



## **Middleton Planning & Zoning Commission**

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

---

**In the Matter of the application for amendment to Middleton City Code Section 05-04-04 regarding school capacity and preliminary plat criteria for approval (Ordinance 693):**

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

1. The Planning & Zoning Commission determined that the Idaho State Constitution guarantees all Idaho students an education in a “general, uniform, and thorough system of public, free common schools.” (Article IX, Section 1).
2. Two schools in the Middleton School District 134 are already over 100% capacity and other schools in the school district are nearing capacity, which is adversely affecting the quality of education for students in the Middleton School District.
3. The Idaho State Legislature has been remiss in its duty to address this constitutional guarantee, forcing the City of Middleton to address the issue of providing a good education to Middleton students.
4. Hearing Facts: See presentation for the hearing date of March 25, 2024, which presentation is attached hereto as Exhibit “A” and incorporated herein by this reference.
5. Process Facts: See Planning Staff Report for the hearing date of March 25, 2025, which report is attached hereto as Exhibit “B” and incorporated herein by this reference.
6. Application Facts: See Planning Staff Report for the hearing date of March 25, 2024, Exhibit “B”.
7. Required Findings per Idaho State Statute Title 67, Chapter 65, Idaho State Constitution, Article 1, Section 1, Middleton City Code 1-14, 1-15, 5-1, 5-2, 5-3 & 5-4: See Staff Report for the hearing date of March 25, 2024, Exhibit “B”.

#### **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. §67-6513).
2. That the Idaho State Constitution and attendant case law guarantee all Idaho students a safe environment conducive to learning.
3. 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.

4. That notice of the application and public hearing was given according to law.
5. 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.
6. That codes and standards pertinent to the application are Idaho State Statute Title 67, Chapter 65, Idaho State Constitution, Article 1, Section 1, 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 City Council approve Ordinance 693.

WRITTEN RECOMMENDATION APPROVED ON: 4/8, 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

## **ARTICLE IX – EDUCATION AND SCHOOL LANDS**

**SECTION 1. LEGISLATURE TO ESTABLISH SYSTEM OF FREE SCHOOLS.** The stability of a republican form of government depending mainly upon the intelligence of the people, it shall be the duty of the legislature of Idaho, to establish and maintain a general, uniform and thorough system of public, free common schools.

In 2003, the Legislature passed HB 403, which imposed various restrictions on lawsuits related to school funding. In *ISEEO IV*, this Court affirmed the district court's determination that HB 403 was unconstitutional. *See Idaho Schs. For Equal Educ. Opportunity v. State*, 140 Idaho 586, 97 P.3d 453 (2004) (*ISEEO IV*). All other issues having been resolved, this appeal finally addresses the district court's 2001 Findings and the court's final determination that the current state "system based upon loans alone is not adequate to meet the constitutional mandate to establish and maintain a general, uniform, and thorough system of public, free common schools in a 'safe environment conducive to learning' for Idaho's poorest school districts." We agree with this conclusion.

*Dist. No. 66 v. Bishop*, 877 P.2d 806, 816 (1994). Nevertheless, we observe that legislatures of other states grappling with this same issue have come up with a number of alternatives to assist school districts in providing a safe environment conducive to learning. These alternatives simply demonstrate that there are options available to assist school districts, and are no way intended as this Court's direction to the Legislature on its further responsibilities. Reducing the majority necessary to pass a bond; allowing taxpayers to designate a portion of their income tax refund to cover repairs of school facilities (*see* Haw. Rev. Stat. § 235-102.5); funding school facilities out

A growing Treasure Valley school district is pushing a familiar approach to address enrollment increases: impact fees.

The Kuna School District wants the authority to impose impact fees to pay for new schools, [the Idaho Press reported Sunday](#). Other government entities can collect fees on new residential development, but schools are not allowed to do so.

“Currently, we do not have a mechanism for growth to pay for growth,” district budget and finance manager Adam Bell told Jordan Erb of the Idaho Press. “This allows for housing coming into the community – that’s impacting our community and adding to our school numbers – to pay a portion of their fair share without it financially overburdening the current taxpayers.”



# Overcrowded Middleton school using hallways and teachers' lounge for instruction

Sadie Dittenber | 07/28/2022



## **Growth impacts the district, and it isn't expected to slow down soon**

Middleton's most recent elementary school, Purple Sage, opened in 2003. Since then, the district has gained 514 elementary students for a total of 1,638 last school year.

Middleton is not expecting growth to slow.

The district contracted with Davis Demographics in 2021 to analyze Middleton's demographic data in preparation for future plans. The Davis study projects an added 250 elementary students will join the district by fall 2028 – a 15.5% increase from 2022.

The growth isn't just affecting Mill Creek. Heights, the second of three Middleton elementary schools, hit 127% capacity last spring, according to the study. Heights uses two portables, but cannot currently put any more on the property.



TITLE 67  
STATE GOVERNMENT AND STATE AFFAIRS

CHAPTER 65  
LOCAL LAND USE PLANNING

67-6513. SUBDIVISION ORDINANCE. Each governing board shall provide, by ordinance adopted, amended, or repealed in accordance with the notice and hearing procedures provided under section 67-6509, Idaho Code, for standards and for the processing of applications for subdivision permits under sections 50-1301 through 50-1329, Idaho Code. Each such ordinance may provide for mitigation of the effects of subdivision development on the ability of political subdivisions of the state, including school districts, to deliver services without compromising quality of service delivery to current residents or imposing substantial additional costs upon current residents to accommodate the proposed subdivision. Fees established for purposes of mitigating the financial impacts of development must comply with the

3. Proposed Utility Methods:

...

e. School Capacity: A signed statement from any school district in which the subdivision is located verifying that the proposed subdivision, upon completion, shall not cause or contribute to the Total Service Obligation of any public school that will be serving the subdivision to exceed one hundred and ten percent (110%) Capacity of such school, except as follows:

i. Small Developments: The foregoing capacity verification shall not be required for subdivisions where the total number of lots is fewer than five (5). A developer

shall not be permitted to avoid the obligations of this Subsection (e) by artificially partitioning a large development into smaller developments.

ii. Infill Developments: The foregoing capacity verification shall not be required for subdivision where the total number of lots is fewer than ten (10), and such subdivision is an infill subdivision, which shall mean any proposed subdivision that is immediately adjacent, on at least three sides, to the municipal boundaries of the City of Middleton, and which is also entirely within the municipal boundary of the City of Middleton.

As used in this subsection (e), each school's "Capacity" shall be determined based upon the total of the actual capacity of such primary school facility added to the actual capacity of any permanent structures used to house students at said school facility. Actual capacity of common areas (restrooms, lunchrooms, libraries, and similar spaces) shall be taken into account when determining the actual capacity of additional permanent structures used to house students at a school facility.

As used in this subsection (e), Total Service Obligation shall be calculated by adding the total number of built and buildable lots (including lots in all phases of any subdivision that has obtained preliminary plat approval) within the area served by such school together with the total number of buildable lots located within the proposed subdivision, and multiplying said number by the Student-Per-EDU-Number.

As used in this subsection (e), Student-Per-EDU-Number means that number, calculated annually by the school districts and acknowledged by the City Council, which is the average number of students expected from each residential dwelling unit built or existing within said school district. There shall be a Student-Per-EDU-Number calculated for each category of students (elementary students, middle school students, and high school students). School districts shall use a reasonable and substantiated method for determining the Student-Per-EDU-Number.

EXHIBIT B



STAFF REVIEW AND REPORT  
Middleton Planning & Zoning Commission

**Proposed Amendment to Middleton City Code 5-4-4  
(Ordinance 693)**



**A. P&Z Commission Public Hearing Date:** March 25, 2024

**B. Application Request:** Request from City of Middleton for amendment to Middleton City Code section 5-4-4 regarding the preliminary plat process. During the past few years, MCC 5-4-4 requirements for a preliminary plat pertained to only technical data such as paper size, scale, survey data...etc. On March 6, 2024, City Council approved Ordinance 689 to add additional criteria to consider before approving a preliminary plat application. Specifically, Ordinance 689 set forth a requirement for the governing boards to consider (1) whether the preliminary plat is in harmony with the Comp Plan and City Transportation Plan, (2) whether there is sufficient sewer and water capacity to serve the project, and (3) whether historic, scenic or natural sites are preserved appropriately.

Proposed Ordinance 693 will add one more criteria to satisfy before a preliminary plat can proceed to approval. It pertains to the application submittal process. The applicant must provide in their initial application packet a letter from the School District indicating that the schools serving the development are not above 110% capacity. If the letter is not in the submittal packet, then City planning staff cannot intake the application, and the application will not be processed in any way. This requirement will not pertain to small developments with fewer than 5 lots or infill projects with fewer than 10 lots.

Section A of MCC 5-4-4 states what items must be in the application packet. Subsection A(3) would be changed to add (e) as follows:

“ ...

e. School Capacity: A signed statement from any school district in which the subdivision is located verifying that the proposed subdivision, upon completion, shall not cause or contribute to the Total Service Obligation of any public school that will be serving the subdivision to exceed one hundred and ten percent (110%) Capacity of such school, except as follows:

i. Small Developments: The foregoing capacity verification shall not be required for subdivisions where the total number of lots is fewer than five (5). A developer shall not be permitted to avoid the obligations of this Subsection (e) by artificially partitioning a large development into smaller developments.

ii. Infill Developments: The foregoing capacity verification shall not be required for subdivision where the total number of lots is fewer than ten (10), and such subdivision is an infill subdivision, which shall mean any proposed subdivision that is immediately adjacent, on at least three sides, to the municipal boundaries of the City of Middleton, and which is also entirely within the municipal boundary of the City of Middleton.

As used in this subsection (e), each school’s “Capacity” shall be determined based upon the total of the actual capacity of such primary school facility added to the actual capacity of any permanent structures used to house students at said school facility. Actual capacity of common areas (restrooms, lunchrooms, libraries, and similar spaces) shall be taken into account when determining the actual capacity of additional permanent structures used to house students at a school facility.

As used in this subsection (e), Total Service Obligation shall be calculated by adding the total number of built and buildable lots (including lots in all phases of any subdivision that has obtained preliminary plat approval) within the area served by such school together with the total number of buildable lots located within the proposed subdivision, and multiplying said number by the Student-Per-EDU-Number.

As used in this subsection (e), Student-Per-EDU-Number means that number, calculated annually by the school districts and acknowledged by the City Council, which is the average number of students expected from each residential dwelling unit built or existing within said school district. There shall be a Student-Per-EDU-Number calculated for each category of students (elementary students, middle school students, and high school students). School districts shall use a reasonable and substantiated method for determining the Student-Per-EDU-Number.”

**C. Comprehensive Plan:** Any changes to the City’s Subdivision Ordinance should be in compliance with the City’s Comprehensive Plan. (Idaho State Statute 67-6511 & MCC 1-14-3.)

*Planning Staff finds that the proposed changes to MCC 5-4-4 are in harmony with the Comprehensive Plan because nothing proposed is in conflict with the Comprehensive Plan’s goals, objectives or standards.*

**D. Comments Received from Public:** None.

**E. Comments from Agencies:** None.

**F. Notices**

**Dates:**

Newspaper Notification	3/10/2024
Circulation to Agencies	3/7/2024
Posted on Website “Public Hearing Tab”	3/7/2024

**G. Applicable Codes and Standards:**

Idaho State Statute Title 67, Chapter 65 and Title 50, Chapter 13. Middleton City Code 1-3, 1-14, 4-5, 5-1, 5-2, 5-3 and 5-4.

**H. Conclusions and Recommended Conditions of Approval:** Per State law, the P&Z Commission should base any recommendation on findings of facts and conclusions of law.

Planning Staff has set forth above a finding that the proposed code change does not conflict with the City’s Comprehensive Plan.

As to conclusions of law, Planning Staff finds that the Commission has the authority to recommend to City Council approval or denial of the proposed code change. Additionally, Planning Staff finds that all public notice requirements were met. Planning Staff further set forth the portions of the Idaho State Code and Middleton City Code to be considered in making a decision on the application.

If the Commission is inclined to recommend approval of the proposed code change, Planning Staff does not recommend any conditions of approval.

Roberta Stewart  
Middleton Planning & Zoning Official

3/20/2024