

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

**IN THE MATTER OF THE PETITION OF THE)
TOWN OF WINFIELD, LAKE COUNTY,)
INDIANA, FOR APPROVAL OF A)
REGULATORY ORDINANCE ESTABLISHING) CAUSE NO. 45992
A SERVICE TERRITORY FOR THE TOWN'S)
MUNICIPAL SEWER SYSTEM PURSUANT TO)
IND. CODE § 8-1.5-6 ET SEQ)**

**VERIFIED CROSS-ANSWERING TESTIMONY
of
JOHN LOTTON**

**On Behalf of Intervenor,
LBL Development, LLC**

Intervenor's Exhibit No. 4

1 **INTRODUCTION**

2 **Q1. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A1. My name is John Lotton. I am the President of Lotton Development, Inc., which is the
4 manager of LBL Development, LLC ("LBL"), an intervenor in Indiana Utility Regulatory
5 Commission ("Commission") Cause No. 45992. My business address is 14400 Lake Shore
6 Drive, Cedar Lake, Indiana, 46303.

7 **Q2. ARE YOU THE SAME JOHN LOTTON WHO PRE-FILED DIRECT**
8 **TESTIMONY IN THIS CAUSE?**

9 A2. Yes.

10 **Q3. WHAT IS THE PURPOSE OF YOUR CROSS-ANSWERING TESTIMONY?**

11 A3. In this cross-answering testimony, I will respond to matters raised by the responsive
12 testimony of the Town of Winfield, Indiana's ("Winfield") witnesses Zach Beaver, Jeremy
13 Lin, and Jennifer Wilson in opposition to the relief requested by Crown Point and the direct
14 testimony of the Indiana Office of Utility Consumer Counselor ("OUCC") witness Kristen
15 Willoughby.

16 **Q4. PLEASE SUMMARIZE YOUR CROSS-ANSWERING TESTIMONY.**

17 A4. Winfield continues to provide no real evidence that it has the ability to provide wastewater
18 service anywhere in the area in which it seeks to be the exclusive provider of wastewater
19 service (the "Winfield Requested Territory") or the area in which both the City of Crown
20 Point, Indiana ("Crown Point") and Winfield seek to be the exclusive wastewater provider
21 (the "Disputed Area"). The bottom line is that Winfield has not taken a single action
22 demonstrating that it is actually capable of providing service to in the Disputed Area. LBL
23 has owned property in the Disputed Area since 2004 and controlled the property within

1 Winfield since 2017. Despite many requests, Winfield has never been willing or able to
2 provide wastewater service to our property. This is why LBL has sought wastewater service
3 from Crown Point and taken significant steps toward obtaining such service from Crown
4 Point, which has a long track record of reliable wastewater service in the area. Only after
5 LBL and Crown Point executed the Donation Agreement did Winfield begin to claim that
6 it could serve the Disputed Area.

7 Winfield's claims that it is "ready, willing, and able" to provide wastewater service
8 to LBL's property only began after it filed this matter. Mr. Beaver, for example, never
9 made such a claim directly to LBL prior to this case, despite his testimony stating
10 otherwise. The clearest illustration of Winfield's not being "ready, willing, and able" to
11 provide service to LBL's property, whether within Winfield's corporate boundaries or not,
12 is the simple fact that it is not providing service to any of LBL's property, nor has it ever
13 provided service to any LBL property inside or outside Winfield.

14 Moreover, the evidence in this Cause demonstrates that Winfield's claims it is
15 "ready, willing, and able" to provide wastewater service to LBL are totally hollow.
16 Winfield has not identified a pipe in its system that has the capacity to serve LBL and has
17 not built any of the backbone collection system necessary to serve the area. Winfield's
18 Exhibit 8, a map purporting to show Winfield's so-called "plans" to serve the Disputed
19 Area, is generic and contradictory and appears to have been created in Adobe Photoshop
20 or similar consumer software, rather than the professional computer-aided design ("CAD")
21 software used by engineers. The maps attached to Mr. Stong's testimony were created
22 using CAD software.

1 Winfield's "plan" includes no cost estimates. Winfield has refused to provide any
2 cost estimates in discovery and has provided no details as to how its "plan" would be
3 financed. Moreover, Winfield's treatment plant is located 3.6 miles away from the
4 Disputed Area and 5.75 miles from the southern portion of the Winfield Requested
5 Territory. Winfield's plant is also 59 feet of elevation higher than the discharge point at
6 LBL's property for the Disputed Area. As discussed by Mr. Stong and Mr. Jacob, for
7 Winfield to extend service to LBL would be expensive and incredibly complicated, which
8 is not acknowledged or addressed by Winfield. Winfield also does not have any plans to
9 extend service to the area, and no one will invest in this area without service.

10 Crown Point, by contrast, does not need to continually insist that it is ready, willing,
11 or able to serve LBL's properties because it has prepared a fully engineered plan to do so.
12 Crown Point is an excellent partner that works collaboratively with developers, taking our
13 suggestions, answering questions, and making changes to plans when necessary. This is
14 very different than Winfield's alleged "plan," which was developed without collaborating
15 with LBL in even the smallest way. Crown Point informally provided a copy of its
16 regulatory ordinance to Winfield in August 2023, and LBL communicated with Winfield
17 about Crown Point serving the Disputed Area before then. Instead, of attempting to work
18 with LBL and its surrounding communities, Winfield filed this Cause without any notice
19 to Crown Point and LBL to disrupt the Donation Agreement and Crown Point's regulatory
20 ordinance to serve the Disputed Area, both of which Winfield was fully aware.

21 If the Commission grants Winfield's request to become the exclusive wastewater
22 service provider in the Winfield Requested Territory and Disputed Area, it would continue
23 to remain undeveloped and unserved as it has been until now.

1 **Q5. ARE YOU SPONSORING ANY ATTACHMENTS TO YOUR CROSS-**
2 **ANSWERING TESTIMONY?**

3 A5. Yes. I am sponsoring the following attachments:

- 4 • Attachment JL-7, E-mails to Winfield regarding Crown Point's intention to serve the
5 Disputed Area in 2023.
- 6 • Attachment JL-8, Winfield's response to Crown Point's Data Request No. 5.21.
- 7 • Attachment JL-9, Winfield's responses to LBL's Data Requests Nos. 4.2 and 4.3.

8
9 **WINFIELD'S CLAIMED ABILITY TO SERVE LBL'S DEVELOPMENT IN THE DISPUTED**
10 **AREA**

11 **Q6. MR. LIN STATES ON PAGE 24 OF HIS RESPONSIVE TESTIMONY THAT**
12 **"WINFIELD HAS REPEATEDLY MET WITH LBL AND SPECIFICALLY**
13 **STATED THAT IT HAS THE FACILITIES AND CAPACITY NECESSARY TO**
14 **PROVIDE SERVICE TO LBL." IS THIS AN ACCURATE STATEMENT?**

15 A6. No. Further, while I have had many conversations with Winfield town officials like Nick
16 Bellar, Gerry Stiener, and Mr. Beaver, none of these individuals has ever stated that
17 Winfield has the facilities to collect or the capacity to provide wastewater service to LBL's
18 property, aside from Mr. Beaver's claims after this Cause was filed that Winfield is "ready,
19 willing, and able" to serve. Aside from the modest expansion of its treatment plant (the
20 plans, timelines, and completion of which were never communicated with LBL), nothing
21 has changed about Winfield's wastewater system in the time between Winfield's past
22 inability to LBL and today.

1 As indicated in my direct testimony, Winfield has also repeatedly refused to zone
2 LBL's property inside the Town. As recently as 2023, Mr. Bellar, then the Town
3 Administrator and now the Town Manager of Winfield, represented to LBL that Winfield
4 would not hear a petition to rezone the 400 acres of property LBL owned inside of
5 Winfield's corporate boundaries (after initially assuring LBL that they would hear a
6 petition to rezone and LBL providing them with requested information) because Winfield
7 was unable to provide wastewater service due to both a lack of capacity in Winfield's
8 wastewater system and a lack of collection system infrastructure to serve that property.
9 Essentially nothing has changed since then. Again, the clearest illustration of Winfield's
10 inability to provide service to LBL's property, whether within Winfield's corporate
11 boundaries or not, is the simple fact that it is not providing service to any of LBL's
12 property, nor has it ever provided service to any LBL property, despite the fact that LBL
13 has owned property adjacent to Winfield in the Disputed Area since 2004 and controlled
14 property in Winfield since 2017.

15 **Q7. ON PAGE 4 OF HIS RESPONSIVE TESTIMONY, MR. BEAVER NOTES THAT**
16 **"UNDER INDIANA LAW, MUNICIPALITIES SUCH AS WINFIELD HAVE THE**
17 **EXCLUSIVE RIGHT TO PROVIDE AND CONTROL SEWER AND WATER**
18 **SERVICE WITHIN THEIR MUNICIPAL BOUNDARIES. DO YOU AGREE?**

19 **A7.** Unfortunately, yes. My goal for my properties outside the corporate boundaries of
20 Winfield and Crown Point is to have them connected to reliable wastewater service so they
21 can be developed and not suffer the same outcome as my properties within Winfield's
22 corporate boundaries. Winfield has proven over and over again that it is not a good partner
23 to work with. Nothing illustrates that more than Winfield's posture in this proceeding. LBL

1 signed the Donation Agreement in order to donate 44 acres of land adjacent to the Disputed
2 Area for Crown Point to build its new wastewater treatment plant ("SE WWTP") to serve
3 the LBL development on May 16, 2023. Winfield was well aware of LBL and Crown
4 Point's plans to enter into the Donation Agreement and of Crown Point's intention to serve
5 the Disputed Area since early 2023. LBL and Crown Point both directly informed Winfield
6 of their intent to execute the Donation Agreement and have Crown Point provide
7 wastewater service to LBL's development. In fact, one of the law firms representing
8 Winfield in this Cause, Austgen Kuiper Jasaitis P.C., drafted and assisted in negotiating
9 the Donation Agreement with Crown Point on behalf of LBL, and has served as LBL's
10 longtime business counsel for the past 25 years.

11 At the time LBL and Crown Point executed the Donation Agreement, LBL was
12 also engaged in discussions with Winfield about the potential for Crown Point to provide
13 wastewater service to both LBL's property and a significant amount of property owned by
14 others within the corporate limits of Winfield. Among other things, we were working
15 directly with Winfield to determine, parcel by parcel, who would service each parcel of
16 property based on the watershed. Following the execution of the Donation Agreement on
17 May 16, 2023, Crown Point adopted a regulatory ordinance on August 7, 2023 and
18 approached Winfield in an attempt to resolve any concerns it might have about that
19 ordinance. LBL approached Winfield in April of 2023 and Winfield was receptive about
20 authorizing Crown Point to serve the Disputed Area along with areas in its corporate
21 boundaries as reflected in the e-mails attached as JL-7.

22 **Q8. DID WINFIELD RESPOND TO LBL AND CROWN POINT REGARDING THE**
23 **CONTENT OF CROWN POINT'S REGULATORY ORDINANCE?**

1 A8. No. Rather than responding to Crown Point, Winfield, fully aware that Crown Point was
2 building the SE WWTP and had entered into the Donation Agreement, initiated this
3 proceeding without notifying LBL and Crown Point. In doing so, Winfield never disclosed
4 to the Commission the Donation Agreement, Crown Point's regulatory ordinance, or the
5 new Crown Point SE WWTP. Instead, Winfield witness Duffy testified it is "theoretically
6 possible for Crown Point . . . to serve some of the Winfield Service Area" but "it would
7 likely need to build a new wastewater treatment plant and extend facilities into this area."
8 Winfield's Exhibit 1, Verified Direct Testimony of Michael P. Duffy, Jr. (filed Dec. 27,
9 2023) at 8. It is clear that, in filing this Cause, Winfield was attempting to interfere with
10 and obstruct the contract between Crown Point and LBL without a defined plan to serve
11 the area.

12 Only by happenstance did LBL learn of Winfield's filing this proceeding —
13 approximately four months after the Petition was filed and just weeks before the scheduled
14 date of the evidentiary hearing.

15 Simply put, after Winfield's years of failure to serve LBL's property and its
16 attempts to end-run around LBL and Crown Point's Donation Agreement, collaborative
17 plans, and Crown Point's Regulatory Ordinance, LBL simply will not work with Winfield
18 to provide wastewater treatment to its properties, and I would not recommend that any
19 other business looking to locate in northwest Indiana work with Winfield to provide
20 wastewater treatment.

21 **Q9. HAVE YOU EVER HAD A TRUSTING RELATIONSHIP WITH ANY OF**
22 **WINFIELD'S TOWN OFFICIALS?**

1 A9. Yes. I occasionally met with former Winfield Town Council President Gerry Stiener while
2 he was in office (from 2011 through 2022) regarding the development of our property. Mr.
3 Stiener was always very forthcoming in discussing Winfield's inability to provide
4 wastewater service to LBL's properties. He also told me that, if LBL's property was
5 annexed into Winfield, Winfield would be unable to provide wastewater service because it
6 was simply not a possibility for it to provide that service, financially or practically. He
7 suggested that we should just seek wastewater service from Crown Point, since Crown
8 Point may have the ability to serve.

9 **Q10. MR. BEAVER STATES THAT THE 400 ACRES OF LBL'S DEVELOPMENT**
10 **WITHIN WINFIELD "WILL RECEIVE SEWER SERVICE FROM WINFIELD."**
11 **DO YOU BELIEVE THIS STATEMENT?**

12 A10. No. Mr. Beaver omits any reference to *when* Winfield will provide sewer service to the
13 site, reflecting that Winfield has no actionable plan to serve LBL's property in Winfield.
14 Again, LBL has controlled this land since 2017, and Winfield has never taken any actions
15 nor made any commitment to connect this area to its existing wastewater infrastructure. As
16 reflected in the map of Winfield's facilities which was attached to Mark Jacob's testimony
17 as Attachment MCJ-11, Winfield does not have facilities anywhere near the 400 acres
18 owned by LBL inside Winfield.

19 **Q11. MR. BEAVER ALSO CLAIMS "WINFIELD HAS DEVELOPED A RATHER**
20 **STRAIGHT FORWARD PLAN TO PROVIDE SERVICE TO THE**
21 **DEVELOPMENT IN LESS THAN A YEAR." DO YOU BELIEVE THIS IS TRUE?**

22 A11. No, I do not believe Mr. Beaver's statement. In addition to the fact that Winfield has never
23 demonstrated any concrete or realistic plan to serve LBL's property, Winfield itself

1 contradicts this statement in its discovery responses in this Cause. In its response to LBL
2 Data Request 3.5, Winfield stated “that it ‘can’ serve LBL’s development, ***not that it is***
3 ***planning to do so within one year.***” Attachment MCJ-3 to Direct Testimony of Mark C.
4 Jacob, Intervenor’s Exhibit No. 2, at 4 (emphasis added). Moreover, Winfield has
5 continuously refused to provide an estimate of for what Mr. Beaver calls its “straight
6 forward plan.” Winfield’s response to LBL’s Data Request No. 1.7 states, in part, that
7 “while the facilities identified on Exhibit 8 to Mr. Duffy’s testimony illustrate a plan of
8 service, final design of facilities and their estimated costs will not be completed until
9 Winfield receives definitive requests for service.” See Attachment MCJ-1 to Verified
10 Direct Testimony of Mark C. Jacob at 2-3. Accordingly, Winfield has only estimated the
11 cost of extending its facilities to the Gibson Street Lift Station, which is just one of the two
12 to three lift stations it intends to use to serve the Disputed Area, to be \$9,000,000. Winfield
13 has provided ***no*** estimate of how much the new infrastructure depicted on maps like
14 Winfield’s Exhibit 8, including new lift stations, pipes, and force mains, might cost.
15 Winfield’s outright refusal to present a comprehensive plan or cost estimate is baffling at
16 best and infuriating to me as the major landowner. Again, Winfield filed this proceeding
17 to interfere with the Donation Agreement between Crown Point and LBL, and yet it refuses
18 to provide any details or estimates as to how it would serve the Disputed Area other than
19 some arrows shapes on a map. In sum, Winfield’s plan (while too simple from a design
20 perspective) is not straight forward or simple to execute, and no developer or business
21 would reasonably rely upon it. Again, in my view and our engineer Mr. Jacob’s view, it is
22 not a real plan.

Q12. BUT, ACCORDING TO MR. BEAVER, "THE PLAN AND COST HAVE BEEN PROVIDED TO LBL AS PART OF DISCOVERY." IS THAT TRUE?

A12. No. Winfield has refused to provide a real plan or cost estimate for a real plan. LBL asked in its Data Request 1.7 that Winfield provide any cost estimates and/or design documents for the facilities Winfield has identified as being necessary on Exhibit 8 (and by extension Exhibit 10) to Mr. Duffy's testimony, including without limitation:

- The in Town force main;
- In Town lift stations;
- Lift stations outside the Town;
- The force main outside the Town;
- The gravity sewer along US 231;
- The gravity sewer along Gibson Street;
- The gravity sewer along 137th
- The gravity sewer along 145th

In its response to LBL's Data Request 1.7, Winfield states:

With the adoption of Indiana Code 8-1-2-101.5, Winfield is subject to the Commission's Main Extension Rules. As such, developers will be responsible for the construction of wastewater infrastructure inside their respective developments. In addition, Winfield has used other forms of agreement to cost share with developers. While the facilities identified on Exhibit 8 to Mr. Duffy's testimony illustrate a plan of service, final design of facilities and their estimated costs will not be completed until Winfield receives definitive requests for service. At this point, the only indication of a need for service is from LBL which owns or controls much of the property within the Proposed Service Area. As noted in the Response to Crown Point's data requests, the extension of service from Winfield's existing facilities to the proposed lift station #3 on 129th Avenue would cost \$9,000,000. LBL would, in turn, be able to immediately connect to these facilities. LBL's only interest concerns service to the Disputed Area. Due

1 to LBL's limited interest and the lack of any specific request for service
2 outside of the Disputed Area at this time, any further facilities identified on
3 Exhibit 8 are not "necessary" at this time. To the extent it receives a request
4 for service east of the Disputed Area, Winfield will determine the facilities
5 necessary and the cost of the same. Exhibit 8 does, however, provide a plan
6 for servicing those areas east of the Disputed Area.
7

8 Attachment MCJ-1 at 2-3. In other words, Winfield provided the estimate for just one of
9 the lift stations shown on Mr. Duffy's map.

10 **Q13. DO YOU HAVE ANY FAITH IN EVEN WINFIELD'S \$9 MILLION ESTIMATE**
11 **FOR ONE OF THE LIFT STATIONS?**

12 A13. No, I do not. Winfield has provided no detail to support that estimate, and, as Mr. Jacob
13 states in his direct testimony, Winfield has never constructed any wastewater infrastructure
14 of any consequence, aside from upgrades to its wastewater treatment plant, which is a
15 package plant originally built by a developer to serve a development, and the replacement
16 of failing mains in the Doubletree neighborhood. Crown Point's outside engineering
17 consultant Al Stong has estimated that the cost of providing service to LBL's planned
18 development in the Disputed Area (the "Development Area") under Winfield's proposal
19 could be at least \$25 million and that it could cost at least \$139 million for Winfield to
20 serve the entire Winfield Requested Territory. Our witness Mark Jacob reviewed Mr.
21 Stong's estimates and agrees, as do I. I believe LBL could build a brand-new wastewater
22 treatment plant to serve its development for far less than Winfield's "plans" to serve the
23 Disputed Area.

24 **Q14. DO YOU HAVE ANY OTHER COMMENTS REGARDING MR. BEAVER'S**
25 **INACCURATE CLAIM THAT "THE PLAN AND COST HAVE BEEN PROVIDED**
26 **TO LBL AS PART OF DISCOVERY"?**

1 A14. Yes. A developer or business looking to locate in Indiana should not have to intervene in a
2 Commission proceeding, spend hundreds of thousands of dollars in attorneys' fees, and
3 issue discovery to try to ascertain whether a utility can serve them and at what cost. Such
4 plans and cost estimates should be provided in the ordinary course of business. In contrast
5 to Winfield, Crown Point has worked hand-in-hand with LBL in negotiating a contract
6 laying out all obligations in advance – not after receiving an exclusive service area.

7 **Q15. MR. BEAVER MAKES MUCH OF THE AREAS LABELED “TOWN OF**
8 **WINFIELD” AND “WINFIELD SQUARE” ON THE MAP INCLUDED IN**
9 **WINFIELD’S EXHIBIT 24. CAN YOU EXPLAIN THOSE AREAS?**

10 A15. Yes. Those items appear on this map of the proposed downtown area as part of the back-
11 and-forth sharing of ideas from past discussions with Winfield. There are many iterations
12 of this map, many of which have no reference to Winfield. The reference in the map Mr.
13 Beaver attaches as Exhibit 24 does not give Winfield any kind of ownership rights. Over a
14 year ago, LBL initiated preliminary negotiations with Winfield for a second time in an
15 attempt to resolve the dispute so Crown Point could provide wastewater service to the
16 Development Area.

17 I am surprised that Mr. Beaver would claim that these buildings represent
18 Winfield's plans to relocate its town hall and other municipal buildings, because when LBL
19 offered to donate the land to Winfield for its town buildings as depicted in the map, Mr.
20 Beaver declined LBL's offer! He stated that relocating Winfield's town buildings as
21 depicted on LBL's map was not consistent with Winfield's master plan to move its town
22 hall to another location on Randolph.

1 To sum up, the references to Winfield in the map included by Mr. Beaver in
2 Winfield's Exhibit 24 do not reflect any current intention of LBL to provide land for the
3 relocation of Winfield's town hall and other municipal buildings, which, again, was
4 rejected *by Mr. Beaver* when proposed by LBL in the first place.

5 **Q16. DID THE MAP MR. BEAVER REFERENCES INDICATE THAT WINFIELD**
6 **WOULD PROVIDE WASTEWATER SERVICE IN THE DISPUTED AREA?**

7 A16. No.

8 **Q17. MR. BEAVER CLAIMS THAT CROWN POINT SERVING THE DISPUTED**
9 **AREA DISRUPTS TWENTY YEARS OF PLANNING. DO YOU AGREE?**

10 A17. No. Saying Winfield's so-called "plans" are twenty years in the making statement is
11 completely disingenuous. Winfield's former Town President, Mr. Stiener, advised me that
12 Winfield could not serve the area. Further, its 2016 Sanitary Master Plan did not include
13 the Disputed Area nor even the area LBL owns inside Winfield's corporate boundaries, as
14 reflected by the map below.

SECTION 3 - COLLECTION SYSTEM MASTER PLAN—CONCEPT A1 and A2

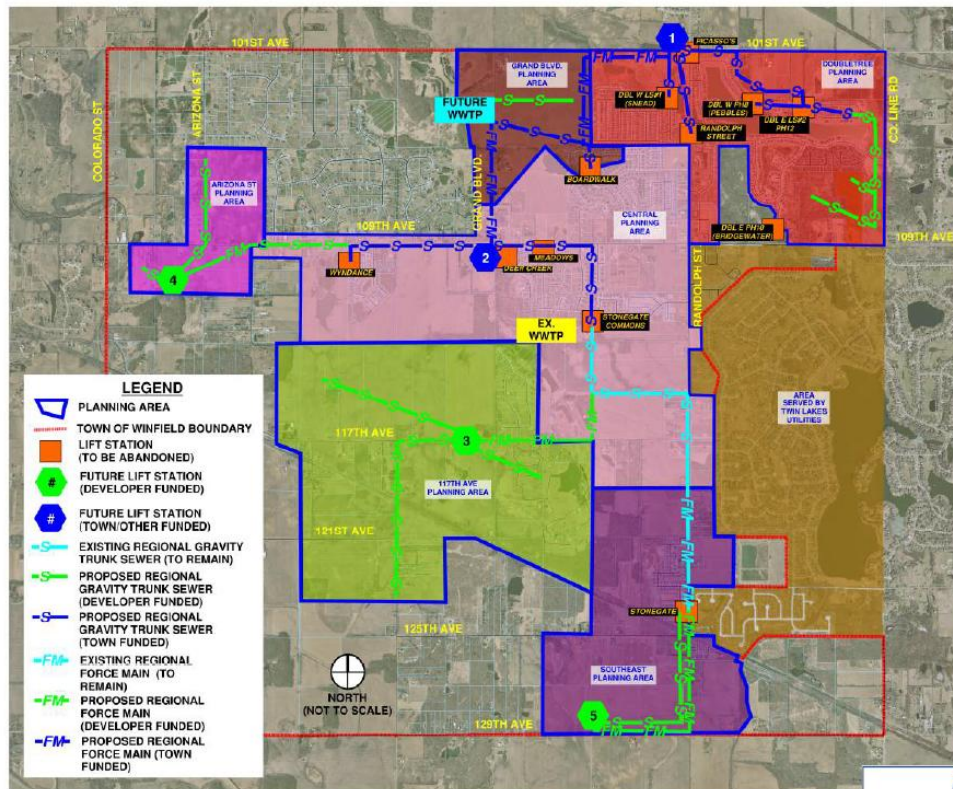


Figure 3-1
Concept A1

TOWN OF WINFIELD, INDIANA—SANITARY MASTER PLAN
January 26, 2016

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Q18. HAS WINFIELD EVER GIVEN LBL ANY REASON TO BELIEVE IT IS “BEST ABLE TO PROVIDE SERVICE THAT MEETS THE NEEDS AND FACILITIES PRESENT AND FUTURE ECONOMIC DEVELOPMENT IN THE AREA,” EITHER IN THE PAST OR THE FUTURE, AS MR. BEAVER CONTENDS?

A18. No. Winfield’s testimony is devoid of any specific examples of *any* concrete actions it has taken to serve LBL’s property for an obvious reason — it has taken no such actions. Winfield claims that it has not taken steps to provide service to LBL because LBL has not requested service from Winfield, but this is a lie. It is unclear why Winfield thinks LBL would again ask Winfield to serve its property now when Winfield has always been

1 completely unable to do so when LBL and Winfield discussed these matters in the past.
2 Rather than wasting any further time dealing with Winfield, LBL has chosen to seek
3 wastewater service from Crown Point and, to that end, donated 44 acres of land for Crown
4 Point to build its new SE WWTP to serve the Development Area as Winfield was aware
5 well in advance as the attached e-mails show.

6 **Q19. GIVEN THAT WINFIELD HAS REPEATEDLY DEMONSTRATED ITS**
7 **INABILITY AND UNWILLINGNESS TO PROVIDE SERVICE TO LBL'S**
8 **PROPERTY, WHAT DOES LBL PLAN TO DO?**

9 A19. As noted above, LBL intends to have Crown Point serve its property in the Development
10 Area, which is why it donated 44 acres of land to Crown Point for its new SE WWTP
11 through the Donation Agreement. Currently we are considering annexation of the Dispute
12 Area into Crown Point. This would eliminate the possibility that Winfield will be allowed
13 to effectively hold LBL hostage and prevent development in the Disputed Area.

14 Regarding LBL's 400 acres of property within Winfield's town limits, LBL
15 currently plans to seek to re-zone that land and wait for a Winfield Town Council that is
16 willing to utilize Crown Point's SE WWTP.

17 **Q20. ARE LBL'S PLANNED ACTIONS MOTIVATED BY ANY SORT OF ANIMOSITY**
18 **TOWARD WINFIELD?**

19 A20. No. These are rational business decisions being made to protect LBL's investment in our
20 property in the Disputed Area. It simply makes sense for Crown Point to serve the Disputed
21 Area, given Winfield's inability to reasonably serve and the fact that it is not serving the
22 majority of properties within its corporate boundaries. LBL needed to pursue reliable
23 service from Crown Point so that we could move forward with developing our property.

CROWN POINT'S PLANS TO SERVE LBL'S PROPERTY IN THE DISPUTED AREA

Q21. MR. BEAVER CLAIMS THAT "CROWN POINT'S RATES AND CHARGES WOULD BE A SIGNIFICANT DETERRENT TO ECONOMIC DEVELOPMENT IN THE DISPUTED AREA." DO YOU AGREE?

A21. No. This claim is, frankly, absurd given the hundreds of millions of dollars in economic development that has occurred in Crown Point in recent years that is apparent to any person driving through Crown Point. I have been continually impressed with the level of economic growth within Crown Point. Crown Point has added multiple large industrial and commercial projects, major hospitals, and medical facilities and has experienced a recent resurgence of residential growth. Crown Point has absolutely no problem with economic development because of its wastewater rates, as repeatedly claimed by Winfield's witnesses.

In contrast, as Mr. Salatas testified, there has been very little economic development within Winfield in the past due to the lack of wastewater service to significant areas within its corporate boundaries. Winfield's continued reliance on its artificially low rates (which do not reflect its true cost to serve customers, as further explained by Crown Point witness Guerrettaz) in support of its request in this Cause should not be persuasive to the Commission.

Q22. MS. WILSON STATES THAT "CROWN POINT'S RATES ARE EXCESSIVE, WOULD PLACE A HARDSHIP ON THE END USERS, AND WOULD DISCOURAGE ECONOMIC DEVELOPMENT IN THE DISPUTED AREA." DO YOU AGREE?

1 A22. Again, no. If Winfield were to be granted a regulated territory, it would ensure that the
2 LBL Property would continue to be totally undeveloped and uninhabited, as it is today.
3 Economic development in this area simply will not occur if Winfield's request to become
4 the exclusive wastewater service provider in the Disputed Area is granted by the
5 Commission. Moreover, Ms. Wilson, who is not an engineer, does not take into account
6 the high cost of building the infrastructure that would be necessary in order for Winfield to
7 serve the area, because Winfield has not even estimated that cost. That is why Winfield
8 cannot commit to actual rates.

9 **Q23. DO ANY WITNESSES IN THIS CAUSE RECOGNIZE THAT CROWN POINT**
10 **SERVING THE DISPUTED AREA WOULD PROMOTE ECONOMIC**
11 **DEVELOPMENT?**

12 A23. Yes. Unlike Ms. Wilson and the other Winfield witnesses, Ms. Willoughby of the OUCC
13 correctly testifies that "establishing Crown Point as the sole sewage provider in the
14 Disputed Area should facilitate growth and economic development. Approval of the
15 Disputed Area would provide predictability to prospective customers by establishing
16 certainty as to the provider of wastewater service." Public's Exhibit No. 1 at 11.

17 **Q24. MR. BEAVER AND MS. WILLOUGHBY NOTE THAT CROWN POINT**
18 **GENERALLY CHARGES A 25% SURCHARGE TO WASTEWATER**
19 **CUSTOMERS OUTSIDE ITS CORPORATE BOUNDARIES. WOULD THAT**
20 **APPLY TO LBL'S PROPERTY?**

21 A24. No. First of all, LBL is considering annexation into Crown Point which would effectively
22 negate this issue. Moreover, out-of-town surcharges are common in Indiana and, as I
23 understand it, are permitted by statute. Winfield makes multiple arguments about Crown

1 Point's surcharge, but, importantly, Winfield does not serve a single customer located
2 outside its corporate boundaries. See Winfield's Response to Crown Point Data Request
3 No. 5.21, attached hereto as Attachment JL-8. As indicated in my direct testimony,
4 Winfield does not even serve most of the areas inside its corporate boundaries. Moreover,
5 Winfield has not committed to not charging an out-of-town surcharge and specifically
6 refused to do so in response to LBL Data Request Nos. 4.2 and 4.3, which are attached
7 hereto as Attachment JL-9.

8 **Q25. DO YOU BELIEVE MR. BEAVER'S AND MS. WILSON'S TESTIMONY THAT**
9 **WINFIELD'S RATES TO SERVE THE DISPUTED AREA WOULD BE**
10 **SIGNIFICANTLY LOWER THAN CROWN POINT'S RATES?**

11 A25. No, and I don't think any reasonable developer or business should believe such claims.
12 Winfield has not committed to or considered any rates that would take into account
13 extension of service to the Disputed Area. Moreover, neither Winfield's nor Crown Point's
14 wastewater rates and charges are subject to Commission jurisdiction. Thus far, Winfield
15 has been able to provide service relatively cheaply because it has simply been operating a
16 package plant installed by a developer to serve a development in the area. Winfield has
17 only been operating the system for approximately ten years. All additions to Winfield's
18 system during that time have generally been paid for by other developers. Yet, as Crown
19 Point witness Guerrettaz indicates, much of Winfield's wastewater system costs are still
20 paid for through property taxes, which are paid by all Winfield residents, including the
21 majority of Winfield residents who do not receive wastewater service from the Town!
22 Moreover, given that Winfield has not even estimated the cost of any plan to serve the
23 Disputed Area, or the Winfield Requested Territory, there is absolutely no way of knowing

1 what Winfield's rates might be in the future. Simply put, while the future is hard to predict,
2 I believe Crown Point's rates will be lower than Winfield's, because treating sewage via
3 gravity on a grander scale is always cheaper. Further, Crown Point will have the ability to
4 actually charge rates in the area. Winfield will have no rates in the area, because it will
5 have no customers in the area.

6 **Q26. HOW DO YOU RESPOND TO MR. BEAVER'S STATEMENT THAT, IF THE**
7 **COMMISSION GRANTS WINFIELD'S REQUEST IN THIS CAUSE, "THERE**
8 **WILL BE PLENTY OF AREAS IN WHICH CROWN POINT CAN PROVIDE**
9 **SERVICE, INCLUDING SOME AREAS IN WHICH LBL MAY DEVELOP**
10 **(OUTSIDE THE DISPUTED AREA)"?**

11 A26. This statement by Mr. Beaver is completely irrelevant to the outcome of this case and
12 should not factor into the Commission's consideration at all. Winfield is not entitled to
13 become the exclusive wastewater service provider simply because there are unspecified
14 "plenty of areas" for Crown Point to develop. It is also unclear what Mr. Beaver means by
15 "some areas in which LBL may develop (outside the Disputed Area)." If the Commission
16 makes Winfield the exclusive wastewater service provider for that area, economic
17 development in the area will continue to not exist because we will not build our planned
18 development in the Disputed Area if Winfield is awarded an exclusive service territory.

19 **Q27. WHAT IS YOUR RESPONSE TO MR. BEAVER'S CLAIM THAT "CROWN**
20 **POINT WILL SUFFER NO HARDSHIP IF THE DISPUTED AREA IS GRANTED**
21 **TO WINFIELD"?**

22 A27. I completely disagree that Crown Point "will suffer no hardship if the Disputed Area is
23 granted to Winfield." Crown Point designed its SE WWTP to serve a large area, not just

1 the LBL development, and has invested (and continues to invest) millions of dollars in
2 expanding its wastewater utility. Crown Point also intends to utilize the SE WWTP to serve
3 Leroy, which is a community located near the Disputed Area and lacks wastewater service,
4 with funds received from the State of Indiana pursuant to the American Rescue Plan Act
5 ("ARPA"). If Winfield's request in this Cause is granted, Crown Point will be unable to
6 fulfill one of the goals of the ARPA grant to extend service to Leroy, which is an
7 underserved community in Lake County and will be a hardship on Crown Point and Leroy.

8 In addition, LBL will certainly suffer a hardship if the Commission grants
9 Winfield's request to be the exclusive wastewater service provider in the Disputed Area,
10 because LBL will be completely unable to develop the property it owns there. LBL also
11 will lose the benefit of the Donation Agreement. The land that LBL donated to Crown
12 Point has value; a neighboring 160-acre parcel of land is currently under contract for
13 \$47,000 per acre.

14 **Q28. MR. BEAVER ARGUES THAT "CROWN POINT DOES NOT HAVE EXTRA**
15 **CAPACITY FOR LBL,]" THAT IT WILL NOT HONOR OBLIGATIONS TO**
16 **SERVE WITHIN ITS CITY LIMITS, AND THAT IT IS "PRIORITIZING LBL TO**
17 **THE DETRIMENT OF ITS EXISTING CUSTOMERS AND THOSE CUSTOMERS**
18 **TO WHICH IT HAS PREVIOUSLY DENIED SERVICE." DO YOU AGREE?**

19 A28. No. Mr. Beaver is completely mischaracterizing the situation. Crown Point's service of
20 LBL will not affect its service of or obligations to serve other customers. Pursuant to the
21 Donation Agreement between Crown Point and LBL, LBL donated 44 acres of land to
22 Crown Point so Crown Point could build its planned SE WWTP on that land to serve LBL's
23 property in the Disputed Area. Serving LBL's property via the SE WWTP will not result

1 in Crown Point de-prioritizing its in-town customers in favor of LBL, as claimed by Mr.
2 Beaver. LBL's donation of the land to Crown Point is a significant benefit to Crown Point
3 and its customers.

4 **Q29. DOES IT CONCERN YOU THAT CROWN POINT HAS DENIED REQUESTS**
5 **FROM POTENTIAL NEW CUSTOMERS TO CONNECT TO ITS**
6 **WASTEWATER SYSTEM IN THE PAST?**

7 A29. No, it does not. As Mr. Beaver himself admits, Crown Point has reserved capacity in its
8 existing wastewater treatment plant to serve additional in-town customers. This reserved
9 capacity is completely unrelated to the new SE WWTP Crown Point will use to serve the
10 LBL development and many other property owners.

11 **Q30. MR. BEAVER ALSO CLAIMS THAT THE DONATION AGREEMENT**
12 **BETWEEN LBL AND CROWN POINT VIOLATES INDIANA LAW—**
13 **SPECIFICALLY, INDIANA CODE CHAPTER 36-1-10.5. HOW DO YOU**
14 **RESPOND?**

15 A30. I disagree with Mr. Beaver's claim that the Donation Agreement violates Indiana law in
16 any way. Moreover, given that one of the law firms representing Winfield in this Cause,
17 Austgen Kuiper Jasaitis P.C., drafted and assisted in negotiating the Donation Agreement
18 on behalf of LBL, I find that argument to be disingenuous at best. While I am not an
19 attorney, it is clear to me that the statute he cites does not apply to LBL's donation of land
20 to Crown Point. Indiana Code § 36-1-10.5-1(b)(1) specifically states that it does not apply
21 to the purchase of real property having a total price of \$25,000 or less. Crown Point
22 received the 44 acres from LBL pursuant to the Donation Agreement as a free donation—
23 for \$0. For Mr. Beaver (who is a licensed attorney) to claim that the Donation Agreement

1 is somehow in violation of this law when it is very clear it does not apply is both
2 disingenuous and unprofessional.

3 **Q31. DO YOU AGREE WITH MR. BEAVER'S STATEMENT THAT "[I]N THE MAIN**
4 **EXTENSION RULES, A MUNICIPALITY SHOULD NOT EXTEND FREE**
5 **SERVICE TO A DEVELOPER'S PROPERTY"?**

6 A31. No. As Winfield noted in their response to LBL's Data Request 1.7, which I quote above,
7 developers are "responsible for the construction of wastewater infrastructure *inside their*
8 *respective developments.*" (emphasis added). Crown Point is planning to build a large main
9 that is going to serve the surrounding areas, not just the LBL development.

10 **Q32. MR. BEAVER ARGUES THAT TO GRANT CROWN POINT'S REQUEST TO**
11 **SERVE THE DISPUTED AREA "WOULD RESULT IN TWO DIFFERENT**
12 **PROVIDERS FOR THE SAME DEVELOPMENT WHICH WOULD LEAD TO**
13 **DUPLICATIVE, UNNECESSARY FACILITIES AND CONFUSION FOR THE**
14 **ULTIMATE USERS[.]" DO YOU AGREE?**

15 A32. Again, I disagree. Mr. Beaver incorrectly states that LBL's development is only 1,200
16 acres, with 800 in the Disputed Area and 400 in Winfield. He ignores the fact that the
17 development also includes 400 acres within Crown Point making it a 1,600 acre site. Thus,
18 regardless of what happens in this Cause, the LBL development will include land within
19 the service territories of both Crown Point and Winfield. Moreover, the area within
20 Winfield is separated from the Disputed Area by 129th Street, which is planned to be a
21 major corridor in the area. It is not uncommon for areas on opposite sides of the street to
22 have different utility providers and residents are intelligent enough to identify their utility

1 providers and understand that being on the other side of the street could put you in a
2 different service area.

3 **Q33. MR. BEAVER ALSO ARGUES THAT TO GRANT CROWN POINT'S REQUEST**
4 **"WOULD DISRUPT MORE THAN TWENTY YEARS OF PLANNING BY**
5 **WINFIELD." HOW DO YOU RESPOND?**

6 A33. First, this is an odd statement, given that Winfield acknowledges in discovery that
7 "Winfield purchased its sewer utility a little more than a decade ago." Moreover, Mr.
8 Beaver greatly exaggerates the significance of the so-called "planning" Winfield has done.
9 Winfield's various master plans (such as its "Comprehensive Master Plan") constitute
10 nothing more than a hypothetical wish list of things Winfield would like to do. Winfield
11 cannot just "reserve" a totally rural area for itself by citing completely non-concrete "plans"
12 like those contained in its "Comprehensive Master Plan," which are incredibly vague and
13 undefined. Moreover, as I noted in my direct testimony, Winfield's Comprehensive Master
14 Plan indicates that it does not plan to serve some of the areas at issue in this case at all. The
15 majority of LBL's property is identified in Winfield's Master Plan as being a Priority Two
16 Area — and some of it is designated as a Priority Three Area.

17 **Q34. ARE YOU CONCERNED ABOUT CROWN POINT'S TWO AGREED ORDERS**
18 **WITH THE INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**
19 **("IDEM") AFFECTING ITS ABILITY TO SERVE LBL'S PROPERTY?**

20 A34. No, those orders do not affect Crown Point's ability to provide service to LBL's property
21 in the Disputed Area. It is my understanding that Crown Point is in compliance with the
22 IDEM orders, and there is nothing preventing Crown Point from going ahead with its plans
23 to build its SE WWTP and serve LBL's property pursuant to the Donation Agreement. In

1 fact, the Donation Agreement provides Crown Point with a site to construct the SE WWTP
2 that will allow it to meet IDEM's requirements to the benefit of its customers and the
3 surrounding area.

4 **Q35. MR. LIN TESTIFIES THAT LBL IS NOT "THE MAJORITY LANDOWNER**
5 **WITHIN THE DISPUTED AREA[," SINCE LBL OWNS 800 ACRES IN THE**
6 **DISPUTED AREA, AND THE DISPUTED AREA INCLUDES A TOTAL OF 1,840**
7 **ACRES. HOW DO YOU RESPOND?**

8 A35. LBL is certainly the largest landowner in the Disputed Area. In any event, the fact that
9 LBL does not own all or a majority of the land in the Disputed Area is irrelevant to the
10 Commission's analysis in this matter. There are no plans to develop land within the
11 Disputed Area other than LBL's plans.

12 **CONCLUSION**

13 **Q36. WHAT ACTIONS DO YOU RECOMMEND THE COMMISSION TAKE?**

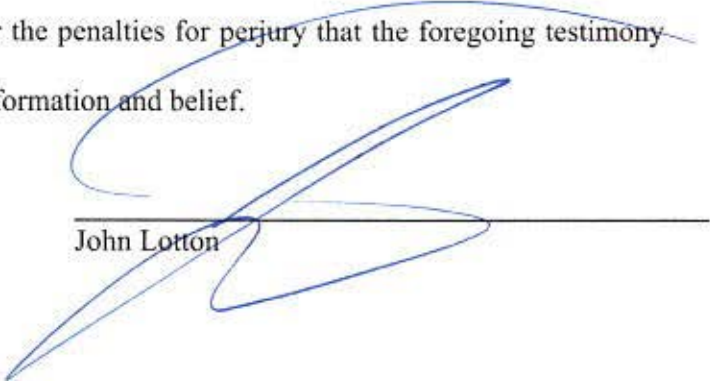
14 A36. The Commission should approve Crown Point's request for approval of its Ordinance No.
15 2025-02-08 in this Cause and in Cause No. 46035.

16 **Q37. DOES THIS CONCLUDE YOUR CROSS-ANSWERING TESTIMONY?**

17 A37. Yes, it does.

VERIFICATION

The undersigned affirms under the penalties for perjury that the foregoing testimony is true to the best of his knowledge, information and belief.



John Lotton

Attachment JL-7

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: Nick Bellar <nbellar@winfield.in.gov>
To: lottondev@aol.com <lottondev@aol.com>
Sent: Monday, June 26, 2023 at 09:41:42 AM CDT
Subject: RE: Annexation information

John,

Got your voicemail. I'm going to talk with the Council on Tuesday. Will get back to you Wednesday or Thursday.

Nick Bellar

Town Administrator

Planning & Zoning Administrator

Town of Winfield | (219) 662-2665 x304

From: Nick Bellar
Sent: Tuesday, June 20, 2023 9:41 AM
To: lottondev@aol.com
Subject: RE: Annexation information

Received. Thank you.

Nick Bellar

Town Administrator

Planning & Zoning Administrator

Town of Winfield | (219) 662-2665 x304

From: lottondev@aol.com <lottondev@aol.com>
Sent: Thursday, June 15, 2023 10:32 AM
To: Nick Bellar <nbellar@winfield.in.gov>
Subject: Fw: Annexation information

Nick attached is the unit number per pod, Annexation exhibit and below is the updated information.

- . 1183 acres in the overall Winfield project
- . 2900 residential units or 2.5 Units Per Acre based on an overall acreage of 1183 acres, and 250 apartments
- . 787 acres annexation, 770 acres South of 129th and 17 acres North of 129th
- . 1911 Single Family units
- . 989 Town Home units
- . 23 acres Commercial on the West frontage of 231 and 26 acres Commercial on the East frontage of 231
- . 29 acres of industrial on 121st East of the proposed Crown Point wastewater treatment plant
- . 402 acres that is currently in Winfield will have 478 single family units or 1.2 units per acre
- . there is an additional 187 acres West of the proposed project that is not being considered by Winfield at this time, that could be annexed and zoned in the future

John Lotton

- . 250 Apartments

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]
From: Nick Bellar <nbellar@winfield.in.gov>
To: lottondev@aol.com <lottondev@aol.com>
Sent: Tuesday, June 20, 2023 at 09:41:16 AM CDT
Subject: RE: Annexation information

Received. Thank you.

Nick Bellar

Town Administrator

Planning & Zoning Administrator

Town of Winfield | (219) 662-2665 x304

From: lottondev@aol.com <lottondev@aol.com>
Sent: Thursday, June 15, 2023 10:32 AM
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IURC Cause No. 45992

. 989 Town Home units

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John Lotton

. 250 Apartments

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: lottondev@aol.com <lottondev@aol.com>
To: Nick Bellar <nbellar@winfield.in.gov>
Sent: Thursday, June 15, 2023 at 10:32:05 AM CDT
Subject: Fw: Annexation information

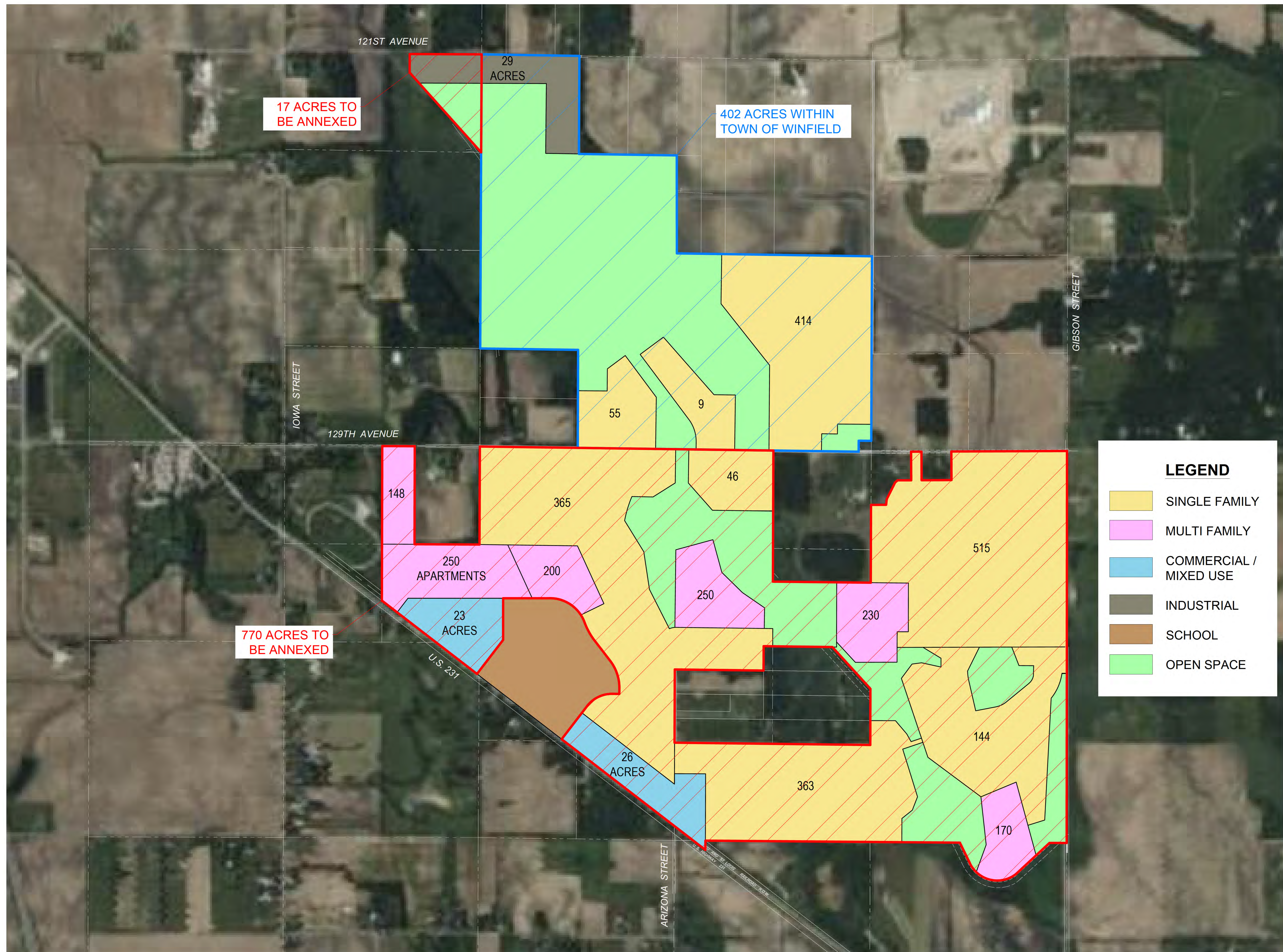
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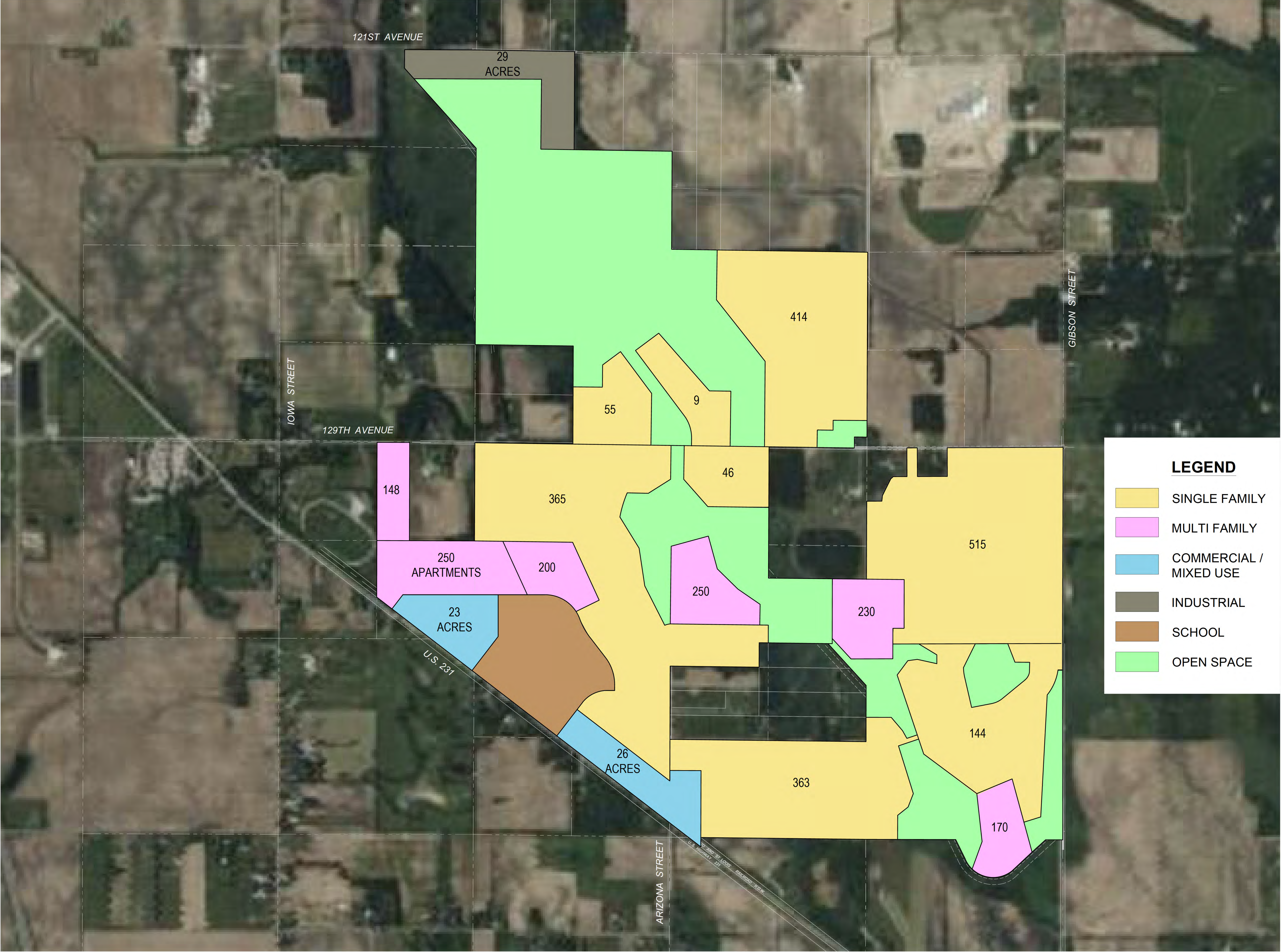
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John Lotton

IURC Cause No. 45992

. 250 Apartments





[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: Nick Bellar <nbellar@winfield.in.gov>
To: lottondev@aol.com <lottondev@aol.com>
Sent: Tuesday, May 16, 2023 at 09:39:33 AM CDT
Subject: RE: information for Nick

John,

Is there a way for you to apply this information to the map that you've submitted?

Nick Bellar

Town Administrator

Planning & Zoning Administrator

Town of Winfield | (219) 662-2665 x304

From: lottondev@aol.com <lottondev@aol.com>
Sent: Friday, May 12, 2023 12:28 PM
To: Nick Bellar <nbellar@winfield.in.gov>
Subject: information for Nick

- . 1183 acres in the overall project
- . 2810 residential units or 2.5 Units Per Acre based on an overall acreage of 1183 acres, and 250 apartments
- . 781 acres annexation, 770 acres South of 129th and 11 acres North of 129th
- . 2020 Single Family units

IURC Cause No. 45992

. 790 Town Home units

. 250 Apartments

. 23 acres West Commercial, 26 acres East Commercial

. 402 acres currently in Winfield will have 460 single family units or 1.1 units per acre

. there is an additional 187 acres West project that is not being considered by Winfield at this time that could be annexed at zoned in the future

[REDACTED]

[REDACTED]

[REDACTED]

From: lottondev@aol.com <lottondev@aol.com>
To: Nick Bellar <nbellar@winfield.in.gov>
Sent: Friday, May 12, 2023 at 12:28:20 PM CDT
Subject: information for Nick

- . 1183 acres in the overall project
- . 2810 residential units or 2.5 Units Per Acre based on an overall acreage of 1183 acres, and 250 apartments
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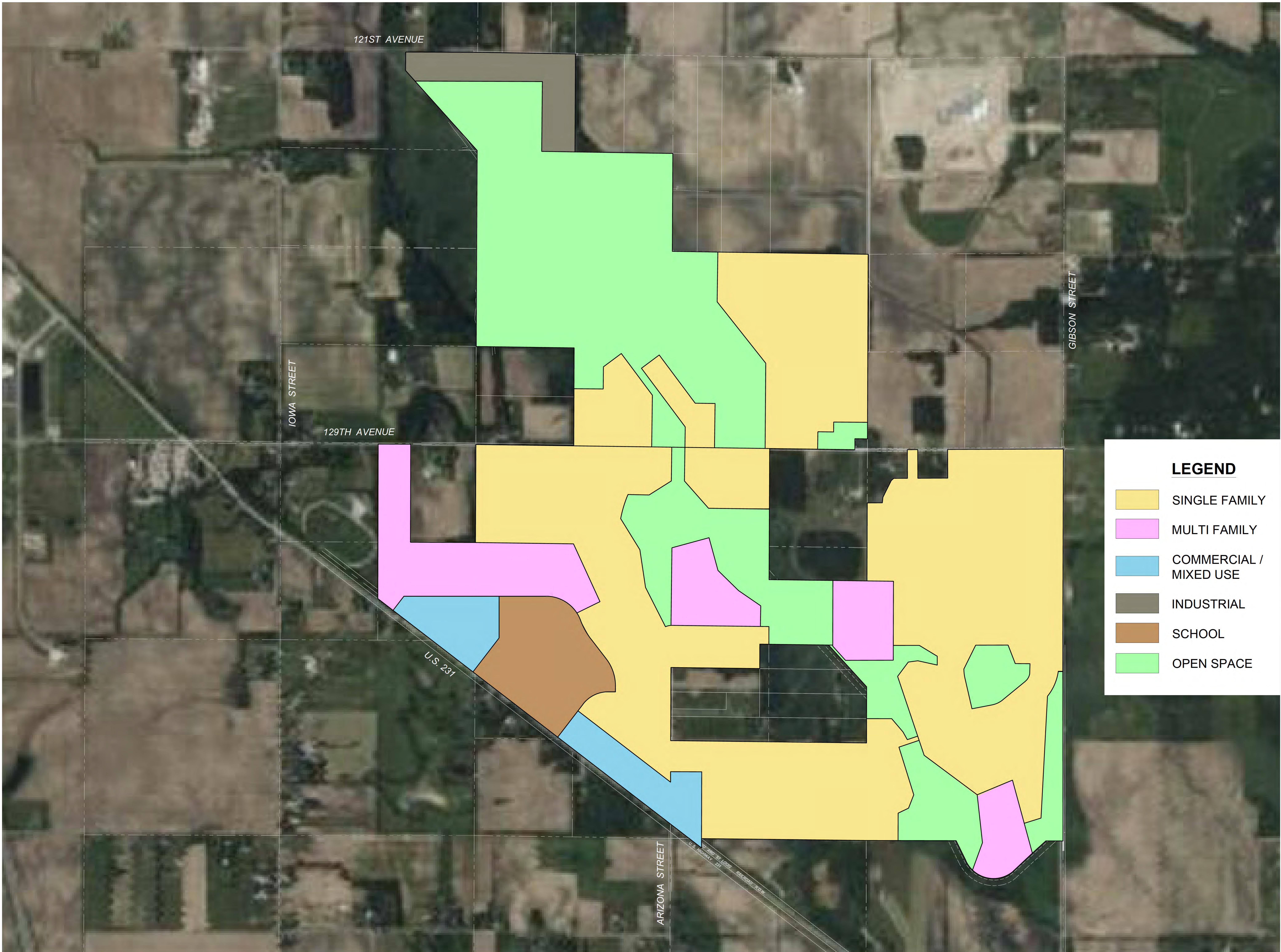
[REDACTED]

[REDACTED]

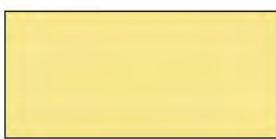
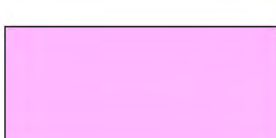
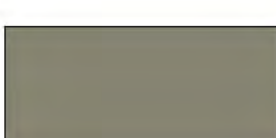
[REDACTED]
From: lottonde@aol.com <lottonde@aol.com>
To: Nick Bellar <nbellar@winfield.in.gov>
Sent: Wednesday, May 10, 2023 at 10:15:05 AM CDT
Subject: Annexation exhibit

Nick attached you will find a detailed exhibit of the products and there areas. Call with questions.

John



LEGEND

-  SINGLE FAMILY
-  MULTI FAMILY
-  COMMERCIAL / MIXED USE
-  INDUSTRIAL
-  SCHOOL
-  OPEN SPACE

[REDACTED]

[REDACTED]

[REDACTED]
From: lottondev@aol.com <lottondev@aol.com>

To: Nick Bellar <nbellar@winfield.in.gov>; Tim Kuiper <tkuiper@austgenlaw.com>; Jonathan Lotton <jonathan.lotton27@gmail.com>

Sent: Tuesday, March 28, 2023 at 11:26:48 AM CDT

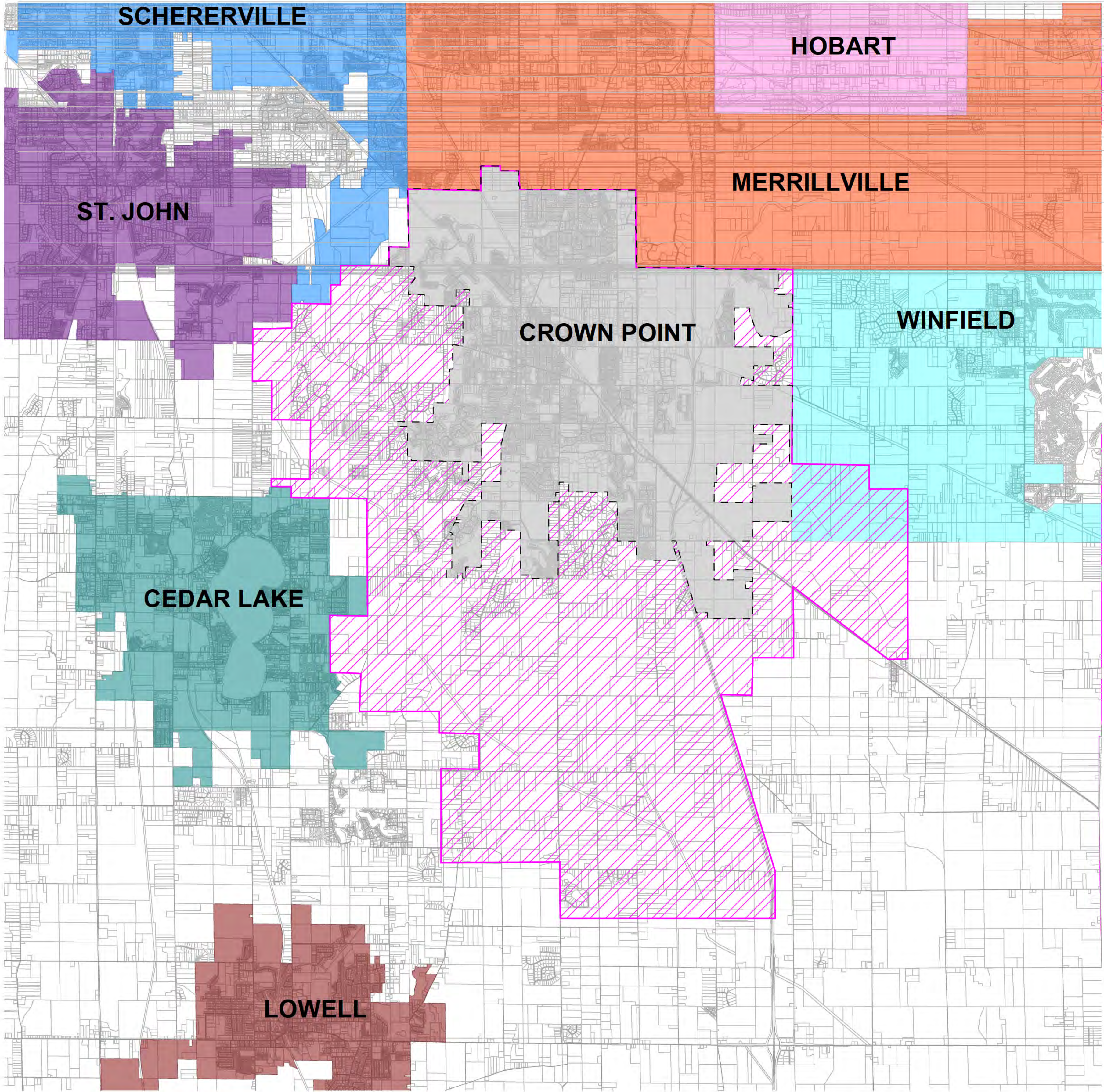
Subject: Winfield Annexation

Nick:

1. Winfield consenting to Crown Point's Amended CTA based upon the attached map.
2. This can be accomplished by a simple motion that is approved referencing Winfield's consent to Crown Point providing utility services as provided in the attached Map.
3. This has to be done tonight so Crown Point can amend their ordinance on April 3, then we can move forward with the annexation to Winfield.

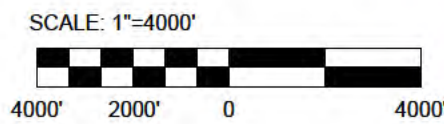
Call me John

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LEGEND

- EXISTING SERVICE AREA
- EXTENT OF PROPOSED SERVICE AREA
- //// NEW SERVICE AREA



COMMONWEALTH
ENGINEERS, INC.

CITY OF CROWN POINT
LAKE COUNTY, INDIANA
PROPOSED DEVELOPMENT

OVERALL AERIAL MAP

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: Jonathan Lotton <jonathan.lotton27@gmail.com>
To: Nick Bellar <nbellar@winfield.in.gov>
Cc: lottondev@aol.com <lottondev@aol.com>; Tim Kuiper <tkuiper@austgenlaw.com>; Steve Kil <stevekil@sbcglobal.net>
Sent: Tuesday, March 28, 2023 at 09:54:41 AM CDT
Subject: Re: Service area Crown Point

Nick,

In order for Crown Point to vote on April 3, they are going to need to see action from Winfield, which only really leaves tonight to get a resolution passed saying Winfield agrees consents to the proposed service area as attached (with the service area we sent attached).

That should be pretty easy to get done. The map could be brought up in the meeting, discussed, reference the name and date of the map, and vote on it. Then just provide that to Crown Point as soon as possible after that.

Sincerely,

Jonathan Lotton

On Tue, Mar 28, 2023 at 9:33 AM Nick Bellar <nbellar@winfield.in.gov> wrote:

Received.

Nick Bellar

Town Administrator

Planning & Zoning Administrator

Town of Winfield | (219) 662-2665 x304

From: lottondev@aol.com <lottondev@aol.com>
Sent: Monday, March 27, 2023 5:18 PM
To: Nick Bellar <nbellar@winfield.in.gov>; Tim Kuiper <tkuiper@austgenlaw.com>; Jonathan Lotton <jonathan.lotton27@gmail.com>; Steve Kil <stevekil@sbcglobal.net>
Subject: Service area Crown Point

IURC Cause No. 45992

Nick attached is Crown Point's new service area that Alex is planning a vote on April 3rd for.

This reflects what we have discussed, if you agree please forward to Winfield Town Council for comments and support.

Thank You John Lotton

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

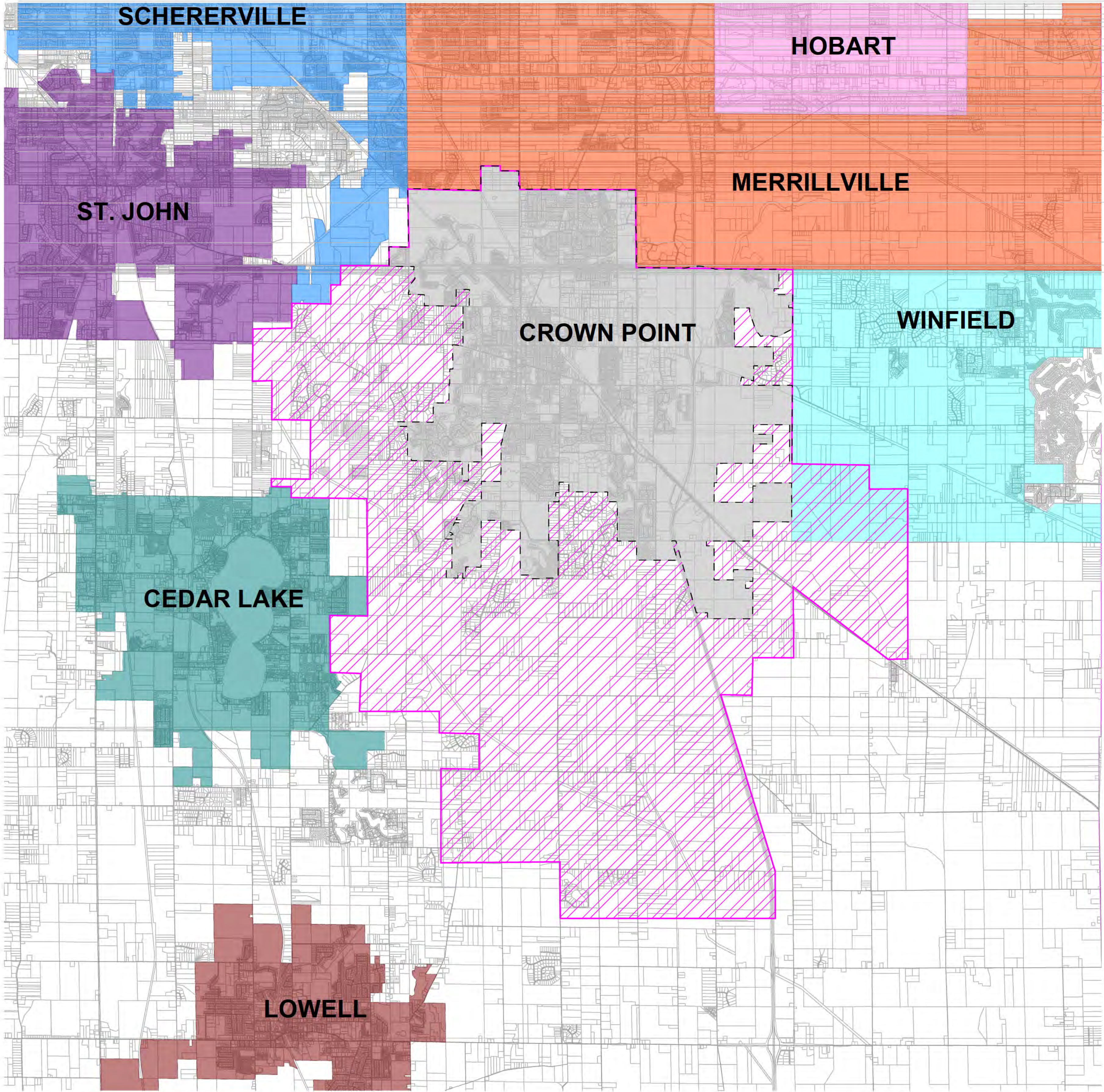
[REDACTED]

From: lottondev@aol.com <lottondev@aol.com>
To: Nick Bellar <nbellar@winfield.in.gov>; Tim Kuiper <tkuiper@austgenlaw.com>; Jonathan Lotton <jonathan.lotton27@gmail.com>; Steve Kil <stevekil@sbcglobal.net>
Sent: Monday, March 27, 2023 at 05:17:59 PM CDT
Subject: Service area Crown Point

Nick attached is Crown Point's new service area that Alex is planning a vote on April 3rd for. This reflects what we have discussed, if you agree please forward to Winfield Town Council for comments and support.

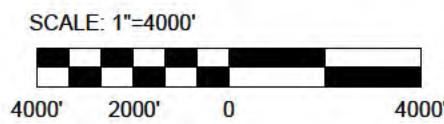
Thank You John Lotton

\\jc01-ar-0-mob-aml\working\jurc\Exh. 4\Proposed\Title\Aerial Map - 7/1/21



LEGEND

- EXISTING SERVICE AREA
- EXTENT OF PROPOSED SERVICE AREA
- //// NEW SERVICE AREA



COMMONWEALTH
ENGINEERS, INC.

CITY OF CROWN POINT
LAKE COUNTY, INDIANA
PROPOSED DEVELOPMENT

OVERALL AERIAL MAP

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]
From: Nick Bellar <nbellar@winfield.in.gov>
To: lottondev@aol.com <lottondev@aol.com>; Tim Kuiper <tkuiper@austgenlaw.com>; Jonathan Lotton <jonathan.lotton27@gmail.com>; Steve Kil <stevekil@sbcglobal.net>
Sent: Tuesday, March 28, 2023 at 09:33:43 AM CDT
Subject: RE: Service area Crown Point

Received.

Nick Bellar

Town Administrator

Planning & Zoning Administrator

Town of Winfield | (219) 662-2665 x304

From: lottondev@aol.com <lottondev@aol.com>
Sent: Monday, March 27, 2023 5:18 PM
To: Nick Bellar <nbellar@winfield.in.gov>; Tim Kuiper <tkuiper@austgenlaw.com>; Jonathan Lotton <jonathan.lotton27@gmail.com>; Steve Kil <stevekil@sbcglobal.net>
Subject: Service area Crown Point

Nick attached is Crown Point's new service area that Alex is planning a vote on April 3rd for.

This reflects what we have discussed, if you agree please forward to Winfield Town Council for comments and support.

Thank You John Lotton



From: Jonathan Lotton <jonathan.lotton27@gmail.com>
To: "nbellar@winfield.in.gov" <nbellar@winfield.in.gov>
Cc: lottondev <lottondev@aol.com>; Steve Kil <stevekil@sbcglobal.net>
Sent: Thursday, March 2, 2023 at 03:08:22 PM CST
Subject: Winfield Southwest Annexation

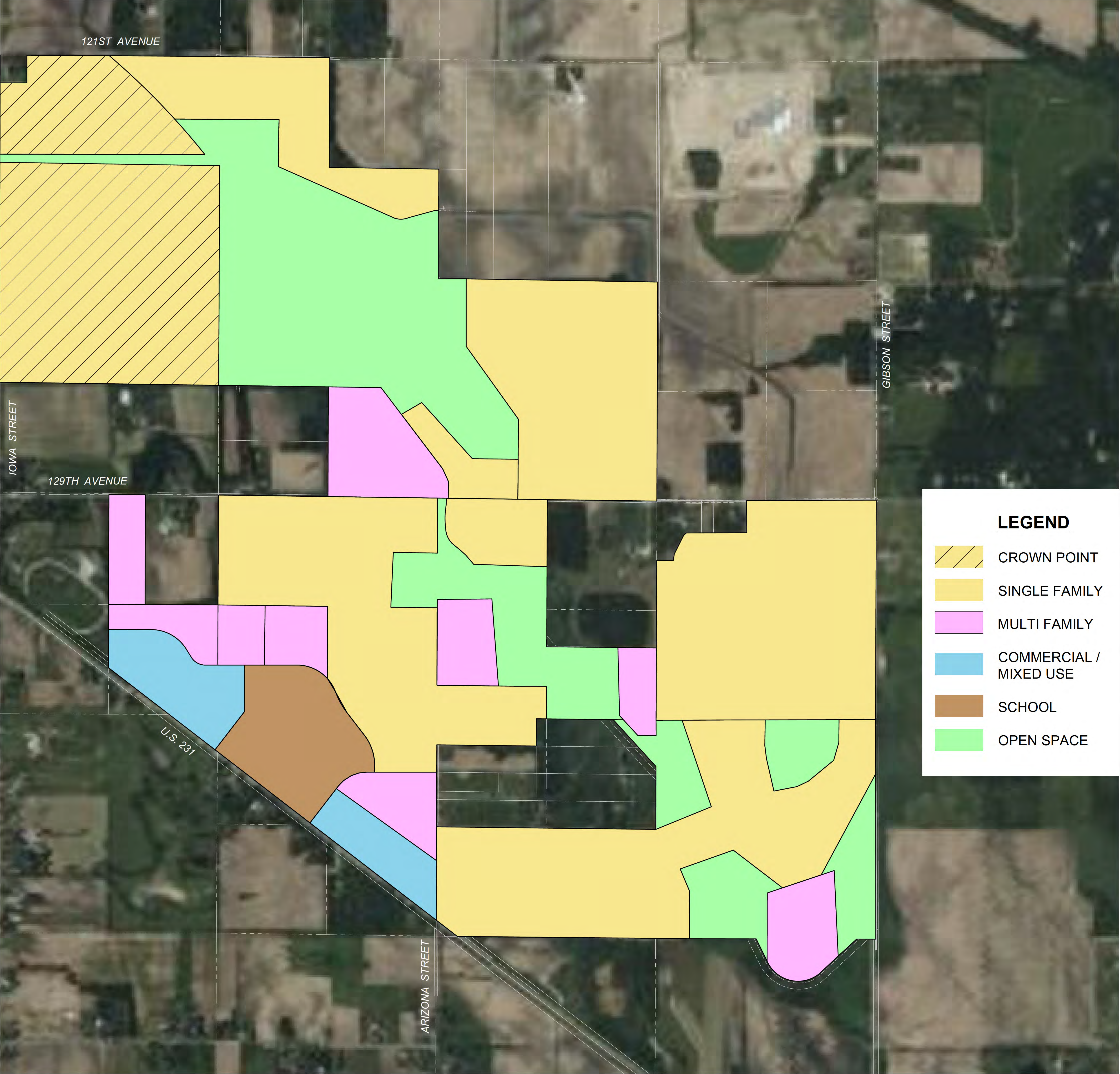
Good Afternoon Nick,

Please see the attached drawing depicting the annexation down to 231 with the areas separately highlighted by our proposed zoning with satellite imaging underlaid and a few roads called out.

Feel free to reach out if you have any questions on this drawing, or in general moving forward.

Sincerely,

Jonathan Lotton
219.299.7973



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]
From: Nick Bellar <nbellar@winfield.in.gov>
To: Jonathan Lotton <jonathan.lotton27@gmail.com>
Cc: lottondev <lottondev@aol.com>; Steve Kil <stevekil@sbcglobal.net>
Sent: Thursday, March 2, 2023 at 03:46:39 PM CST
Subject: RE: Winfield Southwest Annexation

Received. Thank you.

Nick Bellar

Town Administrator

Planning & Zoning Administrator

Town of Winfield | (219) 662-2665 x304

From: Jonathan Lotton <jonathan.lotton27@gmail.com>
Sent: Thursday, March 2, 2023 3:08 PM
To: Nick Bellar <nbellar@winfield.in.gov>
Cc: lottondev <lottondev@aol.com>; Steve Kil <stevekil@sbcglobal.net>
Subject: Winfield Southwest Annexation

Good Afternoon Nick,

Please see the attached drawing depicting the annexation down to 231 with the areas separately highlighted by our proposed zoning with satellite imaging underlaid and a few roads called out.

Feel free to reach out if you have any questions on this drawing, or in general moving forward.

IURC Cause No. 45992

Sincerely,

Jonathan Lotton

219.299.7973

Attachment JL-8

Response:

Winfield objects to this Request on grounds it is not relevant, and it will not lead to the discovery of municipal evidence. Notwithstanding the objection, Winfield would note that Winfield has used a legally permissible financing means for its Plant and has followed all statutory procedures for doing so.

Request No. 5.20:

What have been the five (5) highest maximum day flows at Winfield's existing wastewater treatment plant over the last three years?

Response:

Winfield will provide its response to this Request through a separate cover.

Request No. 5.21:

Does Winfield serve any sewer customers outside of its corporate limits? If so, identify their locations, and state the number of customers and type of customers served.

Response:

Winfield objects to this Request as it is duplicative to prior discovery requests to which Winfield has already responded, and as such, the Request is unduly burdensome, redundant, unnecessary, and intended to harass Winfield. Notwithstanding the objection, Winfield again states that it currently serves no customers outside of its municipal boundaries.

Attachment JL-9

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION OF THE)
 TOWN OF WINFIELD, LAKE COUNTY,)
 INDIANA, FOR APPROVAL OF A)
 REGULATORY ORDINANCE ESTABLISHING A) CAUSE NO. 45992
 SERVICE TERRITORY FOR THE TOWN'S)
 MUNICIPAL SEWER SYSTEM PURSUANT TO)
 IND. CODE 8-1.5-6 ET. SEQ.)

PETITIONER TOWN OF WINFIELD, INDIANA'S
RESPONSE TO INTERVENOR LBL DEVELOPMENT, LLC'S
FOURTH SET OF DISCOVERY REQUESTS

DATA REQUESTS**Request No. 4.1:**

How many wastewater customers does Winfield serve outside of its corporate boundaries? Please provide the number of customers broken down by customer class.

Response: Winfield objects to this request on grounds that such request has previously been requested on more than one occasion and Winfield has provided responses to the same. Therefore, such request is redundant, unnecessary, and only intended to harass the Petitioner. Notwithstanding the objection, please see Response to Crown Point Data Request 5.21.

Request No. 4.2:

Has Winfield adopted an Ordinance or Resolution precluding it from charging an out-of-town surcharge? If so, please provide the Ordinance or Resolution.

Response: Winfield has adopted and provided a copy of its current rate ordinance. Such rate ordinance does not include an out-of-town surcharge. In addition, Winfield has provided testimony in this case indicating that it does not have an out-of-town surcharge and has offered no indication that its rates will soon change. Winfield would further note that it would be very unusual for a municipality to adopt an ordinance binding itself and future Councils on what it intends not to do. To date, Winfield has not adopted such ordinance with respect to this issue.

Request No. 4.3:

If Winfield were to have any out-of-town customers, would it commit to not charging an out-of-town surcharge to those customers?

Response: Please see the Response to Request No. 4.2. Even if such a commitment was appropriate, this issue would need to be presented at a public meeting of the Council for discussion, consideration, and a vote.

Request No. 4.4:

If Winfield does not plan to implement any surcharge for providing wastewater service to customers outside its corporate boundaries, Winfield's in-town customers would ultimately pay more for wastewater service (through paying both wastewater rates and property taxes) than out-of-town customers who are only paying wastewater rates.

- A. Does Winfield believe that this situation is fair to its in-town customers (who are also its taxpayers)? Please explain your response.
- B. Will Winfield commit to notifying its in-town wastewater customers that they are (or will be) subsidizing the out-of-town customers? If yes, how does Winfield plan to provide such notice?

Response: A. Winfield objects to this request on grounds that the underlying premise is incorrect. By providing service to the out-of-town customers, Winfield is able to achieve economies of scale and spread its fixed costs over a greater number of customers which should lead to lower rates for all customers over the course of time, including its in-town customers.

B. Winfield objects to this request on grounds that such request has previously been requested and Winfield has provided a response to the same. Therefore, such request is redundant, unnecessary, and intended to harass the Petitioner. Notwithstanding the objection, please see Winfield's Response to Crown Point Request No. 5.19.

Request No. 4.5:

Winfield witness Lin testifies, "Winfield has repeatedly met with LBL and specifically stated that it has the facilities and capacity necessary to provide service to LBL."

- A. Please provide information about every time Winfield has met with LBL and "specifically stated that it has the facilities and capacity necessary to provide service to LBL[.]" including:
 - i. Date and time;
 - ii. Whether the meeting was on the phone, virtual (e.g., WebEx, Teams, or Zoom), or in person;
 - iii. If in person, the location of the meeting;
 - iv. Attendees present; and
 - v. The substance of what was discussed during the meeting, including when and under what circumstances service would be provided.