



CITY OF MIDDLETON Planning and Zoning Commission

In Re:

PEDERSEN DEVELOPMENT LLC

July 15, 2015 Application

**Findings of Fact,
Conclusions of Law, and
Decision**

SUMMARY OF THE REQUEST

Pedersen Development LLC (Pedersen) owns certain real property commonly referred to as 212 and 214 South Dewey Ave, Middieton, Idaho, and zoned R-3, three units per gross acre. The real property lot is approximately one-third of an acre, and Pedersen desires to construct a duplex on the property with each unit having its own water meter and address.

Because of the lot's shape and the flood zone along the west boundary, Pedersen applied to: vary the front setback from 25 feet to nine feet, vary the rear setback from 20 feet to 11 feet, and vary the floodway line setback from 50 feet to 11 feet.

FINDINGS OF FACT CONCLUSIONS OF LAW

- APPLICANT:** The applicant is Pedersen Development LLC, an Idaho limited liability company, whose registered agent is Karl Pedersen at 1214 E. Winding Creek, Eagle, Idaho 83616 (Applicant).
- APPLICATION:** The application was received and accepted by the City on July 15, 2015.
- NOTICE OF PUBLIC HEARING:** Notice of the public hearing before the Planning and Zoning Commission was published, mailed and posted as follows:

Published notice Idaho Press Tribune:	July 23, 2015
Letters to 300' Property Owners:	July 23, 2015
Letters to Agencies:	July 23, 2015
Property Posted:	July 28, 2015



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4. **APPLICABLE CODES AND STANDARDS:** The ordinances and standards used in evaluating the application are:

Idaho Code Title 67, Chapter 65
Middleton City Code, Title 4, Chapters 1, 3 and 5
Middleton City Code, Title 5, Chapter 2, Tables 1 and 2 in Section 5-2-3
Middleton City Code, Title 5, Chapter 3

5. The subject property is a small, narrow, triangular lot bordered on the west by the Mill Slough flood way. Currently, overgrown weeds, shrubs and trees are on the property with garbage and debris strewn about. Land uses for surrounding properties are:

South: Existing apartments accessed from Boise Street on land zoned R-8, up to eight units per gross acre;
East: Existing duplexes on land zoned R-12, single-family dwelling, up to 12 units per gross acre;
North: Businesses on land zoned C-2, Community Commercial; and
West: Mill Slough and single-family dwellings (Ascent Ct.) on land zoned R-12.

6. The subject property is zoned R-3, single-family dwellings up to three units per gross acre, and the subject property is approximately one-third of an acre. Building improvement setbacks in the R-3 zone are: 25' in the front, 10' on the sides, and 20' in the rear. The applicant is requesting to vary the front setback from 25 to 9 feet, and vary the rear setback from 20 to 11 feet.

7. Middleton City Code 4-3-8-5(E) establishes a 50 setback from a floodway line. Pedersen surveyed the property, identified a base flood elevation, provided a copy of the survey and an elevation certificate to the City, and intends to build a duplex after elevating the building site to at least one foot above the base flood elevation. The applicant is requesting to vary the floodway setback from 50 to 11 feet.

8. Notice of the application and public hearing was given to agencies providing services to the subject property and to landowners within 300 feet of the property, and no written or oral comments were received from those notified or others.

Findings, Conclusions and Decision

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Staff recommends the Commission approve the application.

9. Pursuant to Middleton City Code 5-3-5(C)(1), the Commission finds that literal interpretation and enforcement of the setback regulations applied to Applicant's proposed duplex on the subject property would result in unnecessary physical hardship inconsistent with the objectives of the zoning ordinance.

10. The size, shape and orientation of the property, together with the floodway line and 50-foot setback required by Middleton City Code 4-3-8-5(E) results in unnecessary physical hardship prohibiting building improvements on the lot. A residential building with lawn and landscaping on the property is in the best interest of residents more than the current condition of overgrown weeds, shrubs and trees with garbage and debris strewn about.

11. Pursuant to Middleton City Code 5-3-5(C)(2), the Commission finds that the following characteristics applicable to the subject property and the Applicant's intended use are extraordinary to this site and do not apply generally to other R-3 zoned properties: the size, shape and orientation of the property, the Mill Slough floodway line along the entire west boundary of the property, and the 50-foot setback required by Middleton City Code 4-3-8-5(E).

11. Pursuant to Middleton City Code 5-3-5(C)(3), the Commission finds that literal interpretation and enforcement of the setback regulations on the subject property would deprive the Applicant of privileges enjoyed by the owners of other properties zoned R-3 in the City.

DECISION

Based on the Findings of Fact and Conclusions of Law, the Planning and Zoning Commission approves the application by Pedersen Development LLC to: vary the front setback from 25 feet to nine (9) feet, vary the rear setback from 20 feet to 11 feet, and vary the floodway line setback from 50 feet to 11 feet.

Findings, Conclusions and Decision

Pedersen Development LLC – Variance Application

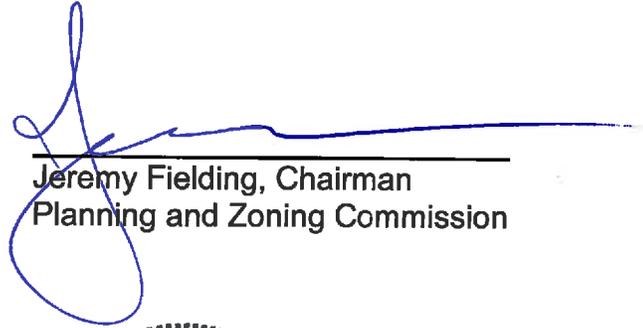
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**CITY OF MIDDLETON
Planning and Zoning Commission**

DATED: September 15, 2015.



Jeremy Fielding, Chairman
Planning and Zoning Commission

Attest:



Kandice Cotterell
Deputy Clerk

