

ORDINANCE NO. 27-09

By: Ms. Jones

AN ORDINANCE TO APPROVE AND AUTHORIZE THE MAYOR AND THE CITY AUDITOR TO SIGN THE AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF BEXLEY AND BEXLEY GATEWAY PLAZA LTD. TO PROVIDE INCENTIVES AVAILABLE FOR PROJECT DEVELOPMENT IN THE MAIN STREET RE/DEVELOPMENT COMMUNITY REINVESTMENT AREA, AND DECLARING AN EMERGENCY.

WHEREAS, the Council of the City of Bexley, Ohio (the "City") by its Ordinance No. 68-02, adopted September 24, 2002 (and amended by Ordinance No. 60-04, adopted September 28, 2004 and Ordinance No. 73-04, adopted October 26, 2004) (the "Ordinance"), designated the Main Street Re/Development Reinvestment Area (as depicted on Exhibit A and labeled thereon as the "CRA") which enables the City to offer real property tax exemption on the construction of certain new structures and the remodeling of certain existing structures as described in Ohio Revised Code §3735.67; and

WHEREAS, the Director of the Development of the State of Ohio has determined that the aforementioned area designated in said Ordinances contains the characteristics set forth in Ohio Revised Code §3735.66 and confirmed that area as a "Community Reinvestment Area" pursuant to that §3735.66; and

WHEREAS, the City desires to pursue all reasonable and legitimate incentive measures to assist, encourage and stimulate development in the CRA, which has not enjoyed sufficient reinvestment from remodeling or new construction; and

WHEREAS, the City and Bexley Gateway Plaza Ltd. (the "Developer") entered into a Main Street Re/Development Community Reinvestment Area Agreement (the "Agreement") dated December 14, 2004 (as set forth in Exhibit B attached hereto); and

WHEREAS, the City has adopted an amendment to the Ordinance to provide for certain residential exemptions pursuant to O.R.C. Section 3735.67 and the City and the Developer desire to amend the Agreement to remove from the Agreement the residential portion of the Development Project set forth in the Agreement and allow the Developer to apply for the new residential exemption; and

WHEREAS, the City desires to provide the Developer with incentives for development of new residential structures within the boundaries of the CRA consistent with the terms of Ohio Revised Code §3735.65 et al.; and

**NOW, THEREFORE, BE ORDAINED BY THE COUNCIL OF THE CITY OF
BEXLEY, OHIO:**

Section 1. That the amendment to Agreement between the Developer and the City (the "Amendment") substantially in the form attached hereto as Exhibit C and made a part hereof, hereby is approved and authorized with changes therein not inconsistent with this Ordinance and not substantially adverse to the City, and the Mayor and the City Auditor hereby are authorized to execute the Amendment and directed to take any further actions, and execute and deliver any further agreements, certificates or documents necessary to accomplish the terms and conditions of the Amendment, provided further that the approval of changes thereto by those officials, and their character as not being substantially adverse to the City, shall be evidenced conclusively by the execution thereof.

Section 2. That this Ordinance is an emergency measure necessary for the immediate preservation of the public peace, health, safety or welfare, said emergency being the need to provide immediate assistance in the sale of such new residential structures, and shall take effect upon its passage and approval by the Mayor.

Passed: June 9, 2009

Attest: [Signature]
Clerk of Council

[Signature]
President of Council

Approved:

[Signature]
John M. Brennan

First Reading 4-28-09
Second Reading 5-12-09
Third Reading 5-26-09
Tabled 5-26-09
Removed from Table 6-9-09
Passed 6-9-09

**FIRST AMENDMENT TO MAIN STREET RE/DEVELOPMENT
COMMUNITY REINVESTMENT AREA AGREEMENT**

This amendment (the "Amendment") to the Main Street Re/Development Community Reinvestment Area Agreement (the "Agreement") is made and entered into by and between the City of Bexley, Ohio (the "City"), a municipal corporation duly organized and validly existing under the Constitution and laws of the State of Ohio and its Charter, located at 2242 East Main Street in the City, and Bexley Gateway Plaza Ltd., an Ohio limited liability company, with offices located at 3016 Maryland Avenue, Columbus, Ohio 43209 (hereinafter referred to as the "Developer", and together with any successors, assigns or transferees, collectively or singly, as the context requires, referred to hereinafter as the "Owner").

WITNESSETH:

WHEREAS, the City Council by its Ordinance No. 68-02 adopted September 24, 2002 (and amended by Ordinance No. 60-04, adopted September 28, 2004, Ordinance No. 73-04, adopted October 26, 2004, and Ordinance __-09 adopted _____, 2009) (the "Ordinance") created the Main Street Re/Development District Community Reinvestment Area (the "CRA") and authorized real property tax exemption on the construction of certain new structures and the remodeling of certain existing structures as described in Ohio Revised Code Section 3735.67; and

WHEREAS, the Developer acquired the real property contained within the CRA and described on Exhibit A attached hereto (the "Land"), and has constructed on the Land an approximately 134,093 square feet, three to five-story mixed-use development (the "Project") consisting of up to thirty-four (34) condominium dwelling units, three (3) fee-simple town homes, street level commercial retail and professional offices (the buildings hereinafter referred collectively as the "Development" and the individual buildings hereinafter referred to as the "Structure" or "Structures"); and

WHEREAS, the City and the Developer entered into the Agreement dated December 14, 2004 (a copy of which is attached hereto as Exhibit B); and

WHEREAS, the City has created a residential exemption applicable to new residential structures constructed within the Main Street Re/Development Community Reinvestment Area; and

WHEREAS, the City and Developer desire to amend the Agreement to remove from the described property the residential portions of the Development so they may be included under the new residential exemption within the Main Street Re/Development Community Reinvestment Area; and

NOW, THEREFORE, in consideration of the mutual covenants contained in the

Agreement and the benefit to be derived by the parties from the execution hereof, the parties herein agree as follows:

The first paragraph of Section 1 of the Agreement is hereby amended to read as follows:

street level
1. Project Description. The Project Description to be covered by the Agreement as amended hereby will be the commercial retail and professional office space and associated parking lot comprised of 0.692 Acres as described in Instrument No. 200703120043404 to Bexley Gateway Plaza, Ltd., Auditor's Tax Parcel No. 020-004740-00 and as set forth in Exhibit "C" attached hereto. The approximate total cost of the construction of the Project that may occur on the Land, including all personal property to be incorporated therein, is expected to be approximately \$5,250,000.

The parties hereto reaffirm each and every other provision of the original Agreement dated December 14, 2004 as if fully rewritten herein and made a part hereof.

IN WITNESS WHEREOF, the City of Bexley, Ohio, by John M. Brennan, its Mayor, and Larry Heiser, its City Auditor, and pursuant to Ordinance No. ___, 09 adopted ___, 2009, has caused this instrument to be executed as of this ___ day of ___, 2009, and Bexley Gateway Plaza Ltd., by its Managing member has caused this instrument to be executed as of this ___ day of ___, 2009.

CITY OF BEXLEY, OHIO

By: 

John M. Brennan, Mayor

By: 

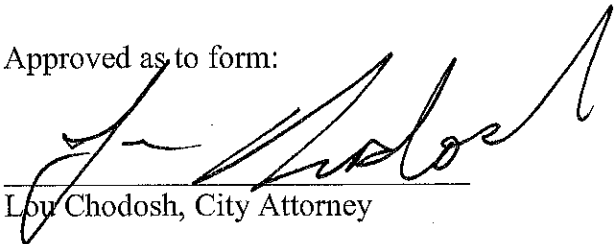
Larry Heiser, Auditor

BEXLEY GATEWAY PLAZA, LTD.

By: _____

Laurence G. Ruben, Managing Member

Approved as to form:


Lou Chodosh, City Attorney

Removed from table - 6/10/09
Passed 6/10/09

EXHIBIT A

1.567 ACRES

Situated in the State of Ohio, County of Franklin, City of Bexley, being all of Julian's Subdivision, as same is delineated upon the recorded plat thereof, of record in Plat Book 5, Page 185, Recorder's Office, Franklin County, Ohio, part of Lot 3 of Eugene Powell's Subdivision of Lots Nos. 52, 53, and 54 of Rownd and Knauss' Park View Subdivision, as same is numbered and delineated upon the recorded plat thereof, of record in Plat Book 4, Page 239, said Recorder's Office, and all of the 0.109 Acre tract conveyed to Bexley Gateway Plaza. Ltd. by Instrument No. 200411180264672, said Recorder's Office, and being more particularly described as follows:

Beginning at a MAG nail set at the Southwest corner of said Lot 1 of Julian's Subdivision, being the intersection of the north line of East Main Street (80 feet wide) with the east line of South Parkview Avenue (80 feet wide);

Thence, along the west line of said Julian's Subdivision, part of the west line of Lot 3 of said Eugene Powell's Subdivision, and the east line of said South Parkview Avenue, North $01^{\circ} 48' 38''$ East, 362.69 feet to a found 1 inch iron pipe;

Thence, across said Lot 3, South $88^{\circ} 54' 44''$ East 189.72 feet to a set iron pipe at the northeast corner of said 0.109 acre tract (passing found iron pipes at 169.93 feet and 181.72 feet, respectively);

Thence, along the east line of said 0.109 Acre tract, South $01^{\circ} 48' 44''$ West, 356.69 feet to an iron pipe set at the intersection of said line with the north line of said East Main Street, at the southeast corner of said 0.109 Acre tract;

Thence, along the south line of said 0.109 tract, south line of said Julian's Subdivision and the north line of said East Main Street, WEST, 189.80 feet to the place of beginning CONTAINING 1.567 ACRES (passing a found pinchtap iron pin at 8.01 feet, MAG nail at 13.91 and a 1" iron pin at 19.80 feet, respectively) subject however, to all legal highways, easements, leases and restrictions of record, and of records in the respective utility offices.

The foregoing description was prepared from an actual field survey made by Myers Surveying Company, Inc. in December 2003. Iron pipes set are 30"x1" (O.D.) with orange plastic caps inscribed "P.S. 6579". Bearings are based on the north line of East Main Street held as WEST.

MYERS SURVEYING COMPANY, INC.

EXHIBIT B

(Insert copy of the signed CRA Agreement dated 12-14-04)

EXHIBIT C

0.692 ACRES

Situated in the State of Ohio, County of Franklin, City of Bexley, located in Half Section 20, Township 5, Range 22, Refugee Lands, being part of a 1.567 acre tract of land described in Instrument Number 200510190219939 to **BEXLEY GATEWAY PLAZA LTD.**, and part of 0.109 acre tract of land described in Instrument Number 200411180264672 to **BEXLEY GATEWAY PLAZA LTD.**, being all of lots 2, 3, 4, and part of Lots 1, and 5 of the Julian's Subdivision, Plat Book 5, Page 185, and 11.79 feet wide vacated alley Ord. No. 17-63, and 12.69 feet wide vacated alley Ord. No. 55-42 (record references to those of the Recorder's Office, Franklin County, Ohio), and being more particularly bounded and described as follows:

Beginning at a "mag nail " set at the northeast corner of Parkview Avenue (80') and Main Street (80'), being the southwest corner of said Lot 1, Julian's Subdivision, and being the southwest corner of said 1.567 acre tract;

thence northerly with the east line of Parkview Avenue and the west line of said 1.567 acre tract, North 03° 31' 21" East, 67.84 feet to a "mag nail" set, said nail being the southwest corner of an unrecorded 0.018 acre tract, referred to as Tract 5;

thence continuing across said 1.567 acre tract the following three (3) courses;

- 1.) with the south line of said Tract 5, South 88° 19' 25" East, 35.38 feet to a "mag nail" set;
- 2.) with the east line of said Tract 5, an unrecorded 0.017 acre tract, referred to as Tract 4, an unrecorded 0.019 acre tract, referred to as Tract 3, North 01° 46' 48" East, 69.19 feet to a "mag nail" set;
- 3.) with the north line of Tract 3, and the south line of vacated alley (Ord. 55-42), North 88° 19' 25" West, 33.28 feet to a "mag nail" set, said nail being on the east line of Parkview Avenue;

thence with the east line of Parkview Avenue and west line of said 1.567 acre tract, North 03° 31' 21" East, 22.95 feet to a "mag nail "set;

thence continuing across said 1.567 acre tract and along the south and east lines of an unrecorded 0.810 acre tract, referred to as Tract 2, the following three (3) courses;

- 4.) South 88° 21' 30" East, 45.87 feet to a pin set;
- 5.) North 01° 38' 30" East, 14.60 feet to a pin set;
- 6.) South 88° 21' 30" East, 144.40 feet to a iron pin set, said iron pin being on east line of said 0.109 acre tract and in an original 0.6359 acre tract

conveyed to Trinity Lutheran Seminary, as described in Deed Book 3708,
Page 280;

thence southerly crossing said original 0.6359 acre tract and with the east line of said 0.109 acre tract, South $03^{\circ} 30' 45''$ West, 175.42 feet, to a iron pin set, said pin being on the north line of Main Street, and being the southeast corner of said 0.109 acre tract;

thence westerly with the north line of Main Street North $88^{\circ} 07' 00''$ West, 189.79 feet to the POINT OF BEGINNING, said described tract of land containing 0.692 acres (30,161 Sq. Ft.), more or less.

Subject to all legal rights-of-way and/or easements, if any, of previous record.

Basis of Bearing: South line of Main Street, as described in Plat Book 20, Page 36 of the Park Drive Addition, being South $88^{\circ} 07'$ East.

This description was prepared by Matthew L. Sloat, Registered Surveyor No. 8342, E.F. Ferris & Associates, Inc. on December 6, 2006.