

RESOLUTION NO. 02-16
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER John Beals ON THE 15th
DAY OF FEBRUARY 2016.

A RESOLUTION GRANTING A NON-EXCLUSIVE EASEMENT TO E & E PROPERTIES, INC. FOR PRIVATE STORMWATER INFRASTRUCTURE OVER THE CITY OF CENTERVILLE PROPERTY LOCATED ALONG EAST FRANKLIN STREET.

WHEREAS, E & E Properties, Inc. (hereinafter referred to as "E & E Properties") intends to construct a patio along East Franklin Street in the City of Centerville (hereinafter referred to as the "City") and has received prior approval of its Major Site Plan subject to conditions; and

WHEREAS, one of the conditions for the Major Site Plan is for E & E Properties to be able to obtain legal access over the City's property located along East Franklin Street for storm water drainage; and

WHEREAS, an easement from the City to E & E Properties across the City's property is necessary for the installation, maintenance and repair of their private storm water system; and

WHEREAS, the City proposes to grant to E & E Properties a non-exclusive easement for a portion of land upon property set forth in more fully described in Exhibit "A", attached and incorporated herein, for said purpose.

NOW, THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY RESOLVES:

Section 1. The City of Centerville hereby agrees to grant a non-exclusive easement for a portion of the City's property for private storm water infrastructure over the property along East Franklin Street, said land being more particularly described in Exhibit "A" attached hereto and made a part hereof.

Section 2. The City Manager is hereby authorized to execute the easement attached as Exhibit "A" and take all necessary actions to effectuate this grant of easement to E & E Properties pursuant to the terms of the Easement.

Section 3. This Resolution shall become effective at the earliest date allowed by law.

PASSED this 15th day of February, 2016.

Bruce A. Compton
Mayor of the City of Centerville, Ohio

ATTEST:

Julia M. Weaver
Clerk of Council, City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of the Council of the City of Centerville, Ohio, hereby certifies that the foregoing is a true and correct copy of Resolution Number 02-16, passed by the Council of the City of Centerville, Ohio, on the 15th day of February, 2016.

Julia M. Weaver
Clerk of Council

Approved as to form, consistency
with the Charter and Constitutional Provisions.
Department of Law
Scott A. Liberman
Municipal Attorney

EASEMENT AGREEMENT

This Easement Agreement ("Agreement") is made and entered into by and between City of Centerville ("Grantor"), as owner of Lot 2, Centerville Aaron Nutt Plat, Section One and E & E Properties, Inc. ("Grantee") as owner of Lot 2, E & E Plat.

Grantor is the titled owner of the following real property, to wit:

Situated in the City of Centerville, County of Montgomery and State of Ohio, being Lot No. 2, Centerville Aaron Nutt Plat, Section One, as recorded in Plat Book 191, Page 20 of the Records of Montgomery County Ohio.

Grantee is the titled owner of the following real property, to wit:

Situated in the City of Centerville, County of Montgomery and State of Ohio, being Lot No. 2, E & E Plat, being a replat of Lot 7 (67) and Part of Lot 11 (71) as recorded in Plat Book 226, Page 26 of the Records of Montgomery County Ohio.

Grantor desires to grant a perpetual Easement over a portion of the lands of the Grantor to the Grantee, its successors and assigns, and for its agents, tenants, visitors and licensees to freely enter upon a portion of the Grantor's land for the purpose of installing, maintaining and repairing storm water infrastructure that connects to existing storm water infrastructure on Grantors' property. Said easement is described as follows:

See Exhibit "A" attached hereto and incorporated herein.

Grantee agrees that the Grantee, its respective successors and assigns, shall be responsible for any damage to the easement area as a result of the installation and maintenance of the storm water infrastructure installed on Grantor's property. Further, Grantee will repair any damage to the satisfaction of Grantor within fourteen (14) days of the occurrence of any damage to the real estate. Further, Grantee agrees that Grantee will indemnify and hold Grantors harmless from any and all damages resulting from any failure of the storm water infrastructure. Further, Grantee shall be responsible for all costs to maintain and repair said storm water infrastructure.

In lieu of accepting compensation for the granting of this easement, the Grantor shall have the perpetual right to amend or revoke the easement upon 30 days written notice to Grantee in the event Grantor requires the easement area for redevelopment of the subject property.

IN WITNESS WHEREOF, the Grantors and Grantees have set their hands on the date indicated below.

Grantor:
City of Centerville (owner of Lot 2, Centerville Aaron Nutt Plat, Section One)

Greg Horn, City Manager

Date

Grantee:
E & E Properties, Inc. (owner of Lot 2, E & E Plat)



Scott Leen, Vice -President

1/14/16

Date

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

Before me, a Notary Public in and for said county and state, personally appeared Greg Horn, City Manager of the City of Centerville, the owner of Lot 2, Centerville Aaron Nutt Plat, Section One, the Grantor herein, who acknowledged that he did sign the foregoing instrument and that the same is his free act and deed and the free act and deed of the City of Centerville.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this ____ day of January, 2016.

Notary Public

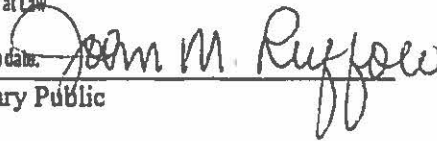
STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

Before me, a Notary Public in and for said county and state, personally appeared Scott Leen, Vice-President of E & E Properties, Inc., the owner of Lot 2, E & E Plat, the Grantee herein, who acknowledged that he did sign the foregoing instrument and that the same is his free act and deed and the free act and deed of the corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 14 day of January, 2016.



JOHN M. RUFFOLO, Attorney at Law
Notary Public, State of Ohio
My Commission has no expiration date.
Section 147.03 O. R. Notary Public



This Instrument Prepared By: John M. Ruffolo, Attorney at Law, 7501 Paragon Road, Dayton, Ohio 45459, 937-434-3556

**EASEMENT DESCRIPTION
LOCATED ON LOT 2
CENTERVILLE AARON NUTT PLAT SECTION ONE
PLAT BOOK 191, PG. 20
SECTION 25, TOWN 2, RANGE 6 M.Rs.
CITY OF CENTERVILLE
MONTGOMERY COUNTY, OHIO
EASEMENT CONTAINS 0.0028 ACRES**

Situate in Section 25, Town 2, Range 6 M.Rs., City of Centerville, Montgomery County, Ohio and being a storm sewer easement 10 feet in width, located on Lot 2 of the Centerville Aaron Nutt Plat, Section One as recorded in Plat Book 191, Page 20, said easement being more particularly described as follows: (all references to deed books, official records, microfiche numbers, instrument numbers, survey records and/or plats refer to the Montgomery County Recorder's Office, Montgomery County, Ohio)

Commencing at the southeast corner of Lot 2 of said Centerville Aaron Nutt Plat Section One, said corner also being in the west line of Lot 1 of the E & E Plat as recorded in Plat Book 226, Page 26, said point also being in the north right-of-way line of East Franklin Street;

Thence along the east line of said Lot 2 of the Centerville Aaron Nutt Plat and the west line of said Lot 1 of said E & E Plat **North 00°43'50" East** a distance of **18.71 feet** to the **True Place of Easement Beginning**;

Thence **South 67°07'36" West** a distance of **1.67 feet** to a point;

Thence **North 63°52'24" West** a distance of **10.00 feet** to a point;

Thence **North 26°07'36" East** a distance of **36.20 feet** to a point in the east line of said Lot 2 of the Centerville Aaron Nutt Plat and the west line of said Lot 1 of said E & E Plat;

Thence along the east line of said Lot 2 of the Centerville Aaron Nutt Plat and the west line of said Lot 1 of said E & E Plat **South 00°43'50" West** a distance of **23.32 feet** to the **True Point of Easement Beginning**;

The above described easement contains **122 square feet** or **0.0028 acres**, more or less.

The above described easement is subject to all other legal highways, easements, and restrictions of record.

**EASEMENT DESCRIPTION
LOCATED ON LOT 2 ~ CENTERVILLE AARON NUTT PLAT
CITY OF CENTERVILLE, MONTGOMERY COUNTY, OHIO
PAGE 2**

**Basis of Bearings: East line of Lot 1 of the E & E Plat as recorded in Plat Book 226,
Page 26. Bearing = N 00°43'50" East**

This description is based upon a field survey conducted under the supervision of
Thomas E. Dusa, Registered Surveyor, Ohio License Number S-7143, on September
24, 2015.

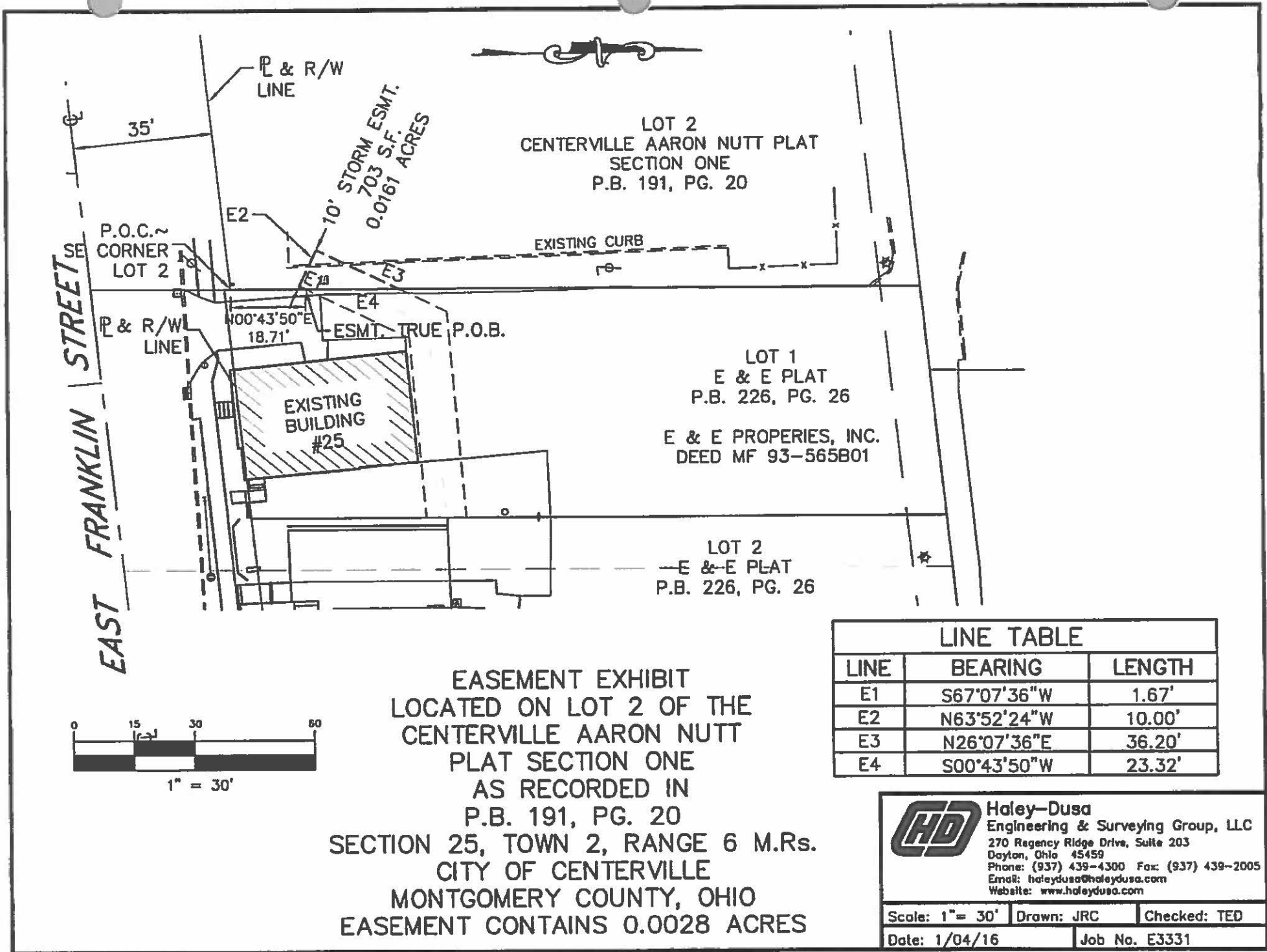
Haley-Dusa Engineering & Surveying Group, LLC



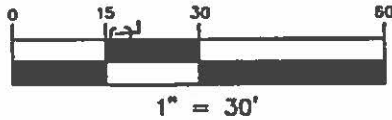
**Thomas E. Dusa
Registered Surveyor
Ohio License Number S-7143**

**January 4, 2016
Job #E3331**





EASEMENT EXHIBIT
 LOCATED ON LOT 2 OF THE
 CENTERVILLE AARON NUTT
 PLAT SECTION ONE
 AS RECORDED IN
 P.B. 191, PG. 20
 SECTION 25, TOWN 2, RANGE 6 M.R.s.
 CITY OF CENTERVILLE
 MONTGOMERY COUNTY, OHIO
 EASEMENT CONTAINS 0.0028 ACRES



LINE TABLE		
LINE	BEARING	LENGTH
E1	S67°07'36"W	1.67'
E2	N63°52'24"W	10.00'
E3	N26°07'36"E	36.20'
E4	S00°43'50"W	23.32'

HD Haley-Dusa
 Engineering & Surveying Group, LLC
 270 Regency Ridge Drive, Suite 203
 Dayton, Ohio 45459
 Phone: (937) 439-4300 Fax: (937) 439-2005
 Email: haleydusa@haleydusa.com
 Website: www.haleydusa.com

Scale: 1" = 30'	Drawn: JRC	Checked: TED
Date: 1/04/16	Job No. E3331	