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**MIDDLETON CITY PLANNING AND ZONING  
COMMISSION MINUTES  
OCTOBER 17, 2022**

**Pledge of Allegiance, Roll Call & Call to Order:** The October 17, 2022, Planning and Zoning Commission Meeting was called to order by Vice Chairman Summers at 5:34 p.m. Commissioners Summers, Crofts, Christiansen and Tremble were present. Chairman Waltemate entered the meeting at 5:52 p.m. Planning & Zoning Official Roberta Stewart, Planning Deputy Clerk Jennica Reynolds and City Attorney Douglas Waterman were also present.

**Action Items:**

- 1. Consent Agenda (items of routine administrative business)**
  - a. Consider approving FCR for Black Powder Subdivision Project.**
  - b. Consider approving FCR for Waterford East Subdivision Project.**

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

- 2. Consider approving Resolution 476-22: "A RESOLUTION OF THE PLANNING AND ZONING COMMISSION FOR THE CITY OF MIDDLETON, IDAHO, VALIDATING CONFORMITY OF THE URBAN RENEWAL PLAN FOR THE MIDDLETON EAST DISTRICT URBAN RENEWAL PROJECT WITH THE CITY OF MIDDLETON'S COMPREHENSIVE PLAN." – Meghan Conrad**

Abbey Germaine from Elam & Burke, Jason VanGilder, City Public Works Director and Becky Crofts, City Administrator gave a presentation on the Urban Renewal Agency's East District.

Chairman Waltemate entered the meeting at 5:52 p.m. Vice Chairman Summers handed the balance of the meeting to the Chairman.

**Motion:** Motion by Commissioner Christiansen to approve Resolution 476-22. Motion seconded by Vice Chairman Summers and approved unanimously.

**Information Item:**

- 1. Zoning law practice and procedures. – Attorney Douglas Waterman**

City Attorney gave a presentation on zoning law practice and procedures.

**Action Items:**

- 3. Public Hearing: Application by Greater Middleton Parks & Recreation District for Special Use Permit with respect to the parcel located at 18 Minot Street (Parcel No. R17963). The parcel is a vacant parcel located within City limits. It is .752 acres and is currently zoned R-3 (Single-Family Residential). Applicant is requesting a Special Use Permit to use the site for the District operations for equipment storage and potential maintenance shop. The applicant is also requesting a waiver of the 8' privacy fence required to surround a metal storage container (MCC 8-1-2). – Jennica Reynolds**

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Chairman Waltemate opened the public hearing at 6:59 p.m.

City Staff Reynolds presented a PowerPoint presentation of the Staff Report (Exhibit 1)

Applicant Representative Tim O'Meara, Greater Middleton Parks and Recreation District explained the intent of the District to use the property as a laydown yard for their construction and mowing equipment. They anticipate building a new storage shop/office in about 6 years.

Chairman Waltemate opened public testimony at 7:28 p.m.

None.

Chairman Waltemate closed public testimony at 7:29 p.m.

Discussion by Commissioners.

**Motion:** Motion by Chairman Waltemate to approve the Findings of Facts as presented to the Commission. Motion seconded by Commissioner Christiansen and approved unanimously.

**Motion:** Motion by Chairman Waltemate to accept the Conclusions of Law as presented by Staff. Motion seconded by Commissioner Tremble and approved unanimously.

**Motion:** Motion by Commissioner Christiansen to approve the application by Greater Middleton Parks & Recreation District for Special Use Permit with respect to the parcel located at 18 Minot Street. And to approve the waiver of the 8' privacy fence required to surround a metal storage container (MCC 8-1-2). Motion seconded by Commissioner Tremble and approved unanimously.

Chairman Waltemate closed the public hearing at 7:36 p.m.

**4. Public Hearing: Application by Bruce & Sherrill Stephens, represented by Luke & Sarah Stephens, for Variance with respect to the parcel located at TBD 3rd Street (Parcel No. R17787010). The parcel is a vacant parcel located within City limits. It is .122 acres and is currently zoned R-4 (Single-Family). Applicant is requesting a Variance to the setbacks as follows: 5'-12' side set back reduced to 5'; 25' garage setback reduced to 20'; 20' front living space setback reduced to 15'; and 25' rear setback reduced to 15'. This Variance would allow the applicant to construct a single-family home on the project site. – Jennica Reynolds**

Chairman Waltemate opened the public hearing at 7:36 p.m.

City Staff Reynolds presented a PowerPoint presentation of the Staff Report (Exhibit 2)

City Attorney clarified questions from the commissioners that the Commission will not be setting a precedence if they grant the variance. Variances are looked at on a case by case basis.

Applicant: Luke Stephens answered questions from the Commission regarding size of lot (5,319 sq ft) and the request for the variance. The home will be built for sale. It will be a new home, not intended to be historic.

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Chairman Waltemate opened public testimony at 8:06 p.m.

None

Chairman Waltemate closed public testimony at 8:06 p.m.

Discussion by Commission regarding the setbacks.

**Motion:** Motion by Chairman Waltemate to approve the Findings of Facts as presented to the Commission. Motion seconded by Vice Chairman Summers and approved unanimously.

**Motion:** Motion by Chairman Waltemate to accept the Conclusions of Law as presented by Staff. Motion seconded by Vice Chairman Summers and approved unanimously.

**Motion:** Motion by Vice Chairman Summers to approve the application by Bruce & Sherrill Stephens, represented by Luke & Sarah Stephens, for Variance with respect to the parcel located at TBD 3rd Street (Parcel No. R17787010). The variance to the setbacks as follows: 5'-12' side set back reduced to 5'; 25' garage setback reduced to 20'; 20' front living space setback reduced to 15'; and 25' rear setback reduced to 15'. Motion seconded by Commissioner Christiansen and approved unanimously.

**5. Public Hearing: Application by City of Middleton for amendment and revision to the following Middleton City Code sections: MCC 1-3-1, 4-5-11, 5-4-1, Table 1, and 5-4-4. – Roberta Stewart**

Chairman Waltemate opened the public hearing at 8:26 p.m.

City Planner Stewart gave a Power Point presentation of the Staff Report (Exhibit 3) and explained the proposed amendments and revisions to Middleton City Code.

Discussion by Commissioners and Stewart regarding the definition of flex space and food trucks.

Chairman Waltemate opened public testimony at 9:20 p.m.

*Mike Graefe:* Wants to understand definition of flex space and please don't compare Middleton to Portland.

Chairman Waltemate closed public testimony at 9:22 p.m.

Discussion by Commission.

**Motion:** Motion by Chairman Waltemate to approve the Findings of Facts as presented to the Commission. Motion seconded by Commissioner Christiansen and approved unanimously.

**Motion:** Motion by Chairman Waltemate to accept the Conclusions of Law as presented by Staff. Motion seconded by Commissioner Tremble and approved unanimously.

**Motion:** Motion by Commissioner Christiansen to recommend for approval to City Council the application by City of Middleton for amendment and revision to the following Middleton City Code sections: MCC 1-3-1, 4-5-11, 5-4-1, Table 1, and 5-4-4. With the condition that the term for "flex space" with the definition, Land Use Table, and intent of flex space be

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tightened up through all zones with a specific emphasis on the Mixed-Use zone. The Commission does recommend approval of the Food Truck definition. Motion seconded by Commissioner Tremble and approved unanimously.


**Public Comments, Commission and Staff Comments**

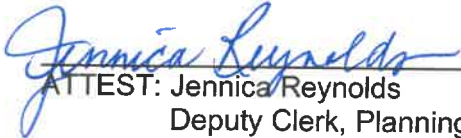
*Lori Smith:* Asked for clarification on zoning map and Urban Renewal area.

*Mike Graefe:* Question about where discussion regarding Gross Acres v.s. buildable acres has landed.

Chairman Waltemate said there is still discussion, but for now, the City is sticking with the code and 8,000 sq ft minimum lot size in R-3.

**Adjourn:** Chairman Waltemate adjourned the meeting at 10:01 p.m.

  
Ray Waltemate, Chairman

  
ATTEST: Jennica Reynolds  
Deputy Clerk, Planning

Approved: November 14, 2022



# Exhibit “1”



### Comments & Applicant Info:

- ▶ Comments Received from Surrounding Landowners (Exhibit 1 of full staff report)  
Letter from Connie Elliot
- ▶ Letter from Tim O'Meara
- ▶ Comments from Agencies: None
- ▶ Comments From City Engineer and Planning Staff: None
- ▶ Applicant Information:  
GMPRD/Tim O'Meara  
310 N. Hawthorne Ave.  
Middleton, Idaho 83644  
[timordt@gmail.com](mailto:timordt@gmail.com)  
208-585-3461.
- ▶ The application was received August 26, 2022.

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### Notices & Neighborhood Meeting:

- ▶ Newspaper Notification 10/2/2022
- ▶ Radius notification mailed to Adjacent landowners within 500' 9/30/2022
- ▶ Circulation to Agencies 9/30/2022
- ▶ Sign Posting property 9/30/2022
- ▶ Neighborhood Meeting 8/15/2022
- ▶ Planning Staff finds that all notice was appropriate and according to law.

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### Pertinent Codes & Standards



- ▶ Idaho Standards for Public Works Construction, the Middleton Supplement to the Idaho Standards for Public Works Construction, Middleton City Code 1-3, 1-14, 1-15, 5-1, 8-1 and Idaho Code Title 67, Chapter 65.

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### Conclusions & Recommended Conditions of Approval:

- ▶ 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 findings of facts above in parentheses.
- ▶ As to Conclusions of Law, Planning Staff finds that the Planning & Zoning Commission has the authority to hear the application and to approve or deny the special use permit with or without conditions. Additionally, Planning Staff notes that all public notice requirements were met. Planning Staff further set forth the portions of the Idaho State Code and Middleton City Code to be considered in making an order or recommendation on the applications.

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### Order

- ▶ If the Commission is inclined to approve the Special Use Permit Application, Staff recommends the following conditions of approval:
  1. Applicant must comply with all dimensional standards and setbacks in the Middleton City Code for the R-3 zone.
- ▶ If the Commission denies the application, the Commission must state what steps the applicant can take to obtain approval. (MCC 1-15-7(c))

Prepared by: Jessica Reynolds  
Deputy Clerk, Planning

Dated: 10/17/2022



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# Exhibit “2”



## Stephens Variance Application

0 (TBD) 3<sup>rd</sup> St – Tax Parcel No. R1778701



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## Project Description & Application Request

- Application by Bruce & Sherrill Stephens, represented by Luke & Sarah Stephens, for Variance with respect to the parcel located at TBD 3rd Street (Parcel No. R1778701). The parcel is a vacant parcel located within City limits. It is .122 acres and is currently zoned R-4 (Single-Family).
- Applicant is requesting a Variance to the setbacks as follows: 5'-12" side set back reduced to 5'; 25' garage setback reduced to 20'; 20' front living space setback reduced to 15'; and 25' rear setback reduced to 15'. This Variance would allow the applicant to construct a single-family home on the project site.

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## Current Zoning & Property Condition


- The property is within city limits and zoned R-4 and surrounded by homes built in the R-4 zone.



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## City Services


- City water is in 3rd Street adjacent to the property and City sewer is located in the alley also adjacent to the property.



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## Variance Request

- The parcel is located in the historic Foxe Addition (Subdivision) which was recorded in 1905. At that time the current parcel encompassed lots 15-17 of Block 3. Existing homes in the subdivision are not built to current R-4 setbacks. The alley in the back acts as a buffer so it could be reasonable to reduce the rear setbacks. The side and front setbacks could also be reduced per the request. It is likely that without some type of Variance approval the lot will not develop.



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- The Applicant is also requesting the requirement to install a sidewalk in front of the property be waived. Planning Staff recommends against this, because the way that City streets, and neighborhoods are improved is one parcel at a time extending sidewalks and proper road frontages. Removing this requirement would create an undue burden on taxpayers to pay for future needed sidewalks. Middleton City Code directs that developers should complete all frontage improvements to their property.
- A sidewalk is such an improvement.



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## Single-Family Residence

- The Applicant desires to build a two-story, 2,400 sq ft. single-family residence on the property.



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- The P&Z Commission makes the final decision on whether to deny or approve an application for Variance (MCC 1-15-6). The application does not proceed to City Council.
- Before the Commission can approve a Variance, it must make the following five findings:
  - (1) Enforcing the City Code would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the zoning ordinance.
  - (2) The site has extraordinary characteristics which do not apply generally to other properties classified in the same zoning district.
  - (3) Enforcing the City Code would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district.
  - (4) Approving the variance will not constitute a grant or special privilege inconsistent with the limitations on other properties classified in the same zoning district.
  - (5) Approval of the variance will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.
- Under MCC 1-15-6(D), the Commission may also mandate conditions of approval to mitigate any adverse impacts proposed.

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## Staff Findings:

- As to finding No. 1, Planning Staff finds enforcing the setbacks set forth in the City Code for R-4 zone would indeed result in physical hardship when attempting to build any type of desirable home on the parcel.
- As to finding No. 2, Planning Staff finds that the size of the lot is already non-conforming with city code regulations and as such the lot has extraordinary site characteristics that hamper its intended use.
- As to finding No. 3, Planning Staff finds enforcing the City Code without some type of Variance will likely prohibit the applicant from developing the property in similar ways consistent in the existing neighborhood.
- As to finding 4, Planning Staff finds that granting the variance will not allow for special privilege as the surrounding homes all have similar setbacks to what is being proposed.
- As to finding 5, Planning Staff finds that the variance will not be detrimental to the public health, safety or welfare or create injury to the surrounding properties or improvements in the vicinity. Properties in the surrounding area are already improved and improving this parcel will only enhance the surrounding neighborhood.

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### Comments & Applicant Info:

- ▶ Comments Received from Surrounding Landowners: None
- ▶ Comments from Agencies: None
- ▶ Comments from City Engineer and Planning Staff: None
- ▶ Applicant Information:  
Bruce & Sherri Stephens/Sarah & Luke Stephens  
9290 Whistled Dr.,  
Boise, ID 83704  
[snwcapconstruction@gmail.com](mailto:snwcapconstruction@gmail.com)  
208-315-0469

The application was received on July 11, 2022.

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### Notices & Neighborhood Meeting:

- ▶ Newspaper Notification 10/2/2022
- ▶ Radius notification mailed to Adjacent landowners within 500' 9/30/2022
- ▶ Circulation to Agencies 9/30/2022
- ▶ Sign Posting property 9/30/2022
- ▶ Neighborhood Meeting 6/21/2022
- ▶ Planning Staff finds that all notice was appropriate and according to law.

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### Pertinent Codes & Standards



- ▶ Idaho Standards for Public Works Construction, the Middleton Supplement to the Idaho standards for Public Works Construction, Middleton City Code 1-3, 1-14, 1-15, 5-1, 8-1 and Idaho Code Title 67, Chapter 65.

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### Conclusions & Recommended Conditions of Approval:

- ▶ 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 findings of facts above in parentheses.
- ▶ As to Conclusions of Law, Planning Staff finds that the Planning & Zoning Commission has the authority to hear the application and to approve or deny the Variance application with or without conditions. Additionally, Planning Staff notes that all public notice requirements were met. Planning Staff further set forth the portions of the Idaho State Code and Middleton City Code to be considered in making an order or recommendation on the application.

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### Order

- ▶ If the Commission is inclined to approve the Variance Application, Staff recommends the following conditions of approval:
  1. Setbacks for construction of home to be the following:
    - Side set back: 5 ft.
    - Garage setback: 20 ft.
    - Front living space setback: 15 ft.
    - Rear setback: 15 ft.
    - Maximum Height: 35 ft.
  2. Applicant to construct improvements to the frontage by adding an attached 5 ft concrete sidewalk the entire frontage width.
  3. The City cannot guarantee the condition of the water main in 3rd Street due to its age and material construction. The Owner shall assume all costs to make a satisfactory service tap into the existing main, which costs may include replacement of the portion of the waterline fronting the property in order to make a water tight connection and any surface repairs connected therewith. All connections shall be witnessed and approved by the City's Public Works representative.
  4. Owner acknowledges that the existing water main is not sized to current City standards and therefore water flow quantity may be reduced at various steps. This condition will be more pronounced if the existing water main has been constructed of 2-inch galvanized piping.

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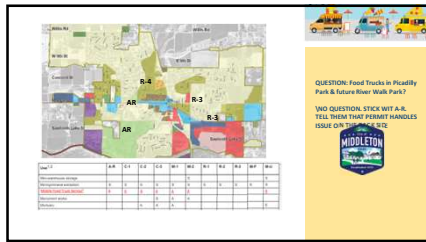
If the Commission denies the application, the Commission must state what steps the applicant can take to obtain approval. (MCC 1-15-6(C))

Prepared by: Jerica Reynolds  
Deputy Clerk, Planning  
10/17/2022

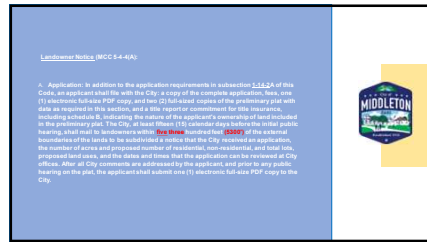
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# Exhibit “3”





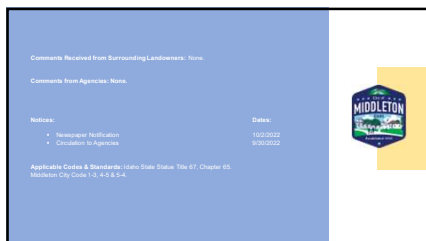
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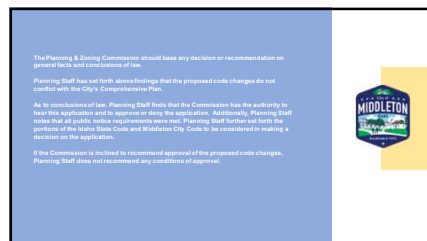
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