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**MIDDLETON CITY COUNCIL  
SEPTEMBER 1, 2021**

The Middleton City Council meeting on September 1, 2021 was called-to-order at 5:34 p.m. by Mayor Rule.

**Roll Call:** Mayor Rule, Council President Kiser, Council Members Huggins, Garner and O'Meara and were all present. City Attorney Doug Waterman was also present.

Pledge of Allegiance, Invocation: Heidal Summers

**Action Items**

**A. Approve Amended Agenda**

**Motion:** Motion by Council President Kiser to approve the Amended Agenda as posted August 30, 2021 at 5:00p.m. Motion seconded by Council Member Garner and approved unanimously.

**Information Items:**

**1. Presentation by Cemetery District**

Mayor Rule called the item and introduced John Sandborgh a Cemetery Board Member. Mr. Sandborgh has served on the Cemetery Board for 10 years. He noted that Caldwell and Nampa both have cemeteries that they operate. They currently have about \$115,000 in revenue. The sexton for the cemetery is getting older and it is difficult for him to perform all of the required tasks. The Cemetery Board is requesting that the city consider taking over the management of the Cemetery.

Council Questions:

-Council Member O'Meara—asked if the district could implement impact fees to pay for maintenance and staffing. Mr Sandborgh responded that finances aren't the issue the district has funds.

-Council President Kiser asked about how many employees the District has. The Cemetery District currently has two employees—a sexton and a secretary. The sexton has diabetes and it is getting pretty bad.

-Mayor Rule asked if what the district is asking is if the city will consider being the administrator of the cemetery. Mr. Sandborgh stated that was the request.

**Action Items**

**1. Consent Agenda (items of routine administrative business)**

- a. Consider approving minutes for City Council August 18, 2021 regular meeting.
- b. Consider ratifying payroll for August 27, 2021 in the amount of \$102,773.61.
- c. Consider approving accounts payable thru August 26, 2021 in the amount of \$163,956.

Mayor Rule called the items. Council President Kiser stated he had gone through the accounts payable. There were no concerns. Council Member O'Meara questioned a sentence at the bottom of page 5 of the minutes. It was determined by the deputy clerk to be a clerical error and should be omitted.

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**Motion:** Motion by Council President Kiser to approve Consent Agenda Items 1a-c removing the typo on page 5 of the minutes. Motion seconded by Council Member O'Meara and approved unanimously.

**2. Consider appointing Wade Wroten to the Library Board to serve a term of 5 years from September 1, 2021 to September 1, 2026. – Mayor Rule**

Mayor Rule tabled this item to September 15, 2021.

**3. Consider appointing Jeff Miller to the Library Board to serve a term of 5 years from September 1, 2021 to September 1, 2026. – Mayor Rule**

Mayor Rule called the item and introduced Jeff Miller. Mr. Miller was interested in serving on the Planning and Zoning but there is a requirement that an individual live in the Middleton city limits for a minimum of 2 years and Mr. Miller has only been here for a little over a year. However, he was still interested in serving the community and was willing to serve on the Library Board. Mayor Rule recommended the council approve his appointment to the Middleton Library Board.

**Motion:** Motion by Council President Kiser to approve Mayor Rule's appointment of Jeff Miller to the Middleton Library Board for a term of five years from September 1, 2021 to September 1, 2026. Motion seconded by Council Member O'Meara and approved unanimously.

**4. Consider adopting Resolution 459-21 to increase the city's fees by over 5%. Public hearing for fees was held on August 18, 2021. –Becky Crofts**

Mayor Rule called this item and City Administrator, Becky Crofts discussed the item. Becky explained that the public hearing for these fee increases was held on August 18, 2021. The fees were also discussed with the council during the budget workshops held throughout the summer. This is the final document to put those in place on October 1, 2021.

**Motion:** Motion by Council President Kiser moved to adopt Resolution 459-21 to increase to increase the city's fees by over 5%. Motion seconded by Council Member O'Meara and approved unanimously.

**5. Consider approving Corrected Ordinance 649 an ORDINANCE OF THE CITY OF MIDDLETON, CANYON COUNTY, IDAHO ENTITLED THE "ANNUAL APPROPRIATION ORDINANCE" FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2021. APPROPRIATING \$15,478,741 DEEMED NECESSARY TO DEFRAY ALL EXPENSES AND LIABILITIES OF THE CITY OF MIDDLETON, IDAHO FOR FISCAL YEAR 22. —Wendy Miles**



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Mayor Rule called the item and Wendy explained that the ordinance on August 18 included the 2% publication amount and this ordinance is corrected to reflect the intended amount of \$15,478,740.00

**Motion:** Motion by Council President Kiser to read Ordinance 649 by title only. Motion seconded by Council Member Garner. Roll call unanimous.

Council President Kiser read the ordinance by title only: AN ORDINANCE OF THE CITY OF MIDDLETON, CANYON, COUNTY, IDAHO, ENTITLED THE "ANNUAL APPROPRIATION ORDINANCE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2021, APPROPRIATING \$15,478,741 DEEMED NECESSARY TO DEFRAY ALL EXPENSES AND LIABILITIES OF THE CITY OF MIDDLETON, IDAHO FOR FISCAL YEAR 2022, AND SPECIFYING THE OBJECTS AND PURPOSES FOR WHICH SAID APPROPRIATIONS ARE MADE; PROVIDING FOR A WAIVER OF THE READING RULES; AND PROVIDING AN EFFECTIVE DATE.

**Motion:** Motion by Council President Kiser to move that we waive the three-reading rule and adopt Ordinance 649. Motion seconded by Council Member O'Meara. Roll call unanimous.

**6. Public Hearing: Application by Blake Wolf to amend that certain Development Agreement filed as Instrument No. 2017-009379 in the records of Canyon County, Idaho, to allow the construction of four 4-plex townhomes instead of commercial buildings on Lot 1, Block 1 in the McKinley Meadows Townhome Subdivision. The subject property is located at the northwest corner of Middleton Road and Cornell Street (Tax Parcel No. R1848060).—Jennica Reynolds**

Mayor Rule called the item at 5:53 PM and opened the public hearing. Jennica Reynolds presented the staff report. **EXHIBIT**

Mayor Rule called for the applicant representative to speak.

Blake Wolf –848 W Horizon Way, Nampa. He is the applicant and developer of the project spoke on the project. He stated that this is a desperate need for the community to have affordable rental products. He stated that the land owner has tried for two years to sell the property as currently zoned and the market just doesn't support it. The idea is to build the same type of buildings as those adjacent to the property.

The mayor opened public testimony.

Jennica read the letter of opposition from Greater Middleton Parks and Recreation. **EXHIBIT**  
Council Member Tim O'Meara spoke on the letter submitted stating that there was not a check issued to the district.

Public Testimony:

*David Cook*—52 Cobblestone, Middleton. Mr. Cook spoke in opposition to the proposal. He doesn't believe that we need more houses in Middleton. There are already several units on Cornwell. He feels that additional apartments will make it worse in the area. This proposal would just overload this area more.

*Cheryl Teichert*—611 Cornell St, Middleton. Her property is directly adjacent to McKinley

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Meadows project and she attended the hearings in 2017 when the original agreement was made for the use of the property. They were told that the property (Lot 1 Block 1) is in the floodplain and could not be residential due to the floodplain. That was their understanding from back in 2017. She did recall that monies were supposed to be giving to the park for improvements. The discussion was regarding the development giving funds to the GMPR in lieu of a park. Her understanding was that there would be complete fencing between her property and McKinley Meadows property. There is only a partial fence now. They want their property completely fenced from their property. She is not in favor of it.

**Council Questions:**

Mr. O'Meara asked how her view is from her property. She stated that there isn't a view at all. She showed the audience where her property is located.

Mayor asked if she knew if the dollar amounts committed for parks are in writing from any of the meetings you attended. Ms. Teichert thought that there was but she would have to review all of her notes and the documents from the many meetings she attended. Jennica clarified that it was in the original development agreement.

**Developer Rebuttal—**

*Blake Wolf*—he is uncertain on the entire back story on the money for the parks. He does know that the developer paid the money and then quite some time later the money was returned to them. As far as damage to the parks caused by the development he is unaware of anything except a water line that was located incorrectly which was broken. The developer repaired that. If there is still work out there he is more than happy to take care of it. The parcel was removed from the floodplain when the FEMA maps were adjusted. With this new proposal fencing would be around the perimeter of the property. As for traffic and kids he feels that having kids across from schools is safer for them because the school is right there. Regarding traffic—this product is a known product depending upon what goes in to the property there could be more traffic. There's no surprise with his product there have been three years. The market doesn't support commercial for this area. If it doesn't go through this property will probably be put up for sale or sit vacant.

*Council President Kiser:* Concerning the fence between the property and the Teichert's property. The development agreement states that the developer has approximately 200 feet of fencing along the southeast corner of their property heading north approximately 200 feet. Developer stated that was correct. President Kiser stated that he was present for the 2017 agreement. He understands what Mr. Wolf is asking but he would still like to see the business side developed. He stated that he is not a fan of changing development agreements. This is what the developer asked for in 2017 and the council was in favor of their proposal at that time. They liked the idea of commercial development in that area. Commercial property helps our community. Mr. Wolf responded that they really tried to get commercial development on that property but the market just won't support it and the property wouldn't sell for commercial.

*Mayor Question:* Mayor Rule asked the developer regarding the check for the parks. Mr. Wolf will look into the check written to the city. Jennica Reynolds provided information from the city records documenting the money in the development agreement that was to go to Greater Middleton Parks and Recreation. On March 30, 2017 a check for \$10,000 from Rooftop Real Estate was cash receipted. A refund was issued April 20, 2018 from the City of Middleton. The development agreement stated that GMPR had to use the funds for irrigation and grass improvements by June 30, 2017. Mayor Rule also asked about the provisions for a playground—is there a record of commitment of a playground? Mr. Wolf stated that the \$10,000 was Mayor Taylor's solution in lieu of putting in a playground since there is already a playground across from the property.



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### **Closed public testimony at 6:33 PM**

Council Discussion:

*Council Member O'Meara:* Since he had already expressed opposition in his letter on behalf of Greater Middleton Parks and Recreation he will abstain from voting on this item.

*Council Member Huggins:* I am following the same path as Council President Kiser- because it was difficult in 2017. I accepted it in 2017 because it was not all apartment—she doesn't feel that there is anything that changes that since 2017.

*Council Member Garner:* At the time of this development agreement Council Member Garner was serving on the Planning and Zoning Commission. He was on-point with the commercial zone at the time and he stands with that decision.

**Motion:** Motion by Council President Kiser to deny the application by Blake Wolf to amend the development agreement filed as instrument number 2017009379 in the records of Canyon County. Motion seconded by Council Member Huggins. Roll call vote was unanimous-with Council Member O'Meara abstaining.

Mayor called a break at 6:37 PM meeting resumed at 6:44 PM

### **7. Public Hearing: An application by Jane Suggs/Gem State Planning for Preliminary Plat and Development Agreement termination with respect to the Waverly Park Subdivision located at 0 Duff Lane (Tax Parcel Nos., R338570120 and R33857011). The proposed preliminary plat is zoned R-3 ("Single Family Residential") and consists of 417 single family buildable lots and 55 common lots on 157.56 acres of vacant land. –Roberta Stewart**

Mayor Rule called the item and opened the public hearing at 6:44 PM. City Planner Roberta Stewart gave her staff report on the project. Including the projects comments from other agencies. **EXHIBITS** Council President Kiser asked staff about the access available for the Albright's (adjacent property owner)—city staff stated that the developer is going to give them access through the development and the Albrights will also maintain their Duff Lane access.

Mayor Rule called for the applicant to speak on the proposal.

Jane Suggs introduced herself and commended city staff on their presentation. She stated that there are nine phases in this development and that the developers have met with the Albright's and worked with them to come to an agreement. . As noted in the staff report the builder will be paying \$2.1 million in traffic impact fees. These are paid at building permit. They are making improvements as well as making places for people to live.

Council Member Questions:

*Council Member Huggins:* in review P & Z report will all of their requirements be met also—including the cluster mailboxes? The developer and staff answered yes to this question—all items are in one comprehensive agreement.

*Council Member O'Meara:* Asked if there would be a crosswalk across Duff—is that part of the 10 foot pathway/bike path? Answer: that would have to be coordinated with Canyon Highway because that will eventually be a five lane road. After clarification of the location it was a different location than Council Member O'Meara thought.

*Council Member Huggins:* Asked about sidewalks to the pathways and throughout the development. Answer: yes there will be sidewalks on all the streets in all of the phases.

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The mayor opened public testimony.

*Rob Collins*—9590 Highway 44—President RDC Investments of interested in developing 8 acres into commercial flex space. Moved here from McCall two years ago and is looking to put a road into their subdivision to connect to the property—so he wants to make sure items aren't placed where they want their road. Mainly he wanted to meet who is developing it and develop a relationship.

**No rebuttal and public comment closed at 7:08 PM**

Council Discussion:

*Council President Kiser*: question to staff—is there a new development agreement needed? Answer: no there is no need to do a new development agreement when they are complying with all the current standards.

*Staff Clarification Becky Crofts*: Traffic impact fees will be paid at the time of the building permits are applied for and issued. The traffic impact fees paid for the development will be at the current rate at the time the permit is issued—the amount stated in the presentation is an estimate of the expected fees not an exact amount.

**Motion:** Motion by Council President Kiser to approve the application by Jane Suggs/Gem State Planning for Preliminary Plat and Development Agreement termination with respect to the Waverly Park Subdivision located at 0 Duff Lane (Tax Parcel Nos., R338570120 and R33857011) with all the conditions of approval. Motion seconded by Council Member O'Meara. Roll call vote was unanimous.

**Public Hearing Closed at 7:11 PM**

- 8. Public Hearing: An application by Sterling Land Development, Inc. and David Sterling for annexation/rezone, preliminary plat, and development agreement with respect to the Sterling Lakes Subdivision located at 23251 Duff Lane. The proposed preliminary plat consists of 119 residential lots and 10 common lots on 51.43 acres of vacant land. Applicants are requesting a rezone to R-3. – Roberta Stewart**

Mayor Rule called the item and opened the public hearing at 7:11 PM. City Planner Roberta Stewart gave her staff report on the project. **EXHIBITS**

*Council Member O'Meara*: asked if there is only one entrance into the development. He also stated concern about traffic during construction. Answer: No there are actually two access points—the project meets the requirements per code. As for construction traffic the developer will be gaining access through an adjacent property during construction as well as city roads.

Mayor Rule called for the applicant to speak on the proposal.

Sterling Land Development, Inc. presented a PowerPoint presentation. **EXHIBIT**

Questions:

Mayor Rule asked about the types of fences. Answer: The developers are modifying the fence type in order to make it aesthetically pleasing to the adjacent property owners. The



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fence will be around the perimeter of the lots not the subdivision. Solid would be cedar and the see-through would be a wrought iron fence.

The mayor opened public testimony.

Cliff Beck—208 Atlantic Ave. Middleton—in favor as long as there are no major changes to the agreement. Thank David Sterling for listing and implementing suggestions. He likes the trees and overall is happy with the proposal.

**Rebuttal:**

The developer further clarified the road configuration to show how traffic will go into and out of the subdivision.

**Public comment closed at 7:38 PM**

**Council Discussion:**

*Council Member Garner:* only concern is the only access off of Cornell.

*Council Member Huggins:* the eventual plan is for Cornell to go to Duff.

*Council Member O'Meara:* asked if there was any application to tie the streets. Answer: Roberta responded that the property was not owned by the applicant and the current owner wants to keep his shed in place—currently isn't selling. Becky Crofts also mentioned that the applicant tried to purchase the adjacent property and is currently unable to do so. It is a very desirable property.

*Council President Kiser:* this looks like a good project. He is still struggling with the road configuration but sees how it will eventually come together.

*City Planner Roberta Stewart:* how do you want to handle the fence? It can be handled on the development agreement and wouldn't have to be a variance it would be considered a waiver. Note in the motion if the council is inclined that the fence will not be on the perimeter it will be on the edge of the residential lots.

**Motion:** Motion by Council President Kiser to approve the application by Sterling Land Development, Inc. and David Sterling for annexation/rezone, preliminary plat, and development agreement with respect to the Sterling Lakes Subdivision located at 23251 Duff Lane. Provided that all conditions of the staff report are met and that within the development agreement the fencing location is clearly stated that it may not necessarily be around the perimeter of the property but around the perimeter of the buildable lots Motion seconded by Council Member O'Meara. Roll call vote was unanimous.

Mayor called a break at 7:44 PM meeting resumed at 7:51PM

- 9. Public Hearing: An application by Breckon Design for Robert Brian Burnett, Drake Investments, Deep River Investments & Deep Water LLC for Annexation/Rezone, Preliminary Plat, Development Agreement Modification, and Comprehensive Plan Map Amendment with respect to the River Pointe Subdivision located at 10481 Hwy 44, 0 Hwy 44, and 0 Duff Lane (Tax Parcel Nos. R3392000, R3392001 and R33935010A). The proposed preliminary plat**

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**consists of seven commercial lots, 114 townhome lots, 67 garden/patio single family lots, 92 single family lots, and 48 common lots on 88.51 acres of vacant land, of which 75 acres is zoned M-U "Mixed Use". Applicant is requesting a Comprehensive Plan Map Amendment to change the 14 acre Duff parcel to "Residential" use and the 74 acre M-U parcel to "Commercial" and "Residential" uses. Additionally, Applicants are requesting a rezone to R-3 for the 14 acre Duff parcel. –Roberta Stewart**

Mayor Rule called the item and opened the public hearing at 7:51 PM. City Planner Roberta Stewart gave her staff report on the project. Roberta entered some documents into the record. Exhibit J: objection letter from the county subdivision River Bend Ranch this letter was received after 5:00 PM on August 31, 2021. Exhibit K is a new DA which added a provision that forces Sawtooth Lakes Street that goes east and west to be built earlier. Exhibit I: an approval and recommendation letter from Amy Woodruff the city engineer. **EXHIBITS**

Mayor Rule called for the applicant to speak on the proposal.

Andrew Knolls—1521 Crown Point, Eagle representing the developer. Started off by referring to Roberta's slide presentation. Complimented everyone all involved in this process. He referred to this as the "next Indian Creek". PowerPoint presentation. **EXHIBIT**

John Brecken—6661 Glenwood Street. Presenter stated that they are in full agreement with all condition of the development agreement. **EXHIBIT CONT.**

Questions:

*Council Member O'Meara:* for clarification—phases will start nest to the highway and will coordinate with the development to the east. Will Sawtooth Lakes to be completed before all phases are complete. Answer: yes that has been addressed in the DA so that the roundabout connection can be completed and utilities extended to the project.

Public Testimony:

*Representative of a group:* Matthew Johnson representing River Bend Subdivision-- Okay, I'll try to keep the lower Thank you. Thank you, Mayor Council, my name is Matthew Johnson I'm an attorney with White Peterson; address 5700 East Franklin Road, Suite 200 Nampa, Idaho. I represent a group of homeowners who live in the Riverbend Subdivision you'll recall from the last time I was here I'm not going to repeat a lot of that.

Real quickly, and the reason I asked for some additional time as some things have arisen where I need to put some things on the record, so I appreciate if you bear with me this legal thing I need to do. I need to note a number of process objections one, a brand new DA provision has been added into the development agreement with the report that was given to you tonight. That was not presented at the P & Z level has not...gotten adequate time to have been reviewed. I'm not sure, from what I've heard that it raises major concern for my clients just that procedurally it's out of order. Secondly, a new plat has been submitted to you tonight, I'm not exactly sure all the revisions on those plats again, I think the intent is relatively minor I'm not sure my clients, particularly concerned, but I would just note, this is another new plat, that is not the one that P & Z saw it it's hearing. I just need to put those on the record, not because I want to make huge issues out but because I have to preserve the



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record. Last thing I want to express is, first off, I wanted to thank you for the last meeting, and what you did, because you stepped up as a council, and said that process was important, and transparency was important. And I noted a bunch of procedural flaws. I didn't put on my tie suit code tonight because I feel like I had to play the big attorney playing the legal card I was hoping to keep it on substance. And that's because of what you did and you sent this back to P & Z and P & Z did what they're supposed to do. They looked at the full application they got clarification of what was there, they got clarification on the development agreement, and they put together a recommendation, and my clients, myself and I think the developer all walked out of that P & Z meeting after a very long P & Z meeting. I think feeling like this was primarily resolved. The P & Z came up with conditions of approval that addressed most of my clients major concerns the applicant—the developer and indicated they were an acceptance and all those unfortunately seem to have gone two steps forward and one step back tonight. And so while I thank you I want to point out and this is my third procedural objection: The way this process works is an applicant submits a development application and staff reviews it at the initial level, does a preliminary analysis, and then they take it to the Planning and Zoning Commission, those people have been appointed for their level of expertise and their understanding of the policies and city to make a recommendation that goes to the city council, you received that recommendation. You're the ultimate decision makers, I don't question your authority to do that but what you're supposed to receive is the P & Z recommendation, not the staff recommendation, not the staff supplanting the recommendation P & Z gave to you. And while the bulk of what P & Z did is before you did and I'm in agreement with your planner that the first and third conditions approval, really on an issue. Staff seems to have stepped in and not only have they supplanted and done away with or undermined P & Z's second recommendation on Duff Lane, they've actually gone the opposite way, with a brand new development agreement provision that actually not only does away with what P & Z is recommending, but completely reverses it to drive traffic out this way further. And so the merits, you've gotten my letter. I'll let that speak for itself on the zoning density issues, The berm buffer we appreciate the developers cooperation and adding that we would like to see some additional language in the DA just to reflect the stormwater drainage concern, but I want to give you the full report on what happened at that P & Z meeting, and you've seen it in the public comments that have come to you previously, the number one comment, you've gotten is about traffic, and its traffic on Duff Lane. All you have to do is go back to that picture and see what happens, Sawtooth Lake dead ends right there at the pond, it's not connecting through at some point and you've got Duff Lane that's a not very wide two lane road running out Highway 44 and everybody has commented the same thing—it's not able to handle the amount of traffic that the development of this size is going to send out this way. It's going to cause a mess at the intersection. CHD comment on this, and their August 5 letter was not something they sent in unsolicited in fact the record in this matter quite clearly shows that staff sent emails to CHD following up on your last council meeting specifically asking for more of this information because that's what you directed, you wanted to see he didn't bring this in at the last minute at some desired time undercut this thing, they brought it and it does direct requests in fact email correspondence in the record they hurried it as quick as they could to try and get some meaningful comment in, And I happen to hear Chris Hooper talking at the P & Z meeting about how hard it was to rush to get that in at that point, and CHD noted, there's a major problem coming here, the existing traffic studies clearly undercounting the traffic. All the public comment from all the people living on this have talked about the volume of traffic is not here, and this isn't just about whether it's a two lane road. It's also about the width of that road, it's about the safety along it's what's happening when people are recreating at the pond nearby and you've got kids and people walking by. The developers have done what they're supposed to do, they're doing frontage improvements, unfortunately they have a very small strip there. Nobody, not



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my clients, nor P & Z in their conditions are asking the developer to pay for more, everything staff presented to you about how the city funds are as all that, all that's a red herring to cover up the bigger issue which is Duff Lane is not ready for the traffic generated by this development. That's why P & Z gave its second condition of approval. They said this is the solution. The road still built, nobody's proposing it not be built, it's built, but it's barricaded gated in a way that only emergency access is allowed there until such time as Duff Lane is improved, at minimum that needs to be the intersection, that's what everybody identified, maybe that's why, maybe it's not maybe there's other things that help the capacity, but the language they use in the conditional approval was an updated traffic impact study can be done. And when that shows Duff Lane can handle the projected volume of traffic coming out this way that's the point at which you remove the barricades. Really simple, didn't say that the developer had to do that traffic impact study although obviously it could, the city could step up and seek that traffic impact study and say, we're using some of these impact fees to improve Duff Lane to do this intersection improvement and now's the time to remove the barricade. Those are all options under the table with P & Z's recommended condition of approval and that's why I strongly encourage you to accept P & Z's recommendation as they're presented from P & Z. Include that second condition of approval be implemented into the DA and the number one concern for this is covered. You barricades in a barricade in a road like this is not uncommon in cities. This has been all the time because connectivity always issue and it's always hard when you're running into a road that's not up to the same standards as the roads running into it and the traffic's higher, and so you build into divert traffic to alternate routes, until such time as it is improved that's exactly what you're doing here. There's other ways for this development to access out it's why the original proposal on the DA had Sawtooth Lake's not even being completed until phase eight. But instead, now we have a new development agreement saying now they have to build at phase four which is saying man, not only...we want to drive traffic this way from the very beginning, onto a road that the highway district that has jurisdiction handles this all the time says it does work and all the people looking out with common sense say it doesn't work and you raise your concerns last time saying it doesn't work. I want to be clear that impact fees are not mitigation, there's something that's required to be paid mitigation is making a situation better. The fact that there's money in the coffers of the city is not the mitigation itself now hopefully, the city's move this up, hopefully it can work with CHD and improvements can be done to Duff Lane such that this could be done within a year, two years, 10 years. Whenever the intent of moving forward is, that's the point at which you can then remove the barrier, and have the access going back there. I understand there's a bigger political issue at play because we're a P & Z the three hours before our time came up is all about the bypass, and I understand this plays into that, and I don't want to try to pretend that's not an issue here. I think that's the thing that's driving city staff to essentially ignore what P & Z said and try to undercut it. But even so, even if your idea and spoiler alert P & Z recommended against this local collector road, which I'm sure you already know. But even if you want to do that, nothing about P & Z's recommended conditions of approval prevents it because again in order for this to be an effective local collector road, you have to have the connectivity on Duff Lane and Duff Lane's ability to handle that traffic. And until you have that you're creating a major public safety and traffic problems on Duff Lane. So that was a little stronger than I was hoping to have I was originally helping to really be anonymous was tempted to sign up as neutral because my clients are feeling a lot better. But this, the, some of these last-minute changes on the transportation related to Duff Lane are really a major concern. And the last thing I want to know and I'd actually encourage you to ask the developer this P & Z came up with these conditions of approval on the record, the developer indicated they were agreeable to all these including gating or putting a barrier up of some sort on Duff Lane, and I don't know if they've changed their mind since what they put on the record then



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or if this has been driven by staff but I would encourage you to ask them if they had a concern, because what they said at the P & Z level was, this was not a concern for them this was solely a city staff concern so they were fine with the barricade option.

**Questions:**

**Mayor Rule:** Stated that he didn't remember himself or city council saying that the connector to Duff Lane wouldn't work. Mr. Johnson made that statement in his presentation and the mayor was requesting clarification of where that information came from. Mr. Johnson stated that if that is what he said that wasn't what he was trying to represent—"the council had said that there was concern about traffic in this area." The mayor stated that he thought he heard Mr. Johnson say that the mayor and council said that it "wouldn't work." He had no further questions for Mr. Johnson.

**Lori Smith: 10079 Riverbend Place:** Ms. Smith spoke regarding Sawtooth Lane dead ending onto Duff Lane at Duff Pond and having a collector road connecting several dead ends. She noted that the properties adjacent to the proposed development are private residences which would have to sell to a developer before the other side of the road is improved. She stated that she didn't see that happening and having half of the road improved with sidewalks, etc would look odd. She feels that all of the dead-end roads needs to be addressed.

**Opposed—did not testify:** Regina Henley & Paul Leeman—10055 Riverbend Place

**Rebuttal by developer:**

John Brecken referred to slide 3 in EXHIBIT \*\*Roberta's Presentation)—clarified that they are building a new collector that goes over to Middleton Road and provides a connection to the highway with turn lanes. This developer and other developers will be paying impact fees which will pay for part of the light at Duff Lane and Highway 44. Roberta commented that according to the traffic study indicates that Duff Lane does have adequate capacity.

**Public comment closed at 7:38 PM**

**Council Comments/Questions:**

**Council Member O'Meara**—asked if Riverbend is still building homes that were platted. Answer: Roberta responded that the development isn't within city limits so the city does not issue the permits. Council Member O'Meara stated he can't see holding up this development any further and he can't see putting in a barrier on that road.

**City Administrator Becky Crofts:** Commented on the city's five year CIP. The city has been working on prioritizing improvements over the next five years.

- 2022—Hartley intersection improvements
- 2022-23—Sawtooth Lake Roundabout—as soon as possible after Hartley
- 2023-24—Straightening of Middleton Road
- 2025-26—Duff Lane stoplight
- 2027—South Cemetery Road

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These projects are estimated to cost \$13.4, the city brings in roughly \$1 million per year in tax dollars that are split to transportation. If the city stays consistent on building permits at approximately 200 per year these permits will generate impact fees which would generate approximately \$2 million per year. These funds along with proportionate share fees will help to complete these projects. So potentially within five years the city could enough funding to complete these projects. The city is aware of the traffic problems and is moving forward with ways to provide funding to address these traffic issues. Some of the ways the city is working towards providing funding are: 1) gravel extraction for gravel related fees for transportation, 2) intergovernmental agreements to collect fees, 3) traffic impact fees which will be addressed at the next meeting, 4) sold a park to generate funds.

*City Attorney Douglas Waterman:* recommended the city open public testimony again in case there is any further comments from the public regarding the information presented by Becky.

**Mayor Rule re-opened public testimony at 8:56 PM.**

*Matthew Johnson:* 5700 East Franklin Road, Suite 200 Nampa, Idaho. Stated that the information presented totally works with the conditions of approval that was recommended by P & Z—if an intersection is improved with Highway 44 within five years and that is before whenever they start on Sawtooth Lake Drive they can show under the conditions of approval recommended by P & Z that the barricade is not necessary or if it is put up it can be removed at that time that is the whole idea of what P & Z recommended. This just reinforces why P & Z's conditions of approval is a solution.

**Public comment closed at 8:57 PM**

Council Comments:

*Council Member Huggins:* with regards to the barricade she is more comfortable with the police department determining when and if a road is closed. The council will follow the recommendation of the police department. In the interest of safety the council will close roads as they have in the past. Mayor Rule commented on this point stating in his experience the capacity of roads according to the experts is higher than people may think.

*Council Member O'Meara:* what is the timeline for Phase 8 to be completed? He has never known of a development being completed in a year so there is time for improvements to be made,.

*Council President Kiser:* he agrees with Council Member Huggins regarding the council determining if the road will be barricaded if it is deemed unsafe by staff. The road will be completed by Phase 4—leave it to the professionals and police to decide if it should be closed.

**Public Hearing closed at 9:08 PM**

**Motion:** Motion by Council President Kiser to approve the application for annexation and rezone from Breckon Design for Robert Brian Burnett, Drake Investments, Deep River Investments & Deep Water LLC with the conditions of approval within the staff report and accepting the findings of fact and conclusions of law. Motion seconded by Council Member



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O'Meara. Roll call vote was unanimous.

**Motion:** Motion by Council President Kiser to approve the development agreement modifications from Breckon Design for Robert Brian Burnett, Drake Investments, Deep River Investments & Deep Water LLC with the conditions of approval within the staff report and accepting the findings of fact and conclusions of law. Motion seconded by Council Member O'Meara. Roll call vote was unanimous.

**Motion:** Motion by Council President Kiser to approve the preliminary plat from Breckon Design for Robert Brian Burnett, Drake Investments, Deep River Investments & Deep Water LLC with the conditions of approval within the staff report and accepting the findings of fact and conclusions of law. Motion seconded by Council Member Garner. Roll call vote was unanimous.

**Motion:** Motion by Council President Kiser to approve the comp plan maps from Breckon Design for Robert Brian Burnett, Drake Investments, Deep River Investments & Deep Water LLC with the conditions of approval within the staff report and accepting the findings of fact and conclusions of law. Motion seconded by Council Member Garner. Roll call vote was unanimous.

**10. Considering approving School Resource Officer Contract (SRO) with the Middleton School District for school year 2021-2022.—Becky Crofts**

Mayor Rule called the item and Becky Crofts presented the proposal for the SRO Contract. She met with the superintendent to reach the agreement **EXHIBIT** and recommends approval by the council.

Mayor Comment: Becky and Wendy have done a good job working out this contract. He also expressed appreciation to the school district working with the city.

Becky noted that the city pays for the officers during the summer when school isn't in session which is about 1/3 of the cost of the officers.

**Motion:** Motion by Council President Kiser to approve the SRO contract with the Middleton School District for the 2021-2022 school year. Seconded by Council Member O'Meara and approved unanimously.

**Public Comment:**

Mike Graffe: He complimented the cemetery district on the immaculate way the cemetery is maintained. He said that whatever the city can do to help out the cemetery would be good. He began to speak on Duff Lane and was requested by the mayor/city attorney to stop discussion due to the fact that the decision of the council has an appeal period, and they wouldn't want to interfere with that process. Mr. Graffe was understanding and didn't comment further.

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**Mayor Comments:**


Mayor would like to schedule a special council meeting on Monday, September 13, 2021 to make an appointment to P & Z. This will be scheduled and posted.

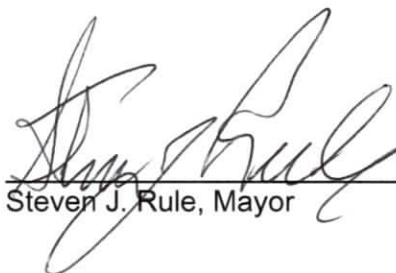
**Council Comments:**

Council Member O'Meara—stated he has been approached by citizens regarding the propane tanks at Middleton Place Park. They are concerned that they may be a hazard. O'Meara knows they were originally placed there in case of an emergency, but he wonders if there may be a better location for the tanks. Mayor Rule commented that he has also wondered if there would be a better location for those propane tanks. He will take it into consideration with city staff.

**Adjourn:** Mayor Rule adjourned the city council meeting at 9:21 p.m.

ATTEST:

  
Rhonda Carpenter, Deputy Clerk  
Minutes Approved: September 15, 2021

  
Steven J. Rule, Mayor







City of Middleton  
1103 W. Main St. Middleton ID 83644  
208-585-3133, 208-585-9601 F  
[www.middleton.id.gov](http://www.middleton.id.gov)  
**RESOLUTION 458-21**

A RESOLUTION OF THE MIDDLETON CITY COUNCIL, MIDDLETON, CANYON COUNTY, IDAHO, TO INCREASE CERTAIN EXISTING FEES BY AMOUNTS THAT EXCEED FIVE PERCENT OF THE FEE FROM THE CURRENT FISCAL YEAR AND IMPOSE NEW SERVICE FEES BEGINNING OCTOBER 1, 2021. AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Idaho Code §50-307 authorizes a municipality to collect fees pertaining to services offered/performed by the City;

WHEREAS, the Mayor and Council of the City of Middleton believe that it is in the City's best interest to update its current fee schedule for services provided by the City of Middleton;

WHEREAS, on August 18, 2021, the City Council of the City of Middleton, Idaho, held a public hearing properly noticed under Idaho Code, to consider an increase certain fees by amounts that exceed five percent (5%) of the fee from the current fiscal year and impose new service fees beginning October 1, 2021. The fee increases or are necessary to cover increased costs associated with these programs/services;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MIDDLETON, CANYON COUNTY, IDAHO, as follows:

Section 1:	Current Fees	Proposed fees
<b>ADMINISTRATIVE</b>	<b>FEE</b>	<b>FEE</b>
Bacteria Testing Fee--metered at bulk water rate		\$3.34/1000 gal
Credit Card Processing (non-utility accounts)	2.50%	3.00%
Business Registration		\$25/annually
VIN Inspection		\$5 per vehicle
False Alarm		1st Free, 2nd \$50, 3rd+ \$100 ea
<b>CONNECTION</b>	<b>FEE</b>	<b>FEE</b>
Sewer Connection*		
5/8" x 3/4" per Equivalent Dwelling Unit (Res 411-18)	\$ 6,061.12	\$6,364.18
1"	\$ 7,554.00	\$7,931.70
1 1/2"	\$ 16,765.00	\$17,603.25
2"	\$ 29,338.00	\$30,804.90
3"	\$ 67,059.00	\$70,411.95
4"	\$ 118,602.00	\$124,532.10
* Fee is based on water meter size since at least 98% of water discharges through the sewer system.		
Water Connection** per Equivalent Dwelling Unit		
5/8" x 3/4" (Res 411-18)	\$ 3,682.85	\$3,866.99
1"	\$ 9,428.00	\$9,899.40
1 1/2"	\$ 21,213.00	\$22,273.65
2"	\$ 37,710.00	\$39,595.50
3"	\$ 84,847.00	\$89,089.35
4"	\$ 150,842.00	\$158,384.10
** Fee is based on "draft", i.e., the pipe diameter area available for flow, and not based on the cost to install the device.		
<b>LIBRARY</b>	<b>FEE</b>	<b>FEE</b>
Fines for overdue electronic devices		\$5.00 per day
<b>PERMIT</b>	<b>FEE</b>	<b>FEE</b>
Work in Right-of-Way - Permit - Local Road	\$50/day	\$75/day
<b>SUBDIVISION</b>	<b>FEE</b>	<b>FEE</b>
Amended Preliminary Plat		\$1,000
Vacate plat/Right-of-Way	\$575 + publication	\$650 includes publication costs
Waiver	\$575 + publication	\$650 includes publication costs
<b>UTILITY BILLING</b>	<b>FEE</b>	<b>FEE</b>
Water Base Rate	\$11.12	\$11.68
Water Use Rate	\$1.83/1,000 Gallons	\$1.92/1,000 Gallons
Wastewater Base Rate	\$36.29/Month	\$38.10/Month
	\$3.36/1000 gallons times the monthly average Nov-March	\$3.53/1000 gallons times the monthly average Nov-March
Wastewater (Sewer) Use Rate		
<b>ZONING</b>	<b>FEE</b>	<b>FEE</b>
Annexation and zoning	\$575 + publication costs	\$650 includes publication costs
De-annexation	\$575 + publication cost	\$650 includes publication costs
Rezone	\$575 + publication costs	\$650 includes publication costs
<b>ZONING</b>	<b>FEE</b>	<b>FEE</b>
Annexation and zoning	\$575 + publication costs	\$650 includes publication costs
Comprehensive Plan Amendment (with or without rezone/annex&zoning)	\$575	\$650 includes publication costs
De-annexation	\$575 + publication cost	\$650 includes publication costs
<b>ZONING</b>	<b>FEE</b>	<b>FEE</b>
Development Agreement	\$1,000	\$1100 includes publication costs
Special Use Permit	\$500	\$550 includes publication costs

Rezone  
Variance

\$575 + publication costs  
\$500

\$650 includes publication costs  
\$550 includes publication costs



***CORRECTED ORDINANCE NO. 649***

**AN ORDINANCE OF THE CITY OF MIDDLETON, CANYON, COUNTY, IDAHO, ENTITLED THE “ANNUAL APPROPRIATION ORDINANCE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2021, APPROPRIATING \$15,478,741 DEEMED NECESSARY TO DEFRAY ALL EXPENSES AND LIABILITIES OF THE CITY OF MIDDLETON, IDAHO FOR FISCAL YEAR 2022, AND SPECIFYING THE OBJECTS AND PURPOSES FOR WHICH SAID APPROPRIATIONS ARE MADE; PROVIDING FOR A WAIVER OF THE READING RULES; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, Ordinance No 649 was originally passed by the Middleton City Council on August 18, 2021, following all required public notice and hearing procedures; and,

WHEREAS, it was thereafter discovered that a clerical error had resulted in the transcription of overstated budget numbers into said ordinance; and,

WHEREAS, said transcription error was the consequence of a potential two percent (2%) budget increase discussed at a prior budget workshop; and,

WHEREAS, the City Council never intended to incorporate said two percent (2%) increase in this Annual Appropriation Ordinance; and,

WHEREAS, the intent of the City Council to adopt the budget as set forth in this corrected ordinance is evident from the records of the budget workshops, the minutes of the August 18<sup>th</sup> meeting, and the materials relied on by the City Council at said meetings; and,

WHEREAS, this corrected ordinance does not constitute an amendment to the budget or the intended appropriations of the City of Middleton; and,

WHEREAS, this corrected ordinance merely addresses a clerical error to ensure that the intent of the Middleton City Council is reflected by this Ordinance No. 649; and,

WHEREAS, the clerical error in the original Ordinance No. 649 showed fund expenditures and a total expenditure that was higher than the expenditure contemplated and intended by the Middleton City Council; and,

WHEREAS, pursuant to Section 50-1003, Idaho Code, the City of Middleton is required to pass an annual appropriation ordinance prior to the commencement of each fiscal year; and

WHEREAS, pursuant to Section 50-1002, Idaho Code, the City of Middleton has prepared a budget and has tentatively approved estimated revenues and expenditures for the fiscal year commencing October 1, 2021 and ending September 30, 2022; and

WHEREAS, on Wednesday August 18, 2021, pursuant to Section 50-1002, Idaho Code, the City of Middleton held a public hearing for the purpose of considering public comment on services, expenditures and revenues planned for fiscal year 2022.

**NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MIDDLETON, CANYON COUNTY, IDAHO, as follows:**

**Section 1.** That the sums of money, or as much thereof as may be authorized by law, needed, or deemed necessary to defray all expenses and liabilities of the City of Middleton, for the general and special municipal purposes and objective of the City of Middleton, Idaho, be appropriated for the fiscal year commencing October 1, 2021 and ending September 30, 2022.

**Section 2.** That the summary of monies appropriated pursuant to the budget prepared and approved by the City Council, are as follows:

GENERAL FUND	\$3,888,744
IMPACT FEE FUND	\$ 937,000
LIBRARY FUND	\$ 288,062
SOLID WASTE FUND	\$ 639,924
STORM WATER FUND	\$ 69,000
TRANSPORTATION FUND	\$3,564,937
WASTE WATER FUND	\$4,409,893
WATER FUND	<u>\$1,681,181</u>

**TOTAL EXPENDITURES ALL FUNDS \$15,478,741**

**Section 3.** All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

**Section 4.** That pursuant to the affirmative vote of the majority of the full Council, the rule requiring two (2) separate readings by title and one (1) reading in full be, and the same is hereby, dispensed with, and accordingly, this Ordinance shall be read by title once on the 1<sup>st</sup> day of September, 2021.

**Section 5.** That this Ordinance shall be in full force and effect from and after its adoption and publication.

**ADOPTED by the City Council, and approved by the Mayor, of the City of Middleton, Idaho, the 1<sup>st</sup> day of September, 2021.**

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Steven J. Rule, Mayor

ATTEST:

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Rhonda Carpenter, Deputy City Clerk



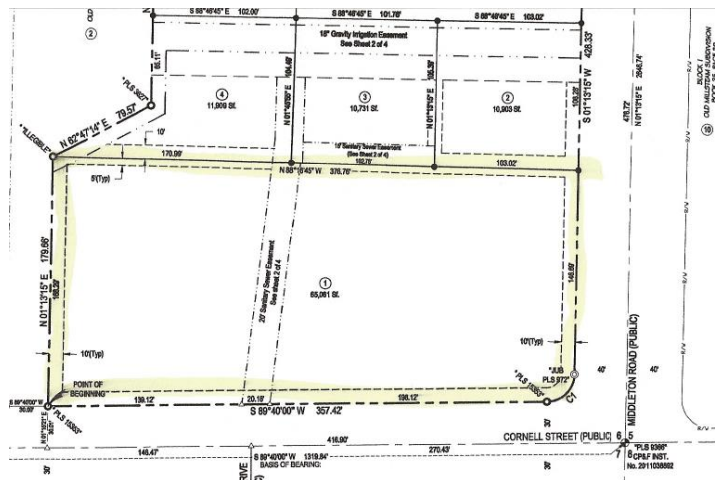


## STAFF REVIEW AND REPORT Middleton City Council

### McKinley Meadows Townhomes Subdivision – Blake Wolf Development Agreement Modification Application

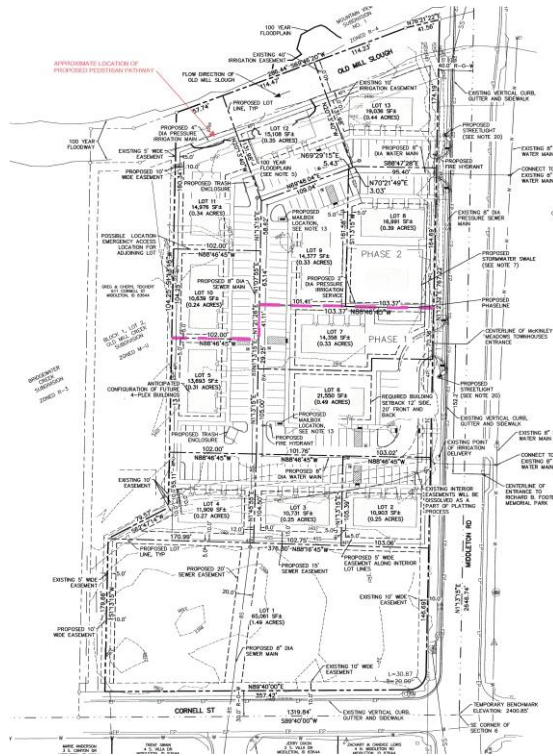


- A. **City Council Hearing Date:** September 1, 2021
- B. **Application Request and Project Description:** Application by Blake Wolf to the Development Agreement for McKinley Meadows Townhome Subdivision, to allow the construction of four 4-plex townhomes instead of commercial buildings on Lot 1, Block 1 in the McKinley Meadows Townhome Subdivision. The subject property is located at the northwest corner of Middleton Road and Cornell Street (Tax Parcel No. R1848060).



- C. **History and Current Zoning:** In February 2017 the property was rezoned from R-3 (Single-Family Residential) to M-U (Mixed Use). A Development Agreement was

executed at that time and shortly after the Preliminary Plat was approved. Since then the final plat for phases 1 and 2 have been approved.

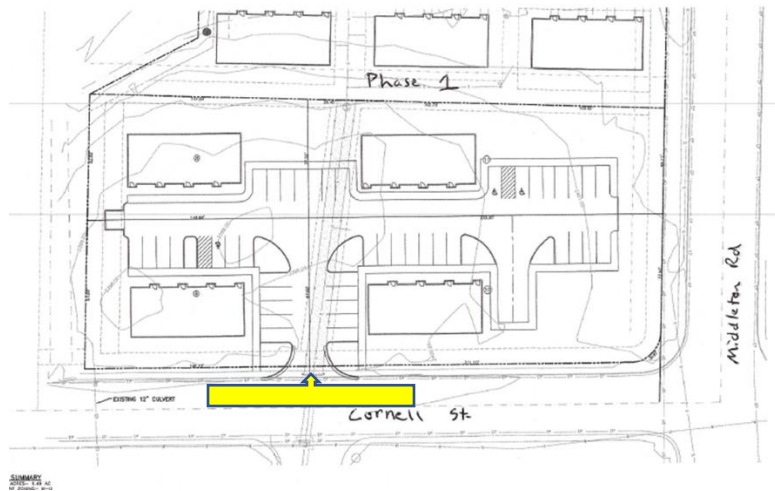


- D. Zoning and Property Condition:** As to zoning, the parcel is surrounded on the north and south sides by R-4 zoning, to the west by R-3 zoning and single-family homes, and to the east by public land use, and property zoned R-3.





- E. Traffic, Access & Streets:** Access to the proposed southern portion is from Cornell Street. (Access will be reviewed and finalized at re-subdivision plat with City Engineer)



- F. Development Agreement:** A 2017 Development Agreement already exists with respect to this property. Article 3.1 of the DA states:
- “Developer will build no more than 12 Four Plex buildings (48 units total) in accordance with Allowable Uses in the M-U zoning under the Use called “Multi-family dwelling.” Developer intends to sub-divide the land (at a later date), allowing each to be on its own tax parcel with the intent each building would belong to one common homeowner’s association.

Developer will then utilize the remainder of property, not used for the 12 Four Plex buildings, for the following allowed uses in the M-U zoning: assisted living, a professional style building to hold one or more of the following allowable uses which are: bank/credit union, clinic/pharmacy/optician, daycare, espresso/pastry shop, medical/dental/vision or professional office, real estate sales/rental/management office.” (A copy of the original Development Agreement is attached as Exhibit 1)

- G. Development Agreement Request for Modification:** Applicant is requesting a modification to add the following provisions and delete existing provisions in conflict with these three provisions:

1. Remainder of property (Lot 1/Block 1) may be developed with four (4) Four Plex buildings (16 units total) in accordance with the concept plan attached as Exhibit 2 and incorporated herein by this reference as if set forth in full.
2. The development of townhomes are subject to the City Code and Standards that were in effect at the time of the April 14, 2017 recording of the Development Agreement EXCEPT the setbacks shall be the setbacks in effect at the time the building permit is issued.

3. An updated TIS was completed and per email communication (See Exhibit 3) Developer shall pay Traffic Proportionate Share fees in the amount of Fifty-Seven Thousand, forty-eight dollars (\$57,048.00) upon execution of this Agreement.

Exhibit 4 is a complete copy of the Proposed DA Modification.

- H. Findings Required to Approve or Deny the Applications:** No findings per Idaho State Statute applies to the application. Middleton City Code 1-14-2 require only the following for a DA Mod:
1. DA must be on the City template form.
  2. DA has to be considered in a public hearing.
  3. DA has to be recorded.
- I. Planning & Zoning Findings:** At the June 8, 2020 Planning & Zoning Commission meeting the Commission recommended that City Council approve the request by Blake Wolf to amend the Development Agreement filed as Instrument No. 2017-009379 in the records of Canyon County, Idaho, to allow the construction of four 4-plex townhomes instead of commercial buildings on Lot 1, Block 1 in the McKinley Meadows Townhome Subdivision. The recommendation is subject to the condition of approval that the Developer/Application pay \$40,000.00 in Traffic Proportionate Share Fees. Minutes from the Meeting are attached to this Staff Report. (See Exhibit 5) Since the hearing held on June 8, 2020 an updated TIS has been submitted and shows the previous proportionate share cost to be insufficient and thus should be increased to \$57,048.00.
- J. Comments Received from Surrounding Landowners:** None.
- K. Comments from City Engineer and Agencies:**  
Both the City Engineer and MRFD stated that the applicant would need to submit a new plat showing the roundabout footprint at Cornell and Middleton Rd and how the driveway may be impacted by the traffic stacking. The applicant may need to update the TIS as well. (Exhibit 6)
- L. Applicant Information:** Application was received and accepted on April 22, 2021. The Applicants are CAD Properties LLC located at 3456 E 17<sup>th</sup> #210 Idaho Falls, Idaho 83406. The Representative is Blake Wolf located at 843 W Horizon Way Nampa, Idaho 83686.
- |  |               |
|--|---------------|
| <b>M. Notices:</b>   | <b>Dates:</b> |
| Newspaper Notification   | 08/15/2021    |
| Radius notification mailed to<br>Adjacent landowners within 300' | 08/13/2021    |
| Circulation to Agencies  | 08/13/2021    |



Planning staff finds that notice was given according to law.

**N. Applicable Codes and Standards:**

Idaho State Statute Title 67, Chapter 65  
Middleton City Code 1-14, 1-15, 5-1, 5-2, 5-3 and 5-4.

**O. Planning Staff Conclusions and Recommended Conditions of Approval:**

As stated above in Section G, the only requirements set forth in the Middleton City Code for a DA Modification are as follows: (1) the DA must be on the City's template form, (2) a public hearing must be conducted, and (3) the DA Modification must be recorded if approved. The City Code and Idaho State Code do not require any specific findings with respect to the City's Comprehensive Plan. Those additional findings are required only when the DA Modification is coupled with a rezone application, which is not the case here.

**FINDINGS OF FACTS:**

Planning Staff finds only that an approval or denial of this application will be in compliance with Middleton City Code. Either result does not violate the Code. Approving the DA Modification and allowing four more townhome complexes is within the standards of the Middleton City Code and the M-U Zone. Denying the DA Modification application, resulting in only commercial uses being allowed on the lot in issue, is also within the standards of the City Code and M-U Zoning. The decision is up to the Council. The only requirement is that the City Council set forth a reasoned statement for its approval or denial of the application.

**CONCLUSION OF LAW**

As to Conclusions of Law, Planning Staff finds that the City Council has the authority to hear this application in order that it may be denied or approved and that the Public Notice was given in compliance with Idaho State Statute and the Middleton City Code. If Council agrees with Staff's Conclusions of Law, Council may state on the record that it accepts the Conclusions of Law set forth in the Staff Report for this September 1, 2021 Public Hearing.

**RECOMMENDATION:**

If the City Council is inclined to approve the application, Planning Staff Recommends only the following conditions of approval:

1. Addition of four more 4-Plexes will require applicant to submit a re-subdivision application of Lot 1, Block 1 of McKinley Meadows Subdivision.
2. Developer/Applicant must pay updated TIS traffic proportionate share fees of \$57,048.00 prior to final plat of the re-subdivision.

If the Council decides to deny the applications, State law requires the Council to identify what measures, if any, Applicant can take to gain approval.

Prepared by Middleton City Deputy Clerk-Planning, Jennica Reynolds

Dated: 8/26/2021



2017-009379

RECORDED

03/14/2017 03:11 PM



00286515201700093790080081

CHRIS YAMAMOTO

CANYON COUNTY RECORDER

Pgs=8 BJBROWN

NO FEE

AGR

CITY OF MIDDLETON

## DEVELOPMENT AGREEMENT

This Development Agreement (**Agreement**) is entered into by and between the CITY OF MIDDLETON, a municipal corporation in the State of Idaho (**City**); and Chandler Daw and Angie Daw, husband and wife (**Daw**); and Rivco Properties LLC, an Idaho limited liability company (**Rivco**); and Val Wahlen and Lori Wahlen, husband and wife (**Whalen**); and Wolf Building Company LLC, an Idaho limited liability company (**Wolf**), individually and collectively referred to as Developer (**Developer**).

## RECITALS

WHEREAS, Developer owns approximately 5.5 acres of vacant real property at the northwest corner of Middleton Road and Cornell Street, Middleton, Canyon County, Idaho commonly referred to in Canyon County Assessor's records as Parcel No. R1848050000, and legally described in Exhibit A attached hereto and incorporated herein (**Property**); and

WHEREAS, Wolf represented Developer when rezoning the property from R-3 (Single-family Residential) to M-U (Mixed Use), and the benefits, obligations, and restrictions contained in this development agreement were relied on by both parties and were an integral part of the city's approval of the rezone request; and

WHEREAS, Developer intends to improve the Property according to the Middleton City Code and the City's public works standards at the time(s) the Property is improved; and

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

## **AGREEMENT**

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

### **ARTICLE I LEGAL AUTHORITY**

This Agreement is made pursuant to and in accordance with the provisions of Idaho Code §67-6511A and Middleton City Code, Title 5, Chapter 7.

### **ARTICLE II ZONING ORDINANCE AMENDMENT**

The City will adopt an ordinance amending the Middleton Zoning Ordinance to rezone the Property to M-U (Mixed Use). The Ordinance will become effective after it is approved, signed, published and recorded according to law, all of which actions the City will perform at the city's expense and with the Developer's cooperation.

### **ARTICLE III CONDITIONS OF DEVELOPMENT**

3.1 Developer will build no more than 12 Four Plex buildings (48 units' total) in accordance with Allowable Uses in the M-U zoning under the Use called "Multi-family dwelling." Developer intends to sub-divide the land (at a later date), allowing each to be on its own tax parcel with the intent each building would belong to one common homeowner's association.

Developer will then utilize the remainder of property, not used for the 12 Four Plex buildings, for the following allowed uses in M-U zoning: assisted living, a professional style building, to hold one or more of the following allowable uses which are: bank/credit union, clinic/pharmacy/optician, daycare, espresso/pastry shop, medical/dental/vision or professional office, real estate sales/rental/management office.

Developer is to construct a vinyl six-foot privacy fence as a buffer between 611 Cornell St (currently owned by Greg and Cheryl Teichert) and the four-plexes to be constructed on the Property. The buffer fence will commence at the southeast corner of the Tiechert's property and extend north approximately 200 feet. The buffer fence must be installed prior to the city issuing a certificate of occupancy for the first four-plex constructed on the Property. The exact length, style and color of fence are to be agreed upon by both Developer and current property owner (of 611 Cornell St).



Developer is to construct no more than two new vehicle approaches onto the Property from Middleton Road and one new vehicle approach onto the Property from Cornell St. Approaches onto the property from Middleton Road will not directly line up with current approaches to Foote Park.

Developer to make a one-time donation to the Greater Middleton Parks and Recreational District in the amount of \$10,000 to be used only for irrigation and planting of new grass in the unimproved areas of Foote Park. If those items have already been paid for then the donation must be used for field improvements. All monies must be used by June 30, 2017 or be returned in full.

#### **ARTICLE IV FAILURE TO COMPLY WITH AGREEMENT**

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

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

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

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

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

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

**ARTICLE V  
GENERAL PROVISIONS**

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

5.2 Any amendment or addendum to this Agreement shall be in writing and made only after the City has complied with the notice and hearing provisions of Idaho Code §67-6509 and Middleton City Code Title 5, Chapter 7.

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

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

Developer: Chandler and Angie Daw

\_\_\_\_\_  
\_\_\_\_\_  
Rivco Properties, LLC  
Nathan Bills  
PO Box 640  
Salmon ID 83467

Val and Lori Wahlen

\_\_\_\_\_  
\_\_\_\_\_  
Wolf Building Company LLC  
843 W. Horizon Way  
Nampa, ID 83686

5.4 If either party shall fail to perform under this Agreement and said failure is cured with the assistance of an attorney for the other party, as a part of curing said failure, the reasonable attorneys' fees incurred by the other party shall be reimbursed to the other party upon demand. In the event a suit or action is filed by either party against the other to

interpret or enforce this Agreement, the unsuccessful party to such litigation agrees to pay to the prevailing party all costs and expenses, including reasonable attorneys' fees incurred therein, including the same with respect to an appeal.

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

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

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

The new owner of the Property or any portion thereof (including, without limitation, any owner who acquires its interest by foreclosure, trustee's sale or otherwise) shall be liable for all commitments and other obligations arising under this Agreement with respect only to such owner's lot or parcel.

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

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

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

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

Dated this 9<sup>th</sup> day of February, 2017 and effective upon rezoning of the Property.

**CITY OF MIDDLETON**

**ATTEST**

By: Darin Taylor  
Darin Taylor, Mayor

By: Becky Crofts  
Becky Crofts, City Clerk

Development Agreement - Daw, Rivco, Wahlen and Wolf Building Company



State of IDAHO )

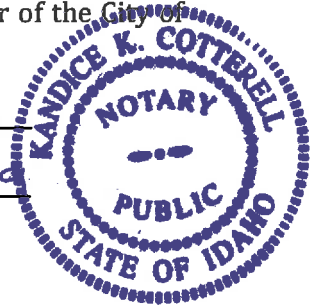
SS.

County of Canyon )

I, a notary public, do hereby certify that on this 14 day of <sup>March</sup>~~February~~ 2017, personally appeared before me Darin J. Taylor, who, being first duly sworn, declared that he is the Mayor of the City of Middleton, Idaho and signed it as Mayor of the City of Middleton.

Kandice K. Cotterell  
Notary Public

My Commission Expires: 12/15/19



DEVELOPER:

Chandler Daw  
Chandler Daw

Angie Daw  
Angie Daw

State of Idaho )

SS.

County of Bonneville )

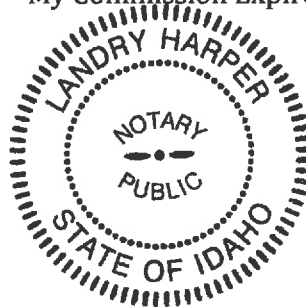
I, a notary public, do hereby certify that on this 16<sup>th</sup> day February 2017, personally appeared before me Chandler Daw and Angie Daw who, being first duly sworn, declared that they signed the same.

Rivco Properties LLC

Nathan Bills  
Nathan Bills

Landry Harper  
Notary Public

My Commission Expires: 12/18/2019



State of Idaho )

SS.

County of Benewah )

I, a notary public, do hereby certify that on this 13<sup>th</sup> day February 2017, personally appeared before me Nathan Bills who, being first duly sworn, declared that he is the member of Rivco Properties, LLC authorized to sign this agreement and signed as the authorized member.



Lynn Pilkerton  
Notary Public

My Commission Expires: 11-29-2018

Development Agreement - Daw, Rivco, Wahlen and Wolf Building Company

Page 6 of 7

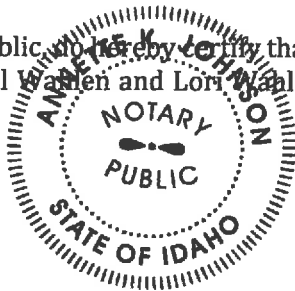
**DEVELOPER:**

Val Wahlen  
Val Wahlen

Lori Wahlen  
Lori Wahlen

State of Idaho )  
County of Idaho ) SS.

I, a notary public, do hereby certify that on this 14th day February 2017, personally appeared before me Val Wahlen and Lori Wahlen who, being first duly sworn, declared that they signed the same.



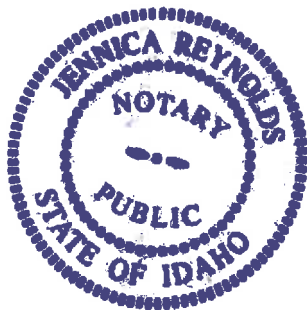
Amanda K. Johnson  
Notary Public  
My Commission Expires: August 31, 2021

**Wolf Building Company LLC**

Blake Wolfe  
Blake Wolfe

State of Idaho )  
County of Carson ) SS.

I, a notary public, do hereby certify that on this 9 day ~~February~~ <sup>March</sup> 2017, personally appeared before me Blake Wolf who, being first duly sworn, declared that he is a manager of Wolf Building Company, LLC and signed as manager.



Jennica Reynolds  
Notary Public  
My Commission Expires: 12/10/2019

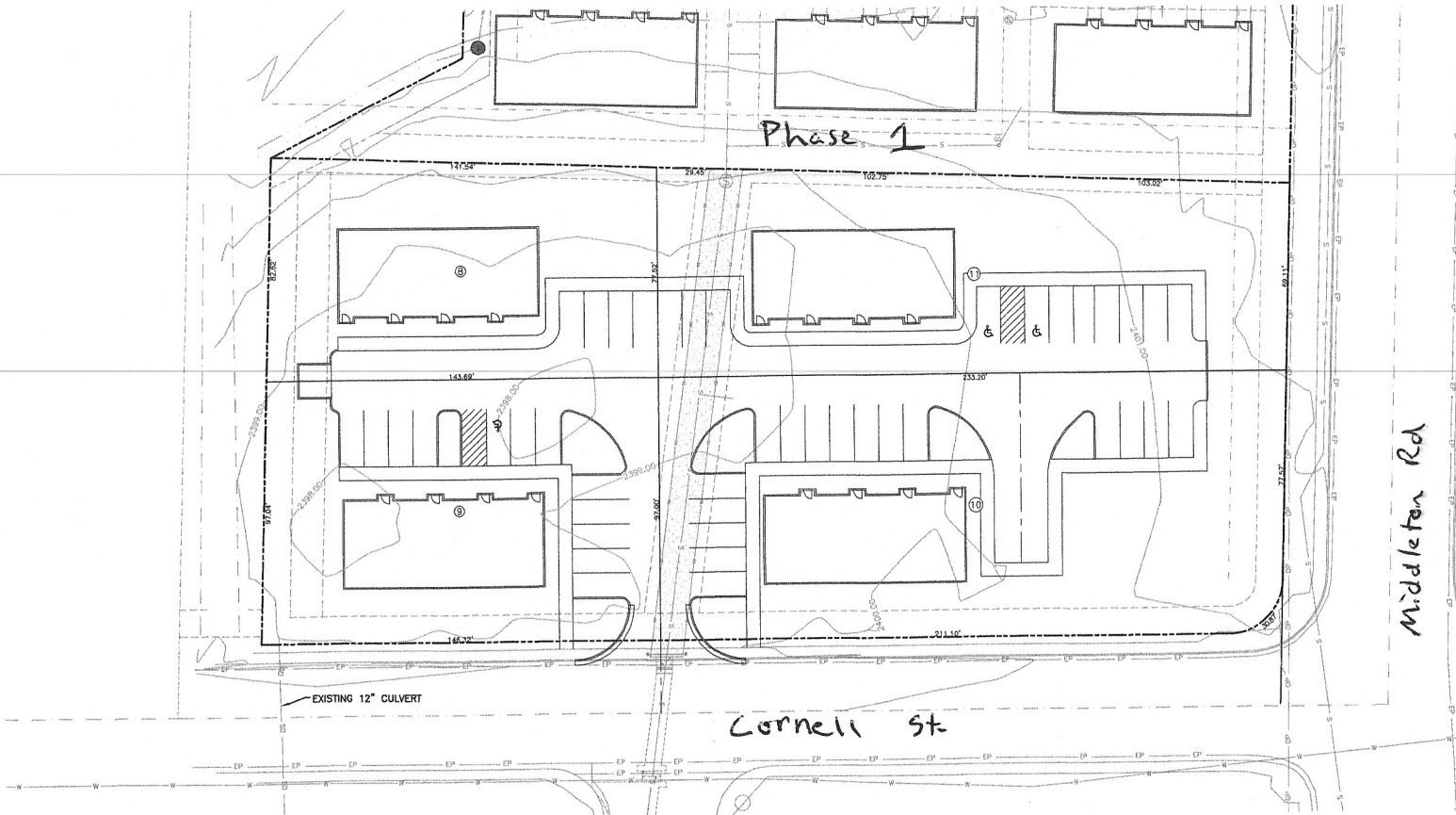
## **EXHIBIT A**

**Lot 1 Block 1 Old Mill Stream Subdivision, Middleton, Canyon County, Idaho (1997)**



# Exhibit "A"

## Exhibit 2



**SITE SUMMARY**  
 TOTAL ACRES- 1.49 AC  
 CURRENT ZONING- M-U  
 NUMBER OF DWELLINGS- 16  
 DENSITY (DW/AC)- 10.74/AC  
 PARKING = 40 STALLS + 3 HC  
 DENSITY (PS/DW)- 2.5/DW

**LEAVITT & ASSOCIATES ENGINEERS, INC.**  
**STRUCTURAL \* CIVIL SURVEYING**  
 1324 FIRST STREET SOUTH, Nampa, IDAHO 83651  
 PHONE (208)463-0333/463-7670 FAX (208)463-9040

**CONCEPTUAL LAYOUT 6**

**MCKINLEY MEADOWS PHASE 3**  
 MIDDLETON, IDAHO

**BLAKE WOLFE**  
 843 BLAKE WOLFE WAY  
 Nampa, ID 83686  
 PHONE (208) 944-7700

REVISIONS			
No.	DATE	BY	DESCRIPTION
1	09/23/19	NJP	ISSUED FOR APPROVAL

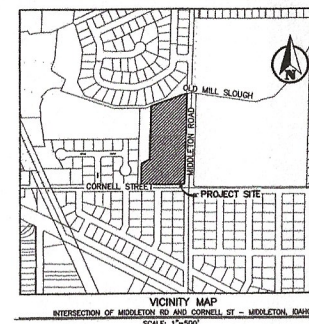
THIS DOCUMENT IS THE PROPERTY OF LEAVITT & ASSOCIATES ENGINEERS, INC. AND THE DESIGN AND IDEAS WITHIN ARE NOT TO BE USED IN WHOLE OR PART WITHOUT WRITTEN CONSENT OF LEAVITT & ASSOCIATES ENGINEERS, INC.

SCALE: 1"=20'

Sheet Number: 1



A REPEAT OF LOT 1 OF OLD MILL SUBDIVISION  
WHICH IS LOCATED IN A PORTION OF THE SE 1/4 OF THE SE 1/4 OF  
SECTION 6, T.4N, R.2W, BOISE MERIDIAN, MIDDLETON, CANYON COUNTY, IDAHO  
APRIL 6, 2017



REVISIONS	
A	03/31/17 - REVIEW
B	04/08/17 - REVIEW



**ASPEN**  
ENGINEERS

895 W. Main St. Suite B • PO Box 205 • Kuna, Idaho 83634

**WOLF BUILDING COMPANY**  
843 W. HORIZON WAY  
NAPPA, ID 83686

**CONTACT: BLAKE WOLF**  
(208) 941-7700

**McKINLEY MEADOWS  
TOWNHOMES SUBDIVISION**  
MIDDLETON RD  
MIDDLETON, IDAHO 83644

DRAWN DPW	SCALE SHOW
CHECKED LRW	REVISION B

DATE 04/06/2017

PROJECT	17004
---------	-------

TITLE  
McKINLEY  
MEADOWS  
TOWNHOMES  
SUBDIVISION

PRELIMINARY  
PLAT[illegible]

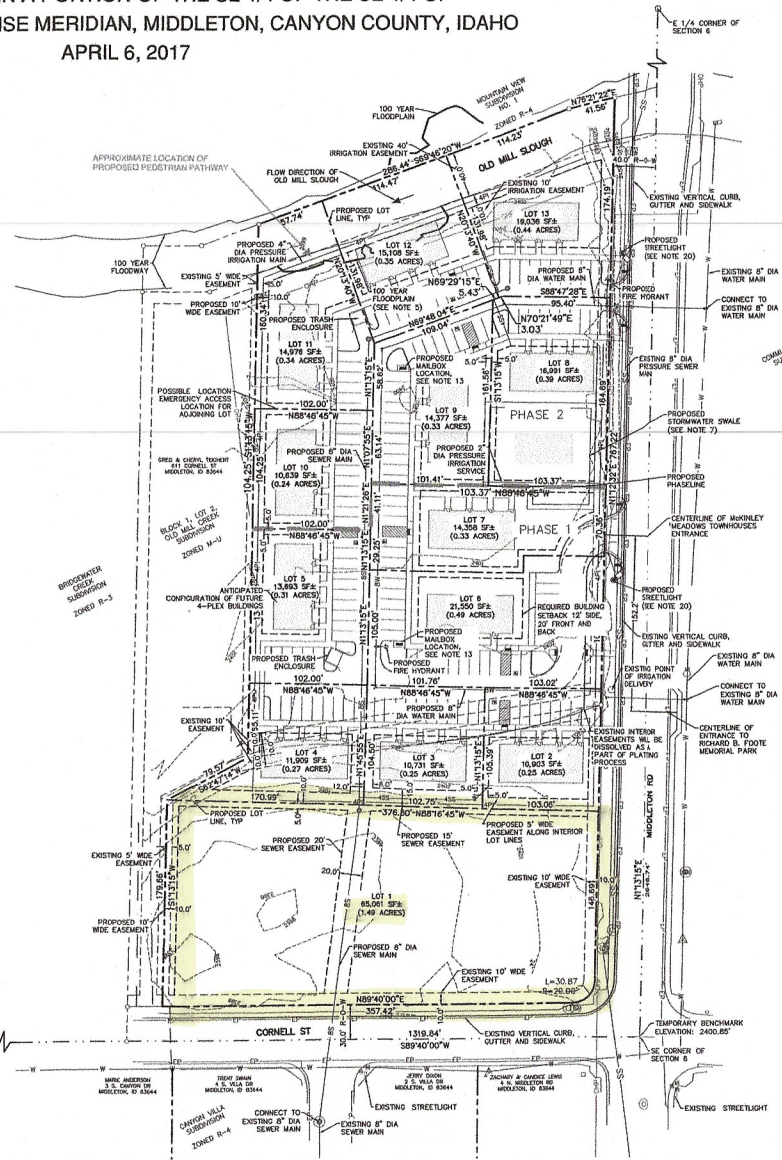
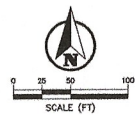
DD 1

4 5 4

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[illegible]

ABBREVIATIONS					
AC	ASPHALT ELEVATION	WDO	MOISTURE DRY DENSITY	TBC	TOP BACK ROLLED CURB
BOW	BACK OF WHEEL	WE	MATCH EXISTING	TR	TRANSPIRANT BRICKWORK
CA	CANT	WJ	JOINT	TRC	TOP BACK VERTICAL CURB
CD	CURB FACE	WTS	NOT TO SCALE	TSC	TOP OF CURB
CON	CONCRETE ELEVATION	PC	POINT OF CURVATURE	TSG	TOP OF GRATE
CS	CURB FACE FOR SECOND	PT	POINT OF TANGENCY	TW	TWO TOP OF WALK
DA	DAMETER	PT	POINT OF TANGENCY	TY	TYPICAL
ED	EXISTING GRADE	PL	POLE LOCATION SYMBOL	WALL	TOP OF RETAINING WALL
F	FACE OF PAVEMENT	PO	POINT OF VERTICAL PIVOT		
FL	FL LINE	QTY	QUANTITY		
FLG	FLANGE	R	RADIUS		
GR	GRADE GRADE	R	RADIUS		
GR	GRADE GRADE	RB	RIGHT OF-WAY		
IC	INVERT ELEVATION	SD	SID DIMENSION RATIO		
IF	INVERT ELEVATION	STA	STATION		
IP	UP OF WATER	STG	STANDARD		
IP	UP OF WATER	UP	UP OF WATER		



GENERAL NOTE

- [illegible]

DEVELOPMENT DATA

TOTAL SUBDIVISION AREA: 5.50± ACRES  
TOTAL LOTS: 13 TOTAL  
COMMERCIAL USE: 1.49± ACRES (LOT 1)

TOWNHOUSE USE: 4.00± ACRES (LOTS 2-13)  
 PHASE 1 (LOTS 2-7): 1.91± ACRES  
 PHASE 2 (LOTS 8-13): 2.09± ACRES

EXISTING ZONING: M-U (MIXED USE)  
TOWNHOUSE UNITS: 48 UNITS (12 BUILDINGS x 4 UNITS = 48)

AVERAGE LOT SIZE: TOTAL: 18,429 SF ± (0.42 ACRES±)  
PROJECT (LOTS 2-13): 14,560 SF ± (0.33 ACRES±)

GROSS DENSITY (LOTS 1-13): 8.7± UNITS PER ACRE (48 UNITS/5.5 ACRES = 8.7)

PARKING: 147 (PHASE 1; 79 STALLS, PHASE 2; 68 STALLS)  
(THIS MAY CHANGE - SEE NOTE 19)

**ENGINEER** \_\_\_\_\_ **DEVELOPER** \_\_\_\_\_

WOLF BUILDING COMPANY, LLC  
543 W. HORIZON WAY  
NAMPA, IDAHO 83686  
CONTACT: BLAKE WOLF

CONTACT: LANCE WARNICK, P.E.  
(208) 466-8181

Approved by City Council 4/19/17 RJ



# PLAT OF MCKINLEY MEADOWS TOWNHOMES SUBDIVISION

A REPLAT OF LOT 1, BLOCK 1 OF OLD MILL STREAM SUBDIVISION  
LOCATED IN THE SE 1/4 SE 1/4 OF SECTION 6,  
T. 4 N., R. 2 W., B.M., MIDDLETON, CANYON COUNTY, IDAHO  
2018



## LEGEND

- △ Calculated point
- ⊕ Found Brass Cap Monument
- ⊕ Found Aluminum Cap Monument
- ⊕ Found 5/8 inch dia. Iron pin as noted
- ⊕ Set 5/8 inch dia. x 24 inch iron pin w/ plastic cap "PLS 7732"
- ⊕ Found 1/2 inch dia. iron pin, Set 5/8 inch dia. x 24 inch iron pin w/ plastic cap "PLS 7732"
- ⊕ Found 1/2 inch dia. x 24 inch iron pin w/ plastic cap as noted
- ⊕ Set 1/2 inch dia. x 24 inch iron pin w/ plastic cap "PLS 7732"
- ① Block Number
- ① Lot Number
- \* PLS 15363 Markings on Plastic Cap for Found 1/2 inch dia. iron pins
- Boundary Line
- Lot/Parcel Line of Record
- Section Line
- Public Utilities, Drainage & Irrigation Easement Line
- Gravity Irrigation Easement Line
- Cross Access & Public Utilities Easement Line
- Sanitary Sewer Easement Line
- Existing Right of Way Line

## NOTES:

1. ANY RE-SUBDIVISION OF THIS PLAT SHALL COMPLY WITH THE APPLICABLE ZONING REGULATIONS IN EFFECT AT THAT TIME.
2. MINIMUM BUILDING SETBACKS SHALL BE IN COMPLIANCE WITH THE CITY OF MIDDLETON STANDARDS FOR THE APPLICABLE ZONING AND SUBDIVISION REGULATIONS AT THE TIME OF ISSUANCE OF INDIVIDUAL BUILDING PERMITS OR AS SPECIFICALLY APPROVED AND/OR REQUIRED.
3. IN COMPLIANCE WITH THE DISCLOSURE REQUIREMENTS OF IDAHO CODE §1-100(2), IRRIGATION WATER HAS NOT BEEN PROVIDED FOR BY THE OWNER, AND THE LOTS SHOWN ON THIS PLAT SHALL BE SUBJECT TO ASSESSMENTS BY THE MIDDLETON MILL IRRIGATION DISTRICT.
4. THERE IS A 10' PUBLIC UTILITIES, IRRIGATION AND DRAINAGE EASEMENT AROUND THE PERIMETER OF THE SUBDIVISION UNLESS DIMENSIONED OTHERWISE.
5. THERE IS A 5' PUBLIC UTILITIES, IRRIGATION AND DRAINAGE EASEMENT ALONG THE INTERIOR LOT LINES OF THE SUBDIVISION UNLESS DIMENSIONED OTHERWISE.
6. LOTS 2 THRU 7, BLOCK 1 ARE SUBJECT TO A 86.0' WIDE CROSS ACCESS & PUBLIC UTILITIES EASEMENT AS SHOWN AND DIMENSIONED ON SHEET 2 OF 4 OF THIS PLAT.
7. LOTS 1 THRU 4, BLOCK 1 ARE SUBJECT TO AN 18' GRAVITY IRRIGATION EASEMENT AS SHOWN AND DIMENSIONED ON SHEET 2 OF 4 OF THIS PLAT.
8. LOTS 1, 3 & 4, BLOCK 1 ARE SUBJECT TO A SANITARY SEWER EASEMENT AS SHOWN AND DIMENSIONED ON SHEET 2 OF 4 OF THIS PLAT.
9. ANY RE-SUBDIVISION OF THIS PLAT SHALL BE IN COMPLIANCE WITH THE THEN CURRENT SUBDIVISION STANDARDS OF THE CITY OF MIDDLETON.
10. THERE ARE NOT ANY NEW PUBLIC OR PRIVATE STREETS WITHIN THIS DEVELOPMENT. LOTS WILL BE SERVED BY A SHARED DRIVEWAY AND PARKING LOT THAT BENEFITS THE RESIDENCES IN THE DEVELOPMENT. THIS DEVELOPMENT INCLUDES A CROSS-ACCESS AND PARKING AGREEMENT THAT OUTLINES THE ACCESS AND MAINTENANCE RESPONSIBILITIES RECORDED AS INSTRUMENT NO. ????????
11. STORM WATER FACILITIES WILL BE OWNED AND MAINTAINED BY THE MCKINLEY MEADOWS TOWNHOMES HOMEOWNERS ASSOCIATION.
12. THIS DEVELOPMENT RECOGNIZES SECTION 22-4503 OF THE IDAHO CODE, RIGHT OF FARM ACT, WHICH STATES: NO AGRICULTURAL OPERATION, AGRICULTURAL FACILITY OR EXPANSION THEREOF SHALL BE OR BECOME A NUISANCE, PRIVATE OR PUBLIC, BY ANY CHANGED CONDITIONS IN OR ABOUT THE SURROUNDING NONAGRICULTURAL ACTIVITIES AFTER IT HAS BEEN IN OPERATION FOR MORE THAN ONE (1) YEAR, WHEN THE OPERATION, FACILITY OR EXPANSION WAS NOT A NUISANCE AT THE TIME IT BEGAN OR WAS CONSTRUCTED. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY WHEN A NUISANCE RESULTS FROM THE IMPROPER OR NEGLIGENT OPERATION OF AN AGRICULTURAL OPERATION, AGRICULTURAL FACILITY OR EXPANSION THEREOF.
13. MAINTENANCE OF ANY IRRIGATION PIPE, DRAINAGE PIPE OR DITCH CROSSING A LOT IS THE RESPONSIBILITY OF THE LOT OWNER UNLESS SUCH RESPONSIBILITY IS ASSUMED BY AN IRRIGATION/DRAINAGE DISTRICT, OR THE HOMEOWNERS ASSOCIATION.
14. PER IDAHO CODE §5-1306A(9) RELATING TO THE VACATION OF PLATTED EASEMENTS STATES: LAND EXCLUSIVE OF PUBLIC RIGHT OF WAY THAT HAS BEEN SUBDIVIDED AND PLATTED IN ACCORDANCE WITH THIS CHAPTER NEED NOT BE VACATED IN ORDER TO BE REPLATTED.

CURVE TABLE				
CURVE	ARC	RADIUS	DELTA	CHORD BEG CHORD
C1	30.87	20.00	89°28'49"	N 48°28'57" E 27.80

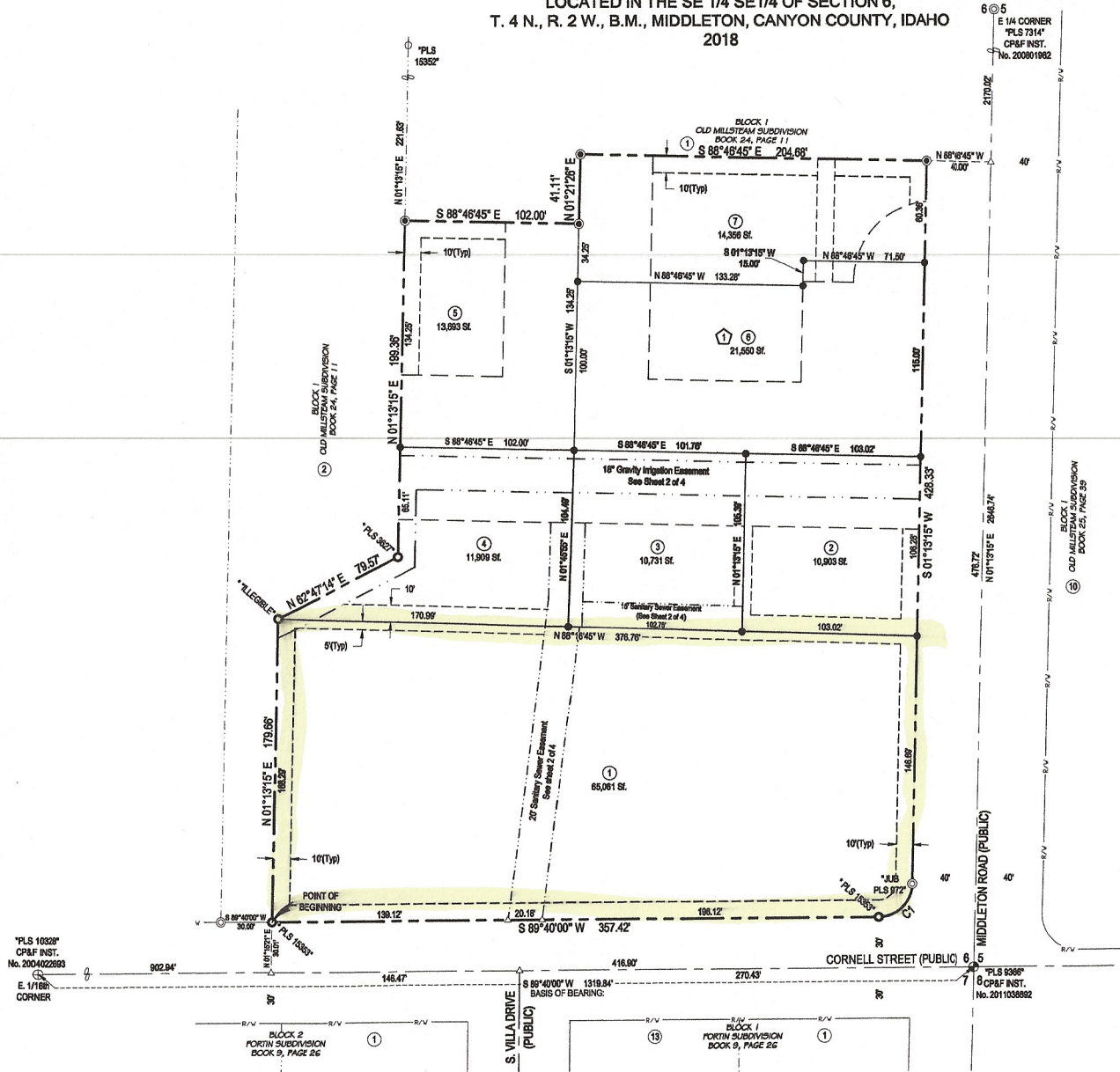


SEE SHEET 2 OF 4 FOR EASEMENT DETAILS AND DIMENSIONING

COMPASS LAND SURVEYING, PLLC

623 11th Avenue South Nampa, ID 83651  
Office: (208) 442-0115 Fax: (208) 327-2106  
JN 0518 05/30/18

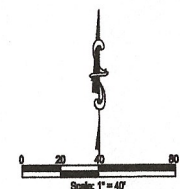
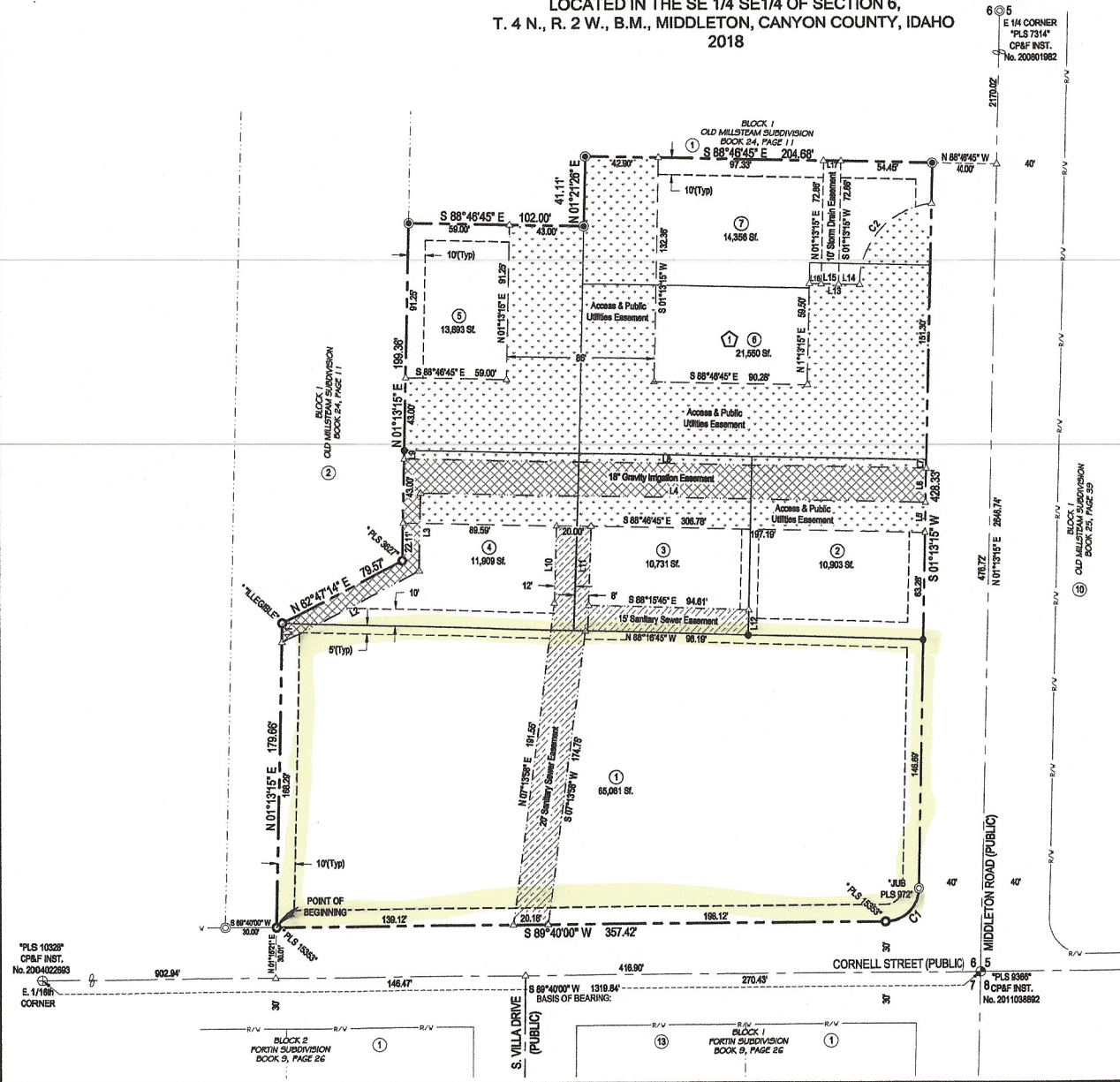
BOOK \_\_\_\_\_ PAGE \_\_\_\_\_ SHEET 1 OF 4





# PLAT OF MCKINLEY MEADOWS TOWNHOMES SUBDIVISION

A REPLAT OF LOT 1, BLOCK 1 OF OLD MILL STREAM SUBDIVISION  
LOCATED IN THE SE 1/4 SE 1/4 OF SECTION 6,  
T. 4 N., R. 2 W., B.M., MIDDLETON, CANYON COUNTY, IDAHO  
2018



- LEGEND**
- △ Calculated point
  - ⊕ Found Brass Cap Monument
  - ⊙ Found 5/8 inch dia. iron pin as noted
  - ⊙ Set 5/8 inch dia. x 24 inch iron pin w/ plastic cap "PLS 7732"
  - ⊙ Found 1/2 inch dia. iron pin, Set 5/8 inch dia. x 24 inch iron pin w/ plastic cap "PLS 7732"
  - ⊙ Set 1/2 inch dia. x 24 inch iron pin w/ plastic cap "PLS 7732"
  - ① Block Number
  - ① Lot Number
  - \*PLS 15353 Markings on Plastic Cap for Found 1/2 inch dia. iron pin
  - Boundary Line
  - Lot/Parcel Line of Record
  - Section Line
  - Existing Right of Way Line
  - Gravity Irrigation Easement Line
  - Cross Access & Public Utilities Easement Line
  - Sanitary Sewer Easement Line

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N 01°18'10" E	11.57
L2	N 82°47'14" E	80.04
L3	N 01°18'10" E	48.07
L4	N 88°48'48" W	288.78
L5	S 01°18'10" W	18.00
L6	S 01°18'10" W	20.00
L7	S 01°18'10" W	5.00
L8	S 88°48'48" W	308.78
L9	N 01°18'10" E	5.00
L10	N 01°48'00" E	46.30
L11	S 01°18'10" W	48.00
L12	S 01°18'10" W	18.00
L13	S 88°48'48" E	288.78
L14	S 88°48'48" E	12.82
L15	S 88°48'48" E	10.00
L16	S 88°48'48" E	7.05
L17	S 88°48'48" E	10.00

CURVE TABLE					
CURVE	ARC	RADIUS	DELTA	CHORD BRG	CHORD
C1	30.87	20.00	89°28'48"	N 49°28'37" E	27.90
C2	71.05	48.00	87°28'00"	N 41°52'25" E	64.94



COMPASS LAND SURVEYING, PLLC  
623 11th Avenue South Nampa, ID 83651  
Office: (208) 442-0115 Fax: (208) 327-2105  
JN 0518 05/30/18

**From:** [Bruce Bayne](#)  
**To:** [Blake Wolf](#)  
**Cc:** [amy@civildynamics.net](mailto:amy@civildynamics.net); [Becky Crofts](#)  
**Subject:** McKinley Meadows - Prorata Share of Intersection Improvements per TIS  
**Date:** Thursday, June 25, 2020 12:55:00 PM  
**Attachments:** [image001.jpg](#)  
[McKinley Traffic Impact.pdf](#)

---

Blake:

Please find attached the City review of your TIS and associated prorata share of intersection improvements per that report.

As you will note your TIS report does show the exact site traffic impacts to the intersections that were requested to be studied.

The prorata share for improvements at the two intersections is \$57,048.

If you wish to amend the DA the city will require that you project pays its share of transportation impacts as other developments are required.

Also, please note that by adding more residential units the subject site impact would increase from the originally reports proposed commercial impacts.

Thanks

Bruce Bayne  
Public Works Superintendent  
Planning and Zoning Official  
(208) 585-3133

City of Middleton  
1103 W. Main St.  
P.O. Box 487  
Middleton ID 83644



**From:** Blake Wolf <wolfbuildingco@gmail.com>  
**Sent:** Monday, June 22, 2020 2:09 PM  
**To:** Becky Crofts <bcrofts@middletoncity.com>; Bruce Bayne <bbayne@middletoncity.com>  
**Subject:** update

Do you have an update for the tis info on McKinley?

Thanks

Blake

**Wolf Building Co.**  
[wolfbuildingco@gmail.com](mailto:wolfbuildingco@gmail.com)

208-941-7700



Report Summary

This traffic impact study (TIS) evaluated the traffic impacts generated by the proposed McKinley Meadows Townhomes development. The scope of this TIS was coordinated with the City of Middleton Major and Traffic Engineer. The study’s principal findings and recommendations are summarized below. Table 1 summarizes the mitigation improvements and the build-out site traffic percentage of 2022 site plus background traffic.

Table 1. Mitigation improvements

Intersection	2017 Existing	2022 Background	2022 Site Plus Background	Site Traffic Percentage of 2022 Site Plus Background Traffic		
				AM	PM	Avg.
Triumph Drive and Middleton Road	none	none	none	0.0%	0.0%	0.0%
Cornell Street and Middleton Road	none	none	none	4.8%	6.3%	5.5%
SH 44 and Middleton Road	1. Improve WB right-turn lane to meet ITD standards	none	none	2.0%	2.0%	2.0%
North Site Approach and Middleton Road	none	none	none	2.0%	4.1%	3.0%
South Site Approach and Middleton Road	none	none	none	3.7%	5.6%	4.6%
West Site Approach and Cornell Drive	none	none	none	17.6%	18.8%	18.2%

Proposed Development

- The McKinley Meadows Townhomes development is a mixed-use development containing 48 townhome dwelling units and 5,000 square feet of general office use.
- The expected full build-out year is 2022.
  - Phase 1 – construct 48 townhome dwelling units by 2020
  - Phase 2 – construct 5,000 square feet of general office use by 2022
- The development is proposing two full site access approaches on Middleton Road for residential access and one full site access approach on Cornell Street for commercial access.

PRO RATA SHARE OF INTERSECTION

IMPROVEMENTS

COST OF

INTERSECTION

$5.5\% \times \$491,785 = \$27,048$

$2.0\% \times \$1,500,000 = \$30,000$

$\underline{\$57,048}$

CORNELL &  
MIDDLETON RD.

SH 44 &  
MIDDLETON RD.

2022 (Build-Out) Site Plus Background Traffic Conditions

Trip Generation

The 2022 analysis includes the full build-out traffic from McKinley Meadows, townhomes and office. The number of trips generated by the development was estimated using the procedures from the 9<sup>th</sup> Edition of the *Trip Generation Manual* published by the Institute of Transportation Engineers, summarized in Table 4. At full build-out, the development is estimated to generated 336 trips per day, 31 trips during the AM peak hour and 34 trips the PM peak hour.

Table 4. 2022 (build-out) trip generation summary (adjacent street peak hours)

Land Use Category	ITE Code	Size	Unit	Total Trip Rate per Unit	Total Trips	Primary Trips			
						Entering		Exiting	
Weekday Daily (vpd)									
Residential Condominium/Townhouse	230	48	DU	5.81	278	50%	139	50%	139
Single Tenant Office Building	715	5,000	SF	11.65	58	50%	29	50%	29
Total Trips		18		5.81	336		168		168
Weekday AM Peak Hour (vph)									
Residential Condominium/Townhouse	230	48	DU	0.44	22	17%	4	83%	18
Single Tenant Office Building	715	5,000	SF	1.80	9	89%	8	11%	1
Total Trips					31		12		19
Weekday PM Peak Hour (vph)									
Residential Condominium/Townhouse	230	48	DU	0.52	25	67%	17	33%	8
Single Tenant Office Building	715	5,000	SF	1.74	9	15%	1	85%	8
Total Trips					34		18		16

278  
105  
383

Trip Capture

Based on the size of the development, proposed land uses and lack of connectivity between the townhome and office parcels, the development is not expected to any trips internally within the site. For this study, no trip reduction for trip capture was assumed in the analysis.

Pass-By Trips

The development contains only residential and office land uses and is not expected to generate pass-by trips; therefore, no trip reduction for pass-by trips was assumed in the analysis.

Modal Split

All trips generated by the development were assumed to be made by personal vehicles. The site is not expected to generate trips by other modes and the vehicle trips were not reduced for the analysis.

DAILY TRIPS INCREASES  
WITH RESIDENTIAL  
VS. COMMERCIAL  
∴ TRAFFIC IMPACT  
WILL BE GREATER  
THEN REPORT CURRENTLY  
SHOWS

AMENDED DEVELOPMENT AGREEMENT

This Development Agreement (**Agreement**) is entered into by and between the CITY OF MIDDLETON, a municipal corporation in the State of Idaho (**City**); and Chandler Daw and Angie Daw, husband and wife (**Daw**); and Rivco Properties LLC, an Idaho limited liability company (**Rivco**); and Val Wahlen and Lori Wahlen, husband and wife (**Whalen**); and Wolf Building Company LLC, an Idaho limited liability company (**Wolf**), individually and collectively referred to as Developer (**Developer**).

**RECITALS**

WHEREAS, Developer owns approximately 5.5 acres of vacant real property at the northwest corner of Middleton Road and Cornell Street, Middleton, Canyon County, Idaho commonly referred to in Canyon County Assessor's records as Parcel No. R1848050000, and legally described in Exhibit A attached hereto and incorporated herein (**Property**); and

WHEREAS, Wolf represented Developer when rezoning the property from R-3 (Single-family Residential) to M-U (Mixed Use), and the benefits, obligations, and restrictions contained in this development agreement were relied on by both parties and were an integral part of the city's approval of the rezone request; and

WHEREAS, Developer intends to improve the Property according to the Middleton City Code and the City's public works standards at the time(s) the Property is improved; and

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



## AGREEMENT

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

### ARTICLE I LEGAL AUTHORITY

This Agreement is made pursuant to and in accordance with the provisions of Idaho Code §67-6511A and Middleton City Code, Title 5, Chapter 7.

### ARTICLE II ZONING ORDINANCE AMENDMENT

The City will adopt an ordinance amending the Middleton Zoning Ordinance to rezone the Property to M-U (Mixed Use). The Ordinance will become effective after it is approved, signed, published and recorded according to law, all of which actions the City will perform at the city's expense and with the Developer's cooperation.

### ARTICLE III CONDITIONS OF DEVELOPMENT

3.1 Developer will build no more than 12 Four Plex buildings on four acres (48 units' total) in accordance with Allowable Uses in the M-U zoning under the Use called "Multi-family dwelling." Developer intends to sub-divide the land (at a later date), allowing each to be on its own tax parcel with the intent each building would belong to one common homeowner's association.

- a. Remainder of property (Lot 1/Block 1) may be developed with four (4) 4 Four Plex buildings (16 units total) in accordance with the concept plan attached as Exhibit "A" and incorporated herein by this reference as if set forth in full.
- b. The development of townhomes are subject to the City Code and Standards that were in effect at the time of the April 14, 2017 recording of the Development Agreement EXCEPT the setbacks, which, per the final plat for each subdivision, provides that relevant setbacks are shall be the setbacks in effect at the time the building permit is issued.
- c. Developer shall pay Traffic Proportionate Share fees in the amount of ~~Fifty~~ ~~Seven~~ Fifty-Seven Thousand, forty eight dollars (\$57,048.00) upon execution of this Agreement.

~~Developer will may then utilize the remainder of property, not used for the 12 more Four Plex buildings, for the following allowed uses in M-U zoning: assisted living, a professional style building, to hold one or more of the following allowable uses which are: bank/credit union, clinic/pharmacy/optician, daycare, espresso/pastry shop, medical/dental/vision or professional office, real estate sales/rental/management office.~~

Developer is to construct a vinyl six-foot privacy fence as a buffer between 611 Cornell St (currently owned by Greg and Cheryl Teichert) and the four-plexes to be constructed on the Property. The buffer fence will commence at the southeast corner of the Tiechert's property and extend north approximately 200 feet. The buffer fence must be installed prior to the city issuing a certificate of occupancy for the first four-plex constructed on the Property. The exact length, style and color of fence are to be agreed upon by both Developer and current property owner (of 611 Cornell St).

Developer is to construct no more than two new vehicle approaches onto the Property from Middleton Road and one new vehicle approach onto the Property from Cornell St. Approaches onto the property from Middleton Road will not directly line up with current approaches to Foote Park.

Developer to make a one-time donation to the Greater Middleton Parks and Recreational District in the amount of \$10,000 to be used only for irrigation and planting of new grass in the unimproved areas of Foote Park. If those items have already been paid for then the donation must be used for field improvements. All monies must be used by June 30, 2017 or be returned in full.

#### **ARTICLE IV FAILURE TO COMPLY WITH AGREEMENT**

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

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

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

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

4.3 Upon a breach of this Agreement, any of the parties in any court of competent jurisdiction, by action or proceeding at law or in equity, may secure the specific performance of the covenants and agreements herein contained, may be awarded damages

for failure of performance of both, or may obtain rescission, disconnection, and damages for repudiation or material failure of performance.

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

## **ARTICLE V GENERAL PROVISIONS**

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

5.2 Any amendment or addendum to this Agreement shall be in writing and made only after the City has complied with the notice and hearing provisions of Idaho Code §67-6509 and Middleton City Code Title 5, Chapter 7.

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

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

Developer: Chandler and Angie Daw

\_\_\_\_\_  
\_\_\_\_\_

Rivco Properties, LLC  
Nathan Bills  
PO Box 640  
Salmon ID 83467

Val and Lori Wahlen

---

---

Wolf Building Company LLC  
843 W. Horizon Way  
Nampa, ID 83686

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

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

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

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

The new owner of the Property or any portion thereof (including, without limitation, any owner who acquires its interest by foreclosure, trustee's sale or otherwise) shall be liable for all commitments and other obligations arising under this Agreement with respect only to such owner's lot or parcel.

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

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

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



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

Dated this 9<sup>th</sup> day of September February, 202117 and effective upon rezoning of the Property.

**CITY OF MIDDLETON**

**ATTEST**

By: \_\_\_\_\_  
Steven J. Rule~~Darin J. Taylor~~, Mayor  
Clerk  
State of IDAHO )

By: \_\_\_\_\_  
Becky Crofts, City

County of Canyon )  
ss.

I, a notary public, do hereby certify that on this \_\_\_\_\_ day of December February 20197, personally appeared before me Darin J. Taylor, who, being first duly sworn, declared that he is the Mayor of the City of Middleton, Idaho and signed it as Mayor of the City of Middleton.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

**DEVELOPER:**

\_\_\_\_\_  
Chandler Daw  
State of Idaho )  
County of \_\_\_\_\_ )  
ss.

\_\_\_\_\_  
Angie Daw

I, a notary public, do hereby certify that on this \_\_\_\_\_ day September December 202119February 2017, personally appeared before me Chandler Daw and Angie Daw who, being first duly sworn, declared that they signed

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

**Rivco Properties LLC**

Nathan Bills

State of Idaho            )  
  ss.  
County of \_\_\_\_\_)

I, a notary public, do hereby certify that on this \_\_\_\_\_ day ~~September December 2021~~ February 2017, personally appeared before me Blake Wolf who, being first duly sworn, declared that he is the member of Rivco Properties, LLC authorized to sign this agreement and signed as the authorized member.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

**DEVELOPER:**

\_\_\_\_\_  
Val Wahlen

\_\_\_\_\_  
Lori Wahlen

State of Idaho            )  
  ss.  
County of \_\_\_\_\_)

I, a notary public, do hereby certify that on this \_\_\_\_\_ day ~~December 2019~~ February 2017, personally appeared before me Val Wahlen and Lori Wahlen who, being first duly sworn, declared that they signed

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

**Wolf Building Company LLC**

\_\_\_\_\_  
Blake Wolfe

State of Idaho            )  
  ss.  
County of \_\_\_\_\_)

I, a notary public, do hereby certify that on this \_\_\_\_\_ day ~~February 2017~~ December 2019, personally appeared before me Blake Wolf who, being first duly sworn, declared that he is a manager of Wolf Building Company, LLC and signed as manager.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_



Chairman Waltemate opened the public comment portion at 10:04 p.m.

Sign in sheet: See attached

In Favor: 2, Neutral: 0, Opposed: 6

Carlene Thie: Opposed: 1031 Overland Trail Street, Middleton, Idaho. The code is the code. Fight for it.

Shawn Maybon: Opposed: 1382 La Reata Way, Middleton, Idaho. He is concerned because the neighborhood meeting didn't occur until tonight at 6 pm. The 60 ft right of way is there for a reason.

Mike Graefe: Opposed: 1889 Ridge Way, Middleton, Idaho. The commercial side could be parking right up to the sidewalk.

Gregg Winchester: Opposed: 619 Silver Springs, Middleton Idaho. Surrendering the 7ft sidewalk to landscaping would solve the problem of the cars encroaching on the sidewalk on the commercial side. This is a sidewalk that is designed for the children to get to the schools.

Applicant: Rebuttal: Jay Walker: There is no difference with what they are doing out in the field, the owners are only asking for 5 of the 7 ft. They did also dedicate a full 50 ft on Willis and Hartley. He is just bringing this forward to be practical.

Chairman Waltemate closed the public comment portion at 10:18 p.m.

Chairman Waltemate said that the applicant has done everything that the City has required. Overall the need is to stay within the code. The Commission appreciates the time that the applicant has come to bring this forward regardless of whoever made the mistake in the planning.

**Motion:** Motion by Chairman Waltemate to deny the request by Todd Campbell (TCCH Inc.)/Paul Watson (Falkirk Holdings LLC), for a special use permit to amend City Approved Construction Plans which required a local collector roadway section (60 feet wide) adjacent to commercial zoning transitioning to a local roadways section (50 feet wide) in the residential area, to allow for a 50 foot wide Local Commercial Collector as modified by the applicant. The subject property is 12.5 acres located at the southwest corner of Willis Rd and Hartley Ln., Middleton, Idaho.

Motion seconded by Commissioner Gregory. Approved unanimously.

The public hearing was closed at 10:22 p.m.

- D. Public Hearing: Consider approving a request by Blake Wolf to amend that certain Development Agreement filed as Instrument No. 2017-009379 in records of Canyon County, Idaho. The subject property is located at the northwest corner of Middleton Road and Cornell Street, Middleton, Idaho.**

Chairman Waltemate called the public hearing at 10:23 p.m. Planning and Zoning Official

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Bruce Bayne spoke about the Development Agreement. The revisions made were to Article 3, the applicant is asking for 1 acre of commercial property to be amended to allow the 4-plexes to be built on the property or the Mixed-Use zoning. The city also added that the developer is to make a onetime payment to the City of Middleton in the amount of \$40,000 to be used only for City transportation improvements at the time of next final plat approval. Developer will also pay for and install all required utility improvements and additional street-lighting along Middleton Rd and Cornell Street frontage to the project per City requirements. The City has asked for this because the development did not pay for any prorated share of traffic improvements when the development was originally platted. Since that time and in speaking with the developer we have found out that a traffic study was done but I have not had enough time to determine what that proportionate share would have been, so the City is willing to review that. We will review the TIS and adjust the amount accordingly. Bruce has no concerns about this, the City would like more commercial, but the area has not been able to be sold commercially. Recommendation is to amend the agreement, but that the agreement needs verbiage to be finalized to have the applicant pay the prorated share.

Applicant: Blake Wolf - 843 W. Horizon Way, Nampa, Idaho. He has been working on this project for 4 years and the last two years the client has been trying to sell the commercial property. He would like the amended development agreement since the apartments have been so successful. This would also complete the infill of the project. The TIS was a condition when the original preliminary plat and stated there was no mitigation for that area, and now for whatever reason it is being revisited. If this doesn't get approved it will just sit on the market, however there is a need for the 4plexes. It looks like 4-5 additional buildings will fit on the property.

Chairman Waltemate opened the public comment portion at 10:38 p.m.

Sign in sheet: See attached  
In Favor: 3, Neutral: 0, Opposed: 1

Shawn Maybon: In Favor: 1382 La Reata Way, Middleton, Idaho. This is the best location for these apartments.

No Rebuttal from applicant.

Chairman Waltemate closed the public comment portion at 10:39 p.m.

Discussion among Commission stated there is no reason to deny the application. They would like to see the TIS and proportionate share.

**Motion:** Motion by Commissioner Springston approving a request by Blake Wolf to amend that certain Development Agreement filed as Instrument No. 2017-009379 in records of Canyon County, Idaho. The subject property is located at the northwest corner of Middleton Road and Cornell Street, Middleton, Idaho. With conditions of the TIS and \$40,000 paid as a proportionate share.

Motion seconded by Commissioner Deaver. Approved unanimously.

Public Hearing closed at 10:41 p.m.

## Exhibit 6

**From:** [Victor Islas](#)  
**To:** [Amy Woodruff](#); [Jennica Reynolds](#)  
**Cc:** [Roberta Stewart](#)  
**Subject:** Re: McKinley Meadows Townhomes - DA Modification  
**Date:** Monday, August 9, 2021 11:35:18 AM  
**Attachments:** [image001.png](#)

---

Jennica,

I would echo Amy about this development. Once they provide us with updated information, we can provide comments for this development.

DC Islas



**Middleton Rural Fire District**  
**Star Fire Protection District**

**Victor E. Islas**  
DEPUTY CHIEF

Fire District Headquarters  
11665 W. State St., Suite B  
Star, Idaho 83669

Office: (208) 286-7772  
Mobile: (208) 860-1078  
[vislas@starfirerescue.org](mailto:vislas@starfirerescue.org)

*The content of this email is confidential and intended for the recipient specified in the message only. It is strictly forbidden to share any part of this message with any third party, without the written consent of the sender. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.*

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**From:** Amy Woodruff <[amy@civildynamics.net](mailto:amy@civildynamics.net)>  
**Date:** Monday, August 9, 2021 at 11:02 AM  
**To:** Jennica Reynolds <[jreynolds@middletoncity.com](mailto:jreynolds@middletoncity.com)>, Victor Islas <[vislas@starfirerescue.org](mailto:vislas@starfirerescue.org)>  
**Cc:** Roberta Stewart <[rstewart@middletoncity.com](mailto:rstewart@middletoncity.com)>  
**Subject:** RE: McKinley Meadows Townhomes - DA Modification

Jennica, good morning. The layout really doesn't have enough detail to provide meaningful comment. They need to show the roundabout footprint and how the driveway may be impacted by the traffic and stacking (if any impact). The application would be a resubdivision of Lot 1 Block 1, McKinley Meadows. I am not sure if there is a development agreement in place but would want to review that. They may need to update the TIS as well.

Thank you. Please let me know if there is something specific or if I am not understanding the request.

*Amy Woodruff*

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**From:** Jennica Reynolds [mailto:jreynolds@middletoncity.com]  
**Sent:** Tuesday, August 3, 2021 9:21 AM  
**To:** Amy Woodruff; Islas, Victor  
**Cc:** Roberta Stewart  
**Subject:** McKinley Meadows Townhomes - DA Modification

Amy and Victor,

Attached is the Exhibit A – concept plan for additional townhomes in the McKinley Meadows subdivision. This subdivision is on the corner of N. Middleton Rd and Cornell St. Please provide comment. I am trying to get this to City Council on September 15<sup>th</sup>.

Thank You,  
Jennica Reynolds  
Deputy Clerk, Planning  
City of Middleton  
208-585-3133  
[jreynolds@middletoncity.com](mailto:jreynolds@middletoncity.com)





**GMPRD Directors**

Deborah Sandborgh, President  
Bo Mackey, Vice President  
Elizabeth Weaver, Treasurer  
Mike Okamura, Director  
Jon Roth, Director

August 30, 2021

Dear Mayor Steve Rule,

I am writing to you in regards to the Public Hearing Notice, dated August 13<sup>th</sup>, 2021 in regards to the Development Agreement Modification for applicant Blake Wolf. Greater Middleton Parks and Recreation District is opposed to the construction of 4-plex townhomes in lieu of light commercial buildings on Lot 1, Block 1 in the McKinley Meadows Townhome Subdivision.

Greater Middleton Parks and Recreation is opposed to this change. Originally, this site was set aside for single family homes. During the public hearing process, there was strong opposition from surrounding neighbors, including the Parks and Recreation District because of the impact it would have on the Parks and Recreation District and the Middleton School District. Local residents wanted the area to remain single family homes. More townhomes will increase the traffic load on an already crowded infrastructure and compact intersection.

Furthermore, the Previous Mayor, Darin Taylor came to the Parks and Recreation Board in February of 2017 to present a check for \$10,000 dollars to Parks and Recreation for the use of Parks and Recreation for park improvements. After Parks and Recreation did the required improvement, we were then informed by City Officials that there was a sunset clause in place and funds were no longer available. Parks and Recreation has repeatedly had to clean up construction debris and repair damage from contractor work. See the attached meeting minutes indicating the presentation.

Respectfully,



Tim O'Meara  
Executive Director

**GREATER MIDDLETON PARKS AND  
RECREATION DISTRICT  
COMMISSION MEETING AGENDA  
310 N. Hawthorne Drive, Middleton, ID  
February 2, 2017  
7:00 P.M.**

**1. Call to Order**

**2. Roll Call**

**3. Agenda Amendments**

**4. Pledge of Allegiance**

**5. Consent Agenda**

a. Review and Approve accounts payable and minutes for January 2017.

**6. Organizational Reports**

a. City of Middleton Council Liaison – Rob Kiser

**7. Public Comments**

This is an opportunity for the public to comment on anything that is not on the agenda.

**8. Administrative Reports** – These reports were provided in advance. The contents of the reports will not be discussed at the meeting. Questions (if any) on the reports will be answered.

**9. New Business**

a. Mayor Taylor to make a presentation.

**10. Old Business**

a. Sick Leave Policy Amendment: Discussion and potential approval of Sick Leave Policy Amendment

**11. Adjourn**

*\* This meeting  
WAS cancelled –  
NO QUORUM  
(Steve + Kelly came to  
sign checks).*

Draft Revision 9/1/2021-  
Updated Submission

### AMENDED DEVELOPMENT AGREEMENT

This Development Agreement (**Agreement**) is entered into by and between the CITY OF MIDDLETON, a municipal corporation in the State of Idaho (**City**); and Chandler Daw and Angie Daw, husband and wife (**Daw**); and Rivco Properties LLC, an Idaho limited liability company (**Rivco**); and Val Wahlen and Lori Wahlen, husband and wife (**Whalen**); and Wolf Building Company LLC, an Idaho limited liability company (**Wolf**), individually and collectively referred to as Developer (**Developer**).

### RECITALS

WHEREAS, Developer owns approximately 5.5 acres of vacant real property at the northwest corner of Middleton Road and Cornell Street, Middleton, Canyon County, Idaho commonly referred to in Canyon County Assessor's records as Parcel No. R1848050000, and legally described in Exhibit A attached hereto and incorporated herein (**Property**); and

WHEREAS, Wolf represented Developer when rezoning the property from R-3 (Single-family Residential) to M-U (Mixed Use), and the benefits, obligations, and restrictions contained in this development agreement were relied on by both parties and were an integral part of the city's approval of the rezone request; and

WHEREAS, Developer intends to improve the Property according to the Middleton City Code and the City's public works standards at the time(s) the Property is improved; and

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

## AGREEMENT

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

### ARTICLE I LEGAL AUTHORITY

This Agreement is made pursuant to and in accordance with the provisions of Idaho Code §67-6511A and Middleton City Code, Title 5, Chapter 7.

### ARTICLE II ZONING ORDINANCE AMENDMENT

The City will adopt an ordinance amending the Middleton Zoning Ordinance to rezone the Property to M-U (Mixed Use). The Ordinance will become effective after it is approved, signed, published and recorded according to law, all of which actions the City will perform at the city's expense and with the Developer's cooperation.

### ARTICLE III CONDITIONS OF DEVELOPMENT

3.1 Developer will build no more than 12 Four Plex buildings ~~on four acres~~ (48 units' total) in accordance with Allowable Uses in the M-U zoning under the Use called "Multi-family dwelling." Developer intends to sub-divide the land (at a later date), allowing each to be on its own tax parcel with the intent each building would belong to one common homeowner's association.

- a. Remainder of property (Lot 1/Block 1) may be developed with four (4) 4 Four Plex buildings (16 units total) in accordance with the concept plan attached as Exhibit "A" and incorporated herein by this reference as if set forth in full.
- b. The development of townhomes are subject to the City Code and Standards that were in effect at the time of the April 14, 2017 recording of the Development Agreement EXCEPT the setbacks, which, per the final plat for each subdivision, provides that relevant setbacks are shall be the setbacks in effect at the time the building permit is issued.
- c. Developer shall pay Traffic Proportionate Share fees in the amount of Fifty Seven Fifty-Seven Thousand, forty eight dollars (\$57,048.00) upon execution of this Agreement.



d. Developer shall build a perimeter fence in compliance with Middleton City Code 5-4-11-2 on the east, south, and west perimeter sides of the entire McKinley Meadows Townhomes Subdivision. The fence shall be a six foot (6') high privacy fence. A portion of the common area at the entrance to the subdivision may not need to be fenced, and Developer shall work with City Staff to determine the exact location of fencing along the east perimeter.

~~Developer will may then utilize the remainder of property, not used for the 12 more Four Plex buildings, for the following allowed uses in M-U zoning: assisted living, a professional style building, to hold one or more of the following allowable uses which are: bank/credit union, clinic/pharmacy/optician, daycare, espresso/pastry shop, medical/dental/vision or professional office, real estate sales/rental/management office.~~

Developer is to construct a vinyl six-foot privacy fence as a buffer between 611 Cornell St (currently owned by Greg and Cheryl Teichert) and the four-plexes to be constructed on the Property. The buffer fence will commence at the southeast corner of the Tiechert's property and extend north approximately 200 feet. The buffer fence must be installed prior to the city issuing a certificate of occupancy for the first four-plex constructed on the Property. The exact length, style and color of fence are to be agreed upon by both Developer and current property owner (of 611 Cornell St).

Developer is to construct no more than two new vehicle approaches onto the Property from Middleton Road and one new vehicle approach onto the Property from Cornell St. Approaches onto the property from Middleton Road will not directly line up with current approaches to Foote Park.

Developer to make a one-time donation to the Greater Middleton Parks and Recreational District in the amount of \$10,000 to be used only for irrigation and planting of new grass in the unimproved areas of Foote Park. If those items have already been paid for then the donation must be used for field improvements. All monies must be used by June 30, 2017 or be returned in full.

#### **ARTICLE IV FAILURE TO COMPLY WITH AGREEMENT**

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

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

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

4.2 If after a breach, the City Council determines that the zoning should be reverted to R-3, or as otherwise provided in the Idaho Code, then the Developer hereby

consents to such reversion or other authorized action and will cease uses not allowed or permitted in the R-3 zone.

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

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

## **ARTICLE V GENERAL PROVISIONS**

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

5.2 Any amendment or addendum to this Agreement shall be in writing and made only after the City has complied with the notice and hearing provisions of Idaho Code §67-6509 and Middleton City Code Title 5, Chapter 7.

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

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

Developer: Chandler and Angie Daw

\_\_\_\_\_  
\_\_\_\_\_

Rivco Properties, LLC  
Nathan Bills  
PO Box 640  
Salmon ID 83467

Val and Lori Wahlen

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Wolf Building Company LLC  
843 W. Horizon Way  
Nampa, ID 83686

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

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

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

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

The new owner of the Property or any portion thereof (including, without limitation, any owner who acquires its interest by foreclosure, trustee's sale or otherwise) shall be liable for all commitments and other obligations arising under this Agreement with respect only to such owner's lot or parcel.

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

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

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

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

Dated this 9<sup>th</sup> day of September February, 2021~~17~~ and effective upon rezoning of the Property.

**CITY OF MIDDLETON**

**ATTEST**

By: \_\_\_\_\_  
Steven J. Rule~~Darin J. Taylor~~, Mayor  
Clerk  
State of IDAHO )

By: \_\_\_\_\_  
Becky Crofts, City

County of Canyon )  
ss.

I, a notary public, do hereby certify that on this \_\_\_\_\_ day of December February 2019~~17~~, personally appeared before me Darin J. Taylor, who, being first duly sworn, declared that he is the Mayor of the City of Middleton, Idaho and signed it as Mayor of the City of Middleton.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

**DEVELOPER:**

\_\_\_\_\_  
Chandler Daw  
State of Idaho )  
County of \_\_\_\_\_ )  
ss.

\_\_\_\_\_  
Angie Daw

I, a notary public, do hereby certify that on this \_\_\_\_\_ day September December 2021~~19~~February 2017, personally appeared before me Chandler Daw and Angie Daw who, being first duly sworn, declared that they signed



Notary Public  
My Commission Expires: \_\_\_\_\_

**Rivco Properties LLC**

Nathan Bills

State of Idaho                    )  
County of \_\_\_\_\_)         ss.

I, a notary public, do hereby certify that on this \_\_\_\_\_ day ~~September~~ December ~~2021~~ 19 ~~February~~ 2017, personally appeared before me Blake Wolf who, being first duly sworn, declared that he is the member of Rivco Properties, LLC authorized to sign this agreement and signed as the authorized member.

Notary Public  
My Commission Expires: \_\_\_\_\_

**DEVELOPER:**

## Val Wahlen

Lori Wahlen

State of Idaho )  
County of \_\_\_\_\_) ss.

I, a notary public, do hereby certify that on this \_\_\_\_\_ day ~~December 2019~~February 2017, personally appeared before me Val Wahlen and Lori Wahlen who, being first duly sworn, declared that they signed

Notary Public  
My Commission Expires: \_\_\_\_\_

**Wolf Building Company LLC**

Blake Wolfe

State of Idaho )

ss.

County of \_\_\_\_\_)

I, a notary public, do hereby certify that on this \_\_\_\_\_ day ~~February 2017~~ December 2019, personally appeared before me Blake Wolf who, being first duly sworn, declared that he is a manager of Wolf Building Company, LLC and signed as manager.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_



# STAFF REVIEW AND REPORT

## Middleton City Council

### Sterling Lakes Subdivision

#### Snapshot Summary

DESCRIPTION	DETAILS
Acreage	51.4 acres
Current Zoning	County Agricultural
Proposed Zoning	R-3 (Single Family Residential)
Current Land Use	Residential
Proposed Land Use	Residential
Lots	118 single family home lots and 10 common lots.
Density	2.3
Open Space	35.64%
Amenities	Extensive 10' wide walking path and community ponds/water features.

- A. City Council Public Hearing Date:** September 1, 2021
- B. Project Description:** Residential subdivision with 118 buildable lots and 10 common lots on 51.4 acres of vacant land located at 23251 Duff Lane (Tax Parcels #R3386901000). Amenities include 10' wide pathway along the Mill Slough and three community ponds.
- C. Application Requests:** Applicant currently has four applications. The first application is an annexation and rezone application to annex the property into the City of Middleton and change the zoning from County Agricultural to City of Middleton R-3 zoning. The second application is for Preliminary Plat, and the third application is for Development Agreement. A fourth application is for Floodplain, and it will be handled administratively by City staff.

Developer had also submitted applications for variances from the City Code, which applications were approved by the Planning and Zoning Commission at the June 7, 2021 hearing on the matter. Specifically, the Commission approved Developer's request to lower the centerline turning radius on the roads from 125' to 90'. The Commission also approved a variance to decrease the 3-lane requirement for Cornell Street to only 2 lanes along the bridge that will span Mill Slough. There is no reason to have a center turn lane on the bridge because there is no ability to make a turn either way while on the bridge.

- D. Current Zoning & Property Condition:** The property is currently located in the County and zoned Agricultural. The properties to the north and west are within

Middleton city limits and zoned R-3. Properties to east and south are also within City limits and zoned R-4.

- E. City Services:** City water and sewer are located immediately west and south of the project. Sewer and water will connect to existing sewer from Cornell Street. Water and sewer main stubs will be provided in the northeast quadrant of the plat for future extension.



**FINDINGS:**

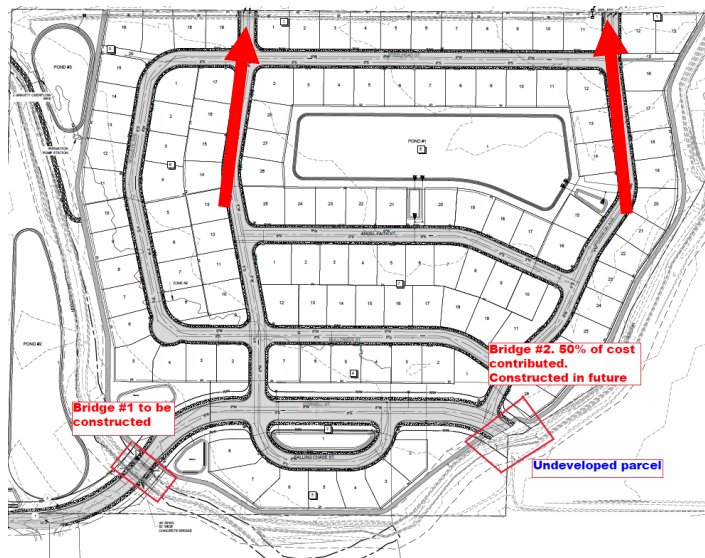
*Planning Staff finds that City services can be easily extended to serve the proposed project, and the annexation will permit the orderly development of the City and ability to provide efficient and economical city services to the extended area.*

- F. Traffic, Access & Streets:**

Access to the subdivision is via Cornell Street, and Developer will be required to construct the road improvements to Cornell Street at its own cost and dedicate the same to the City of Middleton. Part of that frontage improvement includes the construction of a bridge across the western portion of the Mill Slough.

A second bridge will be required to cross the eastern portion of the Mill Slough. It cannot be constructed until the property to the east is developed. Planning Staff proposes that the Developer of Sterling Lakes be required to submit to the City 50% of the cost of the 2<sup>nd</sup> bridge, which monies the City will hold until the bridge is ready to be built by a future developer to the east.

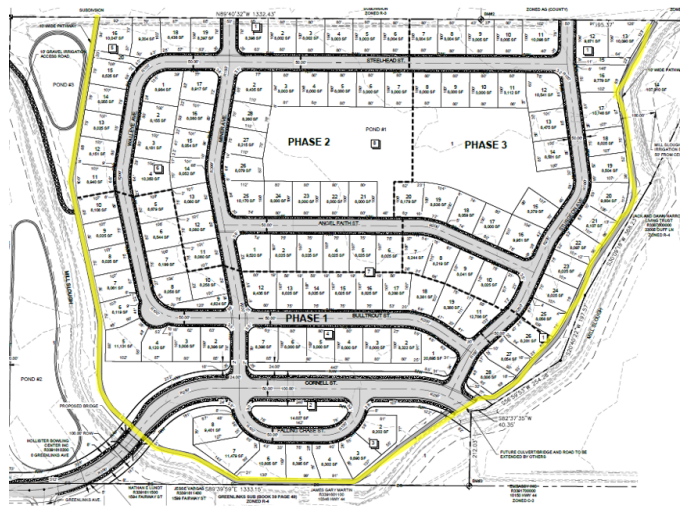


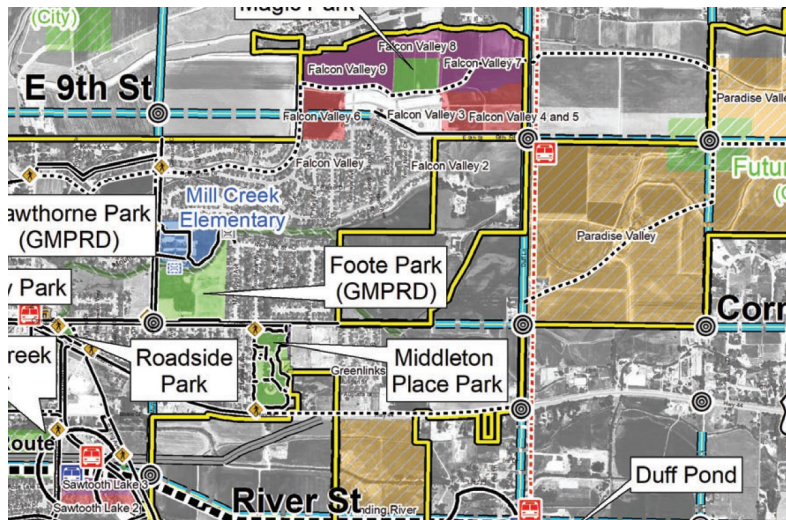


Developer's preliminary plat provides adequate stub roads to the north to allow connectivity for future development adjacent to this project. See arrows above.

ITD is in the process of reviewing the proportionate share analysis for this project. ITD recently informed us that they have quite a backlog of projects to review, and they will not be able to provide an analysis before the September 1<sup>st</sup> hearing. Nevertheless, if the City Council is inclined to approve this subdivision application, it can still move forward by merely making payment of all City required proportionate share fees a condition of preliminary plat approval and final plat approval.

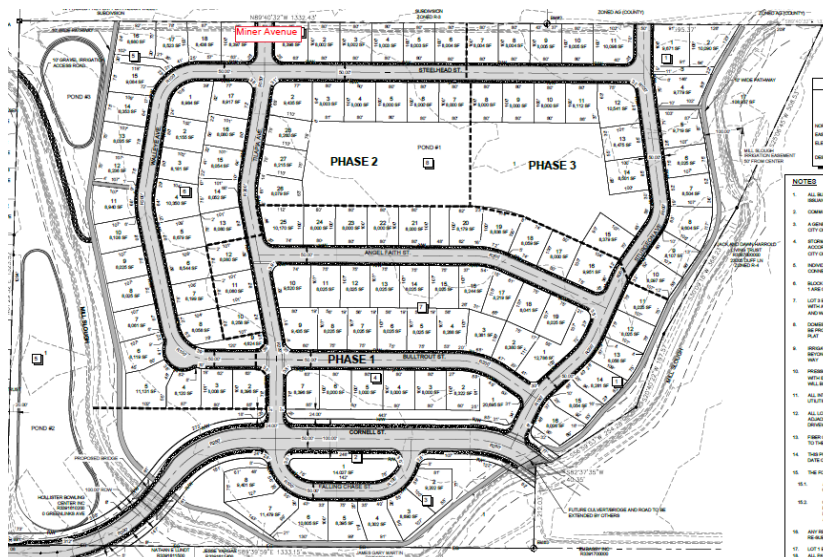
- G. Pathway & Open Space:** Developer has provided a 10' wide asphalt pathway along the Mill Slough to connect with the regional trail system in compliance with the Comprehensive Plan's *Transportation, Schools & Recreation Map*. 5' wide concrete sidewalks span the local roads throughout the subdivision. An 8' wide asphalt pathway will span along the frontage improvements to Cornell.





As to Open Space, the Developer has exceeded the Code requirement of 5% by providing 35.64% Open Space in the form of Community Ponds, large common lots, and an extensive trail system. (MCC 5-4-10-10)

- H. **Storm drain and Pressurized Irrigation:** Storm drain facilities and pressurized irrigation have been provided and are approved by the City Engineer.
- I. **Middleton Rural Fire District:** The subject property is in the Middleton Rural Fire District. The District has reviewed the preliminary plat and issued standard comments approving the Subdivision.
- J. **Preliminary Plat Application:** The Preliminary Plat contains 118 single family lots and 10 common lots. Developer is proposing 3 phases of development as shown below. See copy of the entire preliminary plat proposed by Developer attached hereto as Exhibit "A".



City Engineer, Amy Woodruff, issued a letter recommending approval of the preliminary plat attached hereto as Exhibit “A”. Ms. Woodruff’s recommendation letter is attached hereto as Exhibit “F”.

**FINDINGS:**

*Planning Staff finds that the preliminary plat complies with dimensional standards and requirements of the Middleton City Code and Idaho State Code except for the two variance items approved by the Planning & Zoning Commission at the June 7, 2021, public hearing on the project.*

*Planning Staff further finds that the preliminary plat is not materially detrimental to the health, safety and welfare of the residents of Middleton and finds that the preliminary plat is also in harmony with the Middleton Comprehensive Plan (See more detail in Section M below.)*

- K. Annexation and Rezone:** Applicant is requesting that the entire 51.4 acre project parcel be annexed into the City of Middleton and rezoned to R-3 zoning, which permits three single family homes per gross acres.

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

**FINDINGS:**

*Planning Staff finds that Applicant’s project meets all three of these requirements: (1) The property is contiguous; (2) sewer and water are available as shown above, and (3) the annexation does not adversely affect the City but benefits the City because (a) it supports orderly growth, (b) it provides a variety of housing lots, (c) it creates extensive recreational pathways, and (d) it creates safe streets for vehicle and pedestrian circulation.*

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

- L. Development Agreement:** Annexation and rezone requests generally require a Development Agreement (“DA”). Applicant and City Staff have used the City’s template form for the DA and have added the seven provisions shown below. (A true copy of the proposed Development Agreement is attached hereto as Exhibit “B”.)

1. A concept plan is attached to the DA, and Developer shall improve the property substantially consistent with the concept plan.
2. Developer shall, at its own cost, improve Cornell Street.

3. Developer shall pay all City required pro-rata or proportionate share fees for all traffic impacts and intersection controls affected by the subdivision. The fees must be paid prior to approval of final plat for phase 1.
4. Developer shall build only single family homes in compliance with the R-3 Zone except for the two variances approved by the Planning & Zoning Commission at the June 7, 2021 public hearing.
5. Developer shall pay 50% of the cost to design and construct the second culvert crossing of the Mill Slough on the east side of the project property. The 50% cost shall be paid to the City of Middleton prior to final plat approval for phase 1. City will hold the money until the property to the east is developed and the cost for building the remaining portion of the bridge is paid by the second developer.
6. If Developer does not obtain final plat for phase 1 within 3 years of preliminary plat approval (or 4 years with a 1 year extension), then the City may modify or terminate the DA and the preliminary plat becomes null and void.
7. Developer must obtain final plat for each phase within 3 years of final plat for the previous phase. Developer may seek a 1 year extension for each phase, totaling 4 years between each final plat. Failure to do so will result in the remaining portions of the preliminary plat becoming null and void.

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

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

- a. Goals 3 and 23: The project provides safe vehicle and pedestrian facilities in light of the street improvements and sidewalks shown on the preliminary plat.*
- b. Goal 4: The project will establish a good quality of life with development that pays through impact fees and property taxes for the public services it receives when infrastructure is installed. Additionally, quality lots for residential use increase the quality of life and general welfare of the City.*
- c. Goals 11: The housing type matches the residents' lifestyle in the area the project is located.*

**N. Comments Received from Surrounding Landowners:** City has received two objection letters. Nancy Cannetti objected on 6/4/2021 to the development due to increased traffic, adverse effect on views, and vague neighborhood meeting. Mike Walker objected by letter on 6/7/2021 stating concerns about project traffic using the Greenlinks subdivision for ingress and egress. (Objection letters are attached as Exhibit "C").

**O. Comments from Agencies:** A 6/2/2021 letter from the Middleton Rural Fire District set forth standard comments for approval of the preliminary plat. A 5/24/2021 letter from Drainage District 2 set forth standard comments regarding how to handle the



District's easement along the Mill Slough. A letter received 6/8/2021 from COMPASS noted that trips will be reduced because of the project's closeness to schools and shopping. COMPASS also noted that the project promotes connectivity. (Copies of the comments are attached as Exhibit "D".)

**P. Comments from City Engineer and Planning Staff:** Copies of City Engineer comments and Planning Staff comments are attached as Exhibit "E").

**Q. Applicant Information:** Application was received and accepted on March 19, 2021. The Applicant/Owner is Sterling Land Development, Inc, 1159 E. Iron Eagle Drive, Suite 170-K, Eagle, ID 83616 (949) 226-4482.

<b>R. Notices &amp; Neighborhood Meeting:</b>	<b>Dates:</b>
Newspaper Notification	08/15/2021
Radius notification mailed to Adjacent landowners within 300'	08/13/2021
Circulation to Agencies	08/13/2021
Sign Posting property	08/13/2021
Neighborhood Meeting	02/26/2021

*Planning Staff finds that Public Notice was given according to law.*

**S. Applicable Codes and Standards:**

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

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

The City Council is tasked with considering three separate applications for Annexation/Rezone, Preliminary Plat, and Development Agreement. To properly perform this task, the Council must ultimately make findings of facts, conclusions of law, and an order with respect to each separate application.

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

**As to Conclusions of Law**, Planning Staff finds that the City Council has the authority to hear these applications in order that they may be denied or approved and that the public notice requirements were met. Planning Staff further set forth the portions of the Idaho State Code and Middleton City Code considered in rendering a decision on the applications. If the September 1st public hearing is held and conducted in compliance with Idaho State Statute and the Middleton City Code, then the Council may accept and state these “conclusions of law” on the record.

**As to the Order and Conditions of Approval**, if the City Council is inclined to approve the applications based upon the above *Findings of Facts* and *Conclusions of Law*, then Planning Staff recommends the approval be subject to the following conditions:

1. City of Middleton municipal domestic water, fire flow and sanitary sewer services are to be extended to serve the subdivision.
2. All City Engineer review comments are to be completed and approved.
3. All requirements of the Middleton Rural Fire District are to be completed and approved.
4. All Floodplain Administrator review comments are to be completed and approved.
5. Developer to comply with all terms of the proposed Development Agreement.
6. Developer may not obtain the 51<sup>st</sup> building permit until a fully functional second access is constructed.
7. The small section of northern stub road on the western half of the preliminary plat shall be renamed “Miner Avenue” so that it can tie into the Miner Avenue roadway approved for Falcon Valley Subdivision to the north. The road name changes to “Tilapia Ave” at the Steelhead Street intersection.
8. Sewer and water capacity are reserved at the time City approves the construction drawings for each individual subdivision phase.

If Council is inclined to deny any of the applications, pursuant to Middleton City Code 1-14(E)(8), Council must state on the record what Applicant can do, if anything, to gain approval of the application(s).

# APPENDIX

# **Exhibit “A”**



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**SITE DATA**

**OWNER/DEVELOPER**  
STERLING LAND DEVELOPMENT, INC.  
1159 E. IRON EAGLE DRIVE,  
SUITE 170-K  
EAGLE, ID 83616  
PH: (208) 228-4482

**ENGINEER**  
DAVID N. STERLING, P.E.  
PAUL LUCIA III, E.I.  
T-O ENGINEERS, INC.  
2471 S. TITANIUM  
MERIDIAN, ID 83642  
PH: (208) 323-2288

**SURVEYOR**  
LADD F. CLUFF, P.L.S.  
T-O ENGINEERS, INC.  
2471 S. TITANIUM  
MERIDIAN, ID 83642  
PH: (208) 323-2288

**ZONING AND SETBACK**  
ZONE: R-3  
CITY SETBACKS  
FRONT = 25'  
REAR = 20'  
SIDE = 10'  
STREET SIDE = 20'

**FIRE DISTRICT**  
CITY OF MIDDLETON  
SEWER AND WATER DISTRICT  
CITY OF MIDDLETON

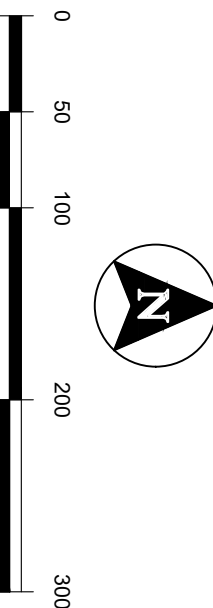
**ROADWAY JURISDICTION**  
CITY OF MIDDLETON  
MIDDLETON MILL DITCH COMPANY

**SCHOOL DISTRICT**  
MIDDLETON SCHOOL  
DISTRICT #134

AREA AND LOT SUMMARY			
	TOTAL	PHASE 1	PHASE 2
TOTAL AREA	42,238.981 SF	51.4 ACRES	
TOTAL RESIDENTIAL AREA	4986.838 SF	22.9 ACRES	
TOTAL COMMON/OPEN SPACE AREA	4799.557 SF	18.4 ACRES	
RIGHT-OF-WAY AREA	4440.456 SF	10.1 ACRES	
COMMUNITY COMMON/OPEN SPACE	430.253	0.7 ACRES	
TOTAL NUMBER OF LOTS	128	56	48
TOTAL NUMBER OF BUILDABLE LOTS	118	50	46
TOTAL NUMBER OF COMMON LOTS	10	6	2
PROPOSED DENSITY	2.30		
AVERAGE RESIDENTIAL LOT SIZE	846.58	0.19 ACRES	
MINIMUM LOT SIZE	8000 SF	0.18 ACRES	
PERCENTAGE OPEN SPACE	35.71%		

PRELIMINARY PLAT FOR  
STERLING LAKES SUBDIVISION

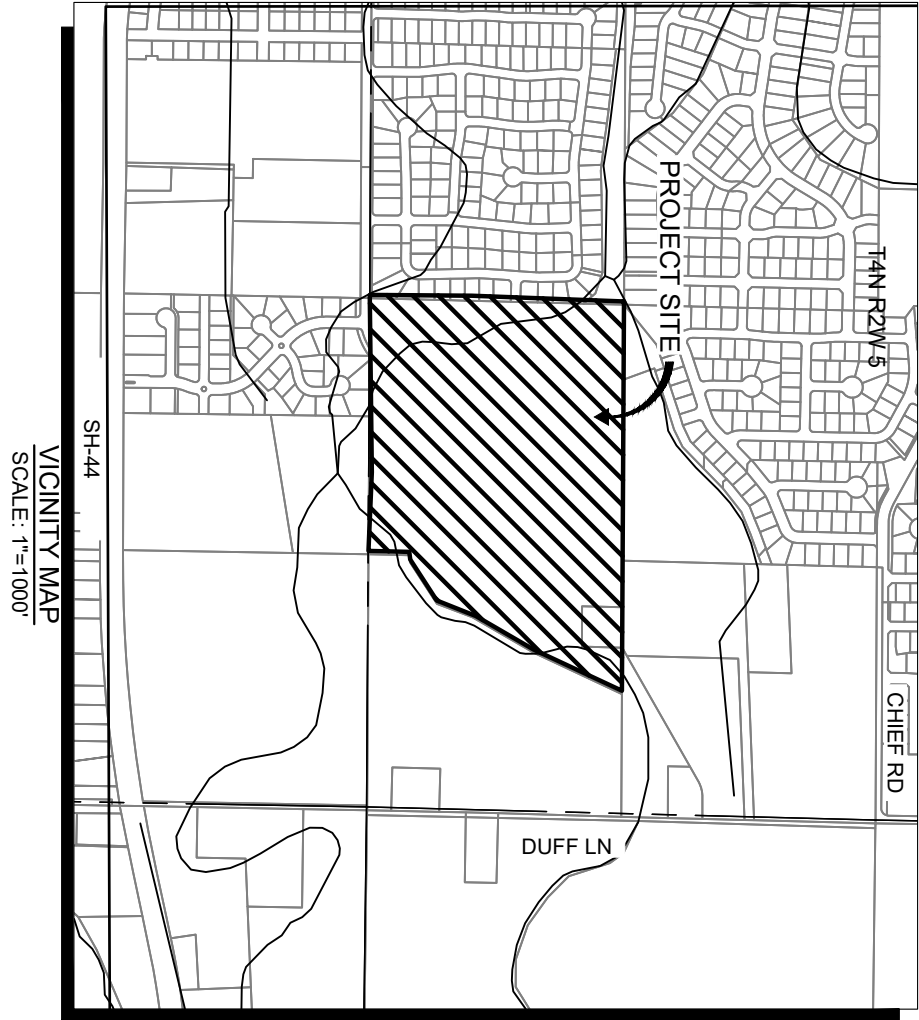
A PORTION OF THE SE 1/4 OF THE SE 1/4 OF SECTION 5  
TOWNSHIP 4 NORTH, RANGE 2 WEST, BOISE MERIDIAN  
CANYON COUNTY, IDAHO  
2021



**DEVELOPER**  
STERLING LAND DEVELOPMENT, INC.  
1159 E. IRON EAGLE DRIVE, SUITE 170-K  
EAGLE, ID 83616  
PH: (208) 960-1215

118 BUILDABLE LOTS  
10 COMMON LOTS  
51 TOTAL ACRES  
ZONE: R-3

SHEET INDEX	
CO.0	LOT DIMENSIONS
CO.01	TYPICAL SECTIONS
CO.02	UTILITY PLAN
CO.03	EXISTING CONDITIONS
CO.04	PROPOSED PLAN PERMIT PLAN



**LEGEND**

--- SUBDIVISION BOUNDARY

--- RIGHT-OF-WAY

--- EASEMENT

--- ROAD CENTERLINE

1 RESIDENTIAL LOT NUMBER

1 COMMON LOT NUMBER

1 BLOCK NUMBER

1 FOUND ALUMINUM CAP

1 FOUND 5/8 REBAR

SURVEY INFORMATION					
ALL ELEVATIONS SHOWN ARE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88).					
NORTHING:	744647.61	NORTHING:	745963.11	NORTHING:	744639.88
EASTING:	228937.63	EASTING:	2400764.67	EASTING:	2400739.80
ELEVATION:	2406.83	ELEVATION:	2410.73	ELEVATION:	2408.96
DESCRIPTION:	5/8" REBAR 1/3 11575'	DESCRIPTION:	5/8" REBAR NO CAP 116	DESCRIPTION:	5/8" REBAR 1/3 1486'
			SECTION CORNER		

- NOTES
1. ALL BUILDING SETBACK AND DIMENSION STANDARDS SHALL BE IN ACCORDANCE WITH R-3 ZONING AT TIME OF BUILDING PERMIT ISSUANCE.

2. COMMON LOTS TO BE OWNED AND MAINTAINED BY THE STERLING LAKES HOMEOWNERS ASSOCIATION.

3. A GENERAL UTILITY EASEMENT OF 10 FEET WILL EXIST ALONG ALL REAR LOT LINES AND 5 FEET ALONG ALL SIDE LOT LINES PER CITY OF MIDDLETON SUBDIVISION REQUIREMENTS.

4. STORM DRAINAGE WILL BE ROUTED TO SWALE FACILITIES LOCATED IN COMMON AREAS. STORM DRAINAGE WILL BE DESIGNED IN ACCORDANCE WITH THE CAYALOG OF STORM WATER BEST MANAGEMENT PRACTICES FOR IDAHO CITIES AND COUNTIES AND THE CITY OF MIDDLETON.

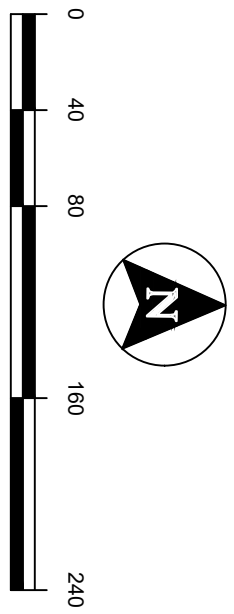
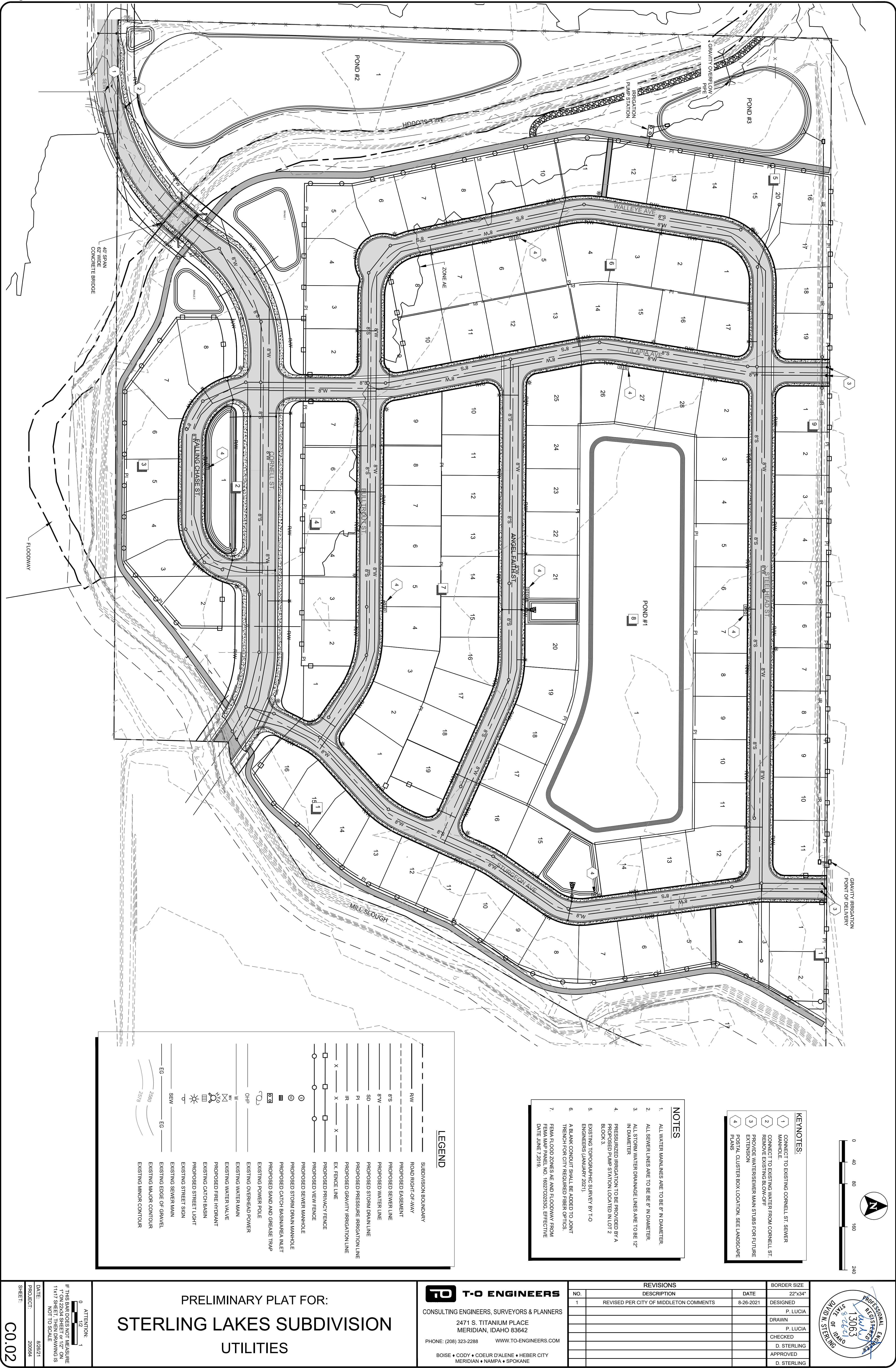
5. INDIVIDUAL PRESSURE IRRIGATION SERVICES WILL BE PROVIDED TO THE REAR OF EACH LOT. PRESSURE IRRIGATION WILL BE CONNECTED TO A NEW PUMP STATION. THE SYSTEM WILL BE OWNED AND MAINTAINED BY THE HOA.

6. BLOCK 1 LOT 3, 17, BLOCK 2 LOT 1, BLOCK 4 LOT 1, BLOCK 5 LOT 1, 20, BLOCK 6 LOT 9, BLOCK 7 LOT 1, BLOCK 8 LOT 1, 1A, BLOCK 9 LOT 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 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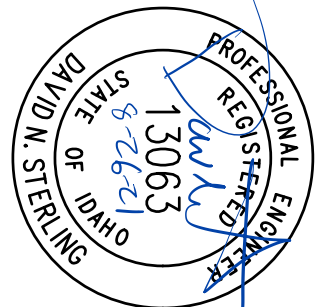


KEYNOTES:	
1	CONNECT TO EXISTING CORNELL ST SEWER MANHOLE.
2	CONNECT TO EXISTING WATER FROM CORNELL ST. REMOVE EXISTING BLOW-OFF
3	PROVIDE WATERSEWER MAIN STUBS FOR FUTURE EXTENSION
4	POSTAL CLUSTER BOX LOCATION. SEE LANDSCAPE PLANS

NOTES	
1.	ALL WATER MAINLINES ARE TO BE 8" IN DIAMETER.
2.	ALL SEWER LINES ARE TO BE 8" IN DIAMETER.
3.	ALL STORM WATER DRAINAGE LINES ARE TO BE 12" IN DIAMETER.
4.	PRESSURIZED IRRIGATION TO BE PROVIDED BY A BLOCK 3.
5.	EXISTING TOPOGRAPHIC SURVEY BY T-O ENGINEERS (JANUARY 2021).
6.	A BLANK CONDUIT SHALL BE ADDED TO JOINT TRENCH FOR CITY REQUIRED FIBER OPTICS.
7.	FEMA FLOOD ZONES AE AND FLOODWAY FROM FEMA MAP PANEL NO. 1602702535, EFFECTIVE DATE: JUNE 7, 2019.

LEGEND	
	SUBDIVISION BOUNDARY
	ROAD RIGHT-OF-WAY
	PROPOSED BASEMENT
	PROPOSED SEWER LINE
	PROPOSED WATER LINE
	PROPOSED STORM DRAIN LINE
	PROPOSED PRESSURE IRRIGATION LINE
	PROPOSED GRAVITY IRRIGATION LINE
	EX. FENCE LINE
	PROPOSED PRIVACY FENCE
	PROPOSED VIEW FENCE
	PROPOSED SEWER MANHOLE
	PROPOSED STORM DRAIN MANHOLE
	PROPOSED CATCH BASIN/AREA INLET
	PROPOSED SAND AND GREASE TRAP
	EXISTING POWER POLE
	EXISTING OVERHEAD POWER
	EXISTING WATER MAIN
	EXISTING WATER VALVE
	PROPOSED FIRE HYDRANT
	EXISTING CATCH BASIN
	PROPOSED STREET LIGHT
	EXISTING STREET SIGN
	EXISTING SEWER MAN
	EXISTING EDGE OF GRAVEL
	EXISTING MAJOR CONTOUR
	EXISTING MINOR CONTOUR

BORDER SIZE	
22"x34"	DESIGNED
P. LUCIA	DRAWN
P. LUCIA	CHECKED
D. STERLING	APPROVED
D. STERLING	



REVISIONS		DATE
NO.	DESCRIPTION	
1	REVISED PER CITY OF MIDDLETON COMMENTS	8-26-2021

**T-O ENGINEERS**

CONSULTING ENGINEERS, SURVEYORS & PLANNERS

2471 S. TITANIUM PLACE  
MERIDIAN, IDAHO 83642


PHONE: (208) 323-2288      WWW.T-O-ENGINEERS.COM

BOISE • CODY • COEUR D'ALENE • HEBER CITY  
MERIDIAN • NAMPA • SPOKANE

PRELIMINARY PLAT FOR:

# STERLING LAKES SUBDIVISION

## UTILITIES



ATTENTION: 1

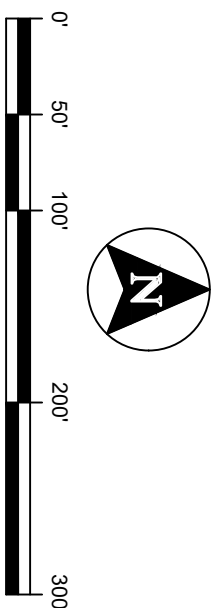
IF THIS BAR DOES NOT MEASURE 1" ON 22x34 SHEET or 1/2" ON 11x17 SHEET, THEN DRAWINGS IS NOT TO SCALE.

DATE: 8/26/21

PROJECT: 20064

SHEET: C0.02





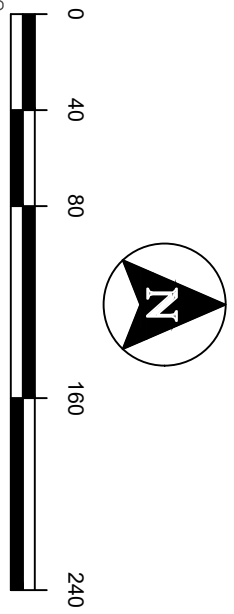
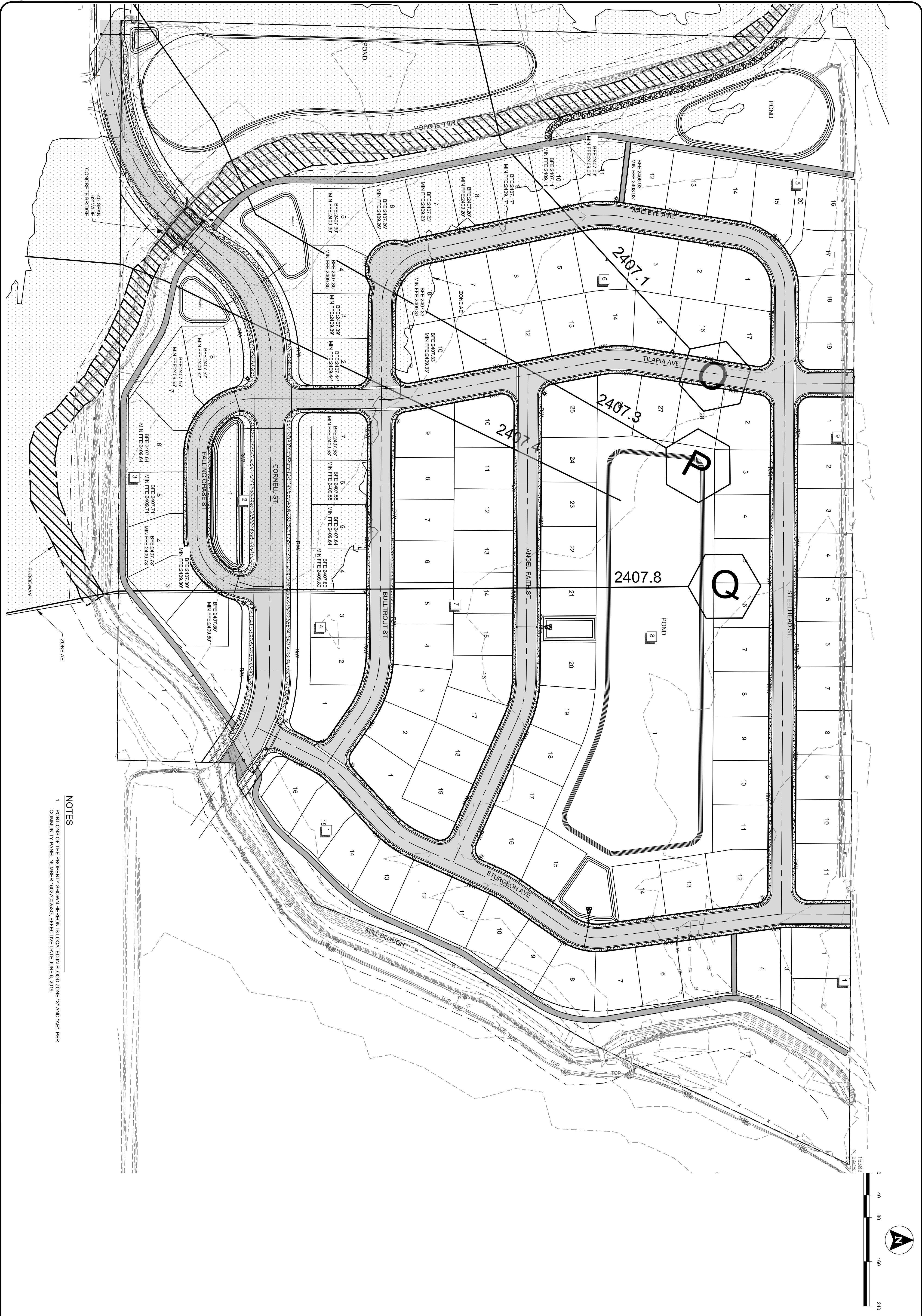
ATTENTION:  
 0 1/2 1  
 IF THIS BAR DOES NOT MEASURE  
 1" ON 2X3/4 SHEET or 1 1/2" ON  
 11X17 SHEET, THEN DRAWING IS  
 NOT TO SCALE

DATE: 8/26/21  
 PROJECT: 200564  
 SHEET: C0.03

## CERTIFICATION



© 2021 T-O ENGINEERS. THIS INSTRUMENT IS THE PROPERTY OF T-O ENGINEERS. ANY REPRODUCTION, REUSE OR MODIFICATION OF THIS INSTRUMENT OR ITS CONTENTS WITHOUT SPECIFIC WRITTEN PERMISSION OF T-O ENGINEERS IS STRICTLY PROHIBITED.



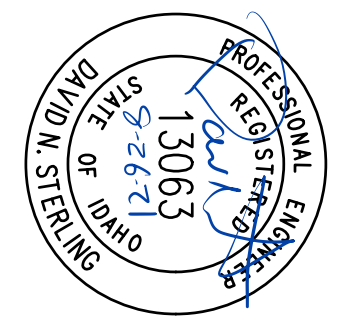
NOTES

- PORTIONS OF THE PROPERTY SHOWN HEREON IS LOCATED IN FLOOD ZONE "X" AND "AE" PER COMMUNITY PANEL NUMBER 1607 (02/85) EFFECTIVE DATE JUNE 9, 2015

PRELIMINARY PLAT FOR:  
**STERLING LAKES SUBDIVISION**  
FLOODPLAIN DEVELOPMENT PERMIT PLAN

**T-O ENGINEERS**  
CONSULTING ENGINEERS, SURVEYORS & PLANNERS  
2471 S. TITANIUM PLACE  
MERIDIAN, IDAHO 83642  
PHONE: (208) 323-2288 WWW.T-O-ENGINEERS.COM  
BOISE • CODY • COEUR D'ALENE • HEBER CITY  
MERIDIAN • NAMP • SPOKANE

REVISIONS			DATE	BORDER SIZE
NO.	DESCRIPTION			
1	REVISED PER CITY OF MIDDLETON COMMENTS		8-26-2021	22"x34"
				DESIGNED
				DRAWN
				CHECKED
				APPROVED



ATTENTION: 0 1  
IF THIS BAR DOES NOT MEASURE  
1" ON 22x34 SHEET or 1/2" ON  
11x17 SHEET, THEN DRAWINGS  
NOT TO SCALE

DATE: 8/26/21  
PROJECT: 20064  
SHEET: C0.04



# **Exhibit "B"**

## **DEVELOPMENT AGREEMENT**

This Development Agreement (**Agreement**) is entered into by and between the CITY OF MIDDLETON, a municipal corporation in the State of Idaho (**City**); and Sterling Lakes LLC, an Idaho limited liability company, referred to hereafter as Developer (**Developer**).

### **RECITALS**

WHEREAS, Developer owns approximately 51 acres of real property located at 23251 Duff Lane, north of Cornell Street, Middleton, Canyon County, Idaho commonly referred to in Canyon County Assessor's records as Parcel No. R3386901, and legally described in Exhibit A attached hereto and incorporated herein by this reference (**Property**); and

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

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

### **AGREEMENT**

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

Development Agreement – \_\_\_\_\_

## **ARTICLE I LEGAL AUTHORITY**

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

## **ARTICLE II ANNEXATION AND ZONING ORDINANCE**

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

## **ARTICLE III CONDITIONS OF DEVELOPMENT**

**3.1 Concept Plan.** The Concept Plan attached hereto as Exhibit "B" is hereby incorporated herein by this reference as if set forth in full. Developer shall be bound to abide by said Concept Plan and shall develop the Property substantially consistent with the Concept Plan.

**3.2 Frontage Improvements.** Developer shall, at its own cost, improve Cornell Street and comply with the City comments and recommendations for final plat approval.

**3.3 Proportionate Share Fees:** Developer shall pay all City required traffic proportionate share fees prior to final plat approval for Phase 1. Payment of the proportionate share fees will be a condition of approval for Phase 1 final plat.

**3.4 R-3 Zone:** Developer shall build only single family homes on the Property in compliance with the R-3 Zone except, pursuant to the variances approved by the Planning & Zoning Commission at the June 7, 2021 Public Hearing on the matter, Developer is entitled to the following two variances or exceptions from Middleton City Code:

- a. The minimum roadway centerline radius is one hundred (100) feet.
- b. Although Cornell Street is planned to be a 3-Lane Urban Roadway per the Supplement to the ISPWC, for the portion of the bridge over the Mill Slough, the roadway may be lowered to only two lanes for the length of the bridge.

**3.5 Cornell Street Mill Slough East Culvert Crossing:** Prior to City signing the final plat for Phase 1, the Developer shall pay the City fifty percent (50%) of the estimated costs for design and construction of the future Cornell Street culvert crossing of Mill Slough located on the east boundary of the Sterling Lakes Subdivision. This cost is agreed to be \$xxxxx and shall be paid to the City as a condition of approval for Phase 1 final plat approval.. This money shall be held by the City and applied to the future cost of

Development Agreement – \_\_\_\_\_

constructing the culvert. This \$xxxx is Developer's only obligation to the future construction of the culvert crossing regardless of future timing of construction or potential price increases or decreases.

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

**3.7 Three Year intervals for Final Plat.** Developer shall be required to submit a final plat application on each phase within three years of final plat approval on the previous phase. Upon written request prior to the expiration of said three year period, Developer may apply administratively with a written request for a one year extension to submit the final plat application. If Developer does not timely apply for a one year extension or does not subsequently submit a final plat application to City within the one year extension time period, then the preliminary plat for said phase and all subsequent phases shall become null and void, and Developer must resubmit the preliminary plat for said phases in order to continue to develop the Property.

#### **ARTICLE IV FAILURE TO COMPLY WITH AGREEMENT**

**4.1** If the Developer fails to comply with any of the terms or conditions in this Agreement, then the portion(s) of this Agreement pertaining to the breach may be modified or terminated by the Middleton City Council, after complying with the notice and hearing requirement contained in Middleton City Code and Idaho Code. If after a breach, the City Council determines that the terms of this Agreement applicable to the breach should be modified, the term(s) of this Agreement shall be amended and the Developer shall comply with the amended terms. Any breach waived by the City shall apply solely to the breach waived and shall not bar any other

rights or remedies of the City or apply to any subsequent breach of any such or other covenants and conditions.

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

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

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

## **ARTICLE V GENERAL PROVISIONS**

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

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

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



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

Developer: Sterling Lakes, LLC  
1159 E. Iron Eagle Drive  
Suite 170-K  
Eagle, Idaho 83616

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

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

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

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

The new owner of the Property or any portion thereof (including, without limitation, any owner who acquires its interest by foreclosure, trustee's sale or otherwise) shall be liable for all commitments and other obligations arising under this Agreement with respect only to such owner's lot or parcel.

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

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

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

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

Dated this \_\_\_\_ day of \_\_\_\_\_, 2021 and effective upon annexation and rezoning of the Property.

**CITY OF MIDDLETON**

**ATTEST**

By: \_\_\_\_\_  
Steven J. Rule, Mayor

By: \_\_\_\_\_  
Becky Crofts, City Clerk

State of IDAHO )

ss.

County of Canyon )

I, a notary public, do hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, 2021, personally appeared before me Steven J. Rule, who, being first duly sworn, declared that he is the Mayor of the City of Middleton, Idaho and signed it as Mayor of the City of Middleton.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

**DEVELOPER:**

By: \_\_\_\_\_  
Brian Sinderhoff

State of Idaho )

ss.

County of \_\_\_\_\_)

I, a notary public, do hereby certify that on this \_\_ day of \_\_\_\_\_, 2021, personally appeared before me Brian Sinderhoff who, being first duly sworn, declared that they signed

Development Agreement – \_\_\_\_\_

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

# **Exhibit "C"**

## Rachel Speer

---

**From:** Nancy Cannetti <necannetti@gmail.com>  
**Sent:** Friday, June 4, 2021 6:03 PM  
**To:** Rachel Speer  
**Subject:** Public Hearing Notice - Annexation/Rezone, Preliminary Plat, Development Agreement (Sterling Lakes Subdivision)

Good Afternoon:

My family recently relocated to Middleton in August 2020. We wanted a simpler life to retire, start anew, and leave the congestion of the city. Middleton seemed perfect and offered that rural lifestyle. When purchasing my home my realtor assured me that the lovely mountain and pasture views from my backyard was zoned agricultural and was expected to remain undisturbed for quite some time as the land was family-owned. Furthermore, Middleton is one of those few towns that strongly supports family values and maintains a true small town community spirit among the residents.

I am very saddened to be advised that these wonderful small town values will be compromised. If Middleton allows the development of this land, Middleton will incur a tremendous increase in traffic which will necessitate additional road construction, traffic signals, and unfortunately additional and increased taxes and utility costs. The small hometown community I moved into will no longer exist, and sadly, I do not think I may wish to remain here in Park Place. In addition, I may not be able to afford living here on a limited income.

In addition, I wish to express my concerns with regard to the presentation during the informational "neighborhood" meeting held on February 26, 2021. The representatives from Sterling Land Development were very pleasant; however, did not have any concrete answers to any of the residents' questions or concerns. We were told "geological" studies were being completed and they assured us that nothing would jeopardize our property's structure/integrity or affect the flood plain on which parts of the homes along the proposed subdivision are located. We (the residents) have concerns that the water which would be in the proposed ponds might leach under our properties and possibly cause sinkholes. Sterling responded that this could not happen due to their using riverbed water (still a concern for us as it was not explained sufficiently). Concerns were also voiced about mosquitoes accumulating around the so-called ponds and were told that they know what they are doing and would ensure steps were taken to avoid these kinds of problems. I also alerted the representatives to an extremely large cottonwood tree between my property and my neighbor's property located on the edge of the proposed development and my fear of the pond structure compromising the root integrity of the tree thus a potential for the tree to fall on my house. I was told they would look into it and that they would have an arborist evaluate the situation. We have not been advised that this has occurred.

I realize a summary of the meeting is included in the application, however, I would like to ensure that we, the residents, will be advised that our concerns will be addressed and an appropriate solution will be required and communicated prior to commencement of the proposed construction project. Also, I do not recall anyone stating that they did not want any kind of fence between their property and the pond.

I wish to go on record that I do not support the application for rezoning submitted by Sterling Land Development Inc. and David Sterling. I respectfully request that the Middleton Planning and Zoning Commission consider denying the application for rezoning the subject property in order to preserve that small hometown character of Middleton.

Thank you for your time and consideration.



**From:** [Nancy Cannetti](#)  
**To:** [Rachel Speer](#)  
**Cc:** [Roberta Stewart](#)  
**Subject:** Re: Public Hearing Notice - Annexation/Rezone, Preliminary Plat, Development Agreement (Sterling Lakes Subdivision)  
**Date:** Monday, June 7, 2021 5:02:51 PM

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Thank you Rachel. I had hoped to participate in person as well; however, due medical reasons I am unable to attend today. I do appreciate your assistance.

If there are any meeting notes or minutes completed that you are able to share, I would appreciate a copy.

Have a nice evening,  
Nancy

On Mon, Jun 7, 2021 at 1:29 PM Rachel Speer <[rspeer@middletoncity.com](mailto:rspeer@middletoncity.com)> wrote:

Thank you for your email. I will make sure the Planning and Zoning Commission is given a copy of this prior to the meeting tonight.

---

**From:** Nancy Cannetti <[necannetti@gmail.com](mailto:necannetti@gmail.com)>  
**Sent:** Friday, June 4, 2021 6:03 PM  
**To:** Rachel Speer <[rspeer@middletoncity.com](mailto:rspeer@middletoncity.com)>  
**Subject:** Public Hearing Notice - Annexation/Rezone, Preliminary Plat, Development Agreement (Sterling Lakes Subdivision)

Good Afternoon:

My family recently relocated to Middleton in August 2020. We wanted a simpler life to retire, start anew, and leave the congestion of the city. Middleton seemed perfect and offered that rural lifestyle. When purchasing my home my realtor assured me that the lovely mountain and pasture views from my backyard was zoned agricultural and was expected to remain undisturbed for quite some time as the land was family-owned. Furthermore, Middleton is one of those few towns that strongly supports family values and maintains a true small town community spirit among the residents.

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utility costs. The small hometown community I moved into will no longer exist, and sadly, I do not think I may wish to remain here in Park Place. In addition, I may not be able to afford living here on a limited income.

In addition, I wish to express my concerns with regard to the presentation during the informational "neighborhood" meeting held on February 26, 2021. The representatives from Sterling Land Development were very pleasant; however, did not have any concrete answers to any of the residents' questions or concerns. We were told "geological" studies were being completed and they assured us that nothing would jeopardize our property's structure/integrity or affect the flood plain on which parts of the homes along the proposed subdivision are located. We (the residents) have concerns that the water which would be in the proposed ponds might leach under our properties and possibly cause sinkholes. Sterling responded that this could not happen due to their using riverbed water (still a concern for us as it was not explained sufficiently). Concerns were also voiced about mosquitoes accumulating around the so-called ponds and were told that they know what they are doing and would ensure steps were taken to avoid these kinds of problems. I also alerted the representatives to an extremely large cottonwood tree between my property and my neighbor's property located on the edge of the proposed development and my fear of the pond structure compromising the root integrity of the tree thus a potential for the tree to fall on my house. I was told they would look into it and that they would have an arborist evaluate the situation. We have not been advised that this has occurred.

I realize a summary of the meeting is included in the application, however, I would like to ensure that we, the residents, will be advised that our concerns will be addressed and an appropriate solution will be required and communicated prior to commencement of the proposed construction project. Also, I do not recall anyone stating that they did not want any kind of fence between their property and the pond.

I wish to go on record that I do not support the application for rezoning submitted by Sterling Land Development Inc. and David Sterling. I respectfully request that the Middleton Planning and Zoning Commission consider denying the application for rezoning the subject property in order to preserve that small hometown character of Middleton.

Thank you for your time and consideration.

Sincerely,

Nancy Cannetti

184 Atlantic Avenue

Middleton

## Rachel Speer

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**From:** Mike Walker <mwjw1960@gmail.com>  
**Sent:** Monday, June 7, 2021 3:41 PM  
**To:** Rachel Speer  
**Subject:** Sterling Lakes Subdivision

Looking at the map, it doesn't appear that there is a connection to Duff or other feeder roads. If the intent is to have the main access from Greenlinks Ave, we will have to object to the addition and rezone. Greenlinks Ave. is already overwhelmed with the addition of the LDS Church on Cornell. Hundreds of cars 2 times a day that were never in the traffic plan.

In addition, what is the construction access to the Sterling Lakes Subdivision?  
Large semi construction trucks will damage the (2) roundabouts on Greenlinks Ave.

Growth is inevitable but putting current residents' comfort/ security at risk is not acceptable.  
Mike and Joan Walker  
1537 Fairway St. (corner Greenlinks and Fairway).

## **Exhibit "D"**



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MIDDLETON RURAL FIRE DISTRICT

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Sterling Lakes Subdivision

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STAR FIRE PROTECTION DISTRICT

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DATE: June 2, 2021

TO: City of Middleton, Planning & Zoning

FROM: Victor Islas, Deputy Chief

SUBJECT: Fire District Review

PROJECT NAME: Sterling Lakes Subdivision, Middleton, Idaho

**Fire District Summary Report:**

**Overview:** This development can be serviced by the Middleton Rural Fire District. This development shall comply with the 2018 International Fire Code (IFC) and any codes set forth by the City of Middleton, Idaho.

**Fire Response Time:** This development will be served by the Middleton Rural Fire District Station 53, located at 302 E. Main St., Middleton, ID 83644. Station 53 is 2.8 miles with a travel time of 6 minutes under ideal driving conditions to the proposed entrance of the development.

**Accessibility:** Roadway Access, Traffic, Radio Coverage

Access roads shall be provided and maintained following Appendix D and Section 503 of the IFC. Access shall include adequate roadway widths, signage, turnarounds, and turning radius for fire apparatus.

Access road design shall be designed and constructed to allow for evacuation simultaneously with emergency response operations.

One- or two-family dwelling residential developments: Developments of one- or two-family dwellings where the number of dwelling units exceeds 30 shall provide with at least two separate and approved fire apparatus access roads.

All access roads in this development shall remain clear and unobstructed during construction of the development. Additional parking restrictions may be required as to maintain access for emergency vehicles at all times. Hydrants shall remain unobstructed at all times per city code.

The fire district requires that Autoturn models be submitted for review. Autoturn models should reflect a standard fire engine and 50' ladder truck.

An unobstructed vertical clearance of no less than 13 feet 6 inches shall be maintained at all times.

The applicant shall work with City of Middleton and Fire District to provide an address identification plan and signage which meets the requirements set forth by each agency. Addressing shall be placed in a position that is plainly legible and visible from the street or road fronting the property, as set forth in International Fire Code Section 505.1



**MIDDLETON RURAL FIRE DISTRICT**

**STAR FIRE PROTECTION DISTRICT**

Upon commencement of initial construction of a new structure, a clear visible freestanding sign or post shall be erected and maintained in place until the permanent address numerals are attached or otherwise displaced upon the premises at completion.

**Specialty/Resource needs:** None

**Water Supply:**

Water supply requirements will be followed as described in Appendix B of the 2015 International Fire Code unless agreed upon by the Fire District.

1. Fire Flow: One- and two-family dwellings not exceeding 3,600 square feet require a fire-flow of 1,000 gallons per minute for a duration of 1 hours to service the entire project. One- and two-family dwellings in excess of 3,600 square feet require a minimum fire flow as specified in Appendix B of the International Fire Code.
2. Water Supply: Acceptance of the water supply for fire protection will be by the Fire District and water quality by the City of Middleton for bacteria testing.
3. Water Supply: Final Approval of the fire hydrant locations shall be by the Fire District or their designee in accordance with International Fire Code Section (IFC) 508.5.4 as follows:
  - a. Fire hydrants shall have a Storz LDH connection in place of the 4 ½" outlet. The Storz connection may be integrated into the hydrant, or an approved adapter may be used on the 4 1/2" outlet.
  - b. Fire hydrants shall have the Storz outlet face the main street or parking lot drive aisle.
  - c. Fire hydrants shall be placed on corners when spacing permits.
  - d. Fire hydrants shall not have any vertical obstructions to outlets within 10'.
  - e. Fire hydrants shall be placed 18" above finished grade to the center of the Storz outlet.
  - f. Fire hydrants shall be provided to meet the requirements of the City of Middleton Standards.
  - g. Show all proposed or existing hydrants for all new construction or additions to existing buildings within 1,000 feet of the project.

**Inspections:**

Final inspection by the Fire District of the above listed including hydrant flow must be completed before building permits are issued

**Additional Comments:**

Side Setback as per City Code. Any modification to setback will require review and approval by the Fire District.

Streetlights shall be turned on once residential building begins, Lighting is essential in assisting first responders with identifying entrances safely while responding to calls for service.

**Boise Office**  
1101 W. River St.  
Suite 110  
Boise, Idaho 83702  
Tel. (208) 629-7447

**Challis Office**  
1301 E. Main Ave.  
P.O. Box 36  
Challis, Idaho 83226  
Tel. (208) 879-4488

**Twin Falls Office**  
236 River Vista Place  
Suite 301  
Twin Falls, Idaho 83301  
Tel. (208) 969-9585

Fax (all offices)  
(208) 629-7559



# SAWTOOTH LAW OFFICES, PLLC

May 24, 2021



**David P. Claiborne \***

**S. Bryce Farris**

**Evan T. Roth**

**Daniel V. Steenson**

**Andrew J. Waldera \*\***

**Brian A. Faria\*\***

**Patxi Larrocea-Phillips**

**Matthew A. Sturzen**

**Katie L. Vandenberg-Van Vliet**

**James R. Bennetts (retired)**

*Attorneys licensed in Idaho  
\* Also licensed in Washington  
\*\* Also licensed in Oregon*

Rachel Speer  
Middleton Planning and Zoning Official  
P.O. Box 487  
Middleton, Idaho 83644

Re: Annexation/Rezone, Preliminary Plat, Development Agreement - **Sterling Lakes Subdivision**

Dear Ms. Speer:

Drainage District No. 2 has an easement that courses through or abuts this property. This easement is 100 feet, 50 feet each side of the centerline, for open drains and 50 feet, 25 feet each side of the centerline for piped or closed drains. The developer must contact the District's attorney's, Sawtooth Law Offices, PLLC, for approval before any encroachment, change of easement, or drainage discharge into the District's facilities occurs. The District must review drainage plans and construction plans prior to any approval.

The District generally requires a License Agreement prior to any approval for the following reasons:

1. Relocation of a District facility which would also require a new easement and relinquishment of the old easement once the relocation has been completed.
2. Piping of District facility.
3. Encroachment on a District facility with gas, water and sewer lines, utility lines, roadways, bridges or any other structures.
4. Drainage discharges into District facilities.

Also, please be advised that the District does not approve of trees within the District's easement. Therefore, any existing trees within the District's easement will need to be removed. On occasion, the District may make exceptions on a case by case basis, which require the developers/owners obtain written permission from District for existing trees to remain.

Please contact me if you have any questions.

Yours very truly,

S. Bryce Farris

SBF:krk

cc: DD#2 Board of Directors

**www.sawtoothlaw.com**

# Communities in Motion 2040 2.0 Development Review

The Community Planning Association of Southwest Idaho (COMPASS) is the metropolitan planning organization (MPO) for Ada and Canyon Counties. COMPASS has developed this review as a tool for local governments to evaluate whether land developments are consistent with the goals of *Communities in Motion 2040 2.0* (CIM 2040), the regional long-range transportation plan for Ada and Canyon Counties. This checklist is not intended to be prescriptive, but rather a guidance document based on CIM 2040 2.0 goals.

**Development Name: Sterling Lakes**






**Agency: Middleton**

**CIM Vision Category: Future Neighborhoods**

**New households: 120**

**New jobs: 0**

**Exceeds CIM forecast: No**

	<b>CIM Corridor: None</b> <b>Pedestrian level of stress: N/A</b> <b>Bicycle level of stress: N/A</b>	Level of Stress considers facility type, number of vehicle lanes, and speed. Roads with <b>G or PG</b> ratings better support bicyclists and pedestrians of all ages and comfort levels.
	<b>Housing within 1 mile: 980</b> <b>Jobs within 1 mile: 110</b> <b>Jobs/Housing Ratio: 0.1</b>	A good jobs/housing balance – a ratio between <b>1 and 1.5</b> – reduces traffic congestion. Higher numbers indicate the need for more housing and lower numbers indicate an employment need.
	<b>Nearest police station: 2.8 miles</b> <b>Nearest fire station: 1.9 miles</b>	Developments within <b>1.5 miles</b> of police and fire stations ensure that emergency services are more efficient and reduce the cost of these important public services.
	<b>Farmland consumed: Yes</b> <b>Farmland within 1 mile: 917 acres</b>	Farmland contributes to the local economy, creates additional jobs, and provides food security to the region. Development in farm areas decreases the productivity and sustainability of farmland.
	<b>Nearest bus stop: &gt;4 miles</b> <b>Nearest public school: 0.9 miles</b> <b>Nearest public park: 0.2 miles</b> <b>Nearest grocery store: 0.9 miles</b>	Residents who live or work less than <b>½ mile</b> from critical services have more transportation choices. Walking and biking reduces congestion by taking cars off the road, while supporting a healthy and active lifestyle.

## Recommendations

The proposal is in an area of east Middleton near a public park, school, and grocery store. This location may reduce trip length and encourage bicycle and pedestrian use. ValleyConnect proposes a bus routes along Highway 44, from Canyon County to downtown Meridian, via Highway 44. The nearest bus stop would be located in downtown Middleton. The proposal utilizes existing stub roads to promote automobile and non-motorized connectivity.

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

Web: [www.compassidaho.org](http://www.compassidaho.org)

Email [info@compassidaho.org](mailto:info@compassidaho.org)

More information about the development review process:

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

# **Exhibit "E"**





# CITY OF MIDDLETON

P.O. Box 487, 1103 W Main Street, Middleton, ID 83644

208-585-3133 Fax (208) 585-9601

citmid@middletonidaho.us

www.middleton.id.gov

## UPDATED PRELIMINARY PLAT COMMENTS – Sterling Lakes Subdivision

August 12, 2021

Please make the following changes to the Preliminary plat:

1. Provide a notarized copy of the Affidavit of Legal Interest showing Sterling Lakes LLC's permission to bring this application.
2. Change the name of Miner Avenue. The street name is already being used in the Falcon Valley Subdivision.
3. Note 6 regarding the 2 private drives must also include language that a public access easement is applied to the private drives. This will allow the UPS man and visitors to access the driveways. Making it only a common lot does not give the public and visitors access to the driveways.
4. Lot #17 is not designated correctly in block 5. Add the number "17"
5. The lot count on Block 7 is wonky. Correct the numbering of lots 11 through 19. It is backwards.
6. Fix the legend on the first page. It is off a line.
7. Show the mailbox locations on the pre-plat
8. Add this note: "Any re-subdivision of this plat shall comply with the applicable regulations in effect at the time of the re-subdivision."
9. Show fenced perimeter

*Roberta Stewart*

Middleton City Planner



May 20, 2021

TO: Roberta Stewart, Planner  
Rachel Speer, PE

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

**RE: STERLING LAKES SUBDIVISION**

---

Thank you for the opportunity to review the above referenced preliminary plat submittal. Every effort was made to identify all the review comments, but additional comments may come up as the application goes forward.

MCC 5-4-3: Traffic Impact Analysis.

MCC 5-4-4.2 a and l. The boundary is required to be surveyed and stamped by PLS including ties to corners. It should be possible to use the description from the deed and retrace fully the boundary. It is not possible to make out common lots, dimensions of lots, boundary limits, etc. Please revisit line work as needed.

MCC 5-4-4.2.f. Topography is required to be shown – not just contours.

MCC 5-4-4.2.h. What is happening with the existing house at northeast corner? Show all topo: existing well, septic, identify all the easements in Schedule B labeled with instrument #, show fully the connection at Cornell Street including existing rights of way and utilities, show fully the connection at Greenlinks including existing rights of way and utilities.

MCC 5-4-4.2.i. Add name of recorded subdivisions adjacent, include book/page.

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

MCC 5-4-4.2.k. Please add the lot count table, per phase.

MCC 5-4-4.2.p. Please specifically identify all land to be dedicated to the public with purpose indicated. Please list lots and use.

Note 3. Remove irrigation and drainage language for front lot easement.

Note 4/Sheet 0.02. Storm water will not be discharged into the ponds and comingled with irrigation and groundwater. Plan to manage a 100 year/1 hour storm using



retention facilities. The front half of the lot C value is 0.60, the rights of way (all) are 0.95. All stormwater management facilities require pretreatment.

Note 5. Expand as required to address Idaho Code 31-3805.

Note 8. Delete.

Add a note regarding fiber.

Street lights every 400 ft maximum, at intersections and culdesacs.

Add a note exterior boundary is required to be fenced.

Show mail box/USPS location.

Identify lots to be used for stormwater management. The use for the lots is exclusive to stormwater – no other utilities co-locate.

Correct street names. Street is east/west. Avenue is north/south. Court is culdesac. No other designations.

The south area Mill Slough easement does not appear to be consistent with the easement in other areas of the plat.

Please plan to connect to existing water and sewer in Cornell, Greenlinks or other. Show fully the existing utilities, connection points, size, etc.

Water corridor is north and east. Sewer corridor is south and west. Revise Talapia to eliminate/minimize sewer crossing water.

Please extend the 8 inch sewer main to the end of Minor to north boundary.

Extend sewer and water across Mill Slough to southeast corner.

Plan to extend Cornell Street right of way to east boundary or otherwise assure future right of way "for others" is available if Sterling Lake is not required to extend Cornell to east boundary.

Extend Sturgeon to north boundary/Grey Trust parcel, including utility extension.

Revisit intersection of Bulltrout and Sturgeon. Correct geometry.



Many lot dimensions are not legible because of line work and conflicts. Double centerline on Cornell. How wide is lot 1 block 4?

The traffic buffer for Cornell is required to be within minimum 24 ft easement.

Use City's local section for Cornell to the bridge. You can transition from existing in 20 ft +/- and we can address fully at construction phase.

Add centerline radii and intersection radii.

Identify limits of flood plain/flood way/base flood elevation(s) as applicable.

As a condition of construction plan submittal to the City, plan to submit the approved reclamation plan (or other) from Dept of Lands for the ponds/mining areas shown. Please double check the top of bank is sufficient distance from the west boundary so there is no impact to neighboring parcels. Dimension for reference.

**Only 50 lots maximum can be developed without a secondary access.**



August 17, 2021

TO: Roberta Stewart, Planner  
David Sterling, PE, TO Engineers

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

RE: **STERLING LAKES SUBDIVISION**

---

Thank you for the opportunity to review the above referenced preliminary plat re-submittal.

MCC 5-4-4.2.h. Will the easements of record be vacated? The easements do impact the right of way to be dedicated. #17 and #19 were not shown or I could not see the call out on C0.03.

Note 4/Sheet 0.02. Storm water may not be discharged into the ponds and comingled with irrigation and groundwater. Wet facilities or wetlands are not acceptable to the City for perpetual ownership and maintenance because of overgrowth, vectors including mosquitoes, odor and continuous neighbor complaints. Please make provision for the stormwater management and separation from groundwater up front. The forebay and storage area may have less than 3 ft from groundwater but can't intersect groundwater or have no provision for groundwater level fluctuation.

Note 7 should also include blanket easement for utilities (water/sewer).

Please add a note exterior boundary is required to be fenced. The landscape plan is fine too but please also add the note to the preliminary plat.

Show mail box/USPS location. The landscape plan is fine too but please also add the information to the preliminary plat.

The use for applicable lots is exclusive to stormwater management. Please add a note identifying the lots and blanket easement language.

The traffic buffer for Cornell is required to be within minimum 24 ft easement. Please revise the typical section to reflect the correct geometry. The berm section is not included in the lot area because lot owners then want to remodel, plant, or otherwise customize the area for other than traffic buffer.

Please use City's local section for Cornell to the bridge including concrete sidewalks. Please revisit the structural section as well.

Add a note to C0.00 and call out a 20 ft public easement for the pathways.

If possible and practical, combine C0.00 and C0.02. Multiple sheets in the plat are hard to manage. Only 50 lots maximum can be developed without a secondary access. The response is not clear but the requirement can't be waived or changed administratively.

C 0.04 is an excellent summary of floodplain/floodway information. Very well done.







August 27, 2021

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

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

**RE: Sterling Lakes Subdivision Preliminary Plat City Engineer Approval**

---

Thank you for the opportunity to review the above referenced preliminary plat submittal.

The preliminary plat appears to be prepared in conformance with, and meet, the applicable sections of Middleton City Code Title 5, Title 6 and City platting requirements. Civil Dynamics recommends Mayor and Council approve the preliminary plat.