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**MIDDLETON CITY SPECIAL JOINT MEETING WITH CITY COUNCIL  
SPECIAL CITY COUNCIL MEETING  
PLANNING AND ZONING REGULAR MEETING  
COMMISSION MINUTES  
JUNE 10, 2024**

**Pledge of Allegiance, Roll Call & Call to Order:** The June 10, 2024, Special Joint Meeting with City Council, City Council Meeting and Planning and Zoning Commission Regular Meeting was called to order by Chairmen Summers at 5:31 p.m. Commissioners Summers, Tremble, Watkins, Sparrow, Waltemate, Gregory and Gibson were present for Planning and Zoning. Council Members Kiser, O'Meara, Christiansen (by phone), and Murray were present. Planning & Zoning Official Ms. Stewart, City Attorney Mr. Waterman, City Administrator Ms. Hobbs, and Planning Deputy Clerk Ms. Day were also present.

**Workshop Item (Joint Meeting):**

Chairmen called workshop item to order at 5:35 p.m.

City Attorney presented PowerPoint regarding Protocol, procedures and standards for the governing boards. (Exhibit F)

Discussion between Commissioners, City Council, Mr. Waterman, Mayor Hutchison, and Ms. Stewart.

Council Member Christiansen left the meeting (by phone) at 6:35 p.m.

Chairmen Summers closed workshop at 6:46 p.m.

**City Council**

President Kiser called City Council to Order at 6:46 p.m.

**Action Item: Consider approving application for fireworks stand Phantom Fireworks beginning June 24, 2024, through July 5, 2024.**

Ms. Hobbs presented the application.

**Motion:** Motion by President Kiser to approve application for fireworks stand for Phantom Fireworks to begin June 24, 2024, through July 5, 2024. Motioned seconded by Council Member O'Meara and approved unanimously.

**Motion:** Motion by Mayor Hutchison to adjourn meeting at 6:48 and seconded by Council Member O'Meara.

Chairmen Summers called for a break at 6:48 p.m.

**Planning and Zoning Regularly Scheduled Meeting:**

Chairmen Summers called meeting at 6:55 p.m.

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### Information Item:

Ms. Stewart presented information for the City Booth for the 4<sup>th</sup> of July event (Middleton Place Park) to gather public opinion and survey data for the Comprehensive Plan Update. Also encouraging the public to visit the Comprehensive Plan for updates at Website: <https://m Middletoncompplan.com/>

### Action Items:

1. **Consent Agenda (items of routine administrative business)**
  - a. **Consider approving minutes for May 13, 2024, regular meeting.**
  - b. **Consider approving the FCR for Creekside Terrace Preliminary Plat Application.**

**Motion:** Motion by Commissioner Watkins to approve the consent agenda item 1a and 1b. Motion seconded by Commissioner Gregory and approved unanimously.

2. **Public Hearing:** Consider approving the applications of Briggs Miller and Kyle Miller for preliminary plat and waiver with respect to the Heights Landing Subdivision located at 23443 Cemetery Road.

Chairmen Summers opened the public hearing at 7:00 p.m.

Ms. Stewart presented a PowerPoint presentation of the Staff Report.

Ms. Stewart presented a late comment. (Exhibit E)

Discussion among Commissioners and Ms. Stewart.

Applicant Kyle Miller and Civil Engineer Caleb Kenyon presented.

Brief discussion between applicant, Civil Engineer, Commissioners and Ms. Stewart

Chairmen Summers opened public testimony at 7:28 p.m.

*M. Graefe: Testified - Opposed*

Brief discussion between Applicant, Commissioners, and Ms. Stewart.

Chairmen Summers closed public testimony at 7:31 p.m.

Brief Discussion between Commissioners.

Chairmen Summers closed public hearing at 7:41 p.m.

**Motion:** Motion by Commissioner Gibson to recommend denial of the application by Briggs Miller and Kyle Miller for preliminary plat and waiver with respect to the Heights Landing Subdivision located at 23443 Cemetery Rd. Applicant can gain approval by complying with City Engineer and City Planner Comments. Motion seconded by Commissioner Gregory. Chairmen Summers called for a vote: Chairmen Summers – Yes, Commissioner Tremble –



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Yes, Commissioner Watkins – Yes, Commissioner Sparrow – Abstained, Commissioner Waltemate – Yes, Commissioner Gregory – Yes, Commissioner Gibson - Yes and approved by six to one vote.

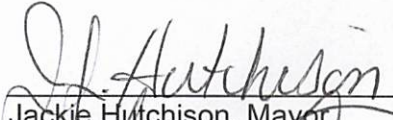
**Public Comments**

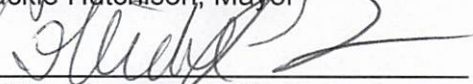
*Mike Graefe – Declined when called*

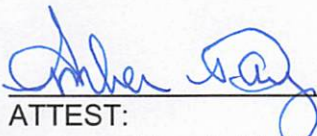
**Commission and Staff Comments**

None

**Adjourn:** Chairman Summers adjourned meeting at 7:44 p.m.

  
\_\_\_\_\_  
Jackie Hutchison, Mayor

  
\_\_\_\_\_  
Heidal Summers, Chairwomen

  
\_\_\_\_\_  
ATTEST:

Deputy Clerk, Planning

Approved: June 26, 2024, C.C and August 12, 2024, P&Z

# Exhibit “F”



Douglas L. Waterman - Partner

# Scope of Training

1. Quasi-Judicial Rules and Due Process
2. Respective Roles of Council and P&Z
3. Decision Making
4. Idaho Open Meeting Law
5. Idaho Public Records Law
6. Ethics in Government

# Quasi-Judicial Rules and Due Process

What is a “quasi-judicial” matter?

An action is quasi-judicial in nature when the local government body is “applying general rules or policies to specific individuals, interests or situations.” *Cooper v. Board of County Comm'rs of Ada County*, 101 Idaho 407, 410, 614 P.2d 947, 950 (1980).

# Quasi-Judicial Rules and Due Process

- “When acting upon a quasi-judicial zoning matter the governing board is neither a proponent nor an opponent of the proposal at issue, but sits instead in the seat of a judge.” *Lowery v. Bd. of County Comm'rs for Ada County*, 115 Idaho 64, 71, 764 P.2d 431, 438 (1988).



# Quasi-Judicial Rules and Due Process

- In the case of *Chambers v. Kootenai County Bd. Of Com'rs*, the court held that county commissioners must reach their decision on a conditional use permit based solely upon “the record as established at the public hearing.” *Id.* 125 Idaho 115, 118 (1994).

# Quasi-Judicial Rules and Due Process

- Any *ex parte* communication must be disclosed at the public hearing, including the identity of those involved and a general description of the communication. The purpose of the disclosure requirement is to afford opposing parties with an opportunity to rebut the substance of any *ex parte* communications.

# Quasi-Judicial Rules and Due Process

- “The Due Process Clause entitles a person to an impartial and disinterested tribunal.... [Quasi-judicial decisions are] subject to due process constraints.” *Eacret v. Bonner County*, 139 Idaho 780, 784, 86 P.3d 494, 498 (2004).

# Quasi-Judicial Rules and Due Process

- A decision maker is not disqualified simply because he has taken a position, even in public, on a policy issue related to the dispute, in the absence of a showing that the decision maker is “not capable of judging a particular controversy fairly on the basis of its own circumstances.” *Hortonville Joint School Distr. No. 1 v. Hortonville Education Ass'n*, 426 U.S. 482, 493, 96 S.Ct. 2308, 2314, 49 L.Ed.2d 1, 9 (1941).

# Quasi-Judicial Rules and Due Process

- Best Practice for Hearing Format (Due Process & IC)
  - Staff Report
  - Applicant
  - Public Testimony
    - In Favor
    - Neutral
    - Opposed
  - Rebuttal
  - Discussion (No Additional Public Testimony)



# Quasi-Judicial Rules and Due Process

- **Maintaining Order**
  - Can be a difficult task
  - Chair has been given the authority to conduct the meeting and has the authority to demand attendees behave appropriately
  - Staff can help answer questions about appropriate attendee behavior and the commission's authority

# Respective Roles: Council and P&Z

- Under the Local Land Use Planning Act, city councils have the authority to delegate certain tasks to a planning and zoning commission or hearing examiner.
- In Middleton, the City Council has designated certain authority to the planning and zoning commission.
- **Terms of Office**

# Respective Roles: Council and P&Z

## Examples of Recommendations:

- Preliminary Plats
- Variances
- Zoning Ordinance
- Annexations

## Examples of Final\* Decisions:

Special Use Permits  
Variance  
Design Review

# Respective Roles: Council and P&Z

For items of recommendation, the Planning and Zoning commission provides vital support to the City Council by:

- Providing additional analysis of the facts and law
- Providing additional opportunity for public input
- Providing recommendations to the Council to make Council decisions better

# Respective Roles: Council and P&Z

## The Purpose of Continuances:

Applicants have a burden of convincing the hearing body that their applications ought to be approved.

A failure by an applicant to provide sufficient information should result in a recommendation of disapproval, not a continuance so they can provide more information.



# Respective Roles: Council and P&Z

## The Purpose of Continuances:

Continuing a hearing to a subsequent date to gain additional information creates a log-jam for planning staff and the city council.

If the applicant has failed to carry his or her burden, the appropriate action is to recommend denial of the application.

# Decision Making

- Idaho Code § 67-6535: It is the intent of the legislature that decisions made pursuant to this chapter should be founded upon sound reason and practical application of recognized principles of law.
- Decision must be based on state and city code criteria.

# Decision Making

- Idaho Code § 67-6535: Such approval standards and criteria shall be set forth in express terms in land use ordinances in order that permit applicants, interested residents and decision makers alike may know the express standards that must be met in order to obtain a requested permit or approval.

# Decision Making

- Idaho Code § 67-6535: The decision shall identify aspects of compliance or noncompliance with relevant approval standards and criteria in the written decision.

# Decision Making

- Idaho Code § 67-6535: A reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record.



# Decision Making

- Failure to identify the nature of compliance or noncompliance with express approval standards or failure to explain compliance or noncompliance with relevant decision criteria shall be grounds for invalidation of an approved permit or site-specific authorization, or denial of same, on appeal.

# Idaho Open Meeting Law

- “The people of the state of Idaho in creating the instruments of government that serve them, do not yield their sovereignty to the agencies so created. Therefore, the legislature finds and declares that it is the policy of this state that the formation of public policy is public business and shall not be conducted in secret.” Idaho Code § 74-201.

# Idaho Open Meeting Law

“Meeting” means the convening of a governing body of a public agency to make a decision or to deliberate toward a decision on any matter. Idaho Code § 74-202(6)

# Idaho Open Meeting Law

- “Deliberation” means the receipt or exchange of information or opinion relating to a decision, but shall not include informal or impromptu discussions of a general nature which do not specifically relate to a matter then pending before the public agency for decision. Idaho Code 74-202(2)

# Idaho Open Meeting Law

## Open Meeting Law Requirements:

- i. Notice

- i. Agenda and Changes Under the Law

- ii. Materials and Due Process

- ii. Minutes



# Idaho Open Meeting Law

- Open Meeting Law Requirements:
  - i. Open
    - i. Serial Meetings and Group Emails
    - ii. Executive sessions

# Idaho Public Records Law

## KEY PURPOSE: Transparency.

Public records can be inadvertently created: emails from personal accounts regarding Commission business; text messages on personal phones involving Commission business; voicemails on personal phones relating to Commission business; emails, texts, or instant messages sent during a meeting or hearing, *regardless* of their content; personal notes taken during a Commission hearing; etc.

# Idaho Public Records Law

Attorney General Manual  
Question 6, Page 5

Attorney General Manual  
Question 18, Page 10

*“What are Public Records?”*

*“What Information is Exempt  
from Disclosure Under the Law?”*

# Idaho Public Records Law

*recent cases*

IDAHO PRESS CLUB,  
INC.,

v.

JANICE MCGEACHIN

CV01-21-11095

IDAHO PRESS CLUB,  
INC.,

v.

ADA COUNTY

CV01-19-16277

# Idaho Public Records Law

Texts show lawmakers' surprise at last-minute committee  
meeting

*Idaho Press Tribune Article – April 6, 2019*





15

THAYN 8

JOHNSON 6

GUTHRIE 28

DEN HARTOG 22

BURTENSHAW 35

AGENBROAD 13

CRABTREE

# Idaho Public Records Law

“To get a better idea of lawmakers’ conversations surrounding that meeting and the bills, the Idaho Press filed a public records request for the text messages of 40 Treasure Valley legislators, sent or received from 6 a.m. to 10 p.m. on Thursday, March 28.

The text messages the Idaho Press received in response show a behind-the-scenes look at the committee meeting and discussions that caught many legislators off guard, as well as raised questions of government transparency.”



I've heard the new bill will appease your lawyers

It wont.

They simply dont understand the argument

Delivered



MARCH 28 TEXT TO REP. JOE PALMER (R-MERIDIAN) FROM AN UNKNOWN PERSON.

MARCH 28 CONVERSATION BETWEEN REP. PRISCILLA GIDDINGS (R-WHITE BIRD, IN GRAY) AND REP. MAT ERPELDING (D-BOISE, IN BLUE).

Since when did we begin negotiating with terrorists? We are setting ourselves up for more intimidation tactics into the future if we capitulate. We have to vote on S1159 today before they smell blood in the water. If they decide a trailer is necessary, that can come directly after S1159 is safely passed.

Either of you know if Raybould went from Leaning yes to YES after last night's dinner?

MARCH 28 TEXT FROM REP. GAYANN DEMORDAUNT (R- EAGLE) TO REP. STEVEN HARRIS (R- MERIDIAN) AND REP. JASON MONKS (R-NAMPA).

More drama...when the majority holds a caucus and votes or makes decisions they have a quorum. They violated the State's opening meeting laws.

Don't they do that all the time??? Thanks, Jake. It's getting more interesting all the time. And now sine die is April 9?!?!?

I think they decided on the strategy including the new trailer bill. They caucus all the time but they don't come out with a new bill

Delivered

MARCH 28 CONVERSATION BETWEEN REP. JAKE ELLIS (D-BOISE, IN BLUE) AND AN UNKNOWN PERSON (IN GRAY)

We might not be hearing either now...just a rumor.

Is that a good or bad sign.

I'm not sure



Not sure what we're doing here.

Delivered

Now that the boys (and The Schoolgirl) are back we'll see.

THESE ARE RECREATED TEXT CONVERSATIONS BASED ON THE TEXTS THE IDAHO PRESS RECEIVED VIA PUBLIC RECORDS REQUEST.

MARCH 28 CONVERSATION BETWEEN REP. JAKE ELLIS (D-BOISE, IN BLUE) AND AN UNKNOWN PERSON (IN GRAY).



# Ethics In Government

## Attorney General Manual Question 3, Page 2

**Question No. 3:** Who is subject to Idaho Code §§ 18-1351 et seq., the Bribery and Corrupt Influence statutes?

**Answer:** Idaho Code §§ 18-1351, et seq., regulate the conduct of public servants in the areas of bribery and corrupt practices, including conflicts of interest and nepotism. Unless otherwise stated, these statutes apply to all “public servants,” which is defined to mean: “any officer or employee of government, etc...”

# Ethics In Government

## Conflicts of Interest

When a conflict of interest exists, the public official must disclose the conflict. Disclosure does not affect an elected public official's authority to vote on the matter. The public official should seek legal advice on any potential conflict of interest. Disclosure of the conflict or consultation with counsel satisfies the requirements of the Ethics in Government Act.

# Ethics In Government

## Bribery and Self-Interested Contracts

Public Officials cannot accept any compensation or benefit for any decision made in their capacity as a public official, nor can they use their office to benefit themselves in a personal, financial manner. Additionally, with a few, very specific exceptions, no public official may be “interested,” i.e. may have a personal financial stake, in any contract entered into by the entity they help govern.

# QUESTIONS

1. Do we follow any written protocol like Robert's Rules of Order?
2. Who runs the City Council Meeting and who runs the P&Z Meeting
3. How should governing board members address each other and address the Mayor, Clerk, Planner and Public?
4. What subjects can the public comment on during the “general” public comment period?
5. How does a Public Hearing item differ from a Public Meeting item?

# QUESTIONS

1. When a member of the public makes a comment during the general “public comment period”, how should the governing board members respond? Can they argue or correct the public?
2. Should Council Members attend P&Z Hearings and vice versa?
3. What are some “quorum issues” the board members should avoid?
4. Should P&Z members make public comments at a public hearing before City Council and vice versa?
5. What is the difference between an “Information Item” and an “Action Item?”

# QUESTIONS

1. How does one make a proper and clear motion.
2. Does the planner have an obligation to ensure the Applicants presents a land use application that is fully complete and compliant with law? Is the Planner a defacto “project manager” or are there times when the Planner has an obligation to take an “incomplete” or “inadequate” application to the governing boards for final disposition?

# THANK YOU

- THANK YOU FOR YOUR SERVICE TO THE CITY OF MIDDLETON
- PLEASE REACH OUT TO OUR OFFICE WITH ANY QUESTIONS OR CONCERNS

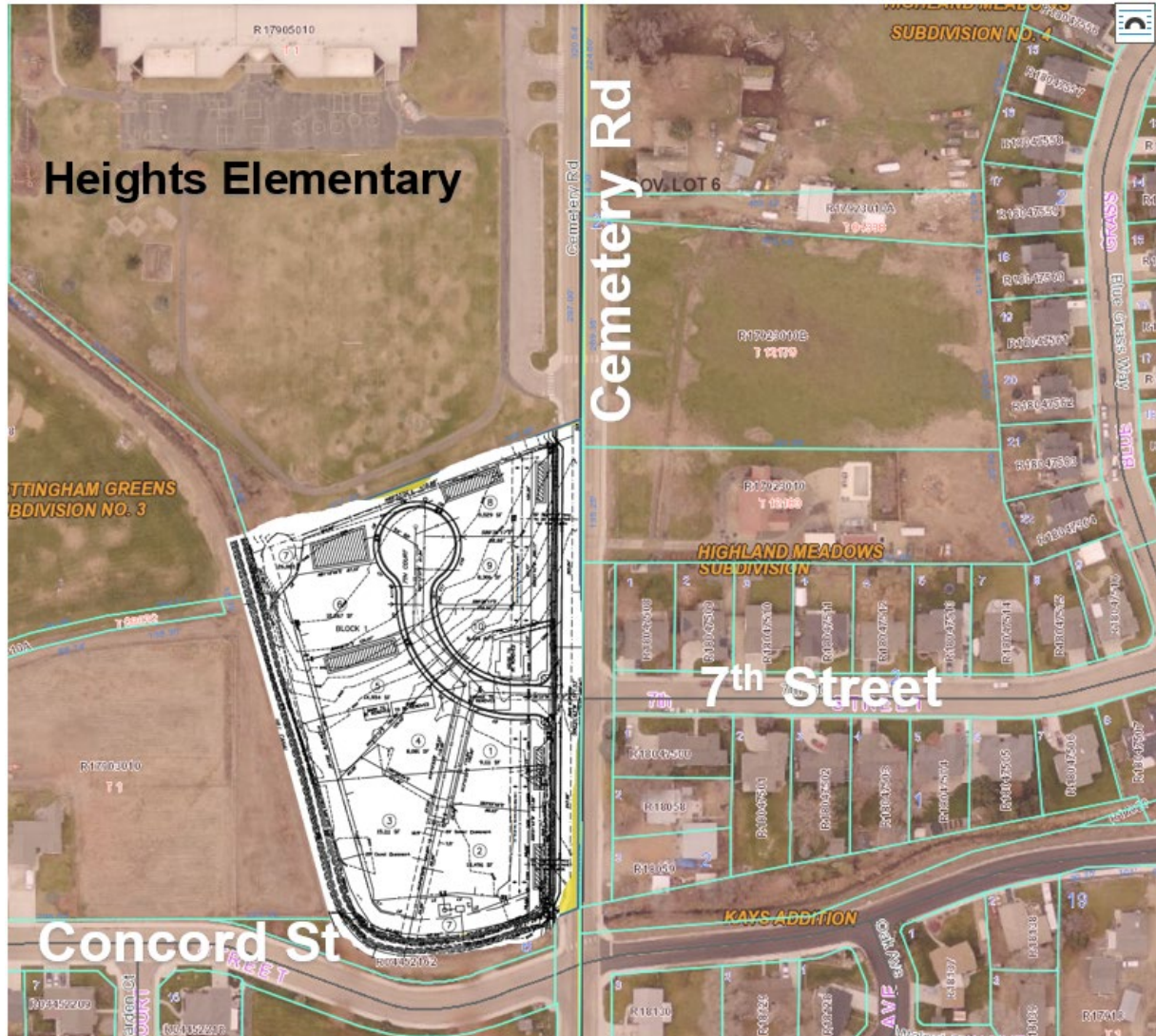






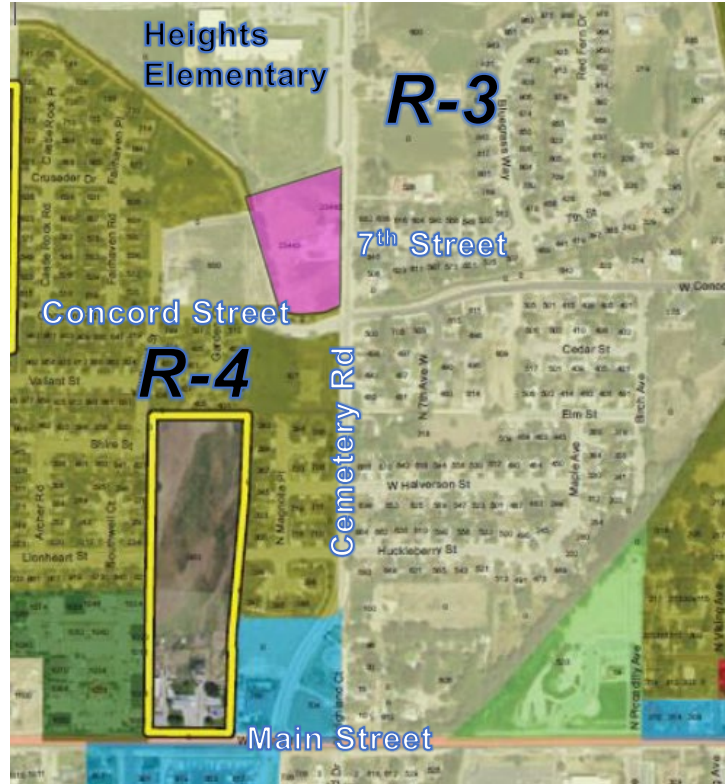
## STAFF REVIEW AND REPORT Middleton Planning and Zoning Commission

### Heights Landing Subdivision Preliminary Plat and Waiver Application



- A. **Planning & Zoning Commission Hearing Date:** June 10, 2024
- B. **Project Description:** Residential subdivision with nine single family home lots and one common lot on 4.08 acres of land located at 23443 Cemetery Rd (Tax Parcels Nos. R1790401 and R17904).
- C. **Application Requests:** Applicant is seeking preliminary plat approval together with a waiver under MCC 1-15-2 regarding frontage improvements along Cemetery Road.

- E. Current Zoning & Property Condition:** The property is an infill project consisting of two lots, one of which contains an existing single family home. Both lots are zoned R-3 (Single-Family Residential). The project is surrounded by R-3 and R-4 zoned property on all four sides.



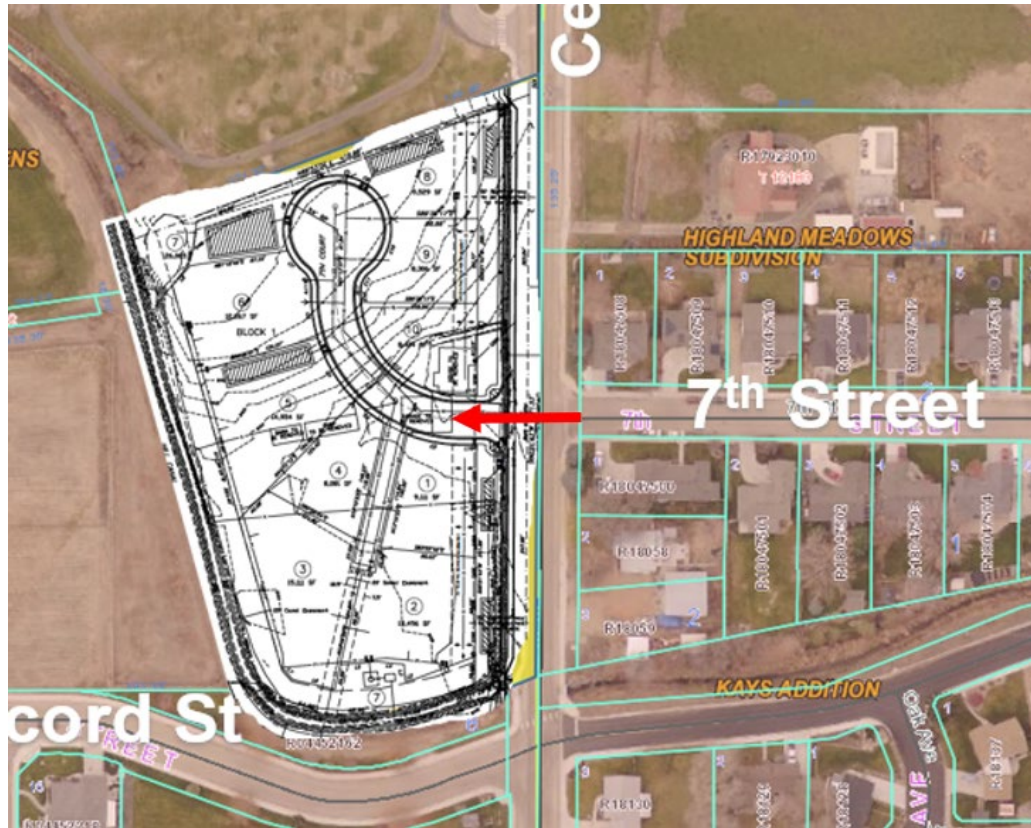
- F. City Services:** City water is located immediately east in Cemetery Road. City sewer is in Concord St. As required by MCC 5-4-11-2 the Applicant will be required to bring all utilities “to and through” the project parcel.





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

Access to the project is off of Cemetery Road, immediately opposite 7<sup>th</sup> Street. Developer will be required to demolish the existing home and existing outbuildings because of their proximity to the future 7<sup>th</sup> Street Court.

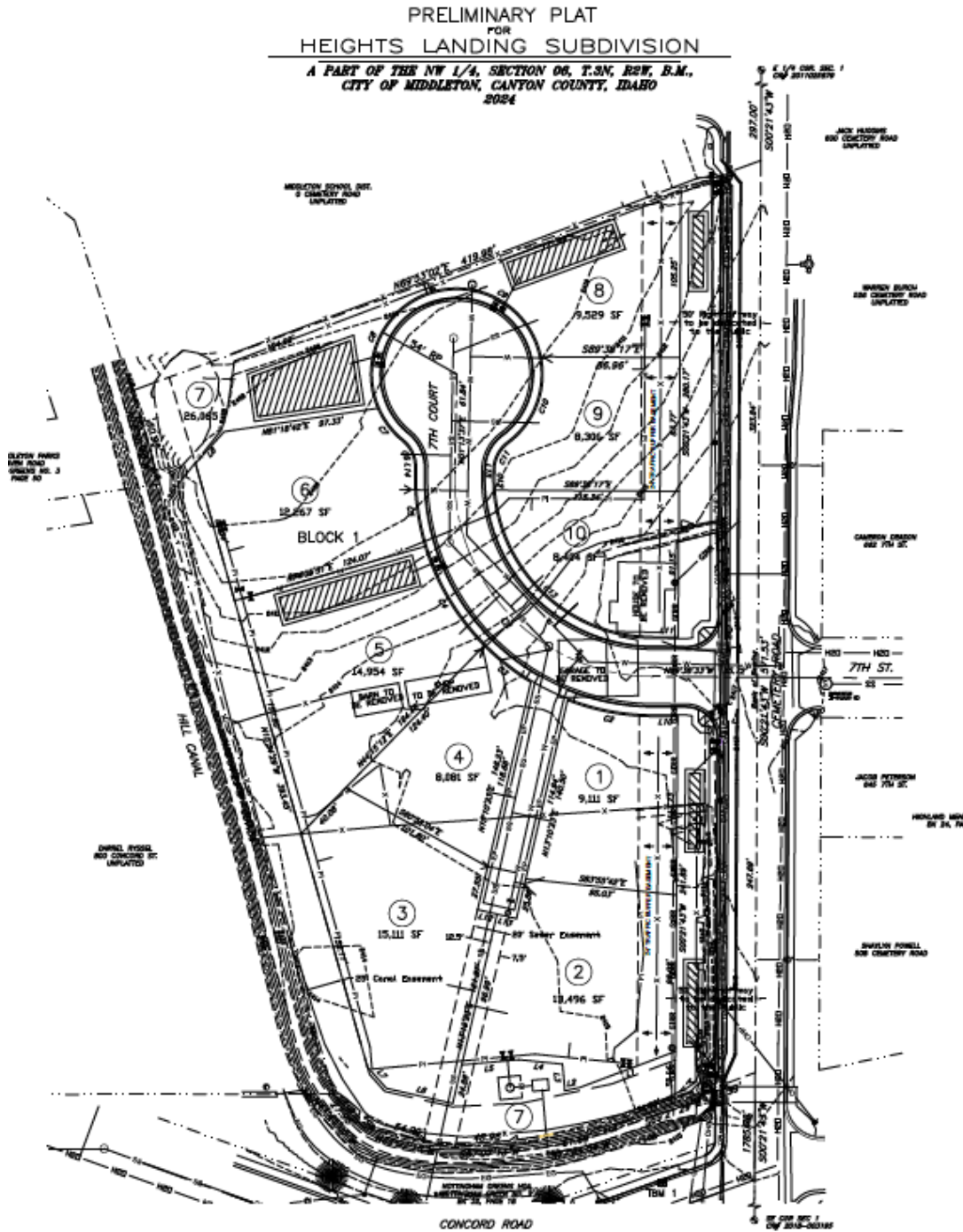


Developer will be required to improve, at its own cost, the ½ road portion of Cemetery Road. However, Developer is requesting a waiver to improve the frontage area only to the extent of the improvements currently existing in front of Heights Elementary to the north and the 7<sup>th</sup> Day Adventist parcel to the south. These improvements do not meet the current standards of the City Code with respect to the sidewalk configuration. However, for the sake of uniformity and to avoid any unsafe configurations in the road, the improvements adjacent to Heights Landing should match the improvements already in place to the north and to the south of the project.

**H. Pathway, Sidewalks & Open Space:** No pathways or amenities are required by the Comprehensive Plan Maps.

**I. Preliminary Plat Application:** The preliminary plat shows a single phase of construction containing nine single family lots and one common lot. The only criteria for approval is a determination that the preliminary plat complies with the standards of the City's development code and R-3 zoning ordinance. The recent amendments to

City Code regarding sewer capacity and school capacity do not apply to this application because the preliminary plat application was submitted to the City well before the two ordinances were passed.



(A larger copy of the preliminary plat is attached as Exhibit "A".)

## *FINDINGS:*

*Planning Staff finds that the Applicants' preliminary plat does not comply with City's development code for the following reasons:*

- 1. The width of the local roads are not called out and the typical street section for local roads is missing. (MCC 5-4-4(A)(2)(h))*
- 2. The width and design for Cemetery Road frontage is not shown on the preliminary plat in violation of MCC 5-4-4(A)(2)(h). The Preliminary Plat does not establish nor show the variance request to design Cemetery Road to match the design in front of Heights Elementary to the north and the 7<sup>th</sup> Day Adventist church parcel to the south (MCC 1-15-2).*
- 3. The location and width of sidewalks are not shown. (MCC 5-4-4(A)(2)(h))*
- 4. The location of canals, drains with direction of flow are not identified on the plat in addition to easements attached to the drains. (MCC 5-4-4(A)(2)(g)) (Applicant failed to provide a Title Report to show existing easements despite repeated requests for the title report).*
- 5. The location of street lights are not shown as required by MCC 5-4-4(A)(2)(n).*

*Applicants have also failed to heed comments and requests from City Engineer and City Planner despite multiple requests during the past 2.5 years. The comments ignored are:*

- 1. Multiple requests to add the following: (1) note prohibiting driveway access off of Cemetery Road, (2) note regarding requirement of extending network fiber to the site, (3) note showing mailbox location, (4) note identifying irrigation district and assessment information (5) note that exterior boundary to be fenced, (6) request to remove note regarding "right to farm", and (7) request to show all easements to be established.*
- 2. City Engineer also repeatedly requested applicant to provide a stormwater preliminary analysis to no avail.*
- 3. All requests for a title report have also been ignored. A title report is necessary so planner and engineer can discover any easements, covenants or Development Agreements are attached to the land.*

*(All of City Engineer's and Planner's comments, starting in January 2022, are attached as Exhibit "B".)*

*As to the waiver request to construct the street frontage so that it matches the street frontage existing in front of Heights Elementary to the north and the 7<sup>th</sup> Day Adventist parcel to the south, Applicant has not submitted a preliminary plat that shows that revised street frontage configuration.*

- K. Comprehensive Plan & Land Use Map:** Applicant's project complies with the Comprehensive Plan Land Use Map. The intended use is Residential which matches the Land Use Map.



- L. Comments from Public:** None
- M. Comments from City Engineer and Planning Staff:** See Exhibit "B"
- N. Comments from Agencies:** See Exhibit "C"
- O. Applicant Information:** Briggs Miller and Kyle Miller – 25356 Karen Drive, Middleton. Application was accepted on September 17, 2021

<b>P. Notices:</b>	<b>Dates:</b>
Neighborhood Meeting	9/9/2021
Newspaper Notification	5/19/2024
Radius notification mailed to Landowners within 500'	5/16/2024
Circulation to Agencies	5/16/2024
Sign Posting property	5/15/2024

- Q. Applicable Codes and Standards:**  
Idaho Code Secs., 67-6503, 67-6509, 67-6511, 67-6513, 50-1301 through 50-1329. Idaho Standards for Public Works Construction, the Middleton Supplement to the Idaho Standards for Public Works Construction, Middleton City Code 1-14, 1-15, 5-1, 5-2, 5-3, and 5-4.

- R. Conclusions and Recommended Conditions of Approval:**

According to Idaho State Law and the Middleton City Code, any recommendation must be based upon *Findings of Facts and Conclusions of Law*. (LLUPA, Idaho State Code, Title 67, Chapter 65)

**Findings of Facts:** Planning Staff noted relevant findings of facts above in italics.

**Conclusions of Law:** Planning Staff finds that the Planning & Zoning Commission has the authority to hear this application and to recommend approval or denial of this application. Planning Staff also notes all public notice requirements were met and set forth the portions of the Idaho State Code and Middleton City Code to be considered in making a recommendation on the application.

If the Commission is inclined to recommend approval of the Preliminary Plat and waiver, then Planning Staff recommends that any approval be subject to the following conditions:

1. City water, fire flow and sanitary sewer be extended to the site.
2. The name of the subdivision road shall be "7<sup>th</sup> Street Court".
3. All existing wells and septic systems to be abandoned pursuant to DEQ regulations and standards.
4. The existing home and all outbuildings to be demolished and removed from the site prior to construction of the subdivision.
5. Applicant/Developer to comply with all Engineering Conditions of approval attached hereto as Exhibit "D" and comply with all past Engineering comments and future Engineering comments pertaining to the construction drawing application and final plat application.
6. Applicant/Developer to comply with all Planner comments for the preliminary plat, Construction Drawing and final plat.
7. All comments of the relevant irrigation district, fire department and City Public Works Department are to be completed and approved.
8. The Cemetery Road frontage adjacent to the project must be constructed so that it matches the Cemetery Road frontage adjacent to Heights Elementary to the north and the church parcel to the south.
9. 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.

If the Commission denies the application, Middleton City Code 1-14(E)(8) requires that the Commission "identify what the Applicant can modify in the application" to gain approval.

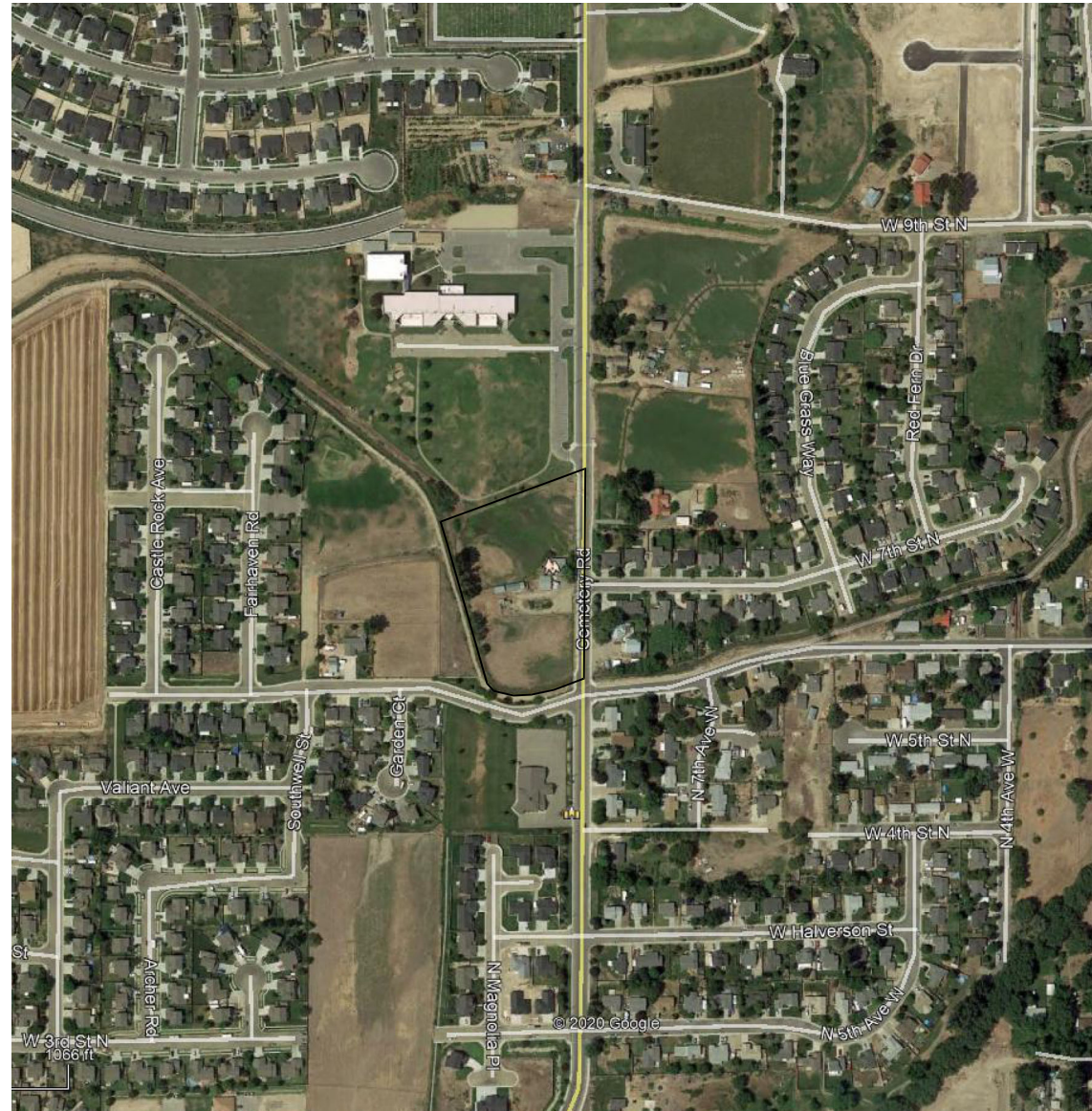
Roberta Stewart  
Middleton Planning & Zoning Official

EXHIBIT A  
Preliminary Plat



0 1 2 3 4 5 6 7 8 9 10 11 12 13 14

A  
B  
C  
D  
E  
F  
G  
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I  
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K

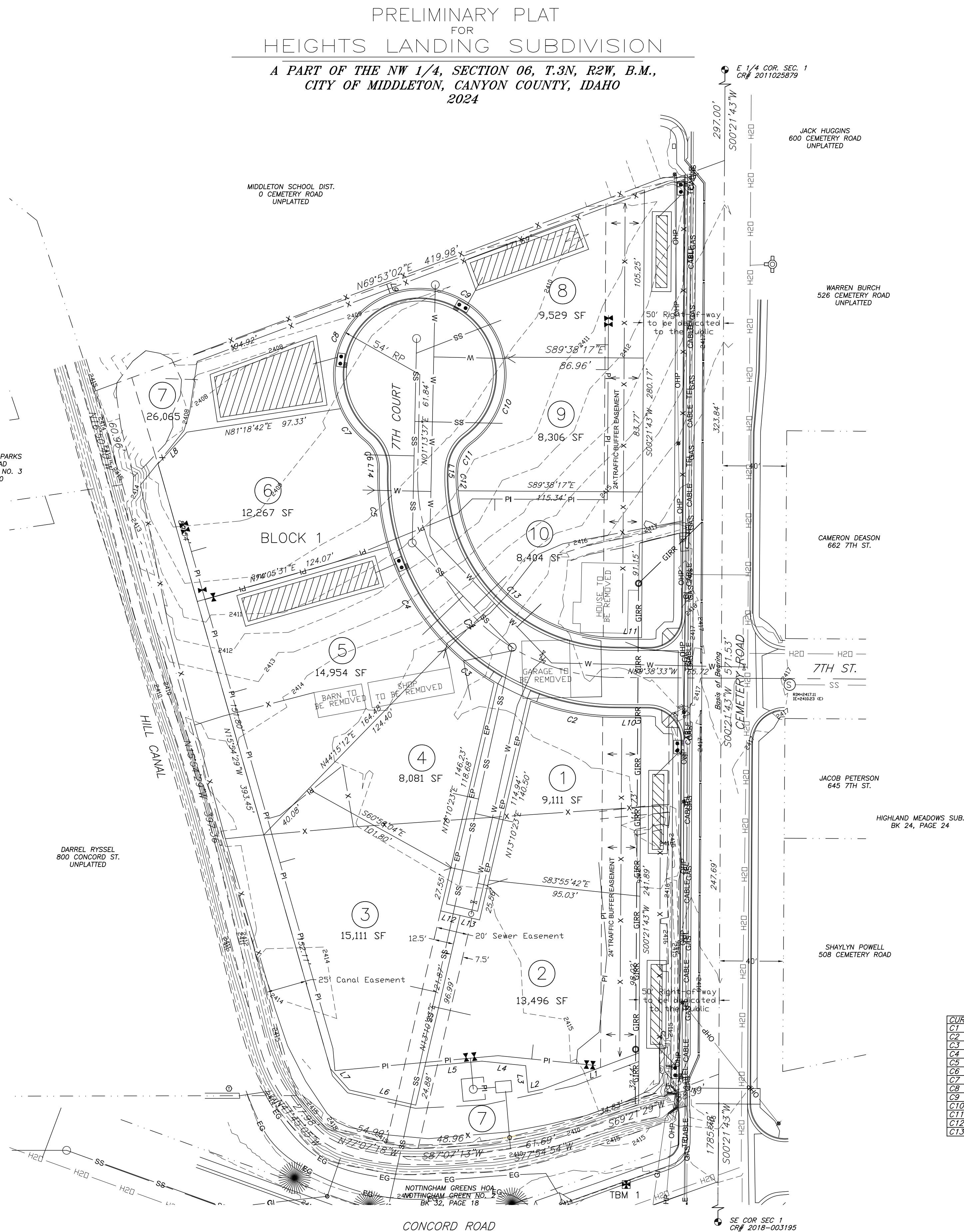


Scale: 1"=500'

GREATER MIDDLETON PARKS  
0 FAIRHAVEN ROAD  
NOTTINGHAM GREENS NO. 3  
BK 34, PAGE 50

#### NOTES

- PROJECT SITE AND ALL PROPERTY ADJACENT TO PROJECT SITE IS ZONED R-3 PER CITY OF MIDDLETON ZONING MAP. NOTTINGHAM GREENS (SOUTH) IS ZONED R-4 HOWEVER THIS ZONE NO LONGER EXISTS. DEVELOPER IS PROPOSING TO REZONE TO A R-3.
- NO. OF RESIDENTIAL LOTS: 9
- NO. OF COMMON LOTS: 1
- TOTAL LOTS: 10
- AREA:  $\pm 4.08$  ACRES.
- MINIMUM LOT SIZE: 8,081 SQ. FT. (0.18 ACRES).
- BUILDING SETBACKS AND DIMENSIONAL STANDARDS FOR THIS SUBDIVISION SHALL BE IN COMPLIANCE WITH THE CITY OF MIDDLETON STANDARDS FOR THE APPLICABLE ZONE.
- EASEMENTS TO BE PROVIDED PER CITY OF MIDDLETON STANDARDS.
- SURVEY PROVIDED BY EAGLE LAND SURVEYING LLC.
- ANY RE-SUBDIVISION OF THIS PLAT SHALL COMPLY WITH THE APPLICABLE ZONING REGULATIONS IN EFFECT TO THE TIME OF THE RE-SUBDIVISION.
- THIS DEVELOPMENT RECOGNIZES SECTION 22-4503 OF THE IDAHO CODE, RIGHT TO FARM ACT, WHICH STATES: AGRICULTURAL OPERATION, AGRICULTURAL FACILITY OR EXPANSION THEREOF NOT A NUISANCE — EXCEPTION: NO AGRICULTURAL OPERATION, AGRICULTURAL FACILITY OR EXPANSION THEREOF SHALL BE OR BECOME A NUISANCE, PRIVATE OR PUBLIC, BY ANY CHANGED CONDITIONS IN OR ABOUT THE SURROUNDING NONAGRICULTURAL ACTIVITIES AFTER IT HAS BEEN IN OPERATION FOR MORE THAN ONE (1) YEAR, WHEN THE OPERATION, FACILITY OR EXPANSION WAS NOT A NUISANCE AT THE TIME IT BEGAN OR WAS CONSTRUCTED. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY WHEN A NUISANCE RESULTS FROM THE IMPROPER OR NEGLIGENT OPERATION OF AN AGRICULTURAL OPERATION, AGRICULTURAL FACILITY OR EXPANSION THEREOF.
- SANITARY SEWER & WATER SYSTEMS SHALL BE PROVIDED IN ACCORDANCE WITH THE CITY OF MIDDLETON'S SUPPLEMENT TO THE ISPPW.
- STORMWATER WILL BE CONSTRUCTED PER CITY OF MIDDLETON POLICY AND WILL BE CONTROLLED VIA UNDERGROUND SEEPAGE BEDS.
- PROJECT DATUM — NAVD 88
- PROPOSED EASEMENTS: SUBDIVISION BOUNDARY AND STREET FRONTAGE = 10.0'  
SIDE LOT LINES = 5.0'
- A PRESSURE IRRIGATION SYSTEM SHALL BE PROVIDED PER IDAHO CODE, SECTION 31-3805. PIPING SHALL BE PLACED ALONG REAR LOT LINES (TYPICAL).
- LOT 7, BLOCK 1 ARE COMMON AREA LOTS AND SHALL BE OWNED AND MAINTAINED BY THE HEIGHTS LANDING SUBDIVISION HOMEOWNERS ASSOCIATION.



#### LEGEND

---	BOUNDARY LINE
---	EASEMENT LINE
---	PROPERTY LINE
---	LOT LINE
---	STREET CENTERLINE
---	6" VERTICAL CURB AND GUTTER
---	EXISTING WATER MAIN
---	EXISTING SEWER MAIN
---	EXISTING OVERHEAD POWER LINE
---	EXISTING GAS LINE
---	EXISTING TELEPHONE LINE
---	EXISTING CABLE TV LINE
---	PROPOSED WATER LINE
---	PROPOSED GRAVITY IRRIGATION LINE
---	PROPOSED PRESSURE IRRIGATION LINE
---	PROPOSED SEWER LINE
---	PROPOSED SEEPAGE BED LOCATION
---	Found Aluminum Cap
---	Found 1/2" Rebar
---	Found 5/8" Rebar
---	EXISTING FIRE HYDRANT
---	EXISTING SEWER MANHOLE
---	PROPOSED IRRIGATION MANHOLE
---	PROPOSED SEWER MANHOLE
---	PROPOSED WATER VALVE
---	PROPOSED FIRE HYDRANT
---	PROPOSED STORM DRAIN MANHOLE

#### BENCHMARK

TBM 1,  
PK NAIL  
ELEV: 2413.42

#### LINE TABLE

LINE	BEARING	DISTANCE
L1	S 69°21'29" W	64.27'
L2	S 77°54'54" W	9.40'
L3	N 05°15'05" W	16.71'
L4	N 84°02'29" W	27.52'
L5	S 84°44'55" W	35.89'
L6	N 77°07'18" W	42.64'
L7	N 41°45'05" W	17.76'
L8	N 42°15'34" E	26.72'
L9	S 20°06'58" E	6.19'
L10	N 89°38'33" W	15.72'
L11	N 89°38'33" W	15.72'
L12	S 76°49'37" E	12.50'
L13	S 76°49'37" E	12.50'
L14	N 01°13'37" E	2.36'
L15	N 01°13'37" E	2.36'



## EXHIBIT B

### City Engineer and City Planner Comments



January 28, 2022

TO: Jennica Reynolds, Planner

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

**RE: HEIGHTS LANDING PRELIMINARY PLAT**

---

Thank you for the opportunity to review the above referenced preliminary plat submittal. Every effort was made to identify all the review comments, but additional comments may come up as the application goes forward.

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.

The City will not own and operate a sewer lift station for 12 residential lots. Please review options to gravity sewer the project including tie into the manhole at Garden Street or adding fill to the site.

Access roads to Cemetery are required to be 250 ft apart, centerline to centerline. The street may line up with W 7<sup>th</sup> as well.

Show Concord Street on the south boundary. Can the new street be developed off Concord?

A 24ft easement for traffic buffer is required along Cemetery.

Gravity irrigation is required to be relocated out of right of way. Please clearly show gravity irrigation and where it will be relocated.

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 0.75, the rights of way/impervious (all) are 0.95. All stormwater management facilities require pretreatment. Stormwater facilities are owned by HOA and the provisions for maintenance laid out in CCRs. Identify lots to be used for stormwater management.

Reduce the plat to one page if possible. Dimension and clearly identify every lot. Do not provide contours after grading the plat. That may be provided as an exhibit if you would like.

Add note regarding easements to be established.



Address irrigation per Idaho Code 31-3805.b. Identify the irrigation district. Show the irrigation system layout and point of diversion/pump station location.

Add note: No direct access to Cemetery.

Add a note regarding fiber.

Add a note exterior boundary is required to be fenced.

Street lights every 400 ft maximum (including Cemetery), at intersections and cul-de-sacs.

Show mail box/USPS location.

Add street name.

Dimension and label lateral.

Add centerline radii and intersection radii.



Street lights every 400 ft maximum (including Cemetery), at intersections and cul-de-sacs.

Show mail box/USPS location.

Add centerline radii and intersection radii.

New comments:

Note 11. Delete.

Note 13. Delete.

Add callout to remove/relocated power structures in Cemetery right of way.

Add Middleton Road typical section and local road typical section.

The City cannot create lots that are non-conforming and Lot 14 and the dwelling in place do not meet the requirements of the development code. The structure does not meet setback distance to either street, it fully encroaches into the easement area. It is not clear the new street can be constructed without significant damage to the structure. If structures are to be removed/razed, add a note accordingly. If you wish to leave the structure on Lot 14, City Council will need to grant a variance.



May 25, 2022

TO: Jennica Reynolds, Planner

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

**RE: HEIGHTS LANDING PRELIMINARY PLAT**

---

Thank you for the opportunity to review the above referenced preliminary plat re-submittal. Every effort was made to identify all the review comments, but additional comments may come up as the application goes forward.

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.

The City will not own and operate a sewer lift station for 12 residential lots. Please review options to gravity sewer the project including tie into the manhole at Garden Street or adding fill to the site. Please add sewer invert information at each manhole so the sewer may be evaluated.

~~Access roads to Cemetery are required to be 250 ft apart, centerline to centerline. The street may line up with W 7<sup>th</sup> as well.~~

~~Show Concord Street on the south boundary. Can the new street be developed off Concord?~~

A 24ft easement for traffic buffer is required along Cemetery. Please work with Jennica on a variance if a buffer is not planned to be developed per Code.

Gravity irrigation is required to be relocated out of right of way. Please clearly show gravity irrigation and where it will be relocated.

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 0.75, the rights of way/impervious (all) are 0.95. All stormwater management facilities require pretreatment. Stormwater facilities are owned by HOA and the provisions for maintenance laid out in CCRs. Identify lots to be used for stormwater management. Submit stormwater preliminary analysis.

~~Reduce the plat to one page if possible. Dimension and clearly identify every lot. Do not provide contours after grading the plat. That may be provided as an exhibit if you would like.~~



Add note regarding easements to be established. Review City Code and list easements accordingly. What easement is needed for the existing gravity irrigation.

Address irrigation per Idaho Code 31-3805.b. Identify the irrigation district. Show the irrigation system layout and point of diversion/pump station location.

Add note: No direct access to Cemetery.

Add a note regarding fiber.

Add a note exterior boundary is required to be fenced.

Street lights every 400 ft maximum (including Cemetery), at intersections and cul-de-sacs.

Show mail box/USPS location.

Add street name. Street is W 7<sup>th</sup> Court.

Dimension and label lateral.

Add centerline radii and intersection radii.





July 25, 2022

TO: Jennica Reynolds, Planner

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

**RE: HEIGHTS LANDING PRELIMINARY PLAT**

---

Thank you for the opportunity to review the above referenced preliminary plat re-submittal. Every effort was made to identify all the review comments, but additional comments may come up as the application goes forward.

Please print up the City's code regarding preliminary plats and make sure every item listed is addressed. Development standards should also be reviewed. The code is not extensive and the plat has to meet code.

**Before you resubmit, print out of a pdf of the plat and review it on your end against the code and as a team. The plat should be clearly legible with very few drafting problems, conflicting line types, boundary identified and legible, etc.**

A 24ft easement for traffic buffer is required along Cemetery. Please add note if a variance is requested.

Gravity irrigation is required to be relocated out of right of way. Please clearly show gravity irrigation and where it will be relocated. The gravity irrigation is not approvable as shown. Irrigation crossings are at 90d.

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 0.75, the rights of way/impervious (all) are 0.95. All stormwater management facilities require pretreatment. Stormwater facilities are owned by HOA and the provisions for maintenance laid out in CCRs. Identify lots to be used for stormwater management. Submit stormwater preliminary analysis.

Add note regarding easements to be established. Review City Code and list easements accordingly. What easement is needed for the existing gravity irrigation.

Address irrigation per Idaho Code 31-3805.b. Identify the irrigation district and whether lots are subject to assessment. Show the irrigation system layout and point of diversion/pump station location.

Add note: No direct access to Cemetery.

Add a note regarding fiber.

Add a note exterior boundary is required to be fenced.





# 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

## PLANNER COMMENTS – HEIGHTS LANDING

February 7, 2022

1. Provide new mailing labels for Landowners within 500 ft of the project (City code changed in January to notice Landowners **500 ft** not just 300 ft. of the perimeter boundary. You can get those from Canyon County.
2. MCC 5-4-4 Preliminary Plat – City Code preliminary plat submittal requirements. Please revise plat to specifically note all items outlined: 2(a, b, c, d, e, f, g, h, i, j, k, l, m, o, p, q, r.)
3. Provide a landscape plan.
4. MCC 5-4-4(3d) "Irrigation System: A statement describing the proposed irrigation system, point of delivery, and preliminary layout shall appear on the preliminary plat."
5. Show and call out all irrigation/ditch easements in development.
6. Add note: Any re-subdivision of this plat shall comply with the applicable regulations in effect at the time of the Re-subdivision.
7. Show right of way and utility easements within right of way. Call out in notes.
8. Roads need to show a turning radius of minimum of 90 ft. Call out in notes.
9. MCC 5-4-10-2: A 24 ft easement/landscape traffic buffer is required along Cemetery.
10. Add note to call out common areas by lot and block and state who owns them.
11. Add note: All lots are residential building lots except lots (insert L/B)
12. Add cluster mailbox(s) in common area(s). Call out in notes.
13. Add note: All streets proposed in this development are public streets and shall be constructed in accordance with City of Middleton standards.
14. Add note explaining how stormwater run-off will be handled.
15. Add note: All existing wells shall be abandoned per IDWR regulations. All septic systems shall be completely removed and the area recompacted per geotechnical report.
16. Add note: Domestic and fire protection water shall be provided by the City of Middleton,
17. Add note: Sanitary Sewer collection shall be provided by the City of Middleton.
18. Address any additional comments from City Engineer, MRFD, CHD4, ITD, Irrigation District.
19. Add note: All building setbacks and dimensional standards shall be in compliance with R-3 zoning at time of building permit issuance.
20. Add note: Fiber optic to be provided to each lot during Joint Trench construction per the City of Middleton Supplement to the ISPMC.
21. Show all public and private easements on preliminary plat.
22. Add note: Lot lines common to street right-of-way contain a 10-foot wide permanent easement for public and private utilities.
23. Add note: All lots are hereby designated as having a permanent easement for public utilities and pedestrian walkway over the five (5) feet adjacent to any interior side lot line, and over the ten (10) feet adjacent to any rear lot line of subdivision boundary.

24. Add note: Sewer and water capacity shall be reserved when City approves construction drawings.

*Jennica Reynolds*

Middleton City Deputy Clerk, Planning



# CITY OF MIDDLETON

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citmid@middletoncity.com | www.middleton.id.gov

## PLANNER COMMENTS – HEIGHTS LANDING

May 31, 2022

1. Show and call out all irrigation/ditch easements in development. **Cannot decipher**
2. Show right of way and utility easements within right of way. Call out in notes. **Cannot decipher**
3. Roads need to show a turning radius of minimum of 90 ft. Call out in notes. **Cannot decipher**
4. **MCC 5-4-10-2: A 24 ft easement/landscape traffic buffer is required along Cemetery. We need to discuss this and possible waivers.**
5. Add note to call out common areas by lot and block and state who owns them.
6. Add note: All lots are residential building lots except lots (insert L/B)
7. Add cluster mailbox(s) in common area(s). Call out in notes. **It might be a good idea to add a cluster mailbox to lot 11.**
8. Add note: All streets proposed in this development are public streets **except the private drive** and shall be constructed in accordance with City of Middleton standards.
9. Add note: All existing wells shall be abandoned per IDWR regulations. All septic systems shall be completely removed and the area recompacted per geotechnical report.
10. Add note: Domestic and fire protection water shall be provided by the City of Middleton,
11. Add note: Fiber optic to be provided to each lot during Joint Trench construction per the City of Middleton Supplement to the ISPMC.
12. Show all public and private easements on preliminary plat. **Cannot decipher**
13. Add note: Lot Lines common to street right-of-way contain a 10-foot wide permanent easement for public and private utilities.
14. **Change note 15 to read:** All lots are hereby designated as having a permanent easement for public utilities and pedestrian walkway over the five (5) feet adjacent to any interior side lot line, and over the ten (10) feet adjacent to any rear lot line of subdivision boundary.
15. Add note: Sewer and water capacity shall be reserved when City approves construction drawings.
16. **Miller Ave cannot be used as a street name. The main road will be 7<sup>th</sup> Street Court. Please submit a name for the private drive.**
17. Address any additional comments from City Engineer, MRFD, CHD4, ITD, Irrigation District.

*Jennica Reynolds*

Middleton City Deputy Clerk, Planning



# CITY OF MIDDLETON

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

## Heights Landing– Planner Comments (Review of Preliminary Plat dated 49/15/2023)

October 31, 2023

1. Change the preliminary plat to show that the existing house will be removed as you indicated in our verbal conversations. As shown, it violates the setbacks because it is 0' setback on the side and 0' setback on the front. We cannot create a lot with such setback violations.
2. Add note: *"All existing homes, shops, garages, and out-buildings will be removed during construction and before the application for final plat."*
3. Submit a Title Report for the property and ensure it includes hyperlinks
4. Submit a landscape plan
5. Without a Title Report, which has been requested for two years, we cannot fully determine the extent of the irrigation ditch easements. I suspect they will be significant. I am unable to find them on this preliminary plat. This issue needs to be shown more clearly.
6. Provide proof that you have submitted an application to Drainage Ditch #2. We will not move forward to P&Z without proof of this application being submitted. We will not move forward to City Council without proof that Drainage Ditch #2 approved your preliminary plat.
7. Add note: *"Drainage District No. 2 owns two or more easements on the project parcels. Developer must submit an application to DD#2 and DD#2 must approve the proposed preliminary plat prior to submittal of the preliminary plat to City Council."*
8. Re-name "7<sup>th</sup> Court" to "7<sup>th</sup> Street Court".
9. Show the width of 7<sup>th</sup> Street Court
10. Add City's local street section as found in the Supplement to ISPWC
11. Our code does not permit private road easements. Please remove 25' private road easement from pplat.
12. Instead, you can use a private lane per Item 4, page 29 of our Supplement to the ISPWC. A private lane cannot under any circumstances access more than 4 home lots. Currently your plat shows that 6 lots will be accessed. Remove 2 home lots or otherwise design the pplat. Also, the private lane cannot be over 150' long without a hammer head for fire truck turn around.
13. Name the private lane "Heights Landing Avenue." Show the dimensional width of the private lane. Reserve this name with Tony Almeida at Canyon County.
14. Assign a lot number to the private lane.
15. Add note: *"Lot -?—, Block 1 is a private lane, which is to be encumbered on the final plat with a public access and utility easement. The HOA is responsible for maintaining and repairing the private lane."*
16. Add *"Block 1"* to your pplat so you show proper legal descriptions.
17. Work with Amy Woodruff to add note regarding waiver to the 3 lane urban ROW. It must match closely the ROW design on the school property to the north and the church property directly to the south. Instead of the 8' detached asphalt pavement, it will be 5' wide attached sidewalk, ped ramps and some sort of ditch to handle stormwater. The sidewalks currently showing look wrong. Work with Amy please.
18. Make sure that all lots have the minimum square footage of 8000 s.f.

19. TRAFFIC landscape BUFFER. Work with Amy on description of this. It will probably involve a 6' privacy fence with additional lattice to get to 7' feet. No berm but intense landscaping to help with the buffering.
20. Lots 7, 8, & 9 definitely do not show the 75' frontage width required by code. You can measure it at the 25' setback line, but it still does not get to 75' wide.
21. Add the lot frontage dimensions to every lot so it is easy to determine if you have met the code for frontage. The four lots on the private lane must also have 75' wide frontage
22. Call out which lot is a common lot and state its purpose—irrigation? Green space? Buffer??
23. Add note *"No lot shall have direct access to Cemetery Road."*
24. Show perimeter fence on your landscape plan or on the preliminary plat.
25. Show location of mailbox clusters. End of cul de sac would probably be a good location.
26. Work out sewer easements that transect the common lot, irrigation easement, and lot owned by neighboring HOA. That looks like it needs some work.
27. Add note: *"Sewer and water capacity is subject to a will-serve analysis, and City will not reserve sewer and water capacity any earlier than Construction Drawing approval."*
28. Add note: *"All existing wells shall be abandoned per IDWR regulations and all septic systems shall be completely removed and the area recompacted per geotechnical report."*
29. Change note 7 regarding setbacks as follows: *"Building setbacks and dimensional standards for this subdivision shall be in compliance with Middleton codes and standards at the time of building permit issuance."*
30. Remove note 8. It makes no sense and has no context.
31. Remove Note 11 for right to farm. That does not apply within city limits.
32. Add note: *"All lots have a permanent easement for public/private utilities, drainage and pedestrian walkways over the 10 feet adjacent to any public right of way. The easement shall not preclude the construction of hard surface driveways and walkways to the lot."*
33. Add note: *"Unless otherwise shown and dimensioned, all lots shall have a permanent easement for public/private utilities, drainage and irrigation over the 5 feet adjacent to any interior lot line and over 10 feet adjacent to any rear lot line or subdivision boundary."*
34. Add note: *"The homeowners' association (HOA) owns and manages the common areas, which include stormwater facilities. A plan for operation, maintenance and repair of stormwater facilities (O&M Plan) has been prepared and shall be recorded with the CC&Rs for the subdivision. The HOA shall use the O&M Plan to maintain, operate and repair the stormwater facilities."*
35. Add a note describing the proposed irrigation system and point of delivery
36. Add note: *"fiber optic to be provided to each lot during joint trench construction per City Supplement to ISPWC"*
37. Show location of any water wells and septic systems on the property.

*Roberta L. Stewart*

Middleton Planning & Zoning Director

## EXHIBIT "C"

### Agency Comments

**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



**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)

May 31, 2022

Jennica Reynolds  
Middleton Planning and Zoning Official  
P.O. Box 487  
Middleton, Idaho 83644

**Re: Heights Landing Preliminary Plat** located at 23443 Cemetery Road

Dear Ms. Reynolds:

Drainage District No. 2 has an easement that courses through or abuts this property. This easement is 100 feet, 50 feet each side of the centerline, for open drains and 50 feet, 25 feet each side of the centerline for piped or closed drains. The developer must contact the District's attorney's, Sawtooth Law Offices, PLLC, for approval before any encroachment, change of easement, or drainage discharge into the District's facilities occurs. The District must review drainage plans and construction plans prior to any approval.

The District generally requires a License Agreement prior to any approval for the following reasons:

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

Also, please be advised that the District does not approve of trees within the District's easement. Therefore, any existing trees within the District's easement will need to be removed. On occasion, the District may make exceptions on a case by case basis, which require the developers/owners obtain written permission from District for existing trees to remain.

Please contact me if you have any questions.

Yours very truly,

S. Bryce Farris

SBF:krk

cc: DD#2 Board of Directors **www.sawtoothlaw.com**  
*Attorneys licensed in Idaho, Montana, Oregon and Washington*

**Boise Office**  
1101 W. River St.  
Suite 110  
Boise, Idaho 83702  
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**Patxi Larrocea-Phillips**

**John A. Richards**

**Matthew A. Sturzen**

**Katie L. Vandenberg-Van  
Vliet**

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

Tuesday, May 31, 2022

City of Middleton

Attn: Jennica Reynolds

P.O. Box 487

Middleton, Idaho 83644

Re: Heights Landing Subdivision located at 23443 Cemetery Rd

Dear Ms. Reynolds:

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 blue ink, appearing to read "S. Bryce Farris".

S. Bryce Farris

SBF:krk

cc: Canyon Hill Ditch Company/MM-MI

From: Bryce Farris <bryce@sawtoothlaw.com>  
Sent: Monday, May 27, 2024 3:02 PM  
To: Roberta Stewart  
Subject: FW: Agency Notice - Heights Landing Subdivision (Cemetery Road & Concord Street, Middleton, ID)  
Attachments: Heights Landing - legal notice QR.pdf

Roberta:

Canyon Hill Ditch Company, Middleton Mill Ditch Company and Middleton Irrigation Association, Inc. have an easement for the Canyon Hill Ditch on two sides and Drainage District No. 2 has an easement for a drain along the north side of this project. The owners/developers will need approval of each for any crossings or encroachments within the easements. Please make sure such approvals are obtained prior to any approval by the City.  
Thanks,

S. Bryce Farris  
Attorney at Law  
SAWTOOTH LAW OFFICES, PLLC  
1101 W. River St., Ste. 110  
Boise, ID 83702  
Tel: (208) 629-7447  
Fax: (208) 629-7559  
bryce@sawtoothlaw.com

----- Forwarded message -----

From: Roberta Stewart <rstewart@middletoncity.com>  
Date: Thu, May 16, 2024 at 8:34AM  
Subject: Agency Notice - Heights Landing Subdivision (Cemetery Road & Concord Street, Middleton, ID)  
To: akrantz@msd134.org <akrantz@msd134.org>, MStowell@ccparamedics.com <MStowell@ccparamedics.com>, gis@compassidaho.org <gis@compassidaho.org>, deann.gerthung@canyoncounty.id.gov <deann.gerthung@canyoncounty.id.gov>, MYbarguen@idahopower.com <MYbarguen@idahopower.com>, D3Development.services@ITD.idaho.gov <D3Development.services@itd.idaho.gov>, gmprdcclerk@gmail.com <gmprdcclerk@gmail.com>, gmprdtreasurer@gmail.com <gmprdtreasurer@gmail.com>, lgrooms@msd134.org <lgrooms@msd134.org>, mgee@msd134.org <mgee@msd134.org>, permits@starfirerescue.org <permits@starfirerescue.org>, monica.taylor@intgas.com <monica.taylor@intgas.com>, Mitch.Kiester@phd3.idaho.gov <Mitch.Kiester@phd3.idaho.gov>, westerninfo@idwr.idaho.gov <westerninfo@idwr.idaho.gov>, zoninginfo@canyoncounty.id.gov <zoninginfo@canyoncounty.id.gov>, lriccio@hwydistrict4.org <lriccio@hwydistrict4.org>, chopper@hwydistrict4.org <chopper@hwydistrict4.org>, allenfun50@hotmail.com <allenfun50@hotmail.com>, irrigation.mm.mi@gmail.com <irrigation.mm.mi@gmail.com>, bryce@sawtoothlaw.com <bryce@sawtoothlaw.com>, irr.water.3@gmail.com <irr.water.3@gmail.com>, Jamie.macleod@sparklight.biz <Jamie.macleod@sparklight.biz>

Hi all: attached is the agency notice for a small subdivision project at Cemetery Road and Concord Street in Middleton. The P&Z hearing is scheduled for June 10, 2024. Please submit any comments by Friday, May 31st. thanks,



**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)

November 9, 2023

Roberta Stewart  
City of Middleton, Planning and Zoning Official  
1103 West Main Street  
Middleton, Idaho 83644

**VIA EMAIL**

<b>Development Application</b>	N/A
<b>Project Name</b>	<b>Heights Landing</b>
<b>Project Location</b>	Approx. 0.4 miles North of SH-44 at Milepost 3.36
<b>Project Description</b>	12 Single Family Homes
<b>Applicant</b>	Briggs Miller

The Idaho Transportation Department (ITD) reviewed applications and has the following comments:

1. ITD does not object to this development and does not anticipate a significant impact to the intersection of Cemetery Rd and SH-44.
2. Provided the applicant adheres to any conditions set forth by the City of Middleton, ITD does not object to the proposed application as presented at this time.

If you have any questions, you may contact me at (208)334-8337.

Sincerely,

*Niki Benyakhlef*

Niki Benyakhlef  
Development Services Coordinator  
[Niki.Benyakhlef@itd.idaho.gov](mailto:Niki.Benyakhlef@itd.idaho.gov)

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## EXHIBIT “D”

### Engineering Conditions of Approval

## CONDITIONS OF APPROVAL

1. The applicant shall comply with all requirements of the City of Middleton Zoning and Subdivision ordinance.
2. Correct street names, per Middleton Rural Fire Protection District (MRFPD), shall be placed on the plat prior to City Engineer signing the final plat.
3. Complete construction plans, including, but not limited to, water, sewer, storm drainage, and irrigation shall be reviewed and approved by City Engineer.
4. Per Idaho Code, Section 31-3805, concerning irrigation water rights, transfer and disclosure, the water rights appurtenant to the lands in said subdivision; the subdivider shall provide for underground tile or other like satisfactory underground conduit or system to permit the delivery of water to those landowners within the subdivision who are also within the irrigation entity and entitled to irrigation water. Plans showing the irrigation pump system and delivery system must be prepared by a Registered Professional Engineer and shall be approved by the City Engineer prior to City Engineer signature on final plat.
5. The applicant shall submit a letter from the appropriate drainage entity approving the drainage system and/or accepting said drainage; or submit a letter from a Registered Professional Engineer certifying that all drainage shall be retained on site prior to the City Engineer signing the final plat. A copy of the construction drawings shall be submitted with the letter.
6. Storm water retention and treatment plans shall be submitted for review and approval by the City Engineer prior to City Engineer signing the final plat. The plans will clearly show how the storm water will be treated and the infrastructure will be constructed. The system must be constructed prior to City Engineer signing the final plat. Lots must be graded so stormwater runoff is contained on site. No runoff shall cross any lot line onto another lot except within a drainage easement.
7. No ditch, pipe, canal, or other structure for irrigation water or irrigation waste water, owned by an organized irrigation district, canal company, ditch association, or other irrigation entity, shall be obstructed, routed, covered or changed in any way unless such obstruction, rerouting, covering or changing has first been approved in writing by the entity. A Registered Engineer shall certify any ditch rerouting, piping, covering or change to irrigation or waste ditch (1) has been made in such a manner that the flow of water will not be impeded or increased beyond existing capacity of the downstream ditch (2) will not otherwise adversely impact another party using the ditch on their property (3) satisfied the Idaho Standards for Public Works Construction. A copy of the written approval shall be submitted with the construction drawings and submitted to the City Engineer prior to City Engineer signature on the final plat.

8. Street light plans shall be submitted and approved prior to City Engineer signature on final plat. The plans shall detail location, height, and wattage of street lights. An easement for the installation and maintenance of the street light, including fixtures, conduit and wiring, shall be depicted on the final plat.

9. All utilities necessary to service the development shall be extended 'to and through' the development, as may be necessary to provide for the orderly expansion of services in the City. The applicant shall provide all easements, as required, for installation of all utilities necessary to service the subject development.

10. An approval letter from the Middleton Rural Fire Protection District shall be submitted to the City prior to City Engineer signing the final plat.

11. Covenants, restrictions, homeowners association bylaws, or other similar deed restrictions which provide for the use, control, and mutual maintenance of all common areas, storage facilities, recreational facilities, or all open spaces shall be reviewed and approved by the City Attorney prior to the City Engineer signing the final plat.

Restrictive covenants must be recorded and a note on the face of the final plat is required to provide for stormwater facilities and mutual maintenance and access easements. Appropriate documents which describe the decision making procedures relating to the maintenance of structures, common areas and grounds shall be reviewed and approved by the City Attorney prior to City Engineer signature on the final plat.

12. If the homeowners association is responsible for the operation and maintenance of the storm drainage facilities, the covenants and restrictions, homeowners association bylaws, or other similar deed restrictions, shall be reviewed and approved by the City Attorney prior to City Engineer signature on the final plat. The homeowner's association shall not be dissolved without City Council approval.

13. A note shall be placed on the final plat stating "Minimum building setback lines shall be in accordance with the applicable zoning and subdivision regulations at the time of issuance of the building permit."

14. If the development has any impact on wetlands or other natural waterways, the applicant shall obtain approval from the Corps of Engineers and the Idaho Department of Water Resources, and/or any other jurisdictional agency prior to the City Engineer signature on the final plat.

15. Middleton City Code, International Building Code, and all applicable County, State, and Federal Codes and Regulations shall be complied with. All design and construction shall be in conformance with City of Middleton codes and Idaho Standard for Public Works Construction.

16. Any changes to the approved plans and specifications will require an application for the modification be submitted.

17. In conformance with City of Middleton Code, failure to file the final plat with the County Recorder within one (1) year after written approval from the City shall cause this approval to be null and void.

18. The action of the City of Middleton does not grant the applicant any appropriation of water, or the right to interfere with existing water rights or conveyance of the water. The applicant indemnifies and holds the City harmless for any and all water rights or claims associated with this application.

19. All storm drainage will be held on site unless approved by City Engineer.



# Exhibit “E”

## EXHIBIT "E"

**From:** [allen.fun](#)  
**To:** [Roberta Stewart](#)  
**Cc:** [votesmiller@yahoo.com](#)  
**Subject:** Heights landing  
**Date:** Monday, June 10, 2024 3:41:28 PM

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**Roberta;**

**The Middleton mill board has approved the plans for the 'Heights landing' development.**

**Would you please let this email serve as our approval, until the license agreement is in place.**

**Thank you,  
allen  
funkhouser  
Mill ditch co.**

**Also,  
Drainage District #2 has a small drain at this property, at the n.w. corner.  
The district has also approved of the plans.**

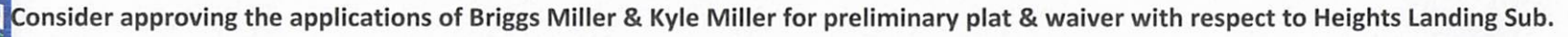
**Thank you,  
allen  
d.d.#2**



## Public Comment

## June 10, 2024 - Planning & Zoning Meeting

[illegible]



Please check

[illegible]