

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

**APPLICATION OF:** Conditional Use Permit for the Operation of a Gravel Pit/Mining – Crushing/Excavation of Gravel, and Associated Batch Plant in an “A” Agriculture Zoning District

**PROPERTY OWNER/  
APPLICANT:** Gale Lim Construction, LLC

---

**Requested Action:** Property owner Gale Lim Construction, LLC submitted a Conditional Use Permit to establish a gravel mining operation, in approximately 10 to 15-acre incremental phases, with portable crushing operations taking place each year on an as-needed basis, and may include a portable asphalt plant, on approximately 99.48 acres on lands zoned “A” Agricultural, located North and East of 365 Archery Range Road, Blackfoot, Idaho, dated September 25, 2024.

The Application may be considered for Conditional Use Permit approval pursuant to Bingham County Code Section 10-5-3 *Land Use Chart*, compliance with the *Specific Use Performance Standards* of Section 10-7-19 *Gravel Pits, Rock Quarries, Sand and Clay Pits* and Title 10 Chapter 8 *Conditional Use Permit*.

**Property Location:** North and East of 365 Archery Range Road, Blackfoot, Idaho, Parcel No’s.RP0292000, RP0292001, RP0294202 & RP0290300, Township 2S, Range 35E, Sections 12, 13, & 14 consisting of approximately 99.48 acres

**Applicable Regulations:** Bingham County Comprehensive Plan, dated November 20, 2018  
Bingham County Title 10 Zoning Ordinance, as amended

**Public Hearing:** January 6, 2025, held at the Nuart Theatre, Blackfoot, ID

**I. NOTICE OF PUBLIC HEARING**

A. In compliance with applicable sections of Idaho Code Title 67 Chapter 65 and Bingham County Code Section 10-3-6, Notice of the Public Hearing was provided as follows:

1. Notice was provided by postmarked U.S. Mail or by email to Government Agencies as denoted in Exhibit S-11 on December 12, 2024.

2. Notice to Property Owners within 300' of the subject parcels and the Lessee of Bingham County property within the notification radius were provided by postmarked U.S. Mail on December 12, 2024 (Exhibit S-12). Staff Comments: The Notice sent to Bingham County lessee, Blackfoot River Bowman, was sent to the address on their website in "Rose, Idaho." The mailing was returned to Planning and Development Services and was resent to "Blackfoot, Idaho."
3. Notice was published in the Idaho State Journal and Post Register newspapers on December 13, 2024 (Exhibit S-10).
4. Notice was posted in three (3) locations on December 13, 2024; two within the project site and one at the closest publicly accessible location (Exhibit S-8). Photographs of the site and surrounding area were also taken on the same date (Exhibit S-9).
5. Notice and the Agenda for the Public Hearing were posted at the Nuart Theatre on December 24, 2024, the location where the Public Hearing would be held (Exhibit S-13).
6. Additionally, the Agenda for the January 6, 2025 Public Hearing, Applicant's Application, and supporting information was placed on the Bingham County Planning and Zoning Commission's Public Hearing webpage on December 12, 2024.

## II. PUBLIC HEARING RECORD AND INFORMATION

A. The following was reviewed by the Commission prior to the Public Hearing:

1. Gale Lim Construction, LLC's Conditional Use Permit Application, dated September 25, 2024, and documents submitted by the Applicant (Exhibits 1 to 5 with the exception of Exhibit 2 which was included in error and was removed);
2. Planning and Development Services Department Staff Report (Exhibit S-1) and the following documents:

Exhibit #	Documents provided by the Applicant
1	Conditional Use Permit Application
2 (removed)	Exhibit 2 (is not a part of this Application; it was included in error and has been removed)
3 (pages 1-5)	Responses to Bingham County Code Section 10-8-1
3 (pages 6-14)	Responses to Bingham County Code Section 10-8-3
4	Exhibit Index with Exhibits A-S
4-H2	Supplemental TIS Cover Pages
5	Williams Engineering Inc. 6/14/2024 Memorandum

Exhibit #	Documents prepared by Planning & Development Services Staff
S-1	Staff Report
S-2 to S-7	Maps
S-8 to S-13	Verification of compliance with notice requirements and photographs of the project site
S-14	Floodplain Development Permit FDP-24-4
S-15	Written recusal of William Aullman, Planning & Zoning Chairman
Exhibit #	Written testimony received prior to the Planning and Zoning Commission's Public Hearing (placed in order chronologically in time as received by the County)

T-1 Eric Gunnarson of 991 N 575 E, Firth, ID, submitted testimony in support of the Application. A summary of his testimony includes:

- The location of the gravel pit near Rose Ponds is ideal with easy access to I-15 which is unlike other areas near interchanges on I-15 that are heavily congested and less practical for additional use.
- There is a benefit to having a commercial source available to County residents as there is a lack of commercial gravel sources in the northern portion of Bingham County, and those available are either depleted or out of business.
- In his profession of construction materials testing, he has found gravel sources near the Snake River are some of the highest quality and durability in SE Idaho which is valuable for constructing local infrastructure to accommodate growth needs.
- Having a local, family-owned business such as Gale Lim Construction manage the gravel pit is positive for the community.

T-2 Wayne Hammond, CEO of the Idaho Associated General Contractors (AGC), submitted testimony in support of the Application. A summary of his testimony includes:

- Gale Lim Construction has proposed producing high-quality sand, gravel, and asphalt near I-15, which is crucial for maintaining infrastructure as Idaho continues to grow. This is especially important in East Idaho, where major Idaho Department of Transportation projects are planned along the I-15, including in Bingham County.
- Mr. Hammond has worked with Gale Lim Construction for years and the Idaho AGC highly recommends them as a trustworthy,





family-owned business; granting their permit would be beneficial to the region and the State.

- T-3 Steve Giles, on behalf of Depatco, 497 North Capital Avenue, Idaho Falls, ID, submitted testimony in support of the Application. A summary of his testimony includes:
- He has worked with Gale Lim Construction for decades and looks forward to continuing the partnership. Gale Lim Construction prioritizes safety, productivity, and takes pride in their community, employees, subcontractors, work quality, and equipment.
- T-4 Bryon Leckington CEO of Hard Times Sales and Distribution, 646 South State Street, Shelley, ID, submitted testimony in support of the Application. A summary of his testimony includes:
- Mr. Leckington can vouch for Gale Lim Construction's expertise in gravel production; their team is well-equipped to lead the new gravel pit project, which is crucial to meet the growing demand for aggregate.
  - Approval of this Application will support Bingham County's economy by providing essential resources to local businesses.
- T-5 Bingham County Surveyor submitted neutral testimony on the Application advising the Applicant of two (2) existing survey monuments along the northerly property line of the proposed CUP and submitted an image of the monument locations. Her testimony also included Idaho Code Sections 55-1613 and 54-1234.
- T-6 Becky Johnson, Technical Assistance Manager for the Idaho Department of Fish and Game (IDFG), submitted neutral testimony on the Application. A summary of the testimony includes:
- Remnants of a native cottonwood gallery forest and riparian habitat remain on the property. While the habitat has deteriorated over time due to land use changes and intensive water management, the parcel still holds ecological value.
  - The land features riparian habitat that contributes to the health of the Snake River ecosystem.
  - IDFG recommended revising the Reclamation Plan to include measures for restoring disturbed areas that were historically riparian forests. This should involve using suitable native seed mixes for riparian forests in Eastern Idaho, such as narrowleaf cottonwood and native willows.



- IDFG suggests implementing Integrated Best Management Practices to minimize the introduction and spread of invasive plant species while supporting pollinator habitat.

T-7 Cabel C. Patterson, Project Manager for the Upper Snake River Branch Regulatory Division of the Department of the Army, Walla Walla District, Corps of Engineers, 900 N Skyline Drive, Suite A, Idaho Falls, ID, submitted neutral testimony on the Application stating they have preliminarily determined that this project may involve work requiring Department of Army (DA) authorization. The project area may contain wetlands that are Waters of the United States (WOTUS). Therefore, a DA permit may be required for the discharge of dredged and/or fill material into these possible WOTUS.

T-8 Bingham County Public Works Director, Dusty Whited, presented neutral testimony stating the Traffic Impact Study (TIS), prepared by HLE, Inc., refers to Construction Drawings and proposed modifications to the intersection of Archery Range Road and Rose Road. Mr. Whited has no objections to the approval of the Application if the proposed modifications as set forth in the Traffic Impact Study are made, but recommended the Commission only approve the Application with the condition that the Applicants make the recommended modifications.

T-9 Tiffany G. Olsen, Bingham County Planning and Development Director, acting as Interim Floodplain Administrator, presented neutral testimony on the Application stating:

- The subject parcels are in a Floodplain and if the Application is approved, prior to construction or development, the Applicant will be required to apply for and receive a Bingham County Floodplain Development Permit (FDP) for areas within the floodplain designation where land will be disturbed and for any dike work.
- A separate FDP will be required for each phase.
- A Building Permit is required for any structure (temporary or permanent) over 120 square feet in size; if the structure is located in the designated floodplain area, a FEMA Elevation Certificate (EC) will be required and submitted with the Building Permit Application.

T-10 Allan Johnson, P.E. Regional Engineering Manager for the Idaho Department of Environmental Quality (IDEQ), 444 Hospital Way #300, Pocatello, ID, provided neutral testimony on the Application stating the Applicant must:

- Adhere to the items in the Applicant's approved Mining and Reclamation Plan with the Idaho Department of Lands;

- Comply with the Rules Governing Exploration and Surface Mining in Idaho (IDAPA 20.03.02);
- Obtain a Multisector General Permit (MSGP) under the Idaho Pollutant Discharge Elimination System (IPDES) Program; and
- Follow best management practices for groundwater protection at gravel mining sites. Additionally, an Air Quality Permit and possibly a Portable Equipment Relocation Form (PERF) may be required for an asphalt mix plant if the equipment is portable. If a crusher and screening plant is located on the site, a PERF form must be submitted. 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-11 Ralph Thurston of 361 N 150 W, Blackfoot, ID, submitted testimony in opposition to the Application. A summary of his testimony includes:

- Concerns with safety, the access road, and potential flooding.
- Archery Range Road is difficult to navigate, especially with parked vehicles, and would be unsafe for large trucks or semi-trucks, creating a high risk of accidents.
- The road's proximity to Rose Road makes turning onto the highway hazardous, like a U-turn on the interstate.
- The area has experienced significant flooding in the past, and an asphalt plant would pose environmental risks, especially during floods.
- Given that a new asphalt plant is not urgently needed, these concerns should prevent the permit from being approved.

T-12 Travis Butler, President of the Blackfoot River Bowmen, submitted testimony in support of the Application. A summary of his testimony includes:

- The Blackfoot River Bowmen members met with Gale Lim on-site to discuss the proposed gravel pit. Mr. Lim provided a detailed tour and addressed all questions from the members. The Blackfoot River Bowman Board believes the proposed gravel pit operations will not interfere with the archery range or its access and are compatible with the area and surrounding properties. The archery range is located about 350 yards south of the Gale Lim Construction property.
- The property is in a floodplain area and unsuitable for housing but is near existing gravel pits operated by Bingham County and the State of Idaho.

T-13 Ray and Elaine Carter of 189 W 225 N, Blackfoot, ID, submitted testimony in opposition to the Application. A summary of their testimony includes:



- Research indicates that residential properties near a gravel mine could lose significant value—up to 20% for homes within half a mile of the site.
- The gravel pit would result in the permanent loss of valuable agricultural land. Once the land is excavated for gravel, it's difficult to restore it to a usable state for farming.
- Dust generated by mining operations could harm nearby crops, reducing their yields.
- The gravel pit's operations, especially during crushing, could generate noise levels between 97-116 decibels, much louder than train horns, which are temporary sounds. The noise and disruption could negatively affect local wildlife.
- Gravel extraction can impact both surface and groundwater, as the removal of gravel disrupts the natural filtration process. This could potentially lead to contamination of the community's drinking water.
- The proposed project could lead to increased truck traffic on local roads, particularly on Rose Road and possibly other nearby routes like 200 North Porterville Rd. The additional traffic would create safety hazards and negatively affect the daily lives of residents.
- Silica dust is a known respiratory hazard, and while safety measures are in place for workers, the community, animals, and crops downwind from the site could be exposed to dangerous levels of dust.
- The introduction of noxious odors, increased pollutants, and noise pollution would diminish the area's air quality and overall enjoyment of the Snake River and its biodiversity.

T-14

Mark Cornelison, an attorney with Holden, Kidwell, Hahn & Crapo, P.L.L.C. Representing Todd and Rae Lynn Lambert and the Concerned Citizens of Rose, submitted testimony in opposition to the Application which included Exhibits A, B, and C relevant to the first Conditional Use Permit Application submitted by Gale Lim Construction. A summary of the testimony includes:

- A list of procedural defects which have tainted the Commission. Mr. Cornelison provided an example that an independent hearing officer may be appointed to conduct an evidentiary hearing and make impartial recommendations, helping to eliminate any undue influence or bias from the decision-making process. This would uphold the principles of fairness, transparency, and procedural due process required under Idaho law.
- A requirement of procedural due process was not met as the notice for the January 6, 2025 hearing was sent to Todd and Raelynn Lambert, adjoining landowners, on December 16, 2024 – twenty-one (21) days before the hearing, rather than the required twenty-two (22) days. Bingham County has attempted to justify this



discrepancy by citing the "mailbox rule" from contract law, which argues that notice is effective when it is placed in the mail, not when it is received. However, this interpretation is unconventional and does not align with the clear language of Bingham County's ordinance, which specifies a minimum of twenty-two (22) days' notice. The timing of the notice, falling during two major holidays, further restricted the public's opportunity to engage with the application and attend the hearing. As such, the failure to provide adequate notice raises significant concerns about the fairness and transparency of the decision-making process in this case.

- The requested CUP conflicts with the Comprehensive Plan which emphasizes the preservation of agricultural land as a valuable and non-renewable resource, and the Bingham County Zoning Ordinance (BCZO) which aims to protect agricultural land from urban development.
- The requested CUP fails to meet Bingham County Code Sections 10-8-3(A)(3-9).
- The Applicant has failed to address concerns related to the floodplain in its Second Application by excluding the floodplain study provided in the First Application.

T-15

Von & Linda Cornelison of 66 E. River Road, Blackfoot, ID, submitted testimony in opposition to the Application. A summary of their testimony includes an album of photos, images, and quotes from the summer, fall, and winter of 2024 consisting of:

- Photos from Site Visit on May 22, 2024;
- Quotes from Bingham County Transcription of above Site Visit
- Drone Photos of the subject area;
- Email from Tiffany Olsen, PZ administrator to Scott Jolley, PZ Board member, dated May 22, 2024, at 10:35 pm with attachment: Gale Lim Construction CUP - Potential Conditions for Approval.pdf;
- Screenshot of text between Aaron Redd, Gale Lim Construction employee, and Tiffany Olsen, PZ administrator, dated July 11, 2024, at 2:53 pm;
- Declaration of Tiffany G. Olsen, PZ administrator, dated August 8, 2024;
- Memorandum from Williams Engineering Inc. dated June 14, 2024
- Flood Plain Study from Williams Engineering Inc. dated June 11, 2024;
- Flood Plain Development Plan from Gale Lim Construction, dated between July 9, 2024 and August 20, 2024;
- Screenshot of texts between Tiffany Olsen, PZ administrator, and Aaron Redd, Gale Lim Construction employee;

- Bingham County Commissioner meeting minutes for June 2023;
- Idaho State Journal news article by Jan Neish dated August 20, 2024, regarding Mark Bair's resignation and advice to his replacement.

T-16 Tom and Mary Ann Igoe of 85 S. Lavaside Road, Blackfoot, ID, submitted testimony in opposition to the Application. A summary of their testimony includes:

- The Igoes' share concerns about the area's sensitive ecosystem, environmental impacts of the gravel pit, the potential to disrupt local wildlife, damage to the Snake River, contamination to groundwater and personal wells; air and noise pollution, road safety, and the damage to local infrastructure due to heavy gravel trucks.
- The Igoes' question the adequacy of the proposed safeguards, such as earthen berms meant to prevent contamination, given the area's history of flooding and high winds.
- They also criticize the lack of transparency in the gravel pit's application, particularly the absence of studies and permits from key regulatory bodies like the U.S. Fish and Wildlife Service and National Environmental Policy Act (NEPA). Additionally, the letter highlights concerns about dust abatement, water quality monitoring, and the handling of complaints by the gravel pit operators, suggesting that a third-party mediator is necessary to resolve disputes.

T-17 Greydon Wright, Operations Manager of Idaho Transportation District 5, provided a letter of neutral testimony stating the Idaho Transportation Department (ITD) has reviewed the Traffic Impact Study and assuming that the proposed recommendation to improve the intersection to accommodate the gravel pit is completed, ITD would support these proposed recommendations and has no further concerns.

T-18 Bingham County Sheriff provided neutral testimony suggesting that the Bingham County Planning and Zoning Commission have the Applicant follow the recommendations of the Traffic Study that has been completed, if approved, to improve safety concerns based on the following:

- The Rose Pond access road leading to the proposed gravel pit has limited vision as vehicles (Semi Truck and Ten wheelers) would be entering onto Rose Road when leaving the gravel pit. The access is on the south side of the overpass, near the top of the overpass which could cause sight issues and/or intersection congestion.
- The access point of Rose Road and Rose Pond is a very tight corner on the overpass.



- This area is used by many residents by vehicle, foot, and bicycle traffic.
- A larger subdivision was recently approved on Rose Road and will increase traffic on Rose Road.

T-19

Mark and Cindy Dabb of 27 S. Lavaside Road, Blackfoot, ID, submitted testimony in opposition to the Application by email and with an attachment containing the same testimony as in the email; both of which are included in the record. A summary of their testimony includes:

- Concerns about the negative impact the project will have on home values and the overall quality of life in the community.
- The noise from the rock crusher and odors from the asphalt plant are seen as detrimental to the peaceful environment.
- The presence of industrial activities near residential areas is expected to decrease property values.
- Environmental and health concerns, particularly the release of crystalline silica dust from the rock crusher, which can cause silicosis and other respiratory diseases.

T-20

Gerald Evans of 222 N 165 W, Blackfoot, ID, submitted testimony in opposition to the Application. A summary of his testimony includes:

- The operation will negatively impact groundwater, safety, and property values in a rural residential area.
- The site is in a flood zone with a high risk of flooding. The proposed 12-foot berm could displace floodwaters and negatively affect neighboring properties.
- The site's location near the river increases flooding risks and could jeopardize public safety during high-water runoff years.
- The shallow groundwater, combined with the materials used for mining, such as oils, chemicals, and fuels, poses a risk of contamination to local drinking water wells, with long-term irreversible effects.
- The proposed access to Rose Road is unsafe for large trucks and commercial equipment, particularly due to the bridge's design, which could cause accidents on a blind curve.
- The nearby Rose Pond recreation area, popular for ATVs and camping, could experience dangerous conflicts with heavy truck traffic, posing risks to public safety.
- The mining operation could harm sensitive wildlife habitats and native vegetation in the area.
- Mr. Evans had questions about the plans for site restoration, the burden of costs, engineering studies, and the road's ability to handle the increased traffic from heavy equipment.

T-21

Bingham County Parks and Recreation Director Scott Reese submitted neutral testimony with no objection to the land use of a gravel pit but



voiced concern about the use of the access road to Rose Pond and the Blackfoot Archery Range as the ingress/egress for the pit.

T-22

Dr. Clay Cornelison (no address provided) submitted testimony in opposition to the Application. A summary of his testimony includes:

- He is a physician who specializes as a psychiatrist, he opposes the proposed gravel pit, presenting a detailed analysis of its risks, benefits, and alternatives.
- The exposure to silica dust from the operation, which can lead to serious health issues like lung cancer, chronic obstructive pulmonary disease, and kidney disease.
- The proximity of the pit to the river may exacerbate these risks due to increased airborne contaminants.
- The long-term health effects are slow to develop, similar to tobacco use or exposure to hazardous materials like Agent Orange.
- The gravel pit will increase truck traffic near the Rose Pond recreation area and greenbelt, raising concerns about accidents, especially involving children. The heavy trucks require long stopping distances, and the busy road would increase the risk of injury or death.
- The proposed location threatens wildlife, native vegetation, and water quality, especially given its proximity to the river.
- The potential for groundwater contamination from chemicals and fuels used in the mining operation is also a concern.

T-23

Mary Hege of 203 W 225 N, Blackfoot ID submitted testimony in opposition to the Application. A summary of her testimony includes:

- The Applicant claims the property has been fallow due to a lack of topsoil. Ms. Hege argues that the land still has agricultural potential, and topsoil exists, contradicting the applicant's claim that it is unsuitable for other uses.
- Ms. Hege questions the financial estimates and traffic projections provided by the applicant, arguing that the numbers significantly understate the traffic and use of the pit.
- Ms. Hege raises concerns about water usage for dust abatement, noting that water rights for the area are limited and there are no rights for the seepage from the river into the pits.
- The proposed setback from the river and flood risk is inadequate. Ms. Hege questioned how the Applicant would mitigate flooding.
- The noise from the operation would also negatively impact the area, especially since the area is known for its natural sounds, which would be replaced by industrial noise.
- Concerns about environmental protection and the impact of silica dust on both human and animal health, emphasizing that even brief exposure can cause significant lung damage.

- Concerns with an increase in traffic on Archery Road, which is already heavily used for recreation.
- Incompatibility with Recreation and Homes.

T-24

Sandy Winterbourne and Susan and Pete Golinveaux (no address provided) submitted testimony in opposition to the Application. The testimony was three (3) pages received on January 3, 2025. Per Sandy's direction, the content of the 3<sup>rd</sup> page was added to page 2 by Planning and Development Services Staff. A summary of their testimony includes:

- The proposed gravel pit's location is too close to the greenbelt and river, which could harm the area's natural beauty and wildlife, attracting tourists.
- Runoff from the pit would likely affect the river, and the dust, dirt, and noise would make living nearby difficult.
- Several local businesses could also be harmed by the pit's presence. Additionally, the silica in the air poses a health risk, particularly for residents with allergies.
- There are more suitable areas for the gravel pit.

T-25

Tessa McKinley (no address provided) submitted testimony in opposition to the Application. A summary of her testimony includes:

- Concerns about the proposed gravel pit/asphalt plant in a Special Flood Hazard Area (SFHA) near the Snake River. She highlighted potential risks such as increased flood hazards, environmental harm, and lack of proper permitting.
- Ms. McKinley urged the Commission to require transparency, verify compliance, delay or deny approval if necessary permits are lacking, and ensure public engagement.
- She stresses the importance of safeguarding public safety and the environment.

T-26

Justin McKinley (no address provided) submitted testimony in opposition to the Application. A summary of his testimony includes:

- Concerns about the proposed gravel pit/asphalt plant near the Snake River, located in a Special Flood Hazard Area (SFHA) such as the site being in a high-risk floodplain, which could lead to increased flooding, water contamination, and erosion.
- Lack of Compliance as there is no visible evidence that the necessary permits have been obtained, including the Floodplain Development Permit and environmental assessments required by federal and state agencies.
- The project poses risks of water contamination, sediment disturbance, and hazardous chemical leaks, violating environmental protection laws like the Clean Water Act and Idaho Pollution Discharge Elimination System (IPDES).



- The project could affect public safety, property values, and the Snake River ecosystem, with concerns over increased truck traffic, noise, and dust.
- Mr. McKinlay requested the release of all necessary permits, (Floodplain Development Permit, Environmental Assessment EA or Environmental Impact Statement EIS, Section 404 Permit Idaho Pollution Discharge Elimination System Permit) a thorough environmental review, and adherence to FEMA floodplain management standards.

T-27

Jeriann Sabin of 361 N 150 W, Blackfoot, ID submitted testimony in opposition to the Application. A summary of the testimony includes:

- The access road to the proposed site is dangerous, especially with large trucks. The intersection at Rose Road is difficult to navigate, particularly for trucks making turns, posing a risk of accidents due to obstructed views from the overpass.
- The area near the site is heavily used by pedestrians and cyclists, especially along the Rose Ponds greenbelt. The proximity of large trucks to recreational users raises safety concerns.
- The area is prone to flooding, including significant floods in 1976 and more recently. The potential for an asphalt plant in this flood-prone area is alarming, as chemicals and pollutants could contaminate the Snake River during floods, causing extensive environmental damage.
- Gale Lim Construction has not submitted a required Reclamation Plan, which should automatically disqualify the permit application.

T-28

Ricky and Julie Popejoy (no address provided) submitted testimony in opposition to the Application. A summary of their testimony includes:

- The noise, dust, mining activities, and smell from the project would be unacceptable. Health risks, such as silica dust exposure and groundwater contamination, are also a major concern.
- The dangers posed by heavy equipment entering and exiting the area near the overpass would further disrupt the peaceful, residential nature of the area.
- The development could decrease property values and harm local wildlife that thrives in the area.

3. The Public Hearing commenced with Planning and Zoning Commissioners Stephen Adams, Russell Butler, Miles Carroll, Chris Bingham, Valerie Jewett, Jordan Johns, and Scott Jolley in attendance. Acting Chairman Adams read Commissioner William Aullman's email sent to Planning and Development Director Tiffany Olsen, dated January 5, 2025, into the record which states he was recusing himself from the subject Application. The email is marked as Exhibit S-15 within the record.



Chairman Adams asked the Commissioners if there were any conflicts of interest or *ex parte* communication to be disclosed with relation to the subject Application. None were provided.

Chairman Adams explained that the Public Hearing would be based solely on the Applicant's Conditional Use Permit Application, dated September 25, 2024, the documents provided in and with the Planning and Zoning Commissions Staff Report subject to the current Application, and only the record to be created on January 6, 2025. All evidence provided or related to the Applicant's first Conditional Use Permit Application submitted prior to January 6, 2025, would not be considered. Chairman Adams added that if during the Public Hearing, there is testimony or information presented that is not part of the September 25, 2024 Application or refers to the Applicant's first Conditional Use Permit Application, the Commission was not to consider it. When asked if the Commissioners had any questions for him or County legal counsel, the Commissioners affirmed they did not.

Chairman Adams next addressed testimony received that Notice of the January 6, 2025, Public Hearing on the subject Application was not provided timely to property owners within 300 ft of the project site boundary. Chairman Adams reviewed Bingham County Code Section 10-3-6(A)(5) which reads "*Notice shall be provided by regular parcel post to all property owners within three hundred feet (300') beyond the external boundaries of the land being considered for the proposed application at a minimum of twenty-two (22) days prior to the meeting.*" Chairman Adams reviewed the Staff Report, specifically Exhibit S-12 which states that Addie Jo Jackman of the Planning and Development Services staff provided written notice of this Public Hearing by postmarked US Mail on December 12, 2024, twenty-four calendar days before the Public Hearing date, and met requirements of Bingham County Code. Therefore, it was determined that the meeting was properly noticed and could proceed. Chairman Adams asked the Commission if there were any questions or comments pertaining to the notice provided or concerns raised. No questions or comments were received from the Commission on this item.

Lastly, Chairman Adams read the Hearing Procedures. He also informed those in attendance that the Planning and Zoning Commission may take short breaks as needed, and a short lunch break may be taken if necessary.

4. Planning and Development Services Director presented the Staff Report for the Application. She reviewed the requested action, Bingham County Code Section 10-5-3, the location, the Zoning District and Comprehensive Plan Map designation, surrounding land uses, Bingham County Code Section 10-8-2, excerpts from the Bingham County Comprehensive Plan, and the Applicant's responses to Bingham County Code Section 10-

7-19 Gravel Pits, Rock Quarries, Sand and Clay Pits. Director Olsen acknowledged that prior to the Public Hearing, the Commissioners were provided the record of written testimony received.

Director Olsen asked the Commission if they would like her to review the Applicant's responses to Bingham County Code Section 10-8-3 *Review of Application* or if it was the Commission's desire to review those responses with the Applicant's Representative during his/her testimony. The Commission determined it would be best to review the responses with the Applicant's Representative so that if follow-up questions to the Applicant's Representative were necessary, questions could be asked at that time. Director Olsen stated the Application met the notice requirements of Bingham County Code Section 10-3-6 and applicable sections of Idaho Code Title 67 Chapter 65. Director Olsen also provided potential conditions for the Commission to discuss.

After the Staff Report was presented, Commissioner Scott Jolley asked Director Olsen about the water depth referenced in Exhibit 4-B of the Application materials to which she confirmed was accurate based on what was found within the Applicant's Reclamation Plan materials.

Commissioner Bingham asked Public Works Director, Dusty Whited, if the estimated trips per day which were provided were realistic. Mr. Whited testified that information was provided by Gale Lim Construction based on the average amount of trips per day from their Moreland pit over a period of 9 months and that those numbers were based on the current operation and demand, however, he was unsure of any future demands of the proposed pit if approved.

5. Testimony on behalf of the Applicant was provided by (T-29) Darren Dance, 39 N 905 W, Blackfoot, ID, who introduced himself as the Vice President of Gale Lim Construction LLC and testified that he has worked for the company since 1991. Mr. Dance testified there is a residential property on the project site owned by Gale Lim Construction which is currently unoccupied and that the next closest residence is across from I-15 to the west. Mr. Dance addressed the zoning designation and read that the Comprehensive Plan states "*Residents new to Bingham County expect to have schools, roads, emergency services and a choice of places to live, work and shop. People who already live here desire to maintain the rural lifestyle and improve efficiency of transportation, schools, industry and recreation services. Everyone desires clean air, clean water and reasonable taxes. Providing essential and desired service is constrained by limited resources. This Comprehensive Plan is intended to guide efforts to make the most of these limited resources while making land use decisions and investing for the future of Bingham County.*"



He addressed the need, and the Applicant's willingness to work with the Department of Environmental Quality (DEQ), Fish & Game, Idaho Division of Occupational and Professional Licenses (IDOPL), and that Gale Lim Construction will adhere to the floodplain requirements for development.

Mr. Dance testified that Gale Lim Construction was very selective in deciding to purchase the subject property and that it had been for sale for quite some time. In preparation for the desired land use, Gale Lim Construction has conducted testing of the sand and gravel to ensure viability for gravel pit operations.

Mr. Dance testified that the property has been used for intermittent livestock grazing and is not prime agriculture farm ground. He testified that following termination of mining, the land will be reclaimed and returned to intermittent livestock grazing.

Mr. Dance referenced Gale Lim's generosity to the local community. He explained that Gale Lim Construction is a small business with approximately fifty (50) employees and received the Idaho Transportation Sponsored 2024 Global Award for their work performed on the US Highway 26 expansion project.

In response to questions from the Commission, Mr. Dance confirmed Gale Lim Construction will sell retail gravel and that the trips per day provided were from the Moreland pit noting the trip count is on the high side and included traffic from retail sales as well. If the Application is approved, Gale Lim Construction would be operating from both pit locations and the traffic numbers could possibly decrease as the traffic would be disbursed between multiple pits.

Mr. Dance confirmed a Floodplain Development Permit was completed and that it may need to be adjusted depending upon the result of the Public Hearing. Mr. Dance testified Gale Lim Construction is requesting three (3) phases of mining sites which consist of 10-15 acres each. Once those phases are mined out, Gale Lim Construction will apply for another Conditional Use Permit to expand phases.

When asked if Gale Lim Construction would consider operating a gravel pit without an asphalt plant on site to prevent contamination into the Snake River, Mr. Dance testified that their desire is to have an asphalt plant on the same site. He testified they have a 30,000-gallon asphalt tank, a 12,000 and an 8,000-gallon fuel tank, all three tanks are portable and that asphalt would be made on-site on an as-needed basis. The asphalt plant would be temporary in nature with the set-up taking approximately two (2) days which could be taken down in approximately two (2) days, confirming it would not be used 365 days a year. The site capacity for asphalt storage is seventy (70) tons and can only be stored for four (4) hours which supports the temporary nature of the asphalt plant operation. Mr.



Dance said Gale Lim Construction may need to request the County's approval for any night work if they obtain the ITD project.

Chairman Adams asked for a walk-through of the daily safety checklist and the requirements. Mr. Dance explained that Mine Safety and Health Administration (MSHA) requirements are followed which are more restrictive than The Occupational Safety and Health Administration (OSHA) requirements. Additionally, there is a mandatory daily operational checklist for each piece of equipment.

The Commission reviewed Bingham County Code Section 10-8-3 with the Applicant's Representative as follows:

10-8-3(A)(1) That the land use *constitutes 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.* Mr. Dance read from the Application materials which discussed land being zoned as "A" Agriculture may operate a gravel pit/mining-crushing/excavation and gravel and hot mix plant with a Condition Use Permit.

10-8-3(A)(2) That the Application *be in accordance with the general objectives or with any specific objection of the Comprehensive Plan and/or this title.* This Section states that the Comprehensive Plan's specific purpose is to promote the health, safety, and general welfare of the people of the County as follows:

(a) *To protect property rights and the use of the property while not adversely impacting neighboring property values more than is necessary.* Mr. Dance read from the Application materials which discussed Bingham County's Comprehensive Plan and its goal regarding private property rights is to balance the property rights of all individuals when making land use decisions. To deny the use as a gravel source would directly affect the ability of the property owner to use the property to its full potential. He further testified the adjacent properties have been historically used as gravel pits and that a 100-foot buffer zone would be maintained on all borders with a 150-foot buffer from the Snake River while maintaining the existing trees on the perimeter, where feasible. A fugitive dust mitigation plan would followed along with complying with all regulations from the U.S. Environmental Protection Agency (EPA), Idaho Department of Environmental Quality (IDEQ), MSHA, OSHA, and Stormwater Pollution Prevention Plan (SWPPP).

(b) *To ensure that adequate public facilities and services are provided to the people at a reasonable cost.* Mr. Dance read from the Application materials which addressed the benefit to Bingham County having access to aggregate material and lowering delivery costs.

(c) *To ensure that the economy of the county is protected and enhanced.* Mr. Dance read from the Application materials which discussed Gale Lim Construction employing hundreds of residents and their contributions to multiple local programs.

(d) *To ensure that the important environmental features of the county are protected and enhanced.* Mr. Dance read from the Application materials which discussed compliance with all regulations from EPA, IDEQ, MSHA, OSHA, and SWPPP to ensure the environment would be protected.

(e) *To encourage the protection of prime agricultural, forestry and mining lands for production of food, fiber and minerals.* Mr. Dance read from the Application materials which addressed there being no agricultural, forestry, or mining operations currently taking place on the subject property and that the land would be reclaimed for intermittent livestock grazing once mining operations were complete.

(f) *To encourage urban and urban-type development within or near incorporated cities.* Mr. Dance read from the Application materials which discussed the desired land use encouraging urban and rural development and infrastructure by creating locally available aggregate.

Commissioner Scott Jolley suggested that Mr. Dance read the title of the subsection and then the Commission may ask him questions as needed since the Commissioners have already reviewed the responses he was reading from as they were contained in the Application. The Commissioners agreed to proceed as suggested.

(g) *To avoid undue concentrations of population and overcrowding of land.* The Commission had no questions for the Applicant and no further discussion commenced from the Commission.

(h) *To ensure that the development on land is commensurate with the physical characteristics of the land.* The Commission had no questions for the Applicant with no further discussion from the Commission.

(i) *To protect life and property in areas subject to natural hazards and disasters.* Chairman Adams confirmed with Commissioner Carroll that his concerns had been addressed relating to this section. The Commission had no questions for the Applicant with no further discussion from the Commission.

(j) *To protect fish, wildlife and recreation resources.* The Commission had no questions for the Applicant with no further discussion from the Commission.

(k) *To avoid undue water and air pollution.* Commissioner Scott Jolley clarified with Mr. Dance that the Moreland pit was currently operating at 70% operational capacity and producing 3% of the 100% silica dust allowance to which Mr. Dance agreed. Commissioner Scott Jolley asked Mr. Dance if there had been any employees affected by silica dust as testimony was received on the frequency of silica dust causing harm. Mr. Dance stated there is an expert in the audience who would address this topic.



(l) *To allow local school districts to participate in community planning and development to address school needs and impacts on an ongoing basis.* Mr. Dance discussed Gale Lim Construction being involved with the local school districts and local sports programs for many years and referred to examples provided in the Application.

10-8-3(A)(3) That the land use *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 had no comments or questions for the Applicant.

10-8-3(A)(4) That the land use *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 had no comments or questions for the Applicant.

10-8-3(A)(5) That the land use *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 had no comments or questions for the Applicant.

10-8-3(A)(6) That the land *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 had no comments or questions for the Applicant.

10-8-3(A)(7) That the land *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.* Commissioner Bingham stated he would like to hear from Luke Jolley of Harper Leavitt Engineering who provided the Traffic Impact Study. The Commission had no questions for the Applicant other than this statement.

10-8-3(A)(8) That the land use *not result in the destruction, loss or damage to a scenic or historic feature of major importance.* The Commission had no comments or questions for the Applicant.

10-8-3(A)(9) *If applicable, have adequate water, sewer, irrigation, drainage and stormwater drainage facilities, and have utility systems provided to accommodate said use.* The Commission had no comments or questions for the Applicant.

6. Oral testimony in support of the Application was received from:

(T-30) Kim Redding, 2949 S Giovanni Ave., Meridian, ID, who testified that he is a Safety Consultant and the President of N-Compliance Safety Services Inc. Mr. Redding has worked off and on for 500 companies and currently works for Gale Lim Construction as a safety consultant pertaining to MSHA regulations. Mr. Redding testified that as a consultant, he helps to ensure businesses are in safety compliance. MSHA has open search



warrants and is required to perform unannounced inspections at least twice a year. If found non-compliant, the top penalty fee is \$325,000 which a manager could be personally responsible for. He has worked with Gale Lim Construction for approximately sixteen (16) years which operate with a safety rating that is in the top 5% of companies he works with.

Mr. Redding testified there are new silica regulations forthcoming and Gale Lim Construction is already ahead of those regulations being implemented. MSHA requires that Gale Lim Construction conduct pre-operational exams on all equipment prior to operating the equipment as well as work place exams which include minor safety. Furthermore, inspections need to be done on each shift and if these inspections are falsified, one could go to prison for up to twenty-five (25) years.

Commissioner Scott Jolley asked Mr. Redding to go through the standards of MSHA for noise and visual pollution. Mr. Redding testified MSHA is for miners and the standards for noise levels and silica exposure would be regulated through another agency such as the Environmental Protection Agency (EPA).

Mr. Redding provided a 1-page document explaining his career history and background which was submitted into record as Exhibit T-30A.

(T-31) Daniel J. (DJ) Schmutz, 600 Glen Road, Mountain View, WY, the President of MSHA Safety Services, testified that mining is a big part of what he does with MSHA and that he works with over 50,000 companies similar to Gale Lim Construction. He testified standards are developed by a research agency called the National Institute for Occupational Safety and Health in part with the Centers for Disease Control and Prevention which studies exposure and incidents across the Country and calculates the exposure levels and time exposed to determine what effect there may be.

Mr. Schmutz testified that new regulations pertaining to exposure levels to Silica will go into effect in April of 2026 and were reduced from 100 micromilligrams to 50 micromilligrams. He testified that Gale Lim Construction was 1 of 3 companies that contacted MSHA before these new standards were in place and completed exposure assessments, the results showed the labs could not detect any exposure. Mr. Schmutz testified there are very few companies in this position because of Gale Lim Construction's concern and care to use engineering controls to reduce exposure. Mr. Schmutz testified that when looking at metal/non-metal mining, which is similar to aggregate, the last ten (10) years show there have been twenty (20) cases of silicosis out of 260,000 miners, which is very low.

Mr. Schmutz testified that noise is a pressure wave which is physical pressure coming out from a source; in a free field or an open place, noise reduces itself by 50% for every six feet you distance yourself from the noise source. As noise is measured in a 5-decibel

doubling rating, he testified that eighty-five (85) decibels are twice as loud as eighty (80) decibels and eighty (80) decibels are twice as loud at seventy-five (75) decibels. He provided an example of a gravel operation running at one hundred (100) decibels, being at a distance of fifty (50) feet and that it would be not any louder than the ambient noise.

Commissioner Carroll asked for clarification on how many silicosis cases were metals/nonmetal miners vs. coal miners. Mr. Schmutz testified that in the last ten (10) years, there had been twenty (20) cases for metals/nonmetals and 1,160 cases for coal miners.

Mr. Schmutz provided a 2-page document that explains his career history and experience which was entered into the record as Exhibit T-31A.

(T-32) Aaron Redd, 1194 W 100 S, Blackfoot, ID, testified he is an employee of Gale Lim Construction and that the construction drawings within the Traffic Impact Study (TIS) for Archery Range Road, show wheel paths and what would need to be done to widen the roadway so that a 50-foot-long semi-trailer steer-axle would not cross the centerline to turn off of or onto Rose Road. With this proposal, site distance did not pose an issue and would benefit access for recreational purposes.

Mr. Redd testified the required Floodplain Hydrologic and Hydraulic Study was completed by Gerald Williams of Williams Engineering. He stated the lidar did not account for the levy which was built up along the property in 1997. Therefore, Mr. Redd testified the document shows an inflow of flood waters to the property of more than what would actually occur.

Concerning dust mitigation, the Idaho Department of Water Resources (IDWR) previously allowed for a temporary appropriation of water which has since changed and now Gale Lim Construction utilizes a water rental pool for surface water and groundwater rights which are allocated in April. They have used this system for the last 3-4 years to obtain surface and groundwater for dust abatement and compaction.

Commissioner Bingham asked about the safety of pedestrians and bicycle traffic and referred to Idaho State Code Title 49, Chapter 7, which states that pedestrians have the right of way even when they are not on a sidewalk. Commissioner Bingham stated the TIS was conducted for a week in August, and during the week of study, the TIS did not identify any pedestrians or bicycle traffic. Based on this, Commissioner Bingham wondered if the sonar equipment was tuned in to pick up such uses and questioned if the TIS was credible. Mr. Redd testified that Mr. Luke Jolley, with HLE, can address the TIS and added that Bingham County and Idaho Transportation Department (ITD) provided the scope of work for the TIS which was followed. Chairman Adams suggested that the Commission ask



Bingham County Public Works Director, Mr. Whited, questions regarding the scope of the study at a later time during the Public Hearing.

(T-33) Luke Jolley, Harper Leavitt Engineering, 800 W Judicial, Blackfoot, ID, testified that Bingham County and ITD provided the scope of work for the TIS which his firm provided. He testified the area analyzed was approximately 1,800 linear feet with a slope upgrade of 1.7% and a downgrade of 3.37% with Rose Road being a Minor Arterial Road classification and Archery Range Road being a Local Road classification. There is an existing bike/pedestrian pathway to the East which was established in 2006 and is likely why the additional scope was not asked for in the TIS. Looking at traffic records, there had been some property damage accidents near this location but had not been any fatalities.

Mr. Luke Jolley testified that HLE evaluated existing roads and the intersection in question which were determined to be LOS-A. He further testified that LOA is Level of Service which is graded on an A-F scale, LOS-A being best and when determined to be a LOS-D, some changes are needed. HLE looked at the LOS including future growth and not including the project, and determined the roadway and intersection were a LOS-B. When looking at including the growth and the proposed project, the road and intersection maintained a LOS-B rating. He testified Gale Lim Construction provided average trips per day from the Moreland Pit which was 8.7 trips per day in a 9-month span and 11.64 trips per day in a 12-month span. When looking at the three (3) highest years, it was increased to 14.7 in a 12-month span and 19.6 in a 9-month span. The data that was used was collected through radar and traffic cameras. There was data to show that there were no pedestrians in the area studied. The information used in the report comes from the ITD Manual trip generation which shows at ten (10) employees for an 8:00 a.m. peak hour is 6.7 trips per hour. and in the evening is 12.5 trips per hour, not per day. HLE also did a left lane warrant which did not show the need to require a left lane. HLE did not use an average, they used the highest trips per day to provide the most conservative view possible.

Commissioner Bingham asked if the radar was tuned for pedestrian traffic readings. Mr. Luke Jolley testified that cameras detect all movement and, in this study, there were not any pedestrian movements found. Mr. Luke Jolley also testified that radar is used to detect true vehicular traffic. Mr. Luke Jolley stated the data is sent to a third party for evaluation.

Commissioner Bingham asked for further clarification of growth with the project specific to gravel trucks and retail sales and not with the County in general. Mr. Luke Jolley testified it was based on employees because this is how the Trip Generation Manual and algorithm work. Commissioner Bingham thought that perhaps the standard was flawed. Mr. Luke Jolley testified that this is the method that the engineering industry has set as a standard to follow. Commissioner Bingham asked Mr. Luke Jolley based on his engineering experience, to address the subject intersection not having sidewalks. Mr. Luke Jolley



testified that the bike path along the East side does not cross at the intersection but does cross Rose Road further to the South.

(T-34) Kendall Keller, 313 N 700 W, Blackfoot, ID, testified that he lives right at the access point for Gale Lim Construction's Moreland Pit. Mr. Keller testified he raises performance quarter horses, cattle and produces/sells hay at this location and that he has lived in that location for forty-nine (49) years.

Mr. Keller believes the traffic from the nineteen (19) home subdivision recently developed near his home has impacted them much more than gravel trucks have. Furthermore, that noise, light and dust pollution in the area come more from the feedlot further East than from Gale Lim Construction's gravel operations. Mr. Keller testified that he would much rather have a Gale Lim Construction gravel pit on all three sides of his property than a subdivision. Mr. Keller testified he very rarely hears Gale Lim Construction's crusher as the crusher is in the gravel pit. He testified that he has noticed occasional noises from the trucks entering the Gale Lim Construction property. Chairman Adams asked if guests visiting his property have ever commented on the noise. Mr. Keller answered that guests visiting have not commented on the noise when they team rope outside which is near the gravel pit. Mr. Keller added that his brother, living closer to the gravel pit, sold his home this year which sold privately within 3 weeks for over asking price. Mr. Keller testified he lives within one hundred (100) feet of the gravel pit which began operation when he was in his teens. Commissioner Johns confirmed with Mr. Keller that the increase in traffic is more from the residential neighborhood than Gale Lim Construction's gravel operation and trucks which Mr. Keller agreed.

(T-35) Kiersten Rupp, 11755 N Buffalo Road, Pocatello, ID, testified that she is from Blackfoot and works for Gale Lim Construction. She testified how the Application aligns with the Comprehensive Plan and the many benefits it would bring to our community. Ms. Rupp testified the construction industry affects our daily lives as every home, farm, school, and hospital in Bingham County relies on safe and effective infrastructure.

Ms. Rupp believed while some may see a gravel pit as undesirable, other land uses such as a bed and breakfast, daycare facility, geothermal facility, 1,500 feeder pigs, or 30,000 chickens could be allowed on the property without the requirement of a Conditional Use Permit in an Agriculture Zone.

She testified the gravel pit would be well-maintained and would not only maintain the 150-foot buffer zone but also preserve the riparian forest which has been eliminated to the North and South. Gale Lim Construction is a proud member of the community and while there may be some growing pains, the long-term benefits are undeniable. She encouraged the Commission to think about the potential of growth and a stronger, more connected, Bingham County.

(T-36) Sheri Lim, 585 Ridgecrest Ave., Blackfoot, ID, is a Safety Officer for Gale Lim Construction and has worked in the construction industry for over thirty (30) years. She testified safety is not just a regulatory requirement but also a core value of Gale Lim Construction. Gale Lim Construction does not rely on Federal or State agencies to enforce regulations but takes it upon themselves. She testified that Gale Lim Construction provides and prioritizes comprehensive training and is proud to have multiple employees who are trained in SWPPP, MSHA, OSHA, and environmental requirements. Gale Lim Construction Employees are disciplined or are terminated if State regulations, Federal regulations, or company policies are not followed.

As a Safety Officer, Ms. Lim leads the health safety and environmental training initiatives as well as conducts inspections and enforces compliance. She testified that the Foreman and Leadman are empowered to take corrective actions if a safety issue is identified and are required to establish any on-site hazards before they operate at a site. Gale Lim Construction employees receive hazardous training and review emergency procedures if there is an accident and are trained with DEQ regulations. The Foreman and Leadman are authorized to shut down the crusher if dust cannot be mitigated with water. Ms. Lim further testified that maintaining a high safety level is crucial for bidding on most jobs and because of this, Shell Oil Corporation referred Gale Lim Construction to bid on the project to which they were awarded. Shell Oil Corporation was impressed how a small company like Gale Lim Construction could conform to their rigorous standards.

(T-37) Trudy Brooks, 1885 Frontage Road, Blackfoot, ID, testified that she has worked for Gale Lim Construction since 2012. She believed the Commission's concerns were primarily with the growth, safety, and the people who live in the community. She testified that growth is going to happen regardless and she would like to see a small business, like Gale Lim Construction, aid in this growth. She spoke to Gale Lim's generosity and community involvement.

Ms. Brooks has worked at the front desk and sees how many trucks come and go. Ms. Brooks testified that if she receives a phone call regarding the speed of their trucks, the employee will get written up. If there is a dust complaint, she calls the foreman to mitigate the dust. She would like to see the community work and grow together and utilize local resources. Ms. Brooks concluded that she has not had one person from the community contact her with questions regarding the proposed gravel pit.

(T-38) Carson Dance, 192 N 600 W, Blackfoot, ID, testified he is an Accountant for Gale Lim Construction and that 90% of their employees are residents of Bingham County. He testified that Gale Lim Construction has paid over twelve million dollars in payroll over the last five (5) years with a majority of those incomes being spent in Bingham County and benefiting the community.



(T-39) Gale Lim, 919 W 200 S, Blackfoot, ID, testified that he has been a resident of the State of Idaho for over eighty (80) years. He commended his staff for their expertise and thoroughness in preparing the Application. He expressed that Gale Lim Construction places the integrity of the company and the quality of the products first and foremost.

Mr. Lim testified that safety is never compromised and any job will shut down completely if there is any breach of safety.

Mr. Lim testified that this area of Idaho only has certain places with gravel. Furthermore, the Twin Falls area has over six (6) operational pits, but they primarily produce crushed basalt which cannot be used for asphalt. Mr. Lim testified that you have to go where the nearest facility is to save money and tax dollars and that this location would eliminate trucks driving through Blackfoot. The sources on the west side of Bingham County are being depleted and others are trying to be added as change and growth will inevitably happen. He testified this location will have the least amount of impact to service the needs of the customers.

Mr. Lim testified that when looking at the asphalt plant operation, Gale Lim Construction will bring the oil in hot and process it the same day as they don't want to continue to heat it. A load of oil costs approximately \$30,000 and has to be paid for within ten (10) days of delivery. Mr. Lim testified the property had accumulated an excess of trash which has been cleaned up and that Gale Lim Construction is also working with the IDWR and has worked on improving the levy using their own money.

(T-40) Kori Bonney, 382 W 160 N, Blackfoot, ID, testified she has worked at Gale Lim Construction for thirty (30) years where she is the Environmental Specialist. She addressed working under a Multi-Sector General Permit (MSGP) and Storm Water Pollution Prevention Plan Permit (SWPPP) at their Moreland pit. She testified that Gale Lim Construction is monitored by the EPA for stormwater, fugitive dust, spills, mud, containment, prevention, and response procedures. She testified that every time there is a ¼ inch of rain or more in a 24-hour period, you have to do an inspection in addition to the weekly inspection, no matter what. With a MSGP, there are daily, annual, and quarterly inspections if a crusher is running in the area. The last MSGP inspection Gale Lim Construction underwent from DEQ was in 2024 and had no violations.

(T-41) Gerardo Silva, 206 N 240 W, Blackfoot, ID, testified he has worked for Gale Lim Construction for seventeen (17) years and supports the project Gale Lim and his wife have implemented for kids in high school. Mr. Silva believes that without gravel pits he would not be here and there is a need for gravel for roads, highways, and interstates.

(T-42) Gwean Lilya, 836 Coachman Dr., Idaho Falls, ID, testified she works for Gale Lim Construction and researched the impact of gravel pits on property values over the last ten



(10) years. Additionally, she contacted Angie Daw of Silver Creek Realty Group who provided a similar analysis which was included in the Application materials. Ms. Lilya testified during the last year lots have been available near the Moreland pit, all of which have sold for market value and several have commenced residential construction.

(T-43) Mike Hoge, 2185 Hepworth Lane, Blackfoot, ID, testified he has worked for Gale Lim Construction for approximately twenty-five (25) years and is a Project Superintendent. Mr. Hoge testified that infrastructure and increased construction material needs are always growing. These material needs have to come from somewhere and we need to allow someone to mine those materials to provide them. Mr. Hoge testified the gravel sold to the concrete businesses comes from a gravel pit and they need to use the available resources. He ended with wanting to keep tax dollars local and support local.

Chairman Adams asked for anyone who wished to testify in a neutral position to approach the podium. With no one to testify in a neutral position, oral testimony in opposition to the Application was received from:

(T-44) Bob Marcinko, 3315 Lundburg Lane, Pocatello, ID, testified that he was present to support his son who lives approximately one (1) mile from the proposed project. Mr. Bob Marcinko has a Master's Degree in Community Medicine and has worked in the area of Chemical Toxicology for over thirty-five (35) years.

Mr. Marcinko testified he was concerned with the asphalt plant and the arbitrary aspect of its operation as the impacts from a decision of this operation could last for decades. He expressed concerns about odor generated from the operation, and that those in the area wouldn't be overexposed to any standard of the EPA as the levels are insignificant, however, some people's health may still be affected. Mr. Marcinko stated that due to the noise and odor associated with an asphalt plant, this does have an effect on home values in his opinion. He mentioned a study done in North Carolina where values show a loss of 56% within ½ a mile of an asphalt plant which seems pretty extreme but any reduction in property value cannot be acceptable. He did not have a copy of this study to introduce into the record.

(T-45) Vera Marcinko, 120 W 210 N, Blackfoot, ID, testified she is a mother with two young children and lives a mile away from the project site. She chose this location for her family home in hopes of the promise of raising children in a place where they can explore nature. Ms. Marcinko recalled her childhood climbing trees and catching frogs in silence and stated if this project moves forward we are all at risk. This is about the quiet, clean air and the impact on animals. She understands the economic benefit this project could bring to a community but questioned if that should come at a cost. Ms. Marcinko wants to see this project moved to a location better suited for industrial development.

(T-46) DC Haggart, 134 W 210 N, Blackfoot, ID, testified that he grew up in this valley. He testified that Rose Ponds contains water and the water levels depend on who is flood irrigating or how much it has rained. He believed the noise of the gravel pits are reduced with the equipment being in the pit. He doesn't believe that the equipment can go in a pit at this location due to the sub-water which fluctuates. He was concerned with potential chemical contamination to Rose Ponds and how it would impact the health of those who swim there.

(T-47) Cameron Golinveaux, 473 N 15 W, Blackfoot, ID, testified he was concerned with contamination of flood waters to the Snake River as the proposed crushing pit is located in the floodplain. He questioned, not what if, but when there would be a fatal accident. He mentioned a pit 3.5 miles down the road and questioned why that location is not being utilized for expansion. He worked for Idaho Asphalt for eight (8) years and knows that asphalt is stinky and messy and spills cannot be eliminated. Mr. Golinveaux testified that he could smell trees being burned on the project site from his home and knows they will smell the asphalt. He further voiced concerns relating to odor and dust having an impact on his home.

(T-48) Clint Loosli, 127 S. Lavaside, Blackfoot, ID, testified that he was not questioning the integrity of Gale Lim, his company, or the safety of their operations and knows several of his employees. He is concerned with the safety of the area and could attest to the smell of asphalt referenced by Mr. Golinveaux. Mr. Loosli testified that he did not agree with the Traffic Study estimating ten (10) trucks a day. At the busy times of the year, roughly June to November, he has seen multiple trucks lined up and waiting. He believed if Gale Lim Construction has a 100-acre gravel pit, it would make financial sense to operate more trucks per day than proposed. He reiterated that he disagrees with the Traffic Impact Study. This is a high recreation area and trucks will not be able to stop if a person or animal were to run into the road.

Mr. Loosli understands that a crusher can be quiet, but the safety beeps on the equipment are loud and can be heard for miles.

He closed by reiterating that he is friends with a lot of the Gale Lim Construction employees and is not opposed to gravel pits but is opposed to a gravel pit at this location.

Chairman Adams asked for Mr. Loosli to expand on the volume of the equipment beeper noise. Mr. Loosli testified that the vehicles and equipment used on site can't see behind them and have a backup signal installed which makes a very loud beeping noise to warn people they are moving and believes this will have an impact on ambient noise levels.

(T-49) Justin Loosli, 145 S. Lavaside, Blackfoot, ID, testified that he knows that Gale Lim Construction is all about safety. Because he drives truck for a living Mr. Loosli did not feel



that Gale Lim Construction was taking pedestrian safety into account and mentioned the walkway is only 10' from the roadway; there are dogs, kids, and ladies with strollers who frequent this area and it is very busy in the summer.

Mr. Loosli frequents many gravel pits and stated there have been days where there are no trucks and then other days there are 5-6 trucks running and waiting to be loaded. He said the 10-truck-a-day average may be an average for the nine (9) months but that there could be days where there are one hundred (100) trucks in and out of the proposed pit especially with the interstate expansion.

(T-50) Robert Miller, 149 W 400 N, Blackfoot, ID, testified about the traffic on the road during harvest season, speeding, and the increase in traffic a gravel pit operation would generate. Mr. Miller questioned who would pay for the degradation of the roadway from the increase in heavy truck traffic, and where the legally binding document was that shows the property will be remediated.

Mr. Miller raised concerns with the Environmental Impact Statement and other air quality studies completed, questioning where those were done and who completed them. Mr. Miller testified he is downwind from this and was concerned with the noise as he can hear a train engine throttle over five (5) miles away. Mr. Miller testified that he was also concerned with a possible impact on his property value and quality of life.

Mr. Miller mentioned that he personally goes to Horrocks Ready Mix frequently and pays the same fee whether he is one hundred (100) miles or ten (10) miles away. Gale Lim Construction stated they would be more affordable for the community but he did not believe this to be true.

(T-51) Ron Moser, 572 N 100 E, Blackfoot, ID, testified that his family moved here in 1953 and there were no gravel pits in the area. Mr. Moser was concerned with the number of existing and proposed gravel pits in the area, trash accumulation, and lack of reclamation resulting in the community looking like a war zone before long. Mr. Moser was satisfied with the reclamation done at the Rose Ponds gravel pit which was made to look nice for recreation. He felt that there was smoke screening and disagreed with the water depth provided in the Reclamation Plan.

Mr. Moser testified that he is worried about chemicals seeping into the aquifer. Mr. Moser testified the property could be productive agricultural land as the other side of the fence adjacent is very productive agricultural land. Mr. Moser said that studies are meant to prove or to disapprove and questioned the motive of the Traffic Impact Study and averages being manipulated to look a certain way.

(T-52) Mark Leavitt, 484 N 700 W, Blackfoot, ID, testified that he lives 1.8 miles from Gale Lim Construction's Moreland gravel pit and asked for clarification on when gravel would be crushed as he is able to hear it when the wind is not blowing in the summer and winter. Mr. Leavitt testified that dust from that gravel pit isn't noticeable to him because he is a farmer and lives in dust. Mr. Leavitt provided a map depicting the approximately 1.8-mile distance mentioned which was entered into the record as Exhibit T-52A.

(T-53) Jon Heyrend, 36 W 450 N, Blackfoot, ID, testified how well-kept the Lambert property is. He resides approximately 0.5 miles from the project site, has recreated in the area, and plans to remain in the area for the remainder of his life.

Mr. Heyrend testified he is concerned with the impacts to wildlife and preserving the beauty of the area. Mr. Heyrend believed the road needed to be widened to accommodate truck traffic along the path and overpass and questioned who would pay for that. He had concerns regarding speeding, traffic, safety, noise, and odor. He did not believe the TIS determination indicating no pedestrian traffic was accurate.

(T-54) Jade Wareing, 142 W 400 N, Blackfoot, ID, testified he was disheartened the land was being viewed as a wasteland as his family homesteaded and farmed that ground. He thinks Gale Lim Construction is a top-notch company but testified that the question was if a Conditional Use Permit should be allowed. Mr. Wareing said if the ground is watered right, anything could be grown.

He stated the Traffic Impact Study had been talked about at length but wondered what in reality was going to happen. He understood that gravel is important for the community, but did not think the desired use made sense at this location. He did not think this gravel pit would ever be closed or reclaimed if approved.

(T-55) Randy Richards, 510 N 400 W, Blackfoot, ID, testified that he worked for the State Highway Department for thirty (30) years and Gale Lim Construction was one of the best contractors they had on their projects. He testified he was present for the flood in 1997 and thinks the plan for dikes in the North and South directions were good. He testified that the State had its own plan for flooding when working on the interstate which failed miserably. He further understood the need for the interstate expansion.

Mr. Richards testified his concerns were if Gale Lim Construction is awarded the ITD bid, there would be hot plants running at night, more truck traffic, more dust, longer days, and more hours of operation.

(T-56) Elaine Carter, 189 W 225 N, Blackfoot, ID, testified she believed there would be a financial impact and burden for the residents in the surrounding area. She voiced concerns



regarding impacts on property values, dust impacts on production of crops, groundwater, and the number of trucks per day with an increase in traffic.

She testified to her experience with the vibration of equipment from the construction of roads in a subdivision behind her home which generated well over ten trucks per day and how the desired use would generate constant traffic. She expressed Rose Ponds is now surrounded by various uses that were not there previously when it was mined, and how the land will no longer be able to be used for housing or farming if mined.

(T-57) Delbert Loosli, 139 S. Lavaside, Blackfoot, ID, testified that a new gravel pit was recently approved off of River Road which is surrounded by lava flow and is not an impact in that specific area.

He did not agree with the average trucks per day provided in the TIS and wondered what truck traffic would be during peak season. He questioned who would pay for the road maintenance costs.

Mr. Loosli testified that he owns land that is rich in gravel and is successfully farmed. He testified that Gale Lim Construction is a good company and a benefit to the community but the proposed location of this gravel pit was an issue and does not fit in the area.

Mr. Loosli testified that the nearby reception center would be impacted by the operation of the gravel pit especially if they receive a night contract with ITD. He ended with heavy industrial moving into an area where residences exist does not make sense.

(T-58) Von Cornelison, 66 E River Road, Blackfoot, ID, showed the Commission a book called *The Soil Survey of Bingham Area, Idaho from 1973* by the US Department of Agriculture and in cooperation with the University of Idaho and Idaho Agriculture Experiment Station. Mr. Cornelison testified the book defines the soil in this area as Heiseton which is a sandy loam with gravel below forty (40) inches and is good farmable soil able to produce good crops. Mr. Cornelison did not provide any pages from the book to introduce into the record.

Mr. Cornelison knew the previous owner who was not a farmer and stated without water, no ground is valuable. He referred to photos showing green patches, which were included in the Staff Report packet, and stated that imagery shows the ground is capable of growing.

He referenced the Comprehensive Plan stating it is for health, safety, and general welfare, to protect property rights and the use of property without adversely impacting neighboring property values and to ensure that the important environmental features of the county are protected and enhanced, to encourage the prime agriculture lands for the production of food and fiber.

He questioned if the proposed gravel pit would protect property rights and ensure environmental uses or protection of prime agricultural land. Mr. Cornelison provided two Snake River drone photos which were entered into the record as Exhibits T-58A & T-58B.

(T-59) Renette Loosli, 139 S Lavaside, Blackfoot, ID, testified she has a history in real estate and believes that location is one of the most important factors when purchasing a home. She referenced a study completed in Virginia called *An Assessment of the Economic Impact of The Proposed Stoneco Gravel Mine Operation on Richmond Township* by Senior Regional Analyst George A. Erickcek in which Diane Hite did an analysis of how a gravel pit would impact that area and reviewed reduction percentages based on proximity to gravel pits.

Ms. Loosli was concerned with deterioration in quality of life and voiced that new gravel pit sites should be located far from existing residences to minimize adverse consequences for homeowners. Ms. Loosli testified that the nearby reception center, archery range, new subdivision, and existing residences could be impacted. She concluded that as music can be heard coming from Rose River Reception, she anticipated noise from a gravel pit operation would also be heard.

Ms. Loosli provided pages five and six of the study she testified about into record as Exhibit T-59A.

(T-60) Ivan Marcinko, 120 W 210 N, Blackfoot, ID, testified he grew up in the area and expressed the importance of having a local and beautiful area for families to recreate. Mr. Marcinko testified that he would not have purchased his home if there was a gravel pit at this location. He addressed his concerns with odors, property rights, wildlife, and the preservation of trees.

(T-61) Joe James, 352 N 150 W, Blackfoot, ID, testified that he lives just across the interstate less than 0.5 miles away from the proposed gravel pit. He is a real estate agent and looked at the market analysis provided with the Application which he did not believe to be relevant as the comps were over a year old and home values had increased 5 – 15% according to a 2006 report in the Appraisal Institute. Mr. James testified that the home value, noise pollution, and increase in traffic to the area can affect the marketability of a home. Mr. James testified there would be an effect on neighboring agriculture. He questioned if the resources in the Moreland gravel pit had been depleted and if recreational areas were being destroyed because there was a need for resources.

(T-62) Chad Eberhard, 7 W 490 N, Blackfoot, ID, testified that he has ridden his bike for thirty-five (35) years in the area and was concerned that the Traffic Impact Study did not identify any bicycle traffic. He did not think Rose Road was wide enough for large trucks or bicycles and needed to be expanded to allow for bike traffic. Furthermore, he expressed



concerns with the intersection turning radius and visibility. He mentioned that Bingham Industrial Park has direct access to the freeway entrance and exit.

Mr. Eberhard identified himself as a Blackbelt in Statistical Process Control and believes averages are the worst measurement of a parameter. Mr. Eberhard testified that he witnessed the two last big floods and noticed that canal water caused the flooding on the freeway which came through the Lambert's property. He testified a berm through Lambert's property is needed or the canal will flood again.

(T-63) Kylee Lambert, 23 W 450 N, Blackfoot, ID, testified that smell is no longer regulated by DEQ. She voiced concerns regarding a lack of benefit to the community, potential impact on taxpayers, creation of excessive requirements at the public cost if the TIS improvements are made by the County, an excess number of gravel pits in the community undergoing the CUP Application process, risk of flooding in the area, safety concerns, and the potential for accidents.

Ms. Lambert testified that because the Applicant chose to invest in the property prior to receiving approval, she believed that sent a clear message that they knew the Conditional Use Permit would be approved. Ms. Lambert respectfully requested that this Application be denied as it is not in the best interest of Bingham County.

(T-64) Jerry Sturm, 308 N 300 W, Blackfoot, ID, testified that Gale Lim Construction is a gold star company appreciated in Bingham County. He raised concerns about the location in proximity to the river. Mr. Sturm stated that if the ITD contract is awarded to Gale Lim Construction, it would result in lines of trucks as that demanding construction begins.

(T-65) Tessa McKinlay, 23 W 450 N, Blackfoot, ID, requested that a list of names be entered into the record that were in opposition to the Application. Within the previous eight (8) days, Ms. McKinley submitted two pages of written testimony. At the Public Hearing, Ms. McKinlay desired to submit a list of names in opposition to the Application for the record. She was not allowed to based on her prior submission of written testimony within eight (8) days of the Public Hearing. Upon notification, Ms. McKinley stated that she would have the list of names submitted by someone else in the audience during their respective testimony for the record.

(T-66) Raelyn Lambert, 23 W 450 N, Blackfoot, ID, testified that her property shares the northern fence line with the land being considered and her home is approximately 0.62 miles from the proposed pit.

She voiced concerns with the preservation of agriculture, tranquility, wildlife, air quality, safety, traffic, odor, noise, smoke, flooding, and the effects on her reception center as well as other uses in the area. Mrs. Lambert testified that she and her husband built their home

in 1978, have lived in Rose for forty-seven (47) years, and have no plans to move. She expressed that her heart lies in their reception center venue which has been in operation for twenty-one (21) years and is a cornerstone of the community.

She also testified that she spoke with Idaho Fish & Game who told her the wildlife would be driven out as a result of the effects generated by the proposed use.

Mrs. Lambert counted 120 homes and forty (40) developed lots that exist within one mile and 141 homes within two miles. She explained various existing uses in the area which included a flower farm, yoga studio, apple orchard, churches, and horse breeding all of which rely on tranquility, clean air, and safe roads. She understands that construction is important. She started working in construction fifty-two (52) years ago for her father. While working in construction, she heard the rock crusher and smelled the smoke from the Rose Ponds gravel pit in 1996.

Mrs. Lambert explained the history of the Wareing home on the property stating it has flooded six (6) times. She stated that Rose Ponds exists from the original river bottom, and the proposed property is a farm which should not be compared.

(T-67) Todd Lambert, 23 W 450 N, Blackfoot, ID, testified that the Commission has the right to determine what happens in the community and wondered if they would want this in their backyard. Mr. Lambert testified that this is simply the wrong location to have this operation in his backyard and an area that many people frequent. He spoke to the beauty of the area. He told the Commission to not let their souls be bought or stolen by something that was not right for the area. Mr. Lambert spoke about there being more optimal locations and how the requested land use would be a burden and would impact taxpayers.

(T-68) Lance Gardner, 166 W 265 N, Blackfoot, ID, testified that he lives Southwest of the proposed pit and has lived in the community his entire life. He spoke about the depth of the water in the area and did not understand the reference to 4,000 feet. His main concerns were impacts on drinking water and flooding. Mr. Gardner testified that he respects Mr. Lim and all that he has done for the community, but did not support the location.

(T-69) Linda Cornelison, 66 E River Road, Blackfoot, Idaho, stated the Public Hearing was at a different time, day, and venue scheduled during a normal work day which affected several people who were unable to attend. Mrs. Cornelison testified that although the public was told that they could listen on Zoom and/or submit written testimony in advance, it did not give a chance for the public to have an opportunity to speak in rebuttal.

Mrs. Cornelison referenced the Applicant's prior CUP Application Public Hearing and stated you cannot un-hear something that was heard or un-see something that was seen. She testified about a site visit pertaining to the Applicant's prior CUP Application which



occurred on May 22, 2024, held on a cold windy blustery day, stating it was difficult to hear and keep up with multiple conversations happening.

Chairman Adams did not prevent Mrs. Cornelison from speaking but asked her to limit the scope of her comments to issues that were legally relevant to the Commissions' decision. Mrs. Cornelison was concerned with the interruption of her time limit and continued to recall previous occurrences stating that they were included in the Staff Report packet as part of the supplemental testimony. Mrs. Cornelison was provided with additional time by Chairman Adams.

Mrs. Cornelison then testified that she believes that the Planning and Zoning Commission should recuse themselves based on the previous hearing interactions and information received. Mrs. Cornelison provided each Commissioner with a news article regarding Commissioner Mark Bair which provided advice to his successor or anyone who aspires to be a Commissioner. Director Olsen confirmed for Mrs. Cornelison that the news article, dated August 26, 2024, was provided to the Planning and Zoning Commissioners as part of the written testimony received prior to the Public Hearing and was a part of the record. Director Olsen asked if Mrs. Cornelison would like it to be admitted into the record again to which Mrs. Cornelison responded yes. The news article was entered into the record as Exhibit T-69A.

(T-70) Mark Cornelison, 1000 Riverwalk Dr, Idaho Falls, ID, testified that the Public Hearing was an improper proceeding on the basis that deliberation occurred prior to closing the Public Hearing and a meeting for lunch took place with a quorum in attendance that was not properly noticed.

Mr. Cornelison objected that there was an attempt to control the content of speech, referring to the Chairman asking Linda Cornelison to limit her comments to issues that the Commission could legally consider. He requested that the meeting be immediately concluded.

The Commission did not find legal merit to his concerns and proceeded with the meeting.

(T-71) Steve Serr, 69 E 600 N, Blackfoot, ID, testified he had concerns that a Floodplain Development Application was received by the County and approved on July 9th, 2024 and issuance prior to the Public Hearing Application being addressed. Mr. Serr questioned why a Flood Study was not included in the initial packet and stated berms in the floodplain are illegal. He testified the property could not be developed as submitted being located in a Floodplain designated area.

Mr. Serr stated that he talked to someone weeks ago who informed him that the Applicant cannot make changes to the Right-of-Way because it is owned by the State of Idaho. He didn't provide who the person was or which agency the person worked for. He testified he was not aware of an Application being submitted to ITD to make changes to the roadway.

(T-72) Tara Golinveaux, 473 N 15 W, Blackfoot, ID, testified she wanted to submit two pages of signatures that were referenced in Tessa McKinley's testimony, but that those pages had been provided to Mr. Mark Cornelison who left the Public Hearing after his testimony. There was no longer a physical copy of the signatures at the meeting and therefore they were not submitted into the record.

7. With no additional oral testimony presented from the audience, rebuttal testimony was then offered by the Applicant's Representative Darren Dance, who expressed that it is hard to make it through a tough decision without disagreeing with people. He really disagreed with a lot of what was said in opposition and understood that a lot of people disagreed with his position.

Mr. Dance testified that he believed that this Application was completely appropriate for the area and testified that a lot of the homes in the area were built after gravel pits existed adjacent to the proposed project site. With regard to the issued Floodplain Permit, he testified the Floodplain Permit that was issued was a different Permit and that that specific one was required to place gravel on the property. He testified that Gale Lim Construction will be allowed to place berms on the East and West sides of the property according to the floodplain studies and future Permit approvals. Mr. Dance reiterated that Gale Lim Construction relies heavily on experts and multiple agencies that control their operation.

Mr. Dance testified to the comments on the recreation area and that if they were to utilize the property as farm ground, they would remove every tree and farm right up to the Snake River. However, the plan presented was incremental and would maintain the area much more like it exists currently. Mr. Dance expressed his love for the river and that it is the lifeblood of the community. He stated they would not go within 150 feet of the river as part of the operation. He stated that Rose Ponds have not been well maintained and there has been previous equipment operating at that location with fewer regulations than there are now.

Mr. Dance expressed his beliefs in property rights. He committed that Gale Lim Construction would cover the expenses of the intersection expansion with the direction of Bingham County. Mr. Dance testified that ITD had relinquished jurisdiction of the intersection to Bingham County. Mr. Dance testified that Gale Lim Construction plans to stay within the proposed hours and days of operation with the exception of projects that require work outside of those hours which they will request as needed.

In response to questions of the Commission, Mr. Dance testified the long-term plan is to return the land to intermittent grazing, the maximum height of equipment is approximately forty (40) feet, the depth of the pit will be two (2) feet above the water level at all times, and test holes determined the pit would likely be a depth of approximately twenty (20) feet.



Additionally, the historical asphalt plant production at their other site averages approximately 25,000 tons per year.

Commissioner Scott Jolley asked about the height of a berm and how that specific height was established. Mr. Dance believed it was in Bingham County Code and deferred to Director Olsen who testified that this land use does not require a certain berm height in the County's Specific Use Performance Standards, however, other land uses do which is likely where the eight (8) feet was derived. He also questioned if it would be feasible for materials to be mined and trucked to another location to be processed to which Mr. Dance testified that would be cost prohibitive and Gale Lim Construction would not do that.

The Commission asked Bingham County Public Works Director, Dusty Whited, about ownership of the intersection and what the construction process would be. Mr. Whited testified that ITD does have ownership. He testified that ITD has been involved in the TIS process, has reviewed the scope of work for the TIS, and provided comments with suggested changes. Chairman Adams clarified that the biggest changes are the curvature and widening of that road and Mr. Whited agreed. Mr. Whited acknowledged concerns expressed with the estimated ten (10) trips per day by the Applicant. He testified the number of trips per day has to do with the level of service which is currently an A; at a twenty (20) year build-out with projected growth including this project, which could double or triple those numbers, the impact would be very low and the level of service would still be a LOS-B.

Chairman Adams asked about the frontage road (Archery Range Road) and if the TIS showed an impact on Archery Range Road and the pedestrian pathway. Mr. Whited testified the primary concern was the intersection, which is what was reviewed as part of the TIS, and that Archery Range Road was not included in the scope of work. Chairman Adams asked if he had concerns or if he could see any modifications that may be needed to Archery Range Road. Mr. Whited testified that roads are designed for vehicle traffic and State laws would need to be followed to ensure those roads can also be used for pedestrian and bike traffic. Commissioner Scott Jolley referred to the Cedar Creek Wind Project which had an adjusted speed limit as part of their construction process and wondered if something similar would be appropriate at this location. Mr. Whited testified that Archery Range Road was not previously posted with a speed limit but had since been posted with a speed limit which he believed was thirty-five (35) mph.

In response to questions regarding the adjacent existing gravel pits, Mr. Whited testified the State side of that gravel pit was last used in 1999 and the Reclamation Plan was retired in 2011. The Bingham County side of that gravel pit was last mined in 2009 and still has an active Reclamation Plan for mining.

The Commissioners had no further questions on the Application and the Public Hearing portion for this Application was closed.

### III. 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.” Chairman Adams stated Bingham County Code Section 10-5-3 *Land Use Chart* allows the land use of a *Gravel Pit/Mining – Crushing/Excavation of Gravel and Associated Batch Plant* in an Agricultural Zoning District with an approved Conditional Use Permit. Commissioners Bingham, Butler, Jewett, Johns, and Scott Jolley confirmed that to be true Commissioner Carroll stated he was undecided on this Section. Collectively, the Commission found that adequate evidence had been presented to show that the proposed use of the land would meet this standard.

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 each of the following stated purposes of Bingham County’s Comprehensive Plan:

(a) To protect property rights and the use of the property while not adversely impacting neighboring property values more than is necessary. The Commission discussed the difficulty this section presents as they were presented with contradictory testimony stating that neighboring property values either would or would not be impacted by the Conditional Use Permit. The Commission acknowledged that the evidence of both sides was somewhat subjective. Commissioner Carroll addressed public protections vs. personal property rights for such an operation and wasn’t sure that the desired land use would be what is best for the community. Chairman Adams noted the necessity of balancing the protection of personal property rights vs. telling someone what they can or can’t use their personal property for. Chairman Adams also discussed how the Commission should interpret the term “more than is necessary” in considering whether land use would adversely impact property values more than is necessary. Commissioner Butler testified that the Applicant’s rights as a property owner needed to be protected and pointed out that the property is bordered on every side by a natural or interstate barrier according to the photographs provided in the record. Based on this, Commissioner Butler did not think the requested land use would have an impact more than necessary. He specifically noted that the Commission should also consider that the property is privately owned by the



Applicant. Commissioner Johns agreed that testimony was provided on both sides of the spectrum related to impacts on property values and that defining an impact is difficult, but tended to believe that home values in the area may be negatively impacted. Commissioner Jewett testified that the Applicant may still be able to do something with the land if the request was denied but it may have an impact on the Applicant's economic interest. However, she addressed the Applicants economic interest vs. potential impact to neighbors and determined the impact to neighboring properties may be higher. Commissioner Jewett suggested that perhaps another land use would still allow economic interest without the impact gravel pit operations may produce.

Chairman Adams questioned what the main concern would be that could potentially negatively affect property values. In his opinion, it was odor. He recalled the Applicant stating that in the previous year, they operated an asphalt batch plant twelve (12) days out of the year which would be intermittent. Commissioner Johns testified that even those in opposition expressed Gale Lim Construction's positive impact on the community but pointed out that the first portion of the section being discussed states "to protect property rights and the use of the property" which he believed was referring to the property owner's rights. Based on this, he opined that Gale Lim Construction had the right to have a gravel pit on the proposed property and anticipated that the Applicant would make an effort to take as much precaution as possible to limit impacts on the community. Chairman Adams agreed by adding that there is no way to say it wouldn't affect property values but did not believe it would affect property values "more than is necessary" which is what the Code states. Commissioner Bingham testified that the land is fairly remote and quite a distance from homes. He agreed that personal property rights needed to be a consideration of the Commission.

During a vote by the Commission, Commissioners Bingham, Butler, Johns, and Scott Jolley affirmed that the Applicant had provided adequate evidence to show that the conditional use of the land would meet this Section of the Code. Commissioners Carroll and Jewett stated their position was in opposition as they both believed the desired land use would adversely affect property values.

(b): To ensure that adequate public facilities and services are provided to the people at reasonable cost. Chairman Adams referred to public services as the County roadways and that the Traffic Impact Study (TIS) approved by ITD and the Bingham County Public Works Director ensures that this requirement would be met. Commissioner Bingham clarified that this Section of the Code could be met only if the condition of complying with the Traffic Impact Study recommendation by widening the roadway at the intersection is implemented. Commissioner Carroll agreed. Commissioners Bingham, Butler, Carroll, Jewett, Johns, and Scott Jolley unanimously affirmed the requirements of this Code Section had been met.

(c): To ensure that the economy of the county is protected and enhanced. Commissioner Bingham stated this Section of the Code was met with the long-term

benefits of the land use. Commissioner Jewett testified the standard was met based on what Gale Lim Construction has given and/or implemented in the community. Commissioner Scott Jolley testified that gravel sales from the Moreland pit were stated to be roughly \$52 million dollars which in his opinion affirms protection and enhancement of the local economy. Commissioners Bingham, Butler, Jewett, Johns, and Scott Jolley affirmed the Application met this Section. Commissioner Carroll voiced opposition stating that because the CUP Application was not approved, he was unable to vote “yes”.

(d): To ensure that the important environmental features of the county are protected and enhanced. Chairman Adams stated the riparian zone would be protected by a 150-foot buffer area from the Snake River. Commissioner Butler said the Applicant had agreed to follow all state, local, and federal rules confirming the criteria for the protection of any environmental features was met. Commissioners Bingham, Butler, Carroll, Jewett, Johns and Scott Jolley unanimously affirmed the requirements of this Code Section had been met.

(e): To encourage the protection of prime agricultural, forestry and mining of lands for production of food, fiber and minerals. Chairman Adams believed the Applicant had committed to protect the forestry in that area and although the land could be used for agriculture, it was not being used that way currently. Commissioner Bingham reiterated that the objective would be to return the property to graze land once reclaimed. Commissioners Bingham, Butler, Jewett, Johns, and Scott Jolley affirmed the Application met this section. Commissioner Carroll voiced opposition because he believed the pit would affect the future viability of agricultural use on the land.

(f): To encourage urban and urban-type development within or near incorporated cities. Commissioner Scott Jolley testified that the whole purpose of a gravel pit is to encourage local development and the Applicant stated they would like to provide aggregates locally affirming this Section of the Code was met. Commissioners Bingham, Butler, Carroll, Jewett, Johns, and Scott Jolley unanimously affirmed the requirements of this Section of the Code had been met.

(g): To avoid undue concentrations of population and overcrowding of land. Chairman Adams stated the requested land use will be a familiar state to what the land is currently in, undue concentration of population will not occur as housing is not proposed and the property will be reclaimed at some point once mining is complete. Commissioner Jewett testified she believed the population that uses the area would be affected if the land use is approved. Commissioners Bingham, Butler, Johns, and Scott Jolley affirmed the Application had met this Code Section. Commissioners Carroll and Jewett believed that it would adversely affect those who recreate in the area.

(h): To ensure that the development on land is commensurate with the physical characteristics of the land. Commissioner Scott Jolley stated where the parcels are



adjacent to mined gravel pits, it is definitely commensurate with the physical characteristics of the land in addition to the fact that gravel exists at the project site it seems appropriate. Commissioner Bingham reminded the Commissioners of the Applicant's commitment to keeping the area near the river in forestry as much as possible. Commissioners Bingham, Butler, Carroll, Jewett, Johns, and Scott Jolley unanimously affirmed the requirements of this Code Section had been met.

(i): To protect life and property in areas subject to natural hazards and disasters. Chairman Adams commented on protecting life and property by stating if a gravel mining pit were to flood it would not change the characteristics but would inhibit the Applicants' ability to mine. Commissioner Bingham testified that the Applicants have done their due diligence with floodplain permitting and have proposed appropriate placement of berms for protection. Commissioner Carroll asked if there would be a berm constructed to the north; Chairman Adams testified the berms would run north and south on the east and west sides of the property. Commissioner Carroll did not think the proposed berm locations would protect the property from natural hazards and disasters based on testimony heard regarding an irrigation canal in the area. Chairman Adams clarified that the wording of the subsection is to protect life and property in those areas but not necessarily to prevent flooding from occurring. Commissioner Carroll said he understood but argued that it states *protect areas subject to natural hazards and disasters*. Commissioners Bingham, Butler, Johns, and Scott Jolley affirmed the Application met this Code Section. Commissioners Carroll and Jewett did not.

(j): To protect fish, wildlife and recreation resources. Commissioner Bingham believed this requirement was met with the Applicant's proposed protection of the riparian area. Commissioner Carroll agreed as long as the Applicant commits to working on maintaining and repairing the current failing dikes along the property. Commissioners Bingham, Butler, Carroll, Jewett, Johns and Scott Jolley unanimously affirmed the requirements of this Code Section had been met. Commissioner Carroll added that the Applicant has committed to working with the Army Corp of Engineers, Idaho Department of Water Resources, Idaho Department of Lands, and Fish and Game so fish, wildlife, and recreational resources should be protected. The Commission again agreed section (j) had been met with the Application.

(k): To avoid undue water and air pollution. Chairman Adams reminded the Commission of the Mining Health and Safety Administration (MSHA) standards that the Applicant will have to adhere to related to water and air pollution. Commissioners Bingham, Butler, Carroll, Jewett, Johns, and Scott Jolley unanimously affirmed the requirements of this Code Section had been met.

(l): To allow local school districts to participate in community planning and development to address school needs and impacts on an ongoing basis. Commissioner Johns, Carroll, and Scott Jolley appreciated the work the Applicant was doing with local schools with the testimony provided. However, Commissioner

Scott Jolley did not believe this standard was relevant or applicable to this Application. Commissioners Bingham, Butler, Carroll, Jewett, Johns, and Scott Jolley agreed this standard had been met.

After discussing the following items, the Commission collectively found that the Applicant had shown that the conditional use of the land would be in accordance with the general objectives or any specific objection to the Comprehensive Plan and/or this Title.

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. Chairman Adams commented on his interpretation of this standard stating that “*as far as is possible*” is at the discretion of the Commission. Furthermore, he noted that the Applicant will use their own funds to make this area more accessible with the proposed expansion of the intersection at Rose Road and Archery Range Road. Commissioner Scott Jolley believed the existing character of the general vicinity is a proposed gravel pit next to a gravel pit which ought to be sufficient. Commissioner Carroll stated the existing character is currently pasture land which was previously established as a homestead and adding a gravel pit would change the general character of the land. Commissioners Bingham, Butler, Jewett, Johns, and Scott Jolley agreed the existing or intended character of the general vicinity would not change as far as is possible. Commissioner Carroll disagreed. Collectively, the Commission found that adequate evidence had been presented to show that the proposed use of the land would meet this standard.

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. Commissioners Carroll, Adams, Bingham, and Butler discussed how to determine what would be considered *excessive* or *unduly hazardous* and how that may be a matter of opinion. Commissioner Carroll stated the requested land use is unduly based on testimony heard and would be disturbing to existing neighboring uses. Chairman Adams suggested the Commission consider timeframes for the operations that have the potential to produce odor impacts to mitigate concerns if approved. Commissioner Butler believed it would be unreasonable to debate what levels would be considered unduly hazardous or disturbing as each Commissioner has their own opinions, but suggested perhaps some of these concerns could be addressed with conditions.

Commissioner Carroll appreciated the discussion about opinions but reminded the Commissioners that testimony was received from several people who would appreciate this land use being somewhere else. Commissioner Bingham referred to living in an agriculture area during potato harvest season with trucks and combines that run all night long and wondered where the line should be drawn. Commissioner Butler agreed and added that he lives by the Eastern Idaho State Fairgrounds, and for fourteen (14) days out of the year, it is not pleasant but it is temporary in nature. Commissioner Carroll testified that this operation could go on for thirty (30) years not just fourteen (14) days. Commissioner Scott



Jolley recalled the Applicant indicated that the Moreland site used the hot mix plant roughly twelve (12) times in the last year, but understood that can change dramatically based on demand. He expressed the difficulty for him as it is based so much on a matter of opinion. Commissioner Scott Jolley stated the professionals who testified regarding standards that need to be met ensure that this use would not be unduly hazardous. If the requested land use was not regulated by state and federal agencies, there may be potential for excessive pollution, however, the requested land use is heavily regulated with safeguards in place to protect the public. That being said, he understood that no one wants to be in a place where they are constantly smelling a hot-mix plant regardless of the distance. Commissioner Scott Jolley stated that given there is not any residential development immediately surrounding the project site, there isn't a subdivision bordering the property, and the Applicant's plan is to only use the hot mix plant when needed, he believed this standard was satisfied. Commissioner Jewett disagreed based on hazardous future traffic and the amount of affected people who use the Rose Pond area to recreate.

Commissioners Butler, Johns, and Scott Jolley agreed the land use would not be unduly hazardous or disturbing to existing or future neighboring uses. Commissioners Bingham, Carroll, and Jewett were in opposition. With three in support and three in opposition, Chairman Adams offered his position. He began by clarifying that Commissioner Jewett's position was in opposition based on traffic and asked if the TIS recommendations changed or helped her opinion on traffic. Commissioner Jewett testified that even with the widening of the road, the area is busy and this use would not just increase traffic but add large, heavy, and dangerous traffic. Commissioner Carroll testified that a lot of people use this area and the requested land use would make it difficult for them. Commissioner Bingham testified that the wedding center referenced in testimony that they would have to live with the smoke and fumes and, with all of those components added together, his opinion was the requested use does not fit. Chairman Adams commented in relation to the roadway, the Commission has to assume that people are going to follow the laws. He mentioned that his dog was hit in front of his home by someone excessively speeding, but he is not able to make the County change the speed limit because of that. Chairman Adams believed that the modifications recommended in the TIS would help with the intersection. Although he thought there would be some change and effect on neighboring uses, he lived roughly 0.5 miles from an operating gravel pit for approximately 6 or 7 years and was unaware of the mining operation until he sold his home. Based on the discussion, Chairman Adams affirmed the Application met this standard. Collectively, the Commission found that adequate evidence had been presented to show that the proposed use of the land would meet this standard.

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.* Commissioner Carroll referred to testimony regarding the impact to roadways and increase for taxpayers to upkeep and maintain those roads. The Commissioners discussed who would pay for the intersection expansion and determined upon further discussion with Prosecutor Ryan Jolley that imposing a condition for the Applicant to be responsible for the road improvements would be appropriate. Commissioner Scott Jolley testified that the Applicant should bear some responsibility for the intersection widening, however noting that the County may be

using the same roadway to transport gravel from its source, hauling gravel with large trucks, therefore, it would be fair for the County to share some of that financial burden. Commissioners Bingham, Butler, Carroll, Jewett, Johns and Scott Jolley agreed this Section had been met with the Application. Collectively, the Commission found that adequate evidence had been presented to show that the proposed use of the land would meet this standard.

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. Commissioner Carroll suggested requiring the Applicant to pay for the road widening improvements as recommended in the Traffic Impact Study would fit best with this standard. Commissioners Bingham, Butler, Carroll, Jewett, Johns and Scott Jolley affirmed this Section of the Code was met with the Application. Collectively, the Commission found that adequate evidence had been presented to show that the proposed use of the land would meet this standard.

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. Chairman Adams stated that this standard was similar to the previous standard the Commission discussed above. He testified that based on the Traffic Impact Study recommendations and the condition that the Applicant pay for the road upgrades, this standard would be met and the property is legally accessible from a County road. The Commissioners agreed. Commissioner Bingham suggested that perhaps the Applicant should consider providing some form of a crosswalk or added safety measures at the intersection to help with pedestrian safety. Commissioner Bingham was unsure if this could and/or would be an appropriate condition, and wasn't proposing that it be a condition, but rather a recommendation for the Applicant to consider as a goodwill gesture to the community. Collectively, the Commission found that adequate evidence had been presented to show that the proposed use of the land would meet this standard.

8. Not result in the destruction, loss or damage to a scenic or historic feature of major importance. Commissioner Carroll referred to input from the Bingham County Surveyor's testimony regarding maintaining survey monuments and wanted to ensure this happens. Chairman Adams supported this being considered as a condition if the Application was approved and believed the riparian ground would be protected with the proposed buffer zone. Commissioners Bingham, Butler, Carroll, Jewett, Johns, and Scott Jolley agreed this Section of the Code had been met with the Application. Collectively, the Commission found that adequate evidence had been presented to show that the proposed use of the land would meet this standard.

9. If applicable, have adequate water, sewer, irrigation, drainage and stormwater drainage facilities, and have utility systems provided to accommodate said use. The Commission



discussed the Application stating water will come from a water rental pool for construction with the allotted IDWR water pool shares as well as an irrigation well on site. Commissioner Jewett commented that she did not believe this requirement had been met based on the use of the City and County resources for dust mitigation as Bingham County already struggles with water and questioned how much of the water resources this would take. Commissioners Bingham, Butler, Johns and Scott Jolley agreed this Section had been met with the Application. Commissioner Carroll and Jewett held opposition. Collectively, the Commission found that adequate evidence had been presented to show that the proposed use of the land would meet this standard.

The Commission found that there was adequate evidence in the Application and there wasn't a need for any additional studies. The Commissioners also discussed if additional bonding was necessary beyond what was provided to the Idaho Department of Lands to which the Commission determined was sufficient.

The Commission next reviewed proposed conditions to be placed if the land use is approved. Discussion commenced regarding:

1. The proposed hours of operation being Monday through Saturday 7:00 a.m. to 7:00 p.m. and if those hours should be adjusted to Monday through Friday 7:00 a.m. to 7:00 p.m. and Saturday 7:00 a.m. to 12:00 p.m. in consideration of the Event Venue;
2. What the process for the Applicant would be if there was a demand to work more than the set days and hours of operation;
3. The Applicant's proposed map of phases requesting Phases 1-3 at this time. The Commission expressed consideration of each phase, individually, may be appropriate because of the riparian area existing closest to the Snake River and near proposed Phase 3; and
4. It should be the responsibility of the Applicant to pay for any roadway improvements including the recommendations within the Traffic Impact Study.

Commissioner Carroll had questions for Director Olsen in her capacity as interim Floodplain Administrator who testified that a Floodplain Development Permit had been applied for on the Phase 1 gravel pit area but had yet to be issued. She clarified that it would be impossible for the Applicant to apply for and receive a Floodplain Development Permit for any phase of gravel mining prior to the Public Hearing without knowing which phases or areas may or may not be approved for gravel mining. Additionally, Director Olsen testified that her Department would require a Floodplain Development Permit Application for each approved phase prior to any mining activity commencing based on direction from the Idaho Department of Water Resources.

Commissioner Scott Jolley stated the process of the requested operation that would be most impactful to those downwind he anticipated would be odor as there is already a ton of noise and heavy industrial traffic existing in the area. Based on this, he suggested that Gale Lim Construction could act as a good neighbor by providing a letter 15 days, 2 weeks, or perhaps a month in advance

notifying the Lamberts and surrounding property owners of upcoming hot mix plant operations. Commissioner Scott Jolley alternatively suggested placing a condition that the hot mix plant cannot operate on Fridays and Saturdays as added protection for the Lamberts' wedding/event center operations. Commissioner Scott Jolley understood that this would not cover all situations or everyone in the community, but it would at least be a gesture for the Applicant's consideration to help the decision be a bit more palatable. Commissioner Johns agreed that there may be some way that the Commission could place a condition to help those with concerns. Commissioner Scott Jolley also thought it may help with those who recreate nearby on the weekends. Commissioners Bingham, Butler, Jewett, Johns, and Scott Jolley expressed their support for restricted operations on Friday and Saturday. Commissioner Carroll did not.

#### IV. FINDINGS

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

1. The proposed use complies with Bingham County Code Section 10-8-3(A) in that it
  - 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 "in accordance with the general objectives or with any specific objection of the Comprehensive Plan and/or this title;"
  - c. Is "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 not "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."



2. The Commission found that sufficient information and studies had been provided with the Application and there was no need to request additional studies relating to social, economic, fiscal, or environmental effects of the proposed CUP before making a decision; and
3. Furthermore, though not required to do so by County Code, the Commission found that adequate evidence had been presented to suggest that the Applicants could, and had committed to, comply with all additional performance standards required by Bingham County Code Section 10-7-19.

## **V. DECISION**

Based on the record, Commissioner Scott Jolley moved to approve the Conditional Use Permit Application requested by Gale Lim Construction, LLC to establish a new gravel mining pit with portable Crusher and portable Asphalt Plant, located North and East of Archery Range Road, Blackfoot, Idaho in an "A" Agriculture Zoning District as proposed and in compliance with Bingham County Code Chapter 10-8 and Section 10-7-19 with the following conditions:

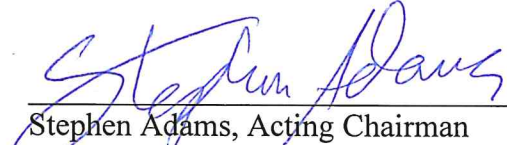
1. Day/Hours of Operation: Monday - Saturday 7:00 a.m. to 7:00 p.m. with hot mix batch plant usage limited to Monday - Thursday 7:00 a.m. to 7:00 p.m.; and
2. Gale Lim Construction will be responsible for implementing and paying for the findings of the Traffic Impact Study; and
3. Approval of Phases 1 and 2 with reapplication needed for any additional phases; and
4. The Applicant shall apply for and receive a Floodplain Development Permit for each Phase of the Application; and
5. The Applicant shall provide and maintain a 100-foot buffer on all boundaries of the proposed project site with a 150-foot buffer from the high-water mark of the Snake River. Buffers will feature either an 8-foot-tall berm or trees (existing and new) as shown on the Applicant's Exhibit 4-I Map Exhibits 3 and 4 and shall be in place before operations commence; and
6. The Applicant shall follow dust mitigation practices at all times. All gravel roads used to navigate to/from the pit will be marked with a speed limit of 15 mph and will be watered to control dust. If watering is insufficient, water-soluble chemicals shall be applied; and
7. The Applicant shall provide an updated Site Plan to Bingham County Planning and Development Services depicting current and closed mining operations in all approved Phases every 15 years.

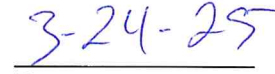
Commissioner Johns seconded the motion. Commissioners Scott Jolley, Johns, Bingham, and Butler voted in favor. Commissioners Jewett and Carroll voted in opposition.

Commissioner Jewett voted in opposition based on Bingham County Code Section 10-8-3(4) as she believed the operation would be unduly hazardous or disturbing to existing or future neighboring uses.

Commissioner Carroll voted in opposition in agreeance with Commissioner Jewett and added that he believed placing a limit to the hours of operation for the hot mix plant was overstepping the Commission's authority.

The motion carried and the Application was approved with conditions.

  
\_\_\_\_\_  
Stephen Adams, Acting Chairman  
Bingham County Planning and Zoning Commission

  
\_\_\_\_\_  
Date