

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 2.55 acres, located West of 593 West Highway 39, Blackfoot, from "R" Residential to "C2" Heavy Commercial.

Property Owners: Gregory & Aimee Austin

Board of County Commissioners Public Hearing Date: February 25, 2025

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: Shelley 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 G. Olsen, Planning & Development Director
 - CC-6: Oath of Affirmation: Gregory Austin
 - CC-7: Oath of Affirmation: Aimee Austin
 - CC-8: Oath of Affirmation: Christopher Freeburne
 - CC-9: Oath of Affirmation: Dennis Winans
 - CC-10: Oath of Affirmation: Dale Shelley
 - CC-11: Oath of Affirmation: Lorna Anderson
 - CC-12: Oath of Affirmation: Kathleen Brown
 - CC-13: Oath of Affirmation: Tammy Tew Laird
 - CC-14: Oath of Affirmation: Dean Brown
2. Exhibits to the Planning & Zoning Commission Staff Report:
 - S-1: Staff Report- Planning & Zoning Commission
 - A-1: Application for Zone Change
 - A-2:10-15-3- Contents of Application
 - A-3: Warranty Deed dated July 24, 2024
 - A-3A: Warranty Deed dated November 27, 2024
 - A-4: Construction Plans
 - A-5: Application & Permit to use Bingham County Right of Way for Approaches, Mailboxes and Addressing
 - S-2: Aerial Map
 - S-3: Zoning Map
 - S-4: Comprehensive Plan Map
 - S-5: Subdivision Map
 - S-6: ½ Mile Proximity by Size Map

- S-7: Project Site Map
- S-8: Notice of Posting: Addie Jo Harris
- S-9: Site Photographs
- S-10: Proof of Publication- Bingham News Chronicle- Planning & Zoning Commission Public Hearing Notice
- S-11: Blackfoot/Snake River Government Agency Notice List & Notice of Mailing- Addie Jo Jackman, Assistant Director/Lead Planner
- S-12: Property Owners List and Notice of Mailing- Addie Jo Jackman, Assistant Director/Lead Planner

As to procedural items, the Board of County Commissioners 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 January 29, 2025 (CC-3 List of Blackfoot/Snake River Government Agencies and Notice)
 - b. Published in the Bingham News Chronicle on February 1, 2025 (CC-2-Affidavit of Publication)
 - c. Sent to 20 property owners within 300' of this property on January 29, 2025. (CC-4 Property Owners Mailing List and Notice)
 - d. Site was posted on February 8, 2025 (CC-5 Notice of Posting Affidavit and pictures)

There was no testimony received prior to the Boards Public Hearing.

At the Public Hearing, the Staff Report was presented by Tiffany Olsen, Planning & Development Director.

With no questions from the Board, testimony was presented by Gregory Austin, Applicant (CC-6), 662 W. 15 S., Blackfoot, Idaho. Mr. Austin stated that he would like to thank the Board for the opportunity to speak in regards to the proposed Zoning Amendment from Residential to Heavy Commercial. In 2016 he and his wife, Aimee Austin, looked at renting an RV for a trip they were planning. Buying an RV seemed impractical due to the cost, maintenance and storage. Mr. Austin stated they looked online and called several places and all rentals were rented out, which brought them to the idea of purchasing RVs and renting them out. They started with one trailer, added another in 2017 and next thing they knew they had six (6) RVs. The business grew fast for a company that was ran out of their driveway and they have been on the lookout for commercial property for approximately five (5) years. Most of the commercial property is selling for \$300,000.00 plus, just for one acre of land, and anything with a shop is selling for \$750,000.00 plus. If a property was located, it was usually far away from the highway and town, which made

no sense and renting made no sense as there would be no investment with money being thrown away that could be put into the business.

Mr. Austin stated in 2024, they came upon the subject property being 2.55 acres right along Highway 39, for a reasonable price. They did some research and found that it was zoned Residential, however, the County Comprehensive Plan showed that the subject property was located in a Multi-Use area. Mr. Austin stated that he knew it would be a challenge to rezone but were up for the challenge. Mr. Austin and his wife were able to purchase the property in July of 2024. After that he spoke with Planning & Development and what would be required in order to amend the zoning designation. Ms. Olsen verified that the subject property was a Multi-Use area and would meet requirements of the rezone. Mr. Austin stated he was informed that Road and Bridge would need to approve the approaches.

Mr. Austin stated the Zoning Amendment Application was submitted in October, 2024, contacted Road and Bridge and received permits for the two (2) approaches. Mr. Austin stated the plan is to build an 80' x 40' shop on the East side of the property with a gravel parking lot, with designated parking. The building will be hooked up to power, gas and sewer with a culinary well drilled for water. The building will house offices, a small custom area to sell RV parts and two large heated bays to perform maintenance and repairs. Behind the shop there would be ½ acre where they plan to place a privacy fence for a compound to hold RVs that are being worked on but are not inside of the shop. Mr. Austin stated they will have operational RVs on the South side of the property that will be rented out but do not plan on storing RVs besides their own outside of the fenced compound area.

Mr. Austin stated there will be three (3) employees and potentially adding two (2) or three (3) employees in the future. Daily business hours will be 9:00 a.m., to 5:00 p.m., Monday through Friday. Again, there will be two (2) bays and therefore, they would only be taking in one (1) or two (2) RVs per day. The only traffic would be to drop off or pick up an RV and potentially a couple of parts customers. Mr. Austin stated they are a local Veteran owned small business, a member of the Idaho Veteran Chamber of Commerce, his family is born and raised in Blackfoot and currently live down the street from the subject property. Mr. Austin stated that he is a United States Marine, has been a Police Officer for twenty-seven (27) years and serves to keep his community safe and clean.

Commissioner Jackson asked Mr. Austin if the ditch needs to be moved or what the plan would be. Mr. Austin stated originally, he contacted the Idaho Transportation Department in regards to placing an entrance on Highway 39 but there is not a wide enough frontage to do so and that would have required a bridge. Since that was denied, there would not be modifications made to the canal.

Commissioner Jensen stated there was mention of water leaking and asked Mr. Austin how that would be cured, to which Mr. Austin stated that currently water leaks into the center and creates a small area of water, which will be addressed in the Spring before water is released.

With no further questions for Mr. Austin, the Chairman called for testimony from the public.

Testimony in support was received as follows:

Aimee Austin (CC-7), 662 W 15 S., Blackfoot, stated that she has been a part of the community her entire life and her husband has served in the community not only as a Marine but as Police Officer for twenty-seven (27) years. Ms. Austin stated that her husband will be retiring and this RV business is his transition plan and her son, who graduated from the RV Technology School in Texas, will also be working for the business. Ms. Austin stated that her son has been busy with calls since he returned from school and there have been jobs that have been turned down because a shop is needed to complete the jobs.

Chris Freeburne (CC-8), 16 South 600 West, Blackfoot, stated that he is a lifelong resident of Bingham County, grew up in Aberdeen and has lived at his current residence for two (2) years. Mr. Freeburne stated that he did testify in support of the Application at the Planning & Zoning Commission Public Hearing but would like to revisit a few items. One is pertaining to compatibility with existing uses, wherein there are several businesses within a short distance of the subject property. A few of those are Riverside Boot and Saddle, Countryside Auto, Independent Drilling, a Gas Station, Allstate Distributing, Camp Hippo, Restore Rite and Powell's but there is one business Double M Ag and Irrigation that is South of Highway 39. If the proposal was to have a large RV dealership and hundreds of RVs or another high-density business, he would not be in favor of the Application. The proposal being made by Mr. and Mrs. Austin, with the business hours and model, could potentially add traffic but no more than if they built a large house and had multiple drivers living in the home. Therefore, he believes the proposed Zone Change is compatible.

Mr. Freeburne stated directly across the street there is a home with a shop connected and another bay that is a five (5) car garage. Again, the reality is that the Austin's could build something similar to this within the area with no restrictions. The subject property is currently a pasture and has not been maintained but does believe with being under ownership of the Austin's, the property will improve.

Mr. Freeburne stated in regards to the traffic concern, as it has already been mentioned, there is a large housing development on 600 West that injected approximately seventy (70) homes and the amount of traffic generated from the proposed business would not be comparable to traffic added from the subdivision. Therefore, Mr. Freeburne asked the Board to support the Application.

Testimony in neutral was received as follows:

Dennis Winaus (CC-9), 583 West 40 South, Blackfoot, stated the amount of traffic that flows in the area is a concern. The intersection of 600 West and Highway 39 has people driving on and off that road all of the time and a business located on that corner would be the main concern is public safety in order to access the business. Mr. Winaus stated any traffic coming off of Highway 39 into the business, along with the intersection, would be a risk. If access was exclusively off of 600 West and making sure there was proper signage placed to let individuals know that they are approaching an intersection, that would be beneficial. An access to the property from Highway 39 would be an increased risk. Mr. Winaus stated that a traffic impact study would be beneficial to be completed prior to any major decision being rendered.

Paul Rogers, County Civil Attorney, asked Mr. Winaus for clarification on the record and that during the Planning & Zoning Commission Public Hearing held on December 11, 2024, he testified in opposition of the Zone Change. Mr. Winaus stated that he is now in a neutral position depending on concerns related to access to the property/business.

Commissioner Jensen asked Mr. Winaus if he believes it would be more detrimental than having farm equipment going up and down 600 West because they are slow moving and wider. Mr. Winaus stated that he does not believe so because that does occur and if there was appropriate signage stating that drivers are approaching an intersection, that would be helpful but the increase of congestion at the intersection is still concerning.

Dale Shelley (CC-10), 602 W. Highway 39, stated that his main concern is traffic, the speed of traffic and the amount of traffic. Mr. Shelley stated that he does not believe that Mr. Austin could make a living by only having a few RV trailers on the property at a time. Mr. Shelley stated that he does not feel that the voices of the concerned citizens were heard at the Planning & Zoning Commission Public Hearing.

Commissioner Jackson stated that he understands the concern in regards to traffic in the area as he lives a couple of miles down Highway 39 and he too has to enter onto Highway 39 every morning. Commissioner Jackson stated that he tries to avoid Highway 39 at certain times due to the amount of traffic but he was glad to see that they have installed turning lanes for some areas to help alleviate some congestion.

Testimony in opposition was received as follows:

Lorna Anderson (CC-11), 4 S. 635 W., Blackfoot, stated one of her main concerns is the conditions that are placed on the Application and what would happen if those conditions were not upheld. There is a specific business in the area who has not followed conditions put in place and it is frustrating that complaints are not heard nor is anything done to enforce those conditions. Ms. Anderson stated she has lived at her current residence for fifty (50) years and she has known of two fatal accidents on the intersection of 600 W and Highway 39. The housing development nearby has brought a lot of traffic and there is also a lot of agriculture traffic. Ms. Anderson stated that she feels that the Zone Change is not appropriate for the area and does not believe that the Planning & Zoning Commission heard her concerns.

Kathleen Brown (CC-12), 6 S. 600 W., Blackfoot, stated that she lives directly across the road from the subject property and has lived in the area for her entire life. Her biggest concern is justifying that this Residential lot should be changed to Heavy Commercial. Ms. Brown stated that she knows the parcel is located within the Multi Use area and designated for businesses but it is also located in the middle of and surrounded by Residential. The businesses that have been mentioned are nearby but are not directly adjacent to this property. Ms. Brown stated to her it seems that the area is Residential and the Comprehensive Plan states that it needs to be considered what the area has been used for historically and traditionally. If the surrounding area is all

Residential, this parcel should remain Residential. Ms. Brown stated if the parcel was changed to C2, what will occur next and what could the zone be changed to in the future. Ms. Brown stated that she is concerned that the value of the homes surrounding the subject property would increase if a business is located on the parcel. Ms. Brown stated that she turned in a petition showing over 160 names of individuals that are in opposition of this Application. Lastly, Ms. Brown stated if this Application is approved, she would like to be sure that the condition placed by Planning & Zoning Commission remain in place and that the only use of the property be for the use as proposed in the Application.

Chairman Manwaring stated if there are complaints when a property is not in compliance of code, those complaints are handled by Planning & Development, who visits the property to proceed with having that property put back into compliance, if not that business could be shut down.

Tammy Tew Laird (CC-13), 585 W. 30 S., Blackfoot, stated that when she moved into the area she wanted to live in a Residential area, not a busy area. The additional traffic is a concern and a traffic study should be conducted to make the area safer. If this Application for Zone Change is approved, it will increase the probability of an accident occurring.

Dean Brown (CC-14), 6S. 600 W., Blackfoot, Idaho, stated that he is in opposition of the Application as there are no guarantees that the trailer will be rented to someone with experience in pulling a trailer. Mr. Brown stated if an individual with no experience rents an RV, there could be damage done to property due to lack of experience. Mr. Brown reiterated his largest concern is safety in the area.

With no further testimony from the public, Mr. Austin gave a rebuttal statement and stated that during public testimony there were a lot of assumptions on how it is perceived that traffic will be and those are valid concerns. Mr. Austin stated approximately 95% of rentals are himself, his son or other employees delivering the trailers. A majority of the trailers rented are delivered to Island Park and Yellowstone for the renters. Mr. Austin stated that there is no one that is more concerned about traffic than he is. The amount of fatalities that he has dealt with while in the capacity of a police officer is the foremost concern in his mind. He would like to be able to label the most southern entrance in order to make sure that traffic is all the way off of the highway before entering into the business. The business hours will be from 9:00 a.m., to 5:00 p.m., Monday through Friday, which are in between the commuter hours, which will help with traffic. The only overlap that may occur would be lunchtime traffic for Snake River School District.

Mr. Austin stated if a business is not on the highway, where most of the traffic is with the easiest access, where would the business go? If he was to build the business on 100 South on 600 W, he would be adding even more traffic to 600 W. Mr. Austin stated the traffic will be going right onto the highway and not through a neighborhood or adding to the number of cars that are going to be going through the subdivision. Mr. Austin stated that he would like an entrance directly onto the highway but knows that would not be safe given the amount of space that he has with that intersection.

Chairman Manwaring asked Mr. Austin what percentage of trailers that are rented, have to be delivered to the parks, to which Mr. Austin stated that he already has a mix of stationary that is already located in Island Park and do not come and go but the trailers that are rented out of this area, approximately 90-95% are delivered.

Chairman Manwaring asked if there is a safety check list followed prior to an individual renting a trailer, to which Mr. Austin stated yes there is a safety check list to be sure that the renter has the appropriate vehicle to haul the trailer, safety chains are hooked and other safety items.

Chairman Manwaring referred to testimony from Ryan Cross (T-12) who stated that he had concerns in regards to the ditch access, maintenance, overflowing and leaking. Chairman Manwaring then referred to Idaho Code Section 42-1102, it states establish the right of way with accessing ditches, canals and other conduits described which allows owners to enter the land, remove debris and maintain the ditches. Chairman Manwaring stated he is on a canal board and in the past there has been individuals that call upset because someone came into their property to access the ditch but individuals have to allow, whoever has right on that ditch, to access the property to clean the ditch properly. Mr. Austin stated yes, he is aware of allowing the ditch riders in to maintain the ditches.

Chairman Manwaring asked Mr. Austin if the business were to be developed, does he foresee more repair business, to which Mr. Austin stated that he foresees most of the business being individuals bringing in trailers to be repaired or picking them up after repairs are completed. Mr. Austin stated they will have RV parts on site and there may be a small amount of traffic pertaining to that. Mr. Austin reiterated that there will only be two (2) bays and therefore the number of RVs that will actually being worked on will be limited. If there are RVs that are not operable and waiting to be worked on, they will be kept in the fenced off privacy fenced area.

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" Heavy Commercial Zone in that parcel meets the following criteria:

1. Adequate service by major roadways;
 - a. The Board had no concerns. Chairman Manwaring stated the subject property is along Highway 39.

2. Location that minimizes potential traffic problems;
 - a. The Board had no concerns. Chairman Manwaring stated the subject property is next to Highway 39 and not halfway down the road, that eliminates his concern.
3. Compatibility with existing uses;
 - a. Chairman Manwaring stated the subject property is within the Multi Use Corridor and there is Multi Uses down Highway 39.
 - b. Commissioner Jackson stated he does not believe the Application is compatible with existing use as the area is mostly Residential.
 - c. Commissioner Jensen stated the Multi Use Corridor was put in place and therefore, the Application is compatible with existing uses.
4. Protection from encroachment of residential uses;
 - a. The Board had no concerns.
5. Accessibility to adequate utilities;
 - a. The Board had no concerns.

Commissioner Jackson stated the main concern he has is having a commercial business in the middle of a Residential area. Commissioner Jackson stated he is not sure what the percentage of new businesses that fail after opening but that concerns him is what would occur if this business is not sustainable.

Chairman Manwaring stated that he understands the Commissioners Jacksons concern and stated in 2018 the Board of County Commissioners changed Highway 39 and Highway 26 into a Multi-Use Corridor for reasons such as this because there were applications that would be proposed and approved but it would take up to one year to address the Comprehensive Plan to complete the application. Therefore, it was determined that the best way to proceed was to create the Multi-Use Corridor.

Commissioner Jensen stated that having served previously on the Planning & Zoning Commission he knows that the Commission weighs all options on each application and therefore knows that this Application was discussed thoroughly. Commissioner Jensen stated that it appears that the Application meets all legal requirements for approval and would like to state that the Board has no control over what may occur in the future and each property owner has property rights. Commissioner Jensen stated it is the responsibility of the Board to look at laws and ordinances put in place to follow.

Discussion was held in regards to safety concerns, wherein Chairman Manwaring stated that Highway 39 has the turn lanes to assist with safety, second in looking at this proposed business being at the end of the road and where traffic is slowing as they are approaching Highway 39, it would be safer compared to if this project were proposed to be at the end of Thomas Road and Highway 39. Commissioner Jackson stated that he also believes the turn lanes on Highway 39 help but as traffic increases the highway will need widened or more lanes will be needed. Commissioner

Jackson stated that he does not feel that the proposed Application will increase traffic by much but wonders if this would be better placed in an industrial area rather than Residential.

Discussion was held in regards to the concerns pertaining to speed limits, wherein Chairman Manwaring stated that a traffic impact study could be completed.

Chairman Manwaring stated if the proposed Application is approved, Mr. Austin stated that there will be a fenced area for the RVs that are not being worked on, along with the potential for extra signage to be placed and that these items could be placed as a condition. Tiffany Olsen, Planning & Development Director, stated within County Code, there are specific use regulations and any repair of the RVs would need to be conducted within the shop, where it abuts a Residential Zone. Ms. Olsen stated if the application is approved, pertaining to fencing, County Code requires for any inoperable or dismantled vehicles to be fenced, which would need to be an additional condition as well.

Paul Rogers, County Civil Attorney, stated that the Application before the Board is for zoning amendment to "C2" Heavy Commercial and reviewed the requirements of said zoning designation. Mr. Rogers stated there was testimony in regards to traffic and stated in Bingham County Resolution 2024-18, it states that the Public Works Director may require a traffic impact study if specific instances occur, such as sensitivity of adjacent neighborhoods or high traffic volumes on adjacent roadways that may affect movement into and out of the proposed development.

Secondly, Mr. Rogers referred to County Code 10-3-6, which outlines the procedure that should occur during the Public Hearing and allows for approval, denial or conditional approval. Mr. Rogers stated what it does not allow for is a remand for additional evidence but in County Code 10-10-4, it does allow the Board to remand the Application back to the Planning & Zoning Commission for additional information.

Chairman Manwaring stated in the past there would be a resident who would contact the county and request a speed limit reduction and that time a traffic impact study would be completed to see if the speed limit reduction is warranted.

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

DECISION

Decision: Commissioner Jensen moved to approve the Zoning Amendment from "R" Residential to "C2" Heavy Commercial, for Gregory and Aimee Austin pursuant to Bingham County Code 10-2-4(F), with the following conditions:

- 1) The property be used solely as indicated for the purposes stated by the Applicant**
- 2) That there be a fence placed to hold any RVs that are waiting to be repaired.**

Chairman Manwaring asked for preference pertaining to height of the fence.

Ms. Olsen stated in County Code there is reference to fences but not specific to height in this section. In other areas there are sight obscuring fences at eight feet tall. The difference is that any fence over seven feet requires a permit.

AMENDMENT 1: Commissioner Jensen amended his motion to add that the fence be required to be seven feet with slating to protect from view.

Chairman Manwaring mentioned a potential condition as to how many RVs are allowed on the property at one time. Commissioner Jensen stated with the property being 2 ½ acres with a shop, that should limit how many RVs would fit on the property. Chairman Manwaring stated that he would recommend ten (10) RVS maximum to be allowed on the property.

AMENDMENT 2: Commissioner Jensen amended his motion to add that there be no more than ten (10) RVs allowed on the property at one time and that repairs are to be completed within the shop.

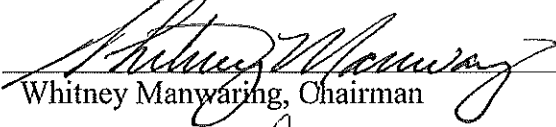
Chairman Manwaring seconded the motion and amendments. All in favor- Chairman Manwaring and Commissioner Jensen. All opposed- Commissioner Jackson.

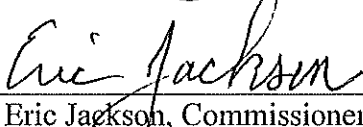
Request for Reconsideration/Judicial Review: Upon denial or approval of a zone change, with adverse conditions, pursuant to Idaho Code Section 67-6535(2)(b), the Applicant or affected person seeking Judicial Review of compliance with the provisions of this section must first seek reconsideration of the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

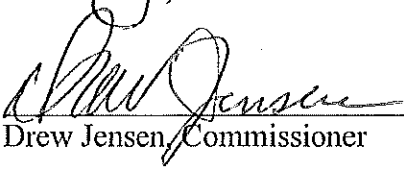
Regulatory Takings: Additionally, the Applicant may request a regulatory takings analysis as per Idaho Code Section 67-8003. An affected person aggrieved by a final decision concerning matters identified in Section 67-6521(1)(a), Idaho Code may within twenty-eight (28) days after all remedies have been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

Dates this 5 day of February 2025.

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


Whitney Manwaring, Chairman


Eric Jackson, Commissioner


Drew Jensen, Commissioner

CERTIFICATE OF SERVICE

I certify that on the 7 day of March 2025, I served a true and correct copy of the Reason & Decision for the request for Zoning Amendment from "R" to "C2", Gregory & Aimee Austin Zone Change, upon the following person(s) in the manner(s) indicated:

- Mail
- Email: austinid72@me.com
- Hand Delivered
- Designated Courthouse Box

Gregory & Aimee Austin

- Mail
- Email: tolsen@binghamid.gov
- Hand Delivered
- Designated Courthouse Box

Tiffany Olsen
Planning & Development Director



Lindsey Dalley, Commission Clerk