

TOWN OF ST. JOHN, LAKE COUNTY, INDIANA

ORDINANCE NO. 1476

BEING AN ORDINANCE ANNEXING CONTIGUOUS TERRITORIES TO THE TOWN OF ST. JOHN, PURSUANT TO THE PROVISIONS OF IC 36-4-3 ET SEQ. AND EFFECTING A PARTIAL REPEAL OF ST. JOHN TOWN ORDINANCE NO. 1294

WHEREAS, CWS, LLC; Paul and Jacqueline Krilich; and Anne Sikma ("Petitioners") being the owners of land comprising approximately 178.663 acres in Hanover Township, Lake County, Indiana, legally described on Exhibit A (the "Annexation Area") each filed on August 27, 2008, Petitions for Annexation into the Town of St. John, seeking to annex the Annexation Area to the Town of St. John, pursuant to the provisions of IC 36-4-3-5.1;

WHEREAS, CWS, LLC has requested that the Annexation Area be assigned to zoning districts as stated in that certain Zoning Commitment executed by CWS, LLC and approved by the Town of St. John, which is attached hereto as Exhibit B (the "Zoning Commitment")

WHEREAS, the Town Council of the Town of St. John, Lake County, Indiana, has reviewed the Petitions for Annexation to the Town of St. John;

WHEREAS, the Town Council of the Town of St. John, Lake County, Indiana, seeks to annex certain contiguous territories in that at least one-eighth (1/8) of the aggregate external boundaries of the Annexation Area coincide with the boundaries of the Town of St. John, pursuant to the provisions of I.C. §36-4-3, *et seq.*, as amended from time to time, and more particularly, I.C. §36-4-3-5.1, for 100% petitioned annexations;

WHEREAS, the Town Council of the Town of St. John, Lake County, Indiana, has deemed it necessary and appropriate for the future development for the Town of St. John that the Annexation Area be annexed to provide for the continued and coherent planned growth and development of the Town;

WHEREAS, the Town Council of the Town of St. John, Lake County, Indiana, has determined that the Annexation Area sought to be annexed, well within the prescribed time limits, shall be provided with governmental and proprietary services by the Town in the same manner as those services are provided to areas within the municipal corporate boundaries that have similar topography, patterns of land use, and population density consistent with applicable federal, state and local laws, procedures and planning criteria;

WHEREAS, the Town Council of the Town of St. John, Lake County, Indiana, has established a Fiscal Plan and has approved Resolution No. 08-09-18C as a definite policy showing:

1. The cost estimate of planned services to the Annexation Area to be annexed.
2. The methods of financing the planned services.
3. The plan for the organization and extension of the services.
4. The furnishing of services of a non-capital nature, including police protection, fire protection, and street and road maintenance to the territory within (1) year from the effective date of the annexation, which service shall be in a manner equivalent in

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NOV 4 2008

PEGGY HOLINGA KATONA
LAKE COUNTY AUDITOR

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STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD
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MICHAEL A. BREWER
RECORDER

standard and scope to those non-capital services provided to areas within the Town of St. John.

5. The furnishing of services of a capital nature, including street construction, street lighting, sewer facilities, water facilities, and stormwater drainage facilities, will be provided to the annexed territory within three (3) years after the effective date of annexation in the manner as those services are provided to areas within the municipal corporate boundaries of the Town;

WHEREAS, the St. John Town Council introduced and held a public hearing, giving interested parties notice and the opportunity to testify at the hearing as to the proposed annexation ordinance, not later than thirty (30) days after the annexation petition was filed with the Town Council;

WHEREAS, notice of the public hearing was published one (1) time in accordance with IC 5-3-1 at least twenty (20) days before the public hearing;

WHEREAS, at least fourteen (14) days has passed since the public hearing on the Petitions for Annexation; and

WHEREAS, the Town Council of the Town of St. John, Lake County, Indiana has duly considered Petitioner's annexation petition and has determined that said annexation is advisable, appropriate and in the best interests of the residents of the Town of St. John as the annexation of the Annexation Area is necessary for the present and future planned coherent growth of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF ST. JOHN, LAKE COUNTY, INDIANA, AS FOLLOWS:

SECTION ONE: That the Annexation Area individually legally described on the attached Exhibit "A", which are deemed collectively contiguous to the Town of St. John, be, and the same are hereby annexed and made part of the Town of St. John, Lake County, Indiana, subject to the conditions listed on the attached Exhibit B and Exhibit C as listed under each Parcel number.

SECTION TWO: That Parcel 1 shall be assigned to zoning classifications as stated in the Zoning Commitment dated August 27, 2008, and for purposes of this annexation only, all existing Town Code Sections and Ordinances, or parts thereof including but not limited to Ordinance No. 1294, are hereby deemed null, void, and of no legal effect, and are specifically repealed to the extent that such Code Sections and Ordinances conflict with the provisions of this Ordinance, the Town Council recognizing its obligation to adhere to statutory requirements of I.C. §36-4-3-8 and §36-7-4-603 and Parcel 2 and Parcel 3 described on the attached Exhibit "A" shall be, and the same are hereby declared, upon annexation, to have the zoning district classification of Open Space.

SECTION THREE: That the Annexation Area, upon the effective date of the annexation, will be assigned to Ward Two (2) as a voting district in the Town of St. John, Lake County, Indiana, pursuant to the provisions of Indiana Code §36-4-3-4(g).

SECTION FOUR: The Annexation shall become final thirty (30) days after the final publication and filing thereof pursuant to **SECTION FIVE** hereinafter, and the effective date of the

annexation shall be in conformance with applicable law.

SECTION FIVE: That the Clerk-Treasurer of the Town of St. John, Lake County, Indiana, is hereby directed, within thirty (30) days from the date of the adoption of this Ordinance:

1. to cause this Ordinance to be published one (1) time in conformance with I.C. §5-3-1, as amended from time to time;
2. to file this Ordinance with the Office of the Indiana Secretary of State, the Lake County Auditor, the Clerk of the Lake Circuit Court, the Board of Election and Registration, and the Indiana Office of Census Data; and
3. to record this Ordinance with the Lake County Recorder's Office.


SECTION SIX: That all existing Town Code Sections and Ordinances, or parts thereof, in conflict with the provisions of this Ordinance, are hereby deemed null, void, and of no legal effect, and are specifically repealed.

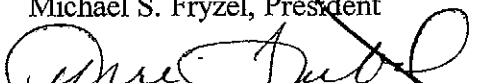
SECTION SEVEN: If any section, clause, provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Ordinance.

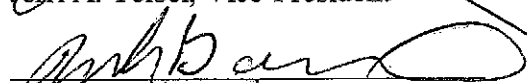
SECTION EIGHT: That this Ordinance shall take effect, and be in full force and effect, from and after its passage by the Town Council of the Town of St. John, Lake County, Indiana, publication in conformance with applicable law, and required filings.


ALL OF WHICH IS PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF ST. JOHN, LAKE COUNTY, INDIANA, THIS 16th DAY OF OCTOBER, 2008.

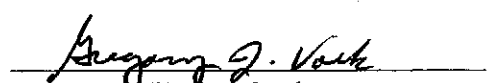
TOWN OF ST. JOHN, LAKE COUNTY,
INDIANA, TOWN COUNCIL


Michael S. Fryzel, President


Jerri A. Teibel, Vice-President


Mark Barenie, Member


Michael Forbes, Member


Gregory J. Volk, Member

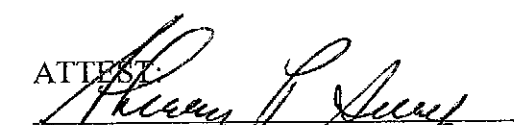
ATTEST

Sherry P. Stry, Clerk-Treasurer

EXHIBIT A

Parcel 1:

CWS, LLC Legal Description:

The Southeast Quarter of the Northeast Quarter of Section 1, Township 34 North, Range 10 West of the Second Principal Meridian, containing 40 acres, more or less;

The Southwest Quarter of the Northwest Quarter of Section 6, Township 34 North, Range 9 West of the Second Principal Meridian, containing 37.11 acres, more or less;

Also part of the Southwest Quarter of Section 6, Township 34 North, Range 9 West of the Second Principal Meridian, described as follows: Commencing at the Northwest corner of said Quarter Section and running thence South 84 rods; thence East 66-2/3 rods; thence North 84 rods, thence West 66-2/3 rods; to the place of beginning, containing 35 acres, more or less, all in Lake County, Indiana.

Parcel 2:

Anne Sikma Legal Description:

The North Forty (40) acres of the East One Hundred (100) acres of the Southeast Quarter (SE1/4) of Section One (1), Township Thirty-four (34) North, Range Ten (10) West of the Second Principal Meridian.

Parcel 3:

Paul and Jacqueline Krich Legal Description:

A part of the Southwest Quarter and a part of the West 60 rods of the Southeast quarter in Section 1, Township 34 North, Range 10 West of 2nd P.M., described as follows: Commencing at a point on the West line of said Section 1, that is N. 00° 00' 00" E. 2163.54 feet from the Southwest corner of said Section 1, said point being on the South line of a 20.0 foot easement for ingress and egress; thence N. 87° 24' 48" E. 1467.85 feet; thence South 00° 00' 00" W., 177.44 feet; thence N. 89° 12' 44" East 380.00 feet; thence S. 00° 00' 00" E. 177.47 feet; thence N. 89° 13' 18" E. parallel to the South line of said Section 1., 1320.01 feet, to the East line of the West 60 rods of the Southeast quarter of said Section 1; thence S. 00° 24' 22" E. along said East line, 370.00 feet to the North line of the South 1485.0 feet of said Section 1; thence S. 89° 13' 18" W. along said North line, 1761.24 feet to a line that is 551.39 feet East of and parallel to the East line of the fractional Northwest Quarter of the Southwest quarter of said Section 1; thence N. 00° 21' 30" W. along said parallel line, 95.00 feet to the North line of the South 1580.0 feet of said Section 1; thence S. 89° 13' 18" W. along said North line 541.05 feet; thence N. 00° 00' 00" E. 510.91 feet; thence S. 87° 24' 48" W. 867.05 feet, to the West line of said Section 1; thence N. 00° 00' 00" E. along said West line, 100.00 feet to the point of commencement, containing 26.663 acres, more or less, in Lake County, Indiana.

ZONING COMMITMENT

Comes now CWS, LLC, an Indiana Limited Liability Company of St. John, Indiana and pursuant to the provisions of I.C. 1971, 36-7-4-615, the rules and regulations of the St. John Plan Commission revised July 1, 1992, Article V(6), and Ordinance 1030 of the Town of St. John adopted December 31, 1996 and make the following zoning commitment in consideration of the zoning of certain tracts of real estate as part of annexation proceedings before the St. John Town Council.

1. That development shall be generally consistent with the conceptual development plan prepared by Landmark Engineering Corporation and dated August 26, 2008, a copy of which is attached hereto, made a part hereof, and marked as Exhibit A
2. That the residential units to be erected on tracts to be zoned as R-2/PUD (zero lot line or cluster housing)
 - a. shall be equal to or fewer in number than Seventy-Four (74);
 - b. consist of owner-occupied cottage homes with two units per lot;
 - c. shall be similar in construction and value to Weston Ridge Cottage Homes; and
 - d. shall have not less than a one-car garage.
3. That the number of units to be erected on each tract zoned as R-2 (single family detached)
 - a. shall be equal to or greater than Ninety-Six (96); and
 - b. shall have a two-car garage.
4. That this commitment shall be binding upon the heirs, successors and assigns of the owner.

IN WITNESS WHEREOF, the said CWS, LLC, an Indiana Limited Liability Company has caused this Zoning Commitment to be executed by its Manager

CWS, LLC, an Indiana
Limited Liability Company

BY: Frank E. Schilling
FRANK E. SCHILLING, Its Manager

STATE OF INDIANA)
COUNTY OF LAKE) SS:

Frank E. Schilling/Shirley M. Schilling
By Michael L. Muenich Under Durable
General Power of Attorney dated May 22, 2008

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named FRANK E. SCHILLING, Manager of CWS, LLC, to me known to be such Manager of said LLC and acknowledged the execution of the foregoing Zoning Commitment for and on behalf of said Company and by its authority.

Recorded May 28, 2008 as Doc. #2008 039039

WITNESS my hand and Notarial seal this 15th day of September, 2008.

Denise M. Walsh
Denise M. Walsh, Notary Public

My Commission Expires 6/15/2016
County of Residence: Lake

EXHIBIT C

Conditions of annexation:

Parcel 2 Owner: Anne Sikma

1. Property will be designated as Open Space/Agricultural and will be exempt from municipal taxes for a period of ten (10) years;
2. Until such time as the Property owner requests the property's zoning district classification be changed, the following shall apply:
 - a. Animal (horses and other livestock) usage on the land shall be allowed as permitted by the unincorporated Lake County Zoning regulations in effect at the time of the annexation;
 - b. Current barns and tractors and vehicle storage will be permitted consistent with current use;
 - c. New buildings and additional improvements shall be permitted for the raising of livestock and storing feed; and
 - d. Semi-Truck, Dumptruck, and Trailer parking;
3. Waiver of water and sanitary sewer connection fees for existing residence;
4. Water and sanitary sewer lines will be installed within 100 feet of the house on the property and the property will be restored to its original condition after the installation;
5. Water meter cost waived for existing residence;
6. Connection to the water and sanitary sewer lines shall be at the Property owner's discretion; and
7. Existing well shall be allowed for irrigation and livestock purposes.

Parcel 3 Owner: Paul and Jacqueline Krilich, Husband and Wife

1. Waiver of water and sanitary sewer connection fees to current residence;
2. Water and sanitary sewer will be brought to Property when feasible at the appropriate depth to service the entire Property without a lift station;
3. Connection to the water and sanitary sewer lines shall be at the current Property owner's discretion;
4. For the current Property owner only, well and septic systems will be allowed for further development of the Property in the event that water and sanitary sewer lines are not brought to the property line;
5. Property will be designated as Agricultural and will be exempt from municipal taxes for a period of ten (10) years;
6. The current Property owner shall be allowed to continue his current use of the Property, including, but not limited to, storage of bulk materials and parking of trailers, trucks, and other vehicles;
7. If requested by current Property owner, the Town will approve, subject to meeting all of the other subdivision requirements, a subdivision with one (1) entrance on Stateline road and private and/or common drives;
8. If requested, the Town will grant a zoning change for the Property to R-2 PUD to allow minimum lot sizes of 12,000 square feet and 80 foot lot widths, subject to the development plan and subdivision meeting all other requirements of the R-2 zoning district; and
9. Until such time as the Property owner requests the property's zoning district classification be changed, unincorporated Lake County Zoning regulations in effect at the time of the annexation shall govern the future use of the property as follows:

- a. Animal (horses, cattle, and other livestock) usage on the land;
- b. New buildings and additional improvements for the raising of livestock and storing feed; and
- c. Trailer parking ancillary to the operation of raising livestock.