

**CITY OF ENGLEWOOD  
IN  
MONTGOMERY COUNTY, OHIO**

**ORDINANCE: 16 – 04**

**PASSED: APRIL 26, 2016**

**AN ORDINANCE: APPROVING REZONE #16-05 REMOVING 1.86 ACRES AT THE SOUTHEAST CORNER OF SOUTH MAIN STREET AND EAST WENGER ROAD FROM A C-2 HIGHWAY COMMERCIAL ZONING DISTRICT AND PLACING SAME IN AN S-PUD ZONING DISTRICT**

**WHEREAS**, a concept plan has been tendered for redevelopment of a site at 1070 South Main Street, currently zoned C-2; and

**WHEREAS**, said property currently lies within a C-2 zoning district, and a proper application has been filed to rezone to “S-PUD;” and

**WHEREAS**, a proposed subdivision of the property has been submitted and complies with the zoning requirements; and

**WHEREAS**, a site development plan has been submitted in support of S-PUD zoning; has been judged conditionally adequate by reference to Section 1264.03(e), “Required Contents ...”, of the Zoning Code; and City Council has made required findings of fact called for by Section 1264.03(h) of said Zoning Code; and

**WHEREAS**, Planning Commission and City Council each held a public hearing regarding this rezoning, and notices regarding these hearings were mailed to property owners within two-hundred feet of the tract proposed for rezoning, and duly advertised in a newspaper of general circulation; and

**WHEREAS**, Planning Commission has recommended approval of this rezoning;

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ENGLEWOOD, COUNTY OF MONTGOMERY, STATE OF OHIO, AS FOLLOWS:**

**SECTION I** That the “S-PUD” application and site development plan submitted by BSM Englewood, LLC, pertaining to 1.86 acres at the southeast quadrant of South Main Street and East Wenger Road, be herewith conditionally approved.

**SECTION II** That any redevelopment of the subject site, pursuant to such approvals, occur only if:

- a) Final landscaping, screening and site plans are approved by city staff prior to issuance of building and zoning permits.
- b) On-site traffic circulation and access points appear to be acceptable at present, however, may be adjusted if determined necessary by the city’s consulting traffic engineer.
- c) All building elevations are constructed mainly of brick, or similar masonry material, as proposed by the applicant in the S-PUD Plan, which are judged by staff to be complementary to adjacent land uses.

- d) Site development plans are reviewed and approved by the City's consulting civil and traffic engineers.
- e) Signage for the building shall be limited to two wall signs on the building based on two square feet of signage per one foot of building frontage; end cap businesses shall be permitted a third wall sign on their respective ends of the building, no larger than the sign on the front elevation of the building.
- f) All review and permit fees normally collected, all sureties normally posted, and all other actions and/or arrangements called for by applicable sections of the Codified Ordinances of the City of Englewood, are accomplished by the developer(s).

### **SECTION III**

Approval of all uses principally permitted by C-1 or C-3 zoning regulations is herewith conferred, including sit-down/carry-out restaurant uses with outdoor seating and drive thru window service that meet applicable parking standards.

### **SECTION IV**

Approval to make minor modifications to the design of the building, to the extent of enlarging the building to the extent necessary to accommodate future expansion on the site, with staff approval.

### **SECTION V**

Approval to reduce depth of the spaces to nineteen (19) feet if approved by the city's consulting traffic engineer.

### **SECTION VI**

Approval includes the subdivision of the property.

### **SECTION VII**

Required Findings: City Council, based on the evidence presented, makes the following specific findings of fact, directly based upon the evidence presented:

- (1) The physical character of the subject site is suitable for development in the manner proposed without hazard to persons or property, on or off the site, because of the probability of flooding, erosion or other dangers, annoyances or inconveniences.
- (2) The subject site is accessible from public roads that are adequate to carry the traffic that will be imposed upon them by the proposed development, and the streets and driveways on the site will be adequate to efficiently and safely serve the residents of the area as well as the traffic generated by uses within the proposed development.
- (3) The subject site is located in such a way, in relation to sanitary sewers, storm and surface drainage systems, water supply systems and police and fire protection facilities, that neither extension nor enlargement of such systems will be required that will result in higher net public costs than would development in forms generally permitted under existing zoning for the area.
- (4) Structures, parking areas, drives, roadways, walks, lighting and appurtenant facilities will be located and designed to provide a high degree of efficiency, safety, convenience and harmony within the

development as well as the utmost compatibility with surrounding neighborhoods.

(5) The proposed development can be substantially completed within the period of time specified by the development application.

(6) The subject site is in conformity with Englewood comprehensive planning, including land use and utility elements.

(7) The Application is consistent with the intent and purpose of this Zoning Code to promote the public health, safety and general welfare of the City.

**SECTION VIII** It is hereby found and determined that all formal actions of this council concerning and relating to the passage of this ordinance were taken in open meetings of this council, and that all deliberations of this council, and of any committees, that resulted in such formal actions, were in meetings open to the public, in compliance with all legal requirements.

**SECTION IX** That this ordinance shall be in full force and effect at the earliest date allowed by law.

PASSED this 26th day of April, 2016.

ATTEST:

Kerry Norman  
Kerry Norman, Clerk of Council

Patricia Burnside  
Patricia Burnside, Mayor

#### C E R T I F I C A T E

I, Kerry Norman, Clerk of Council of the City of Englewood, Montgomery County, Ohio, do hereby certify the foregoing is a true and correct copy from the *Record of Proceedings* of said City. WITNESS my signature this 26th day of April, 2016.

Kerry Norman  
Kerry Norman, Clerk of Council

#### CERTIFICATE OF POSTING

I, Kerry Norman, Clerk of Council of the City of Englewood, Montgomery County, Ohio, do hereby certify publication of the foregoing ORDINANCE was made as designated by Sections 224.01 and 24.02 of the Englewood Code.

Kerry Norman  
Kerry Norman, Clerk of Council