



## **Middleton City Council**

### **Findings of Facts, Conclusions of Law, & Order**

**In the Matter of the applications of Taylor Schmidt/BST DEV LLC for annexation/rezone, preliminary plat, and development agreement with respect to the Reed's Landing Subdivision located at 880 W. Main Street (Tax Parcel No. R17900010):**

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

1. The Commercial zoning surrounding the subject parcel is generally C-2, which is less intense than Applicant's proposed zoning of C-3. For the sake of uniformity and harmony with the surrounding commercial corridor, C-2 zoning is a more preferable zoning designation.
2. Hearing Facts: See Staff Report for the hearing date of January 18, 2023, which Report is attached hereto as Exhibit "A" and incorporated herein by this reference.
3. Process Facts: See Staff Report for the hearing date of January 18, 2023, Exhibit "A".
4. Application and Property Facts: See Staff Report for the hearing date of January 18, 2023, Exhibit "A".
5. 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, 5-2, 5-3 & 5-4 and Idaho Code Title 67, Chapter 65 & Title 50, Chapters 2 and 13: See Staff Report for the hearing date of January 18, 2023, Exhibit "A".

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

1. 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).
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 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 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, and 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.

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.

**C. Decision & 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 and Conclusions of Law, it is hereby ordered that:

1. The applications of Taylor Schmit/BST DEV LLC for Annexation and Rezone is approved subject to the following conditions:
  - i. The C-3 zoning for the commercial portion of the project is changed to C-2.
  - ii. Applicant to comply with all conditions of approval set forth in the Staff Report for the January 18, 2023, public hearing.
2. The applications of Taylor Schmit/BST DEV LLC for Development Agreement is approved subject to the following conditions:
  - i. The C-3 zoning for the commercial portion of the project is changed to C-2.
  - ii. Applicant to comply with all conditions of approval set forth in the Staff Report for the January 18, 2023, public hearing.
3. The applications of Taylor Schmit/BST DEV LLC for Preliminary Plat is approved subject to the following conditions:
  - i. The C-3 zoning for the commercial portion of the project is changed to C-2.
  - ii. Applicant to comply with all conditions of approval set forth in the Staff Report for the January 18, 2023, public hearing.

WRITTEN ORDER APPROVED ON: February 1, 2023.

  
Steven J. Rule  
Mayor, City of Middleton

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.***



# STAFF REVIEW AND REPORT

## Middleton City Council

### Reed's Landing Subdivision

#### Vicinity & Summary



DESCRIPTION	DETAILS
Acreage	Approx. 9.70 acres (In-fill project)
Current Zoning	Canyon County Agricultural
Proposed Zoning	C-3, M-F and R-3
Current Land Use	Commercial & Mixed Use
Proposed Land Use	Remain the same
Lots	3 commercial lots; 25 Townhome lots, 12 Single-Family Residential lots, and 6 common lots
Open Space	13% (Minimum required is 5%)
Amenities	Large grassy common lots with pathways, playground, benches and shade structure with picnic tables

- A. City Council Hearing:** January 18, 2023 (Continuance from August 3, 2022, hearing)
- B. Project Description:** Applications by Taylor Schmidt/BST DEV LLC for annexation/rezone, preliminary plat, and development agreement with respect to the Reed's Landing Subdivision located at 880 W. Main Street (Tax Parcel No. R17900010).

This project is an infill project. The proposed preliminary plat consists of three commercial lots, 12 single family residential lots, 25 townhome lots on approximately 9.7 acres of land zoned Canyon County "Agricultural."

- C. Application Requests:** Applicant is requesting annexation and zone changes from Canyon County "Agricultural" to City of Middleton C-3 "Heavy Commercial" (2.35 acres), M-F "Multi-Family" (2.98 acres) and R-3 "Single Family Residential" (4.09 acres). Applicant has also submitted applications for preliminary plat and development agreement. The P&Z Commission approved Applicant's application for special use Permit to construct townhomes in the M-F zone. A floodplain application is proceeding administratively with these applications.



City Council considered the applications for annexation/rezone, development agreement and preliminary plat on August 3, 2022. After presentations by Staff and the Applicant, and after the public comment session, City Council closed the public hearing, and Council began considering the facts and law before it. City Council noted that the Applicant had not obtained a permit from ITD to access the commercial portion of the subdivision off of Highway 44. This circumstance could result in commercial access being taken through the residential portion of the subdivision to the north. City Council did not want to approve the subdivision without proof of adequate access on to Hwy 44, so Council moved to continue the applications to a date after Applicant obtains such proof.

On December 14, 2022, Vince Trimboli, who is the “Strategic Planner & Communication Manager” for ITD, forwarded an email to the City stating that ITD will approve an approach permit to serve the commercial portions of the Reed’s Landing Subdivision so long as the developer constructs a westbound right turn lane. (See 12/14/22 ITD memo attached as Exhibit “A-1” to this Staff Report). Thereafter, Applicant revised its preliminary plat to add the right turn lane in compliance with the ITD condition. (See revised preliminary plat attached as Exhibit “A-2). Also attached as Exhibit A-2 is City Engineer’s recommendation regarding approval.)

Applicant is now returning to City Council for further consideration of their applications for annexation/rezone, development agreement, and preliminary plat in light of this change of circumstances with the ITD approach permit.

Notice is required for this continued hearing. Below are the dates for the legal notice given. *Staff finds that notice was appropriate and in compliance with the Idaho State Statute and Middleton City Code.*

**Dates:**

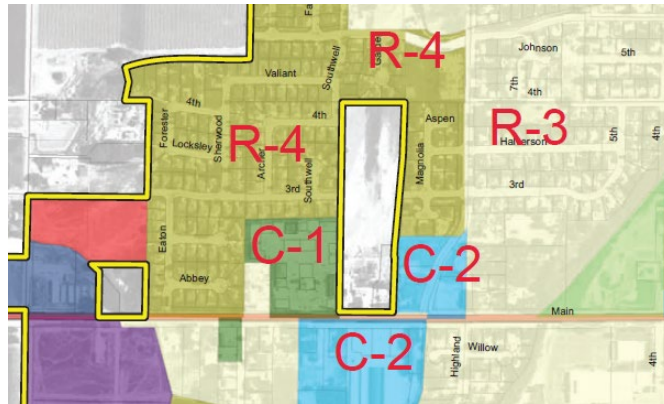
Newspaper Notification	12/30/2022
Radius notice to adjacent landowners	12/29/2022
Circulation to Agencies	12/27/2022
Sign Posting property	12/27/2022

Finally, a public comment was received on January 12, 2023. A copy of the comment is attached as Exhibit “A-3”.

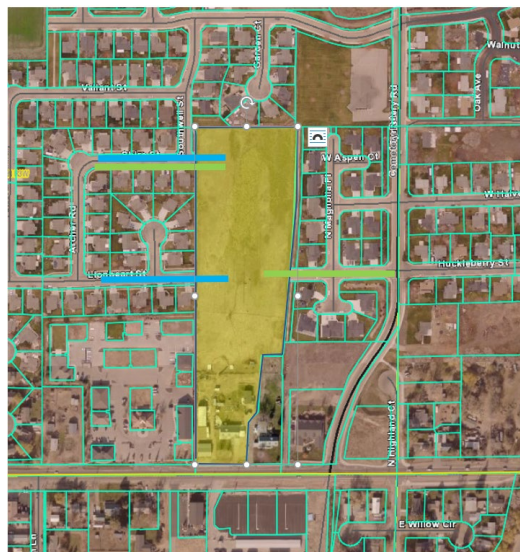
*[For the sake of efficiency, the remaining portion of this Staff Report is a copy of the previous Staff Report submitted for the August 3, 2022, public hearing that was continued.]*

[PREVIOUS STAFF REPORT FOR CONTINUED HEARING]

- D. Current Zoning & Property Condition:** The property is currently Canyon County property zoned Agricultural, and the project is an infill project surrounded entirely by property within City limits. The northern half of the parcel is surrounded entirely by R-4 zoning (Medium Density Residential or 4 homes per gross acre.) The southern half of the property spanning along Hwy 44 is surrounded by C-1 and C-2 zones, which are neighborhood commercial and light commercial zones.



- E. City Services:** City water and sewer are accessible to the project. The utilities are located in Shire St., Huckleberry St., and Lionheart St., immediately adjacent to the Project parcel.



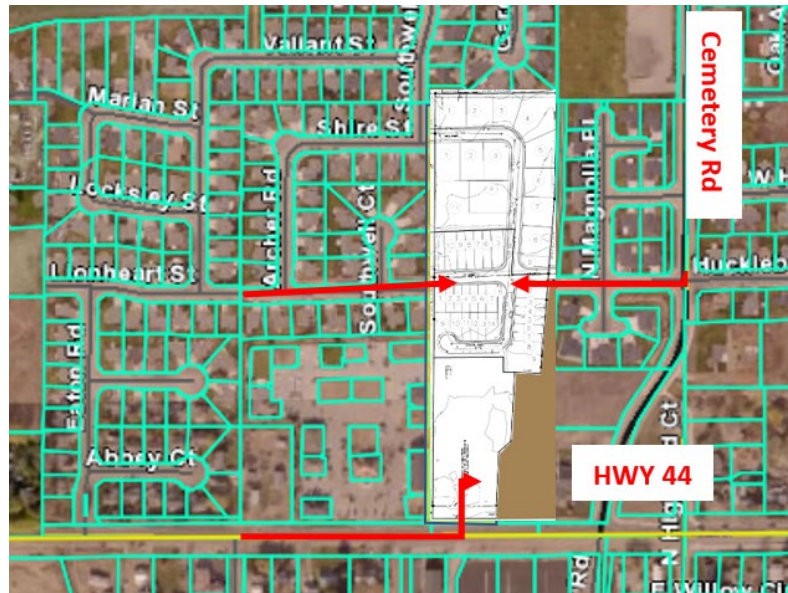
Sewer   
Water 

Sewer and water capacity are already included in the current capacity analyses for this project. Capacity will be formally reserved when construction drawings are approved

by City Engineer.

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

Access to the residential part of the subdivision will be through Lionheart Street and Huckleberry Street. Access to the commercial lots will be off of Hwy 44.



ITD has had the Reed's Landing Subdivision under review for a number of months. Once ITD submits its comments, Developer will be required to improve, at its own cost, all Hwy 44 frontage improvements required by ITD and the City of Middleton.

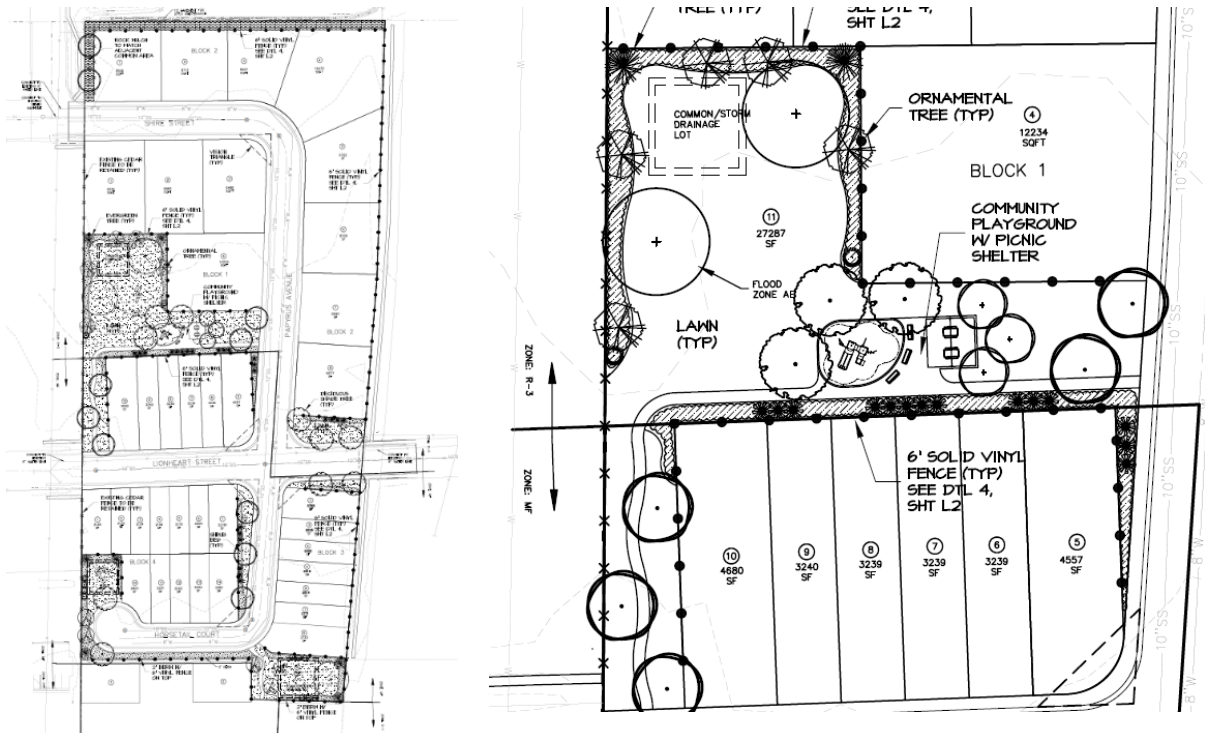
Developer has submitted a traffic study for the project. It revealed that the project will have "minimal impact" upon the roadways and intersections. Frontage improvements and striping should "fully mitigate" the impact of the project, according to the study.

Middleton requires Development "to pay for itself" so the taxpayers will not be burdened with the cost of developing roads and infrastructure. In light of this, Developer/builders will pay \$186,850 in Mid-Star Transportation Impact Fees by the time all 37 residential building permits are issued. Developer/builder will also pay anywhere between \$25,000 and \$100,000 for the commercial uses under the Mid-Star program, depending on the type of commercial uses that ultimately occupy the site. Finally, Developer will be required to pay pro-rata traffic fees pursuant to MCC 5-4-3 in the amount of \$77,567, for a total contribution to road improvements in an amount exceeding \$275,000.00.

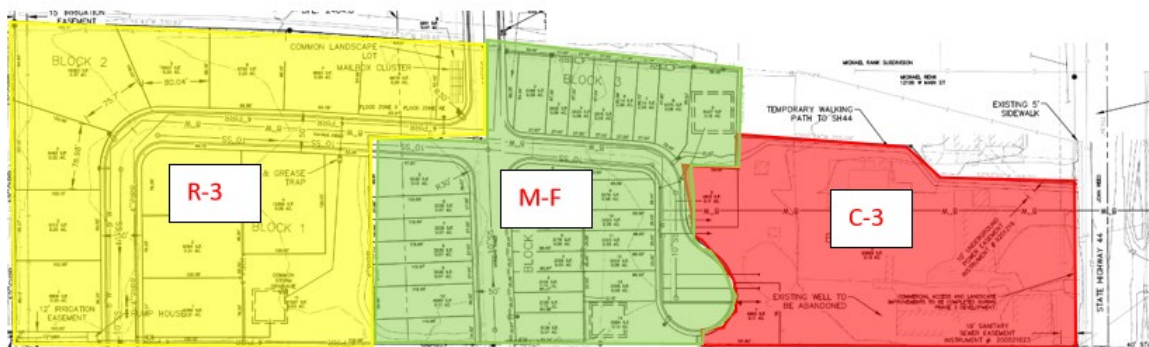
**G. Pathway, Sidewalks & Open Space:** Developer has provided over 13% open space, which exceeds the 5% required by code. Open space is calculated against only the residential portion of the plat, which in this case is 7.28 acres. Even if open space is

calculated using the entire 9.7 acres, the open space still exceeds 9% in compliance with City code.

Although the Code does not require the developer to provide amenities for the project, Developer has provided three large common lots for social gathering. One of the large common lots contains a playground, shade ramada with multiple picnic tables and benches.



- H. **Annexation and Rezone:** Applicant is requesting that the nine acre in-fill project be annexed into the City of Middleton with a zone change to C-3 "Heavy Commercial" (approx. 2.5 acres), M-F "Multi-Family" for the townhomes (approx. 3 acres) and R-3 "Single Family Residential" (approx. 4 acres).





There are three findings that must be made before Annexation can be approved: (1) the property must be contiguous to City limits (2) City services such as sewer and water can be extended to serve the site, and (3) the annexation is deemed to be an orderly development of the City allowing an efficient and economical extension of City services. (Idaho Code 50-222.)

An application for rezone requires two findings before the Commission can recommend approval: (1) the rezone will not adversely affect the City's delivery of services and (2) the rezone request is not in conflict with the Comprehensive Plan. (Idaho Code 67-6511)

#### **FINDINGS:**

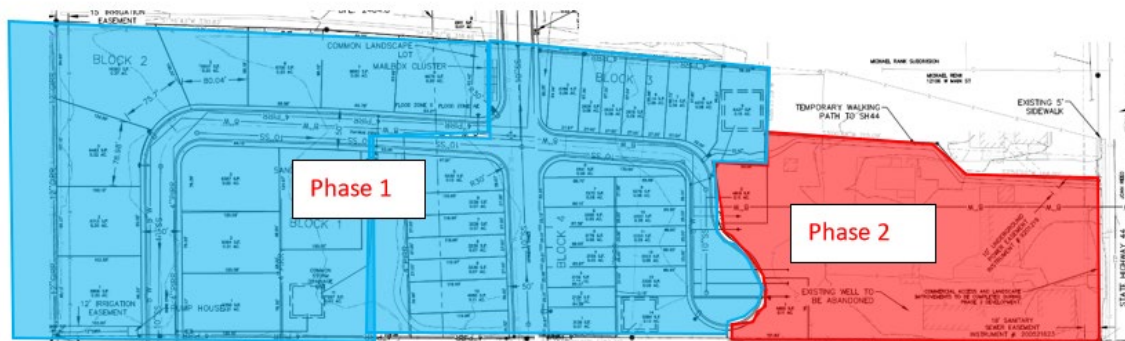
*Planning Staff finds that Applicant's project meets all three findings for annexation. First, the property is contiguous and surrounded on all four sides by City property. Second, sewer and water are available and can be extended to the site as already noted above. Third, the annexation is an "orderly and economical extension" of City services because the project is an in-fill project; therefore, the proposed development is very near existing resources and infrastructure.*

*As to the rezone application, Planning Staff finds that the rezone will not adversely affect the City's ability to deliver sewer and water as already noted above. Additionally, Developer will bear the cost of impacting city services by paying impact fees for transportation, parks, fire, and police, which were designed to proportionately cover the impacts imposed by developers.*

*Finally, as will be shown below in the section regarding the Comprehensive Plan, the rezone is not in conflict with the Comprehensive Plan*

#### **I. Preliminary Plat Application:**

The preliminary plat shows two phases of development. The Multi-Family and R-3 zones comprise Phase 1. The three commercial lots comprise Phase 2.



[A full copy of the proposed preliminary plat is attached as Exhibit "A-2".]

The plat complies with all Middleton codes and standards with one exception: (1) Developer is seeking a waiver to allow “perimeter” fencing to be set back from the perimeter on lots 1 – 4, Block 2 to allow unobstructed access to the ditch easement in that location. (MCC 5-4-11-2).

Middleton governing bodies are allowed to grant exceptions or waivers to the code during the preliminary plat process (MCC 1-15-2). The proposed fencing waiver is a reasonable request because the ditch easement needs to be accommodated. However, a condition of the waiver should be a requirement that the Homeowners’ Association will maintain the swath of land between the rear fences and the canal/ditch to ensure it does not become an unsightly weed patch.

Of Note, City Engineer, Amy Woodruff, has issued a letter indicating compliance with City Code, and she recommended approval of the preliminary plat.

*Findings:*

*Planning Staff finds that the preliminary plat complies with dimensional standards and requirements of the Middleton City Code, ISPWC, Supplement to ISPWC, and Idaho State Code except for the fence waiver noted above.*

**J. Development Agreement:** Applications for annexation/rezone are generally accompanied by an application for Development Agreement (“DA”). Attached as Exhibit “B” is the proposed Development Agreement. The Developer has used the City’s DA form, and Article III regarding conditions of development has been altered to add the following conditions:

1. Developer will develop the community and townhomes generally consistent with the concept site plan and elevation renderings attached to the DA.
2. The differing styles of townhomes shall undergo design review pursuant to MCC 1-15-8.
3. Developer shall construct the following amenities: park with benches and playground, and shade structure with at least 2 picnic tables.
4. Developer shall cause the entire .24 acre parcel fronting Hwy 44 to be dedicated to ITD or the City of Middleton for right of way when Phase two is constructed.
5. The Reed’s home on the commercial lots shall be deemed a non-conforming use. They may remain on site and use the commercial parcels for residential purposes, but they may not apply to the City for any improvement permits that would increase the non-conforming residential use more than is allowed in MCC 5-1-3. Once the Reeds vacate the parcels, the parcels may be used, rented, or

sold only for commercial purposes in compliance with uses set forth in the C-3 zone.

6. Developers will have two years to obtain final plat approval for Phase 1. Developer may seek two 1-year extensions, thereby allowing a total of 4 years to bring Phase 1 to final plat approval. After Phase 1 final plat, Developer will have two years to obtain final plat for Phase 2. These time periods may also be extended with two 1-year extensions. Failure to meet these time-lines may result in the City terminating the DA and nullifying the preliminary plat.
7. If ITD denies access on to Hwy 44 for the commercial lots, Developer will create an access connection between the residential parcels and the commercial parcels via Horsetail Court.
8. Developer to grant a cross-access easement for vehicle and pedestrian traffic across the commercial lots to ensure that no lots are landlocked if ITD does not permit access off Hwy 44.
9. Developer shall construct a temporary 5' wide asphalt pathway across the commercial lot to connect the residential lots to Hwy 44. Public access shall be granted via a temporary public access easement. Once the commercial lots are developed, the pathway and easement may be removed by Developer.

**K. Comprehensive Plan & Land Use Map:** Applicant's project complies with the Comprehensive Plan's Future Land Use Map because the proposed zones correlate with the "Commercial" and "Mixed-Use" uses shown on the Comprehensive Plan Map.



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, pathways 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. Quality lots for residential use also increase the quality of life and general welfare of the City as a whole. Additionally, the project provides commercial uses near a “major” road.
- c. *Goal 6:* Water, sewer, and road systems have been expanded in an orderly manner consistent with population growth.
- d. *Goal 7:* the project promotes commercial development and employment opportunities.
- e. *Goal 8:* the project establishes a new commercial area without detracting from existing businesses.
- f. *Goal 10:* Project provides playgrounds, pathways and outdoor recreational activities.
- g. *Goal 11:* The housing type matches the residents’ lifestyle in the area the project is located.

**L. Comments Received from Surrounding Landowners:** Letter received from Thomas Butler on July 20, 2022. (Copy of letter is attached as Exhibit “C”).

**M. Comments from Agencies:** City received the following comment letters from agencies: Greater Middleton Parks & Recreation letter delivered on 4/22/2022; Canyon Hill Ditch Co., letter dated 5/9/2022; and Middleton School District #134 letters dated 5/6/2022 and 7/26/2022. (Copies of Agency comments are attached as Exhibit “D”).

**N. Comments from City Engineer and Planning Staff:** Copies of Engineering and planning comments are attached as Exhibit “E”.

**O. Applicant Information:** Application was accepted on November 16, 2021. Applicant is Taylor Schmidt/BST DEV LLC 1016 W. Sanetta St., Nampa, ID 83651.

<b>P. Notices &amp; Neighborhood Meeting:</b>	<b>Dates:</b>
Newspaper Notification	7/17/2022
Radius notice to adjacent landowners	7/14/2022
Circulation to Agencies	7/12/2022
Sign Posting property	7/15/2022

**Q. Applicable Codes and Standards:**

Idaho Standards for Public Works Construction, the Middleton Supplement to the Idaho Standards for Public Works Construction, Middleton City Code 1-14, 1-16, 5-1, 5-2, 5-3, and 5-4, and Idaho Code Title 67, Chapter 65 & Title 50, Chapters 2 and 13.

**R. Planning & Zoning Recommendation:** The Planning & Zoning Commission considered the project applications at a public hearing on May 9, 2022. The Commission is responsible for issuing a final order on the application for a special use permit (SUP) to construct townhomes. They approved the SUP on the condition that the developer meets with the staff of Middleton School District #134 to discuss possible mitigation to school impacts and on the condition that no 2<sup>nd</sup> floor windows would be located in homes built on the eastern boundary of Block 3.

The townhome concept considered in the application is shown below.



The Commission further recommended approval of Developer's applications for Annexation/Rezone, Development Agreement, and Preliminary Plat subject to the conditions of approval set forth in the Staff Report. (A copy of the Commission's Recommendation and Order is attached as Exhibit "F".)

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

Per State law and the Middleton City Code, any final order or recommendation 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 Council agrees with those findings of facts and further agrees with the general facts presented at the public hearing, then the Council may simply make a motion to accept the findings of facts presented by planning staff.

**As to Conclusions of Law**, Planning Staff finds that the City Council has the authority to hear these applications and to approve or deny the applications, with or without conditions of approval. 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 City Code to be considered in making an order on the applications. If the August 3rd public hearing is conducted in compliance with Idaho State Statute and the Middleton City Code, then the Council 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.

**Annexation/rezone, Preliminary Plat, and Development Agreement Applications:** If the Council is inclined to approve the applications for annexation/rezone, preliminary plat, and development agreement 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 municipal domestic water, fire flow and sanitary sewer services are to be extended to serve the subdivision.
2. Developer to comply with all terms of the Development Agreement approved by City Council for the project.
3. All landscaping and amenities to be installed in compliance with submitted landscape plan dated 4/11/2022.
4. Developer to construct, at its own cost, all frontage improvements to Hwy 44 if required by ITD and the City of Middleton.
5. Developer to obtain a proper approach permit from ITD for the commercial parcel access prior to final plat approval for Phase 2. If ITD will not issue an approach permit, Developer to create a street or drive aisle off of Horsetail Court to provide access to the Commercial lots.
6. Developer shall create a plan for operation, maintenance and repair of stormwater facilities (O&M Plan) contained on the project site. The O&M Plan shall be recorded with the CC&Rs. Developer and/or HOA must maintain and operate the subdivision stormwater facilities in compliance with the O&M Plan.
7. Owner/Developer to pay the City required pro-rata traffic fee in the amount of \$77,567 prior to Phase 1 final plat approval (MCC 5-4-3).
8. All City Engineer review comments are to be completed and approved.
9. All Planner comments are to be completed and approved.
10. All requirements of the Middleton Rural Fire District are to be completed and approved.
11. Developer/Owner to comply with all FEMA, Middleton City Code Floodplain Rules, and Floodplain Administrator requirements.

12. The Homeowners' Association's CC&Rs shall mandate that the HOA is responsible for maintaining the ditch easement strip of ground sandwiched between the canal and the rear fence line of Lots 1-4, Block 2.
13. Sewer and water capacity to be reserved at the time City approves the construction drawings for the project.

Finally, if the Council denies the special use permit application and/or recommends denial of the remaining applications, then pursuant to Middleton City Code 1-14(E)(8), the Council should state on the record what Applicant can do, if anything, to gain approval of the application(s).

Prepared by Roberta Stewart  
Planning & Zoning Official

Dated: 7/29/2022 & 1/13/23

# APPENDIX

## EXHIBIT "A-1"

12/14/22 ITD letter



**Your Safety • Your Mobility  
Your Economic Opportunity**

**IDAHO TRANSPORTATION DEPARTMENT**

P.O. Box 8028 • Boise, ID 83707-2028  
(208) 334-8300 • [itd.idaho.gov](http://itd.idaho.gov)

December 14, 2022

Alex Jondal, E.I.

T-O Engineers

332 N. Broadmore Wy

Nampa, ID 83687

[ajondal@to-engineers.com](mailto:ajondal@to-engineers.com)

VIA EMAIL

RE: Middleton Commercial and Residential TIS – ITD Development Condition Memo

Dear Mr. Jondal,

The Idaho Transportation Department (ITD) has completed our review of the Middleton Commercial and Residential Development. The proposed development is located northwest of SH-44 and Cemetery Road intersection in Middleton, Idaho.

The commercial site is proposed to contain retail-commercial buildings. It is estimated the buildings will account for 20-percent of the 2.49 acres of C-2 zoning resulting in a 21,700 square-foot building. Access is proposed off SH-44 through a single approach, replacing a single-family residential approach that currently accesses two homes and sheds which would be demolished in favor of the new land use proposal. There is no proposed cross-access with the residential portion of the project.

The department finds the development's proposed access acceptable with the following conditions:

- Developer to install a westbound right turn lane to the proposed single approach which is to replace the existing single-family residential approach.

Applicant must adhere to all previously approved permits and conditions. A change of use will require submittal of a new ITD Right-of-Way Encroachment Application and Permit. Please submit an ITD-2109 encroachment application complete with engineered drawings and temporary traffic control plans to [itdd3permits@itd.idaho.gov](mailto:itdd3permits@itd.idaho.gov). My staff will work with you on reviewing and accepting these documents prior to issuance of an approved permit. No work may begin in ITD's right-of-way without an approved permit.



**Your Safety • Your Mobility  
Your Economic Opportunity**

**IDAHO TRANSPORTATION DEPARTMENT**

P.O. Box 8028 • Boise, ID 83707-2028  
(208) 334-8300 • [itd.idaho.gov](http://itd.idaho.gov)

Maintaining safety and mobility for Idaho's motorists is of utmost importance to ITD. If you have any questions please contact Development Services Coordinator Niki Benyakhlef at [niki.benyakhlef@itd.idaho.gov](mailto:niki.benyakhlef@itd.idaho.gov) or 208-334-8337.

Sincerely,

Vincent Trimboli  
ITD – District 3  
Planning & Development Services Manager

Cc:

Becky Croft – City of Middleton



# EXHIBIT "A-2"

Proposed Preliminary Plat  
&  
Engineer Recommendation Ltr



January 12, 2023

TO: City of Middleton  
Roberta Stewart, Planning and Zoning Official  
Reed's Landing Development Team

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

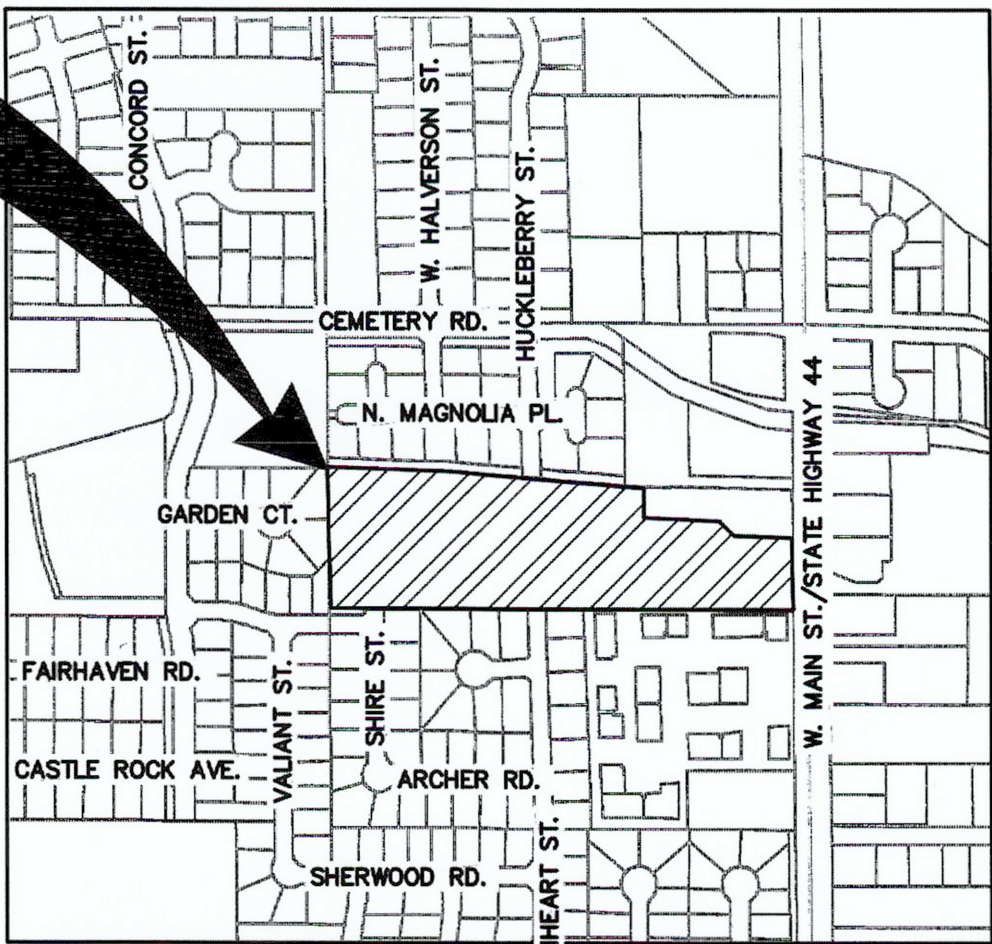
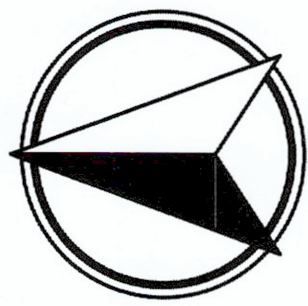
**RE: REED'S LANDING PRELIMINARY PLAT RECOMMENDATION**

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Thank you for the opportunity to review the above referenced preliminary plat. The plat appears to meet the applicable sections of Middleton City Code and common platting practices and Mayor Rule and City Council may approve the preliminary plat as presented.



PROJECT LOCATION



PRELIMINARY PLAT FOR  
REED'S LANDING SUBDIVISION

A PARCEL OF LAND SITUATED IN THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 1, TOWNSHIP 4 NORTH, RANGE 3 WEST, BOISE MERIDIAN,  
CITY OF MIDDLETON CANYON COUNTY, IDAHO.  
-2022-



REVISIONS		DESCRIPTION
NO.	DATE BY	
1	11/22 ZM	CITY COMMENTS
2	1/27/22 TG	CITY/PLANNER COMMENTS

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PAYETTE, IDAHO

REED'S LANDING SUBDIVISION

PRELIMINARY PLAT

CITY OF MIDDLETON,  
CANYON COUNTY, IDAHO

PROJECT NO.:	PR21-0363
DESIGNED BY:	T. GRENZ
DRAWN BY:	T. GRENZ
DWG QC BY:	J. WARD
DESIGN QC BY:	J. EIXENBERGER



PRELIMINARY PLAT

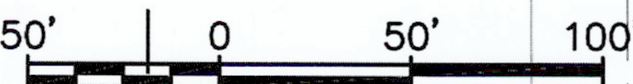
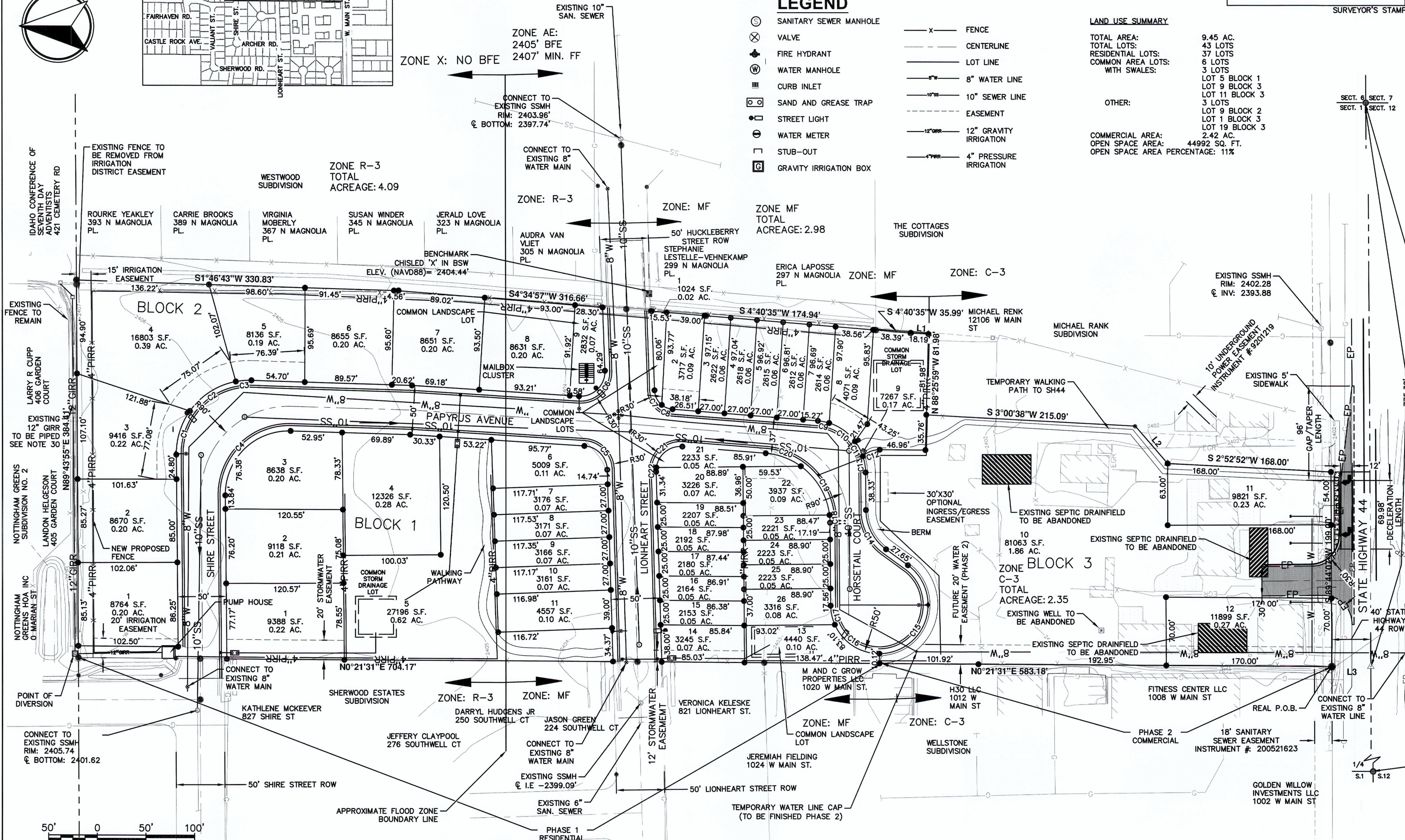
LAYOUT  
C1.00

LEGEND

- SANITARY SEWER MANHOLE
- VALVE
- FIRE HYDRANT
- WATER MANHOLE
- CURB INLET
- SAND AND GREASE TRAP
- STREET LIGHT
- WATER METER
- STUB-OUT
- GRAVITY IRRIGATION BOX
- FENCE
- CENTERLINE
- LOT LINE
- 8" WATER LINE
- 10" SEWER LINE
- EASEMENT
- 12" GRAVITY IRRIGATION
- 4" PRESSURE IRRIGATION

LAND USE SUMMARY

TOTAL AREA: 9.45 AC.  
TOTAL LOTS: 43 LOTS  
RESIDENTIAL LOTS: 37 LOTS  
COMMON AREA LOTS: 6 LOTS  
WITH SWALES: 3 LOTS  
LOT 5 BLOCK 1  
LOT 9 BLOCK 3  
LOT 11 BLOCK 3  
3 LOTS  
LOT 9 BLOCK 2  
LOT 1 BLOCK 3  
LOT 19 BLOCK 3  
2.42 AC.  
COMMERCIAL AREA: 44992 SQ. FT.  
OPEN SPACE AREA: 44992 SQ. FT.  
OPEN SPACE AREA PERCENTAGE: 11%



File Location: \\pr21-0363\Design\civil\pr21-0363 preliminary plat 7-22.dwg  
Drawn by: Travis A. Grenz  
Plotted By: Travis A. Grenz  
Date Plotted: Wednesday, January 11, 2023 at 11:02 AM



PRELIMINARY PLAT FOR  
REED'S LANDING SUBDIVISION

A PARCEL OF LAND SITUATED IN THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 1, TOWNSHIP 4 NORTH,  
RANGE 3 WEST. BOISE MERIDIAN, CITY OF MIDDLETON CANYON COUNTY, IDAHO.  
-2022-

NOTES:

1. CONTOUR AND SPOT ELEVATION DATA IS REFERENCED TO NAVD '88 DATUM.

2. ALL STREETS PROPOSED IN THIS DEVELOPMENT ARE PUBLIC STREETS AND SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE CITY OF MIDDLETON STANDARDS FOR PUBLIC STREETS.

3. BLOCK 1, LOT 5; BLOCK 3 LOT 9 AND 13 ARE COMMON LOTS TO BE USED FOR STORMWATER MANAGEMENT AND SUBJECT TO A BLANKET UTILITY AND STORMWATER EASEMENT. BLOCK 2 LOT 9; BLOCK 3, LOT 1 AND LOT 21 ARE COMMON LOTS. BLOCK 3 LOTS 10-12 ARE COMMERCIAL.

4. STORMWATER RUN-OFF GENERATED ON THIS SITE SHALL HAVE A QUALITY CONTROL TREATMENT PRIOR TO BEING CONVEYED TO ONSITE STORAGE FACILITIES.

5. PUBLIC UTILITIES SHALL INCLUDE WATER, SEWER, ELECTRIC POWER, NATURAL GAS, TELEPHONE, CABLE TELEVISION, AND FIBER. FIBER SHALL BE EITHER INSTALLED OR CONDUIT SHALL BE PROVIDED FOR FUTURE INSTALLATION.

6. BUILDING SETBACKS AND DIMENSIONAL STANDARDS SHALL BE IN ACCORDANCE WITH THE CITY OF MIDDLETON'S ZONING CODE THAT IS IN EFFECT AT THE TIME OF BUILDING PERMIT ISSUANCE"

7. DOMESTIC AND FIRE PROTECTION WATER SHALL BE PROVIDED BY THE CITY OF MIDDLETON.

8. IRRIGATION DITCHES THROUGH THE PROJECT SHALL BE PIPED WHERE THEY CROSS ROADWAYS WITH ALL STRUCTURES LOCATED BEYOND ANY PUBLIC RIGHT-OF-WAY. ALL IRRIGATION AND DRAINAGE FACILITIES SHALL BE LOCATED OUTSIDE OF THE RIGHT-OF-WAY.

9. ANY RE-SUBDIVISION OF THIS PLAT SHALL COMPLY WITH THE APPLICABLE ZONING REGULATIONS IN AFFECT AT THE TIME OF THE RE-SUBDIVISION.

10. THE OWNNER WILL PROVIDE IRRIGATION WATER TO EACH LOT THROUGH A PRESSURIZED IRRIGATION SYSTEM, TO BE OWNED AND MAINTAINED BY THE REED'S LANDING SUBDIVISION HOMEOWNERS ASSOCIATION IN COMPLIANCE WITH THE IDAHO CODE SECTION 31-3805(1)(B). ALL LOTS WILL BE SUBJECT TO ASSESSMENTS OF THE MIDDLETON MILL DITCH IRRIGATION DISTRICT.

11. THE NORTHERN PORTIONS OF BLOCKS 1 AND 2 ARE WITHIN ZONE X, AND THE SOUTHERN PORTIONS OF BLOCKS 1 AND 2 AND ALL OF BLOCK 3 IS WITHIN FLOOD ZONE AE OF THE FLOOD INSURANCE RATE MAP NO. 16027C0253G, COMMUNITY PANEL NO. 0253 G WHICH BEAR AN EFFECTIVE DATE OF 06/07/2019 AND IS NOT IN A SPECIAL FLOOD HAZARD AREA.

12. ALL EXISTING WELLS SHALL BE ABANDONED PER IDWR REGULATIONS. ALL SEPTIC SYSTEMS SHALL BE COMPLETELY REMOVED AND THE AREA RECOMPACTED PER GEOTECHNICAL REPORT.

13. UTILITIES SHOWN ARE BASED ON THE BEST AVAILABLE INFORMATION. FINAL DESIGN MAY VARY SLIGHTLY TO ACCOMMODATE FACTORS NOT KNOWN AT THE TIME THIS PRELIMINARY PLAT WAS PREPARED. FINAL DESIGN SHALL MEET ALL CITY OF MIDDLETON REQUIREMENTS.

14. SANITARY SEWER SERVICE WILL BE PROVIDED BY CITY OF MIDDLETON.

15. SEWER AND WATER CAPACITY WILL BE RESERVED AT THE TIME CITY APPROVES THE CONSTRUCTION DRAWINGS AND IS SYSTEM CAPACITY DEPENDENT.
16. ALL LOTS HAVE A PERMANENT EASEMENT FOR PUBLIC UTILITIES AND PEDESTRIAN WALKWAYS OVER THE 10' ADJACENT TO ANY PUBLIC RIGHT OF WAY. THIS EASEMENT SHALL NOT PRECLUDE THE CONSTRUCTION OF HARD-SURFACED DRIVEWAYS AND WALKWAYS TO EACH LOT.

17. UNLESS OTHERWISE SHOWN AND DIMENSIONED, ALL LOTS ARE HEREBY DESIGNATED AS HAVING A PERMANENT EASEMENT FOR PUBLIC UTILITIES, DRAINAGE, AND IRRIGATION OVER THE 5-FEET ADJACENT TO ANY INTERIOR SIDE LOT LINE (WITH EXCEPTION TO TOWNHOME LOTS) AND OVER 10-FEET ADJACENT TO ANY REAR LOT LINE OR SUBDIVISION BOUNDARY.

18. MAILBOX CLUSTER TO BE INSTALLED BY OWNER AS SHOWN ON PRELIMINARY PLAT.

19. HYDRANT LOCATION AND CONFIGURATION TO BE REVIEWED AND APPROVED BY MIDDLETON RURAL FIRE PROTECTION DISTRICT.

20. WAIVER REQUESTED FOR REQUIREMENT THAT FENCING BE LOCATED ON SUBDIVISION PERIMETER BOUNDARY (MCC 5-4-11-2) IN ORDER TO ACCOMMODATE DITCH.

22. NEW 15' IRRIGATION EASEMENT LOCATED ON NORTH SIDE OF BLOCK 2.

23. CC&RS TO CONTAIN PROVISION REQUIRING HOA TO MAINTAIN 15' WIDE IRRIGATION EASEMENT AREA BETWEEN REAR FENCES ON LOTS 1-4, BLOCK 2 AND THE CANAL/DITCH.

24. THERE IS A "BLANKET" RIGHT OF WAY ACROSS LOT 9, BLOCK 3 IN THE EVENT ITD DENIES ACCESS TO THE COMMERCIAL LOT AND ACCESS NEEDS TO PROCEED THROUGH THE COMMON LOT AND RESIDENTIAL AREA.

25. PARCEL NO. R177900011 IS OWNED BY JOAN REED AND IS TO BE DEDICATED TO IDAHO TRANSPORTATION DEPARTMENT OR CITY OF MIDDLETON AT FINAL PLAT.

26. SEWER PIPE WILL BE REQUIRED TO BE C-900 PIPE AND/OR FILL PLACED ACROSS THE SITE TO ACHIEVE AT LEAST 3FT OF COVER.

27. EXISTING STRUCTURES WILL BE REMOVED AS A CONDITION OF FINAL PLAT UNLESS ALL CODE REQUIREMENTS INCLUDING SETBACKS AND DIMENSIONS ARE MET.

28. THE HOME OWNER'S ASSOCIATION (HOA), OWNS AND MANAGES THE COMMON AREAS WHICH INCLUDES STORMWATER FACILITIES. A PLAN FOR OPERATION, MAINTENANCE, AND REPAIR OF STORMWATER FACILITIES (O&M PLAN) WILL BE PREPARED FOR ALL STORMWATER FACILITIES MAINTAINED BY THE HOA. THE O&M PLAN SHALL BE RECORDED WITH THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS (CC&Rs). THE O&M PLANS SHALL BE USED FOR MAINTENANCE AND OPERATION OF THE STORMWATER FACILITY.

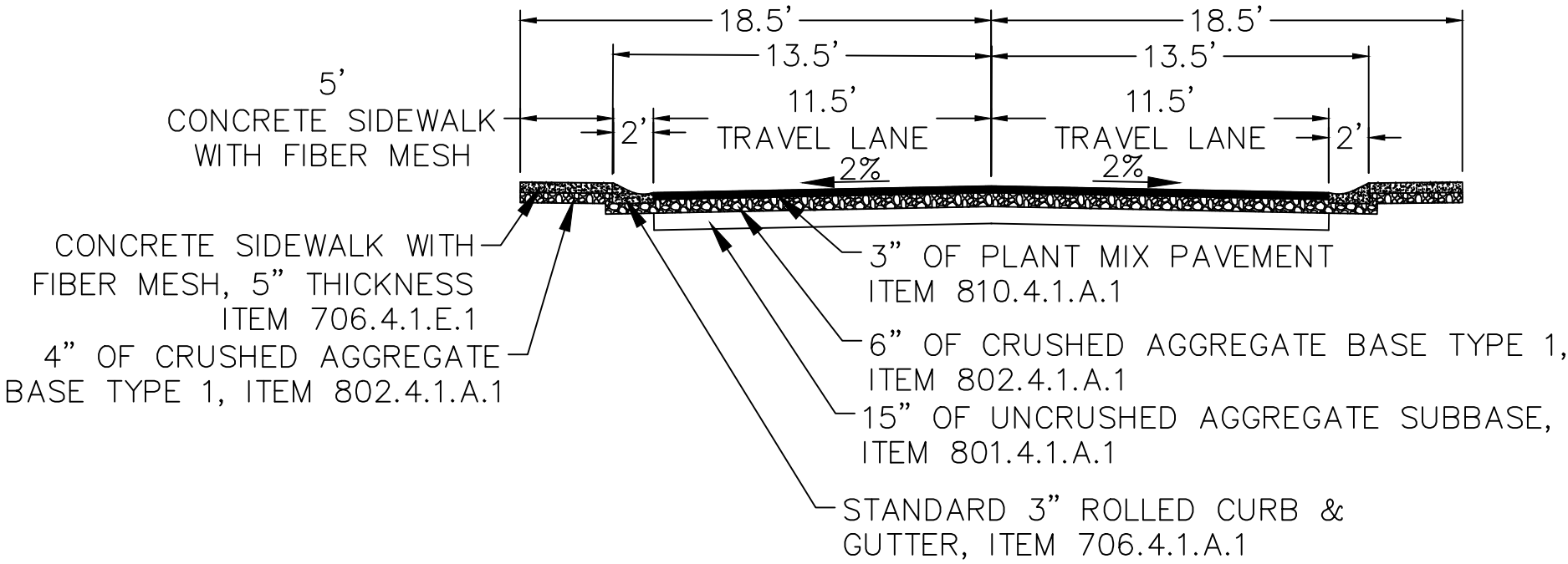
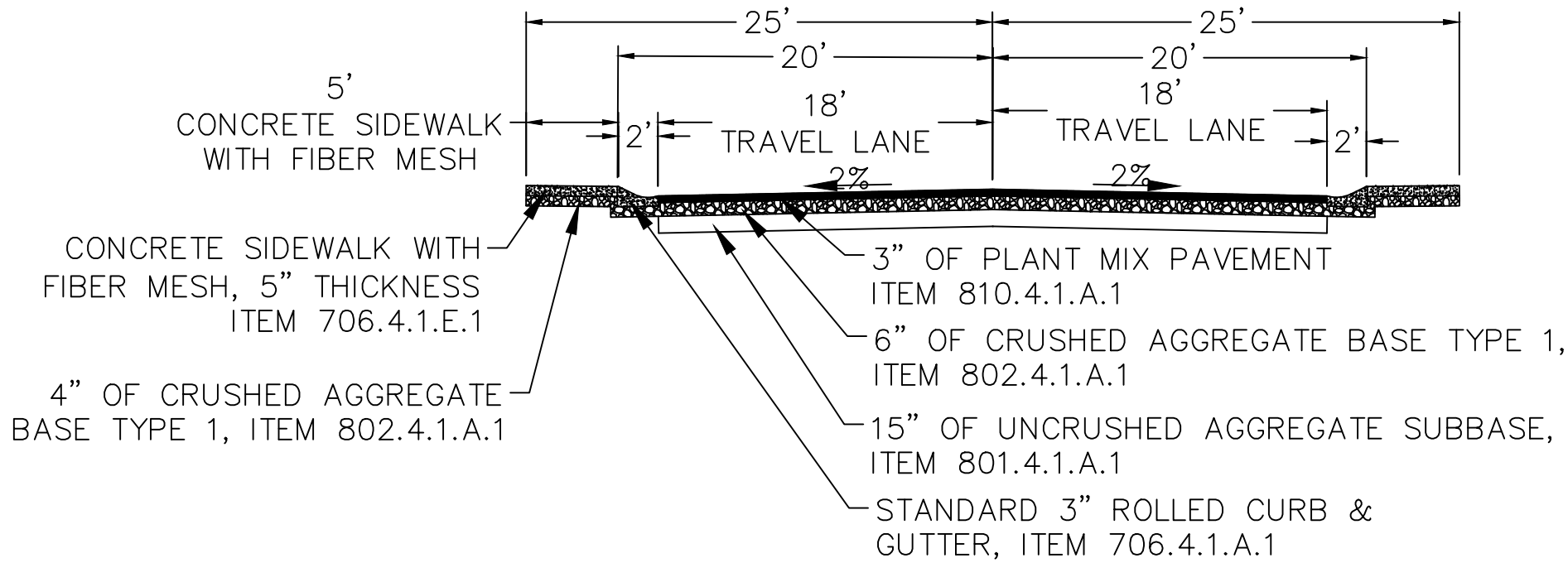
29. COMMERCIAL ACCESS TO SH-44 AND LANDSCAPE IMPROVEMENTS TO BE COMPLETED DURING PHASE 2 DEVELOPMENT.

30. EXISTING 12" IRRIGATION DITCH TO BE PIPED AT TIME OF CONSTRUCTION.

31. STORMWATER MANAGEMENT FACILITIES FOR SH44 REQUIRED TO BE CONSTRUCTED WITH COMMERCIAL AREA FRONTAGE IMPROVEMENTS.

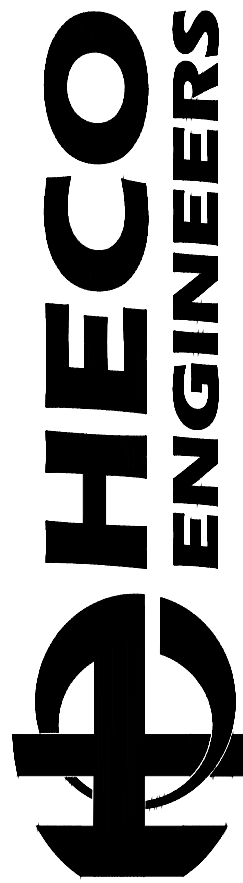
Curve Table					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD LENGTH
C1	120.82'	75.00'	092.30	N44°24'21"W	108.17'
C2	120.82'	75.00'	092.30	N44°24'21"W	108.17'
C3	120.82'	75.00'	092.30	N44°24'21"W	108.17'
C4	104.71'	65.00'	092.30	S44°24'23"E	93.75'
C5	36.95'	25.00'	084.68	S45°57'14"W	33.67'
C6	41.74'	25.00'	095.66	N44°13'10"W	37.06'
C7	29.15'	20.00'	083.52	N46°11'28"E	26.64'
C8	29.15'	20.00'	083.52	N46°11'28"E	26.64'
C9	11.84'	53.00'	012.80	N10°49'54"E	11.81'
C10	32.91'	53.00'	035.58	N35°01'17"E	32.39'
C11	33.94'	53.00'	036.69	N71°09'31"E	33.36'
C12	18.96'	25.00'	043.46	N20°59'54"W	18.51'
C13	33.94'	53.00'	036.69	N71°09'31"E	33.36'
C14	46.82'	50.00'	053.65	N62°40'46"E	45.13'
C15	125.73'	50.00'	144.08	S72°06'25"E	95.13'
C16	77.73'	50.00'	089.08	S44°28'16"W	70.14'
C17	77.73'	50.00'	089.08	S44°28'16"W	70.14'
C18	106.14'	71.50'	085.05	S46°58'39"W	96.66'
C19	106.14'	71.50'	085.05	S46°58'39"W	96.66'
C20	106.14'	71.50'	085.05	S46°58'39"W	96.66'
C21	41.96'	25.00'	096.17	S43°38'03"E	37.21'
C22	41.96'	25.00'	096.17	S43°38'03"E	37.21'

LINE TABLE		
LINE	BEARING	LENGTH
L-1	S3°08'47"	18.1900
L-2	S48°54'27"	50.4400
L-3	N0°15'53"W	40.0000



1 50' ROAD SECTION  
SCALE: NTS

2 37' ROAD SECTION  
SCALE: NTS



REVIEWS		DESCRIPTION	
NO.	DATE	BY	ZM
1	4/11/23	TR	
2	4/27/23	TG	
CITY/PLANNER COMMENTS			

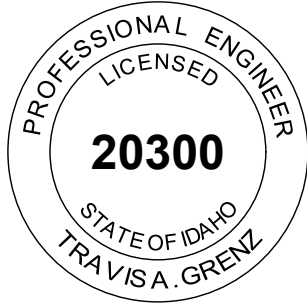
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32 N. MAIN,  
PAYETTE, IDAHO

REED'S LANDING SUBDIVISION

PRELIMINARY PLAT

CITY OF MIDDLETON,  
CANYON COUNTY, IDAHO

PROJECT NO.:	PR21-0363
DESIGNED BY:	T. GRENZ
DRAWN BY:	T. GRENZ
DWG QC BY:	J. WARD
DESIGN QC BY:	J. EIXENBERGER



PRELIMINARY PLAT

NOTES & DETAILS

C1.01

# EXHIBIT "A-3"

## Additional Public Comment

**From:** [Carrie Brooks](#)  
**To:** [Roberta Stewart](#)  
**Subject:** Public Hearing Comments  
**Date:** Wednesday, January 11, 2023 4:30:07 PM

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Planning and Zoning Department:

This letter is to oppose the proposed Reed's Landing Subdivision. There is no need to have such dense housing in such a small area of Middleton. There is plenty of room in Middleton to spread out growth without the density proposed. All surrounding housing and subdivisions are single family and to change the zoning to allow 25 townhomes is not acceptable. Further, as a resident of Westwood Subdivision, access to this new development would be through our small subdivision via Huckleberry Street. this street has driveways close to this road with children and pets at risk for this development. With the proposed 12 homes, 25 town homes, and the "dense commercial lots" this will conservatively result in over 100 additional vehicles using a small access through a small residential neighborhood.

To even consider this type of development and it's proposed access is not appropriate.

As a citizen of Middleton and owner in the Westwood Subdivision, I am opposed to the rezoning of the plat to such a dense proposal.

Carrie Brooks  
Homeowner in Westwood Subdivision

**From:** [Rourke Yeakley](#)  
**To:** [Roberta Stewart](#)  
**Subject:** Opposition to "Reed's Landing Subdivision"  
**Date:** Monday, August 1, 2022 5:09:45 PM

---

Planning and Zoning Department City of Middleton,

This letter is to oppose the proposed Reed's Landing Subdivision. There is no need to have such dense housing in such a small area of Middleton. There is plenty of room in Middleton to spread out growth without the density proposed. All the surrounding housing and subdivisions are single family and to change the zoning to allow 25 townhomes is not acceptable. Further, as a resident of Westwood subdivision, access to this new development would be through our small subdivision via Huckleberry Street. This street has driveways close to this road with children and pets at risk for this development. With the proposed 12 homes, 25 town homes and the "dense commercial lots" this will conservatively result in over 100 vehicles using a small dangerous access through the neighborhood.

Further, the developers of the proposed "Reed's Landing Subdivision" have never reached out to the home owners of Westwood Subdivision which is directly impacted by the massive increase in traffic and density proposed.

Once again, to even consider this type of development and its proposed access is not appropriate. We are absolutely opposed to this development.

Please let me know if you have any further questions.

Amy and Rourke Yeakley  
Homeowners in Westwood Subdivision



**From:** [Carrie Brooks](#)  
**To:** [Roberta Stewart](#)  
**Subject:** Public hearing comments  
**Date:** Monday, August 1, 2022 5:59:34 PM

---

Planning and Zoning Department:

This letter is to oppose the proposed Reed's Landing Subdivision. There is no need to have such dense housing in such a small area of Middleton. There is plenty of room in Middleton to spread out growth without the density proposed. All surrounding housing and subdivisions are single family and to change the zoning to allow 25 townhomes is not acceptable. Further, as a resident of Westwood Subdivision, access to this new development would be through our small subdivision via Huckleberry Street. this street has driveways close to this road with children and pets at risk for this development. With the proposed 12 homes, 25 town homes, and the "dense commercial lots" this will conservatively result in over 100 additional vehicles using a small access through a small residential neighborhood.

To even consider this type of development and it's proposed access is not appropriate.

As a citizen of Middleton and owner in the Westwood Subdivision, I am opposed to the rezoning of the plat to such a dense proposal.

Carrie Brooks  
Homeowner in Westwood Subdivision

# EXHIBIT "B"

## Proposed Development Agreement

**Once recorded, send to**  
Middleton City Hall  
1103 W. Main Street  
Middleton, ID 83644

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## **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 BST DEV, LLC, an Idaho Limited Liability Company and GORDON and PENNY REED, husband and wife, individually and collectively referred to as Developer (**Developer**).

### **RECITALS**

WHEREAS, Developer owns approximately 9.68 acres of real property located at 880 W. Main Street, Middleton, Canyon County, Idaho, which parcel is commonly referred to in the Canyon County Assessor's records as Parcel No. 17900010 and legally described in Exhibit A attached hereto and incorporated herein (**Property**); and

WHEREAS, Developer has applied to the City to annex the Property and rezone the property from Canyon County "Agricultural" to City of Middleton C-3 (2.54 acres "Heavy Commercial"), M-F (3.04 acres "Multi-Family") and R-3 (4.09 acres Single Family Residential; 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 C-3 (approximately 2.54 acres “Heavy Commercial”), M-F (approximately 3.04 acres “Multi-Family”) and R-3 (approximately 4.09 acres Single Family Residential). 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 Zoning. The Property shall be zoned C-3 (approximately 2.54 acres “Heavy Commercial”), M-F (approximately 3.04 acres “Multi-Family”) and R-3 (approximately 4.09 acres Single Family Residential).

3.2 Concept Plan. The Concept Plan attached hereto as Exhibit B is incorporated herein by this reference. Developer shall be bound to abide by said Concept Plan and shall develop the Property substantially consistent with the Concept Plan.

3.3 Setbacks, Dimensions & Uses. Setbacks, dimensions and uses shall be those setbacks, dimensions and uses in effect at the time a building permit is issued by the City.

3.4 Townhome Design & Design Review. The Townhomes constructed shall generally match the style and quality of the townhome concept renderings attached hereto as Exhibit C and incorporated herein by this reference. Each style of townhome structure shall undergo Design Review by the Middleton Design Review Committee pursuant to the procedures set forth in MCC 1-15-8 prior to building permit application submittal.

3.5 Floodplain/LOMR Requirements. Developer shall comply with all FEMA requirements in connection with completion of a letter of map revision (LOMR) to remove all buildable lots out of the flood plain, and Developer shall comply fully with MCC 4-3-7-5(D), which requires elevation certificates for individual lots after the LOMR is approved.

3.6 Amenities. Developer shall provide a park with playground, at least three benches, and a shade structure with two or more picnic tables as community amenities.

3.7 Right of Way Dedication. Developer shall cause the title to the .24 acre parcel owned by Joan B. Reed located at 0 Hwy 44 and commonly referred to in the Canyon County Assessor's records as Parcel No. 17900011 to be transferred to the Idaho Transportation Department ("ITD"), or otherwise dedicated to ITD, as right of way prior to, or at, approval of final plat for the phase including such property. If ITD does not accept the dedication of said parcel, Developer shall dedicate said property to City prior to, or at, approval of final plat for the phase including such property.

3.8 Non-Conforming Use. A residential home and residential outbuildings owned by Gordon and Penny Reed are currently located on the portion of the Property to be rezoned to C-3 ("Heavy Commercial"). Once rezoned, the residential use will be a non-conforming use on the commercial lots. Therefore,

3.8.1 Developer agrees that the residential non-conforming use cannot be changed or intensified beyond what is permitted by Middleton City Code Section 5-1-3.

3.8.2 Once the Reed family vacates the premises, the commercial parcels may not be rented or sold to another party for any residential purpose. Instead, said parcels may be rented or sold for only commercial uses set forth in the City's Land Use Table for the C-3 Zone (MCC 5-4-1, Table 1).

3.9 Final Plat Requirements Notwithstanding the provisions in Article IV, Developer shall obtain City Engineer's signature on the Phase 1 final plat within two (2) years of the preliminary plat approval. Said signature shall be processed expeditiously by City and in no event later than six (6) months from the time the Developer submits a "Completion Packet" with all items required by the Supplement to the ISPWC and final plat application. The six (6) month period will not be triggered if any information required by the Supplement is missing.

3.9.1 Developer may obtain a one (1) year extension to obtain the City Engineer's signature on the Phase 1 final plat by submitting an administrative written request for extension to the Middleton Planning & Zoning Official before the expiration of the initial two-year period, which approval shall not be withheld if Developer submits its request in a timely manner. Thereafter, City Council may approve an additional time extension of one (1) year if developer submits a written request for extension prior to the expiration of the previous extension period. Neither approval shall require a public hearing before City Council.

3.9.2 If Developer does not obtain City Engineer's signature on the Phase 1 final plat within the time frame noted above, City may, at its sole discretion, terminate the entire Development Agreement after complying with the Middleton City Code provisions for legal notice and public hearing. The zoning for the property shall be changed as follows: all the property north of the east/west through-road ("Lion Heart Street") shall be changed to R-3 zoning. All the property south of the through-road ("Lion Heart Street") shall be changed to C-3 zoning. No M-F "Multi-Family" zoning shall remain on the Property. Additionally, the preliminary plat will automatically become null and void. City may seek termination of the Development Agreement at any time after the noted time periods expire, and City's delay in terminating the Development Agreement shall not constitute a waiver of its right to terminate the Development Agreement.

3.9.3 After final plat approval for the first phase, Developer shall obtain City Engineer's signature on the final plat for each subsequent phase in two (2) year intervals (subject to the requirement by the City to process such applications expeditiously and in no event later than six months from the time Developer submits a fully completed "Completion Packet" application and final plat application). Developer may obtain a one (1) year extension to obtain the City Engineer's signature on the final plat for the subsequent phase by submitting an administrative written request for extension to the Middleton Planning & Zoning Official before the expiration of the previous time period, which approval shall not be withheld if Developer submits its request in a timely manner. Developer may request City Council to approve an additional time extension of one (1) year, which approval will not be unreasonably withheld if developer submits the request prior to the expiration of the previous extension. If Developer fails to comply with said timelines, the portions of the preliminary plat yet to be final platted will become null and void. City may also, at its sole discretion, terminate the Development Agreement, after complying with the Middleton City Code provisions for legal notice and public hearing, to the extent of the property not final platted. The zoning for the unplatted area shall revert as set forth in Section 3.9.2, above.

3.10 Street Connectivity. Developer agrees that if City requires a street or drive aisle connection between the commercial parcel(s) and residential parcels to the north as a result of ITD's denial of access to State Highway 44, Developer shall construct a street off Horsetail Court. Street intersection shall meet common engineering geometric standards and may require vacation of a portion of the cul-de-sac if already constructed.

3.11 Cross-Access Easement. Developer shall grant a cross-access easement for vehicular and pedestrian traffic to ensure that none of the commercial parcels are land-locked, with such cross-access only to be effective in the event ITD denies access to State Highway 44.

3.12 Pathway Connectivity. As a condition of Phase 1 final plat approval, Developer shall construct a temporary five (5) foot wide asphalt pathway that will cross the commercial lots to connect the residential lots to State Hwy 44. Public access must be granted over and across the pathway via the cross-access easement noted in section 3.11 above or by some other temporary public easement grant. Developer may choose the appropriate location for the asphalt pathway. With the development and final plat approval of the Commercial lots (currently Phase 2), Developer may remove the asphalt pathway and accompanying easement so long as ADA compliant pedestrian connectivity from the residential lots to State Hwy 44 is provided.

#### **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.

4.2 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.

4.3 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.

4.4 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.

4.5 **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 2.

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: BST Dev LLC  
1016 W. Sanetta St.  
Nampa, ID 83651

Developer: Gordon and Penny Reed

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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 Recorded at the expense of the City.

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.

5.6.1 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.

5.6.2 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.

[end of text; signatures on following page]

Dated this \_\_\_\_ day of \_\_\_\_\_, 2022 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 \_\_\_\_ day of \_\_\_\_\_, 2022, 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.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

BST DEV LLC

Notary Public  
My Commission Expires: \_\_\_\_\_

Notary Public  
My Commission Expires: \_\_\_\_\_

## **EXHIBIT A**

### **Legal Description and Sketch of the Property**

A portion of Blocks 6, 7 and 8, Hawthorn Plat of Middleton as filed in Book 3 of Plats at Page 22, records of Canyon County, Idaho, lying in the Southeast 1/4 of the Southeast 1/4 of Section 1, Township 4 North, Range 3 West, Boise Meridian, Canyon County, Idaho more particularly described as follows:

Commencing at the Section corner common to Sections 1 and 12, T.4N., R.3W., B.M., and Sections 6 and 7, T.4N., R.2W., B.M., from which the 1/4 corner common to said Sections 1 and 12 bears South 89°44'07" West, 2,702.83 feet; thence on south boundary line of said Section 1, South 89°44'07" West, 575.94 feet to the **REAL POINT OF BEGINNING**;

thence continuing South 89°44'07" West, 199.43 feet to the southerly extension of the east boundary line of Wellstone Subdivision as filed in Book 39 of Plats at Page 42, records Canyon County, Idaho;

thence on said east boundary line and the southerly extension thereof and the east boundary line of Sherwood Estates Subdivision as filed in Book 37 of Plats at Page 28, records of Canyon County, Idaho, North 00°21'31" East, 1,327.36 feet to the north boundary line of the Southeast 1/4 of the Southeast 1/4 of said Section 1;

thence on said north boundary line coincident with the south boundary line of Nottingham Greens Subdivision No. 2 as filed in Book 32 of Plats at Page 18 and westerly boundary line of Westwood Subdivision as filed in Book 39 of Plats at Page 5, records of Canyon County, Idaho, North 89°43'55" East, 384.41 feet to the Northwest corner of Lot 14, Block 3 of said Westwood Subdivision;

thence continuing on said the westerly boundary line the following two (2) courses and distances:

South 01°46'43" West, 330.83 feet;

South 04°34'57" West, 316.66 feet;

thence continuing on said the westerly boundary line and the westerly boundary line of The Cottages Subdivision as filed in Book 42 of Plats at Page 36, records of Canyon County, Idaho the following two (2) courses and distances:

South 04°40'35" West, 210.93 feet;

South 03°08'47" West, 18.19 feet;

thence leaving said westerly boundary line, North 88°25'59" West, 81.98 feet;

thence South 03°00'38" West, 215.09 feet;

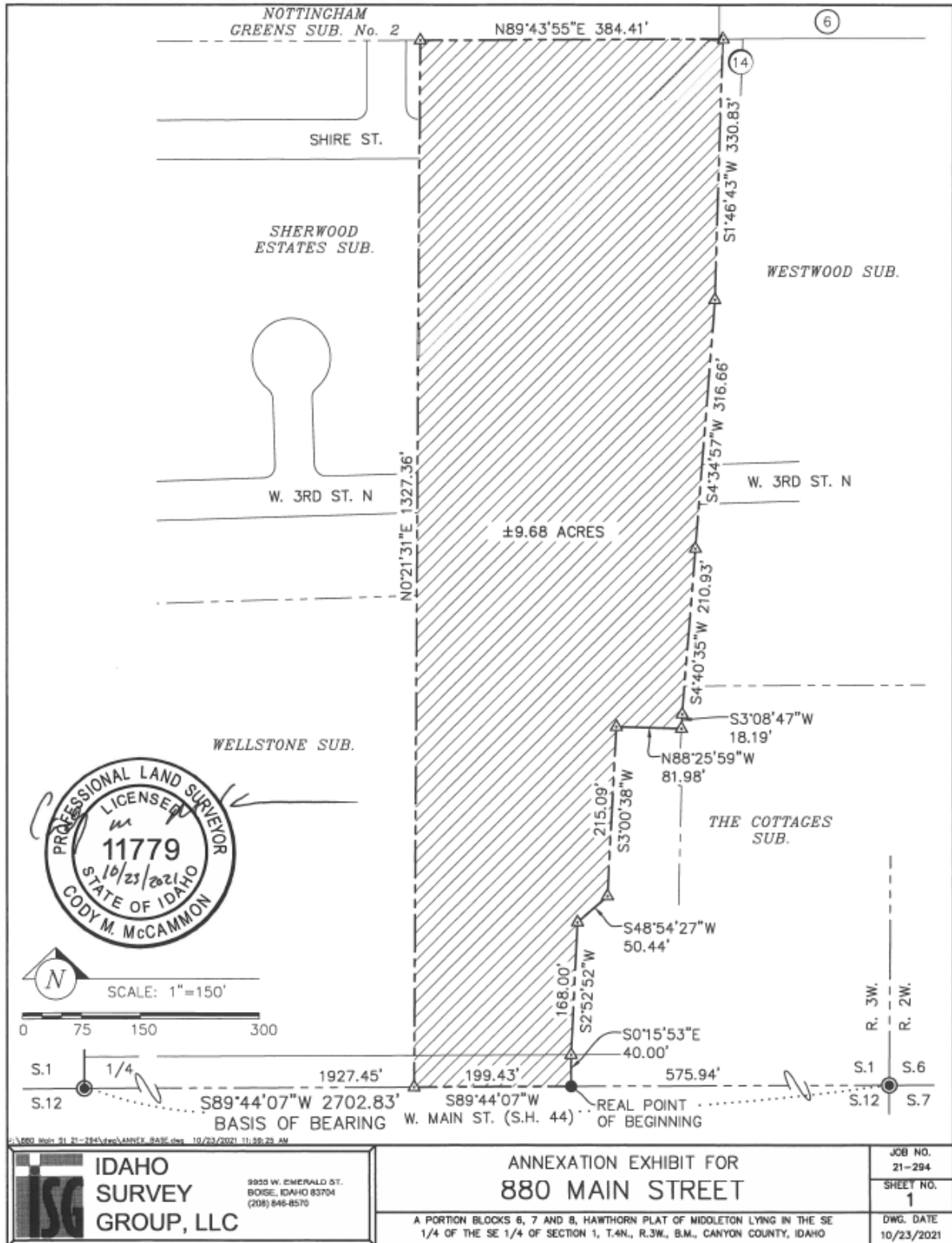
thence South 48°54'27" West, 50.44 feet;

thence South 02°52'52" West, 168.00 feet to the north right-of-way line of W. Main Street (S.H. 44);

thence leaving said north right-of-way line, South 00°15'53" East, 40.00 feet to the **REAL POINT OF BEGINNING**.

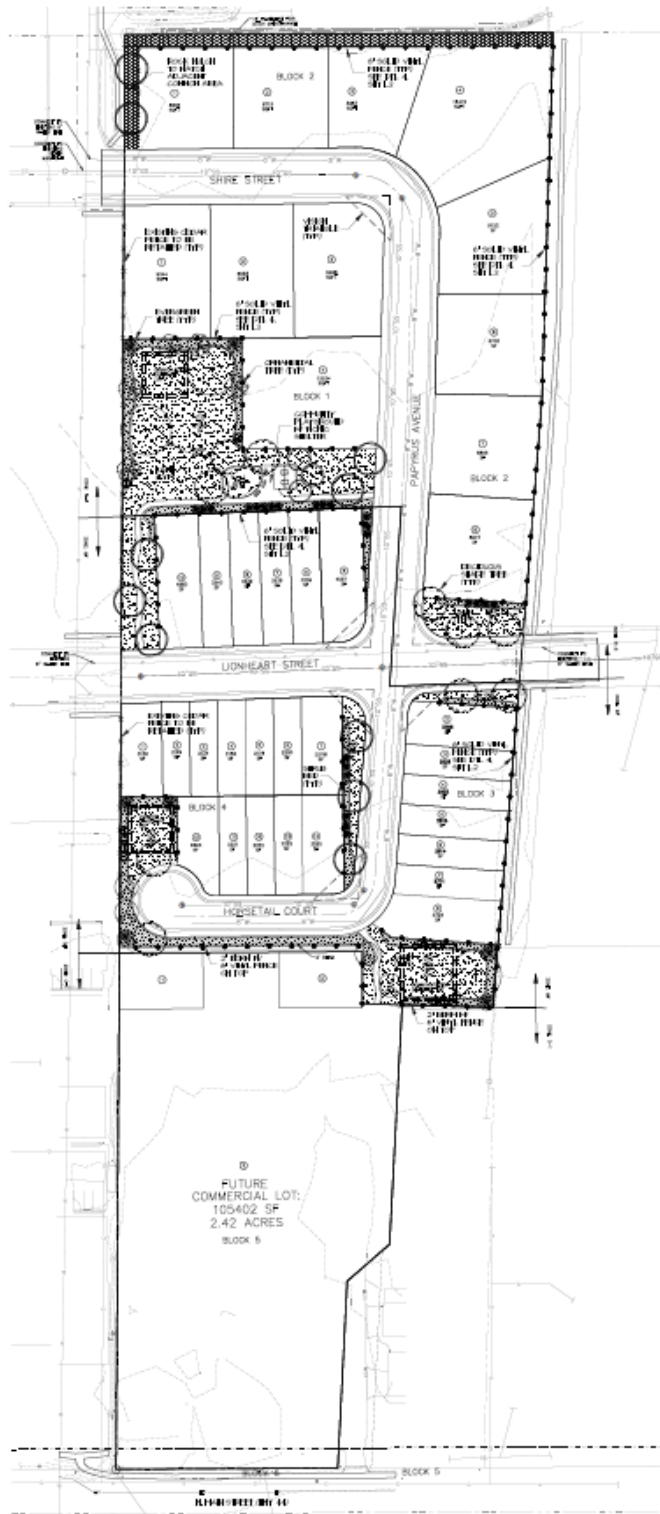
Containing 421,497 square feet or 9.68 acres, more or less.

End of Description.



## **EXHIBIT B**

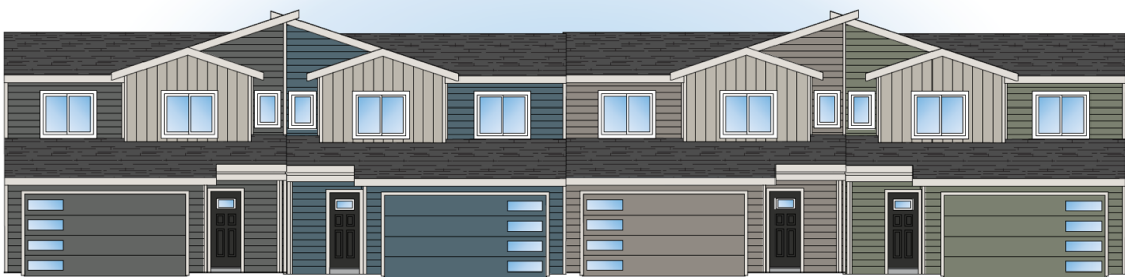
### **Approved Concept Plan**





**EXHIBIT C**

**Townhome Concept Elevations**



## Reed's Landing Elevation Examples



# EXHIBIT "C"

## Public Comments

**South 2 Northwest LLC (an Idaho Limited Liability Company)**

---

P. O. Box "E"  
198 SW 3<sup>rd</sup> Avenue  
Ontario, Oregon 97914-0106  
Office: (541) 889-3147/Salem, OR: 503-930-9304 cell/text  
July 16, 2022

**City of Middleton  
P.O. Box 487, 1103 W. Main Street  
Middleton, ID 83644**

In re: Annexation/Rezone – Reed's Landing Subdivision

To Whom it may Concern:

My name is R. Thomas Butler—the Managing Member of South 2 Northwest LLC owning commercial and residential property located at 903 West Main Street, Middleton, Idaho.

**South 2 Northwest LLC has no objections to the proposal coming before the public on Wednesday August 3, 2022. We commend BST DEV LLC!**

We do, however express concern that our Mill Ditch and Canyon Hills irrigation water rights and duty of irrigation waters being delivered from the canal north of this proposed subdivision and passing through much of this subdivision to the south (crossing underneath Hwy. 44) and then south to the north berm of The Hartley (?) Canal as it enters onto our property to provide our duty of irrigation water (approx. 3A of water right).

We'd like assurance that there will be no interruption of our ability to continue this vital water delivery to our parcels.

Please confirm with the developers and written assurances to vouch safe these water rights and water delivery concerns.

Yours very truly,

  
R. Thomas Butler, LLC Managing Member

# EXHIBIT "D"

## Agency Comments





### GMPRD Directors

Elizabeth Weaver, President  
Mike Okamura, Vice President  
Jon Roth, Treasurer  
Deborah Sandborgh, Director  
Randy Powell, Director

To Whom It May Concern:  
RE: Growth in Middleton, Idaho

On behalf of Greater Middleton Parks & Recreation District Board of Directors, we wanted to reach out and let the you know that GMPRD is taking a stance on the growth happening in Middleton and the surrounding areas.

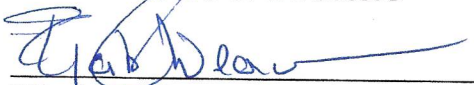
We are opposed to any further developments coming into Middleton at this time. Not only are the parks and recreation districts affected, but the school district and cemetery district as well, are all struggling to keep up with the growth. The legislature has not added parks and recreation districts, nor school or cemetery districts to the legal verbiage, allowing the impact fee funding to help incur the costs from the additional growth happening around the city.

We are seeing high numbers of registrations at our sporting events coming from out of state. We have multiple sports clubs and recreation programs needing grass space to play on. We are using an outdated building to play sports in one gym and could use at least two more gyms. We are also seeing higher vandalism this year. We have already spent over \$5,000 dollars on new camera systems at our parks and buildings to try to keep up with the increase in crime in our little town. Last year we were at 419% over budget for vandalism - spending almost \$900 dollars on repairs. This year alone we are already at 110% of our increased vandalism budget, spending over \$550 dollars on repairs thus far. However, in 2019 we only used 12.9% of our vandalism repairs budget. Spending only \$25 dollars on repairs. These numbers alone speak VOLUMES as to what is happening in our area and the negative impact our growth will continue to have, especially on our youth. Having positive sports programs, open play space, and local community classes helps keep kids out of trouble. We are outgrowing our resources at a record pace!

In order for growth to continue and to gain our support, developers will have to step up in some way to aid these growth-related issues and problems.

Thank you for listening to our concerns.

Best Regards,  
GMPRD Board of Directors

  
Elizabeth Weaver, Board President

310 N. Hawthorne Ave. Middleton, Idaho 83644  
Ph.# 208-585-3461 FAX: 208-585-6198  
gmprdjulie@gmail.com www.gmprd.org

**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

**Twin Falls Office**  
213 Canyon Crest Drive  
Suite 200  
Twin Falls, Idaho 83301  
Tel. (208) 969-9585

Fax (all offices)  
(208) 629-7559



# SAWTOOTH LAW OFFICES, PLLC

Monday, May 09, 2022

**David P. Claiborne**

**S. Bryce Farris**

**Evan T. Roth**

**Daniel V. Steenson**

**Andrew J. Waldera**

**Brian A. Faria**

**Patxi Larrocea-Phillips**

**John A. Richards**

**Matthew A. Sturzen**

**Katie L. Vandenberg-Van  
Vliet**

**James R. Bennetts**  
*(retired)*

City of Middleton

Attn: Roberta Stewart

P.O. Box 487

Middleton, Idaho 83644

Re: Reed's Landing Subdivision

Dear Ms. Stewart:

The Canyon Hill 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. 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 occur. The Ditch Companies must review 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 an exception on a case-by-case basis, which requires the developers/owners to obtain written permission from the Ditch Companies for existing trees to remain.

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



Please contact me if you have any questions.

Yours very truly,

A handwritten signature in black ink, appearing to read "S. Bryce Farris". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

S. Bryce Farris

SBF:krk

cc: Canyon Hill Ditch Company/MM-MI





# Middleton School District #134

*Every Child Learning Every Day*

July 26, 2022

**Marc Gee**

Superintendent

RE: Reed's Landing

**Lisa Pennington**

Assistant Superintendent

Mayor Rule and City Council Members,

**Alicia Krantz**

Business Manager/Treasurer

I wanted to share with you as a group that I was able to meet with developers of the Reed's Landing project in Middleton. During that meeting, Steve and Taylor Schmidt, along with Hethe Clark were very supportive of the school district and the requests we had made.

**Paige Goodson**

Director of Curriculum and  
Assessment

We walked through the concerns we had for safe routes to school and they were able to assure us of the abilities of their project to tie into existing sidewalk networks so that potential students who live in the area will be able to walk to Heights and/or the middle school. We also addressed bus access for high school aged students who potentially could live in the area and have no concerns regarding the ability of a school bus to navigate the necessary areas.

**Sharlea Watkins**

Director of Special Services

As we have mentioned previously, we are supportive of increased commercial options and the infrastructure and stability that they bring to our community. In addition, we are supportive of reasonable numbers of entry level homes for new families, as we feel that will be beneficial for many of our staff members.

**Nick Davis**

Network Administrator

We feel that Reed's Landing developers have made a good faith effort to address the needs of the school district. We appreciate the efforts by city Planning and Zoning members to certify that school district needs are addressed by new developers and hope that support will continue.

Please reach out if you have any further questions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Marc C. Gee'.

Marc C. Gee  
Superintendent  
Middleton School District  
mgee@msd134.org

5 South Viking Avenue  
Middleton, ID 83644

(208) 585-3027  
msd134.org



# Middleton School District #134

*Every Child Learning Every Day*

## Middleton School District #134

### City of Middleton--Public Hearing Notice Response

#### General Response for All New Development

Middleton School District is currently experiencing significant growth in its student population. As it is now, we have 2 of our 3 elementary schools over capacity (2 portables at Mill Creek, 3 portables at Heights Elementary) with more coming. We are nearing capacity, but have not superseded at this point, at our high school and middle school. As it stands now there is a need for additional facilities in our school district, primarily at the elementary grades. However, we have significant concerns of the continued growth and our ability to meet the future facility needs of our district at the secondary level (Middleton Middle School and Middleton High School).

We are in process of having a demographic study performed for our school district boundaries and preliminary data suggests that for every new home we could expect between 0.5 and 0.7 (with an average of .569) students to come to our school. That is the factor/rate we use to make our projection of student impact for each development.

We encourage the city to be judicious in their approval process recognizing that each new development brings new students to our school and will increase the burden placed on taxpayers within the school district. New facilities, primarily an elementary school, are needed now, but additional students could continue to increase that need. As a school district, we support any kind of pause that could be taken on these processes and the formation of a community council that would assist in the strategic planning for the growth in our district.

#### Reed's Landing Subdivision

Elementary students living in the proposed areas as planned would be in the attendance zone for Middleton Heights Elementary School. With 37 lots, we would anticipate, upon completion, an increase of approximately 21 students between Heights Elementary, Middleton Middle School, and Middleton High School. See above statement for impact on district resources.

Bussing services would most likely not be provided to families in this area for elementary and middle school students because of its proximity to Heights Elementary and Middle School. We would ask that the council ensure that appropriate and safe sidewalk access to existing sidewalk network be required so that elementary students are able to safely walk to school. Bussing would be provided to the high school with our current Safety Bussing Plan, though it is within a range that could change based on continued development within the community.

As a district we are supportive of the responsible development of commercial properties within the community and the accompanying infrastructure.

**Marc Gee**  
Superintendent

**Lisa Pennington**  
Assistant Superintendent

5 South Viking Avenue  
Middleton, ID 83644

(208) 585-3027  
msd134.org

# EXHIBIT "E"

## Engineering & Planner Comments



July 28, 2022

TO: Roberta Stewart, Planner

Cc: Travis Grenz, PE – HECO Engineers

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

**RE: Reed's Landing Subdivision - Preliminary Plat Recommendation of Approval**

---

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

We recommend Mayor and City Council approve the preliminary plat.



March 18, 2022

TO: Roberta Stewart, Planner

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

**RE: REEDS LANDING SUBDIVISION**

---

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

Request the applicant review MCC 5-4-4 and confirm in writing to the City that each item listed has been included on the preliminary plat submittal.

MCC 5-4-4.2. a. Please add bearing and distance to section corner, quarter corner or monument of record.

MCC 5-4-4.2. c. Adding phasing plan if applicable or note all lots developed in one phase.

MCC 5-4-4.2. f. Revise topography to clearly show existing.

1. Show existing topography including SH44.
2. Dimension and clearly identify every lot. Add lot and block numbers.
3. Add benchmark information.

MCC 5-4-4.2. h.

1. Dimension existing rights of way and clearly label/name.
2. Show improvements on SH44.

MCC 5-4-4.2. i. Label owners adjacent to boundary.

MCC 5-4-4.2 a and l. The boundary is required to be surveyed and stamped by PLS including ties to corners. Label boundary.

MCC 5-4-4.2. n

1. Show hydrants.
2. Add note hydrant location and configuration to be reviewed and approved by Middleton Rural Fire Protection District.
3. Streetlights required every 400ft and at intersections.

MCC 5-4-4.3. a

1. Label/identify all sewer– existing and proposed. 400 ft is maximum spacing between manholes.
2. Extend an 8" sewer main in 20 ft easement south to the commercial lot or sewer commercial lot to SH44.
3. Add flow directional arrows.

MCC 5-4-4.3. b

1. Water corridor is north and east, sewer is south and west.







2. Show fully the water connection to existing in 3<sup>rd</sup> Street and Shire Street. Valves at every leg. Label both existing and proposed line sizes. Label water main in SH44.
3. How does the commercial area receive water service?
4. What is the line west of the parcel? No water in that area.

MCC 5-4-4.3.c

1. Stormwater. Plan to manage a 100 year/1 hour storm using retention facilities only. No subsurface. The front half of the lot C value is 0.60, the rights of way/impervious (all) are 0.95 – use a composite of both. All stormwater management facilities require pretreatment, all infrastructure to be shown on preliminary plat. Stormwater facilities are owned by HOA and the provisions for maintenance laid out in CCRs. Identify lots to be used for stormwater management and show pretreatment.
1. Add a note: exterior boundary is required to be fenced in accordance with approved fencing plan.
2. Correct street names. Street is east/west. Avenue is north/south. Cul-de-sac is Court.
3. Add centerline radii and intersection radii.
4. Remove the parking spaces from adjacent to Horsetail and develop them out of the right of way if parking is desired.
5. Provide pedestrian access to SH44 through commercial lot.
6. Identify all lots to be held in common or non-residential, the use and ownership.
7. Note 7. Delete.
8. Note 6 and Note 13. Combine. Expand to address Idaho Code 31-3805. Identify the irrigation district. Show the irrigation system layout and point of diversion/pump station location.
9. Note 16. If wells or septic are present, identify.
10. Add note regarding easements. Show existing easements. Review attached Schedule B excerpt and identify easement areas on the plat.
11. Show mail box/USPS location.
12. Develop sidewalks each side of Horsetail.
13. Add typical street section.
14. Confirm in writing with Idaho Transportation Department access for the commercial lot.
15. Provide access to commercial area from the north.



14. Provisions, reservations and restrictions as shown by the several contracts between the United States of America and Black Canyon Irrigation District, and the amendments thereto, or between the present owner or past owners of the real property herein described and the Black Canyon Irrigation District or the United States of America, whether said contracts be of record in the office of the Recorder of Canyon County, Idaho, or on file with the Secretary of Black Canyon Irrigation District.
15. Ditch, road and public utility easements as the same may exist over said premises.
16. Rights of the public in and to that portion of the premises lying within West Main Street, also known as Highway 44.
17. Right-of-way for John B. Smith Lateral and the rights of access thereto for maintenance of said lateral.
18. An easement for the purpose shown below and rights incidental thereto as set forth in document:  
Granted To: Idaho Power Company  
Purpose: Public Utilities  
Recorded: January 21, 1992  
Instrument No.: [9201219](#) 
19. Terms, provisions, covenants, conditions, definitions, options, obligations and restrictions, contained in a document  
Purpose: Agreement for Sanitary Sewer Easement  
Recorded: April 22, 2005  
Instrument No.: [200521623](#) 
20. Easements reservations and dedications, as shown on record of survey.  
Recorded: December 20, 2007  
Instrument No.: [2007081965](#)
21. An easement for the purpose shown below and rights incidental thereto as set forth in a document:  
Granted To: City of Middleton, a municipal corporation  
Purpose: for installation of sidewalks and related improvements, including but not limited to the relocation of utilities, irrigation, drainage, fences and vegetation as needed.  
Recorded: September 9, 2013  
Instrument No.: [2013-041556](#)
22. Easements reservations and dedications, as shown on record of survey.  
Recorded: March 5, 2014  
Instrument No.: [2014-007955](#)
23. Terms, provisions, covenants, conditions, definitions, options, obligations and restrictions, contained in a document  
Purpose: Consent  
Recorded: July 26, 2017  
Instrument No.: [2017-031144](#) 
24. Rights, interests or claims which may exist or arise by reason of the following matters disclosed by an inspection or survey:
  - a. Any rights and/or interest of adjacent property owners, any easement and/or agreement for the maintenance thereof for a shared driveway.
25. An easement for the purpose shown below and rights incidental thereto as set forth in a document:  
Granted To: Gordon Reed and Penny Read, husband and wife, their heirs, successors, assigns, purchasers, or transferees of any kind  
Purpose: A Non-Exclusive perpetual access easement for utilities, ingress and egress, for pedestrian travel and vehicle travel  
Recorded: July 9, 2019  
Instrument No.: 2019-030440 



April 20, 2022

TO: Roberta Stewart, Planner

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

**RE: REEDS LANDING SUBDIVISION**

---

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

MCC 5-4-4.2. a. Please add bearing and distance to section corner, quarter corner or monument of record. What is basis of bearing - where to where?

MCC 5-4-4.2. i. Label owners adjacent to boundary.

MCC 5-4-4.2 a and i. The boundary is required to be surveyed and stamped by PLS including ties to corners. Label boundary.

MCC 5-4-4.2. n

1. Hydrant spacing per MRFPD.
2. Add note regarding fiber Installation.

MCC 5-4-4.3. a

1. Extend an 8" sewer main in 20 ft easement south to the commercial lot or sewer commercial lot to SH44. The commercial lot is required to have sewer. It may take both.

MCC 5-4-4.3. b

1. How does the commercial area receive water service? Need to extend an 8" main from Horsetail
2. What is the line west of the parcel? No water in that area.

MCC 5-4-4.3.c

1. Need stormwater management plan per code. Contributing areas, volume calculations.
2. Is the stormwater inlet to L11B1 at the project high point?
3. Locate O/S boxes adjacent to the rights of way. For proximity to clean and inspect.
1. Dimension and clearly identify every lot. Number lots consistently clockwise. No Block 4 or Block 5. All lots are consecutive in that area.
2. Why is the fence offset from north boundary? Irrigation ditch not identified. What is 12" irrigation north of boundary if there is a ditch in 15 ft area?
3. Minimum centerline radii is 90ft.
4. Provide pedestrian access to SH44 through commercial lot.





5. Note 6 and Note 26. Combine. Expand to address Idaho Code 31-3805b. Identify the irrigation district and whether lots are subject to assessment. Irrigation cannot locate in the rights of way.
6. **Note 16. If wells or septic are present, identify.** How does Reed parcel water and sewer now if not septic?
7. Confirm in writing with Idaho Transportation Department access for the commercial lot. This a condition of preliminary plat. Phase 2 will not go through hearing so the access needs to be established at this time.
8. Provide access to commercial area from the north. This is required. How do L1 and L2 B5 access?
9. Note 24: delete. Show easements on the actual plat and label instrument #. I don't need easement location on adjacent parcels.
10. Water and sewer should be roadway, not under curb/gutter section. Revisit linework where needed.
11. Revisit dimensioning Block 4.
12. Coordinate with Planners (Roberta) regarding base flood elevations and whether needed for preliminary plat.
13. Before resubmitting a 3<sup>rd</sup> time, print the plat and review the notes above against the printed version.



May 4, 2022

TO: Roberta Stewart, Planner

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

RE: REEDS LANDING SUBDIVISION – 3<sup>rd</sup> Review

---

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

MCC 5-4-4.2. a. Please add bearing and distance to section corner, quarter corner or monument of record. What is basis of bearing - where to where?

MCC 5-4-4.2 a and l. The boundary is required to be surveyed and stamped by PLS including ties to corners. Label boundary.

MCC 5-4-4.3. a

1. Extend an 8" sewer main in 20 ft easement south to the commercial lot or sewer commercial lot to SH44. The commercial lot is required to have sewer. You will need to show the sewer - presumed to be in the 18ft sewer easement if it is in place. Add invert elevations.
2. Why is the water in Lionheart shown as existing?

MCC 5-4-4.3.c

1. The stormwater management will need to be calculated and developed per code. No revision needed but the submittal doesn't match the city's requirement.
3. Is the stormwater inlet to L11B1 at the project high point?
4. Add 20ft easement to west side L1B1 and L1B4 for the stormwater pipe and box
1. Dimension and clearly identify every lot. Number lots consistently clockwise. There is no Block 4 or Block 5. All lots are consecutive and will be Block 3.
2. Why is the fence offset from north boundary? Why are two fences shown in 15ft easement area? Irrigation ditch not identified. What is 12" irrigation north of boundary if there is a ditch in 15 ft area?
3. Minimum centerline radii is 90ft. LABEL CENTERLINE. Revise radii if not 90ft.
4. Note 6 and Note 26. Combine. Expand to address Idaho Code 31-3805b. Identify the irrigation district and whether lots are subject to assessment. Irrigation cannot locate in the rights of way.
5. **Note 13. If wells or septic are present, identify.** How does Reed parcel water and sewer now if not septic?
6. Confirm in writing with Idaho Transportation Department access for the commercial lot. This a condition of preliminary plat. Phase 2 will not go through hearing so the access needs to be established at this time.

7. How do L1 and L2 B5 access?
8. Water and sewer should be roadway, not under curb/gutter section. Revisit linework where needed. The configuration shown near L9B3 is not approvable.
9. Revisit dimensioning Block 4. The dimensioning is not approvable as submitted.

**New comments:**

Dimension culdesac. Geometry not approvable as shown.

Note 3. All lots are not residential. The table in lower right needs moved up and larger so it is legible. Identify by L/B the common lots to be used for stormwater management and common lots – other.

Add a typical section for Horsetail south of intersection.

What is Joan Reed callout in the SH44 right of way?

The 12ft easement on west boundary of L1B1 isn't large enough.

The street names are so small they are not legible.



# CITY OF MIDDLETON

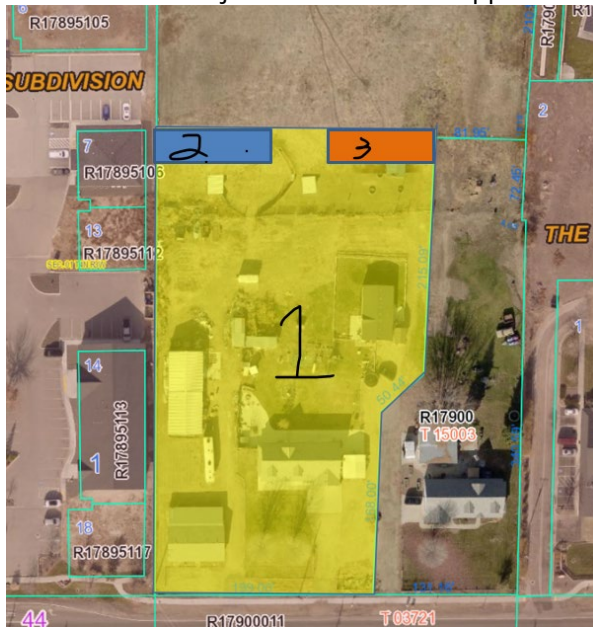
P.O. Box 487 | 1103 W Main Street, Middleton, ID 83644  
Tele (208) 585-3133 | Fax (208) 585-9601  
citmid@middletonidaho.us | www.middleton.id.gov

## **Reed's Landing Subdivision – Planner Comments (Review of Preliminary Plat received November 18, 2021)**

March 23, 2022

1. Townhomes are not an “allowed” use in the M-F zone. (See MCC 5-4-1, Table 1 “single family-attached”). Instead, they require a special use permit. Therefore, we need to add a special use permit application to your application packet. It has a \$550 application fee. Please remit that payment to the City at your very earliest convenience.
2. I will begin the draft of your Development Agreement. It will be pretty simple and streamlined. Basically it will set forth the zoning and a concept plan that you will have to build to. The concept plan will be your pre-plat. However, I want to add a provision regarding the non-conforming use created by Mr. Reed's home in the C-3 lot. The DA will provide that the home and outbuildings can remain in the commercial zone, but the City will not allow any intensity or other residential permits on that lot. In other words, the non-conforming use can remain on the lot so long as absolutely nothing changes. For instance, the owner cannot apply for a permit to build an accessory building because that will intensify the non-conforming residential use. Also, we are consulting with our attorney to determine if we can restrict the sale of the non-conforming residential lot to another residential user. If so, this would mean that once Mr. Reed vacates his home, the lot can only be sold and used for a commercial purpose. I'll send that DA to you soon.
3. Looks like you already reserved Papyrus Street with the County. Please get the name changed to Papyrus “Avenue” since it runs north to south. Also, revise the pre-plat to show the correct spelling of the Avenue. It is “Papyrus” not “Papyrous”.
4. Change Horsetail Street to Horsetail “Court” since it is a cul-de-sac.
5. Change “3<sup>rd</sup> Street” to match the existing street name of Lionheart Street to the west. We have an awkward transition to Huckleberry Street at that same location. The City will change Huckleberry street to Lionheart Street so there will be only one street name in that area. That won't be your problem. Just our problem.
6. Please contact ITD and request information on what type of frontage improvements they require for Hwy 44, then have them pass that information on to us.
7. Provide evidence that you have a proper approach permit from ITD for the commercial lot.
8. You may want to consider creating at least two or maybe three lots out of the single commercial lot in the C-3 zone. Just create three parcels in any fashion and then plan on moving the parcel boundaries around via a lot line adjustment when you figure out what the commercial users will be. You have to stub sewer and water to each lot, so create the lots toward the northern or southern border depending on whatever is the easiest. This just gives you flexibility in the future without having to do a resubdivision of the commercial lot. There

is no minimum lot size in the C-3 zone so it is easy to create dummy lots that will be useful for future lot line adjustments. See snippet.



9. Show street section on the pre-plot. All your streets are the 50' local roadway section found in the appendix to the Supplement to ISPMC. You can find the ISPMC Supplement on our website under the "Government" tab.
10. Add lot width dimensions to all lots. We need to ensure that all frontage widths match the dimensions found in MCC 5-4-1, Table 2. R-3 lots must be 75' at the front set back line. Townhome lots must be a minimum of 20' wide.
11. Add lot square footage to each lot. Do not put the information in a table. Add it to every single lot. R-3 lots must be a minimum of 8000 s.f. Townhome lots must be a minimum of 1600 sf.
12. You will need to have a lot and block for each parcel. Currently you have the lots, but I cannot find any "block" designations.
13. The commercial lot needs both a lot number and a block number.
14. We'll need to ask for a waiver to the code standards to put the perimeter fence on the rear boundary of lots flanking the ditch easement. Add a note as follows: *"Waiver requested for requirement that fencing be located on subdivision perimeter boundary (MCC 5-4-11-2) in order to accommodate ditch easement."*
15. You are required to call out all common lots and clarify their purpose if they involve utilities or drainage. Your Note 3 is not calling these out very well. Re-Do. We can't check the accuracy because the block designations are not clear.
16. And to note 3 language that states who owns the common lots. Usually the HOA owns all common lots.
17. Show location of proposed mailbox.
18. Delete note 7 regarding right to farm.
19. Change note 7 to state *"Building setbacks and dimensional standards shall be in accordance with the City of Middleton's zoning code that is in effect at the time of building permit issuance."*
20. I think note 14 regarding floodplain zone may be inaccurate. You're in zone AE – 100 year floodplain. Please double-check.
21. Remove Note 15. There is a waiver regarding fencing.
22. Add note that sanitary sewer service will be provided by City of Middleton.

23. Work with Amy on a note regarding stormwater management and the new responsibilities of the HOA under the City's MS4 permit.
24. Add a note: *"Sewer and water capacity will be reserved at the time City approves the construction drawings."*
25. Add note: *"All lots have a permanent easement for public utilities and pedestrian walkways over the 10' adjacent to any public right of way. This easement shall not preclude the construction of hard-surfaced driveways and walkways to each lot."*
26. Add note: *"Unless otherwise shown and dimensioned, all lots are hereby designated as having a permanent easement for public utilities, drainage, and irrigation over the 5-feet adjacent to any interior side lot line and over 10-feet adjacent to any rear lot line or subdivision boundary."*
27. Add note: *"Mailbox cluster to be installed by owner as shown on preliminary plat."*
28. Put the revision date on the revised preliminary plat you will be submitting.

*Roberta L. Stewart*

Middleton Planning & Zoning Director



# CITY OF MIDDLETON

P.O. Box 487 | 1103 W Main Street, Middleton, ID 83644

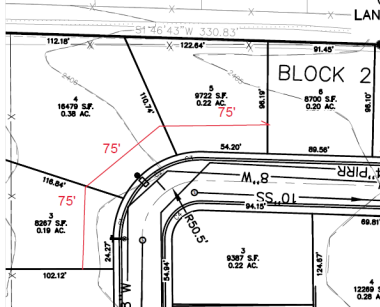
Tele (208) 585-3133 | Fax (208) 585-9601

citmid@middletonidaho.us | www.middleton.id.gov

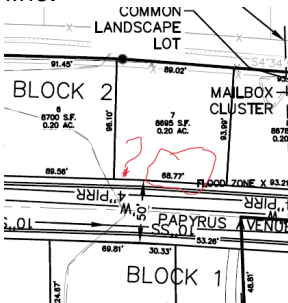
## Reed's Landing Subdivision – Planner Comments (Review of revised Preliminary Plat received on 4/12/2022)

April 19, 2022

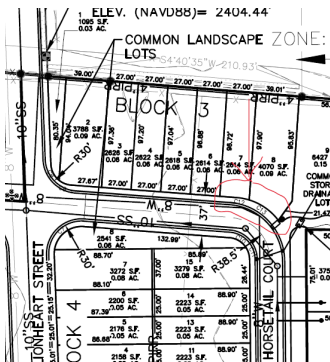
1. Show the 75' wide frontage at the 25' setback line for Lots 3, 4, and 5 Block 2. It should look like this below. Not sure what widths really are, but they need to be a minimum of 75'.



2. Please fix erroneous frontage number on Lot 7, Block 2. It's probably not 68.77'. Looks like it's 89.2'. You can get to the 75' frontage minimum by measuring at the 25' front setback line.

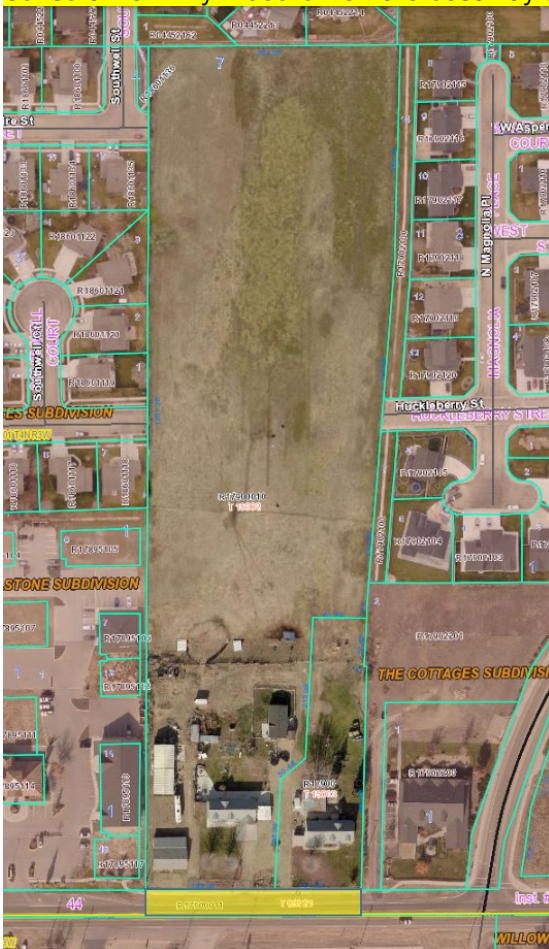


3. Add the frontage widths on lots 7 and 8, Block 3. If you can't get to at least 20', you can measure from 20' front setback line to get a wider measurement.





4. Delete Footnote 11. It is duplicative of note 8.
5. Delete either note 7 or 13 on irrigation facility ownership. They are duplicative. Ask Amy which one she prefers. My guess in #13 is the best version.
6. Add note: *"CC&Rs to contain provision requiring HOA to maintain 15' wide irrigation easement area between rear fences on lots 1 – 4, Block 2 and the canal/ditch."*
7. Please continue to work with ITD to determine what frontage improvements and possible right of way they want on the frontage of Hwy 44.
8. Also, continue to keep City Planner and City Engineer apprised of your efforts to get a proper approach permit from ITD for commercial lots.
9. Put the revision date on the revised preliminary plat you will be submitting.
10. I'm assuming there is only 1 phase. I can't see phasing lines, but I may not be looking correctly at the pre-plat.
11. Transfer the entirety of Lot R177900011 for HWY 44 Right of Way. Currently Joan Reed is the owner of that .24 acre lot. Just deeding the portion in front of the subdivision will not be enough, and it will make a non-conforming lot of the portion in front of the lot to the east. Consult with Amy Woodruff on the best way to get that done.



*Roberta L. Stewart*

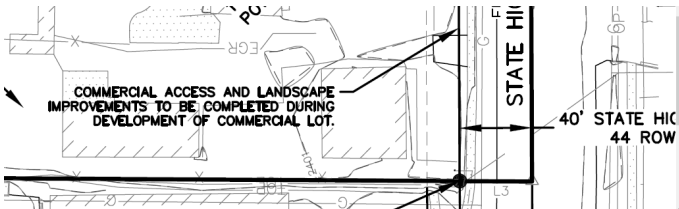
Middleton Planning & Zoning Director



**From:** [Roberta Stewart](#)  
**To:** [Taylor Schmidt](#); [jessec@hecoengineers.com](mailto:jessec@hecoengineers.com)  
**Cc:** [Amy Woodruff](#)  
**Subject:** Another little clean-up for Reed's Landing  
**Date:** Monday, April 25, 2022 2:43:00 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)

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Hey Taylor and Jesse: I need you to remove the note on the Reed's Landing preliminary plat that states "commercial access and landscape improvements to be completed during development of commercial lots."



It does not look like you have a phasing plan, so that means all frontage improvements, infrastructure, and landscaping have to be done prior to getting final plat approval for the entire project. You can't cherry pick portions of the plat and indicate that infrastructure will be installed at a later date. It needs to be tied to a final plat.

Even if you change the commercial plat into Phase 2, you will only have 2 years from final plat for phase 1 to bring phase 2 to final plat. This will be a little troublesome if the Reed family stays on site. If they intend to stay on site more than 4 years, then the infrastructure improvements on the commercial parcels will have to be completed around them. I'm not sure how that would work? They will have to allow the asphalt pathway connecting to Hwy 44 cross their non-conforming residential lot. Additionally, they will have to allow Hwy 44 improvements to occur in front of their home.

Right now the pre-plat before the City looks like you have only 1 phase, so all the Hwy 44 frontage work and pathways will have to be completed before final plat. Even if you break down the plat into two phases, the note about completing landscaping and access at a later date does not fit in with the procedures set forth in the code and needs to be removed. That infrastructure work will be tied to phase 2 final plat under those circumstances.

Thanks,

*Roberta L. Stewart*

PLANNING & ZONING OFFICIAL  
City of Middleton, Planning & Zoning  
1103 W. Main St.  
P.O. Box 487  
Middleton, ID 83644



# CITY OF MIDDLETON

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## **Reed's Landing Subdivision – Planner Comments (Review of revised Preliminary Plat dated 4/27/2022)**

May 2, 2022

1. I think you're going to need to get the entire plat on at least one page. I'll wait to see what Amy says about this, and I'll defer to her opinion.
2. Update the Land Use Summary on the pre-plat to reflect exactly what square footage is dedicated to each zone.
3. Update the Land Use Summary to break down individually the number of townhome lots, common lots, commercial lots, and single family lots.
4. You will need to change the annexation/rezone survey data and exhibits to reflect the revised boundaries of the M-F zone and C-3 zone now that the cul de sac has been enlarged.
5. Still need traffic study update.

*Roberta L. Stewart*

Middleton Planning & Zoning Director

## EXHIBIT "F"

P&Z Commission's FCO/FCR



## **Middleton Planning & Zoning Commission**

### **Findings of Facts, Conclusions of Law, Recommendation & Order**

**In the Matter of the applications of Taylor Schmidt/BST DEV LLC for annexation/rezone, preliminary plat, development agreement and special use permit with respect to the Reed's Landing Subdivision located at 880 W. Main Street and 0 Hwy 44 (Tax Parcel Nos. R17900010 and R17900011):**

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

1. Hearing Facts: See Staff Report for the hearing date of May 9, 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 May 9, 2022, Exhibit "A".
3. Application and Property Facts: See Staff Report for the hearing date of May 9, 2022, 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, 5-2, 5-3 & 5-4 and Idaho Code Title 67, Chapter 65 & Title 50, Chapters 2 and 13: See Staff Report for the hearing date of May 9, 2022, Exhibit "A".

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

1. 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).
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 pertinent 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 Title 67, Chapter 65 and Idaho Code Title 50, chapters 2 and 13.
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.

**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 approve the application of Taylor Schmit/BST DEV LLC for Annexation/Rezone to C-3, M-F and R-3 subject to the conditions of approval set forth in the Staff Report for the May 9, 2022, public hearing.
2. City Council approve the application of Taylor Schmidt/BST DEV LLC for Development Agreement subject to the conditions of approval set forth in the Staff Report for the May 9, 2022, public hearing.
3. City Council approve the application of Taylor Schmidt/BST DEV LLC for preliminary plat subject to the conditions of approval set forth in the Staff Report for the May 9, 2022, public hearing.

**D. Decision & 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 Ordered that:

1. The application of Taylor Schmidt/BST DEV LLC for Special Use Permit to construct townhomes be approved subject to the following conditions:
  - a. Developer/Owner meet with the staff of Middleton School District 134 to determine if there are any measures or actions Developer/Owner can take to mitigate any impacts on the school district.
  - b. No windows shall be located on the 2<sup>nd</sup> floor rear of the townhomes located in Block three on the east boundary of the project.
  - c. Approval is subject to the conditions of approval set forth in the Staff Report for the May 9, 2022, public hearing.
2. The application of Taylor Schmidt/BST DEV LLC for waiver of perimeter fencing requirement (MCC 5-4-11-2) is approved subject to the condition that the HOA maintain the swath of land between the rear fences and the canal/ditch as set forth in the conditions of approval of the Staff Report for May 9, 2022.

WRITTEN RECOMMENDATION AND ORDER APPROVED ON: June 13, 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](#).***