

MINUTES

NON-LEGISLATIVE MEETING --- DECEMBER 5, 2018

The December 5, 2018 Non-Legislative Meeting of the Lower Swatara Township Board of Commissioners was called to order at 7:00 P.M. by President Jon G. Wilt.

The following officials were in attendance:

- Jon G. Wilt, President
- Todd F. Truntz, Vice President
- Ronald J. Paul, Assistant Secretary
- Michael J. Davies, Commissioner
- Christopher DeHart, Commissioner
- Elizabeth McBride, Manager
- Jean R. Arroyo, Secretary
- Peter R. Henninger, Solicitor
- Andrew Kenworthy, HRG
- Lester Lanman, Public Works Director

Residents and visitors in attendance: (PLEASE SEE ATTACHED SIGN-IN SHEET)

President Wilt welcomed everyone to the meeting.

PUBLIC COMMENTS:

Nancy Avolese, 1451 North Union Street, stated that she has heard through the community grapevine and chatter that Mr. Dickerson, who lost the Dauphin County Court case regarding his request for variances on his property, will probably be appealing the decision. While he has every right to do so, she stated that what upsets her is that she is also hearing that there are a couple of commissioners on this Board that are thinking the Township may want to settle with him if he does appeal. Ms. Avolese questioned why the Township would settle, since the law is on its side. She also questioned the precedent this would set, including the possibility of Hillwood coming back in here since they would see that this Board backs down. If Mr. Dickerson appeals, Ms. Avolese stated the Board should fight it. The taxpayers of this community would agree; there are people in the audience tonight and at previous meetings that spoke up against the variances. Solicitor Henninger confirmed that Mr. Dickerson has filed an appeal to the Commonwealth Court. However, since this is a continuing and pending litigation

matter, his instructions to the Board are not to discuss it any further at this time. It will be discussed in executive session by the Board later tonight.

Laddie Springer, 1630 North Union Street, first thanked the Commissioners for the tremendous effort they put in, and doing their best in this sometimes thankless job. He also gave a shout-out to the Zoning Hearing Board for the time and effort put into the Dickerson matter. He stated that he had read the ruling from Judge Clark, who not only agreed with it but said the appellants in this matter fell short of satisfying their heavy burden, and the Zoning Hearing Board's decision to deny the use variance sought by the appellants was supported by substantial evidence. Mr. Springer stated that in laymen's terms, it wasn't even close. He asked Solicitor Henninger the next steps in the process. Solicitor Henninger explained the Commonwealth Court is an appellant court in Pennsylvania; these types of matters go before the Commonwealth Court. It is a legal argument, so the Commonwealth Court will set a briefing schedule for all parties, and then arguments will be scheduled. The Court will make a decision in the time frame it deems proper. Mr. Springer asked about oral arguments and the length of them. Solicitor Henninger explained that this is usually a one-day process. Timing wise, however, he anticipated that it will probably be a year before a Commonwealth Court decision. In the meantime, the determination of the Zoning Hearing Board stands. Mr. Springer referenced the statement he read from Judge Clark's ruling, and asked Solicitor Henninger if he would assess it in the same manner. Solicitor Henninger confirmed that this is the way he assessed it from the get-go, and he is not surprised by the ruling. He stated that he would expect the Commonwealth Court to agree, but this is not guaranteed.

Lyndsay Kensinger, 10 Davis Drive, echoed the request that this Board continue to fight on behalf of its constituents to uphold the decision. She stated the law is on the Township's side. She added that she knows there is no appetite in the legislature to change anything with this, and no appetite for the Department of Community and Economic Development to provide any sort of different recommendations whatsoever. Ms. Kensinger added that she, along with others in her neighborhood, grew up here, moved away, and then came back to raise families here because they desired a quiet, natural setting. She cautioned that more building will result in less and less younger people moving into the Township.

Sherry Santoro, 1890 N. Union Street, stated that she is probably closer to this than anyone else; she is Mr. Dickerson's next door neighbor. She noted there is no dust, noise or

pollution there now, and she will stand and fight to the very end to see that this appeal is thrown out.

APPROVAL OF MINUTES:

A motion was made by Commissioner Davies, seconded by Vice President Truntz, to approve the Minutes of the November 20, 2018 Legislative Meeting. The motion was unanimously approved.

PUBLIC WORKS DEPARTMENT REPORT:

Proposal for purchase of Ford 2019 F-250

A motion was made by Vice President Truntz, seconded by Commissioner Davies, to approve the purchase of a Ford 2019 F-50 with plow from Whitmoyer Ford, through the COSTARS Program, in the amount of \$40,700. This vehicle replaces the old truck that was auctioned off earlier this year through Municibid. The motion was unanimously approved.

Proposal for Access Control Security System and Video Surveillance System

Mr. Lanman noted the Board had seen a presentation last month by Stanley Security on a proposal for a security system. On tonight's agenda is approval of the proposal. Installation price is \$29,763.87 and the monthly fee to oversee and manage the system is \$60. In response to a question from Commissioner Davies regarding bidding, Solicitor Henninger explained this proposal is under the COSTARS program, so it does not need to go out for bid. A motion was made by Commissioner DeHart, seconded by Commissioner Davies, to approve a proposal from Stanley Security, through the COSTARS program, for an access control security system and a video surveillance system for the Township Building. The motion was unanimously approved.

Leaf collection update:

Mr. Lanman reported that leaf collection continues, although slowly due to some snow and a lot of rain; the department has had to deal with frozen and wet leaves, making it a slow and difficult task. Weather permitting, the collection will probably continue as leaves fall and are placed out for collection. He noted that next week could be the last week due to weather.

Power Point presentation regarding maintenance of Township right-of-ways

Mr. Lanman reported that concerns have been expressed about the Township failing to mow/maintain rights of way; he has prepared a PowerPoint of some of the problematic areas (see attachment).

First reviewed were roadway statistics and some definitions. The Township owns and maintains approximately 44 miles of roadway, with an additional 17 miles of state roadway. It also operates and maintains 14 traffic signals, and the Municipal Authority maintains over 30 sanitary sewer right of ways. Mr. Lanman went over some common terms. A street right of way is a public or private thoroughfare for vehicle traffic and/or pedestrian traffic, whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, lane, alley, etc. A right of way is a strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be occupied or occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer and other similar uses; generally, the right of one to pass over the property of another. An easement is a grant of one or more property rights by the property owner to and/or for the use by the public, a corporation, or another person or entity.

Mr. Lanman referenced lists of areas of concern on collector type roads, industrial type roads, and residential/rural type roads. He noted other miscellaneous concerns include traffic signal boxes, guard rails, dams, sanitary sewer right of ways, storm sewer right of ways, and parks and playgrounds. In addition, there are areas of concern on state roads. Slides were presented of some of these areas. Mr. Lanman explained that overhanging trees are sometimes a concern, and the code enforcement office attempts to resolve this by notifying the property owner since this is a property maintenance issue. He explained that there are various areas that were historically mowed by the Township, even though they are not its responsibility. Some of these areas were mowed to assist with site distance, while others were mowed because of the topography. He expressed concern with some of the mowing that has historically been done around cable lines. President Wilt commented this should be the responsibility of the utility company. Mr. Lanman agreed the utilities will usually do it for protection of their equipment, but not so much for aesthetics purposes.

Mr. Lanman explained that the Township's new Tiger mower often rides the center line because it is a bigger piece of equipment. This requires flaggers for traffic control. In response

to a question from Commissioner DeHart, Mr. Lanman confirmed that he does sometimes ask the police department for its assistance when officers are available. Commissioner DeHart asked Commissioner Paul if, when private properties were mowed in the past for safety reasons, the Township back-billed the property owner. Commissioner Paul responded that it did not. Commissioner DeHart also called the Board's attention to the photo of Longview Drive near North Union Street, and stated the road is clearly falling apart.

Mr. Lanman referenced mowing near utility poles, and suggested it would probably be best to call the impacted utilities to deal with this. Commissioner DeHart referenced the cutting around guardrail and traffic control boxes, and asked if spraying weed killer would help in these areas. Mr. Lanman confirmed that the Township now has an employee certified as a pesticide applicator, so this should help out a lot next year.

Mr. Lanman summarized the presentation by noting that his intention is to be fair and equal with the mowing and maintenance of these areas. For example, he doesn't want to mow one person's hill without mowing all the others that present the same problem or have the same topography. He added that he also doesn't want to see a property owner using a rope connected to a mower to cut their hills. While he would love to see a contractor or landscaper do this job, he understands this is not always feasible. President Wilt stated the Township cannot be expected to maintain areas that it doesn't own. Otherwise, it just adds to the Township's expense and manpower. The homeowner needs to take responsibility. Mr. Lanman agreed that it takes weeks to mow all the right of ways. Commissioner DeHart commented that he had spoken to some of the retired employees, and they estimated it would take two employees about two days to address these right of ways. He agreed that the larger mower requires traffic control, and stated it may have been a good idea to keep that smaller mower. Mr. Lanman explained the smaller mower had a major problem that was going to cost a lot of money to fix, so the thought was to sell it and get something out of it. He referenced the comment about taking two days to mow all the right of ways, and explained this might be a good number if the weather is perfect, nothing else is going on, and there is no traffic control needed. President Wilt again stated this is taking time from other jobs the Department should be doing. Mr. Lanman agreed that there are other projects that need addressed that haven't been done in the past. Commissioner Paul asked how many times the maintenance should be done. Mr. Lanman explained that it depends on the growing season, but probably at least three times a year.

Vice President Truntz commented that regardless of the equipment or manpower needed, Lower Swatara Township is a government entity that provides a service to its residents. It must be equal to everyone. He stated he can understand the need for the Township to maintain a right of way where there is a junction box, a site distance issue, or a very sloped or steep area. Commissioner DeHart stated he can probably justify doing mowing at intersections, high inclines, some vertical areas, etc. Commissioner Paul agreed that he is also concerned about the safety of staff and homeowners who are trying to cut a right of way along a steep slope. He stated that one example tonight showed the weeds over the white fog line. That is a problem, so the Township will be out there doing some maintenance work regardless. Commissioner Paul suggested the Township come up with a formalized plan. A plan needs to be established and adhered to, with the understanding that it will be tweaked when necessary.

Mr. Lanman stated his recommendation would be to come up with a written Standard Operating Procedure (SOP) listing the properties that should be maintained. If the Township agrees to cut one hill, he feels it should cut them all. If the decision is to not cut the hills, the Township needs to stress to the property owners that they are responsible for the maintenance, or suggest landscaping that won't require as much maintenance. Mr. Lanman added that traffic control will be part of this SOP, since safety is very important to him. He asked to draft this, and come back to the Board with the document.

Commissioner Paul added that it might be helpful in the planning process to reinforce the position that it is the responsibility of the property owner to maintain their right of ways. For example, this can be reinforced if the Jednota property is developed. Commissioner Davies agreed, and suggested a friendly notice to property owners along right of ways, reminding them that the right of way is their responsibility and asking for their cooperation. Commissioner DeHart added this could be placed in the next newsletter. Ms. McBride asked if "prettiness" should be a factor in what will or will not be cut. Commissioner Davies recommended the friendly notice could mention that the purpose for the maintenance is for safety reasons and also to keep the Township looking nice. Solicitor Henninger stated that the Township will need to be able to justify in the SOP why a particular area is mowed, yet another isn't. If it is not the same standard, it may be difficult to defend in court why one property owner is being cited and another isn't. He stressed that there needs to be very specific criteria. He added that if the Township is mowing on private property, it really should have permission to do so. While it can

go in there and mow for safety reasons, if the Township goes outside the right of way to mow, it should notify the property owner that this needs to be done or the Township will do the mowing and bill them. Commissioner Davies also asked if the notification to property owners about the right of way maintenance could include some type of permission form. Commissioner Paul stated that most of the problem is along the right of way.

Commissioner Davies added that a lot of these maintenance issues can probably be dealt with through communication, especially with the larger land owners. Commissioner Paul stated he strongly agrees that most of it can be, and feels this situation is being overcomplicated, when a lot can be solved by just talking.

Solicitor Henninger suggested the Commissioners provide Mr. Lanman with any areas they feel are problematic and should be maintained. Mr. Lanman agreed to work on this SOP. The Board thanked Mr. Lanman for the informative presentation this evening.

MANAGER'S REPORT:

Ms. McBride noted that Mr. Lanman had already provided an update on the leaf collection, and stated the residents will be pleased to hear that plans are to go beyond next week if the weather cooperates. She explained that it not an easy process to switch the trucks back and forth from leaf pick up to snow removal.

ENGINEER'S REPORT:

Andrew Kenworthy, HRG, stated that he had no real updates, other than the fact that the Township is operating under a new permit year for the MS4 Program, so new compliance goals are in effect. HRG has submitted a proposal for a scope of work to provide assistance with the permit requirements, which will need approval by the Board. Ms. McBride confirmed that she was provided with a copy of the proposal, and will forward it to the Board for review. Formal approval will appear on the December 19 legislative agenda.

SOLICITOR'S REPORT:

Solicitor Henninger referenced the Rosedale stormwater project, which will require 73 easements, most of these temporary construction easements. This was discussed at the Board's Special Meeting this past Monday night, which pertained to MS4. Plans are to schedule

a public meeting in January to explain the project, and have a notary available. Letters to the affected property owners will be sent advising them of the meeting date. Solicitor Henninger noted that he will work with HRG, staff, and the Board to coordinate this date.

Solicitor Henninger requested an executive session immediately upon conclusion of this evening's meeting to discuss the pending litigation with the Dickerson appeal, as well as another threatened litigation matter.

FINAL COMMENTS:

Commissioner DeHart reported that he had attended the first official meeting of MARA last week. The meeting was led by its new Director, Will Foster. Quarterly billing has started. The Olmsted Regional Recreation Board is being phased out; the books are being audited and a final invoice figure should be provided to the Township soon.

Commissioner Davies thanked Mr. Lanman for his presentation this evening. He also reflected on this day of mourning for former President George H.W. Bush, and noted it was a very moving and emotional day.

Commissioner Paul asked if the Board was back on track for the police officer interviews. President Wilt confirmed the date is set for December 10 at 6:00 P.M.

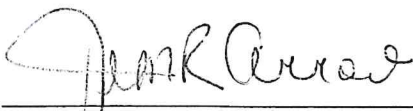
Vice President Truntz recognized the Public Works crew for a great job with the leaf and snow issues, and thanked everyone that came out this evening.

President Wilt shared Commissioner's Davies sentiments on the passing of former President George H.W. Bush and noted it was a very moving tribute today.

ADJOURN AND CONVENE INTO EXECUTIVE SESSION:

Hearing no other comments, a motion was made by Vice President Truntz, seconded by Commissioner Davies, to adjourn the meeting and convene into executive session. The motion was unanimously approved, and the meeting adjourned at 8:20 P.M.

ATTEST:



Jean R. Arroyo
Township Secretary

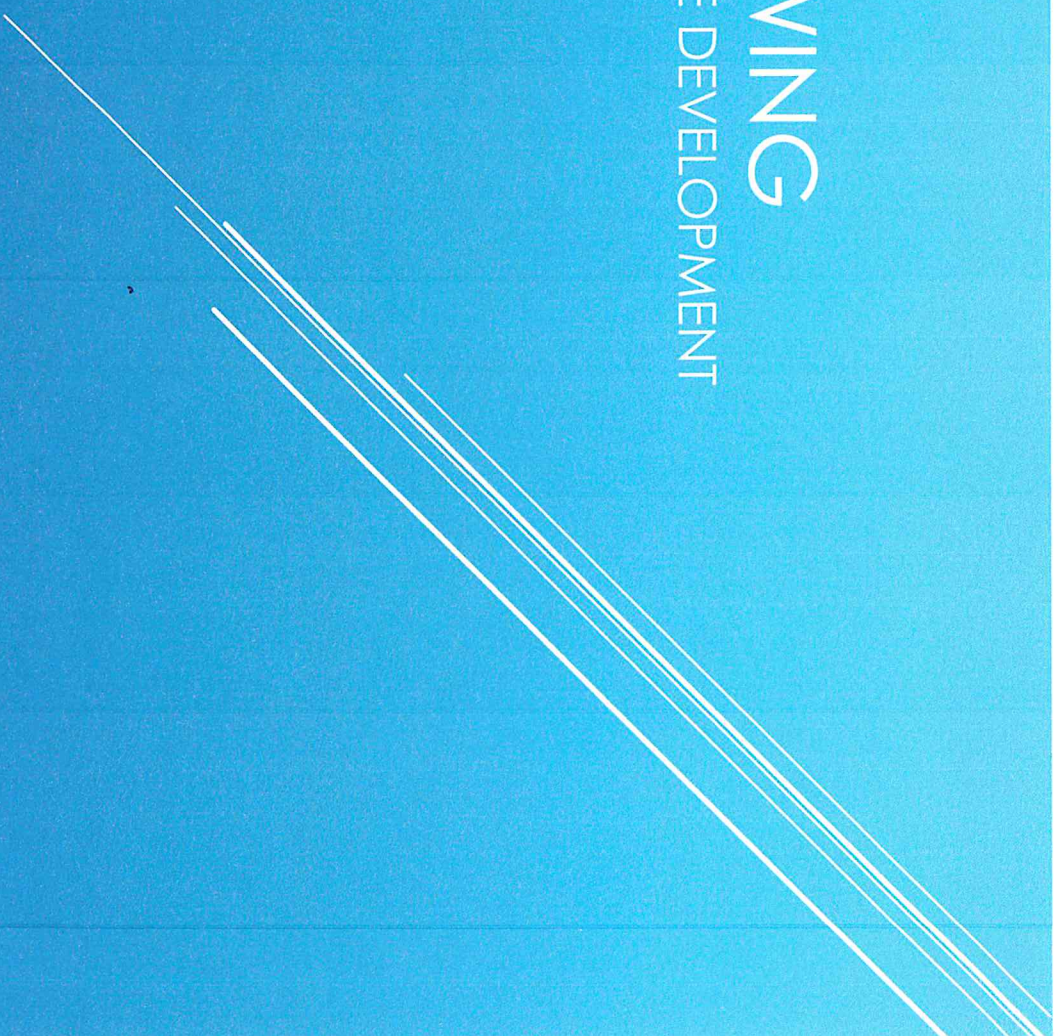
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DECEMBER 5, 2018 WORKSHOP MEETING

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RIGHT OF WAY MOWING

STANDARD OPERATING PROCEDURE DEVELOPMENT

Lower Swatara Township
Department of Public Works



- ▶ Per the 2017 Roadway Pavement Management Plan, Lower Swatara Township (LST) owns and maintains approximately 44 miles of roadway with an additional 17 miles of state roadway that bisect the township in multiple directions.
- ▶ LST operates and maintains 14 traffic signals.
- ▶ LSTMA maintains over 30 sanitary sewer ROW's.

ROADWAY STATS

- ▶ **STREET**- A public or private right-of-way constructed to municipal standards which affords primary vehicular traffic or pedestrian access to abutting properties which includes avenue, boulevard, road, highway, freeway, parkway and viaduct, but shall not include an alley for the purpose of this Chapter.
- ▶ **STREET RIGHT OF WAY**- A public or private thoroughfare for vehicular traffic and/or pedestrian traffic, whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, lane, alley or however designated.
- ▶ **RIGHT OF WAY**- A strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be occupied or occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer and other similar uses; generally, the right of one to pass over the property of another.
- ▶ **STREET LINE**- The dividing line between the street and the lot, also known as the right-of-way line.
- ▶ **PRIVATE**- Not publicly owned, operated or controlled.
- ▶ **PUBLIC**- Owned, operated or controlled by a government agency (Federal, state, or local, including a corporation and/or board created by law for the performance of certain specialized governmental functions).
- ▶ **EASEMENT**- A grant of one or more property rights by the property owner to and/or for the use by the public, a corporation or another person or entity.

COMMON TERMS

PER TOWNSHIP ORDINANCE §27-203 ZONING

- ▶ COCKLEY
- ▶ FIDDLERS ELBOW
- ▶ LONGVIEW
- ▶ LUMBER
- ▶ N. UNION
- ▶ ROSEDALE
- ▶ 80TH
- ▶ WHITEHOUSE

AREAS OF CONCERN- COLLECTOR TYPE ROADS

PER RPMP 2017

- ▶ AIP
- ▶ COMMERCE
- ▶ HARRISPORT
- ▶ KREIDER
- ▶ LONGVIEW
- ▶ MEADE
- ▶ RICHARDSON
- ▶ RUSSELL
- ▶ SPRING GARDEN
- ▶ STONERIDGE
- ▶ TURNPIKE INDUSTRIAL
- ▶ UNIVERSITY

AREAS OF CONCERN- INDUSTRIAL TYPE ROADS

PER RPMP 2017

► ANGLESEY, BAKER, BANGOR, BAYBERRY, BERKLEY, BLACKLATCH, BONNIE BLUE, BRADFORD, BRENTWOOD, BRIARCREEK, BYRN GWELD, BURD, BUTLER, BUTTER CHURN, CANDLEWYCKE, CARRIAGE HOUSE, CATHERINE, CHERRY, CHESTNUT, CLEARVIEW, COLONY, CONSTITUTION, CONWAY, DAUPHIN, DAVIS, DELMONT, DONALD, EBENEZER, EDINBURGH, ESHELMAN, EVERGREEN, FARMHOUSE, FAYE, FLINTLOCK, FLORENTINE, GATE, GEORGETOWN, GOLDCREST, GREENFIELD, GREENWOOD, HAMILTON, HANOVER, HEARTHSTONE, HEATHERLAND, HEATHERWOOD, HEATHGLEN, HERITAGE, HICKORY, HIGHSPIRE, HOKE, HOLLYWOOD, HORSESHOE, HUCKLEBERRY, JAMES, JEFFERSON, KEYSTONE, LAKESIDE, LAMPLIGHT, LEXINGTON, LOCUST, LONGVIEW, MARKET, MEADOWVIEW, MELANIE, MESSICK, MIDLAND, MOUNTAINVIEW, NANCY, NISSLEY, LAWRENCE, N. WOOD, OBERLIN, OHARA, OLD RELIANCE, ORMISTON, PENNSYLVANIA, PHEASANT RUN, POWDERHORN, RAY, RICHARD, RIVERVIEW, SARA, SCARLETT, SHIRLEY, SOUTHFIELD, SPEYER, SPRING GARDEN, STONER, STRITES, SWANSEA, SWAITARA PARK, SYLVIA, THEODORE, TIMBER, TIOGA, WAYNE, WELLINGTON, WESTERLY, WHEATFIELD, WILKES, WOODRIDGE, WYOMING

AREAS OF CONCERN- RESIDENTIAL/ RURAL TYPE ROADS

PER RPMP 2017

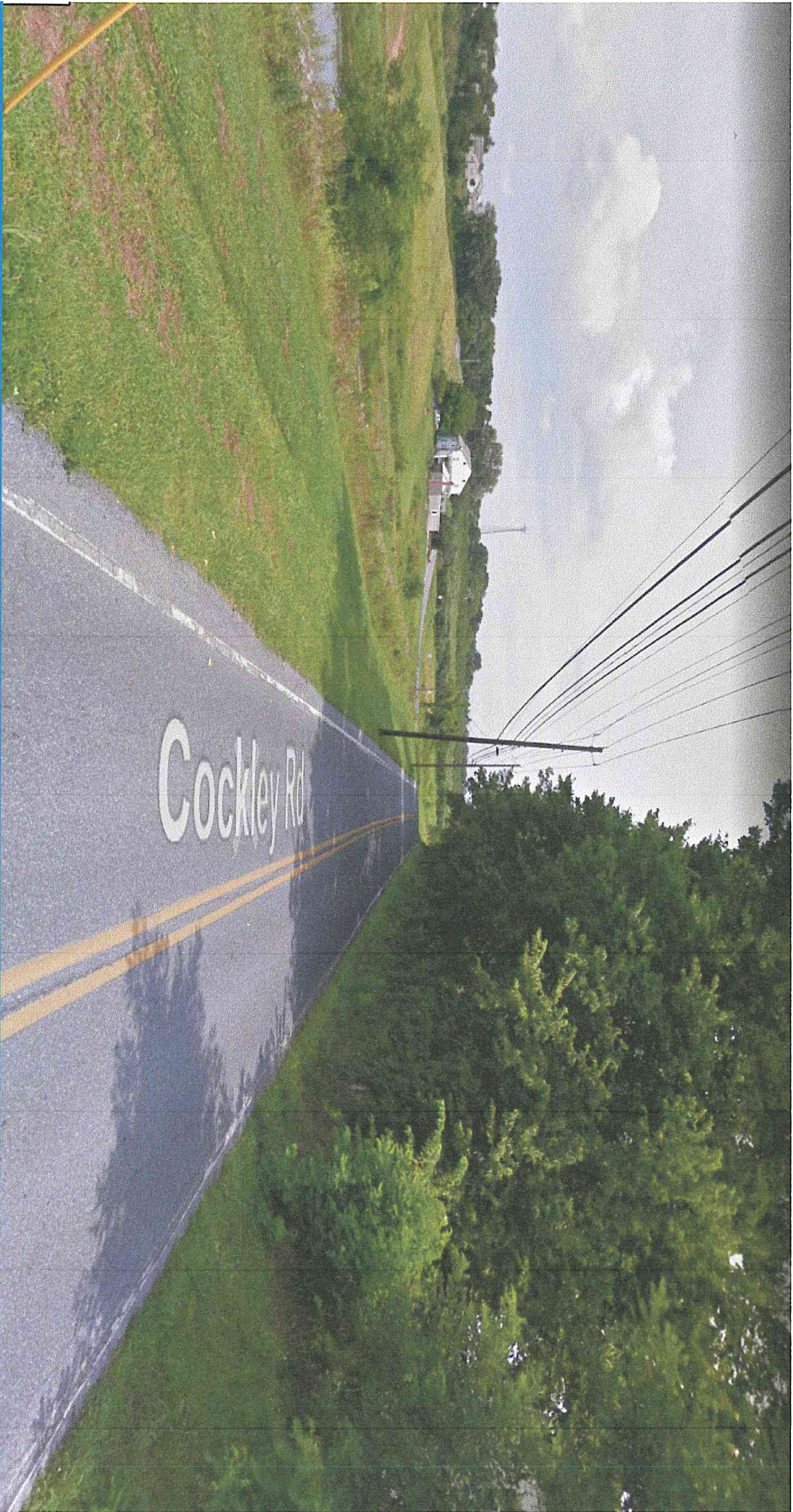
- ▶ Traffic signal control boxes
- ▶ Guard rails
- ▶ Dams
- ▶ Sanitary sewer ROW's
- ▶ Storm sewer ROW's
- ▶ Parks and playgrounds

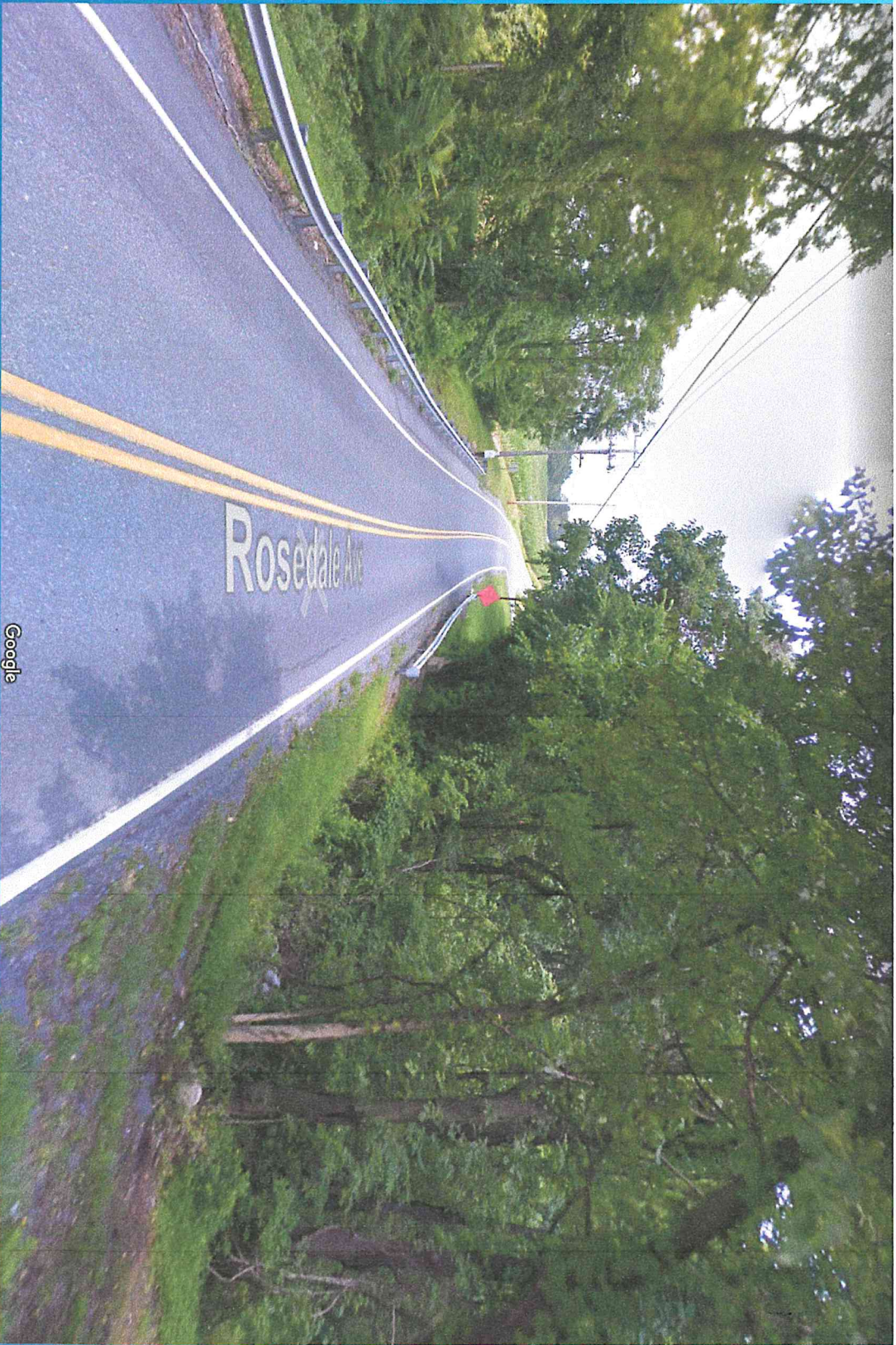
AREAS OF CONCERN- MISCELLANEOUS

- ▶ 441 AND FULLING MILL
- ▶ 441 AND SPRING GARDEN
- ▶ 441 AND N. UNION
- ▶ IVO 770 FULLING MILL, Tree over road
- ▶ N. UNION AND FULLING MILL INTERSECTION
- ▶ 283 INTERCHANGE AT N. UNION
- ▶ Route 230

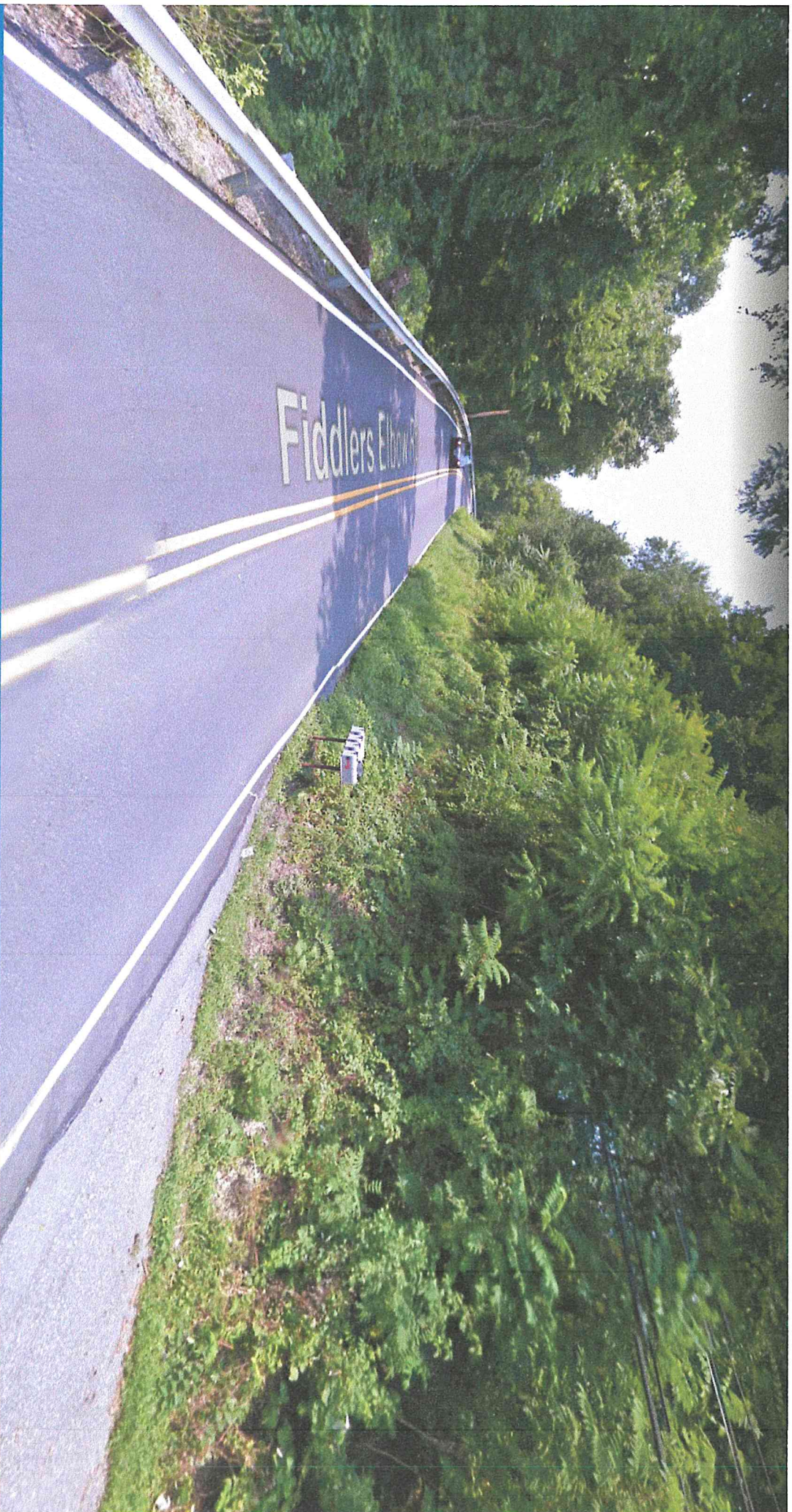
AREAS OF CONCERN- STATE TYPE ROADS

COCKLEY AT MILO FARM VILLAGE

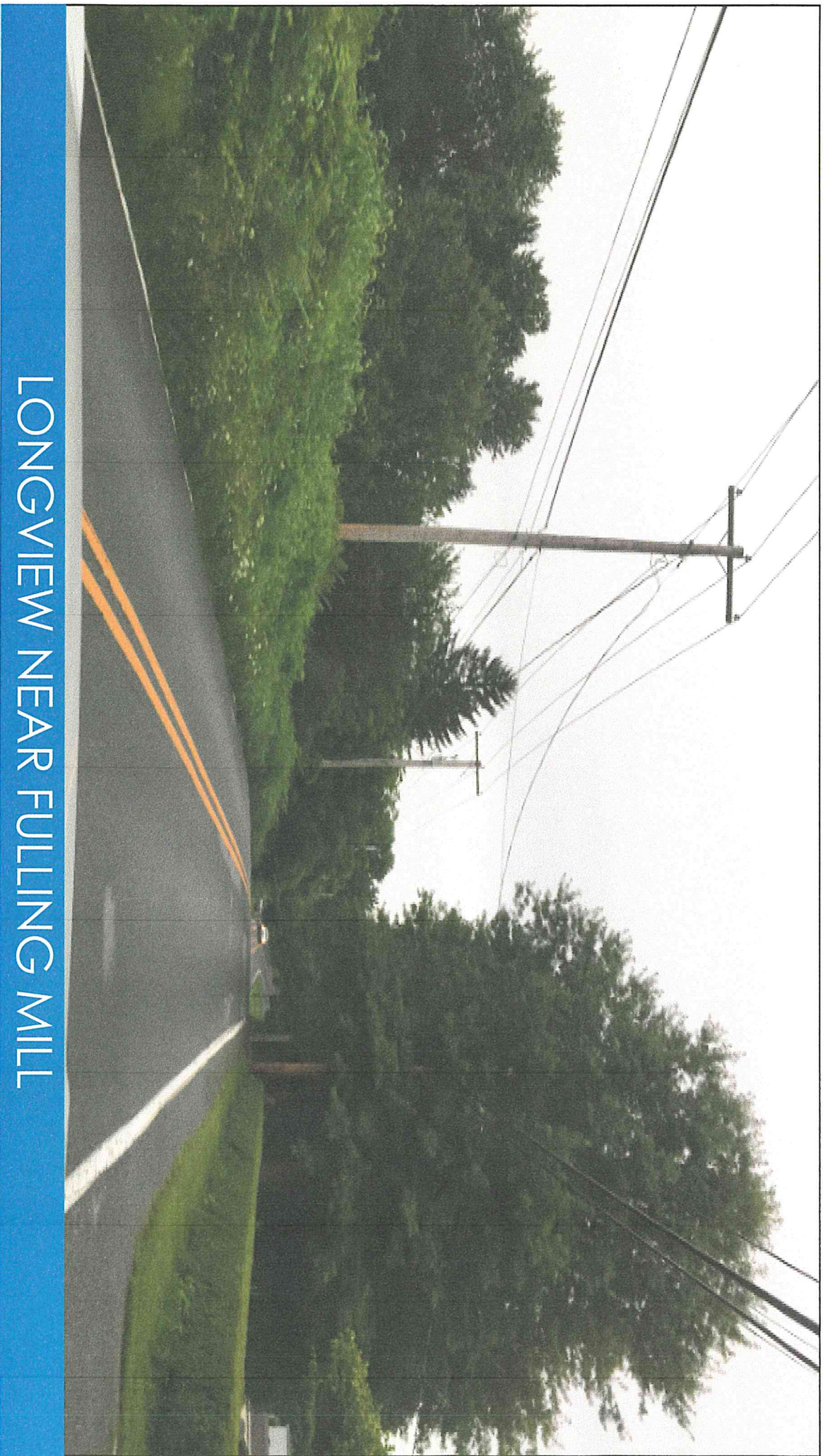




GUARD RAILS



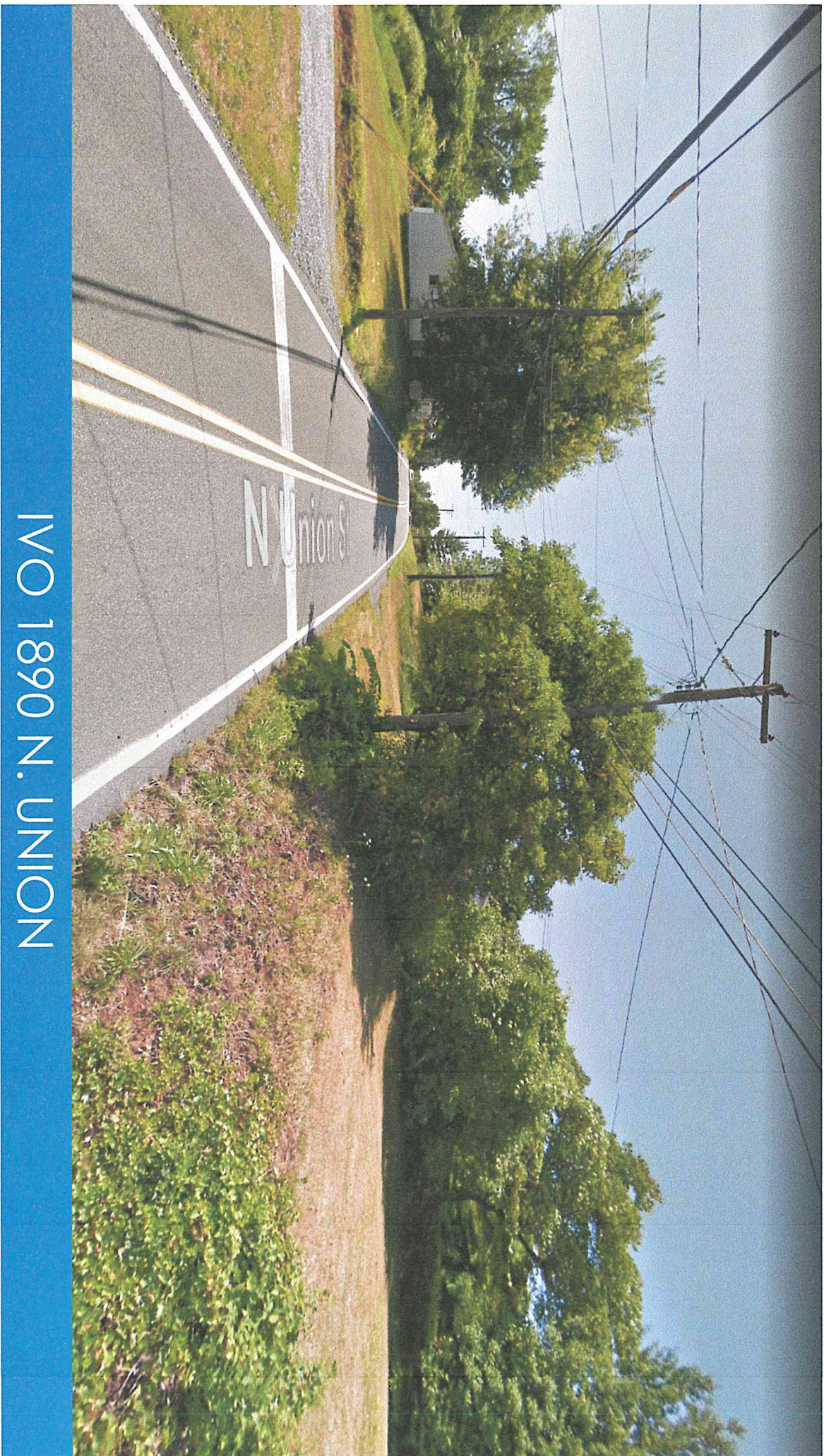
FIDDLERS ELBOW AT 80TH



LONGVIEW NEAR FULLING MILL



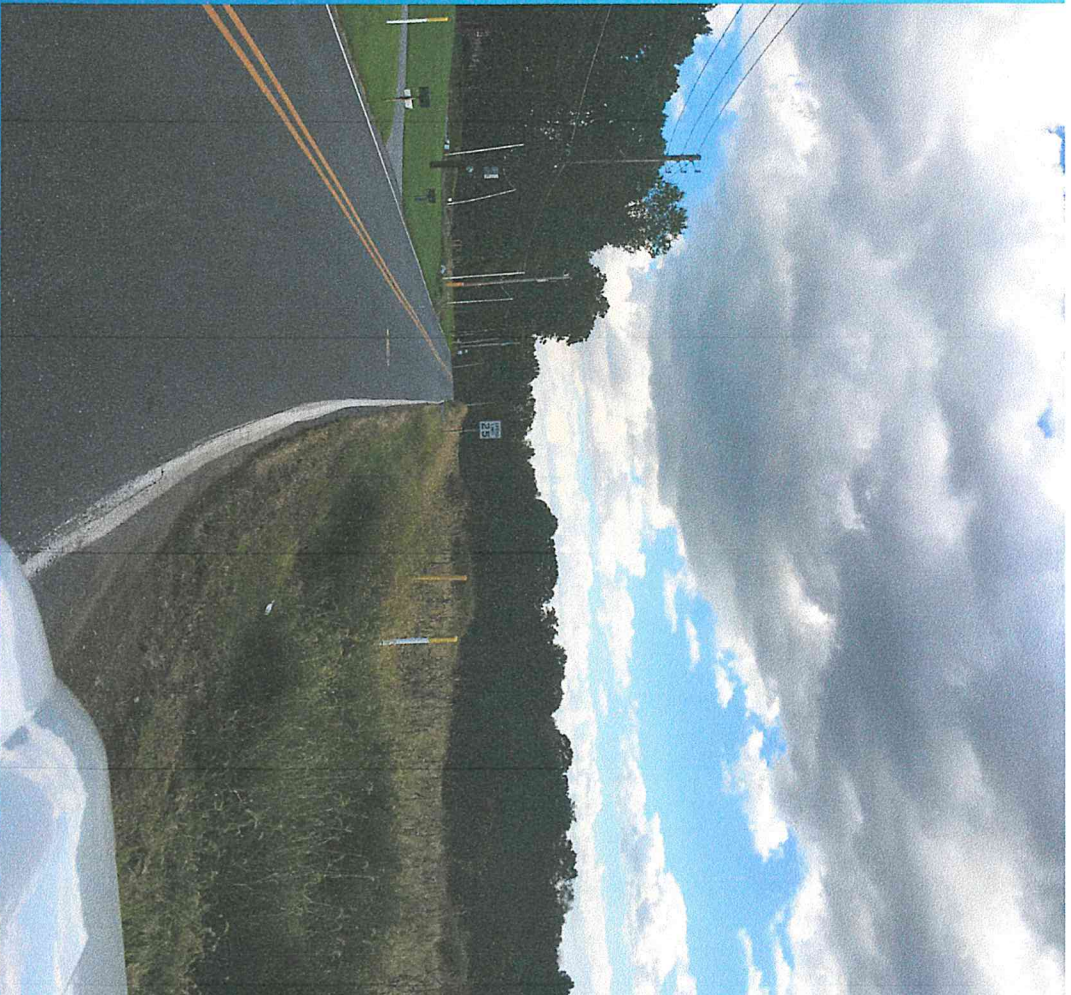
LONGVIEW NEAR N. UNION



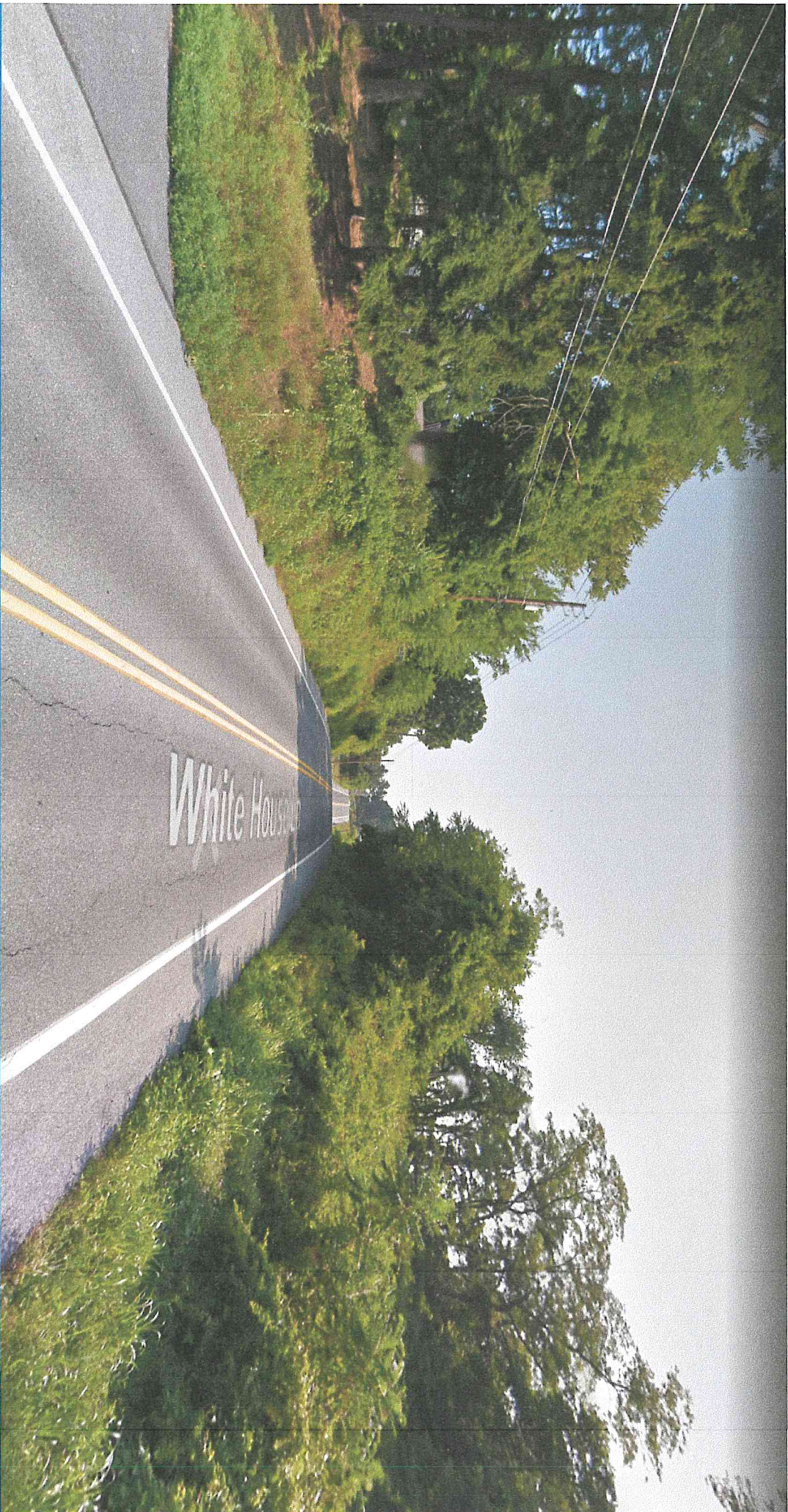
IVO 1890 N. UNION



N. UNION NEAR LONGVIEW



ROSEDALE



WHITEHOUSE



TRAFFIC SIGNALS ON N. UNION



N.UNION/FULLING MILL INTERSECTION