

**City of Middleton
City Council Hearing
Findings of Fact, Conclusions of Law, and Decision**

**DE-ANNEXATION REQUEST
Hearing Date: March 21, 2012**

A request by David and Lisa Richard to de-annex from city limits the vacant lot described as 23161 Buskirk Drive, Lot 4 Block 3 in Whisper Creek Estates Subdivision, Middleton, Canyon County, Idaho.

APPLICANT: David and Lisa Richard
8959 New Castle Drive
Middleton, ID 83644

REPRESENTATIVE: Same as Applicant

APPLICATION SUBMITTAL: Application received on February 12, 2012

NOTICE OF PUBLIC HEARING:

Letters to Agencies:	March 6, 2012
Published notice IPT:	March 6, 2012
Letters to 300' Property Owners:	March 6, 2012
Property Posted:	March 12, 2012

ZONING MAP DESIGNATIONS:

	Zoning Designation
Existing	R3 (City)
Proposed	Agriculture (County)

SITE DATA: A 3.6 acre vacant, platted lot in the Whisper Creek Estates Subdivision

AGENCY RESPONSES: None

WRITTEN RESPONSES: None

STAFF REPORT:

The subject property is in the City limits and the area of city impact, is vacant, and is the only lot in the Whisper Creek Estates subdivision that was annexed into the City of Middleton. The intent when annexed was to have Lot 4 be a road lot that connected Whisper Creek Way, a public road, to the farmland West and North of Lot 4 that was a proposed development at that time.

If the request is approved, the boundary lines as platted would not change nor would

the easements, lot size or title to the property. Any encumbrances against title to the subject property would remain, including homeowners association Covenants, Conditions and Restrictions (CCRs).

The Middleton Planning and Zoning Commission recommended that the Middleton City Council approve the request of David and Lisa Richards to de-annex from City limits the vacant lot described as 23161 Buskirk Drive, Lot 4 Block 3 in Whisper Creek Estates, Middleton, Canyon County, Idaho.

ORAL TESTIMONY:

David Richard 8959 New Castle Drive, Middleton ID reported that property owners in the Whisper Creek Subdivision consent to the de-annexation and testified in favor at the Planning and Zoning commission meeting but were unable to attend the Council meeting. Mr. Richard commented that no current City services are available at the property.

FINDINGS OF FACT:

1. The land use and platting for Whisper Creek Estates Subdivision was approved by Canyon County through the conditional use permit process.
2. The Middleton Planning and Zoning Commission held a public hearing on the application February 27, 2012 and voted to recommend that City Council approve the requested de-annexation.
3. All evidence of public hearing notice publication, mailing and posting, along with the staff report, written responses, oral testimony and audio recording of the hearing is hereby incorporated into the record.
4. There was no testimony in opposition.
5. The request is consistent with Middleton's Comprehensive Plan.
6. Granting this de-annexation and zoning will not be detrimental to the public health, safety or welfare and is not in conflict with public interest.
7. Granting this de-annexation and zoning will not be materially injurious to properties in the vicinity.

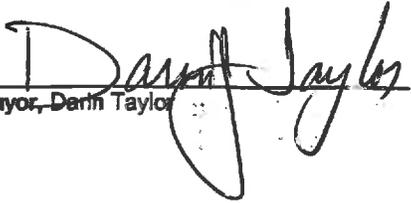
CONCLUSIONS OF LAW:

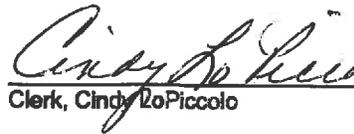
1. All requirements for providing notice of the public hearing, including notice by publication, notice by mailing, posted notice and notice to other agents as set forth in Title 67, Chapter 65, Idaho Code and City ordinances have been complied with.
2. All requirements for the conduct of public hearings as set forth in Title 67, Chapter 65, Idaho Code and City ordinances have been complied with.
3. All criteria, requirements and standards required by Idaho Code and City ordinances for de-annexation have been complied with.

Decision:

Middleton City Council approves the request by David and Lisa Richard to de-annex from City limits the vacant lot described as Lot 4, Block 3 in Whisper Creek Estates Subdivision, Middleton, Canyon County, Idaho.

Dated this 21 day of March 2012.


Mayor, Darin Taylor


Clerk, Cindy ZoPiccolo



Regulatory Taking Notice: Applicant has the right, pursuant to Section 67-8003, Idaho Code, to request a regulatory taking analysis.

**Middleton
Planning and Zoning Commission
Findings of Fact, Conclusions of Law, and Recommendation**

DE-ANNEXATION REQUEST
Hearing Date: February 27, 2012

A request by David and Lisa Richard to de-annex from city limits the vacant lot described as 23161 Buskirk Drive, Lot 4 Block 3 in Whisper Creek Estates Subdivision, Middleton ID.

APPLICANT: David and Lisa Richard
8959 New Castle Drive
Middleton, ID 83644

REPRESENTATIVE: Same as Applicant

APPLICATION SUBMITTAL: Application received on February 12, 2012

NOTICE OF PUBLIC HEARING:

Letters to Agencies:	February 10, 2012
Published notice IPT:	February 12, 2012
Letters to 300' Property Owners:	February 12, 2012
Property Posted:	February 17, 2012

ZONING MAP DESIGNATIONS:

	Zoning Designation
Existing	R3 (City)
Proposed	Agriculture (County)

SITE DATA: A 3.6 acre vacant, platted lot in the Whisper Creek Estates Subdivision

AGENCY RESPONSES: None

WRITTEN RESPONSES:

John and Janis Syme 23158 Buskirk Drive, Middleton ID. Did not object provided the subject property remains subject to the Whisper Creek Estates conditions, covenants and restrictions (CC&Rs).

Sandra and Robert Lavoie 9380 Ruth Marie Drive, Middleton ID. Did not object provided the subject property remains subject to the Whisper Creek Estates CC&Rs.

STAFF REPORT:

The subject property is in the City limits and the area of city impact, is vacant, and is the only property in the Whisper Creek Estates subdivision that was annexed into the City of Middleton. The intent when annexed was to have Lot 4 be a road lot that connected Whisper Creek Way, a public road, to the farmland West and North of Lot 4 that was a proposed development at that time.

If the request is approved, the boundary lines as platted would not change nor would the easements, lot size or title to the property. Any encumbrances against title to the subject property the property would remain, including homeowners association CCRs.

ORAL TESTIMONY:

Mike Bruce, President Whisper Creek Estates Subdivision Homeowners Association, 22978 Buskirk Drive, Middleton, ID. Did not object provided the subject property remains subject to the Whisper Creek Estates CC&Rs.

FINDINGS OF FACT:

1. The land use and platting for Whisper Creek Estates subdivision was approved through Canyon County
2. The Middleton Planning and Zoning Commission held a public hearing on the application February 27, 2012 and voted to recommend that City Council approve the requested de-annexation.
3. All evidence of public hearing notice publication, mailing and posting, along with the staff report, written responses, oral testimony and audio recording of the hearing is hereby incorporated into the record.
4. There was no testimony in opposition.
5. The request is consistent with Middleton's Comprehensive Plan.
6. Granting this de-annexation and zoning will not be detrimental to the public health, safety or welfare and is not in conflict with public interest.
7. Granting this de-annexation and zoning will not be materially injurious to neighboring properties in the vicinity.

CONCLUSIONS OF LAW:

1. All requirements for providing notice of the public hearing, including notice by publication, notice by mailing, posted notice and notice to other agents as set forth in Title 67, Chapter 65, Idaho Code and City ordinances have been complied with.
2. All requirements for the conduct of public hearings as set forth in Title 67, Chapter 65, Idaho Code and City ordinances have been complied with.
3. All criteria, requirements and standards required by Idaho Code and City ordinances for de-annexation have been complied with.

RECOMMENDATION

Based on the foregoing findings of fact and conclusion of law, the Middleton Planning and Zoning Commission hereby recommends that the Middleton City Council approve the request of David and Lisa Richards to de-annex from city limits the vacant lot described as 23161 Buskirk Drive, Lot 4 Block 3 in Whisper Creek Estates, Canyon County, Idaho.

Dated this 12 day of March 2012.


Vice Chairwoman Janet Gregory


Assistant City Clerk

Regulatory Taking Notice: Applicant has the right, pursuant to Section 67-8003, Idaho Code, to request a regulatory taking analysis.