

ORDINANCE NO. 70-23

AN ORDINANCE GRANTING A SPECIAL USE PERMIT TO DeVILLE DEVELOPMENTS, LLC TO CONSTRUCT AN OUTDOOR PATIO SEATING AREA FOR THEIR 6,800 SQ. FT. BUILDING TO BE LOCATED AT 33420 JUST IMAGINE DRIVE SAID BUILDING TO BE LEASED TO THEIR TENANT, NOODLES, AND DECLARING AN EMERGENCY

WHEREAS, DeVille Developments, LLC (hereinafter referred to as DeVille), is the owner of property located at 33420 Just Imagine Drive; and

WHEREAS, DeVille proposes to construct a 6,800 sq. ft. building with an outdoor seating area and lease it to Noodles to operate a restaurant and drive-through facility; and

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 Special Use Permits for each pursuant to ACO '1270.03(b)(8); and

WHEREAS, DeVille submitted an application and presented plans and specifications for the aforementioned construction to the Planning Commission on April 19, 2023; and

WHEREAS, the Planning Commission held a public hearing on April 19, 2023 and by a vote of Four (4) 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 having considered the matter of granting the Special Use Permit to DeVille Developments, LLC, Council hereby accepts the recommendation of Planning Commission and agrees to grant said Special Use Permit for an outdoor patio seating area on property it owns at 33420 Just Imagine Drive for their tenant, Noodles, per the plans and specifications submitted and approved by the Planning Commission on April 19, 2023, (See Exhibit A) 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 seating area may be open 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) that the project shall proceed pursuant to plans and specifications approved and recommended by the Planning Commission at its April 19, 2023 meeting; (4) the Special Use Permit granted herein is conditioned upon applicant meeting all applicable requirements pertaining of the Avon Codified Ordinances, including, but not limited to Chapter 1230, Sections 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 DeVille Developments, LLC for a restaurant with outdoor seating at 33420 Just Imagine Drive for their tenant, Noodles, 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: May 22, 2023 DATE SIGNED: May 22, 2023

By: Brian Fischer
Brian Fischer, Council President

DATE APPROVED BY THE MAYOR May 23, 2023

Bryan K. Jensen
Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior
John A. Gasior, Law Director

ATTEST:

Barbara Brooks
Barbara Brooks, Clerk of Council

POSTED: May 24, 2023
Electronically and at City Hall as
Provided by Council

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

I, Barbara J. Brooks, Clerk of the Council of the City of Avon, Ohio, hereby certify this document to be a true and exact copy of Ordinance No. 70-23, passed by the Council of said City on May 22, 2023.

IN WITNESS WHEREOF, I have on this 23rd day of May, 2023, affixed my signature and official seal.

Barbara J. Brooks
Barbara J. Brooks, Clerk of the Council
of the City of Avon, Ohio

