



LEGISLATIVE COVER MEMO

Introduction: March 18, 2024

Public Hearing: April 1, 2024

Effective Date: May 1, 2024

Agenda Item: **Ordinance 2024-03**

AN ORDINANCE TO VACATE A PORTION OF SOUTH AVENUE FROM CEDAR STREET TO THE NORFOLK SOUTHERN RAILROAD PURSUANT TO OHIO REVISED CODE (ORC), SECTION 723.04 AND MAINTAINING A PERMANENT PUBLIC EASEMENT THROUGH SAID VACATED RIGHT-OF-WAY PURSUANT TO ORC 723.041

Submitted by: Barry Conway, City Engineer

Scope/Description: Atlas Roofing Corporation has requested the vacation of a portion of the northern half of South Avenue (a paper street). Atlas owns the property that abuts both sides of the paper street. Certain City and other public utilities exist within this right-of-way. The City has no objection to vacating this portion of South Avenue, but a permanent public utility easement must be retained to ensure the continued maintenance and operation of utilities in the right-of-way.

Vote Required for Passage: Per Section 4.03 of the City Charter, following Council's hearing on the Ordinance, a majority vote of all Council members present shall be required for passage of the Ordinance.

Exhibits: Exhibit A – Legal description and survey of right-of-way proposed for vacation.

Recommendation: Approval

CITY OF FRANKLIN, OHIO
ORDINANCE 2024-03

AN ORDINANCE TO VACATE A PORTION OF SOUTH AVENUE FROM CEDAR STREET TO THE NORFOLK SOUTHERN RAILROAD PURSUANT TO OHIO REVISED CODE (ORC), SECTION 723.04 AND MAINTAINING A PERMANENT PUBLIC UTILITY EASEMENT THROUGH SAID VACATED RIGHT-OF-WAY PURSUANT TO ORC 723.041

WHEREAS, Atlas Roofing Corporation submitted to the City of Franklin, Ohio a petition (the "Petition") to vacate a portion of South Avenue from Cedar Street to the Norfolk Southern Railroad, as more particularly described in the legal description and survey of said right-of-way attached as Exhibit A to this Ordinance (the "Street"); and

WHEREAS, Atlas Roofing Corporation is the fee simple owner of the real property abutting both sides of the Street (more particularly described as Warren County Auditor's Parcel Nos. 02-04-256-001 and 02-04-257-003); and

WHEREAS, the Petition requests that the Street be transferred to Atlas Roofing Corporation upon its vacation; and

WHEREAS, Ohio Revised Code, Section 723.04 empowers the City Council of the City of Franklin, Ohio to pass an ordinance vacating the Street if Council is satisfied that good cause exists for such vacation, and the vacation will not be detrimental to the general interest; and

WHEREAS, the City of Franklin has no objection to vacating the Street and transferring the right-of-way to Atlas Roofing Corporation in accordance with the Petition request; provided there are certain public utilities located in the Street and, pursuant to Ohio Revised Code, Section 723.041, any affected public utility shall be deemed to have a permanent easement in such vacated Street for the purpose of maintaining, operating, renewing, reconstructing, and removing its respective utility facilities, and for purposes of access to said facilities.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Franklin, Ohio, a majority of members present concurring, that:

Section 1. City Council hereby finds and determines that good cause exists to vacate the Street, as requested in Atlas Roofing Corporation's Petition, and that said vacation will not be detrimental to the general interest.

Section 2. The Street is hereby vacated and transferred to Atlas Roofing Corporation (subject to the permanent easement rights described in Section 3 of this Ordinance).

Section 3. Certain public utilities are presently located in the Street and, pursuant to Ohio Revised Code, Section 723.041, any public utility affected by the Street vacation effected by this Ordinance shall be deemed to have a permanent easement in the vacated Street for the purpose of maintaining, operating, renewing, reconstructing, and removing its respective utility facilities, and for purposes of access to said facilities.

Section 4. It is hereby found that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code, and the Rules of Council.

Section 5. Pursuant to Section 4.04 of the City of Franklin Charter, this Ordinance shall be effective on May 1, 2024.

INTRODUCED: March 18, 2024

ADOPTED: April 1, 2024

ATTEST: _____
Khristi Dunn, Clerk of Council

APPROVED: _____
Brent Centers, Mayor

CERTIFICATE

I, the undersigned Clerk of Council for the Franklin City Council, do hereby certify that the foregoing is a true and correct copy of an Ordinance passed by that body on April 1, 2024.

Khristi Dunn, Clerk of Council

LEGAL DESCRIPTION
SOUTH AVENUE VACATION NORTH HALF

Situated in Section 4, Township 1 N, Range 5 E, City of Franklin, Franklin Township, Warren County, Ohio and being a Vacation of a portion of the northerly half of South Avenue as platted in Mackinaw Addition to the Village of Franklin, Plat Book 1, Page 199. All record references being to the Warren County Recorder's Office.

Beginning in a 5/8" Iron Pin Found in the intersection of the easterly right of way line of Cedar Street and the northerly right of way line of said South Avenue (30' RW) and being the TRUE BEGINNING POINT of the Vacation of a portion of the northerly half of South Avenue herein described; thence the following 4 courses:

1. In said northerly right of way line of South Avenue, South 62° 46' 43" East, 827.72 feet to a point located within a "stump in the westerly line of Pennsylvania Lines, LLC, a wholly owned subsidiary of Norfolk Southern Railway Company, Deed Book 1933, Page 695; thence
2. In said westerly line of Pennsylvania Lines, LLC, South 26° 30' 11" East, 25.35 feet to a 5/8" Iron Pin Set in the centerline of right of way line of said South Avenue; thence
3. In said centerline of right of way line of South Avenue, North 62° 46' 43" West, 848.15 feet to a 5/8" Iron Pin Set in said easterly right of way line of Cedar Street; thence
4. In said easterly right of way line of Cedar Street, North 27° 12' 53" East, 15.00 to the TRUE BEGINNING POINT of a portion of the Vacation of the northerly half of South Avenue herein described.

Containing 0.2885 acres.

Right of way as described hereon to be conveyed with Atlas Roofing Corporation, Official Record 2017-011179 (Parcel Two). Auditor's Parcel No. 02-04-256-001.

Bearings herein are based on Ohio State Plane Coordinate System, South Zone, North American Datum of 1983 (1986 Adjustment). Bearings derived from VRS Observations.

Iron Pins set consist of a 5/8" x 30" rebar with a plastic cap inscribed "FINN S-7181 OH."

This description was prepared by IBI Group, Cincinnati, Ohio by Patrick Finn, P.S. No. 7181, and is based on a field survey December, 2023.

LEGAL DESCRIPTION
SOUTH AVENUE VACATION SOUTH HALF

Situated in Section 4, Township 1 N, Range 5 E, City of Franklin, Franklin Township, Warren County, Ohio and being a Vacation of a portion of the southerly half of South Avenue as platted in Mackinaw Addition to the Village of Franklin, Plat Book 1, Page 199. All record references being to the Warren County Recorder's Office.

Beginning in a 5/8" Iron Pin Found in the intersection of the easterly right of way line of Cedar Street and the northerly right of way line of said South Avenue (30' RW); thence In said easterly right of way line of Cedar Street, South 27° 12' 53" West, 15.00 feet to a 5/8" Iron Pin Set in the centerline of right of way line of said South Avenue and being the TRUE BEGINNING POINT of the Vacation of a portion the southerly half of South Avenue herein described; thence the following 4 courses:

1. In said centerline of right of way line of said South Avenue, South 62° 46' 43" East, 848.15 feet to a 5/8" Iron Pin Set in the westerly line of Pennsylvania Lines, LLC, a wholly owned subsidiary of Norfolk Southern Railway Company, Deed Book 1933, Page 695; thence
2. In said westerly line of Pennsylvania Lines, LLC, South 26° 30' 11" East, 25.35 feet to a 5/8" Iron Pin Found in the southerly right of way line of said South Avenue; thence
3. In said southerly right of way line of South Avenue, North 62° 46' 43" West, 868.08 feet to a 5/8" Iron Pin Set in said easterly right of way line of Cedar Street; thence
4. In said easterly right of way line of Cedar Street, North 27° 12' 53" East, 15.00 to the TRUE BEGINNING POINT of the Vacation of a portion of the southerly half of South Avenue herein described.

Containing 0.2956 acres.

Right of way as described hereon to be conveyed with Atlas Roofing Corporation, Official Record 2017-011179 (Parcel One). Auditor's Parcel No. 02-04-257-003.

Bearings herein are based on Ohio State Plane Coordinate System, South Zone, North American Datum of 1983 (1986 Adjustment). Bearings derived from VRS Observations.

Iron Pins set consist of a 5/8" x 30" rebar with a plastic cap inscribed "FINN S-7181 OH."

This description was prepared by IBI Group, Cincinnati, Ohio by Patrick Finn, P.S. No. 7181, and is based on a field survey December, 2023.

LEGAL DESCRIPTION
SOUTH AVENUE VACATION TOTAL

Situated in Section 4, Township 1 N, Range 5 E, City of Franklin, Franklin Township, Warren County, Ohio and being a Vacation of a portion of South Avenue as platted in Mackinaw Addition to the Village of Franklin, Plat Book 1, Page 199. All record references being to the Warren County Recorder's Office.

Beginning in a 5/8" Iron Pin Found in the intersection of the easterly right of way line of Cedar Street and the northerly right of way line of said South Avenue (30' RW) and being the TRUE BEGINNING POINT of the Total Vacation herein described; thence the following 4 courses:

1. In said northerly right of way line of South Avenue, South 62° 46' 43" East, 827.72 feet to a point located within a "stump in the westerly line of Pennsylvania Lines, LLC, a wholly owned subsidiary of Norfolk Southern Railway Company, Deed Book 1933, Page 695; thence
2. In said westerly line of Pennsylvania Lines, LLC, South 26° 30' 11" East, 50.70 feet to a 5/8" Iron Pin Found in the southerly right of way line of said South Avenue; thence
3. In said southerly right of way line of South Avenue, North 62° 46' 43" West, 868.08 feet to a 5/8" Iron Pin Set in said easterly right of way line of Cedar Street; thence
4. In said easterly right of way line of Cedar Street, North 27° 12' 53" East, 30.00 to the TRUE BEGINNING POINT of the Total Vacation herein described.

Containing 0.5841 acres.

Bearings herein are based on Ohio State Plane Coordinate System, South Zone, North American Datum of 1983 (1986 Adjustment). Bearings derived from VRS Observations.

Iron Pins set consist of a 5/8" x 30" rebar with a plastic cap inscribed "FINN S-7181 OH."

This description was prepared by IBI Group, Cincinnati, Ohio by Patrick Finn, P.S. No. 7181, and is based on a field survey December, 2023.

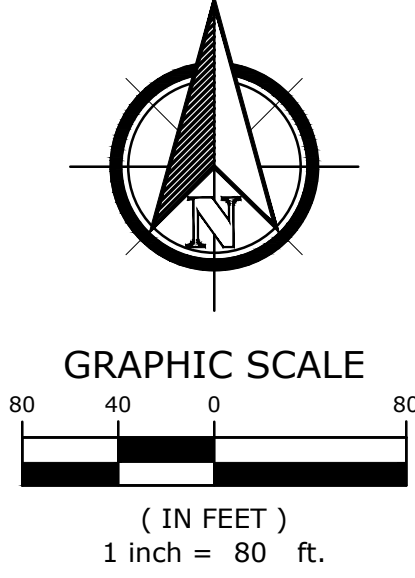
- LEGEND**
- 5/8" IRON PIN FOUND AS NOTED
 - MAG NAIL FOUND
 - 5/8" IRON PIN SET CAPPED "FINN-7181 OH"
 - MAG NAIL SET

VACATION PLAT
 0.5841 ACRES OF SOUTH AVENUE
 MACKINAW ADDITION TO THE VILLAGE OF FRANKLIN
 PLAT BOOK 1, PAGE 199
 SECTION 4, TOWN 1 N, RANGE 5 E
 CITY OF FRANKLIN, FRANKLIN TOWNSHIP
 WARREN COUNTY, OHIO

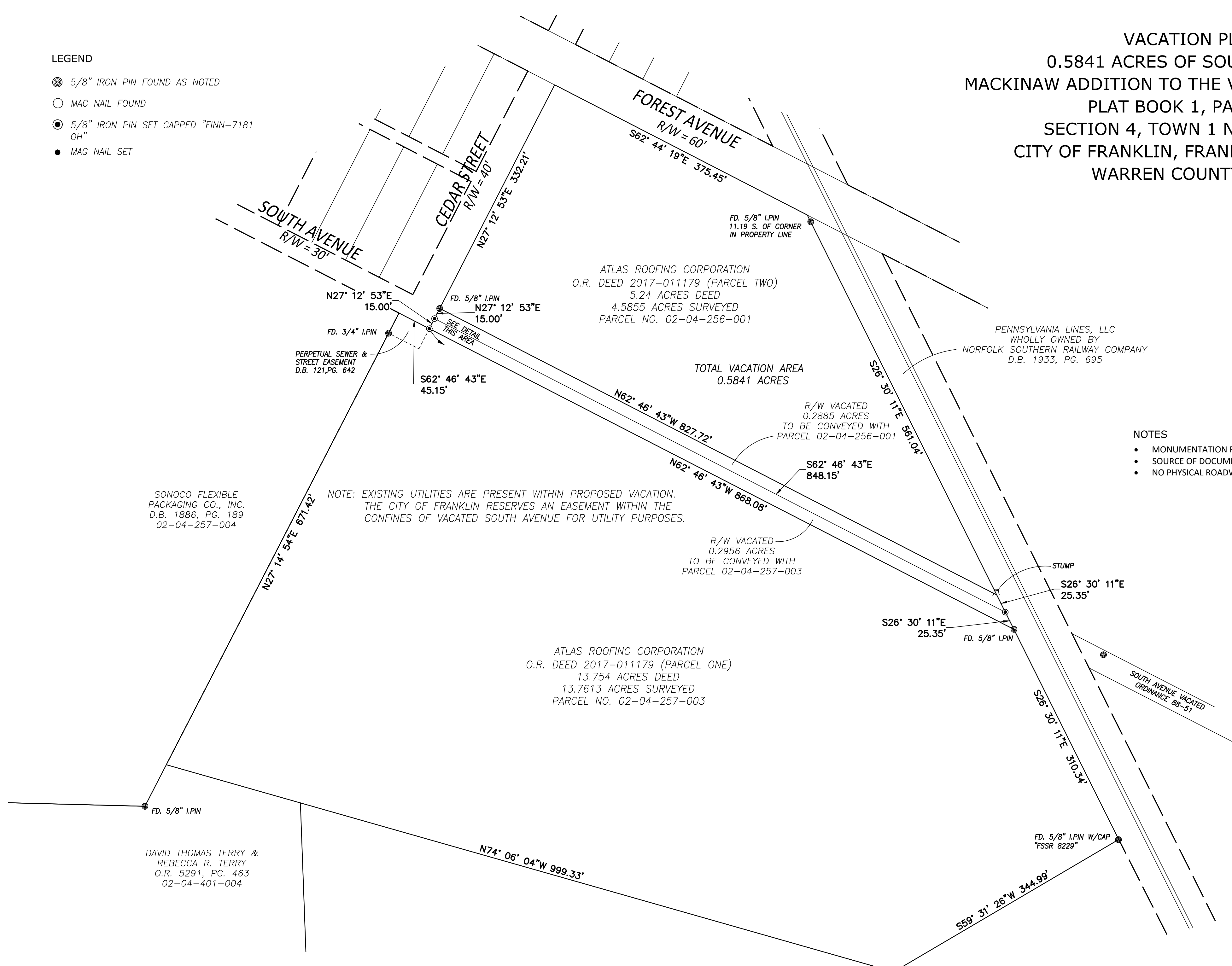


VICINITY MAP ~ N.T.S.

BEARINGS ARE BASED ON OHIO STATE PLANE COORDINATE SYSTEM, SOUTH ZONE DERIVED FROM VRS OBSERVATIONS.



ARCADIS
 23 TRIANGLE PARK DR
 SUITE 2300
 CINCINNATI, OHIO 45246
 (513) 942-3141
 www.arcadis.com

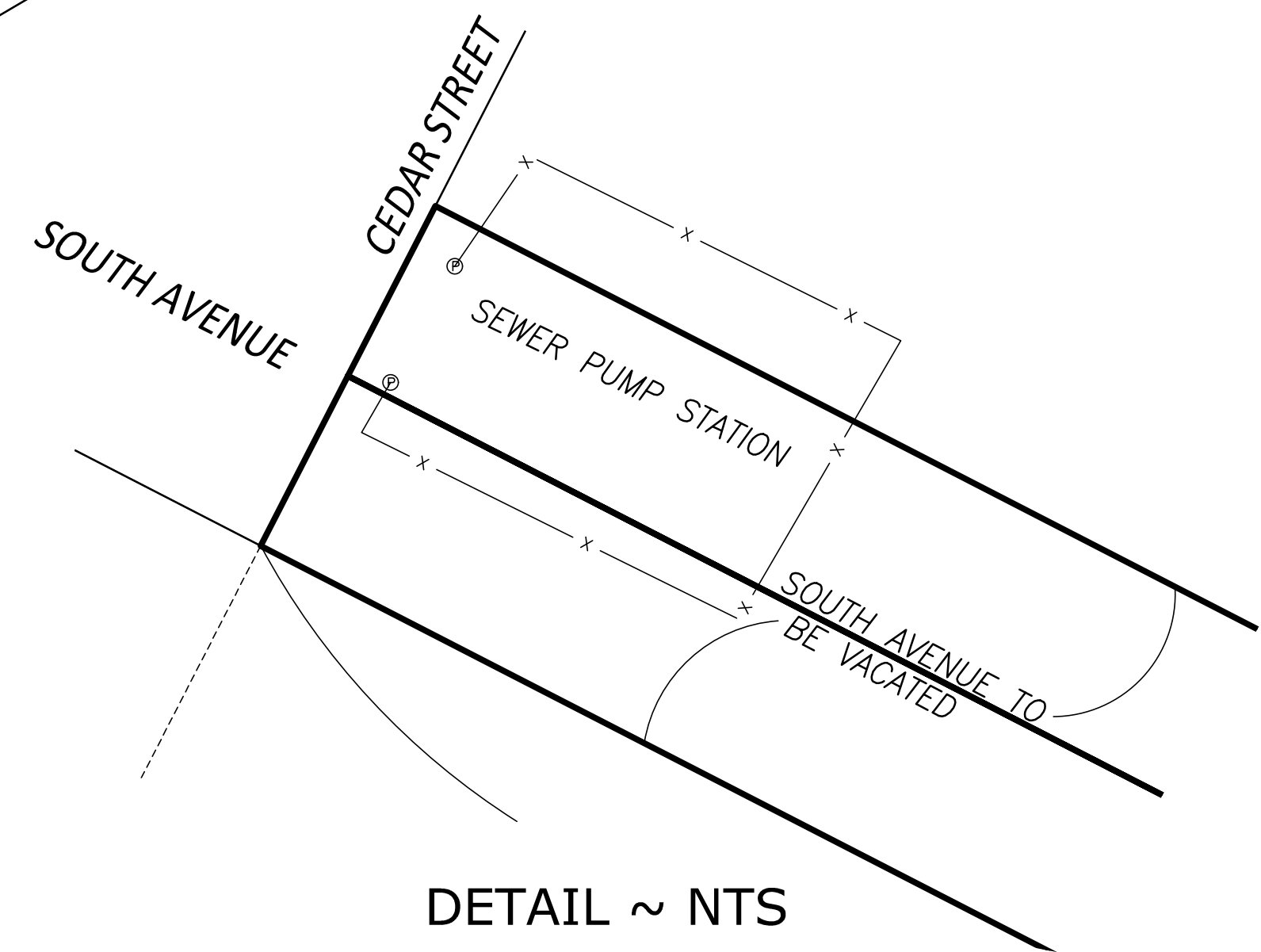


- NOTES**
- MONUMENTATION FOUND IN GOOD CONDITION
 - SOURCE OF DOCUMENTS USED AS SHOWN HEREON.
 - NO PHYSICAL ROADWAY PRESENT WITH VACATION AS SHOWN.

NOTE: EXISTING UTILITIES ARE PRESENT WITHIN PROPOSED VACATION. THE CITY OF FRANKLIN RESERVES AN EASEMENT WITHIN THE CONFINES OF VACATED SOUTH AVENUE FOR UTILITY PURPOSES.

NORTH 0.2885 ACRE CLOSURE
 North: 574913.3974' East: 1457066.6355'
 Segment #1 : Line
 Course: S62° 46' 43"E Length: 827.72'
 North: 574534.7762' East: 1457802.6777'
 Segment #2 : Line
 Course: S26° 30' 11"E Length: 25.35'
 North: 574512.0884' East: 1457813.9909'
 Segment #3 : Line
 Course: N62° 46' 43"W Length: 848.15'
 North: 574900.0582' East: 1457059.7752'
 Segment #4 : Line
 Course: N27° 12' 53"E Length: 15.00'
 North: 574913.3977' East: 1457066.6352'
 Perimeter: 1716.22' Area: 12569 Sq. Ft.
 Error Closure: 0.0004 Course: N60° 04' 58"W
 Error North: 0.00020 East: -0.00035
 Precision 1: 4290547

SOUTH 0.2956 ACRE CLOSURE
 North: 574900.0580' East: 1457059.7756'
 Segment #1 : Line
 Course: S62° 46' 43"E Length: 848.15'
 North: 574512.0882' East: 1457813.9913'
 Segment #2 : Line
 Course: S26° 30' 11"E Length: 25.35'
 North: 574489.4005' East: 1457825.3045'
 Segment #3 : Line
 Course: N62° 46' 43"W Length: 868.59'
 North: 574886.7187' East: 1457052.9153'
 Segment #4 : Line
 Course: N27° 12' 53"E Length: 15.00'
 North: 574900.0582' East: 1457059.7752'
 Perimeter: 1757.09' Area: 12876 Sq. Ft.
 Error Closure: 0.0004 Course: N60° 04' 58"W
 Error North: 0.00020 East: -0.00035
 Precision 1: 4392732



DETAIL ~ NTS

CITY MANAGER
 I HEREBY APPROVE THIS PLAT ON THIS _____ DAY OF _____, 20____

CITY MANAGER

CITY ENGINEER
 I HEREBY APPROVE THIS PLAT ON THIS _____ DAY OF _____, 20____

CITY ENGINEER

PLANNING COMMISSION
 I HEREBY APPROVE THIS PLAT ON THIS _____ DAY OF _____, 20____

CITY PLANNER

CITY COUNCIL
 I HEREBY CERTIFY THAT ON THIS _____ DAY OF _____, 20____, THIS PLAT WAS APPROVED AND ACCEPTED BY ORDINANCE NO. _____.

CLERK OF COUNCIL _____ MAYOR _____

WARREN COUNTY AUDITOR
 TRANSFERRED ON THIS _____ DAY OF _____, 20____

BY: _____ DEPUTY _____ WARREN COUNTY RECORDER

WARREN COUNTY RECORDER
 FILE NO. _____
 RECEIVED ON THIS _____ DAY OF _____, 2023 AT _____ M.

RECORDED ON THIS _____ DAY OF _____, 2023 AT _____ M.

RECORDED IN PLAT BOOK _____, PAGES _____

FEE _____

BY: _____ DEPUTY _____ WARREN COUNTY RECORDER

I HEREBY CERTIFY THAT THE SURVEY SHOWN HEREON MEETS THE MINIMUM STANDARDS FOR BOUNDARY SURVEYS IN THE STATE OF OHIO AS DEFINED BY CHAPTER 4733-37 OF THE OHIO ADMINISTRATIVE CODE.

PATRICK S. FINN P.S. 7181 DATE _____

VACATION PLAT
 SECTION 4, TOWN 1 N, RANGE 5 E
 CITY OF FRANKLIN, FRANKLIN TOWNSHIP
 WARREN COUNTY, OHIO

FIELD	DRAFT	CHECK
NR/TB	PF	PF
145319		
DATE: DECEMBER 2023		
SCALE: 1"=80		
PRINT DATE:		