

ORDINANCE NO. 37-22

AN ORDINANCE GRANTING A SPECIAL USE PERMIT TO BENCHMARK AVON, LLC TO ALLOW THEIR TENANT, CITY BARBEQUE, LLC TO CONSTRUCT A 598 SQ. FT. CONCRETE PATIO/OUTDOOR SEATING AREA ON PROPERTY LOCATED AT 35495 CHESTER ROAD AND DECLARING AN EMERGENCY

WHEREAS, the zoning regulations for the City of Avon require restaurants with outdoor seating areas located in the C-4/O-2 General Business/Planned Research Office Park Districts to obtain a Special Use Permit pursuant to ACO '1270.03(b)(8); and

WHEREAS, Benchmark Avon, LLC, (Benchmark) the property owner, leases space to City Barbeque, LLC, (d.b.a. City Barbeque) a restaurant, on land they own at 35495 Chester Road in the C-4/O-2 zoning districts; and

WHEREAS, City Barbeque, on behalf of Benchmark, submitted an application and presented plans and specifications for a 598 sq. ft. concrete patio/outdoor seating area to the Planning Commission on March 16, 2022; and

WHEREAS, the Planning Commission held a public hearing on March 16, 2022 and after taking statements from the applicant and all interested parties voted Five (5) in favor and Zero (0) opposed to recommend to Council 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 with conditions.

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 Benchmark Avon, LLC, Council hereby accepts the recommendation of Planning Commission and agrees to grant said special use permit for a 598 sq. ft. concrete patio/outdoor seating area on the property it owns at 35495 Chester Road for its tenant, City Barbeque, LLC, per the plans and specifications submitted and approved by the Planning Commission on March 16, 2022 and as set forth in attached [Exhibit A](#), all of which are made a part of this Special Use Permit by reference and 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 9:00 p.m. Sunday through Saturday; (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 16, 2022 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 Chapter 1230, Section 1280.02, 1280.03, 1280.05(cc), and 1280.06(dd). Any expansion, development, enlargement, improvement, change in ownership/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 grant a Special Use Permit to Benchmark Avon, LLC for a 598 sq. ft. concrete patio/outdoor seating area at 35495 Chester Road for its tenant, City Barbeque, LLC, subject to the conditions set forth herein; 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