

# **BONNER COUNTY PLANNING DEPARTMENT BOARD OF COUNTY COMMISSIONERS STAFF REPORT FOR OCTOBER 23, 2024**



Project Name: SMP Development, Schweitzer Mountain Utilities & Husky Mountain Acquisition, Zone Change

File Number, Type: ZC0008-24, Zone Change

Request: The applicants are requesting a zone change from Agricultural/Forestry 20 and Alpine Village to all Alpine Village.

Legal Description: 28-58N-2W NW, NENE, S2NE, NESW, NESE  
29-58N-2W NE LESS TAX 1 & PT PLAT; N2NW LESS PT PLAT  
28-58N-2W NWSE LESS TAX 1 LESS W 75FT & LESS TAX 2 & 3  
29-58N-2W SENW  
22-58N-2W NW, W2W2SWNE, N2SW, W2W2NWSE, N2NESESW, NWNWSWSE  
22-58N-2W E2W2SWNE, E2SWNE, SENE, E2W2NWSE, E2NWSE, NESE,  
SWSW, W2SESW, S2NESESW, SESESW, NENWSWSE, S2NWSWSE, NESWSE,  
SWSWSE, SESWSE, SESE  
23-58N-2W W2NE, W2 & SWSE LESS TAX 1 & 2 N 20FT OF E 455FT OF TAX 19  
SEC 26

Location: 10000 Schweitzer Mountain Road, Sandpoint

Parcel Number(s): RP58N02W294211A  
RP58N02W291203A  
RP58N02W287800A  
RP58N02W280006A  
RP58N02W222400A  
RP58N02W221206A  
RP58N02W230602A

Parcel Size: Approx. total acreage of 1,565.44 acres.

Applicant: Schweitzer Mountain Properties LLC  
Husky Mountain Acquisition Inc  
Schweitzer Mountain Facilities

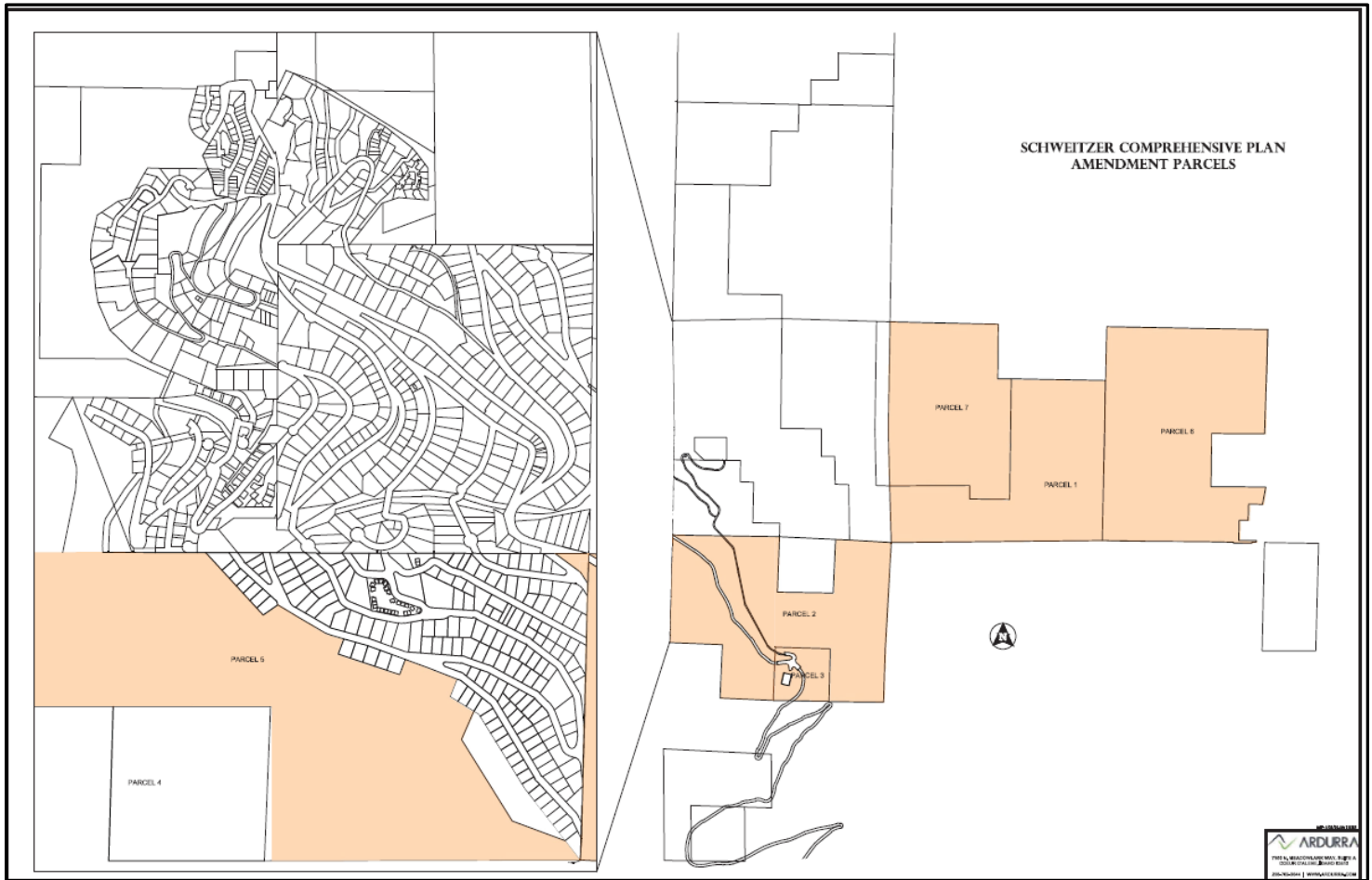
Project Representative: Daniel Britt, SMP Development

Application filed: June 16, 2024

Noticing: Mail: September 24, 2024  
Site Posting: October 8, 2024  
Published in newspaper: September 24, 2024

Attachment: Annex A – List of Agencies Routed  
Annex B – Development Agreement

## SITE PLAN



### Project summary:

The applicant is requesting a Zone Change on seven (7) parcels from Agricultural/Forestry 20 and Alpine Village to all Alpine Village. The properties are zoned Agricultural/Forestry-20 and Alpine Village and have a cumulative total acreage of approximately 1,565.44 acres; approximately 1,133.5-acres are currently zoned Agricultural/Forestry 20. The project is located off Schweitzer Mountain Road & West Selle Road in Sections 22, 23, 28 & 29, Township 58 North, Range 2 West, Boise-Meridian.

### Applicable Laws:

The following sections of BCRC, Title 12, apply to this project:

- BCRC 12-111: Purpose et seq, health, safety, and general welfare
- BCRC 12-210 et seq., - Title Amendments, Comprehensive Plan Amendments and Zone Changes
- BCRC 12-320.1 – Zoning districts and map designation, purpose
- BCRC 12-320.2 – Zoning districts and map designations established
- BCRC 12-322: Agricultural/Forestry District
- BCRC 12-329: Alpine Village District
- BCRC 12-800 et seq., Definitions
- BCRC 12-900 et seq., Conditional Zoning Development Agreements

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**Background:**

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**A. Site data:**

- Seven (7) unplatted parcels
- Size: Cumulative total of approximately 1,565.44-acres.
- Zone: Agricultural/Forestry-20 & Alpine Village
- Land Use: Prime Ag/Forest Land, Ag/Forest Land and Alpine Community

**B. Access:**

- Schweitzer Mountain Road is an Independent Highway District-owned and maintained public right of way.
- West Selle Road is a Bonner County owned and maintained public right of way.

**C. Environmental factors:**

- The sites do contain mapped slopes from 0 and 30+% grade. (USGS)
- The sites do contain mapped wetlands. (USFWS)
- The sites do contain mapped streams. (NHD)
- Parcel RP58N02W222400A is within SFHA Zone D, RP58N02W221206A is within SFHA Zone X & Zone D, RP58N02W230602A, RP58N02W280006A, RP58N02W287800A, RP58N02W291203A & RP58N02W294211A are within SFHA Zone X per FIRM Panel Numbers 16017C0685E & 16017C0705E , Effective Date 11/18/2009.

**Soils:****Non-Prime Farmland (Approx. 1,545-acres)**

- Prouty gravelly loam, 35 to 65 percent slopes (40)
- Priest Lake gravelly sandy loam, 35 to 65 percent slopes (39)
- Rock outcrop-Rubble land complex (46)
- Pend Oreille-Rock outcrop complex, 5 to 45 percent slopes (37)
- Brickel-Rubble land associations, 5 to 45 percent slopes (5)
- Dufort-Rock outcrop complex, 5 to 45 percent slopes (11)
- Hun gravelly silt loam, 35 to 65 percent slopes (16)
- Vay silt loam, cool, 30 to 65 percent slopes (61)

**Prime Farmland, if drained (approximately 20-acres)**

- Mission silt loam, 0 to 2 percent slopes (31)

**D. Services**

- Water: Schweitzer Water Company
- Sewage: Schweitzer Utility Company
- Fire: Schweitzer Fire District & Northside Fire District
- Power: Northern Lights, Inc.
- School District: Lake Pend Oreille School District #84

**E. Comprehensive Plan, Zoning and Current Land Use**

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Prime Ag/Forest Land, Ag/Forest Land & Alpine	Alpine Village & A/F 20	Residential / 6 acres Residential/ 6.2 acres

	Community		
<b>North</b>	Alpine Community	Alpine Village & A/F 20	Schweitzer Mountain Resort & Forest Land
<b>East</b>	Ag/Forest Land	A/F 10 & A/F 20	Residential/ Between 5-62-acres
<b>South</b>	Prime Ag/Forest & Remote Ag/Forest	A/F 20 & Forest 40	Government Land/ Approx. 1920-acres
<b>West</b>	Prime Ag/Forest & Remote Ag/Forest	A/F 20 & Forest 40	Government Land/ Approx. 1920-acres

#### **F. Agency Review:**

A comprehensive list of all agencies that were notified of this request is attached as Annex A.

#### **The following agencies provided comment:**

Independent Highway District - See letters for comments

Schweitzer Fire District - See letters for comments.

Idaho Transportation Department - See letters for comments

#### **The following agencies provided "No Comment" replies:**

Idaho Department of Environmental Quality

Idaho Department of Fish & Game

Kootenai-Ponderay Sewer District

#### **All other agencies did not reply**

As of the date of this staff report, public comments were received for this file.

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#### **Standards Review and Staff Analysis:**

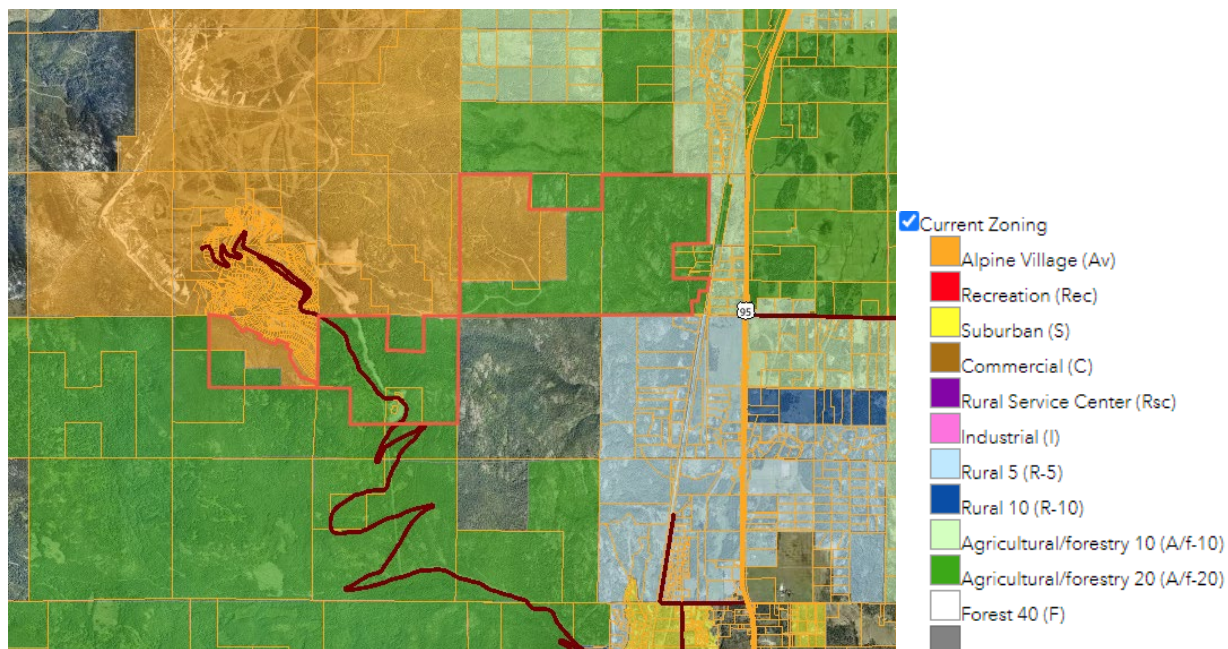
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- **12-111: PURPOSE**
  - The zoning regulations and districts for the unincorporated areas of Bonner County, as herein established, have been made in accordance with a comprehensive plan and Idaho Code for the purpose of promoting the health, safety and general welfare of the people of Bonner County.
- **12-215: Applications for Zone Changes and Comprehensive Plan Map Amendments, Contents**
  - The application was considered complete and routed to agencies accordingly.
- **12-216: Evaluation of Amendment Proposals**
  - Staff and the governing bodies shall review the particular facts and circumstances of each proposal submitted and shall determine whether there is adequate evidence that the proposal is in accordance with the general and specific objectives of the comprehensive plan. (Ord. 501, 11-18-2008)
- **12-320.1: Zoning Districts and Map Designation, Purpose:**
  - The purpose statements for each zone and map designation set forth in the following sections shall be used to guide the application of the zones and designations to all lands in unincorporated Bonner County. The purpose statements also shall guide

interpretation and application of land use regulations within the zones and designations, and any changes to the range of permitted uses within each zone through amendments to this title. (Ord. 501, 11-18-2008)

- **12-320.2:** Zoning Districts and Map Designations Established:
  - In accordance with the provisions of Idaho Code and the objectives set forth in this code, all land in the unincorporated areas of Bonner County is hereby classified according to the following zoning designations and zoning map symbols, which shall be applied as shown on the official zoning district map.
- **12-901:** Conditional Zoning Development Agreements, Purpose"
  - Conditional zoning development agreements are a discretionary tool that may be used by the applicant, planning department, and the board as a condition of rezoning.

### **Current Zoning Designations**



### **12-322 (1): Agricultural/Forestry 20 District**

A. The agricultural/forestry district is established to provide for agricultural and forestry pursuits, including livestock production, forestry, horticulture, floriculture, viticulture, and necessary accessory uses for treating, storing and processing agricultural products. The purpose of the A/F district is to preserve, protect and maintain areas that are rural in character and the integrity of the forest/woodland areas where viable agricultural pursuits can be feasible and to avoid fragmentation of forests and farms. These purposes are accomplished by:

1. Establishing residential density limits and conservation development standards to retain areas sized for efficient farming.



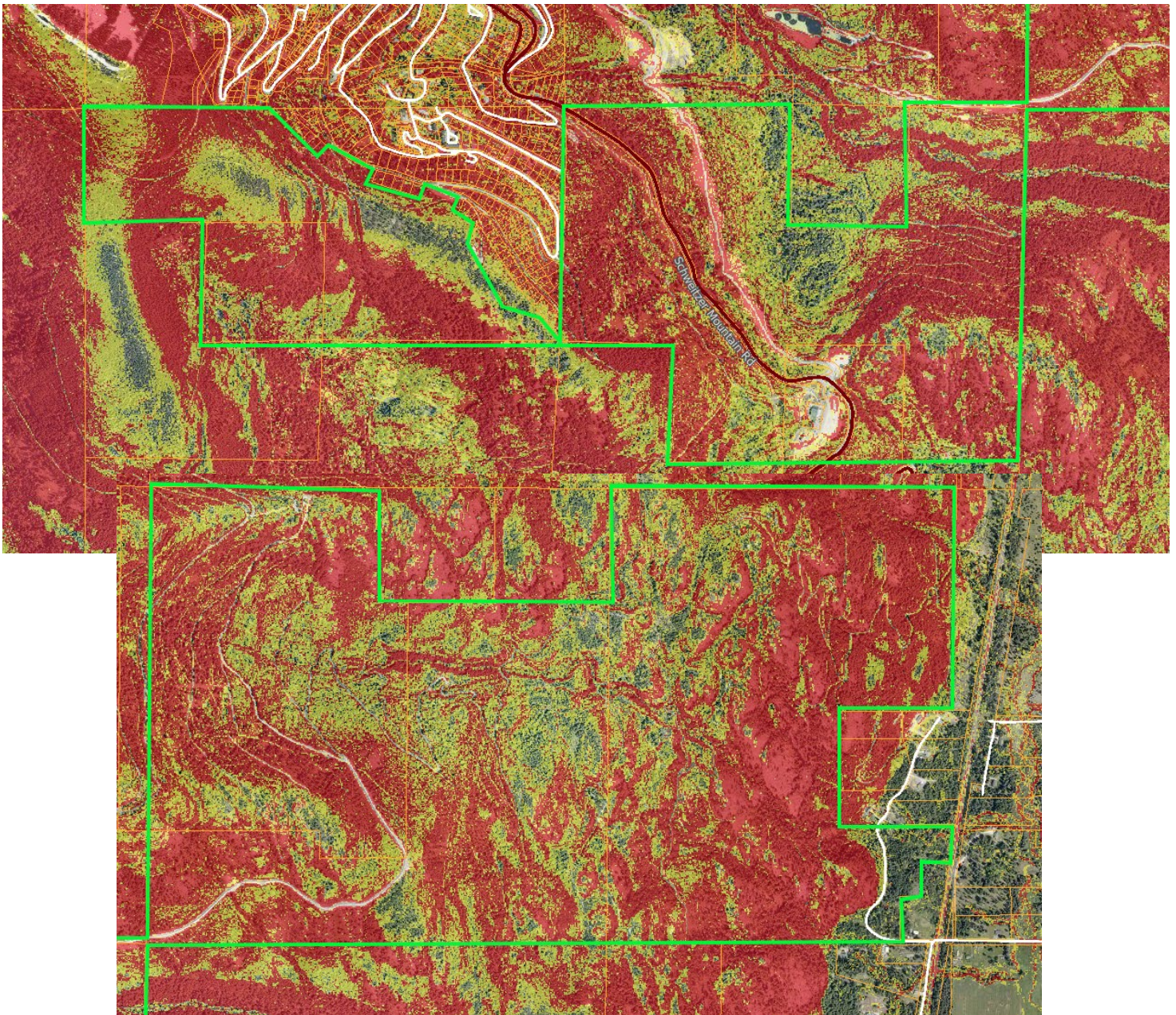




- Mission silt loam, 0 to 2 percent slopes (31)

Mission silt loam is classified as a "prime agricultural soil, if drained". Mission silt loam composes approximately 20-acres of this project, approximately 1.2% of the soil on the property. The lack of prime agricultural soils could pose challenges in furthering any agricultural or forestry pursuits. The subject parcels are surrounded by both government-owned forest land, as well as private ski resort land. Per the applicant, the intent and purpose of this requested zone change is to bring conformity to split-zoned parcels that were included in the original Schweitzer PUD (4-90) as "future expansion". Per the PUD map, these parcels, excluding the Schweitzer Mountain Facilities LLC property (RP58N02W294211A), were included as "future expansion".

**Staff:** Per the applicant, the subject parcels will be served by Schweitzer Water Company, Schweitzer Utility Company, Northern Lights, Inc, Schweitzer Fire District, Northside Fire District, Lake Pend Oreille School District #84, Bonner County Sheriff, and Bonner County EMS services.





**Staff (continued):** The properties in question have slopes between 0-30+%. There are multiple areas on the subject properties with steep slopes (30+%, in red).

The properties in questions are large, ranging in size from 40-acres to 432.33-acres, totaling approximately 1,565-acres. Six (6) of the seven (7) parcels are currently receiving timber or agriculture exemptions, per the Bonner County Assessor data. However, the lack of agricultural soils could pose challenges in maintaining and continuing agricultural or forestry pursuits. As stated by the applicant, these properties, besides one, were included on the approved PUD map as "future expansion", and at the time of approval were zoned Recreation. The parcels have access from public right-of ways, Schweitzer Mountain Road, an Independent Highway District owned and maintained public right-of-way and West Selle Road, a Bonner County owned and maintained public right-of-way. The Independent Highway District made a request, contained in their agency comment, that any future roads on these parcels be put into their ownership.

## **Proposed Zoning Designation**

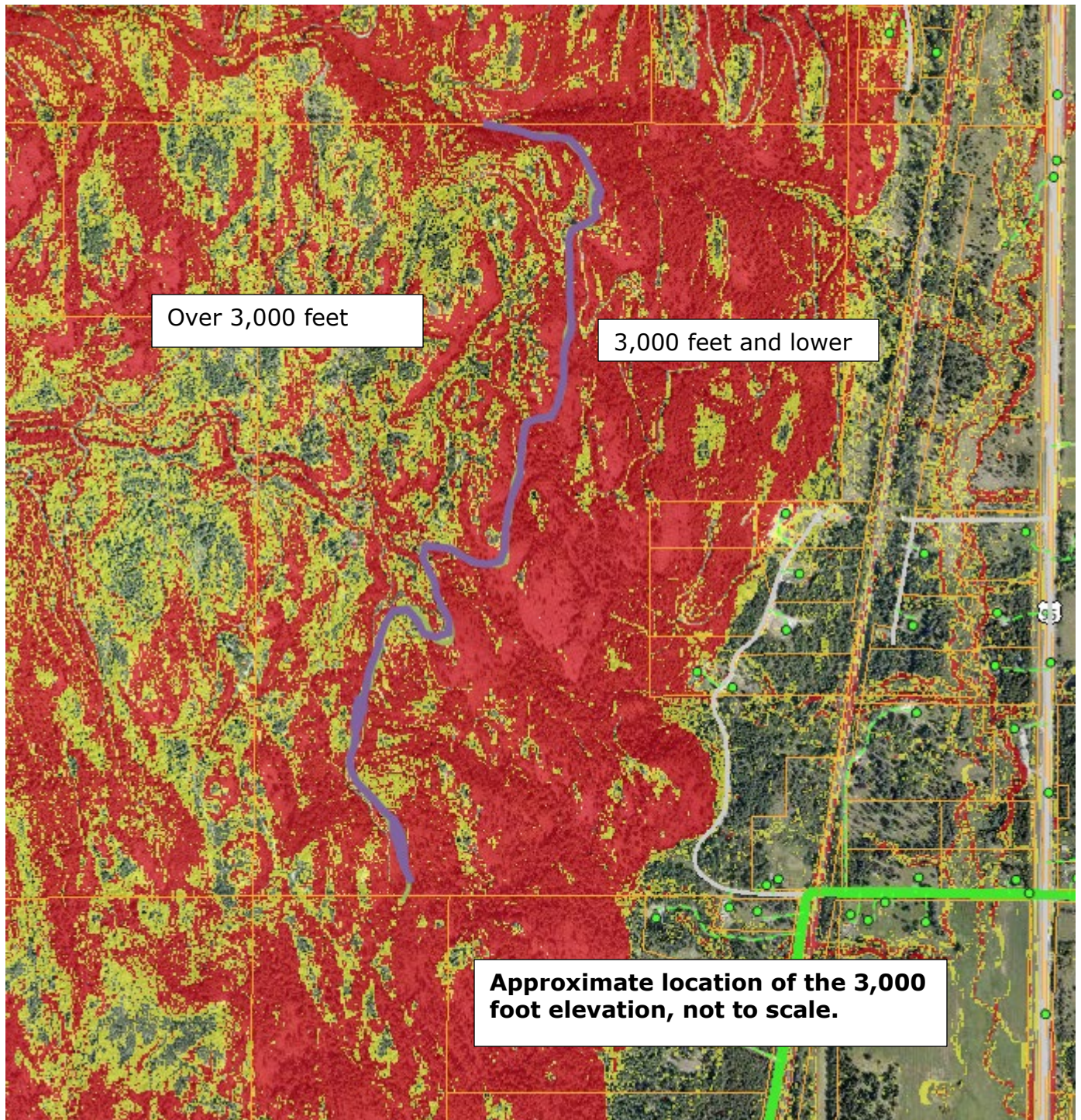
### **12-339: Alpine Village District**

A. The Alpine Village District is established to accommodate recreational development in high elevation communities while recognizing the unique and challenging features of mountain communities. The Alpine Village District is intended to provide for a range of housing types and uses that are accessory and complementary to recreational and residential uses. These purposes are accomplished by:

1. Allowing for a range of housing types.
2. Providing for commercial and private resorts which include a range of recreational activities.
3. Excluding uses that are not compatible with the desired recreational/residential character of the area.
4. Applying development standards that address the unique environmental needs of high elevation communities.

B. Use of this zone is appropriate in areas designated as alpine community by the comprehensive plan. These are areas of the County generally greater than three thousand feet (3,000') in elevation that support and complement mountain recreational activities. Consideration within this district should also be given to potential public and community transportation systems.





**Staff:** The proposed zone change to the Alpine Village District contains parcels located between 2,200 and 5,000+ feet in elevation. These parcels are owned by Schweitzer Mountain Properties, Schweitzer Mountain Facilities, and Husky Land Acquisition, entities associated with Schweitzer Mountain Resort. The purpose of this zone change is to align these parcels with the surrounding properties that are part of a previously approved Planned Unit Development (PUD4-90) and to facilitate future modifications to the PUD map.

Currently, no plans have been submitted to the Bonner County Planning Department indicating an increase in residential densities or the intensification of land use on these parcels or adjacent properties. However, the applicant has expressed an intent to expand workforce housing on portions of these properties. This zone change could enhance the



area's recreational potential by supporting mountain activities such as skiing and snowboarding and addressing infrastructure and workforce development needs.

The parcels are accessible via Schweitzer Mountain Road, maintained by the Independent Highway District, and West Selle Road, a public right-of-way maintained by Bonner County. The applicant has confirmed that these parcels will be serviced by Schweitzer Water Company for water, Schweitzer Utility Company for sewer services, and Northern Lights, Inc. for power.

All development within the Alpine Village District must adhere to the standards outlined in BCRC 12-3.3, 12-4.1, and Title 11. These standards are designed to ensure that development is compatible with the unique environmental conditions of high-elevation communities and supports the recreational and residential character of the area. Additionally, some areas within the Alpine Village District are governed by existing PUDs, which have specific standards approved and enforced by Bonner County.

The proposed zone change does not alter the terms of the previously approved PUD (PUD4-90). Any future modifications to the PUD will require a separate Modification of Terms application and will undergo an additional hearing process. This ensures that any changes are consistent with the county's land use regulations and the intended use of the Alpine Village District.

On September 19, 2024, the Zoning Commission recommended approval of this file, subject to a development agreement that would "to limit the uses below 3,000 feet in elevation to be consistent with the surrounding land uses." The development agreement has been submitted as a part of this file and has been approved by Bonner County Legal, **See Annex B**.

In conjunction with the zone change application, the applicants have also filed for a Comprehensive Plan Map Amendment, file AM0005-24. This amendment seeks to change the land use designation of the parcels from "Prime Ag/Forest Land" and "Alpine Community" to "Alpine Community" entirely. This adjustment is intended to resolve the split-zoning and split-land use designations currently affecting the parcels. On August 6, 2024, the Planning Commission recommended approval of this amendment to the Board of County Commissioners.

Per the application, "The proposed zone change would align these properties with the district's purpose to support recreational and residential uses while addressing the unique environmental needs of mountain areas. The zone change would also facilitate future development that complements the existing character of Schweitzer Mountain Resort and its surrounding properties."

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## **Comprehensive Plan Analysis:**

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### **Property Rights**

#### **Goal:**

1. Protect property rights and enhance property values through conscientious land use planning that complies with state law relevant to all county land use actions.

#### **Objective:**

1. Private property should not be taken for public uses without just compensation or due process of law.

2. Impacts to other properties should be taken into account when considering land use proposals, policies and codes.

**Staff:** The application was routed to neighbors 300' from the property line, informing neighbors of the proposed zone change. As of the date of this staff report, Bonner County Planning Department has received comments on this file.

## **Population**

### **Goal:**

1. Ensure that the impact of demographic changes including generational issues and economic diversity are identified and considered during planning activities and decisions.

### **Objective:**

1. Maintain current and projected county population estimates and utilize this information when making land use decisions.

**Staff:** Bonner County has received the results of the 2020 census. The data indicates the demand for housing and jobs will continue to trend upward in both the unincorporated and incorporated areas of Bonner County.

## **School Facilities & Transportation**

### **Goal:**

1. Preserve the county's commitment to and ability to provide quality education to the current and future students of Bonner County.

### **Objective:**

1. Ensure that the proposed developments and county land use decisions do not adversely impact the local school districts and their ability to provide adequate school facilities and transportation systems.
2. The county should encourage school districts to proactively review development applications to determine particular school needs and concerns.
3. Bonner County roads, trails and bicycle paths should be designed and maintained to allow safe passage of students to schools.
4. Long-term consequences of land use proposals should be considered, including the adequacy of existing facilities and the siting of future schools.

**Staff:** Lake Pend Oreille School District #84 did not comment to how an increase in density and development could affect the schools. Lake Pend Oreille School Transportation that serves the property was notified of the zone change and did not comment.

## **Economic Development**

### **Goal:**

1. Support and encourage economic development.



**Objective:**

1. Support small businesses such as markets, restaurants, recreational activities, campgrounds, and marinas that provide services which support resort residents and visitors in their local communities.
2. Enable development of small-scale cottage industries and home-based occupations while protecting the surrounding areas from adverse impacts.
3. Policies regarding economic development activities should seek to mitigate the impacts of such factors as noise, light glare, odors, fumes and vibrations on the surrounding community.
4. Support local economic development by increasing support for outdoor recreation in Bonner County. Encourage and protect public access to public lands and water, campgrounds, and recreational areas.
5. Support local businesses by enabling development of workforce housing in proximity to commercial, industrial and agricultural uses.

**Staff:** The proposed zone change could lead to economic growth in Bonner County. This proposal, while not a proposal for development, is a necessary step towards development. Any development on these properties could potentially bring new and diverse industries to this area, in addition to potentially bringing new jobs to local businesses. Per the application, the development of workforce housing is planned to be incorporated into the properties.

**Land Use****Goal:**

1. Bonner County intends to balance and integrate its land use policies and proposed land use map with the components of the comprehensive plan to enable the community to grow while retaining its rural character and protecting its unique natural resources.

**Objective:**

1. Bonner County should develop and maintain a future land use map and land use codes that acknowledge and protect its agricultural, timber and mining lands, protects the water and wildlife resources, identifies and avoids hazard areas, provides areas for economic growth, encourages affordable housing and centers growth in areas where adequate public and private services can be provided.
2. Encourage clustered development for medium and large scale commercial and industrial uses.
3. Commercial and industrial uses should be located and operated in a manner to ensure the protection of our natural resources including clean air and water, dark skies, and overall environmental quality and rural character of Bonner County.

**Staff:** The proposed zone change is in keeping with the vision of this goal as this proposal is in an area that provides for a mixture of land uses, in an area that includes higher density residential uses, commercial uses, and recreational opportunities in an established recreational area. Per the applicant, this proposal will contribute to maintaining timber lands, and wildlife resources and corridors.

## **Natural Resources**

### **Goal:**

1. Protect, enhance and maintain the County's natural resources such as air, water, forest, minerals, plants and wildlife for long-term benefits to the public.
2. Acknowledge and consider agency comments regarding natural resources.

### **Objective:**

1. Bonner County's system of lakes and waterways is one of its greatest assets, and Bonner County should strive to preserve both the quality and quantity of its water resources.
2. Bonner County values its productive agricultural lands and forests, mining lands, its fisheries, wildlife, wetlands and aquifer recharge areas and should provide measures to protect and maintain these natural features.
3. Bonner County should protect its water resources by requiring adequate sewer treatment systems based on soil, density, and intensity of use to reduce impacts to water resources.

**Staff:** The properties do contain mapped water features, but do not contain critical wildlife habitats. Furthermore, Bonner County Revised Code has requirements to ensure that natural resources are protected.

## **Hazardous Areas**

### **Goal:**

1. Bonner County's system of lakes and waterways is one of its greatest assets, and Bonner County should strive to preserve both the quality and quantity of its water resources.
2. Bonner County values its productive agricultural lands and forests, mining lands, its fisheries, wildlife, wetlands and aquifer recharge areas and should provide measures to protect and maintain these natural features.
3. Bonner County should protect its water resources by requiring adequate sewer treatment systems based on soil, density, and intensity of use to reduce impacts to water resources.

### **Objective:**

1. Bonner County intends to regulate the location and density of new development in floodplain to reduce the potential for the loss of lives and property within flood hazard areas.
2. Future development should be designed to reduce exposure to wildland fire and to provide for emergency and escape routes for residents.
3. Development within areas of excessive slopes, unstable areas and avalanche zones should be discouraged.

**Staff:** The subject properties are not located in a mapped floodplain. Potential damage to property or people due to soil erosion or avalanches are more likely due to the amount

of snowfall in this area and the excessive slopes on the subject properties. Some properties within the Alpine Village District are governed by existing PUDs, which have specific standards approved and enforced by Bonner County. Additionally, Bonner County has regulations in the Alpine Village District, outside of the PUDs, that are enforced to limit the dangers of erosion and avalanches, per BCRC 12-4.1, and BCRC 12-7.2. Furthermore, the property is provided with emergency services from Bonner County EMS, Bonner County Sheriff, Schweitzer Fire District and Northside Fire District.

## **Public Services, Facilities & Utilities**

### **Goal:**

1. Future development approvals should require adequate services and should not adversely impact the services or utilities of the utility provider.
2. Require adequate public services, facilities, and utilities in future development approvals.

### **Objective:**

1. New development should be adequately served by fire protection, roads, sewer, schools, law enforcement, ambulance, power and emergency services, water and other public or private services.
2. Require the developers to provide infrastructure, utilities or financial support to offset the capital costs of expansion of services, required by the proposed development.
3. Bonner County shall require adequate provisions for future utility services in areas of commercial, industrial, residential or other similar uses.

**Staff:** This proposal is not for development. However, the proposal is currently developed with services including fire, police, EMS, and urban service systems. Any expansions to these services the applicant will need to obtain proper permitting through the appropriate agencies that govern these services.

## **Transportation**

### **Goal:**

1. Provide a transportation system that is safe, uncongested, and well maintained.

### **Objective:**

1. Future development should not adversely impact the existing transportation system by reducing the quality or level of service or creating hazards or congestion.
2. Roads within new development should be built to county standards and at the expense of the developer.
3. Roads within new development should provide adequate access for fire and emergency vehicles as well as routes of escape.
4. Future access roads should be designed and built to integrate with the state and county system of roads without overburdening the transportation system.
5. To reduce transportation costs, road building and environmental impacts, cluster



development should be encouraged.

6. Bonner County intends for certain intense land use developments to provide paved roads.
7. Bike ways and pedestrian paths should be considered in development plans to provide an integrated community transportation system wherever possible.
8. To communicate and work cooperatively with other jurisdictions within the county to ensure the best possible flow of traffic county-wide.

**Staff:** The subject properties are currently within a network of public roads that are constructed and maintained by Bonner County Road and Bridge Department as well as the Independent Highway District. Any additional roads, trails, or paths may be subjected to additional permitting from Bonner County or Independent Highway District.

## **Recreation**

### **Goal:**

1. Protect and encourage public and private recreational opportunities as an important asset that supports a key segment of the County's economy.

### **Objective:**

1. Ensure public legal recreational accesses and amenities are not obstructed or adversely impacted by future development.

**Staff:** Current recreational opportunities for the public that are available in Bonner County could potentially expand with this proposal. While this proposal does not constitute any approval for new use of expansion opportunities, it appears it does not obstruct or limit any of the existing recreational facilities.

## **Special Areas or Sites**

### **Goal:**

1. To protect, preserve and maintain special areas and sites both natural and manmade in relation to land use.

### **Objective:**

1. Future developments should not adversely affect or destroy culturally or ecologically sensitive sites.

**Staff:** This goal appears unaffected by this proposal.

## **Housing**

### **Goal/ Objective:**

1. Provide an environment that enables opportunities for diverse housing needs.

**Staff:** Approval of this request could allow for the possibility to create additional housing in Bonner County. However, the applicants have not proposed any additional housing or development that may lead to residential uses.

## **Community Design**

**Goal:**

1. To enable a variety of lifestyles while maintaining the rural character in the future development of Bonner County.

**Objective:**

1. New development should be located in areas with similar densities and compatible uses.
2. The adverse impacts of new development on adjacent areas should be minimized.
3. Consider the protection of natural resources, rural features and surrounding uses of the community in the design and location of new development.

**Staff:** This request is not for development; however, the proposal is in keeping of the Alpine Village designation. The proposed development agreement will ensure that new development will be compatible with the uses and density of the surrounding area.

**Agriculture**

**Goals/ Objectives:**

1. Protect the rural character and agricultural heritage of Bonner County by retaining large and small scale commercial agriculture and hobby farms as viable uses.
2. Support the local economy by encouraging production, distribution, and retail sales of locally grown food and other agricultural products.
3. Develop policies to discourage fragmentation of very large productive agricultural lands.

**Staff:** This goal appears to be unaffected by this proposal.

**Planner's Initials:** AF

**Date:** **October 16, 2024**

**Zoning Commission Recommendation:** **APPROVE, WITH A DEVELOPMENT AGREEMENT, See Annex B**

**Date:** **September 19, 2024**

**Vote:** **5-0**

Note: The final decision rests with the governing body after the completion of the public hearing and consideration of all relevant oral and written testimony and evidence.

**BOARD OF COUNTY COMMISSIONERS**

**MOTION TO APPROVE:** I move to approve this project, FILE ZC0008-24, requesting a zone change from Agricultural/Forestry 20 and Alpine Village to Alpine Village, on approximately 1,565.44 acres generally located in Sections 22, 23, 28 & 29, Township 58 North, Range 2 West, Boise Meridian, Bonner County, Idaho, finding that it is in accord with the general and

specific objectives of the Bonner County Comprehensive Plan and Bonner County Revised Code as enumerated in the following conclusions of law:

Conclusion 1

The proposal **is** in accord with the elements of the Bonner County Comprehensive Plan.

Conclusion 2

This proposal was reviewed for compliance with Title 12, Bonner County Revised Code, and **is** found to be in compliance.

Conclusion 3

The proposal **is** in accord with the purpose of the Alpine Village zoning designation, provided at Chapter 3, Title 12, Bonner County Revised Code.

This motion is based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. I further move to adopt the findings of fact and conclusions of law as set forth in the Staff Report (or as amended during this hearing) and direct planning staff to draft written findings and conclusions to reflect this motion, have the Chairman sign, and transmit to all interested parties. I further move to adopt the development agreement as presented (or amended). This action does not result in a taking of private property.

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**Zone Change Ordinance Motion: Roll Call Vote**

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I move to approve an Ordinance of Bonner County, Idaho, the number to be assigned, citing its authority, and providing for the amendment of the Official Zoning Map of Bonner County by the classification of lands located in Sections 22, 23, 28 & 29, Township 58 North, Range 2 West, Boise Meridian, Bonner County, Idaho to Recreation, and providing for an effective date.

**BOARD OF COUNTY COMMISSIONERS**

**MOTION TO DENY:** I move to deny this project, FILE ZC0008-24, requesting a zone change from Agricultural/Forestry 20 and Alpine Village to all Alpine Village, on approximately 1,565.44. acres generally located in Sections 22, 23, 28 & 29, Township 58 North, Range 2 West, Boise Meridian, Bonner County, Idaho, based upon the following conclusions:

Conclusion 1

The proposal **is/is not** in accord with the elements of the Bonner County Comprehensive Plan.

Conclusion 2

This proposal was reviewed for compliance with Title 12, Bonner County Revised Code, and **is/is not** found to be in compliance.

Conclusion 3

The proposal **is/ is not** in accord with the purpose of the Alpine Village zoning designation, provided at Chapter 3, Title 12, Bonner County Revised Code.

The motion is based upon the evidence submitted up to the time the Staff Report was prepared, and testimony received at this hearing. I further move to adopt the findings of fact and conclusions of law as set forth in the Staff Report (or as amended during this hearing) and



direct planning staff to draft written findings and conclusions to reflect this motion, have the Chairman sign, and transmit to all interested parties. This action does not result in a taking of private property. The actions that could be taken are:

- 1) File a new application with the Planning Department and meet the standards required by Bonner County Revised Code; or
- 2) Pursue such remedies as may be applicable at Title 67, Chapter 65, Idaho Code.

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**Zone Change Findings of Fact:**

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1. The parcels will be served by Schweitzer Water Company and Schweitzer Mountain Utilities Company.
2. The parcels are all generally at or above 3,000 feet of elevation.
3. Access to the parcels is currently part of a network of developed public rights-of-way.
4. The parcels are accessed from Schweitzer Mountain Road, an Independent Highway District owned and maintained public right-of-way and West Selle Road, a Bonner County owned and maintained public right-of-way, which is directly accessed from Highway 95.
5. The proposal does contain mapped streams and wetlands on some of the parcels.
6. The proposal is not within a mapped critical wildlife habitat.
7. Electricity is provided by Northern Lights, Inc.
8. The properties are within the Schweitzer Fire District and Northside Fire District.
9. Law enforcement and emergency services are provided by Bonner County Sheriff's Department and Bonner County EMS.
10. The applicants have applied for a Comprehensive Plan Map Amendment, AM0005-24, for a change to Alpine Community on these parcels. On August 6, 2024, the Planning Commission recommended approval of this Comprehensive Plan Map Amendment to the Board of County Commissioners.
11. On September 19, 2024, the Zoning Commission recommended approval of this file, subject to a development agreement that would "to limit the uses below 3,000 feet in elevation to be consistent with the surrounding land uses."

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The complete file is available for review in the Planning Department, 1500 Highway 2, Suite #208, Sandpoint, ID. Staff reports are available online prior to the scheduled hearing at [www.bonnercountyid.gov](http://www.bonnercountyid.gov) Bonner County Revised Code (BCRC) is available at the Planning Department or online.

## **ANNEX A- Notice of Public Hearing Record of Mailing**

# **RECORD OF MAILING**

**Page 1 of 1**

**Hearing Date: October 23, 2024**

**File No.: ZC0008-24**

**Record of Mailing Approved By:**



I hereby certify that a true and correct copy of the "Notice of Public Hearing" was digitally transmitted or mailed (postage prepaid) on this **24th** day of **September, 2024**.



**Jessica Montgomery, Hearing Coordinator**

Assessor - Email

Bay Drive Recreation District - Email

BONNER COUNTY DAILY BEE - U.S. Mail

Bonner County Floodplain Review - Email

Bonner County Sheriff - Email

City of Clark Fork - Email

City of East Hope - Email

City of Kootenai - Email

City of Ponderay - Email

City of Sandpoint - Email

Coolin Sewer District - Email

Drainage District #7 - Email

East Priest Lake Fire District - Email

Garfield Bay Water & Sewer District - Email

Granite Reeder Water & Sewer District - Email

Idaho Department of Fish & Game - Email

Idaho Department of Lands - Coolin - Email

Idaho Department of Lands - Sandpoint - Email

Idaho Transportation Department (Aeronautics) - U.S. Mail

Independent Highway District - Email

Kootenai-Ponderay Sewer District - Email

KSPT-KPND-KIBR RADIO - U.S. Mail

Lake Pend Oreille School District, #84 (Admin Office) - Email

Lakeland Joint School District, #272 - Email

North of the Narrows Fire District - Email

Northland/Vyve Cable Television - Email

Outlet Bay Sewer District - Email

Pend Oreille Hospital District - Email

Priest Lake Translator District - Email

Sagle Valley Water & Sewer - Email

Schweitzer Fire District - Email

Selkirk Fire, Rescue & EMS - Email

Southside Water & Sewer District - Email

Spokesman-Review - U.S. Mail

Swan Shores Sewer District - U.S. Mail

Tamarack Village Water & Sewer - U.S. Mail

Trestle Creek Sewer District - Email

U.S. Fish & Wildlife Service - Email

West Bonner County Cemetery District - Email

West Bonner Library - Email

West Pend Oreille Fire District - Email

Avista Utilities - Email

Bayview Water & Sewer - Email

Bonner County EMS - Email

Bonner County Road & Bridge - Email

Bottle Bay Water & Sewer District - Email

City of Dover - Email

City of Hope - Email

City of Oldtown - Email

City of Priest River - Email

City of Spirit Lake - Email

Coolin-Cavanaugh Bay Fire District - Email

East Bonner Library - Email

Ellisport Bay Sewer - Email

GEM STATE MINER - U.S. Mail

Idaho Department of Environmental Quality (DEQ) - Email

Idaho Department of Lands - CDA - U.S. Mail

Idaho Department of Lands - Navigable Waters & Mining - Email

Idaho Department of Water Resources - IDWR - Email

Idaho Transportation Department- District I - Email

Kalispel Bay Sewer & Water - U.S. Mail

KPBX-FM 91 SPOKANE PUBLIC RADIO - U.S. Mail

Laclede Water District - Email

Lake Pend Oreille School District, #84 (Transportation) - Email

Little Blacktail Ranch Water Association - U.S. Mail

Northern Lights, Inc. - Email

Northside Fire District - Email

Panhandle Health District - Email

Bonner County Airport Manager - Email

Priest Lake Public Library District - Email

Sam Owen Fire District - Email

SELKIRK ASSOCIATION OF REALTORS - U.S. Mail

Selkirk Recreation District - Email

Spirit Lake Fire District - Email

State Historical Society - Email

Syringa Heights Water Association - Email

Timber Lake Fire District - Email

U.S. Army Corps of Engineers - Email

U.S. Forest Service - U.S. Mail

West Bonner County School District, #83 - Email

West Bonner Water & Sewer District - Email

West Priest Lake Fire District - Email

## **ANNEX B- Proposed Development Agreement**



## CONDITIONAL ZONING DEVELOPMENT AGREEMENT

**THIS CONDITIONAL ZONING DEVELOPMENT AGREEMENT** (the “Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2024, by and between Bonner County, a political subdivision of the State of Idaho, with its principal place of business being 1500 Highway 2, Sandpoint, Idaho 83864 (the “County”) and Schweitzer Mountain Properties LLC, an Idaho limited liability company, whose address is P.O. Box 1399, Sandpoint, Idaho 83864 (“SMP”) (the County and SMP sometimes referred to herein collectively as the “Parties”).

### WHEREAS:

A. SMP is the owner of that certain real property consisting of Bonner County Parcel No. RP58N02W230602A, more particularly described as follows:

The West half, AND the West half of the Northeast quarter, AND the Southwest quarter of the Southeast quarter all in Section 23, Township 58 North, Range 2 West, Boise Meridian, Bonner County, Idaho.

EXCEPTING therefrom the Great Northern Railroad Main Line right of way;

ALSO EXCEPTING therefrom that portion of the Southwest quarter of the Southeast quarter of said Section 23, described as follows:

Beginning at a point on the South line, 720 feet Easterly of the South quarter corner of said Section 23; Thence North 500 feet;

Thence Easterly parallel with the South Section line, 225 feet; Thence North, 410 feet;

Thence Easterly parallel with the South Section line, 375 feet, more or less, to the East line of the Southwest quarter of the Southeast quarter of said Section 23;

Thence South along said East line 910 feet, more or less, to the South line of said Section 23; Thence Westerly along said South line 600 feet, more or less, to the point of beginning;

TOGETHER WITH the South 40 feet of the following described property lying West of the Railroad right of way:

That portion of the Southwest quarter of the Southeast quarter of said Section 23, described as follows: Beginning at a point on the South line, 720 feet Easterly of the South quarter corner of said Section 23; Thence North 500 feet;

Thence Easterly parallel with the South Section line, 225 feet; Thence North, 410 feet;

Thence Easterly parallel with the South Section line, 375 feet, more or less, to the East line of the Southwest quarter of the Southeast quarter of said Section 23;

Thence South along said East line 910 feet, more or less, to the South line of said Section 23; Thence Westerly along said South line 600 feet, more or less, to the point of beginning;

TOGETHER WITH the North 20 feet of the East 455 feet of the following described property:

Beginning 524.5 feet East of the quarter post on the North line of Section 26, Township 58 North, Range 2 West of the Boise Meridian, Bonner County, Idaho;  
Thence running East on the North line of said Section 26, 555 feet to a point where the County Road intersects the North line of said Section 26;  
Thence Southwesterly along the Westerly line of said County Road, 240 feet to a point;  
Thence in a Westerly direction, 555 feet to a point 240 feet South of the North line of said Section 26;  
Thence North 240 feet to the North line of said Section 26, to the place of beginning.

(the “**SMP Property**”).

B. The SMP Property is currently zoned Agricultural/Forestry 20 under Bonner County Revised Code (“**BCRC**”) Section 12-322(1). Property to the North of the SMP Property includes lands zoned Agriculture/Forestry 10, while property to the South is zoned Rural 5. Surrounding land uses include residential, farming, ranching, timber production and the like, on five (5) acre parcels and larger.

C. Application was made for rezoning of the SMP Property to Alpine Village under BCRC 12-329, in conjunction with other property owned by SMP and others, as more fully described in Bonner County File Number ZC008-24 (the “**Application**”).

D. At a public hearing held September 19, 2024, the Bonner County Zoning Commission (the “**Zoning Commission**”) recommended approval of the Application, subject to the condition that a development agreement be presented to the Board of County Commissioners by the terms of which any development on the SMP Property below 3000 feet in elevation would be consistent with the surrounding zoning and land uses.

E. This Agreement satisfies the requirements for Conditional Zoning Development Agreements contained in BCRC Title 12, Chapter 9, and Idaho Code Section 67-6511A, and consistent with all land use rules, regulations and requirements of the County.

**NOW, THEREFORE**, in consideration for the foregoing recitals, the approval of the Application, and for other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Development of SMP Property. Future development and use of that portion of the SMP Property lying below 3000 feet in elevation shall be limited to those uses described in BCRC 12-330 Subchapter 3.3 to the Rural Zoning District. This Agreement shall not apply to, affect, or limit the future development of that portion of the SMP Property lying above 3000 feet in elevation.

2. Recordation and Rezoning. In accordance with BCRC 12-907, upon approval and execution of this Agreement by the Parties and adoption of a companion ordinance rezoning the SMP Property (together with the property included in the Application) to Alpine Village, this Agreement shall be recorded in the office of the county recorder at the expense of SMP. The

recorded Agreement shall take effect and be in force upon adoption of the approval or order or publication of the ordinance rezoning the SMP Property (together with the property included in the Application) whichever occurs later.

3. Events of Default; Remedies. Upon either Party's failure to comply with any of the terms and conditions or failure to perform any of its obligations under this Agreement or any document and/or instrument given in connection therewith, and where such failure continues for a period of thirty (30) days after written notice sent by certified mail from the non-defaulting Party, the non-defaulting Party may, at its option, declare a default under this Agreement.

a. If SMP is in default, the County may reverse the re-zoning of the SMP Property (but not the balance of the property included in the Application). No change in the zoning designation of the SMP Property may occur without appropriate notice and a public hearing as required by Idaho Code and BCRC for zoning district amendments, and proof by the preponderance of the evidence that a violation remains after an attempt to cure. If the County changes the zoning designation after a hearing, the decision shall be final and further recourse shall be to the District Court as provided by law.

b. If the County is in default, SMP may pursue all legal remedies, including damages (but not consequential damages), as determined by a court of competent jurisdiction.

4. Modification. Any party bound by this Agreement may seek to modify this Agreement in accordance with the procedures set forth in BCRC, including section 12-909 thereof.

5. Notice. All notices required or permitted to be given hereunder shall be in writing and deemed delivered upon personal service or within three (3) days following deposit in the United States mail with first class postage prepaid, at the addresses noted in the preamble to this Agreement.

6. Binding Effect. This Agreement, and all conditions, terms, duties or obligations included herein, shall run with the land and shall be considered to be continuing obligations of the SMP, all subsequent owners, and any other person acquiring an interest in the SMP Property.

7. Attorney Fees. In any action to enforce any provision of this Agreement, the prevailing Party shall be entitled to recover in addition to any other amounts awarded, its reasonable attorney fees and costs of action.

8. Governing Law. This Agreement shall be interpreted and governed by and under the laws of Idaho. The venue for any lawsuit related to this Agreement shall be the First District Court in Bonner County, Idaho.

9. Third Party Rights. Except as otherwise expressly provided in this Agreement, this Agreement shall not create or confer any enforceable rights to any other party which is not the County or SMP based upon the theory of third party beneficiary status.

10. Interpretation of Agreement. This Agreement contains the work product of both parties and any possible ambiguity shall not be construed in favor of one party over the other.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the day and year first above written.

SCHWEITZER MOUNTAIN  
PROPERTIES LLC

BONNER COUNTY

\_\_\_\_\_  
By:  
Its:

\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_

ATTEST: Michael W. Rosedale, Clerk

\_\_\_\_\_  
By Clerk

\_\_\_\_\_  
Date

Legal: \_\_\_\_\_