



Middleton Planning & Zoning Commission

Findings of Facts, Conclusions of Law & Recommendation

In the Matter of the applications of Adam Capell/Toll Brothers and Nicolette Womack/Kimley-Horn Engineering for annexation/rezone, development agreement, and preliminary plat with respect to the Black Powder Subdivision located at 0 Cemetery Road, Middleton, Idaho (Tax Parcel No. R382070):

A. Findings of Fact:

1. Hearing Facts:
 - i. Applicants' Traffic Study determined that the intersection of Cemetery Road and Hwy 44 is rated at a Level of Service "D" at peak hours, which is below the City's minimum standard of LOS "C".
 - ii. Middleton City Council recently approved a scope of work for Precision Engineering to complete a traffic study of the Hwy 44 corridor through the City of Middleton.
 - iii. The Traffic Study will be completed in early 2023 and will set forth potential interim traffic controls at various Hwy 44 intersections, including the intersection with Cemetery Road, that should improve traffic congestion along the highway corridor.
 - iv. Additional hearing facts: See Staff Report for the hearing date of September 12, 2022, 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 September 12, 2022, Exhibit "A".
3. Application and Property Facts: See Staff Report for the hearing date of September 12, 2022, Exhibit "A".
4. Required Findings per Idaho State Statute Title 67, Chapter 65, Idaho Standards for Public Works Construction and Middleton Supplement thereto, Middleton City Code 1-14, 1-15, 5-1, 5-2, 5-3 & 5-4 and Title 50, Chapters 2 and 13: See Staff Report for the hearing date of September 12, 2022, Exhibit "A".

B. Conclusions of Law:

1. Once the Precision Engineering Traffic Study is completed in early 2023, the governing bodies will be in a better position to consider traffic issues involving Applicants' applications and will be in a better position to make decisions on approval or denial of Applicants' applications.
2. That the City of Middleton has exercised 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).


3. That due consideration has been given to the comments received from the governmental subdivisions providing services in the City of Middleton planning jurisdiction, comments received from individuals of the public, and comments from City Planning Staff and City Engineer.
4. That notice of the application and public hearing was given according to law.
5. That the 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.
6. That codes and standards pertinent to the application are the Idaho Standards for Public Works Construction, the Middleton Supplement to the Idaho Standards for Public Works Construction, Middleton City Code 1-14, 1-15, 5-1, 5-2, 5-3, and 5-4 and Idaho Code Title 67, Chapter 65 and Idaho Code Title 50, chapters 2 and 13.

C. Decision & Recommendation:

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 deny the application of Adam Capell/Toll Brothers and Nicolette Womack/Kimley-Horn for annexation/rezone based upon the fact that City Council is lacking necessary information that will be provided by the Precision Engineering Traffic Study to be completed in early 2023.
2. City Council deny the application of Adam Capell/Toll Brothers and Nicolette Womack/Kimley-Horn for development agreement based upon the fact that City Council is lacking necessary information that will be provided by the Precision Engineering Traffic Study to be completed in early 2023.
3. City Council deny the application of Adam Capell/Toll Brothers and Nicolette Womack/Kimley-Horn for preliminary plat based upon the fact that City Council is lacking necessary information that will be provided by the Precision Engineering Traffic Study to be completed in early 2023.

WRITTEN RECOMMENDATION APPROVED ON: 19 Oct., 2022.


Ray Waltemate, Chairman
Planning and Zoning Commission

Attest:



Roberta Stewart
Planning and Zoning Official

Please take notice that pursuant to MCC 1-14-2(E)(10), applicant shall have 14 days after a signed final decision to request reconsideration by the final-decision maker. Such request must identify specific deficiencies in the final decision. Failure to request reconsideration may invalidate a subsequent judicial appeal. Additionally, pursuant to Idaho State Statute 67-6521, any affected person aggrieved by a final decision may, within 28 days after all remedies have been exhausted under local ordinances, seek judicial review as provided in chapter 52, Title 67.

Additionally, please take notice that Applicant has a right to request a regulatory taking analysis pursuant to Idaho State Statute section 67-8003.