

ORDINANCE NO. 60-20

**AN ORDINANCE GRANTING A SPECIAL USE PERMIT TO NAKOTAI, LLC, TO
AUTHORIZE THEIR TENANT, BIG TOP BREWING CO., (dba ZZ's BIG TOP),
TO CONSTRUCT AN 840 SQ. FT. OUTDOOR PATIO SEATING AREA
AND FENCE FOR PROPERTY LOCATED AT 35015 DETROIT ROAD
AND DECLARING AN EMERGENCY**

WHEREAS, the zoning regulations for the City of Avon require restaurants with outdoor seating areas in the C-1 Neighborhood Business District to obtain a Special Use Permit pursuant to ACO '1270.03(b)(8); and

WHEREAS, Nakotai LLC, the owner of two (2) parcels of land, viz., 04-00-022-103-015 (east) and 04-00-022-103-038 (west), pursuant to a lease with Big Top Brewing Co. (dba, ZZ's Big Top), has submitted an application and presented plans and specifications to Planning Commission for an 840 sq. ft. outdoor seating area and fence for their brewery on June 17, 2020; and

WHEREAS, said outdoor patio will cover portions of both parcels and the owner has agreed to deed restrict the western parcel so that it cannot be sold separately from the eastern parcel without removing that portion of the patio that encumbers it; and

WHEREAS, the Planning Commission held a public hearing on June 17, 2020 and by a vote of Five (5) to Zero (0), recommended approval of the Special Use Permit; and

WHEREAS, the granting of 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 Nakotai LLC, owner of the property being leased to Big Top Brewing Co., (dba, ZZ's Big Top), Council hereby accepts the recommendation of Planning Commission and agrees to grant said special use permit for an 840 sq. ft. outdoor seating area and fence on the property located at 35015 Detroit Road per the plans and specifications submitted and approved by the Planning Commission on June 17, 2020, 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 patio may be open, weather permitting, between the hours of 11:00 a.m. to 1:00 a.m. Sunday through Saturday; (2) soft ambient music may be played through outdoor speakers; live music is restricted to one (1) person

acoustic performances; (3) the owner of the property, Nakotai LLC agrees to deed restrict parcel nos. 04-00-022-103-015 (east) and 04-00-022-103-038 (west) so that neither parcel may be sold separately without first requiring the removal of the patio encroachment; (4) the project must proceed pursuant to plans and specifications approved and recommended by the Planning Commission at its June 17, 2020 meeting; and (5) the Special Use Permit granted herein is conditioned upon applicant meeting all applicable requirements of the Avon Codified Ordinances including, but not limited to 1270.02, 1270.03(b)(8), 1280.02, 1280.03, 1280.05(cc), and 1280.06(dd). Any expansion, development, enlargement, improvement, change in 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 to Nakotai LLC, for its tenant, Big Top Brewing Co. (dba, ZZ's Big Top), to construct an 840 sq. ft. outdoor seating area and fence located at 35015 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: _____
Brian Fischer, Council President

DATE APPROVED BY THE MAYOR _____

Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior, Law Director

ATTEST:

Barbara Brooks
Clerk of Council

POSTED: _____
In Five Places as
Provided by Council

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