ORDINANCE 2016-1
(AS AMENDED)

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WHITESTOWN, INDIANA, ANNEXING TERRITORY TO THE TOWN OF WHITESTOWN, INDIANA, PLACING THE SAME WITHIN THE CORPORATE BOUNDARIES THEREOF AND MAKING THE SAME A PART OF THE TOWN OF WHITESTOWN

HACKETT
SUPER-VOLUNTARY ANNEXATION

WHEREAS, the Town Council ("Council") of the Town of Whitestown, Indiana ("Town" or "Whitestown") received a petition ("Petition") requesting that certain territory generally located northwest of the intersection of County Road 500 East and Albert S. White Boulevard, as hereinafter described ("Annexation Territory"), be annexed by Whitestown; and

WHEREAS, the Petition has been signed by the sole owner (i.e, 100%) of the property within the Annexation Territory; and

WHEREAS, the Council deems it desirable and in the best interest of the Town to annex the Annexation Territory; and

WHEREAS, a legal description and survey of the Annexation Territory are attached hereto as Exhibit A; and

WHEREAS, where the legal description attached as Exhibit A describes land that is contiguous to a public highway right-of-way that has not previously been annexed, the Annexation Territory shall include the contiguous public highway right-of-way even if it is not described in Exhibit A, except to the extent prohibited by I.C. § 36-4-3-1.5(c); and

WHEREAS, where the parcel of property within the Annexation Territory is adjacent to a parcel of property within the existing Town limits, the Annexation Territory boundary shall conform to and match the boundary of the existing Town limits so long as it does not result in adding or removing parcels of property from the Annexation Territory depicted in Exhibit A; and

WHEREAS, the Annexation Territory consists of approximately 87.13 acres, and is contiguous to the existing Town limits; and

WHEREAS, responsible planning and state law require adoption of a fiscal plan and a definite policy for the provision of certain services to any annexed areas; and

WHEREAS, prior to adoption of this Ordinance, the Council, by resolution, will have adopted a written fiscal plan and definite policy for the provision of services of both a non-capital and capital nature to the Annexation Territory; and

WHEREAS, the written fiscal plan and definite policy adopted by resolution provide for the provision of services of a non-capital nature (including police protection, fire protection, street and road maintenance, and other non-capital services normally provided within the corporate boundaries of the Town) to the Annexation Territory within one (1) year after the effective date of this annexation in a manner equivalent in standard and scope to those non-capital services provided to areas within the current corporate boundaries, regardless of similar topography, patterns of land use, and population density; and

WHEREAS, the written fiscal plan and definite policy adopted by resolution provide for the provision of services of a capital nature (including street construction, street lighting, sewer facilities, water facilities and storm water drainage facilities) to the Annexation Territory within three (3) years after the effective date of this annexation in the same manner those services are provided to areas within the current corporate boundaries, regardless of similar topography, patterns of land use, and population density and in a manner consistent with federal, state and local laws, procedures, and planning criteria; and

WHEREAS, the terms and conditions of this annexation, including the written fiscal plan and definite policy, are fairly calculated to make the annexation fair and equitable to property owners and residents of the Annexation Territory and of the Town; and

WHEREAS, prior to the final adoption of this Ordinance, the Town will have conducted a public hearing pursuant to proper notice issued as required by law; and

WHEREAS, the Council finds that the Annexation pursuant to the terms of this Ordinance is fair and equitable and should be accomplished.

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

1. The above recitals including Exhibit A are incorporated herein by this reference as though fully set forth herein below.

2. In accordance with I.C. § 36-4-3-5.1 and other applicable laws, the Annexation Territory is hereby annexed to the Town and thereby included within its corporate boundaries pursuant to the terms of this Ordinance.

3. The Annexation Territory is assigned to Council District No. 1.

4. The Annexation Territory shall maintain its current zoning classification(s) and designation(s) until such time the Town updates its respective comprehensive plan, zoning ordinance, or zoning map.

5. The property within the Annexation Territory is currently classified as agricultural for tax purposes. As may be contemplated by I.C. § 36-4-3-4.1, Whitestown anticipates that the real property will be treated as exempt from property tax liability under I.C. § 6-1.1 for "municipal purposes" unless/until the land is reclassified under assessment rules and guidelines of the DLGF. As fire protection services are not uniquely a municipal service, and Whitestown already provides fire protection service to unincorporated Worth Township, including the Annexation Territory, and as agreed by the property owner, the fire tax levy for the Annexation Territory is not to be considered "property tax liability under I.C. § 6-1.1 for municipal purposes." The Annexation Territory will therefore not be exempt from property tax liability for fire protection purposes (e.g., the fire tax levy) even while the Annexation Territory remains classified as agricultural.

6. All prior Ordinances or parts thereof that may be inconsistent with any provision of this Ordinance are hereby repealed. The paragraphs, sentences, words, and Annexation Territory of this Ordinance are separable, and if a court of competent jurisdiction hereof declares any portion of this Ordinance or the Annexation Territory unconstitutional, invalid, or unenforceable for any reason, such declaration shall not affect the remaining portions of the Annexation Territory or this Ordinance.

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

Introduced on January 13, 2016, and adopted by the Town Council of the Town of Whitestown, Indiana, on _____ _____, 2016.

THE TOWN COUNCIL OF THE TOWN OF WHITESTOWN, INDIANA	YAY/NAY
_____	_____
Eric Miller, President	
_____	_____
Susan Austin, Vice-President	
_____	_____
Kevin Russell	
_____	_____
Clinton Bohm	
_____	_____
Jeffrey Wishek	

ATTEST:

_____

Matthew Sumner, Clerk-Treasurer
Town of Whitestown, Indiana

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 C. Unger

This Ordinance was prepared by Stephen C. Unger, Attorney at Law, Bose McKinney & Evans LLP, 111 Monument Circle, Suite 2700, Indianapolis, Indiana 46204

2889676

EXHIBIT A

A LAND BOUNDARY DESCRIPTION OF A
87.13 ACRE PARCEL
WHITESTOWN, BOONE COUNTY, INDIANA
DECEMBER 18, 2015

A PART OF THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 18 NORTH, RANGE 1 EAST OF THE 2ND PRINCIPAL MERIDIAN, WORTH TOWNSHIP, BOONE COUNTY, INDIANA, BEING A PART OF BOONE COUNTY PARCEL NUMBERS 012-02130-00 AND 012-02110-00, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID QUARTER SECTION;

THENCE ALONG THE WEST LINE OF SAID QUARTER SECTION, NORTH 00 DEGREES 42 MINUTES 14 SECONDS WEST, A DISTANCE OF 910.00 FEET TO THE MOST NORTHWESTERLY CORNER OF THE PARCEL DESCRIBED IN THE WARRANTY DEED RECORDED ON JULY 1, 1996 IN THE BOONE COUNTY RECORDER'S OFFICE PER INSTRUMENT NO. 9606081, **BEING THE POINT OF BEGINNING OF THIS DESCRIPTION**;

THENCE CONTINUING ALONG THE WEST LINE OF SAID QUARTER SECTION, NORTH 00 DEGREES 42 MINUTES 14 SECONDS WEST, A DISTANCE OF 218.88 FEET (MORE OR LESS) TO THE SOUTHERLY LIMITS OF THE FLOODWAY AREA IN ZONE AE AS DEPICTED ON THE FLOOD INSURANCE RATE MAPS – MAP NUMBERS 18011C0307E AND 18011C0326E, BOTH PUBLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY AND BOTH WITH AN EFFECTIVE DATE OF JANUARY 18, 2012;

THENCE ALONG THE SOUTHERLY LIMITS OF SAID FLOODWAY AREA IN ZONE AE, AS DETERMINED PER SAID FLOOD INSURANCE RATE MAPS UTILIZING GRAPHIC PLOTTING METHODS, THE FOLLOWING NINE (9) APPROXIMATE COURSES:

1) NORTH 35 DEGREES 20 MINUTES 13 SECONDS EAST, A DISTANCE OF 233.69 FEET;
2) NORTH 72 DEGREES 20 MINUTES 27 SECONDS EAST, A DISTANCE OF 229.39 FEET;
3) SOUTH 89 DEGREES 36 MINUTES 04 SECONDS EAST, A DISTANCE OF 623.98 FEET;
4) NORTH 60 DEGREES 20 MINUTES 49 SECONDS EAST, A DISTANCE OF 114.15 FEET;
5) NORTH 27 DEGREES 41 MINUTES 22 SECONDS EAST, A DISTANCE OF 207.69 FEET;
6) NORTH 56 DEGREES 38 MINUTES 23 SECONDS EAST, A DISTANCE OF 1135.54 FEET;
7) NORTH 69 DEGREES 31 MINUTES 24 SECONDS EAST, A DISTANCE OF 394.47 FEET;
8) SOUTH 80 DEGREES 00 MINUTES 51 SECONDS EAST, A DISTANCE OF 102.92 FEET;
9) SOUTH 35 DEGREES 30 MINUTES 13 SECONDS EAST, A DISTANCE OF 70.95 FEET TO A POINT ON THE EAST LINE OF THE AFORESAID QUARTER SECTION;

EXHIBIT A

A LAND BOUNDARY DESCRIPTION OF A
87.13 ACRE PARCEL
WHITESTOWN, BOONE COUNTY, INDIANA
DECEMBER 18, 2015

THENCE ALONG THE EAST LINE OF SAID QUARTER SECTION, SOUTH 00 DEGREES 55 MINUTES 25 SECONDS EAST, A DISTANCE OF 2238.97 FEET TO THE SOUTHEAST CORNER OF SAID QUARTER SECTION;

THENCE ALONG THE SOUTH LINE OF SAID QUARTER SECTION, SOUTH 88 DEGREES 25 MINUTES 17 SECONDS WEST, A DISTANCE OF 1736.63 FEET TO THE MOST SOUTHEASTERLY CORNER OF THE PARCEL DESCRIBED IN THE WARRANTY DEED RECORDED ON JULY 1, 1996 IN THE BOONE COUNTY RECORDER'S OFFICE PER INSTRUMENT NO. 9606081;

THENCE ALONG THE EASTERLY AND NORTHERLY LINES OF SAID PARCEL, THE FOLLOWING FOUR (4) COURSES:

1) NORTH 01 DEGREE 07 MINUTES 17 SECONDS WEST, ALONG AN EXISTING FENCE LINE, A DISTANCE OF 812.81 FEET;

2) SOUTH 88 DEGREES 23 MINUTES 11 SECONDS WEST, ALONG AN EXISTING FENCE LINE, A DISTANCE OF 466.65 FEET;

3) NORTH 00 DEGREES 42 MINUTES 14 SECONDS WEST, A DISTANCE OF 96.89 FEET;

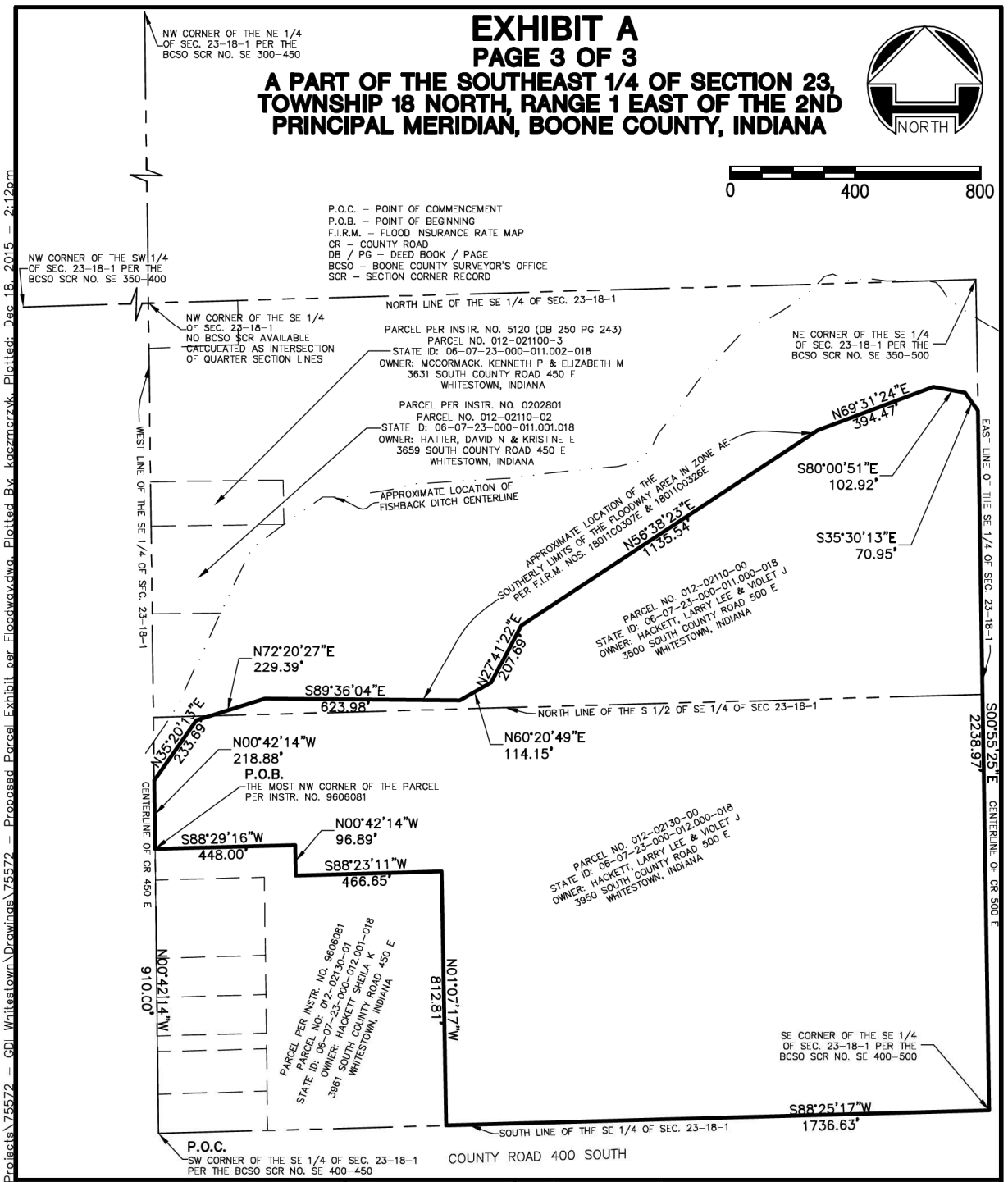
4) SOUTH 88 DEGREES 29 MINUTES 16 SECONDS WEST, A DISTANCE OF 448.00 FEET TO THE POINT OF BEGINNING, CONTAINING 87.13 ACRES, MORE OR LESS,

BEING SUBJECT TO ANY PART(S) OF THE ABOVE DESCRIBED PARCEL TAKEN OR USED FOR PUBLIC ROADWAY PURPOSES.

THE BEARINGS IN THIS DESCRIPTION ARE BASED UPON THE INDIANA STATE PLANE COORDINATE SYSTEM EAST ZONE, NAD83 (NSRS 2007), PER THE COORDINATES PROVIDED IN THE BOONE COUNTY SURVEYOR'S OFFICE SECTION CORNER RECORDS.

Prepared by Woolpert Inc.

EXHIBIT A
PAGE 3 OF 3
A PART OF THE SOUTHEAST 1/4 OF SECTION 23, TOWNSHIP 18 NORTH, RANGE 1 EAST OF THE 2ND PRINCIPAL MERIDIAN, BOONE COUNTY, INDIANA



WOOLPERT
DESIGN | GEOSPATIAL | INFRASTRUCTURE

WOOLPERT, INC.
7635 Interactive Way
Suite 100
Indianapolis, IN 46278
317.299.7500
FAX: 317.291.5805

PROJECT No:	75572
DATE	12/18/15
DES.	SRK
DR.	PTK
CKD.	DNA

No.	DATE	REVISION

G:\GS\Projects\Indy Projects\75572 – GDI Whiteslown\Drawings\75572 – Proposed Parcel Exhibit per Floodway.dwg, Plotted By: kaczmarczyk, Plotted: Dec 18, 2015 – 2:12pm