BINGHAM COUNTY COMMISSIONERS

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BINGHAM COUNTY BOARD OF COMMISSIONERS
REASON & DECISION

In regard to: The Appeal of the Planning & Zoning Commission's written decision dated July 2, 2026, denying the Applicant's (B&K Gravel and Equipment LLC) Conditional Use Permit (CUP) Application for an approximately 41.84-acre gravel mining and gravel operation, on property zoned "M1" Light Manufacturing, with an approximate parcel location of Southwest of 665 W 150 N, Blackfoot, Idaho.

Motion for Reconsideration Meeting Date: October 22, 2026

Chairman Manwaring welcomed all to the meeting, introductions were held for county staff, and it was reiterated that there will be no public testimony received during the meeting.

At the onset of the meeting Chairman Manwaring stated that he needed to declare a conflict pursuant to Idaho Code Section 74-403 and 74-404, that is more indirect and potentially remote but can create a potential conflict of interest and appearance of a conflict with the respect to the matter before the Board. Commissioner Jensen and Commissioner Jackson were both in favor.

Commissioner Jensen was appointed Acting Chairman for this Appeal and confirmed that the Motion for Reconsideration was filed within fourteen (14) days of the Board's decision, therefore the Board has jurisdiction.

Paul Rogers, Civil Deputy for Bingham County, stated under Bingham County Code 10-10-3(c), the Board could affirm, modify, or reverse its previous decision if the following requirements are met:

1) The substantial rights of the appellant or affected party have been prejudiced and explain how;
2) The underlying decision meets criteria of one of the following:
    a. Violation of constitution or statutory authority.
    b. Made by unlawful procedure
    c. Not supported by substantial evidence; or
    d. Arbitrary, capricious, or an abuse of discretion.

Commissioner Jensen stated that he believed that the Board did not explain themselves on the record as to the reasoning for its decision. Commissioner Jackson agreed. Mr. Rogers asked if the lack of explanation results in the substantial rights of the affected part being prejudiced, wherein Commissioner Jackson stated that his failure to provide the reasons for his decision did not prejudice the affected party; rather, it was simple a matter of his not being sufficiently familiar with the procedure to understand that further explanation was required. Commissioner Jensen stated that within the Board's decision, it did not weigh factual evidence that was brought up and hold more in depth conversation. Commissioner Jensen stated that he believed the Board did not provide the affected party with a fair hearing on that issue, as the Board should have more thoroughly discussed the relevant pros and cons. Commissioner Jackson stated that he would agree in that the discussion was brief, but the Board has now been educated on the fact that an explanation should be provided.

Commissioner Jensen asked Commissioner Jackson if he believes that the Board has the ability to proceed and that the affected parties substantial rights were prejudiced. Commissioner Jackson stated that he believes the Board should discuss the matter further during an open meeting as the Board was unaware of the requirement for the previous meeting.

Mr. Rogers stated the accusation by the affected party is not that the Board did anything wrong with terms of the hearing process but that additional explanation was not provided as to why each Commissioner made the decision that they made. Commissioner Jackson stated that the Board did not give as much reasoning as it should have but he does not believe that would make the decision previously made, prejudiced because the Board took all information into consideration and made the decision.

Commissioner Jensen stated the Board had the information, but reasoning was not put on the record properly as to why each Commissioner made their decision. Commissioner Jackson stated that he would agree. Commissioner Jensen stated that because of that fact, the substantial rights of the affected party were prejudiced, but not on purpose. Commissioner Jensen stated that he also feels that the decision was not supported by substantial evidence, wherein Commissioner Jackson also agreed.

Decision: Commissioner Jackson moved that the Board finds that the substantial rights of the affected party have been prejudiced and the underlying decision was not supported by substantial evidence. Commissioner Jensen seconded. Both voted in favor. The motion carried.

Mr. Rogers explained that the Board can now affirm, modify or reverse the decision previously made. Within the filed Request for Reconsideration, the affected party has outlined issues that the Board should take into consideration and hold discussion on each item.

The first issue stated was, "The P&Z Decision and the Decision fail to provide a reasoned statement sufficient to meet the requirements of the Local Land Use Planning Act". Commissioner Jensen stated the Local Land Use Planning Act requires that the approval or denial of any application required or authorized pursuant to this chapter shall be in writing and accompanied by

a reasoned statement that explains the criteria and standards considered relevant, stated the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinances and statutory provisions, pertinent constitutional principles and factual information contained in the record.

Within the Motion for Reconsideration, it refers to the Reason & Decision of the Planning & Zoning Commission, which states, "The Application is not in accordance with the general objectives or with any specific objective of the Comprehensive Plan and/or this title". Mr. Rogers stated this could mean that one of the Planning & Zoning Commission members stated that the Application does not fit within the Comprehensive Plan and the affected party is stating that in the Comprehensive Plan on Page 5, it states "the Comprehensive Plan itself is not a controlling factor or an element to meet but was something that the Planning & Zoning Commission relied on during their decision making.

Tiffany Olsen, Planning & Development Director, stated that she would agree, for convenience, as part of the Staff Report when presenting to the Planning & Zoning Commission, (Page 18 of Exhibit S-1) there are excerpts from the Comprehensive Plan that relate to natural resources and extraction of mineral, that drive the conversation to those elements within the Comprehensive Plan. Commissioner Jackson stated that he does recall reading about the extraction of minerals, which is one of the activities that are allowed. Commissioner Jensen asked Commissioner Jackson to confirm that he agrees that the Application does meet the Comprehensive Plan, wherein Commissioner Jackson confirmed but stated there are other areas in which the Application does not meet the Comprehensive Plan. Commissioner Jackson stated in future planning, it may not fit because of the residential growth that is headed that way. Commissioner Jackson stated one of the reasons he is in favor of that is that the Applicant stated there are 12 other gravel pits within a 2-mile radius of the subject property, which seems like oversaturation of gravel pits in the area. Commissioner Jensen stated he understands what Commissioner Jackson is stating but on the other hand in looking at the gravel opportunities within the county, it is not that every plot of land has gravel and one thing that has been allowed in Bingham County is for housing to go throughout the county and has not designated one area. Mr. Rogers asked if this would be one of the elements and if the county gets to determine how many would be considered oversaturation. Commissioner Jackson stated there is no statement as to how many would be considered too many. Commissioner Jackson stated that dust from one gravel pit may not be an issue but if there are multiple, the dust could become an issue. Mr. Rogers stated although this could be concerning, there is not substantial evidence showing that one area cannot have too many gravel pits and it is not listed within the Comprehensive Plan as guideline.

Commissioner Jensen stated testimony was provided that the proposed gravel pit was close to the townsite but noted that prevailing winds come from the southwest to the northeast, which would push the dust into the industrial area and would help with dust mitigation. Commissioner Jensen stated the Board cannot predict what might be proposed for a future date but can consider what is currently in the area. Commissioner Jensen stated that it seems that the growth tends to go more west than into the industrial area.

Ms. Olsen stated this is good conversation but is there something within the record that shows where the growth is, as that is what the Board is looking at is what is within the record. Commissioner Jackson stated the Applicant stated there are 12 other gravel pits within a 2-mile radius and is factual. Ms. Olsen stated that she does not recall the exact number of gravel pits but where within Code, can this statement be correlated to get to a reasoned statement that the law requires.

Commissioner Jensen stated another note is if this would strengthen the position of the affected party and that the proposed use is compatible with the surrounding areas. Commissioner Jensen stated the responsibility of the Board today is to have an ordinance or part of county code that can support the decision made. Commissioner Jackson stated that not every situation can be listed within code and that common sense should be used as to what could be unduly hazardous to the health of the citizens or the environment. Ms. Olsen stated if there was testimony within the record from say the Department of Environmental Quality, who regulates air control permits, that stated there are 12 gravel pits within the area and to add 1 more could raise concern. Ms. Olsen stated that this could be a thought but there is no supporting facts or evidence. Therefore, when the affected party writes to enforce a hypothetical revision or assumption, that is the definition of arbitrary and capricious and is a violation of due process. The objective is to take that position, which there are two, is the design constructed, operated and maintained to be appropriate in appearance of the existing or intended character, not future character, of the general vicinity and that such use will not change the essential character of the area as far as is possible. Ms. Olsen referred to the Zoning Map and stated the general character of the area is a combination of Industrial, Commercial and Residential properties and asked if by adding the proposed land use, is it going to change the area. The second part is having the right to add conditions to mitigate concerns.

Commissioner Jensen asked Commissioner Jackson if he had reviewed the testimony provided by Daniel Rex McNair, page 11 of the Motion for Reconsideration, stating he is an experienced engineer. Commissioner Jensen stated that Mr. McNair listed out several things that the Harper's would be willing to do to mitigate and get along with surrounding property owners. Commissioner Jackson stated that he had reviewed the information and was impressed by the extent that was volunteered to mitigate issues. Commissioner Jensen stated that within the statements provided, once the project is complete, grass is planted and watered, the property could return to its agriculture state, and potential housing could be placed.

Commissioner Jensen stated that the Applicant's conducted a lot of work in facilitating mitigation opportunities to get along with the surrounding property owners and public.

Commissioner Jensen referred to Page 15 of the Motion for Reconsideration, wherein it discussed the gravel pit operation, how it will be managed by the Department of Environmental Quality- Air Division. Commissioner Jensen referred to verbiage that states "dust is measured as particulate matter 2.5 um and 10.0 um diameter particles. Personnel and field air monitoring pumps are used to establish values within the gravel pit and its boundaries. Based on the environmental conditions noted above and field experience, exceedances of permissible exposure are not considered an issue". Commissioner Jensen stated the Applicant conducted a lot of research and work to ease

some of the concern and emotional testimony that was provided regarding silica in the air from harvesting of the gravel. Commissioner Jackson referred to a statement "potato farmers produce far more dust than a gravel pit" and stated that he finds that statement erroneous because a gravel pit can run 6-7 days per week and farmers only run during spring/fall. A brief discussion was held regarding potential placement of conditions to assist with dust mitigation and that the wind may assist with taking the dust away from the residential areas.

Ms. Olsen reviewed that the project is proposed in 3 phases and the intent is to use the first phase of 6 acres, move to phase two of 16 ½ acres, wherein each phase is estimated for 7 years. Ms. Olsen stated that phase three is 12 acres and explained the surrounding agriculture field and homes owned by the Harpers or their family.

Commissioner Jensen stated that the Board could consider offering the Conditional Use Permit for one or two phases, which will provide 15 years and address phase three later, where it is closer to the residential area.

Commissioner Jensen asked Commissioner Jackson if he felt that he could put on the record reasoning as to the first question, "The Application is not in accordance with the general objectives or with any specific objective of the Comprehensive Plan or this title". Commissioner Jackson stated that the Application is in accordance with some of the general objectives, but others are not. Commissioner Jensen reiterated that it needs to be stated on the record as to why the Application either does or does not fit the criteria.

Commissioner Jensen asked Commissioner Jackson if he felt that the Application fits within the Comprehensive Plan, wherein Mr. Rogers confirmed that the Board should consider if most of the Application fits within the Comprehensive Plan. Mr. Rogers reiterated that the Applicant states within the Motion for Reconsideration that the county uses the Comprehensive Plan as a tool when it is simply a guideline. Commissioner Jackson stated that he believes a little more than 50% of the proposed use fits within the Comprehensive Plan.

Next, Commissioner Jensen referred to issue number 2, wherein the Planning & Zoning Commission found the following, "The Application is not designed, constructed, operated and maintained to be appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the area as far as is possible". Commissioner Jackson stated he does not see any other gravel pit operations within proximity to the subject property. Ms. Olsen stated in looking at the image of the zoning map, it shows that almost all surrounding property is Light Manufacturing, which is where the land use for manufacturing should be. Commissioner Jackson stated except for the townsite which is within ¼ mile of the proposed site, wherein Ms. Olsen stated the townsite is approximately ¾ of a mile of the proposed site but has a different zoning designation and a different comprehensive plan designation that fit high density development in a townsite. Commissioner Jackson asked if it was considered a townsite, to which Ms. Olsen stated it has its own post office and was platted as a townsite. Therefore, has no central government or ordinances. Ms. Olsen confirmed the property is zoned appropriately for the proposed land use, which is why it comes before the Board as a Conditional Use Permit.

Commissioner Jensen stated discussion was held that other business opportunities could be placed in the subject area and asked Commissioner Jackson if there were any businesses that would be more applicable in the area than a gravel pit. Commissioner Jackson stated a few mentioned were a lumber mill, an orchard, meat processing plant and grain cellars. Commissioner Jackson stated it is hard to say what the preference would be as to what would fit in the area better.

Commissioner Jensen asked Commissioner Jackson if he would consider the application of conditions were placed, if approved. Commissioner Jackson stated that it would be appealing to place conditions if approved. Commissioner Jensen referred to the conditions that were proposed by the Applicant and asked Commissioner Jackson if he would be interested in applying those, if the decision was made to reverse or modify the previous decision, wherein Commissioner Jackson stated he would.

Next, Commissioner Jensen referred to issue number 3, "the Application is unduly hazardous or disturbing to existing or future neighboring uses; nor involve use[s], activities, processes, materials, equipment and conditions or operations that will be detrimental to persons, property or the general welfare of the public by reason of excessive production of traffic noise, smoke, fumes, odors or other pollutants", and asked Commissioner Jackson if he had any concerns with regard to the specific matter. Commissioner Jackson stated that his main argument is that there are 12 other gravel pits in the same area and at what point is too much. Commissioner Jackson stated if there is only one gravel pit, it is not an issue but if you add the 12 gravel pits that are already in place, it may be a problem. Commissioner Jensen agreed and stated that only the subject gravel pit should be considered.

Commissioner Jensen reiterated that within testimony provided by Mr. McNair, the Applicant is willing to make conditions, if modified and approved, and in his opinion, the Planning & Zoning Commission did not review those proposed conditions thoroughly. Commissioner Jackson asked how many people were on the Planning & Zoning Commission and involved with the decision, wherein Ms. Olsen stated there were 5 members in favor of denying the Conditional Use Permit Application, the Chairman did not vote on this matter.

Commissioner Jensen asked Commissioner Jackson if he reviewed the original staff report, testimony and the Reason and Decision of the Planning & Zoning Commission, and if there were any of those that he feels need to be addressed further on the record. Commissioner Jackson referred to reason number 2 (Exhibit S-14 of the Staff Report, Reason & Decision, page 15 of 18), which states "The Commission further discussed that while the property is currently zoned Light Manufacturing, the areas to the north, east, and west of the project site have experience substantial Residential growth and continue to develop with Residential and Residential/Agriculture uses". Commissioner Jackson stated that is one of the reasons that he believes there should be a denial. Commissioner Jackson referred to reason number 3, which states "The Commission found that the establishment of an approximately 41.84-acre gravel mining operation with a crusher would change the appearance and character of the vicinity, as the project site is near residentially developed parcels. Commissioner Jackson referred to reason number 4, which states "The Commission found that the introduction of a long-term gravel mining and crushing operation

would nevertheless create on-going industrial activity, truck traffic, operational noise, dust-generating activities that are inconsistent with and disturbing to the existing residential uses surrounding the project site. Ms. Olsen stated that is what the Planning & Zoning Commission used as their reasoning, but the affected party is telling the Board that said information is preference or opinion but is not supported within the record. Therefore, the Board would not want to say that it agrees with the Planning & Zoning Commission because of this section, as the affected party is saying that the Planning & Zoning Commission made a statement but did not explain why or provide supporting evidence. Commissioner Jackson stated because it is a long-term mining operation and something that happens over 21 years and would create ongoing industrial activity. Ms. Olsen stated that is correct but something that cannot be mitigated without ongoing conditions, which is the key. For example, truck traffic, wherein the Planning & Zoning Commission found that there would be an increase in truck traffic with the land use. Commissioner Jensen added that there was testimony provided by Dusty Whited, Bingham County Public Works, who stated there would not be enough increase to cause issues. Ms. Olsen referred to operational noise and asked the Board of there was a condition that could be placed to mitigate the issue, potentially a decibel maximum, as with gravel pits, the deeper the pit gets, the more noise is mitigated. Ms. Olsen referred to dust generating activity and stated that there could be conditions for mag chloride on the road, as suggested, or sprinklers, to assist with mitigation of dust. Ms. Olsen stated the point is that the Planning & Zoning Commission made the statement but there is no explanation or support as to why the statement was made. Commissioner Jackson stated that is the Applicant's definition of point, but the Planning & Zoning Commission felt that it is making point, therefore, who gets to make the decision as to what is evidence or not. Mr. Rogers stated that is the role of the Board of County Commissioners. Mr. Rogers stated the Planning & Zoning Commission made statements, but the Board is being asked to review in depth as the Applicant feels that the Commission did not provide sufficient reasoning for its decision. Mr. Rogers stated that the Board could find that the Applicant is correct and that the Planning & Zoning Commission made its decision based upon more opinions and having no evidence.

Ms. Olsen reiterated the point that Commissioner Jensen made wherein the Planning & Zoning Commission did not consider conditions that could offset some of the concerns or mitigation that the Conditional Use Permit process requires. Therefore, what conditions could mitigate the concerns and one of them was on the truck traffic coming onto Moreland Road and turning left into the residential zone areas to get to Moreland Road. Ms. Olsen stated part of the condition was they could only turn right to get through the industrial and manufacturing zones because that is where truck traffic is. Mr. Rogers stated part of what the Applicant is stating is that conversation was held regarding these matters but there was no resolution as to whether that could mitigate. Therefore, the Applicant is asking the Board to reconsider the application and potentially place conditions that would help overcome those denials. Mr. Rogers stated the Applicant believes there was no substantial evidence to support the final decision.

Commissioner Jensen stated that he feels that the Applicant tried hard to not be a burden as they are willing to plant trees, create a berm and a part of testimony on the berm is that they are unsightly because they grow up with weeds but there are conditions that could be placed that the berm needs to be maintained and/or plant and water grass. Commissioner Jackson stated that he is concerned about the past appearance of the property and that it would continue. Commissioner Jensen stated

that a potential condition could be placed and if the Applicant does not comply, the Conditional Use Permit could be revoked.

Commissioner Jensen referred to issue #2 and asked Commissioner Jackson if there were conditions that could be placed to support the applicant in the CUP versus denial. Commissioner Jackson stated the main issue he has with the application is that the location cannot be changed with a condition and the property is too close in proximity to the Moreland Townsite. Commissioner Jensen asked Commissioner Jackson if he could reference testimony provided or code that supports that statement. Commissioner Jackson stated he does not know that there is anything in code that says a gravel pit cannot be within ½ mile of a townsite. Commissioner Jensen stated it states with the Comprehensive Plan that there could be a gravel pit in an M1 zone. Commissioner Jackson stated that the Board as to decide where expansion and growth will happen and while he realizes that this is not factual, but it can be shown where growth is occurring. Commissioner Jensen stated there has been no growth in the area since he has served on the Commission. Mr. Rogers reminded the Board that they could only consider what is already within the record and asked if there was anything from the submitted information to support this claim and if there is or is not more growth in the area.

Commissioner Jackson referred to Exhibit S-14 (Page 15 of 18), under #2, it states, "The Commission further discussed that while the property is current zoned Light Manufacturing, the areas to the North, East and West of the project site have experienced substantial residential growth and continue to develop with Residential and Residential/Agricultural uses". Commissioner Jackson stated that there is no supporting information but asked if the Board could use that statement as support for decision. Mr. Rogers stated yes that the statement could be used but the Board also must weigh that statement and provide factual evidence.

Commissioner Jensen referred to Exhibit S-14 (Page 13 of 18), wherein Planning & Zoning Commission Chairman Adams referred to the aerial image, which showed two other gravel pits and more than that when the view is enlarged which supported his position that it was compatible with the area and acknowledging that there are homes in the same area but this project site is bordered by a canal, rail road tracks and that it was hard for him to find an area on the map that would be more compatible with heavy industrial operations in the vicinity. Commissioner Jackson stated to him the growth has already occurred, and it does not need anymore growth.

Commissioner Jensen stated one of the items that has not been discussed is that this property was originally a gravel pit before a Conditional Use Permit was mandated. Commissioner Jackson stated if this is considered a gravel pit, then any farmer that has a small gravel spot is a gravel pit. Commissioner Jensen stated he is not sure of what year the homes were made but he would assume where it had been stated that the gravel pit was there 50 years that not many of the homes were there prior to. Commissioner Jackson stated he would agree with that but would state that they would probably have one or two loads of gravel every month and was just to do construction sites. They were not selling gravel; they were not crushing gravel and to him those two should not be considered a gravel pit. Commissioner Jackson stated in his mind a gravel pit is considered to have a crusher, trucks in and out 5-6 days a week versus a personal gravel pit.

Ms. Olsen stated gravel extraction sites were a permitted use before 2024. Therefore, at that time an unconditioned use of a commercial gravel operation was allowed in a Light Manufacturing Zone. Bingham County reviewed the Land Use Chart and made amendments requiring a Conditional use Permit. Ms. Olsen stated if the subject application had been submitted in 2022, the county would not have been able to place conditions and take into consideration all the items that is currently being considered within this expansive record.

Ms. Olsen stated that the county cannot speak to what the historic gravel pit was, there was not much information provided in the record. Ms. Olsen stated there are gravel extract sites that do not have a crusher and some that have asphalt components, but they do vary.

Commissioner Jackson referred to issue 3, which states that the Application is unduly hazardous or disturbing to existing or future neighboring uses; nor involve use[s], activities, processes, materials, equipment and conditions or operations that will be detrimental to persons, property or the general welfare of the public by reason of excessive production of traffic noise, smoke, fumes, odors or other pollutants. Commissioner Jackson stated with conditions a lot of the concern could be mitigated and have concerns reduced.

A recess was taken to allow Commissioner Jackson and Commissioner Jensen to review the submitted Motion for Reconsideration documentation.

Commissioner Jensen asked Commissioner Jackson if he would like to reverse and approve the Conditional Use Permit, deny or modify with conditions. Commissioner Jackson stated that his vote would be to deny the Conditional Use Permit and his reasoning for doing so is that the property is too closely situated next to a town within ¼ of a mile. Commissioner Jackson stated he does not believe that this proposed gravel pit should be located close to a town. Also, having a gravel pit next to a residential area is not a good pit.

Commissioner Jensen asked Commissioner Jackson if he could provide Idaho Code or testimony provided to support his decision to deny. Commissioner Jensen questioned Commissioner Jackson if he would consider approving the Conditional Use Permit if it was approved for phase 1 and 2, with condition that with phase 3, which is closer to the city, come back to address the Conditional Use Permit. Commissioner Jackson stated if it was later the growth would continue to encroach and would make it worse. Commissioner Jensen stated that if that happened, the County would know for sure what the growth is and right now it is speculative that the growth is going to come close. Commissioner Jackson stated that he would agree on that statement that it is speculated but the Board is to determine where the growth will occur. Commissioner Jackson stated he believes the growth is from the town moving outward and being within ¼ mile of the town is exactly where it is going to go.

Commissioner Jensen asked Commissioner Jackson to state, for the record, from testimony provided or code to support his position, wherein Commissioner Jackson stated that he is not sure where it is listed within code but he believes it is states that it is unduly hazardous or disturbing to existing or future neighboring uses and asked Legal Counsel if that is within code. Mr. Rogers referred to Bingham County Code 10-8-3(a)(4). Commissioner Jackson stated that he believes the

use of a gravel pit would be unduly hazardous or disturbing to existing, there is a town existing, or future neighboring uses is the exact wording in the code.

Commissioner Jensen stated that he believes that the Applicant has proved through testimony and things they have done that the Application is in line with being approved in the subject area.

Ms. Olsen stated that Commissioner Jackson had placed on the record the code section on why he feels that the Application does not meet and asked if it would be appropriate to have Commissioner Jensen stated the code section or reasoning why he feels that the Application does meet requirements.

Commissioner Jensen referred to Bingham County Code 10-8-3 and stated that he feels that the Applicants have met requirements to this section, have presented testimony and materials to try to mitigate concerns, offered conditions to work with neighbors and surrounding landowners.

DECISION

Commissioner Jackson moved to uphold the decision of the Planning & Zoning Commission to deny the Conditional Use Permit for the operation of a gravel pit/mining-crushing/excavation, in a "M1 Light Manufacturing Zoning District submitted by B&K Gravel and Equipment, LLC, B&K Harper Farms, LLC owned and/or operated by Daniel "Danny" Harper, Kimberly Harper and Taylor Harper.

The motion failed to pass due to lack of a second.

Commissioner Jensen stated that he feels that Application meets the code criteria of M1 "Light Manufacturing" Zoning District.

Therefore, the final decision will revert to the decision of the Planning & Zoning Commission, which was denied.

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.

Dated this 18 day of November 2026.

Board of Bingham County Commissioners
Bingham County, Idaho

Recused
Whitney Manwaring, Chairman

Eric Jackson
Eric Jackson, Commissioner

Drew Jensen
Drew Jensen, Commissioner

CERTIFICATE OF SERVICE

I certify that on the 19 day of November 2026, I served a true and correct copy of the Appeal filed by B&K Gravel and Equipment, LLC, upon the following person(s) in the manner(s) indicated:

☒ Mail ☐ Email: ☐ Hand Delivered ☐ Designated Courthouse Box	B&K Gravel & Equipment, LLC Applicant/Appellant 665 West 150 North Blackfoot, Idaho 83221
☐ Mail ☒ Email: tolsen@binghamid.gov ☐ Hand Delivered ☐ Designated Courthouse Box	Tiffany Olsen Planning & Development Director
☐ Mail ☒ Email: jrobinson@holdenlegal.com ☐ Hand Delivered ☐ Designated Courthouse Box	Jacob B. Robison Holden, Kidwell, Hahn & Crapo, P.L.L.C

Lindsey Gluch

Lindsey Gluch, Commission Clerk