

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: October 10, 2023 DATE SIGNED: October 10, 2023

By: Brian Fischer
Brian Fischer, Council President

DATE APPROVED BY THE MAYOR October 11, 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: October 12, 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. 106-23, passed by the Council of said City on October 10, 2023.

IN WITNESS WHEREOF, I have on this 11th day of October, 2023, affixed my signature and official seal.

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

T3 PERFORMANCE
RECREATION CENTER
1945 RECREATION LANE, AVON OH, 44011

[illegible]

EXISTING ACCESSIBLE PARKING SIGNS

TITLE SHEET

G101



FREEMAN
BUILDING SYSTEMS

PROPOSED
AVON BREWERY
AT T3
PERFORMANCE
3540 RECREATION LANE
AVON, OHIO 44011

Copyright Notice and Contact Info

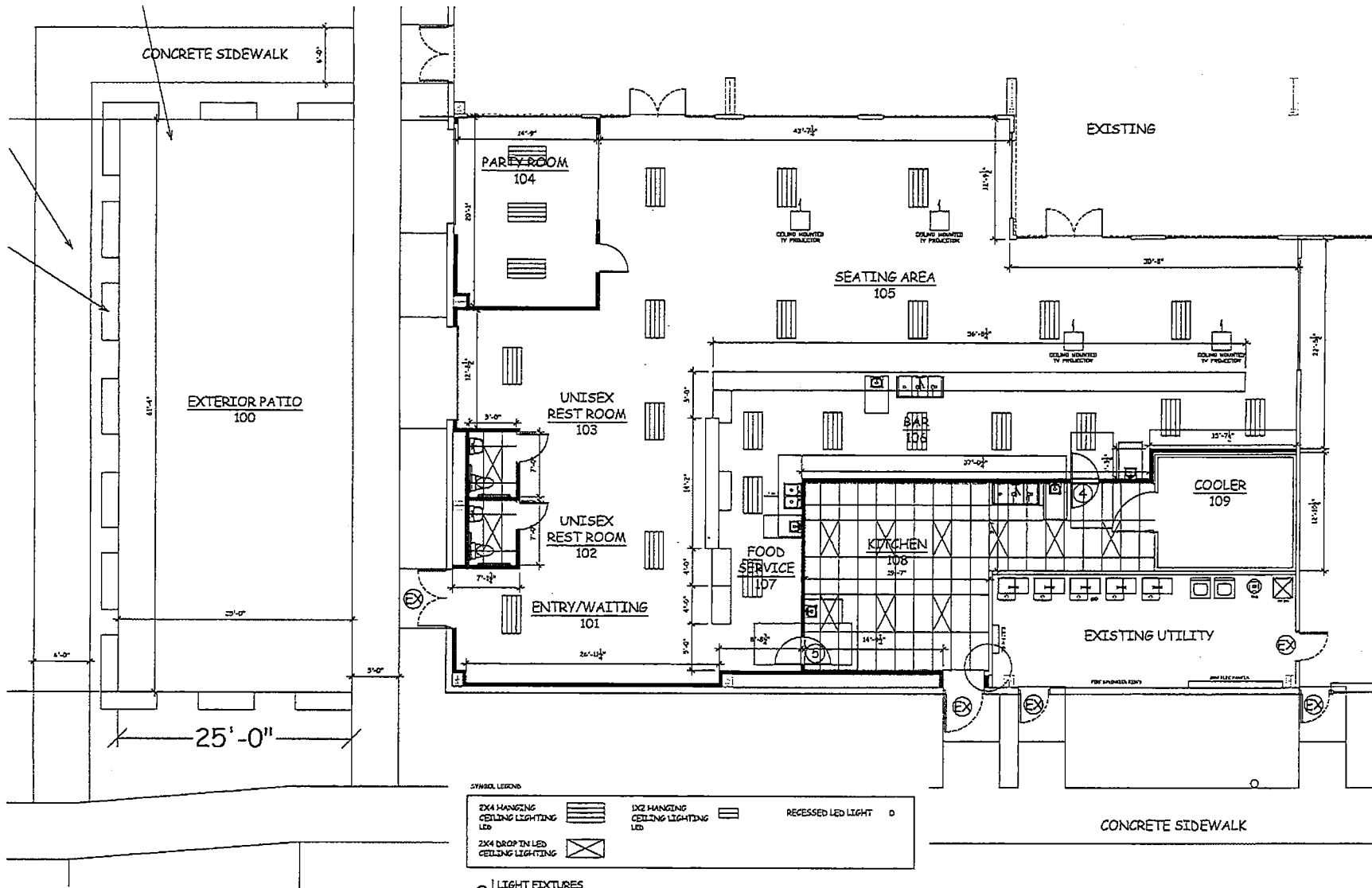
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Item	Remarks / Issue	Date
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OVERALL CAMPUS
PLAN
G103



A101



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FREEMAN
BUILDING SYSTEMS

Project Name and Address
PROPOSED AVON BREWERY AT T3 PERFORMANCE
1545 REGISTRATION LANE
AVON, OHIO, 44011

Contract Name and Contract Type

Sheet

Rev

Revised / Issue

Date

Job No. / 2300

Date: July 27, 2023

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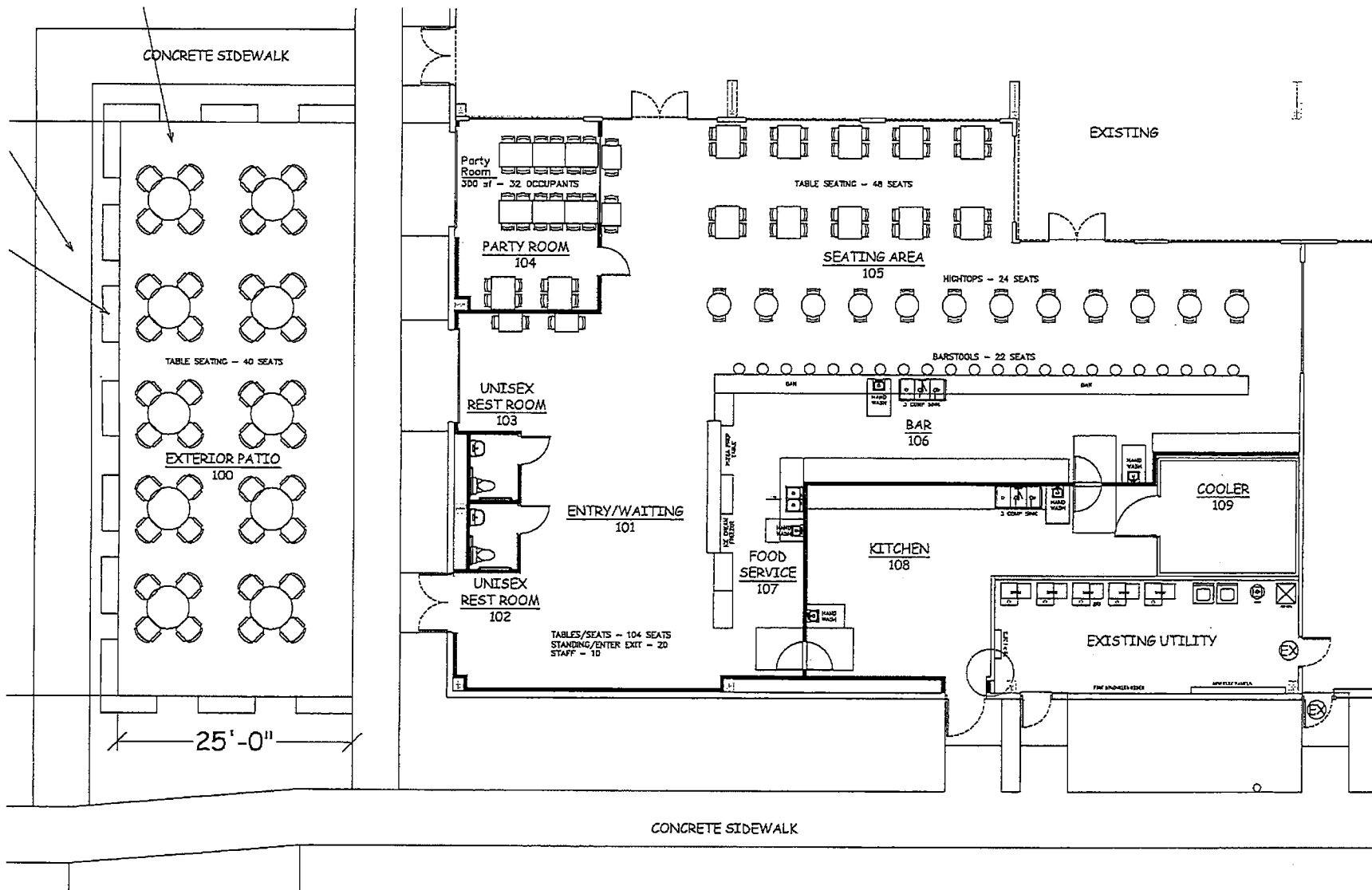
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CEILING PLAN

A103



1 SEATING PLAN
SCALE 1/4" = 1'-0"



NOTES: This architectural drawing is a conceptual drawing and is not intended to be used for construction. It is for informational purposes only. All dimensions are approximate and subject to change. The owner is responsible for obtaining all necessary permits and approvals. The architect is not responsible for the accuracy of the information provided by the owner.

FREEMAN
BUILDING SYSTEMS
P.O. BOX 1000, CHICAGO, IL 60601

Project Name and Address

PROPOSED
AVON BREWERY
AT T3
PERFORMANCE
1040 RECREATION LANE
AVON OH 44011

Consulting Name and Contact Info

Date

Job No. 2306

Date: July 27, 2023

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SEATING PLAN

A104

AGREEMENT REGARDING EASEMENT

This Agreement is made as of the 17th day of August, 2023, by and between T3 Realty, II, LLC, an Ohio limited liability company, hereinafter "T3", and the City of Avon, Ohio, an Ohio municipal corporation, hereinafter the "City", and is to evidence that:

Witnesseth:

Whereas, T3 is the owner of the real property and improvements commonly known as 1945 Recreation Lane, Avon, Ohio and Lorain County Permanent Parcel No. 04-00-003-101-597, a legal description of which is attached hereto and made a part hereof, the "Property"; and

Whereas, by virtue of a plat that was filed with the Lorain County Recorder in Plat Volume 95, Page 78-84, the City was granted a 20' sanitary sewer easement on the Property and the City currently maintains an underground sanitary sewer in that location on the Property, the "Sanitary Sewer"; and

Whereas, the City shall continue to maintain, repair and replace the facilities that service the Sanitary Sewer, the "Facilities"; and

Whereas, T3 has completed construction of a building on the Property and in that regard has also completed or will be completing parking, driveway, sidewalks and a patio and related improvements that will service users of said building, all of which are and will be located over the Facilities; and

Whereas, the parties hereby agree that they shall have certain duties and obligations respecting the Facilities as specified below.

Now therefore, in consideration of the foregoing, and in consideration of the mutual promises and covenants hereinafter set forth, and for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. The City shall continue to maintain, repair and replace the Facilities at its sole cost and expense and, if necessary to complete any such work, may demolish and remove any pavement, the patio and related improvements, or parts thereof.

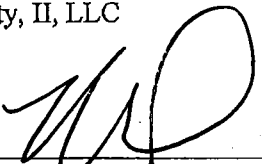
2. T3 will construct a patio and related improvements over the Facilities pursuant to plans and specifications approved by the City. Thereafter T3 shall maintain, repair and replace said patio and related improvements. T3 shall also be responsible to maintain the pavement and related appurtenances currently in place that are located over the Facilities.

3. If during any City maintenance, repair or replacement of the Facilities, any damage or destruction of the paved areas or patio or their related improvements shall be suffered, the City, after completing any such work, shall backfill disturbed areas with soil, gravel and/or other appropriate materials and bring those areas to grade. Thereafter, T3 shall make all necessary repairs and replacements to said paved areas and patio and the related improvements.

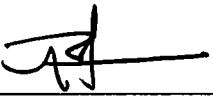
4. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement shall be construed under and in accordance with the laws of the State of Ohio. This Agreement constitutes the sole and only agreement of the parties with respect to the subject matter hereof and supersedes any prior understandings or written or oral agreements between the parties respecting such subject matter. No amendment, modification or alteration of the terms hereof shall be binding unless the same be in writing, dated subsequent to the date hereof, and duly executed by the parties hereto.

Executed at Avon, Ohio as of the date aforesaid.

T3 Realty, II, LLC

By: 
Michael R. D'Andrea, Manager

The City of Avon, Ohio

By: 

State of Ohio :
County of Lorain : ss

This is acknowledgment clause. No oath or affirmation was administered by the signer.

On this 10th day of Oct., 2023, before me a Notary Public and in and for said State, personally appeared Michael R. D'Andrea, who acknowledged himself to be the Manager of T3 Realty, LLC, an Ohio limited liability company, and that he, being authorized to do so, executed the foregoing instrument and the same is his free act and deed.

John A. Gasior
Notary Public



JOHN A. GASIOR, Attorney at Law
Notary Public, State of Ohio
My Commission
has no Expiration date
Section 147.03 R.C

State of Ohio :
County of Lorain : ss

This is acknowledgment clause. No oath or affirmation was administered by the signer.

On this ____ day of _____, 2023, before me, a Notary Public, in and for said County and State, personally came _____, who acknowledged himself to be the _____, of the City of Avon, Ohio, and who also acknowledged that he, being authorized to do so, executed the foregoing instrument and the same is the free act and deed of the City of Avon, Ohio.

Notary Public

This Instrument Prepared by:
Timothy S. Trigilio, Esq.
Trigilio & Stephenson, P.L.L.,
5750 Cooper Foster Park Road, Suite 102
Lorain, Ohio 44053-4132
(440) 988-9500