



Middleton Planning & Zoning Commission

Findings of Facts, Conclusions of Law, and Recommendation

In the Matter of the Request of Joseph Austin and Mark Butler for Amended Preliminary Plat and Modified Development Agreement with respect to the Willow Wood Estates Subdivision located at 0 Cemetery Road (Tax Parcel Nos. R37579011 and 3757901):

A. Findings of Fact:

1. Hearing Facts: See Staff Report for the hearing date of September 11, 2023, 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 11, 2023 (Exhibit "A").
3. Application and Property Facts: See Staff Report for the hearing date of September 11, 2023 (Exhibit "A").
4. Required Findings per Middleton City Code 1-14-2(E)(7), Idaho State Statute Title 67, Chapter 65, and Title 50, Chapters 2 and 13; Idaho Standards for Public Works Construction, Middleton Supplement to the ISPWC; and Middleton City Code 1-14, 1-15, 5-1, 5-3, and 5-4: See Staff Report for the hearing date of September 11, 2023 (Exhibit "A").

B. Conclusions of Law:

1. That the City of Middleton shall exercise 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 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 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, 50-1301 through 50-1329 and 50-222.
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 recommendation is subject to the Conditions of Approval set forth in the

attached Staff Report for the hearing date of September 11, 2023, which report is attached hereto as Exhibit "A" and incorporated herein by this reference.

C. Decision and Recommendation:

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

1. Prior to the hearing before City Council, City Staff, Applicant Joe Austin and Mr. and Mrs. Sweeney strive to come to an agreement on the purchase of Mr. and Mrs. Sweeney's driveway to facilitate Applicant's ability to construct Meadow Park Street..
2. City Council approve the application of Joseph Austin & Mark Butler for Amended Preliminary Plat subject to the conditions of approval set forth in the Staff Report for the September 11, 2023, public hearing on the matter. (Exhibit "A")
3. City Council approve the application of Joseph Austin & Mark Butler for Modified Development Agreement with respect to the Willow Wood Estates Subdivision subject to the conditions of approval set forth in the Staff Report for the September 11, 2023, public hearing on the matter. (Exhibit "A")

WRITTEN RECOMMENDATION APPROVED ON: October 16, 2023.



Heidi Summer, Chairwoman
Planning and Zoning Commission

Attest:



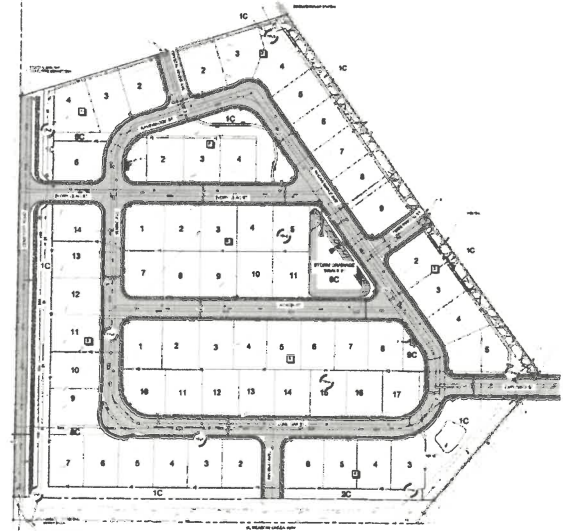
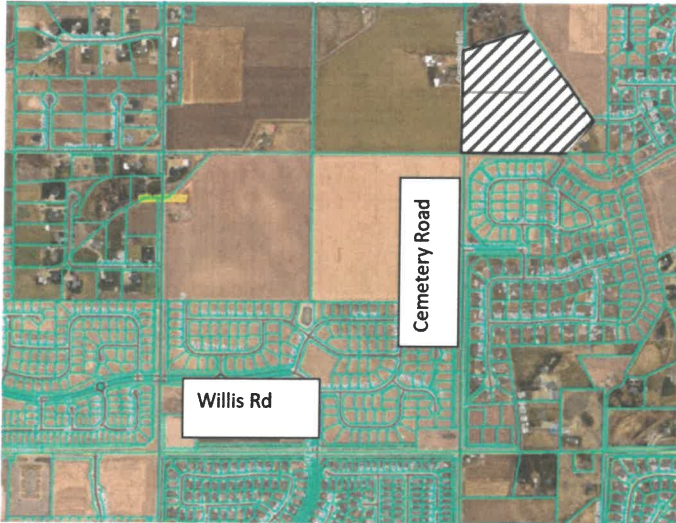
Roberta Stewart
Planning and Zoning Official

EXHIBIT A



STAFF REVIEW AND REPORT Middleton Planning and Zoning Commission

Willow Wood Estates Subdivision

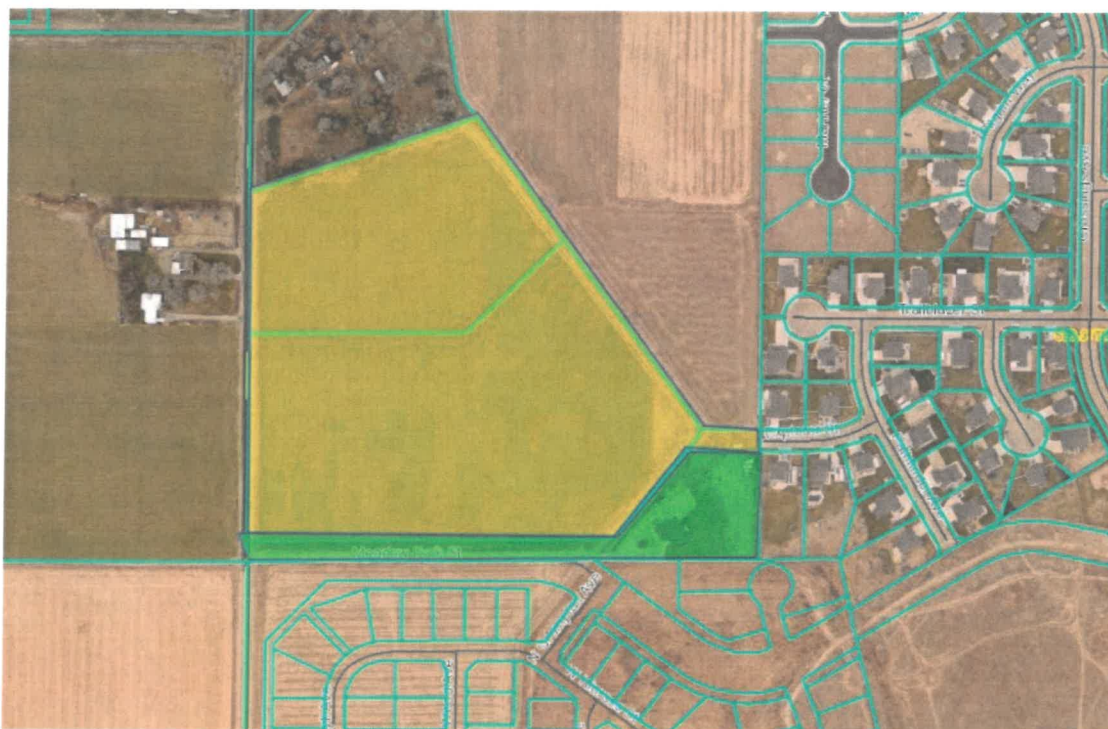


- A. Planning & Zoning Commission Hearing Date:** September 11, 2023
- B. Project Description and Application Requests:** The Willow Wood Estates project is a residential subdivision with 61 buildable lots and 10 common lots on 21 acres of vacant land located at 0 Cemetery Road (Tax Parcels Nos. R37579001, R37579011A1 and R37579011). Amenities include three large common lots with greenspace, tot lot, seating areas, and meandering pathways.

The Willow Wood Estates preliminary plat has already been approved. It was part of an annexation and rezone application submitted in 2021 by Applicant Joe Austin. City Council approved the Annexation/Rezone, Development Agreement, and preliminary plat applications on December 1, 2021. (A copy of the 2021 City Council FCO with Staff Report attached is attached hereto as Exhibit "A".)

Applicant is currently requesting approval of (1) an amended preliminary plat and (2) modification to the Development Agreement ("DA"). The requests for amended preliminary plat and DA modification are a result of Applicant's inability to obtain permission to build the 50' half road portion of Meadow Park Street.

The story goes back a few years. Prior to submitting the original annexation and preliminary plat applications in 2021, Applicant owned the Willow Wood parcels and a "pan handle shaped" parcel to the south. Both are shown below in yellow and green highlight.



At one time, the “green parcel” was part of the larger “yellow parcel.” Applicant split the parcel, creating the two separate parcels shown in yellow and green, and then sold the “green” parcel to a 3rd party. The “green parcel” driveway, however, is actually part of the future Meadow Park Street shown on the City’s Comprehensive Plan Maps.

See below.



Recognizing the need to build Meadow Park Street, Applicant began negotiations with the 3rd party who bought the “green parcel” to obtain permission to construct the 50’ half road portion of Meadow Park Street on the 3rd Party’s parcel. See portion to be constructed circled in red below.



Negotiations appeared successful, and Applicant agreed in the Development Agreement with City to build this portion of Meadow Park, at no cost to the City, and to ensure the dedication of the Meadow Park roadway to the City.

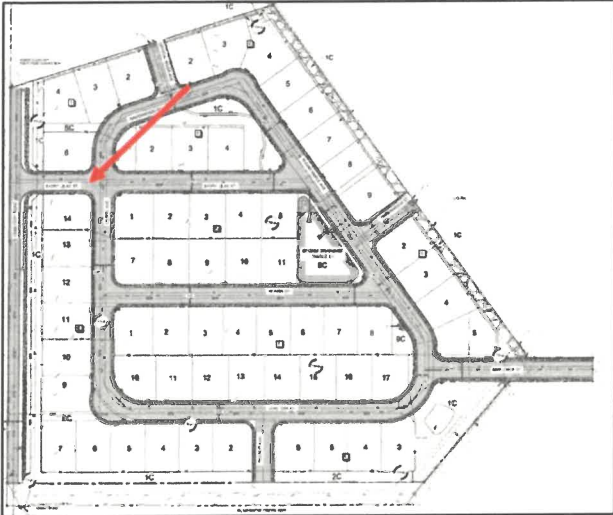
After the preliminary plat and Development Agreement were approved in December 2021, Applicant's agreement with the 3rd party broke down. After months of discussion and delay, City staff determined that it was highly unlikely Applicant would be able to build the 50' wide half road portion of Meadow Park Street.

If Applicant cannot physically build the half road portion of Meadow Park Street, then the DA must be changed because construction of the street is a strict requirement of the current DA. Additionally, Meadow Park Street was intended to be the main entrance into the Willow Wood Project. Now that Meadow Park Street cannot be built, a new entrance into the subdivision must be designed off of Cemetery Road, requiring an amendment to the approved preliminary plat.

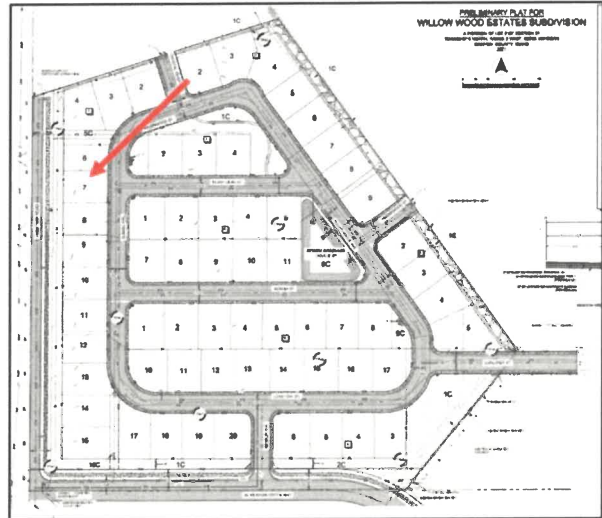
C. Amended Preliminary Plat:

The proposed Amended Preliminary Plat is almost identical to the original preliminary plat that was approved in December 2021. However, the amended preliminary plat shows the addition of the new road "Ivory Lilac Street", which will serve as the main entrance into the Subdivision off of Cemetery Road. Because this new road was added, there was less space for residential home lots, and Applicant's amended preliminary plat has 61 home lots rather than the 62 home lots in the original preliminary plat.

AMENDED PRELIMINARY PLAT



APPROVED PRELIMINARY PLAT



[11x17 copies of the proposed amended preliminary plat and approved preliminary plat are attached as Exhibit “B” and “C”, respectively.]

An application for amended preliminary plat requires only a finding that the preliminary plat complies with the standards and criteria for preliminary plats found in MCC 5-4-4 of the City Code and Title 50, Chapter 13 of the Idaho State Code.

FINDINGS: Planning Staff finds that the proposed amended preliminary plat complies with all standards and dimensions set forth in the City Code and Idaho State Code. Additionally, City Engineer has reviewed the amended preliminary plat and has recommended approval of the preliminary plat. (See Engineer “recommendation letter” attached as Exhibit “D”).

- D. **Development Agreement:** Paragraph 3.3 of the approved DA requires Applicant to construct the 50’ half road portion of Meadow Park Street and ensure dedication to the City prior to approval of Phase 1 final plat. (Copy of approved DA is attached as Exhibit “E”.)



Because Meadow Park Street cannot be constructed due to an issue with the neighboring parcel, Applicant is requesting that the Development Agreement be modified to allow Applicant to make a “payment in lieu” for the construction of Meadow Park rather than build the roadway. The payment in lieu would be the estimated amount to build the roadway at the time of infrastructure construction. It is not a bond or surety amount. It is simply an amount to cover what would be the cost of the road if Applicant was able to build the road today. City would then hold the money so that it would be available when, and if, that portion of Meadow Park could be constructed some day in the future.

Additionally, the DA should be modified to show the proposed amended preliminary plat as the “concept plan” noted in Paragraph 3.2. The DA should be modified to attach Exhibit “B.1” concept plan in place of Exhibit “B” concept plan.

Staff findings for approval of a DA or modification thereto are not required by Code or State law.

A copy of the proposed First Amendment to Development Agreement is attached as Exhibit “F”.

- E. Comments Received from Surrounding Landowners:** None.
- F. Comments from Agencies:** Copies of Agency comments are attached as Exhibit “G”.
- G. Comments from City Engineer and Planning Staff:** Copies of Engineering and planning comments are attached as Exhibit “H”.
- H. Applicant Information:** Application was accepted on June 14, 2023. Applicants are Joseph Austin (Owner) and Mark Butler. 2471 S. Titanium, Meridian ID 83642. (208) 323-2288.
- | | |
|---|---------------|
| I. Notices & Neighborhood Meeting: | Dates: |
| Newspaper Notification | 08/20/2023 |
| Radius notification mailed to Adjacent landowners within 500' | 08/21/2023 |
| Circulation to Agencies | 08/18/2023 |
| Sign Posting property | 08/22/2023 |
| Neighborhood Meeting | 06/08/2023 |
- J. Applicable Codes and Standards:** Idaho Standards for Public Works Construction, the Middleton Supplement to the Idaho Standards for Public Works Construction,

Middleton City Code 1-14, 1-16, 5-1, 5-2, 5-3, and 5-4, an Idaho Code Secs., 67-6503, 67-6513, 67-6511, and 50-1301 through 50-1329.

K. Conclusions and Recommended Conditions of Approval:

A governing board's decision on a land use application should be based upon findings of facts and conclusions of law. Staff's findings of facts are noted above in parentheses.

As to conclusions of law, Planning Staff finds that the Planning & Zoning Commission has the authority to hear these applications and to recommend approval or denial of the applications. Additionally, Planning Staff notes that all public notice requirements were met. Planning Staff further set forth the portions of the Idaho State Code and Middleton Code to be considered in making a recommendation on the applications.

If the Commission is inclined to recommend approval of the applications, then Planning Staff recommends that any approval be subject to the following conditions:

1. Applicant/Developer must comply with all the terms of the approved Development Agreement as amended by the First Amendment to Development Agreement.
2. City of Middleton municipal domestic water, fire flow and sanitary sewer services are to be extended to serve the subdivision.
3. Owner/Developer to pay all City required pro-rata traffic fees prior to final plat approval for phase 1.
4. Developer to comply with all CHD4 comments and requirements.
5. All City Engineer, Planner, Fire Department and Black Canyon Irrigation District review comments are to be completed and approved.
6. Tot Lot located on Lot 1C, Block 4 to include seating area/benches.
7. 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.
8. Sewer and water capacity to be reserved no sooner than Construction Drawing Approval.

Finally, if the Commission recommends denial of the applications, then pursuant to Middleton City Code 1-14(E)(8), the Commission must state on the record what Applicant can do, if anything, to gain approval of the application(s).

Prepared by Middleton Planner, Roberta Stewart

EXHIBIT A
FCO & STAFF REPORT

Middleton City Council

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



In the Matter of the Request of Joseph Austin and David Sterling/T-O Engineers for Annexation/Rezone, Preliminary Plat, and Development Agreement with respect to the Willow Wood Estates Subdivision located at 0 Cemetery Road (Tax Parcel Nos. R37579011 and 3757901):

A. Findings of Fact:

1. Hearing Facts: See Staff Report for the public hearing date of December 1, 2021, which Report is attached hereto as Exhibit "A" and incorporated herein by this reference.
2. Process Facts: See Staff Report for the public hearing date of December 1, 2021 (Exhibit "A").
3. Application and Property Facts: See Staff Report for the public hearing date of December 1, 2021 (Exhibit "A").
4. Required Findings per Middleton City Code 1-14-2(E)(7), Idaho State Statute Title 67, Chapter 65, and Title 50, Chapters 2 and 13; and Middleton City Code 1-14, 1-15, 5-1, 5-3, and 5-4: See Staff Report for the public hearing date of December 1, 2021 (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 were 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 relevant 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, 50-1301 through 50-1329 and 50-222.
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 these approvals are subject to the Conditions of Approval set forth in the attached Staff Report for the hearing date of December 1, 2021, and the additional conditions of approval as follows:

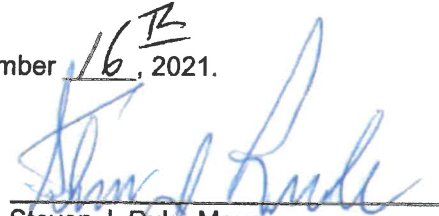
- i. Applicant/Developer must construct all portions of the Cemetery Road frontage up to the sewer main crossing in the northwest corner of the project, and dedicate the same to the City, before final plat approval for phase 1. The remaining portion of the Cemetery Road frontage to the north may be bonded at the time of phase 1 final plat but must be completed and dedicated to the City prior to final plat approval for Phase 2. This requirement shall also be set forth in the Development Agreement.
- ii. Applicant developer shall be allowed a ninety (90) foot turning radius.

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 ordered that:**

1. The application of Joseph Austin & David Sterling/T-O Engineering for Annexation and Rezone with respect to the Willow Wood Estates Subdivision is approved subject to the conditions of approval set forth in the Staff Report for the December 1, 2021, public hearing (Exhibit "A") and item #7 above.
2. The application of Joseph Austin & David Sterling/T-O Engineering for Development Agreement with respect to the Willow Wood Estates Subdivision is approved subject to the conditions of approval set forth in the Staff Report for the December 1, 2021, public hearing (Exhibit "A") and item #7 above.
3. The application of Joseph Austin & David Sterling/T-O Engineering for preliminary plat with respect to the Willow Wood Estates Subdivision is approved subject to the conditions of approval set forth in the Staff Report for the December 1, 2021, public hearing (Exhibit "A") and item #7 above.

WRITTEN ORDER APPROVED ON: December 16th, 2021.



Steven J. Rule, Mayor
City of Middleton

Attest: 

Roberta Stewart
Planning and Zoning Department

EXHIBIT "A"

Staff Report for 12/1/2021 Public Hearing - City Council

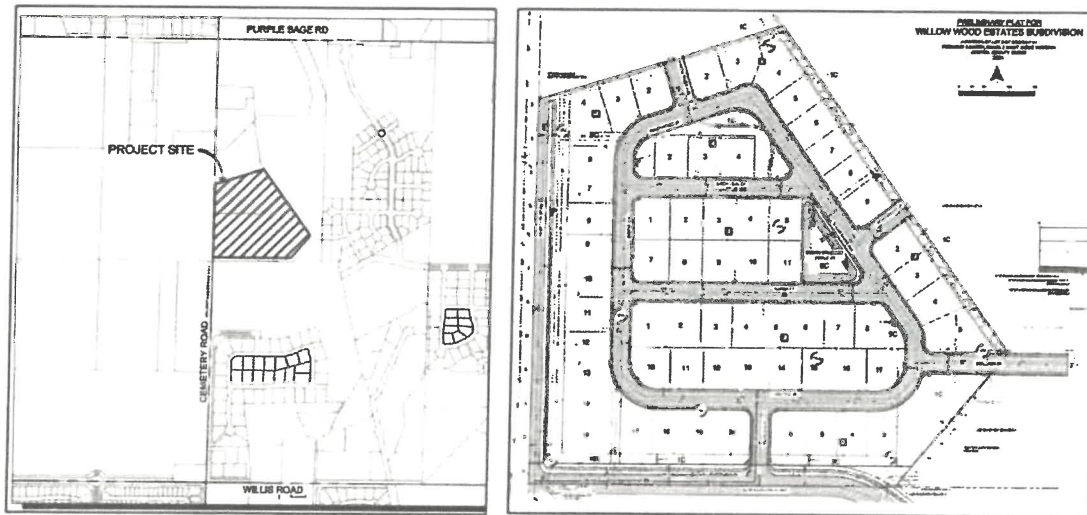


EXHIBIT "A"

STAFF REVIEW AND REPORT

Middleton City Council

Willow Wood Estates Subdivision Snapshot Summary

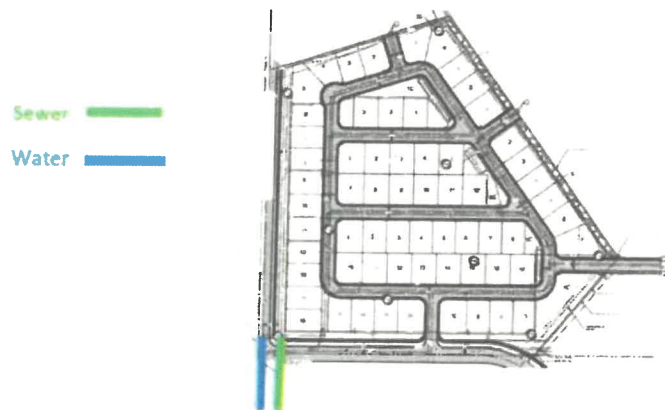


DESCRIPTION	DETAILS
Acreage	21 acres
Current Zoning	County Agricultural
Proposed Zoning	R-3 (Single Family Residential)
Current Land Use	Residential
Proposed Land Use	Residential
Lots	62 residential lots and 10 common lots.
Density	3.0 homes per acre
Open Space	5.00%
Amenities	Two large common lots with green space, tot lot, pathways and seating areas.

- A. **City Council Hearing Date:** December 1, 2021
- B. **Project Description:** Residential subdivision with 62 buildable lots and 10 common lots on 21 acres of vacant land located at 0 Cemetery Road (Tax Parcels Nos. R37579011 and R3757901). Amenities include two large common lots with greenspace, tot lot, seating areas, and pathways.
- C. **Application Requests:** Applicant has three applications: (1) annexation and rezone to R-3 zoning, (2) preliminary plat, and (3) Development Agreement.
- D. **Current Zoning & Property Condition:** The property is currently located in the County and zoned Agricultural. The property to the east and south is within City limits

and zoned R-3. The property on the north and west is County property and zoned Agricultural.

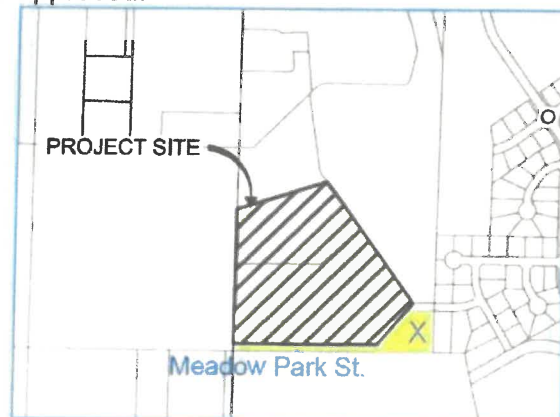
- E. City Services:** City water and sewer are located immediately west and south of the project and easily accessible to the project.



F. Traffic, Access & Streets:

Access to the subdivision is via Meadow Park Street and Explorer Street that connects to The Crossing at Meadow Parks.

As required by City Code, Developer will improve, at its own cost, the ½ road portions of Cemetery Road and Meadow Park Street. Although Developer at one time owned the property fronting Meadow Park, it does not currently own that frontage property. However, Developer recognizes the need for the City to build critical east/west roads, so it has entered into an agreement with the current owner of the property to build those frontage improvements and dedicate the same to the City. Planning Staff recommends that City Council make a condition of approval the requirement that Meadow Park frontage improvement and dedication to the City must occur before final plat for Phase 1 is approved.



Applicant completed a Traffic Study which is currently being updated. It will show percentage of impacts this subdivision will have on surrounding intersections, and Developer will be required to pay for those impacts via a proportionate share traffic fee that must be paid prior to final plat approval for phase 1. This requirement will be set forth in the proposed Development Agreement.

- G. **Pathway, Sidewalks & Open Space:** Developer has provided 5% open space in compliance with the code by providing large common lots containing pathways, seating areas, and a tot lot.
- H. **Storm drain and Pressurized Irrigation:** Storm drain facilities and pressurized irrigation have been provided and are approved by the City Engineer.
- I. **Middleton Rural Fire District:** The subject property is in the Middleton Rural Fire District. The Fire District is backed up with review of Middleton, Canyon County and Star preliminary plats and has not had a chance to issue comments on this application.

City Council can still approve the preliminary plat, but it is critical that compliance with Middleton Fire District comments be made a condition of approval. Once that is done, then City Engineer will work with Developer and the Fire District to make sure the Construction documents for the subdivision infrastructure include all Fire District requirements.

- J. **Annexation and Rezone:** Applicant is requesting that the entire 21 acre project parcel be annexed into the City of Middleton and zoned R-3, which permits three single family homes per gross acre.

There are three requirements for annexation approval: (1) the property must be contiguous to City limits (2) City sewer and water can be extended to serve the site, (3) the annexation is in the best interest of the City and not adverse to the public health and welfare.

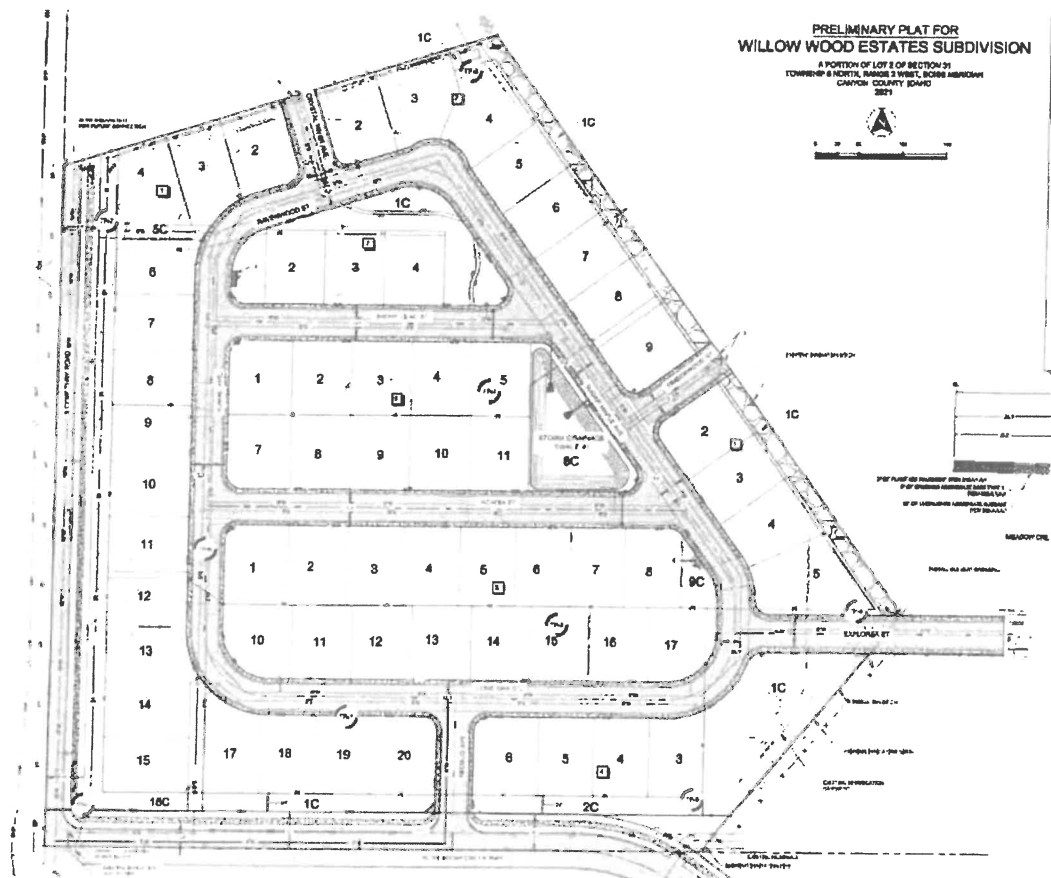
As to a zone change request, the Council must make two findings before approving such a request: (1) the rezone will not adversely affect the City's delivery of services and (2) the rezone request is in harmony with the Comprehensive Plan.

FINDINGS:

Planning Staff finds that Applicant's project meets all three of the annexation requirements. (1) The property is contiguous; (2) sewer and water are available as shown above, and (3) the City will benefit from the housing provided and street improvements that are made, and the project will not adversely affect the public health and welfare because City services can be provided efficiently and economically

As to the zone change, Planning Staff finds that the rezone will not adversely affect the City's ability to deliver services. And, as will be shown in more detail in section M below, Planning Staff finds that the rezone is in harmony with the City's Comprehensive Plan.

- K. Preliminary Plat Application:** The preliminary plat shows two phases for development, and it complies with all Middleton codes and standards. The only exception from code is applicant's request to lower the code required turning radius of 125' to 90'. City Staff is in the process of changing the Code to allow 90' turning radius. It will be heard by P&Z on December 6th.



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

Findings:

Planning Staff finds that the preliminary plat complies with dimensional standards and requirements of the Middleton City Code, ISPWC, Supplement to ISPWC, and Idaho State Code except for the waiver noted above.

Planning Staff further finds that the preliminary plat is not materially detrimental to the public health, safety and welfare as noted directly above in the section on Annexation/Rezone. Additionally, the preliminary plat is in harmony with the Middleton Comprehensive Plan as will be shown in more detail in Section M below.

- L. Development Agreement:** Annexation and rezone requests generally require a Development Agreement ("DA"). Applicant and City Staff have used the City's form for the DA, and have merely added six new provisions:
- a. A concept plan shall be attached to the Development Agreement, and Developer shall construct the project "substantially consistent" with the concept plan.
 - b. Developer shall, at its own cost, improve the 50' half-road portions of Cemetery Road and Meadow Park Street and dedicate the same to the City prior to approval of final plat for phase 1.
 - c. Developer shall pay additional pro-rata or proportionate share fees for all traffic impacts and intersection controls affected by the subdivision prior to final plat approval for phase 1.
 - d. All construction shall be in compliance with R-3 zoning.
 - e. If Developer does not bring phase 1 to final plat within 2 years of preliminary plat approval (or 3 years with a 1 year extension request), then the Developer will be in breach of contract, and City will have the option of terminating the Development Agreement. The preliminary plat will also become null and void, and the property will remain R-3 zoning.
 - f. After final plat approval for Phase 1, Developer will obtain final plat approval for each successive phase within 2 years (or 3 years with a 1 year extension) of the final plat approval for the previous phase.

A copy of the proposed Development Agreement is attached as Exhibit "B".

- M. Comprehensive Plan & Land Use Map:** Applicant's project complies with the Comprehensive Plan Land Use Map because the project parcel is designated "Residential" on the Land Use Map, which matches the residential use planned for the site.

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

- a. *Goals 3 and 23:* The project provides safe vehicle and pedestrian facilities in light of the street improvements and sidewalks shown on the preliminary plat.
- 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. *Goals 11:* The housing type matches the residents' lifestyle in the area the project is located.

N. Comments Received from Surrounding Landowners: None.

O. Comments from Agencies: Comments from Black Canyon Irrigation District were received on November 2, 2021 and November 19, 2021. Black Canyon merely reminded applicant of piping requirements. Comments from COMPASS were received on November 5th. The agency noted informational items, including viability of public transportation for the site. On November 8th, CHD4 submitted comments concerning moratorium on cuts to newly rebuilt roads, portion of road that needs rebuilt, and notice that the section line was offset 2 ½ feet. Agency comments are attached as Exhibit "C".

P. Comments from City Engineer and Planning Staff:

Copies of Engineering and planning comments are attached as Exhibit "D".

Q. Applicant Information: Application was accepted on March 16, 2021. Applicants are Joseph Austin (Owner) and David Sterling/T-O Engineering. 2471 S. Titanium, Meridian ID 83642. (208) 323-2288.

R. Notices & Neighborhood Meeting:	Dates:
Newspaper Notification	11/14/2021
Radius notification mailed to Adjacent landowners within 300'	11/12/2021
Circulation to Agencies	11/10/2021
Sign Posting property	11/12/2021
Neighborhood Meeting	02/17/2021

S. Applicable Codes and Standards:

Idaho Standards for Public Works Construction, the Middleton Supplement to the Idaho Standards for Public Works Construction, Middleton City Code 1-14, 1-16, 5-1, 5-2, 5-3, and 5-4, an Idaho Code Secs., 67-6503, 67-6513, 67-6511, 50-1301 through 50-1329, and 50-222.

T. Conclusions and Recommended Conditions of Approval:

City Council is considering three applications for (1) Annexation/Rezone, (2) Preliminary Plat, and (3) Development Agreement. Per State law and the Middleton City Code, any decision and order must be based upon findings of facts and conclusions of law.

As to Findings of Facts, Planning staff has set forth findings of facts above in parentheses. If the Council agrees with those findings of facts and agrees with any of the testimony and evidence presented at the public hearing, the Council should make a motion to accept those findings of facts.

As to Conclusions of Law, Planning Staff finds that the Council has the authority to hear these applications. Additionally, Planning Staff notes that all public notice requirements were met. Planning Staff further set forth the portions of the Idaho State Code and Middleton Code to be considered in making a decision on the applications. If the December 1st public hearing is held and conducted in compliance with Idaho State Statute and the Middleton City Code, then the Council may accept these conclusions of law by passing a motion to accept the conclusions of law set forth in the staff report and at the public hearing.

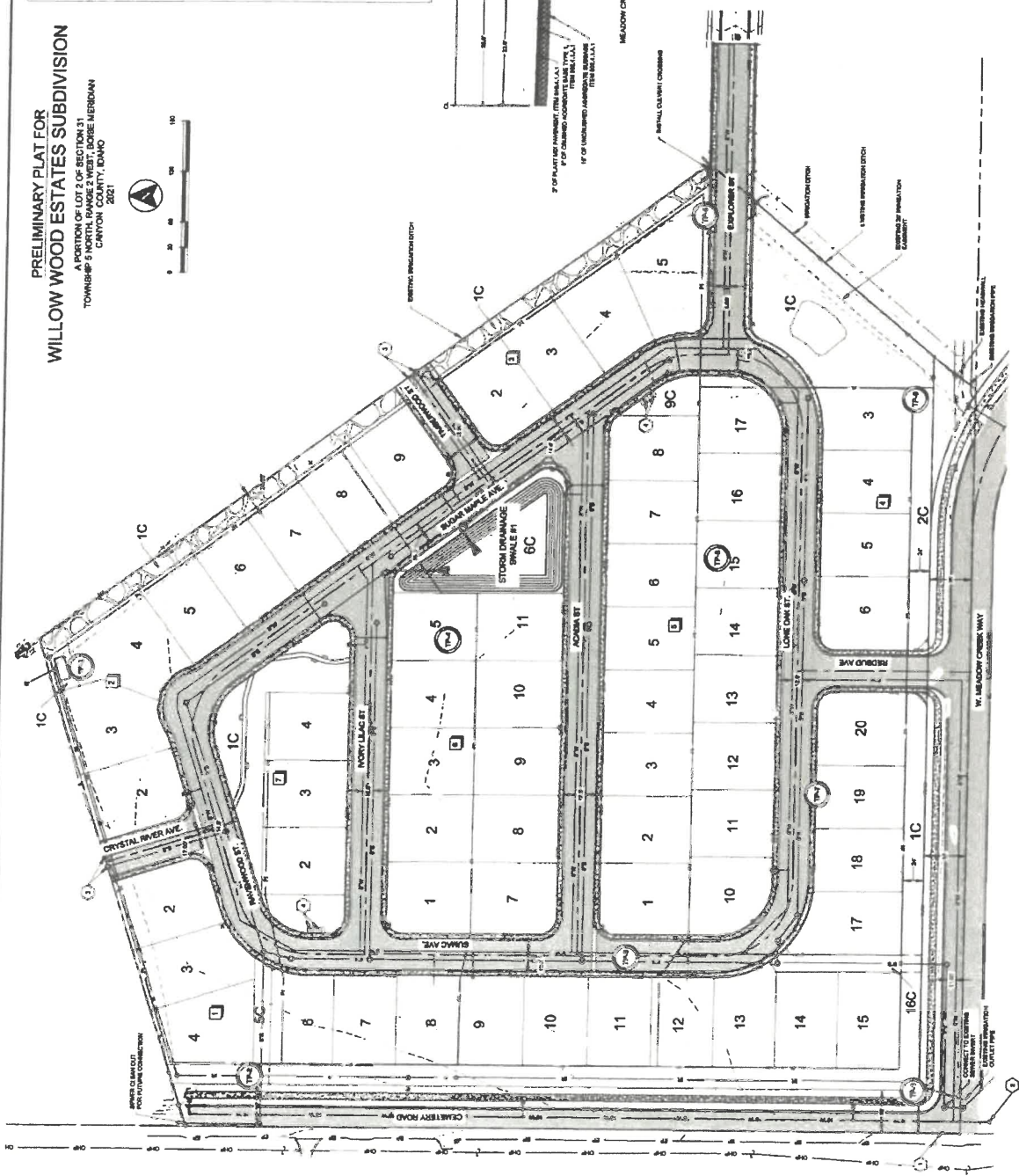
If the Council is inclined to approve the three applications based upon the above *Findings of Facts* and *Conclusions of Law*, then Planning Staff recommends that any approval be subject to the following conditions:

1. City of Middleton municipal domestic water, fire flow and sanitary sewer services are to be extended to serve the subdivision.
2. Owner/Developer shall construct, at its own cost, all frontage improvements to Cemetery Road and Meadow Park Street and dedicate the same to the City of Middleton prior to approval of final plat for phase 1.
3. Owner/Developer to update their initial Traffic Impact Study and pay all City required proportionate share traffic fees prior to final plat approval for phase 1.
4. All City Engineer review comments are to be completed and approved.
5. All requirements of the Middleton Rural Fire District are to be completed and approved.
6. Tot Lot located on Lot 1C, Block 3 to include seating area/benches.
7. Sewer and water capacity to be reserved at the time City approves the construction drawings for the project.

Finally, if the Commission recommends denial of the preliminary plat application, then pursuant to Middleton City Code 1-14(E)(8), the Commission must state on the record what Applicant can do, if anything, to gain approval of the application(s).

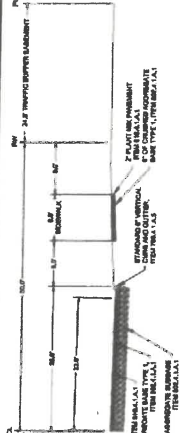
EXHIBIT "A"

Preliminary Plat under review

2021
2021.11.10

LEGEND

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CITY OF MIDLETON
MEADOW CREEK WAY TYPICAL SECTION - 30' ROW
SHEET 14 OF 14

KEYNOTES:

- 1 CONNECT TO DISTINGUISH FROM SEPARATES AT MICROCOMP
- 2 CONNECT TO LIFT THE WATER FROM EST/ATES AT MICROCOMP
- 3 PROVIDE WATER/TEMPERATURE STUDS FOR FUTURE EXTENSION
- 4 ANALOGUE COUNTER

NOTES

1. ALL WATER SAMPLES ARE TO BE 8 IN DIAMETER UNLESS OTHERWISE NOTED.
2. ALL SAMPLING LINES TO BE 8 IN DIAMETER UNLESS OTHERWISE NOTED.
3. ALL STORM WATER DRAINAGE LINES ARE TO BE 8 IN DIAMETER.
4. PRELIMINARY INFORMATION TO BE PROVIDED BY A PROPOSED CAMP SITE (NOW LOCATED IN LOT 3 BLOCK 1).
5. EXISTING TOPOGRAPHIC SURVEY BY T.O. SARGENTSON (JANUARY 1961).
6. A BLANK CONSENT SHALL BE ADDED TO JOINT FRENCH CITY REQUIRED PERMIT OFFICE.

PRELIMINARY PLAT FOR:
WILLOW WOOD SUBDIVISION
UTILITY PLAN

PRELIMINARY PLAT FOR:

ATTENTION
TO
THE BAR DOES NOT MEASURE
IT ON THIS SET-UP AS TOP ON
FIRST SHOT, THEN CHANGES
NOT TO SCALE

DATE 10/3/2017
PROJECT 210000
SHEET C0.01

0.01

EXHIBIT "B"

Proposed Development Agreement

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

DEVELOPMENT AGREEMENT

This Development Agreement (**Agreement**) is entered into by and between the CITY OF MIDDLETON, a municipal corporation in the State of Idaho (**City**); and Joseph L. Austin and Deborah Austin, husband and wife, referred to hereafter as Developer (**Developer**).

RECITALS

WHEREAS, Developer owns approximately 21 acres of real property located at 0 Cemetery Road (Tax Parcel Nos. R3757901 and R37579011, Middleton, Canyon County, Idaho, legally described in Exhibit A attached hereto and incorporated herein by this reference (**Property**); and

WHEREAS, Developer intends to improve the Property (also known as Willow Wood Estates Subdivision) according to the Middleton City Code and the City's public works standards at the time(s) the Property is improved; and

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

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in consideration of the recitals above, which are incorporated below, and the mutual covenants, representations, and

performances herein bargained for, relied on, and expected, the parties agree as follows:

ARTICLE I LEGAL AUTHORITY

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

ARTICLE II ANNEXATION AND ZONING ORDINANCE

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

ARTICLE III CONDITIONS OF DEVELOPMENT

3.1 **Applications.** Developer will develop the Property subject to the conditions and limitations set forth in this Development Agreement. Further, Developer shall submit such applications regarding preliminary plat and final plat reviews, and/ or any special use permits, if applicable, and any other applicable applications as may be required by the Middleton City Code, which shall comply with the Middleton City Code, as it exists at the time such applications are made except as otherwise provided within this Development Agreement.

3.2 **Concept Plan.** The Concept Plan attached hereto as Exhibit "B" represents Developer's current concept for completion of the project. Developer shall be bound by this Concept Plan and shall develop the project substantially consistent with the Concept Plan.

3.3 **Frontage Improvements.** Developer shall, at its own cost, improve the fifty foot (50') half-road portions of Cemetery Road and Meadow Park Street per City standards and codes and dedicate the same to the City prior to approval of final plat for Phase 1.

3.2 **Proportionate Share Fees:** Developer shall pay City required traffic proportionate share fees in the amount of _____ dollars (\$) prior to final plat approval for Phase 1. Payment of the proportionate share fees will be a condition of approval for Phase 1 final plat.

3.3 Final Plat Deadline & Termination of Agreement. Developer shall obtain City Engineer's signature on the final plat for Phase 1 within two years of the date the preliminary plat is approved. Upon written request prior to the expiration of said two year period, Developer may apply administratively with a written request for a one year extension to obtain City Engineer's signature on the Phase 1 final plat. Notwithstanding the provisions in Article IV, if Developer does not obtain the City Engineer's signature on the Phase 1 final plat within two years of the date the preliminary plat is approved or within the time-period of a one year extension, then Developer will be in material breach of this Agreement. Additionally, the preliminary plat shall become null and void. The City, after complying with the notice and hearing requirements contained in the Middleton City Code and Idaho State Code, may then choose to extend, modify, or terminate this Agreement. The City may initiate the foregoing proceedings and may do so at any time following a material breach hereof. Termination of this Agreement shall not affect the zoning that is in place at the time of the termination, and the zoning for the Property shall remain R-3. No delay in initiating proceedings to extend, modify, or terminate this Agreement following a material beach by Developer shall constitute a waiver of said breach.

3.4 Two Year intervals for Final Plat. After final plat approval for Phase 1, Developer shall be required to obtain the City Engineer's signature on each phase's final plat within two years of final plat approval on the previous phase. Upon written request prior to the expiration of said two-year period, Developer may apply administratively with a written request for a one year extension to obtain City Engineer's signature on the final plat under consideration. If Developer does not timely apply for a one-year extension or does not subsequently obtain the Engineer's signature on the final plat within the one year extension time period, then the preliminary plat for said phase and all subsequent phases shall become null and void, and Developer must resubmit the preliminary plat for said phases in order to continue to develop the Property.

ARTICLE IV FAILURE TO COMPLY WITH AGREEMENT

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

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

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

4.2 If after a breach, the City Council determines that the zoning should remain R-3, or as otherwise provided in the Idaho Code, then the Developer hereby consents to such reversion or other action and will cease uses not allowed or permitted in the R-3 zone.

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

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

ARTICLE V GENERAL PROVISIONS

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

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

5.3 Any notice that a party may desire to give to another party must be in writing and may be given by personal delivery, by mailing the same registered or certified mail with a return receipt requested, or by Federal Express or other reputable overnight delivery service. Notice shall be given to the parties at the following addresses or such other address and to such other persons as the parties may designate after giving notice. 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 forgoing:

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

Developer: _____

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

5.5 The Agreement shall be effective after being fully executed. This Agreement shall become valid and binding only upon its approval by the City Council and execution of the Mayor and City Clerk. After its execution, the Agreement shall be recorded in the office of the County Recorded at the expense of the City.

5.6 Each commitment and restriction described in this Agreement shall be a burden on the Property and run with the land and shall be appurtenant to and for the benefit of the Property, adjacent property and other residential land near the Property.

This Agreement shall be binding on the City and Developer, and their respective heirs, administrators, executors, agents, legal representatives, successors and assigns. Provided, however, that if all or any portion of the Property is divided, then each owner of a legal lot shall only be responsible for duties and obligations or breaches as to their owners' parcels or lots.

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.

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

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

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

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

Dated this ____ day of _____, 2021 and effective upon annexation and rezoning of the Property.

CITY OF MIDDLETON

ATTEST

By: _____
Steven J. Rule, Mayor

By: _____
Becky Crofts, City Clerk

State of IDAHO)
 ss.
County of Canyon)

I, a notary public, do hereby certify that on this _____ day of _____, 2021, personally appeared before me Steven J. Rule, who declared that he is the Mayor of the City of Middleton, Idaho and signed this Development Agreement as Mayor of the City of Middleton.

Notary Public
My Commission Expires: _____

[Signatures on following page]

JOSEPH L. AUSTIN

State of Idaho)
 ss.
County of _____)

I, a notary public, do hereby certify that on this ___ day of _____, 2021, personally appeared before me Joseph L. Austin, who declared that he signed this Development Agreement in the capacity of Developer and Owner of the Willow Wood Estates Subdivision.

Notary Public
My Commission Expires: _____

DEBORAH R. AUSTIN

State of Idaho)
 ss.
County of _____)

I, a notary public, do hereby certify that on this ___ day of _____, 2021, personally appeared before me Deborah R. Austin, who declared that she signed this Development Agreement in the capacity of Developer and Owner of the Willow Wood Estates Subdivision.

Development Agreement – _____
Page 7

Notary Public
My Commission Expires: _____

EXHIBIT “C”

Agency Comments

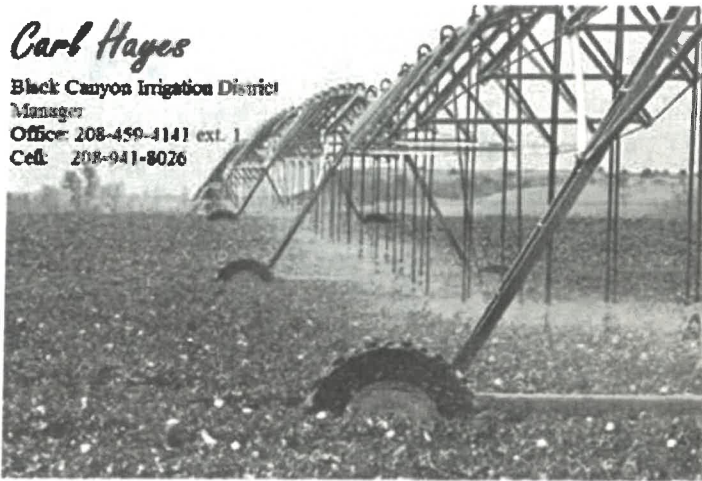
From: [Carl Hayes](#)
To: [Roberta Stewart](#)
Subject: Willow Wood Estates Subdivision
Date: Tuesday, November 2, 2021 2:48:42 PM
Attachments: [image001.png](#)

Standard piping requirements apply as this project borders the C-East 18.1-3.4 Lateral.

Thank you,

Carl Hayes

Black Canyon Irrigation District
Manager
Office: 208-459-4141 ext. 1
Cell: 208-941-8026





CANYON HIGHWAY DISTRICT No. 4
15435 HIGHWAY 44
CALDWELL, IDAHO 83607

TELEPHONE 208/454-8135
FAX 208/454-2008

November 8, 2021

City of Middleton, Idaho
Planning & Zoning Department
1103 West Main Street
Middleton, ID 83644
Attention: Roberta Stewart, Planning and Zoning Administrator

RE: Cemetery Road-Willow Wood Subdivision—Preliminary Plat

Mrs. Stewart:

Canyon Highway District No. 4 (CHD4) has reviewed the preliminary plat dated 7/30/21 for Willow Wood Estates Subdivision. The development consists of approximately 21 acres with 63 buildable lots. The development is located on parcels R3757901000 and R3757901100. The development is requesting annexation, preliminary plat, and R-3 zoning from Middleton City. The Subdivision is located on the east side of Cemetery Road approximately 2,770' north of Willis Road

CHD4 offers the following recommendations:

General

By agreement with the City, CHD4 maintains Cemetery Road 0.5 miles north of Willis Road to Purple Sage Road. Under this agreement, CHD4 may provide comment on development or other permit activity, which may affect traffic operations or maintenance of Middleton Road.

Cemetery Road

At time of improvement drawing review the following shall be shown:

- CHD4 policy requires a 5-year moratorium on road cuts in any newly rebuilt road. Cemetery Road was rebuilt in 2020.
 - New utilities are shown to extend 100' north of the subdivision's south property line in existing Cemetery Road.
 - Applicant shall remove and rebuild full width of road beginning approximately 25' south of the quarter corner and extend north beyond the perpendicular sewer crossing and terminate at next available warm joint. This includes any borrow ditches and road appurtenances.
 - If utility construction in Cemetery Road extends beyond depicted limits—Middleton City shall take over maintenance responsibilities of Cemetery Road.

Please consider extending sewer east, via Meadow Creek Way, to prevent additional utility cuts on Cemetery. Can this be addressed through improvement plans from Estates at West Highlands (see email dated 11/8/21)?

CHD4 asks the City to consider the following:

- Centerline is offset approximately 2.5' west from section line. Widen Cemetery Road from section line per Middleton typical section.

Access to Cemetery to come by future Meadow Creek Way shown as Meadow Park Street on Willow Wood plan.

Traffic Impact

Traffic mitigation will be addressed through subdivision frontage improvements and impact fees.

Please feel free to contact with any questions on this matter.

Respectfully,



Lenny Riccio, E.I.T.
Assistant District Engineer
Transportation Planner
Canyon Highway District No. 4

Communities in Motion 2040 2.0 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 2040 2.0* (CIM 2040), 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 2040 2.0 goals.

Development Name: Willow Wood Estates






Agency: Middleton

CIM Vision Category: Future Neighborhoods

New households: 63

New jobs: 0

Exceeds CIM forecast: No

	CIM Corridor: Purple Sage Road Pedestrian level of stress: R Bicycle level of stress: R	Level of Stress considers facility type, number of vehicle lanes, and speed. Roads with G or PG ratings better support bicyclists and pedestrians of all ages and comfort levels.
	Housing within 1 mile: 750 Jobs within 1 mile: 70 Jobs/Housing Ratio: 0.1	A good jobs/housing balance - a ratio between 1 and 1.5 - reduces traffic congestion. Higher numbers indicate the need for more housing and lower numbers indicate an employment need.
	Nearest police station: 2.3 miles Nearest fire station: 2.2 miles	Developments within 1.5 miles of police and fire stations ensure that emergency services are more efficient and reduce the cost of these important public services.
	Farmland consumed: Yes Farmland within 1 mile: 927 acres	Farmland contributes to the local economy, creates additional jobs, and provides food security to the region. Development in farm areas decreases the productivity and sustainability of farmland.
	Nearest bus stop: >4 miles Nearest public school: 1.1 miles Nearest public park: 1.3 miles Nearest grocery store: >4 miles	Residents who live or work less than 1/2 mile from critical services have more transportation choices. Walking and biking reduces congestion by taking cars off the road, while supporting a healthy and active lifestyle.

Recommendations

This proposal is on the fringe of the City of Middleton surrounded by farmland and removed from employment centers. Cemetery Road is identified in the *Middleton Connects 2015 City Vision Map* as having a Public Use Pathway and Bike Lane in the future. The Picadilly Park Park and Ride is approximately 1.5 miles away. This stop is not currently served, but *ValleyConnect 2.0* proposes future service at this location with an express route from Happy Day Transit Center to Saint Luke's regional hospital in Meridian, via Hwy-44, with 30-minute frequencies.

More information about COMPASS and *Communities in Motion 2040 2.0*:

Web: www.compassidaho.org

Email: info@compassidaho.org

More information about the development review process:

<http://www.compassidaho.org/dashboard/devreview.htm>



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: 1 Year

EXHIBIT “D”

City Engineer & Planner Comments



October 15, 2021

TO: Roberta Stewart, Planner
Cc: T-O Engineers, David Sterling, PE

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

RE: Willow Wood Estates Subdivision – Revised Preliminary Plat

Thank you for the opportunity to review the above referenced preliminary plat submittal. We are in receipt of two pages, both stamped and sealed by David N. Sterling, PE, 13063 ID, dated July 30, 2021.

MCC 5-4-4.2.b. Please add Preliminary Plat and information to top of C0.01.

MCC 5-4-4.2.j. Please add existing zoning information for adjacent parcels.

Revise Note 5 to reference Idaho Code and the irrigation district. Dimension irrigation easements (all), dimension common lots. Please identify and detail the easement for the irrigation/drainage facility along the east boundary.

Please add a note detailing all irrigation and/or drainage to be relocated out of rights of way.

Add street names to C0.01.

Extend 16" water main in Cemetery to north project limits. Terminate with hydrant.

Please extend the 8 inch sewer main at the end of Sumac Ave to the Cemetery right of way.

Revisit streetlight location – streetlights required every 400 ft.

Revise stormwater management to retention facilities.

The boundary is required to be surveyed and section corners referenced. Topography needs to be shown – utilities, irrigation, adjacent. Contours alone are not topography.

Add centerline radii and intersection radii, dimension rights of way.

There are multiple text/line/drafting conflicts that need to be corrected.

The traffic buffer on Cemetery and Meadow Park is required to be 24 ft

Add typical section for Meadow Park Street. Local structural section is 3/6/15.

Please show the location of the driveway to the west.

The intersection at Timberwood is atypical and needs to be revisited

Verify the spelling of Sweeney name.

Revise Note 3. Only utilities and access for front lot easement.

C0.01.

- Keynote 1, Keynote 2 - connection to "Estates at Meadowpark"
- Note 1. Add "unless otherwise noted"
- Note 2. Add "unless otherwise noted"



CITY OF MIDDLETON

P.O. Box 487, 1103 W. Main St., Middleton, ID 83644
208-585-3133 Fax (208) 585-9601
citmid@middletoncity.com
www.middleton.id.gov

October 4, 2021

Planner Comments Willow Wood Estates Subdivision – Pre-Plat dated 7/29/2021

1. Please send copy of the agreement showing you have right to control (or own) 9th Street Right of way, proving that you will be able to improve and dedicate the Right of Way upon completion of construction.
2. Does the current annexation legal description and sketch include the 9th Street Right of Way? How is that going to be handled?
3. The Traffic Study indicates that this 63 lot subdivision has no material effect on any nearby intersections, removing the need to collect proportionate share dues. We need to get Amy Woodruff's opinion on that conclusion.
4. Missing a landscape plan
5. Need to show perimeter fence around entire subdivision. Either show it on the pre-plat or add it to the landscape plan.
6. Change name of Redbud Street to Redbud Avenue since it is a north/south roadway.
7. Add note to the "Notes" section stating that L16/B1 is a private drive. Also note that it has a public easement applied to the entire drive. Finally, put an additional call-out note regarding the easement next to the drive on the pre-plat.
8. Block 1, Lots 7, 8 and 9 need widened to 75'
9. Block 1, Lot 4; Block 2, Lots 3 and 4; Block 3 Lots 6 & 7 need notations to show they are at least 75' wide at the 25' setback line.
10. L7/B1 size needs to be increased to 8000.
11. You are a little over the density allowed, but it is by just a hair so we're inclined to overlook it. But, you have multiple lots that don't have enough frontage width or minimum size. If you can't get these deficient lots to meet the minimum code standards, then you may have to remove a lot from the plat to make more room. If you can get all lots to meet minimum dimensional standards, then I don't think the City will mind that you are a "touch" over the density allowed. Up to you.
12. I can't find the following common lots on the plat: L8/B3 and L13/B4. Please remove notation and renumber lots or show me where they are.
13. What is planned for the little landlocked parcel L2C/Block 2? Why is that parcel there?
14. Show mailbox clusters on the pre-plat
15. You are overstating your open space. When I count the 3 large common lots together, it is a little over an acre, which may get you to 5%. One of the 3 common lots may not really be sufficient to deem "Open Space" in the spirit of the Code, but we can try. We cannot include the landscape buffers and smaller endcap buffers in the open space count. They do not meet the spirit of the "Open Space" code. If you add an amenity on one of the bigger common lots, that will help create the sense of meeting the 5% open space requirement. A playground, or gathering structure, benches...etc., something to

provide 5% gathering space for the residents. Whatever you choose needs to be shown on the pre-plat.

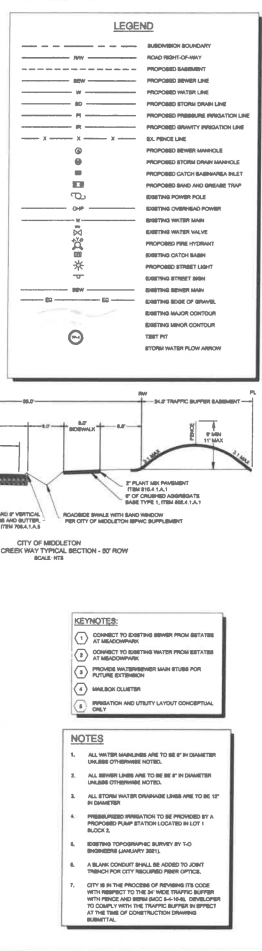
16. I can't tell if you have the landscape berm required by MCC5-4-10-2 and MCC 5-4-10-6. If that common lot along Cemetery will serve as the required buffer, then put a little call-out note showing that it has a landscape buffer easement on it.
17. Will there be any phasing? If so, please create a phasing page.
18. Please change or add the following notes to the "Note" section:
 - a. Change Note 1 to state "building setbacks and dimension standards shall be in accordance with the Middleton city Code at the time of building permit issuance."
 - b. All streets proposed in this subdivision are public streets and shall be constructed in accordance with Middleton standards for public streets
 - c. Domestic and fire protection water shall be provided by the city of Middleton
 - d. Sanitary sewer collection shall be provided by the City of Middleton
 - e. Any re-subdivision of this plat shall comply with the applicable zoning regulations in effect at the time of the re-subdivision.
 - f. All existing wells shall be abandoned per IDWR regulations. All septic systems shall be completely removed and the area recompacted per geotechnical report.
 - g. Sewer and Water capacity shall be reserved when City approves the construction drawings.
 - h. All lots are hereby designated as having a permanent easement for public utilities and pedestrian walkways over the 10' adjacent to any public right of way. This easement shall not preclude the construction of hard-surfaced driveways and walkways to each lot.
 - i. All lots contain a 10' wide easement adjacent to any rear lot line or subdivision boundary for public utilities.
 - j. All interior lot lines contain a 5' wide easement, each side, for public and private utilities, drainage and irrigation facilities.
19. Please type out a formal response to each comment explaining whether you agree to the change requests or why you disagree with the change request.

Sincerely,

Roberta L. Stewart

Middleton City Planner

EXHIBIT B
PROPOSED AMENDED PRELIMINARY PLAT



ATTENTION:
IF THIS BAR DOES NOT MEASURE
1" ON 250H SHEET or 1/8" ON
11x17 SHEET, THEN DRAWING IS
NOT TO SCALE

DATE August 1, 2023
PROJECT 230189
SHEET
C0.01

EXHIBIT C

APPROVED PRELIMINARY PLAT (2021)

OWNER/DEVELOPER
ACE ALSTIN
1746 WINCHELL SPRING CT
MIDDLETON, CT 03844
PH: (208) 860-0056

ENGINEER
DAVID N. STERLING, P.E.
PAUL LUCIA JR. E.E.
T-O ENGINEERS, INC.
2471 S. TITANUM
MIDRICAN, ID 83842
PH: (208) 323-2386

SURVEYOR
LADD CLUFF, P.A.S.
T-O ENGINEERS, INC.
2471 S. TITANUM
MIDRICAN, ID 83842
PH: (208) 323-2386

ZONING AND RETRACK
ZONE - R-2
CITY RETRACK
FRONT = 25'
REAR = 35'
SIDE = 10'
STREET SIDE = 30'

FIRE DISTRICT
CITY OF MIDDLETON

SEWER AND WATER DISTRICT
CITY OF MIDDLETON

IRRIGATION DISTRICT
PRIVATE
(PRESSURE IRRIGATION)

BLACK CANYON IRRIGATION DISTRICT

ROADWAY JURISDICTION
CITY OF MIDDLETON

SCHOOL DISTRICT
MIDDLETON SCHOOL DISTRICT #134

TOTAL AREA	489,389 SF	26.8 ACRES
TOTAL RESIDENTIAL AREA	488,627 SF	12.1 ACRES
TOTAL COMMERCIAL OFFICE SPACE AREA	470,289 SF	3.8 ACRES
ENTIRE COMMERCIAL OFFICE SPACE AREA	486,311 SF	1.1 ACRES
RIGHT OF WAY AREA	1,185,894 SF	4.8 ACRES
TOTAL NUMBER OF LOTS	72	
TOTAL NUMBER OF BUILDABLE LOTS	30	
TOTAL NUMBER OF COMMERCIAL LOTS	10	
PROPOSED DENSITY	5.0%	
ADVERSE TERRITORIAL LAY OUT	60.4% OF	5.14 ACRES
ANNUAL LAI RISE	828 SF	0.01 ACRES
PERCENTAGE TOTAL OPEN SPACE	14.8%	
PERCENTAGE PAVEMENT OPEN SPACE	5.3%	

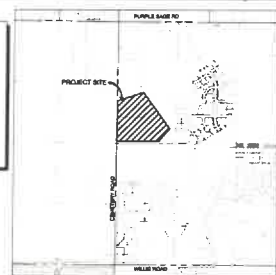
A PORTION OF LOT 2 OF SECTION 31
TOWNSHIP 5 NORTH, RANGE 2 WEST, BOISE MERIDIAN
CANYON COUNTY, IDAHO
2021



Approved by City Council 12/1/2021

LEGEND

---	SUBDIVISION BOUNDARY
-----	FEET-OF-CENTRE
- - - - -	BARRIERS
_____	ROAD CENTERLINE
I	PRECEDENTIAL LOT NUMBER
1C	CORNER LOT NUMBER
1	BLOCK NUMBER
IB	FOUND ALLIANCE CAP
#	FOUND S&P NUMBER
@	CALCULATED POINT



	CURR
--	------

CLONE	ANALYSIS	LENGTH
C5	25.85	16.35

Is it The ABC's in 600th E

[illegible]





1-D IMPROVED LAND CLUST. PLS. PAGE NO. 0260-265-000					
ALL ELEVATIONS SHOWN ARE NORTH AMERICAN VERTICAL DATUM OF 1989 PHOTO 80L					
BENT		BEND		BEND	
NORTHING	78832.776	NORTHING	78835.152	NORTHING	78835.152
EASTING	339488.966	EASTING	339488.966	EASTING	339488.966
ELEVATION	2472.31	ELEVATION	2471.81	ELEVATION	2471.81
DESCRIPTION	64" RADIUS "C" 1/2" BORE WITH 1/2" CAP	DESCRIPTION	64" RADIUS "C" 1/2" BORE	DESCRIPTION	64" RADIUS "C" 1/2" BORE

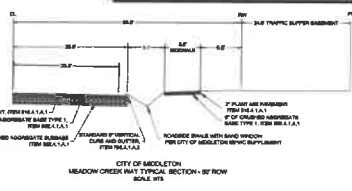
PRELIMINARY PLAT FOR:
WILLOW WOOD SUBDIVISION
LOT DIMENSIONS

ATTENTION
0 10 0
IF THIS BAR DOES NOT READ
"1" ON 20x24 SHEET or "10" ON
11x17 SHEET THEN DRAWING
NOT TO SCALE



LEGEND

	SUBSTRATE SUBSTRATE
	BOUNDARY OF AREA
	PROPOSED SUBWAY
	PROPOSED STREET LANE
	PROPOSED SIDE LANE
	PROPOSED SIDEWALK
	PROPOSED FENCELINE OR DIVISION LANE
	PROPOSED SIDEWALK BRANCHING LANE
	IN PLANNING LANE
	PROPOSED STREET INTERCHANGE
	PROPOSED STREET BRANCH INTERCHANGE
	PROPOSED SIDEWALK BRANCHING POINT
	PROPOSED SIDEWALK BRANCHING TRIP
	STREETING POINT
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	STREETING POINT



- KEYNOTES:**
- 1. CONNECT TO EXISTING SEWER FROM ESTATES AT MEADOWS PARK
 - 2. CONNECT TO EXISTING WATER FROM ESTATES AT MEADOWS PARK
 - 3. FUTURE THIRTEEN-FOOT MAN STUBS FOR FUTURE EXTENSION
 - 4. WALTON CLIFFTOP

- NOTES**
1. ALL WATER MAINS ARE TO BE 12" IN DIAMETER UNLESS OTHERWISE NOTED.
 2. ALL SEWER LINES ARE TO BE 12" IN DIAMETER UNLESS OTHERWISE NOTED.
 3. ALL STORM WATER DRAINAGE LINES ARE TO BE 18" IN DIAMETER.
 4. PRESSURIZED IRRIGATION TO BE PROVIDED BY A PROPOSED PUMP STATION LOCATED IN LOT 2 BLOCK 3.
 5. EXISTING TOPOGRAPHIC SURVEY BY L-6 ENGINEERS (JANUARY 2001).
 6. A BLANK CHECKOUT SHALL BE PROVIDED AS USER TRASH FOR ANY REQUIRED PAPER COPIES.

T-D ENGINEERS
CONSULTING ENGINEERS, SURVEYORS & PLANNERS
2471 B. VILLAMON PLACE
MARIETTA, IDAHO 83402
PHONE (208) 836-6666 WWW.T-D-ENGINEERS.COM
POBOX 1007 • COBY • COUSINS BUILDING • MARIETTA CITY
MARIETTA • NEVADA • 89301

PRELIMINARY PLAT FOR:
WILLOW WOOD SUBDIVISION
UTILITY PLAN

ATTENTION
THIS BALANCE NOT MEASURE
1" ON 2500A WEIGHT 1" ON
PLAT MUST THEN BEING IN
NOT TO SCALE

DATE 1/20/2021
PROJECT 20000

C0.01

EXHIBIT D

Engineer's Recommendation of Approval letter

August 25, 2023

TO: Roberta Stewart, Planner

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



RE: Willow Wood Subdivision Preliminary Plat – Recommendation of Approval

Thank you for the opportunity to review the above referenced preliminary plat submittal. The plat meets Middleton City Code and common platting practices.

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

EXHIBIT E

APPROVED DEVELOPMENT AGREEMENT

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

DEVELOPMENT AGREEMENT

This Development Agreement (**Agreement**) is entered into by and between the CITY OF MIDDLETON, a municipal corporation in the State of Idaho (**City**); and Joseph L. Austin and Deborah Austin, husband and wife, referred to collectively hereafter as Developer (**Developer**).

RECITALS

WHEREAS, Developer owns approximately 21 acres of real property located at 0 Cemetery Road (Tax Parcel Nos. R3757901 and R37579011), Middleton, Canyon County, Idaho, legally described in Exhibit A attached hereto and incorporated herein by this reference (**Property**); and

WHEREAS, Developer intends to improve the Property (also known as Willow Wood Estates Subdivision) according to the Middleton City Code and the City's public works standards at the time(s) the Property is improved; and

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

AGREEMENT

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

ARTICLE I LEGAL AUTHORITY

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

ARTICLE II ANNEXATION AND ZONING ORDINANCE

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

ARTICLE III CONDITIONS OF DEVELOPMENT

3.1 Applications. Developer will develop the Property subject to the conditions and limitations set forth in this Development Agreement. Developer shall also submit such applications regarding preliminary plat and final plat reviews, and/or any special use permits, if applicable, and any other applicable applications as may be required by the Middleton City Code, which shall comply with the Middleton City Code, as it exists at the time such applications are made except as otherwise provided within this Development Agreement.

3.2 Concept Plan. The concept plan attached hereto as Exhibit "B" represents Developer's current concept for completion of the project. Developer shall be bound by this concept plan and shall develop the project substantially consistent with the concept plan.

3.3 Frontage Improvements. Developer shall, at its own cost, improve the fifty foot (50') half-road portions of Cemetery Road and Meadow Park Street per City standards and codes and ensure that the same is dedicated to the City prior to approval of final plat for Phase 1, except the frontage portion of Cemetery Road at the location of the sewer main crossing and northward may be constructed and dedicated to the City after final plat approval for Phase 1 but prior to final plat approval for Phase 2.

3.4 Proportionate Share Fees: Developer shall pay City required traffic pro-rata share fees in the amount of Eighty Five Thousand Four Hundred Eight Two Dollars (\$85,482.00) prior to final plat approval for Phase 1. Payment of the pro-rata share fees will be a condition of approval for Phase 1 final plat.

3.5 Final Plat Deadline & Termination of Agreement. Developer shall obtain City Engineer's signature on the final plat for Phase 1 within two years of the

date the preliminary plat is approved. Upon written request prior to the expiration of said two year period, Developer may apply administratively with a written request for a one year extension to obtain City Engineer's signature on the Phase 1 final plat. Notwithstanding the provisions in Article IV, if Developer does not obtain the City Engineer's signature on the Phase 1 final plat within two years of the date the preliminary plat is approved or within the time-period of a one year extension, then Developer will be in material breach of this Agreement. Additionally, the preliminary plat shall become null and void. The City, after complying with the notice and hearing requirements contained in the Middleton City Code and Idaho State Code, may then choose to extend, modify, or terminate this Agreement. The City may initiate the foregoing proceedings and may do so at any time following a material breach hereof. Termination of this Agreement shall not affect the zoning that is in place at the time of the termination, and the zoning for the Property shall remain R-3. No delay in initiating proceedings to extend, modify, or terminate this Agreement following a material breach by Developer shall constitute a waiver of said breach.

3.6 Two Year intervals for Final Plat. After final plat approval for Phase 1, Developer shall be required to obtain the City Engineer's signature on each phase's final plat within two years of final plat approval on the previous phase. Upon written request prior to the expiration of said two-year period, Developer may apply administratively with a written request for a one year extension to obtain City Engineer's signature on the final plat under consideration. If Developer does not timely apply for a one-year extension or does not subsequently obtain the Engineer's signature on the final plat within the one year extension time period, then the preliminary plat for said phase and all subsequent phases shall become null and void, and Developer must resubmit the preliminary plat for said phases in order to continue to develop the Property.

ARTICLE IV FAILURE TO COMPLY WITH AGREEMENT

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

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

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

4.4 If after a breach, the City Council determines that the zoning should remain R-3, or as otherwise provided in the Idaho Code, then the Developer hereby consents to such reversion or other action and will cease uses not allowed or permitted in the R-3 zone.

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

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

ARTICLE V GENERAL PROVISIONS

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

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

5.3 Any notice that a party may desire to give to another party must be in writing and may be given by personal delivery, by mailing the same registered or certified mail with a return receipt requested, or by Federal Express or other reputable overnight delivery service. Notice shall be given to the parties at the following addresses or such other address and to such other persons as the parties may designate after giving notice. 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 forgoing:

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

Developer: _____

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

5.5 The Agreement shall be effective after being fully executed. This Agreement shall become valid and binding only upon its approval by the City Council and execution of the Mayor and City Clerk. After its execution, the Agreement shall be recorded in the office of the County Recorded at the expense of the City.

5.6 Each commitment and restriction described in this Agreement shall be a burden on the Property and run with the land and shall be appurtenant to and for the benefit of the Property, adjacent property and other residential land near the Property.

5.7 This Agreement shall be binding on the City and Developer, and their respective heirs, administrators, executors, agents, legal representatives, successors and assigns. Provided, however, that if all or any portion of the Property is divided, then each owner of a legal lot shall only be responsible for duties and obligations or breaches as to their owners' parcels or lots.

5.8 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.

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

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

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

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

Dated this ____ day of _____, 2022 and effective upon annexation and rezoning of the Property.

CITY OF MIDDLETON

ATTEST

By: _____
Steven J. Rule, Mayor

By: _____
Becky Crofts, City Clerk

State of IDAHO)
 ss.
County of Canyon)

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

Notary Public
My Commission Expires: _____

[Signatures on following page]

JOSEPH L. AUSTIN

State of Idaho)
 ss.
County of _____)

I, a notary public, do hereby certify that on this ___ day of _____, 2022, personally appeared before me Joseph L. Austin, who declared that he signed this Development Agreement in the capacity of Developer and Owner of the Willow Wood Estates Subdivision.

Notary Public
My Commission Expires: _____

DEBORAH R. AUSTIN

State of Idaho)
 ss.
County of _____)

I, a notary public, do hereby certify that on this ___ day of _____, 2021, personally appeared before me Deborah R. Austin, who declared that she signed this Development Agreement in the capacity of Developer and Owner of the Willow Wood Estates Subdivision.

Notary Public
My Commission Expires: _____

EXHIBIT "A"

Legal Description



March 4, 2021

Project No.: 210036

EXHIBIT "A"

WILLOW WOOD SUBDIVISION

A Parcel of land located in a portion of Government Lot 2 of Section 31, Township 5 North, Range 2 West, Boise Meridian, Canyon County, Idaho, being more particularly described as follows:

COMMENCING at the West Corner of said Sections 31, from which the Northwest corner of said Government Lot 2 bears N.00°21'18"E., 1321.85 feet; thence along the west line of said Government Lot 2,

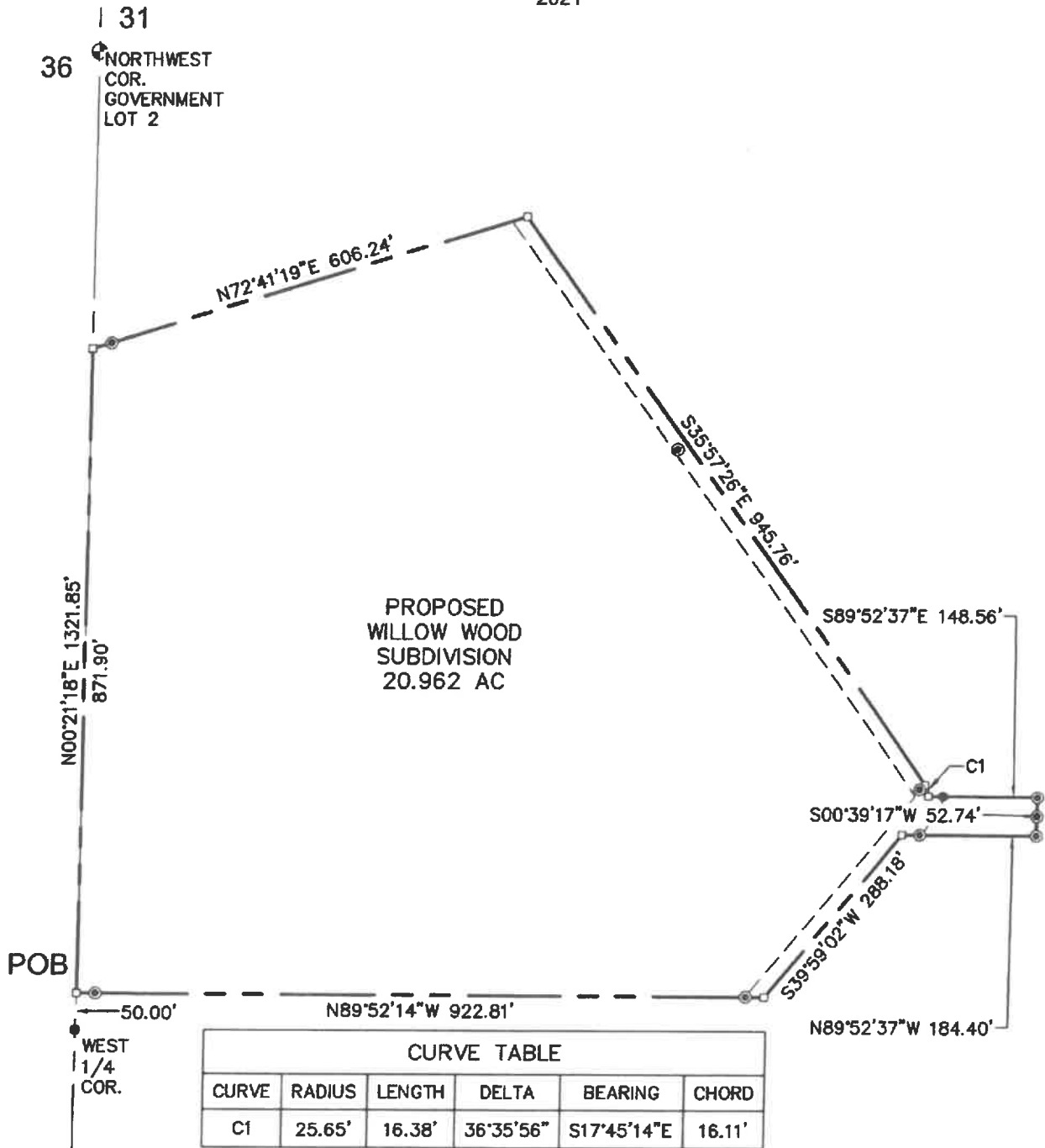
- 1) N.00°21'18"E., 50.00 feet to the **POINT OF BEGINNING**; thence, continuing along said west line,
- 2) N.00°21'18"E., 871.90 feet; thence, leaving said west line,
- 3) N.72°41'19"E., 606.24 feet; thence,
- 4) S.35°57'26"E., 945.76 feet; to the beginning of a tangent curve; thence,
- 5) Southeasterly along said curve to the right, having a radius of 25.65 feet, an arc length of 16.38 feet, through a central angle of 36°35'56", of which the long chord bears S.17°45'14"E, 16.11 feet; thence,
- 6) S.89°52'37"E., 148.56 feet; thence,
- 7) S.00°39'17"W., 52.74 feet; thence,
- 8) N.89°52'37"W., 184.40 feet; thence,
- 9) S.39°59'02"W., 288.18 feet; thence,
- 10) N.89°52'14"W., 922.81 feet to the **POINT OF BEGINNING**.

The above-described parcel **CONTAINS** 20.962 acres, more or less.



EXHIBIT SKETCH "B"

LOCATED IN A PORTION OF GOVERNMENT LOT 2 OF SECTION 31,
 TOWNSHIP 5 NORTH, RANGE 2 WEST, BOISE MERIDIAN, CANYON COUNTY, IDAHO
 2021



T-O ENGINEERS

2471 S. TITANIUM PLACE
 MERIDIAN, IDAHO 83642-6703

PHONE: (208) 323-2288

WWW.TO-ENGINEERS.COM

E-FILE: 210036-V-PREPLAT BOUNDARY EXHIBIT.dwg DATE: 3/11/21

JOB: 210036

EXHIBIT "B"

Concept Plan

CONCEPT PLAN

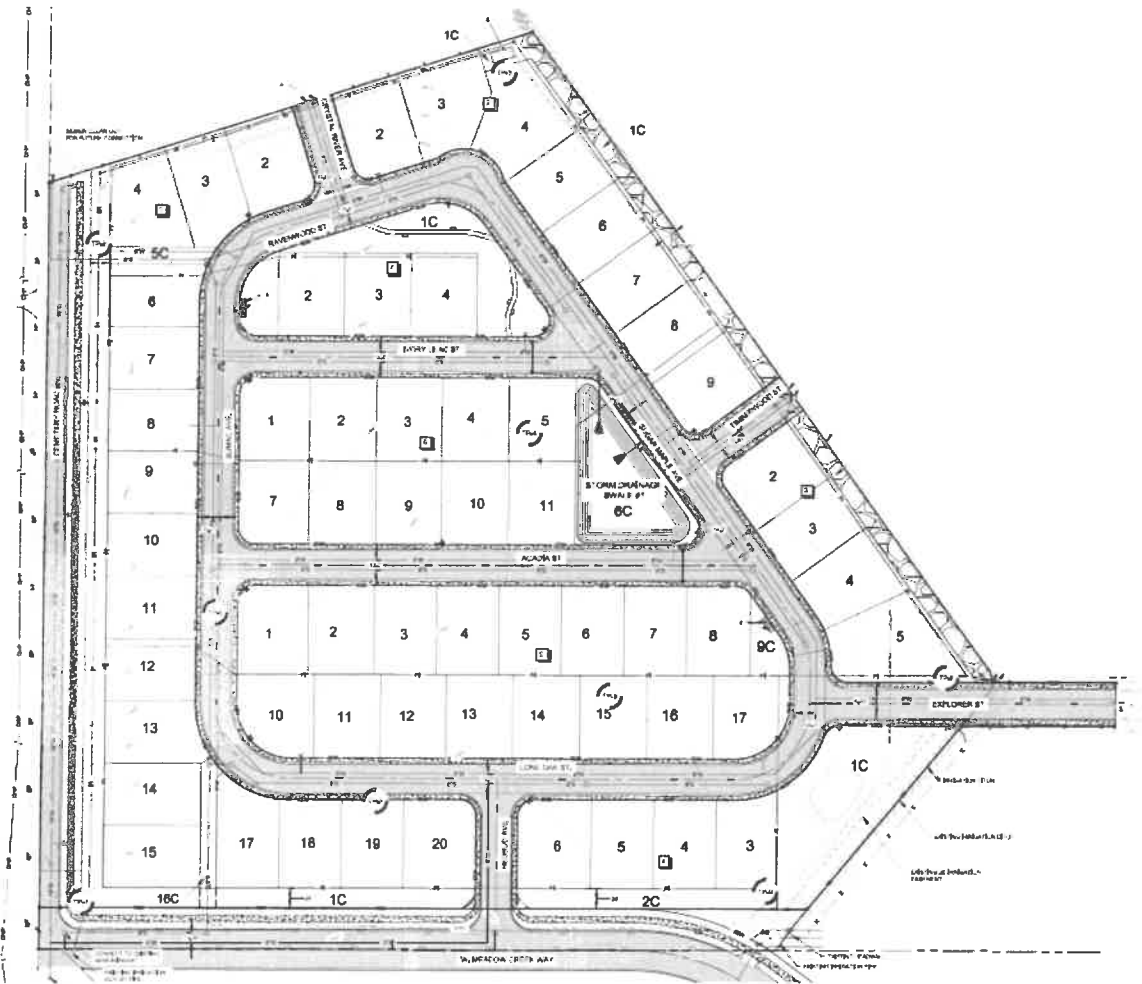


EXHIBIT F
PROPOSED DEVELOPMENT AGREEMENT MODIFICATION

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

**FIRST AMENDMENT TO DEVELOPMENT AGREEMENT
(Willow Wood Estates Subdivision)**

This First Amendment to Development Agreement ("First Amendment") is made and entered into this ___ day of _____, 20__ by and between the CITY OF MIDDLETON, a municipal corporation in the State of Idaho (**City**); and JOSEPH L. AUSTIN and DEBORAH R. AUSTIN, husband and wife, referred to collectively hereafter as Developer (**Developer**).

RECITALS

WHEREAS, Developer owns approximately 21 acres of real property located at 0 Cemetery Road (Tax Parcel Nos. R3757901 and R37579011), Middleton, Canyon County, Idaho, legally described in Exhibit A attached hereto and incorporated herein by this reference (**Property**); and

WHEREAS, Developer submitted applications for Annexation/Rezone, Development Agreement, and Preliminary Plat for the Willow Wood Estates Subdivision (**Project**) on March 6, 2021, which applications were approved by the Middleton City Council following a public hearing on December 1, 2021.

WHEREAS, the Development Agreement was fully-executed and recorded in the records of Canyon County Recorder's Office as Instrument # _____.

WHEREAS, Developer has submitted applications for Amended Preliminary Plat and Development Agreement Modification, thereby seeking approval of this First Amendment to Development Agreement.

**ARTICLE I
LEGAL AUTHORITY**

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

ARTICLE II AGREEMENT

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

1. Exhibit "B" in Paragraph 3.2 representing the Concept Plan for the Project shall be deleted and Exhibit "B.1" shall be inserted in its stead and incorporated into this Agreement by this reference as though fully set forth herein. All references to Exhibit "B" in the Development Agreement shall refer to Exhibit "B.1."
2. Paragraph 3.3 regarding Frontage Improvements shall be stricken entirely and replaced with the following provisions:

***"Frontage Improvements.** Developer shall, at its own cost, improve the fifty foot (50') half-road portions of Cemetery Road per City standards and codes and ensure that the same is dedicated to the City prior to approval of final plat. The frontage improvements may be completed by phase pursuant to the recent revision of MCC 5-4-10-2.*

Due to the inability of Developer to negotiate the right to complete the fifty foot (50') half road portion of Meadow Park Street with the owner(s) of Tax Parcel No. R37579011A0 (commonly referred to as 24556 Cemetery Road), Developer shall make a payment in lieu to the City for the fifty foot (50') half road improvements to future Meadow Park Street that span the length of the Project's southern border.

Developer and City shall reasonably, and in good faith, agree upon the payment in lieu amount, and Developer shall submit the payment in lieu to the City prior to final plat approval of Phase 1. City shall maintain the payment in lieu funds until the right of way for the Meadow Park Street frontage improvements can be constructed, and the funds will be applied to said construction."

In the event that the owner(s) of Tax Parcel No. R37579011A0 agrees to allow the development and dedication, at no cost to the City, of the half-road portion of Meadow Park Street on said owner's property prior to the completion of the Project, and if Developer agrees, then Developer shall construct the half-road portion of Meadow Park Street spanning the length of the Property pursuant to the City code and standards in effect at the time of construction. The completion of the half-road portion of Meadow Park

Street will be a condition of final plat approval for the Phase in which the construction occurs. Once constructed, the payment in lieu will no longer be required.

Additionally, if the Developer is able to construct the half-road portion of Meadow Park Street, the Developer will not be required to construct the access on to Cemetery Road via Ivory Lilac Street and Developer may increase Developer's lot count by one lot in light of the fact that the land for the Cemetery Road access is no longer required.

3. **City Council Adoption.** The Middleton City Council hereby adopts this First Amendment to Development Agreement pursuant to Middleton City Code 5-2-5.
4. **Effect of Amendment.** In the event of a conflict between the Development Agreement and this First Amendment thereto, the terms of this First Amendment shall govern. The terms of the Development Agreement, as modified by this First Amendment, shall continue in full force and effect.

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

CITY OF MIDDLETON

ATTEST

By: _____
Steven J. Rule, Mayor

By: _____
Becky Crofts, City Clerk

State of IDAHO)
 ss.
County of Canyon)

I, a notary public, do hereby certify that on this _____ day of _____, 2023, personally appeared before me Steven J. Rule, who declared that he is the Mayor of the City of Middleton, Idaho and signed this Development Agreement as Mayor of the City of Middleton.

Notary Public
My Commission Expires: _____

JOSEPH L. AUSTIN

State of Idaho)
 ss.
County of _____)

I, a notary public, do hereby certify that on this ___ day of _____, 2023, personally appeared before me Joseph L. Austin, who declared that he signed this Development Agreement in the capacity of Developer and Owner of the Willow Wood Estates Subdivision.

Notary Public
My Commission Expires: _____

DEBORAH R. AUSTIN

State of Idaho)
 ss.
County of _____)

I, a notary public, do hereby certify that on this ___ day of _____, 2023, personally appeared before me Deborah R. Austin, who declared that she signed this Development Agreement in the capacity of Developer and Owner of the Willow Wood Estates Subdivision.

Notary Public
My Commission Expires: _____

EXHIBIT "A"

Legal Description

EXHIBIT "B.1"

Concept Plan

EXHIBIT G
AGENCY COMMENTS



August 11, 2023

City of Middleton
Planning and Zoning Department
Attn: Roberta Stewart
1103 W Main St
Middleton, ID 83644
(208) 454-7458

RE: BCID SUB23-29 Willow Woods Estates - Rezoning and preplat approval request
Parcels R3757901000 & R3757901100

The Black Canyon Irrigation District (District) has the following initial comments regarding this proposed rezoning and preplat approval. Two plan sheets, not signed, titled "Revised Preliminary Plat Willow Wood Subdivision", dated June 7, 2023, submitted by Ardurra, were reviewed.

It is the District's understanding that this subdivision was approved by the City of Middleton in December of 2021, but needed to be updated to add additional access. The District will require the Developer to resubmit an application, as many processes and requirements have changed since 2021. Previous approvals with the District will be taken into consideration but cannot be guaranteed as changes to the subdivision have also occurred.

District records show Parcel R3757901000 historically receiving 6.5 irrigable acres, and Parcel R3757901100 receiving 13.75 irrigable acres. Both parcels receive their allocation from District lateral C.E. 18.1-3.4 for a total of 20.25 irrigable acres.

****Prior to Pre-Plat Approval Concurrence**

Based on our records, the District has not yet received a New Project Application regarding the request for preplat approval for Parcels R3757901000 and R3757901100. To move forward, the District kindly asks the developer to complete the New Project Application Form attached to this letter (the form can also be found on the District's website at <https://blackcanyonirrigation.com/development>). **Pre-plat approval from the District will not be provided until the District receives the New Project Application Form, payment of initial intake fee, and completion of an application meeting with the District.**

Site Specific Items (Conditions of Pre-Plat Approval)

The District initially sees the following items as conditions of the pre-plat approval (more may be added once meeting has been completed);

1. The Canal East Lateral 18.1-3.4 affected by this proposed land change will be required to be piped and structures built to ensure the delivery of irrigation water to our patrons per District Resolution 2023-02.
2. A standalone easement will need to be recorded for the Canal East Lateral 18.1-3.4. The developer will be required to provide the District with a legal exhibit and legal description. These documents will need to be signed by a licensed land surveyor within the State of Idaho per District Resolution 2023-04.
3. A 12' wide gravel access road will need to be designed and installed within the District's easement and parallel to the irrigation line per District Resolution 2023-03.
4. District standard fencing along the District facility easement/right-of-way boundary lines located within the subdivision will be required per District Resolution 2023-01.
5. Separate irrigation accounts will be set-up for each new parcel developed. An accounting of the irrigation water for each lot will be provided to the developer for review. The Developer will be required to provide line-work of the proposed pre-plat for assisting in setting these accounts up with the District.
6. A fee of \$106/lot will be assessed to the developer of this project prior to final plat. This fee is to cover the costs of historical water rights mapping and account creation.

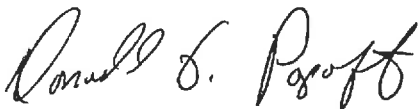
General Comments

1. **All Maintenance road right-of ways, lateral right-of ways and drainage right-of ways** will need to be protected (including the restriction of all encroachments). Also, any crossing agreement(s) and/or piping agreement(s) will need to be acquired from the Bureau of Reclamation (Reclamation), once approved by the District, to cross over or under any existing lateral, pipe any lateral or encroach in any way the right-of ways of the District or the Reclamation.
2. As long as this property has irrigation water attached to it, an irrigation system with an adequate overflow needs to be installed to ensure the delivery of irrigation water to each lot and/or parcel of land entitled to receive irrigation water.

All the above requirements need to be met, including any others that arise during future reviews.

Please reach out if you have any questions.

Thank you,



Donald Popoff P.E.
District Engineer
Black Canyon Irrigation District



CANYON HIGHWAY DISTRICT No. 4

15435 HIGHWAY 44
CALDWELL, IDAHO 83607

TELEPHONE 208/454-8135
FAX 208/454-2008

November 8, 2021

City of Middleton, Idaho
Planning & Zoning Department
1103 West Main Street
Middleton, ID 83644
Attention: Roberta Stewart, Planning and Zoning Administrator

RE: Cemetery Road-Willow Wood Subdivision—Preliminary Plat

Mrs. Stewart:

Canyon Highway District No. 4 (CHD4) has reviewed the preliminary plat dated 7/30/21 for Willow Wood Estates Subdivision. The development consists of approximately 21 acres with 63 buildable lots. The development is located on parcels R3757901000 and R3757901100. The development is requesting annexation, preliminary plat, and R-3 zoning from Middleton City. The Subdivision is located on the east side of Cemetery Road approximately 2,770' north of Willis Road

CHD4 offers the following recommendations:

General

By agreement with the City, CHD4 maintains Cemetery Road 0.5 miles north of Willis Road to Purple Sage Road. Under this agreement, CHD4 may provide comment on development or other permit activity, which may affect traffic operations or maintenance of Middleton Road.

Cemetery Road

At time of improvement drawing review the following shall be shown:

- CHD4 policy requires a 5-year moratorium on road cuts in any newly rebuilt road. Cemetery Road was rebuilt in 2020.
 - New utilities are shown to extend 100' north of the subdivision's south property line in existing Cemetery Road.
 - Applicant shall remove and rebuild full width of road beginning approximately 25' south of the quarter corner and extend north beyond the perpendicular sewer crossing and terminate at next available warm joint. This includes any borrow ditches and road appurtenances.
 - If utility construction in Cemetery Road extends beyond depicted limits—Middleton City shall take over maintenance responsibilities of Cemetery Road.

Please consider extending sewer east, via Meadow Creek Way, to prevent additional utility cuts on Cemetery. Can this be addressed through improvement plans from Estates at West Highlands (see email dated 11/8/21)?

CHD4 asks the City to consider the following:

- Centerline is offset approximately 2.5' west from section line. Widen Cemetery Road from section line per Middleton typical section.

Access to Cemetery to come by future Meadow Creek Way shown as Meadow Park Street on Willow Wood plan.

Traffic Impact

Traffic mitigation will be addressed through subdivision frontage improvements and impact fees.

Please feel free to contact with any questions on this matter.

Respectfully,

A handwritten signature in blue ink, appearing to read "L. Riccio", with a long horizontal flourish extending to the right.

Lenny Riccio, E.I.T.
Assistant District Engineer
Transportation Planner
Canyon Highway District No. 4

From: [Chris Hopper](#)
To: [Roberta Stewart](#)
Subject: RE: Agency Notice - Amended Preliminary Plat & DA Modification (Willow Wood Estates)
Date: Tuesday, September 5, 2023 11:38:14 AM
Attachments: [image002.png](#)
[Plat Comments Cemetery Road-Willow Wood Sub Preliminary Plat.pdf](#)

Roberta-

CHD4 does not have any additional comment on the revised prelim plat for Willow Wood Estates on Cemetery Rd. The only significant revision affecting Cemetery (which is under CHD4 jurisdiction for maintenance) appears to be the local road connection approximately 660-ft north of Meadow Park, which meets CHD4 standards for local road spacing for a collector. There appears to be adequate intersection sight distance from the north for the proposed local road "Ivory Lilac Street", but CHD4 recommends the city confirm the minimum 500-feet of intersection sight distance is available for the posted 45 mph speed.

Comments on the previous prelim plat submittal dated Nov 8, 2021 are attached and are still valid for this plat.

Please let me know if you have questions.

Respectfully,

Chris Hopper, P.E.

District Engineer

Canyon Highway District No. 4
15435 Hwy 44
Caldwell, Idaho 83607
208-454-8135

From: Roberta Stewart <rstewart@middletoncity.com>
Sent: Friday, August 18, 2023 4:18 PM
To: akrantz@msd134.org; MStowell@ccparamedics.com; gis@compassidaho.org; deann.gerthung@canyoncounty.id.gov; MYbarguen@idahopower.com; D3Development.services@ITD.idaho.gov; gmpdjulie@gmail.com; lgrooms@msd134.org; mgee@msd134.org; permits@starfirerescue.org; monica.taylor@intgas.com; Mitch.Kiester@phd3.idaho.gov; westerninfo@idwr.idaho.gov; zoninginfo@canyoncounty.id.gov; Lenny Riccio <LRiccio@canyonhd4.org>; Chris Hopper <CHopper@canyonhd4.org>; Jamie.macleod@sparklight.biz; dpopoff@rh2.com; carl@blackcanyonirrigation.com; tyler@blackcanyonirrigation.com
Subject: Agency Notice - Amended Preliminary Plat & DA Modification (Willow Wood Estates)

Hi all: attached is the agency notice for the upcoming application before the P&Z Commission for amended preliminary plat and development agreement modification for the Willow Wood Estates Subdivision. The amended preliminary plat is attached. To see the entire application, visit the link noted on the agency notice. Thanks,

From: [Niki Benyakhlef](#)
To: [Roberta Stewart](#)
Subject: RE: Agency Notice - Amended Preliminary Plat & DA Modification (Willow Wood Estates)
Date: Thursday, August 31, 2023 7:58:32 AM
Attachments: [image003.png](#)
[image004.png](#)

Good Morning, Roberta –

After careful review of the transmittal submitted to ITD on August 23, 2023 regarding Amended Preliminary Plat & DA Modification (Willow Wood Estates), the Department has no comments or concerns to make at this time. Due to the distance as well as the size of the development minor impact can be anticipated.

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: Roberta Stewart <rstewart@middletoncity.com>
Sent: Wednesday, August 23, 2023 8:57 AM
To: akrantz@msd134.org; MStowell@ccparamedics.com; gis@compassidaho.org; deann.gerthung@canyoncounty.id.gov; MYbarguen@idahopower.com; D3 Development Services <D3Development.Services@itd.idaho.gov>; gmpdrjulie@gmail.com; lgrooms@msd134.org; mgee@msd134.org; permits@starfirerescue.org; monica.taylor@intgas.com; Mitch.Kiester@phd3.idaho.gov; westerninfo@idwr.idaho.gov; zoninginfo@canyoncounty.id.gov; Iriccio@canyonhd4.org; chopper@canyonhd4.org; Jamie.macleod@sparklight.biz; dpopoff@rh2.com; carl@blackcanyonirrigation.com; tyler@blackcanyonirrigation.com
Subject: RE: Agency Notice - Amended Preliminary Plat & DA Modification (Willow Wood Estates)

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.

Hi all: attached is the agency notice for the public hearing before the Middleton City Council on September 20, 2023. The hearing pertains to the Willow Wood Estates subdivision project. A copy of the amended preliminary plat is attached. thanks

Roberta L. Stewart

PLANNING & ZONING OFFICIAL
City of Middleton, Planning & Zoning
1103 W. Main St.
P.O. Box 487
Middleton, ID 83644

Tele - (208) 585-3133
Fax – (208) 585-9601
rstewart@middletoncity.com

www.middleton.id.gov



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mgee@msd134.org; permits@starfirerescue.org; monica.taylor@intgas.com;
Mitch.Kiester@phd3.idaho.gov; westerninfo@idwr.idaho.gov; zoninginfo@canyoncounty.id.gov;
Iriccio@canyonhd4.org; chopper@canyonhd4.org; Jamie.macleod@sparklight.biz;
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EXHIBIT H

ENGINEERING & PLANNER COMMENTS



5605 South 10th Ave. · Caldwell, Idaho 83607 · 208.453.2028

July 6, 2023

TO: Roberta Stewart, Planner

Cc: Ardurra, David Sterling, PE

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

RE: Willow Wood Estates Subdivision – Revised Preliminary Plat

Thank you for the opportunity to review the revised preliminary plat submittal.

1. What is the status of the area south of Willow Wood depicted on the plat as to be improved? If Meadow Park will not be improved by Willow Wood, remove the street and pathway. Note unplatted.
2. Per prior discussions, please stub a local street south from Lone Oak to the project limits/future Meadow Park right of way.
3. Note 3. Expand note and include language as follows: The Home Owner's Association (HOA), owns and manages the common areas which including stormwater facilities such as basins and swales. A plan for operation, maintenance, and repair of stormwater facilities (O&M plan) must be prepared for all stormwater facilities maintained by the HOA. The O&M Plan shall be recorded with the Declaration of Covenants, Conditions, and Restrictions (CC&Rs).
4. Note 13. Add "and is system capacity dependent" to the end of the sentence. The will serve is system capacity dependent.
5. Cemetery Road x-section. Add traffic buffer berm, fence, etc. to typical section.
6. The City will not accept the irrigation crossing of Explorer Street with an angle in the pipe as shown. Add keynote: Irrigation and utility layout conceptual only.

From: Amy Woodruff
To: Joseph Austin; Roberta Stewart
Cc: Mark Butler; Dave Sterling
Subject: RE: FW: Redline - Willow Wood amended Plat & 1st Amendment to DA
Date: Monday, July 31, 2023 4:28:32 PM
Attachments: [mason001.png](#)
[mason002.png](#)

1. Please review code regarding the traffic buffer and show fence as placed on top of the berm.
2. Please revise note 13. Proposed utilities *and gravity irrigation*....

Thank you.

Amy Woodruff
453-2028

From: Joseph Austin <jdustin15@gmail.com>
Sent: Monday, July 24, 2023 9:00 AM
To: Roberta Stewart <rstewart@middletoncity.com>; Amy Woodruff <amy@civildynamics.net>
Cc: Mark Butler <markleebutler@gmail.com>; Dave Sterling <dsterling@to-engineers.com>
Subject: Re: FW: Redline - Willow Wood amended Plat & 1st Amendment to DA

Hi Roberta and Amy,

Good morning. Please see the attached revised plat and letter confirming the requested changes have been made.

Thanks,

Joe

On Mon, Jul 17, 2023 at 3:51 PM Roberta Stewart <rstewart@middletoncity.com> wrote:

Joe, that is a perfectly acceptable change. City has no problem with your addition. Looks like we can keep moving forward to hearing. thanks for working with us,

Roberta L. Stewart

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From: Joseph Austin <jdustin15@gmail.com>
Sent: Monday, July 17, 2023 3:43 PM
To: Roberta Stewart <rstewart@middletoncity.com>
Cc: Mark Butler <markleebutler@gmail.com>; Dave Sterling <dsterling@ardurra.com>
Subject: Re: Redline - Willow Wood amended Plat & 1st Amendment to DA

Hi Roberta,

Thank you for your email, it definitely helped clarify some things and helps with alleviating some of our concerns. I have added a clarification comment to the attached DA stating "and if Developer agrees to". Please take a look and if this clarifying comment is acceptable, we can move forward.

Thanks again for your response and for being willing to review our concerns.

Joe

On Mon, Jul 17, 2023 at 2:48 PM Roberta Stewart <rstewart@middletoncity.com> wrote:
Hey Joe: see my comments below in red font.

Roberta L. Stewart

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July 6, 2023

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[image002.png](#)

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June 27, 2023

Planner Comments

Willow Wood Estates Subdivision – Amended Pre-Plat dated 6/7/2023

1. Add the street "Redbud Avenue" back into the southern border of the project.

Sincerely,

Roberta L. Stewart

Middleton City Planner



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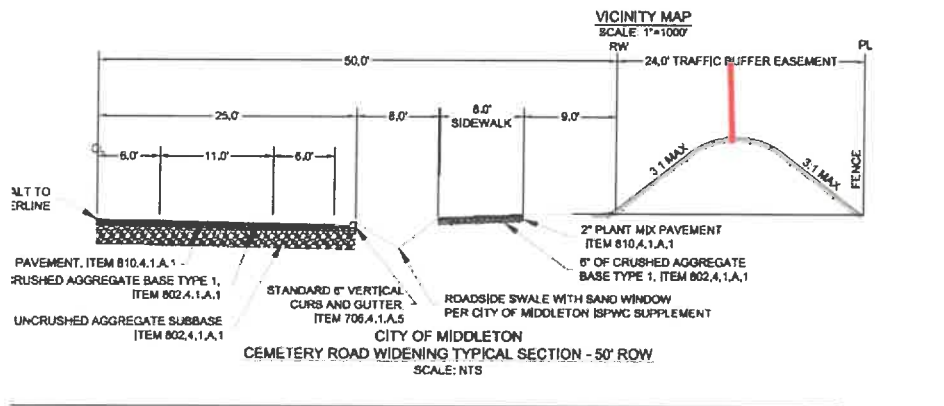
www.middleton.id.gov

July 28, 2023

2nd Planner Comments

Willow Wood Estates Subdivision – Amended Pre-Plat dated 7/18/2023

1. Looks like you're missing "Block 8" icon.???
2. On the section showing Cemetery Road, move the fence to the top of the Berm to comply with current code (MCC 5-4-10-6). The fence/berm combo must reach 9' minimum and no more than 11'. Please note this could change soon because City has hired a consultant to help us improve this traffic buffer with an ordinance amendment. See Note in item 2 below.



3. Add the following note: "City is in the process of revising its code with respect to the 24' wide traffic buffer with fence and berm (MCC 5-4-10-6). Developer to comply with the traffic buffer in effect at the time of Construction Drawing submittal."

So, you need to show the current traffic buffer configuration per the current code, but it is very likely that it will be a different configuration by the time you get to CDs. You should find the revised configuration easier to deal with. That's the goal.

Sincerely,

Roberta L. Stewart

Middleton City Planner



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