

WHITELAND TOWN COUNCIL

ORDINANCE NO. 2019-09

**AN ORDINANCE ANNEXING 63.0761 ACRES OF PROPERTY OWNED
BY JEFF AND LORA WILSON, AS VOLUNTARILY PETITIONED BY
THE PROPERTY OWNER**

WHEREAS, the Town Council (the “Council”) of the Town of Whiteland, Indiana (the “Town”) has reviewed a Petition filed for voluntary annexation of approximately 63.0761 acres of property owned by Jeff and Lora Wilson (the “Owners”) located outside the current Town boundaries generally located West of I-65 and N. 350 E. and South of 500 N./Whiteland Road;

WHEREAS, a legal description of the territory sought to be annexed is attached hereto and incorporated herein as Exhibit A, which also includes a map thereof (the “Annexation Territory”);

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, with restrictions and commitments, as requested by the Owners;

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

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 not required for the annexation of real property under I.C. 36-4-3-4.1 (annexation of property assessed as agricultural land);

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

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, since both the Annexation Territory and the existing Town are part of the Whiteland Fire Protection District, which is in the process of being consolidated into the Town, and will remain so after the annexation is complete, the provisions of I.C. 36-4-3-7(d) are not applicable; 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. 36-4-3-4.1 and 5.1.

3. To the extent the Annexation Territory includes land contiguous to a public highway, 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. All property in the Annexation Territory shall be classified for zoning purposes as “I-1, Industrial”, subject to the restrictions and commitments stated on the attached Exhibit B.

5. All property in the Annexation Territory that is assessed as agricultural land under the real property assessment rules and guidelines of the Indiana Department of Local Government Finance shall be exempt from all property tax liability under I.C. 6-1.1 for municipal purposes for so long as such property remains assessed as agricultural.

6. The Annexation Territory is assigned to Whiteland Town Council District 1.

7. The Town recognizes and accepts its obligation pursuant to I.C. 36-4-3-10 with respect to Township debt.

8. The Town and the Annexation Territory are both located in the Whiteland Fire Protection District (the “District”), and the fire protection services provided by the District to the Annexation Territory prior to the annexation shall continue to be provided to both the Annexation Territory and the existing territory of the Town after this annexation is effective, subject to the pending consolidation of the Town with the Whiteland Fire Protection District.

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

10. 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.

11. 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 blank]

PASSED through first reading by the Town Council on the 10th day of December, 2019, by a vote of _____ in favor and _____ against.

DULY PASSED AND FINALLY ADOPTED on second reading on the _____ day of _____, 2020, by a vote of _____ in favor and _____ 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

(Page 1 of 2)

JEFF AND LORA WILSON ANNEXATION PROPERTY

Legal Description

Wilson Farm

A part of the Southwest Quarter of Section 25, Township 13 North, Range 4 East of the Second Principal Meridian, Clark Township, Johnson County, Indiana more particularly described as follows:

Beginning at a 5/8" iron pin with cap set this survey on the east line of said Quarter section 1274.65 feet North 00 degrees 10 minutes 8 seconds West (reference bearing from state plane coordinates of section corners in the office of the Johnson County Surveyor) of the southeast corner thereof; thence North 89 degrees 43 minutes 43 seconds West a distance of 330.00 feet to a 5/8" iron pin with cap set this survey; thence South 00 degrees 10 minutes 58 seconds East a distance of 265.00 feet to a 5/8" iron pin with cap set this survey on the north line of the Clinton beck Minor Subdivision P.B. "D" PG 786 A&B; thence North 89 degrees 43 minutes 43 seconds West on and along the north line of said minor subdivision a distance of 1021.90 feet to a corner of said minor subdivision; thence North 00 degrees 10 minutes 58 seconds West a distance of 336.55 feet to a corner of said minor subdivision; thence South 88 degrees 27 minutes 55 seconds West a distance of 1357.66 feet to a point on the west line of said quarter section; thence North 00 degrees 03 minutes 03 seconds East on and along said west line a distance of 668.95 feet to a 5/8" iron pin with cap set this survey at the northwest corner of the south half of the northwest quarter of the southwest quarter of said section; thence North 89 degrees 30 minutes 09 seconds East on and along the north line thereof a distance of 1348.96 feet to a 5/8" iron pin with cap at the northeast corner thereof; thence North 00 degrees 08 minutes 52 seconds West on and along the west line of the northeast quarter of the southwest quarter of said section a distance of 670.97 feet to a stone found at the northwest corner thereof; thence North 89 degrees 33 minutes 42 seconds East on and along the north line of said quarter section a distance of 833.64 feet to a 5/8" iron pin with cap set on the west right-of-way of Interstate 65; thence South 24 degrees 30 minutes 58 seconds East on and along said west right-of-way a distance of 1263.59 feet to a 5/8" iron pin with cap set on the east line of said quarter section; thence South 00 degrees 10 minutes 58 seconds East on and along the east line thereof a distance of 250.01 feet to the Point of Beginning containing 63.0761 acres, more or less, subject to all legal rights-of-way and easements of record.

JEFF AND LORA WILSON ANNEXATION PROPERTY

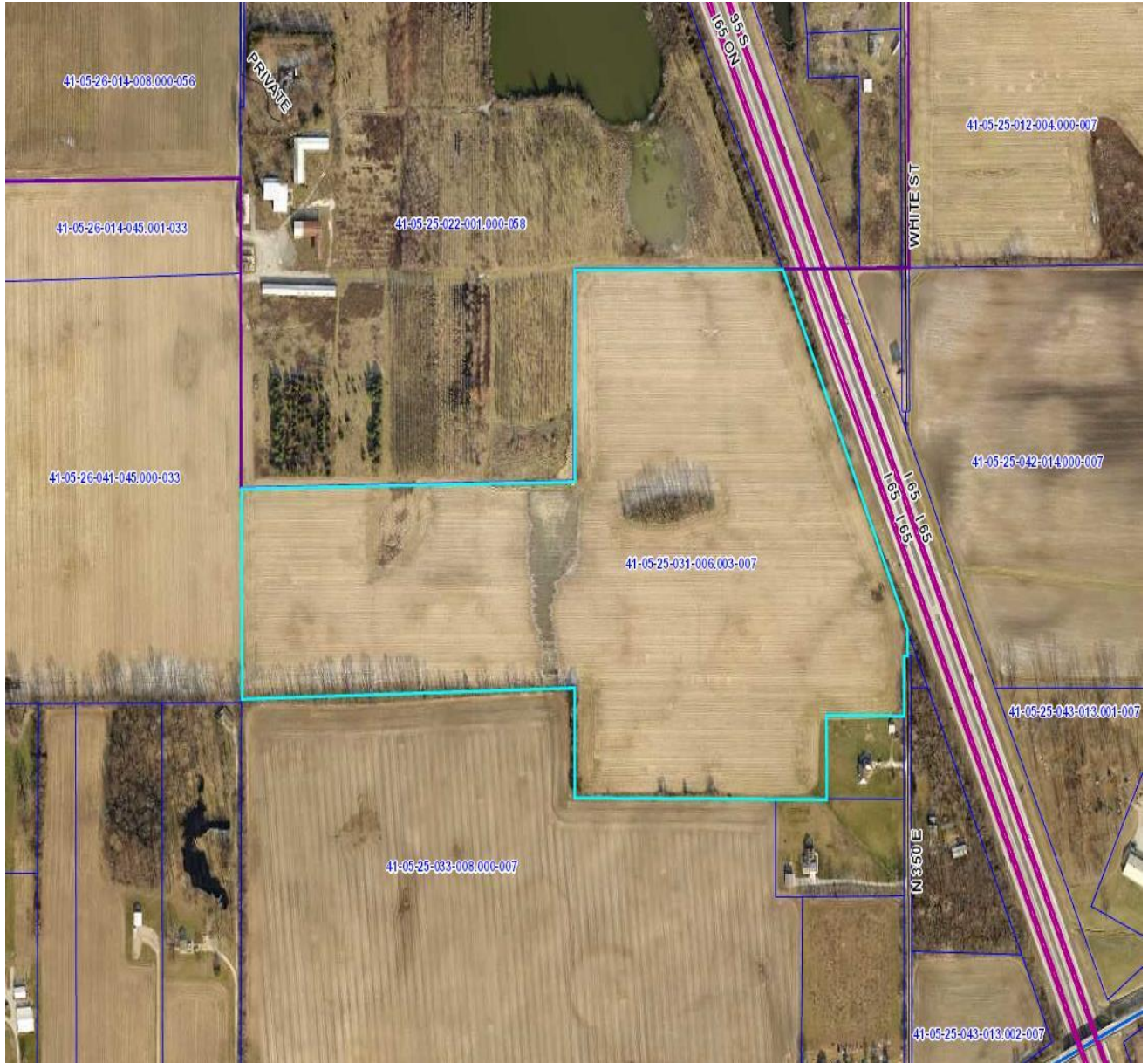


EXHIBIT B
(Three Pages in Total)

ZONING COMMITMENTS

Uses shall be limited to:

Insurance agencies

Real estate agencies

Law offices

Investment services except banks

Accounting, bookkeeping, tax consultants, and notary offices

Utility offices

Bed and breakfasts

Commercial research facilities

Professional office

Information technologies

Gas stations not engaging in motor vehicle services

Business services as follows:

- (a) Banks and loan offices
- (b) Engineering and architectural offices

Personal and social services as follows:

- (a) Day care centers
- (b) Employment offices (Human Resources Management)
- (c) Dance studios and academies

Health services as follows:

- (a) Nursing homes
- (b) Medical labs
- (c) Medical offices
- (d) Emergency health care office

Equipment and retail service uses as follows:

- (a) Computer and electronic sales and service
- (b) Appliance stores
- (c) Record, tape or compact disc stores
- (d) Personal and small business printing trades
- (e) Building trades
- (f) Retail general merchandise
- (g) Auto sales without motor vehicle service
- (h) Drugstores
- (i) News dealers and magazine shops
- (j) Flower shops and greenhouses in conjunction with a flower shop.

Food service uses as follows:

- (a) Grocery
- (b) Meat markets
- (c) Delicatessens
- (d) Retail food
- (e) Restaurants and fast-food

(f) Micro-brewery in conjunction with retail food sales
Gas stations engaging in motor vehicle repair service
Tire dealers and tire repair service
Retail and department stores
Hospitals
Insurance companies
Bakery

Recreational uses as follows:

- (a) Amusement parks
- (b) Motion picture theaters but not drive-in theaters
- (c) Golf courses and driving ranges
- (d) Bowling alley
- (e) Skating rink
- (f) Billiard rooms

Night clubs, bars or taverns and retail establishments selling alcoholic beverages by the drink

Hotels and motels (* Only if individually approved in writing by the Town Manager)

Veterinary clinics without animal incineration

Retail hardware and building material sales

Funeral homes

General contracting and special trades services without outside storage:

- (a) Heating and air conditioning contractors
- (b) Electrical contractors
- (c) Masonry contractors
- (d) General construction and home improvement contractors

Motor vehicle sales and service

Motor vehicle service including body shops, motor vehicle wash or motor vehicle detail shop

Governmental services for Fire and police

Conference Center

Data Processing/Call Center

Office Uses

The following uses shall also be permitted but only South of the dividing line established under Whiteland Town Council Ordinance 2019-08 (the “Dividing Line”):

Light Industrial Assembly and Production

Warehouse/Distribution Facility

Wholesale Facility

Public warehouses

Wholesale storage and warehouses

Wholesale sales

Government Facility (non-office)

Truck Stops are expressly excluded uses throughout.

Accessory Uses

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, excluding outdoor storage unless expressly permitted. Permitted accessory uses shall include, but not be limited to:

Parking and Temporary Storage of Trailers (South of the established Dividing Line only)
Outdoor Storage of Machinery or Materials (South of the established Dividing Line only)
Vehicle Maintenance Facilities (South of the established Dividing Line only)
Fueling Facilities (South of the established Dividing Line only)

When a permitted primary use utilizes outdoor storage of machinery or materials, or a similar use, as a permitted accessory use, additional buffering and landscaping may be required as determined by Town planning staff. Additional buffering shall be considered on a case by case basis and may not apply to the entire site.

Perimeter Buffering:

Based on the final proposed use, additional perimeter buffering may be required in order to mitigate any potential negative impacts onto surrounding properties. This buffering will be determined by Town planning staff at the time of site development plan and will be specific to the individual project.

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 I1 (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.