

APPLICATION FOR ZONING ACTION

FOR:

- Boone County Planning Commission
- City of Florence Board of Adjustment
- Boone County Board of Adjustment
- City of Union Board of Adjustment
- City of Walton Board of Adjustment
- Zoning Enforcement Officer

FOR:

- Zoning Text Amendment
- Comprehensive Plan Change
- Preliminary Plat Review
- Conditional Use Permit
- Concept Development Plan Change
- Preliminary Development Plan
- Change of Non-Conforming Use
- Design Review Board and Certificate of Appropriateness
- Zoning Map Amendment
- Planned Development Overlay Change
- Improvement Plat Review
- Final or Deed Plat Review
- Site Plan Review
- Historic District Overlay
- Appeal or Variance
- Sign or Zoning Permit

Applicant: Charles Durnbaugh Owner Agent
 Address: 7859 Commerce Place Florence, KY 41042
 Telephone: 283-0678

Location: Same as address

Name of Property Owner: Same as above

Address of Property Owner: " "

Zoning District: Florence Area in Acres: 1.1

Deed Book: 349 Page Number: 21 Group Number: 1645

Description of Request: Install 100' sign

Number of signs
Height of sign
Sq. ft of sign

Applicant's Signature: Charles Durnbaugh

Property Owner's Signature: Charles Durnbaugh

Application Fee: \$385.00 received \$185.00 FOR PLANNING COMMISSION USE ONLY
 Date Received: 3/24/87 By: K. Costello

Referred To: T. Branderstein Meeting Date: 4/8/87

Action Taken: _____ Date of Action: _____

STAFF REPORT

APPLICANT: Charles Durnbaugh (dba Complete Car Wash)
LOCATION: 7859 Commerce Place, Florence, Kentucky
ZONING: Commercial Services (C-3)
DATE: April 8, 1987
REMARKS:

The applicant is requesting a Variance in the height, square footage, and number of free-standing signs. The 1.1 acre site, located at 7859 Commerce Place, Florence, is zoned Commercial Services (C-3) and is owned by Charles Durnbaugh.

The intended development is the construction of a second free-standing sign, 100 feet high with 288 square feet. Article 19 of the Boone County Zoning Regulations would allow only one free-standing sign, with a maximum height of 40 feet and maximum size of 250 square feet.

Attached is a copy of the letter from the applicant's sign company which explains their reasons for the Variance, based upon the four necessary findings-of-fact. Below is staff's review of the four criteria:

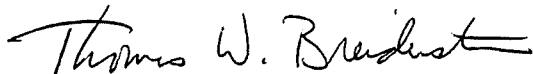
1. The special circumstance involved is the level of the subject property relative to the surrounding property. The applicant's parcel (lot 7 of the Florence Business Park subdivision) is generally 17-21 feet below the grade of those businesses along Burlington Pike.
2. Strict application of the zoning regulations would allow the applicant to double the height of his existing sign and double its display area. A sign of this height would be over 20 feet above the general grade of Burlington Pike. The Board must decide whether a sign this size and height would be sufficient to serve the site or if an unnecessary hardship would still exist.
3. The special circumstance of the difference in grade is, in a sense, the result of the applicant. Mr. Durnbaugh chose this property knowing that the elevation did not match the elevation of the heavily traveled Burlington Pike. There is certainly other C-3 property available with better visibility, even within the same subdivision.
4. Staff can find no reasons that, if granted, the Variance would adversely affect the public health, safety and welfare, and will not alter the essential character of

the general vicinity. However, the Board should consider the purpose of Article 19 of the zoning regulations:

The purpose of this Article is to promote and protect the public health, welfare, and safety by regulating existing and proposed outdoor advertising, outdoor advertising signs, and outdoor signs of all types. It intended to protect property values, create a more attractive economic and business climate, and enhance and protect the physical appearance of the community. It is further intended to reduce sign or advertising distracting and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public right-of-way, and generally enhance community development.

The Board may also want to consider that it has granted similar sign Variances in the vicinity in the past. Cross Country Inn received permission to erect a 97 foot highway sign on November 13, 1985. In August of 1983, Queen City Self-Storage was permitted to erect a 93 foot sign. Staff could find no record of the other various high-rise signs (Shoney's, Gulf, Union 76...).

Respectfully submitted,



Thomas W. Breidenstein,
Zoning Enforcement Officer

TWB:mcb



United Signs, Inc.

Mr. Tom Breidenstein
Boone County Planning Commission
P.O. Box 697
Burlington, KY 41005

March 26, 1987

Re: Complete Carwash Center

Dear Mr. Breidenstein:

The following is our reasoning in favor of the granting of the zoning ordinance variances for the on premise signs for Complete Carwash Center, 7859 Commerce Place in Florence.

As closely as possible it follows the guidelines that you presented to us when we made application for those variances.

They are as follows:

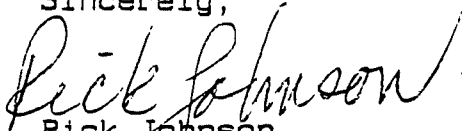
1. The requested variance DOES arise from special circumstances which do not generally apply to other properties in the general vicinity; those being that the this place of business is hidden behind several other businesses and the topography places it below the line of any view.
2. The strict application of the provisions of the regulation WOULD deprive the applicant of a reasonable use of the land; in that the business that is located there, that has been duly permitted by all the governing bodies with such jurisdiction, is not able to be seen or found by its prospective customers; and the strict application of the provisions WOULD create an undue hardship on the applicant, Mr. Durnbaugh, which may cause him to go out of business for lack of sufficient identification.
3. These special circumstances are not in any way the result of actions of the applicant. Indeed, he has put forth a great effort to the extent of investing several thousand dollars in his existing signage trying to conform with the existing regulations, and it has not worked for his business.
4. The variance WILL NOT adversely affect the public health, safety or welfare; which I think we will demonstrate before you at the scheduled hearing and it has been attested to by the signatures of the citizenry that would be affected, in that the visual height of the sign is lower than the surrounding signs.

United Signs, Inc.
P.O. Box 14383
Cincinnati, Ohio 45214
513-681-6600

The allowance of this sign WILL NOT alter the essential character of the general vicinity and WILL NOT cause a hazard or a nuisance to the public; has been attested to by the fact that the other businesses around that area have similar types of signage identification that are equal to or greater than that which is being asked for here.

We appreciate your consideration on this matter.

Sincerely,


Rick Johnson
United Signs, Inc.

United Signs, Inc.
P.O. Box 14383
Cincinnati, Ohio 45214
513-681-6600

COMPLETE CARWASH CENTER

5'

dark
Brown

3/4 SCALE

12" UPPERCASE LETTERS

existing
Sign

approved

9-22-86

20'

B BROADWAY
SIGN CO.

ART WORK APPROVED BY

CD DATE 9/8/86

as noted

24'-0"

**CAR
WASH**

5'-0" BLACK LETTERS

5'-0" BLACK LETTERS

Proposed sign

YELLOW BACKGROUND

BLACK BORDER

STEEL SIZE TO BE DETERMINED

88'-0"

DESIGN

APPROVED AS SUBMITTED

Signed: [Signature] Date: 3/16/87

APPROVED WITH CHANGES NOTATED

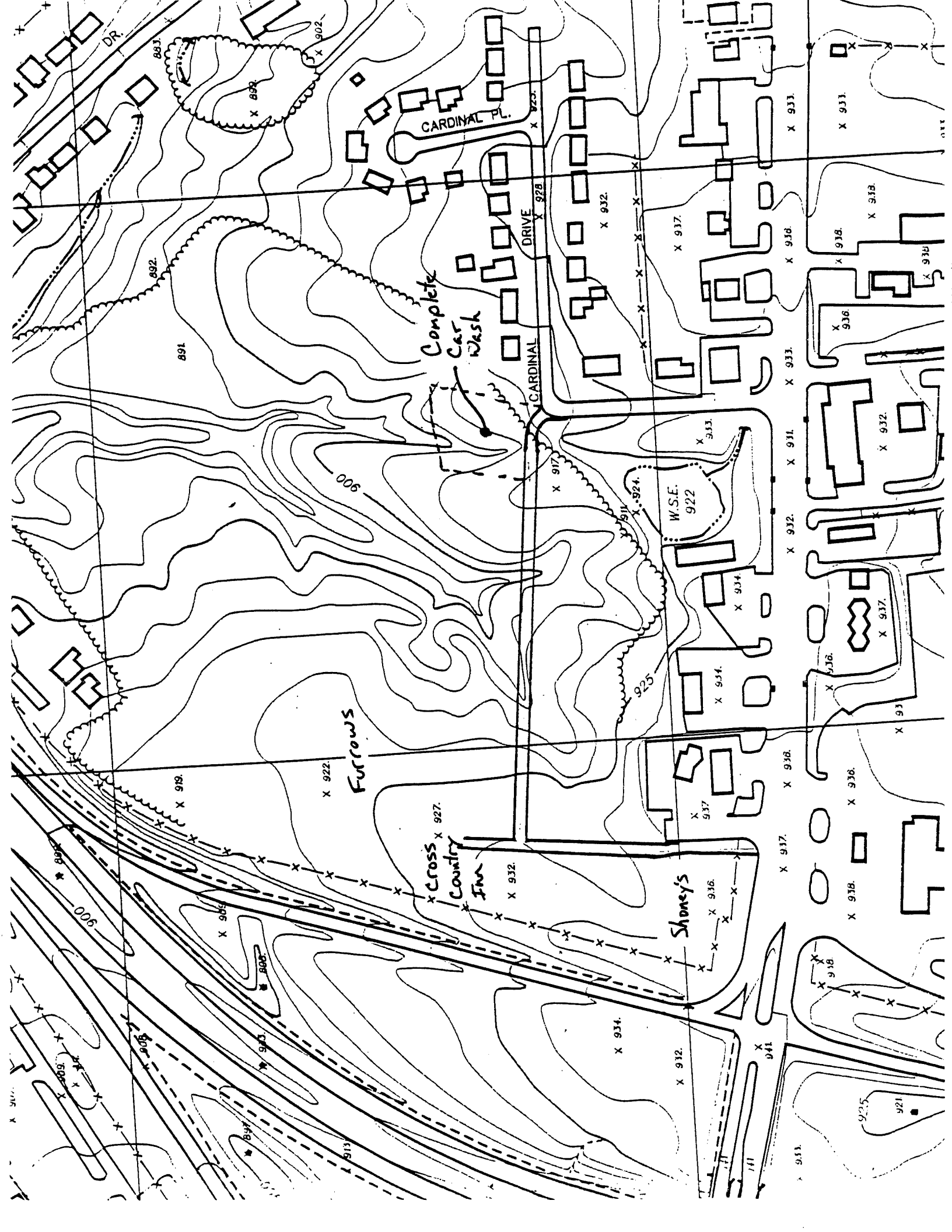
Signed: _____ Date: _____

UNAPPROVED - TO BE RESUBMITTED WITH CHANGES NOTATED

Signed: _____ Date: _____

NOTES:
(1) DOUBLE FACED, NON-ILLUMINATED HI-RISE SIGN. THE FACES WILL BE AT 90° FORMING A "U" SHAPE. FACES WILL BE FABRICATED ~~ON~~ ON ANGLE IRON FRAME.

CUSTOMER	COMPLETE CAR WASH
LOCATION	
DATE	3/9/87
SALESMAN	ALICE JOHNSON
DRAWN BY	TJ VALLI
SCALE	1/4" = 1'-0"
SKETCH #	8323



DR.

CARDINAL PL.

CARDINAL DRIVE

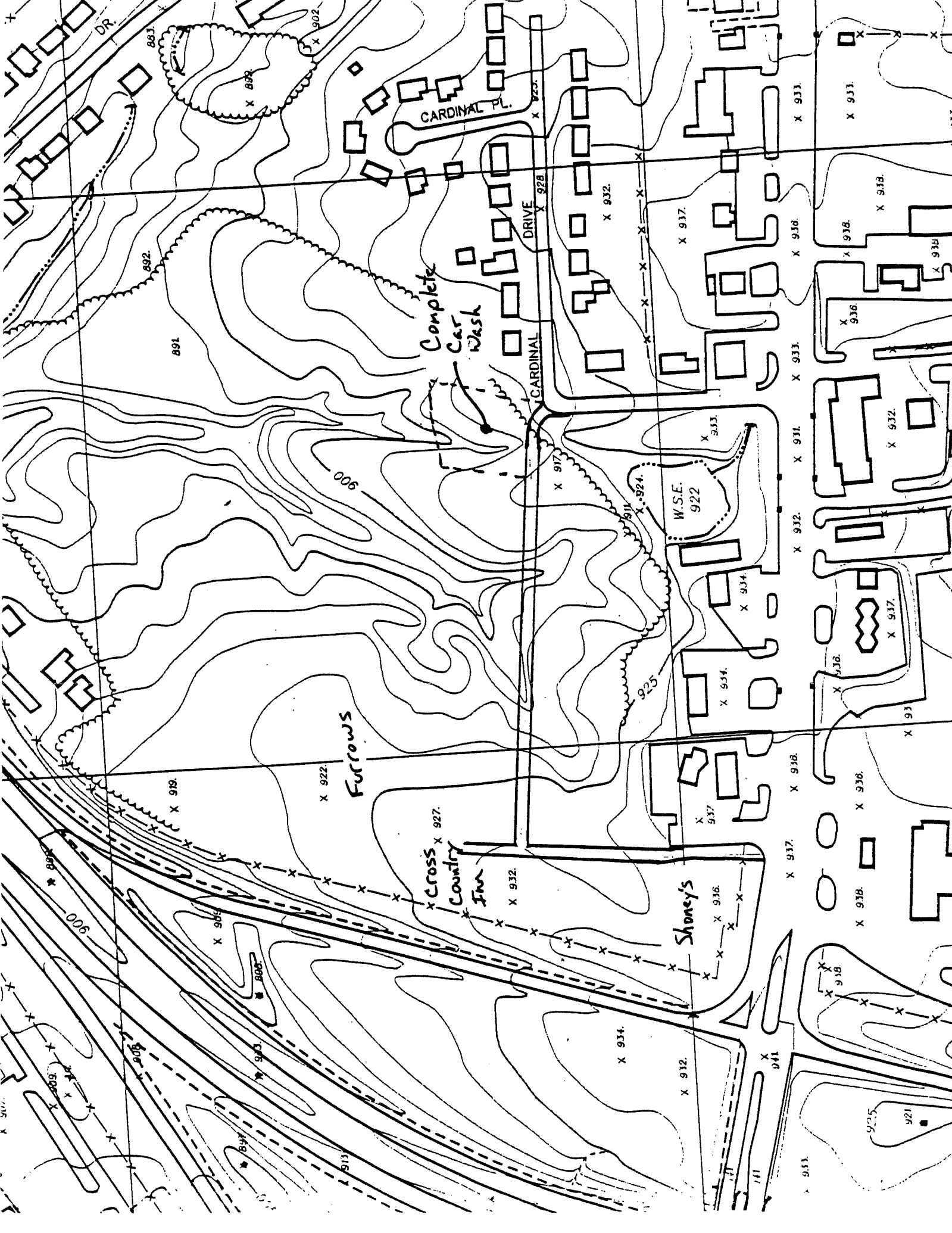
Complete Car Wash

Furrows

Cross Country Inn

Shoney's

W.S.E. 922



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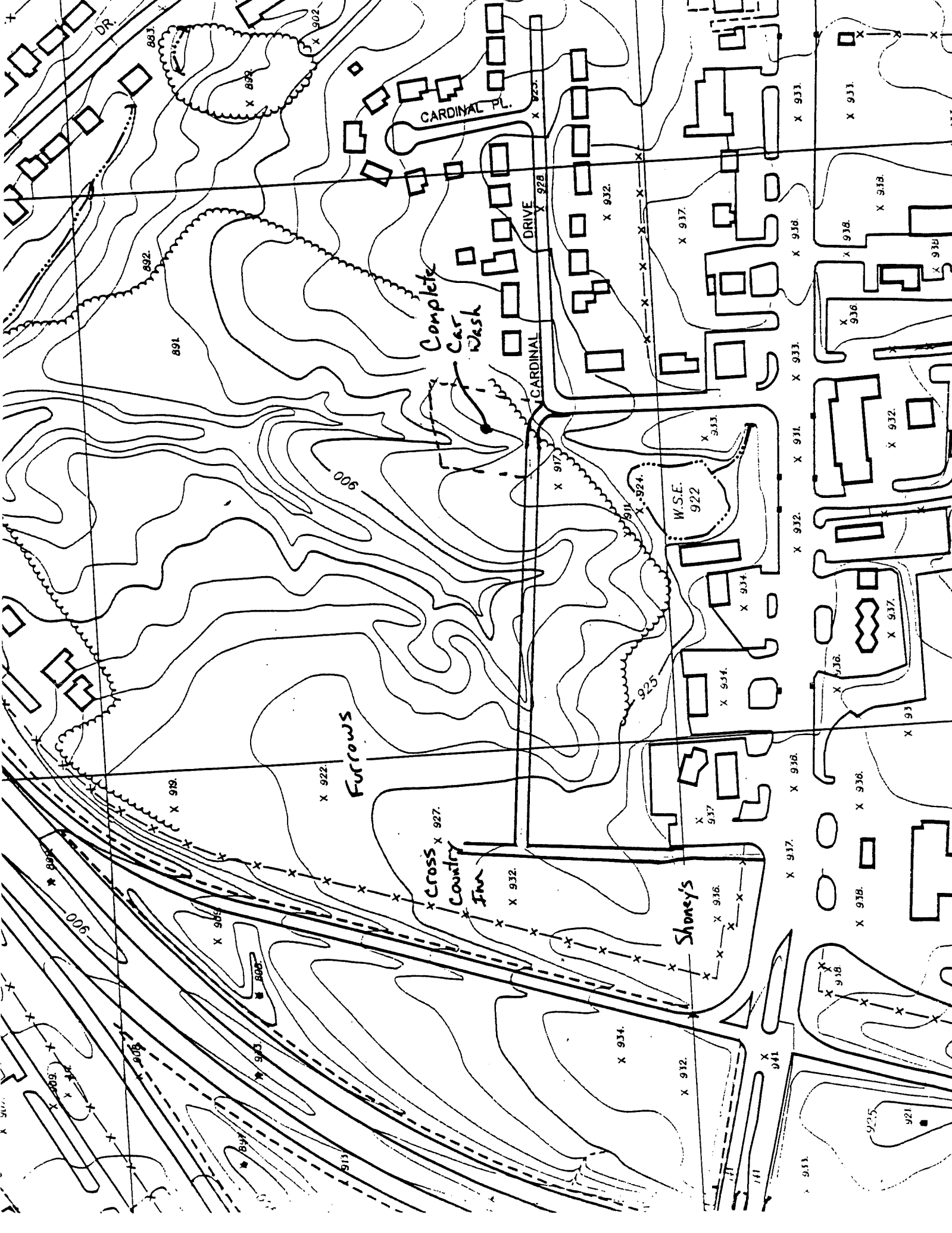
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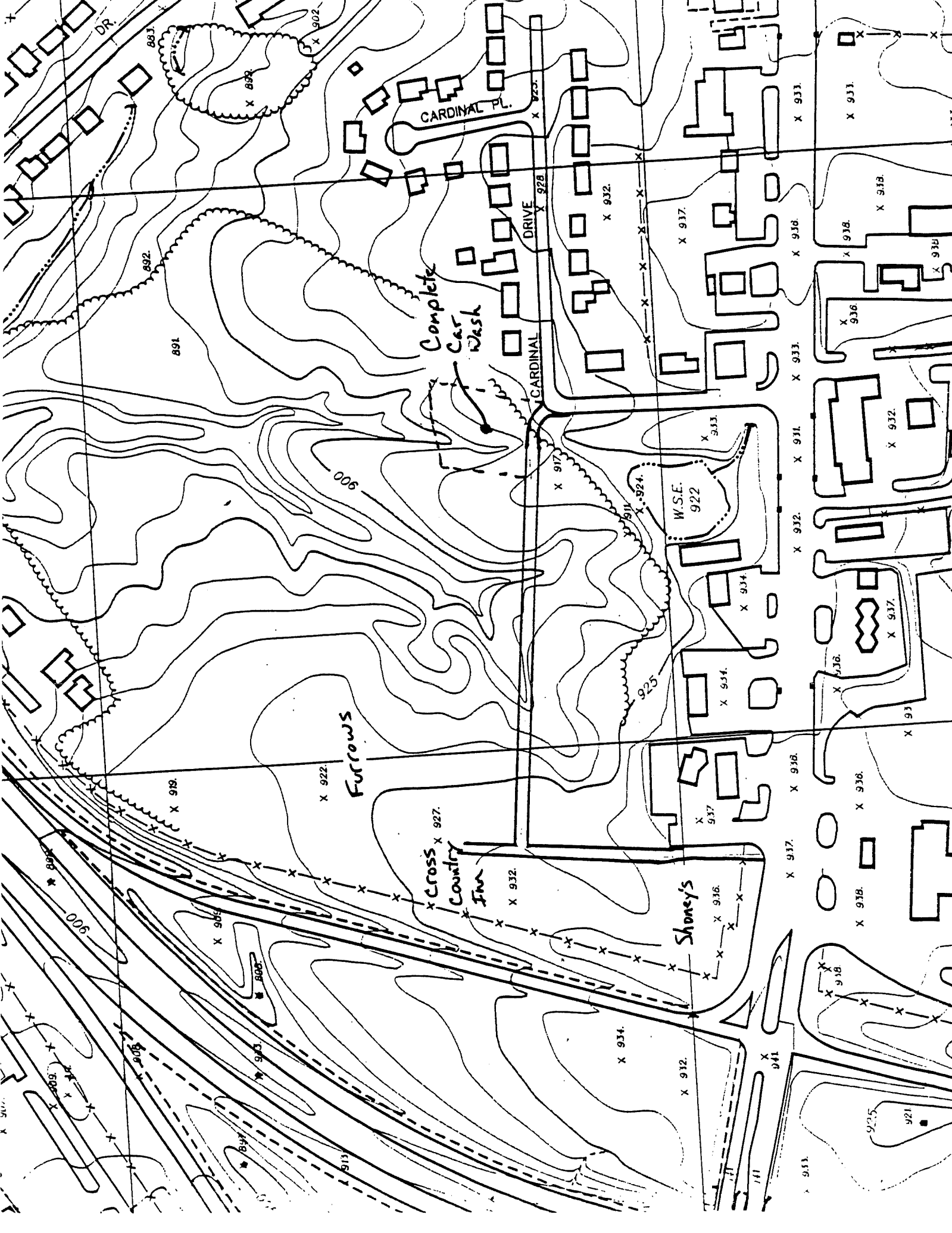
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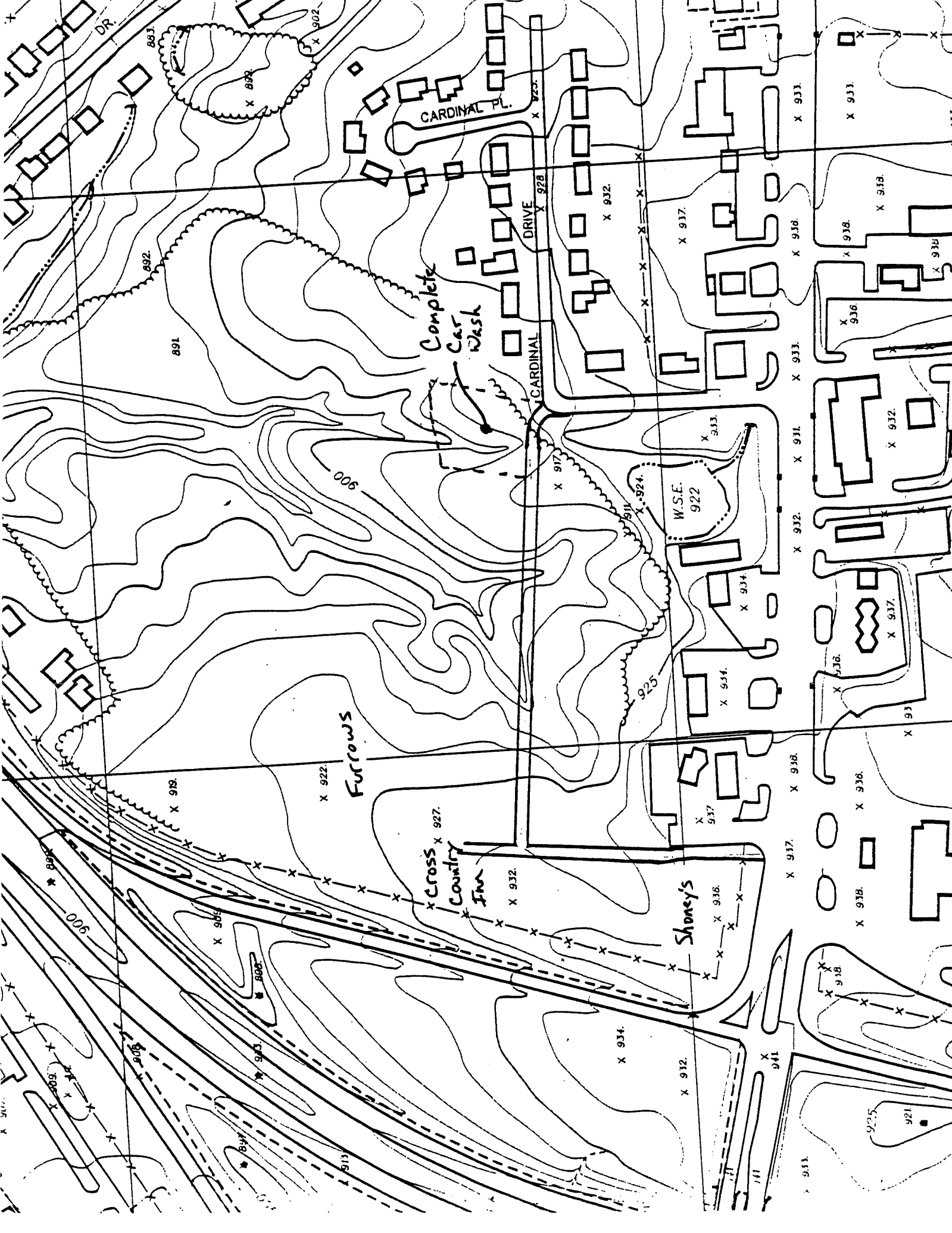
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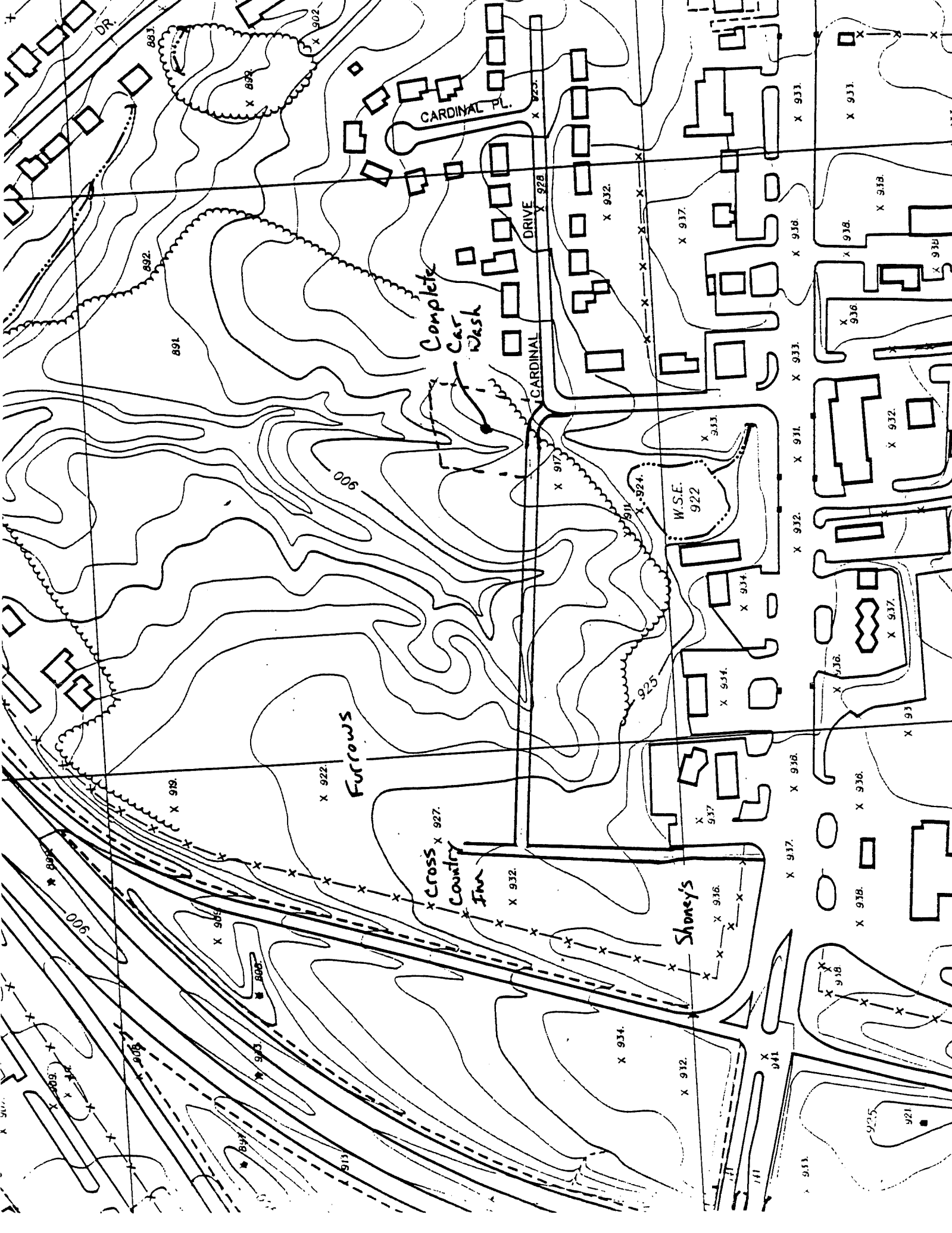
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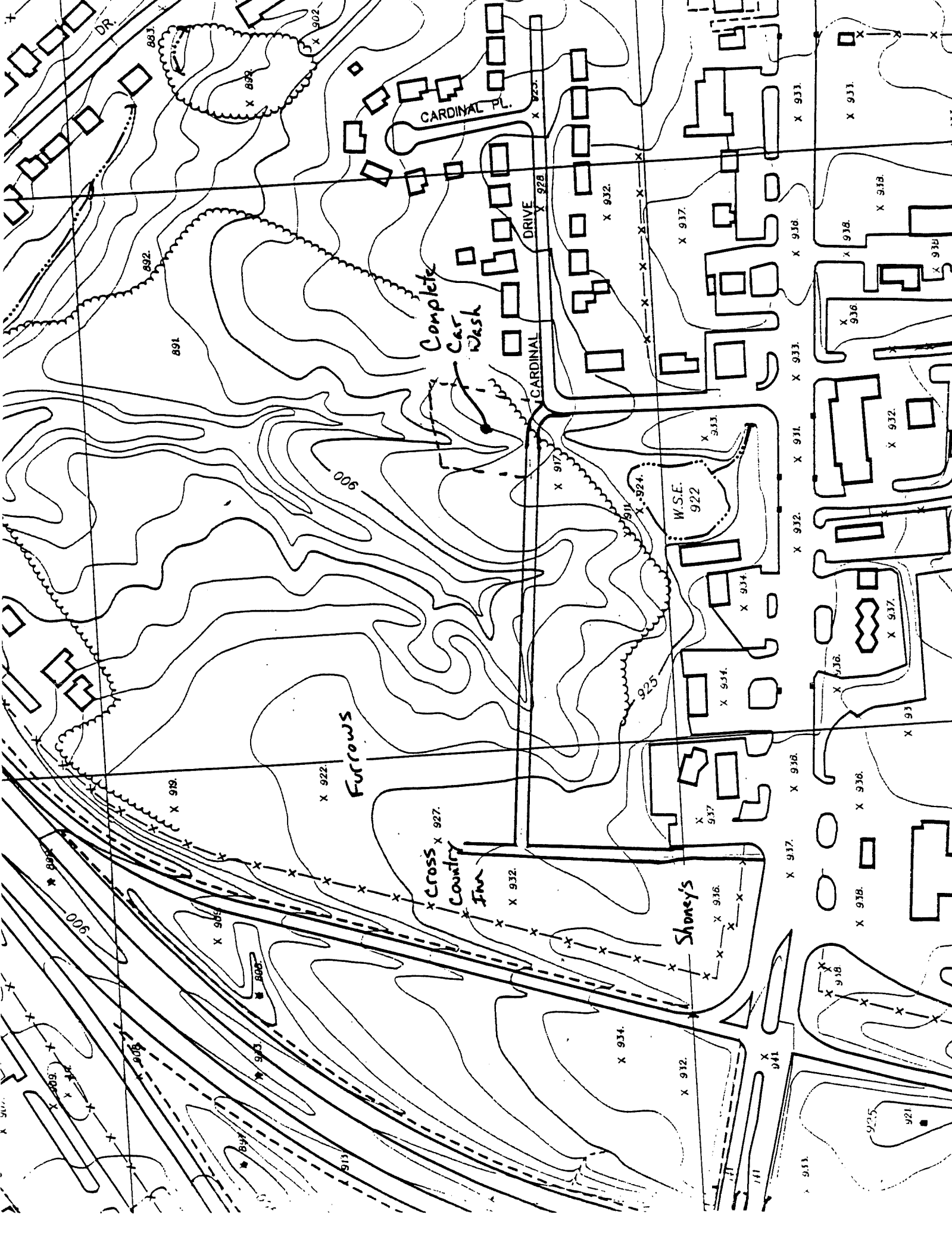
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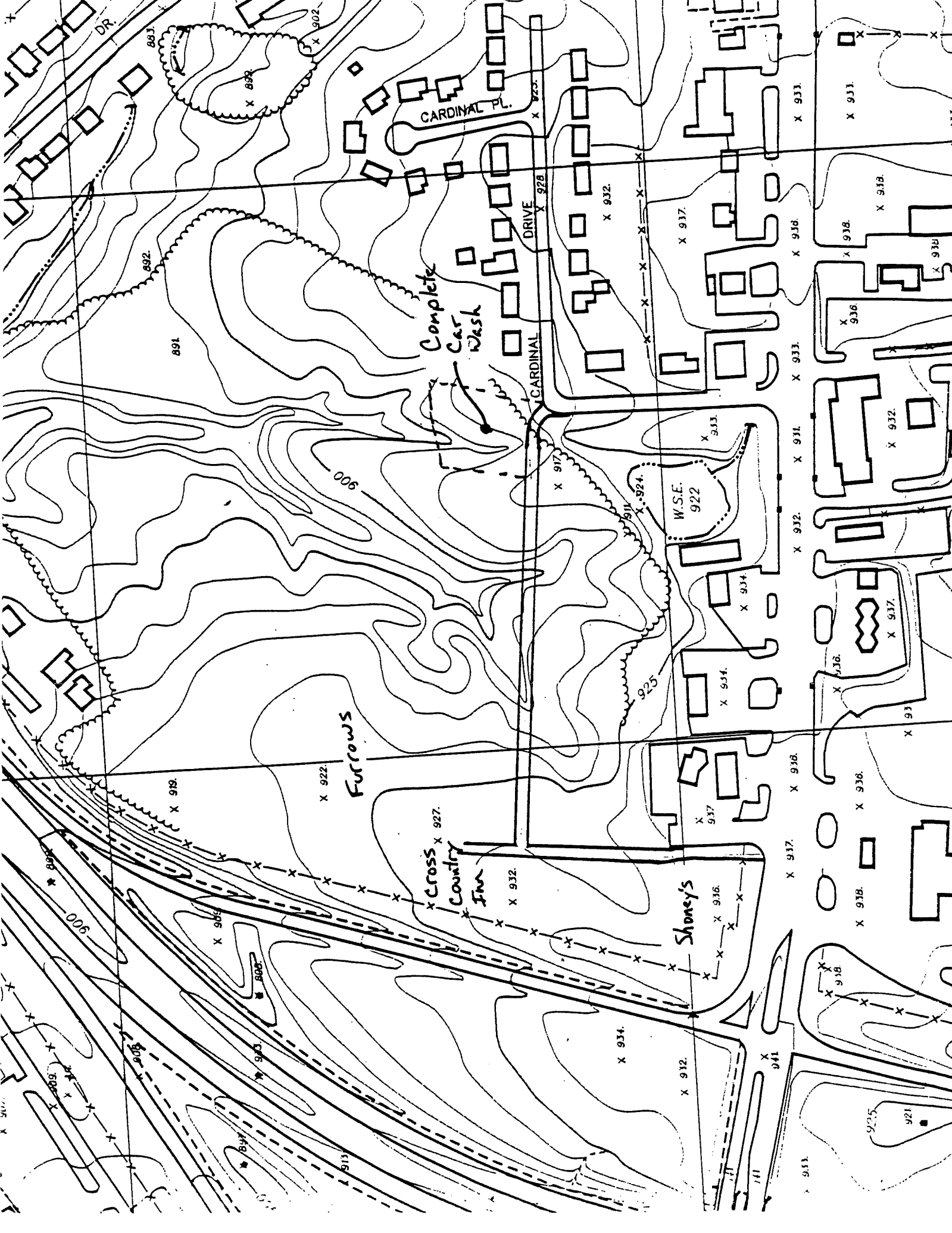
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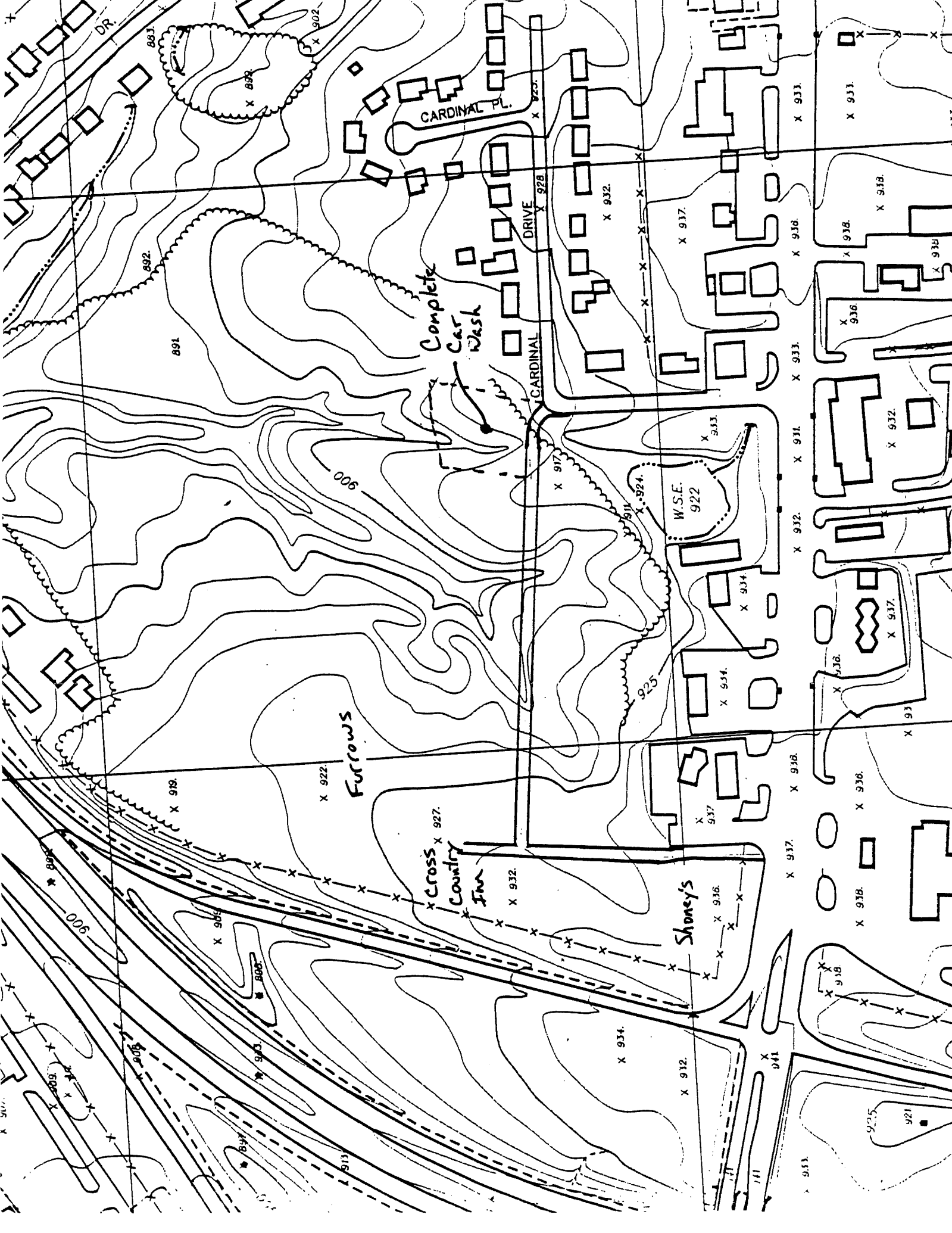
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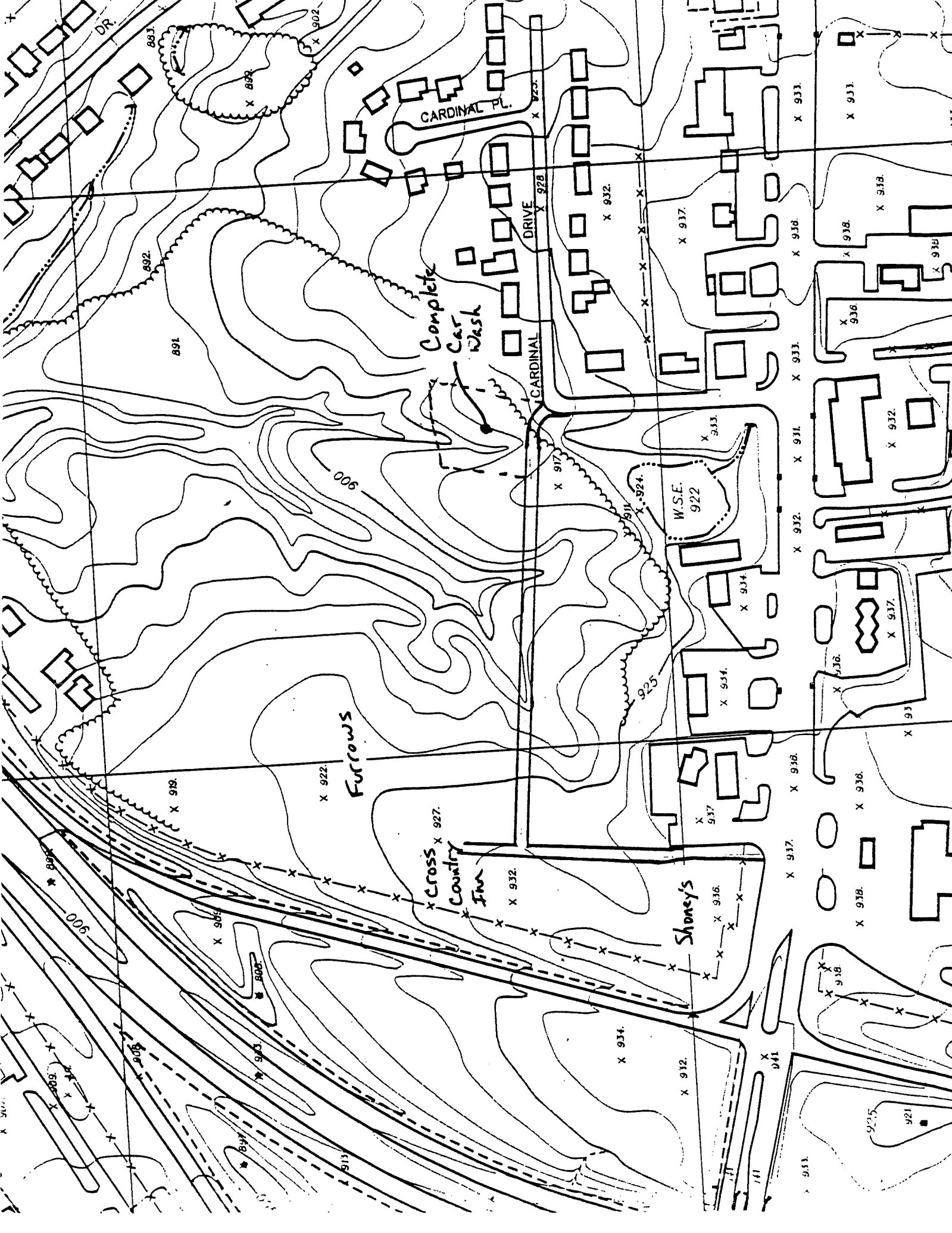
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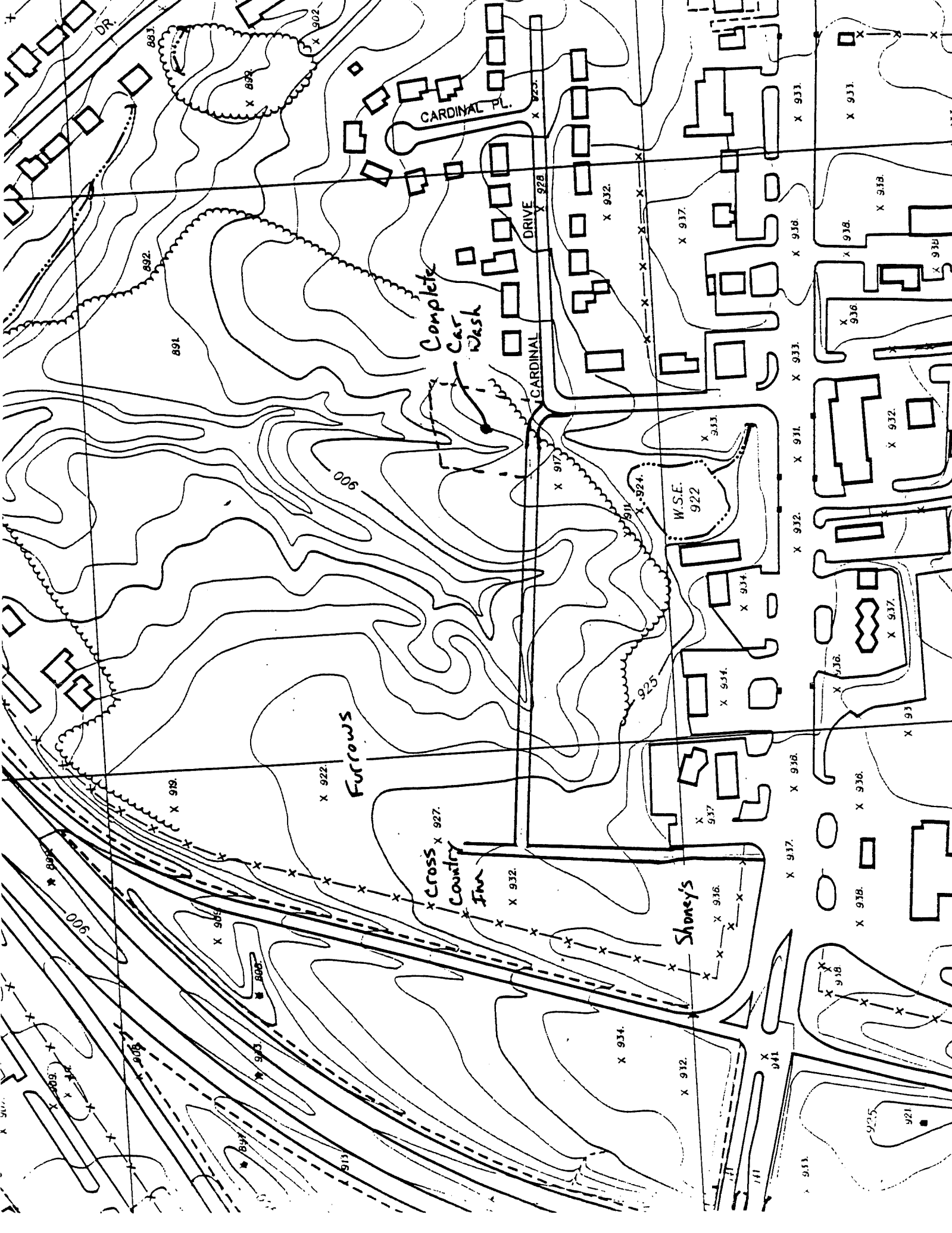
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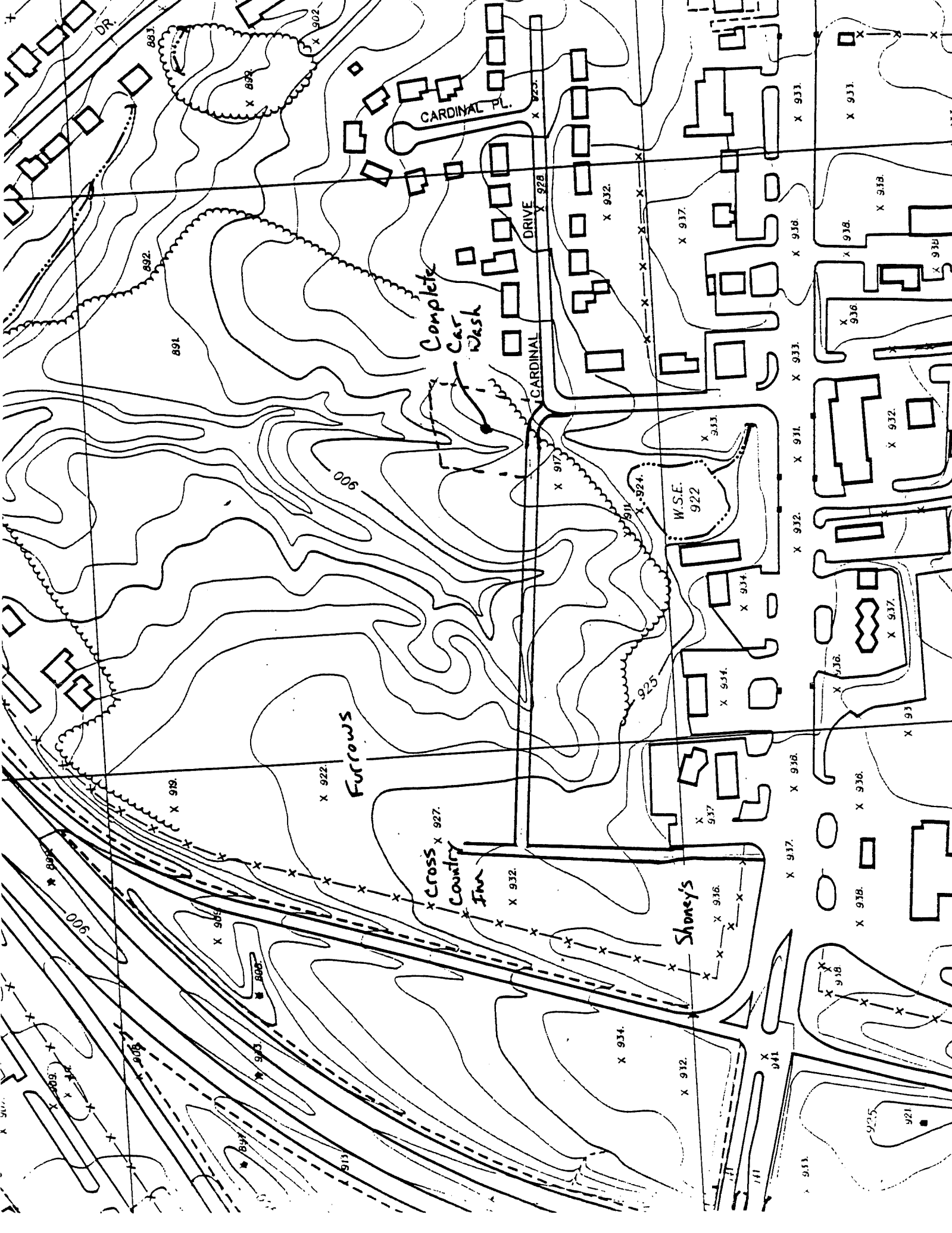
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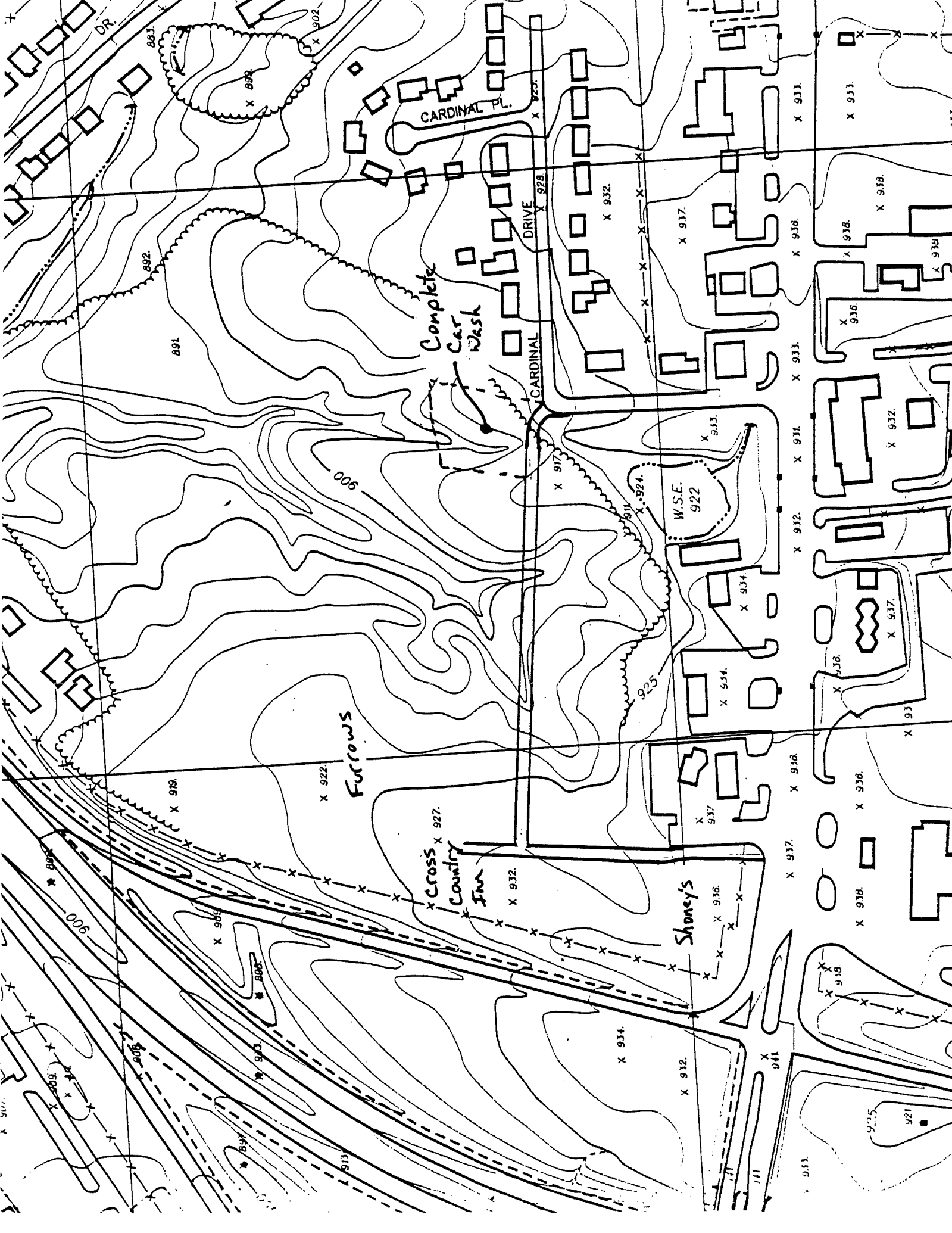
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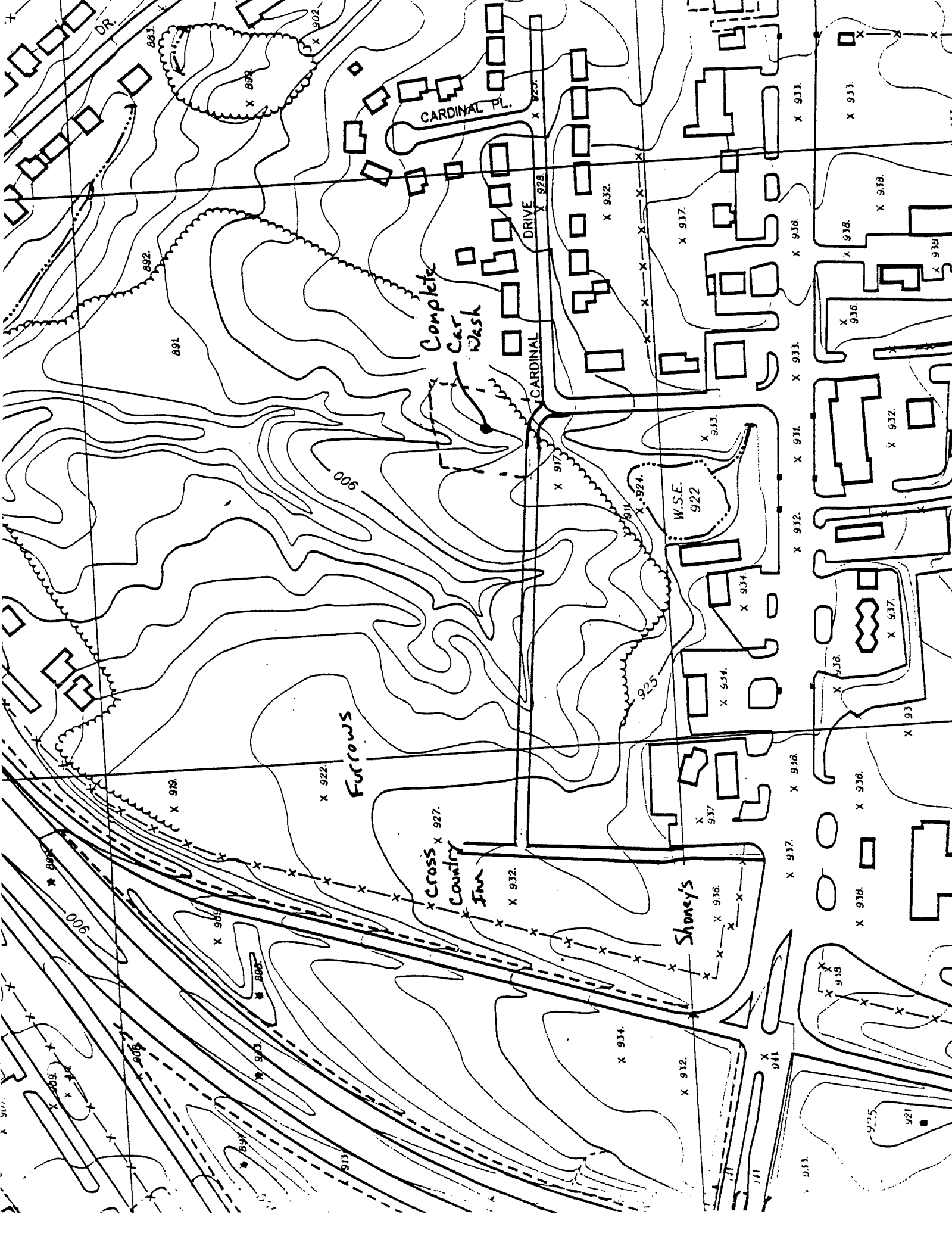
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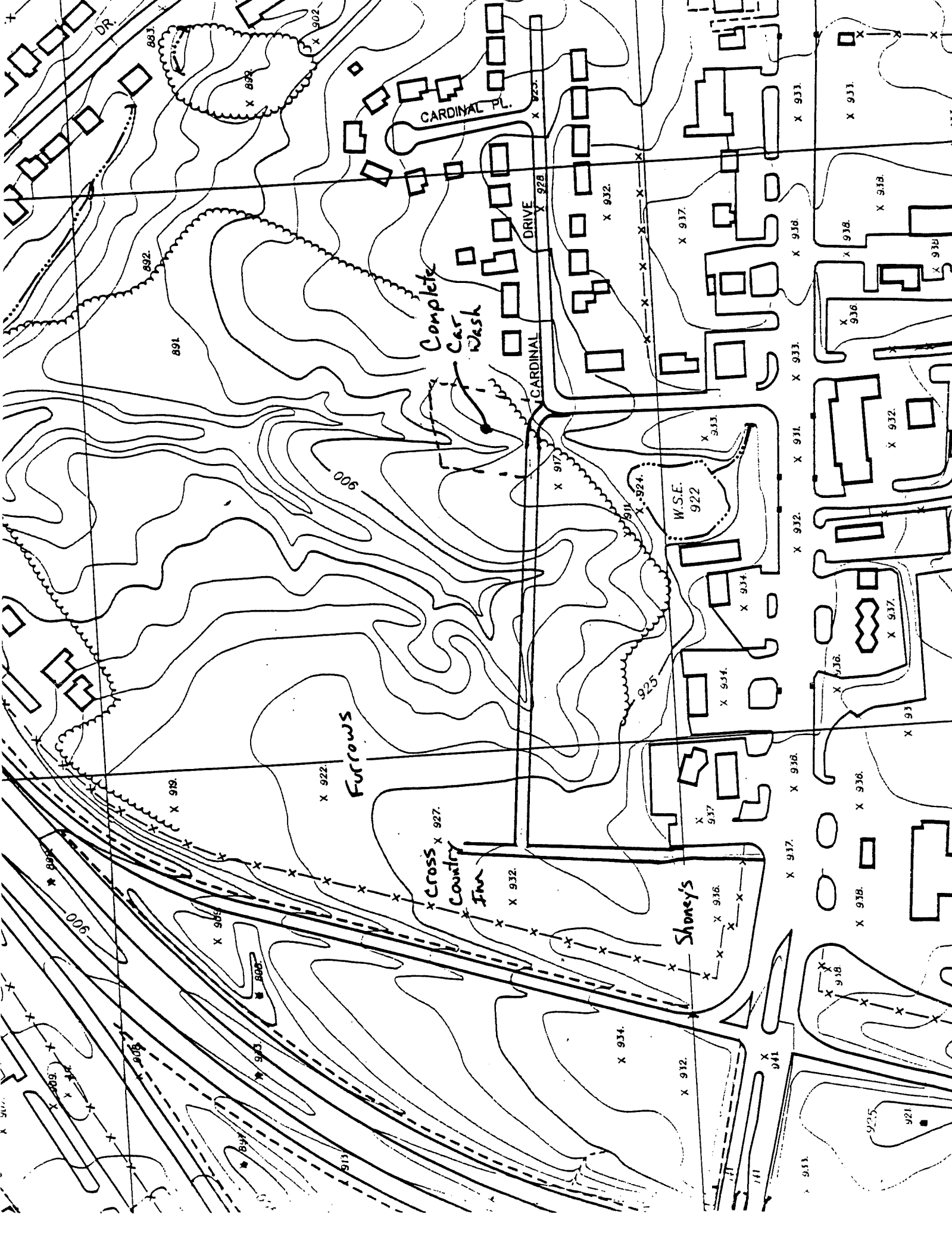
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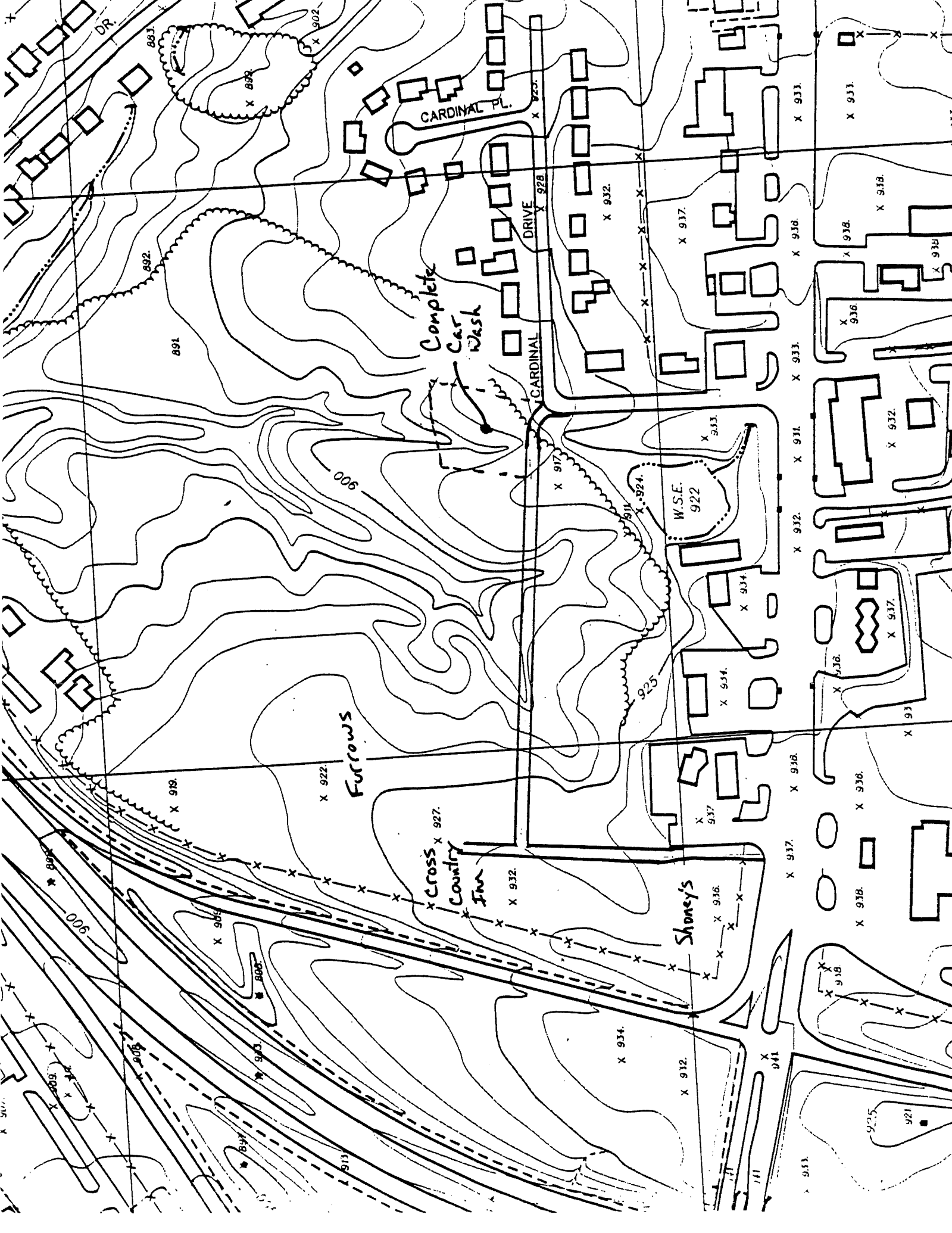
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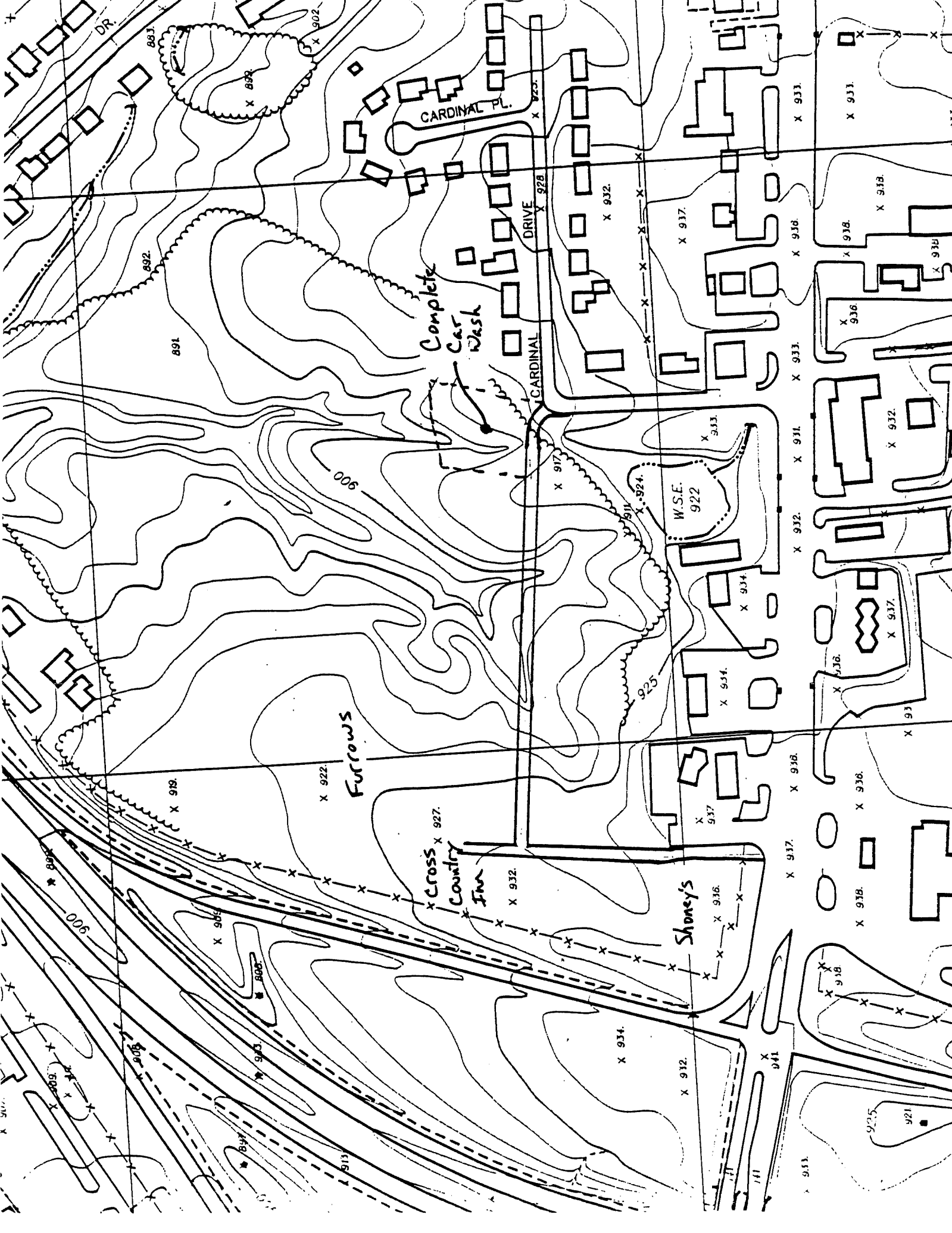
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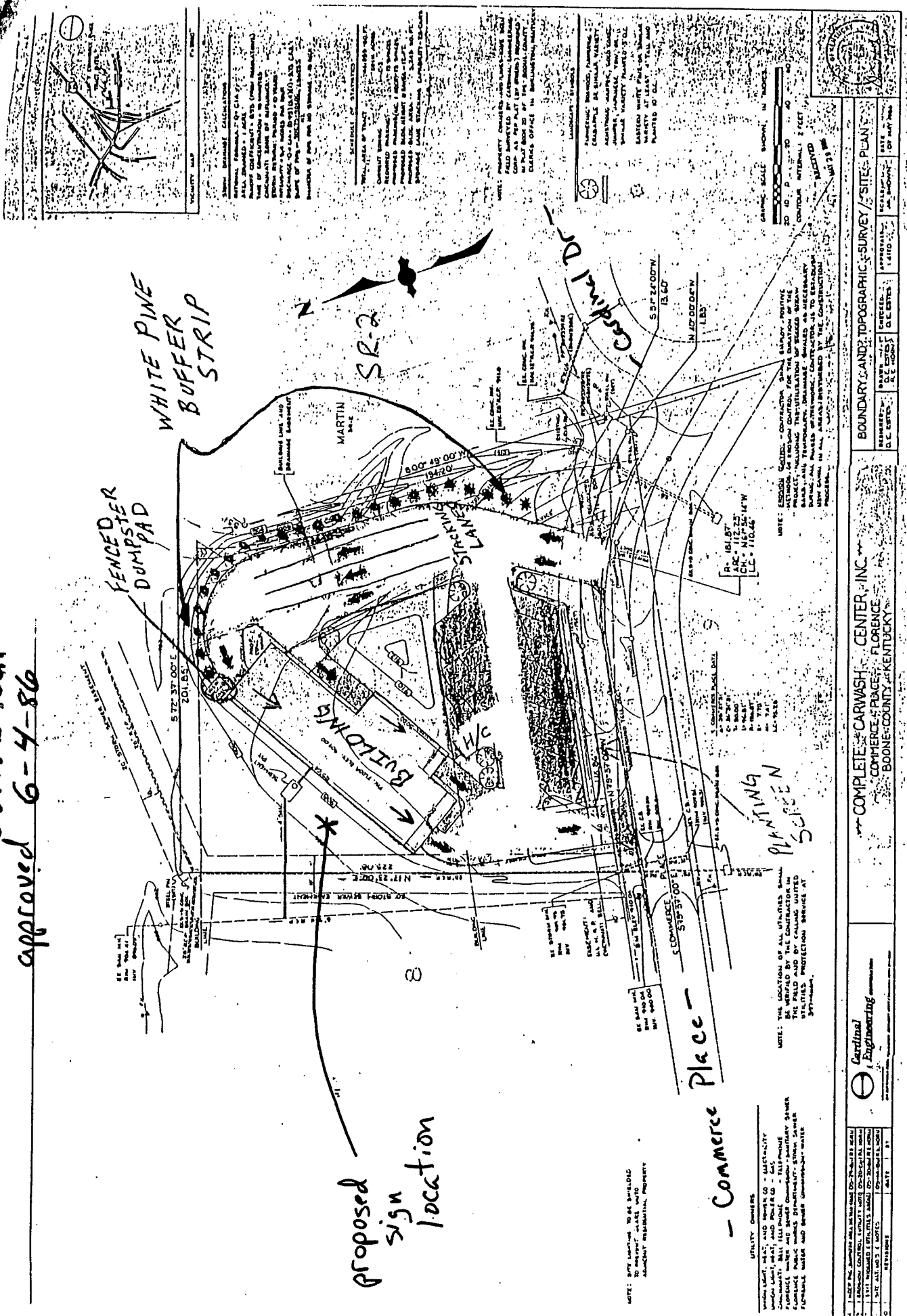
CARDINAL DRIVE

Complete Car Wash

Furrows

Cross Country Inn

DURNBAUGH Site Plan
 approved 6-4-86

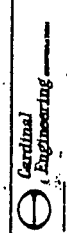


proposed sign location

NOTE: SEE PLANS FOR ALL UTILITIES AND EASEMENTS. PROPERTY OWNER'S RESPONSIBILITY TO VERIFY ALL UTILITIES AND EASEMENTS.

UTILITY OWNERS
 WATER: WATER CO. - WATER
 GAS: GAS CO. - GAS
 SEWER: SEWER DIST. - SEWER
 POWER: POWER CO. - POWER
 TELEPHONE: TELEPHONE CO. - TELEPHONE
 CABLE: CABLE CO. - CABLE

Commerce Place -
 Planting Screen



Cardinal Engineering
 1000 S. MAIN ST. - FLORENCE, KY 40302
 (606) 338-1111

COMPLETE CARWASH CENTER, INC.
 COMMERCIAL - FLORENCE, KY
 BOONE COUNTY, KY

BOUNDARY AND TOPOGRAPHIC SURVEY / SITE PLAN
 PREPARED BY: [Name]
 DATE: [Date]
 SCALE: [Scale]
 APPROVAL: [Signature]



GRAPHIC SCALE SHOWN IN INCHES
 20 10 0 10 20 30 40
 CONTROLS INTERNALLY SET
 DATE: [Date]

NOTE: THE LOCATION OF ALL UTILITIES SHOWN ON THIS PLAN IS BASED ON THE RECORDS OF THE PUBLIC UTILITIES COMMISSION AND THE RECORDS OF THE LOCAL GOVERNMENT. THE FIELD AND BY CALLING UNITED STATES PROTECTION SERVICE AT 800-368-5848.

NOTE: THE CONTRACTOR SHALL VERIFY THE POSITIVE LOCATION OF ALL UTILITIES AND EASEMENTS. THE FIELD AND BY CALLING UNITED STATES PROTECTION SERVICE AT 800-368-5848.

DATE: [Date]

I AM A PROPERTY OWNER NEIGHBORING THE "COMPLETE CAR WASH" CENTER AND
 I SUPPORT THEIR REQUEST TO ERECT A 100 FT. SIGN BEHIND THEIR BUILDING.

NAME	ADDRESS	ZIP CODE
ELMER SCHLUPP	#1 CARDINAL DR	41042
RUTH SCHLUPP	"	"
WILLIAM MARTIN	#2 CARDINAL DR	"
Vincent Felts	#6 Cardinal Dr.	"
*	#20	
Lucille Felts	6 Cardinal Dr.	"
Mr. Ross	2 Cardinal Dr.	"
Richard Dalton	8 Cardinal	41042
Rudolph Hordleef	23 Cardinal Place	41042
Donald Beckett	26 Cardinal Place	41042
Elmer Lirwood	24 Cardinal Pl.	41042
Archie Harney	16 Cardinal Dr.	41042
James Darr	14 Cardinal Dr.	41042
Carlyn Daniels	18 Cardinal Dr.	41042
Jack Pyrdexter	14 Cardinal Dr.	41042
Pamela Cox	15 Cardinal Dr.	41042
Shirley Faulkner	15 Cardinal DR	41042
R E Meyer	4 Cardinal Dr	41042
Billy Major	4 Cardinal Dr	41042

I AM A RESIDENT OF FLORENCE, KENTUCKY, AND I SUPPORT THE REQUEST OF
THE "COMPLETE CAR WASH" CENTER TO ERECT A 100 FT. SIGN BEHIND THEIR
BUILDING.

NAME	ADDRESS	ZIP CODE
Mike Mobley	7712 Hollywood Dr.	41042
Geneva Barnett	11 Valley Dr.	41042
Lang W. Combs, Jr	311 Mercury	41042
Michael A. Williams	8532 Pleasant Dr	41042
Lynelle Breakhear	1777 Promontory	41042
Dennis Kelley	6414 Link View Ct	41042
Lois Beegle	8192 Meadow View Dr	41042
Wm P. Martin	119 St Luke Ct	41042
Earl Weatherford	90 Cardinal Dr.	41042 *
Ronald Floyd	137 Rager	41042
Chad Johns	166 Mt Zion Rd	41042
Dave S. Crump	51 Vivian Dr.	41042.
Linda S. Crump	51 Vivian Dr.	41042.
Beth Astors Howard	8747 Heritage Dr	41042
AJ Howard	8747 Heritage Dr	41042
Dlyn Martin	1724 Promontory Dr	41042
Doni Howe	729 Mt Zion	41042
Dyress Martin	1724 Promontory	41042
Scott Davis	9 Bamblich	41042
Jonna Gifor	8841 Nancy Creek Dr.	41042
Bob Hickman	48 Bustetter Dr.	41042
W. May	25 Sweetbriar Ave.	41042
Malley Bailey	5712 Hazel Drive	41042
Pat Tidwell	5597 Hazel Drive	41042
Maureen Zell	Surfway Park	41042
J. W. White	1112 Caytown Rd	41042
Greg Young	6221 Ancient Oak Dr	41042
Wm. J. Hales	6120 Cedar Hill Rd	41042
Mike Rossman	6199-13 Hopeful Rd	41042
Barbara Kals	8122 Ocean Dr Apt 11	41042
Steve Mott	489 Edgehill Rd	41042
Tom Morrison	2211 Dr. Florence	41042

CITY OF FLORENCE
BOARD OF ADJUSTMENT

April 8, 1987 - 7:30 P.M.

Chairman Holland called the meeting to order at 7:42 P.M..

BOARD MEMBERS PRESENT:

Mr. Ashcraft
Chairman Holland
Ms. Lanigan
Mr. White

BOARD MEMBERS NOT PRESENT:

None

LEGAL COUNSEL PRESENT:

Mr. Hugh Skees

Chairman Holland stated that each member had received a copy of the Minutes of the Board of Adjustment Meeting of March 11, 1987. There being no comments or corrections; Chairman Holland moved, seconded by Mr. White, that the Minutes be approved. The motion carried unanimously.

AGENDA ITEMS:

2. A request of James and Eula Miller for a Conditional Use Permit to allow the conversion of an existing single-family residence into a duplex dwelling unit. The 0.17-acre lot, located at 12 Rose Avenue, is zoned Suburban Residential Two (SR-2).

Gerald Newton presented the Staff Report.

Mr. Miller stated, in response to a question from the Chairman, that the proposed unit will be on the right side of their existing house when facing the house.

The Chairman asked if there was anyone present who wished to speak in regard to the application, or if there was any further discussion. There being none, Mr. White moved, seconded by Ms. Lanigan, that the application be approved, on that condition that adequate parking is provided.

The Chairman asked for a roll call vote on the motion which found Mr. Ashcraft, Chairman Holland, Ms. Lanigan and Mr. White in favor. The motion passed unanimously.

5. A request of Charles Durnbaugh for Variances in the height, square footage, and number of free-standing signs. The 1.1-acre site, located at 7859 Commerce Place, is zoned Commercial Services (C-3).

Gerald Newton presented the Staff Report.

Mr. Rick Johnson, United Signs (the proposed contractor), distributed information to the Board. He presented photographs of the proposed signs. He stated that a passerby would not see the present sign. He noted the criteria used to determine the appropriate size and location of signs to attract traffic from Highway 18.

Mr. Jerry Dusing, an attorney representing Mr. Durnbaugh, commented on the Staff report and noted the applicant's reasons for requesting the variances, indicating the need and benefits of good visibility of the sign.

Chairman Holland asked if there was anyone else in the audience who wished to comment on the application. There was no audience participation.

The Chairman noted that many of the neighborhood property owners had indicated that they were not opposed to this application.

Mr. White stated that he had visited the site and noted that the applicant would have preferred to locate on the higher elevation. Mr. White stated that Mr. Durnbaugh's sign was obstructed from view.

Mr. Ashcraft moved, seconded by Mr. White, that the variances be approved as requested.

The Chairman asked for a roll call vote on the motion which found Mr. Ashcraft, Chairman Holland, Ms. Lanigan and Mr. White in favor. The motion carried unanimously.

3. A request of the B. P. Oil Company (a division of Sohio Oil Company) for a 5-foot Variance in the side yard set-back and a Variance in the number of free-standing signs. The 1.07-acre tract, located on U. S. 42 across from Dream Street, is zoned Commercial Services (C-3).

Mr. Gerald Newton presented the Staff Report and also photographs of the site. Staff noted that it would be possible for this property to have shared access with Dunkin' Donuts.

Mr. Pat Goran, a construction engineer with B. P. Oil Company, stated that the Staff Report had been very thorough and he would be available to answer any questions. He reviewed drawings of the site with the Commission members, noting the location of existing and proposed signs.

The Chairman asked if there was anyone present representing Dunkin' Donuts. Mr. Granet Benson, District Sales Manager, and Mr. Gerald Deters, franchise owner at this location, were present. The Chairman asked for their comments.

Mr. Benson stated that as the primary tenant, their main concern is the visibility of their signage.

Mr. Ashcraft noted that there are drainage problems typically associated with car washes. He stated that he had visited the site and asked why, since the applicant will be razing the existing structure and rebuilding, the structure could not be located on the site to take advantage of the natural drainage toward the rear of the site.

Mr. Goran replied that the location of the building is based upon its visibility and commented on the traffic flow into the site. He also commented on the proposed drainage system. Mr. Goran stated that he understood the comments of the gentlemen from Dunkin' Donuts and stated that they will work with them as much as possible to not interfere with their visibility.

The Chairman asked if there was anyone else present who wished to comment in behalf of, or in opposition to, this application; or if there were any additional comments or questions from the Board.

Mr. Newton noted that action by the Board will establish the setback line, but that the exact location of the building can be varied.

Following discussion, Mr. White moved that the request for a 5-foot variance in the side yard set-back be granted and that the request for a variance in the number of free-standing signs be omitted and addressed in the Site Review. Mr. Ashcraft seconded the motion.

Chairman Holland asked for a roll call vote on the motion which found Mr. Ashcraft, Ms. Lanigan and Mr. White in favor. Chairman Holland was opposed. The motion carried.

4. A request of the B & J Development Company (dba Florence Square) for a Variance in the dimension of parking stalls. The 9.4-acre site, located on Mall Road between Children's Palace and Central Hardware, is zoned Commercial Two (C-2).

Staff member, Tom Breidenstein, presented the Staff Report.

In response to questions from the Chairman regarding the Staff Report, Mr. Newton stated that the applicant is requesting an increased number of parking spaces in the same area so that they will be closer to the building and will, therefore, increase safety. He noted that the applicant has agreed to appropriately landscape an approximate 30-foot area that would become available for landscaping.

Mr. Ashcraft noted that there would be an increase of 31 parking spaces, plus additional landscaping. He asked what the rationale was behind the required size of 10' X 20' or 9' X 19' for parking stalls.

In response to his question, Mr. Newton cited examples of locations where the 9' X 19' parking stalls exist. He stated that the required size of parking stalls in stable parking areas reflects the trend toward smaller cars.

Chairman Holland asked if there was anyone present representing the applicant who wished to speak.

Mr. Tom Williams representing North American Properties (the developer), and Mr. Tim Zellich representing Hickson Associates (the architect) were present.

Mr. Williams stated that the 9' X 19' stalls are the accepted standard today. He noted the requested change to the smaller parking stalls would increase safety and that the additional landscaping would make the site more attractive.

Mr. Tim Zellich provided a copy of the plans to the Board members and noted the location of the proposed landscaping.

Mr. White stated that applications had been turned down in the past due to the required 10' X 20' parking stalls. He stated that the explanation of the trend to smaller parking stalls had provided clarification for him.

Chairman Holland asked if there was anyone present who wished to speak regarding this application. There was no audience response.

Mr. White moved that the request for a variance in the dimension of parking stalls be granted, based on the fact that such a trend exists in the area. Ms. Lanigan seconded the motion.

Chairman Holland asked for a roll call vote on the motion which found Mr. Ashcraft, Chairman Holland, Ms. Lanigan and Mr. White in favor. The motion carried unanimously.

1. A request of Terry Lohre for an Appeal of the Zoning Administrator's decision regarding the activity of Mark's Guns, which is located at the northeast corner of Dixie Highway and Glenrose Avenue, Florence.

Mr. Gerald Newton, Director/Zoning Administrator, presented the Staff report and noted a letter he had written, dated January 26, 1987, which was attached to the Staff report. Mr. Newton stated that the issue before the Board this evening is whether or not the Board supports his decision that "Mark's Guns has complied with the provisions and conditions of their site plan approved March 19, 1986, and is not in violation of the Boone County Zoning Regulations"; or if the Board will overturn Mr. Newton's decision based on evidence and information to be presented at this meeting. Mr. Newton discussed the research, considerations, and findings upon which his decision was based, (See Staff report and attachments). Mr. Newton stated that the Board must consider the question, "Is the activity of Mark's Guns a public nuisance?". He clarified a "public" vs. a "private" nuisance and stated that, in his opinion as Zoning Administrator, the activity of Mark's Guns does not constitute a "public nuisance".

Chairman Holland asked if there was anyone present representing the applicant who wished to speak.

Mr. Mike Sutton, an attorney, stated that he was representing Mr. Lohre. He added that Mr. Daniel Martin, an acoustical consultant, was also present, at Mr. Lohre's request.

Mr. Terry Lohre, the applicant, presented a copy of the plat of the area and noted the location of his property, Mark's Guns, and various adjacent properties. He stated that he had purchased a lot in 1967 and built his present home on the lot in 1969. He said that he had been assured, prior to purchasing additional lots in the autumn of 1986, that the noise level of Mark's Guns would be controlled. He stated that his attorney had contacted the Planning and Zoning Commission regarding the noise and had been advised that the owners would be contacted. The owner had agreed to make modifications to reduce the noise level and Mr. Lohre was advised that their operating license would be revoked if they did not comply.

Chairman Holland asked Mr. Lohre why he felt this was a public nuisance.

Mr. Lohre stated that he had petitions indicating that 27 people still complain about the noise, despite the modifications which have been made. He added that he cannot proceed with his plans to develop a four-acre parcel of land he owns adjacent to the area because of the noise level.

Chairman Holland asked Mr. Lohre why this is a public nuisance.

Mr. Sutton replied that Mr. Lohre also owns the property rented to Mr. Barton, who also complains about the noise. He added that they also have the signed petitions. He stated that the majority of the noise is coming from the rear of the building and the people living behind Mark's Guns are most affected.

Mr. Daniel Martin, an acoustical consultant, distributed copies to the Board members of a report he had made regarding his evaluation of the noise level since the modifications to the structure were made. Mr. Martin indicated his credentials and noted other parties for whom he had performed similar work. Mr. Martin stated that there is no figure in the Zoning Regulations indicating the decibel level which constitutes a nuisance. He stated that the Decibel Scale ranges from 0 to 120 and added that the 120 level would hurt the ears. Mr. Martin discussed the readings he had taken at the site, indicating distance from the site and background noise among the considerations which affect the readings. He stated that he had not been inside the building and had been ordered off the site. Mr. Martin commented on possible modifications which could be made to affect the noise level.

Mr. Newton discussed the decibel readings taken by the Staff, and noted the readings which he had personally made. Mr. Newton added that the readings are difficult to understand and, for reference, noted that his voice would be in the 60's range.

Mr. Daniel Martin added that normal speaking voice is approximately 74 decibels. At this time, Mr. Martin played a tape which he had made of the sounds coming from Mark's Guns. He noted that the readings indicated on the tape could be affected by weather, the acoustics of the meeting room, and other factors.

Mr. White indicated that he had visited the site. He stated that he did not hear shots at Mr. Lohre's house or at his son's house. Mr. White stated that Mr. Lohre's son had advised him that the shots could be heard only at certain times.

Mr. Sutton asked Mr. Daniel Martin what suggestions he could make to the owners to further reduce the noise.

Mr. Daniel Martin stated that he had not been permitted to examine the premises and made suggestions of a general nature.

Chairman Holland asked if there were any questions from the Board or if anyone else wished to speak regarding this issue.

Mrs. Terry Lohre, the applicant's wife, stated that the gunshots are a disturbance to her and added that Mark's Guns has changed the character of the neighborhood.

Mr. Lohre's son, Doug, stated that he had told Mr. White that the noise was highly aggravating. He noted that people get used to the noise of planes going overhead, but that a gunshot is an abrupt sound and more disturbing.

Mr. Gary Barton, a resident of Glenrose Avenue, stated that he rented his home from Mr. Lohre. Mr. Barton stated that he had made a list of the dates and times that he has been disturbed by the gunshots with his windows closed. He said that complaints regarding the noise had not really ceased, but that they were waiting for the test results and to see what the Board of Adjustment would do.

Mrs. Gant stated that she lives at the end of Glenrose Avenue and the noise is driving her crazy.

Mr. David Martin, an attorney representing the owners of Mark's Guns, asked Mr. Lohre for further clarification of several of the points he had made. He asked Mr. Lohre why he had sent people into Mark's Guns to fire shots while readings were taken outside. Mr. Martin asked why the readings could not have been taken based on regular customers firing shots. Mr. Martin also raised questions regarding the calibre of weapons fired for the readings, indicating that they were greater than the normal calibre fired in the establishment. Mr. Martin asked if Mr. Lohre had created an artificial noise situation.

Mr. Lohre replied that he had provided the gunshots because he had no control over whether or not there would be firing at the time Mr. Daniel Martin came to the site. Mr. Sutton added that the problem is the nature of the sound and the high decibel readings.

Mr. David Martin then asked Mr. Daniel Martin, the acoustical consultant, for clarification of several of the points made by him. Mr. David Martin asked if Mr. Daniel Martin was being paid by Mr. Lohre and also asked questions regarding his credentials as an "expert". He questioned the conditions under which the recording presented by Mr. Daniel Martin was made.

Mr. Daniel Martin indicated that he was being paid by Mr. Lohre and commented on the tape recording which he had presented.

Mr. Kevin McGehee, President of Mark's Guns, Inc., stated that the firing range is an accessory use. He noted the hours they are open. He stated that he has tried to cooperate with all the requests of the Planning and Zoning Commission and the City of Florence. He noted his desire to get along with the officials, the cities, and the public. He said that he has been told that he is not in violation of the Site Plan, but is still getting complaints from Mr. Lohre. He read a letter from the Assistant Chief of Police, written in behalf of the Chief, indicating that they were not aware of any problems since the measures were taken to control the noise level. He stated that he had contacted several adjacent property owners and they are not bothered by the noise. He indicated that some of the signatures on Mr. Lohre's petition are those of children. Mr. McGehee added that Mr. Lohre could never be satisfied and that Mr. Lohre is harassing him because he has been unable to purchase his property.

Mr. Sutton asked Mr. McGehee if the noise primarily comes from the rear quarter of the building and why he had not inquired of the residents to the rear of the property if they were bothered by the noise.

Mr. McGehee stated that the noise comes from all different areas, not just the rear. He stated that he did not question neighbors to the rear because those people had friendly relations with Mr. Lohre and he did not know them.

Mrs. Lohre commented that there were no signatures by children on the petitions.

Following discussion, Chairman Holland moved that the Board uphold the decision made by Mr. Newton -- this is not a public nuisance. Mr. Ashcraft seconded the motion.


Chairman Holland asked for a roll call vote on the motion which found Mr. Ashcraft, Chairman Holland, Ms. Lanigan and Mr. White in favor. The motion carried unanimously.

There being no further business to come before the Board, Chairman Holland moved, seconded by Mr. White, that the meeting be adjourned. The motion carried unanimously and the meeting was adjourned at 10:40 P.M..



Charles Holland,
CHAIRMAN

Attest:



Jan Hancock,
RECORDING CLERK