

RESOLUTION NO. 3 -85

By: Raymond Thomas Chisley

A Resolution extinguishing a portion of the City's easement in the vacated right-of-way of Front Street.

WHEREAS, the City of Bexley vacated the unimproved right-of-way for Front Street, north of Delmar Drive, by Ordinance No. 36-84 and retained an easement to the vacated property; and

WHEREAS, the present owner of the vacated property wishes to construct an addition to an existing warehouse, which addition would be within the easement area retained by the City; and

WHEREAS, Ohio Revised Code Section 723.121 authorizes municipalities to extinguish easements, in whole or in part, owned by them which are not needed for municipal purposes.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BEXLEY, STATE OF OHIO:

Section 1. That the portion of the easement identified on the site plan attached hereto as Exhibit A and incorporated herein by this reference is hereby determined not to be needed for municipal purposes.

Section 2. That, pursuant to Ohio Revised Code Section 723.121, the portion of the easement identified on Exhibit A, be, and it hereby is, extinguished subject to the following conditions: (a) the execution of a hold harmless agreement, in form and substance acceptable to the City Solicitor, by the property owner; (b) the payment of all expenses incurred by the City in extinguishing the portion of the easement; and (c) the granting of all required variances by the Board of Zoning Appeals and environmental review approval by the Planning Commission with respect to the proposed warehouse addition. When and if the foregoing conditions are met, the Mayor and Auditor are hereby authorized to execute and file an instrument memorializing the extinguishment with the Franklin County Recorder. If any of the foregoing conditions is not met, then this extinguishment shall be of no force and effect and the City shall retain all easement rights previously granted to it by Ordinance No. 36-84.

Section 3. That the extinguishment of the City's rights in the portion of the easement identified on Exhibit A shall not prejudice any right, title or interest in the land affected by this resolution which, as of the date hereof, exists in any person, firm or corporation, other than the City of Bexley.

Passed: May 28, 1985

Attest: John W. Blythe

John W. Blythe  
President of Council

Approved: May 28, 1985

David H. Madison  
David H. Madison,  
Mayor

May 28, 1985 - Adopted

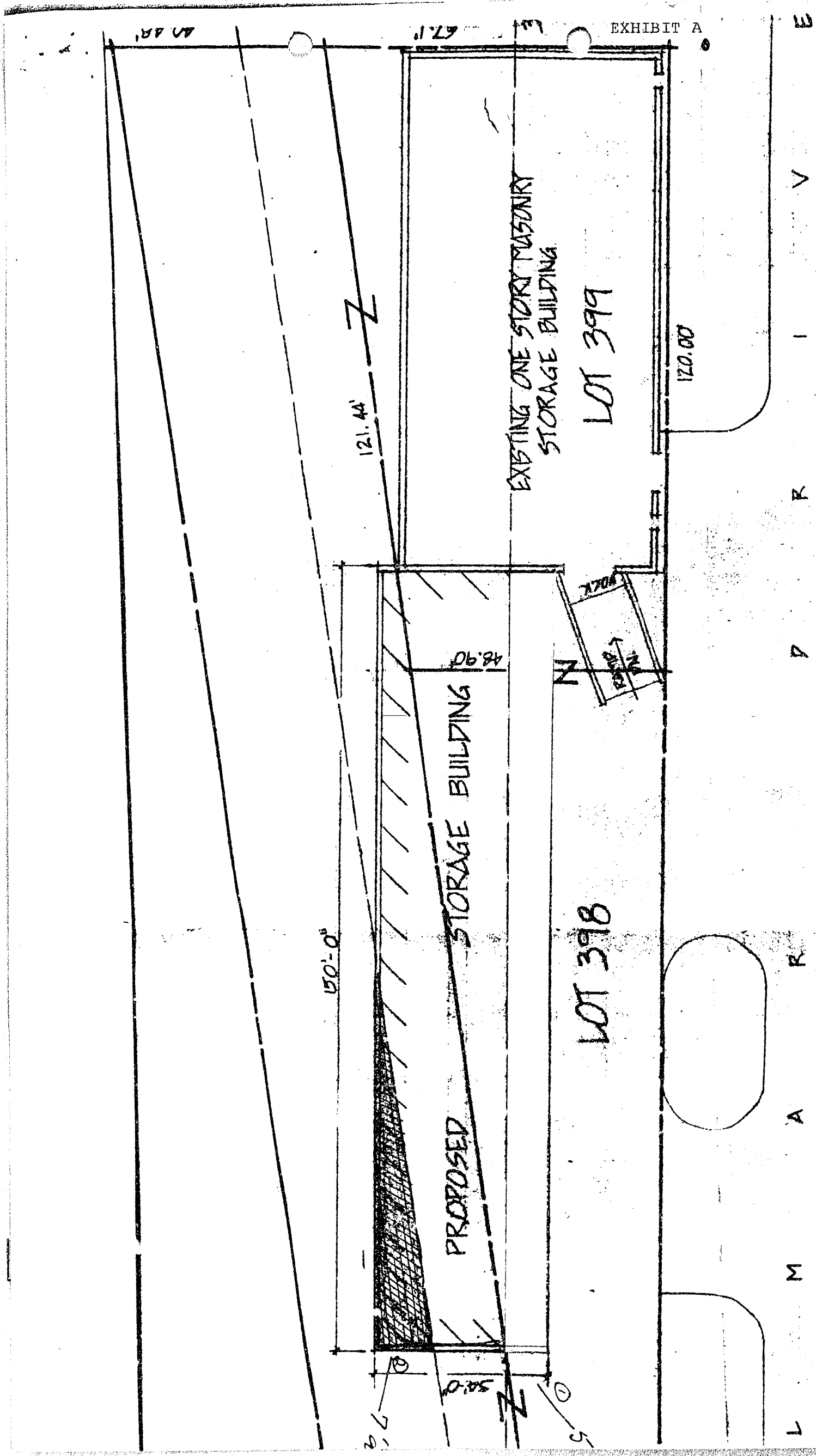


EXHIBIT A

L M A R P R I V E

42.48'

67.1'

121'-44"

50'-0"

48'-9"

LOT 398

LOT 399

170'-00"

58'-0"

3'-6"

5'-0"

C O N S E N T  
H O L D H A R M L E S S A G R E E M E N T

The undersigned property owner and the City of Bexley, Ohio, agree as follows:

The owner has sought and obtained permission from the City of Bexley to construct an addition to an existing warehouse as indicated below on the property described below and in the easement/right-of-way as described. Approval of the proposed warehouse addition and use of the easement/right-of-way area is conditioned upon this Agreement.

The property owner, his successors and assigns shall save the City harmless from any and all damages which may arise from, or grow out of the construction and installation of the warehouse, and said grantee, his successors and assigns, shall defend, at his own cost, every suit in which the City of Bexley, Ohio shall be made a party, brought and prosecuted for the recovery of any such damages; that the occupancy of public property is hereby permitted merely as an accommodation to the said grantee and that no right, title or interest of the public is waived or abridged in any way thereby; that said grantee, his successors or assigns, upon notice from the City of Bexley, Ohio, duly authorized by the Council of Bexley, Ohio, shall forthwith remove said warehouse addition and shall yield to said City all rights to occupy the space used for such structure, whenever said City shall determine the same to be necessary; that said structure shall be so constructed as to not interfere with or damage any utility facilities or to impede nor interfere with in any way the use of sidewalks and streets by other citizens, and in the event that changes become necessary to construct, accommodate and maintain said warehouse addition, the grantee, his successors and assigns, shall pay the entire cost of the necessary changes, relocations or rearrangements thereof.

This Agreement shall not be construed as in any way limiting the rights presently held by the City in the easement/right-of-way area, or the use thereof for public purposes, except to promote the construction and maintenance of the below mentioned structure in the easement/right-of-way.

<u>Lot 398; Bellwood Addition</u> Address of Property	<u>Street Right-Of-Way</u> Type of Easement/Right-of-Way
<u>Part of Lot 398; Bellwood Addition</u> Lot No. or other Description	<u>Warehouse Addition</u> Building or Structure
<u>Easement/Right-Of-Way Width</u>	<u>Maximum Encroachment Into Easement/Right-Of-Way</u>
<u>None</u> Services Existing in Easement/Right-Of-Way	<u>Resolution 3-85</u> Approving Authority (Council)
<u>April 14, 1987</u> Date of Agreement	<u>April 14, 1987</u> Date of Agreement

This Agreement shall be binding on and for the benefit of the parties hereto and their respective successors and assigns.

STATE OF OHIO, COUNTY OF FRANKLIN: SS:

The foregoing instrument was acknowledged before me  
this 14th day of April, 1987, by \_\_\_\_\_  
David H. Madison, Mayor of the City of Bexley, Ohio, and,  
John W. Hornberger, Auditor of the City of Bexley,  
Ohio.

Stanley N. Shubert  
Witness

David H. Madison  
Mayor

Dorothy Butcher  
Witness

John W. Hornberger  
Auditor

Kathleen Marie Rose  
Notary Public  
my Commission expires July 1, 1990

STATE OF OHIO, COUNTY OF FRANKLIN: SS:

The foregoing instrument was acknowledged before me  
this 14th day of April, 1987, by \_\_\_\_\_

Property Owner(s).

Stanley N. Shubert  
Witness

Edna M. Landis  
Property Owner

Dorothy Butcher  
Witness

\_\_\_\_\_  
Property Owner

Kathleen Marie Rose  
Notary Public  
My Commission Expires July 1, 1990

## Vorys, Sater, Seymour and Pease

52 East Gay Street Post Office Box 1008 Columbus, Ohio 43216-1008 Telephone (614) 464-6400 Telecopier (614) 464-6350 Telex 241348 Cable VORYSATA

Arthur I. Vorys  
1856-1933  
Lowry F. Sater  
1867-1935  
Augustus T. Seymour  
1873-1926  
Edward L. Pease  
1873-1934

In Washington  
Suite 1111  
1828 L Street, NW  
Washington, D. C. 20036-5104  
Telephone 202-822-8200  
Telecopier 202-835-0699  
Telex 440693

In Cleveland  
2100 One Cleveland Center  
1375 East Ninth Street  
Cleveland, Ohio 44114-1724  
Telephone 216-621-7091  
Telecopier 216-621-8366

In Cincinnati  
Suite 2100 - Atrium Two  
221 East Fourth Street  
Post Office Box 0236  
Cincinnati, Ohio 45201-0236  
Telephone 513-421-8777  
Telecopier 513-421-0107

Writer's Direct Dial Number  
(614) 464-5446

May 26, 1987

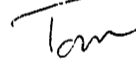
Mr. Stan Sheehan  
Bexley City Hall  
2242 East Main Street  
Bexley, Ohio 43209

Re: Partial Extinguishment of Easement  
Ervin Bendit

Dear Stan:

Enclosed for your file is the original recorded Partial Extinguishment of Easement which was filed with the Franklin County Recorder on May 18, 1987. Thank you again for your assistance and please do not hesitate to call should you have any comments regarding the enclosed.

Very truly yours,



J. Thomas Mason

JTM:gjt  
Enclosure

09667J09

FRANKLIN COUNTY, OHIO

TIME 1:20 P M  
RECORDED

MAY 18 1987

066739

JOSEPH W. TESTA, RECORDER

RECORDER'S FEE \$ 1400

PARTIAL EXTINGUISHMENT OF EASEMENT

USSP Box - J. Thomas Mason

WHEREAS, pursuant to Ordinance No. 36-84 effective August 25, 1984, the City of Bexley vacated the unimproved right-of-way for Front Street lying between Delmar Drive and North Stanwood Avenue retaining an easement for the construction, maintenance and replacement of public utility services with the right of ingress and egress over such vacated property;

WHEREAS, Ervin Bendit, the owner of property contiguous to the vacated right-of-way, constructed an addition to his existing warehouse on Delmar Drive, which addition is within the easement area retained by the City of Bexley in said Ordinance No. 36-84;

WHEREAS, Ervin Bendit has petitioned the City of Bexley to extinguish its easement rights to that portion of the vacated right-of-way over which the warehouse addition extends;

WHEREAS, Ohio Revised Code Section 723.121 authorizes municipalities to extinguish easements, in whole or in part, owned by them which are not needed for municipal purposes;

WHEREAS, the City of Bexley has determined that the portion of the easement area covered by the addition to Owner's warehouse is not needed for municipal purposes;

WHEREAS, the City of Bexley, by Resolution No. 3-85 effective May 28, 1985, agreed to extinguish that portion of the easement area covered by the warehouse addition upon fulfillment of certain conditions; and

WHEREAS, the City of Bexley hereby acknowledges that the conditions set forth in said Resolution No. 3-85 have been met;

NOW, THEREFORE, pursuant to authorizations contained in Ohio Revised Code Section 723.121, and by City of Bexley Resolution No. 3-85, the City of Bexley wishes to execute and file an instrument memorializing the partial extinguishment of easement.

KNOW ALL MEN BY THESE PRESENTS: That the undersigned, City of Bexley, Ohio, an Ohio municipal corporation, for itself and its successors and assigns, in consideration of One Dollar (\$1.00) and other valuable consideration to it paid, the receipt of which is hereby acknowledged, hereby extinguishes all of its right, title and interest in that certain .054 acre tract of real property more particularly described on Exhibit A attached hereto and incorporated herein, said .054 acre tract being that cross-hatched area set forth on Exhibit B attached hereto and incorporated herein.

The extinguishment of the City's right, title and interest in that portion of the easement identified on Exhibit A hereto shall not affect any remaining right, title and interest of the City of Bexley upon the residue of the premises contained in said vacated right-of-way.

TRANSFERRED  
NOT NECESSARY  
MAY 18 1987  
PALMER C. McNEAL  
AUDITOR  
FRANKLIN COUNTY, OHIO

CONVEYANCE TAX  
EXEMPT  
P. Jh  
PALMER C. McNEAL  
FRANKLIN COUNTY AUDITOR

0966710

IN WITNESS WHEREOF, the City of Bexley, Ohio, has caused this instrument to be executed by its duly elected and authorized Mayor and Auditor this 14<sup>th</sup> day of April, 1987.

Signed and Acknowledged in the Presence of:

CITY OF BEXLEY, OHIO

Stanley N. Shahan

By David H. Madison  
David H. Madison  
Its Mayor

Marianna McCullough

By John W. Hornberger  
John W. Hornberger  
Its Auditor

Jo Sue Crane

William M. Foltz

STATE OF OHIO  
COUNTY OF FRANKLIN, SS:

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day of April, 1987, by David H. Madison, the Mayor of the City of Bexley, Ohio, an Ohio municipal corporation, on behalf of the corporation.

Marianna McCullough  
Notary Public

STATE OF OHIO  
COUNTY OF FRANKLIN, SS:

**MARIANNA McCULLOUGH**  
Notary Public State of Ohio  
My Commission Expires 6-6-90

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of April, 1987, by John W. Hornberger, the Auditor of the City of Bexley, Ohio, an Ohio municipal corporation, on behalf of the corporation.

Jo Sue Crane  
Notary Public

**JO SUE CRANE**  
NOTARY PUBLIC, STATE OF OHIO  
MY COMMISSION EXPIRES NOV. 19, 1989

This Instrument Prepared By:

J. Thomas Mason, Esq.  
Vorys, Sater, Seymour & Pease  
52 East Gay Street  
Columbus, Ohio 43215

EXHIBIT "A"

9667J11

# Myers Surveying

COMPANY

2740 East Main Street  
Bexley, Ohio 43209  
(614) 235-8677

17 September 1986

0.054 Acres

Situated in the State of Ohio, County of Franklin, City of Bexley and being part of Vacated Front Street (40 feet wide - Vacated by City of Bexley Ordinance #36-84), as delineated upon the plat of Bellwood Addition of record in Plat Book 6, Page 16, Recorder's Office, Franklin County, Ohio, said part being the portion of said vacated street presently occupied by a one story block building and being more particularly described as follows:

Commencing at an iron pin at the northeast corner of Lot 399, said addition, and in the south line of said vacated street;

Thence, along the north line of said Lot 399 (south line of said vacated street), South 85 degrees 31 minutes West, 120.11 feet to a point on the easterly face of a one story block wall and THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION;

Thence, continue along the north line of said Lot 399 and the north line of Lot 398, said addition, (south line of said vacated street) and passing through the one story block building, South 85 degrees 31 minutes West, 152.55 feet to a point on the west face of a one story block wall;

Thence, across said vacated street and along the west, north and east faces of said one story block building the following three (3) courses:

1. North 4 degrees 56 minutes East, 27.85 feet to a point;
2. South 85 degrees 14 minutes East, 150.5 feet to a point;
3. South 4 degrees 56 minutes West, 3.36 feet to the place of

beginning, CONTAINING 0.054 ACRES (2,352 square feet), subject to all legal highways, easements, restrictions and leases of record and of records in the respective utility offices.

This description was prepared from a survey by the undersigned dated October 30, 1984 and revised September 16, 1986. Basis of bearing is the description of record in Ordinance #36-84, City of Bexley.

MYERS SURVEYING COMPANY, INC.

*Albert J. Myers*  
Albert J. Myers, C.S. 6579



# MYERS SURVEYING Co.

2740 East Main Street, Columbus 43209 (Bexley), Ohio

LOT 398 & 399 BELLWOOD ADD'N.  
FOR

BEXLEY, OHIO

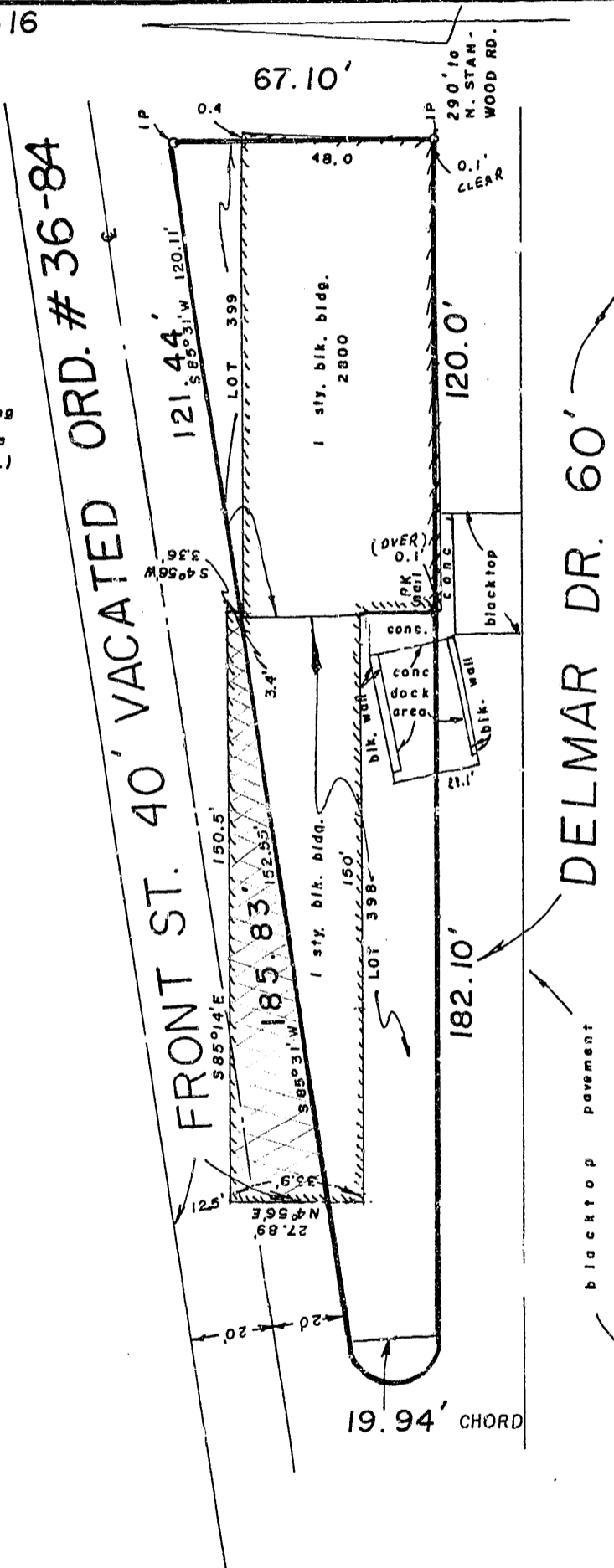
## MR. ERVIN BENDIT

P.B. 6 Page 16  
Scale 1"=40'

Franklin Co. Rec. Office  
10-30-84

REV. 9-16-86 add bldg in R/W

NOTE: Extent of building  
area in Vacated R/W is  
0.054 Ac. (2,352 sq. ft.)



We hereby certify that the foregoing plat was prepared from an actual survey of the premises. No side line of principal building is less than dimension shown. Iron pins not set unless indicated thus -0-.

MYERS SURVEYING CO.

BY Albert Myers  
Registered Surveyor