

ORDINANCE NO. 92-24

**AN ORDINANCE TO AMEND A SPECIAL USE PERMIT GRANTED TO
CARAVON GOLF COMPANY, LTD (RED TAIL GOLF CLUB) TO
INCLUDE INSTALLATION OF A SHORT GAME PRACTICE GREEN ON
A PARCEL OF LAND LEASED FROM GEORGIA PROPERTIES (PP# 04-00-025-000-
484) AND LOCATED ON THE EAST SIDE OF NAGEL ROAD
AND DECLARING AN EMERGENCY**

WHEREAS, pursuant to Avon Codified Ordinance §1262.03(c)(2), golf courses require a Special Use Permit to operate in an R-1 Residential District; and

WHEREAS, Caravon Golf Company, Ltd., (Red Tail Golf Club), located at 4400 Nagel Road in an R-1 Residential District, has a Special Use Permit to operate a golf course, club house, tennis courts, swimming pool and other amenities at its facility pursuant to Ordinance No. 54-99, passed May 10, 1999; and

WHEREAS, Council has since passed Ordinance Nos. 69-10; 100-15; 95-16; 18-18; and 41-24 to make amendments to that Special Use Permit; and

WHEREAS, it is again necessary to amend the Special Use Permit to include the installation of a short game practice green on a parcel of land leased from Georgia Properties (PP# 04-00-025-000-484); and

WHEREAS, the Planning Commission held a public hearing on September 18, 2024, and by a vote of Five (5) to Zero (0), recommended amending 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 amendment to the Special Use Permit be granted.

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

Section 1 - That Council hereby accepts the recommendation of the Planning Commission and amends the Special Use Permit for Caravon Golf Company, Ltd. (Red Tail Golf Club) to include the installation, maintenance and operation of a short game practice green on a parcel of land it leases from Georgia Properties (PP# 04-00-025-000-484) located on the east side of Nagel Road adjacent to and south of the existing driving range, as per the plans, specifications, lease and drawings recommended to be approved by the Planning Commission on September 18, 2024 all of which are set forth in Exhibit A, attached hereto and made a part of this Special Use Permit by reference.

Section 2 - Conditions. 1) That the project proceed pursuant to plans and specifications approved and recommended by the Planning Commission on September 18, 2024; and 2) that the amended Special Use Permit granted herein for the installation of a short game practice green on the east side of Nagel Road, PP# 04-00-025-000-484 is conditioned upon applicant meeting all applicable requirements of the Avon Codified Ordinances including, but not limited to those set

forth in previous special use legislation, as well as adhering to the requirements of Chapter 1264, 1280.02, 1280.03, 1280.04(l) and 1280.06(n). Any expansion, development, enlargement, improvement, change or the like, other than maintenance of the property in its current condition, will require an amendment to this Special Use Permit, with a recommendation of Planning Commission and approval by City 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 amend the Special Use Permit to Caravon Golf Company, Ltd., (Red Tail Golf Club) to include installation of a short game practice green on a parcel of land leased from Georgia Properties (PP# 04-00-025-000-484); therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: October 15, 2024

DATE SIGNED: October 15, 2024

By: Brian Fischer
Brian Fischer, Council President

DATE APPROVED BY THE MAYOR October 16, 2024

[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

POSTED: October 17, 2024
Electronically and at City Hall as
Provided by Council

Prepared by:
John A. Gasior, Esq.
Law Director

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. 92-24, passed by the Council of said City on October 15, 2024.

IN WITNESS WHEREOF, I have on this 16th day of October 2024, affixed my signature and official seal.

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

EXHIBIT A TO ORDINANCE NO. 92-24

LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("Agreement"), made as of the 10th day of September 2024, by and between GEORGIA PROPERTIES LIMITED PARTNERSHIP, an Ohio limited partnership with an address of 27500 Detroit Road, Suite 300, Westlake, Ohio 44145 ("Grantor") and the CARAVON GOLF COMPANY, LTD., an Ohio limited liability company d/b/a RED TAIL GOLF CLUB with an address of 4400 Nagel Road, Avon, Ohio 44011 ("Grantee"). Grantor and Grantee may be each individually referred to as a "Party" and collectively referred to as the "Parties." This Agreement shall be effective upon the date the last Party executes this Agreement ("Effective Date").

WITNESSETH

WHEREAS, Grantor is the owner in fee of that certain property designated as Permanent Parcel No. 04-00-024-000-484 adjacent to a part of property controlled by the Red Tail Golf Club (the "Club") and located on the eastside of Nagel Road in the City of Avon, County of Lorain, State of Ohio ("Property") and further shown on Exhibit A attached hereto and made a part hereof; and

WHEREAS, Grantee has, with Grantor's explicit authority and consent as set forth in this Agreement, sought to obtain any and all governmental approvals to improve and maintain a portion of the Property to permit additional golf-related activities by installing an area for golfers at the Club to practice short, low golf shots, e.g., putting and chipping ("Short Game Area") in accordance with the scope of work and landscape detail provided on the Plans dated August 14, 2024 and submitted for approval with the City of Avon ("Final Plans"); and

WHEREAS, Grantee has requested a license from Grantor in order to enter the Property for the purpose of completing and maintaining the Short Game Area, at Grantee's sole cost and expense, for the benefit of Grantee and the Club as provided herein; and

WHEREAS, Grantor has agreed to and does hereby grant a non-exclusive license subject to the terms and conditions defined herein, which Grantee acknowledges and accepts; therefore, Grantor and Grantee are desirous of executing this Agreement in order to provide Grantee a non-exclusive license to improve the Property with the installation and maintenance of the Short Game Area pursuant to the approval process by the City of Avon, and the terms and conditions set forth herein; and

NOW THEREFORE, in consideration of the promises, mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto covenant and agree as follows:

1. Grant of License. Grantor hereby grants to Grantee the right to improve and maintain the portion of the Property designated on the Final Plans ("License Area") on which the Short Game Area is located. Grantee agrees that this Agreement does not and will not, at any time permit Grantee to claim any interest or estate in the Property or License Area by virtue of this right and permission to enter, improve and maintain the License Area, it being the intent of the Parties to create only a license to use the License Area as permitted herein. Grantor may use the Property for any other permitted use in Grantor's sole discretion, provided such use does not have an adverse impact on the Grantee's intended use of the License Area. Grantee hereby acknowledges it is accepting the License Area in its "AS-IS WHERE-IS" condition without any representations or warranties whatsoever on the part of Grantor as to the condition of the License Area. Unless otherwise terminated as provided herein, in the event appropriate approvals for the Short Game Area are not received within twelve (12) months from the Effective Date of this Agreement, this license shall thereafter terminate and the Parties shall have no further obligations or liabilities in connection herewith.
2. Improvements. Upon receipt of the appropriate governmental approvals, Grantee shall proceed to install the Short Game Area in accordance with the Final Plans as approved by the City of Avon ("Improvements"). Grantee shall complete the Improvements in a prompt, workmanlike manner and in accordance with the work and specifications approved, with minimal interference or impact on the continued play of golf and without interference to ingress and egress to any residents in the Red Tail community. The work shall be scheduled with the prior approval of the Red Tail Golf Club Superintendent and Golf Professional. The Improvements shall be promptly and fully paid for by the Grantee to prevent any mechanic's liens on the Property.
3. Repairs and Maintenance. The responsibility and costs for maintaining, repairing, refurbishing and replacing the License Area and the Property during the term of the Agreement shall be the sole responsibility of the Grantee, unless otherwise agreed upon between the Parties. Grantor shall have no responsibility for any costs related to the License Area during the Term of this Agreement. Grantee shall maintain the License Area and Property in a first-class manner consistent with other areas of the golf course.
4. Insurance; Indemnification. Grantee shall maintain at all times insurance against claims for personal injury or property damage in the amount of \$2,000,000 with an insurance company rated A:XII or better in "Best's Key Rating Guide" or as reasonably consented to in writing by Grantor and in form reasonably acceptable to Grantor. Grantee shall provide Grantor with a certificate of insurance, indicating, as appropriate: (i) the name of such party's insurance carrier; (ii) the policy number; (iii) the effective date of such policy; (iv) the liability limits of such policy; (v) that Grantor is an additional insured under the policy; and (vi) that Grantor will be provided with at least thirty (30) days' prior written notice as to cancellation or modification of the policy. Notwithstanding such insurance coverage, Grantee shall and does hereby fully indemnify Grantor, its successors, assigns, owners, partners, employees and agents, against all liabilities, demands, claims, suits, losses, damages, causes of action, judgments, costs and expenses including without limitation, attorneys' fees, and for injuries or death to any persons, or damage to or loss of destruction of any property, including any such injury, death, loss, destruction or damage that arises directly or indirectly out of or is related to the negligent,

unreasonable, willful or wanton use or misuse of the License Area by Grantee or Grantee's agents and/or invitees.

5. Term. The term of this Agreement shall commence on the Effective Date and shall continue until the earlier of (i) a period of twenty-five (25) years; (ii) the date upon which this Agreement is terminated by Grantor; or (iii) this Agreement is terminated by mutual agreement of the Parties.
6. Notices. Any notice required or permitted to be given by the terms of this Agreement shall be given in writing by personal service or by mailing such notice by certified mail, return receipt requested, to the Parties at their respective addresses set forth in this Agreement. In the event that any such notice is made by mail, such notice shall be deemed to have been given and, therefore be effective, as of the date of receipt shown on the return receipt card accompanying the notice or the date of refusal to accept delivery as shown on said card.
7. Effect of the Agreement. The license herein granted shall be subject to such other reasonable rules, regulations and requirements as Grantor may reasonably impose in writing, except to the extent as promulgated they are in conflict with this Agreement, in which event this Agreement shall govern.
8. No Recordation. The Parties agree that this Agreement shall not be filed of record in Lorain County, Ohio.
9. Amendments. No modification of this Agreement shall be binding upon the Parties unless set forth in recordable form and signed by both the Parties.
10. Severability. If any provision of this Agreement is determined to be invalid or unenforceable, this Agreement shall be divisible as to such provision and the remainder of the Agreement shall be and remain valid and binding as though such provision were not included herein.

IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement of the day and year last written below.

GRANTOR

GEORGIA PROPERTIES
LIMITED PARTNERSHIP
an Ohio limited partnership

By: Carnegie Management and Development
Development Corporation, an Ohio corp.
its General Partner

By: _____

Rustom R. Khouri, CEO

Date: Sept. 10, 2024

GRANTEE

CARAVON GOLF COMPANY, LTD.
an Ohio limited liability company

By: Carnegie Residential Development
Corporation, an Ohio corp., its Manager

By: _____

Rustom R. Khouri, CEO

Date: Sept. 10, 2024

GRANTOR ACKNOWLEDGMENT

STATE OF OHIO

)

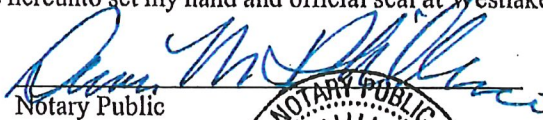
) §§:

COUNTY OF CUYAHOGA

)

BEFORE ME, a Notary Public, in and for said county and state, personally appeared Rustom R. Khouri, the Chief Executive Officer of Carnegie Management and Development Corporation, an Ohio corporation and the General Partner of **GEORGIA PROPERTIES LIMITED PARTNERSHIP**, who executed the foregoing Agreement, and who acknowledged that he did sign the foregoing Agreement for and on behalf of said company, being thereunto duly authorized and that the same is his free act and deed as such officer and the free act and deed of said limited partnership.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Westlake, Ohio, this 10th day of September, 2024.


Notary Public



DAWN M. PHILLIPS
Notary Public, State of Ohio
My Commission Expires
January 26, 2027

GRANTEE ACKNOWLEDGMENT

STATE OF OHIO

)

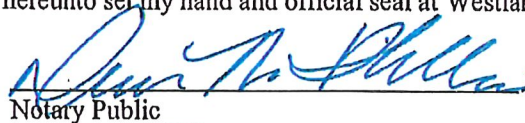
) §§:

COUNTY OF CUYAHOGA

)

BEFORE ME, a Notary Public, in and for said county and state, personally appeared Rustom R. Khouri, the Chief Executive Officer of Carnegie Residential Development Corporation, the Manager of **CARAVON GOLF COMPANY, LTD.**, an Ohio limited liability company, who executed the foregoing Agreement, and who acknowledged that he did sign the foregoing Agreement for and on behalf of said company, being thereunto duly authorized and that the same is his free act and deed as such officer and the free act and deed of said company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Westlake, Ohio, this 10th day of September, 2024.


Notary Public



DAWN M. PHILLIPS
Notary Public, State of Ohio
My Commission Expires
January 26, 2027

Attachments: Exhibit "A"

This Instrument Prepared by:
Jonathan Khouri, Esq.
27500 Detroit Road, Suite 300
Westlake, Ohio 44145
Phone Number: (440) 892-6800

EXHIBIT A TO LICENSE AGREEMENT

PPN 0400025000484

IMAGE FROM THE LORAIN COUNTY AUDITOR WEBSITE

