

**BINGHAM COUNTY PLANNING & ZONING COMMISSION
REASON AND DECISION**

APPLICATION OF: Conditional Use Permit for a Gravel Pit/Mining – Crushing/Excavation of Gravel Operation in a “M1” Light Manufacturing Zone

PROPERTY OWNERS: B&K Gravel and Equipment, LLC, B&K Harper Farms, LLC, owned and/or operated by Daniel “Danny” Harper, Kimberly Harper, and Taylor Harper

Requested Action: Property owners B&K Gravel and Equipment, LLC, B&K Harper Farms, LLC, owned and/or operated by Daniel “Danny” Harper, Kimberly Harper, and Taylor Harper, requested a Conditional Use Permit to establish a gravel mining operation, in 3 phases, on approx. 41.85 acres of land, zoned “M1” Light Manufacturing. The Application may be considered for approval pursuant to Bingham County Code Section 10-5-3 *Land Use Chart* and must comply with the *Specific Use Performance Standards* of Section 10-7-19.

Property Location: Approx. Location: 665 W 150 N, Blackfoot, Idaho, including lands located to the South, Southwest, and Southeast. The project site includes Parcel Nos. RP0190811, RP0190812, RP0193222, RP0193223, RP0193401, Township 2S, Range 34E, Section 25, proposing to utilize approx. 41.85 acres of approx. 86.575 assessed acres.

Applicable Regulations: Bingham County Comprehensive Plan, dated November 20, 2018
Bingham County Zoning Ordinance 2012-08, as amended

Public Hearing Date: May 13, 2026

I. PUBLIC HEARING RECORD AND INFORMATION

1. The following was reviewed by the Commission:
 - a. Application and materials provided by Bingham County; and
 - b. Staff Report and supplemental maps, notice, testimony, and other materials.
2. At the Public Hearing, Planning and Development Services Director Addie Jo Jackman presented the Staff Report for the Application. She reviewed the requested action and acknowledged that before the Public Hearing, the Commissioners were provided the record of written testimony received, which included:

(T-1) Department of Environmental Quality submitted testimony in a neutral position and stated that the Applicant will need to adhere to the items in their Reclamation Plan and must obtain several different permits if certain aspects are going to be part of the gravel

pit. The gravel pit will also be required to adhere to the Rules for Control of Fugitive Dust (IDAPA 58.01.01.650 and 651).

(T-2) Bingham County Public Works submitted testimony in a neutral position, stating that the following requirements need to be met before the production of gravel mining:

1. Construction drawings for shoulder widening.

2. Construction drawings for the right-in/right-out at the project entrance.

Construction drawing must be submitted to and approved by Public Works prior to any work being started. With the completion of both mitigation measures, Bingham County Public Works would recommend the approval of the Conditional Use Permit.

(T-2A) Bingham County Public Works submitted a map titled *B&K Gravel Pit Right Out Only*.

(T-3) Michael Scruggs, of 147 N 700 W, Blackfoot, ID, submitted testimony in opposition with concerns regarding traffic/road safety, dust, air quality, noise impacts, groundwater, irrigation, property values, livability, duration, project scale, etc. If approved, the commenter requests strict conditions, including limits on hours of operation, dust control measures, truck route restrictions, noise limitations, and protections for water resources.

(T-4) Stephen and Mary Hammond, of 180 N 680 W, Blackfoot, ID, submitted testimony in opposition with concerns regarding increased heavy truck traffic, dust, air quality, noise, groundwater, property values, livability, project scale, and incompatibility with the surrounding rural residential and agricultural area.

(T-5) Harvey and Patricia Gerber, of 687 W 175 N, Blackfoot, ID, submitted testimony in opposition with concerns that their rural area is rapidly being eaten away by a huge influx of people and traffic in the area.

(T-6) Lynda Bales, of 332 N 850 W, Blackfoot, ID, submitted testimony in opposition with concerns regarding traffic, road safety, dust, air quality, noise impacts, groundwater, irrigation, property values, livability, duration, scale of operation, etc.

(T-7) Taryn McAllister, of 152 N 600 W, Blackfoot, ID, submitted testimony in opposition with concerns regarding traffic, road safety, dust, air quality, noise impacts, groundwater, irrigation, property values, livability, duration, scale of operation, etc.

(T-8) Jordyn Cox, of 645 W 150 N, Blackfoot, ID, submitted testimony in opposition with concerns regarding traffic and road safety, dust and air quality, noise, groundwater concerns, property value and livability, and cleanliness of the neighborhood.

(T-9) Mark and Carol Adams, of 139 N 700 W, Blackfoot, ID, submitted testimony in opposition with concerns regarding noise, odor, vibration, glare, 100-foot buffer, setbacks, Crushing conditions, dust, hours of operation, air quality, closure costs, legal standard the commission must apply, application content, groundwater protection, Traffic Impact Study

gaps, property values, economic welfare, and the Comprehensive Plan. Additionally, Mr. and Mrs. Adams provided a petition in opposition with approximately 61 signatures.

(T-10) Jody Webb, of 681 W 150 N, Blackfoot, ID, submitted testimony in opposition with concerns regarding buffers, earth-moving, structures, groundcover, ground stabilization, debris, waste materials, compliance with Bingham County Code, and compliance/consistency with the Comprehensive Plan policies.

(T-11) Alauna Ostberg, of 117 N 740 W, Blackfoot, ID, submitted testimony in opposition with concerns regarding traffic, road safety, dust, air quality, noise impacts, groundwater, irrigation, property values, livability, duration, scale of operation, etc.

(T-12) Stacie Adams, of 141 N 700 W, Blackfoot, ID, submitted testimony in opposition with concerns regarding zoning compatibility, mitigation and monitoring measures, adverse impacts to neighboring property, and consistency of the Comprehensive Plan.

(T-13) Zachery Adams, of 141 N 700 W, Blackfoot, ID, submitted testimony in opposition with concerns regarding compatibility with surrounding zones and surrounding uses, mitigation impacts with regard to dust, truck traffic, and groundwater monitoring, and changes to the essential character of the area.

(T-14) Lyndsay Furniss Graven, of 682 W 100 N, Blackfoot, ID, submitted testimony in opposition with concerns regarding traffic, safety, dust, industrial noise, property values, and livability.

(T-15) Luke Furniss, of 665 W 150 N, Blackfoot, ID, submitted testimony in opposition with concerns regarding industrial activity in a residential area, traffic, dust, noise, property values, and industrial encroachment into rural communities.

(T-16) Katie Furniss Taylor, of 682 W 100 N, Blackfoot, ID, submitted testimony in opposition with concerns regarding compatibility with the surrounding area, protection of public health, safety, and welfare, dust and air quality, noise, and disruption of rural enjoyment, property values, traffic, long-term impacts, and industrial encroachment.

3. With no questions from the Commission, testimony was presented by the Applicants' Representative (T-17), Dan McNair, of 3528 W. Highway 33, Rexburg, ID, who provided the Commission with his educational background in Civil and Environmental Engineering and expertise in large facility environmental permitting and management. He spoke to gravel pits in general and recognized residents' concerns regarding the proposed facility. He further explained that, for a gravel pit, there are permitting requirements at the federal, state, and local levels, and that an approved Reclamation Plan and Traffic Impact Study had been received for the requested gravel operation. Federally, gravel pits operate under MSHA Standards, which require a 3-day training course for all workers and include OSHA safety, air monitoring, identification of problems associated with traffic, and the use of trucks and heavy equipment. He added that from a state perspective, the Idaho Department

of Lands (IDL) focuses on the Reclamation Plan, which typically takes a year to process. The Applicant plans on claiming a certain amount of acreage every year that can be adequately managed; the first-year bond is \$5,000 for up to a 2.25-acre disturbance. After that, each year, the Applicant is required to sit down with IDL, identify the next block of acreage it will be mining, have the reclamation approved, and then repeat the process again next year.

Mr. McNair stated that the Idaho Department of Environmental Quality (IDEQ) focuses on air quality, and the Idaho Department of Water Resources (IDWR) focuses on water, stormwater, and groundwater. Concerning groundwater protection, the Applicant agreed to provide four (4) groundwater monitoring wells, which are not required in state or local regulations, but would help identify any potential issues associated with groundwater. He explained that the property owners have significantly improved the area and would continue to do so by adding a lining to the southbound canal so there is no potential infiltration and would continue to provide clean groundwater data, which will be provided to IDEQ, noting that although the Applicant doesn't anticipate any issues. Mr. McNair testified that the Applicant has submitted a No Exposure Certification which removed stormwater management from the National Pollutant Discharge Elimination Systems (NPDES) permitting profile and that workers inside the confines of the gravel pit will be required to wear Personal Protective Equipment.

When looking at nuisance conditions in the Bingham County Code, the Applicant has offered to provide monitoring for any complaints about noise, vibration, glare, and Mr. McNair testified that the Application meets the requirements of Bingham County Code, all state and federal regulations, has provided how the gravel pit will be managed, and meets all the conditions associated with environmental compliance. He explained that in addition to the monitoring wells, the Applicant plans to install six weather anemometers along the length of the ditch for canal monitoring. With these mitigation measures, there would be no possible way the proposed gravel pit would contaminate anything; there will be no hazardous substances in the pit apart from refueling equipment, which will occur from truck to equipment. In addition, IDEQ requires a Spill Prevention, Control, and Countermeasure (SPCC) Plan to identify actions for fuel or hazardous material spills.

Next, Mr. McNair discussed dust control and reminded the Commission that an Air Quality Permit is required by IDEQ. The Air Quality Permit requires no visible dust or emissions. He explained the Applicant is proposing to collect background data for noise levels in gravel pits, which are typically between 80-110 decibels, depending on where you are standing, and there is a decibel reduction for every meter you are away from the equipment. He stated that gravel pits in Idaho operate at approx. 80 decibels, and a typical neighborhood is around 45-55 decibels. Mr. McNair testified that if an issue were to arise, the Applicant would do the work necessary to mitigate the complaint. Mr. McNair discussed glare or light issues not being expected, and there is no anticipation of working at night. He explained that the Applicant is being sensitive to Bingham County's Comprehensive Plan, Policy D3, which reads:

Implementation Activities: Ensure that industrial and commercial growth:

- 1. Is sensitive to the natural environment.*
- 2. Does not contaminate or pollute the surrounding air, water or soil.*
- 3. Is compatible with surrounding land uses.*
- 4. Is free from objectionable or dangerous conditions that could negatively impact the surrounding area.*
- 5. Controls negative impacts such as, but not limited to: noise, odor, dust, vibrations, etc.*
- 6. Is such that negative impacts, as much as possible, do not leave the boundaries of the commercial or industrial zones.*
- 7. Encourage buffers to protect the aesthetic value of the area.*
- 8. Routes traffic away from residential neighborhoods.*

He explained that the Applicant feels confident that they will meet and continue to meet those expectations, to the greatest extent possible, and look forward to addressing any concerns.

Commissioner Thomson questioned what the impact on traffic would be. Mr. McNair deferred the interpretation of the TIS to Dusty Whited, Public Works Director, but then added that the Study, which was completed by an Idaho Licensed Professional Engineer, showed that the impact would be minimal and would not be significant until the year 2050. The Applicant has agreed to the proposed recommendations to install signage and flashing stop signs at the intersections. Although the TIS is a very large document, Mr. McNair stated that the summary provides a great breakdown of the Study. Commissioner Bingham confirmed that the Applicant paid for the TIS, at what cost, and that it was completed independently. Mr. McNair responded that it was independent, cost \$20,000, and added that the voluntary groundwater work has cost over \$40,000, with high costs spent towards earthwork, and that there is still more of that to do.

Commissioner Thomson questioned water usage from the canal to mitigate dust. He wondered if there was a plan to measure the water used so that there wouldn't be an impact on other water users. Mr. McNair affirmed that there is and stated that the Applicant owns a significant amount of water shares in the South Town Ditch, and that the United Canal Company has provided a letter of approval for removal for the project's water use. Mr. McNair testified that to mitigate dust, it will require very few water shares and that there will be areas hydroseeded to capture runoff to ensure appropriate absorption. He added that there is a requirement for an eight-foot distance between the bottom of the excavation on top of the uppermost aquifer to alleviate any concern of water pooling.

Chairman Adams reviewed the hours of operation and referred to the *special orders* section of the Applicant's materials and asked for clarification. Mr. McNair testified that if extended hours of operation were needed, it may involve additional approval, and in his opinion, it is a common practice. He added that if the Commission would prefer not to include the *special orders*, that would also be acceptable to the Applicant.

Commissioner Jolley asked for clarification on fugitive dust from the gravel pit. Mr. McNair stated that under the new standards, Air Quality Permits require no visible emissions, which forces gravel pits into a compliance and management regime. Commissioner Jolley asked about the impact of not allowing a crusher at the site. Mr. McNair stated the impact would be huge because it limits the type of product that could be sold, reduces revenue, and explained that a crusher for this operation is common practice.

Commissioner Winder asked for clarification on how much of the property would be processed at a time. Mr. McNair testified that once the proper permits were in place, the Applicant would be fortunate to process an estimated 2-2.25 acres in 2026. Commissioner Winder asked about the project as a whole and how long it would take. Mr. McNair explained there are three phases, and it would be approx. 15-20 years, at 30 trucks per day. Phase 3, which is located furthest to the west, is where most of the neighbors' concerns were. He explained that there are and will be additional buffers that make the potential environmental complaint less of a concern. Commissioner Winder asked what the estimated depth would be and the impact on neighboring properties. Mr. McNair stated there would be an average of 3 feet of topsoil and 30 feet of excavation. Although an Economic Study was not conducted, he did not believe it would be extreme, citing that there may be a decrease for some time, but was unsure of what that number would be. Commissioner Winder expressed his concern that property values would be affected for the next 15 years.

Commissioner Carter asked Mr. McNair to speak to the Reclamation Plan for the restoration of topsoil. Commissioner Carter stated that the Bingham County Code requires 4 inches, and the approved Reclamation Plan details one foot. Mr. McNair confirmed a minimum of 12 inches will be provided. Commissioner Carter also questioned the status of the land at the reclamation stage with native plants; it appeared that it would be dry land. Mr. McNair said the intent is to return it to a seeded pasture, and the disassembly of the pivot would allow that ground to be irrigated. Chairman Adams referred to Page 11 of the Reclamation Plan, where this was stated. Commissioner Thomson asked if there were plans to bring the pit up to grade, and Mr. McNair stated there were none, and the plan was to haul away all product excavated.

Commissioner Bingham questioned whether there had been any public outreach. Mr. McNair testified that he was not aware of any, but that the property owners are willing to mitigate the impact on those who are closest to the area.

4. Testimony in favor of the Application was received by:

(T-18) Danny Harper, of 665 W 150 N, Blackfoot, ID, who resides on the north side of the subject property. Mr. Harper reviewed the parcels he owns in the area as well as his family's properties. Mr. Harper testified that he has been working on cleaning up the property as much as possible and has made significant improvements to the property over the last 6 months. Mr. Harper said that after his father passed away in 2023, it was determined that the best use of the subject parcels was a gravel mining site. Mr. Harper

knew that a portion of the subject property had historically been used as a gravel pit, approx. 20-30 years. Mr. Harper testified that the application site is in the vicinity of two active gravel pits that exist in the same zoning as the subject properties, "M1" Light Manufacturing, and that there are several other manufacturing facilities in the immediate area, which supports his Application being compatible with the area.

(T-19) Clinton Harper, of 665 W 150 N, Blackfoot, ID, testified that he will be managing the project operations, will manage the site, finances, permits, any complaints received, and any safety concerns. Mr. Harper testified that he has a special needs son and understands the importance of keeping children safe near a mining site. Mr. Harper reviewed health and dust concerns and said he would not be in favor of this Application if it meant risking his or his family's health. He expressed his desire to help his community, just as his late father had. Mr. Harper testified that there have been a lot of different options he and his family have wanted to do on their lands, which included the possibility of working with his brother to start an orchard.

Commissioner Thomson referred to an aerial image which showed a gravel pit on the adjacent property, and Mr. Harper explained that the specific location referred to was his late father's gravel pit that was established in the early 1990's. Chairman Adams added that although there are two commercial gravel pits in the area, the existing historical gravel pit on Harper's property may have been for private or agricultural use. Director Olsen added that a gravel pit was previously allowed in the M1 zoning designation, without a Conditional Use Permit, according to the Land Use Chart in place when it was established. However, the Land Use Chart has been updated and now requires a Conditional Use Permit in an M1 zoning designation. Commissioner Carter asked Mr. Harper if they intended to irrigate that ground once it is reclaimed. Mr. Harper testified that it was.

5. Testimony in a neutral position was received by:

(T-20) Luis Matamoros, of 724 W 100 N, Blackfoot, ID, testified that the Harpers have accomplished a lot of things on their property. He testified to the gravel pits in the area and that the Harpers' existing gravel pit does not currently have a crusher. Mr. Matamoros testified he has lived in the area since 1994, and his greatest concern was the quality of the drinking water with multiple gravel pits in the area, the pit not being brought up to grade, and the recharging of the aquifer.

6. Testimony in opposition to the Application was received by:

(T-21) Mark Adams, of 139 N 700 W, Blackfoot, ID, testified he is the neighbor to the west with a buffer of a fence line. A summary of his testimony was entered into the record as Exhibit T-21A, which consisted of family history, zoning incompatibility, health and environmental concerns, noise and quality of life concerns, traffic and safety, property impacts, reclamation concerns, and his request for denial of the Application.

Mr. Adams testified that page 5 of his previously submitted testimony (Exhibit T-9B) showed the rural nature of the area consisting of approx. 30-31 homes, which are zoned Residential or Residential/Agricultural. Mr. Adams asked that this Application be denied as a gravel pit crusher did not fit the area and would permanently change the rural nature of the area. He testified that the primary purpose of Bingham County zones is to provide protection from incompatible uses, and that mining and crushers are incompatible with Residential or Residential/Agricultural zones, which tend to have single-family dwellings. He spoke about concerns of air quality, silica, dust, and rock crushing.

Commissioner Bingham asked if the loss of property value can be measured. Mr. Adams stated that AI said anywhere from 10-50%, depending on the proximity. Commissioner Bingham asked if he had contacted a realtor or provided any documentation to support this position. Mr. Adams responded that he did not.

Commissioner Jolley acknowledged Mr. Adams' property bordering the proposed location and understood his concerns. He asked Mr. Adams if this was not a crushing pit but one that only aggregate was being hauled off, how he would feel about the Application. Mr. Adams stated he would be softer on that, but that the impact of an increase in traffic and the impact on the roads were still a concern. He questioned the proposed 30 trucks a day, and if that were 30 full and 30 empty, that would be 60 trucks a day.

Commissioner Bingham stated he had read all the testimony provided and asked Mr. Adams, in his opinion, what the most significant impact would be. Mr. Adams stated the impact on the historic rural atmosphere, quiet, peacefulness, and the views.

Commissioner Carter asked where he was in relation to the proposed gravel pit. Mr. Adams testified that his fence line is on the west line. Mr. Adams testified that with his experience working at the INL as a security vulnerability analyst, one should look at all sides and the closest vulnerability, which would be his fence line, the railroad tracks, and 150 North. Commissioner Carter asked how far his residence was, with concerns of noise and light pollution. Mr. Adams testified that when the operation was on that side, his residence would be approx. 212 yards away. Chairman Adams asked how close his home was to the railroad tracks. Mr. Adams testified that it was 9-10 lengths of pipe.

(T-22) Glen Conrad, of 134 N 700 W, Blackfoot, ID, testified that this Application is devastating to him because of the peace and tranquility he currently enjoys, even with the nearby railroad track. Mr. Conrad shared his concerns with a decrease in property values, a 30-foot hole that will be detrimental to the area, and a challenge to graze or farm the land once reclaimed. He also testified to gravel on the road from truck navigation and maintenance of the County roads. He closed by stating that there are already existing gravel pits in the area and sees no reason to add another one.

(T-23) Michael Scruggs, of 147 N 700 W, Blackfoot, ID, testified he shared the same concerns as Mr. Adams and that he lived the same distance from the proposed location. He testified to the long-term impacts on the area, citing that this is a rural residential

community where people moved to the area for peace, cleanliness, and low traffic. Dust, noise, heavy traffic, and impacts to property values were his greatest concerns. He testified that fine dust does not stay on site and there will be noise from excavating equipment, backup alarms, and crushers. He added that rural road infrastructure was not designed for industrial traffic, which will be increased with this operation. Mr. Scruggs testified to impacts on water. There are two existing gravel pits within 2 miles, and he questioned if another industrial operation is appropriate for a rural residential community, and so close to homes and families. He closed by asking that the Application be denied in order to protect residents who call this area home.

(T-24) Jody Webb, of 681 W 150 N, Blackfoot, ID, testified that his home borders the proposed gravel pit. Mr. Webb shared the concerns of impacts on property value and effects on neighbors. Mr. Webb testified to his relation to the Harpers and that opposing this Application was difficult for him. He wanted to see them make a living, but there are many ways to do so. He testified that the subject property has been cleaned up and that there is a 15-foot berm that separates their properties, which was filled with debris, growing weeds, and causes a dust nuisance. He added that not only will a gravel pit cause dust, but during harvest, there is dust created from the fields and trucks, and sometimes you can't see across the road. Mr. Webb closed by stating he was able to sit outside and see the mountains, and now he sees a big pile of dirt.

(T-25) Nate Moses, of 680 W 150 N, Blackfoot, ID, submitted testimony which consisted of a comparison of the impacts of the surrounding gravel pits; it was entered into the record as Exhibit T-25A. He referred to the photos provided in his testimony and stated that there are more homes affected within a quarter of a mile of this proposed gravel pit than the existing homes that were in the area of the other gravel pits when they were first proposed. He testified that effects on property values could be as low as 5%; when comparing that loss in value to the 30 homes existing, this could be hundreds of thousands of dollars lost to this community. Mr. Moses testified that he appreciated the work that had been done to clean up the area, but did not think this area was an appropriate place for a project of this scope. He stated there is more work that needs to be done, and if the gravel pit is approved, Bingham County Code Section 10-7-19(A) states the area must be free of debris and waste material. Additionally, Bingham County Code Section 10-7-19(E) provides the Commission with the ability to place conditions and suggested that conditions for trees, buffer zones, and other dust mitigation be in place before the permit is issued. Mr. Moses testified to right-in, right-out truck travel and that this will increase traffic in residential neighborhoods. Chairman Adams asked if he knew how many homes were currently in the vicinity of the other gravel pits. Mr. Moses stated that he was not concerned about that because anyone building in the area was already aware of the existing gravel pits, commenting that the residents in this area are being put in a situation where the expectation of the home they purchased would be significantly changed.

(T-26) Stacie Adams, of 141 N 700 W, Blackfoot, ID, testified that this Application has failed to demonstrate compatibility of manufacturing in this area, which is lined by residential and agricultural areas, and significant new growth since she built her home in

2005. She testified that mitigation does not establish compatibility. The adverse impacts of dust, noise, and truck traffic will eliminate the essential character of the area. She stated that this area is growing residentially, and this Application is inconsistent with the Comprehensive Plan objectives. She was concerned that no one knows what the impact would be, and there are a lot of promises on how those impacts will be handled. She cited that there are inadequate protections for the groundwater and environmental resources. Ms. Adams referred to the TIS, the improvements to the roads, and stated that these improvements cannot burden the county financially. Ms. Adams testified to the beauty of the area and concluded that the proposed gravel pit is not compatible with the surrounding agricultural residential uses because the Application relies heavily on mitigation measures rather than compatibility, and demonstrates potential detriment to neighboring properties, public health, and infrastructure. Commissioner Bingham asked Ms. Adams what the most significant impact would be, to which she responded as her quality of life.

(T-27) Angie Richardson, of 628 W 100 S, Blackfoot, ID, testified on behalf of Katie Furniss Taylor, who resides at 682 W 100 S, Blackfoot, ID. In the letter provided to Ms. Richardson, it stated it was in formal opposition to this request. While the subject property may currently be zoned M1, the surrounding area remains predominantly rural, agricultural, and residential in nature. Approval of a large-scale gravel extraction and crushing operation would create substantial and long-term adverse impacts on neighboring landowners and the surrounding community. Ms. Taylor's family has owned and cared for nearby property for generations, and invested in this rural area because of its quiet, rural character and open space, with the expectation that the county would continue protecting the character, safety, and livability of the community. Ms. Taylor's letter concluded by stating that the proposed operation threatens to alter that environment.

(T-28) Jeremy Wray, of 630 W 150 N, Blackfoot, ID, expressed his love for the Harpers and that they are hard-working and willing to help family. Having 5 children, he had concerns about the increase in traffic on the road. He testified to the kids' riding bikes on the road back and forth between friends' houses, and it makes him nervous. He is not a stranger to potato trucks and farms 150 acres nearby. The dust and traffic on the road are part of the operation but happen on a limited basis. He raised concerns with the water quality, the water table being at 50 feet, and the pit being 30 feet deep, which does not leave much of a buffer.

(T-29) Ernest Layba, of 123 N 600 W, Blackfoot, ID, testified that the area is quiet and beautiful. Mr. Laba has worked in a rock crusher before and testified that it is very noisy and dusty, which may compromise one's ability to enjoy the backyard. Chairman Adams asked how far away from a crusher he wore ear protection. Mr. Laba said the only time he removed his ear protection was when he went to lunch and when the equipment was shut down.

(T-30) Carol Adams, 139 N 700 W, Blackfoot, ID, testified that she borders the proposed gravel pit and has lived in the area her entire life. She testified that she and her neighbors attend church just down the road and believed the intended use for this area was

Residential/Agricultural. She testified to the beauty in the area and that she can hear frogs, birds, and the occasional bark of a dog; you can also see the mountains, cows, and the occasional kid on a bike, summarizing that these are at risk if this Application moves forward. She testified that this is not an industrial area but a residential and agricultural area where families have chosen to live for its peace, open space, clean air, and the sense of community. Quality of life matters to her, and a gravel pit would dramatically change that. Ms. Adams testified to the Petition that was circulated and that the response was overwhelming. She testified that as growth continues in Blackfoot and the surrounding areas, open residential land is becoming more limited. This area represents an opportunity for future families to build homes and continue the agricultural and residential character that makes this community special. If a gravel pit is approved, the impact cannot easily be reversed. The noise, traffic, dust, and industrial activity will permanently alter this neighborhood. She concluded with her request for denial of the Application. Ms. Adams provided written testimony, which was introduced into the record as Exhibit T-30A, and consisted of key concerns regarding the proposed gravel pit.

Commissioner Thomson asked about the distance between the proposed pit and the nearby School. Ms. Adams testified it was approx. ½ mile to one school and 1 mile to the other, and added that the distance to the churches was approx. the same. Commissioner Jolley appreciated that she had mentioned future growth and that it is happening in this area. He questioned whether she would rather see the land be developed into a permanent 30-lot subdivision versus a temporary gravel pit. Ms. Adams stated that she would prefer residential development. She testified to other businesses being in the area, but that they were in the proper places.

Commissioner Carter asked if she would be opposed if this gravel pit were smaller in size and limited to the southeast side. She testified that she would not be as opposed as with a crusher, and although there was a historical gravel pit, she did not believe it was the purpose of this area. She testified that you must look to growth and would hate to see more gravel pits come to the area. She testified that she would like the Harpers to make a living, and they have done a good job at cleaning the area.

With no further testimony from the public, (T-31) Mr. Dusty Whited, Bingham County Public Works Director, stated that all the traffic leaving the project site would be turning right, and only right, when entering 600 W, which would restrict truck traffic in a westerly direction. Mr. Whited provided a summary of the TIS recommendations that would be directly related to this project, which included widening at 150 N and 600 W, and the installation of flashing stop signs on the State Highway. Mr. Whited testified that, unfortunately, the County is not currently allowed to place flashing stop signs on the right-of-way due to State Highway regulations in ITD District 5. Mr. Whited reviewed the intersections at the State Highway that were part of the Study, noting that the Study found there were no improvements needed at those locations. Commissioner Thomson asked if there was any research on the weight of the trucks and wear on the road, and if so, how would that maintenance be paid for? Mr. Whited responded that if traffic is on a public

road and the load weights are within range of the requirements, then the County is responsible for maintaining the improvements.

Chairman Adams commented that Mr. Whited's Public Works office is near an active gravel pit. Mr. Whited confirmed that there is a current gravel and crushing operation located approx. 700 feet from his office. He testified that he had paid attention, knowing this Application was coming, and testified that he had not noticed any additional noise from the crusher at that distance. He testified that he has been at gravel pits where the crusher is on ground level and that it is no more, and possibly less, noise than highway traffic. He added that once the crusher is down in the hole, the banks absorb any noise. Chairman Adams asked to compare the noise to a spud sorter, and Mr. Whited thought it was a little noisier.

Commissioner Jolley asked how many county-run active gravel pits there currently are in the County. Mr. Whited responded that there are three (3) and that two (2) of them have crushing operations. Commissioner Jolley asked how many complaints about dust and noise are fielded in his office. Mr. Whited stated the only complaint he receives is in reference to the McDondalville pit, and it is about truck speed on the gravel road, not about dust. Mr. Whited said he could not testify that the trucks were speeding, but rather that the trucks were going too fast for the complaining party.

7. With no further questions for Mr. Whited, the Applicant's Representative, Dan McNair, of 3528 W. Highway 33, Rexburg, ID, returned to provide a rebuttal statement. He began by stating that gravel pits provide natural noise and vibration abatement and usually eliminate visual concerns. Relative to the gradient, groundwater was looked at approx. a two-to-three-mile radius, and both the shallow and deeper aquifers flow from north/northeast to south/southwest, noting that it is a very direct pattern. He added that the wells are located upgradient and offered a review of the groundwater data. Mr. McNair then addressed dust and stated it also acts as a gradient, called a wind rosette, generally in a west/southwest direction towards north/northeast. He added that there is limited dispersion from the center of the pit, and that cannot happen cross-gradient. Relative to the noise nuisance conditions discussed, Mr. McNair expressed that they would be happy to provide data to demonstrate what noise exists in the neighborhood, and what noise would come from running equipment and gravel crushing.

Commissioner Thomson referred to the haul road and questioned whether the existing bridge can handle the proposed gravel trucks. Mr. McNair stated it was and said it has been used for over 10 years, moving heavy equipment out of the area related to Harper's construction and transportation businesses.

Chairman Adams referred to previous testimony on the northwest berm and questioned the possibility of doing landscaping on that berm. Mr. McNair stated that they are willing to entertain the berm but that none of the berms are fully constructed as of yet. He stated the difficulty of planting trees or grass is that they will need water, but that there are options for that. Chairman Adams referred to the 100-foot buffer, which includes the 17 percent

grade, and how it would affect the operation if the slope didn't include the 17 percent grade but rather a level 100-foot buffer. Mr. McNair stated the Applicant would be okay with that, noting that it would not be detrimental to the operation and that it would provide a bigger buffer.

Commissioner Carter asked Mr. McNair for his solutions to light pollution. Mr. McNair stated the project isn't proposing to use any light and will limit working hours, especially in the winter months. Commissioner Bingham clarified whether the crusher would be electrically operated. Mr. McNair stated the Applicant would like to grow into owning a crusher; until that point, they would like the option to use an electric or diesel-run crusher, and added that there is power at that location; they have not completed a final economic analysis, but would prefer electricity.

8. Commissioner discussion began with Chairman Adams mentioning protecting homes in the area, the unsightly berm, and the intent to discuss potential conditions. Commissioner Carter referred to the previous testimony on the berm, and if he were in their position, he would rather see the gravel pit operation than a berm with weeds, commenting that berms are hard to maintain; they are uneven and hard to landscape; and he was unsure what condition could be placed to make that better. Chairman Adams explained that he would want to see a larger buffer than the 50-foot buffer to the edge, and the 100-foot buffer to the bottom of the pit.

Commissioner Bingham testified that he was not sure if a gravel pit fit in this area. Chairman Adams expressed his thoughts on natural resources in the Gem State of Idaho, making us who we are. Chairman Adams testified that the Application could be approved but would need conditions of operation, noting that mineral extraction on agricultural land is just as important as all of the pivots in the area. Commissioner Bingham agreed that it was important, but stated there are thousands and thousands of open acres in the County with lots of options, and was unsure if a gravel extraction site needed to be chosen close to residential areas. Commissioner Bingham expressed that conditions do not need to be placed in order to make an Application work. Commissioner Jolley agreed with Commissioner Bingham and said that this area is close to residential zoning, which equates to density, and that was a concern for him. He was concerned that the growth of Moreland is going to surround this gravel pit, and if that is something the Commission was comfortable doing, it needs to be further discussed. Commissioner Jolley said there are a lot of places in the County with gravel that could be mined, but this Application was concerning to him where this is near a townsite. He referred to Bingham County Code Section 10-8-3, which states that the operations need to be compatible with the area. If the gravel pit was further into that zoning designation and closer to existing gravel pits, that would make more sense to him, citing that if there were fewer homes or the homes were further away, Commissioner Jolley could see a different type of conversation happening, but that is not the case with this Application.

Chairman Adams referred to an aerial image, Exhibit S-8, which showed two other gravel pits, and more than that, when the view was enlarged, which supported his position that it

was compatible with the area, acknowledging there are homes in the same area. Chairman Adams explained that this project site is bordered by a canal or railroad tracks, and that it was hard for him to find an area on that map that would be more compatible with heavy industrial operations in the vicinity.

Commissioner Carter asked Planning Staff if residential development was allowed in M1 zoning. Director Olsen stated it was allowed, with a Conditional Use Permit. He agreed with Commissioner Jolley and acknowledged the competition for land resources and stated that residential expansion is winning the battle for resources, meaning that residential development is moving faster towards the M1 zone rather than the other way around.

Commissioner Bingham testified that if the Comprehensive Plan were to be revised today, gravel pits would not be next to growing residential areas. Chairman Adams stated that this location was next to a highway and the railroad, and because of that location, gravel would be moved out of the area quickly. Commissioner Winder agreed with Commissioner Jolley's thoughts. He stated that 600 W was where M1 zoning should have stopped. He appreciated what the current property owners have done with the land and protecting the groundwater and related resources but believes that the residential land grab is winning over manufacturing development. He was unsure that a value could be placed on the negative effects this Application would have on an existing home or what that would look like in 10-15 years. Commissioner Carter expressed his thinking that long-term, it would be nice if the pit were to be reclaimed correctly with trees; a home on the edge would have guaranteed open green space. He was worried about how that reclamation would be managed and the impact on the current residents. Commissioner Winder testified that he would want to see the gravel pit filled in. Chairman Adams added that the Reclamation Plan is to bring it back to pasture ground, but it would not bring it back to level ground. Commissioner Bingham questioned how many gravel pits in the State of Idaho have been reclaimed, stating in his opinion, gravel pits remain an eyesore, and not very many have been reclaimed to be productive.

Chairman Adams asked if traffic was a concern for the Commissioners. Commissioner Thomson thought there would be an impact on the taxpayers and on the county roads with continual problems. Commissioner Carter commented, to the contrary, that there would be revenue to offset those costs as well and would have a positive economic value to the community. Commissioner Thomson questioned if a subdivision were proposed a year down the road, how many community members would be against that. Chairman Adams appreciated all of the views of the Commissioners and that they are willing to look outside of the box and argue different positions to ensure they make the correct decision. Commissioner Thomson clarified that gravel and mining fell under an M1 zoning. Commissioner Bingham added that it does, with a CUP, and Director Olsen agreed. Commissioner Thomson added that, in his opinion, a proposed gravel mining site bordering a Residential/Agricultural zone should not be allowed with a CUP.

II. REASON

The Commissioners reviewed the Application, and the evidence in support and opposition of said Application in the context of Bingham County Code Section 10-8-3 *Conditional Use Permit, Review of Application*, and made the following findings and determinations:

1. Regarding whether the facts and circumstances provide adequate evidence to show that the conditional use of the proposed location will: “Constitute a conditional use as established on the official schedule of zoning regulations or as determined by the commission to be a conditional use for the zone involved.” The Commission found that Bingham County Code Section 10-5-3 *Land Use Chart* allows the land use of a *Gravel Pit/Mining with crushing and excavation of gravel* in a “M1” Light Manufacturing Zoning District with an approved Conditional Use Permit.
2. Regarding whether the facts and circumstances provide adequate evidence to show that the conditional use of the proposed location will: “Be in accordance with the general objectives or with any specific objective of the Comprehensive Plan and/or this title.” The Commission deliberated the conditional use of the land in the context of the stated purposes of Bingham County’s Comprehensive Plan. The Commission heard testimony from several residents with concerns about the proposed land use harming their property values and expressed significant opposition that the land use would significantly impact the residential nature of the surrounding area with traffic, noise, and dust. The Commission discussed the difficulty this section presents because although the land is zoned for light manufacturing land uses, the Comprehensive Plan Map area designation on the westerly portion of the project site is Residential/Agricultural. 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 experienced substantial residential growth and continue to develop with residential and residential/agricultural uses.

The Commission found that the Comprehensive Plan encourages compatibility between land uses and that the proposed gravel mining operation, including crushing activities, was not consistent with the evolving character of the area. Several Commissioners expressed concern that residential development is expanding toward the project site and that approving a long-term mining operation in this location would create land use conflicts for existing and future residents. Ultimately, the Commission found that there are other locations in Bingham County where a gravel mining project site would be better suited than in an area adjacent to Residential and Residential/Agricultural Zoning Districts, which are defined for residential uses in the Comprehensive Plan.

3. Be 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. 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.

4. Not be unduly hazardous or disturbing to existing or future neighboring uses; nor involve uses, activities, processes, materials, equipment and conditions of operation 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. The Commission heard concerns about an increase in traffic, an increase in noise, and dust from the proposed gravel mining and crusher operations. While the Applicant proposed mitigation measures and compliance with state and federal regulations, the Commission found that the introduction of a long-term gravel mining and crushing operation would nevertheless create ongoing industrial activity, truck traffic, operational noise, and dust-generating activities that are inconsistent with and disturbing to the existing residential uses surrounding the project site.

The Commission further discussed the distinction between locating new residential development in proximity to an existing gravel mining operation and introducing a new gravel mining operation into an area that is already developed with established residential uses.

The Commission found that:

- a. many residents purchased and developed their properties with the expectation of a predominantly residential and agricultural setting, whereas future residents locating near an existing gravel mining operation would do so with knowledge of the existing use.
 - b. the proposed operation would introduce a new industrial-type use into an area where residential development has already occurred and continues to expand.
 - c. even with conditions for operation, the proposed land use would disturb existing neighboring uses and potentially future neighboring uses with an increase of residential development to the immediate area.
5. Not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the County. The Commission did not express concerns with the proposed land use creating excessive additional requirements at public costs for public facilities and services.
6. Be served adequately by essential public facilities and services or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide such services. The Commission did not express concerns with the proposed land use not being served by essential public facilities or services.
7. Have legal access to the subject property for the development. Have vehicular approaches to the property that are designed to eliminate a traffic hazard on adjacent public thoroughfares. The Commission received testimony from the Bingham County Public Works Director that the proposed Application met the requirements for access and, if approved, would be required to complete roadway improvements including shoulder widening and right-out access improvements prior to operation. The Commission did not

find that legal access or roadway design served as the basis for denial of the Application and found that the access to the subject property for development was appropriate.

8. Not result in the destruction, loss or damage to a scenic or historic feature of major importance. The Commission found this section to not be applicable.
9. If applicable, have adequate water, sewer, irrigation, drainage and stormwater drainage facilities, and have utility systems provided to accommodate said use. The Commission reviewed testimony regarding groundwater protection, irrigation facilities, dust control water usage, stormwater management, and the Applicant's proposed monitoring measures. The Commission did not identify deficiencies related to the availability of water, irrigation, drainage, stormwater facilities, or utility services necessary to accommodate the proposed use.

The Commission acknowledged that the Applicant provided extensive mitigation measures, groundwater monitoring, dust control measures, roadway/traffic improvements, an approved Reclamation Plan, and evidence of compliance with state and federal regulations. However, after considering the entirety of the record, the Commission found that such measures did not overcome the incompatibility of establishing a new 41-acre long-term gravel mining and crushing operation adjacent to existing residential development.

III. FINDINGS

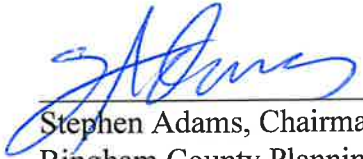
In consideration and with reference to the Reasons set forth above, the Planning and Zoning Commission made the following findings:

1. The evidence submitted demonstrates that the proposed use satisfies some of the approval criteria contained in Bingham County Code Section 10-8-3(A) but does not satisfy all criteria required for approval. Specifically, the Application
 - a. "Constitute[s] a conditional use as established on the official schedule of zoning regulations or as determined by the commission to be a conditional use for the zone involved"
 - b. Is not "in accordance with the general objectives or with any specific objective of the Comprehensive Plan and/or this title"
 - c. 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"
 - d. Is "unduly hazardous or disturbing to existing or future neighboring uses; nor involve uses, activities, processes, materials, equipment and conditions of operation 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"
 - e. Does not "create excessive additional requirements at public cost for public facilities and services will not be detrimental to the economic welfare of the County"

- f. Is “served adequately by essential public facilities and services or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide such services”
- g. There is “legal access to the subject property for the development,” and the property has “vehicular approaches to the property that are designed to eliminate a traffic hazard on adjacent public thoroughfares”
- h. Will not “result in the destruction, loss or damage to a scenic or historic feature of major importance” and,
- i. To the extent it is applicable, it has “adequate water, sewer, irrigation, drainage and stormwater drainage facilities, and will have utility systems provided to accommodate said use”

IV. DECISION

Based on the record, Commissioner Winder moved to deny the Conditional Use Permit Application requested by B&K Gravel & Equipment, LLC to establish a new gravel mining pit with a Crusher located southwest of 665 W 150 N, on the parcels identified in the Application, based on Bingham County Code Section 10-8-3-(A)(4) stating that this land use would be unduly hazardous with the proximity to residential areas and the potential impact to property values. Commissioner Thomson seconded. Commissioners Winder, Thomson, Carter, Bingham, and Jolley voted in favor of the denial. The motion passed.



Stephen Adams, Chairman
Bingham County Planning and Zoning Commission

7.2.26
Date