MIDDLETON CITY COUNCIL MARCH 6, 2024

The Middleton City Council Meeting was called to order on March 6, 2024, at 5:35 p.m. by Mayor Jackie Hutchison.

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

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

Pledge of Allegiance, Invocation: Harison Reynolds - High School Student

Action Items

A. Approve Amended Agenda

Motion: Motion by President Kiser approving the Amended Agenda posted March 1, 2024, 5:00 p.m. Motion seconded by Councilman O'Meara and approved unanimously.

Public comment on Non-Agenda Items of City Business (3 min each)

Marty Denham: Regarding general animosity felt between city residents and county residents. County residents pay income and sales tax, therefore in his opinion are contributing to the city and should have a voice.

Mikell Galloway: Wants to be able to speak to items on the agenda. Why can they only speak to non-agenda items?

Tyson Sparrow: In Mayor Taylor's administration the public often was asked to comment on items on the agenda prior to the council voting. He would like to see that again. He also has concerns about the Mayor's salary being used a "political football." He believes that no other city in the state of Idaho plays with the mayor's salary as much as Middleton.

Mayor Hutchison stated that when her term ends there will be an ordinance change.

Lori Clark: Was impressed with the process last council meeting regarding the appointment of the two new planning and zoning commissioners. She appreciated the discussion and even though they didn't all agree, she felt the agreements were handled professionally.

Information Item:

1. Treatment Plant - Code Compliance Update. - Mr. Van Gilder

PW Director shared a status update regarding the City's Waste Water Treatment Plant's (WWTP's) current permit compliance status.

At a previous meeting there was public comment seeking more information about whether the WWTP was currently in compliance with it's permit. It was also expressed that several years ago it was stated that an upgrade would need to be completed around 2021 in order for the plant to remain in compliance.

Mr. Van Gilder shared that the plant is currently in compliance with the Idaho Pollutant Discharge Elimination System (IPDES) permit that regulates the WWTP discharge into the

Boise River. He complemented the work of the City's two wastewater treatment plant operators for their work in keeping the plant operating efficiently and ensuring the plant remains in compliance.

Mr. Van Gilder noted that the City welcomes the public to tour the plant for anyone who may be interested in learning firsthand about the work being done there. The operators had given a tour of the facility earlier in the week that was reportedly enjoyed by the participants. Please direct requests for tours to City hall and they will put you in contact with the plant operators to arrange a date and time.

While uncertain about specific item the public comment of the previous meeting was referring to, Mr. Van Gilder addressed two potential matters that may have given rise to the concern.

First, the City is currently operating under an NPDES (National Pollution Discharge Elimination Permit) issued by the EPA in 1999. That permit expired in November 2004 and has been administratively extended several times since it's expiration. Further Idaho assumed regulatory primacy over the permitting program in the late 2010's and has continued to extend the permit administratively up to the present time. Around 2018 or 2019, Idaho's Department of Environmental Quality (IDEQ) issued a draft permit for the City's WWTP. That draft permit contained some time schedules that would have required plant upgrades. That draft permit has been withdrawn by the IDEQ.

The City anticipates a new draft permit will be issued in the near future. That permit is anticipated to contain water quality requirements that will necessitate upgrades to the City's existing WWTP. The City has been actively engaged in the design of those upgrades along with developing a land application facility to provide an alternative methods of effluent disposal to further reduce pollutant loading on the Boise River.

Second, the city had a recordable permit violation approximately 4 years ago. This related to a mechanical system malfunction in the equipment that modulates the disinfection system intensity to correspond to the flow volume in the system. This violation was self-reported by the City's WWTP operator at the time. The malfunctioning system was placed in a mode to prevent a similar occurrence to happen again. And no subsequent violations have occurred since that time.

Action Item:

- 1. Consent Agenda (items of routine administrative business)
 - a. Consider approving minutes for City Council February 21, 2024, Regular meeting.
 - b. Consider approving minutes for City Council February 27, 2024, Special Meeting.
 - c. Consider ratifying payroll for February 23, 2024, in the amount of \$165,731.29.
 - d. Consider approving accounts payable through February 23, 2024, in the amount of \$380,390.93.

Council President Kiser called the items and stated that he had reviewed the accounts payable. Nothing was out of the ordinary.

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

2. Consider approving the final plat for West Highlands Ranch, Phase 18.

Mayor Hutchison called the item. Planning and Zoning Official Ms. Stewart presented West Highlands Ranch phase 18 for final plat.

Councilman O'Meara stated that originally there was a school site planned in that phase. When the school district chose not to use that site, the undeveloped fields were then allowed to be used by GMPRD as a soccer complex until the phase developed.

Motion: Motion Council President Kiser approving the final plat for West Highlands Ranch, Phase 18. Motion seconded by Councilman Christiansen and approved unanimously.

3. Public Hearing: Application by Richard Porter and Tradition Capital Partners, LLC for Development Agreement Modification with respect to two parcels totaling 115 acres located at 0 Hwy 44 (Tax Parcels nos. R33938013 and R33938011). Applicants are applying to amend the approved Development Agreement to add a provision allowing them to change the side setbacks for their lots zoned R-2 from 25' to 10' and to change the front setback for the same lots from 25' to 20'.

Mayor Hutchison opened the public hearing at 6:08 p.m.

Planning and Zoning Official gave a presentation of the staff report (Exhibit 1).

Applicant Representative: Stephanie Hopkins (KM Engineering) presented a PowerPoint presentation detailing the request for the DA modification. (Exhibit 2).

Mayor Hutchison opened public testimony at 6:17 p.m.

Jim Taylor: Opposed. Wants developer to build what they agreed to. Asked for clarification from the fire district comments.

Ms. Stewart: Fire District has no problem with the reduced setbacks. The district will work with the builder to make sure each house has adequate fire flow.

Marty Denham: Opposed. He believes there is still a concern that is not addressed with the Fire District and the City has a pattern of granting exceptions. As a matter of principle the proposal should be rejected.

Don Reynolds: In Favor. He has seen exceptions to the rules made often. This subdivision is not any different than other subdivisions in Middleton. It will be a nice addition to the community. He has a professional history of working in the building industry. He often hears how hard it is to build in the City because of our unique codes. He thinks we need to take a look at the zoning codes and determine if we are unique because we want to be, or if changes can and should be made.

Tyler Hess: In Favor. He is the developer on this property and typically develops in the county where the side setbacks are 10 ft. The goal of ½ acre lots is to build a nicer single level home. Valhalla and Lakes of Telaga have ½ acre lots with 10 ft setbacks. His community is similar to theirs. The front setback is being requested to be 20 ft instead of 25 ft because there is an existing 7 ft of common lot in the front of each lot. With a 20' front setback the homes will be pushed back 27 ft from top back of curb. He has spoken with Chief Islas regarding the fire flow for the homes.

Mike Graefe: Opposed. He is concerned about starting out giving exemptions. Lots keep getting smaller and smaller. He thinks the zoning code need to be changed to consider buildable acres instead of gross acreage.

Mikel Galloway: Opposed. She thinks they should follow the rules.

Spencer Kofoed: In Favor. He is a developer and appreciates mayor and council's genuine concern about the city. The Lakes of Telaga at ½ acre lots have 10 ft side setbacks. They want this to look more like the Lakes of Telaga and Valhalla Subdivisions with a nicer product. This 25 ft setback issue took them off guard. This subdivision phase had 60 acres and 81 lots. They want to be able to build a nicer product on the lots.

Theresa Denham: Neutral. She wants to know what the actual building envelope is, less the ponds. She believes the developer is running into issues with the drainage ponds. She thinks we should have a compromise and urges Council to work with the developer to accomplish that.

Applicant Rebuttal Stephanie Hopkins:

This is not a bait and switch There was an oversight with the ponds that were added in due to floodplain issues. Setbacks of cities are typically based on the International Building Code which is 10 ft. This request does meet the IBC code and Fire code. Each lot has a building envelope an average of 100 ft wide. If the 25 ft setbacks are enforced that means that 50 ft of the original 100 ft are not available for building. That is really constrictive for single story or even 2 story homes in an R-3 or R-2 district. The DA modification will result in a better product overall and create a really great community.

Mayor Hutchison closed public testimony at 6:42 p.m.

Council Discussion

President Kiser: He read the letter from MRFD that was provided in the Staff Report. He has no problem with this request. An R-2 lot shape changes depending on the size of the setbacks. He understands the desire for a single level floor plan and doesn't see a great conflict.

Councilman O'Meara: Recused himself because Tyler Hess (Developer of the project) is directly related to him.

Councilman Murray: Fairly torn, sees both sides. Likes the idea of a compromise. He suggested changes could be made to the DA.

City Attorney Mr. Waterman: Stated if Council wants to change the provisions of the DA, they would want to reopen the public hearing.

Councilman Murray: Was thinking if there is a way to come up with a ratio of lots with different size setbacks.

Ms. Stewart: Stated if wanted to do that, Council would need to deny this DA modification and the applicant would need to bring back a different DA.

Councilman Christiansen: Talked about the Letter of the Law vs. Intent of the Law. Variances do happen, and changes do occur. These are nice homes and they will enhance the community. He does not see an adverse impact.

Councilman O'Meara: Thinks the ponds are a wonderful way to use ground that would otherwise be too low.

Motion: Motion by Council President Kiser approving Application by Richard Porter and Tradition Capital Partners, LLC for Development Agreement Modification with respect to two parcels totaling 115 acres located at 0 Hwy 44 (Tax Parcels nos. R33938013 and R33938011). Applicants are applying to amend the approved Development Agreement to add a provision allowing them to change the side setbacks for their lots zoned R-2 from 25' to 10' and to change the front setback for the same lots from 25' to 20'. Motion seconded by Councilman Christiansen. **Roll Call Vote:**

Kiser - Yes, Christiansen - Yes, Murray - Yes, O'Meara - Abstained.

Mayor Hutchison called a brief recess at 6:55 p.m. and resumed the meeting at 7:05 p.m.

4. Public Hearing: Consider approving Ordinance 689: An Ordinance to be enacted by the Middleton City Council amending Title 5, Chapter 4, Section 5-4-4 of the Middleton City Code pertaining to the general requirements and criteria for preliminary plat approval; providing for an effective date; providing for severability; and repealing all ordinances, resolutions, orders and parts thereof, in conflict herewith.

Mayor Hutchison opened the public hearing at 7:05 p.m.

Planning and Zoning Official Ms. Stewart gave a presentation of the Staff Report (Exhibit 3).

Mayor Hutchison opened the public testimony at 7:11 p.m.

Tyson Sparrow: Not in favor: There was a letter from the irrigation district. Likes the broader term of public services vs city services. We need to consider all the districts that are affected. He is a member of the P&Z commission.

Mayor Hutchison closed public testimony at 7:13 p.m.

Council discussion:

Councilman Murray: Believes we should be requiring developers to prepare a report to assess their impact on every taxing district applicable to their project.

City Attorney Mr. Waterman: The city already does this regarding traffic studies. If there are other categories city would like to see, the cost and time to gather that information should lie with the developer.

Councilman O'Meara: Agrees with Councilman Murray. The GMPRD has had issues with communities coming in and bringing more kids and not providing the parks or community rec fields for community use.

President Kiser: Likes the idea of having a discussion regarding other taxing districts. Tonight as we look at this ordinance, this is a good starting point.

Councilman Christiansen: Concerned about creating a ceiling.

President Kiser: Nothing says we can't add to the ordinance in the future. We are not putting a ceiling in place.

Councilman Murray: This is a good foundation. We need to make sure that we attend the co-meeting with the Canyon County Commissioners.

President Kiser closed the public hearing at 7:31 p.m.

5. Consider adopting Ordinance 689: AN ORDINANCE ENACTED BY THE MIDDLETON CITY COUNCIL AMENDING TITLE 5, CHAPTER 4, SECTION 5-4-4, OF THE MIDDLETON CITY CODE PERTAINING TO THE GENERAL REQUIREMENTS AND CRITERIA FOR PRELIMINARY PLAT APPROVAL; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND REPEALING ALL ORDINANCES, RESOLUTIONS, ORDERS AND PARTS THEREOF, IN CONFLICT HEREWITH.

Motion: Motion by President Kiser to read Ordinance No. 689 by title only. Motion seconded by Councilman O'Meara and approved unanimously by **Roll Call Vote**: Kiser – Yes, Christiansen – Yes, Murray – Yes, O'Meara – Yes.

President Kiser read Ordinance No.689 by title only.

Motion: Motion by President Kiser to waive the 3-reading rule and adopt Ordinance No. 689. Motion seconded by Councilman Christiansen and approved unanimously by **Roll Call Vote:** Kiser – Yes, Christiansen – Yes, Murray – Yes, O'Meara – Yes.

6. Consider adopting Amended Ordinance No. 692: AN ORDINANCE ENACTED BY THE MIDDLETON CITY COUNCIL AMENDING THE ORDINANCE NUMBER OF TITLE 1, CHAPTER 5, SECTION 1-5-8 OF THE MIDDLETON CITY CODE; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND REPEALING ALL ORDINANCES, RESOLUTIONS, ORDERS AND PARTS THEREOF, IN CONFLICT HEREWITH.

Mayor Hutchison called the item and City Attorney Mr. Waterman explained when the city adopts an ordinance it gives them a number. Two ordinances ended up with the same number. This ordinance says that the LID ordinance that was numbered as 687 will now be numbered as 692. Because that ordinance was adopted by ordinance it needs to be amended by ordinance.

Motion: Motion by President Kiser to read Ordinance No. 692 by Title Only. Motion seconded by Councilman Murray and approved unanimously by Roll Call Vote. Kiser – Yes, Christiansen – Yes, Murray – Yes, O'Meara – Yes.

President Kiser read the Ordinance No 692 by Title Only.

Motion: Motion by President Kiser waive the 3-reading rule and adopt Ordinance No. 692. Motion seconded by Councilman Christiansen and approved unanimously by **Roll Call Vote.** Kiser – Yes, Christiansen – Yes, Murray – Yes, O'Meara – Yes.

Public Comments on non-agenda items of city business:

Mike Graefe: We need a major review of our codes for the setbacks and waivers and we should have a public workshop on that.

Patty Crawford: More people are coming to the meetings. She has requested the public comment be listed on the agenda at the beginning and end of meetings. Thank you, you listened.

Tyson Sparrow: Thinks we should allow public comment at the beginning and end. He appreciates council's efforts.

Mayor, Staff and Council Comments:

Mayor Hutchison: Will not always allow unlimited comments. We will take it council meeting by council meeting.

Councilman O'Meara: MRFD is sending out information on the Levy and requests that the city mail out a flyer with the city utility bills. The fire district will print the flyers and deliver them to auto sort. They would need to be delivered to the City and auto sort by March 25th.

Councilman Murray: Would like to schedule the co-meeting with Canyon County Commissioners in June.

Adjourn: Mayor Hutchison adjourned the meeting at 7:50 p.m.

ATTEST:

Jennica Reynolds, Deputy Clerk Minutes Approved: March 20, 2024

OF MIDDLE ORPORAL OF APRIL 20, APRIL 20, COUNTY APRIL 20,

utchison, Mayor

Exhibit 1







Comments from Agencies: Attached as Exhibit "B" to the Staff Report that was posted with the agenda for public review. Application Information: Representative is Stephanie Hopkins of KM Engineering. Application was accepted on 1/10/2024. Notices & Neighborhood Meeting: Dates: Idaho Standards for Public Works Construction, the Middleton Supplement to the Idaho Standards for Public Works Construction, Middleton City Code 1-14, 1-15, 1-16, 5-1, 5-2, 5-3, and 5-4, and Idaho Code Title 67, Chapter 65 & Title 50, Chapters 2 and 13.

4

3

P&Z Recommendation: The Planning & Zoning Commission considered this application in a public hearing held on February 12, 2024. The commission recommended that City Council approve the application. Conclusions and Recommended Conditions of Approval: City Council must make findings of facts and conclusions of law when making a decision regarding a land use application. IDDLETON

Exhibit 2



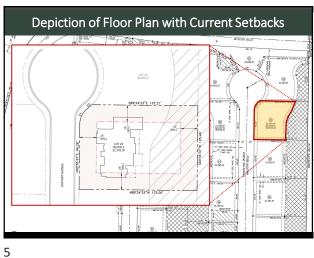


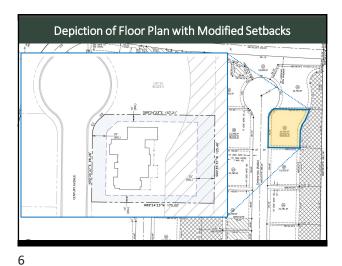
Zoning Boundaries		
C-3	2/// 3/ 1/ 1/3/	
30M (30 M) (3	M-U	
RELIGIO DE LA CONTRACTION DE L	阿里	
	R-2	
		3

Setback Modifications Requested			
YARD SETBACKS		R-2	
Interior Side & Street Side Yard	Per City Code	25'	
	DA Modification Proposal	10'	
Front Yard	Per City Code	25′	
	DA Modification Proposal	20'	

4

3



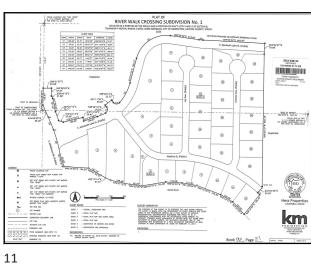




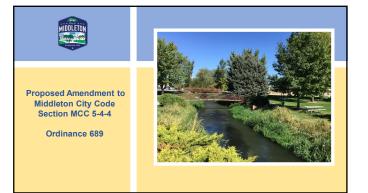












Application Request:

This is a request from the City of Middleton for amendment to Middleton City Code section 5-4-4 regarding the preliminary plat process.

Currently MCC 5-4-4 pertains primarily to what technical data and presentation requirements should be included in a preferminary plat, e.g., survey data required, dimensions to be shown, paper size of plat. Jul. The the pre-plat complies with the dimensions and technical data required.

The proposed revision to MCC 5-4-4 will add important non-technical ories that the governing boards to consider (1) compliance with the Transportation Plan. (3) whether utility capacity is available, and (4) whether enhance and historic features are preserved.

School entires to follow - P8Z on March 25th

1 2



Comprehensive Plan:

Any changes to the City's Subdivision Ordinance should be in compliance with the City's Comprehensive Plan (Links) State Status 67-6911 & MCC 1-14-3)

Planning Staff finds that he proposed changes to MCC 5-4-4 are in harmony with the Comprehensive Plan (Links) Planning Staff finds that he proposed is in conflict with the Comprehensive Plan because onling proposed is in conflict with the Comprehensive Plan because and plan staff for the newly added criteria set forth in subsection (G) with help the governing bodies flows more acutely on the vision and goals set forth in the Comprehensive Plan.

4

3





Applicants are applying to amend the approved Development Agreement to add a provision allowing them to change the side setbacks for their lots zoned R-2 from 25' to 10' and to change the front setback for the same lots from 25' to 20'.

March 6, 2024 - City Council - Public Hearing

Please check

	sy and a state of desired and a state of the		Please check		
	Name	Address	Phone or Email	Infauot Heatral Or	aposed restity
1	I you Tay (oc	1052 Middleton	208-602-8994	V	
2	MARTY DENHAM	25381 KIMPTONDR		V	
3	Dan Regnolds	452 I WAROHLANG CH.	268 945-5225		
4	TYLER HESS	23566 CANTUL L.	208-409-0864	V	
5	MIKE GRAGFE	1889 R 106 E WA	208-527-129		7
6	Pally Cruful	8359 Sprig Crup Way			
7	SPENCER KOFOED	8454 BROOKHAVEN PL.	208 863 5/64	V	/
8	Ken Greenwell	1977 Scotch Aned			
9	Stephanie Maplins	5725 N Discovery Way	208 639 6939	X	X

Applicants are applying to amend the approved Development Agreement to add a provision allowing them to change the side setbacks for their lots zoned R-2 from 25' to 10' and to change the front setback for the same lots from 25' to 20'.

March 6, 2024 - City Council - Public Hearing

Please check

			Please check			
	Name	Address	Phone or Email	Infaud	Wential Oblosed	stift
10	Mika	S2+25 Seeples	208-891			
11	Thurs Danc	Sers Crestury On File				
12						
13						
14						
15						
16		·				
17						
18						9

onsider approving Ordinance 689: An Ordinance to be enacted by the Middleton City Council amending Title 5, Chapter 4, Section 5-4-4 of the Middleton City Code

March 6, 2024 - City Council - Public Hearing

Please check

	March 6, 2024 City Council - Public Hearing		Please (
	Name	Address	Phone or Email	Infatod Neutral Ob	posed restity
1	MARTY DENHAM	25381- KIMP TOMAY C.	54 410 2625		
2	Tyson Spanow	211 N. Comprese AVE			V
3	Tyson Spanrow Came J Hes	8342 CoppaCax Way	208-850-1273		
4					=
5					
6					
7					
8					
9					



City Council Public Comment



March 6, 2024

	Name	Address	Dhana ay Ews !!	Taul-18 1 1 11 11
	15#	Address	Phone or Email	Topic/Agenda Item #
X	MARTY DENHAM	25381 KIMPTONAR	.541 410 2629	TAKES
×	Mikell Galloway	3425 Sprida edlery	208-891-	MEETING AGENDA
*	Mikell Galloway	211 N CAMPBELL		Mayor Jary and Long
4	MIKE GRAFFE	1889 RIDGE	208-527-624	7
*	Lori Clark	24215 Willis Greekst.	CLARKSINLOVED PAHOO.	Just in case
6	Pally Crae ford	85-9 Sprig Creek Telay		agenda
7				the property of the same of th
8				
9				
10				