

2-21-23

2023.004

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

February 13th, 2023

ORIGINAL

To The Honorable:

Board of County Commissioners of Delaware County, Indiana

Dear Board Members:

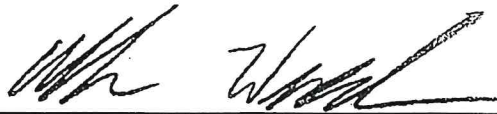
The Delaware-Muncie Metropolitan Plan Commission hereby submits to you the following report on the application of: Jackson Family Trust, 20330 N. CR 850 W, Gaston, IN, such applicant petitioning the commission to rezone the real estate as described in the application, generally located at: 20330 N. CR 850 W, Gaston, IN, from zone classification: II Intense Industrial Zone to zone classification: F Farming 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 (7-0, 1 abstained, 1 absent) the application for rezoning.

DELAWARE-MUNCIE METROPOLITAN
PLAN COMMISSION

BY:



Allen Wiseley, President



Lorey Stinton, Env. & Dev. Planner

CORRECTED ORDINANCE NO. 2023-004

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 **F Farming 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.

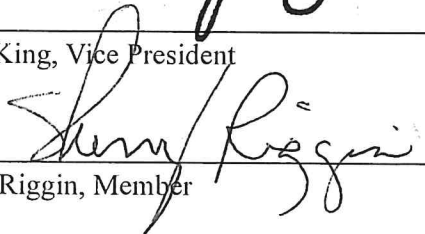
Section 3. That this Ordinance shall be in full force and effect from and after its passage by the Board of County Commissioners of Delaware County, Indiana.

Section 4. That this Ordinance is adopted/vetoed this 21st day of February, 2023.

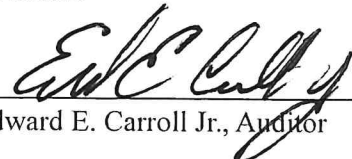
BOARD OF COUNTY COMMISSIONERS
DELAWARE COUNTY, INDIANA


Shannon Henry, President


James King, Vice President


Sherry Riggini, Member

ATTEST:


Edward E. Carroll Jr., Auditor

Brandy Ingermann, Office Manager in Plan Commission, came to the Auditors office after speaking to Shannon Henry and Sara Hodges regarding this matter.

At the Commissioners meeting held February 21, 2023, Ordinance 2023-004 was presented by Kathy Vannice, Ashton Surveyors.

This ordinance was approved with the first page stating R-2 Residence Zone. This was a clerical error and should have been F Farming Zone. Discussion in the Commissioners meeting held February 21, 2023 was presented correct.

Denise Smith will provide this note and changes to the ordinance and place it in the file.

Per Shannon Henry, President of Commissioners, an amendment of the zone change does not need to occur through a Commissioners meeting. Ed Carroll, Auditor, signed the correct zone of the revised page.

Denise Smith

8/30/2023

ORDINANCE NO. 2023.004

**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-2 Residence Zone the following described real estate located in Delaware County, Indiana, to wit:

See Exhibit A

*incorrect
see notes*

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 21 day of FEBRUARY, 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

Area to Rezone

A parcel of ground in the Northeast Quarter and the Southeast Quarter of Section 7, Township 22 North, Range 9 East in Washington Township, Delaware County, Indiana, described as follows:

Beginning at a point that is South 00 degrees 52 minutes 53 seconds West 396.00 feet from the Northwest corner of the Southwest Quarter of the Northeast Quarter; thence North 89 degrees 42 minutes 36 seconds East 648.69 feet; thence South 00 degrees 52 minutes 53 seconds West 308.78 feet; thence South 89 degrees 42 minutes 36 seconds West 593.47 feet; thence South 28 degrees 12 minutes 35 seconds East 916.09 feet; thence North 89 degrees 50 minutes 34 seconds West 495.28 to the West line of the Southeast Quarter of said section; thence North 00 degrees 36 minutes 51 seconds West 205.86 feet to the Southwest corner of the Northeast Quarter of said Section; thence continuing along said right-of-way North 00 degrees 52 minutes 53 seconds East 908.65 feet to the point of beginning and containing 9.73 acres more or less.

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

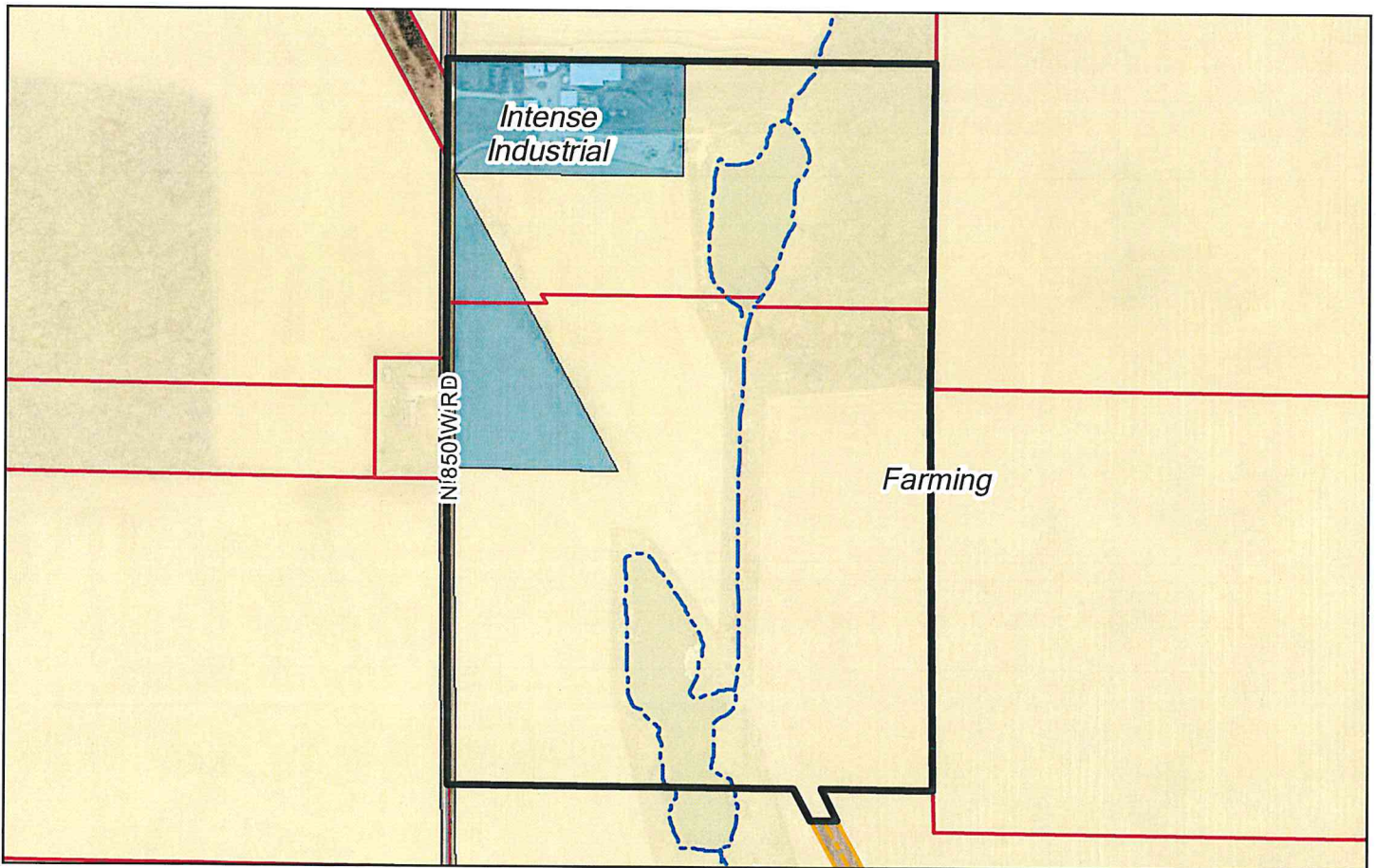
MPC 02-23Z Jackson Family Trust

Location & Description: 20330 N. CR 850 W, Washington Twp.

Located on the east side of N. CR 850 W approximately 1/2 mile north of W. CR 1200 N.

Traveling northwest on Wheeling Ave. from downtown go - 10.5 miles to W. CR 1000 N, turn left (west), go - 2.1 miles to N. CR 600 W, turn right (north), go - 2 miles to W. CR 1200 N, turn left (west), go - 2.6 miles to N. CR 850 W, turn right (north), go - 0.6 miles, the site is on the right (east) side of N. CR 850 W.

The site includes two parcel consisting of 61.35 acres. The site includes a single family home built in 1950, a detached garage built in 1979, and various agricultural buildings/structures built between 1950-2001.



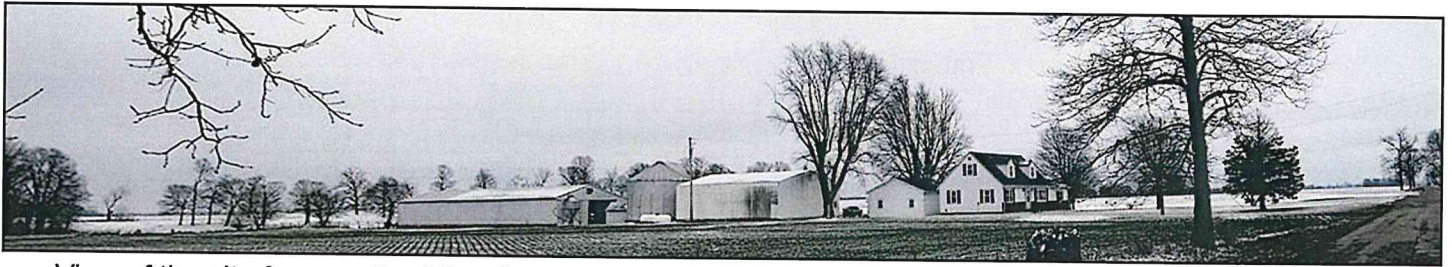
Streets: This section of N. CR 850 W is classified as a Local Road with a 50' proposed R.O.W. according to the Thoroughfare Plan Map. This section of N. CR 850 W does not currently have dedicated R.O.W. This section of N. CR 850 W is classified as a Minor Road according to the Delaware County Major/Minor Roads Map.

Land Use: The site is currently residential and agricultural in use. Surrounding properties to the north, east, and south are agricultural in use; surrounding properties to the west are residential and agricultural in use.

Zoning: The site is classified in the II Intense Industrial Zone and the F Farming Zone. Surrounding properties to the north, east, south, and west are classified in the F Farming Zone.

Request: The applicants are requesting a change in zone to the F Farming Zone. Portions of the two parcels are classified in the II Intense Industrial Zone, making the parcels split-zoned. The applicants would like to correct their split-zoned parcels by having them both classified in the F Farming Zone.

The applicants have indicated that they are requesting variances. The variances they are requesting are for reduced setbacks in order to split the house from the agricultural use.



View of the site from north of the site on CR 850 W looking southeast. This view shows the residential structure on the right-hand side and the agricultural structures behind the house on the site.



View of the site from CR 850 W looking northeast. This view shows the part of the residential structure on the left-hand side and the agricultural structures on the site.



View of the site from CR 850 W looking east. This view shows the south portion of the area classified in the II Industrial Zone that is across the street from a neighboring home.

**DELAWARE-MUNCIE METROPOLITAN PLAN COMMISSION
PROPOSED ZONING CHANGE APPLICATION**

Jurisdiction: (Check One)

Delaware County

City of Muncie

Submitted: 1-4-2023

Case No.: MPC 02-232

(1) Applicant: Jackson Family Trust

Address: 20330 N CR 850 W Phone: (317)-3193120
Gaston, IN 47342

(2) Record of Applicant's Ownership:

A. By Deed:
Deed Book No. & Page No.: 2002 pg 1887 and 1993 pg 4712
Date of Deed: March 14, 2002 and September 15, 1993

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 legal description

(4) Common Address of Property Involved:
20330 N CR 850 W, Gaston, IN 47342

(5) Proposed zoning change: (Give exact zone classification.)
From the II Intense Industrial Zone
To the F Farming Zone

- (6) Intent and Purpose of Proposed Change: (Specify use contemplated on property.)
To divide a current rural residential from farming.
- (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.
The owner is resolving the trust.
- (8) State how the proposed change will not adversely affect the surrounding area.
All surrounding areas are used as agricultural.
- (9) Will certain variances be requested if the proposed zoning change is granted?
(If yes, list the variances)
Yes, there will be a reduced rear setback for the primary structure and a reduced front setback for the barn.
- (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) Jackson Family Trust- Sharon Lea Jackson 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: Jackson Family Trust Sharon Lea Jackson

Subscribed and sworn to before me this 7th day of December, 2022

Ann L Hall
Notary Public

8/3/2024
My Commission Expires

Resident of Marion County

State of INDIANA



689166

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 2nd day of February, 2023.

Signed [Signature]

Date 1-12-23

AFFIDAVIT

(I or We) I Jackson Family Trust- Gary W. Jackson 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: Gary W. Jackson

Subscribed and sworn to before me this 7th day of December, 2022



Krista Talhelm, Notary Public
Commission Number: NP0723886
My Commission Expires: 12/03/2027
Residing in Delaware County, IN

Krista Talhelm

Notary Public

12/03/2027

My Commission Expires

Resident of Delaware County

State of Indiana

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 2nd day of February, 2023.

Signed [Signature]

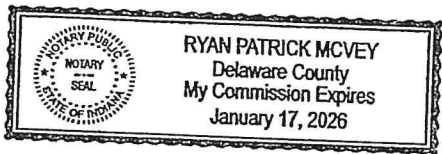
Date 1-12-23

AFFIDAVIT

(I or We) I Jackson Family Trust- Brenda Ann Craig 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: Brenda A Craig

Subscribed and sworn to before me this 29 day of December, 20 22



[Signature]
Notary Public

1-17-2026
My Commission Expires

Resident of Delaware County

State of Indiana

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 2nd day of February, 20 23.

Signed [Signature]

Date 1-12-23

1,2,3
DEED 2002 1887
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1889

008406

FILED FOR RECORD
3:20 o'clock H M.
Record 2002 Page 1887-
15 3 MAR 14 2002 1889

Mail Tax Statements To: 20330 North C.R. 850 West, Gaston, Indiana, 47342

QUIT-CLAIM DEED

Al M. Jackson
Recorder, Delaware County

THIS INDENTURE WITNESSETH, That Donald Wayne Jackson and Carol R. Jackson, husband and wife, of Delaware County, in the State of Indiana, RELEASE AND QUIT-CLAIM to Donald W. Jackson and Carol R. Jackson, as Trustees of the Jackson Family Trust dated March 7, 2002, of Delaware County, in the State of Indiana, for and in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, the following described real estate in Delaware County, in the State of Indiana, to-wit:

Tract 1:

The southeast quarter of the northeast quarter of Section 7; the northeast quarter of the southeast quarter of Section 7; the southwest quarter of the northeast quarter of Section 7; *except*, a tract of land 24 rods in width north and south off the north side thereof; *also excepting therefrom* a parcel of land conveyed to the Chesapeake and Ohio Railway Company in a deed dated April 3, 1912, and recorded in Deed Record 144, page 507 together with the right to pump and use water from the gravel pit or pond situated upon or adjacent to said described parcel of ground; *also excepting* a piece of land conveyed to the said Chesapeake and Ohio Railway Company in a deed dated December 10, 1912, and recorded in Deed Record 147, page 192; all of the above described land being in Township 22 north, Range 9 east of the second principal meridian. Containing in all after said exceptions, 106.37 acres, more or less. Unit Tax Numbers: 01-00399, 00400 and 00401.

Tract 2:

02-07-200-007-000-024 *02-07-200-003-000-024*
02-07-400-002-000-024

A strip of ground 13.36 rods in width off of the entire south side of the southwest quarter of the northeast quarter of Section 7, Township 22 north, Range 9 east, containing 6.49 acres, more or less; *ALSO*, beginning at the point of intersection of the north line of said 6.49 acre tract with the east right-of-way line of the Chesapeake and Ohio Railroad and running thence east on said north line 587 feet; thence north 30 feet; thence west 604 feet to said east right-of-way line; thence southeasterly along said right-of-way line to the place of beginning; *ALSO*, the northwest quarter of the southeast quarter of said Section 7, *excepting therefrom* a strip of ground 6 rods in width off of the entire south side thereof. *Excepting* from all said real estate the existing rights-of-way of the Chesapeake and Ohio Railroad Company, and containing in all 37.97 acres, more or less. Unit Tax Number: 01-00598.

Duly Entered for Taxation
Transfer Fees \$ 500

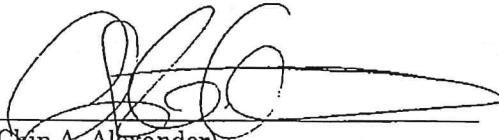
MAR 13 2002 ERT

Gene Jackson
DELAWARE CO. AUDITOR

STATE OF INDIANA, DELAWARE COUNTY, SS:

Before me, the undersigned a notary public in and for said County, this 12th day of March, 2002, came Donald Wayne Jackson and Carol R. Jackson, husband and wife, and acknowledged the execution of the foregoing instrument.

Witness my hand and official seal.



(Chip A. Alexander)
Notary Public
Resident of Delaware County

My Commission Expires:
October 19, 2008.

This instrument prepared by Chip A. Alexander, Attorney at Law.

A strip of land thirty three (33) feet wide on each side of the center line of said rail road, as the same is now surveyed and located on over and across the north west quarter of the southeast quarter of Section seven (7) township twenty two (22) range nine (9) east, said center line is described as follows: Beginning on the north line of said tract 292 feet east of the north west corner thereof thence south 28°20' east along said center line 1489.4 feet to the south line of said tract and containing in the part hereby conveyed 2.33 acres.

ALSO

A strip of land thirty three (33) feet wide on each side of the center line of said railroad as the same is now surveyed and located over and across the West half of the Northeast quarter of Section 7, township 22 North, Range 9 East. Said center line is described as follows: Beginning on the South line of said tract two hundred ninety-two (292) feet East of the Southwest corner of the same; thence North 28 degrees 20 minutes west along said center line six hundred and four (604) feet to the West line of said half quarter and containing in the part hereby conveyed seventy three hundredths (0.73) of an acre.

ALSO

A parcel of ground in the northeast quarter (¼) of section seven (7), Township Twenty-two (22) North, Range nine (9) East, said County and State, more particularly bounded and described as follows: Beginning at a point in the center of public road, running due north and south also being in the present westerly right of way line of the Chesapeak and Ohio Railway Company of Indiana, thence in a southerly direction with the present westerly right of way line five hundred four (504) feet, more or less, to a point in dividing line between Isaiah J. Howard and Harry Greenlee, said dividing line being three and thirty-four hundredths (3.34) chains north of and parallel with the east and west half section line; thence west with said dividing line between Isaiah J. Howard and Harry Greenlee two hundred forty-two and five tenths (242.5) feet, more or less, to a point in the center of Public road; thence north with center of said road four hundred forty-one and eight tenths (441.8) feet, more or less, to the point of beginning, containing 1.23 acres.

EXHIBIT A

Description of property at: Delaware County, Indiana
To: Donald W. Jackson and Carol R. Jackson

PARCEL NO. 1

BEING the first parcel of the same property acquired by the Cincinnati, Richmond and Muncie Railroad Company, a predecessor of Grantor, from Isaiah J. Howard, et ux, by deed dated May 16, 1901, recorded among the Public Land Records of Delaware County, Indiana, in Book 102, Page 584.

Containing 2.33 acres, more or less, and being more particularly shown on fragment print of Grantor's Valuation Map V51/86, marked Exhibit A-1, attached hereto.

PARCEL NO. 2

BEING the same property acquired by the Cincinnati, Richmond and Muncie Railroad Company, a predecessor of Grantor, from Robert C. Howard, by deed dated October 9, 1901, recorded among the Public Land Records of Delaware County, Indiana, in Book 78, Page 515.

Containing 0.73 of an acre, more or less, and being more particularly shown on fragment print of Grantor's Valuation Map V51/86, marked Exhibit A-1, attached hereto.

PARCEL NO. 3

BEING the same property acquired by the Chesapeake and Ohio Railway of Indiana, a predecessor of Grantor, from Harry Greenlee, et ux, by deed dated December 10, 1912, recorded among the Public Land Records of Delaware County, Indiana, in Book 147, Page 192.

Containing 1.23 acres, more or less, and being more particularly shown on fragment print of Grantor's Valuation Map V51/86, marked Exhibit A-1, attached hereto.

PARCEL NO. 4

BEING the same property acquired by The Chesapeake and Ohio Railway of Indiana, a predecessor of Grantor, from Isaiah J. Howard, et ux, by deed dated December 21, 1912, recorded among the Public Land Records of Delaware County, Indiana, in Book 147, Page 190.

Containing 0.22 of an acre, more or less, and being more particularly shown on fragment print of Grantor's Valuation Map V51/86, marked Exhibit A-1, attached hereto.

