

ORDINANCE NO. 1-24

**AN ORDINANCE GRANTING A SPECIAL USE PERMIT TO CCT AVON II, LLC
TO AUTHORIZE THEIR TENANT, CARICO, LLC, d.b.a. CARIBOU COFFEE TO
CONSTRUCT A 778 SQ. FT. RESTAURANT WITH NO INDOOR SEATING,
A DRIVE-THRU AND AN OUTDOOR SEATING AREA,
TO BE LOCATED AT 35091 CHESTER ROAD
AND DECLARING AN EMERGENCY**

WHEREAS, the zoning regulations for the City of Avon require restaurants with a drive-thru, an outdoor seating area and no indoor seating, in the C-4 General Business / O-2 Planned Research Office Park Districts to obtain Special Use Permits for each pursuant to ACO §1270.03(b)(3) and (b)(8) & (9) respectively; and

WHEREAS, CCT Avon II, LLC, (hereinafter referred to as CCT), is the owner of property located at 35091 Chester Road which is being leased to their tenant, CariCo, LLC, d.b.a. Caribou Coffee (hereinafter referred to as “Caribou Coffee or Caribou”; and

WHEREAS, CCT proposes to construct a 778 sq. ft. drive-thru restaurant-coffee shop with no indoor seating but a limited amount of outdoor seating; and

WHEREAS, CCT has submitted an application and presented plans and specifications for the aforementioned construction to the Planning Commission on November 15, 2023; and

WHEREAS, the Planning Commission held a public hearing on November 15, 2023 and by a vote of Four (4) to One (1), recommended approval of the Special Use Permit contingent upon providing a restroom open to customers utilizing the outdoor seating area; 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 Permits 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 CCT Avon II, LLC, owner of the property located at 35091 Chester Road, Council hereby accepts the recommendation of Planning Commission and agrees to grant said Special Use Permit to allow for the lessee, CariCo, LLC, d.b.a. Caribou Coffee to operate a drive-thru restraint-coffee shop with no indoor seating, but with a limited amount of outdoor seating and access to a public restroom per the plans and specifications submitted and approved by the Planning Commission on November 15, 2023, later modified to provide for the restroom access on December 15, 2023, and made a part of this Special Use Permit by reference but subject to the conditions set forth in this ordinance. [Exhibit A](#)

Section 2 - Conditions. (1) The outdoor seating area may be open between the hours of 6:00 a.m. to 6:00 p.m. Sunday through Saturday; (2) while the outdoor seating area is open, the proprietor will provide one restroom to be readily available to their patrons; (3) no live music

will be permitted on the outdoor patio only soft ambient music from inside the restaurant; (4) the owner of the property agrees to return to Planning Commission and, if necessary, to City Council to address any City concerns regarding either the outdoor seating area or, in the case of the drive-thru facility, traffic issues that could arise from back-ups at the drive-thru window; (4) that the project shall proceed pursuant to plans and specifications approved and recommended by the Planning Commission at its November 15, 2023 meeting and later amended in December, 2023; (5) that all applicable requirements pertaining to outdoor seating areas and drive-thru facilities as set forth in Chapter 1230, 1280.02, 1280.03, 1280.05(f), 1280.05(bb), 1280.05(cc), 1280.06(j), and 1280.06(dd), 1280.06(ee) of the Codified Ordinances of the City of Avon be met by the applicants; and (6) 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 Compton Addy, and their tenant Caribou Coffee, for a drive-thru restaurant with no indoor seating but with a limited amount of outdoor seating and public restroom access at 35091 Chester 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: _____
Electronically and at City Hall as
Provided by Council

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