



# CITY OF MIDDLETON

P.O. Box 487, 6 North Dewey, Middleton, ID 83644  
208-585-3133 Fax (208) 585-9601  
citmid@middletonidaho.us  
www.middleton.id.gov

October 27, 2015

Idaho State Tax Commission  
Craig Johnson, Mapping Department  
P.O. Box 36  
Boise ID 83722-0410

**Subject: City of Middleton, Idaho – Annexation: Parcel A, Parcel B, and Parcel C – as referenced in the attached land description document provided by T-O Engineers.**

**SITE DATA:** Parcel A (Located in N1/2 of the NE1/4 of Section 18, Township 4 North, Range 2 West, Boise Meridian, City of Middleton, Canyon County, Idaho). Parcel B (Located in the NW1/4 of Section 17, Township 4 North, Range 2 West, Boise Meridian, City of Middleton, Canyon County, Idaho). Parcel C (Located in the NW1/4 of Section 17, Township 4 North, Range 2 West, Boise Meridian, City of Middleton, Canyon County, Idaho).

Dear Mr. Johnson,

Enclosed please find a copy of the summary of Ordinance No. 565 pertaining to the above referenced annexation of property into the boundaries of the City of Middleton, Idaho.

The City's zoning map has been amended to reflect to include the property into the City of Middleton, Idaho. We understand that the annexation will not be effective with your office until 2016.

Please contact me if you have any questions.

Sincerely,

Pauline Newman, City Clerk  
City of Middleton, Idaho

*Enclosures*

SUMMARY OF  
ORDINANCE NO. 565  
Premier Industrial, LLC

AN ORDINANCE OF THE CITY OF MIDDLETON, CANYON COUNTY, IDAHO, ANNEXING TO THE CITY OF MIDDLETON, IDAHO, CERTAIN REAL PROPERTY SITUATED IN THE UNINCORPORATED AREA OF CANYON COUNTY, IDAHO, AND CONTIGUOUS TO THE CORPORATE LIMITS OF THE CITY OF MIDDLETON, IDAHO; ESTABLISHING THE ZONING CLASSIFICATION OF SAID REAL PROPERTY TO LIGHT-INDUSTRIAL; DIRECTING THAT COPIES OF THIS ORDINANCE BE FILED AS PROVIDED BY LAW; AND PROVIDING AN EFFECTIVE DATE.

A summary of the principal provisions of Ordinance No. 565 of the City of Middleton, Canyon County, Idaho, adopted on September 23, 2015, is as follows:

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MIDDLETON, IDAHO, AS FOLLOWS:

Section 1: Declaration and finding that the real property described in Exhibit A is contiguous to the City, is in the orderly development of the City, and the property's owner requested that the property be annexed into the City with a light-industrial zoning designation.

Section 2: Said real property is hereby annexed to and incorporated in the territorial limits of the City of Middleton, Idaho.

Section 3: Subjecting all property and persons within the property boundaries to the ordinances, resolutions, police regulations, taxation and other powers of the City of Middleton, Idaho.

Section 4: Zoning the property light-industrial and amending the City's zoning map to include said real property as zoned.

Section 5: Directing that certified copies of the ordinance be filed with the offices of the Auditor, Treasurer and Assessor of Canyon County, Idaho, and with the Idaho State Tax Commission, Boise, Idaho.

Section 6: Requiring publication of the ordinance or a summary in the official newspaper of the City of Middleton, Idaho, and declaring the ordinance to take effect upon publication.

The full text of this ordinance is available at city hall.

REC'D NOV 02 2015

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Summary of Ordinance No. 565

2015-041996

RECORDED

10/26/2015 04:49 PM



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CHRIS YAMAMOTO

CANYON COUNTY RECORDER

Pgs=7 BJBROWN

NO FEE

ORDINANCE

CITY OF MIDDLETON

DATED this 29<sup>th</sup> day of September, 2015.

CITY OF MIDDLETON  
Canyon County, Idaho

By: Darin J. Taylor  
Darin J. Taylor, Mayor

ATTEST:

Kandice K. Cotterell  
Kandice Cotterell, Deputy City Clerk

#### CERTIFICATION OF ATTORNEY

I, the undersigned, serving as city attorney to the City of Middleton, Idaho, hereby certify that I have read the attached Summary of Ordinance No. 565 of the City of Middleton and that the same is true and complete and provides adequate notice to the public of the contents of said Ordinance.

Dated as of the 29<sup>th</sup> day of September, 2015.

\_\_\_\_\_  
Christopher E. Yorgason, City Attorney

DATED this 29<sup>th</sup> day of September, 2015.

CITY OF MIDDLETON  
Canyon County, Idaho

By: \_\_\_\_\_  
Darin J. Taylor, Mayor

ATTEST:

\_\_\_\_\_  
Kandice Cotterell, Deputy City Clerk

#### CERTIFICATION OF ATTORNEY

I, the undersigned, serving as city attorney to the City of Middleton, Idaho, hereby certify that I have read the attached Summary of Ordinance No. 565 of the City of Middleton and that the same is true and complete and provides adequate notice to the public of the contents of said Ordinance.

Dated as of the 29<sup>th</sup> day of September, 2015.

  
\_\_\_\_\_  
Christopher E. Yorgason, City Attorney



## T-O ENGINEERS

CONSULTING ENGINEERS, SURVEYORS AND PLANNERS  
9777 CHINDEN BOULEVARD  
BOISE, IDAHO 83714-2008  
208-323-2288 • FAX 208-323-2399

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### City of Middleton Annexation Land Description

#### PARCEL A

Located in the N1/2 of the NE1/4 of Section 18, Township 4 North, Range 2 West, Boise Meridian, city of Middleton, Canyon County, Idaho, more particularly described as follows:

**COMMENCING** at the northeast corner of said Section 18; thence along the east boundary of said NE1/4,

A) S.01°21'35"W., 330.03 feet to the northeast corner of that certain parcel described in Exhibit "A" of Trustee's Deed Instrument No. 2010036456, records of Canyon County, Idaho and the **POINT OF BEGINNING**; thence, along the east boundary of said parcel,

- 1) S.01°21'35"W., 982.30 feet to the southeast corner of said parcel; thence, along the south boundary of said parcel and the south boundary of Parcel 1 as described in Warranty Deed Instrument No. 2007049430 and the south boundary of that certain parcel described in Warranty Deed Instrument No. 2007049455, records of Canyon County, Idaho,
- 2) N.89°30'36"W., 2683.32 feet to the southwest corner of that certain parcel as described in said Warranty Deed Instrument No. 2007049455; thence, along the west boundary of said parcel,
- 3) N.00°40'43"E., 985.69 feet to the northwest corner of said parcel; thence, along the north boundary of said parcel,
- 4) S.89°26'08"E., 350.00 feet to the southwest corner of Parcel 1 as described in Warranty Deed Instrument No. 2007049436, records of Canyon County, Idaho; thence, along the west boundary of said parcel,
- 5) N.00°40'43"E., 330.00 feet to the northwest corner of said Parcel 1; thence, along the north boundary of said Parcel 1 and the north boundary of Parcel 4 and Parcel 3 as described in said Warranty Deed Instrument No. 2007049436,
- 6) S.89°26'08"E., 1428.91 feet to the northeast corner of said Parcel 3 as described in Warranty Deed Instrument No. 2007049436; thence, along the east boundary of said parcel,

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- 7) S.01°21'35"W., 330.03 feet to the southeast corner of Parcel 2 as described in said Warranty Deed Instrument No. 2007049436 and the north boundary of that certain parcel described in said Exhibit "A" of Trustee's Deed Instrument No. 2010036456; thence, along said north boundary,
- 8) S.89°26'08"E., 185.00 feet to the southwest corner of that certain parcel described in Exhibit "A" of Trustee's Deed Instrument No. 2010036454, records of Canyon County, Idaho; thence, along the exterior boundary of said parcel the following courses:
  - 9) N.01°21'35"E., 330.03 feet; thence,
  - 10) S.89°26'08"E., 160.00 feet; thence,
  - 11) S.01°21'35"W., 330.03 feet to the north boundary of that certain parcel described in said Exhibit "A" of Trustee's Deed Instrument No. 2010036456; thence, along said boundary
  - 12) S.89°26'08"E., 575.00 feet to the **POINT OF BEGINNING**.

**CONTAINING** 72.765 acres, more or less.

**SUBJECT TO:** Record documents.

**TOGETHER WITH**

**PARCEL B**

Located in the NW1/4 of Section 17, Township 4 North, Range 2 West, Boise Meridian, City of Middleton, Canyon County, Idaho, more particularly described as follows:

**COMMENCING** at the northwest corner of said Section 17, from which the west one-quarter corner of said Section bears S.01°21'35"W., 2624.68 feet; thence along the north boundary of said NW1/4,

- B) S.89°21'18"E., 42.00 feet to the easterly right-of-way of Middleton Road; thence along said right-of-way,

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C) S.01°21'35"W., 25.00 feet to the intersection of the south right-of-way of an existing County Road and said easterly right-of-way of Middleton Road and the northwest corner of Parcel 1, as described in Warranty Deed Instrument No. 2010046246, records of Canyon County, Idaho and the **POINT OF BEGINNING**; thence, along the south right-of-way of said existing County Road and the exterior boundary of said parcel the following courses:

13) S.89°21'18"E., 194.69 feet to the beginning of a non-tangent curve; thence leaving said right-of-way, continuing along said exterior boundary,

14) Southerly along said curve to the left, having a radius of 1897.07 feet, an arc length of 124.86 feet, through a central angle of 3°46'16", and a long chord which bears S.16°54'59"E., 124.84 feet; thence, tangent from said curve,

15) S.18°48'06"E., 825.80 feet; thence,

16) S.45°17'34"W., 72.26 feet; thence,

17) S.79°15'13"W., 478.96 feet to said easterly right-of-way of Middleton Road; thence, along said right-of-way,

18) N.01°21'35"E., 1043.80 feet to the **POINT OF BEGINNING**.

**CONTAINING** 8.399 acres, more or less. ✓

**SUBJECT TO:** Record documents.

**TOGETHER WITH**

**PARCEL C**

Located in the NW1/4 of Section 17, Township 4 North, Range 2 West, Boise Meridian, City of Middleton, Canyon County, Idaho, more particularly described as follows:

**BEGINNING** at the northwest corner of said Section 17, from which the west one-quarter corner of said Section bears S.01°21'35"W., 2624.68 feet; thence along the north boundary of said NW1/4,

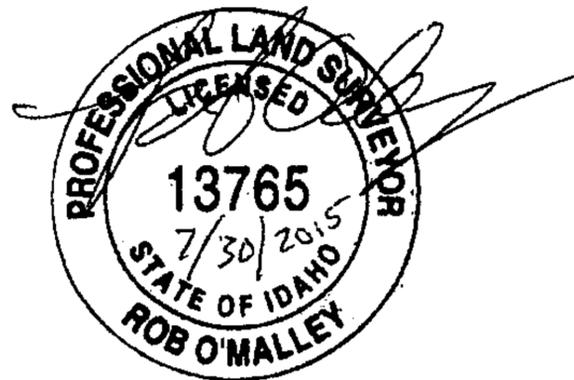
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- 19) S.89°21'18"E., 42.00 feet to the easterly right-of-way of Middleton Road; thence along said right-of-way,
- 20) S.01°21'35"W., 1068.80 feet
- 21) N.88°38'25"W., 42.00 feet to the west boundary of said NW1/4; thence along said boundary,
- 22) N.01°21'35"E., 1068.28 feet to the **POINT OF BEGINNING**.

**CONTAINING** 1.030 acres, more or less.

**SUBJECT TO:** Record documents.

*\*The above descriptions were compiled and combined from existing county record information. No field survey was performed at this time.*



**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	DOCKET NO. 1-857-761-280
	)	
THE CITY OF MIDDLETON,	)	<b>FINAL DETERMINATION AND</b>
	)	<b>ORDER</b>
Petitioner.	)	
	)	

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This matter is before the Tax Commission on the protest of the City of Middleton against a determination made by the Technical Support Bureau of the Idaho State Tax Commission, finding that a new annexation by the city of Middleton would not be recognized by the Tax Commission under Idaho Code § 63-215.

An administrative hearing on the protest was held on Thursday, August 11, 2016. Both parties, represented by attorneys, submitted written position papers to the hearing officer in advance and presented their cases at the hearing.

On August 17, 2016, the hearing officer issued the Hearing Officer's Findings of Fact and Conclusions of Law and Recommendations for Entry of Order.

The Tax Commission now takes into consideration the Hearing Officer's Findings of Fact and Conclusions of Law and Recommendations for Entry of Order and hereby issues this Final Determination and Order.

**The Tax Commission has the authority to refuse to recognize annexations that do not comply with Idaho law relating to boundaries.**

The hearing officer was not convinced that Idaho law grants the Tax Commission the authority to refuse to recognize annexations that do not comply with Idaho Code § 50-222 (i.e., shoestring annexations). The Commission disagrees with this conclusion of law.

The Commission hereby determines that it does have the authority to refuse to recognize annexations that do not comply with Idaho law relating to boundaries, which includes shoestring annexations that do not comply with Idaho Code § 50-222.

- a. **The plain language of Idaho Code § 63-215 grants the Commission the authority to deny shoestring annexations.**

Idaho Code § 63-215 gives the Commission authority to refuse to recognize municipal annexations that do not conform with Idaho law relating to boundaries when it says, in pertinent part:

**63-215. LEGAL DESCRIPTION AND MAP OF BOUNDARIES TO BE RECORDED AND FILED. (1) Any *taxing district* which shall be formed or organized hereafter, or which shall change any existing boundaries hereafter, shall cause one (1) copy of the legal description and map prepared in a draftsmanlike manner which shall plainly and clearly designate the boundaries of such district or municipality as formed or organized, or as altered, to be recorded with the county recorder and filed with the county assessor in the counties within which the unit is located and with the state tax commission within thirty (30) days following the effective date of such formation, organization or alteration but no later than the tenth day of January of the year following such formation, organization or alteration. . . . Formation, organization or alteration documents that are filed pursuant to this section shall include contact information that is current at the time of filing and that identifies an individual associated with the taxing district.**

. . .  
**(3) The state tax commission shall review filings required by subsections (1) and (2) of this section and if the commission finds that the formation of a district or a change in a district's boundaries fails to provide a proper legal description or fails to correctly identify the boundaries or *does not comply with Idaho law relating to boundaries, the state tax commission may direct that the formation or change not be recognized.* The state tax commission's review shall not include matters relating to notice, open meeting law requirements or compliance with provisions in Idaho law not relating to boundaries.**

(Emphasis added).

Idaho Code § 63-201(28) defines a "taxing district" as "any entity or unit with the statutory authority to levy a property tax." A municipal corporation such as Middleton is statutorily authorized by Idaho Code § 50-1003 to levy property tax. Therefore Middleton is a

“taxing district” that must conform with the requirements of Idaho Code § 63-215, and the Commission has authority to refuse to recognize such city’s annexations should they not conform with Idaho law relating to boundaries.

The law relating to boundaries directly at issue in this case is Idaho Code § 50-222, which says, in pertinent part:

**(2) General authority.** Cities have the authority to annex land into a city upon compliance with the procedures required in this section. In any annexation proceeding, all portions of highways lying wholly or partially within an area to be annexed shall be included within the area annexed unless expressly agreed between the annexing city and the governing board of the highway agency providing road maintenance at the time of annexation. *Provided further, that said city council shall not have the power to declare such land, lots or blocks a part of said city if they will be connected to such city only by a shoestring or strip of land which comprises a railroad or highway right-of-way.*

(Emphasis added).

While “law relating to boundaries” is not specifically defined in any section of Idaho Code, it is logical to conclude that Idaho Code § 50-222 falls into that category because it governs how a city may define its boundaries and limits certain additions to a city’s footprint.

**b. The intent of the Legislature when passing Idaho Code § 63-215 was to grant the Commission the authority to deny annexations such as Middleton’s.**

Subsection (3) of Idaho Code § 63-215, as quoted above, was introduced to the legislature in 2008, and became House Bill 341 from the same year. That bill, when heard as Routing Slip 17397 by legislative committees, included a Statement of Purpose explaining that:

This bill clarifies the State Tax Commission’s authority to reject inadequate maps and legal descriptions thereby requiring submission of boundaries that comply with Idaho laws relating to boundaries.

Once again, no definition of "laws relating to boundaries" is evident. The Statement of Purpose, however, includes as examples of "deficiencies and irregularities in boundary descriptions" that the Bill gives the Tax Commission authority to reject:

*. . .failure to completely enclose an area and annexations that do not meet statutory size or contiguity requirements or that make illegal shoestring annexations.*

(Emphasis added).

While the Statement of Purpose from RS 17397 does not conclusively determine the intent of the legislature in passing House Bill 341, it is strong evidence that its intent at the time was to grant the Commission authority to reject annexations the agency considers to be illegal shoestrings annexations.

**The City of Middleton's annexation of the parcel at issue in this case will be recognized by the Tax Commission.**

The hearing officer concluded that the question of whether the annexation in this case constituted a "shoestring annexation" was a question of fact and that based on the facts presented at the hearing, the facts did not establish that this was a "shoestring annexation."

The Commission now determines, based on the facts of this case and the limited facts admitted into the record at the hearing, that it has not been established that the annexation at issue in this case was a shoestring annexation, which violates Idaho Code § 50-222, and therefore the annexation will be recognized by the Tax Commission.

#### **Conclusion**

The Commission hereby orders the Technical Support Bureau of the Idaho State Tax Commission to recognize the City of Middleton's annexation at issue in this case.

However, as explained above, the Commission concludes that it does have the legal authority to refuse to recognize annexations that do not comply with Idaho Code § 50-222, or other Idaho laws relating to boundaries.

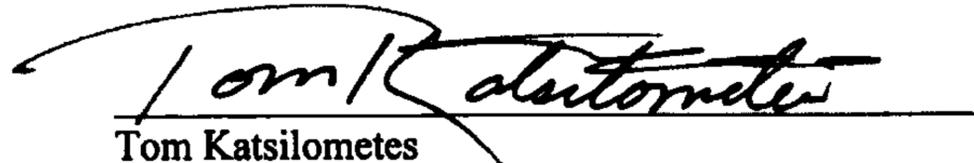
An explanation of the taxpayer's right to appeal this decision is enclosed.

DATED this 13<sup>th</sup> day of September 2016.

IDAHO STATE TAX COMMISSION



Ken A. Roberts  
COMMISSIONER



Tom Katsilometes  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this 14<sup>th</sup> day of September 2016, a copy of the within and foregoing **FINAL DETERMINATION AND ORDER** was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

Pauline Newman  
Middleton City Clerk  
PO Box 487  
Middleton, ID 83644

Receipt No.

7010 2780 0003 0178 7234

Joseph W. Borton  
BORTON LAKEY LAW OFFICES  
141 E. Carlton Ave.  
Meridian, ID 83642

## **NOTICE OF RIGHT TO APPEAL**

**This is a final order of the agency. Any party may file a motion for reconsideration of this final order within fourteen (14) days of the service date of this order. The agency will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5246(4), Idaho Code.**

**Pursuant to Sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by this final order or orders previously issued in this case may appeal this final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:**

- i. A hearing was held,**
- ii. The final agency action was taken,**
- iii. The party seeking review of the order resides, or operates its principal place of business in Idaho, or**
- iv. The real property or personal property that was the subject of the agency action is located.**

**An appeal must be filed within twenty-eight (28) days (a) of the service date of this final order, (b) of an order denying petition for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See Section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.**