

ORDINANCE NO. 143-14

**AN ORDINANCE GRANTING A SPECIAL USE PERMIT TO JG AVON LLC
TO ALLOW GETGO (THE LESSEE) TO INCLUDE OUTDOOR SEATING
AND AN ABOVEGROUND FUEL STORAGE TANK TO BE
LOCATED ON PROPERTY IT OWNS AT THE SOUTHEAST CORNER
OF JUST IMAGINE DRIVE AND NAGEL ROAD,
AND DECLARING AN EMERGENCY**

WHEREAS, the zoning regulations for the City of Avon require restaurants with outdoor seating areas in the C-4/M-1 General Business/General Industrial Districts to obtain a Special Use Permit pursuant to ACO §1270.03(b)(8); and

WHEREAS, zoning regulations for the City of Avon, viz., ACO §1270.03(d)(4), require a Special Use Permit for the installation and maintenance of an above-ground storage container of flammable/combustible liquids, LPG, or hazardous materials in any size to be used for the sole purpose of on-site power generation in the C-4/M-1 General Business/General Industrial Districts; and

WHEREAS, JG Avon, LLC, as the owner of the land being leased to its tenant Giant Eagle (GetGo), has authorized Giant Eagle to submit an application and present plans and specifications to Avon Planning Commission for an outdoor seating area and aboveground fuel storage tank to be placed at the GetGo fuel station to be located at the southeast corner of Just Imagine Drive and Nagel Road ; and

WHEREAS, the Planning Commission held a public hearing on November 19, 2014 and by a vote of Five (5) to Zero (0), recommended approval of the Special Use Permit; and

WHEREAS, this Special Use Permit requires approval of City Council; 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 Permit 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 the Special Use Permit to JG Avon, LLC to allow its tenant, Giant Eagle (GetGo), to include an outdoor seating area and an above-ground storage container of flammable/combustible liquids, LPG, or hazardous materials in any size to be used for the sole purpose of on-site power generation per plans and specifications submitted to Planning Commission on November 19, 2014, Council hereby accepts the recommendation of Planning Commission and agrees to grant the Special Use Permits for the C-4/M-1 General Business/General Industrial Districts located at the southeast corner of Just Imagine Drive and Nagel Road subject to the conditions set forth in this ordinance.

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Section 2 - Conditions. The Special Use Permit granted herein is conditioned upon applicant meeting all applicable requirements set forth in 1230.09, 1280.02, 1280.03, 1280.05(bb), 1280.05(a)(2), 1280.06(a), 1280.06(w)(2)-(7), 1280.06(dd) of the Codified Ordinances of the City of Avon. Any other expansion, development, enlargement, improvement, change in tenancy, ownership, 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 for JG Avon, LLC, for an outdoor seating area and an above-ground fuel storage tank for its tenant Giant Eagle (GetGo) to be located at the southeast corner of Just Imagine Drive and Nagel Road; therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: _____ DATE SIGNED: _____

By: _____
Craig Witherspoon, Council President

DATE APPROVED BY THE MAYOR: _____

Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior, Law Director
City of Avon, Ohio

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ATTEST:

Ellen R. Young
Clerk of Council

POSTED: _____
In Five Places as
Provided by Council

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