

BOARD OF BINGHAM COUNTY COMMISSIONERS

REASON & DECISION

In regards to: The Planning & Zoning Commission's recommendation to deny the Comprehensive Plan Map Area Amendment from Agriculture to Industrial/Commercial for approximately 53.86 acres of a 163.18-acre parcel of land, located South of 1195 N 900 E and the Zoning Amendment request from "A" Agriculture & "M1" Light Manufacturing to "M1" Light Manufacturing.

After receiving testimony from the Applicant/Representative and the public and once the Public Hearing is closed, the Board shall first consider whether the Planning & Zoning Commission's recommendation to deny the Applicant's Comprehensive Plan Map Amendment from Agriculture to Industrial/Commercial shall be upheld, revised, or denied.

If the Planning & Zoning Commission's recommendation to deny the Application is upheld, the recommendation to deny the Applicant's Zoning Amendment shall also be upheld.

However, if the Planning & Zoning Commission's recommendation is denied and the Comprehensive Plan Map Amendment is approved, the Board shall next consider if the Planning & Zoning Commission's recommendation to deny the Applicant's Zoning Amendment from "A" Agriculture & "M1" Light Manufacturing to "M1" Light Manufacturing shall be upheld, revised, or denied.

Property Owner/Applicant: SLT Properties, LLC

Board of County Commissioners Public Hearing Date: May 13, 2025

The Board reviewed the record from the Planning & Zoning Commission Public Hearing held on February 12, 2025, which is comprised of the following:

1. Exhibits to the Board Public Hearing Staff Report:
 - CC-1: Staff Report- Board of County Commissioners
 - CC-4: Proof of Publication- Idaho State Journal and Post Register- Board of County Commissioners
 - CC-5: Shelley Government Agency Notice List & Notice- Lindsey Dalley, Commission Clerk
 - CC-6: Property Owners Notice List & Notice- Lindsey Dalley, Commission Clerk
 - CC-7: Notice of Posting- Ashley Taylor, Planner
2. Testimony received prior to the Public Hearing included:
 - CC-8: Karen Peterson, 874 E. 1100 N., Shelley, ID, submitted testimony in opposition of the Application
 - CC-9: Lynda Chapple, 820 Kelley Drive, Shelley ID, submitted testimony in opposition of the Application
 - S-1: Planning & Zoning Commission Staff Report

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 April 16, 2025 (CC-5 List of Shelley Government Agencies and Notice)
 - b. Published in the Bingham News Chronicle on April 18, 2025 (CC-4- Affidavit of Publication)
 - c. Sent to 24 property owners within 300' of this property on April 16, 2025. (CC-6 Property Owners Mailing List and Notice)
 - d. Site was posted on April 24, 2025 (CC-7 Notice of Posting Affidavit and pictures)

At the outset of the meeting, Chairman Manwaring reviewed the rules and procedures to be followed during the Public Hearing, which included the proposal to set a five (5) minute time limit for testimony per individual.

Decision: Commissioner Jensen moved to set a five (5) minute time limit for testimony per individual. Commissioner Jackson seconded. Both voted in favor. The motion carried.

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

Commissioner Jackson asked Tiffany Olsen when it is required that the Area of Impact Agreements with the cities are to be in place. Ms. Olsen stated that they are required to be completed by December 31, 2025, which is within state code that was amended this year requiring all local jurisdictions to renegotiate Area of Impact Agreements.

Commissioner Jensen stated within testimony presented at the Planning & Zoning Commission that the "M1" Light Manufacturing zone is not in effect anymore because of the sugar factory closure. Commissioner Jensen referred to Exhibit-A3, which shows that a portion of the property is zoned M1 Light Manufacturing. Ms. Olsen referred to Exhibit S-3, which does show that a portion is zoned M1 Light Manufacturing which was the former sugar factory.

Chairman Manwaring stated the M1 Light Manufacturing zone put in place for the sugar factory, which is now used for storage, is still in place and remains an M1 zone.

Commissioner Jensen stated there was testimony presented that this would be considered spot zoning, if approved, and asked Ms. Olsen if she believed that to be true. Ms. Olsen explained that in review of the Comprehensive Plan and the definition of spot zoning, she does not believe it would classify as spot zoning where it is contiguous and adjacent to an existing zone. There are

questions if the property is zoned appropriately for Light Manufacturing as a storage unit but the county has not received an application for a Zoning Amendment from the property owner of the sugar factory to Agriculture or any other land use. Therefore, it is still zoned Light Manufacturing and being used as storage.

Chris Street, HLE, Applicant's Representative (CC-10), 800 West Judicial, Blackfoot, stated that he would like to clarify that 53.86 acres is what is being requested for the Comprehensive Plan Amendment. A portion of the property is zoned M1 Light Manufacturing but is not in conformance with the Comprehensive Plan as it is designated as Agriculture and not Industrial/Commercial. Mr. Street stated that out of the 53.86 acres, only 30 acres is being farmed and the remaining acreage is waste ground. Mr. Street added that 15 acres is already zoned M1 Light Manufacturing and therefore, the Applicant is asking to expand the zoning and update the Comprehensive Plan. Mr. Street stated that the sugar factory is currently being used as storage, which is an approved use in an M1 Light Manufacturing Zone and again it is being requested to expand the current M1 zone, to include the property west of the transmission line and to Sugar Factory Road.

Mr. Street stated the subject property is adjacent to an existing use and a portion of the property is currently zoned appropriately but needs the remaining to be under the same designation. Mr. Street stated there was concern in regards to heavy truck traffic, noise and pollution but M1 zoning specifically states that it creates little traffic and most of the acceptable uses within the M1 zoning zone are something that agriculture businesses may use such as storage units, grain storage, fertilizer distribution and things that you would not want in a city environment but close to agriculture and close to a highway. Mr. Street stated the property borders two major collectors, wherein the right of way on the roads are 35 feet from the center line. Any development would need to go through Road and Bridge and if they felt that the road needed to be expanded or widened at that point, that would happen during the development process but should not be considered during the proposed amendment of the Comprehensive Plan.

Mr. Street stated there was conversation held as to whether or not the subject property would be good as Residential and it would not be as for many years it was used as a spray field for Basic American and they are in possession of reports from the nitrate studies and it is equivalent to a high nitrate area. Mr. Street stated that he reached out to the City of Shelley in regards to a potential development and he indicated that as long it was annexed into the City of Shelley and that the closed sewer line is in Park Avenue, which is across the canal and would require a lift station to access it, which is costly.

Commissioner Jensen asked Mr. Street if it were to become a residential development, how much more traffic would that include. Mr. Street stated if it were residential, a traffic study would need to be conducted, especially with the number of houses (200-300) that would be placed.

Chairman Manwaring asked Mr. Street if he had information in regards to the property previously being a spray field, wherein Mr. Street stated that there is a Reclamation Plan in hopes of the development process for the property and that he has all pertinent information. Chairman Manwaring asked Mr. Street if there was documentation stating that the property is not a spray field and how many years it would take to get rid of the nitrate issue. Mr. Street stated he is sure there is an environmental form that would state said information but that he was not sure.

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

Testimony in support was received as follows:

Scott Searle, Applicant- SLT Properties LLC, (CC-11), 959 E. 1400 N, Shelley, stated that he purchased the subject property from Basic American Foods 2 years ago and it has been used as a spray field for more than 40 years. Mr. Searle stated as a farmer his big concern was the nitrate levels and the disease impact from potatoes coming to Basic American from every part of the State of Idaho. Mr. Searle stated that extensive soil tests were conducted on the subject property and the nitrate levels were within reason and wastewater has not been placed on the property for at least 2 years. Mr. Searle stated that another concern was nematodes (PCN) and that the USDA associated the fields with PCN due to Basic American running potatoes that had been associated with PCN and therefore that wastewater going onto the ground made it associated. Mr. Searle stated the only way to get an associated piece of ground out of regulation is to plant potatoes on it and there are regulations that go along with that while it is associated. Mr. Searle stated that he knew the subject property would not be a potato farm and the price that he paid for the property would not justify planting grain and hay. Therefore, potatoes were planted two years ago and the portion that he is trying to sell is infested with scab and wire worm, making the potatoes not marketable for fresh pack standards. That year they were able to secure a contract on most of the potatoes for a dehydrator and now it is next to impossible to get a contract with a dehydrator due to surplus of potatoes and a lack of market.

Mr. Searle stated that it was a concern of his trying to get the property out of the PCN program as soon as possible to make it so that he did not have to fall under regulations that the USDA requires. Mr. Searle stated when he planted potatoes 2 years ago, the property, showed its head on the disease the worse and he is not sure if it is its proximity to Basic American. Therefore, that is one of the reasons that he is proposing to do this with the property. Mr. Searle stated that he believes the proposed use would be more useful over residential and as a farmer he would rather have a business rather than housing. Mr. Searle stated that Shelley has had a lot of residential growth over the last several years and there is not adequate space for businesses to develop, which is another reason for the proposal.

Commissioner Jensen asked Mr. Searle if it would be possible to farm the other portion if the ground that is already zoned M1 was developed, wherein Mr. Searle stated that the property zoned M1 goes through the pivot and the pivot only does a ½ circle currently but would only be able to do a ¼ circle.

Jade Searle, (CC-12), 683 E. 1200 N., Shelley, stated that he is a young farmer and in looking at the subject property, there is no way for him in the next 60-70 years that he would be able to pay for farming the subject property and it is better to sell off a portion of the property so that he can continue to be successful and support his family. Mr. Searle stated that he recognizes that there is a lot of concerns from the neighbors and he hopes that they would recognize the Applicants concern to be able to farm in todays commodity prices.

Mr. Searle stated that he would attest to what has been said and that the subject portion of ground is not a higher producer. There have been references as to why the Applicant does not farm the corners of the property or irrigate the entire property and Mr. Searle stated that does not make sense financially from a farmer's standpoint. Therefore, he is in favor of the Application and believes that it would be a good use of the property.

There was no testimony in neutral.

Testimony in opposition was received as follows:

Brenda Price (Inns) (CC-13), 820 S. Milton Ave., Shelley, stated that she has lived in her home for 30 years and has seen many changes occur but she was not aware that the Applicant had not done a joint planning on the zoning. Ms. Price stated that her daughter sits on the Board of Adjustments for the City of Idaho Falls and one thing that she believes the Board should know is that the City of Shelley annexed her neighborhood several years ago so the neighborhood has water from the City of Shelley but not sewer. Therefore, there would never be sewer to the subject property, which will limit how many homes would be built if it were residential. Ms. Price stated under the circumstances the Board should consider that the subject property is in the middle of nowhere, which at the time made sense to zone how it is zoned because of the operation but at this point it does not make sense and she feels that the Board should look at is it appropriate now to allow the proposed use before the City of Shelley adjusts their Area of Impact. Ms. Price stated the proposed application is premature because the City of Shelley will be making changes and the rural evaluation will be done based on facts not emotions. Therefore, she is asking the Board to not approve the application but to wait until planning for the area has been evaluated.

Roger Steele (CC-14) 895 Kelley Drive, Shelley, stated that he does not believe that the roads in the subject area can handle any more traffic than they are getting. Mr. Steele reiterated that the City of Shelley annexed them into the city because they were running out of water and needed the water rights but there is no sewer. Mr. Steele stated that he lives on the road that dead ends and he has had cars go through his yard, take out his trees and hit his driveway. They do not need more traffic but they do need more patrol.

Steve Molsee (CC-15) 1006 N. 900 E., Shelley, stated that he resides less than 2 miles south of the subject property and if the zone is changed, the nature and the character of the community will change. Mr. Molsee stated that he does not mind the dirt but when you make a change like this, regardless of what is developed, you change the character of the community. Mr. Molsee stated that he has lived in his home for 6 years and the community cherishes living amongst farms. Another concern is the unknown and what will be developed if the zoning is changed.

Jim Cotterell (CC-16) 780 E. 1200 N., Shelley, stated that he resides directly across the street from the cemetery and also owns several lots in the surrounding area. Traffic is already busy but his biggest concern is if this application is approved, Baseline Road will need to be widened or have the traffic pattern come down South Park Road, which has a lot of children with the school and

church, making a safety issue. Mr. Cotterell stated that the cemetery cannot be infringed on and the road will need to be widened, which means that his acreage will be minimized, which will put his pickle ball court building and home in violation of how close his front door can be to the road, along with four other neighbors. Mr. Cotterell stated that the Comprehensive Plan designation does not need to be changed. In the Application submitted and within the narrative from HLE it mentions there are 4 adjacent homes but in looking at the ½ mile circle around the property, there is 360 land parcels, 240 homes within the ½ mile with more than 40 more building lots in Sunset Vista Subdivision. This does not only impact him but a potential of 300 other people within the area. The value of his property will decrease if the Comprehensive Plan is amended to include the subject property as M1. Mr. Cotterell stated that the Planning & Zoning Commission has made the decision that the proposal is not a good fit and denied the application. He is asking that the Board of County Commissioners to listen to the people and deny the application.

Gretchen Cotterell (CC-17) 780 E. 1200 N., Shelley, stated the plan is ambiguous as it is unknown what will be placed on the property if rezoned. It was stated that if the application is approved and if needed, a traffic impact study will be completed, which seems like it would be too late. Her concern is regarding traffic implication and the implications to her property and she would like to know why a traffic impact study is not being done before the rezone rather than after.

Chairman Manwaring stated that in some instances a traffic impact study is requested but county policy has been changed and, on some developments and the type of road, a traffic impact study is required prior to the public hearing. On the application before the Board today, Dusty Whited, Public Works Director, had no concerns as he does not know what will be developed on the property.

Stacy Pascoe (CC-18) 650 N. State St., Shelley, stated his concern is the unknown of what will be developed. If a lowboy cannot cross on Baseline Road railroad tracks, those semi-trucks have to go through the City of Shelley in order to get onto Highway 91 or the freeway. Therefore, there will be an increase in truck traffic through the city depending on what is developed, which will cause problems for pedestrian crossings. Mayor Pascoe explained the issues that have occurred with the current crosswalk close to the property and the constant damage that occurs to the crosswalk by semi-truck traffic.

Chairman Manwaring asked Mayor Pascoe to expand on sewer and water availability in the City of Shelley, wherein Mayor Pascoe explained that it would need to cross the canal to access and that sewer could be available for the area but it would not be cheap. Mayor Pascoe stated that he could not state off of the top of his head how deep the sewer is in the area but knows that a nearby subdivision had to put in a lift station. In regards to water, Basic American had polluted the soil with their spray field and therefore, water had to be run for almost 4 miles to the south to provide water for all of the homes, which came from the City of Shelley's water.

Commissioner Jensen asked if the water is clean since the spray field is no longer used, wherein Mayor Pascoe stated that he is unsure.

Commissioner Jensen referred to the Golden Valley (now known as Smokehouse Meets) Jerky Plant and asked if the roads had to be modified in order to accommodate that development or if has been suitable, wherein Mayor Pascoe stated there were turn lanes placed and Golden Valley had to cover the cost. Mayor Pascoe stated that they are wanting to expand and they have the property to do so but they will need to widen the road, which will also be done at their cost. Mayor Pascoe stated they are currently in the process of putting in a pre-treatment plant in for the sewer because there cannot be meat products sent to the sewer plant without having issues.

Commissioner Jensen asked Mayor Pascoe if he has noticed that the property value has decreased around the jerky plant, wherein Mayor Pascoe explained that he resides closest to the jerky plant and personally has not seen values change other than increasing but it could depend on what is developed on the subject property and there is a lot unknown.

Commissioner Jensen asked if one of the reasons why there was not an impact study on the south side of Shelley is due to it being Basic Americans water treatment plant and it was thought that it would not develop into housing. Mayor Pascoe stated when Basic American closed there was a company that wanted to buy a portion of the property and build a manufacturing facility. The City of Shelley had to contact the company attorneys who were based in San Francisco to receive any response and they would not sell a portion of what the company wanted because all of it was hooked to either the same power grid, water system or other utilities and they did not want to split up the property. Therefore, the company went somewhere else. Mayor Pascoe added that they did not evaluate more south because Basic American owned all of the property and where there was spray fields, it was assumed to not be developed further.

Lorleine Browning (CC-19) 752 E. 1200 N., Shelley, stated the subject property was farmed by the Browning Family for over 3 generations, her husband ran the farm for Basic American Foods. He took soil samples and water samples of all of the test wells around the property and every test was within the standards of the State of Idaho, which can be found within records from the state. Ms. Browning referred to discussions regarding the pivots, the ground cannot be farmed because there is a lot of trash, metal and concrete in the land. The pivot does not go up on the property and it is not watered at all. Ms. Browning stated that all testing was done with independent tests from IS in Pocatello and there was another company out of Twin Falls but not once did they have any testing that would not be within standards of the State of Idaho. Ms. Browning stated that the wells were not contaminated as testified previously. Ms. Browning stated that she would build a home on the subject property and that she is not afraid of the subject property because she is familiar with the results of testing completed.

Jeff Kelly (CC-20) 740 Aspen Drive, Shelley, stated that he is against the application because in the Application it was vague as to what will be developed. Normally if there is an Industrial Development, a plat is provided to show what will be developed. Mr. Kelly stated there are 70 different uses under the M1 zoning use that this property can be used for and all uses have impacts that will impact value of the adjacent properties. Mr. Kelly stated that one of the property owners adjacent to the subject property spoke with him about annexing her property into the city, wherein

he advised her that it could be classified as a Residential Agriculture with multiple acres of land providing them with water but not sewer. The sewer on the other side of the canal underneath Park but it is a 6-inch line, which runs down and Sunset Vista pours into it, therefore that line is probably at max capacity now and would need to be redone which would be costly.

Mr. Kelly stated if this area were to become Industrial or Commercial, that is giving the opportunity for many other uses and opening up pandoras box because all of the surrounding property is going to end up being zoned as such or it will undermine the value. The unknown is the problem, specifically with traffic and the worst has to be assumed. Mr. Kelly stated when the jerky plant was developed, it was zoned Agriculture because that would allow the bakery to go in, allowing low impact lighting put in and a berm put in to keep lights from the parking lot shining into the homes adjacent to the business. Mr. Kelly stated if this is approved, it will impact the City of Shelley negatively. Mr. Kelly stated where Baseline Road is from Melton to Park Road, which is in the city, if the roads were to be improved, it would be the City of Shelley's requirement to improve that road and to widen the road the transmission lines would need to be moved, costing approximately \$21,000 per power pole.

Commissioner Jensen asked Mr. Kelly if when the jerky plant was developed there was the same amount of opposition with the homes surrounding the property. Mr. Kelly stated yes there was a lot of opposition and lot of people on the west side who get upset with trucks coming in during the early hours but overall the concerns have been mitigated.

Daniel Hodson (CC-21 and CC-21A) 884 E. 1100 N., Shelley, stated that he owns 13 acres west of the subject property. Mr. Hodson referred to Exhibit CC-21A and stated that this property was Industrial zoned to a pre-existing non-conforming use and that Planning & Zoning stated that this pre-existing non-conforming area was likely zoned to existing land use pre-1966 before the Local Land Use Planning Act was enacted. According to the Comprehensive Plan there was no M1 designation for this area. Mr. Hodson stated in the 2018 plan, it does not highlight the area in question therefore, the current M1 area that is in question pre-existing non-conforming use that was not part of the Comprehensive Plan to be able to discuss in 2018. Therefore, the application would be in violation of the Comprehensive Plan. Mr. Hodson discussed the historical land use of the subject area, wherein some of his family has owned their parcel for decades and is familiar with Basic American owning and operating the parcel for hay and grass. It is also interesting to note that SLT Properties Leased the property in 2023 growing potatoes that season and after that growing season, SLT Properties purchased the land at the end of 2023. The deed transferred the sugar factory parcel and 5 other parcels to SLT Properties in December of 2023. The deed included 50 acres near Firth, 143 acres south of Blackfoot, 128 acres north of Blackfoot, 143 acres South of Shelley, 138 acres south of Shelley and 163 acres, which is being discussed as the sugar factory property. This is in excess of 775 acres.

Lauren Yearsley (CC-22 and CC-22A) 1171 N. 1000 E., Shelley, stated in working with the Comprehensive Plan and in the rezoning, there are 12 things in the Comprehensive Plan. Ms. Yearsley stated that she would like to address the items specifically not meeting the requirements

for this application, wherein there are 8 that do not meet requirements. One is to protect property rights and the use of property while not adversely impacting neighboring property values. Ms. Yearsley stated that this area is surrounded by residential units and farm land. The proposal negatively affects dozens of rural homes and single-family dwellings on all sides. There are new homes being built to the east who are expecting a quiet, country, agricultural area. Injecting an industrial island in the middle will undoubtedly harm their property values and their right to enjoy the lifestyle that chose. Bingham County Code supports M1 zoning along highways and freeways where expansion is possible. Islands or spot zoning is not good planning because M1 areas need to be free from residential and agricultural development. This standard of the plan would be violated. Ms. Yearsley added that the Sugar Factory is currently being used as storage and that falls under M1 but it also falls under Agriculture and could remain as is.

Another is to encourage the protection of prime agricultural, forestry and mining lands for production of food fiber, and minerals. Ms. Yearsley stated that the key phrase is “production of food,” This isn’t just a local issue, it is a national concern. According to the “American Farmland Trust”, the United States lost more than 11 million acres of farmland to development between 2001 and 2016. That’s about 2,000 acres per day, Let’s not contribute to the trend by replacing productive farmland with a concrete jungle.

Ms. Yearsley stated another is to ensure that the development on land is commensurate with the physical characteristics of the land. Policy E7 of the Comprehensive Plan titled “Industrial Separation” aims to provide good isolation or separation of industrial operations from residential areas. The rationale being to encourage industry in areas that will not adversely impact residential or agricultural areas. Separation will also offer buffering areas between conflicting uses. Ms. Yearsley referred to Exhibit CC-22A, which shows how much agriculture and homes are within the area and it would be in direct violation.

Ms. Yearsley stated to avoid undue water and air pollution. This point cannot be emphasized enough as it is unknown what is going to be developed. Lastly, to allow local school districts to participate in community planning and development to address school needs and impacts on an ongoing basis. Ms. Yearsley stated that Industrial Zoning is not a natural supporter of school districts and school districts depend on strong communities and safe neighborhoods and there is a school within a couple miles of the subject property.

Ms. Yearsley stated in conclusion there are 4 main points to consider. 1) The Planning & Zoning Commission voted 4 to 1 against this rezone, 2) The proposal violates many points in the “Comprehensive Plan”, 3) The proposal is opposed by a great number of households within one mile of the area and many wanted to be here today but had to work and 4) this area should also fall under the City of Shelley’s Area of Impact. The City of Shelley’s Council has been actively working on updating the recommendations to improve the Area of Impact issues of concern. Ms. Yearsley stated that she would encourage the Board to please uphold the Comprehensive Plan. Believe the process and listen to the people.

Chairman Manwaring stated that all school districts within Bingham County receive notices in regards to any development and the schools do not ever send in a response, which does not help at all. Secondly, any business that comes into the county or more housing the tax base increases, which supports the schools and other taxing districts.

Erin Cannon (CC-23) 1148 N. 900 E., Shelley, stated that she resides south of the subject property and her day job is a residential/commercial developer. It has been stated that residential developers would not look at the subject property but she would like to clarify that she would other than the sewer. The high nitrates, the PCN and those issues would not be as much of a concern to her as the sewer would be. Ms. Cannon stated that the developers have been great farming neighbors and what they do is appreciated by the community but it is unfortunate that this business decision is affecting her personally.

Commissioner Jensen asked Ms. Cannon if homes were developed, how many homes could be placed on this property. Ms. Cannon stated that she currently has a subdivision on 28 acres, with .18 acres and has 100 including a clubhouse and common space. If that puts it into perspective as to how many homes could be developed on the subject property. Commissioner Jensen stated a lot of testimony provided has been in regards to traffic and asked Ms. Cannon how much traffic would be added if it were development of residential. Ms. Cannon stated that traffic was less of a concern for her as there is already a lot of traffic on the road but the unknown is what is concerning for her.

Emily Hodson (CC-24) 884 E. 1100 N., Shelley, stated that she believes in rules and they are there for a purpose. There is a reason why there is planning and reason as to why those plans are followed. Ms. Hodson wanted to point out that code requires intent to declare the purpose for the rezone property, which was not done. As Mr. Searle mentioned he does not have a buyer any longer. If this property designation is changed, it is unknown what will happen or what will be developed, which is serious. There are areas specifically designated for businesses and the Comprehensive Plan does not designate this property as M1. Ms. Hodson stated there are several points within the Comprehensive Plan where requirements are not met and are in violation. There is no buffer zone and it is so close to the surrounding neighborhoods. This is an area that they would like to grow residentially. Ms. Hodson referred to testimony presented by Jeff Kelly wherein he spoke of a landowner whose property could be annexed into the city, which is her and her land is adjacent to the City of Shelley and it would make sense that the City of Shelley could grow into residential properties. Ms. Hodson stated that she sees a lot of good potential for the City of Shelley to move south with development and does not have to be condensed housing. Ms. Hodson stated that the Board would take into consideration that the Comprehensive Plan has purpose and the City of Shelley already has multiple areas that are intended to be Industrial/Commercial and it is hard for her to see this area of Shelley that is not intended to go to M1.

Commissioner Jensen asked Ms. Hodson if she believes that the old sugar factory is a buffer zone and how would she describe the sugar factory where he is not sure that it will ever be torn down. Ms. Hodson stated it is interesting because there are individuals selling 5 acre lots and people are looking to purchase and buy homes. The development is coming this way and she does not think

that because there is one sugar factory that no one wants to build homes going south. Ms. Hodson stated that she has spoken with a developer that was looking at the cost to tear down the sugar factory and cleaning it up to develop homes. Ms. Hodson does not believe that just because the sugar factory is there that the entire area cannot have homes built that direction.

Brad Higley (CC-25) 761 S. Park Rd. Shelley, stated that he moved to the area 7 years ago and would like to state that he came here with a zero-impact footprint. He bought an existing home and was sensitive when he moved here to keep the integrity of the community. Subsequent to him moving here, it started to develop and as a builder that was formerly in a place where there was a lot of development for a significant amount of years, saw how it changed the environment. Mr. Higley reviewed 9 items that are generally held as standards that allow competent staff to support the Boards decision and the decision of the Planning & Zoning Commission. 1) start with a neighborhood meeting based on specific use of a property, 2) Know that the Planning & Zoning Commission will review the information from said meeting. The Planning Commission will hold public meetings where the staff comments are addressed, the Applicant has opportunity to present their project and the public can make comments. It is difficult for the public to do that in the two official meetings. Staff level review is significant for the Board to be successful; meetings with City Council is important to get a better idea about the rezoning process and to consult with the staff about the potential impacts of the proposed zoning change.

Mr. Higley stated that we now live in 2025 and there is not a new zoning and/or commercial product even housing that does not have an impact footprint. There is nothing that you will do that will not have an impact and he does not understand how there is not a specific use and a specific impact report, then the speculation of increased commercial truck traffic could be cured. Mr. Higley stated that the county uses Park avenue for truck traffic whenever they need to access Baseline Road and the farms use it as well because no one wants to go to the intersection. The road cannot handle any more traffic than it already gets.

Jason Cannon (CC-26) 1148 N. 900 E., Shelley, stated that he is not annoyed by the dust or bothered by the farm. When he and his wife purchased the property, the most invasive and intrusive thing was the smell from the dairy south of town and that he would like to preserve impact and quality of life. At the Planning and Zoning Commission Public Hearing he testified and since then he has woken up every morning with a sign stating "Coming Soon- Hog Farm", which has had an impact on him and his quality of life. Mr. Cannon stated that he loves the rural farm area, riding his bike in the summertime, smelling the grain, the potatoes, there is a street that has lilac bushes and he would like to preserve the character currently. Mr. Cannon stated that he is not opposed to growth and development but that is why he likes the area that he lives in, he likes the country and the rural feeling.

Ms. Olsen stated that Mr. Jim Cotterell submitted a 1-page summary that touched on his testimony, which was submitted into the record as Exhibit CC-16A. Ms. Olsen read the document into the record at this time.

Rebuttal Statement was provided by Chris Street, Applicant's Representative, stated the Application meets the criteria. Road and Bridge has no concerns because there is no fully designed project yet. Mr. Street stated that his clients are not developers, they are farmers and have been a staple to the farming community in Bingham County for many years. When they say that the subject property is not suitable for farming, that should be taken into consideration. Mr. Street stated that the Searle's have property rights and have the right to expand the existing zone if it meets the criteria, which it does.

REASON

Public Testimony was closed and the Commissioners deliberated as follows:

The Board reviewed the Bingham County Comprehensive Plan, pages 3 and 4, as referred to in Bingham County Code Title 10, Chapter 1 Section 10-1-3, wherein the Board found the following:

- a) To protect property rights and the use of property while not adversely impacting neighboring property values more than is necessary;

Chairman Manwaring stated there was testimony presented that referred to property values but that depends on which part of the county that you are located in and the cost that individuals will pay to purchase ground.

Commissioner Jackson stated that there are property rights on both sides, for the property owner and the neighbor, so it is a hard decision to make. Chairman Manwaring stated that property rights is people have been there for one year, two years or fifty years, and that individual decides to change the use of the property, which on this particular application it is unknown, and it can affect the property values.

Commissioner Jensen stated on an upswing market, it does not affect the property value is because people will purchase property no matter the cost but on a downturn market it is hard to say what the values may be.

- b) To ensure that adequate public facilities and services are provided to the people at a reasonable cost.

No deliberation was held.

- c) To ensure that the economy of the county is protected and enhanced.

Chairman Manwaring stated that a lot of this weighs on the economy throughout the state and the US, including mother nature especially when it comes to farming. Chairman Manwaring added that the county tries to review budget in order to try and keep taxes down so as to not affect taxpayers and taxing districts.

Commissioner Jensen stated in looking at the economy of the county, improved property is taxes higher than agriculture and therefore, a way to bring in revenue for the county is to enhance the property. Commissioner Jensen stated on the other side he also understands that the economy in general is affected also.

Commissioner Jackson stated it is a balance and seems like one thing necessitates another but at times it is like a snowball rolling down the hill, picks up speed and gathers momentum and could go either way.

- d) To ensure that the important environmental features of the county are protected and enhanced.

No deliberation was held.

- e) To encourage the protection of prime agricultural, forestry and mining lands for production of food, fiber and minerals.

Chairman Manwaring stated it has been a concern for years and protecting agriculture land because people need to feed their families. Testimony has been provided in regards to this item from both in favor and in opposition, specifically regarding the type of soil that is located on the subject property and that it is not prime agriculture ground.

Commissioner Jensen stated farm ground needs to be protected but there was testimony provided in regards to how many acres of agriculture goes out each year and the only way he believes that could be stopped is if there is no development at all but that would be encroaching on people's property rights to have property and use as they deem necessary.

Commissioner Jackson had no comment.

- f) To encourage urban and urban-type development within or near incorporated cities.

Commissioner Jensen stated it is hard to know as it is unknown what will be developed. If by chance it is storage, it seems there are a lot of those within the urban part of our state and sometimes are in the city or on the outside. Commissioner Jensen stated it seems like as people have come to the Planning & Zoning Commission or the Board of Commissioners, its been allowed for individuals to build subdivisions well throughout the county if code it met.

Commissioner Jackson stated it is well centered and the county encourages growth from within the city towards the country and where there is infrastructure. It seems like the subject parcel is close to infrastructure that could accommodate growth.

- g) To avoid undue concentration of population and overcrowding of land.

No deliberation was held.

- h) To ensure that the development on land is commensurate with the physical characteristics of the land.

Chairman Manwaring stated to him the proposed application would change the physical characteristics of the land.

Commissioner Jackson stated that he is not sure what would be developed so he is not sure that he could say either way.

Commissioner Jensen stated with the sugar factory close and is used as storage and at times looks like a junk collector, he is not sure that it would change the characteristics of the land but agreed with Commissioner Jackson as it is unknown what would be developed.

Chairman Manwaring referred to testimony from the Applicant's Representative and that there are 70 different things that could go on the parcel if this application is approved, which will change the characteristics.

- i) To protect life and property in areas subject to natural hazards and disasters.

Chairman Manwaring stated the goal is to protect lives and property of county residents including the city but unfortunately natural disasters do occur and that is out of the county's hands.

Commissioner Jensen stated that he does not believe this will change whether the application is approved or denied.

Commissioner Jackson concurred.

- j) To protect fish, wildlife and recreation resources.

Chairman Manwaring stated there was no testimony provided regarding fish, wildlife or recreation resources in the subject area. Therefore, it does not seem to be an issue.

- k) To avoid undue water and air pollution.

Chairman Manwaring stated there was testimony from both individuals in favor and in opposition, in regards to dust and smells, wherein there are individuals that do not mind them but others that do. There has also been testimony in regards to water and where the subject property was a spray field and there was testing completed but all results met criteria of the state.

Commissioner Jensen stated that there was no testimony in regards to the smell from the wastewater went away when it was farmed versus a spray field.

- L) To allow local school districts to participate in community planning and development to address school needs and impacts on an ongoing basis.

Chairman Manwaring stated that notice is provided to all schools and other governmental agencies but there is not input received from the schools as to how any proposed development would affect the school.

Commissioner Jackson and Commissioner Jensen concurred.

Next, the Board reviewed requirements of Bingham County Code 10-4-2(G), wherein the purpose of an M1 zone is to encourage the development of manufacturing establishments which are relatively clean and free of hazardous or objectionable elements and which are generally operated within enclosed structures and generate little industrial traffic. This zone would be kept substantially free of residential and retail commercial activities that are:

- 1) Serviceable by major roadways.

Chairman Manwaring stated this is one of the bigger issues that he has is that in 2018, the Board created a multi-use corridor down Highway 91, Highway 26 and Highway 39, which is designed to help with commercial M1 and M2 development in order to be more accessible to state highways. There was testimony presented in regards to the roads and that they will need to be widened but where it is unknown what will be developed it is hard to know how it will affect the roads.

Commissioner Jensen stated it is hard to know without knowing what will be developed.

Commissioner Jackson stated that testimony was provided that roads would need improved, which would be costly.

- 2) Located to minimize potential traffic problems.

Chairman Manwaring stated that usually Commercial zones are located along a highway and not on county residential roads.

Commissioner Jensen stated that he agrees with Chairman Manwaring and that is why the highways were designated as a multi-use corridor for the M1 or commercial business but asked how this should be addressed as part is already zoned M1 and the other is not.

Tiffany Olsen, Planning & Development Director, stated that a portion of the property is zoned M1 based on historical land use prior to zoning was enacted and therefore, her assumption is

that Planning & Zoning and the Board of County Commissioners in 1966 zoned it for its current land use at that time. Ms. Olsen stated typically M1 and M2 zones are seen along highways but there are other areas in the county, such as 100 North Pioneer Road which is a large manufacturing area that is located along a major collector road and is the highest functional classification to move traffic. Ms. Olsen stated that property is also inconsistent with the Comprehensive Plan Map and has a designation of Agriculture but she would like to put emphasis on the future land use. Ms. Olsen stated County Code 10-5-3, Contents of an Application, does not specifically require what the proposed land use is but states that the proposed text amendment or proposed zone change and that has been done and the present land use and present zone. Ms. Olsen stated the Board should consider is it appropriate for a Comprehensive Plan Map Amendment following the criteria and guidance in Comprehensive Plan. If so, does this land also meet the purpose and objectives of the M1 zone and that it is compatible with the 7 items in code. The future land use, although has been disclosed as an option, the county will not pursue what those proposed options are unless the application is approved, then it will be determined if a Conditional Use Permit is needed.

Commissioner Jensen asked Mr. Whited if they had to widen Pioneer Road when the manufacturing area was developed to help supplement the traffic, wherein Mr. Whited explained that Pioneer Road is still a two-lane road but does have a turn lane off of Treggo intersection. Mr. Whited states that as it was mentioned previously Baseline Road is a major collector which in the transportation system is the second highest functional classification that the county has. Therefore, it is meant to facilitate traffic moving and more development and growth.

3) Compatible with existing uses.

Chairman Manwaring stated that he feels changing the area to an M1 is compatible with existing uses.

Commissioner Jackson stated to him it is compatible.

Commissioner Jensen stated that he does not know if they would be looking at amending to M1 zone if it was not already partially an M1 zone.

4) Protected from residential uses.

Chairman Manwaring stated it is unsure if it will be protected from residential uses as it is unknown what is being placed but the subject property is surrounded by residential and farm land

5) Accessible to adequate utilities.

Chairman Manwaring stated there is adequate utilities in the area.

6) Accessible to rail or air transportation when necessary.

Chairman Manwaring stated that this does not pertain to the Application.

7) Protected from incompatible uses.

Chairman Manwaring stated that falls in line with 3 and 4, due to the unknown of what will be developed but still have the latitude

Commissioner Jensen stated they could not run their pivot if they sorted out 10 acres and he is not sure how many acres is in the one corner, approximately 6 acres, so that maybe there is 6 acres that could be sold for storage units and continue to use irrigation equipment like it is. If they used all 14 acres, it would make the other portion hard to farm unless handlines are placed which is a thing of the past it seems.

Chairman Manwaring stated down Highway 91 with the railroad track it is hard to get over the road both ways and he found the comment provided by Mayor Pascoe stating that the traffic goes into the city.

Chairman Manwaring stated there are quite a few development or items that are allowed within both Agriculture and Light Commercial designations and reviewed a list of the different uses.

Commissioner Jackson stated in his opinion the application would be better suited for another location than in a rural agriculture area.

Commissioner Jensen stated that he agrees if a portion of the property was not already zoned M1, he would agree that it should be located on the highway but until the Comprehensive Plan Map is cleaned up and the M1 designation is not in place, he does not believe the Applicant should be penalized for looking at amending the designation. Commissioner Jensen stated that he has hesitation to approve the Application due to not knowing what will be developed but as Legal Counsel stated, the Application before the Board today is specifically for the Comprehensive Plan Amendment not to approve what will be developed because it is unknown and the plans could change.

Chairman Manwaring stated with the city expanding the impact area, it could be that the city thought the subject property would continue being a spray field for many years and therefore did not change the use. Chairman Manwaring stated there is still a footprint of M1 that may be at a smaller scale could develop and believes that with the multi-use corridor put in place, designations of M1 and M2 should be out along major highways and have proper accessibility.

Commissioner Jackson stated that his concern is the close proximity to city limits and there may be change in the Area of Impact and it may be better to have the Application heard in the future.

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

DECISION

Commissioner Jackson moved to deny the Application for the Comprehensive Plan Map amendment submitted by SLT Properties LLC from Agriculture to Industrial/Commercial on approximately 53.86 acres of a 163.18-acre parcel of land, located South of 1195 N 900 E, for the reason being the inaccessible service by major roadways and potential traffic issues.

Commissioner Jackson amended the motion to state that the Board will uphold the denial of the Planning & Zoning Commission. Commissioner Jensen seconded.

Commissioner Jackson amended the motion to review the Comprehensive Plan requirements and the M1 requirements within the Application based on Bingham County Code 10-4-2(G), wherein the Application did not meet the requirements. Commissioner Jensen seconded. All voted in favor of the denial. 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 18 day of June 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 18 day of June 2025, I served a true and correct copy of the Reason & Decision for the request for Comprehensive Plan Amendment & Zoning Amendment, submitted by SLT Properties, LLC, upon the following person(s) in the manner(s) indicated:

- ☐ Mail
- ☒ Email: cstreet@hleinc.com
- ☐ Hand Delivered
- ☐ Designated Courthouse Box

Chris Street
HLE

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

Tiffany Olsen
Planning & Development Director



Lindsey Dalley, Commission Clerk