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**MIDDLETON CITY PLANNING AND ZONING  
COMMISSION MINUTES  
APRIL 10, 2023**

**Pledge of Allegiance, Roll Call & Call to Order:** The April 10, 2023, Planning and Zoning Commission Meeting was called to order by Chairman Summers at 5:36 p.m. Commissioners Summers, Crofts, Christiansen, Tremble, and Watkins were present. Planning & Zoning Official Ms. Stewart, Planning Deputy Clerk Ms. Day were also present.

**Action Items:**

1. **Consent Agenda (items of routine administrative business)**
  - a. **Consider approving minutes for March 13, 2023, regular meeting.**

**Motion:** Motion by Commissioner Christiansen to approve the consent agenda items 1a. Motion seconded by Commissioner Crofts and approved unanimously.

2. **Public Hearing: Application by Furaha A. Bonane for special use permit to operate a licensed daycare center from her home located at 105 E. Rose Lake Drive, Middleton, Idaho (Middleton Lakes Subdivision). The operation will provide daycare for up to 13 children that are unrelated to Ms. Bonane. The hours of operation will be 7:00 a.m. to 5:00 p.m., Monday through Friday.**

Chairman Summers opened public hearing at 5:42 p.m.

Ms. Stewart presented a PowerPoint presentation of the Staff Report. (Exhibit A)

Applicant spoke through an interpreter and answered various questions from the Commissioners.

Chairman Summers opened public testimony at 6:07 p.m.

*Mike Graefe: Testifies*

Chairman Summers closed public testimony at 6:10 p.m.

Brief discussion between Ms. Stewart and the Commissioners.

**Motion:** Motion by Commissioner Christiansen to continue to the May 8, 2023 regularly scheduled meeting, the application of Furaha A. Bonane for special use permit to operate a licensed daycare from her home so that Applicant has time to complete the following: (1) obtain approval for the daycare from the Middleton Fire District Fire Marshall, (2) provide proof of proper state licensing for the daycare, and (3) provide proof that the Subdivision HOA has given Applicant permission to use the HOA owned park for daycare purposes. Motion seconded by Commissioner Watkins.

**Roll Call:** Chairman Summers – yes, Commissioner Christiansen – yes, Commissioner Crofts – yes, Commissioner Tremble – yes and Commissioner Watkins – yes approved unanimously.

Chairmen Summers closed the public hearing at 6:24 p.m.

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## Public Comments, Commissioner and Staff Comments

### **Public Comments**

*Mike Graefe:* Asked about the status of the meat packing company that was supposed to build in the Bozic Subdivision.

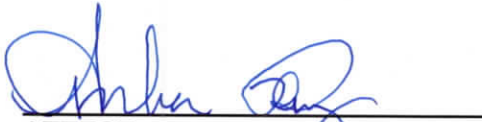
*Ms. Stewart* stated that the company was sold, and the new company no longer wants to build in Middleton.

*Katie Gregory:* Wanted to know when more stores and restaurants are coming to Middleton

### **Commissioners Comment**

Chairman Summers invited other Commissioners to attend a County Planning & Zoning Meeting, to observe their practices and procedures. She will be obtaining County scripts that may be helpful for Middleton. She will run the scripts by City Attorney.

**Adjourn:** Chairman Summers adjourned the meeting at 6:34 p.m.

  
Heidi Summers, Chairmen  
ATTEST:  
Deputy Clerk, Planning

Approved: May 8, 2023

# Exhibit “A”



## STAFF REVIEW AND REPORT

### Middleton Planning and Zoning Commission

## Special Use Permit Application

(Furaha A. Bonane Daycare – 105 E. Rose Lake Dr.)



- A. Planning & Zoning Commission Hearing Date:** April 10, 2023
- B. Application & Description:** Application by Furaha A. Bonane for special use permit to operate a daycare in her home located at 105 E. Rose Lake Dr. (Middleton Lakes Subdivision). Applicant is requesting a permit to care for up to 13 children. Ages of the children are newborn to 13 years old. Applicant also has four other children in the





- D. **City Services:** The lot is located in an established neighborhood, so water, sewer, police and fire protection are already servicing the subject lot.
- E. **Traffic, Access & Streets:** Depending upon Applicant's description at the public hearing of pick-up and drop-off procedures, traffic and access may be an issue.
- F. **Special Use Permit:** Middleton City Code 1-15-7 sets forth the law on Special Use Permits within City limits. Section 1-15-7 provides specifically:

***"1-15-7: SPECIAL USE PERMITS:***

***A. Description:***

*1. The purpose of review shall be to determine that the characteristics of any such use shall not be unreasonable or incompatible with the type of uses permitted in the area. Nothing construed herein shall be deemed to require the commission to grant a special use permit.*

*2. Certain types of uses possess unique and special characteristics which require special consideration prior to their being permitted in a particular district. A special use permit may be granted to an applicant if the proposed use is allowed by a special use permit under the land use schedule in section [5-4-1](#), Table 1 of this Code.*

*3. No building permit shall be issued when a special use permit is required by the terms of this chapter, unless a special use permit has been previously granted by the City and then only in accordance with the terms and conditions of the special use permit.*

*4. No special use permit shall be transferable from one property to another. In the event the property changes hands, the new owner, if he or she desires to continue the special use, shall appear before the commission for review. Said continuance use shall be subject to the same terms and conditions of the permit.*

*5. Prior to granting a special use permit, studies may be required of the social, economic, fiscal and environmental effects of the proposed special use.*

*6. The granting of a special use permit shall not be considered as establishing a binding precedent to grant other special use permits.*

***B. Procedures:*** *The commission shall conduct at least one public hearing on the application.*

***C. Action By Commission:*** *After notice and hearing, the commission may approve, conditionally approve or deny a special use permit application. Whenever the commission approves or denies a permit, it shall specify in writing: 1) the ordinance and standards used in evaluating the application (city code, Idaho Standards for Public Works Construction and Middleton Supplement to the Idaho*

*Standards for Public Works Construction); 2) the reasons for approval or denial; and 3) if denied, the actions, if any, that the applicant can take to obtain approval. The commission shall make a decision within thirty (30) days of the conclusion of the public hearing.*

*D. Conditions: Upon granting a special use permit, conditions may be attached to:*

- 1. Minimize adverse impact on other development (spaces, fences, parking, traffic flow, etc.).*
- 2. Control the sequence and timing.*
- 3. Control duration of the use.*
- 4. Assure that development is maintained properly.*
- 5. Designate the location and nature of development, including signs.*
- 6. Require the provision for on site or off site public facilities or services.*
- 7. Require more restrictive standards than those generally required in an ordinance (surfacing of parking areas to City specifications, regulation of points of vehicular ingress and egress, landscaping and maintenance, regulation of noise, vibration, odors or other similar nuisances).*
- 8. Specify the period of time for which a permit is issued and conditions which, if not followed, will bring about revocation of the special use permit.*
- 9. Require mitigation of effects of the proposed use upon service delivery by any political subdivision, including school districts, providing services within the planning area of Middleton.*

*E. Appeal: An affected person aggrieved by the commission decision may, within fifteen (15) days of the written commission decision, file a written appeal with the City, along with a nonrefundable fee. The Council shall consider the appeal at a noticed public hearing and may approve, approve with conditions or deny the application.”*

In short, the Commission will consider whether Ms. Bonane’s proposed daycare involving 13 children is not “unreasonable or incompatible” with the surrounding neighborhood. In other words, is the daycare in harmony with the surrounding neighborhood. The code section allows the Commission to approve the application and apply conditions of approval that will make the special use “reasonable and compatible” with the surrounding neighborhood.

The Commission must also ensure that the special use requested is shown appropriately in the Land Use Schedule as a “special use.” Daycare for 13 children is indeed shown in the Land Use schedule as an “S” (special use) for the R-3 Zone.

A = Allowed uses											
S = Special uses											
Use <sup>1,2</sup>	A-R	C-1	C-2	C-3	M-1	M-2	R-1	R-2	R-3	M-F	M-U
Concrete batch plant						S					
Contractor's shop/storage yard				A	A	A					S
Convalescent/nursing home		A	A	A			S	S	S	S	S
Daycare center (13 or more children)		A	A	A	A		A	S	S	A	A
Daycare, facility (7 or more children unrelated to provider)		A	A	A	A		A	S	S	A	A
Daycare, family (6 or fewer children)		A	A	A	A		A	A	A	A	A

- G. Comments Received from Surrounding Landowners:** None.
- H. Comments from Agencies:** Fire Marshall Islas contacted Planning Staff by telephone to report his inability to set up an in-home inspection of the Bonane home despite reaching out to the Applicant.
- I. Comments from City Engineer and Planning Staff:** None (not applicable).
- J. Application Information:** Applicant is Furaha A. Bonane, 105 E. Rose Lake Dr. Application was accepted on 12/13/2022.
- K. Notices & Neighborhood Meeting:**
- |                                      |           |
|--------------------------------------|-----------|
| Newspaper Notification               | 2/26/2023 |
| Radius notice to adjacent landowners | 2/23/2023 |
| Circulation to Agencies              | 2/22/2023 |
| Sign Posting property                | 2/22/2023 |
| Neighborhood Meeting                 | 9/20/2022 |
- (Hearing was continued from the March 13, 2023, regularly scheduled meeting)



**L. Applicable Codes and Standards:**

Middleton City Code 1-15-7, Idaho State Statute 67-6512 and IDAPA rules regarding daycare.

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

The Planning & Zoning Commission will make the final decision and order on this application. It does not proceed to City Council for consideration. Per State law and the Middleton City Code, any final order must be based upon findings of facts and conclusions of law.

**As to Findings of Facts,** Planning Staff has set forth above the facts to be considered in the application. Planning Staff further finds that the City does not know if allowing 13 children in the daycare will be in compliance with State Code because Applicant did not schedule an in-home inspection with the Fire Marshall.

**As to Conclusions of Law,** Planning Staff finds that the Planning & Zoning Commission has the authority to hear the application (MCC 1-5-5). The Commission has the authority to approve the application with or without conditions of approval or deny the application. Additionally, Planning Staff notes that all public notice requirements were met. Planning Staff further set forth the portions of the Idaho State Code and Middleton City Code to be considered in making a recommendation on the application.

**Special Use Permit Application:** If the Commission is inclined to approve the application, then Planning Staff recommends that any approval be subject to the following conditions:

1. All requirements of the Middleton Rural Fire District are to be completed and approved.
2. All requirements of local, state and federal agencies are to be completed and approved.

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



[illegible]