

**MIDDLETON CITY PLANNING AND ZONING
COMMISSION MINUTES
AUGUST 9, 2021**

The August 9, 2021 Planning and Zoning Commission Meeting was called to order by Chairman Ray Waltemate at 5:44 p.m.

Call to Order - Pledge of Allegiance

Roll Call: Chairman Ray Waltemate, and Commissioners Jackie Hutchison, Janet Gregory, Whitney Springston and were present. Commissioner Kip Crofts was absent. Special Legal Counsel Jeff Wardle was also present.

Information Item: Middleton River Walk Preliminary Master Plan presentation – Stack Rock Group.

The Stack Rock Group presented the Middleton River Walk Preliminary Master Plan. This was just a concept design and no final decisions have been made. Information was shared, not decision or action was taken. (Exhibit Info A)

Action Items

1. **Consent Agenda (items of routine administrative business)**
 - a. Consider approving July 12, 2021 regular meeting minutes.
 - b. Consider approving FCO for Blake Wolf-McKinley Meadows Development Agreement Modification.
 - c. Consider approving FCO for Waverly Park Amended Preliminary Plat
 - d. Consider approving FCO for River Pointe subdivision application – Public Hearing June 7, 2021

Chairman Waltemate called the items.

Motion: Motion by Commissioner Hutchison to approve consent agenda items 1a-d. Motion seconded by Commissioner Gregory and approved unanimously.

2. **Public Hearing: (Continued from July 12, 2021) Application from City of Middleton for amendment and revision to the following 2019 Comprehensive Plan Maps: (1) Area of Impact Map, (2) Functional Classification Map, (3) Transit Map, (4) Future Land Use Map, (5) Transportation, Schools, and Recreation Map and (6) Future Acquisitions Map. The City of Middleton will further apply to delete the following Maps from the 2019 Comprehensive Plan: (1) Crane Creek Park Map, (2) 2018 Current Land Use Map, and (3) River Park Plan Map. –Becky Crofts & Roberta Stewart**

Chairman Waltemate opened the Public Hearing at 5:53 p.m.

Roberta Stewart gave a presentation on how roads are built (See Exhibit 1)

Chairman Waltemate asked to hear from ITD first.

Caleb Lakey from ITD: He handed the commission a handout (See Exhibit 2) Stated that at the previous hearing the Commission had tasked him with coming back with a plan if the South Alternate route is removed. He presented a power point presentation (See Exhibit 3)

Commission Questions:

Springston: Does ITD currently have ROW through Middleton on SH44?

Lakey: Yes, they have ROW through town, they have not purchased any additional ROW so that ROW varies from 60-100 ft.

Springston: The 2027 timeline (given in the presentation), is that contingent on being able to buy property from private citizens that are impacted by the alternate route?

Lakey: 2027 timeline is for the Southern Alternate route, not a route that stays on Main Street, the current SH44.

Springston: Is the proposed Southern Alternate route timeline of 2027 contingent on being able to buy property from private owners?

Lakey: Absolutely, yes

Springston: Have you had conversations with the property owners and what are their feelings about that?

Lakey: Informally yes, we have met at public meetings. Of course, property owners don't want to have impact on their property.

Springston: A point of feasibility that needs to be taken into account is the willingness for private owners to sell. If we are holding our economic hostage and those folks are not going to sell that property anyway, is it really feasible?

Lakey: It is feasible in his opinion. It will be a negotiation process. The process can be delayed. There are mechanisms to allow projects to continue. There is opportunity there, but that is a valid risk to the project timeline.

Springston: So we are talking about eminent domain?

Lakey: That would be correct.

Hutchison: If we go with the alternate route? How many feet/miles does the city reclaim as our property to do with as we wish as far as traffic on Main Street? Just asking for clarification.

Lakey: Think the alternate route is about 4 miles.

Hutchison: So, we would be looking at about 2 miles in city limits.

Lakey: There typically is an exchange of some sort for the ROW south of town for the ROW in town. Those are negotiations between parties: City, ITD and Canyon County.

Chairman Waltemate introduced City Administrator, Becky Crofts who presented to the commission:

Crofts: Deviation from alternate route is built on a number of different factors, the most significant is the alternate route on the east and west ends is proposed by ITD to be blocked access. When coming from Star going west, just past Duff you will be forced off SH44. You will not be able to continue down SH44, you will be forced off the highway, where you will be redirected to Middleton Road, you will have to take a right, go up to the stoplight and then go back east if you are trying to get anywhere north of SH44. And the same thing happens on the west end. You are forced off. Forced. You really can't get back onto what we consider our downtown core today. When City staff saw this change, we are talking about killing our current downtown. Commercial businesses thrive on drive by traffic. When we look at Middleton's economic development and economic viability, 19-20 years ago when this started to be planned, that southern route was a really good idea. There was nothing down there. 20 years later and a blocked access it becomes problematic for Middleton.

We have traffic today, there is no doubt about that. We also need economic development in Middleton. The bypass as it sits today, was meant that there is restricted access. Restricted access doesn't mean businesses can move and have access to their business and grow and flourish; it means a diversion around and back through. Eagle

did a bypass. It took their downtown 20 years to recover. They fought and fought ITD and are still probably fighting a little bit today. All that being said, we have traffic that needs to be solved. We have two alternate routes; one could go south, one could stay in the current alignment. We have had an Urban Renewal District in our downtown for the last 15 years and it has done relatively nothing. We have seen some redevelopment with some of the businesses and some small improvements. We are not bringing new business.

Middleton, if you want economic development in this city. You are going to have to do something different. What is being proposed different has an impact on where our traffic runs. It absolutely does. Either it is going to run south, and Mr. Lakey has said 2027. I am not sure we can get there in that time frame. There is ROW that has to be purchased and if that has to be condemned that is a long process. We are years away, 20 years into this and 15 years before we are solving this problem. We have economic development in front of us today that we need to solve. What we are proposing downtown, we have the ability today for 43 acres of commercial development. We can build a destination in Middleton that we don't have right now, like an Indian Creek or Middleton Village. We will not be able to develop that type of economic development on the existing SH44. It will not happen. The proposed plan is developed in such a way that it will connect the new economic area and with the old. As Mr. Lakey points out, it will redevelop if SH44 gets widened and there will be impacts. This is a hard decision, where we are 15 years away from an alternate route, or we can try to manage our traffic and manage our economic growth and development today and build something here in Middleton.

Looking at the Project Map (Exhibit 4)

In the last year Middleton is close to completing 4 traffic intersection improvements. In the last 10 years that she has worked for the city she has seen very little traffic improvements come to Middleton. Middleton hasn't had the right tools in place really to make an impact on its ability to solve traffic problems. The number one tool we have in place that we didn't 3 years ago is impact fees. All we had was property tax dollars. Now we have an impact fee. Last commission meeting the commission recommended for that fee to go to city council and that fee almost doubles.

- Cornell/Middleton Road – mini roundabout at a 7.34% match by the city.
- Sawtooth Lake canal crossing – water crossing that makes S Cemetery Road extension possible. That was about \$850,000 project that the city completed this year.
- S. Cemetery Rd phase 1 is ready for pavement. The city got into a really good bidding climate and the project came in under funding. We were able to complete phase 1 and phase 2 saving the citizens of Middleton about \$350,000.

Those four projects will be completed by the end of 2021.

Moving forward these are the planned projects:

1. 2022 - Hartley Traffic Signal Intersection will go in next year before school starts. It is about a \$1.3 million project. The city took a lot of heat over selling a small portion of park to help pay for that. Traffic is important, we want to solve problems, we are making every effort to get that funded.
2. 2022 - 9th Street connection will be completed. Currently there is a tree farm there the owners are paying rent to the city for use of the land.
3. 2023 Sawtooth Drive/Middleton Roundabout. That is about a \$2.5 million project.
4. 2025 Straighten Middleton Road and add stoplight at SH44. It will straighten and connect with North Middleton Road as it exists today.
5. 2026 Stoplight at S. Cemetery Rd and SH44.
6. 2027 Stoplight at Duff Lane and SH44.

How is this possible? 7 of these projects are impact fee funded. The estimated cost for these projects is about 13-14 million dollars. That is a lot of money for a city that only brings in 2.5 million in property tax revenue each year. The impact fees are projected (with very conservative growth). In FY2019 the city issued about 150 building permits, FY2020 there were about 188. This year so far in FY2021 we are over 300. The growth is coming. But backing that off and being very conservative 200 building permits with a 3% growth rate over the next 6 years; the impact fees generated by those would be about \$6.5 million. That is Middleton's area of impact only. The new impact fee that the commission approved is in a much larger planning area and includes impact fees finally being paid by county residents building in Middleton's Area of Impact. A real conservative number would say that maybe over the next 6 years the city would get impact fees of \$641,000. She thinks that number will be more. That puts the impact fee revenue at \$7.1 million. Added to a capped property tax of \$1 million (from the \$2.5 million of which ½ goes to police/safety). Adding that to the cap from HSB 389 and capped at 8% each year over the next 7 years we are at an additional \$7 million dollars.

Looking at how roads are built from Roberta's presentation, now we have impact fees, property tax and another way is Pro-rata share. As each development comes into the city, they submit a Traffic Impact Study of anywhere of 1-5 intersections that the development could impact. That study is sent to ITD who then assigns a percentage of the intersection improvement needed at each intersection impacted. Conservatively looking over the next 6 years the city would get about \$475,000.

Another tool in the city toolbelt is the 2-year gravel extraction lease negotiated with Knife River anticipated to bring in about \$1.5 to \$2 million for the 26-acre gravel extraction piece. We have the ability to lengthen that contract one – two more times down there.

If you add in that money and all of those funds and we look at solving real traffic problems today, by 2027 Middleton will have intersection improvements for projects # 1, 4, 5, 6 previously listed. This is where we are seeing most of our traffic problems today.

After that, we are working with CHD4 to for the best option for an additional east/west route for local traffic, to get local traffic off the highway is 9th Street. As it continues through new development, those developers will bring those pieces in and that is how it will get built.

When we ask where is the city going and what is our plan for moving traffic? This is where we are at. City Staff thinks it is very doable in the next 5 years to solve real traffic problems on the existing state highway. In the next 5 years we are planning an economic development center to Middleton that brings businesses, commercial, recreation and a destination center to Middleton. We are planning an urban renewal area in that same area that will help with tax increment financing to help finance some of the improvements that go in there, sidewalk, curb gutter, fiber, sewer, water. Yes, ITD will be a part of this city. ITD state highway 44 and traffic will be a part of our city. What you give today to get in 15 years or what you give today to build over the next 15 years, that is your decision.

Question from Commissioners:

Springston: Didn't we also approve impact fees help pay for policing?

Crofts: They are different impact fees, but yes, they do.

The city has 3 types of impact fees:

- Fire Impact Fee (City collects on behalf of Fire district)
- Police Impact Fee, which supports our police with capital improvements. Doesn't buy people or cars. The longevity of the things it purchases have to be greater than 10 years.

- Park Impact Fee which will help develop that park area as well as Urban Renewal
- Transportation Impact Fee

The city has worked to get our traffic impact fee in a large study working with CHD4 and the City of Star in looking at all of the intersections and roadways that need to be widened and assessing a fee to developers that comes at building permit (so it is a little behind the growth) but other things are collected at the front with the roadways and frontage improvements. But it does build overtime. Those are the tools we have to use to build our city infrastructure.

Hutchison: To Lakey: Confused by the exists on Alternate Route?

Lakey: Access on east end, left in, right in, right out only. Left out restricted due to safety concerns. Access into city is at Ballard. The west end of the alternate route. Staff reconsidered the 3 tie in points, because they are mirrored on the west and east end. Staff said it is not ideal to have an access point mid curve, and already has some safety concerns. Would it function to only take traffic through the 3 signalized intersections proposed in the alternate route? After completing that study ITD staff determined that could work. The city said absolutely not. Proposed was on the west end, Emmett Rd was proposed to be extended by the city down to the alternate route. The city said it no longer intends to extend Emmett Rd., at which point Lakey proposed moving proposed signal at Emmett and move it further to the west at Ballard and providing both signalized access at the far end in replacement for the Emmett Rd. So, you have full access on the west end at Ballard, then at Cemetery, Middleton and on the far east end there is a restriction on the far east end on access out of city, no access in. Yes, it cul-de-sacs existing SH44 down by the daycare because it has to. We are working to provide additional public comment maps that would show this proposal.

Chairman Waltemate opened the public comment at 6:55 p.m.

Peter Cotty – Question about what are the intensions for light at Duff Lane and SH44?

Crofts: Currently in CIP the SH44 and Duff is the intersection that was studied, and impact fees are being gathered for that. Roadway sections that were studied for widening, Duff is not on the list to be impact fee eligible. Duff is currently owned and maintained by CHD4. So, widening that road would need to be on their list.

Matthew Watkins: In Favor – Respects everything ITD has tried to do on the bypass, but it seems that after 20-25 years of this planning, 6 years beginning construction seems a little ridiculously optimistic. The cities plan looks to be something feasible. Are we willing to sacrifice commercial and a plan that brings this development much sooner for a lot of what ifs from ITD?

Patricia Watkins: Family has been Middleton residents since 1863. It is their sincere belief that the plan the city has presented will help provide the best benefit for the residents of Middleton.

Lori Smith: Clarification if city is proposing deleting bypass, then is the plan to widen SH44 as it is?

Jay Gibbons – CHD4: Opposed: CHD4 is very opposed to the removal of the bypass. They sent a letter to the city and strongly support the southern bypass. He is concerned about current commercial businesses that will be adversely affected, as well as safety concerns for the children who attend the middle school.

Carlene Thie: She doesn't want to see 5 lanes of traffic going through main street.

Tyler Hess: In Favor: Support the Cities vision. He owns the property to the east of the connector. He met with ITD 2 ½ years ago and started talking a timeline for the bypass. They said they wouldn't have any timeline, if anything it would be another 15 years before the design stage and then construction after that. But in the meantime, he needed to set aside 12 acres for the bypass to someday go in. 1 year later came back to the city and said they were at a standstill with ITD. They started working with the city and came up with a plan and a bigger vision. To come up with the solution now. To have a sustainable city, studies show cities need to have 80% residential and 20% commercial, Middleton has a 95% residential and 5% commercial. Our development will provide an opportunity to flop the tax burden.

Mike Graefe: Who owns SH44? If the state owns it, why is the city responsible for fixing the intersections? It appears ITD is dictating how Middleton is going to move our traffic. If ITD is going to have to do eminent domain, etc. do it where it already exists instead of cutting through beautiful projects that will be a big benefit to the city.

Chris Hopper: CHD4 – Opposed: Must do something to accommodate traffic concerns. The local routes that the city is proposing to use are not sufficient to handle the increase traffic the city will experience in the future. There are 2 choices. Keep the existing route or do the southern route.

Spencer Kofoed: In Favor: Developers did not ask for the bypass to be removed. It was removed after the conflict with access to downtown. He believes the city has the best interests of the residents in mind and after working with the city for 2 years, he has bought into this vision.

Brian Burnett – In Favor: He is Co-owner of property all the way the west where the bypass comes through. He has heard different things coming from ITD about the access of the bypass as well as the timeline. He doesn't trust what they are saying. They city has worked with him, lined out the collector roads, fees and timelines. If you want to control the outcome of your city, you have to go with the people who did what they said they would do.

Lyle Zufelt: In Favor: Confused with 9th Street cut off. Doesn't see where it starts. The 9th street bypass that is being proposed doesn't seem to benefit traffic flow through the city.

Becky Crofts: Local roads that the city is proposing are meant to move local traffic. Not to move trucks, or commuters to work. Right now, everything goes to SH44 and then you leave. The city is trying to build network for local roads for local people. Once 9th street is complete you will be able get all the way to Emmet and then east to CanAda. Local collector roads are not meant to move traffic at 55 mph. They generally do not have driveway access to them. They are meant to move local traffic. And prevent you from going down to SH44 to get anywhere. ITD builds road to move traffic at 55 mph speeds. This bypass is meant to move traffic at high speeds. Middleton has great north/south routes. It suffers from the additional east/west routes.

Chairman Waltemate closed the public comment at 7:32 p.m. He called a recess at 7:32 p.m. and resumed the meeting at 7:39 p.m.

Chairman Waltemate asked the City and ITD representative to address two questions:
What happens to SH44 without the bypass?

If we have two competing agencies outside of Middleton, ITD and CHD4 and they are asking the city to postpone development, because the intersection is not adequate for that development, how do you plan on Middleton fixing that when we do not own any of those roads.

Caleb Lakey: Without the southern bypass SH44 would have to be widened and a lot of previous things agreed to would have to be relooked at.

Dan McElhinney: Discussion funding and timeline. If infrastructure package passes there will be 400 million given to Idaho. We want to keep this project in momentum and

Caleb Lakey: East and west ends are not closed. Right in/Right out, Left in access on the far east end on the current 2019 public comment maps. On the far west end it shows the same thing currently. After discussions with the city, we have proposed making that a full access signal that connects to the south at Ballard. With the elimination of the extension of Emmett Rd south there is no longer a need at Emmett Rd. Most cities ask for a way to take through traffic out of the city. Once that way is gone there is no option. Restricted access to the highway. Yes, the highway is proposed to be a controlled access facility, with limited access at the controlled intersections. Will not have private approaches. The alternate route is proposed to be a modern design 55 mph expressway.

Likely that answers have changed because the conditions keep changing. Every time we get more comment, we have to go back to the drawing board to address those changes.

Dan McElhinney: would like more time to finish the EA and perhaps come back next spring to address the design phase.

Becky Crofts: Important to remember the Southern Alternate route design is not complete. Referring to 2019 plan that is on the table today. The city sat in a meeting with several ITD designers and were reviewing that plan and the exact access that ITD is saying is a right in/left out was just x-ed though. So, it is not designed, not final. It can change. It changed in that meeting and that is when the city said No. It was always proposed with access. Mayor Rule was very specific that if it did not have open access at both ends, he did not support the Southern Alternate route. He did not want the existing downtown accessibility for the residents, for the city to be removed. Know that what is planned today may not be what it looks like in the future.

Intersections coming onto SH44, because the city is causing the disruptions, we are responsible for the improvements to those intersections.

Additional funding. There was a lot of federal funding that came to the state of Idaho. The city is no in charge of the funding we get. The funding formulas determine that. Of the millions that came to the state, the city received \$97,000. We are grateful to have it. But federal funding doesn't always mean that it will solve local problems. If you look at ITD's local project list there are hundreds of millions of dollars needed for projects.

You can take charge now and start to build or you can wait and see what happens. The city does not have control over what happens with SH44, it would be at the discretion of ITD.

Waltemate: Eminent Domain was brought up. If the bypass does not go through at what point do we lose downtown to make improvements to SH44?

Caleb Lakey: The ownership remains with ITD, and the focus would drop dramatically, and

the priority drops out.

Dan McElhinney: Still open to discuss the connections at each end. We don't want it to drop out of the option for the federal funding.

Springston: The traffic study through 2045 doesn't take into consideration other improvements to alternate roads, it only shows taking away the bypass. You also brought up independently that Chinden will go all the way through which will inadvertently alleviate traffic. Is that traffic study considering any of the local improvements, or is it just assuming that everything stays the exact same as it is in this moment in time or what it was in 2019? It sounds like an ultimatum on the traffic light on Hartley.

Caleb Lakey: The No-build option does take into consideration the additional improvements planned by ITD and COMPASS. It does not take into account local roads/improvements.

Matt Stoll: COMPASS it does include local roads if they are in the CIP at the time the model is run.

Waltemate: It does include those local roads, however, what the city proposed is not reflected in those numbers.

Stall: Correct

Caleb Lakey: Signal at Hartley is not meant to be an ultimatum. Previous discussions all assumed we were going to build a southern alternate route. That influenced the decision to go to the decision at Hartley. It would restart discussions.

Hutchison: Chief Timinsky from MRFD said if we do not do the bypass and the traffic is as is, he would have to consider moving the Fire Station.

When was the last time you talked with Mayor Rule? Is he talking on you with his recommendations, is he working with you?

Caleb Lakey: The last time I corresponded directly with the mayor was late winter, early spring at the same time we were talking about the access points on the east and west ends.

Hutchison: If residents are encouraged to use 9th Street won't that potentially take traffic from downtown?

Crofts: Potentially yes.

Hutchison: With today's prices will the downtown be impacted?

Crofts: Think the market will level out, Middleton has a real opportunity. We need to grow economically. If we don't preserve the area to grow, we never will. That 43 acres and a couple other parcels, we have very limited areas where Middleton can grow. Our downtown has been the same downtown for years, even with an Urban Renewal District. Middleton is most likely to grow that area south of SH44. That attracts economic viability for Middleton. If the state legislature continues capping funds, we have to bring some commercial growth to Middleton. It is very important. The numbers shown on impact fees, didn't consider one commercial impact fee. Those fees are much larger. It is critical that we preserve this area for commercial development in Middleton. If we don't, we will be a bedroom community. We will.

Hutchison: Duff Lane, the city doesn't own that so when does ITD or CHD4 step in to help the local towns with these roads?

Hopper: The CIP that this commission approved, and we are hoping that City Council will approve includes traffic impact fees which includes those portions of Duff Lane outside

of SH44. It also includes additional turn lanes at an intersection necessary to handle additional traffic. Additionally, some type of intersection control will be needed. Our study included the use of a traffic signal as being the most likely, with the amount of traffic volume expected over the next 20 years. The CIP would provide Impact fee dollars to make improvements to the local road portions of that intersection. The city has also entered into an agreement with ITD whereby they collect a proportionate share of impacts to each intersection from new development. That is going to conclude a small percentage of the total traffic volume that is attributable to a specific development. ITD develops the estimated costs of improvements to that intersection, and then recommends that the city exact from those developers, a pro-proportionate share of that cost. Those improvements do not happen until after the building construction starts, there is a lag – several years at a minimum in order to complete a design, buy ROW for a project and then ultimately go to construction. The houses and businesses are in place and then years later the improvements are done.

Springston: How does that change, if at all, depending on our decision of the Southern bypass?

Hopper: It has no effect on SH44 and Duff Lane.

Discussion by Commission:

Springston: We have to grow the right way. 95% residential to 5% business is not an opinion or idea.

Hutchison: Looking at the people from ITD and CHD4 that are for the bypass and then there is the City Officials that are hands on, seem to be against it. But we are being told that all this additional development that the city wants to do is going to be 3-5 years out. The officials from ITD and CHD4 are also saying the timeline is in the future.

Springston: This conversation is entirely contingent, ITD keeps saying we are in competition for this money. This is one of many projects that ITD is considering. We don't know that we will get this money. The city has a timeline to make the improvements.

- Without the bypass we have unsafe foot traffic. She argues that putting a 5-lane highway right behind a subdivision will create unsafe foot traffic.
- Most of the residential is on the north side of town. To alleviate some of that traffic the city has a good plan. That is not saying that ITD is going to do nothing if the bypass goes away. The city's plan is contingent on working with ITD for the traffic intersections – lights and roundabouts.
- Something has to widen. SH44 gets widened will cause some pain/impact to the downtown businesses. But there are also some really good opportunities for creating a good core. The business owners will get paid for the ROW.
- Having a plan that includes more commercial and developing that, sans the bypass, has economic benefits, and creates entry level jobs for youth. When cities develop economically in that way, there is a reduction in crime.
- She likes that the River Walk plan has a walking path that will take residents to businesses that currently exist downtown and connects to the new commercial areas.

Hutchison: The developers were willing to work with ITD, but ITD was either not communicating or things were not moving in a timely direction.

Waltemate: The options for the southern bypass allow the city to eventually own SH44. Owning infrastructure of where you live is imperative to survival. If the southern bypass access points could be reconsidered, it makes sense. He doesn't like the route concept downtown. That being said the city has had a plan in the past for the southern route

bypass. At one point the southern route was an absolute must; working groups were put together to make this work. Today it is not. If the only reason it is not, is because of the way it connects on both ends, he believes that can be changed and a compromise can be made. He both agrees and disagrees with the southern route, on the concept of connectivity. If we don't have connectivity, no access, or limited/restricted access to Middleton, we will suffer economically. If we owned highway 44, we have an opportunity based on the connections. So, there is still some deliberation that needs to be done on the south route bypass concept. He also agrees that if highway 20/26 is complete all the way to the freeway, traffic will not cut through Middleton. Without the southern route, the city doesn't own SH44 ever. If we remove the southern route, ITD and CHD4 will continue to work with us to improve the road conditions with the city. He thinks the city has a great plan. Currently there is no access to the river anywhere in Middleton unless you go on private property.

Prices are going down; the market is changing. The timeline for the city is likely 10-15 years. So, the timeline is unknown.

To Lahey: How much persuasion does the city of Middleton have on those intersections on the bypass of the Southern Route?

Caleb Lahey: On the east end there was not a plat represented. That is why that intersection access was proposed. The southern route concept started in 1999 and the screening report came in 2012 that officially talked about the different alternatives and selected the southern alternative.

Crofts: It is important to recognize that ITD will serve ITD's best interest. They will design a roadway that will move traffic. When we look at a right in, left out, that best serves that purpose.

Waltemate: IF we don't have a bypass and we don't own SH44 and ITD will do whatever they want anyway, then our hands are really tied.

Hutchison: ITD will do whatever they want, we don't have a lot of control, but that could also mean the same thing on the current SH44 with all the signals.

Crofts: You can move forward for economic development today, or you can wait. When you say you want to own SH44, that is 15-30 years down the road. In all fairness, it could be 8 years. In all fairness, we have been dealing with this subject off and on for 20 years. There are no promises in this process. What is before you is how do you want to grow and develop Middleton. Either with the southern route, or the existing route. Both have positives and negatives. She believes that the city plan is much more achievable. And it takes the city where it needs to go economically, faster.

Waltemate: He would recommend approval to city council as it is worded in the public hearing, with removal of the bypass.

Motion: Motion by Commissioner Springston to recommend for approval to City Council an Application from City of Middleton for amendment and revision to the following 2019 Comprehensive Plan Maps: (1) Area of Impact Map, (2) Functional Classification Map, (3) Transit Map, (4) Future Land Use Map, (5) Transportation, Schools, and Recreation Map and (6) Future Acquisitions Map. The City of Middleton will further apply to delete the following Maps from the 2019 Comprehensive Plan: (1) Crane Creek Park Map, (2) 2018 Current Land Use Map, and (3) River Park Plan Map.

Motion not seconded.

Motion: Motion by Commissioner Hutchinson to recommend for approval to City Council an Application from City of Middleton for amendment and revision to the following 2019 Comprehensive Plan Maps: (1) Area of Impact Map, (2) Functional Classification Map, (3)

Transit Map, (4) Future Land Use Map, (5) Transportation, Schools, and Recreation Map and (6) Future Acquisitions Map. The City of Middleton will further apply to delete the following Maps from the 2019 Comprehensive Plan: (1) Crane Creek Park Map, (2) 2018 Current Land Use Map, and (3) River Park Plan Map. With the exception of NOT removing the bypass.

Motion seconded by Commissioner Gregory.

Vote:

Waltemate: Yes

Hutchison: Yes

Gregory: Yes

Springston: Nay

Chairman Waltemate closed the public hearing at 8:52 p.m.

Chairman Waltemate called a brief recess at 8:52 p.m. and resumed the meeting at 8:57 p.m.

3. **Public Hearing: A remanded application by Breckon Design for Robert Brian Burnett, Drake Investments, Deep River Investments & Deep Water LLC for Annexation/Rezone, Preliminary Plat, Development Agreement Modification, and Comprehensive Plan Map Amendment with respect to the River Pointe Subdivision located at 10481 Hwy 44, 0 Hwy 44, and 0 Duff Lane. The proposed preliminary plat consists of seven commercial lots, 115 townhome lots, 67 garden/patio single family lots, 92 single family lots, and 44 common lots on 88.51 acres of vacant land zoned City "Mixed Use" and County "Agricultural." Additionally, as to the annexation of 14 acres adjacent to Duff Lane (Tax Parcel No. R33935010A), Applicants are requesting a rezone to R-3 and a Comprehensive Plan Map Amendment to change the use designation from "Transit Station and Transit Oriented Development" to "Residential." With respect to the 74-acre Mixed Use parcel, Applicant is requesting a change from "Restaurant, Retail, and Recreation" use to "Commercial" use and "Residential" use.**

Chairman Waltemate opened the public hearing at 9:01 p.m.

City Planner Roberta Stewart entered into the record the following items:

Exhibit F: CHD4 August 5, 2021 Comment letter in opposition to River Pointe

Exhibit G: White Peterson August 9, 2021 letter in opposition to River Pointe

Exhibit H: Attorney Matthew Johnson, Riverbend Homeowners Group letter in opposition to River Pointe.

Exhibit I: Sterling & Lori Smith letter dated July 1, 2021 in opposition to River Pointe

Exhibit J: Armindo & Maria Fernandes letter dated June 14, 2021 in opposition to River Pointe.

Exhibit K: Regina Henley letter dated June 16, 2021 in opposition to River Pointe.

Roberta Stewart presented the staff report in the power point format. See **Exhibit L**

Questions by Commission:

Hutchison: Impact Fees for Commercial lots seem low.

Stewart: This is CHD4 and their analysis of what the impact will be. There are only seven lots on this commercial. CHD4 has no plans to widen Duff Lane. The intersections

will be fixed. The widening will be fixed in a patchwork manner.

Applicant: John Breckon – Breckon Land Design: Presented the PowerPoint presented at City Council, highlighting the slides that show the improvements to SH44 and Duff Lane. (Exhibit M)

Stewart: City council asked to know what CHD4 plans to improve Duff Lane. The applicant is only required by city code to improve along his frontage. She did go back to CHD4 for their opinion/comment, and CHD4 said they don't improve the roads.

Breckon: The Preliminary Plat shows the improvements for Duff Lane. Commission reviewed the preliminary plat and road improvements (Exhibit N). The Duff frontage length of improvements will be 350 ft improvements north on Duff Lane and 50 ft frontage.

Waltemate: The Duff frontage will be improved 25 ft of roadway, and 50 ft of the frontage.

Commission Discussion:

Gregory: Design Requirements for Commercial Buildings pg. 7 of the DA: There have to be 4 architectural elements.

Stewart: Their DA will trump that.

Waltemate: This is an amended DA since 2006. The developer doesn't even have to be here today. They can start developing based on the other DA. The problem is none of that former DA of 2006 complies with city code. The amended DA is them saying we still want to develop and do it within city code.

Stewart: Commission can make that a condition that of approval that they comply with 4 architectural elements at the design review.

Springston: Has the traffic study been updated?

Stewart: The TIS has been updated and resubmitted per the current preliminary plat.

Springston: Is there a city policy that puts expirations on a DA?

Stewart: We do, it is not in the code. But is something that should be done in most instances. Some development agreements have a termination built into it. This one is very odd, because if you terminate this new DA modified it goes back to the old 2006 DA where there were 0 side setbacks for small homes. What was added to this is that they have to bring on final plats every 2 years or the Preliminary Plat will become null and void. That means the DA will still exist with the good zoning and things the city requires. Development Agreements are attached to the land, not the developer. Phases 1-3 need to be built before a secondary access will be required to be built. But if the developer pauses, the preliminary plat dissolves, and the process starts again.

Chairman Waltemate opened the public comment at 9:54 p.m.

Lori Smith: Opposed: Concerned that E Sawtooth Lake Dr dead ends at Duff Pond. If the Comp plan calls for a transit station on Sawtooth and Duff, we have never seen that in any of the plans and applicant is asking for a waiver of that. If it is required by the comp plan, why isn't it there and being addressed?

Matthew Johnson: Attorney White Peterson Law: He represents input from people in the area wanting to make the project better. They are not trying to target planning staff, but the reason the questions were remanded back to the commission from city council was due to transparency. There was confusion about the Preliminary Plat;

the confusion came because of how it was presented, and that has been cleared up. The bulk of his comments are about the Development Agreement. This was not just to check the box to make sure the development agreement is in contractual a format. It was a remand to address what are the concerns the city has in relation to this development that need to be documented in this DA. He referred to his letter sent earlier (Exhibit G) and the letter from CHD4 August 5, 2021 (Exhibit F). He thinks the TIS needs to be updated to reflect accurate traffic patterns. The DA should take into account the comments from CHD4. He thinks the city should do a fiscal impact analysis. This is a tool that cities are under utilizing and would be a means of understanding what the fiscal impact will be of these types of development as well as how HSB 389 will affect it. His clients would like to see a less density zoning granted, as well as a berm requirement in the DA to ease the transition to the development to the north.

Hutchison: What was the name of the report you advised?

Johnson: A Fiscal Impact Analysis or Fiscal Impact Study. The most recent was the City of Cascade and was done by Galeana Consulting out of Boise. The TIS was revised most recently and sent to CHD4 for comment on July 15, 2021. On CHD4 August 5, 2021 comment letter that was hurried.

Peter Cottock: Has no issue with the development. His issue is with Sawtooth to Duff. Duff Lane won't get widened to SH44 until those people sell, and he doesn't see them selling anytime soon.

Matt Hoffman: Growth will not pay for growth. A fiscal impact study is necessary to understand the impact of this new development, especially on the officers in our Police force. There is a very small chance that it will ever be widened. CHD4 states in their letter that this development will cause 17,000 commutes on a workday.

Michael Jackoloni: Duff Lane can't handle the traffic.

Brian Burnett: He is the owner of the property. All the way from Lansing to where this connects at CanAda Road that connection is already making its way through.

Chairman Waltemate closed the public comment at 10:15 p.m.

Applicant – John Breckon:

- Explained the transition from density of development to the north and then to the south.
- Transit Station: that item in the comp plan proposes a much higher density, which is why they are not addressed on the current plan.
- TIS has been updated, it is current. Per the letter from CHD4 it states that "CHD4 recommends re-evaluation of the estimated usage of this approach to Duff Lane when a decision on the SH44 alternative route is finalized, and timing of development of the Marjorie Ave approach to SH44 is clarified." That was addressed on the previous item on the agenda tonight.
- One of the reasons for the connection to Duff Lane – The city required a secondary access for emergency vehicle access. Sawtooth Dr is a collector road and part of the master plan for this project and the project to the west.
- The main entrance to this project is off of SH44 and the other main connection point is off of Middleton Rd. Duff is the secondary access.

- The pro-rata shares for intersection light at Duff and SH44 is being collected.
- Originally, they had a berm planned for the separation, after comments from neighbors that didn't want a berm, it was changed to a drainage which is what is currently shown on the plans. They are willing to do either way and agree that it needs to be a nice, landscaped buffer to provide separation.
- He can't speak to the Fiscal Impact Analysis.
- They have worked very hard with the neighbors and City to accommodate all that is required for the DA, as coordinate with the neighbors to the west and other agencies.

Commission Questions:

Hutchison: Can we put a berm in writing for those homeowners?

Breckon: We are open to whatever is amicable to all parties or the preference on that 15-foot buffer, whether it be a berm, and are in agreement for that to be included that in the recommendations.

Hutchison: Is there an opportunity to put a barrier along the bottom loop until there is a signal at the intersection of Duff Lane and SH44, so that all of the commercial and residential traffic is not going to go through the 14 lots onto Duff?

Waltemate: Restrict access to Duff Lane for emergency vehicles, until the signal at SH44 is in.

Stewart: The connection through the 14 acres to Duff isn't going to occur until phase 8, and the last phase.

Motion: Motion by Commissioner Springston to recommend approval to City Council for A remanded application by Breckon Design for Robert Brian Burnett, Drake Investments, Deep River Investments & Deep Water LLC for Annexation/Rezone, Preliminary Plat, Development Agreement Modification, and Comprehensive Plan Map Amendment with respect to the River Pointe Subdivision located at 10481 Hwy 44, 0 Hwy 44, and 0 Duff Lane. The proposed preliminary plat consists of seven commercial lots, 115 townhome lots, 67 garden/patio single family lots, 92 single family lots, and 44 common lots on 88.51 acres of vacant land zoned City "Mixed Use" and County "Agricultural." Additionally, as to the annexation of 14 acres adjacent to Duff Lane (Tax Parcel No. R33935010A), Applicants are requesting a rezone to R-3 and a Comprehensive Plan Map Amendment to change the use designation from "Transit Station and Transit Oriented Development" to "Residential." With respect to the 74-acre Mixed Use parcel, Applicant is requesting a change from "Restaurant, Retail, and Recreation" use to "Commercial" use and "Residential" use. With the following conditions:

- Restricted access to Duff Lane for emergency vehicles only until an updated TIS has been submitted to show that Duff Lane is capable of handling traffic from the subdivision and a traffic light at the intersection Duff and SH44 is present.
- An 8-10ft landscaped berm is added to the DA.
- 3.26 of the DA recommend comply with 4 of the architectural design elements.
- And all conditions in the August 9, 2021 Staff Report.

Motion seconded by Commissioner Gregory. Approved Unanimously.

Chairman Waltemate closed the public hearing at 10:43 p.m.

4. Public Hearing: Applications by Hess Properties LLC and KM Engineering for Annexation/Rezone, Preliminary Plat, Development Agreement, and Comprehensive Plan Map Amendment with respect to the River Walk Crossing Subdivision located at

10669 Hwy 44 and 0 Hwy 44. The proposed preliminary plat consists of 81 single-family homes, 80 single family patio homes, 36 commercial lots, 17 common lots, and one cell tower lot on 118.81 acres of land currently zoned Canyon County "Agricultural." As part of the Annexation request, Applicants are requesting a zone change to City C-3 ("Heavy Commercial") for 35.68 acres, zone change to M-U ("Mixed Use") for 25.94 acres, and zone change to R-2 ("Large Lot Residential") for 57.19 acres. Applicants are also requesting a Comprehensive Plan Map Amendment to change the Future Land Use Map to change the "Restaurants, Retail, and Recreation" use to "Commercial" use and "Residential" use. – Roberta Stewart

Chairman Waltemate opened the public hearing at 10:48 p.m.

City Planner Roberta Stewart added into the record the following:
Exhibit F – Letter dated August 5, 2021 from CHD4

Stewart then presented her staff report on power point. (See Exhibit O)

Because the commission recommended the South Alternate route not be removed from the Comp Plan map applications, this application is no longer in compliance with the comp plan. Her recommendation is that the commission let the applicant make their application and then the commission needs to state their finding after that, recognizing the current application does not comply with what the commission has decided on previously tonight.

Applicant: Stephanie Hopkins – KM Engineering: Power point presentation (See Exhibit P)

Commission Questions:

Hutchison: 5 ft side setbacks on the 55+ community. Can the cell tower be built so as not be obvious? Is the option to bring your own builder or is there going to be one builder? Will the water feature have anything to provide movement?

Hopkins: There is a cell tower existing. Not sure of the builder. They will have movement with the water through some sort of mitigation. Fountains as well as pumps for pressurized irrigation.

Waltemate: Why are you no longer in compliance with the map showing the ITD bypass? Those lines could be moved.

Hopkins: Initially the bypass bisected the northern part of the subdivision. When they originally were working through this project, they proposed several layouts with the bypass incorporated and didn't get much movement with ITD so through various conversations determined that incorporating the collector road with this layout and the neighboring subdivisions would be better. If she understands Roberta Stewart she is saying because they are not showing the bypass bisecting their plat, they are not in compliance with that part of the Comprehensive Plan.

Hutchison: #11 on DA – Centerline radius of 90ft. We need to get that fixed in our code.

Stewart: We are working to get all the changes to the code done.

Applicant: Tyler Hess – Owner: Has been working on this project for the last 2 years. We have been working for 2 years to get to this meeting. The frustration is with ITD always who comes back and says they do not have an approved plat, so ITD won't continue the conversation. Once they have an approved plat with roadways, they can then go back to ITD to adjust ITD's plans to accommodate our roadways.

Stewart: This would be a preliminary plat and Tyler is right, ITD has to work with things that are existing so it would give more teeth to their proposal.

Applicant: Spencer Kofoed – Development Team: He had asked one of the commissioners of the Highway district why ITD wouldn't work with his team on the bypass, it was because ITD had leverage, until the city removed it and took it to this vote, ITD was not willing to continue the conversation because they had leverage. Please approve with conditions as that will allow the applicant to have some leverage with ITD to continue negotiations.

Applicant: Tyler Hess: Per recommendation of the Lawyer, He requests that the commission approve the preliminary plat with conditions to work with ITD but that shows the road access, that could accommodate the Bypass options once the plat is approved. That way they can go back to ITD and continue the conversation.

Chairman Waltemate opened the public comment at 11:26 p.m.

Mike Graefe: Worked for government for 19 years. If ITD operates like other government and if the infrastructure bill passes, Middleton will be lucky to get a small amount. What is being proposed here, will be a lot more valuable than what we have downtown. He is against the bypass. He likes the new commercial.

Matthew Watkins: He has been working with Tyler and his team for a long time. He has had a lot of people request purchasing this land. He didn't want to sell to just anyone. He and his team will work with ITD and would appreciate the commission considering approval of this project.

Chairman Waltemate closed the public hearing at 11:33 p.m.

Motion: Motion by Commissioner Springston to recommend approval to City Council the Applications by Hess Properties LLC and KM Engineering for Annexation/Rezone, Preliminary Plat, Development Agreement, and Comprehensive Plan Map Amendment with respect to the River Walk Crossing Subdivision located at 10669 Hwy 44 and 0 Hwy 44. The proposed preliminary plat consists of 81 single-family homes, 80 single family patio homes, 36 commercial lots, 17 common lots, and one cell tower lot on 118.81 acres of land currently zoned Canyon County "Agricultural." As part of the Annexation request, Applicants are requesting a zone change to City C-3 ("Heavy Commercial") for 35.68 acres, zone change to M-U ("Mixed Use") for 25.94 acres, and zone change to R-2 ("Large Lot Residential") for 57.19 acres. Applicants are also requesting a Comprehensive Plan Map Amendment to change the Future Land Use Map to change the "Restaurants, Retail, and Recreation" use to "Commercial" use and "Residential" use. With the following conditions:

- Upon approval of the preliminary plat, the applicant works to become compliant with the plan including the bypass.

Motion seconded by Commissioner Hutchison. Approved unanimously.

5. Consider approving FCO for River Pointe subdivision remand applications from public hearing on August 9, 2021. – Roberta Stewart

Commissioners reviewed the FCO.

Motion: Motion by Commissioner Springston to approve FCO for River Pointe subdivision remand applications from public hearing on August 9, 2021 with changes discussed by the commission including traffic light, landscaped berm and restricted access. Motion seconded

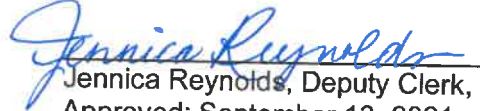
by Commissioner Gregory and approved unanimously.

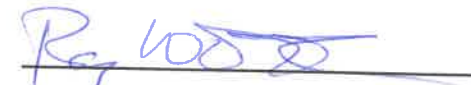
Public/Commission/Staff Comments:

Commissioner/Staff Comment: None

Adjourn: Chairman Waltemate adjourned the meeting at 11:40 p.m.

ATTEST:


Jennica Reynolds, Deputy Clerk, Planning
Approved: September 13, 2021


Ray Waltemate, Chairman



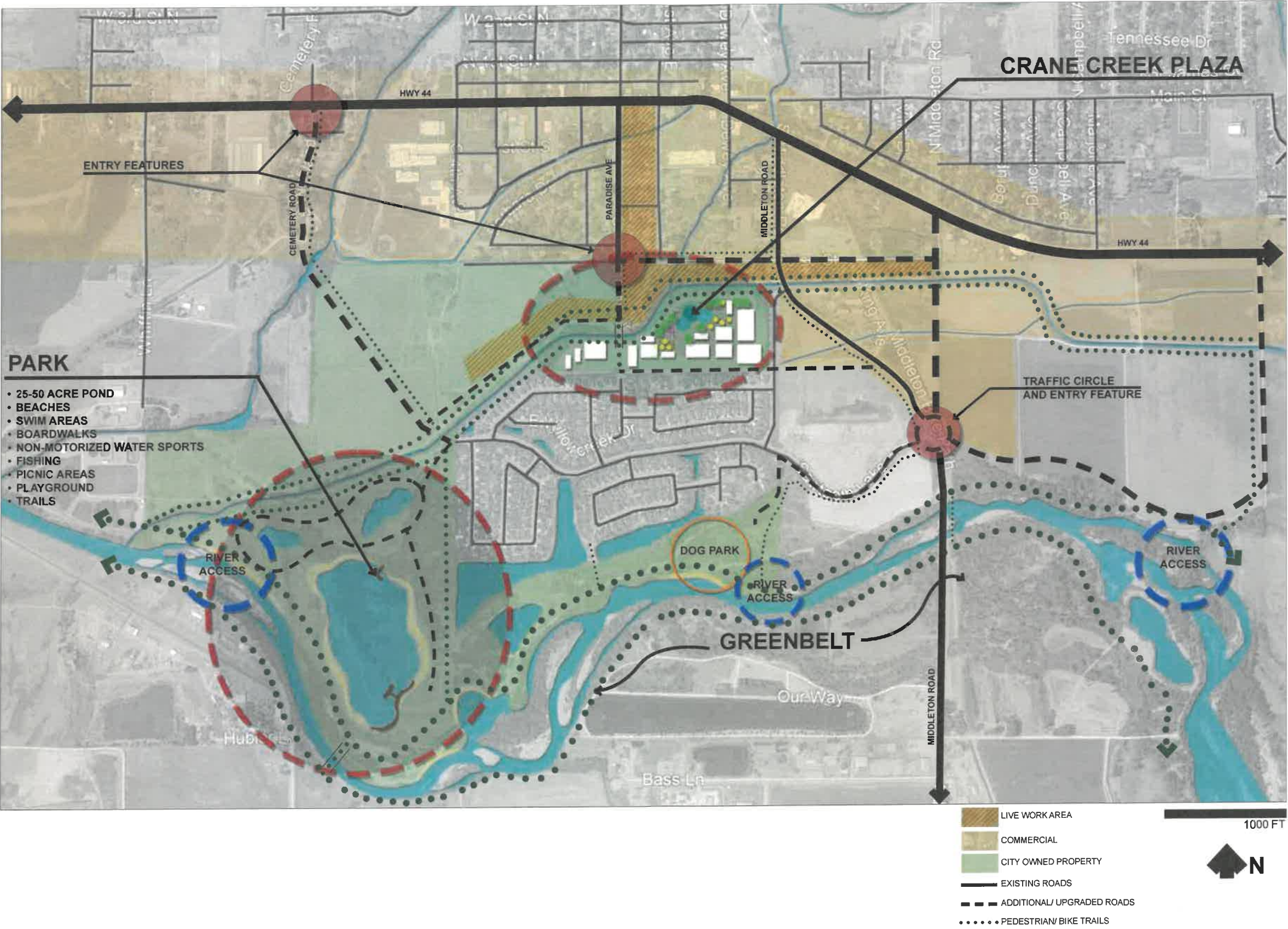
Middleton River Walk

PRELIMINARY CONCEPT +
INSPIRATION IMAGERY
AUGUST 9, 2021



DESIGN FRAMEWORK

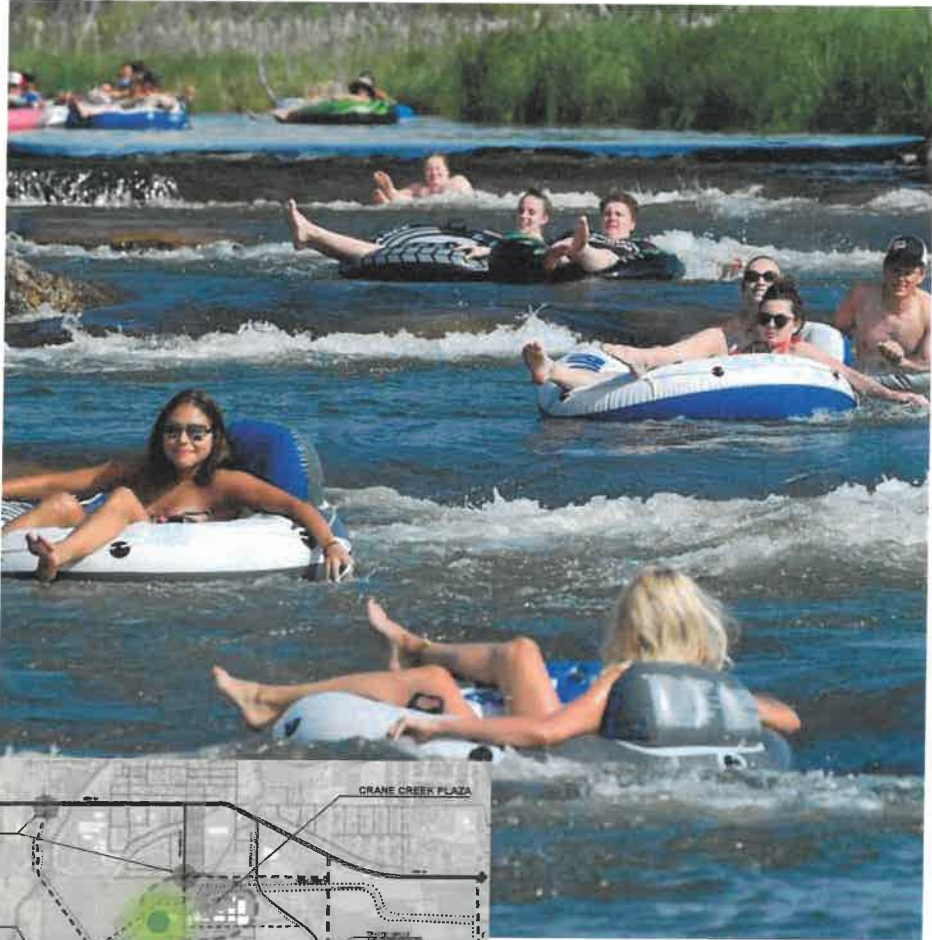
CONCEPT DIAGRAM



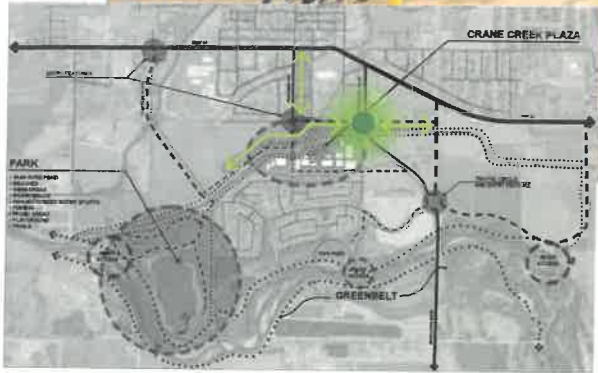
CRANE CREEK PLAZA



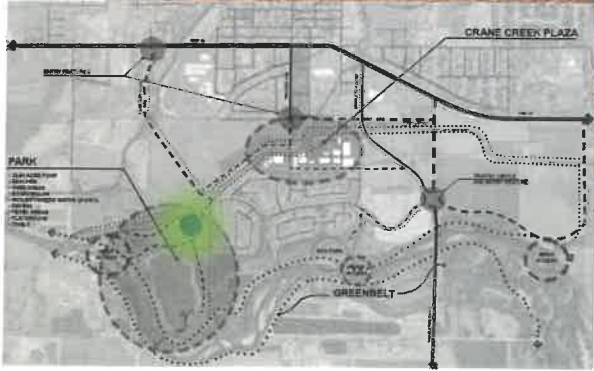
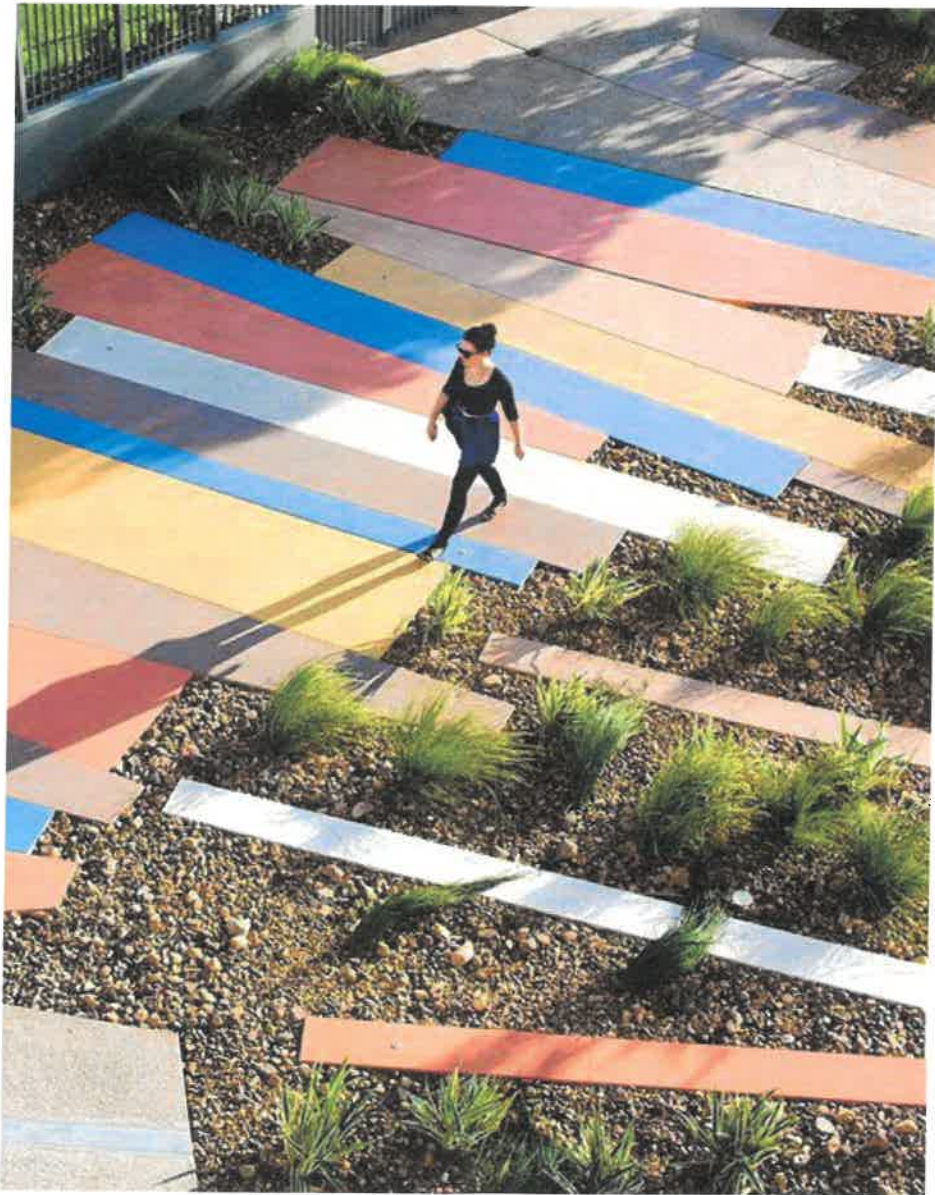
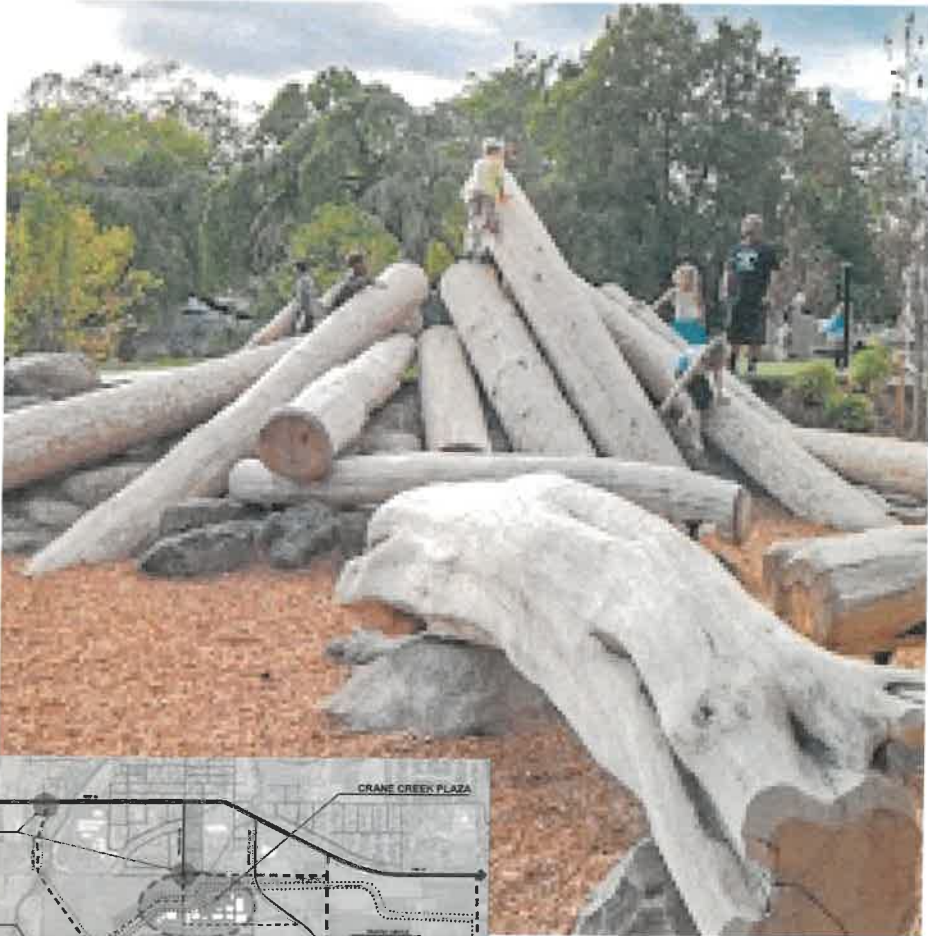
HAPPENINGS



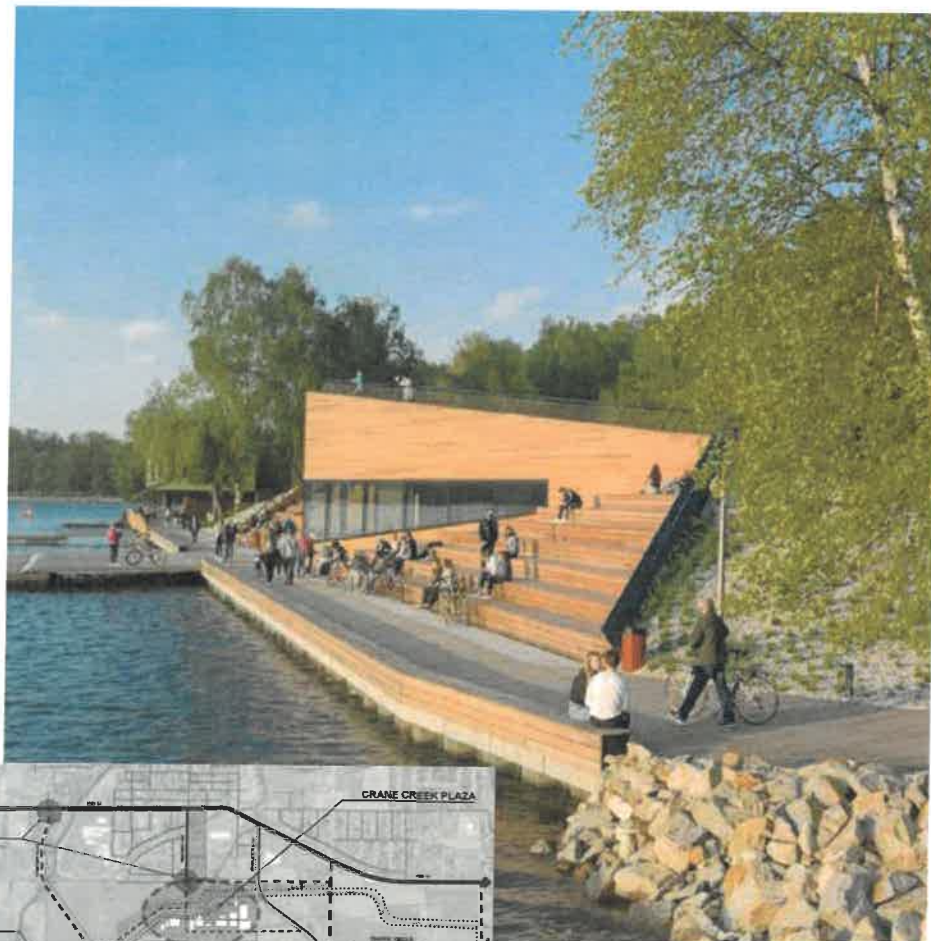
MIXED USE AREAS



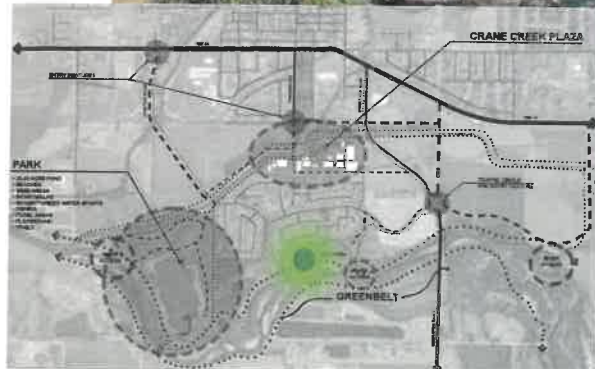
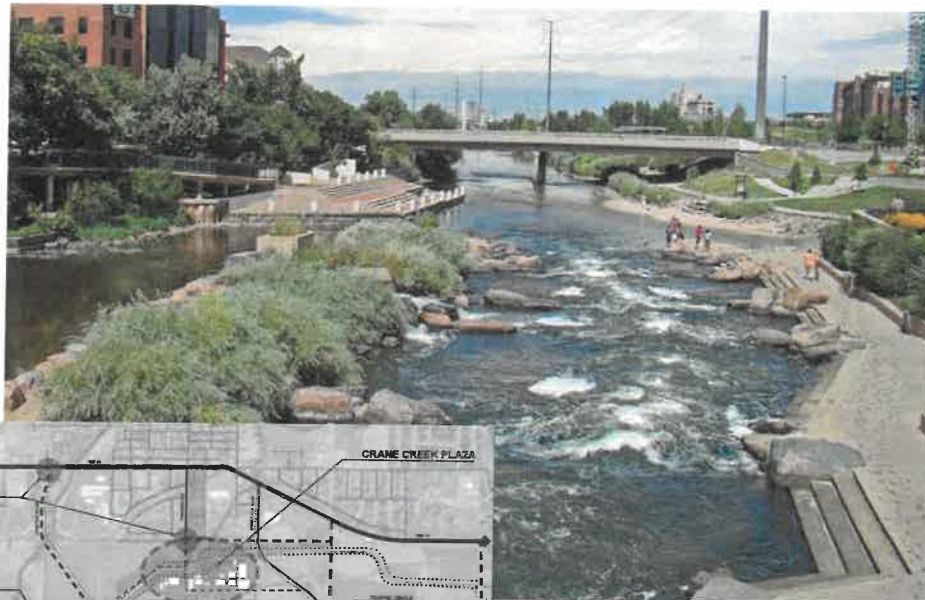
RIVER WALK PARK



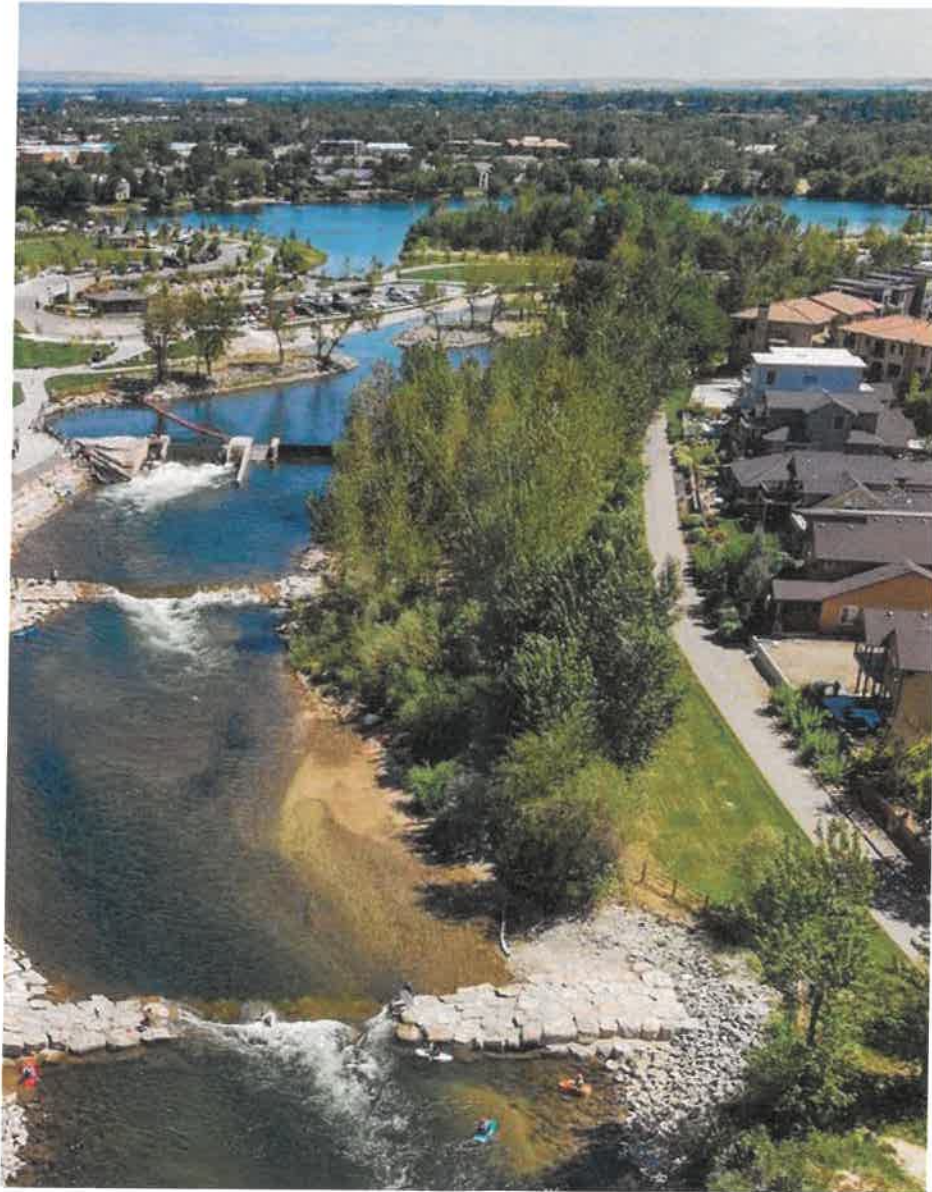
FISHING POND



GREENBELT



NEIGHBORHOODS



DESIGN FRAMEWORK
PROGRAM ELEMENTS ACTIVE



INTEGRATED WATER FEATURES



LIVE / WORK



OUTDOOR SOCIAL



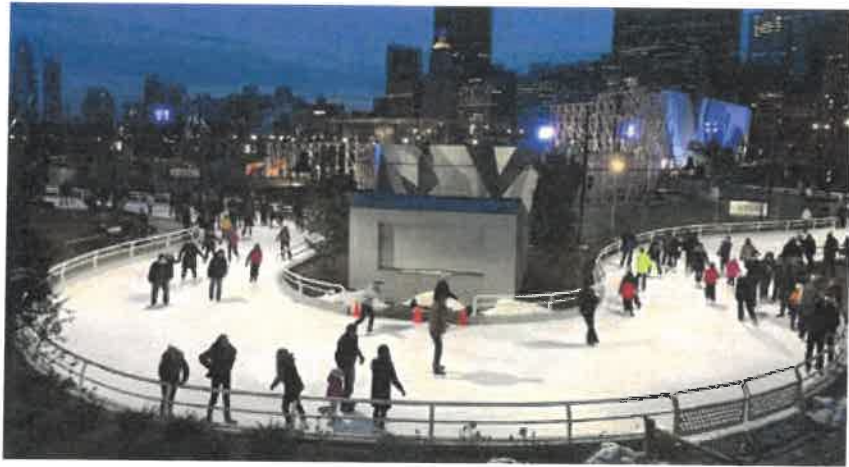
POP UP SPACES



ART



INTEGRATED STORMWATER



EVENTS



BIKE AMENITIES



SEATING

DESIGN FRAMEWORK
PROGRAM ELEMENTS PASSIVE



RIVER ACCESS



NATURAL PLAY



PADDLEBOARD



BIKE PATH



BEACHES



FISHING



AMPHITHEATER

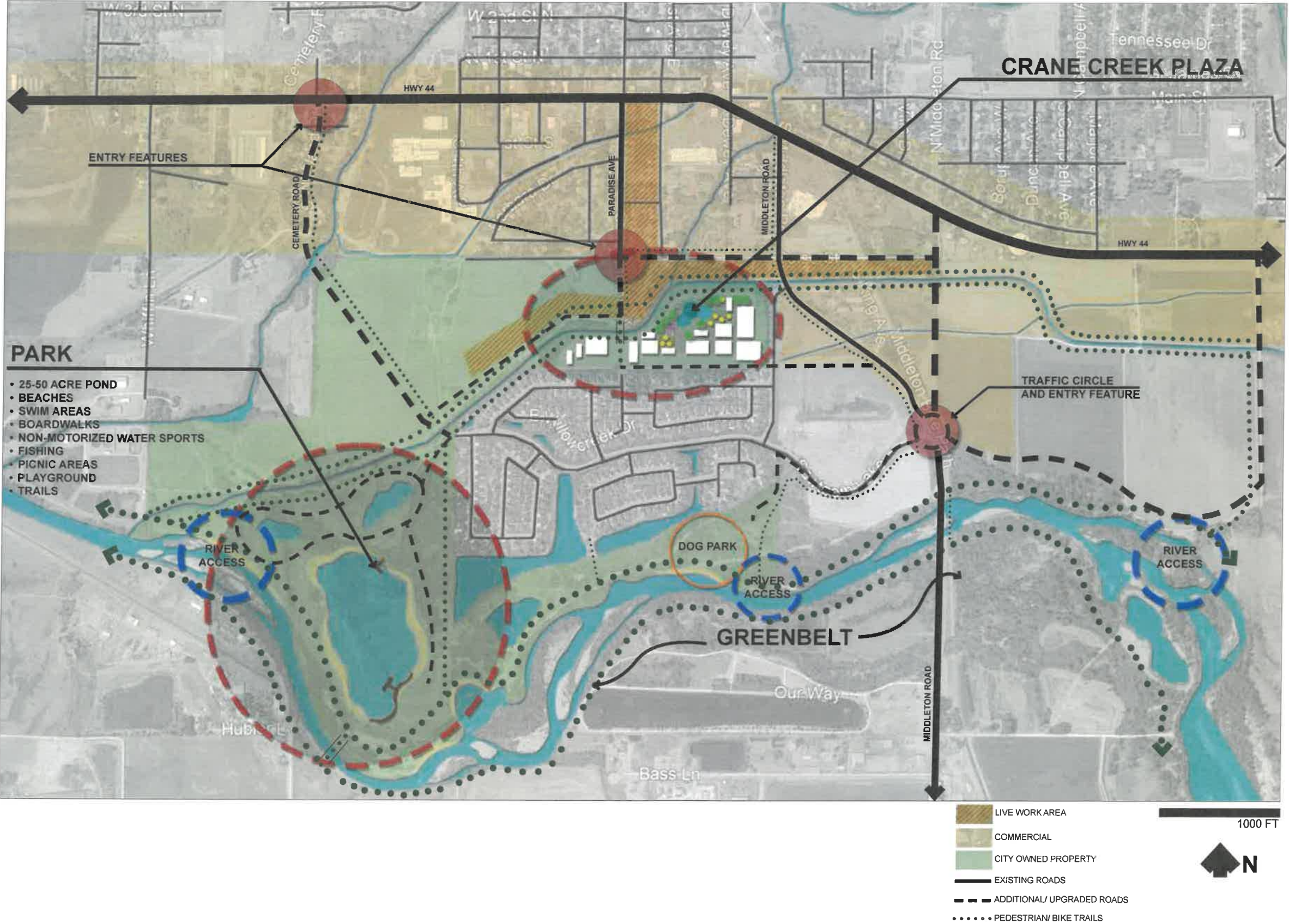


DOCKS /BOARDWALKS



SWIMMING

DESIGN FRAMEWORK
CONCEPT DIAGRAM



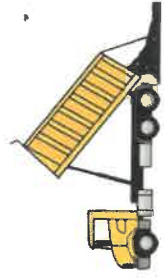
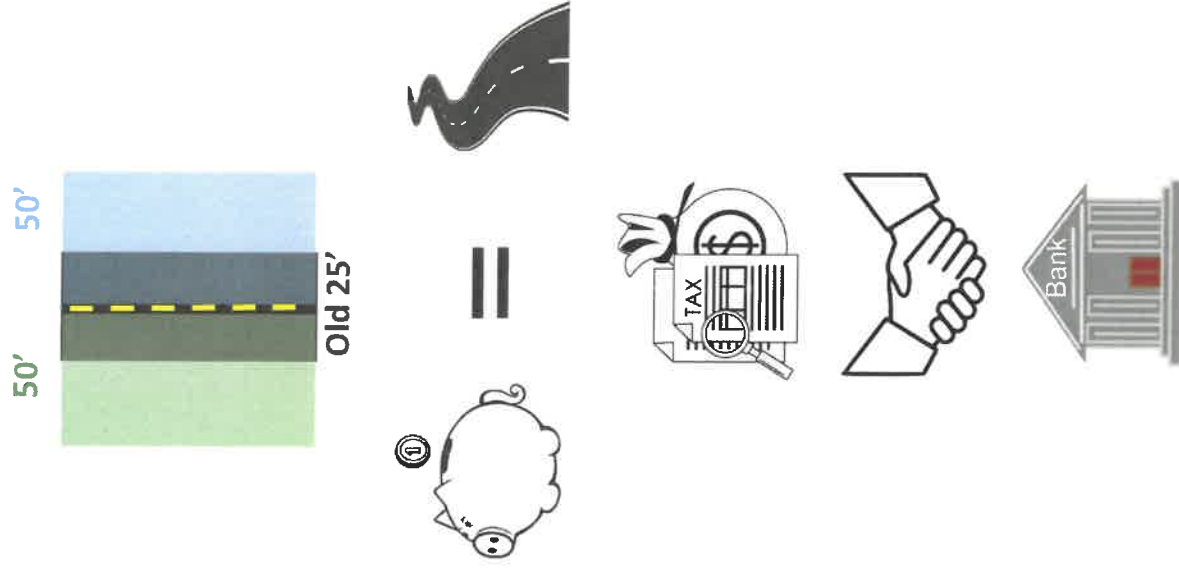


Exhibit 1

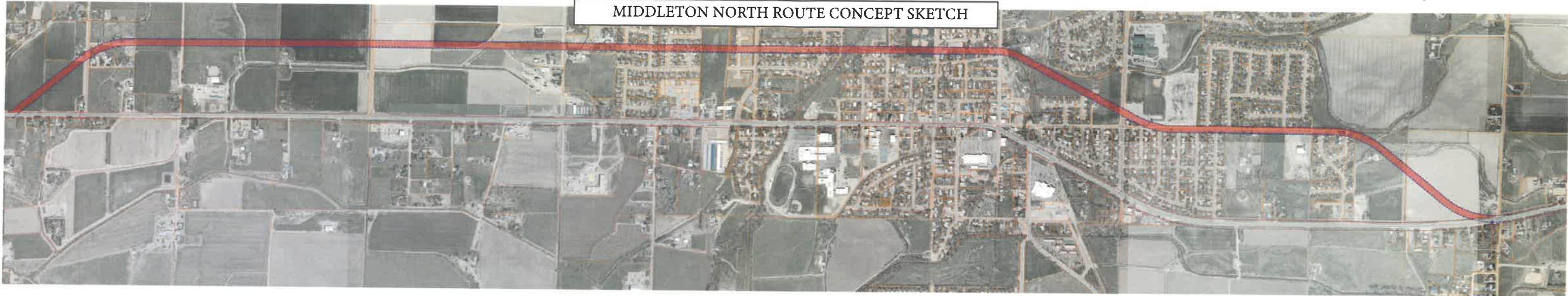
HOW ROADS ARE BUILT AND IMPROVED IN MIDDLETON

- Developer improvements:** Developers improve $\frac{1}{2}$ roads, curb/gutter, and sidewalks, at their own cost, along the entire frontage of their property. Once the Developer on the opposite side improves frontage, a 25' old road will be a new 100' wide road.
- Developer Exactions:** City charges Developers *Traffic Impact Fees* and/or *Proportionate Share Fees* to improve specific intersections and roadways in the future. The fees are saved until enough money is accumulated to begin the work.
- Taxes & Urban Renewal:** City and highway district get money annually from City, County, and State taxes. The tax money is used to maintain and build roads.
- Collaborative Projects:** City will partner with Federal, State, and/or County to improve a specific project. Money comes from Taxes and Traffic Impact Fees.
- City Bond:** The City can borrow money to build roads. Requires voter approval in an election.

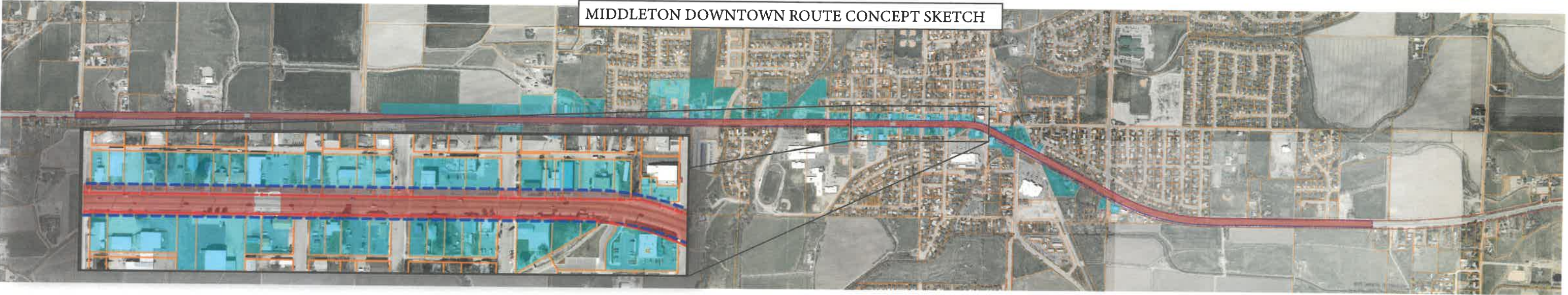


Maps are illustrative and not intended for use beyond discussion and general information

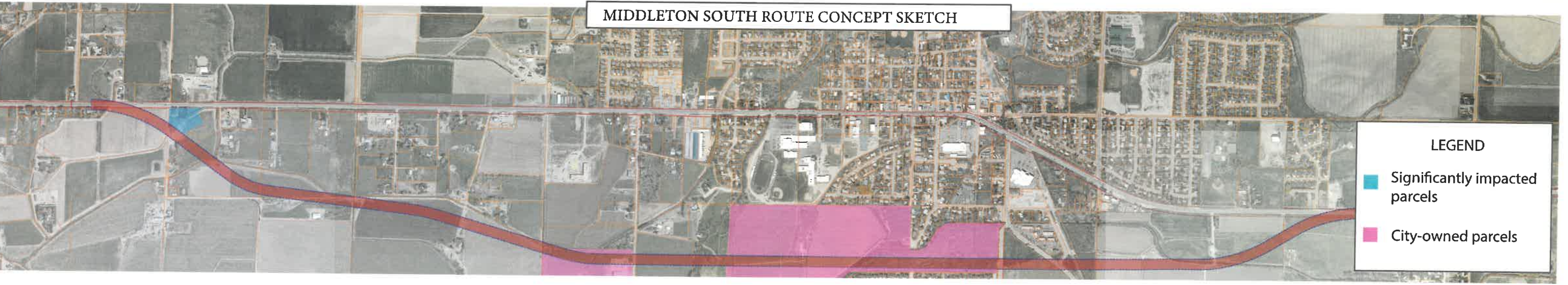
MIDDLETON NORTH ROUTE CONCEPT SKETCH



MIDDLETON DOWNTOWN ROUTE CONCEPT SKETCH



MIDDLETON SOUTH ROUTE CONCEPT SKETCH



Existing Alignment

Address	Land Use/Business Name	Parcel #	Owner
1100 W MAIN ST	Residence	R1789800000	HUDDLESTON MARGARET
1060 W MAIN ST	Clock Tower Orthodontics	R1789511600	LAND C PROPERTIES LLC
W MAIN ST	Welsstone Business Park	R1789510000	WEBPAY LLC
1002 W MAIN ST	Middleton Fitness Center	R1789511700	GOLDEN WILLOW INVESTMENTS LLC
880 W MAIN ST	Residence	R1790001000	REED GORDON E REED PENNY L
820 W MAIN ST	Residence	R1790000000	RENK MICHAEL RENK HEATHER
HWY 44	The Cottages	R1790220100	COTTAGES SENIOR LIVING LAND LLC
760 W MAIN ST	The Cottages	R1790220000	COTTAGES SENIOR LIVING II LLC
712 W MAIN ST	Jack in the Box	R1790101000	FEAST PROPERTIES LLC
704 W MAIN ST	Jack in the Box	R1790100000	FEAST PROPERTIES LLC
10 N HIGHLAND CT	Residence	R1761750000	BUTLER BONNIE L
612 W MAIN ST	Residence	R1791400000	BUTLER BONNIE L
606 W MAIN ST	Residence	R1791700000	VAUGHN BRYON KEITH TRUST
520 W MAIN ST	Picadilly Park	R1791200000	MIDDLETON CITY OF
318 W MAIN ST	Morgan Law Firm/ Means	R1870700000	MORGAN DAVID L MILLER MARQUELLE
314 W MAIN ST	Harris Chiropractic	R1870600000	MORGAN DAVID L
308 W MAIN ST	The Burger Den	R1870500000	MARWOOD INC
309 W MAIN ST	Church of Jesus Christ Latter Day Saints	R3391200000	CORP OF PRESIDING BISHOP OF JESUS CHRIST OF LDS
5 S VIKING AVE	Middleton School District Office	R1847300000	MIDDLETON SCHOOL DISTRICT NO 134
115 W MAIN ST	Middleton School District Maintenance Department	R1847200000	MIDDLETON SCHOOL DISTRICT NO 134
113 W MAIN ST	Greater Middleton Parks and Recreation Community Center	R1798500000	MIDDLETON SCHOOL DISTRICT NO 134
4 N VIKING AVE	Top Dog Grooming	R1870100000	BUNTING MARNIE BUNTING THOMAS
214 W MAIN ST	Residence?	R1870000000	VIS LEONARD A
0 W MAIN ST	Empty	R1786700000	VIS LEONARD A
208 W MAIN ST	Design Secrets: Hair and Nails Studio	R1787400000	DAYLEY KIM L
120 W MAIN ST	Three Rivers Insurance	R1787300000	GRANITE PROPERTIES LLC
116 W MAIN ST	Residence	R1787200000	BRENENSTAHL ARTHUR L BRENENSTAHL CHERYL
114 W MAIN ST	Residence	R1787100000	PERKINS NANCY AMBER FITZGERALD ROBERT DAVID
106 W MAIN ST	Office Building: Middleton Accounting and Taxes Services, Eagle Land Surveying, LLC, Custom Creations Dental Laboratory, Simply Bliss Salon	R1793800000	STAR GAZERS ESTATES AND LAND LLC
103 W MAIN ST	Tacos El Rancho	R1817600000	E AND H INVESTMENTS LLC
111 W MAIN ST	Fendel Chiropractic and Chong's Barber	R1817500000	FENDEL KRISTIN FAMILY TRUST
18 W main ST	Middleton Orthodontics, Middleton Dental	R1797400000	VORMANEY LLC
17 W MAIN ST	Hi Pro Motors and Elara Home Communication	R1817200000	CHAMBERS KIPP
11 W MAIN ST	Hi Pro Motors and Elara Home Communication	R1817100000	CHAMBERS KIPP
0 W MAIN ST	Clarity Credit Union	R1816900000	CLARITY CREDIT UNION
3 W MAIN ST	Clarity Credit Union	R1816901000	CLARITY CREDIT UNION
2 W MAIN ST	Golden Comb	R1797700000	TREMBLE ALLEN TREMBLE KIRSTEN
2 W MAIN ST	Empty	R1797600000	TREMBLE ALLEN TREMBLE KIRSTEN
16 W MAIN ST	The Car Wash Clinic	R1797500000	THUESON TODD A THUESON DAVID O
7 E MAIN ST	Jacksons	R1848600000	JACKSONS FOOD STORES INC
7 S HAWTHORNE AVE	Tsai's Kitchen	R1798600000	CJTSAI LLC
8 E MAIN ST	Residence	R1798700000	DUBIE AARON
12 E MAIN ST	Empty	R1798800000	DUFOE MICHAEL @@@ DUFOE SANDRA @@@
14 E MAIN ST	Mikes Bargain Barn	R1798900000	DUFOE MICHAEL DUFOE SANDRA
18 E MAIN ST	Lee Physical Therapy	R1799000000	DE HI ROAD LLC KING DIANA M
104 E MAIN ST	Middleton United Methodist Church	R1799300000	METHODIST CHURCH
108 E MAIN ST	Empty	R1799400000	MIDDLETON VILLAGE PARTNERS
114 E MAIN ST	Chong's Barber Shop	R1799500000	WARFIELD CHARLES WAYNE WARFIELD DEBRA S
103 E MAIN ST	Subway	R1846600000	ALEXANDER ROBERT W ALEXANDER SANDRA L H/W
109 E MAIN ST	Blank's Printing	R1846700000	MERRIMAN SCOTT C
111 E MAIN ST	Middleton Upper Cervical Chiropractic	R1846800000	MIDDLETON UPPER CERVICAL CHIROPRACTIC PLLC
113 E MAIN ST	Adventure Plaza	R1846900000	FIRST BAPTIST CHURCH OF MIDDLETON
117 E MAIN ST	Middleton Collision & Refinishing	R1847000000	HARVEY TERRY AND DEE TRUST
119 E MAIN ST	Empty	R1847100000	MANFORD COYL LLC
209 E MAIN ST	The Dog House	R1775900000	MITCHELL GLADYS
3 N DEWEY AVE	Chaparral Bar & Grill	R1776000000	REYNOLDS KAMMI
298 E MAIN ST	Sunrise Café	R1799610300	MIDDLETON VILLAGE PARTNERS
310 CORNELL ST	Middleton Library Street Parking	R3389800000	MIDDLETON CITY OF
E MAIN ST	Roadside Park	R1801100000	MIDDLETON VILLAGE OF
E MAIN ST	Roadside Park	R33898010A0	MIDDLETON CITY OF
500 HARMON WAY	Residence	R1765300000	SUNBURST PROPERTY HOLDINGS LLC
0 S MIDDLETON RD	Empty	R1809800000	MIDDLETON CITY OF
0 HARTLEY LN	Idahome RV Resort	R3444001700	OKAMURA PAUL AND JANET TRUST
1500 W MAIN ST	Tractor Supply Co	R3444001400	FRONTLINE INVESTMENTS LLC
0 HWY 44	44 LIVESTOCK AND PET SUPPLY LLC	R3477501000	44 LIVESTOCK AND PET SUPPLY LLC
1663 W MAIN ST	44 LIVESTOCK AND PET SUPPLY LLC	R3477500000	44 LIVESTOCK AND PET SUPPLY LLC
0 HWY 44	44 LIVESTOCK AND PET SUPPLY LLC	R3477201000	GUAJARDO JAVIER GUAJARDO OLGA
0 HWY 44	Empty	R3477200000	PAYNE GREG S
1500 W MAIN ST	Perfection Tire	R1788601080	RUPP KELLY J
0 HWY 44	Empty	R1788601081	SHARK FIN LLC
12402 HWY 44	Residence	R1788601000	DE LUNA RENE DE LUNA ERIN
12400 HWY 44	Empty	R1788600000	KIRSCH SAMUEL H II KIRSCH DEBORAH LYNN H/W
302 E MAIN ST	MIDDLETON RURAL FIRE DISTRICT	R1809600000	MIDDLETON RURAL FIRE DISTRICT
500 E MAIN ST	Residence	R1868010000	MAAG BETTY MAAG W NEAL W/H
0 E MAIN ST	Residence	R1868010100	MAAG BETTY MAAG W NEAL W/H
622 E MAIN ST	Hometown Family Eyecare	R1802600000	DAYTON PROPERTIES LLC
706 E MAIN ST	Burgess Pump Co, Inc	R3394300000	MOUNTAIN WEST MANAGEMENT GROUP LLC

# of Total Parcels impacted	76
# of Parcels with Structure Impa	27
# Parcels with Possible Structure	17
# of Businesses Impacted	46
# of Residences Impacted	13

Southern Alternate

Address	Land Use/ Business Name	Parcel #	Owner	Impact
13461 HWY 44	Open Land	R3471901000	NICOLONA JERRY NICOLONA RANDI	Structure
22780 BALLARD LN	Open Land	R3472201200	HOLT JACK HOLT KELLI H/W	Land
0 BALLARD LN	Open Land	R3472201100	WOOD DALE I	Land
13247 BALLARD LN	Open Land	R3472300000	RULE ANDREW P RULE JONI K	Land
12665 HWY 44	Open Land	R3476900000	RULE JONI K	Land
651 WHIFFIN LN	Open Land	R1761002500	BOWMAN FAMILY TRUST	Land
824 WHIFFIN LN	Sewer Treatment?	R1761002600	MIDDLETON VILLAGE OF	Structure
0 WHIFFIN LN	Open Land	R3475101000	WILSON M Z WILSON SANDRA L H/W	Land
400 S HIGHLAND DR	Open Land/ Back of large residential Parcel	R3474900000	FITZPATRICK HERBERT J FITZPATRICK JA	Land
321 W SAWTOOTH LAKE DR	Open Land	R3390900000	MIDDLETON CITY OF	Land
326 S HAWTHORNE AVE	Open Land	R3391000000	MIDDLETON CITY OF	Land
0 MIDDLETON RD	Open Land	R33900010A0	MIDDLETON CITY OF	Land
0 MIDDLETON RD	Open Land	R1849901100	CORDOVA MICHAEL C	Land
0 S MIDDLETON RD	City Park	R1850001100	MIDDLETON CITY OF	Removal of Park
702 BOISE ST		R1849800000	ANCHORED INVESTMENTS LLC	Land/ River Ranch Sub
10669 HWY 44		R3393800000	WATKINS PROPERTIES L P	Land/River Ranch Sub
0 HWY 44		R3393801100	HESS PROPERTIES LLC	Land/ River Ranch Sub
10481 HWY 44		R3392000000	DRAKE INVESTMENTS LLC	Land/ River Pointe Sub

# of Total Parcels impacted	17
# of Parcels with Structure Impac	2
# Parcels with Possible Structure	1
# of Businesses Impacted	0
# of Residences Impacted	0

LEGENDS

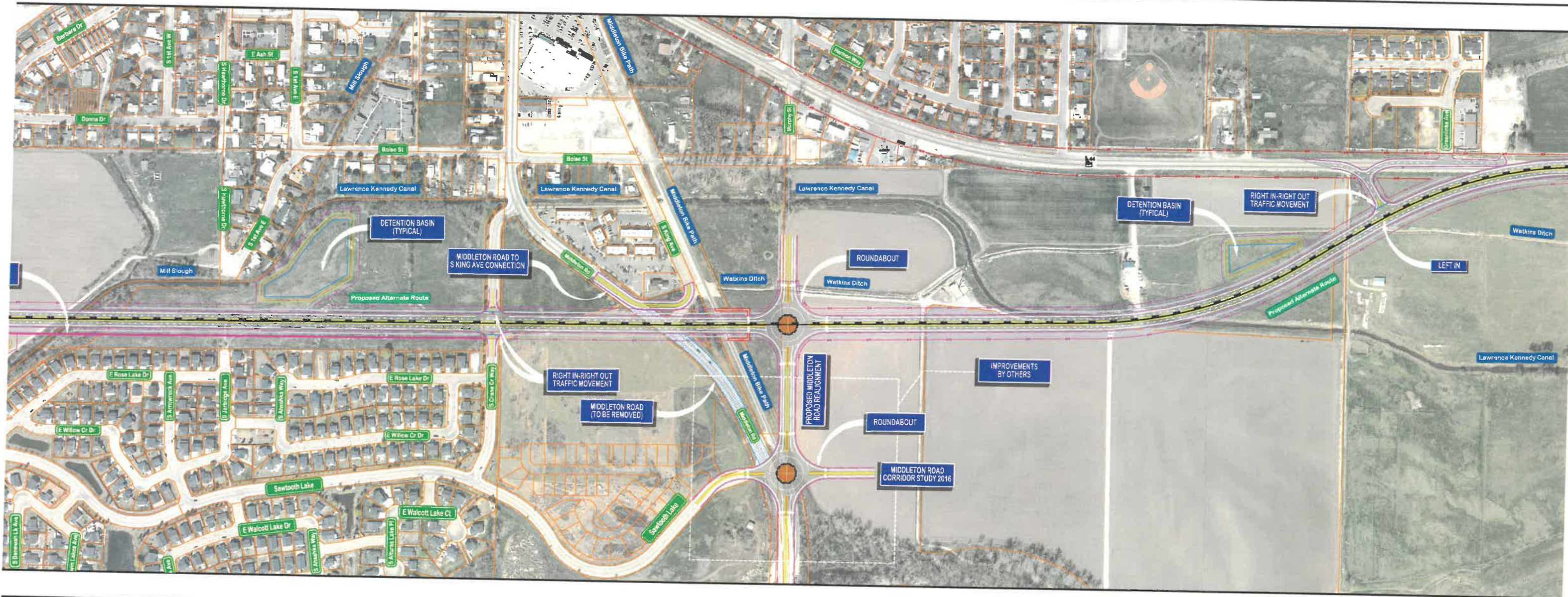
Land Use

- Residential
- Commercial
- Municipal
- Green space/agricultural

Impact

- Structure removed
- Possible Structure
- Open Land

CONCEPT DISPLAY FOR PUBLIC MEETING, DECEMBER 2019



IDAHO 44 SEGMENT 3



CITY OF MIDDLETON

P.O. Box 487 • 6 N. Dewey • Middleton, ID 83644 • (208) 585-3133 • Fax (208) 585-9601
August 14, 2007

Dave Jones, P.E., District Engineer
Idaho Transportation Department
8150 Chinden Blvd.
P.O. Box 8028
Garden City, ID 83707-8028

Matt Stoll, Executive Director
COMPASS
800 S. Industry Way, Ste. 100
Meridian, ID 83642

RECEIVED

AUG 23 2007

DIST. NO. 3
DIVISION OF HIGHWAYS

SUSPENSE 03-07-055
REPLY DATE 08-30-07
ACTION Sullivan

Re: Highway 44 Corridor Study
City of Middleton Representation in Planning and Evaluation

Gentlemen:

Since 1999, the City of Middleton has taken a position of leadership in advocating for an improved Highway 44 corridor, particularly through the City and its Impact Area. One of the first COMPASS-assisted sub-regional alignment studies was conducted by COMPASS under Erv Olen, COMPASS staff and the City. After four well documented, well attended public meetings involving residents and people from outlying areas exploring a number of options including couplets, a northern route around the City, modifying and widening the existing highway alignment and a southern loop, an enthusiastic public voted 35 to 1 in favor of the southern alternative. On August 30, 2000, a final report of this effort was issued by COMPASS memorializing the work and decision. In 2001, City's Comprehensive Plan was subsequently amended adopting the proposed alignment and the selected alignment has been shown on all transportation planning documents. The history and results of this effort has been well publicized locally, with COMPASS, and ITD. Follow-up on-site meetings were held with ITD personnel to assess the adopted alignment for potential environmental "fatal flaws" and none were indicated. Subsequently, significant actions have been taken by the City to curtail development in the selected alignment area.

In 2002 the City requested of ITD that the alternate route adopted in our Comprehensive Plan be included in the state STIP program. After two years passed and a number of inquiries made, the City was informed that the state was going to consider a larger corridor study rather than simply focus on Middleton's segment while assuring the City that their input would be used. Since then, a number of meetings have been held with Sue Sullivan, ITD planner, attending to consider individual developments to ensure that the City and State were cooperatively working toward the same goals. Then Washington Group and Parametrics were engaged by the State to work on the corridor study resulting in additional meetings to make certain that the City's Comprehensive Plan and commitments to developments occurring along the corridor were being honored. After a number of verbal promises to aid and involve the City in areas so vital to our economic health, it appears that none of the persons that have met with the City and listened to our concerns and efforts are now substantially associated with guiding the corridor effort. Program leaders have apparently changed and the City of Middleton, for all its effort to plan for its future and that of the state highway that bisects its boundary, has no significant role or representation. It would appear that a record of diligence and consistent work, not to mention having to deal with tough questions from the developers and land owners along the path of the Alternate Route adopted in the Comprehensive Plan, has not earned the City the consideration of being included in the state planning process. ?

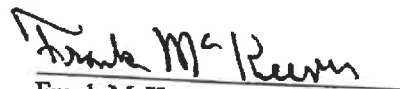
Planning • Zoning • Building • Code Enforcement
citmid@cableone.net • www.middleton.id.gov

To say that we are very concerned would be an understatement. Middleton has taken transportation planning very seriously, having teamed up with Canyon Highway District No. 4 to develop one of the most comprehensive sub-regional plans in the valley for our Impact Area. The City has adopted a more stringent highway access plan than ITD for Hwy. 44 lying within the City Impact Area to facilitate future traffic movement. Sue Sullivan of ITD, the Washington Group, and then Phil Choate of ITD have been given copies of our planned connectivity for the Alternate Route and Sue has repeatedly worked with the City to inform developers. The City has had to deal continually with criticism for protecting its plan and standing firm to protect the selected Alternate Route. At the present time we are exploring the use of Impact Fees primarily to support construction of critical intersections on the highway. Yet it is our distinct impression with all this history and effort that the City does not have a meaningful role in the ongoing process. Frankly, it is the City's impression that there is no one currently involved in the current planning that even knows where Middleton is let alone understands what issues are vital to the City.

It is our understanding that Erv Olen, formerly with COMPASS but now with Parametrics, has only a minimal role in planning for the corridor alignment. Of the entire project team currently in place, Erv represents the most informed person on Middleton issues as he guided the first COMPASS assisted alignment study. I met with Erv last week to gauge his involvement and asked why the City was being ignored or marginalized were disappointed to see that his input in the process has been minimized.

On behalf of the City of Middleton, I am requesting that the Highway 44 study be given top priority. I am also requesting that Erv Olen be appointed as the coordinator for the study for his knowledge of the issues and for continuity of the study in its entirety. The timing and outcome of this study is of vital interest to the future of Middleton.

Sincerely,
City of Middleton


Frank McKeever, Mayor

CC: Darrell Manning, ITD Board Chairman
Monte McClure, ITD Board Member
Washington Group
Parametrics

MEMORANDUM OF UNDERSTANDING
Between
THE IDAHO TRANSPORTATION DEPARTMENT, DISTRICT 3
And
THE CITY OF MIDDLETON

I. PURPOSE:

The purpose of this Memorandum of Understanding (MOU) is to document the project and plans that have been discussed to date between the Idaho Transportation Department, District 3 (ITD D3) and the City of Middleton, Idaho (City) to support the groundwork laid between Mayor Darin Taylor and ITD D3 staff regarding the transportation needs of the City.

II. AUTHORITY:

This MOU is entered into pursuant to Idaho Code Section 50-301 and Sections 67-2326 through 67-2333, Idaho Code, and any other provisions of state or federal law or regulation directly pertaining to the memorandum.

III. RESPONSIBILITIES AND PROCEDURES:

ITD D3 and the City agree as follows:

- State Highway 44 (SH-44)
 - SH-44 is the only east-west road through downtown Middleton; the next closest east-west through road is Purple Sage Road, two miles north.
 - Traffic congestion on SH-44 downtown ruins the small-town feel Middleton residents' desire.
 - The City is implementing the transportation-related policies and maps in the City's comprehensive plan to relieve congestion downtown on SH-44 downtown, including:
 - Increasing north-south vehicle, bicycle and pedestrian routes along section- and quarter-section lines through town identified as Emmett Road, Hartley Lane, Cemetery Road, Middleton Road and Duff Lane; and
 - Increasing the east-west vehicle, bicycle and pedestrian routes along section- and quarter-section lines through town identified as River Street, Ninth Street, Willis Road, and Meadow Park Street.

- River Street is the only east-west local transportation route planned by the City between the Boise River and SH-44 with planned intersections with Emmett Road, Hartley Lane, Cemetery Road, Crane Creek Way and Middleton Road.
- The City has acquired land between Middleton Road and Whiffin Lane, in the City for multiple purposes; one of which is to construct River Street to the City's local collector road standard, in cooperation with developers, as vacant land develops.
- River Street alignment transects existing the City's Centennial Grove Park, which will be removed when River Street is constructed.
- The City and ITD D3 believe it is in the best interest of the traveling public to preserve an east-west transportation corridor south of existing SH-44 and North of the Boise River for an alternate SH-44 route to remove state highway traffic from downtown.
- ITD D3 is working through the National Environmental Protection Act (NEPA) process and expects to have a final, federally accepted document by summer 2021. This document is expected to include the SH-44 Alternate Route South of the existing SH-44 and North of the Boise River. Once this document is approved, ITD D3 will design and construct the SH-44 Alternate Route at its sole expense.
- All or a portion of SH-44 Alternate Route appears on the same alignment with River Street, necessitating coordination and cooperation between ITD D3 and the City.
- The parties acknowledge eventually the city will convey real property to ITD D3 that may or may not contain River Street and/or other transportation and utility improvements, and eventually ITD D3 will convey a segment of existing SH-44 to the City.
- To maintain safety and mobility along the River Street/SH-44 Alternate Route alignment, accesses will be limited to Emmett Road, Hartley Lane, Cemetery Road, Middleton Road. In other cases, the use of frontage or backage roads to ensure adequate local traffic circulation will likely be required.
- The City acknowledges that eventually pertinent segment(s) of River Street will be conveyed to ITD in order for ITD at its sole expense to construct the SH-44 Alternate Route on the same alignment and that it will be converted to state highway standards.
- Once the future SH-44 Alternate Route is constructed (currently unfunded), ITD will repair drainage at an acceptable condition in the City's sole discretion and convey a segment of existing SH-44 to the City as a local road, to be

maintained and managed by the City, including the existing traffic signal at SH-44/North Middleton Road intersection and the traffic signal at SH-44/Hartley Lane intersection that is being designed for construction in 2020.

- The parties anticipate future discussions and agreements to continue the planned improvements discussed in this MOU.
- Intersection control
 - Current transportation plans adopted by the City show roundabouts as intersection controls at section and quarter-section lines intersections throughout town, including SH-44 intersections with Emmett Road, Cemetery Road, Middleton Road, Duff Lane, Lansing Lane, Kingsbury Road, and Blessenger Road.
 - ITD D3 acknowledges that roundabouts are the City's preferred intersection control type.
 - ITD D3 is coordinating with the City on design and future construction of these intersection improvements on the existing SH-44, potentially before the construction of the alternate route. ITD standard highway specifications are to be used for all structural roadway components, but Idaho Standards for Public Works Construction (ISPWC) standards for non-structural roadway components, in anticipation of the eventual relinquishment of the existing SH-44 to the City, are acceptable.

LIMITATIONS:

Nothing in this MOU between ITD D3 and the City shall be construed as limiting or expanding the statutory or regulatory responsibilities of any involved individual in performing functions granted to them by law; or as requiring either entity to expend any sum in excess of its respective appropriation. Each and every provision of this memorandum is subject to the laws and regulations of the state of Idaho and of the United States.

Nothing in this MOU shall be construed as expanding the liability of either party. In the event of a liability claim, each party shall defend their own interests at their own expense. Neither party is or shall be required to provide indemnification of the other party.

EFFECTIVE DATE:

This MOU is non-binding and is only to memorialize discussion between the City and ITD D3 regarding transportation issues.

METHOD OF TERMINATION:

This MOU is non-binding and is only to memorialize discussion between the City and ITD D3

regarding transportation issues.

SIGNATURES:

City of Middleton

By: Darin Taylor
Darin Taylor, Mayor

Nov. 6, 2019
Date

Idaho Transportation Department, D3

By: Amy Revis
Amy Revis, ID D3 Administrator

Nov. 12, 2019
Date



The Future of State Highway 44

Caleb Lakey, ITD District 3 Administrator
August 9th, 2021

Your Safety • Your Mobility • Your Economic Opportunity

Future of State Highway 44

Purpose

- Reduce congestion and improve safety on SH-44 from I-84 to Ballantyne

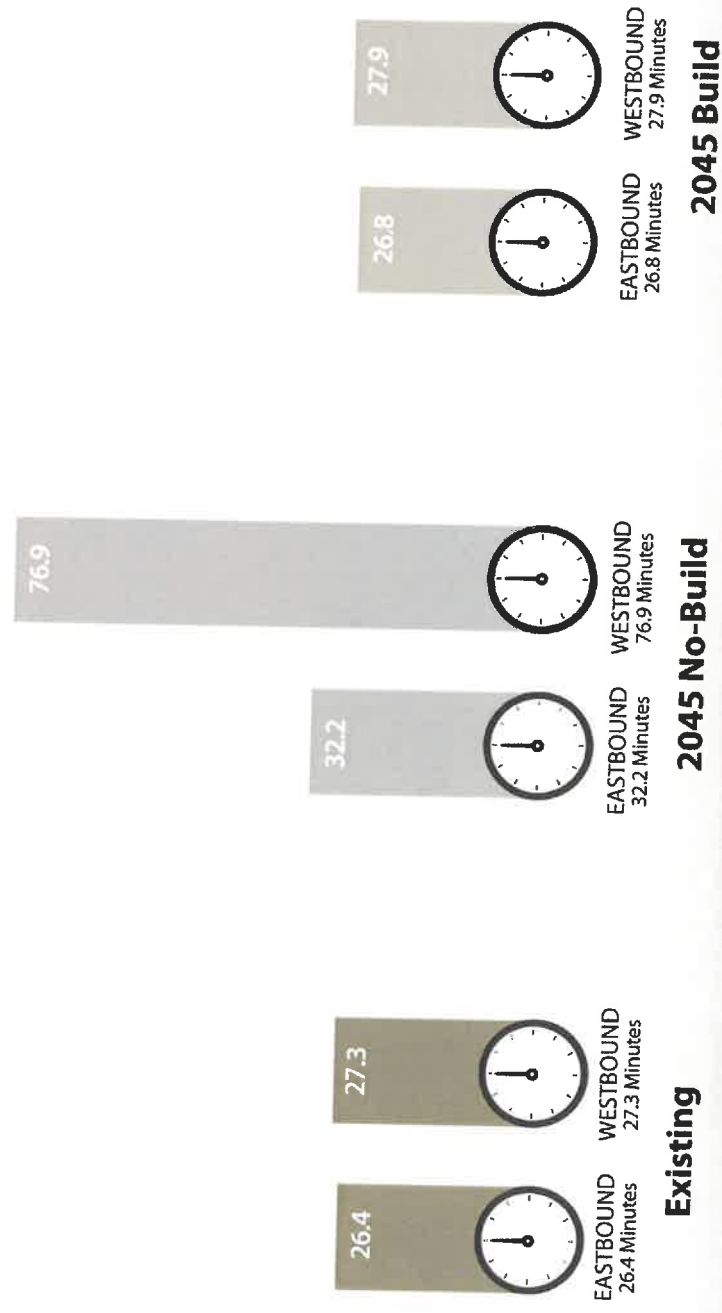
Needs

- Achieve acceptable levels of service for delay and travel times
- Reduce crashes, which are higher within city limits
- Coordinate transportation and land use
 - Setbacks
 - Access
 - Noise Abatement

Your Safety • Your Mobility • Your Economic Opportunity



Corridor Mobility - I-84 to Ballantyne

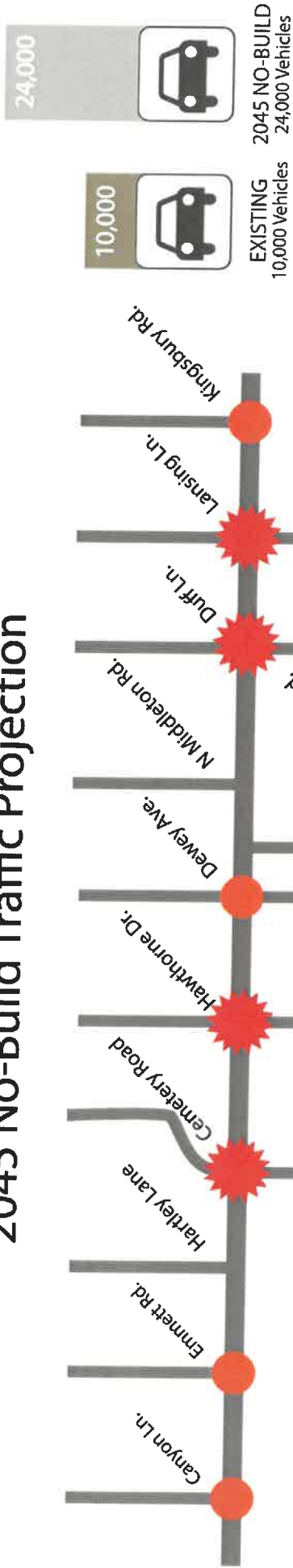


Your Safety • Your Mobility • Your Economic Opportunity





Middleton Mobility

2045 No-Build Traffic Projection



Int. No.	SH-44 Intersection	Control	Appr.	AM			PM		
				LOS	Delay (s/vh)	Worst v/c Ratio	LOS	Delay (s/vh)	Worst v/c Ratio
6	Canyon Ln.	Signal	SB	F	36	0.28	D	33	0.15
7	Emmett Rd.	Signal	SB	F	106	1.30	F	183	>1.50
8	Hartley Ln.	Signal	All	B	14	0.83 (SB)	B	11	0.78 (SB)
9	Cemetery Rd.	Signal	NB	F	>300	>1.50	F	>300	>1.50
			SB	F	59	0.71	F	>300	>1.50
10	Hawthorne Dr.	Signal	NB	F	79	0.80	F	>300	>1.50
			SB	F	44	0.51	F	280	1.24
11	Dewey Ave.	Signal	NB	C	22	0.03	D	34	0.19
			SB	C	21	0.13	E	36	0.14
12	S. Middleton Rd.	Signal	NB	C	17	0.04	C	22	0.15
13	N. Middleton Rd.	Signal	All	B	18	0.75 (EBT)	C	22	0.78 (WBT)
14	Duff Ln.	Signal	NB	F	153	0.83	F	230	0.88
			SB	F	>300	>1.50	F	>300	>1.50
15	Lansing Ln.	Signal	NB	F	63	0.46	F	247	0.77
			SB	F	>300	>1.50	F	>300	>1.50
16	Kingsbury Rd.	Signal	SB	F	39	0.39	F	83	0.57

 = LOCAL ROAD DELAY GREATER THAN FIVE MINUTES

 = LOCAL ROAD DELAY EXCEEDS ACCEPTABLE LEVELS



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What Middleton Residents Asked For

1999: City of Middleton wanted inclusion in SH-44 Corridor Plan

2000: 97% of public meeting attendees supported southern alternate

2007: Mayoral letter re-emphasizes support for southern alternate route

2019: Shared concept design with public, general support for alternate route



Your Safety • Your Mobility • Your Economic Opportunity

SH-44 through Middleton Alternatives

Super North Route

North Route

Existing Route

South Route

Super South Route

Your Safety • Your Mobility • Your Economic Opportunity



Super North Route



2021: Rejected as infeasible due to out of direction travel and property impacts



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Super South Alternative



2021: Rejected as infeasible due to high number of bridges

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North Route Alternative



2012: rejected as impractical and incompatible with platted land use

Your Safety • Your Mobility • Your Economic Opportunity

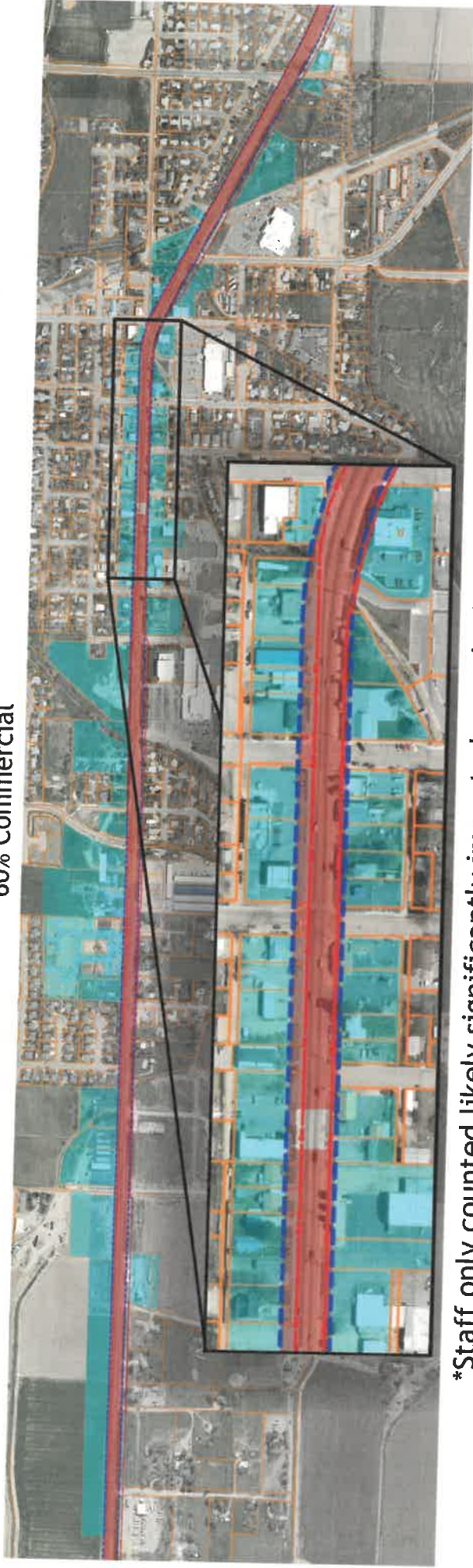


Widen Existing Route

5-lane ROW
100'

Impacted Parcels
76 significant*
60% Commercial

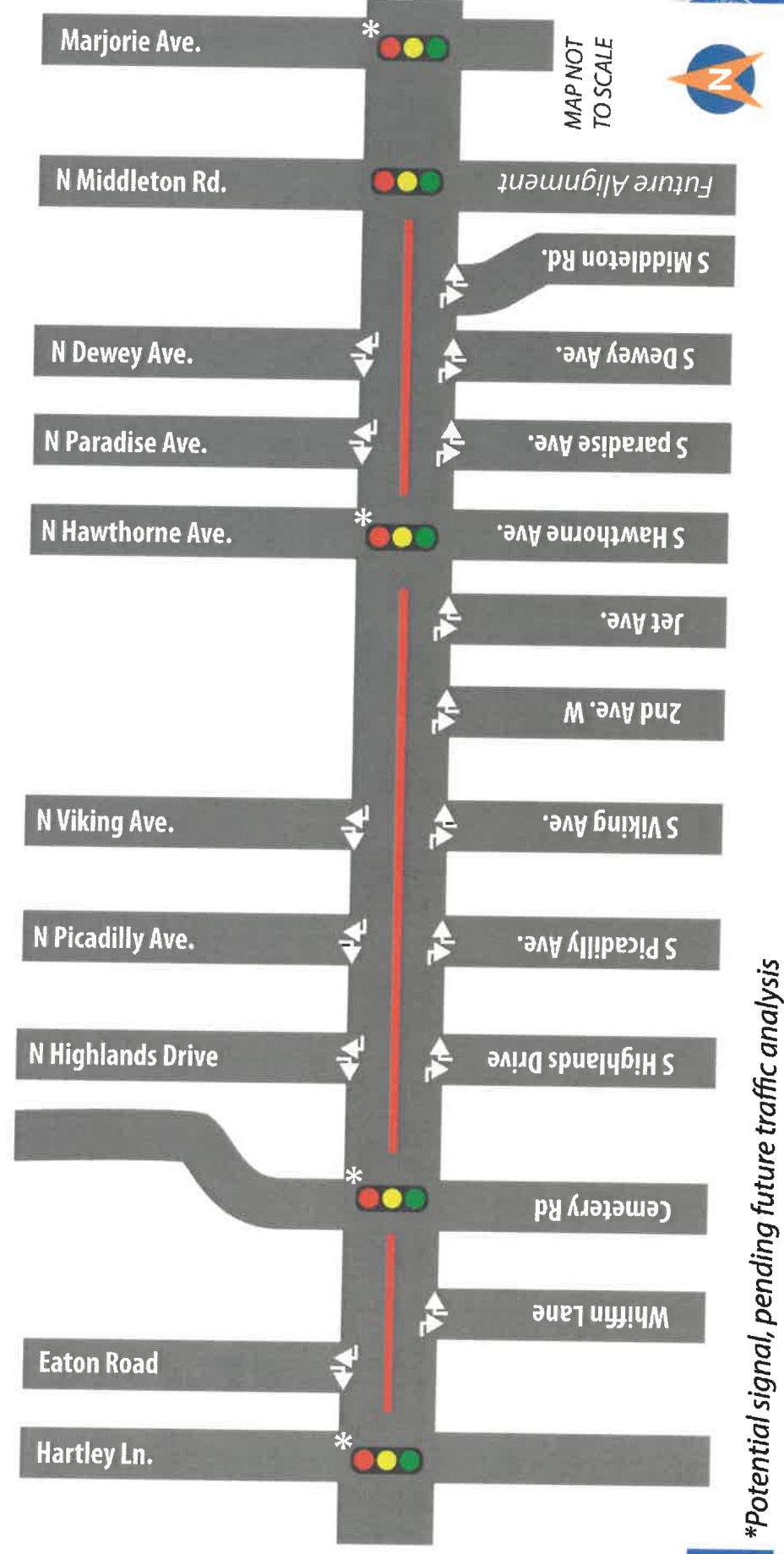
Access Points
~135



*Staff only counted likely significantly impacted parcels, in blue



2045 5-Lane Build Out Access Management



South Route Alternative

ROW

150'

Impacted Parcels

17 (2 structural)

4 City-owned

Access Points

5



Your Safety • Your Mobility • Your Economic Opportunity

Two Options

Build an alternate route

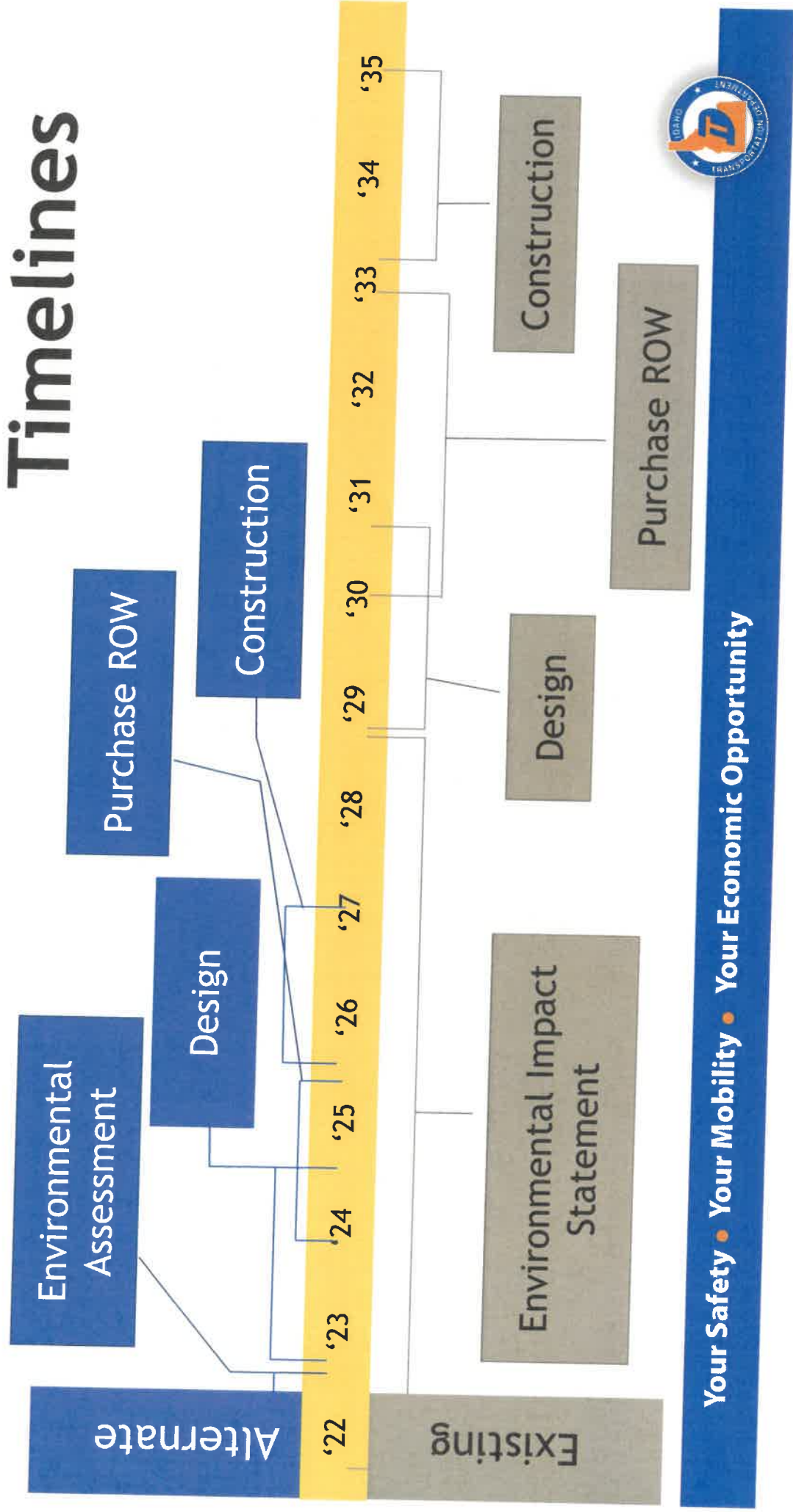
- + Modern highway safety standards
- + Accommodate multi-modal movement
- + Support city growth
- + Redevelop downtown
- + Expand commercial options
- + Options for future improvements
- + Remove regional trips from downtown
- Restrictive cross-movement
- Add'l property for new highway
- Right of way preservation required

Expand existing highway

- + Simpler long-range planning
- + Less property to widen existing hwy
- + Avoid preservation conflicts
- Restrictions on already built environment
- Conflict between regional trips and local trips
- Numerous access points reduce safety
- Increasing congestion



Timelines



The choice is yours

Alternate + Revitalize



Widen Existing



No-Build



Your Safety • Your Mobility • Your Economic Opportunity





Questions and Response

Your Safety • Your Mobility • Your Economic Opportunity

City of Middleton Transportation Projects 2020-2025

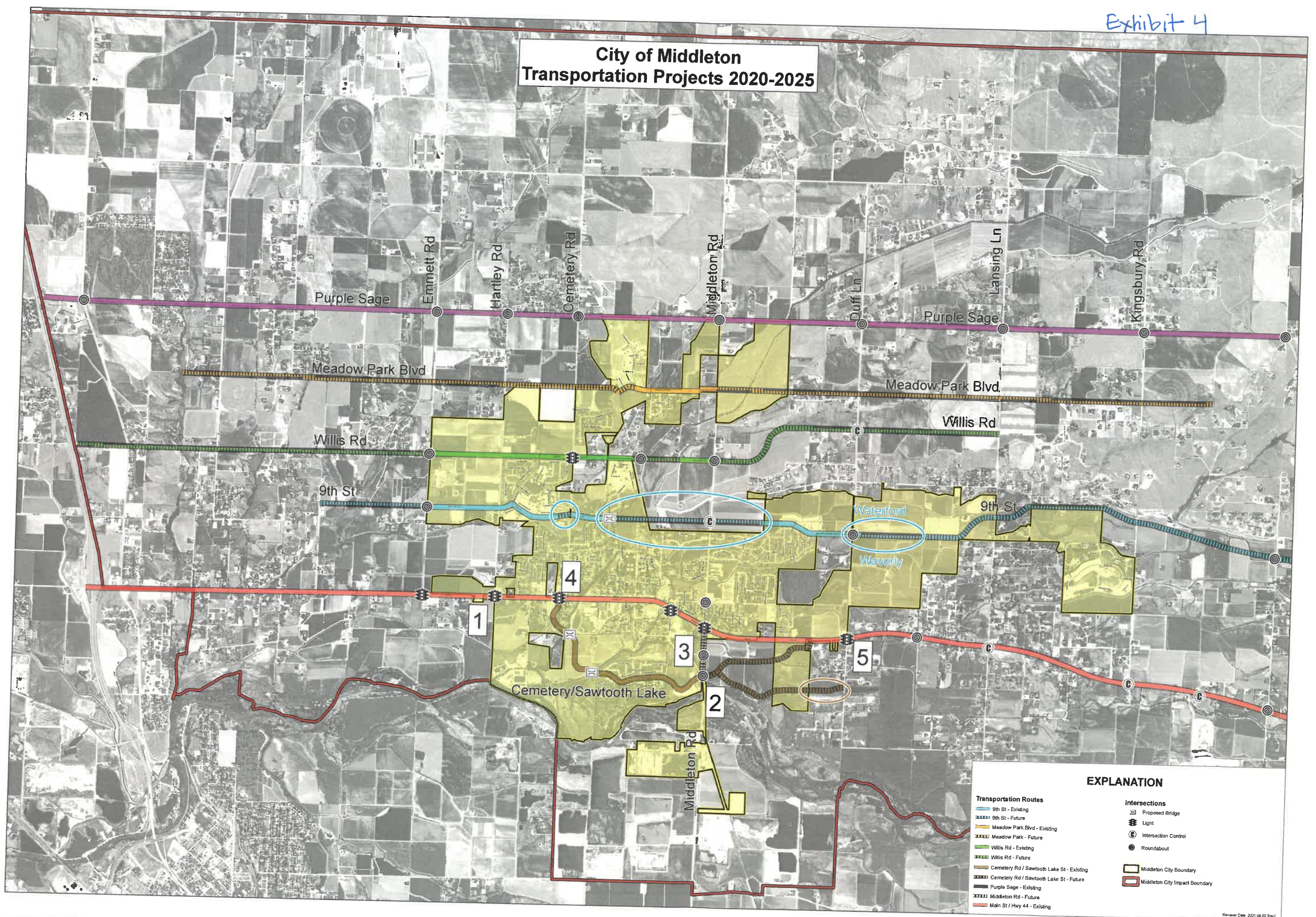




Exhibit F
River Pointe

4:50 p.m.

CANYON HIGHWAY DISTRICT No. 4
15435 HIGHWAY 44
CALDWELL, IDAHO 83607
TELEPHONE 208/454-8135
FAX 208/454-2008

August 5, 2021

Middleton City Council & Planning and Zoning Commission
1103 West Main Street
Middleton, ID 83644
Attention: Roberta Stewart, P&Z

RE: River Pointe Subdivision Preliminary Plat
River Walk Crossing Subdivision Preliminary Plat
Middleton Rd & Duff Lane

Dear Roberta:

Canyon Highway District No. 4 (CHD4) has reviewed the following items related to preliminary plats for the proposed River Pointe Subdivision and River Walk Crossing Subdivision:

River Pointe:

- Preliminary Plat dated May 5, 2021
- Revised Traffic Impact Study dated April 14, 2021
- Updated Technical Report from ITD dated February 14, 2021

River Walk Crossing:

- Preliminary Plat dated June 2, 2021
- Traffic Impact Study dated November 24, 2021
- Technical Report from ITD dated March 4, 2021

CHD4 provides the following comments on these applications:

General

By agreement with the City, CHD4 operates and maintains Middleton Road and Duff Lane adjacent to the proposed developments. It is our understanding that the subject properties are or will be annexed into the City of Middleton.

The City is currently considering significant revisions to the comprehensive plan and transportation planning maps, including removal of a bypass route for SH 44 south of the existing city center. The River Point plat shows area reserved for right-of-way for this bypass, while the River Walk Crossing plat does not. It is difficult to provide comprehensive comments on traffic impacts from these developments given the uncertainty of the SH 44 principal arterial corridor. Comments provided below are general in nature due to this uncertainty, and additional comment may be provided in the future.

CHD4 requests that the City include as part of any development agreement for the projects a clause requiring dedication of public right-of-way for Middleton Road or Duff Lane (and any other public road as desired by the City) upon written request of the City, to facilitate construction of public roadway improvements independent of the timing of the proposed development.

Traffic Impacts

The two developments combine to produce a reported 16,866 trips per average weekday at buildout, with three (or possibly four) connections to the existing highway system at Middleton Rd, SH 44, and Duff Lane. This increase in traffic will have a significant impact on all three highways adjacent to the development, and on adjacent and downstream intersections.

Middleton Rd along the west boundary of the developments is a two lane rural road between the city center and Lincoln Rd. The existing road is nearing capacity with current 2021 traffic volumes. The Mid-Star Capital Improvement Plan adopted by the City in July 2021 includes projects to widen Middleton Rd to 5 lanes, and to construct roundabouts at the intersections of Lincoln Rd and Sawtooth Drive. This plan is not currently funded, although the city is considering modification to its impact fee ordinance to enact development impact fees sufficient to make these improvements. Construction of any improvements included under the Mid-Star CIP will take place well after traffic impacts from the proposed developments are experienced. CHD4 has no capacity projects programmed for this corridor in the next five years.

Duff Lane along the east boundary of the developments is a two lane rural road with narrow shoulders and limited right-of-way width between the proposed Watkins Street access from the developments. No capacity improvements to Duff Lane are currently programmed by CHD4, nor are included in the Mid-Star CIP. The TIS for River Pointe estimates a total of 73 trips in the 2025 PM peak hour using the Duff Lane/Watkins Street intersection, and 114 trips using Duff Lane at SH 44. These volumes are well within the typical operational capacity of a two-lane highway (300 trips/hr), however it represents only approximately 4% of the total peak hour trips generated by the site. This estimate may not accurately represent usage of this intersection, and the Duff Lane corridor between Watkins St and SH 44, when only two or three other points of access to the highway system are available to the developments. CHD4 recommends re-evaluation of the estimated usage of this approach to Duff Lane when a decision on the SH 44 alternative route is finalized, and timing of development of the Marjorie Ave approach to SH 44 is clarified.

Numerous intersections nearby or affected by the developments are already operating near or below acceptable Levels of Service (average vehicle delay) during the peak hour periods, including SH 44/Middleton, SH 44/Duff, Middleton/Sawtooth, and Middleton/Lincoln. Each of these (except SH 44/Middleton) is included on the Mid-Star CIP for capacity improvements, and will be eligible for funding through development impact fees. Implementation of these projects may lag years behind the traffic impacts generated by the developments, as the fees are not collected until building permit issuance, and traffic associated with building construction can equal or exceed that from the finished development. Levels of service at these surrounding intersections should be expected to further degrade from the current conditions unless these projects can be advanced through other funding sources to occur in sequence with development of the subject properties.

The TIS for River Pointe states that the existing NB Duff Lane approach to SH 44 functions at LOS E under current (2020) conditions. To avoid further increase in delay at this intersection, and to prevent additional crashes caused by the increase in delay, CHD4 recommends delaying construction of a public road connection to Duff Lane serving River Ranch Crossing and/or River Pointe Subdivisions until adequate additional capacity is available at the Duff/SH 44 intersection.

The TIS for River Walk Crossing states that both left and right turn lanes are warranted for the existing and 2025 build-out conditions at the Sawtooth Drive approaches to Middleton Rd. The proposed east Sawtooth Drive approach to Middleton Rd should not be placed into service (even for construction traffic) until these turn lanes have been constructed due to the existing high through volumes on Middleton Rd, and the potential for increased crash rates at the intersection. Construction of a roundabout at the intersection would replace the need for the auxiliary turn lanes.

Comments previously provided by CHD4 for River Walk Crossing (June 28, 2021) and River Point (May 27, 2021) are still applicable to these projects.

CHD4 requests the City Council and Planning & Zoning Commission consider these comments, and condition the proposed development to address impacts to the area's transportation system.

Please feel free to contact me with any questions on these comments.

Respectfully,



Chris Hopper, P.E.
District Engineer

CC: File: Middleton_Duff Lane- River Pointe Subdivision/ River Walk Crossing Subdivision

River Pointe

Exhibit "G"

WHITE PETERSON

ATTORNEYS AT LAW

MARC J. BYBEE
WM. F. GIGRAY, III
DAVID A. HEIDA
MATTHEW A. JOHNSON
JAY J. KIHHA **
WILLIAM F. NICHOLS *
BRIAN T. O'BANNON *

WHITE, PETERSON, GIGRAY & NICHOLS, P.A.
CANYON PARK AT THE IDAHO CENTER
5700 E. FRANKLIN RD., SUITE 200
NAMPA, IDAHO 83687-7901
TEL (208) 466-9272
FAX (208) 466-4405
EMAIL: mjohnson@whitepeterson.com

PHILIP A. PETERSON
WILLIAM L. PUNKONEY

TERRENCE R. WHITE
OF COUNSEL
WILLIAM F. "BUD" YOST
OF COUNSEL

* Also admitted in OR
** Also admitted in WA

August 9, 2021

To: Planning and Zoning Commission
City of Middleton
1103 West Main Street
Middleton, ID 83644
Hand-delivered at public hearing
Also delivered electronically to citymid@middletoncity.com

Public Comment: River Pointe (Remand)

Dear Commissioners,

We represent the Riverbend Place Homeowners, a group of concerned community members living adjacent and proximate to the proposed River Pointe annexation and development. Riverbend Place is located to the southeast of the 75-acre MU property and directly south of the 14-acre parcel proposed for annexation.

Since our previous comments are already on the Record and a part of your considerations, we will seek to keep this comment letter focused on particularly relevant items to this remand. We are also presuming that the Commission has been provided the comment letters provided to the City Council as part of the Record in this matter since these Applications were remanded.

The Commission Should Require a Fiscal Impact Analysis

The Applicant has still not provided substantial analysis or information supporting a finding that annexation of the 14-acre parcel is efficient and economically viable, or that the overall Project remains viable for orderly and efficient development of the City. The actual fiscal impacts of the Project still remain in question. Paraphrasing one City police officer who publicly commented at the Council hearing: how is the City going to be able to pay to for the public safety services needed for this Project when the City is already stretched trying to keep up with existing demand? These types of questions need to be professionally addressed, not assumed with blanket statements.

The impact of House Bill 389 on the fiscal impacts for the City also has still not been addressed. The 8% cap could definitely impact the City's ability to accommodate and handle growth with a project of this size.

The Commission should require a fiscal impacts analysis of the Project before proceeding to a recommendation on annexation of the 14-acre parcel or amendment of the

existing Development Agreement. This is well within the authority of the City to require, and is necessary so the Commission can actually ascertain the fiscal impacts this Project will have on tax revenues, costs for services, and provision of City services.

If Annexing, the City Should Zone the 14-acre Parcel as R-1.

The Applicant's request that the 14-acre parcel be zoned R-3 is a major jump in land use intensity, is not orderly, and is not in line with the nature of the surrounding area. An R-1 designation would be more appropriate for the character and development of this area.

It is important to note that this area is at the rural interface. The property to the north and east is agricultural. The Riverbend residential development to the south is low density, one-acre plus lots. This area should preserve an orderly transition from rural. Instead, Applicant's proposed zoning designation creates a dagger of higher density single-family residential – drastically altering the nature and character of this interface area.

R-1 zoning is more appropriate to preserve the nature and character of the City of Middleton and this area. R-1 would soften the transition area and help reduce and balance impacts that come with intensifying density. R-1 zoning is also more in line with the existing residential development to the south of the 14-acres. In particular, the traffic impacts – a major comment and concern in the proceedings to date – could be mitigated by lower density zoning of the 14-acre parcel. A R-1 zoning, as may likely be shown by a fiscal impact analysis, also more likely balances the increase in services and demands (such as traffic).

Please see our prior comment letters on this issue for further analysis. We strongly recommend if the City proceeds with annexation of the 14-acres that it zone the Property as R-1 (or at least R-2¹) to better preserve orderly land use transition. The preliminary plat should then be required to be updated to comply with this more appropriate zoning.

Another alternative would be to require an adjustment to the preliminary plat to reduce the quantity and size of lots on the south side of the 14-acre parcel. The purpose of such an adjustment would be to put such lots closer in line with the number and size of the Riverbend development to the south to provide for a more orderly and smooth transition into the much higher density to the northwest.

Traffic Impacts Still Require More Analysis

As discussed in previous staff reports, the development of utilities and traffic services for River Pointe are heavily contingent on other developments. This is problematic planning, as multiple contingencies come into play without clear assurances for access and safe travel.

We strongly recommend the Commission fully exhaust these contingencies, in particular the impacts if River Ranch does not proceed. The Commission should also more fully evaluate and ask for study on the impact of the connector/bypass road and particularly its interface with Duff Road and then on north to 44 or south to other potential routes or future routes. These impacts remain under-evaluated, particularly in light of information suggesting this route is now being considered as a potential bypass. Those issues should be more fully vetted and answered before approval of these Applications. At minimum, the Development Agreement still needs strengthening to address the traffic concerns.

Additionally, it appears clear that the traffic concerns and impacts as to Duff Lane have

¹ The River Walk Crossing Subdivision, the major development proposed to the west of River Pointe has R-2 zoning on its single-family residential areas that are more analogous to the River Pointe 14-acre parcel.

still not been fully evaluated and addressed. A condition should be added to the DA that specifically requires the Developer to comply with the recommended conditions of Canyon Highway District's May 27, 2021 comment letter (Exhibit C)

Additionally, the CHD correspondence identifies that there remain significant unknowns with respect to Duff Lane and that CHD has not yet fully vetted the TIS or completed its comments (Exhibit D). Therefore, the consideration and hearing of these Applications should be continued to a later date to allow the Commission to be fully vetted on CHD's analysis and position with respect to Duff Lane. Otherwise the Commission can only speculate on any recommendations. Speculation is not good practice.

The Development Agreement Should Require Buffering on the South Side of the 14-acre Parcel.

In order to mitigate the noise, light, and visibility impacts on neighboring properties, buffering in the form of a berm should be required on the south side of the 14-acre Parcel. This will provide for more orderly development and appropriate transition between these areas.

The conditions on stormwater/drainage should also be adjusted so as to provide that the berm buffer be designed so as to prevent drainage from the 14-acre parcel onto the neighboring properties. This will mitigate the significant concerns about the 14-acre parcel dumping its drainage and stormwater onto properties to the south.

Conditions addressing these should be recommended by the Commission for addition to the Development Agreement.

The DA Should Require Performance Commitments

The Project is installing certain infrastructure and improvements. In order to ensure that such is not only partially completed (and then left to the City as a mess to clean up), the DA should be updated to include language specifying that such infrastructure and improvements will require performance commitments (such as performance bonds or letters of credit) to ensure the full completion of the improvements. This is within the authority of the City to require, and is a best practice for ensuring timely and appropriate infrastructure completion for a development of this size and scope.

Further Specific DA Comments:

- A CC&Rs requirement with respect to the 14-acre parcel development should be included to ensure ongoing preservation and maintenance of that portion of the development (See Provision 3.9 which is only applicable to the townhomes portion).
- Provision 3.10 should be updated to include a berm requirement between the 14-acre parcel development and Riverbend to the south.
- Provision 3.11 should be updated as to the 14-acre parcel to accurately reflected a lower density zoning designation.
- Provision 3.13: Why is a potential development agreement amendment being allowed without a public hearing? This appears to be in conflict with Idaho Code.

- Provision 3.16 is sparse and of minimal effect. It requires merely a traffic study, with no provision for having to actually take any action to mitigate traffic impacts based on what the study shows. Traffic mitigation, particularly as to Duff Lane, needs to be much more specifically addressed with commitments to take actual action based on the results of any traffic study. At minimum, language should be added whereby Developer commits to comply with any ITD and CHD mitigation requirements identified as a result of the traffic study.
- Provision 3.28 needs to specify a deadline for the Phase 1 final plat approval. The provision should also require that if the deadlines are not met that the DA must also be amended (not just a new preliminary plat submission) so as to ensure the City an appropriate opportunity to discuss and potentially address all concerns caused by the delay.

For the reasons stated above, we encourage the Commission to reconsider the Staff Report recommendation and either directly amend, or table and direct staff to revise and amend, the Development Agreement and other components of the Application to address the above-designated issues before issuing the Commission's recommendations to the City Council

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Matthew A. Johnson', with a long horizontal flourish extending to the right.

Matthew A. Johnson

River Pointe Ex "H"

From: [Matthew A. Johnson](#)
To: [Steve Rule](#); [CITMID](#); [Carrie Huggins](#); [Rob Kiser](#); [Tim O'Meara](#); [Jeff Garner](#)
Cc: [Mark Hilby](#); [Becky Crofts](#); [Roberta Stewart](#)
Subject: River Pointe - Comment Letter
Date: Wednesday, July 7, 2021 10:37:54 AM
Attachments: [River Pointe - Middleton Council Comment Ltr on behalf of Riverbend.pdf](#)
[Council Comment Letter Attachment - PRR Email.pdf](#)

Dear Mayor and Council,

On behalf of the Riverbend Homeowners Group, please see the attached comment letter (and accompanying attachment as referenced in the comment letter) with respect to the River Pointe development applications. We appreciate and apologize that there is not more time between now and the meeting for you to review and consider this comment letter; unfortunately the timing of the letter is a product of the procedural circumstances and the attempt to provide comments that are more substantive based on actual up-to-date documents.

Your consideration is appreciated.

Matthew A. Johnson
WHITE PETERSON GIGRAY & NICHOLS, P.A.
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WHITE PETERSON

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July 7, 2021

To: Mayor and City Council
City of Middleton
1103 West Main Street
Middleton, ID 83644
Also delivered electronically to citymid@middletoncivty.com

Public Comment: River Pointe – Annex/Zone/DA/Preliminary Plat

Dear Mayor and Councilmembers,

We represent the Riverbend Place Homeowners, a group of concerned community members living adjacent and proximate to the proposed River Pointe annexation and development. Riverbend Place is located to the southeast of the 75-acre MU property and directly south of the 14-acres proposed for annexation and R-3 zoning. On behalf of Riverbend Place, we hereby provide the following comments and concerns regarding the subject applications (Applications).

We apologize for this comment letter being submitted at what will seem the last minute. Unfortunately, due to the scheduling of this hearing immediately after a holiday weekend and the fact that the relevant materials that allow for substantive comment (including for the first time the draft Development Agreement) were not available until just before that holiday weekend, there has been very limited time to prepare comments in a meaningful way.

If your time is limited, I recommend your focus be on the next section of this comment letter designated as *Procedural Issues*. That section alone will indicate that you should remand these applications back to the Planning and Zoning Commission.

Procedural Issues and Objections

There have been substantial procedural errors in the hearing process to date. These errors have caused substantial harm to the ability of affected parties to comment in a meaningful manner. Due to these errors, this matter should be remanded back to the P&Z level for corrective actions and a new hearing.

1. The Planning and Zoning process failed to comply with Middleton City Code.

Idaho Code §67-6511A ties a development agreement into the land use process at the zoning stage. Middleton City Code 5-2-1 (B) requires that when the Commission determines

a development agreement is contemplated but not presented that “the commission shall retain jurisdiction of the matter, defer consideration of the rezone requested and set a time limit for submittal of the development agreement.” Per Idaho Code, development agreement amendments (including a restatement, which is a significant and substantial re-writing of a DA) are to go through the same processes as an original development agreement.

In other words, the Commission does not proceed to make a decision or recommendation on a zoning application where a development agreement is involved until a draft development agreement is actually presented to the Commission for hearing. This is a reasonable requirement, as the conditions of a development agreement are critical factors in evaluating whether the zoning change is appropriate and protected. Similarly, the public and affected parties providing comments for such a hearing can not provide any meaningful comment if the terms of a development agreement are not actually presented and are mere suppositions and a mystery.

No draft development agreement was presented to the Commission or available to the public for comment for the June 7, 2021 P&Z hearing. Your Council meeting today is the first time the Restated and Amended Development Agreement is being put forth publicly.¹ For these reasons, and per Middleton City Code 5-2-1(B), these applications should immediately be remanded back to P&Z for a full and appropriate hearing in compliance with City Code.

2. This Council hearing was inappropriately noticed and held, in violation of Idaho Code §67-6509.

The Local Land Use Planning Act (LLUPA) requires that the Council wait to notice and act on an application until a final recommendation has been received from P&Z. Most applications contemplated under LLUPA, including as to development agreements, require public hearings in compliance with the same hearing procedures used for a comprehensive plan. Therefore, the generally applicable public hearing process statute is Idaho Code §67-6509.

Idaho Code §67-6509(b) requires that “[t]he governing board shall not hold a public hearing, give notice of a proposed hearing, nor take action upon the plan, amendments, or repeal until recommendations have been received from the commission.”

Pursuant to this state law, the City may not even notice the Council public hearing on these applications, much less act, until the Commission finalizes and issues its recommendations. As part of our public records request, submitted on June 30, we requested a copy of the final and signed recommendation of the Commission. We received the following response from the City Clerk’s office:

“Those documents [P&Z Findings and Recommendation] will not be approved, finalized and signed until the next regularly scheduled Planning & Zoning Commission on July 12, 2021.”²

¹ This Restated DA draft was not even posted to the City’s website with the alleged development packet materials. We were able to obtain this draft only slightly in advance of today’s meeting only because we were lucky on the timing of a public records request for application materials. It is likely fair to say no other public comment letters previously submitted by other parties were in any way able to be informed by the now-presented terms of this DA.

² A full copy of the e-mail response is attached if you would like to see the full context.

In the absence of the Commission recommendation, which has not yet even been approved and won't be even finally considered for another five days, the Council can have no concrete idea of the recommendations and determinations the Commission is even making. The problem is compounded, as discussed above, by the fact that the Commission has never even been presented a draft development agreement as required to evaluate and make a recommendation on.

For these reasons, and to comply with Idaho Code §67-6509(b), these applications must be remanded back to the Commission and the Council should not act, nor even hold or notice a public hearing, until the Commission recommendations have been finalized and received.

3. These procedural issues harm and impair the due process rights of affected parties.

Land use applications require duly held public hearings to preserve due process rights for the parties involved. This includes applicants, but also affected parties. The intent is to provide opportunity for meaningful review and comments to identify issues, balance interests, and preserve appropriate land use development. Idaho courts do review whether any alleged procedural issues actually cause substantive harm to the ability of an affected party.

On these applications, there is little doubt that the procedural issues have substantially impaired and harmed the ability of affected parties to meaningfully participate in the public hearing process. No meaningful opportunity to review and comment on the development agreement, a critical document, has been provided. P&Z has never even seen the DA, despite a City Code requirement saying they must. Additionally, other significant information relevant to P&Z review was missing – an objection we raised before the P&Z at its hearing.

Similarly, proceeding with a Council hearing – without first having the required P&Z Recommendation – is a violation of Idaho Code and means affected and commenting parties do not even know specifically what to comment about as there can only be supposition and speculation about what recommendations and conditions P&Z may even be presenting. This is poor and inappropriate process, and violates the due process rights of the parties involved.

Based on the above-listed procedural objections, the City Council should take no further action on the applications and instead remand this matter back to P&Z for full compliance with Middleton City Code 5-2-1(B) and the notice and hearing requirements of Idaho Code §67-6509.

Applications Comments

It is important to note that this matter is actually four applications. Idaho Code does allow for applications to be considered in combination, but each application still constitutes a distinct and individual decision. This distinction has been glossed over in many of the proceedings to date. At the June 7 P&Z hearing in particular, the Commission was essentially told they had to approve the applications in total because “they have to” in relation to the total development concept – despite commissioners asking questions and raising concerns specific to certain applications.

The Council (and the Commission) should have the role of carefully evaluating each

application in relation to its specific standards. The City does not “have to” approve things just because an applicant has tied them all together into one general development proposal. Indeed, the very purpose of the public hearings and the City review is to identify substantive issues that need addressing or refinement.

Additionally, the discretion afforded the City upon review varies by the type of application.

Annexation Application

Idaho generally consider annexation as a legislative act. That means the City is afforded maximum discretion to determine whether it believes it is or is not appropriate to annex additional land into the City.

This annexation application contemplates annexation of the 14-acre parcel. This 14-acres juts out like a dagger into the middle of the county bordering the City to the east. The dagger nature of this proposed annexation necessarily should raise questions about the fiscal and service burdens that may be imposed on the City.³

As part of its annexation application process, the City requires the Applicant to make a showing of the fiscal impacts (benefits and costs). All the Applicant has provided is a blanket statement in its May 5, 2021 application cover letter that “The property taxes post-development will provide greater tax revenue to the City than continuing the agricultural use.”

That statement is not a fiscal impact analysis. While the statement may have some truth to it, the statement overlooks that the annexation, zoning, and development of the property will also incur costs to the City to provide services to the area. The development increases demand on water, sewer, City facilities, roads, fire and police, and City services. There is no true analysis included in the application materials or staff review showing the interplay of the property taxes and the service costs.

A true fiscal impact analysis is a standard part of major development applications. It allows a city to more truly evaluate the balance between the benefits and cost of a development. A fiscal impact analysis is a necessary component for determining whether an annexation really is economical, efficient, and constitute orderly growth.

The interplay of the 14-acre annexation with the 74-acre MU parcel is further reason a true fiscal impact analysis should be required. There is no showing in the record that a true fiscal impact analysis was done for the original 74-acre annexation. Even if one may exist, such is now outdated as that decision and development agreement is fifteen years old. An update, reflecting the current state as well as the addition of the 14-acres, is a critical tool the Council should require to truly be able to evaluate whether this constitutes orderly development.

The Applicant should be more than willing to conduct such a fiscal impact analysis as part of its application. If Applicant’s blanket statement is true, then the fiscal impact analysis can provide a true showing of the fiscal benefits of this development. This would be much more concrete evidence than just trying to sell the development as pretty on paper because it contains walking paths and fills in a large portion of the city with small homes.

Of additional importance, the City should require a fiscal impact analysis due to the unknowns and uncertainties created by House Bill 389. This legislation, passed by the State

³ Idaho Code §50-222, Annexation by Cities, specifically contemplates that a city should review a proposed annexation for whether it provides for “orderly development” and can “allow efficient and economically viable provision of tax-supported and fee-supported municipal services.”

Legislature this past session and of immediate effect, places significant constraints on the City's ability to recognize tax revenues from new construction. The uncertainties surrounding HB389, and how it may impair cities' abilities to fund and provide services, has caused many cities in Idaho to reconsider and even pause evaluations of new development. The City of Middleton would be highly advised to take note of HB389 and its potential impacts, particularly in relation to a proposed new development like River Pointe. Again, requiring a full fiscal impact analysis may go a long way to addressing some of these unknowns and uncertainties.

Zoning Application

The 14-acre parcel proposed for annexation is proposed to be zoned as R-3. The City Council should instead zone the parcel as R-1.

A lot of discussion has already been had about the Comprehensive Plan as it relates to zoning. First, it is important to note that a comprehensive plan is merely guidance. Second, all the parties have identified that the current Comprehensive Plan land use designation for the 14-acre parcel is obsolete. The Applicant admits as much, including that they were informed of such by City staff, in their original applications. The Comp Plan currently identifies this area as transit-centered or transit-oriented, but everyone has recognized that designation was put in place when a different approach was contemplated for this area. That approach has been rendered obsolete by regional changes to transportation plans, including Valley Transit moving away from a concentrated transit approach.

Essentially this means the Comprehensive Plan should more or less be considered as lacking a current designation for the 14-acre area. A look at the surrounding area though, even as identified in the Staff Report, makes clear that this area is a rural-urban transition zone. With the 74-acre parcel already slated for some more intensive urban, mixed-use style development, it is even more important that the surrounding areas, particularly to the east, be contemplated for an orderly and appropriate transition from rural to urban.

A R-1 zoning is more appropriate to preserve the nature and character of the City of Middleton and this area. R-1 would soften the transition area and help reduce and balance impacts that come with intensifying density. R-1 zoning is also more in line with the existing residential development to the south of the 14-acres. In particular, the traffic impacts – a major comment and concern in the proceedings to date – could be mitigated by lower density zoning of the 14-acre parcel. A R-1 zoning, as could likely be shown by a fiscal impact analysis, also more likely balances the increase in services and demands (such as traffic).⁴

Development Agreement

Development agreements, by Idaho Code, are connected to zoning decisions on a property. On these applications, the development agreement is therefore relevant as it is restating and amending a development agreement already required and in place in on the 74-acre parcel. Additionally, an additional development agreement – or addition to the existing development agreement, is contemplated in connection with the annexation and zoning of the 14-acre parcel.

It is very hard to substantively comment in full on the draft development agreement at

⁴ Our clients are also quite frustrated on the now proposed R-3 zoning application as it flies in the face of representations made them at the neighborhood meetings, a process infused with confusion due to the Applicant's shifting plans and statements.

this time due to lateness in which a draft was made publicly available and the fact that no development agreement has ever been presented at the P&Z level. However, the following preliminary comments immediately jump off the page.

- There are no timelines or deadlines designated in the draft DA. The DA would essentially entitle the development in perpetuity (a mistake that also appears to have been made in the now very-dated 2006 DA). Best practice would be for the City to require incorporation of some timelines and deadlines into the development agreement to ensure timely and orderly development. The recession, and accompanying development stall, in the 2007 time period should have been a lesson to all cities about the dangers of development entitlements without some requirements as to timing. A failure to include benchmarks and deadlines leaves the door open for vacant, unfinished neighborhoods – with little recourse for the City to take to require action on either development or a re-evaluation of the entitlements. Development entitlements in perpetuity are problematic. At minimum, the DA should include a maximum length of years for which it is in effect – thereby ensuring there are checkpoints where the City can apply more current updated standards if the development does not proceed according to anticipated schedule.⁵ Better yet would be to outline a timeline of phasing and accompanying improvements, with performance guarantees – such as bonds, on certain improvements. None of that is currently included in the draft DA.
- A development agreement for the 14-acres should be required to incorporate and ensure the timely development of appropriate mitigation and buffer techniques. This should include items like the no-parking requirements and ongoing maintenance of such signage, as well as the addition of buffering techniques between any development on the 14-acres and the existing residential properties to the south – such as berming and/or screening.
- The Staff Report identifies that the 2006 Development Agreement for the 74-acres is quite outdated and old at this point. While some initial work appears to have been done between staff and the applicant to negotiate on some updates, such as on setbacks, further careful attention should still be required to ensure the Restated DA is up to current standards (such as the timeline requirements as commented above). Additionally, the City should see this as an opportunity to address flaws that may have existed in the original 2006 DA. The Applicant has made the decision to seek re-opening of the DA so as to get some benefits such as reducing street size. Similarly, the City should be able to evaluate and seek some refinements to improve the City's ability to manage and provide services – in particular by incorporating more clear conditions on the traffic improvements to be installed and even more importantly the deadlines for doing so. As currently drafted the DA leaves much of those issues unaddressed, including unknowns as to when significant issues (like whether the Sawtooth Road connector) will be evaluated and determined for next steps based on outside circumstances such as the River Walk development proposal. There needs to be additional attention and refinement to set specific triggers or dates that these decisions are made, so such do not linger in perpetuity with no direction.

⁵ A reasonable developer should have little trouble in negotiating to an agreeable timeline. As an additional protection, a developer always has the opportunity to seek a development agreement modification to seek to extend out timelines if factors, such as general economic circumstances, require refining and re-thinking the original schedule.

- Duff Lane and street improvements and frontages associated with such require more careful attention and addressing in the DA. The current language (DA Provision 3.14) pushes any direction on Duff Lane out until Phase 8, which is very uncertain. Additionally, there is nothing that addresses how Duff Lane is handled and the traffic issues mitigated under the circumstances where Phase 4 leads to Duff Lane becoming a major outlet for traffic (something that may happen depending on how River Walk proceeds).
- While we are glad to see a draft development agreement finally presented publicly, significant additional time and refinement is necessary to allow for meaningful public comment and input, as well as to ensure the development agreement is actually up to contemporary standards. This should start with a remand of the applications, now with a draft DA, back to the P&Z Commission for proper consideration required by City Code and as should have been done originally.

Preliminary Plat

There is so much in the way of concern and uncertainty on the other applications, that meaningful comment on the Preliminary Plat is difficult. So much may need to be adjusted or changed still based on the direction from the other applications, particularly zoning. At minimum though, our clients want to strongly encourage the Council to push that any preliminary plat for the 14-acres incorporate substantial buffering or screening between that parcel development and the River Bend subdivision to its south. This is necessary to mitigate the light, noise, and visibility impacts between the neighborhoods in this rural-urban interface area.

At this point we want to include a comment previously made in our comment letter to P&Z and which remains appropriate for Council consideration. These comments are also applicable to the timing and way in which the Council packet materials and additional application materials, such as the draft DA, were made (or not made) available for public review and input.

Please note the following comment discusses a continuance of the hearing, as it was drafted for the P&Z level. It is recommended that the more appropriate step for the Council would be to actually remand the applications back down to P&Z for a new hearing.

The scope, scale, and timing of the Applications and supporting material require appropriate time to digest and comment.

Prior to last Friday, the City had only made available on the website the River Pointe Master Land Use Application, dated May 5, 2021. Prior to that Application, there had been multiple and different conceptual plans presented by the Applicant to neighboring property owners. This is one of the reasons that there ended up needing to be three neighborhood meetings. The shifting goalposts of the project is also a concern the Commission can see throughout many of the public comments submitted to date.

The Staff Report, including substantial additional new information related to the Application, was not posted and made available to the public until late afternoon on Friday, June 4, 2021. It is completely understandable that this is a complicated project that would require substantial time for City staff to review.

However, the complexity and significance of this Project also are a reason there can be no rush in deliberations.

The ability of affected parties to meaningfully participate in the process also requires reasonable time and process. That so much additional information and the staff analysis was not publicly available until just over 72-hours prior to the public hearing substantially impairs the ability of the public to meaningfully comment and participate. It also means that many of the public comments already submitted are based on outdated and/or incomplete information, which undermines the ability of such commenters to fully present their concerns and items of interest.

There is a substantial amount of new information now available about this project – with more to come due to the missing and incomplete information. At minimum, this necessitates a continuance of the hearing, so as to allow the information to be fully presented and digested by all parties, including the Commission, so as to provide meaningful due process.

Traffic

The following comment was provided to the P&Z, and we feel remains relevant for Council consideration:

Traffic Impacts Require More Scrutiny and Analysis

As discussed in the Staff Report, the development of utilities and traffic services for River Pointe are heavily contingent on other developments. This is problematic planning, as multiple contingencies come into play without clear assurances for access and safe travel.

We strongly recommend the Commission fully exhaust these contingencies, in particular the impacts if River Ranch does not proceed. The Commission should also more fully evaluate and ask for study on the impact of the River Street connector road, and particularly its interface with Duff Road and then on north to 44 or south to other potential routes or future routes. Many of the public comments submitted as of the date of this letter already have referenced these concerns, particularly as to Duff Lane and Duff Pond. The traffic analysis must go beyond simply looking at how River Street will connect with Duff Lane, and instead be more comprehensive in evaluating the impact and improvements to Duff Lane itself. For efficiency we will simply refer to such again here and add our voice in support of those concerns as a reason for denial or delaying of deliberation on these Applications until these traffic issues are better analyzed and resolved.

Additional Comments

The following are additional miscellaneous comments previously submitted in our letter to P&Z and that remain relevant for the Council.

- It is alleged that there will be no driveway access to Yukon Street. A

review of the plat for the 14-acres though reveals that Lot 16 is essentially just a shared driveway, which does indeed interface substantially more similar to a driveway than a public road onto Yukon.

- Phasing was a new concept introduced with the Staff Report on Friday, and not clearly included in the Master Land Use Application previously available. The phases, and in particular where such phasing may be tied to the timing of required conditions, requires much more time to reasonably evaluate and comment. This again supports the argument for a continuation of the hearing and to better incorporation as conditions in the DA.
- The Staff Report references “variances.” See *Staff Report Sections K and L* in particular. However, there were no applications for variances as part of the Master Land Use Application; nor is there any analysis in the Staff Report of how the City Code on variances should be applied to this situation. This raises major concerns about whether variances are being adopted without appropriate procedure.
- In addition, Section L of the Staff Report is troubling in that it seems to suggest that these variances are an issue of compromise whereby the City settles for lower setbacks than standards require. It is the Developer who is bringing forward these new applications and seeking approvals for modifications and additions, including a substantial new 14-acre annexation and development. This is not a situation where the City should compromise on its standards, but instead should be looking to improve the Project and its impacts by using the opportunity to bring the Project up to current standards after a fifteen-year delay.
- It should be clarified how the development recreational facilities are being made available for public use. In particular, how are things like pickleball courts and swimming pools being maintained and made available on an ongoing basis. Will ownership be transferred to the City? How will the City pay for such if that is the case? Or how will the public access/use be preserved if the facilities are owned/maintained by a private entity or entities?

Conclusion

The Riverbend Homeowners Group understands that development will occur in this area and that there will be some transition of this area. However, it is imperative that the City take into careful consideration how such development occurs in an orderly and safe manner with appropriate buffering and transition. The Project as currently proposed does not satisfy the goals or criteria of orderliness and transition.

For the many reasons and questions stated above, as well as the many submitted in other public comments to date, we hereby request that this Council deny the Applications, in particular the annexation and zoning of the 14- acre parcel. In the alternative, based on the procedural and substantive issues highlighted above, we strongly recommend that this Council remand this matter back to P&Z for complete submission of required materials, further development of the Record, and full and appropriate deliberations as required by city code and state law.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Matthew A. Johnson', with a long horizontal flourish extending to the right.

Matthew A. Johnson
for Riverbend Homeowners Group

Bari Smith Ex "I"

July 1, 2021

Mayor Steve Rule
City Council President Rob Kiser
City Council member Carrie Huggins
City Council Member Jeff Garner
City Council Member Tim O'Meara

City of Middleton, ID

**RE: Comments on June 7, 2021 Planning and Zone Meeting
River Pointe Subdivision**

We are Sterling and Lori Smith, residing at 10079 Riverbend Place, Middleton, ID. Our property is located east of and adjacent to the proposed 75 acre River Point Subdivision, and south of the proposed 14 acres.

We were in attendance at the June 7, 2021 Planning and Zoning Meeting and have listened to the audio tape as well to fully grasp the content and tone of the proceedings. We urge you to review the audio tape as well as there were several improprieties, some of which are outlined below, along with questions that were asked at the meeting but not answered:

Discriminatory Action with regards to Comment Letters received day of P&Z meeting

- Sterling Land Development
 - City Planner stated 2 Property Owners have requested denial of the project
 - "I need to get those into the record as Exhibit A"
 - Letters were given to Commissioners: they took ~ 7 minutes to read
- River Point Subdivision
 - In middle of City Planner's Staff Report, she stopped to insert a "little note" that an attorney has been hired to present tonight and just today we got a, I think a 5 page letter, opposing this subdivision. She then refutes the first three points in the attorney's letter but does not add the letter to the Record at that time or give to the Commissioners to read
 - She continues with her Staff Report for 3 more slides
 - She comments that a lot of comments came in today and so I need to put them into the record as Exhibit C
 - She need proceeded to state that "You are under no obligation to sit here and read them, there are a lot".

We believe that the City Planner's actions and comments towards the letters received on the River Point Subdivision were discriminatory in that she allowed the Commissioners to read letters during one Public Hearing but told the Commissioners that they were under no obligation to read the letters during another Public Hearing. We also believe that the City Planner's actions showed her bias towards approving the River Point Subdivision without all the required reports available for review.

Misleading Statements

- City Planner stated that the Comprehensive Plan required a Collector Road and Transit Station;
Isn't the Comprehensive Plan set as guidelines to be revised as conditions change?
- City Planner stated that north of the Proposed high density 14 acres is also high density, across Highway 44.
That is a true statement but she omitted to state that there are low density homes between the 14 acres and Highway 44. In fact, there are 26 homes with lot sizes ranging from .4 to 10 acres, on a total of 33 acres. The Proposal for the 14 acres is 26 houses on 14 acres.
See attached map
- City Planner stated that the Deputy Chief had verbally approved the application and that will be noted in his written report.
While her statement that he has verbally approved the application could be true, she can not give the Commissioners the guarantee of what his written report will state. The Commissioners should have the benefit of all the facts prior to approving a project. The report should not be dismissed because the Fire District is "too backed up".
- City Planner stated that the Collector Road (Yukon Street) is required by the Comprehensive Plan to alleviate the traffic on Highway 44 and is to provide an alternate route from Middleton Road to Duff Lane.
How can the addition of ~400-500 cars added to the Collector Road from the proposed 75 and 14 acres project and the proposed developments to the west of the 75 acres (River Ranch Crossing-on the P&Z meeting 7/12/21) dead-ending into Duff Lane at Duff Pond, a two lane county road, alleviate the traffic on Highway 44?

Is there a plan for continuing the Collector Road through to the east? This would require purchase of private rural residential and agriculture property.
- Applicant has stated that the project's services will pay for themselves but has not provided any accounting information to back up that statement.
This statement was made on the application prior to the passing of HB389 which now limits the increase on a City's budget for services.

Contradictory Statements

- Transit Station
 - City Planner stated the Comprehensive Plan requires Transit Station
 - Applicant is requesting for a Zoning Change from Transit Station to Residential
How can the Zoning Change be approved if a Transit Station is required?
- River Walk Loop
 - City Planner stated that the River Walk through the proposed 75 and 14 acre subdivision is something "all public can enjoy"
 - Applicant's Representative, Jon Breckon of Breckon Land Design, stated that the pathways through the 75 and 14 acres are not open to the public
How can both of these statements be true?
- Traffic Impact Study (TIS)
 - 1st application was dated 9/20/20 and included a TIS
 - 2nd application was dated 3/11/21 and included a revised TIS dated 4/14/21
 - 3rd application was dated 5/5/21 with changes made by City on 4/23/21 for the addition of a Collector Road as required by the Comprehensive Plan
Shouldn't the TIS be revisited again with the addition of the Collector Road?

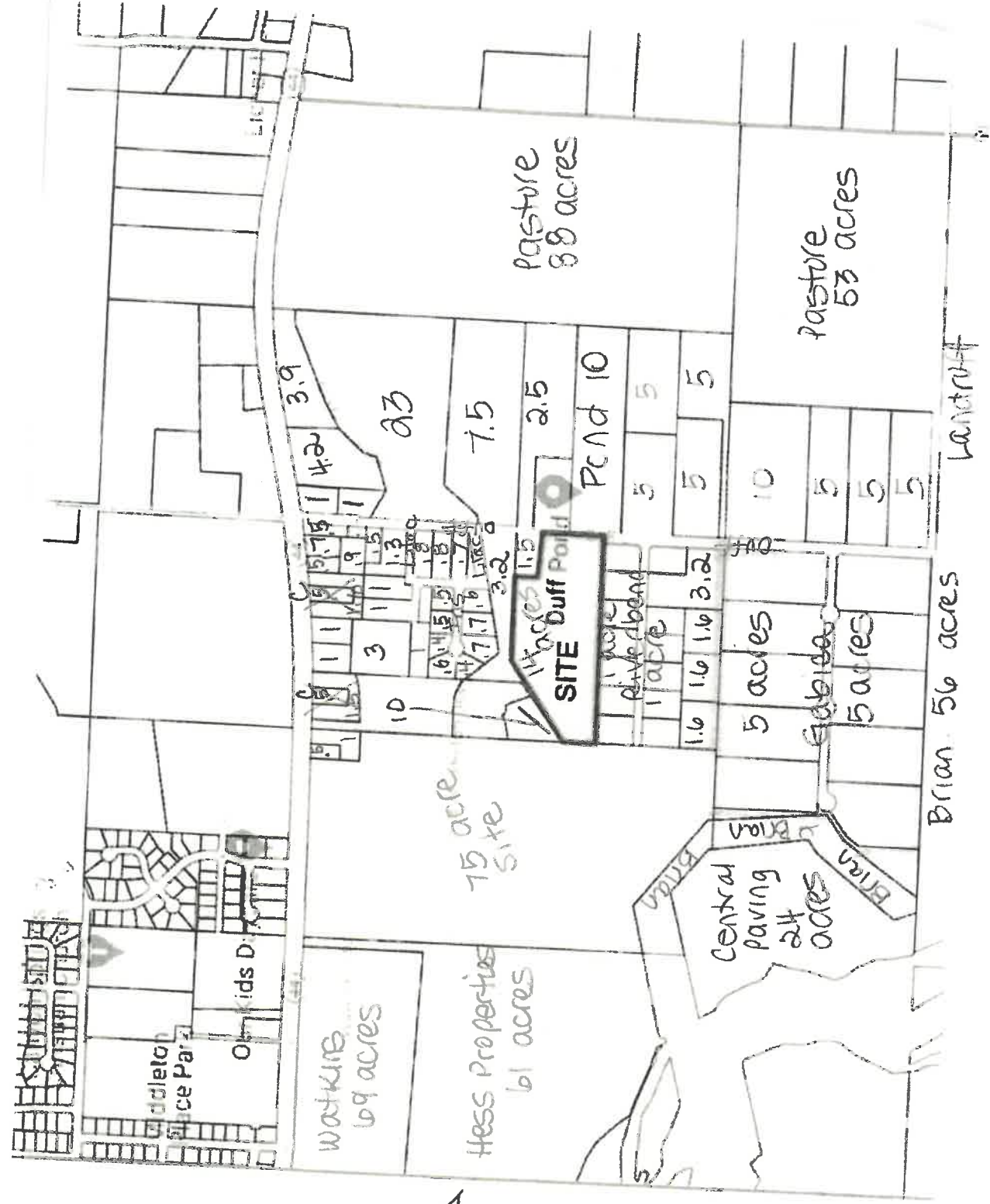
Respectfully, it is not our Intent to stop any of the Proposed Developments plans for the City of Middleton. We believe, however, that this project is such a large scope with many reports missing from key agencies that prudence should prevail in allowing everyone's concerns to be addressed and questions to be answered rather than rushing through the process.

Sincerely,

Sterling and Lori Smith
10079 Riverbend Place
Middleton, ID 83644

Enclosure



River Pointe Ex. "J"



June 14, 2021

Armindo and Maria Fernandes

10076 Riverbend Place

Middleton 83644

Re: Complaint regarding Staff on 6/7/2021 planning and zoning meeting.

Mayor Rule, after attending the planning and zoning meeting on 6/7/2021 I had to take a few days to absorb and try to make some sense of staffs' behavior, actions and comments that I find to be very biased and unprofessional.

My wife and I along with a few neighbors decided to hire representation for this meeting due to early conversations with staff in which we felt were not going anywhere and that our concerns and questions were not important. Ever since, staff has taken the attitude that nothing, we have to say matters and appears to have developed a I will show attitude with an axe to grind, and a vendetta towards the group and neighborhood, that was in full display at this meeting.

Staff took a completely different tone and attitude when this item came up on the agenda, with an overly aggressive /dictator like demeanor with, not guidance to the commissioners, but leading instructions that this needed to be approved. "it was noted by staff that several letters of the opposition have been received but commissioners need not read them all, especially the one from the attorney because it was just a lot of legalese and mumbo jumbo" one of the commission members was struggling with approving, had a problem with traffic routing but was coursed by staff to "just approve everything so they didn't have to come back to this".

One of the commissioners felt the need to make a comment as they were deliberating "I must say the attorney did not move me at all one way or the other" with commissioners' quest to be neutral and fair, perhaps remarks like this would be better if kept to themselves, yes we oppose the project, but found this meeting to be very biased with a clear axe to grind. A lot of hostility towards the group and above all very unprofessional.

My wife and I clearly feel that if tax paying citizens questions and concerns are not important enough to be heard much less addressed, then city should not be so quick to take our tax dollars.

Respectfully:

Armindo Fernandes

Maria Fernandes

707-656-9191

River Pointe Ex "K"

June 16, 2021

Mayor Steve Rule
City of Middleton
1103 W. Main Street
Middleton, ID 83644
E-Mail: srule@middletoncity.com

RE: Riverpoint Subdivision
Planning and Zoning Meeting – June 7, 2021

Dear Mayor Rule:

I attended the Planning and Zoning Meeting on June 7, 2021 as a concerned neighbor of the above-mentioned subdivision that is being developed. I write this because of the inappropriate behavior, bias and hostility of the City Planner, and members of the Committee towards its citizens during that meeting. I feel that the City Planner and the Committee had already made up their mind before everyone spoke and that they had not considered the citizens' side of this issue at all. I don't know if anything can be done, but I am outraged about the events that took place.

Weeks before this meeting Ms. Stewart told me that people will only have three minutes to address the Committee, after that we will be told to stop. She told me that if there was a large group that the Committee would rather have one person speak on their behalf because if the Committee hears everyone speak about the same thing, they will just tune them out. When I asked her about when our response letters would be due she told me she would accept them right up to the date of the meeting. So we found one person to represent us and that was an attorney.

As I sat in the front row of the meeting Ms. Stewart told the Committee that response letters had arrived that day, one being from an attorney. She told the Committee that they didn't need to bother to read the letter because it just was a lot of "legalese and blah, blah, blah".

I can only assume the Committee did not read any of the other letters that arrived that morning, and maybe even others that were submitted before. Ms. Stewart spoke about points in the letter submitted by our attorney telling the Committee all the things that they should not be concerned about even before our attorney was given the chance introduce himself and discuss our concerns.

However, it should be noted that the application that was presented before ours, she gave the Committee late letters from neighbors for the Committee to read.

Our attorney was given only 10 minutes to speak and said that he would not be addressing the traffic issue because of the time constraint.

After our attorney's presentation Mr. Waltemate said that public comment would be heard from *others that were not a part of the group our attorney was representing.*

The committee then took comments from others including the developer Mr. Burnett. Mr. Burnett presented character witnesses on his behalf - a realtor and another developer who both would financially benefit if this project goes through. Ms. Stewart gave a slideshow presentation and which listed *some* but not all of the concerns that were expressed by the neighbors and our attorney in their letters. She included other development in the future straying from the application at hand. Clearly this was an attempt to sway the Committee by telling them that this application had to be submitted so we can have this beautiful subdivision that Mr. Burnett is planning. Her facial expression was happy and her voice upbeat as she spoke about Mr. Burnett's application but somber and cautious when she spoke about what our attorney presented.

Committee member Jackie Hutchinson, listened to all the other people that spoke and when it was all done Jackie said to our attorney with a scowl on her face and pointing a finger at him "I wasn't impressed or swayed by your presentation at all" in front of everyone in the meeting. She then said something to the effect of "you didn't do anything for them". I assume she means his clients, which is our group. She did not single out anyone else from the developer's side to voice her opposition to anything they said. This attack on our attorney was inappropriate, insulting and displayed outright contempt and bias on her part.

I was shocked at the beginning of the meeting when Ms. Hutchinson asked the other Committee members that "if there are no variances with an application we don't have to have a Planning and Zoning meeting on them, right?" Clearly she doesn't know the workings of a Planning and Zoning hearing or procedure.

At the end of the public comments, Commissioner Ray Waltemate voiced his concern about the Duff Lane traffic and safety issue during the discussion phase with the Committee. With waiving hands in the air Mr. Waltemate was saying "traffic, traffic, traffic! It's always about traffic!" He was clearly frustrated and then said something to break the tension in the room that made everyone chuckle. Ms. Hutchinson immediately said in a firm voice "that's not funny" pointing her finger and chastising everyone in the gallery.

Ms. Stewart continued to manipulate and prod Mr. Waltemate to just approving everything in the application so that they would not have to deal with this anymore. She leaned in toward him, spoke softly with a concerned look on her face, all the while stating "nothing is going to change", "you only have one option". In our attorney's letter, there were options that Planning and Zoning could take but that information was withheld by Ms. Stewart. He kept saying he just wasn't comfortable with it and his back was against the wall. But Ms. Stewart just kept manipulating him until he caved. It reminded me of a timeshare salesman saying you can't leave this room until you sign this. He could have continued the meeting until he had a chance to consider all sides before making a decision on the application.

Janet Gregory didn't say anything during the meeting and just kept holding up her index finger attempting to silence people in the meeting.

Since Ms. Stewart is a former attorney I find her bias and unethical, prejudicial actions towards the citizens voicing their concerns on development. Her willful withholding of information to

the Committee disturbing to me. She should be held to a higher standard with her background to working in the interest of not only the City of Middleton, but its citizens as well.

This is an extremely large development that is taking place and it should be looked at with careful consideration by the City. It will forever change the character of Middleton and the lives of the citizens who live here. I believe that development does have to happen to make Middleton thrive and prosper. But that development should not be left to people that only seek what their vision of that development should be and ignore or oppress the people who live here just because they are in a position of power to do so.

Thank you for your time and attention to this matter.

Regina Henley
1005 Riverbend Place
Middleton, ID 83644

cc: Carrie Huggins (chuggins@middletoncity.com)
Rob Kiser (rkiser@middletoncity.com)
Tim O'Meara (tomeara@middletoncity.com)
Jeff Garner (jgarner@middletoncity.com)

River Pointe Subdivision

Annexation & Rezone / Preliminary Plat / Development Agreement Modification / Comprehensive Plan Map Amendment



Project Description:

As you may recall, River Pointe is a Subdivision with (a) 7 commercial lots, (b) 92 single family homes, (c) 28 "Garden/Patio homes" for 55+ homebuyers, (d) 39 Garden Homes not for 55+, (e) 30 single story townhomes for 55+ homebuyers, (f) 85 two-story townhomes with no 55+ restriction, and (g) 44 common lots on 88.5 acres of vacant land located at 10481 Highway 44 and 0 Duff Lane.

The project includes numerous amenities such as swimming pool facility, five pickleball courts, large playground, community ponds, large greenspace common lots, and lengthy 10' wide pathways that will connect to a large city-wide "River Walk Loop" planned for the City of Middleton.

On June 7, 2021, this Commission conducted a public hearing on Applicant's applications for: (1) Annexation/Rezone, (2) Preliminary Plat, (3) Development Agreement Modification, and (4) Comprehensive Plan Map Amendment. After closing public comment, the Commission recommended to City Council approval of the four applications with the conditions of approval set forth in the Staff Report for the June 7th public hearing.



14 acre
Duff Parcel

OVERALL SITE PLAN

0 100 200 300 400 FEET

Remand from City Council:

On July 7, 2021, Planning Staff presented the four applications and the Planning & Zoning Commission's recommendation to City Council at a public hearing. After considering all the Findings of Facts and Conclusions of Law, City Council remanded the four applications back to the Planning & Zoning Commission to consider three specific things:

-



A. Development Agreement Modification:

At the July 7, 2021, City Council public hearing, the attorney for the neighboring Riverbend Ranch subdivision argued that Planning Staff had presented the Amended DA terms to the P&Z Commission in an improper format. I had chosen to inform the P&Z Commission of the specific DA provisions by simply setting forth the terms in the Staff Report in a descriptive manner. The Riverbend attorney argued that this violated City Code because all the provisions should have been set forth in "contractual format" in a separate Amended DA.

Although Planning Staff and the Middleton City Attorney disagreed with Riverbend's attorney, in an over abundance of caution, the City Council chose to remand the applications back to the P&Z Commission for reconsideration of the Modified DA after it had been formatted into "contractual format" using the City's template.

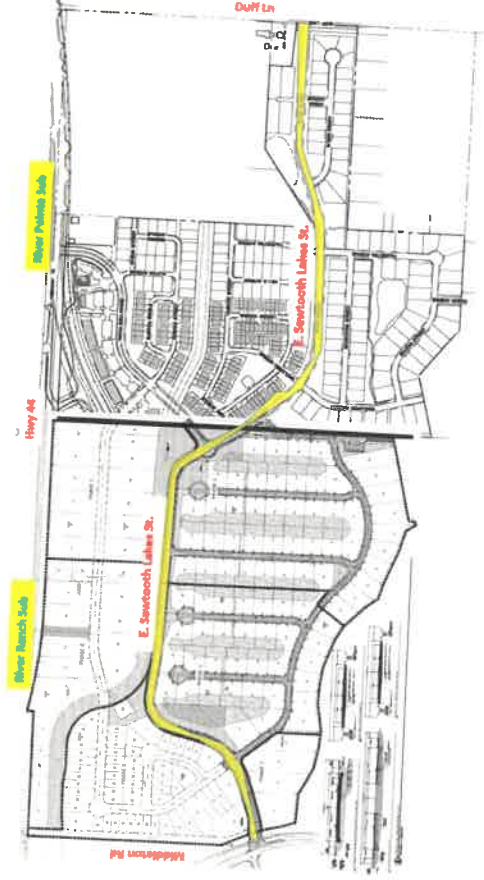
Now that this Commission has had a chance to review the Modified DA (aka Reformed and Restated DA) as set forth in your packet last week, this remand will remove any allegations that there is a violation of City code.

It will also serve another purpose. Since the time of the P&Z hearing in June, it became clear that there were more provisions that needed to be added to the modified DA to protect both the City and the Developer. This remand provided the opportunity to "go backwards" and place those additional provisions in the proposed Modified Development Agreement. The additional provisions can be found at paragraphs 3.2, 3.8, 3.9, 3.24, 3.25, 3.26, 3.27 and 3.28 of the Modified DA.)

FINDINGS:

Planning Staff finds that the modified Development Agreement is still in harmony with the Comprehensive Plan's Goals, Objectives & Strategies as specifically set forth in the Staff Report for the June 7, 2021, public hearing.





Duff Lane Considerations:

As the P&Z Commission may recall, both the River Pointe Subdivision and the adjacent River Walk Crossing Subdivision involve the construction of a critical east/west street that is intended to relieve some of the traffic pressure off of the downtown Hwy 44 corridor. The roadway known as E. Sawtooth Lakes Street has been shown on the Comprehensive Pan Maps since at least 2016, and it will be one of many local roads that will help move traffic east and west through the City of Middleton.



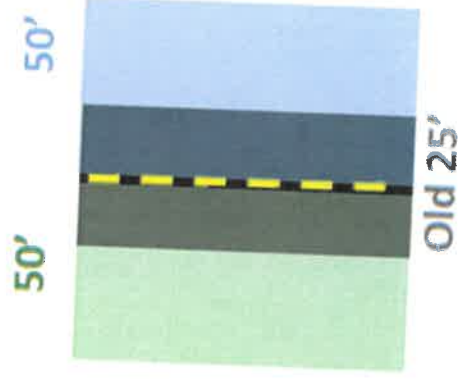
At the City Council public hearing on the matter, members of the public voiced concerns about whether Duff Lane and the intersection at Duff Lane and Hwy 44 have the capacity to handle the traffic that would be crossing back and forth on E. Sawtooth Lake Street. For this reason, City Council remanded the River Pointe applications back to the P&Z Commission to consider the future planning for Duff Lane and to consider how it affects the current applications. City Council further tasked Planning Staff with gathering information from Canyon Highway District #4 (CHD4) on future planning for Duff Lane.

CHD4 has considered the River Pointe preliminary plat two times. In their first comments dated 5/27/2021, CHD4 set forth their typical comments regarding the need to collect proportionate share fees and recommendation that all street improvements be dedicated to the City. After the City Council hearing, planning staff contacted CHD4 for updated comments, if any, on Duff Lane. CHD4 responded to the request on July 13th and also late in the day on August 5th. CHD4 stated the following:

1. CHD4 is not planning on widening the capacity of Duff Lane in the next 10 years.
2. The River Pointe and River Walk Crossing subdivisions will have "significant impacts" on surrounding intersections, including the Duff Lane and Hwy 44 intersection. Most of the affected intersections are on the Mid-Star Traffic Impact CIP, but the planned improvements will lag behind the development because Traffic Impact Fees are collected at building permit.
3. CHD4 objects to the removal of the Hwy 44 alternate bypass.
4. If the Hwy 44 bypass is removed, the River Pointe subdivision Traffic Impacts should be reevaluated.
5. CHD4 recommended additional sources of funds to improve roadways and intersections prior to the development of River Pointe.

Although City Council specifically requested Planning Staff to obtain information from CHD4 on plans for future improvements to Duff Lane, it should be noted that CHD4 is not the agency typically tasked with improving or constructing roads. Its main responsibility with respect to roads in and around Middleton is to maintain the roads once they are built and improved by others. In Middleton, roads are primarily built and improved by Developers. As projects are approved and begin to develop, the Developers, at their own cost, improve ½ portions of the roadway fronting their respective projects. For instance, the River Pointe Developer, at its own cost, will widen Duff Lane by approximately 37' along all frontage areas. This will include widened paving, curb and gutter, and sidewalks. As other development projects begin construction along Duff Lane, Duff Lane will get improved along their frontages until Duff Lane is eventually complete and widened to the 100' width required by the City.

Developer will also construct needed improvements along Hwy 44, at its own cost.



The bottom line is this: Developers are the primary way that needed infrastructure is built. Developers must pay for any impacts on the surrounding community by improving the roads, utilities, parks...etc., so that the taxpayers are not burdened with these improvements.

A second very important way that Developers help build the needed infrastructure in Middleton is through Traffic Impact Fees and Traffic Proportionate Share Fees. Under the new Mid-Star Traffic Impact Schedule, the River Pointe development will pay \$1,383,700 traffic impact fees for improvements to surrounding intersections and roadways (274 residential lots x \$5050). It will pay approximately \$70,000 to \$100,000 impact fees for the seven commercial lots. These fees are collected at Building Permit issuance.

In addition to this \$1.4 million in Traffic Impact Fees, Developer will pay further "Traffic Proportionate Share" fees for impacts on a variety of intersections not covered by the Mid-Star Traffic Impact Schedule. ITD will be re-reviewing these fees if the Mid-Star Impact Schedule is approved by City Council in the near future. Although not clear right now, the total traffic fees this developer will pay to improve local intersections and roadways could total approximately \$2 million.

Part of that \$2,000,000 will be allocated to improving multiple intersections along Hwy 44, including the intersection of Duff Lane and Hwy 44. The timing for that improvement work, however, remains to be seen. The decision will be made primarily by ITD as it determines the priority of improvements, although Middleton and CHD4 could weigh in on that decision too.

FINDINGS:

The Commission must determine whether the additional information provided by CHD4 shows that that the preliminary plat will be materially detrimental to the health, safety and welfare of Middleton residents. Planning Staff finds that there are some burdens on the Citizens of Middleton due to the fact that improvements from Traffic Impact & Proportionate Share Fees necessarily lag behind the impacts since the fees are collected at building permit or final plat. But the fees have been designed to ultimately remedy the impacts caused by new development. The formulas are based upon that goal and criteria. The more development, the more fees are collected. It's a sliding scale. Therefore, ultimately, the River Pointe subdivision will not be materially detrimental to the health, safety and welfare of Middleton Residents because it will have paid all fees determined by CHD4 and ITD to eradicate those impacts. If the developer's \$2,000,000 traffic fees do not pay for its impact on the roadways, then CHD4 should reevaluate the formulas used in the Mid-Star CIP and ITD should revisit their Technical Conditions memos setting forth the amount of Proportionate Share fees due.

Finally, no new information provided by CHD4 affects Planning Staff's earlier finding that the preliminary plat is in harmony with the Middleton Comprehensive Plan. (See earlier Staff Report for full details in the record).

Preliminary Plat:

At the July 7, 2021, public hearing before City Council, a Council Member stated that the record was unclear about the exact preliminary plat that was under review. Planning Staff had set forth in the record the exact preliminary plat under review. However, the record also contained concept plans with color renderings submitted by Developer, apparently causing some confusion.

Regardless, in order to ensure there is no confusion during this hearing or the future hearing before City Council, Planning Staff has set forth the exact preliminary plat under consideration as Exhibit "E" to the Staff Report uploaded to your packets and to the public last week.

It should be noted that the Preliminary Plat was updated since the time of the City Council Public Hearing on July 7, 2021. At that hearing, the public voiced concern about a specific pickleball court being located along the backyards of the Riverbend Ranch subdivision. In the spirit of compromise, the Developer voluntarily moved the pickleball court across E. Sawtooth Lakes to ensure sufficient distance from the neighboring backyards. This necessitated an updated preliminary plat dated July 16, 2021, as shown in Exhibit "E".

FINDINGS:

As to the 74 acres that is zoned M-U, Planning Staff still finds that the preliminary plat complies with dimensional standards and requirements of the Middleton City Code, Idaho State Statute, and Supplement to ISPMC except for those dimensions and items set forth in the DA as a "waiver or exception" to the Code as allowed in MCC 1-15-2.

As to the portion of the preliminary plat on the 14 acre Duff parcel, Planning Staff still finds that the preliminary plat complies with the dimensional standards of the R-3 Zone and other requirements of the Middleton City Code. No variances or waivers are requested with respect to this portion of the preliminary plat.

Finally, as already stated above in the section on Duff Lane, Planning Staff finds that the preliminary plat as a whole is not materially detrimental to the health, safety and welfare of Middleton residents.

Comments from Agencies: As already discussed above, the comments in issue are CHD4's May 27, 2021, July 13, 2021, and August 5, 2021, comments.
Applicant Information: Application was received and accepted on September 15, 2020. The Applicant is Breckon Land Design for Drake Investments LLC, Robert Brian Burnett, Deep River Investments & Deep Waters LLC / 6661 N. Glenwood, Garden City, ID 88714 / 208.376.5153 / mwall@breckonld.com.

A. Notices & Neighborhood Meeting:

Newspaper Notification	Dates:
Radius notification mailed to Adjacent landowners within 300'	07/25/2021
Circulation to Agencies	07/23/2021
Sign Posting property	07/23/2021
Neighborhood Meeting	07/23/2021
	08/18/2020, 3/8/2021 & 4/12/2021

Applicable Codes and Standards:

Idaho State Statue Title 67, Chapter 65
Idaho Standards for Public Works Construction and Middleton Supplement thereto
Middleton City Code 1-14, 1-15, 1-16, 5-1, 5-2, 5-3, and 5-4.



Conclusions and Recommended Conditions of Approval:

The Planning & Zoning Commission had already considered the Applicant's four applications at the previous June 7, 2021, public hearing on the matter. After closing the public hearing, the Commissioners approved the applications for (1) annexation/rezone, (2) preliminary plat, (3) development agreement modification, and (4) Comprehensive Plan map amendment with the conditions of approval set forth in the Staff Report for the June 7, 2021, public hearing.

In this public hearing for the Remand, this Commission is tasked with doing only three discrete tasks: (1) review the modified Development Agreement in "contractual" format, (2) consider whether there is planned improvements to Duff Lane and the impact of those improvements on this project, and (3) determine the "exact" preliminary plat under review. If after doing these three tasks the Commission is still inclined to recommend to City Council approval of the Applicant's four applications, then the Commission may simply state that they reaffirm the "Findings of Facts" and "Conclusions of Law" made at the earlier June 7, 2021 public hearing on the applications and that they agree with the additional "Findings of Facts and "Conclusions of Law" set forth in this current Staff Report and Public Hearing.

Additionally, if the Commission is inclined to re-affirm its earlier recommendation for approval, Planning Staff recommends that the Commission do so with the added recommendation that Developer be subject to the following conditions of approval:

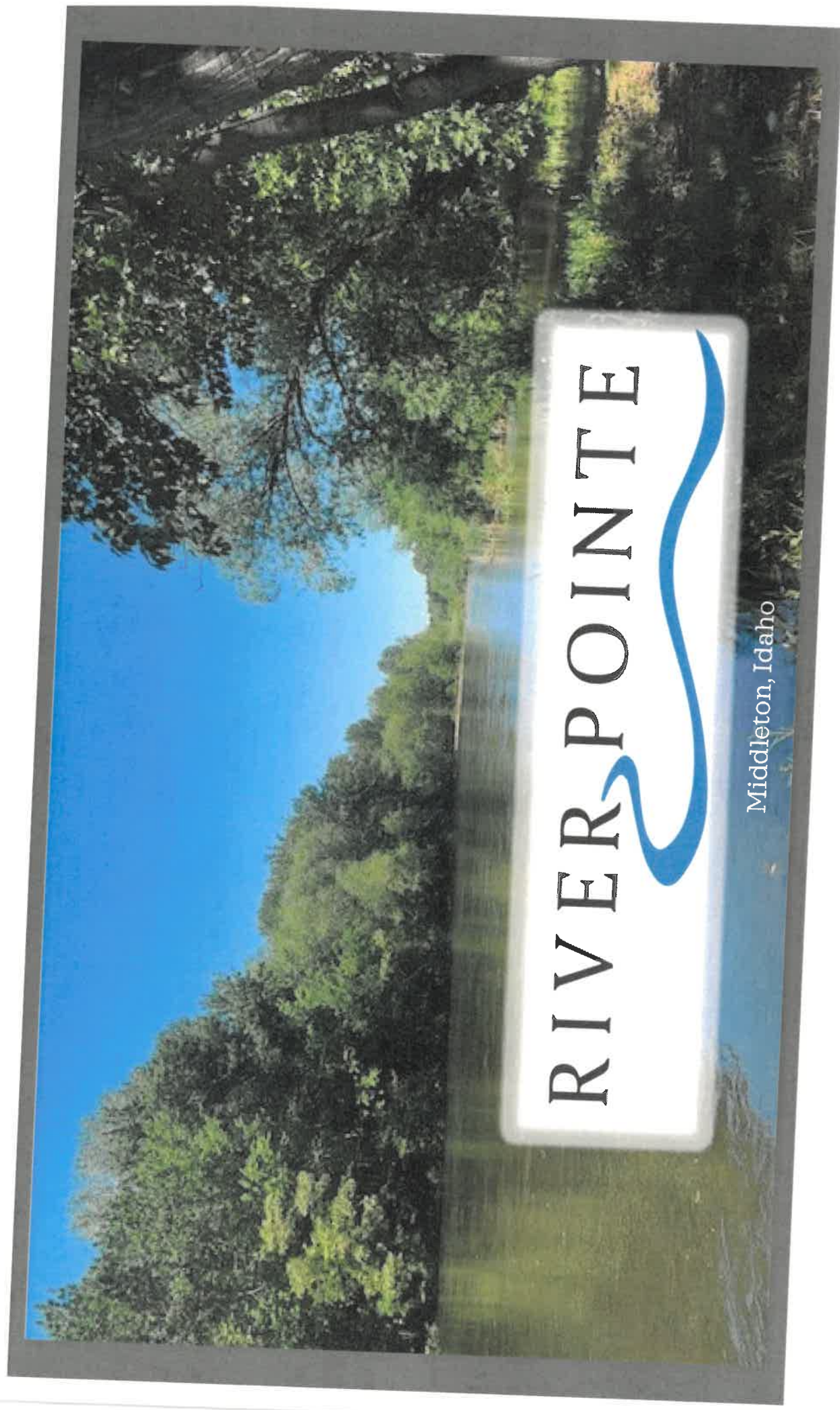
1. City of Middleton municipal domestic water, fire flow and sanitary sewer services are to be extended to serve the subdivision.
2. All City Engineer review comments are to be completed and approved.
3. All requirements of the Middleton Rural Fire District are to be completed and approved.
4. All Floodplain Administrator review comments are to be completed and approved.
5. Developer to comply with all terms of the proposed Modified Development Agreement as set forth in the Staff Report for the public hearing date of August 9, 2021, except... (if the Commission is not inclined to recommend portions of the DA for approval, those discrete portions can be removed from the DA via a motion calling out the specific provision in issue.)

If the Commission is inclined to reverse its earlier recommendation of approval and recommend denial instead, then under MCC 1-14-2(E)(8), the Commission "shall identify what the applicant can modify in the application in order to be approved."

Prepared by Middleton City Planner, Robert Stewart

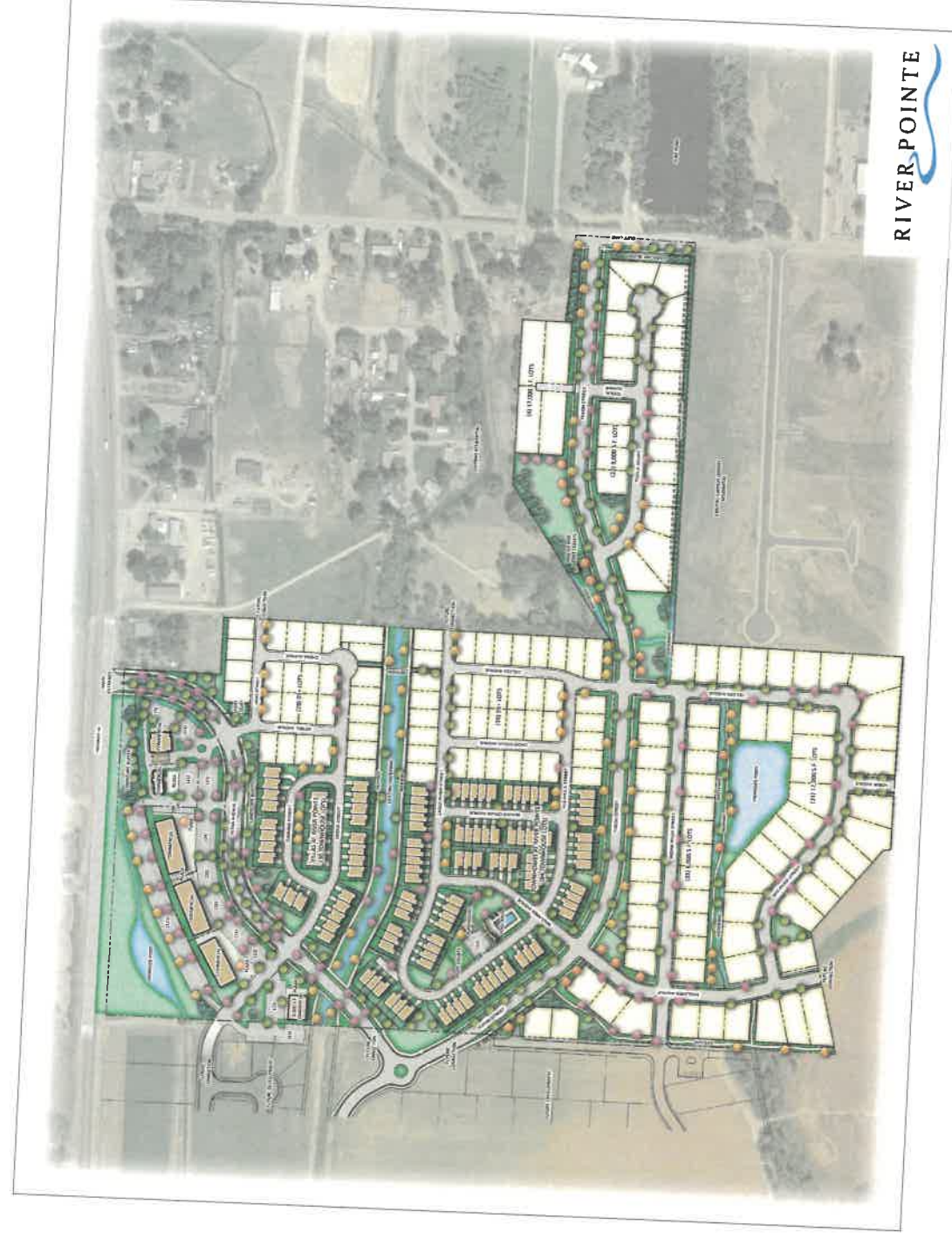
Dated: 8/9/2021

Exhibit M



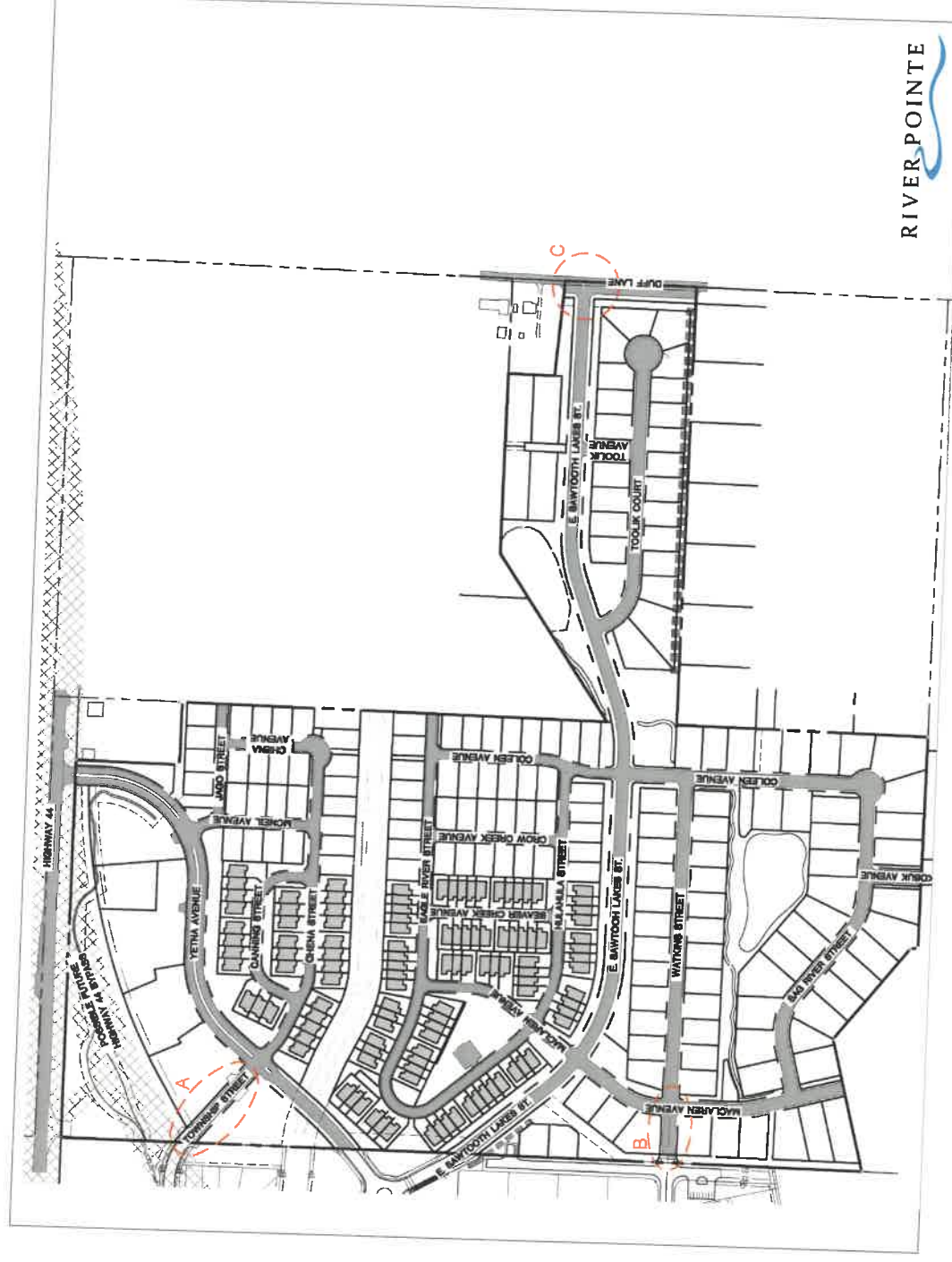
City Council - Items for Review

- Updated Preliminary Plat
- Hwy 44 Improvements
- Duff Lane - proposed and future improvements
- P&Z reconsideration of the Development Agreement after formatted into a contractual document
- Very brief summary of the River Pointe Development

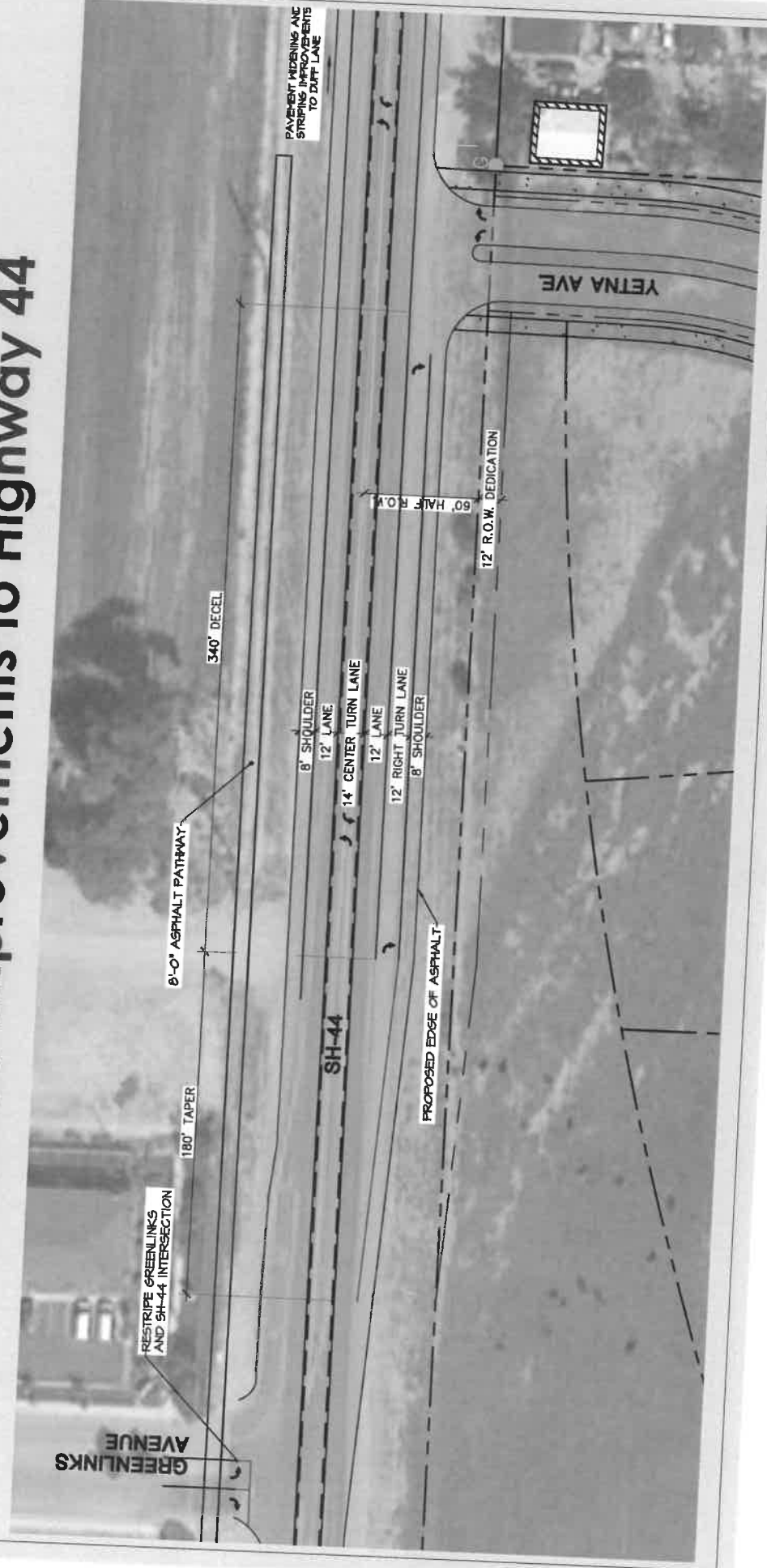


Updated Preliminary Plat

- A - Township Street connection to River Walk development
- B - Watkins Street connection to River Walk development
- C - Sawtooth Lakes St. & Duff Lane connection



Planned Improvements to Highway 44



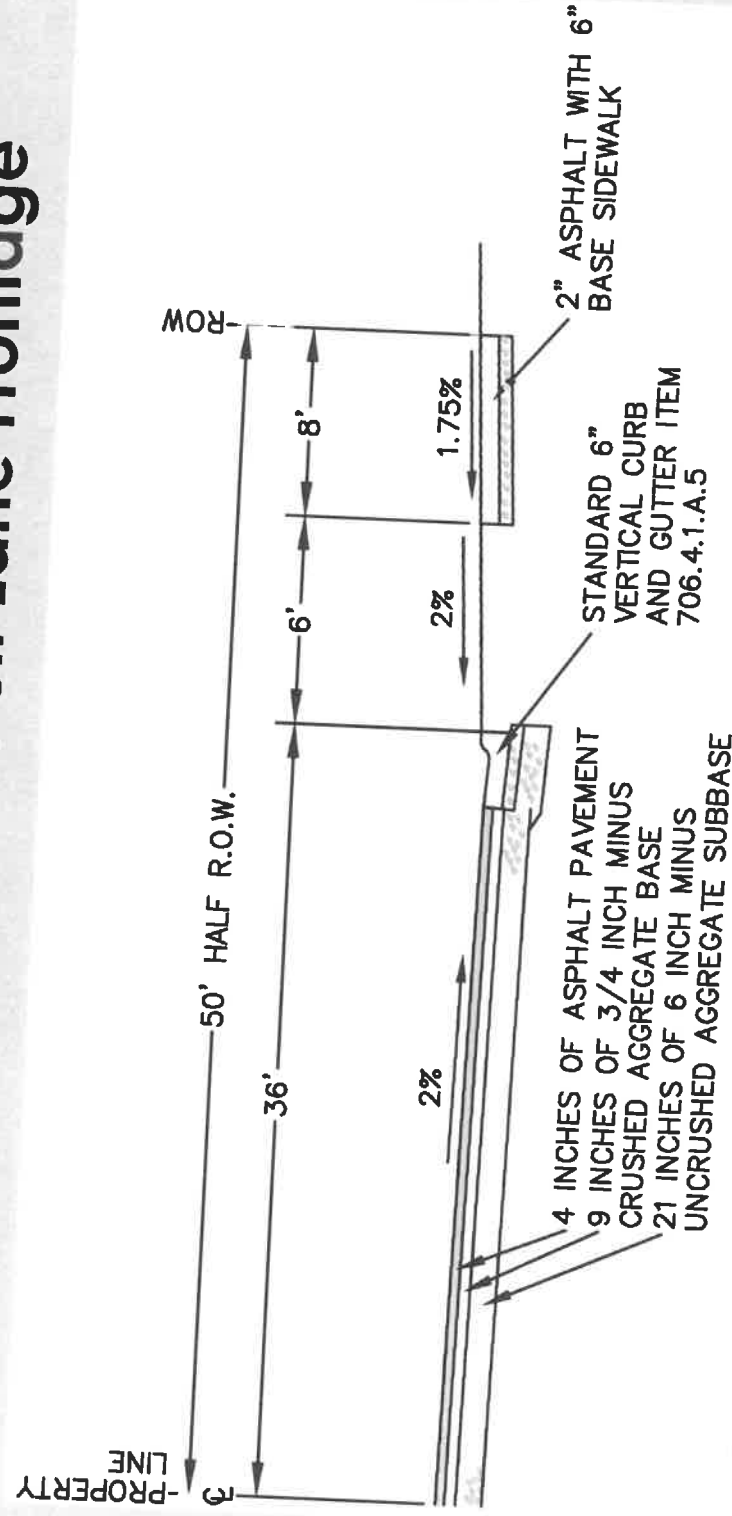
Planned Improvements to Highway 44



Planned Improvements to Duff Lane Frontage



Cross-Section of the Duff Lane Frontage



5 TYPICAL HALF 100' RIGHT-OF-WAY DUFF LANE

Scale: NTS

Development Agreement

- All proposed provisions recommended by the Planning & Zoning Commission were included in the contractual DA, presented to the P&Z Commission and, again, recommended for approval.

- DA provisions added in response to City and/or Neighbor comments:

- Increase the number of design elements on commercial buildings to four (was three)

- Allow an exception to Middleton City Code for signage on commercial buildings along Highway 44 permitting signs on both the rear and front elevations

- Two-year intervals for recording of final plats for each phase of project

- Added a 15-foot-wide berm between Riverbend Ranch Subdivision and the River Pointe Subdivision for privacy

- Sawtooth Lakes Street connection to Duff Lane must be completed with Phase 4 (or 1st phase south of the drain) of the development



GARDEN HOMES AT RIVER POINTE

- Active Adult (55+) north of Kennedy Drain
- No age restriction south of Kennedy Drain
- Single Level Patio Homes
- Small Lots, Low Maintenance
- Minimum house size -1,250 SF
- Minimum lot size - 6,000SF

RIVER POINTE



SOUTH RIVER POINTE

- Family Living
- Single Level and 2-story Homes
- Traditional Home Designs
- Minimum house size - 1,750 SF
- Minimum lot size - 8,000SF

RIVER POINTE

SOUTH RIVER POINTE



RIVER POINTE

THE TOWNHOMES AT RIVER POINTE

- Luxury Townhomes
- Front yard landscaping maintained by the HOA
- CC&R's that assure upkeep and high-quality living
- Low Maintenance Living
- South of Kennedy Drain



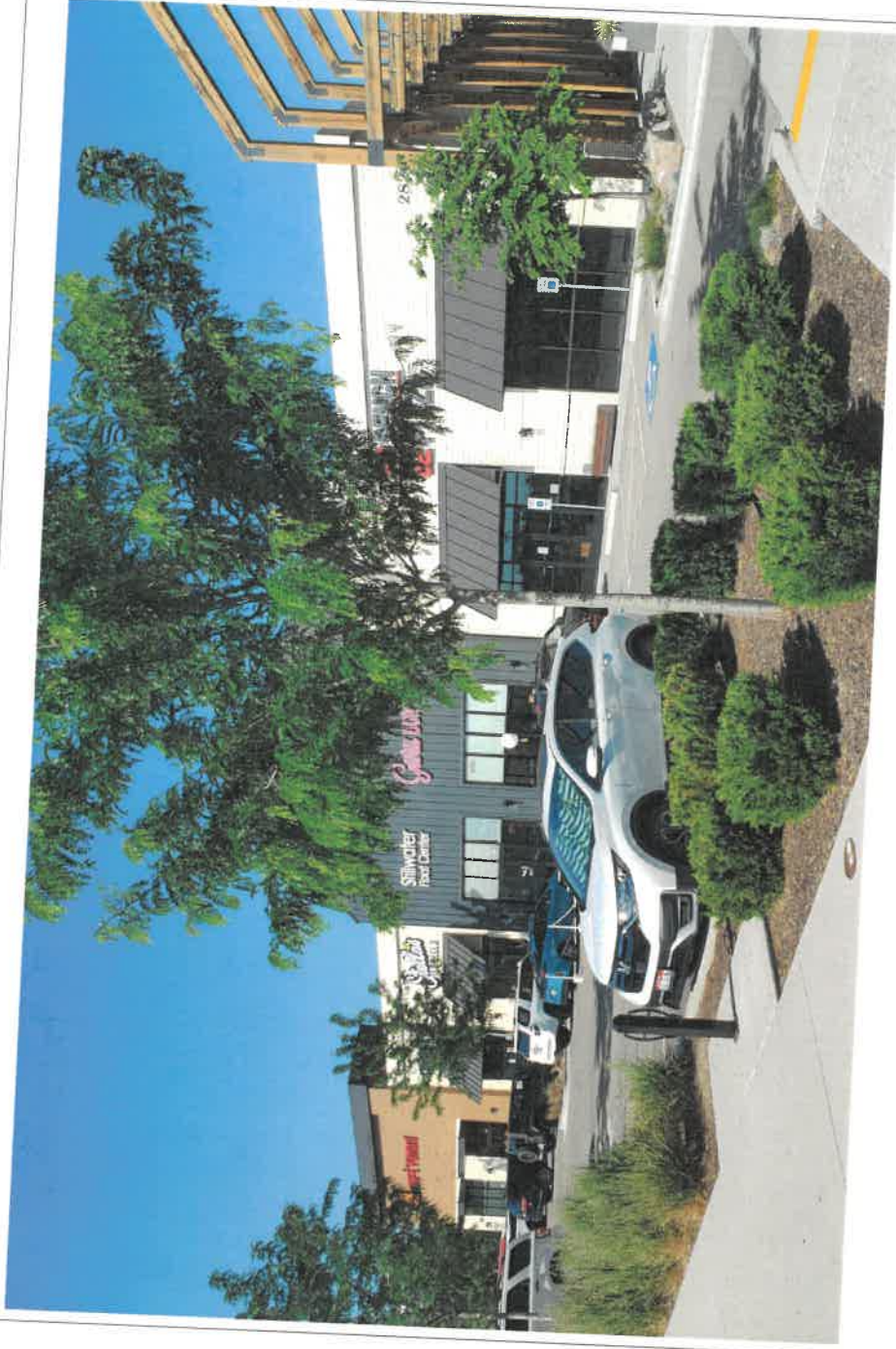
RIVER POINTE





COMMERCIAL DEVELOPMENT

- Up to 80,000 sf commercial space
- Restaurant Pad
- Two drive through sites
- Flexible business opportunities
- Connected to River Walk commercial district and the River Walk Loop
- Plaza area



RIVER POINTE

COMMERCIAL DEVELOPMENT

- Up to 80,000 sf commercial space
- Restaurant Pad
- Two drive through sites
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- Connected to River Walk commercial district and the River Walk Loop
- Plaza area



RIVER POINTE

Thank You

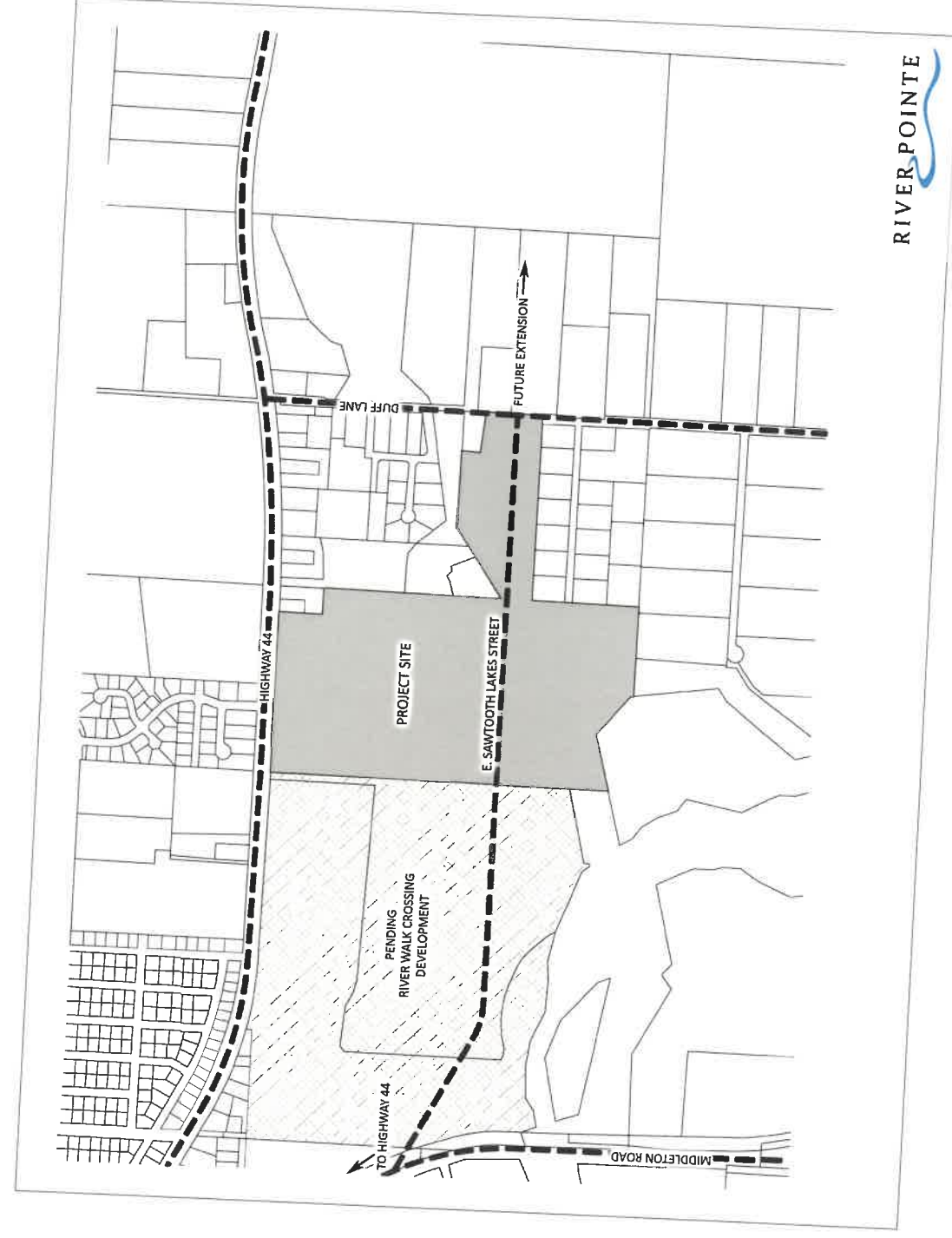
**from the
River Pointe Team**



RIVER-POINTE

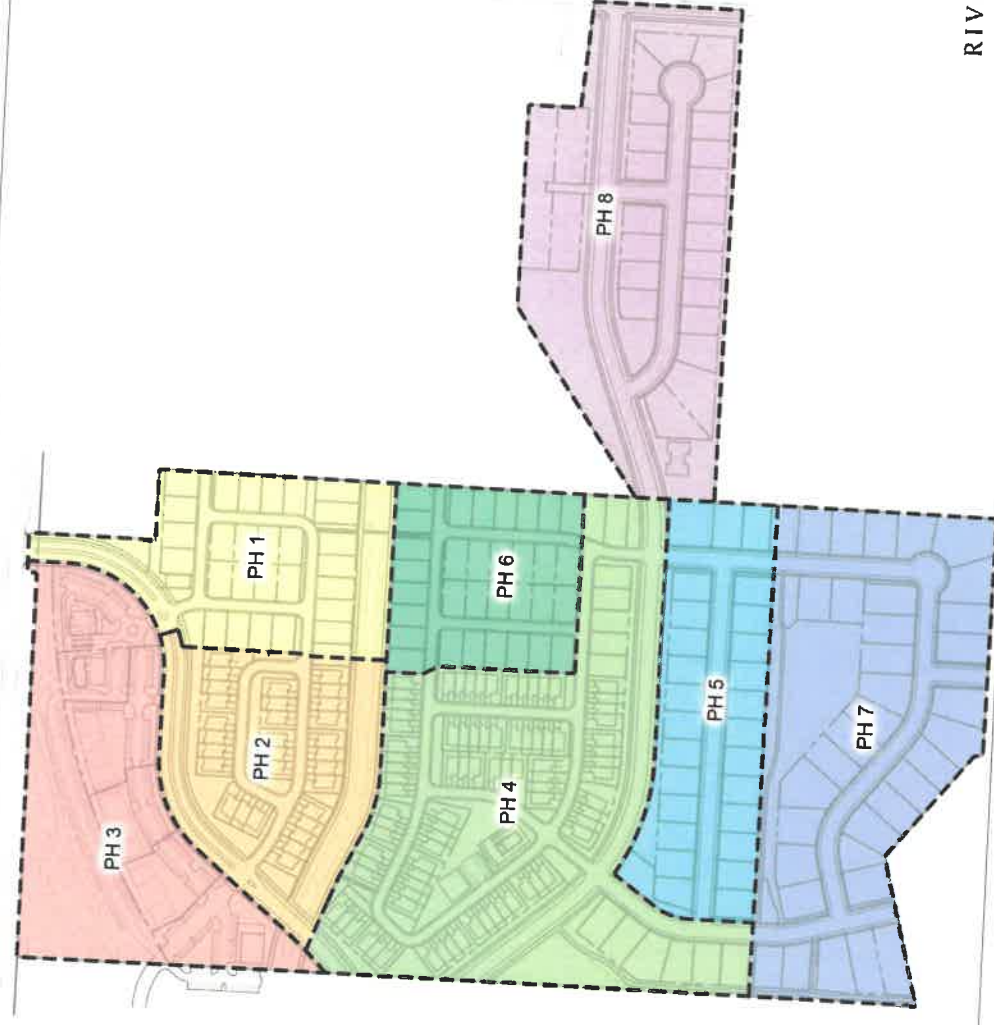
Middleton Traffic Circulation Plan

- E. Sawtooth Lakes St. will extend west to Middleton Road when River Walk Crossing is developed
- E. Sawtooth Lakes Street will be a 60-foot wide east-west collector



Proposed Phasing Plan

- **Phase 1** - Garden Homes-55+
- **Phase 2** - The Villas-Townhomes for 55+
- **Phase 3** - Commercial
- **Phase 4** - Townhomes, Garden homes & Single-Family
- **Phase 5** - Single-Family
- **Phase 6** - Garden Homes
- **Phase 7** - Single-Family
- **Phase 8** - Single Family



Proposed CC&R's

- Front yard landscaping for ALL townhomes maintained by the Homeowners Association
- Board adopted guidelines regulating the landscaping on building lots
- Regulations on the upkeep of visible areas -- fines for non-compliance
- Fully enclosed garage adequate for a minimum of two (2) standard size automobiles
- ACC Design Standards - for initial building and any building modifications
- ACC review and approval required for any exterior improvements (fencing, screening, solar systems, etc.)
- Upkeep and maintenance repair requirements (timely repair of damaged items)
- No parking or storage of inoperative automobiles
- Time limits on parking of non-auto vehicles (motorhomes, trailers, boats, etc)
- Limit type and number of pets, no breeding of pets or livestock
- No commercial or business activity



River Walk

Exhibit up

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

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

Exhibit 0

August 5, 2021

Middleton City Council & Planning and Zoning Commission
1103 West Main Street
Middleton, ID 83644
Attention: Roberta Stewart, P&Z

**RE: River Pointe Subdivision Preliminary Plat
River Walk Crossing Subdivision Preliminary Plat
Middleton Rd & Duff Lane**

Dear Roberta:

Canyon Highway District No. 4 (CHD4) has reviewed the following items related to preliminary plats for the proposed River Pointe Subdivision and River Walk Crossing Subdivision:

River Pointe:

- Preliminary Plat dated May 5, 2021
- Revised Traffic Impact Study dated April 14, 2021
- Updated Technical Report from ITD dated February 14, 2021

River Walk Crossing:

- Preliminary Plat dated June 2, 2021
- Traffic Impact Study dated November 24, 2021
- Technical Report from ITD dated March 4, 2021

CHD4 provides the following comments on these applications:

General

By agreement with the City, CHD4 operates and maintains Middleton Road and Duff Lane adjacent to the proposed developments. It is our understanding that the subject properties are or will be annexed into the City of Middleton.

The City is currently considering significant revisions to the comprehensive plan and transportation planning maps, including removal of a bypass route for SH 44 south of the existing city center. The River Point plat shows area reserved for right-of-way for this bypass, while the River Walk Crossing plat does not. It is difficult to provide comprehensive comments on traffic impacts from these developments given the uncertainty of the SH 44 principal arterial corridor. Comments provided below are general in nature due to this uncertainty, and additional comment may be provided in the future.

CHD4 requests that the City include as part of any development agreement for the projects a clause requiring dedication of public right-of-way for Middleton Road or Duff Lane (and any other public road as desired by the City) upon written request of the City, to facilitate construction of public roadway improvements independent of the timing of the proposed development.

Traffic Impacts

The two developments combine to produce a reported 16,866 trips per average weekday at buildout, with three (or possibly four) connections to the existing highway system at Middleton Rd, SH 44, and Duff Lane. This increase in traffic will have a significant impact on all three highways adjacent to the development, and on adjacent and downstream intersections.

Middleton Rd along the west boundary of the developments is a two lane rural road between the city center and Lincoln Rd. The existing road is nearing capacity with current 2021 traffic volumes. The Mid-Star Capital Improvement Plan adopted by the City in July 2021 includes projects to widen Middleton Rd to 5 lanes, and to construct roundabouts at the intersections of Lincoln Rd and Sawtooth Drive. This plan is not currently funded, although the city is considering modification to its impact fee ordinance to enact development impact fees sufficient to make these improvements. Construction of any improvements included under the Mid-Star CIP will take place well after traffic impacts from the proposed developments are experienced. CHD4 has no capacity projects programmed for this corridor in the next five years.

Duff Lane along the east boundary of the developments is a two lane rural road with narrow shoulders and limited right-of-way width between the proposed Watkins Street access from the developments. No capacity improvements to Duff Lane are currently programmed by CHD4, nor are included in the Mid-Star CIP. The TIS for River Pointe estimates a total of 73 trips in the 2025 PM peak hour using the Duff Lane/Watkins Street intersection, and 114 trips using Duff Lane at SH 44. These volumes are well within the typical operational capacity of a two-lane highway (300 trips/hr), however it represents only approximately 4% of the total peak hour trips generated by the site. This estimate may not accurately represent usage of this intersection, and the Duff Lane corridor between Watkins St and SH 44, when only two or three other points of access to the highway system are available to the developments. CHD4 recommends re-evaluation of the estimated usage of this approach to Duff Lane when a decision on the SH 44 alternative route is finalized, and timing of development of the Marjorie Ave approach to SH 44 is clarified.

Numerous intersections nearby or affected by the developments are already operating near or below acceptable Levels of Service (average vehicle delay) during the peak hour periods, including SH 44/Middleton, SH 44/Duff, Middleton/Sawtooth, and Middleton/Lincoln. Each of these (except SH 44/Middleton) is included on the Mid-Star CIP for capacity improvements, and will be eligible for funding through development impact fees. Implementation of these projects may lag years behind the traffic impacts generated by the developments, as the fees are not collected until building permit issuance, and traffic associated with building construction can equal or exceed that from the finished development. Levels of service at these surrounding intersections should be expected to further degrade from the current conditions unless these projects can be advanced through other funding sources to occur in sequence with development of the subject properties.

The TIS for River Pointe states that the existing NB Duff Lane approach to SH 44 functions at LOS E under current (2020) conditions. To avoid further increase in delay at this intersection, and to prevent additional crashes caused by the increase in delay, CHD4 recommends delaying construction of a public road connection to Duff Lane serving River Ranch Crossing and/or River Pointe Subdivisions until adequate additional capacity is available at the Duff/SH 44 intersection.

The TIS for River Walk Crossing states that both left and right turn lanes are warranted for the existing and 2025 build-out conditions at the Sawtooth Drive approaches to Middleton Rd. The proposed east Sawtooth Drive approach to Middleton Rd should not be placed into service (even for construction traffic) until these turn lanes have been constructed due to the existing high through volumes on Middleton Rd, and the potential for increased crash rates at the intersection. Construction of a roundabout at the intersection would replace the need for the auxiliary turn lanes.

Comments previously provided by CHD4 for River Walk Crossing (June 28, 2021) and River Point (May 27, 2021) are still applicable to these projects.

CHD4 requests the City Council and Planning & Zoning Commission consider these comments, and condition the proposed development to address impacts to the area's transportation system.

Please feel free to contact me with any questions on these comments.

Respectfully,



Chris Hopper, P.E.
District Engineer

CC: File: Middleton_Duff Lane- River Pointe Subdivision/ River Walk Crossing Subdivision

River Walk Crossing Subdivision



Project Description:

Subdivision with (a) 36 commercial lots, (b) 81 half acre single family home lots, (c) 80 patio style home lots for 55+ homebuyers, (d) 1 cell tower lot and (e) one historical lot on 119 acres of vacant land located at 10669 HWY 44 Highway 44 and 0 Hwy 44.

Amenities include extensive 10' and 12' wide asphalt pathways that will become a central part of the Middleton River Walk Loop recreational trail.



Applications:

Applicant has submitted four applications. They are (1) Annexation/Rezone (130 acres), (2) Preliminary Plat, (3) Development Agreement, and (4) Comprehensive Plan Map Amendment.

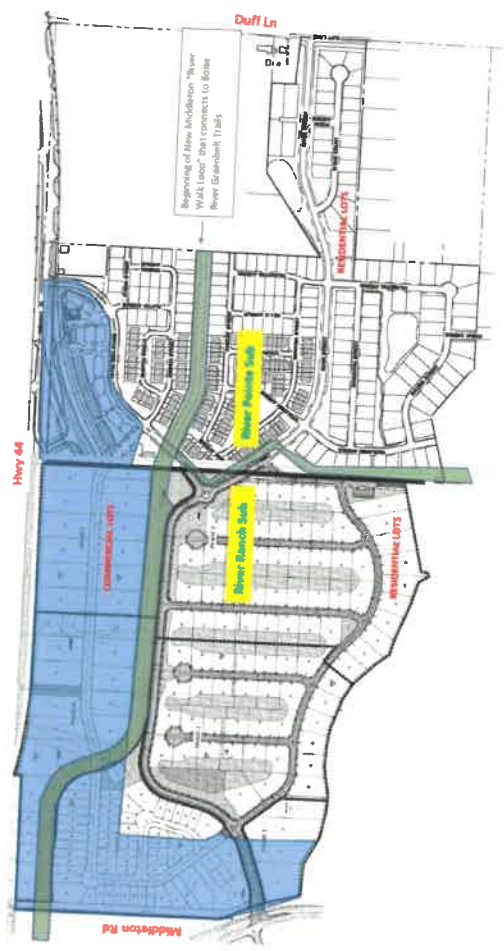


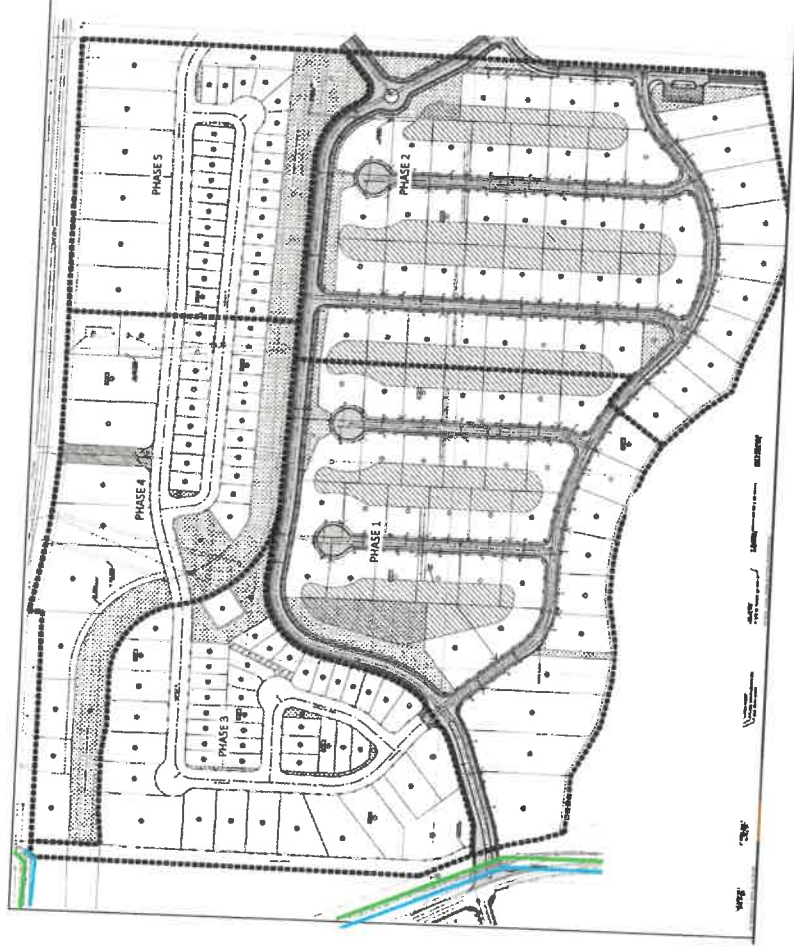


The project property is currently located in Canyon County and is zoned "agricultural." It is surrounded on the north, west, and east side by City property zoned Mixed Use, C-2 Commercial, and R-3 Residential. The Boise River floodway is located on the south side of the project.

History & Condition of Property:

As you know from earlier presentations, River Walk Crossing is being developed in collaboration with the River Pointe Subdivision. If both projects are approved and completed, they will create a new and vibrant commercial center for Middleton along with a River Walk Loop that will provide numerous gathering places for social and recreational uses.





City Services:

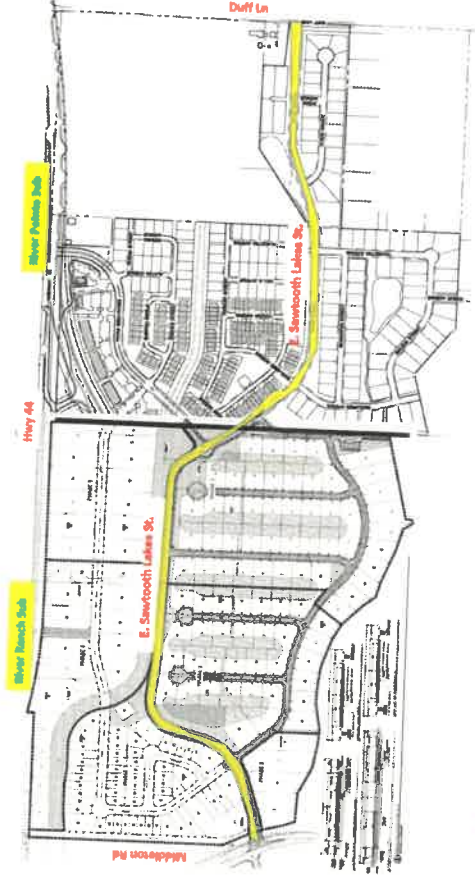
Domestic water and sanitary sewer are located in Middleton Road adjacent to the project as shown here with the green and blue lines.

Planning Staff finds that City services can be easily extended to serve the proposed project.

Middleton Rural Fire District:

The Middleton Rural Fire District has reviewed the preliminary plat. Deputy Chief Islas approved the preliminary plat with the standard comments.





Traffic, Access & Streets: Access to the project is through Middleton Road, Highway 44, and E. Sawtooth Lakes Street.

Sawtooth Lakes Street is a collector street that is a "planned" street set forth in the Comprehensive Plan's "*Transportation, Schools & Recreation Map*". This street is critical to Middleton's long-term transportation planning and circulation because it will relieve a lot of traffic pressure from the Hwy 44 downtown corridor. For that reason, there will be no driveway access or parking allowed on E. Sawtooth Lakes Street.



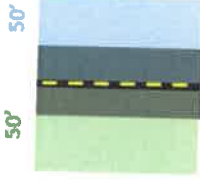
Traffic, Access & Streets con't: This project will pay for much of its impacts on traffic and the surrounding community by improving roadways that front the property and by paying Traffic Impact fees and Traffic Proportionate Share fees. Under the new Mid Star Traffic Impact fee schedule (which was recently recommended for approval by this Commission), the River Walk Developer will contribute \$813,050 to the improvement of nearby intersections by paying \$5050 for each residential building permit (161 homes x \$5050). As to the commercial portion of the project, there are 36 commercial lots. The Impact fees are based upon uses and the fees span from \$3500 per unit up to \$20,000 per unit depending on the use. Although it is difficult to predict exactly what types of uses will be developed in the commercial area, the commercial impact fees collected could add up to approximately \$300,000 to \$500,000 for a total of \$1.3 million in traffic impact fees.

In addition to the \$1.3 million in Mid-Star traffic impact fees, the Developer will be required to pay "Proportionate Share" traffic fees for intersections not included in the Mid Star CIP Schedule. Those fees may total between \$100,000 and \$200,000, but the final amount cannot be determined until City Council approves the Mid-Star fee schedule and ITD re-calculates the proportionate share fees.

Although the fees cannot be firmly established for a few more weeks, the Commission can still recommend approval and protect the City's right to collect these fees by simply recommending that the payment of all City required impact fees and proportionate share fees be made a condition of preliminary plat approval.



HOW ROADS ARE BUILT AND IMPROVED IN MIDDLETON



1. **Developer Improvements:** Developers improve $\frac{1}{2}$ roads, curb/gutter, and sidewalks, at their own cost, along the entire frontage of their property. Once the Developer on the opposite side improves frontage, a 25' old road will be a new 100' wide road.



2. **Developer Exactions:** City charges Developers Traffic Impact Fees and/or Proportionate Share Fees to improve specific intersections and roadways in the future. The fees are saved until enough money is accumulated to begin the work.



Open Space & Pathways: Applicant has exceeded the 5% Open Space requirement by providing 7.2% of open space in the form of extensive walking paths and small gathering places along the trails. These extensive pathways are in compliance with the Comprehensive Plan's *Transportation, Schools & Recreation* Map, and they will be integrated into the City's new River Walk Loop that is currently being designed.





Applicant is requesting the annexation and rezone of the project. The project will contain three zones: C-3 “Heavy Commercial (36 acres), R-2 “Large Lot Residential” (57 acres), and M-U “Mixed Use” (26 acres).

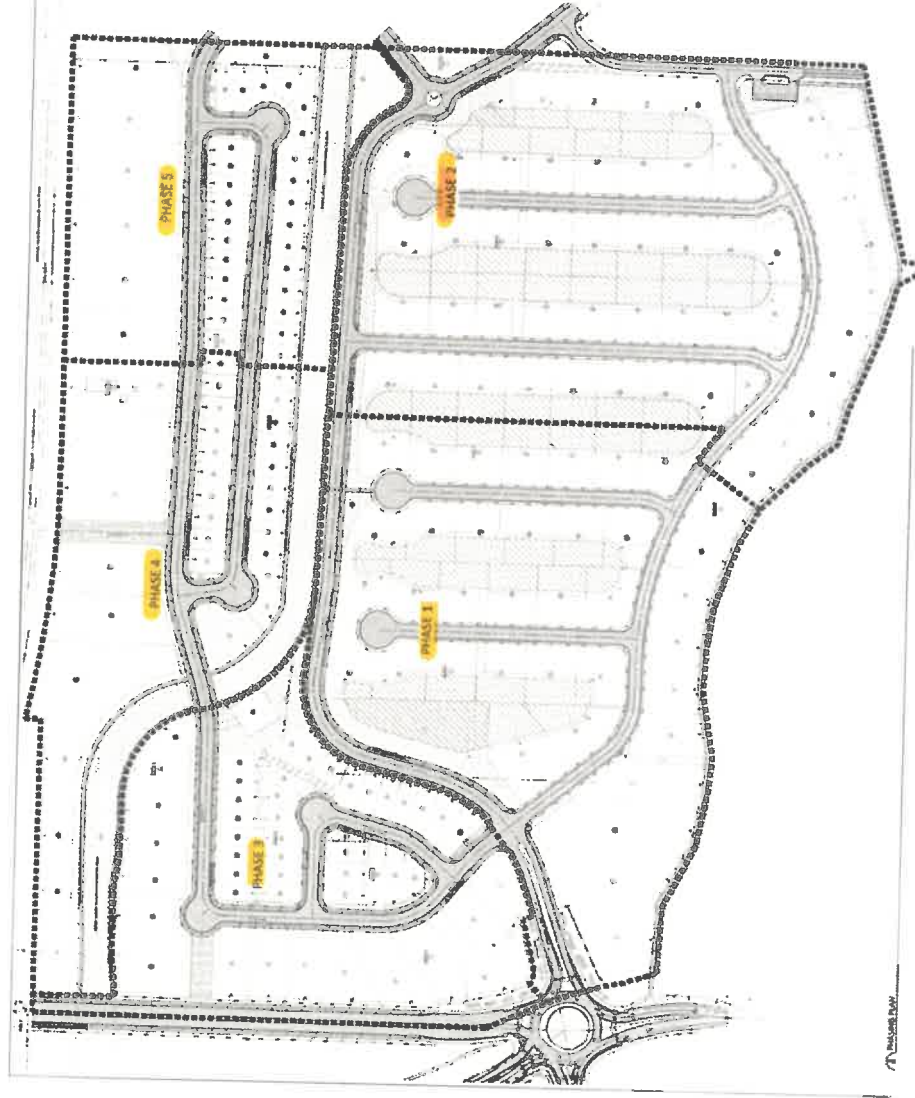
As to Annexation there are primarily three requirements: (1) the property is contiguous to City limits (2) City sewer and water can be extended to serve the site, and (3) the annexation is in the best interest of the City and not adverse to the public health and welfare.

Planning Staff finds that Applicant’s project meets all three of these requirements: (1) the property is contiguous; (2) sewer and water are available as shown earlier, and (3) the annexation does not adversely affect the City but benefits the City because

- (a) it provides a variety of housing and commercial lots,
- (b) it creates extensive recreational pathways, and
- (c) it creates safe streets for vehicle and pedestrian circulation that will relieve some of the traffic pressure on Hwy 44 in the downtown corridor.

Planning Staff further finds that the rezone application is in harmony with the City’s Comprehensive Plan as will be shown in more detail below.





Preliminary Plat Application: Developer is proposing five phases for the development of the plat:

Planning Staff finds that the preliminary plat complies with the dimensional standards and requirements of the Middleton City Code and Idaho State Code except for the waivers set forth in the proposed Development Agreement.

Planning Staff further finds that the preliminary plat is not materially detrimental to the public health, safety and welfare, and the preliminary plat is also in harmony with the Middleton Comprehensive Plan as will be shown below



Development Agreement: Applicant has applied for a Development Agreement with the City, which agreement sets for the rights and obligations of both the City and the Developer. The following conditions of development are proposed for the Development Agreement:

1. A concept plan generally matching the current preliminary plat shall be attached to the DA. Developer must develop the property substantially consistent with the Concept Plan.
2. Patio style homes on M-U lots will be deed restricted to 55+ homebuyer/occupancy in compliance with Idaho State Law.
3. Because the patio style homes will be for 55+ homebuyers, setbacks requested are (1) 20' front yard, (2) 15' rear yard, (3) 5' side yard, and (4) 20' side street yard.
4. Developer to construct, at its own cost, all road frontage improvements on Hwy 44 and Middleton Road, required by the City.
5. Owner/Developer shall pay all traffic impact and proportionate share fees required by the City.
6. Developer may develop Phase 1 and 2 without a 2nd access (as approved by Middleton Rural Fire Dist.) but must construct a 2nd access prior to final plat of phase 3.
7. Because of the large amount of commercial lots and need for market flexibility, Owner will not be required to go through the formal preliminary plat process to amend the phasing and lot configuration in the C-3 zone section of the plat. Instead, Owner can apply administratively to the Planning & Zoning Department to change the phasing of the plat.
8. All 10' and 12' pathways must have a public access easement shown on the plat to ensure public recreational access. The pathways must be constructed prior to approval for Phase 3. Owner shall be responsible for installing, repairing and maintaining the pathways.
9. Developer shall not be required to comply with MCC 5-4-10-7 regarding an 8' berm on streets that contain both commercial and residential uses. Instead, Developer must install a 15' landscape buffer on one side of the street or the other.
10. The existing cell tower may remain on site and operate at its current level, but if the use intensifies or is changed, the owner must apply to the City for a Special Use Permit.
11. Developer will be allowed a minimum centerline radius of 90'.



Development Agreement Application con't:

12. Developer shall provide an east/west collector road. (fulfilled with "E. Sawtooth Lakes Street").
13. Developer must execute and record a cross-access easement and utility easement on the plat to ensure that no parcels are landlocked.
14. Only black wrought iron fencing will be allowed in the project.
15. All rear and side street elevations on commercial buildings must have enhanced architectural features to prevent unsightly building facades on Highway 44 and Middleton Road.
16. Owner is permitted two wall signs per commercial unit.
17. Developer is permitted to extract gravel for residential ponds if it obtains all City, State and Federal Permits and submits to the city all forms and plans required by MCC 1-15-16-2. Construction hours are Monday through Saturday 7 a.m. to 6 p.m., but once homeowners occupy Phase 1 homes, the hours must change to Monday through Friday 7 a.m. to 6 p.m.
18. CC&Rs shall set forth responsibility for maintaining common areas.
19. Developer has 2 years to bring each phase to final plat. A 1 year extension will be allowed for each phase if a written request for extension is timely made.
20. Developer has only 2 years to obtain final plat for Phase 1. This can be extended 1 year with a written request. If Developer does get final plat within this time-line, then the City can modify or terminate the DA if it chooses to do so. The preliminary plat will also automatically become null and void.



Comments Received from Surrounding Landowners: City received an 8/4/2021 letter from CPC Paving noting that it operated a mining/hot plant south of the River Walk Subdivision.

Comments from Agencies: Comments from Middleton Rural Fire District have already been discussed above. COMPASS forwarded a 7/29/2021 comment wherein it objected to this application because of the removal of the SH-44 alternate bypass. COMPASS noted that the bypass is critical to regional planning, and traffic will be adversely affected if the bypass is eliminated from the city. ITD also forwarded letters indicating its objection to the removal of the Hwy 44 alternate bypass. CHD4 reviewed the plat and submitted comments indicating its objection to the removal of the Hwy 44 Alternate bypass. CHD4 further stated that this project will result in significant impacts to surrounding roadways that may not be improved through impact fees for years to come. (Exhibit "F")

Comments from City Engineer, Planning Staff & Floodplain Administrator: Comments from City Engineer, Planning Staff, and Floodplain Administrator were appended to the Staff Report and have been made a part of the Record.

Applicant Information: Application was received and accepted on December 23, 2020. The Applicant is Hess Properties, LLC & KM Engineers, / 9233 W. State Street, Boise, ID 83714 / 208.639.6939 / sleonard@kmengllp.com





Notices & Neighborhood Meeting:

Newspaper Notification
Radius notification mailed to
Adjacent landowners within 300'
Circulation to Agencies
Sign Posting property
Neighborhood Meeting

Dates:

07/25/2021

07/23/2021
07/23/2021
07/23/2021
11/24/2020

Planning Staff finds that Notice for the Planning & Zoning public hearing was appropriate and given according to law.

Applicable Codes and Standards:

Idaho State Statue Title 67, Chapter 65 and Title 50, Chapters 2 and 13, Idaho Standards for Public Works Construction and Middleton Supplement thereto, and Middleton City Code 1-14, 1-15, 1-16, 5-1, 5-2, 5-3, and 5-4.

Conclusions and Recommended Conditions of Approval:

The Planning & Zoning Commission is tasked with considering four separate applications for Annexation/Rezone, Preliminary Plat, Development Agreement, and Comprehensive Plan Map Amendment. The Commission may recommend approval or denial and determine conditions of approval, if any. To perform this task properly, the Commission must ultimately make findings of facts, conclusions of law, and a recommendation with respect to each application.

As to Findings of Facts, Planning Staff made findings of facts in compliance with Idaho State Law and Middleton City Code as shown in the Staff Report and in this presentation. If the Commission agrees with the findings of facts in the Staff Report, and after hearing public testimony, the Commission may simply state on the record that it accepts the findings of fact in the Staff Report and accepts all, or a portion, of the facts stated during public testimony, setting the foundation for the recommendation.

Conclusion & Recommendations (con't)

As to Conclusions of Law, Planning Staff finds that the Commission has the authority to hear these applications in order that they may be recommended for denial or approval and that the public notice requirements were met. Planning Staff further listed the portions of the Idaho State Code and Middleton Code considered in rendering a decision on the applications. If the Commission agrees with these conclusions of law, it can simply state so on the record. Finally, if the August 9th public hearing is held and conducted in compliance with Idaho State Code and the Middleton City Code, then the Commission may also simply state this "conclusion of law" on the record.

As to the Recommendation, if the Commission is inclined to recommend approval of the applications based upon the noted findings of facts and conclusions of law, then Planning Staff recommends the 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. All City Engineer review comments are to be completed and approved.
3. All Planning Staff review comments are to be completed and approved.
4. All requirements of the Middleton Rural Fire District are to be completed and approved.
5. All Floodplain Administrator review comments are to be completed and approved.
6. Developer to pay all City Required Traffic Impact Fees and Traffic Proportionate Share fees.
7. Developer to construct, at its own cost, City required street frontage improvements on Middleton Road and Hwy 44.
8. Developer to comply with all terms of the proposed Development Agreement. *(if the Commission is not inclined to approve portions of the DA, those discrete portions can be removed, or excepted, from the DA via a motion calling out the specific provisions to be removed.)*

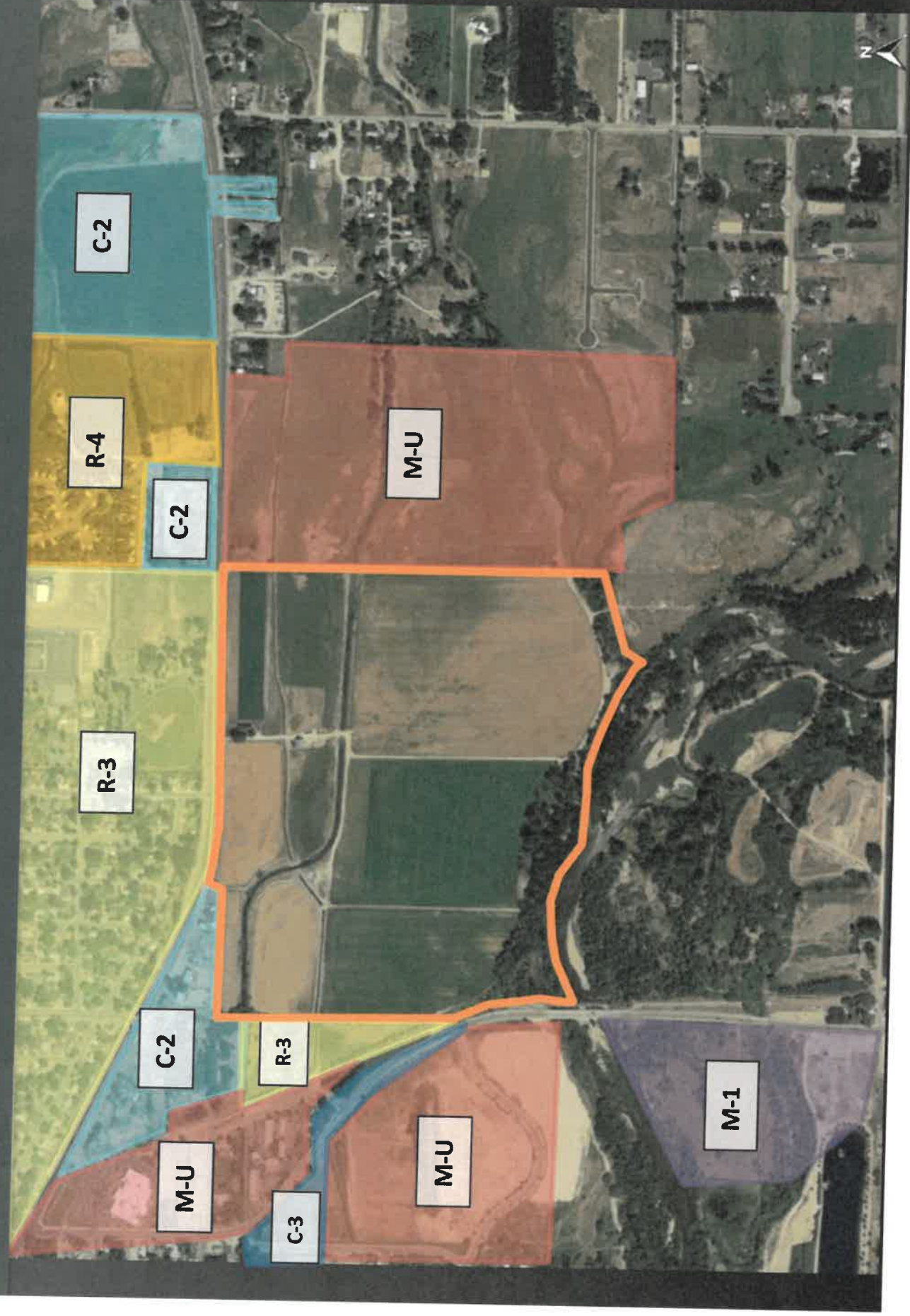
If Commissioners are not inclined to recommend approval of the applications, then per MCC 1-14-2(E)8, the Commissioners should state what the Applicant can do, if anything, to gain a recommendation of approval.



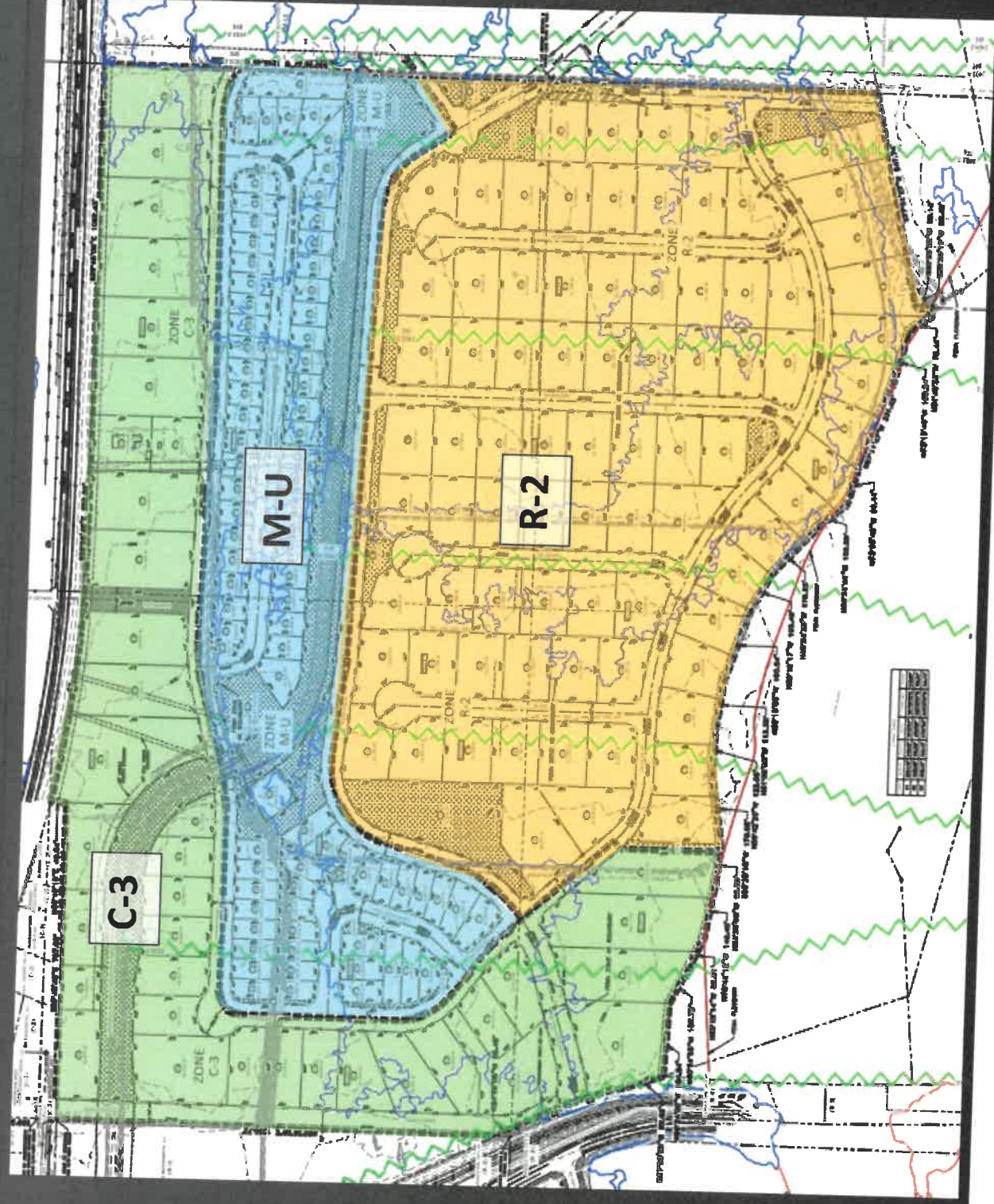


River Walk Crossings
Annexation & Zoning, Development Agreement,
Preliminary Plat, Floodplain Development
City of Middleton

Project Location & Information



Requested Zoning Boundaries



Preliminary Plat / Development Plan



Schematic Video – Entry & Residential



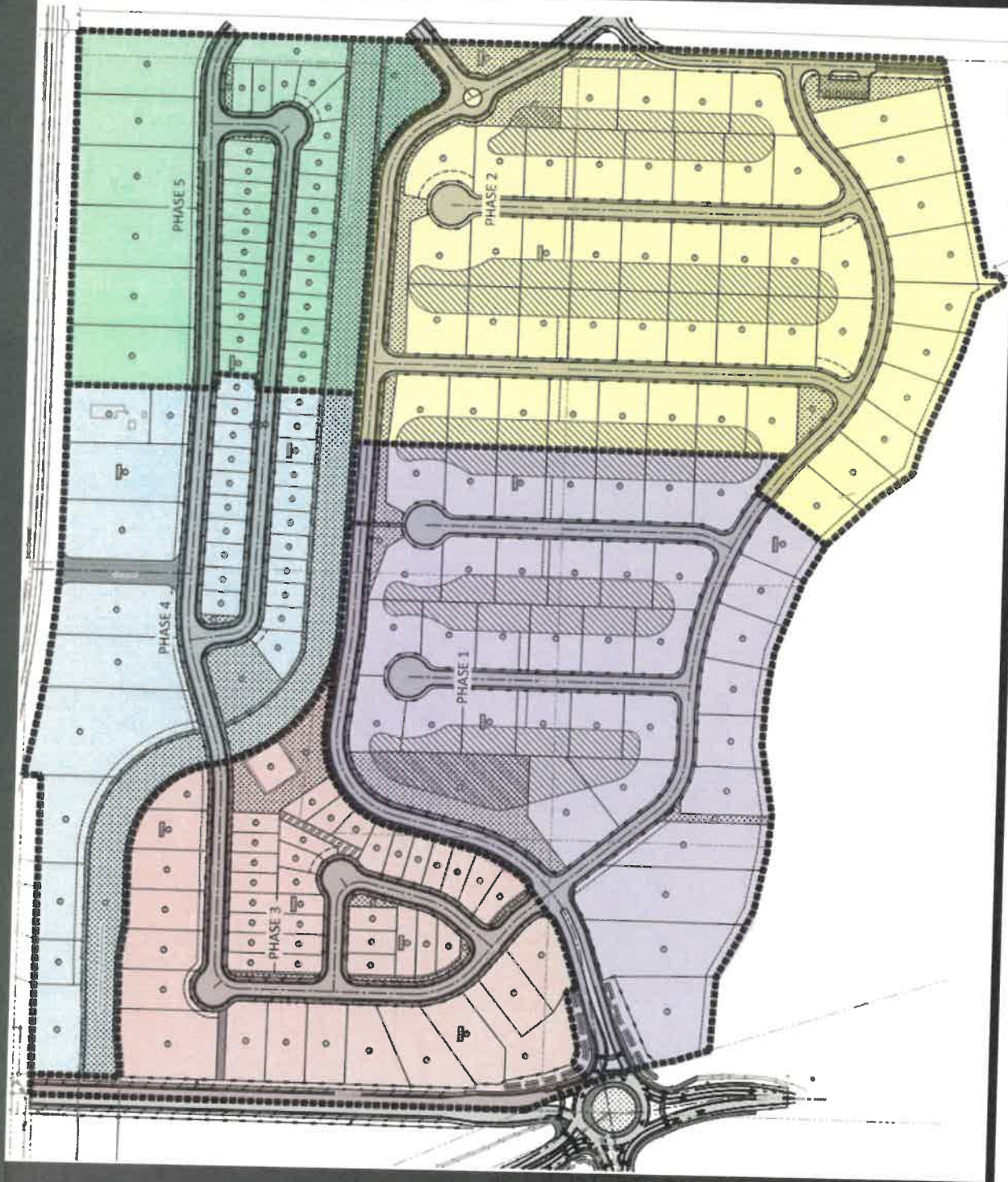
Schematic Video – Commercial Portion



Schematic Video – Commercial Portion



Phasing Plan



Typical Home Elevations



Age-Restricted Inspiration





CONCEPTUAL, SUBJECT TO CHANGE

TYPICAL LOT SECTION



ENTRY BOULEVARD SECTION



Thank you



2) Comprehensive Plan Amendment

August 9, 2021 - Planning & Zoning - Public Hearing

Please check

	Name	Address	Phone or Email	Please check			
				In Favor	Neutral	Opposed	Testify
✓	CAROL LAXEY	8150 W CITTROEN BASIN RD	caleblaxeymiddletown@gmail.com		X		X
✓	Peter Coddery	10031 Riverbend Middletown IN	petercodderyconst1@gmail.com		X		
+	Steve Jarett	25160 DUFF				X	
✓	LEROY GILLER	511 N DEUCE	208-860-8115		X		
✓	MATTHEW A. WATKINS	10669 Hwy 44 Middletown	(208) 849-3141 mawatk@icloud.com	✓			✓
✓	Patricia M Watkins	10038 Turner Dr Middletown	(208) 585-2730				
✓	Lori Smith	10079 Riverbend Pl Middletown	patsyid@yahoo.com lori1001@comcast.net		✓		✓
✓	Jay Gibbons	10167 Willis Rd. Middletown	208-863-1815		X		X
✓	Michelle Catterline						



2) Comprehensive Plan Amendment

August 9, 2021 - Planning & Zoning - Public Hearing

Please check

	Name	Address	Phone or Email	Please check		
				In Favor	Neutral	Opposed
✓	Peter Hess	15031 STANBUSH LN.	208-402-0864	X		
✓	J. SU SHACKLEFORD	14051 BLACKHAWK LN	208-654-8313		X	
✓	TANER VERKES	12885 QUAIL RUN	208-391-3830	X		
✓	Mike Drape	1884 Ridge Way	208-531-6287			
✓	CHRIS HORNER	15435 Hwy 44	208-454-8335			
✓	SPENCER KOFER	8454 BROOKHURST PL. Middleton	208 863 5164	X		
✓	DAVID TOMEY DAVID TOMEY	9865 GRAND T ^Y Middleton RD 9865 GRAND T ^Y CEN	208 629 9181			
✓	Blair Burt	12514 TOWNY	208 864 1602			X
✓	LYLE ZUFEN	9965 GRAND T ^Y CEN MIDDLETON		X		



3) Breckon Design - River Pointe (Remand)

August 9, 2021 - Planning & Zoning - Public Hearing

Please check

	Name	Address	Phone or Email	Please check			
				In Favor	Neutral	Opposed	Testify
✓	Michael Kelley	10073 RIVERBEND PL.	mpk@THEGRID.NET			✓	
✓	Kathleen Kelley	10073 Riverbend PL	mpk@theGrid.net		✓		
✓	Brian Burnett	1125 W Two Rivers Ln	(208) 994/607	✓			✓
✓	Mary Wall	4461 Glenwood Rd	mwall@breckonbd.com	✓			
✓	Sterling Smith	10079 RIVERBEND PL	ssmith613@comcast.net		✓		
✓	Lou Smith	"	"		✓		✓
✓	Peter Coddling	10031 Riverbend Middleton	petercoddlingconst.1@gmail.com		✓		
✓	Matt Hoffman	19851 Dominion Way Caldwell, ID 83805	"		✓	✓	
✓	LERoy G. LLIES	511 ~ NEWBY	208-860-8115		✓		



3) Breckon Design - River Pointe (Remand)

August 9, 2021 - Planning & Zoning - Public Hearing

Please check

Name	Address	Phone or Email	Please check			
			In Favor	Neutral	Opposed	Testify
✓ Maria-Lerandos	10076 Riverbend Pl.			X		
✓ Carlene Thie						
✓ Kelly Fulsom	2350 W Mumuk		✓			
✓ Regina Henley	10055 Riverbend			✓		
✓ GORDON SHADON	22568 DUFF LN.	541-330-8178		X		
✓ EUGENIA SHADON	" "	" "		X		
✓ TANNER VERHOEKS	208-341-3838 12835 QUAIL RUN	208-341-3838	X			
✓ Mike Drafz	1889 RIDGE WAY	208-527-1249				
✓ DOUG BENNE	25794 AMBLE WAY	207 334 8343		X		



Please check

[illegible]



4) Hess Properties - River Walk Crossing - Annexation/Rezone, PP, DA, Comp Plan Map Amendment

August 9, 2021 - Planning & Zoning - Public Hearing

Please check

Name	Address	Phone or Email	Please check		
			In Favor	Neutral	Opposed
Carol Laker Dan McElhinney ID	8150 W CITRUS BOISE, ID	Carol Laker HTR.17@mta.gov	✓	✓	✓
Dan Burnett	1125 W 7th Street IN	208 994 1607	✓		✓
LEIGH GILLIS	511 N. Deep Ave	208-860-8114		✓	
SHERI JARRETT	25160 Duff			✓	NO
MATHEWA WATKINS	10669 Hwy 44 Middleton	(208) 849-3141 m.watkins208@icloud.com	✓		✓
Patricia M Watkins	10038 Turner Dr Middleton	(208) 585-2730 patsyid@yahoo.com	✓		✓
Tyler Hess	15021 Sparrows Ln.	208-409-0864	✓		
Carlene Thio					
Sim Corta	24444 Hatfield Ln	208-761-1423			



4) Hess Properties - River Walk Crossing - Annexation/Rezone, PP, DA, Comp Plan Map Amendment
August 9, 2021 - Planning & Zoning - Public Hearing

Please check

Name	Address	Phone or Email	Please check		
			In Favor	Neutral	Opposed
Nicole Shackelford	14057 Blackhawk Ln, Caldwell	208-857-3140			
TANNER VERHOEFFS	12885 QUAIL RUN	208-391-3830	X		
Mike Grafe	1889 Ridge Way	208-527-6229			
LYLE ZUFERT	9965 GRAND TARAWE	208-		X	X
SPENCER KORZED	8454 BROOKHAVEN, MIDDLETOWN	208 863 5164	X		
DOUG BENNE	25794 AMBLE WAY	707 334-8343	X		
ALAN MILLS	Box 206 Middleton Id	208-880-0525	X		
ANDREW KNOWLES	1521 CLONNIE POINTE	208 794-7480	X		



Public Comment Sign In

August 9, 2021 Planning & Zoning Meeting

	Name	Address	Phone or Email	Topic/Agenda Item #
1	Carlene Zher			
2	Wesley	1889 Ridge Way	208-527-6227	
3	DOUG BENNE	25794 Ambles Way	707 334-8343	Dust Cann
4	DAVID Toney	9865 Beans Tonghee Dr Walden	208 629-9181	Dust LANE
5	JEREMY RUDOLPH	507 TRIUMPH DR MIDDLETON	650 296 8659	
6				
7				
8				
9				
10				