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CAMDEN TOWNSHIP RESOLUTION NO. 2007-4

CITY OF NEW GERMANY RESOLUTION NO. 2007-23

MUNICIPAL BOUNDARY ADJUSTMENTS DOCKET NO. _____

JOINT RESOLUTION FOR ORDERLY ANNEXATION BETWEEN THE TOWN OF CAMDEN AND THE CITY OF NEW GERMANY, CARVER COUNTY, MINNESOTA

WHEREAS, the City of New Germany (hereinafter referred to as the "City") and the Township of Camden (hereinafter referred to as the "Town" or "Township"), both located entirely within Carver County, in the State of Minnesota, desire to accommodate growth in the most orderly fashion; and

WHEREAS, the Town Board and City Council have expressed their desire to encourage future development of selected properties near the City so as to avail such development of municipal services as much as is practical; and

WHEREAS, a joint orderly annexation agreement between the parties hereto is beneficial to both parties from the standpoint of orderly planning and orderly transition of government within the area proposed to be annexed, and provides the guidelines under which such annexation shall take place.

NOW, THEREFORE, BE IT RESOLVED, in consideration of the mutual terms and conditions that follow that the City and Town enter into this Joint Resolution for Orderly Annexation (sometimes hereinafter referred to as "Agreement") and that the property herein described is proposed to be annexed by the City of New Germany and shall be annexed subject to the following terms and conditions:

1. **Designation of Orderly Annexation Area.**

The Township and the City hereby designate the areas legally described on **Exhibit 1** attached hereto and incorporated herein by reference (referred to hereafter as the "Orderly Annexation Area", "OAA" or "Subject Area) for orderly annexation pursuant to Minnesota Statutes Section 414.0325.

A boundary map showing the Subject Area legally described on **Exhibit 1** is attached hereto as **Exhibit 2** and incorporated herein by reference.

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The Township and City agree that the Orderly Annexation Area legally described on **Exhibit 1** and designated for orderly annexation pursuant to Minnesota Statutes Section 414.0325 is approximately 872 acres.

2. **Office of Administrative Hearings, Municipal Boundary Adjustments.**

Upon approval by the Town Board and the City Council, this Joint Resolution shall confer jurisdiction upon the State of Minnesota Office of Administrative Hearings, Municipal Boundary Adjustments (hereinafter referred to as "the MBA") or its successor pursuant to Minnesota Statutes.

3. **No Alterations of Boundaries.**

The Town and City mutually agree and state that the MBA may review and comment, but that no alternations by the MBA of the stated boundaries of the area designated for orderly annexation is appropriate. Any alterations of boundaries may only be made upon the joint agreement of the Town and City.

4. **Review and Comment by Boundary Adjustments.**

The Town and City mutually agree and state that this Joint Resolution and Agreement sets forth all the conditions for annexation of the areas designated and that no consideration by the MBA is necessary. At such time as the conditions for annexation of the areas or a portion thereof as described in this Agreement have been met, upon receipt of a Resolution for Annexation from the City of New Germany, the Office of Administrative Hearings, Municipal Boundary Adjustments, may review and comment, but shall, within 30 days, order the annexation in accordance with the terms of the Resolution.

5. **Planning and Land Use Control Authority.**

A. The Town and City mutually agree and state that all land use authority within the Orderly Annexation Area shall remain with Carver County and the Township (if the Township chooses to exercise planning, zoning and subdivision authority pursuant to Minnesota law) while such properties remain in the Township. The City shall have exclusive planning, zoning and subdivision authority over all properties annexed under the authority of this Agreement.

B. However, Township agrees that the current zoning requirement of no more than one residential dwelling unit per 40 acres within the Orderly Annexation Area shall not change without City consent and that the Township shall oppose any new feed lots and any feed lot expansion within any existing feed lot area within the Orderly Annexation Area. Nothing in this paragraph shall obligate the Township to establish a zoning ordinance within the Orderly Annexation Area.

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C. Also, the Township agrees to notify the City of any requests for conditional use permits, land use changes, subdivision, rezoning or grading and filling within the OAA and allow the City to review and comment.

6. **Taxation Reimbursement.**

A. Unless otherwise agreed, to allow the Township to be reimbursed for the permanent loss of taxable property from Township tax rolls for property in the OAA, the City agrees that it will not initiate annexation or forward a resolution for annexation of property described in **Exhibit 1** to the Office of Administrative Hearings, or its successor agency, until such time as the City receives written confirmation from the Township that the Township has received reimbursement for the loss of such taxable property in accordance with then existing Township's Annexation Taxation Reimbursement Policy from the person or party requesting such annexation. (Non-taxable property is not subject to tax reimbursement.)

B. Delinquent Taxes. The City agrees that it shall remit all delinquent taxes, charges and assessments collected from any portion of the Orderly Annexation Area after annexation of such property if such taxes or charges were originally payable while the delinquent property remained in the Township. Additionally, when a property no longer qualifies for special tax treatment through Green Acres or other applicable programs such as Ag Preserves, CRP, This Old House, and taxes that were deferred under one of these programs is paid to the City, the City shall remit to Township the amount which was deferred during the time the property was in the Township.

C. Assumption of Liability for Public Improvements. The City does not assume by this annexation any liability or responsibility for the payment of any obligations issued to finance public improvements constructed by the Township or for which special assessments were levied by the Township. In the event that the City annexes land under this Agreement upon which outstanding special assessments levied by the Township remain at the time of annexation, the City shall forward to the Township upon receipt all special assessment payments which the City receives as a result of special assessments levied by the Township.

D. Other than the reimbursement outlined above in paragraphs B and C, no other reimbursement or taxes shall be owed to the Township from the City.

7. **Conditions for Orderly Annexation.**

The City and the Town mutually state and agree that properties in the areas described on **Exhibit 1** and as shown on **Exhibit 2**, or a portion thereof shall be annexed to the City by the MBA upon receipt of a resolution from the City requesting such annexation. The City may

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adopt such resolution not sooner than 31 days after submitting a copy of an annexation petition to the Township and only when all of the following conditions are met:

A. The property must be within the Orderly Annexation Area.

B. 100% of the property owner(s) must petition the City for annexation.

C. The Township has received all tax reimbursement as provided by paragraph 6A above.

8. **Subsequent Development of Annexed Properties.**

Any property owner seeking to develop land annexed pursuant to this Agreement shall comply with the following requirements:

A. Submit a development plan to the City of New Germany and to the Town of Camden showing the need for municipal water, and sanitary sewer or other City services for the property annexed. Further, upon receipt by the City, the City shall forward to the Town Clerk all preliminary and final plat submissions for any property annexed to the City under this Agreement, and shall send the Town Clerk notice of all public meetings for concept plan approval, preliminary plat approval and final plat approval for any property annexed to the City under this Agreement.

B. The development plan must be of sufficient detail to show that it will meet the standards and requirements of the City's zoning and subdivision ordinances.

C. Within no later than 15 days after receipt of the submission set forth in paragraph A above, the Clerk of the Town Board may submit written documentation stating the opinion of the Town Board for the proposed development. These comments will be forwarded to the City Planning Commission and City Council. The costs incurred by the Township, if any, to review the proposed development shall be paid by the developer and/or property owner.

D. The City shall require in its developer's agreement regarding development of all lands annexed pursuant to this Agreement that the Developer meet the requirements of the City's Storm Water Management Plan. Further, unless otherwise agreed to by the Parties, the City, through its developer's agreement, shall require that any functioning draintile lines located during development of any parcel in the Orderly Annexation Area be connected to the City's storm sewer system, to the extent practical and reasonable.

E. The City agrees, as part of the mailing process for public hearing notice of the preliminary and final plat, to mail notice to property owners in the Township within a quarter mile of the proposed plat.

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9. **Roads Within Area Designated for Orderly Annexation.**

The parties agree as follows with regard to the roads located within the Orderly Annexation Area:

A. Roads Serving New Plats. The City shall require that all roadways abutting or serving new developments which have been annexed to the City shall be improved by the developer and/or property owner with bituminous surfacing from the access of the development to the nearest County, City or State paved road. All said road improvements shall be constructed to City of New Germany standard street requirements.

B. Maintenance of Roads. Except as specifically set out herein or unless otherwise agreed by the parties, the Township shall maintain all roads in the Orderly Annexation Area not annexed to the City and the City shall maintain all roads annexed to the City.

C. Undue Burden on Town Roads. The Township and City recognize that there may be instances where it is appropriate for the City to assume responsibility to maintain additional portions of Town roads because City development imposes an undue burden on Town roads that serve the annexed property. The City shall, at the Township's request, maintain the entire road (i.e. both sides of the road) where the City has annexed property abutting one side of the road. The length of road required to be maintained shall be limited to the length of road directly abutting the property annexed under this Agreement to the nearest County, City or State road.

D. Use of Township Roads. For all properties annexed under this Agreement, the City shall require in its developer's agreements that during plat development (including construction of residences) all construction traffic use State Trunk Highways, Carver County Highways or New Germany city streets, and that Township roads be used only when no State Trunk Highway, Carver County Highway or New Germany city street is available. The City's developer's agreements shall also require that the Developer pay the Township for the cost to repair any road damage that may occur as a result of construction traffic using Township roads.

10. **Provision of Municipal Utility Service.**

A. Extension of Services. Extension of sanitary sewer service to annexed properties requesting sewer service will be a high priority by the City.

B. Assessment Rates. Assessment or connection charges to annexed properties will be at the City's customary rates for improvements of a similar type at the time of benefit and/or connection to said service.

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C. Time-line for Connection. Annexed properties for which municipal services are available must connect to municipal services on the earlier of one of the following:

1. The property owner petitions for service;

2. The property is sold or otherwise transferred for purposes other than agricultural including, but not limited to, being platted other than for an administrative lot split;

3. The property's septic system is failing; or

4. State or Federal law requires connection.

D. Provision of Other Municipal Services. The City shall be responsible for the provision of all normal and customary municipal services to annexed properties.

11. **Deferred Assessment Policy.**

With respect to road, sewer and water improvements to be constructed within the OAA, New Germany's policy for deferred, delayed, or future assessments for such improvements shall be as follows:

A. Sanitary Sewer and Water Utilities. The City of New Germany shall not specially assess any properties in Camden Township related to the cost of construction of sanitary sewer and water utilities located within the OAA. However, the City of New Germany may impose connection charges as permitted by law on properties within the OAA that are to become due and payable at such time as the properties are: 1) annexed to the City of New Germany; and 2) connect to municipal water or sewer service.

B. Street Curb and Gutter and Storm Sewer Utilities. The City of New Germany shall not specially assess any properties in Camden Township related to the cost of construction of streets, curb, gutter or storm sewer within the OAA. However, the City of New Germany may, if it chooses, and to the extent permitted by law, impose charges upon such properties for such properties' proportionate share of such improvements as a condition of annexation to the City of New Germany.

C. Reservation of Rights. The City of New Germany reserves the right to enter into development agreements with the developers of any specific parcels of property within the OAA, or other Camden Township properties, that vary from the terms of this paragraph 11 with respect to such parcel.

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12. **Periodic Review.**

The City and Town mutually agree and state that a joint periodic review of this agreement is to be conducted beginning five (5) years after the effective date of this agreement and every five (5) years thereafter upon the request of either party.

13. **Authorization.**

The appropriate officers of the City and Town are hereby authorized to carry the terms of this Joint Resolution into effect.

14. **Severability and Repealer.**

A determination that a provision of this Joint Resolution is unlawful or unenforceable shall not affect the validity or enforceability of the other provisions herein. However, should any element of paragraph 6 relating to "Taxation Reimbursement" be deemed unlawful or unenforceable, the Township at its discretion may terminate this Agreement. Any prior agreement or joint resolution existing between the parties and affecting the property described in the attached Exhibits shall be considered repealed upon the effective date of this Joint Resolution.

15. **Effective Date and Termination.**

This Joint Resolution shall be effective upon adoption by the governing bodies of the City and Town and approved by the MBA. Unless the parties have agreed to an extension, this agreement shall terminate on December 31, 2030. Notwithstanding the termination of this Agreement, the provisions of paragraphs 5, 6, 8, 9, 10 and 11 of this Agreement shall remain binding after the termination of the Agreement for all properties annexed under the terms of this Agreement prior to its termination.

16. **Disputes and Remedies.**

The City and Township agree as follows:

A. Negotiation. When a disagreement over interpretation of any provision of this Joint Resolution shall arise, the City and the Township will direct staff members, as they deem appropriate, to meet at least one (1) time at a mutually convenient time and place to attempt to resolve the dispute through negotiation.

B. Mediation/Arbitration. When the parties to this Joint Resolution are unable to resolve disputes, claims or counterclaims, or are unable to negotiate an interpretation of any provision of this Joint Resolution, the parties may mutually agree in writing to seek relief by submitting their respective grievances to mediation and/or binding arbitration.

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C. Adjudication. When the parties to this Joint Resolution are unable to resolve disputes, claims or counterclaims, are unable to negotiate an interpretation of any provision of this Joint Resolution or are unable to agree to submit their respective grievances to mediation or binding arbitration, or such action has not otherwise resolved the matter in dispute, either party may seek relief through initiation of an action in a court of competent jurisdiction. In addition to the remedies provided for in this Joint Resolution and any other available remedies at law or equity, in the case of a violation, default, or breach of any provision of this Joint Resolution, the non-violating, non-defaulting, or non-breaching party may bring an action for specific performance to compel the performance of this Joint Resolution in accordance with its terms.

17. **Amendment.**

Both parties reserve the right to initiate an amendment or revision to the Agreement at any time. Upon initiation, the parties agree to meet and discuss the proposed amendment or revision, but neither party shall be required to approve such amendment or revision.

18. **Costs Associated with OA Agreement.**

Each party shall pay its own costs incurred in the negotiation, development and implementation of this Agreement, but the City shall pay any filing fees required by the State of Minnesota.

19. **Venue.**

The venue for all actions concerning this Agreement shall be Carver County, Minnesota.

20. **No Further Annexation.**

During the term of this Agreement, unless otherwise agreed, the City shall not annex any property from the Township except as set out in this Agreement. The parties recognize that Property owners continue to maintain those options available by law at the time of their action to pursue municipal boundary adjustments. However, during the term of this Agreement, the City will not support any property owner initiated annexation petition for areas proposed for development that are located outside of the Orderly Annexation Area. It is the intent of the parties that this Agreement set the exclusive geographical boundaries of land which may be annexed and set the exclusive procedures under which annexation from the Township to the City may occur during the term of this Agreement.

21. **Entire Agreement.**

With respect to the Subject Area and Orderly Annexation Area legally described on **Exhibit 1** and shown on **Exhibit 2**, respectively, which are attached hereto and incorporated herein by reference, the terms, covenants, conditions, and provisions of this Joint Resolution shall

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constitute the entire agreement between the parties hereto superseding all prior agreements and negotiations between the parties.

22. **Notice.**

Any notices required under the provisions of this Joint Resolution shall be in writing and sufficiently given if delivered in person or sent by U.S. Mail, postage prepaid, to the Camden Township Clerk and the New Germany City Administrator at their official addresses.

23. **Legal Description and Mapping.**

The Township and City agree that in the event there are errors, omissions or any other problems with the legal description provided on **Exhibit 1** or mapping provided on **Exhibit 2**, in the judgment of the MBA, the City and Township agree to make such corrections and file any additional documentation, including a new **Exhibit 1 or 2** making the corrections requested or required by the MBA as necessary to make effective the annexation of said Subject Area in accordance with the terms of this Joint Resolution.

24. **Waiver.**

The Board of Supervisors of Camden Township may waive any provision of this Resolution that it deems appropriate for a particular situation but only by written resolution duly adopted by the Town Board.

PASSED, ADOPTED AND APPROVED by the Camden Town Board of Supervisors, Carver County, Minnesota, this 2nd day of OCTOBER, 2007.

CAMDEN TOWNSHIP

Virgil Stender

Virgil Stender, Chair

Roger Sauerbrey

Roger Sauerbrey, Clerk

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PASSED, ADOPTED AND APPROVED by the New Germany City Council, Carver County, Minnesota, this 2nd day of October, 2007.

CITY OF NEW GERMANY

C. Pete Peterson, Mayor

Joan Guthmiller, City Clerk

I, the undersigned, Roger Sauerbrey, being duly qualified and Clerk for the Town of Camden, Carver County, Minnesota, hereby certify that I have carefully compared the attached and foregoing excerpt Resolution No. 2007-4 Authorizing Execution of a Joint Annexation Agreement Between the City of New Germany and Camden Township, with the original Resolution on file in my office and the excerpt is a full, true and exact copy of the Resolution.

WITNESS my hand as Clerk of the Town of Camden, Carver County, Minnesota, and the seal of the Town of Camden this 2nd day of OCTOBER, 2007.

Roger Sauerbrey, Town Clerk
Town of Camden, Minnesota

I, the undersigned, Joan Guthmiller, being duly qualified and Clerk of the City of New Germany, Carver County, Minnesota, hereby certify that I have carefully compared the attached and foregoing excerpt Resolution No. 2007-23 Authorizing Execution of a Joint Annexation Agreement Between the City of New Germany and Camden Township, with the original Resolution on file in my office and the excerpt is a full, true and exact copy of the Resolution.

WITNESS my hand as City Clerk of the City of New Germany this 2nd day of October, 2007.

Joan Guthmiller, City Clerk
City of New Germany, Minnesota

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EXHIBIT 1

SUBJECT AREA LEGAL DESCRIPTION

Sections 4 and 5, Township 116, Range 26, Carver County, Minnesota, EXCEPTING THEREFROM, all that part of said sections presently situated within the municipal boundaries of the City of New Germany.

EXHIBIT 2

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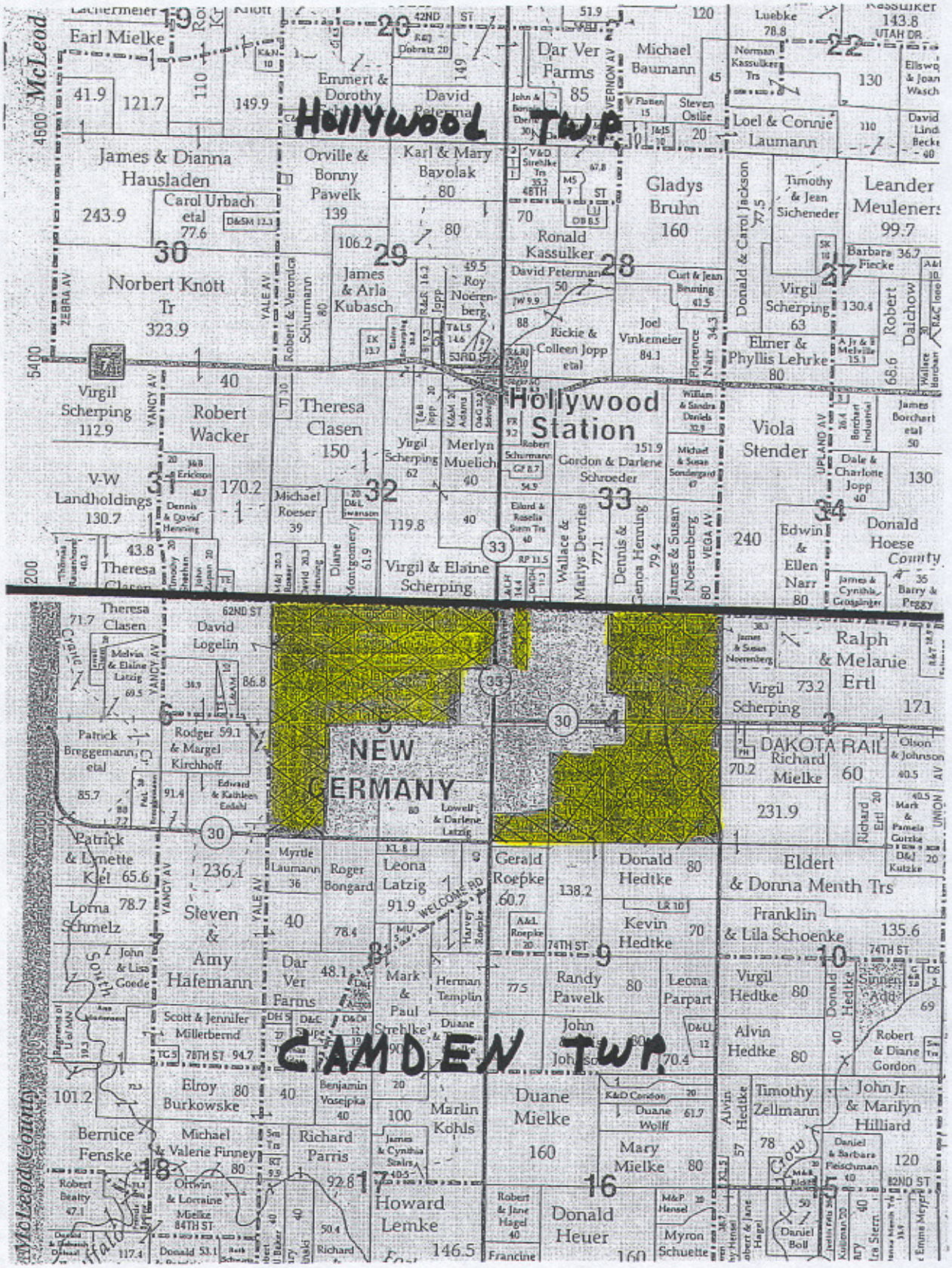
SUBJECT AREA BOUNDARY MAP



Legend: XXXX – cross hatched area = orderly annexation area – Camden Township