

RESOLUTION NO. 59-93
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Sally Beals ON THE
7th DAY OF September, 1993.

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE EASEMENT AND RIGHT OF WAY GRANTS TO THE DAYTON POWER AND LIGHT COMPANY FOR THE RELOCATION OF TRANSMISSION AND/OR DISTRIBUTION LINES IN CONNECTION WITH THE CONSTRUCTION OF THE YANKEE TRACE GOLF COURSE PROJECT.

WHEREAS, it is necessary for the City of Centerville to grant unto the Dayton Power and Light Company right of way and easements to facilitate the relocation of electric transmission and/or distribution lines in conjunction with the Yankee Trace Golf Course/Residential development project.

NOW, THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY RESOLVES:

SECTION 1. That the City Manager is hereby authorized and directed to do all things necessary to execute right of way and easements to the Dayton Power and Light Company in order to relocate electric distribution and/or transmission lines upon the grounds of the Yankee Trace Golf Course/Residential development project, a copy of said right of way and easements attached hereto and made a part hereof, and marked Exhibit "A".

SECTION 2. This Resolution shall become effective at the earliest date allowed by law.

PASSED this 7th day of September,
1993.


Mayor of the City of
Centerville, Ohio

ATTEST:


Clerk of the Council of the
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 59-93, passed by the Council of the City of Centerville, Ohio, on the 7th day of September, 1993.

Marie J. Saughel
Clerk of Council

Approved as to form, consistency
with the Charter and Constitutional Provisions.

Department of Law
Robert N. Farquhar
Municipal Attorney

KNOW ALL MEN BY THESE PRESENTS

THAT City of Centerville

Grantor(s), in consideration of One Dollar (\$1.00) to them paid by The Dayton Power and Light Company, Courthouse Plaza Southwest, Dayton, Ohio 45401 (hereinafter called "Grantee"), the receipt of which is hereby acknowledged, do(es) hereby GRANT, BARGAIN, SELL AND CONVEY unto The Dayton Power and Light Company, its successors and assigns forever, a right of way and easement for underground electric lines for the transmission and/or distribution of electric energy together with such above-ground electric feeder lines as may be required to serve such underground lines, and/or for any and all purposes for which electric energy is now, or may hereafter be used, with all lines, wires, cables, conduits, manholes, grounding systems, counterpoises, communication circuits, equipment, which in the judgement of the Grantee, are necessary or incidental to the use of said right of way and easement; whether above or underneath the ground, with and the right to add to, construct, reconstruct, erect, operate, repair, maintain, use, remove or replace such facilities at any time, subject to the conditions hereinafter contained, in, over, upon, under and through the following premises, viz:

Situated in Washington Township, Montgomery County, State of Ohio.

And being a tract of land containing 127 acres, more or less, situated in part of the northeast quarter of Section 4, Town 2, Range 5 MRS and being the same premises conveyed in a Warranty Deed recorded on Microfiche No. 90-339-D10 and being the same premises described in a Trustees Deed recorded on Microfiche No. 90-339-D11 of the Deed Records of Montgomery County, Ohio.

Said right of way and easement shall be 10 feet in width and the centerline shall be approximately along the course identified on Exhibit "A" (2 sheets) attached hereto and made a part hereof.

In addition to the rights provided above, said grant of right of way and easement shall provide that:

Grantee, its successors and assigns, by and through its employees, servants, and agents, shall have the right of ingress and egress over the right of way and easement and the adjoining premises of Grantor(s) to add to, construct, reconstruct, repair, maintain, use or remove its said facilities or parts thereof, and to cut, trim and remove or otherwise control such trees, roots, undergrowth or overhanging branches and/or other obstructions, both within and without the limits of said right of way and easement, as, in the opinion of Grantee, may now or at any time hereafter interfere with the construction, use, maintenance or successful operation of said facilities and/or the transmission and/or distribution of electric energy thereby.

Grantee, its successors and assigns, shall reimburse Grantor(s) for any damage or loss to growing crops and other property, including buildings and fences, that may be caused by the negligence of Grantee or its agents, servants, or employees, in the construction, repair, use or removal of said facilities.

No buildings or other structures shall be erected within the limits of said right of way and easement by Grantor(s). No excavating or filling shall be done or be permitted by Grantor(s) within said right of way and easement, which in the opinion of Grantee would either (a) reduce or add to the distance between Grantee's said facilities and the land surface, (b) impair the land support of said facilities, (c) impair Grantee's ability to maintain said facilities, and/or (d) create a hazard.

Grantor(s) shall have the right to use the land within the limits of said right of way and easement in any other manner not inconsistent with the rights herein described.

Grantor(s) covenant with Grantee, that he/she/they are the true and lawful owner(s) of said premises and have full power to convey the rights hereby conveyed and he/she/they do warrant and will defend the same against the claims of all persons whomsoever.

In the event that any road should be widened or relocated so that its right of way extends onto the Grantee's right of way and easement herein provided for, Grantee may, but shall not be required to relocate or reconstruct its facilities so that Grantee's facilities as relocated or reconstructed are contained within Grantee's right of way as relocated so that the centerline of said right of way shall not be more than five (5) feet off the road right of way as widened or relocated.

All the covenants, agreements, stipulations, provisions, conditions and obligations contained herein, shall be considered as running with the land and shall extend to, bind and inure to the benefit of, as the case may require, the heirs, executors, administrators, successors and assigns of the Grantor(s) and Grantee respectively, as fully as if such words were written whenever reference to the Grantor(s) and Grantee occur in this grant.

As used herein, words in the plural number include words in the singular number.

IN WITNESS WHEREOF, the Grantor(s) have hereunto subscribed their names this ____ day of _____, 19____.

Signed and acknowledged in the presence of:

WITNESSES

GRANTOR(S)

CITY OF CENTERVILLE

BY: _____
ITS: _____
AND: _____
ITS: _____

STATE OF OHIO, COUNTY OF MONTGOMERY , SS:

Before me, a Notary Public in and for said County and State, personally appeared City of Centerville

BY: _____ ITS: _____
AND: _____ ITS: _____

the Grantor(s) in the foregoing Instrument, and acknowledged the signing thereof to be its/their voluntary act and deed. In testimony thereof, I have hereunto set my hand and seal, this ____ day of _____, 19____.

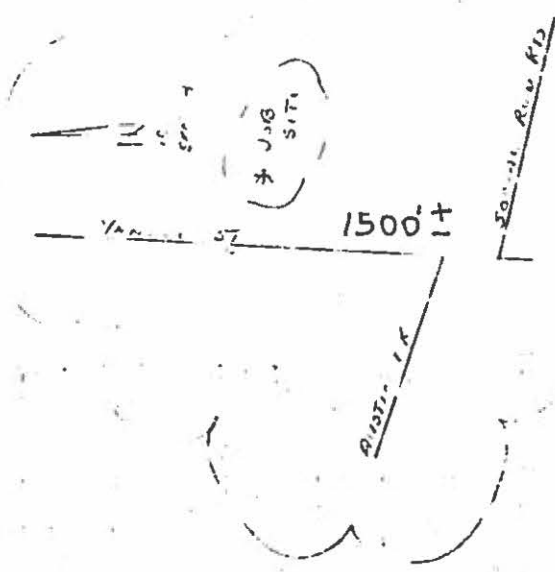
Notary Public

This Instrument Prepared By

Sheet 424



E36/22
IN 1202 40/10



1/2 100 KVA. 100' MT.
TRANSFORMER 100' IN
EAST TO 1.5" W. L. STD.
71' W. L. STD.

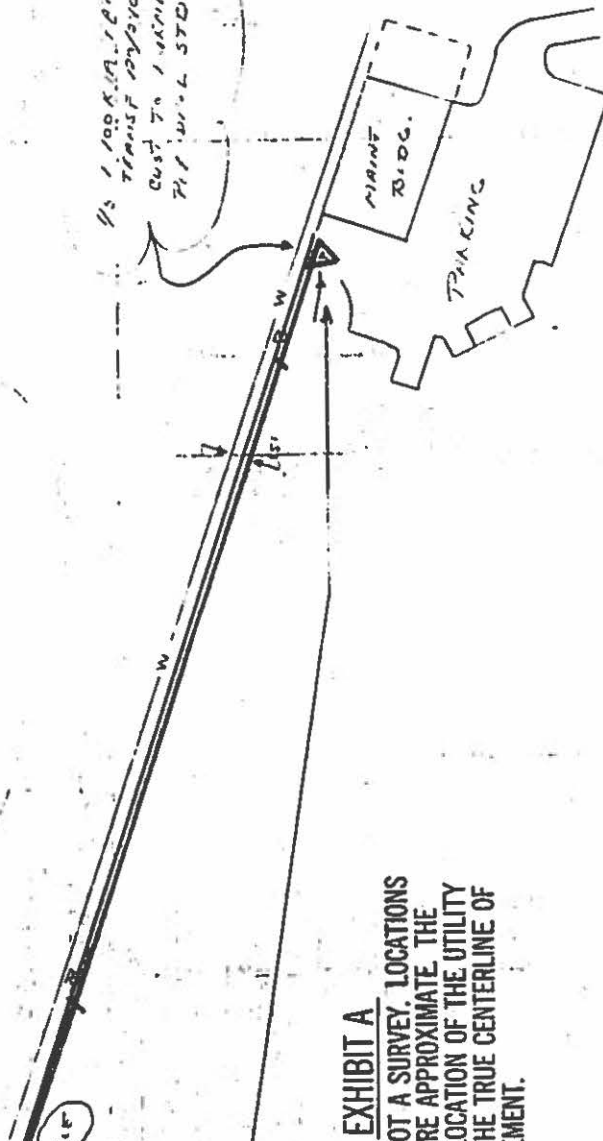


EXHIBIT A
NOT A SURVEY. LOCATIONS
ARE APPROXIMATE. THE
LOCATION OF THE UTILITY
THE TRUE CENTERLINE OF
EMENT.

TITLE YANKEE TRACE GOLF COURSE			
CIVILET CORP		Monte Co.	
FOR ELECT SERVICE TO MAINTENANCE			
DATE 19			
SCALE 1" = 100'	PROJECT 33097	MAP NO. 63973	
DRAWN KANTON	7.8.73	APPROVED	
CHECKED		APPROVED	
ENGINEER KANTON	7.8.73	APPROVED	
DATE	BY	DATE	BY

P.L.S.

KNOW ALL MEN BY THESE PRESENTS

THAT The City of Centerville, Ohio, an Ohio municipal corporation

Grantor(s), in consideration of One Dollar (\$1.00) to them paid by The Dayton Power and Light Company, Courthouse Plaza Southwest, Dayton, Ohio 45401 (hereinafter called "Grantee"), the receipt of which is hereby acknowledged, do(es) hereby GRANT, BARGAIN, SELL AND CONVEY unto The Dayton Power and Light Company, its successors and assigns forever, a right of way and easement for lines for the transmission and/or distribution of electric energy and/or for any and all purposes for which electric energy is now, or may hereafter be used, together with the right to construct thereon, either underground or overhead, all towers, poles, lines, structures, wires, cables, conduits, manholes, anchors, grounding systems, counterpoises, communication circuits, equipment, and all other appurtenances which in the judgement of the Grantee are necessary or incidental to the use of said right of way and easement; and the right to add to, construct, reconstruct, erect, operate, repair, maintain, use, remove or replace such facilities at any time, subject to the conditions hereinafter contained, in, over, upon, under and through the following described premises, viz:

Situated in Washington Township, Montgomery County, State of Ohio.

And being two (2) tracts of land containing 127 acres and 128.985 acres, more or less, situated in part of the northeast quarter of Section 4, Town 2, Range 5 MRS and part of the southeast quarter of Section 5, Town 2, Range 5 MRS and being the same premises conveyed in a Warranty Deed recorded on Microfiche No. 90-339-D10 and being the same premises described in a Trustees Deed recorded on Microfiche No. 90-339-D11 and being a part of the premises conveyed in a Warranty Deed recorded on Microfiche No. 90-249-A01 of the Deed Records of Montgomery County, Ohio.

Said right of way and easement shall be 10, 50, 75 feet in width and the centerline shall be approximately along the following course:

75 Feet Wide Easement:

Beginning at a point in the westerly property line (which is also the centerline of Yankee Street) one foot northwardly at right angles from the southerly line of said 128.985 acre tract (which is also the northerly line of said 127 acre tract); thence eastwardly parallel to and one foot northwardly from the aforesaid southerly line 2457.5 feet, more or less, to a point "A".

50 Feet Wide Easement:

Also beginning at said point "A" in the above described right of way and easement; thence northwardly on an angle to the right of 77° 36' 33" from the first described line 306 feet, more or less, to a point "B"; thence northeastwardly on a deflection angle of 57° 35' 19" to the right from the aforesaid described line 456 feet, more or less, to a point; thence eastwardly one foot, more or less, to a point in the easterly line of said Section 5. Said point being 647.3 feet northwardly from the southerly line of said 128.985 acre tract.

10 Feet Wide Easement:

Beginning at said point "A" in the above described right of way and easement; thence eastwardly 90 feet, more or less, to a point, said point being 1 foot northwardly from the southerly line of said 128.985 acre tract.

Also beginning at said point "A" in the above described right of way and easement; thence southwardly on a deflection angle of 77° 36' 33" to the right from the first described line 41 feet, more or less, to a point.

Also beginning at said point "B" in the above described right of way and easement; thence northwardly on a deflection angle of 0° from the second described line 70 feet, more or less, to a point.

Also beginning at said point "B" in the above described right of way and easement; thence southwestwardly on an angle to the right of 57° 35' 19" from the second described line for 50 feet, more or less, to a point.

Said right of way and easement may be further identified on Exhibit "A" attached hereto and made a part hereof.

In addition to the rights provided above, said grant of right of way and easement shall provide that:

Grantee, its successors and assigns, by and through its employees, servants, and agents, shall have the right of ingress and egress over the right of way and easement and the adjoining premises of Grantor(s) to add to, construct, reconstruct, repair, maintain, use or remove its facilities or parts thereof, and to cut, trim and remove or otherwise control such trees, roots, undergrowth or overhanging branches and/or other obstructions, both within and without the limits of said right of way and easement, as, in the opinion of Grantee, may now or at any time hereafter interfere with the construction, use, maintenance or successful operation of said facilities and/or the transmission and/or distribution of electric energy thereby.

Grantee shall reimburse Grantor(s) for any damage or loss to growing crops and other property, including buildings and fences, that may be caused by the negligence of Grantee, its agents, servants, or employees, in the construction, repair or removal of its facilities.

No buildings or other structures shall be erected within the limits of said right of way and easement by Grantor(s). No excavating or filling shall be done or be permitted by Grantor(s) within said right of way and easement, which in the opinion of Grantee would either (a) reduce or add to the distance between Grantee's facilities and the land surface, (b) impair the land support of its facilities, (c) impair Grantee's ability to maintain its facilities, and/or (d) create a hazard.

Grantor(s) shall have the right to use the land within the limits of said right of way and easement in any other manner not inconsistent with the rights herein described.

Grantor(s) covenant with Grantee, that he/she/they are the true and lawful owner(s) of said premises and have full power to convey the rights hereby conveyed and he/she/they do warrant and will defend the same against the claims of all persons whomsoever.

In the event that any road should be widened or relocated so that its right of way extends onto the Grantee's right of way and easement herein provided for, Grantee may, but shall not be required to relocate or reconstruct its facilities so that Grantee's facilities as relocated or reconstructed are contained within Grantee's right of way as relocated so that the centerline of said right of way shall not be more than five (5) feet off the road right of way as widened or relocated.

All the covenants, agreements, stipulations, provisions, conditions and obligations contained herein, shall be considered as running with the land and shall extend to, bind and inure to the benefit of, as the case may require, the heirs, executors, administrators, successors and assigns of the Grantor(s) and Grantee respectively, as fully as if such words were written whenever reference to the Grantor(s) and Grantee occur in this grant.

By executing this right of way grant, the parties intend to continue existing right of way now on the above 127 acre tract of land by superseding and extinguishing the right of way grant dated July 8, 1947, from Martha V. Hackman and Clem Hackman, her husband, to The Dayton Power and Light Company and recorded in Volume 1234, Page 130 of the Montgomery County Deed Records, to the extent that said right of way grant applies to said 127 acre tract of land, and to substitute the provisions of this right of way grant for the provisions of said right of way grant.

Also by executing this right of way grant, the parties intend to continue existing right of way now on the above 128.985 acre tract of land by superseding and extinguishing the right of way grant dated June 27, 1947 from John A. Paff and Ruth E. Paff, husband and wife, to The Dayton Power and Light Company and recorded in Volume 1230, Page 531 of the Montgomery County Deed Records, to the extent that said right of way grant applies to said 128.985 acre tract of land, and to substitute the provisions of this right of way grant for the provisions of said right of way grant.

As used herein, words in the plural number include words in the singular number.

IN WITNESS WHEREOF, the Grantor(s) have hereunto subscribed their names this ____ day of _____, 19__.

Signed and acknowledged in the presence of:

WITNESSES

GRANTOR(S)

THE CITY OF CENTERVILLE, OHIO, AN OHIO MUNICIPAL CORPORATION

BY: _____
ITS: _____
AND: _____
ITS: _____

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

Before me, a Notary Public in and for said County and State, personally appeared The City of Centerville, Ohio, an Ohio municipal corporation

BY: _____ ITS: _____
AND: _____ ITS: _____

the Grantor(s) in the foregoing Instrument, and acknowledged the signing thereof to be its/their voluntary act and deed. In testimony thereof, I have hereunto set my hand and seal, this ____ day of _____, 19__.

Notary Public

This Instrument Prepared By

0004GLC
2917BA

Project No. 32291

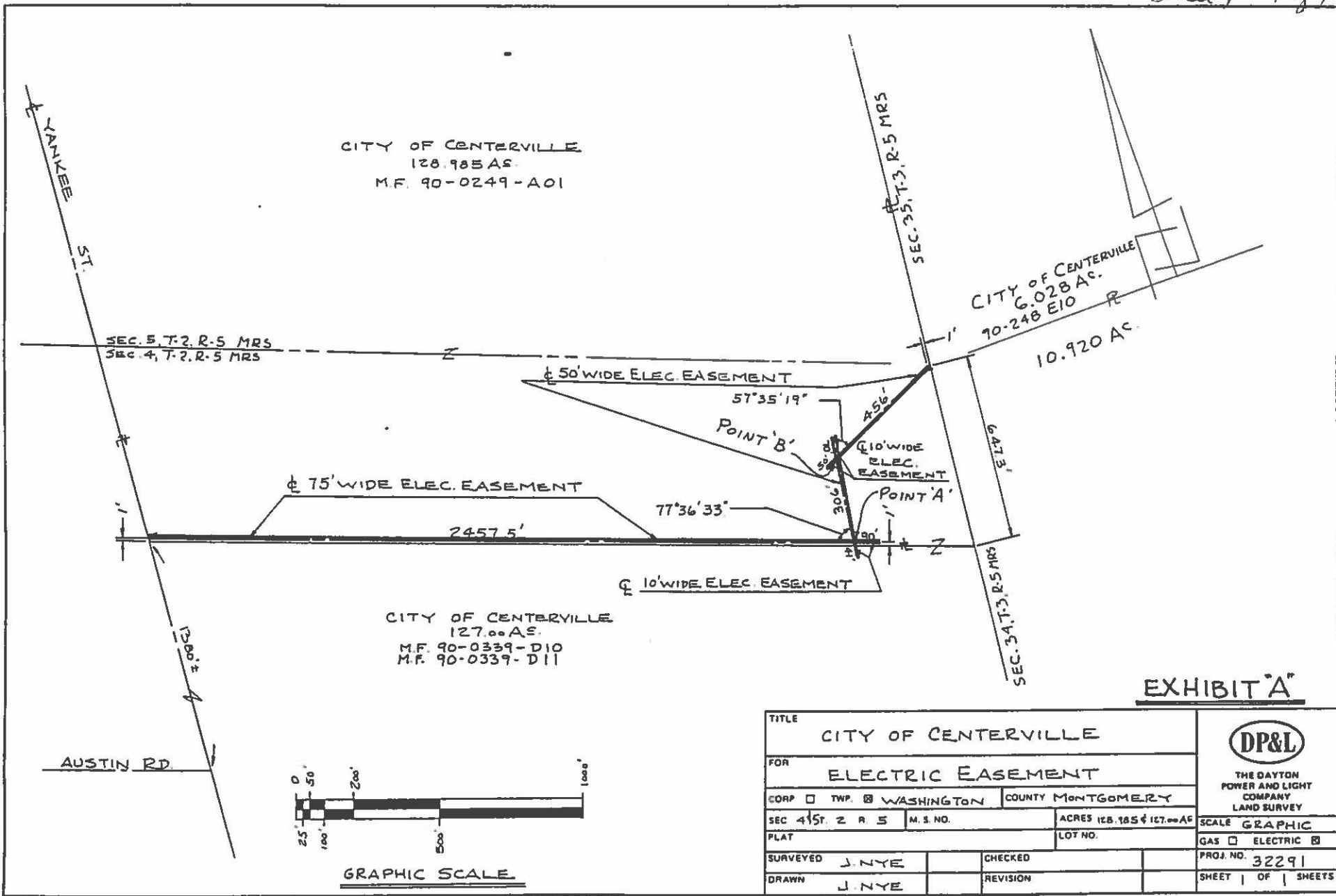


EXHIBIT 'A'

TITLE CITY OF CENTERVILLE		<p>THE DAYTON POWER AND LIGHT COMPANY LAND SURVEY</p>
FOR ELECTRIC EASEMENT		
CORP <input type="checkbox"/> TWP. <input checked="" type="checkbox"/> WASHINGTON COUNTY MONTGOMERY		SCALE GRAPHIC
SEC 4 1/2 T. 2 R. 5 M. S. NO.	ACRES 128.985 ± 127.00 AC	GAS <input type="checkbox"/> ELECTRIC <input checked="" type="checkbox"/>
FLAT	LOT NO.	PROJ. NO. 32291
SURVEYED J. NYE	CHECKED	SHEET 1 OF 7 SHEETS
DRAWN J. NYE	REVISION	