



Middleton Planning & Zoning Commission

Findings of Facts, Conclusions of Law & Recommendation

In the Matter of the application of Richard Porter and Tradition Capital Partners, LLC for Development Agreement Modification with respect to two parcels totaling 115 acres located at 0 Hwy 44 (Tax Parcels nos. R33938013 and R33938011):

A. Findings of Fact:

1. Hearing Facts: See Staff Report for the hearing date of February 12, 2024, 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 February 12, 2024, Exhibit "A".
3. Application and Property Facts: See Staff Report for the hearing date of February 12, 2024, Exhibit "A".
4. Required Findings per Idaho State Statute Title 67, Chapter 65, and Middleton City Code 1-14, 1-15, 5-1, 5-2, 5-3 & 5-4: See Staff Report for the hearing date of February 12, 2024, Exhibit "A".

B. Conclusions of Law:

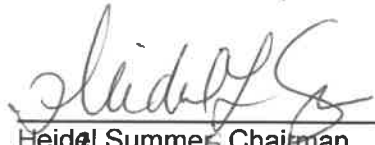
1. That the City of Middleton has exercised the powers conferred upon it by the "Local Land Use Planning Act of 1975," codified at Chapter 65, Title 67, Idaho Code (I.C. §67-6503).
2. That due consideration has been given to the comments received from the governmental subdivisions providing services in the City of Middleton planning jurisdiction, comments received from individuals of the public, and comments from City Planning Staff.
3. That notice of the application and public hearing was given according to law.
4. That the Planning and Zoning Commission's public hearing was conducted according to law, and the City has kept a record of the application and related documents.
5. That codes and standards pertinent to the application are Idaho State Statute Title 67, Chapter 65, and Middleton City Code 1-14, 1-15, 5-1, 5-2, 5-3 & 5-4.

C. Decision & Recommendation:

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

1. City Council approve the application of Richard Porter and Tradition Capital Partners, LLC for Development Agreement Modification.

WRITTEN RECOMMENDATION APPROVED ON: 5/25, 2024.


Heidi Summer, Chairman
Planning and Zoning Commission

Attest:


Roberta Stewart
Planning and Zoning Official

Please take notice that pursuant to MCC 1-14-2(E)(10), applicant shall have 14 days after a signed final decision to request reconsideration by the final-decision maker. Such request must identify specific deficiencies in the final decision. Failure to request reconsideration may invalidate a subsequent judicial appeal. Additionally, pursuant to Idaho State Statute 67-6521, any affected person aggrieved by a final decision may, within 28 days after all remedies have been exhausted under local ordinances, seek judicial review as provided in chapter 52, Title 67.

Additionally, please take notice that Applicant has a right to request a regulatory taking analysis pursuant to Idaho State Statute section [67-8003](#).

EXHIBIT A



STAFF REVIEW AND REPORT

Middleton Planning & Zoning Commission

River Walk Crossing Subdivision

Development Agreement Modification Application



- A. Project and Application Requests:** The River Walk Crossing Subdivision was approved by City Council in October 2021. It involves 36 commercial lots, 80 patio home lots, and 81 luxury home lots zoned R-2 (minimum lot size 21,780 sf). Most of the R-2 lots back up to shared lakes/ponds. The setbacks for the R-2 homes are 25' on the side and 25' on the front.

Developers have constructed Phase 1, which involves a large hotel site, restaurant site, commercial lots and 33 residential R-2 home lots. Developer obtained final plat approval for Phase 1 in December 2023. Developer is now seeking to obtain building permits for the R-2 residential lots; however, Developer is finding that the large custom style homes are not fitting well on the R-2 lots because of the expansive 25' setbacks on the side and front.

Developer is requesting that the Development Agreement be modified to allow narrower setbacks on the front and sides. Specifically, Developer is requesting the R-2 front setback of 25' be reduced to 20'. Developer also requests that the interior and street side setbacks be reduced from 25' to 10'. Developer is not making any request with respect to the rear setback.

- B. 1st Amendment to Development Agreement:** The proposed 1st Amendment to Development Agreement is attached as Exhibit "A". It sets forth language regarding setbacks as follows:

***"3.27 Setbacks for R-2 Zone:** The front setback for single family homes located in the R-2 zone shall be a minimum of twenty feet (20'). The interior side setback and street side setback shall be a minimum of ten feet (10')."*

The governing bodies are not required to make specific findings regarding criteria or standards before approving or denying a Modified DA request. Instead, the governing bodies need merely determine if they want to agree to the proposed amendment to the Development Agreement.

[See Exhibit "A".]

- C. Comments Received from Surrounding Landowners:** None.
- D. Comments from Agencies:** Agency comments attached as Exhibit "B".
- E. Comments from City Engineer & Planning Staff:** None.
- F. Applicant Information:** Representative Stephanie Hopkins of KM Engineering. 5725 N. Discovery Way, Boise ID 83713.

G. Notices & Neighborhood Meeting:	Dates:
Newspaper Notification	01/28/2024
Radius notification mailed to Adjacent landowners within 300'	01/24/2024
Circulation to Agencies	01/24/2024

Sign Posting property 01/24/2024

Neighborhood Meeting 01/16/2024

H. Applicable Codes and Standards:

Idaho State Statute Title 67, Chapter 65 and Title 50, Chapters 2 and 13, 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.

I. Conclusions and Recommended Conditions of Approval:

The Planning and Zoning Commission is tasked with making a recommendation to City Council to approve (with or without conditions) or deny applicant's Development Agreement Modification application.

As to Findings, none required per Idaho State Code or Middleton City Code.

As to Conclusions of Law, Planning Staff finds that the Commission has the authority to hear these applications in order to recommend approval or denial to the City Council. Planning Staff further finds that legal notice was given appropriately and according to law. Finally, the pertinent codes and standards have been set forth above.

If the Planning & Zoning Commission is inclined to recommend approval of the application, Planning Staff does not have any recommended conditions of approval.

EXHIBIT "A"

Proposed 1st Amendment to Development Agreement

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

**FIRST AMENDMENT TO DEVELOPMENT AGREEMENT
(River Walk Crossing Subdivision)**

This First Amendment to Development Agreement (“First Amendment”) is made and entered into this ___ day of _____, 20__ by and between the CITY OF MIDDLETON, a municipal corporation in the State of Idaho (**City**); and TRADITION CAPITAL PARTNERS LLC, an Idaho Limited Liability Company, HESS PROPERTIES LLC, an Idaho Limited Liability Company, WATKINS PROPERTIES LP, an Idaho Limited Partnership and RICHARD A. PORTER, an individual (hereinafter referred to collectively as “**Owner**”).

RECITALS

WHEREAS, Owner owns approximately 115 acres of real property located at 0 Hwy 44 (Tax Parcel Nos. R33938013 and R33938011), Middleton, Canyon County, Idaho, legally described in Exhibit A attached hereto and incorporated herein by this reference (**Property**); and

WHEREAS, Developer submitted applications for Annexation/Rezone, Development Agreement, and Preliminary Plat for the River Walk Crossing Subdivision (**Project**), which applications were approved by the Middleton City Council following a public hearing on October 6, 2021.

WHEREAS, the Development Agreement was fully-executed and recorded in the records of Canyon County Recorder’s Office as Instrument #2023-019842.

WHEREAS, Developer has submitted an application for Development Agreement Modification, thereby seeking approval of this First Amendment to Development Agreement.

**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
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 hereby agree as follows:

1. *Article III Conditions of Development* shall be amended to add Paragraph 3.27 as follows:

***“3.27 Setbacks for R-2 Zone:** The front setback for single family homes located in the R-2 zone shall be a minimum of twenty feet (20’). The interior side setback and street side setback shall be a minimum of ten feet (10’).”*

2. **City Council Adoption.** The Middleton City Council hereby adopts this First Amendment to Development Agreement pursuant to Middleton City Code 5-2-5.
3. **Effect of Amendment.** In the event of a conflict between the Development Agreement and this First Amendment thereto, the terms of this First Amendment shall govern. The terms of the Development Agreement, as modified by this First Amendment, shall continue in full force and effect.

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

[Signatures on Following Pages]

CITY OF MIDDLETON

ATTEST

By: _____

Jackie L. Hutchinson, 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 _____, 2024, personally appeared before me Jackie L. Hutchinson, who declared that she 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: _____

TRADITION CAPITAL PARTNERS LLC:

By: _____

State of IDAHO)

ss.

County of _____)

I, a notary public, do hereby certify that on this _____ day of _____, 2024, personally appeared before me _____, who, being first duly sworn, declared that he is the _____ for Tradition Capital Partners LLC and signed on behalf of Tradition Capital Partners LLC.

Notary Public
My Commission Expires: _____

HESS PROPERTIES LLC:

By: _____

State of IDAHO)

ss.

County of _____)

I, a notary public, do hereby certify that on this _____ day of _____, 2024, personally appeared before me _____, who, being first duly sworn, declared that he is the _____ for Hess Properties LLC and signed on behalf of Hess Properties LLC.

Notary Public

My Commission Expires: _____

RICHARD A. PORTER:

State of IDAHO)

ss.

County of _____)

I, a notary public, do hereby certify that on this _____ day of _____, 2024, personally appeared before me Richard A. Porter, who being first duly sworn, declared that he is the signatory on this document.

Notary Public
My Commission Expires: _____

WATKINS PROPERTIES LP:

By: _____

State of IDAHO)

ss.

County of _____)

I, a notary public, do hereby certify that on this _____ day of _____, 2024, personally appeared before me _____, who, being first duly sworn, declared that he is the _____ for Watkins Properties LP and signed on behalf of Watkins Properties LP.

Notary Public

My Commission Expires: _____

EXHIBIT "A"

Legal Description

EXHIBIT "B"
Agency Comments

From: [Niki Benyakhlef](#)
To: [Roberta Stewart](#)
Subject: RE: Agency Notice - River Walk Crossing Subdivision - DA Modification
Date: Friday, February 2, 2024 12:22:22 PM
Attachments: [image001.png](#)

Hello Roberta –

After careful review of the transmittal submitted to ITD on January 24, 2024 regarding River Walk Crossing Subdivision – DA Modification, the Department has no comments or concerns to make at this time. The proposed setbacks will not affect transportation on state facilities.

Thank you,



Niki Benyakhlef
Development Services Coordinator

District 3 Development Services
O: 208.334.8337 | C: 208.296.9750
Email: niki.benyakhlef@itd.idaho.gov
Website: itd.idaho.gov

From: Roberta Stewart <rstewart@middletoncity.com>
Sent: Wednesday, January 24, 2024 3:28 PM
To: akrantz@msd134.org; MStowell@ccparamedics.com; gis@compassidaho.org; deann.gerthung@canyoncounty.id.gov; MYbarguen@idahopower.com; D3 Development Services <D3Development.Services@itd.idaho.gov>; gmpdjulie@gmail.com; lgrooms@msd134.org; mgee@msd134.org; permits@starfirerescue.org; monica.taylor@intgas.com; Mitch.Kiester@phd3.idaho.gov; westerninfo@idwr.idaho.gov; zoninginfo@canyoncounty.id.gov; Iriccio@canyonhd4.org; chopper@canyonhd4.org; bryce@sawtoothlaw.com; irr.water.3@gmail.com; canyoncountywater@gmail.com; Jamie.macleod@sparklight.biz
Subject: Agency Notice - River Walk Crossing Subdivision - DA Modification

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Hello All: attached is the agency notice for a request to change the setbacks in Zone R-2 for the River Walk Crossing Subdivision. The application packet is attached for your convenience.

Roberta L. Stewart

PLANNING & ZONING OFFICIAL
City of Middleton, Planning & Zoning
1103 W. Main St.