

BOARD OF BINGHAM COUNTY COMMISSIONERS

REASON & DECISION

In regards to: The Planning & Zoning Commission's recommendation to approve the Zoning Amendment from "R" Residential to "C2" Heavy Commercial. The parcel features storage units and a landscaping business; Mountain Edge LLC (owned by Mike Fresh) desires to amend the zoning to "C2" so both land uses are allowed on the entire parcel. Additionally, the Applicant proposed to create the Mountain Edge Commercial Park Subdivision (a replat of Block 4 of the East Moreland Division No. 1 Subdivision) consisting of 2 Lots. Lot 1 is 1.16 acres and is currently being served by an individual well and private septic and features an existing building being used as a landscape business. Proposed Lot 2 is 3.41 acres, will have no need for water or sewer services at this time, as this portion of the parcel will contain storage units. Irrigation water rights are not appurtenant to this Subdivision. The Subdivision will be accessed utilizing an existing approach on 200 N Parks Road to the South of the property. The Comprehensive Plan Map has this area primarily designated as Multi-Use with a portion of the Southwest corner designated Industrial/Commercial.

Application filed by: Mike Fresh, Owner of Mountain Edge LLC

Representative: Chris Street, Professional Land Surveyor with HLE, Inc

Board of County Commissioners Public Hearing Date: October 4, 2022

The record provided to the Board is comprised of the following:

1. Exhibits to the Board Public Hearing Staff Report:
 - CC-1: Staff Report- Board of County Commissioners
 - CC-2: Proof of Publication- Bingham News Chronicle- Board of County Commissioners
 - CC-3: Blackfoot/Snake River Government Agency Notice List & Notice
 - CC-4: Property Owners Notice List & Notice
 - CC-5: Notice of Posting- Addie Jo Harris- Planner
- a. Planning & Zoning Reason & Decision- September 14, 2022
- b. Planning & Zoning P&Z Public Hearing Minutes & Audio- August 10, 2022
2. Exhibits to the Planning & Zoning Commission Staff Report:
 - S-1: Staff Report- Planning & Zoning Commission
 - A-1: Application for Zone Change & Application for Subdivision Plat
 - A-2: Rezone Narrative & Mountain Edge Preliminary Plat Narrative
 - A-3: Mountain Edge Commercial Plat
 - A-4: Quit Claim Deed & Overall Boundary Description
 - A-5: Custom Soil Resource Report- United States Department of Agriculture
 - A-6: Guarantee
 - A-7: Well Construction Search- Idaho Department of Water Resources

A-8: State of Idaho Office of the Secretary of State- Annual Report for Mountain Edge, LLC

S-2: Parcel Map

S-3: Zoning Map

S-4: Comprehensive Plan Map

S-5: Flood Plain Map

S-6: Aerial Map

S-7: Subdivision Map

S-8: Area of Impact Map

S-9: School District Map

S-10: Utilities Map

S-11: Nitrate Priority Area Map

S-12: Irrigation Company Map

S-13: ½-mile proximity parcels by size Map and List

S-13A: Property Owners Parcel Sizes for ½-mile proximity parcels by size map

S-14: Google Earth Imagery Map

S-15: Notice of Posting: Addie Jo Harris

S-16: Site Pictures

S-17- Proof of Publication- Bingham News Chronicle- Planning & Zoning Commission Public Hearing Notice

S-18: Blackfoot/Snake River Government Agency Notice List & Notice of Mailing

S-19: Property Owners List and Notice of Mailing- Planning & Zoning Commission

3. All Information and Testimony presented prior to the Planning & Zoning Commission Public Hearing.
4. There was no Testimony received in favor, in neutral, nor in opposition of the Application during the Planning & Zoning Commission Public Hearing.

As to procedural items, the Board finds the following:

1. Requested Action: The Public Hearing was held pursuant to Bingham County Code Section 10-3-6(A)(11) where the Board held a Public Hearing, using the same notice and hearing procedures as the Commission, on the Application for an Amendment to the Zoning Designation.
2. In accordance with Bingham County Code 10-3-6, Notice of the Boards Public Hearing was provided as follows:
 - a. Sent to Government Agencies on September 6, 2022 (CC-3 List of Government Agencies and Notice)
 - b. Published in the Bingham News Chronicle on September 13, 2022 (CC-2: Affidavit of Publication)

- c. Sent to property owners within 300' of this property on September 6, 2022. (CC-4 Property Owners Mailing List and Notice)
 - d. Site was posted on September 14, 2022 (CC-5 Affidavit of Posting)
3. The Commissioners Clerk, nor the Planning & Development Department received any additional Government Agency comments prior to the Board's Public Hearing.
 4. The Commissioners Clerk, nor the Planning & Development Department received any additional Testimony prior to the Board's Public Hearing.
 5. Public testimony was closed and the Board moved into discussion.

REASON

Based on the entire record, and the Staff Report, the Board finds:

1. the Zoning Modification Application was filed by the property owner in accordance with Bingham County Code Section 10-15-2(D); and
2. Bingham County Code Section 10-4-2(F) provides for the description and qualifications for the Heavy Commercial ("C2") Zoning District and found the parcel meets that designation as:
 - a. the parcel is already mostly zoned Heavy Commercial so the use and application on the land is in compliance with the requested zone, etc.
 - b. the parcel has adequate service by major roadways; the parcel is adjacent to Highway 26 and has frontage on 200 North Parks Road, which is rated with a Functional Classification of a Major Collector according to Bingham County Road Standards.
 - c. the entrances to the parcel extend from 200 North Parks Road and not on the Highway which minimizes potential traffic problems. Additionally, the Applicant will be utilizing existing approaches.
 - d. the area features mixed lot sizes similar to the size of the proposed two lots and parcels to the North, East and West featuring Heavy Commercial Zoning.
 - e. the parcel would be protected from incompatible uses as the desire is the construction of an additional set(s) of storage units, otherwise the property will remain the same.

- f. the Commission had no concerns related to the encroachment of residential uses as the location of the parcel is placed in a manner that minimal residential use would be affected by the existing land uses.
 - g. the parcel has accessibility to adequate utilities.
3. the Application meets the criteria of Bingham County Code Section 10-4-2(F) and could be zoned to Heavy Commercial based on the findings above; and
 4. the Application meets the Area Regulations requirement of a Heavy Commercial Zoning District as the parcels are proposed to be greater than one-acre in size. Additionally, the proposed Plat indicates there is sufficient frontage to 200 North Parks Road as required by Bingham County Code Section 10-6-7. The Subdivision plans to use an existing well and sanitary sewer system with no intention of adding any additional systems. Irrigation rights are not appurtenant to the Subdivision as there is no green space to be irrigated on this commercial property; and
 5. the Application met the requirements of Bingham County Code Section 10-14-4 (A) because the Application was completed and included all items listed in Sections 10-14-4 (A) 1-23; and
 6. the proposed Zoning Amendment and Commercial Park Subdivision are considered to be consistent with the Bingham County Comprehensive Plan as the area is designated primarily as Multi-Use with a small area in the Southwest corner designated as Industrial/Commercial, both of which support the existing use and Application requests; and
 7. the Application met the requirements of Idaho Code Section 67-6513 and Bingham County Code Section 10-3-6 because the Public Hearing was held for all property owners within 300 feet; published in the official newspaper and minimum of 15 days prior to the hearing and notice was posted on the property a minimum of one week prior to the hearing.
 8. Chairman Manwaring stated he had no concerns in regards to the Zone Change nor the Application for Subdivision.
 9. Commissioner Lewis stated she had no concerns in regards to the Zone Change nor the Application for Subdivision.

DECISION

Decision: Commissioner Lewis moved to uphold the recommendation from the Planning & Zoning Commission to approve the Zone Change from “R” Residential to “C2” Heavy Commercial for a portion of the parcel located at 644 West 200 North in Blackfoot, Idaho. Based upon the information presented today and the Reason & Decision of the Planning & Zoning Commission. Chairman Manwaring seconded. Both voted in favor. Commissioner Bair was not in attendance. The motion carried.

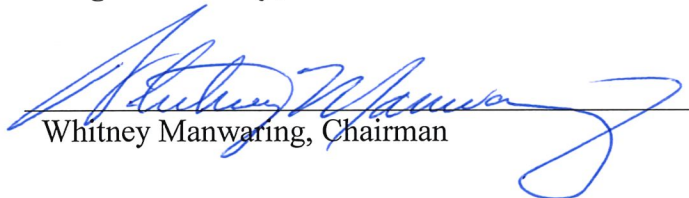
Decision: Commissioner Lewis moved to uphold the recommendation from the Planning & Zoning Commission to approve the Mountain Edge Commercial Park Subdivision, a 2-Lot subdivision on 4.57 acres, based upon the record and the approved Zone Change. Chairman Manwaring seconded. Both voted in favor. Commissioner Bair was not in attendance. The motion carried.

Request for Reconsideration/Judicial Review: Upon denial or approval of a zone change, with adverse conditions, pursuant to Idaho Code Section 67-6535(2)(b), the Applicant or affected person seeking Judicial Review of compliance with the provisions of this section must first seek reconsideration of the final decision within fourteen (14) days. Such written request must identify specific deficiencies in the decision for which reconsideration is sought.

Regulatory Takings: Additionally, the Applicant may request a regulatory takings analysis as per Idaho Code Section 67-8003. An affected person aggrieved by a final decision concerning matters identified in Section 67-6521(1)(a), Idaho Code may within twenty-eight (28) days after all remedies have been exhausted under local ordinance, seek Judicial Review as provided by Chapter 52, Title 67, Idaho Code.

Dates this 14th day of October 2022.

**Board of Bingham County Commissioners
Bingham County, Idaho**


Whitney Manwaring, Chairman

Mark Bair, Commissioner


Jessica Lewis, Commissioner