

*Waiving as in the Building Dept.*

ORDINANCE NO. 48 -95

BY: John H. Offenberg

An Ordinance authorizing the Mayor and Auditor to sign a Consent and Hold Harmless Agreement on behalf of the City of Bexley with the property owners at 445 North Parkview Avenue (Part of Lots 3 & 4; Anton Ruhl Addition) regarding improvements to be made upon and within the City-owned right-of-way on North Parkview Avenue.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY, OHIO:

Section 1. That the property owners at 445 North Parkview Avenue (Part of Lots 3 & 4; Anton Ruhl Addition) have requested approval to construct two 24 inch high decorative brick walls as part of an overall landscape plan in the front yard setback of said property which does encroach upon and within the street right-of-way owned by the City of Bexley.

Section 2. That the Mayor and the Auditor be, and they hereby are, authorized to enter into a Consent and Hold Harmless Agreement with the property owners, in form and substance satisfactory to the City Attorney, authorizing the encroachment as proposed in accordance with the submitted request on the condition that the property owners assume all responsibility for damage, loss and injury arising out of the location of said wall including any additional cost to the City of Bexley incurred in connection with their use of the right-of-way occasioned by the location of the structure.

Section 3. That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: October 10, 1995

John M. Brennan  
President of Council

Attest: [Signature]  
Clerk of Council

Approved: October 10, 1995  
John T. Loehnert  
John T. Loehnert, Mayor

*Sept. 12, 1995 - 1st reading  
Sept. 26, 1995 - 2nd reading  
Oct. 10, 1995 - 3rd reading  
adopted*

445N Park

**CONSENT AND HOLD HARMLESS AGREEMENT**

The undersigned property owners and the City of Bexley, Ohio (the "City") agree as follows:

The property owners have sought and obtained permission from the City of Bexley to install two 24 inch high decorative brick walls ("Walls") as indicated below on the property described below and in the easement/right-of-way as described. Approval of the Walls and use of an easement/right-of-way area which is public property is conditioned upon this Agreement.

Jay L. & Jean R. Schottenstein, their successors and assigns (collectively the "Owners"), shall save the City harmless from any and all damages which may arise from, or grow out of, the construction, installation, maintenance, repair, relocation, removal or replacement of the Walls for any reason and shall defend, at their 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 grantees and that no right, title or interest of the public is waived or abridged in any way thereby; that the Owners, upon notice from the City of Bexley, Ohio duly authorized by the Council of Bexley, Ohio, shall forthwith remove said Walls from the public property occupied by them and shall yield to said City all rights to occupy the public property used for such Walls whenever said City shall determine the same to be necessary or desirable; that the Owners release the City, its employees and agents, from any liability for damage to the Walls arising out of or in connection with any cause whatsoever; that said Walls 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 the easement/right-of-way area, streets, alleys, sidewalks, and curbs by the City and the public; and in the event that the City determines changes to the Walls to be necessary or desirable, the Owners shall promptly make any such changes, relocations, or rearrangements solely at their expense.

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

<u>445 N. Parkview Avenue</u> Address of Property	<u>Street Right-Of-Way</u> Type of Easement/Right-Of-Way
<u>Part of Lots No. 3 &amp; 4; Anton Ruhl Addition</u> Lot Number or Other Description	<u>24 Inch High Decorative Brick Walls</u> Building or Structure
<u>40 Feet Measured from the Center of N. Parkview Avenue</u> Easement/Right-Of-Way Width Property Location	<u>10.00 Feet</u> Maximum Encroachment Into Easement/Right-Of-Way
<u>Streets &amp; Public Utilities</u> Services Existing in Easement/ Right-Of-Way	<u>Ordinance No. -95</u> Approving Authority

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 12<sup>th</sup> day of October, 1995 by John T. Loehnert, Mayor of the City of Bexley, Ohio, and John W. Hornberger, Auditor of the City of Bexley, Ohio.

Velma R. Down  
Witness

John T. Loehnert  
Mayor

Janice A. Yagle  
Witness

John W. Hornberger  
Auditor

Sharon R. Patterson  
Notary Public

SHARON R. PATTERSON  
Notary Public, State of Ohio  
My Commission Expires Nov. 9, 1998

STATE OF OHIO, COUNTY OF FRANKLIN:  
SS:

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of October, 1995 by Jean R. + Jay Schottenstein

Sharon R. Patterson  
Witness

Jean R. Schottenstein  
Property Owner

Ella Downing  
Witness

J. Schottenstein  
Property Owner

Carolyn J. Smith  
CAROLYN J. SMITH  
NOTARY PUBLIC, STATE OF OHIO  
MY COMMISSION EXPIRES APRIL 30, 1998

Sharon R. Patterson  
Notary Public

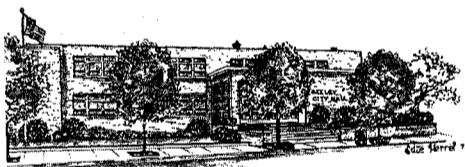
SHARON R. PATTERSON  
Notary Public, State of Ohio  
My Commission Expires Nov. 9, 1998

**PUBLIC NOTICE**

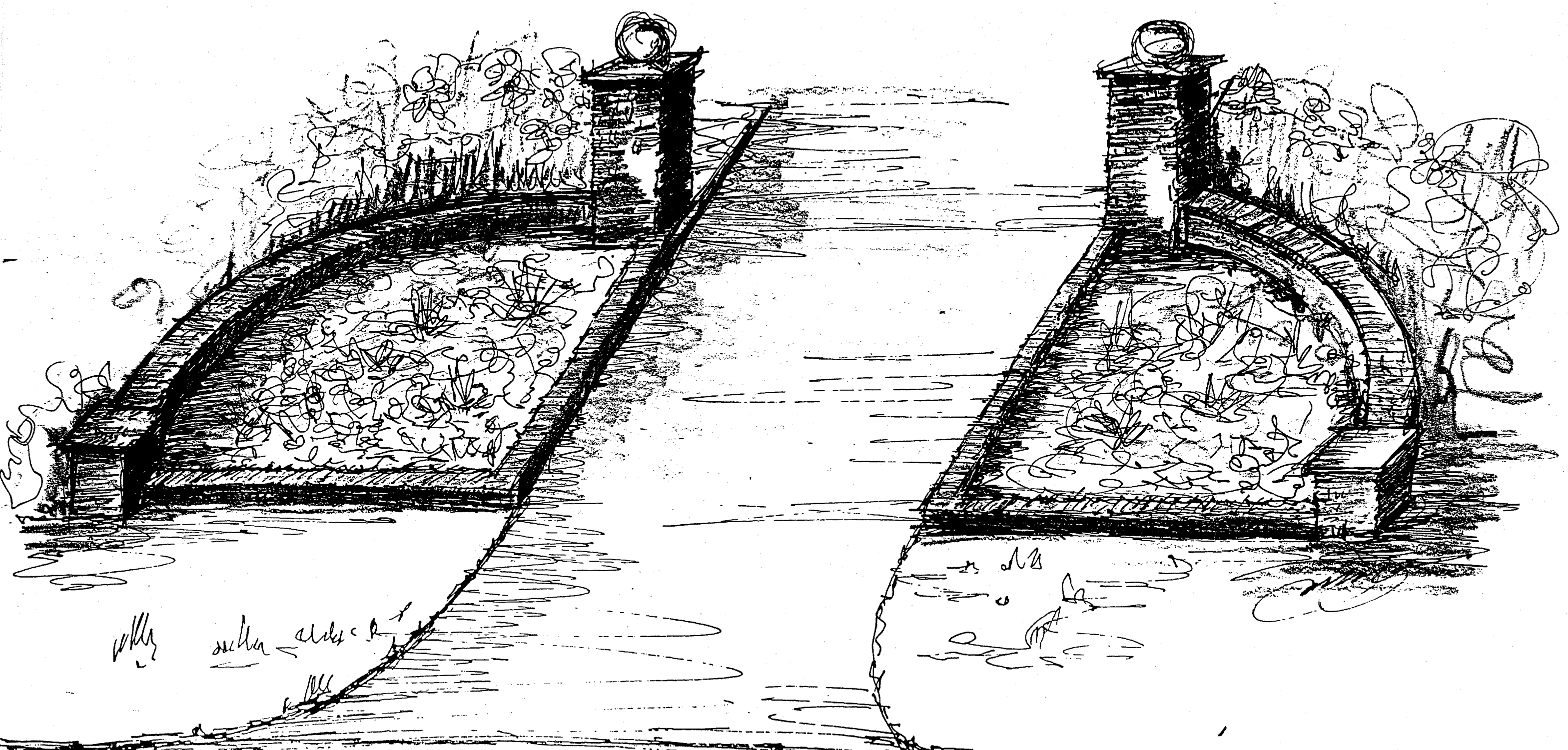
This is to inform you that a public meeting will be held by the Engineering and Plats Committee of the Council of the City of Bexley, Ohio, at 5:00 P.M. on Tuesday October 10, 1995, at Bexley City Hall 2242 East Main Street to consider adoption of Ordinance No. 48-95. This Ordinance, if approved, will permit construction of two 24" high decorative brick walls as part of an overall landscape plan in the front yard setback of 445 North Parkview.

All interested parties are invited to attend.

Mailed Sept. 28, 1995



2242 EAST MAIN STREET • BEXLEY, OHIO 43209 • PHONE (614) 235-0956 • FAX (614) 235-3420



*Handwritten notes:*  
w/ly  
scler - chd - p  
lls

**ap** Armand Benedek & Partners, Ltd.  
LANDSCAPE ARCHITECTS AND SITE PLANNERS  
Hunting Ridge Mall • Baiter, I. Way • New York 10506 • PH 212 9622 • FAX 914 234 0882

**SKETCH FOR PROPOSED ENTRY**  
FOR:  
M. + M. ...  
NO SCALE