

ORDINANCE NO. 15 -03

By: Jeffrey L. McClelland

An Ordinance to accept and agree to an easement from the Bishop of the Catholic Diocese of Columbus with respect to gateway improvements being constructed by the City on the property of St. Charles Preparatory School, to authorize a long term license agreement by and between the City and the Bishop of the Catholic Diocese of Columbus with respect to the planting and maintenance of trees provided by the City as part of the Bexley Beautification program on the property of St. Charles Preparatory School and to authorize the Mayor and Auditor to execute and deliver said easement and agreement on behalf of the City.

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

Section 1. That the City accept and agree to the easement from the Bishop of the Catholic Diocese of Columbus with respect to gateway improvements being constructed by the City on the property of St. Charles Preparatory School, substantially in the form attached hereto as Exhibit A.

Section 2. That the City enter into a long term license agreement with the Bishop of the Catholic Diocese of Columbus with respect to the planting and maintenance of trees provided by the City as part of the Bexley Beautification program on the property of St. Charles Preparatory School, substantially in the form attached hereto as Exhibit B.

Section 3. That the Mayor and Auditor are hereby authorized and directed to execute and deliver the easement and agreement authorized by Section 1 and 2 of this Ordinance, respectively, in such forms as shall be approved by the City Attorney.

Section 4. That this Ordinance shall be in force and effect from and after the earliest period allowed by law.

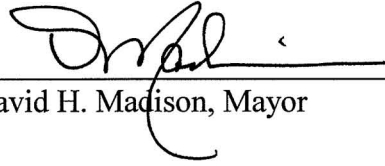
Passed: March 25, 2003

Jed Davis
President of Council

Attest: [Signature]
Clerk of Council

3/25/03
[Signature]

Approved: 3/25, 2003



David H. Madison, Mayor

2-25-03 First reading
3-11-03 Second reading
3-25-03 Third reading. Passed

EASEMENT

THIS EASEMENT is made as of the 25th day of March, 2003 by and between **JAMES A. GRIFFIN**, Bishop of the Catholic Diocese of Columbus, and **THE CITY OF BEXLEY** ("Bexley").

RECITALS

WHEREAS, James A. Griffin is the owner of certain real property located in the City of Bexley, County of Franklin, State of Ohio and further described on Exhibit A attached hereto and incorporated herein by reference (the "St. Charles Property").

WHEREAS, Bexley desires to construct an improvement which improvement shall, when complete, be situated in part upon the St. Charles Property (the "Gateway Improvement").

WHEREAS, James A. Griffin has agreed to grant to Bexley an easement in, over, upon, and through a certain area of the St. Charles property found in the Southwest corner of the St. Charles Property, delineated as follows: beginning at the northwest corner of the bridge abutment and following a line running east, parallel to the existing sidewalk, for approximately twenty feet (20'); then turning about ninety degrees (90°) to the north and running perpendicular to the existing sidewalk for a distance of approximately five feet (5'); then turning about ninety degrees (90°) to the east and running parallel to the existing sidewalk for a distance of approximately thirty-five feet (35'); then turning about ninety degrees (90°) to the south and running perpendicular to the existing sidewalk for a distance of approximately ten feet (10'); then turning about ninety degrees (90°) to the east and running parallel to the existing sidewalk for a distance of twenty feet (20'); then turning about ninety degrees (90°) to the south and running perpendicular to the existing sidewalk until the point at which said line intersects with the existing northerly right of way line of Broad Street, as more particularly shown by the crosshatched area on Exhibit B attached hereto and incorporated herein by reference (the "Easement Property"), for purposes of ingress, egress, construction, maintenance, repair, or any other activity reasonably necessary for the creation, ownership, and upkeep of the Gateway Improvement.

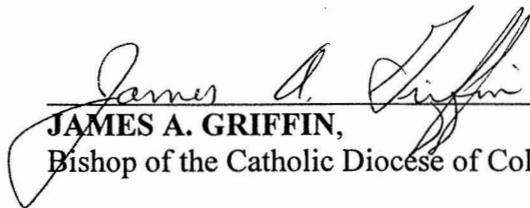
GRANT OF EASEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, James A. Griffin hereby grants and conveys to Bexley, its successors and assigns, a permanent, exclusive easement in, over, upon, and through the Easement Property for the purposes of creating, owning, and maintaining the Gateway Improvement which shall involve ingress, egress, construction, landscaping, maintenance, repair, or any other activity reasonably necessary for the creation, ownership, and maintenance of the same. Said easement shall at all times be subject to the rights of any and all holders of existing easements or encumbrances of

record affecting the Easement Property. Further, James A. Griffin and Bexley hereby make the following agreements:

1. Bexley agrees to maintain and repair the Gateway Improvement.
2. James A. Griffin agrees that he shall not erect any barrier to passage over any portion of the Easement Property except as may be temporarily necessary from time to time for the safety and protection of persons and property.
3. Bexley agrees, to the extent permitted by law, to indemnify and hold James A. Griffin harmless from and against all claims, liabilities, and expenses (including reasonable attorneys' fees) relating to injuries, losses, or damage of or to any person or property arising from the negligent acts or omissions of Bexley, its respective contractors, employees, or agents, occurring on the Easement Property or pursuant to the grant of easement contained herein.

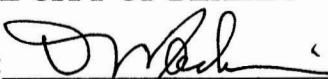
IN WITNESS WHEREOF, James A. Griffin has executed this Easement this 24th day of January, 2003.



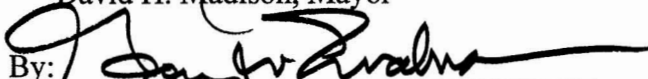
JAMES A. GRIFFIN,
Bishop of the Catholic Diocese of Columbus

IN WITNESS WHEREOF, The City of Bexley has executed this Easement this 25 day of March, 2003.

THE CITY OF BEXLEY

By: 

David H. Madison, Mayor

By: 

Gary Qualmann, Auditor

STATE OF OHIO,
COUNTY OF FRANKLIN, ss:

The foregoing instrument was acknowledged before me this 27th day of January, 2003, by James A. Griffin, Bishop of the Catholic Diocese of Columbus



Katrina M. Nierman

Notary Public
KATRINA M. NIERMAN
Notary Public, State of Ohio
My Commission Expires Aug. 19, 2003

STATE OF OHIO,
COUNTY OF FRANKLIN, ss:

The foregoing instrument was acknowledged before me this 25 day of March, 2003, by David H. Madison, the Mayor of The City of Bexley, and Gary Qualmann, the Auditor of The City of Bexley, on behalf of the City of Bexley.

Anita S. Hughes

Notary Public
ANITA S. HUGHES
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES JULY 26, 2003

This instrument prepared by:

C.H. Waterman IV, Esq.
Vorys, Sater, Seymour & Pease LLP
52 East Gay Street
Columbus, Ohio 43215

EXHIBIT "A"

FIRST TRACT – Being a part of the north 1/2 of half section No. 16, Twp. 5, Range 22, Refugee lands, being the south middle part of Lot No. 3 of the lands partitioned among the heirs of David Nelson deceased. Beginning at a stake in the center of Alum Creek where the south line of said lot No. 3 crosses the same; thence along the center of said creek and meanders thereof north 32 deg. east 14-1/2 poles, north 41 deg. 45 min. east 14-1/2 poles, north 31-3/4 deg. East 10-1/2 poles, to a stake in the center of said creek; thence south 77 deg. 20 min. east 19.86 poles, to a stake in a prairie; thence south 3 deg. East 29.64 poles, to a stake in the south line of said Lot No. 3; thence with the said line north 88 deg. West 44-1/2 poles to the beginning, containing 6-1/4 acres more or less.

SECOND TRACT – Being a tract of land immediately adjoining the tract above described, beginning at a stake in the center of Alum Creek, commencing at the corner of the above described land, thence with the south line of the same south 88 deg. East 44-1/2 poles, to a stake in the center of a ditch, thence with the center of said ditch south 3 deg. East 36-3/4 poles to a stake in the center of the Columbus and Granville Turnpike Road; thence with the center of the same south 80 deg. West 62 poles to the center of Alum Creek; thence with the center thereof and its meanders north 24 deg., east 21 poles, north 12 deg. East 32 poles to the beginning, containing 13-7/8 acres, it being a part of the lands partitioned among the heirs of Samuel Barr deceased, making in the two tracts conveyed, 20-1/8 acres of land, more or less.

Also an interest of the said Grantor in and to a strip of land 20 ft. in width and 885 ft. in length, taken off the front of said premises heretofore by the County Commissioners of said county and State, for the widening and improvement of the Columbus and Granville Turnpike Road (known as East Broad Street); excepting however, from the above described tracts, all that part of the same which lies north of the north line of Clifton Avenue. The above described property is the same conveyed by William H. Long and wife, to Wm. H. Mahlom by warranty deed recorded in D.B. 33, page 366, etc. Recorder's Office, Franklin County, Ohio; and being the same premises conveyed by Dennis Kelly and wife to the grantor herein by warranty deed dated October 20th, 1915, and recorded in D.B. 583, page 506 in the Franklin County deed records.

AGREEMENT

THIS Agreement is made as of this ___ day of _____, 2003, by and between **JAMES A. GRIFFIN**, Bishop of the Catholic Diocese of Columbus ("Property Owner"), and **THE CITY OF BEXLEY, OHIO** ("Bexley").

WHEREAS, Property Owner is the owner of certain real property located in the City of Bexley, County of Franklin, State of Ohio, and commonly referred to as St. Charles Preparatory School, located at 2010 East Broad Street, (parcel Number 20-000075)(the "St. Charles Property"); and

WHEREAS, Bexley desires, as part of its continuing efforts to improve and beautify Bexley's public rights of way, to plant and maintain certain trees on the St. Charles Property on the condition that such trees remain the property of Bexley (the "Beautification Trees"), and Property Owner desires Bexley to plant the Beautification Trees on the St. Charles Property on the condition that Bexley care for such trees; and

WHEREAS, the Beautification Trees have or will be positioned in the locations selected by Property Owner's designee and Bexley and indicated on Exhibit A, attached hereto and incorporated herein by reference, designated "Proposed Shade Tree"; and

WHEREAS, Property Owner is willing to grant to Bexley, all right, license, and permissions required for purposes of ingress and egress to the St. Charles Property for the purposes of planting, maintaining, trimming, replacing, or performing any other activity reasonably necessary for the planting and ongoing care and maintenance of the Beautification Trees during the term of this Agreement (collectively "Tree Maintenance").

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties for themselves, their respective successors and assigns, agree as follows:

1. Ownership and Maintenance of Beautification Trees. Bexley shall plant the Beautification Trees in the general locations identified on Exhibit A, shall be, at all times and for all purposes, the owner of the Beautification Trees and shall be responsible for all Tree Maintenance with respect to the Beautification Trees. Property Owner shall perform no Tree Maintenance (including, without limitation, trimming or removal) with respect to the Beautification Trees without the express written consent of Bexley, except in the event of a bona fide emergency in which time is of the essence and does not permit Property Owner or his designee to secure written or oral permission from Bexley.

2. St. Charles Property. Property Owner hereby grants and conveys to Bexley all right, license, and permission required in order for Bexley to use and occupy the St. Charles property for the purpose of enabling Bexley to perform Tree Maintenance with respect to the Beautification Trees, including ingress and egress to the St. Charles Property at all reasonable times.


3. Term. This Agreement shall be binding on the parties hereto for a period of Ninety-nine (99) years (the "Term"). After the Term, the parties, their respective successors and assigns shall be free to: (a) reaffirm this Agreement for an additional Term by way of a signed and executed addendum to this Agreement; (b) enter into a modified Agreement; or (c) to terminate their relationship with respect to the Beautification Trees, which termination shall forever terminate Bexley's obligations and duties under this Agreement, including but not limited to, Tree Maintenance with respect to the Beautification Trees.

4. Indemnity. Bexley agrees, to the extent permitted by law, to indemnify and hold Property Owner harmless from and against all claims, liabilities, and expenses (including reasonable attorneys' fees) relating to injuries, losses, or damage of or to any person or property arising from the negligent acts or omissions of Bexley or its employees and agents occurring on the St. Charles Property pursuant to any of the rights, licenses, or permissions granted by this Agreement; provided, however, that the foregoing indemnity from Bexley is not intended to, and shall not, relieve Property Owner from any liability which Property Owner may have for any claims of Bexley arising out of any damage to the Beautification Trees or claims, liabilities, and expenses (including reasonable attorneys' fees) relating to injuries, losses, or damage of or to any person or property arising during the performance of Tree Maintenance on the St. Charles Property from the negligent acts or omissions of Property Owner or his employees and agents or as a result of any breach of this Agreement by Property Owner or his employees or agents.

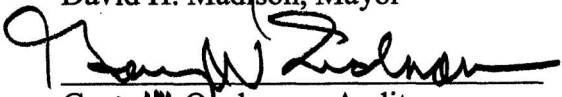
IN WITNESS WHEREOF, Bishop James A. Griffin and the City of Bexley, Ohio, have executed this Agreement this ___ day of _____, 2003.

CITY OF BEXLEY

JAMES A. GRIFFIN,
Bishop of the Catholic Diocese of Columbus

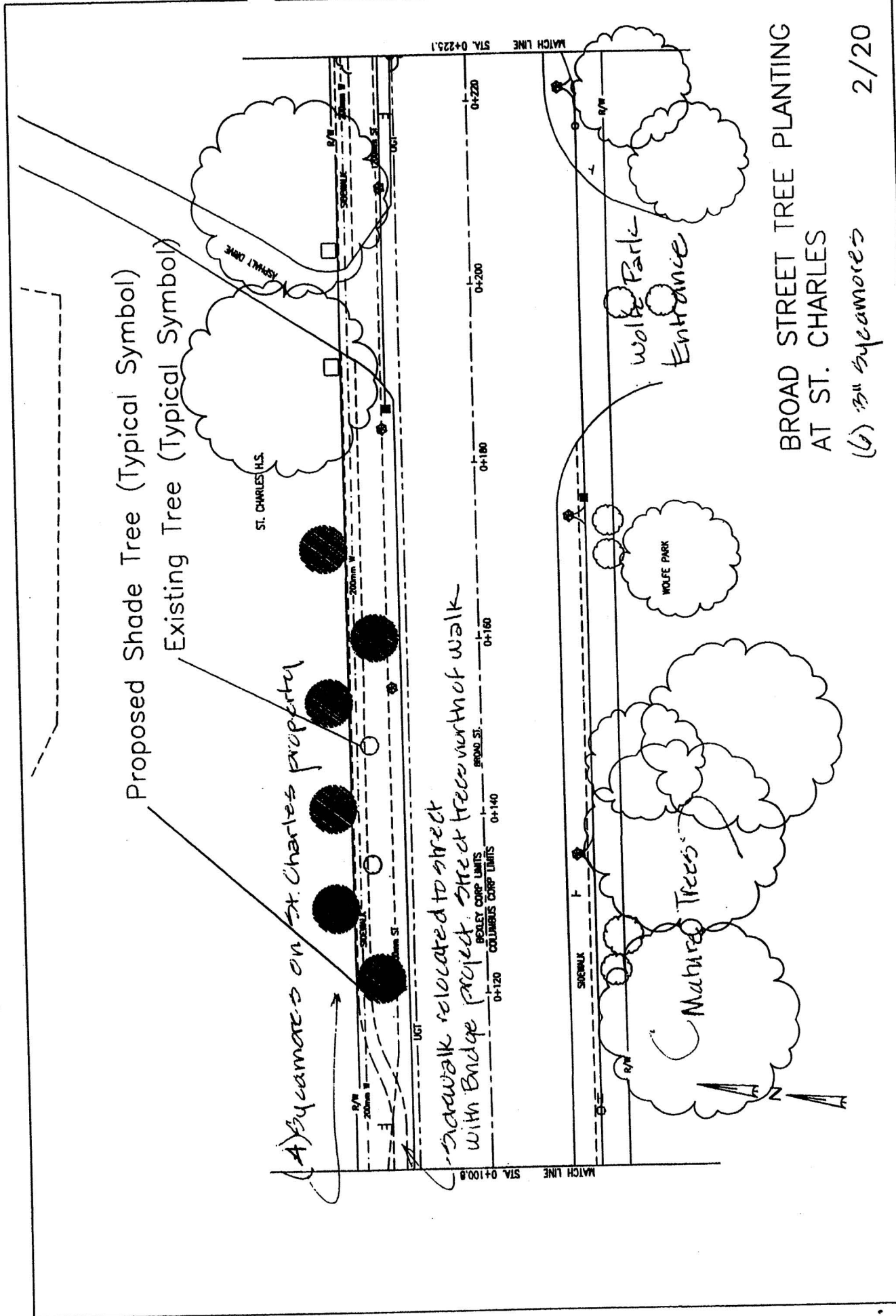


David H. Madison, Mayor



Garry W. Qualmann, Auditor

Exhibit A



Proposed Shade Tree (Typical Symbol)

Existing Tree (Typical Symbol)

Sycamores on St. Charles property

Sidewalk relocated to street
with Bridge Project. Street trees north of walk

BROAD STREET TREE PLANTING
AT ST. CHARLES

(6) 12" Sycamores

2/20

MATCH LINE STA. 0+100.8

MATCH LINE STA. 0+220.1

0+120 COLUMBUS CORP LIMITS
0+140 PEARLY CORP LIMITS
0+160 BROAD ST.

0+180
0+200
0+220

ST. CHARLES H.S.

WOLFE PARK

Wolfe Park
Entrance

Mature Trees

