



CANYON COUNTY BOARD OF COMMISSIONERS
FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

In the matter of the application of:

[CR) RZ2021-0056] – [Middleton 187 LLC]

The Canyon County Board of Commissioners consider the following:

- 1) Conditional Rezone [The applicant is requesting to conditionally rezone 217 ± acres from “A” (Agricultural) to “CR-R1” (CR-Single Family Residential) for the purpose of developing a residential subdivision, Farmington Hills Subdivision, proposed to have municipal water and sewer services supporting the development of 492 total lots with 421 residential lots subject to a Middleton City pre-annexation agreement approved December 6, 2023 and a development agreement with Canyon County. The subject properties, **R37605**, **R37605010**, **R37602010**, and **R37597** comprising 217 ± acres, are located between Duff Lane and Lansing Lane north of Foothill Road in a portion of the SW ¼ and the SE ¼ of Section 33, T5N, R2W, BM, Canyon County, Idaho.]

Summary of the Record

1. The record is comprised of the following:
 - A. The record includes all testimony, the staff report, exhibits, and documents in Case File (CR) RZ2021-0056 and SD2021-0059.
 - B. The Planning and Zoning Commission heard this case on January 18, 2024 and March 7, 2024. The Commission forwarded this case with a recommendation of denial to the Board of County Commissioners. The revised findings were signed on March 18, 2024.
 - C. The Board of County Commissioners heard this case on June 10, 2024.

Applicable Law

1. The following laws and ordinances apply to this decision: Canyon County Code §01-17 (Land Use/Land Division Hearing Procedures), Canyon County Code §07-05 (Notice, Hearing and Appeal Procedures), Canyon County Code §07-06-01 (Initiation of Proceedings), Canyon County Code §07-06-07 (Conditional Rezones), Canyon County Code §07-10-27 (Land Use Regulations (Matrix)), Idaho Code §67-6511 (Zoning Map Amendments and Procedures), and Canyon County Code §09-09-17 (Area of City Impact Agreement).
 - a. Notice of the public hearing was provided per CCZO §07-05-01 and Idaho Code §67-6509. Affected agencies were noticed on February 24, 2023 and December 4, 2023. JEP A Notice to the City of Middleton was provided on February 24, 2023 and December 6, 2023. Newspaper notice was published on December 7, 2023. Property owners within 600 feet were notified by mail on December 4, 2023. Full political notice was provided on February 24, 2023 and December 4, 2023. The property was posted on December 15, 2023. On January 8, 2024 nine (9) property owners within 600 feet not included in the original mailing were mailed a property owner notification of the meeting date and provided an additional comment period to January 17, 2024.

- b. Notice of the BOCC public hearing was provided per CCZO §07-05-01 and Idaho Code §67-6509. Agencies were noticed April 11, 2024. Newspaper notice was published April 14, 2024. Property owners within 600 feet were notified by mail on April 12, 2024. Full political notice was provided on February 24, 2023 and December 4, 2023. Properties were posted on April 15, 2024.
 - c. The presiding party may establish conditions, stipulations, restrictions, or limitations which restrict and limit the use of the rezoned property to less than the full use allowed under the requested zone, and which impose specific property improvement and maintenance requirements upon the requested land use. Such conditions, stipulations, restrictions, or limitations may be imposed to promote the public health, safety, and welfare, or to reduce any potential damage, hazard, nuisance, or other detriment to persons or property in the vicinity to make the land use more compatible with neighboring land uses. *See CCZO §07-06-07(1).*
 - d. All conditional rezones for land use shall commence within two (2) years of the approval of the board. If the conditional rezone has not commenced within the stated time requirement, the application for a conditional rezone shall lapse and become void. *See CCZO §07-05-01*
2. The Board has the authority to exercise powers granted to it by the Idaho Local Land Use and Planning Act (“LLUPA”) and can establish its own ordinances regarding land use, including subdivision permits. *See I.C. §67-6504, §67-6511.*
 3. The Board has the authority to hear this case and make its own independent determination. *See I.C. §67-6519, §67-6504, 67-6509 & 67-6511.*
 4. The Board has the authority to hear this case and make its own independent determination. *See I.C. §67-6519, §67-6504, 67-6509 & 67-6511.*
 5. The burden of persuasion is upon the applicant to prove that all criteria are satisfied. *CCZO §07-05-03.*
 6. Idaho Code §67-6535(2) requires the following: The approval or denial of any application required or authorized pursuant to this chapter shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record. The County’s hearing procedures adopted per Idaho Code §67-6534 require that final decisions be in the form of written findings, conclusions, and orders. *CCZO 07-05-03(1)(I).*

The application RZ2021-0056 was presented at a public hearing before the Canyon County Board of Commissioners on June 10, 2024. Having considered all the written and documentary evidence, the record, the staff report, oral testimony, and other evidence provided, including the conditions of approval and project plans, the Board of Commissioners decide as follows:

CONDITIONAL REZONE CRITERIA – CCZO §07-06-07(6)

1. Is the proposed conditional rezone generally consistent with the comprehensive plan?

Conclusion: The conditional rezone from “A” (Agricultural) to CR-R1 (conditionally zoned-Single Family Residential) is generally consistent with the 2020 Comprehensive Plan.

Findings: The Board considered the following components of the Plan in its analysis:

- (1) The 2020 Comprehensive Plan designates this area as ‘Residential’ on the Future Land Use Map.
- (2) The parcel lies within the Area of Impact for the City of Middleton. Pursuant to 09-09-17 of the Canyon County Code, the County recognizes that the City of Middleton has also developed a comprehensive plan that addresses this area of impact. The City of Middleton

Future Land Use Map has this area of designated as 'Residential' (Section 09-05-19 Canyon County Code).

- (3) The Plan indicates that the residential designation is a zone specifically set aside for residential development. "Residential development should be within areas that demonstrate a development pattern of residential land uses." This development is surrounded by residential development that has occurred through conditional use permits, administrative land divisions, and residential zoning entitlements and subdivisions. There are currently 65 platted subdivisions and additional subdivisions in platting within one mile of the subject properties as noted on the Subdivision Map and Lot Report (Exhibit 29). The Middleton city limits are located within ¼ mile to the south and a ½ mile west of the subject property as evidenced by the aerial map (see Exhibit 31) and municipal services will be provided to the property for the proposed development (Exhibit 15-Pre-Annexation Agreement).
- (4) Chapter 2: Population Component: The plan is generally consistent with the goals and policies of the population component including the goal of guiding future growth in order to enhance the quality and character of the county while providing and improving the amenities and services available to county residents. City municipal services will be extended and enhanced at the location including water and sewer to serve this development and the surrounding area. Roadways and intersections are proposed to be improved in areas of significant concern including a signalized intersection at Duff Lane and Highway 44 prior to the first phase of the development as indicated in the Pre-Annexation agreement, ITD requirements, and Canyon Highway District 4 requirements (see Exhibits 15, 16, 19). A second signalized intersection at Lansing and State Highway 44 will be required prior to development of Phase 10 (prior to making a through connection from the development to Lansing Lane) if not previously constructed.
- (5) Chapter 1: Property Rights Component: The Property Rights Component of the Plan is intended to ensure that land use hearing procedures do not violate individual property rights and that individual property rights are not burdened by unnecessary technical limitation (see Goal no. 1 in this component). The Commission and Board places conditions that aim to protect the life, health and safety of the property owners and citizens of Canyon County in compliance with state, federal, and county regulations as appropriate and as provided for in the Development Agreement and Preliminary Platting process of the Canyon County Ordinances. The Commission finds and the Board concurs that the hearing and notifications were consistent with the requirements of the law and that the applicant and property owners were provided due process of law by the nature of these proceedings.
- (6) Chapter 5 Land Use Component and Chapter 6 Natural Resources Component: Although the overall guidance of the plan is to protect agriculture inclusive of agricultural land as a limited natural resource, the Plan also recognizes the challenge of balancing natural resources against the impacts of population growth. The subject property is located in an area that has for many years been trending toward residential growth and development. The subject property is currently in irrigated agricultural production but it is nearly surrounded by developed residential subdivision lots. There are 16 platted subdivisions within 1/4 mile and 33 platted developments within a 1/2 mile of the property (See Subdivision Maps Exhibit 29). The area south and east is primarily residential with residential zoning (see Zoning Map Exhibit 30). The property lies within the Middleton impact area. The Commission finds that the predominant character of the area is residential. The 2020 Canyon County Comprehensive Plan Future Land Use Map and the City of Middleton Future Land Use Maps have this area designated as 'Residential' (Exhibits 32 and 33).
- (7) Chapter 8: Public Services, Facilities and Utilities Component indicates that adequate public services and facilities are vital to the future of Canyon County and that these services are

essential to the health, safety and welfare of its residents. This development will provide the extension of critical services to this transitioning area including municipal sewer and water services. The development as proposed and conditioned generally complies with this component of the Plan.

- (8) Chapter 9: Transportation Component states, “the responsibility for maintenance, operational improvements and capacity expansion of local roadways resides with four rural highway districts and eight cities in Canyon County.” The proposed development is in general compliance with the goals and policies and more specifically with Goal 2, “Promote and improve traffic safety in the design and development of local and regional transportation facilities, particularly for local and neighborhood facilities.” Goal 4, “Collaborate with highway districts, the Idaho Transportation Department (ITD), VRT, cities, and others in planning for, designing, developing and permitting new and/or expanding transportation facilities.” The proposed development as conditioned will provide for additional traffic safety improvements through the design and build of the interim signalized intersection at State Highway 44 and Duff Lane prior to the first phase of development completion (Exhibits 15,16, & 19). The development will also at full buildout provide connection of two collector roadway segments between Duff and Lansing Lanes including Willis Road and Meadow Park Boulevard. The completion of these roadway segments will provide much needed access for the public and emergency services alleviating pressure on Purple Sage Road and Foothill Road (Exhibit 3). COMPASS (Exhibit 22) indicates that bicycle lanes should be considered for Meadow Park Boulevard and traffic calming measures for Willis Road.
- (9) Chapter 3: School Facilities and Transportation Component indicates that new residential development brings new students into a district and eventually requires new school facilities. In recent years population growth and development have outpaced the ability of the affected school districts to provide new facilities. The goals and policies of this component focus primarily on the siting of schools in the land use planning process and providing opportunity for the school districts to participate in the planning processes. The District has been provided the opportunity to review and comment on the proposed applications and to provide clarification and additional information regarding the affected schools.

In evaluating this criterion, the Board need not examine each goal and policy but consider the Plan as a whole. The applicable plan, the 2020 Comprehensive Plan, designates the proposed application area as Residential. The Board when reviewing the Plan as a whole, finds general proposed residential rezone designation to be consistent with the Plan based on the evidence and review of the Plan components discussed above. Further, the Plan directs the hearing body to utilize measures, like the conditional use permit and/or a development agreement, to attempt to mitigate potential interference with existing residential uses and potential impacts on agricultural resources, ground and surface water, transportation system and services, and school facilities. The Board believes this goal was achieved in this application.

2. When considering the surrounding land uses, is the proposed conditional rezone more appropriate than the current zoning designation?

Conclusion: Considering the surrounding land uses the Board cannot find that the proposed rezone is more appropriate than the current zoning designation.

Findings: The applicant is requesting to conditionally rezone approximately 217 acres from “A” (Agricultural) to “CR-R1” (CR-Single Family Residential) for the purpose of developing a residential subdivision with 421 residential lots. The proposed density of the project is an average lot size of 12,804 square feet or approximately .3 acres, according to the information provided in the Staff Report. The parcel lies within the Area of Impact for the City of Middleton and is

approximately a 1/4 mile from the closest City boundary. The City would require a pre-annexation agreement if it is to provide municipal services including sewer and water to the development.

Presently, there are 65 platted subdivisions and additional developments in the platting process within one mile of the proposed development. *See* Exhibit 29. The lot sizes of the platted county developments range from 0.80 acres to 5.0 acres per lot. The average lot size of the recent platted developments immediately adjacent to the subject property is 1.32 acres. There was some analysis of lot size and uses submitted by opposition to the application; however, the Board believes the maps and data provided in the Staff Report are clear and reliable and the Board will rely on the Staff Report here.

The maps and area data in the Staff Report show that while some of the area remains in active agricultural use particularly to the North of the subject property, a substantial portion of the area has been developed for large lot residential use. For the purpose of its analysis here, the Board sees the primary surrounding land use as large lot residential because of number of parcels developed in this manner.

The applicant, through its presentation, asserts that the proposed rezone would be more appropriate than the current agricultural uses because of the existing residential uses and proximity to the City of Middleton. Arguments from surrounding property owners request that the property remain agricultural or that the subdivision have similarly sized lots to the existing surrounding residential land uses. The project opponents cite the density (the number of dwelling units per acre) of the proposal as creating negative impacts to the transportation system and schools. The transportation and school concerns will be addressed in separate sections herein; however, the issue of residential density is the most important factor for this criterion in the Board's determination.

Both the Future Land Use Maps for both the County and the City of Middleton forecast future land use to be residential. There is a substantial difference between the number of dwelling units per acre permitted in the City versus what is permitted in County. In general, counties permit rural residential development i.e. large lots are intended to limit the impact on or need for services and to avoid interference with agricultural uses. Where cities permit urban residential where smaller residential lots allow greater access to and concentration of services.

In this application, the Board views the number of concentrated small acreage lots requested as appropriate for city development where there is a greater access to city services. This use is not more appropriate for this area, which is largely large lot rural residential, than the current agricultural designation because the number of dwelling lots per acre will increase the need for city-like services where they don't currently exist. For this reason, considering the surrounding land uses the Board cannot find that the proposed rezone more appropriate than the current zoning designation.

3. Is the proposed conditional rezone compatible with surrounding land uses?

Conclusion: The proposed conditional rezone is not compatible with surrounding land uses.

Findings: The applicant is requesting to conditionally rezone approximately 217 acres from "A" (Agricultural) to "CR-R1" (CR-Single Family Residential) for the purpose of developing a residential subdivision with 421 residential lots. The Board analyzed the surrounding land uses in the preceding section and incorporates those findings here: the surrounding land uses are predominantly large lot rural residential with some ongoing operating agricultural uses.

The issue of density (number of dwelling lots per acre) is also relevant to this question. The proposed development contains substantial number of lots at a higher lot density than the existing residential development in the area. Opposition to the application insist that number of dwelling lots per acre cannot be conditioned to ensure compatibility with surrounding uses. The opposition cites, in summary, traffic congestion and increased danger on roads due to the number of added drivers from the proposal, negative impacts to the area water table, the inability for the School District to accommodate the additional dwellings, and interference with farm activities (i.e. aerial crop spraying and traffic interference with agricultural vehicles). The applicant acknowledges some of these concerns, and the applicant's position is that by making the improvements requested by road, fire, and municipal agencies and as outlined in their presentations the conditional rezone will be compatible with the area.

This criterion is not intended to determine if the use is permissible under the County's general zoning designations, which it is. The question is whether the proposal would be compatible with the existing surrounding land uses. The proposal, as we've said in the preceding section, is for a City-scale dwelling density, that by adding more homes in close proximities to one another, will increase road use and limit agricultural tools, like aerial spraying, for both large agricultural operations and on smaller scales accompanying residential dwellings. For this Board, the potential conflicts that could occur in terms of adverse impacts to these agricultural uses have not been mitigated by the proposal. The existing large lot rural residential density does not create these same impacts.

For these reasons, the conditional rezone to "R1" (Single Family Residential) is not compatible with the surrounding land uses.

4. Will the proposed conditional rezone negatively affect the character of the area? What measures will be implemented to mitigate impacts?

Conclusion: The conditional rezone would negatively affect the character of the area. Potential character of the area impact mitigation measures are described below.

Findings: The surrounding land uses have been described in the preceding sections and are incorporated herein by reference. In considering what constitutes the character of the area, the Board takes the surrounding land uses into account, as well as the proximity to the City of Middleton, and the City and County future use designations of the area as residential. Because of the proximity to the City, the Board does see this as an area in transition from historic agricultural use to a future residential development. However, the character of the area, at this time, is still defined by the surrounding land uses that are predominantly large lot rural residential that are compatible with ongoing operating agricultural uses.

As described in preceding sections, due to the density of the subdivision and the use of city services for water and sewer, the Board views the character of the proposal as one of city-scale or city-like development. The proposal would dwarf every other development in the area in terms of numbers of homes and density of the homes. It's this density that creates a conflict with the existing uses. The density as discussed in preceding sections would create impacts to traffic, schools, and other services. The subdivision would shift the character of the area from agricultural and large lot rural residential to an area with city-scale suburban residential density.

Potential mitigation measures are detailed in the applicant's proposal.

Because of the density of this project it does not fit the character of the area. The character of the area is predominantly large lot rural residential that are compatible with ongoing operating agricultural uses. This proposal because of the number of dwelling and the density would change the character of area. The developer has proposed making some area improvements (to roads for instance) to alleviate the negative impact of the development, but the mitigation falls short in the area of traffic safety and the impact on area schools as discussed further in other sections of this decision. For these reasons, the proposed development would negatively impact the character of the area.

5. Will adequate facilities and services including sewer, water, drainage, irrigation, and utilities be provided to accommodate proposed conditional rezone?

Conclusion: Adequate facilities and services including sewer, water, drainage, irrigation, and utilities will be provided to accommodate proposed conditional rezone.

Findings: (1) Its proposed that the development will be served by municipal sewer and water and the developer has entered a pre-annexation agreement with the City of Middleton (Exhibit 15 & UU). The Middleton City planner and engineer verified to DSD Staff that the development is

included in the current waste treatment facility capacity calculations and the city indicated it will be served as provided for in the pre-annexation agreement.

- (2) The development has surface irrigation rights and proposed installing pressurized irrigation to serve the development along with relocating and improving multiple irrigation district facilities on the property in coordination with Black Canyon Irrigation District (Exhibit 20). The developer has provided a preliminary grading and drainage plan for the proposed development that will be finalized during the construction drawing review and build process at the time of development. Stormwater must be retained onsite in accordance with CCZO §07-17.
- (3) Staff did not receive comments from the proposed utilities Idaho Power or Intermountain Gas.

Based on the City agreeing to provide water and sewer services and the approval of the Irrigation District it's been demonstrated to the Board that adequate facilities and services including for sewer, water, drainage, and irrigation exist to accommodate the proposed use. There is no indication that other general utilities could not provide service to the development.

6. Does the proposed conditional rezone require public street improvements in order to provide adequate access to and from the subject property to minimize undue interference with existing or future traffic patterns? What measures have been taken to mitigate traffic impacts?

Conclusion: The proposed conditional rezone will require public street improvements in order to provide adequate access to and from the subject property to minimize undue interference with existing or future traffic patterns. Potential traffic impact mitigation measures are described below.

Findings: The agencies having jurisdiction of the roads in the area has provided a review of the initial and revised traffic impact studies for the proposed development and have indicated that improvements to existing critical road infrastructure will be required for this proposal and that the applicant will be required to bear a proportionate share costs for future improvements of local road infrastructure. The traffic impact studies showed that cumulative impacts of development in the area has created congested areas. ITD, Canyon Highway District #4 (HD4) and the City of Middleton, based on their development standards and review of the traffic impact studies (2020 & revised 2023) require mitigation of multiple intersections at State Highway 44. Street improvements are required for access and internal development in accordance with the Highway District 4 (HD4) requirements and the City of Middleton pre-annexation agreement. Other street improvements require a contribution of proportionate share fees as indicated in the HD4, City of Middleton, and ITD exhibits (see Exhibits 15, 16, 19 and UU).

The developer would also have to design and build the interim intersection at State Highway 44 and Duff Lane prior to the approval of the Phase 1 Final Plat and the signalized intersection at State Highway 44 and Lansing Lane if not built out before Farmington Hills Subdivision Phase 10 (through connection to Lansing at either Meadow Park Boulevard or Willis Road) in accordance with ITD, City of Middleton and HD4 agency requirements. The developer provided a phasing plan for the development that restricts internal site traffic to a primary access to Duff Lane until Phase 10 (approx. 340 lots) at which time the intersection at State Highway 44 and Lansing Lane shall be improved and signalized prior to the development traffic taking direct access to Lansing Lane. The developer also agreed to construct the Lansing intersection prior to signature on the final plat of Phase 10 (prior to direct access to Lansing Lane from the development) if not in service at the time of development.

There is concern from the opposition that these mitigations steps will not be sufficient to mitigate the deficiencies of the local road system with regards to traffic safety due to blind intersections, lack of speed controls and access points where terrain and swells in the road create safety

concerns. A majority of area residents believe the proposal would exacerbate the problem. HD4 in Exhibit 16 agreed with some of the comments on the road condition stating "existing road grade makes it undesirable to widen at this time."

The Board acknowledges the extensive mitigation improvements that the agencies have detailed in their written comments. The Board generally relies on agencies having expertise and primary jurisdiction of the roadways to determine service levels and propose mitigation measures. In this case, the Board has heard significant comment regarding the roads and intersection safety in the immediate vicinity of the project including the blind intersections on Duff Lane and the road terrain and believes the agencies need to provide additional review and mitigation to remedy these issues. There are too many intersections and too much traffic on the area roads inclusive of Purple Sage, Duff Lane, Foothill Road and the existing segments of Meadow Park that will be impacted by this development to leave these questions unanswered.

Public street improvements will be required in order to provide adequate access to and from the subject property to minimize undue interference with existing or future traffic patterns. However, the Board has determined additional mitigation is necessary to minimize undue interference with existing or future traffic patterns.

7. Does legal access to the subject property for the conditional rezone exist or will it exist at time of development?

Conclusion: Legal access to the subject property exists or will exist at time of development.

Findings: The subject property has frontage on Duff Lane, Lansing Lane, Meadow Park Boulevard (existing and proposed). Canyon Highway District #4 (HD4) has reviewed and provided comments and preliminary approval of the roadways and access points in Exhibit 3 & 16. HD4 also provided clarification that two lots proposed in Phase 13, Lots 3 & 4, Block 4 will take access directly to Meadow Park Boulevard via a shared access to the collector roadway. Meadow Park Boulevard shall be constructed by the developer of Farmington Hills in accordance with HD4 requirements as indicated in Exhibits 16 & 17. Based on the conditioned approval of HD4, the applicant has shown that legal access could be achieved to the subject property.

8. Will the proposed conditional rezone amendment impact essential public services and facilities, such as schools, police, fire, and emergency medical services? What measures will be implemented to mitigate impacts?

Conclusion: The conditional rezone would impact essential public services and facilities, such as schools, police, fire, and emergency medical services. Potential mitigation measures are discussed below.

Findings: The following essential service providers provided comment and requested impact mitigation measures:

- (1) The Middleton Rural Fire District provided a review of the proposed project and provided comments and mitigation conditions to be executed during the development phases of the project (Exhibit 11).
- (2) The Middleton School District provided information on the current status of the District's affected schools with capacity as follows: Mill Creek Elementary, 500 N. Middleton Road, is at 118 % of capacity with six (6) portable classroom units totaling 12 classrooms. The middle school is at 85% capacity and the high school is nearing capacity at 91%. The school district indicates, "*there is an immediate need for additional facilities in our school*

district, primarily at the elementary grades. However, we have significant concerns of the continued growth and our ability to meet the future facility needs of our district at the secondary level..." (Exhibit 12) The District indicates that with each new home they can expect [0.5 - 0.7 students] with an average of 0.569 students (210-294 total) attending schools in the district (421 residential lots x 0.569 =239 students). The District's comments do not request any mitigation measures; however, an agreement is in the record (Exhibit 13) where the District agreed to accept a financial contribution from the developer as a measure of mitigation.

Based on the written comments from the Fire District it appears the Fire impacts can be mitigated as to not impact the essential service provided by the Fire District.

The School District provided conflicting information. The development could contribute between 23-46 students per year to the school system (Exhibits 12 and 13) and the area elementary school is currently over capacity. The District and developer have voluntarily entered into an agreement to contribute \$1,500 dollars per buildable lot, but it's unclear to the Board what if any these voluntarily contributed funds would do to alleviate the impact from the proposal on the schools that are over capacity. This measure appears insufficient to mitigate the student capacity issue that the proposal would further. Because the impact on the District from the proposal is insufficiently mitigated, the Board must find that the proposal would impact this essential service.

Canyon County Code §09-09-17 (Area of City Impact Agreement) - AREA OF CITY IMPACT AGREEMENT ORDINANCE

Conclusion: The Board finds and concludes that the property is located within the Middleton Area of City Impact. A notice was sent to the City of Middleton per Canyon County Code Section 09-09-17. The Pre-Annexation Agreement and conditions applied require future development to work with the City of Middleton.

- Findings:**
- (1) Pursuant to the pre-annexation agreement with the City of Middleton the developer is required to work with the City to connect to municipal infrastructure, complete improvements and meet the requirements of the plan as proposed in the application.
 - (2) The properties, 217± acres, are located within the Middleton area of city impact and are located within a quarter mile of the city limits to the south at Foothill Road as evidenced herein and on the aerial map (Exhibit 31). The Board notes that this property is not contiguous to the city limits and is concerned that this development may not be annexed in the near future. There is not a clear picture from the City that the City will be able to serve the proposed subdivision despite the annexation agreement due to concerns with the wastewater system and school ordinances as provided for in public testimony inclusive of, but not limited to, Exhibit HH provided by Jon Rhodes.
 - (3) The Board has concerns regarding Middleton's ability to serve the project and if not served by both water and sewer, the proposed development is too dense. The County is not interested in the development of 421 septic systems in this area.

Order




Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Board of County Commissioners **DENY** Case # RZ2021-0056, a conditional rezone from an "A" (Agricultural) zone to "CR-R1" (CR-Single Family Residential) zone for parcels R37605, R37605010, R37602010, and R37597 comprised of approximately 217 ± acres.

The Board further states that if the applicant wishes to gain approval they may consider larger lot sizes and/or to wait for the right time, which is when the City of Middleton is ready and able to annex the property.

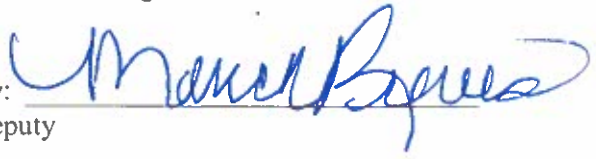
This decision is final. Pursuant to Idaho Code Section 67-6535(b), the applicant or affected person may first seek reconsideration within 14 days prior to seeking judicial review.

APPROVED this 2 day of July, 2024.

**BOARD OF COUNTY COMMISSIONERS
CANYON COUNTY, IDAHO**

	Yes	No	Did Not Vote
 _____ Commissioner Leslie Van Beek	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 _____ Commissioner Brad Holton	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 _____ Commissioner Zach Brooks	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Attest: Rick Hogaboam, Clerk

By: 
Deputy

Date: 7-2-24



FINDINGS OF FACT, CONCLUSIONS OF LAW, & ORDER

Findings

1. Middleton 187, LLC and TBC Land Holding, LLC, represented by Ardurra (formerly T-O Engineering), is requesting approval for a Preliminary Plat, Phasing Plan, Irrigation Plan, Hillside Development Plan, and Grading and Drainage Plan (Exhibits 3-7, Staff Report) subject to approval of a request, RZ2021-0056, to conditionally rezone the subject property from "A" (Agricultural) to "CR-R1" (CR-Single Family Residential) with conditions enumerated in a Development Agreement between the applicant and the County. The development is also subject to a pre-annexation agreement with the City of Middleton (Exhibit 15, Draft Agreement). The proposed development, Farmington Hills Subdivision, encompasses approximately 217 acres. The proposed development consists of 421 residential lots with an average lot size of 12,804 square feet and seventy-one (71) common lots for a total of 492 lots. The development shall be served by the City of Middleton municipal water and sewer (wastewater) infrastructure. The properties are designated "Residential" in the Canyon County 2020 Comprehensive Plan. The subject parcels R37605, R37605010, R37602010, R37597 are located north of Foothill Road between Lansing Lane and Duff Lane, Middleton, in a portion of the SW ¼ and the SE ¼ of Section 33, T5N, R2W, BM, Canyon County, Idaho.
2. Parcels R37605, R37605010, R37602010, R37597, containing 217± acres, are proposed to be conditionally zoned "CR-R-R" (Conditional Rezone - Rural Residential) per case file RZ2021-0056 subject to a development agreement. Developer and future property owners shall be subject to the conditions of the development agreement and preliminary plat.
3. There are 421 residential lots with an average residential lot size of 12,804 square feet in compliance with CCZO §07-10-21(2) Table 2 footnote #1; *"For parcels within the Area of City Impact with central sewer and/or water services, the parcel or lot size may be reduced to 12,000 square feet."*
4. The property is located within the Middleton area of city impact.
5. A pre-annexation agreement with the City of Middleton indicates the development will be served by municipal services including water and sewer (wastewater) systems (Exhibit UU).
6. The property has surface irrigation water rights. The developer shall provide irrigation water to each residential lot in compliance with Idaho Code 31-3805.
7. The property is located within the Black Canyon Irrigation District and the developer shall work with the irrigation district to meet development requirements impacting the district's facilities. (PZ SR Exhibit 20)
8. Subdivision runoff will be maintained within the subdivision. Lots will be graded to facilitate drainage to a roadway, which will then convey storm water to a storage facility or directly to a common lot containing a facility. Storm water & excess irrigation water will be treated by sand & grease traps and/or retention ponds with grassy or sand bottoms (PZ SR Exhibit 7).
9. The development will have paved public roads with curb, gutter and sidewalks throughout. (PZ SR Exhibit 14)

10. Canyon Highway District #4 (HD4) is a signatory on the final plat and the developer must comply with the requirements of the highway district (PZ SR Exhibit 16).
11. The development is located within the Middleton Rural Fire District and the developer shall work with the fire district to meet the requirements of the International Fire Code (PZ SR Exhibit 11).
12. The development is located in an area that contains slopes greater than 15%. The applicant submitted a Hillside Development application in accordance with CCZO §07-17-33 (1) and provided the required engineering report submissions for the project site inclusive of Soil and Geology Report, Hydrology Report, and a Slope Stabilization and Revegetation Report. (PZ SR Exhibits 5, 6, 54, and 55)
13. The developer has voluntarily entered into an agreement with the Middleton School District to provide a sum of \$1500 per buildable final platted lot per phase as described in PZ SR Exhibit 13 "...to proactively address potential impacts on the School District of new residents that will eventually occupy residences with the property."
14. The record includes all testimony, the staff report, exhibits, and documents in Case File Nos. RZ2021-0056 & SD2021-0059.
15. Notice of the public hearing was provided in accordance with CCZO §07-05-01. Affected agencies were noticed on February 24, 2023 and December 4, 2023. JEPA Notice to the City of Middleton was provided on February 24, 2023 and December 6, 2023. Newspaper notice was published on December 7, 2023. Property owners within 600' were notified by mail on December 4, 2023. Full political notice was provided on February 24, 2023 and December 4, 2023. The property was posted on December 15, 2023. On January 8, 2024 nine (9) property owners within 600 feet not included in the original mailing were mailed a property owner notification of the meeting date and provided an additional comment period to January 17, 2024.
16. On January 18, 2023 and March 7, 2024, the Planning and Zoning Commission heard case file RZ2021-0056 considering all testimony, the staff report and exhibits. The Planning and Zoning Commission forwarded a recommendation of DENIAL of the proposed rezone to the Board of County Commissioners with revised findings.
17. On March 7, 2024 the Planning and Zoning Commission forwarded case SD2021-0059 with a recommendation of DENIAL to the Board of County Commissioners citing failure to obtain residential zoning approval.
18. On March 21, 2024 the Planning and Zoning Commission signed the revised FCOs for cases RZ2021-0056 and SD2021-0059.
19. Notice of the public hearing was provided in accordance with CCZO §07-05-01. Affected agencies were noticed on April 11, 2024. JEPA Notice to the City of Middleton was provided on February 24, 2023 and December 6, 2023. Newspaper notice was published on April 14, 2024. Property owners within 600' were notified by mail on April 12, 2024. Full political notice was provided on February 24, 2023 and December 4, 2023. The property was posted on April 15, 2024.
20. On June 10, 2024 the Board of County Commissioners heard case no. RZ2021-0056, a conditional rezone from Agricultural to CR-R1 (Single Family Residential). The Board denied the conditional rezone therefore the Board denied case no. SD2021-0059 for failure to obtain residential entitlements (zoning) to support the project as presented.

Conclusions of Law

Section 07-17-09(4)A of the Canyon County Zoning Ordinance (CCZO) states, “*The commission or hearing examiner shall hold a noticed public hearing on the preliminary plat. The hearing body shall recommend that the board approve, approve conditionally, modify, or deny the preliminary plat. The reasons for such action will be shown in the commission’s minutes. The reasons for action taken shall specify:*

1. *The ordinance and standards used in evaluating the application;*
2. *Recommendations for conditions of approval that would minimize adverse conditions, if any;*
3. *The reasons for recommending the approval, conditional approval, modification, or denial; and*
4. *If denied, the actions, if any, that the applicant could take to gain approval of the proposed subdivision.”*

This application is subject to the review and approval of the proposed Conditional Rezone from “A” (Agricultural) to “CR-R1” (CR-Single Family Residential) zoning district. On March 7, 2024 the Planning and Zoning Commission recommended denial of the zoning district change (RZ2021-0056).

The Board of County Commissioners denied the rezone of the 217 acre subject properties at a scheduled public hearing on June 10, 2024.

Upon review of the preliminary plat application and submittals, the Planning and Zoning Commission found (and the Board concurs) that the preliminary plat, irrigation plan, grading and drainage plan, the hillside development plan are consistent with the following subject to conditions of approval:

- Idaho Code, Sections 67-6509 and 67-6513 (Subdivisions, Hearings, Decisions);
- Idaho Code, Sections 50-1301 through 50-1329 (Platting);
- Idaho Code, Section 31-3805 (Irrigation); and
- Canyon County Zoning Ordinance, Chapter 7, Article 17 (Subdivision Regulations).
- Canyon County Zoning Ordinance, Chapter 7, Article 10 (Minimum Parcel or Lot Size)

The preliminary plat application as presented was found to be consistent with the standards of review as conditioned (PZ Staff Report Exhibits 3, 4, 5-7, 10, 15, 16, 19, 20, 26, 54 and 55). However, the application to rezone the property to obtain entitlements was denied and therefore the preliminary plat does not comply with the current zone requirements for the subject properties.

Order




Based upon the Findings of Fact, Conclusions of Law contained herein for Case No. SD2021-0058, the Board of County Commissioners **DENY** the Preliminary Plat, Phasing Plan, Irrigation Plan, Hillside Development Plan, and Grading and Drainage Plan for Farmington Hills Subdivision due to the failure to obtain entitlements for residential development (rezone) for the subject properties in case file RZ2021-0056. The plat does not comply with the underlying agricultural zoning district requirements.

If the applicant wishes to obtain approval they may consider increasing the lot sizes and wait for the right time, which is when the City of Middleton is ready to annex the subject properties.

This decision is final. Pursuant to Idaho Code Section 67-6535(b), the applicant or affected person may first seek reconsideration within 14 days prior to seeking judicial review.

APPROVED this 2 day of July, 2024.

**BOARD OF COUNTY COMMISSIONERS
CANYON COUNTY, IDAHO**

	Yes	No	Did Not Vote
 _____ Commissioner Leslie Van Beek	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 _____ Commissioner Brad Holton	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 _____ Commissioner Zach Brooks	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Attest: Rick Hogaboam, Clerk

By: 
Deputy

Date: 7-2-24