



# CITY OF MIDDLETON

## Planning and Zoning Commission

Concord Square Preliminary Plat  
and Special Use Permit

August 21, 2020 Application  
September 14, 2020 P&Z Approval  
October 19, 2020 P&Z FCO's

**Findings of Fact,  
Conclusions of Law  
and Decision**

### SUMMARY OF THE REQUEST

A request by Peter Harris Construction for preliminary plat with a special use permit approval of Concord Square Subdivision. The proposed preliminary plat consists of 9 single-family lots on approximately 2.69 acres of vacant land, addressed 0 Concord St., located near the southeast corner of Birch Ave. and Concord St., parcel number R1869601000.

### FINDINGS OF FACT

1. **APPLICANT:** The applicant is Peter Harris Construction – Peter Harris.
2. **APPLICATION:** The application was accepted by the City on August 21, 2020
3. **NOTICE OF PUBLIC HEARING:** Notice of the application was published, mailed and posted as follows:

|  |                 |
|--|-----------------|
| Public Hearing Notice to Paper             | August 25, 2020 |
| Notice to Posting Box                      | August 31, 2020 |
| Letters to Owners of Property within 300': | August 31, 2020 |
| Letters to Agencies:                       | August 31, 2020 |
4. **APPLICABLE CODES AND STANDARDS:** The ordinances and standards used in evaluating the application are:  
Idaho Code 67-6512  
Middleton City Code (MCC) 1-14-2, 1-15-1, 1-15-7, 1-19-1, Title 5, 5-4-4.
5. **APPLICANT REQUEST:** The applicant is requesting a reduction in rear yard setback from the 20 feet to 15 feet and an increase in density from 3.0 units per acre to 3.35 units per acre.
6. **PLANNING AND ZONING REVIEW COMMENTS:**
  - A. The Planning and Zoning Commission approved the preliminary plat for Concord Square Subdivision September 14, 2020.



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- B. **Written Agency Responses to Date:** none
- C. **Written Property Owners Responses Received to Date:** none.
- D. **Preliminary Plat Standards:** Per City Code Section 5-4-4.
- E. **Compliance:** Per City Code Section 5-4-1, Table 2; the minimum rear setback is 20 feet and a maximum density of 3 units per acre in the R-3 zoning district.
- F. **Planning and Zoning Commission Special Use Permit Approval:**  
Allow decreased rear setback from 20 feet to 15 feet and slight increase in density from 3 units per acre to 3.35 units per acre.

### CONCLUSIONS OF LAW

The Planning and Zoning Commission concludes that notice was given and the public hearing was conducted according to law, and the City has kept a record of the application and related documents. The special use permit process is authorized by state and local law to except certain standards from applicability. Approving a decrease in setbacks and increase in density in one subdivision does not establish a precedent obligating the city to approve a decrease in setbacks or increase in density in any other subdivision. The special use as allowed is only for this specific location, for this specific reason at this specific point in time.

### DECISION

Based on the Findings of Facts, and Conclusions of Law, the Planning and Zoning Commission hereby approves the Special Use Permit application and recommends to City Council approval of the Preliminary Plat with the following conditions:

1. City of Middleton municipal domestic water, fire flow and sanitary sewer services are extended to serve the subdivision.
2. Indicate on the plat where the front, side and rear setbacks are in relation to Birch Ave. and the two (2) shared driveways.
3. Provide/show on plans a minimum of 5% open space.
4. Dimension and draw Birch Ave. at the required 30 feet width, east lane.
5. Show cluster mailbox location(s) on the plat (not by note).
6. Corrections identified by the City Engineer and Planning and Zoning Official are made.
7. Show shared access area on plan.
8. Provide city a copy of the irrigation agreement with Vida Glenn Subdivision, if that is how the irrigation requirement is to be met.



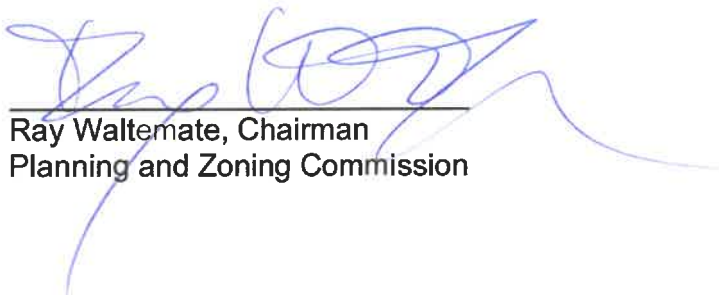
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### NOTICE

This decision is deemed by Idaho law to be a final decision. An affected person aggrieved by a final decision may within twenty-eight (28) days after all remedies have been exhausted under local ordinances seek judicial review as provided by chapter 52, title 67, Idaho Code. The applicant has a right in writing to request in writing to the city a regulatory taking analysis pursuant to section 67-8003, Idaho Code.

Signed: October 19, 2020.



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Ray Waltemate, Chairman  
Planning and Zoning Commission

Attest:



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Bruce Bayne  
Planning and Zoning Official