

STATE OF MINNESOTA

OFFICE OF STRATEGIC AND LONG-RANGE PLANNING

IN THE MATTER OF THE PETITION
FOR THE ANNEXATION OF CERTAIN
LAND TO THE CITY OF FERGUS FALLS
PURSUANT TO MINNESOTA STATUTES,
SECTION 414.0325

REC'D BY
M M B

MAY 25 2007

JOINT RESOLUTION FOR ORDERLY
ANNEXATION BY AND BETWEEN
FERGUS FALLS TOWNSHIP AND THE CITY OF FERGUS FALLS

WHEREAS, the City of Fergus Falls has received a request from owners of land located in Fergus Falls Township for the annexation of certain lands to the City of Fergus Falls; and

WHEREAS, the City of Fergus Falls (hereinafter "City") and the Township of Fergus Falls (hereinafter "Town") have been meeting periodically to implement annexation of an area of Fergus Falls Township to the City; and

WHEREAS, the parties have agreed upon the provisions for an orderly annexation agreement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Fergus Falls and the Town Board of Supervisors of the Town of Fergus Falls as follows:

I. Immediate Annexation

- A. The City and Township hereby designate the following area for immediate annexation pursuant to Minnesota Statutes Section 414.0325:

Bunkowske Tract:

Part of the Northwest Quarter (NW $\frac{1}{4}$) of Section Thirty-two (32), Township One Hundred Thirty-three (133) North, Range Forty-three (43) West, Otter Tail County, Minnesota, described as follows:

Commencing at the northeast corner of the Northwest Quarter (NW $\frac{1}{4}$) of said Section Thirty-two (32); thence on an assumed bearing of South 00 degrees 49 minutes 45 seconds West, along the East line of said Northwest Quarter (NW $\frac{1}{4}$), a distance of 960.29 feet to the point of

beginning; thence continuing South 00 degrees 49 minutes 45 seconds West, along the East line of said Northwest Quarter (NW¼), a distance of 285.03 feet to the northeast corner of Diamond Center Business Park, as platted and recorded in said Otter Tail County; thence North 89 degrees 59 minutes 19 seconds West, along the North line of said Diamond Center Business Park, a distance of 179.27 feet; thence North 00 degrees 49 minutes 45 seconds East, along a line that is 179.25 feet west of and parallel with the East line of said Northwest Quarter (NW¼), a distance of 285.03 feet to a point on a line that is 285.00 feet North of and parallel with the North line of said Diamond Center Business Park; thence South 89 degrees 59 minutes 19 seconds East, along a line that is 285.00 feet North of and parallel with the North line of said Diamond Center Business Park, a distance of 179.27 feet to the point of beginning.

Said described parcel containing a calculated area of 51,091 square feet or 1.17 acres, more or less.

- B. The City and Township hereby designate the following area for immediate annexation pursuant to Minnesota Statutes Section 414.0325:

Connell Drive Right-of-Way Tract:

That part of the Southwest Quarter of the Southeast Quarter of Section 24, Township 133 North, Range 43 West, Otter Tail County, Minnesota, described as follows:

Beginning at the Southeast corner of Sublot 13, State Subdivision of the Southeast Quarter of said Section 24, which is a point on the South line of said Section 24 a distance of 645.76 feet West of the Southeast corner of the Southwest Quarter of the Southeast Quarter thereof, Thence North 00 degrees 12 minutes 00 seconds West along the East line of said Sublot 13 456.95 feet to the center line of a county road, Thence South 78 degrees 34 Minutes 00 Seconds West on said center line of a county road 67.29 feet, Thence South 00 degrees 12 Minutes 00 Seconds East 443.60 feet to the South line of the Southwest Quarter of the Southeast Quarter, Thence East on said line 66.00 feet to the Point of Beginning.

The East line of the above said tract is the West line of Sublot 14, State Subdivision of the Southeast Quarter of Section 24, Township 133 North, Range 43 West.

Said tract contains 0.63 acres net for road and highway purposes.

- C. The City and Township agree that the area described above and designated as the Bunkowske Tract in need of immediate annexation is 1.17 acres.

A boundary map showing the area legally described herein is attached hereto as Exhibit A and incorporated herein by reference.

- D. The City and Township agree that the area described above and designated as the Connell Drive Right-of-Way Tract in need of immediate annexation is 0.63 acres.

A boundary map showing the area legally described herein is attached hereto as Exhibit B and incorporated herein by reference.

- E. The City and Township agree that the population of the areas legally described as in need of immediate annexation is zero.

- F. Pursuant to Minnesota Statutes, Section 414.0325, the City and Township agree that no alteration of the boundaries stated herein is appropriate, that all conditions for annexation of the area legally described herein are contained in this Joint Resolution for Orderly Annexation (the "Joint Resolution") and that no consideration by Minnesota Planning is necessary. Upon the execution and filing of this Joint Resolution, Minnesota Planning may review and comment thereon, but shall, within 30 days of receipt of this Joint Resolution, order the annexation of the areas set forth above in A and B in accordance with the terms and conditions contained in this Joint Resolution.

- G. The City shall have the right to levy its real estate taxes immediately upon annexation.

- H. The City has received property owner petitions for annexation for the areas described above, that the areas are urban or suburban or about to become so, that the areas are in need of municipal services, and that annexation is necessary for the public health, safety and welfare, and that annexation is in the best interests of the property owners.

- I. The City and Township agree that upon adoption and execution of this Joint Resolution, the City shall file the same with the Minnesota Planning Municipal Boundary Adjustment Office.

II. Governing law

This Joint Resolution is made pursuant to and shall be construed in accordance with the laws of the State of Minnesota.

III. Modification/Amendment

This Resolution shall not be modified, amended or altered except upon the written joint resolution of the City and Township duly executed and adopted by the City Council and the Township Board of Supervisors and filed with Minnesota Planning or its successor.

IV. Severability

In the event that any provisions of this Joint Resolution is determined and adjudged to be unconstitutional, invalid, illegal or unenforceable by a court of competent jurisdiction, the remaining provisions of this Joint Resolution shall remain in full force and effect, and the parties hereto shall negotiate in good faith and agree to such amendments or modifications of or to this Joint Resolution or other appropriate actions as shall, to the maximum extent practical in light of such determination, implement and give effect to the intentions of the parties hereto.

V. Headings and Captions

Heading and captions are for convenience only and are not intended to alter any of the provisions of this Joint Resolution.

VI. Prior Agreement

This is a designating agreement between the City of Fergus Falls and the Township of Fergus Falls identified as OA-819 that identifies a reimbursement schedule to be paid to the Township for orderly annexations. The City of Fergus Falls and the Township of Fergus Falls hereby agree that for this annexation there shall be no payment to the Township of Fergus Falls based upon the reimbursement schedule identified above because the property identified as Connell Drive is road right-of-way and the other property being 1.17 acres in size derives less than \$5.00 annually in revenues to the Township. Therefore, the parties agree that for this annexation, the reimbursement schedule set forth in the designating agreement shall not apply.

VII. Entire Agreement

The terms, covenants, conditions and provisions of this Joint Resolution, including the present and all future attachments or exhibits, shall constitute the entire agreement between the parties hereto, superseding all prior agreements and negotiations. This Joint Resolution shall be binding upon and inure to the benefit of the respective successors and assigns of the City and Township.

VIII. Disputes and Remedies

The City and Township agree as follows:

- A. Negotiations. When a disagreement over interpretation of any provision of this Joint Resolution shall arise, the City and Township will direct staff members as they deem appropriate to meet at least one (1) time at a mutually convenient time and place to attempt to resolve the dispute through negotiation.
- B. Arbitration. When the parties to the Joint Resolution are unable to resolve disputes, claims or counterclaims, or unable to negotiate an interpretation of any provision of this Joint Resolution, the parties may mutually agree in writing to seek relief by submitting their respective grievances to binding arbitration.
- C. When the parties to this Joint Resolution are unable to resolve disputes, claims, or counterclaims, are unable to negotiate an interpretation of any provision of this Joint Resolution or are unable to agree to submit their respective grievances to binding arbitration, either party may seek relief through initiation of an action in a court of competent jurisdiction. In addition to the remedies provided for in this Joint Resolution and any other available remedies at law or equity, in the case of a violation, default or breach of any provision of this Joint Resolution, the non-violating, non-defaulting, non-breaching party may bring an action for specific performance to compel the performance of this Joint Resolution in accordance with its terms.

IX. Planning in Annexation Area

The Town agrees to exclude the area subject to this agreement (Exhibits A and B) from its zoning and subdivision ordinances and the City may extend its zoning and subdivision regulations to include the order annexation area as provided in Section 462.357, Subd. 1 and Section 462.358, Subd. 1.

X. Notice

Any notices required under the provisions of this Joint Resolution shall be in writing and sufficiently given if delivered in person or sent by mail, postage prepaid, as follows:

RECD BY
MMB

MAY 25 2007

If to the City:

Mr. Mark Sievert, City Administrator (or his successors)
City of Fergus Falls
112 Washington Avenue West
Fergus Falls, MN 56537

If to the Township:

Elaine Schoening
Fergus Falls Town Clerk (or her successors)
26461 210th Avenue
Fergus Falls, MN 56537

Passed, adopted and approved by the Township Board of Supervisors of Fergus Falls Township, Otter Tail County, Minnesota, this 20 day of MARCH, 2007.

FERGUS FALLS TOWNSHIP

By: Howard Gorse
Its Chairman

ATTEST:

Elaine M. Schoening
Town Clerk

Passed, adopted and approved by the City Council of the City of Fergus Falls, Otter Tail County, Minnesota, this 19th day of March, 2007.

CITY OF FERGUS FALLS

Russell Q. Anderson
Russell Q. Anderson, Mayor

ATTEST:

Mark Sievert
Mark Sievert, City Administrator

barb/clients/city/annex/walmart/jointres-3-07

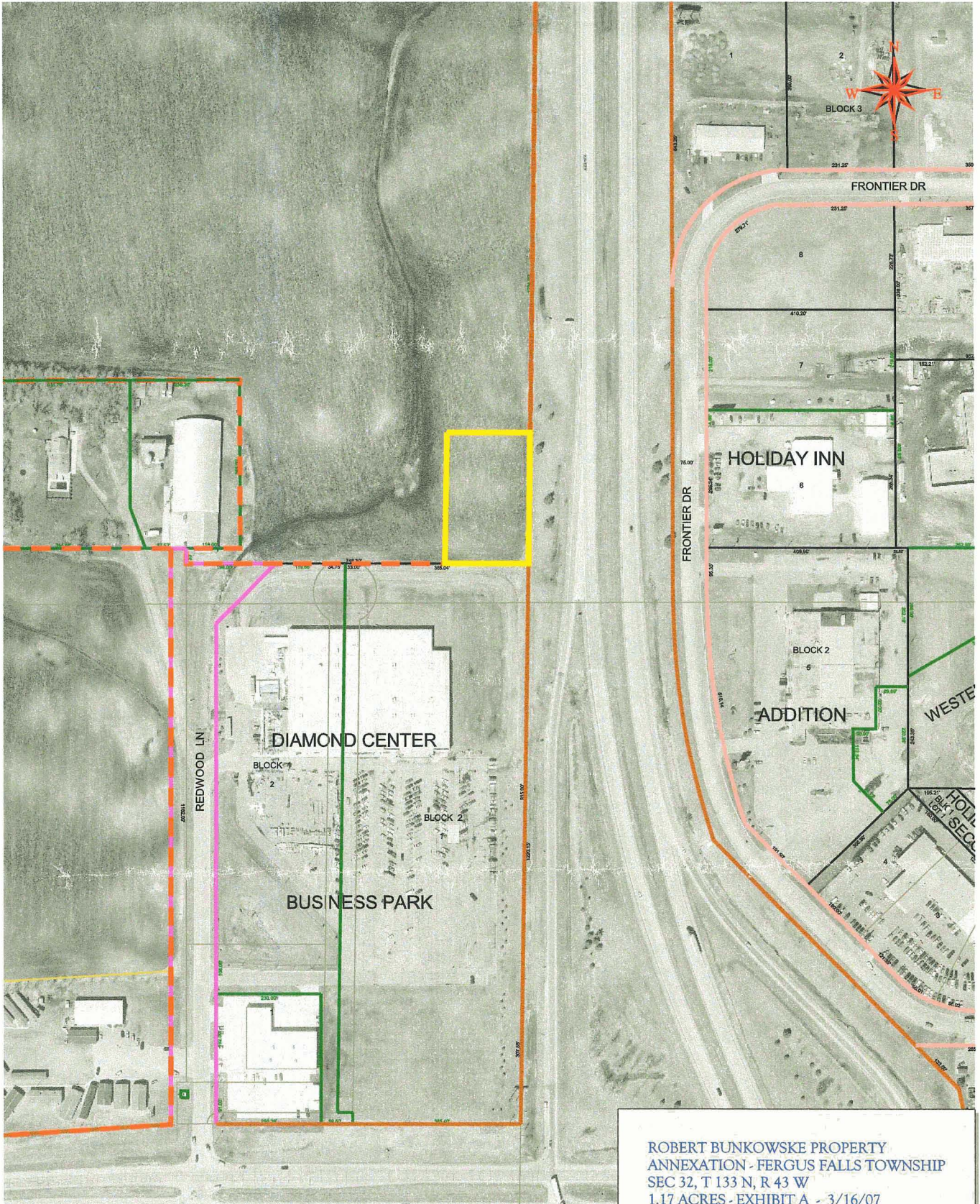
REC'D BY
MMB

APR 05 2007

EXHIBIT A

REC'D BY
MMB

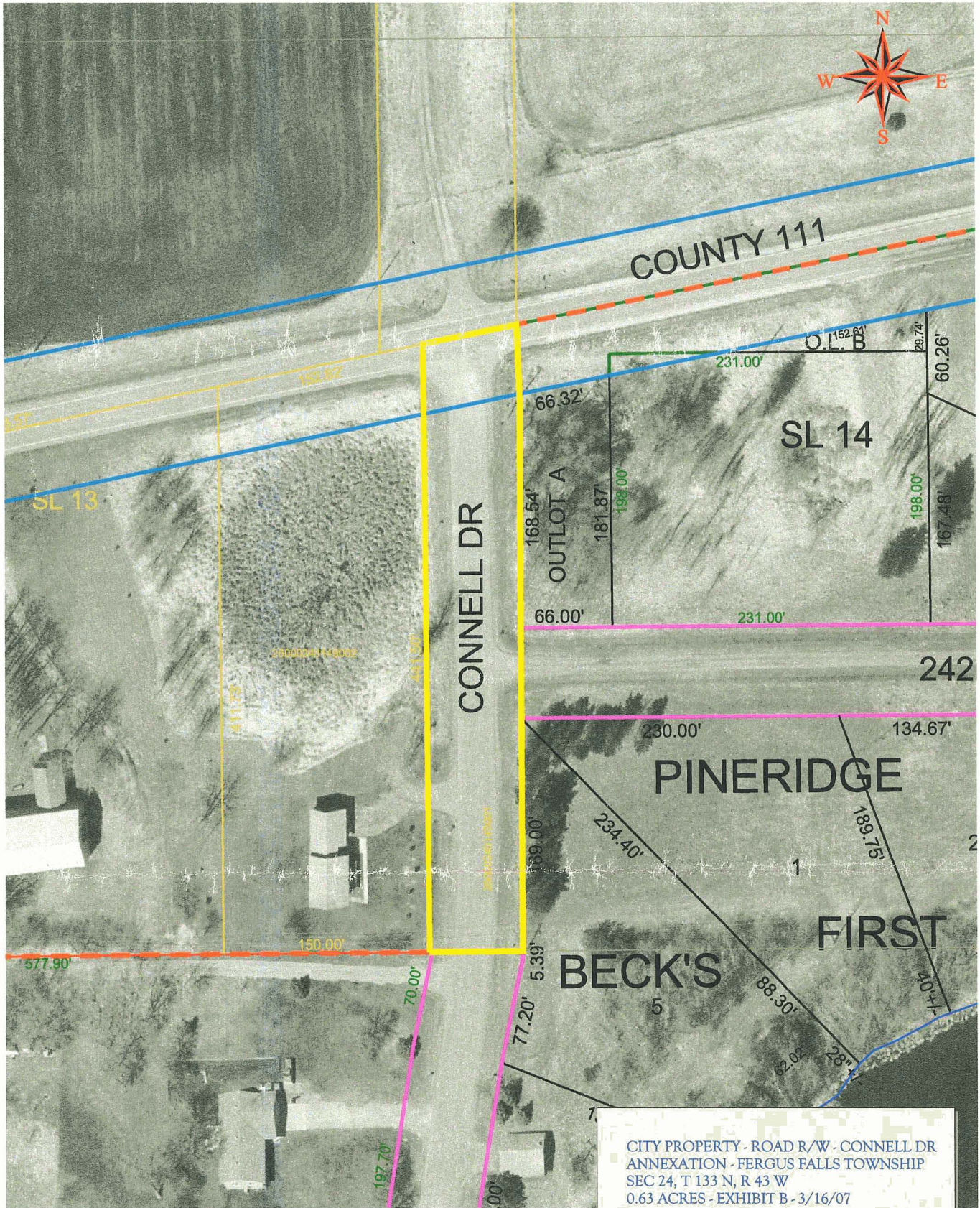
MAY 25 2007



ROBERT BUNKOWSKE PROPERTY
 ANNEXATION - FERGUS FALLS TOWNSHIP
 SEC 32, T 133 N, R 43 W
 1.17 ACRES - EXHIBIT A - 3/16/07

NO SCALE

EXHIBIT B



CITY PROPERTY - ROAD R/W - CONNELL DR
 ANNEXATION - FERGUS FALLS TOWNSHIP
 SEC 24, T 133 N, R 43 W
 0.63 ACRES - EXHIBIT B - 3/16/07

NO SCALE

CITY OF FERGUS FALLS

BUNKOWSKE ANNEXATION
FERGUS FALLS TWP 32-133-43
1.17 ACRES - EXHIBIT A

CITY ANNEXATION
FERGUS FALLS TWP 24-133-43
0.63 ACRES - EXHIBIT B

TOTAL ACRES = 1.80



REC'D BY
MAY 25 2007

NO SCALE
3/16/07

REC'D BY
APR 05 2007