
**MIDDLETON CITY COUNCIL
DECEMBER 6, 2023**

The Middleton City Council Meeting was called to order on December 6, 2023, at 5:31 p.m. by Mayor Steve Rule.

Roll Call:

City Council: Council President Kiser and Council Members Huggins, Murray and O'Meara were all present.

Mayor Rule, City Attorney Mr. Waterman, Planning & Zoning Official Ms. Stewart, Public Works Director Mr. Van Gilder, City Treasurer Ms. Miles, and Deputy Clerk Ms. Reynolds were present.

Pledge of Allegiance, Invocation: Lincoln Allen

Action Items

A. Approve Amended Agenda

Motion: Motion by President Kiser to approve the Amended Agenda posted December 4, 2023, 2:30 p.m. Motion seconded by Council Member O'Meara and approved unanimously by Roll Call Vote.

Kiser – Yes, Huggins – Yes, Murray – Yes, O'Meara – Yes.

Information Item:

1. Treasurer's Report and gravel pit updated– Ms. Miles

Ms. Miles gave Council an update on the budget and the gravel pit. Mayor Rule said the first life expectancy for the mining operation was about 8 years. Knife River will finish much sooner than the original 8-year estimate.

Action Item:

1. **Consent Agenda (items of routine administrative business)**
 - a. **Consider approving minutes for City Council November 15, 2023, Regular meeting.**
 - b. **Consider approving minutes for November 14, 2023 Joint Middleton City Council Special Meeting.**
 - c. **Consider ratifying payroll for November 17, 2023, in the amount of \$153,657.15.**
 - d. **Consider ratifying payroll for December 1, 2023, in the amount of \$114,974.54.**
 - e. **Consider approving accounts payable through November 24, 2023, in the amount of \$346,572.19.**
 - f. **Consider approving corrected (correcting Scribner errors) Resolution 497-23: Approving the Canyon County/City of Middleton/Caldwell Rural Fire Protection District /City of Caldwell City of Middleton/Middleton Rural Fire District Second Amended and Reformed Intergovernmental Agreement and Joint Powers Agreement for the Collection and Expenditure of Development Impact Fees for Fire District Systems Improvements by and between the City of Middleton and the Caldwell Rural Fire Protection District for the collection and expending of development impact fees for the Fire District's systems improvements as identified in the Capital *Improvements Plan*.**

Mayor Rule called the item and President Kiser reviewed the accounts payable with the Council.

Motion: Motion by President Kiser to approve Consent Agenda Items 1 a-f. Motion seconded by Councilman O'Meara and approved unanimously.

2. Consider approving Mayor Rule's appointment of Tyson Sparrow to the Middleton Planning and Zoning Commission board to fill the remainder of Mark Christiansen's term ending December 15, 2024.

Mayor Rule called the item. He stated that Mark Christiansen has resigned from the Planning and Zoning Commission, and he asks the council to approve Tyson Sparrow

Motion: Motion by Council President Kiser to approving Mayor Rule's appointment of Tyson Sparrow to the Middleton Planning and Zoning Commission board to fill the remainder of Mark Christiansen's term ending December 15, 2024. Motion seconded by Council Member O'Meara and approved unanimously by Roll Call Vote.

Kiser – Yes, Huggins – Yes, Murray – Yes, O'Meara – Yes.

3. Consider approving 2024 City Council and Planning and Zoning Commission Regularly Scheduled Meetings. Ms. Crofts

Mayor Rule called the item and Planning and Zoning Official Ms. Stewart explained the schedule. Council decided to hold the 2nd meeting in June, on June 26th in order to avoid the federal holiday of June 19th.

Motion: Motion by President Kiser to approve 2024 City Council and Planning and Zoning Commission Regularly Scheduled Meetings with the city council meeting on June 26th as opposed to June 19th. Motion seconded by Council Member O'Meara and approved unanimously.

4. Consider accepting the Middleton Municipal Election results for the November 7, 2023, election as certified by Canyon County. - Ms. Crofts

Mayor Rule called the item and explained the City Council needs to officially accept the election results as certified by Canyon County.

Motion: Motion by President Kiser to accept the Middleton Municipal Election results for the November 7, 2023, election as certified by Canyon County (See Attached). Motion seconded by Council Member O'Meara and approved unanimously.

5. Consider approving Resolution No. 501-23: A RESOLUTION OF THE MIDDLETON CITY COUNCIL, MIDDLETON, CANYON COUNTY, IDAHO, TO AUTHORIZE THE MAYOR TO SIGN A LETTER TO CONVEY TO IDAHO TRANSPORTATION DEPARTMENT THE SIGNALIZATION IMPROVEMENTS AT SH44 AND HARTLEY LANE CONSTRUCTED BY THE CITY OF MIDDLETON WITHIN IDAHO TRANSPORTATION DEPARTMENT RIGHT OF WAY. – Mr. Van Gilder

Mayor Rule called the item and Public Works Director Mr. Van Gilder explained now that the light is built, this is a resolution to convey the light to ITD so that they can maintain, program and or fix the light in the future.

Motion: Motion by President Kiser to approve Resolution No. 501-23: Motion seconded by Council Member O'Meara and approved unanimously by Roll Call Vote.

Kiser – Yes, Huggins – Yes, Murray – Yes, O'Meara – Yes.

6. Consider authorizing the Mayor to execute a Task Order with Contract Land Services (CLS) to provide right-of-way acquisition support services for the Quarry East Roundabout in an amount not to exceed \$23,400. Mr. Van Gilder

Mayor Rule called the item and Mr. Van Gilder explained the item. Contract to help the city acquire property down on Middleton Rd, south of the bridge for the right-of-way needed to build a roundabout off of the service road to the Idaho Power substation. Authorizing this contract secures that we will have the paper trail to apply for possible future federal grant monies.

Discussion about the roundabout and or interim traffic signal, as well as the surrounding area and Quarry project.

The budget monies to pay for this comes from streets and we have the money in the budget.

Motion: Motion by President Kiser to authorize the Mayor to execute a Task Order with Contract Land Services (CLS) to provide right-of-way acquisition support services for the Quarry East Roundabout in an amount not to exceed \$23,400. Mr. Van Gilder. Motion seconded by Council Member O'Meara and approved unanimously by Roll Call Vote.

Kiser – Yes, Huggins – Yes, Murray – Yes, O'Meara – Yes.

7. Consider authorizing the Mayor to execute a Task Order with Contract Land Services (CLS) to provide right-of-way acquisition support services for the Middleton Road Realignment Project in an amount not to exceed \$12,700. Mr. Van Gilder

Mayor Rule called the item and Mr. Van Gilder presented the Task Order. This is for when Middleton Road is straightened there is some right-of-way that needs to be purchased in order to widen and expand the road as well as to connect to SH44. This again ensures that we will have the paper trail to apply for possible grant monies.

Discussion about the need to plan for the traffic patterns to understand what it will need to look like. City is talking with ITD to get their design for what they want at that intersection.

Motion: Motion by President Kiser to Consider authorizing the Mayor to execute a Task Order with Contract Land Services (CLS) to provide right-of-way acquisition support services for the Middleton Road Realignment Project in an amount not to exceed \$12,700. Motion seconded by Council Member O'Meara and approved unanimously by Roll Call Vote.

Kiser – Yes, Huggins – Yes, Murray – Yes, O'Meara – Yes.

8. Consider approving Resolution 502-23: RESOLUTION OF THE MIDDLETON CITY COUNCIL, MIDDLETON, CANYON COUNTY, IDAHO, ADOPTING THE CITY OF MIDDLETON 2023 PAVEMENT MANAGEMENT PLAN, AS UPDATED BY J-U-B ENGINEERS, AS THE OFFICIAL PAVEMENT MANAGEMENT PLAN OF THE CITY OF MIDDLETON; AND PROVIDING AN EFFECTIVE DATE. Mr. Van Gilder

Mayor Rule called the item and Mr. Van Gilder explained the pavement management plan. Discussion about timelines for the maintenance.

Motion: Motion by President Kiser to approve Resolution 502-23. Motion seconded by Council Member O'Meara and approved unanimously by Roll Call Vote.

Kiser – Yes, Huggins – Yes, Murray – Yes, O'Meara – Yes.

9. Consider approving the River Walk Crossing Subdivision No. 1 final plat. Ms. Stewart

Mayor Rule called the item and Ms. Stewart presented the final plat for approval. The developer has submitted a bond for 200%

Motion: Motion by President Kiser to approve the River Walk Crossing Subdivision No. 1 final plat. Motion seconded by Council Member O'Meara and approved by Roll Call Vote.

Kiser – Yes, Huggins – Yes, Murray – Yes, O'Meara – Abstain (Tyler Hess is his nephew).

Mayor Rule called a brief recess 6:26 p.m. The meeting was reconvened at 6:36 p.m.

10. Consider approving the Farmington Subdivision Infrastructure Construction and Pre-Annexation Agreement. Ms. Stewart

Mayor Rule called the item and Ms. Stewart presented the agreement for consideration. The applicant has an application with the County for this project. That application is contingent on this approval. They will not pay city police or park impact fees. They will be building a traffic light at Duff/SH44 and Lansing/SH44, a municipal well, booster station and lift station.

Council Discussion about the infrastructure tied to this project, the greenspace, and public pathways.

Motion: Motion by President Kiser to approve the Farmington Subdivision Infrastructure Construction and Pre-Annexation Agreement provided that the County approves the Development Agreement before them with the condition that paragraph 2B2 be changed to delete provisions that the developer will be entitled to any MidStar Impact Fee credits towards the traffic signal at Lansing/Sh44. Motion seconded by Council Member Huggins and approved unanimously by Roll Call Vote.

Kiser – Yes, Huggins – Yes, Murray – Yes, O'Meara – Yes.

11. Public Hearing: Applications by Adam Capell and Representative Nicolette Womack for annexation/rezone, preliminary plat, development agreement and waiver requests with respect to the Mills Landing Subdivision located at 0 Purple Sage Road, Middleton, Idaho (Tax Parcel No. R3756100). The proposed preliminary plat consists of 100 buildable lots and 20 common lots on

approximately 40 acres of vacant land. Applicants are requesting a zone change from County “Agricultural” to City R-3 (single family residential). - Ms. Stewart

Mayor Rule opened the public hearing at 7:03 p.m.

Ms. Stewart presented the Staff Report of the application via PowerPoint presentation (Exhibit A) She also stated that she had received a letter from ITD that needed to be entered as a late Exhibit G.

Discussion about bulb outs, Meadow Park Blvd, connection from Voyager cul-de-sac.

Mayor Rule called the Applicant representative up to give his presentation.

Applicant Representatives: Jeff Bowers – Toll Brothers Representative and Sonja Delighten – Traffic Engineer (Kittelsohn Associates) gave their presentation (Exhibit B).

Questions from Council regarding:

- Access to Amphitheater -
- Irrigation easement
- Reduction of street width with bulb outs
- Sidewalks behind greenspace. Curb and gutter would still be built to manage stormwater on roads.
- Light at Cemetery and SH44. – Applicant would like to use the 2040 traffic calculation, not 2025. They would like to pay the \$43,000 (2040 pro rata traffic fees) and voluntarily give \$112,000 to the city as opposed to paying \$109,000 (2025 pro rata traffic fees) and having to wait for someone to build the traffic signal prior to phase one final plat approval.
- School District – Applicant has talked to school district and will work to help with the next bond election.

Mayor Rule called for a brief recess at 8:02 p.m. Legal Counsel reminded City Council, they were still in a public hearing and as such it is important, they do not discuss any part of the hearing with anyone.

The meeting was reconvened at 8:09 p.m. and Mayor Rule opened public comment at 8:09 p.m.

Theresa Denham: Location is a good place. The timing is wrong until infrastructure is in place. Test wells are showing a loss of water in aquifer. (Ms. Denham handed information on the test wells - Exhibit C to the clerk after the meeting)

Council Member Huggins clarified the test wells mentioned were not City wells.

Marty Denham: Agree with Ms. Stewart’s calculations (2025 horizon year). Wait for the light to be built. We also need a new elementary school.

Mikel Galloway: Schools are over capacity.

Carol Watkins: Need to build parks for everyone.

Janet Gibson: Cemetery Rd is already impacted today. Toll Brother's should help with the light. The comp plan doesn't mention the population of the schools. That should be taken into consideration.

Council Member Huggins stated that even if Middleton stopped building, Star continues and is in the Middleton School District so it will not change the capacity of the schools. All it does is shut down development in Middleton City.

Council Member Murray said as an aside, he has an idea for schools if anyone wants to talk to him after the meeting.

Mayor Rule called for applicant rebuttal.

Applicant Representative: Jeff Bowers:

- Impact fees paid at building permit will pay for the impact the development will have.
- As to Irrigation, they will be using surface water to irrigate and a 2016 SPF water study states that there is enough surface water to accommodate all of the growth the Treasure Valley is anticipating up to 1.7 million people area wide.
- They are not asking for reimbursement. They would prefer to pay the city \$112,000 instead of \$109,000 pro rata and final plat of phase one be contingent on the light at Cemetery/SH44 being built.
- The pathway through the project is a public pathway.
- Schools are hard. The challenge is at the State Legislature. Whether the City approves, all developments are bringing kids to the schools.

Council Member O'Meara asked what the applicant is going to contribute to GMPRD?

Applicant: Adam Capell stated that there was a project proposal brought for two large soccer fields, that city staff did not allow to be brought forward to Council.

Applicant Representative: Jeff Bowers clarified those fields were not on this project site, but on phase 10 of Black Powder.

Mayor Rule closed public comment at 8:38 p.m.

Council Discussion: *Council President Kiser:* Hung up on light and the money. Can't seem to meet on that, then we can't meet.

Motion: Motion by President Kiser to deny Applications by Adam Capell and Representative Nicolette Womack for annexation/rezone, preliminary plat, development agreement and waiver requests with respect to the Mills Landing Subdivision located at 0 Purple Sage Road. Motion seconded by Council Member Murray.

Discussion: Path forward is to agree with staff on Development Agreement terms pertaining to Cemetery traffic signal and pro rata fee. Council wants to see the development agreement come before them again.

Motion and second stand.

Roll Call Vote:

Kiser – Yes, Huggins – Yes, Murray – Yes, O'Meara – Yes.

12. Action Item 12 is not applicable so will not be taken into consideration at this time.

13. Consider approving Mayor Rule's appointment of Mark Christiansen to the Middleton Urban Renewal Agency Commission Board fill the remainder of Jacob Sherrer's term ending August 1, 2028.

Mayor Rule called the item and explained he received a letter of resignation from Jacob Sherrer and would like to appoint Mark Christiansen to fill the remainder of Jacob's term on the Urban Renewal Board.

Motion: Motion by President Kiser to approve Mayor Rule's appointment of Mark Christiansen to the Middleton Urban Renewal Agency Commission Board fill the remainder of Jacob Sherrer's term ending August 1, 2028. Motion seconded by Council Member O'Meara and approved by Roll Call Vote.

Kiser – Yes, Huggins – Yes, Murray – Yes, O'Meara – Yes.

Public Comments:

Jim Taylor: Thank you for looking out for the City of Middleton.

Jim Grey: Need light at Duff/SH44.

Murray: There is an agreement with the County Development-Farmington Hills that before the 1st house goes in a light must be built.

Mayor Rule: Part of that traffic light design will be pedestrian facilities.

Marty Denham: Concerned about aquifer recharge.

Murray: He has not ignored the water concerns. Most farmers do not irrigate with flood irrigation which is how historically the aquifer has been recharged, they irrigate with pivot irrigation. This does not recharge the aquifer, and City water is better for the aquifer because it lessens the multiple cones of depression that are created with individual private wells.

Mayor, Staff and Council Comments:

None

Adjourn: Mayor Rule adjourned the meeting at 8:54 p.m.

ATTEST:


Jennica Reynolds, Deputy Clerk
Minutes Approved: December 20, 2023


Steve Rule, Mayor

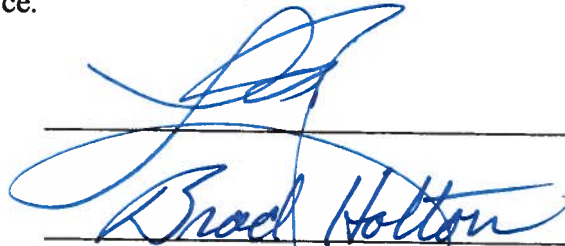



STATE OF IDAHO
COUNTY OF CANYON

} ss.

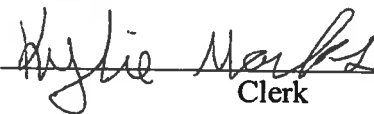
We, the commissioners of the county and state aforesaid, acting as a Board of Canvassers, do hereby state that the attached is a true and complete abstract of all votes cast within this county at the **Consolidated Election** held on **November 7, 2023**, as shown by the records now on file in the County Clerk's office.







County Board of Canvassers

Attest: 


Clerk

STATE OF IDAHO
COUNTY OF CANYON

} ss.

I, Chris Yamamoto, County Clerk of said county and state, do hereby certify that the attached is a full, true, and complete copy of the abstract of votes for the Consolidated Election, as shown by the record of the Board of Canvassers filed in my office this 15 day of November 2023.





County Clerk

STATE OF IDAHO

COUNTY OF CANYON

} ss.

I, Chris Yamamoto, County Clerk of said county and state, do hereby certify that the attached is a full, true, and complete copy of the abstract of votes for the candidates therein named and/or the questions as they appeared on the election ballot on November 7, 2023 for Middleton Municipal as shown by the record of the Board of Canvassers filed in my office this 15th day of November, 2023.

Chris Yamamoto

County Clerk

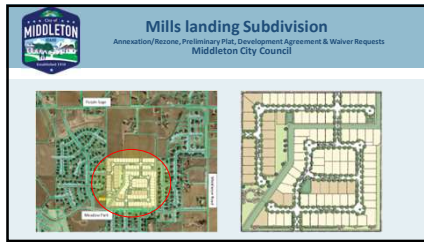
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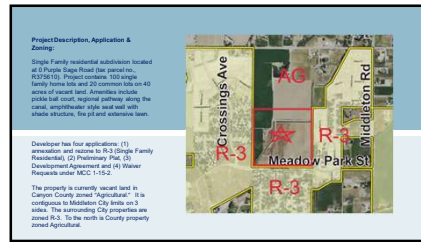
MIDDLETON CITY DISTRICT NO 004 MAYOR				VOTING STATISTICS				
Precinct	JACKIE HUTCHISON	STEVE RULE	TYSON SPARROW	Total Number of Registered Voters at Cutoff	Number Election Day Registrants	Total Number of Registered Voters	Number of Ballots Cast	% of Registered Voters That Voted
0810 - MM-SM	12	7	0	34	3	37	20	54.1%
0810 - MM-FS-SM	87	60	5	276	7	283	153	54.1%
0910 - MM-SM	924	347	125	3685	89	3,774	1,404	37.2%
1010 - MM-SM	540	165	70	1662	78	1,740	786	45.2%
1310 - MM-SV4	0	0	0	0	0	0	0	0.0%
TOTALS	1,563	579	200	5,657	177	5,834	2,363	40.5%

MIDDLETON CITY DISTRICT NO 004 CITY COUNCIL 4 YEAR TERM				VOTING STATISTICS				
Precinct	MARK CHRISTIANSEN	TIMOTHY P. O'MEARA	RAY WALTEIMATE	Total Number of Registered Voters at Cutoff	Number Election Day Registrants	Total Number of Registered Voters	Number of Ballots Cast	% of Registered Voters That Voted
0810 - MM-SM	3	14	9	34	3	37	20	54.1%
0810 - MM-FS-SM	90	81	56	276	7	283	153	54.1%
0910 - MM-SM	663	805	526	3685	89	3,774	1,404	37.2%
1010 - MM-SM	349	414	388	1662	78	1,740	786	45.2%
1310 - MM-SV4	0	0	0	0	0	0	0	0.0%
TOTALS	1,105	1,314	979	5,657	177	5,834	2,363	40.5%

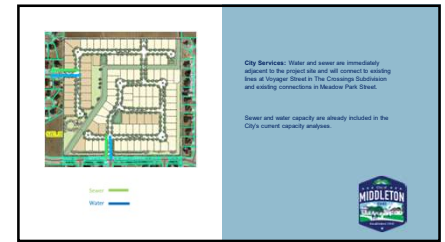
LIQUOR BY THE DRINK MIDDLETON CITY			VOTING STATISTICS				
Precinct	In Favor	Against	Total Number of Registered Voters at Cutoff	Number Election Day Registrants	Total Number of Registered Voters	Number of Ballots Cast	% of Registered Voters That Voted
0810 - MM-SM	17	3	34	3	37	20	54.1%
0810 - MM-FS-SM	102	50	276	7	283	153	54.1%
0910 - MM-SM	960	431	3685	89	3,774	1,404	37.2%
1010 - MM-SM	554	228	1662	78	1,740	786	45.2%
1310 - MM-SV4	0	0	0	0	0	0	0.0%
TOTALS	1,633	712	5,657	177	5,834	2,363	40.5%



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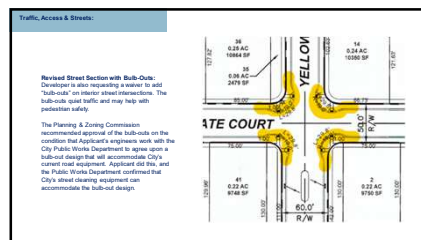
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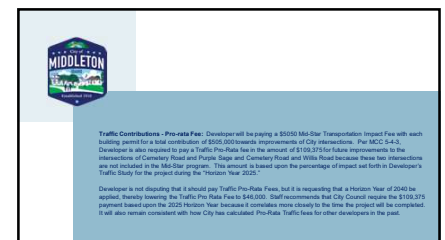
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9



Cemetery Road Traffic Signal: This Developer's Traffic Study revealed that the intersection of Cemetery Road & Hwy 44 will operate at a Level of Service D by the year 2025. City's own traffic study from April of the year found that the intersection will operate at a LOS F by the year 2025. City standards mandate a minimum LOS C for any City intersection. (Supplement to ISPVOC, P.32 Item F)

Both traffic studies found that a traffic signal at Cemetery & Hwy 44 will mitigate the intersection and bring it up to the City's standard of LOS C.

City Staff has requested Developer to agree to a provision in the DA to construct a traffic signal at Cemetery & Hwy 44. (It is virtually identical to the provisions placed in the Farmington Pre-annexation Agreement. It just applies to a different intersection.) The provision states that City will not approve Developer's construction drawing, for the subdivision infrastructure, with Developer, or separately else, design the Cemetery traffic signal. Separately, City will not approve the final plat for phase 1 until Developer, or separately else, actually builds the traffic signal at Cemetery & Hwy 44. (Developer chooses to actually build the traffic signal, then Developer would get credits against future traffic impact fees.

THE RESULT: the construction project cannot be finalized and no homes can be started until the traffic light at Cemetery Road and Hwy 44 is built by Developer or someone else.

As an aside, City has already commissioned Precision Engineering to design the traffic signal at Cemetery Road and Hwy 44. Additionally, City has applied to ITD for a state funded grant that, if approved, would give Middleton \$2,000,000 to build the traffic signal at Cemetery & Hwy 44. The grant application has been preliminarily approved and will go before the ITD board on December 13th for final allocation.

10



Developer has refused to agree to the proposed DA term regarding the Cemetery & Hwy 44 traffic signal. Developer maintains that this provision is inequitable and proportional share of impacts for the intersection.

It is important to recognize that the DA is not mandating that Developer build the traffic signal. It just mandates that the right be built some way, by someone, before the subdivision receives final plat approval. This avoids any argument that the City is mandating that Developer pay more than the proportional share. Additionally, the DA provision, at its essence, is empty stating that the Developer will need to wait until necessary infrastructure is in place before developing and creating more impacts. It is similar to a situation where a Developer has to wait to build a subdivision until sewer and water facilities are extended to Developer's parcel by others.

Developer has offered an alternative provision to building the Cemetery & Hwy 44 traffic signal. Developer is offering, instead, to make a "Voluntary Payment" of \$112,000 for improvements to the Cemetery intersection or any other road project City chooses. The payment will be made in one lump sum at plat 1 final plat.

11





POLICE & FIRE

Police and Fire Departments: Approving this new subdivision will not create an unreasonable burden on the Middleton Police Department. The project is located on three sides by City property, and City Police already patrol the area. Additionally, Police Impact Fees will cover any proportional impacts on the Police Department.

This property is already located in the Middleton Road Fire Department service area, so there would be no change or impact whatsoever if the property is annexed into the City of Middleton. The Fire Department will serve the site regardless of whether it is in the County or in the City.

12





Schools: The Mills Landing Subdivision is in the Middleton School District #134. Elementary age children from this neighborhood will be attending Heights Elementary. Superintendent Goss has submitted a current rating that Heights Landing Elementary is at 134% capacity. The middle school and high school are nearing capacity but have not exceeded capacity. However, Regis International Charter School will be building a new high school in 2024 that will accommodate about 100 new high school students.

13

Annexation and Resume: Applicants are requesting that the 40 acre project parcel be annexed into the City of Middleton with a zone change from County "Agricultural" to City (R-3) Single Family Residential.

There are three findings that must be made before annexation can be approved: (1) the property must be contiguous to City limits; (2) City services such as sewer, water, fire, police, schools and roadway system can be extended to serve the site, and (3) the annexation is deemed to be an orderly development of the City offering efficient and economical extension of City services. (Idaho Code 67-2-201)

An application for resume requires two findings before the Council can approve the application: (1) the resume will not adversely affect the City's delivery of services and (2) the resume request is not in conflict with the Comprehensive Plan. (Idaho Code 67-45-11)

FINDINGS:

With respect to annexation, Planning Staff finds that Applicant's project meets the criteria of contiguity. The project is directly adjacent to City limits on three sides. Planning Staff also finds that City sewer, water, police, and fire will not be adversely affected by the annexation for the reasons already stated in the earlier part of this presentation.

The school services are provided by another agency that is independent of the City. As stated above, Heights Elementary is over capacity. City Staff has proposed a DA provision that would require the Cemetery Road & Hwy 44 traffic signal to be built before Developer would be allowed to build homes on site. Staff's proposed provide traffic fee of \$100,375 would also mitigate traffic issues by contributing money to intersection improvements. Developer proposes a Traffic Pro-Rate fee of only \$45,000 and a "Voluntary Payment" of \$112,000 instead of a traffic signal at Cemetery & Hwy 44.

As to the resume application, Planning Staff finds that the resume will not adversely affect the City's ability to deliver services like sewer, water, police and fire. However, the subdivision may adversely affect the roadway system and district schools as already noted above.


14

Preliminary Plat: The preliminary plat shows 100 home lots and 20 common lots to be built in three phases.


The site criteria for approving a preliminary plat is a finding that the preliminary plat complies with the standards and requirements of the City Code and State Code.

FINDINGS:

Staff finds that the Mills Landing preliminary plat does not comply with the standards of City Code due to the detached street and intersection build-out. The Council, however, can still approve the preliminary plat application if it also approves Developer's requests to waive the City Code on those two items.



15




Development Agreement: Applications for annexation/resume generally require a Development Agreement. The proposed DA contains the following provisions, two of which are under dispute.

- Developer will develop the community generally consistent with the conceptual plans attached to the DA. (Para. 3.1)
- Developer to construct interior streets with a minimum 3' concrete sidewalk and more strip between back of curb and sidewalk. All entrances will be landscaped with permanent landscaping. City approved road barriers will be used on the new strip. Developer to execute a license to install landscaping in the City's right of way. Only landscaping may be started in the new area. Developer, FCA and Homeowner to hold City harmless from claims for injury or damages that are caused by Developer, FCA, or Homeowner while maintaining the new strip and/or sidewalk. (Para. 3.2)
- Front setbacks to be measured from the back of sidewalk. (Para. 3.3)
- Developer to pay a \$100,375 Traffic Pro-Rate fee pursuant to MCC 5-4-3. (Para. 3.4) **Developer is proposing only \$45,000.**
- City will not be able to apply for phase 1 final plat and common designs and build the traffic signal at Cemetery & Hwy 44. (Developer chooses to do it. Developer shall receive credits against future traffic impact fees and City will contribute provide fees collected for that intersection. (Para. 3.5) (Developer has not agreed to this term and is proposing a \$112,000 "Voluntary Payment" instead.)
- Developer to provide the following amenities: one picnic ball court, amphitheater, style seat wall, the play lawn area, shade structure benches, and 8' wide concrete pathway along canal. (Para. 3.6)
- Termination clause. (Para. 3.7)

16

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.




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

- Goal 4: Project will produce quality lots for residential use and also increase the quality of life and general well-being of the City as a whole.
- Goal 6: Major streets and improvements to Mountain Park will be developed in an orderly manner. Utilities will also be expanded in an orderly manner and in keeping with the projected growth of the City.
- Goal 10: Project provides pathways, gathering spaces, and outdoor recreational activities.
- Goal 11: The housing type matches the residents' lifestyle in the area the project is located.
- Goal 13 pertains to Schools, but the "Objectives" and "Strategies" for Goal 13 pertain to only vehicles and pedestrian activity. The Comprehensive Plan's Goals and Strategies do not address school over-crowding.

Applicant's project does not comply with the following Goals:

- Goal 8 and Transportation Section, Objectives A and B. If Developer is not required to adhere to the proposed DA provision regarding the Cemetery Road & Hwy 44 traffic signal, then the development may not be deemed "orderly" because a new project will be brought into the City near a safety intersection.

17



Comments: Comments from the public, agencies, City Engineer and Planner were attached to the staff report and agenda as Exhibits C, D & E.


Applicant Information: Applicants are Adam Cusack and Brothers and Nicole Proulx/Orion Engineering 1103 W. Sherry Dr. #100, Meridian 83642 950 W. Barnum Street, #1100, Boise, 83702. Application was accepted on 6/1/2023.

Notice & Neighborhood Meeting: Homeowner notification. Notice to adjacent landowners. Circulation to Agencies. Sign Posting meeting. Neighborhood Meeting.

Dates: 11/01/2023, 11/02/2023, 02/09/2023, 5/16/2023.

Applicable Codes and Standards: Idaho Standards for Public Works Construction, the Madison Supplement to the Idaho Standards for Public Works Construction, Middleton City Code 1-4, 1-6, 5-1, 5-2, 5-3, and 5-4, and Idaho Code Title 87, Chapter 69 & Title 50, Chapters 2 and 12.

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P&Z Recommendation: The Planning & Zoning Commission considered the Mills Landing applications at a public hearing held on October 18, 2023. The Commission made the following recommendations:

1. City Council should approve the applications for annexation, preliminary plat, and development agreement subject to the conditions of approval set forth in the staff report for the October 18, 2023, hearing, except for the following items and revisions:
 - i. The Development Agreement should be modified to remove the requirement that the traffic signal at Cemetery Road and Hwy 44 be constructed prior to approval of Applicant's phase 1 final plat.
 - ii. The Development Agreement should be revised to state that the Pro-Rate Fee to be paid at Phase 1 Final Plat is \$480,000 instead of \$700,375.
 - iii. The Development Agreement to be revised to state that Developer shall pay a "Voluntary Roadway Payment" in the amount of \$112,000 to be used on road project(s) of City's choice.
2. City Council should approve Applicant's request for waiver of the City's street standards regarding attached sidewalks and allow Applicant to construct meter roads with a detached 5' sidewalk with more step between back of curb and sidewalk.
3. City Council should approve Applicant's water request to construct street "bulk-outs" ~~that will be the same as the design for the existing bulk-outs~~ that the design be revised to match the operation of City's current street maintenance equipment and the City Public Works Department confirms to City Staff that its equipment can accommodate the bulk-out design. (Applicant has subsequently worked with the City Public Works Department, and Public Works has confirmed that the bulk-out design will accommodate City cleaning equipment.)

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Conclusions and Recommended Conditions of Approval:


Per State law and the Middleton City Code, any final approval or denial of the 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 above in parentheses.

As to Conclusions of Law: Planning Staff finds that the City Council has the authority to hear these applications and to approve or deny the applications, 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 decision on the applications.

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If City Council is inclined to approve the annexation, preliminary plat, and development agreement applications, then Planning Staff recommends that any approval be subject to the following conditions:

1. Paragraph 3.5 regarding the Cemetery & Hwy 44 traffic signal must remain in the approved Development Agreement as currently written, and Developer must agree to abide by Paragraph 3.5.
2. Developer to pay a Pro-Rate Traffic Fee in the amount of \$109,375 as required by MCC 5-4-3 prior to approval of final plat for Phase 1.
3. Developer's water request for detached sidewalks and more steps and water request for street bulk-outs are approved.
4. Developer to obtain a license to install a pathway in the Wood Canyon Irrigation District easement.
5. Applicant shall use best efforts, but is not required, to have the common lots immediately south of the property, which are owned by the Phase 4 Master Plan HOA, improved with code-compliant landscaping.
6. City municipal domestic water, fire flow and sanitary sewer services are to be extended to serve the subdivision.
7. Developer to install landscaping and all amenities in compliance with the Landscaping Plan approved with the preliminary plat.
8. Developer shall create a plan for operation, maintenance and repair of stormwater facilities (OSM Plan) contained on the project site. The OSM Plan shall be recorded with the OCCRA. Developer within 90 days must maintain and complete the subdivision stormwater facilities in compliance with the OSM Plan.
9. All City Engineer, Planner, Fire Department and Irrigation Company review comments are to be completed and approved.
10. Sewer and water capacity, if available, will be reviewed no earlier than City Engineer's approval of the Construction Drawing for each phase.

Finally, if the Council denies the applications, then the Council should state what the applicant could do, if anything, to obtain approval. (Middleton City Code 1-14(E)(8)).

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Mills Landing Exhibit "G"

**Your Safety • Your Mobility
Your Economic Opportunity**

IDAHO TRANSPORTATION DEPARTMENT

P.O. Box 8028 • Boise, ID 83707-2028
(208) 334-8300 • itd.idaho.gov

December 1, 2023

Lauren Nuxoll, PE, PTOE
Kittelson & Associates, Inc.
101 South Capitol Boulevard, Suite 600
Boise, ID 83702

VIA EMAIL

RE Mills Landing Development – ITD Traffic Impact Study Acceptance Letter

Dear Ms. Nuxoll,

Thank you for providing the Idaho Transportation Department (ITD) the Mills Landing Traffic Impact Study (TIS) to review. The proposed development is located west of Middleton Road between Willis Road and Purple Sage Road approximately one mile north of SH-44 and within the Middleton city limits. This development is not proposing access on to the state highway system. We have completed our review and ITD does not have objection to the development.

The following mitigations are recommended prior to full buildout. In addition to the following mitigations, all striping shall extend an additional 300' past construction limits on either end of the roadway work.

Intersection Mitigations

- **SH-44 / Cemetery Rd**
 - Install a traffic signal

The Department requires no additional proportionate share contributions beyond the requirements established by Canyon County and/or CHD4.

Maintaining safety and mobility for Idaho's motorists is of utmost importance to ITD. We appreciate your improvements to the livability in Middleton as we want all residents to travel safely and efficiently around the Treasure Valley. If you have any questions, please contact Development Services Coordinator Niki Benyakhlef at Niki.Benyakhlef@itd.idaho.gov or (208)985-9780.

Sincerely,

Brian Duran

Brian Duran
District 3 | Idaho Transportation Department
Development Services Planning Manager

cc: Roberta Stewart – City of Middleton, Planning & Zoning Official
Chris Hopper – Canyon Highway District 4 – District Engineer

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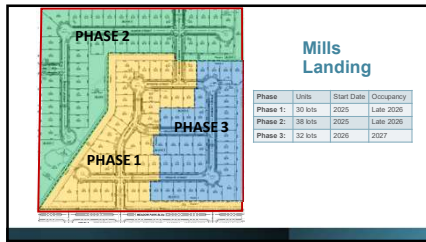
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Conditions of Approval

OUTSTANDING

- Cemetery Rd & Hwy 44 Traffic Signal
- Traffic Pro-Rate Fee

Voluntary Payment

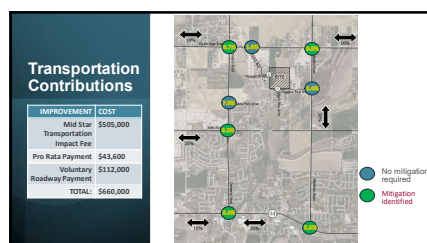
- Toll will pay **\$112,000** prior to recording Phase 1 plat, can be used anywhere.

99 Land Transportation Fee Program - Project Requirements

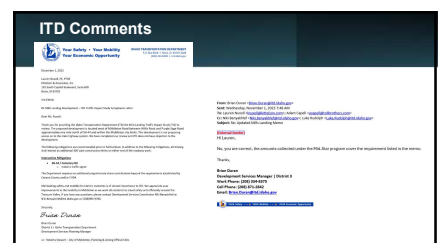
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as of 12/15/2022 10:00 AM
Page 1 of 1

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11) Mills Landing - Annexation/Rezone, Preliminary Plat and Development Agreement

December 6, 2023 - City Council - Public Hearing

Please check

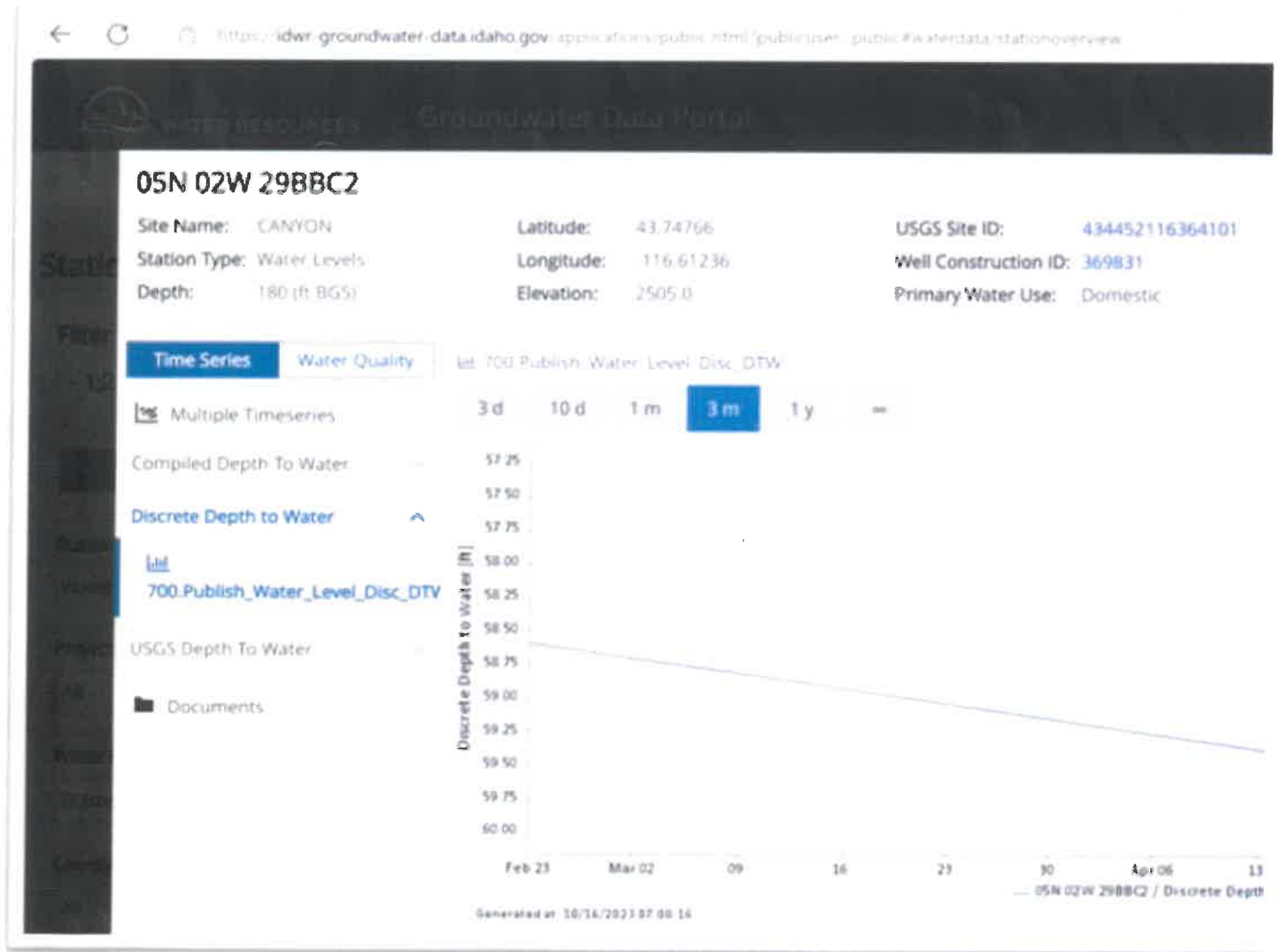
	Name	Address	Phone or Email	Please check			
				In Favor	Neutral	Opposed	Testify
1	Theresa Denham	Middleton ID	208 505 7675			X	X
2	Marty Denham	Middleton ID	208-505-7675			X	X
3	Mikel Gallagher	Middleton ID	208-891-5018			X	X
4	Carol Walker 174		201 249-9149				
5	Janet Gibson	on file			X		X
6							
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theresa.denham@realestate-id.com

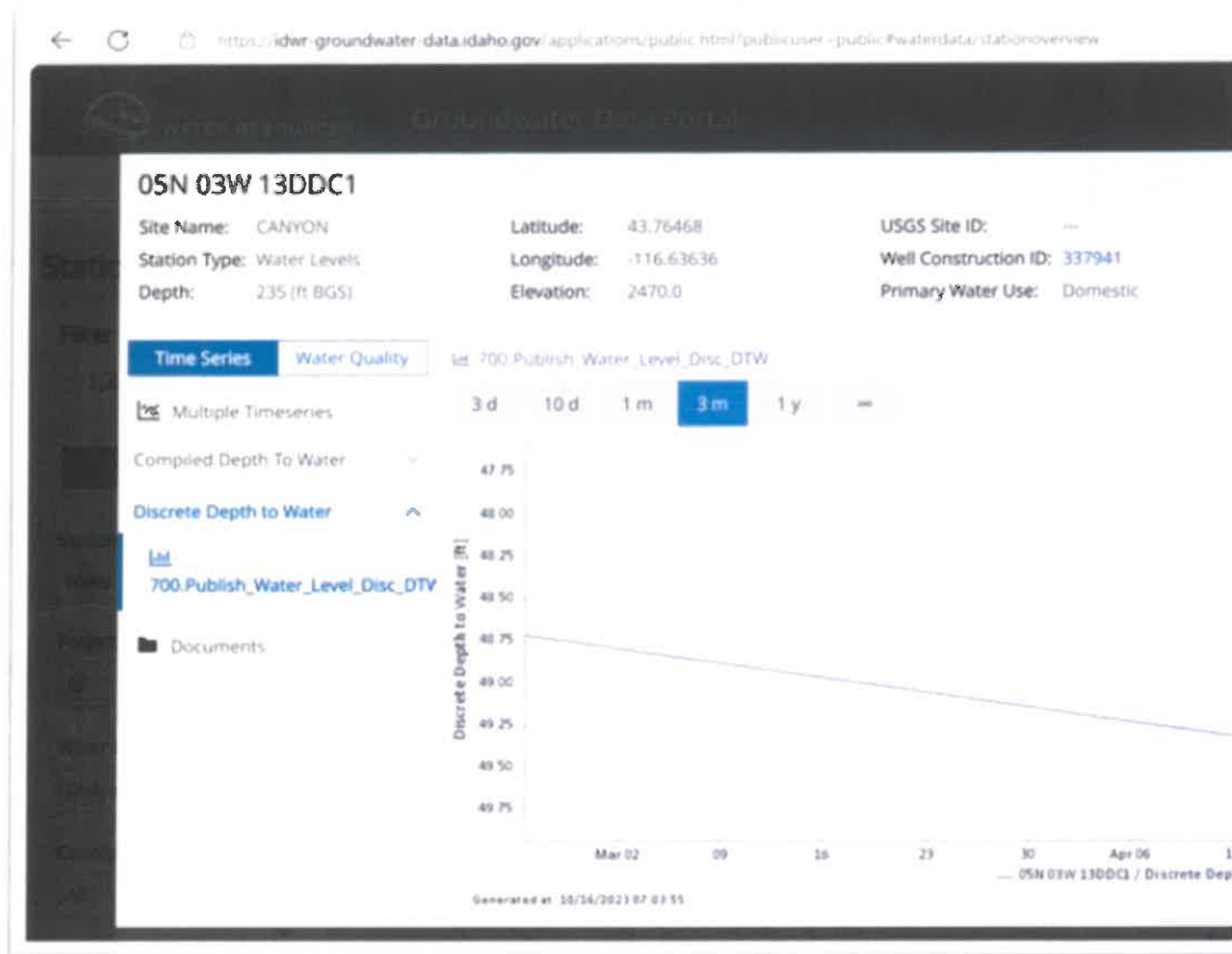
From: theresa.denham@realestate-id.com
Sent: Monday, October 16, 2023 7:29 PM
To: 'jackie hutchinson'
Subject: Water Master Our region Idaho

Here are a few charts I found about the discrete depth to water in the wells in Middleton. These are 3 month snapshots. The data for a year shows a refill during the winter, but the refill on average brings us to a lower level than the previous year. I think. When taking into consideration that Environmental Protection Industry (EP279,000,000A) estimates that the average American family uses about 300 gallons of water at home every day (Scaled up to a month, that is 9,300/month) and we are bringing in 2500 homes (families) that is an increase on our water supply of 279,000,000 gallons needed.

This first diagram is from a well up on Purple Sage/Emmett Road closest cross streets:



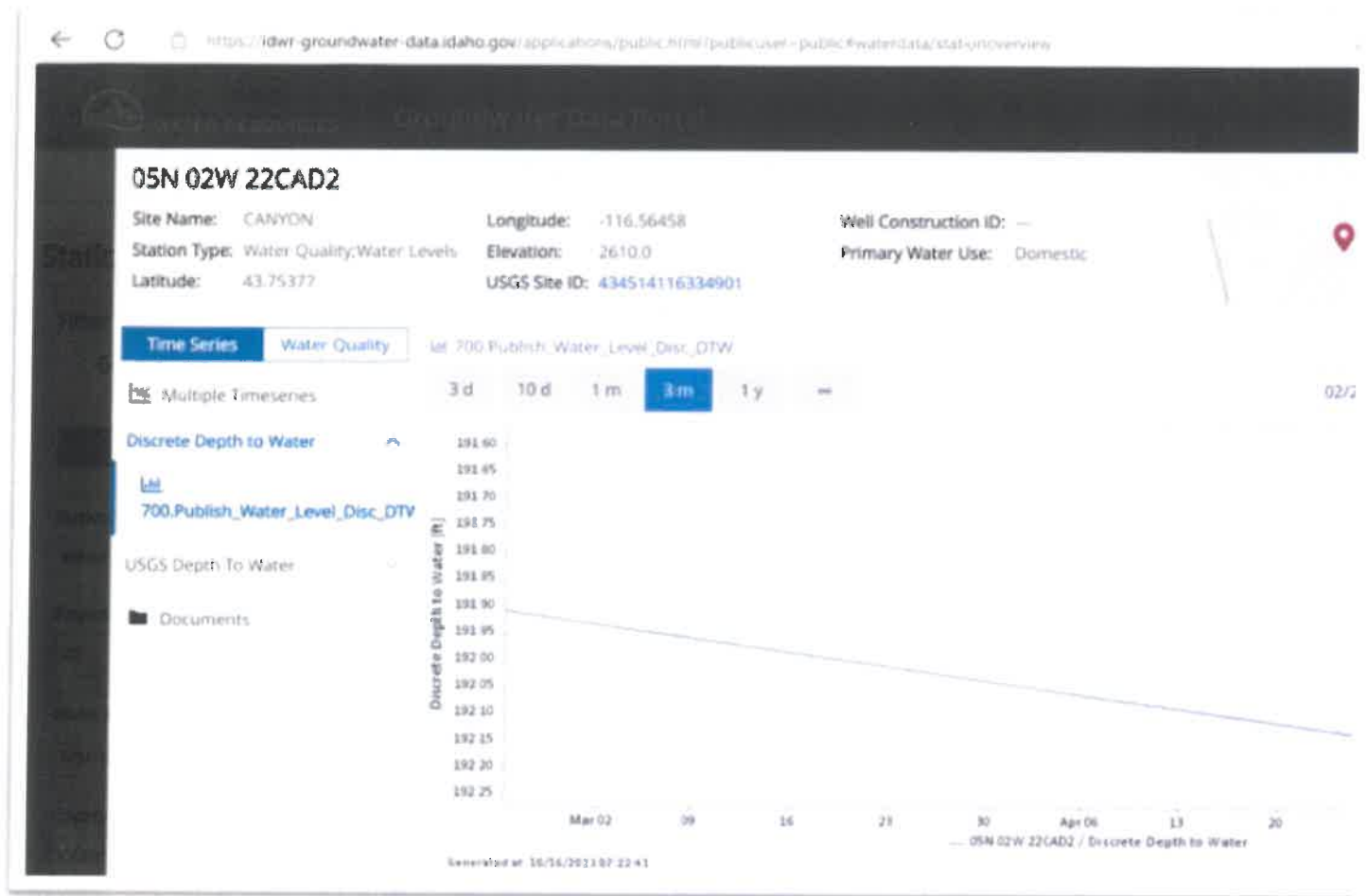
This well is located Down near Middleton Well 10:



This well is near Goodson /Hwy 30 – what is worth noting is that this area must drill deeper and the fall of that water has been nearly 20 feet.



This one is between Middleton and Star up by Galloway



Theresa Denham ®
Denham Home and Farm LLC



2021 CBOR High Producer
 2021 RPAC Silver Investor
 2022 Silvercreek Million Month Realtor- April
 Caldwell Chamber of Commerce
 Middleton Chamber of Commerce
 Womens Council of Realtors
Silvercreek Realty Group
 Phone: 208-505-7675
 email: theresa.denham@realestate-ID.com



Public Comment Sign In

City Council - December 6, 2023

	Name	Address	Phone or Email	Topic/Agenda Item #
1	Jim Taylor	1052 Triumph Drive	206-102-6794	
2	Jim Gray	23557 Duff	208250-2324	
3	Marty Denham	8538 Simpler	208 541-410-2624	
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