

Good evening

My name is Dana Tysyachuk and I'm a legal intern with the Kramer Law Clinic at Case Western Reserve School of Law.

SOBE Concerned Citizens asked our clinic to analyze Youngstown's zoning rules and SOBE's proposed plans to expand to gasification and pyrolysis.

In Ohio, municipalities have the power to regulate their own zoning as long as they do not conflict with general state laws, including PUCO and OEPA authority.¹ Youngstown's Zoning Code allows industrial uses in certain areas of the city—areas where such operations are appropriate. But it rightfully protects citizens' health and safety by limiting where those operations can occur. This means that Youngstown's Zoning Code does not conflict with general laws and to expand its operations, SOBE must get approval from state and local authorities.

SOBE Thermal is on a parcel of land that's zoned for a "mixed-use community," meaning industrial and energy production operations are not permitted. Because it was there before the current zoning rules were adopted in 2013, it is allowed to remain and operate in the same manner as a pre-existing use facility.

Under Section 1105.05(c) of Youngstown's Zoning Code, a pre-existing use cannot be replaced by another use that has higher adverse impacts on the surrounding neighborhood than the current pre-existing use. And a pre-existing use cannot be extended or expanded in a way that would conflict with the Zoning Code.² You've already heard from others the ways in which SOBE wants to expand its operations.

What SOBE wants to do, pyrolysis and gasification, is an expansion of use that would violate Youngstown's zoning rules. And it will have higher adverse impacts on the surrounding neighborhood than using natural gas currently does.

SOBE needs permission from Youngstown to do this by applying for a zoning variance. We believe Youngstown is entitled to deny SOBE's expansion plans under the Ohio Constitution which grants municipalities the authority to exercise all powers of local self-government and adopt regulations that are not in conflict with general laws.

Ohio Const. art. XVIII, § 3.

"municipalities shall have authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary and other similar regulations, as are not in conflict with general laws."

² Youngstown Redevelopment Code § 1105.05(c) (Pre-existing uses and development) – page 228

*"(2) A benign or significant pre-existing use may be replaced by another use not listed as a permitted or conditional use or reuse in the district if the Director determines that the proposed use or **reuse creates fewer adverse impacts on the surrounding neighborhood than the current pre-existing use.***

*(3) A benign or significant pre-existing use may be extended or enlarged within its existing structure, but that structure **shall not be extended or expanded except in conformity with the requirements of this Redevelopment Code applicable to the zone district (and any overlay districts) in which the property is located.**"²*

Because the state permits SOBE is seeking and Youngstown's zoning code regulate two different things, we believe that Youngstown's zoning regulations do not conflict with general laws. This means that SOBE can operate its plant but merely because it is given a permit by a state agency, it does not mean it can operate it in that exact location.

City council can speak out against SOBE Thermal's plan, and urge the city to deny any variance should they seek it. If SOBE Thermal expands its operations without seeking a variance, then they would be in violation of the zoning code designation as a preexisting use. And therefore the city should take action to prevent any efforts to install and expand operation to include the pyrolysis and gasification plant.

On behalf of SOBE Concerned Citizens we hope that you pass the resolution and keep speaking against SOBE's expansion plans. Because a pyrolysis and gasification plant in the heart of the city is not what's best for the people of Youngstown.

Thank you.