

ORDINANCE NO. 32-19

**AN ORDINANCE TO AMEND THE SPECIAL USE PERMIT GRANTED TO
NICK RAK TO ALLOW HIS TENANT, BAR NOVA, TO CONSTRUCT
A NEW STAMPED CONCRETE OUTDOOR PATIO WITH
RETAINING WALL AT 36816 DETROIT ROAD
AND DECLARING AN EMERGENCY**

WHEREAS, the zoning regulations for the City of Avon require restaurants with outdoor seating areas in the C-2 District to obtain a Special Use Permit pursuant to ACO §1270.03(b)(8); and

WHEREAS, Nick Rak applied for and was granted a Special Use Permit pursuant to Ordinance No. 62-07 (passed on June 11, 2007), to construct an outdoor seating area at his restaurant then known as Little Whistler's Ice Cream Shop, located at 36816 Detroit Road; and

WHEREAS, the outdoor seating area approved in Ordinance 62-07 was later enclosed and made a part of the restaurant; and

WHEREAS, the current tenant, Bar Nova (Keith Grisaco, proprietor), submitted an application and presented plans and specifications to the Planning Commission on March 20, 2019, for the relocation and construction of a new stamped concrete outdoor patio and retaining wall (approximate 900 sq. ft.), to be located in front of the existing building, just south of the original outdoor patio location; and

WHEREAS, the Planning Commission held a public hearing on March 20, 2019 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 amended to allow the original outdoor patio to be relocated.

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

Section 1 - That having considered the matter of amending the Special Use Permit to allow for the construction and relocation of a new stamped concrete outdoor patio and retaining wall (approximate 900 sq. ft.) for Bar Nova located at 36816 Detroit Road, Council hereby accepts the recommendations of the Planning Commission and agrees to amend the Special Use Permit subject to the conditions set forth in this ordinance.

Section 2 - Conditions. (1) The outdoor patio may be open, weather permitting, between the hours of 4:00 p.m. to 12:00 a.m. Monday through Thursday and from 4:00 p.m. to 1:00 a.m. Fridays and Saturdays; (2) no live music will be permitted on the outdoor patio only soft ambient music from inside the restaurant; (3) the project must proceed pursuant to plans and specifications approved and recommended by the Planning Commission at its March 20, 2019 meeting; and (4) the Special Use Permit granted herein is conditioned upon applicant

meeting all applicable requirements of the Avon Codified Ordinances including, but not limited to 1280.02, 1280.03, 1280.05(bb), and 1280.06(dd). Any other expansion, development, enlargement, improvement, change in 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 amend the Special Use Permit to allow for the relocation and construction of a new stamped concrete outdoor patio and retaining wall (approximate 900 sq. ft.) for Bar Nova to be located in front of the existing building at 36816 Detroit 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

ATTEST:

Barbara Brooks
Clerk of Council

POSTED: _____
In Five Places as
Provided by Council

Prepared by:
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Law Director