

WHITELAND TOWN COUNCIL

ORDINANCE NO. 2020-10

**AN ORDINANCE ANNEXING 72.11 ACRES OF PROPERTY OWNED BY
HOWARD MANAGEMENT COMPANY, LLC, SHELBY D. HOWARD,
III, AND SHELBY & TONYA HOWARD
(Howard Annexation)**

WHEREAS, the Town Council (the "Council") of the Town of Whiteland, Indiana (the "Town") has reviewed a Petition filed for voluntary annexation of approximately 72.11 acres of property (the "Annexation Petition") owned by Howard Management Company, LLC, Shelby D. Howard, III, and Shelby & Tonya Howard (the "Owners"), located outside the current Town boundaries and generally located on the east side of Emerson Avenue, south of Pushville Road, and north of Tracy Road;

WHEREAS, a legal description of the territory sought to be annexed is attached hereto and incorporated herein as Exhibit A (the "Annexation Territory"), which includes an aerial photo showing the Annexation Territory and the Whiteland zoning classifications to be assigned to the Annexation Territory;

WHEREAS, prior to adoption, this Ordinance has been the subject of a duly noticed public hearing;

WHEREAS, to the extent the Annexation Territory as described on Exhibit A includes territory that is contiguous to a public highway, and as required by I.C. 36-4-3-2.5, the Annexation Territory must include the contiguous areas of the public highway and public highway right-of-way;

WHEREAS, the Annexation Territory is at least one-eighth (1/8) contiguous to the existing corporate boundaries of the Town;

WHEREAS, it is the intent of this Council to adopt for the Annexation Territory the Town's R-1 zoning classification for approximately 54.61 acres and I-1 zoning classification for approximately 19.64 acres, as shown on the attached Exhibit A;

WHEREAS, the Annexation Territory consists of property currently used primarily for residential and agricultural purposes;

WHEREAS, the Whiteland Plan Commission has given a favorable recommendation regarding the Annexation Petition and the proposed zoning classifications;

WHEREAS, pursuant to I.C. 36-4-3-4.1, real property annexed under I.C. 36-4-3 is exempt and remains exempt from all property tax liability under I.C. 6-1.1 for municipal purposes while the property is assessed as agricultural land under the real property assessment rules and guidelines of the department of local government finance;

WHEREAS, pursuant to I.C. 36-4-3-3.1, a written fiscal plan is required for the annexation of real property unless the annexation is under I.C. 36-4-3-4(a)(2), 4(a)(3), 4(b), 4(h), or I.C. 36-4-3-4.1;

WHEREAS, part of the Annexed Territory does not qualify for the fiscal plan exemptions under I.C. 36-4-3-3.1;

WHEREAS, in accordance with I.C. 36-4-3-3.1(d) and I.C. 36-4-3-5.1(d), the Council has adopted a written fiscal plan after holding a public hearing on the proposed annexation and before adopting this annexation ordinance;

WHEREAS, I.C. 36-4-3-7(f) provides that in the case of an annexation initiated by property owners under section I.C. 36-4-3-5.1 in which all property owners within the area to be annexed have petitioned the municipality to be annexed, “[s]ubject to subsections (b) and (d), and in the absence of an appeal under section 15.5 of this chapter, an annexation ordinance takes effect at least thirty (30) days after its publication and upon the filing required by [I.C. 36-4-3-22(a)]”;

WHEREAS, this Council has determined to annex the Annexation Territory pursuant to the terms of this ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Whiteland, Indiana, as follows:

1. The above recitals including Exhibit A are incorporated herein by reference as though fully set forth herein below. Two copies of Exhibit A shall be kept on file with the Clerk-Treasurer for public inspection.
2. The Annexation Territory is hereby annexed into the Town of Whiteland and thereby included within its corporate boundaries under I.C. 36-4-3-5.1.
3. To the extent the Annexation Territory includes land contiguous to a public highway not already part of the Town of Whiteland, the Annexation Territory shall include the contiguous areas of the public highway and public highway rights-of-way as required by I.C. 36-4-3-2.5.
4. The property in the Annexation Territory shall be classified for zoning purposes as the Town’s R-1 zoning classification for approximately 54.61 acres and the Town’s I-1 zoning classification for approximately 19.64 acres, as shown on the attached Exhibit A.
5. The Annexation Territory is assigned to Whiteland Town Council District 1.
6. The Town recognizes and accepts its obligation pursuant to I.C. 36-4-3-10 with respect to Township debt; provided however, as of August 14, 2020, the Gateway portal of the Indiana Department of Local Government Finance shows no Pleasant Township debt reported.
7. The effective date of this annexation shall be as soon as allowed by law following the adoption, execution, publication, and recordation of this Ordinance.

8. Severability. The paragraphs, sentences and words of this Ordinance are severable, and if any portion hereof is declared unconstitutional, invalid or unenforceable by a court of competent jurisdiction, such declaration shall not affect the remaining portions of this Ordinance. Specifically, if any portion of the Annexation Territory cannot be lawfully annexed for any reason, it shall have no impact on the annexation of the remaining Annexation Territory.

9. If it is determined in any final order no longer subject to appeal in a judicial challenge to this Ordinance that any amendment to this Ordinance either prior to or after its adoption has rendered this Ordinance unenforceable, invalid, or otherwise ineffective, then this Ordinance shall be reformed so as to exclude such amendment and shall be considered adopted as if the amendment had never been made.

PASSED through first reading by the Town Council on the 8th day of September, 2020, by a vote of 5 in favor and 0 against.

DULY PASSED AND FINALLY ADOPTED on second reading on the 13 day of October, 2020, by a vote of 4 in favor and 0 against.

TOWN OF WHITELAND, INDIANA, TOWN COUNCIL


Voting In Favor

Voting Opposed



David Hawkins, President

David Hawkins, President



Scot Ford, Vice President

Scot Ford, Vice President

Brad Goedecker

Brad Goedecker



Joseph Sayler

Joseph Sayler



Laura Fleury

Laura Fleury

Attest:



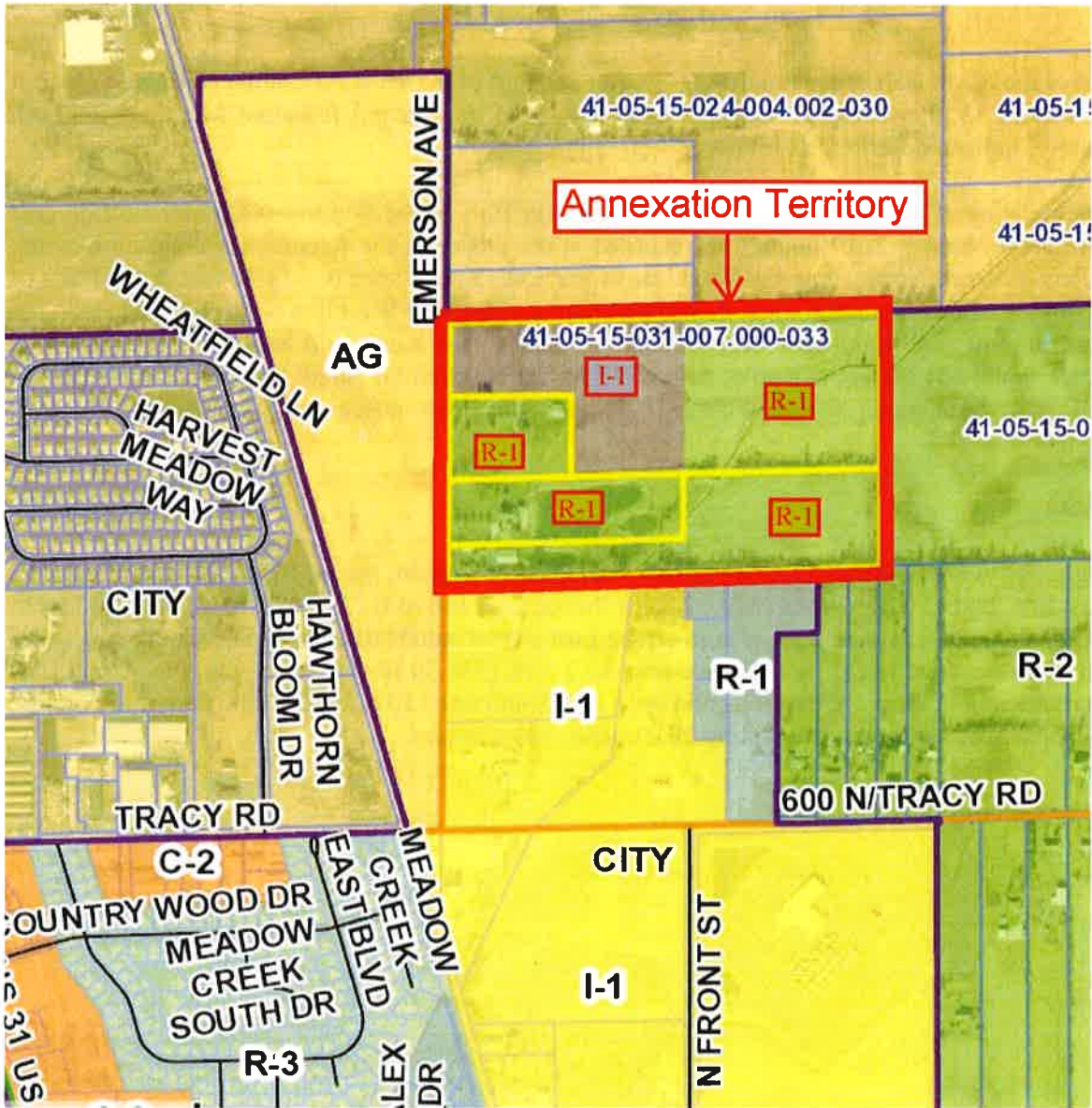
Debra L. Hendrickson, Clerk-Treasurer

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law. Stephen K. Watson, Attorney No. 16899-53

This instrument was prepared by Stephen K. Watson, attorney-at-law
Williams, Barrett & Wilkowski, LLP, 600 N. Emerson Avenue, Greenwood, Indiana 46143

EXHIBIT A
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HOWARD ANNEXATION TERRITORY



PARCEL ID	OWNER
41-05-15-031-007.000-033	Howard Management LLC
41-05-15-032-007.003-033	Shelby D Howard III
41-05-15-032-008.000-033	Shelby D & Tonya M Howard
41-05-15-031-008.001-033	Shelby D & Tonya M Howard

EXHIBIT A
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HOWARD ANNEXATION TERRITORY

LEGAL DESCRIPTION

Part of the North Half of the Southwest Quarter and Part of the West Half of the Northwest Quarter of Section 15, Township 13 North, Range 4 East of the Second Principal Meridian, Johnson County, Indiana described as follows:

Commencing at the Southwest Corner of the North Half of the Southwest Quarter Section (per instrument Number 2017-000676 as recorded in the Office of the Recorder of Johnson County, Indiana); thence North along the West line of Section 15 a distance of 523.91 feet to the Point of Beginning of this described tract; thence continuing along said West line North 823.15 feet to the North line of said Southwest Quarter Section; thence East along said North line 2310.00 feet; thence South 831.60 feet to a point being 531.30 feet North of the South line of the North Half of said Southwest Quarter; thence West 2310.00 feet to the Point of Beginning containing 43.9 acres, more or less.

ALSO:

Beginning at the Southwest Corner of said Half Quarter Section; thence North along and upon the West line thereof 31.752 rods (523.91 feet); thence East 140 rods (2,310.00 feet), more or less to the West line of a 10 acre tract of land off the East side of said Half Quarter Section; thence along and upon the West line of said 10 acre tract 32.2 rods (531.30 feet) to the South line of said Half Quarter Section; thence West along and upon said South line 140 rods (2,310.00 feet) more or less, to the place of beginning, containing 28.21 acres, more or less.