

Ordinance No. 2008-15

**AN ORDINANCE ANNEXING CERTAIN REAL
ESTATE INTO THE TOWN OF GEORGETOWN, INDIANA**

WHEREAS, this Town Council of the Town of Georgetown, Indiana (the "Town Council"), is the legislative body of the Town of Georgetown, County of Floyd, State of Indiana (the "Town"); and,

WHEREAS, this Town Council has determined that an approximately sixty-six (66) acre tract of real estate located generally to the east/southeast of the existing corporate boundaries of the Town and within the unincorporated territory of Floyd County, Indiana, which area is more particularly described hereinbelow (the "Annexation Area"), is sufficiently contiguous to the existing boundaries of the Town pursuant to the provisions of both IC 36-4-3-1.5 and IC 36-4-3-13(c)(1) to be eligible for annexation into the Town; and,

WHEREAS, this Town Council has determined that the Annexation Area statutorily qualifies for annexation under the provisions of IC 36-4-3, *et seq.*; and,

WHEREAS, on June 17, 2008, this Town Council adopted a fiscal plan by Resolution No. 2008-03 as the definite policy of the Town for the provision of non-capital and capital services to the Annexation Area (the "Fiscal Plan") in conformity with the provisions of IC 36-4-3-13 prior to consideration of this Ordinance; and,

WHEREAS, on June 17, 2008, this Town Council further introduced this Ordinance and approved it on its first reading following adoption of the Fiscal Plan by resolution; and,

WHEREAS, following notice and publication in accordance with the provisions of IC 36-4-3-2.1 and IC 36-4-3-2.2, this Town Council held a public hearing subsequent to notice in accordance with applicable law concerning the proposed annexation that is the subject of this Ordinance on August 22, 2008, which date was more than sixty (60) days after the date on which (i) the Fiscal Plan was adopted by the above-referenced resolution, and (ii) this Ordinance was first introduced; and,

WHEREAS, more than thirty (30) days, but less than sixty (60) days have passed since the date of the public hearing on this Ordinance to and until the date of the final adoption of this Ordinance as shown below; and,

WHEREAS, this Town Council now finds that the Annexation Area, as amended from the approximately 69-acre area that was initially considered as described more particularly herein, is needed and will be used by the Town for its development and growth in the reasonably near future, and that the annexation of the Annexation Area into the Town on the terms and conditions of this Ordinance is in the best interests of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THIS TOWN COUNCIL OF THE TOWN OF GEORGETOWN, INDIANA, AS FOLLOWS:

Section 1. Description of Boundaries of Annexation Area. The description of the Annexation Area hereby annexed into the Town, including any public highways or rights-of-way therein or adjacent thereto, is as follows:

Being a part of Sections 2 and 3, Township 3 South, Range 5 East, Floyd County, Indiana and being further described as follows:

Beginning at the northeast corner of the southeast quarter of said Section 3; Thence N.0°04'03"W., along the line dividing said Sections 2 and 3, and along the corporate boundary of the Town of Georgetown, 1200 feet, more or less, to the south Right-of-Way line of Interstate 64, the TRUE PLACE OF BEGINNING.

Thence continuing N.0°04'03"W., along said Section line and said corporate boundary line, 500 feet, more or less, to the north Right-of-Way line of said Interstate 64; Thence northwesterly and southwesterly, along said northern Right-of-Way line and a corporate boundary line of said Town, 3480 feet, more or less, to a corner of said Town, being 150 feet east of the west line of a tract of land owned by Melvin and Vickie Jensen, described in Deed Record Book 188, Page 133; Thence N.0°07'35"W., along a corporate boundary of said town, being 150 feet east of and parallel to said west line of the Jensen tract, 520 feet, more or less, to a south line of a 1006.33 acre tract described in the *Judgment on Petitioner's Verified Petition for Remonstrance* entered in the Floyd Circuit Court in Cause 22 C01-0709-PL-657 on June 20, 2008; Thence N.61°22'48"E., along said south line, 205 feet, more or less, to a point 315 feet east of said west line of the Jensen tract; Thence S.0°07'35"E., parallel to the west line of said Jensen tract, 265 feet, more or less, to a point 160 feet north of the northern Right-of-Way line of said Interstate 64 as measured at right angles to said Right-of-Way line; Thence northeasterly and southeasterly, parallel to and 160 feet from said northern Right-of-Way line, 3557 feet, more or less, to the line dividing the land owned by Zelpha Schoen described in Deed Record Book 128, Page 570 from the land owned by Brenda K. Beams described in Deed Drawer 21, Instrument 1893; Thence S.24°W., along said dividing line, 148.5 feet, more or less, to the northern Right-of-Way line of said Interstate 64; Thence easterly, along said northern line, 2191 feet, more or less, to the southwest corner of a tract of land owned by the Town of Georgetown, described in Instrument #200604261 and 200604262; Thence N.3°33'W., along a line of said Georgetown property, 891.89 feet to a corner of said Georgetown property; Thence S.89°49'E., along a line of said Georgetown property, 294.27 feet to a corner of said property; Thence N.1°50'E., along a line of said property, 361.93 feet to the north Right-of-Way line of Old Georgetown Road; Thence easterly, along said Right-of-Way line, 585 feet, more or less; Thence S.28°10'E., partially along a line of said Georgetown property, 140 feet, more or less, to a corner of said property; Thence S.10°36'24"W., along

a line of said property, 50.46 feet to a corner of said property; Thence S.5°32'24"W., along a line of said property, 59.63 feet to a corner of said property; Thence S.75°44'24"W., along a line of said property, 73.42 feet to a corner of said property; Thence S.22°07'54"W., along a line of said property, 107.95 feet to a corner of said property; Thence S.14°57'06"E., along a line of said property, 181.03 feet to a corner of said property; Thence N.77°29'30"E., along a line of said property, 102.05 feet to a corner of said property; Thence S.20°07'48"E., along a line of said property, 84.4 feet to a corner of said property; Thence S.77°15'12"W., along a line of said property, 100.89 feet to a corner of said property; Thence S.20°54'48"E., along a line of said property, 345.54 feet to a corner of said property; Thence S.5°23'18"E., along a line of said property, 283.81 feet to the northern Right-of-Way line of said Interstate 64; Thence S.70°W., 1050 feet, more or less, to the south Right-of-Way line of said Interstate 64; Thence westerly, along said southern Right-of-Way, 2494 feet, more or less, to THE PLACE OF BEGINNING.

Containing 66 acres, more or less.

This Annexation Area consists of approximately sixty-six (66) acres. The aggregate external boundaries of the Annexation Area are approximately 18,070 lineal feet, and such aggregate external boundaries of the Annexation Area coincide with 4,550 lineal feet of the existing boundaries of the Town. The aggregate external boundaries of the Annexation Area are therefore twenty-five and two tenths percent (25.2%) contiguous to the Town, which percentage exceeds the minimum one-eighth (1/8) requirement established by IC 36-4-3-1.5 and the minimum one-fourth (1/4) requirement established by IC 36-4-3-13(c)(1).

The map prepared by David R. Blankenkoper, L.S., attached hereto as Appendix I further depicts the location of the Annexation Territory, and is incorporated herein by reference.

Section 2. Description of Special Terms and Conditions. Pursuant to the provisions of IC 36-4-3-8, the following special terms and conditions that are intended to make the annexation effected hereby equitable to the property owners and residents of the Town as well as those in the Annexation Area are hereby adopted:

a. The effective date of the annexation enacted by this Ordinance shall be postponed until 4:00 o'clock p.m. on December 31, 2008.

b. The rendering of needed capital and non-capital services to the Annexation Area shall be pursuant to the provisions of the Fiscal Plan previously adopted by resolution of this Town Council.

c. This Town Council has determined upon reasonable inquiry that (i) the resident population density of the aggregate of the Annexation Area is less than three (3) persons per acre, and/or (ii) the aggregate of the Annexation Area is not subdivided or parceled through separate ownerships into lots or parcels such that at least sixty percent (60%) of the total number

of lots and parcels are less than one (1) acre, and the provisions of IC 36-4-3-8(c) are accordingly inapplicable to this Ordinance and the Annexation Area.

Section 3. Description of Property Tax Abatements within Annexation Area. No property tax abatements pursuant to the provisions of IC 36-4-3-8.5 within the Annexation Area are adopted within this Ordinance as to any property within the Annexation Area.

Section 4. Assignment of Annexation Area to Municipal Legislative District. Pursuant to the provisions of IC 36-4-3-4(g), the Annexed Area shall be divided and assigned according to existing Township Precincts into the following Council Districts of the Town:

<u>Existing Township and Precinct #</u>	<u>Town Council District After Annexation</u>
Georgetown 3	Third District

The ordinance defining Council Districts within the Town shall automatically be deemed as amended as of the effective date of the annexation effected by this Ordinance the changes set forth above.

Section 5. Zoning Classifications of Properties within the Annexation Area. Upon the effective date of the annexation effected by this Ordinance, all properties within the Annexation Area shall be classified for zoning purposes in accordance with the provisions of Section I(D) and Appendix IV(B) of the Fiscal Plan. The Town Zoning Map shall be amended as of the effective date of this Ordinance to reflect such zoning classifications of the properties within the Annexation Area. Any use existing within the Annexation Territory on the effective date of this Ordinance that was fully in compliance with the applicable Floyd County zoning requirements in effect prior to the effective date of this Ordinance, but which is not in compliance with the requirements of the applicable new zoning classification under the provisions of the Georgetown Zoning Ordinance, including without limitation any agricultural use, shall be permitted to continue as a non-conforming use to the extent and scope that such use existed as of the effective date of this Ordinance and in conformity with the provisions of the Floyd County Zoning Ordinance and Indiana law generally (as the same may be amended from time-to-time) pertaining to such non-conforming uses.

Section 6. Fire Protection District. The Town does not presently provide municipal fire protection service. Such service is provided to the entirety of both the Town and the Annexation Area by the Georgetown Township Fire Protection District. As such, no financial adjustment is deemed as required pursuant to the provisions of IC 36-4-3-7(e). However, in the event that the Town would subsequently assume responsibility for fire protection service to the Annexation Area and/or such financial adjustment is otherwise deemed to be required as the result of this annexation, the Town shall be liable for and shall pay the indebtedness of the Georgetown Township Fire Protection District in the same ratio that the assessed valuation of the property in the Annexation Area that is within such fire protection district bears to the assessed valuation of all property in each such fire protection district as shown by the most recent assessment before the annexation. The Town shall make such payments of principal and interest on such

indebtedness to the board of fire trustees of the district as such obligations come due following the effective date that the Town assumes responsibility for fire protection service.

Section 7. No Township Debt. This Town Council has determined upon diligent inquiry to the Georgetown Township Trustee that as of the date of the adoption of this Ordinance, no debt has been issued or exists within such township. Pursuant to the provisions of IC 36-4-3-10, and if as of the effective date of this Ordinance, any of the townships from which the Town has annexed territory is indebted or has outstanding unpaid bonds or other obligations, the Town shall be liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the property in the annexed territory bears to the assessed valuation of all property in the respective township, as shown by the most recent assessment for taxation before the annexation, unless the assessed property within the Town is already liable for the indebtedness. The Town shall pay its indebtedness under this section, if any, to the applicable township executive. If the indebtedness consists of outstanding unpaid bonds or notes of the township, the payments to the executive shall be made as the principal or interest on the bonds or notes becomes due.

Section 8. Displacement of Other Governmental Unit Employees. It is not anticipated that this annexation will result in the elimination of jobs for any employees of other governmental units. However, in the event that any such jobs are eliminated, the Town Council shall assist any such displaced employees in obtaining new employment, but nothing herein shall require the Town to provide employment for any such displaced employees.

Section 9. Effective Date of Annexation; Publication. The annexation enacted by this Ordinance shall take effect, except to the extent that applicable Indiana law may mandate a different date, at 4:00 o'clock p.m., prevailing local time, on December 31, 2008, and the Annexation Area shall be and become a part of the Town as of such date and time, except as such date and time may be delayed by operation of applicable law. Promptly after adoption of this Ordinance, the Clerk-Treasurer shall publish this Ordinance and notice of its adoption in the manner prescribed by IC 5-3-1, which publication shall occur not less than ninety (90) days prior to the effective date of the annexation effected by this Ordinance.

Section 10. Certification of Ordinance; Effect. Promptly after adoption of this Ordinance, the Clerk-Treasurer shall certify a copy of this Ordinance as being true and correct in all respects. Pursuant to the provisions of IC 36-4-3-6, such certified copy of this Ordinance shall serve as conclusive evidence of the corporate boundaries of the Town in any subsequent proceeding, including without limitation, with respect to any issue that the territory described in this Ordinance was properly annexed and is a part of the Town.

Section 11. Clerk-Treasurer to File Copies of Ordinance. Pursuant to the provisions of IC 36-4-3-7 and IC 36-4-3-22, the Clerk-Treasurer shall do all of the following:

a. Within ten (10) days after the adoption of this Ordinance, send written notice to the Georgetown Township Fire Protection District by its board of fire trustees that the Town shall not assume responsibility for fire protection service within the Annexed Area, and that the Georgetown Township Fire Protection District shall continue to provide fire protection service to

the Annexation Area notwithstanding this annexation and regardless of any remonstrance under the provisions of IC 36-4-3-11 or appeal under the provisions of IC 36-4-3-15.5.

b. In the event that a remonstrance or appeal of this Ordinance is not filed during the period permitted under applicable Indiana law, file a certified copy of the Ordinance with (i) the Floyd County Auditor, (ii) the Clerk of the Floyd Circuit Court, (ii) the Floyd County Board of Voter Registration, (iv) the office of the Indiana Secretary of State, and (v) the office of census data established by IC 2-5-1.1-12.2. The Clerk-Treasurer shall further provide a sufficient number of copies of the Ordinance to the Floyd County Auditor to enable the Floyd County Auditor to forward copies and provide notification of the effective date of the annexation effected by this Ordinance pursuant to the provisions of IC 36-4-3-22(d) to each of the following: (1) the Floyd County Highway Department, (2) the Floyd County Surveyor, (3) the Floyd County Plan Commission, (4) the Floyd County Sheriff, (5) the Georgetown Township Trustee, (6) the office of the Indiana Secretary of State, and (7) the office of census data established by IC 2-5-1.1-12.2.

c. In the event that a remonstrance or appeal of this Ordinance is timely filed, but this Ordinance is sustained following judicial review, a certified copy of the judgment ordering annexation in accordance with this Ordinance with (i) the Floyd County Auditor, (ii) the Clerk of the Floyd Circuit Court, (ii) the Floyd County Board of Voter Registration, (iv) the office of the Indiana Secretary of State, and (v) the office of census data established by IC 2-5-1.1-12.2. The Clerk-Treasurer shall further provide a sufficient number of copies of the judgment to the Floyd County Auditor to enable the Floyd County Auditor to forward copies and provide notification of the effective date of the annexation effected by this Ordinance pursuant to the provisions of IC 36-4-3-22(d) to each of the following: (1) the Floyd County Highway Department, (2) the Floyd County Surveyor, (3) the Floyd County Plan Commission, (4) the Floyd County Sheriff, (5) the office of the Indiana Secretary of State, and (6) the office of census data established by IC 2-5-1.1-12.2.

d. Record a certified copy of this Ordinance in the office of the Floyd County Recorder.

e. The filings and recordings required by this Section 11 shall be accomplished no later than ninety (90) days after (i) the expiration of the period permitted for a remonstrance or appeal, or (ii) the delivery of a certified order under the provisions of IC 36-4-3-15. However, the failure to record this Ordinance as provided by IC 36-4-3-22(a)(2) shall not invalidate this Ordinance.

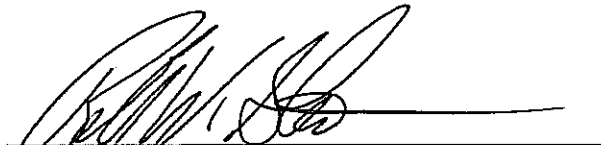
Section 12. Partial Invalidity; Severability. In the event that a portion, but less than all, of the provisions of this Ordinance and/or annexations effected by this Ordinance are deemed to be invalid or unenforceable by the final, non-appealable order of a court of competent jurisdiction, such provisions shall be stricken from the text of this Ordinance, but the remaining provisions following such determination and striking shall remain in full force and effect notwithstanding such partial invalidity and striking.

Section 13. Adoption of Ordinance; Effective Date. This Ordinance shall be in full force and effect from the later of (a) the date of its passage and adoption by this Town Council, or (b) any later date specified by applicable Indiana law.

SO ORDAINED by this Town Council this 23 day of September, 2008.

TOWN COUNCIL OF THE TOWN OF GEORGETOWN, INDIANA

Voting Aye:



Billy W. Stewart, President



Aaron Striegel



Karla Perkins

Mike Mills




Everett Pullen

Voting Nay:

Billy W. Stewart, President

Aaron Striegel


Karla Perkins



Mike Mills

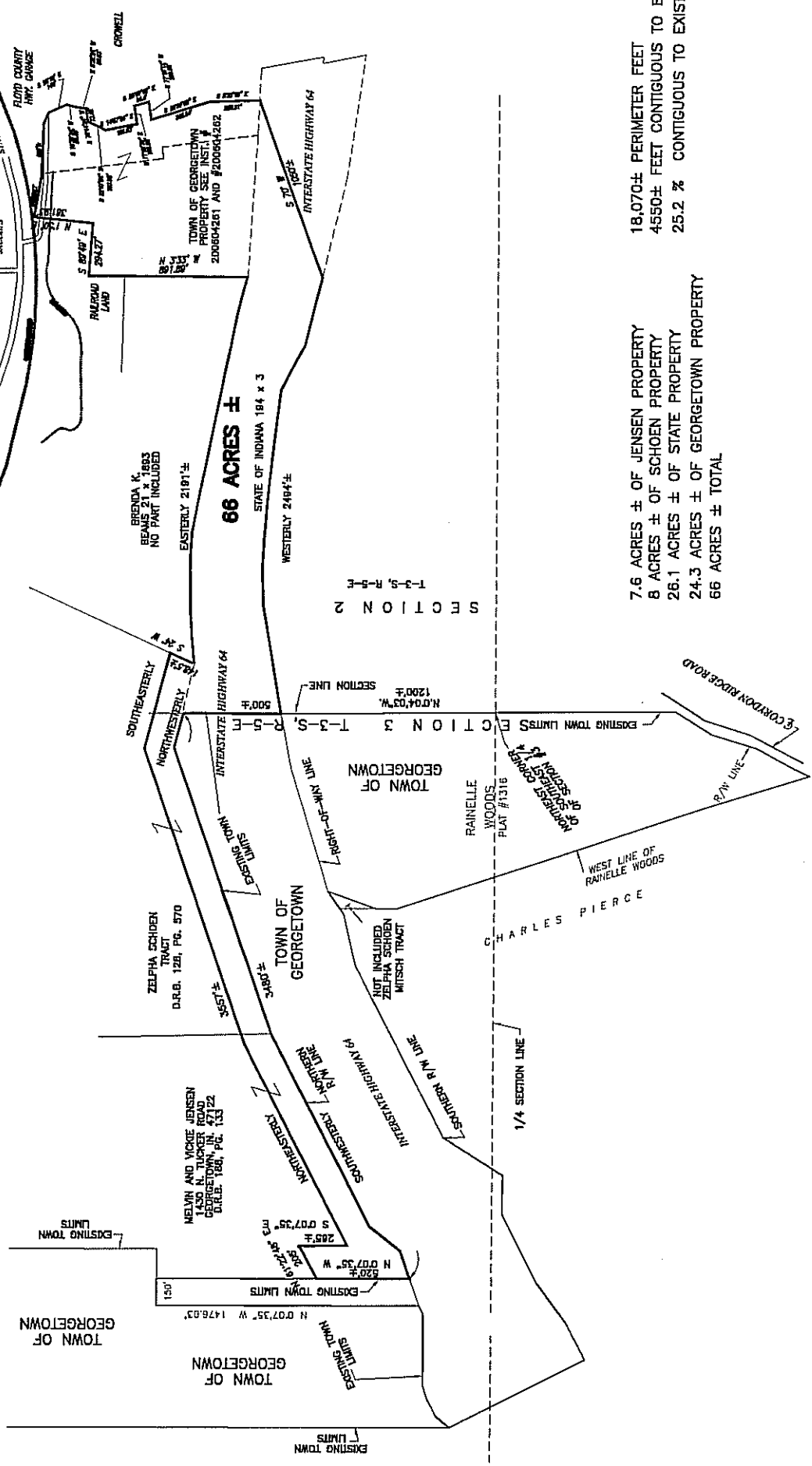
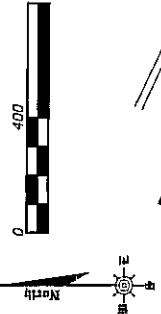
Everett Pullen

Attested by:



Doug Cook, Clerk-Treasurer

DRAWING OF PROPOSED GEORGETOWN ANNEXATION APPENDIX I



7.6 ACRES ± OF JENSEN PROPERTY
 8 ACRES ± OF SCHOEN PROPERTY
 26.1 ACRES ± OF STATE PROPERTY
 24.3 ACRES ± OF GEORGETOWN PROPERTY
 66 ACRES ± TOTAL

18,070± PERIMETER FEET
 4550± FEET CONTIGUOUS TO EX. TOWN
 25.2 % CONTIGUOUS TO EXISTING TOWN

REVISED 23 SEPTEMBER 2008

FOR: TOWN OF GEORGETOWN
 P.O. BOX 127
 GEORGETOWN, IN. 47122

FILE NUMBER: PAGE 2 OF 3

BLANKENBEKER & SON
 LAND SURVEYORS INC., P.C.
 426 MEigs AVENUE JEFFERSONVILLE INDIANA
 TELEPHONE (812) 282-4183 P.O. BOX 157 47131-0157
 WWW.BLANKENBEKERANDSON.NET

BY: D.R.B. SCALE: 1" = 400 FEET DATE: 15 JUNE 2008 JOB # 18-467 DRS # 1860