

# Middleton City Council

## Findings of Facts, Conclusions of Law, and Decision & Order



**In the Matter of an application by Providence Properties, LLC for Amended Preliminary Plat with respect to the Waterford Subdivision located at 0 Duff Lane (Tax Parcel Nos., R3386101000 and R3386100000). The applicant is requesting a revision of the phasing plan from 7 to 5 phases and to change 3 duplicative road names. The proposed amended preliminary plat is zoned R-3 (“Single Family Residential”) and consists of 261 single family buildable lots and 16 common lots, and 1 emergency access lot on 99 acres of vacant land.**

### **A. Findings of Fact:**

1. Hearing Facts: (See Staff Report for the hearing date of October 6, 2021, which Report is attached hereto as Exhibit “A’ and incorporated herein by this reference.)
2. Process Facts: (See Staff Report for the hearing date of October 6, 2021, which Report is attached hereto as Exhibit “A’ and incorporated herein by this reference.)
3. Application and Property Facts: (See Staff Report for the hearing date of October 6, 2021, which Report is attached hereto as Exhibit “A’ and incorporated herein by this reference.)
4. Required Findings per Middleton City Code 1-14, 1-15, 1-16, 5-1, 5-3 and 5-4 and Idaho Code Sec., 67-65: (See Staff Report for the hearing date of October 6, 2021, which Report is attached hereto as Exhibit “A’ and incorporated herein by this reference.)

### **B. Conclusions of Law:**

1. That the City of Middleton shall exercise the powers conferred upon it by the “Local Land Use Planning Act of 1975,” codified at Chapter 65, Title 67, Idaho Code (I.C. §67-6503).
2. That due consideration has been given to the comment(s) received from the governmental subdivisions providing services in the City of Middleton planning jurisdiction and comment(s) received in written form and through public testimony.
3. That notice of the application and public hearing were given according to law.
4. That City Council’s public hearing was conducted according to law, and the city has kept a record of the application and related documents.
5. That codes applicable to the application are Middleton City Code 1-14, 1-16, 5-1, 5-3, and 5-4.

### **C. Decision and Order:**

#### **Order:**

Pursuant to the City Council’s authority as provided in Middleton City Code 1-5-2, and based

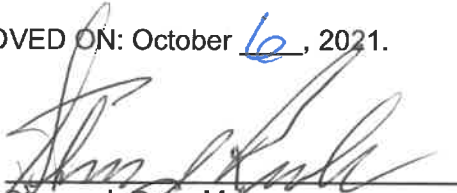
upon the above findings of facts, conclusions of law, **it is hereby ordered that:**

An application by Providence Properties, LLC for Amended Preliminary Plat is approved.


**D. Right to Request Regulatory Taking Analysis:**

The Applicant is hereby notified of his right to request a regulatory taking analysis pursuant to section 67-8003, Idaho Code.

WRITTEN ORDER AND DECISION APPROVED ON: October 16, 2021.

  
\_\_\_\_\_  
Steven J. Rule, Mayor  
Middleton City Council

Attest:

  
\_\_\_\_\_  
Jennica Reynolds  
Planning and Zoning Department

# APPENDIX

# Exhibit "A"



## STAFF REVIEW AND REPORT Middleton City Council

### Waterford Amended Preliminary Plat Application

#### Snapshot Summary



DESCRIPTION	DETAILS
Acreage	99 acres
Current Zoning	R-3 (Single Family Residential)
Proposed Zoning	to remain the same
Current Land Use	Residential Special Area
Proposed Land Use	Residential Special Area
Lots	261 single-family lots, 16 common lots, and 1 emergency access lot

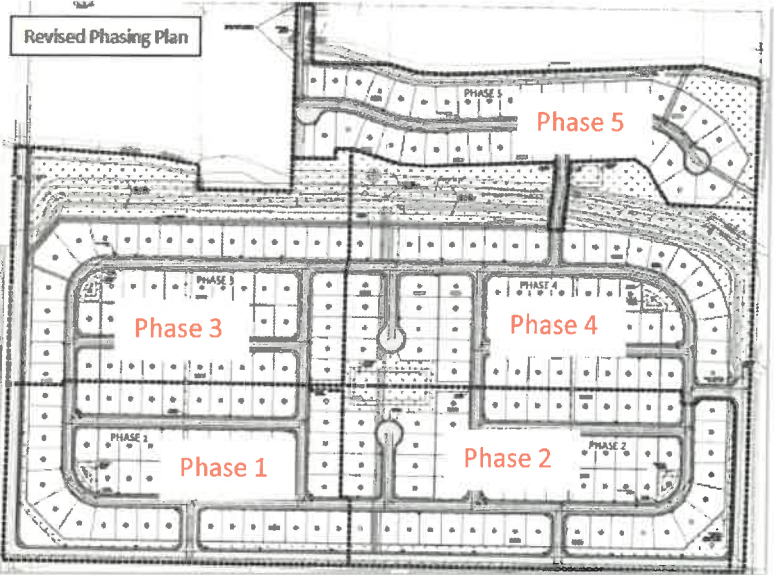
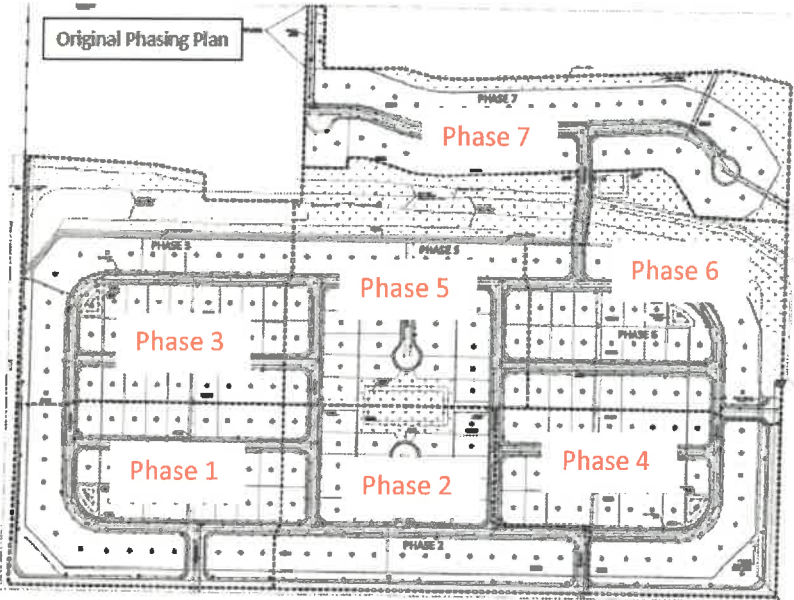
- A. City Council Hearing Date:** October 6, 2021
- B. Project Description:** Amended Preliminary Plat of Residential subdivision with 261 buildable lots and 16 common lots on 99 acres of vacant land located at 0 Duff Lane (Tax Parcel #R3386101000 and R3386100000).
- C. Application Requests:** An application submitted by Providence Properties, LLC for Amended Preliminary Plat for a revision to the phasing plan from 7 to 5 phases and to change 3 duplicative road names.
- D. Current Zoning & Property Condition:** The property is currently zoned R-3 (Single-Family Residential) and was annexed into the city in 2020.



- E. Amended Preliminary Plat Application:** The Amended Preliminary Plat complies with all standards and codes of the City of Middleton. The applicant is requesting a revision to the phasing. The intent of this revision is to add additional buildable lots to

each phase. The number and construction of common lots for each phase remains unchanged from the initial approval.

Planning Staff has also requested a change of 3 duplicative road names (Kinsale St. to Edenderry St, Cork St. to Roscommon St, and Limerick Ct to Carlow Ct.) to alleviate confusion for delivery vehicles and emergency services.



Phase	Original Phasing Plan	Proposed Phasing Plan
1	40	51
2	34	59
3	42	53
4	37	58
5	34	40
6	35	n/a
7	40	n/a
<b>TOTAL</b>	<b>262</b>	<b>261</b>

**F. Comments Received from Surrounding Landowners:** Letter dated 9/13/2021 to P&Z Commission (Exhibit 1)

**G. Comments from Agencies:**

- Canyon Highway District No. 4 comments dated 9/7/2021 state “No comment or objection to the proposed development.” (Exhibit 2)
- Sawtooth Law Offices (dated 9/7/2021) Typical ditch and easement comments. (Exhibit 3)

**H. Comments from City Engineer:** Recommendation letter dated 9/13/2021 (Exhibit 4)

**I. Applicant Information:** Application was received and accepted on June 25, 2021. The Applicant/Owner Providence Properties, LLC located at 701 S Allen Street, Suite 104, Meridian, ID 83642.

**J. Notices:**

**Dates:**

Newspaper Notification	09/19/2021
Radius notification mailed to Adjacent landowners within 300'	09/17/2021
Circulation to Agencies	09/17/2021
Sign Posting property	09/17/2021

*Planning staff finds that notice for the P&Z public hearing and City Council public hearing was appropriate and given according to law.*

**K. Applicable Codes and Standards:**

Idaho State Statue Title 67, Chapter 65  
 Middleton City Code 1-14, 1-15, 1-16, 5-1, 5-3, and 5-4.

**L. Conclusions and Recommended Conditions of Approval:**

The City Council is tasked with considering the application for Amended Preliminary Plat for a revision to the phasing plan from 7 to 5 phases and to change 3 duplicative road names. The Council may approve or deny the application and set forth any conditions of approval. To properly perform this task, the Council must ultimately make findings of facts, conclusions of law, and an order with respect to the application.

**As to Findings of Facts**, Planning Staff made findings of facts in compliance with Idaho State Law and Middleton City Code. Staff will also set forth the findings of facts in the presentation at the Public Hearing. If Council agrees with Staff's findings of facts, then Council can accept the findings of facts by passing a motion to accept all or a portion of the findings of facts.

**As to Conclusions of Law**, Planning Staff finds that the Council has the authority to hear this application in order that it may be approved or denied and that public notice requirements were met. Planning Staff further set forth the portions of the Idaho State Code and Middleton Code considered in rendering a decision on the application. If the October 6<sup>th</sup> public hearing is held and conducted in compliance with Idaho State Statute and the Middleton City Code, then Council may accept these conclusions of law by passing a motion to accept the conclusions of law set forth in the staff report and public hearing.

If the City Council is inclined to approve the application based upon the above *Findings of Facts* and *Conclusions of Law*, then Planning Staff recommends the approval be without any conditions of approval.

If the City Council denies the application, pursuant to Middleton City Code 1-14(E)(8), Council must state on the record what the Applicant can do, if anything, to gain approval of the application.

Prepared by Planning Deputy Clerk, Jennica Reynolds

Dated: 10/5/2021



**From:** [Dale Sanger](#)  
**To:** [Jennica Reynolds](#)  
**Subject:** Waterford subdivision and zoning  
**Date:** Monday, September 13, 2021 4:31:24 PM

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Thank you for taking my call today Jennica and explaining the process of what took place in 2020 amidst COVID that everyone was affected by.

With great certainty I am sure that most if not all of my fellow neighbors would have attended in 2020 to suggest an alternate development idea for the proposed Waterford subdivision plans.

Many of the people in the area of Foothill road cherish the country life that it is apparent the developers have no desire in maintaining. Changing the Zoning to R3 to add this subdivision will have zero advantages to anyone involved with one exception (the ability for the developer to purchase more toys) . Duff lane cannot support the existing traffic that is necessary to normal everyday activity let alone the construction trucks and related vehicles that are there now! But in addition to this we are going to add 270 more homes to an already stressed traffic system.

Foothill road is also the road biking capitol of Middleton that is now going to be packed with cars every morning trying to drive to Lansing to get into town for work. This in itself is going to pose an additional risk to pedestrian related accidents as the population of cars and incidence of speeding has already increase immensely.

The idea that should have been put forward and embraced was a compromise whereas the subdivision in question should have been developed into 1 or 2 acre parcels still allowing conservation of minerals such as water while allowing for a group of homes that would have provided the tax base that the city counsel so needs to have!!

I will make a point to attend the next meeting at city counsel so that stuff doesn't get slipped in for approval such as it did in 2020 COVID times!!

—Thank you again for your time.

-Dale Sanger

**From:** [Chris Hopper](#)  
**To:** [Jennica Reynolds](#)  
**Cc:** [Roberta Stewart](#)  
**Subject:** RE: Middleton Notice of Public Hearing - Waterford P&Z  
**Date:** Tuesday, September 7, 2021 5:11:43 PM  
**Attachments:** [Notice - Agencies PZ 9-13-21.pdf](#)

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Jennica-

CHD4 has reviewed the amended preliminary plat application for Waterford Subdivision, and has no comment or objection to the proposed development.

Respectfully,

**Chris Hopper, P.E.**

District Engineer

Canyon Highway District No. 4  
15435 Hwy 44  
Caldwell, Idaho 83607  
208-454-8135

**From:** Jennica Reynolds <jreynolds@middletoncity.com>

**Sent:** Friday, August 27, 2021 9:47 AM

**To:** Alicia Krantz - MSD <akrantz@msd134.org>; Canyon County Paramedics <MStowell@ccparamedics.com>; Carl Miller <cmiller@compassidaho.org>; Idaho Power - Mike Ybarguen <MYbarguen@idahopower.com>; ITD - Development <D3Development.services@ITD.idaho.gov>; ITD - Sarah <Sarah.Arjona@itd.idaho.gov>; Julie Collette <gmprdjulie@gmail.com>; Lacey Grooms - MSD <lgrooms@msd134.org>; zoninginfo@canyonco.org; vislas@starfirerescue.org; Middleton Mill - Sawtooth Law <bryce@sawtoothlaw.com>; Middleton Mill Ditch Co <irrigation.mm.mi@gmail.com>; Allen Funkhouser (allenfun50@hotmail.com) <allenfun50@hotmail.com>; Chris Hopper <CHopper@canyonhd4.org>; idwrinfo@idwr.idaho.gov; jessica.mansell@intgas.com

**Cc:** Roberta Stewart <rstewart@middletoncity.com>

**Subject:** Middleton Notice of Public Hearing - Waterford P&Z

Please see the notice of Public Hearing for Waterford Amended Preliminary Plat.

The link to the application is here:

<https://middleton.id.gov/Portals/0/Public%20Hearings/Waterford%20Amended%20PP%20Application%20Combined%20-%20PRR.pdf>

Thank You,

*Jennica Reynolds*

Deputy Clerk, Planning  
City of Middleton  
208-585-3133

[jreynolds@middletoncity.com](mailto:jreynolds@middletoncity.com)

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Golden Eagle Building  
1101 W. River St., Ste. 110  
P.O. Box 7985  
Boise, Idaho 83707  
Tel. (208) 629-7447  
Fax (208) 629-7559

**Challis Office**  
1301 E. Main Ave.  
P.O. Box 36  
Challis, Idaho 83226  
Tel. (208) 879-4488  
Fax (208) 629-7559

**Twin Falls Office**  
236 River Vista Place  
Suite 301  
Twin Falls, Idaho 83301  
Tel. (208) 969-9585  
Fax (208) 629-7559



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Andrew J. Waldera \*\*

James R. Bennetts (retired)

*Attorneys licensed in Idaho  
\* Also licensed in Washington  
\*\* Also licensed in Oregon*

Tuesday, September 07, 2021

City of Middleton  
Attn: Roberta Stewart  
P.O. Box 487  
Middleton, Idaho 83644

Re: Amended Preliminary Plat - Waterford Subdivision

Dear Ms. Stewart:

The Newman Ditch Company, the Middleton Mill Ditch Company and Middleton Irrigation Association (collectively referred to as "Ditch Companies") have ditches and easements that run through or abuts this property. The easement is 25 feet each side from the top of bank. In addition, the Drainage District No. 2 (referred to as "District") has a ditch and easement that runs through or abuts this property. The District's easement is 100 feet, 50 feet to either side for open drains and 50 feet, 25 feet to either side for piped or closed drains. The developer must contact the Ditch Companies and District's attorneys, Sawtooth Law Offices, PLLC, for approval before any encroachment, change of easement, or drainage discharge into Ditch Companies and District's facilities occur. The Ditch Companies and District must review drainage plans and construction plans prior to any approval.

The Ditch Companies and District generally require a License Agreement prior to any approval for the following reasons:

1. Relocation of a facility which would also require a new easement and relinquishment of the old easement once the relocation has been completed.
2. Piping of a facility.
3. Encroachment on a facility with gas, water and sewer lines, utility lines, roadways, bridges or any other structures.
4. Drainage discharges into any facilities.



Also, please be advised that neither the Ditch Companies or District approve of trees within their easements. Therefore, any existing trees within easement will need to be removed. On occasion, the Ditch Company and District may make an exception on a case by case basis, which requires the developers/owners to obtain written permission from the Ditch Companies and District for existing trees to remain.

Please contact me if you have any questions.

Yours very truly,

A handwritten signature in blue ink, appearing to read "S. Bryce Farris".

S. Bryce Farris

SBF:krk

cc: DD2/Newman Ditch Company/MM-MI



September 13, 2021

TO: Jennica Reynolds, Planner

FROM: Civil Dynamics PC, City Engineer  
Amy Woodruff, PE

A handwritten signature in blue ink, appearing to read "Amy Woodruff", is written over the "FROM" line.

**RE: Waterford Subdivision Preliminary Plat – Recommendation of Approval**

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Thank you for the opportunity to review the above referenced preliminary plat submittal. Please note: Albright Avenue between 9<sup>th</sup> Street and Foxrock has been eliminated from both Waterford and Waterford East (future application). Albright between 9<sup>th</sup> and Foxrock is not required for connectivity.

We recommend Mayor and City Council approve the preliminary plat as presented.