

# Middleton Planning & Zoning Commission

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

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### **In the Matter of the Request of Hayden Homes Idaho LLC for Annexation/Rezone, Development Agreement, Preliminary Plat and Variance involving 44 residential lots and six common lots on 14.71 acres of land located at Emmett Road (Tax Parcel #R38211012):**

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

1. Hearing Facts: (See Staff Report for the hearing date of April 12, 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 April 12, 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 April 12, 2021, which Report is attached hereto as Exhibit "A" and incorporated herein by this reference.)
4. Required Findings per Middleton City Code 1-14-2(E)(7): (See Staff Report for the hearing date of April 12, 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.
3. That notice of the application and public hearing were given according to law.
4. That Planning and Zoning Commission's public hearing was conducted according to law, and the City has kept a record of the application and related documents.
5. That codes and standards applicable to the application are the Idaho Standards for Public Works Construction, the Middleton Supplement to the Idaho Standards for Public Works Construction, and Middleton City Code 1-14, 1-15, 1-16, 5-1, 5-3, and 5-4.
6. That public facilities and services required by the proposed development will not impose expense upon the public if the attached conditions of approval are imposed.
7. That this approval and recommendation are subject to the Conditions of Approval set

forth in the attached Staff Report for the hearing date of April 12, 2021, which Report is incorporated herein by reference. The Planning and Zoning Commission further finds that the requirements set forth in the conditions of approval are reasonable, and the Applicant shall comply with the requirements as a conditions of approval of the application.

**C. Decision and Order:**

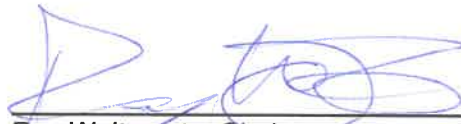
Pursuant to the Planning & Zoning Commission's authority as provided in Middleton City Code 1-5-5, and based upon the above Findings of Facts and Conclusions of Law, it is hereby recommended that:

1. City Council approve the annexation/rezone, development agreement, and preliminary plat applications subject to the Conditions of Approval set forth in the Staff Report for the April 12, 2021 Public Hearing attached hereto as Exhibit "A" and incorporated herein by this reference.

Pursuant to the Planning & Zoning Commission's authority as provided in Middleton City Code 1-5-5, and based upon the above Findings of Facts and Conclusions of Law, it is hereby ordered that:

1. Applicant's request for Variance is hereby approved with the condition that "No Parking" signage or painted curbs will be set in place at locations determined by City Engineer to be safe and appropriate.

WRITTEN RECOMMENDATION AND DECISION APPROVED ON: May 10, 2021.



Ray Waltemate, Chairman  
Planning and Zoning Commission

Attest:



Roberta Stewart  
Planning and Zoning Department



**EXHIBIT "A"**  
**STAFF REVIEW AND REPORT**  
**Middleton Planning and Zoning Commission**

## Bridger Creek Subdivision

### Snapshot Summary

	DESCRIPTION	DETAILS
	Acreage	14.71 acres
	Current Zoning	County Zoning R-1
	Proposed Zoning	R-3
	Current Land Use	Residential
	Proposed Land Use	Residential
	Lots	44 residential lots and 6 common lots for total of 50 lots.
	Density	2.99 units per acre
	Open Space	16%
	Amenities	27,350 s.f. open grassy area Block 2, Lot 1C.

- A. Planning & Zoning Commission Hearing Date:** April 12, 2021
- B. Project Description:** Residential subdivision with 44 buildable lots and 6 common lots on 14.71 acres of vacant land located at 0 Emmett Road (Tax Parcel #R38211012).
- C. Application Requests:** Applicant has four applications. The first application is an annexation and rezone application to change the zoning from County R-1 to City of Middleton R-3 zoning. Second is a Preliminary Plat application. Third application is a Development Agreement Application, and the fourth application is a variance for road turning radius.
- D. Current Zoning & Property Condition:** The property is currently located in the County and zoned R-1. The property to the South is within Middleton city limits, and it is zoned R-3. Properties to the west, north and east are located in the County and zoned Agriculture.
- E. City Services:** City water and sewer are located immediately south of the project in the West Highlands project. Sewer and water will be brought up through Roper Avenue to service all lots and will be extended west to Emmet Road to service future subdivisions. Additionally, per Engineering review and comments, Developer will extend a 12" water main in the right-of-way of Emmet Road along the frontage of the project parcel.

**F. Traffic, Access & Streets:**

Access to the subdivision is via Willis Avenue and north through the West Highlands subdivision.

Developer should be required to improve, per City standards, the 50' half portion of Emmet Road. Staff recommends this requirement be made a condition of approval for preliminary plat.

Planning Staff is in the process of calculating Developer's pro-rata share for traffic impacts and intersection controls. Developer's payment of these pro-rata fees should be made a condition of approval for preliminary plat.

**G. Pathway, Sidewalks & Open Space:** 5' wide concrete sidewalks span the local roads throughout the subdivision. An 8' wide asphalt pathway will span along the frontage improvements to Emmett Road. Per MCC 5-4-10-4(B), Developer is required to create a traffic buffer along Emmett Road involving a combination of two of the following three items: berm, fence/wall, and landscaping.

Developer has provided 16% open space in the subdivision, which exceeds the 5% minimum required by MCC 5-4-10-10. A half acre lawn area has been provided by developer on a common lot in the center of the subdivision (L1C/B2)

**H. Stormdrain and Pressurized Irrigation:** Stormdrain facilities and pressurized irrigation have been provided and are approved by the City Engineer.

**I. Middleton Rural Fire District:** The subject property is in the Middleton Rural Fire District. The District has reviewed the preliminary plat and approved the preliminary plat subject to compliance with District comments.

**J. Preliminary Plat Application:** The preliminary plat complies with all dimensional standards and codes of the City of Middleton except the turning radius standard which is the subject of the accompanying variance application.

**K. Annexation and Rezone:** Applicant is requesting that the entire 14.7 acre project parcel be annexed into the City of Middleton and rezoned to R-3 zoning, which permits three single family homes per gross acres. The parcel is contiguous to City limits, and City services are accessible to the parcel, which are the primary requirements for annexation. Applicant has also complied with all other documentation requirements necessary to complete the annexation and rezone of the property.

**L. Development Agreement:** Every annexation and rezone request requires a Development Agreement ("DA"). Applicant and City Staff have used the City's form for the DA, and have merely added four new provisions:

- a. Developer shall, at its own cost, improve the 50' half-road portion of Emmett Road and comply with the City comments and recommendations for final plat approval.
- b. Developer shall pay additional pro-rata or proportionate share fees for all traffic impacts and intersection controls affected by the subdivision.
- c. Developer shall build only single family homes, without 2<sup>nd</sup> accessory dwellings, in the R-3 zoned subdivision.
- d. Developer may use subdivision property not used for residential purposes for common area, utility lines, storm water management or other "allowed" uses per MCC 5-4-1 Table 1.

**M. Variance:** MCC 5-4-10-2(H.2) requires local roads to have a minimum centerline radius of 125'. Applicant is seeking a 60' turning radius, which means a tighter turning radius, on two corners in the subdivision. Applicant argues that there is no adverse consequence to the tighter corner, and the benefits to the tighter corners are (1) a reduction in flag shaped and pie-shaped lots, (2) promotion of lower speeds, increasing safety, and (3) shorter roadway lengths. Finally, Applicant argues that turning radiuses as low as 50' still meet safety and design guidelines of the International Fire Code Appendix D and AASHTO Section 3.3.6.

City Engineer indicated that fire trucks may have difficulty negotiating the corners if the centerline radius is only 60', and the problem will be intensified when cars are parked along the road.

**N. Comprehensive Plan & Land Use Map:** Applicant's project complies with the Comprehensive Plan Land Use Map because the project parcel is designated "Residential" on the Land Use Map, which matches the residential use planned for the site.

Additionally, Applicant's project complies with the *Goals, Objectives, and Strategies of the 2019 Middleton Comprehensive Plan* as follows:

- a. *Goals 3 and 23:* The project provides safe vehicle and pedestrian facilities in light of the street improvements and sidewalks shown on the preliminary plat.
- b. *Goal 4:* The project will establish a good quality of life with development that pays through impact fees and property taxes for the public services it receives when infrastructure is installed. Additionally, quality lots for residential use increase the quality of life and general welfare of the City.
- c. *Goals 11:* The housing type matches the residents' lifestyle in the area the project is located.

**O. Comments Received from Surrounding Landowners:** None.

**P. Comments from Agencies:** 3/8/2021 comments from the Middleton Rural Fire District. 4/5/2021 comments from Canyon Highway District No. 4, and 4/2/2021

comments from Black Canyon Irrigation District. (Copies of the comments can be found in the Planning & Zoning Packet.)

**Q. Comments from City Engineer and Planning Staff:** Copies of City Engineer comments dated 3/19/2021 and 4/5/2021 and Planning Staff comments dated 3/16/2021 and 4/5/2021 are in the Planning & Zoning Commission packet.

**R. Applicant Information:** Application was received and accepted on February 8, 2021. The Applicant/Owner is Hayden Homes Idaho LLC, 1406 N. Main St. #109, Meridian, ID 83642 (208) 869-9785.

<b>S. Notices &amp; Neighborhood Meeting:</b>	<b>Dates:</b>
Newspaper Notification	03/28/2021
Radius notification mailed to Adjacent landowners within 300'	03/26/2021
Circulation to Agencies	03/21/2021
Sign Posting property	03/26/2021
Neighborhood Meeting	01/21/2021

**T. Applicable Codes and Standards:**

Idaho State Statute Title 67, Chapter 65  
Idaho Standards for Public Works Construction and Middleton Supplement thereto  
Middleton City Code 1-14, 1-15, 1-16, 5-1, 5-3, and 5-4.

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

The Planning & Zoning Commission is tasked with considering the four separate applications for (1) Annexation/Rezone, (2) Preliminary Plat, (3) Development Agreement and (4) variance.

With respect to the variance, the Commission is tasked with rendering the final decision and order on the matter. It does not proceed to City Council. If the Commission is inclined to approve the variance application, Planning Staff does not recommend any conditions of approval.

As to the preliminary plat, annexation/rezone, and Development Agreement applications, if the Commission is inclined to recommend to City Council approval of the three applications, Planning Staff recommends that the recommendation be subject to the following conditions of approval:

1. City of Middleton municipal domestic water, fire flow and sanitary sewer services are to be extended to serve the subdivision.
2. All City Engineer review comments are to be completed and approved.
3. All Planning Staff review comments are to be completed and approved.
4. All requirements of the Middleton Rural Fire District are to be completed and approved.
5. Applicant to construct, at its own cost, the half road of Emmett Road as shown on the preliminary plat and dedicate the 50' wide half-road to the City of Middleton.
6. Developer to pay all pro-rata traffic impact fees prior to approval of final plat.
7. If the P&Z Commission does not approve the request for 60' radius variance, then Developer shall revise the preliminary plat to meet the 125' radius required by Middleton City Code.

V. Prepared by Middleton City Planner, Robert Stewart

Dated: 4/12/2021