

ORDINANCE NO. 40-13

**AN ORDINANCE GRANTING A SPECIAL USE PERMIT TO
BJ'S WHOLESALE CLUB TO INSTALL AN ABOVEGROUND FUEL STORAGE
TANK FOR DISPENSING PURPOSES (PROPANE CYLINDER FILLING AREA)
ON PROPERTY LOCATED AT 38292 COLORADO AVENUE
AND DECLARING AN EMERGENCY**

WHEREAS, zoning regulations for the City of Avon require a Special Use Permit for aboveground storage of an LPG tank in excess of 25 gallons but less than 1,500 gallons for sale or distribution in the C-3 Planned Commercial Development district pursuant to ACO §1270.03(d)(3); and

WHEREAS, BJ's Wholesale Club, has submitted an application and presented plans and specifications for the addition of a propane (LPG) cylinder filling station (aboveground fuel storage tank) to be located on the east side of its C-3 property at 38292 Colorado Avenue to the Planning Commission on March 20, 2013; and

WHEREAS, the Planning Commission held a public hearing on March 20, 2013, 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 Permit be granted.

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

Section 1 - That Council, having considered the plans and specifications for the proposed addition of a propane (LPG) cylinder filling station (aboveground fuel storage tank), does hereby accept the recommendation of the Planning Commission and grants a Special Use Permit to BJ's Wholesale Club for the installation of said tank on the east side of their C-3 property located at 38292 Colorado Avenue.

Section 2 - Conditions. (1) That all applicable requirements set forth in 1230.09, 1270.03(d)(3), 1280.02, 1280.03, 1280.05(a)(3), 1280.06(a)(3) and 1280.06(w)(2-7) of the Codified Ordinances of the City of Avon be met by the applicant; and (2) that the applicant agrees not to expand, develop, enlarge, improve, change tenancy, or use this Special Use Permit other than as set forth in these plans and specifications without first applying for an amendment to this Special Use Permit to the Avon Planning Commission and obtaining 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

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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 allow a Special Use Permit for BJ's Wholesale Club, for the addition of a propane (LPG) cylinder filling station (aboveground fuel storage tank) to be located on the east side of its C-3 property located at 38292 Colorado Avenue; therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: _____ DATE SIGNED: _____

By: _____
Daniel S. Zegarac, Council President

DATE APPROVED BY THE MAYOR: _____

James A. Smith, Mayor

APPROVED AS TO FORM:

John A. Gasior, Law Director

ATTEST:

Ellen R. Young
Clerk of Council

Posted: _____
In Five Places as
Provided by Council

Prepared By:

John A. Gasior, Esq.
Law Director