



AGENDA

Middleton Planning and Zoning Commission

Middleton, Idaho

Date: Monday, November 8, 2021

Time: 5:30 p.m.

Location: **City Hall Chambers - 1103 W Main St., Middleton, Idaho**

Call To Order, Pledge of Allegiance, Roll Call

Action Items

1. Consent Agenda (items of routine administrative business)
 - a. Consider approving October 18, 2021 regular meeting minutes.
2. **Public Hearing: (Request to be Tabled)** Applications by Infinite Real Estate for annexation/rezone, preliminary plat, development agreement, and comprehensive plan map amendment with respect to the Pheasant Heights Subdivision located at 0 Emmett Road. (Tax Parcel Nos. R34445012A2 and R34445012B0). The proposed preliminary plat consists of 137 single-family homes and 4 common lots on 45.76 acres on land currently zoned Canyon County "Agricultural." As part of the Annexation request, the Applicant is requesting a Comprehensive Plan Map Amendment and a zone change to R-3 (Single-Family Residential). – Jennica Reynolds
3. **Public Hearing: (Request to be Tabled)** Application by Value Land, LLC and JP Wagoner Planning for preliminary plat with respect to the Artesian Springs Subdivision located at 10348 Hwy 44 (Tax Parcel No. R33916) zoned R-3 (Single Family Residential). The proposed preliminary plat consists of 40 single-family homes and 7 common lots on 13.56 acres.
4. **Public Hearing:** application by Joe Austin and David Sterling/T-O Engineers for annexation/rezone, preliminary plat, and development agreement with respect to the Willow Wood Estates Subdivision located at 0 Cemetery Road (Tax Parcel Nos. R37579001 and R37579011). The proposed preliminary plat consists of 63 residential lots and 10 common lots on 21 acres of vacant land. Applicants are requesting a rezone to R-3. – Roberta Stewart
5. Consider approving the Findings of Facts, Conclusions of Law and Recommendation for Willow Wood Subdivision. – Roberta Stewart

Public Comments, Commission and Staff Comments, Adjourn

Posted by:


Jennica Reynolds - Deputy Clerk, Planning

Date: November 4, 2021 at 5:00 p.m.

Please contact the city at 208-585-3133 if you have special needs or require assistance.

1a

**MIDDLETON CITY PLANNING AND ZONING
COMMISSION MINUTES
OCTOBER 18, 2021**

The October 18, 2021 Planning and Zoning Commission Meeting was called to order by Chairman Ray Waltemate at 5:33 p.m.

Call to Order - Pledge of Allegiance

Roll Call: Chairman Ray Waltemate, and Commissioners Jackie Hutchison, Janet Gregory and Heidal Summers were present. Commissioner Kip Crofts was absent.

Action Items

1. **Consent Agenda (items of routine administrative business)**
 - a. **Consider approving September 13, 2021 regular meeting minutes.**
 - b. **Consider approving Findings of Facts, Conclusions of Law and Recommendation pertaining to Waterford Amended Preliminary Plat**

Chairman Waltemate called the items.

Motion: Motion by Chairman Waltemate to approve consent agenda items 1a-b. Motion seconded by Commissioner Hutchison and approved unanimously.

2. **Public Hearing: A request by B&A Engineers for a Special Use Permit to remove the requirement of housing types set forth in the 2009 Middleton City Code 5-2-4 Table 2, Height, Setback and Area Schedule, Footnote 4(a-c) of R-4 zoning district. The subject property is (Carlton Meadows Subdivision) located at 0 Whiffin Lane, Middleton, Idaho, commonly referred to as Canyon County Parcel No. R17610018A0. – Jennica Reynolds**

Chairman Waltemate opened the Public Hearing at 5:35 p.m.

Planning Staff-Jennica Reynolds presented a power point presentation (Exhibit A) of the staff report (Exhibit B)

Chairman Waltemate asked Jennica to clarify the Planning staff findings.

Jennica Reynolds and Roberta Stewart explained the findings in the staff report as the following:

- Surrounding areas are zoned R-3. R-3 does not stipulate specific housing types and the designation of such is outdated and undesirable by builders and residents.
- This designation specific to R-4 has since been removed from the Middleton City Code.
- This requirement creates an undue burden on planning staff to count and track specific housing types with each building permit issued.

Roberta explained that the building setbacks for R-4 would not be affected with removing footnotes 4(a-c).

Commissioner Waltemate was uncomfortable with the name of the table and stated he would refer to the part being removed as Table 2, Footnote 4(a-c).

Applicant: Nick LaCross: B&A Engineers – restated what was shared in the staff report. He

said that since the application was submitted the buyer has pulled out, so he is hoping to have this requirement removed for the next buyer (he does not have one currently).

Chairman Waltemate opened the public comment portion at 5:59 p.m.

No public comment

Chairman Waltemate closed the public comment portion at 6:00 p.m.

Discussion by Commission:

Waltemate: Understand the reasoning behind the request and don't disagree with it. Once he understands the city code that remains in effect for R-4 he is more comfortable with it.

Motion: Motion by Chairman Waltemate that the Middleton Planning & Zoning Commission accept the general facts as set forth in the Planning Staff's presentation and Staff Report for this hearing, the public testimony, and all evidence presented at this public hearing on Carlton Meadows Subdivision Special Use Permit application. Motion seconded by Commissioner Gregory and approved unanimously.

Motion: Motion by Chairman Waltemate that the Planning & Zoning Commission accept the Conclusions of Law as set forth in the Planning Staff's presentation and Staff Report for the Carlton Meadows Subdivision Special Use Permit application. Motion seconded by Commissioner Hutchison and approved unanimously.

Motion: Motion by Chairman Waltemate to approve the application of D&N Investments, LLC for Special Use Permit to remove the requirements of housing types set forth in 2009 MCC 5-2-4 Table 2, Footnote 4(a-c) of R-4 zoning district. The subject property is (Carlton Meadows Subdivision) located at 0 Whiffin Lane, Middleton, Idaho, commonly referred to as Canyon County Parcel No. R17610018A0. Motion seconded by Commissioner Summers and approved unanimously.

Chairman Waltemate closed the public hearing at 6:05 p.m.

3. Consider approving the Findings of Facts, Conclusions of Law and Order for the Special Use Permit pertaining to Carlton Meadows Subdivision. – Jennica Reynolds

Motion: Motion by Chairman Waltemate to approve the Findings of Facts, Conclusions of Law and Order for the Special Use Permit pertaining to Carlton Meadows Subdivision. Motion seconded by Commissioner Hutchison and approved unanimously. (This motion was stated and approved during the previous items motions.)

4. Public Hearing: An application by David Buich/ Hartley Lane LLC and James L. Escobar, AIA for preliminary plat with respect to the Carter John Mixed-Use Subdivision located at 0 Hartley Lane (Tax Parcel No. R1788901). The proposed preliminary plat consists of 58 townhome sites, 4 common lots and 1 commercial lot on 6.06 acres of vacant land zoned Mixed Use (M-U). – Roberta Stewart

Chairman Waltemate called the public hearing open at 6:08 p.m.

Planner-Roberta Stewart presented a power point presentation (Exhibit C) of the staff report (Exhibit D)

Waltemate: Stated that because the city does not own SH44 and therefore there will not be any changes made to SH44 for traffic improvements.

Stewart: We can change SH44. The city has collected and is collecting a lot of money for intersection improvements on SH44.

Waltemate: ITD was very specific with City Council that there are no consented changes to SH44 for the foreseeable future.

Stewart: Correct, that was part of that specific application for that subdivision. The city has an Interagency Agreement with ITD where we have to send every application plat to them so that they can do a pro-rata analysis for intersections off of SH44. This is done so that we can gather money for when they make changes. They did stand up and say there were not planned changes. The reason for no planned changes is because they were planning on the bypass and were not even thinking of Hartley and SH44. They were only thinking of the bypass. Now they have to start planning for the intersections along SH44, they don't have a choice.

Waltemate: There was an agreement with at list sent to the city that clarified what the city would like to change along SH44 before the bypass was built.

Hutchison: That agreement was years ago.

Waltemate: In that agreement it was mentioned that they will do all these changes before they start building the bypass. Is the city confirming there is a plan in place to make changes to SH44?

Stewart: There is a plan in place for the city and ITD against their will is getting a plan in place. They are working to figure out how to improve these intersections and apply cost to them. ITD calculates the pro-rata share and the city collects it from the developer.

Hutchison: The DA from July 2020 states residential units, now they are bringing in townhomes.

Waltemate: It was always planned to be townhomes.

Stewart: We can change the verbiage to say single family attached townhomes, not just units.

Applicant: Jay Gibbons – South, Beck and Baird: Proposing 8 buildings, attached single family townhomes. They are allowed greater density in the DA, but they are not proposing the maximum allowed density. It is a mixed-use project and there is an acre of commercial, as part of the project. They have no idea what that commercial building will be. They do not have a business owner for it yet. They will have amenities as part of the project such as a tot lot, and picnic shelter.

Hutchison, Summers, Waltemate: Questions regarding garages, townhomes, timeline of commercial building as well as road improvements.

Gibbons: Garages will be all inclusive 2 car garages that are the standard depth. Garages will have front entry. He believes the square footage of the townhomes will be about 1900-2000 sq ft but has not seen the official plans. The plan is to build townhomes first as they do not have a buyer for the commercial lot yet. They will be making the necessary road improvements along the frontage of Hartley.

Chairman Waltemate opened the public comment portion at 6:33 p.m.

No public comment.

Chairman Waltemate closed the public comment portion at 6:35 p.m.

Discussion by Commission:

Hutchison: No problem as long as signal is going in.

Waltemate: Traffic is the only concern. It is the #1 concern.

Motion: Motion by Chairman Waltemate that the Middleton Planning & Zoning Commission accept the general facts as set forth in the Planning Staff's presentation and Staff Report for this hearing, the public testimony, and all evidence presented at this public hearing on Carter John Mixed Use Subdivision preliminary plat. Motion seconded by Commissioner Gregory and approved unanimously.

Motion: Motion by Chairman Waltemate that the Planning & Zoning Commission accept the Conclusions of Law as set forth in the Planning Staff's presentation and Staff Report for the Carter John Mixed Use Subdivision preliminary plat application. Motion seconded by Commissioner Hutchison and approved unanimously.

Motion: Motion by Chairman Waltemate to recommend that the City Council approve the application of David Buich/Hartley Lanes, LLC & James Escobar, AIA for preliminary plat with respect to the Carter John Mixed Use Subdivision to the conditions of approval set forth in the Staff Report for this hearing. Motion seconded by Commissioner Hutchison and approved unanimously.

Motion: Motion by Chairman Waltemate to approve the Findings of Facts, Conclusions of Law and Recommendation for the preliminary plat application pertaining to Carter John Mixed-Use Subdivision. Motion seconded by Commissioner Gregory and approved unanimously.

Motion: Motion by Chairman Waltemate to recommend approval of an application by David Buich/ Hartley Lane LLC and James L. Escobar, AIA for preliminary plat with respect to the Carter John Mixed-Use Subdivision located at 0 Hartley Lane (Tax Parcel No. R1788901). The proposed preliminary plat consists of 58 townhome sites, 4 common lots and 1 commercial lot on 6.06 acres of vacant land zoned Mixed Use (M-U). Motion seconded by Commissioner Gregory and approved unanimously.

Public hearing closed at 6:39 p.m.

5. Consider approving the Findings of Facts, Conclusions of Law and Recommendation for the preliminary plat application pertaining to Carter John Mixed-Use Subdivision.

Motion: Motion by Chairman Waltemate to approve the Findings of Facts, Conclusions of Law and Recommendation for the preliminary plat application pertaining to Carter John Mixed-Use Subdivision. Motion seconded by Commissioner Gregory and approved unanimously. (This motion was stated and approved unanimously during the previous items motions.)

Public/Commission/Staff Comments:

Hutchison: Would like to know when code changes will be able to be addressed?

Stewart: It will be able to happen soon.

Adjourn: Chairman Waltemate adjourned the meeting at 6:43 p.m.

ATTEST:

Ray Waltemate, Chairman

Jennica Reynolds, Deputy Clerk, Planning
Approved: November 8, 2021

Exhibit “A”



CARLTON MEADOWS SPECIAL USE PERMIT APPLICATION



DESCRIPTION	DETAILS
Acreage	18.29 acres
Current Zoning	R-4 (Single Family Residential)
Proposed Zoning	to remain the same
Current Land Use	Residential Special Area
Proposed Land Use	Residential Special Area
Lots	66 residential lots and 6 common lots
Special Use Permit Application	Remove outdated housing types in R-4 set forth in 2009 Middleton City Code



Project Description:

Application for a Special Use Permit for Carlton Meadows Subdivision phases 1 & 2. The subject property is located at 0 Whiffin Lane, Middleton, Idaho, commonly referred to as Canyon County Parcel No. R17610018A0.

Current Zoning & Property Condition:

The property is currently zoned R-4 (Single-Family Residential) and a preliminary plat was approved August 19, 2020.





Application Request:

An application submitted by D&N Investments, LLC – David Buich. Represented by B&A Engineers, Inc – Nick LaCross for Special Use Permit to remove the requirement of housing types set forth in the 2009 Middleton City Code 5-2-4 Table 2, Height, Setback and Area Schedule, Footnote 4(a-c) for R-4 zoning district.



Special Use Permit Application: The Applicant is requesting a Special Use Permit Application to remove provisions of housing types designated in the 2009 Middleton City Code 5-2-4 Table 2, Height, Setback and Area Schedule, Footnote 4(a-c) of R-4 zoning stated as following:

- “4. For subdivisions/developments with 30 or more lots or larger than 5 acres the following shall be applied:
- a. A minimum of 20 percent of dwelling units shall utilize side garages.
 - b. A minimum of 10 percent of dwelling units shall utilize garages set back 10 feet from the living space front area.
 - c. A minimum of 10 percent of dwelling units shall utilize garages set back 20 feet from the living space front area.”

The Applicant stated the reason for the application “is to be able to utilize a wider range and more attractive housing floorplan options. With the side entry garage, this limits the builders’ options of which floorplan to build. With the newly revised code (with R-4 Zone taken out), the said code has been deleted from the Middleton City Code...this request, if approved, will have no affect on any adjacent homeowners in any way.”



In order to approve the SUP, Middleton City Code 1-15-7(A)(1) requires the Planning & Zoning Commission to find that the SUP request is not unreasonable or incompatible with the types of uses permitted in the areas.

Comments Received from Surrounding Landowners: None.

Comments from Agencies: None.

Comments from City Engineer: None.

Applicant Information: Application was received and accepted on July 20, 2021. The Applicant/Owner D&N Investments, LLC – Dave Buich. P.O. Box 516, Eagle, ID 83616.



Notices & Neighborhood Meeting:

Dates:

Newspaper Notification	10/03/2021
Radius notification mailed to Adjacent landowners within 300'	10/01/2021
Circulation to Agencies	10/01/2021
Sign Posting property	10/01/2021
Neighborhood Meeting	6/29/2021

Planning Staff finds that notice was appropriate and given according to law.

Applicable Codes and Standards:

Idaho State Statute Title 67, Chapter 6512

Middleton City Code 1-14, 1-15.

Middleton City Code 2009 5-2-4, Table 2 Height, Setback and Area Schedule.



Conclusions and Recommended Conditions of Approval:

The Planning & Zoning Commission is tasked with considering the application of Special Use Permit to remove requirements for specific housing types set forth in the 2009 MCC 5-2-4, Table 2, as applicable for R-4 developments. To properly perform this task, the Commission must ultimately make findings of facts, conclusions of law, and an order with respect to the application.



As to Findings of Facts:

Planning Staff made findings of facts in compliance with Idaho State Law and Middleton City Code. Staff will also set forth the findings of facts in the presentation at the Public Hearing. If the Planning & Zoning Commission agrees with Staff's findings of facts, then the Commission can accept the findings of facts by passing a motion to accept all or a portion of the findings of facts.



As to Conclusions of Law:

Planning Staff finds that the Planning & Zoning Commission has the authority to hear this application in order that it may be approved or denied and that public notice requirements were met. Planning Staff further set forth the portions of the Idaho State Code and Middleton Code considered in rendering a decision on the application. If the public hearing is held and conducted in compliance with Idaho State Statute and the Middleton City Code, then the Commission may accept these conclusions of law by passing a motion to accept the conclusions of law set forth in the staff report and public hearing.



As to the Order:

If the Planning & Zoning Commission is inclined to approve the application based upon the above *Findings of Facts* and *Conclusions of Law*, then Planning Staff recommends the approval be without any conditions of approval.

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

Exhibit “B”



STAFF REVIEW AND REPORT

Middleton Planning and Zoning Commission

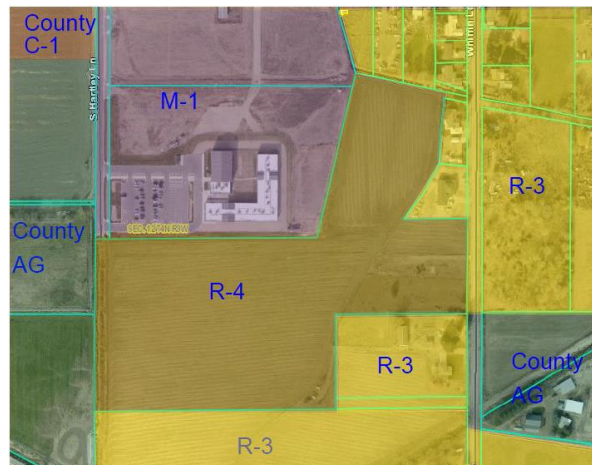
Carlton Meadows Special Use Permit Application

Snapshot Summary



DESCRIPTION	DETAILS
Acreage	18.29 acres
Current Zoning	R-4 (Single Family Residential)
Proposed Zoning	to remain the same
Current Land Use	Residential Special Area
Proposed Land Use	Residential Special Area
Lots	66 residential lots and 6 common lots
Special Use Permit Application	Remove outdated housing types in R-4 set forth in 2009 Middleton City Code

- A. Planning & Zoning Commission Hearing Date:** October 18, 2021
- B. Project Description:** Application for a Special Use Permit for Carlton Meadows Subdivision phases 1 & 2. The subject property is located at 0 Whiffin Lane, Middleton, Idaho, commonly referred to as Canyon County Parcel No. R17610018A0.
- C. Application Requests:** An application submitted by D&N Investments, LLC – David Buich. Represented by B&A Engineers, Inc – Nick LaCross for Special Use Permit to remove the requirement of housing types set forth in the 2009 Middleton City Code 5-2-4 Table 2, Height, Setback and Area Schedule, Footnote 4(a-c) for R-4 zoning district.
- D. Current Zoning & Property Condition:** The property is currently zoned R-4 (Single-Family Residential) and a preliminary plat was approved August 19, 2020.



E. Special Use Permit Application: The Applicant is requesting a Special Use Permit Application to remove provisions of housing types designated in the 2009 Middleton City Code 5-2-4 Table 2, Height, Setback and Area Schedule, Footnote 4(a-c) for R-4 zoning stated as following:

“4. For subdivisions/developments with 30 or more lots or larger than 5 acres the following shall be applied:

- a. A minimum of 20 percent of dwelling units shall utilize side garages.
- b. A minimum of 10 percent of dwelling units shall utilize garages set back 10 feet from the living space front area.
- c. A minimum of 10 percent of dwelling units shall utilize garages set back 20 feet from the living space front area.”

The applicant stated the reason for the application “is to be able to utilize a wider range and more attractive housing floorplan options. With the side entry garage, this limits the builders’ options of which floorplan to build. With the newly revised code (with R-4 Zone taken out), the said code has been deleted from the Middleton City Code...this request, if approved, will have no effect on any adjacent homeowners in any way.”

In order to approve the SUP, Middleton City Code 1-15-7(A)(1) requires the Planning & Zoning Commission to find that the SUP request is not unreasonable or incompatible with the types of uses permitted in the areas.

Findings:

Planning Staff finds that the project and the application is not “unreasonable or incompatible with the types of uses permitted in the areas” for the following reasons:

- Surrounding areas are zoned R-3. R-3 does not stipulate specific housing types and the designation of such is outdated and undesirable by builders and residents.
- This designation specific to R-4 was removed from the Middleton City Code in 2011.
- In addition, this requirement also creates an undue burden on planning staff to count and track specific housing types with each building permit issued.

F. Comments Received from Surrounding Landowners: None.

G. Comments from Agencies: None.

H. Comments from City Engineer: None.

I. Applicant Information: Application was received and accepted on July 20, 2021. The Applicant/Owner D&N Investments, LLC – Dave Buich. P.O. Box 516, Eagle, ID 83616.

J. Notices:	Dates:
Newspaper Notification	10/3/2021
Radius notification mailed to Adjacent landowners within 300'	10/1/2021
Circulation to Agencies	10/1/2021
Sign Posting property	10/1/2021
Neighborhood Meeting	6/29/2021

Planning staff finds that notice was appropriate and given according to law.

K. Applicable Codes and Standards:
Idaho State Statute Title 67, Chapter 6512
Middleton City Code 1-14, 1-15.
Middleton City Code 2009 5-2-4, Table 2 Height, Setback and Area Schedule.

M. Conclusions and Recommended Conditions of Approval:

The Planning & Zoning Commission is tasked with considering the application of Special Use Permit to remove requirements for specific housing types set forth in the 2009 MCC 5-2-4, Table 2, as applicable for R-4 developments. To properly perform this task, the Commission must ultimately make findings of facts, conclusions of law, and an order with respect to the application.

As to Findings of Facts, Planning Staff made findings of facts in compliance with Idaho State Law and Middleton City Code. Staff will also set forth the findings of facts in the presentation at the Public Hearing. If the Planning & Zoning Commission agrees with Staff's findings of facts, then the Commission can accept the findings of facts by passing a motion to accept all or a portion of the findings of facts.

As to Conclusions of Law, Planning Staff finds that the Planning & Zoning Commission has the authority to hear this application in order that it may be approved or denied and that public notice requirements were met. Planning Staff further set forth the portions of the Idaho State Code and Middleton Code considered in rendering a decision on the application. If the public hearing is held and conducted in compliance with Idaho State Statute and the Middleton City Code, then the Commission may accept these conclusions of law by passing a motion to accept the conclusions of law set forth in the staff report and public hearing.

As to the Order, If the Planning & Zoning Commission is inclined to approve the application based upon the above *Findings of Facts* and *Conclusions of Law*, then Planning Staff recommends the approval be without any conditions of approval.

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

Prepared by Planning Deputy Clerk, Jennica Reynolds

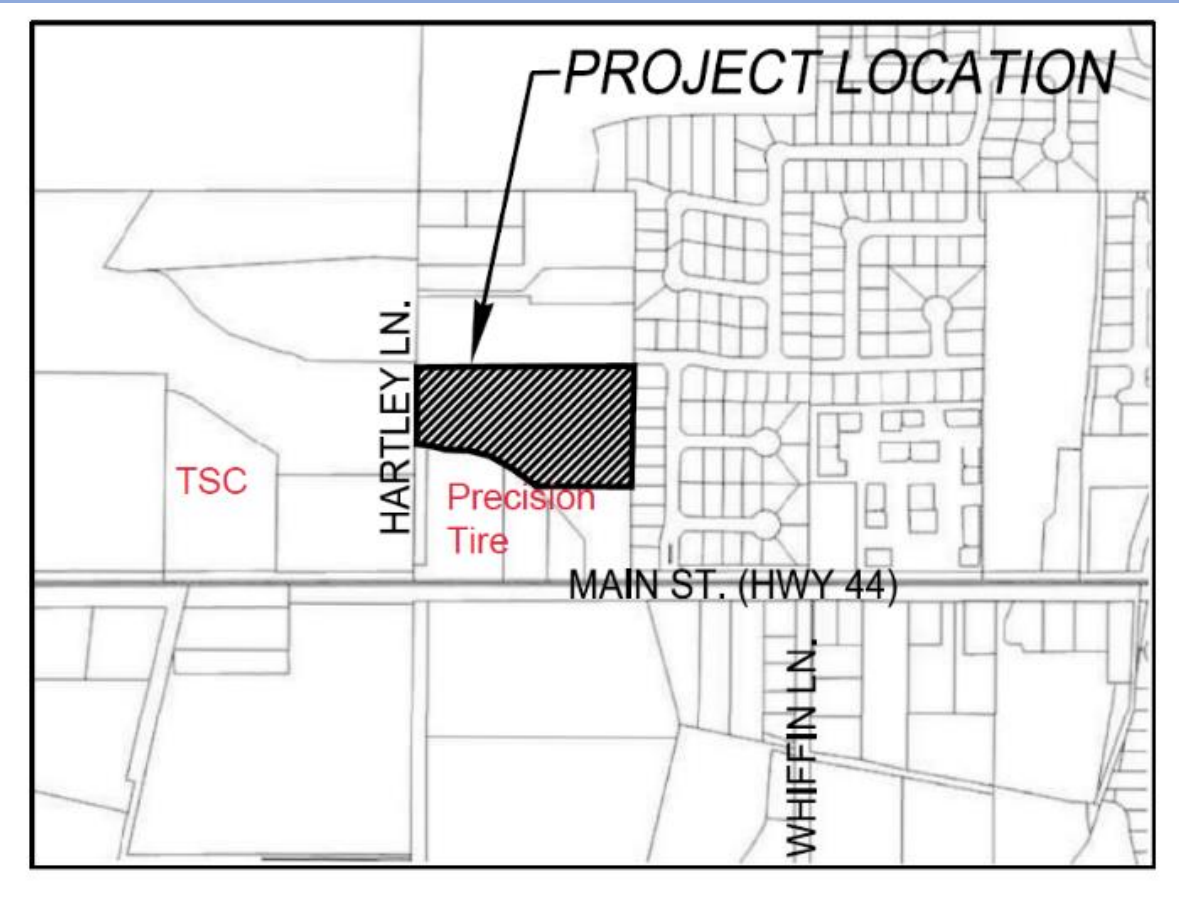
Dated: 10/14/2021

Exhibit “C”



Carter John Mixed-Use Subdivision

Preliminary Plat Application

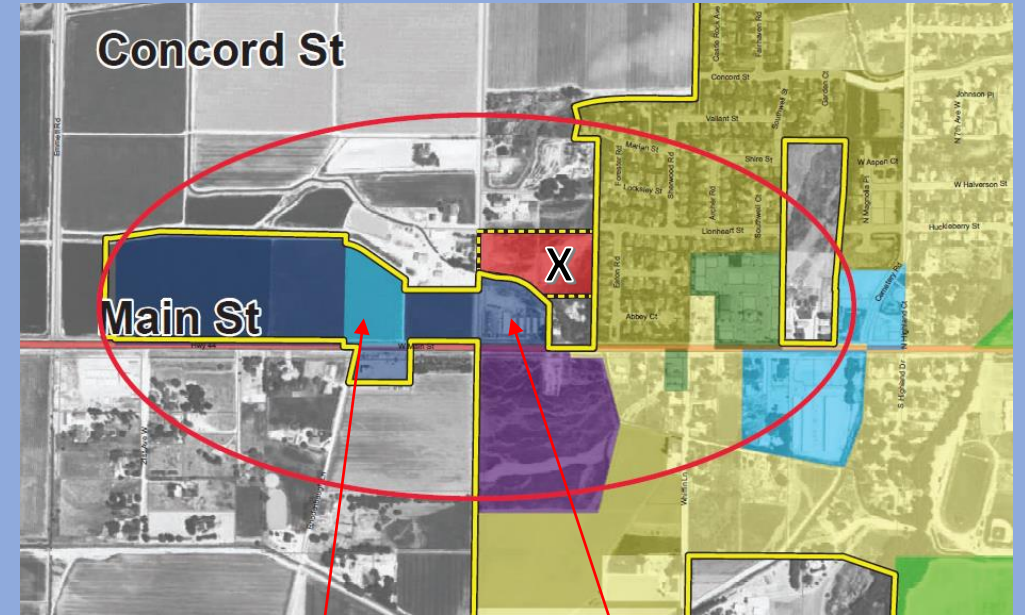


DESCRIPTION	DETAILS
Acreage	6 acres
Current Zoning	M-U / Mixed Use
Proposed Zoning	to remain the same
Current Land Use	Mixed Use
Proposed Land Use	Mixed Use
Lots	54 Townhome lots, 1 commercial lot, and 5 common lots
Density	18 units per acre allowed by DA
Amenities	Tot Lot and large common lot green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

Project Description: This is an application for preliminary plat for a subdivision with 54 townhome lots and a large commercial lot that fronts Hartley Lane. Amenities include a tot lot and two expansive common lots that provide open green space.

Pursuant to a 2020 Development Agreement with the City, Owner/Developer is allowed to construct up to 67 townhomes. Owner is choosing to construct only 54 townhomes. The DA also requires Developer to provide a commercial lot fronting Hartley that will accommodate neighborhood commercial uses.

Current Zoning & Property Condition: The 6 acre parcel was annexed into the City in 2020. The property was rezoned from County “Agricultural” to Middleton City “Mixed-Use” at that time, and the Development Agreement was executed. The project parcel is surrounded by County Agricultural zone, Middleton City C-3 zone, and Middleton R-4 Zone.

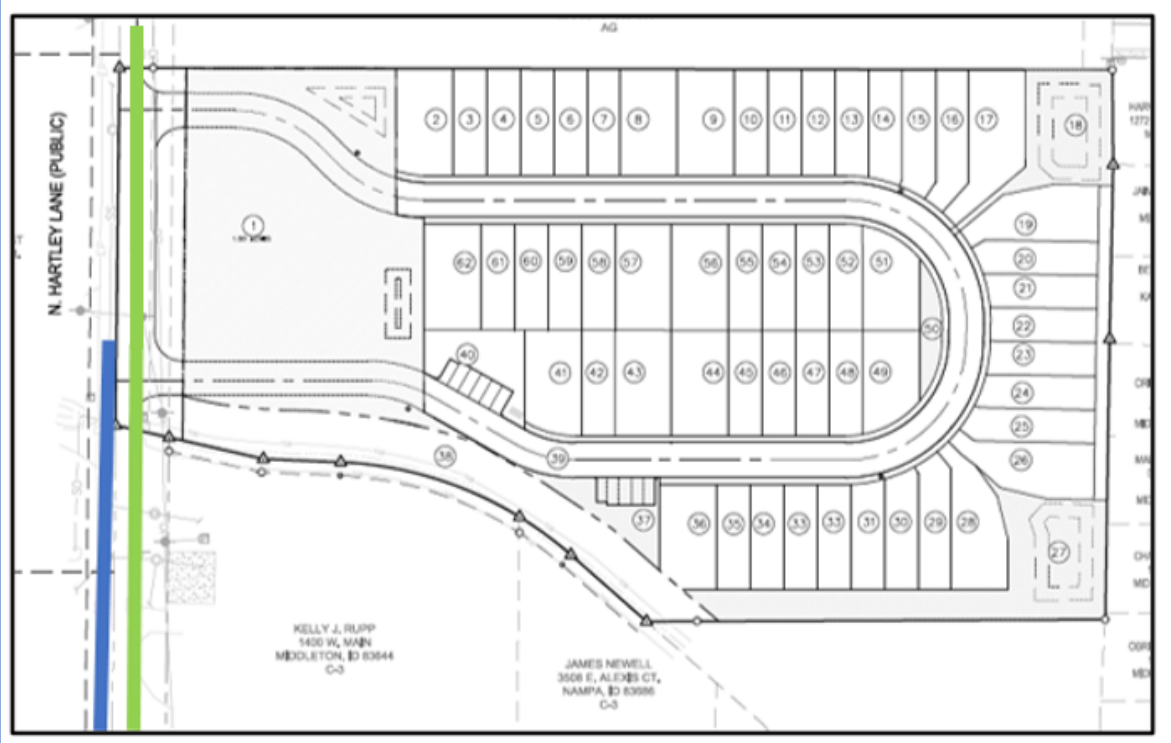


Tractor Supply & Precision Tire

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

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

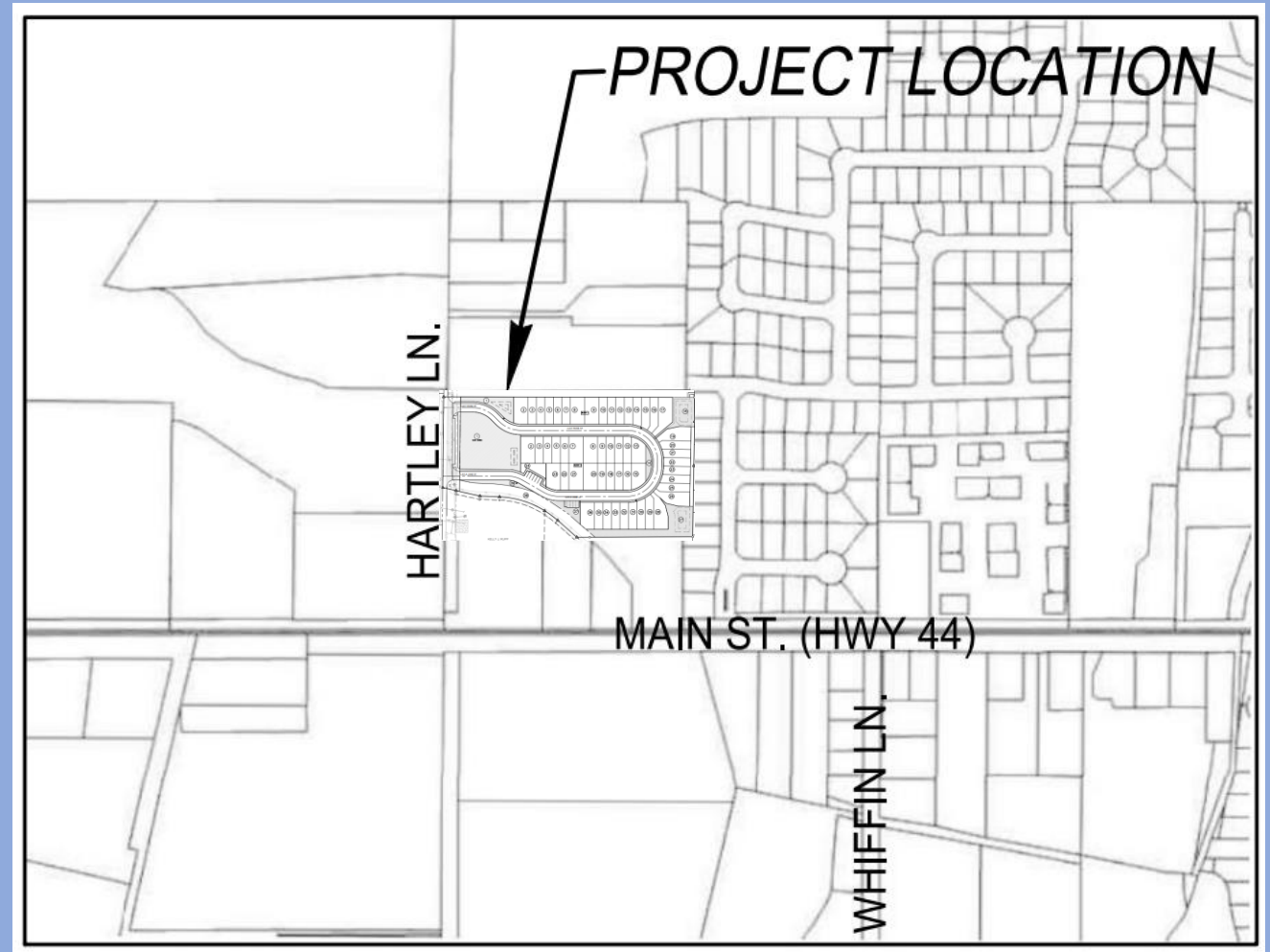
- City Water
- City Sewer





Traffic, Access & Streets:

- The project provides two accesses off Hartley Lane. The streets are public and will be dedicated to the City of Middleton.
- Developer will, at its own cost, improved the 50' half road portion of Hartley that fronts the project.
- Developer completed a traffic impact analysis. Idaho Transportation Department is still reviewing the TIS to determine the extent of Developer's proportionate share of Traffic Impacts. If this Commission is inclined to recommend approval of the application, it should do so with a condition that Developer/Owner pay all proportionate share traffic fees required by the City before approval of final plat. This will protect the City's right to collect proportionate share fees.



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

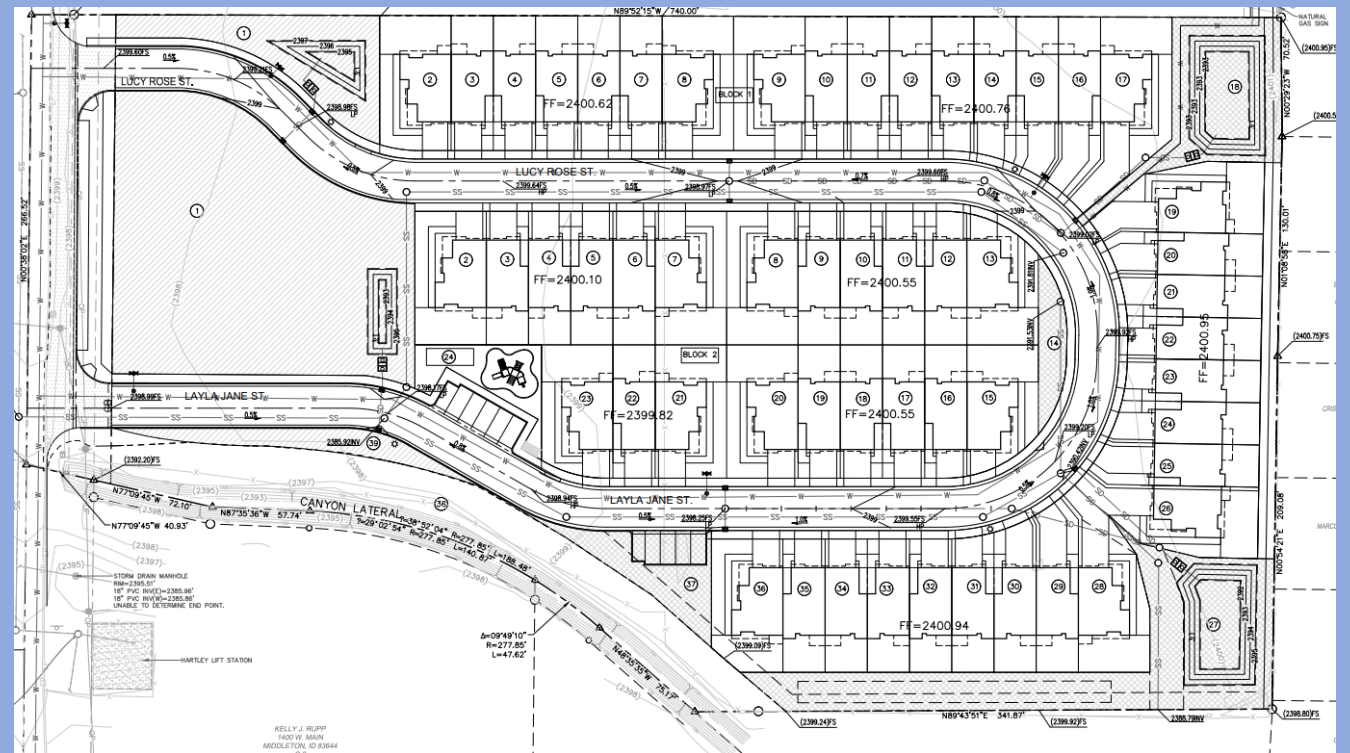
Middleton Rural Fire District: Like many agencies, the Middleton Rural Fire District has a long queue of Middleton, County and Star subdivision projects to review. As a result, Deputy Chief Islas has not had an opportunity to submit comments to this preliminary plat yet. Planning Staff will not allow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



Preliminary Plat: The preliminary plat does not show a phasing plan, and the project will be brought to final plat in one phase.

The preliminary plat complies with all dimensional standards and codes of the City of Middleton except the waiver of density that was allowed in the Development Agreement executed in 2020. Additionally, the preliminary plat shows turning radius of 90' rather than the code required 125'. This has been approved by City Engineer and Middleton Rural Fire Department. Waivers to code are allowed in a preliminary plat application per MCC 1-15-2 if the Planning & Zoning Commission is so inclined to approve this waiver request.

Planning Staff finds that the preliminary plat is not materially detrimental to the public health, safety and welfare, and the preliminary plat is also in harmony with the Middleton Comprehensive Plan, as will be discussed in more detail below.



Comprehensive Plan & Land Use Map: Applicant's project complies with the Comprehensive Plan's Future Land Use Map because the project parcel is designated "Mixed Use" (green color) on the Land Use Map, which matches the Mixed Use planned for the site.

Additionally, Applicant's project complies with the *Goals, Objectives, and Strategies* of the *2019 Middleton Comprehensive Plan* as follows:

- a. *Goals 3 and 23:* The project provides safe vehicle and pedestrian facilities in light of the street improvements and sidewalks shown on the preliminary plat.
- b. *Goal 4:* The project will establish a good quality of life with development that pays through impact fees and property taxes for the public services it receives when infrastructure is installed. Additionally, quality lots for residential use increase the quality of life and general welfare of the City.
- c. *Goal 11:* The project provides diverse housing and in-fill housing. It also provides a housing type that matches the residents' lifestyle in the area.



Comments Received from Surrounding Landowners: None.

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

Comments from City Engineer and Planning Staff: Were provided as Exhibit “D” to the Staff Report.

Applicant Information: Applicant Owner is David Buich/Hartley Lane LLC. Representative is James Escobar, AIA. 725 E. 2nd St., Meridian ID 83642 – Jim@neUdesignArch.com. 208.884.224. Application was accepted on March 19, 2021.

Notices & Neighborhood Meeting:

Dates:

- | | |
|---|------------|
| ▪ Newspaper Notification | 10/03/2021 |
| ▪ Radius notification mailed to Adjacent landowners within 300' | 10/01/2021 |
| ▪ Circulation to Agencies | 09/30/2021 |
| ▪ Sign Posting property | 09/30/2021 |
| ▪ Neighborhood Meeting | 03/18/2021 |

Planning Staff finds that Notice was given in compliance with Idaho State law and the Middleton City Code.

Applicable Codes and Standards: Idaho State Statute Title 67, Chapter 65, Idaho Standards for Public Works Construction and Middleton Supplement thereto, and Middleton City Code 1-14, 1-15, 1-16, 5-1, 5-2, 5-3, and 5-4.





Conclusions and Recommended Conditions of Approval:

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

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

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

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

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

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



Exhibit “D”

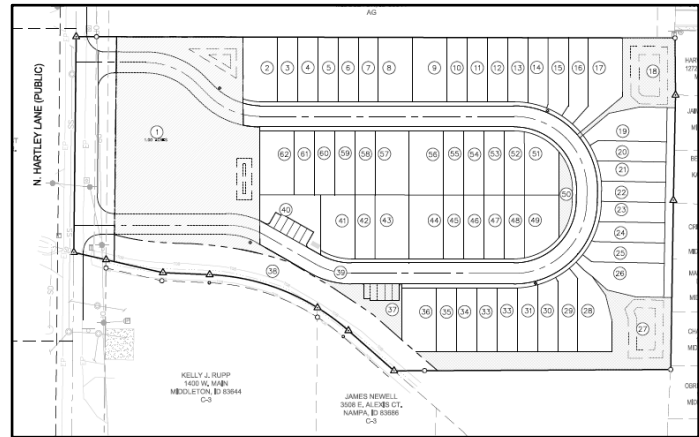
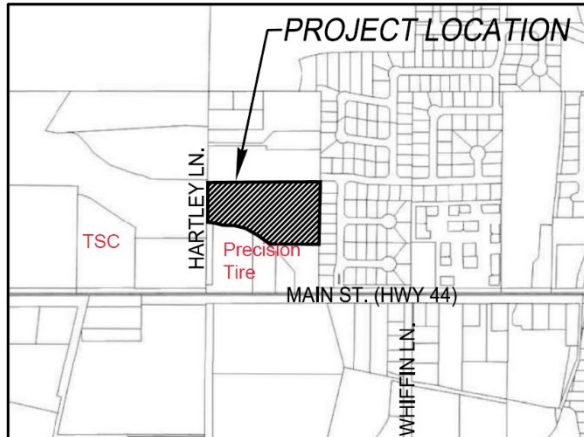


STAFF REVIEW AND REPORT

Middleton Planning and Zoning Commission

Carter John Mixed Use Subdivision

Snapshot Summary



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

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

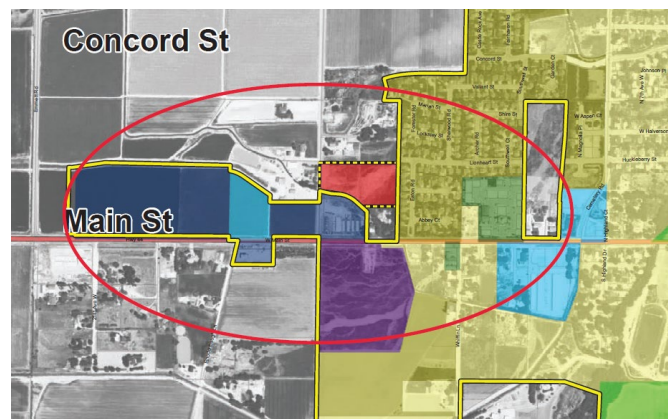
Pursuant to a 2020 Development Agreement with the City, Owner/Developer is allowed to construct up to 67 townhomes. The DA also requires Developer to provide

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

C. Application Request: Preliminary Plat

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

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



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

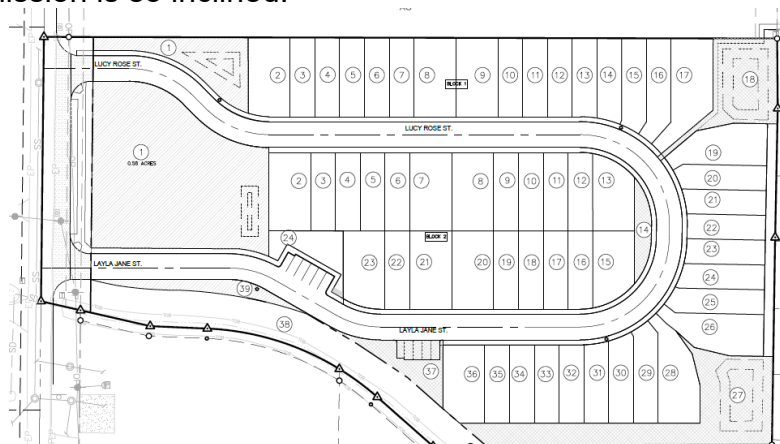


Planning Staff finds that City services are nearby and available. However, sewer and water capacity will not be reserved until Construction Drawings are approved by the City.

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

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

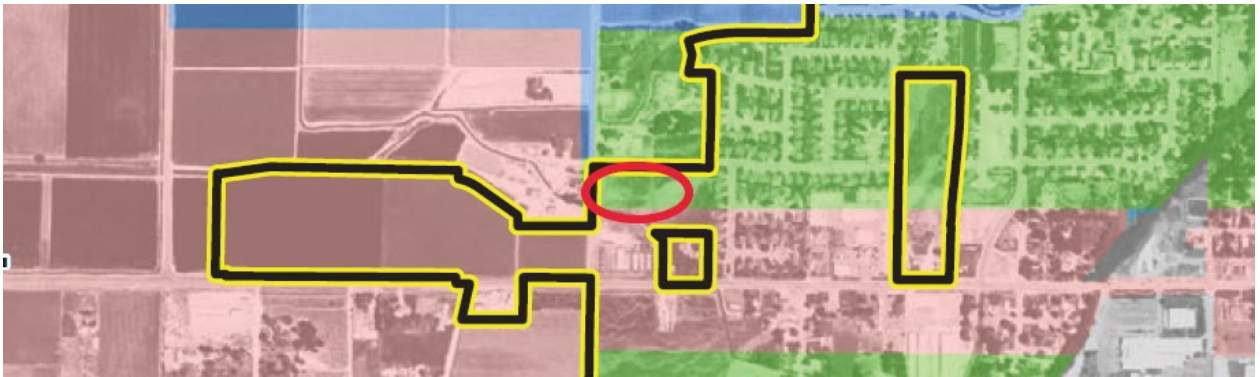
- G. Pathway, Sidewalks & Open Space:** Applicant has surpassed the 5% open space requirement by providing 7.7% open space in the form of common lots with tot lot and green space, and 2 large grassy detention areas that will also serve as open play areas or gathering spaces.
- H. Middleton Rural Fire District:** Like many agencies, the Middleton Rural Fire District has a long queue of Middleton and Star subdivision projects to review. As a result, Deputy Chief Islas has not had an opportunity to submit comments to this preliminary plat yet. Planning Staff will not allow this application to proceed to City Council without final comments from Middleton Fire. In the meantime, however, if the Planning & Zoning Commission is inclined to recommend approval of this application, Staff recommends that compliance with all Middleton Fire District comments be made a condition of approval. This will cover any issues that may be brought to light by Deputy Chief Islas.
- I. Preliminary Plat Application:** The preliminary plat does not show a phasing plan. The project will be brought to final plat in one phase. The preliminary plat also complies with all dimensional standards and codes of the City of Middleton except the waiver of density that is set forth in the Development Agreement. Additionally, the preliminary plat shows turning radius of 90' rather than the code required 125'. This has been approved by City Engineer and Middleton Rural Fire Department. Waivers to code are allowed in a preliminary plat application per MCC 1-15-2 if the Planning & Zoning Commission is so inclined.



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

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

- J. Comprehensive Plan & Land Use Map:** Applicant’s project complies with the Comprehensive Plan’s Future Land Use Map because the project parcel is designated “Mixed Use” (green color) on the Land Use Map, which matches the Mixed Use planned for the site.



Additionally, Applicant’s project complies with the *Goals, Objectives, and Strategies* of the 2019 Middleton Comprehensive Plan as follows:

- a. *Goals 3 and 23:* The project provides safe vehicle and pedestrian facilities in light of the street improvements and sidewalks shown on the preliminary plat.
- b. *Goal 4:* The project will establish a good quality of life with development that pays through impact fees and property taxes for the public services it receives when infrastructure is installed. Additionally, quality lots for residential use increase the quality of life and general welfare of the City.
- c. *Goal 11:* The project provides diverse housing and in-fill housing. It also provides a housing type that matches the residents’ lifestyle in the area.

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

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

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

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

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

P. Applicable Codes and Standards:

Idaho State Statute Title 67, Chapter 65
Idaho Standards for Public Works Construction and Middleton Supplement thereto
Middleton City Code 1-14, 1-15, 1-16, 5-1, 5-3, and 5-4.

Q. Conclusions and Recommended Conditions of Approval:

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

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

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

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

1. City of Middleton municipal domestic water, fire flow and sanitary sewer services are to be extended to serve the subdivision.
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6. Owner/Developer shall obtain approval from the Design Review Committee for each style of townhome to be constructed.
7. Sewer and water capacity to be reserved at the time City approves the construction drawings for the project.
8. Change Note 7 to add Lot 39, Block 1 to the list of common lots and change Lot 15/Block 2 to Lot 14/Block 2.

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

Prepared by Middleton City Planner, Robert Stewart

Dated: 10/14/2021

APPENDIX

Exhibit "A"

2020 Development Agreement

2020-037265

RECORDED

07/08/2020 02:17 PM



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CHRIS YAMAMOTO

CANYON COUNTY RECORDER

Pgs=6 HCRETAL

NO FEE

AGR

CITY OF MIDDLETON

DEVELOPMENT AGREEMENT

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

RECITALS

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

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

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

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

AGREEMENT

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

ARTICLE I LEGAL AUTHORITY

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

ARTICLE II ANNEXATION AND ZONING ORDINANCE

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

ARTICLE III CONDITIONS OF DEVELOPMENT

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

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

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

ARTICLE IV FAILURE TO COMPLY WITH AGREEMENT

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

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

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

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

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

ARTICLE V GENERAL PROVISIONS

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

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

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

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

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

Adam Hegstrom
520 Waltman Ln
Meridian, ID 83642

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

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

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

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

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

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

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

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

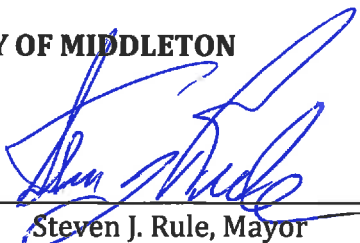
5.9 Time is of the essence for performance of each obligation in this Agreement.

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

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

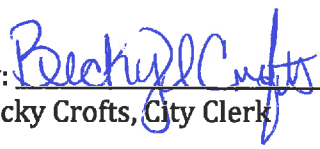
CITY OF MIDDLETON

By: _____


Steven J. Rule, Mayor

ATTEST

By: _____


Becky Crofts, City Clerk

State of IDAHO)

ss.

County of Canyon)

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



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

DEVELOPER:

[Signature]

Richard Davis

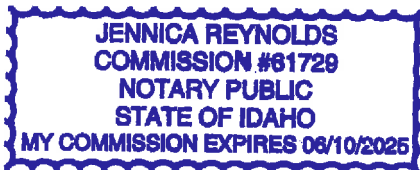
[Signature]
Amy Davis

State of Idaho)

SS.

County of Canyon)

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



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

REPRESENTATIVE:

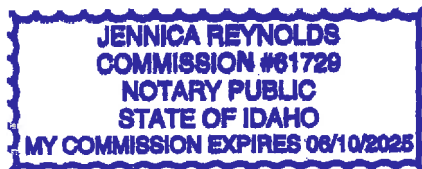
[Signature]
Adam Hegstrom

State of Idaho)

SS.

County of Canyon)

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



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

Development Agreement – Richard Davis, Amy Davis and Adam Hegstrom

Exhibit "B"

Proposed Preliminary Plat

1. ANY RESUBDIVISION OF THIS PLAT SHALL COMPLY WITH THE APPLICABLE REGULATIONS IN EFFECT AT THE TIME OF THE RESUBDIVISION.
2. ALL FRONT LOT COMMON TO STREET RIGHTS-OF-WAY SHALL CONTAIN A TEN (10') FOOT WIDE EASEMENT FOR PUBLIC UTILITIES AND PEDESTRIAN WALKWAYS
3. ALL REAR LOT LINES SHALL CONTAIN A TEN (10') FOOT WIDE EASEMENT FOR PUBLIC UTILITIES, DRAIN MAINTENANCE, PRESSURIZED IRRIGATION AND LOT DRAINAGE.
4. ALL ONSITE STREETS SHOWN HEREON ARE TO BE PUBLIC WITH ACCESS ACROSS THE COMMERCIAL LOT FOR THE USE OF THE PUBLIC.
5. PRESSURE IRRIGATION SYSTEM TO BE PROVIDED. THE SYSTEM WILL BE OWNED AND MAINTAINED BY THE HOMEOWNERS ASSOCIATION. THE IRRIGATION WATER FOR THE SYSTEM WILL BE SUPPLIED BY EXISTING SURFACE AND GROUNDWATER RIGHTS.
6. ALL LOTS SHALL HAVE INDIVIDUAL SEWER CONNECTIONS IN ACCORDANCE WITH SOUTHWEST DISTRICT HEALTH DEPARTMENT.
7. COMMON LOTS ARE TO BE OWNED AND MAINTAINED BY THE HOMEOWNER'S ASSOCIATION. BLOCK 1: LOT 18, 27, AND 37 AND BLOCK 2: LOT 15 ARE COMMON LOTS.
8. MINIMUM BUILDING SETBACK LINES SHALL BE IN ACCORDANCE WITH THE MIDDLETON CITY ZONING ORDINANCE AT THE TIME OF ISSUANCE OF A BUILDING PERMIT OR AS SPECIFICALLY APPROVED AND /OR REQUIRED.
9. PRESSURIZED IRRIGATION WILL BE PROVIDED TO EACH LOT FROM THE MIDDLETON MILL DITCH CO. & CATCH HILL DITCH CO. DISTRICT. IN COMPLIANCE WITH IDAHO CODE SECTION 31-3805(1)(b), LOTS WITHIN THIS SUBDIVISION WILL BE ENTITLED TO IRRIGATION WATER AND WILL BE OBLIGATED FOR LEVIES AND ASSESSMENTS FROM SAID DISTRICTS AND COMPANIES.
10. FIBER OPTICS TO BE PROVIDED TO EACH LOT DURING JOINT TRENCH CONSTRUCTION PER CITY OF MIDDLETON SUPPLEMENT TO THE ISWPC.
11. ALL COMMON LOTS, EXCLUDING LOT 38, TO BE OWNED BY THE SUBDIVISION HOME OWNER'S ASSOCIATION. LOT 38 TO BE OWNED BY MIDDLETON MILL DITCH COMPANY.
12. NO DIRECT ACCESS ROADS TO HARTLEY LANE IS ALLOWED FOR ANY LOT OTHER THAN THE ACCESS ROADS SHOWN HEREON
13. A FENCE IS REQUIRED AT THE PERIMETER OF THE SUBDIVISION BOUNDARY.
14. SANITARY SEWER COLLECTION, DOMESTIC WATER, AND FIRE PROTECTION WATER SHALL BE PROVIDED BY THE CITY OF MIDDLETON
15. SEWER AND WATER CAPACITY SHALL BE RESERVED AT THE TIME THE CITY APPROVES THE CONSTRUCTION DRAWING
16. PROJECT REQUESTING A VARIANCE ALLOWING A 90' RADIUS ROADWAY ACCESS
17. STORM WATER MANAGEMENT AREAS WILL BE MAINTAINED BY HOME OWNER ASSOCIATION IN RETENTION AREAS
18. STORM WATER WILL BE MANAGED IN RETENTION AREAS ON LOTS ###

<u>SITE DATA</u>	
EXISTING ZONING	M-U
COMPREHENSIVE PLAN DESIGNATION	MIXED-USE
AREA CALCULATIONS	
RESIDENTIAL BUILDABLE LOT AREA	3.05 ACRES
COMMERCIAL BUILDABLE LOT AREA	0.74 ACRES
COMMON AREA (INCLUDES STREET LOT AREA)	1.38 ACRES
ROW	0.91 ACRES
TOTAL AREA OF SITE	6.09 ACRES
<u>OVERALL LOT DATA</u>	
SINGLE FAMILY (ATTACHED) RESIDENTIAL LOTS	54
COMMON LOTS	4
STREET LOT	1
IRRIGATION CHANNEL LOT	1
COMMERCIAL LOT	1
TOTAL LOTS	61
MINIMUM RESIDENTIAL PROPERTY SIZE	1,975 SQ. FT. (0.045 AC)
AVERAGE RESIDENTIAL PROPERTY SIZE	2,482 SQ. FT. (0.057 AC)

WATER:	CITY OF MIDDLETON
SEWER:	CITY OF MIDDLETON
POWER:	IDAHO POWER COMPANY
NATURAL GAS:	INTERMOUNTAIN GAS COMPANY
TELEPHONE:	CENTURY LINK
CABLE:	CABLE ONE
IRRIGATION:	MIDDLETON MILL DITCH CO. & CANYON HILL DITCH CO.

R1788901

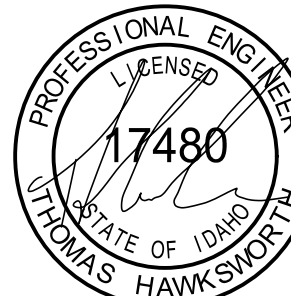
2020-037265



**TYPICAL 26' STREET - VERTICAL CURB
COMMERCIAL LOT PUBLIC ROAD SECTION**

HARTLEY LANE - 3 LANE COLLECTOR ROAD SECTION PER MODIFIED STANDARD DRAWING NO. ACCHD-102A

CARTER JOHN
MIXED-USE SUBDIVISION
MIDDLETON, IDAHO
PRELIMINARY -NOT FOR CONSTRUCTION



COVER

SHEET NUMBER

1 of 3

BLUE PEAK JOB #: 086
DATE: 10/13/2021

Exhibit "C"

Comments from Agencies

Communities in Motion 2040 2.0 Development Review

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

Development Name: Hartley Lane Townhomes

Agency: Middleton

CIM Vision Category: Existing Neighborhoods

New households: 58

New jobs: ±10

Exceeds CIM forecast: No

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

Recommendations

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

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

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

Web: www.compassidaho.org

Email info@compassidaho.org

More information about the development review process:

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

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

Regionally Significant: ☒ ☒ Inflated

Key #: 20266

Requesting Agency: ITD

Project Year: 2023

Total Previous Expenditures: \$463

Total Programmed Cost: \$8,670

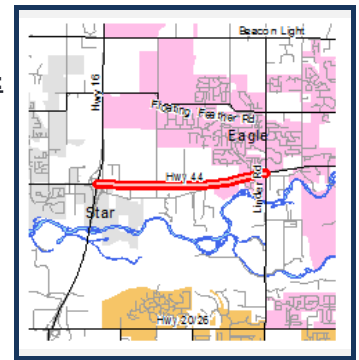
Total Cost (Prev. + Prog.): \$9,133

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

COMPASS PM:

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

Federal PM:



Funding Source		TECM	Program					State Hwy - Safety & Capacity (Capacity)	Local Match	100.00%
Cost Year*	Preliminary Engineering	Preliminary Engineering Consulting	Right-of-Way	Utilities	Construction Engineering	Construction	Total	Federal Share	Local Share	
2023	0	0	0	0	765	7,905	8,670	0	8,670	
Fund Totals:	\$0	\$0	\$0	\$0	\$765	\$7,905	\$8,670	\$0	\$8,670	

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

Regionally Significant: ☒ ☒ Inflated

Key #: 20574

Requesting Agency: ITD

Project Year: 2024

Total Previous Expenditures: \$1,400

Total Programmed Cost: \$11,836

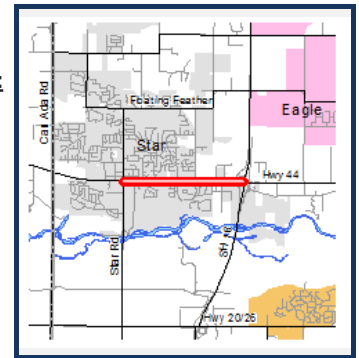
Total Cost (Prev. + Prog.): \$13,236

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

COMPASS PM:

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

Federal PM:



Funding Source		TECM	Program					State Hwy - Safety & Capacity (Capacity)	Local Match	100.00%
Cost Year*	Preliminary Engineering	Preliminary Engineering Consulting	Right-of-Way	Utilities	Construction Engineering	Construction	Total	Federal Share	Local Share	
2021	61	0	1,000	0	0	0	1,061	0	1,061	
2024	0	0	0	0	704	10,071	10,775	0	10,775	
Fund Totals:	\$61	\$0	\$1,000	\$0	\$704	\$10,071	\$11,836	\$0	\$11,836	

Boise Office

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

Challis Office

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

Twin Falls Office

236 River Vista Place
Suite 301
Twin Falls, Idaho 83301
Tel. (208) 969-9585

Fax (all offices)
(208) 629-7559

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

Re: Hartley Lanes Townhomes Subdivision

Dear Ms. Stewart:

The Canyon County Ditch Company, Middleton Mill Ditch Company and Middleton Irrigation Association (hereinafter collectively referred to as the "Ditch Companies") have ditches and easements that run through or abuts this property. The easement is 25 feet each side from the top of bank. The developer must contact the Ditch Companies' attorneys, Sawtooth Law Offices, PLLC, for approval before any encroachment, change of easement, or drainage discharge into Ditch Companies' facilities occurs. The Ditch Companies must review irrigation and storm water drainage plans and construction plans prior to any approval.

The Ditch Companies generally require a License Agreement prior to any approval for the following reasons:

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

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

Please contact me if you have any questions.

Yours very truly,



S. Bryce Farris

cc: MM-MI and CCWC

www.sawtoothlaw.com



SAWTOOTH LAW OFFICES, PLLC

September 7, 2021



David P. Claiborne *

S. Bryce Farris

Evan T. Roth

Daniel V. Steenson

Andrew J. Waldera **

Brian A. Faria**

Patxi Larrocea-Phillips

Matthew A. Sturzen

Katie L. Vandenberg-Van Vliet

James R. Bennetts (retired)

*Attorneys licensed in Idaho
* Also licensed in Washington
** Also licensed in Oregon*

Exhibit "D"

Comments from City Engineer and City Planner

October 7, 2021

TO: Roberta Stewart, Planner

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



RE: CARTER JOHN MIXED USE PRELIMINARY PLAT

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

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

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

Street A and Street B are not street names.

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

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

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

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

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

September 16, 2021

TO: Roberta Stewart, Planner

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



RE: CARTER JOHN MIXED USE PRELIMINARY PLAT

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

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

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

400 ft is maximum spacing between manholes.

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

Street A and Street B are not street names.

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

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

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

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

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

Delete duplicate line on east boundary area.

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

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



CITY OF MIDDLETON

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

October 5, 2021

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

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

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

13. You need to show frontage improvements to Hartley

Roberta L. Stewart, Middleton City Planner



CITY OF MIDDLETON

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

PLANNER COMMENTS – Carter John Mixed-Use Subdivision

September 14, 2021

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

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

Roberta L. Stewart

Middleton City Planner



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

September 21, 2021

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

Roberta L. Stewart

Middleton City Planner

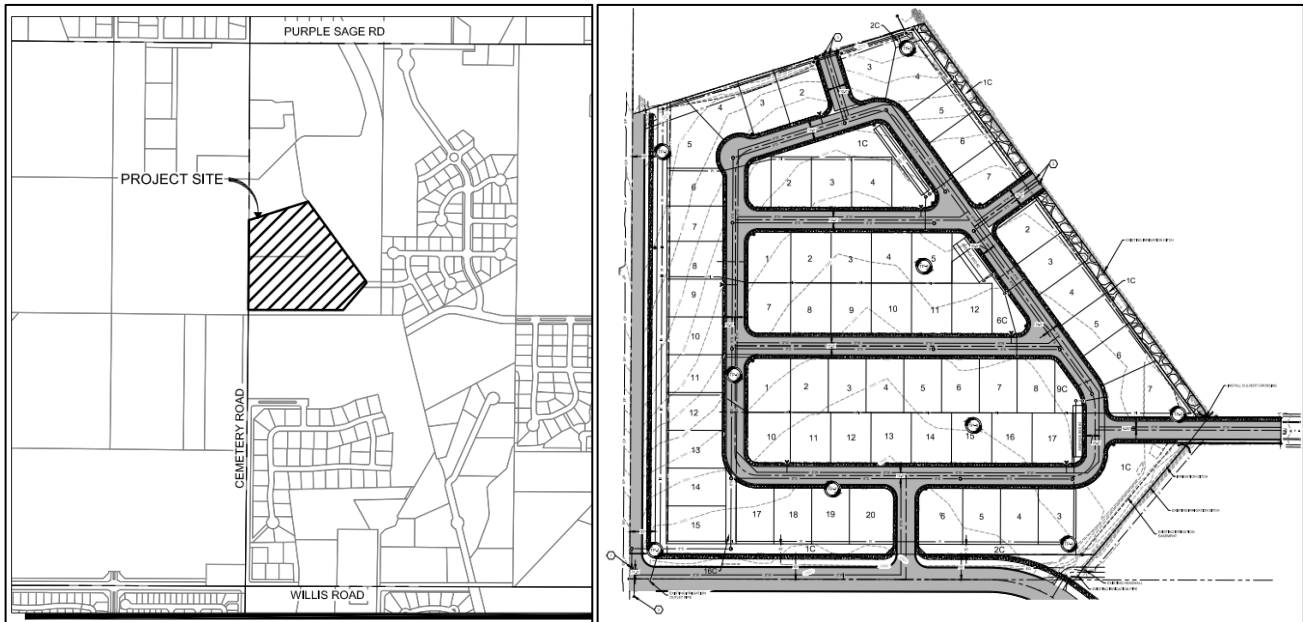


STAFF REVIEW AND REPORT

Middleton Planning and Zoning Commission

Willow Wood Estates Subdivision

Snapshot Summary



DESCRIPTION	DETAILS
Acreage	21 acres
Current Zoning	County Agricultural
Proposed Zoning	R-3 (Single Family Residential)
Current Land Use	Residential
Proposed Land Use	Residential
Lots	62 residential lots and 10 common lots.
Density	3.0 homes per acre
Open Space	5.00%
Amenities	Two large common lots with green space, tot lot, pathways and seating areas.

- A. **Planning & Zoning Commission Hearing Date:** November 8, 2021
- B. **Project Description:** Residential subdivision with 62 buildable lots and 10 common lots on 21 acres of vacant land located at 0 Cemetery Road (Tax Parcels Nos. R37579011 and R3757901). Amenities include two large common lots with greenspace, tot lot, seating areas, and meandering pathways.

- C. **Application Requests:** Applicant has three applications: (1) annexation and rezone to R-3 zoning, (2) preliminary plat, and (3) Development Agreement.
- D. **Current Zoning & Property Condition:** The property is currently located in the County and zoned Agricultural. The property to the east and south is within City limits and zoned R-3. The property on the north and west is County property and zoned Agricultural.
- E. **City Services:** City water and sewer are located immediately west and south of the project and easily accessible to the project.



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

Access to the subdivision is via Meadow Park Street and Explorer Street that connects to The Crossing at Meadow Parks.

Developer will be required to improve, at its own cost, the $\frac{1}{2}$ road portions of Cemetery Road and Meadow Park Street. This requirement will be included in the Development Agreement.

Applicant completed a Traffic Study which is currently being updated. It will show percentage of impacts this subdivision will have on surrounding intersections, and Developer will be required to pay for those impacts via a proportionate share traffic fee that must be paid prior to final plat approval for phase 1. Again, this requirement will be set forth in the proposed Development Agreement.

- G. **Pathway, Sidewalks & Open Space:** Developer has provided 5% open space in compliance with the code by providing large common lots containing meandering pathways, seating areas, and a tot lot.

- H. **Storm drain and Pressurized Irrigation:** Storm drain facilities and pressurized irrigation have been provided and are approved by the City Engineer.
- I. **Middleton Rural Fire District:** The subject property is in the Middleton Rural Fire District. The Fire District is backed up with review of Middleton, Canyon County and Star preliminary plats and has not had a chance to issue comments on this application.

This will not affect the P&Z Commission's ability to recommend approval of this application so long as the Commission makes compliance with future Fire District comments a condition of approval.

- J. **Annexation and Rezone:** Applicant is requesting that the entire 21 acre project parcel be annexed into the City of Middleton and rezoned to R-3 zoning, which permits three single family homes per gross acre.

There are three requirements for annexation approval: (1) the property must be contiguous to City limits (2) City sewer and water can be extended to serve the site, (3) the annexation is in the best interest of the City and not adverse to the public health and welfare.

As to a rezone request, the Commission must make two findings before approving such a request: (1) the rezone will not adversely affect the City's delivery of services and (2) the rezone request is in harmony with the Comprehensive Plan.

FINDINGS:

Planning Staff finds that Applicant's project meets all three of the annexation requirements. (1) The property is contiguous; (2) sewer and water are available as shown above, and (3) the City will benefit from the housing provided and street improvements that are made, and the project will not adversely affect the public health and welfare because City services can be provided efficiently and economically.

As to rezone, Planning Staff finds that the rezone will not adversely affect the City's ability to deliver services. And, as will be shown in more detail in section M below, Planning Staff finds that the rezone is in harmony with the City's Comprehensive Plan.

- K. **Preliminary Plat Application:** The preliminary plat shows two phases for development, and it complies with all Middleton codes and standards. The only exception from code is applicant's request to lower the code required turning radius of 125' to 90'. Both City Engineer and the Middleton Rural Fire Department have agreed that the 90' radius is an adequate and permissible turning radius.

- b. Developer shall, at its own cost, improve the 50' half-road portions of Cemetery Road and Meadow Park Street and dedicate the same to the City.
- c. Developer shall pay additional pro-rata or proportionate share fees for all traffic impacts and intersection controls affected by the subdivision.
- d. All construction shall be in compliance with R-3 zoning.
- e. If Developer does not bring phase 1 to final plat within 2 years of preliminary plat approval (or 3 years with a 1 year extension request), then the Developer will be in breach of contract, and City will have the option of terminating the Development Agreement. The preliminary plat will also become null and void, and the property will remain R-3 zoning.
- f. After final plat approval for Phase 1, Developer will obtain final plat approval for each successive phase within 2 years (or 3 years with a 1 year extension) of the final plat approval for the previous phase.

A copy of the proposed Development Agreement is attached as Exhibit "B".

- M. Comprehensive Plan & Land Use Map:** Applicant's project complies with the Comprehensive Plan Land Use Map because the project parcel is designated "Residential" on the Land Use Map, which matches the residential use planned for the site.

Additionally, Applicant's project complies with the *Goals, Objectives, and Strategies* of the 2019 Middleton Comprehensive Plan as follows:

- a. *Goals 3 and 23:* The project provides safe vehicle and pedestrian facilities in light of the street improvements and sidewalks shown on the preliminary plat.
- b. *Goal 4:* The project will establish a good quality of life with development that pays through impact fees and property taxes for the public services it receives when infrastructure is installed. Additionally, quality lots for residential use increase the quality of life and general welfare of the City.
- c. *Goals 11:* The housing type matches the residents' lifestyle in the area the project is located.

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

- O. Comments from Agencies:** Comments from Black Canyon Irrigation District were received on November 2, 2021. Black Canyon merely reminded applicant of piping requirements. Agency comments are attached as Exhibit "C".

- P. Comments from City Engineer and Planning Staff:**

Copies of Engineering and planning comments are attached as Exhibit "D".

- Q. Applicant Information:** Application was accepted on March 16, 2021. Applicants are Joseph Austin (Owner) and David Sterling/T-O Engineering. 2471 S. Titanium, Meridian ID 83642. (208) 323-2288.

R. Notices & Neighborhood Meeting:	Dates:
Newspaper Notification	10/24/2021
Radius notification mailed to Adjacent landowners within 300'	10/22/2021
Circulation to Agencies	10/22/2021
Sign Posting property	10/22/2021
Neighborhood Meeting	02/17/2021

S. Applicable Codes and Standards:

Idaho Standards for Public Works Construction, the Middleton Supplement to the Idaho Standards for Public Works Construction, Middleton City Code 1-14, 1-16, 5-1, 5-2, 5-3, and 5-4, an Idaho Code Secs., 67-6503, 67-6513, 67-6511, 50-1301 through 50-1329, and 50-222.

T. Conclusions and Recommended Conditions of Approval:

The Planning & Zoning Commission is tasked with considering the three applications for (1) Annexation/Rezone, (2) Preliminary Plat, and (3) Development Agreement and making recommendations to City Council for approval or denial of the applications.

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 parentheses. If the Commission agrees with those findings of facts and agrees with any of the testimony and evidence presented at the public hearing, the Commission need merely make a motion to accept those findings of facts.

As to Conclusions of Law, Planning Staff finds that the Planning & Zoning Commission has the authority to hear this application and to recommend approval or denial of the application. Additionally, Planning Staff notes that all public notice requirements were met. Planning Staff further set forth the portions of the Idaho State Code and Middleton Code to be considered in making a recommendation on the applications. If the November 8th public hearing is held and conducted in compliance with Idaho State Statute and the Middleton City Code, then the Commission may accept these conclusions of law by passing a motion to accept the conclusions of law set forth in the staff report and at the public hearing.

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

1. City of Middleton municipal domestic water, fire flow and sanitary sewer services are to be extended to serve the subdivision.
2. Owner/Developer shall construct, at its own cost, all frontage improvements to Cemetery Road and Meadow Park Street and dedicate the same to the City of Middleton.
3. Owner/Developer to pay all City required proportionate share traffic fees.
4. All City Engineer review comments are to be completed and approved.
5. All requirements of the Middleton Rural Fire District are to be completed and approved.
6. Sewer and water capacity to be reserved at the time City approves the construction drawings for the project.
7. All turning radii must be increased to at least 90'
8. Add note to preliminary plat that seating will be provided in tot lot area.

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

Prepared by Middleton Planner, Roberta Stewart

Dated: 11/2/2021

EXHIBIT “A”

Preliminary Plat under review

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SITE DATA

OWNER/DEVELOPER

JOE AUSTIN
1746 WINDMILL SPRING CT.
MIDDLETON, ID 83644
PH: (208) 890-9955

ENGINEER

DAVID N. STERLING, P.E.
PAUL LUCIA III E.I.
T-O ENGINEERS, INC.
2471 S. TITANIUM
MERIDIAN, ID 83642
PH: (208) 323-2288

SURVEYOR

LADD CLUFF, P.L.S.
T-O ENGINEERS, INC.
2471 S. TITANIUM
MERIDIAN, ID 83642
PH: (208) 323-2288

ZONING AND SETBACK

ZONE - R-3
CITY SETBACKS
FRONT = 25'
REAR = 20'
SIDE = 10'
STREET SIDE = 20'

FIRE DISTRICT

CITY OF MIDDLETON

SEWER AND WATER DISTRICT

CITY OF MIDDLETON

IRRIGATION DISTRICT

PRIVATE
(PRESSURE IRRIGATION)

BLACK CANYON IRRIGATION DISTRICT

ROADWAY JURISDICTION

CITY OF MIDDLETON

SCHOOL DISTRICT

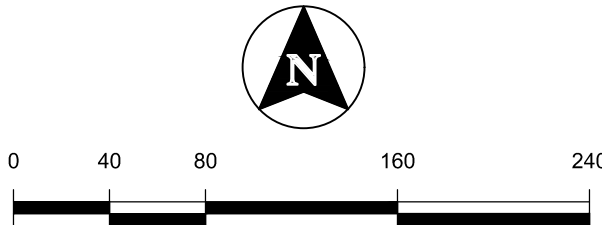
MIDDLETON SCHOOL
DISTRICT #134

AREA AND LOT SUMMARY

TOTAL AREA	±904,260 SF	20.8 ACRES
TOTAL RESIDENTIAL AREA	±525,968 SF	12.1 ACRES
TOTAL COMMON/OPEN SPACE AREA	±130,843 SF	3.0 ACRES
INTERIOR COMMON/OPEN SPACE AREA	±47,586	1.1 ACRES
RIGHT OF WAY AREA	±199,863 SF	4.6 ACRES
TOTAL NUMBER OF LOTS	72	
TOTAL NUMBER OF BUILDABLE LOTS	62	
TOTAL NUMBER OF COMMON LOTS	10	
PROPOSED DENSITY	2.99	UNITS/ACRE
AVERAGE RESIDENTIAL LOT SIZE	±8,483 SF	0.19 ACRES
MINIMUM LOT SIZE	8000 SF	0.18 ACRES
PERCENTAGE TOTAL OPEN SPACE	14.47%	
PERCENTAGE INTERIOR OPEN SPACE	5.26%	

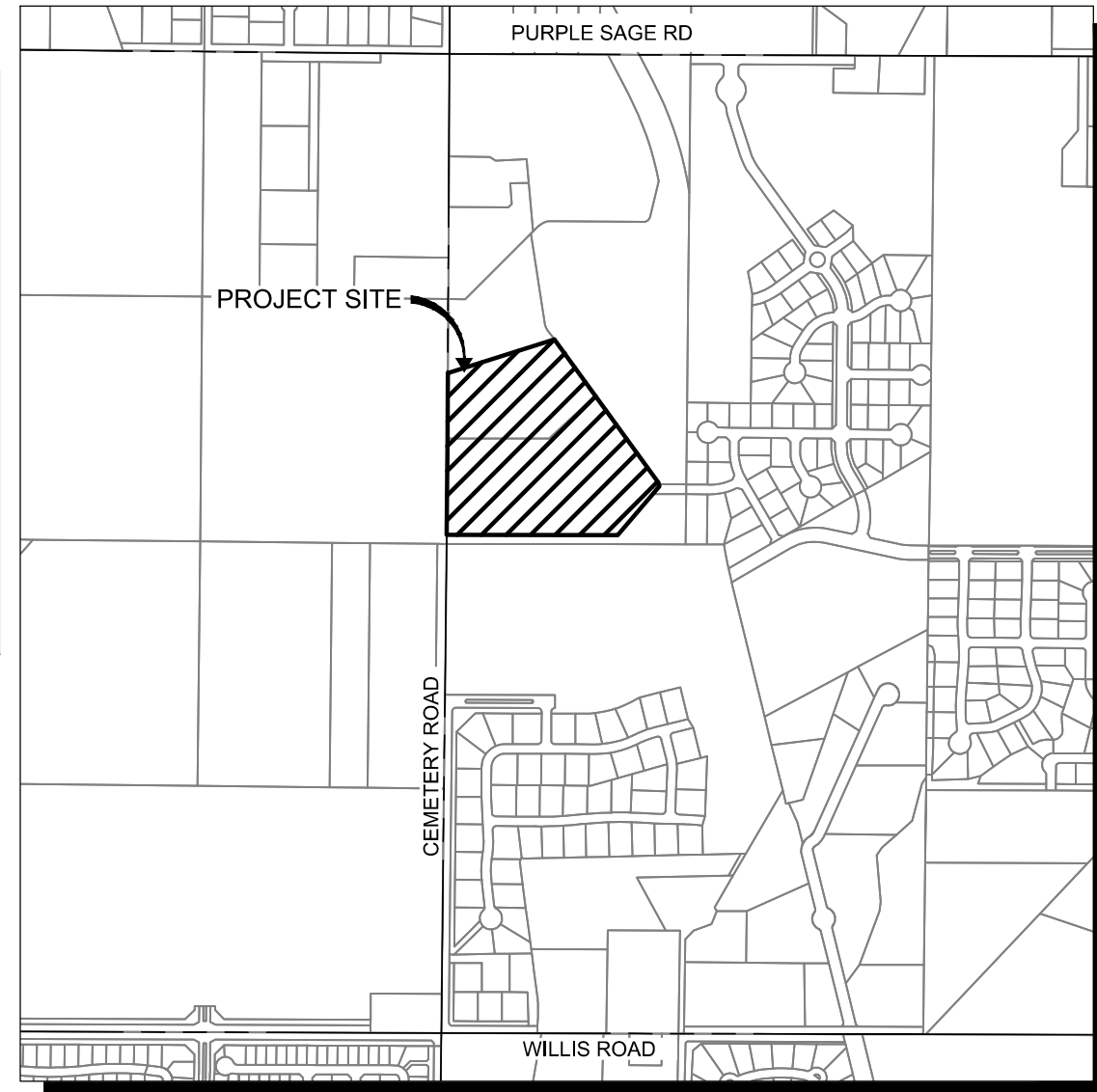
PRELIMINARY PLAT FOR WILLOW WOOD ESTATES SUBDIVISION

A PORTION OF LOT 2 OF SECTION 31
TOWNSHIP 5 NORTH, RANGE 2 WEST, BOISE MERIDIAN
CANYON COUNTY, IDAHO
2021



LEGEND

---	SUBDIVISION BOUNDARY
---	RIGHT-OF-WAY
---	EASEMENT
---	ROAD CENTERLINE
---	RESIDENTIAL LOT NUMBER
---	COMMON LOT NUMBER
---	BLOCK NUMBER
---	FOUND ALUMINUM CAP
---	FOUND 5/8 REBAR
---	CALCULATED POINT

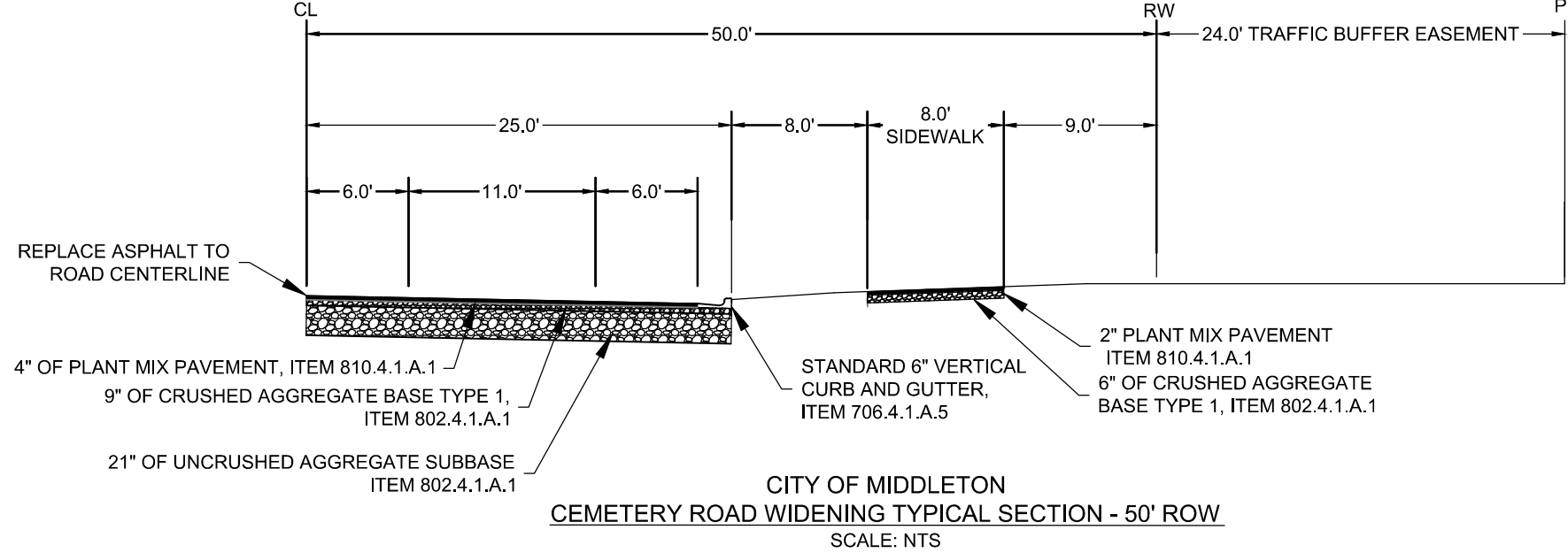


VICINITY MAP
SCALE: 1"=1000'

CURVE TABLE				
CURVE	RADIUS	LENGTH	DELTA	BEARING
C2	25.65'	16.38'	36°35'56"	S17°45'14"E
				16.11'

SHEET INDEX

C0.00	LOT DIMENSIONS
C0.01	UTILITY PLAN



CITY OF MIDDLETON
CEMETERY ROAD WIDENING TYPICAL SECTION - 50' ROW
SCALE: NTS

NOTES

- BUILDING SETBACK AND DIMENSION STANDARDS SHALL BE IN ACCORDANCE WITH THE MIDDLETON CITY CODE AT THE TIME OF BUILDING PERMIT ISSUANCE.
- COMMON LOTS TO BE OWNED AND MAINTAINED BY THE WILLOW WOOD ESTATES HOMEOWNERS ASSOCIATION.
- STORM DRAINAGE WILL BE ROUTED TO INFILTRATION FACILITIES LOCATED IN COMMON AREAS. STORM DRAINAGE WILL BE DESIGNED IN ACCORDANCE WITH THE CATALOG OF STORM WATER BEST MANAGEMENT PRACTICES FOR IDAHO CITIES AND COUNTIES AND THE CITY OF MIDDLETON.
- INDIVIDUAL PRESSURE IRRIGATION SERVICES WILL BE PROVIDED TO THE REAR OF EACH LOT. PRESSURE IRRIGATION WILL BE CONNECTED TO A NEW PUMP STATION LOCATED IN COMMON LOT 1 BLOCK 2. THE SYSTEM WILL BE OWNED AND MAINTAINED BY THE HOA. LOT OWNERS WILL BE OBLIGATED TO PAY LEVIES AND ASSESSMENTS FROM THE APPLICABLE IRRIGATION DISTRICT.
- 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.
- DIRECT LOT ACCESS TO CEMETERY ROAD IS PROHIBITED.
- BLOCK 1, LOT 1, BLOCK 2, LOT 1, BLOCK 3, LOT 1, BLOCK 4, LOTS 1 AND 2, BLOCK 5, LOT 9, BLOCK 6 LOT 6, BLOCK 7 LOT 1 ARE COMMON LOTS
- BLOCK 1, LOTS 6 AND 17 ARE PRIVATE DRIVES AND BOTH CONTAIN A BLANKET PUBLIC ACCESS AND UTILITY EASEMENT
- ALL EXISTING WELLS SHALL BE ABANDONED PER IDWR REGULATIONS. ALL SEPTIC SYSTEMS SHALL BE COMPLETELY REMOVED AND THE AREA RECOMPACTED PER THE GEOTECHNICAL REPORT.
- SEWER AND WATER CAPACITY SHALL BE RESERVED WHEN CITY APPROVES THE CONSTRUCTION DRAWINGS.
- ALL LOTS ARE HEREBY DESIGNATED AS HAVING A PERMANENT EASEMENT FOR PUBLIC UTILITIES AND PEDESTRIAN ACCESS OVER THE 10' ADJACENT TO ANY PUBLIC RIGHT OF WAY. THIS EASEMENT SHALL NOT PRECLUDE THE CONSTRUCTION OF HARD SURFACED DRIVEWAYS AND WALKWAYS TO EACH LOT.
- ALL LOTS CONTAIN A 10 FOOT WIDE EASEMENT ADJACENT TO ANY REAR LOT LINE OR SUBDIVISION BOUNDARY FOR PUBLIC UTILITIES & IRRIGATION
- ALL INTERIOR LOTS CONTAIN A 5' WIDE EASEMENT, EACH SIDE, FOR PUBLIC AND PRIVATE UTILITIES, DRAINAGE AND IRRIGATION FACILITIES.
- PRESSURIZED IRRIGATION WATER WILL BE PROVIDED TO EACH LOT FROM THE BLACK CANYON IRRIGATION 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.

SURVEY INFORMATION

T-O ENGINEERS-LADD CLUFF, PLS PHONE NO. (208)-323-2288
ALL ELEVATIONS SHOWN ARE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88).

NORTHING: 753532.776	NORTHING: 752653.132	NORTHING: 752871.528
EASTING: 2391692.969	EASTING: 2391687.504	EASTING: 2392954.832
ELEVATION: 2473.34	ELEVATION: 2461.92	ELEVATION: 2465.91
DESCRIPTION: 5/8" REBAR WITH ILLEGIBLE CAP	DESCRIPTION: 5/8" REBAR "CLS 7732"	DESCRIPTION: 5/8" REBAR "PLS 9366"

NOTE: P.L.S. SIGNATURE OF THIS DOCUMENT ONLY CERTIFIES THE SUBJECT
PROPERTY BOUNDARY SHOWN HEREON.

T-O ENGINEERS
CONSULTING ENGINEERS, SURVEYORS & PLANNERS

2471 S. TITANIUM PLACE
MERIDIAN, IDAHO 83642
PHONE: (208) 323-2288
WWW.TOENGINEERS.COM
BOISE • CODY • COEUR D'ALENE • HEBER CITY
MERIDIAN • NAMP • SPOKANE

PRELIMINARY PLAT FOR:

WILLOW WOOD SUBDIVISION
LOT DIMENSIONS

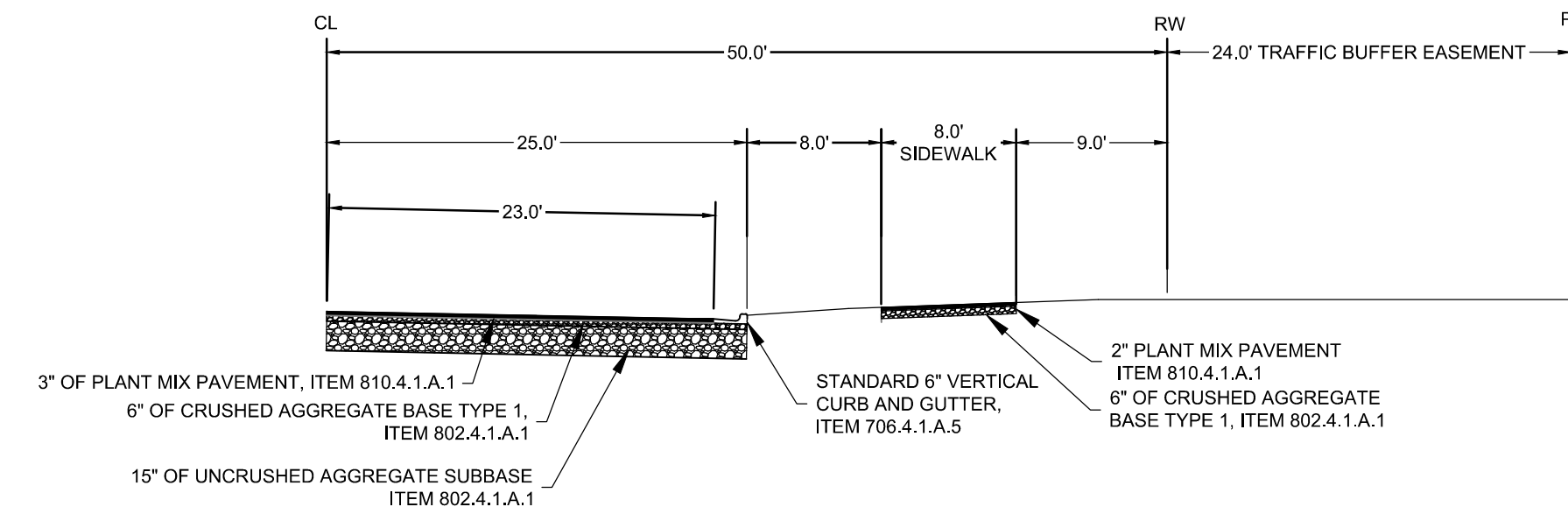
ATTENTION:
IF THIS BAR DOES NOT MEASURE
1" ON 22x34 SHEET OR 1/2" ON
11x17 SHEET, THEN DRAWING IS
NOT TO SCALE

DATE: 10/29/2021
PROJECT: 210036
SHEET:

C0.00



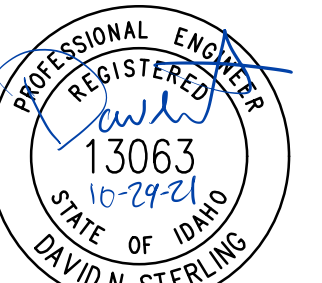
	SUBDIVISION BOUNDARY
	ROAD RIGHT-OF-WAY
	PROPOSED EASEMENT
	PROPOSED SEWER LINE
	PROPOSED WATER LINE
	PROPOSED STORM DRAIN LINE
	PROPOSED PRESSURE IRRIGATION LINE
	PROPOSED GRAVITY IRRIGATION LINE
	EX. FENCE LINE
	PROPOSED SEWER MANHOLE
	PROPOSED STORM DRAIN MANHOLE
	PROPOSED CATCH BASIN/AREA INLET
	PROPOSED SAND AND GREASE TRAP
	EXISTING POWER POLE
	EXISTING OVERHEAD POWER
	EXISTING WATER MAIN
	EXISTING WATER VALVE
	PROPOSED FIRE HYDRANT
	EXISTING CATCH BASIN
	PROPOSED STREET LIGHT
	EXISTING STREET SIGN
	EXISTING SEWER MAIN
	EXISTING EDGE OF GRAVEL
	EXISTING MAJOR CONTOUR
	EXISTING MINOR CONTOUR
	TEST PIT
	STORM WATER FLOW ARROW



INSTALL CULVERT CROSSING

- 1 CONNECT TO EXISTING SEWER FROM ESTATES AT MEADOWPARK
- 2 CONNECT TO EXISTING WATER FROM ESTATES AT MEADOWPARK
- 3 PROVIDE WATER/SEWER MAIN STUBS FOR FUTURE EXTENSION
- 4 MAILBOX CLUSTER

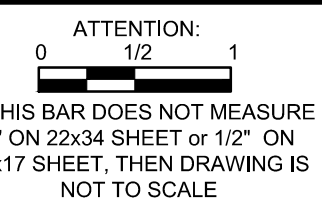
1. ALL WATER MAINLINES ARE TO BE 8" IN DIAMETER UNLESS OTHERWISE NOTED.
2. ALL SEWER LINES ARE TO BE 8" IN DIAMETER UNLESS OTHERWISE NOTED.
3. ALL STORM WATER DRAINAGE LINES ARE TO BE 12" IN DIAMETER
4. PRESSURIZED IRRIGATION TO BE PROVIDED BY A PROPOSED PUMP STATION LOCATED IN LOT 2 BLOCK 3.
5. EXISTING TOPOGRAPHIC SURVEY BY T-O ENGINEERS (JANUARY 2021).
6. A BLANK CONDUIT SHALL BE ADDED TO JOINT TRENCH FOR CITY REQUIRED FIBER OPTICS.



NO.	REVISONS		DATE	BORDER SIZE
	DESCRIPTION			
				22"x34"
				DESIGNED
				P. LUCIA
				DRAWN
				P. LUCIA
				CHECKED
				D. STERLING
				APPROVED
				D. STERLING

TO **T-O ENGINEERS**
CONSULTING ENGINEERS, SURVEYORS & PLANNERS
2471 S. TITANIUM PLACE
MERIDIAN, IDAHO 83642
PHONE • (208) 323-2288 WWW.TO-ENGINEERS.COM
BOISE • CODY • COEUR D'ALENE • HEBER CITY
MERIDIAN • Nampa • SPOKANE

PRELIMINARY PLAT FOR:
WILLOW WOOD SUBDIVISION
UTILITY PLAN



DATE:	10/29/2021
PROJECT:	210036
SHEET:	

C0.01)

EXHIBIT “B”

Proposed Development Agreement

After Recording, mail to
Middleton City Administrator
1103 W. Main St.
Middleton, ID 83644

DEVELOPMENT AGREEMENT

This Development Agreement (**Agreement**) is entered into by and between the CITY OF MIDDLETON, a municipal corporation in the State of Idaho (**City**); and Joseph L. Austin and Deborah Austin, husband and wife, referred to hereafter as Developer (**Developer**).

RECITALS

WHEREAS, Developer owns approximately 21 acres of real property located at 0 Cemetery Road (Tax Parcel Nos. R3757901 and R37579011, Middleton, Canyon County, Idaho, legally described in Exhibit A attached hereto and incorporated herein by this reference (**Property**); and

WHEREAS, Developer intends to improve the Property (also known as Willow Wood Estates Subdivision) according to the Middleton City Code and the City's public works standards at the time(s) the Property is improved; and

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

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in consideration of the recitals above, which are incorporated below, and the mutual covenants, representations, and

Development Agreement – _____

performances herein bargained for, relied on, and expected, the parties agree as follows:

ARTICLE I LEGAL AUTHORITY

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

ARTICLE II ANNEXATION AND ZONING ORDINANCE

The City will adopt an ordinance to annex and rezone the Property from Canyon County Agricultural to City of Middleton R-3 (Single Family Residential). The Ordinance will become effective after it is approved, signed, published and recorded according to law, all of which actions the City will perform at the city's expense and with the Developer's cooperation.

ARTICLE III CONDITIONS OF DEVELOPMENT

3.1 Applications. Developer will develop the Property subject to the conditions and limitations set forth in this Development Agreement. Further, Developer shall submit such applications regarding preliminary plat and final plat reviews, and/ or any special use permits, if applicable, and any other applicable applications as may be required by the Middleton City Code, which shall comply with the Middleton City Code, as it exists at the time such applications are made except as otherwise provided within this Development Agreement.

3.2 Concept Plan. The Concept Plan attached hereto as Exhibit "B" represents Developer's current concept for completion of the project. Developer shall be bound by this Concept Plan and shall develop the project substantially consistent with the Concept Plan.

3.3 Frontage Improvements. Developer shall, at its own cost, improve the fifty foot (50') half-road portions of Cemetery Road and Meadow Park Street per City standards and codes and dedicate the same to the City.

3.2 Proportionate Share Fees: Developer shall pay City required traffic proportionate share fees in the amount of _____ dollars (\$_____) prior to final plat approval for Phase 1. Payment of the proportionate share fees will be a condition of approval for Phase 1 final plat.

3.3 Final Plat Deadline & Termination of Agreement. Developer shall obtain City Engineer's signature on the final plat for Phase 1 within two years of the

Development Agreement – _____

date the preliminary plat is approved. Upon written request prior to the expiration of said two year period, Developer may apply administratively with a written request for a one year extension to obtain City Engineer's signature on the Phase 1 final plat. Notwithstanding the provisions in Article IV, if Developer does not obtain the City Engineer's signature on the Phase 1 final plat within two years of the date the preliminary plat is approved or within the time-period of a one year extension, then Developer will be in material breach of this Agreement. Additionally, the preliminary plat shall become null and void. The City, after complying with the notice and hearing requirements contained in the Middleton City Code and Idaho State Code, may then choose to extend, modify, or terminate this Agreement. The City may initiate the foregoing proceedings and may do so at any time following a material breach hereof. Termination of this Agreement shall not affect the zoning that is in place at the time of the termination, and the zoning for the Property shall remain R-3. No delay in initiating proceedings to extend, modify, or terminate this Agreement following a material beach by Developer shall constitute a waiver of said breach.

3.4 Two Year intervals for Final Plat. After final plat approval for Phase 1, Developer shall be required to obtain the City Engineer's signature on each phase's final plat within two years of final plat approval on the previous phase. Upon written request prior to the expiration of said two-year period, Developer may apply administratively with a written request for a one year extension to obtain City Engineer's signature on the final plat under consideration. If Developer does not timely apply for a one-year extension or does not subsequently obtain the Engineer's signature on the final plat within the one year extension time period, then the preliminary plat for said phase and all subsequent phases shall become null and void, and Developer must resubmit the preliminary plat for said phases in order to continue to develop the Property.

ARTICLE IV FAILURE TO COMPLY WITH AGREEMENT

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

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

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

4.2 If after a breach, the City Council determines that the zoning should remain R-3, or as otherwise provided in the Idaho Code, then the Developer hereby consents to such reversion or other action and will cease uses not allowed or permitted in the R-3 zone.

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

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

ARTICLE V GENERAL PROVISIONS

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

5.2 Any amendment or addendum to this Agreement shall be in writing and made only after the City has complied with the notice and hearing provisions of Idaho Code §67-6509 and Middleton City Code Title 5, Chapter 2.

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

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

Developer: _____

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

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

5.6 Each commitment and restriction described in this Agreement shall be a burden on the Property and run with the land and shall be appurtenant to and for the benefit of the Property, adjacent property and other residential land near the Property.

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

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

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

5.8 If any term, provision, commitment or restriction of this Agreement or the application thereof to any party or circumstance shall to any extent be held invalid

or unenforceable, the remainder of this instrument shall remain in full force and effect.

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

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

Dated this ____ day of _____, 2021 and effective upon annexation and rezoning of the Property.

CITY OF MIDDLETON

ATTEST

By: _____
Steven J. Rule, Mayor

By: _____
Becky Crofts, City Clerk

State of IDAHO)
 ss.
County of Canyon)

I, a notary public, do hereby certify that on this _____ day of _____, 2021, personally appeared before me Steven J. Rule, who declared that he is the Mayor of the City of Middleton, Idaho and signed this Development Agreement as Mayor of the City of Middleton.

Notary Public
My Commission Expires: _____

[Signatures on following page]

JOSEPH L. AUSTIN

State of Idaho)
 ss.
County of _____)

I, a notary public, do hereby certify that on this ___ day of _____, 2021, personally appeared before me Joseph L. Austin, who declared that he signed this Development Agreement in the capacity of Developer and Owner of the Willow Wood Estates Subdivision.

Notary Public
My Commission Expires: _____

DEBORAH R. AUSTIN

State of Idaho)
 ss.
County of _____)

I, a notary public, do hereby certify that on this ___ day of _____, 2021, personally appeared before me Deborah R. Austin, who declared that she signed this Development Agreement in the capacity of Developer and Owner of the Willow Wood Estates Subdivision.

Notary Public
My Commission Expires: _____

EXHIBIT “C”

Agency Comments

From: [Carl Hayes](#)
To: [Roberta Stewart](#)
Subject: Willow Wood Estates Subdivision
Date: Tuesday, November 2, 2021 2:48:42 PM
Attachments: [image001.png](#)

Standard piping requirements apply as this project borders the C-East 18.1-3.4 Lateral.

Thank you,



EXHIBIT “D”

City Engineer & Planner Comments



October 15, 2021

TO: Roberta Stewart, Planner
Cc: T-O Engineers, David Sterling, PE

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

RE: Willow Wood Estates Subdivision – Revised Preliminary Plat

Thank you for the opportunity to review the above referenced preliminary plat submittal. We are in receipt of two pages, both stamped and sealed by David N. Sterling, PE, 13063 ID, dated July 30, 2021.

MCC 5-4-4.2.b. Please add Preliminary Plat and information to top of C0.01.

MCC 5-4-4.2.j. Please add existing zoning information for adjacent parcels.

Revise Note 5 to reference Idaho Code and the irrigation district. Dimension irrigation easements (all), dimension common lots. Please identify and detail the easement for the irrigation/drainage facility along the east boundary.

Please add a note detailing all irrigation and/or drainage to be relocated out of rights of way.

Add street names to C0.01.

Extend 16" water main in Cemetery to north project limits. Terminate with hydrant.

Please extend the 8 inch sewer main at the end of Sumac Ave to the Cemetery right of way.

Revisit streetlight location – streetlights required every 400 ft.

Revise stormwater management to retention facilities.

The boundary is required to be surveyed and section corners referenced. Topography needs to be shown – utilities, irrigation, adjacent. Contours alone are not topography.

Add centerline radii and intersection radii, dimension rights of way.

There are multiple text/line/drafting conflicts that need to be corrected.

The traffic buffer on Cemetery and Meadow Park is required to be 24 ft

Add typical section for Meadow Park Street. Local structural section is 3/6/15.

Please show the location of the driveway to the west.

The intersection at Timberwood is atypical and needs to be revisited

Verify the spelling of Sweeney name.

Revise Note 3. Only utilities and access for front lot easement.

C0.01.

- Keynote 1, Keynote 2 - connection to "Estates at Meadowpark"
- Note 1. Add "unless otherwise noted"
- Note 2. Add "unless otherwise noted"



CITY OF MIDDLETON

P.O. Box 487, 1103 W. Main St., Middleton, ID 83644
208-585-3133 Fax (208) 585-9601
citmid@middletoncity.com
www.middleton.id.gov

October 4, 2021

Planner Comments Willow Wood Estates Subdivision – Pre-Plat dated 7/29/2021

1. Please send copy of the agreement showing you have right to control (or own) 9th Street Right of way, proving that you will be able to improve and dedicate the Right of Way upon completion of construction.
2. Does the current annexation legal description and sketch include the 9th Street Right of Way? How is that going to be handled?
3. The Traffic Study indicates that this 63 lot subdivision has no material effect on any nearby intersections, removing the need to collect proportionate share dues. We need to get Amy Woodruff's opinion on that conclusion.
4. Missing a landscape plan
5. Need to show perimeter fence around entire subdivision. Either show it on the pre-plat or add it to the landscape plan.
6. Change name of Redbud Street to Redbud Avenue since it is a north/south roadway.
7. Add note to the "Notes" section stating that L16/B1 is a private drive. Also note that it has a public easement applied to the entire drive. Finally, put an additional call-out note regarding the easement next to the drive on the pre-plat.
8. Block 1, Lots 7, 8 and 9 need widened to 75'
9. Block 1, Lot 4; Block 2, Lots 3 and 4; Block 3 Lots 6 & 7 need notations to show they are at least 75' wide at the 25' setback line.
10. L7/B1 size needs to be increased to 8000.
11. You are a little over the density allowed, but it is by just a hair so we're inclined to overlook it. But, you have multiple lots that don't have enough frontage width or minimum size. If you can't get these deficient lots to meet the minimum code standards, then you may have to remove a lot from the plat to make more room. If you can get all lots to meet minimum dimensional standards, then I don't think the City will mind that you are a "touch" over the density allowed. Up to you.
12. I can't find the following common lots on the plat: L8/B3 and L13/B4. Please remove notation and renumber lots or show me where they are.
13. What is planned for the little landlocked parcel L2C/Block 2? Why is that parcel there?
14. Show mailbox clusters on the pre-plat
15. You are overstating your open space. When I count the 3 large common lots together, it is a little over an acre, which may get you to 5%. One of the 3 common lots may not really be sufficient to deem "Open Space" in the spirit of the Code, but we can try. We cannot include the landscape buffers and smaller endcap buffers in the open space count. They do not meet the spirit of the "Open Space" code. If you add an amenity on one of the bigger common lots, that will help create the sense of meeting the 5% open space requirement. A playground, or gathering structure, benches...etc., something to

provide 5% gathering space for the residents. Whatever you choose needs to be shown on the pre-plat.

16. I can't tell if you have the landscape berm required by MCC5-4-10-2 and MCC 5-4-10-6. If that common lot along Cemetery will serve as the required buffer, then put a little call-out note showing that it has a landscape buffer easement on it.
17. Will there be any phasing? If so, please create a phasing page.
18. Please change or add the following notes to the "Note" section:
 - a. Change Note 1 to state "building setbacks and dimension standards shall be in accordance with the Middleton city Code at the time of building permit issuance."
 - b. All streets proposed in this subdivision are public streets and shall be constructed in accordance with Middleton standards for public streets
 - c. Domestic and fire protection water shall be provided by the city of Middleton
 - d. Sanitary sewer collection shall be provided by the City of Middleton
 - e. Any re-subdivision of this plat shall comply with the applicable zoning regulations in effect at the time of the re-subdivision.
 - f. All existing wells shall be abandoned per IDWR regulations. All septic systems shall be completely removed and the area recompact per geotechnical report.
 - g. Sewer and Water capacity shall be reserved when City approves the construction drawings.
 - h. All lots are hereby designated as having a permanent easement for public utilities and pedestrian walkways over the 10' adjacent to any public right of way. This easement shall not preclude the construction of hard-surfaced driveways and walkways to each lot.
 - i. All lots contain a 10' wide easement adjacent to any rear lot line or subdivision boundary for public utilities.
 - j. All interior lot lines contain a 5' wide easement, each side, for public and private utilities, drainage and irrigation facilities.
19. Please type out a formal response to each comment explaining whether you agree to the change requests or why you disagree with the change request.

Sincerely,

Roberta L. Stewart

Middleton City Planner



Middleton Planning & Zoning Commission

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

In the Matter of the Request of Joseph Austin and David Sterling/T-O Engineers for Annexation/Rezone, Preliminary Plat, and Development Agreement with respect to the Willow Wood Estates Subdivision located at 0 Cemetery Road (Tax Parcel Nos. R37579011 and 3757901):

A. Findings of Fact:

1. Hearing Facts: See Staff Report for the hearing date of November 8, 2021, which Report is attached hereto as Exhibit "A" and incorporated herein by this reference.
2. Process Facts: See Staff Report for the hearing date of November 8, 2021 (Exhibit "A").
3. Application and Property Facts: See Staff Report for the hearing date of November 8, 2021 (Exhibit "A").
4. Required Findings per Middleton City Code 1-14-2(E)(7), Idaho State Statue Title 67, Chapter 65, and Title 50, Chapters 2 and 13; Idaho Standards for Public Works Construction, Middleton Supplement to the ISPWC; and Middleton City Code 1-14, 1-15, 5-1, 5-3, and 5-4: See Staff Report for the hearing date of November 8, 2021 (Exhibit "A").

B. Conclusions of Law:

1. That the City of Middleton shall exercise the powers conferred upon it by the "Local Land Use Planning Act of 1975," codified at Chapter 65, Title 67, Idaho Code (I.C. §67-6503).
2. That due consideration has been given to the comments received from the governmental subdivisions providing services in the City of Middleton planning jurisdiction, comments received from individuals of the public, and comments from City Planning Staff and City Engineer.
3. That notice of the application and public hearing was given according to law.
4. That Planning and Zoning Commission's public hearing was conducted according to law, and the City has kept a record of the application and related documents.
5. That codes and standards applicable to the application are the Idaho Standards for Public Works Construction, the Middleton Supplement to the Idaho Standards for Public Works Construction, and Middleton City Code 1-14, 1-15, 5-1, 5-2, 5-3, and 5-4 and Idaho Code Secs., 67-6503, 67-6513, 67-6511, 50-1301 through 50-1329 and 50-222.
6. That public facilities and services required by the proposed development will not impose expense upon the public if the attached conditions of approval are imposed.

7. That this recommendation is subject to the Conditions of Approval set forth in the attached Staff Report for the hearing date of November 8, 2021, which report is attached hereto as Exhibit "A" and incorporated herein by this reference.

C. Decision and Recommendation:

Pursuant to the Planning & Zoning Commission's authority as provided in Middleton City Code 1-5-5, and based upon the above Findings of Facts and Conclusions of Law, it is hereby recommended that:

1. City Council approve the application of Joseph Austin & David Sterling/T-O Engineering for Annexation and Rezone with respect to the Willow Wood Estates Subdivision subject to the conditions of approval set forth in the Staff Report for the November 8, 2021, public hearing on the matter. (Exhibit "A")
2. City Council approve the application of Joseph Austin & David Sterling/T-O Engineering for Development Agreement with respect to the Willow Wood Estates Subdivision subject to the conditions of approval set forth in the Staff Report for the November 8, 2021, public hearing on the matter. (Exhibit "A")
3. City Council approve the application of Joseph Austin & David Sterling/T-O Engineering for preliminary plat with respect to the Willow Wood Estates Subdivision subject to the conditions of approval set forth in the Staff Report for the November 8, 2021, public hearing on the matter. (Exhibit "A")

WRITTEN RECOMMENDATION APPROVED ON: November ____, 2021.

Ray Waltemate, Chairman
Planning and Zoning Commission

Attest:

Roberta Stewart
Planning and Zoning Department

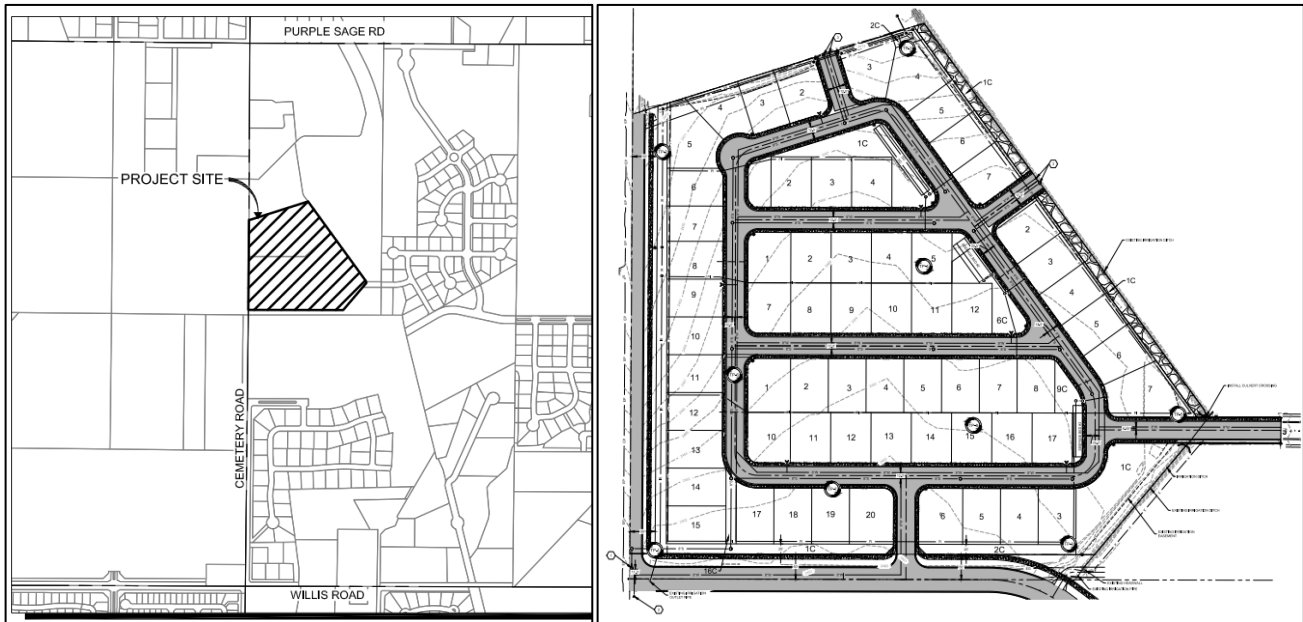


STAFF REVIEW AND REPORT

Middleton Planning and Zoning Commission

Willow Wood Estates Subdivision

Snapshot Summary



DESCRIPTION	DETAILS
Acreage	21 acres
Current Zoning	County Agricultural
Proposed Zoning	R-3 (Single Family Residential)
Current Land Use	Residential
Proposed Land Use	Residential
Lots	62 residential lots and 10 common lots.
Density	3.0 homes per acre
Open Space	5.00%
Amenities	Two large common lots with green space, tot lot, pathways and seating areas.

- A. **Planning & Zoning Commission Hearing Date:** November 8, 2021
- B. **Project Description:** Residential subdivision with 62 buildable lots and 10 common lots on 21 acres of vacant land located at 0 Cemetery Road (Tax Parcels Nos. R37579011 and R3757901). Amenities include two large common lots with greenspace, tot lot, seating areas, and meandering pathways.

- C. Application Requests:** Applicant has three applications: (1) annexation and rezone to R-3 zoning, (2) preliminary plat, and (3) Development Agreement.
- D. Current Zoning & Property Condition:** The property is currently located in the County and zoned Agricultural. The property to the east and south is within City limits and zoned R-3. The property on the north and west is County property and zoned Agricultural.
- E. City Services:** City water and sewer are located immediately west and south of the project and easily accessible to the project.



F. Traffic, Access & Streets:

Access to the subdivision is via Meadow Park Street and Explorer Street that connects to The Crossing at Meadow Parks.

Developer will be required to improve, at its own cost, the ½ road portions of Cemetery Road and Meadow Park Street. This requirement will be included in the Development Agreement.

Applicant completed a Traffic Study which is currently being updated. It will show percentage of impacts this subdivision will have on surrounding intersections, and Developer will be required to pay for those impacts via a proportionate share traffic fee that must be paid prior to final plat approval for phase 1. Again, this requirement will be set forth in the proposed Development Agreement.

- G. Pathway, Sidewalks & Open Space:** Developer has provided 5% open space in compliance with the code by providing large common lots containing meandering pathways, seating areas, and a tot lot.

- H. **Storm drain and Pressurized Irrigation:** Storm drain facilities and pressurized irrigation have been provided and are approved by the City Engineer.
- I. **Middleton Rural Fire District:** The subject property is in the Middleton Rural Fire District. The Fire District is backed up with review of Middleton, Canyon County and Star preliminary plats and has not had a chance to issue comments on this application.

This will not affect the P&Z Commission's ability to recommend approval of this application so long as the Commission makes compliance with future Fire District comments a condition of approval.

- J. **Annexation and Rezone:** Applicant is requesting that the entire 21 acre project parcel be annexed into the City of Middleton and rezoned to R-3 zoning, which permits three single family homes per gross acre.

There are three requirements for annexation approval: (1) the property must be contiguous to City limits (2) City sewer and water can be extended to serve the site, (3) the annexation is in the best interest of the City and not adverse to the public health and welfare.

As to a rezone request, the Commission must make two findings before approving such a request: (1) the rezone will not adversely affect the City's delivery of services and (2) the rezone request is in harmony with the Comprehensive Plan.

FINDINGS:

Planning Staff finds that Applicant's project meets all three of the annexation requirements. (1) The property is contiguous; (2) sewer and water are available as shown above, and (3) the City will benefit from the housing provided and street improvements that are made, and the project will not adversely affect the public health and welfare because City services can be provided efficiently and economically.

As to rezone, Planning Staff finds that the rezone will not adversely affect the City's ability to deliver services. And, as will be shown in more detail in section M below, Planning Staff finds that the rezone is in harmony with the City's Comprehensive Plan.

- K. **Preliminary Plat Application:** The preliminary plat shows two phases for development, and it complies with all Middleton codes and standards. The only exception from code is applicant's request to lower the code required turning radius of 125' to 90'. Both City Engineer and the Middleton Rural Fire Department have agreed that the 90' radius is an adequate and permissible turning radius.

- b. Developer shall, at its own cost, improve the 50' half-road portions of Cemetery Road and Meadow Park Street and dedicate the same to the City.
- c. Developer shall pay additional pro-rata or proportionate share fees for all traffic impacts and intersection controls affected by the subdivision.
- d. All construction shall be in compliance with R-3 zoning.
- e. If Developer does not bring phase 1 to final plat within 2 years of preliminary plat approval (or 3 years with a 1 year extension request), then the Developer will be in breach of contract, and City will have the option of terminating the Development Agreement. The preliminary plat will also become null and void, and the property will remain R-3 zoning.
- f. After final plat approval for Phase 1, Developer will obtain final plat approval for each successive phase within 2 years (or 3 years with a 1 year extension) of the final plat approval for the previous phase.

A copy of the proposed Development Agreement is attached as Exhibit "B".

- M. Comprehensive Plan & Land Use Map:** Applicant's project complies with the Comprehensive Plan Land Use Map because the project parcel is designated "Residential" on the Land Use Map, which matches the residential use planned for the site.

Additionally, Applicant's project complies with the *Goals, Objectives, and Strategies* of the 2019 Middleton Comprehensive Plan as follows:

- a. *Goals 3 and 23:* The project provides safe vehicle and pedestrian facilities in light of the street improvements and sidewalks shown on the preliminary plat.
- b. *Goal 4:* The project will establish a good quality of life with development that pays through impact fees and property taxes for the public services it receives when infrastructure is installed. Additionally, quality lots for residential use increase the quality of life and general welfare of the City.
- c. *Goals 11:* The housing type matches the residents' lifestyle in the area the project is located.

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

- O. Comments from Agencies:** Comments from Black Canyon Irrigation District were received on November 2, 2021. Black Canyon merely reminded applicant of piping requirements. Agency comments are attached as Exhibit "C".

- P. Comments from City Engineer and Planning Staff:**

Copies of Engineering and planning comments are attached as Exhibit "D".

- Q. Applicant Information:** Application was accepted on March 16, 2021. Applicants are Joseph Austin (Owner) and David Sterling/T-O Engineering. 2471 S. Titanium, Meridian ID 83642. (208) 323-2288.

R. Notices & Neighborhood Meeting:	Dates:
Newspaper Notification	10/24/2021
Radius notification mailed to Adjacent landowners within 300'	10/22/2021
Circulation to Agencies	10/22/2021
Sign Posting property	10/22/2021
Neighborhood Meeting	02/17/2021

S. Applicable Codes and Standards:

Idaho Standards for Public Works Construction, the Middleton Supplement to the Idaho Standards for Public Works Construction, Middleton City Code 1-14, 1-16, 5-1, 5-2, 5-3, and 5-4, an Idaho Code Secs., 67-6503, 67-6513, 67-6511, 50-1301 through 50-1329, and 50-222.

T. Conclusions and Recommended Conditions of Approval:

The Planning & Zoning Commission is tasked with considering the three applications for (1) Annexation/Rezone, (2) Preliminary Plat, and (3) Development Agreement and making recommendations to City Council for approval or denial of the applications.

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 parentheses. If the Commission agrees with those findings of facts and agrees with any of the testimony and evidence presented at the public hearing, the Commission need merely make a motion to accept those findings of facts.

As to Conclusions of Law, Planning Staff finds that the Planning & Zoning Commission has the authority to hear this application and to recommend approval or denial of the application. Additionally, Planning Staff notes that all public notice requirements were met. Planning Staff further set forth the portions of the Idaho State Code and Middleton Code to be considered in making a recommendation on the applications. If the November 8th public hearing is held and conducted in compliance with Idaho State Statute and the Middleton City Code, then the Commission may accept these conclusions of law by passing a motion to accept the conclusions of law set forth in the staff report and at the public hearing.

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

1. City of Middleton municipal domestic water, fire flow and sanitary sewer services are to be extended to serve the subdivision.
2. Owner/Developer shall construct, at its own cost, all frontage improvements to Cemetery Road and Meadow Park Street and dedicate the same to the City of Middleton.
3. Owner/Developer to pay all City required proportionate share traffic fees.
4. All City Engineer review comments are to be completed and approved.
5. All requirements of the Middleton Rural Fire District are to be completed and approved.
6. Sewer and water capacity to be reserved at the time City approves the construction drawings for the project.
7. All turning radii must be increased to at least 90'
8. Add note to preliminary plat that seating will be provided in tot lot area.

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

Prepared by Middleton Planner, Roberta Stewart

Dated: 11/2/2021

EXHIBIT “A”

Preliminary Plat under review

A PORTION OF LOT 2 OF SECTION 31
TOWNSHIP 5 NORTH, RANGE 2 WEST, BOISE MERIDIAN
CANYON COUNTY, IDAHO
2021



Diagram illustrating the cross-section of a street layout with various pavement and easement widths:

- 50.0' (Total width)
- 8.0' (Sidewalk width)
- 8.0' (SIDEWALK)
- 9.0' (Distance from sidewalk to right-of-way line)
- RW (Right-of-Way line)
- 24.0' TRAFFIC BUFFER EASEMENT
- 2' PLANT MIX PAVEMENT (ITEM 810.4.1.A.1)
- 6" OF CRUSHED AGGREGATE BASE TYPE 1, ITEM 802.4.1.A.1
- STANDARD 6" VERTICAL CURB AND GUTTER, ITEM 706.4.1.A.5

NO.		REVISIONS		BORDER SIZE	
		DESCRIPTION	DATE	22"x34"	DESIGNED
					P. LUCIA
					DRAWN
					P. LUCIA
					CHECKED
					D. STERLING
					APPROVED
					D. STERLING

PRELIMINARY PLAT FOR:
WILLOW WOOD SUBDIVISION
UTILITY PLAN

PRELIMINARY PLAT FOR:

WILLOW WOOD SUBDIVISION
UTILITY PLAN

C0.01

NOTES

1. ALL WATER MAINLINES ARE TO BE 8" IN DIAMETER UNLESS OTHERWISE NOTED.
2. ALL SEWER LINES ARE TO BE 8" IN DIAMETER UNLESS OTHERWISE NOTED.
3. ALL STORM WATER DRAINAGE LINES ARE TO BE 12" IN DIAMETER
4. PRESSURIZED IRRIGATION TO BE PROVIDED BY A PROPOSED PUMP STATION LOCATED IN LOT 2 BLOCK 3.
5. EXISTING TOPOGRAPHIC SURVEY BY T-O ENGINEERS (JANUARY 2021).
6. A BLANK CONDUIT SHALL BE ADDED TO JOINT TRENCH FOR CITY REQUIRED FIBER OPTICS.

NOTES

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5. EXISTING TOPOGRAPHIC SURVEY BY T-O ENGINEERS (JANUARY 2021).
6. A BLANK CONDUIT SHALL BE ADDED TO JOINT TRENCH FOR CITY REQUIRED FIBER OPTICS.

EXHIBIT “B”

Proposed Development Agreement

After Recording, mail to
Middleton City Administrator
1103 W. Main St.
Middleton, ID 83644

DEVELOPMENT AGREEMENT

This Development Agreement (**Agreement**) is entered into by and between the CITY OF MIDDLETON, a municipal corporation in the State of Idaho (**City**); and Joseph L. Austin and Deborah Austin, husband and wife, referred to hereafter as Developer (**Developer**).

RECITALS

WHEREAS, Developer owns approximately 21 acres of real property located at 0 Cemetery Road (Tax Parcel Nos. R3757901 and R37579011, Middleton, Canyon County, Idaho, legally described in Exhibit A attached hereto and incorporated herein by this reference (**Property**); and

WHEREAS, Developer intends to improve the Property (also known as Willow Wood Estates Subdivision) according to the Middleton City Code and the City's public works standards at the time(s) the Property is improved; and

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

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in consideration of the recitals above, which are incorporated below, and the mutual covenants, representations, and

Development Agreement – _____

performances herein bargained for, relied on, and expected, the parties agree as follows:

ARTICLE I LEGAL AUTHORITY

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

ARTICLE II ANNEXATION AND ZONING ORDINANCE

The City will adopt an ordinance to annex and rezone the Property from Canyon County Agricultural to City of Middleton R-3 (Single Family Residential). The Ordinance will become effective after it is approved, signed, published and recorded according to law, all of which actions the City will perform at the city's expense and with the Developer's cooperation.

ARTICLE III CONDITIONS OF DEVELOPMENT

3.1 Applications. Developer will develop the Property subject to the conditions and limitations set forth in this Development Agreement. Further, Developer shall submit such applications regarding preliminary plat and final plat reviews, and/ or any special use permits, if applicable, and any other applicable applications as may be required by the Middleton City Code, which shall comply with the Middleton City Code, as it exists at the time such applications are made except as otherwise provided within this Development Agreement.

3.2 Concept Plan. The Concept Plan attached hereto as Exhibit "B" represents Developer's current concept for completion of the project. Developer shall be bound by this Concept Plan and shall develop the project substantially consistent with the Concept Plan.

3.3 Frontage Improvements. Developer shall, at its own cost, improve the fifty foot (50') half-road portions of Cemetery Road and Meadow Park Street per City standards and codes and dedicate the same to the City.

3.2 Proportionate Share Fees: Developer shall pay City required traffic proportionate share fees in the amount of _____ dollars (\$_____) prior to final plat approval for Phase 1. Payment of the proportionate share fees will be a condition of approval for Phase 1 final plat.

3.3 Final Plat Deadline & Termination of Agreement. Developer shall obtain City Engineer's signature on the final plat for Phase 1 within two years of the

Development Agreement – _____

date the preliminary plat is approved. Upon written request prior to the expiration of said two year period, Developer may apply administratively with a written request for a one year extension to obtain City Engineer's signature on the Phase 1 final plat. Notwithstanding the provisions in Article IV, if Developer does not obtain the City Engineer's signature on the Phase 1 final plat within two years of the date the preliminary plat is approved or within the time-period of a one year extension, then Developer will be in material breach of this Agreement. Additionally, the preliminary plat shall become null and void. The City, after complying with the notice and hearing requirements contained in the Middleton City Code and Idaho State Code, may then choose to extend, modify, or terminate this Agreement. The City may initiate the foregoing proceedings and may do so at any time following a material breach hereof. Termination of this Agreement shall not affect the zoning that is in place at the time of the termination, and the zoning for the Property shall remain R-3. No delay in initiating proceedings to extend, modify, or terminate this Agreement following a material beach by Developer shall constitute a waiver of said breach.

3.4 Two Year intervals for Final Plat. After final plat approval for Phase 1, Developer shall be required to obtain the City Engineer's signature on each phase's final plat within two years of final plat approval on the previous phase. Upon written request prior to the expiration of said two-year period, Developer may apply administratively with a written request for a one year extension to obtain City Engineer's signature on the final plat under consideration. If Developer does not timely apply for a one-year extension or does not subsequently obtain the Engineer's signature on the final plat within the one year extension time period, then the preliminary plat for said phase and all subsequent phases shall become null and void, and Developer must resubmit the preliminary plat for said phases in order to continue to develop the Property.

ARTICLE IV FAILURE TO COMPLY WITH AGREEMENT

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

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

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

4.2 If after a breach, the City Council determines that the zoning should remain R-3, or as otherwise provided in the Idaho Code, then the Developer hereby consents to such reversion or other action and will cease uses not allowed or permitted in the R-3 zone.

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

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

ARTICLE V GENERAL PROVISIONS

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

5.2 Any amendment or addendum to this Agreement shall be in writing and made only after the City has complied with the notice and hearing provisions of Idaho Code §67-6509 and Middleton City Code Title 5, Chapter 2.

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

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

Developer: _____

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

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

5.6 Each commitment and restriction described in this Agreement shall be a burden on the Property and run with the land and shall be appurtenant to and for the benefit of the Property, adjacent property and other residential land near the Property.

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

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

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

5.8 If any term, provision, commitment or restriction of this Agreement or the application thereof to any party or circumstance shall to any extent be held invalid

or unenforceable, the remainder of this instrument shall remain in full force and effect.

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

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

Dated this ____ day of _____, 2021 and effective upon annexation and rezoning of the Property.

CITY OF MIDDLETON

ATTEST

By: _____
Steven J. Rule, Mayor

By: _____
Becky Crofts, City Clerk

State of IDAHO)
 ss.
County of Canyon)

I, a notary public, do hereby certify that on this _____ day of _____, 2021, personally appeared before me Steven J. Rule, who declared that he is the Mayor of the City of Middleton, Idaho and signed this Development Agreement as Mayor of the City of Middleton.

Notary Public
My Commission Expires: _____

[Signatures on following page]

JOSEPH L. AUSTIN

State of Idaho)
 ss.
County of _____)

I, a notary public, do hereby certify that on this ___ day of _____, 2021, personally appeared before me Joseph L. Austin, who declared that he signed this Development Agreement in the capacity of Developer and Owner of the Willow Wood Estates Subdivision.

Notary Public
My Commission Expires: _____

DEBORAH R. AUSTIN

State of Idaho)
 ss.
County of _____)

I, a notary public, do hereby certify that on this ___ day of _____, 2021, personally appeared before me Deborah R. Austin, who declared that she signed this Development Agreement in the capacity of Developer and Owner of the Willow Wood Estates Subdivision.

Notary Public
My Commission Expires: _____

EXHIBIT “C”

Agency Comments

From: [Carl Hayes](#)
To: [Roberta Stewart](#)
Subject: Willow Wood Estates Subdivision
Date: Tuesday, November 2, 2021 2:48:42 PM
Attachments: [image001.png](#)

Standard piping requirements apply as this project borders the C-East 18.1-3.4 Lateral.

Thank you,



Carl Hayes

Black Canyon Irrigation District
Manager

Office: 208-459-4141 ext. 1

Cell: 208-941-8026

EXHIBIT “D”

City Engineer & Planner Comments



October 15, 2021

TO: Roberta Stewart, Planner
Cc: T-O Engineers, David Sterling, PE

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

RE: Willow Wood Estates Subdivision – Revised Preliminary Plat

Thank you for the opportunity to review the above referenced preliminary plat submittal. We are in receipt of two pages, both stamped and sealed by David N. Sterling, PE, 13063 ID, dated July 30, 2021.

MCC 5-4-4.2.b. Please add Preliminary Plat and information to top of C0.01.

MCC 5-4-4.2.j. Please add existing zoning information for adjacent parcels.

Revise Note 5 to reference Idaho Code and the irrigation district. Dimension irrigation easements (all), dimension common lots. Please identify and detail the easement for the irrigation/drainage facility along the east boundary.

Please add a note detailing all irrigation and/or drainage to be relocated out of rights of way.

Add street names to C0.01.

Extend 16" water main in Cemetery to north project limits. Terminate with hydrant.

Please extend the 8 inch sewer main at the end of Sumac Ave to the Cemetery right of way.

Revisit streetlight location – streetlights required every 400 ft.

Revise stormwater management to retention facilities.

The boundary is required to be surveyed and section corners referenced. Topography needs to be shown – utilities, irrigation, adjacent. Contours alone are not topography.

Add centerline radii and intersection radii, dimension rights of way.

There are multiple text/line/drafting conflicts that need to be corrected.

The traffic buffer on Cemetery and Meadow Park is required to be 24 ft

Add typical section for Meadow Park Street. Local structural section is 3/6/15.

Please show the location of the driveway to the west.

The intersection at Timberwood is atypical and needs to be revisited

Verify the spelling of Sweeney name.

Revise Note 3. Only utilities and access for front lot easement.

C0.01.

- Keynote 1, Keynote 2 - connection to "Estates at Meadowpark"
- Note 1. Add "unless otherwise noted"
- Note 2. Add "unless otherwise noted"



CITY OF MIDDLETON

P.O. Box 487, 1103 W. Main St., Middleton, ID 83644
208-585-3133 Fax (208) 585-9601
citmid@middletoncity.com
www.middleton.id.gov

October 4, 2021

Planner Comments Willow Wood Estates Subdivision – Pre-Plat dated 7/29/2021

1. Please send copy of the agreement showing you have right to control (or own) 9th Street Right of way, proving that you will be able to improve and dedicate the Right of Way upon completion of construction.
2. Does the current annexation legal description and sketch include the 9th Street Right of Way? How is that going to be handled?
3. The Traffic Study indicates that this 63 lot subdivision has no material effect on any nearby intersections, removing the need to collect proportionate share dues. We need to get Amy Woodruff's opinion on that conclusion.
4. Missing a landscape plan
5. Need to show perimeter fence around entire subdivision. Either show it on the pre-plat or add it to the landscape plan.
6. Change name of Redbud Street to Redbud Avenue since it is a north/south roadway.
7. Add note to the "Notes" section stating that L16/B1 is a private drive. Also note that it has a public easement applied to the entire drive. Finally, put an additional call-out note regarding the easement next to the drive on the pre-plat.
8. Block 1, Lots 7, 8 and 9 need widened to 75'
9. Block 1, Lot 4; Block 2, Lots 3 and 4; Block 3 Lots 6 & 7 need notations to show they are at least 75' wide at the 25' setback line.
10. L7/B1 size needs to be increased to 8000.
11. You are a little over the density allowed, but it is by just a hair so we're inclined to overlook it. But, you have multiple lots that don't have enough frontage width or minimum size. If you can't get these deficient lots to meet the minimum code standards, then you may have to remove a lot from the plat to make more room. If you can get all lots to meet minimum dimensional standards, then I don't think the City will mind that you are a "touch" over the density allowed. Up to you.
12. I can't find the following common lots on the plat: L8/B3 and L13/B4. Please remove notation and renumber lots or show me where they are.
13. What is planned for the little landlocked parcel L2C/Block 2? Why is that parcel there?
14. Show mailbox clusters on the pre-plat
15. You are overstating your open space. When I count the 3 large common lots together, it is a little over an acre, which may get you to 5%. One of the 3 common lots may not really be sufficient to deem "Open Space" in the spirit of the Code, but we can try. We cannot include the landscape buffers and smaller endcap buffers in the open space count. They do not meet the spirit of the "Open Space" code. If you add an amenity on one of the bigger common lots, that will help create the sense of meeting the 5% open space requirement. A playground, or gathering structure, benches...etc., something to

provide 5% gathering space for the residents. Whatever you choose needs to be shown on the pre-plat.

16. I can't tell if you have the landscape berm required by MCC5-4-10-2 and MCC 5-4-10-6. If that common lot along Cemetery will serve as the required buffer, then put a little call-out note showing that it has a landscape buffer easement on it.
17. Will there be any phasing? If so, please create a phasing page.
18. Please change or add the following notes to the "Note" section:
 - a. Change Note 1 to state "building setbacks and dimension standards shall be in accordance with the Middleton city Code at the time of building permit issuance."
 - b. All streets proposed in this subdivision are public streets and shall be constructed in accordance with Middleton standards for public streets
 - c. Domestic and fire protection water shall be provided by the city of Middleton
 - d. Sanitary sewer collection shall be provided by the City of Middleton
 - e. Any re-subdivision of this plat shall comply with the applicable zoning regulations in effect at the time of the re-subdivision.
 - f. All existing wells shall be abandoned per IDWR regulations. All septic systems shall be completely removed and the area recompact per geotechnical report.
 - g. Sewer and Water capacity shall be reserved when City approves the construction drawings.
 - h. All lots are hereby designated as having a permanent easement for public utilities and pedestrian walkways over the 10' adjacent to any public right of way. This easement shall not preclude the construction of hard-surfaced driveways and walkways to each lot.
 - i. All lots contain a 10' wide easement adjacent to any rear lot line or subdivision boundary for public utilities.
 - j. All interior lot lines contain a 5' wide easement, each side, for public and private utilities, drainage and irrigation facilities.
19. Please type out a formal response to each comment explaining whether you agree to the change requests or why you disagree with the change request.

Sincerely,

Roberta L. Stewart

Middleton City Planner