

3022

11/28/2005

Consent to Annexation and Waiver of
Right to Remonstrate Sewer & Water

LOT NO. Lot 62

SUB: Fernwood at Cleveland, Phase two Subdivision

Robert Loudin

Fernwood and Cleveland

Description:

A part of the West half of the Northeast Quarter of
Section 30, Township 38 North, Range 3 East together
with Lot 62 of Fernwood at Cleveland, Phase Two

1316 COUNTY-CITY BUILDING
227 W. JEFFERSON BOULEVARD
SOUTH BEND, INDIANA 46601-1830



PHONE 574/ 235-9251
FAX 574/ 235-9171
TDD 574/ 235-5567

CITY OF SOUTH BEND STEPHEN J. LUECKE, MAYOR
BOARD OF PUBLIC WORKS

January 24, 2006

Mr. Robert Loudin, President
Cleveland Woods Development Corporation, LLC
2010 Went Avenue
Mishawaka, Indiana 46545

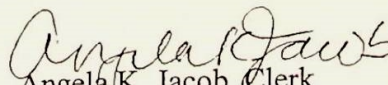
RE: CONSENT TO ANNEXATION AND
WAIVER OF RIGHT TO REMONSTRATE - SEWER AND WATER ONLY
A part of the West half of the Northeast Quarter of Section 30, Township 38 North,
Range 3 East together with lot 62 of Fernwood at Cleveland, Phase Two Subdivision.

Dear Mr. Loudin:

The Board of Public Works recorded the above referred to Consent to Annexation with the St. Joseph County Recorder's Office on November 29, 2005. A copy is enclosed for your records.

If you have any questions, please call me at (574) 235-9251.

Sincerely,


Angela K. Jacob, Clerk

Enclosure

0554693

RECORDED AS PRESENTED ON

11/29/2005 10:51:20AM

TERRI J. RETHLAKE
ST. JOSEPH COUNTY
RECORDERREC FEE: \$9.00
PAGES: 1

Hold Recorded copy for: Board of Public Works

CONSENT TO ANNEXATION, WAIVER OF RIGHT TO REMONSTRATE
AND ACKNOWLEDGEMENT OF CITY COMPACT FEES

In consideration for permission to tap into the municipal utility system (water and/or sewer) of the city of South Bend, Indiana, in order to provide sanitary sewer and/or water service to the following described property, (hereinafter referred to as the "Real Estate"), situated in St. Joseph County, Indiana:

LEGAL DESCRIPTION:

A part of the West Half of the Northeast Quarter of Section 30, Township 38 North, Range 3 East, Clay Township, St Joseph County, Indiana; together with Lot 62 of Fernwood at Cleveland, Phase Two Subdivision as recorded under Instrument Number 0053484 in the Office of Recorder of said County, being more particularly described as follows:

Commencing at Harrison Monument, marking the North Quarter Corner of said Section 30; thence North 89 Degrees 19 Minutes 53 Seconds East along the North line of said Northeast Quarter, a distance of 807.83 feet to the point of beginning; thence continuing North 89 Degrees 19 Minutes 53 Seconds East along said line, a distance of 308.77 feet, which point being South 89 Degrees 19 Minutes 53 Seconds West, a distance of 1534.01 feet from the Northeast Corner of said Northeast Quarter; thence South 0 Degrees 17 Minutes 50 Seconds East, a distance of 208.71 feet; thence North 89 Degrees 19 Minutes 53 Seconds East, a distance of 208.71 feet to a point on the East line of said West Half, also being on the West line Meadowview Third Addition as recorded in Plat Book 21, Page M-6 in the Office of Recorder of said County; thence South 0 Degrees 17 Minutes 50 Seconds East along said East line of the West half of the Northeast Quarter, a distance of 2284.68 feet to a point on the Northerly line of the Indiana East-West Toll Road; thence North 87 Degrees 03 Minutes 56 Seconds West along said Northerly line, a distance of 527.81 feet; thence North 0 Degrees 10 Minutes 38 Seconds West along the East line of Fernwood at Cleveland, Phase Two Subdivision, as recorded under Instrument Number 0053484 in the office of said Recorder, a distance of 495.07 feet to the Southeast Corner of Lot 62 of said Fernwood at Cleveland, Phase Two; thence South 89 Degrees 26 Minutes 37 Seconds West along the South line of said Lot 62, a distance of 86.16 feet to a point of curvature of a non-tangent curve on the East right of way line of Winterberry Court, having a radius of 170.00 feet, a central angle of 25 Degrees 44 Minutes 56 Seconds, and a chord of 75.76 feet bearing North 12 Degrees 52 Minutes 28 Seconds East; thence the next four courses along said East right of way line and the South right of way line of Summer Wind Lane: (1) Northerly along said curve a distance of 76.40 feet; (2) thence North 0 Degrees 00 Minutes 00 Seconds East, a distance of 55.02 feet to a point of curvature of a tangent curve, having a radius of 20.00 feet, a central angle of 89 Degrees 42 Minutes 56 Seconds, and a chord of 28.21 feet bearing North 44 Degrees 51 Minutes 28 Seconds East; (3) thence Northeasterly along said curve a distance of 31.32 feet; (4) thence North 89 Degrees 42 Minutes 56 Seconds East, a distance of 48.94 feet to the Northeast corner of said Lot 62; Thence North 0 Degrees 10 Minutes 38 Seconds West, a distance of 40.00 feet to the Northeast corner of said Fernwood at Cleveland, Phase Two; thence North 89 Degrees 42 Minutes 56 Seconds East, a distance of 9.50 feet; thence North 0 Degrees 20 Minutes 35 Seconds West along the occupied East line of Brazy Brothers Subdivision as recorded in Plat Book 18, Page B and thence continuing along said line projected on the same line bearing, a distance of 1776.94 feet to the point of beginning; said described tract containing 28.778 acres, more or less. Subject to easements, covenants, restrictions and right of way of record. Line bearings are with reference to the State Plane Coordinate Stations Number 694 and 688 as maintained in the Office of County Surveyor of Said County. Above described land will be developed into Fernwood at Cleveland, Phase Three.

Robert Loudin, President
Cleveland Woods Development Corporation, LLC
2010 Went Avenue
Mishawaka, IN 46545

SEWER AND WATER

Mailing Address: Same

Cleveland Woods Development Corporation, LLC., Robert Loudin, President, owner of the Real Estate, (hereinafter "Owner"), for themselves and their successors in title, assigns, and personal representatives, hereby irrevocably waive and release any and all right which they may now or hereafter have to remonstrate against or otherwise interfere with, or oppose any pending or future annexation of the Real Estate by the City of South Bend.

In further consideration and to induce the City of South Bend to allow Owner to tap into the municipal utilities (sewer and/or water) of the City of South Bend, Owner, for themselves and their successors and assigns, agrees and stipulates irrevocably to vest in the City of South Bend the permanent right, at the City's discretion, to annex the Real Estate at any future time by duly authorized ordinance.

Owner further agrees that any deeds, contracts, or other instruments of conveyance made by Owner, their successors or assigns shall contain the waiver and release provisions contained herein, which provisions shall run with the land.

Pursuant to Chapter 17, Article 10, Section 17-86 of the South Bend Municipal Code, Owner further acknowledges Owner's obligation to pay a compact fee annually to the City of South Bend which for one municipal utility (water or sewer) is 30% of the difference between the "Total County Rate" of taxes and the "Total City/Town Rate" and for both municipal utilities (water and sewer) is 50% of such rate differential, which rates are set forth in the St. Joseph County Auditor's annually published "Notice of St. Joseph County Certified Tax Rates."

The delivery of any instrument of conveyance from the Owner to any successor, grantee, vendee or contract purchaser is subject to the terms of this document and the acceptance of such instrument shall constitute an acceptance of the foregoing provisions by said grantee, vendee, or contract purchaser and their successors in title.

APPROVED
Board of Public WorksAPPROVED
Board of Public Works

NOV 28 2005

Robert Loudin, President
Cleveland Woods Development Corporation, LLC
2010 Went Avenue
Mishawaka, IN 46545

STATE OF INDIANA)
COUNTY OF ST. JOSEPH) SS:

Before me, a Notary Public in and for said County and State, personally appeared Cleveland Woods Development Corporation, LLC., Robert Loudin, President, and he acknowledged the execution of the foregoing Consent to Annexation as his voluntary act and deed.

Witness my hand and Notarial Seal this 10th Day of November 2005.

Julie A. Culp
(Written Signature)

Julie A. Culp
(Printed)

NOTARY PUBLIC
STATE OF INDIANA
ST. JOSEPH COUNTY
MY COMMISSION EXP. JULY 10, 2009

A resident of St. Joseph County, Indiana.

My Commission Expires: 7-10-09

This instrument was prepared by Aladean DeRose, Assistant City Attorney, 1400 County-City Building, South Bend, IN 46601.