

*File*

**MICHAEL WARD**

**ATHENS COUNTY PROSECUTING ATTORNEY  
COURT HOUSE  
ATHENS, OHIO 45701**

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AREA CODE 614  
NEW NUMBER  
(614) 592-0208

**K. ROBERT TOY  
ASSISTANT  
PROSECUTING ATTORNEY**  
**C. DAVID WARREN  
ASSISTANT  
PROSECUTING ATTORNEY**

August 19, 1987

**RECEIVED**

**AUG 19 1987**

**Athens County Commissioners**

Athens County Board  
of County Commissioners  
Athens County Courthouse  
Athens, Ohio 45701

Dear Commissioners:

On August 18 you referred to me for my review a letter from Bob Eichenberg, Deputy County Engineer, concerning Cooper Road, Lodi Township. What Mr. Eichenberg proposes is for the Commissioners to correct a legal oversight and to accept this public road as a public road on the highway system.

Evidently, the road has been considered public for many, many years. The Township has been receiving maintenance funds for the road. Also, the road has never been formally abandoned.

Accordingly, I am enclosing a copy of Section 5553.31, Ohio Revised Code. I recommend that a plat of the road be prepared and that it be dedicated by all the adjacent land owners. The Commissioners, at a public meeting can then accept the plat and have it placed on the proper road records of the County. The resolution would be similar to that as recently done with the Johnson Addition to the Village of Verity in The Plains. However, this resolution should also contain the specific language that this road is a unique situation because of its history so as not to establish a precedent for other roads.

Please call me if you have any questions.

Sincerely,

Michael Ward  
Athens County Prosecuting  
Attorney

*Leonard did survey  
copy of plat attached  
orig given to Commissioner on  
10/21/87  
They will journalize.*

*Commissioner journalized  
& Plat signed. Bob  
has orig plat &  
Journal*

MW:jaf

Enclosure

cc: Bob Eichenberg

*LOD#17*

**5553.31 Dedication of land for road purposes; proceedings**

Any person may, with the approval of the board of county commissioners, dedicate lands for road purposes. A definite description of the lands to be dedicated with a plat of such lands thereto attached and signed by the party dedicating such lands, with the approval and acceptance of the board indorsed thereon, shall be placed upon the proper road records of the county in which such road is situated. The board shall not approve and accept the dedication of any land for road purposes until any lien attached to such land under division (A) of section 505.82 of the Revised Code is satisfied. If the lands so dedicated contemplate a change in an existing road, the same proceedings shall be had thereon, after the board by proper resolution approves and accepts the lands for such purpose, as are provided in cases where the board by unanimous vote declares its intention to locate, establish, widen, straighten, vacate, or change the direction of a road without a petition therefor, but otherwise the proposal to dedicate lands for road purposes, together with the acceptance of the grant by the board, constitutes the lands so dedicated a public road without any further proceedings thereon.

HISTORY: 1978 H 1099, eff. 9-26-78  
1953 H 1; GC 6886

**CROSS REFERENCES**

OJur 2d: 27, Highways and Streets § 109  
OJur 3d: 35, Dedication § 63, 64

172 OS 148, 174 NE(2d) 240 (1961), *State ex rel Fitzthum v Turinsky*. In the absence of an acceptance thereof by the board of county commissioners or the showing of facts from which such acceptance can be implied, the mere user by the public of roads dedicated by the developers of a subdivision to use by the public does not impose responsibility on a board of township trustees for the maintenance of such roads.

107 App 47, 153 NE(2d) 146 (1958), *In re Application of Loose*. RC 5553.31 requires no acknowledgment, but only that the plat be signed by the party dedicating such land, and that it be approved and accepted by the board of county commissioners and filed for record; and when such requirements have been complied with there is a valid statutory dedication of such land for public road purposes.

107 App 47, 153 NE(2d) 146 (1958), *In re Application of Loose*. Dedication of an alley may be valid although the signatures of the owners of the property were neither witnessed or acknowledged.

69 Abs 281, 124 NE(2d) 832 (App. Montgomery 1952), *Adams v Wetz*. Where roads within three miles of a municipality are dedicated and accepted by the city planning commission and the county commissioners and are used by the public for three years, the township trustees may be required to remove snow therefrom and to drag such roads.

OAG 76-014. RC 711.041 requires, in addition to approval, an acceptance of the dedication of public streets, roads and highways and, absent acceptance, approval of a plat does not force maintenance of streets, roads and highways described thereon upon the county officials; general maintenance of such streets, roads and highways remains a private matter for abutting landowners until acceptance is had.

OAG 75-030. Under RC 163.04, 5549.04 and 5579.01 a board of township trustees may enter into an agreement with landowners for a temporary easement necessary for improvement of a township road, but such easement may not include a provision holding the landowners harmless from liabilities caused by injuries to persons using the improved road.

1960 OAG 1789. Where a road dedicated under RC 5553.31 is located outside of any municipal corporation and is not designated a county or state road, it is a township road, and the board of township trustees has the duty to maintain such road.

1960 OAG 1789. Where lands are dedicated for road purposes under RC 5553.31 and the dedication is accepted by the board of county commissioners, the lands so dedicated constitute a public road without any further proceedings thereon; and the fact that the county engineer has endorsed or not endorsed the construction of the road does not affect such acceptance and dedication.

1958 OAG 2262. In a county without a regional planning commission or county planning commission in which the county commissioners have not adopted rules and regulations for the improvement of roads and streets proposed to be dedicated, the acceptance and approval by the county commissioners of a plat of a subdivision on which streets or roads are dedicated to public use, constitutes an acceptance of the dedication, and such streets or roads therefore become public highways.

1958 OAG 1646. Township highways which township trustees are authorized to improve or required to maintain must be duly dedicated public highways, but their right or duty is not conditioned by compliance by a plat of a subdivision with the specifications imposed by a county planning commission.

1956 OAG 7136. After October 19, 1953, approval of a plat by county commissioners containing the dedication of a public road or street and acceptance thereof by the township trustees did not impose a duty of maintenance on such township trustees.

1949 OAG 1209. Roads or streets in platted territory outside of municipalities may be dedicated pursuant to this section or GC 3580 (RC 711.01) et seq.

1931 OAG 2981. Where a grantor conveys a strip of land to a grantee with a covenant running with the land, requiring the grantee and his successors to maintain a fence along said lands, said grantee's assigns may dedicate said lands to the county for road purposes, but if such dedication is accepted, it will be necessary for county to comply with the conditions of the covenant.

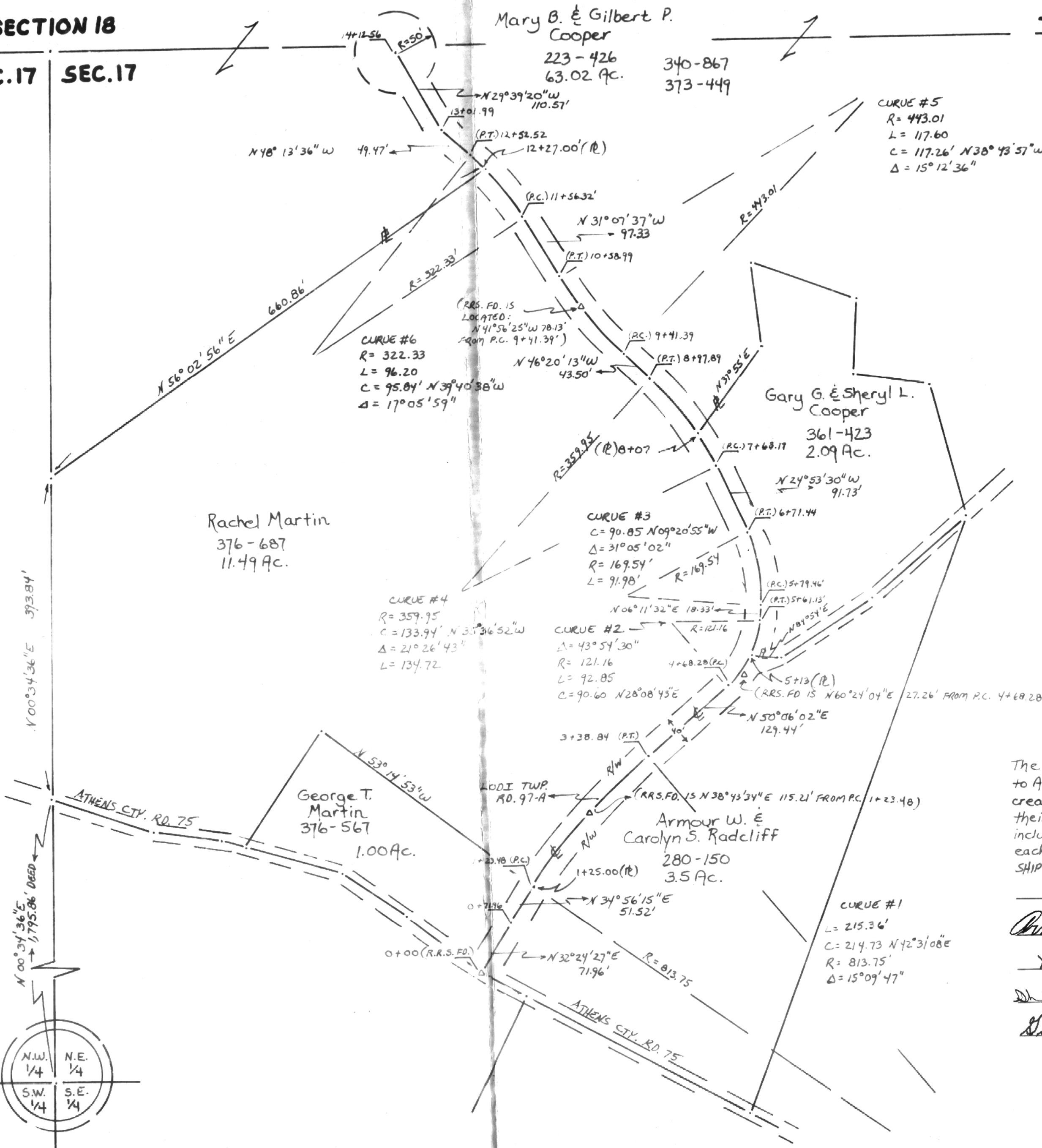
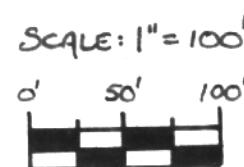
1928 OAG 2118. Although a road right-of-way dedicated by the owner for public road purposes does not become established as a public road, so as to charge the public authorities with the duty of maintaining and repairing such road without acceptance of such dedication, yet as against the owner making such dedication and as between him and the general public, the said roadway may be established as a public road by general public use of said roadway for public travel.

1920 OAG p 566. This section does not require approval of county commissioners as a condition precedent to the recording of plats outside of municipal corporations, even though such plats may show a dedication of streets or roads to public use.

# CENTERLINE SURVEY OF LODI TOWNSHIP ROAD 97-A

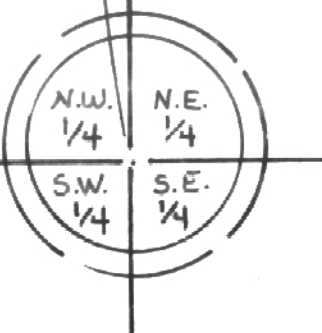
SECTION 18  
SEC. 17 SEC. 17

SEC. 18  
SEC. 17



Centerline Survey Plat of Lodi Township Road 97-A. Situated in the Northeast Quarter of Section 17 and the Southeast Quarter of Section 18, Town 4, Range 13, Lodi Township, Athens County, Ohio.

PREPARED BY  
SOUTHEASTERN LAND SURVEYS  
FOR: THE ATHENS COUNTY  
ENGINEERING DEPARTMENT  
- OCTOBER 1, 1987 -



The following Property Owners agree to donate to Athens County, free of cost, for the purpose of creating a 40 foot right of way, that part of their property which is herein designated as including a 50 Radius Cul de Sac and being 20 feet each side of the existing centerline of LODI TOWNSHIP ROAD 97-A.

Berry T. Martin  
Armour W. Radcliff - Carolyn S. Radcliff  
Rachel C. Martin  
Gary H. Cooper  
Gilbert P. Cooper - Mary B. Cooper

Leonard F. Swayer II.  
Leonard F. Swayer II Reg. Prof. Land Surveyor No. 6765