



City of NAPOLEON, OHIO

255 WEST RIVERVIEW AVENUE, P.O. BOX 151
NAPOLEON, OHIO 43545-0151
(419) 592-4010
FAX (419) 599-8393

July 8, 1996

Mayor
Donald M. Stange

Members of Council
Michael J. DeWit, President
Sarah J. Peper
John E. Church
James Hershberger
Terri A. Williams
Travis B. Sheaffer
Dennis Filgor

City Manager
Marc S. Gerken, P.E.

Finance Director
Gregory J. Heath

Law Director
David M. Grahn

City Engineer
Adam C. Hoff, P.E.

Mr. Douglas J. Klang
Regional Manager
Family Video
40417 Firesteel Drive
Sterling Heights, Michigan 48313

Re: Family Video Store
125 West Clinton Street
Napoleon, Ohio

Dear Mr. Klang:

Enclosed please find one draft copy of the lease agreement for eleven (11) parking spaces, revised per our recent conversations. A severability clause is included on page 3, Section L. As I stated before, we will need a statement from your parent company, Family Video Movie Club, Inc., authorizing you to sign on their behalf. Please review the document and respond as soon as possible.

If you should have any questions, please call me.

Yours truly,

Adam C. Hoff, P.E.
City Engineer

ACH:rd
Enclosure
cc: Mr. Marc S. Gerken, P.E.; City Manager
Mr. David Grahn, Law Director
C:\AMIPRO\CITYENGR\LETTERS\KLNGLAS.SAM July 8, 1996 8:16 AM

DRAFT

LEASE AGREEMENT

This Lease Agreement made this ___ day of _____, 19___, by and between Family Video Movie Club, Inc. an Illinois Corporation, 1022 East Adams, Springfield, Illinois, 62703, by the Regional Manager, hereinafter referred to as "the *Company Lessor*", and the City of Napoleon, Ohio, by its City Manager, hereinafter referred to as "the *City Lessee*",

Witnesseth:

A. That the *Company Lessor*, for and in consideration of the *City Lessee* paying an amount of one (\$1.00) dollar and other valuable consideration, the receipt of which is hereby acknowledged, and the covenants and agreements hereinafter mentioned, does lease and does by these present let unto the *City Lessee*, and its successors and assigns the following described real property, to-wit: 11 parking spaces:

Situated in the City of Napoleon, County of Henry, and State of Ohio and known as: being a part of Lots numbers three (3), four (4), and five (5) in Block Number One in the City of Napoleon, Henry County, Ohio and more specifically described as: only the area commencing at an iron pin being the northeast corner of Lot No. 3, Block No. 1, Phillip's Addition, thence South 62°47'10" West along a line being the southerly right-of-way line of West Clinton Street a distance of 76.17 feet to the point of beginning; Thence South 27°12'50" East a distance of 25.00 feet to a point; Thence South 62°47'10" West parallel to said right-of-way line a distance of 100.00 feet to a point; Thence North 27°12'50" West a distance of 25.00 feet to a point on said right-of-way line; Thence North 62°47'10" East along said right-of-way line a distance of 100.00 feet to the point of beginning. Said described parcel containing 0.06 acres of land, more or less.

Deed Reference: Volume 259, Page 250 of the Henry County Deed Records.

To Have and to Hold the above described portion of the premises for and during the full term of three years, commencing on the ___ day of _____, 19___ and ending on the ___ day of _____, _____. This lease is automatically renewed at the end of the initial period on an annual basis each year thereafter, unless the *City Lessee* is notified in writing 30 days prior to the termination period of *Company Lessor's* intent not to renew.

B. The *Company Lessor* shall construct on said premises, at its own expense, a parking lot suitable for passenger cars (City standards), and the *Company Lessor* covenants and agrees that the eleven (11) parking spaces on the premises shall be used for no other purpose, other than public parking:

Specifically the *Company Lessor* shall at its own expense:

1. Keep the premises and appurtenances, in a clean and orderly condition.
2. At least twice a year sweep and clean the parking lot.
3. Remove snow from the lot.
4. Keep proper striping of parking stalls in accordance with City standards and dimensions.
5. Keep the lot patched as to keep safe vehicle and pedestrian traffic.
6. Allow for the posting of signs by the *City Lessee*.

If the *Company Lessor* fails to do what has been listed in Provision "B" 1-6, the *City Lessee* may do the required act at the expense of the *Company Lessor*.

- C. The *City Lessee* may establish a fee for parking. Any income realized by the use of said premises for public parking purposes shall be the property of the *City Lessee*.
- D. The *Company Lessor* shall not use the designated eleven (11) parking spaces for employee parking.
- E. The parties will not alter the leased parking area or place any material, equipment, or substance on said leased parking area without prior consent of the other party.
- F. The *Company Lessor* shall be responsible for the payment of all taxes and assessments levied and assessed on said premises during the term of this Lease or any renewal hereof.
- G. The *City Lessee* agrees that vehicle parking shall be limited to ninety (90) consecutive minutes in duration at any one time.
- H. The *City Lessee* shall not sublet said premises without first obtaining the written consent of the *Company Lessor*; however, such consent shall not be unreasonably withheld.
- I. The *City Lessee* reserves the right to install handicapped parking spaces at its discretion with the rules concerning handicapped parking being applicable.
- J. That any lighting or other similar appurtenance installed by the City shall remain the property of the City.
- K. The *Company Lessor* agrees to both indemnify and hold the *City Lessee* harmless against any and all claim that may arise while said lot is being used for the *Company Lessor* function or business. Further, the *Company Lessor* agrees to

both indemnify and hold the *City Lessee* harmless against all claims made by third persons that may arise relating to the leased parking spaces if the nature of the claim is related to installation, maintenance, and/or upkeep of the parking lot.

L. This lease may be terminated by the Company Lessor, without cause, at anytime within the initial three year period, provided that Company Lessor gives notice to City Lessee, in writing, 30 days prior to the termination date; however, if termination occurs within the initial three year period, then Company Lessee agrees to pay the City Lessor, as liquidated damages, the amount of \$8,000.00 if terminated at anytime in the first year, \$5,000.00 if terminated at anytime in the second year, and \$2,000.00 if terminated at anytime in the third year (except for the right not to renew). If this lease is renewed pursuant to provision (A), then Company Lessor may terminate this lease at any time, without cause, without penalty or recourse, upon giving the City Lessee 30 day written notice prior to the termination date.

M. The *Company Lessor* hereby covenants that if the *City Lessee* shall perform all the agreements and covenants by it herein to be performed, the *City Lessee* shall, during the term hereby demised, or any renewal hereof, freely, peaceably, and quietly enjoy the possession of the premises hereby demised.

N. That each person executing this Lease on behalf of a party hereto represents and warrants that he has been lawfully empowered to execute this Lease, and that all necessary action for the execution of this Lease has been taken.

O. That the *City Lessee* shall cause this Lease (or Memorandum thereof) to be recorded at the Recorder's Office of Henry County, Ohio.

P. No waiver of any condition or covenant of this Lease or failure to exercise a right or remedy by any party hereto shall be considered to imply or constitute a further waiver by such same party of the same or any other condition, covenant, right, or remedy.

Q. Each party hereto shall, from time to time, upon request of any other party, execute any additional documents which may be reasonably required to effectuate the purposes of this Lease.

R. This Lease may be executed in any number of counterparts, each of which shall be considered an original, but all of which shall be considered one (1) Agreement which shall be binding upon each party by which any counterpart is executed. The provisions of this Lease shall extend and be binding on the parties and their respective heirs, executors, administrators, successors, representatives, and assigns; further, this Lease shall be binding on any future holders or owners of the premises.

S. The validity and construction of this Agreement shall be governed by the laws of the State of Ohio.

T. If any portion of this Agreement is found invalid for any reason, then only that portion shall be held void and the remainder shall remain in full force.

In Witness Whereof, the parties, have hereunto set their hands to duplicate copies hereof on the date found next to their signature.

Signed in the presence of:

Marc Gerken, City Manager

Witness: _____

Date: _____

Witness: _____

Doug Klang, Regional Manager

Witness: _____

Date: _____

Witness: _____

State of Ohio, County of Henry: ss

Be it remembered, that on this _____ day of _____, 1996, before me the subscriber, a Notary Public in and for said County and State, personally came the above named Marc S. Gerken, City Manager of the City of Napoleon, Ohio, Lessee, in the County of Henry, State of Ohio and as such officer, acknowledged the signing and sealing of this lease to be the voluntary act and deed of the City of Napoleon and to be his voluntary act and deed, for the uses and purposes therein mentioned.

In Testimony Whereof, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

(Seal)

Notary Public,
Term Expires: _____

State of _____, County of _____: ss

Be it remembered, that on this _____ day of _____, 1996, before me the subscriber, a Notary Public in and for said County and State, personally came the above named Doug Klang, Regional Manager of Family Video Movies Club, Inc., an Illinois Corporation, the Company Lessor, in _____ County, State of _____, and as such officer, acknowledged the signing and sealing of this lease to be the voluntary act and deed of Family Video Movie Club, Inc., an Illinois Corporation, and to be his voluntary act and deed, for the uses and purposes therein mentioned.

In Testimony Whereof, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

(Seal)

Notary Public,
Term Expires: _____

Approved as to Form and
Correctness:

David M. Grahn,
City Law Director

**This instrument prepared by:
David M. Grahn, City Law Director
City of Napoleon
255 W. Riverview Avenue
Napoleon, Ohio 43545**

MEMORANDUM - CITY LAW DEPARTMENT

TO: Adam Hoff, City Engineer

FROM: David M. Grahn, City Law Director

DD

SUBJECT: Family Video Lease of 11 Parking Spaces

DATE: May 24, 1996

Please find attached a draft copy of a Lease Agreement concerning the above subject matter. It is advisable to get the correct entity name for purposes of execution of this agreement, as well as obtaining proper documentation as to the authority of the designated person to sign said agreement. Once all information has been obtained, and the terms of the Lease Agreement agreed to, we may commence with execution thereof.

Should you have any questions or comments, feel free to contact me.

P.S. Please obtain a proper description of the property as well as drafting "Exhibit A" which would indicate the position of the proposed 11 parking spaces (surveyed portion).

DMG:skr

C:\AMIPRO\LAWDIREC\MEMOS 1:22 PM May 24, 1996\HOFF5.SAM

LEASE AGREEMENT

DRAFT

This Lease Agreement made this ___ day of _____, 19___, by and between Family Video, 40417 Firesteel Drive, Sterling Heights Michigan, by the Regional Manager, hereinafter referred to as "the *Company Lessor*", and the City of Napoleon, Ohio, by its City Manager, hereinafter referred to as "the *City Lessee*",

Witnesseth:

A. That the *Company Lessor*, for and in consideration of the *City Lessee* paying an amount of one (\$1.00) dollar and other valuable consideration, the receipt of which is hereby acknowledged, and the covenants and agreements hereinafter mentioned, does lease and does by these present let unto the *City Lessee*, and its successors and assigns the following described real property, to-wit:

Situated in the City of Napoleon, County of Henry, and State of Ohio and known as:

Lot number 125 West Clinton Street (See attached Exhibit "A") incorporated into this Lease).

To Have and to Hold the above described portion of the premises for and during the full term of twenty five (25) years, commencing on the ___ day of _____, 19___ and ending on the ___ day of _____, _____. This lease is automatically renewed for an additional twenty five (25) years, for a fee of one (\$1.00) dollar payable to the *Company Lessor* by the *City Lessee*, unless otherwise not renewed in writing by the *City Lessee*.

B. The *Company Lessor* shall construct on said premises, at its own expense, a parking lot suitable for passenger cars (City standards), and the *Company Lessor* covenants and agrees that the eleven (11) parking spaces on the premises shall be used for no other purpose, other than public parking:

Specifically the *Company Lessor* shall at its own expense:

1. Keep the premises and appurtenances, in a clean and orderly condition.
2. At least twice a year sweep and clean the parking lot.
3. Remove snow from the lot.
4. Keep proper striping of parking stalls in accordance with City standards and dimensions.
5. Keep the lot patched as to keep safe vehicle and pedestrian traffic.
6. Allow for the posting of signs by the *City Lessee*.

If the *Company Lessor* fails to do what has been listed in Provision "B" 1-6, the *City Lessee* may do the required act at the expense of the *Company Lessor*.

- C. The *City Lessee* may establish a fee for parking. Any income realized by the use of said premises for public parking purposes shall be the property of the *City Lessee*.
- D. The *Company Lessor* shall not use the designated eleven (11) parking spaces for employee parking.
- E. The parties will not alter the leased parking area or place any material, equipment, or substance on said leased parking area without prior consent of the other party.
- F. The *Company Lessor* shall be responsible for the payment of all taxes and assessments levied and assessed on said premises during the term of this Lease or any renewal hereof.
- G. The *City Lessee* agrees that vehicle parking shall be limited to ninety (90) consecutive minutes in duration at any one time.
- H. The *City Lessee* shall not sublet said premises without first obtaining the written consent of the *Company Lessor*; however, such consent shall not be unreasonably withheld.
- I. The *City Lessee* reserves the right to install handicapped parking spaces at its discretion with the rules concerning handicapped parking being applicable.
- J. That any lighting or other similar appurtenance installed by the City shall remain the property of the City.
- K. The *Company Lessor* agrees to both indemnify and hold the *City Lessee* harmless against any and all claim that may arise while said lot is being used for the *Company Lessor* function or business. Further, the *Company Lessor* agrees to both indemnify and hold the *City Lessee* harmless against all claims made by third persons that may arise relating to the leased parking spaces if the nature of the claim is related to installation, maintenance, and/or upkeep of the parking lot.
- L. The *Company Lessor* hereby covenants that if the *City Lessee* shall perform all the agreements and covenants by it herein to be performed, the *City Lessee* shall, during the term hereby demised, or any renewal hereof, freely, peaceably, and quietly enjoy the possession of the premises hereby demised.
- M. That each person executing this Lease on behalf of a party hereto represents and warrants that he has been lawfully empowered to execute this Lease, and that all necessary action for the execution of this Lease has been taken.

N. That the *City Lessee* shall cause this Lease to be recorded at the Recorder's Office of Henry County, Ohio.

O. No waiver of any condition or covenant of this Lease or failure to exercise a right or remedy by any party hereto shall be considered to imply or constitute a further waiver by such same party of the same or any other condition, covenant, right, or remedy.

P. Each party hereto shall, from time to time, upon request of any other party, execute any additional documents which may be reasonably required to effectuate the purposes of this Lease.

Q. This Lease may be executed in any number of counterparts, each of which shall be considered an original, but all of which shall be considered one (1) Agreement which shall be binding upon each party by which any counterpart is executed. The provisions of this Lease shall extend and be binding on the parties and their respective heirs, executors, administrators, successors, representatives, and assigns; further, this Lease shall be binding on any future holders or owners of the premises.

R. The validity and construction of this Agreement shall be governed by the laws of the State of Ohio.

S. If any portion of this Agreement is found invalid for any reason, then only that portion shall be held void and the remainder shall remain in full force.

In Witness Whereof, the parties, have hereunto set their hands to duplicate copies hereof on the date found next to their signature.

Signed in the presence of:

Marc Gerken, City Manager

Witness: _____

Date: _____

Witness: _____

Doug Klang, Regional Manager

Witness: _____

Date: _____

Witness: _____

State of Ohio, County of Henry: ss

Be it remembered, that on this _____ day of _____, 1996, before me the subscriber, a Notary Public in and for said County and State, personally came the above named Marc S. Gerken, City Manager of the City of Napoleon, Ohio, Lessee, in the County of Henry, State of Ohio and as such officer, acknowledged the signing and sealing of this lease to be his voluntary act and deed, for the uses and purposes therein mentioned.

In Testimony Whereof, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

(Seal)

Notary Public,
Term Expires: _____

State of _____, County of _____: ss

Be it remembered, that on this _____ day of _____, 1996, before me the subscriber, a Notary Public in and for said County and State, personally came the above named Doug Klang, Regional Manager of the Company Lessor, in _____ County, State of _____, and as such officer, acknowledged the signing and sealing of this lease to be his voluntary act and deed, for the uses and purposes therein mentioned.

In Testimony Whereof, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

(Seal)

Notary Public,
Term Expires: _____

Approved as to Form and Content:

David M. Grahn,
City Law Director

**This instrument prepared by:
David M. Grahn, City Law Director
City of Napoleon
255 W. Riverview Avenue
Napoleon, Ohio 43545**



F A X T R A N S M I T T A L

TO: Brent Damon

FAX #: _____

FROM: Craig Harris

FAX #: 419-865-0680

DATE: 6/12/96

RE: Enclosed are proposed costs for the Napoleon store

PAGE 1 OF 2

If you do not receive the entire fax, please contact:

LINDA at 419-865-0366

ACH:rd
Enclosure

cc:Mr. Marc S. Gerken, P.E.; City Manager
C:\AMPRO\CITYENR\LETTERS\KLANG\SAMP\SUBJ 21, 1996: 10 AM

FROM : FAMILY VIDEO

PHONE NO. : 8107661149

Mar. 15 1996 10:03AM P02

File: C:\LOTS\SITE\123R5\WORK\FAMVID2.WK4

02/15/96
By: ACH

Family Video
Storm Sewer Outlet

Item No.	Description	Estimated Quantity	Unit Cost	Total
1	Pavement Removal	33 s.y.	51.00	1683.00
2	8" Concrete Base	33 s.y.	42.00	1386.00
3	1-1/2" Asphalt Concrete (402)	1.40 c.y.	400.00	560.00
4	1-1/2" Modified Asphalt Concrete (404)	1.40 c.y.	400.00	560.00
5	2x2 Catch Basin	1 ea.	1000.00	1000.00
6	Abandon Existing Catch Basin	1 ea.	350.00	350.00
7	12" Storm Sewer	130 l.f.	24.00	3120.00
8	Granular Backfill	42 c.y.	19.50	777.00
			TOTAL:	\$ 9418.00

(419) 599 0792

ALL V
WITH

EX. 8" SAN. SEWE
CLINTON

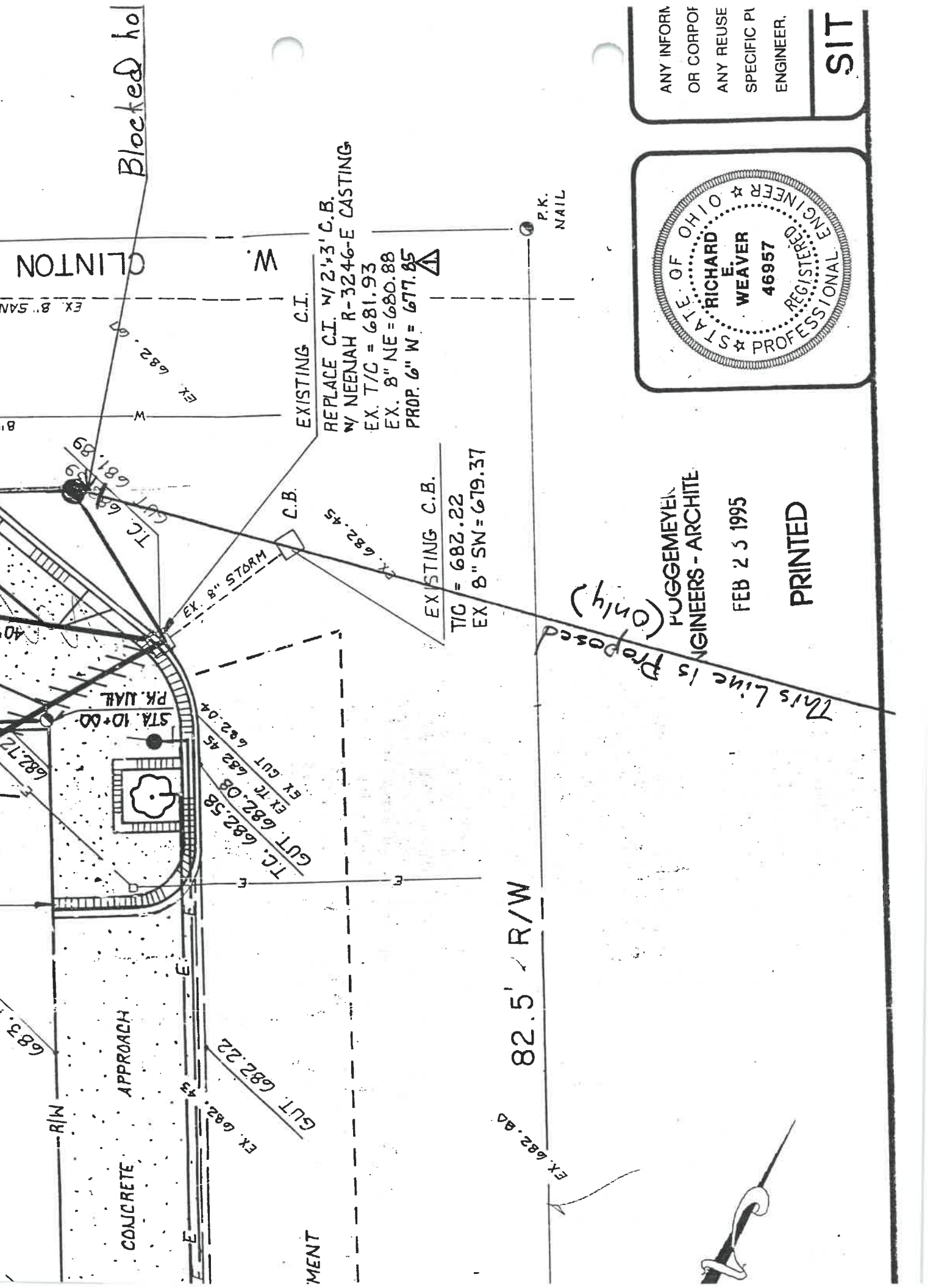
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W

EXISTING C.I.
REPLACE C.I. W/ 2'x3' C.B.
W/ NEENAH R-3246-E CASTING
EX. T/C = 681.93
EX. 8" NE = 680.88
PROP. 6" W = 677.85

EXISTING C.B.
TIC = 682.22
EX 8" SW = 679.37

P.K. NAIL



ANY INFORM
OR CORPOF
ANY REUSE
SPECIFIC PI
ENGINEER.

SIT

PUGGEMEYER
ENGINEERS - ARCHITECTS

FEB 25 1995

PRINTED

82.5' R/W

EX. 682.40

MENT