



ORDINANCE 2024-30

AN ORDINANCE ACCEPTING THE ANNEXATION OF 1.802 ACRES, MORE OR LESS, FROM LIBERTY TOWNSHIP TO THE CITY OF POWELL (PETITIONER: LEHNER COMPANY, LLC).

WHEREAS, An annexation petition was filed with the Board of Delaware County Commissioners for annexation of 1.802 acres, more or less, to the City of Powell by Stephen D. Martin, agent for the petitioner; and

WHEREAS, The Board of Commissioners of Delaware County conducted a proceeding and approved the annexation petition on June 17, 2024; and

WHEREAS, More than sixty (60) days have elapsed from the date of filing of the transcript of such approval by the Board of Delaware County Commissioners with the City Clerk.

NOW THEREFORE BE IT ORDAINED BY THE CITY OF POWELL, COUNTY OF DELAWARE, STATE OF OHIO AS FOLLOWS:

Section 1: That the proposed annexation, as submitted by Stephen D. Martin, Agent for the Petitioner, which petition was filed with the Board of County Commissioners of Delaware County, Ohio on May 20, 2024, and which petition prayed for the annexation to the City of Powell of certain territory adjacent thereto and hereinafter described, which petition was approved for annexation to the City of Powell by the Board of County commissioners on June 17, 2024, be, and hereby is, accepted. The territory annexed hereby is described in the legal description attached hereto as Exhibit "A" and made a part hereof as though fully rewritten herein. The certified transcript of proceedings for annexation with an accurate map of the territory, together with the petition for annexation and other papers relating to the proceedings thereto of the County Commissioners are all on file with the Clerk of the City of Powell and have been for more than 60 days.

Section 2: That the Clerk be, and hereby is, authorized and directed to make three copies of this Ordinance, to each of which shall be attached a copy of the transcript of proceedings of the Board of County Commissioners relating thereto and a certificate as to the correctness thereof. The Clerk shall then forthwith deliver one copy to the County Auditor, one copy to the County Auditor, one copy to the County Recorder, and one copy to the Secretary of State, and shall filed notice of this annexation with the Board of Elections within thirty days after it becomes effective.

Section 3: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of Council and that all deliberations of Council and any of the decision making bodies of the City of Powell which resulted in such formal actions were in meetings open to the public in compliance with all legal requirements of the City of Powell, Delaware County, Ohio.

Section 4: That this Ordinance shall take effect on the earliest period allowed by law.



Tom Counts
Mayor

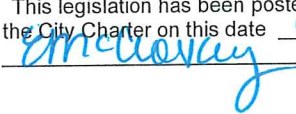
9/3/24

Date

 9/3/24

Elaine McCloskey
City Clerk

EFFECTIVE DATE: October 3, 2024

This legislation has been posted in accordance with
the City Charter on this date 9/14/2024
 City Clerk

0128851.0615531 4859-3633-3271v2

BEFORE THE BOARD OF COMMISSIONERS
OF DELAWARE COUNTY OHIO

IN RE:

Annexation of 1.802 Acres from Liberty Township to The City of Powell
Filed May 20, 2024
Petitioner Lehner Company, LLC

PROOF OF SERVICE

Now comes Stephen D. Martin as Agent for Petitioner Lehner Company, LLC (the "Petitioner") and hereby states that on May 20, 2024 there was served a copy of the Expedited Type II Petition for Annexation (Section 709.023) to the City of Powell of 1.802 Acres More or Less, From Liberty Township, Delaware, Ohio filed on May 20, 2024 (the "Petition") by the undersigned Agent for Petitioner on each of: (1) the adjacent property owners listed in Exhibit C to the Petition and (2) by certified mail, return receipt requested, on Elaine McCloskey, Clerk of Council of the, City of Powell and on Rick Karr, Fiscal Officer of, Liberty Township.

Date 5/24/24



Stephen D. Martin
Agent for Petitioner
Lehner Company, LLC



Delaware County Commissioners

Jeff Benton
Barb Lewis
Gary Merrell

County Administrator
Tracie Davies

Deputy Administrators
Dawn Huston
Aric Hochstettler

Clerk to the Commissioners
Jennifer Walraven

June 18, 2024

City of Powell
Attn: Elaine McCloskey
Clerk of Council
47 Hall Street
Powell, Ohio 43065

RE: Annexation of 1.802 Acres of Land in the Township of Liberty and the Township to the City of Powell

Ms. McCloskey:

The Delaware County Commissioners in Regular Session on June 17, 2024 adopted a Resolution granting Prayer of Petition for Annexation of 1.802 Acres of Land in the Township of Liberty to the City of Powell.

I am herewith forwarding a certified copy of the Commissioners' Journal Resolution 24-483. and a copy of the annexation Petition.

Sincerely,

Jennifer M. Walraven
Clerk to the Board of Commissioners Delaware County
91 N. Sandusky Street P.O. Box 8006
Delaware, OH 43015

740-833-2108 Delaware County Commissioners, The Historic Courthouse, 91 North Sandusky Street, Delaware, Ohio 43015

PHONE: (740) 833-2100 FAX: (740) 833-2099 WEB: www.co.delaware.oh.us

FACEBOOK: @DelawareCountyOhio TWITTER: @DelawareCoOhio INSTAGRAM: @delawarecoohio



Delaware County Commissioners

Jeff Benton
Barb Lewis
Gary Merrell

County Administrator
Tracie Davies

Deputy Administrators
Dawn Huston
Aric Hochstettler

Clerk to the Commissioners
Jennifer Walraven

RESOLUTION NO. 24-483

IN THE MATTER OF GRANTING ANNEXATION PETITION FROM AGENT FOR THE PETITIONER, STEPHEN D. MARTIN, ESQ., ATTORNEY-AT-LAW, REQUESTING ANNEXATION OF 1.802 ACRES OF LAND IN LIBERTY TOWNSHIP TO THE CITY OF POWELL:

It was moved by Mrs. Lewis, seconded by Mr. Merrell, to approve the following resolution:

WHEREAS, on May 20, 2024, the Clerk to the Board of the Delaware County Commissioners received an annexation petition filed by Stephen D. Martin, Attorney-at-Law, agent for the petitioners, requesting annexation of 1.802 acres, more or less, from Liberty Township to the City of Powell; and

WHEREAS, pursuant to section 709.023 of the Revised Code, if the Municipality or Township does not file an objection within 25 days after filing of the annexation petition, the Board at its next regular session shall enter upon its journal a resolution granting the proposed annexation; and

WHEREAS, 25 days have passed and the Clerk of the Board has not received an objection from the City of Powell or the Township of Liberty;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners grants the petition requesting annexation of 1.802 acres, more or less, from Liberty Township to the City of Powell.

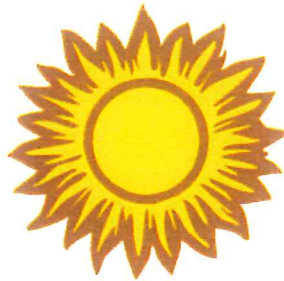
Vote on Motion Mrs. Lewis Aye Mr. Merrell Aye Mr. Benton Absent

I, Jennifer Walraven, Clerk to the Board of County Commissioners hereby certify that the foregoing is a true and correct copy of a resolution of the Board of County Commissioners of Delaware County duly adopted on June 17, 2024, and appearing upon the official records of said Board.

Jennifer Walraven, Clerk to Commissioners

Absent
Jeff Benton
County Commissioner

Barb Lewis
County Commissioner
Gary Merrell
County Commissioner



Powell
— OHIO —

RESOLUTION CERTIFICATION

I, Elaine McCloskey, being the duly appointed City Clerk of the City of Powell, Delaware, County, Ohio, do hereby certify that the attached is a true, complete, and correct copy of Resolution No. 2024-22, entitled, “ **A RESOLUTION INDICATING WHAT SERVICES THE CITY OF POWELL WILL PROVIDE 1.802 ±ACRES OF LAND, LOCATED IN LIBERTY TOWNSHIP, DELAWARE COUNTY, OHIO, IF SAID PROPERTY IS HEREAFTER ANNEXED TO THE CITY OF POWELL, OHIO AND TO PROVIDE FOR BUFFER REQUIREMENTS.**” and the corresponding Exhibit “A” adopted on June 4, 2024, by Powell City Council.

Elaine McCloskey

6/4/2024

Elaine McCloskey
City Clerk

Date

RECEIVED
2024 JUN -6 PM 12:46
DELAWARE COUNTY
OFFICIALS

In accordance with Powell City Charter Resolution No. 2024-22, will be posted at the Village Green Municipal Building, 47 Hall Street, Powell, Ohio from June 5, 2024 until December June 19, 2024 and on the City website at www.cityofpowell.us.



RESOLUTION 2024-22

A RESOLUTION INDICATING WHAT SERVICES THE CITY OF POWELL WILL PROVIDE 1.802+/-ACRES OF LAND, LOCATED IN LIBERTY TOWNSHIP, DELAWARE COUNTY, OHIO, IF SAID PROPERTY IS HEREAFTER ANNEXED TO THE CITY OF POWELL, OHIO AND TO PROVIDE FOR BUFFER REQUIREMENTS.

WHEREAS, on May 20, 2024, pursuant to Ohio Revised Code Sections 709.02 through 709.11, Stephen D. Martin, Esq., as agent for the property owner Lehner Company LLC, filed a Petition with the Delaware County Commissioners seeking annexation of 1.802+/- acres, along Rutherford Road, contiguous to the City of Powell, a copy of which is attached hereto as Exhibit "A," notice of which will be duly served upon the City of Powell as prescribed by law; and

WHEREAS, Ohio Revised Code Section 709.023(C) provides that within twenty (20) days after the date that the petition is filed, the municipal corporation to which annexation is sought shall adopt a resolution stating what services the municipal corporation will provide to the territory seeking annexation and an approximate date by which it will provide those services should the municipal corporation annex the territory; and

WHEREAS, Ohio Revised Code Section 709.023(C) also provides that within that same twenty (20) days period, a municipal corporation shall adopt a resolution stating that if the territory is annexed and becomes subject to zoning by the municipal corporation and that if the municipal corporation's zoning permits uses in the annexed territory that the municipal corporation determines are clearly incompatible with the uses permitted under current county or township zoning regulations in the adjacent land remaining in the township from which the territory was annexed, the municipal corporation shall require, in the zoning ordinance permitting the incompatible uses, the owner of the annexed territory to provide a buffer separating the use of the annexed territory and the adjacent land remaining within the township.

NOW THEREFORE BE IT RESOLVED BY THE CITY OF POWELL, DELAWARE COUNTY, OHIO AS FOLLOWS:

Section 1: That upon annexation to the City of Powell of the 1.802+/- acres along Rutherford Road owned by Lehner Company, LLC, and described and delineated on the attached Exhibit "A" the City will provide the full range of available municipal services consistent with those services available to the existing residents of, and to the property within, the City of Powell, including but not limited to police protection, street maintenance, refuse collections via private contract, planning and zoning, and parks and recreation, all of which can be provided immediately upon the effective date of the annexation as provided by law. Should it be determined that as a result of the annexation, the boundary line between the township and the City divides or segments a street or highway so as to create a road maintenance problem for the Village, as a condition of annexation, the City shall assume the maintenance of that street or highway or otherwise correct the problem.

Section 2: If the Property is annexed and becomes subject to the City of Powell zoning and the City zoning permits uses in the annexed territory that the City determines are clearly incompatible with the uses permitted under applicable county or township zoning regulations in effect at the time of filing of the petition on the land adjacent to the annexed territory remaining in the unincorporated area of the Township, then the City will require the owner of the annexed territory to provide a buffer separating the use of the annexed territory and the adjacent land remaining within the township.


Section 3: The Clerk of Council is hereby directed to forward and file certified copies of this Resolution with the Delaware County Board of Commissioners immediately upon execution and to furnish a copy to the Agent for Petitioner for the annexation to insure the statutory requirement is met within twenty (20) days following the date that the petition was filed.

Section 4: This Resolution shall be in full force and effect immediately upon adoption.



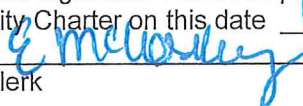
Tom Counts
Mayor

6/4/24
Date



Elaine McCloskey
City Clerk

EFFECTIVE DATE: June 4, 2024

This legislation has been posted in accordance with the City Charter on this date 6/5/2024


City Clerk



Manos, Martin & Pergram Co., LPA

Attorneys at Law

50 North Sandusky Street
Delaware, Ohio 43015-1926
Telephone 740-363-1313
Fax 740-363-1314

Peter J. Manos
(1922-2004)

May 20, 2024

City of Powell
47 Hall Street
Powell, OH 43065

RE: Notice of Filing of Expedited Type II Annexation Petition:
1.802 Acres more or less, commonly known as 3164 Rutherford Road, Powell, OH 43065

Dear Adjacent Property Owner:

Pursuant to Ohio Revised Code 709.023 (B), notice is hereby given to you as an adjacent property owner to 1.802 Acres, more or less located in Liberty Township, Delaware said Property commonly known as 3164 Rutherford Road, Powell, OH 43065 and more fully described and depicted in, respectively, Exhibits A and B to the enclosed Annexation Petition that the owner said Property, Lehner Company, LLC caused to be filed on May 20, 2024 at 1:00 pm with the Board of Commissioners of Delaware County, Ohio.

Sincerely,



Stephen D. Martin,
Agent for Petitioner Lehner Company, LLC

Enclosure

cc Lehner Company, LLC

RECEIVED
MAY 23 2024
BY:

Manos, Martin & Pergram Co., LPA

Attorneys at Law

50 North Sandusky Street
Delaware, Ohio 43015-1926
Telephone 740-363-1313
Fax 740-363-1314

Peter J. Manos
(1922-2004)

May 20, 2024

VIA CERTIFIED MAIL
RRR

Ms. Elaine McCloskey
Clerk of Council
47 Hall Street
Powell, OH 43065

RE: Notice of Filing of Expedited Type II Annexation Petition:
1.802 Acres more or less, commonly known as 3164 Rutherford Road, Powell, OH 43065

Dear Ms. McCloskey:

Pursuant to Ohio Revised Code 709.023 (B), notice is hereby given that on May 20, 2024 at 1:00 pm there was filed on behalf of Lehner Company, LLC as Petitioner the enclosed annexation petition with respect to 1.802 Acres, more or less located in Liberty Township, Delaware County, Ohio commonly known as 3164 Rutherford Road, Powell, OH 43065 and more fully described and depicted in, respectively, Exhibits A and B to the enclosed annexation petition.

Sincerely,



Stephen D. Martin,
Agent for Petitioner Lehner Company, LLC

Enclosure

cc Lehner Company, LLC

***EXPEDITED TYPE II PETITION FOR ANNEXATION (SECTION 709.023)
TO THE CITY OF POWELL, OF 1.802 ACRES, MORE OR LESS,
FROM LIBERTY TOWNSHIP, DELAWARE COUNTY, OHIO***

***TO THE BOARD OF COUNTY COMMISSIONERS
OF DELAWARE COUNTY, OHIO***

The undersigned Petitioner, being the SOLE OWNER of the REAL ESTATE in the following described territory consisting of 1.802 acres, more or less, contiguous to the City of Powell and which will create no island of unincorporated area, does hereby pray that said territory be annexed to the City of Powell according to the statutes of the State of Ohio.

A full and accurate description and a plat, prepared by Glenn Halmbacher, PE, PS, Registered Surveyor No. S-7658, of said territory to be annexed are attached hereto as Exhibit "A" and "B" respectively and made part hereof. The territory to be annexed is contiguous to the City of Powell along the majority of its perimeter.

Stephen D. Martin, Esq., attorney at law, is hereby appointed agent for the undersigned Petitioner as required by Ohio Rev. Code § 709.02(C)(3), with full power and authority hereby granted to said agent to amend, alter, change, correct, withdraw, refile, substitute, compromise, increase, or delete the area, to do any and all things essential thereto, and to take any action necessary for obtaining the granting of this Petition, with specific authorization to correct any discrepancy or mistake noted by the Delaware County Engineer in examination of the Petition or the Exhibits to the Petition. Any such amendment shall be made by the presentation of amended description and map to the Board of County Commissioners on, before, or after the date set for hearing on this Petition. Said amendment, alteration, change, correction, withdrawal, refile, substitution, compromise, increase, or deletion, or other things or action for granting of this Petition shall be made in the Petition, description, and plat by said agent without further expressed consent of the Petitioner.

The City of Powell will pass and submit to the Board of Commissioners of Delaware County a resolution of services within twenty (20) days of the date of the filing of this Petition and file same with the Clerk of the Board of Commissioners of Delaware County, Ohio.

AGENT:



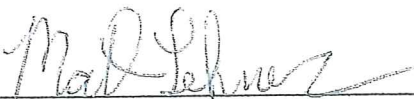
Stephen D. Martin, Esq.
Manos, Martin & Pergram Co., LPA
50 North Sandusky Street
Delaware, OH 43015-1926
Phone: (740) 363-1313
Fax: (740) 362-3288
smartin@mmpdlaw.com

RECEIVED
2024 MAY 20 PM 12:58
DELAWARE COUNTY
COMMISSIONERS

WHOMEVER SIGNS THIS PETITION EXPRESSLY WAIVES THEIR RIGHT TO APPEAL IN LAW OR EQUITY FROM THE BOARD OF COUNTY COMMISSIONERS' ENTRY OF ANY RESOLUTION PERTAINING TO THIS SPECIAL ANNEXATION PROCEDURE, ALTHOUGH A WRIT OF MANDAMUS MAY BE SOUGHT TO COMPEL THE BOARD TO PERFORM ITS DUTIES REQUIRED BY LAW FOR THIS SPECIAL ANNEXATION PROCEDURE.

PETITIONER:

Lehner Company LLC,
an Ohio Limited Liability Company

By  _____

Matthew Lehner, Sole Member
2505 Isabella Blue Drive
Powell, OH 43065-6121
Phone: (614) 226-6405
lehner.24@gmail.com

EXHIBITS

- Exhibit A Legal Description for Lehner Company, LLC Tract – 1.802 Acres
- Exhibit B Lehner Company, LLC Survey of 1.802 Acres (Plat Map)
- Exhibit C Adjacent Parcel Owner List

EXHIBIT A

EXPEDITED TYPE 2
ANNEXATION LEGAL DESCRIPTION
ORC REF. #709.021 & #709.03

For
Lehner Company LLC Tract – 1.802 Acres

Being a part of Farm Lot 20, Section 1, Township 3 North, Range 19 West, United States Military Lands, Liberty Township, Delaware County, State of Ohio, conveyed to Lehner Company as O.R. Vol 2089/Pg 813, being more particularly described as follows:

BEGINNING at a RR spike found at the intersection of the centerline of Rutherford Road (Township Road 122) and the west line of Section 1, also being the west line of Farm Lot 20;

Thence along said centerline of said Rutherford Road **South 86°44'24" East a distance of 351.71 feet** to a RR spike found at the Southeast corner of a 0.399 acre tract conveyed to Christoff Land & Development LLC as O.R. Vol 1771/Pg 2516 and the **TRUE POINT OF BEGINNING**.

Thence leaving said centerline, along said the east line of said 0.399 acre tract, **North 03°07'53" East a distance of 235.41 feet** to a 3/4" iron pipe found (passing over a 3/4" iron pipe found at 25.00 feet) to the northeast corner of said 0.399 acre tract, being the south line of Woods of Powell North Phase 2 / Part 3 filed as O.R. Cab 4 /Slide 23 and Phase 1 filed as O.R. Cab 3/ Pg 674 and the City of Powell Corporation Line as established by Ordinance #2002-47;

Thence, along the south line of said Woods of Powell North and the City of Powell Corporation Line **South 86°41'21" East a distance of 333.63 feet** to a 3/4" iron pipe found (passing over a 5/8" inch pin "Pomeroy" found at 128.28 feet and 2.3' north, a 3/4" inch iron pipe "Hoy" found at 208.28 feet, and a 3/4" inch iron pipe "Hoy" found at 288.28 feet);

Thence, along the west line of said Woods of Powell North and the City of Powell Corporation Line **South 03°07'53" West a distance of 235.11 feet** to the centerline of said Rutherford Road and a RR spike found (passing over a 5/8" inch pin "Pomeroy" found at 35.00 feet, and a 3/4" iron pipe "EMH&T" found at 215.11 feet marking the end of the City of Powell Corporation Line),

Thence, along said centerline of Rutherford Road, **North 86°44'24" West a distance of 333.63 feet** to the **TRUE POINT OF BEGINNING**;

Containing 1.802 acres of land, more or less, subject to all legal highways and easement of record. All instruments and references in this description are records of Delaware County Recorder, Ohio.

This boundary survey is based upon a GPS field survey performed by Glenn Halmbacher, PS #7658 on April 21, 2024, utilizing Delaware County GPS control to establish the basis of bearings. All of Delaware County's GPS Control Monuments and GIS data are projected in Ohio State Plane Coordinates North Zone, NAD 83, and units are in US Survey Feet. The controlling monuments used were Delaware County GPS #97023, #97026, #97144, and #97145. All points indicated as set are 3/4" X 30" iron pins marked LS 7658, unless otherwise specified.

HALMBACHER ENGINEERING

Digitally signed by Glenn Halmbacher
DN: cn=Glenn Halmbacher, o=Halmbacher Engineering, ou, email=glennhalm@aol.com, c=US
Date: 2024.05.16 14:28:55 -04'00'



DELAWARE COUNTY ENGINEER, MAP ROOM
I hereby certify the within to be a true copy of the original on file in the Map Department.

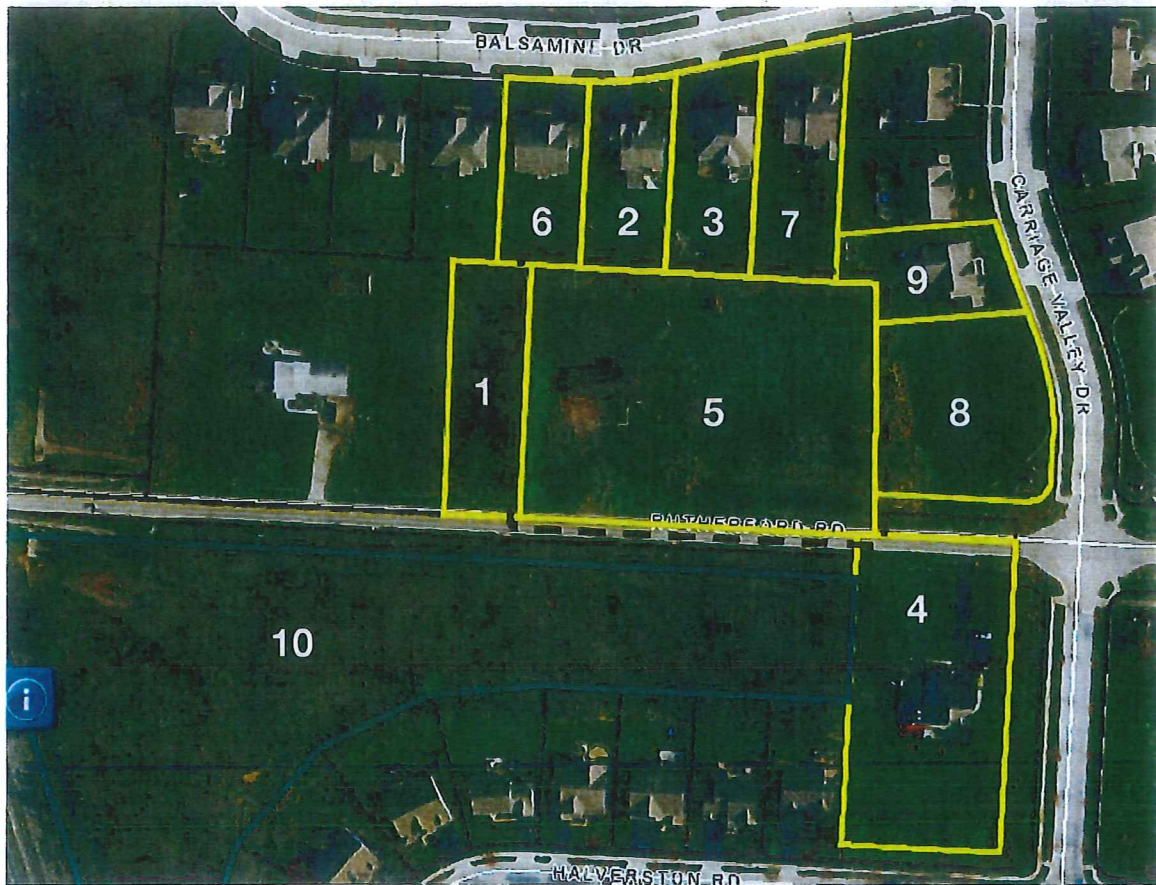
Rob Lectka

5-17-24

Glenn Halmbacher, PE, PS
Registered Surveyor #S-7658
Date

By Date

EXHIBIT C



Parcel Number	Owner Name	Address
1	CHRISTOFF LAND & DEVELOPMENT LLC	RUTHERFORD RD POWELL *
2	CUMMINS SHAD E & MELISSA L	235 BALSAMINE DR POWELL
3	DALTON JASON S & LINDSAY M	231 BALSAMINE DR POWELL
4	FRYE JENNIFER L & DIETRICH DENISE L	3101 RUTHERFORD RD POWELL
5	GOTTLIEB LINDA J	3164 RUTHERFORD RD POWELL
6	LUNKAD YASHDEEP & NIDHI	239 BALSAMINE DR POWELL
7	SACKETT MARK & CHRISTA	227 BALSAMINE DR POWELL
8	WOODS OF POWELL HOMEOWNERS ASSOCIATION INC	1025 CARRIAGE VALLEY DR POWELL
9	WRATHER JASON L & PHYLLIS A	1039 CARRIAGE VALLEY DR POWELL
10	CITY OF POWELL	CITY OF POWELL **

*102 W. Main St., Suite 507, New Albany, OH 43054

**47 Hall Street, Powell, OH 43065