

Received electronically CT mailbox 8/24/2021 @ 1:26pm

RESOLUTION NO. 17-2021

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF AUBURN
APPROVING THE CONVEYANCE OF CERTAIN REAL ESTATE TO
RALPH AND KAREN NOLL**

Summary

This Resolution calls for the City of Auburn to authorize the Mayor of the City of Auburn, Indiana, to convey to Ralph O. and Karen L. Noll, husband and wife, certain real estate described as follows:

A part of the East one-half (1/2) of the Northeast Quarter of Section 32, Township 34 North, Range 13 East, Union Civil Township, DeKalb County, Indiana, described as follows:

Beginning at an iron rod set at the Northwest Corner of Lot #24, Rolling Meadows Plat No. 1 to the City of Auburn, Indiana, recorded in Plat Book 4 page 171 in the DeKalb County Recorder's Office; THENCE North 25 degrees 58 minutes 27 seconds West 50.00 feet to an iron rod set in the centerline of the vacated Pennsylvania Railroad right-of-way; THENCE North 64 degrees 01 minutes 33 seconds East along said centerline 24.69 feet to an iron rod set; THENCE South 25 degrees 58 minutes 27 seconds East 50.00 feet to an iron rod set at the Northeast Corner of said Lot #24; THENCE South 64 degrees 01 minutes 33 seconds West along the north line of said Lot #24 24.69 feet back to the Point of Beginning, and containing 0.028 Acres (1234.50 square feet) more or less, subject to existing rights-of-way and legal easements of record.

(TRACT #5)

_____ Recorder's Office
_____ Auditor's Office
_____ Clerk's Office
_____ Other

_____ Publish Public Hearing

_____ Publish O/R after adoption

RESOLUTION NO. 17-2021

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF AUBURN
APPROVING THE CONVEYANCE OF CERTAIN REAL ESTATE TO
RALPH AND KAREN NOLL**

WHEREAS, the Common Council for the City of Auburn, Indiana (“Council”) has the power to dispose of real estate under **Indiana Code Section 36-1-11-5** when in the best interests of the City of Auburn, Indiana (“City”); and

WHEREAS, it is good public policy to dispose of real estate that the City has no particular use for and that has no value as it creates a liability for the City; and

WHEREAS, previously in or around 2004 several parcels were conveyed to adjoining landowners for the purpose of disposing of an abandoned railroad right-of-way; and

WHEREAS, pursuant to Indiana Code, the City of Auburn disposed of said parcels of real estate to adjoining landowners, because the City had no use for said real estate and the right-of-way had been abandoned, having previously been used for rail service; and

WHEREAS, it has been discovered that one (1) parcel, which is adjacent to the real estate owned by Ralph and Karen Noll, has not been conveyed; and

WHEREAS, the value of this real estate is negligible, and

WHEREAS, the disposing agent of the City of Auburn determines herein that the highest and best use of the tract and that the best interest of the City and community are served by conveying said tract to the adjoining landowner; and

WHEREAS, the cost of maintaining the tract is greater than the value of the tract; and

WHEREAS, there is no access to the tract and the City would have to take legal action to condemn other real estate and to find a way to access the real estate to maintain the same; and

WHEREAS, the adjoining landowner has been maintaining the real estate for over fifteen (15) years, by mowing and caring for the real estate; and

WHEREAS, the City has not acted in a manner to hold out ownership interest in said real estate and has not maintained said real estate in any capacity since approximately 2004; and

WHEREAS, it is economically unjustifiable to sell the tract under Indiana Code Section 36-1-4 or any other relevant Indiana Code Section; and

WHEREAS, the real estate is legally described as follows:

A part of the East one-half (1/2) of the Northeast Quarter of Section 32, Township 34 North, Range 13 East, Union Civil Township, DeKalb County, Indiana, described as follows:

Beginning at an iron rod set at the Northwest Corner of Lot #24, Rolling Meadows Plat No. 1 to the City of Auburn, Indiana, recorded in Plat Book 4 page 171 in the DeKalb County Recorder's Office; THENCE North 25 degrees 58 minutes 27 seconds West 50.00 feet to an iron rod set in the centerline of the vacated Pennsylvania Railroad right-of-way; THENCE North 64 degrees 01 minutes 33 seconds East along said centerline 24.69 feet to an iron rod set; THENCE South 25 degrees 58 minutes 27 seconds East 50.00 feet to an iron rod set at the Northeast Corner of said Lot #24; THENCE South 64 degrees 01 minutes 33 seconds West along the north line of said Lot #24 24.69 feet back to the Point of Beginning, and containing 0.028 Acres (1234.50 square feet) more or less, subject to existing rights-of-way and legal easements of record.

(TRACT #5)

AND NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF AUBURN, INDIANA, AS FOLLOWS:

That pursuant to Indiana Code Section 36-1-11-5, the City of Auburn, Indiana, herein conveys by Quit Claim Deed attached as Exhibit "A" hereto to adjoining landowners Ralph O. and Karen L. Noll, husband and wife, who are the owners of real estate with the common address of 124 Cord Place, Auburn, Indiana.

09/07/2021 Passed 1st Reading
09/21/2021 Passed 2nd Reading

That the City of Auburn, Indiana, shall have the right to take all necessary steps to execute the conveyance of the parcel described herein.


BE IT FURTHER RESOLVED, that the City of Auburn Common Council herein authorizes the Clerk-Treasurer of the City of Auburn, Indiana, to negotiate all necessary documents required in the conveyance said real estate.

PASSED AND ADOPTED by the Common Council of the City of Auburn, Indiana, this 21 day of September, 2021.



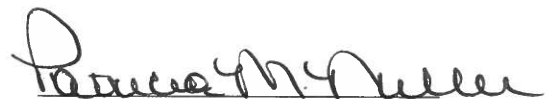
JAMES FINCHUM, Councilmember

ATTEST:



Patricia M. Miller
Clerk-Treasurer

Presented by me to the Mayor of the City of Auburn, Indiana, this 21 day of September 2021.



PATRICIA M. MILLER
Clerk-Treasurer

APPROVED AND SIGNED by me this 21 day of September, 2021.



MICHAEL D LEY, Mayor

09/07/2021

Passed 1st Reading

09/21/2021

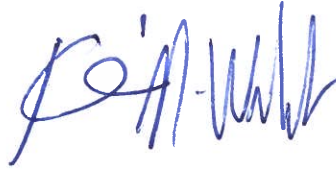
Passed 2nd Reading

VOTING:

AYE

NAY

Kevin Webb
Council President



James Finchum



Dennis Ketzenberger



Dennis K Kruse II



Natalie Dewitt

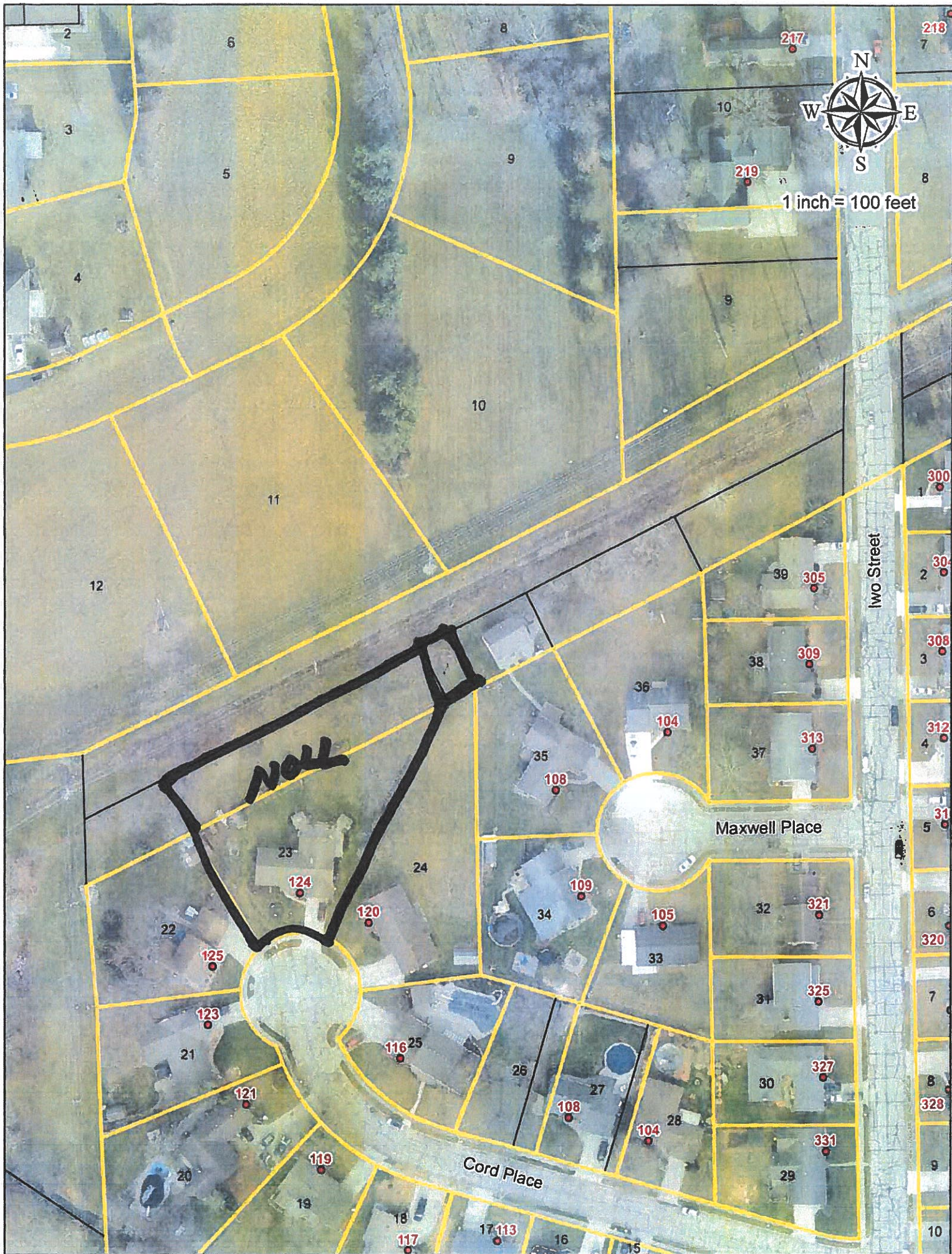


David Bundy



Michael Walter





NOLL RE CONVEYANCE

Google Maps Cord PI



Imagery ©2021 IndianaMap Framework Data, Maxar Technologies, USDA Farm Service Agency, Map data ©2021 200 ft

COPY

By: K. Noll DATE: 7/7/64

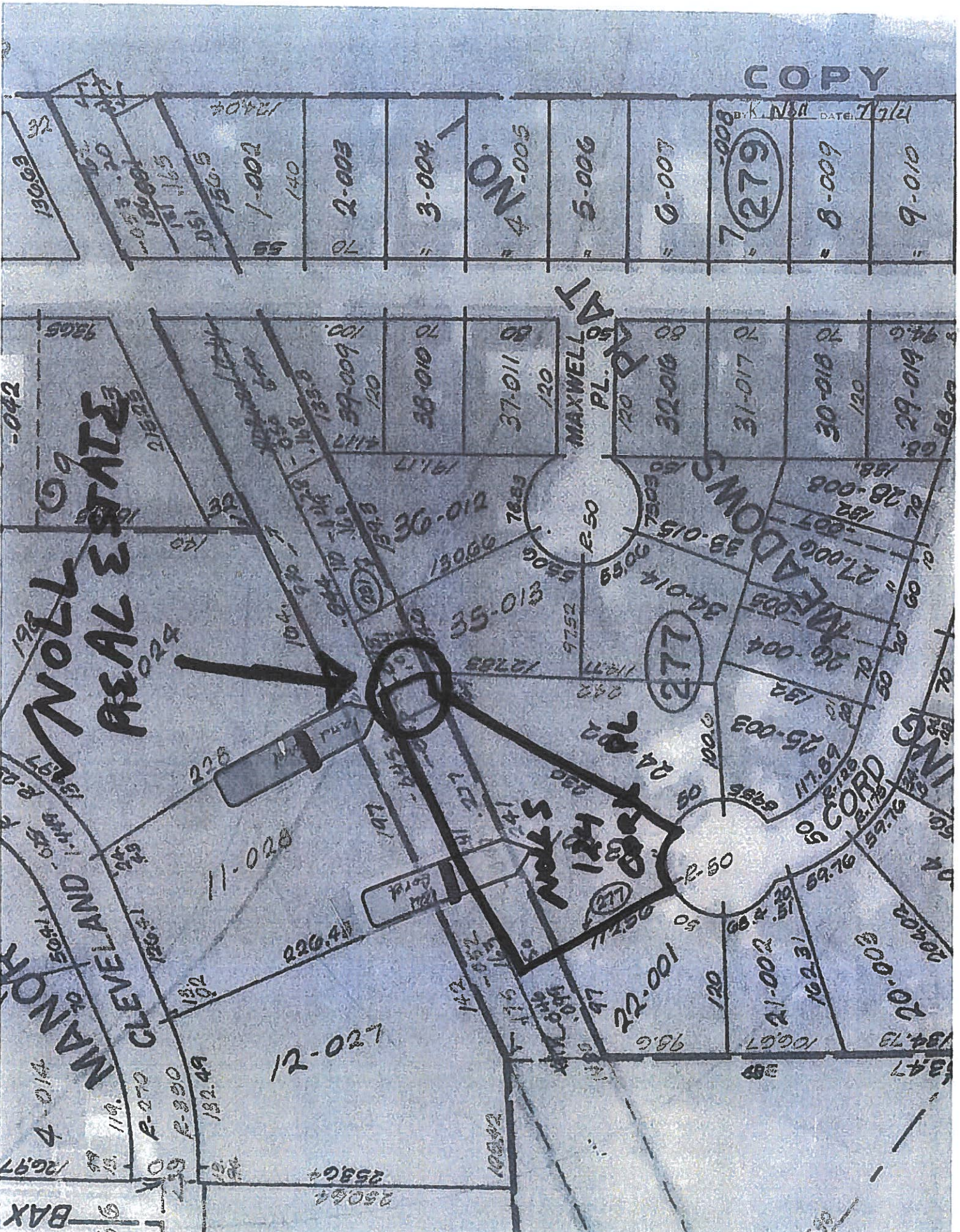


EXHIBIT "A"

Grantee address:

Mail tax bills to:

RALPH O. & KAREN L. NOLL
124 CORD PL.
AUBURN, IN 46706

Tax Key No. _____

QUIT CLAIM DEED

This Indenture Witnesseth that

MUNICIPAL CITY OF AUBURN, INDIANA,
of DeKalb County, in the State of Indiana,

Conveys and warrants to

RALPH O. NOLL and KAREN L. NOLL, husband
and wife,
of DeKalb County, in the State of Indiana,

for no valuable consideration, the following described Real Estate in DeKalb County, in the State of Indiana, to-wit:

A part of the East one-half (1/2) of the Northeast Quarter of Section 32, Township 34 North, Range 13 East, Union Civil Township, DeKalb County, Indiana, described as follows:

Beginning at an iron rod set at the Northwest Corner of Lot #24, Rolling Meadows Plat No. 1 to the City of Auburn, Indiana, recorded in Plat Book 4 page 171 in the DeKalb County Recorder's Office; THENCE North 25 degrees 58 minutes 27 seconds West 50.00 feet to an iron rod set in the centerline of the vacated Pennsylvania Railroad right-of-way; THENCE North 64 degrees 01 minutes 33 seconds East along said centerline 24.69 feet to an iron rod set; THENCE South 25 degrees 58 minutes 27 seconds East 50.00 feet to an iron rod set at the Northeast Corner of said Lot #24; THENCE South 64 degrees 01 minutes 33 seconds West along the north line of said Lot #24 24.69 feet back to the Point of Beginning, and containing 0.028 Acres (1234.50 square feet) more or less, subject to existing rights-of-way and legal easements of record.

(TRACT #5)

RECITAL: SUBJECT TO all restrictions, conditions, limitations, zoning ordinances, easements visible and invisible of record, rights of way and highways of record.

RECITAL: SUBJECT TO any present utilities furnished by the Municipal City of Auburn or future utilities that may be needed.

RECITAL: SUBJECT TO Grantor reserving easement over conveyance for necessary construction, maintenance and operation of utilities.

RECITAL: This deed is for real estate set forth in a survey dated April 28, 2004, prepared by Rowland Associates, Inc., and recorded June 9, 2004, as Document Number 20405149 in the DeKalb County, Indiana, Recorder's Office.

THIS DEED IS SUBJECT TO the following terms and conditions, as a perpetual easement, as required by the Office of Water Quality of Indiana Department of Environmental Management, State of Indiana, to-wit:


1. The above-described real estate is part of an improvement area as shown on surveyor's report by Rowland Associates, Inc., dated April 28, 2004, and recorded in the Office of the Recorder of DeKalb County, State of Indiana, as Document No. 20405149, recorded June 9, 2004, as it appears in the record of surveys.
2. This real estate is subject to restrictions of activity by the titleholder in the above-described wetland area, which is identified as Preserved Area.
3. This real estate is subject to the titleholder's continued effort to minimize detriments to aquatic resources in the Preserved Area.
4. Titleholder shall undertake no discharge of dredged or fill material, or other modification of development of the Preserved Area.
5. Titleholder shall maintain the vegetation, soils, and hydrology of the Preserved Area in an unaltered, natural condition.
6. The above restrictions shall be perpetual and binding upon titleholder and their legal representatives, heirs, assigns, and successors in title, SUBJECT TO the right of enforcement by American Corps of Engineers (ACOE), Indiana Department of Environmental Management (IDEM), and their successors and designees.

Grantor certifies that there is no gross income tax due at this time on this transaction.

The undersigned person(s) executing this deed represent(s) and certify(ies) on behalf of the Grantor, that (each of) the undersigned is a duly elected officer of the Grantor and has been fully empowered by proper resolution, or the by-laws of the Grantor, to execute and deliver this deed; that the Grantor is a corporation in good standing in the State of its origin and, where required, in the State where the subject real estate is situate; that the Grantor has full corporate capacity to convey the real estate described; and that all necessary corporate action for the making of this conveyance has been duly taken.

Dated this 21 day of September, 2021.

MUNICIPAL CITY OF AUBURN


Patricia M. Miller, Clerk-Treasurer

State of Indiana, County of DeKalb, SS:

Before me, the undersigned, a Notary Public in and for said County and State, this 21st day September 2021, personally appeared PATRICIA M. MILLER, Clerk-Treasurer for the MUNICIPAL CITY OF AUBURN and acknowledged the execution of the foregoing Deed.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.



TINA M. SHIPE, Notary Public
DeKalb County, State of Indiana
Commission #671583
Commission Expires August 12, 2023

My commission expires: August 12, 2023
My commission number: 671583

Tina M. Shipe
Tina M. Shipe, Notary Public
Resident of DeKalb County

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law. W. Erik Weber.

This instrument was prepared W. Erik Weber, City Attorney and Attorney at Law, Mefford, Weber and Blythe, A Professional Corporation, 130 East Seventh Street, Auburn, Indiana, 46706-1839, Telephone (260) 925-2300.