase 5 site plan, subject to the comments listed in the staff report, seconded by Mr. Harless.

Chairman Klevan asked for a roll call.

Roll Call: Barclay – yes; Burrow –yes; Hernandez –absent; Bacon – yes; Harless –yes; Owens -yes; Klevan –yes. **The motion was passed**
Mr. Bacon voted yes; for the increase in the size.

Mr. Barclay voted yes; he likes the plans for this space, because it is being used by the community for civic functions.

Ms. Burrow voted yes; I think it is good land use planning and it will be an attraction for the area.

Mr. Harless voted yes; for all the above reason that were mention.

Alderman Owens voted yes; he finds the open space will be an amenity to this development.

Chairman Klevan voted yes; based on my comment that I made earlier.

PROPOSED MOTION 2: To approve warrant number 2, that will allow a total of 266 parking spaces.

Chairman Klevan moved to approve warrant number 2, that will allow a total of 266 parking spaces, seconded by Mr. Harless.

Chairman Klevan asked for a roll call.

Roll Call: Barclay – yes; Burrow –yes; Hernandez – absent; Bacon – yes; Harless –yes; Owens - yes; Klevan –yes. **The motion was passed**

Alderman Owens voted yes; I find the parking is an effective use with the hidden storage as a great urban design principle. The last thing we want to do now is under park something where it would not succeed. I think the parking spaces proposal is reasonable.

Mr. Harless voted yes; if you have ever been to a shopping area, specially this time of the year and cannot find a parking place. It takes money out of the retailer and drives the customer to some other part of town. I think this is a good use of space and applaud the developer for adding additional space. Also, taking into account that your employees have to have a place to park.

Ms. Burrow voted yes; I appreciate that you are doing this underground, it is good urban planning and more people will be able to utilize the site.

Mr. Barclay voted yes; based on the mix use of this property and with the safety and security to the pedestrians and patrons.

Mr. Bacon voted yes; I agree with Ms. Burrow's comments. Typically, I would be very hard pressed to grant this kind of parking increase, but given that the developer is investing a considerable amount of money for lower level parking out of view. I think it is a successful plan.

Chairman Klevan voted yes; it is a great urban design feature and I applaud your use far better than the concept brought forth from the Lawrence Group.

PROPOSED MAIN MOTION: To approve the preliminary and final plan for the Thornwood Planned Unit Development subject to the comments listed in the staff report.

Chairman Klevan moved to approve the preliminary and final plan for the Thornwood Planned Unit Development, subject to the comments listed in the staff report, seconded by Mr. Harless.

Chairman Klevan asked for a roll call.

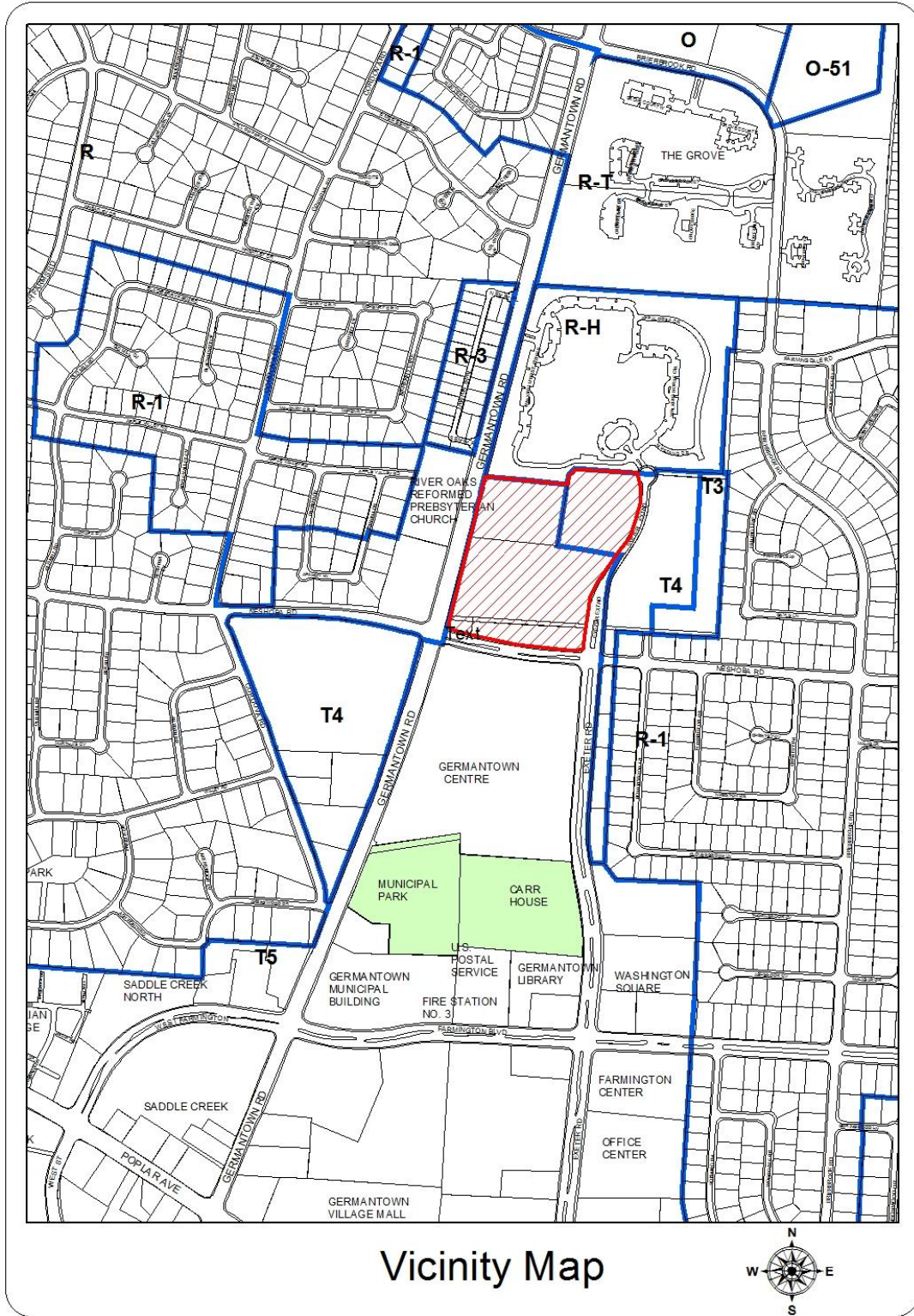
Roll Call: Barclay – yes; Burrow –yes; Hernandez – absent; Bacon – yes; Harless –yes; Owens - yes; Klevan –yes. **The motion was passed**

Mr. Bacon asked have we gone that far on the roundabout for the traffic?

Mr. Ross answered we are making sure the roundabout is on the plan. Therefore, it can be considered and model as one traffic control measure. It is Phase 6 when the traffic model (roundabout) comes forward.

Ms. Burrow noted she is against the roundabout.

Alderman Owens said we finally have something here that we envision. This is a trigger mixed use; we have offices, retail, and residential that will create the vitality you need to succeed. They did not have to do this parking totally covered. That is huge for this project and for Germantown. You do not see that in many places. I love the strong use of urban design principles.



Vicinity Map

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4. Chairman Klevan asked if there was any old business to come before the Commission. There was none.
 5. Chairman Klevan asked if there was any new business to come before the Commission. There were none.
 6. Chairman Klevan asked if there were any liaison reports. There were none.
 7. **ADJOURNMENT:** The meeting adjourned at 8:00 p.m.