

BOARD OF BINGHAM COUNTY COMMISSIONERS

REASON & DECISION

In regards to: The Planning & Zoning Commission's recommendation to approve the request for Zoning Amendment of approximately 1.2 acres of a 40.74-acre parcel, located at 778 W. Highway 39, Blackfoot, Idaho, from "R/A" Residential/Agriculture to "C2" Heavy Commercial.

Application of: Morgan Enterprises, LLC

Property Owners: Morgan Enterprises, LLC

Board of County Commissioners Public Hearing Date: June 17, 2024

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- Lindsey Dalley, Commission Clerk
 - CC-4: Property Owners Notice List & Notice- Lindsey Dalley, Commission Clerk
 - CC-5: Notice of Posting- Tiffany Olsen- Planning & Development Director
 - CC-6: Oath of Affirmation- Neil Morgan, Applicant

2. Exhibits to the Planning & Zoning Commission Staff Report:
 - S-1: Staff Report- Planning & Zoning Commission
 - A-1: Application for Zone Change
 - A-2: Contents of Application
 - A-3: Proposed Site Plan
 - A-4: Warranty Deed/Quit Claim Deed
 - A-5: Application and Permit to use Right of Way Approaches
 - A-6: State of Idaho- Annual Report- Morgan Enterprises LLC
 - S-2: Aerial Map
 - S-3: Zoning Map
 - S-4: Comprehensive Plan Map
 - S-5: Flood Plain Map
 - S-6: Subdivision Map
 - S-7: Area of Impact Map
 - S-8: School District Map
 - S-9: Utilities Map
 - S-10: Nitrate Priority Area Map
 - S-11: Irrigation Provider Map
 - S-12: ½ mile proximity parcels by size Map and List

- S-13: Google Imagery
- S-14: Notice of Posting: Addie Jo Harris
- S-15: Site Pictures
- S-16: Proof of Publication- Bingham News Chronicle- Planning & Zoning Commission Public Hearing Notice
- S-17- Blackfoot/Snake River Government Agency Notice List & Notice of Mailing- Addie Jo Harris
- S-18: Property Owners List and Notice of Mailing- Ashley Taylor

3. All Information and Testimony presented prior to the Planning & Zoning Commission Public Hearing:

(T-1) Testimony from Allan Johnson, Regional Engineering Manager with the Idaho Department of Environmental Quality, who provided general land development recommendations.

(T-2) Testimony from Bingham County Public Works, who had no objections or concerns.

(T-3) Testimony from Bingham County Surveyor, who had no concerns.

4. Testimony presented at the Planning & Zoning Commission Public Hearing:

(T-6) Neil Morgan, Applicant- Oath or Affirmation

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 May 20, 2024 (CC-3 List of Government Agencies and Notice)
 - b. Published in the Bingham News Chronicle on May 22, 2024 (CC-2- Affidavit of Publication)
 - c. Sent to 6 property owners within 300' of this property on May 20, 2024. (CC-4 Property Owners Mailing List and Notice)
 - d. Site was posted on June 1, 2024 and pictures were taken on January 25, 2024 (CC-5 Notice of Posting Affidavit and 15 pictures)

3. There was no testimony received prior to the Boards Public Hearing.
4. With no additional questions for Staff after presentation of the Staff Report, the Public Hearing was opened. The Board received testimony as follows:

Exhibit CC-6: Neil Morgan, Applicant, 762 West Highway 39, Blackfoot, Idaho, who stated that he purchased the subject property one year ago. Originally the parcel was Residential, the home previously on the property is now gone and he would like to make the parcel compatible with the surrounding zoning designations.

Chairman Manwaring confirmed there are no further questions for the Applicant and opened the meeting for testimony.

Chairman Manwaring asked if there was testimony to be given in favor of the Application, wherein there was none.

Chairman Manwaring asked if there was testimony to be given in neutral of the Application, wherein there was none.

Chairman Manwaring asked if there was testimony to be given in opposition of the Application, wherein there was none.

REASON

Public testimony was closed and the Board moved into discussion and deliberation which was held and the Board hereby finds:

Bingham County Code Section 10-4-2(F), which states that the purpose of the "C2" zone is to provide for the development of business and service establishments which are incompatible in community shopping areas. This zone requires relatively large size lots and easy highway access and should be removed from Residential areas with the following:

1. Adequate service by major roadways;
 - a. The Board had no concerns
2. Location that minimizes potential traffic problems;
 - a. The Board had no concerns
3. Compatibility with existing uses;
 - a. The Board had no concerns
4. Protection from encroachment of residential uses;
 - a. The Board had no concerns

5. Accessibility to adequate utilities;
 - a. The Board had no concerns

Chairman Manwaring stated the Application meets all requirements and is compatible with the Comprehensive Plan. Therefore, he has no concerns.

Commissioner Bair asked if there was natural gas available along Highway 39, wherein Mr. Morgan confirmed there was. Commissioner Bair then asked if there were two approaches to the property, wherein Ms. Olsen explained that one approach is a historical approach and the second approach is permitted by the Idaho Transportation Department and located on the east corner of the property.

There was no further discussion and Chairman Manwaring requested a motion at this time.

DECISION

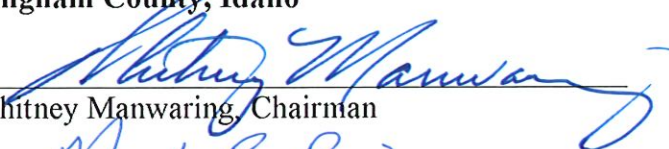
Decision: Commissioner Bair moved to uphold the decision of the Planning & Zoning Commission to amend the zoning designation of approximately 1.2 acres of a 40.74-acre parcel, from "R/A" Residential/Agriculture to "C2" Heavy Commercial, located at 778 Highway 39, Blackfoot, Idaho as proposed by Morgan Enterprises LLC. Said decision is based on the record as reviewed, testimony received and the Reason & Decision of the Planning & Zoning Commission. Chairman Manwaring seconded. Both 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.

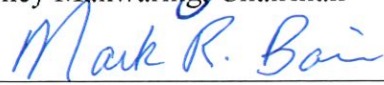
Regulatory Takings: Additionally, the Applicant may request a regulatory takings analysis as per Idaho Code Section 67-8003. An affected person aggrieved by a final decision concerning matters identified in Section 67-6521(1)(a), Idaho Code may within twenty-eight (28) days after all remedies have been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

Dates this 1 day of July 2024.

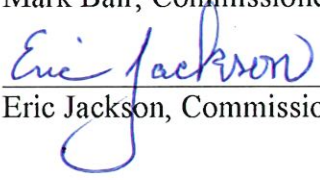
**Board of Bingham County Commissioners
Bingham County, Idaho**



Whitney Manwaring, Chairman



Mark Bair, Commissioner



Eric Jackson, Commissioner