

ORDINANCE NO. 3-23

**AN ORDINANCE GRANTING A SPECIAL USE PERMIT TO AVON JV, LLC
TO CONSTRUCT AN 8,600 SQ. FT. MEDICAL FACILITY CONTAINING A
RESTAURANT WITH A DRIVE-THRU FACILITY AND OUTDOOR SEATING
AREA TO BE LOCATED AT 36320 DETROIT ROAD
AND DECLARING AN EMERGENCY**

WHEREAS, Avon JV, LLC (hereinafter referred to as Avon JV), is the owner of property located at 36320 Detroit Road; and

WHEREAS, Avon JV proposes to construct an 8,600 sq. ft. building to house a medical facility and a restaurant with a drive-thru facility and an outdoor seating area; and

WHEREAS, the zoning regulations for the City of Avon require restaurants with drive-thru facilities and outdoor seating areas in the C-2 French Creek/Central Business Districts to obtain Special Use Permits for each pursuant to ACO '1270.03(b)(3) and (b)(8); and

WHEREAS, Avon JV has submitted an application and presented plans and specifications for the aforementioned construction to the Planning Commission on December 21, 2022; and

WHEREAS, the Planning Commission held a public hearing on December 21, 2022 and by a vote of Five (5) to Zero (0), recommended approval of the Special Use Permit; and

WHEREAS, Council, after reviewing the application, plans and specifications and the recommendation of the Planning Commission, deems it in the best interests of the health, safety and welfare of the community that the Special Use Permits be granted.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON, LORAIN COUNTY, OHIO:

Section 1 - That having considered the matter of granting these two (2) Special Use Permits to Avon JV, LLC, as owner of the property located at 36290 Detroit Road, Council hereby accepts the recommendation of Planning Commission and agrees to grant said Special Use Permits per the plans and specifications submitted and approved by the Planning Commission on December 21, 2022, and made a part of this Special Use Permit by reference but subject to the conditions set forth in this ordinance.

Section 2 - Conditions. (1) The outdoor seating area may be open between the hours of 8:00 a.m. to 9:00 p.m. Sunday through Saturday; (2) no live music will be permitted on the outdoor patio only soft ambient music from inside the restaurant; (3) the owner of the property agrees to return to Planning Commission and, if necessary, to City Council to address any City concerns regarding either the outdoor seating area or, in the case of the drive-thru facility, traffic issues that could arise from back-ups at the drive-thru window; (4) that the project shall proceed pursuant to plans and specifications approved and recommended by the Planning Commission at

its December 21, 2022 meeting; (5) that all applicable requirements pertaining to outdoor seating areas and drive-thru facilities as set forth in Chapter 1230, 1280.02, 1280.03, 1280.05(f), 1280.05(cc), 1280.06(j), 1280.06(dd) of the Codified Ordinances of the City of Avon be met by the applicants; and (6) Any expansion, development, enlargement, improvement, change in ownership, tenancy, use or the like, other than maintenance of the property in its current condition, will require an additional amendment to this Special Use Permit, with a recommendation of Planning Commission and approval by Council.

Section 3 - That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4 - That this Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety and welfare of the citizens of the City of Avon, the immediate emergency being the necessity to grant a Special Use Permit to Avon JV, LLC, for a restaurant with outdoor seating and a drive-thru facility at 36320 Detroit Road; therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: January 9, 2023 DATE SIGNED: January 9, 2023

By: Brian Fischer
Brian Fischer, Council President

DATE APPROVED BY THE MAYOR: January 10, 2023

[Signature]
Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior
John A. Gasior, Law Director

ATTEST:

Barbara Brooks
Barbara Brooks, Clerk of Council

Ordinance No. 3-23 (Con't)

POSTED: January 11, 2023
Electronically and at City Hall as
Provided by Council

Prepared by:
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Law Director

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I, Barbara J. Brooks, Clerk of the Council of the City of Avon, Ohio, hereby certify this document to be a true and exact copy of Ordinance No. 3-23, passed by the Council of said City on January 9, 2023.

IN WITNESS WHEREOF, I have on this 10th day of January, 2023, affixed my signature and official seal.

Barbara J. Brooks
Barbara J. Brooks, Clerk of the Council
of the City of Avon, Ohio