

## **ADDITIONAL PROJECT DETAILS (STARTING AT PAGE 2 OF 6)**

**Explain in detail why the zone change is necessary.**

### **1. Idaho LLUPA Does Not Require “Necessity”**

Under Idaho’s Local Land Use Planning Act (LLUPA):

- A local government may adopt zoning and zoning changes that are consistent with the comprehensive plan.
- LLUPA does not use “necessity” as a legal standard.
- Instead, it uses consistency, rational planning principles, and evidence-based findings.

That means:

A zone change does not need to be “necessary” in an absolute, objective sense — it must be consistent with the comprehensive plan and supported by facts.

---

### **2. Bonner County Code Does Not Define “Necessary”**

A careful review of the Bonner County Zoning Ordinance does not contain a standard that a zone change must be “necessary” in the sense of being indispensable or required to correct some harm.

If that were the standard, the Code would:

- define what “necessary” means (e.g., to protect public health, safety, welfare), and
- enumerate specific triggers or threshold criteria.

It does not.

Thus, the application question is a procedural prompt, not a strict legal criterion.

### **3. What the County *Really* Requires**

In practice, counties typically evaluate zone changes based on:

#### **A. Consistency With the Comprehensive Plan**

A zone change must logically implement the plan’s land use goals, objectives, and maps.

#### **B. Compliance With Zoning Standards**

Including criteria such as access, services, environmental constraints — *but only as articulated in code and plan.*

## C. Substantial Evidence

The applicant must provide factual support — maps, data, narratives — showing why the proposed zone is appropriate.

Notice what's not required:

- ✘ A demonstration that the zone change is “necessary”
- ✘ A justification of why the current zoning is a disaster that cannot continue
- ✘ A test of “necessity” akin to eminent domain or hardship relief

The County's own code doesn't use that language.

## 4. How Agencies Typically Interpret “Necessary”

When agencies ask applicants why a zone change is “necessary,” what they really mean is:

“Why should the requested zone change be approved under the standards we apply?”

That can legitimately include:

- consistency with comp plan
- compatibility with surroundings
- access and services
- physical suitability
- rationale for the request

It does not mean:

“You must prove that the community cannot survive without this change.”

That would be a legal impossibility standard that does not exist in the code.

## 5. Who *Decides* What Is “Necessary”?

If “necessary” were a legal standard, the only entities authorized to make that decision would be:

- the Board of County Commissioners
- a hearing examiner (if authorized)
- a court (on review)

But the code contains no definition, no criteria, and no list of “necessary conditions.”

So the application's language is likely a catch-all request for explanation, not a substantive threshold standard.

## SUMMARY

The requested zone change is not required to be “necessary” in the strict sense; rather, it must be shown to be consistent with the Comprehensive Plan and Bonner County Code. The subject parcel is currently designated A/F 10–20 in the Comprehensive Plan but is zoned solely A/F-20. The requested A/F-10 zoning implements the Plan’s density framework, as both A/F-10 and A/F-20 are valid implementations of the A/F 10–20 designation under County Code §12-322(B). The parcel is served by county-approved road access, fire protection, and other services, does not contain prime agricultural soil, and is surrounded by mixed parcel sizes consistent with the 10–20 acre density range. This zone change corrects an internal inconsistency between the zoning map and the Comprehensive Plan and aligns the zoning with the statutory criteria for A/F-10 in areas with viable agricultural and forestry uses and standard road access.

### **Is the Comprehensive Plan map designation for this site consistent with the proposed zoning?**

**Answer:**

**YES**

### **Clarification (Highly Recommended to Include):**

The Comprehensive Plan designates the subject parcel as **Agricultural/Forest 10–20 (A/F 10–20)**. Both **A/F-10** and **A/F-20** zoning districts are expressly authorized implementations of this designation under Bonner County Code §12-322. The proposed A/F-10 zoning directly implements the Comprehensive Plan’s density range and is therefore consistent with the Plan map designation.

### **How the Proposal Meets the Specific Criteria of the Proposed Zoning District (BCRC 12-321 through 12-329).**

#### **1. General Compliance with District Purpose (BCRC 12-321)**

BCRC 12-321 establishes the general purpose of zoning districts to promote public health, safety, and welfare through orderly land use regulation consistent with the Comprehensive Plan.

The proposed A/F-10 zoning:

- implements the existing **A/F 10–20 Comprehensive Plan designation**;
- maintains rural character;
- supports agricultural and forestry pursuits;
- applies an intensity level expressly contemplated by the Plan and Code.

The proposal does not introduce a new land use category or expand allowable uses beyond those already permitted in the Agricultural/Forestry district.

## **2. Consistency with Agricultural/Forestry District Intent (BCRC 12-322)**

Under BCRC 12-322, the Agricultural/Forestry district is intended to:

- preserve rural character;
- protect agricultural and forestry lands;
- avoid fragmentation of farms and forests;
- establish appropriate residential density based on land characteristics and services.

The proposal satisfies these objectives by selecting the **A/F-10 zoning option expressly authorized** for ag/forest lands that:

- do not feature prime agricultural soils as a defining characteristic;
- retain viable agricultural and forestry uses; and
- are afforded access to standard roads, fire protection, and other services.

Both A/F-10 and A/F-20 are valid implementations of the Agricultural/Forestry district; the proposal selects the option that most accurately reflects existing site conditions.

## **3. Appropriateness of A/F-10 Zoning (BCRC 12-322(B)(2))**

BCRC 12-322(B)(2) provides that A/F-10 zoning is appropriate in areas designated ag/forest in the Comprehensive Plan that:

- do not feature prime agricultural soils;
- remain viable for agricultural and forestry pursuits;
- may be within or adjacent to areas of city impact; or
- are afforded fire protection, access to standard roads, and other services.

The subject parcel meets these criteria:

- agricultural and forestry uses remain viable;
- access is provided by a county-approved and constructed road;
- fire protection and services are available;
- surrounding parcels reflect mixed parcel sizes within the 10–20 acre range.

These characteristics align directly with the A/F-10 zoning criteria.

#### **4. Compatibility with Surrounding Land Uses (BCRC 12-323)**

BCRC 12-323 requires zoning districts to be applied in a manner compatible with surrounding land uses.

The surrounding area contains:

- multiple 5-10 acre parcels;
- sub-20-acre parcels;
- existing mixed agricultural, forestry, and rural residential uses.

The proposed A/F-10 zoning maintains compatibility with these established patterns and does not introduce an intensity or use that is inconsistent with the surrounding area.

#### **5. Access, Services, and Infrastructure (BCRC 12-324 through 12-326)**

The applicable provisions of BCRC 12-324 through 12-326 emphasize:

- adequate access;
- availability of services;
- functional transportation connections.

The subject parcel:

- is served by a standard, county-approved road;
- is not roadless or service-less;
- has emergency and fire access consistent with A/F-10 criteria.

These factors distinguish the parcel from lands intended for A/F-20 zoning based on limited or absent access.

#### **6. Density and Parcel Pattern Considerations (BCRC 12-327)**

The Comprehensive Plan density framework groups **10–20 acres** as a combined planning category rather than a rigid threshold.

Existing parcelization within the surrounding area demonstrates:

- established densities below 20 acres; Including Twelve -5 ac.parcels and Ten 6.7 ac. – 13.3 ac parcels – within the same vicinity and same zone designation.
- consistency with the transitional density range contemplated by the Plan and Code.

The proposed zoning aligns density regulation with existing development patterns without undermining agricultural or forestry viability.

## **7. Environmental and Resource Considerations (BCRC 12-328)**

Environmental constraints cited for the area — including slopes and habitat considerations — are expressly contemplated within the **10–20 acre planning framework** and do not, by themselves, mandate A/F-20 zoning under the Code.

The proposal does not remove environmental protections or alter applicable development standards.

## **8. Implementation of the Comprehensive Plan (BCRC 12-329)**

BCRC 12-329 emphasizes that zoning districts are tools for implementing the Comprehensive Plan.

The proposed A/F-10 zoning:

- implements the **A/F 10–20 Comprehensive Plan designation**;
- resolves an internal inconsistency between the zoning map and plan density framework;
- applies a zoning classification expressly authorized by County Code for the site’s characteristics.

## **9. Summary Statement**

The proposed A/F-10 zoning meets the specific criteria of BCRC 12-321 through 12-329 by implementing the Comprehensive Plan designation of A/F 10–20, maintaining the intent of the Agricultural/Forestry district, ensuring compatibility with surrounding land uses, and applying a zoning classification that accurately reflects existing access, services, parcel patterns, and land use characteristics. The proposal does not expand allowable uses or intensify development beyond what is contemplated by the Comprehensive Plan and County Code.

## **How the Proposed Zone Change Will Affect Noise, Light Glare, Odor, Fumes, and Vibrations on Adjoining Property**

### **Answer:**

**The proposed zone change from A/F-20 to A/F-10 will not materially increase noise, light glare, odor, fumes, or vibrations on adjoining properties.**

**Both A/F-10 and A/F-20 zoning districts allow the same general categories of agricultural and forestry uses, and the proposed zoning does not introduce new industrial, commercial, or high-intensity uses that would generate these impacts.**

### **Noise**

**Noise levels will remain consistent with existing rural agricultural and forestry activity.**

**The A/F-10 district does not permit uses that generate continuous or industrial-scale noise. Any future development remains subject to applicable County noise regulations.**

## **Light Glare**

**Lighting conditions will remain rural in character.**

**The A/F-10 district does not permit urban-scale or commercial lighting, and any lighting installed must comply with applicable County lighting and glare standards.**

## **Odor**

**Odors associated with agricultural and forestry activities are already permitted under existing A/F-20 zoning.**

**The proposed zoning does not introduce new odor-producing uses beyond those already allowed.**

## **Fumes**

**The A/F-10 district does not authorize industrial processes or emission-generating activities.**

**Any use producing fumes remains subject to state and local environmental regulations, and no increase in fumes is anticipated as a result of the zoning change.**

## **Vibrations**

**Vibration-producing activities are not associated with the permitted uses of the A/F-10 district.**

**No increase in vibration impacts to adjoining properties is anticipated.**

## **Overall Effect**

**Because the proposed zone change maintains the same Agricultural/Forestry land use category and does not expand the range of permitted uses, adjoining properties will experience no discernible change in noise, light glare, odor, fumes, or vibrations compared to existing conditions.**

## **Summary**

**The proposed A/F-10 zoning will not materially affect noise, light glare, odor, fumes, or vibrations on adjoining properties, as it does not introduce new or higher-intensity uses beyond those already permitted under the existing Agricultural/Forestry designation.**

## **How Has the Proposal Been Designed to Be Compatible with Adjoining Land Uses?**

### **Answer:**

The proposed zone change has been designed to be fully compatible with existing adjoining land uses by maintaining the same Agricultural/Forestry land use category, aligning residential density with established parcel patterns, and relying on existing, functioning infrastructure that already serves the surrounding area.

### **1. Compatibility with Existing Land Use Pattern**

The surrounding area is entirely residential in character. There are no active agricultural or forestry operations adjacent to or near the subject parcel. Existing development includes:

- Five recorded plats along the same road system serving approximately 40 lots and parcels
- Twelve (12) five-acre lots within the Liberty Heights Subdivision
- Eight (8) additional lots ranging from approximately 6.7 to 13.3 acres
- Two adjoining 10-acre parcels immediately north of the subject parcel
- All parcels are within the A/F-20 zone, despite lot sizes well below 20 acres

The subject parcel, at 20 acres, is consistent with and larger than many surrounding parcels. The proposed A/F-10 zoning would align regulatory density with the existing residential pattern, rather than introduce a new or incompatible land use.

### **2. Road Access and Transportation Compatibility**

The subject parcel is served by an established, well-designed road system:

- The road network forms a large loop, providing two independent points of ingress and egress
- Majestic Mountain Road benefits from:
  - recorded reciprocal ingress, egress, and utilities easements
  - a community-wide road maintenance agreement
- The roadway averages approximately 24 feet in width
- While privately maintained, the road is county-approved
- The road has been constructed beyond typical county standards, including:
  - engineered stormwater drainage ditches

- erosion control measures
- stable gravel surfacing

**This existing infrastructure already supports the surrounding residential development and is fully compatible with the proposed zoning. The zone change does not require new road construction, new access points, or changes to the existing circulation system.**

### **3. Slopes and Physical Conditions**

**The subject parcel contains a range of slopes:**

- **Approximately 7 acres range from 0% to 15% slope**
- **The remaining acreage exceeds 15% slope**
- **A residential home is already constructed near the center/north portion of the parcel**
- **A second building site exists near the center/south portion of the parcel**

**Importantly:**

- **Similar slope conditions exist throughout the surrounding ridge-top development**
- **Numerous nearby lots and parcels with comparable or steeper slopes have already been developed**
- **Slopes are a site-specific building consideration, not a land-use incompatibility issue**

**Slope suitability is addressed through:**

- **building permits**
- **engineered site design**
- **grading, drainage, and erosion control review**

**These are separate regulatory processes from zoning and do not affect land-use compatibility.**

### **4. Soils and Erosion Considerations**

**The soils on the subject parcel are predominantly rocky, which significantly reduces erosion potential during home construction. Any site-specific concerns related to grading or drainage are governed by:**

- **the Building Department**
- **engineered design requirements**
- **erosion and stormwater standards**

**The proposed zoning does not alter these protections and does not create new erosion risks for adjoining properties.**

## **5. Visual and Residential Context**

**The subject parcel is part of a continuous ridge-top residential community featuring:**

- **long-established homesites**
- **shared scenic vistas of:**
  - **the Clark Fork River and Delta Valley**
  - **Lake Pend Oreille**
  - **the Green Monarch Mountains**

**The proposed zoning does not change building height limits, permitted uses, or rural residential character. Development under A/F-10 would be indistinguishable in appearance and intensity from existing neighboring development.**

## **6. No Introduction of Incompatible Uses**

**The proposed zone change:**

- **does not introduce commercial, industrial, or urban uses**
- **does not increase traffic beyond existing residential patterns**
- **does not conflict with adjacent land uses**
- **maintains the same Agricultural/Forestry land use category**

**The proposal simply aligns density regulation with existing development patterns already present in the area.**

## **7. Compatibility Conclusion**

**The proposed zone change is compatible with adjoining land uses because it:**

- **reflects the existing residential character of the area**
- **aligns zoning with established parcel sizes and development patterns**
- **relies on existing, proven road and access infrastructure**
- **maintains rural character and permitted land uses**
- **defers site-specific slope and construction concerns to appropriate review processes**

## Summary

The proposed zone change is compatible with adjoining land uses because the surrounding area is entirely residential in character, with numerous existing lots ranging from five to thirteen acres and adjoining ten-acre parcels, all served by the same established road system. The subject parcel is accessed by a county-approved loop road providing two points of ingress and egress, supported by recorded access easements and a community road maintenance agreement. Existing development on similar slopes throughout the area demonstrates compatibility, and site-specific slope, drainage, and building considerations are addressed through separate building and engineering review processes. The proposed zoning maintains the same Agricultural/Forestry land use category and aligns regulatory density with established development patterns without introducing incompatible uses.

## **ADDITIONAL PROJECT DETAILS (STARTING AT PAGE 2 OF 6)**

**Explain in detail why the zone change is necessary.**

### **1. Idaho LLUPA Does Not Require “Necessity”**

Under Idaho’s Local Land Use Planning Act (LLUPA):

- A local government may adopt zoning and zoning changes that are consistent with the comprehensive plan.
- LLUPA does not use “necessity” as a legal standard.
- Instead, it uses consistency, rational planning principles, and evidence-based findings.

That means:

A zone change does not need to be “necessary” in an absolute, objective sense — it must be consistent with the comprehensive plan and supported by facts.

---

### **2. Bonner County Code Does Not Define “Necessary”**

A careful review of the Bonner County Zoning Ordinance does not contain a standard that a zone change must be “necessary” in the sense of being indispensable or required to correct some harm.

If that were the standard, the Code would:

- define what “necessary” means (e.g., to protect public health, safety, welfare), and
- enumerate specific triggers or threshold criteria.

It does not.

Thus, the application question is a procedural prompt, not a strict legal criterion.

### **3. What the County *Really* Requires**

In practice, counties typically evaluate zone changes based on:

#### **A. Consistency With the Comprehensive Plan**

A zone change must logically implement the plan’s land use goals, objectives, and maps.

#### **B. Compliance With Zoning Standards**

Including criteria such as access, services, environmental constraints — *but only as articulated in code and plan.*

## C. Substantial Evidence

The applicant must provide factual support, maps, data, narratives, showing why the proposed zone is appropriate.

Notice what's not required:

A demonstration that the zone change is "necessary"

A justification of why the current zoning is a disaster that cannot continue

A test of "necessity" akin to eminent domain or hardship relief

The County's own code doesn't use that language.

## 4. How Agencies Typically Interpret "Necessary"

When agencies ask applicants why a zone change is "necessary," what they really mean is:

"Why should the requested zone change be approved under the standards we apply?"

That can legitimately include:

- consistency with comp plan
- compatibility with surroundings
- access and services
- physical suitability
- rationale for the request

It does not mean:

"You must prove that the community cannot survive without this change."

That would be a legal impossibility standard that does not exist in the code.

## 5. Who Decides What Is "Necessary"?

If "necessary" were a legal standard, the only entities authorized to make that decision would be:

- the Board of County Commissioners
- a hearing examiner (if authorized)
- a court (on review)

But the code contains no definition, no criteria, and no list of "necessary conditions."

So the application's language is likely a catch-all request for explanation, not a substantive threshold standard.

## SUMMARY

The requested zone change is not required to be “necessary” in the strict sense; rather, it must be shown to be consistent with the Comprehensive Plan and Bonner County Code. The subject parcel is currently designated A/F 10–20 in the Comprehensive Plan but is zoned solely A/F-20. The requested A/F-10 zoning implements the Plan’s density framework, as both A/F-10 and A/F-20 are valid implementations of the A/F 10–20 designation under County Code §12-322(B). The parcel is served by county-approved road access, fire protection, and other services, does not contain prime agricultural soil, and is surrounded by mixed parcel sizes consistent with the 10–20 acre density range. This zone change corrects an internal inconsistency between the zoning map and the Comprehensive Plan and aligns the zoning with the statutory criteria for A/F-10 in areas with viable agricultural and forestry uses and standard road access.

### **Is the Comprehensive Plan map designation for this site consistent with the proposed zoning?**

**Answer:**

**YES**

### **Clarification (Highly Recommended to Include):**

The Comprehensive Plan designates the subject parcel as **Agricultural/Forest 10–20 (A/F 10–20)**. Both **A/F-10** and **A/F-20** zoning districts are expressly authorized implementations of this designation under Bonner County Code §12-322. The proposed A/F-10 zoning directly implements the Comprehensive Plan’s density range and is therefore consistent with the Plan map designation.

### **How the Proposal Meets the Specific Criteria of the Proposed Zoning District (BCRC 12-321 through 12-329).**

#### **1. General Compliance with District Purpose (BCRC 12-321)**

BCRC 12-321 establishes the general purpose of zoning districts to promote public health, safety, and welfare through orderly land use regulation consistent with the Comprehensive Plan.

The proposed A/F-10 zoning:

- implements the existing **A/F 10–20 Comprehensive Plan designation**;
- maintains rural character;
- supports agricultural and forestry pursuits;
- applies an intensity level expressly contemplated by the Plan and Code.

The proposal does not introduce a new land use category or expand allowable uses beyond those already permitted in the Agricultural/Forestry district.

## **2. Consistency with Agricultural/Forestry District Intent (BCRC 12-322)**

Under BCRC 12-322, the Agricultural/Forestry district is intended to:

- preserve rural character;
- protect agricultural and forestry lands;
- avoid fragmentation of farms and forests;
- establish appropriate residential density based on land characteristics and services.

The proposal satisfies these objectives by selecting the **A/F-10 zoning option expressly authorized** for ag/forest lands that:

- do not feature prime agricultural soils as a defining characteristic;
- retain viable agricultural and forestry uses; and
- are afforded access to standard roads, fire protection, (See Attached Exhibit 'A', Wildfire Defensible Space and On-Site Fire Suppression Plan), and other services.

Both A/F-10 and A/F-20 are valid implementations of the Agricultural/Forestry district; the proposal selects the option that most accurately reflects existing site conditions.

## **3. Appropriateness of A/F-10 Zoning (BCRC 12-322(B)(2))**

BCRC 12-322(B)(2) provides that A/F-10 zoning is appropriate in areas designated ag/forest in the Comprehensive Plan that:

- does not feature prime agricultural soils;
- remains viable for agricultural and forestry pursuits;
- may be within or adjacent to areas of city impact; or
- are afforded fire protection, (See attached Exhibit 'A') access to standard roads, and other services.

The subject parcel meets these criteria:

- agricultural and forestry uses remain viable;
- access is provided by a county-approved and constructed road;
- fire protection and services are available, (See Attached Exhibit 'A');
- surrounding parcels reflect mixed parcel sizes within the 5-10–20 acre range.

These characteristics align directly with the A/F-10 zoning criteria.

#### **4. Compatibility with Surrounding Land Uses (BCRC 12-323)**

BCRC 12-323 requires zoning districts to be applied in a manner compatible with surrounding land uses.

The surrounding area on Majestic Mt. Road contains: Liberty Heights -four-5 /acre lots. Liberty Heights 1<sup>st</sup> Addn. – twelve-5 acre lots. Farand Estates, one-8.4 ac lot & one-11.6 ac. lot. Jobb Estates, one-9.4 ac lot & one-10.6 ac. lot. Winslow Estates, one-7.7 ac lot & one-12.3 ac lot. Terrell Estates, one 13.3 ac lot & one 6.7 ac lot. Starting at 0.37 mile north of subject property. Along with two 10 ac parcels common with the north line of the subject parcel.

- multiple 5-10 acre parcels;
- sub-20-acre parcels;
- existing mixed agricultural, forestry, and rural residential uses.

The proposed A/F-10 zoning maintains compatibility with these established patterns and does not introduce an intensity or use that is inconsistent with the surrounding area.

**It is extremely important to note the vast and existing A/F-10 zone as created by Bonner County, lying to the west and north adjoining lands, containing over five sections equaling 3500 acres. The steep terrain is equal to or greater than our subject property. There is an extreme lack of roads and services, there are 5 ac parcels located on steeper grade, several sub-20 ac. And large tracts of land.**

***The proposed zone change must be evaluated in the context of surrounding development patterns. Immediately adjoining lands to the west are zoned AF-10 across approximately thirty five hundred acres. Those lands include steeper terrain, limited or no established road infrastructure, existing parcels at five acres, and other sub-twenty-acre configurations. In contrast, the subject property has established access, gentler topography, and proposed lot sizes that meet or exceed ten acres. The biggest difference between the westerly adjoiner, being the existing AF-10, and the AF-20 zone is the section line, having nothing to do with zone determination factors. Denial of this application based on the same physical feature concerns would result in an inconsistent application of the zoning standards relative to adjacent lands that were county established as acceptable for A/F 10 zoning.***

***The County has deemed the westerly adjoining section as acceptable and fitting with the AF-10 zone requirements. The subject property has existing and improved access, and documented wildfire mitigation. Denial of this request would apply a higher standard to this parcel than to immediately adjacent lands, creating an inequitable, arbitrary and capricious outcome.***

## **5. Access, Services, and Infrastructure (BCRC 12-324 through 12-326)**

The applicable provisions of BCRC 12-324 through 12-326 emphasize:

- adequate access;
- availability of services;
- functional transportation connections.

The subject parcel:

- is served by an above standards, county-style private road;
- is not roadless or service-less;
- has emergency and fire access, if ever needed, consistent with A/F-10 criteria. (See attached Exhibit 'A')

These factors distinguish the parcel from lands intended for A/F-20 zoning based on limited or absent access.

## **6. Density and Parcel Pattern Considerations (BCRC 12-327)**

The Comprehensive Plan density framework groups **10–20 acres** as a combined planning category rather than a rigid threshold.

Existing parcelization within the surrounding area demonstrates:

- established densities below 20 acres; Including Twelve -5 ac.parcels and Ten 6.7 ac. – 13.3 ac parcels – within the same vicinity and same zone designation.
- consistency with the transitional density range contemplated by the Plan and Code.

The proposed zoning aligns density regulation with existing development patterns without undermining agricultural or forestry viability.

## **7. Environmental and Resource Considerations (BCRC 12-328)**

Environmental constraints cited for the area — including slopes and habitat considerations — are expressly contemplated within the **10–20 acre planning framework** and do not, by themselves, mandate A/F-20 zoning under the Code.

The proposal does not remove environmental protections or alter applicable development standards.

## **8. Implementation of the Comprehensive Plan (BCRC 12-329)**

BCRC 12-329 emphasizes that zoning districts are tools for implementing the Comprehensive Plan.

The proposed A/F-10 zoning:

- implements the **A/F 10–20 Comprehensive Plan designation**;
- resolves an internal inconsistency between the zoning map and plan density framework;

- applies a zoning classification expressly authorized by County Code for the site's characteristics.

## **9. Summary Statement**

The proposed A/F-10 zoning meets the specific criteria of BCRC 12-321 through 12-329 by implementing the Comprehensive Plan designation of A/F 10–20, maintaining the intent of the Agricultural/Forestry district, ensuring compatibility with surrounding land uses, and applying a zoning classification that accurately reflects existing access, services, parcel patterns, and land use characteristics. The proposal does not expand allowable uses or intensify development beyond what is contemplated by the Comprehensive Plan and County Code.

### **How the Proposed Zone Change Will Affect Noise, Light Glare, Odor, Fumes, and Vibrations on Adjoining Property**

#### **Answer:**

**The proposed zone change from A/F-20 to A/F-10 will not materially increase noise, light glare, odor, fumes, or vibrations on adjoining properties.**

**Both A/F-10 and A/F-20 zoning districts allow the same general categories of agricultural and forestry uses, and the proposed zoning does not introduce new industrial, commercial, or high-intensity uses that would generate these impacts.**

#### **Noise**

**Noise levels will remain consistent with existing rural agricultural and forestry activity. The A/F-10 district does not permit uses that generate continuous or industrial-scale noise. Any future development remains subject to applicable County noise regulations.**

#### **Light Glare**

**Lighting conditions will remain rural in character. The A/F-10 district does not permit urban-scale or commercial lighting, and any lighting installed must comply with applicable County lighting and glare standards.**

#### **Odor**

**Odors associated with agricultural and forestry activities are already permitted under existing A/F-20 zoning. The proposed zoning does not introduce new odor-producing uses beyond those already allowed.**

#### **Fumes**

**The A/F-10 district does not authorize industrial processes or emission-generating activities. Any use producing fumes remains subject to state and local environmental regulations, and no increase in fumes is anticipated as a result of the zoning change.**

## **Vibrations**

**Vibration-producing activities are not associated with the permitted uses of the A/F-10 district. No increase in vibration impacts to adjoining properties is anticipated.**

## **Overall Effect**

**Because the proposed zone change maintains the same Agricultural/Forestry land use category and does not expand the range of permitted uses, adjoining properties will experience no discernible change in noise, light glare, odor, fumes, or vibrations compared to existing conditions.**

## **Summary**

**The proposed A/F-10 zoning will not materially affect noise, light glare, odor, fumes, or vibrations on adjoining properties, as it does not introduce new or higher-intensity uses beyond those already permitted under the existing Agricultural/Forestry designation.**

## **How Has the Proposal Been Designed to Be Compatible with Adjoining Land Uses?**

### **Answer:**

**The proposed zone change has been designed to be fully compatible with existing adjoining land uses by maintaining the same Agricultural/Forestry land use category, aligning residential density with established parcel patterns, and relying on existing, functioning infrastructure that already serves the surrounding area.**

### **1. Compatibility with Existing Land Use Pattern**

**The surrounding area is entirely residential in character. There are no active agricultural or forestry operations adjacent to or near the subject parcel. Existing development includes:**

- Five recorded plats along the same road system serving approximately 40 lots and parcels**
- Twelve (12) five-acre lots within the Liberty Heights Subdivision**
- Eight (8) additional lots ranging from approximately 6.7 to 13.3 acres**
- Two adjoining 10-acre parcels immediately north of the subject parcel**
- All parcels are within the A/F-20 zone, despite lot sizes well below 20 acres**

**The subject parcel, at 20 acres, is consistent with and larger than many surrounding parcels. The proposed A/F-10 zoning would align regulatory density with the existing residential pattern, rather than introduce a new or incompatible land use.**

## **2. Road Access and Transportation Compatibility**

The subject parcel is served by an established, well-designed road system:

- The road network forms a large loop, providing two independent points of ingress and egress
- Majestic Mountain Road benefits from:
  - recorded reciprocal ingress, egress, and utilities easements
  - a community-wide road maintenance agreement
- The roadway averages 24 feet in width
- While privately maintained, the road meets or exceeds county road standards
- The road has been constructed to county standards, including:
  - engineered stormwater drainage ditches
  - erosion control measures
  - stable gravel surfacing

This existing infrastructure already supports the surrounding residential development and is fully compatible with the proposed zoning. The zone change does not require new road construction, new access points, or changes to the existing circulation system.

## **3. Slopes and Physical Conditions**

The subject parcel contains a range of slopes:

- Approximately 7 acres range from 0% to 15% slope
- The remaining acreage exceeds 15% slope
- A residential home is already constructed near the center/north portion of the parcel
- A second building site exists near the center/south portion of the parcel

Importantly:

- Similar slope conditions exist throughout the surrounding ridge-top development
- Numerous nearby lots and parcels with comparable or steeper slopes have already been developed
- There are homesite specific locations that are mostly flat on the crest and top of the existing ridge. Even though the homesites will not be located on any slopes, the slopes are a site-specific building consideration, not a land-use incompatibility issue

Slope suitability is addressed through:

- **building permits**
- **engineered site design, (if necessary)**
- **grading, drainage, and erosion control review**

**These are separate regulatory processes from zoning and do not affect land-use compatibility.**

#### **4. Soils and Erosion Considerations**

**The soils on the subject parcel are predominantly rocky, which significantly reduces erosion potential during home construction. Any site-specific concerns related to grading or drainage are governed by:**

- **the Building Department**
- **engineered design requirements**
- **erosion and stormwater standards**

**The proposed zoning does not alter these protections and does not create new erosion risks for adjoining properties.**

#### **5. Visual and Residential Context**

**The subject parcel is part of a continuous ridge-top residential community featuring:**

- **long-established homesites accessing a view corridor. The westerly cliff is non-buildable, and protects the views of the property owners.**
- **shared scenic vistas of:**
  - **the Clark Fork River and Delta Valley**
  - **Lake Pend Oreille**
  - **the Green Monarch Mountains**

**The proposed zoning does not change building height limits, permitted uses, or rural residential character. Development under A/F-10 would be indistinguishable in appearance and intensity from existing neighboring development.**

#### **6. No Introduction of Incompatible Uses**

**The proposed zone change:**

- **does not introduce commercial, industrial, or urban uses**
- **does not increase traffic beyond existing residential patterns**
- **does not conflict with adjacent land uses**
- **maintains the same Agricultural/Forestry land use category**

The proposal simply aligns density regulation with existing development patterns already present in the area.

## **7. Compatibility Conclusion**

The proposed zone change is compatible with adjoining land uses because it:

- reflects the existing residential character of the area
- aligns zoning with established parcel sizes and development patterns
- relies on existing, proven road and access infrastructure
- maintains rural character and permitted land uses
- defers site-specific slope and construction concerns to appropriate review processes

## **Summary**

The proposed zone change is compatible with adjoining land uses because the surrounding area is entirely residential in character, with numerous existing lots ranging from five to thirteen acres and adjoining ten-acre parcels, all served by the same established road system. The subject parcel is accessed by a county-approved loop road providing two points of ingress and egress, supported by recorded access easements and a community road maintenance agreement. Existing development on similar slopes throughout the area demonstrates compatibility, and site-specific slope, drainage, and building considerations are addressed through separate building and engineering review processes. The proposed zoning maintains the same Agricultural/Forestry land use category and aligns regulatory density with established development patterns without introducing incompatible uses. The proposed zone change not only matches but exceeds the the conditions of approval of the westerly existing and adjoining AF-10 zone.

# EXHIBIT A

## Wildfire Defensible Space & On-Site Fire Suppression Plan

*(20-Acre Parcel / Proposed 10-Acre Split)*

### Purpose

This plan demonstrates prudent forethought and self-reliant wildfire mitigation for a rural property not located within a fire district. The plan does not rely on guaranteed fire-district response, and instead establishes layered, on-site fire defense measures appropriate to a forest-interface setting surrounded by federal and state lands.

---

## A. SITE CONDITIONS

- **Parcel size:** 20 acres
  - **Proposed configuration:** Two 10-acre parcels
  - **Setting:** Wildland–Urban Interface (WUI)
  - **Surroundings:** Federal and State forest lands
  - **Access:** Private road system (existing, improved, all-weather)
- 

## B. DEFENSIBLE SPACE PLAN (HOME IGNITION ZONE APPROACH)

### Zone 0 — Immediate Structure Zone (0–5 feet)

**Objective:** Prevent ember ignition at the structure.

- **Noncombustible surface** (gravel, rock, pavers)
- **No bark mulch, firewood, propane tanks, or combustible storage**
- **Roof, gutters, decks kept free of needles and debris**
- **Wood fencing separated from structures by noncombustible breaks**

## **Zone 1 — Intermediate Zone (5–30 feet)**

**Objective: Reduce flame length and radiant heat.**

- **Ladder fuels removed**
- **Shrubs separated from tree canopies**
- **Tree limbs pruned up**
- **Grass and ground cover maintained in a lean, green condition**

## **Zone 2 — Extended Zone (30–100+ feet)**

**Objective: Reduce wildfire intensity and crown-fire potential.**

- **Thinning of trees to interrupt continuous canopy**
- **Surface fuels reduced**
- **Slash removed or dispersed**
- **Extended beyond 100 feet where terrain and ownership allow**

## **Maintenance Commitment**

- **Annual spring and fall fuel reduction**
  - **Seasonal inspection prior to fire season**
  - **Ongoing road shoulder clearing for emergency access**
- 

## **C. STRUCTURE HARDENING MEASURES**

**Each future residence shall incorporate wildfire-resistant construction features:**

- **Class A fire-rated roofing**
  - **Ember-resistant vents**
  - **Enclosed or protected eaves**
  - **Screened crawlspace openings**
  - **Noncombustible or protected deck supports**
  - **Clearly posted reflective address signage**
-

## **D. ON-SITE FIRE SUPPRESSION SYSTEM (INDEPENDENT OF FIRE DISTRICT)**

### **1. Interior Fire Control — Residential Suppression**

Each residence shall be equipped with:

- **NFPA 13D-compliant residential fire sprinkler system**
- **Freeze-protected design appropriate to North Idaho climate**
- **Independent water supply and pump sufficient to meet design flow**

**Purpose:**

**To control interior fires during the critical early window without reliance on external fire response.**

---

### **2. Water Supply & Pump System**

- **Dedicated on-site water storage**
  - **Pump sized for sprinkler demand**
  - **Isolation from domestic use to preserve emergency reserve**
  - **Clearly marked emergency connection point accessible from driveway**
- 

### **3. Exterior / Interface Capability**

- **Fire-service compatible connection or drafting point**
  - **All-weather access to the structure**
  - **Turnaround area for emergency or suppression vehicles**
  - **Generator-ready power provision for pump operation during outages**
- 

## **E. FUNCTIONAL BENEFIT**

**This system:**

- **Operates without reliance on a fire district**
- **Supports homeowner-initiated suppression**
- **Allows mutual aid, state, or federal resources to interface quickly if available**
- **Reduces ignition probability and loss severity**
- **Demonstrates self-sufficiency appropriate to rural development**

---

## **EXHIBIT B**

### **ZONE CHANGE APPLICATION – REQUIRED NARRATIVE**

*(20 Acres → 10-Acre Minimum Lot Size)*

#### **1. REQUEST**

The applicant requests a zone change to allow a minimum lot size of 10 acres, enabling a two-parcel split of an existing 20-acre property.

---

#### **2. CONSISTENCY WITH SURROUNDING LAND USES**

The proposed 10-acre configuration is consistent with existing rural land-use patterns in the surrounding East Spring Creek / Majestic Mountain Road area, where large-acreage parcels, private roads, and self-maintained infrastructure are common.

The proposal does not introduce urban density, public road demand, or incompatible uses. The character of the area remains rural, forested, and low intensity.

---

#### **3. TRANSPORTATION AND ACCESS**

- Access is provided by Majestic Mountain Road, a 60' wide right of way, private road system.
- The road is constructed to a 24' wide, all-weather standard, meeting Bonner County 'C' road requirement.
- The road system, and turnarounds throughout the access corridors are part of a community wide maintenance agreement. This includes Grading/ filling pot holes, repair of drainage issues, Maintenance of the right of way, repair of any surface damage and fee collection from all property owners for maintenance purposes. See Road Maintenance Association Formation Agreement Inst. no. 721517, Easement for Ingress, Egress, & Utilities, Inst no. 722470, Grant of Reciprocal Easements (includes Maintenance Agreement) Inst. no. 729822, Declaration of Restrictive Covenants, Inst. no. 721516.
- No public road dedication or maintenance is requested

The proposal does not burden county-maintained roads.

## **4. PUBLIC SERVICES AND FACILITIES**

### **Fire Protection**

**The property is not located within a fire district. The applicant does not assume or rely upon guaranteed fire-district response.**

**Instead, the applicant proposes:**

- **A Defensible Space Plan**
- **NFPA 13D residential fire sprinkler systems**
- **On-site water storage and pump systems**
- **Structure hardening and wildfire mitigation measures**

**This approach provides prudent, self-reliant fire protection appropriate to a rural, forest-interface setting and exceeds reliance on discretionary external response.**

### **Other Services**

- **No public water or sewer is requested**
  - **Utilities are privately provided**
  - **No impact to schools, law enforcement, or county facilities beyond existing rural conditions**
- 

## **5. ENVIRONMENTAL CONSIDERATIONS**

- **Large lot sizes preserve open space**
  - **Reduced development footprint minimizes disturbance**
  - **Defensible space treatments are consistent with wildfire risk reduction**
  - **No increase in erosion, runoff, or habitat fragmentation beyond existing rural norms**
- 

## **6. HEALTH, SAFETY, AND WELFARE**

**The proposal promotes public safety by:**

- **Reducing wildfire risk through defensible space**
  - **Providing on-site suppression capability**
  - **Avoiding overreliance on distant or discretionary emergency services**
  - **Maintaining low-density development consistent with evacuation realities**
-

## 7. FINDINGS SUPPORT

The proposed zone change:

- Is compatible with surrounding land uses
  - Does not create demand for public infrastructure
  - Incorporates proactive wildfire mitigation
  - Reflects prudent rural development practices
  - Is consistent with the county's historical approach to similar rural approvals
- 

## 8. CONCLUSION

The requested zone change represents a measured, responsible adjustment that allows reasonable land use while addressing wildfire risk through self-sufficient mitigation strategies. The application demonstrates forethought, compatibility, and a commitment to safety without transferring responsibility to the County or fire districts.

*The absence of fire district jurisdiction is not, by itself, a lawful or rational basis for denial of this zone change. Rural development in Bonner County has long occurred outside fire districts, and County approvals have historically relied on private access, large lot sizes, and self-reliant mitigation rather than guaranteed structural response. This application does not assume or request fire district service. Instead, it demonstrates prudent forethought through defensible space, wildfire-resistant construction, and on-site fire suppression systems designed to function independently of district response. Fire protection districts operate by jurisdiction and taxation, not proximity, and discretionary response cannot be imposed as a condition of land use. The proposed 10-acre configuration reduces fire risk compared to higher densities and incorporates mitigation measures that materially improve life-safety and survivability. Denial based solely on fire district boundaries would be inconsistent with past County practice and would improperly substitute governance boundaries for actual risk mitigation.*

# **LEGAL FRAMEWORK GOVERNING ZONE CHANGE DECISIONS**

## **Idaho Case Law on Evidence, Consistency, and Mitigation**

### **Purpose of this Memorandum**

**This memorandum is submitted to assist the County in evaluating the proposed zone change in a manner consistent with Idaho land-use law. It summarizes controlling Idaho case law that governs zoning decisions, particularly where concerns are raised regarding public safety, emergency services, mitigation, and consistency with surrounding land uses.**

**The intent is to clarify the legal standards applicable to zone change decisions and to ensure that findings are supported by substantial evidence, applied consistently, and grounded in adopted ordinances.**

---

### **1. Hill v. Kootenai County, 135 Idaho 145 (2001)**

#### **Issue**

**Whether a county may deny a land-use application based on generalized concerns or policy preferences without substantial evidence in the record demonstrating that the specific proposal creates an adverse impact.**

#### **Result / Holding**

**The Idaho Supreme Court held that land-use decisions must be supported by substantial evidence. Generalized concerns, speculative impacts, or conclusory statements are insufficient to justify denial.**

#### **Legal Principle**

**A county must demonstrate, through evidence in the record, that the particular application creates an identifiable impact inconsistent with ordinance standards.**

#### **Relevance to This Application**

**Concerns regarding fire protection, emergency response, or public safety must be tied to objective standards and specific impacts created by the proposed zone change, not generalized risk associated with rural development.**

## **2. Evans v. Board of County Commissioners, 137 Idaho 428 (2002)**

### **Issue**

Whether a local government may apply more restrictive standards to one parcel than to similarly situated neighboring parcels without a rational basis.

### **Result / Holding**

The Court held that treating similarly situated properties differently without a rational, evidence-based justification constitutes arbitrary and capricious decision-making.

### **Legal Principle**

Land-use regulations must be applied consistently. When adjacent or nearby properties are subject to the same or more permissive standards, a higher burden may not be imposed on a single applicant absent a defensible distinction.

### **Relevance to This Application**

Adjoining lands zoned AF-10 include steeper terrain, limited access, and smaller parcel sizes. Applying a more restrictive standard to the subject parcel—without evidence of a greater impact—would conflict with this precedent.

---

## **3. Cooper v. Board of County Commissioners, 101 Idaho 407 (1980)**

### **Issue**

Whether a zoning denial may be based on speculative future impacts or hypothetical concerns not supported by evidence.

### **Result / Holding**

The Court ruled that speculation and conjecture cannot serve as a basis for denying a land-use application.

### **Legal Principle**

Denials must be grounded in demonstrable impacts, not assumptions about what might occur under uncertain future conditions.

### **Relevance to This Application**

Arguments that fire protection “may not be available,” that response “cannot be assured,” or that future conditions “could become unsafe” are speculative unless tied to measurable ordinance standards or evidence showing a unique risk created by this proposal.

---

#### **4. Sprenger, Grubb & Associates v. City of Hailey, 127 Idaho 576 (1995)**

##### **Issue**

Whether a governing body may deny an application based on criteria not expressly stated in its adopted ordinances.

##### **Result / Holding**

The Court held that a local government must apply its ordinances as written and may not impose unwritten or ad hoc standards during the approval process.

##### **Legal Principle**

Zoning decisions must be based on codified requirements, not expectations, preferences, or informal policies.

##### **Relevance to This Application**

Bonner County zoning ordinances do not require inclusion in a fire district or guaranteed structural fire response as a condition of zoning. Denial on that basis would introduce an extra-regulatory criterion not found in the code.

---

#### **5. J.R. Simplot Co. v. Bannock County, 125 Idaho 809 (1994)**

##### **Issue**

Whether a county may disregard or ignore mitigation measures proposed by an applicant when evaluating land-use impacts.

##### **Result / Holding**

The Court held that when mitigation is proposed, the governing body must either accept it or make specific findings explaining why the mitigation is inadequate.

##### **Legal Principle**

Failure to meaningfully address mitigation measures renders a denial unsupported by substantial evidence.

##### **Relevance to This Application**

The applicant has proposed defensible space, wildfire-resistant construction, and on-site fire suppression systems. Any denial must specifically explain—based on evidence—why those measures fail to address the stated concerns.

---

## **Summary of Legal Standards**

**Collectively, Idaho case law establishes that:**

- **Zoning decisions must be supported by substantial evidence**
  - **Speculative risk is not a valid basis for denial**
  - **Similarly situated properties must be treated consistently**
  - **Counties must apply only adopted ordinance standards**
  - **Mitigation measures must be addressed, not ignored**
- 

## **Closing Statement for the Record**

**This memorandum is submitted to assist the County in making findings that are consistent with Idaho law. The proposed zone change should be evaluated based on objective ordinance standards, documented impacts, and the mitigation measures offered—rather than speculative concerns or criteria not contained in the zoning code.**

---

# MEMORANDUM

## Use of a Section Line as the Sole Basis for Zoning Distinction

AF-20 vs. AF-10 Across Identical Conditions

To: Bonner County Planning & Zoning / Board of County Commissioners

From: Applicant

Re: Zone Change – AF-20 to AF-10 (20-Acre Parcel / Proposed 10-Acre Split)

---

### ISSUE PRESENTED

Whether the County may lawfully deny a zone change where the only asserted distinction between the subject property (AF-20) and immediately adjacent properties (AF-10) is the location of a section line, despite identical land geography, road systems, lot sizes, and development patterns on both sides of that line.

---

### FACTUAL CONTEXT (UNDISPUTED)

- The subject parcel is AF-20; adjacent lands to the west are AF-10.
  - The north section line repeats the same zoning split (AF-20 on one side, AF-10 on the other).
  - On both sides of the section line(s):
    - Existing subdivisions contain five-acre lots,
    - Topography and wildfire conditions are comparable, and
    - The same private road systems serve development.
  - No material physical, environmental, or infrastructure change occurs at the section line.
- 

### APPLICABLE IDAHO LAW

#### 1) Equal Treatment / Rational Basis

Evans v. Board of County Commissioners, 137 Idaho 428 (2002)

**Issue:** Whether similarly situated properties may be regulated differently without a rational basis.

**Result:** The Court held that differential treatment of similarly situated land without a rational, evidence-based distinction is arbitrary and capricious.

**Application here:**

**Where conditions do not change at the section line, zoning that does change at that line—without evidence explaining *why*—lacks a rational basis.**

---

## **2) Speculation Is Not Evidence**

**Cooper v. Board of County Commissioners, 101 Idaho 407 (1980)**

**Issue: Whether denial may rest on hypothetical or generalized concerns.**

**Result: Speculation and conjecture cannot justify land-use decisions.**

**Application here:**

**Asserting that one side of a section line warrants a different zone—without evidence of a real, site-specific difference—is speculative.**

---

## **3) Substantial Evidence Requirement**

**Hill v. Kootenai County, 135 Idaho 145 (2001)**

**Issue: Whether generalized policy preferences can support denial.**

**Result: Decisions must be supported by substantial evidence in the record tied to the specific application.**

**Application here:**

**A section line is a survey construct, not evidence of differing land-use impacts. Without evidence of a change in conditions, the record lacks substantial evidence to support different zoning.**

---

## **4) Ordinances Must Be Applied as Written**

**Sprenger, Grubb & Associates v. City of Hailey, 127 Idaho 576 (1995)**

**Issue: Whether unwritten criteria may be imposed.**

**Result: Governments must apply adopted ordinance standards, not ad hoc distinctions.**

**Application here:**

**If the code does not identify section lines as a land-use criterion, they cannot be used as the sole basis to deny a zone change.**

## **5) Consistency with Established Development Pattern**

**J.R. Simplot Co. v. Bannock County, 125 Idaho 809 (1994)**

**Issue: How proposed mitigation and context must be addressed.**

**Result: Governing bodies must meaningfully address context and mitigation; ignoring them undermines findings.**

**Application here:**

**Existing AF-10 approvals on identical terrain and access establish the County's accepted development pattern. Denial here would ignore that context without findings explaining why it does not apply.**

---

## **ANALYSIS**

- **Section lines do not create land-use impacts. They are cadastral boundaries.**
  - **Zoning must track real differences (topography, access, hazards, infrastructure)—not abstract lines.**
  - **The County has already accepted AF-10 development under the same conditions immediately adjacent and across the north section line.**
  - **Using the section line as the only differentiator imposes a higher standard on one parcel without evidence—arbitrary under Idaho law.**
- 

## **CONCLUSION**

**Where no material change in conditions occurs at a section line, relying on that line alone to deny a zone change is unsupported by substantial evidence, inconsistent with treatment of similarly situated land, and contrary to Idaho case law. The appropriate inquiry is whether the actual site conditions support AF-10 zoning; the record demonstrates they do.**

***Because no material land-use conditions change at the section line, and identical development exists on both sides, the requested AF-10 zoning is consistent with surrounding patterns and supported by substantial evidence.***