

WHITELAND TOWN COUNCIL

ORDINANCE NO. 2020-12

**AN ORDINANCE ANNEXING APPROXIMATELY 184 ACRES OF
PROPERTY OWNED BY ZELLA ROSE, GLENN & REBECCA
HAVEMEN, 8TH GENERATION LLC, AND MICHAEL & LYNNE
O'BRIEN, AS VOLUNTARILY PETITIONED BY THE PROPERTY
OWNERS
(Mohr Logistics Annexation)**

WHEREAS, the Town Council (the "Council") of the Town of Whiteland, Indiana (the "Town") has reviewed a Petition (the "Annexation Petition") filed by Mohr Development LLC (the "Petitioner") and owners Zella I. Rose, Glenn A. and Rebecca S. Havemen, 8th Generation LLC, and Michael W. and Lynne W. O'Brien (the "Owners", who also signed the Annexation Petition), for voluntary annexation of approximately 184 acres of property (the "Annexation Territory"), located outside the current Town boundaries and generally located West of I-65 and N. 300 E./Warrior Trail and on the South side of 600 N./Tracy Road;

WHEREAS, a legal description of the Annexation Territory is attached hereto and incorporated herein as Exhibit A, 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 I-1 zoning classification for the entire 184 acres of the Annexation Territory, 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/unfavorable/no] 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, the Annexation Territory is the subject of a pending transaction wherein Mohr Development, LLC is attempting to purchase said property (the “Mohr Transaction”);

WHEREAS, the transfer of ownership of the Annexation Territory to Mohr Development, LLC or its assigns as part of the Mohr Transaction is a prerequisite for certain of the Owners’ consent to the Annexation Petition; and

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 I-1 zoning classification for the entire approximately 184 acres, as shown on the

attached Exhibit A, and shall be subject to the commitments provided stated on the attached Exhibit B, which have been agreed to by the Petitioner.

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. If title to the Annexation Territory is not transferred from the Owners to Mohr Development, LLC or its assigns as contemplated in the Mohr Transaction prior to the effective date of the annexation contemplated under this Ordinance, the Annexation Petition shall be deemed withdrawn and this Ordinance shall be null and void.

8. The effective date of this annexation shall be as soon as allowed by law following the adoption, execution, publication, and recordation of this Ordinance.

9. 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.

10. 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.

[Remainder of page intentionally left blank.]

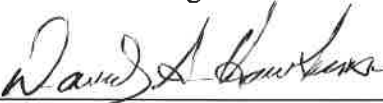
PASSED through first reading by the Town Council on the 16 day of September, 2020, by a vote of 4 in favor and 1 against.

DULY PASSED AND FINALLY ADOPTED on second reading on the 30 day of September, 2020, by a vote of 4 in favor and 1 against.


TOWN OF WHITELAND, INDIANA, TOWN COUNCIL

Voting In Favor

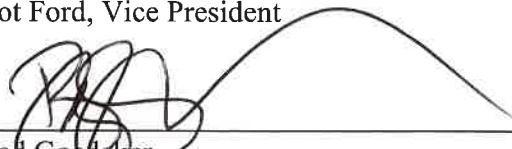
Voting Opposed

x 
David Hawkins, President


David Hawkins, President

x 
Scot Ford, Vice President

Scot Ford, Vice President

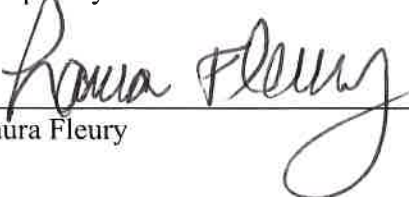
x 
Brad Goedeker

Brad Goedeker

x 
Joseph Sayler

Joseph Sayler

Laura Fleury

x 
Laura Fleury

Attest:

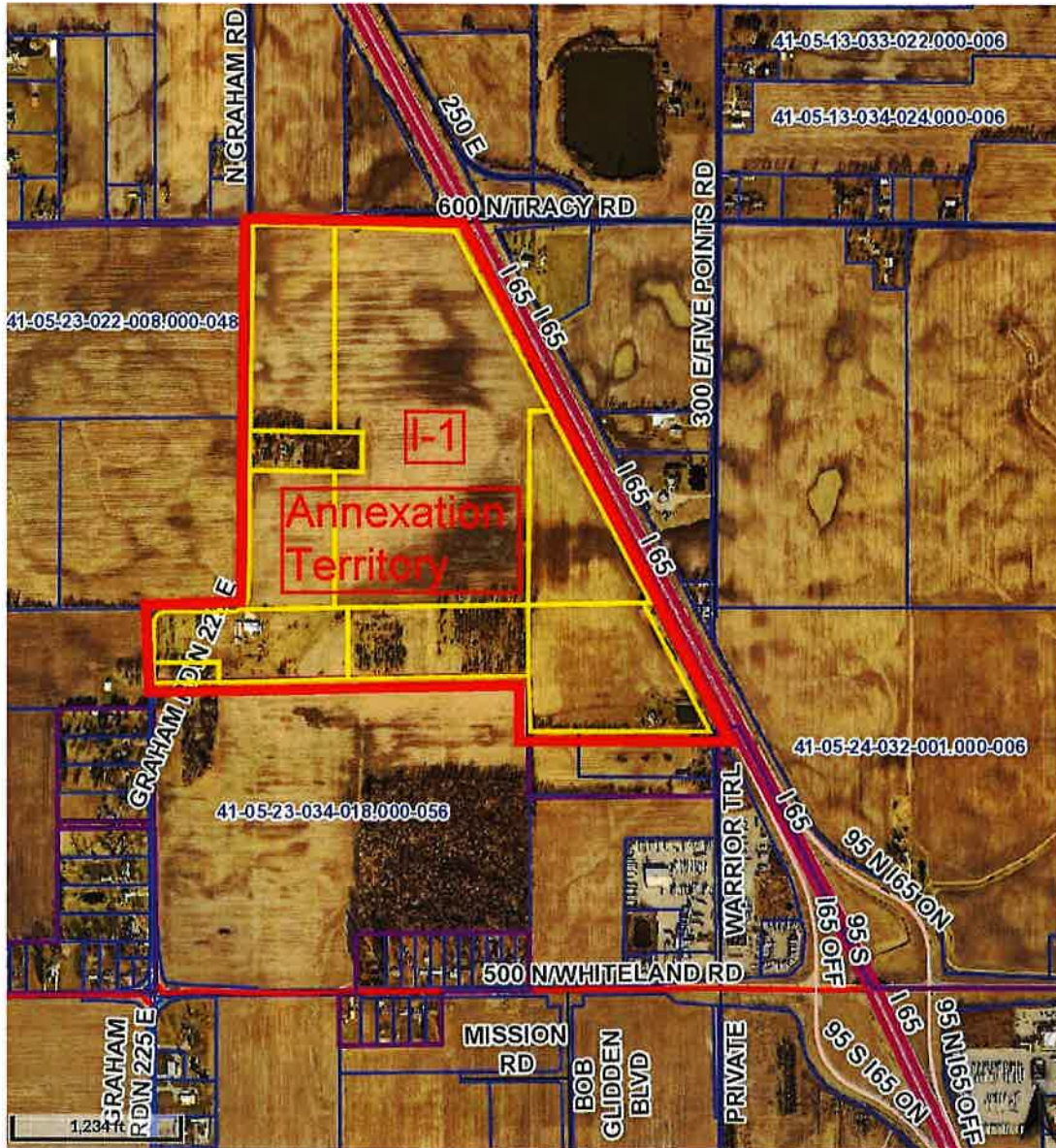

Debra L. Hendrickson, Clerk-Treasurer

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
(Page 1 of 2)

MOHR LOGISTICS ANNEXATION TERRITORY



PARCEL ID	OWNER
41-05-23-041-023.002-033	Zella I. Rose
41-05-23-014-005.000-033	Zella I. Rose
41-05-23-042-022.001-033	Glenn A. and Rebecca S. Havemen
41-05-23-031-022.000-033	Glenn A. and Rebecca S. Havemen
41-05-23-031-021.000-033	Glenn A. and Rebecca S. Havemen
41-05-23-021-001.000-033	8th Generation LLC
41-05-23-013-006.001-033	8th Generation LLC
41-05-23-024-001.000-033	Michael W. and Lynne W. O'Brien

EXHIBIT A
(Page 2 of 2)

MOHR LOGISTICS ANNEXATION TERRITORY

LEGAL DESCRIPTION

Part of Section 23, Township 13 North, Range 4 East of the Second Principal Meridian, in Johnson County, Indiana more particularly described as follows:

Beginning at the southwest corner of the East Half of the Northwest Quarter of said Section 23; thence North 89 degrees 10 minutes 31 seconds East (bearings based on the Indiana Geospatial Coordinate System) along the south line of said East Half 663.34 feet to the southwest corner of the East Half of the East Half of said Northwest Quarter; thence North 00 degrees 21 minutes 32 seconds East along the west line thereof 2719.23 feet to the northwest corner of said Half Half Quarter Section; thence North 88 degrees 52 minutes 45 seconds East along the north line of said Half Half Quarter Section 402.47 feet; thence South 01 degrees 07 minutes 15 seconds East 13.50 feet to the Limited Access right-of-way line of Line "S-12-A" on Project I-65-3 (77) 95; thence South 83 degrees 24 minutes 09 seconds East with last said right-of-way 352.74 feet; thence South 88 degrees 28 minutes 06 seconds East with last said right-of-way 698.85 feet; thence South 28 degrees 14 minutes 08 seconds East along the west right-of-way line of Interstate Highway 65 a distance of 2964.58 feet to the south line of the Northeast Quarter of said Section 23; thence South 89 degrees 08 minutes 40 seconds West along said south line 56.31 feet to the westerly line of a 50 foot right-of-way frontage road along the west side of Interstate Highway 65; thence South 28 degrees 14 minutes 08 seconds East along said westerly right-of-way 997.46 feet to the north line of a tract described in Instrument number 96023802 in the Recorder's Office of Johnson County, Indiana; thence South 89 degrees 08 minutes 24 seconds West 38.03 feet to the northwest corner of said tract; thence South 88 degrees 46 minutes 52 seconds West 1247.92 feet to the east line of the West Half of the Southeast Quarter of said Section 23; thence North 00 degrees 55 minutes 57 seconds West along said east line 397.04 feet to a point distant 496.60 feet south of the northeast corner of said West Half; thence South 89 degrees 08 minutes 40 seconds West parallel with the north line of said West Half 1277.42 feet; thence South 00 degrees 55 minutes 57 seconds East 1.40 feet; thence South 89 degrees 17 minutes 57 seconds West parallel with the north line of the East Half of the Southwest Quarter of said Section 23 a distance of 1375.50 feet to the west line of said East Half; thence North 00 degrees 36 minutes 53 seconds West along said west line 495.00 feet to the Point of Beginning. Containing 183.95 acres, more or less.

EXHIBIT B

COMMITMENTS

The Annexation Territory shall be developed in accordance with the requirements of the appropriate statutes and ordinances, and the uses permitted on the Annexation Territory shall be limited to those Permitted Uses listed below.

These Commitments shall be effective as of the approval of the Ordinance of the Whiteland Town Council approving the annexation of the Annexation Territory (the “Annexation Ordinance”), and shall continue in effect until modified or terminated in accordance with these Commitments. These Commitments shall be considered a covenant running with the land and shall be binding on any person or entity acquiring an interest in the Annexation Territory.

These Commitments may be modified or terminated by a decision of the Whiteland Town Council after notice and a public hearing, provided that notice of the public hearing is published and provided to the surrounding property owners in accordance with the rules of the Whiteland Plan Commission.

These Commitments may be enforced jointly or severally by either the Whiteland Plan Commission, the Whiteland Town Council, or any owner of a parcel of ground adjoining the Annexation Territory to a depth of two ownerships, but not exceeding 660 feet from the perimeter of the Annexation Territory. The identity of adjoining property owners shall be determined from the records of the office of the Auditor of Johnson County. For purposes of this paragraph, the cutoff date for such determination of ownership shall be at 12:00 o'clock noon on the date of filing for enforcement. In the event suit is filed to enforce these Commitments in a court of competent jurisdiction, the prevailing party shall be entitled to reimbursement of its reasonable costs and expenses, including attorney fees, from the non-prevailing party.

Uses shall be limited to (the “Permitted Uses”):

Light Industrial Assembly and Production
Warehouse/Distribution Facility
Wholesale Facility
Conference Center
Data Processing/Call Center
Office Uses
Government Facility (non-office)

Accessory uses traditionally associated with the permitted uses listed, which are secondary to the primary use in area, intent, and/or purpose; and are found on the same parcel as the principle use but are clearly subordinate or incidental are permitted. Permitted accessory uses shall include, but not be limited to:

Parking and Temporary Storage of Trailers
Outdoor Storage of Machinery or Materials
Vehicle Maintenance Facilities
Fueling Facilities

Perimeter Buffering:

When the proposed site abuts a residential zoning classification or use, buffer yards must include a minimum setback of 25 feet in addition to the yard setback otherwise required by the I-1 (Industrial) zoning district. Additionally, 1 large deciduous tree (a minimum of 2 inches in diameter, measured 6 inches above the root ball, at the time of planting) or 2 conifer trees must be planted in the buffer yard for every 30 feet of boundary between the subject property and adjoining properties. Buffer yards must also incorporate a 6 foot tall opaque fence, a row of evergreen trees, or an undulating mound (a minimum of 5 feet in height) planted with shrubs.

- a. If an undulating mound is used, the slope of the mound must not exceed 3:1 (rise:run). One shrub must be planted for every 10 feet of boundary. Shrubs must be a minimum of 18 inches in height (measured from ground level) at the time of planting.
- b. If a row of evergreen trees is used, one tree must be planted for every 20 feet of buffer required. All trees must be a minimum of 5 feet in height (measured from the root ball) at the time of planting.
- c. A combination of treatments (fencing, mounding, and tree row) may be used to satisfy the requirements of this provision.

Additional Commitments:

1. Light Poles on the Real Estate for site lighting shall not be more than 30 feet in height. In addition, lighting installed on buildings shall be limited to 30 feet in height.
2. Site lighting and/or lighting installed on buildings that is (are) directly adjacent to a residentially used parcel shall be shielded (*i.e.*, directed downwards).
3. At the time of final platting for the Real Estate, the Owner shall dedicate additional right-of-way to the Town for the future improvements of public roadways within and contiguous to the development.
4. Existing roadways which are contiguous to the lot being developed will be improved at the same time of such lot development.
5. If requested by the Town, the developer will cause a traffic impact study ("TIS") addressing roadway and intersections within or immediately adjacent to the development.

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