



Middleton City Council Meeting Minutes 09-04-2024

Middleton City Council Meeting Minutes Summary

Date: Wednesday, September 4, 2024

Time: 5:30 p.m.

Location: City Hall Council Chambers - 1103 W Main Street

CALL TO ORDER

The Middleton City Council meeting was called to order by Mayor Jackie Hutchinson at 5:32 p.m. on September 4, 2024. Councilmembers present: Council President Kaiser, Councilmember Christiansen, Councilmember Murray, and Councilmember O'Meara. Also present: Mayor Jackie Hutchinson, City Attorney Douglas Waterman, City Administrator Monica Hobbs, Public Works Director Jason Van Gilder, Planning Official Roberta Stewart, Treasurer, Wendy Miles and Deputy Clerk Jennica Reynolds

PLEDGE OF ALLEGIANCE

The Council and audience stood for the Pledge of Allegiance, led by Council President Kiser.

INVOCATION

Jennica Reynolds gave the invocation.

Action Item:

AMENDED AGENDA

Mayor Hutchinson noted the amended agenda was posted on September 4 at 8:15 a.m. to add Item 4, a public hearing regarding Ordinance 701 for a budget amendment. No questions from Council.

Motion: President Kiser moved to approve the amended agenda posted September 4 at 8:15 a.m.

Second: Councilmember O'Meara

Vote: Motion passed unanimously.

PUBLIC COMMENT ON NON-PUBLIC HEARING ITEMS OF CITY BUSINESS (3 MIN EACH)

Jason Van Gilder, Public Works Director, gave a presentation explaining the different water and sewer system equipment and meters as well as the changes in which the city will calculate water and sewer bills. This change is necessary due to the permit requirements from DEQ and is not growth related. Jennica Reynolds explained the changes residents will see on their October bills received the first of November.

DISCUSSION ITEM:

1. REGARDING: CITY COUNCIL'S LETTER OF PUBLIC COMMENT FOR THE PELS STUDY – COUNCILMAN O'MEARA

Councilman O'Meara presented a draft letter on the City's position regarding traffic routing options in the PELS study. The letter stated a preference for Option 4 (the two one-way routes through downtown). Discussion on clarifying the letter to also request further study on Option 1. Councilman Christiansen requested adding language about studying Option 1 to the body of the letter rather than just the appendix.

ACTION ITEMS:

1. CONSENT AGENDA (ITEMS OF ROUTINE ADMINISTRATIVE BUSINESS)
 - a. CONSIDER APPROVING MINUTES FOR CITY COUNCIL AUGUST 21, 2024, REGULAR MEETING.
 - b. CONSIDER RATIFYING PAYROLL FOR AUGUST 23, 2024, IN THE AMOUNT OF \$175,195.13.
 - c. CONSIDER APPROVING ACCOUNTS PAYABLE THROUGH AUGUST 23, 2024, IN THE AMOUNT OF \$65,864.61
 - d. CONSIDER APPROVING THE FCO FOR HEIGHTS LANDING SUBDIVISION PROJECT.

No questions from Council on consent agenda items.

Motion: President Kiser moved to approve consent agenda items a, b, c and d.

Second: Councilmember Christiansen

Vote: Motion passed unanimously.

2. CONSIDER AUTHORIZING THE MAYOR TO SIGN A PROCLAMATION FROM COURAGEOUS SURVIVAL DESIGNATING SEPTEMBER 11TH AS ELEVATE OUR EVERYDAY HEROS DAY THIS YEAR, 2024. - Ms. HOBBS

Mayor Hutchinson called the item and Council President Kiser read a proclamation from Courageous Survival designating September 11, 2024 as Elevate Our Everyday Heroes Day in the City of Middleton.

Motion: Councilmember Murray moved to authorize the Mayor to sign the proclamation designating September 11, 2024 as Elevate Our Everyday Heroes Day.

Second: Councilmember O'Meara

Vote: Motion passed unanimously.

3. REGARDING: PLANNING AND ZONING COMMISSIONER APPOINTMENT. (TABLED FROM 8/21/24 MEETING.)
CONSIDER APPROVING MAYOR'S APPOINTMENT OF JOHN TURNER AS PLANNING AND ZONING COMMISSIONER UPON COMMISSIONER HEIDAL SUMMER'S TERM EXPIRATION, EFFECTIVE 9/13/2024 – MAYOR HUTCHISON

Council considered approval of Mayor Hutchinson's appointment of John Turner to the Planning & Zoning Commission upon the expiration of Commissioner Heidal Sommers's term on September 13, 2024. Mayor Hutchinson spoke about the importance of representation from newer Middleton residents on the Commission. She believes terms of service should not be extended and made that a campaign promise. John Turner introduced himself, expressing interest in preserving Middleton's character.

Discussion from Council regarding the action and keeping the P&Z Commission board to seven members.

Motion: President Kiser moved to approve the Mayor's appointment of John Turner as Planning & Zoning Commissioner upon Commissioner Heidal Sommers's term expiration, effective September 13, 2024.

Second: Councilmember O'Meara

Roll Call Vote: Kiser – Yes, Christiansen – No, O'Meara – Yes, Murray – No, Mayor Hutchison – Yes. (Mayor voted to break the tie) Motion passed 3-2.

4. PUBLIC HEARING: CONSIDER APPROVING ORDINANCE 701: AN ORDINANCE OF THE CITY OF MIDDLETON, CANYON, COUNTY, IDAHO, ENTITLED THE "AMENDED ANNUAL APPROPRIATION ORDINANCE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2023," APPROPRIATING \$142,000, IN ADDITION TO THE \$19,479,707 ALREADY APPROPRIATED, AND DEEMED NECESSARY TO DEFRAY ALL EXPENSES AND LIABILITIES OF THE CITY OF MIDDLETON, IDAHO FOR FISCAL YEAR 2024, AND SPECIFYING THE OBJECTS AND PURPOSES FOR WHICH SAID APPROPRIATIONS ARE MADE; PROVIDING FOR A WAIVER OF THE READING RULES; AND PROVIDING AN EFFECTIVE DATE. – MS. MILES

Council President Kiser opened the public hearing at 6:25 p.m.

City Treasurer Ms. Miles explained the Amended Budget. (Exhibit 1)

Council President Kiser opened the Public Testimony at 6:27p.m.

No Public Testimony.

Council President Kiser closed the Public Testimony at 6:27 p.m. He closed the Public Hearing at 6:27 p.m.

Motion: President Kiser moved to read Ordinance 701 by title only.

Second: Councilmember O'Meara

Roll Call Vote: Kiser – Yes, Christiansen – Yes, O'Meara – Yes, Christiansen – Yes.
Motion passed unanimously

President Kiser read Ordinance 701 by title only.

Motion: President Kiser moved to waive three reading rule and adopt Ordinance 701.

Second: Councilmember Christiansen.

Roll Call Vote: Kiser – Yes, Christiansen – Yes, O'Meara – Yes, Christiansen – Yes.
Motion passed unanimously.

5. CONSIDER AUTHORIZING THE MAYOR TO APPROVE SPECIAL COMMUNITY EVENT APPLICATION FOR MIDDLETON HIGH SCHOOL FOR HOMECOMING PARADE ON OCTOBER 3, 2024. – MIDDLETON HIGH SCHOOL STUDENT COUNCIL

Students from the Middleton High School Student Council presented details on the annual homecoming parade to be held October 3, 2024 from 12-2 p.m. Requested approval for the parade route and fee waiver.

Motion: Council President Kiser moved to authorize the Mayor to approve the special community event application for the Middleton High School Homecoming Parade on October 3, 2024 and waive all appropriate fees.

Second: Councilmember O'Meara

Vote: Motion passed unanimously.

Mayor Hutchison called for a brief recess at 6:31p.m. She reconvened the meeting at 6:40 p.m.

**6. REGARDING: ROUNDABOUT AT THE INTERSECTION OF MIDDLETON ROAD AND LINCOLN ROAD.
CONSIDER AUTHORIZING THE MAYOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING (MOU) WITH THE CITY OF CALDWELL AND HIGHWAY DISTRICT 4 FOR THE DESIGN AND RIGHT-OF-WAY ACQUISITION FOR A NEW ROUNDABOUT AT THE INTERSECTION OF MIDDLETON ROAD AND LINCOLN ROAD. THE MOU WILL INCLUDE**

CITY'S COMMITMENT UP TO \$175,000.00 FOR THE DESIGN OF THE ROUNDABOUT. – MR. VAN GILDER

Mr. Van Gilder explained the need, costs, and cost sharing associated with the project. Council discussed timeline for construction and funding. The design is Impact Fee eligible and is a budgeted expenditure.

Motion: Council President Kiser moved to authorize the Mayor to enter into an MOU with Caldwell and Highway District 4 for the design and right-of-way acquisition for a roundabout at Middleton Road and Lincoln Road, with the MOU including the City's commitment of up to \$175,000 for design costs.

Second: Councilmember Christiansen

Vote: Motion passed unanimously.

7. REGARDING: 8 MANHOLE REPAIRS

CONSIDER AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH INTEGRITY INSPECTION SOLUTIONS, INC. FOR THE REPAIR OF MANHOLES AS IDENTIFIED IN THEIR PROPOSAL DATED 8-23-2024, IN AN AMOUNT NOT TO EXCEED \$10,500.00. – MR. VAN GILDER

Mr. Van Gilder explained the need for ongoing manhole repairs.

Motion: Council President Kiser moved to authorize the Mayor to enter into a contract with Integrity Inspection Solutions, Inc. for repair of manholes as identified in their August 23, 2024 proposal in an amount not to exceed \$10,500.

Second: Councilmember Christiansen

Vote: Motion passed unanimously.

8. REGARDING: SALT FOR ROADS

CONSIDER AUTHORIZING THE MAYOR TO PURCHASE UP TO 66 TONS OF ICEKICKER ROAD SALT FROM SALTWORX IN AN AMOUNT NOT TO EXCEED \$6,006.00 IN FISCAL YEAR 2025. – MR. VAN GILDER

Mr. Van Gilder explained the benefits of using salt on roads compared to sand. HD4 recommends this product. Discussed corrosive effects on roads and vehicles. This is a budgeted expense for FY2024 and FY2025.

Motion: Council President Kiser moved to authorize the Mayor to purchase up to 66 tons of IceKicker road salt from SaltWorx, not to exceed \$6,006.00.

Second: Councilmember O'Meara

Vote: Motion passed unanimously.

9. PUBLIC HEARING: (TABLED FROM JUNE 26, 2024 MEETING) CONSIDER APPROVING THE APPLICATION BY CONNOR GRAY/AG LAND & DEVELOPMENT AND Y STREET CAPITAL FOR PRELIMINARY PLAT WITH RESPECT TO THE CREEKSIDE TERRACE SUBDIVISION LOCATED AT 0 N. HAWTHORNE AVE., 0 CONCORD STREET, 4 CONCORD STREET, 611 N. HAWTHORNE AVE., 617 N. HAWTHORNE AVE., 725 N. HAWTHORNE AVE., AND 801 N. HAWTHORNE AVE., (TAX PARCEL NOS. 17953010, 179530, 179520, 17952012, 179550, 179540, 17952011, AND 17952010). THE PROPOSED PRELIMINARY PLAT CONSISTS OF 118 SINGLE FAMILY RESIDENTIAL HOME LOTS AND 16 COMMON LOTS ON APPROXIMATELY 34 ACRES OF VACANT LAND ZONED R-4. – Ms. STEWART

Mayor Hutchison opened public hearing at 6:59 p.m.

Planning Official Ms. Stewart gave extensive background and analysis on compliance with city code and the 2006 development agreement, recommending denial based on non-compliance. (Exhibit 2) She entered Exhibit N into the record as a Late Exhibit.

Discussion from Mayor Hutchison, Councilmembers and Ms. Stewart regarding application, Willow Drive and Development Agreement.

Applicant Connor Gray gave a presentation (Exhibit 3) and refuted some points from the staff presentation regarding CLOMR, Development Agreement and the concept plan approved, and argued the proposed preliminary plat represents "substantial compliance."

Questions from Council regarding Mr. Gray's concerns.

President Kiser opened Public Testimony at 8:07 p.m.

Josh Perugini: Opposed – No Testimony

Sandi Fontana: Opposed: Concerns with traffic and school capacity.

Tim & Stephanie Teachman: Opposed – No Testimony

Blake Fotheringham: In Favor: He is the owner. Discussed challenges with project and working with the Development Agreement. He wants to work with the city to provide a solution for the project.

Carl Anderson: In Favor: There is sewer capacity for the project. It has been very difficult working with the city to get any sort of consistency.

President Kiser called for a brief recess at 8:16 p.m. and the meeting reconvened at 8:26 p.m. President Kiser stated Mayor Hutchison needed to go home, but they would continue with the Public Testimony.

Harry Gabelman: Opposed – Concerns about traffic, irrigation and floodplain.

Mike Graefe: Opposed – Confused about why the developer can't use the Development Agreement.

Kelly Crist: Opposed – Concerns about Willow Drive and traffic.

Harper Titus: No Testimony (did not mark in favor, neutral or opposed)

Beu Mitchell: No Testimony (did not mark in favor, neutral or opposed)

Alecia Swartz: Opposed – Concerns about schools, traffic, floodplain and Willow Drive.

Ron Manning: In Favor – Floodplain engineer. Was hired by owner to provide CLOMR. They will make sure all the homes are safe.

Jesse Christiansen: In Favor – Engineer for project. There are 124 lots not 132. The concept plan from 2006 is likely not engineered and contains flaws. The preliminary plat addresses drainage, and the Development Agreement did not.

Dave & Shannon Dennig: Opposed – No Testimony

Kurt Starman: Opposed – Cited traffic and hydrology concerns.

Mark Starman: Opposed – Concerns about traffic.

Ingid Dunkel: Opposed – No Testimony

Mykell Galloway: Opposed: Concerns about school capacity.

Applicant Rebuttal:

Connor Gray: Has been frustrated working with the 2006 Development Agreement, they have been trying to get modifications because he believes the 2006 DA concept plan is not viable as shown. They have not been offered a formal review. The TIS was required in 2021 and his firm was not a part of that.

Rob Manning: They have worked with Black Canyon Irrigation, and they do have a legal right to cut down trees. Widening the channel by 40 ft on one side will provide a safer alternative. Working with FEMA for the CLOMR is a ridiculous process.

President Kiser closed the Public Testimony at 9:00 p.m.

Discussion between Councilmembers regarding Development Agreement as a contract and the length of time the project has been “sitting around” and the requirements that have to be met to approve the project.

Motion: President Kiser motioned to deny the application by Connor Gray/AG Land & Development and Y Street Capital for preliminary plat with respect to the Creekside Terrace Subdivision. To gain approval they need to submit a new application with preliminary plat that complies with the recorded development agreement, and must also comply with the 2006 development code to the extent it does not conflict with the development agreement, not utilize the proposed floodway revisions that would place other properties into the floodplain, and find alternatives to elevate out of the floodplain. As well as the must comply with the four points in the end of the staff report.

Motion seconded by Councilmember Christiansen

Roll Call Vote: Kiser – Yes, Christiansen – Yes, O’Meara – Yes, Murray – Yes.
Motion passed unanimously.

President Kiser closed the Public Hearing at 9:07 p.m.

Public Comment, Council Comment

No Public Comment.

Councilmember Murray: Would like to see ITD PEL study routes on the City website. There is a public open house on September 10th and 11th.

Staff will link the ITD Pel study website to the City website so the most current information is available for residents.

ADJOURNMENT: President Kiser adjourned at approximately 9:10 p.m.


Jennica Reynolds, Deputy Clerk
Minutes Approved: September 18, 2024





Jackie Hutchison, Mayor



Before

City Council Public Comment

September 4, 2024

	Name	Address	Phone or Email	Topic/Agenda Item #
1	Jason Van Gelder			Water/sewer rates
2	Blake Fotheringham	4 Concord St Middleton	601-656-5730	Creekside subdivision
3	Eric Anderson	1816 Tupper Ave Candover	708-704-5679	Creekside
4	Sandi Fontana	1021 W. Buffalo Wy Middleton Id. 83644	760-458-1044	Creekside
5	Kelly Crist	835 Willow Dr.	208-761-5684	Creekside
6	MIKE GRAEPE	MIDDLETON	208-527-6227	codes
7	Abacia Swartz	11021 Willow Drive Middleton	701-707-7788	Creekside
8	Tyson Spawron	on file	on file	P ? Z
9				
10				

City of Middleton
Approved Budget 2023 - 2024
Amendment Recommended

GENERAL FUND	2023-24 Actual 08.06.24	2023-24 Approved Budget	2023-24 Remaining	2023-24 Amend	2023-24 Amended Budget
REVENUE					
BUILDING PERMITS/INSPECTIONS	1,515,573.31	400,100.00	\$ (1,115,473.31)	92,000.00	492,100.00
Total Revenue:	1,515,573.31	400,100.00	(1,115,473.31)	92,000.00	492,100.00

GENERAL FUND	2023-24 Actual 08.06.24	2023-24 Approved Budget	2023-24 Remaining	2023-24 Amend	2023-24 Amended Budget
PUBLIC SAFETY EXPENSE					
PROF FEES ELECTRICAL PERM/INSP	56,175.25	50,578.00	(5,597.25)	30,000.00	80,578.00
PROF FEES MECHANICAL PERM/INSP	58,884.74	42,000.00	(16,884.74)	37,000.00	79,000.00
PROF FEES PLUMBING PERM/INSP	54,713.08	40,000.00	(14,713.08)	25,000.00	65,000.00
			-		0.00
Total Expense:	169,773.07	132,578.00	(37,195.07)	92,000.00	224,578.00

STORMWATER	2023-24 Actual 08.06.24	2023-24 Approved Budget	2023-24 Remaining	2023-24 Amend	2023-24 Amended Budget
REVENUE					
STORMWATER COLLECTIONS	66,916.98	76,000.00	9,083.02	4,000.00	80,000.00
CASH CARRY FORWARD	0.00	-	-	46,000.00	46,000.00
Total Revenue:	66,916.98	76,000.00	9,083.02	50,000.00	126,000.00

STORMWATER	2023-24 Actual 08.06.24	2023-24 Approved Budget	2023-24 Remaining	2023-24 Amend	2023-24 Amended Budget
STORMWATER EXPENSE					
BILLING SERVICE	6,442.27	5,535.00	(907.27)	4,000.00	9,535.00
MAINTENANCE	0.00	1,465.00	1,465.00	-	1,465.00
PROF FEES ENGINEERING	79,491.60	68,000.00	(11,491.60)	46,000.00	114,000.00
MISCELLANEOUS	0.00	1,000.00	1,000.00	-	1,000.00
Total Expense:	85,933.87	76,000.00	(9,933.87)	50,000.00	126,000.00



approving Ordinance 701 AN ORDINANCE OF THE CITY OF MIDDLETON, CANYON, COUNTY, IDAHO, ENTITLED THE "AMENDED ANNUAL APPROPRIATION ORDINANCE FOR THE FISCAL YEAR BEGINNING

September 4, 2024 - City Council - Public Hearing

Please check

	Name	Address	Phone or Email	In Favor	Neutral	Opposed	Testify
1							
2							
3							
4							
5							
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7							
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9							



Creskide Terrace Subdivision

Preliminary Plat Application



1

Project Description and Application:

Applicants Y Street Capital and AG Land & Development are applying for preliminary plat approval for a subdivision with 118 single family home sites and 16 common lots on approximately 34 acres located at the northeast corner of Concord Street and Willow Drive.

The project parcel was the subject of a rezone application in 2006. A Development Agreement ("DA") was executed as a part of that rezone application. The DA allows up to 125 single family residential lots. Minimum lot size allowed in the DA is 4000 s.f.

The preliminary plat application was submitted over three years ago in 2021. We're now trying to bring it to a resolution.



2



Zoning: The property is comprised of seven vacant lots within city limits. It was rezoned R-4 (Medium Density Residential) in 2006. It is surrounded on all four sides by city property zoned R-3 or R-4.



City Services: City water is located adjacent to the project site in Willow Drive, Concord Street, and Hawthorne. A sewer main is located onsite, but it may need to be replaced during construction if the project is approved.

3



Traffic, Access & Streets:

The subdivision will require the construction of the full width of 9th Street onsite. This portion of 9th Street is on the Mid-Star Transportation Impact Fee CIP, so City is intending to build this portion of 9th Street itself. However, if Applicant builds 9th Street as a part of the project, City will have to reimburse the Applicant through credits against future Mid-Star transportation impact fees.

Applicant is also required to construct the 1/2 road improvements on Concord Street and Hawthorne Avenue adjacent to the property pursuant to the Development Agreement and City Code. Access to the subdivision will be through 9th Street, Hawthorne Avenue, and Concord Street.

Applicant's initial traffic study indicates that at full build-out, a roundabout or traffic signal will be required at Hawthorne and Hwy 44. A traffic Study updated this past August noted that Hawthorne & 44 intersection is a Level of Service F, which is failing, but it notes that no traffic signal is warranted until the year 2033. There appears to be some inconsistency here.



4



Pathways, Open Space & Amenities:

The Development Agreement requires Developer to provide a community center, 7' wide path along the north and west property boundaries and 25% open space, including significant "Blue Space" or water features.

As will be shown below, Applicants' preliminary plat does not contain these requirements.



Concept Plan

5



Preliminary Plat Application:

The preliminary plat proposed in the recent Planning & Zoning meeting shows a single phase for development and 118 single family lots. Almost all the lots are 4000 to 5500 s.f.

The sole criteria for approving the Creskide preliminary plat is a finding that the proposed plat complies with the City Code and Development Agreement. In this case, the 2006 City Code is relevant, not the current code.

Staff finds that the initially proposed Creskide preliminary plat does not comply with the City's 2006 Code.



6

Preliminary Plat Application: The deficiencies are:

- The plat does not show the proposed 1/2 road improvements for Concord Street and Hawthorne Avenue per MCC 6-3-2D and 6-3-2(A)(2)(w).
- Lots 25 and 26, Block 1 are located significantly in the 9th Street right of way adversely affecting the right of way required in MCC 6-3-2E.
- Cut de sacs must have a radius of 50'. (MCC 6-3-2F) The preliminary plat does not establish that this radius requirement has been met.
- Streets are missing names and/or end with an impermissible descriptor like "Lane" in violation of MCC 6-3-2K.
- Dimensions and widths of proposed streets are also missing in violation of MCC 6-2-3(A)(2)(h).
- A block length exceeds 660' in violation of MCC 6-3-3A.
- Dimensions on lots are missing or obviously erroneous, and lot square footage is missing or cannot be calculated. (Block 7, Lots 1-14, B7L6, Block 1, lots 33 and 34, B9L6, entire block 4 shows identical lots with identical square footage but different street frontage amounts, which is impossible. (MCC 6-2-3(A)(2)(f))



7

Preliminary Plat Application: The deficiencies are:

- No storm water management was shown on the preliminary plat. (MCC 6-3-9 and 6-2-3(A)(3))
- No utility plan was provided to show how the project will be serviced with sewer and water. (MCC 6-2-3(A)(2)(o), (p) and (q), 6-2-3(A)(3) and 6-4-2)
- The preliminary plat does not show a proper perimeter boundary based on field survey with ties to corners in violation of MCC 6-2-3(A)(2)(l).
- The preliminary plat is missing the identification and descriptive data required by MCC 6-2-3(A)(2), subsections (a)-(b), (f)-(i), (n)-(o) & (v)-(w).
- Preliminary plat fails to show easement over large drain transecting the project site in violation of MCC 6-2-3(A)(2)(h).
- The roadway and floodplain are not clearly delineated on the preliminary plat in violation of MCC 6-2-3(A)(2)(g) and (j). Additionally, it appears that some lots are in the floodway and other lots are too close to the floodway edge, making it impossible to build a structure on those lots. Therefore, some lots shown on the preliminary plat cannot be constructed as designed. (B7L14 and 2 homesites located at Lots 33 and 34, Block 1. (MCC 4-4-8-5(E)(4) and 2006 code 6-2-3(A)(2)(f)).



8

Development Agreement: This project parcel was rezoned to R-4 at a public hearing on March 26, 2006. The colorful concept plan shown below was approved in the Rezone application. A Development Agreement was also approved and executed as a part of that rezone application. The DA allows up to 125 single family homesites with a minimum lot size of 4000 s.f.

Applicant's preliminary plat is required to comply with the DA in order to gain approval. Staff finds that the Applicant's initially proposed preliminary plat does not comply with the approved DA. The deficiencies are:

Blue Space on Concept Plan:

The approved concept plan shows a significant amount of "Blue Space" or water features, about 18%. Because most of the project is in the floodplain, it appears the numerous water features was deemed an attractive way to obtain more soils to raise the land out of the floodplain.

The DA requires the preliminary plat to be "substantially consistent" with the approved Concept Plan (para. 3.18). The proposed preliminary plat shows no water features whatsoever, so it is not "substantially consistent" with the concept plan.

Concept plan approved in Rezone

Applicant's preliminary plat



9

Open Space: The DA requires 25% open space. (Para 3.13). The initially proposed preliminary plat does not show the square footage of the common space lots, so the preliminary plat fails to establish that it is providing 25% open space.

Alley Load Homes:

The approved concept plan and paragraphs 3.6, 3.12, and 3.18 of the DA contemplate alley load homes in the project. Alley load homes create a nice streetscape because the front elevations face Concord Street and Hawthorne Avenue. The unattractive garages are on the rear of the home and face the alley access. See planned alley load homes circled in red.

The proposed preliminary plat does not include the alley load homes in violation of the approved concept plan and DA.



10

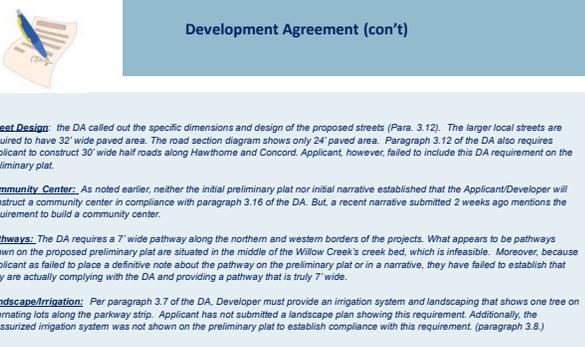
Development Agreement (con't)

Street Design: the DA called out the specific dimensions and design of the proposed streets (Para. 3.12). The larger local streets are required to have 32' wide paved area. The road section diagram shows only 24' paved area. Paragraph 3.12 of the DA also requires Applicant to construct 30' wide half roads along Hawthorne and Concord. Applicant, however, failed to include this DA requirement on the preliminary plat.

Community Center: As noted earlier, neither the initial preliminary plat nor initial narrative established that the Applicant/Developer will construct a community center in compliance with paragraph 3.16 of the DA. But, a recent narrative submitted 2 weeks ago mentions the requirement to build a community center.

Pathways: The DA requires a 7' wide pathway along the northern and western borders of the projects. What appears to be pathways shown on the proposed preliminary plat are situated in the middle of the Willow Creek's creek bed, which is infeasible. Moreover, because Applicant as failed to place a definitive note about the pathway on the preliminary plat or in a narrative, they have failed to establish that they are actually complying with the DA and providing a pathway that is truly 7' wide.

Landscape/Irrigation: Per paragraph 3.7 of the DA, Developer must provide an irrigation system and landscaping that shows one tree on alternating lots along the parkway strip. Applicant has not submitted a landscape plan showing this requirement. Additionally, the pressurized irrigation system was not shown on the preliminary plat to establish compliance with this requirement. (paragraph 3.8.)



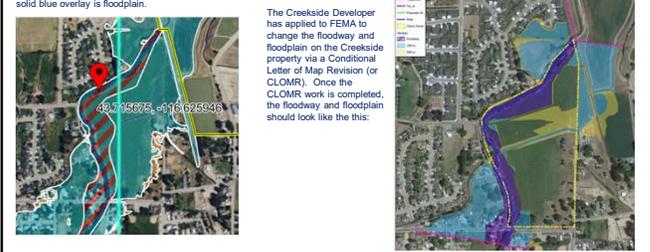
11

FLOODWAY & FLOODPLAIN:

A significant portion of the Creekside parcel is currently in the floodway with the rest in the floodplain. As seen below, the red and blue striped area is currently designated floodway. The solid blue overlay is floodplain.

FEMA defines "floodway" as a channel of a river or watercourse that must be reserved in order to discharge the base flood. No structure may be constructed in a floodway. However, structures can be built in the floodplain with a floodplain permit. Homeowners who live in a floodplain area are required to purchase flood insurance each year, and this requirement can affect a homeowner's ability to obtain a home loan.

The Creekside Developer has applied to FEMA to change the floodway and floodplain on the Creekside property via a Conditional Letter of Map Revision (or CLOMR). Once the CLOMR work is completed, the floodway and floodplain should look like this:



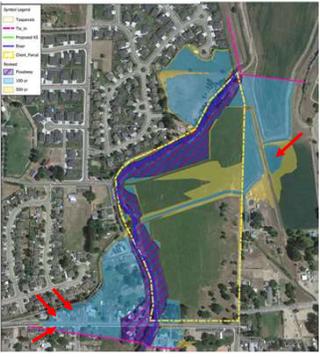
12

FLOODWAY & FLOODPLAIN:

However, Developer's CLOMR will place four nearby lots that are currently not in the floodplain into the floodplain. So Landowners who are currently not paying annual floodplain insurance will have to start buying floodplain insurance once the Developer completes the CLOMR revisions to the floodway/floodplain. It could also adversely affect these homeowners' applications for a home loan.

The homeowners affected are the homeowners of 314, 320, and 409 Concord Avenue. Additionally, a portion of vacant land to the east (Parcel No. R33883010B) will be placed into the floodplain. When that landowner develops their property in the future, the landowner will have to deal with floodplain issues that he or she does not have to currently deal with.

Red arrows show lots that will be placed in the newly revised floodplain.



13

FLOODWAY & FLOODPLAIN:

The CLOMR revisions will also greatly affect WillowCreek, which is a natural creekbed. The bottom and sides will be dredged, and most, if not all, of the trees will be destroyed and removed.



14

FLOODWAY & FLOODPLAIN:

Finally, it is not clear whether the existing concrete bridge downstream at Concord Street and Willow Drive will adequately handle Developer's proposed changes to the floodway and channel although this will be addressed via review by federal agencies.



15

FLOODWAY & FLOODPLAIN:



Comprehensive Plan & Land Use Map: Applicant's proposed project is in compliance with the City's Future Land Use Map (FLUM) because the residential project is located in an area shown as "Residential" on the FLUM.

16

MIDDLETON

Comments Received from Landowners & Public: Public Comments were attached as Exhibit "D" to the Staff Report and Agenda. **EXHIBIT "N" - LATE COMMENT**

Comments from Agencies: Agency comments were attached as Exhibit "E".

Comments from City Engineer & Planner: Exhibit "F" to Staff Report/Agenda.

Applicant Information: Application was accepted on March 15, 2021. Applicant is Y Street Capital and AG Land & Development.

Notices & Neighborhood Meeting:

Notices & Neighborhood Meeting:	Dates:
Newspaper Notification	6/23/2024
Radius landowner Notice	6/26/2024 and again on 8/14/2024
Circulation to Agencies	6/25/2024
Sign Posting property	7/18/2024
Neighborhood Meeting	2/26/2021

Pertinent Codes and Standards: Idaho Standards for Public Works Construction, the Middleton Supplement to the Idaho Standards for Public Works Construction, 2006 Middleton City Code Title 5 and Title 6, Middleton City Code 1-14, 1-15, 1-16, 5-1, 5-2, 5-3, and 5-4, an Idaho Code Title 67, Chapter 65 and Title 50, Chapter 13.

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MIDDLETON

PROCEDURAL HISTORY & CONTEXT

This preliminary plat application was submitted to the City on March 15, 2021, over three years ago. Under the previous City Administration, Staff worked with the Applicants for over two years to negotiate a modified Development Agreement. During that time, Applicants submitted revised preliminary plats, but none of them were consistent with discussions with Staff and the plats amounted to nothing more than unacceptable concept plans.

Finally, on February 15th of this year, Staff informed Applicants that City would no longer negotiate a DA modification and, instead, would move the preliminary plat application to public hearing and a final resolution. Much time and expense had been spent on this application, and the \$4500 application fee paid in 2021 had been depleted long ago.

City offered applicants P&Z hearing dates of April 9th or May 13th, and City Staff stated that Applicant would be solely responsible for revising its preliminary plat a "final time" to bring it into conformance with the Code and DA. (Staff Email dated 2/15/2024 is attached as Exhibit "G" to the Staff Report.) Thereafter, Applicants chose the May 13th P&Z hearing date, which gave them close to three months to revise their preliminary plat.

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PROCEDURAL HISTORY & CONTEXT –

On April 22, 2024, Applicants submitted a preliminary plat for presentation to the P&Z Commission and City Council. (Exhibit "B"). Then, on Friday, May 10th, one business day before the P&Z hearing, Applicants submitted another preliminary plat, although they admitted it was deficient and they stated they would work on it over the weekend and submit an additional version on Monday morning before the P&Z hearing that night. (A copy of the admittedly incomplete preliminary plat and transmittal email were attached at Exhibit "H" to the Staff Report.)

It should be noted that suddenly changing a preliminary plat one business day before the public hearing and after legal notice had been given is against City policy and a possible violation of the notice provisions of LLUPA (Idaho State Code Title 67, Chpt., 65). It became a moot point, however, because Applicant never followed through to update the "incomplete" preliminary plat.

The Planning & Zoning Commission considered the preliminary plat submitted on April 22, 2024. The Commission recommended City Council deny the plat because it did not comply with the DA and City Code.

After the P&Z hearing date, Developer/Applicant submitted another revised preliminary plat on July 30, 2024, about four weeks ago. (Exhibit "T" to Staff Report.) Again, a preliminary plat should not be changed significantly between Planning & Zoning and City Council. But, again, it's a moot point. Once Staff reviewed this revise plat, Staff found that Applicants still have not complied with the DA and the City Code.

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PROCEDURAL HISTORY & CONTEXT –

Specific deficiencies are:

- a. **The Development Agreement states that the project can have no more than 125 home lots (para., 3.5). The July 30th preliminary plat shows 132 home lots.**
- b. **The plat fails to show or confirm that a community center shall be on site as required by the DA, although an updated narrative submitted two weeks ago mentions the community center for the first time. (Para., 3.16)**
- c. **Lots 3-12, Block 1 are directly adjacent to the newly proposed floodway. There is a 50' setback from the edge of any floodway, making it almost impossible to build any structures on these 9 lots. (MCC 4-4-8-5E(4) and 2006 code 6-2-3(A)(2)(i))**
- d. **The street sections shown on the plat do not comply with the City Code or Development Agreement.**
- e. **Portions of Hopewell Avenue and 9th Street are shown in the floodway.**
- f. **Proposed frontage improvements are still not shown on the preliminary plat. Curb and gutter are missing. Additionally, frontage improvements for Hawthorne Avenue are completely missing at the northeastern corner of the plat.**
- g. **The southern portion of Tahoe Avenue is missing a termination in compliance with the code.**
- h. **No details regarding the bridge structure were provided.**
- i. **No preliminary drainage plan was submitted.**
- j. **It is not clear whether three parking lots have been provided as required by the DA.**
- k. **The DA concept shows copious amounts of water features with numerous homes backing up to the various lakes. Para., 3.13 of the DA requires 25% open space, including "water features". Absolutely no "blue space" or water features are shown on the proposed plat in violation of the DA.**
- l. **No alley load homes are shown on the plat although described in the Development Agreement.**

Regardless of whether City Council considers the preliminary plat considered by P&Z or whether City Council considers the most recently revised plat submitted between the P&Z Hearing and this hearing, Staff finds that both preliminary plats do not comply with the City Development Code or Development Agreement.

20



Planning & Zoning Commission's Recommendation for Approval:

The Middleton Planning & Zoning Commission considered the Creekside Terrace application at a public hearing held on May 13, 2024. The Commission found that Applicants had failed to comply with the Development Agreement and the 2006 City Code. The Commission recommended that City Council deny the application.

The Commission also noted that Applicants may gain approval (1) by complying with the applicable City Codes and the terms of the Development Agreement, (2) by minimizing the project's impact on the natural features and environment in and around the project in order to not violate any City Codes and standards, and (3) by updating their 2021 Traffic Study.

*Applicant submitted an updated Traffic Study on July 30th.

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Conclusions and Recommended Conditions of Approval:

Per State law and the Middleton City Code, any land use decision 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 *italics*.

As to Conclusions of Law, Planning Staff finds that the City Council has the authority to hear this application and to approve or deny the application. 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 application.

If City Council is inclined to approve the preliminary plat application, then Planning Staff recommends that any approval be subject to the following conditions:

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Conclusions and Recommended Conditions of Approval:

1. The preliminary plat shall expire if Developer does not obtain final plat approval within two years of Preliminary Plat approval.
2. Applicant/Developer to construct all 1/2 road portions of Concord Street and Hawthorne Avenue in compliance with City Code, Supplement to ISFWC, and Development Agreement.
3. Applicant/Developer to construct the project in compliance with the 2006 Development Code and Zoning Code for R-4 zoning. Applicant/Developer shall also be subject to the Engineering Conditions of Approval attached to the staff report as Exhibit "K" to the extent the conditions do not conflict with the 2006 Development Code.
4. All City Engineer review comments for the preliminary plat application, construction drawing application and final plat application are to be completed and approved.
5. If deemed necessary by City Engineer and the Public Works Director, Developer must replace the entire sewer main currently onsite.
6. Applicant/Developer is responsible for improving or replacing the concrete bridge at Willow Drive and Concord Street if required by the changes made to the floodway/floodplain per an approved CLOMR.
7. City of Middleton municipal domestic water, fire flow and sanitary sewer services are to be extended to serve the subdivision.
8. Developer shall create a plan for operation, maintenance and repair of stormwater facilities (O&M Plan) contained on the project site. The O&M Plan shall be recorded with the CC&Rs. Developer and/or HOA must maintain and operate the subdivision stormwater facilities in compliance with the O&M Plan.



23



Conclusions and Recommended Conditions of Approval:

9. All Planner comments are to be completed and approved.
10. All requirements of the Middleton Rural Fire District are to be completed and approved.
11. All requirements of the Black Canyon Irrigation District and Middleton Mill Irrigation District are to be completed and approved.
12. All requirements of FEMA, Idaho Department of Water Resources, Bureau of Reclamation, U.S. Army Corp of Engineers and Environmental Protection Agency must be completed and approved.

Finally, if City Council denies the application, then pursuant to Middleton City Code 1-14(E)(8), the Council should state on the record what Applicant can do, if anything, to gain approval of the application(s). Planning Staff recommends that City require the following in order to obtain approval in the future:

1. Applicant to submit a new application with a preliminary plat that complies with the recorded Development Agreement.
2. The preliminary plat must also comply with the 2006 Development Code to the extent it does not conflict with the DA.
3. The CLOMR to revise the floodway should be abandoned to prevent neighbors from being placed in the floodplain who are not currently in the floodplain and to preserve the natural habitat and beauty of Willow Creek.
4. Instead of changing the floodway and creekbed, Applicant should raise the floodplain through excavating numerous water feature ponds as already shown in the approved concept plan to the DA.

24

9/3/24

EX "N"



Concerning rezoning for Creekside Terrace.
I live on 6th St across from Hawthorn
Ball Park and during the school year &
baseball summer this street (Hawthorn) is
jammed with cars from games & practice.
So much so that cars park in front of homes
and every street end Concord St. Drivers
can barely get out to drive on Hawthorn to
get out. So it's pretty congested, but we
deal with it for the kids.

However adding 118 single family homes
add a lot of traffic to what is already
a traffic problem at times & no traffic
light on Main & Hawthorn will backup
traffic.

Please consider this as you determine
this application

Cemetery Rd is an option by only in summer
when school is out. Minot is not a
wide street so may not be able to take the traffic.

Sincerely
Connie Elliott



1

Presentation Overview

1. Staff Report Concerns
2. DA & Concept Plan Viability
3. Our Proposal
4. Vested Property Rights
5. Conditions of Approval

2

Staff Report Concerns

- Selective Staff Report Findings
- Procedural History
- Section Q Findings
- No Comments or Feedback
- Planning and Zoning Findings

6. **Applicable Codes and Standards:** Urban Standards for Public Works Construction, the Subdivision Map Act, the Public Works Code, the Public Works Ordinance, the Subdivision Code, the Land Use Code, the Planning Code, the Zoning Code, the City Code, the City Charter, and the City Ordinance.

6. **Procedural History of Application:** The initial preliminary plat application was approved by the City Council on 11/11/2024. After the public City Administration Board meeting on 11/11/2024, the City Council approved the preliminary plat application. During that time, Applicants submitted various preliminary plans, but none of them were accepted for consideration and they were not approved for recording.

On February 13, 2024, Staff informed Applicants that City would no longer negotiate a fee reduction and instead would consider the preliminary plat application as a matter of course. Applicants were informed that the City would not accept a preliminary plat application that was not approved by the City Council. Applicants were informed that the City would not accept a preliminary plat application that was not approved by the City Council. Applicants were informed that the City would not accept a preliminary plat application that was not approved by the City Council.

To issue Applicant along, City staff Applicant the 2024 City Code and the historic preservation plan as a result of their February 23, 2024, public meeting request.

On 02/23/2024, Applicants submitted a preliminary plat for consideration to the P&Z Commission on 02/23/2024. Applicants were informed that the City would not accept a preliminary plat application that was not approved by the City Council. Applicants were informed that the City would not accept a preliminary plat application that was not approved by the City Council. Applicants were informed that the City would not accept a preliminary plat application that was not approved by the City Council.

The Planning & Zoning Commission considered the preliminary plat submitted on April 23, 2024. The Commission recommended City Council deny the preliminary plat application on 04/23/2024. The Commission recommended City Council deny the preliminary plat application on 04/23/2024. The Commission recommended City Council deny the preliminary plat application on 04/23/2024.

After the P&Z meeting, Applicants submitted another preliminary plat on 04/23/2024. (See copy of the 7/10/2024 revised preliminary plat attached at 11)

3

2006 Concept Plan

Concept Plan

Final Area: 28,227 sqm
Total Area: 28,227 sqm
Open Space: 18.75%
Blue Space: 18.75%
Green Space: 18.75%

4

Development Agreement & Concept Plan Issues

- Concept Plan Not Recorded
- No Engineering Conducted
- Blue Space & Alleyway Safety Concerns
- No means of obtaining water
- Outdated Planning Methods

3.6 Setbacks Developer shall provide the following setbacks for associated lots:

3.6.1 Rear Setbacks

3.6.1.1 Five feet (5') for all houses which border an alley. (Red shaded on setback display)

3.6.1.2 Fifteen feet (15') rear setbacks will be required for all others. (Blue shaded on setback display)

3.6.2 Side Setbacks

3.6.2.1 Five feet (5') for all lots.

3.6.3 Front Setbacks

3.6.3.1 Twelve feet (12') for all houses bordering an alley. (Red shaded on setback display)

3.6.3.2 Fifteen feet (15') for all houses not bordering an alley. These houses shall not have a garage with a setback of less than twenty feet (20'). (Blue shaded on setback display)

3.6.3.3 Houses that front on Concord, Hawthorne, and 9th Street, will not have a traffic buffer area.

5

Our Proposal

Our Proposal

1.1.1.1 The proposed development is a residential development consisting of 100 single-family detached homes. The homes are arranged in a grid pattern with a central green space. The development is located on a 10-acre site. The development is located on a 10-acre site. The development is located on a 10-acre site.

LAND USE

Area	Area (sqm)	Area (sqft)	Area (%)
Total Area	28,227	322,227	100%
Open Space	5,281	60,727	18.75%
Blue Space	5,281	60,727	18.75%
Green Space	5,281	60,727	18.75%

6

Development Agreement Pillars & Compliance

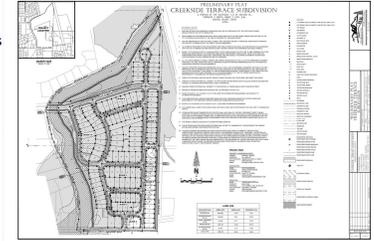
- Single Family Residential
- 124 Building Lots
- Minimum Lot Size – 4,000 square Feet
- Common Areas
- Additional Parking lots
- Open Space over 25%
- Greenbelt
- Community Center
- 9th Street Improvements
- Willow Creek Bridge



7

Concluding Remarks

- Vested Property Rights
- 9th Steet Bridge/ Half Street improvements
- Conditions of Approval
- Questions



8

LOCATION

- HAWTHORNE & CONCORD STREET
- MIDDLETON, IDAHO
- R-4 ZONING
- SINGLE FAMILY HOMES



9

Engineering Presentation



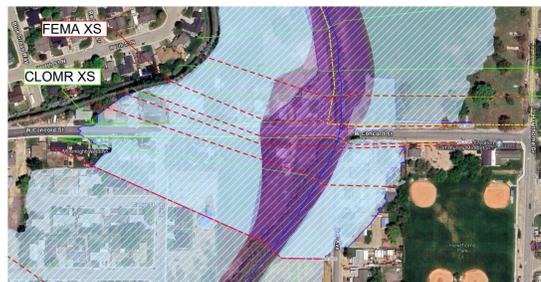
10

Map Revision Process

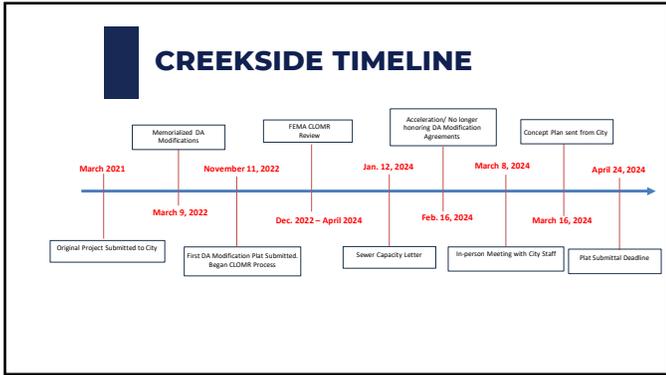


11

Effective vs CLOMR Model



12





September 4, 2024 - City Council - Public Hearing

Please check

	Name	Address	Phone or Email	In Favor	Neutral	Opposed	Testify
1	Josh Perugini	994 N Powder River	530-815-8397			<input checked="" type="checkbox"/>	
2	Sandi Fontana	1021 N. Buffalo Wy	760-458-1047			<input checked="" type="checkbox"/>	
3	Ingrid Durkel	1493 Knoxville Ct.	760-522-5461				
4	Tim Teachman + Stephanie	1042 N Powder River Dr	208 715 0913			<input checked="" type="checkbox"/>	
5	Blake Fotheringham	4 Concord St Middleton	801-656-5730	<input checked="" type="checkbox"/>			
6	Carl Anderson	1814 Idaho Ave Caldwell	208 608 4569	<input checked="" type="checkbox"/>			
7	Harry Cabelman	169 N. Buffalo Way Middleton	707-696-3677			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
8	MIKE GRAEF	MIDDLETON	208-577-6227			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
9	Kelly Crist	835 Willow Dr.	208 761-5284			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Not Testifying



(Tabled from June 26, 2024 Meeting) Consider approving the Application by Connor Gray/AG Land & Development and Y Street Capital for preliminary plat with respect to the Creekside Terrace Subdivision

September 4, 2024 - City Council - Public Hearing

Please check

	Name	Address	Phone or Email	In Favor	Neutral	Opposed	Testify
10	Harper Titus	8011 Dusty Way	208-872-5337				
11	Ben Mitchell	8450 W Kingsbury Dr	208-477-4011				
12	Alexia Swartz	621 Willow Drive	707 4007778			X	X
13	Ron Manning	2976 E State St Eagle ID 83616	208 559 0632	X			X
14	Jesse Christensen	9051 Willow Pointe Ave Nampa	208-212-2062	X			
15	Dave + Sharon Jennig	143 N. Buffalo Way	951-970-5531			X	
16	John LAFRAMBOISE	1314					
17	KURT STARMAN	15318 PRONGHORN CT CALDWELL	208-573-8285			✓	✓
18	MARK STARMAN	306 JAS PER MIDDLETON AVE	208-999-1165			✓	✓

19. Ingrid Dunkel 1493 Fleervik 760-522540 X



Public Testimony - Creekside Terrace Pre-Plat

approving Ordinance 701 AN ORDINANCE OF THE CITY OF MIDDLETON, CANYON, COUNTY, IDAHO, ENTITLED THE "AMENDED ANNUAL APPROPRIATION ORDINANCE FOR THE FISCAL YEAR BEGINNING

September 4, 2024 - City Council - Public Hearing

Please check

	Name	Address	Phone or Email	In Favor	Neutral	Opposed	Testify
10	Muell Lalloway	8425 Spring Creek	208-891-5018			X	X
11							
12							
13							
14							
15							
16							
17							
18							



After

City Council Public Comment

September 4, 2024

	Name	Address	Phone or Email	Topic/Agenda Item #
11	Fyson Sparrow	''	''	P? 2
12				
13				
14				
15				
16				
17				
18				
19				
20				