

ORDINANCE NO. 2013-017

ORIGINAL

**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, theretofore 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-4 Residence Zone** the following described real estate located in Delaware County, Indiana, to wit:

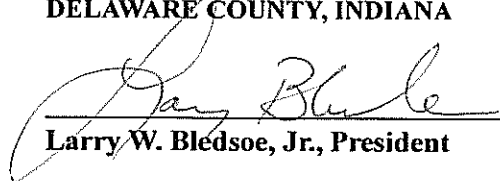
see attached legal description

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.

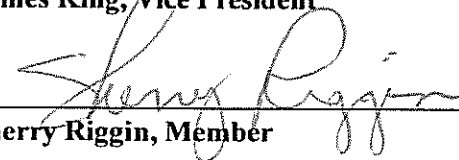
Section 4. That this Ordinance is adopted this 13 day of September, 2013.

**BOARD OF COUNTY COMMISSIONERS
DELAWARE COUNTY, INDIANA**



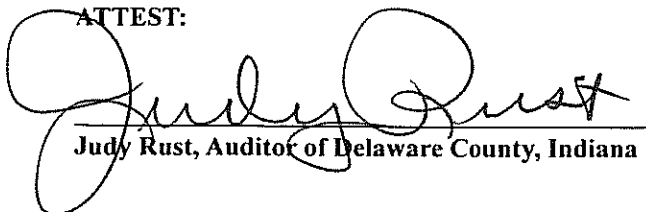
Larry W. Bledsoe, Jr., President

James King, Vice President



Sherry Riggan, Member

ATTEST:



Judy Rust, Auditor of Delaware County, Indiana

Attached Legal Description

Lots Numbered 8, 9, and 10 in the Town of Medford, Indiana. Also, Part of the Southwest Quarter of Section 6, Township 19 North, Range 11 East, more particularly described as follows, to-wit: Beginning at a point 527.5 feet West and 335 feet North of the Southeast corner of the Southwest quarter of Section 6, Township 19 North, Range 11 East, which point is in the east line of Lot Numbered 10-extended North 50 feet from the Northeast corner of the aforesaid Lot Numbered 10, said Lot Numbered 10 being shown in the plat in the Town of Medford, Indiana, Plat Book 3, Page 64 of the records of plats in the Office of the Recorder of Delaware County, Indiana; running thence in a Northwesterly direction parallel with the Easterly Right-Of-Way line of the Chesapeake and Ohio Railway Company 222.9 feet; thence in a Westerly direction with a deflection angle to the left of 57 degrees, 52 minutes, 30 seconds 229.3 feet to the Easterly Right-Of-Way line of the said Chesapeake and Ohio Railway Company, which point is 800.5 feet South of the North line of the South Half of the said Southwest quarter; thence in a Southeasterly direction on the said Easterly Right-Of-Way line of the Chesapeake and Ohio Railway Company 229.8 feet to the North line of Washington Street in the Town of Medford, Indiana as shown in the aforesaid plat of Medford, Indiana; thence East on and along the said North line of the said Washington Street 225.63 feet to the point of beginning. Estimated to contain 1.009 acres, more or less.

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

September 12th, 2013

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: **Bettie A. Summers, 5500 E. C.R. 500 S., Muncie, IN**, such applicant petitioning the commission to rezone the real estate as described in the application, generally located at: **5500 E. C.R. 500 S., Muncie, IN**, from zone classification: **BV Variety Business Zone** to zone classification: **R-4 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

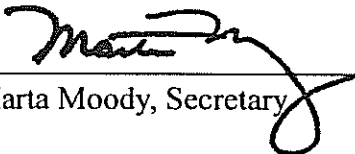
NOW, THEREFORE, the Delaware-Muncie Metropolitan Plan Commission hereby **FAVORABLY RECOMMENDS (8-0)** the application for rezoning.

**DELAWARE-MUNCIE METROPOLITAN
PLAN COMMISSION**

BY:



Tom Green, President



Marta Moody, Secretary

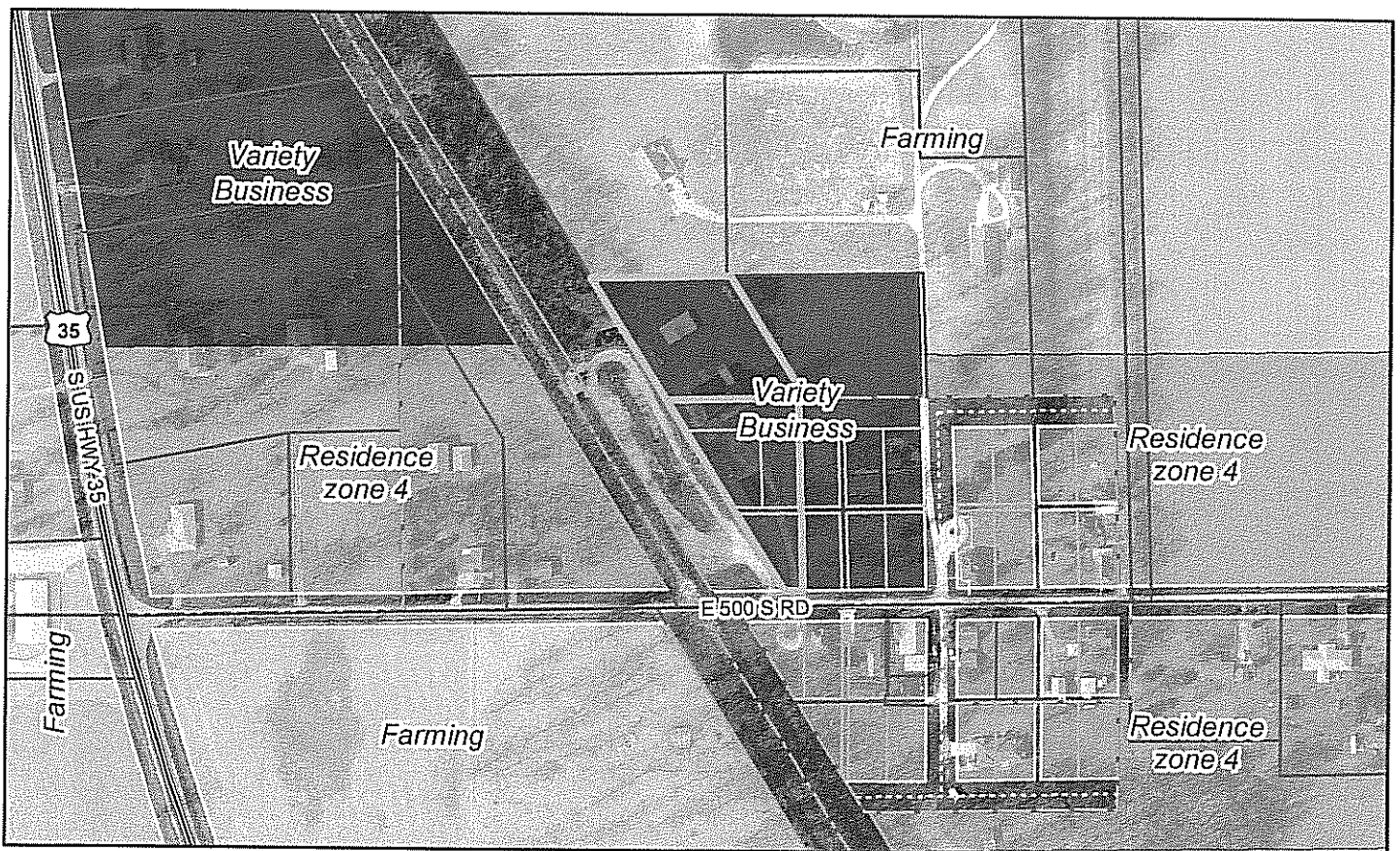
Delaware-Muncie Metropolitan Plan Commission
Case Analysis - September, 2013

MPC 04-13Z Summers, Bettie A.

Location & Description: 5500 E. C.R. 500 S., Muncie

Located on the north side of E. C.R. 500 S., just east of a Cardinal Greenway's Trailhead.

Traveling east on Jackson St. go 2.6 miles to the Muncie Bypass, turn left onto the 1st access ramp for the bypass in order to go South on US 35, go -2.6 miles to the US 35/29th St. exit, turn left from the exit ramp to continue south on US 35, go -3.3 miles to E. C.R. 500 S., turn left (east) onto E CR 500 S., go -0.2 miles; the site will be on your left (north side).



Streets: C.R. 500 S. is classified as a Local Road with a 50' proposed R.O.W. according to the Thoroughfare Plan Map. C.R. 500 S. is a Minor Road according to the Delaware County Major/Minor Roads Map. The platted R.O.W. is 50'.

Land Use: This property was agri-business in use but is currently residential in use. Surrounding properties to the north, east and south are primarily residential in use. Property to the west is recreational in use (greenway trailhead).

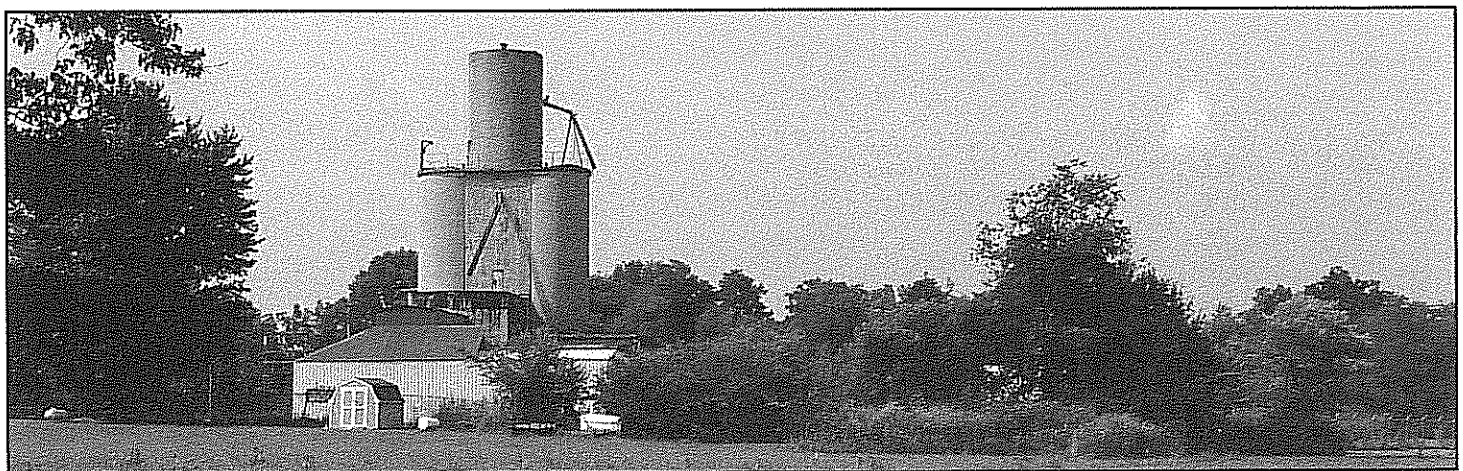
Zoning: 5500 E. C.R. 500 S. is classified in the BV Variety Business Zone. Properties to the north are classified in the F Farming Zone. Properties to the east are classified in the BV Variety Business Zone. Properties to

the south and west are classified in the R-4 Residence Zone.

Request: The request is to rezone the property to the R-4 Residence Zone. The applicant has stated that more than one bank has told the applicant that they will not give a mortgage for a residence in a commercial zone, regardless of residential use being a permitted use. The applicant would like to place a permanent residence on the site.



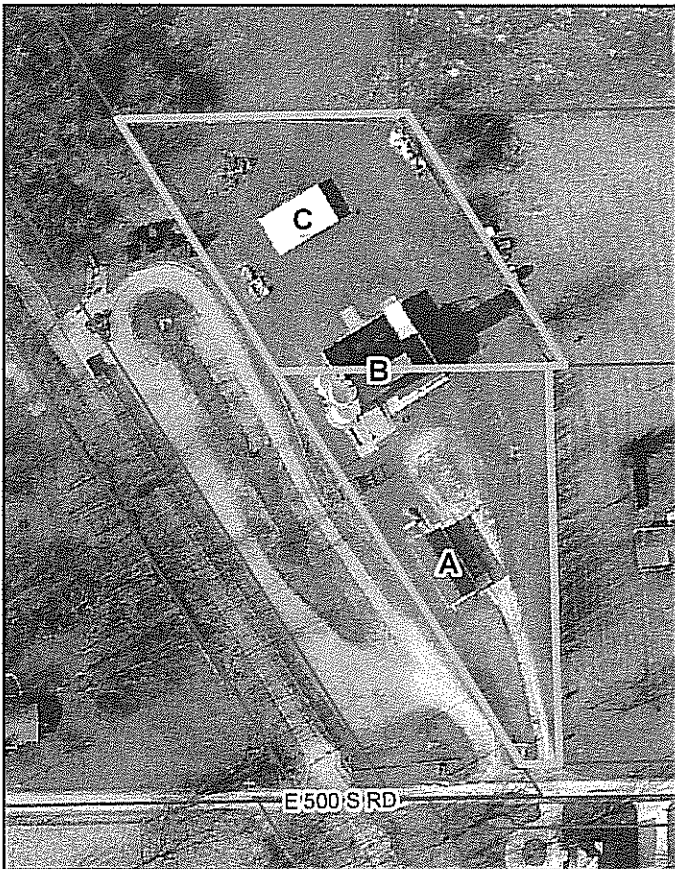
View of the site from C.R. 500 S. looking to the north/northwest. The white building in foreground is a structure that was an office that was converted into a residence.



View of the site from an access road, looking to the southwest. The small shed is on the neighboring property to the east of 5500 E. C.R. 500 S. This view of the site shows the large agricultural structure. The fence on the right hand side of the picture is the northern property line for the site.



View of the site from the Cardinal Greenway Trailhead, looking to the east. The structure on the right is open on the south and north facing sides (not walled in).



Aerial View of the site:

- A- structure that originally had a commercial use, now used as a residence
- B- large agricultural structures/silo
- C- accessory structure, open to the north and to the south

Map showing location of the September case.



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

Jurisdiction: (Check One)

Submitted: 7-26-13

Delaware County
 City of Muncie

Case No.: MPC 04-13Z

(1) Applicant: Bettie A. Summers
5500 E. CR 500 S.
Muncie, Indiana 47302
765-744-4638

(2) Record of Applicant's Ownership:
Deed Recorded August 8/10/2012 as document number 2012R10426 in the office of the Delaware County Recorder.

(3) Legal Description of Property for which rezoning is requested:

Lots Numbered 8, 9 and 10 in the Town of Medford, Indiana. Also, Part of the Southwest Quarter of Section 6, Township 19 North, Range 11 East, more particularly described as follows, to-wit: Beginning at a point 527.5 feet West and 335 feet North of the Southeast corner of the Southwest quarter of Section 6, Township 19 North, Range 11 East, which point is in the east line of Lot Numbered 10 extended North 50 feet from the Northeast corner of the aforesaid Lot Numbered 10, said Lot Numbered 10 being shown in the plat in the Town of Medford, Indiana, Plat Book 3, page 64 of the records of plats in the Office of the Recorder of Delaware County, Indiana; running thence in a Northwesterly direction parallel with the Easterly Right-Of-Way line of the Chesapeake and Ohio Railway Company 222.9 feet; thence in a Westerly direction with a deflection angle to the left of 57 degrees, 52 minutes, 30 seconds 229.3 feet to the Easterly Right-Of-Way line of the said Chesapeake and Ohio Railway Company, which point is 800.5 feet South of the North line of the South Half of the said Southwest quarter; thence in a Southeasterly direction on the said Easterly Right-Of-Way line of the Chesapeake and Ohio Railway Company 229.8 feet to the North line of Washington Street in the Town of Medford, Indiana as shown in the aforesaid plat of Medford, Indiana; thence East on and along the said North line of the said Washington Street 225.63 feet to the point of beginning. Estimated to contain 1.0009 acres, more or less.

(4) Common Address of Property Involved:
5500 E. CR 500 S., Muncie Indiana.

(5) Proposed zoning change:
From the BV Variety Business Zone to the R-4 Residence Zone.

(6) Intent and Purpose of Proposed Change: (Specify use contemplated on property.)
Owner anticipates placing permanent residential home on the rezoned property. Banks will not give the owner a loan for a new residence because the property is in the BV Variety Business Zone.

(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 anticipates developing and residing in the rezoned property.

(8) State how the proposed change will not adversely affect the surrounding area.
Property has not been used for business purposes for many years. All surrounding properties have been similarly rezoned from variety business to R-4 Residential zone as is being requested in this application.

(9) Will certain variances be requested if the proposed zoning change is granted?
None known at this time.

(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?

Yes, all surrounding property owners are aware and have been informed of the rezoning request. It is believed that all surrounding property owners support this request.

(11) Are there any restrictions, easements, and/or covenants governing the property prohibiting its use for the purpose specified in this application?

None that are known.

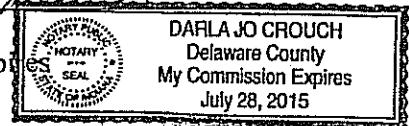
AFFIDAVIT

I *Bettie A. Summers* being duly sworn, depose and say that I am the owner of the 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 knowledge and belief.

Bettie A. Summers
Bettie A. Summers

Subscribed and sworn to before me this 15th day of July, 2013

Darla Jo Crouch
Notary Public
My Commission Expires
Resident of 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 5th day of September, 2013.

Signed
Date

[Signature]
7-29-13

immers



* 2012R10426 *

2012R10426

JANE LASATER
DELAWARE COUNTY RECORDER
RECORDED ON

08/10/2012 09:26:13AM

REC FEE: 20.00

PAGES: 3

Duly Entered for Taxation,
Transfer Fees \$ 10.00 ft

AUG 10 2012

Judy Rust
DELAWARE CO. AUDITOR

Recording requested by: _____

Space above reserved for use by Recorder's Office

When recorded, mail to:

Document prepared by:

Name: Bettie A. Summers

Name JODIE A HACKHER

Address: 5500 E. CR 500S.

Address _____

City/State/Zip: MUNCIE, IN 47302

City/State/Zip _____

Property Tax Parcel/Account Number: 18-16-016-376-005-000.020 / 18-16-06-378
001-000.020

Quitclaim Deed

This Quitclaim Deed is made on Thursday September 15, 2011, between
Chad N. Summers, Grantor, of 5500 E. CR 500S
_____, City of Muncie, State of Indiana,
and Bettie A. Summers, Grantee, of 5500 E. CR 500S
_____, City of Muncie, State of Indiana.

For valuable consideration, the Grantor hereby quitclaims and transfers all right, title, and interest held by
the Grantor in the following described real estate and improvements to the Grantee, and his or her heirs
and assigns, to have and hold forever, located at 5500 E. CR 500S.
_____, City of Muncie, State of Indiana:

See attached legal

Subject to all easements, rights of way, protective covenants, and mineral reservations of record, if any.
Taxes for the tax year of 2010 shall be prorated between the Grantor and Grantee as of the date of
recording of this deed.

Dated: 27 SEP 11

Chad N. Summers
Signature of Grantor

CHAD N. SUMMERS
Name of Grantor

Cathy J. Creek
Signature of Witness #1

Cathy J. Creek
Printed Name of Witness #1

Leslie A Timmons
Signature of Witness #2

Leslie A TIMMONS
Printed Name of Witness #2

State of Indiana County of Delaware

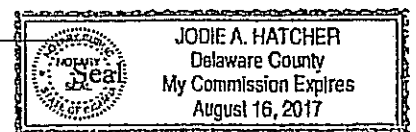
On Sept 27, 2011, the Grantor, Chad N. Summers,
personally came before me and, being duly sworn, did state and prove that he/she is the person described
in the above document and that he/she signed the above document in my presence.

Jodie A Hatcher
Notary Signature

Notary Public,

In and for the County of Delaware State of Indiana

My commission expires: Aug 16, 2017



Send all tax statements to Grantor, under the penalties for perjury,
I affirm, that I have taken reasonable care to
redact each Social Security number in this
document unless required by law.
Name Bettie Summers

Lots Numbered 8, 9, and 10 in the Town of Medford, Indiana. Also, Part of the Southwest Quarter of Section 6, Township 19 North, Range 11 East, more particularly described as follows, to-wit: Beginning at a point 527.5 feet West and 335 feet North of the Southeast corner of the Southwest quarter of Section 6, Township 19 North, Range 11 East, which point is in the east line of Lot Numbered 10, extended North 50 feet from the Northeast corner of the aforesaid Lot Numbered 10, said Lot Numbered 10 being shown in the plat in the Town of Medford, Indiana, Plat Book 3, Page 64 of the records of plats in the Office of the Recorder of Delaware County, Indiana; running thence in a Northwesternly direction parallel with the Easterly Right-Of-Way line of the Chesapeake and Ohio Railway Company 222.9 feet; thence in a Westerly direction with a deflection angle to the left of 57 degrees, 52 minutes, 30 seconds 229.3 feet to the Easterly Right-Of-Way line of the said Chesapeake and Ohio Railway Company, which point is 800.5 feet South of the North line of the South Half of the said Southwest quarter; thence in a Southeasterly direction on the said Easterly Right-Of-Way line of the Chesapeake and Ohio Railway Company 229.8 feet to the North line of Washington Street in the Town of Medford, Indiana as shown in the aforesaid plat of Medford, Indiana; thence East on and along the said North line of the said Washington Street 225.63 feet to the point of beginning. Estimated to contain 1.009 acres, more or less.

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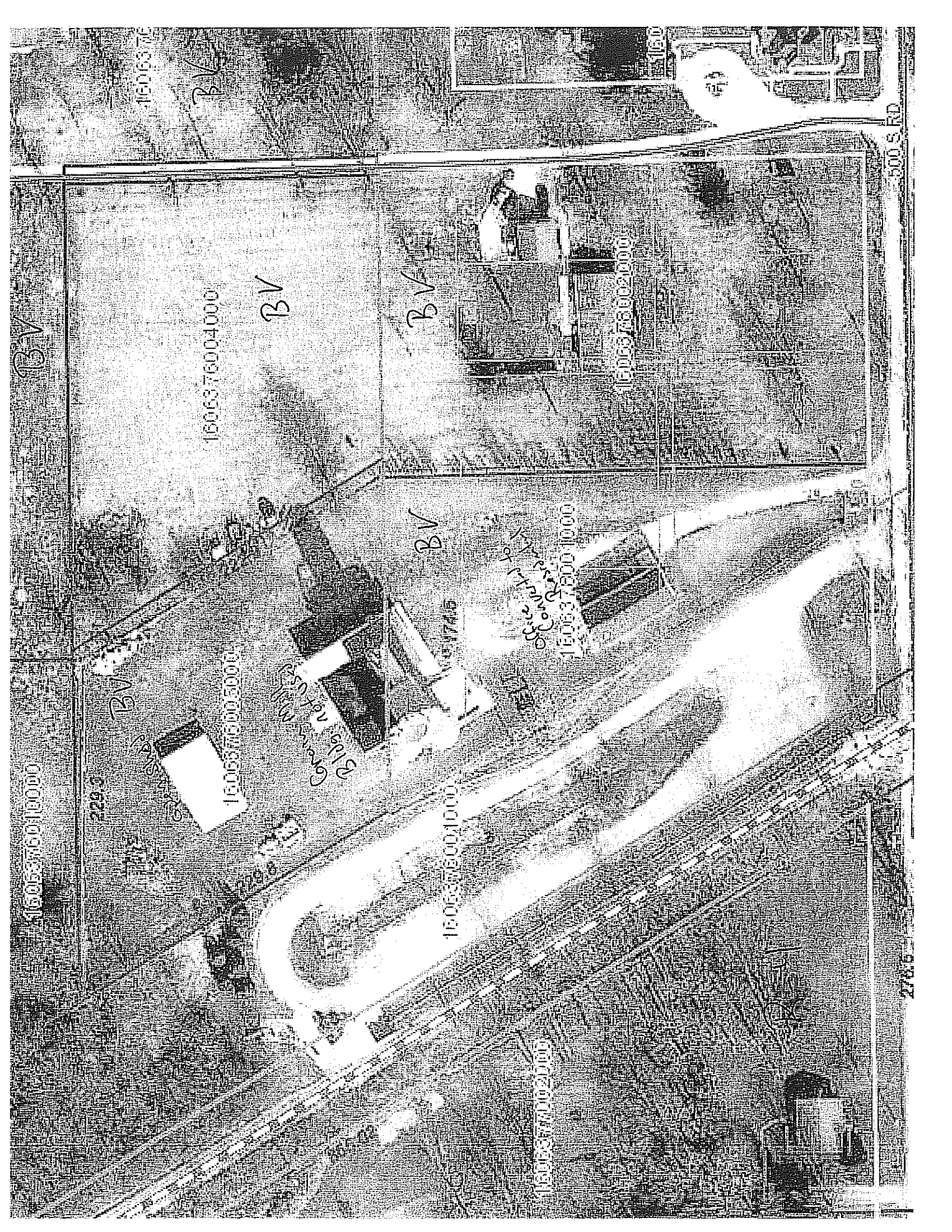
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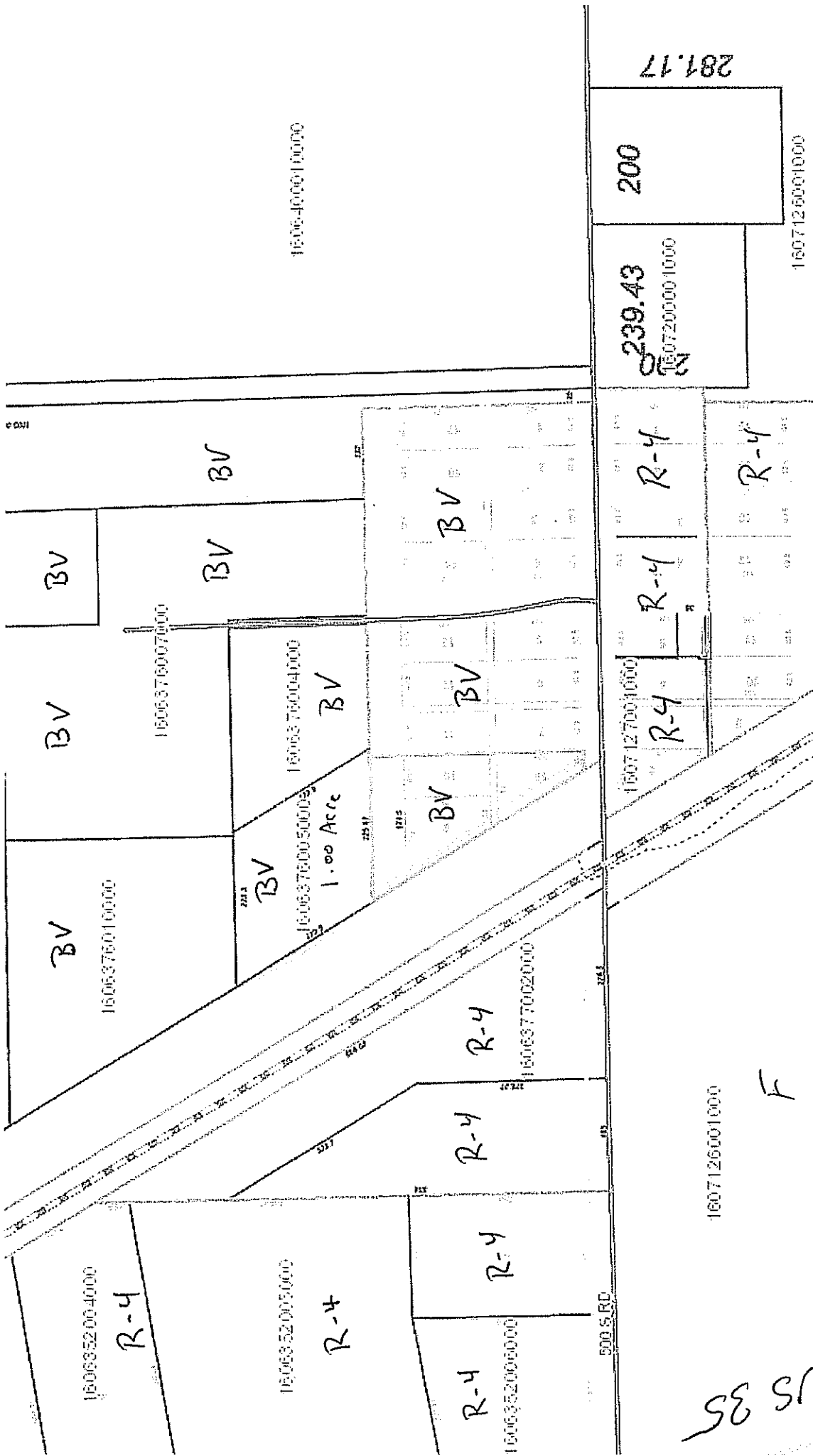
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Samuel Poor

Paul and Shelia
Voyles

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Paul and Shelia
Voyles

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Claud and Gisa
Fowler

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Fowler

Cardinal Greenway Inse

Jerry
Witt

Jacly
Witt

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Michael + Mickey
O'Neil

Stacy
Kidd

Reinal
Fellon

Susan Felton
Paul
Michelle
Paul
Michelle

Eileen
Fellon

O'Neil

Farming