

ORDINANCE NO. 106-23

AN ORDINANCE GRANTING A SPECIAL USE PERMIT TO T3 REALTY II, LLC TO ALLOW FOR CONSTRUCTION OF A 4,755 SQ. FT. BUILD-OUT FOR THE CREATION OF TWO (2) EXTERIOR VOLLEYBALL COURTS AND AN OUTDOOR DINING PATIO FOR PROPERTY LOCATED AT 1945 RECREATION LANE AND DECLARING AN EMERGENCY

WHEREAS, the zoning regulations for the City of Avon require recreation facilities with outdoor recreation and outdoor dining areas in the C-4 General Business District to obtain a Special Use Permit pursuant to ACO Sections 1270.03(g)(2) and 1270.03(b)(8); and

WHEREAS, T3 Realty II, LLC, the property owner has submitted an application and presented plans and specifications to Planning Commission for construction of a 4,755 sq. ft. build-out for the creation of two (2) exterior volleyball courts and an outdoor dining patio for their facility located at 1945 Recreation Lane; and

WHEREAS, the Planning Commission held a public hearing on September 20, 2023 and by a vote of Five (5) in favor and Zero (0) opposed, 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 T3 Realty II, LLC as owner of the property at 1945 Recreation Lane, Council hereby accepts the recommendation of the Planning Commission and agrees to grant the Special Use Permit per the plans and specifications submitted and approved by the Planning Commission on September 20, 2023, and made a part of this Special Use Permit by reference. (See [Exhibit A](#))

Section 2 - Conditions. (1) T3 Realty II, LLC shall be permitted to construct a 4,755 sq. ft. build-out to create four (4) exterior volleyball courts (outdoor recreation) and an outdoor dining patio (outdoor seating) at their facility located at 1945 Recreation Lane within a C-4 General Business District; (2) T3 Realty II, LLC agrees to maintain the courts, the lighting and the parking areas; (3) The restaurant and outdoor patio may be open only while T3 is open. The restaurant's proposed hours of 7:00 a.m. to 9:00 p.m. Sunday through Saturday currently is within that timeframe; (3) no live music will be permitted on the outdoor patio only soft ambient music from inside the facility; (4) the project shall proceed pursuant to plans and specifications approved and recommended by the Planning Commission at its September 20, 2023 meeting; and (5) that 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, Sections 1280.02, 1280.03, 1280.05(t), 1280.06(v), 1280.05(cc), and 1280.06(dd); and (6) applicant agrees to enter into the "Agreement Regarding Easement" (attached hereto and incorporated herein as [Exhibit B](#)) with respect to the City's sanitary sewer easement that runs over and beneath the area of these improvements as depicted in Exhibit A. Any expansion, development, enlargement, improvement, change in ownership or 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 T3 Realty II, LLC to construct a 4,755 sq. ft. build-out for the creation of two (2) exterior volleyball courts and an outdoor dining patio to be located at 1945 Recreation Lane subject to the conditions set forth above; 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: _____
Electronically and at City Hall as
Provided by Council

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