



HEARING EXAMINER
FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

In the matter of the application of:
Bollinger – Case Number CR2026-0001

The Canyon County Hearing Examiner considers the following:

A Conditional Rezone from "A" (Agricultural) to "CR-C2" (CR-Service Commercial) w/Development Agreement for the purpose of locating a construction company; Bully Excavation, on parcel R34440010A (5.75 acres), located approximately 1017 feet north of the Hwy 44/Emmett Road intersection on the east side of Emmett Road. The proposed uses include a staging area, offices, a maintenance and repair facility.

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 CR2026-0001.
 - 1. All exhibits can be found in the case staff report dated October 22, 2026.

Applicable Law

- 1. The following laws and ordinances apply to this decision: Canyon County Code of Ordinances (CCCO) §01-17 (Land Use/Land Division Hearing Procedures), CCCO §07-05 (Notice, Hearing and Appeal Procedures), CCCO §07-06-01 (Initiation of Proceedings), CCCO §07-06-07 (Conditional Rezones), CCCO §07-10-27 (Land Use Regulations (Matrix)), Idaho Code §67-6511 (Zoning Map Amendments and Procedures), CCCO § 09-09-01, (Area of City Impact Agreement), and §67-6519 (Application Granting Process).
 - a. Notice of the public hearing was provided per CCCO §07-05-01 and Idaho Code §67-6509.
 - b. 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* CCCO §07-06-07(1).
 - c. 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* CCCO §07-05-01
- 2. The presiding party 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 presiding party shall have those powers and perform those duties assigned by the board that are provided for in the local land use planning act, Idaho Code, title 67, chapter 65, and county ordinances. CCCO §07-03-01, 07-06-05. **Or** Any hearing examiner appointed by the board shall perform such duties as assigned by the board pursuant to Idaho Code section 67-6520. *See* CCCO §07-03-07.
- 4. The burden of persuasion is upon the applicant to prove that all criteria are satisfied. CCCO §07-05-03.

5. 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. CCCO 07-05-03(1)(I).

The application, was presented at a public hearing before the Canyon County Hearing Examiner on October 22, 2026. 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 Hearing Examiner decides as follows:

Table 1. Conditional Rezone Standards of Evaluation Analysis

Standards of Evaluation (07-06-07(6) A: The presiding party shall review the particular facts and circumstances of the proposed conditional rezone. The presiding party shall apply the following standards when evaluating the proposed conditional rezone:					
Compliant			County Ordinance and Staff Review		
Yes	No	N/A	Code Section	Analysis	
			07-06-07(6)A1	Is the proposed conditional rezone generally consistent with the comprehensive plan;	
			Staff Analysis	The proposed conditional rezone from "A" (Agricultural) to "CR-C2" (CR-Service Commercial) is generally consistent with the 2030 Comprehensive Plan designation of commercial and with multiple goals and policies within the Plan. The 2030 Canyon County Comprehensive Plan designates this property as Commercial. The property immediately to the north of the subject property is designated as Residential. The City of Middleton Future Land Use Map designates this property and a large portion of the property to the north as Commercial. The property is located within 300 feet of the City of Middleton City limits. The applicant is not proposing annexation nor is there a pre-annexation agreement with the city. Commercial Designation (page 25): <i>The commercial designation is intended to encourage commercial uses which can provide goods and services to businesses, travelers, and residents of the County.</i> The following are select goals and policies that support the land use change as proposed and conditioned: Economic Development: G3.01.00 <i>Promote a healthy and sustainable regional economy by retaining, expanding, and recruiting businesses to favorable locations.</i> G3.05.00 <i>Support a diverse economy in Canyon County and recognize that residential, commercial, and industrial uses are necessary components of overall economic stability.</i> Land Use and Community Design: P4.01.02 <i>Planning, zoning, and land-use decisions should balance the community's interests and protect private property rights.</i>	
☒	☐	☐			

				G4.03.00 <i>Develop land in a well-organized and orderly manner while mitigating or avoiding incompatible uses, protecting public health and safety, and creating a vibrant economy through sustainable land use planning.</i> P4.03.02 <i>Encourage the development of individual parcels and subdivisions that do not fragment existing land use patterns.</i> G4.06.00 <i>Development design should improve the area's character and be compatible with the community's visual appearance and the natural environment.</i> P4.06.03 <i>Development should sustainably provide roadway and pathway connections, downward lighting, drainage, stormwater runoff, landscaping, re-vegetation of disturbed areas, underground utilities, and weed control.</i> Natural Resources: G5.06.00 <i>Encourage downward-facing lighting to improve public safety.</i> Schools: G6.02.00: <i>Strive for better connectivity, safer access, and pedestrian-friendly transportation options to schools.</i> P6.02.01: <i>New development within one mile of existing or planned schools should provide adequate pedestrian and bicycle access for school children and internal and connecting roads and pathways.</i>
			07-06-07(6)A2	When considering the surrounding land uses, is the proposed conditional rezone more appropriate than the current zoning designation;
☒	☐	☐	Staff Analysis	In consideration of the current surrounding land uses, the proposed conditional zone change to "CR-C2" (CR-Service Commercial) is as appropriate as the current zoning designation of "A" (Agricultural). The parcel is a 5.75 acre piece of land that is in a transitional mixed-use growth area. FINDINGS: 1. The 2030 Plan future land use designation and the City of Middleton's future land use plan both designate the area for future commercial growth (Exhibits C.4, C.5). 2. The City of Middleton does not oppose the proposed application, however, ensuring that the roadway frontage be consistent with the potential residential mixed-use development to the north of the property is requested (Exhibit E.6). 3. There is commercial development occurring along the nearby Hwy 44 frontage inclusive of a large commercial RV Park, tractor Supply, Precision Tire, 44 Feed and Supply, Caldwell Bus Company, and a new Maverick Fueling Station indicating a trend toward the planned commercial development of this area. PURPOSE OF ZONE: Pursuant to Canyon County ordinance 07-10-25 (1): (5) The purpose of the C-1 (Neighborhood Commercial) Zone is to provide for local commercial service needs and to restrict incompatible uses. (6) The purpose of the C-2 (Service Commercial) Zone is to provide areas where activities of a service nature, which are more intensive in character than in other Commercial Zones, may be carried out.

			The applicant is proposing the more intensive service commercial zone and has provided a list of additional uses that he is interested in preserving should the property change hands or business use change. If approved, the property will be restricted to specific uses unless annexed to the City of Middleton or the development agreement is amended in the future. Staff notes that Middleton High School is located on Emmett Road approximately 2000 feet to the north of the property along with significant residential development in that area surrounding the school. The City of Middleton's future land use designation for the surrounding undeveloped properties is primarily Commercial transitioning to Residential. The property is located within the Middleton area of city impact. Adjacent Existing Conditions: <table> <tr> <th>Direction</th><th>Existing Use</th><th>Primary Zone</th><th>Other Zone</th></tr> <tr> <td>N</td><td>Agricultural, Residential, Middleton High School</td><td>A, R1/RR</td><td>City limits</td></tr> <tr> <td>S</td><td>RV Park, Bus Depot, Tractor Supply,</td><td>C1, M1, CR-M1 & City</td><td>A/Ag Residential</td></tr> <tr> <td>E</td><td>Agricultural, Residential</td><td>A & City mixed use</td><td>City limits</td></tr> <tr> <td>W</td><td>Agricultural</td><td>Agricultural</td><td></td></tr> </table> "A" (Agricultural), "R-R" (Rural Residential), "R-1" (Single-Family Residential), "C-1" (Neighborhood Commercial), "C-2" (Service Commercial), "M-1" (Light Industrial), "CR" (Conditional Rezone) Surrounding Land Use Cases: There are no immediately adjacent county land use cases. The cases as listed in Exhibit C9 include mineral extraction to the south along the Boise River, rezone to residential to the north near the high school, a conditional rezone from CR-C1 to CR-C2 nearly a mile to the west along Hwy 44 and a small RV Storage facility on a C1 zoned parcel.	Direction	Existing Use	Primary Zone	Other Zone	N	Agricultural, Residential, Middleton High School	A, R1/RR	City limits	S	RV Park, Bus Depot, Tractor Supply,	C1, M1, CR-M1 & City	A/Ag Residential	E	Agricultural, Residential	A & City mixed use	City limits	W	Agricultural	Agricultural	
Direction	Existing Use	Primary Zone	Other Zone																				
N	Agricultural, Residential, Middleton High School	A, R1/RR	City limits																				
S	RV Park, Bus Depot, Tractor Supply,	C1, M1, CR-M1 & City	A/Ag Residential																				
E	Agricultural, Residential	A & City mixed use	City limits																				
W	Agricultural	Agricultural																					
☒	☐	☐	07-06-07(6)A3 Is the proposed conditional rezone compatible with surrounding land uses;																				
			Staff Analysis The proposed conditional rezone to "CR-C2" (CR-Service Commercial) as conditioned and limited to the specified use is compatible with the current surrounding land uses which are primarily agricultural on the immediately adjacent properties at this time. The developer is proposing a 10,000 square foot shop with a 1,500 square foot office attached and an additional 3,500 square foot office building to serve as the operational headquarters for Bully Excavation. The property is proposed to support onsite storage of semi-trucks, trailers, and heavy excavation equipment. Activities include equipment maintenance, administrative operations, dispatching, and secured outdoor storage (Exhibit B2). Also proposed is a fueling station and truck/equipment wash pad (Exhibit B.4). He further proposes that the following uses be allowed now or in the future to be specified in the development agreement (Exhibit B.3) 1. Accessory uses and/or structures to allowed use, 2. Contractor Shop, 3. Mini/RV Storage,																				

- | | | | | |
|--|--|--|--|---|
| | | | | <ol style="list-style-type: none">4. Retail stores, personal service shops, banks, offices, hotels, motels, microbrewery and restaurants,5. Sale of heavy building materials and machinery,6. School,7. Staging Area |
|--|--|--|--|---|

The seven listed additional uses have not specifically been reviewed by the responding agencies. The impacts of the listed uses are not or may not be commensurate with the stated use and business model for Bully Excavation creating additional impacts not considered by staff and agencies for this property. Annexation to the City of Middleton with appropriate services including municipal water and sewer services is recommended for any future uses.

Pursuant to Canyon County Ordinance 07-02-03, land uses are compatible if: a) they do not directly or indirectly interfere or conflict with or negatively impact one another and b) they do not exclude or diminish one another's use of public and private services. A compatibility determination requires a site-specific analysis of potential interactions between uses and potential impacts of existing and proposed uses on one another. Ensuring compatibility may require mitigation from or conditions upon a proposed use to minimize interference and conflicts with existing uses.

Service Commercial allows for more intense uses than the neighborhood commercial zone. Canyon County's current proposed use for the adjacent property to the north is residential on the 2030 Future Land Use Map (Exhibit C4). The construction and heavy equipment facility and use could impact future use compatibility. That residential use does not currently exist.

The City of Middleton Future Land Use Map (Exhibit C5) has the adjacent property identified for commercial where it abuts the subject property. The adjacent property has an annexation path along the northern boundary (Exhibit C3) and the City of Middleton indicates discussions with the property owner have occurred regarding development (Exhibit E6). Additionally, there is a large RV Park located nearby to the south of the property. There is potential that noise and possibly dust from the activity at the subject property could be a concern.

The City of Middleton requests that the frontage along Emmett Road be required to match the functional classification development standards for a principal arterial roadway inclusive of a detached pathway that will also be required of any development in the city. Pathways are supported in the Land Use and Community Design component of the 2030 Plan. Provisions for safe routes for bike/pedestrian travel is important as this region transitions to urban development. A condition requiring the road frontage along Emmett Road to meet the principal arterial roadway standards adopted by the City of Middleton (see Exhibit E6 Middleton 5 Lane Urban Street Section) should be applied to this application.

☒	☐	☐	07-06-07(6)A4	Will the proposed conditional rezone negatively affect the character of the area? What measures will be implemented to mitigate impacts?
			Staff Analysis	The proposed conditional rezone from “A” (Agricultural) to “CR-C2” (Service Commercial) for the purpose of developing a contractor shop, offices, staging area and vehicle repair facility for the proposed business, Bully Excavation, will not negatively affect the transitioning character of the area. However, Service Commercial is the more intensive use commercial zone provided for in the Canyon County code. As conditioned to restrict specified uses on the site, hours of operation, intensity of the use, lighting impacts, provisions for dust mitigation, and screening, the conditional rezone is consistent with a transitioning mixed-use area near a major transportation corridor. Any necessary measures to mitigate impacts are detailed below. Character of the Area: The character of the area is transitioning from agricultural to commercial and residential along this highway corridor. Middleton is growing and expanding westward. There is not currently a path to annexation although the city limits are very near and expected to be adjacent within the next year. The area contains a mix of uses and the proposed use as conditioned is not expected to negatively impact the changing character of the area. There is the potential for dust, noise and lighting to impact the existing RV park with the RV slips located approximately 360 feet from the Bollinger property line. However, the location of the RV park being adjacent to State Hwy 44, Tractor Supply, and the school bus depot suggests that there is not an expectation of limited noise within this development. The following measures will be implemented to mitigate impact • <u>Lights</u> shall be placed and shielded to direct the light source down and inside the property lines. All direct glare from the lights shall be contained within the facility area. • <u>Dust</u>-The applicant proposes applying recycled asphalt to the facility to help mitigate dust. A water truck can also be utilized to minimize impacts. • <u>Hours of Operation</u>- The facility shall be conditioned to only operate between the hours of 7:00 a.m. and 6:00 p.m. Monday through Friday and 8:00 a.m. and 6:00 p.m. on Saturdays. No Sunday operations are proposed. Noise is a concern the applicant indicates that the five (5) truck drivers will come to the site at 6:15 a.m. load, hook-up and be on the road by 6:45 a.m. Although this is seemingly normal operating hours for an industrial area; this is a mixed-use area and consideration of the residential development and RV Park should be considered. • <u>Site Uses</u>- Uses shall be restricted to the specific uses and intensity of the use identified for the operation of Bully Excavation. Additional or alternative uses may be considered with an amendment to the Development Agreement so that proposed uses can be reviewed for compatibility, impacts to transportation, services and schools. • <u>Road Frontage improvements</u>: A condition requiring the road frontage along Emmett Road to meet the principal arterial roadway standards adopted by

				the City of Middleton (see Exhibit E6 Middleton 5 Lane Urban Street Section) should be applied to this application. • <u>Fueling Station</u>: The fueling station shall be designed to have a containment facility capable of retaining the maximum capacity of the fuel tanks to ensure that no fuel leaks, over-fills, etc. do not migrate to the adjacent property or into the soils.
☒	☐	☐	07-06-07(6)A5	Will adequate facilities and services including sewer, water, drainage, irrigation and utilities be provided to accommodate proposed conditional rezone;
			Staff Analysis	The project will have adequate sewer, water, drainage, irrigation, and utilities to accommodate the proposed conditional rezone based on the analysis contained herein. Sewer: The applicant proposes individual septic system for the site in conformance with requirements of SWDH. Water: The applicant proposes an individual well on the property. The applicant was encouraged to reach out to IDWR to determine if the purchase of individual water rights would be required. He will have a wash off station on site as well as multiple buildings being served by the well. At the time of the staff report no comments had been received from the fire district. There will be additional reviews as this parcel must be platted as a subdivision prior to the commencement of the use. It is anticipated that the buildings will require sprinkler fire suppression and fire hydrants may possibly be required. Drainage: The applicant must provide adequate drainage to retain all stormwater on site. No water from the wash pad shall leave the site. Irrigation: The subject property has surface irrigation water rights through Canyon County Water Company. The applicant is current with his assessments. CCWC indicates that changes to the water flow will need to be approved through the CCW Co. board. (Exhibit E.5) Utility: There is no indication that utilities will not be provided to the property.
☒	☐	☐	07-06-07(6)A6	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?
			Staff Analysis	The proposed conditional rezone may require public street improvements in order to provide adequate access to and from the subject property in order to minimize undue interference with existing and/or future traffic patterns created by the proposed development. The subject property will require platting as a subdivision to correct the division completed not in accordance with ordinance requirements. Emmett Road is classified a principal arterial roadway and the City of Middleton requests that the development meet the requirements for a

				principal arterial in compliance with the street section in Exhibit E6 -Middleton 5 Lane Urban Street Section Emmett Road is under the jurisdiction of Highway District 4. HD4 indicates that the development improvements may include widening of the Emmett Road frontage, ROW dedication, and storm drainage retention for Emmett Road run-off. Impact fees will be calculated in accordance with the Institute of Transportation Engineers Trip Generation Rates 11th Edition and collected in accordance with Canyon County Ordinance 22-014. An access permit will be required for the change in use for this property and proposed uses. The following measures will be implemented to mitigate impacts: • The applicant shall comply with the requirements of Highway District 4 including access/approach permitting and payment of associated impact fees (Exhibit E1). • The City of Middleton (Exhibit E6) requests that the road frontage meet the requirements for a principal arterial inclusive of curb and gutter and a detached pathway. • Changes in use to the proposed use shall be conditioned to obtain a new approach permit so that impacts are evaluated specific to the future proposed or additional uses.
☒	☐	☐	07-06-07(6)A7	Does legal access to the subject property for the conditional rezone exist or will it exist at time of development; and
			Staff Analysis	The subject property will have legal access for the conditional rezone and/or will exist at the time of the development. See review and analysis detailed below. The subject property has approximately 320 feet of road frontage on Emmett Road. Emmett Road is a principal arterial and HSDP 3061.020.B does not allow new direct access onto a principal arterial. HSDP 2020.50 can allow for a temporary approach because there is not currently has no other alternative access. The temporary approach shall be established at the property line between parcels R34440010A and R344400010 formalized by a deed restriction. (see Exhibit E.1).
☒	☐	☐	07-06-07(6)A8	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? (Ord. 16-007, 6-20-2016)
			Staff Analysis	The proposed uses are not anticipated to impact essential public services and facilities including, but not limited to schools, police, fire and emergency medical services. Any necessary measures to mitigate impacts are detailed below. Schools: The proposed use is not projected to impact the schools as there is not a request for a residential component to this application. The subject property will take access to Emmett Road and the Middleton High School is located approximately 2000 feet to the north of the subject property on Emmett Road. The Middleton School District was notified of the application and did not provide comment.

			Police: The sheriff's office was notified of the application and did not provide comment. The proposed use is not anticipated to significantly impact police services. Fire protection & Emergency Medical Services: The Middleton Fire District was provided a request for review and comment on this application. At the time the staff report was completed the Fire District had not provided comment with respect to the conditional rezone. Staff sent an additional specific request for comment on October 14, 2026 but had not received feedback by the staff report deadline. Additional reviews by the fire district will occur during the subdivision platting process and at time of building permit submission. The following measures will be implemented to mitigate impacts: The fire district shall review and provide a letter of approval at the time of preliminary and final plat for the development of parcel R34440010A0. Additional review shall be completed at the time of building permit submission for the proposed commercial structures.
--	--	--	---

Table 2. Area of City Impact

CCCO 09-09-01: Middleton Area of City Impact (Plans and Ordinances) Ordinance. 09-09-13 Applicable Ordinances and Standards: Within the Middleton area of city impact, the Canyon County Zoning Ordinance and Subdivision Ordinance apply.				
Compliant			County Ordinance and Staff Review	
Yes	No	N/A	Code Section	Analysis
☒	☐	☐	09-09-15	Zoning Ordinance Amendment Proposals: All proposed county ordinance amendments to the text and/or map which may relate to the Middleton area of city impact shall be referred to the city in the same manner as provided for in subsection 09-09-11(3) of this article, except that recommendations received from the city by the county are nonbinding but any factually supported recommendations shall be seriously considered by the county. 09-09-11(3) Plan Amendment Proposals: All proposals for amendments to the county comprehensive plan which may appertain to the Middleton area of city impact but which do not originate from the city shall be referred to the city at least thirty (30) calendar days prior to any hearing on such matter and a recommendation may be made before or at said public hearing. If a recommendation is received it shall be given great weight by the county, provided it is factually supported, but such recommendation shall not be binding on the county. If no response is received the county may proceed without the recommendation of the city. A copy of the final decision issued by the county shall be forwarded to the city. If the city does not agree with the request, because it involves a major change in the county's comprehensive plan, the city may request renegotiation of this article as provided in Idaho Code 67-6526(d). A major change is one that is fundamental to the county's comprehensive plan, as determined by the parties.
			Staff Analysis	Area of City Impact: The City of Middleton submitted an email stating that they have no concerns with this request. Middleton requested that the applicant be required to improve the Emmett Road frontage to comply with the principal arterial 5 lane urban roadway standards. (Exhibit E6)

Order

Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Hearing Examiner recommends **approval for** Case # CR2026-0001, a conditional zoning map amendment for parcel R34440010A (5.75 acres more or less) from an "A" (Agricultural) zone to a "CR-C2" (CR-Service Commercial) zone for the purpose of establishing a construction business, Bully Excavation, on the site inclusive of offices, a maintenance and repair facility, and a staging area subject to conditions of approval to be enumerated in a development agreement.

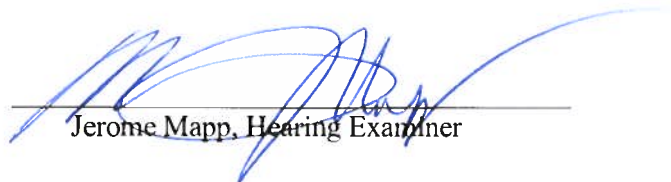
For denial:

Pursuant to Idaho Code Section 67-6519, the following actions may be taken to obtain approval:

1. Wait for an adjacency to the city limits of Middleton and annex the property to the city.
2. Consider down zoning to "C1" (Neighborhood Commercial) to be more consistent with the mixed use residential and commercial in the area.
3. Consider a pre-annexation agreement with the City of Middleton for the provision of obtaining municipal water.

DATED this 22 day of October, 2026.

**HEARING EXAMINER
CANYON COUNTY, IDAHO**

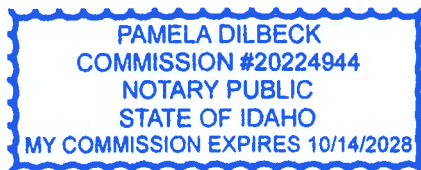

Jerome Mapp, Hearing Examiner

State of Idaho)

SS

County of Canyon County)

On this 22nd day of October, in the year 2026, before me Pamela Dilbeck, a notary public, personally appeared Jerome Mapp, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (she) executed the same.



Notary: Pamela Dilbeck
My Commission Expires: 10/14/2028

ATTACHMENT A
DRAFT CONDITIONS OF APPROVAL

1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules, and regulations that pertain to the property.
2. The developer shall comply with CCZO §07-06-07 (4): Time Requirements: "All conditional rezones for a land use shall commence within two (2) years of the approval of the board."
3. The development shall comply with all applicable federal, state, and county laws, ordinances, rules, and regulations that pertain to the subject property and the proposed use.
4. The property is not an original parcel and was divided not in accordance with ordinance requirements. Platting as a subdivision in conformance with CCZO Article 17 Subdivisions, is required for development of this property.
5. The road frontage shall be developed and comply with the requirements of HD4 and the City of Middleton requirements for a principal arterial roadway in the Middleton impact area (see Exhibits E.1 and E.6)
6. The development shall be restricted to the proposed uses in the letter of intent and site plan for Bully Excavation inclusive of a contractor shop with offices, a maintenance and repair shop, and a staging area for excavation equipment, trailers and semi-trucks. Accessory details include a private wash rack and private fueling station.
7. The development of the property shall be in substantial conformance with the Site Plan attached hereto as Exhibit: Site Plan.
8. The average number of employees onsite daily should not exceed 10-13 people. The impact of daily trips has not been calculated nor required improvements made for more than proposed in the application.
9. The hours of operation for the proposed business, Bully Excavation, are as follows:
 - a. Monday through Friday
6:00 a.m. to 7:00 p.m.
 - b. Saturday
8:00 a.m. to 6:00 p.m.
10. Lighting on the 5.57 acre site and on any structures shall be placed and shielded to direct the light source down and inside the property lines. All direct glare from the lights shall be contained within the facility area.
11. Dust shall be mitigated through the installation of recycled asphalt or paving for the driving, parking and staging areas on the site. A water truck may be utilized to further mitigate fugitive dust created by the operations on the site.
12. Stormwater drainage shall be retained on the site.
13. For the following uses and general site compliance: *"No person shall cause or allow the release, spilling, leaking, emission, discharge, escape, leaching or disposal of a contaminant into the environment in a manner that cause a ground water quality standard to be exceeded, injures a beneficial use of ground water, or is not in accordance with a permit, consent order or applicable best management practice, best available method or best practical method."* (DEQ; Exhibit E.4)
 - a. Wash Rack: All drainage from the wash rack shall be maintained on the site. Wastewater derived from the washing of the undercarriage of trucks and equipment cannot be discharged to the onsite septic system.
 - b. Fueling Station: The fueling station shall be designed to have a containment facility capable of retaining the maximum capacity of the fuel tanks to ensure that no fuel leaks, over-fills, etc. do not migrate to the adjacent property or into the soils.
 - c. Maintenance/Repair Shop: All solid and hazardous waste shall be appropriately disposed of in accordance with IDAPA requirements.
14. Parking at the facility must comply with zoning and building code requirements.
15. The subject property shall be fenced with a minimum six (6) foot high chain link fence. The Staging Yard shall be fenced with site obscuring fencing on the south, east and north sides. The fencing may be slatted chain link, wood plank, or vinyl panels. The applicant could provide a landscaping plan that provides for visual screening in lieu of solid fencing alternatives. The landscape plan would be reviewed and approved by DSD.
16. If the applicant desires to modify the approved uses or change the use for the site in the future, a development agreement modification is required so that the proposed use and development can be reviewed for compatibility and impacts to the neighboring properties and transportation system.
17. The developer shall provide an engineered grading and drainage plan at the time of preliminary plat.

ATTACHMENT "B"

SITE PLAN

