

# Middleton Planning & Zoning Commission

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

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**In the Matter of the Request of David Buich/Hartley Lane LLC and James Escobar, AIA, for preliminary plat with respect to the Carter John Mixed-Use Subdivision located at 0 Hartley Lane (Tax Parcel No. R1788901):**

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

1. Hearing Facts: See Staff Report for the hearing date of October 18, 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 18, 2021, Exhibit "A".
3. Application and Property Facts: See Staff Report for the hearing date of October 18, 2021, Exhibit "A".
4. Required Findings per Middleton City Code 1-14-2(E)(7), 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, 5-3, and 5-4: See Staff Report for the hearing date of October 18, 2021, Exhibit "A".

### **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 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.
3. That notice of the application and public hearing was 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, 5-1, 5-2, 5-3, and 5-4 and Idaho Code Secs., 67-6503, 67-6513, 67-6511, 50-1301 through 50-1329 and 50-222.
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 recommendation is subject to the Conditions of Approval set forth in the

attached Staff Report for the hearing date of October 18, 2021, Exhibit "A".

**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:

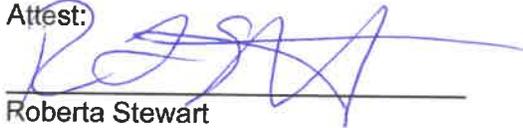
City Council approve the application of David Buich/Hartley Lane LLC & James Escobar for Preliminary Plat with respect to the Carter John Mixed-Use Subdivision subject to the conditions of approval set forth in the Staff Report for the October 18, 2021, public hearing on the matter.

WRITTEN RECOMMENDATION APPROVED ON: October 18, 2021.



Ray Waltemate, Chairman  
Planning and Zoning Commission

Attest:



Roberta Stewart  
Planning and Zoning Department

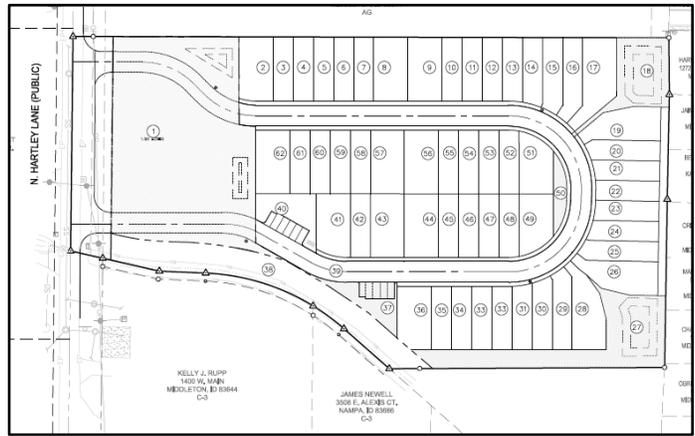
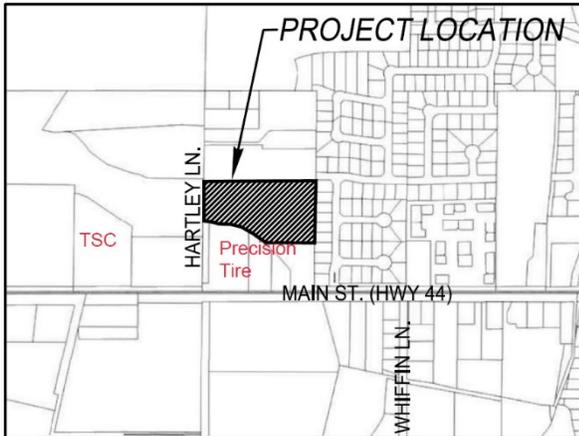


# STAFF REVIEW AND REPORT

## Middleton Planning and Zoning Commission

### Carter John Mixed Use Subdivision

#### Snapshot Summary



DESCRIPTION	DETAILS
Acreage	6 acres
Current Zoning	M-U / Mixed Use
Proposed Zoning	to remain the same
Current Land Use	Mixed Use
Proposed Land Use	Mixed Use
Lots	54 Townhome lots, 1 commercial lot, and 5 common lots
Density	18 units per acre allowed by DA
Amenities	Tot Lot and large common lot green spaces.

- A. Planning & Zoning Commission Hearing Date:** October 18, 2021
- B. Project Description:** Subdivision with 54 townhome lots and a large commercial lot that fronts Hartley Lane. Amenities include a tot lot and two expansive common lots that provide open green space.

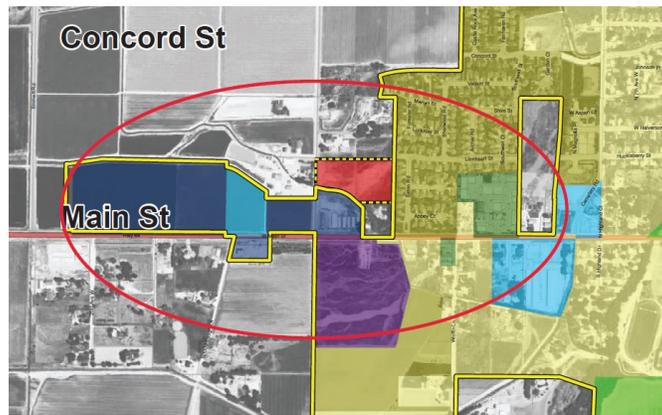
Pursuant to a 2020 Development Agreement with the City, Owner/Developer is allowed to construct up to 67 townhomes. The DA also requires Developer to provide

a commercial lot fronting Hartley that will accommodate neighborhood commercial uses. (A copy of the Development Agreement is attached as Exhibit “A”.)

**C. Application Request:** Preliminary Plat

**D. Current Zoning & Property Condition:** The 6 acre parcel was annexed into the City in 2020. The property was rezoned from County “Agricultural” to Middleton City “Mixed-Use” at that time, and the Development Agreement was executed.

The project parcel is surrounded by County Agricultural zone, Middleton City C-3 zone, and Middleton R-4 Zone.



**E. City Services:** Sewer service will be taken from existing lines running through Hartley Lane. Water service will be brought north from a location near the intersection of Hartley Lane and Hwy 44.



*Planning Staff finds that City services are nearby and available. However, sewer and water capacity will not be reserved until Construction Drawings are approved by the City.*

- F. **Traffic, Access & Streets:** the project provides two accesses off Hartley Lane. The streets are public and will be dedicated to the City of Middleton.

Developer completed a traffic impact analysis. Idaho Transportation Department is still reviewing the TIS to determine the extent of Developer's proportionate share of Traffic Impacts. If this Commission is inclined to recommend approval of the application, it should do so with a condition that Developer/Owner pay all proportionate share traffic fees required by the City before approval of final plat.

- G. **Pathway, Sidewalks & Open Space:** Applicant has surpassed the 5% open space requirement by providing 7.7% open space in the form of common lots with tot lot and green space, and 2 large grassy detention areas that will also serve as open play areas or gathering spaces.

- H. **Middleton Rural Fire District:** Like many agencies, the Middleton Rural Fire District has a long queue of Middleton and Star subdivision projects to review. As a result, Deputy Chief Islas has not had an opportunity to submit comments to this preliminary plat yet. Planning Staff will not allow this application to proceed to City Council without final comments from Middleton Fire. In the meantime, however, if the Planning & Zoning Commission is inclined to recommend approval of this application, Staff recommends that compliance with all Middleton Fire District comments be made a condition of approval. This will cover any issues that may be brought to light by Deputy Chief Islas.

- I. **Preliminary Plat Application:** The preliminary plat does not show a phasing plan. The project will be brought to final plat in one phase. The preliminary plat also complies with all dimensional standards and codes of the City of Middleton except the waiver of density that is set forth in the Development Agreement. Additionally, the preliminary plat shows turning radius of 90' rather than the code required 125'. This has been approved by City Engineer and Middleton Rural Fire Department. Waivers to code are allowed in a preliminary plat application per MCC 1-15-2 if the Planning & Zoning Commission is so inclined.



*Planning Staff finds that the preliminary plat is not materially detrimental to the public health, safety and welfare, and the preliminary plat is also in harmony with the Middleton Comprehensive Plan (See more detail in Section K below.)*

A copy of the preliminary plat under consideration is attached as Exhibit “B”.

- J. Comprehensive Plan & Land Use Map:** Applicant’s project complies with the Comprehensive Plan’s Future Land Use Map because the project parcel is designated “Mixed Use” (green color) on the Land Use Map, which matches the Mixed 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. *Goal 11:* The project provides diverse housing and in-fill housing. It also provides a housing type that matches the residents’ lifestyle in the area.

- K. Comments Received from Surrounding Landowners:** None.

- L. Comments from Agencies:** COMPASS submitted a 6/8/21 letter indicating that a stub road to the north may be desirable. A 9/7/21 letter from the Ditch Company set forth the typical comments on how to deal with the ditch easement on site. All agency comments are attached as Exhibit “C”.

- M. Comments from City Engineer and Planning Staff:** See attached as Exhibit “D”.

**N. Applicant Information:** Applicant Owner is David Buich/Hartley Lane LLC & Representative is James Escobar, AIA. 725 E. 2<sup>nd</sup> St., Meridian ID 83642 – [Jim@neUdesignArch.com](mailto:Jim@neUdesignArch.com). 208.884.224. Application was accepted on March 19, 2021.

<b>O. Notices &amp; Neighborhood Meeting:</b>	<b>Dates:</b>
Newspaper Notification	10/03/2021
Radius notification mailed to Adjacent landowners within 300'	10/01/2021
Circulation to Agencies	09/30/2021
Sign Posting property	09/30/2021
Neighborhood Meeting	03/18/2021

**P. 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.

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

The recommendation to approve or deny a preliminary plat application must be based upon findings of facts and conclusions of law.

**As to Findings of Facts,** Planning staff has set forth findings of facts above in parentheses. If the Commission agrees with those findings of facts and agrees with the testimony and evidence presented at the public hearing, the Commission need merely make a motion to accept those findings of facts.

**As to Conclusions of Law,** Planning Staff finds that the Planning & Zoning Commission has the authority to hear this application and to recommend approval or denial of the application. Additionally, Planning Staff notes that all public notice requirements were met. Planning Staff further set forth the portions of the Idaho State Code and Middleton Code to be considered in making a recommendation on the application. If the October 18th public hearing is held and conducted in compliance with Idaho State Statute and the Middleton City Code, then the Commission may accept these conclusions of law by passing a motion to accept the conclusions of law set forth in the staff report and at the public hearing.

If the Commission is inclined to recommend approval of the preliminary plat application based upon the above *Findings of Facts* and *Conclusions of Law*, then Planning Staff recommends that any approval be subject to the following conditions:

1. City of Middleton municipal domestic water, fire flow and sanitary sewer services are to be extended to serve the subdivision.
2. Owner/Developer shall construct, at its own cost, all frontage improvements to Hartley Lane and dedicate the same to the City.
3. Owner/Developer to pay all City required proportionate share traffic fees.
4. All City Engineer review comments are to be completed and approved.
5. All requirements of the Middleton Rural Fire District are to be completed and approved.
6. Owner/Developer shall obtain approval from the Design Review Committee for each style of townhome to be constructed.
7. Sewer and water capacity to be reserved at the time City approves the construction drawings for the project.
8. Change Note 7 to add Lot 39, Block 1 to the list of common lots and change Lot 15/Block 2 to Lot 14/Block 2.

Finally, if the Commission recommends denial of the preliminary plat application, then pursuant to Middleton City Code 1-14(E)(8), the Commission must state on the record what Applicant can do, if anything, to gain approval of the application(s).

Prepared by Middleton City Planner, Robert Stewart

Dated: 10/14/2021

# APPENDIX

# **Exhibit "A"**

## **2020 Development Agreement**

2020-037265

RECORDED

07/08/2020 02:17 PM



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CHRIS YAMAMOTO

CANYON COUNTY RECORDER

Pgs=6 HCRETAL

NO FEE

AGR

CITY OF MIDDLETON

## DEVELOPMENT AGREEMENT

This Development Agreement (**Agreement**) is entered into by and between the CITY OF MIDDLETON, a municipal corporation in the State of Idaho (**City**); and Richard Davis and Amy Davis, husband and wife (**Davis**), individually and collectively referred to as Developer (**Developer**), and Adam Hegstrom (**Hegstrom**), individually and collectively referred to as Representative for Developer (**Representative**).

### RECITALS

WHEREAS, Developer owns approximately 6.06 acres of vacant real property located North of Main Street (State Highway 44) North of and adjacent to Perfection Tire and East of Hartley Lane, Middleton, Canyon County, Idaho commonly referred to in Canyon County Assessor's records as Parcel No. R1788901, and legally described in Exhibit A attached hereto and incorporated herein (**Property**); and

WHEREAS, Hegstrom represented Developer when annexing and rezoning the property from Canyon County Agricultural to City of Middleton M-U (Mixed Use), and the benefits, obligations, and restrictions contained in this development agreement were relied on by both parties and were an integral part of the city's approval of the annexation and rezone request; and

WHEREAS, Developer intends to improve the Property according to the Middleton City Code and the City's public works standards at the time(s) the Property is improved; and

WHEREAS, the City, pursuant to Idaho Code §67-6511A, has the authority to annex and rezone the property and to enter into a development agreement for the purpose of allowing, by agreement, a specific development agreement to proceed in a specific area and for a specific purpose or use which is appropriate in the area, but for which all allowed uses for the requested zoning may not be appropriate pursuant to the Idaho Code and Middleton City Code.

## **AGREEMENT**

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in consideration of the recitals above, which are incorporated below, and the mutual covenants, representations, and performances herein bargained for, relied on, and expected, the parties agree as follows:

### **ARTICLE I LEGAL AUTHORITY**

This Agreement is made pursuant to and in accordance with the provisions of Idaho Code §67-6511A and Middleton City Code, Title 5, Chapter 2.

### **ARTICLE II ANNEXATION AND ZONING ORDINANCE**

The City will adopt an ordinance to annex and rezone the Property from Canyon County Agricultural to City of Middleton M-U (Mixed-Use). The Ordinance will become effective after it is approved, signed, published and recorded according to law, all of which actions the City will perform at the city's expense and with the Developer's cooperation.

### **ARTICLE III CONDITIONS OF DEVELOPMENT**

3.1 Developer will build no more than 67 residential units total on approximately 5.06 acres with no less than one (1.0) acre dedicated for commercial (abutting Hartley Lane) use with allowable uses as permissible in M-U zoning (as further described below). City requires two driveways to access from Hartley Ln into the development, one on the northern and one on the southern property lines. Developer intends to sub-divide the land, allowing each lot to be on its own tax parcel, however, all residential buildings would belong to one common homeowner's association.

The Developer will utilize no less than one (1.0) acre of property, not used for the 67 residential units, for any of the following allowed commercial uses in M-U zoning: assisted living, a professional style building, to hold one or more of the following allowable uses which are: medical/dental/, bank/credit union, clinic/pharmacy/optician/spa, daycare, espresso/pastry shop, or professional office, real estate sales/rental/ management office. The developer may also construct a building with commercial on the ground floor building plate with

matching residential building plate above. This would allow the developer an addition four (4) residential units maximum over the 67 previously mentioned. Developer is required to construct all utilities, roads, driveways, and parking (per code) as private on-site facilities.

#### **ARTICLE IV FAILURE TO COMPLY WITH AGREEMENT**

4.1 If the Developer fails to comply with any of the terms or conditions in this Agreement, then the portion(s) of this Agreement pertaining to the breach may be modified or terminated by the Middleton City Council, after complying with the notice and hearing requirement contained in Middleton City Code and Idaho Code.

If after a breach, the City Council determines that the terms of this Agreement applicable to the breach should be modified, the term(s) of this Agreement shall be amended and the Developer shall comply with the amended terms.

Any breach waived by the City shall apply solely to the breach waived and shall not bar any other rights or remedies of the City or apply to any subsequent breach of any such or other covenants and conditions.

4.2 Upon a breach of this Agreement, any of the parties in any court of competent jurisdiction, by action or proceeding at law or in equity, may secure the specific performance of the covenants and agreements herein contained, may be awarded damages for failure of performance of both, or may obtain rescission, disconnection, and damages for repudiation or material failure of performance.

4.3 **NOTICE OF FAILED PERFORMANCE.** Upon any failure of any party to this Agreement to perform its obligations under this Agreement, the party claiming such failure shall notify, in writing, the party alleged to have failed to perform of the alleged failure and shall demand performance. No breach of this Agreement may be found to have occurred if performance has commenced to the satisfaction of the complaining party with thirty (30) days of the receipt of such notice.

#### **ARTICLE V GENERAL PROVISIONS**

5.1 This Agreement contains the entire agreement of the parties respecting the Property and supersedes all prior discussions and written and verbal agreements between the parties respecting the Property.

5.2 Any amendment or addendum to this Agreement shall be in writing and made only after the City has complied with the notice and hearing provisions of Idaho Code §67-6509 and Middleton City Code Title 5, Chapter 7.

5.3 Any notice that a party may desire to give to another party must be in writing and may be given by personal delivery, by mailing the same registered or certified mail with a return receipt requested, or by Federal Express or other reputable overnight delivery service. Notice shall be given to the parties at the following addresses or such other address and to such other persons as the parties may designate after giving notice. Any such notice shall be deemed given upon delivery if by personal delivery, upon deposit in the United States mail if sent by mail pursuant to the forgoing:

Middleton: City Clerk  
City of Middleton  
P.O. Box 487  
Middleton, Idaho 83644

Developer: Richard and Amy Davis  
24239 El Paso Rd  
Caldwell, ID 83607

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Adam Hegstrom  
520 Waltman Ln  
Meridian, ID 83642

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5.4 If either party shall fail to perform under this Agreement and said failure is cured with the assistance of an attorney for the other party, as a part of curing said failure, the reasonable attorneys' fees incurred by the other party shall be reimbursed to the other party upon demand. In the event a suit or action is filed by either party against the other to interpret or enforce this Agreement, the unsuccessful party to such litigation agrees to pay to the prevailing party all costs and expenses, including reasonable attorneys' fees incurred therein, including the same with respect to an appeal.

5.5 The Agreement shall be effective after being fully executed. This Agreement shall become valid and binding only upon its approval by the City Council and execution of the Mayor and City Clerk. After its execution, the Agreement shall be recorded in the office of the County Recorder at the expense of the Developer.

5.6 Each commitment and restriction described in this Agreement shall be a burden on the Property and run with the land and shall be appurtenant to and

for the benefit of the Property, adjacent property and other residential land near the Property.

This Agreement shall be binding on the City and Developer, and their respective heirs, administrators, executors, agents, legal representatives, successors and assigns. Provided, however, that if all or any portion of the Property is divided, then each owner of a legal lot shall only be responsible for duties and obligations or breaches as to their owners' parcels or lots.

The new owner of the Property or any portion thereof (including, without limitation, any owner who acquires its interest by foreclosure, trustee's sale or otherwise) shall be liable for all commitments and other obligations arising under this Agreement with respect only to such owner's lot or parcel.

5.7 The Property that is the subject of this Agreement is located in Canyon County, Idaho and the terms of this Agreement shall be construed according to the laws of the State of Idaho in effect at this time this Agreement is executed. Any action brought in connection with this Agreement shall be brought in a court of competent jurisdiction located in Canyon County, Idaho.

5.8 If any term, provision, commitment or restriction of this Agreement or the application thereof to any party or circumstance shall to any extent be held invalid or unenforceable, the remainder of this instrument shall remain in full force and effect.

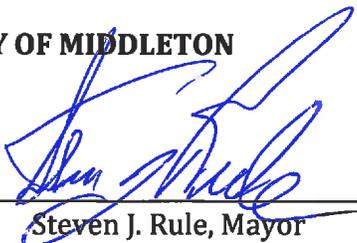
5.9 Time is of the essence for performance of each obligation in this Agreement.

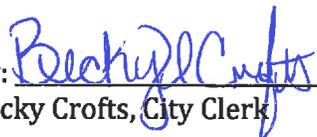
IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be executed, on the day and year first above written.

Dated this 1<sup>st</sup> day of July 2020 and effective upon annexation and rezoning of the Property.

**CITY OF MIDDLETON**

**ATTEST**

By:   
Steven J. Rule, Mayor

By:   
Becky Crofts, City Clerk

State of IDAHO )

ss.

County of Canyon )

I, a notary public, do hereby certify that on this 1<sup>st</sup> day of July 2020, personally appeared before me Steven J. Rule, who, being first duly sworn, declared that he is the Mayor of the City of Middleton, Idaho and signed it as Mayor of the City of Middleton.



Jennica Reynolds  
Notary Public  
My Commission Expires: 6/10/2025

**DEVELOPER:**

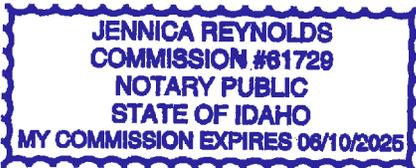
[Signature]

Richard Davis

[Signature]  
Amy Davis

State of Idaho )  
County of Canyon ) ss.

I, a notary public, do hereby certify that on this 7 day of July 2020, personally appeared before me Richard Davis and Amy Davis who, being first duly sworn, declared that they signed



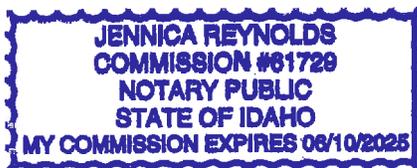
Jennica Reynolds  
Notary Public  
My Commission Expires: 6/10/2025

**REPRESENTATIVE:**

[Signature]  
Adam Hegstrom

State of Idaho )  
County of Canyon ) ss.

I, a notary public, do hereby certify that on this 7 day July 2020, personally appeared before me Adam Hegstrom who, being first duly sworn, declared that he signed.



Jennica Reynolds  
Notary Public  
My Commission Expires: 6/10/2025

Development Agreement – Richard Davis, Amy Davis and Adam Hegstrom

# **Exhibit "B"**

## **Proposed Preliminary Plat**







# **Exhibit "C"**

## **Comments from Agencies**

# Communities in Motion 2040 2.0 Development Review

The Community Planning Association of Southwest Idaho (COMPASS) is the metropolitan planning organization (MPO) for Ada and Canyon Counties. COMPASS has developed this review as a tool for local governments to evaluate whether land developments are consistent with the goals of *Communities in Motion 2040 2.0* (CIM 2040), the regional long-range transportation plan for Ada and Canyon Counties. This checklist is not intended to be prescriptive, but rather a guidance document based on CIM 2040 2.0 goals.

**Development Name: Hartley Lane Townhomes**

**Agency: Middleton**

**CIM Vision Category: Existing Neighborhoods**

**New households: 58**

**New jobs: ±10**

**Exceeds CIM forecast: No**

	<p>CIM Corridor: <b>Highway 44 (Main St)</b>                  Pedestrian level of stress: <b>PG</b>                  Bicycle level of stress: <b>PG-13</b></p>	<p>Level of Stress considers facility type, number of vehicle lanes, and speed. Roads with <b>G or PG</b> ratings better support bicyclists and pedestrians of all ages and comfort levels.</p>
	<p>Housing within 1 mile: <b>1,320</b>                  Jobs within 1 mile: <b>700</b>                  Jobs/Housing Ratio: <b>0.5</b></p>	<p>A good jobs/housing balance – a ratio between <b>1 and 1.5</b> – reduces traffic congestion. Higher numbers indicate the need for more housing and lower numbers indicate an employment need.</p>
	<p>Nearest police station: <b>0.4 miles</b>                  Nearest fire station: <b>1.3 miles</b></p>	<p>Developments within <b>1.5 miles</b> of police and fire stations ensure that emergency services are more efficient and reduce the cost of these important public services.</p>
	<p>Farmland consumed: <b>Yes</b>                  Farmland within 1 mile: <b>732 acres</b></p>	<p>Farmland contributes to the local economy, creates additional jobs, and provides food security to the region. Development in farm areas decreases the productivity and sustainability of farmland.</p>
	<p>Nearest bus stop: <b>&gt;4 miles</b>                  Nearest public school: <b>0.9 miles</b>                  Nearest public park: <b>0.8 miles</b>                  Nearest grocery store: <b>&gt;4 miles</b></p>	<p>Residents who live or work less than <b>½ mile</b> from critical services have more transportation choices. Walking and biking reduces congestion by taking cars off the road, while supporting a healthy and active lifestyle.</p>

## Recommendations

*Communities in Motion 2040 2.0* identifies State Highway 44, from Canyon Lane to Star Road, to be widened to four travel lanes. This project would include 10-foot paved multiuse shoulders along the new roadway in the City of Middleton. This project is the #3 unfunded state priority. Sections of Highway 44 from Star Road to Linder Road are in the COMPASS Regional Transportation Improvement Program for construction scheduled in 2023 and 2024 (Key #20574 and Key #20266). The site is not currently served by public transportation. ValleyConnect 2.0 proposes bus service from Canyon County to downtown Meridian, via Highway 44.

Consider a public, stub road to the north that would enable the West 3rd Street connection and reduce the travelled-distance to Ed Payne Park, Middleton Heights Elementary School, and future bus service in downtown Middleton.

More information about COMPASS and *Communities in Motion 2040 2.0*:

Web: [www.compassidaho.org](http://www.compassidaho.org)

Email [info@compassidaho.org](mailto:info@compassidaho.org)

More information about the development review process:

<http://www.compassidaho.org/dashboard/devreview.htm>



## SH-44 (State Street), SH-16 to Linder Road, Ada County

Regionally Significant:   Inflated

Key #: 20266

Requesting Agency: ITD

Project Year: 2023

Total Previous Expenditures: \$463

Total Programmed Cost: \$8,670

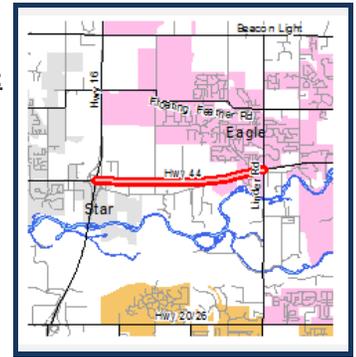
Total Cost (Prev. + Prog.): \$9,133

**Project Description :** Add an additional westbound and eastbound lane to improve congestion and reduce crashes along State Highway 44 (State Street) from State Highway 16 to Linder Road near the City of Eagle.

### COMPASS PM:

Congestion Reduction/System Reliability  
 Freight Movement and Economic Vitality  
 Transportation Safety  
 Community Infrastructure

### Federal PM:



Funding Source		TECM		Program					State Hwy - Safety & Capacity (Capacity)		Local Match	
Cost Year*	Preliminary Engineering	Preliminary Engineering Consulting	Right-of-Way	Utilities	Construction Engineering	Construction	Total	Federal Share	Local Share			
2023	0	0	0	0	765	7,905	8,670	0	8,670			
<b>Fund Totals:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$765</b>	<b>\$7,905</b>	<b>\$8,670</b>	<b>\$0</b>	<b>\$8,670</b>			

## SH-44 (State Street), Star Road to SH-16, Ada County

Regionally Significant:   Inflated

Key #: 20574

Requesting Agency: ITD

Project Year: 2024

Total Previous Expenditures: \$1,400

Total Programmed Cost: \$11,836

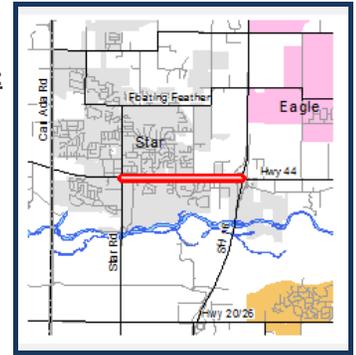
Total Cost (Prev. + Prog.): \$13,236

**Project Description :** Widen State Highway 44 (State Street) from Star Road to State Highway 16 in Ada County. An additional lane in both directions will alleviate congestion issues and improve safety.

### COMPASS PM:

Congestion Reduction/System Reliability  
 Freight Movement and Economic Vitality  
 Transportation Safety  
 Community Infrastructure

### Federal PM:



Funding Source		TECM		Program					State Hwy - Safety & Capacity (Capacity)		Local Match	
Cost Year*	Preliminary Engineering	Preliminary Engineering Consulting	Right-of-Way	Utilities	Construction Engineering	Construction	Total	Federal Share	Local Share			
2021	61	0	1,000	0	0	0	1,061	0	1,061			
2024	0	0	0	0	704	10,071	10,775	0	10,775			
<b>Fund Totals:</b>	<b>\$61</b>	<b>\$0</b>	<b>\$1,000</b>	<b>\$0</b>	<b>\$704</b>	<b>\$10,071</b>	<b>\$11,836</b>	<b>\$0</b>	<b>\$11,836</b>			

\*PD = Preliminary Development (projects with development activity but no programmed year of construction)

**Boise Office**  
1101 W. River St.  
Suite 110  
Boise, Idaho 83702  
Tel. (208) 629-7447

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

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

Re: Hartley Lanes Townhomes Subdivision

Dear Ms. Stewart:

The Canyon County Ditch Company, Middleton Mill Ditch Company and Middleton Irrigation Association (hereinafter collectively referred to as the "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. The developer must contact the Ditch Companies' attorneys, Sawtooth Law Offices, PLLC, for approval before any encroachment, change of easement, or drainage discharge into Ditch Companies' facilities occurs. The Ditch Companies must review irrigation and storm water drainage plans and construction plans prior to any approval.

The Ditch Companies 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 the Ditch Companies do not approve of trees within their easements. Therefore, any existing trees within easement will need to be removed. On occasion, the Ditch Companies may make exceptions on a case by case basis, which requires the developers/owners to obtain written permission from the Ditch Companies for existing trees to remain.

Please contact me if you have any questions.

Yours very truly,



S. Bryce Farris

cc: MM-MI and CCWC

[www.sawtoothlaw.com](http://www.sawtoothlaw.com)



# SAWTOOTH LAW OFFICES, PLLC

September 7, 2021



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# **Exhibit "D"**

## **Comments from City Engineer and City Planner**

October 7, 2021

TO: Roberta Stewart, Planner

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



**RE: CARTER JOHN MIXED USE PRELIMINARY PLAT**

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Thank you for the opportunity to review the above referenced preliminary plat submittal.

MCC 5-4-4.2 a and l. The boundary is required to be surveyed and stamped by PLS. Does the Idaho Board recognize the seal that is presented?

Extend water at 90d east from existing. Terminate Hartley main with hydrant.

Street A and Street B are not street names.

The Canyon Lateral crossing at the southwest corner needs to be widened to accommodate the Hartley construction and new street access. Or plan to trust for a proportional share of the widening.

Hartley is required to be improved per City specifications: 3 lane urban, 25ft to tbc, and 50 ft half right of way. Add callout to remove/relocate pole outside of easement area. Include stormwater management. Need pedestrian facilities – including ramps at street crossings. Extend improvements to the north boundary and the south boundary. Include a typical section of Hartley.

Delete duplicate line on east boundary area. What is happening in the area from back of lots to the east boundary?

The joint trench utility easement needs to be front of the lot or confirm definitively it can be installed on back of the lot.

Please add note regarding stormwater management in retention areas. Add HOA will be responsible for maintenance of stormwater management areas.

September 16, 2021

TO: Roberta Stewart, Planner

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



**RE: CARTER JOHN MIXED USE PRELIMINARY PLAT**

---

Thank you for the opportunity to review the above referenced preliminary plat submittal.

MCC 5-4-4.2 a and I. The boundary is required to be surveyed and stamped by PLS. The 2019 record of survey shows Carter John ownership in the northeast corner. Either add it to the plat or let us know the status if it not owned included in Carter John parcel.

Extend water at 90d east from existing. Label water main in Hartley as 12-in, label on-site as 8-in. Loop water in A to Hartley main. Terminate Hartley main with hydrant.

400 ft is maximum spacing between manholes.

Provide pedestrian access to W 3<sup>rd</sup> N through the common lot and easement. Show on page 2/3.

Street A and Street B are not street names.

The Canyon Lateral crossing at the southwest corner needs to be widened to accommodate the Hartley construction and new street access. Or plan to trust for a proportional share of the widening.

Develop sidewalks each side of the private road(s). Pedestrian facilities are required.

Hartley is required to be improved per City specifications: 3 lane urban, 25ft to tbc, and 50 ft half right of way. Add callout to remove/relocate pole outside of easement area. Include stormwater management. Need pedestrian facilities.

There was no revision to the commercial area. The footprint for commercial, including parking, is less than ½ acre.

Add centerline radii and intersection radii. Middleton Rural Fire cannot traverse 40ft centerline radii.

Delete duplicate line on east boundary area.

The joint trench utility easement needs to be front of the lot or confirm definitively it can be installed on back of the lot.

Add note regarding City water, City sewer and stormwater management in retention areas.



# CITY OF MIDDLETON

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October 5, 2021

## Third Round of Planner Comments (Pre-Plat dated 10/1/2021) Carter John Mixed-Use Subdivision

1. Per email with Steve Martinez, change street notations from “private” to “public.”
  - a. Add names for 2 “Streets” and a name for 1 “Avenue”, e.g., “Main Street”, “Main Avenue” “Street” designation are for roadways that go east/west. Avenue designation is for road that goes north/south.
  - b. Add language to note section that streets/right of way are public and dedicated to the City of Middleton.
  - c. Change Note 4 accordingly.
  - d. Change description of “private” on the typical street section diagrams
2. Please send a landscape plan. This is 3<sup>rd</sup> request.
3. Add language to Note section stating that there is a variance allowing 90’ radius turns
4. Renumber lots 33. You have 2 “33s”. One lot needs renumbered “32”.
5. Revise Note 11 to note Lot 38, not lot 63
6. This is 3<sup>rd</sup> request to create a note that calls out every common lot. For example, write “Lots 27, 18, Block 1 are common lots.” You can combine it with note 7 that indicates the HOA owns and maintains the lots
7. Fix Note 4. There is no lot 64
8. Add square footage to lot 40 with tot lot.
9. Code requires all flag lots to have a 20’ width at the street. You have flag lots with only 11’, 12’, and 14’ width. Also, it looks like access to common lots/storm detention lots 18 and 27 is thwarted or entirely missing. I think we may be ok with waiving the 20’ flag lot width if you figure out a way to have cross access on those tight corner lots and detention pond lots. There will be issues with people wanting to put up fences. There are issues with the HOA getting back to the detention ponds for maintenance. The north east corner lots and south east corner lots need to work better for access and neighborly harmony.
10. I’m concerned that you may not be meeting the 5% open space requirement. I see only lot 40 and 37 as potential open space for gathering. Lot 38 could serve as open space if it was landscaped and if gathering places were set aside like benches or pathways. If you give better access to detention lots 18 and 27 so that residents could go back there and enjoy the grassy areas, then we could call that open space. Please tell me how you are getting to the 8.75% open space noted on sheet 1.
11. If you figure out how to give good access to the corner lots, add a note to the note section indicating there is a “waiver” of the 20’ flag lot rule.
12. You are missing 5’ sidewalks on the ROW out to Hartley. We can forego 5’ sidewalks on the interior sides of the ROW across the commercial lot, but the exterior portions of the ROW

need to have 5' sidewalks all the way out to Hartley so people can walk out of the community safely. I think you will need to work with the ditch company for permission to add sidewalks in their easement area.

13. You need to show frontage improvements to Hartley

*Roberta L. Stewart,* Middleton City Planner



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## PLANNER COMMENTS – Carter John Mixed-Use Subdivision

September 14, 2021

1. Per the DA, you must show a commercial lot that is at least 1 acre. You will need to change Lot 65 so it can truly be used for commercial use. It is obviously being used in part to provide parking for the residential subdivision. That is not the intent of the DA. Please square up the 1 acre parcel and make it truly usable as a 1 acre commercial parcel. Do not show any parking on the commercial parcel.
2. The City would really like to see some type of amenity for the community. There will surely be young children in the subdivision. Show the amenity on the plat please. It can be a playground or picnic area...etc.
3. Add the words “Block 1” to the plat. I know it’s a “given”, but I think you should put the Block number for the purposes of legal descriptions. I could be wrong on this. It may be an Amy question.
4. Confirm that you are building only single family attached “townhomes” in the residential portion of the subdivision. If not, you will have to increase the lot sizes to 6000 s.f.
5. Please confirm that each townhome unit will have 3 parking spaces per code?
6. You will have to provide much more parking for the residential portion of the subdivision. The streets are narrow. You may not be able to park on the street per fire code. If someone has a birthday party, where do all the guests park? The commercial parcel on Hartley should not be a parking lot for residential guests.
7. Even though the DA allows private streets, the DA states that they still must be built to City Code. Your streets are not built to city code. You may build the smaller townhome road shown in the Supplement, but your road is not showing those specifications.
8. You need to add sidewalks
9. Please provide appropriate names for the Streets. Street A and B will not work
10. Please provide a landscape plan
11. You must show the mailbox clusters on the pre-plat
12. Renumber all your lots consecutively. You numbered the common lots out of order.
13. Revise the Notes as follows:
  - a. If you choose to modify the DA and make the streets public, remove Note 4.
  - b. If you choose to make streets public, please add a note that all streets are public and dedicated to the City.
  - c. If you continue with the private streets, you need to attach an easement to the sewer and water utilities for City use.
  - d. Add note: “Sanitary sewer collection, domestic water, and fire protection water shall be provided by the City of Middleton.”
  - e. Add a note calling out every common lot and note that they are owned and maintained by the HOA
  - f. Add note: “Sewer and water capacity shall be reserved at the time the City approves the Construction Drawings”

- g. Add note: "All interior lots lines contain a 5' foot wide easement on each side of the lot line. Easements used for public and private utility, drainage, and irrigation facilities.
  - h. Add a note calling out the current DA and the instrument number.
14. You will need to add a landscaped berm as a buffer between commercial and residential uses per MCC 5-4-10-7. If you revise the DA, you can also add a provision for a different type of buffer, but you need to add a buffer of some kind ultimately.

*Roberta L. Stewart*

Middleton City Planner



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## Additional Planner Comments per 9/20/2021 Meeting with Applicant Carter John Mixed-Use Subdivision

September 21, 2021

1. Please ensure the tot lot shown on Steve Martinez' concept drawing is on the revised preplat.
2. Add section diagram for Townhome Roadway found in Supplement to ISPWC.
3. Revise the Notes as follows:
  - a. Remove Note 4 now that roads are public.
  - b. Add a note that all streets are public and dedicated to the City.
  - c. Add note that sewer and water utilities are public and owned by the City, and sewer collection, domestic water, and fire protection water shall be provided by the City of Middleton.
  - d. Revise Note 11 to insert the new Lot number for the Ditch lot currently designated as lot 63. This lot number may be changed once you renumber all the lots in consecutive order as required by the Code. Do not number all the common lots at the end and outside consecutive order.
  - e. Notes 11 and 7 are a little redundant and wonky. Both mention HOA ownership of common lots.
  - f. Call out every common lot by lot & block so there is no confusion as to what is and what is not a common lot.

*Roberta L. Stewart*

Middleton City Planner