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**MIDDLETON CITY COUNCIL  
DECEMBER 20, 2023**

The Middleton City Council Meeting was called to order on December 20, 2023, at 5:31 p.m. by Mayor Steve Rule.

**Roll Call:**

City Council: Council President Kiser and Council Members Huggins, Murray and O'Meara were all present.

Mayor Rule, City Attorney Mr. Waterman, Planning & Zoning Official Ms. Stewart, Public Works Director Mr. Van Gilder and Deputy Clerk Ms. Reynolds were present.

**Pledge of Allegiance, Invocation:** Jim Taylor

**Recognition of Council Member Carrie Huggins and Mayor Steve Rule**

**Action Items**

**A. Approve Agenda**

**Motion:** Motion by President Kiser to approve the Agenda posted December 15, 2023, 4:30 p.m. Motion seconded by Council Member O'Meara and approved unanimously.

**Action Item:**

- 1. Consent Agenda (items of routine administrative business)**
  - a. Consider approving minutes for City Council December 6, 2023, Regular meeting.**
  - b. Consider ratifying payroll for December 15, 2023, in the amount of \$153,497.42.**
  - c. Consider approving accounts payable through December 15, 2023, in the amount of \$271,953.36.**
  - d. Consider approving the FCO for Mills Landing Subdivision Project.**

Mayor Rule called the item and President Kiser reviewed the accounts payable with the Council.

**Motion:** Motion by President Kiser to approve Consent Agenda Items 1 a-d. Motion seconded by Councilman O'Meara and approved unanimously.

- 2. Consider authorizing the Mayor to sign a Letter of Interest on behalf of the City to apply for funding assistance related to the expansion of the City's Waste Water Treatment Plant. - Mr. Van Gilder**

Mayor Rule called the item and Mr. Van Gilder explained this letter is the first step to being able to apply for a loan or grant from IDEQ to fund the WWTP expansion.

**Motion:** Motion by Council President Kiser authorizing the Mayor to sign a Letter of Interest on behalf of the City to apply for funding assistance related to the expansion of the City's Waste Water Treatment Plant. Motion seconded by Council Member O'Meara and approved unanimously.

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**3. Consider authorizing the Mayor to sign a Letter of Interest on behalf of the City to apply for funding assistance to create a land application plan of operation for the City's Waste Water Treatment Plant. – Mr. Van Gilder**

Mayor Rule called the item and Mr. Van Gilder explained this letter is to request funding to create a plan for an effluent land application operation at the City's WWTP.

**Motion:** Motion by President Kiser authorizing the Mayor to sign a Letter of Interest on behalf of the City to apply for funding assistance to create a land application plan of operation for the City's Waste Water Treatment Plant. Motion seconded by Council Member O'Meara and approved unanimously.

**4. Consider authorizing the Mayor to execute a Task Order with Ardurra Group, Inc (formerly T-O Engineering) to prepare Municipal Stormwater Planning Study in a lump sum not to exceed \$70,070 upon confirmation of an Idaho Department of Environmental Quality (IDEQ) Sewer Overflow and Stormwater Planning Grant award associated with this project. – Mr. Van Gilder**

Mayor Rule called the item and Mr. Van Gilder explained the study will be primarily funded by a grant received from IDEQ. The city will need to do a budget amendment to recognize the receipt and expenditure of the grant funds in this budget.

**Motion:** Motion by President Kiser to Consider authorizing the Mayor to execute a Task Order with Ardurra Group, Inc (formerly T-O Engineering) to prepare Municipal Stormwater Planning Study in a lump sum not to exceed \$70,070. Motion seconded by Council Member O'Meara and approved unanimously.

**5. Consider authorizing the Mayor to execute a Task Order with Ardurra Group, Inc (formerly T-O Engineering) to conduct an evaluation of storm water swales in an amount not to exceed \$67,060 upon confirmation of an Idaho Department of Environmental Quality (IDEQ) Sewer Overflow and Stormwater Planning Grant award associated with this project. – Mr. Van Gilder**

Mayor Rule called the item and Public Works Director Mr. Van Gilder explained the need to evaluate the storm water swales and that this study will be primarily funded by a grant received from IDEQ. The city will need to do a budget amendment to recognize the receipt and expenditure of the grant funds in this budget.

**Motion:** Motion by President Kiser to 5. Consider authorizing the Mayor to execute a Task Order with Ardurra Group, Inc (formerly T-O Engineering) to conduct an evaluation of storm water swales in an amount not to exceed \$67,060. Motion seconded by Council Member O'Meara and approved unanimously.

**6. Consider authorizing the Mayor to execute with Knife River Corporation – Mountain West, Change Order No. 2 for the construction of the City of Middleton – 9<sup>th</sup> Street sidewalk extension project in the amount not to exceed \$8,695.00, for the installation of additional subbase material. – Mr. Van Gilder**

Mayor Rule called the item and Mr. Van Gilder explained the item.

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**Motion:** Motion by President Kiser authorizing the Mayor to execute with Knife River Corporation – Mountain West, Change Order No. 2 for the construction of the City of Middleton – 9th Street sidewalk extension project in the amount not to exceed \$8,695.00, for the installation of additional subbase material. Motion seconded by Council Member O’Meara and approved unanimously.

**7. Consider approving the Mutual Release and Settlement Agreement by and among James G. Thorpe, Trustees of the Thorpe Family Trust, Kenneth J. Dill, Shirley Carnahan and Michelle Blaisure and the City of Middleton. – Mr. Waterman, Legal Counsel**

Mayor Rule called the item and Legal Counsel Mr. Waterman explained the item. This property is east of Middleton Place Park between the park and State Farm parcel. This property is not owned by anyone. So this is the legal process to state it is “not city property”.

**Motion:** Motion by President Kiser approving the Mutual Release and Settlement Agreement by and among James G. Thorpe, Trustees of the Thorpe Family Trust, Kenneth J. Dill, Shirley Carnahan and Michelle Blaisure and the City of Middleton. Motion seconded by Council Member O’Meara and approved unanimously.

**8. Public Hearing: Applications by J and J Johnson LLC and AG Land & Development LLC for annexation/rezone, preliminary plat, and development agreement with respect to the Pheasant Heights Subdivision located at 23854 Emmett Road, 13236 Greenwell Lane and 0 Emmett Road, Middleton, Idaho (Tax Parcel Nos. R34445012A0, R34445012A1, R34445012B0, & R34445012A2). Applicants are requesting a zone change from County C-1 (Neighborhood Commercial) and R-1 Single Family to City R-3 Zone (Single Family Residential). The proposed preliminary plat consists of 147 buildable lots and 12 common lots on approximately 54 acres of land. - Ms. Stewart**

Mayor Rule called the item and opened the public hearing at 5:54 p.m.

Planning and Zoning Official Ms. Stewart presented the application (Exhibit 1). She had to add a late Exhibit to the Staff Report. (Exhibit H).

Mayor Rule asked Ms. Stewart to clarify Goal 6 of the Comprehensive Plan.

Applicant Representative: Connor Gray (AG Land Development) gave his presentation. Exhibit 2).

Council Member Murray pointed out that Purple Sage Elementary is purposely kept under capacity because that is where the Special Needs students go.

Mayor Rule opened Public Testimony at 6:33 p.m.

*Greg Baker:* Schools over capacity.

*Todd Ognibene:* Concerned with open space and Emergency Services access.

*Janet Gibson:* Comprehensive Plan Goals 7 & 8? Want Middleton to maintain character. Slow down development.

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*Mike McDougall:* Frustrated they can continually bring back the same application.

*Howard Ronkin:* Safety. Get infrastructure built first.

*Brian Hymas:* Concerned about Right in Right out, and Lift Station for taxpayers.  
*Council Member Huggins* clarified that Lift station maintenance is paid through utility fees.

*Nick Hylton:* Concerned about safety at Roundabout. A stoplight at Emmett/SH44 will increase traffic.

*Wendy McDougal:* Concerned about safety at Roundabout and street parking with pickup trucks.

*Mikel Galloway:* Developer should not be allowed to bring back proposal again and again. Why didn't Stonehaven or the RV park have to pay into the stoplight?

*Patty Crawford:* Schools are over capacity

*Brent Heck:* Safety, schools over capacity, and concerns about force annexation.

Mayor Rule called a brief recess at 7:07 p.m. (Mr. Waterman reminded Council they were not to speak to anyone regarding the application during the break.)

Mayor Rule reconvened the meeting at 7:18 p.m.

*Brian Sheets:* The audacity of the applicant is shocking to resubmit an application with no changes.

*Matt Davis:* Should remain R-1. Concerned about the waterway behind the property.

*Austin Lewis:* Concerned about safety.

*Mike Graefe:* Question about the DA. If approved at R-3. Do they have to keep the 11,000 sf lots or do they get R-3 8,000 sf lots if the property is sold, or the preliminary plat expires.

*Dan Crossley:* High density projects are not all good. He doesn't reside in the City, doesn't want to be in the city but is frustrated he doesn't have a say in city matters. Concerned about traffic.

*Ron Thweatt:* Thanked Council for their jobs. Would like city to look at desert landscaping as an option.

*Kyle Restad:* Concerned about traffic and pedestrian safety.

*Tyson Sparrow:* What is the intention with the property?

Mayor Rule closed Public Testimony at 7:39 p.m.

Rebuttal by Applicant Representative – Connor Gray

- City Staff is insisting the light at Emmett/SH44 is built.
- Property is currently in County with R-1 and C-1 designation.
- In order to make any type of improvements required by the City, they have to go R-3.
- School Capacity-understand it is a concern which is why they will donate \$147K.

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Additional Rebuttal – Carl Anderson (Applicant Representative)

- Offering a solution to a real problem. They are putting up a significant amount of money for the light. Everyone needs to be heard. But Council's responsibility is to the residents of the City of Middleton.

Mayor Rule closed Testimony at 7:50 p.m.

Discussion by Council:

- Application looks similar to the last one that was denied. The entrances are the same and same concerns with emergency vehicle access.
- Light at Emmett/SH44 is a topic and likely will be for the next 10-15 years. The fact is that light is outside of the City of Middleton's jurisdiction. ITD will have to fix that intersection. It is not worth the tradeoff.

**Motion:** Motion by President Kiser to **deny** the Applications by J and J Johnson LLC and AG Land & Development LLC for annexation/rezone, preliminary plat, and development agreement with respect to the Pheasant Heights Subdivision located at 23854 Emmett Road, 13236 Greenwell Lane and 0 Emmett Road, Middleton, Idaho (Tax Parcel Nos. R34445012A0, R34445012A1, R34445012B0, & R34445012A2). Motion seconded by Council Member O'Meara and approved unanimously by Roll Call Vote.

Kiser – Yes, Huggins – Yes, Murray – Yes, O'Meara – Yes.

**9. Consider approving Ordinance No. 687 forming a Local Improvement District Committee. – Council Member Murray**

Mayor Rule called the item and Council Member Murray asked Legal Counsel Mr. Waterman to explain the LID (Local Improvement District). This district would not just be restricted to City Residents but would incorporate all School District and County Residents as well. Funds would be collected as a line item on the levy, and funds from the district would be turned over from the County to the City. This ordinance the first step to getting a committee formed for an LID.

**Motion:** Motion by Council President Kiser to read Ord 687 by Title Only. Motion seconded by Council Member Murray and approved unanimously.

President Kiser read Ord 687 by title only.

ORD 687: AN ORDINANCE ENACTED BY THE MIDDLETON CITY COUNCIL AMENDING TITLE 1, CHAPTER 5, CREATING SECTION 1-5-8 OF THE MIDDLETON CITY CODE, PERTAINING TO THE CREATION OF A LOCAL IMPROVEMENT DISTRICT ADVISORY COMMITTEE; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND REPEALING ALL ORDINANCES, RESOLUTIONS, ORDERS AND PARTS THEREOF, IN CONFLICT HERewith.

**Motion:** Motion by President Kiser to waive the 3-reading rule and adopt Ordinance 687. Motion seconded by Council Member O'Meara and approved by Roll Call Vote.

Kiser – Yes, Huggins – Yes, Murray – Yes, O'Meara – Yes.

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**Public Comments:**

*Tyson Sparrow:* Thanks to Mayor Rule and Ms. Huggins for their many years of service to this community.

*Dan Crossley:* Thanks to Council for your wisdom and Thank you to Mayor Rule for his service.

*Scott Pool:* Thank you to Council and Mayor for service to community. He thinks the LID is a great plan and good way to include the county.

*Howard Ronkin:* Brilliant idea for LID – Hopes research has been done regarding other communities that have done it, so we don't make the same mistakes they have.

*Allen Tremble:* Likes LID. Thanks to Mayor for the last 4 years of service.

**Mayor, Staff and Council Comments:**

*Council Member O'Meara:* Thank you to Mayor Rule and Carrie Huggins for their service. We need to get traffic off 44 and behind the middle school. Need some improvements to the turn lane on SH44 to S Middleton Rd. Too many cars are blocking the fire district exit and too many cars are going straight in the right turn only lane.

*Council Member Murray:* Quality of Carrie Huggins is unmatched. He will miss her on Council. Under existing state law there is no state laws that address school capacity. This is not a simple conversation.

*President Kiser:* Development has a right by State Law to submit applications. We have failed the School District. Every bond has failed. Looking at the location of voters, City residents support bonds more than County residents. He has sat next to Carrie for a long time. He is grateful for her service and wisdom. He also thanked Mayor Rule and wishes them both the best of luck.

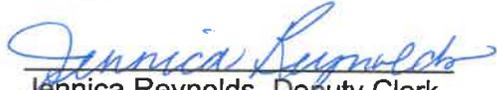
*Council Member Huggins:* Thanks to Council. She moved here in 1993, knew growth would come and was excited to see people come. She hopes Middleton will continue to meet the needs of the residents as that growth continues. She thanked staff as well for all their hard work.

*Mayor Rule:* Thanks to all Staff. Becky Crofts is mostly a lawyer, engineer, and a City Administrator. But before Becky there was Jennica and Wendy who helped him gain a footing in the city. Thanks to Lori the Librarian. Thanks to the regular people who show up and participate in the process. Thanks to Sargent Hilkey and Chief Smith. He used to get complaints about the police department before Chief Smith, he doesn't anymore. Thanks to other superstars (Hess/Kofoed) who are getting things done. Thanks to City Council. In 4 years he had only voted one time. The City Council does the work, and a mayor is nothing without a strong City Council. Councilman O'Meara has probably put in more volunteer hours than anyone in this community. Councilman Garner was good, and Councilman Murray is carving his own way. Thanks to Councilman Kiser. Councilman Huggins is probably one of the best council members Middleton has had. If not then Kiser is.

**Adjourn:** Mayor Rule adjourned the meeting at 8:26 p.m.

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ATTEST:

  
Jennica Reynolds, Deputy Clerk  
Minutes Approved: January 3, 2024



Rob Kiser, Council President



Exhibit 1

**Pheasant Heights Subdivision**  
Middleton City Council

Annexation/Rezoning, Development Agreement & Preliminary Plat

1

**Project Description:**  
Residential subdivision with 147 single family home lots and 12 common lots on 54 acres of vacant land located at 0 Ernest Road, 23854 Ernest Road, and 13230 Greenwood Lane, The Pheasants, 5364602242, R044012401, R044012801 and S04012415.

**Application Requests:**  
(1) Annexation/Rezoning to R-3 (Single Family Residential)  
(2) Preliminary Plat  
(3) Development Agreement

2

**2021 Applications:**  
The Pheasant Heights Developer had previously brought applications for annexation/ rezoning, Development Agreement and Preliminary Plat in March 2021. City Council denied the applications on October 19, 2022, finding that high density subdivisions have an undue impact on City assets, two elementary schools are over capacity, and R-3 zoning is incompatible with the surrounding County neighborhoods. Council stated that the applicant may be able to gain support by requesting R-1 zoning rather than R-3.

**Current Zoning & Property Condition:**  
The project parcel is comprised of four parcels with two homestead lots. The property is currently zoned C1 (Neighborhood Commercial) and R1 (Single Family Residential). The property to the east is within City limits and zoned R-3 (Single Family Residential). The properties to the south west and north are County property zoned R-1, R-3, and Agricultural.

3

**City Services:**  
City sewer and water are located near the project and readily accessible. A sewer lift station is required to serve the site, and City requires Developer to increase the lift station to serve the region, the Developer has agreed to do so.

Water and sewer capacity is evaluated at the time of construction drawing approval and is increased at that time if capacity is available.

4

**Traffic, Access & Streets:**  
Primary access to the subdivision will be through 9th Street to the south. Access on Ernest Road will be right in/right out only. Three side roads along the western border will provide future extension of the City to the west.

Developer will be required to improve the road frontage along Ernest Road and 9th Street to the south. Developer will also be required to reconstruct portions of 9th Street through Future Park, which is a County Subdivision. Developer will request the County need to bring it more in line with City's higher road standards.

Developer will also pay \$742,350 in Mid-Star Transportation fees by the time all 147 lots are built. Developer will also pay a \$68,000 traffic-proposal fee in Phase 1. Total bid for projects is, Cambridge & Purple Sage Intersection and Harley & Purple Sage Intersection.

5

**Traffic Signal at Ernest Road & State Hwy 44:** Much of the project's traffic will use the intersection of Ernest Road and Hwy 44. That intersection is a T-intersection.

In April of this year, City finished a traffic study for the Hwy 44 corridor in collaboration with ITD. Pursuant to this study, ITD has requested a sub-agreement to other developers to design and install "interim" traffic signals at Ernest & 44, Cambridge & 44, Middleton & 44, and Duff Lane & 44.

Based on this, Staff is proposing the following Development Agreement (DA) provision: (1) City will not approve Developer's construction drawings until the Ernest traffic signal is designed and (2) City will not approve the final plat for phase 1 until the Ernest traffic signal is actually built.

The DA does not mandate Developer to build the traffic signal, it just mandates that the signal be built.

**Bottom Line: Infrastructure will not be approved & no homes started until the traffic signal is built.**

6

**Open Space & Amenities**

Developer is proposing a large park with pickled road, dog park, multi-use paths, playground, open grassy area, and picnic area with shade structures.

Developer has provided 5.5% open space, which exceeds the 5% minimum required by MCC 5.4-10-10 (L20664, L3551) and mitigation portion of L47811.

7

Developer will also construct a missing portion of sidewalk located outside of the project area in order to complete the sidewalk that has been left unfinished for a number of years. This off-site work will assist children in reaching the crosswalk at Willis & Ernest as they use their walkway to Middleton High School.

8

**Schools:** Pheasant Heights Subdivision is in the Middleton School District #154. Elementary age children from this neighborhood will be attending Purple Sage Elementary. Superintendent Galt has stated that Purple Sage Elementary, the Middle School and High School are not yet at capacity but are nearing capacity.

**Police:** If annexed into Middleton, the Middleton PD will be responsible for patrolling and protecting the Pheasant Heights community. Middleton PD is already patrolling the area because of the close proximity to Middleton High School and the Showers Subdivision, so there will be no measurable impact by the addition of this subdivision. Additionally, the Developer/Bidder will pay a Police Impact fee for each building permit, and the impact fee is designed to cover the subdivision's impact on the police department.

**Middleton Rural Fire District:** The project parcels are already located in the Middleton Rural Fire Department service area, so there will be no change or impact statement if the property is annexed into the City of Middleton.

9



**Annexation and Zone Change:** Applicants are requesting that the 54-acre project be annexed into the City of Middleton with a zone change from County R-1 and C-1 to the City R-3 Zone (Single Family Residential).

There are two findings that must be made before Annexation can be approved: (1) The property must be contiguous to City limits and (2) the annexation is deemed to be an "orderly development" of the City allowing "efficient and economical extension" of City services such as sewer, water, police/fire protection and roadway system. (State Code 50.222)

An application for rezoning has two findings: (1) The rezoning will not adversely affect the City's delivery of services and (2) the rezoning request is not in conflict with the Comprehensive Plan. (State Code 57.6011)



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**Annexation:**

With respect to annexation, Planning Staff finds that Applicant's project meets the 1<sup>st</sup> criterion of contiguity. The project is adjacent to City limits.

As to the 2<sup>nd</sup> annexation criteria, Planning Staff finds that the proposed annexation is orderly and efficient with respect to some City services. Specifically, Police and Fire are already providing and serving the site. Sewer and water service lines are already adjacent to the property and can be economically extended to the site.

Services that may be adversely affected are schools and roadway system. The elementary middle, and high schools that will be serving the subdivisions are not at or near capacity but are very close to capacity.

As to City roadway service, Developer's Transportation Fees will help improve roadways near the project. However, the Emmet & Hwy 44 intersection is a signal intersection. That intersection should be improved before any homes in new annexation projects are allowed to be built. The proposed Development Agreement contains a provision to that effect. Developer, however, has not agreed to the term.

**Staff Findings**

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**STAFF FINDINGS: Rezoning**

As to the rezoning application, Planning Staff finds that the rezoning will not adversely affect some City services but may adversely affect others as already stated above.

A rezoning also requires a finding that the project will not be in conflict with the City's Comprehensive Plan. Staff finds that the R-3 zoning is not in conflict with the Comprehensive Plan because the project parcels are near other R-3 zoning in the West Highlands and Stonehaven Subdivisions. It is also near the large commercial center planned to the south as shown on the Comprehensive Plan's Future Land Use Map.



However, City Council and the Planning & Zoning Commission have found on earlier occasions that R-3 zoning is not a suitable character with the Rural County character on the north, west and south sides of the project.

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**Preliminary Plat Application:** The preliminary plat shows 14 single family home lots and 12 common lots to be built in three phases.

**STAFF FINDING:** The preliminary plat complies with all subdivision standards and codes of the City of Middleton, which means it meets the sole criteria required for an approval by the governing boards. No variances are requested.




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**Development Agreement:** An Annexation/Rezoning generally requires a Development Agreement. Applicant and City Staff have used the City's form for the DA, and have added the following conditions of development to Section 3 of the DA:

Sec. 3.1 & 3.2 Developer to complete all heritage/roadway improvements adjacent to the project.

Sec. 3.3 Developer to construct the project generally consistent with the Concept Plan attached to the DA.

Sec. 3.4 Developer to pay all pro-rata traffic fees prior to final plat approval for phase 1.

Sec. 3.5 Developer cannot obtain approval of a construction drawings until the traffic light at Emmet & 44 is designed. Developer cannot apply for approval of final plat for phase one until the Emmet traffic signal is actually built. (Developer has not agreed to this term.)

Sec. 3.6 Developer shall build a sewer lift station to serve the project site. If the City, in its sole discretion, decides that a regional lift station is required, then Developer shall construct a regional lift station. Developer shall be reimbursed for construction costs over and above its proportionate share via a late-comer's fee as allowed by MCC 1-7-1.

Sec. 3.7 Developer has 5 years to obtain phase 1 final plat approval (after 2 annexations are approved). Each phase thereafter shall obtain final plat approval within 5 years (which includes fee extension). If developer fails to meet these timelines, City has the right to terminate the DA, and the preliminary plat will be not valid.

Section 3.8 Developer shall provide amenities as already described in the presentation.

Section 3.9 Developer shall construct the missing portion of sidewalk off-site near the Willis roundabout.



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**Comprehensive Plan & Land Use Map:**

Applicant's project complies with the Comprehensive Plan's Future Land Use Map because the project parcel is designated "Residential" on the F.L.U.M., which matches the residential use planned for the site.



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Applicant's project also complies with the Goals, Objectives, and Strategies of the 2019 Middleton Comprehensive Plan as follows:

- Goal 1 & Annexation: New development/annexation will be required to pay for improvements necessitated by its impacts on City Services. Developer will pay for its proportional impacts on parks, police, fire, and traffic via impact fees. Developer will also extend City utility services at no cost to the City and construct a regional lift station if requested by the City.
- Goals 3 and 5: Developer's impact fees and pro-rata traffic fees will be used for the improvement and safety of surrounding roadways. Developer is also completing a sidewalk project off-site to ensure safe pedestrian passage at a location north of the project site.
- Goal 7 and 8: The addition of homes in Middleton increases the likelihood of bringing more commercial and industrial opportunities to Middleton, thereby increasing areas for residents and creating employment opportunities.
- Goals 10, 20 and 23: The addition of parks and recreation and the completion of City sidewalks increases recreation activity and promotes walkability, social interaction, and health in the Community.
- Goal 11: Strategy 2 encourages "... higher density housing near activity..."

Applicant's project does not comply with the following Goals:

- Goal 6 and Transportation Section, Objectives A and B: If Developer is not required to adhere to the proposed DA provision regarding the Emmet Road & Hwy 44 traffic signal, then the development may not be deemed "orderly" because of the adverse impact on the City's road system and Hwy 44.
- Goal 13 pertains to Schools, but the "Objectives" and "Strategies" for Goal 13 pertain to only vehicle and pedestrian activity. The Comprehensive Plan's Goals and Strategies do not address school overcrowding.



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**Comments:** [Link to DA](#) Comments from City Engineer & Planner, Agencies, and the public were attached as Exhibit D, E, & F to the Staff Report and Agency.

**Applicant Information:** Application was received and accepted on June 9, 2023. The Applicant/Owner is J and J Johnson LLC, 719 Blue Ridge Circle, Hope, UT 84043, and the Representative is J&J and Development LLC.

Notice:	Date:
Neighborhood Meeting	3/27/2023
Newsroom Notification	1/20/2023
Public notification mailed to Landowners within 50'	1/20/2023
Circulation to Agencies	1/24/2023
Sign Posting property	1/24/2023

**Applicable Codes and Standards:** Idaho Statute Title 47 Chapter 05 and Title 51 Chapter 2 & 11 Idaho Standards for Public Works Construction, the Middleton Supplemental Rules, Middleton City Code 1-14, 1-15, 5-1, 5-2, 5-3, and 5-4.



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**Planning & Zoning Commission Recommendation:** The PZC Commission considered the Present Heights applications at a public hearing held on November 13, 2023. The PZC recommended that the Council deny all three applications. The Commission noted that the current applications are almost identical to the previous applications that were denied in 2022. Additionally, the Commission noted that the projects are unimproved, and there has been no improvement in that regard since the previous application denial. The Commission also noted that it does not like the DA provision requiring the Traffic Signal at Emmet & 44. They think the provision can be "soft" as administered. They further stated that if the intersection is a true concern, then the project should simply not be annexed into the City in the first place.



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**Conclusions and Recommended Conditions of Approval:**

When deciding whether to approve or deny a development application, the governing boards must base their decisions on Findings of Facts and Conclusions of Law.

**As to General Facts,** Planning Staff has set forth the findings of facts above in parentheses.

**As to Conclusions of Law,** Planning Staff finds that the Council has the authority to hear these applications and to approve or deny the applications. Additionally, Planning Staff notes that all public notice requirements were met. Planning Staff further set forth the portions of the Idaho State Code and Middleton Code to be considered in making a decision on the applications.

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**Conclusions and Recommended Conditions of Approval:**

If City Council is inclined to approve the three applications, then Planning Staff recommends that any approval be subject to the following conditions:

1. City of Middleton municipal domestic water, fire flow and sanitary sewer services are to be extended to serve the subdivision.
2. Developer to comply with all terms and provisions of the Development Agreement as proposed by Planning Staff in the Staff Report.
3. License/Access Easement pertaining to the existing home (Lot 15/Block 3) must be terminated or abandoned prior to Phase 1 final plat approval.
4. All private traffic fees due pursuant to MCC 54-3 must be paid prior to phase 1 final plat approval.
5. Official installation of streets between White Road municipal and northern boundary of project to be completed prior to Phase 3 final plat approval.
6. Developer to install landscaping and all amenities in compliance with the Landscape Plan approved with the preliminary plat.
7. Developer shall create a plan for operation, maintenance and repair of stormwater facilities (OSM Plan) contained on the project site. The OSM Plan shall be recorded with the CCRs. Developer and/or HOA must maintain and operate the subdivision stormwater facilities in compliance with the OSM Plan.
8. All CCR Engineer, Planner & Agency comments to be completed and approved.
9. Sewer and water capacity, if available, cannot be reserved until the time that City approves the construction drawings for the project.

Finally, if the Council denies the application, then pursuant to the Local Land Use Planning Act (Idaho Statute, Title 87, Chap. 65) and Middleton City Code 5-14(E)(3), the Council should state on the record what Applicant can do, if anything, to gain approval of the applications.



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EXH

December 20, 2023

City of Middleton  
City Council for Agenda/Meeting  
Dec. 20, 2023  
Via email

Re: Pheasant Heights Proposed Subdivision  
Round #3: Denied Canyon County 1, Denied City of Middleton 1, Denied Planning and Zoning-  
Middleton 2

Dear Council Members,

I am writing this as I cannot attend the meeting this evening. What a horrible time of year to have to schedule this. Makes me wonder if that is on purpose by the Developer who has been denied as per above referenced. Let me first say, I am very much Against the Approval of Pheasant Heights Subdivision and it's annexation as currently designed.

This subdivision in my opinion, has not addressed the very issues that it was denied for the last go around. The property is not congruent with the other subdivisions in the area. Everything West of Emmett Road (so far) are larger parcels and ranchettes. It does not touch the 1/3 acre home tracts that are all around the Middleton High School. The developer is stating that "affordable" housing that this will provide is needed in the Middleton Area. I beg to differ as there are several approved projects in the Middleton area with 1/3 acre lots-approximately over 2500 homes to be developed, in development or in already approved subdivisions East of Emmett Road. Just to name a few: West Highlands, The Meadows at West Highlands, The Crossings (an additional phase), Stonehaven phases 5-7, Mills Landing, Black Powder, Bridger Creek-and this isn't an exhaustive list. There are proposed in process subdivisions that also fit this 1/3 acre subdivision "affordable" that are East of Emmett Road in the current Middleton City Limits.

Access to the subdivision is through a very nice neighborhood of recently build homes on 11, 1 acre parcels. Right now it is a quiet community. Add over 136 new homes with 2 cars per household driving through this neighborhood would make the neighborhood not safe as it wasn't designed to handle traffic such as this.

Because of the proximity of this subdivision to the Middleton High School it furthers an already overwhelming issue of traffic mitigation for the safety of our kids. Until we get the much needed infrastructure done in this area, I believe it would be very negligent of the council to approve this subdivision.

I haven't even begun to address the sewer issue as the current system is over capacity and in need of updated status according to the State of Idaho and Federal EPA. That is a serious concern as this area would be so negatively impacted should an overflow of over capacity occur. Sewage flows downhill... and would end up in Middleton City proper and the Boise River Basin that is near and dear to this community.

I will stop there, but wish for you to DENY this subdivision. They haven't made any changes to the originally DENIED application or taken any of the possible suggestions to heart to make this work for our community.

Respectfully submit this 20<sup>th</sup> day of December



Teresa Taresh

13105 Greenwell Lane  
Caldwell, Idaho 83607  
(208) 831-6408

Exhibit 2



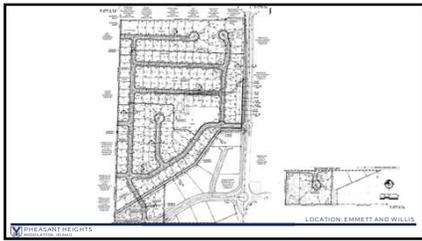
1



2



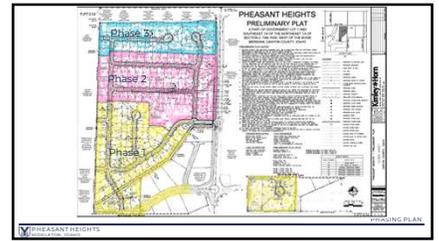
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### SECTION 3.5 ALTERNATIVE

**3.5 Emmett Road and State Highway 44 Intersection Contribution and Exemptions**  
The Developer agrees to contribute a Voluntary Traffic Improvement Donation in the amount of One Million Three Hundred Thousand Dollars (\$1,300,000.00) for improvements at the Emmett Road and State Highway 44 Intersection. In consideration of this Traffic Improvement Donation, the Developer shall be exempt from the obligations to undertake the 9th Street Improvements as outlined in Section 3.2, and the Emmett Road Sidewalk outlined in Section 3.9. The Traffic Improvement Donation shall be payable upon the City's issuance of the first building permit for the Project.

MITIGATING ISSUES



19

### CONSCIOUS PLANNING

- WILL NOT CAUSE FORCED ANNEXATION OF NEIGHBORS
- SUPPORTS MIDDLETON'S GROWTH PLAN
- WIDER THAN STANDARD LOTS
- NO DISRUPTIONS IN SURFACE IRRIGATION
- ROAD AND UTILITY IMPROVEMENTS, CONTRIBUTION OF IMPACT FEES

CONSCIOUS PLANNING



20



QUESTIONS & CONSIDERATIONS



21



8) : Applications by J and J Johnson LLC and AG Land & Development LLC for annexation/rezone, preliminary plat, and development agreement with respect to the Pheasant Heights Subdivision located at 23854 Emmett Road

December 20, 2023 - City Council - Public Hearing

Please check

	Name	Address	Phone or Email	Please check			
				In Favor	Neutral	Opposed	Testify
1	Greg Baker	9863 Meadow Park Blvd	512-992-7245				X
2	TODD OGNI BENE	1973 SCOTCH PINE DR	916 549 0342				X
3	JANET Gibson	ON FILE				X	X
4	MIKE McDougall	13037 GREENWELL	208 606 2273			X	X
5	HOWARD RONKIN	551 7th St.	425-422-6844			X	X
6	Brian Hyman	13094 W 9th St.	208-891-4200			X	X
7	Paul Gursenbuehl	24107 Painted Horse Ct	208 550 0538			X	X
8	NICK HYLTON	13075 WILKIS	208 464-4290			X	X
9	Laurie Snyock	25136 Red Sage Ln	951-271-0510			X	



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December 20, 2023 - City Council - Public Hearing

Please check

	Name	Address	Phone or Email	In Favor	Neutral	Opposed	Testify
<del>10</del>	DENISE RHODES ✓	24150 N GRAYHAWK	DENISE RHODES @ME.COM			f	
<del>11</del>	Cade Syvock ✓	25136 Red Sage Ln	csyvock@gmail.com			x	
<del>12</del>	WENDY McDougall	13037 GREENWELL	MARK FIGHTINGCURVES .COM			x	x
<del>13</del>	Mickell Galloway	Spring Creek Way	208-891-5018			x	x
14	PATTY CRAWFORD	SPRING CREEK WAY	208-891-5018			x	x
<del>15</del>	Victoria Grandava	24537 Kensington	562 405 1646			x	
<del>16</del>	Brent Heck	GREENWELL LN	208 631 0200			x	x
17	CARL ANDERSON	1916 Idaho Ave Caldwell	208 608 4569	x			x
<del>18</del>	Brian Sheets	24184 Willis Creek St. Caldwell ID 83607	503-830-1448			x	x



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December 20, 2023 - City Council - Public Hearing

Please check

	Name	Address	Phone or Email	Please check			
				In Favor	Neutral	Opposed	Testify
1	Jose and Lisa Sauregui	13201 Willis Road Caldwell, ID 83607	(208) 695-7665		<input checked="" type="checkbox"/>	No	
2	MIKE GRAEFE	1889 RIDGEVIEW AP	208-527-6887		<input checked="" type="checkbox"/>		
3	Scott & Traci Pool	13274 Greenwell Ln Caldwell, 83607	559-470-9274			X No	
4	Art & Christy Villines	13258 Greenwell Ln Caldwell				X No	
5	Dan & Sherie Crossley	13189 Willis Rd Caldwell	208-585-3873			X Yes	
6	Roy Thweatt	13089 Willis Rd Caldwell, ID	530-632-4502			X Yes	
7	Joyce Thweatt	13089 Willis Rd Caldwell	(208) 477-7385			X No	
8	Kyle Restad	1660 Loch Ness Ave Midd.	208 971 7761			X <del>No</del>	
9	DAVID LUIZ	1594 LOCH NESS AVE MIDDLETON				X No	



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 December 20, 2023 - City Council - Public Hearing

Please check

	Name	Address	Phone or Email	Please check			
				In Favor	Neutral	Opposed	Testify
10	Nicolas & Amber Avila	13087 W. 9th Street Caldwell ID 83607	niconam715a@gmail.com			✓	
11	DARON MAYGRA	13045 W. 9th ST. Caldwell ID 83607	DRMAYGRA1@gmail.com			X	
12	Aaron Spoor	13279 Greenwell Ln Caldwell ID 83607	(208) 695 8450			X	
13	Tyson Spawson	211 Campbell	20.				
14							
15							
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# Public Comment Sign In

City Council - December 20, 2023

	Name	Address	Phone or Email	Topic/Agenda Item #
1	Howard Parkin	551 7th St.	425-422-6844	LID
2	Allen Tremble	952 S. Alturas Lake	203 830 0854	q? Ord. 687? LID
3				
4				
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# Public Comment Sign In

City Council - December 20, 2023

	Name	Address	Phone or Email	Topic/Agenda Item #
1	Tyson Sparrow	211 N CAMPBELL	electsparrow@gmail.com	General
2	Day Crossley	13889 Willis Rd		Mortensen
3	Roy Thweatt	13089 Willis Rd.		Pheasant Heights
4	Scott Pool	13274 Greenwell Ln.	scottTpool@gmail.com	Pheasant Heights
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