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ORDINANCE NUMBER 83-11-03

**An Ordinance Establishing the
Stony Creek Market Place – Lot 7
Planned Development Overlay District**

200300124692
Filed for Record in
HAMILTON COUNTY, INDIANA
JENNIFER J HAYDEN
12-15-2003 At 11:31 am.
ORDINANCE 17.00

WHEREAS, an Application has been filed to establish an Ordinance ("Stony Creek Market Place – Lot 7 Ordinance") to amend the Unified Development Ordinance of the City of Noblesville, Hamilton County, Indiana ("Zoning Ordinance"), to establish on certain property located in Noblesville Township, Hamilton County, Indiana, the legal description of which is known as Stony Creek Market Place Lot 7 described in Instrument Number 200200079217 and recorded in the Office of the Hamilton County Recorder (the "Property"), a mixed use planned development district to be known as the Stony Creek Market Place – Lot 7 Planned Development Overlay District ("Stony Creek");

WHEREAS, the Plan Commission of the City of Noblesville (the "Plan Commission") has conducted the public hearing as required by law in connection with the Application for a change in the zoning map for the City of Noblesville; and,

WHEREAS, the Plan Commission has sent a recommendation relating to such Application to the Common Council dated the 25th day of November, 2003.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Noblesville, Indiana, meeting in regular session, that the Zoning Ordinance, and the Zone Map of the Zoning Ordinance are hereby amended in accordance with the provisions of this Stony Creek PD Ordinance.

Section 1. Legislative Intent. Having given reasonable regard to the Comprehensive Plan of the City of Noblesville and all other matters contained in the Zoning Ordinance, the intent of the Common Council in adopting this Stony Creek PD Ordinance is to ensure that the increased flexibility and specific design criteria applicable to the Property and the development authorized herein are implemented under appropriate administrative standards and procedures.

Section 2. Applicability of Ordinance.

Section 2.1. The Official Zoning Map, a part of the Zoning Ordinance, is hereby amended to designate the Property as a Planned Development Overlay District known as the Stony Creek Market Place – Lot 7 Planned Development Overlay District.

Section 2.2. Development of the Property shall be governed entirely by the provisions of this Stony Creek PD Ordinance except to the extent reference is made to the Zoning Ordinance and then the provisions so referenced, as are in effect under the Zoning Ordinance, shall be applicable to the development.

Section 3. Definitions. Unless otherwise stated, the following words shall, for the purpose of this Stony Creek PD Ordinance, have the meaning herein indicated. Any word used in this Stony Creek PD Ordinance which is not defined herein and which is defined in Article II of the Zoning Ordinance shall, for purposes of this Stony Creek PD Ordinance, have the meaning ascribed to such word in the Zoning Ordinance unless the context otherwise requires.

- “Application” shall mean the application filed with the Director of Planning and Development for the City of Noblesville to establish a Planned Development Overlay District for the Property and includes all plans, documents, and supporting information filed therewith.
- “Director” shall mean the official in charge of the Department or Director of Planning and Development for the City of Noblesville and authorized to administer and enforce the Zoning Ordinance.
- “Stony Creek PD Ordinance” shall mean the ordinance establishing the Stony Creek Market Place – Lot 7 Planned Development Overlay District.
- “Stony Creek Preliminary Development Plan” shall mean the Preliminary Development Plan for the Property prepared by Duke Construction Realty Partnership and filed with and as a part of the Application.
- “Open Space” shall mean those areas within the Overall Plan that are dedicated as greenspace areas, water areas and natural environmental features.
- “Overall Plan” shall mean the plat for Stony Creek Market Place as recorded in the Offices of the Recorder of Hamilton County, Indiana, as Instrument Number 200200079217.
- “Plan Commission” shall mean the Noblesville Plan Commission.
- “Retail Uses” shall mean those uses designated as permitted uses by the Zoning Ordinance for the PB District.
- “Zoning Ordinance” shall mean the Unified Development Ordinance for the City of Noblesville, Indiana as such existed on January 9, 2002.

Section 4. Planned Development. The development of Stony Creek may consist of a single building under one ownership, a single building under multiple ownership, multiple buildings under single ownership, or multiple buildings under multiple ownership.

Section 5. Permitted Uses. The uses permitted shall be those uses permitted under the Planned Business Zoning District except the following uses shall be prohibited: private clubs and lodges; automobile fuel station; automobile service and repair; auto sales including service, repair and storage; car washes; nursery/plant materials accessory; supply yards; cemeteries; and laundries/cleaners with an on-site plant.

Section 6. Signs. In addition to permitted wall signs, only those signs addressed in variance petition number 00J-12-1530 and recorded in the Hamilton County Recorder's Office as Instrument No. 200100066964 will be permitted.

Section 7. Landscaping. The landscaping shall be in accordance with the landscaping requirements of the Zoning Ordinance, except as follows:

- a. Except as otherwise provided by variance petition number 00J-12-1531.
- b. Except that Stony Creek shall at all times be considered to have a single owner without regard to the number of buildings constructed or multiple ownership of the building(s).
- c. Except as otherwise approved by the Plan Commission.

Section 8. Lighting. Lighting facilities within the development shall be in accordance with the requirements of the Zoning Ordinance.

Section 9. Detailed Development Plan Approval.

Section 9.1 Approval. Approval by the Director of the Detailed Development Plan for Stony Creek (or any part thereof) including architectural design and landscaping shall be necessary prior to (i) construction of any structure, or (ii) issuance of any improvement location permit for a structure. A Preliminary Development Plan is attached hereto and marked Exhibit A. Upon application for a Detailed Development Plan, if the structure substantially complies with the Preliminary Development, is consistent and compatible with existing development in the Overall Plan, and complies with any other applicable development standards in this Stony Creek PD Ordinance, the Director shall approve the application. If the Director determines that the structure does not substantially comply with the Preliminary Development Plan or does not comply with some other applicable development standard in this Stony Creek PD Ordinance and denies the application for approval, the Director shall specifically detail in writing the basis for the belief that the structure does not substantially

comply with the Preliminary Development Plan or does not meet some other development standard in this Stony Creek PD Ordinance. An applicant who has been denied may immediately apply for approval of a new or amended plan for the structure. In addition, any decision of the Director may be appealed to the Plan Commission in accordance with the Plan Commission's rules and regulations.

Section 9.2 Appeals. For any appeal to the Plan Commission as provided in this Section 9, the Plan Commission shall either affirm or reverse the decision of the Director. If the Plan Commission reverses the decision of the Director, the Detailed Development Plan shall be approved. If the Plan Commission affirms the decision of the Director, the Plan Commission shall specifically detail in writing its basis for the decision. An applicant who has not received approval of a Detailed Development Plan may immediately reapply for approval.

Section 10. Amended Preliminary Development Plan Approval. If there is a desire to amend or substantially change the approved Preliminary Development Plan, the following procedures apply. If it is a minor modification as defined in the Unified Development Ordinance for the City of Noblesville, then approval can be obtained by the Director prior to any construction on the property including the issuance of an improvement location permit. The Director's approval of an amended Preliminary Development Plan shall be provided upon a determination by the Director that (i) such development is in accord with the existing development in the overall plan, and (ii) such development is architecturally compatible with the existing development of the overall Stony Creek Marketplace. Should the amendment to the approval preliminary development plan be a major modification as defined by the Unified Development Ordinance, then approval shall be obtained from the Plan Commission and then the Council.

Section 11. Change in Development Standards. Upon petition of the land owner, the Plan Commission may approve a development plan or development standards that are not included in or are different from those set forth in this Stony Creek PD Ordinance if the Plan Commission determines that such modification or change would not substantially affect the integrity of the development within the Overall Plan. Any change in any uses must be accomplished through an amendment to this Stony Creek PD Ordinance approved by the Common Council.

COMMON COUNCIL
CITY OF NOBLESVILLE

BY: AYE

NAY

<u>Terry Busby</u>	Terry Busby	_____
<u>Rex Dillinger</u>	Rex Dillinger	_____
<u>Alan Hinds</u>	Alan Hinds	_____
<u>Laurie Hurst</u>	Laurie Hurst	_____
<u>Jack Martin</u>	Jack Martin	_____
<u>Dale Snelling</u>	Dale Snelling	_____
<u>James Snyder</u>	James Snyder	_____

APPROVED and signed by the Mayor of the City of Noblesville, Hamilton

County, Indiana, this 9th day of December, 2003.

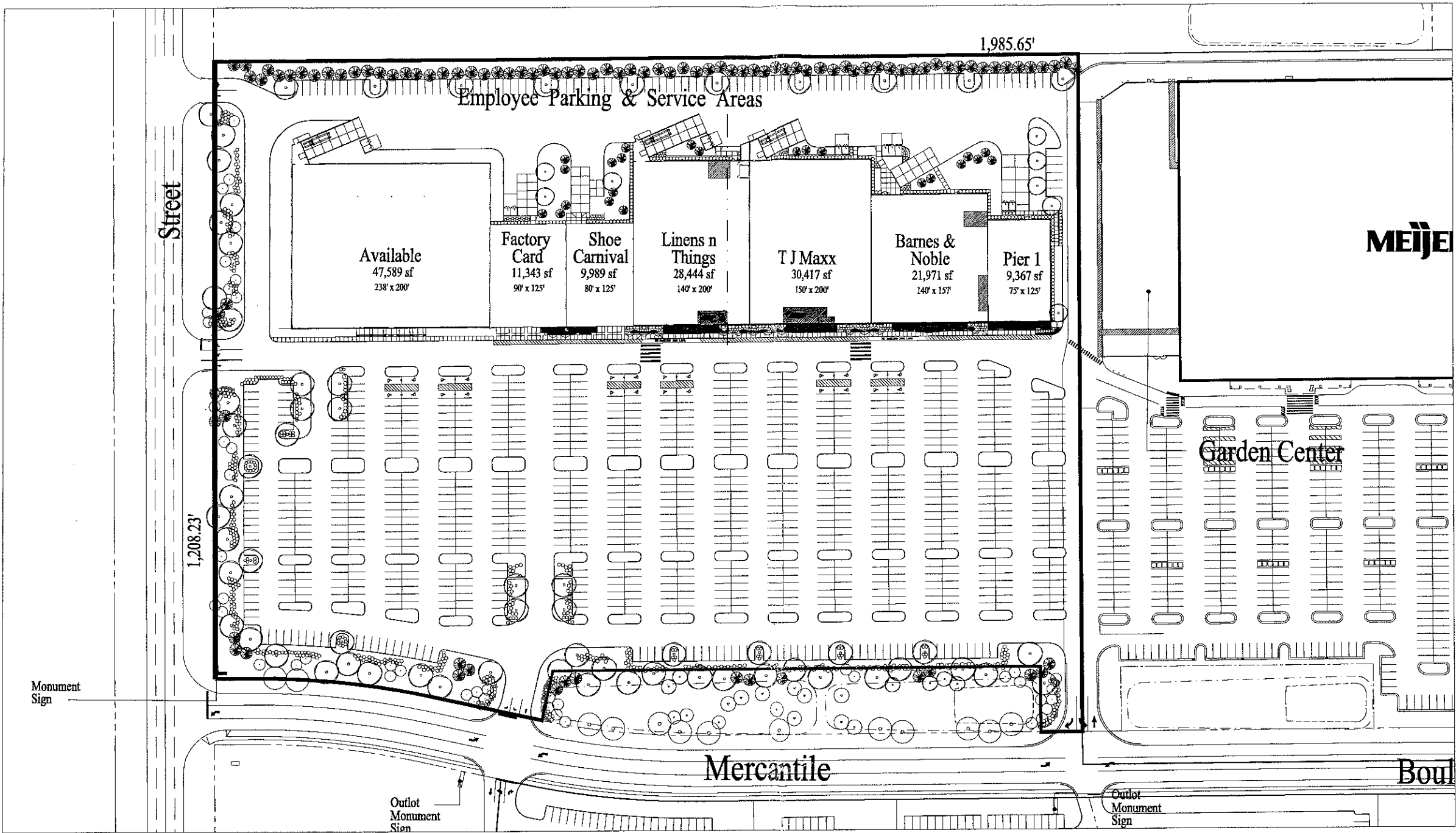
Rusty Bodenhorn (ACTING MAYOR) Rusty Bodenhorn
Dennis R. Redick, Mayor Acting Mayor
City of Noblesville

ATTEST:

Janet Jaros
Janet Jaros, Clerk-Treasurer

This Ordinance prepared by: John K. Smeltzer, Bose McKinney & Evans LLP, 600 East
96th Street, Suite 500, Indianapolis, Indiana, 46240.

EXHIBITS ARE ON FILE AND MAY BE VIEWED IN THE CITY OF NOBLESVILLE CLERK-TREASURER'S OFFICE.



Being Lot 7 of the STONY CREEK MARKETPLACE Lots 2, 3, 4, 5, 7 & Blocks A, B, and C SECONDARY PLAT, as recorded in PC 3, Slide 74 as instrument number 200200079217 in the Recorder's office of Hamilton County, Indiana.

SITE PLAN

SCALE: Scale: 1"=60'
10-3-03

STONY CREEK MARKET PLACE LOT 7

Mercantile and Pleasant Streets

Noblesville, IN

Duke
REALTY CORPORATION
600 East 96th Street
Suite 100
Indianapolis, IN 46240
Phone: (317) 808-6000
Fax: (317) 808-6797