

DATED: AUGUST 2, 1999

CLERK: SHARON K. HOWELL

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 157-1999

BY: THE FINANCE COMMITTEE

DECLARING THE IMPROVEMENT OF CERTAIN REAL PROPERTY LOCATED IN THE CITY OF MASSILLON TO BE A PUBLIC PURPOSE; DECLARING SUCH PROPERTY TO BE EXEMPT FROM REAL PROPERTY TAXATION; DESIGNATING PUBLIC INFRASTRUCTURE IMPROVEMENTS MADE OR TO BE MADE THAT WILL BENEFIT SUCH PROPERTY; REQUIRING ANNUAL SERVICE PAYMENTS IN LIEU OF TAXES; ESTABLISHING A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND; AND DECLARING AN EMERGENCY

WHEREAS; the development of commercial properties in the City of Massillon (the "City") will benefit the City and its residents by creating jobs, enlarging the property tax base, enhancing income tax revenues and stimulating collateral development in the City; and

WHEREAS; by providing infrastructure improvements including streets, water and sewer systems, and related improvements, the City may facilitate the development of commercial and industrial properties; and

WHEREAS, Ohio Revised Code Sections 5709.40 through 5709.43 provide for the use of municipal tax increment financing to construct infrastructure improvements which will benefit new commercial and industrial development and redevelopment in the City; and

WHEREAS, DeVille Developments (the "Developer") wishes to construct a retail shopping facility, with related amenities and improvements (the "Commercial Improvements"), all as described in

more detail on Exhibit A attached hereto and made a part hereof, on certain property (the "Site") located in the City and more particularly described on Exhibit B, attached hereto and made a part hereof, and that such Commercial Improvements would first appear on the tax list and duplicate of real and public utility property subsequent to the effective date of this Ordinance were it not for the exemptions specified herein; and

WHEREAS, the City has made, is in the process of making, or will make certain public infrastructure improvements consisting of street improvements, bridge improvements, drainage improvements, traffic signals, utility relocation and related infrastructure improvements (the "Infrastructure Improvements") as more particularly described on Exhibit C, attached hereto and made a part hereof, that directly benefit or, once made, will directly benefit the Commercial Improvements; and

WHEREAS, pursuant to and in the manner prescribed by Ohio Revised Code Section 5709.83, the City delivered notice to the Massillon City School District on July __, 1999, stating the City's intent to declare the Commercial Improvements to be a public purpose under Ohio Revised Code Section 5709.40, and the board of education of the school district has passed a resolution waiving its right to receive notice in connection therewith;

NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, OHIO, THAT:

Section 1. It is hereby declared that construction of the Commercial Improvements on the Site is a public purpose benefiting the City and its residents and that the duration of such public purpose shall be thirty (30) years.

Section 2. The Commercial Improvements are hereby declared exempt from real property taxation, commencing on the effective date of this Ordinance and ending on the thirtieth (30th) anniversary of such effective date or the date the Infrastructure Improvements are paid in full, whichever occurs first. One hundred percent (100%) of the assessed value of the Commercial Improvement shall be exempted from taxation.

Section 3. The City shall construct the Infrastructure Improvements which will directly benefit the Commercial Improvements. The cost of such Infrastructure Improvements may be paid in part from the proceeds of bonds and/or notes to be issued by the City and secured in part from revenues received by the City from service payments made by the Developer in lieu of taxes, as set forth herein. It is hereby found and determined that the percentage exempted (100%) does not exceed the estimated

percentage of the incremental demand placed on the Infrastructure Improvements that is directly attributable to the Commercial Improvements (100%).

Section 4. The Developer shall make annual service payments in lieu of taxes (the "Service Payments"), which Service Payments shall be paid to the Stark County Treasurer and collected and distributed as set forth in Ohio Revised Code Section 5709.42 and as provided in Section 6 and Section 7 hereof. Payments due with respect to partial calendar years shall be apportioned on a pro rata basis.

Section 5. If determined to be necessary and appropriate, the Mayor shall execute on behalf of the City an agreement between the City and the Developer providing for the payment and collection of such Service Payments, which agreement shall be in a form acceptable to the Mayor, approved by the Law Director, and not substantially inconsistent with the terms of this Ordinance.

Section 6. Pursuant to Ohio Revised Code Sections 5709.40(B)(1) and 5709.42, the Stark County Treasurer shall pay to the Massillon City School District, from a portion of the Service Payments, the amount of the taxes that would have been payable to the Massillon City School District with respect to operating levies (excluding millage for voted bond issues, emergency levies and permanent improvement levies) if the Commercial Improvements had not been exempted from taxation pursuant to this Ordinance for the period commencing on the effective date of this Ordinance and ending on the date of termination of the exemption of the Commercial Improvements as set forth in Section 2 hereof. Such amounts shall be payable to the Massillon City School District as a semi-annual real property tax payment. The Mayor of the City is hereby authorized to execute an agreement with the Massillon City School District providing for the payments set forth in this Section 6.

Section 7. There is hereby established within the City Treasury a municipal public improvement tax increment equivalent fund (the "Tax Increment Fund") into which shall be deposited the portion of the Service Payments which are distributed to the City by the Stark County Treasurer after the payments to the Massillon City School District as provided in Section 6 hereof. Such Fund may be combined with other funds created by ordinances of this Council authorizing other such projects. Money in the Tax Increment Fund (i) shall be used to finance the Infrastructure Improvements, and (ii) to the extent provided in further ordinances of this Council, shall be pledged to the repayment of bonds and/or notes issued to finance the Infrastructure Improvements.

Section 8. The Clerk of this Council is hereby directed to deliver, not later than fifteen (15) days after the effective date of this Ordinance, a copy thereof to the Director of Development of the State of Ohio and to further deliver to such Director, not later than March 31 of each year during which the tax exemption remains in effect, a status report outlining the progress of the project herein described.

Section 9. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this resolution 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 action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.


Section 10. This Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health and welfare of the City of Massillon and its inhabitants for the reason that this Ordinance must be effective immediately in order to capture all of the Commercial Improvements described herein and so that construction of the Commercial Improvements and the

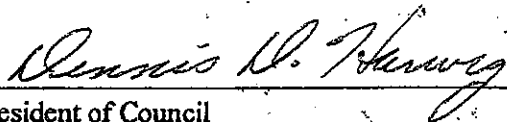
Infrastructure Improvements may begin directly in order to take advantage of favorable weather conditions and to satisfy construction timelines required by the Developer.

WHEREFORE this Ordinance shall take effect and be in force from and immediately following its passage.

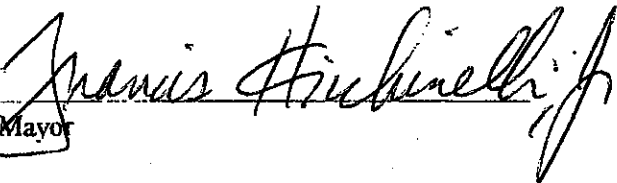
Adopted in Council on this 2nd day of August, 1999.

Attest:


Clerk

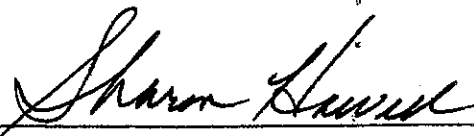

President of Council

Approved:


Mayor

CERTIFICATE

The undersigned Clerk hereby certifies that the foregoing is a true copy of Ordinance No 151-1999 duly adopted by the Council of the City of Massillon, Ohio on August 2, 1999, and that a true copy thereof was certified to the Director of Development of the State of Ohio on Aug 2, 1999, 1999.


Clerk
City of Massillon, Ohio

RECEIPT OF DIRECTOR OF DEVELOPMENT FOR THE STATE OF OHIO
FOR LEGISLATION DECLARING CERTAIN IMPROVEMENTS TO REAL
PROPERTY TO BE EXEMPT FROM REAL PROPERTY TAXATION
PURSUANT TO SECTION 5709.40 OF THE OHIO REVISED CODE

I, C. Lee Johnson, the Director of Development for the State of Ohio hereby certify that a certified copy of an ordinance duly adopted by the City Council of the City of Massillon, Stark County, Ohio on August 2, 1999, declaring the improvement of certain real property located in the City of Massillon to be a public purpose and declaring a portion of such property to be exempt from real property taxation pursuant to Section 5709.40 of the Ohio Revised Code was filed in this office on _____, 1999.

WITNESS my hand and official seal at Columbus, Ohio this _____ day of _____, 1999.

Director, Ohio Department of Development

EXHIBIT A**DESCRIPTION OF COMMERCIAL IMPROVEMENTS**

Construction of a retail shopping center located at the northwest corner of the intersection of US 30 and SR 21, comprising approximately 430,000 square feet of retail space, with parking lot and other site and building improvements.

EXHIBIT B

DESCRIPTION OF SITE

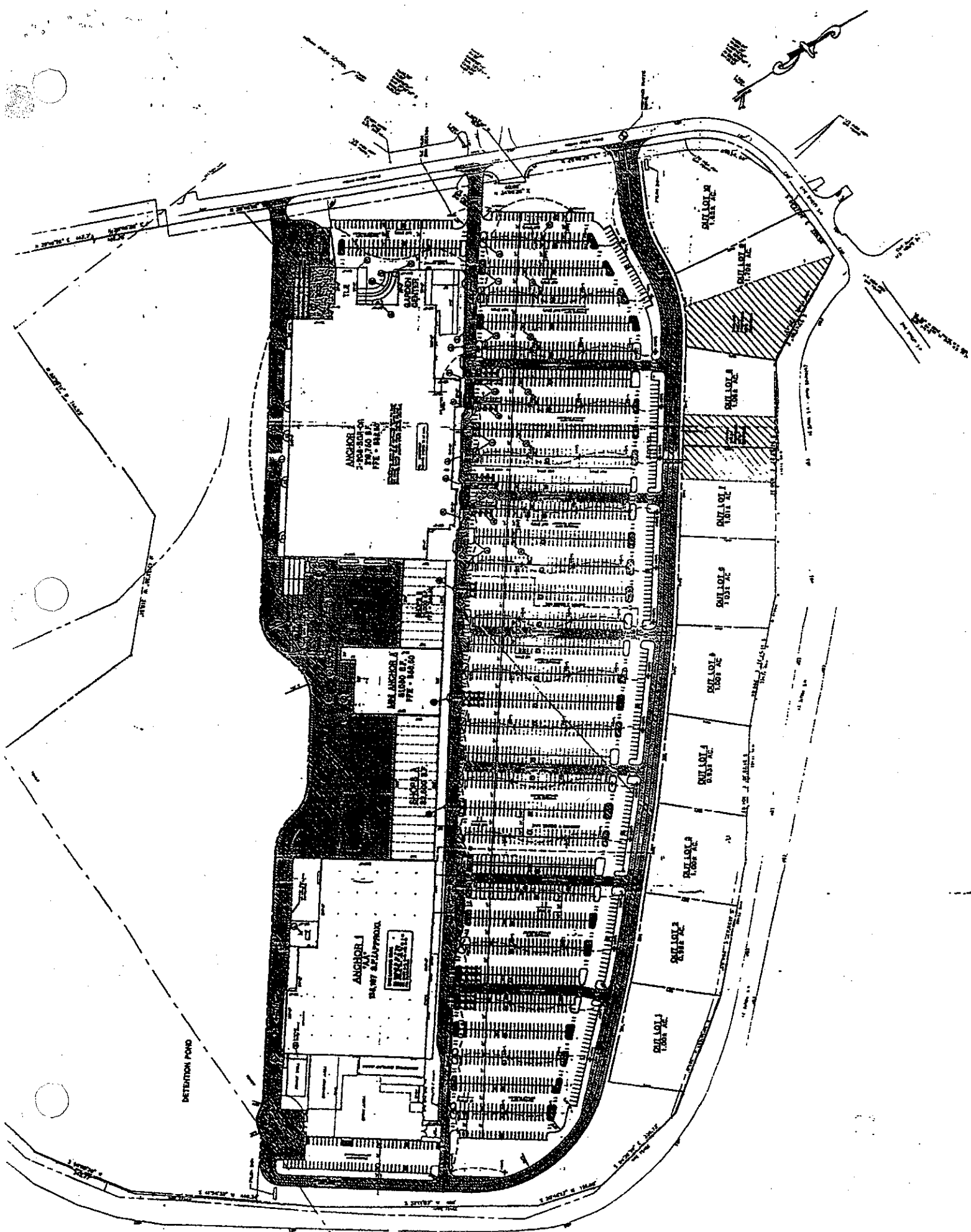


EXHIBIT C

DESCRIPTION OF INFRASTRUCTURE IMPROVEMENTS

Engineering:

- Interchange Justification Study (IJS)
- Signal warrants
- Environmental studies as required
- Permit fees
- Surveying
- Design plans and specifications
- Right of way plans and acquisition
- Bidding and construction services

Construction:

- Widening of the entrance/exit ramps at SR21/Erie St. interchange
- Widening of Erie Street
- Widening of Nave Street at Erie Street
- New traffic signals and associated appurtenances
- Bridge improvements
- Signing (public) and striping
- Street lights
- Guardrail modifications
- Associated drainage improvements
- Utility relocation
- Any improvements required by the Ohio Department of Transportation as a result of the IJS
- Any mitigation required as a result of the environmental studies

Inspection:

- Inspection fees
- Material testing