

**MINUTES OF THE WORK SESSION OF THE COUNCIL OF THE  
CITY OF AVON, OHIO HELD MONDAY, OCTOBER 3, 2022  
IN THE COUNCIL CHAMBERS OF THE MUNICIPAL BUILDING  
AT 7:30 P.M.**

**PRESENT:** Council Members: 1<sup>st</sup> Ward – Jennifer Demaline; Council-at-Large – Tammy Holtzmeier; 2<sup>nd</sup> Ward - Dennis McBride; 3<sup>rd</sup> Ward -Tony Moore; 4<sup>th</sup> Ward - Scott Radcliffe; Council-at-Large – Craig Witherspoon; Council-at-Large and Council President – Brian Fischer; Mayor – Bryan Jensen; City Engineer – Ryan Cummins; Planning/Economic Development Coordinator – Pam Fechter; Law Director – John Gasior; Finance Director– William Logan; Safety/Public Service Director – Duane Streator; Acting Clerk of Council – Gail Hayden, Assistant Clerk of Council

**ABSENT:** Clerk of Council – Barbara Brooks

1. REPORT ON THE INTERNATIONAL SOCIETY OF ARBORICULTURE ANNUAL CONFERENCE HELD IN MALMO, SWEDEN Rick Varga, Arborist

Mr. Varga of 33676 Reserve Way, Avon advised he recently attended the conference held in Malmö, Sweden representing the City of Avon. He said Malmö is at the bottom of Sweden across from Copenhagen and it is approximately the same size as Cleveland in population with Cleveland being 77 square miles and Malmö 30 square miles. Mr. Varga said there were a lot of topics that were of related interest for our City such as one seminar that was strictly on the legal aspect of tree related injuries to protect the City's interests. He stated another seminar demonstrated a satellite app that allows you to see the green space in our City that will tell us exactly what our canopy is in relation to how much impervious surface we have. Mr. Varga advised that is great to establish a baseline to see the percentage of tree canopy to keep tabs on that from year to year. He felt that would be useful in guiding developments in planting trees within the developments to help sustain the canopy. Mr. Varga said the Director for the Arbor Day Foundation from Nebraska was at this conference and he was able to talk to him extensively about Avon becoming a Tree City USA. He stated he went over Avon's application with the Director, and he told him everything looked great and that there should not be any problems with Avon being awarded this designation. Mr. Varga advised because of that conversation, he talked to our local Urban Forester and Mr. Streator, and the Secretary to the Service Director would be working on that application and submitting it as soon as possible to ensure we are on schedule for becoming a Tree City USA. He said he also had opportunity at this conference to speak with an Arborist from Minnesota about their Arbor Day celebration and learned that they have a beer tent at their event, and he found that interesting since Avon is planning to have a beer tent at their celebration. Mr. Varga stated he met people from all over the world at this conference and they all have the same interest for why trees are important, and their sustainability and he was able to communicate what Avon is doing to a larger scale audience. He added that he had no issues traveling internationally and he felt very safe.

There was no further discussion.

2. ORDINANCE NO. 116-22 – GRANTING A SPECIAL USE PERMIT TO GARDEN DRIVE INVESTMENTS, LLC TO AUTHORIZE THEIR TENANT, AVON BREWING COMPANY, TO CONSTRUCT A 15,982 SQ. FT. RESTAURANT WITH OUTDOOR SEATING FOR PROPERTY LOCATED AT 36383 DETROIT ROAD  
Planning Referral

Ms. Fechter advised the City has been working with Avon Brewing Company who is looking at constructing a new location at the corner of Detroit Road and Garden Drive. She said they are requesting approval for a Special Use Permit for their outdoor seating. Ms. Fechter stated they plan to have a game area for cornhole and an enclosed patio and an outdoor patio with seating. She advised they plan to have some live music with a one- or two-person band as opposed to a four- or five-member band. Ms. Fechter said they are asking that the Special Use Permit allow them to have the music on the patio until midnight. She stated the business owner has had a number of conversations with the staff in regard to the noise level and what they need to do to keep

the speakers pointed down and be mindful of the close proximity to the neighboring properties. Ms. Fechter advised they are proposing to be roughly 500' from any residential home and the music they are proposing would be in the game area on the east side closest to Detroit Road.

Forrest Paige of HSB Architects in Cleveland advised he is working on the design for the brewery and he placed a rendering on the overhead table and said Council could see that they have a proposed patio that wraps around the side of the building, which is adjacent to the parking lot and the patio continues to wrap around adjacent to Detroit Road. The rendering depicts the front of the restaurant facing Garden Drive with the parking lot facing Garden Drive and Holly Lane. He pointed out in the back (east side facing the funeral home) would be a game area that would be surrounded with a thick greenery screen to keep noise inside the area as much as possible.

Mathias Hauck of Keller Drive, Avon and owner of the proposed restaurant advised the reason they chose this layout for the gaming/acoustic area is that you would still be able to hear the music from the other patios as well as they would be providing a secondary shield to the neighboring residential properties. He said the game/firepit area was more for lounge/chaise and Adirondack seating, but they could also have the garage doors up on the facing east side and the music could be heard in a portion of the restaurant. Mr. Hauck stated they have not made a final decision about whether they are going to have the game/firepit area, and he affirmed the goal would be to have outdoor speakers facing onto the patio for ambient music and that was all stated on the permit application.

Mr. Fischer inquired of the Planning Coordinator if she has heard from any neighboring residents voicing their concerns about noise.

Ms. Fechter advised they have heard from some residents. She said there were a number of residents at the informal presentation made at a recent Planning Commission Meeting and Mr. Hauck spoke with them and was able to put most of their concerns at ease. She said there have been some complaints at ZZ's that is farther east on Detroit Road, that is also owned by Mr. Hauck, and he stepped up and met with the residents right away and took care of the situation. Ms. Fechter stated in this situation Mr. Hauck knows that the reason for the Special Use Permit is if there are complaints made and they are constant complaints that the Special Use Permit can come back in front of Council to reconsider if the music, hours or more need to be adjusted based on the repeated complaints being received.

Mr. Moore advised the location for this proposed restaurant is in his ward and a lot of the residents on Holly Lane have approached him with their concerns about noise. He said he hopes that the restaurant uses good judgment and has a plan for security because they are talking about a business that is going to have outdoor activity and the sale of alcohol and he questioned what would happen if a patron became belligerent and those kinds of things. Mr. Moore reiterated there are a few residents who are really concerned about this, and they believe the noise will carry into their neighboring backyards. He stated he loves the idea but is concerned about that aspect of it for those residents.

Mr. Hauck advised it is not going to be a huge gaming area. He said they could see in the "Beer Garden" area (east side of restaurant) they plan to have two cornhole games set up for some activity, but most of it is going to be a hangout/chill area as that seems to be what people are interested in from his experience in other cities that have beer gardens. Mr. Hauck stated they are hoping to move that closer to Detroit Road for people to sit and hang out and enjoy their time together. He advised he has been in business for six years in Avon with a large outdoor space, Avon Brewing Company, on the corner of Detroit Road and Colorado Avenue and they do not have that crowd of rowdiness. Mr. Hauck said they applied to be open until midnight, but they close at 11:00 p.m. and they close their kitchen at 9:00 p.m. on Saturday. He stated they made those decisions for their staff, and they are not the type of establishment to stay open late anyway as he mentioned to those in the Planning Commission Meeting. Mr. Hauck advised they will work really hard to have most of the noise closer to Detroit Road and the majority of the time they will have ambient music. He said they have only had live music probably five times at the current location for Avon Brewing Company and three of those times was a young lady from Avon Lake who sings with a guitar and twice they had another young woman because loud and rowdy was not the vibe they have there. Mr. Hauck stated they are thinking live music might be something they

might want to provide on the patio, but for sure they will be utilizing ambient music with speakers for people to listen to while sitting and enjoying their time. He advised that is really the focus of the concept and that is also how it is at ZZ's and they have only had one person perform live music and the rest has been ambient speakers.

Mr. Fischer advised Mr. Hauck has been a fantastic business owner in Avon and a fantastic supporter in and of the community. He said being as popular as his business is at its current location west of this proposed location, he was dealing with parking issues. Mr. Fischer hopes there is enough parking being provided with this new location because he knows as soon as this new location opens that parking could be his biggest issue.

Mr. Hauck advised he believes they have between 153-160 parking spaces at this property, which is quite a lot more than the 26 spaces at the current location of Avon Brewing Company.

Ms. Fechter advised Mr. Hauck will be in front of the Board of Zoning and Building Appeals this Wednesday to discuss parking and more.

Mr. Moore inquired regarding the parking if that will be adequate. He said another concern from neighboring residents is that patrons will be parking on Holly Lane.

Mr. Hauck advised he believes their parking will be adequate. He said they are working very closely with the City.

Mr. Moore advised his concern is if the parking lot is full then where do people go to park? He asked if there is a plan in place. He said they do not want to have cars stacked around the corner on Holly Lane into the neighborhood.

Mr. Hauck advised he understood.

Mr. McBride inquired when does Mr. Hauck plan to break ground.

Mr. Hauck advised once they get through all the approvals, they would get started.

Mr. Paige displayed a drawing showing the proposed evergreen barrier. He stated this is an important aspect of the design that they are trying to use to capture the sound. Mr. Page said they could see that the two patios and the nearest residence is on the opposite side and across the street. He advised they are trying to create a thickened evergreen barrier around the edge of the parking lot to block down noise and light as much as possible to try to be good neighbors to everyone nearby by keeping the noise closer to Detroit Road and away from the neighborhoods.

Mr. Hauck advised there is already a significant landscaping mound and trees and rocks; large, well-grown, established landscaping in the region on the east side of the parcel. It was noted the established landscaping is not owned by Mr. Hauck but is owned by the funeral home that abuts the proposed restaurant location to the east. He said the plan is to come up with a higher screen around the SE corner of the restaurant to enclose the refuse area as well as buffer the sound. Mr. Hauck stated they talked about a lattice wall and while they are not naïve to think that others will not be able to hear people talking, but they were going to try their best to minimize it as much as possible.

Mrs. Holtzmeier asked if there is access to get to the back hedge wall that is not on the proposed restaurant property.

Mr. Hauck advised right now he owns the 2.7 acres and the .3 acres was sold right before he purchased the remaining parcel for his proposed restaurant. He said the plan is to use that .3 acres as shared parking between the funeral home and the restaurant patrons, if necessary. Mr. Hauck stated the plan is to clean up

some of the current hedge row to make it look nicer and add new trees. He indicated they were working with others in the community to look at what to keep and what needs to be replaced and beef it up to look fuller.

Mrs. Holtzmeier inquired if that extra property area was accessible by both the funeral home and the restaurant.

Mr. Hauck advised currently it is just a green space or gravel, but it will be if the property owner chooses to continue with this process. The extra parcel owned by the funeral home is to the east of the restaurant's south parking lot.

Mr. Fischer inquired if Mr. Hauck already has an agreement with the funeral home or if they were still working out the details on that.

Mr. Hauck advised they have an agreement with the funeral home.

Mr. Gasior advised this is a Special Use Permit and the way in which it was drafted was using the standard "no live music" language. He said it was mentioned that there would be the occasional live music on the patio, and he would like to clarify exactly what the live music situation is going to be and where it is going to be located. Mr. Gasior stated it seemed that it was all going to be located on that patio area to the east and that there would not be any other location for live music outside, but he would like to identify that because the exhibit would be very helpful. He advised because of the live music and the sound, he felt it was important that the hedge rows also be identified even though Mr. Hauck does not own the one directly to the east. Over time that could be taken down so there needs to be some sort of plan in place to deal with that. Mr. Gasior said it might be important for the Special Use Permit to say that the east buffer would be replaced should the neighbor remove the hedge row. He stated they were talking about noise, and he wanted to make sure that when they finalize this Special Use Permit for the outdoor seating area that they know exactly what the ground rules are because if there is a complaint, they can say whether it is within the confines of what was passed by City Council. Mr. Gasior advised if there is a complaint, and it is found that the restaurant is not meeting the requirements of the Special Use Permit then the City could force him not be allowed to use his live music for instance. The same can be said of the ambient music as the City has set similar requirements for other facilities along Detroit Road and he assumes that Council would want to make sure they are consistent.

Mr. Gasior advised he was putting that out to Council because drafting the legislation for these Special Use Permits was not easy when dealing with a facility this large and with residences within close proximity. He felt they wanted to be careful to draft it in such a way that the neighbors can at least appreciate that Council was cognizant of the possibilities with noise at this location and drafting and accepting an ordinance that protects other residents. Mr. Gasior said Council could see that in section two – Conditions; number 2 stated no live music and they obviously were going to have to make changes to that condition. Section 1280.06 (dd) Restaurants with Outdoor Seating has about four or five other provisions listed, which he did not think were going to be problematic based on the discussion at the last Planning Commission meeting. He stated he might want to check with the new Planning Clerk to see if she has a draft of the minutes from the September Planning Commission meeting completed because he would like to look at that and read what some of the residents brought up and make sure those issues are covered in the Special Use Permit before the vote next Monday.

Mr. McBride jokingly said some of his neighbors would like a direct walkway to this business from their residence.

Mr. Moore stated he felt this business would certainly be nicer than that big empty lot.

Mr. Hauck suggested that would be wonderful if Council could relay those comments to the residents.

### 3. [ORDINANCE NO. 117-22](#) – REAPPROPRIATIONS

Mrs. Raicevich

Ms. Raicevich explained the reappropriations as follows:

Special Revenue Funds

Fire Dept. Fund No. 200 Increase appropriations \$15,000.00 for repairs needed on two separate engines; a generator and a transmission.

Total Special Revenue Fund Re-appropriations \$15,000.00

Total Re-appropriations All Funds \$15,000.00

4. RESOLUTION NO. R-30-22 – SUPPORTING THE SUBMISSION OF A 2022 CLEAN OHIO GREEN SPACE CONSERVATION PROGRAM FUNDING APPLICATION FOR THE PURCHASE OF LAND FOR THE PRESERVATION OF OPEN SPACE, SENSITIVE ECOLOGICAL AREAS AND STREAM CORRIDORS Mr. Cummins

Mr. Cummins advised this Resolution is dealing with the Traxler property and seeking a Clean Ohio Green Space grant to assist with the acquisition of that property. He said they made application in 2021 and just missed out on full funding for the project. Mr. Cummins stated they are confident going into this year that the City has a good chance at acquiring the grant and this Resolution of support will allow them to do that and the grant application is due at the end of the month.

5. REPORTS AND COMMENTS

MAYOR JENSEN had no comments.

COUNCIL MEMBERS:

MRS. DEMALINE, WARD 1 advised she would like to schedule a Service Committee meeting, and in discussions with the other committee members and Mr. Cummins, they are looking at Monday, October 24, 2022, at 6:30 p.m. and this would be to discuss the 2023 Sidewalk Program. She noted that she would send the Clerk an email asking her to schedule that meeting and to send that notice out to everyone. Mrs. Demaline added that there has been some discussion about how they are going to finance the 2023 program and she asked Mrs. Holtzmeier if she had anything to add from the Finance Committee perspective.

Mrs. Holtzmeier advised that knowing the 2023 budget meeting is scheduled for November was sufficient and that they would clearly be paying attention to what comes out of the Service Committee.

Mr. Fischer asked Mr. Gasior if they still needed to schedule a Legal Committee meeting regarding Avon Road as a joint meeting with the Service Committee.

Mr. Gasior advised he did not see a need for a Legal Committee meeting to be called at this time. He said if the Service Committee would like to discuss sidewalks and if they deem it is necessary to install them, the City has the process in place to do so. Mr. Gasior asked Mrs. Demaline if she would like to include the discussion of sidewalks on Avon Road.

Mrs. Demaline said she would be happy to include it, but she did not know much about it.

Mr. Gasior felt it was a good idea to include it considering where they are with Avon Road.

Mr. Cummins agreed and said he felt it would be a worthwhile discussion point.

Mr. Gasior requested the Service Committee to consider the 2023 Sidewalk Program and the Avon Road Sidewalk for discussion.

MRS. HOLTZMEIER, AT LARGE had no comments.

MR. MCBRIDE, WARD 2 asked Mr. Gasior to let him know when he is ready for a Legal Committee meeting to be scheduled to discuss barn yard animals and other related topics.

Mr. Gasior advised he would give Mr. McBride a call and he would let him know where things stand on that topic and then he could contact the Clerk and schedule the meeting.

Mr. McBride said that sounds good.

MR. MOORE, WARD 3 had no comments.

MR. RADCLIFFE, WARD 4 reported that he will not attend next week's meeting as he will be traveling for business.

MR. WITHERSPOON, AT LARGE had no comments.

MR. FISCHER, AT LARGE had no comments.

DIRECTORS/ADMINISTRATION:

MR. CUMMINS, CITY ENGINEER had no comments.

MS. FECHTER, ECONOMIC DEVELOPMENT/PLANNING COORDINATOR had no comments.

MR. GASIOR, LAW DIRECTOR had no comments.

MRS. RAICEVICH, ASSISTANT FINANCE DIRECTOR had no comments.

MR. STREATOR, SAFETY/PUBLIC SERVICE DIRECTOR had no comments.

AUDIENCE: There were no comments from the audience members.

6. EXECUTIVE SESSION: 8:04 p.m.

A motion was made by Mr. McBride and seconded by Mr. Moore to Enter Into Executive Session for the Purpose of Discussing the Purchase of Real Estate, and the vote was: Mrs. Demaline, "yes"; Mrs. Holtzmeier, "yes"; Mr. McBride, "yes"; Mr. Moore, "yes"; Mr. Radcliffe, "yes"; Mr. Witherspoon, "yes"; Mr. Fischer, "yes".

The vote was 7 for and 0 against and the Chairman declared the motion passed.

7. RECONVENE: 8:45 p.m.

A motion made by Mr. McBride and seconded by Mr. Witherspoon to Reconvene the Work Session of Council, and the vote was: Mrs. Holtzmeier, "yes"; Mr. McBride, "yes"; Mr. Moore, "yes"; Mr. Radcliffe, "yes"; Mr. Witherspoon, "yes"; Mrs. Demaline, "yes"; Mr. Fischer, "yes".

The vote was 7 for and 0 against and the Chairman declared the motion passed.

8. ADJOURN: 8:46 p.m.

There being no further business, the Work Session of Council was adjourned.

PASSED: \_\_\_\_\_

SIGNED BY: \_\_\_\_\_  
Brian Fischer, Council President

ATTEST: \_\_\_\_\_  
Barbara Brooks, Clerk of Council