

MEMORANDUM OF UNDERSTANDING

WHEREAS, the Avon Local School District (hereinafter referred to as “Avon Schools”), a political subdivision of the State of Ohio, was granted a Special Use Permit to operate a public high school at 37545 Detroit Road, Avon, within an R-1 Residential District pursuant to Ordinance No. 40-96, passed May 13, 1996; and

WHEREAS, pursuant to Ordinance Nos. 5-02, 180-05, 115-06, 26-07, 42-11, and 81-16 Council amended the Special Use Permit for the Avon High School to include baseball and soccer fields, tennis courts, a thirty-six (36) car parking lot, a recyclable materials container, an 80,000 sq. ft. building addition, additional parking spaces, installation of six new light poles, and installation of a baseball scoreboard at the baseball field; and

WHEREAS, on or about November 20, 2019, the Avon Schools submitted an application to amend the Special Use Permit to construct an addition to the High School to add a Performing Arts Center on the western end of the exiting building; and

WHEREAS, the Planning Commission held a public hearing on December 18, 2019 and by a vote of Five (5) to Zero (0), recommended amending the Special Use Permit once again to allow for the construction of the Performing Arts Center as an addition to the High School located at 37545 Detroit Road; and

WHEREAS, on or about February 18, 2020, the Avon Schools submitted an application for approval of the Final Development Plan (See, ACO §1228.11) for the Performing Arts Center; and

WHEREAS, Planning Commission was scheduled to consider the Avon Schools’ Final Development Plan at the regularly scheduled March 18th, 2020 Planning Commission meeting; and

WHEREAS, on March 9, 2020, Governor Mike DeWine issued an Executive Order, effective immediately, declaring a state of emergency for the entire State to protect the well-being of the citizens of Ohio from the dangerous effects of COVID-19, a disease caused by the SARS-CoV-2 virus, which is a new strain of coronavirus that had not been previously identified in humans and can easily spread from person to person; and

WHEREAS, Governor DeWine further asked state agencies, and by extension, all political subdivisions of the State of Ohio, to develop and implement procedures, including suspending or adopting temporary rules within their authority, consistent with recommendations from the Department of Health, designed to prevent or alleviate this public health threat; and

WHEREAS, on March 16th, 2020, City Council passed Resolution R-13-20, giving the Mayor, as chief conservator of the peace (Art. III, Section 5(a) of the City Charter), authority to execute any and all reasonable plans to contain the spread of the COVID-19 virus in the City of Avon by, among other things, deploying personnel in a manner deemed best suited to minimize contact with the general public wherever and whenever possible. Furthermore, the Mayor was authorized to take any emergency actions directed by the Governor or the County Health

Department to protect the employees and the citizens of Avon everyone tried to deal with the COVID-19 and until such time as it is determined that the threat no longer exists; and

WHEREAS, as the COVID-19 crisis continued to escalate, the Mayor ordered the agenda of items to be heard by the Planning Commission meeting on March 18th be significantly curtailed to minimize the public's risk of exposure to the virus. As a result, the Final Development Plan submitted by the Avon Schools was continued to the April 22nd meeting; and

WHEREAS, the virus continued to spread and claim the lives of many Ohioans in the subsequent days and weeks following the declared State of Emergency and as a result, the Governor and Director of Health continued to issue Orders intended to reduce the spread of the virus and minimize the loss of life; and

WHEREAS, on March 23rd, the Director of Health issued a "Stay at Home" Order through April 6th, 2020 and on April 2nd, extended that Order through the remainder of the month; and

WHEREAS, the Stay at Home Order, among other things, requires anyone leaving the home to maintain "social distancing" of not less than 6 feet apart and strongly discourages gatherings of 10 or more people; and

WHEREAS, the Mayor, acting under his emergency powers, together with the Planning Commission itself, issued an Order on April 1st, 2020 postponing the April 15th Planning Commission meeting to May 20th, 2020; and

WHEREAS, both the Avon Schools and the City of Avon clearly understand the significant health, safety and welfare concerns behind the City's decision to continue the April Planning Commission meeting, however, the engineers for the Avon Schools and the City continued to review the plan and have agreed that several items in the Final Development Plan submitted by the Schools satisfy the requirements of ACO §1228.11; and

WHEREAS, with this agreement among the engineers, the City and the Avon Schools desire to enter into this MOU to allow for construction to begin on the Performing Arts Center during this unprecedented crisis without Planning Commission approval of the Final Development Plan coming until a future date when Planning Commission can safely meet and hear public comment on this application, particularly in light of the fact that the Avon Schools are an autonomous political subdivision and the Planning Commission already approved the amendment to the Special Use Permit; and

WHEREAS, agreeing to move forward in this fashion will protect the public health, safety and welfare, save the Avon Schools time and money, allow for the construction timeline to continue as planned and bring about the completion of the facility on the intended future date as the Planning Commission already voted unanimously to extend the Avon Schools Special Use Permit to include the Performing Arts Center.

WHEREAS, by entering into this MOU, the Avon Schools and the City of Avon understand that at some future date the Avon Schools will present the Final Development Plan to

the Avon Planning Commission for a review without recourse to the Avon School's ability to continue with construction of the Performing Arts Center.

NOW THEREFORE, the parties to this Memorandum of Understanding agree as follows:

1. The Avon Schools shall be permitted to move forward with the Avon Performing Arts Center project;
2. Construction shall continue during the declared State of Emergency subject to periodic engineering review and routine building department inspections.
3. All provisions of the Ohio Building Code and Avon Codified Ordinances (if any) applicable to building construction shall remain in full force and effect, and the Avon Schools shall retain at all times its autonomy as a political subdivision to carry out the Performing Arts Center project.
4. Once the State of Emergency is lifted or Planning Commission meetings commence, (whichever is sooner), the Avon Schools agree to present their Final Development Plan to the Avon Planning Commission, which has already approved an amendment to the Special Use Permit regarding the Performing Arts Center.

WITNESS my hand this _____ day of April, 2020.

CITY OF AVON, OHIO

BRYAN K. JENSEN, MAYOR

John A. Gasior, Law Director
City of Avon

WITNESS my hand this _____ day of April, 2020.

AVON LOCAL SCHOOL DISTRICT

MICHAEL LAUB, SUPERINTENDENT