

ADA COUNTY RECORDER J. DAVID NAVARRO AMOUNT .00 5
BOISE IDAHO 07/30/09 01:07 PM
DEPUTY Bonnie Oberbillig
RECORDED - REQUEST OF
Eagle City



ORDINANCE NO. 625

AN ORDINANCE ANNEXING CERTAIN REAL PROPERTY SITUATED IN THE UNINCORPORATED AREA OF ADA COUNTY, IDAHO, AND CONTIGUOUS TO THE CORPORATE LIMITS OF THE CITY OF EAGLE, TO THE CITY OF EAGLE, IDAHO; CHANGING THE ZONING CLASSIFICATION OF SAID REAL PROPERTY DESCRIBED HEREIN FROM RUT (RURAL-URBAN TRANSITION) TO R-2-DA (RESIDENTIAL WITH A DEVELOPMENT AGREEMENT); AMENDING THE ZONING MAP OF THE CITY OF EAGLE TO REFLECT SAID CHANGE; DIRECTING THAT COPIES OF THIS ORDINANCE BE FILED AS PROVIDED BY LAW; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Eagle, Idaho is a municipal corporation organized and operating under the laws of the State of Idaho and is authorized to annex to and incorporate within the boundaries of the City contiguous real property in the manner provided by Section 50-222, Idaho Code; and

WHEREAS, the owner of the real property situated in the unincorporated area of Ada County and particularly described in Exhibit "A" of this ordinance has requested, in writing, annexation of said real property to the City of Eagle; and

WHEREAS, the owner of the real property situated within the City of Eagle and particularly described in Exhibit "A" of this ordinance has requested, in writing, a rezone from RUT to R-2-DA; and

WHEREAS, the property described in Exhibit "A" is located at 2440 North Park Lane; and

WHEREAS, the Planning and Zoning Commission of the City, pursuant to public notice as required by law, held a public hearing on May 21, 2007, as required by Section 67-6525, Idaho Code, and made a recommendation to the Mayor and Council; and

WHEREAS, the Eagle City Council, pursuant to public notice as required by law, held a public hearing on June 26, 2007, on the proposed annexation and zoning for the real property described in Exhibit "A" as required by Section 67-6525, Idaho Code, made findings and determined that the requested annexation should be granted and that a zoning classification of R-2-DA for the property described in Exhibit "A" is appropriate to meet the requirements of Idaho Code, Eagle City Code and the Eagle Comprehensive Plan and should be granted.

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MAY 07 2010

TECHNICAL SUPPORT

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF EAGLE, IDAHO, as follows:

Section 1: The Eagle City Council hereby finds and declares that the real property particularly described in Exhibit "A", attached hereto and incorporated herein by reference, is contiguous to the City, that said property can be reasonably assumed to be used for the orderly development of the City, and that the owner of said property has requested, in writing, annexation thereof to the City.

Section 2: The real property, all situated in Ada County, Idaho, adjacent and contiguous to the City, particularly described in Exhibit "A" and as generally shown on Exhibit "B", attached here to and included herein by reference, is hereby annexed to the incorporated territorial limits of the City of Eagle, Idaho.

Section 3: The City Council hereby finds and determines that the real property particularly described in Exhibit "A" and generally as shown on Exhibit "B", attached hereto and incorporated by reference, be removed from the RUT (Rural-Urban Transition) zoning classification and included in the R-2-DA (Residential with a development agreement) zoning classification pursuant to the Zoning Ordinance of the City of Eagle. The City Council further finds and determines that said zone change is in accordance with the Eagle Comprehensive Plan and relevant City Codes.

Section 4: The described real property generally as shown on Exhibit "B" and located as specifically described in the attached legal description Exhibit "A" all situated in the City of Eagle, Ada County, Idaho, is hereby removed from the RUT (Rural-Urban Transition) zoning classification and the real property described in Exhibit "A" is hereby included in the R-2-DA (Residential with a development agreement) zoning classification.

Section 5: The official Zoning Map of the City of Eagle, Idaho, is hereby amended to reflect the foregoing change in zoning classification.

Section 6: From and after the effective date of this Ordinance, all property and persons within the boundaries and territory described above shall be subject to all ordinances, resolutions, police regulations, taxation, and other powers of the City of Eagle.

Section 7: The City Clerk is hereby directed to file, within ten (10) days of passage and approval of this Ordinance, a certified copy of this Ordinance with the offices of the Auditor, Treasurer, and Assessor of Ada County, Idaho, and with the Idaho State Tax commission, Boise, Idaho, as required by Section 50-223, Idaho Code, and to comply with the provisions of Section 63-2215, Idaho Code, with regard to the preparation and filing of a map and legal description of the real property annexed by this Ordinance.

Section 8: This Ordinance shall take effect and be in force from and after its passage, approval, and publication as required by law. In lieu of publication of the entire ordinance, a summary thereof in compliance with Section 50-901A, Idaho Code, may be published.

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MAY 07 2010

TECHNICAL REPORT

TOOTHMAN-ORTON ENGINEERING COMPANY
CONSULTING ENGINEERS, SURVEYORS AND PLANNERS

9777 CHINDEN BOULEVARD
BOISE, IDAHO 83714-2008
208-323-2288 • FAX 208-323-2399
boise@toengrco.com

RECEIVED & FILED
CITY OF EAGLE

JAN 10 2007

File: _____
Route to: _____

Project No: 06250
Date: January 4, 2007
Page: 1 of 1

EXHIBIT A
ANNEXATION, REZONE AND PRELIMINARY PLAT DESCRIPTION
OF DWAYNE LINGEL SUBDIVISION

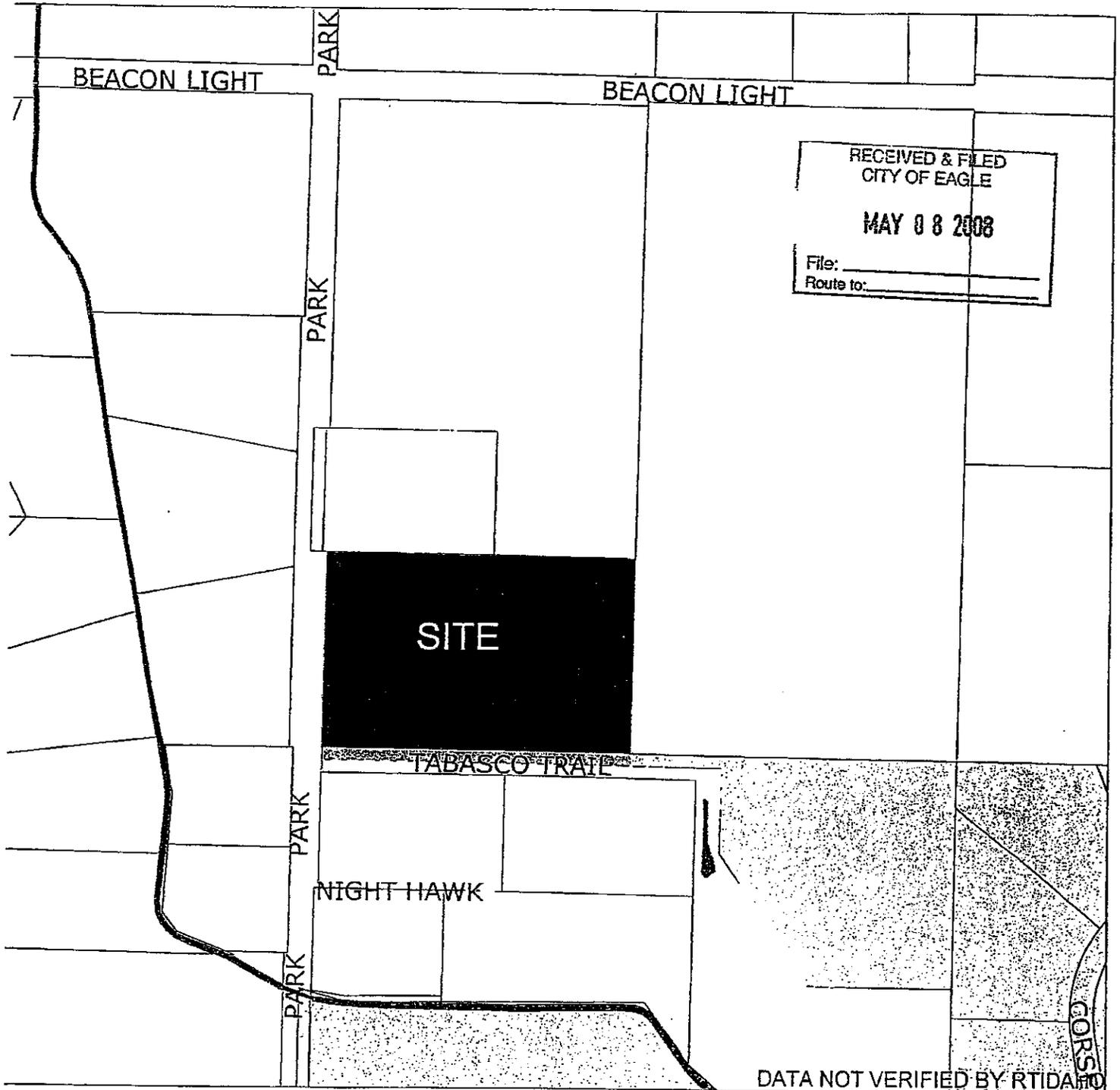
LOT 2 IN BLOCK 1 OF WHITEHORSE SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF, FILED IN BOOK 80 OF PLATS AT PAGE 8618, OFFICIAL RECORDS OF ADA COUNTY, IDAHO.

CONTAINING: 5.70 acres, more or less.

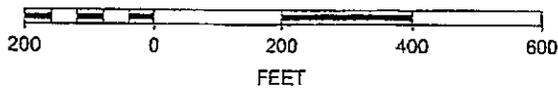
SUBJECT TO: All Covenants, Rights, Rights-of-Way, Easements of Record and any other Encumbrances.

The property described herein should be in compliance with all applicable zoning regulations. Toothman-Orton Engineering Co. assumes no liability for current or future compliance with county or city zoning ordinances and/or restrictions.

Adonai Vicinity Map



SCALE 1 : 3,331



ORDINANCE NO. 534

AN ORDINANCE ANNEXING CERTAIN REAL PROPERTY SITUATED IN THE UNINCORPORATED AREA OF ADA COUNTY, IDAHO, AND CONTIGUOUS TO THE CORPORATE LIMITS OF THE CITY OF EAGLE, TO THE CITY OF EAGLE, IDAHO; ESTABLISHING THE ZONING CLASSIFICATION OF SAID REAL PROPERTY DESCRIBED HEREIN; AMENDING THE ZONING MAP OF THE CITY OF EAGLE TO REFLECT SAID CHANGES; DIRECTING THAT COPIES OF THIS ORDINANCE BE FILED AS PROVIDED BY LAW; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Eagle, Idaho is a municipal corporation organized and operating under the laws of the State of Idaho and is authorized to annex to and incorporate within the boundaries of the City contiguous real property in the manner provided by Section 50-222, Idaho Code; and

WHEREAS, the owners of the real property situated in the unincorporated area of Ada County and particularly described in Exhibit "A" of this ordinance has requested, in writing, annexation of said real property to the City of Eagle; and

WHEREAS, the owners of the real property situated within the City of Eagle and particularly described in Exhibit "A" of this ordinance have requested, in writing, a rezone from RUT to R-E; and

WHEREAS, the Planning and Zoning Commission of the City, pursuant to public notice as required by law, held a public hearing on September 19, 2005, as required by Section 67-6525, Idaho Code, and made a recommendation to the Mayor and Council; and

WHEREAS, the Eagle City Council, pursuant to public notice as required by law, held a public hearing on October 27, 2005, on the proposed annexation and zoning for the real property described in Exhibit "A" as required by Section 67-6525, Idaho Code, made findings and determined that the requested annexation should be granted and that a zoning classification of R-E for the property described in Exhibit "A" is appropriate to meet the requirements of Idaho Code, Eagle City Code and the Eagle Comprehensive Plan and should be granted.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF EAGLE, IDAHO, as follows:

Section 1: The Eagle City Council hereby finds and declares that the real property particularly described in Exhibit "A", attached hereto and incorporated herein by reference, is contiguous to the City, that said property can be reasonably assumed to be used for the orderly development of the City, and that the owner of said property has requested, in writing, annexation thereof to the City.

Section 2: The real property, all situated in Ada County, Idaho, adjacent and contiguous to the City, particularly described in Exhibit "A" and as generally shown on Exhibit "B", attached, is hereby annexed to the incorporated territorial limits of the City of Eagle, Idaho.

Section 3: The City Council hereby finds and determines that it is in the best interests of the public health, safety, and welfare of the City of Eagle and the residents and property therein that the real property particularly described in Exhibit "A" and generally as shown on Exhibit "B", attached hereto and incorporated by reference, is hereby removed from the RUT (Rural Urban Transition) District classification and is hereby included in the Residential (one unit per two acres) District Classification R-E all pursuant to the Zoning Ordinance of the City of Eagle. The City Council further finds and determines that said zone change is in accordance with the Eagle Comprehensive Plan and relevant City Codes and that the Zoning Map of the City is hereby amended to include the real property described in Exhibit "A" in the R-E zoning district.

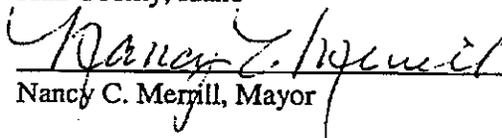
Section 4: From and after the effective date of this Ordinance, all property and persons within the boundaries and territory described above shall be subject to all ordinances, resolutions, police regulations, taxation, and other powers of the City of Eagle.

Section 5: The City Clerk is hereby directed to file, within ten (10) days of passage and approval of this Ordinance, a certified copy of this Ordinance with the offices of the Auditor, Treasurer, and Assessor of Ada County, Idaho, and with the Idaho State Tax commission, Boise, Idaho, as required by Section 50-223, Idaho Code, and to comply with the provisions of Section 63-2215, Idaho Code, with regard to the preparation and filing of a map and legal description of the real property annexed by this Ordinance.

Section 6: This Ordinance shall take effect and be in force from and after its passage, approval, and publication as required by law. In lieu of publication of the entire ordinance, a summary thereof in compliance with Section 50-901A, Idaho Code, may be published.

DATED this 29th day of November 2005.

CITY COUNCIL OF THE CITY OF EAGLE
Ada County, Idaho


Nancy C. Merrill, Mayor

ATTEST:


Sharon K. Bergmann, Eagle City Clerk



RECEIVED

MAY 07 2010

TECHNICAL SUPPORT

STATE OF IDAHO)

: ss.

County of Ada)

On this 29th day of November, in the year 2005, before me, the undersigned, a Notary Public in and for said State, personally appeared Nancy C. Merrill and Tracy E. Osborn, known to me to be the MAYOR and CITY CLERK of said municipal corporation that executed this instrument and the persons who executed the said instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year first written.



Sheri Horton
_____, Notary Public
Residing at: Meridian, ID
My Commission Expires: 4-26-08

EXHIBIT "A"



UNLIMITED BOUNDARIES, P.C. DBA
Associated Land Surveyors
1103 W. Main St.
Middleton, Idaho 83644

RECEIVED & FILED
CITY OF EAGLE
AUG 10 2005
File: _____
Route to: _____

LEGAL DESCRIPTION
ESPERANZA ESTATES

The following describes a parcel of real property lying in a portion of the Southwest Quarter of the Northeast Quarter (SW¼NE¼) of Section 1, Township 4 North, Range 1 West, Boise Meridian, City of Eagle, Ada County, Idaho and being more particularly described as follows:

Lot 2 in Block 1 of Tabasco Subdivision, according to the official plat thereof, filed in Book 81 of plats at Pages 8777 and 8778, Official Records of Ada County, Idaho.

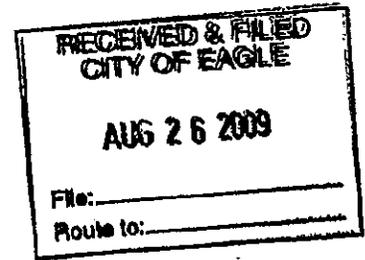
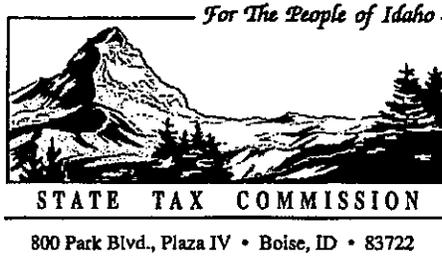
COMMENCING at the North Quarter Corner of said Section 1, said corner marked by an aluminum cap; thence, along the West line of the NE¼ of said Section 1, S00°15'00"W, 1342.75 feet to a 5/8" iron pin; thence, S89°52'35"E, 35.00 feet to a 5/8" iron pin at Northwest Corner of said Lot 2, the **POINT OF BEGINNING**;

THENCE, along the exterior boundary of said Lot 2, the following courses and distances:
S89°52'35"E, 1286.10 feet to a 5/8" iron pin;
S00°15'12"W, 464.79 feet to a 5/8" iron pin;
N89°52'35"W, 293.75 feet to a 5/8" iron pin;
N34°32'13"W, 321.92 feet to a 5/8" iron pin;
N00°15'00"E, 175.00 feet to a 5/8" iron pin;
N89°52'35"W, 808.66 feet to a 5/8" iron pin;
N00°15'00"E, 25.00 feet to the **POINT OF BEGINNING**;

The above-described parcel of real property contains 5.00 acres, more or less, and is subject any reservations or easements appearing on said parcel.



August 24, 2009



Sharon Bergmann
 Eagle City Clerk
 660 Civic Lane
 Eagle, ID 83616

Subject: Ordinance No. 625 EAGLE (CITY)

Dear Ms. Bergmann:

The Tax Commission has received and reviewed the above referenced action. This review cannot be completed because it does not comply with legal description and mapping requirements.

- The legal description describes a shoestring annexation, See Idaho Code 50-222(2).

Before this annexation can be processed for the 2010 year, the discrepancies listed need to be corrected. Thank you for your attention to the required legal descriptions and mapping requirements. If you have any questions, please call me at (208) 334-7750.

Find current year information (2010) about taxing district change requests at the Current Status Web page.

Visit http://tax.idaho.gov/propertytax/GIS/ta_status.cfm

Sincerely,

Craig Johnson
 GIS Analyst
 Technical Support Bureau, Idaho State Tax Commission

*Transferred 080 534
 Rec 12/8/05*

*Need To SPEAK TO
 ATTORNEY WHO WILL NOT
 Be In UNTIL Mid-SEPT*

MOORE SMITH BUXTON & TURCKE, CHARTERED

ATTORNEYS AND COUNSELORS AT LAW
950 W. BANNOCK STREET, SUITE 520; BOISE, ID 83702
TELEPHONE: (208) 331-1800 FAX: (208) 331-1202 www.msbtlaw.com

STEPHANIE J. BONNEY
SUSAN E. BUXTON*
PAUL J. FITZER
MICHAEL C. MOORE†
BRUCE M. SMITH
PAUL A. TURCKE‡
CARL J. WITHROE‡
TAMMY A. ZOKAN*

JOHN J. MCFADDEN*
of Counsel

» Also admitted in California
† Also admitted in New Mexico
* Also admitted in Oregon
‡ Also admitted in South Dakota
‡ Also admitted in Washington

May 5, 2010

Carl Olsson
Deputy Attorney General
Idaho State Tax Commission
800 Park Blvd., Plaza IV
Boise, ID 83722

Re: Eagle City Ordinance No. 625

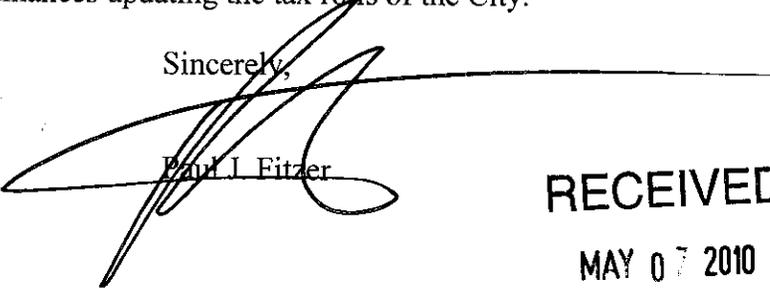
Dear Carl:

This firm acts as the city attorneys for the City of Eagle. By correspondence dated August 24, 2009, Craig Johnson with the Idaho State Tax Commission informed the city that Ordinance NO. 625 could not be processed because the legal description describes a shoestring annexation pursuant to Idaho Code § 50-222(2). The purpose of this correspondence is to clarify the nature of the annexation in question in order to resolve this misunderstanding.

We respectfully disagree that the subject property, 2440 Park Lane, amounts to a shoestring annexation. First, the strip of land constituting the shoestring is not the subject of Ordinance No. 625, but was rather annexed into the City in 2005. The purpose of the strip was not an "attempt to annex outlying territory to a municipality by the device of a connecting, narrow shoestring strip of land". *Potvin v. Village of Chubbuck*, 76 Idaho 453, 456, 284 P.2d 414, 417 (1955). Rather, the intent of the strip was to reach a public road. The subject property does not connect to the terminus of this shoestring, i.e. contiguity with only "a railroad or highway right-of-way". Thus, it is not the typical "shoestring", "hourglass", or "barbell" contiguity contemplated by the courts whereby a large parcel has contiguity with the city only by virtue of a thirty foot strip of land. Rather, the subject property has approximately four hundred feet (400') of contiguity with preexisting property within the City. Thus, this is not a shoestring annexation in its technical sense and there is no issue of "subterfuge" as discussed in *Potvin. Id.*

At this time the City of Eagle formally requests that the State Tax Commission process the above-mentioned ordinances updating the tax rolls of the City.

Sincerely,


Paul J. Fitzer

Cc: City of Eagle
Craig Johnson

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MAY 07 2010

TECHNICAL SUPPORT

COPY