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**MIDDLETON CITY COUNCIL  
MARCH 15, 2023**

The Middleton City Council Meeting was called to order on March 15, 2023, at 5:30 p.m. by Mayor Steve Rule.

**Roll Call:**

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

Mayor Steve Rule, City Attorney Tayler Yett, Public Works Director Mr. Van Gilder, Planning and Zoning Official Ms. Stewart and Deputy Clerk Ms. Reynolds were present.

**Pledge of Allegiance, Invocation:** Alan Mills

**Action Items**

**A. Approve Amended Agenda**

**Motion:** Motion by Council President Kiser to approve Agenda posted March 13, 2023. Motion seconded by Council Member O'Meara and approved Unanimously.

**Action Item:**

1. **Consent Agenda (items of routine administrative business) (*Action Items*)**
  - a. **Consider approving minutes for City Council March 1, 2023, meeting.**
  - b. **Consider ratifying payroll for March 10, 2023, in the amount of \$106,440.82.**
  - c. **Consider approving accounts payable through March 3, 2023, in the amount of \$224,720.13.**

Mayor Rule called items and Council President Kiser asked Council if they had questions regarding the accounts payable. None

**Motion:** Motioned by Council President Kiser to approve Consent Agenda Items 1 a, b & c. Motion seconded by Council Member O'Meara and approved unanimously.

2. **Consider approving Middleton Chamber of Commerce Special Event Permit for the Middleton Market held at Middleton Place Park, and Trolley Station Rental Agreement for 2023 Chamber Meetings, and request the fees be waived. - Ms. Fearn**

Mayor Rule called the item and invited Ms. Fearn from the Chamber of Commerce to present the application.

**Motion:** Motioned by Council President Kiser to approve Middleton Chamber of Commerce Special Event Permit for the Middleton Market held at Middleton Place Park, and Trolley Station Rental Agreement for 2023 Chamber Meetings, and approve the fees be waived. Motion seconded by Council Member O'Meara and approved unanimously.

3. **Consider accepting the 2022 Audit Findings as presented by Zwygart John & Associates, PLLC. - Mr. Zwygart**

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Mayor Rule called the item and Mr. Zwygart to presented the 2022 Audit Findings.

**Motion:** Motion by Council President Kiser accept the 2022 Audit findings as presented by Zwygart John & Associates, PLLC. Motion seconded by Council Member O'Meara and approved unanimously.

- 4. Authorize the Mayor, or his designee, to enter into a contract with Integrity Inspection Solutions, Inc. for the sewer main line repair work described in their proposal dated 8/31/2022 for an amount not to exceed \$16,650.00. - Mr. Van Gilder**

Mayor Rule invited Public Works Director Mr. Van Gilder to explain the item. Mr. Van Gilder said the city hired Inspection Solutions last summer to identify the needed repairs in the sewer main line. This is the authorization to proceed with those repairs.

**Motion:** Motion by Council President Kiser to authorize the Mayor, or his designee, to enter into a contract with Integrity Inspection Solutions, Inc. for the sewer main line repair work described in their proposal dated 8/31/2022 for an amount not to exceed \$16,650.00. Motion seconded by Council Member Huggins and approved unanimously.

- 5. Motion to Authorize the Mayor to enter into a contract with the Knife River Corporation in the amount of \$42,640.60 for the repair of the water service to the City's Wastewater Treatment Plant including the installation of a 24" steel casing beneath Crane Creek at the southern terminus of Wiffen Lane. - Mr. Van Gilder**

Mayor Rule invited Public Works Director Mr. Van Gilder to explain the item. Mr. Van Gilder explained this item is to address an immediate water line leak in the potable water service line. The location of the leak beneath the Willow Creek has led staff to recommend the installation of a larger 24" casing in this repair to facilitate the future fire flow needed at the WWTP. The City has the appropriate permitting to undertake this work. The project will be funded with Capital funds as this is directly related to the WWTP upgrade.

**Motion:** Motion by Council President Kiser to authorize the Mayor to enter into a contract with the Knife River Corporation in the amount of \$42,640.60 for the repair of the water service to the City's Wastewater Treatment Plant including the installation of a 24" steel casing beneath Crane Creek at the southern terminus of Wiffen Lane. Motion seconded by Council Member O'Meara and approved unanimously.

- 6. A motion to authorize the City's Public Works Department to undertake the installation of a 4" water main within Dewey Avenue right-of-way, north of 3rd street; the relocation of three (3) residential service connections into public right-of-way; and the Public Works Director, Jason Van Gilder, to expend up to \$21,000 for the direct costs of materials and equipment related to this effort. - Mr. Van Gilder**

Mayor Rule invited Public Works Director Mr. Van Gilder to explain the item. The City's public works crew can do this work and save quite a bit of money by not contracting it out. This request is for Council to authorize the Public Works Director to be able to expedite the approval of individual expenditures in order for the work to be competed efficiently.

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**Motion:** Motion by Council President Kiser to authorize the City's Public Works Department to undertake the installation of a 4" water main within Dewey Avenue right-of-way, north of 3rd street; the relocation of three (3) residential service connections into public right-of-way; and the Public Works Director, Jason Van Gilder, to expend an amount not to exceed \$21,000 for the direct costs of materials and equipment related to this effort. Motion seconded by Council Member Huggins and approved unanimously.

**7. Public Hearing: Applications by Michael Baird and Jay Walker/Kimley-Horn Engineering for annexation/rezone, preliminary plat, and development agreement with respect to The Square on Hartley Subdivision located at 0 Hwy 44, Middleton, Idaho (Tax Parcel No. R3477301400). The proposed preliminary plat consists of one common lot and 33 lots to accommodate Flex Space Units on vacant land zoned Canyon County Agricultural. Applicants are requesting a zone change to Middleton C-2 zoning (Light Commercial). – Ms. Stewart**

Mayor Rule opened the public hearing at 6:03 p.m.

Planning and Zoning Official Ms. Stewart presented the application. (Exhibit 1). She also clarified that flex space is allowed in a C-2 zone.

*Applicant: Mike Baird* presented to Council (Exhibit 2)

Mayor Rule asked for clarification of the types of materials to be used on the buildings. Mr. Baird said they would be built in a "Traditional meets Modern" fashion using brick, metal awnings, some vertical metal and potential stucco.

Mayor Rule opened public testimony at 6:36 p.m.

*Brian Burford: Opposed:* Concerned about the irrigation ditch and his irrigation rights.  
*Deanne Burford: Opposed:* Concerned about irrigation ditch. She cited Idaho Statue pertaining to Idaho Waterways.

*Mike Grafe: Neutral:* Concerned about traffic and questions legitimacy of Traffic Studies.

*Applicant Rebuttal: Jay Walker (Kimley-Horn)*

- Mr. Baird wants to be a good neighbor and will work with the Burford's.
- Specific Construction/Design plans will be submitted and during that phase a license agreement will be submitted. The license agreement will get into the detail with design and will meet all Idaho State Statutes.
- Redundancy in irrigation facilities is important. Currently the Burford's run siphon tubes. The facility will be tiled if it is on Mr. Baird's property. This tiled facility will eliminate additional sedimentation.
- They anticipate very little traffic cutting through to Whiffin Lane. Most traffic will go up to the traffic light to get on the State Highway.

Mayor Rule closed public testimony at 6:59 p.m.

Council Discussion:

*O'Meara:* Will they pay a proportionate share to Hartley traffic light?

*Mayor:* No, they showed up after the fact.

*Ms. Stewart:* They will pay pro-rata fees for Emmett and Cemetery intersections and the Mid/Star traffic impact fees will be collected at building permit.

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*Huggins:* Only latecomer fees can be collected for water and sewer, not traffic.

*Kiser:* Concerned about the ditch.

*Ms. Stewart:* Ditch problems are on every application that comes into the city. The City engineer will not approve the construction drawings until Idaho State law is met. Ditch license agreements are often done administratively on the back side, but before approval of construction drawings.

*Murray:* Wants it in writing.

*Huggins:* Put language in the conditions regarding irrigation. She likes the project and is always looking for ways people can work and live in Middleton.

*Mayor:* Likes the concept and design. If irrigation can be taken care of, this could really fill a need for Middleton.

*Huggins:* Irrigation surrounding her house is much better than it was once the property around her was developed.

*O'Meara:* Concerned about the conceptual buildings.

*Ms. Stewart:* The applicant will go through the Design Review process and will build generally consistent with the concept plan.

**Motion:** Motion by Council President Kiser to approve the application of Michael Baird and Kimley Horn for annexation and rezone of The Square on Hartley Subdivision based upon the facts and law presented and subject to the conditions of approval set forth in the Staff Report for this public hearing and adding the condition that the current irrigation rights of existing users are met. Motion seconded by Council Member Huggins and unanimously by Roll Call Vote.

**Motion:** Motion by Council President to approve the application of Michael Baird and Kimley-Horn for Development Agreement with respect to The Square on Hartley based upon the facts and law presented and subject to the conditions of approval set forth in the Staff Report for this public hearing. Motion seconded by Council Member O'Meara and approved unanimously by Roll Call Vote.

**Motion:** Motion by Council President to approve the application of Michael Baird and Kimley-Horn for Preliminary Plat with respect to The Square on Hartley based upon the facts and law presented and subject to the conditions of approval set forth in the Staff Report for this public hearing. Motion seconded by Council Member O'Meara and approved unanimously by Roll Call Vote

Mayor closed the Public Hearing at 7:09 p.m.

8. **Consider approving Ordinance 676 which is AN ORDINANCE OF THE CITY OF MIDDLETON, CANYON COUNTY, IDAHO, ANNEXING TO THE CITY OF MIDDLETON, IDAHO, CERTAIN REAL PROPERTY SITUATED IN THE UNINCORPORATED AREA OF CANYON COUNTY, IDAHO, AND CONTIGUOUS TO THE CORPORATE LIMITS OF THE CITY OF MIDDLETON, IDAHO; ESTABLISHING THE ZONING CLASSIFICATION OF SAID REAL PROPERTY TO C-2 (LIGHT COMMERCIAL); DIRECTING THAT COPIES OF THIS ORDINANCE BE FILED AS PROVIDED BY LAW; AND PROVIDING AN EFFECTIVE DATE.**

Mayor Rule called the item.

**Motion:** Motion by Council President Kiser to read Ordinance 676 by title only. Motion seconded by Council Member Huggins and approved unanimously.

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Council President Kiser read Ordinance 676 by title only.

**Motion:** Motion by Council President Kiser to waive the 3-reading rule and approved Ordinance 676. Motion seconded by Council Member Huggins and approved unanimously by Roll Call Vote.

Mayor Rule called a brief recess at 7:11 p.m. and the meeting was resumed at 7:19 p.m.

Mayor Rule invited Public Works Director Mr. VanGilder to explain the item. This is the final reconciliation for this project.

**Motion:** Motion by Council President Kiser to authorize the Mayor to execute Change Order 8 with La Riviere, Inc. in an amount not to exceed \$16,799.09 to reconcile estimated contract quantities to the actual quantities installed for the 30" Hartley Sewer Main Project. Motion seconded by Council Member Huggins and approved unanimously.

**9. Consider Approving License Agreement between Drainage District 2, Viper Investments, LLC and the City of Middleton for license to construct public road across DD2 easement.**

Mayor Rule called the item and asked for Council Member O'Meara to explain it because Ms. Crofts was out of town.

Council Member O'Meara recused himself from voting, so it doesn't show there are any improprieties. This agreement comes as a result of the agreement with the City and GRMPD. This creates a water supply down the 36-inch overflow that runs down city property. In the event that the Middleton Mill Ditch breaches on some of the higher ditch banks into town ie: Triumph this would allow all the water from the Middleton Mill Ditch to be diverted through the 36-inch pipe. This also allows the ground water that is in that pipe to be collected and put in the GRMPD wet well instead of pulling water from the Middleton Mill Ditch.

Mayor said this agreement is not anything new. DD2 is already using this type of agreement with Star and on multiple occasions. We are not reinventing the wheel or experimenting with some new water agreements. The ditch company is not present.

**Motion:** Motion by Council President Kiser to approving License Agreement between Drainage District 2, Viper Investments, LLC and the City of Middleton for license to construct public road across DD2 easement. Motion seconded by Council Member Huggins and approved unanimously with Council Member O'Meara recusing himself.

**Public Comments:**

*Jim Taylor:* Suggested that City Monies be invested in multiple banks.

*Janet Gibson:* Would like to make sure there is a general cohesiveness/architectural design in Middleton. She also has concerns about the code regarding Neighborhood Meetings.

*City Attorney Ms. Yett:* State Legislation sets the requirements for Neighborhood Meetings.

*Mike Graefe:* Wants to give Mr. VanGilder an "ataboy" because he looked at things in the future and discovered how Whiffin Lane needs to be addressed and was proactive.



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*Sterling Mathis (Public Comment read into record by Ms. Stewart):* Proposed financial consideration for completing the connection from S. Middleton Road and N. Middleton Road.

**Mayor and Council Comments**

*Mayor Rule:* There are plans already completed and engineered connecting Middleton Rd north and south. Development will pay back 70% of the cost.

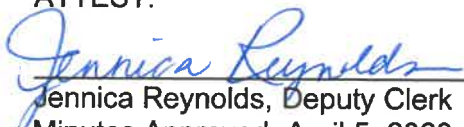
That intersection has to be designed in order to be able to get into ITD's queue.

He thinks that sometime in the next 4-5 years that connection will be complete and Middleton will have a true N/S corridor. Anyone can come in and look at the maps and plans the City has.

*O'Meara:* Glad to see plans moving forward. He donated land sometime ago for the intersection of N. Middleton Rd and SH44.

**Adjourn:** Mayor adjourned the meeting at 7:37 p.m.

ATTEST:

  
Jennica Reynolds, Deputy Clerk  
Minutes Approved: April 5, 2023

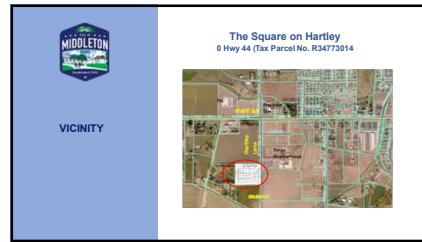
  
Mayor Steve Rule



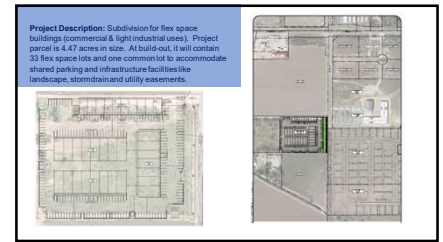
# **EXHIBIT “1”**



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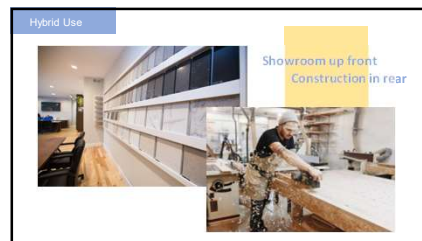
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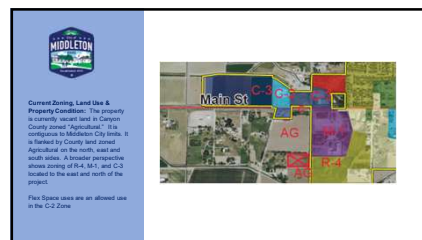


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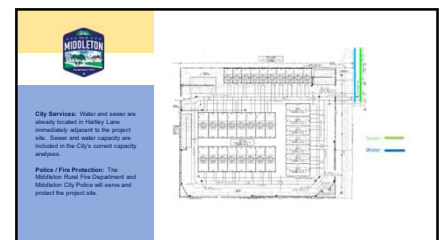


**Application Requests:** Applications include (1) annexation and rezone to C-2 (light commercial), (2) Development Agreement, and (3) Preliminary Plat.

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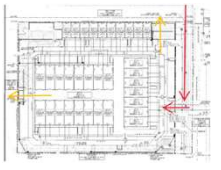
**Traffic, Access & Streets**

The primary access for the subdivision will be off Hartley. Drive aisle connections will be severed on the plot to the north and west to ensure connectivity with future commercial development in the surrounding area.

Developer will be responsible for improving 1/2 of the Hartley Lane roadway fronting the property (50' from centerline). This will include a mixed-use asphalt pathway.

A traffic study was completed for the subdivision. The Traffic Engineer declared that by 2025 build-out, no additional improvements are needed to maintain 2025 total traffic operations. (P-3).

Developer must not contribute negatively to the mitigation of its traffic impacts by way of the Mid-State Transportation Impact Program and Pro-Rata fee collected pursuant to MCC 5-4-3.



10

**Annexation**


**Annexation and Rezoning:** Applicants are requesting that the 4-47 acre project parcel be annexed into the City of Middleton with a zone change from County "Agricultural" to City C-2 (Light Commercial).

There are two findings that must be made before Annexation can be approved: (1) the property must be contiguous to City limits and (2) City services such as water, sewer, police and fire must be able to be extended to serve the site in an orderly, efficient, and economical manner. (State Code 90-222)

An application for rezoning requires the following for approval: (1) the rezoning will not adversely affect the City's delivery of services and (2) the rezoning request is not in conflict with the Comprehensive Plan. (State Code 90-4011)

With respect to annexation, Planning Staff finds that Applicant's project meets the criteria of intelligibility. Sewer and water are adjacent and accessible to the site. Middleton Fire Department has submitted comments requiring Developer to construct the project in compliance with the Code to ensure that the project does not adversely affect the City. Fire Marshal notes that the project is done before he will approve the construction drawings for the project. City Police are already patrolling the area because of the proximity to Purple International Church and the South Subdivision. As to traffic impacts, the Traffic Study indicates that no improvements are suggested by the project.

Staff further finds that Applicant has met the two criteria for a rezoning. Planning Staff finds that the rezoning will not adversely affect the City's ability to deliver services already noted above. And, as will be shown below on the section regarding the Comprehensive Plan, Staff finds that the project is also consistent with the goals and strategies set forth in the City's Comp Plan.



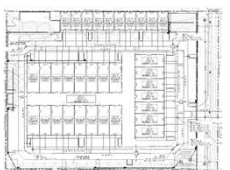
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**Preliminary Plat**

The preliminary plat has 33 lots for five sales units and 1 common lot for parking & infrastructure facilities.

The design is based on a condominium design. The individual units are on separate lots, but they share a common wall. For that reason, the City's code requirements regarding utility easements along the front, side and rear of each lot do not apply. Also, the 10' front setback required by the C-2 Code does not work with the common lot and infrastructure. The lot line already meets requirements for that aspect. In light of this, Applicants are requesting a waiver to MCC 5-4-1, Item 1 and 5-4-10-5 under the Code's waiver section 1-152.

Planning Staff finds that the preliminary plat complies with all departmental standards and requirements of the Middleton City Code and Idaho State Code except for those standards that are the subject of the waiver request. Finally, City Engineer has recommended approval of the plat as shown in the recommendation letter attached to your copy of the pre-plat.



12

**Development Agreement**

- Developer will develop the project site and construct the buildings generally consistent with the concept drawings attached to the DA. (Sec. 3.1 and 3.2)
- Developer shall record a cross-access easement for vehicle & pedestrian traffic, utility location, and shared parking. (Sec. 3.3 and 3.4) The common lot with an easement will follow this requirement.
- Developer will not be required to construct a landscape buffer on the west boundary of the parcel because the area to the west has been designated for future commercial uses on the City's Future Land Use Map. (Sec. 3.5)
- Developers will have two years to obtain final plat approval. Developer may seek two 1-year extensions, thereby allowing a total of 4 years to bring the project to final plat approval. Failure to meet this timeline may result in the City terminating the DA and nullifying the preliminary plat. (Sec. 3.6)
- Developer shall provide at least two drive aisle connections to ensure connectivity to future commercial development to others. (3.7)
- Because the project parcels are similar to a condominium design, the parcels will not be subject to all the C-2 setbacks and utility easements required by the Code. Instead, the front setback shall be a minimum of 10'. Also, the maximum lot coverage shall be 100% rather than 90%.
- Developer to pay all traffic private fees and complete any construction mitigation recommended by ITD. (3.10)
- Developer or Business Association will be responsible for maintaining the storm facilities pursuant to an O&M Manual to be created by Developer.

This annexation/rezone has a connected Development Agreement. CDA's A copy was attached to the Staff Report for Council review. The public could also review the DA. The DA sets forth the following conditions:

13

Applicant's project complies with the Comprehensive Plan's Future Land Use Map because the area where the project is proposed is shown as commercial on the FLUM.

Developer's project also complies with the following Goals, Objectives, and Strategies of the 2019 Middleton Comprehensive Plan:

- Goal 1: To be proactive in delivering city services to properties reasonably expected to be annexed in the future.
- Goal 4: Provide commercial development near State Hwy 44. The project will also establish a good quality of the with development that pays through impact fees and property taxes for the public services it receives.
- Goal 6: Water, sewer, and adjacent road systems have been expanded in an orderly manner consistent with population growth.
- Goal 7: Commercial and industrial development will provide employment opportunities to residents as they can both live and work in the City.
- Goal 8: A desirable area for new commercial development has been created without disturbing from existing businesses.



14

**Comments Received from Surrounding Landowners:** Attached as Exhibit "C" to the Staff Report for Council and the Public to review.

**Comments from Agencies:** Attached as Exhibit "D" to the Staff Report.

**Comments from City Engineer and Planning Staff:** Attached as Exhibit "E" to Staff Report.

**Application Information:** Applicants are Michael Baird and Jay Walker/Monkey Horn Engineering, 1100 W. Idaho Street #210, Boise ID 83706. Application was accepted on 12/27/2022.

**Notices & Neighborhood Meeting:**

Notice	Date
Newspaper Notification	2/9/2023
Notice to adjacent landowners	2/23/2023
Circulation to Agencies	2/23/2023
Sign Posting property	2/23/2023
Neighborhood Meeting	11/29/2022

**Applicable Codes and Standards:** Idaho Standards for Public Works Construction, the Middleton 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 47, Chapter 68, Title 49, Chapter 2 and 13.

15

**The Square on Hartley**

The Planning & Zoning Commission considered the applications before you tonight at a public hearing held on February 13, 2023. The Commission recommended approval of all three applications subject to the conditions of approval in this staff report for the February hearing.



16


**The Square on Hartley**

**Conclusions and Recommended Conditions of Approval:**

For State law and the Middleton City Code, any final order 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 this presentation and in the Staff Report. They are attached set forth with jurisdictions.

**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 notes that the portions of the Idaho State Code and Middleton City Code to be considered in making a decision on the applications.




17

**The Square on Hartley**

If City Council is inclined to approve the applications for Annexation/Rezoning, Development Agreement & Preliminary Plat, then Planning Staff recommends that any approval be subject to the following conditions:

- City municipal stormwater, fire flow and sanitary sewer services are to be extended to serve the subdivision.
- Developer to comply with all terms of the Development Agreement approved for the project.
- Developer to install landscaping and all amenities in compliance with the Landscape Plan submitted with the application.
- Developer shall create a plan for operation, maintenance, and repair of stormwater facilities (GDM Plan) contained on the project site. The GDM Plan shall be recorded. Developer and/or Business Association must maintain and operate the subdivision stormwater facilities in compliance with the GDM Plan.
- Developer to construct, at its own cost, all bridge improvements on Hartley Lane adjacent to the project parcel and any roadway mitigation recommended by ITD and approved by the City other than roadway construction already shown in the Hartley Lane Plan. All construction plan set.
- Prior to approval of the final plat, Developer to pay all City required pro-rata share traffic fees (Proportional Share Fees) as required by MCC 5-4-3 and any Condition Memo issued by ITD.
- All City Planner and Engineer review comments are to be completed and approved.
- All requirements of the Middleton Fire District are to be completed and approved.
- Sewer and water capacity to be assessed at the time City approves the construction drawings for the project.

Finally, if Council denies the applications, then the Council should state what the applicant could do, if anything, to obtain approval. (Middleton City Code 1-4E(2)).

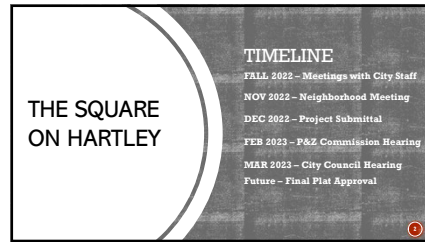


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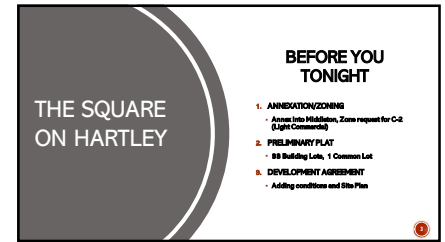
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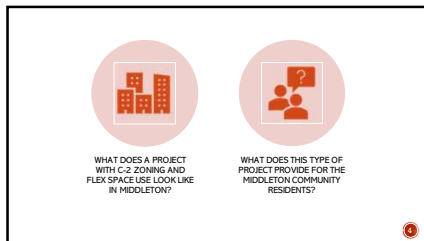
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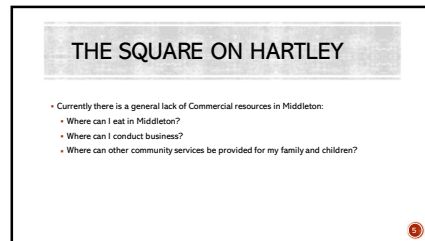
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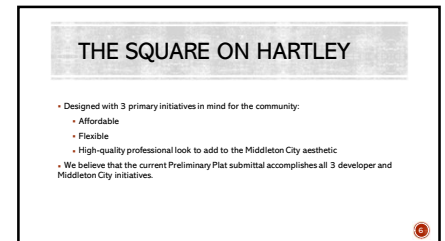
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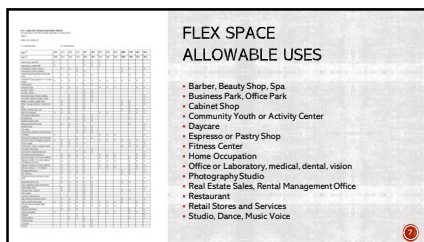
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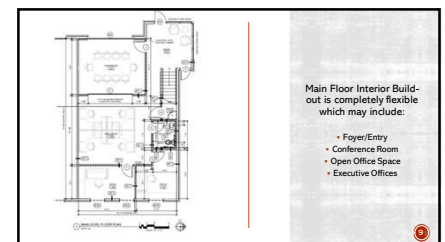
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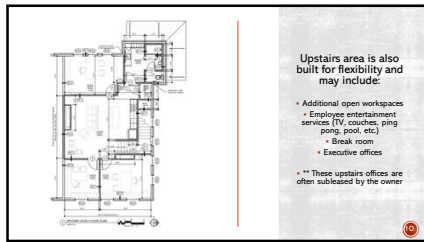
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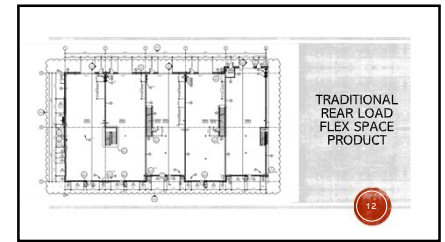
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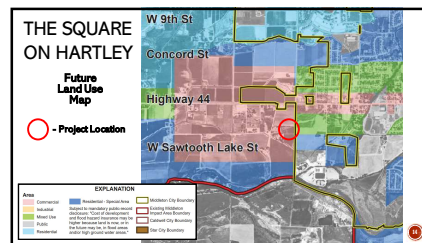
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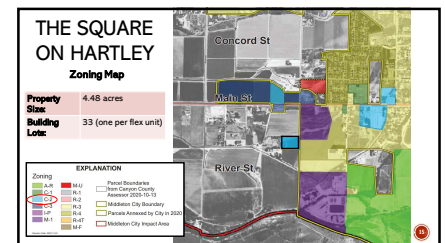
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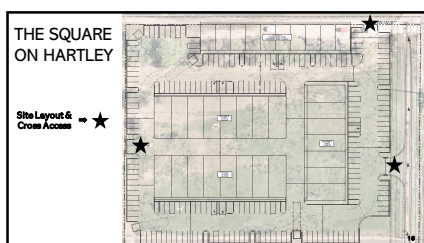
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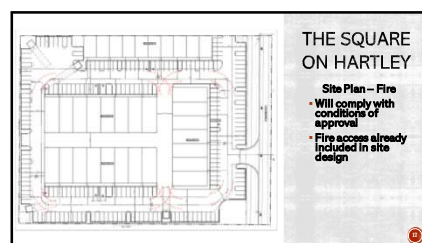
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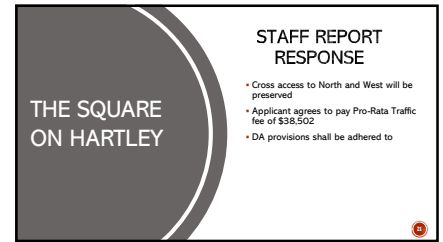
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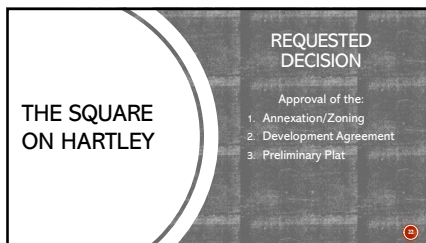
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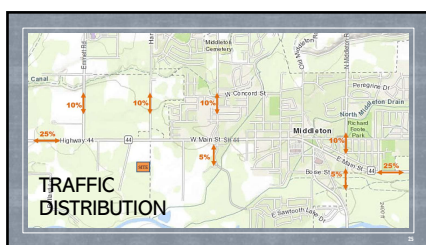
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7)for annexation/rezone, preliminary plat, and development agreement with respect to The Square on Hartley Subdivision located at 0 Hwy 44, Middleton, Idaho

March 15, 2023 - City Council - Public Hearing

Please check

	Name	Address	Phone or Email	In Favor	Neutral	Opposed	Testify
1	Brian Burford	12663 Hwy 44 Middleton	208 830 9092			X	X
2	Deanne Burford	↓	208.204.9120 deeburf@gmail.com			X	X
3	MIKE GRAEF	1889 RIDGE WA	208-527-6227		✓		
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## Public Comment Sign In

City Council - March 15, 2023

	Name	Address	Phone or Email	Topic/Agenda Item #
1	Jim Taylor	1052 Triumph Ph	2086028974	
2	Brian Burdell	12663 Hwy 44	208830-9092	
3	JANET GIBSON	ON FILE		Public meetings Neighborhood
4	MIKE GRAVE	1877 K 106E WH	208577-6227	
5				
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7				
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10				

## Roberta Stewart

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**From:** Sterling Mathis <sterling68mathis@gmail.com>  
**Sent:** Monday, March 6, 2023 5:08 PM  
**To:** Roberta Stewart  
**Subject:** Roundabout Middleton road

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Having talked with Roberta Stewart and Tim O'Mara who enlightened me more.

I propose a financial evaluation of the cost to complete the construction from the roundabout across the field connecting South Middleton road to North Middleton road. By bond if necessary. SAVING TIME & Considerable Expenses required at a later date; not only saving traffic at the stoplight but increasing safety all around. After all, a fair amount of traffic turns towards Star.

Sincerely. STERLING MATHIS

PS. Selling the right of way creates Business growth both sides.

Public  
Comment