

ALAN BRUBAKER P.E., P.S.

SUMMIT COUNTY ENGINEER

September 29, 2021

Summit County Council
Ohio Building, 7th Floor
175 S. Main Street
Akron, OH 44308

Dear Council Members,

The Summit County Engineer's Office is requesting the vacation excess right-of-way along Akron-Cleveland Road between Wyoga Lake Road and the Boston Heights corporate line located in Boston Township.

The Summit County Engineer's office has obtained a \$700,000.00 federal grant through the Akron Metropolitan Area Transportation Study (AMATS) for a 1.5-mile resurfacing project on Akron Cleveland Road from the Wyoga Lake Road intersection to the south corporation line of the Village of Boston Heights. As a condition of any federally funded highway projects the Local Public Agency (LPA) is responsible for certifying that the right-of-way is free of encroachments from private property owners, or the County is required to issue a revocable permit allowing such encroachments. In reviewing the project, this office has identified several instances where excess highway easements exist and where some of the abutting property owners are using the excess right-of-way for non-highway purposes, however those encroachments are outside of the 80-foot width needed for the roadway. Vacating the excess right-of-way will allow the property owners to keep their various signs and structures where they currently are and will allow the County Engineer's office to certify the new right-of-way is free of encroachments.

The preliminary Engineer's Report is attached to this letter. We are asking that Council set the road vacation viewing and hearing dates at the next available meeting. Please let me know if you have any questions or concerns regarding this matter.

Sincerely,

Alan Brubaker, P.E., P.S.
Summit County Engineer

cc: Ilene Shapiro, Summit County Executive
Brian Nelsen, Chief of Staff, Summit County Executive's Office
Deborah Matz, Attorney, Summit County Executive's Office
Marvin Evans, Attorney, Summit County Prosecutor's Office
Amy Anderson, Chairperson, Boston Township Trustees



ALAN BRUBAKER, P.E., P.S.

SUMMIT COUNTY ENGINEER

September 28, 2021

**Summit County Engineer's
Request to Vacate Portions of
Akron Cleveland Road a.k.a. County Highway 16
in Boston Township**

Background: The Summit County Engineer's office has obtained a \$700,000.00 federal grant through the Akron Metropolitan Area Transportation Study (AMATS) for a 1.5 mile resurfacing project on Akron Cleveland Road from the Wyoga Lake Road intersection to the south corporation line of the Village of Boston Heights. As a condition of any federally funded highway projects the Local Public Agency (LPA) is responsible for certifying that the right of way is free of encroachments from private property owners, or the County is required to issue a revocable permit allowing such encroachments. In reviewing the project, this office has identified several instances where excess highway easements exist and where some of the abutting property owners are using the excess right of way for non-highway purposes. In this instance, excess right of way is any existing right-of-way outside of an 80-foot-wide strip of land that is centered on the current Akron Cleveland Road alignment. The excess right of way is located on both sides of existing Akron Cleveland Road, is not a uniform width, and is not continuous from end to end of the proposed roadway project.

History: Prior to 1937, Akron Cleveland Road followed a slightly different alignment through this corridor with numerous curves contained in a 60-foot-wide highway easement called the right of way. The road was also known at that time as State Route 8 and was the responsibility of the Ohio Department of Highways (ODH) to maintain. The road was the major north-south corridor connecting Akron with Cleveland. In the time period of 1937 and 1938, the ODH eliminated several curves along the corridor by purchasing additional right of way and then relocated portions of the highway to the west. The purchase of the additional right of way provided a variable width easement which included an 80-foot-wide highway easement corridor that deviated from the original alignment.

In the mid 1980's, the Ohio Department of Transportation, the successor to the ODH completed a new six lane divided highway (State Route 8) on a new alignment and abandoned Akron Cleveland Road to the County. Akron Cleveland Road remains the maintenance responsibility of the Summit County Engineer's office.

Issues: There are several issues that need to be addressed.

1. The proposed vacation of property involves sixteen (16) property owners, seventeen (17) Permanent Parcel numbers and covers over 8 acres of land.

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Akron Cleveland Road
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2. The excess right of way, (land beyond the existing 80 feet wide highway corridor) has no benefit to the general public and is not necessary for highway purposes.
3. To satisfy the demands of ODOT and the Federal Highway Administration this office is required to remove all encroachments or issue a revocable permit. We do not want to force the property owners to cease using the property for other than highway purposes (driveways, sidewalks, mail delivery, low growth plantings e.g. grass and shrubs), as this will create a public outcry.
4. All excess right of way located on the east side of the existing roadway will be vacated to the property owners on the east side and all excess right of way on the west side of the existing highway will be vacated to the property owners on the west side. The vacated right of way will be attached to the existing adjacent parcel. No new parcels of land will be created by the proposed vacation.
5. If we do not vacate the excess right of way the following results will have a negative impact on the existing businesses:
 - a. Suncrest Gardens would lose about 13,500 sq.ft. of display area, 5 parking spots, 100 feet of decorative fence and 5 covered display structures,
 - b. Earth N Wood Products would lose about 300 feet of split rail fence, three storage bins, 6 or 7 parking spots plus they would have to relocate their truck scale,
 - c. The business north of Earth N Wood Products has a storage tent and three parking spaces on the right of way that would be required to be relocated,
 - d. The logging operation at the north end of the project is storing cut timbers and a work trailer on the right of way even though they are 160 feet away from the center of pavement.
6. We can return \$700,000.00 to the federal government.
7. After the vacation, all existing utility lines would remain in place and the utility companies would still retain rights to access their lines. See Exhibit B.

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Property Ownership

There are currently 17 properties and 16 property owners affected by this proposal. Their permanent parcel numbers, names and tax mailing addresses are listed below.

Parcel Number	Tax Mailing Address	Business Name
0700079	Tamanna Inc. 5311 Towbridge Dr. Hudson, OH 44236	Don El Motel
0700296	Haury Enterprises, LLC 5157 Akron Cleveland Road Peninsula OH 44264	Suncrest Gardens
0700024	Raymond Bogard 5193 State Road Peninsula OH 44264	
0700006	Pamela C & Vincent G Procaccio 1551 17 th Street Cuyahoga Falls OH 44223	
0700048	Earth N Wood Products 5335 Strausser Street Canton, OH 44720	Earth N Wood Products
0700116	Rosemarie A Foord 5353 Akron Cleveland Road Peninsula OH 44264	
0700137	All in One Landscaping, Inc. 2651 Brunswick Lane Hudson, Ohio 44236	
0700117	Jean Krieger, Trustee 615 Graham Road Cuyahoga Falls OH 44221	

0700108 Peter W. Senuta
4839 Allen Road
Stow, OH 44224

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- 0700076 Dinovi Investment Group Ltd
72 N. Main Street Ste 300
Hudson, OH 44236
- 0700167 Dinovi Virginia Trustee
72 N. Main Street Ste 300
Hudson, OH 44236
- 0700008 Seibert & Bektic Properties Inc., LLC
459 Morgan Avenue
Akron, Ohio 44311
- 0700003 MPI Peninsula LLC
20 Broadway Ave South, Ste 50
Wayzata, MN 55391
- 0700009 UHM OH Buckeye LLC
3499 Highway 9 N Suite 3C
Freehold NJ 07728
- 0700104 Amanda Daniels Trustee
2407 Graham Road
Stow, OH 44224
- 0700175 William R Crowe, Trustee
and Cheryl A Crowe, Trustee
0700176 3678 Elm Road
Stow, OH 44224

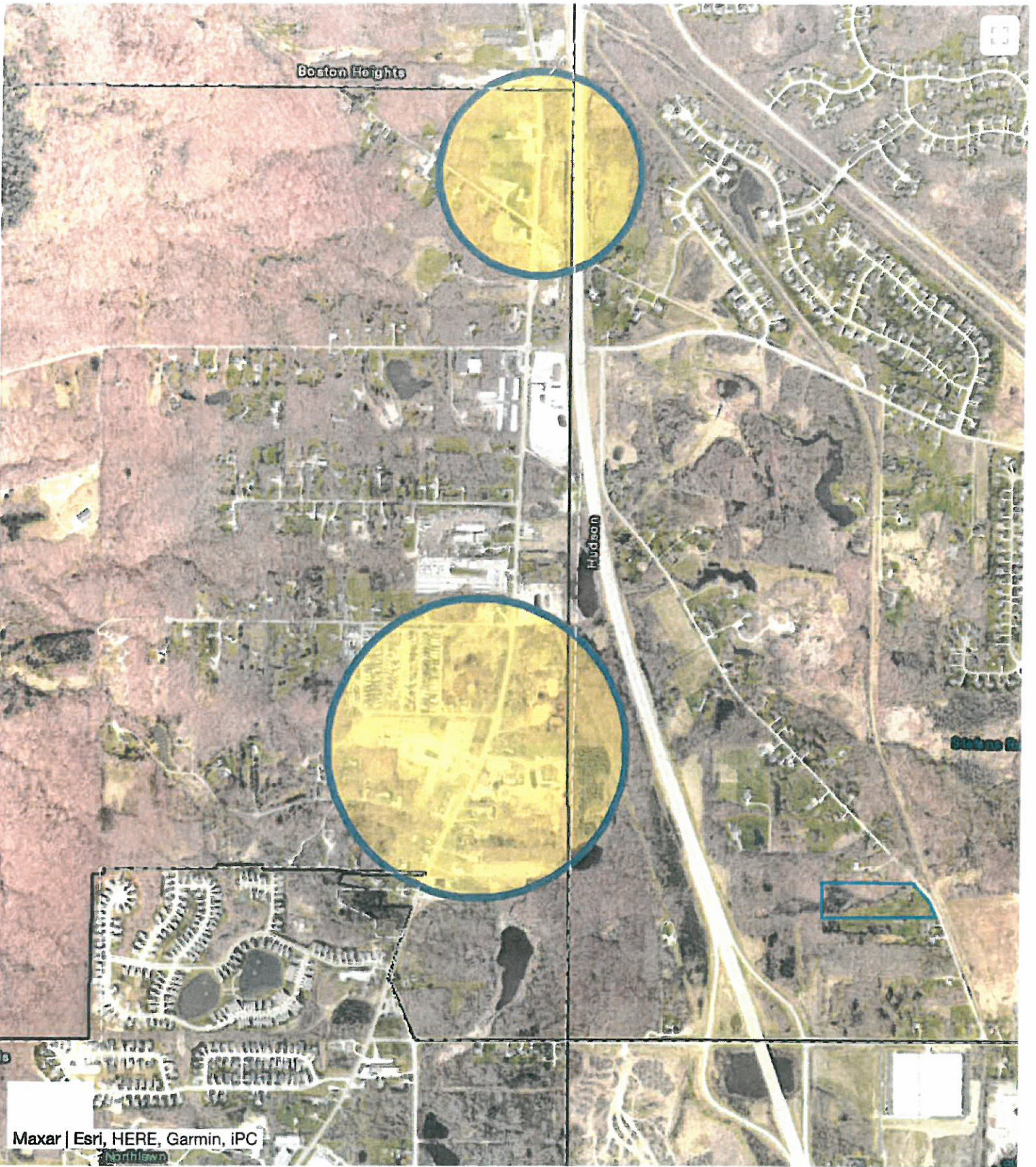
Discussion: Prior to 1937 the properties along this corridor extended to the centerline of the highway. When the Ohio Department of Highways relocated the road to the west, portions of the former highway right of way extended beyond the new 80-foot highway easement. The eastern portions of the old highway right of way that extend beyond the new 80-foot highway easement can be vacated and returned to the current landowners.

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The portions of the old highway right of way that were on the west side of the former right of way and are now on the east side will be vacated to the property owners on the east side. This determination is based on Ohio Attorney General Opinion 2016 – 034 which is attached in its entirety as Exhibit C, which states in part:

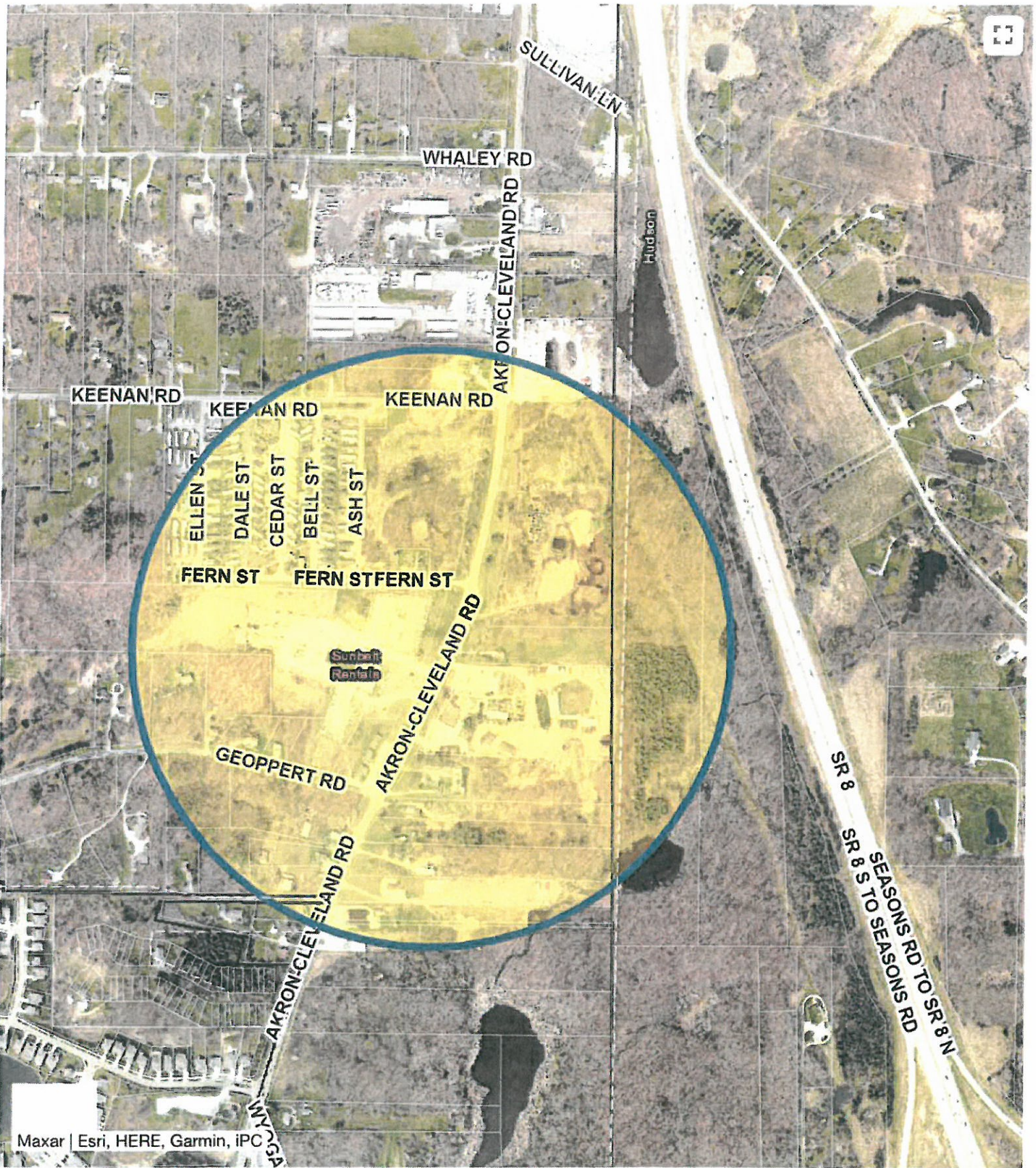
1. A public road vacated by a board of county commissioners passes in fee to those landowners whose properties abut the road pursuant to the principle of accretion.
2. Upon vacation of a public road, the fee that accretes to abutting landowners remains subject to easements for public utilities and railroads and the rights of landowners to access their property.

Recommendations: Enact legislation permitting the vacation of existing excess right of way on the eastern side of the Akron Cleveland Road right of way to the existing property owners on the east side of the current highway and permit the vacation of existing excess right of way on the western side of the Akron Cleveland Road right of way to the existing property owners on the west side of the current highway while still retaining a minimum 80 foot wide right of way along the highway.



Parcel Viewer 3.0





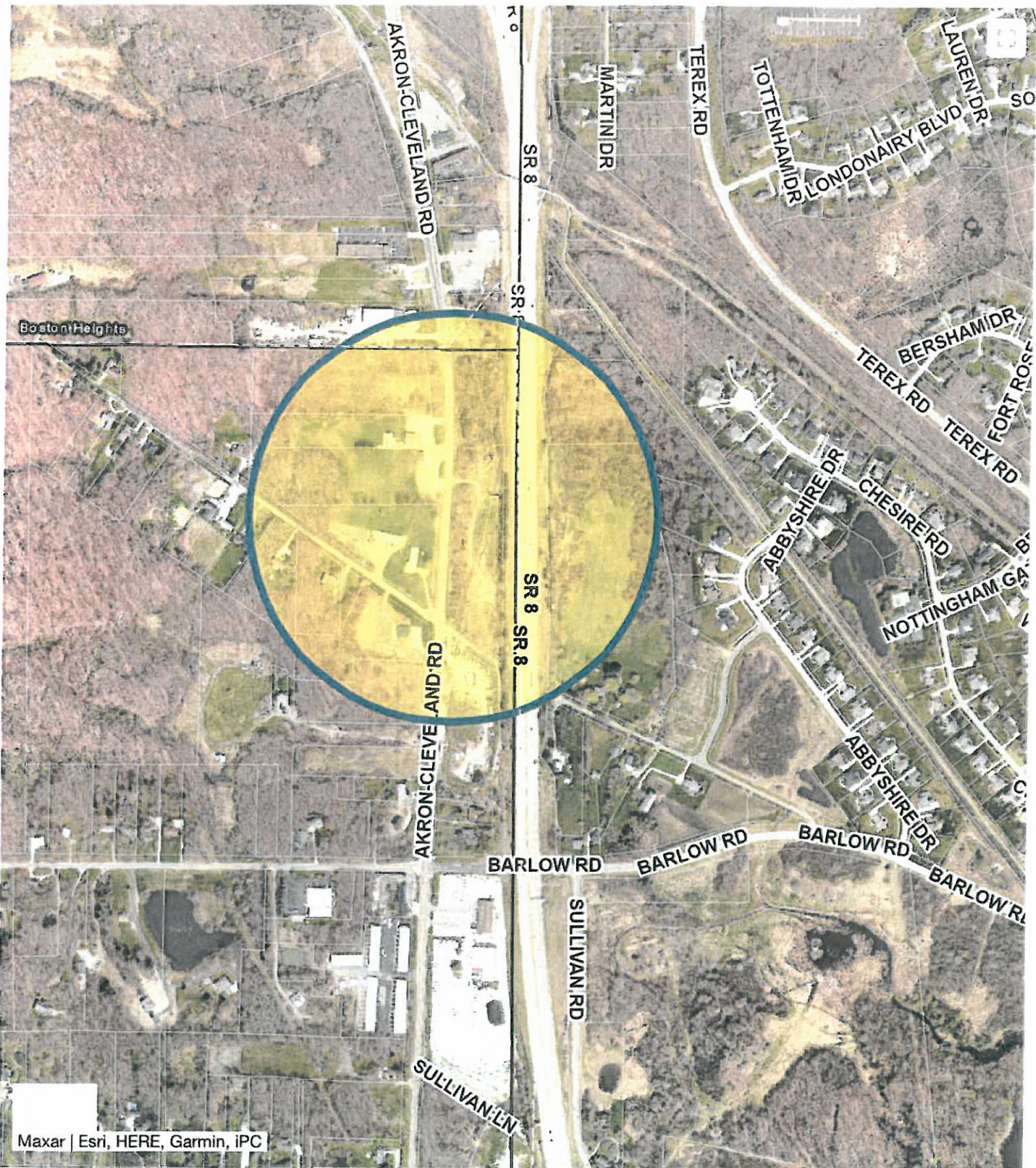
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Parcel Viewer 3.0



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-81.465 41.208 Degrees



Parcel Viewer 3.0



EXHIBIT B

5553.043 Railroad or public utility company deemed to have permanent easement in vacated portion of road.

When any street, highway, or road, or a portion of any street, highway, or road, is vacated pursuant to any section of this chapter or Chapter 5571. of the Revised Code, and the relocation of any conduits, cables, wires, towers, poles, sewer lines, steam lines, pipelines, gas and water lines, tracks, or other equipment or appliances of any electric cooperative, railroad, or public utility, whether owned privately or by any governmental authority, located on, over, or under the portion of the street, highway, or road affected by the vacation, are not required for purposes of the vacating authority, any affected electric cooperative, railroad, or public utility company shall be deemed to have a permanent easement in the vacated portion of the street, highway, or road for the purpose of accessing, maintaining, operating, renewing, reconstructing, and removing those utility facilities . The permanent easement also confers a right of ingress and egress to service and maintain those utility facilities and a right to trim or remove any trees, shrubs, brush, or other obstacles growing in or encroaching onto the permanent easement that may affect the operation, use, or access to those utility facilities.

EXHIBIT C

2016 Ohio Op. Atty. Gen. No. 2016-039 (Ohio A.G.), 2016 WL 7493819

Office of the Attorney General

**State of Ohio
Opinion No. 2016-039
December 23, 2016**

2016 Ohio Op. Atty. Gen. No. 2016-039 (Ohio A.G.), 2016 WL 7493819

Office of the Attorney General

State of Ohio
Opinion No. 2016-039
December 23, 2016

SYLLABUS:

*1 1. A public road vacated by a board of county commissioners passes in fee to those landowners whose properties abut the road pursuant to the principle of accretion. (1992 Op. Att’y Gen. No. 92-064, approved and followed.)

2. Upon vacation of a public road, the fee that accretes to abutting landowners remains subject to easements for public utilities and railroads and the rights of landowners to access their property.

The Honorable Jeff Adkins
Gallia County Prosecuting Attorney
Gallia County Courthouse
18 Locust Street, Room 1267
Gallipolis, Ohio 45631-1267

Dear Prosecutor Adkins:

You have requested an opinion in response to the following questions:

1. Upon vacation of a public road by a board of county commissioners, to which persons or entities does the fee to the public road pass?
2. Upon vacation, does the fee to a public road pass to the original grantor or to the abutting landowners pursuant to a reversionary interest or does it pass by a different principle of law?

In speaking with the county engineer, we have learned that the subject road is within a platted¹ subdivision outside of a municipal corporation. As platted, the road borders the outskirts of that subdivision, but the roadway has never been built. One person owns all the lots within the subdivision along one side of the undeveloped, platted road. A second person owns a parcel of property on the other side of the road outside of the subdivision. There is no conclusive evidence that the road was statutorily dedicated and, thus, established as a public road.² Insofar as you have asked about vacation of a public road, we presume that your inquiry concerns a road established for use by the general public for travel and transportation.³

R.C. 5553.01-.16 confer upon a board of county commissioner powers and responsibilities with respect to the establishment, location, alternation, and vacation of all roads and highways within the county. R.C. 5553.02 expressly grants a board of county commissioners the power to vacate public roads, declaring, in part:

The board of county commissioners may locate, establish, alter, widen, straighten, *vacate* or change the direction of roads as provided in [R.C. 5553.03-.06]. This power extends to all roads within the county, except that as to roads on the state highway system the approval of the director of transportation shall be had. (Emphasis added).

See also R.C. 5553.04; 1982 Op. Att’y Gen. No 82-012; 1928 Op. Att’y Gen. No. 1627, vol. I, p. 198, at 205. Cf. R.C. 723.05 (conferring power upon a municipal legislative authority to vacate a public road within a municipal corporation); *Sparrow v. City of Columbus*, 40 Ohio App. 2d 453, 320 N.E.2d 297 (Franklin County 1974) (a board of county commissioners has no authority under R.C. 5553.02 to vacate a street within the corporate limits of a municipality; such authority rests exclusively with the municipal corporation’s legislative authority, pursuant to the municipal corporation’s powers of local self-government provided in Ohio Const. art. XVIII, § 3). R.C. 5553.04 sets forth the procedure for a board of county commissions to vacate a public road that is outside the boundaries of a municipal corporation. R.C. 5553.04 declares, in pertinent part, as follows:

*2 When the board of county commissioners is of the opinion that it will be for the public convenience or welfare to ...

vacate, or change the direction of a public road, it shall so declare by resolution[.]

When a petition, signed by at least twelve freeholders of the county residing in the vicinity of the proposed improvement, or signed by the owner of the right to mine coal lying under or adjacent to the proposed improvement, is presented to the board requesting the board to ... vacate, or change the direction of a public road, the board shall view the location of the proposed improvement, and, if it is of the opinion that it will be for the public convenience or welfare to make the improvement, it may proceed to make the improvement as provided in [R.C. 5553.04-.16][.]

In vacating a public road, a board of county commissioners may act upon its own resolution when it is of the opinion that the change will be for the convenience or welfare of the public, or it may act upon a petition signed by the adjoining landowners. *See also* 1950 Op. Att’y Gen. No. 2279, p. 616 (syllabus).

As part of the process of vacation, if a board of county commissioners finds that such improvement⁴ is of sufficient public importance, the county engineer will be instructed to “make an accurate survey and plat of such improvement and furnish an accurate and detailed description describing therein the center line and right of way lines.” R.C. 5553.06. Thereafter, the engineer shall make a report in writing to the board, which will “set forth the opinion of the engineer for or against such improvement.” *Id.*; *see also* R.C. 5553.24 (when a petition for relocation of a road and vacation of unimproved public roads pursuant to R.C. 5553.23 is filed, the board of county commissioners shall order the county engineer to make a survey of the ground where the road is to be relocated, prepare a plat, and submit his written report of the proposed change and his opinion of the advantages or disadvantages of the proposed change). The report of the county engineer is read at the final hearing for the proposed vacation in addition to any testimony by any interested persons bearing upon the necessity of the improvement for the public convenience or welfare. R.C. 5553.07. Upon a finding by the board of county commissioners that the vacation serves the public convenience and welfare, the board shall by resolution proceed with the improvement. *Id.* If the improvement does not serve the public convenience and welfare, the board shall refuse to proceed with the improvement. *Id.* Additionally, the board of county commissioners may determine to proceed with the proposed improvement subject to modifications required by the public convenience and welfare in the judgment of the board. R.C. 5553.08. Should the board of county commissioners determine that the proposed improvement is of sufficient importance to the public, the board may order the payment of compensation and damages to the persons entitled thereto or by the landowners who will be benefitted by the improvement. R.C. 5553.09.

*3 R.C. 5553.04 does not specifically address the disposition of the fee interest⁵ in a public road vacated by a board of county commissioners. *Cf.* R.C. 5553.042 (in the case of an abandoned township road, highway, street, or alley, “the board, by resolution, may order the road, highway, street, or alley vacated, and the road, highway, street, or alley shall pass, in fee, to the abutting landowners, as provided by law”). “Nonetheless, the established common law rule ... controls in such situations, which means that any such road so vacated passes, in fee, to those landowners whose properties abut⁶ the road.” 1992 Op. Att’y Gen. No. 92-064, at 2-266 (footnote added). “It is well settled in Ohio that ‘[a]butting landowners own the fee of the land to the middle of the road, and may use land in any way not inconsistent with the public easement.’” 2002 Op. Att’y Gen. No. 2002-009, at 2-50 (quoting 1980 Op. Att’y Gen. No. 80-071, at 2-279). Thus, when a board of county commissioners vacates a properly established public road, the road so vacated passes in fee to those landowners whose properties abut the road.

“The rule is well established in Ohio that upon the vacation of a street the fee thereto does not revert to the original dedicator but accretes to the abutting-lot owners, subject only to such rights as other such owners may have in the street as a necessary means of access to their property.” *Greenberg v. L.I. Snodgrass Co.*, 161 Ohio St. 351, 357, 119 N.E.2d 292 (1954); *see also Kinnear Mfg. Co. v. Beatty*, 65 Ohio St. 264, 275, 62 N.E. 341 (1901). The Ohio Supreme Court in *Hamilton, G. & C. Traction Co. v. Parish*, 67 Ohio St. 181, 190-91, 65 N.E. 1011 (1902), provided the reasoning for the rule of accretion: The reason that a street when vacated, becomes a part of the abutting lots, is not because the owner of the lot owned the fee of the street, but because it must go there by necessity, to preserve his easement of ingress and egress, which in many cases is a valuable property right, and without which the lots might be of little value. The street being vacated and abandoned, the public no longer owns it, and it must either revert to the original owner, or adhere to the abutting lots as by accretion. As the original owner is presumed to have received full value for the street when he sold the lots, there is no just reason why he should have the street, when vacated, restored to him. And as the lot owners and those in the line of title have paid an increased price for lots by reason of the easement in the street, it is only just that when the street becomes vacated, the easement should be preserved to them by adding the vacated street to the lots, and therefore this doctrine of accretion in such

cases has been adopted in this state, and generally elsewhere.

Thus, a public road vacated by a board of county commissioners does not pass in fee to abutting landowners due to reversionary interests, but rather, upon the common law rule of accretion, which preserves the abutting landowner's access to his property. In the absence of the rule of accretion, the vacated street might revert to the original dedicator. If the original dedicator of the public street retained a reversionary interest, the rights of abutting landowners would be adversely affected. For example, a diminution in the value of the property would result should the original dedicator take possession of the vacated street and no longer permit the abutting landowners a right of way to access their properties. Access by means of the vacated road, which is a right of way the landowners presumably acted in reliance upon when purchasing the property, maintains the value of the landowner's property. Hence, the rule of accretion preserves the abutting landowner's access to his property. *Cf. Taylor v. Carpenter*, 45 Ohio St. 2d 137, 341 N.E.2d 843 (1976) (syllabus) (“[u]pon vacation of an alley by a city, abutting lot owners, as to that portion of the alley abutting their properties, are vested with a fee simple interest in one-half of the width of the strip of land which formerly comprised the alley, irrespective of the fact that the original owner and dedicator of the land was not the predecessor in title to all such abutting lot owners; subject, however, to those rights which other owners might have in the alley as a necessary means of access to their properties”); *Greenberg v. L.I. Snodgrass Co.*, 161 Ohio St. 351, 119 N.E.2d 292 (1954) (syllabus, paragraph 3) (“[w]here the owner of a lot abutting on a street, which street is vacated during his ownership, conveys such lot by number and without reservation of any rights in the street, such conveyance transfers, in addition to the lot, all rights which the grantor may have acquired by reason of such vacation, even though the metes and bounds description in the conveyance extends only to the side of the street”); *City of Dayton v. Woodgeard*, 116 Ohio App. 248, 255, 187 N.E.2d 921 (Montgomery County 1962) (upon vacation of a street, the fee thereto does not revert to the original dedicator but accretes to abutting lot owners, subject only to such rights as such other owners may have in the street as a necessary means of access to their property).

*4 Further, when a board of county commissioners vacates a public road, the fee that passes to the abutting landowners is subject to easements and the rights of landowners to access their property. *See* R.C. 5553.042; R.C. 5553.043; *see also* R.C. 723.08 (“the right of way and easement therein of any lot owner shall not be impaired” when a municipality vacates a dedicated street or alley). “Dedication of land ... creates an easement for public use, if the dedication is at common law, or a determinable or qualified fee in a municipality or other public agency, in the case of a statutory dedication.” *Trotwood Congregation of Jehovah's Witnesses, Dayton v. Measel*, App. No. 13471, 1993 WL 26776 (Montgomery County Feb. 4, 1993). Upon vacation of a street, the Ohio Supreme Court recognizes that the accretion to abutting lot owners of the fee is subject to those rights which other owners might have in the alley as necessary means of access to their properties. *Taylor v. Carpenter*, 45 Ohio St. 2d 137, 142-43, 341 N.E.2d 843 (1976); *Babin v. Ashland*, 160 Ohio St. 328, 340, 116 N.E.2d 587 (1953) (“there is no reverter to the dedicator or those claiming under him when such streets are vacated, but that the land occupied by the vacated portion of the street passes to the owners of land adjacent to and abutting thereon because of their private rights therein, as for access, ingress and egress”). *Cf. Krzewinski v. Eaton Homes, Inc.*, 108 Ohio App. 175, 179-80, 161 N.E.2d 88 (Lorain County 1958) (even if a street is not a public street, when potential purchasers of a subdivision lot are provided a plat of the subdivision reflecting a through highway within the plat referred to in the conveyance the completion of such a roadway is implied and becomes part of the purchase transaction; thus, the purchaser acquires from the seller the right to have the street upon which his land abuts kept open for travel throughout the length of the street as reflected within that plat or map, or easement by estoppel); *Finlaw v. Hunter*, 87 Ohio App. 543, 96 N.E.2d 319 (Hamilton County 1949) (syllabus, paragraph 3) (“[w]here a deed describes the lot conveyed by number and reference to an undedicated plat upon which the lot is shown to front upon a street, the grantor is estopped to deny the right of the grantee to use the land for street purposes, and the easement which the grantee acquires is not limited to that part of the described street in front of his lot but it extends to the whole street shown so far as it was owned by the grantor when the deed was executed”).

Additionally, public utility companies and railroads “have a permanent easement in the vacated portion of the street, highway, or road for the purpose of accessing, maintaining, operating, renewing, reconstructing, and removing [the] utility facilities” when a road is vacated. R.C. 5553.043. This permanent easement also “confers a right of ingress and egress to service and maintain [[the] utility facilities and a right to trim or remove any trees, shrubs, brush, or other obstacles growing in or encroaching onto the permanent easement that may affect the operation, use, or access to those utility facilities.” *Id.*; *see also* R.C. 5553.045 (E)(1)-(3) (addressing a petition by township trustees to vacate a township road, rights of abutting landowners, and easements for service utilities). Vacation of a street or road also does not affect any rights to mine coal that an owner may have. *See* R.C. 5553.043. Thus, upon vacation of a public road, the fee that accretes to abutting landowners

remains subject to easements for public utilities and railroads and the rights of landowners to access their property.

Conclusions

*5 Based on the foregoing, it is my opinion, and you are hereby advised that:

1. A public road vacated by a board of county commissioners passes in fee to those landowners whose properties abut the road pursuant to the principle of accretion. (1992 Op. Atty Gen. No. 92-064, approved and followed.)
2. Upon vacation of a public road, the fee that accretes to abutting landowners remains subject to easements for public utilities and railroads and the rights of landowners to access their property.

Very respectfully yours,

Michael Dewine
Ohio Attorney General

Footnotes

- ¹ Pursuant to R.C. 711.001(A), a “plat” is defined as “a map of a tract or parcel of land.” The plat is a drawing of the survey. *See* 11B Ohio Admin. Code 4733-37-05.
- ² Whether a particular tract of land has been established as a public road will depend, in part, upon the law in effect at the time the establishment was attempted, and, in part, upon the factual circumstances of the particular case. 1999 Op. Atty Gen. No. 99-005, at 2-31; 1988 Op. Atty Gen. No. 88-080, at 2-397. A roadway must first be “established” as a public highway before it is designated as a street, state road, county road, or township road for public travel. 1984 Op. Atty Gen. No. 84-016, at 2-51 to 2-52. Public roads may be established on a tract of land in a variety of ways, including statutory dedication. *See generally* 2015 Op. Atty Gen. No. 2015-006, at 2-62 (“Ohio law recognizes four principal ways in which a highway can be established: (1) statutory dedication, (2) common law dedication, (3) prescription, and (4) statutory appropriation”); 1988 Op. Atty Gen. No. 88-080, at 2-396 (statutory dedication is one of four methods in Ohio to establish a public road; the other methods are common law dedication, prescription, and statutory appropriation).
- ³ Only a properly established public road may be vacated. *See Augustus v. Brumbaugh*, 28 Ohio Op. 360, 14 Ohio Supp. 31 (C.P. Montgomery County 1944) (explaining that if the road was established and properly dedicated as a public road, the road may be vacated by the board of county commissioners). If a road is not established as a public road, it remains a private road. A board of county commissioners has no authority to vacate a private road. *See* R.C. 5553.02 (authority of a board of county commissioners to vacate a public road). Hence, without proper authority or jurisdiction, an order of a board of county commissioners to vacate a road is invalid. *See Tobin v. Bates*, 90 Ohio St. 397, 397-398, 108 N.E. 1133 (1914).
- ⁴ “Improvement” means “any location, establishment, alteration, widening, straightening, vacation, or change in direction of a public road, or part thereof, as determined upon by a board of county commissioners[.]” R.C. 5553.01.
- ⁵ A fee simple (or commonly known as a “fee”) is the highest right, title, and interest that one can have in land; it is the full and absolute estate in all that can be granted. *Masheter v. Diver*, 20 Ohio St. 2d 74, 253 N.E.2d 780 (1969) (syllabus, paragraph 1); *see also Black’s Law Dictionary* 615 (6th ed. 1991) (“[f]ee-simple signifies a pure fee; an absolute estate ... clear of any condition or restriction to particular heirs[.] It is the largest estate and most extensive interest that can be enjoyed in land”). Conversely, an easement is an “interest in the land of another which entitles the owner of the easement to a limited use of the land in which the interest exists.” *Szaraz v. Consol. R.R. Corp.*, 10 Ohio App. 3d 89, 91, 460 N.E.2d 1133 (Summit County 1983) (quoting 36 Ohio Jurisprudence 3d 386, Easements and Licenses § 1); *see also* 2016 Op. Atty Gen. No. 2016-006, at 2-63 (defining easement).
- ⁶ In defining the term “abutting,” the Ohio Supreme Court recognized the principle that “before properties may abut each other there must be some common boundary line and not merely a minute pin-point touching occasioned by the existence of a common vertex.” *Eastland Woods v. City of Tallmadge*, 2 Ohio St. 3d 185, 187, 443 N.E.2d 972 (1983) (quoting *Lincoln v. Cather & Sons Constr., Inc.*, 206 Neb. 10, 290 N.W.2d 798 (1980)).

EXHIBIT D

**Individual Parcels with Area of Vacation
and
Graphic Display of Vacated Areas**

EAST

SIDE

OF

AKRON

CLEVELAND

ROAD

PARCEL 0700079

SCE Parcel 18

5133 Akron Cleveland Road

TAMANNA Inc.
5311 TOWBRIDGE DR
HUDSON, OH, 44236

Aka Don-El Motel

Area of Vacation = 2,665 Sq. Ft. or 0.0612 Ac.



PROPOSED PAV

AKRON CLEVELAND ROAD

PARCEL 0700079

AREA TO BE VACATED TO PROPERTY OWNER



PARCEL 0700296

SCE Parcel 20

5157 Akron Cleveland Road

HAURY ENTERPRISES LLC
5157 AKRON CLEVELAND RD
PENINSULA, OH, 44264

Aka Suncrest Gardens

Area of Vacation = 19,259 Sq. Ft. or 0.4421 Ac.

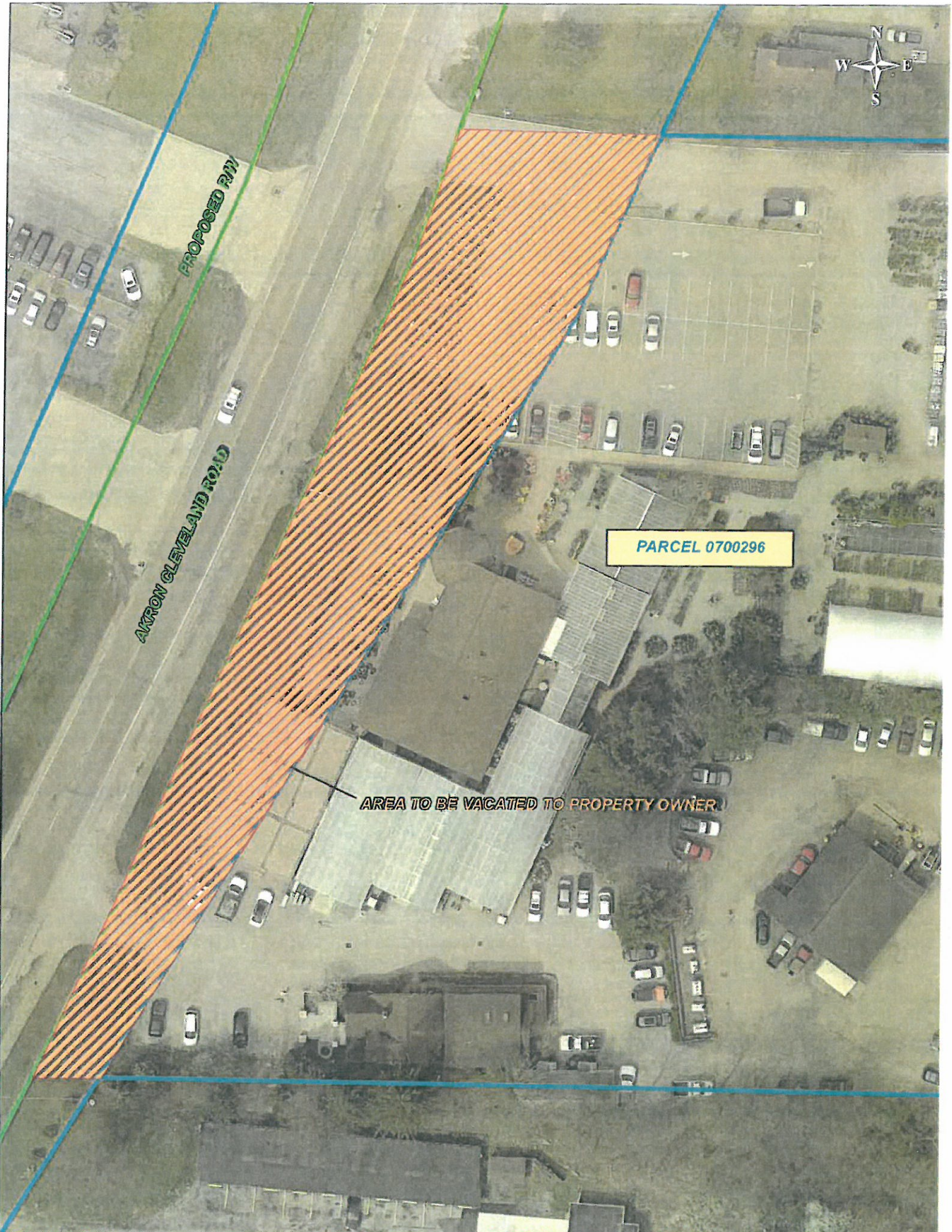


PROPOSED R/W

AKRON CLEVELAND ROAD

PARCEL 0700296

AREA TO BE VACATED TO PROPERTY OWNER



PARCEL 0700024

SCE Parcel 22

5193 Akron Cleveland Road

BOGARD RAYMOND E
5193 STATE RD
PENINSULA, OH, 44264

Area of Vacation = 11,761 Sq. Ft. or 0.2700 Ac.



PROPOSED RWY

AKRON CLEVELAND ROAD

PARCEL 0700024

AREA TO BE VACATED TO PROPERTY OWNER



PARCEL 0700006

SCE Parcel 24

Akron Cleveland Road

PROCACCIO PAMELA C

PROCACCIO VINCENT G

1551 17TH ST

CUYAHOGA FALLS, OH, 44223

Area of Vacation = 84,846 Sq. Ft. or 1.9478 Ac.



PROPOSED R/W

AKRON CLEVELAND ROAD

PARCEL 0700006

AREA TO BE VACATED TO PROPERTY OWNER



PARCEL 0700048

SCE Parcel 26

5347 Akron Cleveland Road

EARTH N WOOD PRODUCTS INC

5335 STRAUSSER ST

CANTON, OH, 44720

Area of Vacation = 11,783 Sq. Ft. or 0.2705 Ac.



AKRON CLEVELAND ROAD

PROPOSED R/W

PARCEL 0700048

AREA TO BE VACATED TO PROPERTY OWNER



PARCEL 0700116

SCE Parcel 29

5353 Akron Cleveland Road

FOORD ROSEMARIE A TRUSTEE
5353 AKRON CLEVELAND RD
PENINSULA, OH, 44264

Area of Vacation = 3,249 Sq. Ft. or 0.0746 Ac.



AKRON CLEVELAND ROAD

PARCEL 0700116

AREA TO BE VACATED TO PROPERTY OWNER

PROPOSED ROW



PARCEL 0700137

SCE Parcel 30

Akron Cleveland Road

ALL IN ONE LANDSCAPING INC
2651 BRUNSWICK LN
HUDSON, OH, 44236

Area of Vacation = 963 Sq. Ft. or 0.0221 Ac.

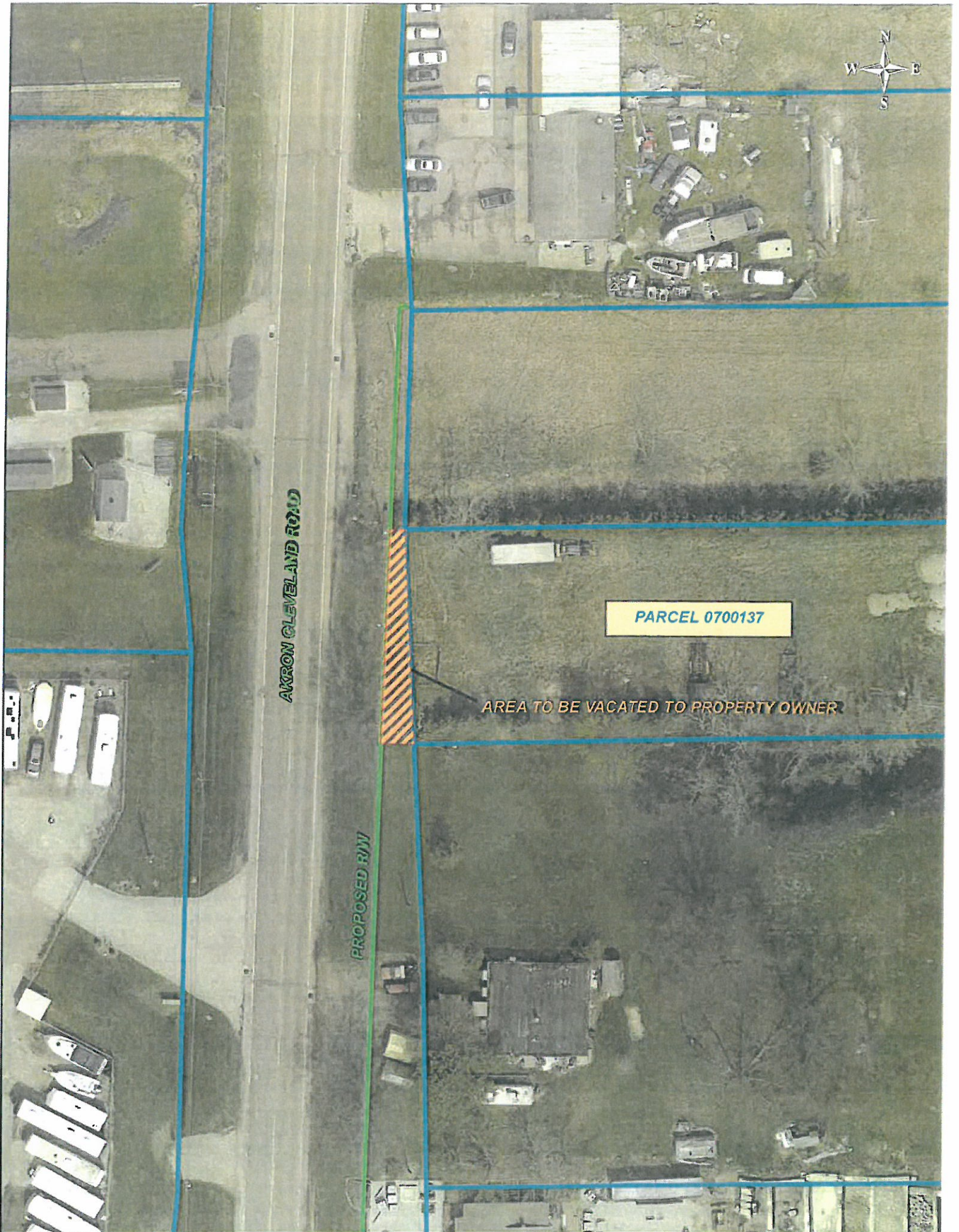


AKRON CLEVELAND ROAD

PARCEL 0700137

AREA TO BE VACATED TO PROPERTY OWNER

PROPOSED R/W



PARCEL 0700117

SCE Parcel 32

Akron Cleveland Road

KRIEGER JEAN A TRUSTEE
615 GRAHAM RD
CUYAHOGA FALLS, OH, 44221

Area of Vacation = 521 Sq. Ft. or 0.0120 Ac.



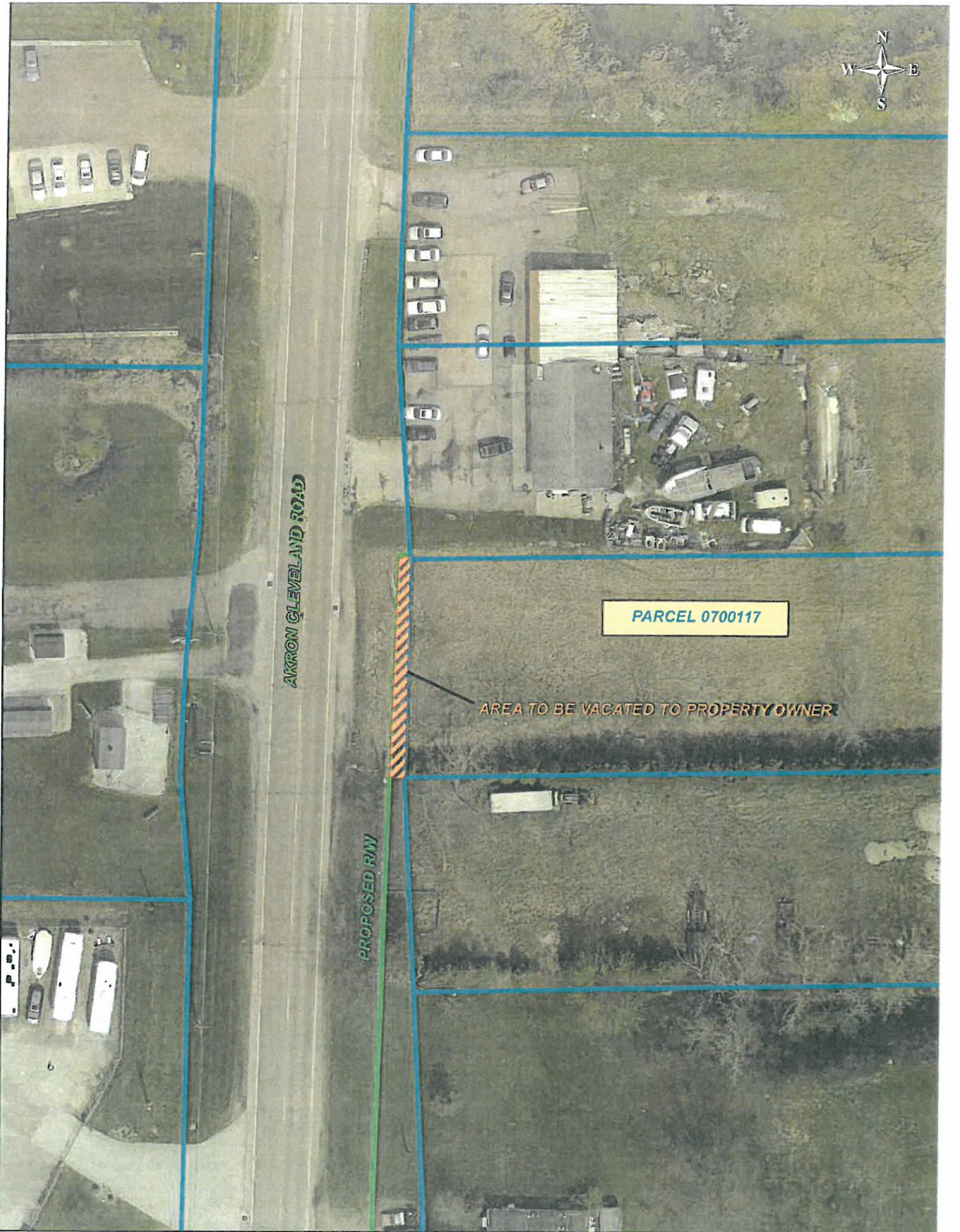
AKRON CLEVELAND ROAD

PARCEL 0700117

AREA TO BE VACATED TO PROPERTY OWNER



PROPOSED R/W



PARCEL 0700108

SCE Parcel 50

Akron Cleveland Road

SENUTA PETER W
4839 ALLEN RD
STOW, OH, 44224

Area of Vacation = 91,529 Sq. Ft. or 2.1012 Ac.



AKRON CLEVELAND ROAD

PROPOSED R/W

AREA TO BE VACATED
TO PROPERTY OWNER

PARCEL 0700108



PARCEL 0700076

SCE Parcel 51

Akron Cleveland Road

DINOVI INVESTMENT GROUP LTD
72 N MAIN ST STE 300
HUDSON, OH, 44236

Area of Vacation = 50,222 Sq. Ft. or 1.1529 Ac.



AKRON CLEVELAND ROAD

PROPOSED R/W

PARCEL 0700076

AREA TO BE VACATED
TO PROPERTY OWNER



PARCEL 0700167

Part of SCE Parcel 52

Akron Cleveland Road

DINOVI VIRGINIA TRUSTEE
72 N MAIN ST SUITE 300
HUDSON, OH, 44236

Area of Vacation = 3,680 Sq. Ft. or 0.0845 Ac.



AKRON CLEVELAND ROAD

PROPOSED R/W

PARCEL 0700167

AREA TO BE VACATED
TO PROPERTY OWNER



WEST

SIDE

OF

AKRON

CLEVELAND

ROAD

PARCEL 0700008

SCE Parcel 19

5130 Akron Cleveland Road

SEIBERT & BEKTIC PROPERTIES INC. LLC
459 MORGAN AVENUE
AKRON, OHIO 44311

Area of Vacation = 8,109 Sq. Ft. or 0.1862 Ac.

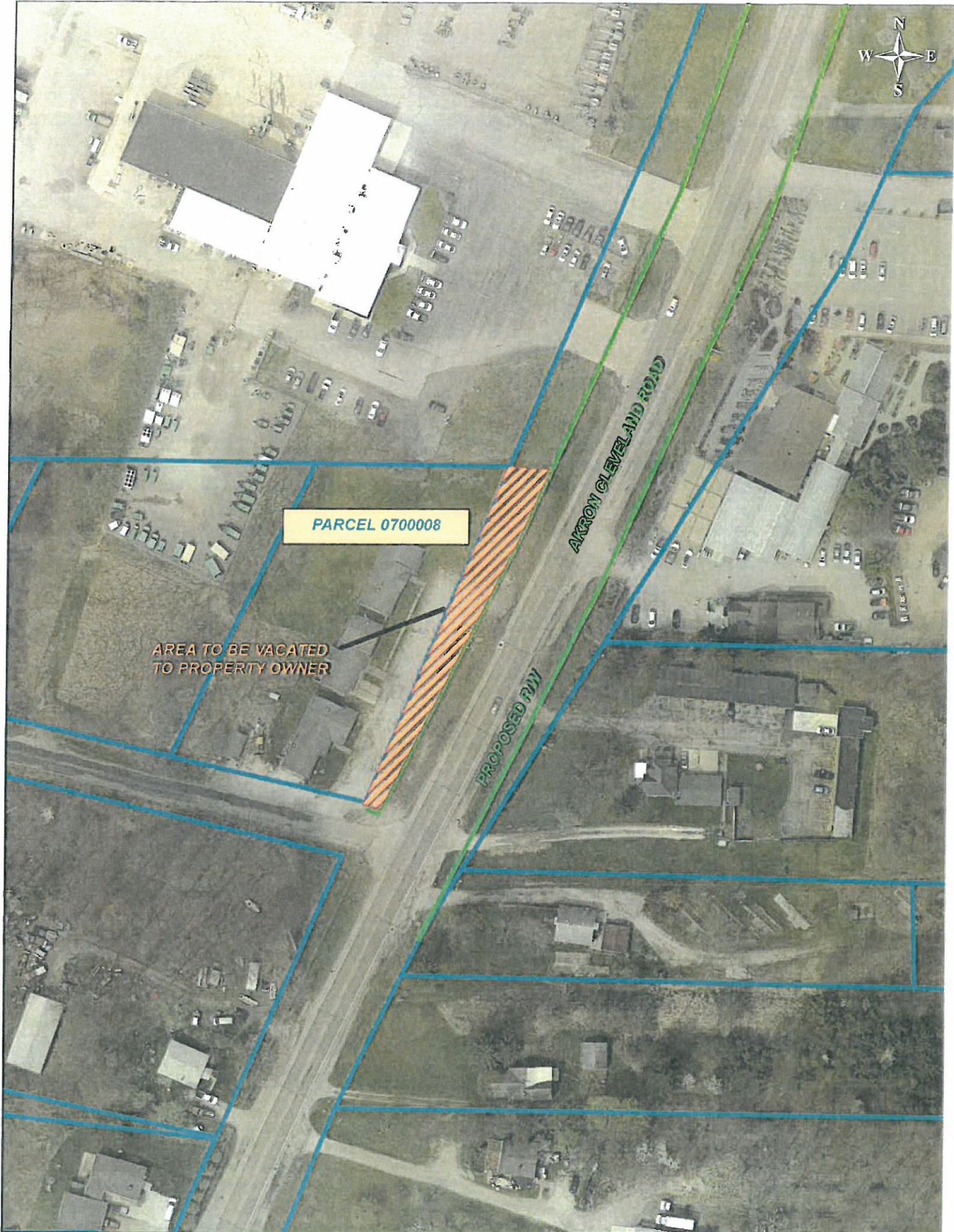


PARCEL 0700008

AREA TO BE VACATED
TO PROPERTY OWNER

AKRON CLEVELAND ROAD

PROPOSED RWY



PARCEL 0700003

SCE Parcel 21

5162 Akron Cleveland Road

MPI PENINSULA LLC
20 BROADWAY AVE SOUTH STE 50
WAYZATA, MN 55391

Area of Vacation = 25,218 Sq. Ft. or 0.5789 Ac.

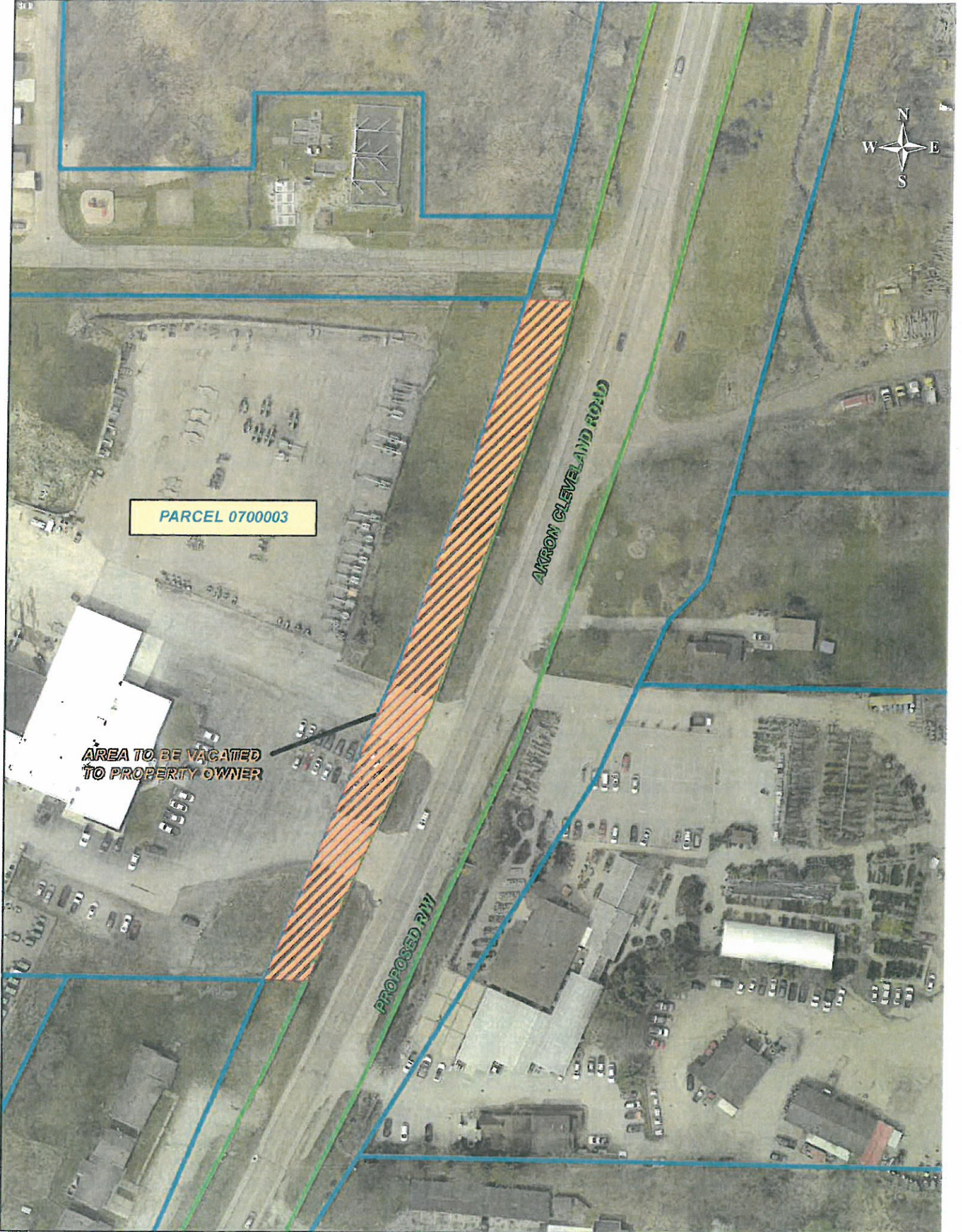


PARCEL 0700003

AREA TO BE VACATED
TO PROPERTY OWNER

AKRON CLEVELAND ROAD

PROPOSED R/W



PARCEL 0700009

SCE Parcel 23

100 Keenan Road

UHM OH BUCKEYE LLC
3499 HIGHWAY 9 N SUITE 3C
FREEHOLD NJ 07728

Area of Vacation = 1,872 Sq. Ft. or 0.0430 Ac.



PARCEL 0700009

AREA TO BE VACATED
TO PROPERTY OWNER

AKRON CLEVELAND ROAD

PROPOSED FWY



PARCEL 0700104

SCE Parcel 25

Akron Cleveland Road

AMANDA DANIELS TRUSTEE
2407 GRAHAM RD
STOW, OHIO 44224

Area of Vacation = 32,223 Sq. Ft. or 0.7397 Ac.



PARCEL 0700104

AREA TO BE VACATED
TO PROPERTY OWNER

AKRON CLEVELAND ROAD

PROPOSED R/W



PARCEL 0700175

PARCEL 0700176

SCE Parcel 27

Akron Cleveland Road

WILLIAM R CROWE, TRUSTEE
CHERYL A CROWE, TRUSTEE
3678 ELM ROAD
STOW, OHIO 44224

Total Area of Vacation = 2,418 Sq. Ft. or 0.0555 Ac.



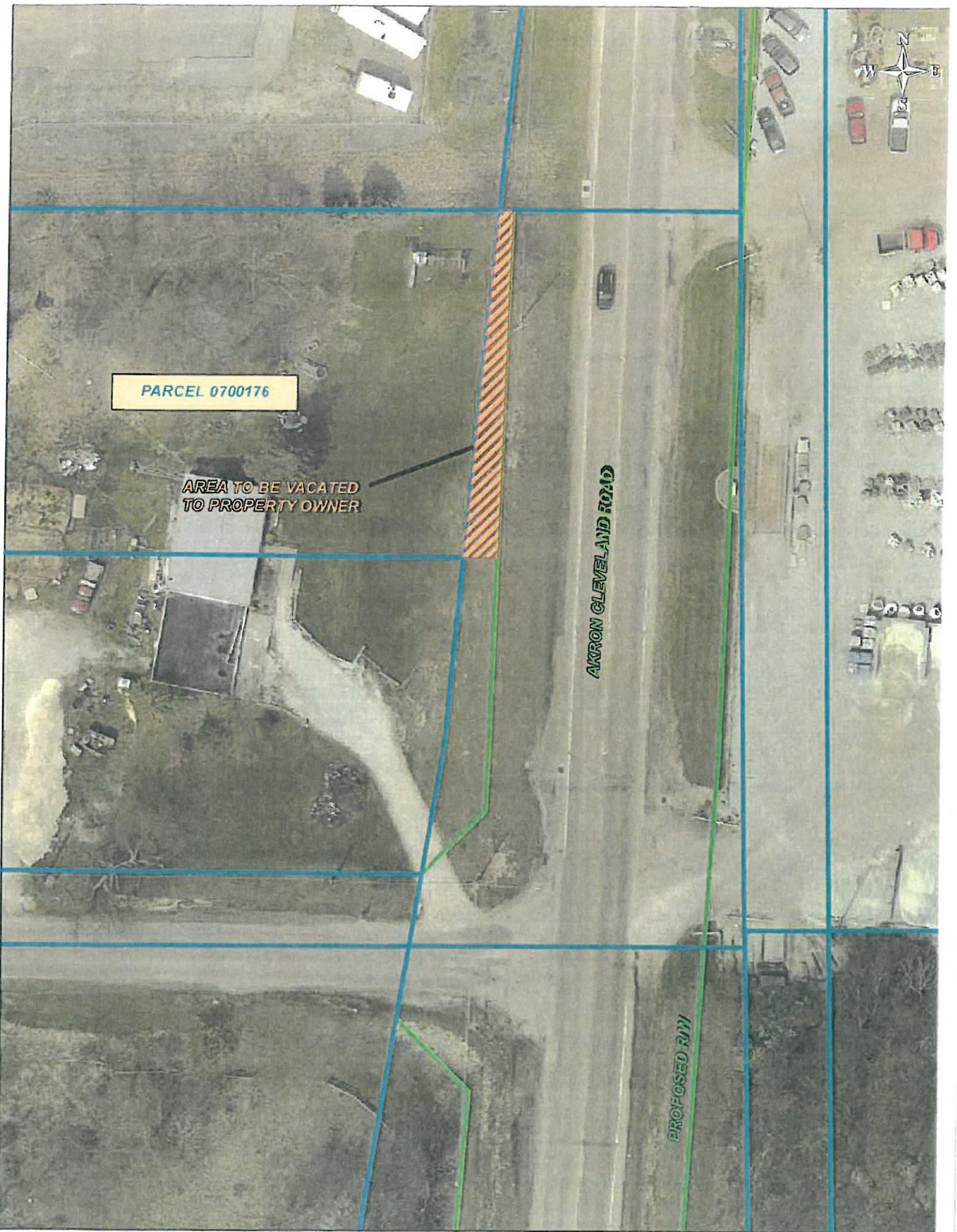
PARCEL 0700176

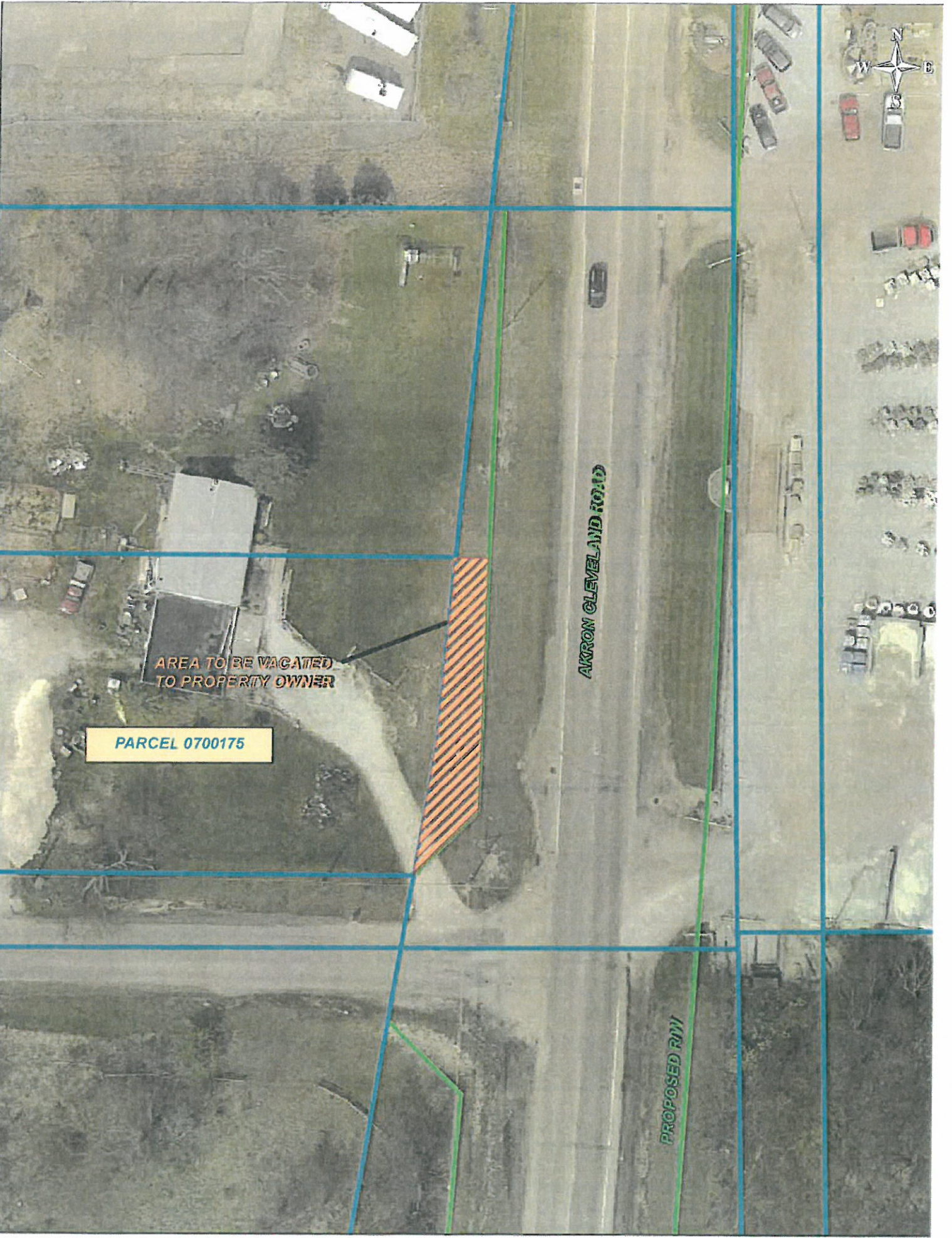
AREA TO BE VACATED
TO PROPERTY OWNER



AKRON CLEVELAND ROAD

PROPOSED R/W





PARCEL 0700175

AREA TO BE VACATED
TO PROPERTY OWNER

AKRON CLEVELAND ROAD

PROPOSED R/W

