

4-17-23

ORIGINAL

ORDINANCE NO. 2023.012

BEING AN ORDINANCE TO AMEND
THE DELAWARE COUNTY COMPREHENSIVE ZONING ORDINANCE

WHEREAS, the State enabling act for planning and zoning empowers the Board of County Commissioners of Delaware County, Indiana to adopt a Comprehensive Zoning Ordinance and also provides for amendments to the said ordinance as the need arises; and

WHEREAS, the Board of County Commissioners of Delaware County, Indiana has given reasonable regard to the Comprehensive Plan; current conditions and the character of current structures and uses in each district; the most desirable use for which land in each district is adapted; the conservation of property values throughout the jurisdiction; and responsible growth and development.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, INDIANA, as follows:

Section 1. That the Delaware County Comprehensive Zoning Ordinance, heretofore adopted by the Board of County Commissioners of Delaware County, Indiana, on the 11th day of December, 1973, be amended, changed and supplemented so as to include in the R-3 Residence Zone the following described real estate located in Delaware County, Indiana, to wit:


See Exhibit A

Section 2. That no structures shall be placed on said lot or parcel of land except in compliance with the Delaware County Comprehensive Zoning Ordinance of Delaware County, Indiana.


Section 3. That this Ordinance shall be in full force and effect from and after its passage by the Board of County Commissioners of Delaware County, Indiana.

Section 4. That this Ordinance is adopted/vetoed this 17 day of April, 2023.

BOARD OF COUNTY COMMISSIONERS
DELAWARE COUNTY, INDIANA


Shannon Henry, President


James King, Vice President


Sherry Riggins, Member

ATTEST:

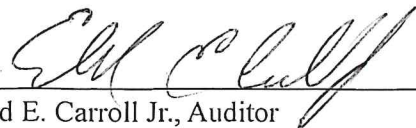

Edward E. Carroll Jr., Auditor

EXHIBIT A

Legal Description

A part of the Southwest Quarter of the Northeast Quarter of Section 29, Township 20 North, Range 11 East in Liberty Township, Delaware County, Indiana, described as follows:

Beginning at a nail marking the Northeast corner of the Southwest Quarter of the Northeast Quarter of Section 29, Township 20 North, Range 11 East; thence South 01 degrees 00 minutes 13 seconds East 150.00 feet (assumed bearing) along the East line of said Quarter-Quarter Section to a nail; thence South 89 degrees 39 minutes 54 seconds East 892.56 feet parallel with the North line of said Quarter-Quarter Section to a 1/2 inch rebar; thence North 01 degrees 00 minutes 13 seconds West 150.00 feet to a 1/2 inch rebar on the North line of said Quarter-Quarter Section; thence North 89 degrees 39 minutes 54 seconds East 892.56 feet to the point of beginning, containing 3.07 acres, more or less.

**REPORT TO THE BOARD OF COUNTY COMMISSIONERS
OF DELAWARE COUNTY, INDIANA**

April 12th, 2023

To The Honorable:

Board of County Commissioners of Delaware County, Indiana

Dear Board Members:

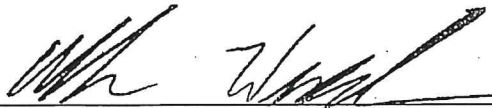
The Delaware-Muncie Metropolitan Plan Commission hereby submits to you the following report on the application of: Barry and Sandra K. Lee, 3605 S. Whitney Rd., Selma, IN, such applicant petitioning the commission to rezone the real estate as described in the application, generally located at: 3600 BLK of S. Whitney Rd., Selma, IN, from zone classification: R-2 Residence Zone to zone classification: R-3 Residence Zone.

WHEREAS, the Commission has given reasonable regard to the comprehensive plan, current conditions and the character of current structures and uses in each district, the most desirable use for which the land in each district is adapted, the conservation of property values throughout in the jurisdiction and responsible growth and development; and

NOW, THEREFORE, the Delaware-Muncie Metropolitan Plan Commission hereby FAVORABLY RECOMMENDS (6-0, 1 abstained, 2 absent) the application for rezoning.

**DELAWARE-MUNCIE METROPOLITAN
PLAN COMMISSION**

BY:



Allen Wiseley, President



Lorey Stinton, Acting Secretary

Delaware-Muncie Metropolitan Plan Commission
Excerpt of Case Analysis - April 2023

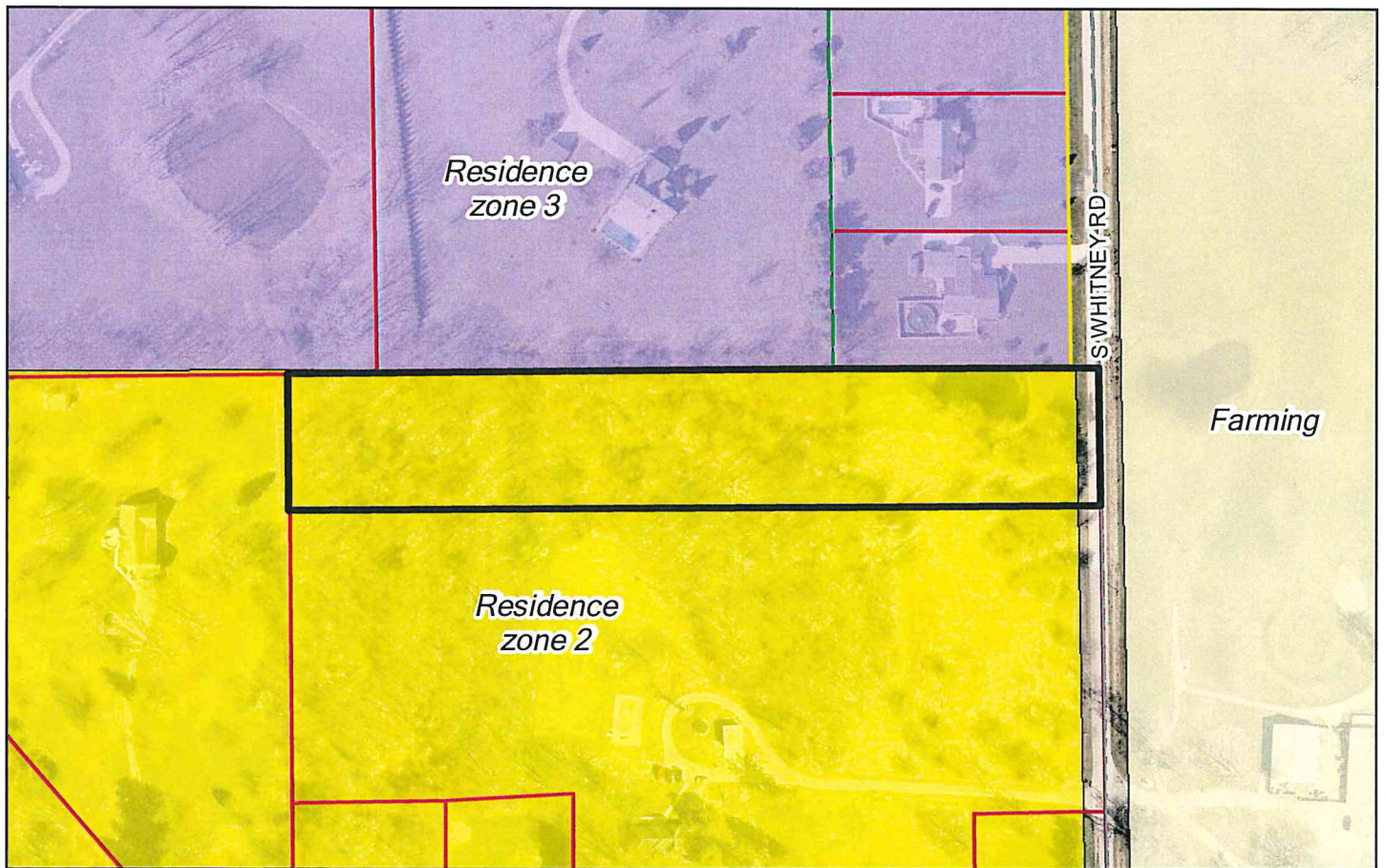
MPC 03-23Z Lee, Barry and Sandra K.

Location & Description: Adj. to 3605 S. Whitney Rd., Liberty Twp.

Located on the west side of S. Whitney Rd., - a 1/4 mile south of E. CR 200 S.

Traveling east on Jackson St. from downtown go - 4.2 miles to S. Whitney Rd., turn right (south) onto S. Whitney Rd., go - 2.4 miles, the site is on the right (west) side of S. Whitney Rd. directly south of 3605 S. Whitney Rd.

The site is one parcel consisting of 3.07 acres, more or less. The site is currently vacant (greenspace).



Streets: This section of S. Whitney Rd. is classified as a Collector/Connector with a 60' proposed R.O.W. according to the Thoroughfare Plan Map. This section of S. Whitney Rd. has no dedicated R.O.W. This section of S. Whitney Rd. is classified as a Major Road according to the Delaware County Major/Minor Roads Map.

Land Use: The site is currently vacant (greenspace) in use. Surrounding properties to the north, south, and west are residential in use; surrounding properties to the east are commercial/recreational (golf course) in use.

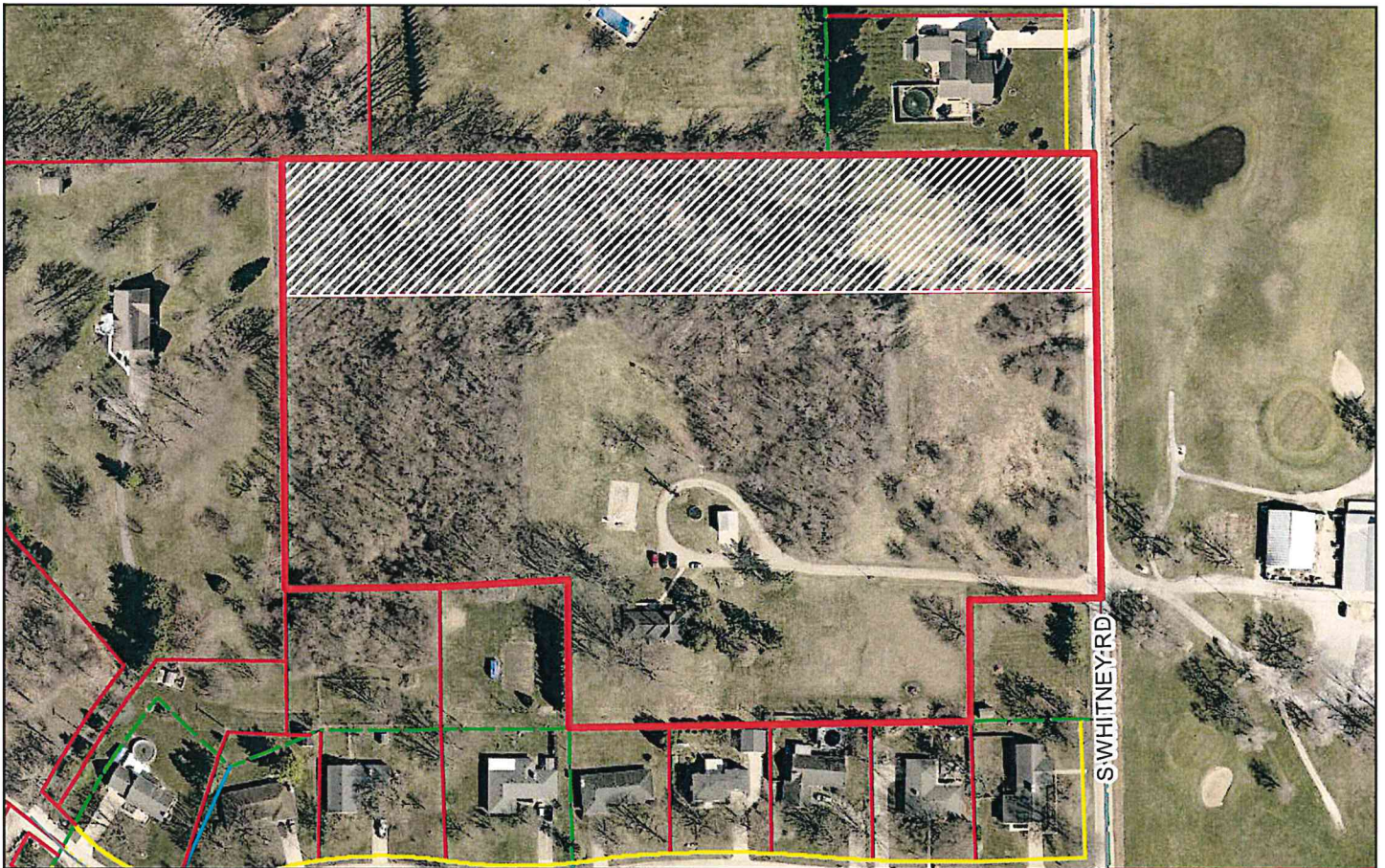
Zoning: This site is classified in the R-2 Residence Zone. Surrounding properties to the north are classified in the R-3 Residence Zone. Surrounding properties to the east are classified in the F Farming Zone. Surrounding properties to the south and west are classified in the R-2 Residence Zone.

Request: The applicant is requesting a change in zone to the R-3 Residence Zone. The applicant would like to combine this parcel with an adjacent parcel in order to resolve a violation of Delaware County's Subdivision Ordinance that was created when the County Auditor's office accepted the split to create this parcel.

Parcel splits of less than 5 acres on a major road are required to be platted in accordance with Delaware County's Subdivision Ordinance. This parcel was recently split without platting. By not being platted, this parcel split also resulted in the County not having right of way dedicated for this section of S. Whitney Rd.

Delaware County's Subdivision Ordinance does allow neighbors to exchange pieces of land as long as the exchange of land doesn't result in a zoning violation and as long as the piece of property to be exchanged is split from one parcel and combined with the other concurrently. Parcels must have the same zoning classification to be combined.

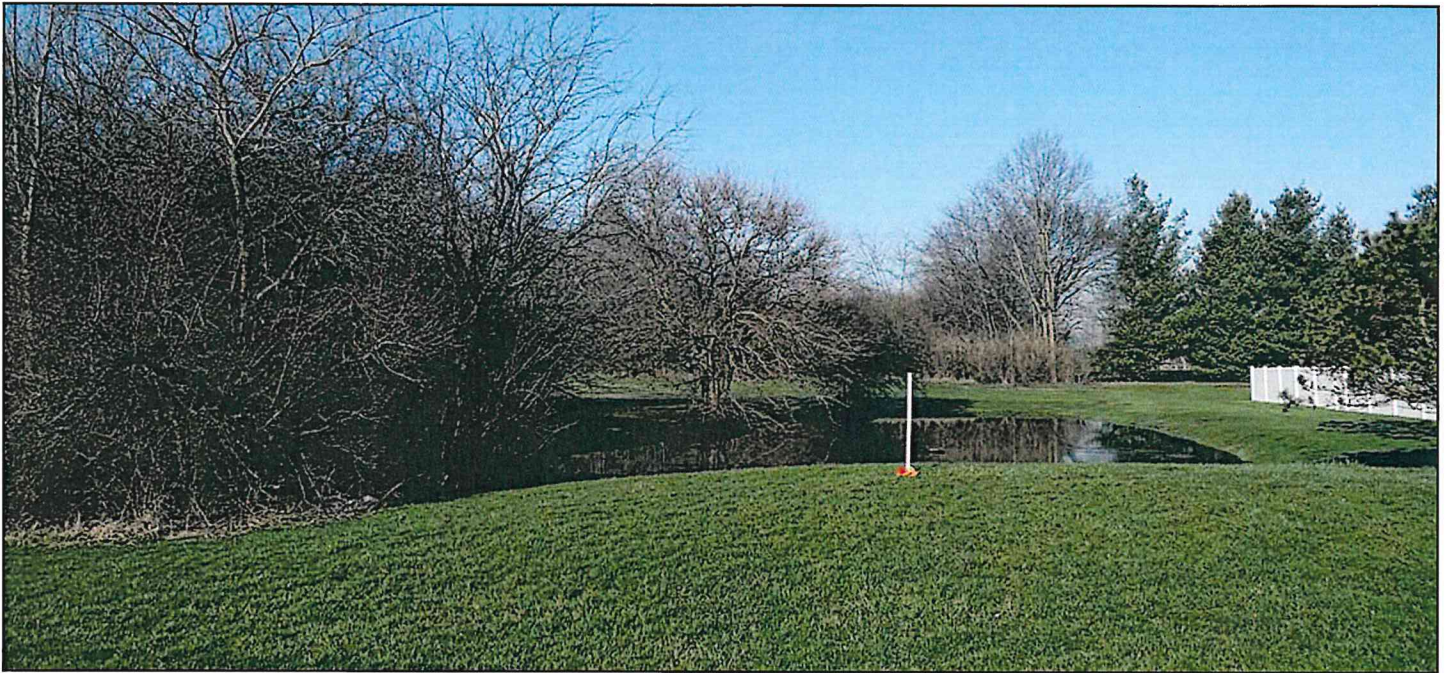
Mr. Dobbs, the prior owner of 3605 S. Whitney Rd., was consulted by DMMPC staff in the past concerning options for buying a portion of the abutting property and the process for each option. According Mr. Dobbs, Old Wellington Towne (the subdivision that includes 3605 S. Whitney Rd.) has drainage issues that result in



Aerial of the site (2021). The parcel that was split is shown with a thick red line. The portion that was split to create the new parcel is represented with white lines.

flooded basements. Mr. Dobbs was trying to work with the abutting property owner to the south to manage a drainage problem.

During the platting process for Old Wellington Towne, the Health Officer with the Delaware County Board of Health submitted a letter to the DMMPC that stated that conventional septic systems would not function in the area and that the soils have severe drainage limitations. The Health Officer recommended a restriction on the plat that innovative and/or alternative systems shall be utilized on all individual sites. The DMMPC approved the plat with the addition of the Health Department's recommended restriction. This information reinforces that the area's soils have limitations, including drainage limitations due to ponding.



View of the site from Whitney Rd., looking west.



View of the site from Whitney Rd., looking northwest. The house and fence on the right are on the abutting lot that this property would be combined with.

DELAWARE-MUNCIE METROPOLITAN PLAN COMMISSION
PROPOSED ZONING CHANGE APPLICATION

Jurisdiction: (Check One)

Submitted: 3-15-23

Delaware County

Case No.: MPC 03-232

City of Muncie

(1) Applicant: Barry and Sandra K Lee

Address: 3605 S Whitney Rd Selma, IN 47383 Phone: (765)-372-8770

(2) Record of Applicant's Ownership:

A. By Deed:
Deed Book No. & Page No.: Instrument# 2023R03106
Date of Deed: 02/24/2023

B. By Recorded Contract:
Misc. Book No. & Page No.: _____
Date of Contract: _____

C. By Unrecorded Contract:
Date of Contract: _____
Name of Contract Seller: _____
Book No. & Page No. Of Deed in Seller's Name: _____

(3) Legal Description of Property for which rezoning is requested: (From the Deed or Abstract).
See attached deed.

(4) Common Address of Property Involved:
South adjoiner to 3605 S Whitney Rd Selma, IN.

(5) Proposed zoning change: (Give exact zone classification.)
From the R2 Zone
To the R3 Zone

- (6) Intent and Purpose of Proposed Change: (Specify use contemplated on property.)
To combine parcels into one taxing unit.
- (7) Will the Owner develop the property for the use specified in Item 6 or does owner intend to sell property for the purpose specified.
Owner to occupy parcel.
- (8) State how the proposed change will not adversely affect the surrounding area.
Will benefit the surrounding owners by providing additional drainage.
- (9) Will certain variances be requested if the proposed zoning change is granted?
(If yes, list the variances)
No
- (10) Has the applicant provided stamped, addressed envelopes to send notices of this rezoning to all the property owners within 300 feet? yes
Has the applicant discussed this rezoning with those owners personally? no
(If answer is yes, give their attitudes toward the rezoning.)
- (11) Are there any restrictions, easements, and/or covenants governing the property prohibiting its use for the purpose specified in this application?
(If answer is yes, attach copy of it and/or explain.)
No

AFFIDAVIT

(I or We) Barry and Sandra K Lee being duly sworn, depose and say that I/We am/are the owner(s)/contract owner(s) and contract seller(s) of property involved in this application and that the foregoing signatures, statements, and answers herein contained and the information herewith submitted are in all respects true and correct to the best of my/our knowledge and belief.

SIGNATURES: Barry Lee Sandra K Lee

Subscribed and sworn to before me this 11th day of March, 2023

Beth A. Spenseller
Notary Public



My Commission Expires _____
Resident of _____ County
State of _____

DO NOT WRITE IN THIS SPACE

The foregoing application has been inspected by me and was submitted to the Delaware-Muncie Metropolitan Plan Commission Office in accordance with all the formal requirements. If properly advertised by the applicant, this application will be heard by the Plan Commission in Public hearing on the 6th day of April, 2023.

Signed [Signature]

Date 3-15-23

Dona
3p

2

2023R03106
JAN SMOOT
DELAWARE COUNTY RECORDER
RECORDED ON
02/24/2023 02:25 PM
REC FEE 25.00
PAGES: 3
RECORDED AS PRESENTED

Doma File Number: 15706-23-00373-IN

Grantee's Mailing Address and Tax Billing Address is:

3605 S Whitney Rd
Selma, IN 47383

WARRANTY DEED

THIS INDENTURE WITNESSETH That

Sharyl L. Mench

(Grantors), of Delaware County, in the State of Indiana CONVEYS AND WARRANTS to

Barry Lee and Sandra K. Lee, husband and wife

(Grantees), of Delaware County, in the State of Indiana, for the sum of \$1.00 and other valuable consideration, the following described real estate in Delaware County, Indiana:

See Exhibit A attached hereto and by this reference incorporated herein and made a part hereof.

Tax ID No.: 18-12-29-251-015.000-010 *Mother #*
18-12-29-251-016-000-010 New # (ERP)

The address of the real estate described herein is 00 Whitney Road, Selma, IN 47383.

Subject to Taxes for the year 2023 and thereafter, and, subject to Covenants, Conditions, Restrictions, and Easements of record.

Anthony R. Mench and Sharyl L. Mench were continuously husband and wife from prior to the time they acquired title until the death of Anthony R. Mench who died on July 1, 2014.

The terms and provisions of the land contract by and between Sharyl L. Mench and Barry Lee pursuant to Memorandum of Land Contract dated August 26, 2022 and recorded September 1, 2022 as Document No. 2022R13303 have been hereby performed and satisfied in full and complete satisfaction.

Duly Entered for Taxation
Transfer Fees \$ 2000

FEB 24 2023

cal & cwp
DELAWARE CO. AUDITOR



EXHIBIT A

Legal Description

A part of the Southwest Quarter of the Northeast Quarter of Section 29, Township 20 North, Range 11 East in Liberty Township, Delaware County, Indiana, described as follows:

Beginning at a nail marking the Northeast corner of the Southwest Quarter of the Northeast Quarter of Section 29, Township 20 North, Range 11 East; thence South 01 degrees 00 minutes 13 seconds East 150.00 feet (assumed bearing) along the East line of said Quarter-Quarter Section to a nail; thence South 89 degrees 39 minutes 54 seconds East 892.56 feet parallel with the North line of said Quarter-Quarter Section to a 1/2 inch rebar; thence North 01 degrees 00 minutes 13 seconds West 150.00 feet to a 1/2 inch rebar on the North line of said Quarter-Quarter Section; thence North 89 degrees 39 minutes 54 seconds East 892.56 feet to the point of beginning, containing 3.07 acres, more or less.

DULY ENTERED FOR TAXATION
TRANSFER FEES \$ 10.00

Aug 31 2022 - ERP

Steven J. Czapka

DELAWARE COUNTY AUDITOR

2022R13231
MELANIE MARSHALL
DELAWARE COUNTY RECORDER
RECORDED ON
08/31/2022 09:59 AM
REC FEE 25.00
PAGES: 3
RECORDED AS PRESENTED

Doma File Number: 15706-22-00238-IN

Grantee's Mailing Address and Tax Billing Address is:

3605 S Whitney Rd
Selma, IN 47383

WARRANTY DEED

THIS INDENTURE WITNESSETH That

Jeremi L. Dobbs and Brandi L. Dobbs, husband and wife

(Grantors), of Delaware County, in the State of Indiana CONVEYS AND WARRANTS to

Barry Lee and Sandra K. Lee, husband and wife

(Grantees), of Delaware County, in the State of Indiana, for the sum of \$1.00 and other valuable consideration, the following described real estate in Delaware County, Indiana:

See Exhibit A attached hereto and by this reference incorporated herein and made a part hereof.

Tax ID No.: 18-12-29-201-013.000-010

The address of the real estate described herein is 3605 S Whitney Rd, Selma, IN 47383.

Subject to Taxes for the year 2022 and thereafter, and, subject to Covenants, Conditions, Restrictions, and Easements of record.

EXHIBIT A

Legal Description

Lot Number One (1) in Olde Wellington Towne, an Addition located in Liberty Township, Delaware County, Indiana, as appears in Plat Book 14, Pages 128-129 in the Office of the Recorder of Delaware County, Indiana.