

## BEFORE THE BOARD OF BINGHAM COUNTY COMMISSIONERS

In regards to: The Planning & Zoning Commission's recommendation to approve the 6<sup>th</sup> Amended Bingham Industrial Park Subdivision (Replat)

Board of County Commissioners Meeting Date: November 1, 2022

Property Owners: Greg Nickell, Manager of Lambert Rose Cellar Partners, LLC

A. The Board reviewed the record is comprised of:

1. Exhibits to the Staff Report:

CC-1: Staff Report- Board of Bingham County Commissioners

CC-2: Preliminary Plat

CC-3: Revised Preliminary Plat

S-1: Planning & Zoning Commission Staff Report

A-1: Application for Subdivision Plat

A-2: Subdivision Narrative

A-3: Preliminary Plat

A-4: Boundary Description/Grant Deed

A-5: Custom Soil Resource Report- United States Department of Agriculture

A-6: Guarantee- First American Title Company

A-7: IDWR- Well Information Summary

A-8: Annual Report

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 Map

S-13: Google Imagery Map

S-14: Notice of Posting- Addie Jo Harris

S-15: Site Photographs

S-16: Proof of Publication- Bingham News Chronicle- Planning & Zoning Commission

S-17: Blackfoot/Snake River Government Agency Notice & Notice of Mailing- Addie Jo Harris

S-18: Property Owners List & Notice of Mailing- Addie Jo Harris

2. Planning & Zoning Commission Meeting Exhibits & Minutes from September 14, 2022 and Planning & Zoning Commission sign in sheet for September 14, 2022

3. All Information and Testimony presented at the Commissions Public Hearing on September 14, 2022, provided to the Board at the meeting by Director Olsen
4. Planning & Zoning Commission Reason & Decision, signed by Chairman Darren Leavitt on October 3, 2022

**B. REQUESTED ACTION:** Uphold, conditionally uphold, or overrule the decision of the Planning & Zoning Commission on the proposed subdivision. At the September 14, 2022 Planning & Zoning Commission Public Hearing, the Commission recommended approval of the Application from Greg Nickell (Manager of Lambert Rose Cellar Partners, LLC) to amend the lot lines within Lot 13 of Block 2, Bingham Industrial Park Division No.2, which currently consists of approx. 3.65 acres, zoned "C2" Heavy Commercial. The Replat is to divide the current lot into two lots; one lot consisting of 2.43 acres and the other lot consisting of 1.22 acres.

### **REASON**

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

- a. the Application met the requirements in Bingham County Code Section 10-4-2 (F) as the purpose of the "C2" Heavy Commercial zone is to provide for development of businesses and service establishments which are incompatible in community shopping areas; have adequate service by major roadways; compatibility with existing uses; and has protection from residential uses. The Board reviewed the Application and determined the criteria of a Heavy Commercial Zoning District are met with the Subdivision proposal; and
- b. the proposed Subdivision meets the Area Regulations of Bingham County Code Section 10-6-6 as the two lots will be greater than one-acre and meet the required frontage regulations; and
- c. 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
- d. the proposed Subdivision is considered to be consistent with the Bingham County Comprehensive Plan as the area is designated as Industrial/Commercial; and
- e. Chairman Manwaring referred to the Custom Soil Resource Report and asked Director Olsen if access will be available to the two cellars facing the East and West side, to which she confirmed there would be access. Director Olsen referred to Exhibit CC-2 and explained there is an access easement that comes through to those cellars, which is 50 feet wide and will have sufficient access.
- f. Commissioner Bair asked if there is sufficient room to get around lot 16, between lots 16, 14 and 15, to which Director Olsen stated there is another access easement at the North end that allows for sufficient room, the additional access easement will be verified and upon approval, could be placed as a condition.
- g. Commissioner Bair stated if approved, it should be a condition that each parcel has proper legal access.

- h. Commissioner Lewis stated her concern is without having testimony from the property owners, they may not want the access. If this is placed as a condition and the condition cannot be met, it will be denied. Director Olsen stated lot 16 does show that owner is Lambert Rose Partners LLC. She and Mr. Street will be sure the condition for proper legal access to both lots and the easements are recorded in unison.
- i. Commissioner Bair asked Mr. Street for clarification if there is access, to which Mr. Street explained there is access to each individual cellar. In discussions with Mr. Nickell, they did not talk about having access all of the way through but he is sure that is the direction they are proceeding.

### **DECISION**

Commissioner Bair moved to uphold the decision of the Planning & Zoning Commission to approve the request for Replat within Lot 13 of Block 2 of the Bingham Industrial Park Subdivision, based upon the record presented, Reason & Decision of the Planning & Zoning Commission and the discussion held today with the condition that there be an agreement with property owners that each lot will have proper legal access. Commissioner Lewis stated she would like to add to ensure that the lots are properly labeled, depending on the order in which they are recorded. Commissioner Bair amended his motion to add the same. Commissioner Lewis seconded. All voted in favor. 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 16 day of November 2022.

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



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Whitney Manwaring, Chairman



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Mark Bair, Commissioner

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Jessica Lewis, Commissioner