

Commissioners Minutes

June 10, 2024 - 1:44 p.m. to 5:50 p.m.

**PUBLIC HEARING: MIDDLETON 187, LLC AND TBC LAND HOLDING, LLC ARE REQUESTING A CONDITIONAL REZONE OF APPROXIMATELY 217 ACRES FROM AN "A" (AGRICULTURAL) ZONE TO "CR-R1" (SINGLE FAMILY RESIDENTIAL) ZONE, AND A PRELIMINARY PLAT, FOR FARMINGTON HILLS SUBDIVISION, CASE NO. RZ2021-0056(CR) & SD2021-0059**

Commissioners Brad Holton, Zach Brooks and Leslie Van Beek

DSD Director Sabrina Minshall

DSD Planning Supervisor Carl Anderson

DSD Planner Deb Root

DSD Hearing Specialist Amber Lewter

**In Favor:** Todd Campbell, Hethe Clark, Dean Waite, Zane Cradic, and Scott Blaser

**In opposition:** Brad Wellman, Denise Rhodes, Jon Rhodes, Greg Baker, Lisa Baker, Ted Todd, Robert Ubry, Randy Hetteema, William Selby, Tom Moore, Randy Waite, Rose Vargason, Donna Goelz, Vera Waite, Greg Jones, Kim Takagi, Steve Palange, Ron Saunders, Eric Nielson, Cheryl Palange, Steven Portnoff, Sam Layton, Rock Didericksen, Wanda Layton, James Griggs, Bill Stephenson, Martine Stephenson, Sharon Griggs, Ed Carson, Steve Hatchett, Steven Miller, Amie Strongone, Antonio Conti, Cindy Conti, Kim Carson, Jackie Grayson, Bart Grayson, Gail "Ike" Ikerd, Frederick Moxley, Ken Harris, Patty Nelson, Jamie Sharpe, Daniel Richards, Robin Conrad, Shawn Adamson, Scott Krahn, Mikell Galloway, Jack Garrett, Michelle Krahn, Carl Nadeau, Donald Bates, Robert James, Tamara Sloviaczek, Cindy James, Joseph Strongone, Julie Thomas, Samuel Thomas, Patricia Crawford, Allen Colson, Lyle Zufelt, Heather Peterson, Kathy Ikerd, Bruce Bane, Rebecca Press, Mark Press, Amelia Nadeau, Kathy Hendricks, Joe Sweeney, Paula Gillespie, Robert Hendricks, Marilyn Giacolone, Rory Hendricks, David Syvok, Jolie Gibbs, Jeremiah Hansen, Ashley Hansen, Rick Francis, Patty Cluff, Steve Cluff, Mike Morcom, RaNea Rich, Lane Rich

Deputy Clerk Monica Reeves



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The Board met today 1:44 p.m. to conduct a public hearing in the matter of a request by Middleton 187, LLC and TBC Land Holding, LLC, for a Conditional Rezone of approximately 217 acres from an "A" (Agricultural) zone to "CR-R1" (Single Family Residential) zone to be provided with municipal sewer and water subject to a pre-annexation agreement with the City of Middleton and subject to a development agreement with Canyon County. Also requested is approval of a preliminary plat,

phasing plan, landscape plan, irrigation plan, grading and drainage plan, and a hillside development plan for Farmington Hills Subdivision. Present were: Commissioners Brad Holton, Zach Brooks and Leslie Van Beek, DSD Director Sabrina Minshall, DSD Planning Supervisor Carl Anderson, DSD Planner Deb Root, DSD Hearing Specialist Amber Lewter, and Deputy Clerk Monica Reeves. Those in favor were: Todd Campbell, Hethe Clark, Dean Waite, Zane Cradic, and Scott Blaser. Those in opposition were: Brad Wellman, Denise Rhodes, Jon Rhodes, Greg Baker, Lisa Baker, Ted Todd, Robert Ubry, Randy Hetteema, William Selby, Tom Moore, Randy Waite, Rose Vargason, Donna Goelz, Vera Waite, Greg Jones, Kim Takagi, Steve Palange, Ron Saunders, Eric Nielson, Cheryl Palange, Steven Portnoff, Sam Layton, Rock Didericksen, Wanda Layton, James Griggs, Bill Stephenson, Martine Stephenson, Sharon Griggs, Ed Carson, Steve Hatchett, Steven Miller, Amie Strongone, Antonio Conti, Cindy Conti, Kim Carson, Jackie Grayson, Bart Grayson, Gail "Ike" Ikerd, Frederick Moxley, Ken Harris, Patty Nelson, Jamie Sharpe, Daniel Richards, Robin Conrad, Shawn Adamson, Scott Krahn, Mikell Galloway, Jack Garrett, Michelle Krahn, Carl Nadeau, Donald Bates, Robert James, Tamara Sloviaczek, Cindy James, Joseph Strongone, Julie Thomas, Samuel Thomas, Patricia Crawford, Allen Colson, Lyle Zufelt, Heather Peterson, Kathy Ikerd, Bruce Bane, Rebecca Press, Mark Press, Amelia Nadeau, Kathy Hendricks, Joe Sweeney, Paula Gillespie, Robert Hendricks, Marilyn Giacolone, Rory Hendricks, David Syvok, Jolie Gibbs, Jeremiah Hansen, Ashley Hansen, Rick Francis, Patty Cluff, Steve Cluff, Mike Morcom, RaNea Rich, and Lane Rich.

Prior to the start of the hearing, Commissioner Holton addressed the crowd regarding hearing procedures and guidelines. At 1:44 the hearing was opened.

Principal Planner Debbie Root gave the oral staff. The proposed development contains 492 total lots; 421 residential lots with an average lot size of 12,804 square feet; and 71 common lots subject to a pre-annexation agreement with the City of Middleton. The four subject parcels are located between Duff Lane and Lansing Lane, north of Foothill Road, and are located within the Middleton Area of City Impact. The P&Z Commission forwarded both cases with a recommendation of denial. The 2020 comprehensive plan designates the area as residential, and the City of Middleton's Comprehensive Plan Future Land Use Map also designates it as residential. The designation provides for rural transition areas to create a boundary between agricultural and urban areas. The area has been trending toward residential development for many years, the topography of the area is rolling hillsides. The property is currently in agricultural production and is surrounded by residential development on the north, east, and west sides with a few undeveloped parcels as well. The 12 platted developments adjacent to or in the immediate vicinity north of Foothill Road have average lot size of 1.6 acres and lots ranging in size from .7 to 10 acres. Five recently platted developments immediately adjacent to the property have an average lot size of 1.3 acres and are zoned R-1 single-family residential. The more recent developments have been approved with individual wells and septics. The Middleton City limits are located at Foothill Road approximately ¼ mile south of the property boundary. Property owner Bart Grayson is concerned about his property and the future plans of Meadow Park Blvd., and the access on his property. Within ¼ mile there are 16 platted subdivisions with 250 lots and three subdivisions in platting for an

additional 34 lots; within ½ mile there are 33 platted subdivisions with 558 lots and three subdivisions in platting for an additional 216 lots; within one mile there are 65 platted subdivisions with 1,378 lots with nine subdivisions in platting for an additional 777 lots. The proposal is to have municipal water and municipal sewer to serve the lots within the development. The Canyon County Zoning Ordinance provides for in the R-1 zone, the reduction of lot size to 12,000 square feet if the lots are provided with either water or sewer. The nitrate priority area is 1,020 feet to the north. DEQ has concerns about nitrates in this area due to the explosion of growth in the area with individual septic systems. The P&Z Commission found the proposed use is not consistent with the surrounding land uses; the proposed use will impact adjacent agricultural uses; and that the density does not reflect the character of the area that is primarily agricultural, and that the land should remain in ag production. Staff found the character of the area is trending to residential, that it is not agricultural in nature even though there are still agricultural properties in ag production. The developer has signed a pre-annexation agreement with the City of Middleton for municipal sewer and water to be provided by the city. There is a condition that within Phase 3-4 the developer will bring online a new municipal well to serve the development and for the city's use. Black Canyon Irrigation District has given preliminary approval. Williams Northwest Gas Pipeline traverses the property and they provided a letter after the P&Z Commission hearing stating they must review the construction drawings prior to development occurring in the vicinity of the pipeline. Some of the letters in opposition voiced concerns about the impact of the proposed development on their individual wells. The development should have little effect on area wells with municipal services being provided, having less potential of contaminating the aquifer, reducing the number of wells drilled to serve the properties. Traffic is a major concern. The traffic impact studies indicated existing deficiencies at both the Duff Lane and Lansing Lane intersections of State Highway 44. The developer has agreed to provide design construction of the interim signalized intersection at Highway 44 and Duff Lane. The developer has agreed to construct the intersection at Lansing Lane if not previously constructed by phase 10 of the proposed development. The development, if approved, is proposed to be developed in 13 phases with projected buildout at 7-10 years based on market demand. Mill Creek Elementary is at 118% of capacity, possibly more at this point, and currently has six modular units in place providing for 12 classrooms. The school district expects to have .5-.7 students per household enter the school system, and for the proposed development of 421 lots, the district anticipates approximately 210-294 students at full buildout of the project. The developer has entered into an MOU with the school district to provide at the time of final plat for each phase of the development, \$1,500 per buildable lot to address potential impacts of the new residences within the proposed development. The projected payment to the district for the 421 lots will be \$630,500. It's a voluntary commitment not currently provided by other developers in the area. The development will construct two primary thru accesses between Duff Lane and Lansing Lane to provide for some much needed relief to Purple Sage and Foothill Roads. The site contains slopes greater than 15% and requires compliance with CCZO special developments; hillside development code. They are required to build two collector roadways including Meadow Park Boulevard and Willis Road. Following her staff report, Ms. Root responded to questions from the Board.

Testimony in favor of the request was as follows:

Hethe Clark testified this property has been planned in both the City of Middleton and the County as residential. It is within a ¼ mile of the city limits and there are 65 platted or developing subdivisions within one mile of the project. The County has spent the last few years focusing on pushing development into the areas of city impact, and this is an area where services are located and planned to expand and as a result it would be more appropriate for density to be located in this area. There has to be density in order to economically provide city services, and if we have density where it's supposed to be, then we preserve ag ground by putting it in appropriate locations. The phasing plan will start on the west at Duff Lane and move east to Lansing Lane. A 7-10 phasing plan is what's anticipated and that's part of what mitigates the impacts in a project like this. The project has excellent amenities such as ponds, clubhouses, pathways, parks, and 23% open space. Middleton has approved a pre-annexation agreement for this project and utilities will be provided by the city until it is annexed, and once the annexation path is available and in the meantime the developer will provide significant infrastructure improvements to serve existing and future growth. The developer's massive investments include a new regional sewer lift station, a new water booster station for an entire new pressure zone, a new municipal well and two intersections will be improved at Highway 44. The overall investment is in the range of \$15 million. Mr. Clark spoke about how the Middleton School District really needs to have school bonds pass, and how the developer has signed an MOU with the school district confirming the \$1,500 payment. He reviewed concerns with the P&Z Commission recommendation of denial and following his testimony, Mr. Clark responded to questions from the Board.

*The following people, who are opposed to the request, needed to leave the hearing early so their testimony was taken out of order.*

Testimony in opposition was as follows

Jamie Sharpe testified that the project will greatly affect her quality of life, and she is greatly concerned with the disappearance of agricultural land as well as the impacts on neighboring wells, the adverse effect on water quality, and the impact on the schools that are already overly burdened.

Lyle Zufelt testified that one of his concerns is in the communication from Roberta Stewart from the City of Middleton who stated if the single well proves to be insufficient, the city may require a second well. He said we shouldn't be deceived into thinking this development will just pull water from municipal wells in the city. Middleton projects water demand in 2025 to be over 2 million gallons a day and this development, with the pre-annexation agreement to drill the second well if necessary, will be pumping 24 hours a day to try to meet that two million gallon a day demand by the residents in Middleton. He hasn't heard the developer offer to cover the cost of a new well for the neighbors if their wells go dry after the municipal well is drilled. Mr. Zufelt also spoke about concerns with how this project will negatively impact traffic and increase delays.

Ron Saunders lives contiguous to the subject property on the southeast side, and he represents 701 persons who've signed the petition objecting to the development. Because Duff Lane is not usable by heavy trucks, Lansing Lane is being used all day long. The proposed plans creates a high density suburban environment where a rural and agricultural area exists. A rezone is incompatible with current land uses and will negatively affect and change the character of the area. The homebuilding industry maximizes profit via the highest density of dwellings, and they have resources and political capital that citizens don't have and there needs to be a balance between builders' profits and the quality of life for citizens who are stuck with the results of high density development, traffic, overcrowded schools, and a rise in crime. The pre-annexation agreement between the City of Middleton and the builders occurred during the previous Mayor's tenure, and most of the people in Middleton were unaware of it and subsequently Middleton elected a new Mayor who ran a campaign in part to rein in the uncontrolled growth in the city, and according to Mr. Saunders they are contemplating a recall of city councilmembers.

Ted Todd testified that the developer proposes to pay for two traffic lights but neither will do anything to reduce traffic, and he believes people will sidestep those lights and drive through residential areas and other roads to avoid the congestion. This is the wrong project at the wrong time.

Bart Grayson testified he has lived on Lansing Lane for 29 years and his property adjoins the subject property. Between Mr. Grayson and his neighbors they own the road down to Lansing Lane, it's in between Meadow Park and Farmington Hills. It's not an easement. Meadow Park does not currently have access to Farmington Hills from his side of the property. The developer's plans for Meadow Park goes through his property and his barn and it will make a disaster of his 5-acre property as well as his neighbor's property and it will impact his ability to sell his property. Principal Planner Root said there is some discrepancy and Mr. Grayson's concerns are valid in that Meadow Park is a planned master transportation planned roadway and the alignment does follow this section line for that alignment. Canyon Highway District exhibits indicate this is a noted concern and a known situation and that right-of-way acquisition would be required. The halfwidth of Meadow Park is already completed for the Cascade Hills development which is on the north side of the Grayson property that runs to Lansing Lane. There may have to be concessions at some point to complete that planned collector roadway alignment. Mr. Grayson said if this is approved as it's drawn, there is no choice but to go through his land and it wouldn't take that much to make a jog and go around, but it needs to be planned for.

Jackie Grayson testified the entire south end of her property runs along the private property that the developer wants to take over. A top concern of citizens is the preservation of farmland and we see it going way very quickly. She likes the rural character of the area which is why they moved here but the proposed development removes that from those who paid high-dollar to live here. Schools are overcrowded and it will cost \$7.5M to build a new school but the only way to gain money to build schools and improve the fire department is by levies but they are not passing. She

does not want to absorb the costs for another 421 houses. We don't need high-density population in the middle of houses that are 1.6 acres and larger.

Antonio Conti testified that he is opposed to developers using loopholes to go around the rules. Imminent domain is not supposed to benefit the developer, it's for the greater good. They are looking to build 360 lots on a half-built road, but what happens if the person is not willing to sell? Mr. Conti is also concerned about the impacts to wells. He said this is a beautiful development but it belongs in the city, not the county.

Greg Jones testified Lansing Lane is on top of a bluff and you cannot see over the ridge when coming up or going down and the access point on the east side of the development will put a lot more traffic at the crest of the hill where the ability to see oncoming traffic is really diminished. As we struggle with the schools and finding additional funding, the developer has said they will contribute \$1,500 per lot, but residents are paying nearly that amount per year per home to fund the existing schools. It will be an additional burden on the taxpayers and it doesn't fit the rest of the demographic as the homes in the area are one acre or greater. The development will decrease property values. He asked the Board to consider the safety of those in the area and look at the burden it places on the community because of the density and proximity.

Allen Colson said this project is almost quadruple the size of developments that were denied in the last year. The developer bought this land as ag ground and they bought it as an investment and knowing it would have to be rezoned, but we do not owe them a rezone. He spoke of his concerns with the dangerous intersections in the area and the added strain 400 additional homes will have on EMS services. He asked, if we are not going to save this piece of land at 200 acres that's in agricultural production, then what pieces are we saving in the County?

Randy Hetteema testified that he moved to a rural environment and it is quickly going away. He is concerned about the impact to his well, traffic, and the loss of existing farmland and he hopes the Board will consider the input of the citizens who are negatively impacted by the development.

Greg Baker submitted a video regarding the dangers at the intersection of Duff Lane and Meadow Park Blvd., due to the elevations, the grade, and speeding traffic. He is concerned about skip annexation and said the City of Middleton's planner had said this is setting the stage for further high density development out there.

Cheryl Palange lives in Cascade Hills and her kitchen window overlooks half of the subject property that currently has a field corn crop. The community supports agriculture but there are concerns about the impact on wells and wells going dry. In Cascade Hills, the developer gave away their landscape water rights so if they have to connect to a municipal well down the road or drill a deeper well they will not have any landscape water which is concerning. She said the traffic lights at Lansing and Duff is a pet project of the Mayor of Middleton and it will take a couple years (not 7-10) before they are installed.

William Selby testified that he moved to the area 10-12 years ago from Boise because it was too crowded. Subdivisions keep coming and traffic makes it difficult to access side roads and the proposed development will make it worse. He is concerned about wells in the area, noting that his well dropped by four feet. He is thinking about selling his property because this is not what he moved here for.

Testimony resumed with the following people testifying in favor of the request:

Dean Waite, who is part of the development team, testified that he was born and raised in this valley and he cares about the community. When they began this project many years ago their intention was for acreage lots and there were challenges mostly due to septic issues and the water rights issue. It is true that one well for all the lots will be less impactful to the surrounding residents than 150-180 individual wells, but that's not the reason they changed. There were other issues with nitrates and traffic and that's how they came to their current plan. He has been in development for 25 years and he has not seen a project of this size that has been so willing to step forward and do the infrastructure upfront and to privately pay for the public infrastructure projects and he is surprised there isn't more excitement for the developer doing this. It will be \$15M most of which will be spent before one house is built. Regarding the issue with Meadow Park Blvd., this is an east/west corridor that the highway district has planned to take traffic off Purple Sage and State Street. There is a private land issue and that is why Willis Road is a one-mile collector road they have agreed to build that will help ease that problem. Willis Road has a plan just like Meadow Park to be pushed all the way through. There are private property issues but he said they can do their mile of collector on Willis Road and they have agreed to provide monies for Meadow Park if they ever figure out the private property issue. They have met with the fire department and offered them a location for a new building but they did not need it. The first lot will tap into municipal water and sewer; the first three phases will be provided by current Middleton services with a booster station.

Zane Cradic, the project engineer, testified that the emails with the City of Middleton and staff was in discussion if they drill a test well and the well doesn't meet requirements they would drill a second well. The first well would then be abandoned. They would only utilize one well. There were comments about a 5-15 minute delay on Duff Lane, but that's not what the TIS is talking about, the TIS is in seconds, not minutes. In 2021, Duff Lane and Middleton Road were already failing. The developer sees it's a need for the community and with private funding they can expedite the process to get the services improved that are failing today. Regarding the flag lots along Meadow Park, they are aware of those lots and they have worked with the highway district but they are not trying to connect Meadow Park, they were told they had to give the right-of-way for future connection so they are donating the right-of-way for future connection and then if the highway district in the future acquires that additional 20 feet that's going by the private property to the north they will give up to their property line and then the next person will give their piece on the other side of the street. It happens to be two 5-acre parcels that own that 20-foot stretch,

10 feet for each parcel. They are not saying they need it nor are they going to take it with imminent domain. They are dedicating on their property.

Testimony resumed with the following people testifying in opposition to the request:

Denise Rhodes testified there is no guarantee the development will ever touch city limits. The way the city engineer has presented it, it will be 8-10 years before it can be annexed so in that time Middleton is taking water from the county and selling it back to city residents. The developer is a third generation developer and he knew the rules when he bought the land and if he didn't do his due diligence or this project doesn't pencil out, that's not for the County to fix or for the residents to bear the burden of. The traffic studies in his plan were outdated and included two years of COVID. Adding 1,000 cars to roads that are used by farmers, cyclists, etc, puts everyone at risk. There are have been Injury accidents at the Duff and Purple Sage and Lansing and Purple Sage intersections. The developers plan to put a light at Lansing Lane is 10 years, but she would rather go with the Mayor's plan at 3 years. Extending Willis Road by one mile does not mitigate any traffic, it just creates an unsafe cut through in a residential neighborhood. It will have a negative impact to services and it will be 8-10 years before they are allowed to annex. She moved to Canyon County for the rural nature and if she wanted 6,000 square foot lots she would have moved to Ada County.

Robert Ubry testified that he has lived across the street from the subject property for 10 years. The comprehensive plan gives guidance and speaks to protecting the rural character, compatibility with surrounding community, protecting and enhancing the rural landscape, consider site compatibility and characteristics and does not fragment existing land use patterns. The Board's duty is to protect the land, people and the way of life. This high-density project violates this guidance at every level and must be stopped. Impacts on rural liability, traffic, schools, water, and waste cannot be denied or reasoned away with platitude and promises. It will forever change the character of the area and the impact on the existing community cannot be ignored. This is a rural low-density area with 1-acre+ properties and small to medium-sized productive farms. This is an overreach by the City of Middleton in their attempt to secure a larger tax base and gain access to groundwater for uncontrolled growth in the city. Mr. Ubry said he is not anti-development, and if the proposal was for one house on one to five acres he would not oppose it.

Randy Waite testified he has lived directly south of the subject property since 1967 and development is out of hand. He is concerned about the impact on the schools and said the people who purchase the lots will pay the costs, not the developer. He believes the project is too dense and will create a disaster for Middleton with the traffic problems.

Donna Goelz testified she has lived near the intersection of Purple Sage and Lansing Lane for 33 years, and the proposed development will negatively affect the character of the area and the quality of life for those who live nearby. The developer has a schematic of a development with sidewalks, streetlights, community areas, but those who live in a rural community are not going to benefit from those amenities. Neighbors ride horses, families bicycle together, and residents find

pleasure walking and jogging along the roads. School children stand on the side of the road, often in the dark as they wait for the school bus in the early morning hours. She spoke about concerns with the roads and said in the past five years there have been more than 18 car accidents collectively at the intersections of Purple Sage and Lansing, and Purple Sage and Duff. Tragically, one of those accidents resulted in the death of a teenage driver and a child in 2020. With the proposed addition of 420 homes it is easy to foresee the increase of traffic will not only impact the traffic flow, the noise, congestion and road safety, but it will also create harm to the quality of life for the community. This does not take into account the harm caused by the drawdown of their water resources or the overwhelming impact to the other essential public services.

Kim Takagi lives on Duff Lane across from the subject property, and she moved there in 1978. The subject property is very viable and is currently growing seed. The land yields 70 tons of hay with every cutting, and they put cattle on it afterwards to eat what's left. She spoke about traffic concerns and said people speed on Duff Lane, and there are blind spots on the road and putting more people in the area increases the risk.

Kim Carson testified that her property adjoins the proposed development on the north and she believes the developer has cherry-picked sections of the comprehensive plan to make it appear as though it fits. This is not orderly development, it's leapfrogging and it's out of control. High-density housing will negatively change the area and will significantly compound the problems with essential public services. The well issue is a big concern. With all the diversion of the water, the huge 16-inch lines going out of the community well to the city of Middleton, there has to be an impact on area wells. She is surprised a water study hasn't been done when you're diverting this much water away from a property and it's not returning to the aquifer. The traffic study was outdated, they changed the date on the study, but didn't change the study at all. It doesn't mention Meadow Park Blvd., and that is an integral part of this development. How will it impact the area? The blind spots and reduced visibility areas are horrific.

Donald Bates testified that if people are using the Middleton Sewer System that water is no longer going to go back to recharge the aquifer and you're going to see wells drop because of it. He spoke about the traffic congestion on Stone Lane, and said widening the road is not going to solve the problem.

Tamara Sloviaczek lives on Bullock Lane in Middleton where she and her husband own and operate a 50-acre organic produce and sheep farm. They support agriculture. They also own the 80 acres north of this development and they rent it to Ty Meeks. She has attended many hearings to speak in favor of ag rural life and to hold off development. This year they had to invest \$25,000 in a bubbler for the 80-acre piece so their renter could farm it and it will take 10 years to gain back that investment. They sold some of the land that's currently included in this development so they could pay for expenses, such as the bubbler as well as make investments in the 50-acre piece that her husband and son are farming in the hopes they can support their family. She asked the Board to figure out a way to continue to support agriculture in Canyon County.

Samuel Thomas testified that Middleton is over capacity on their sewer and doesn't know if the city can handle this project connecting to it and is concerned it will come back on the taxpayers. The soils report said 85% of this land is prime farmland. If you approve a city project in the county it will set a precedent for every other developer to come out there and do the same.

Rick Francis said when the project was first introduced to the P&Z Commission, the staff person stated all the surrounding properties were at least 1-5 acre lots and then commented that it doesn't matter, and there was no explanation for that and that really caught his attention. It does matter. How does high-density not affect the whole area? Density is not supposed to be at this rural location. On April 17<sup>th</sup> the Middleton City Council passed Ordinance 693 which addressed the idea of limiting development until the school issue can be resolved and he asked the Board to also deny this project in support of the City of Middleton's stance.

Mark Press testified that he likes living in a rural setting because it offers dark skies at night and he said if all developments come in with parks and tennis courts and streetlights the enjoyment of night skies will be diminished. He is concerned about the traffic congestion at the intersection of Duff Lane and Highway 44 and said the development will add immensely to the traffic issues. He does not want to lose the rural character of his neighborhood.

Mike Morcom testified the elimination of farm ground and the water we are taking recharges the surface water, and when you eliminate that and put in subdivisions you eliminate the recharge in groundwater. He is concerned about the impacts on wells and the aquifer. He called the Idaho Department of Water Resources but they don't have answers. He would like to see somebody undertake a water study for this area to give some assurance. The Board needs to have a firm grasp of what's being done or we need to stop growth until we do.

The Board took a break at 4:35 p.m. and back on the record at 4:47 p.m.

Rebuttal testimony was offered by Hethe Clark who addressed the questions from the neighbors. Meadow Park Blvd., is not placed in that location at the applicant's request or direction. The highway district identified it as an east/west collector that they would like to see in the future so the developer is giving up property for that as well but that's not something they are insisting on and they don't see it as something that's required for the project. Willis Road serves that function. They are following Canyon Highway District's direction on that. Regarding improvements at Purple Sage and Duff, at Highway 44, neither of the intersections are eligible for impact fees or any other fees that would help pay for that, and that's part of the problem and why they have been dependent on federal funds is because they were identified as already failing and so they are not in the Mid-Star Plan. Regarding Purple Sage at Duff and Lansing, those are impact fee eligible intersections and so the developer by stepping in and coming up with funds where there is not a mechanism already. They will pay their share, impact fees will be going to improve purple sage, Duff and Lansing Lane. Regarding Duff Lane, there was conversation about the rolling nature, visibility and sight lines. They have discussed that with the highway district and are contributing additional right-of-way so that can be raised eventually. The district is not asking the developer to

put improvements there to fix that issue right now because they want to take care of that as part of a larger solution. They have agreed to a payment in lieu so they are putting money in to address that visibility issue, it will be there for the highway district for when they are ready to use it. Regarding the traffic study, it was suggested it was outdated. They made application in 2021 and given the amount of time that has passed they went to the agencies and asked if they wanted the developer to redo it. The study includes seven projects that haven't gone forward so the agencies said no, stick with what you have because if you redo that it would drop the impacts on the intersections and they think this is more conservative and a better approach. Regarding schools, state legislature has not given many tools to deal with schools. The Local Land Use Planning Act says we cannot have a subdivision fee that isn't authorized by the impact fee act and that act doesn't allow for school impact fees. He doesn't know that it would be helpful because a lot of people would say use the impact fees to pay for your building but impact fees accumulate over time so you wouldn't have the building for quite a while and in the meantime, you will have a difficult time getting a bond passed. They have worked with Superintendent Gee and he is working hard to get a bond passed which would address what is already a challenge that is confronting the school district and that would exist regardless of whether this subdivision was approved. In the meantime they have identified the mitigation they can provide; the school district has shown what those costs are and the developer agreed to increase that in order to address their fair share. Regarding the pre-annexation agreement and arrangements with the City of Middleton, there has been some suggestion it is shoestring annexation or that it's not orderly development, but is not an annexation; the annexation doesn't occur now. They have to wait for the annexation. What makes this orderly is they went to the City of Middleton and asked what they need and they came up with a pre-annexation agreement that creates the runway. This area is planned to go into the City likely at higher densities than the developer is proposing. They put \$15M to the problem of making sure it's ready to go into the city when it's appropriate. Mr. Clark said this project is not exporting water. Black Canyon Irrigation District provides the irrigation water to the site, it's not a groundwater-irrigated site; it's all surface water and the surface water is going to continue to come to each residence. They are talking about a municipal well which goes through a rigorous approval process through the IDWR where they are going to look at uses and consumption and from there it will be subject to the oversight of DEQ when it comes to the ability to serve. This is a group that's worried about preserving agriculture and the impact on the character of the area. We know people are coming. If they were to do one-acre lots that kind of gross density will typically be something in the .75 range so in order provide 400 units of housing at that density, rather than using 200 acres you'd use 600 acres. That's how you lose agricultural ground. Canyon County and the City of Middleton have set the stage for this; it's in the impact area and both the County and the City have planned for it to be residential and the County has said where you have urban services you can do 12,000 square foot lots.

Principal Planner Root said DSD staff met with the City of Middleton regarding their waste treatment and this development is calculated into their ability to serve in the current waste treatment system. Further discussion ensued.

Upon the motion of Commissioner Brooks and the second by Commissioner Van Beek, the Board voted unanimously to close public testimony. The Board's deliberation began at 5:04 p.m. where they reviewed the conditional rezone criteria:

***Is the proposed conditional rezone compatible with surrounding land uses?*** The Board finds the proposed conditional rezone is generally consistent with the comprehensive plan although there is a significant difference between what the city and the county considers residential development.

***When considering the surrounding land uses, is the proposed conditional rezone more appropriate than the current zoning designation?*** Commissioner Van Beek said the P&Z Commission found that the CR-R-1 zone is not more appropriate than the current agricultural zoning designation and she supports that finding and conclusion. Although the area appears to be trending to a residential area, it is not to the density that is being proposed. Commissioner Brooks said it's an issue of density and he did not find R-1 is appropriate for this area. Commissioner Holton understands Hethe Clark's argument but the surrounding property is owned by people who moved here with the idea of having a rural residential. It is not more appropriate than the current zoning. Sooner or later it will be annexed and the density will be much higher.

***Is the proposed conditional rezone compatible with surrounding land uses?*** Commissioner Van Beek supports the P&Z Commission's findings that the single-family residential zoning is not compatible with the surrounding land uses. There is a provision for a transitional area that would include larger lots but that's not what this is. Commissioner Brooks said his answer for previous question also applies to this. Commissioner Holton concurs that the proposed use would not be compatible.

***Will the proposed conditional rezone negatively affect the character of the area?*** Commissioner Van Beek said the proposed use will negatively impact the livelihood, safety, and character of the area. Commissioner Brooks said the character of this area is rural residential, obviously the subject property is in productive ag, but he agrees that it is trending towards more residential, but not that the proposed density and it would negatively affect the character of the area. Commissioner Holton concurred. The applicant has done more to attempt to mitigate negative effects than any developer he has worked with. Commissioner Van Beek said even though \$15M is one of the best efforts we have seen, it does fall short. Commissioner Brooks said the number of rooftops are the reason mitigation measures are necessary and unless you mitigate the number of rooftops its hard to come to a conclusion that other mitigation efforts that are the byproduct of the number of rooftops can be sufficiently addressed. Commissioner Holton said a reduction in the number of houses would make it more viable.

***Will adequate facilities and services including sewer, water, drainage, irrigation, and utilities be provided to accommodate proposed conditional rezone?*** Commissioner Van Beek said it has to be in tandem with what's happening in the City of Middleton as there have been changes with the leadership. This should be a no; they are already at capacity. They were hoping to say no more

entitlements until the school capacities are not in excess of 110%. They will have to upgrade the sewer facility and we don't know what the cost is. Commissioner Brooks said testimony indicated the first three phases can be served and after that the municipal well will need to be drilled, that could be several years from now. He defaults to the P&Z Commission. Commissioner Van Beek said there were concerns cited on the Black Canyon Irrigation District document. The issues are recharge and what happens to the irrigation water. Commissioner Holton sees it differently. When the city gives a *will serve* that's an expectation that's almost contractual and that's what Middleton chose to do. They have the potential to have the water and sewer, but he has a problem with them putting a well of this magnitude in that area. Middleton has a large footprint for their water system and the aquifer and the groundwater available by the river is much higher than in this area. He would like to see an agreement to invest with the City of Middleton in a location that's closer to the Boise River.

***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 measure have been taken to mitigate traffic impacts?*** Commissioner Van Beek said it does not address the already loaded infrastructure and the video was telling, that pocket where a car is hidden. There is rolling topography and there are dangerous traffic concerns on Highway 44, but a traffic signal does not alleviate the traffic concerns. The only way to mitigate is to not add to the problem. She found the proportionate share was insufficient as a contribution toward mitigating the significant traffic deficiencies that exist. The proposed issue is insufficient to mitigate with the existing problems and the load that would be put on. Commissioner Brooks concurred. The mitigation efforts have not reached a threshold of minimizing undue interference with existing or future traffic patterns. There are too many intersections with too much traffic to mitigate with what has been proposed. Commissioner Holton said seldom do we have a developer willing to do an improvement on an intersection 1 ½ mile away before they even start. The terrain is problematic and it is frustrating the highway district would not coordinate with the developer to take out some of those swales. Commissioner Brooks said they are in no position to participate fully in what it requires for a project of this magnitude to be consumed within their city.

***Does legal access to the subject property for the conditional rezone exist or will it exist at time of development?*** The Board concurs with the P&Z Commission's findings.

***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?*** Commissioner Van Beek said the schools were crowded when her kids attended, and portable units are used but they are not the answer. Middleton is in need of expanding their school system. It's unfortunate the ambulance levy failed because they are behind with the growth and cannot keep up with the essential emergency services. Agencies are struggling to keep up. Commissioner Brooks said EMS are already impacted regardless of this project. He cannot find in the affirmative for criteria no. 8. Commissioner Holton said the developer voluntarily agreed to contribute, and that dollar amount is 100% more than the Board

has experienced to date. Idaho has a problem going forward and some of the land use decisions are ticking time bombs for schools, fire police, because they are approved and guess who gets to pay for that through a bond levy? Impact fees will be marginally helpful, but they will not solve the problem. Bonds are failing at the polls. The Board concurs with the draft FCOs.

Regarding the Area of City Impact Agreement Ordinance, Commissioner Brooks said there is nothing contiguous to city limits and in 10 years this could still be a county subdivision. Commissioner Holton appreciates that the developer worked with the city and got agreements for will serve and although the preliminary plat was presented well, it is too big of change for this area.

Upon the motion of Commissioner Brooks and the second by Commissioner Van Beek, the Board voted unanimously to deny Case No. RZ2021-0056, a conditional rezone from an "A" zone to a CR-R-1" zone for parcels R37605, R370605010, R37602010 and R37597 comprised of approximately 217 +/- acres. The motion was seconded by Commissioner Van Beek. Commissioner Brooks amended his motion to add 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. Commissioner Van Beek amended her second. The motion carried unanimously. Commissioner Holton made a motion to deny Case No. SD2021-0059, the preliminary plat, phasing plan, irrigation plan, hillside development plan, and the grading and drainage plan for Farmington Hills Subdivision due to the denial of the proposed rezone for the subject properties in Case No. RZ2021-0056. The plat does not comply with the underlying agricultural zoning requirements. If the applicant wishes to obtain approval they may consider increasing the lot size and/or wait for the right time, which is when the City of Middleton is ready to annex the subject properties. The motion was seconded by Commissioner Brooks and carried unanimously. The Board will consider the FCO's on Monday, June 24, 2024 at 9:30 a.m. The hearing concluded at 5:50 p.m. An audio recording is on file in the Commissioners' Office.