

Middleton City Council

Findings of Facts, Conclusions of Law, and Decision & Order



In the Matter of the Application of Patrick Connor/Hubble Homes for preliminary plat and Development Agreement Termination with respect to the Waterford East Subdivision located at 0 Foothills Road (Tax Parcel Nos. R338540 & R33854011):

A. Findings of Fact:

1. Hearing Facts: See Staff Report for the hearing date of November 16, 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 November 16, 2022, Exhibit "A".
3. Application and Property Facts: See Staff Report for the hearing date of November 16, 2022, Exhibit "A".
4. Required Findings per Middleton City Code 1-14-2(E)(7), Idaho State Statue Title 67, Chapter 65, Idaho Standards for Public Works Construction and Middleton Supplement thereto, Middleton City Code 1-14, 1-15, 5-1, 5-3, and 5-4: See Staff Report for the hearing date of November 16, 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 the City has kept a record of the application and related documents.
5. That codes and standards applicable 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 Secs., 67-6503, 67-6513, 67-6511, and 50-1301 through 50-1329.
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

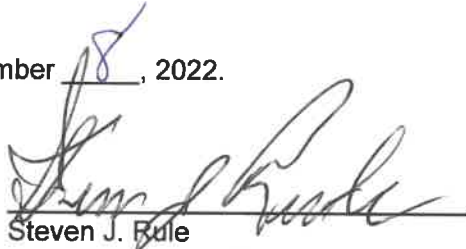
Report for the hearing date of November 16, 2022, Exhibit "A".

C. Decision and Order:

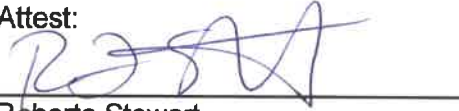
Pursuant to the City Council's authority as provided in Middleton City Code 1-5-2, and based upon the above Findings of Facts and Conclusions of Law, it is hereby **decided and ordered**:

1. That the application of Patrick Connor/Hubble Homes for Preliminary Plat with respect to the Waterford East Subdivision is approved subject to the conditions of approval set forth in the Staff Report for the November 16, 2022, public hearing.
2. That the application of Patrick Connor/Hubble Homes for Development Agreement Termination with respect to the Waterford East Subdivision is approved subject to the conditions of approval set forth in the Staff Report for the November 16, 2022, public hearing.

WRITTEN ORDER APPROVED ON: December 18, 2022.


Steven J. Rule
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.

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

EXHIBIT A

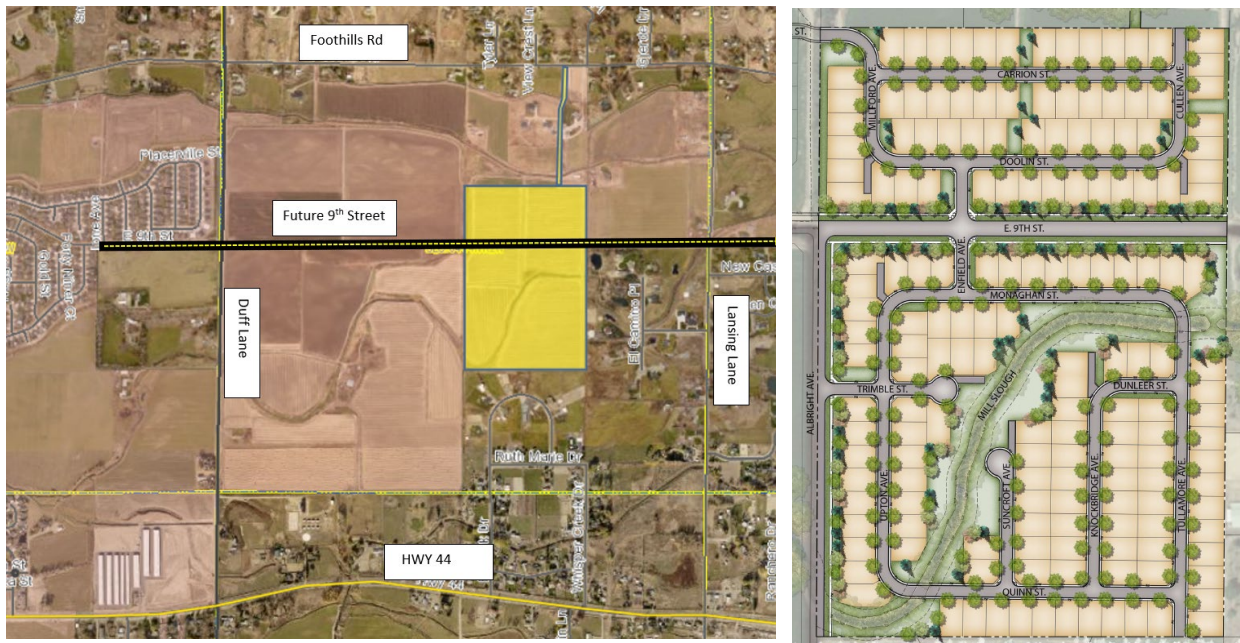


STAFF REVIEW AND REPORT

Middleton City Council

Waterford East Subdivision

Snapshot Summary



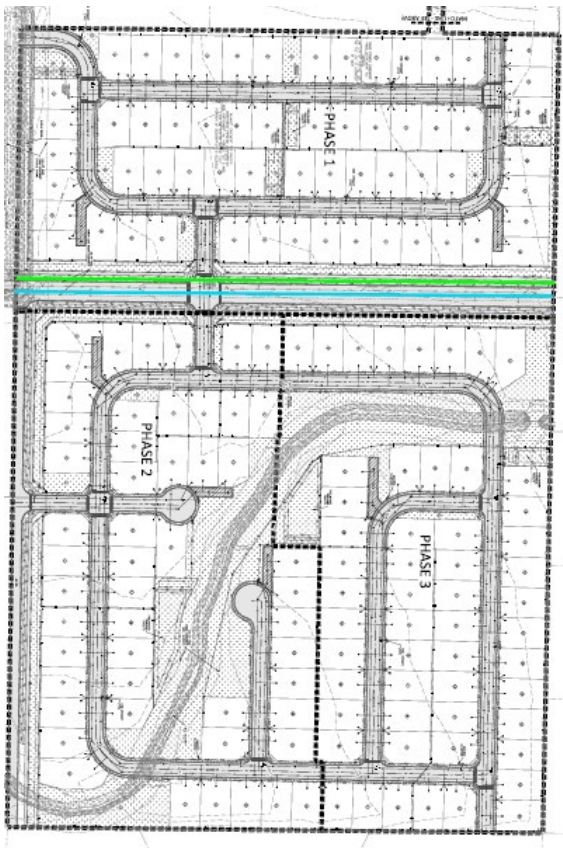
- A. **City Council Hearing Date:** November 2, 2022 (Continued to November 16, 2022).
- B. **Project Description:** Residential subdivision located south of Foothills Road and west of Lansing Lane (Tax Parcel Nos. R338540 & R33854011). Proposed subdivision includes 164 single family home lots, 14 common lots, and 6 private lane lots. Amenities include landscaped park area with play structure and paved pathway that spans along the Mill Slough.
- C. **Applications:** Applications by Patrick Connor/Hubble Homes for (1) preliminary plat and (2) development agreement termination/modification.
- D. **Current Zoning & Property Condition:** The property was annexed into City Limits prior to 2006. It was rezoned R-3 (Single Family Residential) in 2006, and a Development Agreement was executed for a large subdivision named "Paradise Valley." The Paradise Valley Subdivision was never developed, and the property has since been split into separate parcels and projects, including Waverly Park Subdivision and Waterford Subdivision, which were approved by the City of Middleton in 2021.

The project parcel is surrounded on the west and north side by City R-3 and R-2 zones. County parcels zoned “Agricultural” lie to the south and east of the project.

The project contains a “string” or “panhandle” component. It is used for access by the large residential and farming parcels to the north, so Developer will not be changing that portion of the project parcel. Access easements between private parties govern that “panhandle” piece of property.



- E. City Services:** City water and sewer are accessible to the project. They are already located in the right of way for “future” 9th Street.

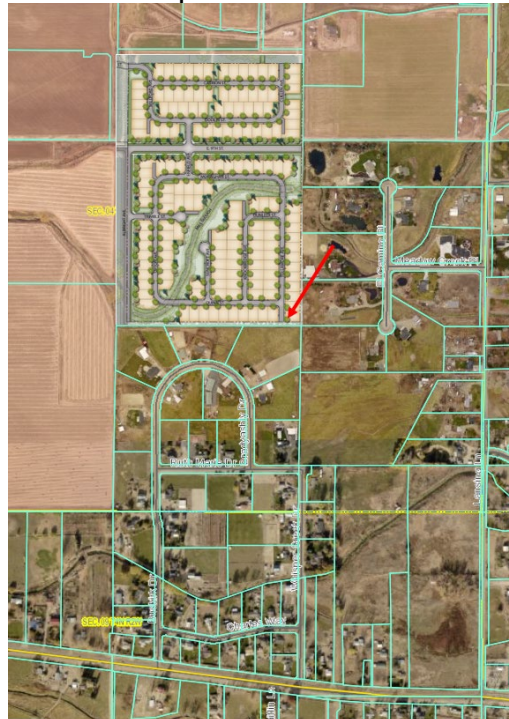


Of note, this developer has also contributed \$50,000 to the water booster station constructed in the Fountain Valley Subdivision to the west, thereby assisting in the orderly development of the City's infrastructure.

- F. Traffic, Access & Streets:** Access to the subdivision is primarily through Duff Lane and the 9th Street collector. There will also be access through a local road in the adjacent Waterford Subdivision.



City Engineer is also requiring that Tullamore Avenue be stubbed to the south to help with connectivity of future development to the south and east.



As part of its frontage responsibilities, Developer will construct, at its own cost, the 100' wide section of 9th Street that transects the property in addition to the half-road portion of Albright Avenue to the west.



Middleton requires Development “to pay for itself” so the taxpayers will not be burdened with the cost of developing roads and infrastructure. In light of this, Developer/builders will pay \$828,200.00 in Mid-Star Transportation Impact Fees by the time all 164 residential building permits are issued (\$164 x \$5050).

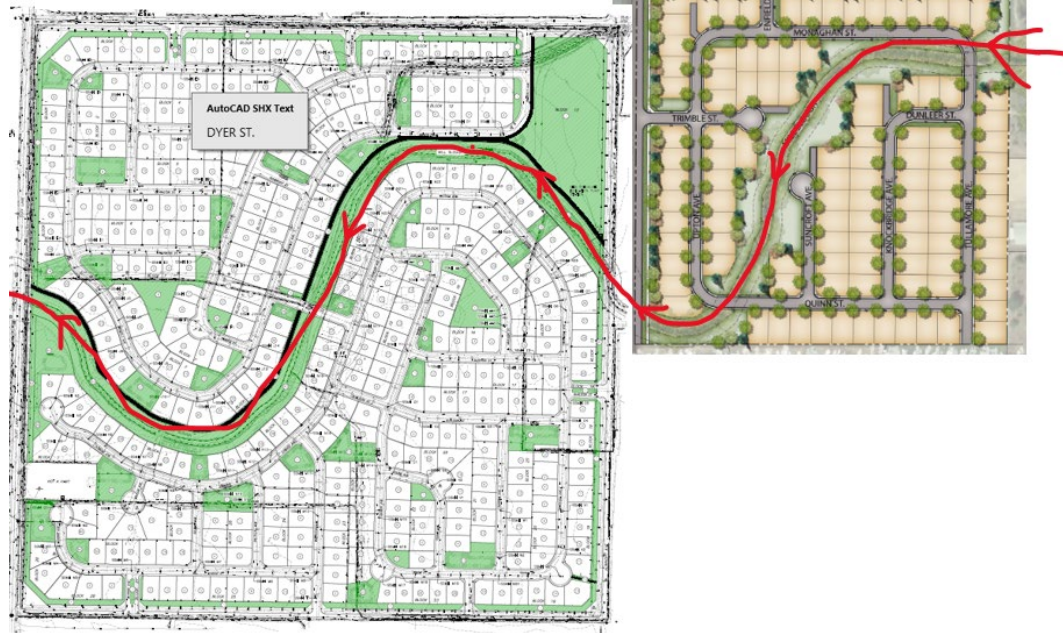
Applicant has also completed a Traffic Study, and pursuant to the impact percentages set forth in the study, Applicant will pay \$288,828.00 in additional “pro-rata traffic fees” pursuant to MCC 5-4-3. These fees cover the development’s direct impact on intersections near the project that are not already included in the Mid-Star program.

In total, Developer/Builder will pay \$1,117,028 toward traffic improvements in and around the City of Middleton.

- G. Pathway, Amenities & Open Space:** The Comprehensive Plan’s *Transportation, Schools, and Recreation Map* requires the Developer to construct a public pathway across the project parcel to connect to the public pathway in the Waverley Park Subdivision. Developer has met this requirement with an 8’ wide asphalt paved pathway that follows the length of the Mill Slough.

Waterford East

Waverley Park



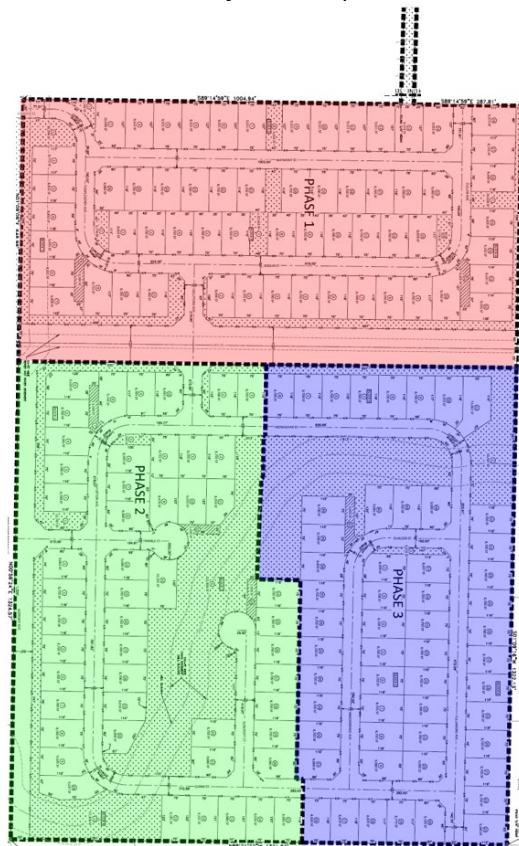
Developer is also providing a landscaped park with play structure near the pathway system. City Code requires 5% open space. Developer has provided approximately 13% open space by converting the Slough into an attractive and usable walking path with park.



- H. **Schools:** The Waterford East Subdivision is in the Middleton School District #134. Elementary Students living in the subdivision will attend Mill Creek Elementary. Recently Superintendent Gee stated that Mill Creek is at 123% capacity, but there are solutions that the District is considering to alleviate overcrowding, including year round school, revision of elementary school boundaries to equalize the school population, increase use of portables, and remodeling existing schools.

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 overcrowding problem. 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. **Preliminary Plat Application:** The preliminary plat shows three 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.** The preliminary plat also provides less density than permitted in City Code. Waterford East's density is 2.67 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 size copy of the preliminary plat is attached to this Staff Report as Exhibit “A”.

City Engineer, Amy Woodruff, has reviewed the preliminary plat, and she has found that the preliminary plat complies with City Code. She has recommended approval of the preliminary plat. (See “Recommendation Letter” attached as Exhibit “B”.)

Planning Staff finds that the preliminary plat complies with the R-3 Zone requirements and all dimensional standards and requirements of the Middleton City Code, ISPWC, Supplement to ISPWC, and Idaho State Code.

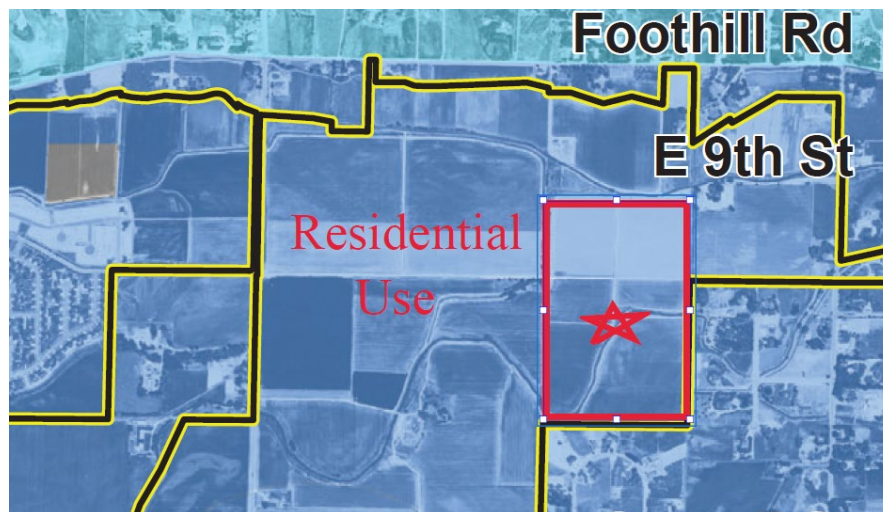
- J. Development Agreement Modification/Termination:** The Waterford East project parcel was originally part of a proposed subdivision in 2006 known as Paradise Valley. The Paradise Valley Subdivision had a Development Agreement that covered over 250 acres of land. Over the years, parts and pieces of the original Paradise Valley project have been sold and transferred to other developers and people.

The Waterford Developer is seeking a termination of the 2006 Paradise Valley Development Agreement with respect to the project parcel. City Staff supports that request. The DA no longer has any relevance in light of the fact that most of the property from the original Paradise Valley parcel has been transferred or sold to others. The Paradise Valley DA will be pertinent to only the few remaining parcels that have not applied for termination.

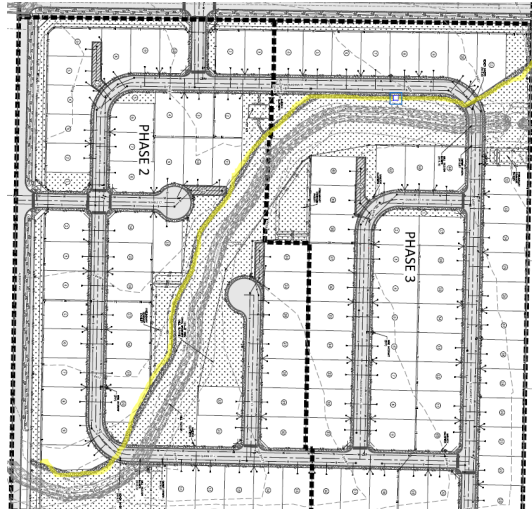
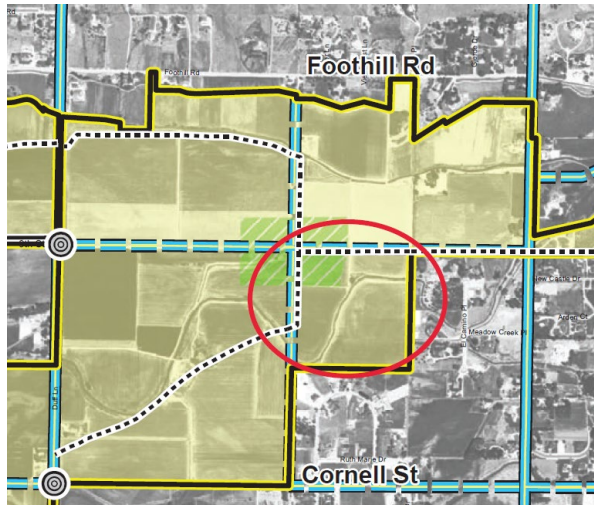
[A copy of the Development Agreement Termination is attached as Exhibit “C”.]

- K. Comprehensive Plan & Land Use Map:**

Planning Staff finds that Applicant’s project complies with the Comprehensive Plan Future Land Use Map. The project parcel is designated “Residential” on the Land Use Map, which matches the Residential Use proposed for the project.



Additionally, the Comprehensive Plan's Transportation, Schools & Recreation Map shows a public pathway traversing the project site. Developer's preliminary plat shows the required pathway.



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

- a. *Goal 2 Private Property Rights: allowing development and refraining from unnecessarily restrictive regulations or decisions will ensure that the City is not engaging in a "taking" of property, which is a violation of the Fifth Amendment to the U.S. Constitution. (Comp Plan/Private Property Rights, page 21 of 68)*
- b. *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 when infrastructure is installed. Additionally, quality lots for residential use increase the quality of life and general welfare of the City.*
- c. *Goal 6: expansion of public facilities: Developer's project extends sewer and water utilities in an economical manner and improves existing roadways nearby.*
- d. *Goals 7 and 8: the addition of homes in Middleton increases the likelihood of bringing more commercial and industrial opportunities to Middleton, thereby lowering taxes for residents and creating employment opportunities.*
- e. *Goals 10, 22 and 23: the addition of parks and pathways increases recreational activity and promotes walkability, social interaction, and health in the Community.*
- f. *Goal 11: The housing type matches the residents' lifestyle in the area.*
- g. *Goal 14: plan for population growth by providing sufficient services. Developer is improving roadways and paying toward future improvements to City streets. Developer also contributed to a regional booster station for water development in Middleton.*

- L. Comments Received from Surrounding Landowners:** Staff received comments from the public. Copies are attached as Exhibit “D”.
- M. Comments from Agencies:** City has received comments from COMPASS, ITD and Middleton School District 134. (See copies attached as Exhibit “E”.)
- N. Comments from City Engineer and Planning Staff:** Copies of Engineering and planning comments are attached as Exhibit “F”.
- O. Applicant Information:** Application was accepted on April 4, 2022. Applicant is Patrick Connor of Providence Properties/Hubble Homes – 701 S. Allen St. #104, Meridian, ID.
- P. Notices & Neighborhood Meeting:**
- | | Dates: |
|---|---------------|
| Newspaper Notification | 10/18/2022 |
| Radius notification mailed to Adjacent landowners within 500’ | 10/18/2022 |
| Circulation to Agencies | 10/18/2022 |
| Sign Posting property | 10/18/2022 |
| Neighborhood Meeting | 1/18/2022 |
- Q. Pertinent 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, Chapter 13.
- R. P&Z Commission Recommendations:** At the September 12th public hearing on the preliminary plat and DA applications, the P&Z Commission had a 2-to-2 tie vote on whether to approve the applications. The tie vote means that the Commission could neither deny nor approve the applications; however, as a practical matter, the tie vote results in a denial of the applications.
- A copy of the Commission’s Findings of Facts, Conclusions of Law & Recommendation is attached as Exhibit G.
- S. Conclusions and Recommended Conditions of Approval:** City Council is considering applications for preliminary plat and development agreement. Per State law and the Middleton City Code, any decision on the applications 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. If the Council agrees with those findings of facts and further agrees with the general facts presented at the public hearing, then the Council may simply affirm those findings while making the motion to approve or deny the applications.

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. Additionally, Planning Staff confirms 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 while deciding the applications. If the November 2nd and November 16th public hearings are conducted in compliance with Idaho State Statute and the Middleton City Code, then the Council may affirm these conclusions of law while making a motion to approve or deny the applications.

Applications Conditions of Approval: If the Council is inclined to recommend approval of the preliminary plat and Development Agreement applications, then based upon the above findings of facts and conclusions of law, Planning Staff recommends that any approval be subject to the following conditions:

1. City municipal domestic water, fire flow and sanitary sewer services are to be extended to serve the subdivision.
2. All pathways must be 8' wide, paved with asphalt, and encumbered by a 12' public access easement.
3. All landscaping and amenities to be installed in compliance with the submitted landscape plan dated March 2022.
4. 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.
5. 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.
6. All City Engineer review comments are to be completed and approved.
7. All Planner comments are to be completed and approved.
8. All requirements of the Middleton Rural Fire District are to be completed and approved.
9. Sewer and water capacity to be reserved at the time City approves the construction drawings for the project.

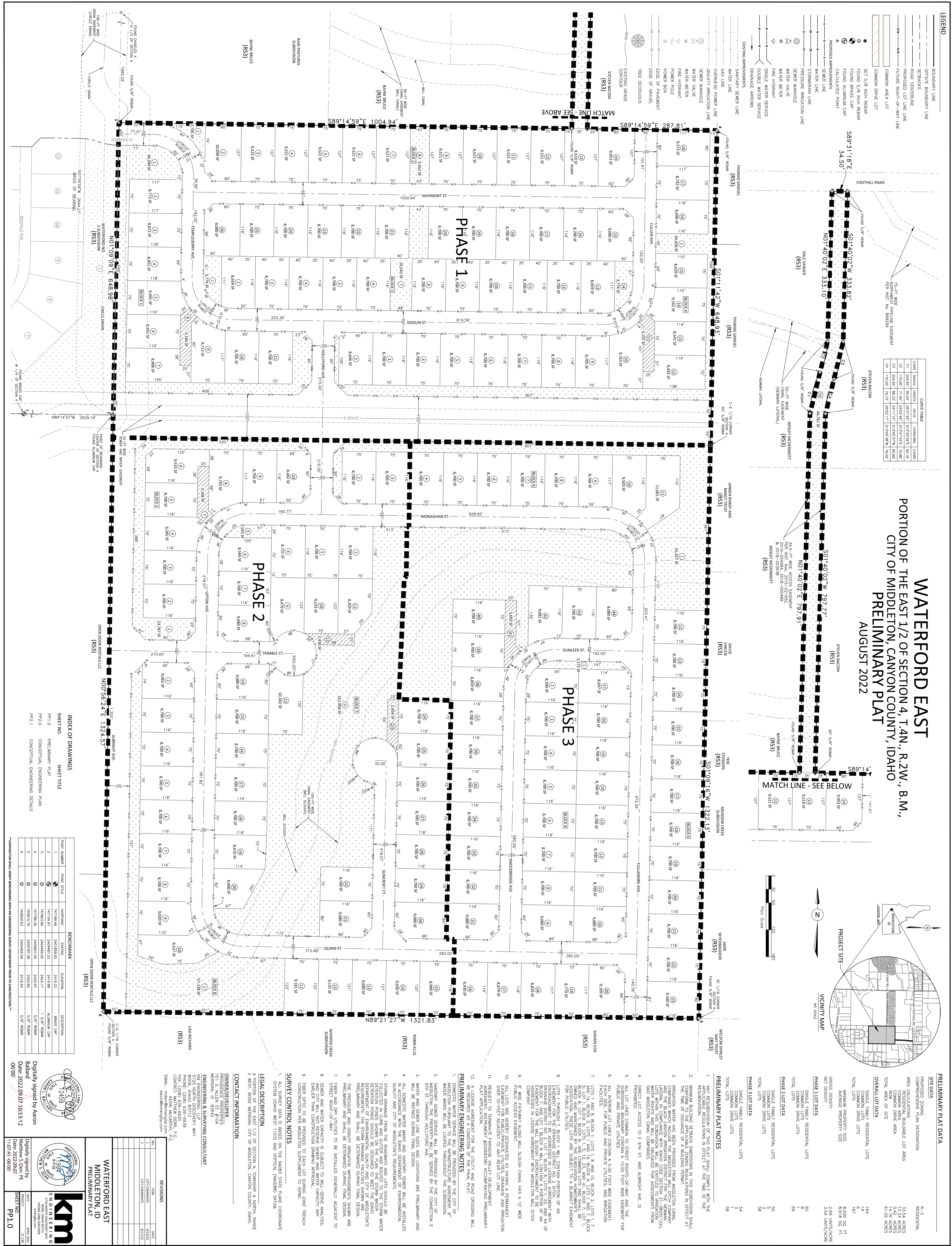
Finally, if the Council denies the preliminary plat and DA applications, then pursuant to Middleton City Code 1-14(E)(8), the Council will need to state on the record what Applicant can do, if anything, to gain approval of the applications.

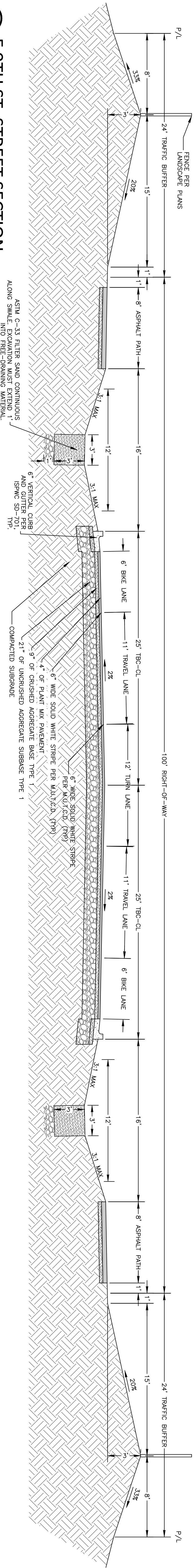
Prepared by Roberta Stewart
Planning & Zoning Director

Dated: 11/10/2022

EXHIBIT "A"

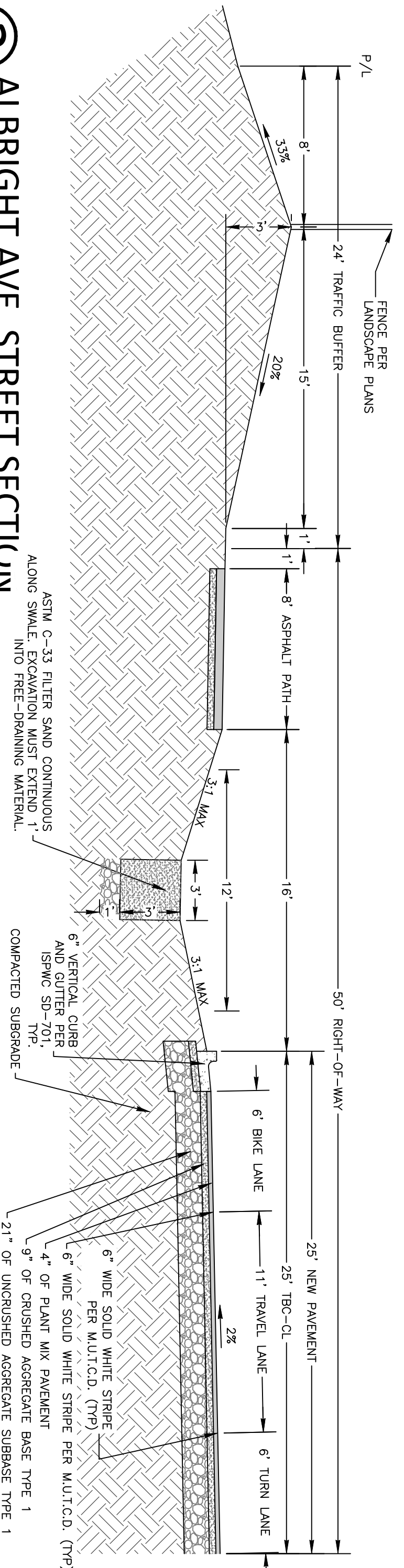
Proposed Preliminary Plat





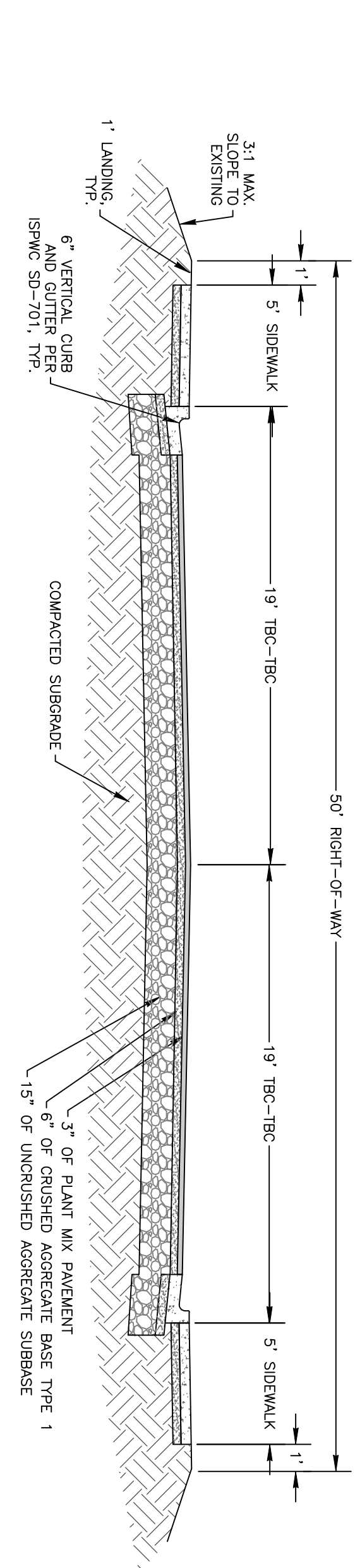
1 E 9TH ST. STREET SECTION

Scale: NTS



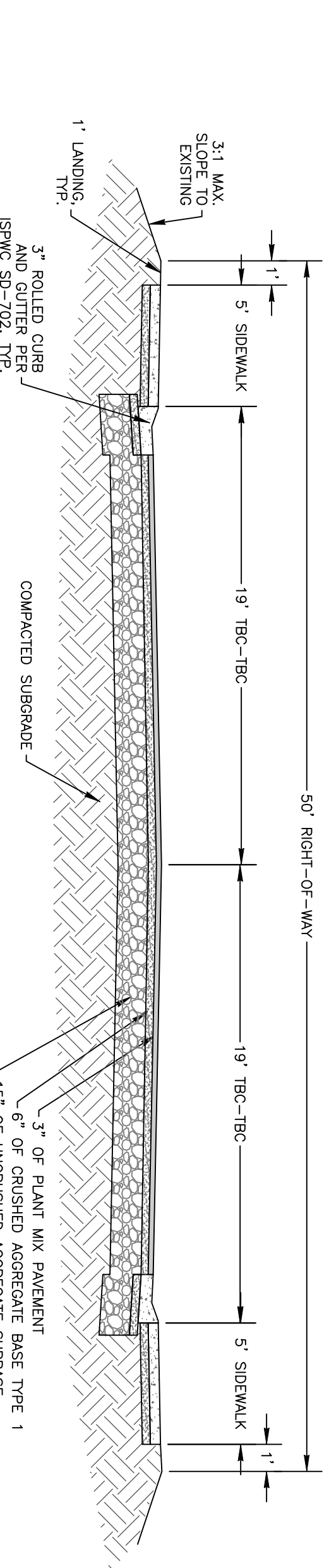
2 ALBRIGHT AVE. STREET SECTION

Scale: NTS



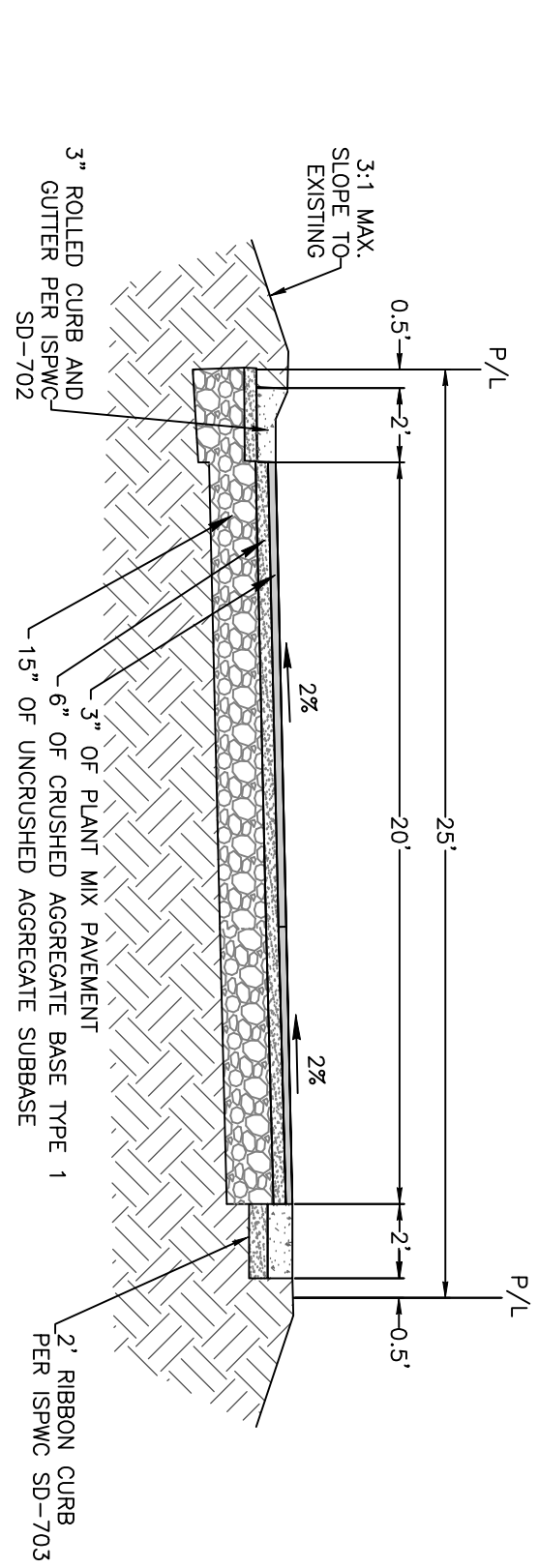
3 TYPICAL VERTICAL CURB LOCAL STREET SECTION

Scale: NTS



4 TYPICAL ROLLED CURB LOCAL STREET SECTION

Scale: NTS



5 COMMON DRIVEWAY SECTION

Scale: NTS

REVISIONS			
NO.	ITEM	DATE	
1	REV	9/15/22	
2	REV	9/15/22	

WATERFORD EAST
MIDDLETON, ID
PRELIMINARY PLAT

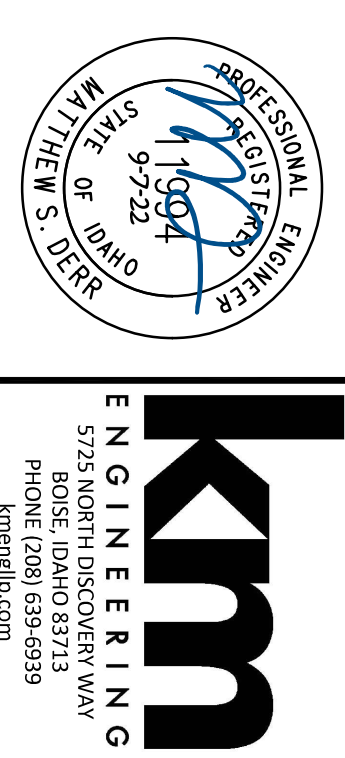


EXHIBIT "B"

City Engineer "Recommendation Letter"

September 23, 2022

TO: Roberta Stewart, Planning and Zoning Official

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



RE: WATERFORD EAST - Preliminary Plat Recommendation of Approval

Thank you for the opportunity to review the above referenced preliminary plat submittal.

We recommend Mayor and City Council approve the preliminary plat as presented.

EXHIBIT “C”

Proposed Development Agreement Termination

RECORDING REQUESTED BY &
WHEN RECORDED RETURN TO:

City Clerk
City of Middleton
1103 W Main St
Middleton, Idaho 83644

**FIRST AMENDMENT TO PARTIALLY TERMINATE DEVELOPMENT
AGREEMENT - PARADISE VALLEY**

This First Amendment to Development Agreement (Agreement) entered into by and between the City of Middleton, a municipal corporation of the State of Idaho, hereinafter referred to as “City,” and Providence Holdings, LLC, a limited liability company in the State of Idaho, hereinafter referred to as “Developer.”

WHEREAS, Developer is the owner of real property comprised of approximately sixty one (61) acres (the “Property”), which Property is more fully described in EXHIBIT “A” and incorporated herein by this reference as if set forth in full; the Property is intended to be developed by Developer and referred to as “Wateford East Subdivision”; and

WHEREAS, the Property was made part of a Development Agreement when Developer’s predecessor in interest entered into that certain DEVELOPMENT AGREEMENT, PARADISE VALLEY (the “Original DA”), recorded with the office of the Canyon County Recorder as Instrument No. 200683381, a copy of which is attached hereto as “EXHIBIT B” and incorporated by this reference as if set forth in full; and,

WHEREAS, the Original DA encompassed the Property and additional real property not currently owned by the Developer, which additional real property totaled approximately one hundred ninety five (195) acres; and,

WHEREAS, the Property is currently zoned R-3; and,

WHEREAS, Developer and City have determined that the Original DA should be terminated as to the Property so the Property can be developed solely in accordance with the current R-3 Zone; and,

WHEREAS, Developer desires to proceed with the development of the property in a manner compliant with the City of Middleton’s R-3 Zone.

WHEREAS, the Developer and City have agreed to the terms of this Agreement as a means of terminating the Original DA as it relates to the Property, while not modifying the Original DA as it relates to any other real property not owned by Developer.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and Developer agree as follows:

1. That as to the Property, the Original DA is hereby terminated and shall be of no further force or effect as to the Property.
2. That the Property shall be subject to the R-3 Zone of the City of Middleton, Idaho, in effect at the time this Development Agreement is fully executed.
3. That this Agreement shall be recorded with the office of the Canyon County Recorder.

IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be executed, on the day and year set forth below.

DATED this _____ day of _____, 202__.

CITY OF MIDDLETON

Attest

BY: _____
Steven J. Rule, Mayor
City of Middleton

Becky Crofts,
City Clerk

STATE OF IDAHO)
) s.s.
County of Canyon)

On this _____ day of _____ in the year of 202__, before me _____, personally appeared Steven J. Rule, known to me to be the Mayor of the City of Middleton, and acknowledged to me that he executed the same, and was so authorized to do so for and on behalf of said City of Middleton.

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

Notary Public for Idaho
Residing at _____
My Commission Expires: _____

DEVELOPER / -----

BY: _____

Its: _____

STATE OF IDAHO)

) s.s.

County of Canyon)

On this _____ day of _____, in the year of 202____, before me _____, personally appeared _____, known or identified to me to be the person whose name is subscribed to the within and forgoing instrument, and acknowledged to me that he/she executed the same on behalf of _____.

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

Notary Public for Idaho
Residing at _____
My Commission Expires: _____

Exhibit “A”

Legal Description

March 23, 2022
Project No. 21-138
Legal Description

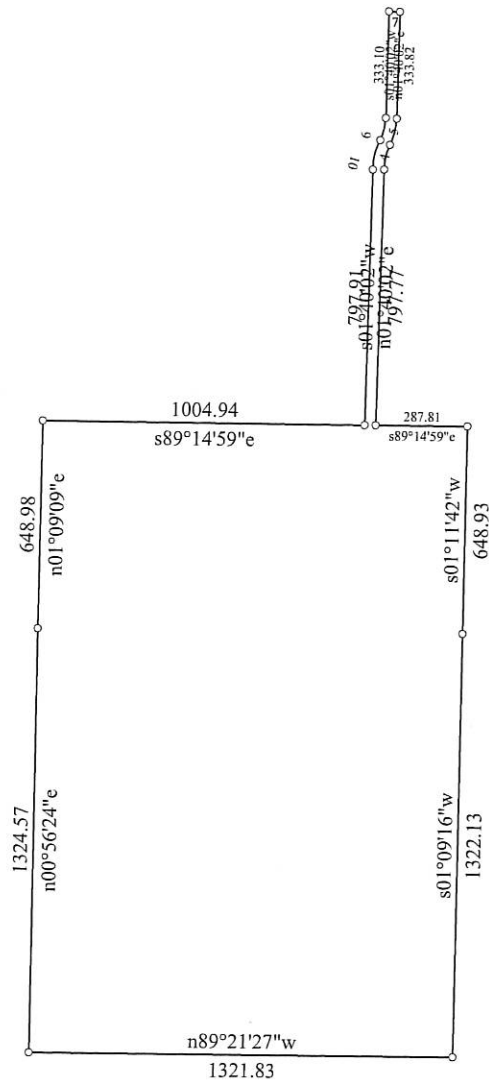
Waterford East Subdivision

A parcel of land being the Northwest 1/4 of the Southeast 1/4 and a portion of the West 1/2 of the Northeast 1/4 Section 4, Township 4 North, Range 2 West, Boise Meridian, City of Middleton, Canyon County, Idaho and being more particularly described as follows:

BEGINNING at the Center 1/4 corner of said Section 4, which bears S01°09'09"W a distance of 2,644.27 feet from the North 1/4 corner of said Section 4, thence following the westerly line of the Northeast 1/4 of said Section 4, N01°09'09"E a distance of 648.98 feet;
Thence leaving said westerly line, S89°14'59"E a distance of 1,004.94 feet to the Southeast corner Raw Pastures Estates Subdivision (Book 48, Pages 21-23, records of Canyon County, Idaho);
Thence following the easterly boundary line of said Raw Pastures Estates Subdivision, N01°40'02"E a distance of 797.91 feet;
Thence 95.04 feet along the arc of a circular curve to the right, said curve having a radius of 204.50 feet, a delta angle of 26°37'45", a chord bearing of N13°45'29"E and a chord distance of 94.19 feet;
Thence 71.40 feet along the arc of a circular curve to the left, said curve having a radius of 170 feet, a delta angle of 24°03'49", a chord bearing of N13°41'54"E and a chord distance of 70.88 feet to the Northeast corner of said Raw Pastures Estates Subdivision;
Thence leaving said easterly boundary line, N01°40'02"E a distance of 333.10 feet to the southerly Right-of-Way line of Foothill Road;
Thence following said southerly Right-of-Way line, S89°31'18"E a distance of 34.50 feet;
Thence leaving said southerly Right-of-Way line, S01°40'02"W a distance of 333.82 feet;
Thence 86.33 feet along the arc of a circular curve to the right, said curve having a radius of 204.50 feet, a delta angle of 24°11'15", a chord bearing of S13°45'38"W and a chord distance of 85.69 feet;
Thence 79.73 feet along the arc of a circular curve to the left, said curve having a radius of 170.00 feet, a delta angle of 26°52'17", a chord bearing of S13°45'38"W and a chord distance of 79.00 feet;
Thence S01°40'02"W a distance of 797.77 feet;
Thence S89°14'59"E a distance of 287.81 feet to the easterly line of the Southwest 1/4 of the Northeast 1/4;
Thence following said easterly line, S01°11'42"W a distance of 648.93 feet to the Center East 1/16 corner of said Section 4;
Thence leaving said easterly line and following the easterly line of the Northwest 1/4 of the Southeast 1/4, S01°09'16"W a distance of 1,322.13 feet to the Southeast 1/16 corner of said Section 4;
Thence leaving said easterly line and following the southerly line of the Northwest 1/4 of the Southeast 1/4, N89°21'27"W a distance of 1,321.83 feet to the Center South 1/16 corner of said Section 4;
Thence leaving said southerly line and following the westerly line of the Northwest 1/4 of the Southeast 1/4, N00°56'24"E a distance of 1,324.57 feet to the **POINT OF BEGINNING**.

Said parcel contains 61.028 acres, more or less.





Title: Waterford East Subdivision		Date: 03-23-2022
Scale: 1 inch = 600 feet	File: 220323 Waterford East Subdivision Legal Description 21-138	
Tract 1: 61.028 Acres: 2658385 Sq Feet: Closure = s77.0508e 0.00 Feet: Precision >1/999999: Perimeter = 9189 Feet		
001=n01.0909e 648.98	007=s89.3118e 34.50	013=s01.1142w 648.93
002=s89.1459e 1004.94	008=s01.4002w 333.82	014=s01.0916w 1322.13
003=n01.4002e 797.91	009: Rt, R=204.50, Delta=24.1115 Bng=s13.4538w, Chd=85.69	015=n89.2127w 1321.83
004: Rt, R=204.50, Delta=26.3745 Bng=n13.4529e, Chd=94.19	010: Lt, R=170.00, Delta=26.5217 Bng=s13.4538w, Chd=79.00	016=n00.5624e 1324.57
005: Lt, R=170, Delta=24.0349 Bng=n13.4154e, Chd=70.88	011=s01.4002w 797.77	
006=n01.4002e 333.10	012=s89.1459e 287.81	

Exhibit “B”

Original Development Agreement for Paradise Valley Subdivision

W A V E R L Y

17

Recording Requested By and
When Recorded Return to:

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

2005 OCT 16 PM 4:03
RECORDED
BY [Signature]
REQUEST [Signature]
TYPED [Signature]

200683381

For Recording Purposes Do
Not Write Above This Line

DEVELOPMENT AGREEMENT PARADISE VALLEY

This Development Agreement entered into by and between the City of Middleton, a municipal corporation in the State of Idaho, hereinafter referred to as "City", and Richard M Phillips and Staci Phillips Trust, whose address is 210 Murray Street, Boise, Idaho 83714, the owner of the real property described herein and applicant(s) for PARADISE VALLEY SUBDIVISION, hereafter referred to as "Developer".

WHEREAS, the Developer has applied to the City for a zone change to R-3 for the Development of the property described as attached hereto and incorporated by reference herein on Exhibit 1 ("Property") to develop a Residential Subdivision, which includes approximately 256 acres of residential uses. The Property is currently zoned Ag. The Developer has enclosed a concept plan which is attached hereto as Exhibit 2.

WHEREAS, the City, pursuant to Section 67-6511A, Idaho Code, has the authority to conditionally 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 the Middleton City Code.

WHEREAS, the Middleton City Code allows a property owner or developer to request that an application for zoning or zoning map amendment be processed in connection with the execution of a development agreement, wherein through such development agreement, a property owner or developer may agree to make written commitments concerning the use or development of a subject parcel in exchange for the change of zoning requested; and

[Signature]

WSSVAW

WHEREAS, the City is willing to allow the proposed development within the City Of Middleton, Idaho, subject to the terms and conditions of this Agreement and the Special Conditions attached hereto; and

WHEREAS, the City desires to induce Developer to develop the Property because the development proposed by Developer is in the public interest. The City believes that development by Developer will generate additional tax revenue, provide employment, and stimulate beneficial commercial growth and development; and

WHEREAS, the City acknowledges that Developer and its successors and/or assigns are relying upon the effectiveness of this Development Agreement in the decision to purchase the Property; and

WHEREAS, the City has approved the requested annexation and zoning to R3 subject to the following terms and/or commitments and desires to formalize and clarify the respective obligations of the parties.

WHEREFORE, the City of Middleton and the Developer do enter into this Agreement and for and in consideration of the mutual covenants, duties and obligations herein set forth, it is agreed as follows:

ARTICLE I LEGAL AUTHORITY

1.1 This Development Agreement is made pursuant to and in accordance with the provisions of Idaho Code Section 67-6511A and Middleton City Code, Title 5, Chapter 7).

ARTICLE II ZONING ORDINANCE AMENDMENT

- 2.1 The City will adopt an ordinance amending the Middleton Zoning Ordinance to rezone the property to R-3. The Ordinance will become effective after its passage, approval, and publication and the execution and recordation of this Development Agreement.
- 2.2 This Development Agreement shall not prevent the City in subsequent actions applicable to the Property, from applying new ordinances and regulations of general application adopted by the City in exercise of its police powers that do not conflict with Developer's property rights, the parties' commitments applicable to the Property as set forth herein, or the R-3 zone classification approved hereby. Any such subsequent ordinances shall not supersede the specific commitments set forth herein.

ARTICLE III CONDITIONS ON DEVELOPMENT

The sole uses(s) allowed and restrictions pursuant to this conditional rezone as reflected in this Agreement are as follows:

- 3.1 Developer shall develop the Property subject to the conditions and limitations set forth in this Agreement, and to the standards that the City has in force at the time of the annexation application for the R-3 zoning classification except as otherwise provided in this Agreement (the "Project"). Developer shall further submit such applications regarding preliminary and final plat reviews and any other applicable applications as may be required by the City.
- 3.2 Developer agrees that, unless otherwise agreed to by the Parties, the conceptual site development plan (the "Conceptual Plan") attached hereto as Exhibit B shall dictate the type of development to be constructed in each of the components of the Project. Block lengths shall apply in accordance with the approved conceptual plan. Residential densities within the Project shall not exceed three (3) dwelling units per gross acre.
- 3.3 The Project shall comply with the Middleton Comprehensive Plan and Middleton City Code, and all state and federal law as they exist in final form at the time the development application was submitted, except as otherwise provided in this Agreement and will require a complete set of plans which shall include:
 - 3.4.1 Site plan including street, curb and gutter, street signs, irrigation lines, sidewalk and site lighting;
 - 3.4.2 Underground utility plan including water, sanitary sewer, storm drainage, irrigation, and fire protection;
 - 3.4.3 Any other required improvements set forth as conditions of approval; Soils report, including bearing values, soils profile, ground water and other elements as requested by the City Engineer or Building Official;
 - 3.4.4 Review and Approval by the City Engineer and Building Official of site, utility, and landscape plans before a building permit is issued.
- 3.4 Unless otherwise agreed, Developer will at its sole expense, design and construct all public improvements as shown in this development agreement in strict accordance with the Middleton City Code in existence at the time of the development application or as otherwise provided in this Agreement.

3.5 **Street Improvements and Access.** Developer agrees to submit a traffic impact study to the City acceptable to the City Engineer. In particular, the traffic study shall be in accordance with the standards identified in the *Transportation Impact Analyses for Site Development, 2005*, by the Institute of Transportation Engineers. At a minimum, such a traffic impact study must consider the cumulative impacts of surrounding developments. Developer agrees to mitigate its proportionate share of adverse traffic impacts as required by the City.

3.5.1 Developer shall make any and all necessary street improvements as provided in the Conceptual Plan and required by the City Engineer pursuant to the Traffic Impact Study;

3.5.2 Developer shall construct the following street improvements to standards adopted by the City including associated curb, gutter and sidewalk per the requirements of the Middleton City Code in effect as of the effective date of this Development Agreement, and the Traffic Impact Study.

3.5.2 Project accesses shall conform to the diagram contained in Exhibit 2.

3.5.3 Review and Approval by the City Engineer and Building Official of any and all street improvements and access shall be required before building permits shall be issued.

3.5.4 Provided the Developer is in substantial compliance as determined by the City Engineer, building permits may be issued prior to the completion of secondary street improvements.

3.6 **Landscape Improvements.**

3.6.1 Developer shall provide landscaping on designated frontages in accordance with exhibit 2 and the provisions of the Middleton City Code in place as of the effective date of this Development Agreement.

3.6.2 Developer will provide landscaping in accordance with the provisions of the City of Middleton for R-3 zoned properties in place as of the effective date of this Development Agreement as depicted with the Conceptual Plan.

3.6.3 Developer or its successors or assigns shall maintain all site landscape areas as required by law.

3.7 **Setbacks.**

3.7.1 Developer shall comply with the setbacks for R-3 zoned property as provided in the Middleton City Code in effect as of the effective date of this Development Agreement except patio house lots which setbacks shall be 5 foot side yard, 15 foot rear yard, 15 feet to the front of the house, 20 feet to the garage and 15 feet flanking street. Maximum lot coverage shall



be defined as the building envelope inside the setbacks. Side entry garage requirements do not apply to the patio lots. Minimum lot width to be 50 feet on patio lots. Flag lots may be allowed on up 10% of the lots with frontage not less than 30 feet.

3.8 Utilities.

3.8.1 Developer shall bring to the Property all utilities it requires for development subject to appropriate reimbursement provisions in latecomers' agreements, except for sanitary sewer, a separate agreement for sewer applies.

3.8.2 Developer shall construct all on-site utilities required for development of the Property, including sewer, water, electricity, natural gas, and any others Developer deems appropriate.

3.8.3 All on-site utilities shall be constructed underground.

3.9 Conditions, Security for Completion: All of the conditions set forth herein shall be complied with or shall be secured by a letter of credit for completion by the Developer before a Final Plat Approval or Occupancy permit will be granted. Failure to comply by a letter of credit for completion of the conditions within the time frame established in the subdivision plat approval conditions, the Middleton City Code or the terms of this Agreement shall result in a default of this Agreement by the Developer. The Developer may be allowed to provide a letter of credit for certain conditions at one hundred and fifty percent (150%) of the estimated cost of completion pursuant to Middleton City Code, and, provided the Developer is in substantial compliance, to be determined by the City Engineer, the City Council may issue building permits prior to completion of certain secondary public improvements.

3.11 Expanded Use. No change in the use or restriction specified in this Agreement shall be allowed or changed without modification of this Agreement pursuant to the requirements of the Middleton City Code. In the event Developer changes or expands the use permitted by this Agreement or fails to comply with the restrictions without formal modification of this Agreement as allowed by the Middleton City Code, Developer shall be in default of this Agreement.

3.12 Commencement of Construction: The Developer shall commence construction of site infrastructure (e.g., grading of streets or installation of utilities) within five years of the effective date of this Agreement. Developer acknowledges that preliminary plat approval is valid for twelve (12) months pursuant to Middleton City Code § 6-2-3(F)(3). Upon Developers request an extension of 12 months shall be allowed for cause. In the event the Developer fails to commence construction within the time

periods herein stated, the Developer shall be in default of this Agreement.

- 3.13 **Final building Permit.** Final building permit approval and construction of the improvements on the Property, in accordance with those approved plans, shall be deemed to satisfy the conditions and obligations of Developer set forth in this Development Agreement.

ARTICLE IV AFFIDAVIT OF PROPERTY OWNERS

- 4.1 An affidavit of all owners of the Property agreeing to submit the Property to this Development Agreement and to the provisions set forth in Idaho Code Section 67-6511A and Middleton City Code shall be provided and is incorporated herein by reference.

ARTICLE V DEFAULT

- 5.1 In the event Developer, its successors or assigns or subsequent owners of the Property or any other person acquiring an interest in the Property, fail to faithfully comply with all of the terms and conditions included in this Agreement, this Agreement may be modified or terminated by the Middleton City Council upon compliance with the requirements of the Middleton City Code. In the event the City Council determines that this Agreement shall be modified, the terms of this Agreement shall be amended and Developer shall comply with the amended terms. Failure to comply with the amended terms shall result in default. In the event the City Council, after compliance with the requirements of the Middleton City Code, determines that this Agreement shall be terminated, the zoning of the Property shall revert to City R-3 zoning. All uses of the Property, which are not consistent with City R-3 zoning shall cease. Nothing herein shall prevent Developer from applying for any nature of use permit consistent with City R-3 zoning. A waiver by the City of any default by Developer of any one or more of the covenants or conditions hereof shall apply solely to the breach and breaches 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.
- 5.2 The execution of this Development Agreement and the written commitments contained herein shall be deemed written consent to change the zoning of the Property to its prior designation upon failure of the conditions imposed upon Developer by this Development Agreement.
- 5.3 **Remedies and Specific Performance.** In addition to the remedies provided by the Default provisions herein, any applicable Permits issued pursuant to this Agreement, and the proceedings Findings of Facts and



Conclusions of Law issued herein may be revoked at any time for a material violation of the permit, or any material violation of any condition thereof, by motion of the City Council after notice and Developer's failure to cure such failure within thirty (30) days, followed by a due process hearing upon at least ten (10) days written notice to Developer. The City Council, after finding that Developer has exercised due diligence in curing any such failure, may provide a reasonable extension of time for Developer to cure such failures. In the event a breach of this Agreement in addition to all other remedies at law or in equity, and as set forth in this Agreement.

5.4 Financial Assurance. In the event that certain improvements are not completed by Developer as required under this Agreement, Developer shall submit a mutually acceptable bond, cash deposit, certified check, or irrevocable bank letter of credit, or other security agreement to the City for one hundred fifty percent (150%) of the estimated costs associated with the completion thereof as estimated by the City Engineer and approved by the CITY prior to the issuance of an occupancy permit for any of the buildings within the Project for which said improvements are required to be constructed. In the event Developer fails to complete construction of the specified improvements within a period of time as required under this Agreement, the City may proceed to have such work completed. In order to accomplish this, the City may appropriate said security agreement, bond, cash, deposit, or letter of credit.

ARTICLE VI UNENFORCEABLE PROVISIONS

- 6.1 If any term, provision, commitment or restriction of this Development Agreement or the application thereof to any party or circumstances shall, to any extent be held invalid or unenforceable, the remainder of this instrument shall remain in full force and effect.
- 6.2 This Development Agreement is intended to be supplemental to all other local, City, State and Federal Code requirements, rules and regulations, and is established to assure compatibility of the resulting land use with the surrounding area. Provided, however, that to the extent this Development Agreement conflicts with any provision of the Middleton City Code, this Development Agreement shall prevail to the extent permitted by law.

ARTICLE VII ASSIGNMENT AND TRANSFER

- 7.1 After its execution, the Development Agreement shall be recorded in the office of the County Recorder at the expense of the Applicant. Each commitment and restriction on the development subject to this Agreement,

shall be a burden on the Property, shall be appurtenant to and for the benefit of the Property, adjacent property and other residential property near the Property and shall run with the land. This Development Agreement shall be binding on the City and the Applicant and owners, 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 and each owner of a legal lot shall only be responsible for duties and obligations associated with an owner's parcel and shall not be responsible for duties and obligations or defaults as to other parcels of lots within the Property. 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 lot or parcel.

ARTICLE VII GENERAL MATTERS

- 8.1 **Amendments.** Any alteration or change to this Development Agreement shall be made only after complying with the notice and hearing provisions of Idaho Code Section 67-6509, as required by Middleton City Code, Title 5, Chapter 7.
- 8.2 **Paragraph Headings.** This Development Agreement shall be construed according to its fair meaning and as if prepared by both parties hereto. Titles and captions are for convenience only and shall not constitute a portion of this Development Agreement. As used in this Development Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates.
- 8.3 **Choice of Law.** This Development Agreement shall be construed in accordance with the laws of the State of Idaho in effect at the time of the execution of this Development Agreement. Any action brought in connection with this Development Agreement shall be brought in a court of competent jurisdiction located in Canyon County, Idaho.
- 8.4 **Notices.** Any notice which a party may desire to give to another party must be in writing and may be given by personal delivery, by mailing the same by registered or certified mail, return receipt requested postage prepaid, or by Federal Express or other reputable overnight delivery service, to the party to whom the notice is directed at the address of such party set forth below.



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

Developer: Mr. Richard M. Phillips and Staci Phillips Trust

210 Murray Street
Boise, Idaho 83714

Or such other addresses and to such other persons as the parties may hereafter designate in writing to the other parties. Any such notice shall be deemed given upon delivery if by personal delivery, upon deposit in the United States mail, if sent by mail pursuant to the foregoing.

8.5 **Attorneys' Fees and Costs.** In the event an action is brought to enforce any provision of this Agreement, or in the event an action is brought to recover damages for breach of this Agreement, the prevailing party in such action shall be entitled to recover from the other party all reasonable attorneys' fees and costs incurred, including attorneys' fees and cost incurred on appeal.

8.6 **Effective Date.** This Development Agreement shall be effective after delivery to each of the parties hereto of a fully executed copy of the Development Agreement.

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

Dated this 4 day of October, 2006.

CITY OF MIDDLETON

By: Frank Mc Kern
Mayor

ATTEST:

Ellen Smith CHC
City Clerk



One

STATE OF IDAHO)
) ss
County of Canyon)

On this 12 day of October, in the year of 2006, before me
Elena Gomez, personally appeared Frank McKeown and Ellen Smith,
known or identified to me, to be the persons whose names are subscribed to the within
and foregoing instrument and acknowledged to me that they executed the same, and were
so authorized to do so for and on behalf of said City of Middleton.

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



Elena Gomez
Notary Public for Idaho
Residing at Middleton, Idaho
My Commission expires: 3/4-11

Richard M. Phillips

Richard M. Phillips
By: Richard M. Phillips

Staci Phillips Trust

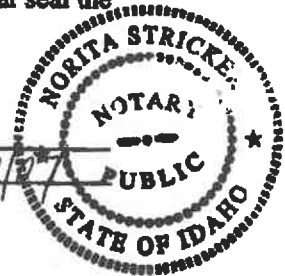
Richard M. Phillips
By: Richard M. Phillips
Its: Trustee

STATE OF IDAHO)
)ss
County of Ada)

On this 7 day of Sept., in the year 2006, before me, personally appeared Richard M. Phillips, known or identified to me to be the Trustee of the Staci Phillips Trust and acknowledged to me that he executed the same, and was so authorized to do so for and on behalf of Staci Phillips Trust.

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

Norita Stricker
Notary Public for Idaho
Residing at: Eagle, Id.
My Commission expires: 2/9/07

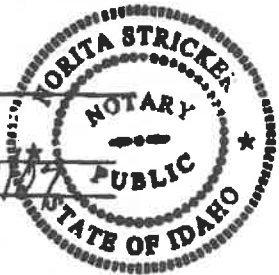


STATE OF IDAHO)
)ss.
County of Ada)

On this 7 day of Sept., in the year 2006, before me, personally appeared Richard M. Phillips, known or identified to me to be the person whose name is subscribed to the within and forgoing instrument, and acknowledged to me that he executed the same.

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

Norita Stricker
Notary Public for Idaho
Residing at: Eagle, Id.
My Commission expires: 2/9/07



Paradise Valley Subdivision Annexation an Zoning Application

Richard M. Phillips
210 Murray Street
Boise, Idaho 83714

Exhibit "4"

(PW)

Parcel I.

A parcel located in the West Half of the East Half of Section 4 of Township 4 North, Range 2 West, Boise Meridian, Canyon County, Idaho, more particularly described as follows:

BEGINNING at a 5/8 inch diameter iron pin marking the Southeast corner of the Northwest Quarter of the Southeast Quarter of said Section 4 (Southeast 1/16 Corner), from which a brass cap monument marking the Northeast corner of said Northwest Quarter of the Southeast Quarter of Section 4 (NE 1/16 Corner) bears

North 1° 09' 16" East a distance of 1,322.13 feet; thence

North 89° 21' 27" West along the Southerly boundary of said Northwest Quarter of the Southeast Quarter of Section 4 and the Northerly boundary of the Whisper Creek Estates Subdivision Phases 2 and 3 as shown in Book 22 of Plats on Page 20 in the office of the recorder, of Canyon County, Idaho, a distance of 1,321.83 feet to a 5/8 inch diameter iron pin marking the Northwest corner of said WHISPER CREEK ESTATES SUBDIVISION Phases 2 and 3 and the Southwest corner of the Northwest Quarter of the Southeast Quarter of said Section 4; thence

North 0° 56' 33" East along the Westerly boundary of said Southeast Quarter of Section 4 a distance of 1,324.60 feet to a point marking the Northwest corner of said Southeast Quarter of Section 4, said point being witnessed by a 5/8 inch diameter iron pin bearing

South 0° 56' 33" West a distance of 50.00 feet; thence

North 1° 08' 22" East along the Westerly boundary of the Northeast Quarter of said Section 4 a distance of 648.95 feet to a 5/8 inch diameter iron pin; thence leaving said Westerly boundary

South 89° 14' 59" East a distance of 934.54 feet to a 5/8 inch diameter iron pin; thence

North 1° 40' 02" East a distance of 678.91 feet to a 5/8 inch diameter iron pin; thence a distance of 178.48 feet along the arc of a 250.00 foot radius curve right, said curve having a central angle of 40° 54' 12" and a long chord bearing

North 22° 07' 08" East a distance of 174.71 feet to a 5/8 inch diameter iron pin; thence a distance of 128.58 feet along the arc of a 180.00 foot radius curve left, said curve having a central angle of 40° 54' 12" and a long chord which bears

North 22° 07' 08" East a distance of 125.79 feet to a 5/8 inch diameter iron pin; thence

North 1° 40' 02" East a distance of 323.10 feet to a 5/8 inch diameter iron pin on the Southerly right-of-way of Foothill Road; thence

South 89° 31' 18" East along said Southerly right-of-way a distance of 98.02 feet to a 5/8 inch diameter iron pin; thence leaving said Southerly right-of-way

South 1° 40' 02" West a distance of 100.02 feet to a 5/8 inch diameter iron pin; thence

South 10° 15' 10" West a distance of 133.97 feet to a 5/8 inch diameter iron pin; thence

(continued)

(PW)

South 1° 40' 02" West a distance of 102.48 feet to a 5/8 inch diameter iron pin; thence a distance of 171.49 feet along the arc of a 250.00 foot radius curve right, said curve having a central angle of 39° 18' 10" and a long chord bearing

South 21° 19' 07" West a distance of 168.18 feet to a 5/8 inch diameter iron pin; thence a distance of 116.61 feet along the arc of a 170.00 foot radius curve left, said curve having a central angle of 39° 18' 10" and a long chord bearing

South 21° 19' 07" West a distance of 114.34 feet to a 5/8 inch diameter iron pin; thence

South 1° 40' 02" West a distance of 693.15 feet to a 5/8 inch diameter iron pin; thence

South 89° 14' 59" East a distance of 312.79 feet to a 5/8 inch diameter iron pin on the Easterly boundary of said West Half of the East Half of Section 4; thence

South 1° 11' 43" West along said Easterly boundary a distance of 648.96 feet to a brass cap monument marking the Southeast corner of the Southeast Quarter of the Northeast Quarter of said Section 4; thence continuing along said Easterly boundary

South 1° 09' 16" West a distance of 1,322.13 feet to the POINT OF BEGINNING.

Parcel II

A parcel located in the West Half of the Northeast Quarter of Section 4 of Township 4 North, Range 2 West, Boise Meridian, Canyon County, Idaho, more particularly described as follows:

COMMENCING at a brass cap monument marking the Northeast corner of said West Half of the Northeast Quarter of Section 4 (East 1/16 Corner), from which a brass cap monument marking the Southeast corner of said West Half of the Northeast Quarter of Section 4 (SE 1/16 Corner) bears

South 1° 11' 43" West a distance of 2,640.93 feet; thence

South 1° 11' 43" West along the Easterly boundary of said West Half of the Northeast Quarter a distance of 698.89 feet to a 5/8 inch diameter iron pin on the Southerly right-of-way of Foothill Road and the POINT OF BEGINNING; thence

North 89° 31' 18" West along said Southerly right-of-way a distance of 187.14 feet to a 5/8 inch diameter iron pin; thence leaving said Southerly right-of-way

South 1° 40' 02" West a distance of 100.02 feet to a 5/8 inch diameter iron pin; thence

South 10° 15' 10" West a distance of 133.97 feet to a 5/8 inch diameter iron pin; thence

South 1° 40' 02" West a distance of 102.48 feet to a 5/8 inch diameter iron pin; thence a distance of 171.49 feet along the arc of a 250.00 foot radius curve right, said curve having a central angle of 39° 18' 10" and a long chord bearing

South 21° 19' 07" West a distance of 168.18 feet to a 5/8 inch diameter iron pin; thence a distance of 116.61 feet along the arc of a 170.00 foot radius curve left, said curve having a central angle of 39° 18' 10" and a long chord bearing

South 21° 19' 07" West a distance of 114.34 feet to a 5/8 inch diameter iron pin; thence

South 1° 40' 02" West a distance of 693.15 feet to a 5/8 inch diameter iron pin; thence

(continued)

(Pit)

South 89° 14' 59" East a distance of 312.79 feet to a 5/8 inch diameter iron pin on the Easterly boundary of said West Half of the Northeast Quarter; thence

North 1° 11' 43" East along the Easterly boundary of said West half of the Northeast Quarter a distance of 1,293.08 feet to the POINT OF BEGINNING.

Parcel III

A parcel located in the West Half of the Northeast Quarter of Section 4 of Township 4 North, Range 2 West, Boise Meridian, Canyon County, Idaho, more particularly described as follows:

COMMENCING at a brass cap monument marking the Northeast corner of said West Half of the Northeast Quarter of Section 4 (East 1/16 Corner), from which a brass cap monument marking the Southeast corner of said West Half of the Northeast Quarter of Section 4 (SE 1/16 Corner) bears

South 1° 11' 43" West a distance of 2,640.93 feet; thence

South 1° 11' 43" West along the Easterly boundary of said West Half of the Northeast Quarter a distance of 698.89 feet to a 5/8 inch diameter iron pin on the Southerly right-of-way of Foothill Road; thence

North 89° 31' 18" West along said Southerly right-of-way a distance of 277.16 feet to a 5/8 inch diameter iron pin; thence leaving said Southerly right-of-way

South 1° 40' 02" West a distance of 333.10 feet to the POINT OF BEGINNING; thence a distance of 128.50 feet along the arc of a 180.00 foot radius curve right, said curve having a central angle of 40° 54' 12" and a long chord bearing

South 22° 07' 08" West a distance of 125.79 feet to a 5/8 inch diameter iron pin; thence a distance of 178.48 feet along the arc of a 250.00 foot radius curve left, said curve having a central angle of 40° 54' 12" and a long chord bearing

South 22° 07' 08" West a distance of 174.71 feet to a 5/8 inch diameter iron pin; thence

South 1° 40' 02" West a distance of 678.91 feet to a 5/8 inch diameter iron pin; thence

North 89° 14' 59" West a distance of 934.54 feet to a 5/8 inch diameter iron pin on the Westerly boundary of said West Half of the Northeast Quarter; thence

North 1° 08' 22" East along said Westerly boundary 1,056.01 feet to a point; thence leaving said Westerly boundary

South 89° 31' 18" East a distance of 199.79 feet to a point; thence

South 71° 31' 51" East a distance of 318.14 feet to a point; thence

North 75° 56' 42" East a distance of 266.70 feet to a point; thence

South 75° 37' 18" East a distance of 295.36 feet to the POINT OF BEGINNING.

PARCEL IV

Lot 4, Block 3, WHISPER CREEK ESTATES, PHASE II AND III, Canyon County, Idaho, according to the plat filed in Book 22 of Plats, Page 20, records of said County.

AND

(continued)

RP

The 15.11 feet of vacated Lamp Road, as disclosed in Vacation, recorded October 4, 1995 as Instrument No. 9527918 and located Westerly and adjacent to Lot 4, Block 3, WHISPER CREEK ESTATES PHASE II AND III, Canyon County, Idaho, according to the plat filed in Book 22 of Plats, Page 20, records of said County.

As amended by Affidavit recorded November 12, 1999 as Instrument No. 009944917, records of Canyon County, Idaho.

PK

EXHIBIT "A"
PARCEL 5

A PARCEL OF LAND IN THE SW $\frac{1}{4}$ OF SECTION 4,
T4N, R2W, B.M., CANYON COUNTY, IDAHO AND
BEING MORE PARTICULARLY DESCRIBED AS
FOLLOWS:

BEGINNING AT THE WEST $\frac{1}{4}$ CORNER OF SAID
SECTION 3, T4N, R2W, B.M., CANYON COUNTY,
IDAHO
THENCE ALONG THE MID-SECTION LINE OF SAID
SECTION, THE BASIS OF BEARING
S 89°43'38" E 2629.25 FEET TO THE CENTER OF
SAID SECTION 3, THENCE ALONG THE MID-
SECTION LINE
S 00°28'53" W 1324.53 FEET TO A $\frac{1}{8}$ TH CORNER,
THENCE
S 00°53'52" W 1321.47 FEET TO A $\frac{1}{4}$ CORNER,
THENCE ALONG THE SOUTH SECTION LINE OF SAID
SECTION 3
N 89°45'30" W 2643.55 TO THE SOUTHWEST
CORNER OF SAID SECTION 3, THENCE
ALONG THE WEST SECTION LINE OF SAID SECTION
3
N 00°59'53" E 514.24 FEET, THENCE LEAVING THE
SECTION LINE
S 89°36'47" E 361.68 FEET, THENCE
N 00°59'53" E 164.42 FEET, THENCE
N 89°00'07" W 361.66 FEET TO A POINT ON THE
SECTION LINE, THENCE
N 00°59'53" E 1965.04 FEET ALONG THE SECTION
LINE TO THE POINT OF BEGINNING.

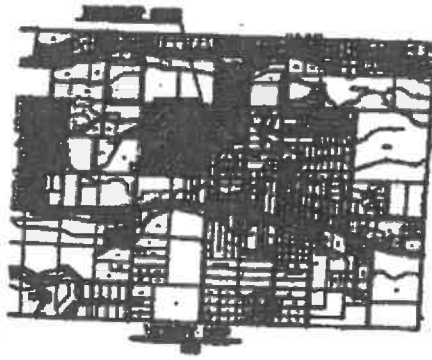
CONTAINS 158.95 ACRES



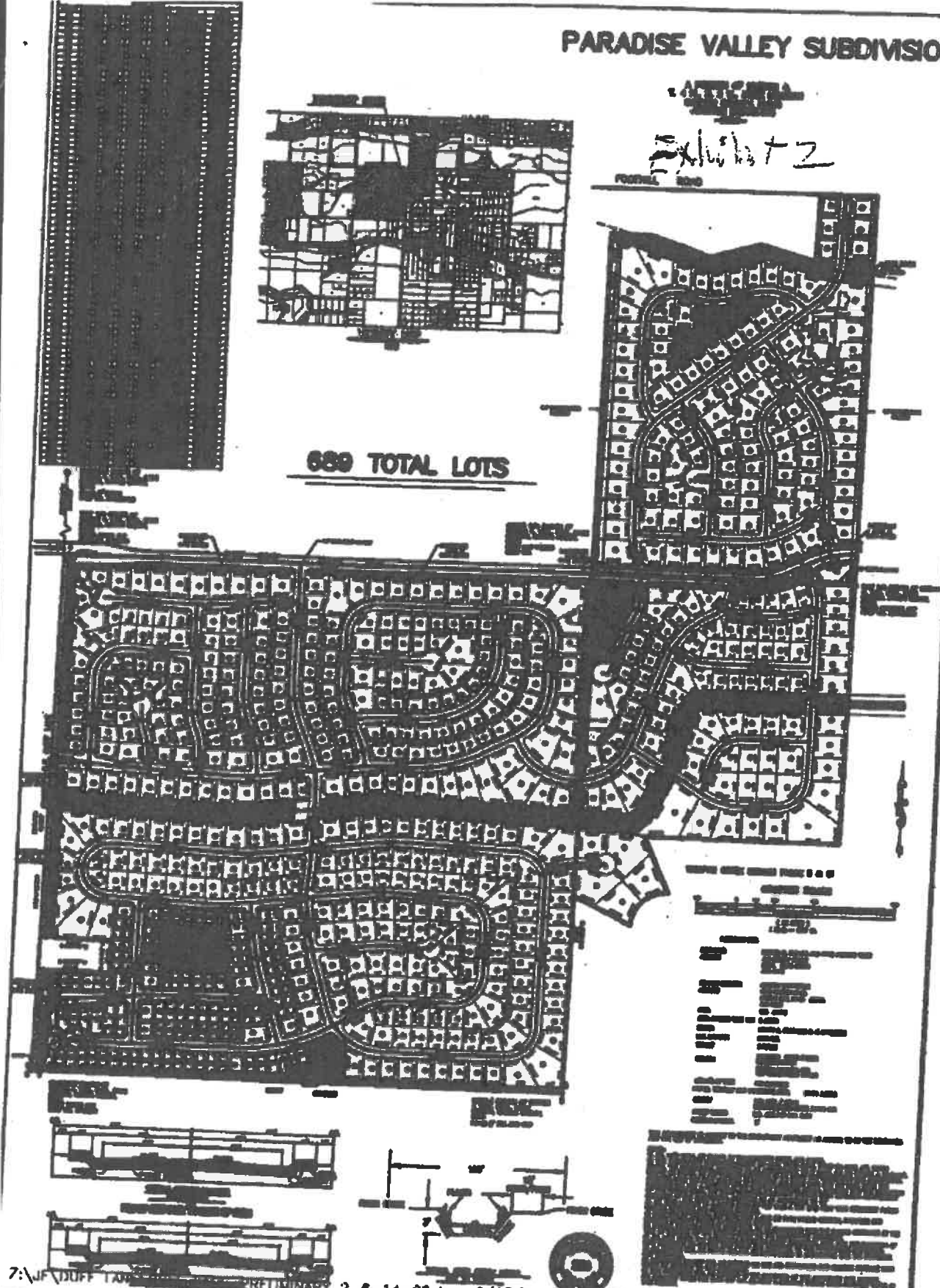
10891117

PARADISE VALLEY SUBDIVISION

EXHIBIT 2



689 TOTAL LOTS



LEGEND

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
---	---	---	---	---	---	---	---	---	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	-----

Run

EXHIBIT "D"

Public Comments

My name is Kristi Cox. I am the owner of the property located at 23162 Brady Ashley Dr, in Whisper Creek Subdivision. My lot is located at the Southeast corner of the newly proposed Waterford East Subdivision. I had originally planned on presenting this to you in person. However, Patrick Connor/Hubble Homes requested a continuance to the November 16 meeting so there would be a full panel of commissioners and I am not able to attend.

As you can see on the preliminary plat, Tullamore Ave is to be extended to the northly boundary of my lot. I am told this is being requested by the City Engineer for future connect ability. The newly approved plat of Waverly Park Subdivision already has a road and utilities dead ending at the Westerly boundary of Whisper Creek Sub near Ruth Marie Drive and there is a new road which will be an extension of Whisper Creek Drive that will be located on the east boundary of Whisper Creek Sub from Whisper Creek Dr out to Lansing Lane (see attached Exhibit A). Because of these 2 roads and the fact that Allbright Ave (shown on the Waterford East plat and Waverly Park plat) will also run on the easterly boundary of Whisper Creek Subdivision, I am not sure why a 3rd access road needs to exist. I know they are thinking years down the road. But if my property does get annexed into the city and rezoned so it could be split, I am not sure what benefit an access right down the middle would be for me. In fact, I think it would devalue the price of my lot as the options for splitting would be limited. I am also not sure where this road would even connect to as it does not line up with any of the existing roads in Whisper Creek Subdivision. (see attached Exhibit B) Even though my preference would be no connecting road, I could at least understand if this road was to be located on the East boundary of my property as that would line up with Whisper Creek Drive and the newly proposed extension to Lansing Lane (see attached Exhibit C). I have also viewed the City of Middleton and Canyon County's comprehensive maps and neither of them have a new North South Road depicted at this location. If this is simply for utility connectivity in the future, I would ask that an underground utility corridor be used in lieu of this road.

I have also noticed that the proposed plat map does not address the irrigation easements that currently exists on the southerly and easterly boundaries of the parcel they are asking to develop. There is a current dirt road along both these boundaries that is frequently used to access the irrigation ditch during irrigation season (see attached Exhibit D & E).

On a final note, please take into consideration that there have been several newly approved subdivisions located on Duff Lane. Waterford Subdivision will be adding an additional 261 lots and Waverly place adds 431 lots. These 2 subdivisions and the newer phases of Falcon Valley Subdivision all direct the main flow of traffic down Duff Lane and to the intersection of Hwy 44 and Duff Lane. I know the city just approved a traffic study that includes this intersection and I believe it would be well advised to receive the results of the study prior to approving this development.

In light of the fact that the preliminary plat map should be adjusted for the irrigation easement prior to approval and the new traffic study that is being paid for at the expense of the tax payers, I would like you to vote to deny this preapproval proposed by Patrick Connor/Hubble Homes and in doing so, please consider either removing the full extension of Tullamore Ave to my property line or adjusting it to connect at the Northeastern corner of my property as to not hinder my future use. (Exhibit F)

Thank you for your consideration

Kristi Cox

Exhibit A

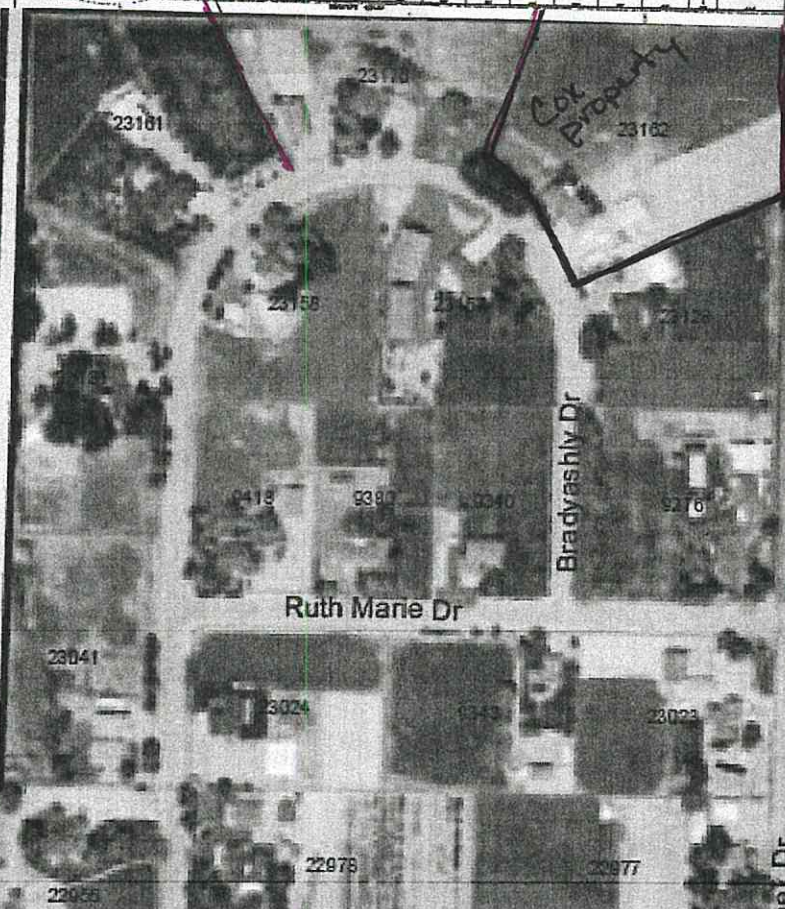
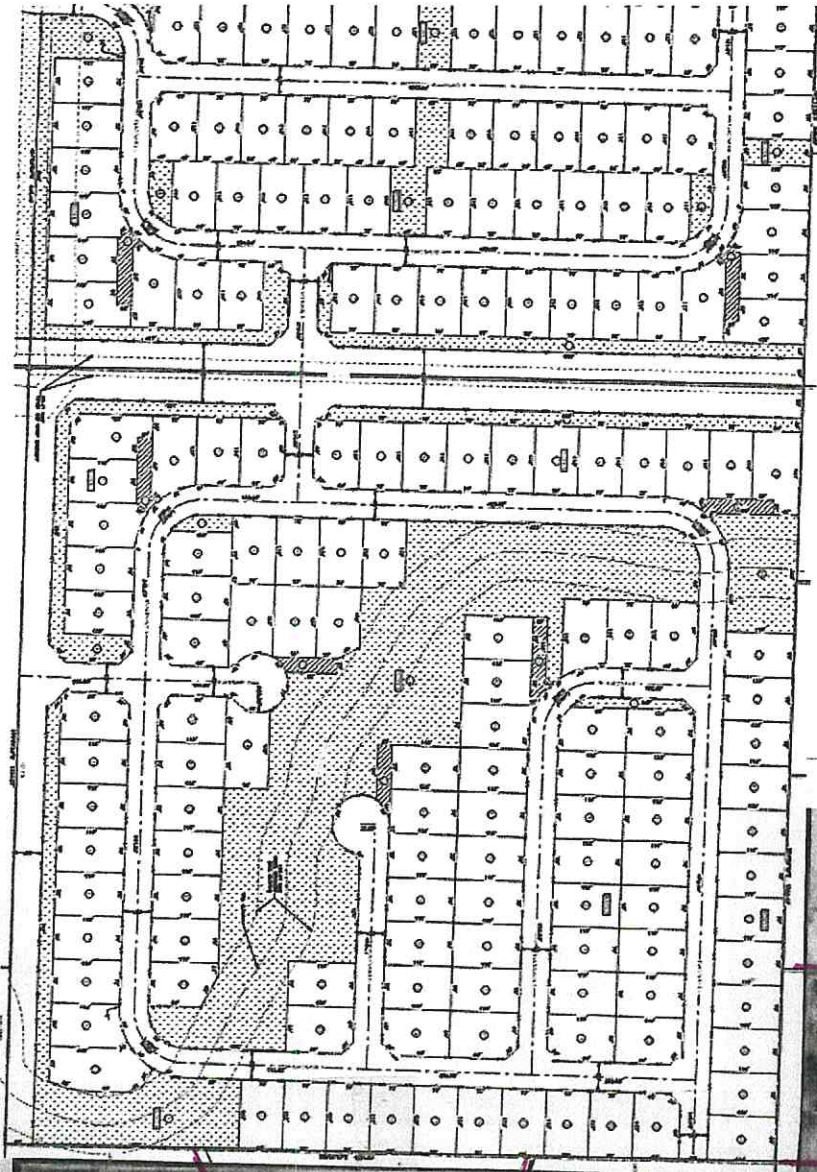


Exhibit B

view of where this road would
run through my property if
extended



Exhibit C

Whisper Creek Drive

my Easterly
fence line

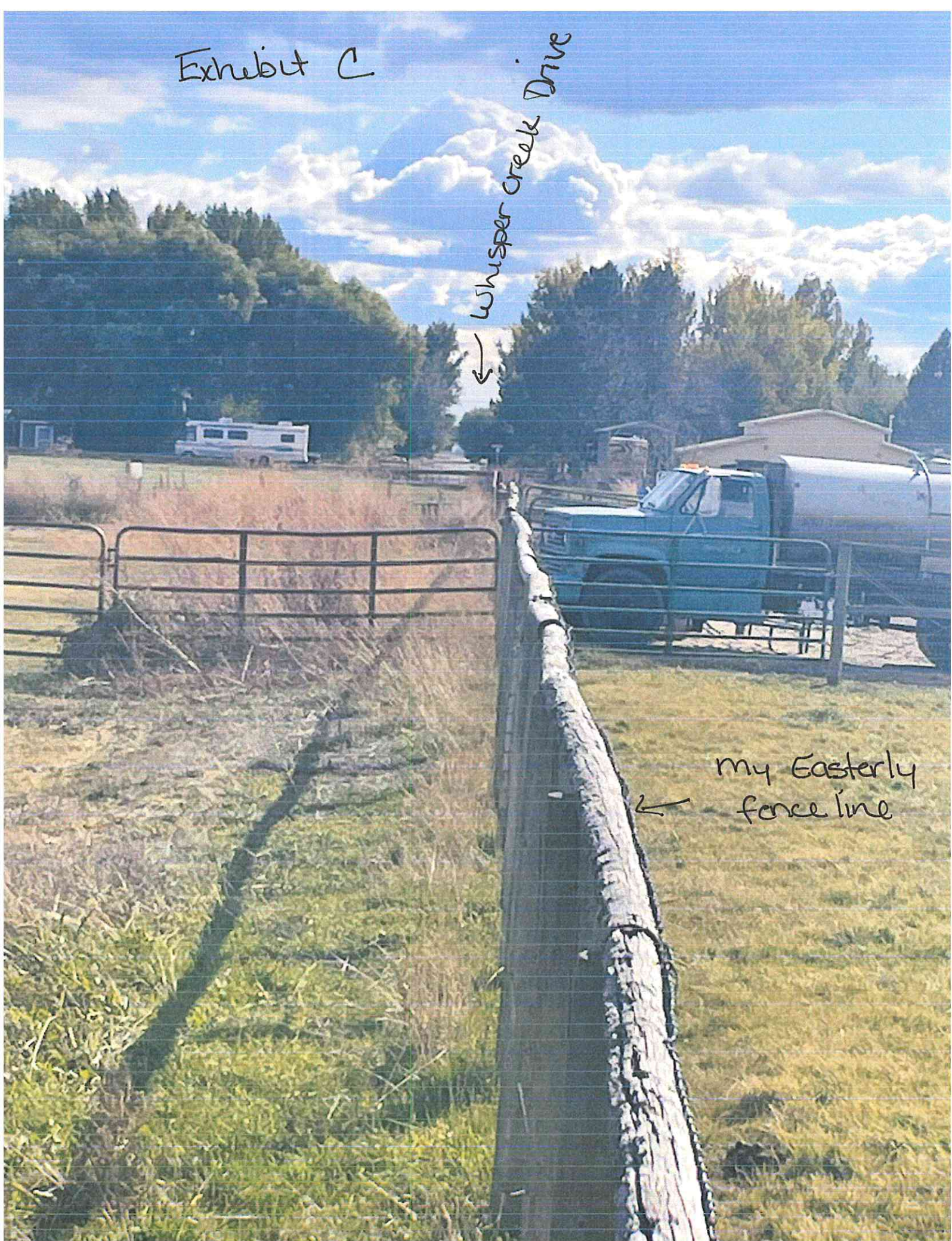


Exhibit D

irrigation
Ditch on
Southern
boundary

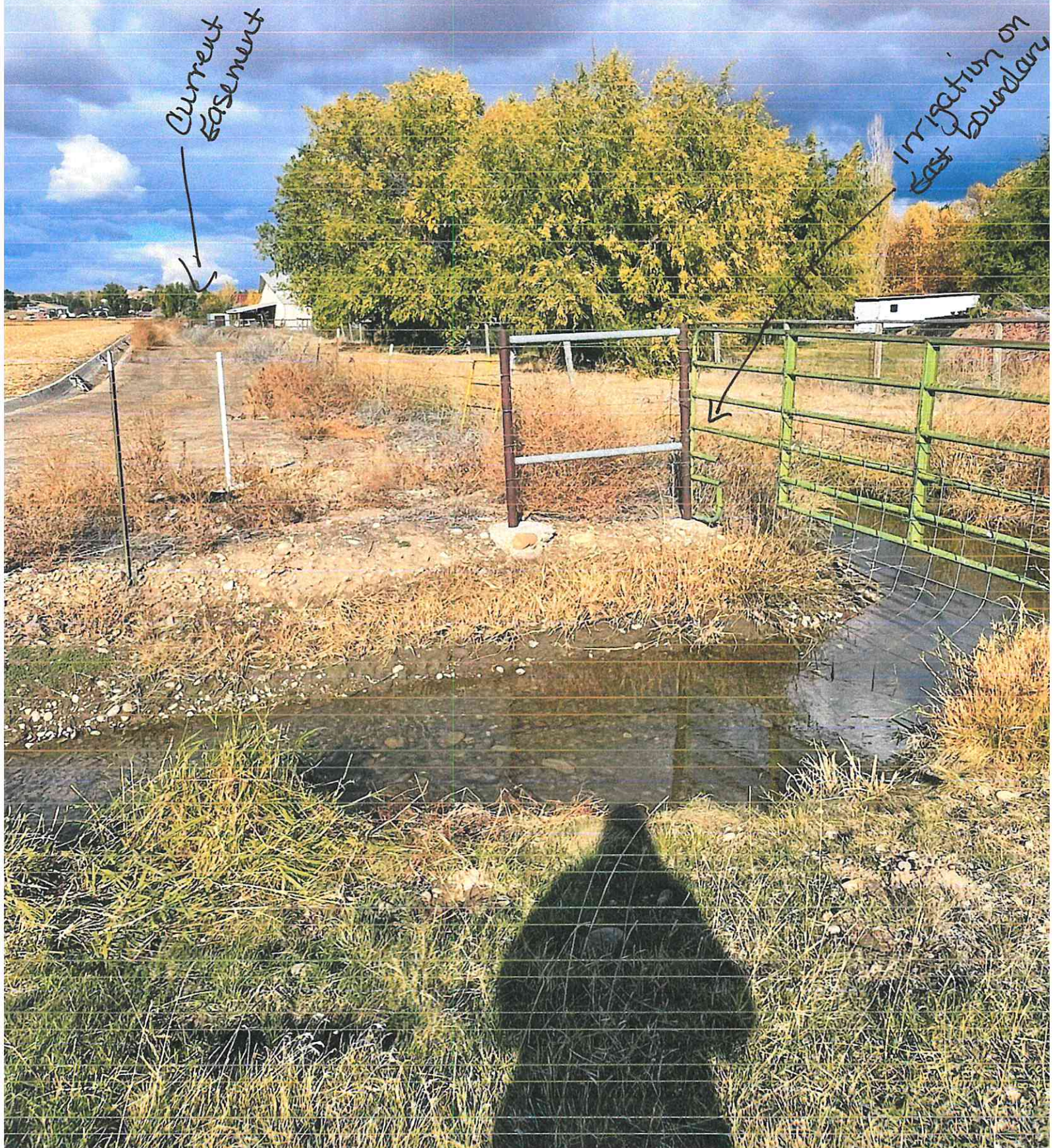
current easement



Exhibit E

Current
Easement

Irrigation on
East boundary



Planning & Zoning Applications

Exhibit F



10/5/2022, 11:37:26 AM

DSD_PLANNING_ZONING_APP_TRACKER

Conditional Use Permit

Rezone

Comprehensive Plan Map Amendment

Conditional Use Modification

City Limits

CanyonCountyRoads

Impact Areas

CanyonCountyBoundary

Imagery_2019

Red: Band_1

1:9,028

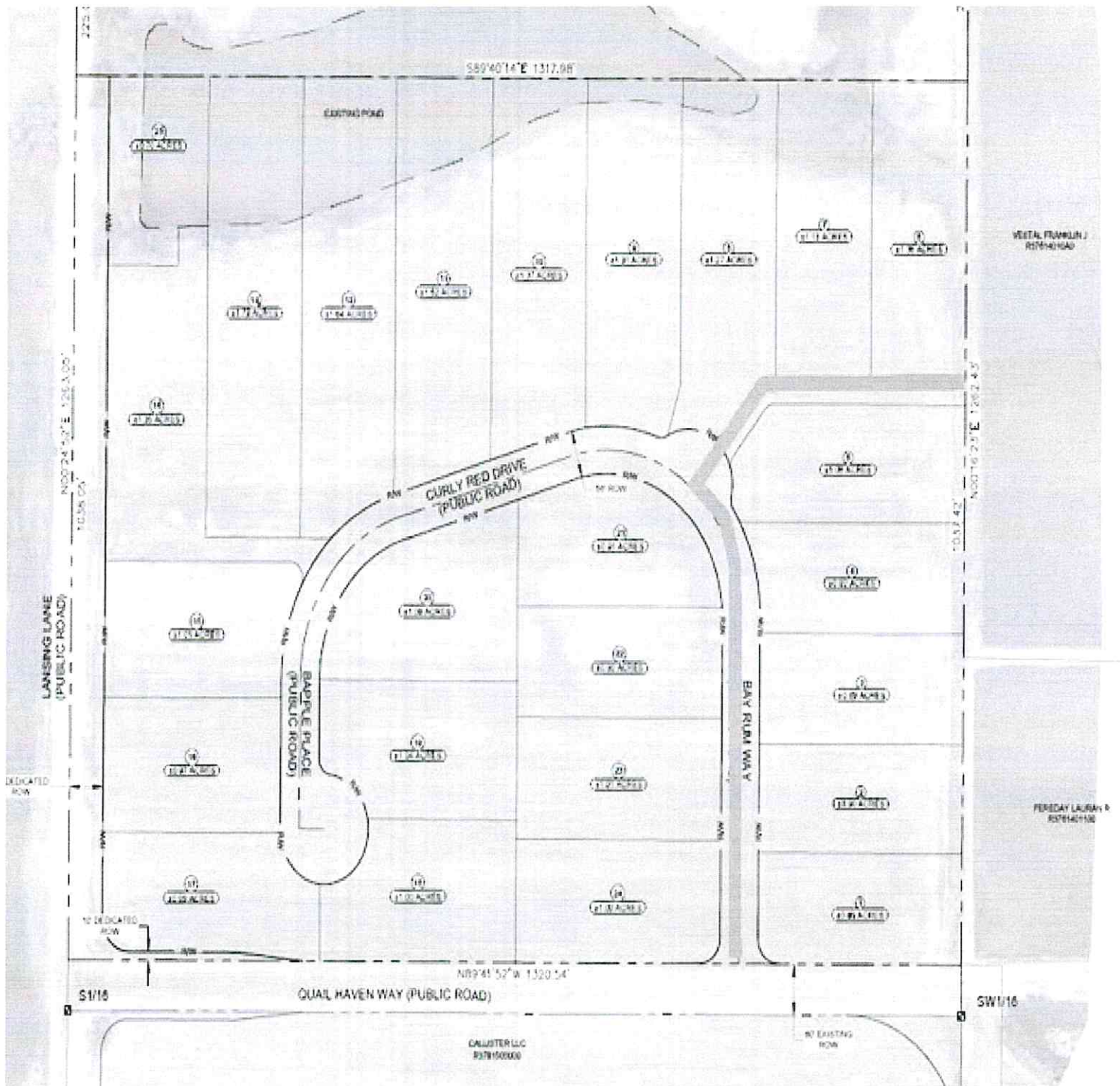
0 0.05 0.1 0.15 0.2 mi

0 0.07 0.15 0.3 km

Bureau of Land Management, State of Oregon, State of Oregon DOT, State of Oregon GEO, Esri Canada, Esri, HERE, Garmin, GeoTechnologies, Inc.,

Bureau of Land Management, State of Oregon, State of Oregon DOT, State of Oregon GEO, Esri Canada, Esri, HERE, Garmin, GeoTechnologies, Inc., Intermap, USGS, METINASA, EPA, USDA | Planning & Zoning Applications Tracker

Example of utility corridor



PROPOSED UTILITY CORRIDOR

Ms. Roberta Stewart
City of Middleton, Planning and Zoning Department
1103 W. Main St
Middleton, ID 83644

Re: Waterford East Subdivision, Preliminary Plat and Development Agreement Modification

Dear Roberta Stewart, Middleton City Council

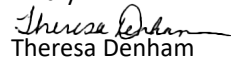
CC Middleton City Planning and Zoning

Thank you for hearing concerns about this Preliminary Plat, and DA Modification.

I am not for or against this, but I do think some modifications to their request should be considered prior to adoption of any agreement and that tonight this be tabled..

- 1) **NEED TRANSITIONAL AREA BETWEEN R3 and AG** According to the county comprehensive mapping, there is county AG land adjacent to this property. There needs to be a transitional space between neighboring farmlands. The farmland soil maps show the properties adjacent are primarily "Best Suited Class 2 Agriculture Soils and also comprising a small amount of Moderately Suited AG Class 3 soils.
- 2) **ADDRESS REQUEST OF REMOVAL OF PREVIOUS DA** According to this applicant, they wish to remove conditions required in previous DA. They do not specify which DA agreement portions they wish to change. Currently, under the old agreement they agree to cover all costs to bring in utilities (water, sewer, electric). They agree to do appropriate road work, and they agree to do other community improvements. Without clear understanding of which parts of the DA agreement they wish to cancel, it is not appropriate to move forward with the current request.
- 3) **Waterford East and Waterford (Ph 1 is currently under construction)** Will the request- if fulfilled waive parts of their previous agreement, leaving current taxpayers and citizens responsible to fulfil the needs of roads, sewage extensions etc. Below is their stated request:
"Development Agreement Modification: In 2006 the Paradise Valley Development Agreement was recorded. Waterford East was within the boundary of this Development Agreement. With this new application, we are requesting that the Waterford East property be removed from the Development Agreement and there be a new Development Agreement made with the City of Middleton for just the area of Waterford East. The details of this Development Agreement will be determined based on the Conditions of Approval approved by City Council"
- 4) **Previous 2006 DA were able to get their request from AG to R3 in 2006 BASED ON THAT DA** which they now make a request to remove agreements on page 1 of the current DA, which states *"whereas, the City of Middleton allows a property owner/developer to request that an application for zoning or zoning map amendment be processed in connection with the execution of a DA, wherein such developers agreement a property owner or developer may agree to make written commitments concerning the use or development of a subject parcel in exchange for the change of zoning requested"*.
- 5) I do not believe that we should "remove" the previous DA, and fact may need to modify to include additional requirements to account for excessive needs in the way of traffic and safety to this community.

Kindly


Theresa Denham
Middleton Idaho
208-505-7675

From: [David and Lisa](#)
To: [Roberta Stewart](#)
Subject: Public Hearing Comments: Parcel R338540 & R33854011
Date: Monday, September 12, 2022 3:15:31 PM

Hi Roberta,

I am writing in response to the Public Hearing notice received for Parcels R338540 & R3854011.

Regarding the layout, we are concerned with the density backing up to adjacent houses as it is significantly different from the existing homes. I believe all that border the project would appreciate a lower density on the affected perimeter to keep some consistency with current surroundings.

Additionally, are there green space requirements in Middleton developments and does this layout meet those requirements? Typically there are gathering areas for communities that create a sense of connection within the subdivision. Is the required canal setbacks being met and is this qualified greenspace?

Thank you!

David & Lisa Richard
23161 Buskirk Dr.
Middleton, ID 83644

David-208-249-8020
Lisa 541-519-6958

From: [Kristi Cox](#)
To: [Roberta Stewart](#)
Subject: FW: Waterford Estates Subdivision
Date: Thursday, September 1, 2022 9:05:10 AM
Attachments: [image003.png](#)
[image004.png](#)
[image005.png](#)
[image007.png](#)

I would like you to make public that I am disputing this connection road from Tullamore south to my property located at 23162 Brady Ashley Dr, Middleton, ID

Thank you

Kristi Cox

Escrow Officer
Pioneer Title Co.

Direct: (208) 442-4808
Email: kcox@pioniertitleco.com
5680 E Franklin Road, Ste 150
Nampa, ID 83687
www.pioniertitleco.com

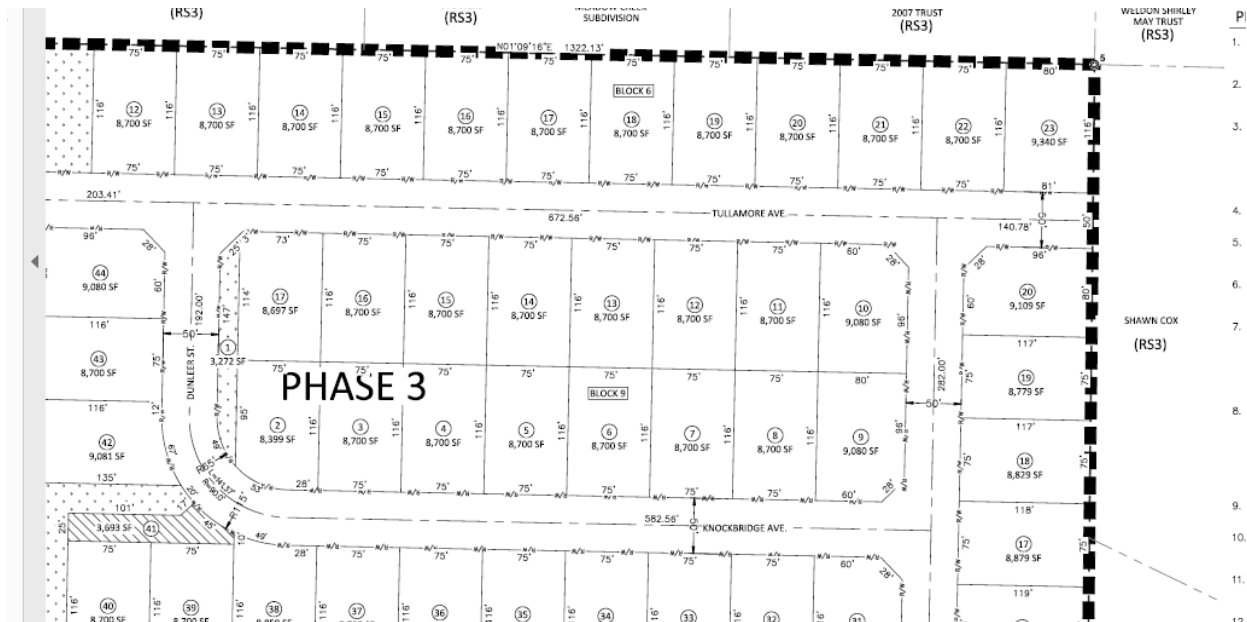
My office hours are 7 AM to 1 PM



From: Kristi Cox
Sent: Tuesday, August 30, 2022 9:38 AM
To: 'rstewart@middletoncity.com' <rstewart@middletoncity.com>
Subject: FW: Waterford Estates Subdivision

Roberta,

I received your voicemail yesterday, but I was not talking about the road to the north. I had left another voicemail and would love to visit with you about this. I am talking about the Tullamore Ave. The preliminary plat is showing this Avenue as a dead end at the North boundary of my property which is within an already platted subdivision. I am concerned of that dead end. Not only do I not understand the reasoning for it, but I also believe it will significantly reduce the value of my property. I am available at my work number below or at my cell # 208-250-2712. Thank you



Kristi Cox

Escrow Officer
Pioneer Title Co.

Direct: (208) 442-4808
Email: kcox@pioneertitleco.com
5680 E Franklin Road, Ste 150
Nampa, ID 83687
www.pioneertitleco.com

My office hours are 7 AM to 1 PM



***This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to which they are addressed. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited. If you have received this email in error please notify the sender and delete the email. Please note that any views or opinions presented in this email are solely those of the author and not necessarily those of the company. The recipient should check this email and any attachments for the presence of viruses. The company accepts no liability for any damage caused by any virus transmitted by this email. ***

From: [Roberta Stewart](#)
To: [linda butcher](#)
Subject: RE: RE Watertown East Sudivision
Date: Friday, September 2, 2022 12:47:00 PM
Attachments: [image001.png](#)
[image002.png](#)

Hello Ms. Butcher. I think I can answer 1 of your 2 questions below. As to where the school children will go to school, only Middleton School District #134 can answer that question. The City of Middleton has no jurisdiction or control over the school district and its decisions on where children will go to school.

As to access: the two primary accesses will be off of future 9th Street and future Albright Street to the west. There will also be an access from the Waterford Subdivision to the west once that connected phase is completed.



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

www.middleton.id.gov



From: linda butcher <winniewoo1981@yahoo.com>
Sent: Friday, September 2, 2022 8:54 AM
To: Roberta Stewart <rstewart@middletoncity.com>
Subject: RE Watertown East Sudivision

Question: Since the school bond did not pass and Mill Creek Elementary is at 127% capacity, where will the children from this subdivision be going to school?

Question: Will there only be 1 road to access the subdivision or is an easement road proposed as another access road?

From: [Vicky Haban](#)
To: [Roberta Stewart](#)
Subject: Waterford East Subdivision
Date: Tuesday, February 22, 2022 11:00:09 AM

Hi Roberta. I hope you're having a great day so far. I am reaching out in regards to the new Waterford East subdivision that will be built behind my home at 23281 El Camino Pl, Middleton.

I have been to the city meeting and have met with Patrick from Hubble and that's how I received your email.

I would like to know what I need to do to make sure a height limit on the single story homes would be granted for the four homes being built right behind my property. I know it can be done and want make sure I am going through the correct channels of communication. I believe I would need an application as well and would appreciate that and any other information or forms needed to make this request if I am not too late.

Thank you Roberta for your assistance and I look forward to hearing back from you!

Vicky



Vicky Haban

REALTOR® | Team Director

208.703.7615
DoWorkRealty.com
vicky@doworkrealty.com
549 N Benjamin Ln, Boise, ID 83704



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
Email: info@compassidaho.org



Bicycle and Pedestrian Infrastructure

An individual's trip is the entire journey from beginning to end. In many cases, a trip may combine a number of modes. While motorized vehicles will provide longer trips, users complete the first and last portion on their own. For example, almost every vehicle trip includes a walk or bike trip to the parking lot or transit stop. Good street connectivity increase the number of travel options and reduces the distances traveled to reach destinations. One way to measure route directness is take the ratio of the route distance to the straight line-distance. The closer the ratio is to 1, the better for connectivity of the area.

Some steps that can be taken to improve walk/bike infrastructure include:

- ✓ Providing sidewalks, crosswalks, and micropaths to connect destinations

Providing an improved pathway along a canal as a transportation and recreational option

Siting pathways and sidewalks as directly as conditions allow or provide wayfinding signs

Reducing street lengths to discourage speeding on local roads

Providing sufficient and covered bike parking near destinations



A disconnected system means more trips onto arterial roads, resulting in fewer cyclists and pedestrians and less efficiency for vehicles.



A connected system provides options, including walking, cycling, or driving. More trips can be taken on local roads, avoiding busier arterials.

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.

Overall Net Fiscal Impact

Net Fiscal Impact, by Agency

City

County

Highway District

School District

Break Even:

From: [Niki Benyakhlef](#)
To: [Jennica Reynolds](#); [Alicia Krantz - MSD](#); [Canyon County Paramedics](#); [Chris Grooms](#); [COMPASS](#); [Deann Gerthung \(deann.gerthung@canyoncounty.id.gov\)](#); [Idaho Power - Mike Ybarguen](#); [Julie Collette](#); [Kerry.Schmidt@intgas.com](#); [Lacey Grooms - MSD](#); [Marc Gee - MSD](#); [Middleton/Star Fire](#); [Monica Taylor - Intermountain Gass](#); [Southwest District Health - Mitch Kiester](#); [vislas@starfirerescue.org](#); [westerninfo@idwr.idaho.gov](#); [zoninginfo@canyoncounty.id.gov](#); [Middleton Mill Ditch Co](#); [Middleton Mill - Sawtooth Law](#); [Allen Funkhouser \(allenfun50@hotmail.com\)](#); [Chris Hopper](#); [Lenny Riccio](#); [Sparklight - Franchise](#)
Cc: [Roberta Stewart](#)
Subject: RE: Agency Notice - Waterford East - CC
Date: Friday, October 21, 2022 8:33:43 AM
Attachments: [image001.png](#)

Hello Jessica,

Due to the size and proximity of this development, impacts to the State Highway system can be anticipated. A Traffic Impact Study is requested.

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
Website: itd.idaho.gov

From: Jennica Reynolds <jreynolds@middletoncity.com>
Sent: Tuesday, October 18, 2022 4:29 PM
To: [Alicia Krantz - MSD <akrantz@msd134.org>](#); [Canyon County Paramedics <MStowell@ccparamedics.com>](#); [Chris Grooms <cgrooms@middletoncity.com>](#); [COMPASS <gis@compassidaho.org>](#); [Deann Gerthung \(deann.gerthung@canyoncounty.id.gov\) <deann.gerthung@canyoncounty.id.gov>](#); [Idaho Power - Mike Ybarguen <MYbarguen@idahopower.com>](#); [D3 Development Services <D3Development.Services@itd.idaho.gov>](#); [Julie Collette <gmprdjulie@gmail.com>](#); [Kerry.Schmidt@intgas.com](#); [Lacey Grooms - MSD <lgrooms@msd134.org>](#); [Marc Gee - MSD <mgee@msd134.org>](#); [Middleton/Star Fire <permits@starfirerescue.org>](#); [Monica Taylor - Intermountain Gass <monica.taylor@intgas.com>](#); [Southwest District Health - Mitch Kiester <Mitch.Kiester@phd3.idaho.gov>](#); [vislas@starfirerescue.org](#); [westerninfo@idwr.idaho.gov](#); [zoninginfo@canyoncounty.id.gov](#); [Middleton Mill Ditch Co <irrigation.mm.mi@gmail.com>](#); [Middleton Mill - Sawtooth Law <bryce@sawtoothlaw.com>](#); [Allen Funkhouser \(allenfun50@hotmail.com\) <allenfun50@hotmail.com>](#); [D3 Development Services <D3Development.Services@itd.idaho.gov>](#); [Chris Hopper <chopper@canyonhd4.org>](#); [Lenny Riccio <Iriccio@canyonhd4.org>](#); [Sparklight - Franchise <cheryl.goettsche@sparklight.biz>](#)
Cc: [Roberta Stewart <rstewart@middletoncity.com>](#)
Subject: Agency Notice - Waterford East - CC

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.

Please see the attached Agency Notice of Public Hearing for Waterford East.

Jennica Reynolds

City of Middleton

Deputy Clerk, Planning

208-585-3133

jreynolds@middletoncity.com



CONFIDENTIALITY NOTICE: The contents of this email message and any attachments are intended solely for the addressee(s) and may contain Personal Information from a DMV file which is legally protected from disclosure under both state and Federal law. Be advised that Personal Information may only be disclosed to third parties under the provisions of Idaho Code section 49-203. If you are not the intended recipient of this message, or if this message has been addressed to you in error, please immediately delete this message and any attachments, and alert the sender.



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*

Waterford East Subdivision at Middleton Subdivision

Students living in the subdivision as planned would be in the attendance zones for Mill Creek Elementary school. With 170 total lots, we would anticipate, upon completion, an increase of 85-119 students between Mill Creek Elementary, Middleton Middle School, and Middleton High School. **To put this in perspective, that equates to approximately 4-5 classrooms of students (ave. 25 students).** Every classroom at Mill Creek 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 school students, though that may change based on the design of the plat and its connection to a safe walking route to school. The increase in students has the potential to increase the number of routes the district provides, thus increasing cost to the district and taxpayers. 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”

Engineering & Planner Comments



July 18, 2022

TO: City of Middleton
Roberta Stewart, Planning and Zoning Official

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

RE: Waterford East Subdivision Preliminary Plat

Thank you for the opportunity to review the above referenced preliminary plat submittal. Additional comments may come up as the application goes forward.

MCC 5-4-4:A.2.a. Reference the boundary to section corner(s). The boundary cannot be verified with the plat as submitted. Township/range/section information in the heading area – all sheets. Identify monuments.

MCC 5-4-4:A.2.d. Drawing doesn't scale correct.

MCC 5-4-4:A.2.f. Add benchmarks.

MCC 5-4-4:A.2.i. Add name of adjacent subdivisions.

MCC 5-4-4.2.k. Please add the lot count table, per phase, to PP1.0.

MCC 5-4-4:A.2.m. Verify the property owners adjacent are correct.

MCC 5-4-4:A.2.n. Add location and type of utility systems.

1. Show streetlights.
2. Submit preliminary engineering design/inverts for both sewer crossings at Mill Slough. Profile not required.

MCC 5-4-4:A.2.o.

1. Dimension offset cul-de-sac.

MCC 5-4-4:A.2.r. Please show the pathway to be developed along the Mill Slough for the full limits of the project. Extend pathway north along east boundary to the pathway in 9th.

MCC 5-4-4:A.3.d. The irrigation system location and point of delivery is required to be shown.

MCC 5-4-10-2:J.2. Review this code section and revise road names accordingly.

General comments:

1. Notes on PP1.0 - font needs to be larger. Difficult to read.
2. Note 5. Delete "lot drainage".
3. The curb type on vertical curb local section inconsistent.
4. Please revisit stormwater management/curb type for the common drives.
5. A license agreement for the utility and road crossing for will be required as a condition of final plat. Add note.
6. Show easement area in Instrument No.: 899294.
7. Identify Lucich and other access easements listed in title.



September 6, 2022

TO: City of Middleton
Roberta Stewart, Planning and Zoning Official

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

RE: Waterford East Subdivision Preliminary Plat

Thank you for the opportunity to review the above referenced preliminary plat re-submittal.

MCC 5-4-4:A.2.a. Reference the boundary to section corner(s). The boundary cannot be verified with the plat as submitted. Identify monuments.

MCC 5-4-4:A.2.d. Drawing doesn't scale correctly.

MCC 5-4-4:A.2.m. Verify the property owners adjacent - Bayne ownership to north is not correct.

MCC 5-4-4:A.3.d. The irrigation system location and point of delivery is required to be shown.

General comments:

1. Note 5. Delete "lot drainage".
2. Please revisit stormwater management/curb type for the common drives. How does reverse pan rolled curb function?
3. Show easement area in Instrument No.: 899294.
4. Identify Lucich and other access easements listed in title.



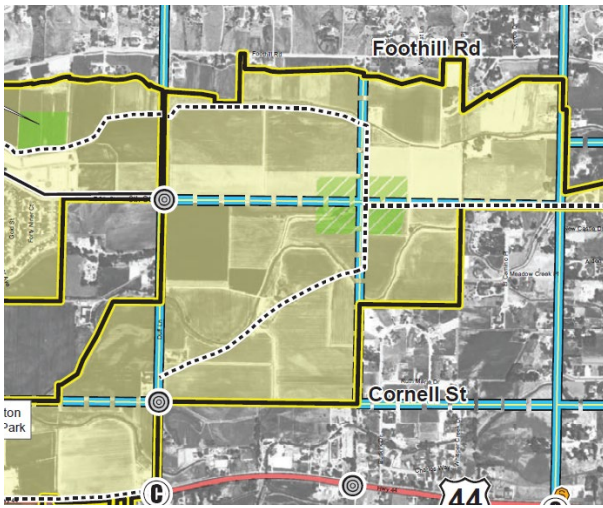
CITY OF MIDDLETON

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

June 20, 2022

PLANNER COMMENTS – Waterford East Subdivision (Preliminary Plat received 4/14/2022)

1. Need deed showing conveyance of property to Providence Holdings LLC.
2. Need AOL to show Patrick Connor can apply on behalf of Providence Holdings. (I'm sure there's no issue here, but the City still needs to ensure there are no legal issues with ownership and the application. Just dotting our "I"s and crossing our "T"s.)
3. Please be aware that you will need a 2nd public access prior to the 31st building permit. Looks like 9th street will be the primary access but you'll need to access Foxrock in phase 4 of Waterford Subdivision to get your 2nd access.
4. What are your plans for that long swathe of area that reaches Foothills Road? If you plan to make it part of your access plan, what type of improvements do you intend to do to the culvert crossing over the Newman lateral?
5. Change all north/south roadways to "Avenue". Change all cul de sacs to "Court". So, Cullen Street should be Cullen Avenue. Millford St., change to Millford Ave. Enfield St., is Enfield Ave. Upton St., is Upton Ave. Tullamore St., is Tullamore Ave. Knockerbridge St., is Knockerbridge Ave. Trimble St., is Trimble Court. Suncroft St., is Suncroft Court.
6. Reserve all street names & subdivision name with Tony Almeida at the County.
7. I'm not sure that a stub road to the south on Tullamore Street is necessary. The Buskirk subdivision to the south may not be re-developed in any meaningful way for years to come. Maybe just add a private lane there, but consult with Amy Woodruff first.
8. Call out private lane lots in the note section as "private lanes" or add the hatching marks to the legend to designate them private lanes.
9. The Comp Plan Map entitled "Transportation Schools and Recreation Map" shows a public pathway system that connects to the Waverly Park pathway. It must be an 8' wide pathway with a 12' wide public easement overlay or otherwise dedicated to the public. See 5-4-11-2 which was amended in January 2022 (Ordinance 659). This comp plan requirement will be fulfilled if you add this pathway along the Mill Slough canal and hook it up to the same pathway on the north side of the canal in the adjacent Waverley Park Subdivision to the west. (See Waverley approved pre-plat attached to email.) There must be a public access easement of 12' wide over the 8' wide pathway. Show the dimensions of the pathway and the access easement on your pre-plat.
10. Add a note to the Note section: *"8' wide pathway along Mill Slough canal has a 12' wide public access easement."*



52 Sidewalks, Pathways, Bicycle Lanes, and Greenbelt:

a. Five-foot (5') wide concrete sidewalks abutting the curb on both sides of the road, unless otherwise approved by the City;

b. for pathways not located along a road, the pathway shall be eight-foot (8') wide asphalt and situated on a twelve foot (12') wide public access easement or dedicated to the City if part of the Transportation, Schools & Recreation Map, detached pathways on both sides of the road; unless otherwise approved by the City;

c. and six-foot (6') wide bicycle lanes on both sides of the road, unless otherwise approved by the City; and

d. if a greenbelt pathway the pathway shall be a twelve-foot (12') wide asphalt pathway, located centered on a minimum twenty foot (20') wide common lot subject to a public access easement or dedicated to the city for public access; in the greenbelt.

11. The Transportation, Schools & Recreation Map also show that a large park should be incorporated into the project parcel. This was also true for Waterford Subdivision, but for some reason it was not enforced by the previous planner/administration. Also, be aware that 5-4-10-10 was amended in January before you submitted your plat. It requires that any subdivision with more than 75 units must provide amenities in the form of a park with play equipment, picnic area and shade structures, sports court, clubhouse, swimming pool or other similar amenity. Based on the comp plan map and the new code, you will need to add a substantial amenity to Waterford East. Additionally, because Waterford Sub did not provide a park as required by the comp plan, it is more imperative that you add a park to make up for that omission. Do not worry about putting it in the exact place shown on the Comp Plan Rec Map. It just needs to be a major amenity situated somewhere inside you plat.

5-4-10-10: OPEN SPACE AND AMENITIES:

A. For residential developments five acres or larger that do not include parks as shown on the Middleton Transportation, Schools & Recreation Map, developers shall include five percent (5%) irrigated and landscaped open space in a concentrated location(s), agreed to with the City, that is aesthetically pleasing and sufficiently large to accommodate group and/or recreational activities.

B. Open Space is defined as areas that are accessible to all residents and used for social gathering and/or passive or active recreation. Such areas may include parks, playgrounds, sport courts, plazas, community center/clubhouse, swimming pool, pocket parks, picnic areas, lakes and/or ponds, water features, pathways that are 8' or wider located within a public access easement or dedicated to the City, and large landscaped common lots, including detention pond areas that are landscaped with sod and over 10,000 sf in size. Open space does not include small landscaped strips, common lots along roadways, or landscape buffers unless the landscape buffer is sized above minimum standards and contains a pathway at least eight (8) feet wide.

C. Single family residential developments that include more than seventy five (75) dwelling units and multi-family subdivisions containing more than seventy five (75) dwelling units shall provide one or more amenities in the form of a park with play equipment, picnic area with tables and shade structure, one or more sport courts, community center/club house, swimming pool, recreational pond/lake, or other similar amenity.

12. Change the name of Lee Road to "Albright Avenue" to match the road name already approved for the Waverley Subdivision to the west.
13. Also, be prepared to possibly line up Trimble Court with Waverley's "Burlinson Street" that accesses Albright Avenue. That is an Amy Woodruff "call."



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

14. Change title for "Lee Avenue" cross section to "Albright Avenue". It should be a collector, but consult with Amy Woodruff to figure out correct road designation and cross-section to be inserted into the Pre-Plat.
15. Delete reference to "Lee Street" in Note 4 and add "Albright Avenue" instead.
16. Add note to note section: *"All lots are hereby designated as having a permanent easement for public/private utilities, drainage and irrigation over 10-feet adjacent to any rear lot line."*
17. Delete note 9 regarding centerline radius of 90' because the code changed in January 2022 to allow centerline radius of 90'. No longer a need for waiver or exception.
18. Add note: *"Sewer and water capacity is subject to will-serve analysis, and City will not reserve sewer and water capacity any earlier than construction drawing approval."*
19. Add note: *"Fiber optic to be provided to each lot during joint trench construction per Middleton Supplement to ISPWC."*
20. Add note: *"Request to terminate Paradise Valley Development Agreement, Instrument #200683381 accompanying Preliminary Plat application."*
21. Break down lot count by phase in Preliminary Plat Data section.
22. Before sending us a revised pre-plat, please place revision date on pre-plat so we can keep them in order.

see what is going on with panhandle. Amy not address it in her comments.

Thanks,

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

August 22, 2022

PLANNER COMMENTS – Waterford East Subdivision (Preliminary Plat received 8/17/2022)

1. Still need deed showing conveyance of property to Providence Holdings LLC.
2. Still need affidavit of legal interest to show Patrick Connor can apply on behalf of Providence Holdings. (I'm sure there's no issue here, but the City still needs to ensure there are no legal issues with ownership and the application. Just dotting our "I"s and crossing our "T"s.)
3. What are your plans for that long swathe of area that reaches Foothills Road? If you plan to make it part of your access plan, what type of improvements do you intend to do to the culvert crossing over the Newman lateral?
4. I cannot see evidence that a major amenity/park has been added to your pre-plat per the Transportation, Schools & Recreation Map and newly revised MCC 5-4-10-10. Without a major amenity, your pre-plat will not comply with our Code and our Comp Plan, and I doubt the City Council will approve your pre-plat. Please add a park or other major amenity such as play structure, shade ramada, clubhouse, swimming pool...etc.

5-4-10-10. OPEN SPACE AND AMENITIES:

A. For residential developments five acres or larger that do not include parks as shown on the Middleton Transportation, Schools & Recreation Map, developers shall include five percent (5%) irrigated and landscaped open space in a concentrated location(s), agreed to with the City, that is aesthetically pleasing and sufficiently large to accommodate group and/or recreational activities.

B. Open Space is defined as areas that are accessible to all residents and used for social gathering and/or passive or active recreation. Such areas may include parks, playgrounds, sport courts, plazas, community center/clubhouse, swimming pool, pocket parks, picnic areas, lakes and/or ponds, water features, pathways that are 8' or wider located within a public access easement or dedicated to the City, and large landscaped common lots, including detention pond areas that are landscaped with sod and over 10,000 sf in size. Open space does not include small landscaped strips, common lots along roadways, or landscape buffers unless the landscape buffer is sized above minimum standards and contains a pathway at least eight (8) feet wide.

C. Single family residential developments that include more than seventy five (75) dwelling units and multi-family subdivisions containing more than seventy five (75) dwelling units shall provide one or more amenities in the form of a park with play equipment, picnic area with tables and shade structure, one or more sport courts, community center/club house, swimming pool, recreational pond/lake, or other similar amenity.

Thanks,

Roberta L. Stewart

Middleton Planning & Zoning Director

EXHIBIT "G"

P&Z Commission Findings of Facts, Conclusions of Law & Recommendations



Middleton Planning & Zoning Commission

Findings of Facts, Conclusions of Law & Recommendation

In the Matter of the applications of Patrick Connor/Hubble Homes for preliminary plat with respect to the Waterford East Subdivision located at 0 Foothills Road, Middleton, Idaho (Tax Parcel Nos. R338540 & R33854011):

A. Findings of Fact:

1. 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, Chapter 13: See Staff Report for the hearing date of September 12, 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 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.
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, 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, chapter 13.

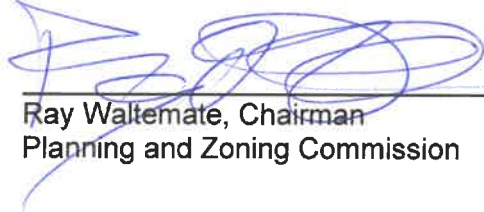
C. Decision & Recommendation:

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


decided:

Based upon a 2-to-2 tie vote, The Planning & Zoning Commission can neither recommend denial nor approval of Applicant Patrick Connor/Hubble Homes' applications for preliminary plat and development agreement modification.

WRITTEN DECISION APPROVED ON: OCT 17, 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.