

ZONING COMMISSION

September 8, 2022

Public Hearing – 6:00 P.M.

Approved:

Case ZC-22-02 – Osborne Capital Group, LLC requesting rezoning of the property, through a zoning map amendment, from an existing B-3 Office, Research and Limited Business District to a B-2 Community Business District. The property is located 4073 Medina Road.

Mr. Chairman called the meeting to order, roll call was taken, the Pledge of Allegiance conducted and the oath/affirmation was administered.

Members present: Chairman Richard Bradner, Vice Chair Maryellen Burnham, Scott Meyer, Emily Hete, Marshal Pitchford, Legal Counsel Bob Konstand, Planning Director Bill Funk and Zoning Secretary Nanci Noonan. Joy Kosiewicz and Kyle Craven were excused.

Mr. Bob Konstand, Township legal counsel, shared that he sent an email to the Zoning Commission Monday, August 22 regarding a potential conflict with regard to this case. Mr. Konstand stated he has represented the applicant, Osborne Capital, in the rezoning of the Rosemont Country Club that took place several years ago. He reported that that matter is complete for the city of Fairlawn. Mr. Konstand brought this before the trustees before Mr. Osborne filed his application. Since that time, he has obtained an informed consent waiver from the Township Trustees as well as from Mr. Osborne, both of which consented to his continuance to represent the Township in the matter at hand. If anyone has any objections he would like to know. Mr. Konstand was following procedure to inform the Commission and to advise on the procedure of the law.

Zoning Secretary certified that the public notice was published in the West Side Leader, Thursday, August 25, 2022 and read the notice into the record.

Mr. Funk presented an overview of the site on screen and the B-3 and the purpose statements for the B-2 Zoning Districts:

The 5.2-acre property is located on the north side of Medina Road roughly 300' west of the Springside Drive and Medina Road. intersection. The property also has road frontage on Springside Drive. To the north are hotels, to the east are Huntington Bank, Barnes & Nobles and the True North gas station, to the south is commercial property in Copley Township, and to the west is I-77.

- **B-3 Office, Research and Limited Business District:** The purpose of the B-3 Office, Research and Limited Business District is to provide an environment exclusively for and conducive to the development and protection of modern administrative facilities, offices, institutions, office-like research and sales facilities, and other similar or limited commercial activities. Carefully controlled site development is necessary to encourage a functional and aesthetically pleasing office environment and to protect the residential character of adjacent areas.
- **B-2 Community Business District:** The purpose of the B-2 Community Business District is to establish and preserve general commercial areas consisting of shopping centers and other business concentrations serving the general consumer population of the community and area. These business areas are to be generally characterized by an integrated and planned cluster of businesses served by common parking, service and access facilities.

Mr. Funk informed the Commission that the Applicant has submitted a proposed redevelopment plan for the property. The redevelopment proposal calls for a Sheetz gas station on the southern portion of the property along Medina Road. The proposal also includes a Texas Roadhouse restaurant on the northern portion and a restaurant/retail building on the western portion of the site. Mr. Funk then presented the 2011 Bath Township Comprehensive Plan

recommendations and the Zoning Resolution's development standards and use tables for the area. He noted that currently in the B-3 gas stations are not permitted and restaurants are classified as conditional uses. In the B-2 Business District, under conditional uses, does allow for gas stations as well as restaurants. Hence, the request for rezoning.

Summit County Planning Commission: Planning Commission has not yet reviewed this application and the public hearing for the map amendment is set for September 29, 2022 at 3:00 p.m. The meeting will be held in the Summit County Council Chambers, 7th Floor of the Ohio Building, 175 S. Main Street, Akron, Ohio 44308.

Mr. Lance Osborne, of Osborne Capital Group, presented the Commission their proposal for the rezoning of the Holiday Inn property. Mr. Osborne shared that a newer Holiday Inn has been opened in the area which put his client in a precarious situation whereby they are competing against their own flag and, at some point, they will no longer be flagged a Holiday Inn. This is what led them to go out in the market to see if there is a better use of the property and Mr. Osborne became interested in developing the property earlier this year. Currently, the two interested parties are Sheetz and Texas Roadhouse, and a third parcel (the western parcel adjacent to I-77) has some possible uses but nothing is concrete at this point. Mr. Osborne stated that the Sheetz would be under a 20-year ground lease and he would continue to own the property. Sheetz would construct their prototypical store demonstrated on the exhibit on screen. Per the Township's suggestion the gas pumps are proposed on the western side of the building instead of in front of the building, and the plan also includes a drive-through pickup for food and other items sold in the Sheetz store.

Regarding the Texas Roadhouse restaurant, Mr. Osborne pointed out its access off of Springside and explained how this other ingress/egress that will direct traffic away from the Springside and Route 18 intersection. Texas Roadhouse will ground lease the parcel for 15 years and build their prototypical restaurant. The third parcel, as mentioned, does not have a confirmed use but the intention is to have three separate parcels, platted out so each tenant will have control of their real estate taxes and everything that goes on with the operation of the property. Mr. Osborne shared that they have initiated a traffic study and their traffic consultant is working directly with O.D.O.T. He pointed out proposed curb cuts via his exhibit on screen. He anticipates having the study completed for the Township's review by the end of this month. It was noted that the new curb cut is about 50 to 100 feet to the east of the current curb cut.

Discussion was had on the classification/uses of the Sheetz and Mr. Meyer suggested that in the future we redefine "Gas Station". Mr. Bob Konstand, township legal counsel, clarified that you could have a single parcel with different uses. He gave an example of this in the township, but said we will need to research the gas station piece of this to include the retail/convenience store and the drive-through. Mr. Konstand clarified with Mr. Osborne that he will be the ground lessor of the new parcels, throughout the process, and will not sell them off. Additionally, Mr. Osborne stated that they are under contract to acquire the property, subject to rezoning approval.

Mrs. Burnham inquired as to what a prototypical Sheetz is and if it includes the drive-through, as she was not familiar with a Sheetz with a drive-through. Mr. Osborne explained that it is a newer concept for Sheetz and believed it is a product of Covid. Discussion was had on directing the drive through traffic a little more to deter people from lining up off of Route 18. Mrs. Hete inquired about water retention issues and Mr. Osborne stated that when they go in for approval from the County for the building permit, they will have to get a Soil and Water permit. They plan to do underground detention and water quality. He demonstrated the reserved area on the site in the event they have to do some aboveground. Mr. Konstand informed the Commission that all of this project is in the JEDD. Mr. Osborne added that they have proposed a development agreement to the Township so they will have further control over and above the zoning code. This will pertain to signage, uses of property, restrictions and other items.

Public comment:

Proponents – none.

Opponents – Mr. Bill Weber, 484 Crystal Lake Road. He has lived here for 40 years and was on the original 1996 Comprehensive Plan, Chairman of the Zoning Commission at that time, and also the 2011 Comprehensive Plan. Mr. Weber stated that it was developed as a defensible vision for Bath's future, looking ahead 25 to 50 years. Community input and planning tools told us that Springside was the stopping point for major retail and gas stations, with the idea

retail and gas stations be bounded and contained within where Acme Fresh Market is today. The Comprehensive Plan developed a high-quality business environment to serve medical healthcare needs. Springside in turn would be used as a gateway corridor. This proposal is out of character with the intentions of the Comprehensive Plan. Mr. Weber stated he has a letter on file, given to Bill Funk, that gives chapter of verse that goes through the Comprehensive Plan outlining the details. He commented on the property and the inability to make a left-hand turn from Route 18 and stated that the current traffic on 18 is only going to increase with a major gas station. Whatever we realize in tax revenue from this project, it will be eclipsed by any kind of road rework that will need to be done to accommodate the additional traffic. Mr. Weber felt there were better uses of the land and requested that this rezoning application be denied.

Mr. Bradner inquired as to how we would prevent someone from parking a tractor trailer rig on the property and Mr. Osborne stated that could be included in the development agreement. Mr. Meyer noted the property has a bit of a dilemma; due to its size it will need to generate traffic of the same level it did before. He stated that we already have a fair amount of property owned by medical providers that haven't seen fit to propose anything. Medical uses would certainly be preferable but he did not see it being practical. Mr. Funk noted that he has highlighted a couple areas that will require variances with regards to meeting setbacks, especially by splitting the property into three different lots. Mr. Pitchford asked if the rezoning is not approved would the applicant still plan to go forward with the restaurant. Mr. Osborne replied stating that the only way development is feasible is with the Sheetz and the Texas Roadhouse simultaneously because of the nature of the economics of the acquisition. As to why the gas station on the south side failed and why it would possibly succeed on the Bath side, Mr. Osborne stated that it had a very small convenience store, a different use and a different operator.

The hearing was closed with no further questions or information from the Commission or applicant.

Motion to table the case until Thursday, October 13, 2022 by Mrs. Hete; seconded by Mrs. Burnham. All were in favor; motion carried.

Mr. Chairman adjourned the hearing.