



**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:**


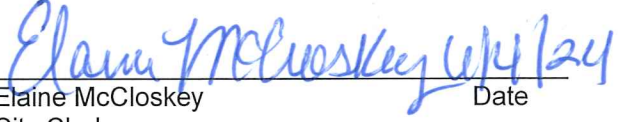
Section 1: That upon annexation to the City of Powell of the 1.802+/- acres along Rutherford Road owned by Lehner Company, LLC, and described and delineated on the attached Exhibit "A" the City will provide the full range of available municipal services consistent with those services available to the 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.

Resolution 2024-22

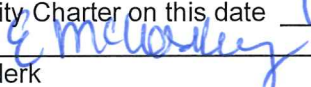
Section 2: If the Property is annexed and becomes subject to the City of Powell zoning and the City zoning permits uses in the annexed territory that the City determines are clearly incompatible with the uses permitted under applicable county or township zoning regulations in effect at the time of filing 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.

	<u>6/4/24</u>		<u>6/4/24</u>
Tom Counts	Date	Elaine McCloskey	Date
Mayor		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

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](mailto:smartin@mmpdlaw.com)

RECEIVED  
2024 MAY 20 PM 1:00  
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](mailto: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 -0400'



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	31913302016000 CHRISTOFF LAND & DEVELOPMENT LLC	RUTHERFORD RD POWELL *
2	31913305027000 CUMMINS SHAD E & MELISSA L	235 BALSAMINE DR POWELL
3	31913305026000 DALTON JASON S & LINDSAY M	231 BALSAMINE DR POWELL
4	31942202002000 FRYE JENNIFER L & DIETRICH DENISE L	3101 RUTHERFORD RD POWELL
5	31913302015000 GOTTLIEB LINDA J	3164 RUTHERFORD RD POWELL
6	31913305028000 LUNKAD YASHDEEP & NIDHI	239 BALSAMINE DR POWELL
7	31913305025000 SACKETT MARK & CHRISTA	227 BALSAMINE DR POWELL
8	31913305021000 WOODS OF POWELL HOMEOWNERS ASSOCIATION INC	1025 CARRIAGE VALLEY DR POWELL
9	31913305022000 WRATHER JASON L & PHYLLIS A	1039 CARRIAGE VALLEY DR POWELL
10	31942208047000 CITY OF POWELL	CITY OF POWELL **

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

\*\*47 Hall Street, Powell, OH 43065

**REFERENCE DEEDS & PLATS**

- DEED TO LINDA J. GOTTLIEB, O.R. VOL 577/PG 473 -1.800 AC
- SURVEY BY EMH&T FILED AS PLAT 19-3-1-058 SURVEY DATED 05/20/2003.
- WOODS OF POWELL NORTH PHASE 1 BY EMH&T - FILED IN CAB 3/SLIDE 674 DATED 12/06/2005.
- WOODS OF POWELL NORTH PHASE 2 PART 3 BY EMH&T - FILED IN CAB 4/SLIDE 23 DATED 08/22/2012.

**BASIS OF BEARINGS**

THIS BOUNDARY SURVEY IS BASED UPON A GPS FIELD SURVEY PERFORMED 04/21/2024, 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 NORTH, NAD 83, UNITS ARE IN US SURVEY FEET. THE CONTROLLING MONUMENTS USED WERE DELAWARE COUNTY GPS #97023, #97026, #97144, #97145.

**DELAWARE CO ENGINEER**

MAP DEPARTMENT

I HEREBY CERTIFY THE WITHIN TO BE A TRUE COPY OF THE ORIGINAL ON FILE IN THE MAP DEPARTMENT.

BY *Rob Lectka*

DATE 5-17-24

**LEHNER COMPANY LLC**

ANNEXATION OF 1.802 ACRES

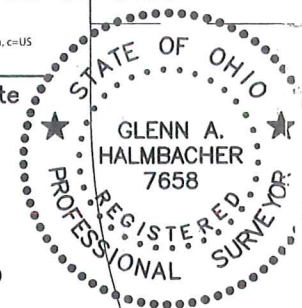
TO THE CITY OF POWELL

3164 RUTHERFORD ROAD, POWELL, OH 43065

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

GLENN HALMBACHER, PE, PS  
Registered Surveyor No. 7658

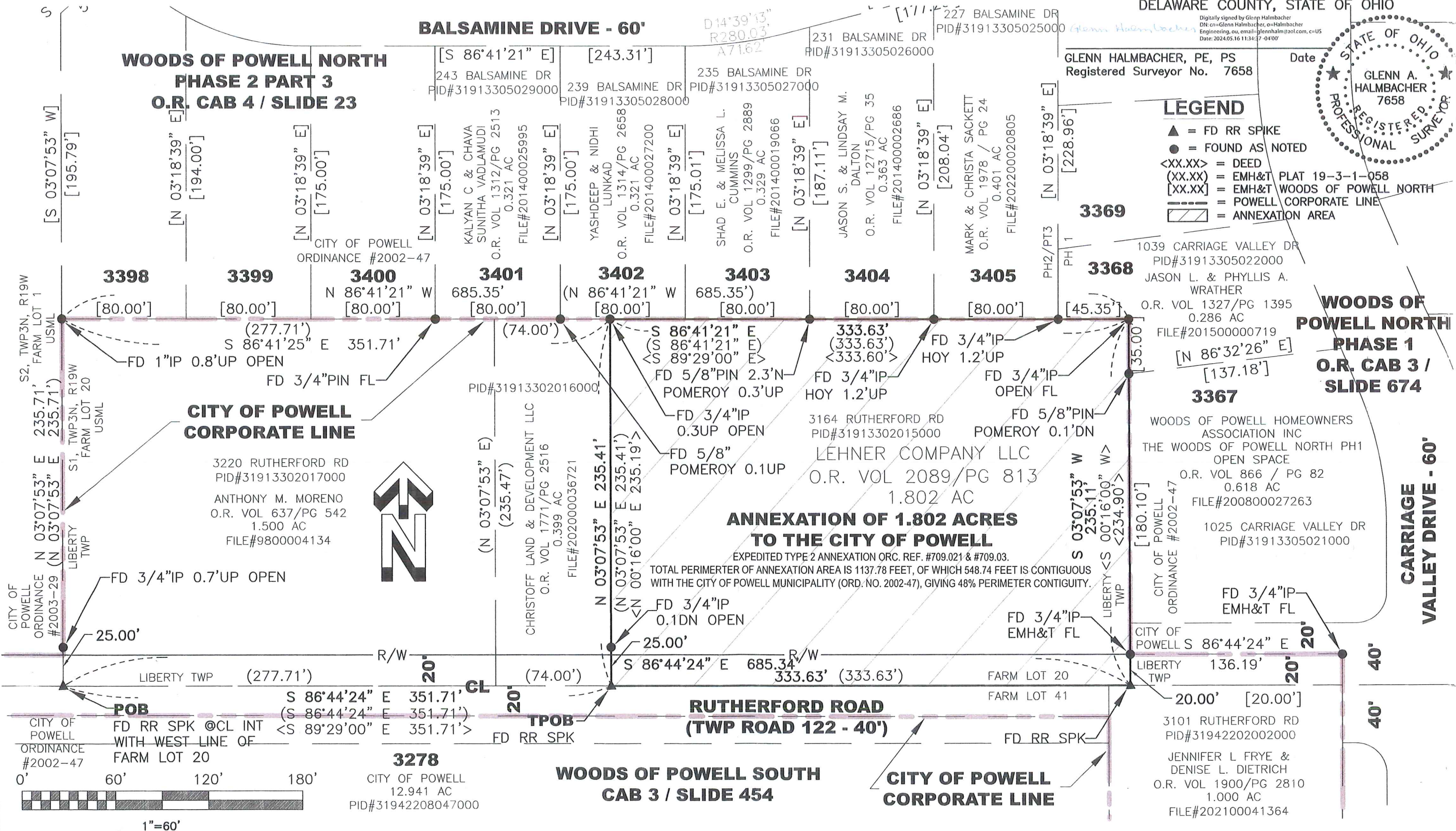
Date



**LEGEND**

- ▲ = FD RR SPIKE
- = FOUND AS NOTED
- <XX.XX> = DEED
- (XX.XX) = EMH&T PLAT 19-3-1-058
- [XX.XX] = EMH&T WOODS OF POWELL NORTH
- - - = POWELL CORPORATE LINE
- ▨ = ANNEXATION AREA

EXHIBIT B



NO.	DATE	INITIAL	REVISION DESCRIPTION

HALMBACHER ENGINEERING  
SITE PLANNING  
CIVIL ENGINEERING (614) 964-4086

LEHNER COMPANY LLC  
3164 RUTHERFORD ROAD, POWELL, OH 43065

ANNEXATION OF 1.802 ACRES  
TO THE CITY OF POWELL

PROJECT NO.  
11-23

1  
1