



AGENDA
City Council Meeting
City of Middleton, Idaho

Date: Wednesday November 4, 2020

Time: 5:30 p.m.

Location: **Trolley Station** 310 Cornell Street, Middleton, Idaho

Call-to-order, roll call, Pledge of Allegiance, Invocation: Emmalee Child

Information Items

1. Presentation on Canyon 4 Highway District, Middleton, Canyon County, Star Impact Fee Agreement – Chris Hopper
2. Budget Summary overview FY 2020 – Wendy Miles

Action Items

1. Consent Agenda (items of routine administrative business)
 - a. Consider approving minutes for Council's October 7, 2020 and October 21, 2020 regular meetings.
 - b. Consider ratifying October 23, 2020 payroll in the amount of \$106,598.15 and accounts payable thru October 29, 2020 in the amount of \$124,923.66.
2. Consider approving the engagement letter for the 2020 audit from Zwygart John and Associates, PLLC. – Wendy Miles
3. **Public Hearing:** An application from Peter Harris for a preliminary plat and special use permit of Concord Square Subdivision. The proposed preliminary plat zoned R-3, consists of 9 single family lots, accessing Birch Avenue. Site area is approximately 2.69 acres located near the southeast corner of Birch Ave. and Concord St, address of 0 Concord St, Canyon County parcel no. R1869601. – Bruce Bayne
4. Consider approving T-O Engineers Cemetery Road Phase 2 Scope of Work in an amount not to exceed \$24,913.00. – Bruce Bayne
5. Consider approving T-O Engineers Scope of Services of Design and Construction 2020 Middleton Wastewater Upgrade – Preliminary Engineering Report and Influent Wet Well Repair in an amount not to exceed \$202,768.00 - Bruce Bayne
6. Consider approving Change Order No. 2 from Irminger Construction for Mill Slough Irrigation water intake to the Re-Use Pilot Project area in an amount not to exceed \$65,000.00. – Bruce Bayne
7. Public Hearing: Consider adopting Adopt Ordinance No. 643 of the City of Middleton, Canyon County, Idaho adopting Middleton Police Department Impact Fee; providing for the imposition, computation and payment of said fee; providing for the establishment of an Impact Fee fund; providing for exemptions, refunds, credits and waivers of the Impact Fee; Adopting general provisions; providing for appeals; and providing an effective date.

Proposed Impact Fee:
New Residential (per EDU) \$304.00
New Commercial (per square foot) \$0.15
New Industrial (per square foot) \$0.15

Public Comments, Mayor and Council Comments, Adjourn

Posted by:


Jennica Reynolds, Deputy Clerk

Date: November 2, 2020, 5:00 p.m.

Please contact the City Clerk at (208) 585-3133 if you have special needs or require assistance.

**MIDDLETON CITY COUNCIL
OCTOBER 7, 2020**

The Middleton City Council meeting on October 7, 2020 was called-to-order at 5:38 p.m. by Mayor Rule.

Roll Call: Council Member Carrie Huggins attended via telephone, Council Members Jeff Garner and Tim O'Meara were present. Council President Rob Kiser arrived at 5:45 p.m.

Pledge of Allegiance, Invocation: Mike Crossley

Action Item: Approve Amended Agenda. Motion and approved Unanimously by Council Members Garner, O'Meara and Huggins (on the phone).

Discussion item

1. Water turn off fees and time limits – Jim Gordon

Public Works Water Operator, Jim Gordon presented to Council considering a different approach to water shut off. Currently there is a \$30 charge for the residents who call afterhours if their water is off due to nonpayment.

(President Rob Kiser came into the meeting at 5:45 p.m. Council Member Huggins hung up on the meeting. There is a quorum with Kiser, Garner and O'Meara.)

Action Items

- 1. Consent Agenda (items of routine administrative business)**
 - a. Consider approving minutes for Council's September 2, 2020 regular meeting, September 8, 2020 special meeting.**
 - b. Consider ratifying September 18, 2020 payroll in the amount of \$ \$102,171.93 and accounts payable thru September 30, 2020 in the amount of \$190,885.09.**

Council President called the item. He gave a brief explanation of the accounts payable registers.

Motion: Motion by Council President Kiser to approve consent agenda items a and b. Seconded by Council Member Garner. Approved unanimously.

2. Consider approving West Highlands Subdivision Phase No. 9 Final Plat – Bruce Bayne

Mayor Rule called the item. Planning and Zoning Official Bruce Bayne explained the West Highlands Subdivision Phase No. 9 Final Plat. This has been recommended by the City Engineer and Planning and Zoning to be approved. This plat has a bond attached to it in the amount of \$743,823.00 that is associated with this project for work that still needs to be completed. They are allowed to get the final plat approved and it is also tied to a developmental agreement approval that is conditioned upon payment of \$350,000 for intersection control.

Motion: Motion by Council President Kiser to approve West Highlands Subdivision Phase No. 9 Final Plat provided the applicant meets all recommended changes. Motion seconded by Council Member Garner. Motion approved unanimously.

3. Consider approving Stonehaven Subdivision Phase No. 3 Final Plat – Bruce Bayne

Mayor Rule called the item. Planning and Zoning Official Bruce Bayne explained the Stonehaven Subdivision Phase No. 3 Final Plat. This is a little bit different because the applicant had a phasing plan that didn't agree with the plat. The City required that the applicant revise the layout for this phase because they were over 50 lots and as soon as they hit 51 lots, they are required to have second exit out of their subdivision. It was required to take this up to the north, up to Willis Road for the second access. The applicant will submit to the Planning and Zoning Commission their amended phasing plan for approval and then that will come before City Council as well. That amended phasing plan will be for phase 3 and all phases going forward. The City Engineer and Planning and Zoning recommend approval of this final plat.

Motion: Motion by Council President Kiser to Consider approving Stonehaven Subdivision Phase No. 3 Final Plat provided the applicant meets all City recommendation. Motion seconded by Council Member O'Meara. Motion approved unanimously.

4. Consider confirmation of Mayor's appointment of Jim Taylor to Library Board. – Mayor Rule

Mayor Rule called the item and explained that there is a vacancy that needs to be filled. He has identified three qualified applicants and he is submitting Jim Taylor for confirmation. Jim has consented to serve this appointment.

Motion: Motion by Council President Kiser to confirm Mayor Rules appointment of Jim Taylor to the Library Board. Motion seconded by Council Member O'Meara. Motion approved unanimously.

5. Public Hearing: Consider adopting Resolution 453-20: to amend the City of Middleton's Comprehensive Plan text and maps as necessary to incorporate the city's updated capital improvement plans for city Police Department.

Mayor Rule called the public hearing open at 6:02 p.m.

Police Chief Alan Takeuchi: Thanked the Council for hearing this item.

No Comments from public.

Mayor Rule closed the public hearing comment at 6:04 p.m.

Planning and Zoning Official Bruce Bayne said that the Planning and Zoning Commission recommended the approval of this.

Motion: Motion by Council President Kiser to Consider adopting Resolution 453-20: to amend the City of Middleton's Comprehensive Plan text and maps as necessary to

incorporate the city's updated capital improvement plans for city Police Department. Motion seconded by Council Member Garner. Motion approved unanimously.

The public hearing closed at 6:15 p.m.

- 6. Public Hearing: A request by Joan Endicott to rezone three parcels, totaling 0.70 acres from R-3 (Single Family Residential) to M-U (Mixed Use) from Middleton City Code 5-1-5, along with a Development Agreement, Middleton City Code Title 5, Section 2. The subject properties are located at 424 Boise St., for Parcel No. R18502, 0 Boise Street for Parcel No. R18503 and 0 Boise Street for Parcel No. R18504, Middleton, Idaho. – Bruce Bayne**

Planning and Zoning Official introduced the item and read the staff report. He reviewed the Development Agreement and covered Article 3.1, Conditions of the Development Agreement.

Council President Kiser asked how many townhomes would be allowed on the property. Bruce said it would be 6-7 units, but they would also have to meet the parking requirements. Bruce said the neighbor to the west is looking to be rezoned to Mixed Use.

Mayor Rule called the public hearing open at 6:16 p.m.

Jacalyn Hill: 414 Boise Street. She just moved in and commented that she learned a lot about what is going on around her.

Mayor Rule closed the public hearing at 6:18 p.m.

Discussion: Council Member O'Meara said it is a great loss to lose the Endicott residence, but he can see how the growth in that area is in line for the Mixed Use, so he is in favor of the zone change. Council President Kiser agrees this is a good move to put commercial in where they want it.

Motion: Motion by Council President Kiser to approve a request by Joan Endicott to rezone three parcels, totaling 0.70 acres from R-3 (Single Family Residential) to M-U (Mixed Use) from Middleton City Code 5-1-5, along with a Development Agreement per Middleton City Code Title 5, Section 2. Motion seconded by Council Member O'Meara. Motion approved unanimously by Roll Call Vote.

- 7. Public Hearing: An application from Peter Harris for a preliminary plat and special use permit of Concord Square Subdivision. The proposed preliminary plat zoned R-3, consists of 9 single family lots, accessing Birch Avenue. Site area is approximately 2.69 acres located near the southeast corner of Birch Ave. and Concord St, address of 0 Concord St, Canyon County parcel no. R1869601. – Bruce Bayne**

Motion: Motion by Council President Kiser to table the public hearing for application from Peter Harris for a preliminary plat and special use permit of Concord Square Subdivision until November 4, 2020. Motion seconded by Council Member Garner. Motion approved unanimously.

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- 8. Public Hearing: a proposed exchange of a portion of City owned property located at 0 State Highway 44; parcel R3473701100 with property located 322 E. 1st Street, Middleton, Idaho. The City owned property located at 0 State Highway 44; parcel R3473701100, Canyon County is approximately 18,300 square feet and is zoned C1. It's estimated value is 60,000. The property located at 322 E. 1st Street, Middleton ID is 11,098 square feet, zoned C3 and its estimated value is 84,000.00. The purpose of the exchange is to secure property adjacent to existing city property downtown to allow for future downtown consolidated city services. – Becky Crofts**

Mayor Rule opened the public hearing at 6:16 p.m.

City Administrator Becky Crofts explained the proposed property exchange. The city would keep the easement and there would be an agreement put together so that the owner's septic would be able to encroach into the City easement as he has to have a primary and secondary option for his septic. The reason the City owns this property is for a future regional lift station. Middleton Fire has approved the access. The City is working with ITD and Southwest District Health for approvals.

Mayor Rule is in full support of this trade.

No public comment.

Mayor Rule closed the public hearing at 6:28 p.m.

Council President Kiser said this is a big step in moving forward to get all the City services back together. We might not see it, but those that come behind us will.

Motion: Motion by Council President Kiser to approve the exchange of a portion of City owned property located at 0 State Highway 44; parcel R3473701100 with property located 322 E. 1st Street. Motion seconded by Council Member Garner. Motion approved unanimously by Roll Call Vote.

- 9. Consider purchasing property commonly known as 324 E 1st Street, Middleton, Idaho 83644 in the amount of \$95,000.00 subject to appraisal. – Becky Crofts**

Mayor Rule introduced the item. City Administrator Becky Crofts explained that this purchase is needed in order to consolidate City Services and this property is available for purchase and subject to appraisal. City Staff recommends this purchase. Mayor Rule said there are dollars allocated for FY2020 for this purchase and it is not in the FY2021 budget. Council Member O'Meara thanked the staff for their efforts in acquiring this property.

Motion: Motion by Council President Kiser to purchase property commonly known as 324 E 1st Street, Middleton, Idaho 83644 in the amount of \$95,000.00 subject to the appraisal. Motion seconded by Council Member O'Meara. Motion approved unanimously.

- 10. Public Hearing: Ordinance No. 638 of the City of Middleton, Canyon County, Idaho, amending Title 5 of the Middleton city code updating general zoning provisions, , modifying and updating the uses and notes in the land use, setback and area tables, updating preliminary and final plat requirements; updating design and development standards; updating required road and utility improvements;**

updating special developments provisions; making other minor modifications and providing an effective date. - Bruce Bayne

Mayor Rule opened the public hearing at 6:33 p.m.

Planning and Zoning Official Bruce Bayne gave an explanation of the suggested revisions for Title 5.

Clarification: E-1: Any user can stay for 30 days and then they have to move out for at least 90 days. And they can come back for 30 days. Then have to move out for 90 days. E-2 is user can only stay a maximum of up to 90 days total in a 12-month period.

Public comment:

Jill Blue: 23245 Hartley Lane: Opposed. She opposes changes to be made as they are in the midst of constructing an RV Park and negotiations are being made. She wants to know when this would go into effect and how would it effect their project that is already in place? She finds it interesting that nothing has been changed on RV parks pertaining to code until now when their project is taking place.

Jan Arrasmith: 12981 Okie Ridge: Opposed. She would hope this would not affect this project. She doesn't agree with the part that limits the amount of time that someone can stay. In a code for RV Parks 184-3-7-5 Specification standards, recreation vehicles shall be either onsite, fewer than 180 consecutive days as long as they are fully licensed and not a permanent residence and they are registered as a vehicle. She is opposed because she feels that the City is really telling people how to run their business.

Jim Taylor: 1052 Triumph Dr: He agrees completely with the changes except section E. The people who buy an RV will be permanent residents. He has an interest in an RV Park and he says they don't move. They don't have anywhere to go. He was opposed to the RV park in the first place. But now that the RV park has been approved, they should be able to run their business. He believes Council should readdress section E.

Allen Tremble: 952 S Alturas Lake Place: Neutral. He didn't understand what the reason for E was. If he was a business owner, he would be a little perturbed about having to kick people out and then let them back in. Do people camp out and never leave? Are we trying to get rollover in there? Why would we request them leave after 30 days?

Mayor Rule closed the public hearing at 6:47 p.m.

Planning and Zoning Official Bruce Bayne said that code changes are done all the time. It is not unusual to change the code. The reason for the change to leave before 30 days. We do not want this to become a subdivision, which it would if people were allowed to stay year-round. It is an RV park, and an RV park to the City is thought of as where there is flow in and out. Where Events in the City bring different people in for those events. He doesn't think that the City should have RV parks as effacto housing because that is not what the intent is. That is part of the reason for limiting the stay.

City Attorney Chris Yorgason explained that the Ordinance goes into effect immediately upon its passage, approval and publication. When applications are submitted the applicant is entitled to the ordinances that are in effect at that time. Any code changes that go into effect after the application is filed would not be applicable.

Mayor Rule said this is the first RV park that Middleton has had in its city limits so there is a bit of a learning curve. The Okamura's met with the Mayor and brought up a city code that applied to Mobile home parks that allowed for 45 days.

Council President Kiser said he is hung up on the 30 days limit. The other part of that code is the question of who is going to enforce this code? He doesn't think it should be a permanent stay, but he does think it needs to be longer than 30 days. Council Member O'Meara agrees with Council President Kiser in that enforcement would be a nightmare. He does not agree with mandating to a business how they will run their business. Council Member Garner agrees with removing item E.

Motion: Motion by Council President Kiser to approve Ordinance No. 638 with the exclusion of section E. Motion seconded by Council Member O'Meara. Approved unanimously by Roll Call Vote.

11. Consider adopting Ordinance No. 638: AN ORDINANCE OF THE CITY OF MIDDLETON, CANYON COUNTY, IDAHO, AMENDING THE MIDDLETON CITY CODE TITLE 5, CHAPTER 4, SECTION 3 UPDATING TRAFFIC IMPACT ANALYSIS REQUIREMENTS; AMENDING TITLE 5, CHAPTER 4, SECTION 13, SUBSECTION 3 UPDATING RV PARK APPLICATION STANDARDS, AND PROVIDING AN EFFECTIVE DATE. – Bruce Bayne

Motion: Motion by Council President Kiser to read Ordinance No. 638 by title only. Motion seconded by Council Member Garner. Approved unanimously.

Council President Kiser read Ordinance No. 638 by title only.

Motion: Motion by Council President Kiser to waive the three-reading rule and approve Ordinance No. 638 with the exclusion of section E. Motion seconded by Council Member Garner. Approved unanimously by Roll Call Vote.

12. Consider approving a contract for Professional Services Agreement between City of Middleton, Idaho and SAFEbuilt, LLC for Building Inspector Services. – Becky Crofts

Mayor Rule called the item. City Administrator Becky Crofts explained the contract inspector services. Right now, we have one building official/inspector and he has been sick the last 3 days. The City does not have a backup inspector. We are asking council to approve the contract. It has been reviewed by the City Attorney. We did not budget for an additional building inspector this year based on the numbers, Chris can generally handle it based on the volume, but we do need a good backup.

Motion: Motion by Council President Kiser to approve contract for Professional Services Agreement between City of Middleton, Idaho and SAFEbuilt, LLC for Building Inspector Services. Motion seconded by Council Member O'Meara. Motion approved unanimously.

13. Consider adopting Ordinance No. 640: Coburn Annexation: AN ORDINANCE OF THE CITY OF MIDDLETON, CANYON COUNTY, IDAHO, ANNEXING TO THE CITY OF MIDDLETON, IDAHO, CERTAIN REAL PROPERTY SITUATED IN THE UNINCORPORATED AREA OF CANYON COUNTY, IDAHO, AND CONTIGUOUS TO THE CORPORATE LIMITS OF THE CITY OF MIDDLETON, IDAHO; ESTABLISHING THE ZONING CLASSIFICATION OF SAID REAL PROPERTY TO M-U (MIXED-USE),

WITH A DEVELOPMENT AGREEMENT; DIRECTING THAT COPIES OF THIS ORDINANCE BE FILED AS PROVIDED BY LAW; AND PROVIDING AN EFFECTIVE DATE.

Mayor Rule called the item.

Motion: Motion by Council President Kiser to read Ordinance No. 640 by title only. Motion seconded by Council Member Garner. Motion approved unanimously by Roll Call Vote.

Council President Kiser read Ordinance No. 640 by title only.

Motion: Motion by Council President Kiser to waive the three-reading rule of Ordinance No. 640 and approve it. Motion seconded by Council Member O'Meara. Motion approved unanimously by Roll Call Vote.

Public Comments, Mayor Comments, Council Comments:

Council comment: Thanks to ITD - Caleb Lakey and his crew/staff for restriping Hwy 44 at the light.

Mayor comment: Work on S. Cemetery is moving forward at this time. The gravel extraction was approved, and the test pits have been certified according to the state. The city will have to excavate about 12 inches of topsoil. We are trying to keep everything in sync and not forget anything. Personnel issues; we are understaffed at the City of Middleton. Planning is still way behind even after we have hired a new planner. It is the plan to pay for a new engineer with the savings.

City Administrator Becky Crofts said one of the goals of the Mayor is to get a surplus in the general fund. We budgeted in the general fund 2.9 million dollars and received about 3.088 million dollars. We were above that by about \$111,000.00. We received more money than we budgeted. What is impressive is that we had anticipated spending about 2.9 million and the city only spent 2.5 million dollars and we saved about \$443,000.00 and add the \$100,000.00 from additional revenues from mainly building. We ended the year with a budget surplus of about \$555,000.00. There are a few items that still need to come through. Those funds that are not earmarked for projects will go into the bank. The goal is to have in the general fund one years' worth of spending so that we always have a safety net. It was a good year for the city. All the funds closed out in the positive. We have a lot of planning and dollars that will be used next year for transportation. Hopefully S. Cemetery phase one will be completed as well as the water crossing. Hartley the 30-inch sewer trunk line and the most important thing is we are finally going to be able to improve some of the water, sewer and roadways in what is refer to as Old Middleton, the most established part of Middleton. We are on the right path forward.

Adjourn: Mayor Rule adjourned the meeting at 7:16 p.m.

ATTEST:

Steven J Rule, Mayor

Jennica Reynolds, Deputy Clerk
Minutes Approved: November 4, 2020

**MIDDLETON CITY COUNCIL
OCTOBER 21, 2020**

The Middleton City Council meeting on October 21, 2020 was called-to-order at 5:32 p.m. by Mayor Rule.

Roll Call: Council President Kiser and Council Member Huggins, Garner and O'Meara were all present.

Pledge of Allegiance, Invocation: Jennifer Barr

Action Items

1. **Consent Agenda (items of routine administrative business)**
 - a. **Consider approving minutes for Council's September 16, 2020 regular meeting. Consider ratifying October 9, 2020 payroll in the amount of \$ 72,962.84 and accounts payable thru October 16, 2020 in the amount of \$179,548.41**
 - b. **Consider approving FCO – Endicott Rezone and Development Agreement**

Council President Kiser noted there is a typo on page 3 of the minutes that needs to be cleaned up.

Motion: Motion by Council President Kiser to approve consent agenda items a and b. Seconded by Council Member O'Meara. Approved unanimously.

4. **Consider approving the SRO contract between Middleton Police and Middleton School District. – Chief Takeuchi**

Mayor Rule called the item. Chief Alan Takeuchi explained the SRO Contract with the Middleton School District. City Attorney Chris Yorgason has looked at the language and doesn't see any problems with the contract. Council President Kiser asked if the same staff would be used would continue to be the same staff used. Chief said yes they are the same. He is very happy and thrilled to see the Middleton Police in the Middleton Schools period. The SRO's interact with the community in other capacities besides just the SRO so it is a great benefit for the community. The Middleton School District wants to be able to look at the contract throughout the year as Covid and the District response to Covid unfold.

Motion: Motion by Council President Kiser to approve approving the Consider approving the SRO contract between Middleton Police and Middleton School District. Motion seconded by Council Member Garner. Motion approved unanimously by Roll Call Vote.

Mayor Rule said he really appreciates the School District being very responsible and through explanation with City Staff and Chief Takeu have been able to reach that agreement.

2. **Zoom Presentation for Waste Water Natural Treatment – update and status – Jack Harrison.**

Mayor Rule called the item. The City spends a lot of money for the waste water natural treatment in order to save a lot of money in the future. Mayor Rule introduced Jack

Harrison with HyQual who gave a presentation detailing the updates and status of the wastewater natural treatment re-use system. The idea is to use a combination of the natural treatment and mechanical treatment in order to meet the requirements for the permit discharge into the Boise River. Natural treatment helps to keep the cost of treatment lower instead of solely using mechanical treatment options where cost can increase with stricter regulations for the discharge permit.

Construction of the Rubicon gate has been completed and is fully operational. We are still working on the details of the sediment removal. That is the single largest cost item for the Mill Slough project.

Mayor Rule asked City Administrator Becky Crofts to explain some associated costs. Diversion costs are estimated to come through \$50-\$80,000. In the Wastewater Master Planning it was estimated that this natural treatment would cost about 1.2-1.5 Million dollars. Council will continue to see some additional costs come through to get the system set up. And then we will move into the monitoring period. So, we are getting to the point where we are collecting data. That is important because if we can't prove the study, we cannot prove the savings. We are anticipating about 10 million dollars in savings, for our spending of 1 million.

3. Consider approving Proposed HyQual Scope of Work for FY2021 Water Quality Permitting and Natural Treatment Planning in an amount not to exceed \$62,000. – Becky Crofts

Mayor Rule introduced item. City Administrator Becky Crofts explained the agreement shows the tasks, milestones and hourly spending limits. Council Member Huggins said it is important to note that if the spending wasn't used here for the Natural Treatment, it would be used for a different mechanical treatment. Mayor Rule said the different types of treatment (temperature alone) could cost millions. This is a good way to go. Becky said in some of Jack's hours are the negotiations for the permit with DEQ.

Motion: Motion by Council President Kiser to approve Proposed HyQual Scope of Work for FY2021 Water Quality Permitting and Natural Treatment Planning in an amount not to exceed \$62,000. Motion seconded by Council Member O'Meara. Motion approved unanimously by Roll Call Vote.

5. Consider adopting Ordinance 642 of the City of Middleton, Canyon County, Idaho, amending Title 1 and Title 4. - Bruce Bayne

Mayor Rule called the item and Planning and Zoning Official Bruce Bayne explained the Ordinance No. 642 amending Title 1 and Title 4. He explained the need to have this in the code to change the definition of types of housing as well as definitions of main, public and private lanes which will be built to city standards. Planning and Zoning Commission was in agreement with all of the changes.

Council President Kiser said he would like clarification of what a private lane is and what is maintained by the City. Bruce said it would be determined on a case by case basis.

Motion: Motion by Council President Kiser to waive the 3-reading rule of Ordinance 642 of the City of Middleton, Canyon County, Idaho, amending Title 1 and Title 4. Motion seconded by Council Member Huggins. Motion approved unanimously by Roll Call Vote.

Council President Kiser read the Ordinance No. 642 by title only.

Motion: Motion by Council President Kiser to approve Ordinance No. 642. Motion seconded by Council Member Huggins. Motion approved unanimously by Roll Call Vote.

Public Comments, Mayor Comments, Council Comments:

No public comments

Council Member O'Meara: He went to the last school board meeting with the School District with a proposal for the Greater Middleton Parks and Recreation District to enter into another lease agreement for the Community Center. The school board agreed to enter into a month by month extension of the lease. Parks and Rec will continue to try to work with the school district to negotiate a more long term solution.

Mayor Rule said Parks and Rec has asked the City to provide a letter of support. The Mayor is inclined to support that effort, and unless there is any objection, he and staff will draft a letter and mail it to the school district. There were no objections.

Mayor Comment: The City has interviewed for the City Engineer position and made an offer. Middleton has a lot to offer. It is a good community.

Adjourn: Mayor Rule adjourned the meeting at 6:54 p.m.

ATTEST:

Steven J Rule, Mayor

Jennica Reynolds, Deputy Clerk
Minutes Approved: November 4, 2020



ZWYGART JOHN
CERTIFIED PUBLIC ACCOUNTANTS

Zwygart John & Associates CPAs, PLLC

16130 North Merchant Way, Suite 120 ♦ Nampa, Idaho 83687

Phone: 208-459-4649 ♦ FAX: 208-229-0404

October 26, 2020

To: City of Middleton
6 North Dewey Ave
Middleton, Idaho 83644

The following represents our understanding of the services we will provide City of Middleton.

You have requested that we audit the accompanying financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, and the aggregate remaining fund information of City of Middleton as of September 30, 2020, and for the year then ended and the related notes, which collectively comprise City of Middleton's basic financial statements as listed in the table of contents. We are pleased to confirm our acceptance and our understanding of this audit engagement by means of this letter. Our audit will be conducted with the objective of our expressing an opinion on each opinion unit applicable to those basic financial statements.

Accounting principles generally accepted in the United States of America, (U.S. GAAP,) as promulgated by *the Governmental Accounting Standards Board* (GASB), issued by the Comptroller General of the United States, require that included supplementary information, such as management's discussion and analysis and budgetary comparison information be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the GASB, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the Required Supplementary Information (RSI) in accordance with auditing standards generally accepted in the United States of America, (U.S. GAAS). These limited procedures will consist primarily of inquiries of management regarding their methods of measurement and presentation, and comparing the information for consistency with management's responses to our inquiries. We will not express an opinion or provide any form of assurance on the RSI. The following RSI is required by U.S. GAAP. This RSI will be subjected to certain limited procedures but will not be audited:

- Management's Discussion and Analysis
- Budgetary Comparison

Supplementary information other than RSI will accompany City of Middleton's basic financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the basic financial statements and perform certain additional procedures, including comparing and reconciling the supplementary information to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and additional procedures in accordance with U.S. GAAS. We intend to provide an opinion on the following supplementary information in relation to the basic financial statements as a whole:

- Combining Statements.

Auditor Responsibilities

We will conduct our audit in accordance with auditing standards generally accepted in the United States of America (U.S. GAAS) and *Government Auditing Standards*. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the basic financial statements are free from material misstatement. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the basic financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the basic financial statements, whether due to fraud or error, misappropriation of assets, or violations of laws, governmental regulations, grant agreements, or contractual agreements.

An audit also includes evaluating the appropriateness of accounting policies used, and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the basic financial statements. If appropriate, our procedures will therefore include tests of documentary evidence that support the transactions recorded in the accounts, tests of the physical existence of inventories, and direct confirmation of cash, investments, and certain other assets and liabilities by correspondence with creditors and financial institutions. As part of our audit process, we will request written representations from your attorneys, and they may bill you for responding. At the conclusion of our audit, we will also request certain written representations from you about the basic financial statements and related matters.

Because of the inherent limitations of an audit, together with the inherent limitations of internal control, an unavoidable risk that some material misstatements (whether caused by errors, fraudulent financial reporting, misappropriation of assets, or violations of laws or governmental regulations) may not be detected exists, even though the audit is properly planned and performed in accordance with U.S. GAAS and in accordance with *Government Auditing Standards*.

In making our risk assessments, we consider internal control relevant to the entity's preparation and fair presentation of the basic financial statements in order to design audit procedures that are appropriate in the circumstances but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. However, we will communicate to you in writing concerning any significant deficiencies or material weaknesses in internal control relevant to the audit of the basic financial statements that we have identified during the audit. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any other periods.

We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs. If our opinions on the basic financial statements are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or to issue a report as a result of this engagement.

Compliance with Laws and Regulations

As previously discussed, as part of obtaining reasonable assurance about whether the basic financial statements are free of material misstatement, we will perform tests of City of Middleton's compliance with the provisions of applicable laws, regulations, contracts, and agreements. However, the objective of our audit will not be to provide an opinion on overall compliance and we will not express such an opinion.

Management Responsibilities

Our audit will be conducted on the basis that *management and those charged with governance* acknowledge and understand that they have responsibility:

- a. For the preparation and fair presentation of the basic financial statements in accordance with accounting principles generally accepted in the United States of America;

- b. For the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of basic financial statements that are free from material misstatement, whether due to error, fraudulent financial reporting, misappropriation of assets, or violations of laws, governmental regulations, grant agreements, or contractual agreements; and
- c. To provide us with:
 - i. Access to all information of which management is aware that is relevant to the preparation and fair presentation of the basic financial statements such as records, documentation, and other matters;
 - ii. Additional information that we may request from management for the purpose of the audit; and
 - iii. Unrestricted access to persons within the entity from whom we determine it necessary to obtain audit evidence.
- d. For including the auditor's report in any document containing basic financial statements that indicates that such basic financial statements have been audited by the entity's auditor;
- e. For identifying and ensuring that the entity complies with the laws and regulations applicable to its activities;
- f. For adjusting the basic financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the current year period(s) under audit are immaterial, both individually and in the aggregate, to the basic financial statements as a whole; and
- g. For maintaining adequate records, selecting and applying accounting principles, and safeguarding assets.

With regard to the supplementary information referred to above, you acknowledge and understand your responsibility: (a) for the preparation of the supplementary information in accordance with the applicable criteria; (b) to provide us with the appropriate written representations regarding supplementary information; (c) to include our report on the supplementary information in any document that contains the supplementary information and that indicates that we have reported on such supplementary information; and (d) to present the supplementary information with the audited basic financial statements, or if the supplementary information will not be presented with the audited basic financial statements, to make the audited basic financial statements readily available to the intended users of the supplementary information no later than the date of issuance by you of the supplementary information and our report thereon.

As part of our audit process, we will request from management written confirmation concerning representations made to us in connection with the audit.

Reporting

We will issue a written report upon completion of our audit of City of Middleton's basic financial statements. Our report will be addressed to the governing body of City of Middleton. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions, add an emphasis-of-matter or other-matter paragraph(s), or withdraw from the engagement.

We also will issue a written report on in accordance with the requirements of *Government Auditing Standards*, we will also issue a written report describing the scope of our testing over internal control over financial reporting and over compliance with laws, regulations, and provisions of grants and contracts, including the results of that testing. However, providing an opinion on internal control and compliance will not be an objective of the audit and, therefore, no such opinion will be expressed.

Nonattest Services:

With respect to any nonattest services we perform, City of Middleton's management is responsible for (a) making all management decisions and performing all management functions; (b) assigning a competent individual to oversee the services; (c) evaluating the adequacy of the services performed; (d) evaluating and accepting responsibility for the results of the services performed; and (e) establishing and maintaining internal controls, including monitoring ongoing activities. The services we will provide are:

- Help in preparation of the financial statements.

Government Auditing Standards require that we document an assessment of the skills, knowledge, and experience of management, should we participate in any form of preparation of the basic financial statements and related schedules or disclosures as these actions are deemed a non-audit service.

Other

We understand that your employees will prepare all confirmations we request and will locate any documents or support for any other transactions we select for testing.

If you intend to publish or otherwise reproduce the basic financial statements and make reference to our firm, you agree to provide us with printers' proofs or masters for our review and approval before printing. You also agree to provide us with a copy of the final reproduced material for our approval before it is distributed.

During the course of the engagement, we may communicate with you or your personnel via fax or e-mail, and you should be aware that communication in those mediums contains a risk of misdirected or intercepted communications.

Fees and Timing

Jordan Zwygart, CPA is the engagement partner for the audit services specified in this letter. Their responsibilities include supervising Zwygart John & Associates CPAs, PLLC's services performed as part of this engagement and signing or authorizing another qualified firm representative to sign the audit report.

We will notify you immediately of any circumstances we encounter that could significantly affect this fee. Whenever possible, we will attempt to use City of Middleton's personnel to assist in the preparation of schedules and analyses of accounts. This effort could substantially reduce our time requirements and facilitate the timely conclusion of the audit.

Further, we will be available during the year to consult with you on financial management and accounting matters of a routine nature.

During the course of the audit, we may observe opportunities for economy in, or improved controls over, your operations. We will bring such matters to the attention of the appropriate level of management, either orally or in writing.

You agree to inform us of facts that may affect the basic financial statements of which you may become aware during the period from the date of the auditor's report to the date the financial statements are issued.

We agree to retain our audit documentation or work papers for a period of at least five years from the date of our report.

At the conclusion of our audit engagement, we will communicate to management the following significant findings from the audit:

- Our view about the qualitative aspects of the entity's significant accounting practices.
- Significant difficulties, encountered during the audit, if any.
- Uncorrected misstatements, other than those we believe are trivial, if any.
- Disagreements with management, if any.
- Other findings or issues, if any, arising from the audit that are, in our professional judgment, significant and relevant to those charged with governance regarding their oversight of the financial reporting process.
- Material, corrected misstatements that were brought to the attention of management as a result of our audit procedures.
- Representations we requested from management.
- Management's consultations with other accountants, if any.

- Significant issues, if any, arising from the audit that were discussed, or the subject of correspondence, with management.

The audit documentation for this engagement is the property of Zwygart John & Associates CPAs, PLLC's and constitutes confidential information. However, we may be requested to make certain audit documentation available to regulatory agencies pursuant to authority given to it by law or regulation, or to peer reviewers. If requested, access to such audit documentation will be provided under the supervision of Zwygart & John & Associates CPAs, PLLC's personnel. Furthermore, upon request, we may provide copies of selected audit documentation to regulatory agency. The regulatory agency may intend, or decide, to distribute the copies of information contained therein to others, including other governmental agencies.

Our fees are based on the amount of time required at various levels of responsibility, plus actual out-of-pocket expenses. We estimate that our fee for the audit will be \$13,000.

Please sign and return the attached copy of this letter to indicate your acknowledgment of, and agreement with, the arrangements for our audit of the basic financial statements including our respective responsibilities.

We appreciate the opportunity to be your financial statement auditors and look forward to working with you and your staff.

Respectfully,

Zwygart John & Associates CPAs, PLLC

RESPONSE:

This letter correctly sets forth the understanding of City of Middleton.

City of Middleton:

Name: _____

Title: _____

Date: _____



CITY OF MIDDLETON
P O Box 487
1103 W MAIN ST, MIDDLETON, ID 83644
208-585-3133, FAX: 208-585-9601
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Planning and Zoning Department

Land Use Application

Rev: 4/24/2019

Fee Paid: \$ 4,500 3.105178

Application Accepted by: JK

Date Application Accepted: _____

Flood Plain Fee? 3,000
SUP -500.00

Applicant:

Peter Harris Construction - Peter Harris 208.941.5787 harrishomes@cableone.net
Name Phone Email

6951 Duncan Lane Boise, Idaho 83714
Mailing Address City, State Zip

Representative:

KM Engineering, LLP. - Stephanie Leonard 208.639.6939 sleonard@kmengllp.com
Name Phone Email

9233 West State Street Boise, Idaho 83714
Mailing Address City, State Zip Code

PUBLIC HEARINGS**

- ☐ Annexation and Zoning
☐ Rezone
☐ Vacate Right-of-Way
☐ Comprehensive Plan Map
or Text Amendment

PUBLIC MEETINGS*

- ☐ Design Review
☒ Preliminary Plat
☐ Construction Plans ***
☐ Final Plat

PUBLIC HEARINGS**

- ☐ Development Agreement
☐ Ordinance Amendment
☐ Special Use Permit
☒ Variance

* **Public Meetings:** Individuals have a right to observe, not comment, at an open meeting at which the application is being considered by decision makers. Plats designed to city code and standards do not require a neighborhood meeting or public hearing.

** **Public Hearings:** a neighborhood meeting is required before filing an application, and individuals have a right to participate in the hearing by offering comments. Plats not designed to city code and standards require a neighborhood meeting and public hearing.

*** **Administratively:** reviewed and approved by the City Engineer and Zoning Official.

Subdivision or Project Name: Concord Square

Site Address: 0 Concord Street, Middleton, ID 83644 Total Acres: 2.69

Crossroads: Near the southeast corner of Birch Avenue and Concord Street

Existing Zoning: R-3 Proposed Zoning: R-3

Floodplain Zone: AE Zone Hillside (grades exceeding 10%): N/A

Peter Harris

Applicant's Printed Name

7-23-20
Date

[Signature]
Applicant's Signature



CITY OF MIDDLETON

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Planning and Zoning Department

Land Use Application

Rev: 4/24/2019

Fee Paid: \$ _____

Application Accepted by: _____

Date Application Accepted: _____

Checklist - A complete Planning and Zoning Application must include the following.

- ✓ ☒ **Application Form**
- ✓ ☒ **Application Fee** (see Fee Schedule). Note: City Engineer and City Attorney expenses incurred by the city throughout the approval process that are related to relating to this Application are billed to the applicant in addition to the Application Fee. SML Applicant Initial
- ✓ ☒ **Vicinity Map:** attach an 8 ½" x 11" map showing the subject property in relation to land around it that includes the nearest public roads.
- ✓ ☒ **Narrative:** describe and explain your request, anticipated adverse impacts on neighbors, and other information helpful to decision-makers. Please attach the following if applicable.

Applicable Not Applicable

- | | | |
|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Describe how request is consistent with comprehensive plan (for annexation, zoning, comprehensive plan or ordinance amendments only) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Design review materials and information (design review application only) |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Proposed preliminary plat, drainage calculations, traffic impact study |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Proposed construction drawings (construction plans application only) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Proposed final plat (for final plat application only) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Proposed development agreement |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Worksheet (for special use permit or variance only) |

- ✓ ☒ **Proof of Ownership or Owner's Consent:** attach a copy of landowner's deed and, if applicable, a letter from the landowner that authorizes the applicant to file an application.
- ✓ ☒ **Property Boundary Description** including reference to adjoining road and waterway names that is signed and stamped by a land surveyor registered in the State of Idaho. If more than one zoning designation is being requested, separate legal descriptions are required for each zoning designation.
- ✓ ☒ **Neighborhood Meeting:** If applicable, attach original sign-up sheet.
- ✓ ☒ **Mailing Labels:** Adhesive mailing labels containing the names and addresses of property owners within 300 feet of the external boundaries of the subject property (available at Canyon County Assessor's office or title companies). Two(2) sets if application requires a public hearing.
- ✓ ☐ **Complete Application** (City use only: check box and initial if Application is complete): JK

Need SUP & Floodplain Fee - Emailed 8-21-2020
\$500.00 3,000.00



CITY OF MIDDLETON
P O Box 487, 1103 W. MAIN ST., MIDDLETON, ID 83644
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Planning Department
Special Use Permit Checklist
Rev: 2/11/2019

Property Owner(s): Peter Harris Construction Inc.

Please answer the following questions:

1. Property Size: 2.69 acres
2. Crossroads: Southeast corner of West Concord Street and Birch Avenue
3. Future Land Use Designation: Residential - Special Area
4. Surrounding Land Uses: Residential to north, south, east and west
5. If approved, what is the expected effect on roadways and traffic? There will likely be a slight increase in the number of vehicular trips since 8-9 additional homes are proposed
6. Will the proposed use generate a nuisance of light, glare, noise, vibration, smoke, fumes, odor, dust, etc.? No, this use is compatible with surrounding residential uses

If applicable:

Days and hours of operation: n/a

Number of employees (full-time): n/a (part-time): n/a

Number of employees (living on-site): n/a (living off-site): n/a

Frequency of deliveries: n/a Location of deliveries: n/a

Commission Evaluation: A public hearing will be scheduled before the Planning and Zoning Commission, which will review the application, receive verbal and written comments, and make a final decision based on the standards identified in Middleton City Code 1-15-7 and other applicable code sections.

How will the proposed use be harmonious with the goals, objectives, and strategies in the Comprehensive Plan?

Will the proposed use be served adequately by essential public facilities and services (pathways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer and schools or will the proposed use create excessive additional requirements at public cost for public facilities and services?

Will the proposed use be injurious to others by involving activities, processes, materials, equipment or conditions of operation that will be hazardous, or a nuisance to a person, or to existing or future



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Planning Department

Special Use Permit Checklist

Rev: 2/11/2019

neighboring uses? Nuisance means excessive traffic, vibration, noise, dust, fumes, glare, or odors or other similar nuisances.

Conditions of Approval: When approving a special use permit, conditions may be attached to:

- Minimize impact on other development;
- Control sequence and timing;
- Establish duration of the use;
- Assure the development is maintained properly;
- Designate the location and nature of development, including signs;
- Require the provision for on-site or off-site public facilities or services;
- Require more restrictive standards than those generally required in ordinance;
- Specify the period of time for which a permit is issued and conditions which, if not followed, will bring about revocation of the conditional use permit; and
- Require mitigation of effects of the proposed use upon service delivery by any political subdivision of the State of Idaho providing services within the planning area (Middleton's area of city impact).

**CITY OF MIDDLETON**

P O Box 487

1103 W MAIN ST, MIDDLETON, ID 83644
208-585-3133, FAX: 208-585-9601

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Planning and Zoning Department**Floodplain Development Permit Application**

Rev: 8/20/2019

Fee Paid: \$ _____

Application Accepted by: _____

Date Application Accepted: _____

Applicant:

<u>Peter Harris Construction - Peter Harris</u>	<u>208.941.5787</u>	<u>harrishomes@cablone.net</u>
Name	Phone	Email
<u>6951 Duncan Lane</u>	<u>Boise, Idaho</u>	<u>83714</u>
Mailing Address	City, State	Zip

Property Owner(s):

<u>Peter Harris Construction - Peter Harris</u>	<u>208.941.5787</u>	<u>harrishomes@cablone.net</u>
Name	Phone	Email
<u>6951 Duncan Lane</u>	<u>Boise, Idaho</u>	<u>83714</u>
Mailing Address	City, State	Zip Code

Representative:

<u>KM Engineering, LLP. - Stephanie Leonard</u>	<u>208.639.6939</u>	<u>sleonard@kmengllp.com</u>
Name	Phone	Email
<u>9233 West State Street</u>	<u>Boise, Idaho</u>	<u>83714</u>
Mailing Address	City, State	Zip Code

Site Information:

<u>O Concord Street</u>	<u>Middleton, Idaho</u>	<u>83644</u>
Street Address	City, State	Zip Code

Assessor's Tax Parcel No(s): R1869601000Total Acres of Site: 2.69 Subdivision: Weiber's Acreage Lot(s): 8 & 9 Block(s): _____**Description of Work (Complete for all Work):****1. Proposed Development Description**

- ☒ New Building(s)
- ☐ Manufactured Home
- ☐ Improvement to Existing Building
- ☐ Filling
- ☐ Other: _____



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Planning and Zoning Department

Floodplain Development Permit Application

Rev: 8/20/2019

Fee Paid: \$ _____

Application Accepted by: _____

Date Application Accepted: _____

2. Size and location of proposed development (attach site plan):

Approximately 2.69 acres situated in the east 1/2 of the SW 1/4 of Sec. 6, T4N, R2W.

Near the southeast corner of Concord Street and Birch Avenue in Middleton, Idaho.

3. Is the proposed development in a Special Flood Hazard Area (Zones A or AE)?

☒ Yes

☐ No

4. Per the floodplain map, what is the zone and panel number of the area of the proposed development?

Zone(s): AE and Floodway Panel No. 16027C0234G

5. Are other Federal, State or local permits obtained?

☐ Yes

☒ No

6. Is the proposed development in an identified floodway?

☒ Yes - a portion adjacent to Willow Creek

☐ No

7. If yes to No. 6, "No Rise Certification" with supporting data attached?

☐ Yes

☒ No - will be submitted with final design and/or building permit

Complete for New Structures and Building Sites:

1. Base Flood Elevation at the site: 2,408 feet NGVD
2. Required lowest floor elevation (including basement): 2,409 feet NGVD
3. Elevation to which all attendant utilities, including all heating and electrical equipment will be protected from flood damage: 2,409 feet NGVD

Complete for Alterations, Additions, or Improvements to Existing Structures:

1. What is the estimated market value of the structure? \$ _____
2. What is the cost of the proposed construction: \$ _____
3. If the cost of the proposed construction equals or exceeds 50% of the market value of the structure, then the substantial improvement provision shall apply.

Complete for Non-Residential Floodproofed Construction:

1. Type of floodproofing method: _____
2. The required floodproofing elevation is: _____ feet NGVD
3. Floodproofing certification by a registered engineer is attached
☐ Yes
☐ No



CITY OF MIDDLETON

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Planning and Zoning Department

Floodplain Development Permit Application

Rev: 8/20/2019

Fee Paid: \$ _____

Application Accepted by: _____

Date Application Accepted: _____

Complete for Subdivisions and Planned Unit Developments:

1. Will the subdivision or other development contain 50 lots or 5 acres
☐ Yes
☒ No
2. If yes, does the plat or proposal clearly identify base flood elevations?
☐ Yes
☐ No
3. Are the 100-year floodplain and floodway delineated on the site plan?
☒ Yes
☐ No

I hereby certify that all the information requested and as submitted is correct to the best of my knowledge. I understand that additional information or requirements may be required per the Floodplain Administrator.

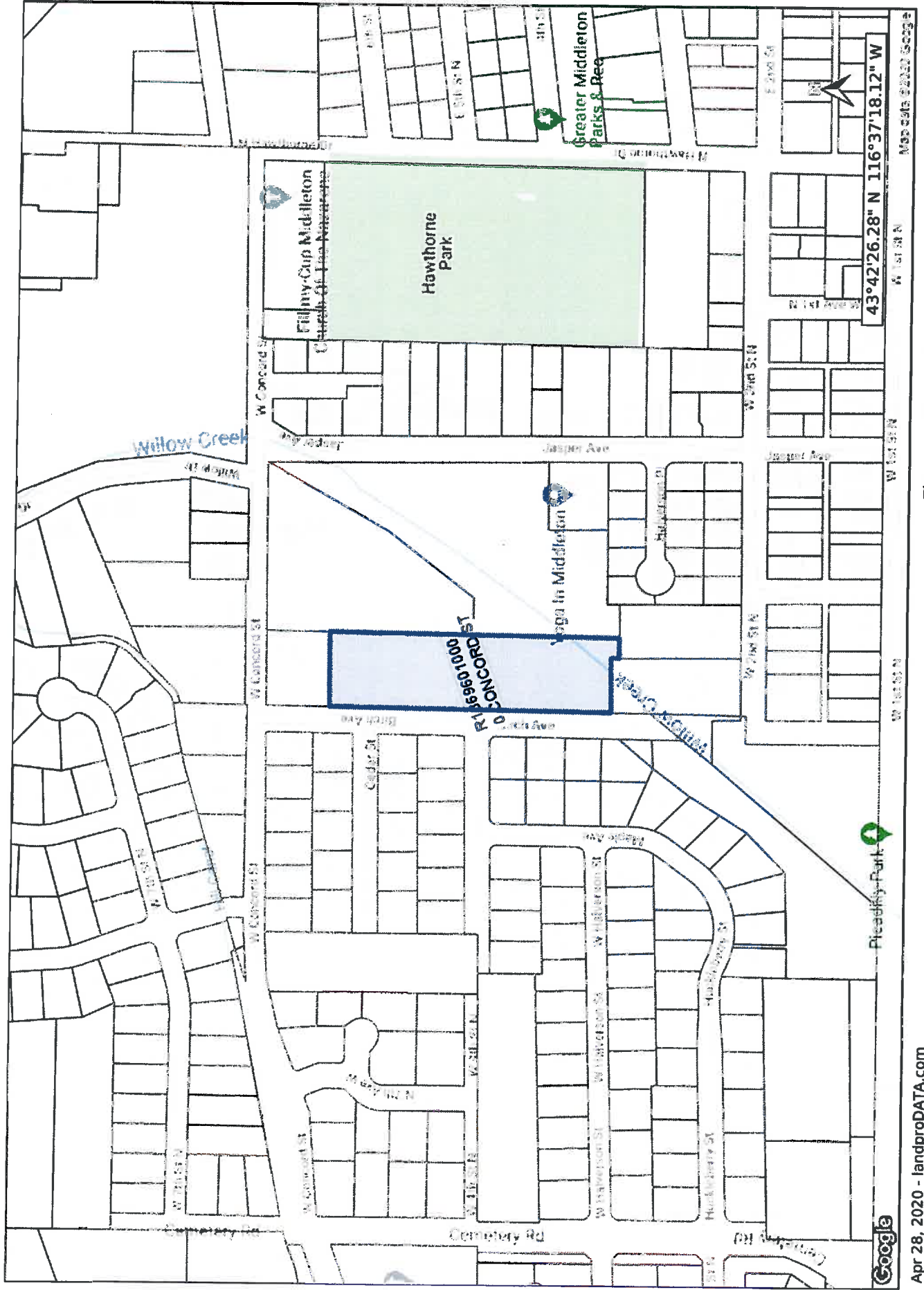
Applicant Signature

8.20.20
Date

FOR OFFICE USE ONLY

1. Permit Approved – Before Construction: _____ Date
2. Elevation Certificate Attached – Before Construction: _____ Date
3. CONDITIONS: _____

4. Local Administrator Signature: _____ Date
5. Permit Approved – After Construction _____ Date
6. Elevation Certificate Attached – After Construction: _____ Date
7. As-Built Lowest Floor Elevation: _____ feet NGVD
8. Work Inspected By: _____ Date
9. Local Administrator Signature: _____ Date



August 21, 2020
Project No.: 20-047

Mr. Bruce Bayne
City of Middleton
Planning and Zoning Department
1103 West Main Street
Middleton, ID 83644

**RE: Concord Square Subdivision – Middleton, ID
Preliminary Plat and Variance/Special Use Permit Narrative**

Dear Mr. Bayne:

On behalf of Peter Harris Construction, Inc., we are pleased to submit the attached applications and required supplements for a preliminary plat and variance/special use permit application for Concord Square Subdivision. Please accept this letter as the required written narrative regarding the project.

Site Information

The subject property is approximately 2.69 acres identified as parcel number R1869601000 in Middleton. This project is located near the southeast corner of Concord Street and Birch Avenue. The property is bounded on the north and west by single-family residences zoned R-3 (Single Family Residential) in Middleton; to the south and east by undeveloped land single-family residences zoned R-4 in Middleton and the Willow Creek Lateral.

The enclosed applications propose to subdivide approximately 2.69 acres into single-family residential building lots in an established part of Middleton. In addition, we are requesting a variance/special use permit application to vary slightly from setback and maximum density requirements.

Comprehensive Plan

According to the City's Comprehensive Plan, the subject site is located within the *Residential - Special Area* future land use



designation. In accord with that plan, we are proposing to construct 9 new building lots to accommodate single-family homes.

Our proposed project supports several goals and objectives found within the comprehensive plan. The proposed development will meet Goal 4 by promoting a quality of life through protecting property rights and stabilizing property values by constructing complementary and similar housing product. This project also fulfills Goal 11 in providing a new type of housing product to fulfill and match residents' lifestyles and by promoting in-fill housing in a well-established part of Middleton.

Preliminary Plat

We propose to subdivide the approximately 2.69 acres into 9 single-family residential lots. In accord with the R-3 zoning district, the minimum property size is 8,003 square feet while the average property size is 13,048 square feet.

Most of this subdivision will comply with the dimensional standards set forth by the R-3 zone. However, due to the configuration of the property and the encroaching floodway on the south part of the site, we are requesting a variance on rear and front setbacks for Lots 1-9. More information regarding this request is provided herein.

In accord with City requirements, curb, gutter and 5-foot sidewalk is proposed along Birch Avenue to provide connectivity to surrounding neighborhoods and will be constructed according to the City of Middleton's standards. Our proposed street and common driveway sections are included in the enclosed preliminary plat.

In researching this property, we referenced a subdivision that had previously been proposed, the Big Deal Subdivision. The Big Deal Subdivision utilized space by configuring lots into pie shapes fronting on bulb-outs and taking access via Birch Ave. In an attempt to efficiently use the property, we have configured lots in a linear manner to provide more buildable area while giving the appearance of a traditional neighborhood to reflect the surrounding community.

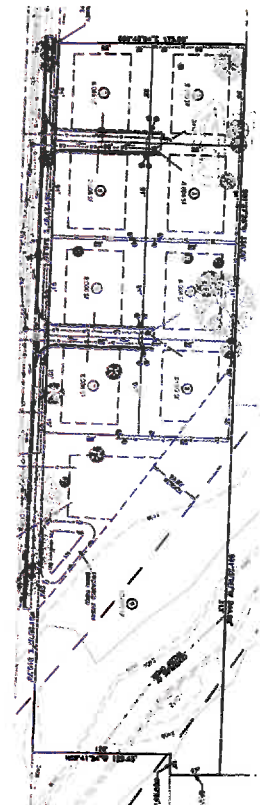
Services

Services in this area are shallow and challenging to extend to the subject site. The most viable and efficient options for sewer and water have been designed to ensure future maintainability and to contribute to the Middleton tax base. Sewer is going to be extended from the rear of a private residential lot (Parcel No. R1864800000) to the east where it will be stubbed to the middle of Birch Avenue. Sewer will then be extended north and south to serve the residential lots proposed.

Gravity and pressure irrigation will be provided by the Middleton Mill Ditch Company; coordination with existing users is currently being facilitated.

Access

As you can see on the attached plat, each home will take access from a common driveway easement via Birch Avenue. Two (2) sets of four (4) buildable lots will be served via two (2) separate private driveways. The ninth lot on the southern part of the site will take access directly from Birch Avenue as shown on the preliminary plat.



Floodplain Development

This project is located within the Willow Creek 100 Year Floodplain due to its proximity to Willow Creek. In accord with Middleton City Code, the subdivision of this site into 9 single-family residences has been designed to prevent any hazards to life or limb, hazard to property, adverse effects on the safety, use or stability of a public way or drainage channel and will not have an adverse impact on the natural environment. Future development of each buildable lot will comply with standards as set forth by the City of Middleton and FEMA.

Variance / Special Use Permit

As mentioned, we are requesting to vary slightly from the standard required rear and front setbacks for the R-3 zone for Lots 1-9. Given site constraints related to the adjacent creek, associated floodway, and configuration of the parcel we request this variance (special use permit) to allow the property to develop in a manner consistent with surrounding properties.

As depicted on the proposed preliminary plat, the floodway encumbers a significant portion of the site. In compliance with City Code, we have also incorporated the 50' setback required for the floodway. The remaining buildable area can facilitate 9 lots according to the R-3 minimum lot size. However, minor relief from rear and front setbacks will yield a more efficient and functional building envelope and as a result, a more cohesive product for the area.

We envision developing an innovative product that will complement existing homes in the area while providing a building footprint not widely available in Middleton. To facilitate this building footprint and due to the buildable area and configuration of the site we are requesting a 5' relief from the rear and front setbacks as shown below.

SETBACK	CURRENT SETBACK DISTANCE	PROPOSED SETBACK DISTANCE
Minimum Front Setback	25'	20'
Minimum Rear Setback	20'	15'
Minimum Interior Side Setback	10'	10'
Minimum Side Street Setback	20'	20'

In addition to requesting a variance/special use permit for reduced front and rear setbacks we are requesting to exceed the maximum gross density of the R-3 district by 0.4 dwelling units an acre (du/acre) to yield an overall density of 3.4 gross du/acre. As the site is currently configured, Lots 1-8 will be a standard size and shape for the R-3 district. However, Lot 9 is encumbered by the Willow Creek floodway and associated 50' setback, which will leave an expanse of open, undevelopable space at the south part of the site. Since homes will take access via common driveways, the appearance of the development will be consistent with densities typically sought after in the R-3 district and will complement existing homes in the area.

We believe this development, although over the maximum density allowance, will appear less-dense due to the configuration of lots and open space as required by the floodway. Leniency in this requirement would allow high-quality homes to be built more economically and as a result would be more widely available to offer additional housing options in a beautiful part of Middleton.

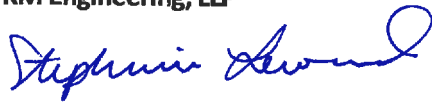
In preparing for this application we met with neighbors in the vicinity of this property on July 23rd. Approximately 13 neighbors signed-in and several others attended. We discussed the project and proposed variances with neighbors – no one expressed concern or adverse opinions regarding the request. Most attendees were interested to hear about the type of and number of homes proposed, improvements proposed to Birch Ave. and irrigation facilities, and development of their own properties.

Conclusion

With the proposals discussed herein, we feel that the Concord Square Subdivision project complements the surrounding residential uses, accommodates natural features of the site while offering a safe and attractive environment, and provides additional housing opportunities in Middleton in accord with goals and objectives within the Comprehensive Plan.

We appreciate the time you and other members of City Staff have spent to help us understand the steps needed to accomplish this project. Should you have questions or require further information to process these applications, please feel free to contact me.

Sincerely,
KM Engineering, LLP



Stephanie Leonard
Land Planner

cc: Peter Harris Construction, Inc.
Mr. Peter Harris

PRELIMINARY PLAT DATA

SUBJECT	RECORD
CONCORD SQUARE SUBDIVISION	12459
OWNER/DEVELOPER	BOISE MERIDIAN
ENGINEERING & SURVEYING CONSULTANT	BOISE MERIDIAN
DATE OF PLAT	2020.06.10
DATE OF DATA	2020.06.10
DATE OF FIELD WORK	2020.06.10
DATE OF OFFICE WORK	2020.06.10
DATE OF FINAL PLAT	2020.06.10
DATE OF RECORDING	2020.06.10
DATE OF CLOSURE	2020.06.10
DATE OF CLOSURE	2020.06.10

R-3 ZONE SETBACKS

FRONT SETBACK	10.00 FT
REAR SETBACK	10.00 FT
SIDE SETBACK	10.00 FT
DIAGONAL SETBACK	10.00 FT
MINIMUM SETBACK	10.00 FT
MAXIMUM SETBACK	10.00 FT
AVERAGE SETBACK	10.00 FT
MINIMUM SETBACK	10.00 FT
MAXIMUM SETBACK	10.00 FT
AVERAGE SETBACK	10.00 FT

PRELIMINARY PLAT NOTES

1. ALL MEASUREMENTS ARE IN FEET AND INCHES.
2. ALL MEASUREMENTS ARE TO THE CENTER OF THE LOT.
3. ALL MEASUREMENTS ARE TO THE CENTER OF THE LOT.
4. ALL MEASUREMENTS ARE TO THE CENTER OF THE LOT.
5. ALL MEASUREMENTS ARE TO THE CENTER OF THE LOT.
6. ALL MEASUREMENTS ARE TO THE CENTER OF THE LOT.
7. ALL MEASUREMENTS ARE TO THE CENTER OF THE LOT.
8. ALL MEASUREMENTS ARE TO THE CENTER OF THE LOT.
9. ALL MEASUREMENTS ARE TO THE CENTER OF THE LOT.
10. ALL MEASUREMENTS ARE TO THE CENTER OF THE LOT.

LEGAL DESCRIPTION

THE FOLLOWING IS A LEGAL DESCRIPTION OF THE LAND DESCRIBED IN THE PLAT, TOGETHER WITH THE SURVEYING AND ENGINEERING INFORMATION THEREON, FOR THE RECORD.

OWNER/DEVELOPER: BOISE MERIDIAN
ENGINEERING & SURVEYING CONSULTANT: BOISE MERIDIAN
DATE OF PLAT: 2020.06.10
DATE OF DATA: 2020.06.10
DATE OF FIELD WORK: 2020.06.10
DATE OF OFFICE WORK: 2020.06.10
DATE OF FINAL PLAT: 2020.06.10
DATE OF RECORDING: 2020.06.10
DATE OF CLOSURE: 2020.06.10

SURVEY CONTROL NOTES

1. ALL SURVEY CONTROL POINTS ARE TO BE SET BY THE SURVEYOR.
2. ALL SURVEY CONTROL POINTS ARE TO BE SET BY THE SURVEYOR.
3. ALL SURVEY CONTROL POINTS ARE TO BE SET BY THE SURVEYOR.
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PRELIMINARY ENGINEERING NOTES

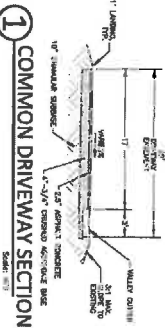
1. ALL MEASUREMENTS ARE IN FEET AND INCHES.
2. ALL MEASUREMENTS ARE TO THE CENTER OF THE LOT.
3. ALL MEASUREMENTS ARE TO THE CENTER OF THE LOT.
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CONCORD SQUARE SUBDIVISION

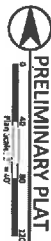
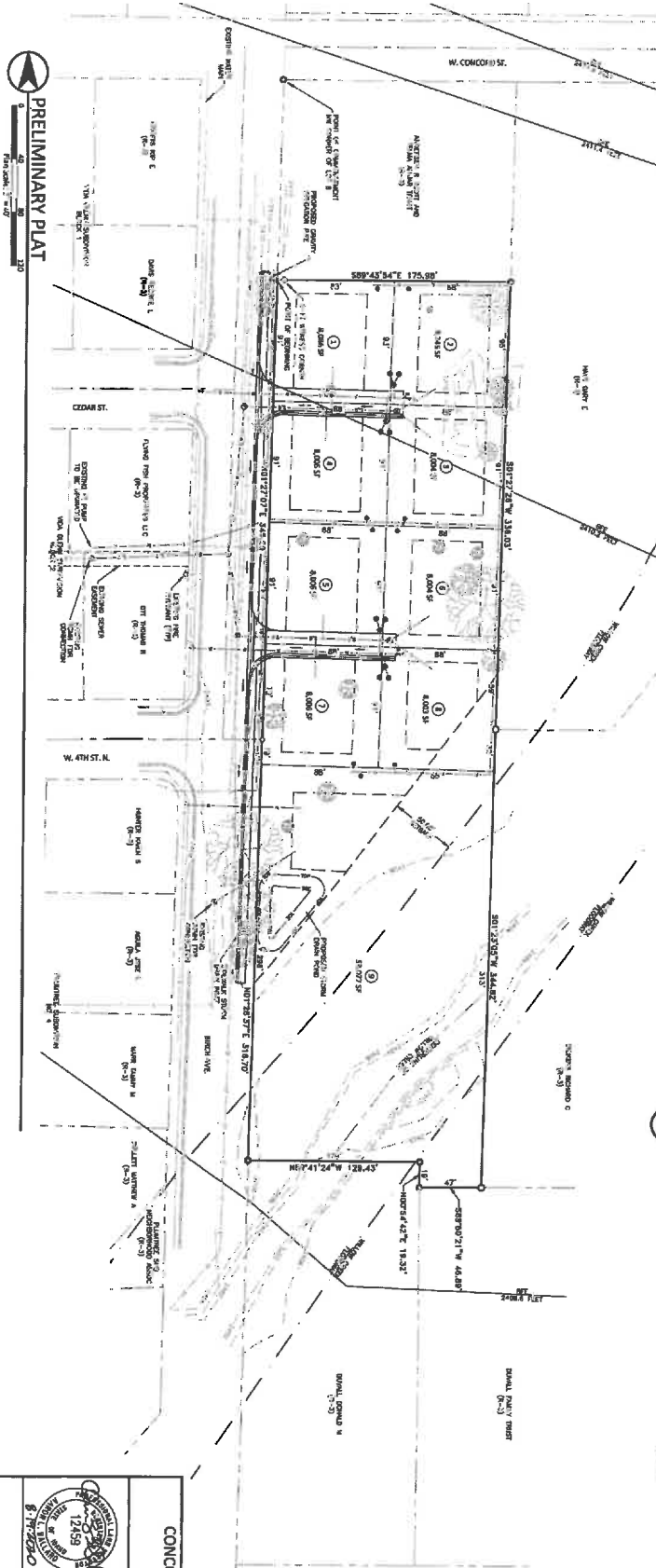
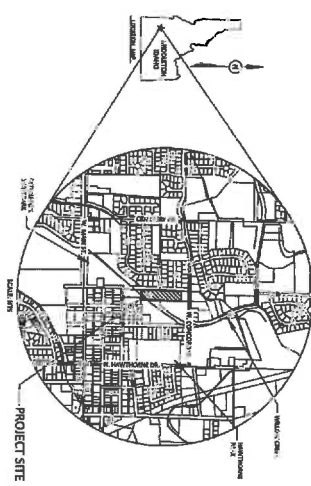
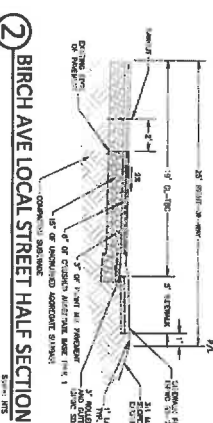
A RE-SUBDIVISION OF WEIBER'S ACREAGE, SITUATED IN THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 4 NORTH, RANGE 2 WEST, BOISE MERIDIAN, CITY OF MIDDLETON, CANYON COUNTY, IDAHO

PRELIMINARY PLAT

1 COMMON DRIVEWAY SECTION



2 BIRCH AVE LOCAL STREET HALF SECTION



PRELIMINARY PLAT

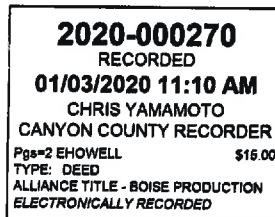
12459
K. M. McCarley
Professional Engineer
State of Idaho

10921
K. M. McCarley
Professional Engineer
State of Idaho

CONCORD SQUARE SUBDIVISION
MIDDLETON, ID
PRELIMINARY PLAT

Digitally signed by K. M. McCarley, P.E.
DN: cn=K. M. McCarley, o=K. M. McCarley, ou=K. M. McCarley, email=K. M. McCarley@kmm.com, c=US

PP1.0



WARRANTY DEED

Alliance Title & Escrow Corp. Order No.:462904

FOR VALUE RECEIVED

R. Scott Andersen and Telma Anijar Andersen, Trustees of the R. Scott and Telma Anijar Andersen Trust, dated March 24, 2010

the grantor(s), do(es) hereby grant, bargain, sell and convey unto

Peter Harris Construction Inc., an Idaho Corporation

whose current address is

**6951 Duncan Ln.
Garden City, ID 83714**

the grantee(s), the following described premises, in Canyon County, Idaho, TO WIT:

See attached Exhibit 'A'

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee(s), that (s)he is/are the owner(s) in fee simple of said premises; that they are free from all encumbrances Except: Current Year Taxes, conditions, covenants, restrictions, reservations, easements, rights and rights of way, apparent or of record.

And that (s)he will warrant and defend the same from all lawful claims whatsoever.

Dated: 1/2/2020

The R. Scott and Telma Anijar Andersen Trust

R. Scott Andersen
By: R. Scott Andersen, Trustee

Telma Anijar Andersen
By: Telma Anijar Andersen, Trustee

State of Idaho} ss.
County of Canyon}

On this 2 day of January, 2020, before me, the undersigned, a Notary Public in and for said state, personally appeared R. Scott Andersen and Telma Anijar Andersen known or identified to me to be the person whose name is subscribed to the foregoing instrument as trustee of the R. Scott and Telma Anijar Andersen Trust, and acknowledged to me that they executed the same as Trustee.

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

Tonya A. Reeves
Notary Public for the State of Idaho
Residing at: Residing In: Meridian
Commission Expires Expiration: 4/20/2022



Exhibit 'A'

Parcel 2

That portion of Lot 8 and Lot 9 of the Plat of Wieber's Acreage, Book 2, Page 54, lying in the Northeast Quarter of the Southwest Quarter (NE1/4 SW1/4) and also lying in Southeast Quarter of the Southwest Quarter (SE1/4SW1/4) of Section 6, Township 4 North, Range 2 West, Boise Meridian, City of Middleton, Canyon County, Idaho being more particularly described as follows:

Commencing at the Northwest corner of said Lot 8, thence along the west line of said Lot 8, South 00°52'07" West, 150.30 feet, to the POINT OF BEGINNING; Thence, departing said west boundary line and parallel with the north boundary line of said Lot 8, North 89°41'06" East, 175.98 feet; Thence, South 00°52'26" West, 336.03 feet, to a 1" iron pipe; Thence, South 00°48'05" West, 344.92 feet, to a 1" iron pipe and the north boundary line of Lot 2 of Gardner Place, Book 22, Page 46, Canyon County Record's; Thence, along said north boundary line, South 89°15'21" West, 46.89 feet, to a found 5/8" iron rebar being the northwest corner of said Lot 2, also being the east boundary line of Lot 1 of said Gardner Place; Thence, along said east boundary line, North 00°19'42" East, 19.32 feet, to a found 5/8" iron rebar and being the northeast corner of said Lot 1; Thence, along the north boundary line of said Lot 1, South 89°43'36" West, 129.43 feet, to a found 5/8" iron rebar and being the northwest corner of said Lot 1, also being the west boundary line of said Lot 9 of said Wieber's Acreage; Thence, along said west boundary line of said Lot 8 and 9, North 00°53'37" East, 316.70 feet, to the Southwest 1/16 corner of said Section 6; Thence, continuing along said west boundary line, North 00°52'07" East, 345.20 feet, to the POINT OF BEGINNING.

July 27, 2020
Project No. 20-047

Concord Square Subdivision

That portion of Lots 8 and 9 of the Plat of Wieber's Acreage, Book 2, Page 54, records of Canyon County, Idaho, lying in the East half of the Southwest Quarter of Section 6, Township 4 North, Range 2 West, Boise Meridian, City of Middleton, Canyon County, Idaho, and being more particularly described as follows:

Commencing at the Northwest corner of said Lot 8;

Thence following the westerly boundary line of said Lot 8, S01°27'07"W a distance of 150.30 feet to a point being witnessed by a found 5/8-inch rebar which bears S89°43'45"E a distance of 5.00 feet from said point, also being the **POINT OF BEGINNING**.

Thence leaving said westerly boundary line, S89°43'54"E a distance of 175.98 feet to a found 5/8-inch rebar;

Thence S01°27'26"W a distance of 336.03 feet to a found iron pipe;

Thence S01°23'05"W a distance of 344.92 feet to a found iron pipe being the northerly boundary line of Gardner Place, Book 22, Page 46, records of Canyon County, Idaho;

Thence following the northerly subdivision boundary line of said Gardner Place the following three (3) courses:

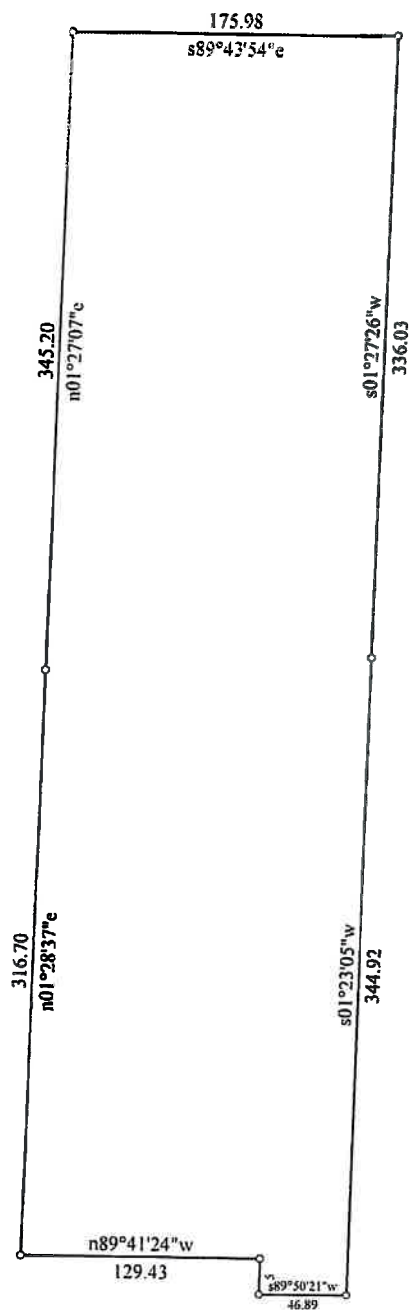
1. S89°50'21"W a distance of 46.89 feet to a found 5/8-inch rebar;
2. N00°54'42"E a distance of 19.32 feet to a found 5/8-inch rebar;
3. N89°41'24"W a distance of 129.43 feet to a found 5/8-inch rebar being the westerly boundary lines of Lots 8 and 9 of the Plat of Wieber's Acreage;

Thence leaving said northerly boundary line and following said westerly boundary lines the following two (2) courses:

1. N01°28'37"E a distance of 316.70 feet to a found 1/2-inch rebar being the Southwest 1/16 corner of said Section 6 (also being the southeast corner of Government Lot 6 of said Section 6);
2. N01°27'07"E a distance of 345.20 feet to the **POINT OF BEGINNING**.

Said parcel contains a total of 2.696 acres, more or less, and is subject to all existing easements and/or rights-of-way of record or implied.





Title: Concord Square Subdivision		Date: 07-27-2020
Scale: 1 inch = 100 feet	File:	
Tract 1: 2.696 Acres: 117435 Sq Feet: Closure = s32.1104e 0.01 Feet: Precision = 1/268655: Perimeter = 1714 Feet		
001=s89.4354e 175.98	004=s89.5021w 46.89	007=n01.2837e 316.70
002=s01.2726w 336.03	005=n00.5442e 19.32	008=n01.2707e 345.20
003=s01.2305w 344.92	006=n89.4124w 129.43	

Location: On-site (SE Corner of Birch and Concord)

[illegible]

DATE: July 8, 2020
TO: Neighbors
FROM: Peter Harris Construction, Inc.
RE: Property Near Southeast Corner of Birch Ave. and Concord St.

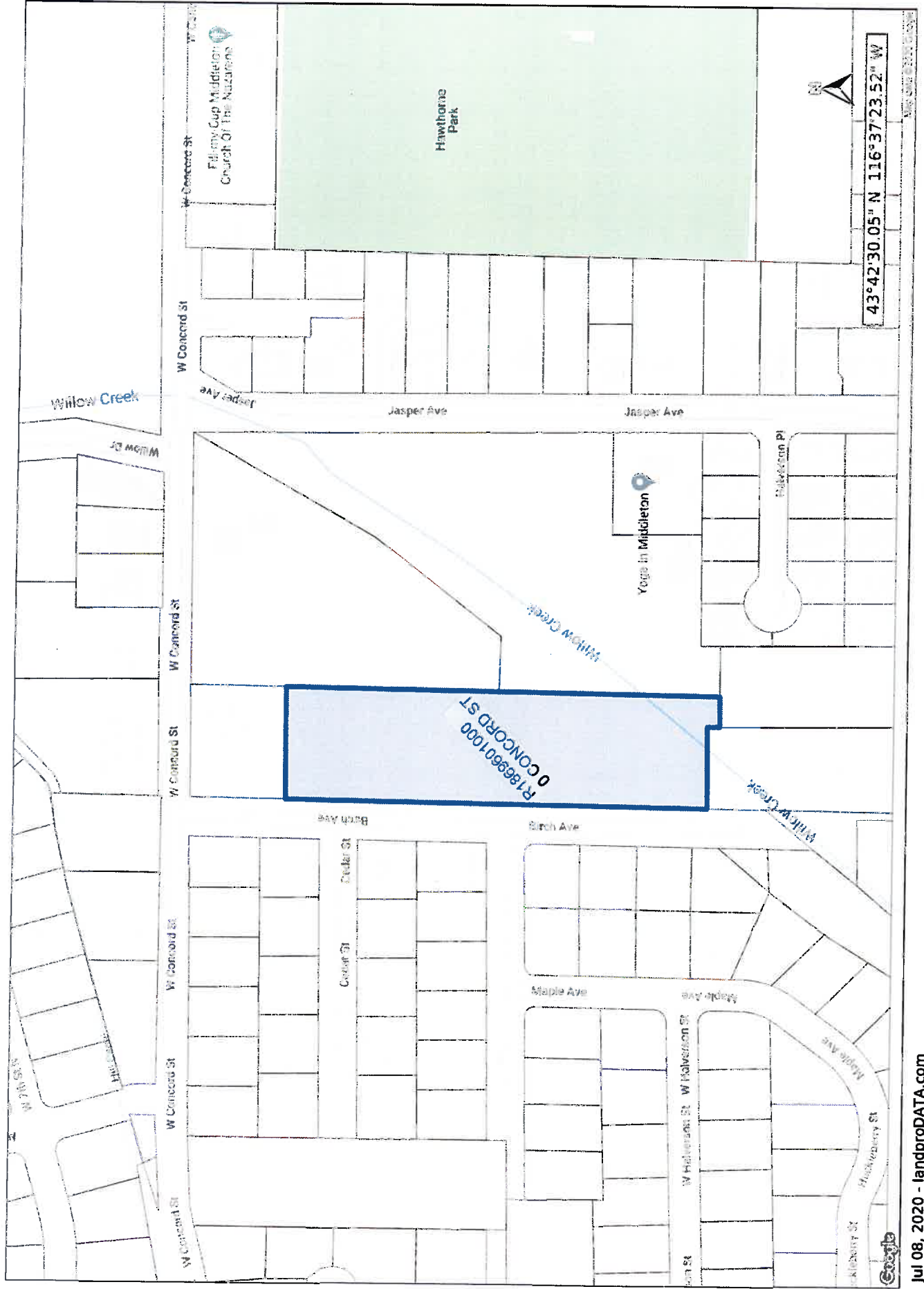
Dear Neighbor:

We are currently working on Preliminary Plat and Variance applications to Middleton City for a property located at 0 Concord Street, near the southeast corner of Birch Avenue and Concord Street directly east of the intersection of Cedar Street and Birch Avenue. The location is depicted on the enclosed vicinity map.

This letter is notice of an opportunity to review and discuss the variance application at a neighborhood meeting as required by Middleton City Code; however, this is not a public hearing and public officials will not be present. The neighborhood meeting will be held on Thursday, July 23, 2020, at 6:00 p.m. at the project site, as is depicted on the attached vicinity map.

We look forward to seeing you there.

Vicinity Map



AGUILA JOSE L
 355 BIRCH AVE
 MIDDLETON ID 83644

ALLEN LON T
 128 CASTLE MOUNTAIN DR
 GARDEN VALLEY ID 83622

ALLEN THEODORE P
 214 W 2ND ST
 MIDDLETON ID 83644

ANDERSEN R SCOTT AND TELMA
 ANIJAR TRUST
 PO BOX 924
 MIDDLETON ID 83644

ANJOLA ALAN
 PO BOX 361
 MIDDLETON ID 83644

AULD JAMES C
 314 W CONCORD ST
 MIDDLETON ID 83644

BENSON JAMES H
 218 W 2ND ST
 MIDDLETON ID 83644

BUNGER AARON L
 414 ELM ST
 MIDDLETON ID 83644

CASTILLO ARCADIO N
 210 W 2ND ST
 MIDDLETON ID 83644

CLOSE AUSTIN L
 388 MAPLE AVE
 MIDDLETON ID 83644

COLLETT MATTHEW A
 303 BIRCH AVE
 MIDDLETON ID 83644

CROFTS KIP E
 401 W CONCORD ST
 MIDDLETON ID 83644

CROSSROADS CAPITAL LLC
 35425 EVENING GLOW DR
 MURRIETA CA 92563

DAVIS GEORGE L
 402 CEDAR ST
 MIDDLETON ID 83644

DICKENS RICHARD C
 215 JASPER AVE
 MIDDLETON ID 83644

DICKENS RICHARD CHARLES
 215 JASPER AVE
 MIDDLETON ID 83644

DUNN JAY D
 284 MAPLE AVE
 MIDDLETON ID 83644

DUVALL DONALD M
 318 W 2ND ST
 MIDDLETON ID 83644-5490

EMERSON MICKEY JEAN
 217 NELSON CT
 MIDDLETON ID 83644

ENZMINGER CONNIE JO FOSTER
 410 ELM ST
 MIDDLETON ID 83644

FLYING FISH PROPERTIES LLC
 22902 BLESSINGER RD
 STAR ID 83669

HAYS GARY E
 217 CONCORD ST
 MIDDLETON ID 83644

HELD MARIA M
 240 CONCORD ST
 MIDDLETON ID 83644

HOMES N BOISE LLC
 1036 S TEN MILE RD
 KUNA ID 83634

HUGHES DANIEL R
 415 W CONCORD ST
 MIDDLETON ID 83644

HUNTER KARIN S
 379 BIRCH AVE
 MIDDLETON ID 83644

JAVAUX RONALD E
 405 CEDAR ST
 MIDDLETON ID 83644

KEITHLEY FLOYD R
 218 CONCORD ST
 MIDDLETON ID 83644

KISER ROBERT S
 364 MAPLE AVE
 MIDDLETON ID 83644

KNORPP TYLER A
 330 MAPLE AVE
 MIDDLETON ID 83644

KOM DONALD R
 PO BOX 1083
 MIDDLETON ID 83644

LEVIN JACOB T
 409 CEDAR ST
 MIDDLETON ID 83644

MARR TAMMY M
 341 BIRCH AVE
 MIDDLETON ID 83644

MC CLINTICK ETSUKO
 218 NELSON CT
 MIDDLETON ID 83644

MIDDLETON CITY OF
 PO BOX 487
 MIDDLETON ID 83644

MIDDLETON CITY OF
 1103 W MAIN ST
 MIDDLETON, ID 83644

NANCE BRIAN
 409 W CONCORD ST
 MIDDLETON ID 83644

ODEN THOR K AND MELISSA J
 REVOCABLE LIVING TRUST
 70 BLUE SHADOW DR
 GARDEN VALLEY ID 83622

OTT THOMAS R
 481 BIRCH AVE
 MIDDLETON ID 83644

PETER HARRIS CONSTRUCTION INC
 6951 DUNCAN LN
 GARDEN CITY ID 83714

PETERSON BRAD A
 320 CONCORD ST
 MIDDLETON ID 83644

PLUMTREE SUB NEIGHBORHOOD ASSC
 PO BOX 155
 MIDDLETON ID 83644

RICE STEVE A
 PO BOX 374
 MIDDLETON ID 83644

SCHRADE DOUGLAS R
 410 CEDAR ST
 MIDDLETON ID 83644

SIBRIAN JOSE A
 11108 ORCHARD AVE
 NAMPA ID 83651

STADICK MICHELLE
 210 NELSON CT
 MIDDLETON ID 83644

UNRUH DAVID
 406 CEDAR ST
 MIDDLETON ID 83644

WINKELMAN MARTHA L
 405 W CONCORD ST
 MIDDLETON ID 83644

MOORE DONALD L
 214 NELSON CT
 MIDDLETON ID 83644



TO: City of Middleton
ATTN: Bruce Bayne
ADDRESS: 1103 W Main Street
Middleton, Idaho 83644

DATE: 8/21/2020
JOB #: 20-047
FROM: Stephanie Leonard

RE: Concord Square Subdivision Preliminary Plat and Variance Application

Please find attached:

COPIES	DATE	PAGES	DESCRIPTION
2	8.19.20	1	Preliminary Plat
1	8.20.20	-	Preliminary Plat and Variance application and supplemental information

Transmitted By

- ☒ Hand Delivery ☐ Mail ☐ Fax
☐ Submittal Exchange ☐ Electronic Transfer ☐ Pick-up

Transmittal Purpose

- ☐ For Your Use ☒ For Review & Approval ☐ For Signature
☐ As Requested ☐ Other: _____

Remarks

Bruce,

Please find the preliminary plat and variance application for the Concord Square Subdivision along with supplemental information as required by the application checklist, attached here.

Please let me know if you need any additional information in order to process this request.

Thank you,

Stephanie

CC: _____ Signed: 

If enclosures are not as indicated, please notify us as soon as possible.



CITY OF MIDDLETON

P O Box 487, 1103 W. MAIN ST., MIDDLETON, ID 83644
208-585-3133, FAX: 208-585-9601
WWW.MIDDLETON.ID.GOV

Planning Department

Special Use Permit Checklist

Rev: 2/11/2019

Property Owner(s): Peter Harris Construction Inc.

Please answer the following questions:

1. Property Size: 2.69 acres
2. Crossroads: Southeast corner of West Concord Street and Birch Avenue
3. Future Land Use Designation: Residential - Special Area
4. Surrounding Land Uses: Residential to north, south, east and west
5. If approved, what is the expected effect on roadways and traffic? There will likely be a slight increase in the number of vehicular trips since 8-9 additional homes are proposed
6. Will the proposed use generate a nuisance of light, glare, noise, vibration, smoke, fumes, odor, dust, etc.? No, this use is compatible with surrounding residential uses

If applicable:

Days and hours of operation: n/a

Number of employees (full-time): n/a (part-time): n/a

Number of employees (living on-site): n/a (living off-site): n/a

Frequency of deliveries: n/a Location of deliveries: n/a

Commission Evaluation: A public hearing will be scheduled before the Planning and Zoning Commission, which will review the application, receive verbal and written comments, and make a final decision based on the standards identified in Middleton City Code 1-15-7 and other applicable code sections.

How will the proposed use be harmonious with the goals, objectives, and strategies in the Comprehensive Plan?

Will the proposed use be served adequately by essential public facilities and services (pathways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer and schools or will the proposed use create excessive additional requirements at public cost for public facilities and services?

Will the proposed use be injurious to others by involving activities, processes, materials, equipment or conditions of operation that will be hazardous, or a nuisance to a person, or to existing or future



CITY OF MIDDLETON

P O Box 487, 1103 W. MAIN ST., MIDDLETON, ID 83644
208-585-3133, FAX: 208-585-9601
WWW.MIDDLETON.ID.GOV

Planning Department

Special Use Permit Checklist

Rev: 2/11/2019

neighboring uses? Nuisance means excessive traffic, vibration, noise, dust, fumes, glare, or odors or other similar nuisances.

Conditions of Approval: When approving a special use permit, conditions may be attached to:

- Minimize impact on other development;
- Control sequence and timing;
- Establish duration of the use;
- Assure the development is maintained properly;
- Designate the location and nature of development, including signs;
- Require the provision for on-site or off-site public facilities or services;
- Require more restrictive standards than those generally required in ordinance;
- Specify the period of time for which a permit is issued and conditions which, if not followed, will bring about revocation of the conditional use permit; and
- Require mitigation of effects of the proposed use upon service delivery by any political subdivision of the State of Idaho providing services within the planning area (Middleton's area of city impact).

*add to
Council agenda*

**CEMETERY ROAD PHASE 2
CITY OF MIDDLETON
SCOPE OF WORK
OCTOBER 20, 2020**

OVERVIEW:

This scope of work defines professional services to be performed by T-O Engineers (T-O) for the City of Middleton on the Cemetery Road Phase 2 project. T-O will complete survey and civil design of Cemetery Road Phase 2, which connects the Cemetery Road Phase 1 (LHTAC) project and the Sawtooth Lake Drive Crossing project. The project is approximately 1500 linear feet of roadway contained solely within City of Middleton property.

T-O Engineers will utilize the alignment completed during environmental approval of Cemetery Road Phase 1. All funds for this project will be local funds supplied by the City of Middleton. No state or federal funding will be used for this project. This scope will advance the project through 100% final design. No right of way is anticipated to be necessary as the City of Middleton owns all property within project boundaries. No additional survey is anticipated in this scope, but if necessary, can be completed through existing contract with the City.

Special provisions will be provided to the City by the Consultant. City will complete bidding processes. If City desires assistance during construction, T-O can supply a construction assistance proposal at that time.

TASKS:

Within this scope, the consultant will perform three (3) major work tasks as follows:

Task 1 – Floodplain Development Permit

Task 2 – Preliminary Design (75%) Submittal Package

Task 3 – Final Design (100%) Submittal Package

Task 1 Floodplain Development Permit

1.1 Floodplain Development Permit Application

A floodplain development permit application will be prepared, and coordination conducted for review and processing of the permit by the City or a consultant assigned by the City. This task includes comparison of proposed roadway profile and base flood elevation surface, preparation of application, required exhibits (flood map, vicinity map, draft plans), narrative and coordination with City of Middleton for approval. No coordination with FEMA or FEMA application are anticipated or included in this scope.

Task 2 Preliminary (75%) Design

Consultant will prepare and deliver preliminary plans showing alignment and grade for the project, from the end of Sawtooth Lake Drive Crossing to the end of Cemetery Road Phase 1 (approximately 1500').

Assumptions:

1. No Sewer, Water or dry utilities will be extended along this alignment, nor will they be designed.
2. No Public Information meeting will be necessary.
3. No additional topographic or boundary survey will be necessary.
4. No Erosion and Sediment Control plans are included as City/Lurre will be completing these during initial roadway cut project.
5. City of Middleton will install all conduits and irrigation crossings, as needed.

2.1 Preliminary Roadway Design

Complete design along the proposed roadway alignment. Create plan and profile sheets for the road alignment. This design will also include the as-built road cut survey (subgrade) to be completed by Lurre Construction.

2.2 Preliminary Drainage Design

Consultant will develop drainage report demonstrating how stormwater will be treated and disposed. It is anticipated that roadside ponds on the southeast and southwest ends of the project (directly north of the Mill Slough on either side of roadway) will be utilized.

2.3 Engineer's Cost Estimate

Consultant will prepare an estimated cost for construction.

2.4 Design Review Meetings

Two meetings will be held with the City to review progress and allow the City to evaluate options. Prior to submittal of plans, T-O will coordinate a formal review meeting with the City and document comments and revisions incorporated.

Task 3 Final (100%) Design

Consultant will prepare and deliver final plans showing alignment and grade for the project.

Assumptions:

1. Design will be based on previously submitted 75% design.
2. T-O will utilize the section used on the Sawtooth Lake Drive Crossing project along with a 10' connected asphalt pathway on the east side. Sidewalk on west side of Cemetery Road plans will be ended and a painted crosswalk constructed to cross pedestrians to the east side. City to verify that this meets LHTAC and federal requirements.

3.1 Roadway Design

Complete design along the proposed roadway alignment. Finalize plan and profile sheets for the road alignment. Complete details for roadway construction.

3.2 Final Drainage Design

Revised Drainage design per any comments received in 75% design review meeting. Complete storm drainage report and details for drainage construction.

3.3 Engineer's Cost Estimate

Consultant will prepare an estimated cost for construction. This estimate will also include a bid tab to be used in the City's bid packet.

3.4 Special Provisions

Provide Special Provisions and Contractor's Notes to the City for inclusion into their bidding packet. Special Provisions will include any item that is not included in the standard ISPWC pay items.

Project Budget



City of Middleton
Cemetery Road Phase 2
October 20, 2020

Task No.	Description of Work	Total Man-hours	Project Manager	Hydraulic Engineer	Engineer	Clerical
1	Floodplain Development Permit					
1.1	Floodplain Development Permit	40	2	24	12	2
2	Preliminary (75%) Design					
2.1	Roadway Design	42	2		40	
2.2	Drainage Design	18	2		16	
2.3	Engineer's Cost Estimate	10	2		8	
2.4	Design Meetings	26	8		16	2
3	Final (100%) Design					
3.1	Roadway Design	22	2		20	
3.2	Drainage Design	10	2		8	
3.3	Engineer's Cost Estimate	8	4		4	
3.4	Special Provisions	12	4		8	
	Total Estimated Hours	188	28	24	132	4

A. Summary of Estimated Labor Costs

Personnel	Man-hours	Rate	Extension
Project Manager (Colwell)	28	\$ 200.00	\$ 5,600.00
Hydraulic Engineer (Sterling)	24	\$ 180.00	\$ 4,320.00
Engineer (Bond)	132	\$ 110.00	\$ 14,520.00
Clerical (Orr)	4	\$ 60.00	\$ 240.00
Total Estimated Labor Costs	188		\$ 24,680.00

B. Direct Expenses

Production Copies, Postage, Misc.			\$ 200.00
Mileage	60 miles at	\$ 0.55	\$ 33.00
Total Estimated Direct Expenses			\$ 233.00

Total			\$ 24,913.00
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Runen agent



T-O ENGINEERS

CONSULTING ENGINEERS, SURVEYORS AND PLANNERS
332 N BROADMORE WAY
NAMPA, IDAHO 83687
208-442-6300 • FAX 208-466-0944

EXHIBIT “B”
SCOPE OF SERVICES
Design and Construction
2020 Middleton Wastewater Upgrade – Preliminary Design
November 02, 2020

Project Understanding

The City of Middleton Idaho is proposing an upgrade to their wastewater treatment facility that will include the following primary items with specific descriptions below.

- Sludge Dewatering
- Blower system capacity upgrade
- Influent Screen Feasibility (study)
- WWTP Office Upgrade/Modification
- Influent Wet well Repair & Hartley Trunk Line Coordination

This scope is expected to include:

- Project Coordination
- Survey
- Feasibility & Study
- Preliminary Engineering Report
- Limited Design (as identified below)

This scope of work assumes the following general assumptions based on discussions with the City of Middleton staff and other available information.

General Assumptions:

- a. Middleton has recently completed a wastewater treatment master plan that will serve as the basis for capacity and flow assumptions used in design.
- b. Project will be contained within City property. Additional easements and/or property acquisition are not included within this scope.
- c. Location of existing utilities and underground pipelines will be determined based upon mapping provided by utility companies and the City, potholing when needed, and physical features observed during site visits.
- d. Middleton staff will provide design guidance.
- e. Middleton staff will provide record drawings of the existing facilities and other information from current projects including the Hartley Trunk Line project.

- f. Construction survey work to be provided by the Contractor.

Scope of Work Services:

1. PROJECT COORDINATION

- 1.1. Kick Off Meeting – CONSULTANT will prepare an agenda and conduct a meeting with Middleton staff to discuss project approach, schedule, available information, site tour, etc.
- 1.2. Progress Meetings – CONSULTANT will schedule progress meetings at regular intervals. Meeting discussion topics may include summary update, project progress, agency coordination status, and budget update. It is anticipated that 12 (twelve) progress meetings and 6 (six) updates to the City council will take place over the 6-month duration of the project. This item will be billed on a Time and Material basis at the direction of the City.
- 1.3. Budget and Tracking – CONSULTANT to provide monthly progress report(s), detailing expenditures per task to date, percent of budget spent and percent complete. Monthly progress report(s) will be submitted with monthly invoice(s). It is anticipated that this project will run 24 (twenty-four) months.

2. PRELIMINARY DESIGN

- 2.1. Preliminary Engineering Report (PER) – CONSULTANT will prepare a PER in accordance with DEQ standards for the project (blower system upgrades and solids dewatering). The existing approved wastewater treatment master plan will be used as a basis for the assumptions within the report. Schedule anticipates approval from DEQ within 4 weeks of submission.
- 2.2. Influent Screen Feasibility – CONSULTANT will review the existing influent screens for flow capacity and specific operational limits identified by the plant operator. This information will be compared with anticipated City growth and future needs to develop a plan that identifies the current capacity limit (ERU’s), plans for expansion, and options for expansion. This study will be used as an update to the existing wastewater master plan and will serve as a foundation for a future PER and design of the screen system upgrade.
- 2.3. Agency Permitting and Coordination – CONSULTANT will coordinate with permitting agencies to determine anticipated permit requirements and anticipated scheduling for permitting. This task will initiate contact with the agencies and is anticipated to include meetings with the following agencies: DEQ, City of Middleton

Anticipated Permits include:

- DEQ approval of the design plans

- Flood Plain Development permit (City of Middleton)
- Building Permit (City of Middleton)

2.4. Utility Research and Meetings – CONSULTANT will prepare agenda and conduct meetings with appropriate utility divisions to gather record drawings, field knowledge and historical data available. It is understood that most of the utilities on the site are owned by the City of Middleton and Idaho Power. CONSULTANT will coordinate with Digline and Public Utility Companies to receive maps of utilities in the area to show on plans. CONSULTANT will hire sub-consultant for potholing as needed to locate utilities in specific conflict areas. Budget assumes \$5,000 for subconsultant fees.

2.5. Topographic Survey & Base Map – CONSULTANT to perform topographic and existing features survey and develop base mapping as follows:

Survey project control will be established/set at approximately 4 locations on the site. Survey will include ground shots to determine surface elevations, existing features, hydraulic/invert elevations of pipes, ponds, and tanks that will be necessary for design, limits of existing buildings and ponds.

Prepare an existing features Base Map using the data obtained. Provide different data layers for topography, planimetric features, existing visible utilities, and if requested and as marked by a utility locating service or as shown on maps provided by the utility companies.

2.6. Geotechnical Exploration – CONSULTANT will hire a sub consultant to perform a geotechnical exploration of the site specific to the construction of a new building located east of the existing SBR basins. Middleton will also provide any existing geotechnical information that has been previously completed for the site, including for the construction of the Hartley trunk main.

3. DESIGN SERVICES

3.1 **Influent Wet Well Repair:** CONSULTANT will coordinate with the design engineer and contractor of the Hartley trunk main project to repair and line the influent lift station wet well concurrently with the trunk main project. The goal would be to complete this work while the system is being bypassed for the installation of the trunk main. This plan will include coordination with suppliers and the City on coating material, specification and construction methods required of the contractor, and a bid packet to secure a coating contractor. This project is anticipated to be fast-tracked and completed within the first 2 months.

3.2 **Process System Model:** CONSULTANT will create a process model of the plant to evaluate its current capacity. One additional process scenario will be constructed to simulate future domestic and industrial growth. Process models will help identify future wastewater capital improvement projects necessary to meet discharge limitations. This will provide the City with a

roadmap for future growth. T-O will provide the City with a memorandum discussing our findings and limitations of the wastewater system.

- 3.3 **SBR Overflow Reconfiguration** – CONSULTANT will design the piping configuration necessary to allow both SBR basins to overflow/drain into the headworks rather than the adjacent pond. Item anticipates piping and valves only, pumping will not be required.

Project Schedule

Item	Expected Duration	Expected Completion Date
Signed Contract:		Nov 18, 2020
Influent Wet Well	8 Weeks	Jan 13, 2021
Survey	4 Weeks	Dec 16, 2020
PER	12 Weeks	Feb 10, 2021
DEQ PER Review*	2 Weeks	Feb 24, 2021

* Assumed timeline based upon DEQ review & approval

Cost of Services:

Services will be billed on a Lump Sum basis in accordance with the following schedule.

1.0 Project Coordination	\$.00
2.0 Preliminary Design	\$.00
3.0 Final Design	\$.00
4.0 Bid Administration & Support	\$.00
5.0 <u>Construction Assistance</u>	<u>\$.00</u>
	\$.00



CLIENT:
LOCATION: Middleton, Idaho
PROJECT NAME: 2020 Middleton Wastewater Treatment Plant Upgrade
PROJECT NUMBER:
DATE: November 02, 2020

ENGINEERING SERVICES	FEE	CONTINGENCY	TOTAL FEE WITH CONTINGENCY
TASK 1 - Project Coordination & Meetings	\$25,099.00	\$0.00	\$25,099.00
TASK 2 - Preliminary Design	\$132,629.00	\$0.00	\$132,629.00
TASK 3 - Design Services	\$45,040.00	\$0.00	\$45,040.00
TOTAL ENGINEERING FEES	\$202,768.00	\$0.00	\$202,768.00

Description	Quantity	Units	Unit Price	Total
Intake Structure	1	LS	\$ 14,245.00	\$ 14,245.00
18" Intake Pipe	400	LF	\$ 83.00	\$ 33,200.00
18" Overflow Pipe	100	LF	\$ 83.00	\$ 8,300.00
18" Overflow Gate	1	LS	\$ 1,310.00	\$ 1,310.00
Rip Rap	5	YD	\$ 203.00	\$ 1,015.00
Fence Removal & Reinstall	1	LS	\$ 6,930.00	\$ 6,930.00
	1		\$ -	\$ -
	1		\$ -	\$ -
	1		\$ -	\$ -
			Total	\$ 65,000.00

OK.

Sam Krule
Mayor

11/2/20



ADVERTISING PROOF

PO Box 9399
1618 N Midland Blvd, 83651,
Nampa, ID 83652
Ph. (208) 465-8129 Fax: (907) 452-5054

BILLING DATE:	ACCOUNT NO:
10/07/20	23106

LEGAL NOTICE

NOTICE OF PUBLIC HEARING CITY OF MIDDLETON, IDAHO

The Middleton City Council is scheduled to hold a public hearing at 5:30 p.m. on Wednesday, November 4, 2020, at 310 Cornell Ave, Middleton, Idaho, to consider the following:

Adopt Ordinance No. 643 of the City of Middleton, Canyon County, Idaho adopting Middleton Police Department Impact Fee; providing for the imposition, computation and payment of said fee; providing for the establishment of an Impact Fee fund; providing for exemptions, refunds, credits and waivers of the Impact Fee; Adopting general provisions; providing for appeals; and providing an effective date.

Proposed Impact Fee:

New Residential (per EDU)	\$304.00
New Commercial (per square foot)	\$0.15
New Industrial (per square foot)	\$0.15

Everyone is invited to attend and comment at the hearing. Written comments may be submitted at the hearing or earlier to the Middleton City Clerk, Becky Crofts at bcrofts@middletoncity.com or mailed to City of Middleton, P.O. Box 487, Middleton, ID 83644.

October 9, 2020 39174

JENNICA REYNOLDS
1 MIDDLETON, CITY OF
P.O. BOX 487
MIDDLETON, ID 83644

AD #	DESCRIPTION	START	STOP	TIMES	AMOUNT
39174	PH 11/4/2020 - ORD 6	10/09/20	10/09/20	1	\$41.26

Payments:

Date	Method	Card Type	Last 4 Digits	Check	Amount
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Discount: \$0.00
Surcharge: \$0.00
Credits: \$0.00

Gross: \$41.26
Paid Amount: \$0.00

Amount Due: \$41.26

We Appreciate Your Business!

ORDINANCE NO. 643

AN ORDINANCE OF THE CITY OF MIDDLETON, CANYON COUNTY, IDAHO, ADOPTING A NEW MIDDLETON IMPACT FEE ORDINANCE; PROVIDING FOR THE IMPOSITION, COMPUTATION AND PAYMENT OF A CITY POLICE IMPACT FEE; PROVIDING FOR THE ESTABLISHMENT OF AN IMPACT FEE FUND; PROVIDING FOR EXEMPTIONS, REFUNDS, CREDITS AND WAIVERS RESPECTING THE IMPACT FEES; PROVIDING GENERAL PROVISIONS, APPLICABILITY AND APPEALS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to the Idaho Code §67-8201, et seq., the City of Middleton may impose impact fees to fund expenditures by the City on police capital improvements needed to serve new development;

WHEREAS, the City retained Galena Consulting ("Galena") to analyze and assess new development projections in order to determine the demand for city police capital improvements to accommodate new development in the City; and

WHEREAS, the City of Middleton Police Department Impact Fee Study and Capital Improvements Plan, prepared by Galena (the "impact fee study"), incorporated herein by reference, sets forth a reasonable methodology and analysis for determining and quantifying the impacts of various types of new residential and nonresidential development on the city police facilities; quantifies the reasonable impact of new development on the system improvements addressed therein; determines the costs necessary to meet demands created by new development; and determines impact fees as set forth in this Ordinance that are at a level no greater than necessary to defray the cost of planned capital improvements to increase the service capacity of the City's existing police facilities. The City hereby establishes as the City standards the assumptions and level of service standards referenced in the impact fee study as part of the City's current plans for future expansions to the city police facilities; and

WHEREAS, based on reasonable methodologies and analyses for determining the impacts of new development on the City's police department, including review and reliance on the City of Middleton Comprehensive Plan, the impact fee study quantifies the impacts of new development on public facilities, and establishes impact fees on new development no greater than necessary to defray the cost of capital improvements that will increase the service capacity of public facilities to serve new development; and

WHEREAS, in preparing the impact fee study, the City reviewed and has relied upon the Capital Improvements Plan prepared by Galena, in coordination with City's engineers, planners, and financial officers, and adopted by the City, and has reviewed and analyzed what elements of new development are or would generate demand for additional city police facilities addressed therein; and

WHEREAS, all of capital improvements planned for and included in the impact fee study, which are to be funded by city police impact fees are directly related to services that the City is authorized to provide, and are services required by the general policies of the City pursuant to resolution, code or ordinance; and

WHEREAS, an equitable program for planning and financing capital improvements to increase the service capacity of public facilities needed to serve new development is necessary in order to promote and accommodate orderly growth and development and to protect the public health, safety and general welfare of the citizens of the City. Such protection requires that the City's police facilities be expanded to accommodate new development within the City; and

WHEREAS, the city police impact fees to be imposed on new development will be and are hereby legislatively adopted, will be generally applicable to all new residential and non-residential construction and are intended to defray the projected impacts on such public facilities caused by new development as required by law; and

WHEREAS, the impact fee study quantifies the reasonable impacts of new development on existing city police facilities, and the reasonable costs of capital improvements necessary to increase the service capacity of the City's existing police facilities to accommodate the additional demands and impacts of new development; and

WHEREAS, based upon the impact fee study, the testimony at public hearing, a review of all of the facts and circumstances, and the recommendation of the Impact Fee Advisory Committee, in the reasonable judgment of the City Council, the city police impact fees hereby established are at levels no greater than necessary to defray the cost of capital improvements directly related to the categories of residential and non-residential land development listed herein; and

WHEREAS, in adopting the city police impact fees, the City Council intends and has determined that such impact fees are designed to and do address capital improvements needs that are brought about by new development, which needs are separate and distinct from the impacts and needs addressed by other requirements of the City's codes and ordinances, and in no circumstance do the impact fees set forth herein address the same subjects as other requirements of the City's codes and ordinances for site specific dedications or improvements; and

WHEREAS, the impact fees adopted hereby shall be collected and accounted for in accordance with Section 67-8201, et seq., Idaho Code; and

WHEREAS, in accordance with the procedural requirements of Title 67, Chapter 82, Idaho Code, the impact fee study and Capital Improvements Plan have been presented to and reviewed by the City Council; and

WHEREAS, after due and timely notice, the City Council held a public hearing to discuss, review and hear public comments on the proposed impact fees set forth herein; and

WHEREAS, the impact fees adopted hereby are fair and rational, charge new development according to new development's impact on the City's police and benefit those who pay impact fees in a tangible way.

BE IT ORDAINED, BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MIDDLETON, COUNTY OF CANYON, STATE OF IDAHO:

Section 1. The foregoing recitals are hereby affirmed and incorporated herein by this reference as findings of the City Council.

Section 2. Findings

The City Council of the City of Middleton, Idaho finds that:

- (a) Based on the City of Middleton Comprehensive Plan adopted by the City pursuant to Title 67, Chapter 65, Idaho Code, including but not limited to the capital improvements element of the Comprehensive Plan, and the general governmental goal of protecting the health, safety, and general welfare of the citizens of the City, and its area of city impact, it is necessary that the City's public police facilities accommodate new growth and development within the City.
- (b) New residential and non-residential growth and development imposes and will impose increasing and excessive demands upon the public facilities.
- (c) The revenues generated from new residential and non-residential growth and development often do not generate sufficient funds to provide the necessary improvements to these public facilities to accommodate new growth and development.
- (d) New growth and development are expected to continue, and will place ever-increasing demands on the City to provide and expand the public facilities to serve new growth and development.
- (e) The City has planned for the improvement of the public facilities in the capital improvements plan.
- (f) The creation of an equitable impact fee system would enable the City to impose a proportionate share of the costs of needed improvements to the public facilities to accommodate new growth and development, and would assist the City in implementing the capital improvements element of the comprehensive plan.
- (g) In order to implement an equitable impact fee system for the Public Facilities, the City retained Galena & Associates to prepare an impact fee study for these types of facilities. The resulting document (the "impact fee study") is on file in the office of the city clerk of the City of Middleton.
- (h) The impact fee study is consistent with the City of Middleton Comprehensive Plan and the levels of service set forth in the impact fee study are hereby adopted.
- (i) The impact fee study sets forth reasonable methodologies and analyses for determining the impacts of residential and non-residential new growth and development on the public facilities and determines the cost of acquiring or constructing the improvements necessary to meet the demands for such public facilities created by new growth and development.

(j) The impact fee study uses a calculation methodology that is a net of credits for the present value of revenues that will be generated by new growth and development based on historical funding patterns and that are reasonably anticipated to be available to pay for system improvements including user fees, debt service payments, taxes, assessments, intergovernmental transfers, and all other available sources of funding such system, and included consideration of the following factors:

- 1) The cost of existing system improvements within the service area or areas;
- 2) The means by which existing system improvements have been financed;
- 3) The extent to which the new development will contribute to the cost of system improvements through taxation, assessment, or developer or landowner contributions, or has previously contributed to the cost of system improvements through developer or landowner contributions.
- 4) The extent to which the new development is required to contribute to the cost of existing system improvements in the future.
- 5) The extent to which the new development should be credited for providing system improvements, without charge to other properties within the service area or areas;
- 6) Extraordinary costs, if any, incurred in serving the new development;
- 7) The time and price differential inherent in a fair comparison of fees paid at different times; and
- 8) The availability of other sources of funding system improvements including, but not limited to, user charges, general tax levies, intergovernmental transfers, and special taxation.

(k) The impact fees are based on the Impact fee Study, and do not exceed the costs of system improvements for the public facilities to serve new development that will pay the impact fees.

(l) The city police facilities included in the calculation of impact fees in the impact fee study will benefit all new growth and development throughout the City, and it is therefore appropriate to treat all areas of the City as a single service area for purposes of calculating, collecting and spending the impact fees collected.

(m) There is both a rational nexus and a rough proportionality between the development impacts created by each type of development covered by this ordinance and the impact fees that such development will be required to pay.

(n) This ordinance creates a system by which impact fees paid by new growth and development will be used to finance, defray or to provide capital improvements for the public facilities in ways that benefit the development for which impact fees were paid.

(o) This ordinance creates a system under which impact fees shall not be used to correct existing deficiencies in public facilities, or to replace or rehabilitate existing public facilities, or to pay for routine operation or maintenance of those public facilities.

(p) This ordinance creates a system under which there shall be no double payment of impact fees, in accordance with Idaho Code Section 67-8204(19).

(q) This ordinance is consistent with all applicable provisions of Title 67, Chapter 82, Idaho Code, concerning impact fee ordinances.

(r) This ordinance shall not be deemed invalid because payment of an impact fee may result in an incidental benefit to others within the service area other than the fee payer.

Section 3. Authority, Applicability, and Effective Date

(a) This ordinance is enacted pursuant to the City's general police powers pursuant to the authority granted to the City by Title 50, Idaho Code, and pursuant to the authority granted to the City by Section 67-8201, et seq., Idaho Code.

(b) The provisions of this ordinance shall apply to all territory within the limits of the City.

Section 4. Intent

(a) The intent of this ordinance is to promote the health, safety and general welfare of the residents of the City and its area of city impact.

(b) The intent of this ordinance is to be consistent with those principles for allocating a fair and proportionate share of the cost of capital improvements to public facilities to serve new development in compliance with the provisions set forth in Section 67-8201, et seq., Idaho Code. The provisions of this ordinance shall be interpreted, construed and enforced in accordance with the provisions set forth in Section 67-8201, et seq., Idaho Code.

(c) The intent of this ordinance is that impact fees should be charged, collected, and expended for city police capital improvements to increase the service capacity of those public facilities, which capital improvements are included in approved capital improvements plans that list the capital improvements that may be funded with impact fees.

(d) The intent of this ordinance is to ensure that: Public facilities are available to serve new development; new development bears a proportionate share of the cost of city police capital improvements to such public facilities; to ensure that such proportionate share does not exceed the cost of the capital improvements to such public facilities required to serve new development; and to ensure that the funds collected from new development are used for capital improvements for public facilities that benefit new development.

(e) It is not the intent of this ordinance to collect any monies from new development in excess of the actual amount necessary to offset new demands for capital improvements to public facilities created by such new development.

(f) It is not the intent of this ordinance that the impact fees be used to remedy any deficiency in city police facilities existing on the effective date of this Ordinance, or ever be used to replace, rehabilitate, maintain and/or operate any public facilities.

(g) It is not the intent of this ordinance that any monies collected from an impact fee deposited in an impact fee fund ever be commingled with monies from a different fund, or ever be used for capital improvements that are different from those for which the impact fee was paid.

(h) It is not the intent of this ordinance that impact fees be used for:

(1) Construction, acquisition or expansion of public facilities other than capital improvements identified in the Capital Improvements Plan.

(2) Repair, operation or maintenance of existing or new capital improvements.

(3) Upgrading, updating, expanding or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental or regulatory standards.

(4) Upgrading, updating, expanding or replacing existing capital improvements to serve existing development to provide better service to existing development.

(5) Administrative and operating costs of the City unless such costs are attributable to development of the Capital Improvements Plan used to determine impact fees by a surcharge imposed by ordinance on the collection of an impact fee, which surcharge shall not exceed a development's proportionate share of the cost of preparing the Capital Improvements Plan.

(6) Principal payments and interest or other finance charges on bonds or other indebtedness except financial obligations issued by or on behalf of the City to finance capital improvements identified in the Capital Improvements Plan.

Section 5. Imposition and Computation of Impact Fees

(a) The development impact fee reflects the need for capital improvements to public facilities created by new development. Any application for a building permit enabling the construction and, in the case of construction that does not require a building permit, any building that takes place on or after the effective date of this Ordinance shall be subject to the imposition of impact fees in the manner and amount set forth in this ordinance. The methodology adopted for the purpose of determining city police impact fees shall be based upon the assumptions set forth in the impact fee study and pursuant to the following:

(1) The development impact fee shall not exceed the proportionate share of the costs incurred or the costs that will be incurred by the City in the provision of system improvements to serve new development.

(2) The proportionate share is the cost attributable to the new development after consideration by the City of the following factors:

- a. any appropriate credit, offset or contribution of money, dedication of land, or construction of system improvements;
- b. payments reasonably anticipated to be made by or as a result of a new development in the form of user fees and debt service payments;
- c. that portion of general tax and other revenues allocated by the jurisdiction to system improvements; and
- d. all other available sources of funding such system improvements.

(3) In determining the proportionate share of the cost of system improvements to be paid by the developer, the following additional factors shall be considered:

- a. The cost of existing system improvements within the service area or areas;
- b. The means by which existing system improvements have been financed;
- c. The extent to which the new development will contribute to the cost of system improvements through taxation, assessment, or developer or landowner contributions, or has previously contributed to the cost of system improvements through developer or landowner contributions.
- d. The extent to which the new development is required to contribute to the cost of existing system improvements in the future.
- e. The extent to which the new development should be credited for providing system improvements, without charge to other properties within the service area or areas;
- f. Extraordinary costs, if any, incurred in serving the new development;
- g. The time and price differential inherent in a fair comparison of fees paid at different times; and
- h. The availability of other sources of funding system improvements including, but not limited to, user charges, general tax levies, intergovernmental transfers, and special taxation. The governmental entity shall develop a plan for alternative sources of revenue.

(b) Impact fees shall be required as a condition of approval of all residential and non-residential development in the service area for which a building permit is required and shall be payable prior to the issuance of any building permit (or installation permit in the case of a manufactured home) for a dwelling unit. Except as otherwise provided herein, after the effective date of this Ordinance, no building permit shall be issued until the impact fees described in this ordinance have been paid, unless the development for which the permit is sought is exempted or

approved credits are used to cover the impact fee. The City shall have the authority to withhold a building permit, stop construction, withhold utility services or impose liens as the case may be, until the appropriate impact fee has been collected.

(c) After payment of the development impact fees or execution of an agreement for payment of development impact fees, additional development impact fees or increases in fees may not be assessed unless the number of service units increases or the scope or schedule of the development changes. In the event of an increase in the number of service units or schedule of the development changes, the additional development impact fees to be imposed are limited to the amount attributable to the additional service units or change in scope of the development.

(d) A fee payer required to pay an impact fee may choose to have the amount of such impact fee determined pursuant to either the Fee Schedule (whereupon such payment shall be recognized as full and complete payment of the development's proportionate share of system improvement costs, except as provided in Idaho Code Section 67-8214(3)) or subsections (e) through (g) below. If the fee payer chooses to have the amount of such impact fee determined pursuant to subsections (e) through (g) below, such impact fee shall be subject to the adjustment described in Section 04-05-09, if applicable. If the project is a mix of those uses listed on the Fee Schedule, then the impact fees shall be determined by adding up the impact fees that would be payable for each use as if it were a freestanding use pursuant to the Fee Schedule.

(e) Individual assessment of impact fees is permitted in situations where the fee payer can demonstrate by clear and convincing evidence that the established impact fee is inappropriate for the project. Written application for individual assessment shall be made to the City at any time prior to receiving building permit(s). Late applications for individual assessment of impact fees may be considered for a period of sixty (60) days after the receipt of a building permit only if the fee payer makes a showing that the facts supporting such application were not known or discoverable prior to receipt of a building permit and that undue hardship would result if said application is not considered. Such independent impact fee calculation study for the fee payer's development shall be prepared at the fee payer's cost by a qualified professional and contain studies, data and other relevant information and be submitted to the City for review. Any such study shall be based on the same methodology and the same level of service standards, improvements and costs used in the impact fee study, and must document the methodologies and assumptions used. The City may hire a professional consultant to review any independent impact fee calculation study on behalf of the City, and may charge the reasonable costs of such review to the fee payer.

(f) Any independent impact fee calculation study submitted by a fee payer may be accepted, rejected or accepted with modifications by the City as the basis for calculating impact fees. The City shall not be required to accept any study or documentation the City reasonably deems to be inaccurate or unreliable, and shall have the authority to request that the fee payer submit additional or different documentation for consideration in connection with review of any independent impact fee calculation. If such additional or different documentation is accepted or accepted with modifications as a more accurate measure of the Impact fees due in connection with fee payer's proposed development than the applicable Impact fees set forth in subsection the

Fee Schedule, then the impact fee due under this ordinance shall be calculated according to such documentation.

(g) The City shall render a written decision establishing the Impact fees in connection with the individual assessment within thirty (30) days of the date a complete application is submitted. The decision shall include an explanation of the calculation of the Impact fees, shall specify the system improvement(s) for which the impact fees are intended to be used, and shall include an explanation of the factors considered pursuant to Idaho Code §67-8207.

(h) Certification of the impact fee for a project may be applied for in the following manner:

(1) Written application may be made to the City not later than sixty (60) days after development approval by the City Council. Late applications for certification of the impact fee will not be considered unless the fee payer makes a showing that the facts supporting such application were not known or discoverable until after the time had run and that undue hardship would result if said application is not considered.

(2) The City shall provide the fee payer with a written Impact fee certification for the Project within thirty (30) days of the date a complete application is submitted. The certification provided by the City shall establish the impact fee for the project in question so long as there is no material change to the project as identified in the certification application or the impact fee schedule. The certification shall include an explanation of the calculation of the impact fees, shall specify the system improvement(s) for which the impact fees are intended to be used, and shall include an explanation of the factors considered, which factors are identified in subsection (g) above.

(i) Appeals of the City's determination of an individual assessment or certification shall be made to the City as provided further in this ordinance.

(j) There may be circumstances where the anticipated fiscal impacts of a proposed development are of such magnitude that the City may be unable to accommodate the development without excessive or unscheduled public expenditures that exceed the amount of the anticipated Impact fees from such development. If the City determines that a proposed development would create such an extraordinary impact on the City's police, the City may refuse to approve the proposed development and/or may recommend to the other affected government agencies that the project not be approved. In the alternative, the City may calculate a pro rata share per dwelling unit, or square feet of nonresidential buildings, of the extraordinary impact and charge a reasonable extraordinary impact fee that is greater than would ordinarily be charged pursuant to the fee schedule.

(k) If the City discovers an error in its impact fee formula that results in assessment or payment of more than a proportionate share, City shall, at the time of assessment on a case by case basis, adjust the impact fee to collect no more than a proportionate share or discontinue the collection of any impact fees until the error is corrected by ordinance.

Section 6. Payment of Impact Fees

(a) After the effective date of this ordinance all fee payers shall pay the impact fees as provided by this ordinance to the City following application for a building permit and prior to the issuance of any building permit.

(b) All impact fees paid by a fee payer pursuant to this ordinance shall be promptly deposited in the impact fee fund.

(c) Taxing districts shall be subject to payment of Impact Fees on all developments in the City pursuant to the terms of this ordinance unless the City and the taxing district enter into a written agreement that provides otherwise.

Section 7. Impact Fee Funds; Refunds of Impact Fees Paid

(a) There is hereby established a City Police Impact Fee Fund into which shall be deposited all police impact fees for the purpose of ensuring City police impact fees collected pursuant hereto are designated for the accommodation of City police capital improvements reasonably necessary to serve new development that paid the impact fee.

(b) Each fund shall be an interest-bearing account which shall be accounted for separately from other impact fee funds and from other City funds. Any interest or other income earned on monies deposited in a fund shall be credited to such fund. Expenditures of impact fees shall be made only for the category of system improvements for which the impact fees were collected and as identified in the Capital Improvements Plan.

(c) Except as otherwise provided herein, monies from the fund, including any accrued interest, shall be limited to the financing of acquisition, expansion, and/or improvement of capital improvements, or for principal and interest payments on bonds or other borrowed revenues used to acquire, expand or improve such capital improvements, necessary to serve new development. Impact fees in each fund shall be spent within eight (8) years from the date such impact fees were collected on a first-in/first-out (FIFO) basis. The City may hold the impact fees longer than the prescribed time period if the City identifies, in writing: (1) a reasonable cause why the impact fees should be held longer; and (2) an anticipated date by which the impact fees will be expended but in no event longer than eleven (11) years from the date the impact fees were collected.

(d) The City shall prepare annual reports to be provided to the Advisory Committee and the City Council, which reports shall: (1) describe the amount of all impact fees collected, appropriated or spent for system improvements during the preceding year, as applicable, by category of public facility and service area; and (2) describe the percentage of tax and revenues other than impact fees collected, appropriated or spent for system improvements during the preceding year, as applicable, by category of public facility and service area.

(e) Funds shall be deemed expended when payment of such funds has been approved by the City. The fee payer or successor in interest shall be entitled to a refund of the impact fee if:

(1) service is available but never provided;

- (2) a building permit or permit for installation of a manufactured home is revoked or abandoned;
- (3) the City, after collecting the impact fee when service is not available, has failed to appropriate and expend the collected impact fees; or
- (4) the fee payer pays an Impact fee under protest and a subsequent review of the impact fee paid or the completion of an individual assessment determines that the impact fee paid exceeded the proportionate share to which the City was entitled to receive.

(f) When the right to a refund exists, within ninety (90) days after the City determines that a refund is due, the City shall provide written notice of entitlement to a refund, to the owner of record and the fee payer who paid the impact fees at the address shown on the application for development approval, or to a successor in interest who has notified the City of a transfer of the right or entitlement to a refund and who has provided to the City a mailing address. When the right to a refund exists, the City shall also publish the notice of entitlement to a refund within thirty (30) days after the expiration of the eight (8) year period after the date that the impact fees were collected. Such published notice shall contain the heading "Notice of Entitlement to Impact Fee Refund."

(g) A refund shall include interest at one-half (1/2) the legal rate provided for in Section 28-22-104, Idaho Code, from the date on which the impact fee was originally paid.

(h) In order to be eligible for a refund, a fee payer, successor in interest or owner of record shall file a written application for a refund with the City within six (6) months of the time such refund becomes payable under subsection (c) above, or within six (6) months of publication of the notice of entitlement to a refund, whichever is later. If a successor in interest claims a refund of impact fees, the City may require written documentation that such rights have been transferred to the claimant prior to issuing the requested refund. Refunds shall be paid within sixty (60) days after the date on which the City determines that a sufficient proof of claim for a refund has been made.

(i) Any person entitled to a refund shall have standing to sue for a refund under the provisions of this ordinance if there has not been a timely payment of a refund as provided herein.

Section 8. Exemptions from Impact Fees

(a) The following types of land development shall be exempted from payment of the impact fees imposed by this ordinance:

- (1) Rebuilding the same amount of square feet of a dwelling unit or nonresidential structure that was destroyed by fire or other catastrophe, provided that the structure is rebuilt and ready for occupancy within two (2) years of its destruction.
- (2) Construction of an unoccupied, detached accessory structure, or addition of uses related to a dwelling unit unless it can be clearly demonstrated that the use creates a significant impact on the capacity of system improvements.

(3) Remodeling or repairing a dwelling unit or a nonresidential structure in a manner that does not increase the number of service units.

(4) Replacing a dwelling unit with another dwelling unit on the same lot, provided that the number of service units does not increase.

(5) Placing a temporary construction trailer or office on a lot.

(6) Constructing an addition on a residential structure which does not increase the number of service units.

(7) Adding uses that are typically accessory to residential uses, such as tennis courts or clubhouse, unless it can be clearly demonstrated that the use creates a significant impact on the capacity of system improvements.

(b) An impact fee will be assessed for installation of a modular building, manufactured home or recreational vehicle unless the fee payer can demonstrate by documentation such as utility bills and tax records, either: (1) that a modular building, manufactured home or recreational vehicle was legally in place on the lot or space prior to the effective date of this Ordinance; or (2) that an impact fee has been paid previously for the installation of a modular building, manufactured home or recreational vehicle on that same lot or space. Lawful storage of a recreational vehicle shall not be deemed installation for purposes of this ordinance.

Section 9. Credits; Reimbursements

(a) No fee payer shall be required to construct, fund or contribute any capital improvement to meet the same need for city police for which an impact fee is imposed. All system improvements constructed, funded or contributed over and above the proportionate share of system improvement costs, including such system improvements paid for pursuant to a local improvement district, shall result in either a credit on future impact fees or reimbursement (at the fee payer's option) for such excess construction, funding or contribution to be paid from impact fees paid by future development that benefits from such system improvements constructed, funded or contributed by the fee payer. However, no credit or reimbursement shall be provided for: (1) project improvements; (2) any construction, funding or contribution not agreed to in writing by the City prior to commencement of such construction, funding or contribution; (3) any construction, funding or contribution of a type of capital improvements not included in the calculation of the applicable impact fee; and (4) any improvement required by an agency other than the City for that agency's development approval.

(b) In the calculation of an individual assessment of impact fees for a project, credit shall be given for the present value of all tax and user fee revenue generated by the fee payer within the service area and used by the City for system improvements of the category for which the impact fee is being collected. If the amount of such credit exceeds the impact fee for a project, the fee payer shall receive a credit on future impact fees. The credit may be applied by the fee payer as an offset against future impact fees only in the service area where the credit was generated.

(c) In the calculation of impact fees for a project, credit or reimbursement (at the fee payer's option) shall be given for the present value of any construction of system improvements or contribution of land or money required by the City from the developer for system improvements of the category for which the impact fee is being collected, including system improvements paid for through local improvement district assessments. Credit or reimbursement shall not be given for project improvement.

(d) If credit or reimbursement is due to the fee payer, the City and fee payer shall enter into a written agreement, negotiated in good faith, prior to the construction, funding or contribution. The written agreement shall include, without limitation: a description of the construction, funding or contribution of system improvements including, in the case of real property, a legal description of the real property; description as to how the system improvements are to be valued; the amount of the credit or the amount, time and form of reimbursement; instructions as to how the capital improvements should be provided to the City to ensure full transfer of ownership; and the circumstances under which the credit or reimbursement is deemed effective. To assist in such reimbursement, the City shall continue to collect impact fees from other Developers whose proposed developments will benefit from such construction, funding or contribution, and will promptly transfer such funds to the fee payer. If a successor in interest claims a reimbursement or credit, the City may require written documentation that such rights have been conveyed to the claimant prior to issuing the requested reimbursement or credit.

(e) Approved credits may be used to reduce the amount of impact fees in connection with any new development until the amount of the credit is exhausted. Each time a request to use approved credits is presented to the City, the City shall reduce the amount of the applicable impact fee otherwise due from the fee payer and shall note in the City records the amount of credit remaining, if any. Upon request of the fee payer, the City shall issue a letter stating the amount of credit available. If the credit has not been exhausted within eight (8) years of the date of issuance of the first building permit for which an impact fee was due and payable, or within such other time period as may be designated in writing by the City, such credit shall lapse, unless a refund of the remaining credit is applied for.

(f) Approved credits or reimbursement shall only be used to reduce the amount of the impact fee of the category for which the impact fee is otherwise due, and shall not be paid to the fee payer in cash or in credits against any other monies due from the fee payer to the City.

(g) Credit for land dedications shall, at the fee payer's option, be valued at: (1) one hundred (100) percent of the most recent assessed value for such land as shown in the records of the Canyon County Assessor; or (2) that fair market value established by a private appraiser reasonably acceptable to the City in an appraisal paid for by the fee payer. Credit for contribution or construction of system improvements shall be valued by the City based on complete engineering drawings, specifications, and construction cost estimates submitted by the fee payer to the City, which estimates shall be revised as actual costs become available. The City shall determine the amount of credit due based on the information submitted, or, if the City determines that such information is inaccurate or unreliable, then on alternative engineering or construction

costs reasonably acceptable to the City as a more accurate measure of the value of the offered system improvements to the City.

(h) Approved credits for land dedications shall become effective when the land has been conveyed to the City in a form reasonably acceptable to the City at no cost to the City, and has been accepted by the City. Approved credits for contribution or construction of System Improvements shall generally become effective when: (1) all required construction has been completed and has been accepted by the City; and (2) all design, construction, inspection, testing, bonding, and acceptance procedures have been completed in compliance with all applicable requirements of the City. Approved credits for the construction of system improvements may become effective at an earlier date if the fee payer posts security in the form of a performance bond, irrevocable letter of credit or escrow agreement in the amount and under terms reasonably acceptable to the City.

(i) Credit may only be transferred by a fee payer that has received credit to such fee payer's successor in interest. The credit may be used only to offset impact fees for the same category for which the credit was issued. Credits shall be transferred by any written instrument clearly identifying which credits are being transferred, the dollar amount of the credit being transferred, and the system improvements for which the credit was issued. The instrument of transfer shall be signed by both the transferor and transferee, and a copy of the document shall be delivered to the City for documentation of the transfer before the transfer shall be deemed effective.

(j) Suitability of Land Offered for Dedication: In the event that a developer intends to contribute or dedicate an interest in land in lieu of paying impact fees or a portion thereof, the following procedures and criteria shall be applied:

(1) The City with the advice of the appropriate department head and the City Attorney will determine whether the land proposed for dedication is acceptable based upon the following considerations:

a. Size: The size of the parcel is expressed as a net amount and is exclusive of street right-of-way, existing and proposed easements, borrow pits, lakes, and other man-made or natural conditions which restrict or impede the intended use of such areas.

b. Unity: The land to be dedicated shall form a single parcel of land except where aforesaid review determines that two or more parcels would be in the best public interest.

c. Shape: The configuration of the parcel of land is such as to be usable for public facilities purposes as determined by the City.

d. Location: The land to be dedicated is so located as to serve the needs of the development, by being within the service area public facilities.

e. Access: Appropriate access to the land to be dedicated is provided by improved public street frontage.

f. Utility: Dedicated land should be usable for public facilities purposes and meet the following criteria prior to its final acceptance by the City:

1. The property is platted and ready to be developed
2. All utilities are in place and are at the perimeter of the site and include roads, walks, curbs, water lines, sewer lines, electric service lines, and telephone service lines.
3. All utilities are of sufficient quality and quantity to adequately service the site.
4. The property is filled and compacted to comply with all appropriate subdivision codes, building and zoning codes, and flood insurance laws and regulations. The fill and compaction are of sufficient quality to accept the contemplated improvements.

g. Plans: City, regional, and state plans shall be taken into consideration when evaluating land proposals for dedication.

(2) Appeals of the City's determination of land suitability shall be made to the City Council by the filing of an appeal with the city clerk no later than ten (10) days following the date of the decision of the City.

Section 10. Appeals

The decisions of the City may be appealed as provided below:

(a) Any fee payer who is or may be obligated to pay an impact fee may appeal a decision made by the City in applying this Ordinance to the City Council's designee. Such decisions that may be appealed include:

- (1) The applicability of an impact fee to the development.
- (2) The amount of an impact fee to be paid for the development.
- (3) The availability, amount or application of any credit.
- (4) The amount of any refund, reimbursement or credit.
- (5) Any discretionary action or inaction by or on behalf of the City.

A fee payer may pay an Impact fee under protest in order to obtain a development approval or building permit(s) and, by paying such impact fee, shall not be estopped from exercising the right of appeal provided herein, nor shall the fee payer be estopped from receiving a refund of any amount deemed to have been illegally collected. Upon final disposition of an appeal, the impact fee shall be adjusted in accordance with the decision rendered and, if necessary, a refund paid.

(b) In order to pursue an appeal, the fee payer shall file a written notice of appeal with the City Council's designee within fifteen (15) days after the date of the decision being appealed, or the date on which the fee payer submitted a payment of impact fees under protest, whichever is later. Such written application shall include a statement describing why the appellant believes that the decision was in error; together with copies of any documents that the appellant believes supports the claim.

(c) The City Council's designee shall notify the fee payer of the hearing date on the appeal, which notice shall be given no less than fifteen (15) days prior to the date of the hearing, and shall hear the appeal within thirty (30) days after receipt of a written notice of appeal. The appellant shall have a right to be present and to present evidence in support of the appeal. The City who made the decision under appeal shall likewise have the right to be present and to present evidence in support of the decision. The burden of proof in any such hearing shall be on the fee payer to demonstrate that the amount of the impact fee, credit, reimbursement or refund was not properly calculated by the City.

(d) The criteria to be used by the City Council's designee shall be whether: (1) the decision or interpretation made by the City; or (2) the alternative decision or interpretation offered by the appellant, more accurately reflects the intent of this ordinance that new development in the City pay its proportionate share of the costs of system improvements for public facilities necessary to serve new growth and development. The City Council's designee may affirm, reject or revise the decision of the City, providing written findings of fact and conclusions, within fifteen (15) days after hearing the appeal. The City Council's designee shall modify the amount of the impact fee, credit, refund or reimbursement only if there is substantial evidence in the record that the City erred, based upon the methodologies contained in the impact fee study, this ordinance and/or the Capital Improvements Plan. The decision of the City Council's designee shall be final.

(e) Upon voluntary agreement by the fee payer and the City, the fee payer and the City may enter into mediation with a qualified independent party to address a disagreement related to the impact fee for proposed development. Costs for the independent mediation service shall be shared equally by the fee payer and the City. Mediation may take place at any time during an appeals process and participation in mediation does not preclude the fee payer from pursuing other remedies.

Section 11. Impact fee Advisory Committee

(a) The City has established an advisory committee. The advisory committee shall continue to be composed of not fewer than five (5) members appointed by the City Council. Two (2) or more members of the advisory committee shall be active in the business of development,

building or real estate. The advisory committee shall serve in an advisory capacity to the City Council and is established to:

- (1) Assist the City in adopting land use assumptions;
 - (2) Review the Capital Improvements Plan, and proposed amendments, and file written comments;
 - (3) Monitor and evaluate implementation of the Capital Improvements Plan;
 - (4) File periodic reports, at least annually, with respect to the Capital Improvements Plan and report to the City any perceived inequities in implementing the Capital Improvements Plan or imposing the impact fees; and
 - (5) Advise the City of the need to update or revise land use assumptions, the Capital Improvements Plan, and impact fees.
- (b) The City shall make available to the advisory committee, upon request, all financial and accounting information, professional reports in relation to other development and implementation of land use assumptions, the Capital Improvements Plan and periodic updates of the Capital Improvements Plan.

Section 12. Miscellaneous Provisions

- (a) As used in this ordinance, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates; the word shall, will or must is always mandatory; the word may is permissive; and the word should indicates that which is recommended, but not required.
- (b) Nothing in this ordinance shall be construed to create any additional right to develop real property or diminish the power of the City in regulating the orderly development of real property.
- (c) Nothing in this ordinance shall limit or modify the rights of any Person to complete any development for which a lawful building permit was issued prior to the effective date of this Ordinance.
- (d) Nothing in this ordinance shall prevent the City from requiring a Developer to construct reasonable Project Improvements in conjunction with a Project.
- (e) Nothing in this ordinance shall limit the ability of the City to enter into intergovernmental agreements as provided in Section 67-8204A, Idaho Code.
- (f) Nothing in this ordinance shall obligate the City to approve any development request that may reasonably be expected to reduce levels of service below minimum acceptable levels established in the development impact fee study.

(g) Nothing in this ordinance shall obligate the City to approve development which results in extraordinary impact.

(h) Notwithstanding any agreement by the fee payer to pay the proportionate share of system improvement costs documented by the supplemental study, nothing in this ordinance shall obligate the City to approve development that results in an extraordinary impact.

(i) Nothing in this ordinance shall work to limit the use by the City of the power of eminent domain or supersede or conflict with requirements or procedures authorized in the Idaho Code for local improvement districts or general obligation bond issues.

(j) A development impact fee shall not exceed a proportionate share of the cost of system improvements determined in accordance with section 67-8207, Idaho Code. Development impact fees shall be based on actual system improvement costs or reasonable estimates of such costs.

(k) Nothing in this ordinance shall be construed to prevent or prohibit private agreements between developers, the City, the Idaho Transportation Department, and/or other governmental entities in regard to the construction or installation of system improvements or providing for credits or reimbursements for system improvement costs incurred by a developer or fee payer, including inter-project transfers of credits, or providing for reimbursement for project improvements that are used or shared by more than one development project. If it can be shown that a proposed development has a direct impact on a public facility under the jurisdiction of the Idaho Transportation Department, then the agreement shall include a provision for the allocation of development impact fees collected from the developer or fee payer for the improvement of the public facility by the Idaho Transportation Department.

(l) Nothing in this ordinance shall restrict or diminish the power of the City: (1) to impose reasonable conditions on the annexation of any property to the City in accordance with Idaho Code, including conditions for recovery of project or system improvement costs required as a result of such voluntary annexation, or (2) to negotiate and execute development agreements that may impose additional conditions on development, including the recovery of project or system improvement costs, either in connection with a proposed annexation or in connection with any other development within the City.

(m) The impact fees described in this ordinance, and the administrative procedures of this ordinance shall be reviewed at least once every five (5) years to ensure that: (1) the demand and cost assumptions and other assumptions underlying such impact fees are still valid; (2) the resulting impact fees do not exceed the actual costs of providing city police facilities required to serve new development; (3) the monies collected in any impact fee fund have been and are expected to be spent for system improvements of the type for which such impact fees were paid; and (4) such system improvements will benefit those developments for which the impact fees were paid.

(n) Violation of this ordinance shall be subject to those remedies provided in the Middleton City Code. Knowingly furnishing false information to any official of the City charged with the

administration of this ordinance on any matter relating to the administration of this ordinance including, without limitation, the furnishing of false information regarding the expected size or use of a proposed development, shall be a violation of this ordinance.

(o) The captions used in this ordinance are for convenience only and shall not affect the interpretation of any portion of the text of this ordinance.

Section 13. If any paragraph, section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid, inconsistent with the provisions of the Idaho Impact Fee Act, Sections 67-8201, et seq., Idaho Code, unconstitutional and/or unenforceable, such provisions shall be deemed to be separate, distinct and independent and the remaining provisions of this ordinance shall continue in full force and effect.

Section 14. This Ordinance shall be in full force and effect from and after thirty (30) days subsequent to this Ordinance's passage, approval, and publication, according to law, whereupon all ordinances or parts of ordinances, codes or parts of codes, in conflict with the provisions of this Ordinance shall be repealed.

Dated this ____ day of November, 2020.

CITY OF MIDDLETON
Canyon County, Idaho

Steven J Rule, Mayor

ATTEST:

Jennica Reynolds
Deputy City Clerk

EXHIBIT A
FEE SCHEDULE

Except for such Impact fee as may be calculated, paid and accepted pursuant to an independent Impact fee calculation study, the amount of each Impact fee shall be as follows:

Police Impact fee Schedule:

Residential	\$304.00 per Dwelling Unit
Non-Residential	\$ 0.15 per square foot

This Fee Schedule shall be in effect beginning December 5, 2020.

On January 1, 2022 and on January 1st of each year thereafter in which an Impact fee is in effect, the amount of the Impact fee may be automatically adjusted to account for inflation increases in the cost of providing City police facilities to serve new development utilizing an inflation factor for building material from a reputable source such as McGraw Hill's Engineering News Record. Nothing herein shall prevent the City from electing to maintain a then-existing Impact fee or from electing to waive the inflation adjustment for any given fiscal year, or years. Any such action to determine an inflation factor shall be by City Council resolution.