



## **Middleton Planning & Zoning Commission**

### **Findings of Facts, Conclusions of Law, and Order**

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**In the Matter of the application of Brandon Nicholls/Zamco Technologies and Chrysalis Architecture for variance to MCC 5-4-7 with respect to a parcel located at 21987 Middleton Road, Caldwell, Idaho (Parcel NO. R34075015):**

#### **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, 2023, Exhibit "A".
4. Required Findings per Middleton City Code Title 1, Chapter 4, MCC 1-15-6 and 5-4-7(3), see Staff Report for the hearing date of February 12, 2024, Exhibit "A".

#### **B. Conclusions of Law:**

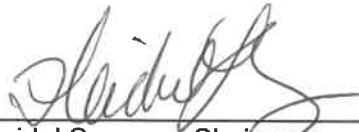
1. That the City of Middleton has exercised the powers conferred upon it by the "Local Land Use Planning Act of 1975," codified at Chapter 65, Title 67, Idaho Code (I.C. §67-6503).
2. That due consideration has been given to the comments received from the governmental subdivisions providing services 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 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 Middleton City Code Title 1, Chapter 14, MCC 1-15-6 and 5-4-7(3).

#### **C. Decision and Order:**

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 ordered that the application of Brandon Nicholls/Zamco Technologies and Richard Wilmot of

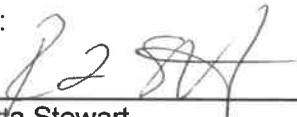
Chrysalis Architecture for variance to MCC 5-4- is approved subject to the conditions of approval set forth in the staff report for the hearing.

WRITTEN ORDER APPROVED ON: March 25, 2024.



Heidi Summer, Chairwoman  
Planning and Zoning Commission

Attest:



Roberta Stewart  
Planning and Zoning Department

***Please take notice that pursuant to MCC 1-15-7(E), applicant shall have 15 days after a final decision to appeal the decision and order of the Planning & Zoning Commission.***

***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 and Zoning Commission

### Zamco Technologies Variance Application (21987 Middleton Rd – Tax Parcel No. R34075015)



- A. **Planning & Zoning Commission Hearing Date:** February 12, 2024
- B. **Project Description & Application Request:** Application by Zamco Technologies and Richard Wilmot for variance to MCC 5-4-7(3) to allow Applicants to submit a surety to cover the estimated cost of unfinished improvements to Middleton Road frontage.

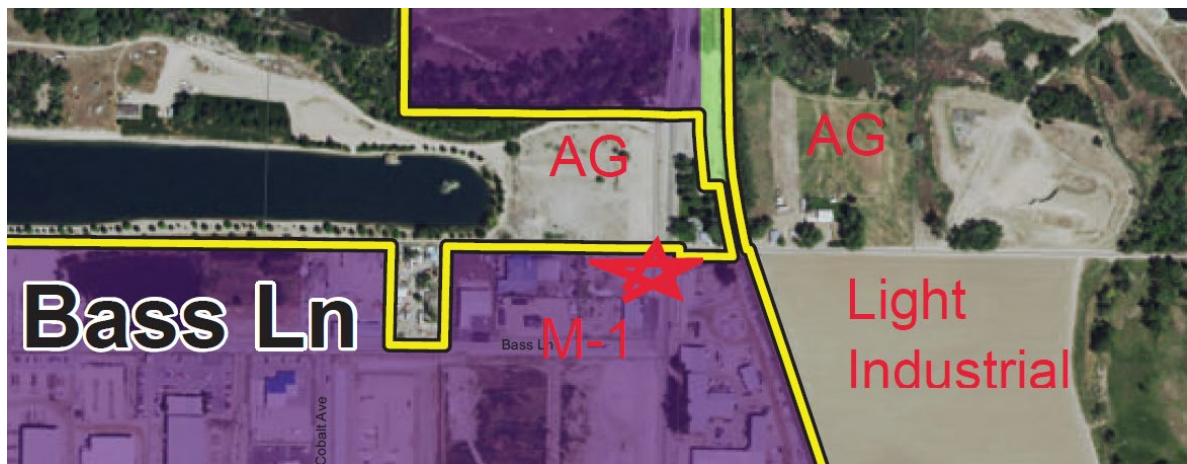
In 2023, Applicant applied to the City for a building permit to build a new Zamco Technologies building at 21987 Middleton Road. City issued the building permit, and the new building has been under construction for a number of months.

As part of the building permit conditions, Zamco must improve the portion of Middleton Road fronting the Zamco parcel to add expanded travel lanes, curb/gutter and sidewalk. Idaho Power, however, installed a number of new power poles this past spring, one of which was installed in the area Zamco was to construct new Middleton Road frontage improvements. Zamco attempted to stop Idaho Power's work to no avail. However, since installation, Idaho Power has determined that it made an error, and it has promised Zamco that it will relocate the power pole at no cost to Zamco or the City.

Idaho Power has not yet moved the power pole, and Zamco is stalled "at the mercy" of Idaho Power's timeline. Zamco cannot finish the road frontage work; therefore, it cannot ask the city for a Certificate of Occupancy even though most of the other work on the building and site is completed.

Zamco is requesting that City allow it to bond for the unfinished Middleton Road frontage work so the City can issue it a Temporary Certificate of Occupancy when all the other building permit requirements are completed. This will allow Zamco to move into its new building and start running its business. When Idaho Power removes the power pole and Zamco completes its Middleton Road Frontage improvements, the City will then issue a permanent Certificate of Occupancy for the building.

- C. Current Zoning & Property Condition:** The property is within city limits and zoned M-1 (Light Industrial). The lot is surrounded by County property zoned "Agricultural to the north and County property zoned Light Industrial to the east. Property to the south and west is within City limits and zoned M-1 (Light Industrial).



The new Zamco building is almost constructed on site, but it is standing vacant waiting for final touches and a certificate of occupancy.

- D. City Services:** City sewer and water are adjacent to the site and readily available.

- E. Variance Request:** City Code allows bonding for unfinished construction work, but only if it involves landscaping, irrigation or fencing. (MCC 5-4-7(A)(3)). Zamco is seeking to bond for unfinished road improvements, but the Code has no provisions for that type of bond. However, the City Code does allow for a variance to code when a hardship is presented as a result of something not the Applicant's doing.

MCC 1-15-6 sets forth the procedures and standards for variance requests. A variance allows an adjustment or special exception to the code in those circumstances where an owner would be deprived of a privilege commonly enjoyed by other lot owners because of some special circumstance on the owner's lot. The Planning & Zoning Commission is the governing body that approves the variance request. The request does not go to City Council for consideration.

Pursuant to MCC 1-16-6, Planning & Zoning may approve a variance request after considering the following standards and findings:

1. Whether there are extraordinary site characteristics applicable to the property that do not generally apply to other similar properties in the zone.
2. Whether a literal interpretation of the code will result in a hardship to applicant or result in an inability to enjoy privileges enjoyed by owners of similar properties in the zone.
3. Whether granting the variance will not constitute a special privilege to the owner inconsistent with the privileges enjoyed by owners of similarly zoned properties.
4. Whether granting the variance will not be detrimental to the public health, safety and welfare or injure any other property or improvements in the vicinity.

Attached as Exhibit "A" is an estimate of \$120,336.00 to cover the costs to construct the unfinished portions of Middleton Road. City Engineer has approved the estimate as accurate. When a bond is allowed by Code, City Code requires a bond to be 200 times the estimated costs of construction. Applying that same principle to Zamco's request, the submitted bond should total \$240,672. (Attached as Exhibit "A" is a copy of the approved estimate for roadway construction costs.)

*Staff Findings:*

*Staff recommends approval of Zamco's variance request. Staff finds that there is an extraordinary site characteristic that does not apply to other similarly situated lots. Idaho Power's mistake in locating the power pole in the City's future right of way is unexpected and difficult to work around. Zamco did not contribute to the circumstance and is not at fault in any way. If Zamco is not allowed to bond, its finished building could remain vacant for an indefinite period of time waiting for Idaho Power to return to the site to remove the pole. Zamco would be unfairly delayed as a result of someone else's mistake. Allowing Zamco to bond for the road work so it can start operating out of its new building will not grant Zamco any special privileges not enjoyed by others nor will it pose a risk to the public health, safety and welfare of the surrounding site.*



- F. **Comments Received from Surrounding Landowners:** None
- G. **Comments from Agencies:** See Exhibit “B”
- H. **Comments from City Engineer and Planning Staff:** None.
- I. **Applicant Information:** Zamco Technologies / Brandon Nicholls & Richard Wilmot of Chrysalis Architecture. 21995 Middleton Road, Caldwell, 83605. The application was accepted on January 8, 2024.

<b>J. Notices &amp; Neighborhood Meeting:</b>	<b>Dates:</b>
Newspaper Notification	01/28/2024
Radius notification to landowners	01/24/2024
Circulation to Agencies	01/24/2024
Sign Posting property	01/24/2024
Neighborhood Meeting	12/11/2024

**K. Pertinent Codes and Standards:**  
 Idaho Standards for Public Works Construction, the Middleton Supplement to the Idaho standards for Public Works Construction, Middleton City Code 1-3, 1-14, 1-15, 5-1, 5-2, 5-3 and 5-4 and Idaho Code Title 67, Chapter 65.

**L. Conclusions and Recommended Conditions of Approval:**  
 Per State law and the Middleton City Code, any final order 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.

**As to Conclusions of Law,** Planning Staff finds that the Planning & Zoning Commission has the authority to hear the application and to approve or deny the Variance application, with or without conditions. Additionally, Planning Staff notes that all public notice requirements were met. Planning Staff further set forth the portions of the Idaho State Code and Middleton City Code to be considered in making an order on the application.

If the Commission is inclined to approve the Variance Application, Staff recommends the following conditions of approval:

1. The bond for the unfinished road work shall be 200% of the approved estimated amount. Total bond amount is \$240,672.00.

2. The bond must be in the form of a cashier's check only. The cashier's check cannot state an expiration date, which means it will be "cashable" so long as the bank exists.
3. No Temporary Certificate of Occupancy will be issued until City Engineer formally signs-off that Applicant has completed all civil improvements other than the Middleton Road improvements.
4. No Temporary Certificate of Occupancy will be issued until the Planning Department signs off that Zamco has complied with all zoning requirements (parking, design elements...etc.,) other than the Middleton Road improvements.
5. No Temporary Certificate of Occupancy will be issued until the City Building Official formally signs off that Zamco has completed all building structure requirements in compliance with the building permit.
6. Idaho Power pole removal and Middleton Road frontage work must be completed and accepted by the City by December 31, 2024. If it is not, City will revoke the temporary C of O and Zamco will not be able occupy the new Zamco building from that date forward. If extenuating circumstances exist, the Planning & Zoning Official may extend the period for completion up to one year (or December 31, 2025) if Zamco makes an administrative request in writing prior to December 31, 2024.

If the Commission denies the application, the Commission must state what steps the applicant can take to obtain approval. (MCC 1-15-6(C))



EXHIBIT "A"

Approved Estimated Cost of Unfinished Roadwork

DRAFT

S MIDDLETON ROAD - ZAMCO FRONTAGE ESTIMATE OF QUANTITY/COST

<b>ITEM</b>	<b>Quantity</b>	<b>Unit</b>	<b>Unit Cost</b>	<b>Total</b>
Mobilization	1	LS	\$ -	\$ 12,033.67
Subbase	505	ton	\$ 20.00	\$ 10,092.60
Base	216	ton	\$ 30.00	\$ 6,488.10
Pavement	109	ton	\$ 140.00	\$ 15,251.04
Path concrete	116	SY	\$ 50.00	\$ 5,800.00
curb/gutter	135	lf	\$ 75.00	\$ 10,125.00
stormwater management swale	135	lf	\$ 100.00	\$ 13,500.00
curb drain	2	ea	\$ 1,500.00	\$ 3,000.00
ped ramps	1	ea	\$ 3,000.00	\$ 3,000.00
utility adjustment/collar	3	ea	\$ 500.00	\$ 1,500.00
striping/signage	1	LS	\$ 5,000.00	\$ 5,000.00
traffic control	1	LS	\$ 10,000.00	\$ 10,000.00
testing	1	LS	\$ 1,500.00	\$ 1,500.00
staking	1	ea	\$ 2,500.00	\$ 2,500.00
SWPP	1	ea	\$ 1,000.00	\$ 1,000.00
On site concrete		LS	\$ 31,580.00	\$ 31,580.00
				<u>\$ 120,336.74</u>

EXHIBIT "B"  
Agency Comments

**From:** [Chris Hopper](#)  
**To:** [Roberta Stewart](#)  
**Cc:** [Lenny Riccio](#); [Tyler Hannes](#)  
**Subject:** RE: Zamco Variance - Agency Notice  
**Date:** Wednesday, January 24, 2024 3:42:43 PM  
**Attachments:** [image003.png](#)

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Roberta-

HD4 would support the request to allow bonding of frontage improvements by Zamco Technologies.

This request would:

- Allow additional time for coordination between the Zamco and Bass Lane Storage projects, who are both constructing improvements to Middleton Rd frontage.
- Allow the two project developers to reach a consensus on design of their frontage improvements to assure drainage and other necessary roadway features are properly constructed.
- Allow for construction of both project frontages at the same time, which will greatly improve ride quality, pavement life, and minimize impacts to the public.

Respectfully,

**Chris Hopper, P.E.**

District Engineer



Highway District No. 4

15435 Hwy 44

Caldwell, Idaho 83607

208-454-8135

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**From:** Roberta Stewart <[rstewart@middletoncity.com](mailto:rstewart@middletoncity.com)>

**Sent:** Wednesday, January 24, 2024 3:22 PM

**To:** [akrantz@msd134.org](mailto:akrantz@msd134.org); [MStowell@ccparamedics.com](mailto:MStowell@ccparamedics.com); [gis@compassidaho.org](mailto:gis@compassidaho.org); [deann.gerthung@canyoncounty.id.gov](mailto:deann.gerthung@canyoncounty.id.gov); [MYbarguen@idahopower.com](mailto:MYbarguen@idahopower.com); [D3Development.services@ITD.idaho.gov](mailto:D3Development.services@ITD.idaho.gov); [gmprdjulie@gmail.com](mailto:gmprdjulie@gmail.com); [permits@starfirerescue.org](mailto:permits@starfirerescue.org); [monica.taylor@intgas.com](mailto:monica.taylor@intgas.com); [Mitch.Kiester@phd3.idaho.gov](mailto:Mitch.Kiester@phd3.idaho.gov); [westerninfo@idwr.idaho.gov](mailto:westerninfo@idwr.idaho.gov); [zoninginfo@canyoncounty.id.gov](mailto:zoninginfo@canyoncounty.id.gov); [Richard@cityofcaldwell.org](mailto:Richard@cityofcaldwell.org); [lisa.boyd@vallivue.org](mailto:lisa.boyd@vallivue.org); [jenny.titus@vallivue.org](mailto:jenny.titus@vallivue.org); [joseph.palmer@vallivue.org](mailto:joseph.palmer@vallivue.org); Lenny Riccio <[lriccio@hwydistrict4.org](mailto:lriccio@hwydistrict4.org)>; Chris Hopper <[chopper@hwydistrict4.org](mailto:chopper@hwydistrict4.org)>; [aperry@cityofcaldwell.org](mailto:aperry@cityofcaldwell.org); [Jamie.macleod@sparklight.biz](mailto:Jamie.macleod@sparklight.biz)

**Subject:** Zamco Variance - Agency Notice

Hello all: attached is the agency notice for a variance request submitted by Zamco Technologies to bond for unfinished frontage work on Middleton Road. The application packet is also attached for your convenience.

**From:** [Niki Benyakhlef](#)  
**To:** [Roberta Stewart](#)  
**Subject:** RE: Zamco Variance - Agency Notice  
**Date:** Friday, February 2, 2024 12:00:17 PM  
**Attachments:** [image001.png](#)

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Hello Roberta –

After careful review of the transmittal submitted to ITD on January 24, 2024, regarding Zamco Variance, the Department has no comments or concerns to make at this time. This Variance request is not on a state facility.

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](mailto:niki.benyakhlef@itd.idaho.gov)  
Website: [itd.idaho.gov](http://itd.idaho.gov)

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**From:** Roberta Stewart <[rstewart@middletoncity.com](mailto:rstewart@middletoncity.com)>  
**Sent:** Wednesday, January 24, 2024 3:22 PM  
**To:** [akrantz@msd134.org](mailto:akrantz@msd134.org); [MStowell@ccparamedics.com](mailto:MStowell@ccparamedics.com); [gis@compassidaho.org](mailto:gis@compassidaho.org); [deann.gerthung@canyoncounty.id.gov](mailto:deann.gerthung@canyoncounty.id.gov); [MYbarguen@idahopower.com](mailto:MYbarguen@idahopower.com); D3 Development Services <[D3Development.Services@itd.idaho.gov](mailto:D3Development.Services@itd.idaho.gov)>; [gmpredjulie@gmail.com](mailto:gmpredjulie@gmail.com); [permits@starfirerescue.org](mailto:permits@starfirerescue.org); [monica.taylor@intgas.com](mailto:monica.taylor@intgas.com); [Mitch.Kiester@phd3.idaho.gov](mailto:Mitch.Kiester@phd3.idaho.gov); [westerninfo@idwr.idaho.gov](mailto:westerninfo@idwr.idaho.gov); [zoninginfo@canyoncounty.id.gov](mailto:zoninginfo@canyoncounty.id.gov); [lrichard@cityofcaldwell.org](mailto:lrichard@cityofcaldwell.org); [lisa.boyd@vallivue.org](mailto:lisa.boyd@vallivue.org); [jenny.titus@vallivue.org](mailto:jenny.titus@vallivue.org); [joseph.palmer@vallivue.org](mailto:joseph.palmer@vallivue.org); [Iriccio@canyonhd4.org](mailto:Iriccio@canyonhd4.org); [chopper@canyonhd4.org](mailto:chopper@canyonhd4.org); [aperry@cityofcaldwell.org](mailto:aperry@cityofcaldwell.org); [Jamie.macleod@sparklight.biz](mailto:Jamie.macleod@sparklight.biz)  
**Subject:** Zamco Variance - Agency Notice

**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.**

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Hello all: attached is the agency notice for a variance request submitted by Zamco Technologies to bond for unfinished frontage work on Middleton Road. The application packet is also attached for your convenience.

*Roberta L. Stewart*

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