Date: June 6, 2011

To: Honorable Mayor and City Council

From: Troy Vitek, Assistant City Engineer

Request:

Consideration of a request to accept a curb, gutter, and sidewalk deferral agreement for improvements on property located at 686 Addison Avenue care of Stan and Diana Haye.

Background:

The developer desires to change the use of the above address from residential to professional office and also desires to defer construction of curb, gutter and sidewalk along Fairfield St. Sidewalk is not constructed along the entirety of Fairfield St. at this time.

Approval Process:

City Code section 10-11-5(B)(2) allows the City Engineer to defer the construction.

Budget Impact:

There is no significant budget impact associated with the Council's approval of this request.

Regulatory Impact:

Approval of this request will allow the applicant to receive a Certificate of occupancy for this property and defer the required improvements until such time as the adjacent property or properties allows the City Engineer to require construction under the conditions specified in City Code Section 10-11-5(B)(2).

Conclusion:

Staff recommends that the Council approve the deferral as presented.

Attachments:

1. Deferral Agreement.
2. Copy of Warranty Deed of Property
3. Arial photograph of property.

CURB-GUTTER AND SIDEWALK IMPROVEMENT DEFERRAL AGREEMENT

This Agreement made and entered into this _____ day of _____, 20___, by and between the CITY OF TWIN FALLS, State of Idaho, a municipal corporation, hereinafter called "City", and **Diana Lincoln-Haye and Stan V. Haye**, hereinafter called "Developer", for the purpose of constructing certain improvements on property sought to be developed at **686 Addison Avenue**.

WHEREAS, Developer certifies that he is the owner in fee simple or the authorized agent of the owner in fee simple of the real property described on the attached Exhibit "A"; and,

WHEREAS, there is attached hereto and incorporated herein as if the same were set out in full, a certified copy of the deed to the above described real property, marked Exhibit "A", showing ownership of said real property to be in Developer, or, as the case may be, there is attached hereto and incorporated herein as if the same were set out in full, a copy of the deed to the above described real property showing ownership in fee simple in someone other than Developer together with a notarized authorization, signed by the real property owner, authorizing Developer to act on behalf of said real property owner; and,

WHEREAS, Developer desires to develop said real property in the following manner: **Change use from residential to professional office**; and,

WHEREAS, the Developer is obligated to construct certain improvements, namely curb-gutter and sidewalk, pursuant to Title 10, Chapter 11 of the Twin Falls City Code; and,

WHEREAS, the City is authorized, pursuant to Twin Falls City Code Section 10-11-5(B)(2) to defer said improvements; and,

WHEREAS, the City Council on _____ agreed to defer construction of the aforementioned improvements,

WITNESSETH, that for and in consideration of the mutual promises, conditions and covenants contained herein, the parties agree as follows:

I.

City agrees: 1) to defer construction of the required curb-gutter and sidewalk along Fairfield Street until _____, or until such time as the obligation of curb-gutter and sidewalk construction on adjacent property or properties allows the City Engineer to require construction under the conditions specified in City Code Section 10-11-5(B)(2).

II.

Developer agrees to: 1) complete construction of curb-gutter and sidewalk along Fairfield Street on the real property described above when required by the City Council.

III.

Developer further agrees that in the event the Developer fails to complete the aforementioned construction, the City may complete the construction at the City's expense and may file a lien against the aforementioned property for expenses incurred by the City in said construction.

IV.

Developer agrees to pay the total actual cost of all materials, labor and equipment necessary to completely construct all of the improvements required herein and to construct or contract for the construction of all such improvements.

Order No. T020923

TRUSTEE'S DEED

For Value Received

WELLS FARGO BANK NORTHWEST N.A. FORMERLY KNOWN AS FIRST SECURITY BANK, N.A., TRUSTEE OF LAURENCE L. COREY TRUST,

the grantor(s), do(es) hereby grant, bargain, sell, and convey unto

DIANA LINCOLN-HAYE and STAN V. HAYE, WIFE AND HUSBAND

the grantee(s), whose current address is

3539 E 3800 N, KIMBERLY, IDAHO 83341

the following described premises, to-wit:

Lot 1 MUTUAL BUILDING & LOAN ASSOCIATION SUBDIVISION, of Block 7 TWIN FALLS TOWNSITE, Twin Falls County, Idaho, filed in Book 4 of Plats page 39.

EXCEPT:

The North 7.10 feet of said Lot as described in the deed to the State of Idaho Transportationl Board, recorded February 4, 1977 as Instrument No. 709450.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee(s), his/her/their heirs and assigns forever. And the said Grantor(s) do(es) hereby covenant to and with the said Grantee(s), that he/she/they are the owner(s) in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U. S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that he/she/they will warrant and defend the same from all claims whatsoever.

Dated: November 7, 2002

The Laurence L. Corey Trust dated April 17, 1998

CALVIN E. KIDNEY, ASST V.P. AND MANAGER FOR SPECIALIST ASSET MANAGEMENT

SHELLEY ROSS, R.E. ADMINISTRATOR FOR SPECIALIST ASSET MANAGEMENT

STATE OF IDAHO

: ss

COUNTY OF TWIN FALLS

On This 7th day of November, in the year 2002, before me, a Notary Public in and for said State, personally appeared CALVIN E. KIDNEY AND SHELLEY ROSS known or identified to me to be the person(s) whose name(s) is/are subscribed to the within Instrument as trustee of the Laurence L. Corey Trust dated 4/17/98 and acknowledged to me that they executed the same as such trustee.

182 POLK S
183 TAYLOR
184 TAYLOR
173 FILLMO
176 FILLMO
177 PIERCE
175 TAYLOR
176 TAYLOR
174 POLK S
167 PIERCE
168 TAYLOR
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151 FILLMO
150 FILLMO
148 POLK S
147 TAYLOR
144 TAYLOR
143 PIERCE
140 POLK S
139 TAYLOR
137 FILLMO
140 FILLMO
TAYLOR ST
FILLMORE ST
132 POLK S
131 TAYLOR
134 TAYLOR
132 FILLMO
133 PIERCE
124 POLK S
121 TAYLOR
126 TAYLOR
123 FILLMO
122 FILLMO
127 PIERCE
114 POLK S
625 ADDISO
635 ADDISO
118 TAYLOR
115 PIERCE
601 ADDISO
108 TAYLOR
691 ADDISO
102 FILLMO
733 ADDISO
ADDISON AVE
686 ADDISO
330 8TH AV
246 9TH AV
351 8TH AV
347 8TH AV
316 8TH AV
312 8TH AV
304 8TH AV
263 9TH AV
253 9TH AV
247 9TH AV
236 9TH AV
228 9TH AV
220 9TH AV
335 8TH AV
327 8TH AV
319 8TH AV
311 8TH AV
303 8TH AV
260 8TH AV
254 8TH AV
244 8TH AV
238 8TH AV
235 9TH AV
227 9TH AV
219 9TH AV
211 9TH AV
205 9TH AV
336 7TH AV
328 7TH AV
312 7TH AV
304 7TH AV
8TH AVE N
220 8TH AV
206 8TH AV
259 8TH AV
253 8TH AV
247 8TH AV
235 8TH AV
227 8TH AV
219 8TH AV
203 8TH AV
FAIRFIELD ST N
260 7TH AV
252 7TH AV
242 7TH AV
238 7TH AV
230 7TH AV
222 7TH AV
210 7TH AV
301 7TH AV
7TH AVE N
261 7TH AV
253 7TH AV
243 7TH AV
GOODING ST N
161 9TH AV
160 8TH AV
154 8TH AV
144 8TH AV
134 8TH AV

Date: June 6, 2011

To: Honorable Mayor and City Council

From: Troy Vitek, Assistant City Engineer

Request:

Consideration of a request to accept a multi-year improvement deferral agreement for improvements on property located at 686 Addison Avenue care of Stan and Diana Haye.

Background:

The developer desires to change the use of the above address from residential to professional office and also desires to defer construction of the required parking area surfacing and striping for a period of 3 years and also defer construction of the required landscaping for a period of 3 years.

Approval Process:

City Code section 10-11-5(B)(2) allows the City Engineer to defer the construction.

Budget Impact:

There is no significant budget impact associated with the Council's approval of this request.

Regulatory Impact:

Approval of this request will allow the applicant to receive a Certificate of occupancy for this property and defer the required improvements until such time as the adjacent property or properties allows the City Engineer to require construction under the conditions specified in City Code Section 10-11-5(B)(2).

Conclusion:

Staff recommends that the Council approve the deferral as presented.

Attachments:

1. Deferral Agreement.
2. Copy of Warranty Deed of Property
3. Arial photograph of property.

MULTI-YEAR IMPROVEMENT DEFERRAL AGREEMENT

This Agreement made and entered into this 6TH day of MAY, 2011, by and between the CITY OF TWIN FALLS, State of Idaho, a municipal corporation, hereinafter called "City", and **Diana Lincoln-Haye and Stan V. Haye**, hereinafter called "Developer", for the purpose of construction certain improvements on property sought to be developed.

WHEREAS, Developer certifies that he is owner in fee simple or the authorized agent of the owner in fee simple of the following described real property: **686 Addison Avenue**; and,

WHEREAS, there is attached hereto and incorporated herein as if the same were set out in full, a certified copy of the deed to the above described real property, marked Exhibit 'A', showing ownership of said real property to be in Developer, or, as the case may be, there is attached hereto and incorporated herein as if the same were set out in full, a copy of the deed to the above-described real property showing ownership in fee simple in someone other than Developer together with a notarized authorization, signed by the real property owner, authorizing Developer to act on behalf of said real property owner; and

WHEREAS, Developer desires to develop said real property in the following manner: **Change use from residential to professional office**; and,

WHEREAS, the Developer is obligated to construct certain improvements pursuant to Title 10, Chapter 11 of the Twin Falls City Code; and,

WHEREAS, the City is authorized, pursuant to Twin Falls City Code Section 10-11-1 to defer said improvements for a period not to exceed three (3) years when the cost of the required improvements exceed twenty-five percent (25%) of the cost of the proposed private improvements; and,

WHEREAS, the City Council on _____ agreed to defer construction of the aforementioned improvements,

WITNESSETH, that for and in consideration of the mutual promises, conditions, and covenants contained herein, the parties agree as follows:

I.

City agrees: 1)to defer construction of the required parking area surfacing and striping until _____; 2)to defer construction of the required landscaping until _____ or until such time as the obligation of the improvement construction on adjacent property or properties allows the City Engineer to require construction under the conditions specified in City Code Section 10-11-5(B)(2).

II.

Developer agrees to: 1) Complete construction of the above-listed improvements on the real property described above by the above-listed dates.

III.

Developer further agrees that in the event that Developer fails to complete the aforementioned construction, the City may complete the construction at the City's expense and may file a lien against the aforementioned property for expenses incurred by the City in said construction.

Order No. T020923

TRUSTEE'S DEED

For Value Received

WELLS FARGO BANK NORTHWEST N.A. FORMERLY KNOWN AS FIRST SECURITY BANK, N.A., TRUSTEE OF LAURENCE L. COREY TRUST,

the grantor(s), do(es) hereby grant, bargain, sell, and convey unto

DIANA LINCOLN-HAYE and STAN V. HAYE, WIFE AND HUSBAND

the grantee(s), whose current address is

3539 E 3800 N, KIMBERLY, IDAHO 83341

the following described premises, to-wit:

Lot 1 MUTUAL BUILDING & LOAN ASSOCIATION SUBDIVISION, of Block 7 TWIN FALLS TOWNSITE, Twin Falls County, Idaho, filed in Book 4 of Plats page 39.

EXCEPT:

The North 7.10 feet of said Lot as described in the deed to the State of Idaho Transportationl Board, recorded February 4, 1977 as Instrument No. 709450.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee(s), his/her/their heirs and assigns forever. And the said Grantor(s) do(es) hereby covenant to and with the said Grantee(s), that he/she/they are the owner(s) in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U. S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that he/she/they will warrant and defend the same from all claims whatsoever.

Dated: November 7, 2002

The Laurence L. Corey Trust dated April 17, 1998

CALVIN E. KIDNEY, ASST V.P. AND MANAGER FOR SPECIALIST ASSET MANAGEMENT

SHELLEY ROSS, R.E. ADMINISTRATOR FOR SPECIALIST ASSET MANAGEMENT

STATE OF IDAHO

: ss

COUNTY OF TWIN FALLS

On This 7th day of November, in the year 2002, before me, a Notary Public in and for said State, personally appeared CALVIN E. KIDNEY AND SHELLEY ROSS known or identified to me to be the person(s) whose name(s) is/are subscribed to the within instrument as trustee of the Laurence L. Corey Trust dated 4/17/98 and acknowledged to me that they executed the same as such trustee.

CITY OF TWIN FALLS
PZ Department
ATT. Kelly Weeks
P.O. Box 1907
324 Hansen Street E
Twin Falls, ID 83303
PH: 208-735-7267 FAX: 208-736-2641

RE: 686 Addison Ave. Deferral Plan April 29th 2011

Stan & Diana Haye
3539E 3000N
Kimberly, Id 83341

Dear Kelly,

As per your request we are sending this outline of our three year deferral plan.

We plan on doing all the hard surface areas under the design plan drawn up by the Land Group during the 2011 season to include ADA, ramp and parking. The storm water retention area will also be included in the first year plan. During the 2012 season we will put in the front landscape, and the third year 2013 we will finish up the project. It is our understanding that the engineer deferral is also in place for the sidewalk curb, and guttering.

Sincerely

Stan Haye

182 POLK S
183 TAYLOR
184 TAYLOR
173 FILLMO
176 FILLMO
177 PIERCE
175 TAYLOR
176 TAYLOR
174 POLK S
167 PIERCE
168 TAYLOR
167 FILLMO
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161 PIERCE
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153 PIERCE
151 FILLMO
150 FILLMO
148 POLK S
147 TAYLOR
144 TAYLOR
143 PIERCE
140 POLK S
139 TAYLOR
137 FILLMO
140 FILLMO
TAYLOR ST
FILLMORE ST
134 TAYLOR
132 POLK S
131 TAYLOR
132 FILLMO
133 PIERCE
124 POLK S
121 TAYLOR
126 TAYLOR
123 FILLMO
122 FILLMO
127 PIERCE
114 POLK S
118 TAYLOR
115 PIERCE
625 ADDISO
635 ADDISO
601 ADDISO
108 TAYLOR
691 ADDISO
102 FILLMO
733 ADDISO
ADDISON AVE
686 ADDISO
330 8TH AV
246 9TH AV
351 8TH AV
347 8TH AV
316 8TH AV
312 8TH AV
304 8TH AV
263 9TH AV
253 9TH AV
247 9TH AV
236 9TH AV
228 9TH AV
220 9TH AV
335 8TH AV
327 8TH AV
319 8TH AV
311 8TH AV
303 8TH AV
260 8TH AV
254 8TH AV
244 8TH AV
235 9TH AV
227 9TH AV
219 9TH AV
211 9TH AV
205 9TH AV
336 7TH AV
328 7TH AV
312 7TH AV
304 7TH AV
238 8TH AV
220 8TH AV
8TH AVE N
259 8TH AV
253 8TH AV
247 8TH AV
235 8TH AV
227 8TH AV
219 8TH AV
206 8TH AV
FAIRFIELD ST N
260 7TH AV
252 7TH AV
242 7TH AV
238 7TH AV
230 7TH AV
222 7TH AV
210 7TH AV
203 8TH AV
GOODINGSTEN
161 9TH AV
160 8TH AV
154 8TH AV
144 8TH AV
134 8TH AV
301 7TH AV
261 7TH AV
253 7TH AV
243 7TH AV

Date: June 6, 2011

To: Honorable Mayor and City Council

From: Troy Vitek, Assistant City Engineer

Request:

Consideration of a request to accept a sidewalk deferral agreement for improvements on property located at 598 Rim View Drive care of Wade Bond.

Background:

The developer desires to build a 560 sq. ft. garage. Sidewalk is not constructed for the entirety of Rim View Drive at this time.

Approval Process:

City Code section 10-11-5(B)(2) allows the City Engineer to defer the construction.

Budget Impact:

There is no significant budget impact associated with the Council's approval of this request.

Regulatory Impact:

Approval of this request will allow the applicant to receive a Certificate of occupancy for this property and defer the required improvements until such time as the adjacent property or properties allows the City Engineer to require construction under the conditions specified in City Code Section 10-11-5(B)(2).

Conclusion:

Staff recommends that the Council approve the deferral as presented.

Attachments:

1. Deferral Agreement.
2. Copy of Warranty Deed of Property
3. Arial photograph of property.

SIDEWALK IMPROVEMENT DEFERRAL AGREEMENT

This Agreement made and entered into this _____ day of _____, 20___, by and between the CITY OF TWIN FALLS, State of Idaho, a municipal corporation, hereinafter called "City", and Wade B. Bond, hereinafter called "Developer", for the purpose of constructing certain improvements on property sought to be developed at 598 Ron View Dr..

WHEREAS, Developer certifies that he is the owner in fee simple or the authorized agent of the owner in fee simple of the real property described on the attached Exhibit "A"; and,

WHEREAS, there is attached hereto and incorporated herein as if the same were set out in full, a certified copy of the deed to the above described real property, marked Exhibit "A", showing ownership of said real property to be in Developer, or, as the case may be, there is attached hereto and incorporated herein as if the same were set out in full, a copy of the deed to the above described real property showing ownership in fee simple in someone other than Developer together with a notarized authorization, signed by the real property owner, authorizing Developer to act on behalf of said real property owner; and,

WHEREAS, Developer desires to develop said real property in the following manner: Build a 560 SQFT. Garage; and,

WHEREAS, the Developer is obligated to construct certain improvements, namely sidewalk, pursuant to Title 10, Chapter 11 of the Twin Falls City Code; and,

WHEREAS, the City is authorized, pursuant to Twin Falls City Code Section 10-11-5(B)(2) to defer said improvements; and,

WHEREAS, the City Council on _____ agreed to defer construction of the aforementioned improvements,

WITNESSETH, that for and in consideration of the mutual promises, conditions and covenants contained herein, the parties agree as follows:

I.

City agrees: 1) to defer construction of the required sidewalk until _____ or until such time as the obligation of sidewalk construction on adjacent property or properties allows the City Engineer to require construction under the conditions specified in City Code Section 10-11-5(B)(2).

II.

Developer agrees to: 1) complete construction of sidewalk on the real property described above when required by the City Council.

III.

Developer further agrees that in the event the Developer fails to complete the aforementioned construction, the City may complete the construction at the City's expense and may file a lien against the aforementioned property for expenses incurred by the City in said construction.

IV.

Developer agrees to pay the total actual cost of all materials, labor and equipment necessary to completely construct all of the improvements required herein and to construct or contract for the construction of all such improvements.

V

Developer agrees to request in writing that the City Engineer and any other required department of the City make the following inspections and to not proceed with construction until the required inspection is complete and the work has been approved in writing by the City Engineer or his authorized inspector. All such

inspections shall be scheduled fifteen (15) days prior to beginning work and the request for an inspection shall be made one working day before the required inspection. Developer agrees to apply all costs resulting from his failure to properly schedule and request a required inspection or from proceeding with work before receiving approval to proceed. Developer agrees to remove or correct any rejected, unapproved or defective work or materials all as required by the City Engineer.

Required inspections shall include: 1) approval of all materials before inspection; 2) approval of forms and gravel base before pouring any concrete sidewalk; and 3) approval of finished sidewalk.

VI.

The Developer agrees to: 1) allow the City full and complete access to the construction; 2) provide all materials necessary to conduct all tests; and 3) provide the equipment and perform or have performed any testing of manufactured materials required by the City Engineer.

VII.

Developer agrees to obtain any necessary permits from the Twin Falls Highway District or the State of Idaho Department of Highways prior to construction improvements on their respective rights-of-way if said permits are required by the aforementioned agencies. A certified copy of said permit or the original of said permit shall be submitted to the City prior to beginning construction thereon.

This Agreement shall be recorded and shall bind the parties hereto, their heirs, successors in interest, and lawful assigns.

In the event of a breach of this Agreement, or should legal action of any kind be taken to enforce the provisions hereof, the prevailing party shall be entitled to reasonable attorney fees and cost awarded by the Court.

CITY OF TWIN FALLS, IDAHO

BY_____
Mayor

DEVELOPER
x Wade B Bond

STATE OF IDAHO
On this_____day of _____ , 20__, before me a notary public in and for said State, personally appeared

known to me to be the person who name subscribed to the within instrument, and acknowledged to me that executed the same.

_____
Notary Public
Residing at Twin Falls, Idaho

STATE OF IDAHO
On this 16 day of May, 2011, before me a notary public in and for said State, personally appeared Wade B. Bond

known to me to be the person who name subscribed to the within instrument, and acknowledged to me that executed the same.

Lisa Strickland
Notary Public
Residing at Twin Falls, Idaho
8/25/12
Jerome County

LISA A. STRICKLAND NOTARY PUBLIC STATE OF IDAHO

Order No. **T010517**

Twin Falls County, Idaho
Recorded for:
TWIN FALLS TITLE
03:31pm Jun.21,2001
2001 – 011047
No. of Pages: 2 Fee: $6.00
ROBERT S. FORT
Ex-Officio Recorder
Deputy: CN

WARRANTY DEED

For Value Received

Jules V. Harrison And Treva I. Harrison,
Husband And Wife.

the grantor(s), do(es) hereby Grant, Bargain Sell, and Convey unto

Wade B. Bond,
An Unmarried ~~XXXX~~ Person

the grantee(s), whose current address is: **598 RIMVIEW DRIVE, TWIN FALLS, ID. 83301**

the following described real estate, situated in **TWIN FALLS** County, Idaho, to-wit:

Lot 5 in Block 5 of CANYON CREST SUBDIVISION NO. 3, Twin Falls County, Idaho, according to the plat thereof recorded in Volume 9 of Plats, page 43, records of said County.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee(s), his/her/their heirs and assigns forever. And the said Grantor(s) do(es) hereby covenant to and with the said Grantee(s), that he/she/they are the owner(s) in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U.S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that he/she/they will warrant and defend the same from all lawful claims whatsoever.

Dated: 6/18/01

JULES V. HARRISON

Treva I. Harrison Jules V. Harrison, Attorney in fact.
TREVA I. HARRISON BY: JULES V. HARRISON, ATTORNEY IN FACT

State of WASHINGTON }
}ss.
County of Kitsap }

On this 20 day of June, in the year 2001, before me, the undersigned personally appeared Jules V. Harrison, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same.

WITNESS my hand and official seal.

Cecilia A. Kakela
Notary Public
Residing At: Bainbridge Island
Commission Expires: 11-21-04

CECILIA A. KAKELA
COMMISSION EXPIRES
NOTARY
PUBLIC
11-21-04
STATE OF WASHINGTON

TITLE & ESCROW
COMPANIES

641 RIMVIE
655 BALLIN
620 RIMVIE
623 RIMVIE
641 BALLIN
618 RIMVIE
2229 CREST
631 BALLIN
598 RIMVIE
CREST AVE
619 BALLIN
590 RIMVIE
2244 CREST
RIMVIEW DR
2232 CREST
580 RIMVIE
591 BUTTE
589 BUTTE
570 RIMVIE

STONEHEDGE LOOP
CONCORDIA CIR
CONCORDIA WAY
STONEHEDGE WAY
RUSTY CT
514 STONEH
EASTLAND DR N
2111 STADI
2110 RANCH
2115 RANCH
2121 RANCH
2141 STADI
2155 RANCH
2175 RANCH
RANCHO VISTA DR
765 EASTLA
715 EASTLA
701 EASTLA
576 EASTLA
CREST AVE
535 BUTTE
569 BUTTE
2237 FILER
RIMVIEW DR
743 RIMVIE
742 RIMVIE
798 EASTLA
562 BUTTE
BUTTE DR
524 BUTTE
529 RIMVIE
KNOTTINGHAM DR
434 EASTLA
442 EASTLA
2212 KINGS
KINGSGATE DR
FILER AVE E
STADIUM BLVD
2317 STADI
2319 STADI
2329 STADI
2327 STADI
2359 STADI
BALLINGRUDE DR
568 BALLIN
FOREST VALE DR
540 RIMVIE
521 BALLIN
509 BALLIN
528 BALLIN
TWIN OAKS PARK DR
BUCKINGHAM DR
710 BUCKIN
2420 VICTO
VICTORIAN CT
2419 VICTO
808 BUCKIN
2451 STADI
2440 VICTO
2443 VICTO
2467 STADI

Date: June 6, 2011

To: Honorable Mayor and City Council

From: Troy Vitek, Assistant City Engineer

Request:

Consideration of a request to accept curb-gutter, sidewalk, and driveway approach deferral agreement for improvements on property located at 236 Washington Street South care of Glanbia Foods, Inc.

Background:

The developer desires to develop said real property in the following manner: new building construction and relocation of an Idaho Transportation Department Approach. Please also refer to the attached deferral agreement.

Approval Process:

City Code section 10-11-5(B)(2) allows the City Engineer to defer the construction.

Budget Impact:

There is no significant budget impact associated with the Council's approval of this request.

Regulatory Impact:

Approval of this request will allow the applicant to receive a Certificate of occupancy for this property and defer the required improvements until such time as the adjacent property or properties allows the City Engineer to require construction under the conditions specified in City Code Section 10-11-5(B)(2).

Conclusion:

Staff recommends that the Council approve the deferral as presented.

Attachments:

1. Deferral Agreement.
2. Copy of Warranty Deed of Property
3. Arial photograph of property.

CURB-GUTTER-SIDEWALK & DRIVEWAY APPROACH IMPROVEMENT DEFERRAL AGREEMENT

This Agreement made and entered into this _19th_ day of May, 2011, by and between the CITY OF TWIN FALLS, State of Idaho, a municipal corporation, hereinafter called "City", and _Glanbia Plc., hereinafter called "Developer", for the purpose of constructing certain improvements on property sought to be developed at _236 Washington Street South, Twin Falls, ID, 83301.

WHEREAS, Developer certifies that he is the owner in fee simple or the authorized agent of the owner in fee simple of the real property described on the attached Exhibit "A"; and,

WHEREAS, there is attached hereto and incorporated herein as if the same were set out in full, a certified copy of the deed to the above described real property, marked Exhibit "A", showing ownership of said real property to be in Developer, or, as the case may be, there is attached hereto and incorporated herein as if the same were set out in full, a copy of the deed to the above described real property showing ownership in fee simple in someone other than Developer together with a notarized authorization, signed by the real property owner, authorizing Developer to act on behalf of said real property owner; and,

WHEREAS, Developer desires to develop said real property in the following manner: new building construction and relocation of an Idaho Transportation Department Approach; and,

WHEREAS, the Developer is obligated to construct certain improvements, namely curb-gutter-sidewalk & driveway approach, pursuant to Title 10, Chapter 11 of the Twin Falls City Code; and,

WHEREAS, the City is authorized, pursuant to Twin Falls City Code Section 10-11-5(B)(2) to defer said improvements; and,

WHEREAS, the City Council on _____ agreed to defer construction of the aforementioned improvements,

WITNESSETH, that for and in consideration of the mutual promises, conditions and covenants contained herein, the parties agree as follows:

I.

City agrees: 1) to defer construction of the required curb-gutter-sidewalk & approach at Highland and Washington Street South along with a minimum 24' wide asphalt roadway per City of Twin Falls Standard details for Collectors from Washington Street South to the first approach off of the newly constructed Highland into Glanbia's lot until the City of Twin Falls Engineer deems necessary, or until such time as the obligation of curb-gutter-sidewalk and Highland approach construction on adjacent property or properties allows the City Engineer to require construction under the conditions specified in City Code Section 10-11-5(B)(2). The new approach off of Highland into Glanbia shall not be located closer than 150' Edge of approach to face of curb of Washington Street South 2) Once Highland has been constructed and a new approach into Glanbia's parcel developed, the existing approach approximately 100 north of the Highland intersection shall be removed and abandoned at Glanbia's expense. 3) Dedicate necessary Right of Way to the City of Twin Falls for construction of a collector roadway along the entire length of the South property line of Glanbia.

II.

Developer agrees to: 1) complete construction of curb-gutter-sidewalk & north ½ of Highland approach along with 24' wide asphalt roadway from Washington Street to the first approach into Glanbia off of Highland as described in Section I above along with removal of the existing approach approximately 100' north of the Highland/Washinton intersection on the real property described above when required by the City Council.

III.

Developer further agrees that in the event the Developer fails to complete the aforementioned construction, the City may complete the construction at the City's expense and may file a lien against the aforementioned property for expenses incurred by the City in said construction.

IV.

Developer agrees to pay the total actual cost of all materials, labor and equipment necessary to completely construct all of the improvements required herein and to construct or contract for the construction of all such improvements.

V

Developer agrees to request in writing that the City Engineer and any other required department of the City make the following inspections and to not proceed with construction until the required inspection is complete and the work has been approved in writing by the City Engineer or his authorized inspector. All such inspections shall be scheduled fifteen (15) days prior to beginning work and the request for an inspection shall be made one
working day before the required inspection. Developer agrees to apply all costs resulting from his failure to properly schedule and request a required inspection or from proceeding with work before receiving approval to proceed. Developer agrees to remove or correct any rejected, unapproved or defective work or materials all as required by the City Engineer.

Required inspections shall include: 1) approval of all materials before inspection; 2) approval of forms and gravel base before pouring any concrete curb-gutter-sidewalk & driveway approach; and 3) approval of finished curb-gutter-sidewalk & driveway approach.

VI.

The Developer agrees to: 1) allow the City full and complete access to the construction; 2) provide all materials necessary to conduct all tests; and 3) provide the equipment and perform or have performed any testing of manufactured materials required by the City Engineer.

VII.

Developer agrees to obtain any necessary permits from the Twin Falls Highway District or the City of Twin Falls prior to construction improvements on their respective rights-of-way if said permits are required by the aforementioned agencies. A certified copy of said permit or the original of said permit shall be submitted to the City prior to beginning construction thereon.

This Agreement shall be recorded and shall bind the parties hereto, their heirs, successors in interest, and lawful assigns.

In the event of a breach of this Agreement, or should legal action of any kind be taken to enforce the provisions hereof, the prevailing party shall be entitled to reasonable attorney fees and cost awarded by the Court.

CITY OF TWIN FALLS, IDAHO

BY_____
Mayor

DEVELOPER

STATE OF IDAHO
On this day of , 20 , before me a notary public in and for said State, personally appeared

known to me to be the person who name subscribed to the within instrument, and acknowledged to me that executed the same.

Notary Public
Residing at Twin Falls, Idaho

STATE OF IDAHO
On this 19 day of MAY 2011 before me a notary public in and for said State, personally appeared JOHN MUTCHLER

known to me to be the person who name subscribed to the within instrument, and acknowledged to me that executed the same.

Ondrea Kelso
Notary Public
Residing at Twin Falls, Idaho
EXPIRES 01-12-2012

ONDREA KELSO
NOTARY PUBLIC
STATE OF IDAHO

407030588

WARRANTY DEED

For Value Received, DAIRY FARMERS OF AMERICA, INC., a Kansas cooperative marketing association, successor by merger to Western Dairymen Cooperative, Inc., which was the successor by merger to Mountain Empire Dairymen's Association, Inc., hereinafter called the "Grantor," hereby grants, bargains, sells and conveys unto GLANBIA FOODS, INC., an Idaho corporation, formerly known as Avonmore West, Inc., whose address is 1572 East Highway 26, Richfield, Idaho 83349, hereinafter called the "Grantee," the following described premises situated in Twin Falls County, Idaho, to-wit:

See Exhibit "A" attached hereto and made a part hereof.

TO HAVE AND TO HOLD, the said premises, with their appurtenances unto the said Grantee and to the Grantee's successors and assigns forever. And the Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that the premises are free from all encumbrances except as above described and that Grantor will warrant and defend the same from all lawful claims whatsoever.

DATED this 4th day of November, 2003.

Twin Falls County, Idaho
Recorded for:
ALLIANCE TITLE
04:09pm Nov.17,2003
2003-029807
No. of Pages: 3 Fee: $9.00
KRISTINA GLASCOCK
County Clerk
Deputy: JA

DAIRY FARMERS OF AMERICA, INC., a Kansas cooperative marketing association, successor by merger to Western Dairymen Cooperative, Inc., which was the successor by merger to Mountain Empire Dairymen's Association, Inc.

By David A. Geisler
David A. Geisler
Corporate Vice President/Legal

STATE OF MISSOURI)
: ss.
COUNTY OF PLATTE)

On this 4th day of November, 2003, before me a notary public in and for said State, personally appeared David A. Geisler, known or identified to me to be the Corporate Vice President/Legal of the Grantor that executed the above instrument and the person who executed the instrument on behalf of said Grantor and acknowledged to me that such Grantor executed the same. In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Marsha A. Irwin
Notary Public

rb/real/Twin Falls Warranty Deed.wpd
N-9897

"NOTARY SEAL"
Marsha A. Irwin, Notary Public
Clay County, State of Missouri
My Commission Expires 10/3/2006

Instrument No. 967655, records of Twin Falls County, Idaho; and as modified by Modification recorded August 10, 1993, as Instrument No. 1993-011423, records of Twin Falls County, Idaho.

3. Taxes for the year 1993 and all subsequent years, which are an accruing lien, due and payable on or before December 20th of said year. Liability for added assessments and subsequent tax billings, if any, pursuant to Idaho Code Section 63-403 and 63-3906.

4. Drainage Agreement between F.E. Beatty and Twin Falls Canal Company, dated February 25, 1924, recorded March 25, 1924, in Book 10 of Contracts, Agreements and Bonds, page 8, records of Twin Falls County, Idaho, agreeing to drainage by cooperative of the N ½ NE ¼ of Section 20, Township 10 South, Range 17 E., B.M.

5. Reservations in Warranty Deed from Paul Ulrich, Harriet C. Ulrich, Priscilla Therrien and Harriet Cox Reardon to the State of Idaho, dated June 1, 1962, recorded August 29, 1962, in Book 209 of Deeds, page 120, records of Twin Falls County, Idaho, reciting, "Grantors agree that no building or structures, except irrigation or drainage structures will be permitted to be constructed within 20 feet of the highway right of way. Grantors further agree that no billboards or other advertising signs will be permitted closer than 100 feet of highway right of way, excepting signs pertaining to business established on lands adjacent to the highway right of way."

6. Easement from Paul Ulrich, Harriet C. Ulrich, Priscilla Therrien and Harriet Cox Reardon, to State of Idaho, dated June 20, 1962, recorded August 29, 1962, in Book 209 of Deeds, page 122, records of Twin Falls County, Idaho, granting easement for a strip of land 10 feet in width adjacent and contiguous to and parallel with the Westerly right of way boundary of State Highway No. 74 for the purpose of constructing thereon and thereafter keeping and maintaining thereof a small ditch and irrigation facilities, together with the right and privilege of ingress and egress to and from said property for said purposes.

7. Easement Agreement between Swift & Company, a Delaware corporation, and the Idaho Power Company, dated January 30, 1974, recorded May 5, 1974, as Instrument No. 661812, records of Twin Falls County, Idaho.

8. Power Line Easement from Western Dairymen Cooperative, Inc. to Idaho Power Company, dated June 25, 1992, recorded December 31, 1992, as Instrument No. 1992-018775, records of Twin Falls County, Idaho.

9. Unpatented mining claims; reservations or exceptions in patent or in Acts Authorizing the issuance thereof, water rights, claims or title to water.

10. Easements as reflected on the property survey prepared by Accurate Surveys dated December 17, 1985.

rbf/real/dairy farmers.exh a.wpd
N-9897

EXHIBIT "A"

Township 10 South, Range 17 East, Boise Meridian, Twin Falls County, Idaho

Section 20: A parcel of land in the South half of the Northeast quarter of the Northeast quarter and being more particularly described as follows:

COMMENCING at the Northeast corner of Section 20, Township 10 South, Range 17 E., B.M.;

THENCE along the East boundary of said Section 20 on a bearing of South 0°04'01" West a distance of 680.88 feet;

THENCE on a bearing of North 89°31'51" West a distance of 50.00 feet to the West boundary of State Highway 74 and the real POINT OF BEGINNING;

THENCE from this REAL POINT OF BEGINNING and along the said West boundary of State Highway 74 on a bearing of South 0°04'01" West a distance of 640.82 feet to the North boundary of Highland Avenue;

THENCE along the North boundary of Highland Avenue on a bearing of North 89°28'28" West, a distance of 1,269.80 feet to the West boundary of the South half of the Northeast quarter of the Northeast quarter, Section 20;

THENCE along said West boundary of the South half of the Northeast quarter of the Northeast quarter on a bearing of North 0°02'13" East a distance of 639.58 feet to the South boundary of Diamond Avenue;

THENCE along the said South boundary of Diamond Avenue on a bearing of South 89°31'51" East a distance of 1,270.12 feet to the REAL POINT OF BEGINNING.

SUBJECT TO:

A. All claims, easements, encumbrances, and restrictions shown by the public records or placed in effect by Glanbia Foods, Inc.

B. Encroachments, or questions or location, boundary, and area which are dependent upon a correct survey or inspection of the premises for determination.

C. Unpatented mining claims; reservations or exceptions in patents or in acts authorizing the issuance thereof.

D. The following permitted encumbrances:

1. Mortgage and Chattel Security Agreement between Western Dairymen Cooperative, Inc., a cooperative corporation and Wichita Bank for Cooperatives, a corporation dated August 18, 1988, recorded November 16, 1988, as Instrument No. 947092, records of Twin Falls County, Idaho; as modified by Modification recorded August 16, 1993, as Instrument No. 1993-011749, records of Twin Falls County, Idaho.

2. UCC-1 Financing Statement from Western Dairymen Cooperative, Inc., to Wichita Bank for Cooperatives recorded November 16, 1988, as Instrument No. 947091, records of Twin Falls County, Idaho; as amended by Modification recorded July 20, 1989, as Instrument No. 957669, records of Twin Falls County, Idaho; as amended by Modification recorded March 16, 1990, as

WESTCOR TITLE INSURANCE COMPANY

LOT BOOK GUARANTEE

SCHEDULE A

Guarantee No.: **LBG-4-ID1010.04-2174608** Liability **$200.00**

Order No.: **2373** Fee **$125.00**

1. Name of Assured: **Glanbia Foods, Inc.**

2. Date of Guarantee: **July 7, 2010 at 7:30 a.m.**

The assurances referred to on the face page hereof are:

That, according to the public records relative to the following described land (but without examination of those public records maintained and indexed by name):

SEE ATTACHED SCHEDULE A, PAGE 2

A. The last recorded instrument purporting to transfer title to said land is:

Warranty Deed given by Dairy Farmers of America, Inc., a Kansas cooperative marketing association, successor by merger to Western Dairymen Cooperative, Inc. to Glanbia Foods, Inc., an Idaho Corporation, dated November 4, 2003, recorded November 17, 2003 as Instrument Number 2003-029807, records of Twin Falls County, Idaho.

B. There are no mortgages or deeds of trust which purport to affect title to said land, other than those shown below under Exceptions.

No guarantee is made regarding (a) matters affecting the beneficial interest of any mortgage or deed of trust which may be shown herein as an exception, or (b) other matters which may affect any such mortgage or deed of trust.

No guarantee is made regarding any liens, claims of liens, defects or encumbrances other than those specifically provided for above, and, if information was requested by reference to a street address, no guarantee is made that said land is the same as said address.

Exceptions:

NONE

LAND TITLE AND ESCROW, INC.

By _____
Title Department

CONTINUATION

SCHEDULE A

Order Number: 2373

Guarantee Number: LBG-4-ID1010.04-2174608

TOWNSHIP 10 SOUTH, RANGE 17 EAST OF THE BOISE MERIDIAN, TWIN FALLS COUNTY, IDAHO

Section 20: A parcel of land in the South half of the Northeast quarter of the Northeast quarter and being more particularly described as follows:

Commencing at the Northeast corner of Section 20, Township 10 South, Range 17 East Boise Meridian;

Thence along the East boundary of said Section 20 on a bearing of South 0°04'01" West a distance of 680.88 feet;

Thence on a bearing of North 89°31'51" West a distance of 50.00 feet to the West boundary of State Highway 74 and the REAL POINT OF BEGINNING;

Thence from this REAL POINT OF BEGINNING and along the West boundary of the State Highway 74 on a bearing of South 0°04'01" West a distance of 640.82 feet to the North boundary of Highland Avenue;

Thence along the North boundary of Highland Avenue on a bearing of North 89°28'28" West, a distance of 1,269.80 feet to the West boundary of the South half of the Northeast quarter of the Northeast quarter, Section 20;

Thence along said West boundary of the South half of the Northeast quarter of the Northeast quarter on a bearing of North 0°02'13" East a distance of 639.58 feet to the South boundary of Diamond Avenue;

Thence along the said South boundary of Diamond Avenue on a bearing of South 89°31'51" East a distance of 1,270.12 feet to the REAL POINT OF BEGINNING.

SEC 20 T10S R17E

TOWNSHIP

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19		21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

TWIN FALLS COUNTY
IDAHO

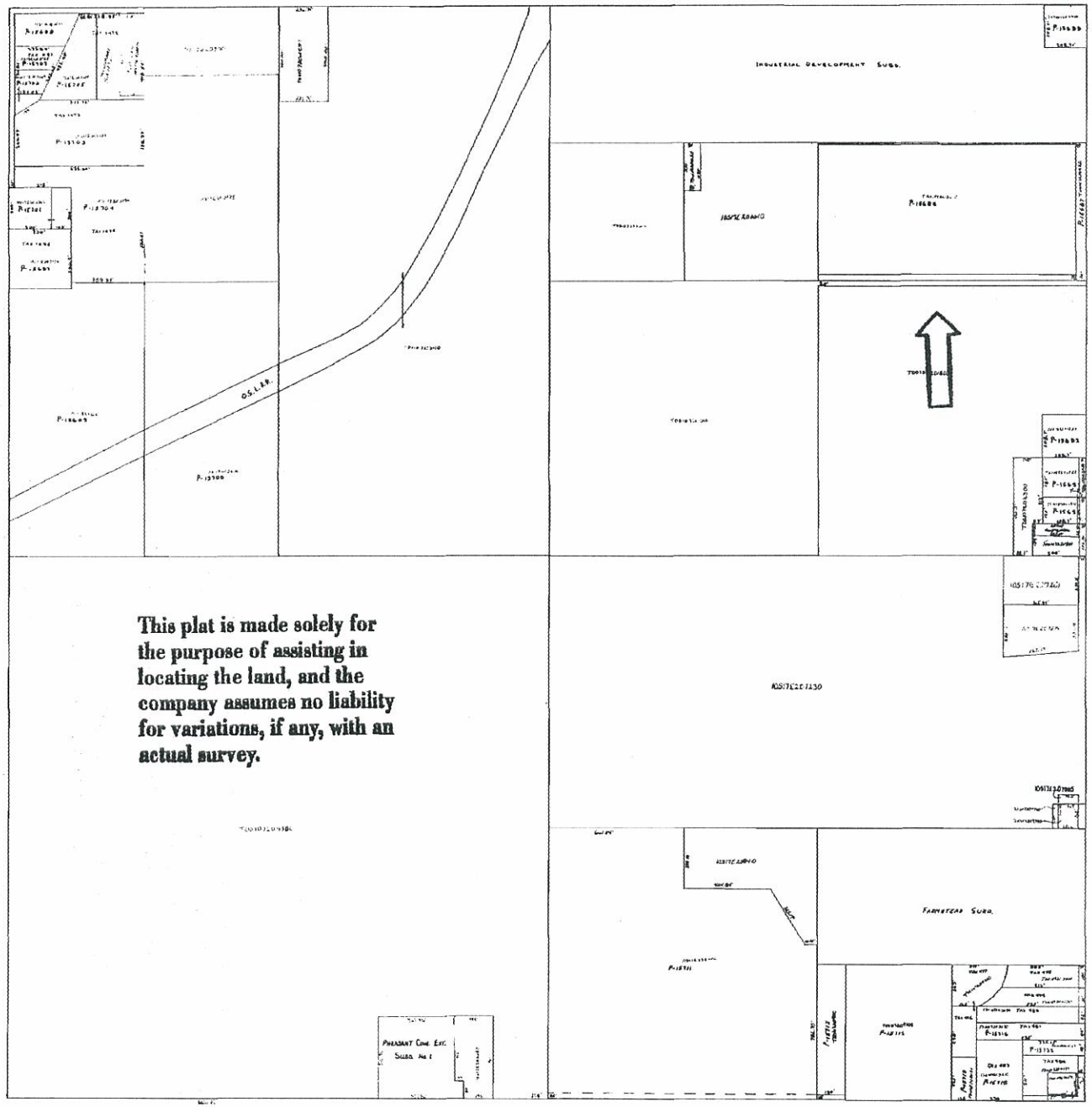
LEGEND

TOWNSHIP LINES
SECTION LINES
SECTION CORNER
QUARTER CORNER
PARCEL BOUNDARY
SUBDIVISION BOUNDARY
ARBITRARY SUBDIVISION NO. 2
ARBITRARY BLOCK NO. 2
ARBITRARY PARCEL NO. 20
ADJACENT PARCEL TIE LINE
RAILROADS
U.S. HIGHWAYS
STATE HIGHWAYS
INTERSTATE HIGHWAYS
COUNTRY ROADS

TOWNSHIP NO. (LOT & BLOCK NO.)
SECTION NO. (LOT & BLOCK NO.)
QUARTER SECTION NO. (LOT & BLOCK NO.)
SUBDIVISION NO. (LOT & BLOCK NO.)
BLOCK NO. (LOT & BLOCK NO.)
CONVENIENCE PARCEL NO. (LAST THREE DIGITS)

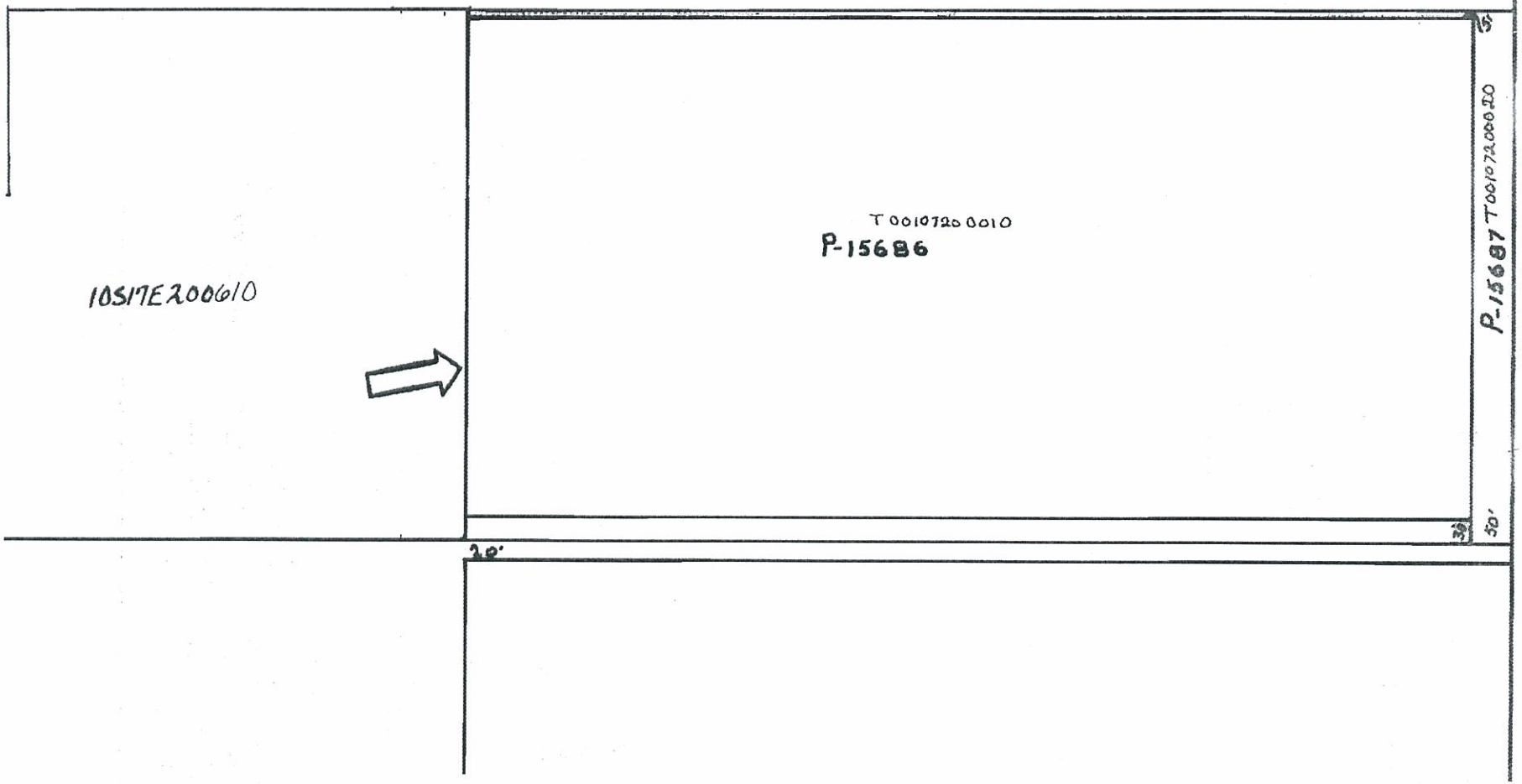
SCALE:
0 200' 400' 600'
0 1 2 3

Date JULY 16, 1975	JAK
Revision Date	



This plat is made solely for the purpose of assisting in locating the land, and the company assumes no liability for variations, if any, with an actual survey.

This plat is made solely for the purpose of assisting in locating the land, and the company assumes no liability for variations, if any, with an actual survey.



WESTCOR
LAND TITLE INSURANCE COMPANY

GUARANTEE NO.
LBG-4-ID1010.04-2174602

WESTCOR LAND TITLE INSURANCE COMPANY

LOT BOOK GUARANTEE

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE LIMITS OF LIABILITY AND THE CONDITIONS AND STIPULATIONS OF THIS GUARANTEE, **WESTCOR LAND TITLE INSURANCE COMPANY,** A CALIFORNIA CORPORATION, HEREIN CALLED THE COMPANY,

GUARANTEES

the Assured named in Schedule A of this Guarantee,

against actual monetary loss or damage not exceeding the liability amount stated in Schedule A which the Assured shall sustain by reason of any incorrectness in the assurances set forth in Schedule A.

SCHEDULE A
IS ATTACHED HERETO AS A SEPARATE PAGE AND MADE A PART OF THIS GUARANTEE

IN WITNESS WHEREOF, **WESTCOR LAND TITLE INSURANCE COMPANY** has caused this Guarantee to be signed and sealed as of the Date of Guarantee shown in Schedule A.

ISSUED BY:
ID1010.04 * 2373
Land Title & Escrow, Inc.
1411 Fillmore St., Suite 600, PO Box 5375
Twin Falls, ID 83301

WESTCOR LAND TITLE INSURANCE COMPANY

STATE OF CALIFORNIA SEAL CORPORATE
Westcor Land Title Insurance Company
1993

By: Mary O'Donnell
President

Attest: Patricia W. Power
Secretary

NOTE: This Guarantee is of no force and effect unless Schedule A is attached together with any added pages incorporated by reference.

SCHEDULE OF EXCLUSIONS FROM COVERAGE OF THIS GUARANTEE

1. *Except to the extent* that specific assurance are provided in Schedule A of this Guarantee, the company assumes no liability for loss or damage by reason of the following:

   (a) Defects, liens, encumbrances, adverse claims or other matters against the title, whether or not shown by the public records.

   (b) (1) Taxes or assessments of any taxing authority that levies taxes or assessments on real property; or, (2) Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not the matters excluded under (1) or (2) are shown by the records of the taxing authority or by the public records.

   (c) (1) Unpatented mining claims; (2) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (3) water rights, claims or title to water, whether or not the matters excluded under (1), (2) or (3) are shown by the public records.

2. *Notwithstanding* any specific assurances which are provided in Schedule A of this Guarantee, the Company assumes no liability for loss or damage by reason of the following:

   (a) Defects, liens, encumbrances, adverse claims or other matters affecting the title to any property beyond the lines of the land expressly described in the description set forth in Schedule (A), (C) or in Part 2 of this Guarantee, or title to streets, roads, avenues, lanes, ways or waterways to which such land abuts, or the right to maintain therein vaults, tunnels, ramps or any structure or improvements; or any rights or easements therein, unless such property, rights or easements are expressly and specifically set forth in said description.

   (b) Defects, liens, encumbrances, adverse claims or other matters, whether or not shown by the public records; (1) which are created, suffered, assumed or agreed to by one or more of the Assureds; (2) which result in no loss to the Assured; or (3) which do not result in the invalidity or potential invalidity of any judicial or non-judicial proceeding which is within the scope and purpose of the assurances provided.

   (c) The identity of any party shown or referred to in Schedule A.

   (d) The validity, legal effect or priority of any matter shown or referred to in this Guarantee.

GUARANTEE CONDITIONS AND STIPULATIONS

1. Definition of Terms.

The following terms when used in the Guarantee mean:

(a) the "Assured": the party or parties named as the Assured in this Guarantee, or on a supplemental writing executed by the Company.

(b) "land": the land described or referred to in Schedule (A) (C) or in Part 2, and improvements affixed thereto which by law constitute real property. The term "land" does not include any property beyond the lines of the area described or referred to in Schedule (A)(C) or in Part 2, nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways.

(c) "mortgage": mortgage, deed of trust, trust deed, or other security instrument.

(d) "public records": records established under state statutes at Date of Guarantee for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge.

(e) "date": the effective date.

2. Notice of Claim to be Given by Assured Claimant.

An Assured shall notify the Company promptly in writing in case knowledge shall come to an Assured hereunder of any claim of title or interest which is adverse to the title to the estate or interest, as stated herein, and which might cause loss or damage for which the Company may be liable by virtue of this Guarantee. If prompt notice shall not be given to the Company, then all liability of the Company shall terminate with regard to the matter or matters for which prompt notice is required; provided, however, that failure to notify the Company shall in no case prejudice the rights of any Assured under this Guarantee unless the Company shall be prejudiced by the failure and then only to the extent of the prejudice.

3. No Duty to Defend or Prosecute.

The Company shall have no duty to defend or prosecute any action or proceeding to which the Assured is a party, notwithstanding the nature of any allegation in such action or proceeding.

4. Company's Option to Defend or Prosecute Actions; Duty of Assured Claimant to Cooperate.

Even though the Company has no duty to defend or prosecute as set forth in Paragraph 3 above:

(a) The Company shall have the right, at its sole option and cost, to institute and prosecute any action or proceeding, interpose a defense, as limited in (b), or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest as stated herein, or to establish the lien rights of the Assured, or to prevent or reduce loss or damage to the Assured. The Company may take any appropriate action under the terms of this Guarantee, whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision

of this Guarantee. If the Company shall exercise its rights under this paragraph, it shall do so diligently.

(b) If the Company elects to exercise its options as stated in Paragraph 4(a) the Company shall have the right to select counsel of its choice (subject to the right of such Assured to object for reasonable cause) to represent the Assured and shall not be liable for and will not pay the fees of any other counsel, nor will the Company pay any fees, costs or expenses incurred by an Assured in the defense of those causes of action which allege matters not covered by this Guarantee.

(c) Whenever the Company shall have brought an action or interposed a defense as permitted by the provisions of this Guarantee, the Company may pursue any litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from an adverse judgment or order.

(d) In all cases where this Guarantee permits the Company to prosecute or provide for the defense of any action or proceeding, an Assured shall secure to the Company the right to so prosecute or provide for the defense of any action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of such Assured for this purpose. Whenever requested by the Company, an Assured, at the Company's expense, shall give the Company all reasonable aid in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or lawful act which in the opinion of the Company may be necessary or desirable to establish the title to the estate or interest as stated herein, or to establish the lien rights of the Assured. If the Company is prejudiced by the failure of the Assured to furnish the required cooperation, the Company's obligations to the Assured under the Guarantee shall terminate.

5. Proof of Loss or Damage.

In addition to and after the notices required under Section 2 of these Conditions and Stipulations have been provided to the Company, a proof of loss or damage signed and sworn to by the Assured shall be furnished to the Company within ninety (90) days after the Assured shall ascertain the facts giving rise to the loss or damage. The proof of loss or damage shall describe the matters covered by this Guarantee which constitute the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage. If the Company is prejudiced by the failure of the Assured to provide the required proof of loss or damage, the Company's obligation to such assured under the Guarantee shall terminate. In addition, the Assured may reasonably be required to submit to examination under oath by any authorized representative of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Guarantee, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Assured shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the loss or damage. All information designated as confidential by the Assured provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Assured to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in the above paragraph, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this Guarantee to the Assured for that claim.

6. Options to Pay or Otherwise Settle Claims: Termination of Liability.

In case of a claim under this Guarantee, the Company shall have the following additional options:

(a) To Pay or Tender Payment of the Amount of Liability or to Purchase the Indebtedness.

The Company shall have the option to pay or settle or compromise for or in the name of the Assured any claim which could result in loss to the Assured within the coverage of this Guarantee, or to pay the full amount of this Guarantee or, if this Guarantee is issued for the benefit of a holder of a mortgage or a lienholder, the Company shall have the option to purchase the indebtedness secured by said mortgage or said lien for the amount owing thereon, together with any costs, reasonable attorneys' fees and expenses incurred by the Assured claimant which were authorized by the Company up to the time of purchase.

Such purchase, payment or tender of payment of the full amount of the Guarantee shall terminate all liability of the Company hereunder. In the event after notice of claim has been given to the Company by the Assured the Company offers to purchase said indebtedness, the owner of such indebtedness shall transfer and assign said indebtedness, together with any collateral security, to the Company upon payment of the purchase price.

Upon the exercise by the Company of the option provided for in Paragraph (a) the Company's obligation to the Assured under this Guarantee for the claimed loss or damage, other than to make the payment required in that paragraph, shall terminate, including any obligation to continue the defense or prosecution of any litigation for which the Company has exercised its options under Paragraph 4, and the Guarantee shall be surrendered to the Company for cancellation.

(b) To Pay or Otherwise Settle With Parties Other Than the Assured or With the Assured Claimant.

To pay or otherwise settle with other parties for or in the name of an Assured claimant any claim assured against under this Guarantee, together with any costs, attorneys' fees and expenses incurred by the Assured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay.

Upon the exercise by the Company of the option provided for in Paragraph (b) the Company's obligation to the Assured

under this Guarantee for the claimed loss or damage, other than to make the payment required in that paragraph, shall terminate, including any obligation to continue the defense or prosecution of any litigation for which the Company has exercised its options under Paragraph 4.

7. Determination and Extent of Liability.

This Guarantee is a contract of Indemnity against actual monetary loss or damage sustained or incurred by the Assured claimant who has suffered loss or damage by reason of reliance upon the assurances set forth in this Guarantee and only to the extent herein described, and subject to the Exclusions From Coverage of This Guarantee.

The liability of the Company under this Guarantee to the Assured shall not exceed the least of:

(a) the amount of liability stated in Schedule A or in Part 2;

(b) the amount of the unpaid principal indebtedness secured by the mortgage of an Assured mortgagee, as limited or provided under Section 6 of these Conditions and Stipulations or as reduced under Section 9 of these Conditions and Stipulations, at the time the loss or damage assured against by this Guarantee occurs, together with interest thereon; or

(c) the difference between the value of the estate or interest covered hereby as stated herein and the value of the estate or interest subject to any defect, lien or encumbrance assured against by this Guarantee.

8. Limitation of Liability.

(a) If the Company establishes the title, or removes the alleged defect, lien or encumbrance, or cures any other matter assured against by this Guarantee in a reasonably diligent manner by any method, including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused thereby.

(b) In the event of any litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to the title, as stated herein.

(c) The Company shall not be liable for loss or damage to any Assured for liability voluntarily assumed by the Assured in settling any claim or suit without the prior written consent of the Company.

9. Reduction of Liability or Termination of Liability.

All payments under this Guarantee, except payments made for costs, attorneys' fees and expenses pursuant to Paragraph 4 shall reduce the amount of liability pro tanto.

10. Payment of Loss.

(a) No payment shall be made without producing this Guarantee for endorsement of the payment unless the Guarantee has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.

(b) When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions and Stipulations, the loss or damage shall be payable within thirty (30) days thereafter.

11. Subrogation Upon Payment or Settlement.

Whenever the Company shall have settled and paid a claim under this Guarantee, all right of subrogation shall vest in the Company unaffected by any act of the Assured claimant.

The Company shall be subrogated to and be entitled to all rights and remedies which the Assured would have had against any person or property in respect to the claim had this Guarantee not been issued. If requested by the Company, the Assured shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect this right of subrogation. The Assured shall permit the Company to sue, compromise or settle in the name of the Assured and to use the name of the Assured in any transaction or litigation involving these rights or remedies.

If a payment on account of a claim does not fully cover the loss of the Assured the Company shall be subrogated to all rights and remedies of the Assured after the Assured shall have recovered its principal, interest, and costs of collection.

12. Arbitration.

Unless prohibited by applicable law, either the Company or the Assured may demand arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Assured arising out of or relating to this Guarantee, any service of the Company in connection with its issuance or the breach of a Guarantee provision or other obligation. All arbitrable matters when the Amount of Liability is $2,000,000 or less shall be arbitrated at the option of either the Company or the Assured. All arbitrable matters when the amount of liability is in excess of $2,000,000 shall be arbitrated only when agreed to by both the Company and the Assured. The Rules in effect at Date of Guarantee shall be binding upon the parties. The award may include attorneys' fees only if the laws of the state in which the land is located permits a court to award attorneys' fees to a prevailing party. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

The law of the situs of the land shall apply to an arbitration under the Title Insurance Arbitration Rules.

A copy of the Rules may be obtained from the Company upon request.

13. Liability Limited to This Guarantee; Guarantee Entire Contract.

(a) This Guarantee together with all endorsements, if any, attached hereto by the Company is the entire Guarantee and contract between the Assured and the Company. In interpreting any provision of this Guarantee, this Guarantee shall be construed as a whole.

(b) Any claim of loss or damage, whether or not based on negligence, or any action asserting such claim, shall be restricted to this Guarantee.

(c) No amendment of or endorsement to this Guarantee can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.

14.Notices, Where Sent.

All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this Guarantee and shall be addressed to the Company at: Westcor Land Title Insurance Company, Attn: Claims, 201 N. New York Avenue, Suite 200, Winter Park, Florida, 32789.

LOT BOOK GUARANTEE

WESTCOR
LAND TITLE
INSURANCE COMPANY

HOME OFFICE
201 N. New York Avenue, Suite 200
Winter Park, Florida 32789
Telephone: (407) 629-5842

Land Title and Escrow, Inc.

Focused on Service, *Positioned* for the Future

ORDER NO. 2373

DATE: August 2, 2010

PREPARED FOR: Glanbia

REQUEST BY: Cam Stradley at Glanbia

COPIES TO: N/A

TITLE OFFICER: Zach Bay

CLOSING OFFICER: N/A

CLOSING ASSISTANT: N/A

Box 177 • Burley, Idaho • 83318
Ph: 208.878.3524
Fx: 208.878.4435
lteb@pmt.org

Box 473 • Gooding, Idaho • 83330
Ph: 208.934.8477
Fx: 208.934.5890
lteg@pmt.org

Box 349 • Jerome, Idaho • 83338
Ph: 208.324.3357
Fx: 208.324.8961
ltej@pmt.org

Box 5375 • Twin Falls, Idaho • 83303-5375
Ph: 208.933.2650
Fx: 208.933.2655
ltetf@pmt.org

Box 111 • Rupert, Idaho • 83350
Ph: 208.436.0606
Fx: 208.436.1199
lter@pmt.org

Land Title and Escrow, Inc.

A Full Service Title Company Since 1957

1411 Fillmore Street, Suite 600
P.O. Box 5375
Twin Falls, Idaho 83303
PHONE: 208-933-2650
FAX: 208-933-2655
ltetf@pmt.org

TO: Glanbia Foods, Inc.
Attention: Cam Stradley
1373 Fillmore
Twin Falls, ID 83301

OFFICE: Twin Falls

ORDER NO.: 2373

DATE:August 2, 2010

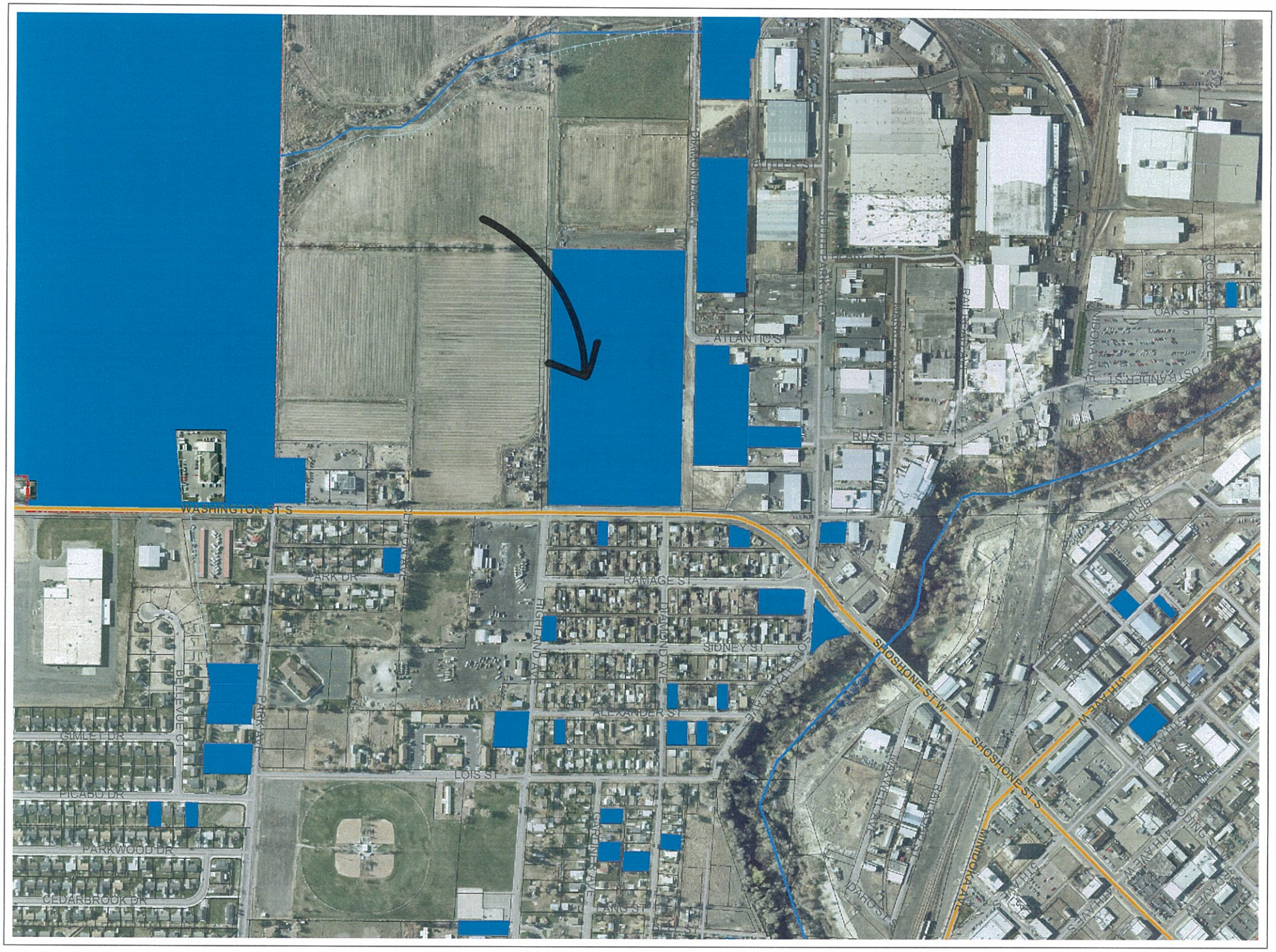
RE: Glanbia Foods, Inc.

TITLE INSURANCE			
Owner:			
Lender:			
Reissue Credit:			
Endorsements:			
Other:	Lot Book Guarantee	$200.00	$125.00

Recording fees, reconveyance fees or adjustments in title insurance premium, if any, will be additional.

TOTAL DUE: **$125.00**

Serving: Twin Falls- Gooding -Lincoln - Cassia - Minidoka - Jerome Counties


WASHINGTON ST S
PARK DR
RAMAGE ST
SIDNEY ST
ALEXANDER ST
LOIS ST
GIMLET DR
PICABO DR
PARKWOOD DR
CEDARBROOK DR
BELLEVUE CT
PARK AVE
HIGHLAND AVE
DIAMOND AVE
GARDEN AVE
ANG ST
SHOSHONE ST W
SHOSHONE ST S
6TH AVE W
BUTLER ST
ATLANTIC ST
RUSSET ST
OAK ST
OSTRANDER ST
ROCK CREEK AVE
BRIDGE
IDAHO ST
WALNUT AVE
RAILROAD

Date: Monday, June 6, 2011

To: Honorable Mayor and City Council

From: Troy Vitek, Assistant City Engineer

Request:

Consideration of a request to accept a deferral agreement for curb-gutter, sidewalk, and driveway approach on property located at 874 Maurice Street care of Carrie L. Hahn.

Background:

The developer desires to build a 400 sq. ft shed on the above mentioned property. Currently no improvements are constructed in the near vicinity of this property.

Approval Process:

City Code section 10-11-5(B)(2) allows the City Engineer to defer the construction.

Budget Impact:

There is no significant budget impact associated with the Council's approval of this request.

Regulatory Impact:

Approval of this request will allow the applicant to receive a Certificate of occupancy for this property and defer the required improvements until such time as the adjacent property or properties allows the City Engineer to require construction under the conditions specified in City Code Section 10-11-5(B)(2).

Conclusion:

Staff recommends that the Council approve deferral as presented.

Attachments:

1. Deferral Agreement.
2. Copy of Warranty Deed of Property
3. Arial photograph of property.

CURB-GUTTER-SIDEWALK & DRIVEWAY APPROACH IMPROVEMENT DEFERRAL AGREEMENT

This Agreement made and entered into this _____ day of _____, 20___, by and between the CITY OF TWIN FALLS, State of Idaho, a municipal corporation, hereinafter called "City", and Carrie L. Hahn, hereinafter called "Developer", for the purpose of constructing certain improvements on property sought to be developed at 874 Maurice St..

WHEREAS, Developer certifies that he is the owner in fee simple or the authorized agent of the owner in fee simple of the real property described on the attached Exhibit "A"; and,

WHEREAS, there is attached hereto and incorporated herein as if the same were set out in full, a certified copy of the deed to the above described real property, marked Exhibit "A", showing ownership of said real property to be in Developer, or, as the case may be, there is attached hereto and incorporated herein as if the same were set out in full, a copy of the deed to the above described real property showing ownership in fee simple in someone other than Developer together with a notarized authorization, signed by the real property owner, authorizing Developer to act on behalf of said real property owner; and,

WHEREAS, Developer desires to develop said real property in the following manner: Build a 400 sq. ft. shed.; and,

WHEREAS, the Developer is obligated to construct certain improvements, namely curb-gutter-sidewalk & driveway approach, pursuant to Title 10, Chapter 11 of the Twin Falls City Code; and,

WHEREAS, the City is authorized, pursuant to Twin Falls City Code Section 10-11-5(B)(2) to defer said improvements; and,

WHEREAS, the City Council on _____ agreed to defer construction of the aforementioned improvements,

WITNESSETH, that for and in consideration of the mutual promises, conditions and covenants contained herein, the parties agree as follows:

I.

City agrees: 1) to defer construction of the required curb-gutter-sidewalk & driveway approach until _____, or until such time as the obligation of curb-gutter-sidewalk and driveway approach construction on adjacent property or properties allows the City Engineer to require construction under the conditions specified in City Code Section 10-11-5(B)(2).

II.

Developer agrees to: 1) complete construction of curb-gutter-sidewalk & driveway approach on the real property described above when required by the City Council.

III.

Developer further agrees that in the event the Developer fails to complete the aforementioned construction, the City may complete the construction at the City's expense and may file a lien against the aforementioned property for expenses incurred by the City in said construction.

IV.

Developer agrees to pay the total actual cost of all materials, labor and equipment necessary to completely construct all of the improvements required herein and to construct or contract for the construction of all such improvements.

V

Developer agrees to request in writing that the City Engineer and any other required department of the City make the following inspections and to not proceed with construction until the required inspection is complete and the work has been approved in writing by the City Engineer or his authorized inspector. All such inspections shall be scheduled fifteen (15) days prior to beginning work and the request for an inspection shall be made one working day before the required inspection. Developer agrees to apply all costs resulting from his failure to properly schedule and request a required inspection or from proceeding with work before receiving approval to proceed. Developer agrees to remove or correct any rejected, unapproved or defective work or materials all as required by the City Engineer.

Required inspections shall include: 1) approval of all materials before inspection; 2) approval of forms and gravel base before pouring any concrete curb-gutter-sidewalk & driveway approach; and 3) approval of finished curb-gutter-sidewalk & driveway approach.

VI.

The Developer agrees to: 1) allow the City full and complete access to the construction; 2) provide all materials necessary to conduct all tests; and 3) provide the equipment and perform or have performed any testing of manufactured materials required by the City Engineer.

VII.

Developer agrees to obtain any necessary permits from the Twin Falls Highway District or the City of Twin Falls prior to construction improvements on their respective rights-of-way if said permits are required by the aforementioned agencies. A certified copy of said permit or the original of said permit shall be submitted to the City prior to beginning construction thereon.

This Agreement shall be recorded and shall bind the parties hereto, their heirs, successors in interest, and lawful assigns.

In the event of a breach of this Agreement, or should legal action of any kind be taken to enforce the provisions hereof, the prevailing party shall be entitled to reasonable attorney fees and cost awarded by the Court.

CITY OF TWIN FALLS, IDAHO

BY_____
Mayor

DEVELOPER

x Carrie L Hahn

LISA A. STRICKLAND NOTARY PUBLIC STATE OF IDAHO

STATE OF IDAHO

On this day of , 20 , before me a notary public in and for said State, personally appeared

known to me to be the person who name subscribed to the within instrument, and acknowledged to me that executed the same.

_____
Notary Public
Residing at Twin Falls, Idaho

STATE OF IDAHO

On this 13 day of May , 2011 , before me a notary public in and for said State, personally appeared Carrie L Hahn

known to me to be the person who name subscribed to the within instrument, and acknowledged to me that executed the same.

Lisa A Strickland
Notary Public
Residing at Twin Falls, Idaho
8/25/12 Jerome County

27272 LJ

Courtesy of TitleFact, Inc.
Twin Falls, Idaho

WARRANTY DEED

For Value Received

OAKLEY L. BARNARD, a widower

Hereinafter called the grantor, hereby grants, bargains, sells and conveys unto

CARRIE L. HAHN, a single woman
whose address is: 874 Maurice, Twin Falls, Id 83301

Hereinafter called the grantee, the following described premises, in Twin Falls County, Idaho, to-wit:

All that part of Plot 5 of MURTAUGH'S EAST ADDITION, according to the official plat thereof recorded in Book 2 of Plats, page 13, records of Twin Falls County, Idaho, particularly described as:
BEGINNING at a point on the West line of said Plot 5 which is 6 rods South of the Northwest corner of said Plot 5;
THENCE in an Easterly direction, parallel to the North line of said Plot 5 to the East line of said Plot 5;
THENCE South along the East line of said Plot 5 to a point which is 10 rods South of the Northeast corner of said Plot 5;
THENCE in a Westerly direction parallel to the North line of said Plot 5, to the West line of said Plot 5;
THENCE North along the West line of said Plot 5 to the PLACE OF BEGINNING.
EXCEPT:
That part of Plot 5 of MURTAUGH'S EAST ADDITION to Twin Falls, Twin Falls County, Idaho, described as beginning at the Northwest corner of said Plot 5;
THENCE South 0°22'30" East along the West boundary of Plot 5 for a distance of 165.00 feet to the TRUE POINT OF BEGINNING;
THENCE South 89°51'39" East parallel with the North boundary of Plot 5 for a distance of 191.14 feet;
THENCE North 21°17'30" East for a distance of 15.49 feet;
THENCE North 0°13'08" West for a distance of 51.55 feet;
THENCE South 89°51'39" East parallel with the North boundary of Plot 5 for a distance of 129.00 feet;

(Continued on attached page)

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that they are free from all incumbrances except as described above and that Grantor will warrant and defend the same from all lawful claims whatsoever.

Dated: August 10, 1988

Oakley L Barnard
Oakley L. Barnard
Helen B Hollifield
by: Helen Hollifield, Atty-in-Fact

STATE OF IDAHO, County of Twin Falls.
On this 10th day of August, 19 88, before me, a Notary Public, personally appeared HELEN HOLLIFIELD, known to me (or proved to me on the oath of) to be the person whose name is subscribed to the within instrument as the attorney in fact of OAKLEY L. BARNARD, and acknowledged to me that She subscribed the name of OAKLEY L. BARNARD thereto as principal, and his own name as attorney in fact.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal, the day and year in this certificate first above written.

Lilian Jacobsen
Residing at Buhl, Idaho
LILIAN JACOBSEN
NOTARY PUBLIC - STATE OF IDAHO
Residing at Buhl, Idaho
My Commission Expires 3-2-94

STATE OF IDAHO, COUNTY OF
I hereby certify that this instrument was filed for record at the request of TitleFact, Inc.
at 10 minutes past 2 o'clock P m.,
this AUG 10 1988 day of ,
19 , in my office, and duly recorded in Book
of Deeds at page

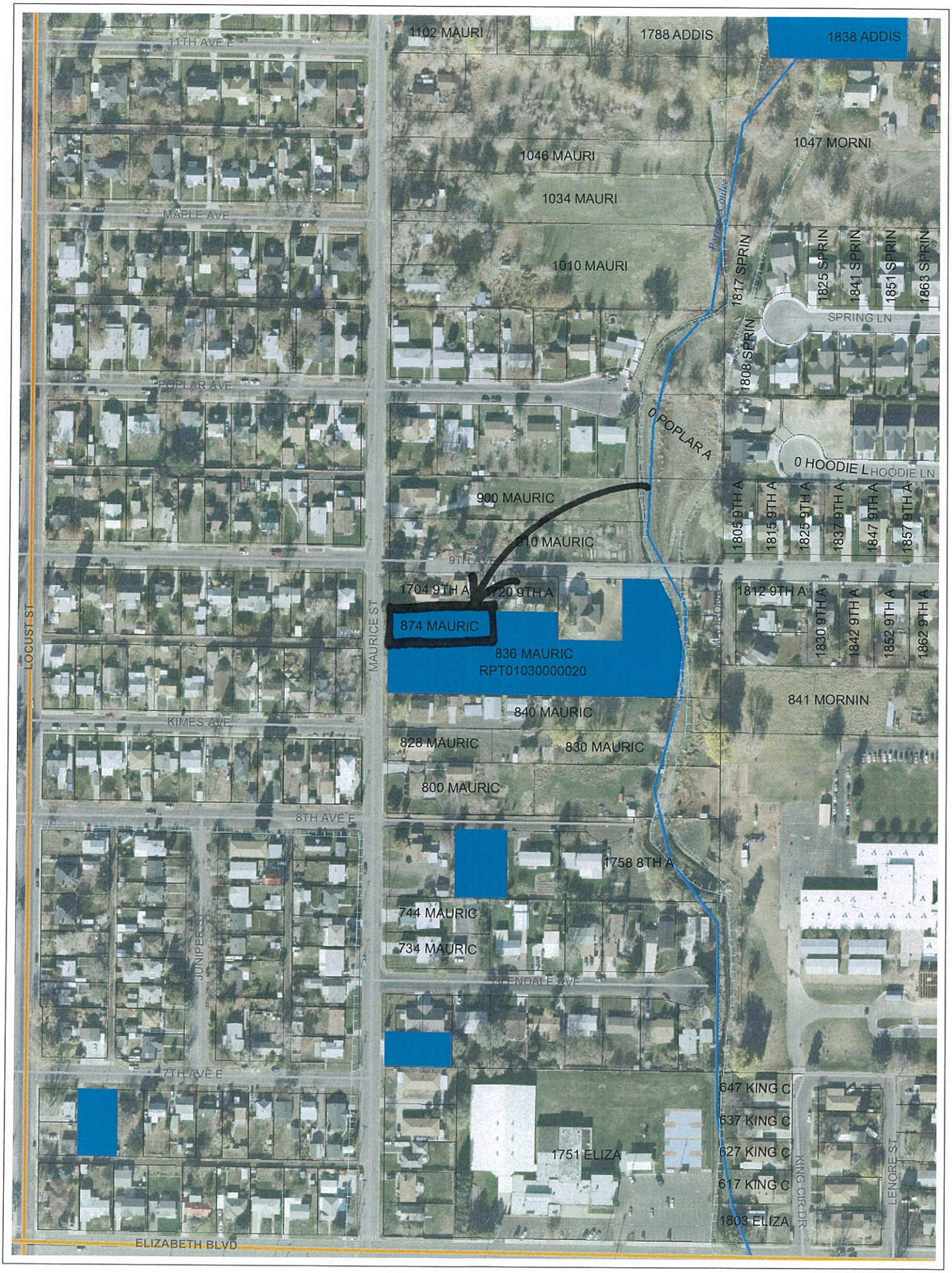
RICHARD A. PENCE
Ex-Officio Recorder
By Janet Sidwell
Deputy.
Fees $ 6.00
Mail to:

INSTRUMENT No. 943073

THENCE North 0°22'30" West for a distance of 69.0 feet to the Southerly right-of-way line of 9th Avenue East;
THENCE South 89°51'39" East along the Southerly right-of-way line of 9th Avenue East for a distance of 194.0 feet to the Easterly high water line of the Perrine Coulee;
THENCE along the Easterly highwater line of the Perrine Coulee on the following courses:

South 25°42'00" East - 22.22 feet;
South 30°09'25" East - 23.16 feet;
South 22°07'05" East - 21.61 feet;
South 21°07'47" East - 21.46 feet;
South 5°48'43" East - 20.11 feet;
South 13°02'41" East - 20.54 feet;
South 0°23'25" East - 40.00 feet;
South 6°44'33" West - 20.13 feet;
South 9°31'26" West - 49.36 feet;

THENCE North 89°49'54" West parallel with the South boundary of Plot 5 for a distance of 551.62 feet to a point on the West boundary of Plot 5;
THENCE North 0°22'30" West along the West boundary of Plot 5 for a distance of 93.40 feet to the TRUE POINT OF BEGINNING.


11TH AVE E
1102 MAURI
1788 ADDIS
1838 ADDIS
1046 MAURI
1047 MORNI
1034 MAURI
MAPLE AVE
1010 MAURI
Purgatory Creek
1817 SPRIN
1825 SPRIN
1841 SPRIN
1851 SPRIN
1863 SPRIN
SPRING LN
1808 SPRIN
POPLAR AVE
0 POPLAR A
0 HOODIE L
HOODIE LN
900 MAURIC
910 MAURIC
1809 9TH A
1815 9TH A
1825 9TH A
1837 9TH A
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8TH AVE E
1758 8TH A
744 MAURIC
734 MAURIC
JUNIPER ST
GLENDALE AVE
7TH AVE E
647 KING C
637 KING C
627 KING C
617 KING C
1751 ELIZA
1803 ELIZA
KING CIR DR
LENORE ST
ELIZABETH BLVD