



## **Middleton City Council**

### **Findings of Facts, Conclusions of Law & Order**

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**In the Matter of the applications of Adam Capell/Toll Brothers and Nicolette Womack/Kimley-Horn Engineering for annexation/rezone, development agreement, and preliminary plat with respect to the Black Powder Subdivision located at 0 Cemetery Road, Middleton, Idaho (Tax Parcel No. R382070):**

#### **A. Findings of Fact:**

1. Hearing Facts: See Staff Report for the hearing date of December 7, 2022, which Report is attached hereto as Exhibit "A" and incorporated herein by this reference.
2. Process Facts: See Staff Report for the hearing date of December 7, 2022, Exhibit "A".
3. Application and Property Facts: See Staff Report for the hearing date of December 7, 2022, Exhibit "A".
4. Required Findings per Idaho State Statute Title 67, Chapter 65, Idaho Standards for Public Works Construction and Middleton Supplement thereto, Middleton City Code 1-14, 1-15, 5-1, 5-2, 5-3 & 5-4 and Title 50, Chapters 2 and 13: See Staff Report for the hearing date of December 7, 2022, Exhibit "A".

#### **B. Conclusions of Law:**

1. That the City of Middleton has exercised the powers conferred upon it by the "Local Land Use Planning Act of 1975," codified at Chapter 65, Title 67, Idaho Code (I.C. §67-6503).
2. That due consideration has been given to the comments received from the governmental subdivisions providing services in the City of Middleton planning jurisdiction, comments received from individuals of the public, and comments from City Planning Staff and City Engineer.
3. That notice of the application and public hearing was given according to law.
4. That City Council's public hearing was conducted according to law, and City has kept a record of the application and related documents.
5. That codes and standards pertinent to the application are the Idaho Standards for Public Works Construction, the Middleton Supplement to the Idaho Standards for Public Works Construction, and Middleton City Code 1-14, 1-15, 5-1, 5-2, 5-3, and 5-4 and Idaho Code Title 67, Chapter 65 and Idaho Code Title 50, chapters 2 and 13.


6. That public facilities and services required by the proposed development will not impose expense upon the public if the attached conditions of approval are imposed.
7. That this order is subject to the Conditions of Approval set forth in the attached Staff Report for the hearing date of December 7, 2022, (Exhibit "A"), except condition #7, which was revised to require only a "Voluntary Payment" of \$150,000.00.
8. That codes and standards pertinent to the application are the Idaho Standards for Public Works Construction, the Middleton Supplement to the Idaho Standards for Public Works Construction, Middleton City Code 1-14, 1-15, 5-1, 5-2, 5-3, and 5-4 and Idaho Code Title 67, Chapter 65 and Idaho Code Title 50, chapters 2 and 13.

**C. Decision & Order:**

Pursuant to City Council's authority as provided in Middleton City Code 1-5-2, and based upon the above Findings of Facts and Conclusions of Law, it is hereby ordered that:

1. The application of Adam Capell/Toll Brothers for annexation and rezone of the Black Powder project parcel is approved subject to the conditions of approval set forth in the Staff Report for the December 7, 2022, public hearing.
2. The application of Adam Capell/Toll Brothers for preliminary plat is approved subject to the conditions of approval set forth in the Staff Presentation and in the Staff Report except for the changes noted to condition number 7 of the Staff Report.
3. The application of Adam Capell/Toll Brothers for development agreement is approved subject to the conditions of approval set forth in the Staff Presentation and in the Staff Report except for the changes noted to condition number 7 of the Staff Report.

WRITTEN ORDER APPROVED ON: 12/21, 2022.

  
\_\_\_\_\_  
Steven J. Rules  
Mayor, City of Middleton

Attest:

  
\_\_\_\_\_  
Roberta Stewart  
Planning and Zoning Official

***Please take notice that pursuant to MCC 1-14-2(E)(10), applicant shall have 14 days after a signed final decision to request reconsideration by the final-decision maker. Such request must identify specific deficiencies in the final decision. Failure to request reconsideration may invalidate a subsequent judicial appeal. Additionally, pursuant to Idaho State Statute 67-6521, any affected person aggrieved by a final decision may, within 28 days after all remedies have been exhausted under local ordinances, seek judicial review as provided in chapter 52, Title 67.***

***Additionally, please take notice that Applicant has a right to request a regulatory taking analysis pursuant to Idaho State Statute section [67-8003](#).***

## Exhibit "A"

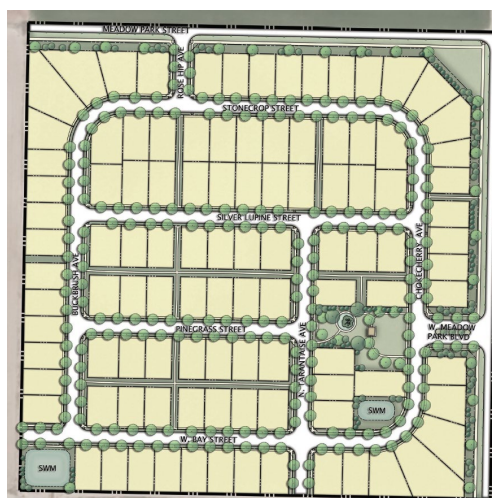
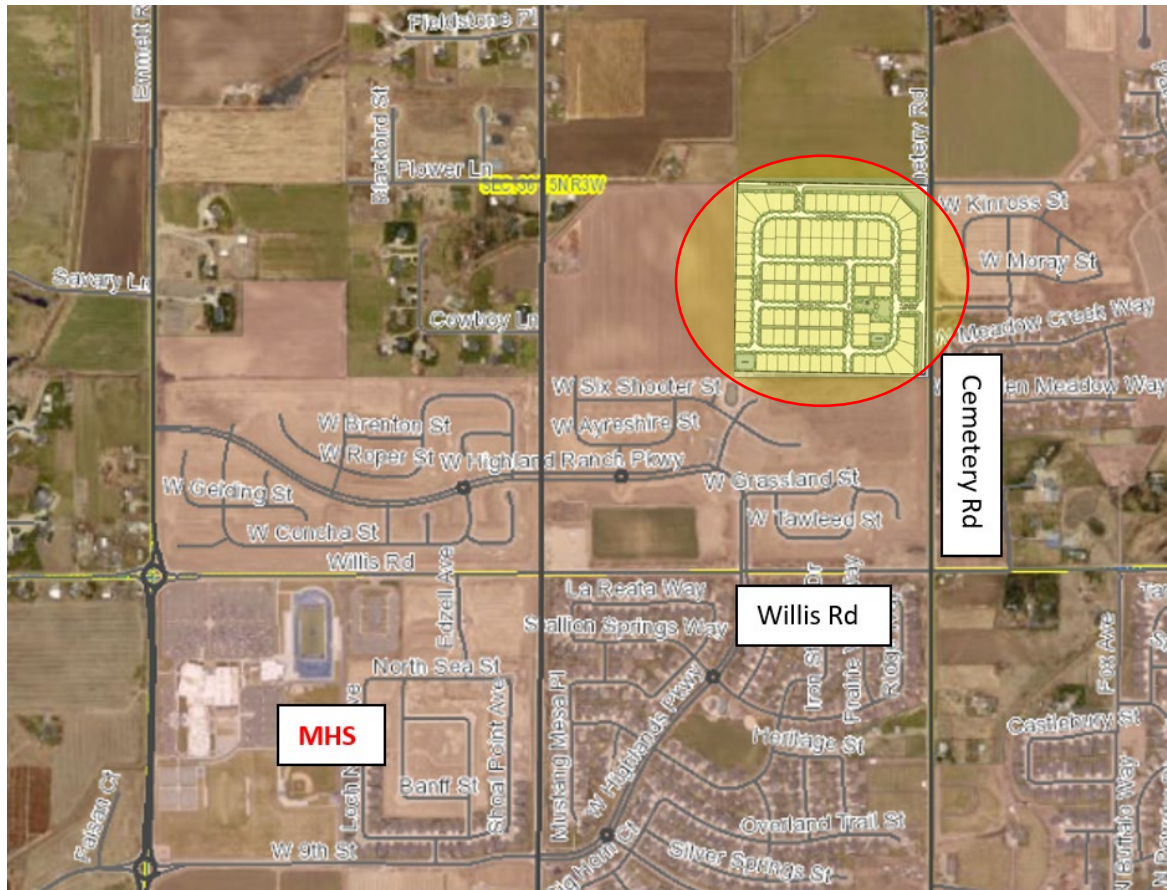




# STAFF REVIEW AND REPORT

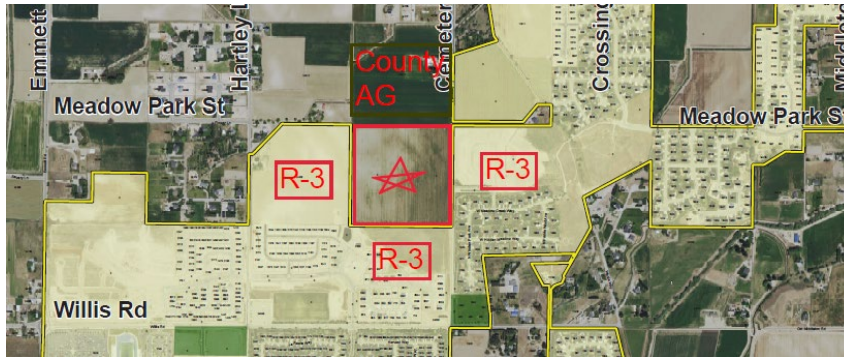
## Middleton City Council

### Black Powder Subdivision Snapshot Summary

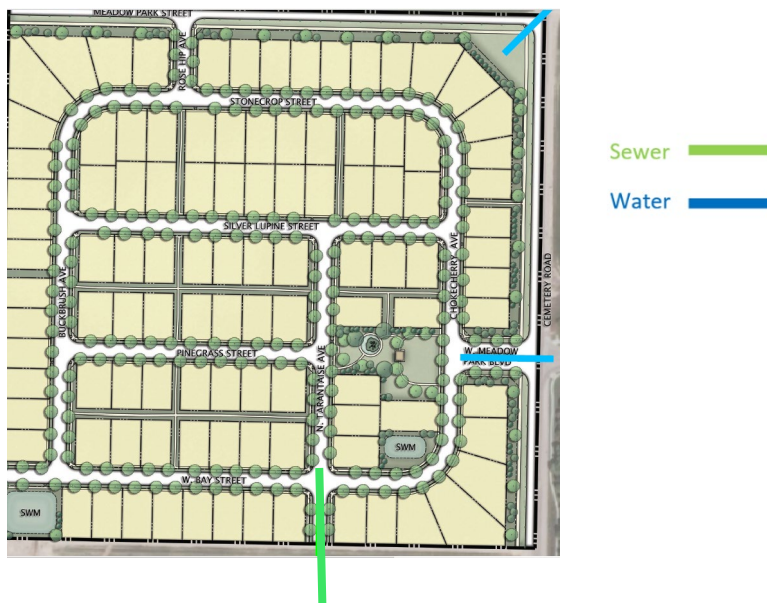


DESCRIPTION	DETAILS
Acreage	40.28 acres
Current Zoning	Canyon County "Agricultural"
Proposed Zoning	R-3 (Single Family Residential)
Current Land Use	Agriculture
Proposed Land Use	Residential
Lots	105 single family homesites and 17 common lots.
Density	2.61 (Max allowed is 3.0)
Open Space	6%
Amenities	Large Park with playstructure, shade ramada, benches and pathways.

- A. City Council Public Hearing Date:** December 7, 2022 (Continued from November 16, 2022.)
- B. Project Description:** Single Family residential subdivision located at 0 Cemetery Road, Middleton (tax parcel no., R38207). Project contains 105 single family home lots and 17 common lots on 40.28 acres of vacant land. Amenities include park with play structure, lawn, benches and shade structure with picnic tables.
- C. Application Requests:** Applications include (1) annexation and rezone to R-3 (Single Family Residential), (2) Preliminary Plat, and (3) Development Agreement.
- D. Current Zoning & Property Condition:** The property is currently vacant land in Canyon County zoned "Agricultural." It is contiguous to Middleton City limits and is surrounded on three sides by City property zoned R-3. To the north is County property zoned Agricultural.



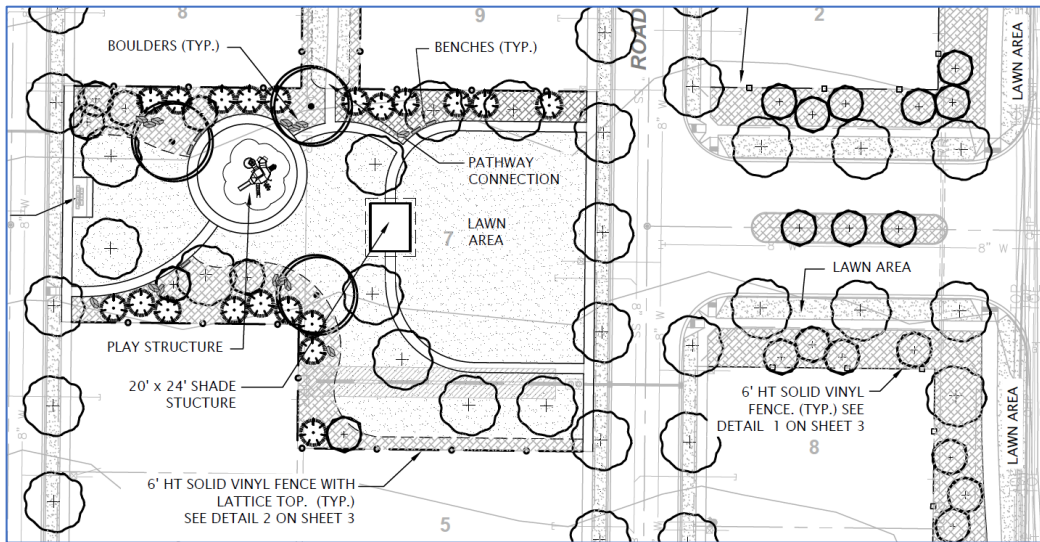
- E. City Services:** Water and sewer are immediately adjacent to the project site. Sewer will connect through the sewer line installed in W. Highlands Phase 17. Water will connect to a large water main located in Cemetery Road.



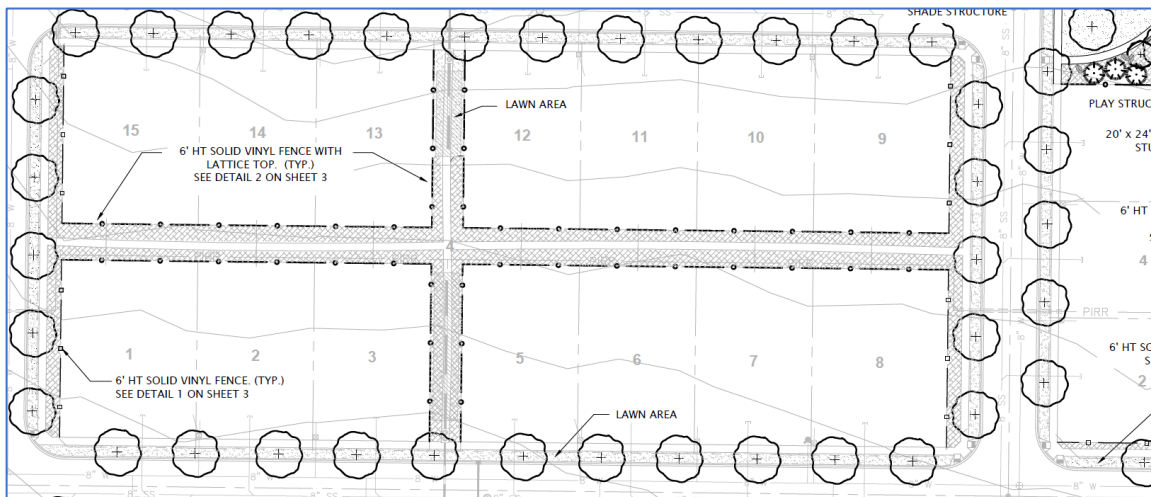


Sewer and water capacity are already included in the City's current capacity analyses. Capacity will not be formally reserved until the construction drawings are approved by City Engineer.

- F. Pathway, Open Space & Amenities:** Developer has provided open space in the form of a large landscaped common lot with play structure, benches, pathways, and shade structure with picnic tables.



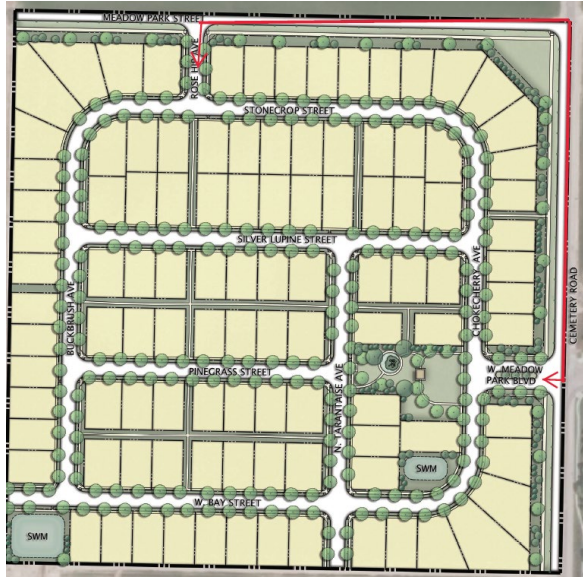
There are also wide landscaped areas with pathways that separate the rear yards of the interior homes. The common lots create a spacious landscaped buffer between homes while serving as connecting pathways.



These landscape pathways combined with the landscaped park area equal 6% open space. The City Code requires only a minimum of 5% open space.

## G. Traffic, Access & Streets:

The primary access for the subdivision will be off of Cemetery Road and the future half road portion of Meadow Park Street. Stub roads to the east and south will connect into Phases 17 and 19 of the W. Highlands Subdivision.



City streets are primarily built by Developers. The Black Powder Developer, at its own cost, will be required to construct the frontage improvements along Cemetery Road and construct the brand new ½ road section of future Meadow Park Street.

The intersection of Cemetery Road and State Hwy 44 is of concern to City Engineer and City Staff. Additionally, A review of Black Powder's Traffic Study reveals that in 2023 the Cemetery Road/Hwy 44 intersection will operate at a Level of Service "D" ("LOS" D) at peak hours due to a difficult left turn lane. (TIS page 8 & 27, attached hereto as Exhibit "A".) City Code requires intersections in Middleton to operate at a LOS "C", so this intersection will shortly be below minimum standards. To fix the "deficiency" at Cemetery Road and SH44, the Traffic Study recommended a traffic signal.

It should be noted that the Traffic Study also states that all other intersections studied operate at acceptable standards in 2023 and will require no mitigation.

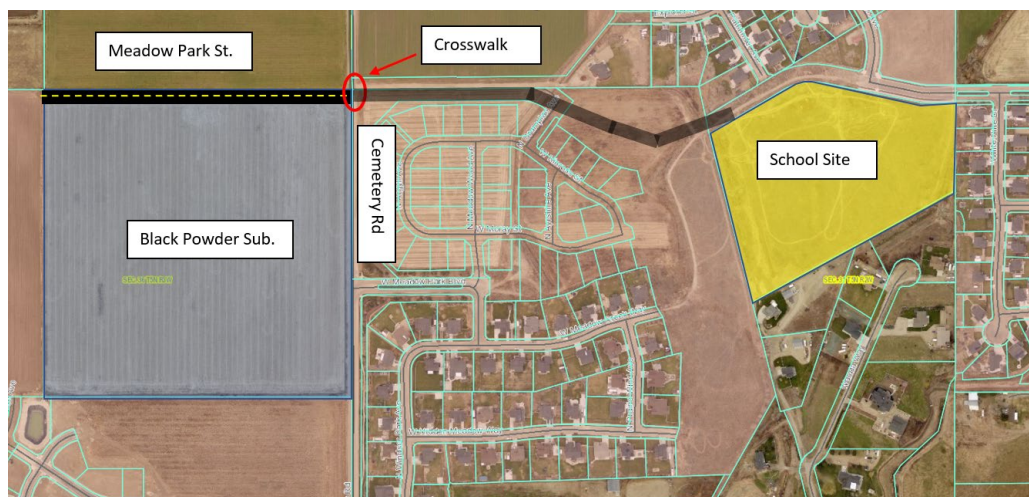
Developer will be contributing, in part, to the improvements of the Cemetery & SH44 intersection via its Mid-Star Transportation Impact Fee payments. The fees to be collected will total approximately \$530,250.00, and the fees will be used for improvements at Cemetery Road and other surrounding intersections and roadways.

However, recognizing that SH44 & Cemetery Road pose a particular problem, Developer has agreed to pay an additional \$150,000.00 as a “Voluntary Payment” over and above Mid-Star fees. Although the transportation money can be used for any transportation project the City chooses, the monies will be justified by, and intended for, improvements to the intersection of SH44 & Cemetery Road. (See Proposed Development Agreement provision 3.4.)

City Council has recently commissioned a traffic study to consider the intersections along the SH44 corridor. The Traffic Study project is a collaboration between Middleton and ITD to determine if interim traffic signals are warranted at various SH44 intersections. The Report should be completed in January or February 2023. If it reveals that the Cemetery Road and SH44 intersection requires an “interim traffic signal”, Developer’s \$150,000 payment will assist in getting that signal constructed.

To further help with road improvements, Developer has also agreed to pay all Mid-Star impact fees “up front” at each Phase’s final plat rather than piecemeal at building permit. The goal is to accelerate the funding of the Mid-Star program. Paragraph 3.5 of the proposed Development Agreement provides that City has the option to request the fees be paid up front at each phase, but the City does not have to require the accelerated payments. (City may not want an up-front payment if Mid-Star fees will increase at a subsequent point in time.)

Finally, the portion of Meadow Park Street to be constructed by Developer will lead to the future Meadow Park School Site. As a condition of approval, Developer should be required to stripe a crosswalk across Cemetery Road to ensure safe pedestrian access for kids walking to school.



- H. Schools:** The Black Powder Subdivision is in the Middleton School District #134. Elementary school children will attend the Heights Elementary School. Superintendent Marc Gee reported recently that Heights Elementary is at 134% capacity. However, he also noted that the school district is working on some solutions, including year round

school, revisions of elementary school boundaries, use of portables, and requesting new bonds.

The City has no jurisdiction or control over the School system. Instead, the City can only support and collaborate with the School officials to try to address the over-crowding problem experienced by the schools. State law does not allow impact fees to fund new schools. In Idaho, new schools are generally built with bonds passed by the residents. In effect, the residents decide whether new schools will be built or not be built. Residents in Middleton and the surrounding County have not approved bonds for new schools for a number of years.

- I. **Annexation and Rezone:** Applicants are requesting that the 40 acre project parcel be annexed into the City of Middleton with a zone change from County "Agricultural" to City R-3 (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, schools and roadway system. (Idaho Code 50-222.)

An application for rezone requires two findings before City Council can approve the applications: (1) the rezone will not adversely affect the City's delivery of services and (2) the rezone request is not in conflict with the Comprehensive Plan. (Idaho Code 67-6511)

#### **FINDINGS:**

*With respect to annexation, Planning Staff finds that Applicant's project meets the criteria of contiguity and requirement that city sewer and water be adjacent and readily available. Middleton Rural Fire Department has not submitted comments or otherwise noted a problem with the subdivision. Heights Elementary is at 134% capacity, but the school district is actively working on solutions to relieve the overcrowding.*

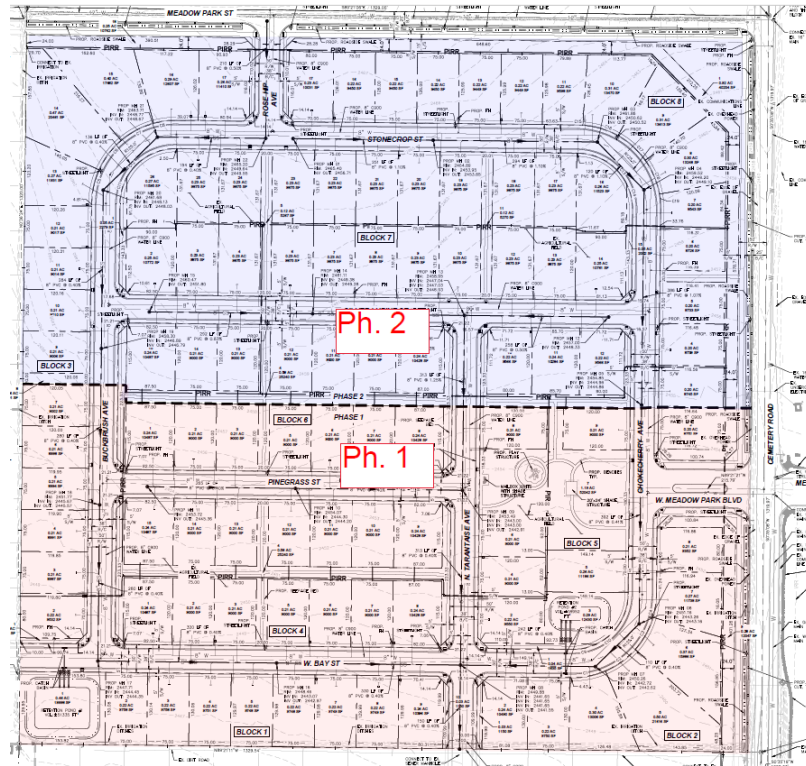
*As to traffic, the Traffic Study for the project noted that all intersections operate at acceptable levels except Cemetery & Hwy 44 at peak hours. An interim traffic signal would rectify the deficiency, and Developer has agreed to pay an additional \$150,000 towards the construction of that signal.*

*As to the rezone application, Planning Staff finds that the rezone will not adversely affect the City's ability to deliver sewer and water. Traffic and schools are impacted, however, as noted above.*

*Finally, as will be shown below, Applicant's project both complies with and conflicts with the City's Comprehensive Plan.*



- J. Preliminary Plat Application:** The preliminary plat shows two phases of development. It also complies with all the standards and dimensions set forth in City Code for the R-3 Zone. Applicant is not requesting any variances from Codes and Standards. Finally, the preliminary plat provides less density than permitted in City Code. Black Powder's density is 2.61 homes per gross acre, which is less than the 3 homes per gross acre allowed by code. (MCC 5-4-1, Table 2).



[A full copy of the proposed preliminary plat is attached as Exhibit "B".]

*Findings:*

*Planning Staff finds that the preliminary plat complies with all dimensional standards and requirements of the Middleton City Code, ISPWC, Supplement to ISPWC, and Idaho State Code.*

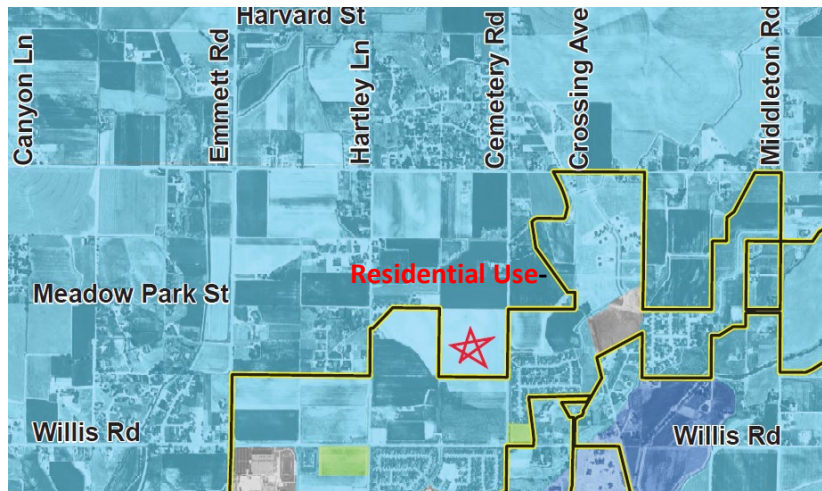
- K. Development Agreement:** Applications for annexation/rezone are generally accompanied by an application for Development Agreement ("DA"). Attached as Exhibit "C" is the proposed Development Agreement. The Developer has used the City's DA form, and only Article III regarding conditions of development has been altered to add the following conditions:

1. Developer will develop the community generally consistent with the concept plans attached to the DA. (Para. 3.3)
2. Developer to stripe a crosswalk at the intersection of Cemetery Road and Meadow Park Street to provide safe access across Cemetery Road for pedestrians walking to the future Meadow Park School site to the east. (Para. 3.2)
3. Developer to provide the following amenities: playground structure, benches, and shade structure with at least two picnic tables. (Para. 3.7)
4. Developer shall improve the half road sections of Cemetery Road and Meadow Park Street at its own cost. (Para. 3.1)
5. Developer to make a voluntary payment of \$150,000 to City in light of the fact that the intersection of Cemetery Road & Hwy 44 will operate at a Level of Service "D" which is below City's minimum standard of LOS "C". Although City has the right to use the monies on other transportation projects, the payment is justified by the "deficiency" at Cemetery Road & Hwy 44 and is intended to assist in the construction of an interim traffic signal at that intersection. (Para. 3.4)
6. Developers will have two years to obtain final plat approval for Phase 1. Developer may seek two 1-year extensions, thereby allowing a total of 4 years to bring Phase 1 to final plat approval. After Phase 1 final plat, Developer will have two years to obtain final plat approval for Phase 2. This time period may also be extended with two 1-year extensions. Failure to meet these time-lines may result in the City terminating the DA and nullifying the preliminary plat. (Para. 3.6)
7. Developer to construct interior local roads in conformance with the road section shown on the preliminary plat. City local section contains 5' wide attached sidewalk. Developer will construct roadway with a 5' wide detached sidewalk with 7' mow strip in between curb and sidewalk. Developer, HOA, or individual lot owners to maintain mow strip even though it will be located in the City's right of way. (Para. 3.8)

[A full copy of the proposed Development Agreement is attached to this Staff Report as Exhibit "C".]

- L. Comprehensive Plan & Land Use Map:** Applicant's project complies with the Comprehensive Plan's Future Land Use Map because the proposed R-3 zone correlates with the "Residential Use" shown on the Future Land Use Map.





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

- a. *Goal 4*: The project will establish a good quality of life with development that pays through impact fees and property taxes for the public services it receives. Quality lots for residential use also increase the quality of life and general welfare of the City as a whole.
- b. *Goal 6*: Water, sewer, and adjacent road systems have been expanded in an orderly manner consistent with population growth.
- c. *Goal 10*: Project provides playgrounds, pathways and outdoor recreational activities.
- d. *Goal 11*: The housing type matches the residents' lifestyle in the area the project is located.

Applicant's project, however, is in conflict with Goals #1 and 3 to provide safe roads and adequate delivery of services, including adequate schools. However, contributing additional monies for the improvements to Cemetery Road & Hwy 44 mitigate this conflict to some degree.

- M. Comments Received from Surrounding Landowners:** City has received comments from the public. See comments attached as Exhibit "D".
- N. Comments from Agencies:** City received comments from COMPASS, ITD and Middleton School District #134. (Copies of Agency comments are attached as Exhibit "E".)
- O. Comments from City Engineer and Planning Staff:** Copies of engineering and planning staff comments are attached as Exhibit "F".

**P. Application Information:** Applicants are Adam Capell/Toll Brothers and Nicolette Womack/Kimley-Horn Engineering (3103 W. Sheryl Dr. #100, Meridian 83642 / 950 W. Bannock Street, #1100, Boise, 83702). Application was accepted on 1/25/2022.

<b>Q. Notices &amp; Neighborhood Meeting:</b>	<b>Dates:</b>
Newspaper Notification	11/1/2022
Radius notice to adjacent landowners	11/1/2022
Circulation to Agencies	10/31/2022
Sign Posting property	10/31/2022
Neighborhood Meeting	1/10/2022

**R. Applicable Codes and Standards:**

Idaho Standards for Public Works Construction, the Middleton Supplement to the Idaho Standards for Public Works Construction, Middleton City Code 1-14, 1-16, 5-1, 5-2, 5-3, and 5-4, and Idaho Code Title 67, Chapter 65 & Title 50, Chapters 2 and 13.

**S. P&Z Recommendation:**

The Black Powder applications were considered by the P&Z Commission in a public hearing held on September 12, 2022. The Commission recommended denial of all three applications based upon the fact that the governing bodies will not have sufficient information to make a decision on denial or approval until after the City's traffic study of Hwy 44 is completed in early 2023. A copy of the Findings of Facts, Conclusions of Law & Recommendation is attached as Exhibit "G".

**T. Conclusions and Recommended Conditions of Approval:**

City Council is tasked with denying or approving Developer's applications for annexation/rezone, development agreement, and preliminary plat, with or without conditions of approval.

Per State law and the Middleton City Code, any decision and final order must be based upon findings of facts and conclusions of law.

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

**As to Conclusions of Law**, Planning Staff finds that the City Council has the authority to hear these applications and to approve or deny the applications, with or without conditions. 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 City Code to be considered in making a decision and order on the applications.

**Annexation/Rezone, Preliminary Plat, and Development Agreement Applications:**

If the Council is inclined to recommend approval of the annexation/rezone, preliminary plat, and development agreement applications, then Planning Staff recommends that any approval be subject to the following conditions:

1. Developer to stripe a crosswalk at the intersection of Meadow Park Street and Cemetery Road to ensure a safe route for children to walk east to the future Meadow Park School site.
2. City municipal domestic water, fire flow and sanitary sewer services are to be extended to serve the subdivision.
3. Developer to comply with all terms of the Development Agreement approved for the project.
4. Developer to install landscaping and all amenities in compliance with the Landscape Plan and preliminary plat submitted with the application.
5. Developer shall create a plan for operation, maintenance and repair of stormwater facilities (O&M Plan) contained on the project site. The O&M Plan shall be recorded with the CC&Rs. Developer and/or HOA must maintain and operate the subdivision stormwater facilities in compliance with the O&M Plan.
6. Developer to construct, at its own cost, all frontage improvements on Cemetery Road and Meadow Park Street adjacent to the project parcel.
7. ~~Owner/Developer to pay all City required pro-rata share traffic fees as required by MCC 5-4-3 prior to approval of final plat for Phase 1.~~ **Owner Developer to pay \$150,000.00 Voluntary Payment for transportation improvements. Payment is justified by deficiency at the intersection of SH44 & Cemetery Road. The Voluntary Payment is generally intended to contribute to SH44 & Cemetery improvements, but the payment can be used on other transportation projects at City discretion.**
8. All City Engineer review comments are to be completed and approved.
9. All Planner comments are to be completed and approved.
10. All requirements of the Middleton Rural Fire District are to be completed and approved.
11. Sewer and water capacity to be reserved at the time City approves the construction drawings for the project.

Finally, if the Council denies the applications, then the Council should state what the applicant could do, if anything, to obtain approval. (Middleton City Code 1-14(E)(8)).

## EXHIBIT "A"

Pages 8 & 27, Black Powder Traffic Study

## EXECUTIVE SUMMARY

Kittelson & Associates, Inc. (Kittelson) has prepared a Transportation Impact Study (TIS) for the Black Powder Subdivision in Middleton, Idaho. The Black Powder Subdivision project is located to the west of Cemetery Road between Willis Road and Purple Sage Road within the City of Middleton area of influence. The proposed site is currently vacant farmland and consists of approximately 37.3 acres. The development plan proposes to build approximately 108 single-family homes. The anticipated buildout year is 2023.

The TIS resulted in the following findings and recommendations.

## FINDINGS

### Existing Conditions

- All study intersections were found to operate at acceptable operating standards during the existing weekday AM and PM.

### Year 2023 Background Traffic Conditions

- Year 2023 background traffic volumes were forecast using a 4% compounded annual growth rate on Cemetery Road and an 8% compounded annual growth rate on all other roadways.
- All study intersections were found to operate at acceptable operating standards during the 2023 background weekday AM and PM except for:
  - **SH 44 / Cemetery Road**
    - The southbound left-turn is projected to operate at LOS D during the AM and PM peak hours, but under capacity.
- Mitigations required for intersections to meet operational standards under 2023 background traffic conditions are required for:
  - **SH 44 / Cemetery Road (AM & PM peak hours)**
    - No mitigation is recommended since all movements are under capacity and meet ITD operational standards. However, the LOS can be mitigated to within the City of Middleton standards of LOS C through signaling the intersection.

**Table 4. Year 2023 Background Intersection Operations - Weekday AM and PM Peak Hour**

No.	Intersection	Intersection Control	Intersection AM/PM			Lane Group	AM Peak Hour			PM Peak Hour		
			V/C	LOS	Delay		V/C	LOS	Delay	V/C	LOS	Delay
1	Purple Sage Rd / Duff Ln	TWSC	-	-	-	EBLTR	0.01	A	7.5	0.02	A	7.4
						WBLTR	0.02	A	7.6	0.01	A	7.7
						NBLTR	0.11	B	11.6	0.20	B	12.3
						SBLTR	0.08	B	10.8	0.07	B	11.7
2	SH 44 / Cemetery Rd	TWSC	-	-	-	EBL	0.06	A	9.6	0.12	B	10.5
						SBL	0.40	<b>D</b>	<b>26.1</b>	0.35	<b>D</b>	<b>28.5</b>
						SBR	0.39	C	18.1	0.18	C	16.6

V/C ratio is defined as vehicle-to-capacity ratio, which calculates the number of vehicles divided by the capacity of the roadway/intersection during the peak 15 minutes of the peak hour. LOS stand for Level of Service. Delay is reported in seconds per vehicle. Cells in the table above that are **bolded**, *italicized*, and **highlighted** indicate an intersection and/or lane group operating below the jurisdictional standards.

As shown in Table 4, all study intersections are projected to operate at acceptable operating standards during the year 2023 background weekday AM and PM peak hours, except for:

- **SH 44 / Cemetery Road (AM & PM peak hour):** The southbound left-turn lane group is projected to operate at LOS D in both the AM and PM peak hours.

## EXHIBIT "B"

Proposed Preliminary Plat



BLACK POWDER  
PRELIMINARY PLAT

A PORTION OF THE SE 1/4 OF SECTION 36,  
TOWNSHIP 5 NORTH, RANGE 3 WEST  
CANYON COUNTY, IDAHO

OWNER/DEVELOPER

TOLL BROTHERS  
3103 W. SHERYL DR., SUITE 100  
MERIDIAN, ID 83642  
TELEPHONE: (208) 424-0020  
CONTACT: ADAM CAPELL

CIVIL ENGINEER/  
LAND PLANNER

KIMLEY-HORN AND ASSOCIATES, INC.  
950 BANNOCK STREET  
SUITE 1100  
BOISE, IDAHO 83702  
PHONE: (208) 297-2885  
CONTACT: BRANDON MCDUGALD, PE

LAND SURVEYOR

LAND SOLUTIONS  
231 E. 5TH ST. SUITE A  
MERIDIAN, ID 83642  
PHONE: (208) 288-2040  
CONTACT: CLINT HANSEN, PLS

LEGEND

- PROPOSED CL/SECTION LINE
- PROPERTY BOUNDARY
- ROAD RIGHT OF WAY
- PROPOSED LOT LINES
- EASEMENT
- PROPOSED SURVEY MARKER
- EXISTING CONTOURS
- PROPOSED 8" SEWER
- PROPOSED 8" WATER (4' COVER)
- PROPOSED 16" WATER (4' COVER)
- PROPOSED CURB AND GUTTER
- PROPOSED STORM DRAIN MANHOLE
- PROPOSED CATCH BASIN
- PROPOSED SAND & GREASE TRAP
- PROPOSED SEWER MANHOLE
- PROPOSED FIRE HYDRANT
- PROPOSED GATE VALVE
- PROPOSED PEDESTRIAN RAMP
- PROP. STORM DRAIN
- EXISTING LOT LINE
- EXISTING IRRIGATION
- EXISTING WATER MAIN
- EXISTING EDGE OF PAVEMENT
- EXISTING EDGE OF GRAVEL
- EXISTING OVERHEAD POWER
- EXISTING GAS LINE
- EXISTING TELECOM
- EXISTING CURB AND GUTTER
- EXISTING STREET LIGHT
- EXISTING FIRE HYDRANT
- EXISTING GATE VALVE
- EXISTING POWER POLE
- EXISTING SIGN
- EXISTING IRRIGATION STRUCTURE
- EXISTING CONCRETE DITCH
- EXISTING DITCH FLOW LINE

PRELIMINARY PLAT DATA

PROPOSED ZONING: R-3

GROSS ACREAGE: 40.28 AC  
NET ACREAGE: 36.95 AC  
COMMON AREA: 4.83 AC. (12.0%)

TOTAL NUMBER OF LOTS: 122  
RESIDENTIAL LOTS: 105  
COMMON AREA LOTS: 17  
RESIDENTIAL GROSS DENSITY (DU/AC): 2.61 DU/AC  
PHASE 1 TOTAL LOTS: 58  
PHASE 2 TOTAL LOTS: 64  
PHASE 2 RESIDENTIAL LOTS: 56  
MINIMUM BUILDABLE LOT AREA: 8,881 SF  
MAXIMUM BUILDABLE LOT AREA: 21,802 SF  
AVERAGE BUILDABLE LOT AREA: 10,243 SF

PRELIMINARY PLAT NOTES

- BUILDING SETBACKS AND DIMENSIONAL STANDARDS IN THIS SUBDIVISION SHALL BE IN COMPLIANCE WITH THE APPLICABLE ZONING REGULATIONS OF THE CITY OF MIDDLETON.
- DEVELOPMENT IN THIS SUBDIVISION SHALL BE IN COMPLIANCE WITH THE APPLICABLE ZONING REGULATIONS OF MIDDLETON IN EFFECT AT THE TIME OF ISSUANCE OF A BUILDING PERMIT.
- ALL LOT LINES COMMON TO PUBLIC STREETS ARE HEREBY DESIGNATED TO HAVE A TEN (10) FOOT PERMANENT EASEMENT FOR PUBLIC UTILITIES AND PRIVATE UTILITIES. PUBLIC UTILITIES MAY ONLY BE IN FRONT LOT EASEMENT. UNLESS OTHERWISE SHOWN AND DIMENSIONED, ALL LOTS ARE HEREBY DESIGNATED AS HAVING A PERMANENT EASEMENT FOR PUBLIC/PRIVATE UTILITIES, DRAINAGE, AND IRRIGATION OVER THE 5-FOOT ADJACENT TO ANY INTERIOR LOT LINE AND OVER 10-FOOT ADJACENT TO ANY REAR LOT LINE OR SUBDIVISION BOUNDARY.
- ANY RE-SUBDIVISION OF THIS PLAT SHALL COMPLY WITH THE APPLICABLE ZONING REGULATIONS IN EFFECT AT THE TIME OF THE RE-SUBDIVISION.
- SANITARY SEWER & WATER SYSTEMS SHALL BE PROVIDED IN ACCORDANCE WITH THE CITY OF MIDDLETON'S SUPPLEMENT TO THE ISPCW.
- FIBER CONDUIT SHALL BE INSTALLED PER CITY OF MIDDLETON'S REQUIREMENTS.
- STORMWATER INFRASTRUCTURE WILL BE CONSTRUCTED PER CITY OF MIDDLETON POLICY AND ALL STORMWATER IS MANAGED USING RETENTION FACILITIES WITH PRETREATMENT.
- THE HOMEOWNERS' ASSOCIATION (HOA) OWNS AND MANAGES THE COMMON AREAS, WHICH INCLUDE STORMWATER FACILITIES. A PLAN FOR OPERATION, MAINTENANCE, AND REPAIR OF STORMWATER FACILITIES (O&M PLAN) HAS BEEN PREPARED FOR ALL STORMWATER FACILITIES MAINTAINED BY THE HOA. THE O&M PLAN SHALL BE RECORDED WITH THE CC&RS. THE O&M PLAN SHALL BE USED FOR MAINTENANCE AND OPERATION OF THE STORMWATER FACILITIES.
- LOT 1 BLOCK 1 AND LOT 3 BLOCK 5 ARE STORM WATER MANAGEMENT AREAS OWNED AND MAINTAINED BY BLACK POWDER HOA. LOTS ARE SUBJECT TO A BLANKET STORMWATER MANAGEMENT AND CITY UTILITY EASEMENT.
- PROJECT DATUM: NAVD 88.
- THE SUBDIVISION WILL RECEIVE PRESSURE IRRIGATION FROM CE 18.1 OWNED AND MAINTAINED BY BLACK CANYON IRRIGATION DISTRICT THROUGH EXISTING WEST HIGHLANDS RANCH SUBDIVISION WHICH IS OWNED AND OPERATED BY TOLL BROTHERS INC. OR BY THE APPLICABLE HOME OWNERS ASSOCIATION FOR WEST HIGHLANDS RANCH. THE SYSTEM SHALL BE PROVIDED PER IDAHO CODE, SECTION 31-3805 AND THE OWNER SHALL COMPLY WITH THE IDAHO CODE 31-3805(b) AND ALL PROVISIONS THAT MAY APPLY TO IRRIGATION RIGHTS. LOTS WILL NOT BE SUBJECT TO THE ASSESSMENT AS FOUND IN IDAHO CODE 31-3805(b). PIPING SHALL BE PLACED ALONG REAR LOT LINES (TYPICAL) AND IRRIGATION SERVICES PROVIDED TO EACH LOT. THE PRESSURE IRRIGATION SYSTEM SHALL BE MAINTAINED AND OPERATED BY THE HOME OWNERS ASSOCIATION. UPDATED PUMP STATION CAPACITY CALCULATIONS WILL BE REQUIRED AS A CONDITION OF CONSTRUCTION PLAN SUBMITTAL.
- LANDSCAPED COMMON LOTS ARE LOCATED THROUGHOUT THE PROJECT. THESE COMMON LOTS ARE IDENTIFIED AS LOT 1, LOT 10, BLOCK 1, LOT 1, 9, BLOCK 2, LOTS 1, 8, 18, BLOCK 3, LOT 4, BLOCK 4, LOTS 1, 3, 7, BLOCK 5, LOT 4, BLOCK 6, LOTS 1, 5, 11, 15, BLOCK 7, AND LOT 1, BLOCK 8. THESE LOTS SHALL BE OWNED AND MAINTAINED BY THE HOMEOWNERS ASSOCIATION.
- ALL EXISTING WELLS SHALL BE ABANDONED PER IDWR REGULATIONS. ALL SEPTIC SYSTEMS SHALL BE COMPLETELY REMOVED AND THE AREA RECOMPACTED PER GEOTECHNICAL REPORT.
- THIS PROPERTY IS IN ZONE X OF THE FLOOD INSURANCE RATE MAP NO. 16027C0235F, COMMUNITY PANEL NO. 0235 WHICH BEARS AN EFFECTIVE DATE OF MAY 24, 2011 AND IS NOT IN A SPECIAL FLOOD HAZARD AREA.
- DEVELOPER TO STRIPE CROSSWALK AT INTERSECTION OF CEMETERY ROAD AND MEADOW PARK ST., TO PROVIDE SAFE ACCESS ACROSS CEMETERY ROAD TO THE FUTURE MEADOW PARK SCHOOL TO THE EAST.
- DOMESTIC AND FIRE PROTECTION WATER SHALL BE PROVIDED BY THE CITY OF MIDDLETON.
- SANITARY SEWER COLLECTION SHALL BE PROVIDED BY THE CITY OF MIDDLETON.
- IRRIGATION DITCHES THROUGH THE PROJECT SHALL BE PIPED WHERE THEY CROSS ROADWAYS WITH ALL STRUCTURES LOCATED BEYOND ANY PUBLIC RIGHT-OF-WAY. ALL IRRIGATION AND DRAINAGE FACILITIES SHALL BE LOCATED OUTSIDE OF THE RIGHT-OF-WAY.
- ALL POWER AND JOINT UTILITIES SHALL BE RELOCATED OUT OF THE RIGHT-OF-WAY.
- SEWER AND WATER CAPACITY SHALL BE RESERVED WHEN CITY APPROVES CONSTRUCTION DRAWINGS AND SUBJECT TO MUNICIPAL SYSTEM CAPACITY.
- THIS SUBDIVISION IS SUBJECT TO THE PROVISIONS OF DEVELOPMENT AGREEMENT RECORDED IN THE RECORDS OF CANYON COUNTY AS INSTRUMENT #\_\_\_\_\_.

BENCHMARK & BOUNDARY CERTIFICATION

TBM=5" REBAR WITH CONTROL CAP.  
N=751411.66  
E=2391698.67  
ELEVATION=2454.76'

SHEET INDEX

Sheet Number	Sheet Title
01	PRELIMINARY PLAT
02	PRELIMINARY PLAT DETAILS

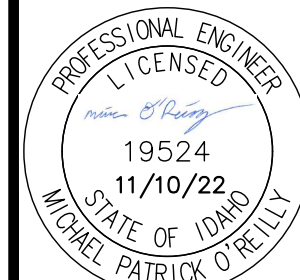


NOTE: THIS SEAL CERTIFIES  
THE PROJECT BOUNDARY AND  
BENCHMARK.

Kimley»Horn

SCALE (H) = 1" = 40'  
SCALE (V) = NONE  
DESIGNED BY: EGB  
DRAWN BY: SH  
CHECKED BY: MO  
DATE: 11/10/2022

BLACK POWDER  
PRELIMINARY PLAT  
MIDDLETON, IDAHO



PROJECT NO.  
093685005

DRAWING NAME  
5005-PP

01 OF 02





## EXHIBIT “C”

### Proposed Development Agreement

**After Recording, mail to**  
Middleton City Administrator  
1103 W. Main St.  
Middleton, ID 83644

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## **DEVELOPMENT AGREEMENT**

This Development Agreement ("**Agreement**") is entered into by and between the CITY OF MIDDLETON, a municipal corporation in the State of Idaho ("**City**"); and Toll Southwest LLC, a Delaware limited liability company, ("**Developer**").

### **RECITALS**

WHEREAS, Developer owns approximately forty (40) acres of real property located at 0 Cemetery Road (Tax Parcel No. R382070), Middleton, Canyon County, Idaho, legally described in Exhibit A attached hereto and incorporated herein by this reference ("**Property**"); and

WHEREAS, Developer intends to improve the Property with a multi-phase single-family residential development commonly known as the Black Powder Subdivision ("**Project**"), according to the Middleton City Code and the City's public works standards at the time(s) the Property is improved; and

WHEREAS, the City, pursuant to Idaho Code § 67-6511A, has the authority to annex and rezone the Property and to enter into a development agreement for the purpose of allowing, by agreement, a specific development to proceed in a specific area and for a specific purpose or use which is appropriate in the area, but for which all allowed uses for the requested zoning may not be appropriate pursuant to the Idaho Code and Middleton City Code.

### **AGREEMENT**

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in consideration of the recitals above, which are incorporated below, and the mutual covenants, representations, and performances herein bargained for, relied on, and expected, the parties agree as follows:

### **ARTICLE I LEGAL AUTHORITY**

This Agreement is made pursuant to and in accordance with the provisions of Idaho Code § 67-6511A and Middleton City Code, Title 5, Chapter 2.

## **ARTICLE II ANNEXATION AND ZONING ORDINANCE**

The City will adopt an ordinance to annex and rezone the Property from Canyon County Agricultural to City of Middleton R-3 (Single Family Residential). The Ordinance will become effective after it is approved, signed, published and recorded according to law, all of which actions the City will perform at the City's expense and with the Developer's cooperation.

## **ARTICLE III CONDITIONS OF DEVELOPMENT**

**3.1 Frontage Improvements.** Developer shall, at its own cost, improve the fifty foot (50') half-road section of the west half of Cemetery Road, a collector roadway, abutting the Property and dedicate the full fifty foot (50') right of way from centerline and improve the fifty foot (50') half-road section of the south half of Meadow Park Street, a collector roadway, and dedicate the full fifty foot (50') right of way from centerline all per City standards and codes.

**3.2 Cross-Walk.** Developer to stripe a crosswalk at the intersection of Cemetery Road and Meadow Park Street to provide safe access across Cemetery Road to the future Meadow Park School to the east of the Property.

**3.3 Concept Plan:** The conceptual site plan for the Project is attached hereto and incorporated herein as Exhibit B ("**Concept Plan**"). The Property shall be developed substantially consistent with the Concept Plan.

**3.4 Voluntary Roadway Payment:** Developer agrees to voluntarily pay to the City \$150,000.00 (the "**Voluntary Payment**") as a condition precedent to recording the first final plat for the Project. The Voluntary Payment may be used by the City for any transportation infrastructure project within the City at the City's sole discretion, but the expectation of the parties is that the Voluntary Payment will be used at the State Highway 44 and Cemetery Road intersection. Payment of the Voluntary Fee is in addition to fees that will be assessed against the Project under City Ordinance Number 591 (transportation impact fee), as may be amended.

**3.5 Prepayment of Transportation Impact Fees.** City may elect to have Developer prepay, as a condition to record a final plat within the Project, the City's then-current Idaho Development Impact Fee Act (I.C. § 67-8201-16) compliant transportation impact fee for the number of residential units in such final plat. If City does not make such election, Developer shall pay transportation impact fees at the time required by the City's then-current Idaho Development Impact Fee Act (I.C. § 67-8201-16) compliant transportation impact fee ordinance.

**3.6 Final Plat Requirements:** Notwithstanding the provisions in Article IV of this Agreement, Developer shall obtain City Engineer's signature on the Phase 1 final plat within two (2) years of the preliminary plat approval for the Project. Said signature shall be

processed expeditiously by City and in no event later than six (6) months from the time the Developer submits a "Completion Packet" with all items required by the Supplement to the ISPMC and final plat application. The six (6) month period will not be triggered if any information required by the Supplement is missing.

3.6.1 Developer may obtain a one (1) year extension to obtain the City Engineer's signature on Phase 1 final plat by submitting an administrative written request for extension to the Middleton Planning & Zoning Official before the expiration of the initial two-year period, which approval shall not be withheld if Developer submits its request in a timely manner. Thereafter, City Council may approve an additional time extension of one (1) year if developer submits a written request for extension prior to the expiration of the previous extension period. Neither approval shall require a public hearing before City Council.

3.6.2 If Developer does not obtain City Engineer's signature on the final plat for Phase 1 within the time frame noted above, City may, at its sole discretion, terminate this Agreement after complying with the Middleton City Code provisions for legal notice and public hearing. The zoning for the Property shall remain R-3. Additionally, the preliminary plat will automatically become null and void. City may seek termination of the Agreement at any time after the noted time periods expire, and City's delay in terminating this Agreement shall not constitute a waiver of its right to terminate.

3.6.3 After final plat approval for the first phase of the Project, Developer shall obtain City Engineer's signature on the final plat for each subsequent phase in two (2) year intervals (subject to the requirement by the City to process such applications expeditiously and in no event later than six months from the time Developer submits a fully completed "Completion Packet" application and final plat application). Developer may obtain two (2) additional one-year extensions using the procedure as outlined above in paragraph 3.5.1. If Developer fails to comply with said timelines, the portions of the preliminary plat yet to be final platted will become null and void. The zoning for the unplatted area shall remain R-3 (single family residential) zoning.

**3.7 Amenities:** Developer shall provide the following amenities for the Project: Playground structures, benches, and shade structure with at least two (2) picnic tables.

**3.8 Project Local Street Design:** City's Local Roadway Typical Section per the City's Supplement to ISPMC generally requires a fifty foot (50') right of way that contains five foot (5') attached sidewalks. Developer, however, shall construct local roadways within the Project and dedicate right-of-way pursuant to the street section shown in the approved preliminary plat, and as depicted on Exhibit C, attached hereto and incorporated herein, which street section contains a detached five foot (5') sidewalk with seven foot (7') shoulder or mow strip. Developer, or its assigns shall be responsible for maintaining and repairing the

seven foot (7') mow strip. The City shall not be responsible for the installation, repair, or maintenance of said mow strip, but City shall cooperate with Developer in all respects to permit access to and allow work for maintenance and repair within the mow strip.

#### **ARTICLE IV FAILURE TO COMPLY WITH AGREEMENT**

**4.1** Subject to the notice and opportunity to cure provisions herein, if the Developer fails to comply with any of the terms or conditions in this Agreement, then the portion(s) of this Agreement pertaining to the breach may be modified or terminated by the Middleton City Council, after complying with the notice and hearing requirement contained in Middleton City Code and Idaho Code.

4.1.1 If after a breach, the City Council determines that the terms of this Agreement applicable to the breach should be modified, the term(s) of this Agreement shall be amended and the Developer shall comply with the amended terms.

4.1.2 Any breach waived by the City shall apply solely to the breach waived and shall not bar any other rights or remedies of the City or apply to any subsequent breach of any such or other covenants and conditions.

**4.2** If after a breach, the zoning shall remain R-3 and Developer hereby consents to such zoning.

**4.3** Upon a breach of this Agreement, any of the parties in any court of competent jurisdiction, by action or proceeding at law or in equity, may secure the specific performance of the covenants and agreements herein contained, may be awarded damages for failure of performance of both, or may obtain rescission, disconnection, and damages for repudiation or material failure of performance.

**4.4** NOTICE OF FAILED PERFORMANCE. Upon any failure of any party to this Agreement to perform its obligations under this Agreement, the party claiming such failure shall notify, in writing, the party alleged to have failed to perform of the alleged failure and shall demand performance. No breach of this Agreement may be found to have occurred if performance has commenced to the satisfaction of the complaining party with thirty (30) days of the receipt of such notice.

#### **ARTICLE V GENERAL PROVISIONS**

**5.1** This Agreement contains the entire agreement of the parties respecting the Property and supersedes all prior discussions and written and verbal agreements between the parties respecting the Property.



**5.2** Any amendment or addendum to this Agreement shall be in writing and made only after the City has complied with the notice and hearing provisions of Idaho Code § 67-6509 and Middleton City Code Title 5, Chapter 2.

**5.3** Any notice that a party may desire or is required to give to another party must be in writing and shall be given by one of the following: personal delivery, by mailing the same registered or certified mail with a return receipt requested. Notice shall be deemed given upon delivery if by personal delivery, upon receipt in the United States mail if sent by mail. Notice shall be given to the parties at the following addresses or such other address and to such other persons as the parties may designate in writing after giving notice:

Middleton: City Clerk  
City of Middleton  
P.O. Box 487  
Middleton, Idaho 83644

Developer: Toll Southwest LLC  
3103 West Sheryl Drive, Suite 100  
Meridian, ID 83642  
Attn: Adam Capell

With Copy to: Toll Brothers  
725 W. Town and Country Road  
Orange, California 92868  
Attn: Legal Department

**5.4** If either party shall fail to perform under this Agreement and said failure is cured with the assistance of an attorney for the other party, as a part of curing said failure, the reasonable attorneys' fees incurred by the other party shall be reimbursed to the other party upon demand. In the event a suit or action is filed by either party against the other to interpret or enforce this Agreement, the nonprevailing party to such litigation agrees to pay to the prevailing party all costs and expenses, including reasonable attorneys' fees incurred therein, including the same with respect to an appeal.

**5.5** This Agreement shall be effective after being fully executed and recorded in the real property records of Canyon County. This Agreement shall be executed only upon its approval by the City Council. After its execution, the Agreement shall be recorded in the office of the County Recorder at the expense of the City.

**5.6** Each commitment and restriction described in this Agreement shall be a burden on the Property and run with the land and shall be appurtenant to and for the benefit of the Property.

**5.6.1** This Agreement shall be binding on the City and Developer, and their respective heirs, administrators, executors, agents, legal representatives, successors and assigns. Provided, however, that if all or any portion of the Property is divided, then each owner of a legal lot shall only be responsible for

duties and obligations or breaches as to their respective portion of the Property.

5.6.2 The new owner of the Property or any portion thereof (including, without limitation, any owner who acquires its interest by foreclosure, trustee's sale or otherwise) shall be liable for all commitments and other obligations arising under this Agreement with respect only to such owner's portion of the Property.

**5.7** The Property that is the subject of this Agreement is located in Canyon County, Idaho and the terms of this Agreement shall be construed according to the laws of the State of Idaho in effect at this time this Agreement is executed. Any action brought in connection with this Agreement shall be brought in a court of competent jurisdiction located in Canyon County, Idaho.

**5.8** If any term, provision, commitment or restriction of this Agreement or the application thereof to any party or circumstance shall to any extent be held invalid or unenforceable, the remainder of this instrument shall remain in full force and effect.

**5.9** Time is of the essence for performance of each obligation in this Agreement.

*[Signatures on following pages]*



IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be executed, on the day and year first above written.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2022 and effective upon annexation and rezoning of the Property.

**CITY OF MIDDLETON**

**ATTEST**

By: \_\_\_\_\_  
Steven J. Rule, Mayor

By: \_\_\_\_\_  
Becky Crofts, City Clerk

State of IDAHO        )  
                              ss.  
County of Canyon    )

I, a notary public, do hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, 2022, personally appeared before me Steven J. Rule, who declared that he is the Mayor of the City of Middleton, Idaho and signed this Development Agreement as Mayor of the City of Middleton.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

State of Idaho            )  
                                  ss.  
County of \_\_\_\_\_)

**DEVELOPER**

By: \_\_\_\_\_  
Its: \_\_\_\_\_

I, a notary public, do hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, 2022, personally appeared before me \_\_\_\_\_ who declared that he/she signed this Development Agreement in the capacity of \_\_\_\_\_ for Toll Southwest, LLC.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

**EXHIBIT "A"**

**Legal Description of Property**

[see following two (2) pages]

**Legal Description**  
**Black Powder Subdivision – Preliminary Plat**

A parcel being the NE ¼ of the SE ¼ of Section 36, Township 5 North, Range 3 West, Boise Meridian, City of Middleton, Canyon County, Idaho, and more particularly described as follows:

**BEGINNING** at a Brass Cap monument marking the northeast corner of said NE ¼ of the SE ¼, Section 36;

Thence along the easterly boundary of said NE ¼ of the SE ¼ S 0°35'08" W a distance of 1319.97 feet to an Aluminum Cap monument marking the southeast corner of said NE ¼ of the SE ¼;

Thence along the southerly boundary of said NE ¼ of the SE ¼ N 89°21'11" W a distance of 1329.54 feet to an Aluminum Cap monument marking the southwest corner of said NE ¼ of the SE ¼;

Thence along the westerly boundary of said NE ¼ of the SE ¼ N 0°36'24" E a distance of 1320.00 feet to a Brass Cap monument marking the northwest corner of said NE ¼ of the SE ¼;

Thence along the northerly boundary of said NE ¼ of the SE ¼ S 89°21'06" E a distance of 1329.05 feet to the **POINT OF BEGINNING**.

This parcel contains 40.28 acres and is subject to any easements existing or in use.

Clinton W. Hansen, PLS  
Land Solutions, PC  
November 3, 2021

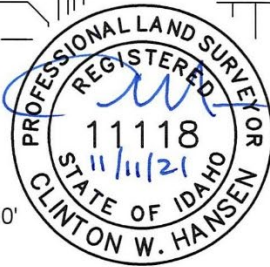
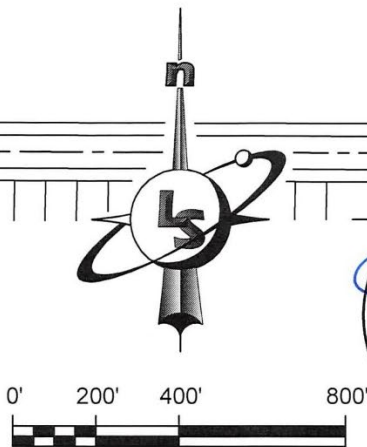
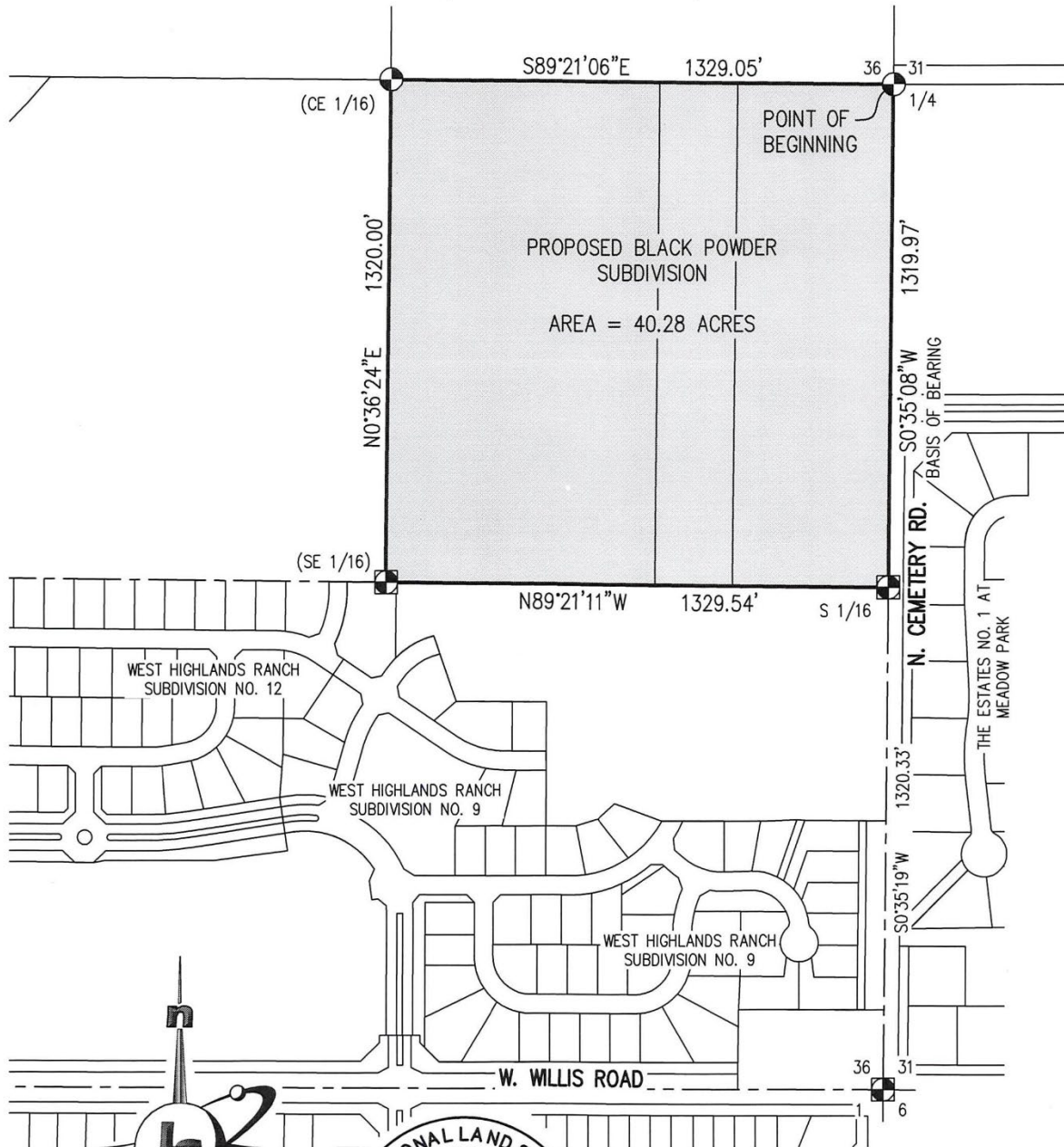


Black Powder Subdivision  
Job No. 21-62  
Page 1 of 1



# BLACK POWDER SUBDIVISION - PRELIMINARY PLAT EXHIBIT

THE NE 1/4 OF THE SE 1/4 OF SECTION 36, T5N, R3W, BM, CITY OF  
MIDDLETON, CANYON COUNTY, IDAHO



**LandSolutions**  
Land Surveying and Consulting

231 E. 5TH ST., STE. A  
MERIDIAN, ID 83642  
(208) 288-2040 (208) 288-2557 fax  
www.landsolutions.biz

JOB NO. 21-62

**EXHIBIT “B”**

**Concept Plan**

[see following one (1) page]

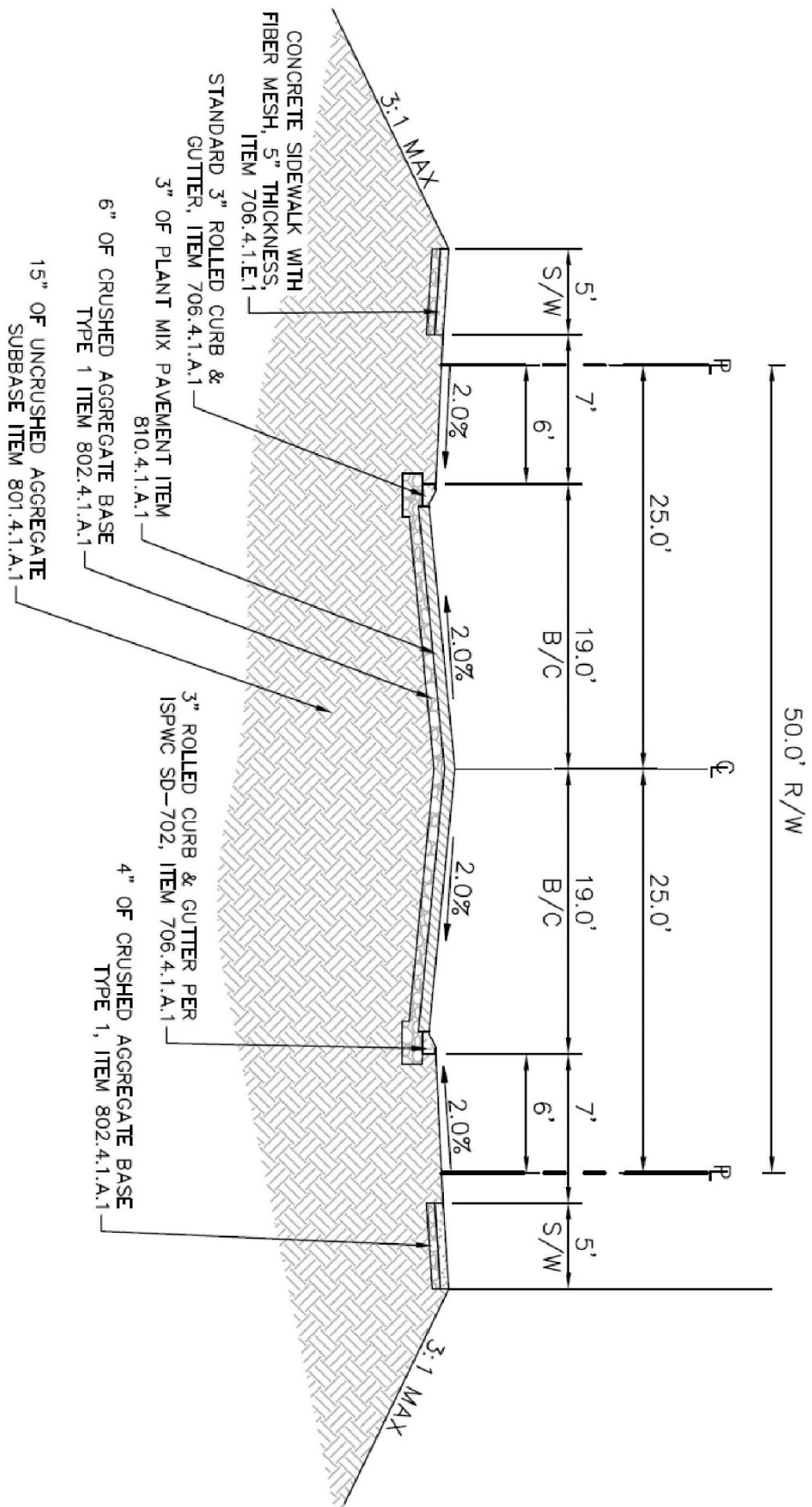


**EXHIBIT “C”**

**Project Local Street Design**

[see following one (1) page]

**CITY OF MIDDLETON**  
**LOCAL ROADWAY TYPICAL SECTION – 25 HALF WIDTH ROW**  
**MODIFIED FOR DETACHED SIDEWALK**





## EXHIBIT "D"

### Comments from Public

**From:** [Derek Towery](#)  
**To:** [Roberta Stewart](#)  
**Subject:** R38207 development  
**Date:** Saturday, November 5, 2022 5:25:54 PM

---

Good afternoon. I urge you to decline the proposal of 105 homes being built on this 40.28 acres. With the recent influx of residents to the community and the lack of infrastructure development, the acceptance of this would only hinder the current residents more. The schools are already overflowing, the roads are next to impossible to travel at points and we do not have the quantity of grocery stores available to support more residents.

Thank you!  
Derek Towery  
(702)336-7929

## EXHIBIT “E”

### Comments from Agencies

# Communities in Motion 2050 Development Review

The Community Planning Association of Southwest Idaho (COMPASS) is the metropolitan planning organization (MPO) for Ada and Canyon Counties. COMPASS has developed this review as a tool for local governments to evaluate whether land developments are consistent with the goals of *Communities in Motion 2050* (CIM 2050), the regional long-range transportation plan for Ada and Canyon Counties. This checklist is not intended to be prescriptive, but rather a guidance document based on CIM 2050 goals.

**Development Name:**

**CIM Vision Category:**

**New Jobs:**

**CIM Corridor:**

**New Households:**



## Safety

Level of Stress measures how safe and comfortable a bicyclist or pedestrian would feel on a corridor and considers multimodal infrastructure number of vehicle lanes, and travel speeds.

Pedestrian level of stress  
Bicycle level of stress



## Economic Vitality

These tools evaluate whether the location of the proposal supports economic vitality by growing near existing public services.

Activity Center Access  
Farmland Preservation  
Net Fiscal Impact  
Within CIM Forecast



## Convenience

Residents who live or work less than 1/2 mile from critical services have more transportation choices, especially for vulnerable populations.

Nearest bus stop  
Nearest public school  
Nearest public park



## Quality of Life

Checked boxes indicate that additional information is attached.

### Active Transportation

**Automobile Transportation**  
**Public Transportation**  
**Roadway Capacity**



**Improves performance**



**Does not improve or  
reduce performance**



**Reduces performance**

**Comments:**

**Communities in Motion 2050**  
[2020 Change in Motion Report](#)  
[Development Review Process](#)

Web: [www.compassidaho.org](http://www.compassidaho.org)  
Email: [info@compassidaho.org](mailto:info@compassidaho.org)



# ***Fiscal Impact Analysis Supplemental for the Development Review Checklist***

The purpose of the fiscal impact analysis is to better estimate expected revenues and costs to local governments as a result of new development so that the public, stakeholders, and the decision-makers can better manage growth. Capital and operating expenditures are determined by various factors that determine service and infrastructure needs, including persons per household, student generation rates, lot sizes, street frontages, vehicle trip and trip adjustment factors, average trip lengths, construction values, income, discretionary spending, and employment densities.

The COMPASS Development Checklist considers the level of fiscal benefits, how many public agencies benefit or are burdened by additional growth, and how long the proposal will take to achieve a fiscal break-even point, if at all. More information about the COMPASS Fiscal Impact Tool is available at: [www.compassidaho.org/prodserv/fiscalimpact.htm](http://www.compassidaho.org/prodserv/fiscalimpact.htm).

## **Overall Net Fiscal Impact**

### **Net Fiscal Impact, by Agency**

City

County

Highway District

School District

Break Even:



**From:** [Jennica Reynolds](#)  
**To:** [Roberta Stewart](#)  
**Subject:** FW: Notice - Black Powder PZ  
**Date:** Wednesday, August 24, 2022 8:47:56 AM  
**Attachments:** [image001.png](#)  
[image004.png](#)  
[image002.png](#)

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*Thanks so much,*

*Jennica Reynolds*

City of Middleton  
Deputy Clerk, Planning  
208-585-3133  
[jreynolds@middletoncity.com](mailto:jreynolds@middletoncity.com)



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**From:** Vincent Trimboli <[Vincent.Trimboli@itd.idaho.gov](mailto:Vincent.Trimboli@itd.idaho.gov)>  
**Sent:** Tuesday, August 23, 2022 8:48 PM  
**To:** Jennica Reynolds <[jreynolds@middletoncity.com](mailto:jreynolds@middletoncity.com)>  
**Subject:** RE: Notice - Black Powder PZ

ITD does not anticipate any significant traffic impacts to the State Highway system from this development and has no objections to the proposal development.

Vincent Trimboli  
District 3, Planning and Development Services Manager  
Office: 208.334.8817  
Cell: 208.949.3712



---

**From:** Jennica Reynolds <[jreynolds@middletoncity.com](mailto:jreynolds@middletoncity.com)>  
**Sent:** Tuesday, August 23, 2022 11:24 AM

**To:** Alicia Krantz - MSD <[akrantz@msd134.org](mailto:akrantz@msd134.org)>; Canyon County Paramedics <[MStowell@ccparamedics.com](mailto:MStowell@ccparamedics.com)>; Chris Grooms <[cgrooms@middletoncity.com](mailto:cgrooms@middletoncity.com)>; COMPASS <[gis@compassidaho.org](mailto:gis@compassidaho.org)>; Deann Gerthung ([deann.gerthung@canyoncounty.id.gov](mailto:deann.gerthung@canyoncounty.id.gov)) <[deann.gerthung@canyoncounty.id.gov](mailto:deann.gerthung@canyoncounty.id.gov)>; Idaho Power - Mike Ybarguen <[MYbarguen@idahopower.com](mailto:MYbarguen@idahopower.com)>; D3 Development Services <[D3Development.Services@itd.idaho.gov](mailto:D3Development.Services@itd.idaho.gov)>; Julie Collette <[gmpredjulia@gmail.com](mailto:gmpredjulia@gmail.com)>; Lacey Grooms - MSD <[lgrooms@msd134.org](mailto:lgrooms@msd134.org)>; Marc Gee - MSD <[mgee@msd134.org](mailto:mgee@msd134.org)>; Middleton/Star Fire <[permits@starfirerescue.org](mailto:permits@starfirerescue.org)>; Monica Taylor - Intermountain Gass <[monica.taylor@intgas.com](mailto:monica.taylor@intgas.com)>; Southwest District Health - Mitch Kiester <[Mitch.Kiester@phd3.idaho.gov](mailto:Mitch.Kiester@phd3.idaho.gov)>; [vislas@starfirerescue.org](mailto:vislas@starfirerescue.org); [westerninfo@idwr.idaho.gov](mailto:westerninfo@idwr.idaho.gov); [zoninginfo@canyoncounty.id.gov](mailto:zoninginfo@canyoncounty.id.gov); [carl@blackcanyonirrigation.com](mailto:carl@blackcanyonirrigation.com); Don Popoff- BCID <[dpopoff@rh2.com](mailto:dpopoff@rh2.com)>; Chris Hopper <[chopper@canyonhd4.org](mailto:chopper@canyonhd4.org)>; Lenny Riccio <[lrccio@canyonhd4.org](mailto:lrccio@canyonhd4.org)>; Sparklight - Franchise <[cheryl.goettsche@sparklight.biz](mailto:cheryl.goettsche@sparklight.biz)>  
**Cc:** Roberta Stewart <[rstewart@middletoncity.com](mailto:rstewart@middletoncity.com)>  
**Subject:** Notice - Black Powder PZ

**CAUTION:** This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

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Please see the attached notice for Public Hearing.

**Thanks so much,**  
*Jennica Reynolds*

City of Middleton  
Deputy Clerk, Planning  
208-585-3133  
[jreynolds@middletoncity.com](mailto:jreynolds@middletoncity.com)



**From:** [Niki Benyakhlef](#)  
**To:** [Roberta Stewart](#)  
**Subject:** RE: Notice - Black Powder Subdivision - Middleton City Council  
**Date:** Monday, November 14, 2022 12:10:45 PM  
**Attachments:** [image003.png](#)  
[image005.png](#)

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Good Afternoon, Roberta –

ITD has no comments or concerns to make at this time. This may change once development and site plans are finalized and disbursed.

Thank you,



**Niki Benyakhlef**  
*Development Services Coordinator*

**District 3 Development Services**  
O: 208.334.8337  
C: 208.296.9750  
Email: [niki.benyakhlef@itd.idaho.gov](mailto:niki.benyakhlef@itd.idaho.gov)  
Website: [itd.idaho.gov](http://itd.idaho.gov)

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**From:** Roberta Stewart <[rstewart@middletoncity.com](mailto:rstewart@middletoncity.com)>  
**Sent:** Monday, October 31, 2022 3:43 PM  
**To:** Jennica Reynolds <[jreynolds@middletoncity.com](mailto:jreynolds@middletoncity.com)>; Alicia Krantz - MSD <[akrantz@msd134.org](mailto:akrantz@msd134.org)>; Canyon County Paramedics <[MStowell@ccparamedics.com](mailto:MStowell@ccparamedics.com)>; Chris Grooms <[cgrooms@middletoncity.com](mailto:cgrooms@middletoncity.com)>; COMPASS <[gis@compassidaho.org](mailto:gis@compassidaho.org)>; Deann Gerthung <[deann.gerthung@canyoncounty.id.gov](mailto:deann.gerthung@canyoncounty.id.gov)> <[deann.gerthung@canyoncounty.id.gov](mailto:deann.gerthung@canyoncounty.id.gov)>; Idaho Power - Mike Ybarguen <[MYbarguen@idahopower.com](mailto:MYbarguen@idahopower.com)>; D3 Development Services <[D3Development.Services@itd.idaho.gov](mailto:D3Development.Services@itd.idaho.gov)>; Julie Collette <[gmpredj Julie@gmail.com](mailto:gmpredj Julie@gmail.com)>; Lacey Grooms - MSD <[lgrooms@msd134.org](mailto:lgrooms@msd134.org)>; Marc Gee - MSD <[mgee@msd134.org](mailto:mgee@msd134.org)>; Middleton/Star Fire <[permits@starfirerescue.org](mailto:permits@starfirerescue.org)>; Monica Taylor - Intermountain Gass <[monica.taylor@intgas.com](mailto:monica.taylor@intgas.com)>; Southwest District Health - Mitch Kiester <[Mitch.Kiester@phd3.idaho.gov](mailto:Mitch.Kiester@phd3.idaho.gov)>; [vislas@starfirerescue.org](mailto:vislas@starfirerescue.org); [westerninfo@idwr.idaho.gov](mailto:westerninfo@idwr.idaho.gov); [zoninginfo@canyoncounty.id.gov](mailto:zoninginfo@canyoncounty.id.gov); [carl@blackcanyonirrigation.com](mailto:carl@blackcanyonirrigation.com); Don Popoff- BCID <[dpopoff@rh2.com](mailto:dpopoff@rh2.com)>; Chris Hopper <[chopper@canyonhd4.org](mailto:chopper@canyonhd4.org)>; Lenny Riccio <[Iriccio@canyonhd4.org](mailto:Iriccio@canyonhd4.org)>; Sparklight - Franchise <[cheryl.goettsche@sparklight.biz](mailto:cheryl.goettsche@sparklight.biz)>  
**Subject:** RE: Notice - Black Powder Subdivision - Middleton City Council

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Hello all: please find attached the notice for the Black Powder Subdivision public hearing. Thanks,

*Roberta L. Stewart*

PLANNING & ZONING OFFICIAL

City of Middleton, Planning & Zoning

1103 W. Main St.

P.O. Box 487

Middleton, ID 83644

Tele - (208) 585-3133

Fax – (208) 585-9601

[rstewart@middletoncity.com](mailto:rstewart@middletoncity.com)

[www.middleton.id.gov](http://www.middleton.id.gov)



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**From:** Jennica Reynolds <[jreynolds@middletoncity.com](mailto:jreynolds@middletoncity.com)>

**Sent:** Tuesday, August 23, 2022 11:24 AM

**To:** Alicia Krantz - MSD <[akrantz@msd134.org](mailto:akrantz@msd134.org)>; Canyon County Paramedics <[MStowell@ccparamedics.com](mailto:MStowell@ccparamedics.com)>; Chris Grooms <[cgrooms@middletoncity.com](mailto:cgrooms@middletoncity.com)>; COMPASS <[gis@compassidaho.org](mailto:gis@compassidaho.org)>; Deann Gerthung ([deann.gerthung@canyoncounty.id.gov](mailto:deann.gerthung@canyoncounty.id.gov)) <[deann.gerthung@canyoncounty.id.gov](mailto:deann.gerthung@canyoncounty.id.gov)>; Idaho Power - Mike Ybarguen <[MYbarguen@idahopower.com](mailto:MYbarguen@idahopower.com)>; ITD - Development <[D3Development.services@ITD.idaho.gov](mailto:D3Development.services@ITD.idaho.gov)>; Julie Collette <[gmpirdjulie@gmail.com](mailto:gmpirdjulie@gmail.com)>; Lacey Grooms - MSD <[lgrooms@msd134.org](mailto:lgrooms@msd134.org)>; Marc Gee - MSD <[mgee@msd134.org](mailto:mgee@msd134.org)>; Middleton/Star Fire <[permits@starfirerescue.org](mailto:permits@starfirerescue.org)>; Monica Taylor - Intermountain Gass <[monica.taylor@intgas.com](mailto:monica.taylor@intgas.com)>; Southwest District Health - Mitch Kiester <[Mitch.Kiester@phd3.idaho.gov](mailto:Mitch.Kiester@phd3.idaho.gov)>; [vislas@starfirerescue.org](mailto:vislas@starfirerescue.org); [westerninfo@idwr.idaho.gov](mailto:westerninfo@idwr.idaho.gov); [zoninginfo@canyoncounty.id.gov](mailto:zoninginfo@canyoncounty.id.gov); [carl@blackcanyonirrigation.com](mailto:carl@blackcanyonirrigation.com); Don Popoff- BCID <[dpopoff@rh2.com](mailto:dpopoff@rh2.com)>; Chris Hopper <[chopper@canyonhd4.org](mailto:chopper@canyonhd4.org)>; Lenny Riccio <[lriccio@canyonhd4.org](mailto:lriccio@canyonhd4.org)>; Sparklight - Franchise <[cheryl.goettsche@sparklight.biz](mailto:cheryl.goettsche@sparklight.biz)>

**Cc:** Roberta Stewart <[rstewart@middletoncity.com](mailto:rstewart@middletoncity.com)>

**Subject:** Notice - Black Powder PZ

Please see the attached notice for Public Hearing.

**Thanks so much,**  
*Jennica Reynolds*  
City of Middleton  
Deputy Clerk, Planning

208-585-3133

[jreynolds@middletoncity.com](mailto:jreynolds@middletoncity.com)



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**Marc Gee**  
Superintendent

**Lisa Pennington**  
Assistant Superintendent

# Middleton School District #134

*Every Child Learning Every Day*

## Middleton School District #134

### City of Middleton--Public Hearing Notice Response

#### General Response for All New Development

Middleton School District is currently experiencing significant growth in its student population. **As it is now, we have 2 of our 3 elementary schools over capacity. Heights Elementary is 134% of capacity with three portable units. Mill Creek Elementary is 123% of capacity with 2 portables (soon to be 4).** We are nearing capacity, but have not superseded at this point, at our high school (94%) and middle school (85%). As it stands now there is a need for additional facilities in our school district, primarily at the elementary grades. However, we have significant concerns of the continued growth and our ability to meet the future facility needs of our district at the secondary level (Middleton Middle School and Middleton High School).

We have completed a demographic study performed for our school district boundaries and the data suggests that for every new home we could expect between 0.5 and 0.7 (with an average of .559)\*\* students to come to our school. That is the factor/rate we use to make our projection of student impact for each development.

We encourage the city to be judicious in their approval process recognizing that each new development brings new students to our school and will increase the burden placed on taxpayers within the school district. New facilities, primarily an elementary school, are needed now, but additional students continue to increase that need.

*\*\*Please note a change in this rate from previous correspondence*

#### Black Powder Subdivision

Students living in the subdivision as planned would be in the attendance zones for Middleton Heights Elementary school, our most overcrowded school (though borders may change in order to equalize student loads at all elementary schools). With 105 total lots, we would anticipate, upon completion, an increase of 53-74 students between Heights Elementary, Middleton Middle School, and Middleton High School. **To put this in perspective, that equates to approximately 2-3 classrooms of students (ave. 25 students).** Every classroom at Heights Elementary right now has an initial cost of \$125,000 just for the portable unit that would be required to house the students. That does not include the costs of other materials required (ie desks, chairs, curricular materials, etc).

In addition to the increase in student population, based on the location, bussing would be provided for middle school students, though that may change based on the design of the plat and its connection to a safe walking route to the other schools. Having not seen the design of the subdivision we would recommend the developers meet with the school district officials and transportation officials to ensure adequate access for bussing to the area.

5 South Viking Avenue  
Middleton, ID 83644  
(208) 585-3027  
msd134.org

## EXHIBIT “F”

Comments from City Engineer & Planner



June 29, 2022

TO: Roberta Stewart, Planning and Zoning Official

Cc: Brandon McDougald

FROM: Civil Dynamics PC City Engineer  
By: Amy Woodruff, PE,

**RE: Black Powder Subdivision**

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Thank you for the opportunity to review the above referenced preliminary plat submittal. Every effort was made to identify all the review comments, but additional comments may come up as the application goes forward.

1. Update topography and include the existing utilities in Cemetery Road.
2. Boundary needs stamped by PLS.
3. MCC 5-4-4.2.f. Add benchmark information.
4. MCC 5-4-4.2.j. Please add existing zoning information for adjacent parcels.
5. MCC 5-4-4.2.k. Please add the lot count table, per phase, to 01.
6. MCC 5-4-10-2.J Correct street names.
7. Reduce the plat to no more than two (2) sheets.
  - a. The engineering and topography need transferred to preliminary plat. Do not submit separately.
  - b. A 70 scale is not approvable. 80 isn't desired but can work if no other options.
8. Note 2 - Identify easements required by code. Public utilities only in front lot easement.
9. Note 6. All stormwater is managed using retention facilities with pretreatment. Subsurface is not approvable. Submit preliminary stormwater management report per code.
  - a. Use  $C = 0.60$  for front half of lots.  $C = 0.95$  for rights of way.
  - b. Size facilities for 100yr/1 hour event.
10. Note 8. Include IC 313805(b). Identify irrigation district and whether lots will be subject to assessment.
11. Note 13. Delete.
12. Add note: Power and utilities to be relocated out of right of way.
13. Add note: All irrigation to be relocated out of rights of way.
14. MCC 5-4-4.3.a.b.c. Please plan to connect to the existing water main at the intersection of Cemetery and Meadow Park and extend a new 12" main in Meadow Park to the west boundary.



15. Extend sewer north in Road D using minimum grade from the connecting manhole in W Highlands 17. Sewer in Meadow Park is not required at this time. We are continuing to analyze sewer in the area.
16. What is happening with irrigation? Identify point of diversion and pump station location. If connecting to W Highlands, add note clarifying and add "updated pump station capacity calculations will be required as a condition of construction plan submittal".
17. Show streetlight location including Cemetery and Meadow Park.
18. Label centerline radii.
19. The single ADA ramps are not approvable at primary intersections.
20. The City of Middleton Supplemental Specification has guidance for required rights of way dedication at section line/quarter section line road intersections. Please review the proposed right of way dedication for Meadow Park and Cemetery intersection and revise.
21. Typical street sections:
  - a. Revisit Meadow Park dimensioning.
  - b. Please add structural section components per Middleton Supplemental. The City does not use alternative structural sections.
22. Show traffic buffer on Meadow Park typical section.
23. Show traffic buffer, per code, on Cemetery typical section.
24. Identify stormwater management for both Meadow Park and Cemetery.
25. Dimension rights of way sheet 01.
26. Add pedestrian connection to W Highlands Subdivision near the common lot at southwest corner of the project in the form of a pathway along the west lot line of Lot 1. Even if code required width cannot be met, a 5ft pedestrian connection can suffice.



November 2, 2022

TO: Roberta Stewart, Planning and Zoning Official

Cc: Brandon McDougald

FROM: Civil Dynamics PC City Engineer  
By: Amy Woodruff, PE,

**RE: Black Powder Subdivision**

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Thank you for the opportunity to review the above referenced preliminary plat re-submittal. Follow up comments are summarized below:

1. MCC 5-4-4.2.j. Please add existing zoning information for adjacent parcel to the north.
2. Note 8. Include IC 313805(b). **Identify whether lots will be subject to assessment.** Please add to the note.
3. Show traffic buffer on Meadow Park typical section. The buffer – berm and fence.
4. Show traffic buffer, per code, on Cemetery typical section or seek a variance.
5. Show Cemetery pavement replaced to centerline.
6. Please change W Meadow Park Boulevard to Hidden Estates Street. The City changed the street name on the east side of Cemetery.
7. Please add note: Lot 1 Block 1 and Lot 3 Block 5 are storm water management areas owned and maintained by Black Powder HOA. Lots are subject to a blanket stormwater management and City utility easement.
8. Note 19. Add to end of sentence: and subject to municipal system capacity.
9. Identify location of Black Canyon Irrigation Easement.





# CITY OF MIDDLETON

P.O. Box 487 | 1103 W Main Street, Middleton, ID 83644  
Tele (208) 585-3133 | Fax (208) 585-9601  
citmid@middletonidaho.us | www.middleton.id.gov

## Black Powder Subdivision – Planner Comments (Review of Preliminary Plat dated 1/24/2022)

### need to get traffic berm shown correctly for meadow park too

June 1, 2022

1. We need 2 sets of updated labels. On January 19, 2022, the City Council approved Ordinance 659, which expanded the area for “landowner notice”. Prior to 1/19/2022 it was 300’ from perimeter boundary. As of 1/19/2022, it is 500’ from perimeter boundary. Your application submittal date of 1/25/2022 is after the effective 1/19/2022 date.
2. Confirm that Road “H” will tie into revised W. Highlands #19 (W. Bay Street). Does not match the W. Highland’s pre-plat.
3. Add proper names to the streets and reserve them with Tony Almeida at Canyon County. Looks like Road H should be W. Bay Street to tie into W. Highlands #19. Road “I” should be N. Tarantaise Ave., to tie into W. Highlands Phase 17. Road “A” should be W. Meadow Park Blvd., to match the existing street across Cemetery Road. Create names for all the other alphabet streets.
4. Change W. Meadow Park Street on the northern boundary to just “Meadow Park Street”, not “W. Meadow Park Street”.
5. Reserve Subdivision name with Tony Almeida at Canyon County.
6. Add to Lot 7, Block 5 descriptive notes and/or icons showing the play structure, lawn area, and shade structure. Show benches too, please. Just transfer over what you show on landscape plan.
7. Remove your “Typical residential street section” and add in the Middleton local residential street section found in Appendix B to Middleton’s Supplement to ISPMC.
8. Remove your Meadow Park Street Section and ask City Engineer Amy Woodruff which section from the Middleton Supplement to ISPMC Appendix B should be inserted in its place. I suspect it will be the 3-lane urban roadway, but she may inform you that it is the 5 lane urban roadway.
9. Remove Page 2 Lot Area tables and add the square footage to each individual lot on page 1.
10. You can probably contain your existing conditions page 4 with the engineering pages 5 and 6 to condense the pre-plat a little more. Amy Woodruff may require even more condensing.
11. Add dimension to traffic buffer lots L9/B2, L1/B8 and L18/B3. Per 5-4-10-2, the common lot/traffic buffer must be 24’ wide. It does not look like these common lots are more than 21’ wide.
12. Add number of lots by phase to “Preliminary Plat Data” on page 1.
13. Show mailbox clusters on pre-plat. Currently only shown on landscape plan.
14. Blend Note 9 about common lots with Note 12. Identify all common lots by lot and block, then note that they are actually “common lots”, then state that they are owned by HOA. If some of the lots you identify in Note 12 are not common lots (like a ditch lot...etc) then identify the nature of the lot. Also, on Note 12, correct mis-numbered common lot, Lot 17/Block 3. It should be Lot 18, Block 3, not Lot 17, Block 3.
15. Add note: *“Developer to stripe crosswalk at intersection of Cemetery Road and Meadow Park St., to provide safe access across Cemetery Road to the future Meadow Park School to the east.”*

16. Change Note 1 to state: *"Building setbacks and dimensional standards in this subdivision shall be in compliance with the City of Middleton standards at time of building permit issuance."*
17. Remove Note 13 right to farm. Does not apply in City limits.
18. Add note: *"Domestic and fire protection water shall be provided by the City of Middleton."*
19. Add Note: *"Sanitary sewer collection shall be provided by the City of Middleton"*
20. Add note: *"Irrigation ditches through the project shall be piped where they cross roadways with all structures located beyond any public right-of-way. All irrigation and drainage facilities shall be located outside of the right-of-way."*
21. Add note: *"Sewer and water capacity shall be reserved when City approves Construction Drawings."*
22. Delete Note 2 about Middleton generic easements and state instead the easement language directly below in items 23 and 24.
23. Add note: *"All lots have a permanent easement for public/private utilities and pedestrian walkways over the 10 feet adjacent to any public right-of-way. The easement shall not preclude the construction of hard-surfaced driveways and walkways to the lot."*
24. Add note: *"Unless otherwise shown and dimensioned, all lots are hereby designated as having a permanent easement for public/private utilities, drainage, and irrigation over the 5-foot adjacent to any interior lot line and over 10-feet adjacent to any rear lot line or subdivision boundary."*
25. Add note: *"This subdivision is subject to the provisions of Development Agreement recorded in the records of Canyon County as Instrument #\_\_\_\_\_."*
26. Update Traffic Study with pro-rata/proportionate share calculations as indicated in my additional email dated 6/1/2022.

*Roberta L. Stewart*

Middleton Planning & Zoning Director



# CITY OF MIDDLETON

P.O. Box 487 | 1103 W Main Street, Middleton, ID 83644  
Tele (208) 585-3133 | Fax (208) 585-9601  
citmid@middletonidaho.us | www.middleton.id.gov

## Black Powder Subdivision – Planner Comments (Review of Revised Preliminary Plat received 8/22/2022)

August 30, 2022

1. The roadway section for Meadow Park Street should match the road section shown on page 2 for Cemetery Road. Both, per code, must include the 24' wide traffic buffer with 3' berm and 6' fence. Please swap out the erroneous section shown for Meadow Park.
2. Reserve all street names and subdivision names with Tony Almeida at Canyon County.
3. Change Note 1 to state: *"Building setbacks and dimensional standards in this subdivision shall be in compliance with the City of Middleton standards at time of building permit issuance."* (You are missing the last 6 words: "at time of building permit issuance")
4. Add note: *"The Homeowners' Association (HOA) owns and manages the common areas, which include stormwater facilities. A plan for operation, maintenance, and repair of stormwater facilities (O&M Plan) has been prepared for all stormwater facilities maintained by the HOA. The O&M Plan shall be recorded with the CC&Rs. The O&M Plan shall be used for maintenance and operation of the stormwater facilities."*

*Roberta L. Stewart*

Middleton Planning & Zoning Director

## EXHIBIT “G”

P&Z Commission Recommendation

## EXHIBIT “B”



## **Middleton Planning & Zoning Commission**

### **Findings of Facts, Conclusions of Law & Recommendation**

**In the Matter of the applications of Adam Capell/Toll Brothers and Nicolette Womack/Kimley-Horn Engineering for annexation/rezone, development agreement, and preliminary plat with respect to the Black Powder Subdivision located at 0 Cemetery Road, Middleton, Idaho (Tax Parcel No. R382070):**

#### **A. Findings of Fact:**

##### **1. Hearing Facts:**

- i. Applicants' Traffic Study determined that the intersection of Cemetery Road and Hwy 44 is rated at a Level of Service "D" at peak hours, which is below the City's minimum standard of LOS "C".
- ii. Middleton City Council recently approved a scope of work for Precision Engineering to complete a traffic study of the Hwy 44 corridor through the City of Middleton.
- iii. The Traffic Study will be completed in early 2023 and will set forth potential interim traffic controls at various Hwy 44 intersections, including the intersection with Cemetery Road, that should improve traffic congestion along the highway corridor.
- iv. Additional hearing facts: See Staff Report for the hearing date of September 12, 2022, which Report is attached hereto as Exhibit "A" and incorporated herein by this reference.

2. Process Facts: See Staff Report for the hearing date of September 12, 2022, Exhibit "A".
3. Application and Property Facts: See Staff Report for the hearing date of September 12, 2022, Exhibit "A".
4. Required Findings per Idaho State Statute Title 67, Chapter 65, Idaho Standards for Public Works Construction and Middleton Supplement thereto, Middleton City Code 1-14, 1-15, 5-1, 5-2, 5-3 & 5-4 and Title 50, Chapters 2 and 13: See Staff Report for the hearing date of September 12, 2022, Exhibit "A".

#### **B. Conclusions of Law:**

1. Once the Precision Engineering Traffic Study is completed in early 2023, the governing bodies will be in a better position to consider traffic issues involving Applicants' applications and will be in a better position to make decisions on approval or denial of Applicants' applications.
2. That the City of Middleton has exercised the powers conferred upon it by the "Local

Land Use Planning Act of 1975,” codified at Chapter 65, Title 67, Idaho Code (I.C. §67-6503).


3. That due consideration has been given to the comments received from the governmental subdivisions providing services in the City of Middleton planning jurisdiction, comments received from individuals of the public, and comments from City Planning Staff and City Engineer.
4. That notice of the application and public hearing was given according to law.
5. That the Planning and Zoning Commission's public hearing was conducted according to law, and the City has kept a record of the application and related documents.
6. That codes and standards pertinent to the application are the Idaho Standards for Public Works Construction, the Middleton Supplement to the Idaho Standards for Public Works Construction, Middleton City Code 1-14, 1-15, 5-1, 5-2, 5-3, and 5-4 and Idaho Code Title 67, Chapter 65 and Idaho Code Title 50, chapters 2 and 13.

**C. Decision & Recommendation:**

Pursuant to the Planning & Zoning Commission's authority as provided in Middleton City Code 1-5-5, and based upon the above Findings of Facts and Conclusions of Law, it is hereby recommended that:

1. City Council deny the application of Adam Capell/Toll Brothers and Nicolette Womack/Kimley-Horn for annexation/rezone based upon the fact that City Council is lacking necessary information that will be provided by the Precision Engineering Traffic Study to be completed in early 2023.
2. City Council deny the application of Adam Capell/Toll Brothers and Nicolette Womack/Kimley-Horn for development agreement based upon the fact that City Council is lacking necessary information that will be provided by the Precision Engineering Traffic Study to be completed in early 2023.
3. City Council deny the application of Adam Capell/Toll Brothers and Nicolette Womack/Kimley-Horn for preliminary plat based upon the fact that City Council is lacking necessary information that will be provided by the Precision Engineering Traffic Study to be completed in early 2023.

WRITTEN RECOMMENDATION APPROVED ON: 19 Oct., 2022.

  
Ray Waltemate, Chairman  
Planning and Zoning Commission



Attest:



Roberta Stewart  
Planning and Zoning Official

***Please take notice that pursuant to MCC 1-14-2(E)(10), applicant shall have 14 days after a signed final decision to request reconsideration by the final-decision maker. Such request must identify specific deficiencies in the final decision. Failure to request reconsideration may invalidate a subsequent judicial appeal. Additionally, pursuant to Idaho State Statute 67-6521, any affected person aggrieved by a final decision may, within 28 days after all remedies have been exhausted under local ordinances, seek judicial review as provided in chapter 52, Title 67.***

***Additionally, please take notice that Applicant has a right to request a regulatory taking analysis pursuant to Idaho State Statute section 67-8003.***