
**MIDDLETON CITY PLANNING AND ZONING
COMMISSION MINUTES
MAY 13, 2024**

Pledge of Allegiance, Roll Call & Call to Order: The May 13, 2024, Planning and Zoning Commission Meeting was called to order by Chairmen Summers at 5:30 p.m. Commissioners Summers, Tremble, Watkins, Sparrow, Waltemate, Gregory, and Gibson were present. Planning & Zoning Official Ms. Stewart, City Attorney Mr. Waterman, City Engineer Amy Woodruff, and Planning Deputy Clerk Ms. Day were also present.

Information Items:

1. **Upcoming Planning and Zoning Commissioner training workshop, including Training Handout and AIC Open Meeting Handout.**

Ms. Stewart presented training handouts and AIC open meeting handouts and requested commissioners to review the documents and come to the June 10, 2024 Planning and Zoning Meeting with questions for the workshop.

Chairmen Summers introduced new Commissioner Janet Gibson.

Action Items:

1. **Consent Agenda (items of routine administrative business)**
 - a. **Consider approving minutes for April 8, 2024, regular meeting.**
 - b. **Consider approving the Findings of Facts, Conclusions of Law and Order for 10 E. 2nd Street (Ostrom) Variance.**
 - c. **Consider approving the Findings of Facts, Conclusions of Law and Recommendation for the application to add SH 44 Alternate Route to the City's Comprehensive Plan Maps.**

Motion: Motion by Commissioner Waltemate to approve the consent agenda item 1a, 1b, and 1c. Motion seconded by Commissioner Watkins and approved unanimously.

1. **Public Hearing: Consider approving Application by Connor Gray/AG Land & Development and Y Street Capital for preliminary plat with respect to the Creekside Terrace Subdivision located at 0 N. Hawthorne Ave., 0 Concord Street, 4 Concord Street, 611 N. Hawthorne Ave., 617 N. Hawthorne Ave., 725 N. Hawthorne Ave., and 801 N. Hawthorne Ave., (Tax Parcel Nos. 17953010, 179530, 179520, 17952012, 179550, 179540, 17952011, and 17952010).**

Chairmen Summers opened the public hearing at 5:36 p.m.

Ms. Stewart presented a PowerPoint presentation of the Staff Report. (Exhibit A)

Discussion among Commissioners and Ms. Stewart.

Applicant Connor Gray presented the application, along with Jesse Christensen, applicant's Engineer, and Ron Manning, applicant's floodplain/water Engineer.

Brief Discussion between applicant, Ms. Stewart, Mr. Waterman and Commissioners.

Commissioner Sparrow made a motion to table to next planning and zoning meeting. No one seconded the motion.

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

Chairmen Summers called for break at 7:09 p.m.

Chairmen Summers called meeting back at 7:20 p.m.

Chairmen Summers opened public testimony at 7:21 p.m.

Sam & Paula Caster: Opposed

Andrew & Karen Sayles: Opposed

Denise Rhodes: Testified - Opposed

Lisa Gray: Opposed

Mike Graefe: Testified - Opposed

Harry Gabelman: Testified – Opposed

David & Sharon Denning: Opposed

Kelly & Lisa Crist: Kelly Testified – Opposed

Stephanie & Jim Teadmand: Opposed

Patti Lepel: Opposed

Sandi Fantanan: Opposed

Rich Dickens: Opposed

Greg Baker: Testified – Opposed

Ingrid Drunkel: Opposed

Ken Greenwell: Testified – Neutral

Natalie Ketchum: Opposed

Alecia Swartz: Testified – Opposed

Laura Clason: Opposed

Kassie Knapp: Opposed

John Lafraboise: Testified – Opposed

Wendy Chambers: Opposed

Brian Norman: Opposed

Brief Discussion between applicant and Commissioners

Chairmen Summers closed public testimony at 7:44 p.m.

Discussion among Commissioners.

Chairmen Summers closed the public hearing at 8:05 p.m.

Motion: Motion by Commissioner Watkins to recommend denial of the application by Connor Gray/AG Land & Development and Y Street Capital for preliminary plat with respect to Creekside Terrace Subdivision. Applicant can gain approval by complying with the code and Development Agreement, by submitting a preliminary plat that minimizes impact on natural features and the environment, and by updating the 2021 traffic study. Motion seconded by Commissioner Waltemate. Chairmen Summers called for a roll call vote: Chairmen Summers – Yes, Commissioner Tremble – Yes, Commissioner Watkins – Yes, Commissioner Sparrow – Yes, Commissioner Waltemate – Yes, Commissioner Gregory – Yes, and Commissioner Gibson – Yes and approved unanimous.

Public Comments

Mike Graefe: Commented

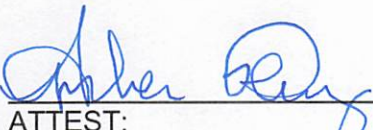
Commission and Staff Comments

Commissioners discussed public notice boards in public.

Adjourn: Motion to adjourn meeting by Commissioner Watkins and seconded by Commissioner Tremble. The meeting adjourned at 8:19 p.m.



Heidal Summers, Chairmen



ATTEST:
Deputy Clerk, Planning

Approved: May 13, 2024

City of Middleton Planning and Zoning

P&Z Commissioner Training

(May 9, 2024 – Chairman Heidal Summers)

- **Roles & Responsibilities**

The Planning and Zoning process is designed to balance property rights with protecting public interest. This can be a tricky process trying to balance these two issues. The Commission is a Quasi-Judicial body that is responsible for reviewing all Property related applications and making recommendations to City Council.

- Authority given through the Middleton City Code as a referring body; makes a decision on whether or not the Planning Staff has applied the code correctly, the project is in line with the Comprehensive Plan, the project either does or does not meet the code and then makes a recommendation to City Council.
- Final decision maker for Special Use Permits, Variances and Commercial Design Review Applications
- Governed by Idaho Code Title 67, Chapter 65 and City of Middleton Code 1-5-5.
- Responsible for reviewing the Staff report prior to the Commission meeting. Come prepared with any questions you may have on the Staff report. You may not do any outside research on any Public Hearing items on the posted Agenda. All discovery related to a Public Hearing must be done as part of the Public Meeting.

- **Flow of the Meeting**

Chairman runs the meeting according to Middleton City Code 1-14-2 and the Idaho Open Meeting Law found here:

<https://www.ag.idaho.gov/content/uploads/2018/04/OpenMeeting.pdf>

The general process is as follows:

- Public Hearings – open public meeting > staff report > commission questions for staff > Applicant presentation > commission questions for Applicant > open public hearing portion of meeting > Applicant and Staff return for clarifications and rebuttal > close public testimony portion > Commission discussion
- No further discovery should occur after closing the public testimony portion.
- No comments or questions from the audience during Commissioners discussion time. This is a time to discuss amongst the Commissioners the findings of facts

and conclusions of law that were discussed during the Public Hearing so the Commission can take a vote on the Application for how the recommendation will move forward to Council; recommend for approval or denial, with or without conditions.

- Motion must pass with a majority vote. A tie vote is a recommendation for denial by default.
- If the recommendation is for a denial, the Commission must state the facts and law relied upon in making the recommendation to deny. If there are grounds that would gain a recommendation for approval, the Commission should state those grounds on the record.

- **Staff Reports**

You will get used to the flow of a Staff Report and what information Staff typically includes in the report. Staff is preparing the Report by applying the current City Code and showing in the Report how the project either DOES or DOES NOT meet code.

Typically, by the time a project gets to P&Z, the Application either meets code or the Applicant understands the Application does not meet code and the Applicant is also applying for some sort of a waiver or variance to code.

To further learn how to use staff reports and understand the use of the information in these communications, and to understand how they are prepared and what detailed and graphic information they contain, you can request a meeting with the City Planning & Zoning Official.

- **Comprehensive Plans**

A comprehensive plan sets forth the vision and goals for a city's future development and activity, and it provides the overall foundation for all land use regulation in the city. State law requires all cities and counties to prepare and implement a comprehensive plan.

Many applications, but not all, require the governing bodies to find that the application is in “harmony” with the City’s Comprehensive Plan. The Staff Report for the public hearing will always address whether the Application is, or is not, in harmony with the Comprehensive Plan.

New Commissioners should review the Middleton City Comprehensive Plan to familiarize themselves with the overall vision for the development of the City.

- **Zoning & Ordinances**

The Zoning ordinance consists of a formal categorization of land-use policies applicable to specific land within a municipality. The zoning ordinance establishes permitted land uses and distinguishes between different land use types.

The Zoning Map should not be confused with the Future Land Use Map found in the City's Comprehensive Plan. The zoning map is an official enactment determining the land uses allowed on specific parcels. The Future Land Use Map is a broad view or overall vision for future land uses within the City's Area of Impact. Middleton's Zoning Map and Future Land Use Map can be accessed on the City's website under the Planning & Zoning Tab.

- **Additional Notes and Recommendations:**

It is recommended that you remove yourself from all Community Social Media Pages. Commissioners should come to these Public Hearings unbiased from the community chatter that is prevalent on Social Media.

You should immediately extricate yourself from any private discussions regarding the subject matter that will be considered in an upcoming Public Hearing. (This applies to only quasi-judicial proceedings, not legislative actions or administrative decisions.) Commissioners involved in a public hearing are acting in a quasi-judicial fashion. Commissioners should never receive nor consider any information that is not disclosed in the official public record because all parties involved in the public hearing are entitled to know and examine the sources of information the Commissioners relied upon in making their decision. Any outside discussion with neighbors, family, acquaintances, strangers...etc., about a subject of an upcoming public hearing is considered an ex parte communication. Because ex parte communications are private, they cannot be examined by the public and parties involved in the public hearing.

You should come to the Commission meetings wearing your "Planning & Zoning Hat". Your Middleton "Resident" hat gets taken off when you enter the Council Chamber. Commissioners must remove the emotion they may feel as a Resident and be able to apply the Findings of Fact and Conclusions of Law set forth in the Public Hearings. You will typically ask yourself: (1) Does the Application Meet Code, yes or no and (2) Is the Application in Harmony with the Comprehensive Plan, yes or no. As City of Middleton Residents, we are going to consider Applications that we personally do not want to see approved. However, if the Applicant can demonstrate that they have met all City Codes and their proposed project is in harmony with the Comp Plan, and if we cannot through our discovery during the meeting find a valid legal reason to Recommend for Denial, then we must Recommend approval of the application.

You can make any comment you would like during the Commission discussion that will go on record as part of the Meeting Minutes, but the Commission's ultimate decision must be based on facts and be in accordance with Law. Emotion is not a deciding factor.

Planning Staff typically requests City Attorney to attend meetings where the Application has some potentially tricky aspect to give guidance as needed.

No question is stupid. You should be prepared to ask **any** questions you feel would assist you in your decision whether to Recommend for Approval or Denial to Council.

Rarely is it advisable to table or continue a public hearing to get more information or give the Applicant more time to improve their application. The Commission's job is not to make sure an application is "in good shape" before moving on to City Council. The Commission's responsibility is to recommend denial if the application is not in "good shape", is incomplete, or is lacking information. The Commission is not tasked with making sure the applicant gets his or her work done. They are not "gate keepers" for the City Council. Instead, the Commission is tasked with "judging" whether the applicant did his or her work. To do otherwise would clog up the hearing calendar and slow down City business.



Idaho Open Meetings Law Manual

August 2018

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INTRODUCTION

The purpose of meetings is to provide a forum open to the public for the city council and city boards, commissions and committees to meet and deliberate on issues relating to city governance. These governing bodies derive their authority from acting collectively: no individual member has authority to make decisions that bind the governing body or the city.

Open meetings of the city council and city boards, commissions and committees increase the public's confidence in government by allowing them to see the deliberations and decision making of these governing bodies. Open meetings also promote accountability on the part of local officials by ensuring that their decisions are made in the light of day.

The Idaho Open Meetings Law sets forth basic requirements concerning public accessibility of meetings, advance posting of the meeting notice and agenda, and drafting of meeting minutes. Aside from the legal considerations, meetings represent an important opportunity to inform and engage the public, which is an important consideration for city elected officials.

This manual was updated in July 2018 to reflect an important bill passed during the 2018 Idaho Legislature: House Bill 611, which requires that:

- Meeting notices and agendas must be posted electronically if the government entity has a website or social media presence, in addition to physical posting at the office of the government entity;
- Action items must be identified as such on the meeting agenda, but designating an agenda item as an action item does not require the governing board to take action on that item; and
- Final action cannot be taken on an agenda item added to the agenda after the start of the meeting unless in an emergency situation with a declaration and justification recorded in the minutes.

UNDERSTANDING MEETING BASICS

Meetings Open to the Public: The Idaho Open Meetings Law requires that “all meetings of a governing body of a public agency shall be open to the public and all persons shall be permitted to attend any meeting, except as otherwise provided by this act.”¹

The sole exception to the requirement for open meetings involves executive sessions, where the public may be excluded from portions of a meeting that deal with sensitive topics that must be

¹ Idaho Code 74-203(1).

discussed confidentially to protect a person’s right to privacy, allow the governing board to communicate with its legal counsel concerning pending litigation, etc.²

Meeting Location: The Open Meetings Law prohibits holding of meetings at any place where discrimination on the basis of race, creed, color, sex, age or national origin is practiced.³

What is a Public Agency for the Purposes of the Open Meetings Law? The Open Meetings Law applies to public agencies, which are defined as:

- “(a) any state board, commission, department, authority, educational institution or other state agency which is created by or pursuant to statute, other than courts and their agencies and divisions, and the judicial council, and the district magistrates commission;
- (b) any regional board, commission, department or authority created by or pursuant to statute;
- (c) any county, city, school district, special district, or other municipal corporation or political subdivision of the state of Idaho;
- (d) any subagency of a public agency which is created by or pursuant to statute, ordinance, or other legislative act.”⁴

The Open Meetings Law applies not only to the city council, but also to city boards, commissions and committees created by city ordinance or resolution (e.g. planning and zoning commission, public works commission, library board, airport commission, historic preservation commission, parks and recreation commission, etc.). The law also applies to independent entities such as housing authorities and urban renewal agencies. All these entities are required to post notice and agendas for upcoming meetings, as well as draft minutes of their meetings.

What is a Governing Body for the Purposes of the Open Meetings Law? The Open Meetings Law defines a governing body as “the members of any public agency which consists of two (2) or more members, with the authority to make decisions for or recommendations to a public agency regarding any matter.”⁵ For the purposes of the Open Meetings Law, the term governing body includes the city council and city boards, commissions, and committees (e.g. urban renewal agency board, planning and zoning commission, parks and recreation commission, housing authority board, *ad hoc* sign ordinance committee, etc.).

What is a Meeting for the Purposes of the Open Meetings Law? The requirements of the Open Meetings Law, which include posted notice and agenda, and meeting minutes, come into play when a quorum of the council or a city board, commission or committee meets for the purpose of deliberating and/or making decisions on issues related to city government.⁶

² Idaho Code 74-206.

³ Idaho Code 74-203(4).

⁴ Idaho Code 74-202(4).

⁵ Idaho Code 74-202(5).

⁶ Idaho Code 74-202(6); 74-202(1) & (2).

Questions often arise as to whether workshops, work sessions, study sessions or public input sessions constitute meetings under the Open Meetings Law. Make no mistake: regardless of what the meeting is called, if a quorum is present to discuss issues relating to city government, the city must comply with the requirements of the Open Meetings Law.

Advance Posting of Meeting Notice & Agenda: The Open Meetings Law requires that notice of an upcoming meeting and an agenda must be physically posted in a prominent place at the principal office of the city or if the city does not have an office it is posted at the place where the meeting will be held, as well as electronically posted on the city’s website or social media account if the city has an online presence (see sections on regular and special meetings below for more information). Meeting notice must include the name of the city; the governing body calling the meeting; and the date, time and place of the meeting. The agenda must include a brief summary of each issue to be discussed.

Understanding Posting Versus Publishing: The term “posting” is often confused with “publishing.” Posting is tacking up a paper notice or agenda on the bulletin board at city hall or electronically on the city’s website or social media account. Publishing is printing a legal notice in the city’s official newspaper. In addition to posting of meeting notice and agenda there are certain issues that require published legal notice, generally in the context of public hearings (for more information on budget, land use and other state law publication and hearing requirements see the *AIC Public Notification Manual*).

Assembling the Agenda: It is the city clerk’s responsibility to assemble the agenda for council meetings, collecting suggestions from the mayor, councilors, and city staff. Idaho law provides that the mayor presides at council meetings and determines the order of business “subject to such rules as the council may prescribe...”⁷

It is important to remember these are *council* meetings: councilors should be able to request items be included on the agenda, with the exception of frivolous and/or unnecessarily repetitive requests. Such requests should be explained in writing, meeting standards established by the council. No councilor should be allowed to say “I want to be on the agenda. I’ll tell you what it’s about when we meet.” Setting the agenda is a shared responsibility and takes cooperation between the mayor and councilors.

The agenda must include the following.

- The name of the city.
- The name of the governing body that is convening the meeting.
- The date, time and place (street address) of the meeting.

⁷ Idaho Code 50-602.

- All issues that are expected to be discussed summarized in sufficient detail to allow a citizen to understand what will be discussed and make an informed decision as to whether to attend the meeting.
- If an executive session will be held, the authorization under Idaho Code 74-206(1) for holding the executive session.
- All agenda items that need a decision must be clearly marked as action items.⁸ See the example below:

Resolution 2018-36: A Resolution Supporting Enhanced State Transportation Funding for Local Highway Jurisdictions. **ACTION ITEM.**

When drafting the agenda it is important to avoid using acronyms, jargon and other language that is impossible for the general public to understand. Agenda descriptions such as New Business, Old Business and Public Works Director’s Report do not provide sufficient detail for citizens to understand what will be discussed.

Quorum: The quorum required for the transaction of business at a regular or special council meeting is a majority of the members of the full council.⁹ It is important to note that ***council vacancies do not reduce the number required for a quorum.***¹⁰ The mayor is not counted for quorum purposes. If the council president or another councilor is chairing the meeting they are counted for quorum purposes. Non-participation of a councilor by reason of conflict of interest does not disqualify the councilor for quorum purposes.

Presiding Officer: The mayor presides over city council meetings.¹¹ In the mayor’s absence, the council president presides over the meeting. If both the mayor and council president are absent, the council may designate one of the members in attendance as temporary chair (some cities select a council vice president or president pro tempore to serve as the backup if the council president is unavailable). When the council president or another councilor presides over the meeting, they retain their rights and responsibilities as a councilor: they can vote as a councilor and are counted for quorum purposes (but cannot break tie votes of the council, which is reserved exclusively for the mayor).

Duties of the Clerk: The city clerk is required by law to keep a journal of proceedings of the council.¹² The journal consists of the city council minutes, as well as ordinances and resolutions passed by the council.

⁸ If the city uses a consent agenda or consent calendar to approve a number of routine items in one motion, the agenda description should note that all of the following items are action items (each consent agenda item does not have to be listed as an action item individually since they normally handled as a single action).

⁹ Idaho Code 50-705.

¹⁰ McQuillin, Eugene. *The Law of Municipal Corporations*. Volume 4, 3rd Edition Revised, Clark Boardman Callaghan, 2001, p. 818. “In determining the legal quorum of a municipal governing body, ordinarily the whole membership of the body is to be counted. Where vacancies occur, the whole number entitled to membership must be counted and not merely the remaining members.”

¹¹ Idaho Code 50-602.

¹² Idaho Code 50-207.

Participation by Speakerphone: Councilors and members of other governing bodies may participate in meetings remotely by speakerphone or video conferencing, as long as the person(s) participating remotely can clearly hear those in attendance at the meeting and those in attendance can clearly hear the person(s) participating remotely.¹³ Those participating by speakerphone or video conference are counted for quorum purposes and can vote just as if they were physically present at the meeting. The mayor, city administrator/city manager, or a member of the governing body must be present in person at the meeting location to ensure the meeting is open to members of the public.

Who Gets to Speak? The public has the right to attend meetings with the exception of lawful executive sessions, but opportunities for the public to speak are generally limited to designated public comment periods and to public hearings. Public comment periods are not legally required.

Many cities provide a public comment period on the agenda of regular council meetings. While this provides an important opportunity to hear from the public, there should also be reasonable sideboards: issues must be relevant to city government, no repetitive or abusive comments, complaints about city staff must be made to the mayor outside of a meeting, time is limited to 3-5 minutes per speaker, and any issue requiring council action must be put on the agenda of a future council meeting.

No person has the right to disrupt a meeting; the presiding officer can order the removal of any person who disrupts a meeting. Declaring a temporary recess can be an effective way to establish order.

REGULAR MEETINGS

Meeting Day, Time & Location: Regular council meetings “shall be held each month at such place and times as the council may establish by ordinance.”¹⁴ For example, the City of Post Falls’ ordinance provides:

“The city council shall meet regularly on the first and third Tuesday of each month at six o'clock (6:00) P.M. at city hall.”

For city boards, commissions and committees, the regular meeting day, time and location may be set by resolution or motion of the board/commission/committee.

Meeting Notice: A city can satisfy the meeting notice requirement for regular meetings in one of two ways.¹⁵

¹³ Idaho Code 74-203(5).

¹⁴ Idaho Code 50-705.

¹⁵ Idaho Code 74-204(1).

- Notice may be posted at least five calendar days before the meeting in a prominent place at the city’s principal office, or if the city has no principal office at the place where the meeting will be held, as well as on the city’s website or social media account (if the city has an online presence). For example:

The City Council of the City of Iona will hold a regular meeting in the Council Chambers of Iona City Hall, 3548 North Main on Tuesday, July 21, 2015 at 6:30 p.m. City Hall and the Council Chambers are accessible for persons with disabilities. Any person needing special accommodations to participate in the meeting should contact the City Clerk, Julie Hammond, at least 24 hours prior to the meeting. The city clerk’s phone number is 523-5600.

- The regular meeting day(s) may be posted in a prominent place at the city’s principal office, or if the city has no principal office at the place where the meeting will be held, as well as on the city’s website or social media account (if the city has an online presence). For example:

The City Council of the City of Iona holds regular meetings in the Council Chambers of Iona City Hall, 3548 North Main on the third Tuesday of each month at 6:30 p.m. City Hall and the Council Chambers are accessible for persons with disabilities. Any person needing special accommodations to participate in the meeting should contact the City Clerk, Julie Hammond, at least 24 hours prior to the meeting. The city clerk’s phone number is 523-5600.

Agenda: The agenda for a regular meeting must be posted at least 48 hours prior to the meeting in a prominent place at the city’s principal office, or if the city has no principal office, at the place where the meeting will be held, as well as on the city’s website or social media account (if the city has an online presence).¹⁶

All agenda items that need a decision must be clearly identified as action items on the agenda.¹⁷ Identifying an agenda item as an action item does not require the governing board to vote on the item at that meeting.

The agenda may be amended to add unanticipated issues arising after the original agenda is posted, but a good faith effort must be made to ensure the original agenda includes all issues that will likely be discussed.¹⁸ The revised agenda must be posted as soon as possible, if the change is made prior to the meeting. If the change is made less than 48 hours before a regular meeting, or at the meeting, the governing body must pass a motion to amend the agenda stating the purpose and the good faith reason why the item was not listed on the original agenda. Final action may not be taken on an agenda item added after the start of a meeting unless there is an emergency situation that is reflected in the motion to add the item to the agenda and the minutes. Amending the agenda should be used sparingly and only when the issue can’t wait until the next meeting. It is important to note that the process for amending the agenda only applies to items

¹⁶ Idaho Code 74-204(1).

¹⁷ Idaho Code 74-204(4).

¹⁸ Idaho Code 74-204(4).

added to the agenda—items can be removed from the agenda as determined appropriate by the governing board.

SPECIAL MEETINGS

Meeting Day, Time & Location: Special council meetings are held on dates and times other than prescribed by city ordinance for regular council meetings. Special meetings of city boards, commissions and committees are held on dates and times other than the regularly scheduled meetings.

Business Specified in Written Call: Special meetings are held for the conduct of business specified in a written meeting call, to deal with certain issues that generally need to be resolved before the next regular meeting, or when a regular meeting is rescheduled due to a holiday, lack of quorum, etc. There is no restriction in state law on the number of items that can be on the agenda for a special meeting.

Method of Call: Special council meetings must be initiated by one of two methods:

- ✓ **Call by the Mayor:** The mayor may call a special council meeting.¹⁹
- ✓ **Call by the Council:** A majority of the full council may call a special meeting.²⁰

The bylaws or policies governing city boards, commissions and committees establish the method for calling special meetings.

Written Notice to Council: Regardless of whether the special council meeting is called by the mayor or the council, the councilors must be notified of the date, time, place and issue(s) to be considered at the special meeting in writing, and the written meeting notice and the disposition of the issues must be entered in the council minutes.²¹

Meeting Notice & Agenda: Meeting notice and agenda for special meetings must be posted at least 24 hours prior to the meeting (except in emergencies, see below) in a prominent place at the city's principal office, or if the city has no principal office at the place where the meeting will be held, as well as on the city's website or social media account (if the city has an online presence).²² The city clerk or other city staff are required to maintain a list of news media requesting notice of meetings and must make a good faith effort to provide advance notice of the time and place of each special meeting.

¹⁹ Idaho Code 50-604.

²⁰ Idaho Code 50-706.

²¹ Idaho Code 50-604; 50-706.

²² Idaho Code 74-204(2).

All agenda items that need a decision must be clearly identified as action items on the agenda.²³ Identifying an agenda item as an action item does not require the governing board to vote on the item at that meeting.

The agenda for a special meeting may be amended to accommodate unanticipated issues arising after the original agenda is posted, but a good faith effort must be made to ensure the original agenda includes all issues that will likely be discussed.²⁴ The revised agenda must be posted as soon as possible, if the change is made prior to the meeting. If the change is made less than 24 hours before a special meeting or at the meeting, the governing body must pass a motion to amend the agenda stating the purpose and the good faith reason why the item was not listed on the original agenda. Final action may not be taken on an agenda item added after the start of a meeting unless there is an emergency situation that is reflected in the motion to add the item to the agenda and the minutes. Amending the agenda should be used sparingly and only when the issue can't wait until the next meeting. It is important to note that the process for amending the agenda only applies to items added to the agenda—items can be removed from the agenda as determined appropriate by the governing board.

Emergency Meetings: The Open Meetings Law provides that “No special meeting shall be held without at least a twenty-four (24) hour meeting and agenda notice, unless an emergency exists.”²⁵ In the case of emergency meetings, the city must post notice and the agenda as soon as possible and the city clerk must make a good faith effort to notify members of the news media who have requested notification of meetings. The law defines an emergency as “a situation involving injury or damage to persons or property, or immediate financial loss, or the likelihood of such injury, damage or loss, when the notice requirements of this section would make such notice impracticable, or increase the likelihood or severity of such injury, damage or loss, and the reason for the emergency is stated at the outset of the meeting.”

VOTING

Who Gets to Vote? Councilors have the right to vote on issues. The mayor does not vote except in the case of breaking tie votes of the council.²⁶ Rules on voting by members of city boards, commissions and committees can be found in the bylaws and other city policies governing these bodies.

Methods of Voting: Two methods of voting may be used in meetings. In a voice vote, the presiding officer asks all those in favor of the motion to say “aye,” and all those opposed to say “no.” Voice voting is often the default method of voting, unless a roll call vote is requested by a member of the governing body, or required by state law or local policy. The disposition of a voice vote is recorded in the minutes (i.e. motion carried or motion failed) along with any members who wish to have their vote recorded in the minutes.

²³ Idaho Code 74-204(4).

²⁴ Idaho Code 74-204(4).

²⁵ Idaho Code 74-204(2).

²⁶ Idaho Code 50-602.

In a roll call vote, the clerk announces the name of each member of the governing body, who replies by saying “aye” or “no” on the motion. The disposition of the roll call vote is recorded in the minutes (i.e. motion carried or motion failed) *with the vote of each member listed separately*. The Open Meetings Law provides that a roll call vote may be requested by a single member of the governing body.²⁷ Other provisions of Idaho law require a roll call vote for specific issues, including:

- ✓ The motion to go into executive session.²⁸
- ✓ Approving ordinances.²⁹
- ✓ Approving contracts.³⁰

Some city councils have a policy to have all matters decided by roll call vote, which is more convenient than having to remember all the specific items for which a roll call vote is required and effectively prevents accidentally voting by the wrong method.

*It is important to note that the Open Meetings Law expressly prohibits voting by secret ballot.*³¹

Threshold for Approval: Most issues can be decided by a majority of the councilors voting.³² However, some issues specifically require majority vote of the full council or a supermajority vote at another threshold (two-thirds or three-fourths of the council). A majority of the full city council requires three votes to pass the motion for a four-member council, or four votes to pass the motion for a six-member council.

The following actions require supermajority approval by the council.

Majority of the Full Council

- Adopting a franchise ordinance.³³ This action requires a majority of the full city council.
- Confirming the mayor’s nomination for an appointed office, such as the city clerk, treasurer, attorney or other appointed positions established by local policy.³⁴ This action requires a majority of the full city council.
- Confirming the mayor’s removal of an appointed officer, such as the city clerk, treasurer, attorney or other appointed positions established by local policy.³⁵ This action requires a majority of the full city council.

²⁷ Idaho Code 74-205(1)(c).

²⁸ Idaho Code 74-206(1).

²⁹ Idaho Code 50-902.

³⁰ Idaho Code 50-902.

³¹ Idaho Code 74-203(1).

³² Idaho Code 50-705.

³³ Idaho Code 50-329.

³⁴ Idaho Code 50-205.

³⁵ Idaho Code 50-206.

- Adopting an ordinance providing for leasing of mineral rights.³⁶ This action requires a majority of the full city council.
- Overriding the mayor's veto of an ordinance.³⁷ This action requires a majority of the full city council.
- Calling special meetings of the city council.³⁸ This action requires a majority of the full city council.
- Calling a special election on adopting the council-manager form of government.³⁹ This action requires a majority of the full city council.
- Dispensing with the requirement for ordinances to be read on three separate days and once in full.⁴⁰ This action requires a majority of the full city council.
- Declaring an emergency caused by casualty, accident or act of nature after the appropriation ordinance for the year has been approved and authorizing short-term borrowing to pay for the costs of repairs or improvements.⁴¹ This action requires a majority of the full city council.
- Authorizing the use of portions of public parks, playgrounds or other grounds for athletic contests, golf links, agricultural exhibits, ball parks, fairs, rodeos, swimming pools and other amusements, and for military units of the state of Idaho or the United States, and making and entering contracts with the appropriate organizations and associations.⁴² This action requires a majority of the full city council.
- Initiation of a local improvement district by council resolution.⁴³ This action requires a majority of the full city council.
- Creation of a local improvement district when the owners of more than two-thirds of the property to be assessed have protested.⁴⁴ This action requires a majority of the full city council.
- Sale of property deeded to the city as a result of unpaid local improvement district assessments.⁴⁵ This action requires a majority of the full city council.

³⁶ Idaho Code 50-234.

³⁷ Idaho Code 50-611.

³⁸ Idaho Code 50-706.

³⁹ Idaho Code 50-802.

⁴⁰ Idaho Code 50-902.

⁴¹ Idaho Code 50-1006.

⁴² Idaho Code 50-1409.

⁴³ Idaho Code 50-1706.

⁴⁴ Idaho Code 50-1709.

⁴⁵ Idaho Code 50-1751.

Two-Thirds of the Council

- Approving a motion to go into executive session.⁴⁶ This action requires two-thirds vote of the city council.
- Council override of the term limits provision limiting planning and zoning commissioners to no more than two full, consecutive terms.⁴⁷ This action requires two-thirds vote of the city council.

Three-Fourths of the Full Council

- Passing an ordinance providing for disposition of excess revenues in a Local Improvement Guarantee Fund.⁴⁸ This action requires at least three-fourths vote of the full council.

EXECUTIVE SESSIONS

The Open Meetings Law provides that specific topics may be considered in closed executive session at regular or special council meetings.⁴⁹ The motion to go into executive session must be decided by roll call vote recorded in the minutes by individual vote, and the motion must be approved by two-thirds vote to pass. The motion must state the specific subsection(s) of Idaho Code 74-206(1) that authorize(s) the executive session.

- (a) To consider hiring a public officer, employee, staff member or individual agent, wherein the respective qualities of individuals are to be evaluated in order to fill a particular vacancy or need. This paragraph does not apply to filling a vacancy in an elective office or deliberations about staffing needs in general;
- (b) To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student;
- (c) To acquire an interest in real property which is not owned by a public agency;
- (d) To consider records that are exempt from disclosure as provided in chapter 1, title 74, Idaho Code;
- (e) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations;

⁴⁶ Idaho Code 74-206.

⁴⁷ Idaho Code 67-6504(a)(3).

⁴⁸ Idaho Code 50-1769.

⁴⁹ Idaho Code 74-206.

(f) To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. The mere presence of legal counsel at an executive session does not satisfy this requirement;

Subsections (g) and (h) apply to the Commission of Pardons & Parole and the Custody Review Board of the Idaho Department of Juvenile Corrections and are not relevant for cities.

(i) To engage in communications with a representative of the public agency's risk manager or insurance provider to discuss the adjustment of a pending claim or prevention of a claim imminently likely to be filed. The mere presence of a representative of the public agency's risk manager or insurance provider at an executive session does not satisfy this requirement; or

(j) To consider labor contract matters authorized under section 74-206A (1)(a) and (b), Idaho Code.

Who Can Attend Executive Sessions? The mayor and council have discretion to determine what persons need to attend the executive session and can summon and excuse these individuals as necessary. The city clerk does not need to attend the executive session unless requested by the council. A mayor or councilor with a declared conflict of interest can be excluded from an executive session meeting.

Minutes: Minutes are not kept in executive session, but the minutes of the council meeting must reflect: the motion to go into executive session citing the specific subsection(s) of Idaho Code 74-206(1) authorizing the executive session; the roll call vote on the motion with every councilor's vote recorded individually; and the time when the council entered executive session and the time when the executive session ended. If notes do need to be taken, they should be taken by your city attorney so they are protected by attorney-client privilege and are not public record.

Prohibited Conduct: No executive session may be held for the purpose of taking any final action or making any final decision.⁵⁰ Changing the subject within executive session to one not identified in the motion to enter or to any topic for which executive sessions are not allowed constitutes a violation of the Open Meetings Law.⁵¹

Open Collective Bargaining Legislation: Prior to July 1, 2015, the Open Meetings Law permitted labor negotiations to be conducted in executive session if either side requested closed meetings. Because of the passage of House Bill 167 by the 2015 Idaho Legislature, all negotiations between a governing body (or its designated representatives) and a labor organization (or its designated representatives) must occur in meetings open to the public

⁵⁰ Idaho Code 74-206(3)

⁵¹ Idaho Code 74-206(2)

preceded by notice.⁵² Open meetings are also required for any meetings with any labor negotiation arbitrators, mediators or other facilitators.

The city council (or its designated representatives) may hold an executive session to consider labor contract offers or formulate counteroffers, as well as receive information about a specific employee, when the information has a direct bearing on the issues being negotiated and a reasonable person would conclude that the release of the information would violate the employee's right to privacy.

All documentation exchanged between the parties during negotiations, including offers, counteroffers, and meeting minutes is public record. The city must post notice of the negotiation sessions "at the earliest possible time practicable" by immediately putting the notice on the front page of the city's website and, if time permits, posting notice within 24 hours on the bulletin board at city hall. If public testimony will be allowed at the meeting, it must be posted as an agenda item.

Unless the Legislature acts to remove the sunset clause, the provisions of HB 167 are set to expire on July 1, 2020.

MINUTES

The city clerk is responsible for ensuring that accurate minutes are taken of every meeting of the city council, although the city clerk is not required to personally prepare the minutes.⁵³ Minutes must also be prepared for meetings of city boards, commissions and committees. The council or governing body should approve the minutes by motion, noting any desired changes. After approval, the minutes should be signed by the city clerk or the person responsible for taking minutes for a city board, commission or committee.

What Must be Included in Minutes? The Open Meetings Law provides that minutes must be "available to the public within a reasonable time after the meeting" and must include, at a minimum, the following information.⁵⁴

- ✓ The date, time and place of the meeting;
- ✓ The members of the governing body in attendance;
- ✓ All motions, resolutions, orders, or ordinances proposed and their disposition; and
- ✓ The results of all votes, and upon the request of a member, the vote of each member by name.

⁵² Idaho Code 74-206A.

⁵³ Idaho Code 50-207.

⁵⁴ Idaho Code 74-205.

Executive Session: Minutes are not taken in executive session, but the meeting minutes must include the following information.⁵⁵

- The motion to enter executive session with the specific subsection(s) of Idaho Code 74-206(1) authorizing the executive session.
- The roll call vote on the motion to enter executive session, with each councilor's vote listed individually.
- The time the council entered executive session and the time the council reconvened in public session.
- The minutes must not include information that would compromise the purpose of going into executive session.

What Level of Detail is Required for Minutes? The level of detail in the minutes involves tradeoffs and is an issue that each governing body must decide. More detail provides a more useful account of the meeting for future generations, but takes more time and effort to produce. The minutes should be a summary and do not have to reflect what a person says word for word. A recording or verbatim transcript of the meeting is not required; however, cities are required to have audio recordings of public hearings, deliberation and decisions on site-specific land use issues that are retained for at least six months after the final decision.⁵⁶

PENALTIES FOR VIOLATION & CURE PROCESS

The most significant penalty for violating the Open Meetings Law is that any action, or any deliberation or decision making that leads to an action, that occurs at a meeting held in violation of the Open Meetings Law is void.⁵⁷

The law also sets forth fines for members of the governing body for violating the Open Meetings Law. These fines are paid personally by the members of the governing body, not the city.

- A \$250 civil fine for a member of the governing body who conducts or participates in a meeting that violates the Open Meetings Law.⁵⁸
- A \$1,500 civil fine for knowing violation of the Open Meetings Law.⁵⁹
- A \$2,500 civil fine for repeated knowing violations of the Open Meetings Law within 12 months.⁶⁰

⁵⁵ Idaho Code 74-205(2).

⁵⁶ Idaho Code 67-6536.

⁵⁷ Idaho Code 74-208(1).

⁵⁸ Idaho Code 74-208(2).

⁵⁹ Idaho Code 74-208(3).

- Undergoing the cure process (discussed below) protects members of the governing body from the \$250 civil fine.⁶¹

The most significant change resulting from the passage of Senate Bill 1142 by the 2009 Idaho Legislature was the establishment of a process for curing Open Meetings Law violations. For years, AIC and many city attorneys had advised following such a process, but without clear guidance in the statute. The Open Meetings Law allows the governing body to acknowledge the procedural defect and re-do the action in compliance with the law.⁶²

The process begins when a violation is:

- Recognized by the governing body itself, or
- Brought to the attention of the governing body through a written complaint.

If a written complaint is filed, the governing body has 14 days to respond publicly and:

- Acknowledge the violation and state an intent to cure it, or
- Respond that the governing body has determined there is no violation and no cure is necessary.

After acknowledgement that a violation has occurred, the governing body has 14 days to declare the action occurring at or resulting from the unlawful meeting void. The governing body may proceed to reconsider the decision in compliance with the Open Meetings Law.

⁶⁰ Idaho Code 74-208(4).

⁶¹ Idaho Code 74-208(7)(d).

⁶² Idaho Code 74-208(7).

Steps for Entering Executive Session

1. Motion. “I move that the council enter executive session pursuant to Idaho Code 74-206 subsection (1) (*state the subsection(s) below that apply*) and request a roll call vote on the motion.”

- (a) To consider hiring a public officer, employee, staff member or individual agent (does not apply to filling a vacancy in an elective office or deliberations about staffing needs in general).
- (b) To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent.
- (c) To acquire an interest in real property which is not owned by a public agency.
- (d) To consider records that are exempt from disclosure as provided in chapter 1, title 74, Idaho Code.
- (e) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations.
- (f) To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated, but imminently likely to be litigated.

Subsections (g) and (h) are not relevant for cities.

- (i) To engage in communications with a representative of the public agency's risk manager or insurance provider to discuss the adjustment of a pending claim or prevention of a claim imminently likely to be filed.
- (j) To consider labor contract matters authorized under section 74-206A (1)(a) and (b), Idaho Code.

2. Second. The motion must be seconded (if following rules of order that require a second).

3. Roll Call Vote. The city clerk calls each councilor's name, they vote yes or no on the motion, and each councilor's vote is recorded individually in the minutes.

4. Threshold for Approval. The motion must be approved by two-thirds vote.

5. Prohibited Conduct in Executive Session. The Idaho Open Meetings Law prohibits changing the subject in executive session to any topic not identified in the motion to enter executive session or changing the subject to any topic for which executive sessions are not allowed. Violation is punishable by a \$250 civil fine; a knowing violation is punishable by a \$1,500 civil fine. Fines are paid personally by the city official, not the city.



STAFF REVIEW AND REPORT

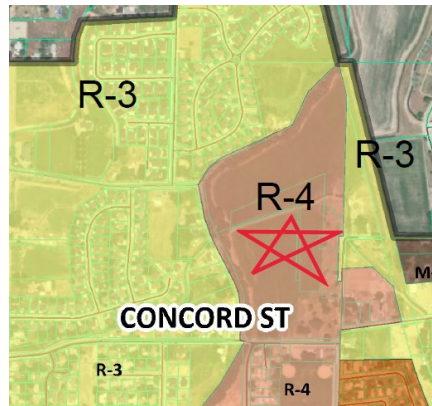
Middleton Planning and Zoning Commission

Creekside Terrace Subdivision Preliminary Plat Application

Vicinity



- A. Planning & Zoning Commission Hearing Date:** May 13, 2024
- B. Project Description and Application:** Applicants Y Street Capital and AG Land & Development are applying for preliminary plat approval for a subdivision with 118 single family home sites and 16 common lots on approximately 34 acres located at the northeast corner of Concord Street and Willow Drive (4 Concord St., 0 Concord St., 0 N. Hawthorne Ave., 611 N. Hawthorne Ave., 617 N. Hawthorne Ave., 725 N. Hawthorne Ave., and 801 N. Hawthorne Ave., - Tax Parcel Nos. 17953010, 179530, 179520, 17952012, 179550, 179540, 17952011, and 17952010).
- The project parcel was the subject of a rezone application in 2006. A Development Agreement (“DA”) was executed as a part of that rezone application. The DA allows up to 125 single family residential lots. Minimum lot size allowed is 4000 s.f. (A copy of the Development Agreement is attached as Exhibit “A”.)
- C. Current Zoning & Property Condition:** The property is comprised of seven vacant lots within city limits. It was rezoned R-4 (Medium Density Residential) in 2006. It is surrounded on all four sides by city property zoned R-3 or R-4.



- D. **City Services:** City water is located adjacent to the project site in Willow Drive, Concord Street, and Hawthorne. A sewer main is located onsite, but it may need to be replaced during construction if the project is approved.
- E. **Traffic, Access & Streets:** The subdivision will require the construction of the full width of 9th Street, which is an east/west collector. Developer will also be responsible for improving the ½ street portions of Concord Street and Hawthorne Avenue directly adjacent to the project. Access to the subdivision will be through 9th Street, Hawthorne Street, and Concord Street.



Applicant’s traffic study indicates that at full build-out, a roundabout or traffic signal will be required at Hawthorne and Hwy 44. The Traffic signal will require a left turn and shared through/right turn lane at both the northbound and southbound approaches.

Pursuant to MCC 4-5-3, Applicant is required to pay \$26,000 in Traffic Pro-Rata fees to cover its 1.3% impact on the future roundabout at Cemetery Road and Purple Sage, which is a project not on the Mid-Star CIP.

- F. **Open Space & Pathways:** The Development Agreement requires Developer to construct a community center onsite (DA, para. 3.16). The preliminary plat does not have a definitive note establishing that any specific lot will be used for a community center.

The DA requires a 7' wide pathway along the north and west boundaries of the project (DA, para. 3.15). The proposed preliminary plat shows that most of the pathway will be located inside the parameters (or embankments) of Willow Creek itself, which creek flows water year round. And the proposed pathway will definitely be inside the creekbed if the floodway is altered as Applicant is requesting. The pathway as currently shown on the preliminary plat is infeasible and, therefore, does not comply with the City Code nor the DA.

The DA also requires a minimum of 25% open space (DA, para. 3.13), and the concept plan approved in the rezone application shows a significant number of ponds or "water features." "Blue Space" is shown to be approximately 18.4% of the project parcel.



The proposed preliminary plat does not include any “Blue Space” whatsoever. The preliminary plat also does not show if the other requirement of 25% open space has been met. No notes or dimensions are included to clarify this requirement.

[Full-size copy of the Concept Plan is attached as Exhibit “C”.]

- G. Preliminary Plat Application:** The proposed preliminary plat shows a single phase for development. Per the DA, Developer is entitled to develop lots with minimum square footage of 4000 s.f., which is smaller than the 7000 s.f. minimum size for lots in the R-4 Zone. All lots, except for a handful of lots, are between 4000 s.f., to 5,500 s.f., in size. (A full size copy of the Preliminary Plat is attached as Exhibit “B”.)



The sole criteria for approving this preliminary plat is a finding that the proposed preliminary plat complies with the City Code and Development Agreement. In this case, the current preliminary plat is required to comply with the City’s 2006 Code as required by paragraph 3.3 of the Development Agreement.

Staff Findings: *Planning Staff finds that the proposed preliminary plat does not comply with the requirements of the 2006 City Code. Below are the specific deficiencies:*

1. *The preliminary plat does not show the proposed ½ road improvements for Concord Street and Hawthorne Avenue per MCC 6-3-2D and 6-3-2(A)(2)(w).*
2. *Lots 25 and 26, Block 1 are located significantly in the 9th Street right of way adversely affecting the right of way required in MCC 6-3-2E.*
3. *Cul de sacs must have a radius of 50'. (MCC 6-3-2F) The preliminary plat does not establish that this radius requirement has been met.*
4. *Streets are missing names and/or end with an impermissible descriptor like "Lane" in violation of MCC 6-3-2K.*
5. *Dimensions and widths of proposed streets are also missing in violation of MCC 6-2-3(A)(2)(h).*
6. *A block length exceeds 660' in violation of MCC 6-3-3A.*
7. *Dimensions on lots are missing or obviously erroneous, and lot square footage is missing or cannot be calculated. (Block 7, Lots 1 -14; B1/L6, Block 1, lots 33 and 34, B9/L6, entire block 4 shows identical lots with identical square footage but different street frontage amounts, which is impossible. (MCC 6-2-3(A)(2)(r))*
8. *No storm water management was shown on the preliminary plat. (MCC 6-3-9 and 6-2-3(A)(3))*
9. *No utility plan was provided to show how the project will be serviced with sewer and water. (MCC 6-2-3(A)(2)(o), (p) and (q), 6-2-3(A)(3) and 6-4-2)*
10. *The preliminary plat does not show a proper perimeter boundary based on field survey with ties to corners in violation of MCC 6-2-3(A)(2)(l).*
11. *The preliminary plat is missing the identification and descriptive data required by MCC 6-2-3(A)(2), subsections (a)-(b), (f)-(l), (n)-(t) & (v)-(w).*
12. *Preliminary plat fails to show easement over large drain transecting the project site in violation of MCC 6-2-3(A)(2)(h).*
13. *The floodway and floodplain are not clearly delineated on the preliminary plat in violation of MCC 6-2-3(A)(2)(g) and (l). Additionally, it appears that some lots are in the floodway and other lots are too close to the floodway edge, making it impossible to build a structure on those lots. Therefore, some lots shown on the preliminary plat cannot be constructed as designed. (B7/L14 and 2 homesites located at Lots 33 and 34, Block 1.) (MCC 4-4-8-5(E)(4) and 2006 code 6-2-3(A)(2)(l)).*

H. Development Agreement: This project parcel was rezoned to R-4 in 2006. A Development Agreement was approved and executed as a part of that rezone application. The DA allows up to 125 single family homesites with a minimum lot size of 4000 s.f.

Applicant's preliminary plat is required to comply with the Development Agreement in order to gain approval.

Staff Findings: Staff finds that Applicant's preliminary plat does not comply with the DA for the following reasons:

1. *Blue Space on Concept Plan:* As already shown above, the preliminary plat is not "substantially consistent" with the approved "Blue Space" on the Concept Plan (DA para. 3.18). The concept plan approved in the 2006 rezone shows significant water features or ponds. The concept plan calls out 18.4% Blue Space.



The proposed preliminary plat shows no water features or ponds whatsoever.



2. *Open Space: The DA requires 25% open space. (Para 3.13). The preliminary plat does not show the square footage of the common space lots, so the preliminary plat fails to establish that it is providing 25% open space.*
3. *Alley Load: The approved concept plan and paragraphs 3.6, 3.12, and 3.18 of the DA contemplate alley load homes in the project. Alley load homes create a nice streetscape because the front elevations face Concord Street and Hawthorne Avenue. The unattractive garages are on the rear of the home and face the alley access. See planned alley load homes circled in red.*



The current preliminary plat does not include the alley load homes in violation of the approved concept plan and DA.

4. *Street Design: the DA called out the specific dimensions and design of the proposed streets (Para. 3.12). The larger local streets are required to have 32' wide paved area. The current preliminary plat shows only 24' paved area. Paragraph 3.12 of the DA also requires Applicant to construct 30' wide half roads along Hawthorne and Concord. Applicant, however, failed to include this DA requirement on the preliminary plat.*

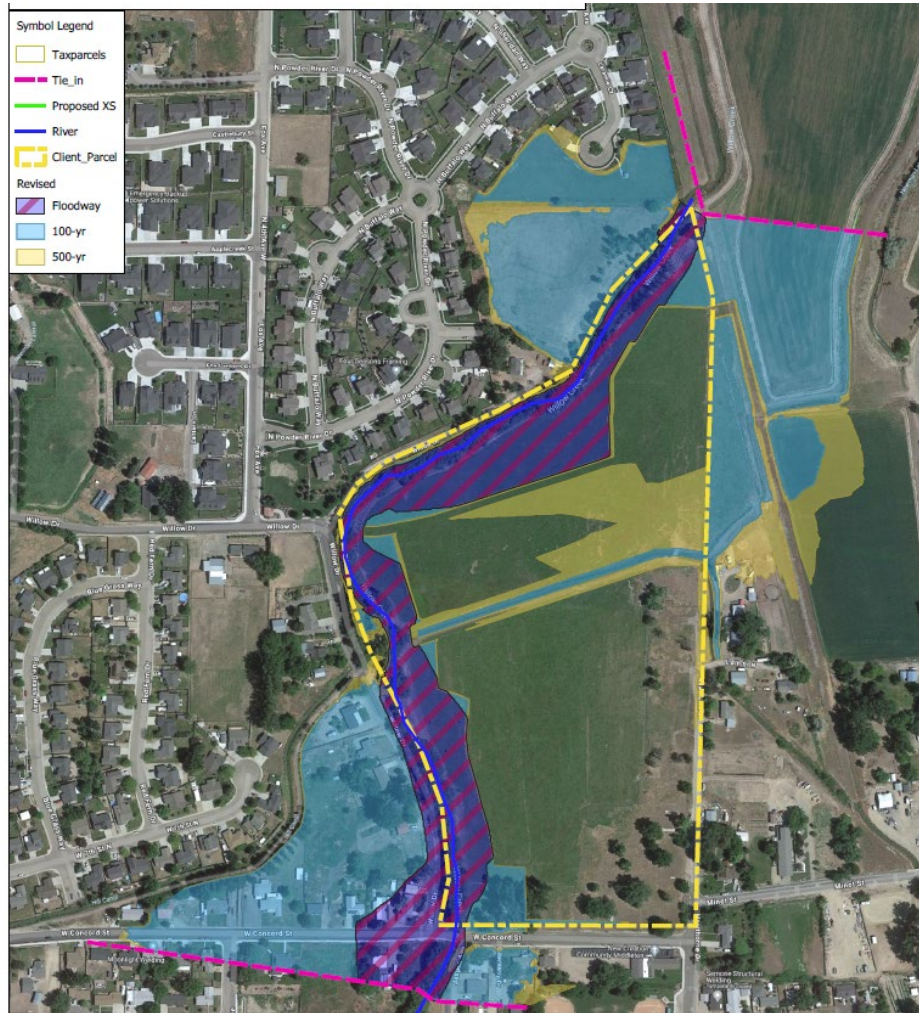
5. *As noted above, neither the preliminary plat nor a narrative establish that the Applicant/Developer will construct a community center in compliance with paragraph 3.16 of the DA.*
 6. *As already noted above, the pathways shown on the proposed preliminary plat are infeasible because they are located in the middle of the Willow Creek's creek bed.*
 7. *Per paragraph 3.7 of the DA, Developer must provide an irrigation system and landscaping that shows one tree on alternating lots along the parkway strip. Applicant has not submitted a landscape plan showing this requirement. Additionally, the pressurized irrigation system was not shown on the preliminary plat to establish compliance with this requirement. (See also irrigation requirement in paragraph 3.8.)*
- I. FLOODWAY AND HAZARDS**– A significant portion of the parcel is currently in the floodway with the rest in the floodplain. As seen below, the red and blue striped area is currently designated floodway. The solid blue overlay is floodplain.



The Federal Emergency Management Agency (“FEMA”) defines “floodway” as a channel of a river or watercourse that must be reserved in order to discharge the base flood. No structure may be constructed in a floodway. However, structures can be built in the floodplain with a floodplain permit. Homeowners who live in a floodplain

area are required to purchase flood insurance each year, and this requirement can affect a homeowner's ability to obtain a home loan.

Applicant/Developer has applied to FEMA to change the floodway and floodplain on their property via a Conditional Letter of Map Revision (or CLOMR). Once the CLOMR work is completed, the floodway and floodplain should look like the below:

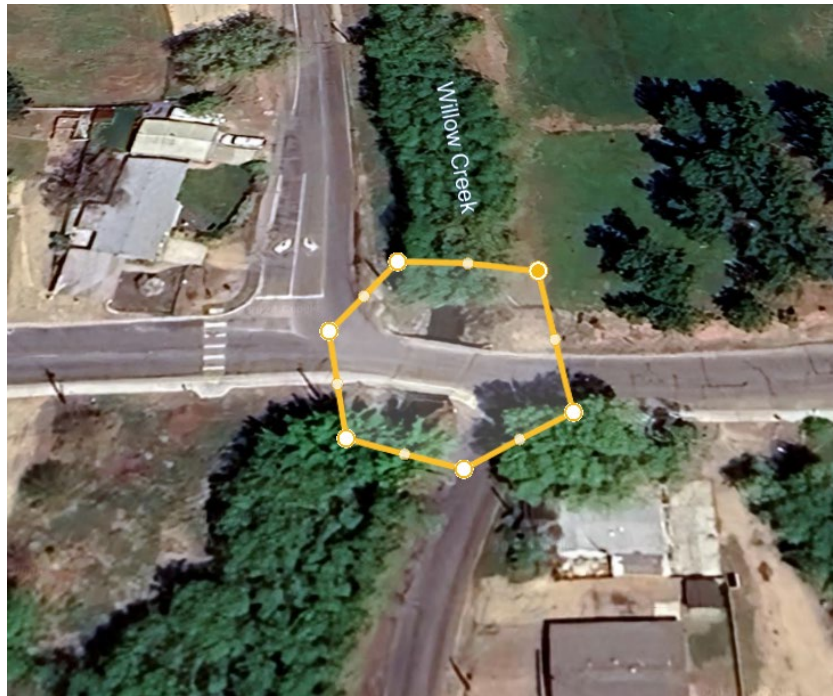


Based on this revised floodway map, it appears the current preliminary plat shows significant portions of home lots 33 & 34, Block 1 in the floodway and most of Lot 14, Block 7 in the floodway. No building structure can be placed in the floodway or within 50' of the edge of floodway; therefore, it appears that the preliminary plat violates MCC 4-4-8-5E(4) and 2006 code 6-2-3(A)(2)(I)) because structures cannot be constructed per the preliminary plat as designed.

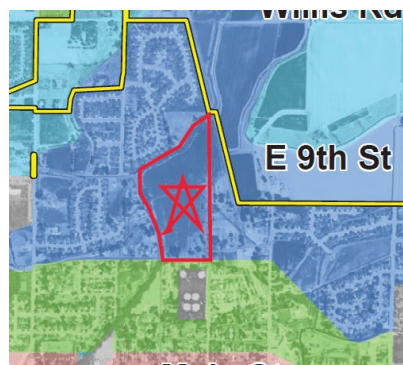
Additionally, Developer's CLOMR will place four nearby lots that are currently not in the floodplain into the floodplain. Landowners who are currently not paying annual






floodplain insurance will have to start buying floodplain insurance once the Developer completes the CLOMR revisions to the floodway/floodplain. The homeowners affected are the homeowners of 314, 320, and 409 Concord Avenue. Additionally, a portion of vacant land to the east (Parcel No. R33883010B) will be placed into the floodplain. When this landowner develops that property in the future, the landowner will have to deal with floodplain issues that he or she does not have to currently deal with.

Finally, it is not clear whether the existing concrete bridge downstream at Concord Street and Willow Drive will adequately handle Developer's proposed changes to the floodway and channel.



J. Comprehensive Plan & Land Use Map: Applicant's proposed project is in compliance with the City's Future Land Use Map (FLUM) because the residential project is located in an area shown as "Residential" on the FLUM.



-  Commercial
-  Industrial
-  Mixed Use
-  Public
-  Residential

- K. Comments Received from Landowners & Public:** Comments from the public and landowners in the surrounding area are attached as Exhibit “D”.
- L. Comments from Agencies:** Comments from Agencies are attached as Exhibit “E”.
- M. Comments from City Engineer & Planner:** See Exhibit “F”.
- N. Applicant Information:** Application was accepted on March 15, 2021. Applicant is Y Street Capital and AG Land & Development.

O. Notices & Neighborhood Meeting:	Dates:
Newspaper Notification	4/28/2024
Radius notification mailed to Adjacent landowners within 500’	4/25/2024
Circulation to Agencies	4/25/2024
Sign Posting property	4/25/2024
Neighborhood Meeting	2/26/2021

P. Applicable Codes and Standards:

Idaho Standards for Public Works Construction, the Middleton Supplement to the Idaho Standards for Public Works Construction, 2006 Middleton City Code Title 5 and Title 6, Middleton City Code 1-14, 1-15, 1-16, 5-1, 5-2, 5-3, and 5-4, an Idaho Code Title 67, Chapter 65 and Title 50, Chapter 13.

Q. Conclusions and Recommended Conditions of Approval:

The Planning & Zoning Commission is tasked with considering the applications and making recommendations to City Council for approval or denial of the applications. Approval can be with or without conditions.

Per State law and the Middleton City Code, any 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 italics.

As to Conclusions of Law, Planning Staff finds that the Planning & Zoning Commission has the authority to hear this application and to recommend approval or denial of the application. Additionally, Planning Staff notes that all public notice requirements were met. Planning Staff further set forth the portions of the Idaho State

Code and Middleton City Code to be considered in making a recommendation on the applications.

If the Commission is inclined to recommend approval of the preliminary plat, then Planning Staff recommends that any approval be subject to the following conditions:

1. Applicant/Developer to construct all ½ road portions of Concord Street and Hawthorne Avenue in compliance with City code, Supplement to ISPWC, and Development Agreement.
2. Applicant/Developer shall be subject to the Engineering Conditions of Approval attached hereto as Exhibit "G"
3. All City Engineer review comments for the preliminary plat application, construction drawing application and final plat application are to be completed and approved.
4. If deemed necessary by City Engineer and the Public Works Director, Developer must replace the entire sewer main currently onsite.
5. Applicant/Developer is responsible for improving or replacing the concrete bridge at Willow Drive and Concord Street if required by the changes made to the floodway/floodplain per an approved CLOMR.
6. City of Middleton municipal domestic water, fire flow and sanitary sewer services are to be extended to serve the subdivision.
7. 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.
8. All Planner comments are to be completed and approved.
9. All requirements of the Middleton Rural Fire District are to be completed and approved.
10. All requirements of the Black Canyon Irrigation District are to be completed and approved.
11. All requirements of FEMA, Idaho Department of Water Resources, Bureau of Reclamation, U.S. Army Corp of Engineers and Environmental Protection Agency must be completed and approved.

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

EXHIBIT A
2006 Development Agreement

INSTRUMENT NO. 200629278

ORDINANCE NO. 398

Creekside Terrace

AN ORDINANCE OF THE CITY OF MIDDLETON, CANYON COUNTY, IDAHO, CHANGING THE ZONING OF CERTAIN PROPERTY WITHIN SAID CITY OF MIDDLETON FROM R-3 SINGLE-FAMILY RESIDENTIAL AND R-4T MOBILE HOMES; TO R-4 COMBINED MEDIUM DENSITY RESIDENTIAL WITH A DEVELOPMENT AGREEMENT; INSTRUCTING THE CITY ENGINEER TO DESIGNATE SAID PROPERTY AS R-4 COMBINED MEDIUM DENSITY RESIDENTIAL ZONING; PROVIDING FOR SEVERABILITY; REPEALING CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, it has been determined by the City Council of the City of Middleton, Idaho, upon recommendation of the Planning and Zoning Commission and following the public hearing procedures as required in Section 5-13-1, Middleton City Code, that the property described in EXHIBIT A be rezoned from R-3 Single-Family Residential and R-4T Mobile Homes to R-4 Combined Medium Density Residential.

WHEREAS, the owner of the real property situated in the incorporated area of Canyon County and particularly described in Exhibit A, attached and hereby made a part of this ordinance, has requested, in writing, a zone change of said real property to the City of Middleton; and

WHEREAS, the Planning and Zoning Commission of the City, pursuant to public notice as required by law, held a public hearing on January 23, 2006 and continued it to February 27, 2006, as required by Section 67-6525, Idaho Code, and recommended to the Mayor and Council that they approved the request for re-zone to R-4 Combined Medium Density Residential with a Development Agreement; and

WHEREAS, the Middleton City Council, pursuant to public notice as required by law, held a public hearing on April 5, 2006, on the requested zoning for the real property described in Exhibit A attached, as required by Section 67-6525, Idaho Code;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MIDDLETON, IDAHO, AS FOLLOWS:

Section 1. The Middleton City Council hereby finds and declares that the real property described in Exhibit A attached consists of 36.23 acres generally located at the northwest corner of Concord and Hawthorne is hereby re-zoned to R-4 Combined Medium Density Residential with a Development Agreement..

Section 2. The City Engineer is hereby instructed to so designate the same above-described property on the official zoning map of the City of Middleton, Idaho, as being R-4

EXHIBIT "A"

A part of lot 42 in the Assessor's Plat of HAWTHORN PLAT OF MIDDLETON, Canyon County, Idaho, according to the official plat thereof, filed in Book 3 of Plats at Page 22, records of said County, also being a part of the Northeast quarter of the Southwest half of Section 6, Township 4 North, Range 2 West, Boise Meridian, Canyon County, Idaho, more particularly described as follows:

Beginning at the Northeast corner of said Lot 42 on the centerline of Hawthorn Drive and running South along the East boundary of Lot 42, a distance of 77.16 feet to a point which is the REAL POINT OF BEGINNING, thence South 50.00 feet along the East boundary of said Lot 42, thence West 145 feet parallel with the North boundary of said Lot 42, thence North 50.00 feet parallel with the East boundary of said Lot 42, thence East 145.00 feet parallel with the North boundary of said Lot 42 to the REAL POINT OF BEGINNING.

EXHIBIT "A"

A portion of Lot 42, HAWTHORN PLAT, AND Lot 43 as shown on the plat of LOTS 43 AND 45, HAWTHORN PLAT, Middleton, Canyon County, Idaho, according to the plat filed in Book 3 of Plats, Page 22, records of said County, and is situated in the Northeast quarter of the Southwest quarter, Section 6, Township 4 North, Range 2 West, Boise Meridian, Canyon County, Idaho, more particularly described as follows:

COMMENCING at the Northeast corner of the said Northeast quarter of the Southwest quarter; thence
South $0^{\circ}04'00''$ East (formerly South) along the East boundary of the said Northeast quarter of the Southwest quarter, which boundary is also the centerline of Hawthorn Drive, a distance of 244.95 feet; thence
South $89^{\circ}56'00''$ West along a line perpendicular to the said East boundary a distance of 30 feet to the West right of way boundary of Hawthorn Drive, which point is the TRUE POINT OF BEGINNING; thence
South $0^{\circ}04'00''$ East along the said West right of way boundary a distance of 100.05 feet to the North boundary of said Lot 42; thence
North $89^{\circ}56'00''$ East along the said North boundary a distance of 30 feet to the said East boundary of the Northeast quarter of the Southwest quarter, which is also the East boundary of said Lot 42; thence
South $0^{\circ}04'00''$ East (formerly South) along the said East boundary of Lot 42 a distance of 77.16 feet; thence
South $89^{\circ}07'51''$ West a distance of 163.36 feet; thence
North $0^{\circ}16'48''$ East a distance of 139.45 feet; thence
North $89^{\circ}56'00''$ East along a line perpendicular to the said East boundary of the Northeast quarter of the Southwest quarter a distance of 12.5 feet to a point on a line that is parallel with and 150 feet Westerly of the said East boundary of the Northeast quarter of the Southwest quarter; thence
North $0^{\circ}04'00''$ West along the said parallel line a distance of 40.05 feet; thence
North $89^{\circ}56'00''$ East along a line perpendicular to the said East boundary of the Northeast quarter of the Southwest quarter a distance of 120 feet to the TRUE POINT OF BEGINNING.

out 3/105.

EXHIBIT "A"

PARCEL I

This parcel is a portion of Lot 42 of HAWTHORN PLAT OF MIDDLETON, IDAHO, and Lots 43 and 45 as shown on the Plat of LOTS 43 AND 45 OF HAWTHORN PLAT, Middleton, Canyon County, Idaho, according to the official plat thereof, filed in Book 3 of Plats at Page 22, records of said County, and is situated in the Northeast quarter of the Southwest quarter and the Southeast quarter of the Northwest quarter of Section 6, Township 4 North, Range 2 West of the Boise Meridian, and is more particularly described as follows:

Commencing at the Northeast corner of said Northeast quarter of the Southwest quarter; thence
 South 89°56'00" West along a line perpendicular to the East boundary of the said Northeast quarter of the Southwest quarter, a distance of 150.00 feet to the TRUE POINT OF BEGINNING; thence continuing
 South 89°56'00" West, a distance of 30.00 feet; thence
 South 0°04'00" East along a line parallel with the said East boundary, a distance of 100.00 feet; thence
 North 89°56'00" East along a line perpendicular to the said East boundary, a distance of 150.00 feet to a point on the West right-of-way boundary of Hawthorn Drive, said right-of-way boundary being parallel with and 30.00 feet Westerly of the said East boundary; thence
 South 0°04'00" East along said right-of-way boundary, a distance of 144.95 feet; thence
 South 89°56'00" West along a line perpendicular to the said East boundary, a distance of 120.00 feet; thence
 South 0°04'00" East along a line parallel with the said East boundary, a distance of 40.05 feet; thence
 South 89°56'00" West along a line perpendicular to the said East boundary, a distance of 12.50 feet; thence
 South 0°16'48" West, a distance of 139.45 feet; thence
 South 89°07'51" West, a distance of 155.44 feet; thence
 North 0°52'58" West, a distance of 650.48 feet to the centerline of the Canyon Hill Ditch; thence
 South 70°54'56" West along the said centerline, a distance of 364.76 feet; thence
 South 68°27'52" West along the said centerline, a distance of 197.07 feet; thence
 North 0°04'00" West along a line parallel with the East boundary of the said Southeast quarter of the Northwest quarter, a distance of 120.20 feet; thence
 North 66°09'59" East, a distance of 771.86 feet to a point on a line that is parallel with and 150.00 feet Westerly of the said East boundary of the Southeast quarter of the Northwest quarter; thence
 South 0°04'00" East along the said parallel line, a distance of 472.07 feet to the TRUE POINT OF BEGINNING.

PARCEL II

This parcel is situated in the Southeast quarter of the Northwest quarter and the Northeast quarter of the Southwest quarter of Section 6, Township 4 North, Range 2 West of the Boise Meridian, Canyon County, Idaho, and consists of part of Tract 43 of HAWTHORN PLAT IN MIDDLETON, Canyon County, Idaho, according to the official plat thereof, filed in Book 3 of Plats at Page 22, records of said County.

This parcel is more particularly described as follows:

Commencing at the Northeast corner of said Northeast quarter of the Southwest quarter; thence
 South 89°56'00" West, a distance of 30.00 feet to a point on the East boundary of said Tract 43, which point is the TRUE POINT OF BEGINNING; thence
 South 0°04'00" East, along the East boundary of said Tract 43, a distance of 100.00 feet; thence
 South 89°56'00" West, a distance of 150.00 feet; thence
 North 0°04'00" West, parallel with the East boundary of said Tract 43, a distance of 100.00 feet; thence
 North 89°56'00" East, a distance of 150.00 feet to the TRUE POINT OF BEGINNING.

B.T.

LEGAL DESCRIPTION - EXHIBIT "A"

PARCEL 1

Tax Lot 42 (sometimes referred to as Block 42) of Assessor's Plat designated HAWTHORN PLAT OF MIDDLETON IDAHO, Canyon County, Idaho, according to the official plat thereof, filed in Book 3 of Plats at Page 23, records of said County, being situate partly in the Southeast quarter of the Northwest quarter and partly in the Northeast quarter of the Southwest quarter of Section 6, Township 4 North, Range 2 West, Boise Meridian, Canyon County, Idaho, and with reversionary interest in abutting streets and roads being more particularly described as follows:

Beginning at a point on the North and South centerline of said Section 6, which is 2,310.00 feet North of the South quarter corner of said Section 6 and 690.00 feet South of the intersection of said centerline with the South bank of Canyon Hill Ditch; thence West 348.5 feet along the South boundary of Tax Lot 43 to the Southwest corner of Tax Lot 43; thence North 560.00 feet along the West boundary of Tax Lot 43 to the South bank of said Canyon Hill Ditch; thence West along the South bank of said Canyon Hill Ditch (described on partial plat of HAWTHORN PLAT OF MIDDLETON, IDAHO, dated January 9, 1922 as South 71°15' West) in its course crossing Willow Creek to its intersection with the center of a road running southeasterly and northwesterly (sometimes designated as Willow Street); thence South along the center of said road or street (its course being described on Assessor's Plat above mentioned as South 22°29' East, 217.00 feet; South 23° East, 174.00 feet; South 6° East, 200.00 feet; South 11° West, 160.00 feet to North line of Concord Street and thence to center of intersection) to its intersection with the centerline of Concord Street, said point of intersection being 501.75 feet, more or less, North of the North line of the Southeast quarter of the Southwest quarter of said Section 6 (said point of intersection being sometimes described as near a bridge across Willow Creek); thence East along the centerline of said Concord Street 784.00 feet, more or less, to the North and South centerline of said Section 6; thence North along the said centerline (being also the centerline of Hawthorn Drive) to the POINT OF BEGINNING.

EXCEPTING THEREFROM

This parcel is a portion of Lot 42 of HAWTHORN PLAT OF MIDDLETON, IDAHO, according to the official plat thereof, filed in Book 3 of Plats at Page 23, records of said County, and is situated in the Northeast quarter of the Southwest quarter of Section 6, Township 4 North, Range 2 West, Boise Meridian, Canyon County, Idaho, and is more particularly described as follows:

Beginning at the Northeast corner of the said Northeast quarter of the Southwest quarter; thence South 0°04'00" East (formerly South) along the East boundary of the said Northeast quarter of the Southwest quarter, which boundary is also the centerline of Hawthorn Drive, a distance of 145.00 feet to the Northeast corner of said Lot 42, which point is the TRUE POINT OF BEGINNING; thence continuing South 0°04'00" East along the East boundary of said Lot 42, a distance of 50.00 feet; thence South 89°56'00" West (formerly West) along a line parallel with the North boundary of said Lot 42, a distance of 145.00 feet; thence North 0°04'00" West (formerly North) along a line parallel with the said East boundary of Lot 42, a distance of 50.00 feet to the said North boundary of Lot 42; thence North 89°56'00" East (formerly East) along the said North boundary, a distance of 145.00 feet to the TRUE POINT OF BEGINNING.

(Continued)

LEGAL DESCRIPTION - EXHIBIT "A"

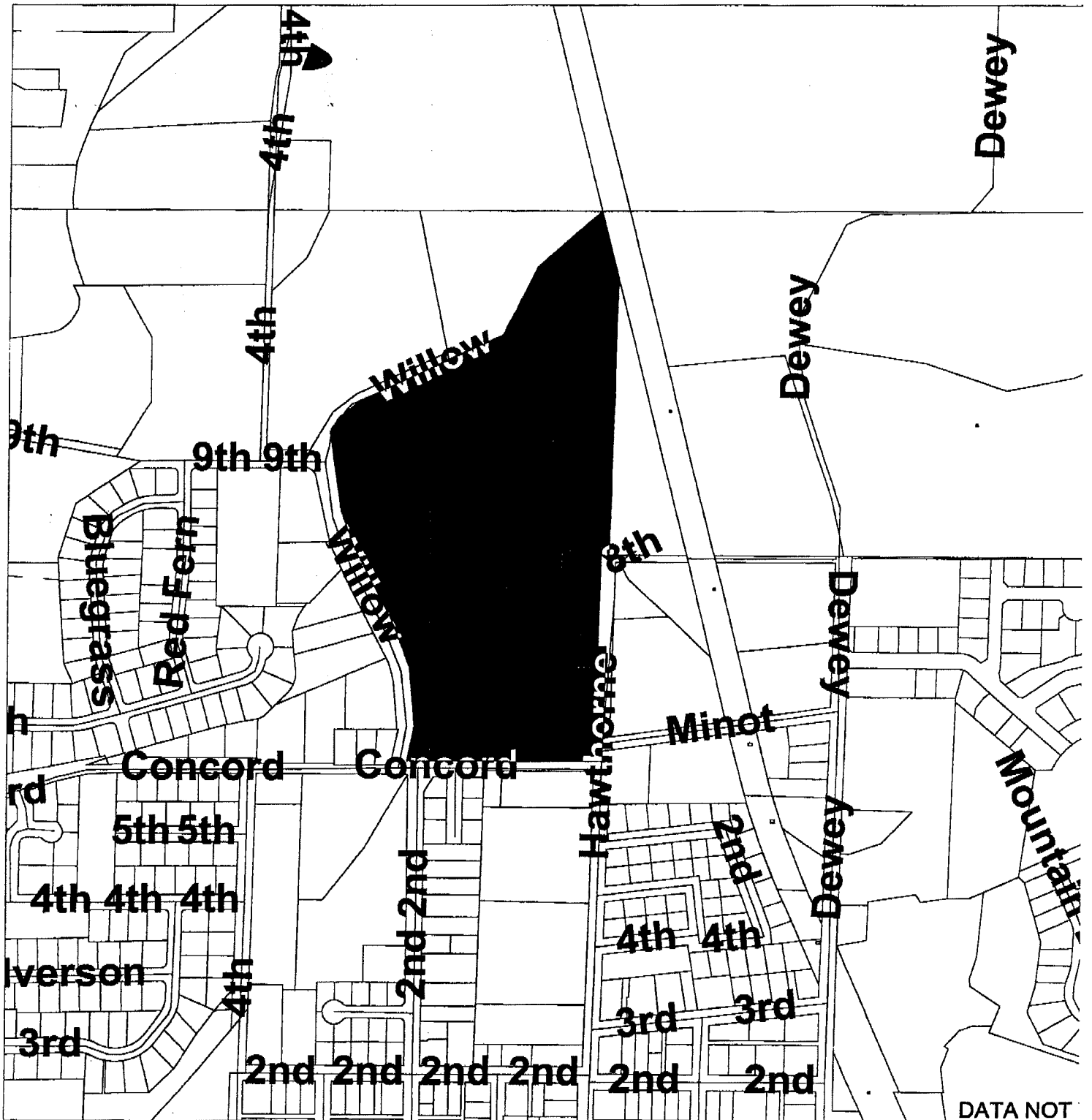
boundary is also the centerline of Hawthorn Drive, a distance of 345.00 feet to the Northeast corner of Lot 42 of Hawthorn Plat of Middleton, Idaho; thence South 89°56'00" West (formerly West) along the boundary common to said Lots 42 and 43, a distance of 319.94 feet to the TRUE POINT OF BEGINNING; thence continuing South 89°56'00" West, a distance of 28.56 feet to the Southwest corner of said Lot 43; thence North 0°04'00" West, a distance of 562.94 feet (formerly North, a distance of 560.00 feet) to the Southerly boundary of said Lot 45; thence South 69°54'08" West (formerly South 71°15'00" West) along the said Southerly boundary, a distance of 540.61 feet; thence North 0°04'00" West, a distance of 8.03 feet to the centerline of the Canyon Hill Ditch; thence North 68°27'52" East along the said centerline, a distance of 197.07 feet; thence North 70°54'56" East along the said centerline, a distance of 364.76 feet; thence South 0°52'58" East, a distance of 576.85 feet to the TRUE POINT OF BEGINNING.

PARCEL II

This parcel is a portion of Lots 43 and 45 as shown on the Plat of LOTS 43 AND 45 HAWTHORN PLAT, Middleton, Canyon County, Idaho, according to the official plat thereof, filed in Book 3 of Plats at Page 22, record of said County, and is situated in the Northeast quarter of the Southwest quarter and the Southeast quarter of the Northwest quarter of Section 6, Township 4 North, Range 2 West of the Boise Meridian, Canyon County, Idaho and is more particularly described as follows:

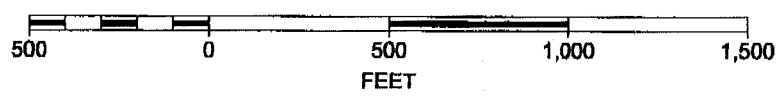
Commencing at the Northeast corner of the said Northeast quarter of the Southwest quarter; thence South 0°04'00" East (formerly South) along the East boundary of the said Northeast quarter of the Southwest quarter which boundary is also the centerline of Hawthorn Drive, a distance of 345.00 feet to the Northeast corner of Lot 42 of Hawthorn Plat of Middleton, Canyon County, Idaho; thence South 89°56'00" West (formerly West) along the boundary common to said Lots 42 and 43, a distance of 319.94 feet to the TRUE POINT OF BEGINNING; thence continuing South 89°56'00" West, a distance of 28.56 feet to the Southwest corner of said Lot 43; thence North 0°04'00" West, a distance of 562.94 feet (formerly North, a distance of 560.00 feet) to the Southerly boundary of said Lot 45; thence South 69°54'08" West (formerly South 71°15'00" West) along the said Southerly boundary, a distance of 540.61 feet; thence North 0°04'00" West, a distance of 8.03 feet to the centerline of the Canyon Hill Ditch; thence North 68°27'52" East along the said centerline, a distance of 197.07 feet; thence North 70°54'56" East along the said centerline, a distance of 364.76 feet; thence South 0°52'58" East, a distance of 576.85 feet to the TRUE POINT OF BEGINNING.

Creekside Terrace Vicinity Map



DATA NOT

SCALE 1 : 6,000



CREEKSIDE TERRACE SUBDIVISION DEVELOPMENT AGREEMENT

This Development Agreement (this "Agreement") is made and entered into this 19 day of April, 2006 (the "Effective Date"), by and between the City of Middleton, a municipal corporation in the State of Idaho (the "City") and Willow Creek Properties, LLC, an Idaho limited liability company (the "Developer").

RECITALS

WHEREAS the Developer has applied to the City for a rezone to R-4 of property, which is more particularly described in Exhibit A attached hereto and incorporated herein (the "Property").

WHEREAS the City, pursuant to Idaho Code Section 67-6511A, has the authority to rezone the Property and to enter into a development agreement for the purpose of allowing, by agreement, a specific development 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 the Middleton City Code.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and agreed, and in consideration of the recitals above which are incorporated herein, and in consideration of the undertakings and agreements hereinafter contained, the parties agree as follows:

ARTICLE I LEGAL AUTHORITY

1.1 This Agreement is made pursuant to and in accordance with the provisions of Idaho Code Section 67-6511A and Middleton City Code, Title 5, Chapter 7.

ARTICLE II ZONING ORDINANCE AMENDMENT

2.1 The City shall adopt an ordinance amending the Middleton Zoning Ordinance to rezone the Property to R-4 (the "Ordinance"). The Ordinance will become effective after its passage, approval, and publication and the execution and recordation of this Agreement.

ARTICLE III CONDITIONS ON DEVELOPMENT

3.1 Developer shall develop the Property subject to the conditions and limitations set forth in this Agreement. Developer shall further submit such applications regarding preliminary and final plat reviews and any other applicable applications as may be required by the City.

3.2 Developer agrees that only single-family, detached dwellings shall be constructed on the property.

3.3 The development shall comply with the Middleton Comprehensive Plan and City Code, as they exist in final form at the time the development application was approved, except as otherwise provided in this Agreement. As

to the number of lots and lot dimensions detailed in the Conceptual Plan, the following conditions shall be satisfied:

3.4 Minimum Lot Sizes. Minimum lot sizes will be in substantial compliance with conceptual drawing, and are not to be smaller than 4,000 square feet.

3.5 Number of Lots. This development encompasses approximately 36.23 acres and will contain a maximum number of 125 residential lots.

3.6 Set Backs. Developer shall provide the following setbacks for associated lots:

3.6.1 Rear Setbacks.

3.6.1.1 Five feet (5') for all houses which border an alley. (Red shaded on setback display)

3.6.1.2 Fifteen foot (15') rear setbacks will be required for all others. (Blue shaded on setback display)

3.6.2 Side Setbacks

3.6.2.1 Five feet (5') for all lots.

3.6.3 Front Setbacks

3.6.3.1 Twelve feet (12') for all houses bordering an alley. (Red shaded on setback display)

3.6.3.2 Fifteen feet (15') for all houses not bordering an alley. These houses shall not have a garage with a setback of less than twenty-five feet (25'). (Blue shaded on setback display)

3.6.3.3 Houses that front on Concord, Hawthorne, and 9th Street, will not have a traffic buffer area.

3.7 Landscaping. Builder shall install an automatic sprinkler irrigation system, place sod and plant one (1) tree in the parkway strip of alternating lots.

3.8 Common Areas. Developer shall install an automatic sprinkler irrigation system in common areas including, but not limited to, the common area pathway adjacent to Willow Creek detailed in the Conceptual Plan. The common areas shall be owned and maintained by the homeowners' association.

3.9 Parking. Each lot will provide a minimum of two (2) enclosed off-street parking spaces and one (1) additional off-street parking space, or a three (3) car garage. Additionally, a minimum of three (3) parking lots will be constructed in the development to provide additional visitor parking.

3.10 Home Design Mixture. Developer agrees to construct homes in a minimum of four different front appearances. A minimum of 20% either of stucco, brick, or stone fronts shall be present within the development.

3.11 Trailers. No trailer homes or manufactured homes will be allowed to be constructed within the development.

3.12 Roadways. Roadway alignments will conform to City of Middleton's Comprehensive Plan as shown on the conceptual layout, with the following exceptions: All interior subdivision roadways shall have, contained within the 50' rights-of-way, 32' paved, 2' rolled or ribbon curbing on both sides, 6' grassed and treed parkways on both sides, and a portion of a 4' detached sidewalk on both sides; Alleys shall be 20' paved and have a 30' right-of-way, as shown; One-way alleys shall have 12' paved within a 20' right-of-way and shall not be more than 450' in total length. 30' right-of-way half-widths shall be platted and constructed to City of Middleton standards along Concord and Hawthorne as shown on the conceptual plan. 9th Street will be extended and constructed as shown on the conceptual plan. Concord and Hawthorne Streets will be improved for half-width plus ten feet (10') where the City has right-of-way or prescriptive right-of-way. Developer will make a good faith effort to purchase right-of-way from the landowner where 10' roadway width of Hawthorne (north of 8th Street) will extend onto landowner's property, since City does not currently own, or have any rights to, the necessary right-of-way.

3.13 Open Space. Open Space shall constitute over 25% of the property, including greenbelt and water

feature areas. In addition, development shall meet the City of Middleton's PUD requirement (MCC6-5-3-1-I-7) of 10% open space, counting only 25% of water surface area.

3.14 Fencing. Open fencing shall be used on all properties that border Willow Creek. No chain link fencing will be allowed.

3.15 Greenbelt. Developer will provide a minimum 7' wide paved greenbelt along the north and west boundary of development near Willow Creek as shown in conceptual plan. Greenbelt will not be required to be above base flood elevation.

3.16 Community Center. Developer will provide a community center for residents' use. Community Center will contain off street parking and will be owned and maintained through Creekside Terrace Homeowner's Association.

3.17 Late Comers Agreement for Sewer Extension. The City shall not allow additional properties within the service area to connect upstream of beginning of sewer line extension - 3rd and Dewey, where an 18" sewer system extension will be constructed, until a Late Comers Fee as defined in Section 7-2-17(I)2 of City Code has been assessed. The credit used to calculate the Late Comers Fee shall be determined by using the following equation from Section 7-2-17(G)6 of City Code.

$$\text{Credit} = \text{Actual Construction Cost} \left[\frac{\text{Total Service Area(aces)} - \text{Total Development Area(aces)}}{\text{Total Serviceable Area(aces)}} \right]$$

The Late Comers Fee shall be calculated by allocating the Credit to the Total Service Area less the Total Development Area on a benefits derived basis in compliance with Section 7-2-17(I) of City Code. The Late Comers Fee shall expire ten (10) years after the date this agreement is approved. All fees collected by the City for reimbursement herein provided for shall be accounted for separately as the City of Middleton / Willow Creek Properties, LLC Reimbursement Account. Said funds shall be remitted to the Developer quarterly.

3.18 All development within the Property shall be substantially consistent with the Conceptual Plan.

3.19 Developer agrees that all development will comply with the Middleton City Code, except as otherwise provided in this Agreement, and will require a complete set of plans which shall include:

- a. Site plan including street, curb and gutter, and sidewalk;
- b. Underground utility plan including water, sanitary sewer, storm drainage, irrigation and fire protection;
- c. Soils report, including bearing values, soils profile, ground water table and other elements as requested by the City Engineer or Building Official, and
- d. Review and approval by the City Engineer or Building Official of site, utility and landscape plans before a building permit is issued.
- e. Any other required improvements set forth as conditions of approval;
- f. Compliance with the City of Middleton Floodplain Ordinance

3.20 Conditions for Completion. All of the conditions set forth herein shall be complied with or Developer shall provide City with sufficient security for the completion of such conditions in the form of a letter of credit, or other sufficient security, before signature of the Final Plat or Certificate of Occupancy will be granted. Failure to complete or provide such security for completion of the conditions within the time frame established in the subdivision plat approval conditions, the Middleton City Code or the terms of this Agreement shall result in a default of this Agreement by Developer. Developer may be allowed to provide security for completion of such conditions at one hundred and fifty percent (150%) of the estimated cost to complete the condition.

3.21 Commencement of Construction. Developer shall commence construction of utilities within two (2) years of the date the Development Agreement becomes effective. In the event Developer fails to commence construction within this time period, Developer shall be in default of this Agreement. Developer shall have the option to apply for a one-year extension at the end of the two-year period if preliminary plat has been approved by City of Middleton. An automatic extension will be granted on subject Development Agreement should city services be

unavailable for some reason beyond the control of Developer at the time of final plat. The timeframe associated with the extension will be equal to that of the delay timeframe on providing city services.

3.22 Willow Creek. Developer acknowledges that the City may require an agreement between the Developer and Middleton Mill Ditch Company as a condition of preliminary plat approval.

3.23 3.23 Dedications. Developer shall construct all streets, sewer and water facilities according to city standards and dedicate the same to the City of Middleton upon successful final inspection by the City.

ARTICLE IV DEFAULT

4.1 In the event Developer, her/his heirs or assigns or subsequent owners of the Property or any other person acquiring an interest in the Property, fail to faithfully comply with all of the terms and conditions included in this Agreement, this Agreement may be modified or terminated by the Middleton City Council in compliance with the requirements of the Middleton City Code. In the event the City Council determines that this Agreement shall be modified, the terms of this Agreement shall be amended and Developer shall comply with the amended terms. Failure to comply with the amended terms shall result in default. In the event the City Council, after compliance with the requirements of the Middleton City Code, determines that this Agreement shall be terminated, the zoning of the Property shall revert to R-3 zoning. All uses of the Property, which are not consistent with R-3 zoning shall cease. A waiver by the City of any default by Developer of any one or more of the covenants or conditions hereof shall apply solely to the breach and breaches waived and shall not bar any other rights or remedies of the City or apply to any subsequent breach of any such or other covenants and conditions.

4.2 Remedies. Developer, by entering into this Agreement, does hereby agree that in the event there shall be a default in the terms and conditions of this Agreement, that this Agreement shall serve as consent to a reversion of the Property to R-3 zoning.

ARTICLE V UNENFORCEABLE PROVISIONS

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

ARTICLE VI ASSIGNMENT AND TRANSFER

6.1 After its execution, this Agreement shall be recorded in the office of the Canyon County Recorder at the expense of Developer. Each commitment and restriction on the development subject to this Agreement shall be a burden on the Property, shall be appurtenant to and for the benefit of the Property, adjacent property and other residential property near the Property and shall run with the land. 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, each owner of a legal lot shall only be responsible for duties and obligations associated with the owner's parcel and shall not be responsible for duties and obligations or defaults as to other parcels of lots within the Property. A 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.

ARTICLE VII GENERAL MATTERS

7.1 Amendments. Any alteration or change to this Agreement shall be made only after complying with the

notice and hearing provisions of Idaho Code Section 67-6509, as required by Middleton City Code.

7.2 Paragraph Headings. This Agreement shall be construed according to its fair meaning and as if prepared by both parties hereto. Titles and captions are for convenience only and shall not constitute a portion of this Agreement.

As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates.

7.3 Choice of Law. This Agreement shall be construed in accordance with the laws of the State of Idaho in effect at the time of the execution of this Agreement. Any action brought in connection with this Agreement shall be brought in a court of competent jurisdiction located in Canyon County, Idaho.

7.4 Notices. Any notice which a party may desire to give to another party must be in writing and may be given by personal delivery, by mailing the same by registered or certified mail, return receipt requested postage prepaid, or by Federal Express or other reputable overnight delivery service, to the party to whom the notice is directed at the address of such party set forth below.

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

Developer: Willow Creek Properties, L.L.C.
P.O Box 384
Middleton, Idaho 83644

or such other address and to such other persons as the parties may hereafter designate in writing to the other parties. 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 foregoing.

7.5 Attorneys' Fees and Costs. In the event an action is brought to enforce any provision of this Agreement, or in the event an action is brought to recover damages for breach of this Agreement, the prevailing party in such action shall be entitled to recover from the other party all reasonable attorneys' fees and costs incurred, including attorneys' fees and cost incurred on appeal.

Combined Medium Density Residential.

Section 3. If any portion of this Ordinance is found to be unenforceable or unconstitutional for any reason, the remaining portion of this Ordinance shall remain in full force and effect.

Section 4. Any portions of any existing Ordinances, which are in direct conflict with this Ordinance, are hereby repealed insofar as the conflict exists.

Section 5. This ordinance shall be in full force and effect from and after its passage, approval and publication.

DATED this 19th day of April, 2006.



CITY OF MIDDLETON
Canyon County, Idaho

By Frank McKeever
Frank McKeever, Mayor

ATTEST:

Ellen Smith
Ellen Smith CMC, City Clerk

200629278

RECORDED

2006 APR 20 PM 4 15

O NOEL NALES
CANYON CITY RECORDER

BY Noel Nales

REQUEST Middleton City 06
TYPF - Ordinance FEE

EXHIBIT B
Proposed Preliminary Plat

PRELIMINARY PLAT CREEKSIDE TERRACE SUBDIVISION

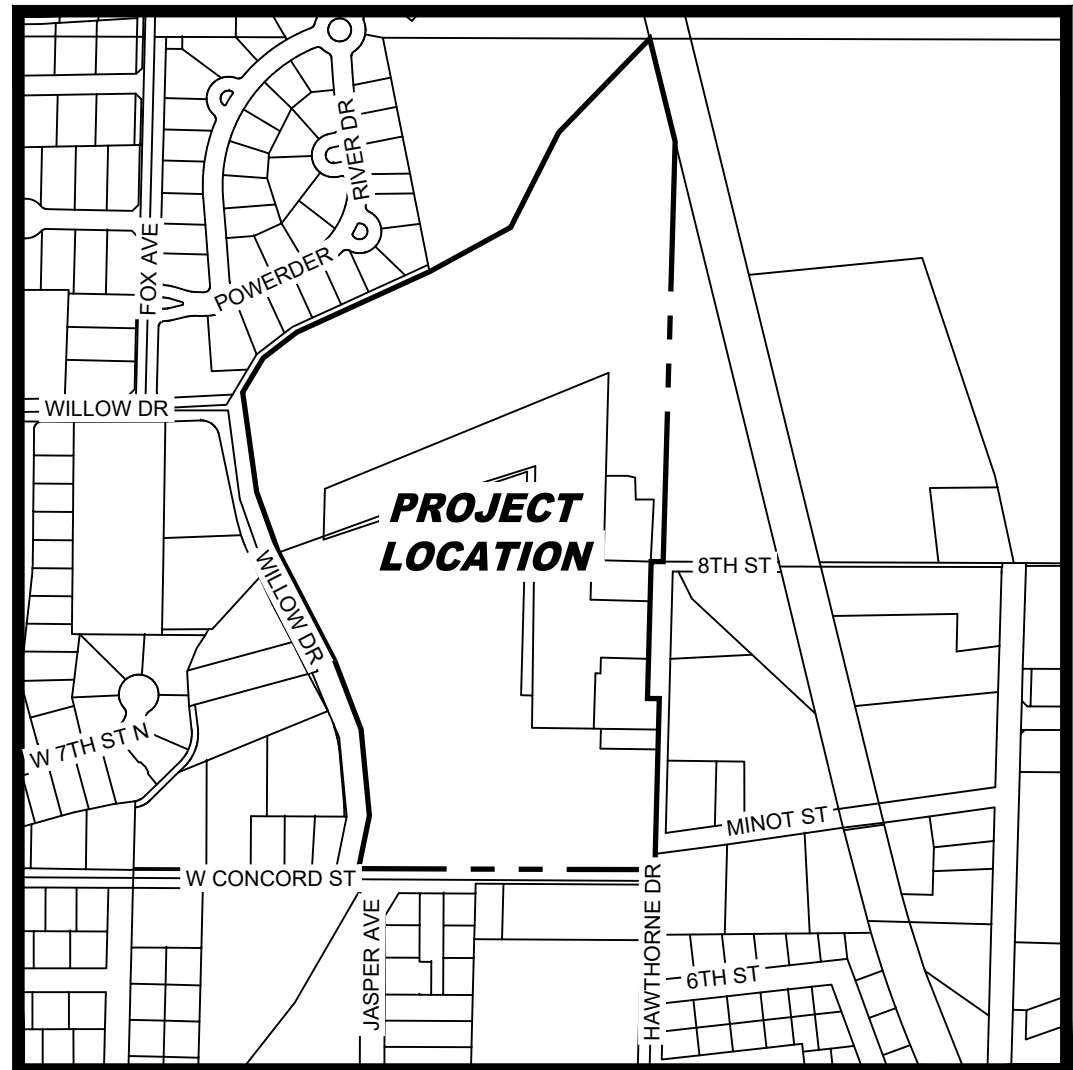
A PORTION OF THE SOUTHEAST 1/4 OF SECTION 35,
TOWNSHIP 4 NORTH, RANGE 3 EAST, B.M.,
CANYON COUNTY, IDAHO
-2022-

NARRATIVE:

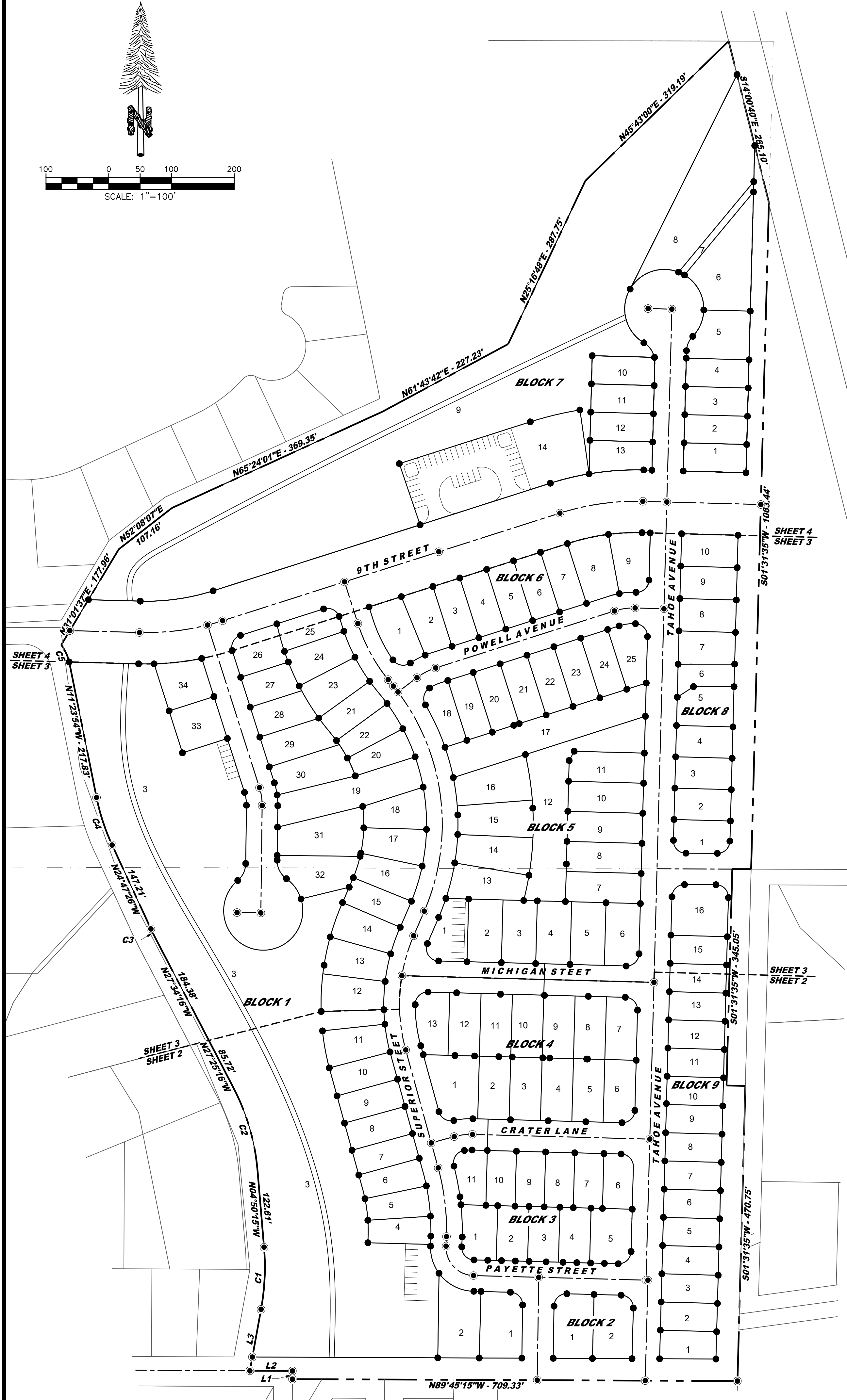
- BUILDING SETBACK AND DIMENSION STANDARDS SHALL BE IN COMPLIANCE WITH THE APPLICABLE ZONING REGULATIONS OF THE CITY OF MIDDLETON.
- DEVELOPMENT IN THIS SUBDIVISION SHALL BE IN COMPLIANCE WITH THE APPLICABLE ZONING REGULATIONS OF THE CITY OF MIDDLETON IN EFFECT AT THE TIME OF ISSUANCE OF A BUILDING PERMIT.
- ANY RE-SUBDIVISION OF THIS PLAT SHALL COMPLY WITH THE MOST RECENTLY APPROVED SUBDIVISION STANDARDS FOR THE CITY OF MIDDLETON AT THE TIME OF THE RE-SUBDIVISION.
- ALL STREETS PROPOSED IN THIS DEVELOPMENT ARE PUBLIC STREETS AND SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE CITY OF MIDDLETON AND CANYON COUNTY HIGHWAY DISTRICT #4 STANDARDS FOR PUBLIC STREETS.
- BLOCK 1 LOT 6; BLOCK 3 LOT 11; BLOCK 4 LOT 10; BLOCK 5 LOT 10; BLOCK 7 LOT 8 ARE COMMON LOTS TO BE OWNED AND MAINTAINED BY THE CREEKSIDE SUBDIVISION HOMEOWNERS' ASSOCIATION. THESE LOTS USED FOR HOMEOWNER PEDESTRIAN ACCESS AND LANDSCAPING AND ARE SUBJECT TO BLANKET EASEMENTS ACROSS SAID LOTS FOR PUBLIC UTILITIES, IRRIGATION, AND LOT DRAINAGE.
- ALL LOT LINES COMMON TO PUBLIC STREETS ARE HEREBY DESIGNATED TO HAVE A (10) FOOT PERMANENT EASEMENT FOR PUBLIC UTILITIES, IRRIGATION, AND LOT DRAINAGE UNLESS OTHERWISE DIMENSIONED PER CITY OF MIDDLETON SUBDIVISION CONSTRUCTION REQUIREMENTS.
- UNLESS OTHERWISE SHOWN AND DIMENSIONS, EACH LOT WILL HAVE A PERMANENT EASEMENT FOR PUBLIC UTILITIES, IRRIGATION, AND LOT DRAINAGE OVER THE FIVE (5) FEET ADJACENT TO ANY INTERIOR SIDE LOT LINE, AND OVER THE TEN (10) FOOT ADJACENT TO ANY REAR LOT LINE OR SUBDIVISION BOUNDARY. MAINTENANCE OF ANY IRRIGATION AND DRAINAGE PIPES OR DITCHES CROSSING A LOT IS THE RESPONSIBILITY OF THE LOT OWNER UNLESS SUCH A RESPONSIBILITY IS ASSUMED BY THE IRRIGATION/DRAINAGE ENTITY.
- PUBLIC UTILITIES SHALL INCLUDE WATER, SEWER, POWER, NATURAL GAS, TELEPHONE, AND CABLE TELEVISION.
- DOMESTIC WATER SYSTEMS WILL CONNECT TO THE EXISTING WATER MAINS IN BOTH COLLEGE AVENUE AND MONTANA AVENUE. ALL INTERIOR WATER MAINS ARE TO BE 8" IN DIAMETER.
- SANITARY SEWER SYSTEMS WILL CONNECT TO THE EXISTING 15" SEWER MAIN IN WEST CONCORD STREET.
- INDIVIDUAL PRESSURE IRRIGATION SERVICES WILL BE PROVIDED TO EACH LOT.
- PARTS OF BLOCK 1 LOTS 1 TO 6; BLOCK 2 LOTS 1 TO 4; BLOCK 9 LOTS 1 TO 14 TO BE USED FOR STORMWATER MANAGEMENT AND SUBJECT TO STORMWATER EASEMENT.
- THIS SUBDIVISION WILL RECEIVE PRESSURE IRRIGATION FOR A PRESSURE IRRIGATION SYSTEM OWNED AND MAINTAINED BY THE CREEKSIDE TERRACE SUBDIVISION HOMEOWNERS ASSOCIATION.
- BLOCK 1 LOTS 6 AND 19; BLOCK 5 LOT 14; BLOCK 8 LOT 10 TO BE USED AS IRRIGATION EASEMENT.
- THE OWNER SHALL COMPLY WITH IDAHO CODE, SECTION-31-3805, AND ITS PROVISIONS THAT MAY APPLY TO IRRIGATION RIGHTS.
- STORM WATER RUNOFF GENERATED ON THIS SITE SHALL HAVE QUALITY CONTROL TREATMENT PRIOR TO BEING CONVEYED TO ON-SITE STORAGE FACILITIES. STORM WATER RUNOFF WILL BE ROUTED TO SUBSURFACE INFILTRATION FACILITIES FOR THE NORMAL STORM EVENT. STORMWATER FACILITIES WILL BE DESIGNED IN ACCORDANCE WITH THE CATALOG OF THE STORMWATER BEST MANAGEMENT PRACTICES FOR IDAHO CITIES AND COUNTIES AND THE CITY OF MIDDLETON SPECIFICATIONS.
- THE PROJECT AREA IS LOCATED IN A FLOODPLAIN AREA (ZONE AE).
- THE BOTTOM ELEVATION OF BUILDING FOOTINGS SHALL BE SET TO A MINIMUM OF 12 INCHES ABOVE THE HIGHEST ESTABLISHED NORMAL GROUNDWATER ELEVATION.
- THIS DEVELOPMENT RECOGNIZES SECTION 22-4503 OF 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 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."

- LEGEND**
- LEGEND:RNT:REBAR "KHC PLS 9895" TO BE SET BY FINAL PLAT
 - LEGEND:RNT:REBAR "KHC PLS 9895" TO BE SET BY FINAL PLAT
 - LEGEND:RNT:REBAR
 - LEGEND:RNT:REBAR
 - LEGEND:RNT:MINIUM CAP
 - LEGEND:RNT:CH BASIN
 - LEGEND:RNT:SED "X"
 - LEGEND:RNT:TRICAL BOX
 - LEGEND:RNT:HYDRANT
 - LEGEND:RNT:METER
 - LEGEND:RNT:WIRE
 - LEGEND:RNT:TACK
 - LEGEND:RNT:ATION BOX
 - LEGEND:RNT:ATION CONTROL VALVE
 - LEGEND:RNT:ATION MANHOLE
 - LEGEND:RNT:NAIL
 - LEGEND:RNT:INVERT
 - LEGEND:RNT:TOP
 - LEGEND:RNT:VERT
 - LEGEND:RNT:ER POLE
 - SANITARY SEWER MANHOLE
 - LEGEND:RNT:
 - LEGEND:RNT:M DRAIN MANHOLE
 - LEGEND:RNT:PHONE BOX
 - LEGEND:RNT:PHONE RISER
 - LEGEND:RNT:PHON MANHOLE
 - WATER MANHOLE
 - LEGEND:RNT: METER
 - LEGEND:RNT:ER VALVE
 - LEGEND:RNT:
 - ADJOINER
 - BOUNDARY LINE
 - CON- CON- CON- CONCRETE LINE
 - CON- CON- CON- CROWN OF ROAD
 - EASEMENT LINE
 - EG- EG- EG- EDGE OF GRAVEL
 - EP- EP- EP- EDGE OF PAVEMENT
 - FENCE LINE
 - FL- FL- FL- FLOW LINE
 - SECTION LINE
 - SIDEWALK
 - TIE LINE
 - TOE OF SLOPE
 - TOP OF BANK

- PROPOSED LEGEND**
- PROPOSED FIRE HYDRANT
 - PROPOSED SEWER STUB
 - PROPOSED SEWER MANHOLE
 - PROPOSED WATER METER
 - PROPOSED WATER VALVE
 - PROPOSED SEWER LINE
 - PROPOSED WATER LINE
 - PROPOSED CURB
 - PROPOSED SIDEWALK
 - TEST PIT
 - FLOODWAY AREA
 - FEMA FLOOD ZONE AE
 - FEMA 0.2% CHANCE



VICINITY MAP
SCALE: 1" = 500'



TIMBERLINE SURVEYING
807 PARK CENTRE WAY, SUITE 113, NAMPA, IDAHO 83601
208-865-5687

PRELIMINARY PLAT
CREEKSIDE TERRACE
SUBDIVISION

OWNER/DEVELOPER:	Y STREET CAPITAL	CAD FILE:	22008 - CREEKSIDE TERRACE SUB	DATE:	11/08/2022
SHEET NUMBER:	22008	DATE:	DAA	BY:	KHC
ISSUED BY:	XXX	BY:	DAA	DATE:	11/08/2022

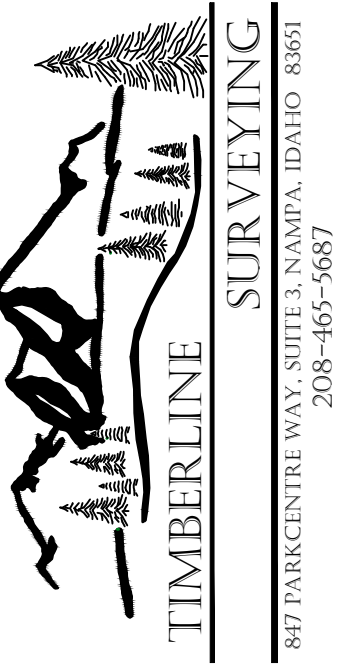
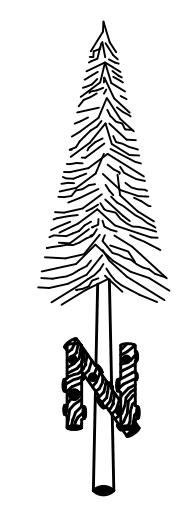
CREEKSIDE TERRACE SUBDIVISION
MIDDLETON, IDAHO

NO.	DATE	BY	DESCRIPTION

REVISIONS

SCALE: 1" = 100'
SHEET NUMBER: 1 OF 5

PRELIMINARY PLAT CREEKSIDE TERRACE SUBDIVISION



**PRELIMINARY PLAT
CREEKSIDE TERRACE
SUBDIVISION**

CLIENT: Y STREET CAPITAL
JOB NUMBER: 22008
DATE: 11/8/2022

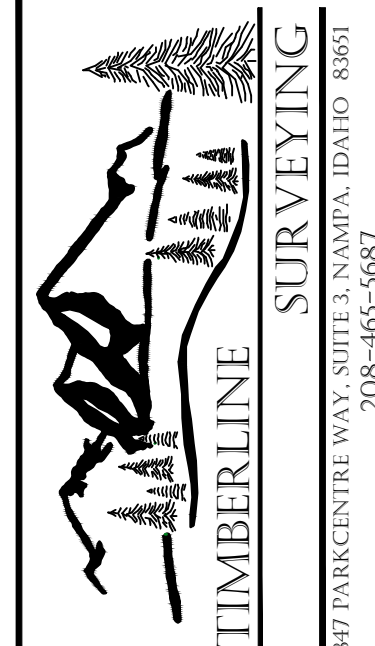
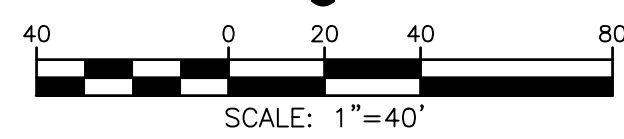
**CREEKSIDE TERRACE SUBDIVISION
MIDDLETON, IDAHO**

OWNER/DEVELOPER:
Y STREET CAPITAL
24 E MAIN STREET
AMERICAN FORK, ID 84003
CONTACT: HECO, JESSE (208) 812-2062

NO.	DATE	BY	DESCRIPTION

SCALE: 1" = 40'
SHEET NUMBER: 2 OF 5

PRELIMINARY PLAT CREEKSIDE TERRACE SUBDIVISION

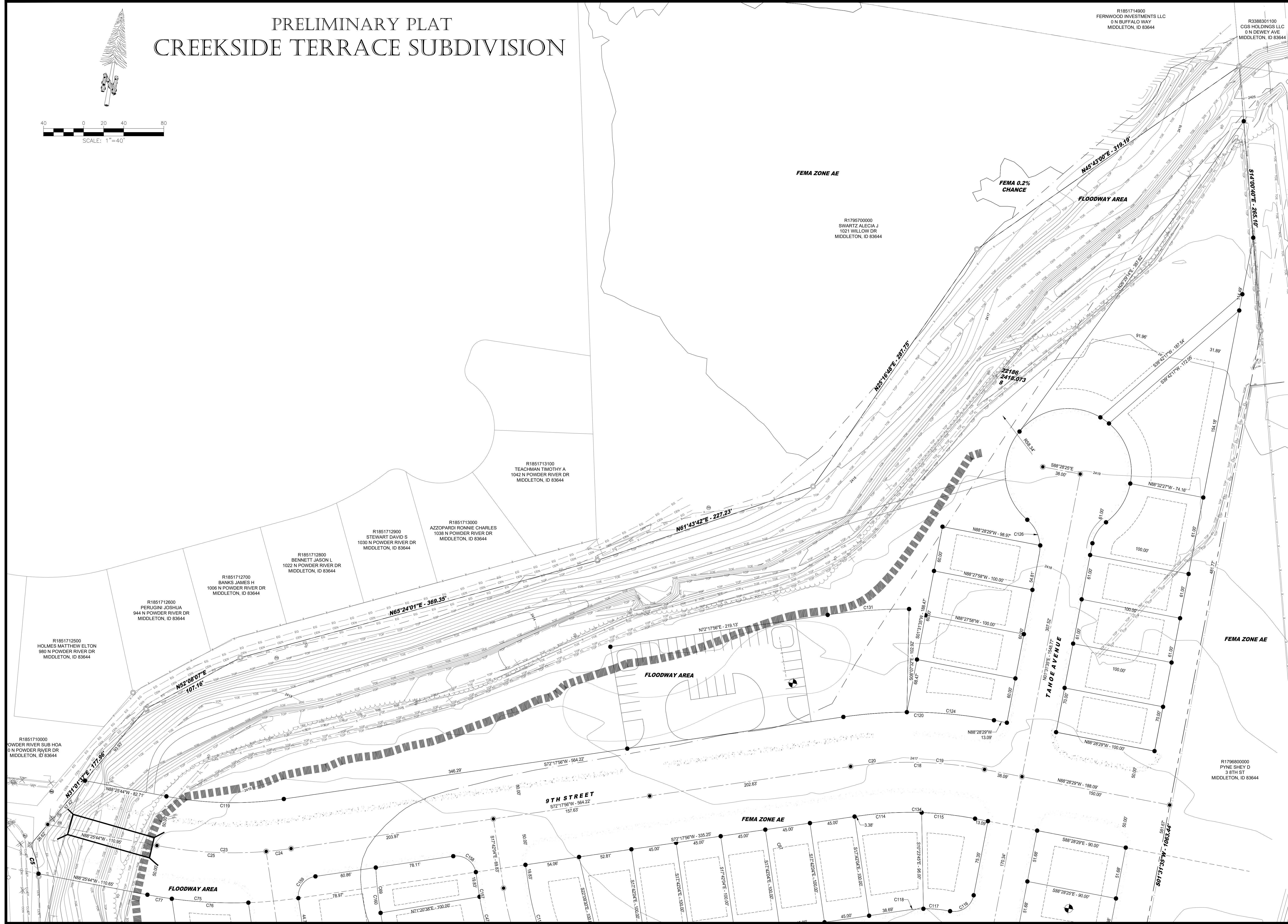
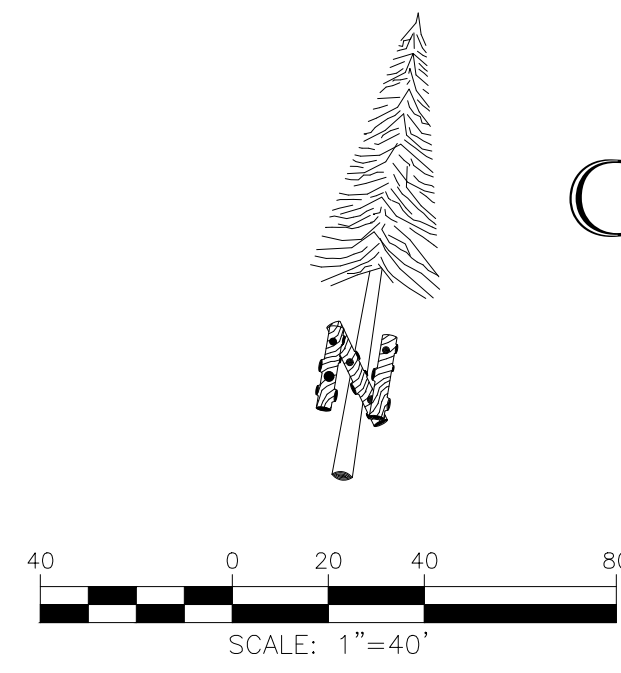


PRELIMINARY PLAT CREEKSIDE TERRACE SUBDIVISION			
OWNER/DEVELOPER	CAD FILE	DATE	BY
Y STREET CAPITAL	22008 - CREEKSIDE TERRACE SUBDIVISION	11/08/2022	KHC
FOR NUMBER	DATE	BY	BY
22008	XXX	DAA	XXX
ASSISTANT	DATE	BY	BY
XXX	XXX	DAA	XXX

CREEKSIDE TERRACE SUBDIVISION MIDDLETON, IDAHO	
OWNER/DEVELOPER	DATE
Y STREET CAPITAL	11/08/2022
24 E MAIN STREET	
AMERICAN FORK, ID 84003	
CONTACT: HECO, JESSE (208) 812-2062	

NO.	DATE	BY	DESCRIPTION

PRELIMINARY PLAT CREEKSIDE TERRACE SUBDIVISION



R1851714900
FERNWOOD INVESTMENTS LLC
0 N BUFFALO WAY
MIDDLETON, ID 83644

R3388901100
CGS HOLDINGS LLC
0 N DEWEY AVE
MIDDLETON, ID 83644

R1755700000
SWARTZ ALECIA J
1021 WILLOW DR
MIDDLETON, ID 83644

R1851713100
TEACHMAN TIMOTHY A
1042 N POWDER RIVER DR
MIDDLETON, ID 83644

R1851712900
STEWART DAVID S
1030 N POWDER RIVER DR
MIDDLETON, ID 83644

R1851713000
AZZOPARDI RONNIE CHARLES
1038 N POWDER RIVER DR
MIDDLETON, ID 83644

R1851712800
BENNETT JASON L
1022 N POWDER RIVER DR
MIDDLETON, ID 83644

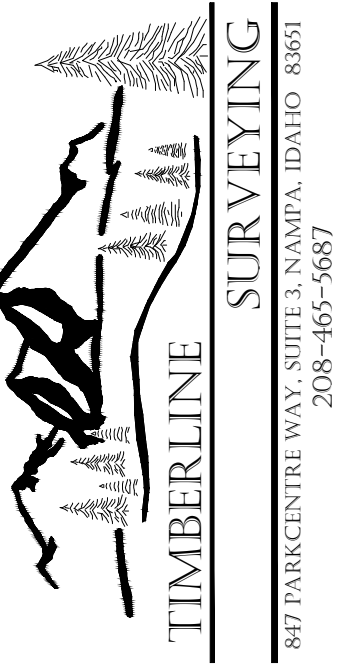
R1851712700
BANKS JAMES H
1006 N POWDER RIVER DR
MIDDLETON, ID 83644

R1851712600
PERUGINI JOSHUA
944 N POWDER RIVER DR
MIDDLETON, ID 83644

R1851712500
HOLMES MATTHEW ELTON
980 N POWDER RIVER DR
MIDDLETON, ID 83644

R1851710000
OWDER RIVER SUB HOA
0 N POWDER RIVER DR
MIDDLETON, ID 83644

R1796800000
PYNE SHEY D
3 8TH ST
MIDDLETON, ID 83644



PRELIMINARY PLAT
CREEKSIDE TERRACE
SUBDIVISION

CREEKSIDE TERRACE SUBDIVISION
MIDDLETON, IDAHO

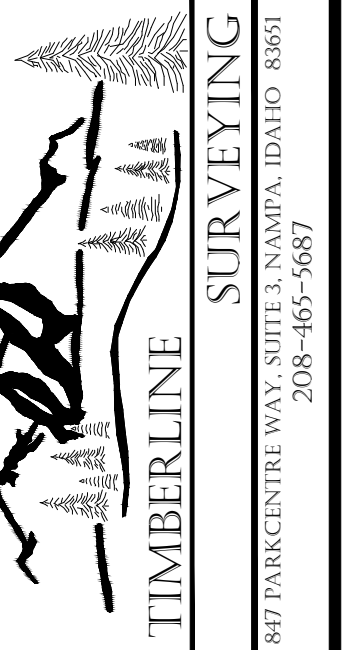
NO.	DATE	BY	DESCRIPTION

REVISIONS
SCALE: 1" = 40'
SHEET NUMBER: 4 OF 5

CLIENT: Y STREET CAPITAL
JOB NUMBER: 22008
DATE: 11/08/2022
CHECKED BY: KHC
DESIGNED BY: DAA
DRAWN BY: XXX

OWNER/DEVELOPER:
Y STREET CAPITAL
24 E MAIN STREET
AMERICAN FORK, ID 84003
CONTACT: HECCO, JESSE 208 812-2062

PRELIMINARY PLAT CREEKSIDE TERRACE SUBDIVISION



CURVE TABLE

CURVE	RADIUS	DELTA	LENGTH	TANGENT	BEARING	CHORD
C1	376.05'	15°08'46"	99.41'	50.00'	N02°44'10"E	99.12'
C2	348.20'	22°40'11"	137.77'	69.80'	N16°09'27"W	136.87'
C3	340.00'	2°43'00"	16.12'	8.06'	S28°08'57"E	16.12'
C4	340.00'	13°28'32"	79.97'	40.17'	S18°08'14"E	79.78'
C5	75.99'	24°45'12"	32.83'	16.67'	N23°57'18"W	32.57'
C6	45.00'	91°05'55"	71.55'	45.87'	S42°55'37"E	64.25'
C7	375.00'	16°54'40"	110.70'	55.76'	N06°55'53"W	110.30'
C8	275.00'	38°43'37"	185.88'	96.65'	S03°58'31"W	182.36'
C9	275.00'	24°54'00"	119.51'	60.71'	S02°56'18"E	118.57'
C10	275.00'	13°49'37"	66.36'	33.34'	S16°25'31"W	66.20'
C11	350.00'	62°19'23"	380.71'	211.65'	N07°49'22"W	362.22'
C12	350.00'	60°22'15"	368.78'	203.59'	N06°50'48"W	351.96'
C13	350.00'	1°57'08"	11.93'	5.96'	N38°00'30"W	11.93'
C14	275.00'	21°17'00"	102.15'	51.67'	S28°20'34"E	101.57'
C15	100.00'	16°54'49"	29.52'	14.87'	S83°04'07"W	29.41'
C16	100.00'	19°13'35"	33.56'	16.94'	S81°54'44"W	33.40'
C17	100.00'	19°19'52"	33.74'	17.03'	S62°38'00"W	33.58'
C18	400.00'	19°13'35"	134.23'	67.75'	S81°54'44"W	133.60'
C19	400.00'	12°58'27"	90.58'	45.48'	S85°02'18"W	90.38'
C20	400.00'	6°15'08"	43.65'	21.85'	S75°25'31"W	43.63'
C23	400.00'	19°16'19"	134.54'	67.91'	N81°56'06"E	133.91'
C24	400.00'	3°35'00"	25.02'	12.51'	N74°05'26"E	25.01'
C25	400.00'	15°41'20"	109.53'	55.11'	N83°43'36"E	109.19'
C26	90.00'	18°23'04"	28.88'	14.56'	N08°30'31"W	28.75'
C27	20.00'	89°19'52"	31.18'	19.77'	N43°48'38"W	28.12'
C28	70.00'	17°33'28"	21.45'	10.81'	S79°41'51"E	21.37'
C29	70.00'	34°45'34"	42.47'	21.91'	S53°32'20"E	41.82'
C30	70.00'	37°41'04"	46.04'	23.89'	S17°19'01"E	45.21'
C31	350.00'	7°39'53"	46.82'	23.45'	N02°18'25"W	46.79'
C32	350.00'	9°14'57"	56.50'	28.31'	N10°45'50"W	56.44'
C33	300.00'	9°17'04"	48.61'	24.36'	S10°44'46"E	48.56'
C34	300.00'	4°26'01"	23.21'	11.61'	S03°53'14"E	23.21'
C35	300.00'	8°35'38"	45.00'	22.54'	S02°37'36"W	44.95'
C36	300.00'	8°35'43"	45.00'	22.54'	S11°13'16"W	44.96'
C37	300.00'	7°49'12"	40.95'	20.50'	S19°25'43"W	40.91'
C38	325.00'	1°07'08"	6.35'	3.17'	N22°46'45"E	6.35'
C39	325.00'	10°21'16"	58.73'	29.45'	N17°02'33"E	58.65'
C40	325.00'	10°23'19"	58.93'	29.54'	N06°40'16"E	58.85'
C41	325.00'	11°56'24"	67.73'	33.99'	N04°29'35"W	67.60'
C42	325.00'	8°50'03"	50.11'	25.10'	N14°52'48"W	50.06'
C43	325.00'	8°37'45"	48.95'	24.52'	N23°36'42"W	48.90'
C44	325.00'	8°21'21"	47.40'	23.74'	N32°06'16"W	47.36'
C45	300.78'	3°07'34"	16.41'	8.21'	S37°25'01"E	16.41'
C46	300.00'	8°36'01"	45.03'	22.56'	S31°32'59"E	44.99'
C47	300.00'	8°35'38"	45.00'	22.54'	S22°57'11"E	44.96'
C48	400.00'	8°35'38"	60.00'	30.06'	S22°57'10"E	59.94'
C49	400.00'	8°36'01"	60.04'	30.08'	S31°33'00"E	59.98'
C50	400.00'	3°08'04"	21.88'	10.94'	S37°25'02"E	21.88'
C51	225.00'	2°41'31"	10.57'	5.29'	N37°38'19"W	10.57'
C52	225.00'	16°17'09"	63.95'	32.19'	N28°08'59"W	63.74'
C55	225.00'	9°50'58"	38.68'	19.39'	N16°47'51"E	38.63'
C56	225.00'	0°47'24"	3.10'	1.55'	N22°39'34"E	3.10'
C57	403.25'	8°17'03"	58.30'	29.20'	S19°41'31"W	58.25'
C58	400.00'	8°35'38"	60.00'	30.05'	S11°14'13"W	59.94'
C59	400.00'	8°36'38"	60.11'	30.11'	S02°38'06"W	60.06'
C60	400.00'	9°17'04"	64.82'	32.48'	S10°44'46"E	64.75'
C61	250.00'	9°14'57"	40.36'	20.22'	N10°45'50"W	40.31'
C62	250.00'	7°39'53"	33.44'	16.75'	N02°18'25"W	33.42'
C63	225.00'	9°51'09"	38.69'	19.39'	N18°07'41"E	38.64'
C64	225.00'	8°41'45"	34.15'	17.11'	N02°52'03"W	34.12'

CURVE TABLE

CURVE	RADIUS	DELTA	LENGTH	TANGENT	BEARING	CHORD
C65	225.00'	14°18'45"	58.20'	28.25'	N27°09'47"W	58.06'
C66	225.00'	0°42'50"	2.80'	1.40'	N38°37'39"W	2.80'
C67	1.00'	356°51'56"	6.23'	0.03'	N37°25'02"W	0.05'
C68	400.00'	7°21'40"	51.39'	25.73'	S32°10'10"E	51.35'
C69	400.00'	6°31'34"	45.56'	22.80'	S15°23'34"E	45.54'
C70	115.00'	9°54'17"	19.88'	9.96'	N12°44'55"W	19.86'
C71	115.00'	8°28'47"	17.02'	8.53'	N03°33'23"W	17.00'
C72	63.00'	283°49'15"	312.08'	49.38'	N87°53'43"E	77.73'
C73	36.00'	49°07'20"	30.86'	16.45'	N25°14'41"E	29.93'
C74	65.00'	18°23'04"	20.86'	10.52'	N08°30'31"W	20.77'
C75	450.00'	12°53'34"	101.26'	50.84'	N85°07'29"E	101.05'
C76	450.00'	9°44'54"	76.56'	38.37'	N83°33'09"E	76.47'
C77	450.00'	3°08'40"	24.70'	12.35'	N89°59'56"E	24.69'
C78	20.00'	90°40'08"	31.65'	20.23'	N46°11'22"E	28.45'
C79	20.00'	90°00'09"	31.42'	20.00'	S43°28'30"E	28.28'
C80	20.00'	91°05'55"	31.80'	20.39'	S42°55'37"E	28.55'
C81	400.00'	5°35'01"	38.98'	19.51'	N01°15'59"W	38.97'
C82	400.31'	3°36'31"	25.21'	12.61'	N05°51'50"W	25.21'
C83	399.74'	7°09'07"	49.90'	24.98'	N11°14'36"W	49.86'
C84	20.00'	96°55'15"	33.83'	22.57'	S33°38'36"W	29.94'
C85	75.00'	9°25'17"	12.33'	6.18'	S86°48'53"W	12.32'
C86	20.00'	90°00'04"	31.42'	20.00'	N43°28'27"W	28.28'
C87	20.00'	89°59'48"	31.41'	20.00'	N46°31'29"E	28.28'
C88	125.00'	14°04'14"	30.70'	15.43'	S84°29'24"W	30.62'
C89	20.00'	87°09'25"	30.42'	19.03'	N58°58'00"W	27.57'
C90	250.00'	15°13'17"	66.42'	33.40'	N07°46'40"W	66.22'
C91	20.00'	91°41'32"	32.01'	20.60'	N45°40'45"E	28.70'
C92	20.00'	90°00'04"	31.42'	20.00'	S43°28'27"E	28.28'
C93	20.00'	89°59'56"	31.42'	20.00'	S46°31'33"W	28.28'
C94	20.00'	111°12'33"	38.82'	29.21'	S32°52'12"E	33.01'
C95	375.00'	4°56'11"	32.31'	16.16'	N20°52'14"E	32.30'
C96	375.00'	8°55'02"	58.36'	29.24'	N13°56'38"E	58.30'
C97	375.00'	6°58'21"	45.64'	22.85'	N05°59'57"E	45.61'
C98	375.00'	6°58'21"	45.63'	22.85'	N07°56'46"W	45.61'
C99	375.00'	7°39'07"	50.08'	25.08'	N15°15'30"W	50.05'
C100	375.00'	11°22'47"	74.48'	37.36'	N24°46'27"W	74.36'
C101	20.00'	88°06'08"	30.75'	19.35'	S13°35'14"W	27.81'
C102	75.00'	14°39'38"	19.19'	9.65'	S64°58'07"W	19.14'
C103	75.00'	20°10'20"	26.41'	13.34'	S82°23'07"W	26.27'
C104	20.00'	89°03'18"	31.09'	19.67'	N43°00'04"W	28.05'
C105	20.00'	89°59'56"	31.42'	20.00'	N46°31'33"E	28.28'
C106	495.00'	27°11'12"	234.88'	119.69'	N00°38'15"E	232.68'
C107	496.71'	4°43'45"	41.00'	20.51'	N11°51'29"E	40.99'
C108	494.96'	6°58'23"	60.24'	30.16'	N05°59'57"E	60.20'
C109	495.00'	8°29'46"	73.40'	36.77'	N08°42'28"W	73.33'
C110	125.00'	16°46'00"	36.58'	18.42'	S63°54'56"W	36.45'
C111	20.00'	90°00'17"	31.42'	20.00'	S79°27'55"E	28.29'
C112	250.00'	16°45'43"	73.14'	36.83'	S26°04'55"E	72.88'
C113	349.88'	19°13'59"	117.45'	59.28'	S81°54'44"W	116.90'
C114	350.00'	7°22'37"	45.06'	22.56'	S75°59'15"W	45.03'
C115	350.00'	11°50'58"	72.38'	36.32'	S85°36'02"W	72.28'
C116	20.00'	90°21'30"	31.54'	20.13'	N46°42'20"E	28.37'
C117	125.00'	15°10'09"	33.09'	16.64'	S84°18'00"W	33.00'
C118	125.00'	4°24'59"	9.64'	4.82'	S74°30'26"W	9.63'
C119	350.00'	19°16'19"	117.73'	59.42'	N81°56'06"E	117.17'
C120	450.00'	19°13'35"	151.00'	76.22'	S81°54'44"W	150.30'
C124	450.00'	11°08'07"	87.46'	43.87'	S85°57'28"W	87.32'
C126	36.00'	46°39'58"	29.32'	15.53'	N35°34'41"W	28.52'
C131	553.00'	8°26'23"	81.46'	40.80'	S76°31'08"W	81.38'
C135	20.00'	88°41'45"	30.96'	19.55'	N45°52'27"E	27.96'

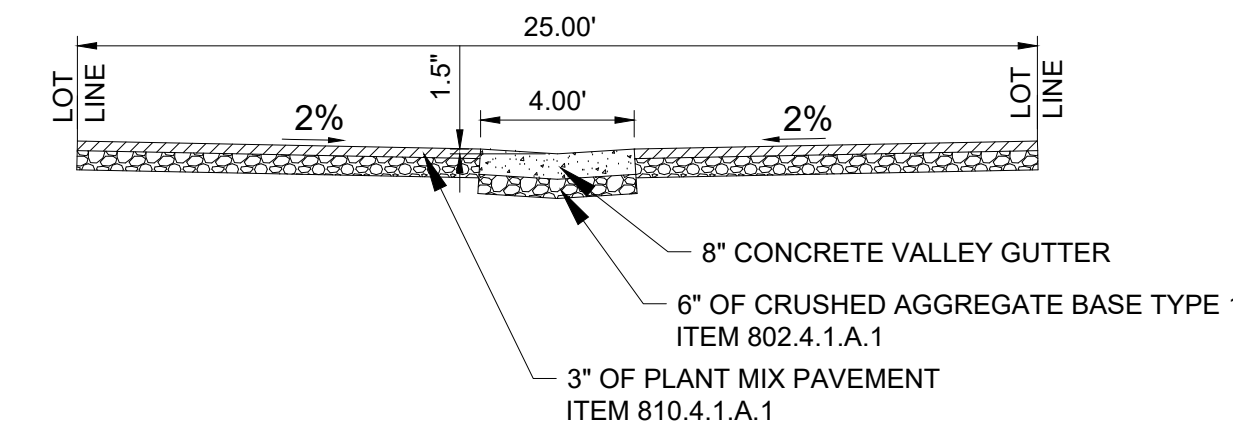
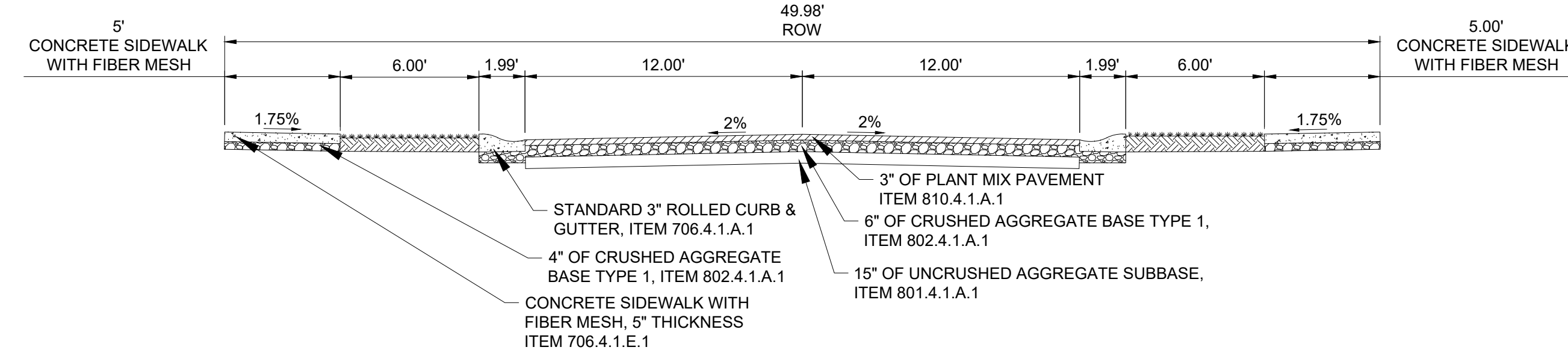
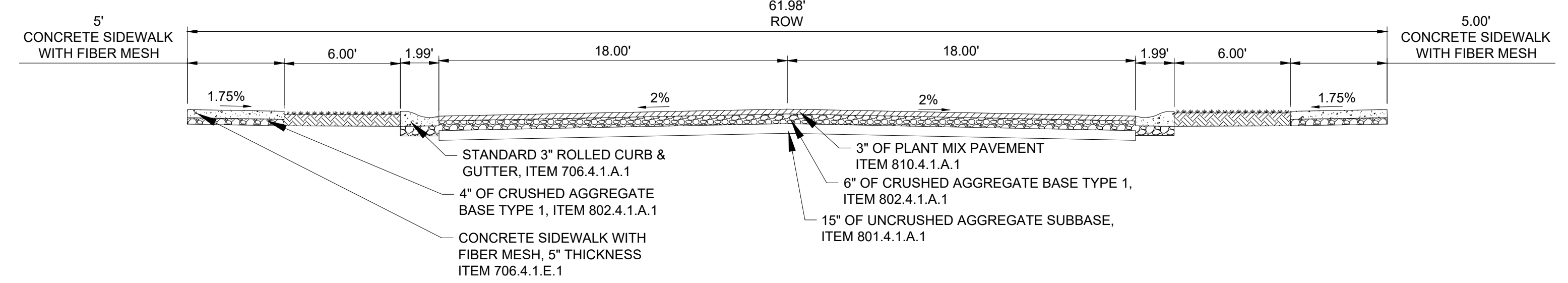
CURVE TABLE

CURVE	RADIUS	DELTA	LENGTH	TANGENT	BEARING	CHORD
C136	20.00'	91°18'15"	31.87'	20.46'	S44°07'33"E	28.60'
C137	20.00'	88°41'45"	30.96'	19.55'	S45°52'27"W	27.96'
C138	20.00'	91°18'15"	31.87'	20.46'	N44°07'33"W	28.60'

LINE TABLE

LINE #	DIRECTION	LENGTH
L1	N00° 14' 10"E	13.00'
L2	N89° 43' 05"W	67.87'
L3	N10° 18' 34"E	99.57'
L4	N89° 58' 22"W	30.01'
L5	S88° 42' 22"E	30.00'
L6	S01° 31' 31"W	13.24'
L7	S38° 59' 04"E	13.26'
L8	S38° 59' 04"E	13.26'

ROAD CROSS SECTION DETAIL



PRELIMINARY PLAT
 CREEKSIDE TERRACE
 SUBDIVISION

CREEKSIDE TERRACE SUBDIVISION
 MIDDLETON, IDAHO

CLIENT: Y STREET CAPITAL
 JOB NUMBER: 22008
 DESIGNER: XXX
 CAD FILE: 22008 - CREEKSIDE TERRACE SUBDIVISION
 CHECKED BY: KHC
 ISSUE DATE: 11/08/2022

OWNER/DEVELOPER:
 Y STREET CAPITAL
 24 E MAIN STREET
 AMERICAN FORK, ID 84003
 CONTACT: HECCO.JENSE@YSCOR 812-2062

NO.	DATE	BY	DESCRIPTION

EXHIBIT C
Approved Concept Plan

Total Area 36.23 Acres
 Number of Lots 123
 Open Space 36.5%
 Blue Space 18.1%
 Green Space 18.4%

*Received
 2-27-06*



N. HAWTHORNE

Artistic Rendering - Not To Scale / Actual Site May Vary

Concept Plan

EXHIBIT D
Public Comments

From: [Rich Dickens](#)
To: [Roberta Stewart](#)
Subject: Floodplain amendment
Date: Monday, February 26, 2024 11:34:46 AM

Dear Roberta,

Thank you for your letter dated Feb 20th 2024. I most definitely have concerns and questions. I have lived here for over 30 years, I am on the edge of the floodplain but not in it. The proposed construction would almost definitely put me in the floodplain and reduce my property value. How is this legal? How can I best combat such a proposal? Is there a recourse through the city or do we need to hire a lawyer and pursue this through the courts? This is morally wrong, the burden of their profit seeking development should not be put on the backs of the locals. Again thank you for bringing this to our attention.

Richard C. Dickens
208-863-0677

215 Jasper Ave
Middleton ID 83644

From: [Utilities](#)
To: [Roberta Stewart](#)
Subject: FW: New subdivision on Concord/Hawthorne area
Date: Tuesday, February 23, 2021 3:45:03 PM

FYU

From: Sandy ```````````````` <s_ingalls1@yahoo.com>
Sent: Tuesday, February 23, 2021 3:38 PM
To: CITMID <citmid@middletoncity.com>
Subject: New subdivision on Concord/Hawthorne area

We received a notice from you regarding plans to put 121 houses in the Concord / Hawthorne area. We live on the corner of Concord and Willow so this will have a huge impact on us. Due to Covid and the fact that 96 year old mom lives with us, we are attempting to avoid crowds as much as possible. For this reason we are choosing not to attend the public meeting regarding this new subdivision. However, we would like to feel like our voices were at least heard.

We are 100% completely AGAINST this happening!

During peak traffic times we are not even able to get in and out of our driveways now. I mean this literally --- the traffic is so bad that you can not get in or out. We have to plan outings around those traffic times. I have to schedule any appointments so that we will not be attempting to do either during those times. We have lived here for 27 years now and have watched the slow progression to this point. Trying to get onto the main road from Hawthorne is yet another nightmare. The traffic here is outrageous now, we DO NOT need over 100 more cars on the road in this area!! We do not have the roads needed for that kind of traffic, or the officers to enforce the traffic laws now in place. I sit in my house everyday and see the speeders and watch people run the stop sign on Concord and Willow. My grandchildren are not even allowed to play in the front yard because the traffic is so scary.

Where are all the children from this subdivision supposed to go to school?? The last I heard was that our schools were 120% over capacity (my numbers may be wrong). The schools were screaming and begging for more money because they had no room to put kids! I would think that 121 more homes would include a fair amount of kids that will be in need of an education.

We moved here about 27 years ago because we loved the country feel and slow pace of Middleton. We are so saddened to see this disappear at such an alarming rate. It just seems that we keep building and building without making the necessary changes to accommodate all this new growth. It is obvious that growth is happening everywhere, but it seems that there need to be some changes made BEFORE any more building happens.

We appreciate you allowing us to voice our opinions, although it is doubtful that they will make any difference at all.

Sandy and Dave Ingalls

From: sdf1983@yahoo.com
To: [Roberta Stewart](#)
Subject: Creekside Terrace Subdivision
Date: Friday, May 10, 2024 7:18:20 AM

To the members of the Planning and Zoning Department,

Our family lives in the Powder River Subdivision. We moved here because of the county feel and loved being near the cow pasture where the cows, ducks, wild birds live however now we are in danger of losing our country feel in our neighborhood, not to mention more traffic that we will experience which is already difficult enough with all the new traffic around. Like many others that live in our neighborhood, we are older and getting ready to retire and will be living on a fixed income, and are being told that this subdivision will affect the flooding zone, which means our subdivision would be required to buy flood insurance, which is very expensive, something a lot of us cannot really afford and are being forced to consider to move out of our lovely neighborhood. Between new bonds for schools, new Levy's for fire departments not to mention our HOA fees going up and now the prospect of flood insurance being imposed upon us and the fact that our town is no longer a nice little town we had so much enjoyed you have resident getting angry at what is happening. there are many older retired people in Middleton on fixed incomes. We are not all wealthy people. Some of us are barely making it. This new subdivision would impact us greatly in a negative way so we are asking the planning and zoning committee to not allow the subdivision to go through.
Sincerely, David and Sandi Fontana

EXHIBIT E
Agency Comments

From: [Don Popoff](#)
To: [Roberta Stewart](#); carl@blackcanyonirrigation.com; tyler@blackcanyonirrigation.com
Cc: [Nick Sparacino](#)
Subject: RE: Creekside Terrace Subdivision - Willow Creek Bridge near Concord
Date: Friday, March 1, 2024 12:58:35 PM
Attachments: [image002.png](#)
[image003.png](#)
[image008.png](#)
[image009.png](#)
[image010.png](#)
[image012.png](#)

Hi Roberta – Happy Friday,

Thank you for the advanced warning on this subdivision heating up. We just met with Avonlea, who has a similar project / CLOMR / etc...upstream of the Creekside Terrace project.

The Creekside Terrace Project folks have **not** come in to chat with us at all. Feel free to give them my direct line.

Off the cuff, we are likely to have similar comments for these folks as we have had for Avonlea. This wasteway/creek is a spillway for the Irrigation District's C-Line East lateral. Any attempts to channel or provide a more concentrated flow into this wasteway (allowing more channelized collection of surface water), will need to address downstream affects....like the W. Concord St. bridge that you mention.

The subdivision also proposes to cross the spillway/creek at the bend on Willow Drive and will need a license agreement for this roadway crossing from Black Canyon and the Bureau for their proposed bridge.

The project sits half in and half out of the District (on the southern edge of the District's boundary in this location). It does not appear that any District infrastructure besides Willow Creek Wasteway is affected.

No encroachments will be allowed inside the Bureau's Right of Way.

We'll get something drafted up and officially sent to you regarding this proposed development. Call if we need to chat about any more details.

Thanks
Don



Donald Popoff PE

Nampa Office Manager | RH2 Engineering, Inc.

16150 N. High Desert Street
Suite 201
Nampa, Idaho 83687
C: 208.807.0015
O: 208.563.2280

EXHIBIT F

Engineer and Planner Comments



April 13, 2021

TO: Roberta Stewart, Planner
Rachel Speer, City of Middleton

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

RE: Creekside Terrace Subdivision – Revised 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 there are many comments and needed revisions and additional comments may come up as the application goes forward. It is also acknowledged that some of the comments and some of the details for the development (as submitted) may not be harmonious with the development agreement.

Traffic Impact Analysis. Required unless waived through other mitigation.

The project boundary is required to be based on a field survey and stamped by the PLS, including ties to section corners. Add boundary dimensions, centerline dimensions, and right of way dimensions.

A full topographic survey is required: utilities, inverts, pavements, structures, all as applicable.

Reduce the scale of the drawings and reduce number of pages and show all topography on site and adjacent. Combine notes to front page. Delete duplicate notes.

Number lots consecutively per block with individual blocks.

Please verify spelling of benchmark.

Existing and proposed easements are required to be shown.

Please add the lot count table, including per phase if applicable.

Please specifically identify all land to be dedicated to the public with purpose indicated. Please list lots and use.

Correct street names – typical of all sheets. Street is east west, Avenue is north south, court is cul-de-sac.

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

Irrigation relocated out of the right of way. Existing irrigation needs to be shown and noted as relocated out of rights of way if and as applicable.

Add note regarding irrigation and Idaho Code 31-3805.

Please update the roadway cross sections to be installed to reflect the City's current standard, if possible. The section line should act as the roadway centerline in all cases. The 9th Street section is actually a 100ft right of way, fully improved. Please remove the alley cross section. Sidewalks are five (5) ft wide, all in the right of way or all out of right of way. Pedestrian facilities are required at Hawthorn/Concord intersection.



Cornell right of way is 50-ft half section in current code.

The City's greenbelt typical is 10ft wide, 2-in pavement over 4-in compacted base in a 20 ft easement area. If located in the Middleton Mill easement area, the development will need to secure a license agreement specific to the greenbelt.

Stormwater management is in retention facilities only, requires pretreatment, and cannot co-mingle with irrigation or drainage waters.

Lot 13 to be converted to a half right of way section for Hawthorne and improved.

Please show actual floodway and flood plain limits (both).

A preliminary sewer design is required to be submitted. The sewer appears to be approximately 4 feet to invert/3+ ft cover, across the site. The sewer may be in direct conflict with the Middleton Mill crossings.

Please evaluate the existing Middleton Mill crossing on Hawthorn. If the crossing is degraded, insufficient width or the pipe in poor condition, the City will require the crossing to be reconstructed or upgraded. Please add a note accordingly.

Sewer through Cascade Ave to Concord if possible and omit sewer through floodway.

Show hydrant location, streetlight location, and add a note or show fiber installation.

Add proposed point of diversion and pump station location.

Add centerline radii and intersection radii (typical of every sheet).

Hawthorn and Concord plan view – very difficult to determine improvements existing/proposed/etc. Add topography data and show proposed improvements.

Label Minot street to the east. Show/label the right of way at south end of Pyne parcel. The City may require Michigan to line up with existing right of way above.

Add well to be abandoned note, specify per IDWR.

Identify and callout septic to be abandoned.



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 – Creekside Terrace Subdivision

April 28, 2021

1. Under R-4 zoning, the lots must each have 75' wide frontage. This will make peculiar lots if you stick with the allowed minimum square footage of 4000 s.f. The frontage width can be measured at the front setback line.
2. Re-number your lots. Do not number them 1 to 127. They should be by Lot and block with numbers starting over from 1 for each block. For example, you may have Lots 1 – 10, Block 1 & Lots 1-15, Block 2, Lots 1-6, Block 3...etc.
3. Submit a preliminary sewer design to prove that sewer will work under the deep sloughs. The topography will be difficult for sewer, and a plan must be submitted up front.
4. Show how you intend to have traffic cross the deep Middleton Slough. What will culvert design be?
5. Fix the site information box to reflect that there are only 5 common lots
6. Where is the current lot 13 that is supposed to be a common lot?
7. Set forth the exact amount of open space. You have to show at least 25% per the DA
8. Submit a landscape plan. Please include fencing, which should remain open on Willow Creek along with proof that there is a street tree in the sidewalk strip at least every other house lot.
9. Traffic buffer on Concord is waived per DA, so no buffer required.
10. Add the Community Center required by the DA or request a DA modification to remove requirement from the DA.
11. Show right of way dedication for 9th Street bridge. The City will not require you to design the bridge.
12. Work with Engineers to stop Hawthorn at the most northern location that makes sense. The road gets out of alignment the more northern the road progresses.
13. Recognize that Hawthorne will be an improved 25' half road – local road. A nearby landowner owns a part of Hawthorne. That will be a Right of Way issue that needs discussed and resolved.
14. Recognize that Concord will be an improved 50' half road per MCC 5-4-10-2
15. City would like you to widen sidewalks to 5' even though DA allows 4'
16. Show the site for the mailbox clusters
17. Add a public easement to the pathway from northern portion of the project to Concord Street at the south
18. Add the following notes to the pre-plat:
 - a. Domestic and fire protection water shall be provided by the City of Middleton.
 - b. Sanitary sewer collection shall be provided by the City of Middleton.
 - c. 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.

- d. Common lots are L?/B?...etc.These lots shall be owned and maintained by the Homeowners Association.
 - e. Building setbacks shall be in accordance with the Modified Development Agreement, Instrument #_____.
 - f. This property is in the Zone ___ of the Flood insurance Rate Map Number _____, which bears an effective date of _____
 - g. All existing wells and septic systems shall be completely removed and the area recompacted per geotechnical report.
 - h. Pressurized Irrigation water will be provided to each lot from the _____ District. In compliance with Idaho Code section 31-3805(1)(B), lots within this subdivision will be entitled to irrigation water rights and will be obligated for levies and assessments from said districts and companies.
 - i. All interior lot lines contain a 5-foot wide easement, each side, for public and private utilities, drainage, and irrigation facilities
 - j. All lots shall have a permanent easement for public utilities and pedestrian walkways in the 10 foot area adjacent to any public right of way. This easement shall not preclude the construction of hard-surfaced driveways and walkways to each lot.
 - k. Fiber optics to be provided to each lot during joint trench construction per the City of Middleton Supplement to the ISPWC.
 - l. Mailbox clusters to be installed by owner as shown on the preliminary plat.
19. Add the floodway to the pre-plat
 20. Add base flood elevation
 21. Add flood elevation for each lot in a table or on the lot itself
 22. Ensure that 3 parking lots stay on pre-plat per the DA
 23. Submit \$1000 fee and application for a Development Agreement Modification application.
 - 24.

Roberta L. Stewart

Middleton City Planner

EXHIBIT G

Engineering Conditions of Approval

CREEKSIDE TERRACE ENGINEERING CONDITIONS OF APPROVAL

1. The applicant shall comply with all requirements of the City of Middleton Zoning and Subdivision ordinance applicable to the subdivision project.
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 Development Agreement recorded in the records of Canyon County, Instrument #200629278 and the applicable zoning and subdivision regulations."

14. If the development has any impact on wetlands or other natural waterways, the applicant shall obtain approval from the U.S. Army Corps of Engineers, Bureau of Reclamation 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.

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 shall indemnify and hold 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.

INSTRUMENT NO. 200629278

ORDINANCE NO. 398

Creekside Terrace

AN ORDINANCE OF THE CITY OF MIDDLETON, CANYON COUNTY, IDAHO, CHANGING THE ZONING OF CERTAIN PROPERTY WITHIN SAID CITY OF MIDDLETON FROM R-3 SINGLE-FAMILY RESIDENTIAL AND R-4T MOBILE HOMES; TO R-4 COMBINED MEDIUM DENSITY RESIDENTIAL WITH A DEVELOPMENT AGREEMENT; INSTRUCTING THE CITY ENGINEER TO DESIGNATE SAID PROPERTY AS R-4 COMBINED MEDIUM DENSITY RESIDENTIAL ZONING; PROVIDING FOR SEVERABILITY; REPEALING CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, it has been determined by the City Council of the City of Middleton, Idaho, upon recommendation of the Planning and Zoning Commission and following the public hearing procedures as required in Section 5-13-1, Middleton City Code, that the property described in EXHIBIT A be rezoned from R-3 Single-Family Residential and R-4T Mobile Homes to R-4 Combined Medium Density Residential.

WHEREAS, the owner of the real property situated in the incorporated area of Canyon County and particularly described in Exhibit A, attached and hereby made a part of this ordinance, has requested, in writing, a zone change of said real property to the City of Middleton; and

WHEREAS, the Planning and Zoning Commission of the City, pursuant to public notice as required by law, held a public hearing on January 23, 2006 and continued it to February 27, 2006, as required by Section 67-6525, Idaho Code, and recommended to the Mayor and Council that they approved the request for re-zone to R-4 Combined Medium Density Residential with a Development Agreement; and

WHEREAS, the Middleton City Council, pursuant to public notice as required by law, held a public hearing on April 5, 2006, on the requested zoning for the real property described in Exhibit A attached, as required by Section 67-6525, Idaho Code;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MIDDLETON, IDAHO, AS FOLLOWS:

Section 1. The Middleton City Council hereby finds and declares that the real property described in Exhibit A attached consists of 36.23 acres generally located at the northwest corner of Concord and Hawthorne is hereby re-zoned to R-4 Combined Medium Density Residential with a Development Agreement..

Section 2. The City Engineer is hereby instructed to so designate the same above-described property on the official zoning map of the City of Middleton, Idaho, as being R-4

EXHIBIT "A"

A part of lot 42 in the Assessor's Plat of HAWTHORN PLAT OF MIDDLETON, Canyon County, Idaho, according to the official plat thereof, filed in Book 3 of Plats at Page 22, records of said County, also being a part of the Northeast quarter of the Southwest half of Section 6, Township 4 North, Range 2 West, Boise Meridian, Canyon County, Idaho, more particularly described as follows:

Beginning at the Northeast corner of said Lot 42 on the centerline of Hawthorn Drive and running South along the East boundary of Lot 42, a distance of 77.16 feet to a point which is the REAL POINT OF BEGINNING, thence South 50.00 feet along the East boundary of said Lot 42; thence West 145 feet parallel with the North boundary of said Lot 42; thence North 50.00 feet parallel with the East boundary of said Lot 42; thence East 145.00 feet parallel with the North boundary of said Lot 42 to the REAL POINT OF BEGINNING.

EXHIBIT "A"

A portion of Lot 42, HAWTHORN PLAT, AND Lot 43 as shown on the plat of LOTS 43 AND 45, HAWTHORN PLAT, Middleton, Canyon County, Idaho, according to the plat filed in Book 3 of Plats, Page 22, records of said County, and is situated in the Northeast quarter of the Southwest quarter, Section 6, Township 4 North, Range 2 West, Boise Meridian, Canyon County, Idaho, more particularly described as follows:

COMMENCING at the Northeast corner of the said Northeast quarter of the Southwest quarter; thence
South $0^{\circ}04'00''$ East (formerly South) along the East boundary of the said Northeast quarter of the Southwest quarter, which boundary is also the centerline of Hawthorn Drive, a distance of 244.95 feet; thence
South $89^{\circ}56'00''$ West along a line perpendicular to the said East boundary a distance of 30 feet to the West right of way boundary of Hawthorn Drive, which point is the TRUE POINT OF BEGINNING; thence
South $0^{\circ}04'00''$ East along the said West right of way boundary a distance of 100.05 feet to the North boundary of said Lot 42; thence
North $89^{\circ}56'00''$ East along the said North boundary a distance of 30 feet to the said East boundary of the Northeast quarter of the Southwest quarter, which is also the East boundary of said Lot 42; thence
South $0^{\circ}04'00''$ East (formerly South) along the said East boundary of Lot 42 a distance of 77.16 feet; thence
South $89^{\circ}07'51''$ West a distance of 163.36 feet; thence
North $0^{\circ}16'48''$ East a distance of 139.45 feet; thence
North $89^{\circ}56'00''$ East along a line perpendicular to the said East boundary of the Northeast quarter of the Southwest quarter a distance of 12.5 feet to a point on a line that is parallel with and 150 feet Westerly of the said East boundary of the Northeast quarter of the Southwest quarter; thence
North $0^{\circ}04'00''$ West along the said parallel line a distance of 40.05 feet; thence
North $89^{\circ}56'00''$ East along a line perpendicular to the said East boundary of the Northeast quarter of the Southwest quarter a distance of 120 feet to the TRUE POINT OF BEGINNING.

out 3/105.

EXHIBIT "A"

PARCEL I

This parcel is a portion of Lot 42 of HAWTHORN PLAT OF MIDDLETON, IDAHO, and Lots 43 and 45 as shown on the Plat of LOTS 43 AND 45 OF HAWTHORN PLAT, Middleton, Canyon County, Idaho, according to the official plat thereof, filed in Book 3 of Plats at Page 22, records of said County, and is situated in the Northeast quarter of the Southwest quarter and the Southeast quarter of the Northwest quarter of Section 6, Township 4 North, Range 2 West of the Boise Meridian, and is more particularly described as follows:

Commencing at the Northeast corner of said Northeast quarter of the Southwest quarter; thence
 South 89°56'00" West along a line perpendicular to the East boundary of the said Northeast quarter of the Southwest quarter, a distance of 150.00 feet to the TRUE POINT OF BEGINNING; thence continuing
 South 89°56'00" West, a distance of 30.00 feet; thence
 South 0°04'00" East along a line parallel with the said East boundary, a distance of 100.00 feet; thence
 North 89°56'00" East along a line perpendicular to the said East boundary, a distance of 150.00 feet to a point on the West right-of-way boundary of Hawthorn Drive, said right-of-way boundary being parallel with and 30.00 feet Westerly of the said East boundary; thence
 South 0°04'00" East along said right-of-way boundary, a distance of 144.95 feet; thence
 South 89°56'00" West along a line perpendicular to the said East boundary, a distance of 120.00 feet; thence
 South 0°04'00" East along a line parallel with the said East boundary, a distance of 40.05 feet; thence
 South 89°56'00" West along a line perpendicular to the said East boundary, a distance of 12.50 feet; thence
 South 0°16'48" West, a distance of 139.45 feet; thence
 South 89°07'51" West, a distance of 155.44 feet; thence
 North 0°52'58" West, a distance of 650.48 feet to the centerline of the Canyon Hill Ditch; thence
 South 70°54'56" West along the said centerline, a distance of 364.76 feet; thence
 South 68°27'52" West along the said centerline, a distance of 197.07 feet; thence
 North 0°04'00" West along a line parallel with the East boundary of the said Southeast quarter of the Northwest quarter, a distance of 120.20 feet; thence
 North 66°09'59" East, a distance of 771.86 feet to a point on a line that is parallel with and 150.00 feet Westerly of the said East boundary of the Southeast quarter of the Northwest quarter; thence
 South 0°04'00" East along the said parallel line, a distance of 472.07 feet to the TRUE POINT OF BEGINNING.

PARCEL II

This parcel is situated in the Southeast quarter of the Northwest quarter and the Northeast quarter of the Southwest quarter of Section 6, Township 4 North, Range 2 West of the Boise Meridian, Canyon County, Idaho, and consists of part of Tract 43 of HAWTHORN PLAT IN MIDDLETON, Canyon County, Idaho, according to the official plat thereof, filed in Book 3 of Plats at Page 22, records of said County.

This parcel is more particularly described as follows:

Commencing at the Northeast corner of said Northeast quarter of the Southwest quarter; thence
 South 89°56'00" West, a distance of 30.00 feet to a point on the East boundary of said Tract 43, which point is the TRUE POINT OF BEGINNING; thence
 South 0°04'00" East, along the East boundary of said Tract 43, a distance of 100.00 feet; thence
 South 89°56'00" West, a distance of 150.00 feet; thence
 North 0°04'00" West, parallel with the East boundary of said Tract 43, a distance of 100.00 feet; thence
 North 89°56'00" East, a distance of 150.00 feet to the TRUE POINT OF BEGINNING.

B.T.

LEGAL DESCRIPTION - EXHIBIT "A"

PARCEL 1

Tax Lot 42 (sometimes referred to as Block 42) of Assessor's Plat designated HAWTHORN PLAT OF MIDDLETON IDAHO, Canyon County, Idaho, according to the official plat thereof, filed in Book 3 of Plats at Page 23, records of said County, being situate partly in the Southeast quarter of the Northwest quarter and partly in the Northeast quarter of the Southwest quarter of Section 6, Township 4 North, Range 2 West, Boise Meridian, Canyon County, Idaho, and with reversionary interest in abutting streets and roads being more particularly described as follows:

Beginning at a point on the North and South centerline of said Section 6, which is 2,310.00 feet North of the South quarter corner of said Section 6 and 690.00 feet South of the intersection of said centerline with the South bank of Canyon Hill Ditch; thence West 348.5 feet along the South boundary of Tax Lot 43 to the Southwest corner of Tax Lot 43; thence North 560.00 feet along the West boundary of Tax Lot 43 to the South bank of said Canyon Hill Ditch; thence West along the South bank of said Canyon Hill Ditch (described on partial plat of HAWTHORN PLAT OF MIDDLETON, IDAHO, dated January 9, 1922 as South 71°15' West) in its course crossing Willow Creek to its intersection with the center of a road running southeasterly and Northwesterly (sometimes designated as Willow Street); thence South along the center of said road or street (its course being described on Assessor's Plat above mentioned as South 22°29' East, 217.00 feet; South 23° East, 174.00 feet; South 6° East, 200.00 feet; South 11° West, 160.00 feet to North line of Concord Street and thence to center of intersection) to its intersection with the centerline of Concord Street, said point of intersection being 501.75 feet, more or less, North of the North line of the Southeast quarter of the Southwest quarter of said Section 6 (said point of intersection being sometimes described as near a bridge across Willow Creek); thence East along the centerline of said Concord Street 784.00 feet, more or less, to the North and South centerline of said Section 6; thence North along the said centerline (being also the centerline of Hawthorn Drive) to the POINT OF BEGINNING.

EXCEPTING THEREFROM

This parcel is a portion of Lot 42 of HAWTHORN PLAT OF MIDDLETON, IDAHO, according to the official plat thereof, filed in Book 3 of Plats at Page 23, records of said County, and is situated in the Northeast quarter of the Southwest quarter of Section 6, Township 4 North, Range 2 West, Boise Meridian, Canyon County, Idaho, and is more particularly described as follows:

Beginning at the Northeast corner of the said Northeast quarter of the Southwest quarter; thence South 0°04'00" East (formerly South) along the East boundary of the said Northeast quarter of the Southwest quarter, which boundary is also the centerline of Hawthorn Drive, a distance of 145.00 feet to the Northeast corner of said Lot 42, which point is the TRUE POINT OF BEGINNING; thence continuing South 0°04'00" East along the East boundary of said Lot 42, a distance of 50.00 feet; thence South 89°56'00" West (formerly West) along a line parallel with the North boundary of said Lot 42, a distance of 145.00 feet; thence North 0°04'00" West (formerly North) along a line parallel with the said East boundary of Lot 42, a distance of 50.00 feet to the said North boundary of Lot 42; thence North 89°56'00" East (formerly East) along the said North boundary, a distance of 145.00 feet to the TRUE POINT OF BEGINNING.

(Continued)

LEGAL DESCRIPTION - EXHIBIT "A"

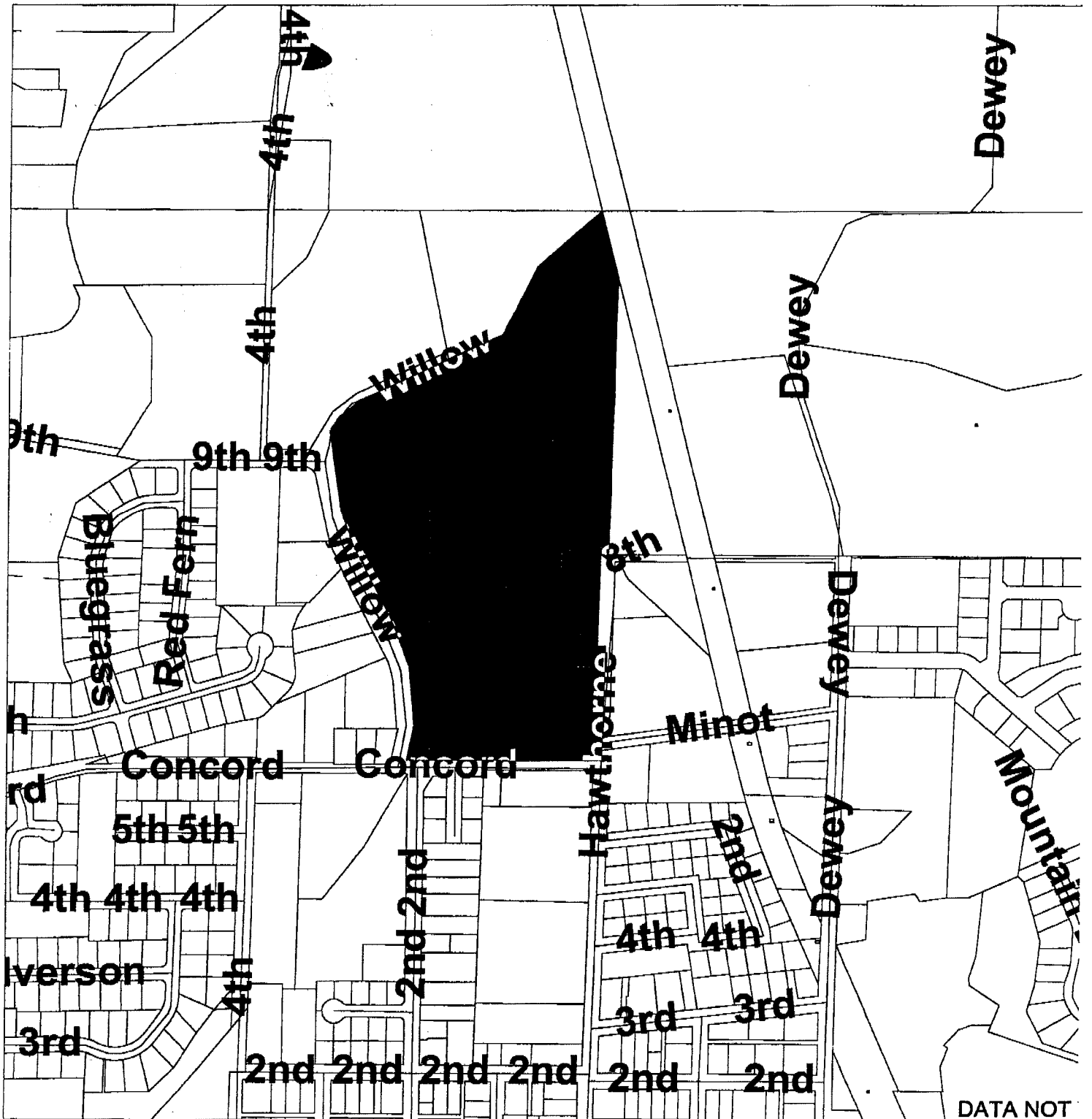
boundary is also the centerline of Hawthorn Drive, a distance of 345.00 feet to the Northeast corner of Lot 42 of Hawthorn Plat of Middleton, Idaho; thence South 89°56'00" West (formerly West) along the boundary common to said Lots 42 and 43, a distance of 319.94 feet to the TRUE POINT OF BEGINNING; thence continuing South 89°56'00" West, a distance of 28.56 feet to the Southwest corner of said Lot 43; thence North 0°04'00" West, a distance of 562.94 feet (formerly North, a distance of 560.00 feet) to the Southerly boundary of said Lot 45; thence South 69°54'08" West (formerly South 71°15'00" West) along the said Southerly boundary, a distance of 540.61 feet; thence North 0°04'00" West, a distance of 8.03 feet to the centerline of the Canyon Hill Ditch; thence North 68°27'52" East along the said centerline, a distance of 197.07 feet; thence North 70°54'56" East along the said centerline, a distance of 364.76 feet; thence South 0°52'58" East, a distance of 576.85 feet to the TRUE POINT OF BEGINNING.

PARCEL II

This parcel is a portion of Lots 43 and 45 as shown on the Plat of LOTS 43 AND 45 HAWTHORN PLAT, Middleton, Canyon County, Idaho, according to the official plat thereof, filed in Book 3 of Plats at Page 22, record of said County, and is situated in the Northeast quarter of the Southwest quarter and the Southeast quarter of the Northwest quarter of Section 6, Township 4 North, Range 2 West of the Boise Meridian, Canyon County, Idaho and is more particularly described as follows:

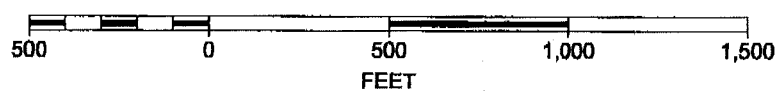
Commencing at the Northeast corner of the said Northeast quarter of the Southwest quarter; thence South 0°04'00" East (formerly South) along the East boundary of the said Northeast quarter of the Southwest quarter which boundary is also the centerline of Hawthorn Drive, a distance of 345.00 feet to the Northeast corner of Lot 42 of Hawthorn Plat of Middleton, Canyon County, Idaho; thence South 89°56'00" West (formerly West) along the boundary common to said Lots 42 and 43, a distance of 319.94 feet to the TRUE POINT OF BEGINNING; thence continuing South 89°56'00" West, a distance of 28.56 feet to the Southwest corner of said Lot 43; thence North 0°04'00" West, a distance of 562.94 feet (formerly North, a distance of 560.00 feet) to the Southerly boundary of said Lot 45; thence South 69°54'08" West (formerly South 71°15'00" West) along the said Southerly boundary, a distance of 540.61 feet; thence North 0°04'00" West, a distance of 8.03 feet to the centerline of the Canyon Hill Ditch; thence North 68°27'52" East along the said centerline, a distance of 197.07 feet; thence North 70°54'56" East along the said centerline, a distance of 364.76 feet; thence South 0°52'58" East, a distance of 576.85 feet to the TRUE POINT OF BEGINNING.

Creekside Terrace Vicinity Map



DATA NOT

SCALE 1 : 6,000





Creekside Terrace Subdivision

Preliminary Plat Application

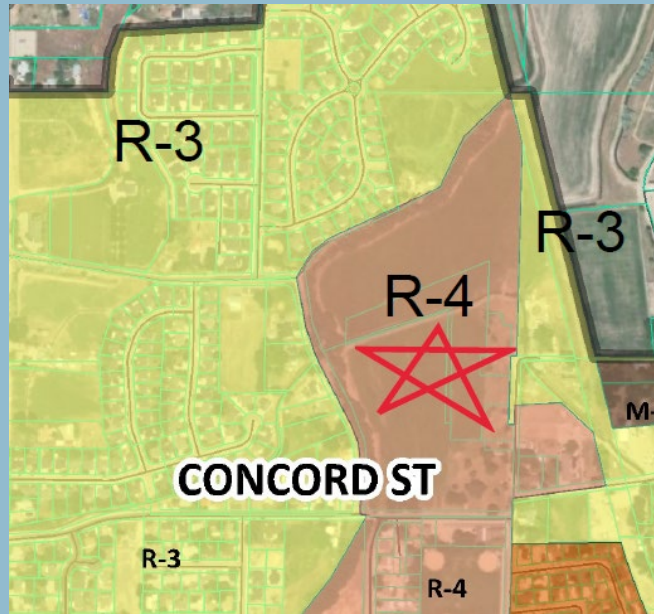


Project Description and Application:

Applicants Y Street Capital and AG Land & Development are applying for preliminary plat approval for a subdivision with 118 single family home sites and 16 common lots on approximately 34 acres located at the northeast corner of Concord Street and Willow Drive.

The project parcel was the subject of a rezone application in 2006. A Development Agreement (“DA”) was executed as a part of that rezone application. The DA allows up to 125 single family residential lots. Minimum lot size allowed in the DA is 4000 s.f.





Zoning: The property is comprised of seven vacant lots within city limits. It was rezoned R-4 (Medium Density Residential) in 2006. It is surrounded on all four sides by city property zoned R-3 or R-4.



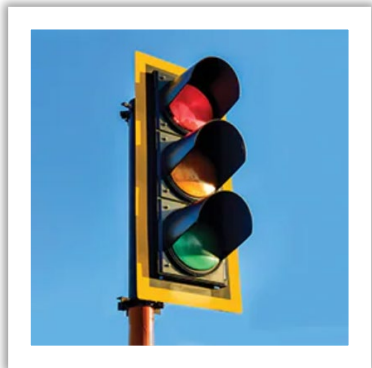
City Services: City water is located adjacent to the project site in Willow Drive, Concord Street, and Hawthorne. A sewer main is located onsite, but it may need to be replaced during construction if the project is approved.



Traffic, Access & Streets:

The subdivision will require the construction of the full width of 9th Street onsite and ½ road improvements on Concord Street and Hawthorne Avenue adjacent to the property. Access to the subdivision will be through 9th Street, Hawthorne Avenue, and Concord Street.

Applicant's traffic study indicates that at full build-out, a roundabout or traffic signal will be required at Hawthorne and Hwy 44.





Pathways, Open Space & Amenities:

The Development Agreement requires Developer to provide a community center, 7' wide path along the north and west property boundaries and 25% open space, including significant "Blue Space" or water features.

As will be shown below, Applicants' preliminary plat does not contain these requirements.

Total Area	36.23 Acres
Number of Lots	123
Open Space	36.5%
Blue Space	18.1%
Green Space	18.4%



Concept Plan



Preliminary Plat Application: The proposed preliminary plat shows a single phase for development and 118 single family lots. Almost all the lots are 4000 to 5500 s.f.

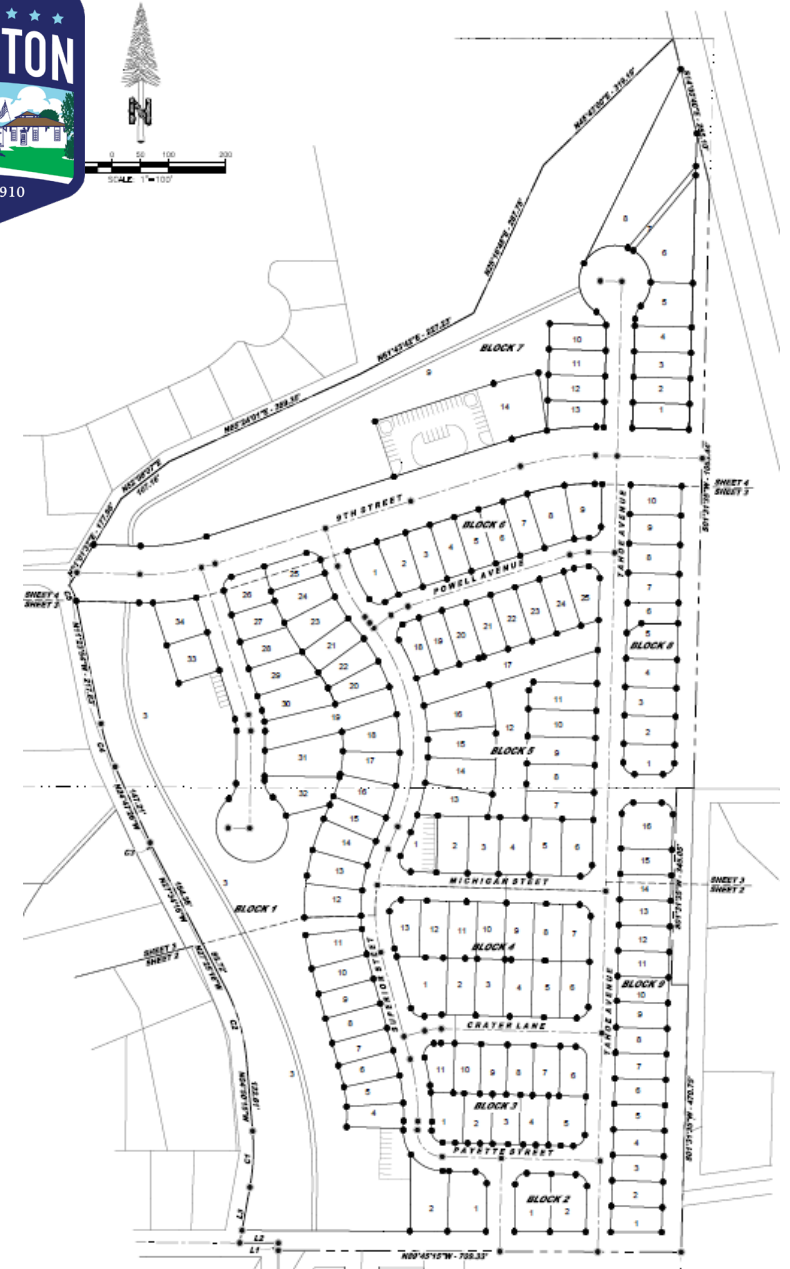
The sole criteria for approving the Creekside preliminary plat is a finding that the proposed plat complies with the City Code and Development Agreement. In this case, the 2006 City Code is relevant, not the current code.

Staff finds that the Creekside preliminary plat does not comply with the City's 2006 Code.



Preliminary Plat Application: The deficiencies are:

1. The plat does not show the proposed $\frac{1}{2}$ road improvements for Concord Street and Hawthorne Avenue per MCC 6-3-2D and 6-3-2(A)(2)(w).
2. Lots 25 and 26, Block 1 are located significantly in the 9th Street right of way adversely affecting the right of way required in MCC 6-3-2E.
3. Cul de sacs must have a radius of 50'. (MCC 6-3-2F) The preliminary plat does not establish that this radius requirement has been met.
4. Streets are missing names and/or end with an impermissible descriptor like "Lane" in violation of MCC 6-3-2K.
5. Dimensions and widths of proposed streets are also missing in violation of MCC 6-2-3(A)(2)(h).
6. A block length exceeds 660' in violation of MCC 6-3-3A.
7. Dimensions on lots are missing or obviously erroneous, and lot square footage is missing or cannot be calculated. (Block 7, Lots 1 -14; B1/L6, Block 1, lots 33 and 34, B9/L6, entire block 4 shows identical lots with identical square footage but different street frontage amounts, which is impossible. (MCC 6-2-3(A)(2)(r))

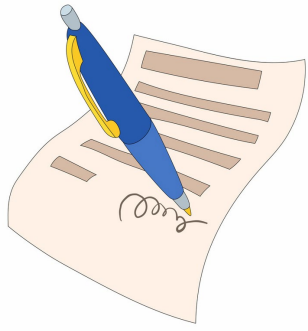


Preliminary Plat Application: The deficiencies are:

8. *No storm water management was shown on the preliminary plat. (MCC 6-3-9 and 6-2-3(A)(3))*
9. *No utility plan was provided to show how the project will be serviced with sewer and water. (MCC 6-2-3(A)(2)(o), (p) and (q), 6-2-3(A)(3) and 6-4-2)*
10. *The preliminary plat does not show a proper perimeter boundary based on field survey with ties to corners in violation of MCC 6-2-3(A)(2)(l).*
11. *The preliminary plat is missing the identification and descriptive data required by MCC 6-2-3(A)(2), subsections (a)-(b), (f)-(l), (n)-(t) & (v)-(w).*
12. *Preliminary plat fails to show easement over large drain transecting the project site in violation of MCC 6-2-3(A)(2)(h).*
13. *The floodway and floodplain are not clearly delineated on the preliminary plat in violation of MCC 6-2-3(A)(2)(g) and (l). Additionally, it appears that some lots are in the floodway and other lots are too close to the floodway edge, making it impossible to build a structure on those lots. Therefore, some lots shown on the preliminary plat cannot be constructed as designed. (B7/L14 and 2 homesites located at Lots 33 and 34, Block 1.) (MCC 4-4-8-5(E)(4) and 2006 code 6-2-3(A)(2)(l)).*

Amy Woodruff





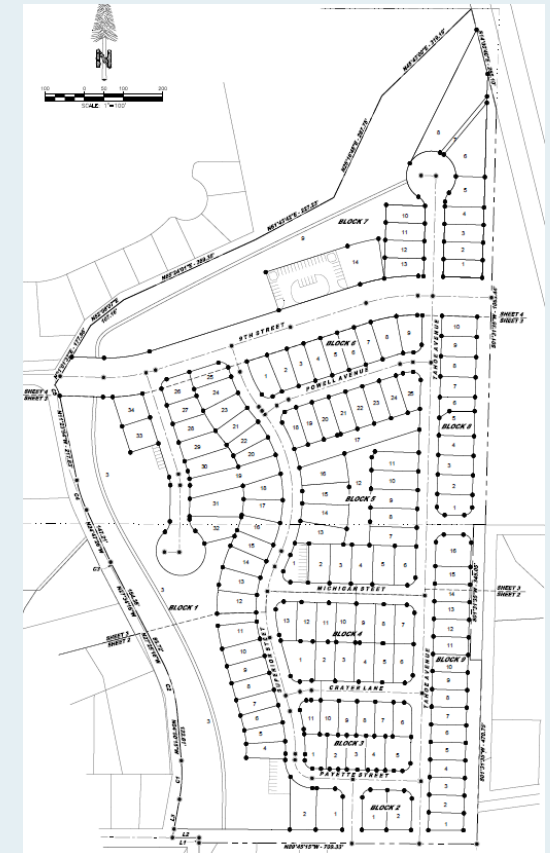
Development Agreement: This project parcel was rezoned to R-4 at a public hearing on March 26, 2006. The colorful concept plan shown below was approved in the Rezone application. A Development Agreement was also approved and executed as a part of that rezone application. The DA allows up to 125 single family homesites with a minimum lot size of 4000 s.f.

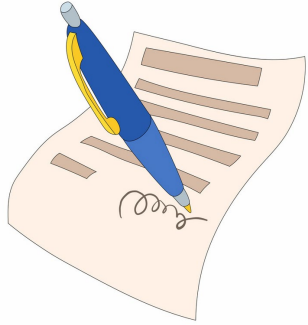
Applicant's preliminary plat is required to comply with the DA in order to gain approval. Staff finds that the Applicant's preliminary plat does not comply with the approved DA. The deficiencies are:

Blue Space on Concept Plan:

The approved concept plan shows a significant amount of "Blue Space" or water features, about 18%. The DA requires the preliminary plat to be "substantially consistent" with the approved Concept Plan (para. 3.18).

The proposed preliminary plat shows no water features whatsoever, so it is not "substantially consistent" with the concept plan.





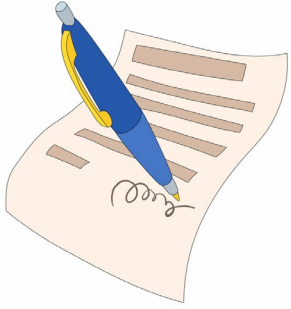
Open Space: *The DA requires 25% open space. (Para 3.13). The preliminary plat does not show the square footage of the common space lots, so the preliminary plat fails to establish that it is providing 25% open space.*

Alley Load Homes:

The approved concept plan and paragraphs 3.6, 3.12, and 3.18 of the DA contemplate alley load homes in the project. Alley load homes create a nice streetscape because the front elevations face Concord Street and Hawthorne Avenue. The unattractive garages are on the rear of the home and face the alley access. See planned alley load homes circled in red.

The proposed preliminary plat does not include the alley load homes in violation of the approved concept plan and DA.





Development Agreement (con't)

Street Design: *the DA called out the specific dimensions and design of the proposed streets (Para. 3.12). The larger local streets are required to have 32' wide paved area. The current preliminary plat shows only 24' paved area. Paragraph 3.12 of the DA also requires Applicant to construct 30' wide half roads along Hawthorne and Concord. Applicant, however, failed to include this DA requirement on the preliminary plat.*

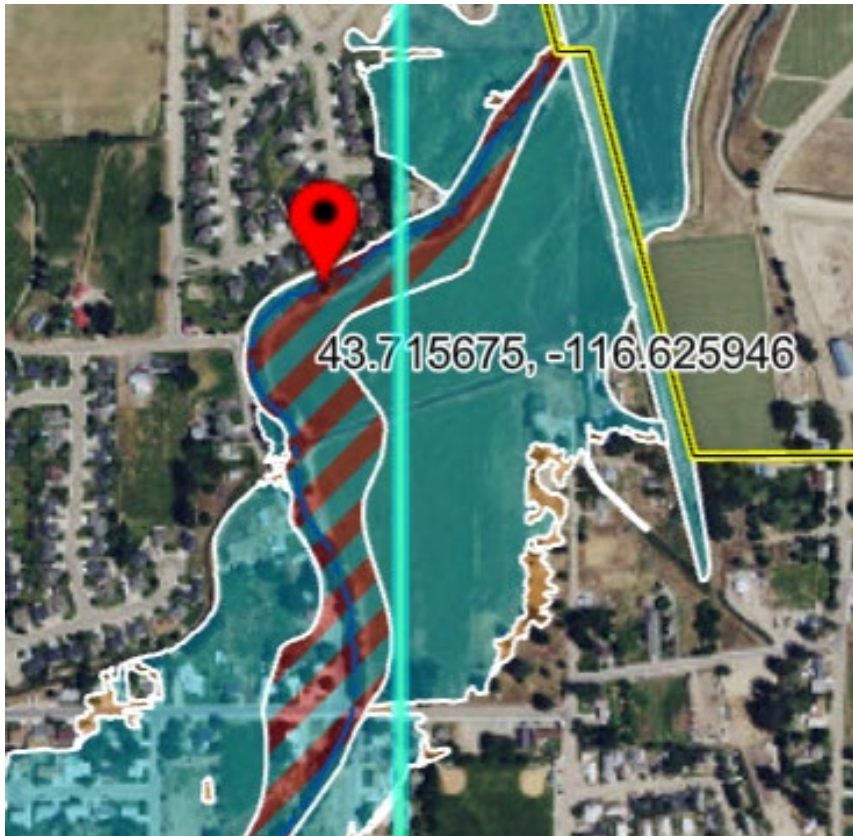
Community Center: *As noted earlier, neither the preliminary plat nor a narrative establish that the Applicant/Developer will construct a community center in compliance with paragraph 3.16 of the DA.*

Pathways: *The DA requires a 7' wide pathway along the northern and western borders of the projects. What appears to be pathways shown on the proposed preliminary plat are situated in the middle of the Willow Creek's creek bed, which is infeasible. Moreover, because Applicant as failed to place a definitive note about the pathway on the preliminary plat or in a narrative, they have failed to establish that they are actually complying with the DA and providing a pathway that is truly 7' wide.*

Landscape/Irrigation: *Per paragraph 3.7 of the DA, Developer must provide an irrigation system and landscaping that shows one tree on alternating lots along the parkway strip. Applicant has not submitted a landscape plan showing this requirement. Additionally, the pressurized irrigation system was not shown on the preliminary plat to establish compliance with this requirement. (paragraph 3.8.)*

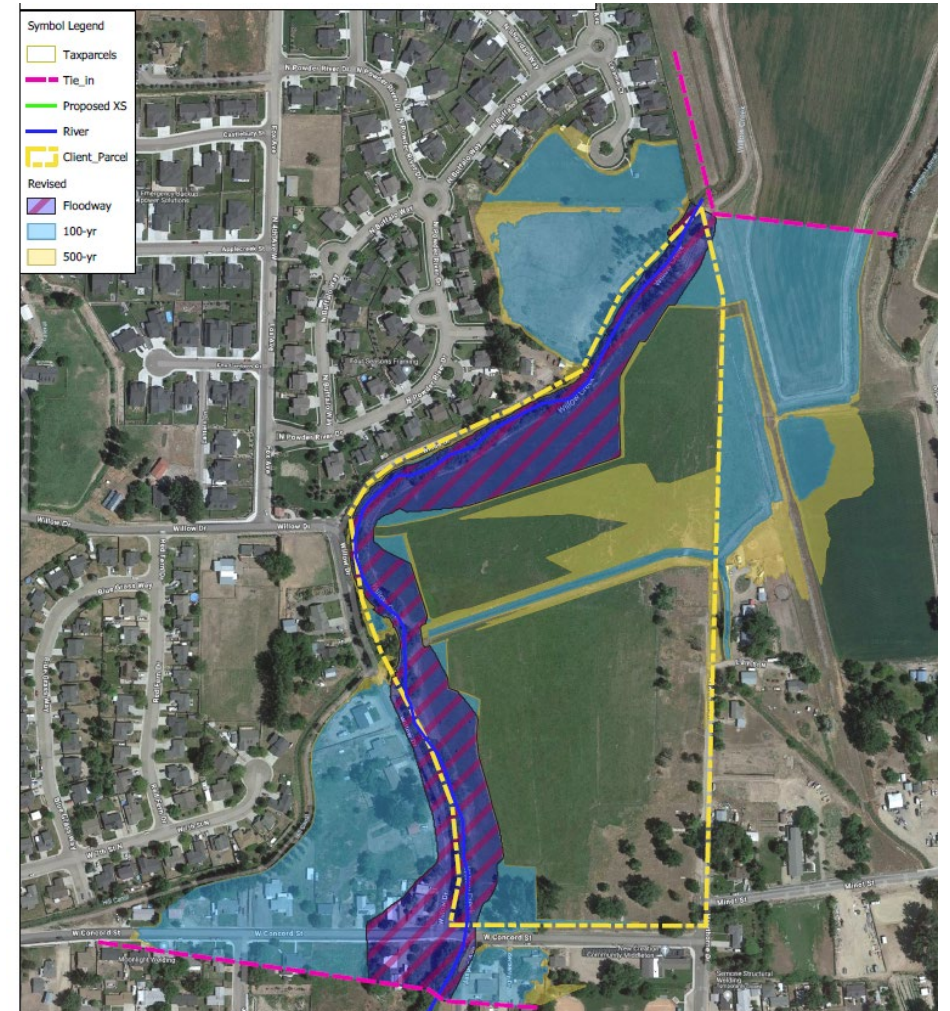
FLOODWAY & FLOODPLAIN:

A significant portion of the Creekside parcel is currently in the floodway with the rest in the floodplain. As seen below, the red and blue striped area is currently designated floodway. The solid blue overlay is floodplain.



FEMA defines “floodway” as a channel of a river or watercourse that must be reserved in order to discharge the base flood. No structure may be constructed in a floodway. However, structures can be built in the floodplain with a floodplain permit. Homeowners who live in a floodplain area are required to purchase flood insurance each year, and this requirement can affect a homeowner’s ability to obtain a home loan.

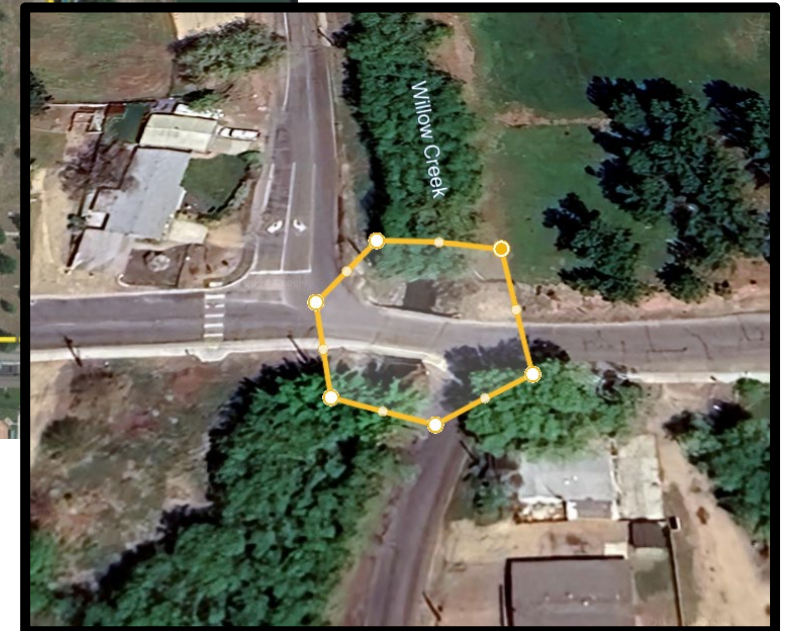
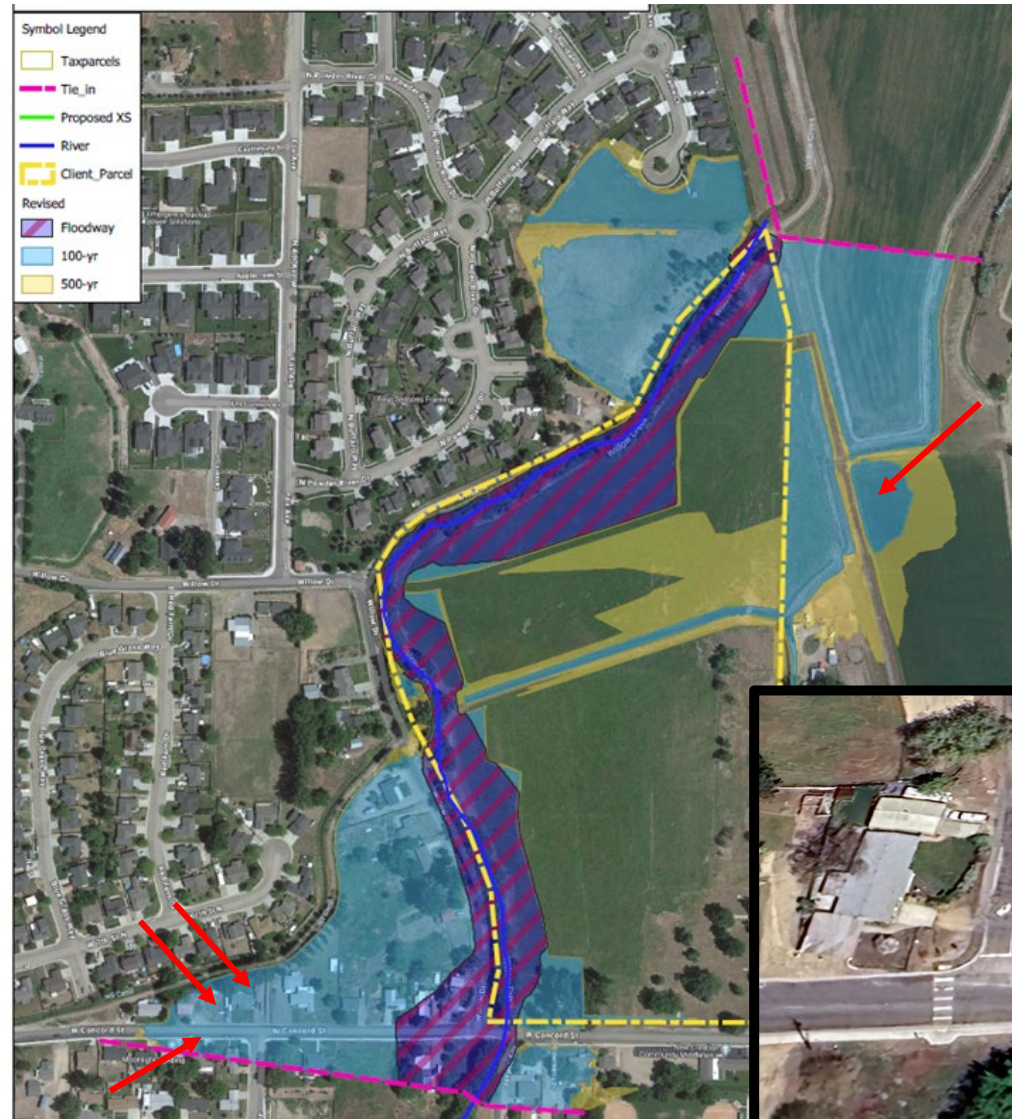
The Creekside Developer has applied to FEMA to change the floodway and floodplain on the Creekside property via a Conditional Letter of Map Revision (or CLOMR). Once the CLOMR work is completed, the floodway and floodplain should look like the this:

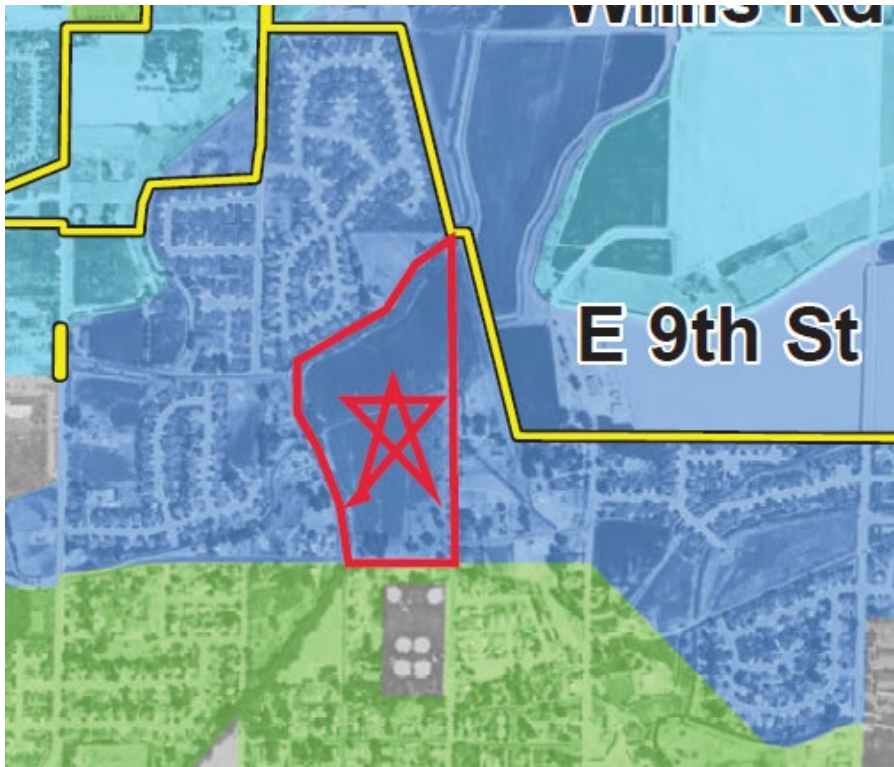


FLOODWAY & FLOODPLAIN:

Developer's CLOMR will place four nearby lots that are currently not in the floodplain into the floodplain. Landowners who are currently not paying annual floodplain insurance will have to start buying floodplain insurance once the Developer completes the CLOMR revisions to the floodway/floodplain. The homeowners affected are the homeowners of 314, 320, and 409 Concord Avenue. Additionally, a portion of vacant land to the east (Parcel No. R33883010B) will be placed into the floodplain. When this landowner develops that property in the future, the landowner will have to deal with floodplain issues that he or she does not have to currently deal with.

Finally, it is not clear whether the existing concrete bridge downstream at Concord Street and Willow Drive will adequately handle Developer's proposed changes to the floodway and channel.





- Commercial
- Industrial
- Mixed Use
- Public
- Residential

Comprehensive Plan & Land Use Map: Applicant's proposed project is in compliance with the City's Future Land Use Map (FLUM) because the residential project is located in an area shown as "Residential" on the FLUM.



Comments Received from Landowners & Public: Public Comments were attached as Exhibit “D” to the Staff Report and Agenda. **Late Comment – Exhibit “I”**

Comments from Agencies: Agency comments were attached as Exhibit “E”. **LATE comment ITD – Exhibit “H”**

Comments from City Engineer & Planner: Exhibit “F” to Staff Report/Agenda.

Applicant Information: Application was accepted on March 15, 2021. Applicant is Y Street Capital and AG Land & Development.

Notices & Neighborhood Meeting:

Dates:

Newspaper Notification	4/28/2024
Radius landowner Notice	4/25/2024
Circulation to Agencies	4/25/2024
Sign Posting property	4/25/2024
Neighborhood Meeting	2/26/2021

Pertinent Codes and Standards: Idaho Standards for Public Works Construction, the Middleton Supplement to the Idaho Standards for Public Works Construction, 2006 Middleton City Code Title 5 and Title 6, Middleton City Code 1-14, 1-15, 1-16, 5-1, 5-2, 5-3, and 5-4, an Idaho Code Title 67, Chapter 65 and Title 50, Chapter 13.



PROCEDURAL HISTORY & CONTEXT

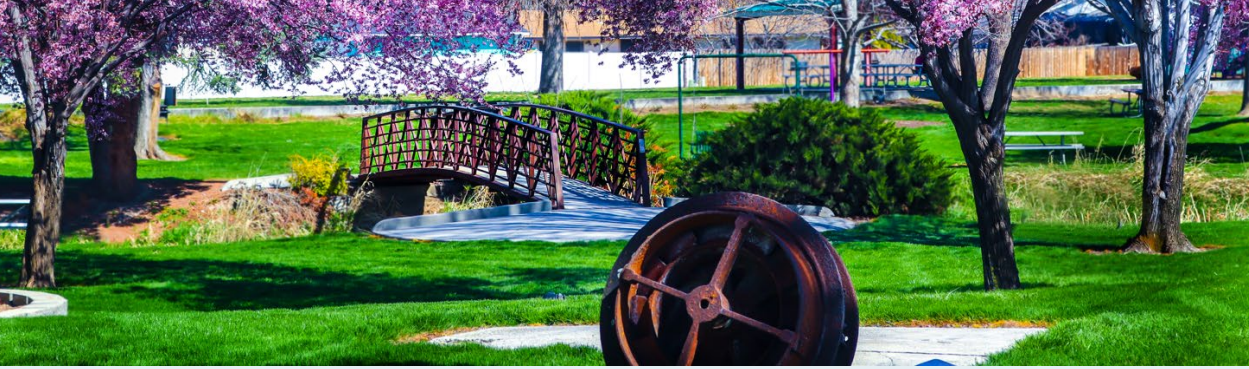
Application was accepted on March 15, 2021 - over 3 years ago. Planner Comments & Engineering Comments were given to the Developer in April 2021, just one month after the initial submittal. (Exhibit F)

Staff also worked with Applicant on a possible modification to the DA pursuant to the previous Mayor's direction. Applicant requested to add townhome lots to the DA and plat. In exchange, Staff attempted to negotiate single family home lots larger than 4000 s.f., and upgraded street standards, and a new termination clause. Staff insisted that the community center stay in the DA.

Applicant submitted a revised preliminary plat in November 2022, which was 20 months after submitting their initial preliminary plat. The Plat did not contain provisions "tentatively" agreed to. Many lots were still less than the 6000 s.f., tentatively negotiated, the roads were not shown to current standards, and Applicant failed again to add the community center.

Applicant never submitted a plat that actually complied with previous discussions between Staff and the Applicant. Also, at no time was a formal DA modification drafted, reviewed, or generally agreed upon between the Applicant and Staff.

In February of this year, the new City Administration requested Staff to accelerate and finalize any "stale" preliminary plat applications that were over 2 years old. Current Administration also determined that it was not interested in modifying the Creekside DA like the previous Administration. So, in February of this year, Staff informed the Creekside Developer that City would not continue to negotiate a modified DA. City also wanted to bring the application to Public Hearing and a final disposition as soon as possible. Staff informed Applicant there would be no further Staff assistance, and they would need to heed prior comments and revise their plat to bring it into compliance with the approved DA and relevant City Code.



Conclusions and Recommended Conditions of Approval:

Per State law and the Middleton City Code, any recommendation to City Council to approve or deny an application must be based upon findings of facts and conclusions of law.

As to Findings of Facts, Planning Staff has set forth findings of facts above in italics.

As to Conclusions of Law, Planning Staff finds that the Planning & Zoning Commission has the authority to hear this application and to recommend approval or denial of the application, with or without conditions. 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 a recommendation on the applications.

If the Commission is inclined to recommend approval of the preliminary plat, then Planning Staff recommends that any approval be subject to the following conditions:

Conclusions and Recommended Conditions of Approval:

1. Applicant/Developer to construct all ½ road portions of Concord Street and Hawthorne Avenue in compliance with City code, Supplement to ISPWC, and Development Agreement.
2. Applicant/Developer shall be subject to the Engineering Conditions of Approval attached to the Staff Report as Exhibit “G”
3. All City Engineer review comments for the preliminary plat application, construction drawing application and final plat application are to be completed and approved.
4. If deemed necessary by City Engineer and the Public Works Director, Developer must replace the entire sewer main currently onsite.
5. Applicant/Developer is responsible for improving or replacing the concrete bridge at Willow Drive and Concord Street if required by the changes made to the floodway/floodplain per an approved CLOMR.
6. City of Middleton municipal domestic water, fire flow and sanitary sewer services are to be extended to serve the subdivision.
7. 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.
8. All Planner comments are to be completed and approved.
9. All requirements of the Middleton Rural Fire District are to be completed and approved.
10. All requirements of the Black Canyon Irrigation District are to be completed and approved.
11. All requirements of FEMA, Idaho Department of Water Resources, Bureau of Reclamation, U.S. Army Corp of Engineers and Environmental Protection Agency must be completed and approved.

Denial – what applicant can do.



CREEKSIDE TERRACE SUBDIVISION DEVELOPMENT AGREEMENT

This Development Agreement (this "Agreement") is made and entered into this 19 day of April, 2006 (the "Effective Date"), by and between the City of Middleton, a municipal corporation in the State of Idaho (the "City") and Willow Creek Properties, LLC, an Idaho limited liability company (the "Developer").

RECITALS

WHEREAS the Developer has applied to the City for a rezone to R-4 of property, which is more particularly described in Exhibit A attached hereto and incorporated herein (the "Property").

WHEREAS the City, pursuant to Idaho Code Section 67-6511A, has the authority to rezone the Property and to enter into a development agreement for the purpose of allowing, by agreement, a specific development 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 the Middleton City Code.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and agreed, and in consideration of the recitals above which are incorporated herein, and in consideration of the undertakings and agreements hereinafter contained, the parties agree as follows:

ARTICLE I LEGAL AUTHORITY

1.1 This Agreement is made pursuant to and in accordance with the provisions of Idaho Code Section 67-6511A and Middleton City Code, Title 5, Chapter 7.

ARTICLE II ZONING ORDINANCE AMENDMENT

2.1 The City shall adopt an ordinance amending the Middleton Zoning Ordinance to rezone the Property to R-4 (the "Ordinance"). The Ordinance will become effective after its passage, approval, and publication and the execution and recordation of this Agreement.

ARTICLE III CONDITIONS ON DEVELOPMENT

3.1 Developer shall develop the Property subject to the conditions and limitations set forth in this Agreement. Developer shall further submit such applications regarding preliminary and final plat reviews and any other applicable applications as may be required by the City.

3.2 Developer agrees that only single-family, detached dwellings shall be constructed on the property.

3.3 The development shall comply with the Middleton Comprehensive Plan and City Code, as they exist in final form at the time the development application was approved, except as otherwise provided in this Agreement. As

to the number of lots and lot dimensions detailed in the Conceptual Plan, the following conditions shall be satisfied:

3.4 Minimum Lot Sizes. Minimum lot sizes will be in substantial compliance with conceptual drawing, and are not to be smaller than 4,000 square feet.

3.5 Number of Lots. This development encompasses approximately 36.23 acres and will contain a maximum number of 125 residential lots.

3.6 Set Backs. Developer shall provide the following setbacks for associated lots:

3.6.1 Rear Setbacks.

3.6.1.1 Five feet (5') for all houses which border an alley. (Red shaded on setback display)

3.6.1.2 Fifteen foot (15') rear setbacks will be required for all others. (Blue shaded on setback display)

3.6.2 Side Setbacks

3.6.2.1 Five feet (5') for all lots.

3.6.3 Front Setbacks

3.6.3.1 Twelve feet (12') for all houses bordering an alley. (Red shaded on setback display)

3.6.3.2 Fifteen feet (15') for all houses not bordering an alley. These houses shall not have a garage with a setback of less than twenty-five feet (25'). (Blue shaded on setback display)

3.6.3.3 Houses that front on Concord, Hawthorne, and 9th Street, will not have a traffic buffer area.

3.7 Landscaping. Builder shall install an automatic sprinkler irrigation system, place sod and plant one (1) tree in the parkway strip of alternating lots.

3.8 Common Areas. Developer shall install an automatic sprinkler irrigation system in common areas including, but not limited to, the common area pathway adjacent to Willow Creek detailed in the Conceptual Plan. The common areas shall be owned and maintained by the homeowners' association.

3.9 Parking. Each lot will provide a minimum of two (2) enclosed off-street parking spaces and one (1) additional off-street parking space, or a three (3) car garage. Additionally, a minimum of three (3) parking lots will be constructed in the development to provide additional visitor parking.

3.10 Home Design Mixture. Developer agrees to construct homes in a minimum of four different front appearances. A minimum of 20% either of stucco, brick, or stone fronts shall be present within the development.

3.11 Trailers. No trailer homes or manufactured homes will be allowed to be constructed within the development.

3.12 Roadways. Roadway alignments will conform to City of Middleton's Comprehensive Plan as shown on the conceptual layout, with the following exceptions: All interior subdivision roadways shall have, contained within the 50' rights-of-way, 32' paved, 2' rolled or ribbon curbing on both sides, 6' grassed and treed parkways on both sides, and a portion of a 4' detached sidewalk on both sides; Alleys shall be 20' paved and have a 30' right-of-way, as shown; One-way alleys shall have 12' paved within a 20' right-of-way and shall not be more than 450' in total length. 30' right-of-way half-widths shall be platted and constructed to City of Middleton standards along Concord and Hawthorne as shown on the conceptual plan. 9th Street will be extended and constructed as shown on the conceptual plan. Concord and Hawthorne Streets will be improved for half-width plus ten feet (10') where the City has right-of-way or prescriptive right-of-way. Developer will make a good faith effort to purchase right-of-way from the landowner where 10' roadway width of Hawthorne (north of 8th Street) will extend onto landowner's property, since City does not currently own, or have any rights to, the necessary right-of-way.

3.13 Open Space. Open Space shall constitute over 25% of the property, including greenbelt and water

feature areas. In addition, development shall meet the City of Middleton's PUD requirement (MCC6-5-3-1-I-7) of 10% open space, counting only 25% of water surface area.

3.14 Fencing. Open fencing shall be used on all properties that border Willow Creek. No chain link fencing will be allowed.

3.15 Greenbelt. Developer will provide a minimum 7' wide paved greenbelt along the north and west boundary of development near Willow Creek as shown in conceptual plan. Greenbelt will not be required to be above base flood elevation.

3.16 Community Center. Developer will provide a community center for residents' use. Community Center will contain off street parking and will be owned and maintained through Creekside Terrace Homeowner's Association.

3.17 Late Comers Agreement for Sewer Extension. The City shall not allow additional properties within the service area to connect upstream of beginning of sewer line extension - 3rd and Dewey, where an 18" sewer system extension will be constructed, until a Late Comers Fee as defined in Section 7-2-17(I)2 of City Code has been assessed. The credit used to calculate the Late Comers Fee shall be determined by using the following equation from Section 7-2-17(G)6 of City Code.

$$\text{Credit} = \text{Actual Construction Cost} \left[\frac{\text{Total Service Area(aces)} - \text{Total Development Area(aces)}}{\text{Total Serviceable Area(aces)}} \right]$$

The Late Comers Fee shall be calculated by allocating the Credit to the Total Service Area less the Total Development Area on a benefits derived basis in compliance with Section 7-2-17(I) of City Code. The Late Comers Fee shall expire ten (10) years after the date this agreement is approved. All fees collected by the City for reimbursement herein provided for shall be accounted for separately as the City of Middleton / Willow Creek Properties, LLC Reimbursement Account. Said funds shall be remitted to the Developer quarterly.

3.18 All development within the Property shall be substantially consistent with the Conceptual Plan.

3.19 Developer agrees that all development will comply with the Middleton City Code, except as otherwise provided in this Agreement, and will require a complete set of plans which shall include:

- a. Site plan including street, curb and gutter, and sidewalk;
- b. Underground utility plan including water, sanitary sewer, storm drainage, irrigation and fire protection;
- c. Soils report, including bearing values, soils profile, ground water table and other elements as requested by the City Engineer or Building Official, and
- d. Review and approval by the City Engineer or Building Official of site, utility and landscape plans before a building permit is issued.
- e. Any other required improvements set forth as conditions of approval;
- f. Compliance with the City of Middleton Floodplain Ordinance

3.20 Conditions for Completion. All of the conditions set forth herein shall be complied with or Developer shall provide City with sufficient security for the completion of such conditions in the form of a letter of credit, or other sufficient security, before signature of the Final Plat or Certificate of Occupancy will be granted. Failure to complete or provide such security for completion of the conditions within the time frame established in the subdivision plat approval conditions, the Middleton City Code or the terms of this Agreement shall result in a default of this Agreement by Developer. Developer may be allowed to provide security for completion of such conditions at one hundred and fifty percent (150%) of the estimated cost to complete the condition.

3.21 Commencement of Construction. Developer shall commence construction of utilities within two (2) years of the date the Development Agreement becomes effective. In the event Developer fails to commence construction within this time period, Developer shall be in default of this Agreement. Developer shall have the option to apply for a one-year extension at the end of the two-year period if preliminary plat has been approved by City of Middleton. An automatic extension will be granted on subject Development Agreement should city services be

unavailable for some reason beyond the control of Developer at the time of final plat. The timeframe associated with the extension will be equal to that of the delay timeframe on providing city services.

3.22 Willow Creek. Developer acknowledges that the City may require an agreement between the Developer and Middleton Mill Ditch Company as a condition of preliminary plat approval.

3.23 3.23 Dedications. Developer shall construct all streets, sewer and water facilities according to city standards and dedicate the same to the City of Middleton upon successful final inspection by the City.

ARTICLE IV DEFAULT

4.1 In the event Developer, her/his heirs or assigns or subsequent owners of the Property or any other person acquiring an interest in the Property, fail to faithfully comply with all of the terms and conditions included in this Agreement, this Agreement may be modified or terminated by the Middleton City Council in compliance with the requirements of the Middleton City Code. In the event the City Council determines that this Agreement shall be modified, the terms of this Agreement shall be amended and Developer shall comply with the amended terms. Failure to comply with the amended terms shall result in default. In the event the City Council, after compliance with the requirements of the Middleton City Code, determines that this Agreement shall be terminated, the zoning of the Property shall revert to R-3 zoning. All uses of the Property, which are not consistent with R-3 zoning shall cease. A waiver by the City of any default by Developer of any one or more of the covenants or conditions hereof shall apply solely to the breach and breaches waived and shall not bar any other rights or remedies of the City or apply to any subsequent breach of any such or other covenants and conditions.

4.2 Remedies. Developer, by entering into this Agreement, does hereby agree that in the event there shall be a default in the terms and conditions of this Agreement, that this Agreement shall serve as consent to a reversion of the Property to R-3 zoning.

ARTICLE V UNENFORCEABLE PROVISIONS

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

ARTICLE VI ASSIGNMENT AND TRANSFER

6.1 After its execution, this Agreement shall be recorded in the office of the Canyon County Recorder at the expense of Developer. Each commitment and restriction on the development subject to this Agreement shall be a burden on the Property, shall be appurtenant to and for the benefit of the Property, adjacent property and other residential property near the Property and shall run with the land. 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, each owner of a legal lot shall only be responsible for duties and obligations associated with the owner's parcel and shall not be responsible for duties and obligations or defaults as to other parcels of lots within the Property. A 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.

ARTICLE VII GENERAL MATTERS

7.1 Amendments. Any alteration or change to this Agreement shall be made only after complying with the

notice and hearing provisions of Idaho Code Section 67-6509, as required by Middleton City Code.

7.2 Paragraph Headings. This Agreement shall be construed according to its fair meaning and as if prepared by both parties hereto. Titles and captions are for convenience only and shall not constitute a portion of this Agreement.

As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates.

7.3 Choice of Law. This Agreement shall be construed in accordance with the laws of the State of Idaho in effect at the time of the execution of this Agreement. Any action brought in connection with this Agreement shall be brought in a court of competent jurisdiction located in Canyon County, Idaho.

7.4 Notices. Any notice which a party may desire to give to another party must be in writing and may be given by personal delivery, by mailing the same by registered or certified mail, return receipt requested postage prepaid, or by Federal Express or other reputable overnight delivery service, to the party to whom the notice is directed at the address of such party set forth below.

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

Developer: Willow Creek Properties, L.L.C.
P.O Box 384
Middleton, Idaho 83644

or such other address and to such other persons as the parties may hereafter designate in writing to the other parties. 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 foregoing.

7.5 Attorneys' Fees and Costs. In the event an action is brought to enforce any provision of this Agreement, or in the event an action is brought to recover damages for breach of this Agreement, , the prevailing party in such action shall be entitled to recover from the other party all reasonable attorneys' fees and costs incurred, including attorneys' fees and cost incurred on appeal.

Combined Medium Density Residential.

Section 3. If any portion of this Ordinance is found to be unenforceable or unconstitutional for any reason, the remaining portion of this Ordinance shall remain in full force and effect.

Section 4. Any portions of any existing Ordinances, which are in direct conflict with this Ordinance, are hereby repealed insofar as the conflict exists.

Section 5. This ordinance shall be in full force and effect from and after its passage, approval and publication.

DATED this 19th day of April, 2006.



CITY OF MIDDLETON
Canyon County, Idaho

By Frank McKeever
Frank McKeever, Mayor

ATTEST:

Ellen Smith
Ellen Smith CMC, City Clerk

200629278

RECORDED

2006 APR 20 PM 4 15

O NOEL NALES
CANYON CITY RECORDER

BY Noel Nales

REQUEST Middleton City 06
TYPF - Ordinance FEE

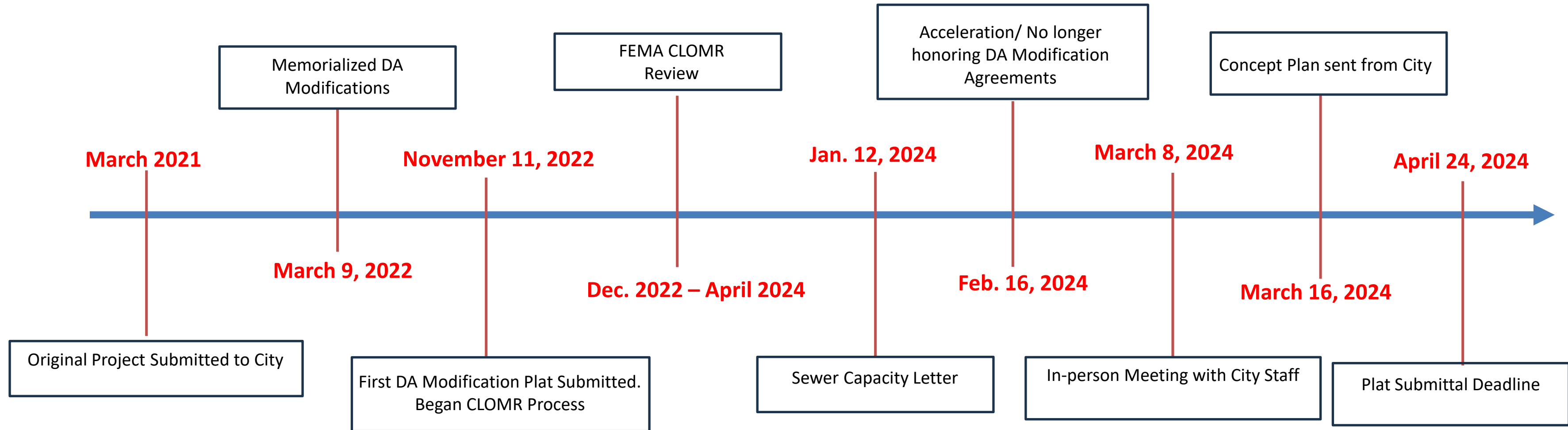


CREEK SIDE

TERRACE

QUALITY HOUSING AND AMENITIES

CREEKSIDE TIMELINE





Development Agreement & Concept Plan Issues

- Concept Plan Not Recorded
- Missing Information on Plan
- Feasibility
- 18 Years Old

3.6 Set Backs. Developer shall provide the following setbacks for associated lots:

3.6.1 Rear Setbacks.

3.6.1.1 Five feet (5') for all houses which border an alley. (Red shaded on setback display)

3.6.1.2 Fifteen foot (15') rear setbacks will be required for all others. (Blue shaded on setback display)

3.6.2 Side Setbacks

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3.6.3.1 Twelve feet (12') for all houses bordering an alley. (Red shaded on setback display)

3.6.3.2 Fifteen feet (15') for all houses not bordering an alley. These houses shall not have a garage with a setback of less than twenty-five feet (25'). (Blue shaded on setback display)

3.6.3.3 Houses that front on Concord, Hawthorne, and 9th Street, will not have a traffic buffer area.

Total Area	36.23 Acres
Number of Lots	123
Open Space	36.5%
Blue Space	18.1%
Green Space	18.4%

*Revised
2-27-06*



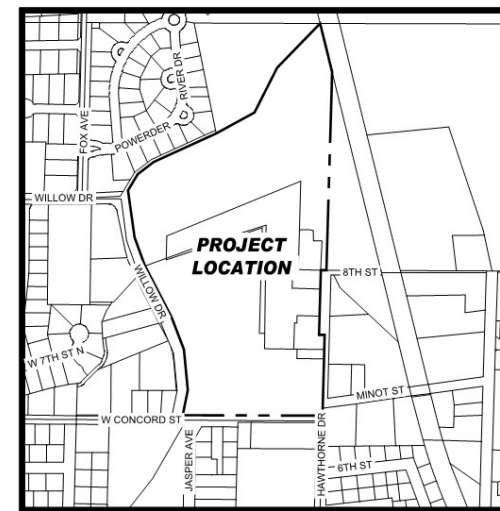
Concept Plan

PRELIMINARY PLAT CREEKSIDE TERRACE SUBDIVISION

A PORTION OF THE SOUTHEAST 1/4 OF SECTION 35,
TOWNSHIP 4 NORTH, RANGE 3 EAST, B.M.,
CANYON COUNTY, IDAHO
-2024-

NARRATIVE:

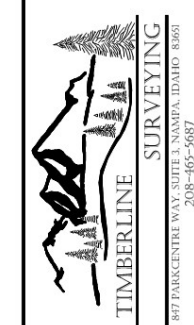
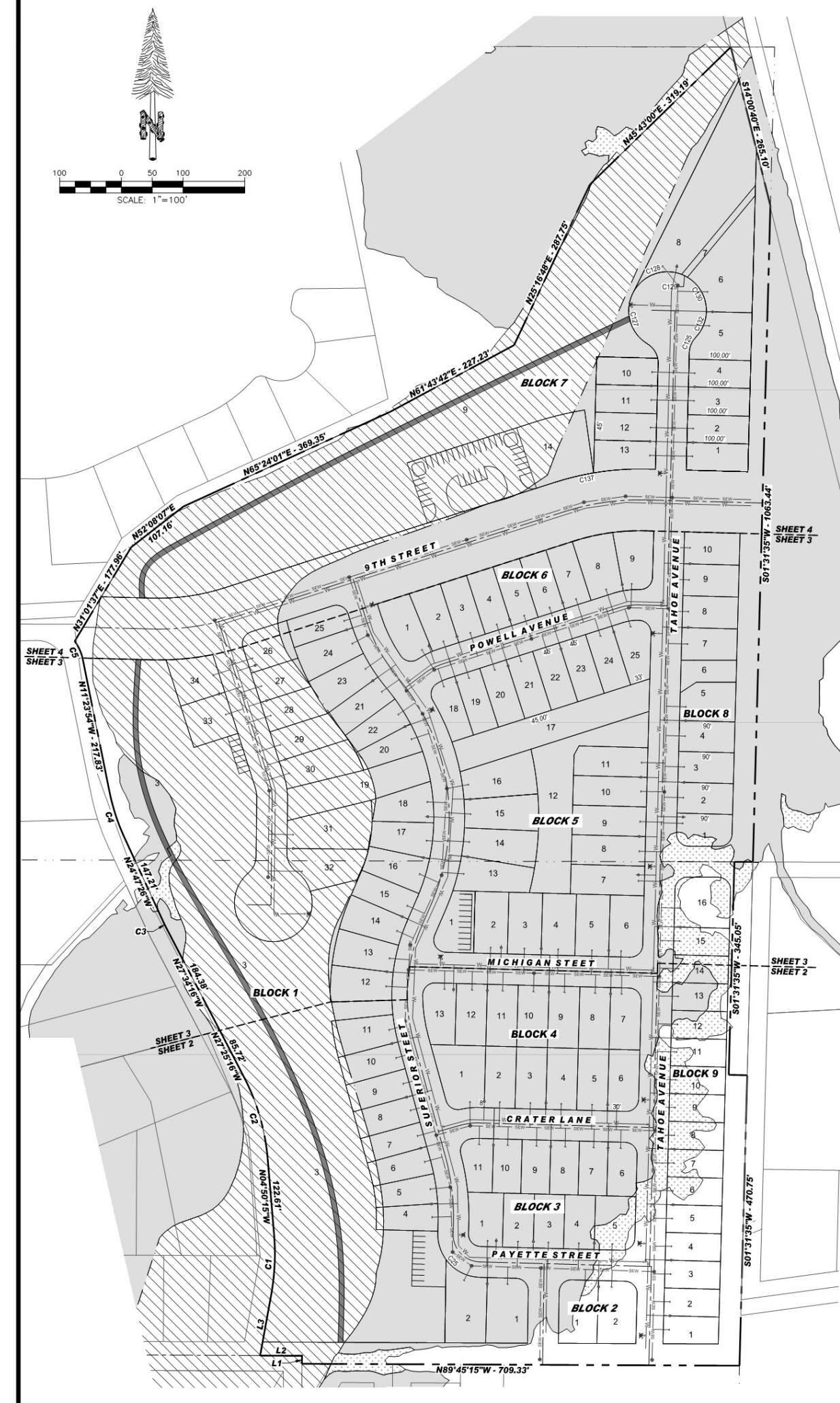
- BUILDING SETBACK AND DIMENSION STANDARDS SHALL BE IN COMPLIANCE WITH THE APPLICABLE ZONING REGULATIONS OF THE CITY OF MIDDLETON.
- DEVELOPMENT IN THIS SUBDIVISION SHALL BE IN COMPLIANCE WITH THE APPLICABLE ZONING REGULATIONS OF THE CITY OF MIDDLETON IN EFFECT AT THE TIME OF ISSUANCE OF A BUILDING PERMIT.
- ANY RE-SUBDIVISION OF THIS PLAT SHALL COMPLY WITH THE MOST RECENTLY APPROVED SUBDIVISION STANDARDS FOR THE CITY OF MIDDLETON AT THE TIME OF THE RE-SUBDIVISION.
- ALL STREETS PROPOSED IN THIS DEVELOPMENT ARE PUBLIC STREETS AND SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE CITY OF MIDDLETON AND CANYON COUNTY HIGHWAY DISTRICT #4 STANDARDS FOR PUBLIC STREETS.
- BLOCK 1 LOT 6; BLOCK 3 LOT 11; BLOCK 4 LOT 10; BLOCK 7 LOT 8 ARE COMMON LOTS TO BE OWNED AND MAINTAINED BY THE CREEKSIDE SUBDIVISION HOMEOWNERS' ASSOCIATION. THESE LOTS USED FOR HOMEOWNER PEDESTRIAN ACCESS AND LANDSCAPING AND ARE SUBJECT TO BLANKET EASEMENTS ACROSS SAID LOTS FOR PUBLIC UTILITIES, IRRIGATION, AND LOT DRAINAGE.
- ALL LOT LINES COMMON TO PUBLIC STREETS ARE HEREBY DESIGNATED TO HAVE A (10) FOOT PERMANENT EASEMENT FOR PUBLIC UTILITIES, IRRIGATION, AND LOT DRAINAGE UNLESS OTHERWISE DIMENSIONED PER CITY OF MIDDLETON SUBDIVISION CONSTRUCTION REQUIREMENTS.
- UNLESS OTHERWISE SHOWN AND DIMENSIONS, EACH LOT WILL HAVE A PERMANENT EASEMENT FOR PUBLIC UTILITIES, IRRIGATION, AND LOT DRAINAGE OVER THE FIVE (5) FEET ADJACENT TO ANY INTERIOR SIDE LOT LINE AND OVER THE TEN (10) FOOT ADJACENT TO ANY REAR LOT LINE OR SUBDIVISION BOUNDARY. MAINTENANCE OF ANY IRRIGATION AND DRAINAGE PIPES OR DITCHES CROSSING A LOT IS THE RESPONSIBILITY OF THE LOT OWNER UNLESS SUCH A RESPONSIBILITY IS ASSUMED BY THE IRRIGATION/DRAINAGE ENTITY.
- PUBLIC UTILITIES SHALL INCLUDE WATER, SEWER, POWER, NATURAL GAS, TELEPHONE, AND CABLE TELEVISION.
- DOMESTIC WATER SYSTEMS WILL CONNECT TO THE EXISTING WATER MAINS IN BOTH COLLEGE AVENUE AND MONTANA AVENUE. ALL INTERIOR WATER MAINS ARE TO BE 8" IN DIAMETER.
- SANITARY SEWER SYSTEMS WILL CONNECT TO THE EXISTING 15" SEWER MAIN IN WEST CONCORD STREET.
- INDIVIDUAL PRESSURE IRRIGATION SERVICES WILL BE PROVIDED TO EACH LOT.
- PARTS OF BLOCK 1 LOTS 1 TO 6; BLOCK 2 LOTS 1 TO 4; BLOCK 9 LOTS 1 TO 14 TO BE USED FOR STORMWATER MANAGEMENT AND SUBJECT TO STORMWATER EASEMENT.
- THIS SUBDIVISION WILL RECEIVE PRESSURE IRRIGATION FOR A PRESSURE IRRIGATION SYSTEM OWNED AND MAINTAINED BY THE CREEKSIDE TERRACE SUBDIVISION HOMEOWNERS ASSOCIATION.
- BLOCK 1 LOTS 6 AND 19; BLOCK 5 LOT 14; BLOCK 8 LOT 10 TO BE USED AS IRRIGATION EASEMENT.
- THE OWNER SHALL COMPLY WITH IDAHO CODE, SECTION-31-3805, AND ITS PROVISIONS THAT MAY APPLY TO IRRIGATION RIGHTS.
- STORM WATER RUNOFF GENERATED ON THIS SITE SHALL HAVE QUALITY CONTROL TREATMENT PRIOR TO BEING CONVEYED TO ONSITE STORAGE FACILITIES. STORM WATER RUNOFF WILL BE ROUTED TO SUBSURFACE INFILTRATION FACILITIES FOR THE NORMAL STORM EVENT. STORMWATER FACILITIES WILL BE DESIGNED IN ACCORDANCE WITH THE CATALOG OF THE STORMWATER BEST MANAGEMENT PRACTICES FOR IDAHO CITIES AND COUNTIES AND THE CITY OF MIDDLETON SPECIFICATIONS.
- THE PROJECT AREA IS LOCATED IN A FLOODPLAIN AREA (ZONE AE).
- THE BOTTOM ELEVATION OF BUILDING FOOTINGS SHALL BE SET TO A MINIMUM OF 12 INCHES ABOVE THE HIGHEST ESTABLISHED NORMAL GROUNDWATER ELEVATION.
- THIS DEVELOPMENT RECOGNIZES SECTION 22-4503 OF 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 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."



VICINITY MAP
SCALE: 1" = 500'

LEGEND

- 1/2" REBAR "KHC PLS 9895" TO BE SET BY FINAL PLAT
 - 5/8" REBAR "KHC PLS 9895" TO BE SET BY FINAL PLAT
 - 1/2" REBAR
 - 5/8" REBAR
 - ALUMINIUM CAP
 - CATCH BASIN
 - CHILDED "X"
 - ELECTRICAL BOX
 - FIRE HYDRANT
 - GAS METER
 - GUY WIRE
 - HUB & TACK
 - IRRIGATION BOX
 - IRRIGATION CONTROL VALVE
 - IRRIGATION MANHOLE
 - MAG NAIL
 - PIPE INVERT
 - PIPE TOP
 - PIPE VERT
 - POWER POLE
 - SANITARY SEWER MANHOLE
 - SIGN
 - STORM DRAIN MANHOLE
 - TELEPHONE BOX
 - TELEPHONE RISER
 - TELEPHON MANHOLE
 - WATER MANHOLE
 - WATER METER
 - WATER VALVE
 - WELL
 - ADJOINER
 - BOUNDARY LINE
 - CONCRETE LINE
 - CROWN OF ROAD
 - EASEMENT LINE
 - EDGE OF GRAVEL
 - EDGE OF PAVEMENT
 - FENCE LINE
 - FLOW LINE
 - SECTION LINE
 - SIDEWALK
 - TIE LINE
 - TOE OF SLOPE
 - TOP OF BANK
- ### PROPOSED LEGEND
- PROPOSED FIRE HYDRANT
 - PROPOSED SEWER MANHOLE
 - PROPOSED WATER METER
 - PROPOSED WATER VALVE
 - PROPOSED SEWER LINE
 - PROPOSED WATER LINE
 - PROPOSED SIDEWALK
 - TEST PIT
 - FLOODWAY AREA
 - FEMA FLOOD ZONE AE
 - FEMA 0.2% CHANCE



TIMBERLINE SURVEYING
887 PARK CENTRE WAY, SUITE 1, MAMPA, IDAHO 83601
208-467-5687

PRELIMINARY PLAT
CREEKSIDE TERRACE
SUBDIVISION

OWNER: Y STREET CAPITAL
PROJECT NUMBER: 22008
PROJECT: 22008 - CREEKSIDE TERRACE SUB
CHECKED BY: KHC
DATE: 04/23/2024

CREEKSIDE TERRACE SUBDIVISION
MIDDLETON, IDAHO

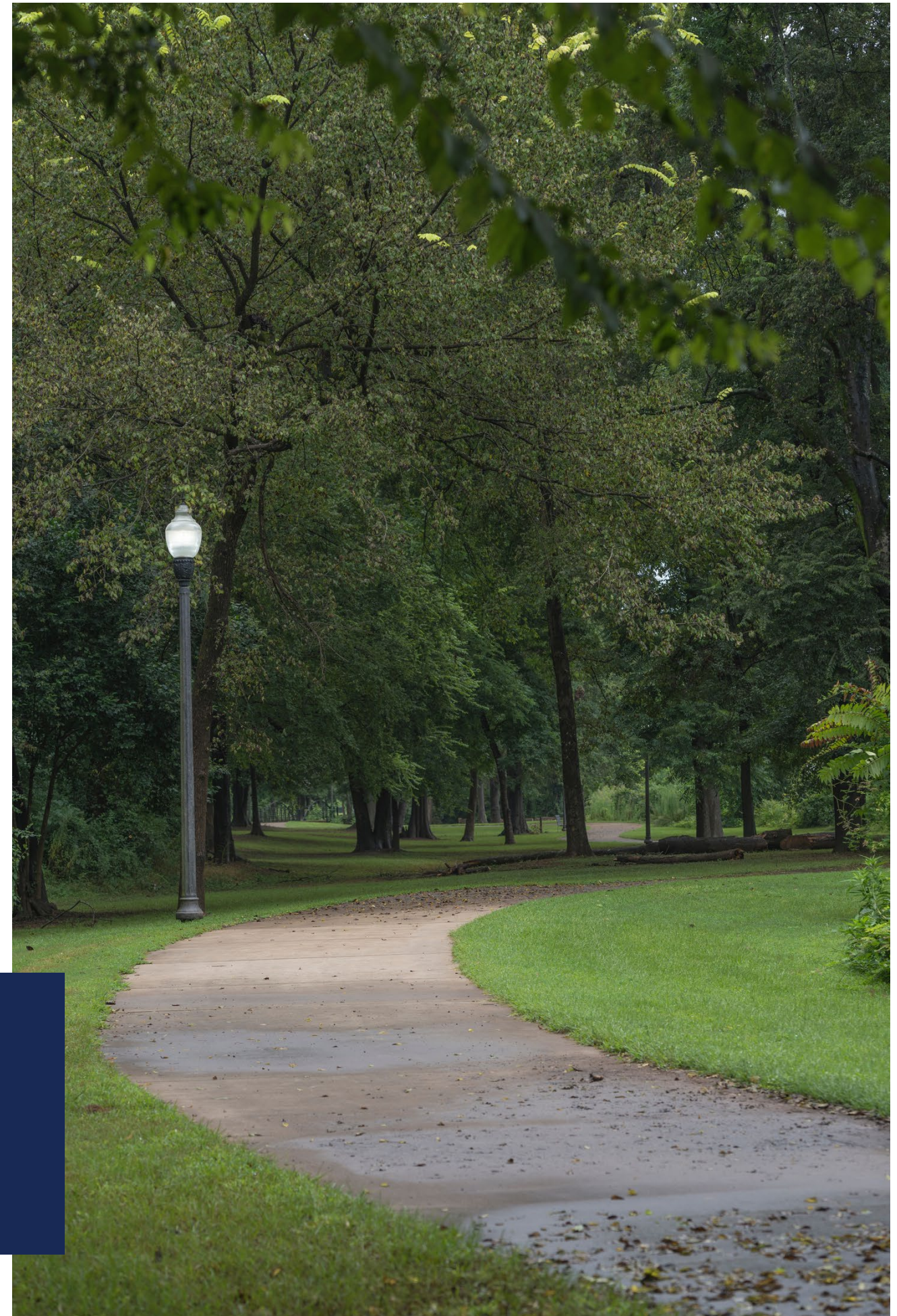
OWNER/DEVELOPER:
Y STREET CAPITAL
24 E MAIN STREET
AMERICAN FORK, ID 84003
CONTACT: HECO, JESSE (208) 812-2062

NO.	DATE	BY	DESCRIPTION

REVISIONS
SCALE: 1" = 100'
SHEET NUMBER: 1 OF 5

Development Agreement Pillars & Compliance

- Single Family Residential
- Maximum of 125 Building Lots
- Minimum Lot Size – 4,000 square Feet
- Common Areas
- Additional Parking lots
- Open Space over 25%
- Greenbelt
- Community Center
- 9th Street Improvements
- Willow Creek Bridge

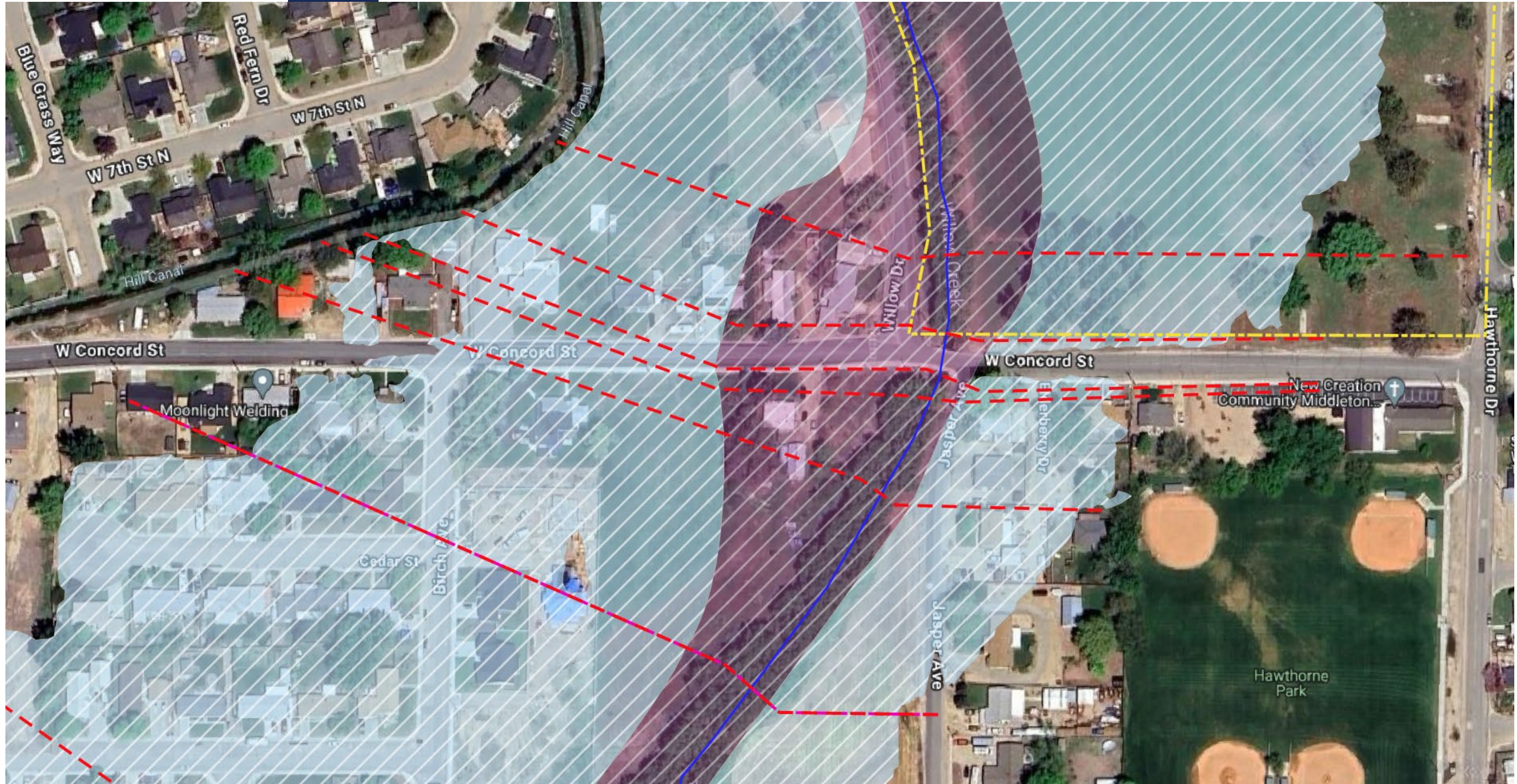


Concept Plan Feasibility

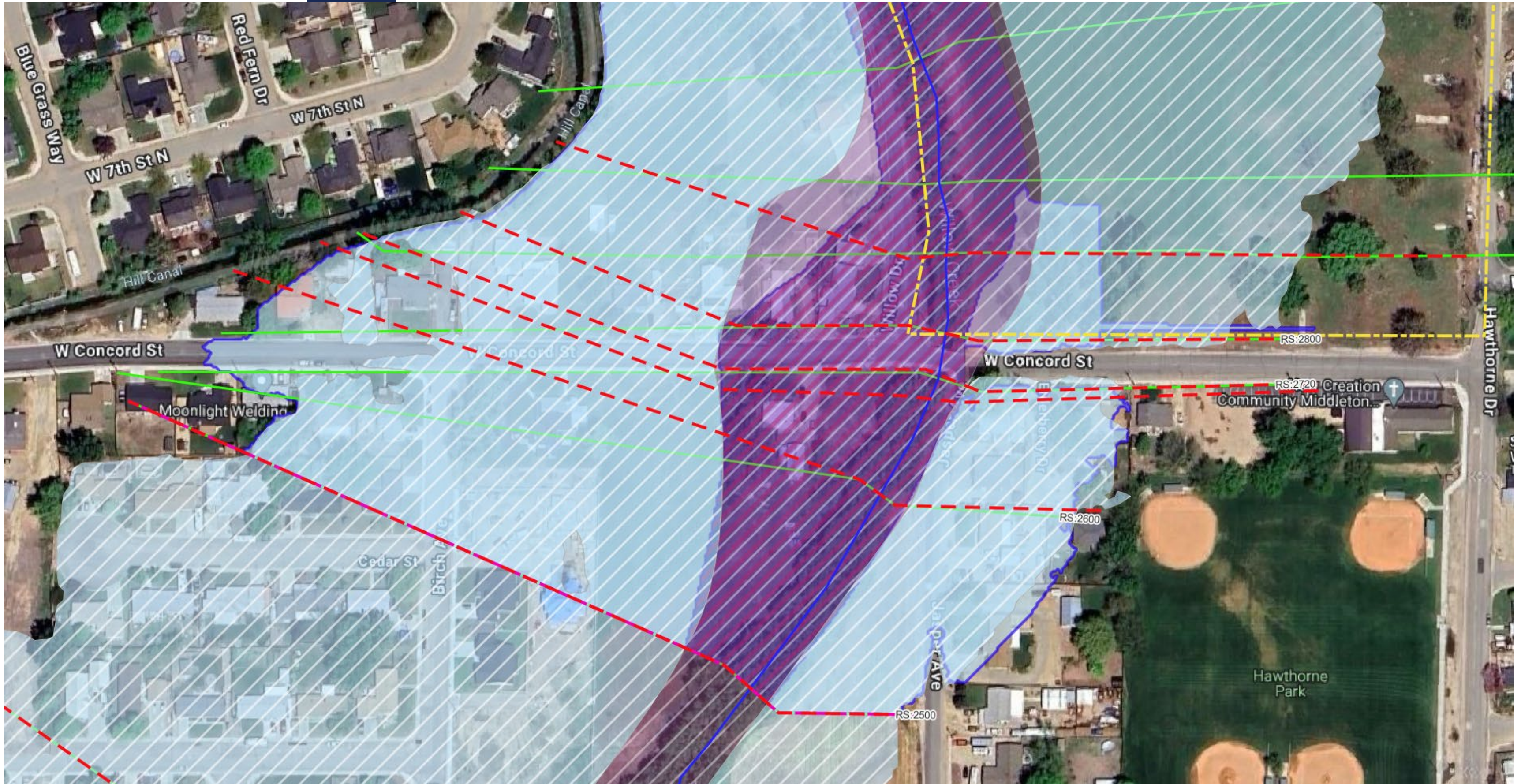


Concept Plan

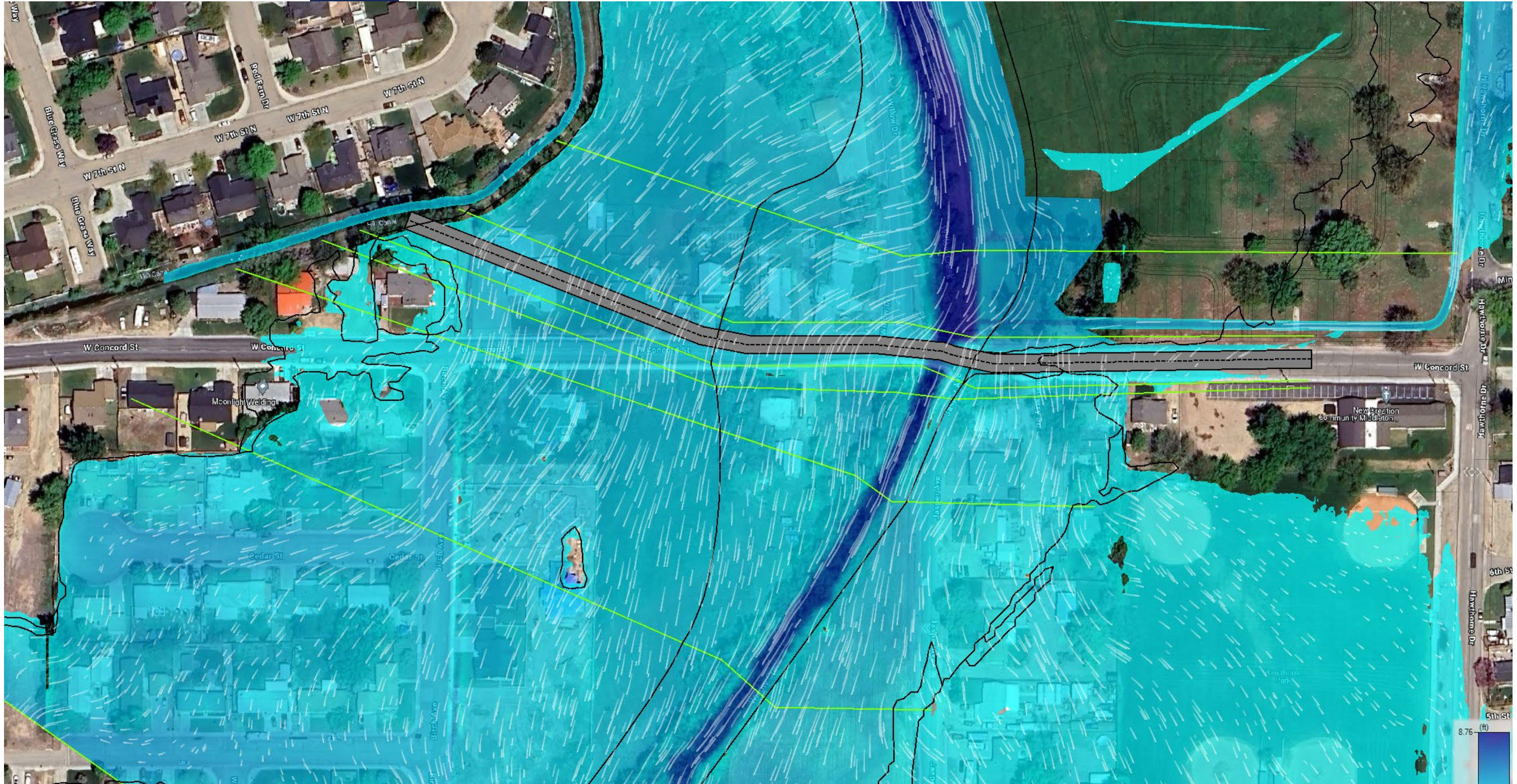
Effective Model



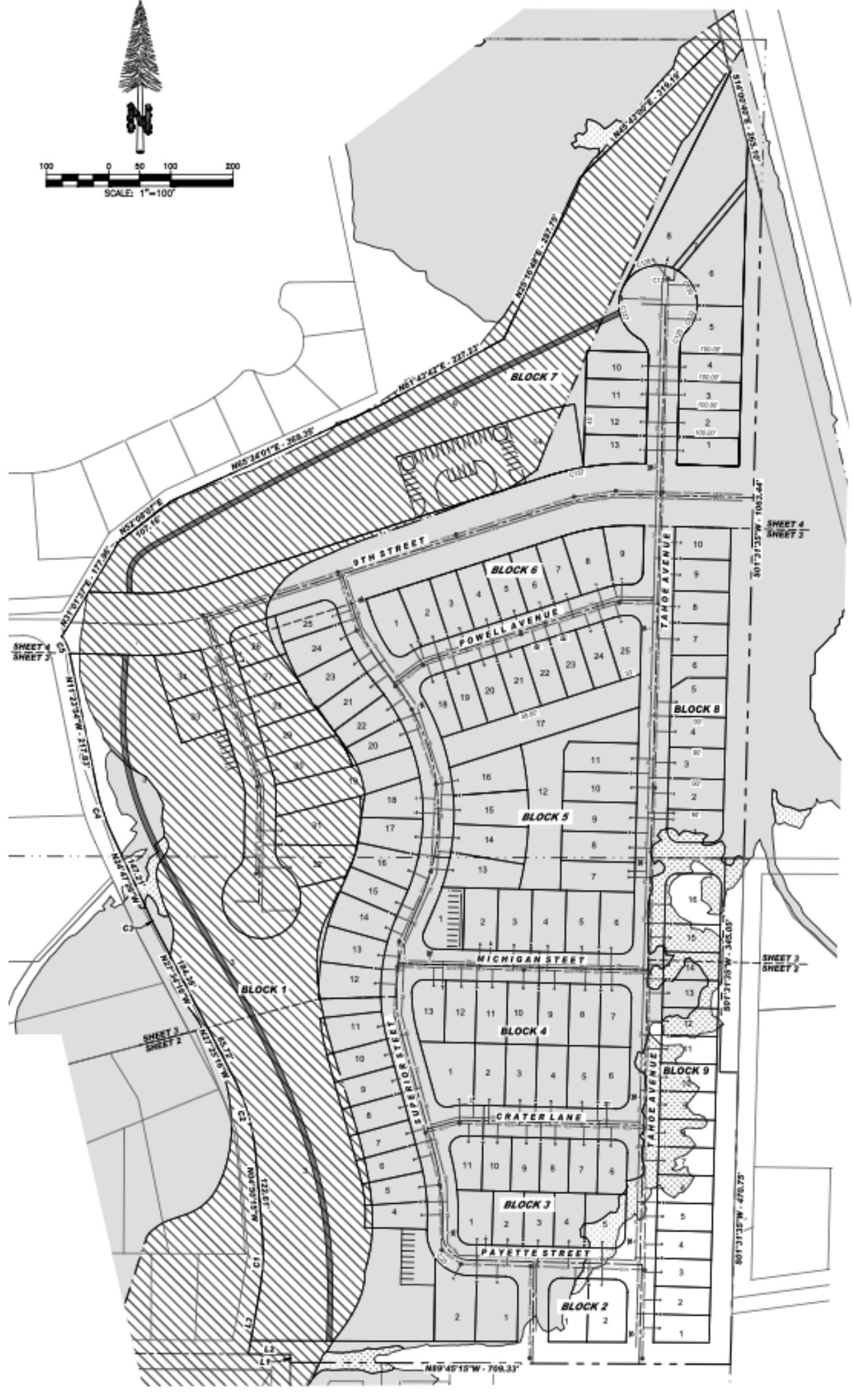
Effective vs CLOMR Model



2D Model Results

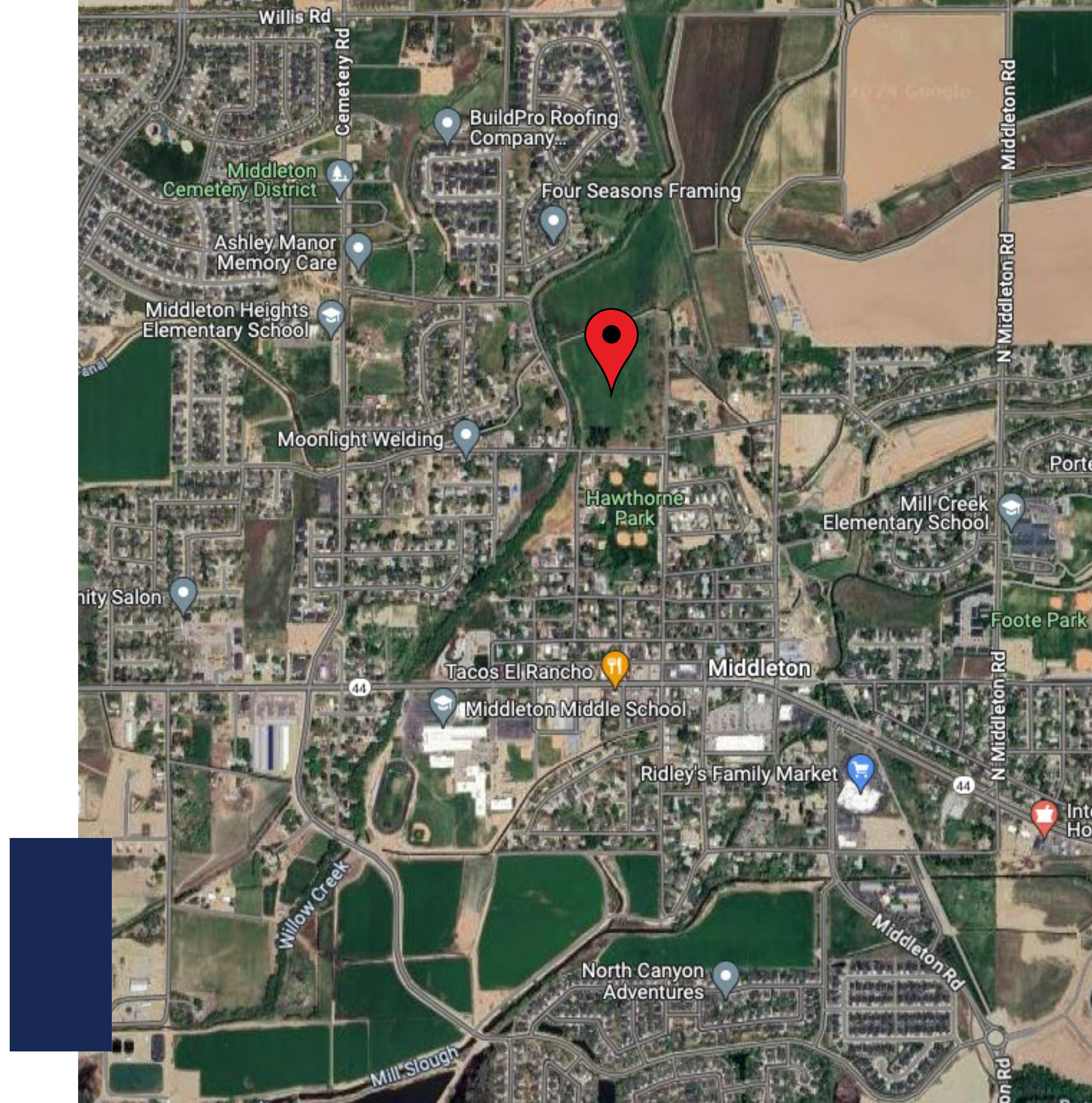


QUESTIONS?



LOCATION

- HAWTHORNE & CONCORD STREET
- MIDDLETON, IDAHO
- R-4 ZONING
- SINGLE FAMILY HOMES



ELEVATION EXAMPLES



RECORD OF PROCEEDINGS

Middleton City Council

Minutes

April 5, 2006

THE PUBLIC HEARING AT 8:41. **MOTION** BY WARD TO SEND THIS ITEM BACK TO THE PLANNING AND ZONING COMMISSION TO DRAFT A DEVELOPMENT AGREEMENT TO ALLOW DUPLEXES ON THIS PARCEL. **SECONDED** BY PARRY.

ROLL CALL: Ward, yes; Waltman, yes; Parry, yes.

MOTION CARRIED

2. **CANYON RIDGE ANNEXATION, ZONING OF 161.7 ACRES WITH DEVELOPMENT AGREEMENT:** MARY BERENT GAVE AN UPDATE OF R-3 AND C-3 LOCATED ON SE CORNER OF EMMETT AND WILLIS ROAD AND INCLUDES THE 60 ACRE AREA FOR THE NEW HIGH SCHOOL. THE COMP PLAN SHOWS LOW DENSITY FOR THIS AREA. THE DEVELOPMENT AGREEMENT INCLUDES A CONCEPT PLAN AND A LETTER FROM DEQ SAYING THAT THEY HAVE NO COMMENTS. PLANNING AND ZONING COMMISSION WORKED WITH THE DEVELOPER ON THE DEVELOPMENT AGREEMENT AND IT STATES THAT THEY WILL FOLLOW OUR ORDINANCES. IT GOES INTO DETAIL ON EAST/ WEST AND NORTH/SOUTH CONNECTING ROADS. PLANNING AND ZONING SPENT A LOT OF TIME ON TRANSPORTATION ISSUES. THERE WERE ISSUES BROUGHT UP ABOUT A NEW WELL THAT WOULD BE DRILLED AND DEDICATED TO THE CITY. **DARIN TAYLOR 509 S. MIDDLETON ROAD #109**, 2 LAND OWNERS SCHOOL DISTRICT AND AN LLC OWNING THE REST OF THE LAND AND HAS AGED TO SELL AND THE NEW BUYER IS INCLUDED ON THIS APPLICATION. THE STAFF REPORT ON PAGE 2, SAYS THAT THIS IS IN COMPLIANCE AND IS IN HARMONY WITH THAT PLAN SO OUR REQUEST FOR THE COMMERCIAL AREA IS ALSO IN HARMONY. AN INTERESTING FEATURE IS TO RESTRICT THE C-1 USES ON THIS SITE. THAT LIST WILL BE ATTACHED TO THE DEVELOPMENT AGREEMENT. PAGE 3, 3.7 (A) SCHOOL ACCESSES WAS DISCUSSED. PAGE 5, 3.15, DISCUSSES THE DESIRE TO PUT UP A FENCE TO DIVIDE THE SCHOOL AND THE RESIDENTS. THE INTENT OF THE ROADS DEDICATED TO THE CITY OF MIDDLETON AND WILL BE SHOWN ON THE PLAT. **PATRICK COLWELL, 4220 LINCOLN ROAD**, THIS CONCEPT FOLLOWS OUR ORDINANCES, AND ARE PLANNING TO PUT A MUNICIPAL WELL ON THE SITE. COUNSEL ALSO WANTS THAT STATED IN THE DEVELOPMENT AGREEMENT. PUBLIC HEARING WAS CLOSED AT 9:01. **MOTION** BY WALTMAN TO APPROVE CANYON RIDGE WITH THE DEVELOPMENT AGREEMENT WITH THE STIPULATION THAT ALL ROADS, WATER, SEWER AND WELL ALL BE CONSTRUCTED TO CITY STANDARDS AND DEDICATED TO THE CITY. **SECONDED** BY PARRY

3. **CREEKSIDE TERRACE REZONE OF 36.23 ACRES FROM R4-T AND R-3 TO R-4 COMBINED MEDIUM DENSITY RESIDENTIAL WITH A DEVELOPMENT AGREEMENT:** MARY BERENT STATED THAT THIS IS A REZONE WITH A DEVELOPMENT AGREEMENT LETTER FROM MIDDLETON MILL 1-6-06 AND A COUPLE OF LETTERS FROM THE PUBLIC. CONNIE ELLIOT AND JOSHEPHINE HERLIMAN. THE PLANNING AND ZONING COMMISSION WORKED WITH THE DEVELOPER ON THE AGREEMENT. THIS IS A VERY DIFFERENT DEVELOPMENT THAN WHAT IS THERE NOW. THE DA INCLUDES THE CONCEPT PLAN; AT THIS TIME THE CITY ATTORNEY ASKED THAT THE WATER/SEWER AND STREETS BE DEDICATED TO THE CITY IN THE DEVELOPMENT AGREEMENT. SHERRY MAUPIN GAVE A SLIDE SHOW ON THIS DEVELOPMENT. THIS WILL OPEN THE WILLOW CREEK AREA AND HAVE SOME OPEN SPACE FOR THE COMMUNITY TO ENJOY. 125 LOTS WILL BE THE ABSOLUTE MAXIMUM, WITH THE NO NET LOSS STILL BEING WORKED OUT 31% OF THE COMMUNITY IS COMMON ARA, 15% IS GREENBELT AND WALKING PATHS. THIS WILL HAVE A COMMUNITY CENTER, COMMUNITY AREAS, LOW MAINTENANCE YARDS, AND OUTDOOR RECREATION AREAS. 9TH STREET EXTENSION, REAR LOADED GARAGES. CC&R'S WILL DRIVE THIS SUBDIVISION TO UPHOLD THE VALUES. THERE WERE QUESTIONS ABOUT THE RIGHT OF WAY ON HAWTHORNE. **PATRICK COLWELL, 4220 LINCOLN**, EXPLAINED THE WATER SEWER AND ROADWAYS, WHICH THEY WILL BUILD ALL OF THEIR SIDE AND CENTER LINE PLUS 10' ON THE OTHER. PUBLIC HEARING CLOSED AT 9:51. SHERRY ADDRESSED THE ROADWAY AND THE FACT THAT THEY WILL MEET ALL OF THE CITY ORDINANCES AND WILL WORK WITH THE ADJACENT OWNERS FOR THE COMPLETION OF THAT STREET. **MOTION** BY PARRY TO APPROVE THE CREEKSIDE TERRACE AND ADD TO THE DEVELOPMENT AGREEMENT THAT ALL WATER AND SEWER AND ROADWAYS BE CONSTRUCTED TO CITY STANDARDS AND DEDICATED TO THE CITY.

ROLL CALL: Ward, yes; ~~Sandstrom, no~~; Waltman, yes; Parry, yes.

MOTION CARRIED

6. **PUBLIC COMMENTS:** (please keep comments to 3 minutes)

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ROLL CALL: Ward, yes; ~~Sandstrom, no~~; Waltman, yes; Parry, yes.

6. **PUBLIC COMMENTS:** (please keep comments to 3 minutes)

On Mar 9, 2022, at 3:24 PM, Roberta Stewart <rstewart@middletoncity.com> wrote:

Hey Carl: I just want to memorialize for the two of us the specific DA items we discussed. This will help keep me on track as we move forward in a month or two.

The City would like to see the following in the DA Mod:

1. Developer to build roads to the current standards found in the Supplement to ISPWC. You'll want your engineer to follow the 50' local road spec in the back of the Supplement. The Supplement is under the Government tab on our website.
2. Add a revised termination clause that matches the current code. You would have 4 years to get final plat for phase 1. If you don't meet that time-line, the City will have the right to terminate the DA and change the zoning to R-3. Each phase after that must reach final plat within 2 years with one additional extension for a total of 3 years.
3. Add the right to build townhomes along concord street in compliance with current code standards
4. Each style of townhome must undergo Design Review. I think we will want to see at least 4 different styles
5. Keep clubhouse requirement in the DA
6. Make 55+ requirement a part of the CC&Rs. It does not necessarily need to be deed restricted so long as it is in the CC&Rs that are recorded
7. We need to create a street side setback. It should be at least 15 feet. This would apply to only corner lots.
8. Lot minimums for single family lots will be 6000 sf and 60' wide.
9. Add a new concept plan to DA and require development to occur "substantially consistent" with the concept plan
10. Developer will obtain a LOMR-F to get the project out of the floodplain. Don't forget you will still need to do individual Elevation Certificates for each unit thereafter
11. I'll clean out the old wonky R-4 requirements like 75' wide frontage and side car garages.

Finally, you will need to submit a special use permit to build townhomes because they were an "S" in the 2006 use table. Thanks,

Roberta L. Stewart

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

Tele - (208) 585-3133
Fax - (208) 585-9601
rstewart@middletoncity.com

www.middleton.id.gov

From: Roberta Stewart <rstewart@middletoncity.com>
Sent: Friday, August 5, 2022 11:12 AM
To: Carl Anderson <canders54@yahoo.com>
Cc: Steve Rule <srule@middletoncity.com>
Subject: Creekside

Hi Carl: I spoke with Mayor today. We can go ahead and accept the newly revised preliminary plat to set your place in the queue, and we will begin our review of the plat based upon your position in the queue. However, we will not be able to schedule a hearing before P&Z until the hydrology & floodplain information is inserted per MCC 5-4-4. Additionally, without the hydrology and/or stormdrain report, City Engineer may not be able to thoroughly review your plat. Nevertheless, if everything else is completed, please submit, and we'll try to get started on the review as soon as possible. Thanks,

Roberta L. Stewart

PLANNING & ZONING OFFICIAL

City of Middleton, Planning & Zoning

1103 W. Main St.

P.O. Box 487

Middleton, ID 83644

Tele - (208) 585-3133

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rstewart@middletoncity.com

www.middleton.id.gov



Sent: Friday, November 18, 2022 4:43 PM

To: Carl Anderson <canders54@yahoo.com>

Cc: Jesse Christensen <jessec@hecoengineers.com>; Connor Gray <connor.c.gray@gmail.com>; Amy Woodruff <amy@civildynamics.net>

Subject: FW: Creekside Terrace - cannot do thorough review

Hi Carl: I was able to finally start a review of the 11/8/2022 revised pre-plat for Creekside Terrace. Unfortunately, I realized after only a few minutes that this pre-plat is not ready for review, and I cannot send it to City Engineer for review. Once the big items noted below are corrected, I and Amy will then spend our time doing a thorough review with written comments.

In the meantime, these big items need fixed:

1. Numerous lots are actually in the floodway, not the floodplain, THE FLOODWAY. Some lots in the northwest quadrant are ENTIRELY in the floodway. We don't build homes in riverbeds. That's a big no go.
2. Much of 9th Street is in the floodway. We can't build streets in the floodway or in a riverbed.
3. The bridge across Willow Creek is about the 1/3 of the required size needed. The bridge cannot span only 40' to cross the portion of Willow Creek that is flowing year round. It must span the entire floodway, which is 300' wide.
4. The 2nd bridge on an unnamed cul de sac road is entirely in the floodway. Again, that's a no go.
5. Part of Tahoe Avenue and the entire unnamed cul de sac are in the floodway.
6. 9th Street must be 100' wide Right of Way (three lane urban section), but you show only 80'. The bridge can be 80' wide since there is no need for a turn lane, but you must fix the rest of 9th Street.
7. There is no clubhouse, which is a requirement of the DA. My earlier emails attached confirmed that the City intends to enforce that DA provision.
8. Per our agreement to refrain from terminating the old DA, you agreed that no residential lots would be less than 6000 s.f. and 60' wide frontage. There are numerous lots that are below 6000 s.f.
9. Per our agreement in the attached emails, townhome lots must meet the code minimum of 1600 s.f. There are multiple lots under that minimum threshold.
10. I don't see a phasing plan. If there is a phasing plan, please know that the bridge across willow creek must be completed with phase one and will be a requirement of final plat approval for Phase 1.
11. On the next plat, use only "Avenue" for north/south street and "Street" for east/west. "Court" can be used for a cul de sac. No lanes, drives or ways.
12. City engineer is requiring a preliminary sewer design before starting another review. Please forward that with the revised pre-plat.

All of these requirements noted above were memorialized in the emails I've attached, so none of this should be a surprise. City Engineer and I will be wasting our time if we do a thorough review of this preliminary plat because there will be significant changes to the plat to get lots and roads out of the floodway, to get lots increased to their proper size, and to get 9th street to the proper width. Thanks,

Roberta L. Stewart

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

Tele - (208) 585-3133
Fax - (208) 585-9601
rstewart@middletoncity.com

Exhibit H

EX. "H"



Your Safety • Your Mobility
Your Economic Opportunity

IDAHO TRANSPORTATION DEPARTMENT
P.O. Box 8028 • Boise, ID 83707-2028
(208) 334-8300 • itd.idaho.gov

May 10, 2024

Roberta Stewart
Planning & Zoning Official, City of Middleton
1103 W. Main St
Middleton, Idaho 83644

VIA EMAIL

Development Application	Preliminary Plat
Project Name	Creekside Terrace Subdivision
Project Location	Approx .3 miles north of SH-44 at MP 38.99
Project Description	118 single family residents and 16 common lots
Applicant	Conner Gray/AG Land & Development and Y Street Capital

The Idaho Transportation Department (ITD) reviewed the referenced application(s) and has the following comments:

1. This project does not abut the State Highway system.
2. Due to the size and proximity of this development, impacts to the State Highway system can be anticipated. Traffic generation numbers and a Traffic Distribution report is requested. ITD needs more information on the trip generations and distribution of traffic to determine what mitigations, if any, that the applicant may be required to construct on the State Highway system. Any necessary mitigation for traffic impacts identified by the Traffic Impact Study shall be the responsibility of the applicant to install. ITD reserves the right to make further comments upon review of any submitted traffic generation data or other documents.

If you have any questions, you may contact me at 208-334-8330.

Sincerely,

Niki Benyakhlef

Niki Benyakhlef
Development Services Coordinator
Niki.Benyakhlef@itd.idaho.gov



Exhibit I

EXHIBIT "I"

From: rammiest@gmail.com
To: [Roberta Stewart](#)
Subject: Creekside Terrace Subdivision
Date: Monday, May 13, 2024 4:08:51 PM

I just saw this on Facebook. Why would you allow a subdivision which will devalue residents properties. I thought that area was going to be a park. I live in the Powder River Subdivision on Sheridan St. We already have an issue because water ponds on this street because the city failed to have the builder grade and build the streets properly with proper drainage. How will this impact our subdivision and how can you support something like this that adversely affect current residents?

Respectfully
Ruth Maggs
Ruthie Maggs Sent from my iPad

EX "I"

From: theresa@junipermeadow.com
To: [Roberta Stewart](#)
Cc: [CITMID](#)
Subject: Hearing for 5/13/2024- CREEKSIDE TERRACE - Request DENY
Date: Monday, May 13, 2024 2:46:26 PM

RE: Creekside Terrace Subdivision
Planning and Zoning Recommendation of "DENY" requested

I am opposed to this subdivision because of the presumed impact on surrounding properties as identified in your letter to surrounding homeowners. This will reduce the value of the property by enacting FEMA insurance requirements. Id Code 42 requires contractors re: water diversion and run off "so as not to damage or in any way injure the property or premises of others."

I do not have time today to research this further but will request extreme caution moving forward to exhaust liability the city may incur if approving this development as regards damage to or devaluation of surrounding properties.

I also have not reviewed plats, or other material, but would suggest that if this is an agricultural annexation and zone change we refer back to the Jan discussion on sewer capacity and require they make new application when our sewer capacity increase has been fully implemented.

I think this is an excellent location for placement of residential providing the impacts and concerns above are mitigated first.

Please deny the application to Creekside Terrace

Theresa Denham
Middleton Idaho



Consider approving application by Connor Gray/AG Land & Development and Y Street Capital for preliminary pkat (Creekside Terrace Sub)

May 13, 2024 - Planning & Zoning Public Hearing

Please check

Name	Address	Phone or Email	Please check				
			In Favor	Neutral	Opposed	Testify	
Jesse Christensen	8151 W Willow Pointe	Jesse C @ hcco Engineers, Con	X			X	/
Ron Manning	2976 E State St Ste 120 435 Eagle ID 83616	208 - 559 - 0632				X	/
SAM & PAULA CASTER	1368 LARAMIE Ave Middleton ID	SAM2PAULA@yahoo.com			X		/
Andrew + Karen Sayles	1373 Laramie Ave Middleton ID	ASayles68@gmail.com			X		/
DENISE BLOTCH	24750 N GRAY HAWK MIDDLETON	7148152110			X	X	/
Lisa Gray	1363 Laramie Ave Middleton	mtnbluebird@gmail			X		/
MIKE GRAEFE	1889 RIDGE WAY	208-527-6257			X	X	/
Harry Gabelman	149 N. Buffalo Way	707-696-3677			X	X	/
David + Sharon Denning	143 N. Buffalo Way	951-970-5531			X		/
Kelly & Lisa Crist	835 Willows Dr.	208-761-5284			X	X	/
Stephanie & Tim Teachman	1042 N Powder River Dr	206 715 0913			X		/



Consider approving application by Connor Gray/AG Land & Development and Y Street Capital for preliminary pkat (Creekside Terrace Sub)

May 13, 2024 - Planning & Zoning Public Hearing

Please check

Name	Address	Phone or Email	Please check			
			In Favor	Neutral	Opposed	Testify
Patti Jo Lepel	502 N. Hawthorne Dr.	208-585-2727				
Sandi Fontana	1021 N. Buffalo way	760 458-1047		X		
Rich Dickens	215 Jasper Ave	208-963-0677		X		
Greg Baker	9863 Meadow Park	512 992-7245		X	X	
Ingrid Dunkel	1493 Placerville Ct.	760 522540		X		
Ken Greenwell	1917 Scotch pine	208 352 6266	X		X	
Natalie Ketchum	128 N Buffalo	707 328-2313		X		
Alicia Swartz	1021 Willow Drive	707 400 7778		X	X	
Laura Clason	137 Sheridan	208 697 3979		X		
Kassie Knapp	964 Red Fern Dr	208-286-6001		X		
JOHN LAFRAMBOISE	1314 LARAMIE	(208) 988-4402		X	X	



Public Comment

May 13, 2024 - Planning & Zoning Meeting

Name	Address	Phone or Email	Topic
Wendy Chambers	149 Sheridan St	208-871-2768	Creekside Sub Opposed
Bran Nover	409 W Concord		↓
MIKE GRAEFE	1889 RIDE WAY	208-527-6277	
Rich Dickens	215 Wasport Ave	208-463-0677	"
Alecia Swartz	1021 Willow Drive	707-400-7798	Creekside subdivision ✓