

ORDINANCE NO.: 2007-2
SPONSOR: MAYOR CROGHAN
INTRODUCED: APRIL 10, 2007

ASSIGNED TO: FINANCE

AN ORDINANCE DECLARING A PORTION OF IMPROVEMENTS TO CERTAIN PARCELS OF REAL PROPERTY OWNED BY J&J SMOKIN' COMMERCIAL PROPERTIES, LLC TO BE A PUBLIC PURPOSE, EXEMPTING A PERCENTAGE OF THE VALUE OF THE IMPROVEMENTS FROM REAL PROPERTY TAXATION FOR THIRTY YEARS, AND DECLARING AN EMERGENCY.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GREEN, COUNTY OF SUMMIT, AND STATE OF OHIO, THAT:

SECTION ONE:

City Council makes the following findings and determinations:

- (a) The City adopted Ordinance No. 2003-12 on September 10, 2003, (and amended that Ordinance through Ordinance 2004-03), establishing a tax increment financing program ("TIF Program"), authorizing the City to declare improvements to certain parcels of real property to be a public purpose, requiring the owner, and its successors and assigns, of any structure located on any parcel of real property declared to be a public purpose to make annual service payments in lieu of taxes ("Service Payments") to the Fiscal Officer of Summit County, and providing the City the option to enter into an agreement ("TIF Agreement") with the owner of any structure located on any parcel of real property declared to be a public purpose under the TIF Program.
- (b) J&J Smokin' Commercial Properties, LLC (the "Owner") is the owner of the property identified in the Property Records of Summit County, Ohio, as parcel(s) 28-10065, (legal description attached as Exhibit "B") (the "TIF Property"), located within the boundaries of the City. The Owner will make improvements on the TIF Property (the "Development Improvements").
- (c) The City will acquire, construct, install, and finance certain public infrastructure improvements (the "Public Improvements") in connection with the Development Improvements, which Public Improvements will directly benefit the TIF Property.
- (d) The City will acquire, construct, and install the Public Improvement described in the attached Exhibit "D". The Public Improvements will directly benefit the TIF Property. The City will provide funds for the Public Improvements.
- (e) City Council has, by notice delivered to the Board of Education of the Green Local School District on October 16, 2003, and to the Board of Education of the Portage Lakes Career Center on October 16, 2003, given notice of the City's intent to declare as a public purpose certain improvements to certain parcels of

real property and of the Mayor's authorization to negotiate TIF Agreements under the TIF Program. A copy of Ordinance No. 2003-12 accompanied the notices.

- (f) The Board of Education of the Green Local School District passed a resolution waiving the right to approve exemptions from taxation under Section 5709.43, Revised Code, for any improvements declared to be a public purpose and for any TIF Agreements entered into under the TIF Program on the condition that a compensation agreement be negotiated in accordance with Section 5709.40, Revised Code, and waiving any notice under Section 5709.83, Revised Code.
- (g) The Board of Education of the Green Local School District, on November 17, 2003, entered into a compensation agreement with the City. The City and the Board of Education amended the Compensation Agreement effective January 1, 2006.
- (h) The Board of Education of the Portage Lakes Career Center on October 16, 2003, passed a resolution waiving any notice under Section 5709.83, Revised Code.
- (i) In accordance with Ordinance No. 2003-18, adopted November 25, 2003, City Council established a Municipal Public Improvement Tax Increment Equivalent Fund (the "TIF Fund"), as a separate fund of the City into which service payments distributed to the city under the TIF program must be deposited.

SECTION TWO:

City Council declares the Development Improvements to the TIF Property to be a public purpose. City Council exempts 100% of the value of these improvements from real property taxation in accordance with the TIF Program and the authority in Section 5709.40, Revised Code, for a period of 30 years.

SECTION THREE:

In accordance with the TIF Program and the authority in R.C. 5709.40, the Owner, and its successors and assigns, will make Service Payments equal to the real property taxes exempted under Section Two. City Council establishes an account in the TIF Fund (A "TIF" Account) as a separate account in the City's Fund. The Service Payments distributed to the City must be deposited into the TIF account and used to finance the public infrastructure improvements described in section 1(d), other public infrastructure improvements benefiting the TIF Property, to distribute to the Green Local School District in an amount as provided in the Compensation Agreement, or, at City Council's discretion, to finance specific public improvements benefiting the Green Local School District.

SECTION FOUR:

The City finds and determines that all formal actions of this Council concerning and relating to the enactment of this Ordinance were taken in open meetings of this Council and all deliberations of this Council or any of its committees that resulted in those formal actions were in meetings open to the public, in compliance with Section 121.22, Revised Code.

SECTION FIVE:

City Council declares this Ordinance to be an emergency immediately necessary for the preservation of the public peace, health, safety, and welfare of the citizens of Green and for the further reason that the Development Agreement must be immediately effective in order that the employment opportunities may be available to the residents of this City at the earliest possible time. Provided that this legislation receives the affirmative vote of three-fourths of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor, otherwise, it shall take effect and be in force at the earliest time allowed by law.

ADOPTED: May 8, 2007
Molly Kapeluck
Molly Kapeluck, Clerk

Bruce Manwaring
Bruce Manwaring,
Council President

APPROVED: May 8, 2007
Daniel L. Croghan
Daniel L. Croghan, Mayor

COPIED _____
SVCE ZONE PARK ROAD ENG
LAW (FIN) (MAY) (PLAN) FIRE

ENACTED EFFECTIVE: May 8, 2007

ON ROLL CALL: Colopy-^{YEA} Croce-^{YEA} France-^{YEA} Manwaring-^{YEA}
Padrutt-^{YEA} Ridgeway-^{YEA} Smole-^{YEA} Adopted 7-0

Suburbanite publication on MAY 14 and MAY 21, 2007

Molly Kapeluck
Molly Kapeluck, Clerk

DRAFT

2007-2
April 4, 2007
J&J Smokin Café

Exhibit B
Legal Description of Development Property

For: J&J Smokin Commercial Properties, LLC
J&J Smokin Cafe
1080 Interstate Parkway
Akron, Ohio 44312

Parcel Number(s): 28-10065

The Development Property
PROVIDE/INSERT LEGAL DESCRIPTION OF PARCEL(S)

Parcel 28-10065

2007-2

Warranty Deed

Know all Men by these Presents

That, Interstate Properties, an Ohio general partnership,

the Grantor

who claims title by or through instrument , recorded in Volume , Page ,

Summit County Recorder's Office, for the consideration of Ten and 00/100-----

Dollars (\$ 10.00-----)

received to its full satisfaction of J & J's Smokin Commercial Properties LLC, an Ohio limited liability company,

whose TAX MAILING ADDRESS will be 406 15th Street SW, Canton, Ohio 44707

does

Give, Grant, Bargain, Sell and Convey unto the said Grantee , its successors heirs and assigns, the following described premises, situated in the City of Green , County of Summit and State of Ohio:

And known as being Sublot 14 in Interstate Business Park as shown by the recorded plat of said Subdivision in Plat Cabinet E, Slides 660-664 and re-recorded in Plat Cabinet F, Slides 437-439 of Summit County Records.

2810065
GR00000921017000

Description approved by Tax Maps
Approval good for 30 days from
area dlp 12/16/05

TRANSFERRED IN COMPLIANCE WITH
SEC. 319.202 REV. CODE
\$ 42000.00 / \$ 1650.00 FEE
Consideration
JOHN A. DONOFRIO By UB
Fiscal Officer Deputy Fiscal Officer
No. of copies 2

TRANSFERRED
05 DEC 16 PM 3:58
JOHN A. DONOFRIO
FISCAL OFFICER
COUNTY OF SUMMIT

COUNTY OF SUMMIT
No. 456906
CERTIFICATE OF PARTNERSHIP
FILED 10-25-201988
Recorded - Vol. Pg.
OR 136 PG 566 -68
JOHN A. DONOFRIO
Fiscal Officer
County of Summit
Date 12/16/05 By Dep S. Melton

CHICAGO TITLE
INSURANCE CO.
ORDER # KAC
ENCLOSURE # 25210065

be the same more or less, but subject to all legal highways.

To Have and to Hold the above granted and bargained premises, with the appurtenances thereof, unto the said Grantee, its successors, heirs and assigns forever.

And Interstate Properties the said Grantor, does for itself and its successors, heirs, executors and administrators, covenant with the said Grantee, its successors, heirs and assigns, that at and until the ensembling of these presents, it is well seized of the above described premises, as a good and indefeasible estate in FEE SIMPLE, and have good right to bargain and sell the same in manner and form as above written, and that the same are free from all incumbrances whatsoever except restrictions, covenants, conditions, limitations, reservations, plat restrictions, easements of record, zoning ordinances, if any, and taxes and assessments, both general and special, presently a lien but not yet due and payable. Grantor retains all mineral rights to the property specifically but not limited to the underground gas storage lease as recorded in the Summit County Recorder's Office in Volume 6904, Pages 737 to 742.

and that it will Warrant and Defend said premises, with the appurtenances thereunto belonging, to the said Grantee, its successors, heirs and assigns, against all lawful claims and demands whatsoever, except as hereinabove stated.

And for valuable consideration do hereby remise, release and forever quit-claim unto the said Grantee, heirs and assigns, all right and expectancy of ~~Power~~ in the above described premises.

In Witness Whereof I have hereunto set MY hand, the 29th day of NOVEMBER, in the year 2005.

INTERSTATE PROPERTIES

By: Marchetta/Bigelow Investments, Inc.
Its: General Partner

By: Daniel T. Marchetta
Its: Vice President

State of Ohio)
) ss.
Summit County)

Before me, a Notary Public in and for said County and State, personally appeared the above named Interstate Properties, by Daniel T. Marchetta, who acknowledged that he did sign the foregoing instrument and that the same is his free act and deed, individually and as such officer.

In Testimony Whereof, I have hereunto set my hand and official seal, at LAKESIDE, OHIO this 29th day of NOVEMBER, A.D. 2005

Notary Public

My commission expires:

This instrument prepared by:
Ralph A. Miller
Attorney at Law

JAMES T. PACHELL, Attorney at Law
Notary Public - State of Ohio
My Commission has no expiration
date. Section 147.03 R.C.

Barcode
55270426
Pg: 2 of 2
12/18/2005 04:08P
DE 28.00
John A Deneffio, Summit Fiscal Officer

Exhibit D
The Public Improvements

The Public Improvements consist of, but are not limited to, the following:

- (a) Completion of the Arlington Road Trunk Sewer Improvements (inclusive of sanitary sewer, sanitary force main, and sanitary laterals).
Total project estimated to cost approximately: \$1,219,764

Project Complete
- (b) Installation of the Liberty Green Pump Station.
Total project estimated to cost approximately: \$1,100,000

Project Completed
- (c) Development of a new twenty acre soccer complex.
Total project estimated to cost approximately: \$2,000,000

Construction: 2006 - 2007
- (d) Construction of the Fortuna Drive Extension south of State Route 619 (inclusive of intersection improvements and signalization).
Total project estimated to cost approximately: \$1,370,000

Engineering & Design: 2007
ROW Acquisition: 2007
Construction: 2008
- (e) Upgrade of the intersection at State Route 619 and Arlington Road.
Total project estimated to cost approximately: \$6,000,000

Engineering & Design: 2006 - 2007
ROW Acquisition: 2007
Construction: 2009
- (f) Reconstruction of Arlington Road north of State Route 619 to the northern corporation limit boundary.
Total project estimated to cost approximately: \$6,000,000

Engineering & Design: 2006 - 2007
ROW Acquisition: 2007
Construction: 2009

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2007-2
April 4, 2007
J&J Smokin Café

Public Improvements continued...

- (g) Reconstruction of roadways within Interstate Business Park (inclusive of storm water collection system and sidewalks).
Total project estimated to cost approximately: \$1,750,000

Engineering & Design: 2007
ROW Acquisition: 2007 - 2008
Construction: 2010