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**MIDDLETON CITY COUNCIL  
DECEMBER 7, 2022**

The Middleton City Council Meeting was called to order on December 7, 2022, at 5:31 p.m. by Mayor Steve Rule.

**Roll Call:**

City Council: Council President Kiser, Council Members Huggins, Council Member Murray were present. Council Member Tim O'Meara was absent.

Mayor Rule, City Attorney Douglas Waterman, City Administrator Ms. Crofts, Planning & Zoning Official Ms. Stewart, Public Works Director Mr. Van Gilder and Deputy Clerks Ms. Reynolds and Ms. Day were present.

**Action Items**

**A. Approve Agenda**

**Motion:** Motion by Council President Kiser to approve the Agenda as posted on December 2, 2022, at 3:00 p.m. Motion seconded by Council Member Murray and approved unanimously.

1. **Consent Agenda (items of routine administrative business) (*Action Items*)**
  - a. **Consider approving minutes for City Council November 30, 2022, Special meeting.**
  - b. **Consider ratifying payroll for December 2, 2022, in the amount of \$ 107,345.44.**
  - c. **Consider approving accounts payable through November 10, 2022, in the amount of \$377,793.73.**
  - d. **Consider approving the Findings of Facts, Conclusions of Law & Order for the Waterford East Subdivision project.**

Mayor Rule called items and Council President Kiser stated he had reviewed the accounts payable. Council Member Huggins stated that in the check register there were duplicated pages, however, no checks themselves had been duplicated.

**Motion:** Motioned by Council President Kiser to approve Consent Agenda Items 1 a-d. Motion seconded by Council Member Huggins and approved unanimously.

2. **Consider approving 2023 City Council and Planning and Zoning Commission Regular Scheduled Meeting year schedule.**

Mayor Rule called the item. No discussion by Council.

**Motion:** Motioned by Council President Kiser to approve the 2023 City Council and Planning and Zoning Commission Regular Scheduled Meeting year schedule. Motion seconded by Council Member Huggins and approved unanimously.

3. **Consider approving Final Plat for Bridger Creek Subdivision and request for waiver to allow bonding for roadway construction. – Ms. Stewart**

Mayor Rule called the item and P&Z Official Ms. Stewart presented the Final Plat. She discussed the request for waiver to allow bonding for roadway construction. Mr. Tim Mokwa from Hayden Homes was asked to address Council regarding the request for

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waiver.

Discussion by Council

**Motion:** Motioned by Council President Kiser to approve Final Plat for Bridger Creek Subdivision and request for waiver to allow bonding for roadway construction. Motion seconded by Council Member Huggins and approved unanimously.

4. **Public Hearing: An application by IAG Hidden Mill LLC (successor in interest to IAG LLC) and Bob Unger, Unger Enterprises, LLC for preliminary plat with respect to the Hidden Mill Subdivision (Tax Parcel No. 33891010). The proposed preliminary plat consists of 20 residential lots, 2 common lots, and 2 private lane lots on approximately 6.5 acres of vacant land zoned City R-3 (Single-Family Residential). – Ms. Stewart**

Mayor opened the public hearing at 5:48 p.m.

Legal Counsel advised that this is a new hearing and decisions should be made on the information presented during this public hearing.

P&Z Official Ms. Stewart presented a PowerPoint of the project. (Exhibit 1)

Applicant – Bob Unger presented the project. He also addressed letters received from landowners:

- Mr. Schwab regarding perimeter fence and water and sewer.
- Mr. Solomon regarding wrought iron fencing along the path and a locked gate. Perimeter fencing will provide a shield for vehicle lights.

Applicant Attorney – Louis Spiker – Project is an infill project that meets MCC requirements. The applicant was instructed to meet with the school district, which they have.

Mayor Rule opened public testimony at 6:13 p.m.

Jim Taylor: He likes to see the town grow in and fill in with these types of projects.

Mike Graefe: Doesn't understand where property line is with relation to the slough. Are the two private drives a Common Lot?

Rebuttal: Bob Unger:

- This is an infill lot.
- The property line runs along the slough, that is a common lot, no residential lots have any portion of the slough.
- Each lot is a stand alone residential lot of a minimum 8,000 sq ft.
- Private drives are considered Common Lots and have a recorded access and utility easement.

Mayor Rule closed public testimony at 6:19 p.m.

Council Discussion

**Motion:** Motion by Council President Kiser that based upon the facts and law presented, to approve the application of IAG Hidden Mill for preliminary plat subject to the conditions of

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approval set forth in the Staff Report for the public hearing. Motion seconded by Council Member Huggins and approved unanimously by **Roll Call Vote**.

Mayor Rule closed the public hearing at 6:21 p.m.

Mayor Rule called for a brief recess at 6:21 p.m. and the meeting resumed at 6:30 p.m.

- 5. Public Hearing: (Continued from 11-16-2022): Application by Adam Capell/Toll Brothers Building Company & Nicolette Womack/Kimley-Horn Engineering for annexation and rezone, preliminary plat, and development agreement with respect to the Black Powder Subdivision located at 0 Cemetery Road, Middleton, Idaho (tax parcel no., R38207). The annexation involves 40.28 acres of vacant land currently zoned County "Agricultural." Applicants are requesting a rezone to R-3 (single family residential). The preliminary plat includes 105 single family home lots and 17 common lots. – Ms. Stewart**

Mayor Rule opened the public hearing at 6:30 p.m.

P&Z Official Ms. Stewart presented a PowerPoint presentation of Black Powder application. (Exhibit 2). She also added into the record (Exhibit H) as a late exhibit.

Council Member Murray asked about the cost of the Hartley traffic signal. Ms. Stewart said she didn't know exact numbers but somewhere about 1.7 million dollars.

Applicant Team: Nicolette Womack (Kimley-Horn), Jeff Bower (Givens Pursley LLP), Sonia Daleiden (Kittelson & Associates, Inc.) presented a PowerPoint of the Application. (Exhibit 3)

- Toll Brothers will construct a crosswalk on Cemetery to help with the pedestrian traffic. They will also pay \$150,000 towards an interim traffic signal at Cemetery and SH44. Also wants to know the smallest minimum lot size

Mayor Rule opened public testimony at 6:58 p.m.

Mike Graefe: Not opposed. Wants to know what kind of crosswalk will be constructed. Doesn't think \$150,000 is enough for the traffic light. Coleman had paid lump sum of \$350,000 for the light at Cemetery and SH44.

Rebuttal:

Jeff Bower

- Striping will only be on Crosswalk
- The smallest lot size is 8,500 sq ft.
- \$350,000 payment was made and no strings are attached as to what improvement it is applied to.

Sonia Daleiden

- The traffic improvements at SH44 and Hartley is so expensive because turn lanes and road widening is required.
- A rough cost estimate for an interim traffic signal is \$500-700K.
- Mid-Star Traffic Impact fees will help pay for that as well.
- Black Powder will contribute less than 1% of the traffic impact.
- They will work with the City to determine the type of Crosswalk that is needed at

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Cemetery Road.

Additional Public Testimony (Allowed by Mayor)

Justin Brace: Concerned about intersections in general.

Mayor Rule: Hartley and SH44 was designed and planned over 3 years ago. The City has been waiting for the funding.

Rebuttal:

Sonia Daleiden – Contributions are made to the City for intersection improvements. It is up to the City's discretion to determine what those intersections are. Developers do want to be a part of the solution.

Mayor Rule asked for clarification that this designed subdivision will only affect the Cemetery/SH44 intersection by 1% based on the traffic study. Ms. Daleiden confirmed.

Mayor Rule closed public testimony at 7:16 p.m.

Council Discussion:

*Murray:* Has concerns about cost of traffic signal and traffic in general.

*Huggins:* The City is trying to position itself so as to take advantage of any economic atmosphere. The School District tried to get ahead of the growth in 2018, the community said no thank you. We also have to remember that while traffic is important, it is not the only fund and infrastructure to consider. The city has created the water and sewer infrastructure to support this project.

*Kiser:* It will take 3-4 years before a single car from this subdivision will affect traffic. But the upfront fees for traffic impact is significant, instead of waiting 3-4 years for fees to be paid with building permits.

**Motion:** Motion by Council President Kiser to approve the application of Adam Capell/Toll Brothers for annexation and rezone of the Black Powder project parcel is approved subject to the conditions of approval set forth in the Staff Report for the December 7, 2022, public hearing. Motion seconded by Council Member Huggins.

**Roll Call Vote:** Kiser-Yes, Huggins-Yes, Murray-No.

**Motion:** Motion by Council President Kiser to approve the application of Adam Capell/Toll Brothers for preliminary plat is approved subject to the conditions of approval set forth in the Staff Presentation and in the Staff Report except for the changes noted to condition number 7 of the Staff Report. Motion seconded by Council Member Huggins.

**Roll Call Vote:** Kiser-Yes, Huggins-Yes, Murray-No.

**Motion:** Motion by Council President Kiser to approve the application of Adam Capell/Toll Brothers for development agreement is approved subject to the conditions of approval set forth in the Staff Presentation and in the Staff Report except for the changes noted to condition number 7 of the Staff Report. Motion seconded by Council Member Huggins.

**Roll Call Vote:** Kiser-Yes, Huggins-Yes, Murray-No.

Motion passes 2-1.

Mayor Rule closed the public hearing at 7:34 p.m.

## **6. Public Hearing: Application by City of Middleton for amendment and revision**

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**to the following Middleton City Code sections: (a) MCC 1-3-1; (b) 1-14-1 (c) 4-5-7; (d) MCC 4-5-11; (e) MCC 5-4-1, Table 1; (f) MCC 5-4-4; (g) 5-4-7; (h) 5-4-10-2; (i) 5-4-10-6; and (j) 5-4-10-7. – Ms. Stewart**

Mayor Rule opened the public hearing at 7:34 p.m.

P&Z Official Ms. Stewart presented the proposed code changes via PowerPoint presentation. (Exhibit 4)

Discussion by Council and Staff. Council wants to remove flexspace from M-U and increase bonding requirements from 150% to 200%.

Mayor Rule opened public comment at 8:20 p.m.

Mike Graefe: Doesn't understand flexspace. Doesn't want the ice-cream truck to go away.

Jay Walker: Concerns about landscape traffic buffers, fencing, bonding and flexspace being removed from M-U.

Mayor Rule closed public comment at 8:34 p.m.

Mayor Rule closed the public hearing at 8:34 p.m.

No decision was made, because Ordinance for Code Changes will be brought back before the council at the next meeting.

**Public Comments:**

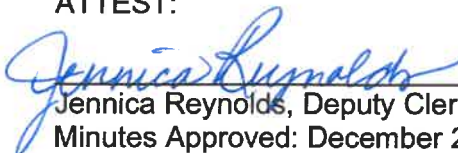
Mike Graefe: He was upset with ITD meeting.

**Mayor and Council Comments**

Mayor Rule: Believes ITD did a good job. They were under a lot of heat.

**Adjourn:** Mayor adjourned the meeting at 8:42 p.m.

ATTEST:

  
Jennica Reynolds, Deputy Clerk  
Minutes Approved: December 21, 2022

  
Mayor Steve Rule

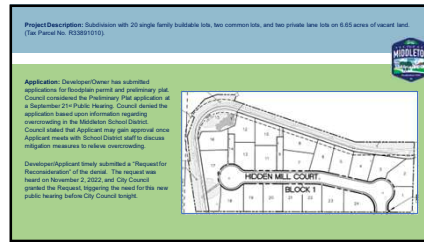


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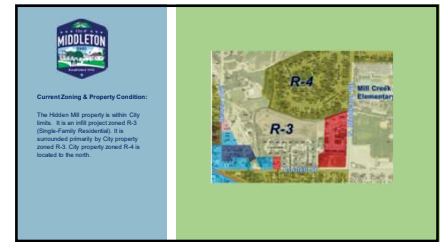




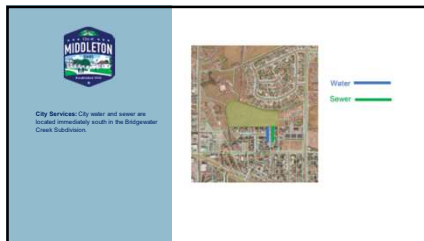
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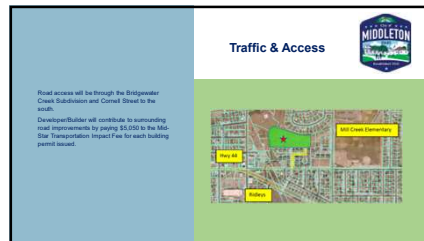
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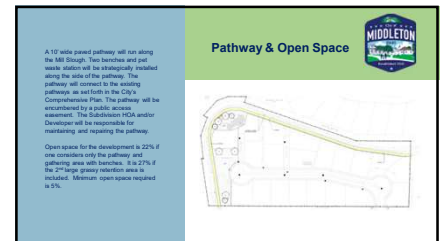
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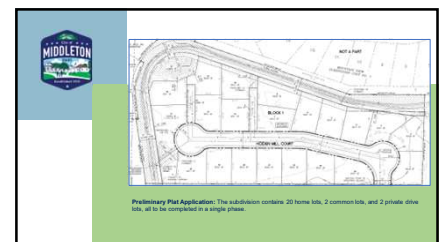
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Applicant is requesting a variance to not place the "perimeter fence" on the actual subdivision perimeter as required by MCC 5-4-12-2. A good portion of the perimeter boundary is located in the middle of the design and will be physically impossible to comply with the code. Therefore, Applicant is requesting that the perimeter fence be placed on the rear boundary of individual home lots. This will also help open up the pathway corridor and the green space area for gathering. The fence along the path will be "open vision" fencing such as wrought iron. (See blue highlight.) The wall of the fencing will be 6' primary fence. (See red highlight.)

Council may grant waiver of conditions to City standards and dimensions when considering a preliminary plat. (MCC 1-15-2.)

10

**Preliminary Plat (part)**

As to findings of facts, per City Code, the public authority, for determining whether a pre-plat should be approved is this:

- Does the pre-plat comply with R-2 Zoning?
- Does the pre-plat meet the standards, dimensions, and requirements of our City Code?

If the answer to both questions is "yes," or if a variance is granted in the event a standard is not met, then the preliminary plat should be approved.

**FINDINGS:** Planning Staff finds that the preliminary plat complies with all standards and requirements in the City and State codes except for the fencing waiver request. Planning Staff further finds that the fencing variance requested is reasonable and should be approved because it is impossible to comply with the code in light of the fact that a good portion of the boundary line is in the center of the Mill Slough.

Additionally, City Engineer, Amy Woodruff, has recommended approval of the Preliminary Plat. (See Recommendation Letter)






11

**Comprehensive Plan & Land Use Map:** Applicant's project complies with the Comprehensive Plan Land Use Map. The intended use is Residential which is an allowable use in the Mixed-Use area (green) shown on the Land Use Map.

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

- Goal 2: Preserve and protect private property rights as required by Idaho law.
- Goal 3: The project provides safe transportation services by creating on-street sidewalks and pathways as extensions or connections to public pathways or sidewalks.
- 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.
- Goals 10, 22 and 23: The addition of pathways increases recreational activity and promotes walkability, social interaction, and health in the Community.
- Goal 11: The project will allow dwelling types that match residents' lifestyles by promoting in-fill housing improvements.

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**Comments Received:**

**Agency Comments:** Comments from Drainage Dist #2, ITD and Middleton Rural Fire were attached as Exhibit "D" for public and Council review.

Of note, when City Council denied Applicant's preliminary plat application at the September 21, 2022, meeting, City Council noted that Applicant may revisit approval once they met with School District Staff to discuss ways to mitigate overcrowding in the schoolhouse. Applicant met with School District Staff and Middleton School District submitted a 2<sup>nd</sup> comment letter recommending the applicant to try, yet with Applicant. The District staff recommended measures that Applicant and School District agreed upon. The agreement is outside of City review, and it will be a private agreement between only Applicant and MSD #134. (The School letter was attached as Exhibit "E" to the Staff Report.)

**Staff & Public Comments:** Comments from City Engineer, Planning Staff & the public were attached as Exhibits "C" and "F" to the Staff Report.




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*Life is better here*





**Applicant/Owner:** MAG Hidden Mill, LLC (successor in interest to Wade Thomas, MAG, LLC) 800 W. Main St., Suite 1400, Boise, Idaho 83702. Representative is Bob Unger of Unger Enterprises.

**Applicable Codes and Standards:**  
Idaho Code Title 47, §§4803, 47-4804, 47-4811, 47-4813, 50-1301 through 50-1329; Idaho Standards for Public Works Construction, the Middleton Supplement to the Idaho Standards for Public Works Construction, Middleton City Code 1-14, 1-15, 5-1, 5-2, 5-3, and 5-4.

| Notices:   | Dates:     |
|--|------------|
| Neighborhood Meeting                                   | 11/10/2021 |
| Neighborhood Notification                              | 11/22/2022 |
| Notice of Application mailed to Landowners within 300' | 11/21/2022 |
| Circulation to Agencies                                | 11/21/2022 |
| Sign Posting property                                  | 11/21/2022 |

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**Planning & Zoning Recommendations:** The Planning & Zoning Commission heard the Hidden Mill application at the August 8, 2022, public hearing. The Commission recommended that City Council approve the application for Preliminary Plat subject to the conditions detailed in the Staff Report and subject to Applicant meeting with the School District to discuss possible ways to assist with school overcrowding. (FCR attached as Exhibit "D" to Staff Report.)

15

**Conclusions and Recommended Conditions of Approval:**

According to Idaho State Law and the Middleton City Code, any land use decision City Council must be based upon Findings of Facts and Conclusions of Law.

**Findings of Facts:** Planning Staff has set forth the Findings of Facts in the Staff Report and in this presentation.

**Conclusions of Law:** As to Conclusions of Law, Planning Staff finds that the City Council has the authority to hear this application and to approve or deny it, with or without conditions. Staff also finds that all public notice requirements were met, and Staff submitted portions of the Idaho State Code and Middleton City Code to be considered in making a decision on the application.






16

If Council is inclined to approve the Hidden Mill Preliminary Plat application, Staff recommends the following conditions:

- City of Middleton water, fire flow and sewer services are to be extended to serve the subdivision.
- All City Engineer review comments are to be completed and approved.
- All City Planner comments are to be completed and approved.
- All comments from Middleton Fire to be completed and approved.
- All Fire District Administrator comments to be completed and approved.
- Pathway along the slough is to be 10 ft wide with a public access easement. Developer/PCA to maintain and repair the public pathway.
- All landscaping and amenities to be installed in compliance with the submitted landscape plan and preliminary plat.
- Developer shall create a plan for operation, maintenance, and repair of stormwater facilities (OM&P) plan, which should be recorded with the CCRs.
- Sewer and water capacity to be reassessed at the time the City approves the construction drawings for the project.

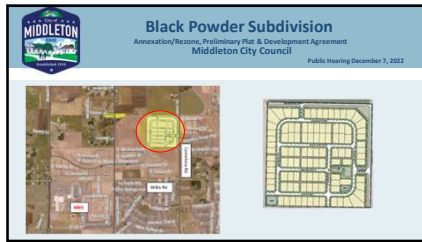
Lastly, if the Council denies the application, Council should state on the record what Applicant can do, if anything, to gain Council approval.

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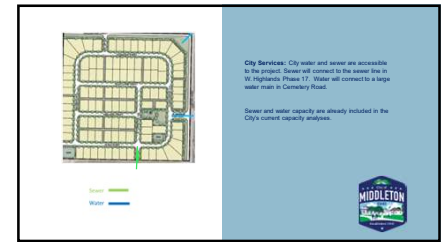
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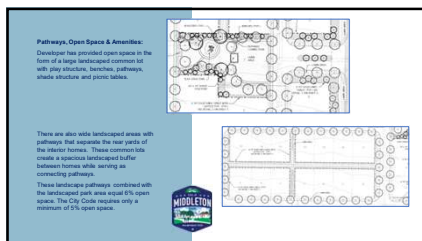
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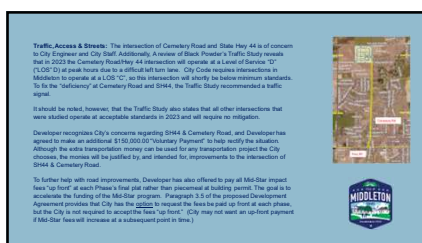
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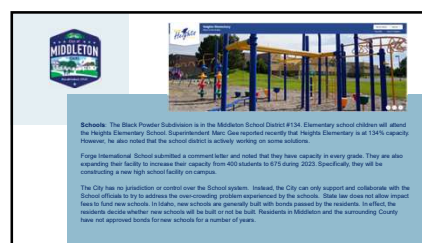
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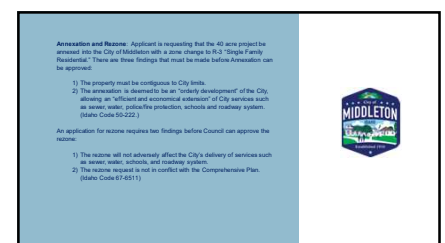
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**Annexation and Rezone.** With respect to annexation, Planning Staff finds that Applicant's project meets the criteria of contiguous and the requirement that city sewer and water be available.

Middleton Rural Fire Department has not submitted comments to otherwise noted a problem with the subdivision. Higgins Elementary is at 134% capacity. Just the school district is already working on solutions to where the overcrowding.

As to traffic, the Traffic Study for the project noted that all intersections operate at acceptable levels except Cemetery & Hay 44 at peak hours. An interim traffic signal would rectify the efficiency and Developer has agreed to pay an additional \$160,000 toward the construction of that signal.

As to the rezoning application, Planning Staff finds that the rezoning will not adversely affect the City's ability to deliver sewer and water. Traffic and schools are impacted, however, as already noted above.



Finally, as will be shown below, Applicant's project both complies with and conflicts with the City's Comprehensive Plan.



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**Preliminary Plat Application:** The preliminary plat shows two phases of development. Planning Staff finds that the proposed preliminary plat complies with the Idaho State Statute and with the development and dimensions set forth in the City Code for the R-3 Zone. Applicant is not requesting any variance from Codes and Standards.


The preliminary plat also provides less density than is permitted in City Code. Block Frontage is density is 2.81 homes per gross acre, which is less than the 3 homes per gross acre allowed by code. (MCC 5-4-1, Table 2)

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**Development Agreement:** A Development Agreement (DA) Application is generally required for any request to rezone property. The conditions of development set forth in the proposed DA are:

- Developer will develop the community generally consistent with the concept plan attached to the DA.
- Developer will stripe a crosswalk at the intersection of Cemetery Road and Middle Park Road.
- Developer will provide safe access across Cemetery Road to the future Middle Park School site.
- Developer to provide the following amenities: playground structure, benches, and shade structure, with at least two picnic tables.
- Developer shall improve the full street width of Cemetery Road and Middle Park Road at its own cost.
- Developer to pay the \$150,000 voluntary payment for additional transportation improvements prior to final plat approval for Phase 1. City may choose which transportation projects to apply the money to.
- Developer will have two years to obtain final plat approval for Phase 1. Developer may wait less than one year after rezoning, thereby allowing a total of 4 years to bring Phase 1 to final plat approval. After Phase 1 final plat, Developer will have two years to obtain final plat approval for Phase 2. This time period may also be extended with two 1-year extensions. Failure to meet these time-lines may result in the City terminating the DA and nullifying the preliminary plat.
- Developer to construct interior local streets per the street section shown on the approved preliminary plat. Instead of a 5' wide detached sidewalk as shown in City code, Developer will build a 5' wide detached sidewalk with a 7' move strip in between curb and sidewalk.



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**Comprehensive Plan & Land Use Map:** Applicant's project complies with the Comprehensive Plan's Future Land Use Map because the proposed R-3 zone complies with the "Residential Use" shown on the FLUM.

As noted earlier, Applicant's project is in conflict with Goals #1 and 3 to provide safe roads and adequate delivery of services. However, the project does comply with the following Goals, Objectives, and Strategies of the 2019 Middleton Comprehensive Plan as follows:

- Goal #4 Project creates quality lots for residential use that increase the quality of life and general welfare of the City as a whole.
- Goal #6 Water, sewer, and adjacent local roads will be expanded in an orderly manner consistent with population growth.
- Goal #10 Project provides playgrounds, pathways and outdoor recreational activities.
- Goal #11 The housing type matches the residents' lifestyle in the area the project is located.


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**Comments Received from Surrounding Landowners:** Comments received from the public were attached as Exhibit "D" to the Staff Report for public review and Council consideration.

**Comments from Agencies:** City received comments from COMPASS, Middleton School District #134 and ITD, and they were attached as Exhibit "F" to the Staff Report. We also received a comment from Fridge School after the Agenda was posted. (LA 5, Exhibit "F" on courtesy & a dead mouse)

**Comments from City Engineer and Planning Staff:** Copies of Engineering and planning comments were attached as Exhibit "F" to the Staff Report.

**Applicant Information:** Applicants are Adam Capal/Tad Brothers and Nicolea Womack/Kirby-Horn Engineering (1503 W. Sheld Dr #110, Middleton 83642) 10019 Barnack Street, #1100, Boise, 83702. Application was accepted on 1/25/2022.



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**Notices & Neighborhood Meeting Dates:** (Public hearing was continued from November 16, 2022 to December 7, 2022.)

| Notice Type                          | Date      | Location/Event       |
|--------------------------------------|-----------|----------------------|
| Newspaper Notification               | 11/1/2022 | Sign Posting         |
| Radius notice to adjacent landowners | 11/1/2022 | Neighborhood Meeting |
| Circulation to Agencies              | 10/3/2022 |                      |

**Pertinent Codes and Standards:**

Idaho Standards for Public Works Construction, the Middleton Supplement to the Idaho Standards for Public Works Construction, Middleton City Code 1-14, 1-16, 5-1, 5-2, 5-3, and 5-4, and Idaho Code Title 67, Chapter 69 & Title 50, Chapters 2 and 13.



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**P&Z Commission Recommendation:**

The Board of Planning applications was considered by the P&Z Commission in a public hearing held on September 12, 2022. The Commission recommended denial of all three applications based upon the fact that the governing bodies did not have sufficient information to make a decision on denial or approval until after the City's traffic study of Hay 44 is completed in early 2023. A copy of the Findings of Facts, Conclusions of Law & Recommendation was attached as Exhibit "D" to the Staff Report for public review and Council consideration.




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**Conclusions and Conditions of Approval:**

Per State law and the Middleton City Code, any final decision and order with respect to Developer's three applications must be based upon findings of facts and conclusions of law.

**As to Findings of Facts,** Planning Staff has set forth findings of facts in the Staff Report and in this presentation.

**As to Conclusions of Law,** Planning Staff finds that City Council has the authority to hear these applications and to determine whether the applications should be denied or approved, with or without conditions. Additionally, Planning Staff notes that all public notice requirements were met. Planning Staff further set forth the portions of the Idaho State Code and Middleton City Code to be considered in making a determination on the applications.




17

**Annexation/Rezone, Preliminary Plat, and Development Agreement Applications:** If Council is inclined to approve the three applications below, then Planning Staff recommends that any approval be subject to the following conditions:

- City water, fire flow and sewer services are to be extended to serve the subdivision.
- Developer to comply with all terms of the Development Agreement approved for the subdivision.
- Developer to install landscaping and all amenities in compliance with the Landscape Plan and preliminary plat submitted with the application.
- Developer shall create a plan for operation, maintenance and repair of sewerage facilities (OSM Plan) contained on the project site. The OSM Plan shall be recorded with the CGM. Developer under HOA must maintain and operate the subdivision sewerage facilities in compliance with the CGM Plan.
- Developer to comply with all conditions of approval set forth in the Staff Report for this hearing except Condition #4 regarding payments pursuant to MCC 5-4-3. Instead, Developer to pay a \$150,000.00 Voluntary Payment at final plat for phase 1.
- All City Engineer and Planner review comments are to be completed and approved.
- Sewer and water capacity to be reassessed at the time City approves the construction drawings for the project.

If Council denies the applications, then Council should explain what Applicant can do, if anything, to obtain an approval.



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## Exhibit "H"



**FORGE**  
INTERNATIONAL  
**SCHOOL**

208 S. Hartley Lane  
Middleton, ID 83644  
208-244-0577  
[www.forgeintl.org](http://www.forgeintl.org)

December 5, 2022

via email [rstewart@middletonciv.com](mailto:rstewart@middletonciv.com)

City of Middleton  
c/o Roberta Stewart, Planning and Zoning Official  
1103 West Main Street  
Middleton, ID 83644

**RE: Black Powder Subdivision**

Dear Mayor Rule and Councilmembers:

This comment letter is provided in connection with Toll Brothers' pending application for the Black Powder residential community.

Forge International is a public charter school of choice that provides free public education to students in K-10th grade. We prepare students to become true citizens of the world, equipped to participate and engage in local and global issues. Forge International school is located in the City of Middleton just south of State Highway 44 on Hartley Lane, approximately 2 miles from the proposed Black Powder residential community.

Forge International school currently has capacity in all grades and we are actively implementing a facility expansion that will increase our student capacity. We have approximately 400 students and we are in the process of building a high school facility on the campus that will increase capacity to 675 students by Fall 2023. We will also be adding 11th grade in 2023 and 12th grade in 2024 following the completion of the new high school facility.

Please feel free to reach out to me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Andy Johnson', with a stylized flourish at the end.

Andy Johnson  
Executive Director

# **EXHIBIT “3”**



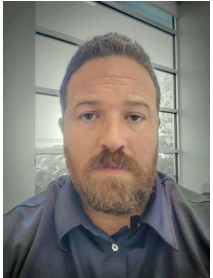
# Black Powder Subdivision

***Toll Brothers***  
AMERICA'S LUXURY HOME BUILDER®

**Kimley»Horn**  
Expect More. Experience Better.



# Applicant Team



**ADAM R. CAPELL**

Toll Brothers  
Meridian, ID



**KYLE PREWETT**

Toll Brothers  
Meridian, ID



**BRANDON MCDOUGALD  
P.E., LEED AP**

Kimley-Horn  
Boise, Idaho



**NICOLETTE WOMACK, AICP**

Kimley-Horn  
Boise, Idaho



**MICHAEL O'REILLY, PE**

Kimley-Horn  
Boise, Idaho



**JEFF BOWER**

GIVENS PURSLEY LLP  
Boise, Idaho



**LAUREN NUXOLL, PE PTOE**

Kittelson & Associates, Inc.  
Boise, Idaho



**SONIA HENNUM DALEIDEN, PE PTOE**

Kittelson & Associates, Inc.  
Boise, Idaho



***Toll Brothers***  
AMERICA'S LUXURY HOME BUILDER®

# Before You Tonight

- Annexation & Rezone
- Preliminary Plat
- Development Agreement



# Timeline





# Future Tentative Timeline

**FALL 2022**  
Design Start

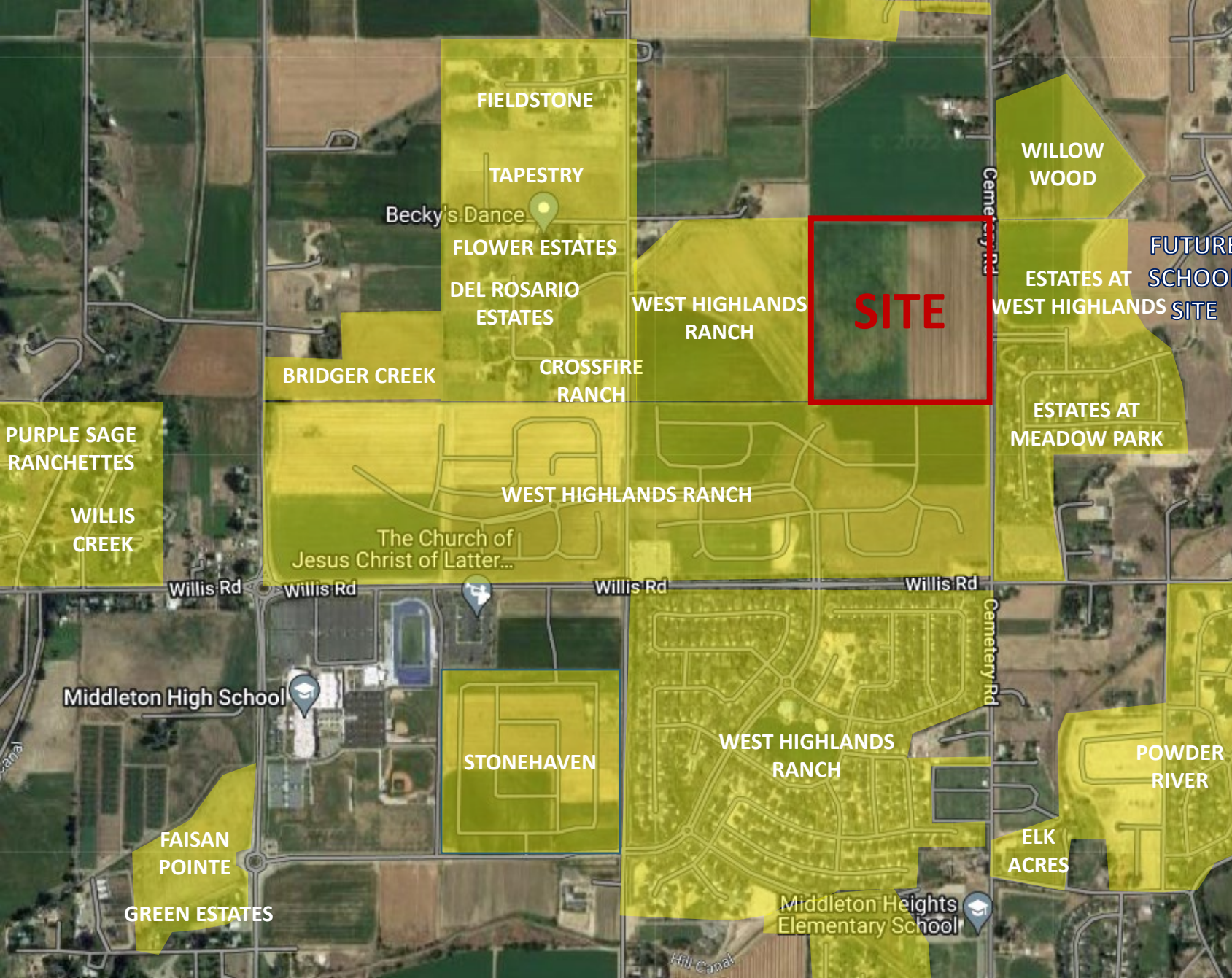
**FALL-SPRING  
2024**  
Construction

**SUMMER 2024**  
Recording

**FALL 2024**  
Home Building

**SUMMER 2025**  
Occupancy  
Phase 1  
(49 lots)

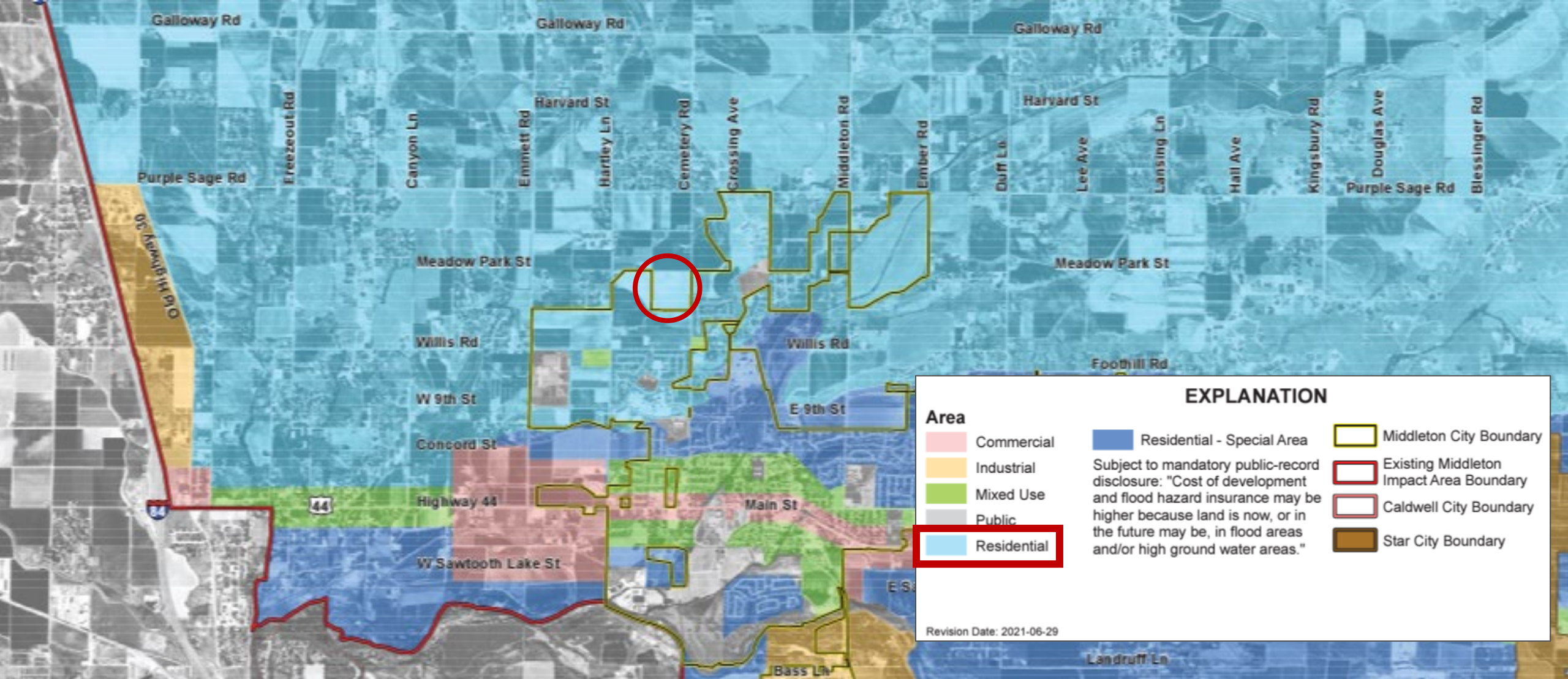
**FALL 2028**  
Full Build Out  
Phase 2  
(56 lots)



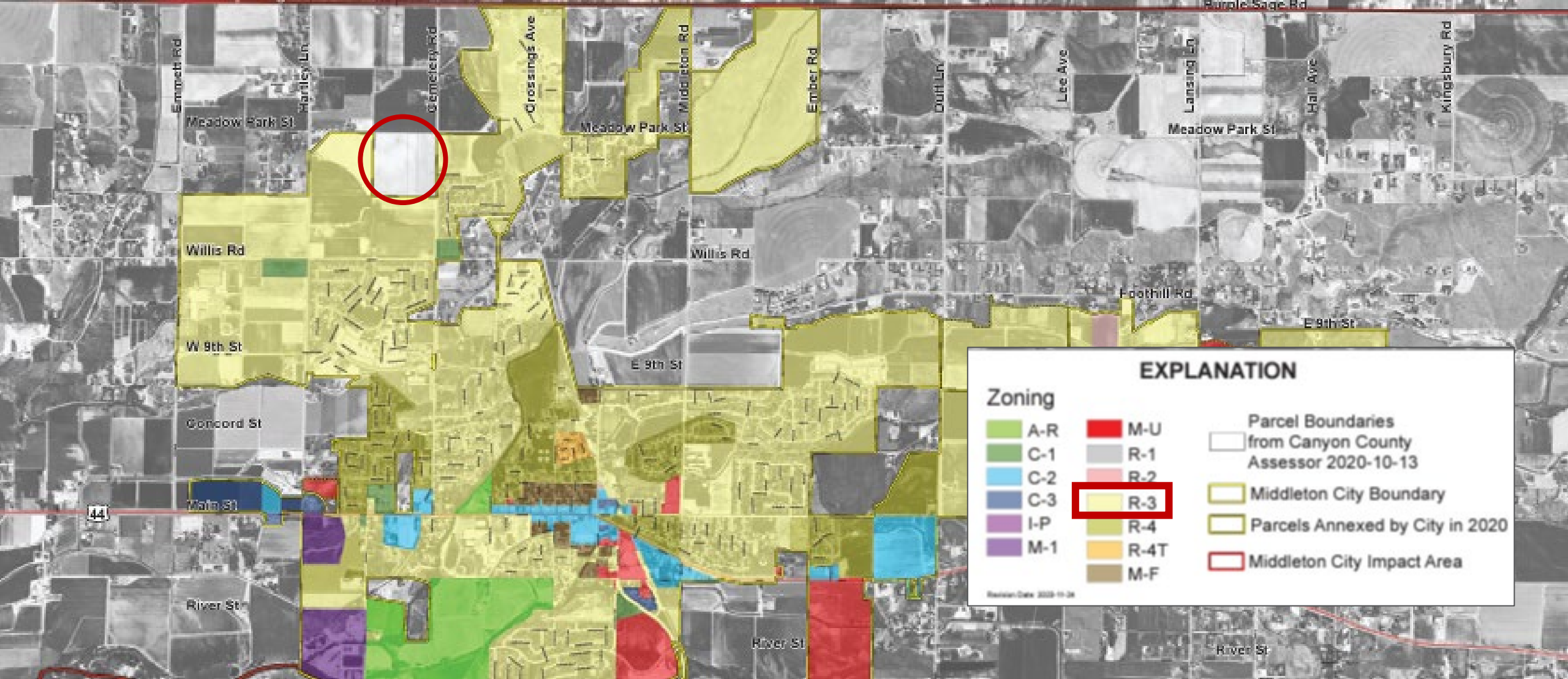
# Vicinity Map

- 40.28 acres





# Future Land Use Map



# Zoning Map



## MEADOW PARK STREET



CEMETERY ROAD

# Black Powder

|                   |              |
|-------------------|--------------|
| Property Size:    | 40.28 acres  |
| Total Units:      | 105          |
| Density:          | 2.61 du/acre |
| Average Lot Size: | 10,159 sq ft |

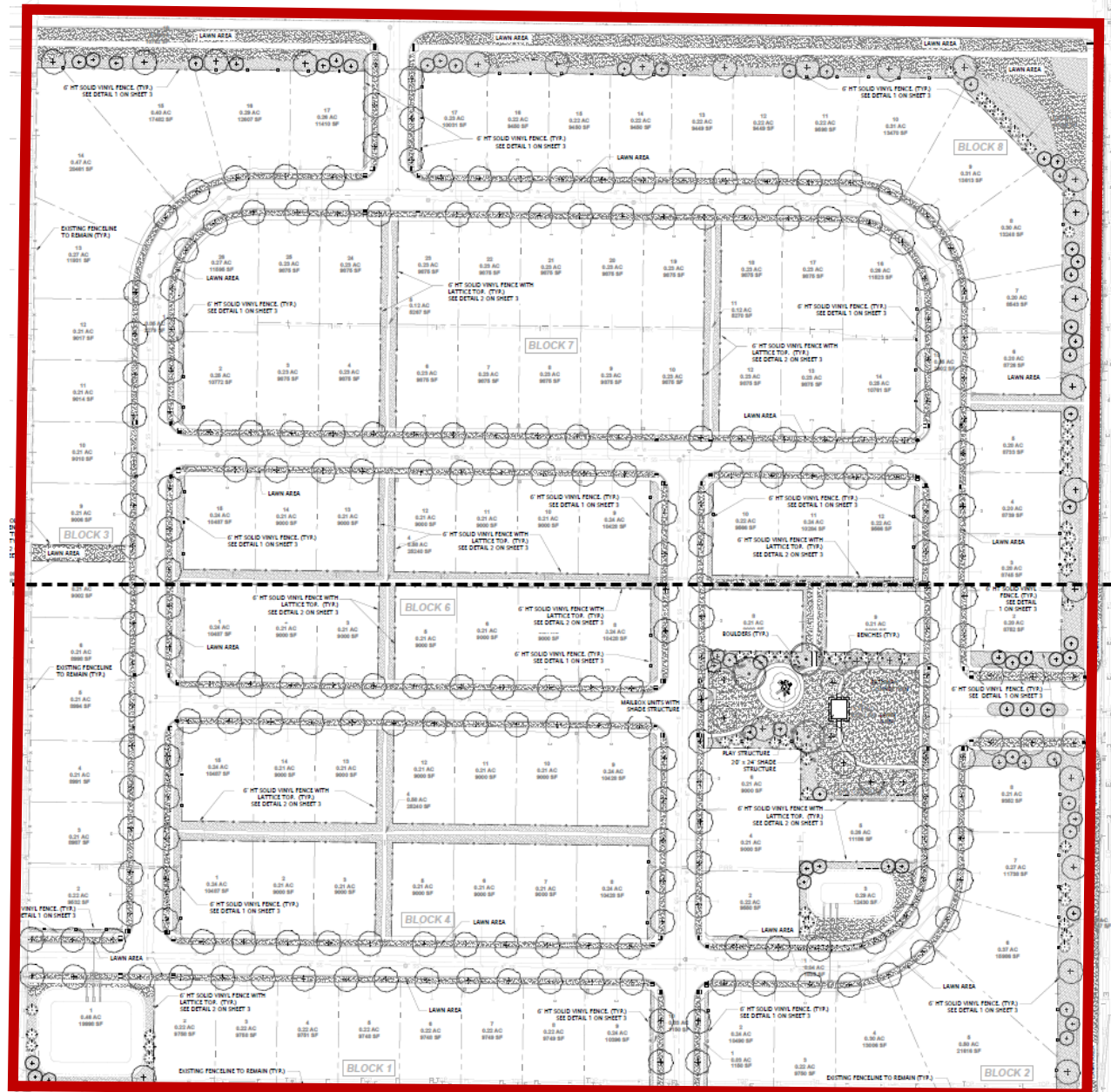
# PHASE 2

# PHASE 1



# Black Powder

|                              |  |
|------------------------------|--|
| <b>Qualified Open Space:</b> | 8.41% or 3.39 acres  |
| <b>Open Space:</b>           | 12.49% or 5.03 acres   |
| <b>Amenities</b>             | Large Park w/ play structure, shade ramada, benches and pathways |





# Central Amenity

STACKROCK GROUP





# Concept Entry Monument

- Consistent with West Highlands Ranch





# Conceptual Elevations





# Key Transportation Findings

**From:** Vincent Trimboli <Vincent.Trimboli@itd.idaho.gov>  
**Sent:** Tuesday, August 23, 2022 8:48 PM  
**To:** Jennica Reynolds <jreynolds@middletoncity.com>  
**Subject:** RE: Notice - Black Powder PZ

ITD does not anticipate any significant traffic impacts to the State Highway system from this development and has no objections to the proposal development.

Vincent Trimboli  
District 3, Planning and Development Services Manager  
Office: 208.334.8817  
Cell: 208.949.3712



YOUR Safety •••► YOUR Mobility •••► YOUR Economic Opportunity

**From:** [Niki Benyakhlef](#)  
**To:** [Roberta Stewart](#)  
**Subject:** RE: Notice - Black Powder Subdivision - Middleton City Council  
**Date:** Monday, November 14, 2022 12:10:45 PM  
**Attachments:** [image003.png](#)  
[image005.png](#)

Good Afternoon, Roberta –

ITD has no comments or concerns to make at this time. This may change once development and site plans are finalized and disbursed.

Thank you,



Niki Benyakhlef  
Development Services Coordinator

District 3 Development Services  
O: 208.334.8337  
C: 208.296.9750  
Email: [niki.benyakhlef@itd.idaho.gov](mailto:niki.benyakhlef@itd.idaho.gov)  
Website: [itd.idaho.gov](http://itd.idaho.gov)

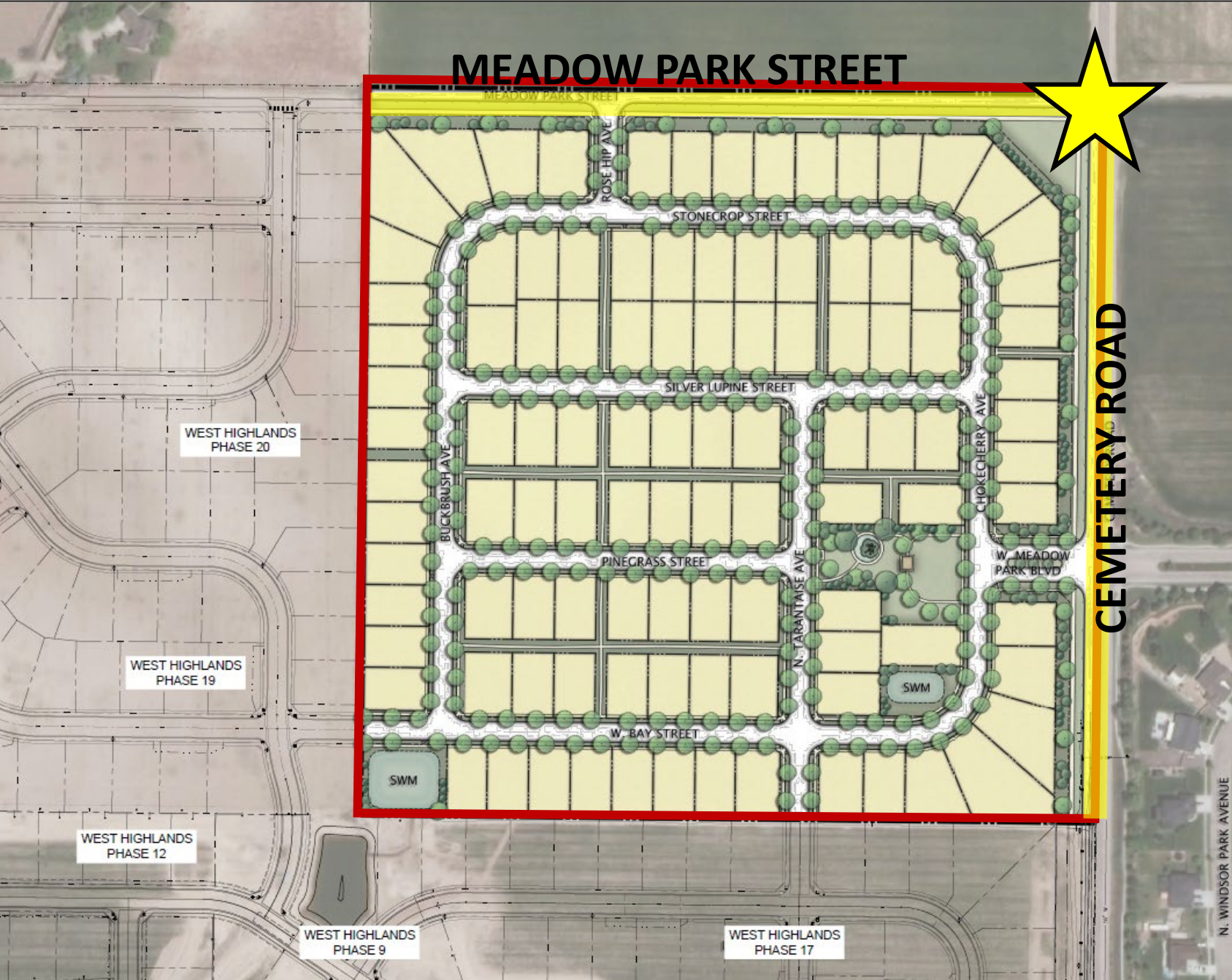
## MEADOW PARK STREET



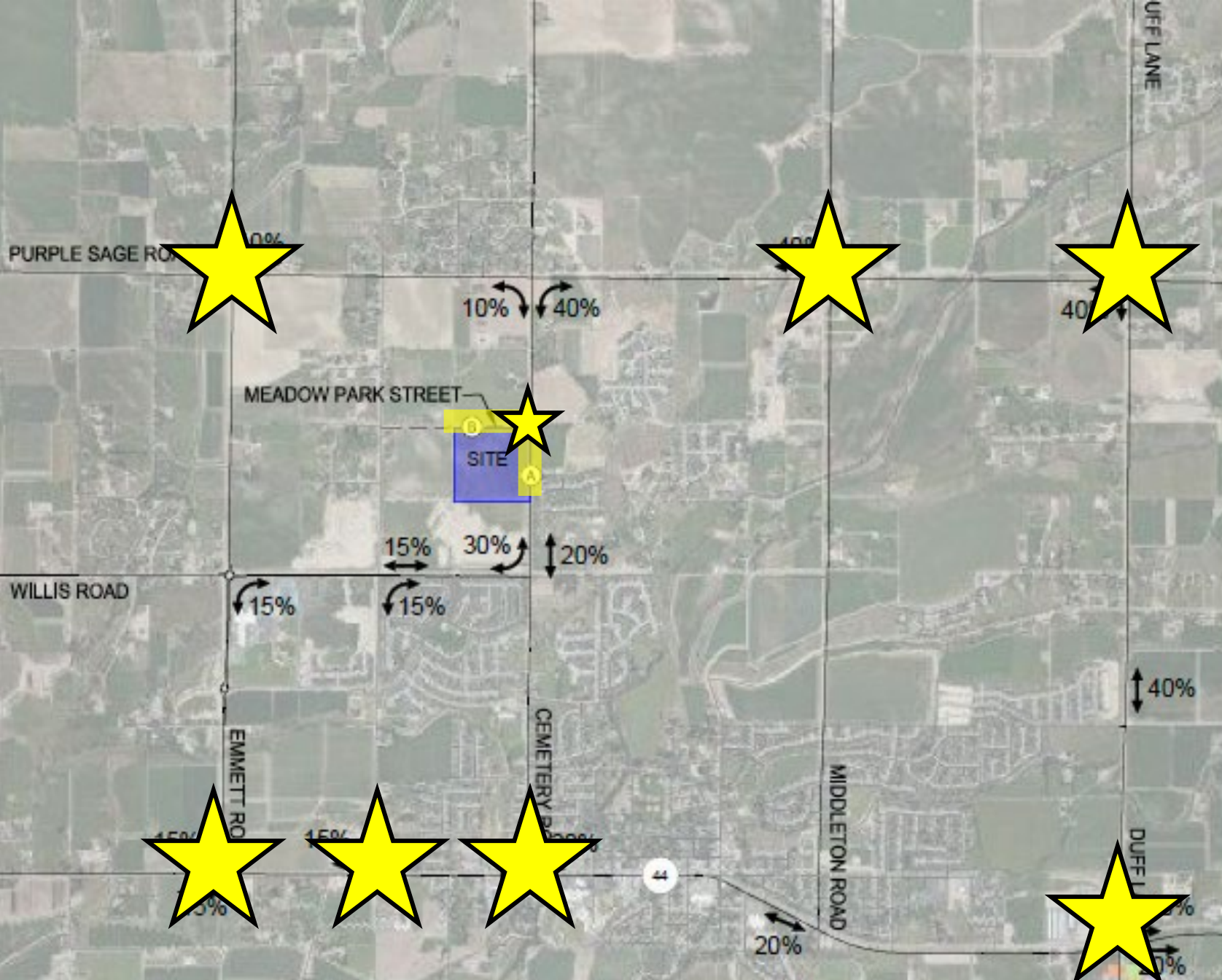
## CEMETERY ROAD

# Initial Transportation Contributions

- Meadow Park Street 1/2 Street Construction (Leads to Future School Site) - \$492,000
- Crosswalk on Cemetery Road (Leads to Future School Site) - \$20,000
- Cemetery Road Frontage Improvements - \$327,000







# Total Transportation Contributions

| IMPROVEMENT                        | COST        |
|------------------------------------|-------------|
| Meadow Park ½ Street               | \$492,000   |
| Cemetery Rd Crosswalk              | \$20,000    |
| Cemetery Rd Improvements           | \$327,000   |
| Mid Star Transportation Impact Fee | \$530,000   |
| Voluntary Roadway Payment          | \$150,000   |
| TOTAL:                             | \$1,519,000 |

# Requested Action

- Approval for the Annexation & Rezone, Preliminary Plat and Development Agreement



# School District Comments



**Marc Gee**  
Superintendent

**Lisa Pennington**  
Assistant Superintendent

5 South Viking Avenue  
Middleton, ID 83644  
(208) 585-3027  
msd134.org

## Middleton School District #134

*Every Child Learning Every Day*

### Middleton School District #134

#### City of Middleton--Public Hearing Notice Response

##### General Response for All New Development

Middleton School District is currently experiencing significant growth in its student population. **As it is now, we have 2 of our 3 elementary schools over capacity. Heights Elementary is 134% of capacity with three portable units. Mill Creek Elementary is 123% of capacity with 2 portables (soon to be 4).** We are nearing capacity, but have not superseded at this point, at our high school (94%) and middle school (85%). As it stands now there is a need for additional facilities in our school district, primarily at the elementary grades. However, we have significant concerns of the continued growth and our ability to meet the future facility needs of our district at the secondary level (Middleton Middle School and Middleton High School).

We have completed a demographic study performed for our school district boundaries and the data suggests that for every new home we could expect between 0.5 and 0.7 (with an average of .559)\*\* students to come to our school. That is the factor/rate we use to make our projection of student impact for each development.

We encourage the city to be judicious in their approval process recognizing that each new development brings new students to our school and will increase the burden placed on taxpayers within the school district. New facilities, primarily an elementary school, are needed now, but additional students continue to increase that need.

*\*\*Please note a change in this rate from previous correspondence*

##### Black Powder Subdivision

Students living in the subdivision as planned would be in the attendance zones for Middleton Heights Elementary school, our most overcrowded school (though borders may change in order to equalize student loads at all elementary schools). With 105 total lots, we would anticipate, upon completion, an increase of 53-74 students between Heights Elementary, Middleton Middle School, and Middleton High School. **To put this in perspective, that equates to approximately 2-3 classrooms of students (ave. 25 students).** Every classroom at Heights Elementary right now has an initial cost of \$125,000 just for the portable unit that would be required to house the students. That does not include the costs of other materials required (ie desks, chairs, curricular materials, etc).

In addition to the increase in student population, based on the location, bussing would be provided for middle school students, though that may change based on the design of the plat and its connection to a safe walking route to the other schools. Having not seen the design of the subdivision we would recommend the developers meet with the school district officials and transportation officials to ensure adequate access for bussing to the area.

# Charter Schools



**FORGE**  
INTERNATIONAL  
SCHOOL

208 S. Hartley Lane  
Middleton, ID 83644  
208-244-0577  
[www.forgeintl.org](http://www.forgeintl.org)

December 5, 2022

via email [rstewart@middletoncity.com](mailto:rstewart@middletoncity.com)

City of Middleton  
c/o Roberta Stewart, Planning and Zoning Official  
1103 West Main Street  
Middleton, ID 83644

**RE: Black Powder Subdivision**

Dear Mayor Rule and Councilmembers:

This comment letter is provided in connection with Toll Brothers' pending application for the Black Powder residential community.

Forge International is a public charter school of choice that provides free public education to students in K-10th grade. We prepare students to become true citizens of the world, equipped to participate and engage in local and global issues. Forge International school is located in the City of Middleton just south of State Highway 44 on Hartley Lane, approximately 2 miles from the proposed Black Powder residential community.

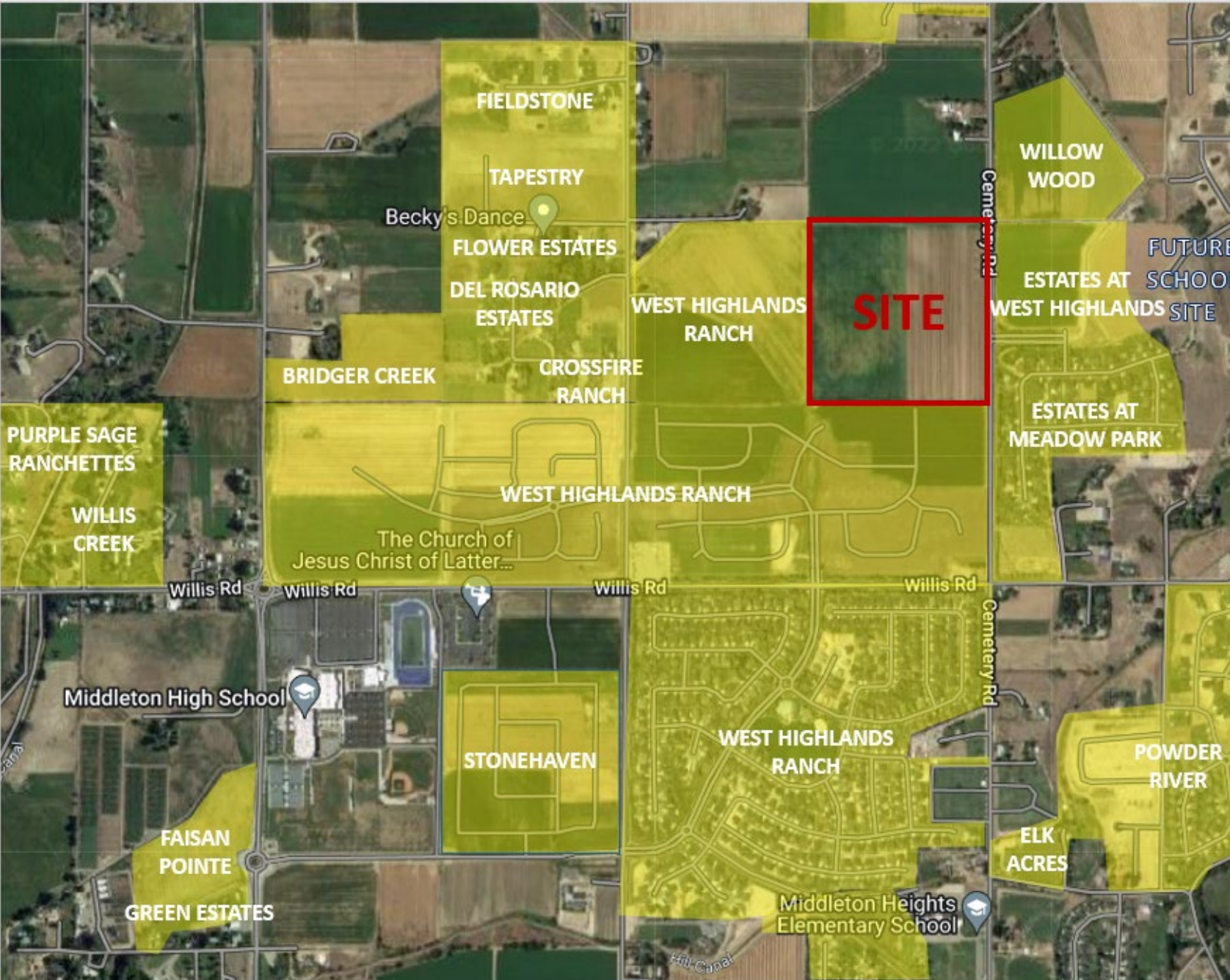
Forge International school currently has capacity in all grades and we are actively implementing a facility expansion that will increase our student capacity. We have approximately 400 students and we are in the process of building a high school facility on the campus that will increase capacity to 675 students by Fall 2023. We will also be adding 11th grade in 2023 and 12th grade in 2024 following the completion of the new high school facility.

Please feel free to reach out to me with any questions.

Sincerely,

Andy Johnson  
Executive Director





# Annexation Findings

1. The property must be contiguous to City limits.
2. The annexation is deemed to be an “orderly development” of the City allowing “efficient and economical extension” of City services such as sewer, water, police/fire protection, schools and roadway system. (Idaho Code 50-222)

# Rezone Findings

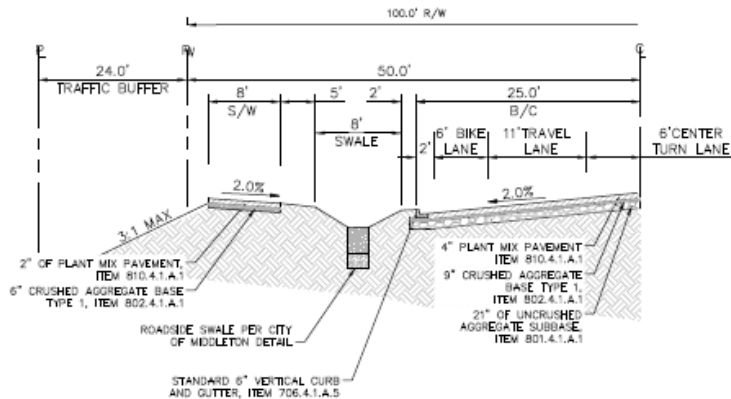
1. The rezone will not adversely affect the City's delivery of services.
2. The rezone request is not in conflict with the Comprehensive Plan. (Idaho Code 67-6511)

# Comprehensive Plan

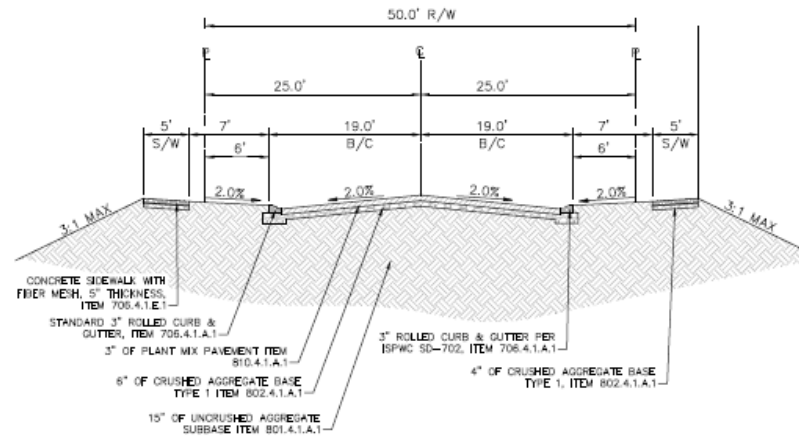
- Goal 3 calls for providing safe vehicle and pedestrian facilities. The plat includes no individual driveway access to high-capacity roads and includes sidewalks consistent with adjacent subdivisions.
- Goal 4 calls for establishing a good quality of life with development that pays through impact fees and property taxes for the public services it receives when infrastructure is installed.
- Goal 5 calls for development adjacent similar existing development properly utilizing existing infrastructure.



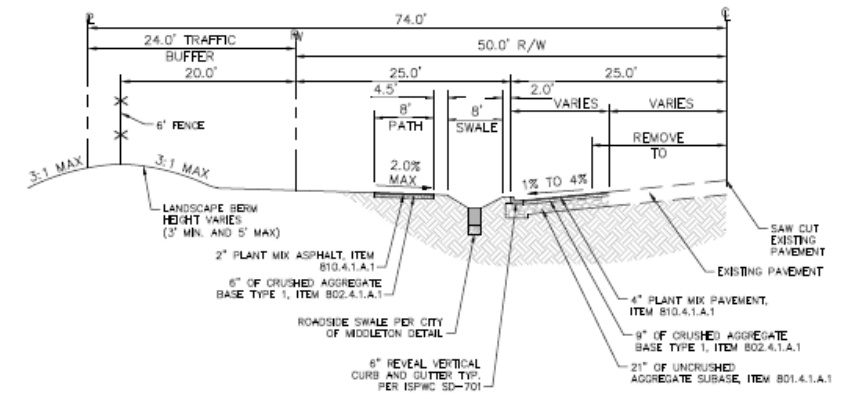
# Street Sections



CITY OF MIDDLETON  
THREE LANE URBAN ROADWAY TYPICAL SECTION - 50' HALF WIDTH ROW  
MODIFIED FOR HALF SECTION (FOR MEADOW PARK STREET)

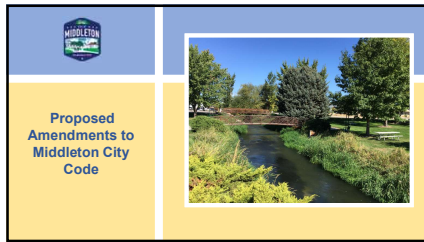


CITY OF MIDDLETON  
LOCAL ROADWAY TYPICAL SECTION - 25 HALF WIDTH ROW  
MODIFIED FOR DETACHED SIDEWALK



CITY OF MIDDLETON  
THREE LANE URBAN ROADWAY TYPICAL SECTION - 50' HALF WIDTH ROW  
MODIFIED FOR ROAD WIDENING (FOR CEMETERY ROAD)

# **EXHIBIT “4”**



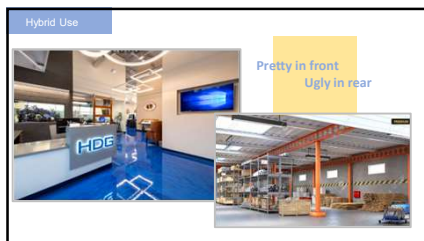
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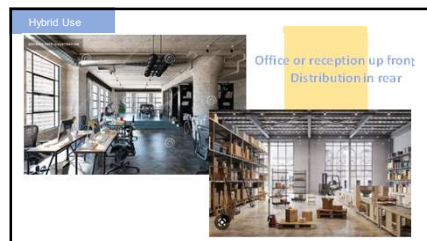
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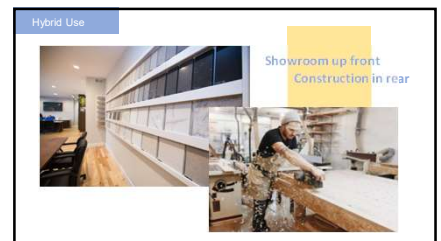
3



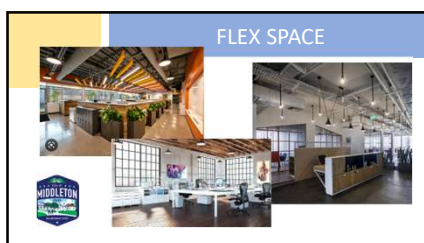
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5



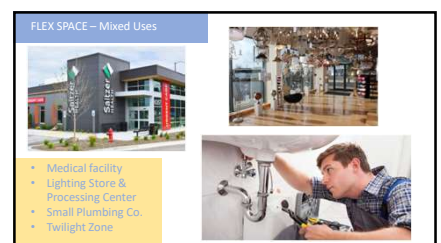
6



7



8




9









### Conclusion & Recommendations

For State law, City Council should have any decision on general facts and conclusions of law.

Planning Staff has, and both above findings that the proposed code changes do not conflict with the City's Comprehensive Plan.

As to conclusions of law, Planning Staff finds that City Council has the authority to hear this application and to approve or deny the application. Additionally, Planning Staff finds that all public notice requirements were met. Planning Staff further and both the purposes of the state law Code and Madison City Code to be considered in making a decision on the application.

If the Council is inclined to approve the proposed code changes, Planning Staff does not recommend any conditions of approval.



4) An application by IAG Hidden Mill LLC (successor in interest to IAG LLC) and Bob Unger, Unger Enterprises, LLC for preliminary plat with respect to the Hidden Mill Subdivision

December 07, 2022 - City Council - Public Hearing

Please check

|   | Name                      | Address                           | Phone or Email | In Favor | Neutral | Opposed | Testify |
|---|---------------------------|-----------------------------------|----------------|----------|---------|---------|---------|
| 1 | Bob Unger<br>Louis Spiker | 199 N. Capitol Blvd #200<br>Boise | 208 384 8688   | ✓        |         |         | ✓       |
| 2 | Jim Taylor                | 105 Z Triumph Middle              | 208 802 8494   |          | ✓       |         | ✓       |
| 3 | MIKE GRACE                | 1889 RIDGE WAY                    | 508 581-6227   |          |         |         |         |
| 4 |                           |                                   |                |          |         |         |         |
| 5 |                           |                                   |                |          |         |         |         |
| 6 |                           |                                   |                |          |         |         |         |
| 7 |                           |                                   |                |          |         |         |         |
| 8 |                           |                                   |                |          |         |         |         |
| 9 |                           |                                   |                |          |         |         |         |



5) Adam Capell/Toll Brothers Building Company & Nicolette Womack/Kimley-Horn Engineering for annexation and rezone, preliminary plat, and development agreement with respect to the Black Powder

December 07, 2022 - City Council - Public Hearing

Please check

|   | Name         | Address                         | Phone or Email | <div><div>In Favor</div><div>Neutral</div><div>Opposed</div><div>Testify</div></div> |   |   |   |
|---|--------------|---------------------------------|----------------|--|---|---|---|
| 1 | Jim Taylor   | Middleton<br>1052 Triumph Drive | 208 402 8974   |  | ✓ |   | ✓ |
| 2 | MIKE GRIFFE  | 1889 RIDGE WAY                  | 208 527-6227   |  |   |   |   |
| 3 | Justin Brace | 22967 River Road                | 288 8502297    |  |   | ✓ |   |
| 4 |              |                                 |                |  |   |   |   |
| 5 |              |                                 |                |  |   |   |   |
| 6 |              |                                 |                |  |   |   |   |
| 7 |              |                                 |                |  |   |   |   |
| 8 |              |                                 |                |  |   |   |   |
| 9 |              |                                 |                |  |   |   |   |





6) City of Middleton for amendment and revision to the following Middleton City Code sections:

December 07, 2022 - City Council - Public Hearing

Please check

|   | Name        | Address               | Phone or Email | Please check |         |         |         |
|---|-------------|-----------------------|----------------|--------------|---------|---------|---------|
|   |             |                       |                | In Favor     | Neutral | Opposed | Testify |
| 1 | MIKE GRAEFE | 1889 - RIDGE WAP      | 208-527-6527   |              |         |         |         |
| 2 | JAY WALKER  | 1100 W IDAHO. STE 210 | 208-484-4479   | ✓            |         |         |         |
| 3 |             |                       |                |              |         |         |         |
| 4 |             |                       |                |              |         |         |         |
| 5 |             |                       |                |              |         |         |         |
| 6 |             |                       |                |              |         |         |         |
| 7 |             |                       |                |              |         |         |         |
| 8 |             |                       |                |              |         |         |         |
| 9 |             |                       |                |              |         |         |         |



## Public Comment Sign In

City Council - December 7, 2022

|    | Name         | Address                       | Phone or Email  | Topic/Agenda Item # |
|----|--------------|-------------------------------|-----------------|---------------------|
| 1  | Justin Brace | 22967 River<br>Road Middleton |                 |                     |
| 2  | Mike Kraese  | 1889 Bridgeview               | 708<br>527-6227 |                     |
| 3  |              |                               |                 |                     |
| 4  |              |                               |                 |                     |
| 5  |              |                               |                 |                     |
| 6  |              |                               |                 |                     |
| 7  |              |                               |                 |                     |
| 8  |              |                               |                 |                     |
| 9  |              |                               |                 |                     |
| 10 |              |                               |                 |                     |